

## Gulf of Alaska Rationalization Community Provisions

*Revised as of December 12, 2005*

(Additions are in bold underline; deletions are stricken)

It is the Council's intent that the Community Fisheries Quota (CFQ) Program and the Community Purchase Program (CPP) be the subject of standalone staff analysis for future inclusion in GOA groundfish rationalization alternatives as appropriate. The intent is not to create these programs as a trailing amendment, but to implement them at the same time GOA rationalization goes into effect.

Bering Sea/Aleutian Islands communities (CDQ or otherwise) and communities adjacent to the Eastern GOA regulatory area Southeast Outside District (except Yakutat) will not be included in any Gulf rationalization community provision programs.

**PURPOSE:** The Council recognizes the importance of providing economic stability for communities historically dependent upon GOA groundfish fisheries. Consistent with the guidance provided by the Consolidated Appropriations Act of 2001, National Standard 8, and the National Research Council Report, the Council acknowledges that rationalization programs can have significant impacts on fishing-dependent communities. Community provisions are intended to address community impacts resulting from rationalization and seek to provide economic stability or create economic opportunity in fishing-dependent communities, and provide for the sustained participation of such communities.

### C 1. Community Fisheries Quota (CFQ) Program

The CFQ program would allocate **groundfish quota (CFQ) to qualified applicants representing eligible Gulf communities, in order to use that allocation to provide benefits to communities,** a ~~percentage of the annual Federal TAC to an administrative entity that would subsequently determine how to use the annual harvest privileges according to criteria established in Federal regulation. Depending upon the structure and restrictions established, the non-profit entity would use the shares to enable eligible communities to fish the shares. CFQ will be fished only by eligible community residents and will not be leased outside of the community to be used for other economic development.~~

The intent of the CFQ program is to mitigate the economic impacts of Gulf groundfish rationalization on small (less than 1500), isolated GOA communities with a historical dependence on groundfish. Further, it is the intent of the program to sustain current participation and access to the fisheries by those communities.

#### C 1.1 Administrative Entity

The administrative entity representing one or more eligible communities must be a non-profit entity qualified by NMFS. The administrative entity shall be:

- Option 1. A single Gulf-wide administrative entity.
- Option 2. An administrative entity for each GOA groundfish management area. (One WG entity and one CG entity. The CG entity includes CG and WY communities.)
  - Suboption 1. Community membership in each entity may be adjusted based on common culture and history considerations.
- Option 3. An administrative entity representing a group of communities with common culture and history.

If Option 2 is selected, the initial allocation of CFQ would be such that WG CFQ is allocated to the management entity representing WG communities, and CG and WY CFQ is allocated to the management entity representing CG and WY communities.

If Option 2 Suboption 1 or Option 3 is selected, the CFQ for a specific management area (WG, CG, WY) would be initially allocated to the management entity representing communities located in that area based on: 1) equal basis and/or 2) population. No more than 50% of the CFQ for any area can be allocated to the entity on an equal basis.

#### C 1.2 Board Representation of the Administrative Entity

The administrative entity shall be comprised of a Board of Directors as follows:

- Option 1. (Applicable with C 1.1, Options 1 – 3). Equal Board membership established by an equal number of appointed representatives from each Community Quota Entity's (CQE's) member communities. (Should the CQE represent more than one community, the CQE would appoint representatives to the administrative entity for each member community.)
- Option 2. (Applicable with C 1.1, Option 1). A 13-member Board represented by members of CQEs by region as follows: Aleutians East Borough (3 reps); Lake and Peninsula Borough (3 reps); Kodiak Borough (3 reps); Yakutat (1 rep); Chugach (2 reps); Cook Inlet (1 rep).
- Option 3. (Applicable with C 1.1, Option 1): The makeup of the administrative entity's Board of Directors shall reflect population, local participants' harvest history, and geography.

#### C 1.3 Eligible Communities

- Option 1. Population (based on 2000 U.S. Census) of less than 1,500 but not less than 25
- Option 2. Geography
  - a. Coastal communities without road connections to larger community highway network
  - b. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities
- Option 3. Historic Participation in Groundfish Fisheries
  - a. Communities with residents having any **Gulf (WG, CG, WY)** groundfish commercial permit and fishing activity as documented by CFEC in the last ten years (1993 – 2002)

#### C 1.4 Species

- Option 1. All rationalized groundfish species including PSC
- Option 2. Pollock and Pacific cod and associated species necessary to prosecute the allocation of pollock and Pacific cod

#### C 1.5 Allocation

CFQ awarded to an administrative entity cannot be permanently transferred.

- Option 1. 5% of annual TAC
- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC

### C 1.6 Timing of the CFQ Allocation

- Option 1. 100% of the CFQ is allocated at the implementation of the program
- Option 2. 66% of the CFQ is allocated at the implementation of the program
- Option 3. 50% of the CFQ is allocated at the implementation of the program
- Option 4. 33% of the CFQ is allocated at the implementation of the program

Under Options 2 – 4, there is a guarantee that 20% of the remaining allocation to the CFQ Program will be made each year, such that all of the CFQ would be allocated to the program after a 5-year period. The following suboptions are applicable to Options 2 – 4:

- Suboption 1. Remainder CFQ to be allocated from a 10% reduction of QS at first transfer (sale). If the annual minimum allocation has not been reached through transfer, the remainder will be ‘funded’ by creating new QS and adding it to the QS pool(s).
  - i. Attenuation at first transfer of QS does not apply to gift transfers between family members (first degree of kin).
- Suboption 2. Remainder CFQ to be allocated from a 5% reduction of QS at first transfer (sale). If the annual minimum allocation has not been reached through transfer, the remainder will be ‘funded’ by creating new QS and adding it to the QS pool(s).
  - i. Attenuation at first transfer of QS does not apply to gift transfers between family members (first degree of kin).

### C 1.7 Harvesting of Shares

Harvesting of shares is limited to residents of any eligible community, **and an appeals process will be established to ensure that any allocation decisions comply with procedural due process concerns.** The administrative entity may lease quota share to eligible community residents with vessels owned by, retained under a contractual arrangement with, or on which a community resident has an employment contract. However, residents of eligible communities located in a specific management area (WG, CG, WY) should receive priority over other qualified applicants in the leasing of community quota used in that specific management area.

### C 1.8 Individual Use Caps and Vessel IFQ Caps

An individual leasing CFQ and use of CFQ on a vessel shall be limited as follows (caps would be species specific and exclusive of any quota individually owned):

- Option 1. No individual QS use caps and vessel IFQ caps for fishing CFQ
- Option 2. An amount equal to the individual QS use caps and vessel IFQ caps in the rationalized Gulf groundfish fishery
- Option 3. An amount equal to an approximation of what is needed for viable participation in the fishery (to be specified later)
- Option 4. An amount equal to 150% of the individual QS use caps and vessel IFQ caps in the rationalized Gulf groundfish fishery

Suboption 1 (applies to Options 2 – 4):

Use (25%, 50%, or 75%) of the selected use cap for Pacific cod. This cap is inclusive of any quota individually owned.

### C 1.9 Sector Designation

All IFQ resulting from QS held by communities shall be designated for use on catcher vessels.

### C 1.10 Landing Requirements

Landing requirements will be applied on a species specific basis.

- Option 1. CFQ shall have regional landing requirements proportional to the regional landing requirements applied for the remainder of QS issued for that species.
- Option 2. 50% - 100% of the CFQ shall have regional landings requirements
  - Suboption 1. in perpetuity
  - Suboption 2. for a period of 5 years
  - Suboption 3. for a period of 10 years

### C 1.11 Use of Lease Proceeds by Administrative Entity

Use of lease proceeds is restricted to administrative expenses.

- Option 1. and purchase of additional GOA groundfish quota shares
- Option 2. and fisheries related investments
- Option 3. and investments in the economic development and social well being of member communities
- Option 4. and distribution to member community CQEs

(Applicable to Option 4.) Use of CFQ lease proceeds by member community CQEs is restricted to administrative expenses and:

- Suboption 1. purchase of additional quota shares
- Suboption 2. fisheries related investments
- Suboption 3. investments in the economic development and social well being of member communities

### C 1.12 Distribution of Lease Proceeds to Member Communities

- Option 1. The administrative entity is not required to annually distribute lease proceeds to member community CQEs
- Option 2. The administrative entity is required to annually distribute lease proceeds to member community CQEs in an amount equal to or exceeding:
  - Suboption 1. 10% annual lease income after administrative expenses
  - Suboption 2. 20% annual lease income after administrative expenses
  - Suboption 3. 30% annual lease income after administrative expenses

### C 1.13 Allocation Basis for Lease Proceeds

- Option 1. Lease income would be distributed at sole discretion of administrative entity.
- Option 2. 0% - 100% of the annual lease income distributed by the administrative entity to member community CQEs would be distributed amongst qualified communities on an equal basis.
- Option 3. 0% - 100% of the annual lease income distributed by the administrative entity to member community CQEs would be distributed amongst qualified communities on a pro rata basis based on population.

#### C 1.14 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation and, at a minimum, include:

- Option 1. identification of the community CQEs represented by the administrative entity
- Option 2. allocation criteria between regions, communities, and fishermen
- Option 3. documentation concerning accountability to the communities represented by the administrative entity.
- Option 4. procedures used to solicit requests from residents to lease CFQ
- Option 5. criteria used to determine the distribution of CFQ leases among qualified community residents and the relative weighting of those criteria.

#### C 1.15 Administrative Oversight

An annual report submitted to NMFS and the NPFMC detailing the use of QS by the administrative entity. The report should include findings of the administrative entity related to community resident vessel ownership, community resident contractual relationships with a vessel owner, and community resident employment on a vessel, in its leasing of CFQ to community residents. The required elements and timing of the report will be outlined in regulation.

## C 2. Community Purchase Program

The CPP would allow a defined set of eligible communities to organize an administrative entity to purchase, hold, and use Gulf groundfish quota share within the rationalization program. In contrast to receiving an initial allocation, this provision would designate an administrative entity representing eligible communities as an eligible quota shareholder under the rationalization program, and that entity would be allowed to purchase GOA groundfish shares on the open market.

The purpose of the CPP is to provide the eligible communities with the opportunity to sustain their participation in the rationalized fisheries through the acquisition of Gulf groundfish fishing privileges. Further, it is the intent of the program to maintain and enhance current participation and access to Gulf groundfish fisheries by those communities.

### C 2.1 Administrative Entity

The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS, and may include administrative entities established under the BSAI Crab Rationalization Program for the community of Kodiak, Community Fisheries Quota (CFQ) administrative entities, a community quota entity under GOA Am. 66, or a non-profit established by the community of Cordova or Cold Bay, using criteria similar to Am. 66 qualification of CQEs.

### C 2.2 Eligible Communities<sup>1</sup>

- Option 1. Population (based on 2000 U.S. Census)
  - a. Less than 1,500 but not less than 25
  - b. Less than 7,500 but not less than 25
  
- Option 2. Geography
  - a. Coastal communities without road connections to larger community highway network
  - b. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the western Alaska CDQ Program.
  
- Option 3. Historic Participation in Groundfish Fisheries  
Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 – 2002).
  - a. Communities with residents having any **Gulf (WG, CG, WY)** groundfish commercial permit and fishing activity as documented by CFEC in the last ten years (1993 – 2002)
  
- Option 4. GOA (WG, CG, WY) communities eligible under GOA Am. 66

### C 2.3 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation **and, at a minimum, include:**

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<sup>1</sup>Should the City of Kodiak meet the eligibility criteria selected at final action, residents of Chiniak, Kodiak Station, and Womens Bay would be allowed to lease quota from the administrative entity representing the City of Kodiak. Should the City of Seldovia meet the eligibility criteria selected at final action, residents of Seldovia Village would be allowed to lease quota from the administrative entity representing the City of Kodiak.

- Option 1.**      **allocation criteria between regions, communities, and fishermen**
- Option 2.**      **documentation concerning accountability to the communities represented by the administrative entity.**
- Option 3.**      **procedures used to solicit requests from residents to lease quota**
- Option 4.**      **criteria used to determine the distribution of leases among qualified community residents and the relative weighting of those criteria.**

C 2.4 Administrative Oversight

A report submitted to NMFS and the NPFMC detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation and, **at a minimum**, ~~may~~ include:

- Option 1.      A summary of business, employment, and fishing activities under the program.
- Option 2.      A discussion of any corporate changes that alter the representational structure of the entity.
- Option 3.      Discussion of known impacts to resources in the area.

C 2.5 Ownership/Use Caps<sup>2</sup>

Individual community Gulf groundfish QS/GH cap on purchased quota:

- Option 1.      3%
- Option 2.      An amount equal to the individual cap in the general program by species
- Option 3.      An amount equal to two times the individual cap in the general program by species
- Option 4.      An amount equal to three times the individual cap in the general program by species

Aggregate community Gulf groundfish QS/GH cap on purchased quota:

- Option 1.      10%
- Option 2.      15%
- Option 3.      20%
- Option 4.      30%
- Option 5.      45%
- Option 6.      No aggregate cap

Suboption 1 (applies to Options 1 – 5): Split the aggregate cap between communities eligible for the CFQ Program and communities not eligible for the CFQ Program. Any purchases by the CFQ management entity(ies) would be applied toward the CFQ community aggregate cap.

**C 2.6 Harvesting of Shares**

**Harvesting of shares is limited to residents of any eligible community. The administrative entity may lease quota share to eligible community residents with vessels owned by, retained under a contractual arrangement with, or on which a community resident has an employment contract. However, residents of eligible communities located in a specific management area (WG, CG, WY) should receive priority over other qualified applicants in the leasing of community quota used in that specific management area.**

<sup>2</sup>Note: It may be necessary to limit community acquisition of quota with a particular block and/or gear designation.