

Central Gulf of Alaska Rockfish Pilot Program Alternatives, Elements and Options

The Council adopts Alternative 3 (for catcher processors and catcher vessels) as the preferred alternative defined by the following elements and selected options:

Catcher Vessel Alternatives

- 1) Status Quo
- 2) Cooperative program with license limitation program for processors
- 3) Cooperative program with cooperative/processor associations

Catcher Processor Alternatives

- 1) Status Quo
- 2) Cooperative Program
- 3) Sector Allocation

Alternatives 2 and 3 are defined by the following elements and options. Differences in the elements and options between the two alternatives and across the two sectors are noted.

1 Set-asides

Prior to allocation of catch history to the sectors, NMFS shall set aside:

- 1.1 ICA: An Incidental Catch Allocation (ICA) of POP, Northern rockfish and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the pilot program
- 1.2 Entry Level Fishery: A percentage of POP, Northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program, as mandated in the Congressional language. For the duration of this program, the annual set aside will be 5% of each of these target rockfish species.
 - o Allocations shall be apportioned between trawl and non-trawl gear:
50/50
The trawl sector's 50 percent allocation by weight (based on the aggregate TAC for Pacific Ocean perch, Northern and pelagic shelf rockfish) shall first be Pacific Ocean perch.
 - o Unharvested allocations to either sector shall be available to both sectors at the end of the third quarter.
 - o Prosecution of the entry level fishery will be supported by general allocations of PSC to the gear type not allocated under 3.3.1.3 and the general allocations of secondary species not allocated under 3.3.1.2

2 Entry-Level Fishery

2.1 Catcher Vessel Participation:

Vessels that can participate in the Entry Level fishery are those vessels that did not qualify for the CGOA rockfish pilot program.

2.2 Processor Participation:

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

2.3 Fishery participation:

Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a statement from a non-qualified processor confirming an available market.

2.4 NMFS will determine:

- NMFS will provide for an entry level fishery, **which will be a limited access competitive fishery in the non-trawl and trawl sectors.**
~~Equal shares distributions to the vessel applicants in the trawl sector~~
~~Limited access competitive fishery in the non-trawl sector~~
- ~~Entry permits are non-transferable and must be fished by the named vessel~~

Start dates for the entry level fishery should be January 1 for fixed gear and approximately May 1 (if sufficient halibut PSC is available, if there is not the start date will be on the next release of halibut PSC) for trawl gear.

The Council recommends to NMFS to exempt the entry level non-trawl sector from VMS requirements.

3 Sector Allocations

3.1 Sector Definitions

Trawl catcher vessel

Trawl catcher processor

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

3.2 Rationalized Areas

- History is allocated for the CGOA only (NMFS statistical areas 620 and 630)

3.3 Sector Allocations

- Catch history is determined by the sector qualified catch in pounds as a proportion of the total qualified catch in pounds.
- Sector allocation is based on individual qualified vessel histories with the drop-2 provision at the vessel level.
- The eligibility for entry into the program is one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period.
- The CP catch history will be based on WPR data.

3.3.1 Each sector is allocated catch history based on:

The sum of all catch history of vessels in that sector for which it earned a valid, permanent, fully transferable CGOA LLP endorsement, for the years 1996-2002 drop two.

Suboption: include history of vessels which hold a valid interim endorsement on implementation of the program

3.3.1.1 Target species:

- Qualified target species history is allocated based on retained catch (excluding meal)
- History will be allocated to each sector for POP, Northern rockfish and PSR caught in CGOA based on retained catch during the open season
- Different years may be used for determining the history of each of the three rockfish species.
- Full retention of the target rockfish species required

3.3.1.2 Secondary species:

- Secondary species history is allocated based on retained catch over retained catch while targeting the primary rockfish species listed above.
- History will be allocated to each sector for sablefish, shortraker/rougheye rockfish, thornyheads and Pacific cod.
Participants must retain all allocated secondary species and stop fishing when cap is reached.
- All non-allocated secondary species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, Atka mackerel and other rockfish.
- Except as otherwise provided below, secondary species allocations will be based on: Percentage of catch by sector of the secondary species within the rockfish target fisheries divided by the total number of years in the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program. (retained catch over retained catch)

Allocations of Pacific cod as a secondary species will be at the following rate of harvest history:

100 percent

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

Shortraker and Rougheye

For the CP sector, a shortraker allocation of 30.03 % of the TAC, to be managed as a hard cap, and a rougheye allocation of 58.87% of the TAC, to be managed as a hard cap.

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

~~Allocations of shortraker and rougheye as a secondary species will be at the following rate of harvest history:
75 to 100 percent~~

~~Options for management of shortraker and rougheye for the catcher vessel sector:~~

~~Option 1: The shortraker/rougheye allocation for the catcher vessel sector will be based on the total catch of the sector during the target rockfish fishery over total catch of all sectors which yields the highest annual percentage during the qualifying years. The shortraker/rougheye hard cap for the catcher vessel target rockfish fishery will be calculated based on the aggregate shortraker/rougheye TAC and then divided:~~

- ~~—— A) 50 percent shortraker and 50 percent rougheye~~
- ~~—— B) 60 percent shortraker and 40 percent rougheye~~

~~Option 2: Manage catcher vessel shortraker and rougheye using an MRA between 0.7 percent (average use) and 1.1 percent (highest annual use)~~

~~(The analysis shall include a discussion of other fisheries that take shortraker and rougheye incidentally and what the impacts to those fisheries might be of allocating amounts of shortraker and rougheye to the rockfish trawl fisheries that may not leave enough TAC to accommodate historical harvests in other fisheries (i.e., it appears that historical catch in other fisheries exceeds what the 2005 amount available would be after trawl rockfish allocations are subtracted from the TAC).)~~

3.3.1.3 Prohibited species (halibut mortality):

- Allocation to the pilot program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the years '96-'02 by the number of years (7). This allocation will be divided between sectors based on:

The relative amount of target rockfish species allocated to each sector (e.g., total qualified catch).

4 Allocation from Sector to Vessel

- 4.1 Within each sector, history will be assigned to LLP holders with CGOA endorsement that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.
- 4.2 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.)

4.3 Target species:

Each LLP holder will receive an allocation of history equivalent to their proportion of the total of the sector qualifying history.

4.4 Secondary species:

Each LLP holder will receive an allocation of sector history proportional to their allocation of target rockfish history

4.5 PSC (halibut mortality)

- Each LLP holder will receive an allocation of halibut mortality equivalent to their proportion of the sector rockfish history

4.6 Allocations of secondary species:

May be fished independently of the primary species allocations.

5 Co-op provisions

5.1 Duration of cooperative agreements is ~~2~~ 1 years.

5.2 For all sectors

- The co-op membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all co-op fish.
- Co-op members shall internally allocate and manage the co-op's allocation per the Contract.
- Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the co-op to the extent permitted under the Contract.
- The Contract must have a monitoring program. 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 rockfish species, secondary species and PSC 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-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.
- Co-ops will report annually to the Council as per AFA.
- 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.

The Council recommends a season start date of ~~March~~ **May** 1 and a closing date of November 15.

5.3 CP sector:

For Alternative 2:

~~History is allocated to the current owner of the LLP of the vessel that earned the history.~~

- ~~• Owners may fish their allocation independently if the LLP has a CGOA endorsement, or may enter into a cooperative arrangement with other owners.~~
- ~~• More than one co-op may form within the sector~~
- ~~• Any number of eligible LLPs may form a co-op~~
- ~~• Allocations may be transferred between co-ops of at least two LLPs~~

For Alternative 3:

History is allocated to the current owner of the LLP of the vessel that earned the history.

- More than one co-op may form within the sector
- Allocations may be transferred between co-ops of at least two LLPs

- Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery. The LLP's historic share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative.
- **Participants would have a choice of participating in a co-op, participating in a limited access fishery, and opting out of the rockfish pilot program.**

5.4 CV sector:

For Alternative 2:

- ~~Voluntary co-ops may form between eligible harvesters.~~
- ~~All cooperative harvests under this program must be delivered to eligible processors.~~
- ~~Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery. The LLP's share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative and must be delivered to one of the qualified processors.~~
- ~~An eligible processor is a processing facility that has purchased 250 MT of aggregate Pacific Ocean Perch, Northern Rockfish, and Pelagic Shelf rockfish harvest per year, for 4 years, from 1996 to 2000. Eligible processors will be issued a license under this program. Licenses are not transferable.~~
 Suboption: ~~An eligible processor is a processing facility with a substantial investment of depreciated capital assets:~~
 - ~~Option A) \$1,000,000 or more~~
 - ~~Option B) \$5,000,000 or more, and~~~~that has purchased 250 MT of aggregate Pacific Ocean Perch, Northern Rockfish, and Pelagic Shelf rockfish in any of the qualifying years.~~
- ~~If a processing facility has closed down and another processing facility has acquired that processing history through purchase, for the purpose of determining processor eligibility the history belongs to the facility that purchased that history. That history can only be credited to another facility in the community that it was generated in for purposes of establishing eligibility under this program.~~
- ~~The harvesters that enter into a co-op membership agreement shall be the members of the co-op.~~
- ~~A pre season Contract between eligible, willing harvesters is a pre requisite to a cooperative receiving an annual allocation.~~
- ~~Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.~~
- ~~Catcher vessel cooperatives are required to have at least 4 eligible LLPs~~
- ~~Co-ops may engage in inter cooperative transfers of annual allocations to other cooperatives.~~
- ~~No processor associations required by co-ops.~~

For Alternative 3:

- Voluntary co-ops may form between eligible harvesters in association with processors.
- Catcher vessel co-ops must be associated with an eligible processor.
- An eligible processor is a processing facility that has purchased 250 MT of aggregate Pacific Ocean Perch, Northern Rockfish, and Pelagic Shelf rockfish harvest per year, for 4 years, from 1996 to 2000.
- A harvester is eligible to join a cooperative in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the year's 1996 – 2000 drop 1 year (processor chooses the year to drop, same year for all LLPs). If an LLP holder has no deliveries to a qualified processor, the LLP holder may join a coop with any one of the qualified processors, but their membership would not be considered in determining whether the threshold is met for co-op formation.
- Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery. The LLP's share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative and must be delivered to one of the qualified processors.
- If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

- 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.
- A pre-season Contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an annual allocation.
- Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.
- Processors are limited to 1 co-op per plant.
- Catcher vessel cooperatives are required to have at least:
75 percent of the eligible historical shares for each co-op associated with its processor.
- Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

5.5 Sector Transfer provisions

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

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

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

6 Co-op harvest use caps

6.1 CVs:

No person may hold or use more than 5% of the CV historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CV co-op shall be capped at:
30% of aggregate POP, Northern Rockfish and PSR for the CV sector

6.2 CPs:

No person may hold or use more than 20% of the CP historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CP shall be capped at:
60% of aggregate POP, Northern Rockfish and PSR for the CP sector
Eligible CPs will be grandfathered at the current level

7 Shoreside processor use caps

Shoreside processors shall be capped at the entity level.
No processor shall process more than:
30% of aggregate POP, Northern Rockfish and PSR for the CV sector
Eligible Processors will be grandfathered.

The year 2002 will be used as a base (or index) year for applying the aggregate caps.

8 Program Review

Program review the first and second year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters, processors and communities. Conservation benefits of the program would also be assessed. **The shorttraker/rougheye allocation and assessment will be reviewed.**

In the event this program has a duration of longer than two years, the Council will analyze the viability of the entry level fishery.

As part of its annual review, the Council should consider the effects of “opting-out” of the CP rockfish program. Specifically, if the Council finds that the opt-out provision is used to consolidate rockfish catch while avoiding rockfish program sideboards, then the Council should take immediate action to provide a disincentive for future abuses by allocating “opt-out” fish to the fishery not the sector.

9 Sideboards

9.1 General Provisions

There are no exemptions from sideboards, except for a partial exemption for CP vessels which opt out of the pilot program or join cooperatives.

- a. For fisheries that close on TAC in the GOA, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in aggregate, in the month of July to the historic average ~~total~~ catch of those vessels **based on the retained catch as a percentage of the retained catch in the fishery** in the month of July during the qualification years 1996 to 2002. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish.
- b. For flatfish fisheries in the GOA that close because of halibut bycatch, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in the aggregate, in the month of July to the historic average halibut mortality taken by those vessels in the target flatfish fisheries in the month of July by deep and shallow complex **as a Gulf-wide cap**.
- c. In the event that one or more target rockfish fisheries are not open, sideboard restrictions will not apply for those target allocations.

- IFQ halibut and sablefish are exempt from sideboard provisions

9.2 CP Specific Sideboard Provisions

CP vessels may decide to opt out of the CGOA pilot program on an annual basis. These CP vessels may not target POP, Northern rockfish or Pelagic Shelf rockfish in the CGOA in the years they choose to opt out. They may retain these species up to the MRA amount in other fisheries. They will be sideboarded at the sector level in the GOA as described in 9.1.

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

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

1996 – July 6
1997 – July 5
1998 – July 4
1999 – July 10
2000 – July 15
2001 – July 7
2002 – July 6

Opting out is an annual decision. CP vessels which choose to opt out must so notify NMFS. The decision to opt out should not in any way alter the status of their catch history for future rationalization programs.

For the CP sector, the pilot program fishery participants must either:

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

A vessel which has met either standdown requirement can then move into the BSAI or GOA open access fisheries subject to the sector level limitations in the GOA in 9.1.

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

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

Members of a cooperative will be subject to all limitations and restrictions described in 9.1 and 9.2 except that cooperative members shall not be subject to any standdown in the GOA groundfish fisheries. The standdown provision in the BSAI groundfish fisheries will apply to cooperative members.

In addition to the other limitations and restrictions described above, each cooperative will be limited in the aggregate:

- a. for fisheries that close on TAC in the GOA in the month of July, to the historic average total catch of the cooperative members in the month of July during the qualification years 1996 to 2002. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish, and
- b. for flatfish fisheries in the GOA that close because of halibut bycatch in the month of July, to the historic average halibut mortality taken by cooperative members in the target flatfish fisheries in the month of July by deep and shallow complex.

For Alternative 3:

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

The effects of the Council motion on CP sideboards can be summarized to contain the following provisions:

Opt OUT Vessels

- 1-subject to 9.1(a) at aggregate sector level – (WYAK & WGOA rockfish)**
- 2-subject to 9.1(b) at aggregate sector level – (GOA flatfish halibut limits)**
- 3-prohibited from directed fishing for CGOA rockfish**
- 4-standdowns do not apply (except in GOA fisheries for which a vessel doesn't have prior participation)**
- 5-history stays with sector (pro-rata to Limited Access and Coop vessels)**

Opt IN Vessels (Co-op)

- 1-subject to 9.1(a) at aggregate sector level – (WYAK & WGOA rockfish)**

- 2-subject to 9.1(b) at aggregate sector level – (GOA flatfish halibut limits)
- 3-also subject to co-op's share of 9.1(a) sideboard – (WYAK & WGOA rockfish)
- 4-also subject to co-op's share of 9.1(b) sideboard – (GOA flatfish halibut limits)
- 5-subject to 2 week standdown in BSAI groundfish
- 6-not subject to standdowns in GOA fisheries – IF - NMFS accepts the co-op sideboard monitoring program – ELSE – 2 week stand-down or until 90 % of the co-op's CGOA rockfish is harvested

Opt IN Vessels – (Limited Access)

- 1-subject to 9.1(a) at aggregate sector level – (WYAK & WGOA rockfish)
- 2-subject to 9.1(b) at aggregate sector level – (GOA flatfish halibut limits)
- 3-can't fish CGOA rockfish before July
- 4-If 5% or >, THEN:
 - a) stand-down from BSAI groundfish until 90% of POP taken
 - b) stand-down from GOA non-pollock groundfish until 90% of CGOA POP is taken
- 5-If <5%, THEN:
 - a) 2 week stand-down from BSAI groundfish doesn't apply
 - b) 2 week stand-down from GOA non-pollock groundfish doesn't apply

9.3 CV Specific Sideboard Provisions

- The qualifying vessels in the trawl CV sector cannot participate in the directed yellowfin sole, other flatfish (flathead, etc) or Pacific Ocean perch fisheries in the BSAI in the month of July.
- Qualifying vessels in the trawl CV sector would be limited, in aggregate, in the month of July, to the historic average ~~total~~ catch of those vessels in the BSAI Pacific cod fishery **based on the retained catch as a percentage of retained catch in the CV trawl fishery** in July during the qualification years 1996 to 2002.
- AFA **non-GOA exempt** CVs qualified under this program are subject to the restraints of AFA sideboards and their coop agreement, and not subject to additional sideboards under this program.

In the event this program has a duration of more than 2 years, the Council will reconsider the issue of use/ownership caps for companies and vessels.