

**ADVISORY PANEL MINUTES
Anchorage Hilton
December 3-7, 2001**

Advisory Panel members in attendance:

- | | |
|-----------------|--------------------|
| Alstrom, Ragnar | Fuglvog, Arne |
| Benson, Dave | Kandianis, Teressa |
| Boisseau, Dave | Jones, Spike |
| Bruce, John | Mayhew, Tracey |
| Burch, Al | Nelson, Hazel |
| Cross, Craig | Norosz, Kris |
| Ellis, Ben | Ridgway, Michelle |
| Enlow, Tom | Steele, Jeff |
| Falvey, Dan | Stephan, Jeff |
| Farr, Lance | Ward, Bob |
| Fields, Duncan | Yeck, Lyle |
| Fraser, David | |

The AP unanimously approved the minutes of the October 2001 meeting.

C-1 CDQ

a. 4E/4D Amendment Package

The AP request the Council adopt 4E/4D Amendment Package as follows:

Issue 1: Revise the 6000 lb trip limit for area 4E halibut CDQ to 10,000 lbs to apply through August 1 of each year, after which no trip limit applies. *Motion passed 19-0.*

Issue 2: Adopt Alternative 3: Allow the harvest of Area 4D halibut CDQ in Area 4E, and the harvest of Area 4E halibut CDQ in Area 4D. *Motion passed 19-0.*

b. CDQ Policy amendment package

The AP recommends releasing Amendment 71 for initial review and requests that the analysis make clear that CDQ Policy Committee’s Preferred Alternative be included in the text and directly analyzed. We further recommend the following additional information and options be included prior to release:

- A. Add Problem Statement (from staff recommendation on page 8 of the analysis)

The Western Alaska Community Development Quota program was developed by the Council for the purpose of providing western Alaska communities with an opportunity to participate in the BSAI fisheries to promote the overall economic well being of these communities. Although the primary objective of the CDQ Program is to help the participating communities to establish a viable presence in this capital-intensive industry, over time there has been a growing need to take in to account the changing nature of the CDQ groups, the conditions in which they operate, and the communities they serve to benefit.

The CDQ Program was designed to provide for a substantial level of government oversight and includes a fairly complex allocation process conducted by the State of Alaska and approved by NMFS. It also requires

the majority of benefits from the CDQ allocations to be reinvested in fishing and fisheries related activities within the region. Given the growth and maturation of the CDQ Program over the last eight years, some of the administrative and policy aspects of the program are not currently structured to adapt to changes, or are not clarified in Federal regulations, to the extent that they will best suit the long term goal of the program, which is development of opportunities for communities in western Alaska.

B. Issue 1, Define the roles of NMFS, the Council and the State.

Add new Alternative 2A:

NMFS would continue to make CDQ allocations through an administrative process that continues to require the State to submit CDQ allocation recommendations. Regulatory amendments would be implemented to describe the administrative process that would be used to make CDQ allocations, including evaluation criteria. No appeals process would be included. The state would conduct a comment period and hearing as described in Issue 6, Alternative 2.

C. Issue 3, Define the Role of Government Oversight,

Amend Alternative 2 as follows:

Purpose#5 is redundant, and should be replaced with (from state comments):

Ensure that training, employment and education benefits are being provided to the communities and residents.

A new purpose #6 should be added (from analysis)

Ensure that the CDQ Program is providing benefits to each CDQ community and meeting the goals and purpose of the Program.

D. Issue 4, Types of Quota

The analysis should be expanded to include a more thorough analysis of the potential for splintering that foundation quotas might provide.

E. Issue 5. CDQ Allocation Process the Evaluation Criteria. Alternative 2.

Amend Alternative 2 to specifically list the criteria proposed by the State (pg. 101 of the analysis) modified as recommended in the analysis (at page 115). The following policy decisions required under this alternative are decided as follows:

1. CDQ allocations will be based only on the evaluation criteria published in NMFS regulations, and the introductory paragraph is revised to read:

The following evaluation criteria shall be used as the basis for allocating CDQ among the CDQ groups or eligible communities. Public comment will be considered in the CDQ allocation process.

2. Criteria 6 should be deleted as it is redundant, and replaced with the employment and training criteria.

3. Add the suggested new criteria for incidental catch and PSQ species.

4. Include the state scorecard as an option, with the criteria mirroring the evaluation criteria and that is as transparent as possible while maintaining confidentiality of business information.

F. Issue 8. Alternative 3

Add a new Option 4: Allow each CDQ group to invest up to \$1,000,000 in non-fisheries related projects.

Motion passes 19/0

The following amendments to the main motion failed:

The AP requests the Council add alternatives under Issue 2 Alternative 3 (fixed allocation alternative) as follows:

1. Allocation based on the current (status quo) allocations, except if the judge rules for APICDA and imposes different allocations that serve as status quo.
2. Each group receives 1/6th of the allocation
3. Each group receives and allocation equal to their historic percentage allocation using the years 1992-2001 as the base. Failed 6/14

The AP requests the Council include in analysis under Issue 8 Alternative 4, a suboption 1: Require that any non-fisheries related investments be made in economic development projects in the region of Alaska represented by CDQ groups . Failed 9/10/2

C-2 Halibut Subsistence

The AP recommends the Council adopt the following elements and options for Halibut Subsistence:

1.3.2 Alternative 2. Modify the previous action on halibut subsistence

Part 1: in Areas 4C, 4D, and 4E: eliminate gear and harvest restrictions;

Part 2: in Areas 3B, 4A, and 4B, allow stacking up to three times the number of hooks on a single unit of gear provided the subsistence user(s) are on board the vessel;

Part 3: in Area 3A,

A) Kodiak Road Zone and Chiniak Bay

- 1) decrease the gear limit to 5 hooks,;
- 2) create a 20 fish annual limit,
- 3) allow stacking up to three times the number of hooks on a single unit of gear,
- 4) allow proxy fishing;
 - a) proxies may be issued to any eligible subsistence user
 - b) no one may hold more than one proxy per trip
 - c) proxies apply to annual fish limits, not gear units

A motion to use the State of Alaska’s proxy definition failed 6/16.

~~B) Prince William Sound:~~

- ~~1) decrease the gear limit to 5 hooks;~~
- ~~2) allow stacking up to three times the number of hooks on a single unit of gear;~~

~~C) Cook Inlet:~~

- ~~1) decrease the gear limit to 5 hooks;~~
- ~~2) allow stacking up to three times the number of hooks on a single unit of gear;~~
- ~~3) increase the size of the Cook Inlet non-subsistence fishing area by adjusting its southern boundary;~~

Motions to include the Alaska Board of Fisheries recommendations for Cook Inlet and Prince William Sound failed 6/13 and 7/13 respectively.

- B) **Area 3A-wide**
 - 1. **Limit stacking provisions to 3 units of gear and require subsistence users be on the vessel.**
 - 2. **Create an area-wide 20 fish annual limit**
 - 3. **Allow the use of proxy fishing area-wide.**
 - a) **proxies may be issued to any eligible subsistence user**
 - b) **no one may hold more than one proxy per trip**
 - c) **proxies apply to annual fish limits, not gear units**

- C) **Maintain the current boundary for the Cook Inlet non-subsistence fishing area**

~~Part 4: in Area 2C, Sitka:~~

- ~~1) decrease the gear limit to 2 hooks;~~
- ~~2) create a 20 fish annual limit;~~
- ~~3) allow proxy fishing;~~
- ~~4) decrease the daily harvest limit to 2 fish (Council option):~~

Part 4: Area 2C-wide

- (a) **Limit stacking provisions to 3 units of gear and require subsistence users to be on the vessel.**
- (b) **Create an area-wide 20 fish annual limit**
- (c) **Allow the use of proxy fishing area-wide.**
 - a) **proxies may be issued to any eligible subsistence user**
 - b) **no one may hold more than one proxy per trip**
 - c) **proxies apply to annual fish limits, not gear units**
- (d) **Establish a 2-hook, 2 fish daily limits with State of Alaska proxy provisions in the Sitka LAMP area**

A motion to Table failed 10/1.

A motion to approve Alternative 1: no action failed 0/19/2.

The Minority opposes the final motion on subsistence halibut for the following reasons:

In general:

- 1. *The action is inconsistent with the Council's intent to provide for customary and traditional subsistence practices and uses.*
- 2. *The restrictions are not necessary for conservation of halibut, rockfish or lingcod. No data was presented to the AP to demonstrate that subsistence uses must be restricted for conservation reasons.*
- 3. *In instituting strict annual and daily bag limits, the action fails to acknowledge that subsistence uses are self-limiting.*
- 4. *The action will unnecessarily restrict the ability of subsistence users to get enough halibut to meet subsistence needs.*
- 5. *Placing unnecessary restrictions that are inconsistent with meeting the nutritional needs and traditional practices of subsistence users continues the long history of making subsistence "outlaws" just to feed their families and live their way of life. This will result in continued resistance to reporting subsistence harvest and the Council, NMFS and the IPHC will fail in one of their primary objectives; a good subsistence harvest monitoring and reporting system.*

In regards to the 20 halibut annual limit with a proxy system for all of areas 3A and 2C:

1. *This annual harvest limit is far broader and much more restrictive than what was recommended by the Alaska Board of Fisheries. The restriction would apply to even the smallest Native Villages in these areas where there is no basis for conservation or other concerns.*
2. *Instituting a proxy system where one is not necessary for conservation, including villages within Areas 3A and 2C, causes unnecessary administrative burdens on both NMFS and subsistence users, and may result in disrupting traditional subsistence harvest patterns and preventing the harvest of sufficient fish to meet subsistence needs.*

In regards to Sitka LAMP area:

1. *The 2/day bag limit and the state proxy system will not meet subsistence needs, is inconsistent with traditional practices and patterns of harvest and is not necessary for conservation*
2. *The LAMP was not intended to regulate subsistence.*
3. *If a proxy system is needed in Sitka Sound, it should provide for customary and traditional subsistence harvest patterns and practices and allow harvest sufficient to satisfy subsistence needs.*

Conclusion:

The better course of action would be to first get good subsistence harvest data, and good data for those halibut, rockfish and lingcod stocks of concern, and if there is a problem, the Council can take necessary action based on such data.

Subsistence users should be involved in the design and implementation of any proxy system through working groups and/or cooperative agreements.

Signed: Dave Fraser, Tracey Mayhew, Al Burch, Michelle Ridgway, and Hazel Nelson

C- 3 Seabird Avoidance Measures

The AP recommends the council Adopt Alternative 4 with the following modifications:

(Please note that alternative 4 incorporates, by reference, the measures in Alt. 3 for vessels over 55 ft. LOA. The AP recommends the council revise the language under Alternative 3: E. IV. Use of a line shooter as a sole deterrent method.)

Offal discharge requirements—**Clarify wording to ensure that strategic discharge of offal from the stern of the vessel to distract seabirds away from the groundline is allowed.**

Bird Line Requirements

Inside Waters (Area 649, 659, state waters of Cook Inlet):

1. A minimum of 1 buoy bag line of a specified performance standard is required of vessels without ~~superstructures~~ **mast, poles, or rigging** greater than or equal to 26 ft (7.9 m) LOA and less than or equal to ~~45~~ **55** ft LOA.
2. A minimum of 1 streamer line of a specified performance standard is required of vessels with ~~superstructures~~ **mast, poles, or rigging** greater than or equal to 26 ft (7.9 m) LOA and less than or equal to ~~45~~ **55** ft LOA
3. A minimum of 1 streamer line of a specified performance standard is required of vessels greater than ~~45~~ **55** ft LOA..

EEZ:

1. A minimum of 1 buoy bag line of a specified performance standard and one other specified device is required of vessels without ~~superstructures~~ **mast, poles, or rigging** greater than or equal to 26 ft (7.9 m) LOA and less than or equal to ~~45~~ **55** ft LOA
2. A minimum of 1 streamer line of a specified performance standard and one other specified device is required of vessels with ~~superstructures~~ **mast, poles, or rigging** greater than or equal to 26 ft (7.9 m) LOA and less than or equal to ~~45~~ **55** ft LOA
3. A minimum of paired streamer lines of a specified performance standard is required of vessels greater than ~~45~~ **55** ft LOA

Vessels using Snap Gear:

1. A minimum of 1 buoy bag line of a specified performance standard and one other specified device is required of vessels without ~~superstructures~~ **mast, poles, or rigging** greater than or equal to 26 ft (7.9 m) LOA and less than or equal to ~~45~~ **55** ft LOA
2. A minimum of 1 streamer line of a specified performance standard and one other specified device is required of vessels with ~~superstructures~~ **mast, poles, or rigging** greater than or equal to 26 ft (7.9 m) LOA and less than or equal to ~~45~~ **55** ft LOA
3. A minimum of 1 streamer line of a specified performance standard and one other specified device is required of vessels greater than ~~45~~ **55** ft LOA

Performance Standards for Bird Line Requirements are as follows (Table 1a):

Buoy Bag Line Standard: A single streamer line (**10 to 40 m** length) with no streamers attached; buoy bag line to be deployed within 2m of either **side of the point where the main groundline enters the water.**

Single Streamer Standard: A single streamer line deployed in such a way that streamers are in the air for a minimum of 40 m aft of the stern and within 2m of either **side of the point where the main groundline enters the water.**

Paired Streamer Standard: Paired streamer lines deployed in such a way that streamers are in the air for a minimum of 40 m aft of the stern. For side-setters, one line must be over the main groundline, while the other streamer must be deployed to either side.

Snap Gear Streamer Standard: A single streamer line (45 m length) deployed in such a way that streamers are in the air for 20 m aft of the stern and within 2m of either **side of the point where the main groundline enters the water.**

For vessels < 55 ft LOA, the applicable performance standard would be implemented as guidelines in the first year and become regulation in the following year unless modified. The AP further recommends NMFS, WSGP and industry engage in a cooperative study during the first year of the program to determine if modification to the performance standard for this class of vessels is warranted and investigate if vessels <55 ft.LOA should be exempted from the performance standards when fishing at night from November1 to April 1.

The following motion failed 9/11: For vessels less than 100ft LOA, the applicable performance standard would be implemented as guidelines in the first year and become regulation in the following year.

Minority Report

We, the minority, think that a large portion of the current halibut fleet with vessels in the 55-100 LOA range, particularly those vessels that only fish for a week or two each year, are not knowledgeable about the proposed seabird avoidance regulations and do not have experience in using and deploying the recommended seabird avoidance mechanisms. It is unlikely that this "part time" fleet will be able to comply with the proposed performance standards and we are concerned that observers and NMFS enforcement may strictly enforce them. A one year implementation period is needed for this fleet to become familiar with the seabird avoidance regulations and knowledgeable about use of seabird avoidance mechanisms so that they can meet the required performance standards.

Signed: Michael (Spike) Jones, Tom Enlow, Dave Boisseau, Ben Ellis, Al Burch, Duncan Fields, Jeff Stephan, Lyle Yeck, John Bruce

The AP notes that minor variations from the performance standards are likely. We request the council discuss the level of enforcement expected. Reasonable efforts displayed by vessels should be taken into consideration prior to enforcement actions. More blatant, intentional and egregious violations should justify enforcement action.

The AP also recommends the Council encourage the NPGOP & NMFS enforcement to expand outreach and assistance to industry in developing and using seabird avoidance gear, including the training of observers to provide informational resources to industry in regards to seabird avoidance measures.

Further, the AP recommends that NMFS, in conjunction with industry, be required to develop a seabird avoidance incident reporting form. This form is to be placed in the observer handbook and be used when there is a question on performance standards.

Other Devices include the following:

Add specified weights to groundline.

Use a buoy bag line or streamer line, of specified performance standards.

Strategic offal discharge to distract birds away from the setting of baited hooks: Discharge fish, fish

parts (i.e. offal) or spent bait, to distract seabirds away from the groundline while setting gear.

Requirements for All Operators of Applicable Vessels **while engaged in fixed gear operations**

Seabird avoidance devices as described above must:

- (1) **Be onboard the vessel**
- (2) Be made available for inspection upon request by an authorized officer (USCG, NMFS Enforcement Officer or other designated official)
- (3) Meet certain specified standards.
- (4) Be used while hook-and-line gear is being deployed.
- (5) ~~A functioning and effective spare bird line must also be onboard.~~

Seabird Avoidance Plan must be:

- (1) Completed.
- (2) Onboard the vessel.
- (3) Made available for inspection upon request by an authorized officer (USCG, NMFS Enforcement Officer or other designated official).
- (4) **Consistent with USCG safety information posting requirements**

Alternative 4 Option for Small Vessel Exemption in Specified Areas:

Vessels fishing **less than or equal to 32 ft.** LOA in the “internal waters” of Southeast Alaska (NMFS Area 659; Southeast Inside District), Prince William Sound (NMFS Area 649), and State waters of Cook Inlet ~~would also be exempted.~~ **would be required to tow a buoy bag.**

Vessels 32 ft (9.8 m) LOA or less fishing halibut in IPHC Area 4E would be exempted from seabird avoidance regulations.

Motion passes with 2 abstentions.

C-4 Crab Rationalization

The AP recommends the following clarifications and additions for analysis in the Crab Rationalization document:

1.2 Persons eligible to receive an initial allocation of QS must be:

~~Option 1. Persons that own NMFS certified BSAI crab vessels based on the catch history that gave rise to that vessel's certification, including NMFS approved Amendment 10 combinations, provided PL 106-554 is amended. To qualify as a certified vessel, a vessel must not at any time since October 10, 1998, been ineligible for a U.S.C.G. fishing endorsement. NMFS/RAM approved replacement vessels, qualified under the Amendment 10 exception for replacement vessels that have not at any time since October 1998 been ineligible for a U.S.C.G. fishing endorsement, would also qualify.~~

Option 1 Any person that holds a valid, permanent, fully transferable LLP license ;or

Option 2 A person, defined as a U.S. citizen that owns a MarAd certified and/or USCG documented BSAI crab vessel that: (i) was used to satisfy the General Qualification Period and Endorsement Qualification Period landings requirements of the License Limitation Program ("LLP"), and (ii) either was used to satisfy the Recent Participation Period landings requirement of Amendment 10 or meets the exemption requirements of Amendment. ~~10 replacement vessels~~

Suboption: Persons who have purchased LLP, with GQP, EQP, and RRP qualifications to remain in a fishery may obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.

~~Option 2. Persons that own the catch history and/or fishing rights of BSAI crab vessels that satisfied: the General Qualification Period and Endorsement Qualification Period landings requirements of the License Limitation Program ("LLP"), and (ii) either the Recent Participation Period landings requirement, or one or more of the specific exemption requirements of Amendment 10 to the LLP.~~

Motion passes 18/0

1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

(b) Basis for QS distribution.

~~Option 1. For eligibility criteria outlined in paragraph 1.2, Option 1, the distribution of QS shall be based on the catch history of the certified vessel on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel and that the initial allocation of quota share will disallow stacking or combining histories of vessels that are not currently participating in BSAI fisheries, with the exception of Amendment 10 exemptions and replacement vessels with fishery endorsements since October 10, 1998.~~

Option 1. For eligibility criteria in paragraph 1.2, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel (including replacement vessels) on which the LLP license and endorsements are based and shall be on a fishery by fishery basis. The catch history upon which the fishing quota shares are derived, must have been earned on vessels that are currently MarAd certified and/or USCG documented fishing vessels. The initial allocation of quota share will allow stacking or combining of LLPs and histories that satisfied (i) the General Qualification Period and Endorsement Qualifying Period landings requirements of the License Limitation Program (“LLP”), and (ii) either the Recent Participation Period landings requirement, or one or more of the specific exemption requirements of Amendment 10 to the LLP.

~~Option 2. For eligibility criteria outlined in paragraph 1.2, Option 2, the distribution of QS shall be based on the catch history of the qualified vessel on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel. However, the initial allocation of quota share will allow stacking or combining of histories of vessels that each satisfied (i) the General Qualification Period and Endorsement Qualification Period landings requirements of the License Limitation Program (“LLP”), and (ii) either the Recent Participation Period landings requirement, or one or more of the specific exemption requirements of Amendment 10 to the LLP.~~

Option 2. For eligibility criteria in paragraph 1.2, Option A, the distribution of QS to the LLP license holder shall be based on 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 vessel. However, the initial allocation of quota share will allow stacking or combining of valid, permanent, fully transferable LLP licenses and of histories of vessels as permitted under the LLP.

Suboption: Persons who have purchased LLP, with GQP, EQP, and RRP qualifications to remain in a fishery may obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both.

Motion passes 18/0

Section 2.7.1 (PQS ownership caps) and section 1.6.4 (vertical ownership caps on processors) should be analyzed using both the individual and collective rule and the threshold ownership rule using 10%, 25%, and 50% minimum ownership standards for inclusion in calculating the cap.

Motion passes 18/0

The AP recommends applying ownership caps at the company level.

Motion passes 18/0

The AP requests staff provide information describing these fisheries, issues related to recency, potential proxy QS in other fisheries. We further request the State of Alaska be consulted on potential options which can be implemented as trailing amendments.

Motion passes 17/1

The AP recommends clarifying that use caps would apply fleet wide and are based on percent rather than lbs. Alternative 1.7.4 Option 1 should be modified as follows:

1.7.4 Use caps on IFQs harvested on any given vessel:

Option 1. Range from average to highest of annual catch by vessel by species

Suboption 1

a) fleet average percent of the catch in the qualifying period (check wording with staff - ask lance)

b) highest single vessel percentage of the catch in the qualifying period

Suboption 2 Options for a specified time period:

a) the IFQ qualifying years;

b) the IFQ qualifying years plus the years from the end of the qualifying period through the year of the final Council action.

Motion passes 18/0

Delete the following option from section 2.3

~~Option 3. Processing quota shares shall be initially issued to Eligible Processors based on the 1995-1999 processing history for each fishery, determined by the buyer of record listed on ADF&G fish tickets.~~

~~Suboption: Processor able to choose the best 4 of 5 years.~~

Motion passes 18/0

The AP recommends option 2, with grandfather provisions, be applied to both the initially issued QS and any additional purchased.

Motion passes 18/0

Modify 2.8.8 option as follows:

Note: All three options for reclassification of these temporary B QS should require a regionalization designation to maintain the appropriate regional allocations. Additionally, the AP requests staff include discussion of reasons a processor may not use its quota, including physical inability (e.g. plant breakdown); harvesters being unable to deliver when the processor is able to process; bona fide price disagreement; concern over exceeding the processor quota allotment (when there is only a small amount of processor quota remaining); and bonafide dispute over quality of the crab.

2.8.2 Penalties - Eligible Processors must fully utilize their processing quota shares in the season while a fishery is open or lose the amount that is not utilized for one season in the next season.

i. Distribution of unused quota:

- Option 1. Distributed to other processors proportionally
- Option 2. Distributed to other processors equally
- Option 3. Allocate to open access.

Suboption 1. Distribution of QS from A class to B class with regionalization

- a) reclassification of Class A QS proportionally among all Class A QS holders
- b) reclassification of Class A QS equally among all Class A QS holders
- c) reclassification of the unused Class A QS to B class

Motion passes 18/0

The AP recommends allowing the purchase and processing of B share IFQ crab. We further recommend adding a new option 5 under section 1.7.2.3, Basic eligibility criteria for initial allocation of IPQ quota shares, to mirror the eligibility for processors in section 2.1,

1.7.2.3 Allowances for Catcher/Processors

Option 5. U. S. corporation or partnership (not individual facilities) that processed crab for any crab fishery included in the IFQ program during 1998 or 1999.

Motion passes 19/0

Add 2 new options to 6.2.3 Options for assignment of QS: (Note: the vessel owner may choose which of these options to apply.)

6.2.3 Other Options/Considerations.

Calculation of Co-op Catching and Processing History. A co-op consists of some number of vessels delivering to a processor. Catch histories assigned to each vessel will be determined by analysis of catch and delivery patterns. Processing histories shall be determined in an identical fashion:

<u>Cumulative history of co-op participant (harvester or processor)</u>
Total history of all qualifying co-op participants (harvester or processor)

Option 1. Catch history is added to the open access pool, and all open access vessels would be allowed to harvest their history. But the coop vessel, since it belonged to a cooperative would not be allowed to participate in the open access fishery during the same year it is in a coop for a specific target fishery.

Option 2. Assign all of a person’s catch history for a specific target fishery to the respective Cooperatives, if they join only one cooperative. Because the vessel owner is not a member of the other cooperatives, they would not be eligible to participate in the harvest of the other cooperatives’ allocations of the target species.

Motion passes 19/0

The AP recommends using the AFA method, rather than the State of AK proposed method, for calculating Coop histories in order to allow for an open access fishery. *Motion passes 19/0*

The AP recommends the regional distribution apply to each initial allocation of harvesting and processing shares. *Motion passes 19/0*

The AP recommends exempting from the definition of a lease the use of IFQs on a vessel on which the owner of the underlying QS is present. *Motion passes 19/0*

The AP recommends replacing 1.8.1 Options 1 with the SEA skipper and crew initial allocation proposal and Option 2 with the SEA first right of refusal proposal. We further recommend the SEA proposals be modified as follows:

Option 1.

I. Percentage to Captains and/or crew:

A range of percentages for initial allocation from 0% to 20% should be analyzed.
(i.e. 0%, 10%, 20%)

A crewman is defined as a US citizen who held a a commercial fishing landing permit or crew license during the qualifying period.

II. Species specific:

As with vessels.

III. Eligibility:

(a) Determined on a fishery by fishery basis by 1) having at least one landing in the qualifying years used by the vessels and 2) having recent participation in the fishery as defined by at least one landing per year in the fishery in the last two years prior to adoption of a rationalization program by the Council.

(b) As a second option, eligibility could be determined by a point system modeled after that used by the State of Alaska in SE Alaska for limited entry in the Dungeness, King, and Tanner crab fisheries there.

1. Skippers
2. Crew

IV. Qualification period:

As with vessels.

V. Distribution per Captain and/or crew:

- i) Shares based on landings. (personal catch history based on ADF&G fish tickets).
- ii) Shares distributed equally among qualified participants.
- iii) For crew: distribution based on a point system

- iv) A mix of one or more of the above, with a range of 0-50% distributed equally and the balance based on landings and/or points

VI. Transferability criteria:

- (1) Sale of QS
 - a) QS is fully transferable
 - b) QS is only transferable to active participants
- (2) IFQ leasing
 - a) IFQ is fully leasable
 - b) IFQ is only leasable to active participants
 - c) IFQ is leasable to smaller, distant fisheries (i.e. St. Mathew, Pribilof and Adak King Crab)

Use it or lose it would apply to either 1 or 2 above, with a one year hardship provision. If the crew QS holder does not maintain active status in the fishery they would be required to transfer their QS to another active participant in the fishery

An active participant is defined as a skipper or crewman who makes a minimum of one delivery per year in the subject crab fishery as evidenced by fish tickets, or in the case of a crewman, an affidavit from the vessel owner.

VII. Limits on ownership:

A cap on ownership of crew QS shall be the same percentage as that used for vessels, but will be separate from vessel caps.

Option 2: First Right of Refusal on Quota Share Transfers

- (1) A range of 0-20% of initially issued QS would be designated as crew shares, these shares would remain as a separate class of QS. Transfer of initially issued QS must include transfer of 0-20% crew shares for which there will be a first right of refusal for eligible crew to buy. The owner of the QS being offered for sale would have to give notice to NMFS RAM division of the impending sale. RAM in turn could then notify the fleet of the available QS. After this initial transfer crew QS will be available for transfer to any active participant in the fishery.
- (2) If a qualified buyer cannot be found then 50% of the 0-20% crew QS offered for sale would have to be gifted to a pool available to qualified buyers and the remaining 50% of the 0-20% could then be offered for sale on the open market to any buyer.
- (3) The skipper/crew pool of QS would be overseen by RAM and that the proceeds from the sale of this QS by auction to the highest qualified bidder would go into a dedicated low interest loan program for skippers and crew.
- (4) Time frame for the first right of refusal is 1-3 months.
- (5) Eligibility of a U.S. citizen to purchase crew shares would be defined by participation in at least one delivery in the subject crab fishery in the last year as evidenced by ADF&G fish ticket or affidavit from the vessel owner.

Motion passes 17/0/1

In addition to the clarifications noted by staff, the AP makes the following additional recommendations:

Add to 6.2.2 (a) a new option:

6.2.2. Processor Sector Options

Eligible processors as defined under paragraphs 2.1 and 2.3 Option 1, a-g. In addition:

1. C/P vessels may process their own history and the history of those who made deliveries to them, or may deliver their catch to inshore processors;
2. inshore processing sector (floaters, mother-ships and shore-based) is restricted to its qualifying processing history and may not convert such history to C/P operations.
3. **Allow new processors, meeting the appropriate criteria, to form Co-ops (i.e. no closed class of processors)**

Motion passes 9/5/4

Add to 1.6.2 a new option

Option 5 A brown king crab QS holder may annually swap with any other brown king crab QS holder, on a pound for pound basis, IFQ in one district for IFQ in the other district

Motion passes 15/0

The following motion failed 5/12

1.8.2 Owner on Board requirements

- a. *No owner on board requirements*
- b. *Initial issues of QS would not be required to be aboard the vessel, subsequent transferees would be required to be aboard the vessel when harvesting IFQ's. (Transfer rules similar to halibut/sablefish IFQs)*

Minority Report

The minority of the AP believes that Owner on Board provisions should be reviewed by Council staff because:

- a. *Without Owner on Board provisions, a given crab fishery is likely to consolidate up to the vessel or owner cap and the ownership interests are likely to migrate from the waterfront. eg. If the ownership cap is 1% of a fishery, there will eventually be very close to 100 participants in the fishery-- those owning the fishery do not need to be fishermen, familiar with vessels or knowledgeable about the resource, simply investors.*
- b. *The National Academy of Science review of IFQ programs, Sharing the Fish - Toward a National Policy on IFQ's, suggests that a number of options for facilitating entry into the fishery and crew member opportunities should be considered when considering an IFQ plan.*
- c. *Owner on Board provisions will ensure and may enhance the nexus between those actually harvesting the resource and those making the decisions regarding when, where and how to participate in the fishery. This will enhance safety, resource protection and care of the active participants in the fishery.*

Signed: Duncan Fields, Michelle Ridgway, Dave Fraser, Jeff Stephan, Arne Fuglvog

Replace the Coop options in 6.1 as follows

6.1 Use a co-op model that would have similar elements (qualifying years, ownership caps, skipper provisions, etc) as the IFQ program alternative as appropriate and the following options for comparison with the IFQ model:

- ~~Option 1. AFA-style co-op~~
~~Option 2. Dooley-Hall style co-op~~

1. Formation of Coop

A. There would be one coop formed with each eligible crab processor. Coops would be formed with the processor at the company level, not the plant level. Two or more vessels are sufficient to form a coop. The coop would handle all species of crab.

B. Crab processor eligibility would be determined using the qualifying period identified for allocation of initial IPQs (Eligible Processors, including C/P as revised in 1.7-2.3 option 5, Issue 10, processors eligible to receive an initial allocation of processing quota shares (PQs) are defined as follows: U.S. Corporation or partnership (not individual facilities) that processed crab for any crab fishery included in the IFQ program during 1998 or 1999.)

C. Each crab vessel is eligible to join only one coop. Which coop the vessel is eligible to join is determined based on which eligible processor that vessel delivered the highest dollar value of crab to during the processor qualifying period used for 1.B above.

D. The dollar value is determined by multiplying the average price per pound published by the State of Alaska in each season for each crab fishery in which that vessel made deliveries by the number of pounds delivered to each processor by that vessel in each season of the qualifying period.

E. Vessels that join a coop will have their catch history from the vessel qualifying period protected. A vessel that does not elect to join in the coop for which it is eligible remains under an open access fishery.

F. Each vessel's catch history is determined using the formulas identified for calculation of initial quota shares selected under section 1.4 as modified above.

G. A coop agreement would be filed annually with the Secretary of Commerce, after review by the Council, before a coop's catch history would be set aside for their exclusive use. The processor and each boat that is eligible and elects to join the coop must sign the agreement. Only the histories of those boats that sign will be protected.

2. Operation of Coop

A. The coop is responsible for allocating fishing quotas for each species of crab to the coop members. Each vessel is entitled to one vote, and decisions will be made by majority vote unless otherwise agreed to by the coop members.

B. The processor with which the coop is formed gets

- i. first right of refusal for all crab harvested by coop members, with coop free to deliver crab to another eligible processor if no agreement is reached; or
- ii. a guaranteed amount of coop crab to be delivered, with the amount ranging from 10% to 100%, the remainder of which can be delivered by the coop to either—

I. any eligible processor, or

II. any processor, eligible or not (i.e., new entrant allowed).

C. If the processor buys the coop crab, it may process the crab itself or may arrange to have it processed by any other crab processor (i.e., the processor acts as broker for coop crab it does not wish to process).

D. In the alternative, the processor may elect to have the coop act as its own broker for crab the processor does not wish to buy, with the coop free to either sell the crab to another processor or allow individual vessels to make arrangements on their own.

E. Cooperatives may arrange to swap, purchase, or trade deliveries of crab by mutual agreement of the cooperatives concerned.

3. Movement of Vessels Between Coops

A. Three alternatives would be analyzed.

i. Vessels are free to transfer between coops once each year, with agreement of the coop to which they are moving. Vessel catch history goes to new coop.

ii. Vessels may move to a new coop after spending one year in the open access fishery. Coop must agree to entry of new vessel. Vessel catch history is not protected in open access, but is restored upon entering new coop.

iii. Vessels may only leave coop with agreement of the processor. Catch history only goes with vessel if processor agrees.

B. Vessels that did not join a coop in the first year coops are formed may join the coop of the processor to which they delivered the highest dollar value of crab in the previous year after spending one year in the open access fishery.

4. Regionalization, Etc.

A. All other options in the June Draft Council motion regarding regionalization, skipper/crew shares, etc. would be applied to the Lead Fishery Cooperative Model based on the options identified for analysis in those areas.

5. Taxes

Add a new # 5. Taxes: Require owners of CP vessels to pay a fee equivalent to the tax that would have been imposed had the CP operated in State waters.

Motion passes 15/4

Remove from section 1.4.2.7 Options for Dutch Harbor Western Aleutians Brown King Crab as follows:

Suboption: Award each initial recipient QS based on:

- (a) ~~GHE split Dutch Harbor/western Aleutian Island brown king crab~~
- (b) historical participation in each region

Motion passes 11/3/5

Adjust the range in 1.6.3 (d) as follows:

Steele - 1.6.3 Separate and distinct QS Ownership Caps

Change option (d) as follows:

Percentage cap-ranging from 15 - 40% for the Dutch Harbor and western Aleutian Island BKC

Motion passes 17/0/1

AP requests that the council reiterate that a comprehensive section on environmental consequences of these rationalizations alternatives be included in the next draft document.

Motion passes 10/4/1

D-1 Groundfish Management

The AP requests the Council approve the SAFE reports for the BSAI and GOA. *Motion passed 18/1.*

Additionally, the AP approves the SSC's ABC with the following changes as included in the attachement:

- GOA: Set TAC fop Shallow water flatfish in WGOA to 4,500 mt and CGOA to 13,000mt
- Set TAC Flathead sole in WGOA to 2,000 mt and CGOA to 5,000mt
- Set TAC Arrowtooth flounder in all areas: WGOA 8,000mt, CGOA 25,000 mt, WYAK 2,500mt, EYAK/SEO 2,500mt
- Decrease Other slope rockfish in WYAK to 150mt and EYAK/SEO to 200 mt

For PSC's, the AP adopted the following:

Halibut PSC Limits - Trawl			
	shallow	deep	Total
Jan 20 - Apr 1	450	100	550
Apr 1 - Jul 1	100	300	400
Jul 1 - Sept 1	200	400	600
Sept 1 - Oct 1	150	any rollover	150
Oct 1 - Dec 31	no apportionment		300
Total	900	800	2000
Halibut PSC Limits - Fixed			
Jan 1 - June 10	250		
June 10 - Aug 31	5		
Aug 31 - Dec 31	35		
DSR	10		
Total	300		

Motion passed unanimously.

In the GOA, the AP requests the Council adopt the 3 survey average for projecting ABC for P cod. *Motion passed unanimously.*

Additionally, the AP recommended that the amount for arrowtooth flounder non-specified reserve for CDQ be increased from 15% to 50%. *Motion passed unanimously.*

Further, the AP requests the IPHC or other government agencies to work cooperatively with the small boat pacific cod fisherman to design a study capable of determining differences in halibut discard mortality rates and bycatch amounts. *Motion passed unanimously*