

OCTOBER 2004
Gulf of Alaska Rationalization
Introductory Discussion Paper

At its April 2003 meeting, the Council adopted a motion preliminarily defining alternatives for the rationalization of the Gulf of Alaska groundfish fisheries. Since that meeting, the Council has undertaken the process of refining the alternatives for analysis. This paper summarizes the status of the Council's motion defining alternatives for analysis and reviews the approach to that analysis that is being adopted by staff.

Problem Statement

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

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

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

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

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

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

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

The Alternatives

To meet these purposes and needs, the Council motion has outlined sets of alternatives for three different sectors; catcher processors, trawl catcher vessels, and fixed gear catcher vessels. The alternatives applicable to each of these sectors are specified in separate tables.

Catcher processor alternatives

The three catcher processor alternatives are outlined in Table 1.

Table 1. Modified Gulf of Alaska groundfish rationalization alternatives – catcher processors

Alternative 1	Alternative 2	Alternative 3
No Action	Harvester IFQ-cooperative	Sector Allocations
	Shares allocated to individuals by gear type	Harvest histories allocated to individuals in cooperatives and annual harvest allocations to cooperatives
	All Catcher Processors	Sectors: CP Trawl, CP Longline, CP Pot
	Cooperative	Cooperative
	CP Provisions	CP Provisions
	No Processor Provisions	No Processor Provisions
	those that do not join cooperatives fish IFQs with option for PSC reduction	those that do not join co-ops fish open access with option for PSC reduction

Alternative 1 is the status quo, under which the LLP would be maintained. **Alternative 2** would create a harvest IFQ program under which share holders would be permitted to form cooperatives. Although limits on transfers of shares between gear types could be applied, cooperatives could be formed among holders of shares for different gear. Share holders that choose not to join cooperatives would receive their allocations as individual quota with a possible reduction in their PSC allocations. Under **Alternative 3**, sector allocations would be made to three different catcher processor sectors; the trawl sector, the longline sector, and the pot sector. The program would be history based, with holders of qualified history eligible to join a cooperative within that sector. A cooperative would receive an annual harvest allocations based on the history of its members. Holders of qualified histories that chose not to join a cooperative would be permitted to fish in a limited access fishery that will receive an allocation based on the qualified histories of sector members that chose not to join a cooperative. The PSC allocation to the limited access fishery could be reduced.

Trawl catcher vessel alternatives

Table 2 outlines the Council’s five alternatives for the trawl catcher vessel sector.

Table 2. Modified Gulf of Alaska groundfish rationalization alternatives – trawl catcher vessels

Alternative 1	Alternative 2A	Alternative 2B	Alternative 2C	Alternative 3
No Action	Harvester IFQ cooperative with license limitation for processors	Harvester IFQ cooperative with license limitation for processors and processor linkage	Harvester IFQ cooperative with processor allocation	Sector allocations with processor linkage
	Shares allocated to individuals	Shares allocated to individuals	Shares allocated to individuals	Harvest histories allocated to individuals in cooperatives and annual harvest allocations to cooperatives
	Trawl CV	Trawl CV	Trawl CV	Trawl CV
	Cooperative	Cooperative	Cooperative	Cooperative
	license limitation for processors with X% delivery obligation	license limitation for processors with specific processor linkages with X% delivery obligation and share reduction penalty to move between cooperatives*	allocation of 10, 20, or 30% of harvest shares to qualified processors	specific processor linkages
	those that do not join co-ops fish IFQs subject to closed class delivery requirement with option for PSC reduction	those that do not join co-ops fish IFQs subject to processor linkage delivery requirement with option for PSC reduction	those that do not join co-ops fish IFQs	those that do not join co-ops fish open access with option for PSC reductions

*Staff has removed an incorrect reference to the element establishing the processor linkage to avoid confusion.

Alternative 1 is the status quo, which would continue the LLP. **Alternative 2A** would create a harvester IFQ program with a processor limited license program that requires a portion of each harvester’s allocation to be delivered to a licensed processor. Processor licensing would be based on historic processing. Share holders would be permitted to form cooperatives to manage their members’ allocations. Share holders that choose not to join a cooperative would continue to receive their allocations as individual quota with a possible reduction in their PSC allocations. **Alternative 2B** would also create a harvester IFQ program with a processor limited license program. This alternative would also create a system of harvester/processor linkages under which a share holder would be required to deliver a specific percentage of landings to the linked processor. Linkages would be based on the share holder’s landings history. A share holder could change the processor to which its shares are linked, but would be subject to a share reduction penalty when making that change. Share holders would be permitted to form cooperatives to manage their allocations. Share holders that chose not to join a cooperative would receive individual allocations (which would be subject to the processor linkage), but may be subject to a reduction in their PSC allocations. **Alternative 2C** would also create a harvester IFQ program, but would allocate a portion of the harvest share pool (between 10 and 30 percent) to processors based on their processing history. Share holders would be permitted to form cooperatives, with non-cooperative members receiving individual allocations. **Alternative 3** would create a history- based cooperative program, under which cooperatives would receive annual harvest share allocations based on the qualified histories of their members. Cooperatives would be required to be associated with a processor, but the details of that relationship would be determined by negotiations among the cooperative members and the processor. Initially, each holder of qualified history would be eligible to join a cooperative associated with the processor to which it delivered the most pounds during a specific time period. Holders of qualified history that choose not to join a cooperative would be permitted to fish in a limited access fishery that would receive an annual allocation based on the histories of non-members of cooperatives. The allocation of PSC to the limited access fishery could be reduced.

Fixed gear catcher vessel alternatives

Table 3 outlines the Council’s alternatives for the fixed gear catcher vessel sector. The Council has specified 6 alternatives that would apply to all or a portion of the fixed gear sector. In general, these alternatives follow a structure similar to applicable to the trawl catcher vessel sector, with the exception of an alternative that would create an IFQ program for “low producing” fixed gear vessels.

Table 3. Modified Gulf of Alaska groundfish rationalization alternatives – fixed gear catcher vessels

Alternative 1	Alternative 2 Low	Alternative 2A High	Alternative 2B High	Alternative 2C	Alternative 3
No Action	Harvester IFQ	Harvester IFQ cooperative with license limitation for processors	Harvester IFQ cooperative with license limitation for processors and processor linkage	Harvester IFQ cooperative with processor allocation	Sector allocations with processor linkage
	Shares allocated to individuals	Shares allocated to individuals	Shares allocated to individuals	Shares allocated to individuals	Harvest histories allocated to individuals in cooperatives and annual harvest allocations to cooperatives
	low producing fixed gear CV	high producing fixed gear CV	high producing fixed gear CV	fixed gear CV	Longline CV, Pot CV
	Cooperative	Cooperative	Cooperative	Cooperative	Cooperative
	no processor delivery obligation	license limitation for processors with X% delivery obligation	license limitation for processors with specific processor linkages with X% delivery obligation and share reduction penalty to move between cooperatives*	allocation of 10, 20, or 30% of harvest shares to qualified processors	specific processor linkages
	those that do not join co-ops fish IFQs	those that do not join co-ops fish IFQs subject to closed class delivery requirement with option for PSC reduction	those that do not join co-ops fish IFQs subject to processor linkage delivery requirement with option for PSC reduction	those that do not join co-ops fish IFQs	those that do not join co-ops fish open access with option for PSC reduction

*Staff has removed an incorrect reference to the element establishing the processor linkage to avoid confusion.

Alternative 1 is the status quo, which would continue the LLP. **Alternative 2 Low** would apply to only the “low producing” fixed gear sector, participants that receive allocations either below the average or below the 75th percentile of fixed gear allocations. This alternative would create an IFQ program, in which participants would be permitted to form cooperatives to coordinate harvest activities. **Alternative 2A High** would a program similar to Alternative 2A for the trawl catcher vessel sector. This alternative would create a harvester IFQ program with a processor limited license program that requires a portion of each harvester’s allocation to be delivered to a licensed processor. Processor licensing would be based on historic processing. Share holders would be permitted to form cooperatives to manage their members’ allocations. Share holders that choose not to join cooperatives would continue to receive their allocations as individual quota with a possible reduction in their PSC allocations. **Alternative 2B High** would create a program similar to Alternative 2B for trawl catch vessels. This alternative would also create a harvester IFQ program with a system of processor limited licenses. Harvester/processor linkages would be

established, under which a share holder would be required to deliver a specific percentage of landings to the linked processor. Linkages would be based on the share holder's landings history. A share holder could change the processor to which its shares are linked, but would be subject to a share reduction penalty when making that change. Share holders would be permitted to form cooperatives to manage their allocations. Share holders that chose not to join a cooperative would receive individual allocations (which would be subject to the processor linkage), but may be subject to a reduction in their PSC allocations. **Alternative 2C** would create a program similar to Alternative 2C for trawl catcher vessels. This program would also create a harvester IFQ program with a portion of the harvest share pool (between 10 and 30 percent) allocated to eligible processors based on their processing history. Share holders would be permitted to form cooperatives, with non-cooperative members receiving individual allocations. **Alternative 3** would create a program similar to Alternative 3 for trawl catcher vessels. This alternative is a history-based cooperative program, under which cooperatives would receive annual harvest share allocations based on the qualified histories of their members. Cooperatives would be required to be associated with a processor, but the details of that relationship would be determined by negotiations among the cooperative members and the processor.¹ Initially, each holder of qualified history would be eligible to join a cooperative associated with the processor to which it delivered the most pounds during a specific time period. Holders of qualified history that choose not to join a cooperative would be permitted to fish in a limited access fishery that would receive an annual allocation based on the histories of non-members of cooperatives. The allocation of PSC to the limited access fishery could be reduced.

Elements and options defining the alternatives

The specific elements and options that would define the alternatives are contained in Attachment A to this document. The status quo is not defined in the motion, since that is defined by current regulations. Alternatives 2, 2A, 2B, and 2C for all sectors are all defined by provisions beginning with the number 2 and starting on page 1; Alternative 3 for all sectors is defined by provisions beginning with the number 3 and starting on page 20.

The process of selecting a rationalization program

Staff anticipates that the Council will follow its normal process for selecting a preferred rationalization program for submission to the Secretary of Commerce. Typically that process begins with the Council adopting alternatives for analysis. For most Council actions, these alternatives are specified through elements and options. Staff then drafts regulatory analyses (a Regulatory Impact Review, an Initial Regulatory Flexibility Analysis and either an Environmental Assessment or Environmental Impact Statement) analyzing the impacts of the alternatives (including any elements and options) to inform the Council's decision.

Adequate regulatory analyses must fully analyze all alternatives, comparing and contrasting their impacts. To accomplish that end, the analysis must make clear the implications of each option available to the Council within an alternative, including the interaction of the choice of each option with every other option that the Council might also choose for other provisions. For example, if the Council wishes to consider options for low and high member thresholds for cooperative formation and also options for reducing PSC allocations in some circumstances, the analysis must make clear not only the general impacts of the choices of membership thresholds, but also how the threshold choices under consideration would differently interact with the various choices of PSC reductions under consideration. This example illustrates the analytical issue that arises by retaining options with respect to two decision points in a Council motion. The current Gulf rationalization Council motion, however, contains on the order of one hundred such decision points. The result is that the current motion is analytically intractable. To state the

¹ This alternative contains an option that would remove the cooperative/processor association requirement from "low producing" fixed gear vessels.

problem simply, the alternatives have too many options for staff to fully explain (or even understand) the implications of the interactions of all of the different options (as required of regulatory analyses).

Given the complexity of the alternatives, staff will be unable to complete the regulatory analyses prior to the Council substantially narrowing the options within each alternative. Although leaving some options undecided will complicate the analysis, not all options must be decided for the regulatory analyses to be completed. In assessing the extent of undecided options to leave for after completion of the regulatory analyses, the Council should bear in mind that the analyses are further complicated because of the Council's intention to be permitted to select different alternatives for different sectors. An analysis that is sufficient for the Council to select different alternatives for different sectors must clearly describe the implications of those interacting choices. For example, the analysis might need to examine the implications of one sector being governed by an IFQ program and another sector being governed by a history-based cooperative program. If these different sectors are permitted to trade shares with one another, the analysis must examine the consequences of those trades, as well. In the end, the ability of the analysts to assess these complexities along with the intricacies of options within an alternative is limited by the need to provide the Council with a document that clearly explains the consequences of the interacting choices.

In selecting options to refine the alternatives to advance for analysis, the Council should also assess the range of alternatives that are created. Each alternative should meet the Council's purpose and need statement, should be feasible, and should be distinguishable from each other alternative. The Council should therefore consider using its selection of options to distinguish the alternatives from each other, but only to the extent that maintains the integrity of each alternative under the problem statement. Since the alternatives as defined to date are distinct, the Council may select the same options for each of the alternatives, if needed to meet the objectives of the purpose and need statement.

To assist the Council in refining the alternatives, staff has prepared two discussion papers that are attached to this document. The first discussion paper (Attachment B) concerns community issues, focusing on the development of the policy objectives for the various community provisions under consideration and outlining several of technical decisions necessary to finalize the community provisions. The second paper (Attachment C) provides discussion of several options in the motion for consideration by the Council. Particular attention is given to provisions that could be decided on a policy-basis, as little data are currently available for analysis. In addition, the discussion addresses several provisions that complicate data analyses that could assist the Council in finalizing the alternatives for analysis. For example, two different sets of classifications of processors are suggested under some of the alternatives (i.e., fixed gear/trawl gear and small/large). Because of the variety of eligibility standards and processor protections that are proposed in the alternatives, applying these different classifications greatly complicates any analysis of data. Were the Council to adopt a single approach to processor classification, a more coherent presentation of the effects of different eligibility standards and protections could be presented to the Council. Staff is hopeful that the Council will use this second discussion paper to identify the programs it intends to forward in its alternatives, which will in turn facilitate its refinement of several provisions. Simplification of the alternatives should allow staff to provide more meaningful and informative analyses to the Council in the future.

Attachment A – October 2004
North Pacific Fishery Management Council
GULF OF ALASKA GROUND FISH RATIONALIZATION
Updated through April 2, 2004

The following provisions apply to Alternative 2 only:

2.2 Harvest Sector Provisions

2.2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- SEO is exempt except for SR/RE and thornyhead rockfishes as secondary species. Allocation will be based on target catch in sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Gear would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ___% of current harvest by species and area:

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

2.2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

Suboption 1: For Pacific cod under all options consider only A season harvests for 2001 and 2002.

Suboption 2: For Pacific cod consider a sector allocation based on specified percentages prior to individual allocations.

2.2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

2.2.2.2 Eligibility

LLP participation

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

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

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.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

2.2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

A portion of the TAC will be allocated to fisheries inside of 3 nm and will be subject to State management:

Option 1. An amount equivalent to the total annual catch (for each groundfish species/group) from state waters (inside of 3 nautical miles [e.g., parallel and 25% Pacific cod fishery]) by all vessels will be managed directly by the State of Alaska Board of Fisheries as a TAC/GHL equivalent to:

- a. Highest amount taken in state waters by area
- b. Highest amount taken in state waters by area plus 15%
- c. Most recent four-year average harvest from state waters

Option 2. All catch inside of 3 nautical miles by non-federally permitted vessels fishing the parallel fishery plus all catch under the 25% state water cod fishery and the PWS Pollock fishery remains under the authority of the State of Alaska Board of Fisheries.

Option 3. Only the catch associated with the 25% state water cod fishery and the PWS Pollock fishery remains under the authority of the State of Alaska Board of Fisheries.

2.2.3 Primary Species Rationalization Plan

Primary Species by Gear

2.2.3.1 Initial Allocation of catch history

Allocate catch history on an individual basis

- a. Trawl CV and CP:
Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish
- b. Longline CV and CP:
Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder
- c. Pot CV and CP:
Pacific Cod

2.2.3.2 Harvest share (or QS/IFQ) Designations

2.2.3.2.1 Vessel Designation of low producers and high producers in the fixed gear class.

Low producing vessels are:

Option 1: less than average primary species harvest shares initially allocated by gear and area.

Option 2: less than the 75th percentile primary species harvest shares initially allocated by gear and area.

High producing vessels are the remainder.

2.2.3.2.2 Harvest share sector designations:

Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:

Actual amount of catch harvested and processed onboard a vessel by species.

2.2.3.2.3 Harvest share gear designations

Designate CV harvest shares as Trawl, longline, and Pot

Designate CP harvest shares as CP trawl, CP longline, CP pot.

Option: Designate harvest shares as high and low producer fixed gear

2.2.3.2.4 Harvest Share Restrictions—Harvest restrictions apply to primary species only.

Harvest restrictions for primary harvest shares (or IFQ) may be used by other gear types except that:

Option 1: No restrictions

Option 2: Fixed gear harvest share (or IFQ) may not be harvested using trawl gear

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

2.2.3.2.5 If a processor limited entry alternative is chosen, CV harvest shares will be issued in two classes. Class A shares will be deliverable to a licensed processor. Class B shares will be deliverable to any processor as authorized under this program.

Option 1. A shares be at the QS level and separable from B shares.

Suboption: Processor affiliated vessels would receive their entire allocation as A shares.

Option.2.Only the annual allocations will be subject to the Class A/Class B distinction.

All long term shares or history will be of a single class.

2.2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.2.3.3.1 Persons eligible to receive harvest shares by transfer must be:

Entities eligible to document a vessel (apply to CP).

Initial recipients of CV or C/P harvest share.

Community administrative entities would be eligible to receive harvest shares by transfer.

Individuals eligible to document a vessel with at least 150 days of sea time (apply to CV shares)

Entities eligible to document a vessel that have a US citizen with 20% ownership and with at least 150 days of sea time (apply to CV shares).

Definition of sea time:

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

2.2.3.3.2 Restrictions on transferability of CP harvest shares

CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares convert to CV harvest shares.

2.2.3.3.3 When CP shares are redesignated as CV shares;

CP harvest shares retain their gear designation upon transfer.

Purchaser must further identify which processing provision and regionalization provision apply to the shares, consistent with the gear type.

2.2.3.3.4 Vertical integration

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.

2.2.3.3.5 Leasing of QS (“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. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 2. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 3. Allow leasing of CP QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.
- Option 4. For individuals and corporations with CV QS, no leasing restrictions for the first three years. After this grace period, leasing will be allowed in the following 18 months if the QS holder owns 20% or greater of a vessel on which 30% of the primary species shares held by the QS holder in at least 2 of the most recent 4 years were harvested. This provision would apply to independent lessees and within cooperatives.

2.2.3.3.6 Separate and distinct harvest share use caps

Caps will be expressed as QS units indexed to the first year of implementation.

Option 1. Caps apply to all harvesting categories by species with the following provisions:

- 1. Apply individually and collectively to all harvest share holders in each sector and fishery.
- 2. Percentage-caps by species and management area are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and CP (can be different caps):
Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)

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

Suboption 1. 75 %

Suboption 2. 85%

Suboption 3. 95 %

ii. Longline and Pot CV and/or CP (can be different caps)

based on the following percentiles of catch history for the following species:

Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish

Suboption 1. 75 %

Suboption 2. 85%

Suboption 3. 95 %

Option 2. Caps equal to a percentage that would allow contraction of QS holders in the fishery by 20%, 30% or 50% of the number of initially qualified QS recipients by species and sector.

Suboption 1. Conversion of CP shares:

i. CP shares converted to CV shares

Option 1. will count toward CV caps

Option 2. will not count toward CV caps at the time of conversion.

Caps will be applied to prohibit acquisition of shares in excess of the 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 species. 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.

2.2.3.3.7 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

i. 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 harvest share units.

Option 1. No owner on board restrictions.

Option 2. A range of 5-50% for fixed gear CVs and 5-40% for trawl gear CVs, of the quota shares initially issued to fishers/harvesters would be designated as "owner on board."

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.

2.2.3.3.8 Overage Provisions

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.

i. Trawl CV and CP:

Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties.

An overage of 15% or 20% or less, results in the reduction of the subsequent year's annual allocation or IFQ. Underages up to 10% of harvest shares (or IFQ).

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

ii. Longline and pot CV and CP:

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

Suboption. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

2.2.3.3.9 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

2.2.3.3.10 Limited processing for CVs

Option 1. No limited processing

Option 2. Limited processing of rockfish species by owners of CV harvest shares of rockfish species not subject to processor landing requirements are allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

2.2.3.3.11 Processing Restrictions

Option 1. CPs may buy CV share fish not subject to processor landing requirements.

Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish.

Option 3. CPs may buy incentive fish and incidental catches of CV fish not subject to processor landing requirements.

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

2.2.4 Allocation of Secondary Species

Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
Includes SEO shortraker, rougheye, and thornyhead rockfish.

i. Allocation of shares

Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Option 3. Secondary species allocations will be awarded to the owners of sablefish and halibut QS.

ii. Include these species for one gear type only (e.g., trawl). Deduct the secondary species catch from gear types from TAC. If deduction is not adequate to cover secondary species catch in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

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

iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.

Suboption. These shares may be used with either fixed gear or trawl gear.

v. Permit transfer of secondary species QS

Option 1. Primary species shares and secondary species shares are non-separable and must be transferred as a unit.

Option 2. Primary species shares and secondary species shares are separable and may be transferred separately

2.2.5 PSC Species

2.2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line

Option 1: Modeled after sablefish IFQ program (no direct inseason accounting of halibut PSC. Holders of halibut IFQ are required to land legal halibut. Estimates of sub-legal and legal size incidental mortality are accounted for when setting annual CEY.

Option 2: Halibut PSC will be managed through harvest share allocations.

Option 3: Continue to fish under PSC caps.

Suboption (to all options): Holders of halibut IFQ are required to land legal halibut. Halibut bycatch occurring without sufficient IFQs would count against PSC allocations.

Trawl Entities:

Option 1: Halibut PSC will be managed through harvest share allocations.

Option 2: Continue to fish under PSC caps.

2.2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the primary species shares. Secondary species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed primary species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

Option 1. Both sectors

Option 2. Catcher Processor/Catcher Vessel

2.2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

Option A: Halibut PSC annual allocations are separable from primary groundfish annual allocations and may be transferred independently within gear types. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Suboption 1. 0%

Suboption 2. 5%

Suboption 3. 7%

Suboption 4. 10%

Suboption 5: Exclude any halibut PSC transferred for participation in the incentive fisheries (includes transfers outside the cooperative).

Suboption 6: Exclude any halibut PSC transferred within a cooperative.

Option B: No leasing/annual transfer of PSC outside of cooperatives.

All PSC reductions under this section will remain unfished (in the water).

2.2.5.3.1 PSC Reduction for Non-Members of Cooperatives

Non-members of cooperatives would have PSC reduced by:

i 5%

ii 15%

iii 30%

PSC reduction will not apply to low-producing fixed gear participants.

All PSC reductions under this section will remain unfished (in the water).

2.2.5.4 Permanent transfer of Halibut PSC harvest share mortality

Option 1. Groundfish primary species harvest shares (QS) and Halibut PSC harvest shares (QS) are non-separable and must be transferred as a unit
Suboption. exempt Pacific cod

Option 2. Groundfish primary species harvest shares (QS) and Halibut PSC harvest shares (QS) are separable and may be transferred separately

2.2.5.5 Retention of halibut incidentally caught by fixed gear vessels

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.

2.2.6 Incentive species

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

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

Option. The portion of historic unharvested West Yakutat Pacific cod TAC will be made available as an incentive fishery, subject to provision of incentive fisheries.

2.2.6.1 Eligibility to fish in the incentive fisheries

A. The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate PSC and secondary species.

Suboption: vessels must be a member of a GOA fishing cooperative to fish in the incentive fishery.

B. Any holder of halibut or sablefish IFQ that has adequate IFQ or PSC and secondary species.

2.2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

Option 1. The individual co-op member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The co-op will notify NMFS when a vessel enters the incentive fishery quota pool.

Option 2. The co-op's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The co-op members through a contractual coop agreement will address catch accounting amongst the co-op members.

Option 3. For shareholders not participating in co-op, the unallocated incentive species are available for harvest once the individual IFQ holder's allocation of the incentive species has been used.

2.2.7 Preserving entry level opportunities for P. cod

2.2.7.1 Each initial allocation of P.cod harvest shares based on the final year of the qualifying period to fixed gear catcher vessels below the block threshold size would be a block of quota and could only be permanently sold or transferred as a block.

Option 1 10,000 pounds constitutes one block

Option 2 20,000 pounds constitutes one block

Option 3 No Block Program

Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program

2.2.7.2 Eligible participants would be allowed to hold a maximum of:

Option 1, 1 block

Option 2. 2 blocks

Option 3. 4 blocks

2.2.7.3 Any person may hold:

Option 1. One block and any amount of unblocked shares

Option 2. Two blocks and any amount of unblocked shares

Option 3. Four blocks and any amount of unblocked shares

2.2.8 Skipper/Crew

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

i. Vessel owners receiving initial QS or harvest privileges; or

- ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
 - Suboption 1. include crew in the license program.
 - Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

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

2.2.9 Communities

Note: 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 protection programs.

2.2.9.1 Regionalization

If adopted, all processing licenses (for shore-based and floating processors) will be categorized by region. Processing licenses that are regionally designated cannot be reassigned to another region.

Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.

Catcher processor shares and incentive fisheries are not subject to regionalization.

In the event harvest shares are regionalized and the processor linkage option is chosen, a harvester's shares in a region will be linked to the processor entity in the region to which the harvester delivered the most pounds during the qualifying years used for determining linkages under 2.3.1.1.2.

The following describes the regions established and fisheries that would be subject to regionalization:

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

2.2.9.1.1 Secondary species shares

Option 1: Secondary species shares would be subject to regionalization

Option 2: Secondary species shares would not be subject to regionalization

- 2.2.9.1.2 Qualifying years to determine the distribution of shares between regions will be:
- Option 1. consistent with the preferred option under “Section 2.2.2 Qualifying Periods”
 - Option 2. 1999 – 2002

2.2.9.2 Community Fisheries Quota (CFQ) Program

The purpose of the Community Fisheries Quota Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.

2.2.9.2.1 Administrative Entity

A Gulf-wide administrative entity will receive and hold CFQ on behalf of eligible communities. The administrative entity representing one or more eligible communities must be a non-profit entity qualified by NMFS.

2.2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. 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 Fisheries
 - a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.2.9.2.3 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

2.2.9.2.4 Allocation

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

CFQ awarded to a gulf-wide administrative entity cannot be permanently transferred.

2.2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of any eligible community

2.2.9.2.6 Allocation Basis

The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

- Option 1. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.
- Option 2. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.
- Option 3. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

2.2.9.2.7 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.

2.2.9.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.2.9.3 Community Purchase Program

The purpose of the Community Purchase Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities.

2.2.9.3.1 Administrative Entity

The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.2.9.3.2 Eligible communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500

- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. 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 Fisheries
 - a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 – 2002)
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.2.9.3.3 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.

2.2.9.3.4 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.2.9.4 Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors and crewmembers in the region to use as leverage to mitigate impacts directly associated with implementation of a rationalization program.

2.2.9.4.1 Harvest Share Distribution

10-30 % of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be a pool off the top before individual distribution of harvest shares.

2.2.9.4.2 CIFT Designation

- Option 1. One CV CIFT for entire GOA (exclude SEO)
- Option 2. Regional CV CIFTs:
 - Suboption 1. Central GOA (Kodiak, Chignik)
 - Suboption 2. Western GOA
 - Suboption 3. North Gulf Coast (Homer to Yakutat)
- Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.2.10 PSC for Crab and Salmon

Staff is tasked to fully develop the GOA salmon and crab bycatch reduction alternatives as proposed within the staff discussion paper. The Council requests ADF&G to assist staff to develop triggers, limits and closure areas that apply to the alternatives.

2.2.10.1 Chinook Salmon

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery.
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.2 Tanner Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for Tanner crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling for the remainder of the year if or when a trigger limit is reached by the flatfish fishery (and potentially additional areas for P. cod longline and pot gear).
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of Tanner crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.3 Red King Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for red king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of red king crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.4 Other King Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for other king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of other king crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.5 Other Salmon

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for other salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery (and potentially additional areas for flatfish trawling).
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.11 Review and Evaluation

2.2.11.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.2.11.2 Review and Sunset

Option 1. The program would sunset unless the Council decides to continue or amend the program. The decision of whether to continue or amend would be based on a written review and evaluation of the program's performance compared to its objectives.

Suboption 1. 5 years after fishing under the program

Suboption 2. 7 years after fishing under the program

Suboption 3. 10 year schedule after fishing under the program

Suboption 4. No sunset provision.

Option 2. Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

2.2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superseded by the GOA rationalization program allocations upon implementation.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The Council should consider adding sideboards for the GOA jig fishery, which will not be included in the rationalization program.

Staff analysis of sideboard issues should examine the potential consequences of the creation of a double set of sideboards relating to BSAI fisheries for vessels already subject to AFA sideboards in BSAI fisheries.

2.3 Processing Sector Provisions

For alternative 2A apply provisions generally at the company level.

For 2B, apply provisions generally at the facility (plant) level.

2.3.1 Provisions for Processor License Limitation

2.3.1.1 Harvester Delivery requirements

2.3.1.1.1 Harvester delivery requirements

Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:

- i. the linked licensed closed trawl or fixed class processor (Applies to 2B).
- ii. Any licensed trawl or fixed or large or small processor (Applies to 2A)

The remaining (50% - 0%) CV harvest share allocation can be delivered to:
 any processor excluding CPs
 any processor including CPs

Option 2. Low producing vessels are exempt from delivery requirements (Applies to Fixed Gear 2 Low only)

2.3.1.1.2 Linkage (Linkages apply by area) (Applies to 2B):

A harvester's processor linked shares are associated with the licensed fixed or trawl (large or small) processor to which the harvester delivered the most pounds of groundfish during the last ___ years of the harvester qualifying years.

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

Option 1: If the processing facility with whom the harvester is associated is no longer operating in the community the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community

Option 2: Fishermen that, during the qualifying years, delivered the majority of their harvest (all species combined) to a community with a single qualified processor are exempt from processor linkages.

(Either or both of Options 1 and 2 may be selected.)

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

2.3.1.1.3 Movement between linked processors (Applies to 2B)

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

Share reductions of 10% - 20% each time a harvester moves to a different linked processor for:

- i. 1 year
- ii. 2 years
- iii. 4 years

The share reduction shall be redistributed to:

- i. The shareholders in association with that processor that the shareholder left (if it continues to exist).
- ii. All cooperatives in the sector on a pro rata basis.

Suboptions:

- i. Penalty applies to A shares only.
 - ii. Penalty applies to both A and B shares.
-
- A. Full penalty applies to first move, subsequent moves are penalized at half of that rate.
 - B. Penalties apply only to the first transfer

Penalty to move depends on the amount of open access B share fish.

Closed A share class	Open B share class	Penalty on total amount of A and B shares	Ratio of penalty on A shares to B shares
90%	10%	10%	9:1 (9%)
80%	20%	20%	4:1 16%)
70%	30%	30%	7:3 (21%)
60%	40%	40%	3:2 (24%)
50%	50%	50%	1:1 (25%)

2.3.1.2 Processor License Qualifications (Applies to 2A and 2B)

2.3.1.2.1 To qualify for a processor license, a processor must have purchased and processed a minimum amount of groundfish by region as described below in at least 4 of the following years:

- Option 1. 1995-99.
- Option 2. 1995-01
- Option 3. 1995-02

Option (Applies to 2B only since 2A is entity based). If a processor meets the threshold for total purchased and processed groundfish for all their facilities combined, but does not meet the threshold for any one facility then the processor would be issued a license for the facility in which it processed most fish.

- Option 1.
 - a. Trawl eligible Processors
 - Suboption 1. 2000 mt
 - Suboption 2. 1000 mt
 - Suboption 3. 500 mt
 - b. Fixed gear eligible Processors
 - Suboption 1. 500 mt
 - Suboption 2. 200 mt
 - Suboption 3. 50 mt
 - c. Trawl and Fixed gear eligible processors
 - Meet criteria for both the trawl processor license and fixed gear processor license as described above
- Option 2.
 - a. Large processor license
 - Suboption 1. 2000 MT
 - Suboption 2. 1000 MT
 - Suboption 3. 500 MT
 - b. Small processor license
 - Suboption 1. 500 MT
 - Suboption 2. 200 MT
 - Suboption 3. 50 MT

Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share landings.

2.3.1.2.2 Processor history would be credited to (and licenses would be issued to):

- Option 1. Operator – must hold a federal or state processor permit.
- Option 2. Facility owner

Option 3. In circumstances where the facility operator was not affiliated with the facility owner during the processor license qualifying years, if the facility and/or entity met a license qualifying threshold, processing history would be credited to both the facility operator and facility owner for purposes of issuing the related processor limited entry licenses. Harvester associations and /or linkages would be accrued to the facility operator's license. Affiliation would be determined using the AFA common interest/control standard.

Custom processing history would be credited to:

Option A. the processor that physically processes the fish

Option B. the processor that purchases the fish and pays for processing

2.3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

If the license is transferred within the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor

Option 2. Within the same region

If the license is transferred outside the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor.

2.3.1.2.4 Processing Use caps by processor license type (trawl, fixed or trawl and fixed (small or large), by CGOA and WGOA regulatory areas:

Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest licensed processor

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

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

2.3.1.2.5 Processing Caps may apply at the entity level

2.3.1.2.6 License ownership restrictions on processors

Option 1. No restrictions

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

Option 3. Large processor license holders cannot hold small processor licenses.

2.3.2 Provisions affecting Allocation of Harvest Shares to Processors (Alternative 2C)

1. Processors are eligible to receive an allocation of QS if they meet allocation criteria identified in 2.3.1.2.1
2. Up to 30% of CV shares shall be designated as "CVP" shares and eligible to be held by processors and CV recipients. A portion of the CVP share allocation will be divided among eligible processors proportional to their history in the qualifying years as outlined in 2.3.1.2.1. Any balance of CVP not distributed initially to processors proportionally to CV recipients.
3. CVP is transferable between eligible CV holders and /or processors. The market place will determine whether a separate class of QS remains with processing entities.
4. CVP shares may be fished on any catcher vessel and subject to existing share designations and existing vessel use caps
5. CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer in 2.2.3.3

6. Caps of CFP will apply at the company level by management area and will be a 10-30% of the total pool of CVP shares available in the management area. Recipients of CVP that exceed the cap will be grandfathered.
7. No processors (and processor affiliated vessels using the 10% rule) may own or control CV quota shares. CV initially issued to processor affiliated vessels will be grandfathered.
8. CVP shares will be regionalized.

Motion passed 14/2

2.4 Cooperative Provisions

2.4.1 Cooperative requirements

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

2.4.2 Cooperative formation

2.4.2.1 Co-ops can be formed

- a. between holders of harvest shares or history in an area:
 - Trawl catcher vessels
 - “High producing” fixed gear catcher vessels
 - “Low producing” fixed gear catcher vessels
- b. between holders of harvest shares or history of a catcher/processor

Each group of share/history holders of a defined class that may form cooperatives is defined as a “sector.”

2.4.2.1.1 Co-op/processor affiliations

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

Option 2. CV cooperatives must be associated with

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

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder (if processor limited entry is selected)
- c) a limited entry processing license holder to which the share holder’s shares are linked

Suboption 1. Processors can associate with more than one co-op

Suboption 2. Processors are limited to 1 co-op per plant for each sector.

Suboption 3. Processor affiliated vessels may join coops.

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

2.4.2.2 Cooperatives are required to have at least:

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

Suboption: trawl CP sector, all less 1 of distinct and separate harvesters, using the 10% threshold rule).

Option 2. 40 -100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)

Option 3. 40 -100% of separate and distinct shareholders (using the 10% threshold rule) belonging to its sector. Council may choose different percentages for different sector.

Option 4. 40 -75 percent of the harvest shares (or catch history) eligible for the cooperative.

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

2.4.2.3 Duration of cooperative agreements:

- Option 1. 1 year
- Option 2. 3 years
- Option 3. 5 years

2.4.3 Rules Governing Cooperatives

2.4.3.1 Annual Allocations

- Option 1. Annual allocations of cooperative members would be issued to the cooperative.
- Option 2. Annual allocation of the sector would be issued to the sector cooperative (if “true” sector cooperative alternative is selected)

- Co-op members may internally allocate and manage the co-op’s allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op’s allocation of primary species, secondary species and halibut mortality, as may be adjusted by interco-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement.
Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).
- Require that a cooperative accept membership of any eligible participant subject to the same terms and conditions that apply to other cooperative members.

2.4.4 Ownership and Use Caps and Underages

2.4.4.1 Set co-op use caps at 25 to 100% of total TAC by species (must choose 100 percent for a “true” sector cooperative)

2.4.4.2 Co-op use caps for harvest shares on any given vessel shall be:

- Option 1. Set at the same level as the individual vessel level.
- Option 2. 3 times individual vessel use cap.
- Option 3. No use caps

- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.

- Underage limits would be applied in the aggregate at the co-op level

2.4.5 Movement between cooperatives

2.4.5.1 Harvesters may move between cooperatives at:

- Option 1. the end of each year.
- Option 2. the expiration of the cooperative agreement.
- Option 3. no movement in the first two years

2.4.5.2 License Transfers Among Processors (applies to processor limited entry)

- Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.
- Option 2. any cooperatives associated with the license will be free to associate with any licensed processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

2.5 Provisions relating to the IFQ halibut/sablefish fishery

2.5.1 Management areas:

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

2.5.2 Primary species include: P.cod, Greenland turbot, POP,

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

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

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

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

2.5.3.1 Management provisions for secondary species

- A) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
Option 1: Managed in aggregate on an area basis using current MRA regulations.

Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.

- B) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.

- C) Require full retention of Secondary species listed under A.

2.6: Provisions relating to the SEO Area

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

2.6.2 Management provisions for secondary species

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

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

1. Fee and Loan Program
2. Skipper/Crew Share Program issues
3. Remaining issues of CIFT program

Alternative 3

Sector Allocations and Voluntary Coop Structure

Alternative 3 is a sector allocation and co-op proposal. This proposal allows new processor entrants and provides a mechanism for harvesters to either enter coops voluntarily or continue to fish in LLP/open access fisheries. The alternative provides a flexible structure intended to reflect the diversity of the fisheries in the GOA. It recognizes that harvesters, processors, and communities all have a stake in the fisheries. The nature of the fisheries in the Gulf, however, requires a flexible rationalization program that can accommodate all of the different fisheries. This alternative would:

- Allocate primary, secondary, and PSC species by sector.
- Establish a mechanism which would facilitate co-op formation within each sector.
- Specify the operational rules for co-ops.
- Provide fishing opportunities for harvesters that choose not to participate in co-ops
- Include community protection measures appropriate to a cooperative-based program.

The proposal sets up a step-wise process for the establishment of co-ops. The first step includes a sectoral allocation. This is followed by an initial co-op formation period to provide co-ops time to refine their operations. The third step is ongoing, and establishes rules to govern co-op formation, dissolution, and operation after the initial period of co-op formation.

This proposal would not require the assignation of different classes of history or shares (i.e., class A/B class designations). Gulf History (GH) is generic and would originate from an eligible participant's history. GH is only developed through cooperatives. Co-op participation, however, is strictly voluntary so a harvester may choose to continue to fish in a limited entry (LLP) open access fishery.

The proposal does not limit processor entry. A harvester is initially eligible to join a cooperative associated with the processor that it made the most primary species landings to during the qualification period. The program establishes requirements for contracts between a cooperative and its associated

processor. The initial contract between a co-op and its associated processor is required to contain the terms for dissolution of the co-op or the movement of a harvester from one co-op to another. During the initial co-op formation period, inter-co-op agreements are allowed within sectors to address operational issues and ensure further rationalization of the fishery between co-ops. Harvesters may not move between cooperatives during the initial co-op formation period.

Following the initial co-op formation period, new co-ops can form and harvesters can move from co-op to co-op or exit a co-op and move back into open access. The rules for such movement, including compensation to other members of the co-op and the associated processor are part of the contract agreement. New processors can enter the fishery at any time, and following the initial co-op formation period, harvesters can form co-ops with those processors. Community protection provisions are simplified to only include options for regionalization and a community quota system because this is a co-op system.

Monitoring of harvests and PSC for the co-op fishery will be at the co-op level. Assignments of GH, including transfers, will be monitored by RAM to ensure proper catch allocations and accounting. GH will result in annual allocations of Gulf Quota (GQ). Current monitoring programs for the open access fishery will continue.

The following provisions apply to Alternative 3 only:

I. SECTOR ALLOCATION PROVISIONS.

3.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WYAK))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- Allocations will be made to the halibut and sablefish IFQ fisheries of species necessary to support those fisheries under section 3.10 below.
- SEO is exempt from this program. SEO groundfish will be managed in accordance with 3.11 below.

Gear: All gear types are considered.

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

—

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

3.2 Sector definitions and allocations:

CV trawl
CV longline
CV pot
C/P trawl

C/P longline
C/P pot
jig
low producing fixed gear

Low producing vessel sector are

- Option 1. fixed gear vessels under 60 feet that are below the 75th percentile of primary species qualified harvest history by gear and area.
- Option 2. fixed gear vessels less than average qualified harvest history by gear and area
- Option 3. fixed gear vessels that are below the 75th percentile in qualified harvest history by gear and area

High producing vessels are the remainder and are divided into a catcher vessel longline and catcher vessel pot sector. Sector definitions apply throughout Alternative 3.

To be determined as a CP a vessel must have a CP LLP license and process no less than

- a) 90%
- b) 50%
- c) 25%

of its qualifying catch processed on-board on average over the qualifying period.

- Option 1: determined on a species by species basis
- Option 2: determined by the aggregate of all species

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

Option for Fixed Gear Low Producers:

- Option 1. Apply same rules for initial co-op formation and general co-op operation as apply to other sectors.
- Option 2. Exclude from co-op program, provide sector allocation and continue as an LLP/Open Access fishery.
- Option 3. Apply all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

3.2.1 Sector allocations will be based on the aggregate history of vessels in each sector, which legally fished in the federal fishery and in the state parallel fishery during the qualifying period. Sector allocation qualifying periods and landing criteria (same for all gears in all areas). The analysis will assess AFA vessels as a group.

- Option 1. 95-01
- Option 2. 95-02
- Option 3. 98-02

Suboption: for each sector drop the year of lowest tonnage.

3.2.2 Sector Qualifying landing criteria (same for all gears in all areas)

Landings based on retained catch for each species (includes weekly production report for Catcher/Processor sector). Total pounds landed will be used as the denominator. Exclude retained catch that is used for meal production

3.2.3 Sector Allocation: Primary Species:

Allocate catch history by sector and gear type as follows:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific cod

Fixed gear low producers:

Pacific cod

Jig gear

Pacific cod

3.2.4 Sector Allocation: Secondary and PSC species:

Secondary species: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish.

Option 1: Sector allocation based on

- 1) fleet average
- 2) bycatch rate of 75th percentile

for

- a) the sector
- b) the gear

during sector allocation qualifying period by area and primary species target fishery.

Option 2: Maintain current PSC allocations, and MRA management for secondary species.

Suboption: Allocate PSC by sector based on fleet average for each sector during sector allocation qualifying period.

II. Voluntary Co-op Structure

3.3 INITIAL CO-OP FORMATION PROVISIONS. Voluntary co-ops may form between eligible harvesters in association with processors. Harvesters may elect not to join a co-op, and continue to fish in the LLP/Open Access fishery.

3.3.1 Eligibility.

LLP participation

Option 1. Any person that holds a valid, permanent, fully transferable LLP license is eligible to receive an initial allocation of Gulf catch history (as generic GH) through co-op membership.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

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.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries

3.3.2 Initial Allocation of primary species catch history

Allocate catch history as generic Gulf history (GH) on an individual harvester basis for the following primary species:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific Cod

GH is designated by sector:

Option 1. Trawl GQ may be fished using fixed gear, if yes – appropriate mechanism to transfer GH/GQ across sectors needed.

Gulf Quota (GQ) is the annual allocation to a cooperative based on the GH of its members.

3.3.2.2 Qualifying periods and landing criteria (same for all gears in all areas) for determining GH (The analysis will assess AFA vessels as a group).

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

Options to drop years would be to accommodate SSL restrictions or the inclusion of the state portion of the parallel fishery.

Individual GH will be based on retained catch for each species (includes weekly production report for Catcher/Processor sector). The denominator shall be total landed catch by species.

Option A: Include retained catch that is used for meal production

Option B: Exclude retained catch that is used for meal production

3.3.3 Allocation of Secondary and PSC Species

3.3.3.1 Allocation of secondary species:

Secondary species are: thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish.

Allocation of secondary GH to co-op members:

Option 1. Allocate GH to co-op members based on fleet secondary species catch rates by sector:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Include these species for co-ops for one gear type only (e.g., trawl). Deduct the secondary species from other gear types from TAC. If deduction is not adequate to cover secondary species in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

Option 3. Retain these species on secondary species status for all gear types with current MRAs.

3.3.3.2 Halibut PSC Allocation:

Upon entering a cooperative, each recipient of primary species GH would receive an allocation of PSC GH, based on the primary species GH allocation. Each cooperative would receive an allocation of halibut mortality (harvest shares) based on the PSC holdings of its members. Secondary species would receive no halibut allocation.

3.3.3.3 Transfer of secondary species and PSC GH:

As permitted by and subject to any other transfer rules:

Option 1. Primary species and the associated secondary species and/or PSC GH are non-separable and must be transferred as a unit.

Option 2. Primary species and the associated secondary species and/or PSC GH are separable and may be transferred separately.

III. Co-op Rules for all CPs, trawl, longline, pot and catcher vessels

Option: Jig and low producer fixed gear exempted.

Initial Co-op Formation Rules:

3.3.5 Catcher Vessel Co-ops.

Catcher vessel co-ops may be established within sectors between eligible harvesters in association with an eligible processor. A harvester is initially eligible to join a cooperative in association with the processor to which the harvester delivered the most pounds of primary species to during the

a) qualifying years.

b) most recent 1, 2, or 3 years from the qualifying years.

Suboption 1. On a species by species basis

Suboption 2. In the aggregate

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

3.3.7 Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the GH of its sector. Council may choose different percentages for different sectors.
- Option 3. 50-100% of holders of GH belonging to its sector. Council may choose different percentages for different sector.
- Option 4. 50-75 percent of the eligible GH for each co-op associated with its processor
- Option 5 Any number of eligible harvesters within the sector (allows single person co-op)

Note: Requirements may differ across sectors (or for CV and CP Cooperatives)

3.3.8 Duration of initial cooperative agreements:

- Option 1. 1 year
- Option 2. 2 years
- Option 3. 3 years
- Option 4. Any length agreed between the co-op participants.

3.3.9 Catcher Vessel co-op/processor affiliations

Option A: If the processor with whom the harvester is initially eligible to form a co-op is no longer operating, the harvester is eligible to join a co-op with any eligible processor (i.e. any processor eligible to participate in the initial formation of a co-op).

Option B: If the processor with whom the harvester is initially eligible to form a co-op is no longer operating in the community, the harvester is eligible to join a co-op with any eligible processor (i.e. any processor eligible to participate in the initial formation of a co-op) in that community. If there are no eligible processors in that community, the harvester may join a co-op in association with any eligible processor within the region.

- Option 1. CV cooperatives must be associated with
 - a) an eligible processing facility
 - b) an eligible processing company
- Option 2. Processors can associate with more than one co-op.
- Option 3. Processors are limited to 1 co-op per plant for each sector.

The eligible processor is:

- 1) initially, a processor that the harvest is eligible to associate with in a cooperative under section 3.3.5 above
- 2) after satisfaction of an exit requirement, any processor

3.3.10 Catcher Processor Co-op provisions

Allocation to CP co-ops will be based on the above, with the following exceptions:

- CP co-ops do not need a processor association.
- CP co-ops will be within CP gear sectors. Transfers of GH or leases of GQ across CP gear types is
 - a) not permitted
 - b) permitted.
- CP co-ops are subject to the other terms and conditions specified for CPs under this program

3.3.11 Initial Cooperative Requirements

The following provision is required for the initial coop:

Catcher vessel coops may be formed by eligible harvesters (the coop) subject to the terms and conditions of a coop membership agreement. In order to receive an allocation of GH under this program, coops must enter into a duly executed contractual agreement (Contract) with the processor identified in Section 3.3.5.

Contracts established under this section shall specify the terms and conditions for transferring GQ or GH from the cooperative, including mechanisms whereby a member exiting the coop (or transferring GH from the coop) compensates the remaining coop members and/or the associated processor for exiting the coop (or transferring GH from the coop). Compensation can take on any form agreed to by the members and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining coop members and/or the associated processor.

Following the initial coop period, new GH can be generated by eligible harvesters that have never been coop members only by joining a coop in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial coop.

3.3.12 Initial Co-op Formation Period.

An Initial Co-op Formation period shall be established beginning with year one of program implementation and extended for the period identified below.

- Option 1. period is 1 year
- Option 2. period is 2 years
- Option 3. period is 3 years

3.4 General Operational Co-op Rules.

3.4.1 General Cooperative Requirements

The following provisions apply to all cooperatives:

- The harvesters that enter into a coop membership agreement shall be the members of the coop. 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 allocation of GQ. For an initial coop, the Contract must meet the provisions in 3.3.10. After meeting the requirements of Section 3.3.10 and following any periods established pursuant to 3.3.12, a holder of GH may join a cooperative in association with any processor pursuant to a Contract that meets the provisions of this section.
- The coop membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all coop fish.

- Coop members shall internally allocate and manage the coop's allocation per the Contract.
- Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the coop to the extent permitted under the Contract.
- The Contract must have a monitoring program. Monitoring and enforcement requirements would be at the coop level. Coop members are jointly and severally responsible for coop vessels harvesting in the aggregate no more than their coop's allocation of primary species, secondary species and PSC mortality, as may be adjusted by inter-coop transfers.
- Coops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Coops may penalize or expel members who fail to comply with their membership agreement.
- Coop membership agreements will specify that processor affiliated vessels cannot participate in
 - Option A: price setting negotiations except as permitted by general antitrust law.
 - Option B: negotiations concerning price setting, code of conduct, mechanisms for expelling members, or exit agreements.
- Coop membership agreements shall allow for the entry of other eligible harvesters into the coop under the same terms and conditions as agreed to by the original agreement. Harvesters that have never been a member of a cooperative must enter an agreement that meets all requirements for an initial coop, as specified under Section 3.3.10.

3.4.2 General Provisions Concerning Transfers of GH and GQ.

Coops may engage in inter-Cooperative transfers (leases) of GQ during and after the initial coop formation period.

During the initial cooperative formation period, GH transfers will be permitted between members of the same cooperative, but not between members of different cooperatives.

Following the initial coop formation period, members of a coop may transfer GH-to members of other coops.

All transfers will be subject to such terms and conditions as may be specified in the applicable Contract and any ownership or use caps or other conditions as may be established pursuant to this program.

For persons that join cooperatives for the first time after any period established pursuant to 3.3.12, the limits on transfers shall apply for the same period of time as those in 3.3.12.

3.4.2.1 Qualified Persons.

Persons qualified to receive GH by transfer include processors that associate with initial cooperatives pursuant to 3.3.10. and (not mutually exclusive):

- Option 1. US citizens who have had at least 150 days of sea time.
- Option 2. Entities that meet U.S. requirements to document a vessel.
- Option 3. Initial recipients of CV or C/P GH.
- Option 4. Communities would be eligible to receive GH by transfer (this provision would be applicable if certain provisions of 2.9 are adopted).

Option 5. U.S. citizens eligible to document a vessel.

3.4.2.2 Definition of sea time

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

3.4.3 Ownership caps.

Ownership of GH by a co-op member shall be capped at:

- Option 1. 1% of the GH by area, sector and species
- Option 2. 5% of the GH by area, sector and species
- Option 3. 20% of the GH by area, sector and species
- Option 3. 30% of the GH by area, sector and species
- Option 4. no cap.

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

3.4.4 Co-op use caps.

Control of GH or use of GQ by a co-op shall be capped at:

- Option 1. 15% by area, sector and species
- Option 2. 25% by area, sector and species
- Option 3. 45% by area, sector and species
- Option 4. no cap

3.4.5 Vertical integration

Initial recipients of GH with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115%-150% of initial allocation of CV GH.
- Option 3. 115%-150% of initial allocation of CP GH.
- Option 4. no cap

3.4.6 Use caps of the original issuees would be grandfathered in.

Processors shall be capped at the entity level.

No processor shall process more than:

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

Processors eligible under 3.3.10 will be grandfathered.

3.4.7 Catcher/Processor Provisions

In addition to the rules specified above, the following provisions apply to Catcher/Processors:

3.4.7.1 Restrictions on transferability of CP harvest shares:

- Option 1. CP GH may only be transferred to other CP GH holders.
- Option 2. CP GH may be converted to CV GH. CP GH maintains its designation when transferred to persons who continue to catch and process the resulting CP GQ at sea pursuant to a CP co-op, if CP GQ is harvested by a CV and delivered to a processor, the underlying CP GH converts to CV GH.
- Option 3. CP GH maintains its designation after transfer for 5 years following date of implementation, after which time any transfer of CP GH (or transfer of GQ outside of a cooperative) converts the underlying GH to CV GH.

Option 4. CP GH maintains its designation when transferred to a person that continues to catch and process the resulting GQ at sea (within a cooperative or in open access).

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

- Option 1. all CP shares
- Option 2. trawl CP shares
- Option 3. longline CP shares

3.4.7.3 Leases of CP annual harvest allocations (GQ):

- Option 1. Allow leasing pursuant to an inter-Co-op agreement within CP sectors (no CP leases allowed across gear types).
- Option 2. No leasing of CP GQ allowed
 - Suboption: Allow for the first 3 years after program implementation.
- Option 3. Allow leasing within a cooperative

3.4.7.4 Conversion of CP GH and GQ:

- Option 1. CP GH and GQ converted to CV GH and GQ
 - Suboption 1. will count toward CV caps
 - Suboption 2. will not count toward CV caps at the time of conversion.

Option 2. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP GH or GQ to CV GH or GQ alone will not require a CP GH holder or cooperative to divest CP GH and GQ for exceeding CP caps.

3.5 Skipper/Crew Provisions

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

- Option 1. No skipper and/or crew provisions
- Option 2. Establish license program for certified skippers. For initial allocation Certified Skippers are either:
 - i. Vessel owners receiving initial GH or harvest privileges; or
 - ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
- Suboption 1. include crew in the license program.
- Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes GH and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual. Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

3.6 LLP/Open Access fishery provisions:

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

Option 1: Manage LLP/Open Access fishery sector allocations for primary species only. Continue current MRA and PSC management.

Suboption: PSC allocations to the LLP/Open Access fishery will be reduced by

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

Note: this reduction may differ by sector

Option 2: the following provision would apply to the LLP/Open Access fisheries:

1. PSC allocations to each sector will be reduced by:

- 5 percent beginning on the date of program implementation;
- an additional 5 percent beginning on the second year of program implementation;
- an additional 10 percent beginning on year 5 of program implementation; and

2. Beginning on year 3-5 of the program implementation any eligible CV harvester which has not entered into a co-op pursuant to section 3.3.10 may join an initial co-op in association with the processor that the harvester delivered the most pounds of primary species to in the previous

- a) 2 years
- b) 3 years

The contract for this initial co-op must otherwise satisfy the requirement of this program, including the terms and conditions of 3.3.10 (except for the provision specifying which processor the harvester must associate with).

Option 3: The LLP of any vessel that has entered a co-op and generated GH pursuant to this program may not be subsequently used, or transferred to another vessel, to fish in the LLP/Open Access fishery for any primary or secondary species identified under this program.

Note: The intent of this provision is to prevent a vessel from entering a co-op, transferring its GH to the co-op and then subsequently taking its LLP and re-entering the open access fishery or transferring its LLP to another vessel to fish in the Open Access fishery.

3.7 Communities

Note: 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 protection programs.

3.7.1 Regionalization

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

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

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

Catcher processor GH is not subject to regionalization.

The following describes the regions established and fisheries that would be subject to regionalization:

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

3.7.1.1 In the event GH is regionalized, a harvester will be eligible to bring its history in a region to a cooperative associated with the processor in the region to which the harvester delivered the most pounds during the cooperative formation qualifying period:

- Option 1: on a species by species basis
- Option 2: all primary species aggregated

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

- Option 1. consistent with the qualifying period under cooperative formation in Section 3.3.5

3.7.2 Community Fisheries Quota (CFQ) Program

The purpose of the Community Fisheries Quota Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.

3.7.2.1 Administrative Entity

The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

Gulf-wide administrative entity

3.7.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. 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

- a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- Option 4. Government Structure
- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

3.7.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

3.7.2.4 Allocation

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

3.7.2.5 Harvesting of Shares

- Option 1. Limited to residents of any eligible community

3.7.2.6 Allocation Basis

The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

- Option 1. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.
- Option 2. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.
- Option 3. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

3.7.2.7 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.

3.7.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

3.7.2.9 CFQ Management

The CFQ Program will be managed in a manner similar to the halibut/sablefish community purchase program. The Council shall establish a CFQ implementation committee to implement this program as a trailing amendment. The committee will advise on the provisions of the program.

3.8 Program Review and Data Collection:

3.8.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program for this and other Management Councils. Details of this program will be developed in the analysis of the alternatives.

3.8.2 Program Review.

Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

3.9 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (actual boats) and LLPs used to generate harvest shares used in a Co-op unless specifically authorized may not participate in other state and federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

State water provisions are being developed that would apply to all rationalization alternatives.

3.10 Provisions relating to the IFQ halibut/sablefish fishery

3.10.1 Management areas:

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

3.10.2 Primary species include: P.cod, Greenland turbot, POP,

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

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

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

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

3.10.3.1 Management provisions for secondary species

- a) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
Option 1: Managed in aggregate on an area basis using current MRA regulations.

Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.

- b) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.
- c) Require full retention of Secondary species listed under A.

3.11 Provisions relating to the SEO Area

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

3.11.2 Management provisions for secondary species

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

3.12 PSC for Salmon and Crab Bycatch

Staff is tasked to fully develop the GOA salmon and crab bycatch reduction alternatives as proposed within the staff discussion paper. The Council requests ADF&G to assist staff to develop triggers, limits and closure areas that apply to the alternatives.

3.12.1 Chinook Salmon

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery.
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.2 Tanner Crab

Alternative 1: Status Quo (no bycatch controls)

Alternative 2: Trigger bycatch limits for Tanner crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling for the remainder of the year if or when a trigger limit is reached by the flatfish fishery (and potentially additional areas for P. cod longline and pot gear).

Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of Tanner crab.

Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.3 Red King Crab

Alternative 1: Status Quo (no bycatch controls)

Alternative 2: Trigger bycatch limits for red king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.

Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of red king crab.

Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.4 Other King Crab

Alternative 1: Status Quo (no bycatch controls)

Alternative 2: Trigger bycatch limits for other king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.

Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of other king crab.

Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.5 Other Salmon

Alternative 1: Status Quo (no bycatch controls)

Alternative 2: Trigger bycatch limits for other salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery (and potentially additional areas for flatfish trawling).

Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.

Alternative 4: Voluntary bycatch co-op/pool for hotspot management

Attachment B – October 2004

Gulf Rationalization Community Provisions: Overview of the Proposed Programs and Primary Policy and Technical Decisions

- I. Purpose of the Paper
- II. Existing Guidance for Considering Community Provisions
- III. Policy Decision: Need to Develop Clear Purpose for Community Provisions
- IV. Design and Implementation Decisions: Potential Committee Tasks
- V. Remaining Policy Decisions: How do the Community Programs Fit within the Federal Rationalization Program?
- VI. Summary: Focus for the October Council meeting

Attachment 1: Program Design Examples for the CFQ Program

I. Purpose of the Paper

There are four specific community provisions currently proposed for analysis in the Gulf of Alaska Groundfish rationalization program: **regionalization; the Community Fisheries Quota Program (CFQ); the Community Purchase Program; and the Community Incentive Fisheries Trust (CIFT) Program.** To date, the community provisions have received limited attention, due to the time and focus necessary to develop other fundamental elements of the program. However, as the Council moves closer to refining alternatives and options for a comprehensive EIS analysis, the community provisions must be further developed in order for the programs to be integrated into the larger analysis and to fully identify impacts for the Council and the public.

The purpose of this paper is to outline the status of each of the community provisions and identify the remaining policy and/or technical decisions associated with each program. The intent is to assist the Council in making the necessary policy decisions, specifically related to the goals and purpose of the community programs, and/or to facilitate the initiation of a committee process to address some of the technical aspects of the programs. After the Council sets the policy, a committee could focus on how to structure the programs to meet the goal(s) identified by the Council by revising and completing the elements and options for analysis.

All four of the above community provisions are included for consideration under Alternative 2 (Section 2.9). Regionalization and the CFQ Program are proposed under Alternative 3 (Section 3.7). The Council has provided previous direction to analyze the four programs both independently and in conjunction with one another. In general, these provisions are intended to assist communities or protect communities from potential adverse economic effects of the GOA rationalization program. These measures are being considered to address some social considerations that may not be accomplished through the process of allocating quota share only to individuals or cooperatives. Overall, these measures could potentially create economic benefits for communities, provide continued or increased access to the GOA groundfish fisheries through community-held quota, serve to meet concerns about employment in rural regions, or serve to maintain existing regional harvesting and processing patterns. The following sections provide a brief description of each provision.

The **regionalization** provision under consideration would establish two regional areas in the GOA (north and south).² Catcher vessel harvest shares for certain species³ would be designated by region based on where the catch was landed during a specified series of years. Processing licenses would also be categorized by region, and could not be assigned to another region. The intent is to maintain regional processing patterns by requiring that vessels land their catch in the region in which the shares are designated. This provision proposes a regional landing requirement, but does not require landings in specific communities within each region.

The **CFQ Program** would allocate a percentage of the annual Federal TAC⁴ to an administrative entity that would subsequently determine how to use the annual harvest privileges according to criteria established in Federal regulation. As proposed, a portion of the TAC (5% - 15%) would be allocated to a Gulf-wide nonprofit entity, which would hold the shares on behalf of a specified list of eligible communities. In theory, and depending on the structure and restrictions established, the nonprofit entity would use the shares to benefit communities, whether by leasing to community members, purchasing a vessel and fishing the shares itself, or leasing to a vessel and spending the royalties on community development.

The **CIFT Program** involves an initial allocation of a portion (10% - 30%) of the overall Gulf harvest shares to the CIFT organization, which holds the shares and reallocates them back to individual fishermen, subject to specific contract terms that meet the objectives of the CIFT. Thus, the CFQ and CIFT Programs represent a direct allocation of Gulf groundfish quota share to administrative entities representing communities (in the case of CFQ) and other stakeholders such as processors, communities, and crew members (in the case of CIFT) that would be used according to a set of criteria determined by the administrative entity and approved by NMFS. These allocations would not be made to individuals according to the eligibility, qualifying periods, and landing criteria as determined under Section 2.2.2 for the rest of the program.

Lastly, the **Community Purchase Program** 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 communities as an eligible quota share holder under the rationalization program, and that entity would be allowed to purchase GOA groundfish shares on the open market.

²North-South line at 58° 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W. longitude, and then southerly along 140° W. longitude.

³The species shares proposed to be regionalized for shorebased catch are: pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock. There is also an option to regionalize secondary species shares.

⁴The hierarchy of deductions (allocations) from the TAC has not yet been determined by the Council, however, the current options propose that the allocation to the CFQ Program is calculated as a percentage of the annual TAC.

The current options propose the following ranges with regard to allocations or amount of quota share to be held and controlled by community entities:

Program	CFQ program	Community Purchase Program	CIFT Program
Allocation or purchase	Allocation	Purchase	Allocation
Proposed limit on allocation¹ or purchase	5% - 15%	no cap is yet proposed on the amount of QS a community entity could hold or purchase	10% - 30%
Allocation section in options	2.2.9.2 and 3.7.2	2.2.9.3 (not in Alt. 3)	2.2.9.4 (not in Alt. 3)
Stated purpose in options	To mitigate economic impacts from rationalization on smaller, isolated, Gulf fisheries dependent communities. CFQ will provide for the sustained participation of the qualifying communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.	To mitigate economic impacts from rationalization on smaller, isolated, Gulf fisheries dependent communities. CFQ will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities.	The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors, and crew members in the region to use as leverage to mitigate impacts directly associated with implementation of a rationalization program.

¹In the current options, the CFQ allocation range is expressed as a percentage of annual TAC, and the CIFT Program allocation is expressed as a percentage of the total pool of harvest shares. Depending on the options selected for the entire Gulf rationalization program, the hierarchy for determining deductions from the Federal TAC (e.g., State water fisheries, CFQ, CIFT, captain and crew shares) will need to be determined.

II. Existing Guidance for Considering Community Provisions

This section briefly outlines some of the existing Council guidance for considering community provisions in share-based rationalization programs, in order to provide background and statutory context for the community measures proposed under GOA rationalization.

Consolidated Appropriations Act of 2001

Part of the impetus for Gulf rationalization is the Consolidated Appropriations Act of 2001 (Public Law No. 106-554), in which Congress directed the Council to examine fisheries under its jurisdiction, including the GOA groundfish fisheries and Bering Sea crab, to determine whether rationalization is needed. Among other elements, the legislative language for the Act directs the Council to consider quotas held by communities, and to analyze the impact of all options on communities and processors, as well as the fishing fleets.

Council's Purpose and Need Statement

The Council's purpose and need statement for the GOA Groundfish Rationalization EIS (adopted in June 2003) also directly addresses community impacts, and provides rationale in support of the overall rationalization program through increased economic stability for communities:

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

National Standard 8

In addition to language in the Council's problem statement, the Magnuson Stevens Act also provides broad authority to institute community measures provided that the measures have a rational relationship to fisheries management or conservation.⁵ Provided as an amendment to the MSA in 1996, National Standard 8 (MSA Section 301(a)(8)) contains guidance to be used in formulating fishery management plans:

"Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities⁶ in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize economic impacts on such communities."

⁵Memo from T. J. Meyer, NOAA GC, to D. Hanson, Chair of Crab Community Protection Committee: "General guidance on formulation of community protection measures." January 7, 2003.

⁶The MSA defines "fishing community" as a community which is substantially dependent on or substantially engaged in the harvest and processing of fishery resources to meet social and economic needs; vessel owners, operators, crew members, and processors based in such a community are included (Sec.3 [16]).

While this standard directs the Secretary to consider impacts on fishing communities, NOAA GC has advised that it must be balanced against the remaining National Standards. National Standard 5, for example, requires that conservation and management measures, where practicable, consider efficiency in the allocation of fishery resources. Because methods to assist communities or allocate community quota may not represent the most efficient use of the quota, there may exist an inherent tension between the economic goal of maximizing efficiency and the social goal of protecting communities.⁷ It will be important to create a sufficient record to show a rational basis for the preferred measures and how they relate to a conservation or management goal of the program or the MSA (Meyer, 2003).

National Research Council (NRC) Report

Finally, the report Sharing the Fish (1999), provides findings and recommendations of the National Research Council on the use of individual fishing quotas. The NRC report noted that communities are important to recognize in the discussion of co-management and involvement of stakeholders in the management process, and that the fishing community is relevant to the potential achievement of objectives or assessment of impacts for specific fishery management programs. In addition, the NRC report points out that the policy goals of the MSA have evolved over time, as fisheries have moved from a foreign-dominated to a fully Americanized fishery. As mentioned previously, one of the salient features of the 1996 amendments to the MSA (the Sustainable Fisheries Act) is the mandate to consider the role of communities in fisheries and the importance of fishing as both a tradition and profession.

The NRC report also encourages NMFS and the Council to consider the inclusion of fishing communities in initial allocations, where appropriate.⁸ The NRC further recommends that Councils “avoid taking for granted that vessel owners should be the only recipients of quota and historical participation should be the only measure for determining initial allocations. When designing IFQ Programs, Councils should be allowed to allocate quota shares to communities or other groups, as distinct from vessel owners or fishermen.”⁹ Quota share could be used for community development purposes, treated as a resource allowing local fishermen to fish, or reallocated to fishermen that are members of the community. The NRC asserts that the Secretary of Commerce should interpret National Standard 8 to support this approach to limited entry management. In effect, Councils could make a policy choice to allocate shares or distribute harvest privileges based on something other than catch history.

III. Policy Decision: Need to Develop Clear Purpose for Community Provisions

One of the primary policy decisions concerning the community provisions is the need to determine the purpose or objectives of establishing community programs or provisions. Because the purpose statement drives the development of appropriate elements and options, it should be carefully considered and discussed to determine the explicit intent of the program. The U.S. General Accounting Office (GAO) recently published a study¹⁰ to assist in deliberations on individual fishing quota programs, focusing on methods for community protection and new entry. While the report notes the many uncertainties

⁷From GAO Report to Congressional Requesters: Individual Fishing Quotas: Methods of Community Protection and New Entry Require Periodic Evaluation (Feb. 2004).

⁸Sharing the Fish, 1999. p. 9.

⁹Sharing the Fish, 1999. p. 10.

¹⁰U.S. General Accounting Office, *Individual Fishing Quotas: Methods for Community Protection and New Entry Require Periodic Evaluation*, GAO-04-277, February 24, 2004.

associated with the practical outcomes of proposed community measures and does not endorse any specific policy or method, it recommends that NOAA and regional Councils that are designing community protection methods for new or existing IFQ programs do the following:

- 1) develop clearly defined and measurable community protection objectives;
- 2) build performance measures into the design of the IFQ Program, and
- 3) monitor progress in meeting the community protection objectives.

In addition, given that the Council is considering initiating a committee process to address the technical aspects of the provisions, it would be beneficial to focus any committee efforts by providing a common understanding of the Council's intended purpose of the programs and how they are intended to work.

The remainder of this section captures some of the fundamental questions regarding the purpose of each program, as well as a brief overview of the consistency of the current options with either the stated or implied purpose. This section addresses each proposed community provision, with the exception of the regionalization option, the purpose of which has been clarified in previous meetings. This section focuses primarily on the CFQ Program, which continues to pose the most questions regarding the desired design of the program and how it is intended to work. Outstanding legal questions pertaining to each program are also discussed.

Purpose of the CFQ Program

The CFQ Program's stated purpose (Section 2.2.9.2 in Alternative 2 and 3.7.2 in Alternative 3) is the following:

The purpose of the Community Fisheries Quota Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development. (emphasis added)

1. Is the Council aiming to sustain current participation or enhance participation?

The purpose statement for the CFQ Program is broad enough to encompass almost any community fisheries policy objective, but the first portion of the statement focuses on providing sustained participation of the eligible communities in the Gulf groundfish fisheries. The National Standard 8 regulations (50 CFR 600.345) contain an explicit definition of "sustained participation" to mean "continued access to the fishery within the constraints of the condition of the resource." Under this purpose statement, the intent of the CFQ could then be to ensure some level of continued access for local resident fleets of qualifying communities, whether it be the current level of participation, less than the current level of participation, or providing increased access to the Gulf groundfish fisheries than has previously been realized. Either way, it implies that the program is intended to provide community residents access to the Gulf groundfish quota that is created under Gulf rationalization.

The Council should consider whether the intent is: 1) to sustain current participation, by preventing migration of quota share out of small, coastal communities that have been participating in the Gulf groundfish fisheries and qualify for the program; 2) to provide increased access to communities that have had historical participation; or 3) to create new access to the resource, by allocating shares to

communities that have very little involvement in these particular fisheries. Any or all of these purposes would be appropriate policy decisions for the Council. Understanding this aspect of the purpose statement will guide development of the eligibility criteria for qualifying communities and may assist in the determination of the percentage of CFQ allocated to the overall program.

2. What type of community is the Council trying to benefit?

This question is directly related to the previous one. The first sentence of the purpose of the CFQ Program is “to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities” (emphasis added). While guidance is currently being developed at NOAA Fisheries to help identify MSA fishing communities¹¹ in terms of substantial dependence or substantial engagement in fisheries, those parameters are not yet established. Under Gulf rationalization, one of the criterion proposed to determine communities eligible for the CFQ Program is related to historical fisheries participation: “Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)” (Section 2.2.9.2.2, Option 3). To this end, the analysis will provide both harvesting and processing activity on an individual community basis (where feasible, based on confidentiality restrictions).

The Council should clarify whether the purpose of the program is limited to mitigating impacts on communities that have been involved in commercial fishing in the recent past, or whether the purpose is also to increase or create new opportunities for coastal communities that have not been heavily involved in commercial Gulf fisheries. The Council may determine that the current eligibility criterion related to participation (one landing in any commercial fishery during 1993 - 2002) may represent a sufficient threshold to determine eligibility for the purpose of this program, or it may choose to create stricter criteria. On the other hand, the Council may decide that, like the CDQ Program, the purpose of the CFQ Program is to create an opportunity for communities that have not been heavily involved in the Gulf groundfish fisheries to enter those fisheries, in order to provide employment and economic stability in coastal communities with few economic alternatives. This determination, also related to the purpose of the program, will help shape the options related to eligible communities and assist in narrowing the options prior to the development of the EIS.

Similarly, the Council will need to consider whether the purpose is to assist the smaller Gulf communities versus the larger Gulf communities, and whether there are advantages to developing this program to aid a subset of small coastal communities that are isolated from the road system. Currently the options propose a population threshold of less than: 1,500, 2,500, 5,000, or 7,500 persons. The use of eligibility criteria in general creates inherent tension among communities (e.g., larger versus smaller, fishing history versus no history) depending on whether they meet that criteria, and it will benefit the Council to consider and identify its rationale for selecting a subset of eligible communities as opposed to the larger universe of all Gulf communities. The eligibility criteria is extremely important in defining the type of community that the Council believes is appropriate for this program. Should the purpose of the program be clarified, it will be easier to determine suitable community eligibility criteria.

¹¹The term “fishing community” means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community. 16 U.S.C. 1802, Section 3(16).

3. *What are the intended benefits of the CFQ program?*

A clear statement or understanding of the purpose of the CFQ Program is necessary to be able to develop the program design and appropriate options for analysis. For instance, is the purpose of the CFQ Program to generate revenues to be used in eligible communities, similar to the western Alaska CDQ Program, or is it to allow residents of specific, small rural communities to fish Gulf quota share? While many say the purpose should be 'both,' it makes a significant difference in how the program is structured.

It is slightly confusing that the purpose statement identifies two goals: 1) providing for the sustained participation of communities in the rationalized fisheries, and 2) deriving revenues from leasing QS to retain fishing opportunities and/or support community development. The first goal seems to imply that the program should provide for sustained participation by community residents, meaning residents of the community would lease the annual harvest privilege from the administrative entity. To ensure this goal, the program might be developed so that the harvesting of shares is limited to residents of eligible communities. This is in fact the only option proposed at the current time, meaning residency in the community is a condition of leasing CFQ from the administrative entity. It is reasonable to assume that should the purpose be to allow community residents access to the fisheries, the entity might choose to lease the quota share at a lower royalty rate than the current market, or at a rate sufficient to cover administrative expenses only.

At the same time, the second goal of the program implies that the administrative entity managing the CFQ could also choose to benefit the communities by leasing the quota to the highest bidder, and then using the royalties for community development projects or expenditures in the eligible communities. If this is at least part of the intent of this program, then the Council may not want to limit the harvest of the CFQ to residents of eligible communities. The Council may need to consider allowing the administrative entity to lease the CFQ to fishing companies that are already participating in the Gulf groundfish fisheries to receive the highest royalty rate. While this scenario does not ensure harvesting activity by individual community residents, one could assert that it still denotes a level of participation in the Gulf groundfish fisheries by these small, rural communities.

The purpose statement needs to be carefully considered and discourse undertaken to determine the explicit intent of the program. Only then can the options be structured and comprehensive to best meet that intent.¹² The example above uses Section 2.2.9.2.5 ("Harvesting of Shares") to show how the options may be inconsistent with the purpose of the program unless we understand exactly how the program is intended to work. Another example is in Section 2.2.9.2.6 ("Allocation Basis"). That section provides three options for methods to determine how the administrative entity would distribute annual harvest privileges derived from the CFQ amongst eligible communities.¹³

¹²Note, however, that the Council and NMFS cannot rely upon the purpose statement to provide a clear understanding of the specific restrictions and/or limitations of the program. Each restriction or provision needs to be explicitly identified, developed into a standard for implementation, and included in regulations. For example, if the administrative entity must use revenues derived from the CFQ for a specific purpose, such as "to ensure the retention of fishing opportunities and/or support community development," those purposes must be explicitly described and provided for in the implementing regulations.

¹³Section 2.2.9.2.6 Allocation Basis
The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

Option 1.	0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.
Option 2.	0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.
Option 3.	0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

If the intent of the program is that the administrative entity leases the CFQ to individual residents of eligible communities, this type of methodology could be used to determine how much Gulf quota share would be ‘designated’ to residents of each eligible community. The administrative entity would still need to determine criteria by which to lease to individual residents of each eligible community, but the options provide a way to determine how much CFQ would get leased to a pool of residents in each eligible community.

However, should the intent of the program be for the administrative entity to lease the CFQ at fair market value to larger fishing companies (without a link to a resident of the community), in order to receive the highest royalty rate possible—and then use the royalties derived from this contract for community development projects and expenditures in the eligible communities—then the methodology under 2.2.9.2.6 could be applied to determine how the resulting *revenues* are distributed to each eligible community. In this case, the options would not pertain to a distribution of ‘annual harvest rights’ or privileges, but would instead address the distribution of revenues resulting from the leasing of CFQ among eligible communities.

The purpose of the program may not fall directly under either one of these program designs – to provide access to Gulf fisheries by leasing CFQ to eligible community residents, or to generate revenues for eligible communities by leasing CFQ to the highest bidder. The purpose could be a hybrid of the two, or a different purpose altogether. Overall, however, the Council may wish to clarify the goal of the program at the outset of the analysis, as the goal will directly influence the overall design of the program and its requirements.¹⁴

In sum, the Council may wish to further define the purpose of the CFQ Program at this time. One way to approach this may be to distinguish between goals of:

- protecting current access and participation versus enhancing or increasing access for eligible communities
- providing for communities with specific characteristics (small vs. large, historical fisheries involvement vs. little involvement) versus the larger universe of Gulf communities
- creating CFQ for use only by eligible community residents to fish Gulf groundfish versus allowing the entity to lease CFQ to the highest bidder, to generate revenue to use toward community development.

Status of legal questions pertaining to the CFQ Program

The purpose statement indicates that the objectives of the CFQ Program are to 1) mitigate economic impacts; and 2) provide for sustained participation. The last sentence of the purpose statement specifies that the mechanism to achieve these objectives is a direct allocation of QS to an administrative entity representing eligible communities, so that the community entity can derive revenues from leasing the QS to ensure the retention of fishing opportunities and/or support community development in these communities. This portion of the purpose statement appears to clarify that the beneficiary of the CFQ Program is the administrative entity itself, and that the entity is expected to derive revenues (royalties) from the leasing of the QS. This statement also alludes to a restriction on how those revenues can be used: “to ensure the retention of fishing opportunities and/or support community development.”

¹⁴Two example program designs for the CFQ Program are provided in Attachment 1.

This latter portion of the purpose statement was added at the December 2003 Council meeting, and was at least partially proposed in response to NOAA General Counsel's legal opinion on the CIFT Program.¹⁵ That opinion identifies potential legal concerns due to the intent that the program allows the CIFT (and not the Secretary of Commerce) to use its discretion and reallocate IFQs to individual fishermen. Staff provided a discussion paper to the Council in December 2003, noting that NOAA GC had advised that this same issue potentially arises within the structure of the CFQ Program.

The fundamental concept inherent in the proposed CFQ Program is that CFQ would be allocated to an administrative entity, which would hold and use the shares for the benefit of eligible community residents. The quota share is held by the administrative entity, and is not permanently transferred to an individual eligible community, resident, or any other person. The benefit of the quota share, however, is derived by using the shares, and, as proposed, the leasing of CFQ is limited to community residents. Thus, under this structure, the administrative entity must make a decision as to the individuals that may harvest the shares. The program's intent, to allow the administrative entity to distribute annual IFQs to community residents, spurred legal concerns regarding a sub-allocation of quota share without Secretarial approval, and thus, without an appeals process.

One of the solutions discussed in December was to explicitly state that the overall purpose of the CFQ Program is that the benefits generated from the CFQ would accrue to the community entity itself. The entity could use the shares to meet that intent, either by purchasing a vessel and fishing the shares, or leasing them to another harvester at fair market value. However, it is uncertain whether this statement changes the entire intent of the program, which originally appeared to be to lease CFQ only to community residents, presumably with the flexibility to lease at less than fair market value. The addition to the purpose statement was intended to allay the legal concern that the proposed program would delegate the discretionary authority of the Secretary to a separate entity for the sole purpose of reallocating annual IFQs without Secretarial approval or a formal appeals process. However, there is not a clear understanding of how the community entity can use the shares, and the statement requires further clarification.

In addition, discussions with NOAA GC subsequent to the release of the legal opinion¹⁶ indicate that the process of having NMFS (RAM Division) administer and approve the transfer of the annual harvest permit from the administrative entity to the eligible individual likely constitutes sufficient Secretarial review of the allocations to mitigate the legal concerns. It is important to reiterate that the allocation is made to the administrative entity, to use for its benefit. Under this design, the SOC would make the CFQ allocation to the community administrative entity, and there would be criteria established in Federal regulations to define a universe of eligible individuals that may lease the CFQ. The entity then determines which individuals within that universe would fish the shares. However, there is still considerable uncertainty related to how the administrative entity could use the shares under different program designs. For instance, if the CFQ entity has an obligation to pass on benefits to individual communities in accordance with a Secretarial approved plan, does it make a difference from a legal perspective whether it does so by passing on: 1) fishing privileges; 2) community development projects; 3) money; or 4) something else.

In sum, the legal concerns seemed to stem from the conclusion that the CFQ entity would be making a 'sub-allocation' – exercising discretionary authority concerning who will receive the benefit of a harvest privilege – and this concern appears to be mitigated by the process described above through the RAM

¹⁵NOAA GC opinion, "Delegation of Authority and the Community Incentive Fisheries Trust Proposal." October 3, 2003.

¹⁶Personal communications with Robert Babson and Lisa Lindeman (NOAA GC), January 22, 2004.

Division. However, given that there have already been legal concerns identified with the development of this type of program, and there are no clear statutory definitions for the term ‘allocation,’ it may be beneficial for NOAA GC to participate in a community committee to provide informal guidance, should the Council determine a committee is necessary.

Purpose of the Community Purchase Program

The stated purpose of the Community Purchase Program is as follows (Section 2.2.9.3):

The purpose of the Community Purchase Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities.

Currently, the options associated with the Community Purchase Program only address the qualification process for the administrative entity, the community eligibility criteria, and a reporting requirement. The remaining elements of the program (restrictions on leasing the purchased quota shares, transfer restrictions, caps, etc.) have not yet been developed. While not explicitly stated or provided for in the options, one could assume that the intent of this program is somewhat similar to that of the halibut and sablefish community QS purchase program (Gulf Am. 66) in which a community quota entity (CQE) is determined eligible by NMFS to purchase halibut and sablefish QS on the open market, for lease to and use by eligible community residents.

The purpose of that program is to allow a new group of non-profit entities to hold QS on behalf of residents of specific rural communities located adjacent to the Gulf coast, in order to provide additional opportunities to resident fishermen and address concerns about the economic viability of those communities. Since initial issuance of halibut and sablefish QS in 1995, and as a result of voluntary transfers of QS, the amount of QS and the number of resident QS holders declined substantially in the small, rural, coastal Gulf communities eligible for Am. 66. This trend may have had an effect on employment and may have reduced the diversity of fisheries to which fishermen in rural communities have access. The proposed rule noted that the ability of fishermen in small, rural communities to purchase or maintain existing QS may be limited by a variety of factors unique to those communities, including limited financing and economic alternatives in the community, isolation from markets for fishery products and transportation infrastructure, and smaller operations which received small amounts of initially issued QS that were not economically viable to fish.

Although the causes for decreasing QS in these rural communities vary, the net effect is overall lower participation by residents in the halibut and sablefish fisheries. The Council made a policy decision to try and mitigate some adverse effects the IFQ program may have had on small, rural, Gulf communities by allowing residents a new opportunity for access. The program was developed such that only residents of the eligible communities are allowed to lease halibut and sablefish QS from the community quota entity.

The Council should clarify if the intent of the Community Purchase Program under Gulf rationalization is similar to Am. 66, or if a different program design is desired. There may be other effective program designs that allow for more flexibility, specifically if this program is combined with the CFQ Program. In that case, the Council may want to consider allowing the same administrative entity that is allocated CFQ to also be the qualified entity to purchase quota share on the open market, subject to the conditions of the program. A subsequent decision would be whether CFQ would be distinctly different (have different designations or transferability restrictions) from quota share purchased by communities, given that it would be held and managed by the same community administrative entity. As an alternative,

the Council could also consider using the community quota entities qualified under the halibut and sablefish IFQ Program as a potential structure to also purchase Gulf groundfish shares. The Council could state its intent with regard to the community purchase program at this meeting, or it could delegate further development of the elements of the program to a committee.

Purpose of and legal concerns with the CIFT Program

Staff's understanding of the purpose of the CIFT Program stems from the Gulf of Alaska Work Group and associated discussion papers, as well as public and Council discussion. The CIFT Program involves an initial allocation of a portion (10% - 30% is proposed) of the overall Gulf harvest shares to a CIFT organization. The CIFT organization holds the shares and reallocates them back to individual fishermen, subject to specific contract terms. The Board of Directors of the CIFT is intended to represent communities, processors, and crew members in the region, and its purpose (Section 2.2.9.4) is to direct the use of these shares such that it mitigates impacts directly associated with the implementation of a rationalization program. Thus, the purpose of the CIFT is to give the stakeholders identified in the CIFT organization some control over how those shares are used.

While the majority of the elements of the CIFT Program have been deferred to a trailing amendment, the percentage allocation to the CIFT would have to be part of the preferred alternative at final action for the rest of the rationalization program. This program has been discussed at length in the context of the NOAA GC legal opinion mentioned previously (October 3, 2003) and at the December Council meeting. In short, the Secretary of Commerce's initial allocation of quota share to the CIFT is relatively straightforward; it is the part of the CIFT proposal that calls for the annual reallocation of IFQ to individual fishermen that causes legal concern. The opinion states that the authority delegated to the CIFT cannot be unlimited: "such sub-allocations of IFQ must be made subject to final approval by the Secretary. Any party aggrieved by such annual adjudications also would have a constitutional right to an agency appeal." Thus, as mentioned previously with regard to the CFQ Program, the allocation from the CIFT to each individual must be approved by the Secretary and subject to appeal.

To further explore the CIFT concept, the Council invited Bob Humphreys, Executive Director of the Groundfish Development Authority (GDA) in British Columbia, to describe the operation of and problems identified with the GDA at the December 2003 Council meeting. The GDA concept is similar to a CIFT in the sense that a portion (20%) of the annual TAC is withheld annually for allocation by the Minister of Fisheries, subject to recommendations provided by the GDA. Ten percent of each holder's quota is set aside as Groundfish Development Quota (GDQ), and then allocated back to individual vessel licenses based on proposals submitted by vessels (in partnership with a processor) and evaluated on factors other than only fishing history.¹⁷ The amount of GDQ an applicant receives is based on a formula using three factors: production history of companies in the application (25%); the total amount of IFQ all vessels in the application commit (25%); and a subjective rating determined by the GDA (50%). The GDA's rating is the most influential of the three factors, and is based on how well each proposal contributes to objectives such as market stabilization, maintaining processing capacity, employment stabilization, economic development and benefits in coastal communities, increasing the value of groundfish production, industry training opportunities, and sustainable fishing practices. Thus, similar to the CIFT, the purpose of the GDA is to allow non-vessel owning interests to influence the use of shares and the development of the fishing industry according to the above objectives.

¹⁷The GDA program also includes a Code of Conduct Quota (CCQ) component (10%) that is not discussed here. The CCQ is designed to ensure fair treatment of crew and safe vessel operation.

Bob Humphreys provided an overview of the program, which has been in effect since 1997, and has been formally reviewed at least four times by a special industry committee and the GDA Board. While the program is recognized as successful in its ability to influence how the groundfish trawl industry operates, it has its share of obstacles. The issues identified below could be used as ‘lessons learned’ during further development of the CIFT Program. Among the problems identified by Mr. Humphreys in December are:

- Maintaining a fair and expert Board of Directors to review vessel proposals. Industry experts are necessary to grade proposals, yet this creates a conflict of interest when they review and rate their competitors’ proposals. The effect is that proposals are watered down because vessels are reluctant to divulge confidential business plans. Yet there are continued complaints about the need for a more transparent process. In addition, not all processors are unionized, and yet there are currently three union representatives on the seven member GDA Board.
- Timing of the GDQ allocation. The GDQ is allocated on an annual basis to vessels after the proposal review process, resulting in a recommended allocation for each vessel within the proposal. The administrative process for the region and the Minister of Fisheries to approve each of those allocations is burdensome and time-consuming. Once accepted by the Minister of Fisheries, the actual allocation of GDQ is processed. Often the GDQ allocations are not approved before the season is over. In order to avoid foregoing their allocations, vessels often fish the recommended level of GDQ before the quota has been formally allocated.
- There is no appeals process associated with the GDA program. While this was not identified as a concern of Mr. Humphreys, he noted this difference given that the U.S. process is subject to the Federal Administrative Procedure Act. His opinion was that incorporating an appeals process into the annual allocation cycle would be extremely complex and time-consuming and further hinder the Minister from being able to make timely seasonal allocations.
- Some of the GDA objectives are difficult to evaluate due to their ambiguity or lack of enforcement capability. For example, ensuring that a vessel is “adhering to recognized sustainable management practices” is impracticable, as the GDA can only assess whether vessels are staying within their quotas.
- Difficulty in assessing the benefits of the GDA system. It is difficult to determine whether there has been a net benefit to the resource or increased stabilization in rural fishing communities as a result of the GDA.

In sum, should the Council continue efforts to develop the CIFT proposal, it appears that the details of the program would need to be included in the overall Gulf rationalization analysis prior to Secretarial approval of the entire program. Those details would need to include both the standards or contract terms the CIFT would use to determine how to reallocate shares among individual fishermen; the structure, election/appointment process, operating procedures and reporting requirements of the CIFT Board of Directors; and should it remain a discretionary decision, a provision for Secretarial review and approval of each allocation to individual fishermen.

Ultimately, NOAA GC has expressed concerns with the CIFT program as a ‘pass-through’ organization, created expressly to grant fishing privileges to individuals through some mechanism other than the market mechanism. Because of the nature of these concerns and the complexity of the administrative aspects, staff notes that program specifics or modifications should be reviewed by NOAA GC to determine the legal implications.

IV. Design and Implementation Decisions: Potential Committee Tasks

After the purpose and objectives for each community program have been developed, there remains a series of decisions that represent the more technical elements of the program. In general, fishery managers must define ‘community’; define the criteria for eligibility, if applicable; determine who represents the communities; and determine how the quota may be used (GAO 2004). The Council must also determine how the quota allocated to the overall program would be distributed among eligible communities. **This section briefly addresses each of these design issues, in order to provide a starting point for discussion at either the committee or Council level. These could be considered next steps in the approach to designing community provisions such as the CFQ Program, Purchase Program, or CIFT Program, after the goal of the programs have been developed and clarified.**

Defining the Community

Defining the community will be driven in part by the MSA and regulations providing guidance on National Standard 8, which is different from determining the community eligibility criteria for a specific program, which is driven by the Council’s program objectives. **This section discusses the approach staff will use in the analysis with regard to the definition of community, and how it relates to the criteria used to determine eligible communities.** This section outlines the general assumptions to be used as a starting point for the analysis, and are not represented as options. The following section discusses the eligibility criteria, which are explicit decision points for the Council.

The MSA defines a ‘fishing community’ as one that substantially depends on, or is engaged in, harvesting or processing fishery resources to meet social and economic needs. The statute provides guidance for communities that must be considered when developing fishery management actions, thus it is appropriate that it is focused on communities that are most likely to experience the most significant impacts. It does not, however, limit the Council’s actions or considerations only to communities that are substantially dependent on, or engaged in, fisheries. NMFS guidance further defines fishing communities as place-based, as opposed to communities of interest.¹⁸ Communities with geographically distinct boundaries are easier to define, and that is the approach used for the proposed community provisions.

As noted by NMFS social scientists in their recent community profiling project for Alaska communities (as yet unpublished), it is not always clear what counts as a community, and what constitutes a community’s boundaries. This step is significant, however, especially in considering programs that propose community residency as a criterion for participation. The current approach is that U.S. Census data would be used for determining whether communities meet the population criterion and whether they are considered ‘places’ for the purpose of community eligibility under Gulf rationalization. The U.S. Census is considered to be the most accurate and reliable demographic data available, and its use is consistent with similar programs. The U.S. Census identifies a “place,” either as an incorporated community or a “census designated place (CDP)” for unincorporated areas that are nonetheless recognized as place-level communities by the Census.¹⁹ The NMFS community profiling methodology also uses the Census designations to define a “place,” and this same approach was used in determining eligible communities under Am. 66. During the development of the rulemaking for that program, it was

¹⁸National Standard 8 regulations are found at 50 CFR 600.345.

¹⁹ According to the Census Bureau’s Geographic Areas Reference Manual (1994), a ‘place’ either is legally incorporated under the laws of its respective State, or a statistical equivalent that the Census Bureau treats as a census designated place (CDP). Each State enacts laws and regulations for establishing incorporated places. The Census Bureau designates criteria of total population size, population density, and geographic configuration for delineating CDPs (albeit with State and local input). Since before 1950, the minimum CDP size for Alaska has been 25 or more inhabitants.

determined that communities must be designated as either an incorporated place or CDP under the U.S. Census in order to be eligible, given that Census data (population statistics) would not exist for communities that were not identified as “places.”

Should the Council select a maximum population criterion (based on the U.S. Census) for the CFQ or Community Purchase program, the implementing regulations would likely also require a minimum population threshold and that a community be designated either as incorporated or as a census designated place under the U.S. Census. The minimum population size reduces the potential for future petitions for inclusion in the program by a very small group of individuals living in a place solely for the purpose of participating in the program. Additionally, this prevents a number of communities that are no longer populated to qualify, as it does not appear that the Council intends for these programs to provide an opportunity for communities which do not exist.²⁰

Eligibility Criteria

Once the Council has determined the purpose of the community provisions, that direction can be used to further narrow the eligibility criteria to better fit the objective of the program. This only applies to the CFQ Program and Community Purchase Program, since they are the only two programs that use eligibility criteria. The current number of potential combinations of options under the various eligibility criteria proposed for both programs (Section 2.2.9.2.2 and 2.2.9.3.2) result in numerous sets of eligible communities. The eligibility criteria options should be narrowed, or preferred options selected, prior to developing an EIS analysis. Making recommendations on narrowing the eligibility criteria could potentially be a task for a committee, once the program intent is understood.

Determining who Represents the Community

A second fundamental decision is determining who represents the community, and thus who will decide how the quota is used within the confines of the program. The Council’s current options note that a Gulf-wide non-profit entity will represent eligible communities in the case of the CFQ Program and the Community Purchase Program, and a CIFT organization (on a Gulf-wide or regional basis) will represent stakeholders such as processors, communities, and crew members in the case of the CIFT Program. The makeup of the entity representing the communities and/or other stakeholders directly affects the way in which the program operates and can either spur or mitigate fairness and equity concerns. If the community does not feel as if it is receiving benefits from the program, or is not effectively represented by the entity, the program will likely not be successful, or at least not perceived as so. In addition, if there is a requirement for each community to ‘sign-off’ on the administrative entity for the purpose of representing the community, one must determine which organization within the community should have that role (e.g., municipal government, local borough, native corporation, etc.).

Thus, decisions regarding the number of qualified administrative entities (if more than one), membership of the Board of Directors, and criteria guiding how the Board will make decisions as to how the quota is used are critical to the development of the program. It may be beneficial to the Council to task a committee or working group to make recommendations regarding this aspect of the program(s) design.

²⁰Requiring a minimum population size comports with the definitions of a community as established by the State for purposes of revenue sharing agreements. The State defines a community as a group of not less than 25 people living in a geographic location as a social unit.

Determining how the Quota may be Used

This is probably the most significant element of the program design that has yet to be addressed in the current options for analysis for either the CFQ Program or the Community Purchase Program. The decision on the purpose of the programs will largely drive this element of the program design, which addresses how community entities can use the quota share once obtained (either by allocation or purchase), and whether they are allowed very much or very little flexibility within the constraints of the program. Some of the issues related to this decision would be:

- whether the entity is restricted to leasing shares only to community residents
- the criteria by which the entity decides which individuals fish the shares
- whether to prohibit sales of CFQ or quota purchased by a community (permanent transfer)
- whether to cap the amount of quota the entity could purchase
- whether to cap the amount of quota each community could use (whether CFQ or purchased quota)
- whether harvest share (gear or CP/CV) designations apply to CFQ or quota purchased by communities
- whether community entities could purchase quota share of any designation

Determining the Distribution Method among Eligible Communities

This element was alluded to previously and constitutes a significant and likely more contentious decision for both the CFQ Program and the Community Purchase Program. The proposed options currently allow one entity to represent a set of potentially eligible communities, and there are three options for methods to determine how the administrative entity would distribute annual harvest privileges derived from the CFQ amongst eligible communities (Section 2.2.9.2.6 and 3.7.2.6). These options denote an objective methodology for determining how much of the total CFQ allocated to the program would be ‘designated’ to each eligible community, should it be determined that the quota share can only be leased to residents of eligible communities. The criteria used to determine which individual residents could lease each community’s quota share would still need to be developed (see previous section), but the options provide a way to determine how much CFQ would get leased to a pool of residents in each eligible community.

As discussed previously, should the intent of the program be such that the CFQ can be leased to someone other than a resident of an eligible community, and the royalties derived from the lease arrangement are used for community development projects and expenditures in the eligible communities—then the methodology under 2.2.9.2.6 could be applied to determine how the resulting revenues are distributed to each eligible community. There may also be other methods, depending on the goal of each program, that may be more effective or appropriate, or there may be advantages to not prescribing a formula by which the entity must distribute CFQ or the resulting revenues to eligible communities. As an alternative, the CFQ or revenues generated from the use of the CFQ could be managed as a pool by the administrative entity, and there may be criteria or guidance by which the entity could distribute that quota/revenue to eligible communities on a more flexible basis.

Note that the Community Purchase Program does not have any options relating to the distribution or use of quota share purchased by the administrative entity at this time. Discussion and recommendations on the distribution methods proposed under the current options, or alternative methods, may be appropriate to task to a committee for both programs.

V. Remaining Policy Decisions: How do the Community Programs Fit within the Federal Rationalization Program?

Section III of this paper outlines the fundamental policy decision for the Council regarding the purpose of the community provisions. Section IV describes some of the technical design aspects of the CFQ and Community Purchase Programs that represent subsequent decision points for the Council related to the structure and implementation of each program. **This section outlines some of the remaining decision points related to how the community provisions, specifically the CFQ Program and the Community Purchase Program, will fit within the rest of the Gulf Rationalization program. These decision points may not be ripe for discussion, but are provided as a reminder that they will need to be resolved in the future in order to complete a comprehensive EIS analysis.** It is likely not necessary to resolve these questions prior to a committee meeting, should the Council choose to initiate a committee to focus on developing the structure of each individual program and providing recommendations on how each program could work in isolation.

- Where does the CFQ allocation fall under the hierarchy of deductions made from the Federal TAC? For example, before or after a State water fishery allocation is made? Prior to any sector allocations?
- There are several remaining policy questions regarding the interaction of the Federal GOA groundfish rationalization program (including the community provisions) and the groundfish fisheries in **State waters**. For example, would communities be allowed to fish CFQ in State waters? Would regionalization apply to catcher vessel harvests in State waters?
- Will shares held by community entities be subject to **processor linkages** (2.3.1.1)? If so, how would the linkages initially be determined (i.e., there is no harvester history from which to establish the link).
- Under Alternative 3, **cooperative** membership is required in order to receive groundfish history. Would harvesters leasing CFQ from the community entity also be required to be in a cooperative?
- Would community-held harvest shares be subject to **regionalization** (2.2.9.1)? If so, how would CFQ be regionally designated (i.e., there is no historical harvest by a community entity to establish the region in which processing occurred)?
- Will **harvest share designations** (area, blocked/unblocked, CP/CV, trawl/fixed gear/pot, high producer/low producer) apply to shares when held by community entities? If so, how would we initially apply designations to CFQ (2.2.3.2)? If transfer of CFQ is allowed, what terms or harvest designations will apply to the shares if sold to an entity that does not represent a community?

VI. Summary: Focus for the October Council meeting

In summary, the purpose of this paper is to review the specific community provisions included in Gulf rationalization and to update the Council as to the outstanding policy decisions related to the purpose of each provision. A clear understanding of the Council's purpose for each provision will guide the development of appropriate and effective options that make up the programs' structures. Some of the design questions relevant to the program structures are also provided, in the case that the Council wants to address these questions in the near future, either through a committee or other process.

In terms of making progress on the Gulf community provisions, the Council could do the following at this October meeting:

- Confirm which of the four proposed community provisions the Council would like analyzed
- Determine and clarify the purpose of the CFQ Program and, to the extent possible, how that program is intended to work. One way to approach this may be to distinguish between goals of:

protecting current access and participation versus enhancing or increasing access for eligible communities;

providing for communities with specific characteristics (small/large, historical fisheries involvement/little involvement) versus the larger universe of Gulf communities;

creating CFQ for use only by eligible community residents to fish Gulf groundfish versus allowing the entity to lease CFQ to the highest bidder (without regard to residency) to generate revenue to use toward community development.

- Clarify the purpose of the Community Purchase Program
- Should the Council initiate a committee, task the committee with developing the design and implementation elements of the provisions so that the options comport with the Council's intended purpose(s). Examples of technical elements that need further development, specifically for the CFQ and Community Purchase Program, are provided in Section IV.

Attachment 1: Program Design Examples for the CFQ Program

Two general examples of ways to design the CFQ Program are provided below. Note that these are two simplified examples, for the purpose of showing a range of possible designs and the relevant questions that may be associated with different program structures. These do not represent staff recommendations.

CFQ Example #1: Program intent is to generate revenue for rural Gulf coastal communities

Some may contend that the smaller area-specific Gulf TACs, divided among 30 potentially eligible Gulf communities, would result in individual community allocations that are too small for community residents to effectively fish, especially given that incidental species allocations may also be needed to 'match' the target fisheries. The example used in an October 2003 discussion paper is Western Gulf Pacific cod, which is one of the larger TACs in the Gulf for a primary species. The 2004 TAC for Western Gulf Pacific cod is 16,957 mt. If 10% (1,695 mt) were allocated to the CFQ Program overall, each eligible community would average 56 mt²¹ (123,457 lbs) of Western Gulf Pacific cod if the allocations were made on an equal basis.

Note that this methodology assumes that the CFQ comes off the top of the TAC, and does not account for any State water fishery deduction that may be made before the CFQ allocation is determined. As another example, the 2004 Central Gulf pelagic shelf rockfish TAC is 3,010 mt, which equates to 10 mt (22,046 lbs) per eligible community. Thus, while all eligible communities may potentially organize under a single administrative entity, the area-specific allocations associated with each represented community may be approximated at this level.

As noted above, it is likely that the 'secondary species' allocations, or species that are caught incidentally while fishing for target (primary) species will be the constraining factor for participants. As documented in the CDQ fisheries, exceeding the individual group allocations of non-target species impacts the complete prosecution of key target species, since incurring an overage in a given species category effectively requires a CDQ group to stand-down from any CDQ target fishery that could result in additional catch of the species that accrues towards the species category in which the overage took place. Over time, smaller CDQ reserves in non-target species such as rockfish, have lead to correspondingly smaller allocations to individual CDQ groups. This increases the chance that these small allocations could be fully caught before CDQ groups have caught some or all of their major target fisheries. According to some of the CDQ groups, they have opted not to fish for some target species for fear of having inadequate incidental species allocations. A similar situation could be anticipated in the Gulf fisheries, in which the area-specific TACs are generally smaller than in the BSAI, if the secondary species allocations apportioned among potentially 30 eligible communities are not adequate to cover the harvest of the primary CFQ allocations.

If concerns exist surrounding the feasibility or efficiency of fishing small target and non-target species allocations by each eligible community, or if the Council determines that the program intent is that revenue is generated to help mitigate impacts on these small coastal communities from rationalization, the program could be structured such that the administrative entity representing all eligible communities is allowed to lease the annual Gulf IFQ to any vessel(s) it wishes, at market price (i.e., it is not restricted to leasing QS only to community residents). The CFQ could be leased at a competitive price to any vessel, and would likely be leased to vessels that were allocated some portion of Gulf groundfish quota through the regular program, making the concern with small individual community allocations less significant.

²¹By comparison, the CDQ Program receives 7.5% of the BSAI Pacific cod TAC, which equates to 15,563 mt in 2003 among the six CDQ groups.

Royalties generated from the lease agreements could then be divided among eligible coastal communities, based on a method determined by the Council (e.g., equal basis, by population, etc.), to be spent on economic development within those communities.

The options then associated with this program would not pertain to a distribution of ‘annual harvest rights’ or privileges, but would instead address the distribution of resulting revenues among eligible communities. This program design would not necessarily get resident fishermen out on the water fishing Gulf QS, but it would provide an influx of additional revenue for the fishing communities identified. Under this type of program, it may make sense to distribute revenues resulting from each area and species allocation to each eligible community, regardless of whether the community is located in the fishing area (e.g., WG, CG, WY).

Important questions/issues related to this program design would be:

1. *What entity within the community would receive the royalties and determine how they were spent on behalf of the community (e.g., municipality, existing CQE, tribal entity, etc.)*
2. *Would the royalties be divided on an equal basis among all eligible communities, pro rata by population, or using some other method?*
3. *Would there be any restrictions on the way eligible communities spend the money?*
4. *What level of government oversight would be necessary if the primary reason for oversight is to ensure that funds are spent on community development? (Given current issues in the CDQ Program, we may want to be careful about implementing a program in which NMFS ‘approves’ projects proposed by each community. Alternatively, NMFS could evaluate an annual report submitted by each community showing how the funds were spent.)*
5. *Current options would need to be changed to conform to this type of program (i.e., allow the administrative entity to lease to vessels other than eligible community residents; provide for an oversight mechanism; identify a method for dividing royalties among communities; identify a hierarchy of entities that would receive the funds on behalf of the community.)*

CFQ Example #2: Program intent is to maintain or increase participation in the Gulf fisheries by eligible community residents

Some may contend that the primary purpose of the program should be to sustain (and possibly increase) participation by community residents in the Gulf groundfish fisheries, and that the level of quota share proposed to be allocated to the CFQ Program is sufficient to impact small, coastal communities. In this case, the program could be structured such that the administrative entity representing Gulf communities is allocated the CFQ, and a portion of the CFQ allocated to the program is either ‘dedicated’ to each eligible community (either by equal basis, population, or some other method) or treated as a ‘pool’ of quota share for lease to community residents (via a proposal or some other process). The entity subsequently determines (through identified criteria in regulation) which community residents will fish the CFQ on behalf of each eligible community, and this quota transfer is administered through and approved by RAM.

Important questions/issues on this specific structure would be:

1. *Is it necessary to have one Gulf-wide administrative entity holding the QS? Could communities that are qualified under the Am. 66 halibut/sablefish purchase program and have an existing community quota entity (CQE), use their CQE to hold and distribute CFQ? Communities that are not qualified under Am. 66 but qualify under the CFQ Program in Gulf rationalization could be represented by the umbrella administrative entity?*
2. *What criteria would be used to determine which individuals are allowed to lease the CFQ?*
3. *What process is undertaken if no one in a specific community applies to lease the CFQ ‘designated’ to that community? How do we ensure that CFQ does not remain unfished?*

4. *Would the CFQ be divided on an equal basis among all eligible communities, or pro rata by population or some other method?*
5. *Could communities work together and pool their quota?*
6. *Is having the RAM Division administer the program and ensure that the individuals identified by the administrative entity meet the criteria in regulation sufficient government oversight of the program?*
7. *Does this approach meet the concerns of NOAA GC identified in the legal opinion on CIFTs (10/3/03) with regard to delegation of Secretarial authority?*

**Attachment C - October 2004
Staff Annotated Motion**

**North Pacific Fishery Management Council
GULF OF ALASKA GROUND FISH RATIONALIZATION
Updated through April 2, 2004**

The following provisions apply to Alternative 2 only:

2.2 Harvest Sector Provisions

2.2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- SEO is exempt except for SR/RE and thornyhead rockfishes as secondary species. Allocation will be based on target catch in sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Gear would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ___% of current harvest by species and area:

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

2.2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

Suboption 1: For Pacific cod under all options consider only A season harvests for 2001 and 2002.

Suboption 2: For Pacific cod consider a sector allocation based on specified percentages prior to individual allocations.

2.2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

2.2.2.2 Eligibility

LLP participation

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

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

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.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

2.2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

A portion of the TAC will be allocated to fisheries inside of 3 nm and will be subject to State management:

Option 1. An amount equivalent to the total annual catch (for each groundfish species/group) from state waters (inside of 3 nautical miles [e.g., parallel and 25% Pacific cod fishery]) by all vessels will be managed directly by the State of Alaska Board of Fisheries as a TAC/GHL equivalent to:

- d. Highest amount taken in state waters by area
- e. Highest amount taken in state waters by area plus 15%
- f. Most recent four-year average harvest from state waters

Option 2. All catch inside of 3 nautical miles by non-federally permitted vessels fishing the parallel fishery plus all catch under the 25% state water cod fishery and the PWS Pollock fishery remains under the authority of the State of Alaska Board of Fisheries.

Option 3. Only the catch associated with the 25% state water cod fishery and the PWS Pollock fishery remains under the authority of the State of Alaska Board of Fisheries.

2.2.3 Primary Species Rationalization Plan

Primary Species by Gear

2.2.3.1 Initial Allocation of catch history

Allocate catch history on an individual basis

- a. Trawl CV and CP:
Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish
- b. Longline CV and CP:
Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder
- c. Pot CV and CP:
Pacific Cod

2.2.3.2 Harvest share (or QS/IFQ) Designations

2.2.3.2.1 Vessel Designation of low producers and high producers in the fixed gear class.

Low producing vessels are:

- Option 1: less than average primary species harvest shares initially allocated by gear and area.
- Option 2: less than the 75th percentile primary species harvest shares initially allocated by gear and area.

High producing vessels are the remainder.

2.2.3.2.2 Harvest share sector designations:

Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:

Actual amount of catch harvested and processed onboard a vessel by species.

2.2.3.2.3 Harvest share gear designations

Designate CV harvest shares as Trawl, longline, and Pot

Designate CP harvest shares as CP trawl, CP longline, CP pot.

Option: Designate harvest shares as high and low producer fixed gear

2.2.3.2.4 Harvest Share Restrictions—Harvest restrictions apply to primary species only.

Harvest restrictions for primary harvest shares (or IFQ) may be used by other gear types except that:

Option 1: No restrictions

Option 2: Fixed gear harvest share (or IFQ) may not be harvested using trawl gear

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

2.2.3.2.5 If a processor limited entry alternative is chosen, CV harvest shares will be issued in two classes. Class A shares will be deliverable to a licensed processor. Class B shares will be deliverable to any processor as authorized under this program.

Option 1. A shares be at the QS level and separable from B shares.

Suboption: Processor affiliated vessels would receive their entire allocation as A shares.

Note that this suboption (ar a variation of it) could be applied under either Option 1 or 2.

Option.2.Only the annual allocations will be subject to the Class A/Class B distinction.

All long term shares or history will be of a single class.

The Council could select a preferred option defining whether the A share/B share distinction is made at only the annual allocation level or at both the QS level and in the annual allocation. Because the differences in Alternative 2A (license limitation for processors) and Alternative 2B (harvest shares with processor linkages) could affect the impacts of these provisions, the discussion distinguishes the impacts under the two alternatives. The Council should consider the specific processor protections incorporated into each alternative when making this decision. The processor protections are contained in Section 2.3 below.

Under both the license limitation program for processors (Alternative 2A) and the program with processor linkages (Alternative 2B), the ex vessel market (including prices for A and B share deliveries) will be influenced by the sale of fish harvested with B shares. Because of the lack of landings restrictions, B share landings could command a higher price than A share landings and, if traded independent of A shares, B shares will likely trade for a higher price than A shares. If a price differential arises, transactions that involve both A and B share fish will likely be for an intermediate price that is between the prices of the fish harvested with shares of a single type. The rent distribution for A share landings could be affected, if harvesters are able to leverage a higher price for A share deliveries by pledging their B share deliveries. Observed price differentials are likely to be greater under Alternative 2B, because of the greater market limitation under that program.

B shares might also affect the negotiations of A share deliveries by providing information to participants that must sell A share landings into a limited market of licensed processors or to their linked processor. Information that participants can glean from the competition for B share landings and production could be an important component of A share landing price negotiations and settlements. B share landings are the only opportunity for production by processors without licenses. If B share fish go to different markets than A share fish or if the ex vessel prices of A share fish and B share fish are not correlated, participants might examine whether the A share fish prices are creating incentives for licensed processors to compete in product markets. In developing ex vessel prices, participants should look to the B share fish market as an indicator of the market opportunities in general, including fish harvested with A shares. Likewise, in Council review of the program, differences in production between A share fish and B share fish could be an indicator of whether licensed processors are actively pursuing market opportunities.

The price disparity for B share landings could be larger under Alternative 2B, which creates a program of harvest share/processor linkages. Under that alternative, A shares are linked to a specific processor. A harvester would forfeit a portion of its shares to change (or remove) the link. Although a harvester may choose to move between processors, that choice would only be made if the additional revenues after the move exceed the lost revenues from the penalty. This dynamic would allow a processor to pay a lower price for A shares landings than for B share landings, with the extent of that difference depending mostly on the magnitude of the penalty.

Under Alternative 2A, A shares can be landed with any licensed processors. Assuming that many of the current processors would receive licenses, the market for landings of A shares would be similar to (but perhaps slightly more limited than) the current market. In any case, a harvester could deliver A share landings to one of several processors, inducing price competition among the licensed processors for those landings. So, although the market for A share landings is limited under Alternative 2A, the market is more limited under Alternative 2B, with the extent of the difference depending on the magnitude of the penalty under Alternative 2B. As a result, A shares are likely to represent a smaller part of the average harvester's revenues under Alternative 2B.

The ratio of A shares to B shares, together with the limitations on A share deliveries, will establish the distribution of rents in the fishery. The novelty of the program, and uncertainties concerning specifics,

limits any exact knowledge of the rent distribution, but changes in the ratio of A shares to B shares held by an individual (or cooperative) are likely to affect the distribution of rents and bargaining power of the participants. Changes in the ratio of A shares to B shares at the individual level could occur, if A shares trade separately from B shares at the QS (or long term) level. Although voluntary, independently trading long term A shares and B shares (QS) could alter the bargaining power, at least for some participants. For example, if a harvest share holder sells long term A shares independently from B shares, the buyers of the A shares will not have the bargaining power of B shares. At the extreme, a harvest share holder with only A shares would have no ability to leverage A share prices with B share deliveries. In addition, the ability of this shareholder to use B share delivery price information in negotiations could be limited by the lack of B share holdings. While other share holders are likely to benefit from holding additional long term B shares, the separation of the holdings could result in B shares having a limited impact on prices for those harvesters that hold only long term A shares. The effect is likely to be most pronounced for new entrants, for which independent trading of long term B shares could have two competing effects. These entrants are likely to find a lower price for shares, if the long term A shares trade independently, but are likely to find that buying those shares provide them with less power in the market place. The specific effects will depend on the circumstances of the individuals involved (including the harvesters, processors, and any cooperatives). The impact of allowing independent trading of A shares and B shares is likely to be greater under Alternative 2B than under Alternative 2A, because Alternative 2B imposes a greater limit on landings choices. Since a holder of only A shares would need to recover any penalty for changing linkages from A share revenues only, the ability of persons holding only A shares to move between processors could be more limited, particularly for participants that have relatively small share holdings. These participants are likely to have substantially less negotiating leverage than participants that have larger holdings and substantial operations.

The effect of B shares and their trading on bargaining power would be affected, if processors or their affiliates are allocated or are permitted to purchase B shares. If A shares and B shares trade separately at the QS level, ownership caps that do not apply independently to A and B share holdings would likely allow consolidation of B shares among a few holders. Independent harvesters could lose substantial bargaining leverage intended to be provided by B shares, if a significant portion of those shares are purchased by processors. In addition, entry to the processing sector could be affected, if B shares landings from independent harvesters are not available for small processors to experiment in the fisheries. Product innovation and introduction of Gulf fish to new markets, as well as competition in the ex vessel market could be diminished. With B shares representing a relatively small part of the total fishery, the purchase of B shares by the processing sector could offset their utility as a price indicator for negotiations or as a source of information concerning market opportunities.

Several issues must be addressed in establishing a prohibition on processor purchases or allocation of B shares. If A shares and B shares do not trade independently, the prohibition should prevent the allocation of B shares to processors and their affiliates (as written in the suboption above). If those shares do trade independently, the prohibition should prevent processors and their affiliates from purchasing B shares and require the divestiture of B shares by any share holder that affiliates with a processor.

2.2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.2.3.3.1 Persons eligible to receive harvest shares by transfer must be:

Entities eligible to document a vessel (apply to CP).

Initial recipients of CV or C/P harvest share.

Community administrative entities would be eligible to receive harvest shares by transfer.

Individuals eligible to document a vessel with at least 150 days of sea time (apply to CV shares)

Entities eligible to document a vessel that have a US citizen with 20% ownership and with at least 150 days of sea time (apply to CV shares).

Definition of sea time:

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

2.2.3.3.2 Restrictions on transferability of CP harvest shares

CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares convert to CV harvest shares.

2.2.3.3.3 When CP shares are redesignated as CV shares;

CP harvest shares retain their gear designation upon transfer.

Purchaser must further identify which processing provision and regionalization provision apply to the shares, consistent with the gear type.

2.2.3.3.4 Vertical integration

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.

2.2.3.3.5 Leasing of QS (“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. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 2. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 3. Allow leasing of CP QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.
- Option 4. For individuals and corporations with CV QS, no leasing restrictions for the first three years. After this grace period, leasing will be allowed in the following 18 months if the QS holder owns 20% or greater of a vessel on which 30% of the primary species shares held by the QS holder in at least 2 of the most recent 4 years were harvested. This provision would apply to independent lessees and within cooperatives.

The Council could decide the extent of any limits on leasing at this time. Leasing prohibitions tend to be supported as a means of discouraging absentee ownership of interests in the fisheries. Although a share holder need not actively fish on a vessel, if leasing is prohibited the share holder would have to own a portion of a vessel, keeping an active role in the fishing industry.

In considering prohibitions on leasing, the Council should consider the administrative burden arising from those limits. For example, Option 4 would require ongoing agency monitoring of all share use, calculating the extent of ownership and onboard participation of the QS holder on a monthly basis. The ability of a shareholder to lease would depend on this share usage and could change month-to-month during a season. Prohibitions on leasing that require less extensive monitoring and management could be beneficial to both management and participants in the fishery, while still meeting the leasing management goal. Seasonal thresholds and limitations could be more easily administered than monthly limits.

The Council should clearly indicate how limits on leasing apply to cooperative members. Cooperatives typically provide a mechanism for simplifying transfers among participants. These simplified transfers, however, could be inconsistent with limits on leasing. For example, if several share holders form a cooperative, limits on leasing could prevent efficient use of the shares, even though all cooperative members own and operate vessels in the fishery.

2.2.3.3.6 Separate and distinct harvest share use caps

Caps will be expressed as QS units indexed to the first year of implementation.

Option 1. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species and management area are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and CP (can be different caps):

Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)

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

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)

based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %

Option 2. Caps equal to a percentage that would allow contraction of QS holders in the fishery by 20%, 30% or 50% of the number of initially qualified QS recipients by species and sector.

Suboption 1. Conversion of CP shares:

- i. CP shares converted to CV shares
 - Option 1. will count toward CV caps
 - Option 2. will not count toward CV caps at the time of conversion.

Caps will be applied to prohibit acquisition of shares in excess of the cap.

The Council could decide whether to count converted catcher/processor shares toward catcher vessel share caps at this time. Allowing conversion of catcher processor shares by a catcher vessel share holder in excess of the cap, could affect consolidation in the fishery, even if the Council were to impose separate caps on the sectors (i.e., a person could acquire catcher processor shares for conversion, even when at the catcher vessel share cap), if the person is permitted to exceed the catcher vessel cap by converting shares. Whether to allow the cap to be exceeded in this manner depends on the balance of benefits of the transition of shares to the catcher vessel fleet. Although distributional impacts can occur, efficiency could decline with the transition of shares to catcher vessels. The last provision – “Caps will be applied to prohibit acquisition of shares in excess of the cap” – would allow a person that is under a catcher processor share percentage cap at the time shares are acquired, to retain those shares even if they would later exceed the cap because of the conversion of some catcher processor shares to catcher vessel shares.

Vessel use caps on harvest shares harvested on any given vessel shall be set at

- i. 100%
- ii. 150%
- iii. 200%

the individual use cap for each species. 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.

2.2.3.3.7 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. 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 harvest share units.
 - Option 1. No owner on board restrictions.
 - Option 2. A range of 5-50% for fixed gear CVs and 5-40% for trawl gear CVs, of the quota shares initially issued to fishers/harvesters would be designated as “owner on board.”

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.

The Council should consider selecting a preferred owner on board provision. In considering whether to require owner on board use of shares, the Council should consider the nature of the fisheries and whether such a requirement is reasonable for the future conduct of these fisheries. Establishing a portion of shares as owner on board could lead to a more fluid market for those shares since holders would be required to be on the vessel fishing those shares. Tenure of share holdings would likely decline for the owner on board shares. Owner on board shares are also likely to trade at a lower price than shares not subject to an owner on board requirement.

2.2.3.3.9 Overage Provisions

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.

- i. Trawl CV and CP:
 - Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year’s annual allocation or IFQ. Underages up to 10% of harvest shares (or IFQ).
 - Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).
- ii. Longline and pot CV and CP:
 - Overages up to 10% of the last trip will be allowed with rollover provisions for underages up to 10% of harvest shares (or IFQ).

Suboption. 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).

The Council could consider finalizing overage provisions. The Council should make clear its purpose for establishing overage and underage provisions and make certain that the provision is consistent with that purpose. Under the proposed underage carryover provision a share holder that underharvests an allocation would be permitted to carryover up to 10 percent of their annual allocation to the following year. Underage carryover provisions can have an advantage, in reducing a person's incentive to attempt to fish all allocated shares, if there is a risk of overage. This incentive, in turn, reduces the possibility of an overharvest of the fleet share allocation. A downside of an underage carryover is that the agency may have to allocate in excess of the TAC to allocate both the annual share allocations and the underage carryover.

Overage carryover provisions, on the other hand, allow a person to exceed their allocation by a specific percentage without risk, since shares would be deducted from the following year's allocation. An overage carryover provision reduces any incentive to limit catch to one's allocation, since the risk of loss of catch or penalty for overages is reduced (or possibly removed). Including both overage and underage carryovers in a program allows (and could encourage) participants to speculate at the margin of their allocations, either intentionally underharvesting or overharvesting allocations, depending on the condition of markets.

In a cooperative program, the non-market motivations for allowing carryovers for either overages or underages is reduced, since the pooling of allocations in a cooperative allows for the risk to be spread among members of the cooperative. In addition, information sharing on the grounds in cooperatives can help participants more closely match harvests to allocations. The halibut and sablefish IFQ programs permit limited carryover of both underages and overages. In all years, underages have exceeded overages with the net underage ranging from 1 to 3 percent of the TAC. The AFA Bering Sea pollock cooperatives have no overage or underage carryover provisions. In recent years in that fishery, harvests have typically exceeded 99 percent of the allocation without overage. The BSAI crab rationalization program allows no carryovers for overages or underages, but provides for forfeiture of catch without penalty for overages of less than 3 percent of the last trip of the season.

Overage and underage carryover provisions complicate management of the fishery, requiring the agency to account for the distribution of any carryover in the following season's allocations. Accounting can be especially complicated when transfers of shares are involved. For example, if a share holder transfers a portion of its QS holdings, any overage must be apportioned against both the purchaser's allocation and the allocation remaining with the original share holder. While cooperatives may simplify the ability of harvesters to reduce risks of overages and underages, the allocation of carryovers will likely be complicated by a cooperative system. Not only will the agency need to apportion the carryover in the case of transfer, the carryover will also need to be apportioned among cooperative members to account for the distribution among parties involved in a transfer. Although these apportionments can be determined, they are likely to be complicated further by the multispecies program that is being developed. In any case, the time required by the agency to calculate carryovers is likely to extend any down time between seasons and limit the ability of the agency to accommodate year round fisheries.

In developing a provision concerning overages and underages, the Council should carefully assess its objective and develop a program that meets that objective with minimal cost.

- 2.2.3.3.9 Retention requirements for rockfish, sablefish and Atka mackerel:
- Option 1. no retention requirements.
 - Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages
 - Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.
- 2.2.3.3.10 Limited processing for CVs
- Option 1. No limited processing
 - Option 2. Limited processing of rockfish species by owners of CV harvest shares of rockfish species not subject to processor landing requirements are allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

The Council could decide whether to allow limited processing by catcher vessels at this time. The provision allowing processing is patterned after the current provision in the LLP, which allows processing of up to 1 metric ton of groundfish by catcher vessels under 60 feet.

- 2.2.3.3.11 Processing Restrictions
- Option 1. CPs may buy CV share fish not subject to processor landing requirements.
 - Suboption. 3 year sunset
 - Option 2. CPs would be prohibited from buying CV fish.
 - Option 3. CPs may buy incentive fish and incidental catches of CV fish not subject to processor landing requirements.

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

The Council could select a preferred provision concerning the extent of catcher vessel harvests that may be processed by catcher processors. If Option 2 is adopted as a preferred provision, the Council should clarify whether it would permit catcher processors to process harvest shares subject to processor landing requirements, if the catcher processor met those requirements. For example, in Alternative 2A a licensed processor is permitted to receive deliveries of any A share landings. The Council should clarify whether a catcher processor that purchased a processing license would be permitted to purchase A share landings under that alternative. Similarly, under Alternative 2B, whether a catcher processor could purchase a license and establish linkages with harvest shares should be clarified. Although deliveries to catcher processors are very limited in the Gulf of Alaska fisheries, the Council should clarify whether a catcher processor that met qualifications for either a processing license or a linkage would be permitted to receive landings to the extent permitted by the license and linkage. (This provision should be decided consistently with 2.3.1.1.1 below.)

- 2.2.4 Allocation of Secondary Species
- Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
Includes SEO shortraker, rougheye, and thornyhead rockfish.
- i. Allocation of shares
 - Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:
 - Suboption 1. based on average catch history by area and target fishery
 - Suboption 2. based on 75th percentile by area by target fishery
 - Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.

- Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.
- Option 3. Secondary species allocations will be awarded to the owners of sablefish and halibut QS.
 - ii. Include these species for one gear type only (e.g., trawl). Deduct the secondary species catch from gear types from TAC. If deduction is not adequate to cover secondary species catch in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.
 - iii. Retain these species on bycatch status for all gear types with current MRAs.
 - iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
 - Suboption. These shares may be used with either fixed gear or trawl gear.
 - v. Permit transfer of secondary species QS
 - Option 1. Primary species shares and secondary species shares are non-separable and must be transferred as a unit.
 - Option 2. Primary species shares and secondary species shares are separable and may be transferred separately

2.2.5 PSC Species

2.2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line

- Option 1: Modeled after sablefish IFQ program (no direct inseason accounting of halibut PSC. Holders of halibut IFQ are required to land legal halibut. Estimates of sub-legal and legal size incidental mortality are accounted for when setting annual CEY.
- Option 2: Halibut PSC will be managed through harvest share allocations.
- Option 3: Continue to fish under PSC caps.
 - Suboption (to all options): Holders of halibut IFQ are required to land legal halibut. Halibut bycatch occurring without sufficient IFQs would count against PSC allocations.

Trawl Entities:

- Option 1: Halibut PSC will be managed through harvest share allocations.
- Option 2: Continue to fish under PSC caps.

2.2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the primary species shares. Secondary species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed primary species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

- Option 1. Both sectors
- Option 2. Catcher Processor/Catcher Vessel

2.2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

Option A: Halibut PSC annual allocations are separable from primary groundfish annual allocations and may be transferred independently within gear types. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Suboption 1. 0%

Suboption 2. 5%

Suboption 3. 7%

Suboption 4. 10%

Suboption 5: Exclude any halibut PSC transferred for participation in the incentive fisheries (includes transfers outside the cooperative).

Suboption 6: Exclude any halibut PSC transferred within a cooperative.

Option B: No leasing/annual transfer of PSC outside of cooperatives.

All PSC reductions under this section will remain unfished (in the water).

2.2.5.3.1 PSC Reduction for Non-Members of Cooperatives

Non-members of cooperatives would have PSC reduced by:

i 5%

ii 15%

iii 30%

PSC reduction will not apply to low-producing fixed gear participants.

All PSC reductions under this section will remain unfished (in the water).

2.2.5.4 Permanent transfer of Halibut PSC harvest share mortality

Option 1. Groundfish primary species harvest shares (QS) and Halibut PSC harvest shares (QS) are non-separable and must be transferred as a unit
Suboption. exempt Pacific cod

Option 2. Groundfish primary species harvest shares (QS) and Halibut PSC harvest shares (QS) are separable and may be transferred separately

2.2.5.5 Retention of halibut incidentally caught by fixed gear vessels

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.

2.2.6 Incentive species

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

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

Option. The portion of historic unharvested West Yakutat Pacific cod TAC will be made available as an incentive fishery, subject to provision of incentive fisheries.

2.2.6.1 Eligibility to fish in the incentive fisheries

B. The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate PSC and secondary species.

Suboption: vessels must be a member of a GOA fishing cooperative to fish in the incentive fishery.

B. Any holder of halibut or sablefish IFQ that has adequate IFQ or PSC and secondary species.

2.2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

Option 1. The individual co-op member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The co-op will notify NMFS when a vessel enters the incentive fishery quota pool.

Option 2. The co-op's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The co-op members through a contractual coop agreement will address catch accounting amongst the co-op members.

Option 3. For shareholders not participating in co-op, the unallocated incentive species are available for harvest once the individual IFQ holder's allocation of the incentive species has been used.

2.2.7 Preserving entry level opportunities for P. cod

2.2.7.1 Each initial allocation of P.cod harvest shares based on the final year of the qualifying period to fixed gear catcher vessels below the block threshold size would be a block of quota and could only be permanently sold or transferred as a block.

Option 1 10,000 pounds constitutes one block

Option 2 20,000 pounds constitutes one block

Option 3 No Block Program

Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program

2.2.7.4 Eligible participants would be allowed to hold a maximum of:

Option 1, 1 block

Option 2. 2 blocks

Option 3. 4 blocks

2.2.7.5 Any person may hold:

Option 1. One block and any amount of unblocked shares

Option 2. Two blocks and any amount of unblocked shares

Option 3. Four blocks and any amount of unblocked shares

2.2.8 Skipper/Crew

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

iii. Vessel owners receiving initial QS or harvest privileges; or

- iv. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
 - Suboption 1. include crew in the license program.
 - Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

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

2.2.9 Communities

Note: 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 protection programs.

2.3.9.1 Regionalization

If adopted, all processing licenses (for shore-based and floating processors) will be categorized by region. Processing licenses that are regionally designated cannot be reassigned to another region.

Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.

Catcher processor shares and incentive fisheries are not subject to regionalization.

In the event harvest shares are regionalized and the processor linkage option is chosen, a harvester's shares in a region will be linked to the processor entity in the region to which the harvester delivered the most pounds during the qualifying years used for determining linkages under 2.3.1.1.2.

The following describes the regions established and fisheries that would be subject to regionalization:

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

2.2.9.1.1 Secondary species shares

Option 1: Secondary species shares would be subject to regionalization

Option 2: Secondary species shares would not be subject to regionalization

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

- Option 1. consistent with the preferred option under “Section 2.2.2 Qualifying Periods”
- Option 2. 1999 – 2002

2.2.9.2 Community Fisheries Quota (CFQ) Program

The purpose of the Community Fisheries Quota Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.

2.2.9.2.1 Administrative Entity

A Gulf-wide administrative entity will receive and hold CFQ on behalf of eligible communities. The administrative entity representing one or more eligible communities must be a non-profit entity qualified by NMFS.

2.2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - e. 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 Fisheries
 - b. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.2.9.2.3 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

2.2.9.2.4 Allocation

- Option 1. 5% of annual TAC

Option 2. 10% of annual TAC

Option 3. 15% of annual TAC

CFQ awarded to a gulf-wide administrative entity cannot be permanently transferred.

2.2.9.2.5 Harvesting of Shares

Option 1. Limited to residents of any eligible community

2.2.9.2.6 Allocation Basis

The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

Option 1. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.

Option 2. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.

Option 3. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

2.2.9.2.7 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.

2.2.9.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.2.9.3 Community Purchase Program

The purpose of the Community Purchase Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities.

2.2.9.3.1 Administrative Entity

The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

- a. Less than 1,500
- b. Less than 2,500
- c. Less than 5,000
- d. Less than 7,500

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network

- b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. 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 Fisheries
- a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 – 2002)
- Option 4. Government Structure
- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.2.9.3.3 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.

2.2.9.3.4 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.2.9.4 Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors and crewmembers in the region to use as leverage to mitigate impacts directly associated with implementation of a rationalization program.

2.2.9.4.1 Harvest Share Distribution

10-30 % of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be a pool off the top before individual distribution of harvest shares.

2.2.9.4.2 CIFT Designation

- Option 1. One CV CIFT for entire GOA (exclude SEO)
- Option 2. Regional CV CIFTs:
 - Suboption 1. Central GOA (Kodiak, Chignik)
 - Suboption 2. Western GOA
 - Suboption 3. North Gulf Coast (Homer to Yakutat)
- Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.2.11 PSC for Crab and Salmon

Staff is tasked to fully develop the GOA salmon and crab bycatch reduction alternatives as proposed within the staff discussion paper. The Council requests ADF&G to assist staff to develop triggers, limits and closure areas that apply to the alternatives.

2.2.10.1 Chinook Salmon

Alternative 1: Status Quo (no bycatch controls)

- Alternative 2: Trigger bycatch limits for salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery.
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.5 Tanner Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for Tanner crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling for the remainder of the year if or when a trigger limit is reached by the flatfish fishery (and potentially additional areas for P. cod longline and pot gear).
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of Tanner crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.6 Red King Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for red king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of red king crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.7 Other King Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for other king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of other king crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.10.5 Other Salmon

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for other salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery (and potentially additional areas for flatfish trawling).
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

2.2.11 Review and Evaluation

2.2.11.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.2.11.2 Review and Sunset

- Option 1. The program would sunset unless the Council decides to continue or amend the program. The decision of whether to continue or amend would be based on a written review and evaluation of the program's performance compared to its objectives.
 - Suboption 1. 5 years after fishing under the program
 - Suboption 2. 7 years after fishing under the program
 - Suboption 3. 10 year schedule after fishing under the program
 - Suboption 4. No sunset provision.
- Option 2. Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

The Council could select a preferred option for review and sunset of the program. Formal review should be undertaken since this program is unique and contains several management innovations. Although sunsetting might be preferred as a method of signaling that allocations are not permanent (and thus not a permanent gifting of a public resource to recipients) the use of sunsets will create uncertainty for participants. A sunset could require that the Council act quickly to develop an alternative program in the event that the selected rationalization program is not extended. If a sunset is desired, uncertainty could be avoided by specifying the management that would be used in the event the program is allowed to sunset. The Council should also consider whether any potential allocation to State managed fisheries would be affected by a sunset.

2.2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superseded by the GOA rationalization program allocations upon implementation.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The Council should consider adding sideboards for the GOA jig fishery, which will not be included in the rationalization program.

Staff analysis of sideboard issues should examine the potential consequences of the creation of a double set of sideboards relating to BSAI fisheries for vessels already subject to AFA sideboards in BSAI fisheries.

2.4 Processing Sector Provisions

The Council could clarify the processing sector provisions for alternatives 2A and 2B in several respects at this meeting. As the Council considers these issues, it will be important to develop a coherent package, which incorporates several different consistent decisions into a comprehensive

alternative. Since this section contains several overlapping decisions, to aid the Council's development of alternatives the following potential decisions are listed:

Alternative 2A

- 1) *Whether processor licensing uses a fixed gear/trawl gear approach or large/small processor approach (2.3.1.2.1 – plus references in other sections)*
- 2) *The percent of shares that will be delivery restricted (A shares) and unrestricted (B shares) (2.3.1.1.1)*
- 3) *Whether the A share/B share distinction is made at the QS? (2.2.3.2.5 above)*
- 4) *The extent of any limits on the number or types of licenses that can be held by a processor (2.3.1.2.6)*
- 5) *Whether processor licenses will be transferable to*
 - a. *Other communities*
 - b. *Other regions (2.3.1.2.3)*
- 6) *Whether to credit the owner or operator of a license with history for purposes of determining license eligibility (2.3.1.2.2)*
- 7) *Whether catcher/processers may accept delivery of unrestricted shares (B shares) (2.3.1.1.1)*
- 8) *Who receives credit for custom processed fish for purposes of determining license eligibility (2.3.1.2.2)*

Alternative 2B

- 1) *Whether processor licensing uses a fixed gear/trawl gear approach or large/small processor approach (2.3.1.2.1 – plus references in other sections)*
- 2) *The percent of shares that will be delivery restricted (A shares) and unrestricted (B shares) (2.3.1.1.1)*
- 3) *Whether the A share/B share distinction is made at the QS? (2.2.3.2.5 above)*
- 4) *The extent of any limits on the number or types of licenses that can be held by a processor (2.3.1.2.6)*
- 5) *The level of the penalty for movement between linked processors*
 - a. *Percentage of shares*
 - b. *Number of years*
 - c. *Does the penalty apply to A shares or both A shares and B shares*
 - d. *Redistribution of the penalty (to share holders associated with the processor or across all co-ops) (2.3.1.1.3)*
- 6) *Whether penalties are one-time or would apply to a second linkage (or are discounted after the first linkage is severed) (2.3.1.1.3)*
- 7) *Whether processor licenses will be transferable to*
 - a. *Other communities*
 - b. *Other regions*

And the impacts of transfers on any linkages (2.3.1.2.3)
- 8) *The impact of a processor no longer operating in a community at the time of implementation*
 - a. *Linked harvesters can deliver to*
 - i. *any licensed processor*
 - ii. *any licensed processor in the community*
 - b. *Whether a linkage would be established (2.3.1.1.2)*
- 9) *Whether catcher/processers may accept delivery of unrestricted shares (B shares) (2.3.1.1.1)*
- 10) *Whether to exempt harvesters that deliver to a single processor community from linkages (2.3.1.1.2)*

- 11) *Whether to allow aggregation of landings histories across facilities for purposes of meeting the license eligibility threshold (2.3.1.2.1)*
- 12) *Whether to credit the owner or operator of a license with history for purposes of determining license eligibility and linkages(2.3.1.2.2)*
- 13) *Who receives credit custom processing of fish for purposes of determining license eligibility (2.3.1.2.2)*

As a starting point, options for the creation of processor licenses have two distinct approaches. One set of options rely on a trawl gear/fixed gear distinction in licensing. The second set of options use a large processor/small processor distinction. The Council could select one of these as a preferred approach.

The trawl gear/fixed gear approach would require that a processor have a license endorsed for the gear type to take delivery of any landings by that gear using delivery restricted A shares. A processor would be permitted to hold licenses for both gear types and could also receive a license that is endorsed for both gear types on implementation, if it met the eligibility requirements for both gear types. Different thresholds for qualification for a license, as proposed in the motion, acknowledge the differences in the scales of harvests by the different gear types. The trawl/fixed licensing approach could function effectively under either Alternative 2A or 2B. Under Alternative 2A, a processor would need to hold a license endorsed for the specific gear type to accept landings of that gear type made with delivery restricted A shares. Under Alternative 2B, a processor would need to hold a license endorsed for a gear type to establish linkages with shares of that gear type. Although a processor could be limited from competing for landings of another fleet by the gear classification, the ability of the processor to add landings within the gear type in which it operates would be limited only by processing caps that are intended to prevent excessive consolidation. Growth across gear types would be limited by the requirement that a processor add a license for the other gear type.

The large/small processor distinction could be used to issue licenses to processors that would set different size limits for small and large participants. Although this approach has some appeal, the requirement of a large license to exceed a certain size could limit the ability of a processor to undergo smooth growth, possibly inducing irregular growth in which the processor would need to make a substantial change in size to recoup the cost of a large processor license. Whether this effect would occur cannot be predicted and depends on the development of the market for processing licenses and operations of the processor. The large/small approach could be applied under Alternative 2A, simply defining eligibility to take delivery of A share landings. Under Alternative 2B, the approach may have less appeal, as the ability of processors to compete for landings under the system of linkages could be limited if a small license holder must not only pay ex vessels prices to cover the penalty to induce additional share linkages, but also purchase a license, if a small processor threshold limits its growth.

For alternative 2A apply provisions generally at the company level.

For 2B, apply provisions generally at the facility (plant) level.

2.3.1 Provisions for Processor License Limitation

2.3.1.1 Harvester Delivery requirements

2.3.1.1.1 Harvester delivery requirements

- Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:
- i. the linked licensed closed trawl or fixed class processor (Applies to 2B).
 - ii. Any licensed trawl or fixed or large or small processor (Applies to 2A)
- The remaining (50% - 0%) CV harvest share allocation can be delivered to:
- any processor excluding CPs
 - any processor including CPs

The Council could decide several of the options in this section.

First, the Council could decide whether to use a “trawl gear/fixed gear” approach or a “large/small” approach to processor licensing, as described above.

Second, the Council could decide the percentage of delivery restricted shares in both alternatives. Generally, the Council should set the percentage of A shares to balance the interests of harvesters and processors. The larger the percentage of A shares, the greater the restriction on the harvest share holder’s market for landings. Under Alternative 2A, share holders would be required to deliver A shares to processors holding licenses. Under Alternative 2B, a share holder would be required to deliver their delivery restricted A shares to the particular processor to which its shares are linked (with linkages based on historic landings patterns). Given the less restrictive delivery obligation under Alternative 2A, imposing delivery restrictions on a higher percentage of shares is likely reasonable. Under Alternative 2A, a harvester would be able to induce competition among several license-holding processors for all landings, with each processor, generally, on equal footing for attracting those landings. Under Alternative 2B, processors would be able to compete for A share landings only by inducing a share holder to break the linkage associated with those shares, which requires a share reduction penalty. B shares, which are not delivery restricted, could be used to attempt to induce the linked processor to pay a higher price for A share landings or to induce a competing processor to pay a price for A shares that is high enough to make the penalty share reduction worthwhile. Under either alternative, the appropriate level for the restriction should balance the historic investment interests of the processors in having a closed market for a portion of the allocation against the interests of harvesters in having a broader, more competitive market for their landings.

The interests of potential entrants to the processing market should also be considered in setting the percentage. The Council should consider the need to allow new entrants to experiment with innovations, which could benefit the industry in the long run. Leaving a very small portion of the fishery for unrestricted delivery may severely limit opportunity for entry. Under Alternative 2B, the ability to land unrestricted shares with any processor could be of greater importance to new entrants for a few reasons. The linkage creates a relatively strong and specific relationship between the harvest share holder and the linked processor. This relationship could encompass not only the delivery restricted shares, but also the unrestricted shares. If only a small portion of the fishery is unrestricted, the ability of a processor to enter in an effective manner could require not only strong competition for the unrestricted shares, but also establishment of linkages with some share holders. While the establishment of linkages is a reasonable expectation for processors that are to be long term participants, entrants that are experimenting with relatively small quantities of deliveries should not reasonably be expected to make the investment in establishing linkages. Under Alternative 2A, the potential to enter the fishery by purchasing relatively small amounts of fish is also worth assessing. Since harvester shares do not have specific processor linkages, more harvesters should have less strong relationships with processors with greater competition for landings. The competition among licensed processors, however, is likely to be extensive and could affect the market for shares that are not delivery restricted.

When considering the appropriate percentage of delivery restricted shares under Alternative 2B, the Council should also consider other aspects of the processor dimension of the program. The protection provided to any processor will depend not only on the percentage of shares that are subject to the delivery restriction, but also on the penalty for share movement. While not a direct trade off, the two decisions are closely related. In general, a higher percentage of delivery restricted shares determines the quantity of shares for which a linked processor has a market advantage. The penalty determines the extent of the market advantage with respect to those linked shares.

Lastly, the Council could decide whether to permit catcher processors to purchase catcher vessel shares that have no processor delivery restrictions. This provision should be determined consistently with 2.2.3.3.11 above.

Option 2. Low producing vessels are exempt from delivery requirements (Applies to Fixed Gear 2 Low only)

2.3.1.1.2 Linkage (Linkages apply by area) (Applies to 2B):

A harvester's processor linked shares are associated with the licensed fixed or trawl (large or small) processor to which the harvester delivered the most pounds of groundfish during the last ___ years of the harvester qualifying years.

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

Option 1: If the processing facility with whom the harvester is associated is no longer operating in the community the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community

(This provision applies only to Alternative 2B.) The Council could decide whether to choose option 1 and which of the suboptions (i or ii) to select, if the option is chosen. This option could be used to limit the potential for a harvester to be linked to a secondary processor, should the processor it would otherwise be linked to stop operating in the community. The provision could be justified, if the Council believes it is unreasonable to require a harvester to deliver to either the same processor in another community or to another processor in the same community. The rationale for removing the linkage could be that the linkage is intended to protect only the processing plant with the strongest relationship to a harvester historically.

In approaching this question, the Council should consider the interaction of this provision with other provisions in this section (2.3). The outcome should be a package of consistent provisions that meet Council objectives. As a starting point, the Council decided at a previous meeting to use a facility-based approach under Alternative 2B. So, a harvest share/processor linkage would be determined at the facility level (which by its nature would establish the association within a single community). Since this provision is in the section on establishing linkages at the outset of the program, staff assumes that the provision applies only on implementation (provisions later in the section would apply to circumstances that arise after implementation).

If this provision is accepted, the Council should clarify whether any linkage would be established for harvesters that delivered a majority of catch to a processor that is no longer operating. If so, the suboptions (i and ii) could be used to define processors that the share holder could associate with. Effectively, this approach would be consistent with a program that allows changes in linkages among processors, but would perpetuate linkages. If the shares are not subject to linkages if the processor discontinued operations, the provision would simply require that the shares be delivered to a licensed processor. This second approach could be applied, if the Council intended Alternative 2B to establish a one-time linkage that would not be transferred to a second processor once severed (i.e., suboption B from 2.3.1.1.3 is consistent with the approach). In the end, this approach would create an initial linkage for each delivery restricted share, but once the linkage is broken the shares would be subject to a license limitation program for processors similar to Alternative 2A.

If the Council chooses not to include this option in the Alternative, the Council should clearly state its intention for addressing processor linkages, in the event a plant is no longer in operation. A few approaches are possible including: 1) establishing the linkage with the processor that the harvester delivered the second most pounds to, and 2) allowing any successor of the closed plant to receive the linkage.

Option 2: Fishermen that, during the qualifying years, delivered the majority of their harvest (all species combined) to a community with a single qualified processor are exempt from processor linkages.

The purpose of Option 2 should be clarified. Under Alternative 2B, a harvester's shares are linked to the processor that the harvester delivered the most pounds to in the qualifying period. The rationale for not applying that linkage in communities with a single processor is not clear. The relationship between the presence of additional processors in a community and the removal of the penalty should be clearly stated, if this provision is incorporated into Alternative 2B.

(Either or both of Options 1 and 2 may be selected.)

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

2.3.1.1.4 Movement between linked processors (Applies to 2B)

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

Share reductions of 10% - 20% each time a harvester moves to a different linked processor for:

- i. 1 year
- ii. 2 years
- iii. 4 years

The Council could decide the penalty for movement between linked processors. The level of penalty should balance the interests of processors that have established histories in the fisheries and the processor protection arising from the linkage/penalty provisions against the interests of harvesters in having a broader market in which to sell their harvests. The Council should recognize that the penalty represents a loss of revenues to a harvester, which could be used to defer long term fixed costs, such as vessel loans, in addition to variable costs, which are reduced by not having to harvest the shares subject to penalty. This loss of revenues should be balanced against the long term loss of revenues to a process that occurs, if a processor loses the linkage. In a program of perpetual linkages, the linkages could be of greater importance to a processor, since the competition for delivery restricted shares linked to other processors will be limited by the need to pay an ex vessel price that covers the penalty.

As a part of this decision, the Council could decide whether the penalty will be applied in a single year or over the course of more than one year. Extended terms for penalties are likely to discourage movement between processors by increasing the cost of movement. Discounting suggests that extending a penalty over several years, however, is likely to be less costly to a harvester than imposing a penalty of the same quantity of fish over a shorter period of time (i.e., 2 percent per year for 4 years is less costly than 8 percent in a single year, if the TAC and product markets remain constant). Extending the penalty to reduce its magnitude in a single year could also avoid disruption to a harvester's operations that could occur from imposing a larger penalty in a single year. Long term penalties, however, could discourage movement and competition. On the other hand, penalties of relatively long terms could contribute to stronger relationships between harvesters and processors. If a penalty is imposed over

several years, the processor with which a new linkage is established could establish a relationship for the term of the penalty (or beyond) to cover the harvester's costs of penalty.

The share reduction shall be redistributed to:

- iii. The shareholders in association with that processor that the shareholder left (if it continues to exist).
- iv. All cooperatives in the sector on a pro rata basis.

The Council could also decide the beneficiary of any share reduction for changing linkages at this time. Distributing the penalty to the cooperative that is associated with the processor that is losing the linkage would provide an indirect benefit to the associated processor. The benefit to the processor, however, is small relative to the loss of the linkage and is probably better characterized as minor mitigation of the long term loss from the severance of the linkage. The members of the cooperative associated with the processor, on the other hand, would receive a direct benefit from the penalty shares since those harvesters would be the direct beneficiaries of the reallocation. Redistributing the reduction to all cooperatives would disperse the benefit of the redistribution to all cooperatives in the fishery. The Council should note that the redistribution to cooperatives could differ from redistribution to all share holders by excluding share holders that are not cooperative members.

Suboptions:

- i. Penalty applies to A shares only.
- ii. Penalty applies to both A and B shares.

The Council could decide whether to apply the penalty to delivery restricted A shares or to both the delivery restricted A shares and the unrestricted B shares. Assessing the penalty on both types of shares would affect the magnitude of the penalty and the nature of the penalty. Reducing B share allocations to a share holder on severing a linkage, would reduce not only the allocation, but the ability of a harvester to use B share revenues (which are likely to be at least as large as A share revenues on a per pound basis) to disburse the cost of the penalty.

The table below suggests an approach to assessing the different percentages of restricted shares and penalties. The table simply suggests a possible tradeoff between the percentage of harvest shares subject to the processor linkage and the percentage of the penalty. The Council could rely on the table for discussion purposes, but should realize that the penalty level and the portion of the fishery subject to restrictions, while related, serve different purposes. The level of the delivery restricted shares determines the portion of a harvester's allocation that will be committed to its historic processor. The level of the penalty determines the cost of removing that association.

- A. Full penalty applies to first move, subsequent moves are penalized at half of that rate.
- B. Penalties apply only to the first transfer

The Council could also decide whether penalties are discounted (or entirely waived) after the first move between linked processors. The possible rationale for discounting (or waiving) the penalty is that the second processor would not have the historic processing association with the share holder that is the justification for the system of linkages. On the other hand, retaining the penalty could be justified as a means to add stability to the processing sector. A discounted penalty could provide a middle ground, diminishing the potential for a harvester to move among freely among processors every year, but recognizing that a the second linked processor has less of a historic interest than the initial linked processor. Discounting penalties after the first move will have two competing effects in the market for ex vessel landings. On one side, the second linked processor will have a lower incentive to pay to establish a new association with a share holder, since its association can be more easily severed by the

share holder. On the other side, a share holder will be willing to accept less from the secondary processor for severing the linkage since the share holder will have greater freedom to move among processors thereafter (because of the decreased penalty). This effect is more pronounced, if penalties apply only to the first movement. If no penalty is applied after the first move, a share holder would move, if the fair market value of unrestricted share landings are large enough to cover the cost of the loss of shares through the penalty. In either case (the reduced penalty or no penalty after the first linkage), a share holder and processor could negotiate a long term agreement under which the share holder voluntarily commits landings to a processor to induce the processor to cover the cost of the penalty for the first move.

[If the Council elects to structure Alternative 2B, so that no penalty applies after the first movement from a linked processor, shares that are subject to delivery restrictions (A shares) would be landed under a limited license program for processors. If the Council intends the program to operate differently, clarification should be made.]

Penalty to move depends on the amount of open access B share fish.

Closed A share class	Open B share class	Penalty on total amount of A and B shares	Ratio of penalty on A shares to B shares
90%	10%	10%	9:1 (9%)
80%	20%	20%	4:1 (16%)
70%	30%	30%	7:3 (21%)
60%	40%	40%	3:2 (24%)
50%	50%	50%	1:1 (25%)

2.3.1.2 Processor License Qualifications (Applies to 2A and 2B)

2.3.1.2.1 To qualify for a processor license, a processor must have purchased and processed a minimum amount of groundfish by region as described below in at least 4 of the following years:

Option 1. 1995-99.

Option 2. 1995-01

Option 3. 1995-02

Option (Applies to 2B only since 2A is entity based). If a processor meets the threshold for total purchased and processed groundfish for all their facilities combined, but does not meet the threshold for any one facility then the processor would be issued a license for the facility in which it processed most fish.

The Council could decide whether the option is appropriate at this time. The option would grant a license to a facility that did not otherwise meet licensing requirements, if the entity owned several facilities, none of which met the minimum landings requirement. The provision, as written, would not allow the aggregation of catch from multiple facilities for purposes of establishing linkages. This provision could affect the number of licenses in the fishery, but not any linkages established on implementation. Increasing the number of licenses could generate some additional competition, but licenses under Alternative 2B have less importance because of the need to establish linkages to secure delivery restricted landings. (Note: This provision applies only to Alternative 2B).

- Option 1.
- a. Trawl eligible Processors
 - Suboption 1. 2000 mt
 - Suboption 2. 1000 mt

Suboption 3. 500 mt

- b. Fixed gear eligible Processors
 - Suboption 1. 500 mt
 - Suboption 2. 200 mt
 - Suboption 3. 50 mt
 - c. Trawl and Fixed gear eligible processors
 - Meet criteria for both the trawl processor license and fixed gear processor license as described above
- Option 2.
- a. Large processor license
 - Suboption 1. 2000 MT
 - Suboption 2. 1000 MT
 - Suboption 3. 500 MT
 - b. Small processor license
 - Suboption 1. 500 MT
 - Suboption 2. 200 MT
 - Suboption 3. 50 MT

Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share landings.

The Council could decide whether to use the small/large processor or fixed/trawl approach for licensing processors under Alternatives 2A and 2B.

2.3.1.2.2 Processor history would be credited to (and licenses would be issued to):

- Option 1. Operator – must hold a federal or state processor permit.
- Option 2. Facility owner
- Option 3. In circumstances where the facility operator was not affiliated with the facility owner during the processor license qualifying years, if the facility and/or entity met a license qualifying threshold, processing history would be credited to both the facility operator and facility owner for purposes of issuing the related processor limited entry licenses. Harvester associations and /or linkages would be accrued to the facility operator's license. Affiliation would be determined using the AFA common interest/control standard.

The Council could decide whether to credit history to the owner of a facility or the operator of that facility. Confidentiality protections, aggregation of data across fisheries, and the unavailability of ownership records limit the ability of staff to provide any detailed quantitative analysis of this provision. These provisions would apply only if the owner of a processing facility differs from the operator. The provision could affect either processing licensing (which requires processing in excess of a threshold amount) or harvester/processor associations (which are dependent on the processor receiving the majority of a harvester's landings). Licensing could be affected, if a processor does not meet the threshold for licensing because of the crediting of history to another entity during the period of a lease. Arguments can be made for crediting either the owner or operator of a facility with the facility's processing history. From the standpoint of the operator of the facility, the operator could be argued to have taken a more active role in processing during the lease of a facility. On the other hand, from the owner's standpoint crediting history to the operator could deprive an owner (who acquired substantial history in the facility purchase) of a license for the facility. In addition, linkages with

vessels that have a long history of deliveries to a plant could be lost, if landings are credit to the lessee. In the end, the decision of whether to credit history to a facility owner or operator is policy driven. Both the owner and operator can be argued to have made a significant investment in fish processing; one through the ownership of a facility, the other through the active purchase, processing, and sale of fish.

Option 3 is intended to establish a middle ground, by crediting both the owner and operator with the history for licensing purposes, but to credit the operator for purposes of establishing linkages. Whether this provision could operate effectively is questionable, since the Council has chosen to establish processor linkages (or associations) at the facility level. Under a facility based approach, an operator that leased a facility might not be permitted to aggregate landings from a leased facility and another facility that it owns and operates for purposes of establishing linkages. If the Council adopts Option 3, it should clarify its intention concerning the aggregation of landings across facilities for purposes of establishing linkages. A possible method of reconciling the inconsistency would be to maintain the facility based approach in general, but to allow a processor to aggregate landings across facilities under this provision for purposes of establishing linkages. The Council should also take care to establish consistent decisions across this provision and the Options 1 and 2 of 3.1.1.2, which pertain to the establishment of linkages, if the associated processor is not longer operating in a community.

Custom processing history would be credited to:

- Option A. the processor that physically processes the fish
- Option B. the processor that purchases the fish and pays for processing

The Council could decide whether the processing history arising out of custom processing is credited to the person that purchased the fish or the person that processes fish. Both entities can be argued to have made an investment in the processing industry and the fishery. The interests of these participants, however, differ. One operates the plant undertaking the processing of the fish; the other purchases the fish and sells the product onward. Specific implications of this provision cannot be estimated because of the aggregation of data in processing reports. As with the decision of whether to credit history to the owner or operator of a facility, the decision of whether to credit landings to the purchaser or processor of fish is a matter of policy.

2.3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

If the license is transferred within the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor

Option 2. Within the same region

If the license is transferred outside the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor.

The Council could decide whether to limit the transfer of processor licenses under Alternatives 2A and 2B. In doing so, the Council should take care to define “transfer”. Under alternative 2A (which has no share/processor linkage), a reasonable definition of transfer is the movement of a license between two different owners. Under Alternative 2B, a different definition of transfer may be appropriate. Since Alternative 2B licenses processors at the facility level, a transfer could be either the movement of a license to a different owner or the movement of a license to a different facility. The Council should clearly state its intended definition.

Under Alternative 2A, limiting the transfer of licenses within a community may be impractical given that the Council has elected to use an entity basis for processor licensing (rather than a facility basis).

A regional limitation would be applied to licenses to incorporation regionalization into the alternative. Under the program, a harvester with regionalized shares would be required to deliver any delivery restricted A shares to a processor that is licensed in the region. [The reference to linkages in these options would not apply under Alternative 2A.]

Under Alternative 2B, the Council could make two different choices in deciding whether to adopt one of these options. First, the Council could decide whether to limit the transfer of licenses geographically. Second, the Council could decide whether any linkages associated with a facility will be severed as a result of a transfer. Because of the complexity of these issues, the analysis here discusses these two decisions separately.

The Council could elect to limit the transfer of license to either the community or the region. If a transfer is defined as “the movement to a license to a different facility,” the geographic limitation on transfers could prevent a processor from moving outside of the designated geographic area. This may be supported on the grounds that the geographic distribution of processing should be preserved. Imposing the restriction at the region level is substantially less restrictive than imposing the restriction at the community level. If imposed at the community level, a processor that operated two facilities in different communities in a region would not be able to consolidate those operations.

The interaction of the geographic limit on license transfers with a provision that would sever linkages must also be considered, since those linkages are critical to the processor protections under Alternative 2B. So, if the Council elects to permit a processor to transfer a license only within a community, but would sever any linkages when the processor makes that transfer, the provision could effectively prevent a processor from ever consolidating operations under two licenses within a community. If the Council elects to allow license transfers within a regional, a more compelling argument can be made for severing linkages if a processor consolidates operations under licenses for facilities in two different communities. In deciding whether to sever these associations, the Council would need to balance the potential efficiency gains from consolidation of processing against the burden to a harvester of being required to deliver to a different community or suffer a penalty for severing the association.

If a transfer is defined as “the transfer of a license to another person,” then the provisions could be used to limit the impacts on harvesters of being compelled to change processing relationships. If the provision is adopted that severs the linkage of shares with the processing facility on the transfer of a license to another person, then processors would be prevented from transferring a harvester association. Under this reading, a processor would be permitted to move licenses between its own facilities in a single community without affecting linkages, but could not transfer the license to another person in the community without severing those linkages. This approach might be adopted, if the Council views the relationship of the specific share holder and processor as being the basis for the association. This reading of the provision, however, would diminish the value of the linkage, since it would have no value in transfer. The provision could discourage any trading of processing licenses and decrease efficiency, if processors are reluctant to exit the fishery because of the inability to realize any return on linkages when exiting. Similarly, the Council could interpret the “transfer outside of a community” limit as applying only when a license is transferred to another person who then uses the license in another community. This reading of the provision suggests that either the community association or the individual association must be maintained. So, an original processor could move outside the community without severing the linkage, but another processor could not. When developing Alternative 2B, the Council should be clear in determining its purpose for limiting transfers of licenses and severance of linkages and address those purposes with the specific provision adopted.

In general, the decision of whether to preserve linkages on transfer of a license should hinge on the balance of interests of processors and harvesters. Adoption of a provision that severs linkages could

limit the ability of processors to realize efficiencies by relocating operations to lower cost facilities and locations. Even if the linkage is severed, if efficiencies are substantial, a processor could compensate a harvester on making the change of location to preserve the linkage. Alternatively, the Council the adoption of a provision that maintains the linkage on transfer of a license could impose additional costs on a harvester or compel the harvester to pay a share reduction penalty to break an unwanted association.

In developing these provisions, if the Council elects to terminate linkages, it should also incorporate provisions that explicitly state whether a substitute linkage would be established and, if so, how that linkage would be determined. In developing these provisions, the Council should take care to maintain consistency with other provisions concerning this aspect of the program.

- 2.3.1.2.4 Processing Use caps by processor license type (trawl, fixed or trawl and fixed (small or large), by CGOA and WGOA regulatory areas:
- Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest licensed processor
 - Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies in the fishery by 20%, 30%, or 50% of the number initially qualified processing companies

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

2.3.1.2.5 Processing Caps may apply at the entity level

2.3.1.2.6 License ownership restrictions on processors

- Option 1. No restrictions
- Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.
- Option 3. Large processor license holders cannot hold small processor licenses.

The Council could consider adopting provisions that limit licenses that a processor could hold. Although the above provisions limit holding of licenses with certain endorsements when licenses with other endorsements are held, the Council should also consider whether limits on the number of licenses that a processor can hold, as aggregating licenses in the absence of such a limitation could be an effective way of limiting competition in the processing sector. Consolidation of license holdings could be an effective way to limit competition in processing and prevent entry. Under Alternative 2A, consolidating licenses would simply limit the number of processors competing for A share landings. Under Alternative 2B, consolidation of licenses could also effectively limit competition. Given that the Council has included processor linkages as a means of protection processors' historic interests, allowing processors to consolidate licenses could distort any balance of negotiating power between harvesters and processors that the Council intended to establish by selecting the percent of delivery restricted shares (A shares) and the penalty for changing linkages. For example, if a few processors purchase several licenses, the prospect of entry and the competition for linkages could be drastically reduced.

2.3.2 Provisions affecting Allocation of Harvest Shares to Processors (Alternative 2C)

9. Processors are eligible to receive an allocation of QS if they meet allocation criteria identified in 2.3.1.2.1

In this provision, the term "allocation criteria" should be replaced by the term "eligibility criteria" for clarity.

In addition, the Council should note that entities that cannot document a vessel cannot fish in U.S. fisheries. So, any processor that is not at least 75 percent U.S. owned would not be permitted to fish any shares it holds. These entities could be permitted to hold shares, but would need to lease those shares to U.S. documented vessels for fishing. The Council should be clear in stating whether this provision is intended to allow fishing of harvest shares by processors that are not able to document a vessel. Such a policy would be unique in U.S. fisheries.

10. Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients. A portion of the CVP share allocation will be divided among eligible processors proportional to their history in the qualifying years as outlined in 2.3.1.2.1. Any balance of CVP not distributed initially to processors proportionally to CV recipients.

The Council could determine the portion of CVP that will be allocated to processors. The Council’s table identifying the alternative structures specifies an allocation of between 10 percent and 30 percent of the harvest share allocation would be to eligible processors. The allocation should be set at a level that balances harvester and processor interests.

11. CVP is transferable between eligible CV holders and /or processors. The market place will determine whether a separate class of QS remains with processing entities.

The second sentence appears to describe an outcome of the alternative. If the provision is intended to define the program, that intention should be clarified. If not, it could be deleted.

12. CVP shares may be fished on any catcher vessel and subject to existing share designations and existing vessel use caps.
13. CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer in 2.2.3.3.
14. Caps of ~~CVP~~ CVP will apply at the company level by management area and will be a 10-30% of the total pool of CVP shares available in the management area. Recipients of CVP that exceed the cap will be grandfathered.
15. No processors (and processor affiliated vessels using the 10% rule) may own or control CV quota shares. CV initially issued to processor affiliated vessels will be grandfathered.

This provision should have the word “vessels” deleted, since persons hold shares. If the Council is interested in a vessel limitation, a provision should be added that limits harvest of CV quota shares by vessels owned by processors and their affiliates.

16. CVP shares will be regionalized.

2.4 Cooperative Provisions

Several cooperative provisions contain options. The Council could choose to identify the different options for each of the alternatives. The Council could select different provisions for the alternatives, since the interactions and relationships created under the alternatives are not the same.

Several provisions in the Council motion together define the rules for cooperative formation, movement among cooperatives, and participation in the fisheries inside and outside of cooperatives. These provisions together are likely to impact the internal rules of the cooperatives, which in turn will affect the return that different participants are able to realize from their allocations. If these provisions are not carefully developed, some participants may be inadvertently affected by differences in

negotiating strength across members of a cooperative. For example, in a cooperative composed primarily of pollock fishermen, a cod fisherman could have little leverage for changing rules to reasonably accommodate cod fishing. In the extreme, share holders with little or no direct activity in fisheries could control the harvests of active participants, if the active participants have no reasonable alternative to joining a particular cooperative. In considering rules, the Council should be wary of rules that create incentives to modify share holdings. A rule that requires 90 percent of eligible share holders for cooperative formation may create an incentive for a single share holder to subdivide holdings among his friends and family to affect bargaining strength relative to other eligible share holders.

In general, the assessment of the relative power of participants in a cooperative depends on several factors. These determinants of negotiating strength can be generalized to two categories, internal and external. Internal effects are generated by the rules governing cooperatives, such as rules of cooperative formation and any rules that define membership. External effects, which are equally important, are generated by the outside options available to a harvester that chooses not to join a cooperative. For example, a person's negotiating leverage with respect to another is highly dependent on the ability to walk away from a transaction and pursue other opportunities. In the context of these cooperatives, the harvester's negotiating strength with respect to members of a particular cooperative depend on the ability of the harvester to choose not to join the cooperative and remain in the fishery. In the discussion that follows both internal and external affects are considered. Under the alternatives under consideration, processor protections are also an integral part of the cooperatives programs. The indirect impacts on processors arising from rules that affect cooperative membership decisions should be considered in fashioning cooperative programs.

In assessing the different options below, the Council should take care to develop a comprehensive cooperative program for each alternative. To do so will require that the interaction of the different provisions be assessed for both operational consistency and consistency of purpose.

2.4.1 Cooperative requirements

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

2.4.2 Cooperative formation

2.4.2.2 Co-ops can be formed

- a. between holders of harvest shares or history in an area:
 - Trawl catcher vessels
 - "High producing" fixed gear catcher vessels
 - "Low producing" fixed gear catcher vessels
- b. between holders of harvest shares or history of a catcher/processor

Each group of share/history holders of a defined class that may form cooperatives is defined as a "sector."

2.4.2.1.1 Co-op/processor affiliations

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

Option 2. CV cooperatives must be associated with

- a) a processing facility (*This provision would apply to Alternative 2B*)
- b) a processing company *This provision would apply to Alternative 2A*
either a) or b) could be applied to Alternative 2 for the low producing fixed gear sector and to Alternative 2C

The associated processor must be:

- a) any processor *Could be applied to Alternative 2 for the low producing fixed gear sector and to Alternative 2C*
- b) a limited entry processing license holder (if processor limited entry is selected) *Applies to 2A*
- c) a limited entry processing license holder to which the share holder's shares are linked *Applies to 2B*

- Suboption 1. Processors can associate with more than one co-op
- Suboption 2. Processors are limited to 1 co-op per plant for each sector.

Suboption 1 and 2 could be applied under any of the catcher vessel alternatives. In considering the appropriate suboption, the Council should consider the implications for both share holders and processors of limiting the number of cooperatives that may be associated with a processor. Allowing only a single cooperative to associate with a processor could have management benefits, if the provision leads to larger cooperatives and greater consolidation of annual allocations. Larger cooperatives, generally, will reduce the management burden, since cooperatives can assume some responsibility for managing members' fishing. Whether this benefit is realized, however, depends on whether the limitation actually leads to more consolidation. If participants choose not to join a cooperative with a processor because the terms of the cooperative agreement are unfavorable, a provision that limits the number of cooperatives associated with a processor could reduce consolidation. In addition, harvesters that are unable to come to terms with the cooperative that does form could lose cooperative benefits that could be realized or suffer PSC reductions for not joining a cooperative (if the option for PSC reductions is adopted). Alternatively, some harvesters may join a cooperative subject to less favorable terms than it would otherwise agree to, if multiple cooperatives were permitted to form. The result would be a redistribution of benefits among harvesters. An indirect impact of the limitation could also be that a processor that is capable of coming to terms with two groups of incompatible share holders that may choose form two separate cooperatives, will be forced to choose between the two groups since only one cooperative would be permitted.

- Suboption 3. Processor affiliated vessels may join coops.

Since most of the program alternatives under consideration have possible PSC reductions for non-members of cooperatives, the inclusion of this provision as a suboption might be inappropriate. Regardless of whether PSC share reductions are adopted, the exclusion of processor owned vessels is likely to only limit the ability of the fleet to achieve efficiencies through cooperative associations. Unless some other interest is intended to be protected by this provision, the provision should be an element of any cooperative program without option. If included in an alternative, anti-trust concerns could be clarified by explicitly excluding processor affiliated share holders from any price negotiation between the cooperative and its associated processor.

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

2.4.2.2 Cooperatives are required to have at least:

Option 1. 4 distinct and separate harvesters (using the 10% threshold rule) *Could apply under any alternative – only current option that could reasonably be applied to Alternative 2 for the low producing fixed gear and Alternative 2C*

Suboption: trawl CP sector, all less 1 of distinct and separate harvesters, using the 10% threshold rule). *applies to CPs only – Note, this provision is likely not manageable, since share holdings are divisible. The number of share holders could change on a daily basis as trades of shares are made,*

preventing any meaningful determination of whether the threshold has been met.

- Option 2. 40 -100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors) *applies to CPs only – since catcher vessels could not reasonably have a single cooperative for a sector*
- Option 3. 40 -100% of separate and distinct shareholders (using the 10% threshold rule) belonging to its sector. Council may choose different percentages for different sector. *applies to CPs only – since catcher vessels could not reasonably have a single cooperative for a sector. Also note that any provision that establishes a threshold based on a percentage of the share holders eligible for membership is likely not manageable, since share holdings will likely be divisible.*
- Option 4. 40 -75 percent of the harvest shares (or catch history) eligible for the cooperative. *applies to CPs or catcher vessels under Alternative 2B*

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

The Council could consider selecting cooperative formation thresholds for the alternatives at this meeting. Since the alternatives created under section 2 of the motion differ from one another, the Council could consider establishing different rules for the different alternatives. In addition, different rules could be developed for different sectors (CV or CP), if the Council decides that different rules are appropriate.

Under all of the alternatives in section 2 of the Council motion, harvesters would receive an exclusive annual allocation (i.e., IFQs) regardless of cooperative membership. Since a harvester may choose to fish IFQs instead of joining a cooperative, the effects of cooperatives on negotiating strength should be muted and of less concern. If the Council should choose to reduce PSC allocations to non-members of a cooperative, it would be possible for members of a cooperative to assert negotiating leverage over non-members, if the non-members cannot join or form another cooperative. Similarly, rules that require a minimum percentage of share holders eligible for cooperative formation could provide negotiating leverage to either those agreeing to join the cooperative or those that have yet to join, depending on the circumstances. Generally, the power will be with the non-members until the membership threshold is met and will shift to members once that threshold is reached. As should be apparent, the level of the threshold will determine whether the negotiating leverage lies with a majority of those eligible for the cooperative or a minority and the size of that majority or minority, as the case may be. For example, under the suboption to Option 1, which sets a threshold of all less one harvester, two minority share holders could scuttle the formation of any cooperative unless their demands are met. These demands could relate to distributions from cooperative harvests, which could redistribute benefits of share holdings under the program. Although the suboption is the extreme, any provision that severely limits the number of cooperatives a share holder might join by imposing thresholds for cooperative formation could have similar impacts. For example, a provision that requires 50 percent of eligible share holders to form a cooperative would create a system in which a majority of share holders would have the ability to structure a cooperative agreement unfavorable to other share holders. In short, in a system in which a person is eligible to join only one cooperative, setting a threshold for cooperative formation without impacting the distribution benefits from the allocation of shares is likely not possible. Increasing the number of cooperatives that a person can join will reduce this effect.

2.4.2.3 Duration of cooperative agreements:

- Option 1. 1 year
- Option 2. 3 years
- Option 3. 5 years

The Council could choose an option for length of cooperative agreements. Longer term cooperative agreements could provide stability to participants. The ability to reformulate a cooperative agreement, however, could be important as relationships change. Although these changes could be accommodated through amendments to the agreement, shorter term agreements could provide added flexibility.

2.4.3 Rules Governing Cooperatives

2.4.3.1 Annual Allocations

Option 1. Annual allocations of cooperative members would be issued to the cooperative.

~~Option 2. Annual allocation of the sector would be issued to the sector cooperative (if “true” sector cooperative alternative is selected)~~

Option 2 should be deleted, since all alternatives in section 2 provide an opportunity for persons to fish outside of the cooperative.

- Co-op members may internally allocate and manage the co-op’s allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op’s allocation of primary species, secondary species and halibut mortality, as may be adjusted by inter-coop transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement.
Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).
- Require that a cooperative accept membership of any eligible participant subject to the same terms and conditions that apply to other cooperative members.

2.4.4 Ownership and Use Caps and Underages

2.4.4.1 Set co-op use caps at 25 to 100% of total TAC by species ~~(must choose 100 percent for a “true” sector cooperative)~~

2.4.4.2 Co-op use caps for harvest shares on any given vessel shall be:

Option 1. Set at the same level as the individual vessel level.

Option 2. 3 times individual vessel use cap.

Option 3. No use caps

- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.
- Underage limits would be applied in the aggregate at the co-op level

2.4.5 Movement between cooperatives

2.4.5.1 Harvesters may move between cooperatives at:

Option 1. the end of each year.

- Option 2. the expiration of the cooperative agreement.
- Option 3. no movement in the first two years

Allowing movement between cooperatives could be important to maintain competition in the fisheries. Requiring a commitment beyond a single year, however, could provide some stability in the fisheries. While a provision that prevents movement in the first two years could aid stability in the early years of the program (when relationships are likely to be least settled), during these early years the ability to make changes may be most important.

2.4.5.2 License Transfers Among Processors (applies to processor limited entry - **Alternative 2B**)

- Option 1. any ~~cooperative share~~ association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on ~~severing the linkage departing the cooperative~~, as would have been made in the absence of the transfer.

This provision should be modified to recognize the share/processor associations of Alternative 2B

- Option 2. any ~~cooperative share~~ associated with the license will be free to associate with any licensed processor. Harvest share/history holders ~~in the cooperative~~ will be free to move among ~~cooperatives processors~~ without share/history reduction.

Whether cooperative associations transfer with a processor license will greatly impact the value of processor licenses and the associated linkages. A processor that is interested in exiting the fishery will have a strong disincentive for exiting, if the linkages are non-transferable. Harvesters in the association could suffer, if a processor chooses not to sell a license because of the loss of value because of lost associations. In these circumstances, private agreement between the affected share holders and the processor could mitigate any harm. For example, harvesters could agree to maintain the linkage with the new processor in the event that the license sale is agreeable. (This provision should be decided consistently with 2.3.1.2.3.)

2.5 Provisions relating to the IFQ halibut/sablefish fishery

2.5.1 Management areas:

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

2.5.2 Primary species include: P.cod, Greenland turbot, POP,

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

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

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

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

2.5.3.1 Management provisions for secondary species

- C) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
 - Option 1: Managed in aggregate on an area basis using current MRA regulations.

Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.

- D) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.
- C) Require full retention of Secondary species listed under A.

2.6: Provisions relating to the SEO Area

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

2.6.2 Management provisions for secondary species

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

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

1. Fee and Loan Program
2. Skipper/Crew Share Program issues
3. Remaining issues of CIFT program

Alternative 3

Sector Allocations and Voluntary Coop Structure

Alternative 3 is a sector allocation and co-op proposal. This proposal allows new processor entrants and provides a mechanism for harvesters to either enter coops voluntarily or continue to fish in LLP/open access fisheries. The alternative provides a flexible structure intended to reflect the diversity of the fisheries in the GOA. It recognizes that harvesters, processors, and communities all have a stake in the fisheries. The nature of the fisheries in the Gulf, however, requires a flexible rationalization program that can accommodate all of the different fisheries. This alternative would:

- Allocate primary, secondary, and PSC species by sector.
- Establish a mechanism which would facilitate co-op formation within each sector.
- Specify the operational rules for co-ops.
- Provide fishing opportunities for harvesters that choose not to participate in co-ops
- Include community protection measures appropriate to a cooperative-based program.

The proposal sets up a step-wise process for the establishment of co-ops. The first step includes a sectoral allocation. This is followed by an initial co-op formation period to provide co-ops time to refine their operations. The third step is ongoing, and establishes rules to govern co-op formation, dissolution, and operation after the initial period of co-op formation.

This proposal would not require the assignation of different classes of history or shares (i.e., class A/B class designations). Gulf History (GH) is generic and would originate from an eligible participant's history. GH is only developed through cooperatives. Co-op participation, however, is strictly voluntary so a harvester may choose to continue to fish in a limited entry (LLP) open access fishery.

The proposal does not limit processor entry. A harvester is initially eligible to join a cooperative associated with the processor that it made the most primary species landings to during the qualification period. The program establishes requirements for contracts between a cooperative and its associated processor. The initial contract between a co-op and its associated processor is required to contain the terms for dissolution of the co-op or the movement of a harvester from one co-op to another. During the initial co-op formation period, inter-co-op agreements are allowed within sectors to address operational issues and ensure further rationalization of the fishery between co-ops. Harvesters may not move between cooperatives during the initial co-op formation period.

Following the initial co-op formation period, new co-ops can form and harvesters can move from co-op to co-op or exit a co-op and move back into open access. The rules for such movement, including compensation to other members of the co-op and the associated processor are part of the contract agreement. New processors can enter the fishery at any time, and following the initial co-op formation period, harvesters can form co-ops with those processors. Community protection provisions are simplified to only include options for regionalization and a community quota system because this is a co-op system.

Monitoring of harvests and PSC for the co-op fishery will be at the co-op level. Assignments of GH, including transfers, will be monitored by RAM to ensure proper catch allocations and accounting. GH will result in annual allocations of Gulf Quota (GQ). Current monitoring programs for the open access fishery will continue.

The following provisions apply to Alternative 3 only:

I. SECTOR ALLOCATION PROVISIONS.

3.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WYAK))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis

- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- Allocations will be made to the halibut and sablefish IFQ fisheries of species necessary to support those fisheries under section 3.10 below.
- SEO is exempt from this program. SEO groundfish will be managed in accordance with 3.11 below.

Gear: All gear types are considered.

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

–

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

3.2 Sector definitions and allocations:

CV trawl
 CV longline
 CV pot
 C/P trawl
 C/P longline
 C/P pot
 jig
 low producing fixed gear

Low producing **catcher** vessel sector are

- Option 1. fixed gear **catcher** vessels under 60 feet that are below the 75th percentile of primary species qualified harvest history by gear and area.
- Option 2. fixed gear **catcher** vessels less than average qualified harvest history by gear and area
- Option 3. fixed gear **catcher** vessels that are below the 75th percentile in qualified harvest history by gear and area

The term “catcher” should be inserted to clarify the intent of this section. If the Council intends this provision to include catcher processors, that intention should be clarified.

High producing **catcher** vessels are the remainder and are divided into a catcher vessel longline and catcher vessel pot sector. Sector definitions apply throughout Alternative 3.

To be determined as a CP a vessel must have a CP LLP license and process no less than

- d) 90%
- e) 50%
- f) 25%

of its qualifying catch processed on-board on average over the qualifying period.

- Option 1: determined on a species by species basis
- Option 2: determined by the aggregate of all species

The Council could decide qualification for catcher processor shares on a policy basis. If the data are necessary for deciding this issue, they can be provided at a future meeting. Determining that a

participant is a catcher processor for some species and a catcher vessel for others could result in an allocation that cannot be easily used and could result in some inefficiency.

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

Option for Fixed Gear **Catcher Vessel** Low Producers:

- Option 1. Apply same rules for initial co-op formation and general co-op operation as apply to other sectors.
- Option 2. Exclude from co-op program, provide sector allocation and continue as an LLP/Open Access fishery.
- Option 3. Apply all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

The Council should take note that these three options are in fact alternatives for the low producing fixed gear catcher vessel sector. Option 1 would bring the low producing catcher vessel into the program defined by Alternative 3 for other sectors. Option 2 is the status quo alternative. Option 3 is a new alternative that does not apply to any other sector. It differs from the low producer fixed gear catcher vessel in Alternative 2 in the cooperative structure.

3.2.1 Sector allocations will be based on the aggregate history of vessels in each sector, which legally fished in the federal fishery and in the state parallel fishery during the qualifying period. Sector allocation qualifying periods and landing criteria (same for all gears in all areas). The analysis will assess AFA vessels as a group.

- Option 1. 95-01
- Option 2. 95-02
- Option 3. 98-02

Suboption: for each sector drop the year of lowest tonnage.

3.2.2 Sector Qualifying landing criteria (same for all gears in all areas)

Landings based on retained catch for each species (includes weekly production report for Catcher/Processor sector). Total pounds landed will be used as the denominator. Exclude retained catch that is used for meal production

3.2.3 Sector Allocation: Primary Species:

Allocate catch history by sector and gear type as follows:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific cod

Fixed gear low producers:

Pacific cod

Jig gear

Pacific cod

3.2.4 Sector Allocation: Secondary and PSC species:

Secondary species: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish.

Option 1: Sector allocation based on
 3) fleet average
 4) bycatch rate of 75th percentile
 for
 c) the sector
 d) the gear
 during sector allocation qualifying period by area and primary species target fishery.

Option 2: Maintain current PSC allocations, and MRA management for secondary species.
 Suboption: Allocate PSC by sector based on fleet average for each sector during sector allocation qualifying period.

The provisions provide for two approaches for both PSC and secondary species. Under option 1, secondary species allocations would be made to sectors based on fleet catch rates. Under option 2, both secondary species and PSC would continue to be managed under current rules and allocations. Under the suboption, PSC would be allocated to sectors based on fleet catch rates. The suboption is not consistent with option 2, but applies a rule similar to option 1 to PSC. The Council should clarify any misinterpretation of staff.

II. Voluntary Co-op Structure

3.3 INITIAL CO-OP FORMATION PROVISIONS. Voluntary co-ops may form between eligible harvesters in association with processors. Harvesters may elect not to join a co-op, and continue to fish in the LLP/Open Access fishery.

3.3.1 Eligibility.

LLP participation

Option 1. Any person that holds a valid, permanent, fully transferable LLP license is eligible to receive an initial allocation of Gulf catch history (as generic GH) through co-op membership.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

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.)

Option 2. Non-LLP (State water parallel fishery) participation

- Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.
- Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries

3.3.2 Initial Allocation of primary species catch history

Allocate catch history as generic Gulf history (GH) on an individual harvester basis for the following primary species:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific Cod

GH is designated by sector:

- Option 1. Trawl GQ may be fished using fixed gear, if yes – appropriate mechanism to transfer GH/GQ across sectors needed.

Gulf Quota (GQ) is the annual allocation to a cooperative based on the GH of its members.

3.3.2.2 Qualifying periods and landing criteria (same for all gears in all areas) for determining GH (The analysis will assess AFA vessels as a group).

- Option 1. 95-01 drop 1
 Option 2. 95-02 drop 1
 Option 3. 95-02 drop 2
 Option 4. 98-02 drop 1

Options to drop years would be to accommodate SSL restrictions or the inclusion of the state portion of the parallel fishery.

Individual GH will be based on retained catch for each species (includes weekly production report for Catcher/Processor sector). The denominator shall be total landed catch by species.

- Option A: Include retained catch that is used for meal production
 Option B: Exclude retained catch that is used for meal production

The Council could decide whether to include meal production or not at this time. The rationale for including an option for considering fish destined for meal here should be clarified. It is contained in no other place in the alternatives, and is not included in the sector allocations for this alternative. Analysis of the option will require substantial staff time.

3.3.3 Allocation of Secondary and PSC Species

3.3.3.1 Allocation of secondary species:

Secondary species are: thornyhead, roughey, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, roughey, and thornyhead rockfish.

Allocation of secondary GH to co-op members:

Option 1. Allocate GH to co-op members based on fleet secondary species catch rates by sector:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Include these species for co-ops for one gear type only (e.g., trawl). Deduct the secondary species from other gear types from TAC. If deduction is not adequate to cover secondary species in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

Option 3. Retain these species on secondary species status for all gear types with current MRAs.

3.3.3.2 Halibut PSC Allocation:

Upon entering a cooperative, each recipient of primary species GH would receive an allocation of PSC GH, based on the primary species GH allocation. Each cooperative would receive an allocation of halibut mortality (harvest shares) based on the PSC holdings of its members. Secondary species would receive no halibut allocation.

This provision would be inconsistent with Option 2 of 3.2.4 (which extends current management of halibut PSC). If the Council adopts that option, an additional provision would need to be incorporated into the motion (or at a minimum, this provision would need to be deleted).

3.3.3.3 Transfer of secondary species and PSC GH:

As permitted by and subject to any other transfer rules:

Option 1. Primary species and the associated secondary species and/or PSC GH are non-separable and must be transferred as a unit.

Option 2. Primary species and the associated secondary species and/or PSC GH are separable and may be transferred separately.

III. Co-op Rules for all CPs, trawl, longline, pot and catcher vessels

Option: Jig and low producer fixed gear exempted.

Initial Co-op Formation Rules:

3.3.5 Catcher Vessel Co-ops.

Catcher vessel co-ops may be established within sectors between eligible harvesters in association with an eligible processor. A harvester is initially eligible to join a cooperative in association with the processor to which the harvester delivered the most pounds of primary species to during the

a) qualifying years.

b) most recent 1, 2, or 3 years from the qualifying years.

- Suboption 1. On a species by species basis
- Suboption 2. In the aggregate

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

3.3.7 Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the GH of its sector. Council may choose different percentages for different sectors.
- Option 3. 50-100% of holders of GH belonging to its sector. Council may choose different percentages for different sector.
- Option 4. 50-75 percent of the eligible GH for each co-op associated with its processor
- Option 5. Any number of eligible harvesters within the sector (allows single person co-op)

The Council could select options for cooperative formation at this time. The discussion of cooperatives in section 2.4.2.2 applies and is not repeated here.

Note: Requirements may differ across sectors (or for CV and CP Cooperatives)

3.3.8 Duration of initial cooperative agreements:

- Option 1. 1 year
- Option 2. 2 years
- Option 3. 3 years
- Option 4. Any length agreed between the co-op participants.

The Council could select an option for cooperative agreement duration. The discussion of agreement duration in section 2.4.2.3 applies and is not repeated here.

3.3.9 Catcher Vessel co-op/processor affiliations

- Option A: If the processor with whom the harvester is initially eligible to form a co-op is no longer operating, the harvester is eligible to join a co-op with any eligible processor (i.e. any processor eligible to participate in the initial formation of a co-op).
- Option B: If the processor with whom the harvester is initially eligible to form a co-op is no longer operating in the community, the harvester is eligible to join a co-op with any eligible processor (i.e. any processor eligible to participate in the initial formation of a co-op) in that community. If there are no eligible processors in that community, the harvester may join a co-op in association with any eligible processor within the region.

The Council could decide whether either of the above options will be incorporated into this alternative. Under the first provision, if a processor is no longer operating, harvesters eligible for a cooperative in association with that processor could join a cooperative with any other processor. This provision could be consistent with either a facility-based or entity-based approach to processor associations. Under a facility-based approach, if the facility that a harvester would associate with is closed, the harvester could associate with any other facility. Under an entity-based approach, if the processing company no longer operates a processing facility, the harvester could associate with any processor. If the first

option is adopted, the Council should be specific in defining the relationship that will be used (facility or entity).

Under the second provision, if a processor discontinued operations in a community, harvesters eligible for a cooperative in association with that processor would be permitted to join a cooperative in association with another processor in the community, if one existed, or in the region, if one did not. This provision might not apply to an entity-based processing program. Since an entity approach would establish associations based on all landings with a processing company, the association might not be linked to a particular community. Consequently, administering the provision might not be possible. So, if the Council elects to adopt an entity approach to establishing processor associations, the Council would need to modify this provision to include it in the alternative. Under a facility-based approach, this provision could be used to permit a processor to shift operations to a single facility in a community without losing harvester associations that are based on history at another facility in the community.

If either of these provisions is adopted by the Council, the Council should specify whether the agreement forming the cooperative that a harvester first joins is required to meet the requirements for an initial cooperative.

- Option 1. CV cooperatives must be associated with
 - a) an eligible processing facility
 - b) an eligible processing company

The Council could decide whether associations would be determined at an entity-basis or facility-basis. If at an entity level, associations would be based on all landings at any of a processor's facilities. This approach could be supported, if the relationship being protected is an entity/harvester relationship. In other words, if a processor operates (or has operated) multiple facilities and works with the same harvesters at multiple facilities, an entity approach could be appropriate. The use of an entity basis for harvester/processor relationships could be complicated, if a processor owns facilities in several communities. The ability of the parties to form an agreeable relationship, however, could be greater under this alternative because of the lack of specific delivery obligations in the alternative. If, on the other hand, processing/harvesting relationships are typically maintained at the facility level, with a harvester having a relationship with a processor at a single facility that is independent from any association that arises from deliveries to other facilities owned by the same company, a facility-based approach may be more appropriate.

The Council should develop other provisions that establish cooperative/processor relationships consistently with its decision in this section.

- Option 2. Processors can associate with more than one co-op.
- Option 3. Processors are limited to 1 co-op per plant for each sector.

The Council could decide whether processors should be permitted to associate with more than one cooperative. In fisheries, as diverse as those in the Gulf, limiting processors to association with a single cooperative could greatly disadvantage some harvesters. Even within a sector, harvesters vary significantly from one another. Forcing all participants into a single cooperative is likely to create a circumstance in which some participants are forced to accept terms detrimental to their interests or remain the limited entry fishery. Both harvesters and processors could suffer, if cooperative membership is reduced because of such a limitation. Given the complexity of the relationships and differences in participants, allowing more than one cooperative for each processor could substantially reduce efficiency to the detriment of some participants.

The eligible processor is:

- 3) initially, a processor that the harvest is eligible to associate with in a cooperative under section 3.3.5 above
- 4) after satisfaction of an exit requirement, any processor

3.3.11 Catcher Processor Co-op provisions

Allocation to CP co-ops will be based on the above, with the following exceptions:

- CP co-ops do not need a processor association.
- CP co-ops will be within CP gear sectors. Transfers of GH or leases of GQ across CP gear types is
 - a) not permitted
 - b) permitted.
- CP co-ops are subject to the other terms and conditions specified for CPs under this program

3.3.12 Initial Cooperative Requirements

The following provision is required for the initial coop:

Catcher vessel coops may be formed by eligible harvesters (the coop) subject to the terms and conditions of a coop membership agreement. In order to receive an allocation of GH under this program, coops must enter into a duly executed contractual agreement (Contract) with the processor identified in Section 3.3.5.

Contracts established under this section shall specify the terms and conditions for transferring GQ or GH from the cooperative, including mechanisms whereby a member exiting the coop (or transferring GH from the coop) compensates the remaining coop members and/or the associated processor for exiting the coop (or transferring GH from the coop). Compensation can take on any form agreed to by the members and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining coop members and/or the associated processor.

The Council should note that entities that cannot document a vessel cannot fish in U.S. fisheries. So, any processor that is not at least 75 percent U.S. owned would not be permitted to fish any shares it holds. These entities could be permitted to hold shares, but would need to lease those shares to U.S. documented vessels for fishing. The Council should be clear in stating whether this provision is intended to allow fishing of harvest shares by processors that are not able to document a vessel. Such a policy would be unique in U.S. fisheries.

Following the initial coop period, new GH can be generated by eligible harvesters that have never been coop members only by joining a coop in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial coop.

3.3.12 Initial Co-op Formation Period.

An Initial Co-op Formation period shall be established beginning with year one of program implementation and extended for the period identified below.

- Option 1. period is 1 year
- Option 2. period is 2 years
- Option 3. period is 3 years

The Council could choose a term for initial cooperatives at this meeting. A relatively long term could contribute to stability. Shorter terms, however, could provide flexibility. In deciding the appropriate

term, the Council should bear in mind that a harvester would not be permitted to exit a cooperative during the initial cooperative formation period.

3.4 General Operational Co-op Rules.

3.4.2 General Cooperative Requirements

The following provisions apply to all cooperatives:

- The harvesters that enter into a coop membership agreement shall be the members of the coop. 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 allocation of GQ. For an initial coop, the Contract must meet the provisions in 3.3.10. After meeting the requirements of Section ~~3.3.10~~ 3.3.11 and following any periods established pursuant to 3.3.12, a holder of GH may join a cooperative in association with any processor pursuant to a Contract that meets the provisions of this section.
- The coop membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all coop fish.
- Coop members shall internally allocate and manage the coop's allocation per the Contract.
- Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the coop to the extent permitted under the Contract.
- The Contract must have a monitoring program. Monitoring and enforcement requirements would be at the coop level. Coop members are jointly and severally responsible for coop vessels harvesting in the aggregate no more than their coop's allocation of primary species, secondary species and PSC mortality, as may be adjusted by inter-coop transfers.
- Coops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Coops may penalize or expel members who fail to comply with their membership agreement.
- Coop membership agreements will specify that processor affiliated vessels cannot participate in
 - Option A: price setting negotiations except as permitted by general antitrust law.
 - Option B: negotiations concerning price setting, code of conduct, mechanisms for expelling members, or exit agreements.

The Council could select an option for limiting terms of the cooperative agreement that a processor affiliated vessel may participate in. Limiting cooperative participation by processor affiliates could be important to maintaining arms length negotiations between the cooperative and the processor. Clearly, processor affiliates should be constrained from participating in price setting negotiations. Since provisions governing exit agreements and expulsion of members could also impact the interests of the affiliated processor, prohibition of participation in the negotiation of those provisions might also be important. Since code of conduct violations could result in the expulsion of members, those provisions could also involve some conflict of interest on the part of processor affiliates. Since the terms of a code of conduct could involve many issues that do not pertain to expulsion, a limitation on processor

affiliate involvement in code of conduct provisions could be overbroad (particularly if the Council adopts a provision that limits their involvement in expulsion provisions).

- Coop membership agreements shall allow for the entry of other eligible harvesters into the coop under the same terms and conditions as agreed to by the original agreement. Harvesters that have never been a member of a cooperative must enter an agreement that meets all requirements for an initial coop, as specified under Section 3.3.10.

3.4.2 General Provisions Concerning Transfers of GH and GQ.

Coops may engage in inter-Cooperative transfers (leases) of GQ during and after the initial coop formation period.

During the initial cooperative formation period, GH transfers will be permitted between members of the same cooperative, but not between members of different cooperatives.

Following the initial coop formation period, members of a coop may transfer GH-to members of other coops.

All transfers will be subject to such terms and conditions as may be specified in the applicable Contract and any ownership or use caps or other conditions as may be established pursuant to this program.

For persons that join cooperatives for the first time after any period established pursuant to 3.3.12, the limits on transfers shall apply for the same period of time as those in 3.3.12.

3.4.2.1 Qualified Persons.

Persons qualified to receive GH by transfer include processors that associate with initial cooperatives pursuant to 3.3.10. and (not mutually exclusive):

- | | |
|-----------|--|
| Option 1. | US citizens who have had at least 150 days of sea time. |
| Option 2. | Entities that meet U.S. requirements to document a vessel. |
| Option 3. | Initial recipients of CV or C/P GH. |
| Option 4. | Communities would be eligible to receive GH by transfer (this provision would be applicable if certain provisions of 2.9 are adopted). |
| Option 5. | U.S. citizens eligible to document a vessel. |

The Council could choose preferred options for eligibility to receive shares by transfer. Option 1 applies only to individuals and would require U.S. citizenship and minimum sea time. Option 2 would allow entities that meet the requirements to document a vessel to purchase history. Option 3 would allow any person that receives an initial allocation to purchase additional interests. Option 4 could be applied, if the Council adopts a community purchase program. The Council should consider deleting this provision from this section and incorporating the provision into a community program. Currently, no community provision would allow communities to purchase shares, but would allow entities that act on behalf of one or more communities to purchase shares. In addition, the current motion does not include a community purchase provision in Alternative 3. The last provision would apply to individuals, allowing any citizen eligible to document a vessel to receive history by a transfer. This provision has an internal redundancy, since citizens, by definition, may document a vessel.

In addition, the Council should note that the introduction would allow processors that are eligible to associate with initial cooperatives to acquire history. The Council should note that entities that cannot document a vessel cannot fish in U.S. fisheries. So, any processor that is not at least 75 percent U.S.

owned would not be permitted to fish any shares it holds. These entities could be permitted to hold shares, but would need to lease those shares to U.S. documented vessels for fishing. The Council should be clear in stating whether this provision is intended to allow fishing of harvest shares by processors that are not able to document a vessel. Such a policy would be unique in U.S. fisheries.

3.4.2.2 Definition of sea time

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

3.4.3 Ownership caps.

Ownership of GH by a co-op member shall be capped at:

- Option 1. 1% of the GH by area, sector and species
- Option 2. 5% of the GH by area, sector and species
- Option 3. 20% of the GH by area, sector and species
- Option 3 30% of the GH by area, sector and species
- Option 4 no cap.

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

3.4.4 Co-op use caps.

Control of GH or use of GQ by a co-op shall be capped at:

- Option 1. 15% by area, sector and species
- Option 2. 25% by area, sector and species
- Option 3. 45% by area, sector and species
- Option 4. no cap

3.4.5 Vertical integration

Initial recipients of GH with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115%-150% of initial allocation of CV GH.
- Option 3. 115%-150% of initial allocation of CP GH.
- Option 4. no cap

Although this provision could be used to limit processor acquisition of history, the provision would not apply to processors that are not initial recipients of GH. To include other processors, the provision could be revised to apply to any processor that is associated with a cooperative or is eligible to initially associate with a cooperative.

3.4.6 Use caps of the original issues would be grandfathered in.

The above provision is unclear (particularly given the grandfather clause at the end of this section). Application of the grandfather clause to processors may not be appropriate, because processors do not hold any processing share or definable interest. As a result, it is not possible for a processor to divest shares to comply with the cap in the future. While the Council could grandfather processors to their level of activity, that would function as a different cap for different processors. Processors under the base cap would be bound by the cap, while processors with history in excess of the cap would be bound by their respective grandfather limits. If the Council intends to grandfather processing in excess of the cap that it chooses, it will need to designate the years that would be used for determining whether a processor's has history in excess of the cap.

In addition, the grandfather provision should follow the provisions defining caps for clarity.

Processors shall be capped at the entity level.

No processor shall process more than:

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

Processors eligible under 3.3.10 will be grandfathered.

3.4.7 Catcher/Processor Provisions

In addition to the rules specified above, the following provisions apply to Catcher/Processors:

3.4.7.1 Restrictions on transferability of CP harvest shares:

- Option 1. CP GH may only be transferred to other CP GH holders.
- Option 2. CP GH may be converted to CV GH. CP GH maintains its designation when transferred to persons who continue to catch and process the resulting CP GQ at sea pursuant to a CP co-op, if CP GQ is harvested by a CV and delivered to a processor, the underlying CP GH converts to CV GH.
- Option 3. CP GH maintains its designation after transfer for 5 years following date of implementation, after which time any transfer of CP GH (or transfer of GQ outside of a cooperative) converts the underlying GH to CV GH.
- Option 4. CP GH maintains its designation when transferred to a person that continues to catch and process the resulting GQ at sea (within a cooperative or in open access).

The Council could select options for the conversion of catcher processor history to catcher vessel history at this time. The Council should choose from the above options and the options in 3.4.7.2 below.

Option 1 would limit the holders of catcher processor history to those that receive an initial allocation of catcher processor history. This provision is the same as 3.4.7.2, Option 1 below. Options 2 and 3 of 3.4.7.2 would limit the provision to trawl and longline catcher processor history, respectively. In the event that the Council chose a provision that applied to only one type of history, it should also identify a provision for the other gear types.

The second option would convert catcher processor history to catcher vessel history, if transferred and subsequently landed onshore or used in the limited access fishery. This provision would limit the conversion of history, with the conversion taking place only on the use of the history as catcher vessel history by the holder or by the holder participating to the limited access fishery. This provision could provide negotiating leverage to cooperative members that are initial recipients of history over persons that receive history through transfer. The provision could limit the ability of a transferee of history to negotiate, particularly if cooperative rules limit the number of cooperatives that can form.

The third option would maintain the catcher processor designation on history for the first 5 years of the program, after which any transfer would result in the conversion of the history to catcher vessel history. This provision would result in all history being converted to catcher vessel history over time.

The fourth option is similar to the second, but would only convert history if used by a person as catcher vessel history. The holder would be permitted to return to the limited access fishery without history converting to catcher vessel history. This provision might be favored over the second option to minimize the ability of cooperative members to assert negotiating leverage against other members that have received their history through transfer.

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

- Option 1. all CP shares
- Option 2. trawl CP shares
- Option 3. longline CP shares

See discussion under 3.4.7.1 above.

3.4.7.3 Leases of CP annual harvest allocations (GQ):

- Option 1. Allow leasing pursuant to an inter-Co-op agreement within CP sectors (no CP leases allowed across gear types).
- Option 2. No leasing of CP GQ allowed
 - Suboption: Allow for the first 3 years after program implementation.
- Option 3. Allow leasing within a cooperative

The Council could choose provisions defining leasing for the catcher processor sectors at this time. Limitations on leasing are likely to limit the ability of participants to realize efficiencies in operations. Option 1 would allow leasing between cooperatives within each catcher processor sector. Option 2 would prohibit all leasing, but the suboption would allow leasing for the first 3 years. If the Council selects this option, it should clarify whether transfers inside a cooperative are considered leases. Typically, intra-cooperative exchanges are not considered leases. The third option could be used to clarify that intra-cooperative exchanges are permitted. In the event that the Council chooses not to allow transfers (including transfers within a cooperative), the Council should specify its rationale for establishing a cooperative program and determine whether cooperatives are necessary to achieve that purpose. Exchange of allocations among participants is the essence of cooperative management.

3.4.7.4 Conversion of CP GH and GQ:

- Option 1. CP GH and GQ converted to CV GH and GQ
 - Suboption 1. will count toward CV caps
 - Suboption 2. will not count toward CV caps at the time of conversion.
- Option 2. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP GH or GQ to CV GH or GQ alone will not require a CP GH holder or cooperative to divest CP GH and GQ for exceeding CP caps.

The Council could identify provisions that determine how the conversion of catcher processor history to catcher vessel history will be considered, for purposes of applying use caps. Option 1 addresses catcher vessel history holders that receive catcher processor history through transfer. Option 2 addresses catcher processor history holders that could be affected by a change in the size of the history pool when catcher processor history is converted to catcher vessel history by others.

Under Option 1, the Council could choose to either count or exempt converted catcher processor history from the history cap. Counting converted history toward the cap would effectively maintain the cap. A provision to exempt converted catcher processor history from application toward a catcher vessel history cap, when that history is converted could be intended to allow liberal conversion of history. The provision, however, could be used by a person that is at the cap in both sectors to acquire history in excess of the cap.

Option 2 would be intended to prevent a person in compliance with the catcher processor cap from being pushed over the cap by another member of the sector converting catcher processor history to catcher vessel history.

3.5 Skipper/Crew Provisions

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

- Option 1. No skipper and/or crew provisions
- Option 2. Establish license program for certified skippers. For initial allocation Certified Skippers are either:
 - i. Vessel owners receiving initial GH or harvest privileges; or
 - ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
- Suboption 1. include crew in the license program.
- Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes GH and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual. Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

3.6 LLP/Open Access fishery provisions:

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

Option 1: Manage LLP/Open Access fishery sector allocations for primary species only. Continue current MRA and PSC management.

The above provision does not appear to be an option, since it is the only provision that defines management of the LLP fishery. The provision might be clarified by changing the first sentence to read, “Allow directed fishing for primary species only.” In addition, the second sentence might be clarified by adding after the term “MRA” the words, “for secondary species and unallocated species”.

- Suboption: PSC allocations to the LLP/Open Access fishery will be reduced by
 - a. 10 percent
 - b. 20 percent
 - c. 30 percent

Note: this reduction may differ by sector

The suboption might be better labeled “Option 1”.

Option 2: the following provision would apply to the LLP/Open Access fisheries:

- 1. PSC allocations to each sector will be reduced by:
 - 5 percent beginning on the date of program implementation;
 - an additional 5 percent beginning on the second year of program implementation;
 - an additional 10 percent beginning on year 5 of program implementation; and

2. Beginning on year 3-5 of the program implementation any eligible CV harvester which has not entered into a co-op pursuant to section 3.3.10 may join an initial co-op in association with the processor that the harvester delivered the most pounds of primary species to in the previous
 - a) 2 years
 - b) 3 years

The contract for this initial co-op must otherwise satisfy the requirement of this program, including the terms and conditions of 3.3.10 (except for the provision specifying which processor the harvester must associate with).

Option 2 includes both provisions for PSC reduction, which differ from those of the preceding suboption, and a provision affecting processor associations. The provision concerning associations could be adopted independently, if the Council wished to adopt different provisions concerning PSC reduction (such as those in the preceding suboption).

Option 3: The LLP of any vessel that has entered a co-op and generated GH pursuant to this program may not be subsequently used, or transferred to another vessel, to fish in the LLP/Open Access fishery for any primary or secondary species identified under this program.

Option 3 also could be applied independently of Options 1 and 2. This provision would prevent a history holder from returning to the LLP fishery after joining a cooperative. Although intended to protect LLP fishery participants, the provision could have the unintended effect of affecting cooperative negotiations. For example, if a history holder that joins a cooperative cannot go back to the LLP fishery, the cooperative may have the ability to change the terms of the cooperative agreement to the detriment of that history holder, who would have little or no recourse. The ability of the minority member to leave the cooperative would depend on the exit agreement provisions, which could be very restrictive (but reasonable given the terms of the initial agreement). In short, this option could greatly disadvantage a person who joins a cooperative by providing no out when the agreement is renegotiated. An alternative provision would permit a person to enter the LLP fishery only if all of the history originally associated with LLP is retained. While this would dampen the market for trades of history, it would provide cooperative members with an outside opportunity, in the event a cooperative agreement is unfair.

Note: The intent of this provision is to prevent a vessel from entering a co-op, transferring its GH to the co-op and then subsequently taking its LLP and re-entering the open access fishery or transferring its LLP to another vessel to fish in the Open Access fishery.

3.7 Communities

Note: 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 protection programs.

3.7.3 Regionalization

If adopted, GH will be categorized by region (for the fisheries identified below).
GH that is regionally designated cannot be reassigned to another region.

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

Catcher processor GH is not subject to regionalization.

The following describes the regions established and fisheries that would be subject to regionalization:

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

3.7.3.1 In the event GH is regionalized, a harvester will be eligible to bring its history in a region to a cooperative associated with the processor in the region to which the harvester delivered the most pounds during the cooperative formation qualifying period:

- Option 1: on a species by species basis
- Option 2: all primary species aggregated

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

- Option 1. consistent with the qualifying period under cooperative formation in Section 3.3.5

3.7.4 Community Fisheries Quota (CFQ) Program

The purpose of the Community Fisheries Quota Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.

3.7.2.2 Administrative Entity

The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

Gulf-wide administrative entity

3.7.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast

- d. 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
 - a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

3.7.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

3.7.2.4 Allocation

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

3.7.2.5 Harvesting of Shares

- Option 1. Limited to residents of any eligible community

3.7.2.7 Allocation Basis

The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

- Option 1. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.
- Option 2. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.
- Option 3. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

3.7.2.7 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.

3.7.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

3.7.2.10 CFQ Management

The CFQ Program will be managed in a manner similar to the halibut/sablefish community purchase program. The Council shall establish a CFQ implementation committee to implement this program as a trailing amendment. The committee will advise on the provisions of the program.

3.8 Program Review and Data Collection:

3.8.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program for this and other Management Councils. Details of this program will be developed in the analysis of the alternatives.

3.8.2 Program Review.

Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

3.9 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superseded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (actual boats) and LLPs used to generate harvest shares used in a Co-op unless specifically authorized may not participate in other state and federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

State water provisions are being developed that would apply to all rationalization alternatives.

3.10 Provisions relating to the IFQ halibut/sablefish fishery

3.10.1 Management areas:

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

3.10.2 Primary species include: P.cod, Greenland turbot, POP,

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

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

- A) Sablefish: Allocation based on the average rate and 75th percentile of observed bycatch rates, by area (the rate which 75% of observed sets did not exceed)
- B) Halibut: Allocation based on the average rate and 75th percentile of bycatch rates experienced in IPHC surveys by area (the rate which 75% of survey sets did not exceed). The IPHC survey data will look at the years 1995-2002 and 1998-2002.

3.10.3.1 Management provisions for secondary species

- a) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
 - Option 1: Managed in aggregate on an area basis using current MRA regulations.

Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.

- b) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.
- c) Require full retention of Secondary species listed under A.

3.11 Provisions relating to the SEO Area

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

3.11.2 Management provisions for secondary species

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

3.12 PSC for Salmon and Crab Bycatch

Staff is tasked to fully develop the GOA salmon and crab bycatch reduction alternatives as proposed within the staff discussion paper. The Council requests ADF&G to assist staff to develop triggers, limits and closure areas that apply to the alternatives.

3.12.1 Chinook Salmon

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery.
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.2 Tanner Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for Tanner crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling for the remainder of the year if or when a trigger limit is reached by the flatfish fishery (and potentially additional areas for P. cod longline and pot gear).
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of Tanner crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.3 Red King Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for red king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of red king crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.4 Other King Crab

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for other king crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling (and potentially other areas for P. cod longline and pot gear) for the remainder of the year if or when a trigger limit is reached.
- Alternative 3: Year round bottom trawl closure in areas with high bycatch or high bycatch rates of other king crab.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management

3.12.5 Other Salmon

- Alternative 1: Status Quo (no bycatch controls)
- Alternative 2: Trigger bycatch limits for other salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery (and potentially additional areas for flatfish trawling).
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.
- Alternative 4: Voluntary bycatch co-op/pool for hotspot management