

Gulf Rationalization Alternatives – (showing all provisions and options)

Staff Annotation

April 2006

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 halibut and sablefish fisheries 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 broadly distributes the benefits of rationalization to harvesters, processors and fishery-dependent coastal 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.

Statement of intent concerning alternative 3

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 co-ops 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 and secondary species, and halibut PSC 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 one or more cooperative(s) associated with the processor(s) through which its GH (qualified landings of primary species) arose 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.

Upon formation of a cooperative, members may dissolve their relationship with that cooperative subject to the dissolution terms and either: a) join a different cooperative, b) transfer their residual quota to a different cooperative or individual, or c) move into limited 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.

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.

Key to formatting

Provisions labeled **G** are general provisions that apply to all sectors and alternatives. A second set of provisions are labeled by gear types: **T – trawl gear**, **P – pot gear**, **L – longline (or hook-and-line) gear**, and **J – jig gear**). Provisions applicable to a single alternative are labeled using the following abbreviations:

Trawl Alternatives

T2A – IFQ/Cooperatives with Processor License Limitation

T2B – IFQ/Cooperatives with Processor Linkages

T2C – IFQ/Cooperatives with Harvest Share Allocations to Processors

T3 – Cooperatives/Limited Access with Processor Associations

Pot Gear Alternatives

P2L – Low Producer – IFQ/Cooperatives

P2HA – High Producer – IFQ/Cooperatives with Processor License Limitation

P2HB – High Producer – IFQ/Cooperatives with Processor Linkages

P2C – IFQ/Cooperatives with Harvest Share Allocations to Processors

P3L1 – Low Producer – Sector Allocation with Limited Access Fishery

P3L2 – Low Producer – Cooperatives/Limited Access

P3 – Cooperatives/Limited Access with Processor Associations

Hook-and-Line Gear Alternatives

L2L – Low Producer – IFQ/Cooperatives

L2HA – High Producer – IFQ/Cooperatives with Processor License Limitation

L2HB – High Producer – IFQ/Cooperatives with Processor Linkages

L2C – IFQ/Cooperatives with Harvest Share Allocations to Processors

L3L1 – Low Producer – Sector Allocation with Limited Access Fishery

L3L2 – Low Producer – Cooperatives/Limited Access

L3 – Cooperatives/Limited Access with Processor Associations

Jig Gear Alternatives

J2 – Open Access

J3A – Jig Sector Allocation

J3B – Cooperatives/Limited Access with Processor Associations (the motion is unclear concerning whether this alternative applies to the jig sector)

Requested Input, Discussion Papers, and Analysis

Should the fixed gear longline sector and/or the fixed gear jig sector wish to modify current alternatives for GOA Groundfish rationalization they should provide direction to the AP and Council. It is not the Council's intent to have these sectors impact the timeframe for decision regarding rationalization of the pot and trawl sectors.

~~The Council directs staff to draft a discussion paper examining the structure and effects of skipper/crew provisions that:~~

~~a. allocate a certain amount of quota to qualified skipper/crew~~

~~b. requires that qualified skipper/crew be on board during the harvest of a percentage of a vessel's allocation.~~

~~c. provide that, upon transfer of quota share/history, a percentage of the quota and/or transfer price is reserved for crew/skippers.~~

The Council requests that staff provide:

- 1) Distributions of Quota share by Area and Sector for aggregate rockfish and aggregate flatfish species groups for LLP catch history from 3 to 200 miles (EEZ, excludes parallel fish catch) for purposes of excessive share caps.
- 2) Distributions of Quota share by Area and Sector for pollock, Pacific cod, aggregate rockfish and aggregate flatfish species groups for LLP catch history from 0 to 200 miles (includes parallel fish catch) for purposes of excessive share caps.
- 3) Provide the number of potentially qualifying licenses by processing entity for 2A
- 4) Provide the number of potentially qualifying facility licenses by processing entity for alternative 2B
- 5) Potential Association combinations between processors and vessels for alternative 2 & 3

Staff is requested to separate CV and CP alternatives.

The Council requested that staff separate CV and CP alternatives. This request could be met in a few different ways. The most complete method would be to fully separate CV alternatives from CP alternatives. This separation could have two detrimental effects. It would substantially lengthen the motion, making it less accessible to readers. It would also increase the potential for unintended inconsistencies across gear types. A second way to separate the motion would be to put all provisions pertaining to catcher processors in a single section of each alternative. While this approach has greater appeal, fully separating catcher processor provisions would also substantially lengthen the motion, if these provisions were included in a complete manner. Alternatively, only those specific portions of provisions that affect catcher processors could be grouped, which would not increase the length of the motion. This approach, however, has the potential to result in discontinuity in the motion and contribute to confusion. At this point, staff could not conceive of a way to restructure the motion to meet this request without adding confusion or substantially lengthening the motion. To aid in the development of catcher processor provisions, the following is a list of provisions that currently reference the catcher processor sector (or that apply differently to catcher processors):

*G-5 – catcher processor share designations
G-14 – transfer of shares across gear types
G-15 – catcher processor transfers to catcher vessels
G-21 – processing of catcher vessel catch by catcher processors*

*T-2 – individual share caps
T-4 – vertical integration caps
T-5 – cooperative caps
T-7 – eligibility to receive shares by transfer
T2A-2 – cooperative formation
T2A-3 – catcher processor cooperative exemption from processor association
T2B-2 – cooperative formation
T2B-3 – catcher processor cooperative exemption from processor association
T2C-2 – catcher processor cooperative exemption from processor association
T3-8 – cooperative eligibility
T3-9 – cooperative formation threshold
T3-11 – catcher processor cooperative exemption from processor association*

*P-2 – individual share caps
P-4 – vertical integration caps
P-5 – cooperative caps
P-8 – eligibility to receive shares by transfer
P2HA-2 – cooperative formation
P2HA-3 – catcher processor cooperative exemption from processor association
P2HB-2 – cooperative formation
P2HB-3 – catcher processor cooperative exemption from processor association
P2C-2 – catcher processor cooperative exemption from processor association
P3-8 – cooperative eligibility
P3-9 – cooperative formation threshold
P3-11 – catcher processor cooperative exemption from processor association*

*L-1 – limits on leasing
L-3 – individual share caps
L-5 – vertical integration caps
L-6 – cooperative caps
L-10 – eligibility to receive shares by transfer
L2HA-2 – cooperative formation
L2HA-3 – catcher processor cooperative exemption from processor association*

L2HB-2 – cooperative formation

L2HB-3 – catcher processor cooperative exemption from processor association

L2C-2 – catcher processor cooperative exemption from processor association

L3-8 – cooperative eligibility

L3-9 – cooperative formation threshold

L3-11 – catcher processor cooperative exemption from processor association

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

Include in the analysis a discussion of the history from 1) 0-200 miles (including parallel history), 2) 3-200 miles, and 0-200 miles, including parallel history and state water fishery history.

The analysis will assess AFA vessels as a group.

General Provisions – Apply to all rationalization alternatives

G-1. Management Areas

For all species except pollock: Western Gulf (WG), Central Gulf (CG), and West Yakutat (WY)

- TACs for shorttraker, rougheye, and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- Allocation and management of species in SEO and to halibut and sablefish IFQ holders are contained in separate motion

For pollock: 610 (WG), 620 (CG), 630 (CG), and 640 (WY)

G-2. Species

Primary species by gear (allocated based on individual catch history):

Trawl:

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

Longline:

Pacific cod
WGOA deep water flatfish

Pot:

Pacific cod

Jig:

Pacific cod

Entry Level Fishery: Pacific Ocean perch, Northern Rockfish and pelagic shelf rockfish for non-trawl catcher vessels

- An annual set aside for CV non-trawl gear capped at 2-5% of each of these target rockfish species
- The set aside will begin at 1% of the annual TAC
- The set aside amount will increase by one percentage point the following year in which the set aside quota is reached.

Secondary species by gear (allocated based on average sector/gear catch history):

Trawl:

Thornyhead
Rougheye
Shortraker
Other slope rockfish
Atka mackerel
sablefish

Longline:

Thornyhead
Rougheye
Shortraker
Other slope rockfish
Atka mackerel

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

Unallocated species will be managed under the existing MRA system and will be accommodated in the annual TAC-setting process.

Once data are available, species identified for allocation should be reviewed to verify the appropriateness of allocations for each gear type. In conducting this review, the Council could address two questions:

- a) is the potential for targeting the species limited, in which case an allocation for a directed fishery might be inappropriate, or*
- b) is the potential for targeting the species high, but an inadequate history for the gear type exists in the sector, in which case an allocation for a directed fishery might be appropriate, but should be based on some other measure than catch history.*

If history is inadequate to determine a reasonable allocation, the Council could develop other criteria for the allocation, including a graduated allocation that would accommodate development of the fishery, but would cap the growth (to prevent encroachment on other gear types) similar to the provision for allocations to the jig sector.

G-3. State and Parallel Fishery Allocation

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.

G-4. Sector/Gear Designations

C/P trawl
C/P longline
C/P pot

CV trawl
CV longline
CV pot
jig

Option: Separate low producing CV longline and CV pot into high producing vessels and low producing vessels

Low producing catcher vessel sector is

Suboption 1. fixed gear catcher vessels less than average qualified harvest history by gear and area

Suboption 2. fixed gear catcher vessels that are below the 75th percentile in qualified harvest history by gear and area

Suboption 3. **(applicable only to Alternative 3)** fixed gear catcher vessels under 60 feet that are below the 75th percentile of primary species qualified harvest history by gear and area.

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.

G-5. Catcher Vessel/Catch Processor Designation Criteria

Alternative 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.

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 on-board on average over the qualifying period.

Option 1: determined by the aggregate of all species

Option 2: determined by primary species groupings in Section 3.3.5

G-6. Sector Allocations for Trawl, Pot, and Hook-and-Line Gears – Primary Species, Secondary Species, and Halibut PSC

Alternative 2 and 3

No explicit sector allocation calculation. Allocation to the sector is implicitly the sum of individual allocations

G-7. Sector Allocations – Jig Sector

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

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

Option 2. **(Applies only to Alternative 2)** Catch by jig 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 Pacific cod by area:

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

Option 3. _____ % of TAC

G-8. Individual Allocations – Eligibility

LLP participation

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

Staff analysis assumes that any vessel that is subject to an LLP exemption (i.e., 26 feet or less LOA) would be considered eligible.

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.)

A person who acquired an LLP license with GQP and EQP qualifications to remain in one or more GOA QS fisheries may obtain a distribution of QS for those fisheries based on the history of either (a) the vessel on which the replacement LLP is based prior to its transfer and any landings made on the vessel for which it was acquired subsequent to its transfer to that vessel, or (b) the vessel for which the LLP was acquired, NOT both. License transfers for the purposes of this provision must have occurred by June 1, 2005.

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.

It is the intent of the Council that catch history, whether harvested in the state water parallel fishery or the federal fishery, will be credited a single time, either in the state or federal program.

G-9. Individual allocations – Qualifying landing criteria

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.

Qualified catch is from:

- Option 1: 3-200 miles
- Option 2: 3-200 miles, plus 0-3 miles parallel history

Suboption: **(Alternative 2 only)** catch history for Pacific cod fisheries determined based on a percentage of retained catch per year (does not include meal)

The suboption is contained only in alternative 2. The suboption would base the allocation on the average annual percent of the qualified history.

G-10. Individual Allocations – Qualifying periods

Qualifying periods (same for all gears in all areas) for allocations of shares or history

- Option 1. 95-01 drop 1, on a species by species basis
- Option 2. 95-02 drop 1, on a species by species basis
- Option 3. 95-02 drop 2, on a species by species basis
- Option 4. 98-02 drop 1, on a species by species basis
- Option 5. 98-03 drop 1, on a species by species basis

Suboption 1: **(Alternative 2 only)** For Pacific cod under all options consider only A season harvests for 2001 and 2002.

Suboption 2: **(Alternative 2 only)** For Pacific cod consider a sector allocation based on specified percentages prior to individual allocations.

G-11. Individual allocations – Secondary Species

Alternative 2

Option 1. Share Allocations

Allocate shares to all 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

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

Suboption. Allocate these species for one gear type only (e.g., trawl). Deduct the secondary species catch of other 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.

Option 2. Retain these species on bycatch status for all gear types with current MRAs.

Two options for individual management are generally 1) individual allocations based on average or 75th percentile bycatch rates for the different target fisheries or 2) continued management by MRA. In addition, the motion contains an option to allocate secondary species only to trawl participants. Annually, the estimated usage of the fixed gear sector would be deducted from the TAC prior to making the allocation to trawl participants.

Alternative 3

- Option 1: Allocation of secondary species to and within cooperatives and to the limited access is based on the distribution of primary species history of individual cooperative members and the sector's average catch during the sector allocation qualifying period by area and primary species target fishery.
- Option 2: Maintain current MRA management for secondary species.

G-12. Individual allocations – Halibut PSC

Alternative 2

Share allocations (if applicable to the sector and gear type)

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 halibut PSC cap.

By sector average bycatch rates by area by gear:

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

Hook and line sector

- 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 (sector allocation is sum of allocations to sector members).
- Option 3. Continue to fish under halibut 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 halibut PSC allocations.

Trawl Sector

- Option 1. Halibut PSC will be managed through harvest share allocations (sector allocation is sum of allocations to sector members)
- Option 2. Continue to fish under halibut PSC caps.

Alternative 3

- Option 1: Allocation of halibut PSC to and within cooperatives is based on the distribution of primary species history of individual cooperative members and the sector's average catch during the sector allocation qualifying period by area and primary species target fishery.
- Option 2: Maintain current PSC management for halibut.

G-13. Individual allocations – Halibut PSC reductions outside of cooperatives

Alternative 2

Non-members of cooperatives would have halibut PSC reduced by:

- i 5%
 ii 15%
 iii 30%

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

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

Alternative 3

Halibut PSC allocated to the limited access fishery for non-members of cooperatives will be reduced by:

Option 1:

- a. 0 percent
- b. 10 percent
- c. 20 percent
- d. 30 percent

Option 2:

- a. 0 percent
- b. 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

Note: this reduction may differ by sector

G-14. Transferability - Gear Restrictions

Alternative 2

Harvest gear restrictions apply to primary species only.

Primary species allocations may be used by other gear types except that:

Option 1: No restrictions

Option 2: Fixed gear allocations may not be harvested using trawl gear

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

Alternative 3

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

CP provision: Allow leasing within cooperative or pursuant to an inter-co-op agreement within CP sectors (no CP leases allowed across gear types.)

Transfers of GH or leases of GQ across CP gear types is

- a) **not permitted**
- b) **permitted.**

(provision is from T3-13, P3-13, and L3-13)

The “CP provision” is potentially inconsistent with the option allowing transfers across gear types.

G-15. Transferability - Vessel Type Restrictions

Alternative 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.

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.

Alternative 3

- Option 1. Restrictions on transferability of CP harvest shares:
CP GH may be converted to CV GH. Once it is converted, it cannot be changed back to CP GH. 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.)
- Option 2: Re-designate CP GH as CV GH upon transfer to a person who is not an initial issuee of CP shares:
- Suboption 1. all CP shares
 - Suboption 2. trawl CP shares
 - Suboption 3. longline CP shares

It is the intent of the NPFMC that this provision not apply to transfers between the first degree of kindred.

The Council could select options for the conversion of catcher processor history to catcher vessel history at this time.

Option 1 would convert catcher processor history to catcher vessel history, if transferred and subsequently landed onshore. 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.

The suboptions under Option 2 would limit the holders of catcher processor history to those that receive an initial allocation of catcher processor history. Suboptions 2 and 3 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. This provision would convert all catcher processor history to catcher vessel history once transferred from initial recipients limiting the market for those shares, and possibly diminishing their value in some fisheries.

The provision excluding transfers to first degree of kindred addresses the potential that a transfer to an immediate family member as an inheritance would not result in a conversion of the shares to catcher vessel shares. Additional situations, however, could arise including restructuring of a corporation on retirement of a member, which would result in the conversion to CV shares and could be disruptive to an ongoing operation.

G-16. Transferability – Secondary Species

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; they are fully leasable across gear type and sector and are allocated annually based on primary species allocation.

Option for trawl sablefish shares (**applies to Alternative 2 only**)

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.

The provisions appear to offer limited flexibility in developing secondary species transfer provisions. No provision is available to make long term primary and secondary species shares non-separable, but to allow leasing of secondary species shares separate from the associated primary species shares.

G-17. Transferability – Halibut PSC – Long term transfers

- Option 1. Groundfish primary species QS/history and Halibut PSC QS/history 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 QS/history are separable and may be transferred separately

G-18. Transferability – Halibut PSC – Annual transfers

Alternative 2

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 halibut PSC outside of cooperatives.

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

G-19. Retention requirements (rockfish, sablefish and Atka mackerel)

Alternative 2

- 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

G-20. Limited processing for CVs

Alternative 2

Limited processing of groundfish species by owners of CV harvest shares of groundfish species not subject to processor landing requirements are allowed up to 1 mt of round weight equivalent of groundfish per day on a vessel less than or equal to 60ft LOA. (consistent with LLPs - 679.4(k)(3)(ii)(D))

G-21. Processing by Catcher Processors

Alternative 2

- 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.
 - Option 4. CPs may buy delivery restricted CV fish, if they hold a processing license.

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.

G-22. Regionalization

Alternative 2

Catcher vessel harvest shares are regionalized based on the landings history during the regionalization qualifying period, not where it was caught.

If issued, 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. (**Applies to Alternatives 2A and 2B**)

Catcher processor shares and any 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.

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 5851.10' 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:

- CGOA Pollock (area 620 and 630)
- CGOA aggregate flatfish,
- CGOA aggregate rockfish and
- CGOA Pacific cod.

CGOA trawl sablefish will be regionalized based on all landing of primary species in the CGOA associated with the license during regionalization qualifying period.

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

- Option 1. the preferred individual allocation qualifying period
- Option 2. 1999 – 2002

Alternative 3

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

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

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

Catcher processor history is not subject to regionalization.

The history associated with a license would be regionalized based on the landings history associated with that license during the regionalization qualifying period.

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 5851.10' 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:

- CGOA Pollock (area 620 and 630),
- CGOA aggregate flatfish,
- CGOA aggregate rockfish, and
- CGOA Pacific cod.

CGOA trawl sablefish will be regionalized based on all landing of primary species in the CGOA associated with the license during regionalization qualifying period.

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 using species aggregations (i.e., pollock, Pacific cod, aggregate rockfish, and aggregate flatfish) and:

- Option 1. the cooperative/processor association period or
- Option 2. the individual allocation qualifying period.

This provision is unclear. Is it meant to potentially supersede the identified association using the cooperative/processor association period in T3-3, P3-3, and L3-3. This provision seems unnecessary and inconsistent.

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

- Option 1. the years 1999-2002.
- Option 2. consistent with the qualifying period under cooperative formation in Section 3.3.5

G-23. 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. 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.

Option 3. (**Applies to Alternative 2 only**) 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

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

G-24. Incentive species

Alternative 2 and Alternative 3

Incentive species are:

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

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.

Allocation of incentive species

Allocations of incentive species groundfish primary species harvest shares (QS) will be made to historical participants using the following threshold approach:

Allocate harvest shares as a fixed allocation in metric tons. The threshold is set as:

Option 1. Total retained catch of the participants divided by the number of years in the qualifying period.

Option 2. Total retained catch of the participants plus 25% divided by the number of years in the qualifying period.

Option 3. Total catch of the participants divided by the number of years in the qualifying period.

If available TAC is less than the total fixed allocation in metric tons, then reduce allocations pro-rata amongst shareholders. If available TAC is greater than the threshold, available incentive fishery quota is amount by which the TAC exceeds the threshold.

Eligibility to fish in the incentive fisheries

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

Catch accounting for and entry to the incentive fisheries

Use of allocated QS and incentive fishery quota

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

- 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.

G-25. Sideboards

GOA Groundfish sideboards under the crab rationalization plan, under the AFA, and the CGOA rockfish pilot project would be superseded by the GOA rationalization program allocations upon implementation.

On completion of a rationalization program in the BS, any sideboards from the GOA rationalization under this section will be superseded for the fleet subject to rationalization.

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.

Alternative 2

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.

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.

Alternative 3

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.

G-26. Program Review and Data Collection

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.

Program Review

Preliminary program review at the first Council Meeting in the 3rd year and formal review at the 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.

Trawl Gear Alternatives

T-1. Transferability - Leasing

Alternative 2 and 3

Active participation requirements for trawl CVs (leasing restrictions):

1. For initial issuants of trawl QS/GH who receive initial allocations of Pcod, pollock, or aggregate rockfish primary species less than:

- a. 60th percentile
- b. 65th percentile
- c. 70th percentile
- d. 75th percentile

Their initial allocation of primary species trawl QS/GH can be leased freely for the first 3 years of the program.

2. For initial issuants of trawl QS/GH who receive initial allocations greater than the amount established above in 2 of 3 most recent years:

- a. 30%
- b. 40%
- c. 50%

of their aggregate primary species trawl QS/GH for Pcod, pollock, and aggregate rockfish must either (a) be fished by a vessel which the trawl QS/GH holder owns at least

- Option 1. 20%
- Option 2. 30%
- Option 3. 40%
- Option 4. >50%

of, or (b) fished on a vessel with the trawl QS/GH holder on board.

3. After 3 years from the start of this rationalization program, the above option 2 applies to all QS/GH holders.

(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.)

Leasing requirements imposed on cooperative members will be monitored by the cooperative. Compliance will be reported in the cooperative annual report.

All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued quota shares.

In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of 3 years out of any 10 year period.

Under alternative 3, the Council should consider that vessel documentation requirements may prohibit some foreign owned processors from fishing any history held by the processor. Leasing prohibitions would likely force these processors to divest their shares.

The Council should consider the need for and administrative burden of a hardship provision. If leasing requirements allow for some degree of leasing, including leasing of all shares for a period of one year, a hardship provision may not be necessary. In the instance of a hardship, a person would have a full year to recover from the hardship or transfer shares to another person. A year, however, may not be sufficient for hardship situations.

T-2. Excessive share caps – individual caps on use and holdings

Alternative 2 and 3

History holdings *of an individual shall* be capped at:

- Option 1. 1% of the history by area, sector and species groups (pollock, Pacific cod aggregate rockfish, aggregate flatfish)
- Option 2. 3% of the history by area, sector and species group
- Option 3. 5% of the history by area, sector and species group
- Option 4. 20% of the history by area, sector and species group
- Option 5. 30% of the history by area, sector and species group
- Option 6. no cap

Allocations to original issues would be grandfathered at the original level of history.

Apply individually and collectively to all harvest share holders in each sector and fishery.

Different caps can be chosen in the CV sector and the CP sector.

CP history conversion to CV history

CP history and annual allocations converted to CV history and annual allocations will count toward CV caps.

Caps will be applied to prohibit acquisition of history in excess of the cap. Conversion of CP history or annual allocations to CV history or annual allocations alone will not require a CP history holder or cooperative to divest CP history and annual allocations for exceeding CP caps.

The current provision does not appear to apply to intercooperative transfers. The Council could clarify whether it intends intercooperative transfers to be limited by the cap.

Under both alternatives, the current cap provisions apply only to primary species. The Council should assess whether secondary species caps should be applied. This may depend, in part, on the nature of those allocations (i.e., whether they are severable from the primary species allocations, see G-16).

T-3. Excessive share caps – vessel use caps

Alternative 2 and 3

Individual vessel use cap (applies within *and outside of* co-ops)

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 group/area/sector*. 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.

T-4. Excessive share caps – vertical integration caps

Alternatives 2A High and 2B High

Harvest shares initial recipients with more than 10% limited threshold ownership by licensed processors are capped at 115-150% of initial allocation of harvest CV shares (*by species group/area/sector*).

Alternative 2C

Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients.

To implement the alternative 2C provision for limiting processor holding of catcher vessel shares, the term “processor” will need to be defined. The simplest definition might be to apply an annual processing limit.

Alternative 3

Any processor holdings of harvest history, using the 10% limited threshold rule, are capped at:

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

by species group/area/sector.

T-5. Excessive share caps – cooperative use caps

Alternative 2 and 3

Control of history or use of annual allocations by a co-op shall be capped at:

- Option 1. 15% by area, sector and species group (pollock, Pacific cod aggregate rockfish, aggregate flatfish).
- Option 2. 25% by area, sector and species group.
- Option 3. 45% by area, sector and species group.
- Option 4. no cap.

Separate caps can be chosen for the CV and CP sector.

T-6. Overage Provisions

Alternative 2

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.

- Option 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).
- Option 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).

T-7. Transferability – Eligibility to Receive

Alternative 2

Persons eligible to receive harvest history or shares by transfer must be:

- 1) Entities eligible to document a vessel
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer
- 4) Individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

Alternative 3

Persons qualified to receive history by transfer include:

- 1) processors that associate with initial cooperatives and
- 2) for CP/CV history/shares:
 - a. entities eligible to document a vessel
 - b. initial recipients of CV or CP harvest shares
 - c. community administrative entities eligible to receive shares/history by transfer
 - d. individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

The Council could consider whether to select eligibility criteria that require sea time (i.e., choose between 1) and 4) in Alternative 2; choose between 2a. and 2d. in Alternative 3).

Alternative T2A – IFQ/Cooperatives with Processor License Limitation

T2A-1. Voluntary Cooperatives

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

T2A-2. Cooperative formation

Co-ops can be formed between

- 1) holders of trawl catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

T2A-3. Cooperative/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

Processors can associate with more than one co-op

The Council could consider whether to require a processor association for cooperatives under this alternative. The processor association could facilitate better coordination of landings and increase specific processor protection, at least in-season. A processor association, however, might be deemed inconsistent with the alternative, which allows delivery of A shares to any licensed processor. In addition, when combined with a requirement of 4 harvesters and a PSC reduction for non-members of cooperatives, a requirement of a cooperative-processor association could discourage entry or disadvantage small processors.

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

T2A-4. Movement between cooperatives

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

T2A-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

T2A-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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 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.
- Co-op membership agreements will specify that processor affiliated harvesters 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives *to the extent permitted by antitrust laws*.

Suggestions changes based on comments from NOAA GC.

T2A-7. Harvest Share Allocations – A share/B share allocations

If a processor limited entry alternative is chosen, CV primary species 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. 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.

T2A-8. Provisions for Processor License Limitation

Apply processor provisions generally at the company level.

50-100% of CV harvest share allocation will be reserved for delivery to any licensed trawl processor

The Council could decide the percentage of delivery restricted shares under this alternative. 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 this alternative (2A), share holders would be required to deliver A shares to processors holding licenses. Under alternative 2B, A shares would be required to be delivered to the processor to which the shares are linked. Given the less restrictive delivery obligation under this alternative, imposing delivery restrictions on a higher percentage of shares is likely reasonable. Under this alternative, 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 this alternative, the potential to enter the fishery by purchasing relatively small amounts of fish should be assessed. 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. In addition, the Council should consider whether catcher processors are permitted to purchase catch from catcher vessel shares that have no processor delivery restrictions (see G-21). Although current catcher processors may have little interest in this catch, it is possible that catcher processors could have an advantage over entering shore-based processors in competing for landings of unrestricted catch. If catcher processors are permitted to purchase catch made with unrestricted B shares, the percentage of shares available as B shares may need to be higher to provide entry opportunities.

T2A-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing
Trawl

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

Trawl and fixed gear eligible processors

Processors that meet criteria for both the trawl processor license and fixed gear processor licenses will be issued a single trawl/fixed gear license

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

A licensed processor may operate an unlimited number of facilities under one license.

T2A-10. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

T2A-11. Processing Use Caps

Processing caps at the entity level by processor license type (*Western Gulf; Central Gulf & West Yakutat (combined)*) on A share landings:

Option 1. Range 70% to 130% of TAC processed *by area, sector and species group* for the largest licensed processor

Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies by 20%, 30%, or 50% of the number initially qualified processing companies *by area, sector and species group*

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish) Processing caps apply at the entity level.

Initial issues that exceed the processor use cap are grandfathered at their current level.

For consistency with the licensing and transferability provisions, caps could be at the regional level.

T2A-12. License ownership restrictions on processors

(Applies at the entity level) by region

Processors may acquire additional licenses so that they hold a combination of licenses allowing them to process 'A' shares from both the fixed gear and trawl gear sectors. Owners of fixed licenses can buy trawl/fixed licenses, owners of trawl/fixed may not buy additional licenses.

Alternative T2B – IFQ/Cooperatives with Processor Linkages

T2B-1. Voluntary Cooperatives

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

T2B-2. Cooperative formation

Co-ops can be formed between

- 1) holders of trawl catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

The Council should consider the effects on processor entry of requiring 4 distinct entities for cooperative formation. If penalties (such as PSC reductions, see G-13) are imposed on persons that choose not to join a cooperative and cooperative formation requires 4 entities, it is possible that some processor entry could be discouraged. This issue could be addressed through removing penalties intended to encourage cooperative membership or by reducing the threshold to cooperative formation. The need for penalties to encourage cooperative formation might be questioned, if cooperative fishing has intrinsic benefits.

T2B-3. Cooperative/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
- c) a limited entry processing license holder to which the share holder's shares are linked

Processors can associate with more than one co-op

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

T2B-4. Duration of cooperative agreements

Option 1. 1 year

Option 2. 3 years

Option 3. 5 years

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

T2B-5. Movement between cooperatives

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

T2B-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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-co-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.
- Co-op membership agreements will specify that processor affiliated harvesters 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives.

Processor affiliated vessels will be permitted to join harvest cooperatives *to the extent permitted by antitrust laws*.

Suggestions changes based on comments from NOAA GC.

T2B-7. Harvest Share Allocations – A share/B share allocations

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

~~**Suboption : Processor affiliated vessels to receive entire allocation as A shares.**~~

T2B-8. Provisions for Processor License Limitation

Apply provisions generally at the facility (plant) level.

50-100% of CV harvest share allocation will be reserved for delivery to the linked licensed closed class trawl processor.

Processor associations and penalties

The Council could clarify the processing sector provisions for alternative 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:

- 1) *The percent of shares that will be delivery restricted (A shares) and unrestricted (B shares) (T2B-8)*
- 2) *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. *Whether penalties are one time or apply to subsequent linkages (or are discounted after the first linkage is severed) (T2B-11)*
- 3) *Whether processor history is transferable for purposes of establishing linkages (T2B-10)*
- 4) *Whether transfers of processor licenses will affect linkages (T2B-13)*

A share (delivery restricted) percentage

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 this alternative, 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 more restrictive delivery obligation under this alternative (as compared to Alternative 2A), imposing delivery restrictions on a lower percentage of shares is likely reasonable. Under this alternative, 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. 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 this alternative, 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.

When considering the appropriate percentage of delivery restricted shares under this alternative, 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 could affect the appropriate level of unrestricted shares, if catcher processors are likely to have a competitive advantage relative to entering processors (see G-21).

T2B-9. Processor License Qualifications

To qualify for a processor license, a processor must have purchased and processed a minimum amount of groundfish by area (*Western Gulf; Central Gulf & West Yakutat (combined)*) and region as described below in at least 4 of the following years:

- Option 1. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

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.

T2B-10. Linkage (Linkages apply by area)

A harvester's processor linked shares are associated with the licensed fixed or trawl processor to which the harvester delivered the most pounds of primary groundfish species by area (Western Gulf; Central Gulf & West Yakutat (combined)) and region (North/South) during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.
- c) last ___ years of prior to 2004.
 - i. 1
 - ii. 2
 - iii. 3

Suboption:

A harvester is initially eligible to join a cooperative in association with a processor who processed

- a) 80% or b) 90%

of the harvesters eligible history. If no processor processed this percentage of a harvester's eligible history, the harvester linked shares are with the processor that processed the most qualified landings and the processor that processed the second most qualified landings on a pro rata basis

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

Option 1: If the processing facility with whom the *harvester's shares would be linked* ~~is associated~~ is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible *to establish a share linkage with another processor* in the following order:

- 1) The licensed processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any licensed processor in the community
- 3) The licensed processor to whom the harvester delivered the second most pounds in the region
- 4) Any licensed processor in the region

Option 2: If the processing facility with whom the *harvester's shares would be linked* ~~is associated~~ is no longer operating in the community, the harvester is eligible *to establish a share linkage with another processor* in the following order:

- 1) The licensed processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any licensed processor in the community
- 3) The licensed processor to whom the harvester delivered the second most pounds in the region
- 4) Any licensed processor in the region

The Council could decide whether to retain option 1 or option 2 for future consideration. 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). In approaching this question, the Council should consider the interaction of this provision with other provisions concerning processor associations. 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 this alternative. 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). The choice between option 1 and option 2 should be decided based on whether the Council believes that a transfer of processor history among processors (independent of a harvester) should be credited under the program. Under option 1, if a processor in the same community purchases the history of a defunct processor, the

purchaser would receive any associations of the defunct facility. Under option 2, the associations would not transfer to the purchaser of the history.

At a later time, the Council could decide whether to include the retained option in its final alternative.

T2B-11. Movement between linked processors

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

In the absence of consent, when a harvester moves from a linked processor, the harvesters shares are reduced 10% - 20% for a period of:

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

Suboptions:

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

The share reduction shall be redistributed to the shareholders associated with the processor that the shareholder left (if it continues to exist).

Penalty magnitude

The Council could decide the penalty for movement between linked processors. The level of penalty should balance the interests of processors in the 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 processor 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.

Penalize A or 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.

Penalize first move or more than one move

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.]

T2B-12. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

If the license is transferred outside the community of origin, then *share* linkages are broken and *shares may be linked to* any licensed processor within the same community or, if no processor exists in the community, within the same region.

T2B-13. License Transfers Among Processors (in the same community)

- Option 1. Any 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, as would have been made in the absence of the transfer.
- Option 2. Any 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 at the full penalty for movement the first year; for the second year, half penalty applies to change the processor association. Harvest share holders would be allowed to develop a new association with a licensed processor within the same community if another processor is in the community or if no processor in the community within the same region.

- Option 3. Any 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 at the full penalty for the first year; for the second year, no penalty applies to change the processor association. Harvest share holders would be allowed to develop a new association with a licensed processor within the same community if another processor is in the community or if no processor in the community within the same region.

License transfers – the effects on linkages and penalties when shares are transferred within a community

Under T2B-12, transfer of a license outside a community severs any linkage. The harvester holding the formerly linked shares may then establish a linkage with any other processor in the community (or region, if the community has no processor). This provision (T2B-13) addresses the effects of any transfer of shares within a community. Under the first option, the linkage would transfer with retention of the penalty structure, in its entirety. This option would establish a strong processor linkage with full transferability. The rationale for such as structure could be that processor protection is not maintained unless the entire processor interest is fully transferable. Without full transferability, it is likely that some processor interests would be maintained (instead of being sold), simply since they have no value in transfer.

Under the second option, the first year after the transfer, the full penalty applies. In the second year, the penalty would be half of the standard penalty, provided the harvester establishes a linkage with another processor in the community (unless the community has no other licensed processor, in which case the linkage would be with any other processor in the region). This option could be intended to create an incentive for a harvester to spend one year with shares linked to the new processor, to determine whether the linkage might be acceptable. After the first year, the harvester would be permitted to move with one half of the penalty. This provision could be used with either a program with either a full or one-half penalty for the second movement. If the full penalty is used for movement after the first move, it is assumed that after the second year, the penalty would return to its full level. If the provision is applied to a program with one-half penalty after the first move, the penalty in the second year would be assumed to be one-half of the applicable penalty (i.e., one-half penalty in the second year, if the harvest has not moved; or one-quarter penalty in the second year, if the harvester has moved) and would return to its standard level in the third year (i.e., full penalty, if the harvester has not moved; or one-half penalty, if the harvester has moved).

Under the third option is similar to the second option, but instead of applying one-half penalty in the second year after a transfer of processor interests, no penalty would be applied in the second year after a transfer of processor interests. As with the second alternative, the provision is intended to provide a one-time opportunity to move from a processor after a transfer of processing interests. The one-time opportunity would only occur after a year in which the linkage would apply. By delaying the movement by a year, the harvester is given an incentive to attempt to establish a working relationship with the new processor after the transfer.

The second and third options might be preferred, if the Council intends to favor transferability of processing interests, but believe that in some instances, the transfer may lead to a linkage that is unworkable in the eyes of the harvesters. Either option would create some value of processor interests in transfer. A rule that imposes a no penalty in the second year, however, would substantially reduce that value, as a processor would have less certainty of acquiring fleet associations since cost-free movements would be permitted in the second year. This provision is likely to induce harvesters to check all market opportunities in the second year, with little loyalty to the linked processor. A half-penalty, however, could induce both a harvester and processor to make a good faith effort to establish a working relationship, knowing that the second year would provide an opportunity for a reduced cost move, if the relationship was decided to be unworkable.

T2B-14. Processing Use Caps

Processing caps apply at the entity level by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed *by area, sector and species group* for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies *by area, sector and species group* by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish) Initial issues that exceed the processor use cap are grandfathered at their current level.

T2B-15. License ownership restrictions on processors

Applies at the entity level by region

- Option 1. A maximum of one facility license
- Option 2. A maximum of two facility licenses
- Option 3. A maximum of three facility licenses
- Option 4. An unlimited number of facility licenses

Initial issues that exceed the license ownership cap are grandfathered at their current level.

Alternative T2C – IFQ/Cooperatives with Harvest Share Allocations to Processors

T2C-1. Voluntary Cooperatives

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

T2C-2. Cooperative formation

Co-ops can be formed between

- 1) holders of trawl catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

T2C-3. Cooperative/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 (*i.e., CVP holder*)

Processors can associate with more than one co-op

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

T2C-4. Movement between cooperatives

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

T2C-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

T2C-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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-co-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.
- ***Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.***

T2C-7. Processor Eligibility

To qualify for a ***CVP allocation 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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

Suboption 1.	2000 mt
Suboption 2.	1000 mt
Suboption 3.	500 mt

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

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 *eligible for a CVP allocation in the region* ~~issued a license for the facility~~ in which it processed the most fish.

T2C-8. Processor Allocations

Up to 30% of CV QS 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 used to determine processor eligibility. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

T2C-9. CVP Transferability

CVP is transferable between eligible CV holders and /or processors.

CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer.

T2C-10. CVP Use

CVP shares may be fished on any catcher vessel and subject to existing share designations (i.e., gear and vessel type) and existing vessel use caps.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

T2C-11. CVP Caps on Use and Holdings

Caps of CVP will apply at the company level *by area, sector and species group* and will be a 10-30% of the total pool of CVP shares available in the *area, sector and species group*. Recipients of CVP that exceed the cap will be grandfathered.

T2C-12. Limit on Vertical Integration

No processors (and processor affiliates using the 10% rule) may own or control CV quota shares (other than CVP). CVP initially issued to processor affiliates will be grandfathered.

T2C-13. CVP Regionalization

CVP shares will be regionalized.

Alternative T3 – Cooperatives/Limited Access with Processor Associations

T3-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters in association with processors. Harvesters may elect not to join a cooperatives, and continue to fish in the LLP/Limited Access fishery.

T3-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

T3-3. Cooperative Eligibility - Catcher Vessel Cooperatives

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 by area (Western Gulf, Central Gulf, & West Yakutat combined) and region (North/South) during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.
- c) last 4 years prior to 2004

Provisions applied to a, b, and c:

For the following species groups:

Option 1:

- Pollock
- Pacific cod
- Aggregate rockfish
- Aggregate flatfish

Option 2: All groundfish

Suboption: A harvester is initially eligible to join a cooperative in association with a processor who processed

- a) 80%
- b) 90%

of the harvesters eligible history. If no processor processed this percentage of a harvester's eligible history, the harvester can enter into initial cooperatives with the processor that processed the most qualified landings and, the processor that processed the second most qualified landings on a pro rata basis.

T3-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-75 percent of the eligible GH for each co-op associated with its processor
Applies to CVs for processor associated cooperatives, if less than 4 distinct and separate harvesters are available to associate with the processor.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

T3-5. Initial Cooperative Agreement Requirements

Catcher vessel co-ops may be formed by eligible harvesters (the co-op) subject to the terms and conditions of a co-op membership agreement. In order to receive an allocation of GH under this program, **an eligible harvester co-ops** must enter into a duly executed contractual agreement (Contract) with the processor the harvester is initially eligible to join a cooperative in associate with.

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 co-op (or transferring GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GH from the co-op). Compensation can take on any form agreed to by the **members eligible harvester** and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining co-op members and/or the associated processor.

Following the initial co-op period, new GH can be generated by eligible harvesters that have never been co-op members only by joining a co-op **and entering into a Contract with the processor the harvester is initially eligible to join a cooperative in association with. The Contract must meet the harvester/processor contract requirements for initial co-op membership** ~~a co-op in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial co-op.~~

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

Suggestions changes based on comments from NOAA GC.

T3-6. Duration of Initial Cooperative Agreements

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.

Different options may apply to CV and CP coops

T3-7. Catcher Vessel - Cooperative/processor associations

Option 1: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to deliver to in the following order

- 1) The processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any processor in the community
- 3) The processor to whom the harvester delivered the second most pounds in the region
- 4) Any processor in the region

Option 2: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, the harvester is eligible to deliver to in the following order

- 1) The processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any processor in the community
- 3) The processor to whom the harvester delivered the second most pounds in the region
- 4) Any processor in the region

CV cooperatives must be associated with an eligible processing facility
Processors can associate with more than one co-op.

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

The eligible processor is:

- 1) prior to satisfying an exit requirement, a processor that the harvester is initially eligible to associate with in a cooperative, and
- 2) after satisfaction of an exit requirement, any processor

T3-8. Cooperative Eligibility - Catcher Processor Cooperatives

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

T3-9. Cooperative Formation - Catcher Processor Cooperatives

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.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

T3-10. Movement between cooperatives

An initial cooperative formation period shall be established beginning with year one of program implementation and extended for the period identified below.

- Option 1. no initial formation period (0 years)
- Option 2. period is 1 year
- Option 3. period is 2 years
- Option 4. period is 3 years

Different options may apply to CV and CP sectors

After the initial cooperative formation period, a holder of GH that meets the requirements of an initial cooperative agreement for exiting a cooperative may leave an initial cooperative and join a cooperative in association with any processor pursuant to a Contract that meets the requirements of rules governing cooperatives.

T3-11. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member.
- b) Except for CP cooperatives, a pre-season Contract between **an** eligible, willing harvesters in association with a processor is a pre-requisite to **cooperative membership and** a cooperative receiving an allocation of GQ **based on the history of that harvester**. For an initial co-op, the Contract must meet the initial cooperative agreement requirements.
- c) The co-op membership agreement and the Contract will be filed with the RAM Division. The **Contract cooperative agreement** must contain a fishing plan for the harvest of all co-op fish.
- d) Co-op members shall internally allocate and manage the co-op's allocation per the **Contract cooperative agreement**.
- e) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op to the extent permitted under the **cooperative agreement Contract**.
- f) The **cooperative agreement Contract** must have a monitoring program. 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 PSC mortality, as may be adjusted by inter-cooperative transfers.
- g) 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.
- h) **The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.** Co-op membership

agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, **except as permitted by general antitrust law.**

- i) Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original **cooperative** agreement. Harvesters that have never been a member of a cooperative must enter an agreement that meets all requirements for an initial co-op, as specified under initial cooperative agreement requirements.
- j) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FMCA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.

Suggestions changes based on comments from NOAA GC.

T3-12. General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-cooperative transfers (leases) of GQ during and after the initial co-op 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 co-op formation period, members of a co-op may transfer GH to members of other co-ops.

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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

T3-13. Transfers by catcher processors

~~Transfers of GH or leases of GQ across CP gear types is~~

- a) ~~not permitted~~
- b) ~~permitted.~~

(provision is included at G-14)

T3-14. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

T3-15. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

T3-16. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited Access fishery.

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 LLP/Limited Access fishery.

T3-17. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 25% of total harvest by *by area, sector and species group*
- Option 2. 50% of total harvest *by area, sector and species group*
- Option 3. 75% of total harvest *by area, sector and species group*
- Option 4. no cap
- Option 5. no cap in areas with two or fewer processors.

Processors eligible to associate with an initial cooperative will be grandfathered.

There is no limit on the amount of fish that an eligible processor can buy from the open access fishery.

Pot Gear Alternatives

P-1. Transferability - Leasing

Alternative 2 and 3

Active participation requirements for trawl CVs (leasing restrictions):

1. For initial issuants of pot QS/GH who receive initial allocations of Pacific cod less than:
 - a. 60th percentile
 - b. 65th percentile
 - c. 70th percentile
 - d. 75th percentileTheir initial allocation of primary species pot QS/GH can be leased freely for the first 3 years of the program.
2. For initial issuants of pot QS/GH who receive initial allocations greater than the amount established above in 2 of 3 most recent years:
 - a. 30%
 - b. 40%
 - c. 50%of their aggregate primary species pot QS/GH for Pacific cod must either (a) be fished by a vessel which the pot QS/GH holder owns at least
 - Option 1. 20%
 - Option 2. 30%
 - Option 3. 40%
 - Option 4. >50%of, or (b) fished on a vessel with the pot QS/GH holder on board.
3. After 3 years from the start of this rationalization program, the above paragraph 2 applies to all QS/GH holders.

(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.)

Leasing requirements imposed on cooperative members will be monitored by the cooperative. Compliance will be reported in the cooperative annual report.

All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued quota shares.

In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of 3 years out of any 10 year period.

Under alternative 3, the Council should consider that vessel documentation requirements may prohibit some foreign owned processors from fishing any history held by the processor. Leasing prohibitions would likely force these processors to divest their shares.

The Council should consider the need for and administrative burden of a hardship provision. If leasing requirements allow for some degree of leasing, including leasing of all shares for a period of one year, a hardship provision may not be necessary. In the instance of a hardship, a person would have a full year to recover from the hardship or transfer shares to another

P-2. Excessive share caps – individual caps on use and holdings

Alternative 2 and 3

Holdings of pot gear Pacific cod shares/history by an individual in each area shall be capped at:

Option	0.5%
Option 1.	1%
Option 2.	3%
Option 3.	5%
Option 4.	20%
Option 5	30%
Option 6	no cap

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

Apply individually and collectively to all harvest share/history holders in the pot sector.

CP history conversion to CV history

CP history and annual allocations converted to CV history and annual allocations will count toward CV caps

Caps will be applied to prohibit acquisition of history in excess of the cap. Conversion of CP history or annual allocations to CV history or annual allocations alone will not require a CP history holder or cooperative to divest CP history and annual allocations for exceeding CP caps.

The current provision does not appear to apply to intercooperative transfers. The Council could clarify whether it intends intercooperative transfers to be limited by the cap.

Under both alternatives, the current cap provisions apply only to primary species. The Council should assess whether secondary species caps should be applied. This may depend, in part, on the nature of those allocations (i.e., whether they are severable from the primary species allocations, see G-16).

P-3. Excessive share caps – vessel use caps

Alternative 2 and 3

Individual vessel use cap (applies within and outside co-ops)

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 *pot gear Pacific cod by area*. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003, including transfers by contract entered into as of that date.

P-4. Excessive share caps – vertical integration caps

Alternatives 2A High and 2B High

Harvest shares initial recipients with more than 10% limited threshold ownership by licensed processors are capped at 115-150% of initial allocation of *pot gear Pacific cod* harvest CV shares *by area*.

Alternative 2C

Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients.

Alternative 3

Any processor holdings of history, using the 10% limited threshold rule, are capped at:

- Option 1. initial allocation of harvest CV and CP shares *of pot gear Pacific cod by area*
- Option 2. 115%-150% of initial allocation of CV history *of pot gear Pacific cod by area*
- Option 3. 115%-150% of initial allocation of CP history *of pot gear Pacific cod by area*
- Option 4. no cap

To implement the alternative 2C provision for limiting processor holding of catcher vessel shares, the term “processor” will need to be defined. The simplest definition might be to apply an annual processing limit.

P-5. Excessive share caps – cooperative use caps

Alternative 2 and 3

Control of history or use of annual allocations of *pot gear* Pacific cod by a co-op shall be capped at:

- Option 1. 15% by area.
- Option 2. 25% by area.
- Option 3. 45% by area.
- Option 4. no cap

Different caps can be chosen for CPs and CV

P-6. Block Program

Alternative 2

Preserving entry level opportunities for Pacific cod

Each initial allocation of Pacific 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

Eligible participants would be allowed to hold a maximum of:

- Option 1 1 block
- Option 2 2 blocks
- Option 3 4 blocks

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

P-7. Overage Provisions

Alternative 2

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.

- Option 1. Overages up to 10% of the last trip will be allowed with rollover provisions for underages up to 10% of harvest shares (or IFQ).
- Option 2. 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).

P-8. Transferability – Eligibility to Receive

Alternative 2

Persons eligible to receive harvest history or shares by transfer must be:

- 1) Entities eligible to document a vessel
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer
- 4) Individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

Alternative 3

Persons qualified to receive history by transfer include:

- 1) processors that associate with initial cooperatives and
- 2) For CP/CV history shares:
 - a) Entities eligible to document a vessel
 - b) Initial recipients of CV or CP harvest shares
 - c) Community administrative entities eligible to receive shares/history by transfer
 - d) Individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

The Council could consider whether to select eligibility criteria that require sea time (i.e., choose between 1) and 4) in Alternative 2; choose between 2a. and 2d. in Alternative 3).

Alternative P2L – Pot Low Producer – IFQ/Cooperatives

Applies only to low producing fixed gear vessels

Low producing vessels are exempt from delivery requirements

P2L-1. Voluntary Cooperatives

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

P2L-2. Cooperative formation

Co-ops can be formed between holders of low producing fixed gear catcher vessel harvest shares in an area.

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2L-3. 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
- Processors can associate with more than one co-op

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

P2L-4. Movement between cooperatives

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

P2L-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

P2L-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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-co-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.
- ***Co-op membership agreements will specify that*** 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

P2L-7. Regionalization

It should be clarified whether regionalization applies under this alternative.

Alternative P2HA – Pot High Producer - IFQ/Cooperatives with Processor License Limitation

Applies only to high producing fixed gear catcher vessels and fixed gear catcher processors

P2HA-1. Voluntary Cooperatives

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

P2HA-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producing fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2HA-3. Cooperative/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

Processors can associate with more than one co-op

The Council could consider whether to require a processor association for cooperatives under this alternative. The processor association could facilitate better coordination of landings and increase specific processor protection, at least in-season. A processor association, however, might be deemed inconsistent with the alternative, which allows delivery of A shares to any licensed processor. In addition, when combined with a requirement of 4 harvesters and a PSC reduction for non-members of cooperatives, a requirement of a cooperative-processor association could discourage entry or disadvantage small processors.

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

P2HA-4. Movement between cooperatives

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

P2HA-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

P2HA-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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 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.
- ***Co-op membership agreements will specify that 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

P2HA-7. Harvest Share Allocations – A share/B share allocations

If a processor limited entry alternative is chosen, CV primary species 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. 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.

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

P2HA-8. Provisions for Processor License Limitation

Apply processor provisions generally at the company level.

50-100% of CV harvest share allocation will be reserved for delivery to any licensed fixed gear processor

The Council could decide the percentage of delivery restricted shares under this alternative. 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 this alternative (2A), share holders would be required to deliver A shares to processors holding licenses. Under alternative 2B, A shares would be required to be delivered to the processor to which the shares are linked. Given the less restrictive delivery obligation under this alternative, imposing delivery restrictions on a higher percentage of shares is likely reasonable. Under this alternative, 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 this alternative, the potential to enter the fishery by purchasing relatively small amounts of fish should be assessed. 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. In addition, the Council should consider whether catcher processors are permitted to purchase catch from catcher vessel shares that have no processor delivery restrictions (see G-21). Although current catcher processors may have little interest in this catch, it is possible that catcher processors could have an advantage over entering shore-based processors in competing for landings of unrestricted catch. If catcher processors are permitted to purchase catch made with unrestricted B shares, the percentage of shares available as B shares may need to be higher to provide entry opportunities.

P2HA-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

Fixed gear

- Suboption 1. 500 mt
- Suboption 2. 200 mt
- Suboption 3. 50 mt

Trawl and fixed gear eligible processors

Processors that meet criteria for both the trawl processor license and fixed gear processor licenses will be issued a single trawl/fixed gear license

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

P2HA-10. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

P2HA-11. Processing Use Caps

Processing caps by processor license type (*Western Gulf; Central Gulf & West Yakutat (combined)*) on A share landings:

- Option 1. Range 70% to 130% of TAC processed for *of pot gear Pacific cod by area* for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies *of pot gear Pacific cod by area* by 20%, 30%, or 50% of the number initially qualified processing companies

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

Processing caps apply at the entity level.

For consistency with the licensing and transferability provisions, caps could be at the regional level.

P2HA-12. License ownership restrictions on processors

- Option 1. No restrictions
- Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses

Alternative P2HB –Pot High Producer - IFQ/Cooperatives with Processor Linkages

Applies only to high producing fixed gear vessels and catcher processors

P2HB-1. Voluntary Cooperatives

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

P2HB-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producer fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

The Council should consider the effects on processor entry of requiring 4 distinct entities for cooperative formation. If penalties (such as PSC reductions, see G-13) are imposed on persons that choose not to join a cooperative and cooperative formation requires 4 entities, it is possible that some processor entry could be discouraged. This issue could be addressed through removing penalties intended to encourage cooperative membership or by reducing the threshold to cooperative formation. The need for penalties to encourage cooperative formation might be questioned, if cooperative fishing has intrinsic benefits.

P2HB-3. 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
 - c) a limited entry processing license holder to which the share holder's shares are linked
- Processors can associate with more than one co-op

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

P2HB-4. Duration of cooperative agreements:

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

Suboption 1: Duration is minimum.
 Suboption 2: Duration is maximum.

P2HB-5. Movement between cooperatives

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

P2HB-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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-co-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.
- ***Co-op membership agreements will specify that*** 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

P2HB-7. Harvest Share Allocations – A share/B share allocations

If a processor limited entry alternative is chosen, CV primary species harvest shares will be issued in two classes. Class A shares will be deliverable to a licensed processor ***to which the shares are linked.*** Class B shares

will be deliverable to any processor as authorized under this program. 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.

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

P2HB-8. Provisions for Processor License Limitation

Apply provisions generally at the facility (plant) level.

50-100% of CV harvest share allocation will be reserved for delivery to the linked licensed closed class fixed gear processor.

Processor associations and penalties

The Council could clarify the processing sector provisions for alternative 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:

- 5) *The percent of shares that will be delivery restricted (A shares) and unrestricted (B shares) (T2B-8)*
- 6) *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. *Whether penalties are one time or apply to subsequent linkages (or are discounted after the first linkage is severed (T2B-11)*
- 7) *Whether processor history is transferable for purposes of establishing linkages (T2B-10)*
- 8) *Whether transfers of processor licenses will affect linkages (T2B-13)*

A share (delivery restricted) percentage

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 this alternative, 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 more restrictive delivery obligation under this alternative (as compared to Alternative 2A), imposing delivery restrictions on a lower percentage of shares is likely reasonable. Under this alternative, 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. 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 this alternative, 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.

When considering the appropriate percentage of delivery restricted shares under this alternative, 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 could affect the appropriate level of unrestricted shares, if catcher processors are likely to have a competitive advantage relative to entering processors (see G-21).

P2HB-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

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 consider applying this provision by area and region (see T2B-9).

P2HB-10. Linkage (Linkages apply by area)

A harvester's processor linked shares are associated with the licensed fixed gear processor to which the harvester delivered the most pounds of groundfish during the last ___ years of prior to 2004.

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

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

Option 1: If the processing facility with whom the harvester is associated is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: 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
- iii. the licensed processor to whom the harvester delivered the second most pounds

The Council could decide whether to choose option 1 or option 2 and which of the suboptions (i, ii, or iii) to select, if an option is chosen. 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). 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 intent of the processor linkage provision in general is 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 concerning processor associations. 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 this alternative. 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). The first choice is whether a harvester that would be associated with a processor that is no longer operating should have any processor association. The Council could choose either option 1 or 2 to first clarify whether any linkage would be established for harvesters that delivered a majority of catch to a processor that is no longer operating.

The choice between option 1 or 2 should be decided based on whether the Council believes that a transfer of processor history among processors (independent of a harvester) should be credited under the program. Under option 1, if a processor in the same community purchases the history of a defunct processor, the purchaser would receive any associations of the defunct facility. Under option 2, the associations would not transfer to the purchaser of the history.

The suboptions (i, ii, or iii) would be used to define the processors that a harvester may deliver to, if its associated processor is no longer in operation. In selecting an option the Council should clearly state whether an association will arise.

If the Council selects option i, the harvest shares could be delivered to any processor, if the associated processor discontinued operations. The Council could either allow the shares to be delivered freely to any processor thereafter or require a linkage to a processor selected by the harvester. This first approach could be applied, if the Council intended this alternative to establish a one-time linkage that would not be transferred to a second processor once severed (i.e., suboption C from P2HB-11 is consistent with the approach). 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 P2LA. The second approach, which would create a linkage, could be applied to a system that establishes either a one-

time linkage or a system of perpetual associations (i.e. suboptions A or B from P2HB-11) is consistent with the approach.

The Council could alternatively choose to limit the harvester to delivering to a processor within the community (suboption ii) or to the processor it delivered the second most pounds to (suboption iii). The provision that limits landings to the same community would be intended to ensure that the community benefits from the processing association even if a processing plant closes. Creating an association with the processor that the harvester delivered the second most pounds to would create a system that credits the processing plant with landings regardless of the potential loss to the community of the closed facility. The provision is not inconsistent with efforts that attempt to protect community interests with processing associations, since it would create an association with open processor facility that the harvester delivered the most pounds to. The community of that facility would receive the benefits of the association. These provisions would be consistent with either a system with a single association or a system with perpetual linkages (any of the suboptions under P2HB-11).

P2HB-11. Movement between linked processors

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

In the absence of consent, when a harvester moves from a linked processor, the harvesters shares are reduced 10% - 20% for a period of:

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

Suboptions:

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

The share reduction shall be redistributed to the shareholders associated with the processor that the shareholder left (if it continues to exist).

Penalty magnitude

The Council could decide the penalty for movement between linked processors. The level of penalty should balance the interests of processors in the 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 processor 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.

Penalize A or 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.

Penalize first move or more than one move

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.]

P2HB-12. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.
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.

P2HB-13. License Transfers Among Processors

- Option 1. any 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, as would have been made in the absence of the transfer.
- Option 2. any share associated with the license will be free to associate with any licensed processor. Harvest share/history holders will be free to move among processors without share/history reduction.

P2HB-14. Processing Use Caps

Processing caps by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed *of pot gear Pacific cod by area* for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies *of pot gear Pacific cod by area* by 20%, 30%, or 50% of the number initially qualified processing companies

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

P2HB-15. License ownership restrictions on processors

- Option 1. No restrictions
- Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses

The Council could consider adopting provisions that limit licenses that a processor could hold. Although option 2 could be used to limit holding of fixed gear licenses by persons holding licenses endorsed for fixed and trawl gear, the Council should also consider whether to limit 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 this alternative, consolidation of licenses could effectively limit competition. Given that the Council has included processor linkages as a means of protecting 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.

Alternative P2C – Pot IFQ/Cooperatives with Harvest Share Allocations to Processors

Applies to all fixed gear vessels

P2C-1. Voluntary Cooperatives

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

P2C-2. Cooperative formation

Co-ops can be formed between

- 1) holders of fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2C-3. 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 (*i.e., CVP holder*)

Processors can associate with more than one co-op

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

P2C-4. Movement between cooperatives

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

P2C-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

P2C-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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 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.
- ***Co-op membership agreements will specify that 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives.***

Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

Suggestions changes based on comments from NOAA GC.

P2C-7. Processor Eligibility

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

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.

P2C-8. Processor Allocations

Up to 30% of CV QS 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 used to determine processor eligibility. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

P2C-9. CVP Transferability

CVP is transferable between eligible CV holders and /or processors.

CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer.

P2C-10. CVP Use

CVP shares may be fished on any catcher vessel and subject to existing share designations (i.e., gear and vessel type) and existing vessel use caps.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

P2C-11. CVP Caps on Use and Holdings

Caps of *pot gear Pacific cod* CVP will apply at the company level *by area* and will be a 10-30% of the total pool of *pot gear Pacific cod* CVP shares available in the management area. Recipients of CVP that exceed the cap will be grandfathered.

P2C-12. Limit on Vertical Integration

No processors (and processor affiliates using the 10% rule) may own or control CV quota shares (other than CVP). CVP initially issued to processor affiliates will be grandfathered.

Application of this limit will require a definition of the term “processor”.

P2C-13. CVP Regionalization

CVP shares will be regionalized.

The method for regionalization should be specified. CVP could be regionalized based on the location of processing that led to the allocation.

Alternative P3L1 – Pot Low Producer – Sector Allocation with Limited Access Fishery

Applies to low producing fixed gear vessels.

Exclude from co-op program, provide sector allocation and continue as an LLP fishery.

The sector allocation would be defined by catch histories under G-6, G-7, and G-8.

Alternative P3L2 – Pot Low Producer – Cooperatives/Limited Access

Applies to all fixed gear vessels - Applies all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

P3L2-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters. Harvesters may elect not to join a cooperative, and continue to fish in the LLP/Limited Access fishery.

P3L2-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

P3L2-3. Cooperative Eligibility - Catcher Vessel Cooperatives

Catcher vessel co-ops may be established within sectors between eligible harvesters.

P3L2-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. Any number of eligible harvesters within the sector (allows single person co-op)

P3L2-5. Initial Cooperative Agreement Requirements

Catcher vessel co-ops may be formed by eligible harvesters (the co-op) subject to the terms and conditions of a co-op membership agreement.

P3L2-6. Duration of Initial Cooperative Agreements

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.

P3L2-7. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH may leave an initial cooperative and join another cooperative.

P3L2-8. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op.
- b) The co-op membership agreement will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all co-op fish.
- c) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- d) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op ~~to the extent permitted under the Contract.~~

Under this alternative, no processor contract is required.

- e) The cooperative agreement must have a monitoring program. 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 PSC mortality, as may be adjusted by inter-cooperative transfers.
- f) 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.
- g) **The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.** Co-op membership

agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, **except as permitted by general antitrust law.**

- h) Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original agreement.

Suggestions changes based on comments from NOAA GC.

P3L2-9. General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-cooperative transfers (leases) of GQ during and after the initial co-op 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 co-op formation period, members of a co-op may transfer GH to members of other co-ops.

All transfers will be subject to such terms and conditions as may be specified in the applicable cooperative agreement 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

P3L2-10. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

P3L2-11. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

P3L2-12. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited Access fishery.

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 LLP/Limited Access fishery.

P3L2-13. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 25% of total harvest by area *of pot gear Pacific cod*
- Option 2. 50% of total harvest by area *of pot gear Pacific cod*
- Option 3. 75% of total harvest by area *of pot gear Pacific cod*
- Option 4. no cap

Processors eligible to associate with an initial cooperative will be grandfathered.

Alternative P3 – Pot Cooperatives/Limited Access with Processors Associations

Applies to all fixed gear vessels (catcher vessels and catcher processors)

P3-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters in association with processors. Harvesters may elect not to join a cooperatives, and continue to fish in the LLP/Limited Access fishery.

P3-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

P3-3. Cooperative Eligibility - Catcher Vessel Cooperatives

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 *pot gear Pacific cod* by area (Western Gulf, Central Gulf, West Yakutat) and region (North/South) during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.
- c) last 4 years prior to 2004

P3-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-75 percent of the eligible GH for each co-op associated with its processor
Applies to CVs for processor associated cooperatives, if less than 4 distinct and separate harvesters are available to associate with the processor.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

P3-5. Initial Cooperative Agreement Requirements

Catcher vessel co-ops may be formed by eligible harvesters (the co-op) subject to the terms and conditions of a co-op membership agreement. In order to receive an allocation of GH under this program, **an eligible harvester co-ops** must enter into a duly executed contractual agreement (Contract) with the processor the harvester is initially eligible to join a cooperative in associate with.

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 co-op (or transferring GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GH from the co-op). Compensation can take on any form agreed to by the ~~members~~ **eligible harvester** and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining co-op members and/or the associated processor.

Following the initial co-op period, new GH can be generated by eligible harvesters that have never been co-op members only by joining a co-op **and entering into a Contract with the processor the harvester is initially eligible to join a cooperative in association with. The Contract must meet the harvester/processor contract requirements for initial co-op membership** ~~a co-op in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial co-op.~~

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

Suggestions changes based on comments from NOAA GC.

P3-6. Duration of Initial Cooperative Agreements

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.

P3-7. Catcher Vessel - Cooperative/processor associations

Option 1: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the 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.)
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: If the processing facility with whom the harvester would be initially 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 (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.)
- iii. the licensed processor to whom the harvester delivered the second most pounds

CV cooperatives must be associated with an eligible processing facility
Processors can associate with more than one co-op.

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

The eligible processor is:

- 1) prior to satisfying an exit requirement, a processor that the harvester is initially eligible to associate with in a cooperative, and
- 2) after satisfaction of an exit requirement, any processor

P3-8. Cooperative Eligibility - Catcher Processor Cooperatives

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

P3-9. Cooperative Formation - Catcher Processor Cooperatives

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.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

P3-10. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH that meets the requirements of an initial cooperative agreement for exiting a cooperative may leave an initial cooperative and join a cooperative in association with any processor pursuant to a Contract that meets the requirements of rules governing cooperatives.

P3-11. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member.
- b) Except for CP cooperatives, a pre-season Contract between **an** eligible, willing harvesters in association with a processor is a pre-requisite to **cooperative membership and** a cooperative receiving an allocation of GQ **based on the history of that harvester**. For an initial co-op, the Contract must meet the initial cooperative agreement requirements.
- c) The co-op membership agreement and the Contract will be filed with the RAM Division. The **Contract cooperative agreement** must contain a fishing plan for the harvest of all co-op fish.
- d) Co-op members shall internally allocate and manage the co-op's allocation per the **Contract cooperative agreement**.
- e) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op to the extent permitted under the **cooperative agreement Contract**.
- f) The **cooperative agreement Contract** must have a monitoring program. 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 PSC mortality, as may be adjusted by inter-cooperative transfers.

- g) 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.
- h) **The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.** Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, **except as permitted by general antitrust law.**
- i) Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original **cooperative** agreement. Harvesters that have never been a member of a cooperative must enter an agreement that meets all requirements for an initial co-op, as specified under initial cooperative agreement requirements.
- j) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FMCA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.

Suggestions changes based on comments from NOAA GC.

P3-12. General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-cooperative transfers (leases) of GQ during and after the initial co-op 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 co-op formation period, members of a co-op may transfer GH to members of other co-ops.

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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

P3-13. Transfers by catcher processors

~~Transfers of GH or leases of GQ across CP gear types is~~

- a) ~~not permitted~~
- b) ~~permitted.~~

Provision is included at G-14.

P3-14. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

P3-15. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

P3-16. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited Access fishery.

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 LLP/Limited Access fishery.

P3-17. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 25% of total harvest by area *of pot gear Pacific cod*
- Option 2. 50% of total harvest by area *of pot gear Pacific cod*
- Option 3. 75% of total harvest by area *of pot gear Pacific cod*
- Option 4. no cap

Processors eligible to associate with an initial cooperative will be grandfathered.

Hook-and-Line Gear Alternatives

L-1. Transferability - Leasing

Alternative 2

- Option 1: Apply leasing limitation only outside of cooperatives
- Option 2: Apply leasing limitation inside and outside of cooperatives

Leasing of QS is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as "hired skipper" requirement in halibut/sablefish program.

For fixed gear catcher vessels

- 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).
 - Suboption: Allowing leasing by initial recipients of QS (grandfather clause)
- Option 2. Allow leasing of CV QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.
- Option 3. For individuals and entities with CV QS, no leasing restrictions for the first three years. After this grace period, leasing will be allowed in the following calendar year if the QS holder is on board or owns 20 percent or greater of a vessel on which 30 percent of the primary species shares held by the QS holder in at least 2 of the most recent 4 years were harvested.

For fixed gear catcher processors

Allow leasing of CP QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.

Alternative 3

Leasing of history is defined as the use of the resulting annual allocation by a person who is not the holder of the underlying history on any vessel and use of that annual allocation by an individual designated by the history holder on a vessel which the history holder owns less than 20% -- same as "hired skipper" requirement in halibut/sablefish program.

For fixed gear catcher vessels

- Option 1. No leasing of CV history (history holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the annual allocation).
Suboption: Allowing leasing by initial recipients of history (grandfather clause)
- Option 2. Allow leasing of CV history, but only to individuals and entities eligible to receive history by transfer.
- Option 3. For individuals and entities with CV history, no leasing restrictions for the first three years. After this grace period, leasing will be allowed in the following calendar year if the history holder is on board or owns 20 percent or greater of a vessel on which 30 percent of the primary species history held by the history holder in at least 2 of the most recent 4 years were harvested.

For fixed gear catcher processors

Allow leasing of CP history, but only to individuals and entities eligible to receive history by transfer.

The Council could decide the extent of any limits on catcher vessel leasing at this time.

Leasing prohibitions tend to be supported as a means of discouraging absentee ownership of interests in the fisheries. Leasing limitations require a share holder to either actively fish on a vessel or to own a portion of a vessel, making an investment in physical capital in the fishing industry. In considering whether to apply the above limitations on leasing, the Council should consider that cooperative members could be exempted from the leasing limitations (i.e., allowing free leasing to cooperative members). While the Council may wish to encourage cooperative membership by allowing free leasing in cooperatives, preventing any leasing by non-members of cooperatives may limit the effectiveness of any prohibition on leasing from serving any purpose other than encouraging cooperative membership. In considering selecting preferred options, the Council could apply different leasing provisions to different sectors (i.e., low producing fixed gear catcher vessels, high producing fixed gear catcher vessels, trawl catcher vessels).

Under alternatives 2C and 3, the Council should consider that vessel documentation requirements may prohibit some foreign owned processors from fishing any history held by the processor.

Under any of the alternatives, leasing requirements imposed on cooperative members could be monitored through requiring the cooperative to include compliance reporting in its annual report.

L-2. Share Use – Owner-on-board

Alternative 2

- Option 1: Apply owner-on-board requirements only outside of cooperatives
Option 2: Apply owner-on-board requirements inside and outside of cooperatives

For fixed gear catcher vessels

A range of 0-80% of the fixed gear quota shares initially issued to fishers/harvesters would be designated as "owner on board."

All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued quota shares.

In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of 3 years out of any 10 year period.

Alternative 3 contains no owner-on-board provision.

Owner-on-board requirements imposed on cooperative members could be monitored through requiring the cooperative to include compliance reporting in its annual report.

In the hardship exemption, the Council should clarify the exemption as being from owner on board requirements and leasing limitations (i.e., loss of vessel does not generally apply to owner on board).

The Council could consider selecting a preferred owner on board provision. In determining 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.

As with the leasing limitations discussed in L-1 above, the Council should consider that the provisions as drafted would apply only to cooperative members (suggesting that no owner-on-board requirement would apply to cooperative members). The Council should bear in mind that removing owner on board requirements for members of cooperatives may limit the effectiveness of owner-on-board provisions in achieving any purpose other than encouraging cooperative membership.

The Council could also apply different owner-on-board provisions to different sectors (i.e., low producing catcher vessels, high producing catcher vessels).

L-3. Excessive share caps – individual caps on use and holdings

Alternative 2

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):

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

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

Pacific cod by area and WGOA deep water flatfish

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 *area*.

Application of caps to intercooperative transfers

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.

CP QS/IFQ conversion to CV QS/IFQ

CP shares converted to CV shares will count toward CV caps

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

Alternative 3

History holdings of a co-op member shall be capped at:

- Option 1. 1% of the history *by area and primary species (Pacific cod and WGOA deep water flatfish)*
- Option 2. 5% of the history by *area and primary species*
- Option 3. 20% of the history *by area and primary species*
- Option 3 30% of the history *by area and primary species*
- Option 4 no cap

Allocations to original issues would be grandfathered at the original level of history.

The Council should specify whether this provision will be implemented using an individual and collective rule (similar to halibut and sablefish IFQ and crab rationalization) or a threshold rule (similar to the AFA).

CP history conversion to CV history

CP history and annual allocations converted to CV history and annual allocations will count toward CV caps

Caps will be applied to prohibit acquisition of history in excess of the cap. Conversion of CP history or annual allocations to CV history or annual allocations alone will not require a CP history holder or cooperative to divest CP history and annual allocations for exceeding CP caps.

Alternative 3 contains no provision to apply caps to intercooperative transfers.

Under both alternatives, the current cap provision applies only to primary species. The Council should assess whether secondary species caps should be applied. This may depend, in part, on the nature of those allocations (i.e., whether they are severable from the primary species allocations).

L-4. Excessive share caps – vessel use caps

Alternative 2

Individual vessel use cap

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

- i. 100%
- ii. 150%

- iii. 200%

the individual use cap for *each primary species and area*. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003, including transfers by contract entered into as of that date.

Cooperative vessel use cap

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

by primary species and area

Alternative 3

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

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

the individual use cap for *each primary species and area*. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003, including transfers by contract entered into as of that date.

L-5. Excessive share caps – vertical integration caps

Alternatives 2A High and 2B High

Harvest shares initial recipients with more than 10% limited threshold ownership by licensed processors are capped at 115-150% of initial allocation of harvest CV shares *by primary species and area*.

Alternative 2C

Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients.

To implement the alternative 2C provision for limiting processor holding of catcher vessel shares, the term “processor” will need to be defined.

Alternative 2A for Low Producing fixed gear vessels contains no explicit limit on processor share holdings. Two rationales for not limiting processor share holdings are possible. First, provisions incompatible with processor share holding (such as leasing prohibitions and owner-on-board) are adequate to prevent processor share holding. Second, since the program contains no processor protection, vertical integration limits are not necessary.

Alternative 3

Any processor holdings of history, using the 10% limited threshold rule, are capped at:

- Option 1. initial allocation of harvest CV and CP shares *by primary species and area*
- Option 2. 115%-150% of initial allocation of CV history *by primary species and area*
- Option 3. 115%-150% of initial allocation of CP history *by primary species and area*
- Option 4. no cap

L-6. Excessive share caps – cooperative use caps

Alternative 2

Set co-op use caps at 25 to 100% of total TAC by *primary species and area*

Alternative 3

Control of history or use of annual allocations by a co-op shall be capped at:

- Option 1. 15% *by primary species and area (Pacific cod and WGOA flatfish).*
- Option 2. 25% *by primary species and area*
- Option 3. 45% *by primary species and area*
- Option 4. no cap

L-7. Block Program

Alternative 2

Preserving entry level opportunities for Pacific cod

Each initial allocation of Pacific 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**~~

Eligible participants would be allowed to hold a maximum of:

- Option 1 1 block
- Option 2 2 blocks
- Option 3 4 blocks

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

The suboption exempting allocations to halibut and sablefish ITQ holders could be removed, since the allocations to participants in that program are addressed in a separate section of the motion.

L-8. Overage Provisions

Alternative 2

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.

- Option 1. Overage up to 10% of the last trip will be allowed with rollover provisions for underages up to 10% of harvest shares (or IFQ).

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

L-9. Retention of halibut out of season

Alternative 2

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.

L-10. Transferability – Eligibility to Receive

Alternative 2

Persons eligible to receive harvest history or shares by transfer must be:

For CP history/shares:

- 1) Entities eligible to document a vessel
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer

For CV history/shares:

- 1) Individuals eligible to document a vessel with at least 150 days of sea time
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer.

Definition of sea time:

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

Alternative 3

Persons qualified to receive history by transfer include:

- 1) processors that associate with initial cooperatives and
- 2)

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 history
Option 4.	individuals who are U.S. citizens.

Definition of sea time:

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

Alternative L2L – Hook-and-Line Gear Low Producer – IFQ/Cooperatives

Applies only to low producing fixed gear vessels
Low producing vessels are exempt from delivery requirements

L2L-1. Voluntary Cooperatives

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

L2L-2. Cooperative formation

Co-ops can be formed between holders of low producing fixed gear catcher vessel harvest shares in an area.

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2L-3. 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

Processors can associate with more than one co-op

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

L2L-4. Movement between cooperatives

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

L2L-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

L2L-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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 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.
- ***Co-op membership agreements will specify that 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

L2L-7. Regionalization

It should be clarified whether regionalization applies under this alternative.

Alternative L2HA – Hook-and-Line Gear High Producer - IFQ/Cooperatives with Processor License Limitation

Applies only to high producing fixed gear catcher vessels and fixed gear catcher processors

L2HA-1. Voluntary Cooperatives

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

L2HA-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producing fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

The Council should consider the effects on processor entry of requiring 4 distinct entities for cooperative formation. If penalties (such as PSC reductions) are imposed on persons that choose not to join a cooperative and cooperative formation requires 4 entities, it is possible that some processor entry could be discouraged. This issue could be addressed either by removing penalties intended to encourage cooperative membership or by reducing the threshold to cooperative formation. The need for penalties to encourage cooperative formation might be questioned, if cooperative fishing has intrinsic benefits.

L2HA-3. Cooperative/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

Processors can associate with more than one co-op

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

L2HA-4. Movement between cooperatives

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

L2HA-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

L2HA-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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-co-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.
- ***Co-op membership agreements will specify that 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

L2HA-7. Harvest Share Allocations – A share/B share allocations

If a processor limited entry alternative is chosen, CV primary species 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. 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.

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

L2HA-8. Provisions for Processor License Limitation

Apply processor provisions generally at the company level.

50-100% of CV harvest share allocation will be reserved for delivery to any licensed fixed gear processor

L2HA-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

Fixed gear

- Suboption 1. 500 mt
- Suboption 2. 200 mt
- Suboption 3. 50 mt

Trawl and fixed gear eligible processors

Processors that meet criteria for both the trawl processor license and fixed gear processor licenses will be issued a single trawl/fixed gear license

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

Under this alternative, licenses are allocated at the “company level. It is unclear whether a licensed processor would be limited in the number of plants that could be operated using single license. The Council should clarify whether any limitation on the number of plants that a company could operate would exist under this alternative.

L2HA-10. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

L2HA-11. Processing Use Caps

Processing caps by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed *by primary species and area* for the largest licensed processor

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

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

Processing caps apply at the entity level.

L2HA-12. License ownership restrictions on processors

Option 1. No restrictions

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

The Council could consider adopting provisions that limit licenses that a processor could hold. Although option 2 could be used to limit holding of fixed gear licenses by persons holding licenses endorsed for fixed and trawl gear, the Council should also consider whether to limit 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 this alternative, consolidating licenses would simply limit the number of processors competing for A share landings.

Alternative L2HB – Hook-and-Line Gear High Producer - IFQ/Cooperatives with Processor Linkages

Applies only to high producing fixed gear vessels and catcher processors

L2HB-1. Voluntary Cooperatives

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

L2HB-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producer fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2HB-3. 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
- c) a limited entry processing license holder to which the share holder's shares are linked

Processors can associate with more than one co-op

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

L2HB-4. Duration of cooperative agreements:

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

L2HB-5. Movement between cooperatives

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 |

L2HB-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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-co-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.
- ***Co-op membership agreements will specify that*** 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

L2HB-7. Harvest Share Allocations – A share/B share allocations

If a processor limited entry alternative is chosen, CV primary species harvest shares will be issued in two classes. Class A shares will be deliverable to a licensed processor ***to which the shares are linked***. Class B shares will be deliverable to any processor as authorized under this program. 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.

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

L2HB-8. Provisions for Processor License Limitation

Apply provisions generally at the facility (plant) level.

50-100% of CV harvest share allocation will be reserved for delivery to the linked licensed closed class fixed gear processor.

L2HB-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

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.

This may need to be by management area and region (instead of only region in the lead in).

L2HB-10. Linkage (Linkages apply by area)

A harvester's processor linked shares are associated with the licensed fixed gear processor to which the harvester delivered the most pounds of groundfish during the last ___ years of prior to 2004.

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

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

Option 1: If the processing facility with whom the harvester is associated is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: 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
- iii. the licensed processor to whom the harvester delivered the second most pounds

The Council could decide whether to choose option 1 or option 2 and which of the suboptions (i, ii, or iii) to select, if an option is chosen. 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). 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 intent of the processor linkage provision in general is 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 concerning processor associations. 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 this alternative. 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). The first choice is whether a harvester that would be associated with a processor that is no longer operating should have any processor association. The Council could choose either option 1 or 2 to first clarify whether any linkage would be established for harvesters that delivered a majority of catch to a processor that is no longer operating.

The choice between option 1 or 2 should be decided based on whether the Council believes that a transfer of processor history among processors (independent of a harvester) should be credited under the program. Under option 1, if a processor in the same community purchases the history of a defunct processor, the purchaser would receive any associations of the defunct facility. Under option 2, the associations would not transfer to the purchaser of the history.

The suboptions (i, ii, or iii) would be used to define the processors that a harvester may deliver to, if its associated processor is no longer in operation. In selecting an option the Council should clearly state whether an association will arise.

If the Council selects option i, the harvest shares could be delivered to any processor, if the associated processor discontinued operations. The Council could either allow the shares to be delivered freely to any processor thereafter or require a linkage to a processor selected by the harvester. This first approach could be applied, if the Council intended this alternative to establish a one-time linkage that would not be transferred to a second processor once severed (i.e., suboption C from L2HB-11 is consistent with the approach). 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 L2A. The second approach, which would create a linkage, could be applied to a system that establishes either a one-time linkage or a system of perpetual associations (i.e. suboptions A or B from L2HB-11) is consistent with the approach.

The Council could alternatively choose to limit the harvester to delivering to a processor within the community (suboption ii) or to the processor it delivered the second most pounds to (suboption iii). The provision that limits landings to the same community would be intended to ensure that the community benefits from the processing association even if a processing plant closes. Creating an association with the processor that the harvester delivered the second most pounds to would create a system that credits the processing plant with landings regardless of the potential loss to the community of the closed facility. The provision is not inconsistent with efforts that attempt to protect community interests with processing associations, since it would create an association with open processor facility that the harvester delivered the most pounds to. The community of that facility would receive the benefits of the association. These provisions would be consistent with either a system with a single association or a system with perpetual linkages (any of the suboptions under L2HB-11).

L2HB-11. Movement between linked processors

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

In the absence of consent, when a harvester moves from a linked processor, the harvesters shares are reduced 10% - 20% for a period of:

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

Suboptions:

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

The share reduction shall be redistributed to the shareholders associated with the processor that the shareholder left (if it continues to exist).

L2HB-12. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

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.

L2HB-13. License Transfers Among Processors

- Option 1. any 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, as would have been made in the absence of the transfer.
- Option 2. any share associated with the license will be free to associate with any licensed processor. Harvest share/history holders will be free to move among processors without share/history reduction.

L2HB-14. Processing Use Caps

Processing caps by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed *by primary species and area* for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies *by primary species and area* by 20%, 30%, or 50% of the number initially qualified processing companies

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

L2HB-15. License ownership restrictions on processors

- Option 1. No restrictions

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

The Council could consider adopting provisions that limit licenses that a processor could hold. Although option 2 could be used to limit holding of fixed gear licenses by persons holding licenses endorsed for fixed and trawl gear, the Council should also consider whether to limit 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 this alternative, consolidation of licenses could effectively limit competition. Given that the Council has included processor linkages as a means of protecting 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.

Alternative L2C – Hook-and-Line IFQ/Cooperatives with Harvest Share Allocations to Processors

Applies to all fixed gear vessels

L2C-1. Voluntary Cooperatives

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

L2C-2. Cooperative formation

Co-ops can be formed between

- 1) holders of fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2C-3. 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 (i.e., CVP holder)

Processors can associate with more than one co-op

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

L2C-4. Movement between cooperatives

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

L2C-5. Duration of cooperative agreements

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

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

L2C-6. Rules Governing Cooperatives

- Annual allocations of cooperative members would be issued to 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 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.
- ***Co-op membership agreements will specify that 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.
- ***The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.***

Suggestions changes based on comments from NOAA GC.

L2C-7. Processor Eligibility

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.	1995-2001
Option 2.	1995-2002
Option 3.	1998-2003
Option 4.	2000-2004
Option 5.	1995-2003

Eligible Processors – minimum annual processing

Suboption 1.	2000 mt
Suboption 2.	1000 mt
Suboption 3.	500 mt

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

Operator – must hold a federal or state processor permit.

Custom processing history would be credited to the processor that purchased the fish as indicated on the fish ticket and paid for processing

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.

L2C-8. Processor Allocations

Up to 30% of CV QS 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 used to determine processor eligibility. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

L2C-9. CVP Transferability

CVP is transferable between eligible CV holders and /or processors.

CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer.

L2C-10. CVP Use

CVP shares may be fished on any catcher vessel and subject to existing share designations (i.e., gear and vessel type) and existing vessel use caps.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

L2C-11. CVP Caps on Use and Holdings

Caps of CVP will apply at the company level *by primary species and 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.

L2C-12. Limit on Vertical Integration

No processors (and processor affiliates using the 10% rule) may own or control CV quota shares (other than CVP). CVP initially issued to processor affiliates will be grandfathered.

L2C-13. CVP Regionalization

CVP shares will be regionalized.

The method for regionalization should be specified. CVP could be regionalized based on the location of processing that led to the allocation.

Alternative L3L1 – Hook-and-Line Gear Low Producer – Sector Allocation with Limited Access Fishery

Applies to low producing fixed gear vessels.

Exclude from co-op program, provide sector allocation and continue as an LLP fishery.
The sector allocation would be defined by G-6, G-7, and G-8.

Alternative L3L2 – Hook-and-Line Gear Low Producer – Cooperatives/Limited Access

Applies to all fixed gear vessels - Applies all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

L3L2-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters. Harvesters may elect not to join a cooperative, and continue to fish in the LLP/Limited Access fishery.

L3L2-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

L3L2-3. Cooperative Eligibility - Catcher Vessel Cooperatives

Catcher vessel co-ops may be established within sectors between eligible harvesters.

L3L2-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. Any number of eligible harvesters within the sector (allows single person co-op)

L3L2-5. Initial Cooperative Agreement Requirements

Catcher vessel co-ops may be formed by eligible harvesters (the co-op) subject to the terms and conditions of a co-op membership agreement.

L3L2-6. Duration of Initial Cooperative Agreements

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.

L3L2-7. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH may leave an initial cooperative and join another cooperative.

L3L2-8. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op.
- b) The co-op membership agreement will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all co-op fish.
- c) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- d) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op ~~to the extent permitted under the Contract.~~

Under this alternative, no processor contract is required.

- e) The cooperative agreement must have a monitoring program. 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 PSC mortality, as may be adjusted by inter-cooperative transfers.
- f) 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.
- g) **The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.** Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, **except as permitted by general antitrust law.**
- h) Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original agreement.

Suggestions changes based on comments from NOAA GC.

L3L2-9. General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-cooperative transfers (leases) of GQ during and after the initial co-op 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 co-op formation period, members of a co-op may transfer GH to members of other co-ops.

All transfers will be subject to such terms and conditions as may be specified in the applicable cooperative agreement 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

L3L2-10. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

L3L2-11. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

L3L2-12. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited Access fishery.

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 LLP/Limited Access fishery.

L3L2-13. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

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

Processors eligible to associate with an initial cooperative will be grandfathered.

Alternative L3 – Hook-and-Line Gear Cooperatives/Limited Access with Processors Associations

Applies to all fixed gear vessels (catcher vessels and catcher processors)

L3-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters in association with processors. Harvesters may elect not to join a cooperatives, and continue to fish in the LLP/Limited Access fishery.

L3-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

L3-3. Cooperative Eligibility - Catcher Vessel Cooperatives

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 by area (Western Gulf, Central Gulf, West Yakutat) and region (North/South) during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.
- c) last 4 years prior to 2004

Provisions applied to a, b, and c:

For the following species groups:

- Pacific cod
- Western GOA deep water flatfish

L3-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-75 percent of the eligible GH for each co-op associated with its processor
Applies to CVs for processor associated cooperatives, if less than 4 distinct and separate harvesters are available to associate with the processor.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

The Council could consider selecting cooperative formation thresholds for the alternatives at this meeting. For all sectors, harvesters can access Gulf History only by joining a cooperative. Limiting harvesters' access to the rationalized fishery through cooperative membership should raise concern that the cooperative formation rules and agreements may provide undue negotiating leverage to some participants. In addition, if the Council should choose to reduce PSC allocations to the limited access fishery for non-members of a cooperative, it would be possible for members of a cooperative to assert greater negotiating leverage over non-members. Rules that require a majority 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. This leverage could be used to distributions from cooperative harvests, which could redistribute benefits of share holdings under the program.

Allowing each harvester to be eligible to join more than one cooperative should limit the ability of harvesters to use cooperative rules to obtain undue negotiating leverage over one another. For example, a provision that requires 50 percent of eligible shares to form a cooperative would create a system in which holders of a majority of shares 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.

L3-5. Initial Cooperative Agreement Requirements

Catcher vessel co-ops may be formed by eligible harvesters (the co-op) subject to the terms and conditions of a co-op membership agreement. In order to receive an allocation of GH under this program, **an eligible harvester co-ops** must enter into a duly executed contractual agreement (Contract) with the processor the harvester is initially eligible to join a cooperative in associate with.

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 co-op (or transferring GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GH from the co-op). Compensation can take on any form agreed to by the **members eligible harvester** and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining co-op members and/or the associated processor.

Following the initial co-op period, new GH can be generated by eligible harvesters that have never been co-op members only by joining a co-op **and entering into a Contract with the processor the harvester is initially eligible to join a cooperative in association with. The Contract must meet the harvester/processor contract requirements for initial co-op membership** ~~a co-op in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial co-op.~~

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

Suggestions changes based on comments from NOAA GC.

L3-6. Duration of Initial Cooperative Agreements

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.

L3-7. Catcher Vessel - Cooperative/processor associations

Option 1: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the 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.)
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: If the processing facility with whom the harvester would be initially 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 (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.)
- iv. the licensed processor to whom the harvester delivered the second most pounds

CV cooperatives must be associated with an eligible processing facility
Processors can associate with more than one co-op.

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

The eligible processor is:

- 1) prior to satisfying an exit requirement, a processor that the harvester is initially eligible to associate with in a cooperative, and
- 2) after satisfaction of an exit requirement, any processor

The Council could decide whether either of the above options will be incorporated into this alternative. Both provide for processor/cooperative associations in the event a processor is no longer operating. The first could be adopted, if the Council wished to acknowledge transfers of history, while the second does not acknowledge transfers.

Under the either option, the first provision (i) would allow harvesters eligible for a cooperative with the closed processor to join a cooperative with any other processor. The first option may be favored, if the specific harvester-processor relationship is intended to be protected by the association and other associations are not relevant to the Council's purpose in establishing this element of the program. If a community interest is intended to be protected, the second option (ii) could be favored, which requires the harvester to join a cooperative that is associated with a processor in the community. The third provision (iii) would require the harvester to join a cooperative in association with the processor that the harvester delivered the second most landings to.

L3-8. Cooperative Eligibility - Catcher Processor Cooperatives

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

L3-9. Cooperative Formation - Catcher Processor Cooperatives

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.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

The Council could consider selecting cooperative formation thresholds for the alternatives at this meeting. For all sectors, harvesters can access Gulf History only by joining a cooperative. Limiting harvesters' access to the rationalized fishery through cooperative membership should raise concern that the cooperative formation rules and agreements may provide undue negotiating leverage to some participants. In addition, if the Council should choose to reduce PSC allocations to the limited access fishery for non-members of a cooperative, it would be possible for members of a cooperative to assert greater negotiating leverage over non-members. Rules that require a majority 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. This leverage could be used to distributions from cooperative harvests, which could redistribute benefits of share holdings under the program.

Allowing each harvester to be eligible to join more than one cooperative should limit the ability of harvesters to use cooperative rules to obtain undue negotiating leverage over one another. For example, a provision that requires 50 percent of eligible shares to form a cooperative would create a system in which holders of a majority of shares 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.

L3-10. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH that meets the requirements of an initial cooperative agreement for exiting a cooperative may leave an initial cooperative and join a cooperative in association with any processor pursuant to a Contract that meets the requirements of rules governing cooperatives.

L3-11. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member.
- b) Except for CP cooperatives, a pre-season Contract between **an** eligible, willing harvesters in association with a processor is a pre-requisite to **cooperative membership and** a cooperative receiving an allocation of GQ **based on the history of that harvester**. For an initial co-op, the Contract must meet the initial cooperative agreement requirements.
- c) The co-op membership agreement and the Contract will be filed with the RAM Division. The **Contract cooperative agreement** must contain a fishing plan for the harvest of all co-op fish.
- d) Co-op members shall internally allocate and manage the co-op's allocation per the **Contract cooperative agreement**.
- e) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op to the extent permitted under the **cooperative agreement Contract**.
- f) The **cooperative agreement Contract** must have a monitoring program. 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 PSC mortality, as may be adjusted by inter-cooperative transfers.
- g) 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.
- h) **The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.** Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, **except as permitted by general antitrust law**.
- i) Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original **cooperative** agreement. Harvesters that have

never been a member of a cooperative must enter an agreement that meets all requirements for an initial co-op, as specified under initial cooperative agreement requirements.

- j) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FMCA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.

Suggestions changes based on comments from NOAA GC.

L3-12. General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-cooperative transfers (leases) of GQ during and after the initial co-op 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 co-op formation period, members of a co-op may transfer GH to members of other co-ops.

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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

L3-13. Transfers by catcher processors

~~Transfers of GH or leases of GQ across CP gear types is~~

- ~~a) — not permitted~~
- ~~b) — permitted.~~

Provision is included at G-14

L3-14. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels in U.S. fisheries.

L3-15. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

L3-16. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary

and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited Access fishery.

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 LLP/Limited Access fishery.

L3-17. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

Option 1. 25% of total harvest *by primary species and area*

Option 2. 50% of total harvest *by primary species and area*

Option 3. 75% of total harvest *by primary species and area*

Option 4. no cap

Processors eligible to associate with an initial cooperative will be grandfathered.

Jig Gear Alternatives

Alternative J2 – Jig Sector Allocation – Open Access

Jig Sector receives sector allocation and is prosecuted as an open access fishery.
(G-9 identifies the sector allocation)

The Council should note that the jig fishery is currently a limited access fishery under the LLP, with only vessels that do not exceed 26 feet exempt from the LLP requirement.

Alternative J3A – Jig Sector Allocation

Option for jig sector: jig sectors would be exempt from co-op provisions.
(G-9 identifies the sector allocation)

The Council should clarify whether this provision is intended institute an open fishery or continue the current limited access management.

The Council should note that the jig fishery is currently a limited access fishery under the LLP, with only vessels that do not exceed 26 feet exempt from the LLP requirement.

Alternative J3B – Cooperatives/Limited Access with Processors Associations

The provisions applicable to the fixed gear low producing catcher vessels could be used to develop this alternative, if the Council wished to pursue this alternative.

Provisions relating to the IFQ halibut/sablefish fishery and Southeast Outside

IFQ provisions

IFQ-1. Management areas

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

IFQ-2. Primary species

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.

IFQ-3. Secondary species

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.

IFQ-4. 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.

Southeast Outside provisions

SEO-1. Secondary Species

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

SEO-2. Management provisions for secondary species

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