

Draft

Amendment 80 – Council Motion (Final Action) – June 10, 2006

The Council adopts the following components and options for analysis as a Preferred Alternative:

Issue 1: Sector Allocation of BSAI Non-Pollock Groundfish to the Non-AFA Trawl Catcher Processor Sector and CDQ Program

Component 1 Allocate only the following primary target species to the Non-AFA Trawl CP sector: yellowfin sole, rock sole, flathead sole, Atka mackerel, and Aleutian Islands Pacific Ocean perch. Species could be added or deleted through an amendment process.

Component 2 CDQ allocations for each primary target (Component 1) species in the program shall be removed from the TACs prior to allocation to sectors at percentage amounts equal to 10%

For Amendment 80 species, the reserves would be set at 10% of the TAC and all would be allocated to the CDQ reserves.

CDQ allocations for secondary groundfish species (except Pacific cod) taken incidental in the primary trawl target fisheries shall be removed from the TACs prior to allocation to sectors at percentage amounts equal to 10%.

Component 3 Identifies the sector allocation calculation (after deductions for CDQs, ICAs, and other existing fishery allocations, i.e., Atka mackerel jig) for the Non-AFA Trawl CP sector. The remaining portion of the primary species TAC included in this program would be allocated to the BSAI trawl limited access fishery.

For purpose of allocation to the Non-AFA Trawl CP sector, each primary species allocation is:

Yellowfin Sole	<u>ITAC (mt)</u>	<u>H&G/Limited Access</u>
	< = 87,500	93% / 7%
	87,500 – 95,000	87.5% / 12.5%
	95,000 – 102,500	82% / 18%
	102,500 – 110,000	76.5% / 23.5%
	110,000 – 117,500	71% / 29%
	117,500 – 125,000	65.5% / 34.5%
	>125,000	60% / 40%

AFA Yellowfin sole sideboards are removed when the Yellowfin sole ITAC is 125,000 mt or greater.

Rock Sole 100%

Flathead Sole 100%

Atka Mackerel 98% in 541/EBS and 542, in the first year of the program, decreasing by 2% increments over 4-yr period to 90%. 100% in 543.

AI POP 95% in 541 and 542 in the first year of the program, decreasing to 90% in the second year of the program. 98% in 543.

Allocations would be managed as a hard cap for the H&G sector, and for the Non H&G sector, an ICA would be taken off the top to accommodate incidental bycatch by the non-H&G sector. AFA vessel sideboard amounts will be determined after CDQ reserve amounts are deducted from TAC.

Legal landing means, for the purpose of initial allocation of QS, fish harvested during the qualifying years specified and landed in compliance with state and federal permitting, landing, and reporting regulations in effect at the time of the landing. Legal landings exclude any test fishing, fishing conducted under an experimental, exploratory, or scientific activity permit or the fishery conducted under the Western Alaska CDQ program.

Target species, PSC, and ICA rollover: any unharvested portion of the Amendment 80 target species or unharvested portion of PSC or ICA in the limited access fishery that is projected to remain unused shall be rolled over to vessels that are members of Amendment 80 cooperatives.

Any roll over of halibut PSC to the Non-AFA Trawl CP sector shall be discounted by 5%. That is, if 100 mt of halibut is available for roll over, then 95 mt of halibut would be re-allocated to the Non-AFA Trawl CP sector. Once the initial allocation has been determined, the Non-AFA Trawl CP sector may re-allocate the PSC among the target species.

NMFS shall perform a review on or before May 1 and August 1 each year, and at such other times after August 1 as it deems appropriate. In making its determination, NMFS shall consider current catch and PSC usage, historic catch and PSC usage, harvest capacity and stated harvest intent, as well as other relevant information.

Component 4 Elements of Component 4 were integrated in Component 3 with selection of percentages.

Issue 2: PSC Allowance for the Non-AFA Trawl Catcher Processor Sector and the CDQ Program

Component 5 Increase PSQ reserves allocated to the CDQ program (except herring, halibut, and Chinook salmon) to levels proportional to the CDQ allocation of primary species under Component 2.

Component 6 PSC allowances of halibut and crab to the Non-AFA Trawl CP Sector. The halibut and crab PSC levels shall be reviewed by the Council during the fifth year of the program and adjusted as necessary (through the normal amendment process).

Halibut PSC

BSAI Trawl limited access sector: 875 mt

Non-AFA Trawl CP sector: 2525 mt initial allocation with a 50 mt reduction in the second, third, fourth and fifth year after program implementation. In the sixth year and subsequent years, the allocation would be 2325mt unless adjusted. In the third year only, the 50 mt reduction would be reallocation to the CDQ/PSQ reserve program.

Crab PSC

Allocation of crab PSC to the non-AFA Trawl CP sector shall be based on the % of historic usage of crab PSC in all groundfish fisheries from 2000-2002 for red king crab (62.48%) and from 1995 to 2002 for opilio (61.44%) and bairdi (zone 1: 52.64% and zone 2: 29.59%) (resulting percentages are reported in the far right column in Table 3-43 May 5, 2006 EA/RIR/IRFA). The initial allocation will be reduced by 5% per year starting in the second year until the Non-AFA Trawl CP sector is at 80% of their initial allocation. Trawl limited access sectors shall receive an allowance of the sum of the combined AFA CV/CP sideboards. (Note – basing usage on a % of annual PSC limits, results in a calculation that is crab abundance based.)

If Amendment 85 is implemented prior to Amendment 80, the Non-AFA Trawl CP sector would receive an allocation of PSC in accordance with Amendment 85. Upon implementation of Amendment 80, no allocation of PSC will be made to the Non-AFA Trawl CP sector under Amendment 85.

Issue 3: Cooperative Development for the Non-AFA Trawl Catcher Processor Sector

Component 7 The BSAI non-pollock groundfish CP buyback legislation establishes the vessels eligible to participate as a catcher processor in the BSAI non-pollock groundfish fisheries. The members of the Non-AFA Trawl Catcher Processor subsector are defined as the owner of each trawl CP:

- a.) that is not an AFA Trawl CP
- b.) to whom a valid LLP license that is endorsed for BSAI Trawl CP fishing activity has been issued; and
- c.) that the Secretary determines who has harvested with trawl gear and processed not less than a total of 150 mt of non-pollock groundfish during the period January 1, 1997 – through December 31, 2002.

This definition establishes the vessels that can participate in the Amendment 80 program.

Restrict LLPs that are used for eligibility in Amendment 80 (either to be included in the Non-AFA CP sector or to be used in Amendment 80 cooperative formation) from being used outside of the Amendment 80 sector, except that any eligible vessel which is authorized to fish Pollock under the AFA would still be authorized to fish under the statute.

Only history from eligible vessels will be credited in the program. The catch history credited to an eligible vessel will be catch history of that vessel. The catch history credited to an eligible vessel for the first license assigned to that vessel will only be the catch history of the eligible vessel. In the event of the actual total loss or constructive total loss of a vessel, or permanent inability of a vessel to be used in the Program as documented by the vessel owner and NMFS either before or after the qualifying period, the vessel owner may transfer the catch history of the vessel that meets the non-AFA and catch criteria of Component 7 from that vessel to the LLP license that was originally issued for that vessel. Any such license assigned to an eligible vessel will be credited with the catch history during the Component 10 period of the eligible non-AFA trawl CP from which the license arose, except that no history can be assigned to more than one vessel at a given time. Once the catch history has been assigned to the license, that license must be used on an eligible Non-AFA Trawl CP vessel.

Component 8 Component 8 establishes the number of vessels required before the cooperative is allowed to operate. No later than November 1 of each year, an application must be filed with NOAA fisheries by the cooperative with a membership list for the year.

In order to operate as a cooperative, membership must be comprised of at least three separate entities (using the 10% AFA rule) and must be:

- Option 8.2 At least 30% of the eligible vessels, including LLP licenses with associated catch history for an eligible vessel that has been transferred to that LLP license under Component 7.

Component 9 Determines the method of allocation of PSC limits and groundfish between the cooperative and eligible Non-AFA Trawl CP participants who elect not to be in a cooperative.

- Option 9.1 Catch history is based on total catch

Assign PSC within the sector to allocated target species and Pacific cod based on the average use of PSC in each target species from the years 1998-2004, expressed as a percent of the total PSC allocation to the sector.

Each eligible vessel will then receive an allocation percent of PSC for catch of allocated target species and Pacific cod equal to its proportion of the catch history of the allocated fishery.

This PSC allocation will not change from year to year (i.e., will not fluctuate annually with the TAC).

Component 10 Determines which years of catch history are used for establishing cooperative allocations. The allocation of groundfish between the cooperative and those eligible participants who elect not to join a cooperative is proportional to the catch history of groundfish of the eligible license holders included in each pool. Applicable PSC limits are allocated between the cooperative and non-cooperative pool in same proportions as those species that have associated PSC limits. The catch history as determined by the option selected under this component would be indicated on the Sector Eligibility Endorsement, which indicates the license holder's membership in the Non-AFA Trawl CP sector. The aggregate histories would then be applied to the cooperative and the non-cooperative pool.

Notwithstanding the qualifying history of the vessel, a qualified vessel that has not fished after 1997 will receive an allocation under the program of no less than:

0.5 percent of the yellowfin sole catch history

0.5 percent of the rock sole catch history

0.1 percent of the flathead sole catch history

For all other qualified vessels, the allocation will be based on 1998 – 2004, but each vessel drops its two lowest annual catches by species during this period.

For AI POP, all vessels will receive their allocation equally in 541, 542 and 543.

Each vessel will receive its historic share of the sector's Atka mackerel allocation based on component 10 (all areas combined). Vessels less than 200' in length having less than 2% of the sector's Atka mackerel history ("Non-mackerel vessels") will receive their allocation distributed by area according to each individual vessel's catch distribution during the component 10 years. The remainder of EBS/541, 542 and 543 sector allocation after "Non-mackerel vessels" have been removed will be allocated to vessels that are greater than 200' in length or have more than 2% of the sector's Atka mackerel allocation ("mackerel vessels"). Mackerel vessels will receive their respective percentages (adjusted to 100%) equally in each area.

In the event that the Non-AFA Trawl CP sector receives an exclusive allocation of Pacific cod, that allocation will be divided between cooperatives and the sector's limited access fishery in the same manner (and based on the same history) as the division of the other allocated species within the sector.

Component 11 Determines if excessive share limits are established in the Non-AFA Trawl CP sector.

Option 11.2 Consolidation in the Non-AFA Trawl Catcher Processor sector is limited such that no single person (using the individual and collective rule) can hold catch history more than a fixed percentage of the overall sector apportionment history. The cap would be applied on an aggregate basis at 30%, of the sector's allocation).

Suboption 11.2.2 Persons (individuals or entities) that exceed the cap in the initial allocation would be grandfathered based on catch history held at the time of final Council action.

Option 11.3 No vessel shall harvest more than 20% of the entire Non-AFA Trawl CP sector allocation.

Suboption 11.3.1 Vessels that are initially allocated a percentage of the sector allocation that is greater than the vessel use cap shall be grandfathered at

their initial allocation based on catch history held at the time of final Council action.

If a buyback program proceeds, any person or vessel that exceeds a cap due to the buyback removing catch history would be grandfathered in at that new level.

Component 12 Establishes measures to maintain relative amounts of non-allocated species until such time that fisheries for these species are further rationalized in a manner that would supersede a need for these sideboard provisions. Sideboards shall apply to eligible licenses and associated vessels from which the catch history arose.

Option 12.3 In the BSAI, Pacific cod will be managed under existing sector apportionments, with rollovers, until new Pacific cod sector allocations are implemented. Pacific cod will be allocated between the cooperative and non-cooperative sub-sectors based on the same formula as Component 10.

In the BSAI, management of unallocated species should remain status quo.

Option 12.4 GOA sideboard provisions

Sideboard provisions for Amendment 80 qualified non-AFA trawl CP sector with valid GOA LLP with appropriate area endorsements are as follows:

Suboption 12.4.1 Vessels associated with LLPs that have Gulf weekly participation of greater than 10 weeks in the flatfish fishery during the years defined in Component 10 will be eligible to participate in the GOA flatfish fisheries.

Suboption 12.4.2 Non-AFA trawl CP vessel(s) that fished 80% of their weeks in the GOA flatfish fisheries from January 1, 2000 through December 31, 2003 will be exempt from GOA halibut sideboards in the GOA. Vessel(s) exempted from Amendment 80 halibut sideboards in the GOA and may participate fully in the GOA open-access flatfish fisheries. Vessel(s) will be prohibited from directed fishing for all other sideboarded species in the GOA (rockfish, Pacific cod, and Pollock). The history of this vessel will not contribute to the Non-AFA Trawl CP sideboards and its catch will not be subtracted from these sideboards.

Suboption 12.4.2.1 Vessel(s) exempted from Amendment 80 GOA sideboards may lease their BSAI Amendment 80 history.

Suboption 12.4.3 Gulf-wide halibut sideboards for the deep and shallow complex fisheries would be established by season based on the actual usage of the Amendment 80 qualified non-AFA trawl sector for the years defined in Component 10. That calculation results in the following percentages, less the percentage attributed to GOA PSC sideboard exempt vessel:

GOA Halibut PSC Sideboard Limits for Non-AFA Trawl CP Sector (as percent of GOA total sideboard limit, ie, 2,000mt in 2006)						
	Season 1	Season 2	Season 3	Season 4	Season 5	Total
Deep Water Trawl Fisheries	2.84%	11.92%	11.60%	n/a	Combined w/shallow water	26.36
Shallow Water Trawl	0.85%	1.92%	2.06%	1.73%	5.15%	11.71%

Fisheries						
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Note: The F/V Golden Fleece data still needs to be deducted from the above table.

- Suboption 12.4.4 GOA Pollock, Pacific cod, and directed rockfish species (POP, NR and PSR) sideboards for the Amendment 80 qualified non-AFA trawl CP sector would be established using the years defined in Component 10, where catch is defined as retained catch by Gulf area as a percentage of total retained catch of all sectors in that area.
- Suboption 12.4.5 While the CGOA rockfish demonstration program is in place, the CGOA rockfish demonstration program takes precedence. The demonstration program would remove the need for catch sideboards for the CGOA directed rockfish species. The Amendment 80 CPs deep halibut mortality sideboard cap for the 3rd seasonal allowance (in July) will be revised by the amount of the deep complex halibut mortality allocated to the rockfish demonstration program for the Amendment 80 qualified non-AFA trawl CP sector while the demonstration program is in effect.
- Suboption 12.4.6 Sideboards apply to vessels (actual boats) and LLPs used to generate harvest shares that resulted in allocating a percentage of the Amendment 80 species TACs to the non-AFA trawl CP sector. The intent is to prevent double-dipping with respect to GOA history related to sideboards.
- Suboption 12.4.7 On completion of a comprehensive rationalization program in the GOA, any sideboards from the BSAI Amendment 80 plan amendment will be superseded by the allocations in the GOA rationalization program.
- Suboption 12.4.8 GOA PSC and groundfish sideboard limits will be established. An aggregate sideboard limit for each sideboarded species will be established for all vessels subject to sideboards

Other Elements of Amendment 80

This section provides additional specifics and elements for the Non-AFA Trawl CP cooperative program. These specifics and elements are common for any cooperative program that might be developed.

- The cooperative program developed in Amendment 80 would not supersede pollock and Pacific cod IR/IU programs.
- The Groundfish Retention Standards (GRS) (Amendment 79) would be applied to the cooperative as an aggregate on an annual basis and on those vessels who did not join a cooperative as individuals.
- Non-AFA Trawl CP sector participants that did not elect to join a cooperative would be subject to all current regulations including all restrictions of the LLP and the GRS if approved.
- All qualified license holders participating in the fisheries of the Non-AFA Trawl CP sector for Amendment 80 species would need to have trawl and catcher processor endorsements with general licenses for BSAI and the additional sector eligibility endorsement. Length limits within the license would also be enforced such that any replacement vessel entering the fishery would not exceed the Maximum Length Overall (MLOA) specified on the license.
- Permanent transfers of an eligible vessel, its associated catch history, and its permit would be allowed. Eligible vessels, their associated catch history, and a sector eligibility endorsement would not be separable or divisible. In the event of the actual total loss or constructive total loss of a vessel, or

permanent inability of a vessel to be used in the Program, catch history would be attached to the license that arose from the vessel and would not be separable or divisible. All transfers must be reported to NOAA fisheries in order to track who owns the sector eligibility permit and harvest privileges of a vessel. The purchaser must be eligible to own a fishing vessel under MarAd regulations or any person who is currently eligible to own a vessel.

- Annual allocations to the cooperative will be transferable among Non-AFA Trawl CP cooperative members. Such transfers will not need NOAA Fisheries approval.
- Annual allocations to the cooperative will be transferable among Non-AFA Trawl CP cooperatives. Inter-cooperative transfers must be approved by NOAA Fisheries.
- Any non-trawl or non-BSAI catches by qualified license holders that are considered part of the Non-AFA Trawl CP sector will not be included in the defined cooperative program. In addition, these non-trawl or non-BSAI catches allocated to the Non-AFA Trawl CP sector would not necessarily be excluded from other rationalization programs.
- Catch history used for allocation and eligibility purposes will be legal and documented catch.
- Disposition of groundfish species not allocated to the Non-AFA Trawl CP sector will not change as a result of the cooperative program developed in Amendment 80.
- Bycatch limits for non-specified species or marine resources would not be established. However, if the Council deems that bycatch is unreasonable, specific regulations to minimize impacts would be considered.
- AFA halibut PSC Sideboard limits will be fixed at the 2006/2007 level. (The intent is to fix the AFA halibut sideboard amounts, in metric tons, at the level listed in the 2006/2007 NMFS reports).
- The allocation of halibut PSC between the AFA trawl CP and trawl CV sector under Amendment 85 will incorporate the reallocation of halibut PSC to the Amendment 80 sector.
- The cooperative(s) would need to show evidence of binding private contracts and remedies for violations of contractual agreements would need to be provided to NOAA Fisheries. The cooperative would need to demonstrate adequate mechanism for monitoring and reporting prohibited species and groundfish catch. Participants in the cooperative would need to agree to abide by all cooperative rules and requirements.
- Specific requirements for reporting, monitoring and enforcement, and observer protocols will be developed in regulations for participants in the Non-AFA Trawl CP sector. These monitoring and enforcement provisions are described in Section 3.3.7 of the April 2006 EA/RIR/IRFA. Revisions to 3.3.7 have been described in March 27, 2006 letter from NMFS to the Council. Modifications to the monitoring and enforcement requirements described in the current version of the EA/RIR/IRFA necessary to accommodate changes in GOA sideboard provisions, or other issues, will be incorporated in the Secretarial review draft of the EA/RIR/IRFA.
- A socioeconomic data collection program as described in section 3.2.12.15 of the May 5, 2006 draft EA/RIR/IRFA for Amendment 80 will be implemented for the non-AFA trawl CP sector. The program will collect economic data from the non-AFA trawl CP sector similar to the types of cost, revenue, ownership, and employment data included in the draft Cost, Earnings and Employment Survey in Appendix 3 of the May 5, 2006, draft EA/RIR/IRFA prepared for Amendment 80. Data will be collected on a periodic basis.

The purpose of the data collection program is to understand the economic effects of the Amendment 80 program on vessels or entities regulated by this action, and to inform future management actions. The data is needed to assess whether Amendment 80 addresses some goals in the problem statement to mitigate, to some degree, the costs associated with bycatch reduction. Data will be used by Council and agency staff, recognizing that confidentiality is of extreme importance.

Economic data collected under this program include employment data by vessel collected to determine the labor amounts and costs for the sector. In addition, revenue and cost data by vessel will be collected to evaluate trends in returns to the sector that may be compared with elements of the Amendment 80 program, such as bycatch reduction measures.

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