

MINUTES
131st Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
February 4-8, 1998

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North Pacific Fishery Management Council

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Certified Richard B. Lauber
Richard B. Lauber, Chairman

Date April 27, 1998

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**131st Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
February 4-8, 1998
Hilton Hotel
Anchorage, Alaska**

The North Pacific Fishery Management Council met jointly with the Alaska Board of Fisheries on February 3, 1998, at the Anchorage, Hilton Hotel. Summary minutes of that meeting have been prepared separately. The Council met in plenary session February 4-8, 1998, also at the Hilton Hotel. The Scientific and Statistical Committee met February 2-4, and the Advisory Panel met February 2-5, at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Richard Lauber, Chairman
Dennis Austin for Bern Shanks
RADM Cross/CAPT Vince O'Shea
Linda Behnken
David Fluharty
Dave Hanson
Joe Kyle

Walter Pereyra, Vice Chair
Bob Mace for J. Greer
Kevin O'Leary
Steve Pennoyer
H. Robin Samuelson, Jr.
Dave Benton for Frank Rue

NPFMC Staff

Clarence Pautzke, Executive Director
Jane DiCosimo
David Witherell
Darrell Brannan

Chris Oliver, Deputy Director
Helen Allen
Gail Bendixen
Linda Roberts

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Support Staff

Lisa Lindeman, NOAA-GCAK
Earl Krygier, ADFG
Sue Salvesson, NMFS-AKR
Jay Ginter, NMFS-AKR
John Lepore, NMFS-AKR
Lowell Fritz, NMFS-AFSC
Sarah Gaichas, NMFS-AFSC

Steve Meyer, NMFS Enforcement
Phil Smith, NMFS-RAM Division
Kent Lind, NMFS-AKR
Cindy Hartmann, NMFS-AKR
Lauren Smoker, NOAA-GCAK
Galen Tromble, NMFS-AKR
Tom Ragen, NMFS-AKR
Rich Ferrero, NMFS-NMML

Scientific and Statistical Committee

Richard Marasco, Chair
Keith Criddle
Phil Rigby for Doug Eggers
Sue Hills
Dan Kimura for Jim Balsiger

Doug Larson
Seth Macinko
Jack Tagart, Vice Chair
Terry Quinn
Hal Weeks

Advisory Panel

John Bruce, Chair
Ragnar Alstrom
Dave Benson
Tim Blott
Al Burch
Craig Cross
Dan Falvey
Kris Fanning

Stephanie Madsen, Vice Chair
Dave Fraser
Arne Fuglvog
Steve Ganey
Justine Gundersen
John Henderschedt
Spike Jones
John Lewis

Hazel Nelson
Dean Paddock
Jeff Stephan
Teresa Turk
Robert Ward
Lyle Yeck
Grant Yutrzenka

Other Attendees

The following people signed the attendance register:

Doug DeHart
Bob Henricks
Garry Loncon
Phil Cutler
Steve Hughes
Bill Paden
Paul Seaton
Arni Thomson
Jon Holland
Lennie Gorsuch
George E. Hiller
Phillip Lestenkof
Linda Kozak
Denby Lloyd
Vincent Jameson

Vicki Conner
Brian Bigler
Alfred Kalmakoff
Robert M. Mikol
Charles Bingham
Bill Jacobson
Jack Hill
Stephan Street
Debby Swenson
John Iani
Chris Blackburn
Jim McManus
Lloyd Whaley
Joe Macinko
Craig Cochran

Tim Richardson
Margaret Hall
Bryan Balay
Tony Gregorio
Brent Paine
Shari Gross
Joe Plesha
Terry Leitzell
Susan Williams
Grant Lee
Mike Atterberry
Jim Chase
Rebecca Baldwin
Denise Fredette
Allen Baker

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Joe Bersch
Paul Myers
Jim Sumner
Steve Joner
Michael Lake
Bryce Morgan
Shirley Marquardt

Thorn Smith
Steve Toomey
Casey Sullivan
Glenn Reed
Calvin Caspit
Steve Grabacki
Charles Soxie

Don Stiles
Kristen Stahl-Johnson
Beth Stewart
Ron Peterson
Ruel Holmberg, Sr.
Gary Johnson
Don Braun

A list of those who gave public comment during the meeting is found in Appendix I to these minutes.

A. CALL TO ORDER/APPROVAL OF AGENDA/MINUTES OF PREVIOUS MEETING(S)

Chairman Rick Lauber called the meeting to order at 8:00 a.m. on Wednesday, February 4, 1998.

Agenda and Minutes. The agenda was approved as written. The minutes of the December meeting were not yet available for approval.

B. REPORTS

The Executive Director's Report (Agenda item B-1) was provided in written form. A fishery progress report was provided by the National Marine Fisheries Service (NMFS), and a report on enforcement of the IFQ fisheries was provided by Steve Meyer, NMFS Enforcement (Agenda item B-2). IPHC staff also provided a report on 1998 halibut quotas (Agenda item B-3).

DISCUSSION/ACTION RESULTING FROM REPORTS

NMFS Management Report

Regarding the decision by NMFS to withdraw the proposed regulatory amendment that would have extended survivorship transfer privileges in the IFQ fisheries, staff was directed to put the issue on the April agenda when other options should be provided for Council consideration.

John Gauvin, Groundfish Forum, advised the Council that in response to industry concerns over localized depletion of Atka mackerel, he and other industry representatives will work with NMFS to try to develop proposals for Council consideration, possibly by the April meeting.

IPHC Report

The Council received a written report and brief overview of the IPHC's annual meeting and resulting halibut quotas. It was noted that the Council will meet jointly with the IPHC in October in Seattle.

Fishing Gear Impact Study

Dr. Richard Langton of the Maine Department of Marine Resources provided a brief, unscheduled, review of a draft document exploring the results of studies and experiments on impacts of fishing gear on marine habitat. The study was the subject of a more detailed presentation for the public earlier in the meeting week.

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FORMAT FOR COUNCIL MEETING MINUTES:

Each agenda item requiring Council action will begin with a copy of the original "Action Memo" from the Council meeting notebook. This will provide a "historical" background leading up to the current action. This section will be set in a different type than the actual minutes. Any attachments referred to in the Action Memo (e.g., C-1(a), etc.) will not be attached to the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be the reports of the Scientific and Statistical Committee, Advisory Panel, and any other relevant committee or workgroup on the subject. Next will be a section for discussion and motions on the subject. Finally, there will be a brief summary of actions taken, unless there is only one action and it is self-explanatory.

C. NEW OR CONTINUING BUSINESS

C-1 Observer Program

ACTION REQUIRED

Final action on third party, joint partnership agreement (JPA).

BACKGROUND

In December you reviewed the EA/RIR for the JPA observer program structure and released the document for public review with a final decision scheduled for this meeting. This program is expected to be in place in time for the 1999 fisheries, at which time industry would obtain their observers through the Pacific States Marine Fisheries Commission (PSMFC) - the existing program will remain in place through 1998 with vessels and plants dealing directly with the observer contracting companies. The Council also initiated re-development of a fee system to fund the observer program, with the expectation that previous problems and issues would be addressed and resolved. With a target implementation in the year 2000, staff will be working over the next two years to develop that fee system, with the assistance of the Council's Observer Advisory Committee (OAC). Effort will also need to be directed to putting the finishing touches on the JPA, assuming Council approval of this program.

Item C-1(a) is the draft EA/RIR, prepared by NMFS and PSMFC, for the third party, JPA observer program structure. While some of the administrative and logistical details of the JPA will remain to be resolved by NMFS and PSMFC, the document describes the main features of the JPA program including: total costs projections; updated projections of relative costs to various industry sectors; respective roles of NMFS, PSMFC, and contracting companies; and, how industry will go about procuring observer services. While the document contains three alternatives for the JPA structure, and options for assignment of work among the contractors, 'Preferred Alternatives' have been identified for both. In the document this is labeled Alternative 3, Option 3.

Staff reviewed these issues in December and the OAC reports to the Council are under Item C-1(b). Essentially, the OAC recommended approval of the JPA, and re-development of a fee-based funding mechanism, which would begin immediately and dovetail with the JPA structure. NMFS and Council staff intend to begin this process following this meeting and resolution of the JPA program.

Recent comments received are under Item C-1(c).

The SSC did not address this agenda item.

Report of the Advisory Panel

The AP recommended the Council adopt Alternative 2, to continue the current "pay-as-you-go" program. In addition, the AP recommended immediate development of a modified research plan. Details of their recommendations for elements of such a plan are in the AP Minutes, Appendix II to these minutes.

DISCUSSION/ACTION

Council members, at this meeting and previous ones, noted industry concerns over the current program and their concern that if a modified version of the current program is adopted then progress on a new research plan will be slowed down. NMFS staff and Council members stressed that work on a new research plan will proceed as quickly as resources permit.

Earl Krygier moved to adopt Alternative 3, Option 3, a modified "pay-as-you-go" observer program, with the joint partnership agreement with the Pacific States Marine Fisheries Commission. The motion was seconded by Linda Behnken, and carried 10 to 1, with Kyle voting against.

Council members stressed the necessity to work toward a new research plan. Wally Pereyra recommended that suggestions from the Advisory Panel and Dave Fraser be incorporated when developing the plan.

SUMMARY

The Council approved a modified pay-as-you-go observer program utilizing a joint partnership agreement with the Pacific States Marine Fisheries Commission and assured the public that work toward a new research plan will not be delayed.

C-2 Halibut Management

ACTION REQUIRED

- (a) **Final action on regulatory amendment for Sitka Sound Local Area halibut management plan.**
- (b) **Adopt protocol for local halibut management plans.**

BACKGROUND

Sitka Sound Local Area Plan

The Sitka Sound local area plan culminates community debate since 1995 to resolve user conflicts resulting from the apparent decline in halibut in Sitka Sound. In May 1995, the Sitka Halibut Task Force unanimously agreed to a statement of findings and a list of voluntary actions. The Task Force was reformed in 1997 in response to Proposal 270 submitted by the Sitka Tribe of Alaska to the Board last February. Proposal 270 recommended stopping the harvest of halibut, ling cod, rockfish and other bottomfish in the Sitka Sound area because of commercial and charterboat overharvest. The Board then created a Sitka Sound Special Use Area for ling cod. Rockfish are already protected in Sitka Sound. The Board, however, could not implement a local halibut plan because the State lacks jurisdiction over halibut under the Northern Pacific Halibut Act of 1982. Thus, the BOF referred the recommendations to the Council, which does have management jurisdiction.

The Task Force met prior to the June 1997 Council meeting. It clarified that 'non-resident' in Item 8 (of the original task force proposal) referred to non-Sitka residents and requested that the Sitka ADF&G advisory committee be updated annually on commercial and sportfish halibut harvests in Sitka Sound. In September, the Council referred the residency aspect of its proposal back to the Task Force prior

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to final action. In December, the Sitka advisory committee forwarded the Task Force's November 1997 recommendations to the Council (Item C-2(a)). The Task Force removed its residency requirement and changed the 'D' class vessel trip limit to 2,000 lb.

The EA/RIR analyzes the Sitka Sound proposal as it was previously forwarded to the Council at its June 1997 meeting. As proposed, it would close most of the Sound to commercial halibut fishing by freezer vessels, commercial vessels larger than 35 ft, and halibut charterboats. Commercial vessels less than or equal to 35 ft would be limited to 1,000 lb of halibut per trip. Subsistence, personal use, and unguided sport fishermen could continue to harvest halibut in the Sound. The Council released the EA/RIR to the public in June 1997. Final action was postponed from the September 1997 meeting to allow the Task Force to continue to address the residency requirement. The management proposals addressing the trip limit and residency that have been changed since the Council last addressed this issue are bolded in the list of alternatives included in the analysis below.

Alternative 1. Status Quo. Do not develop a local area management plan for Sitka Sound.

Alternative 2. Create a local area management plan for Sitka Sound with the following provisions:

- (1) Halibut longliners larger than category "D" (> 35 ft LOA) would be prohibited from harvesting halibut in the Sitka Sound area, defined as a line across Kakul Narrows at the Green Buoy and from a point on Chichagof Island to Kruzof Island adjacent to Sinitsin Island, on the North to the Sitka Salmon Derby Boundary on the South.**
- (2) Halibut longliners in the category "D" would be prohibited from harvesting halibut in the Sitka Sound area, same boundaries for larger vessels in the North, and inside of a line from Sitka Pt. to Hanus Pt. (14450 Loran Line) and from Hanus Pt. to the Green Marker in Dorothy Narrows and Across to Baranof Islands in the South in June, July, and August (Figure 1). 1,000-pound trip limit in this area during the time it is open. Halibut catch in Sitka Sound will be monitored for growth rate.**
- (3) Inside the same areas defined for the category "D" longliners during the months of June, July, and August, fishing for halibut would only be allowed by: (a) personal use fishery; (b) subsistence fisheries; and/or (c) non-guided sport fishery**

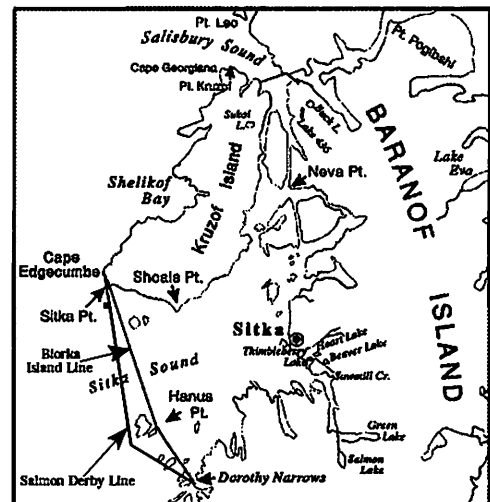


Figure 1. Map of Sitka Sound and vessel boundaries.

Suboption: Allow personal use, subsistence, or non-guided sport fishery during June, July, and August for Sitka residents only.

Commercial halibut boats using the proposed closed area increased from 57 to 74 vessels between 1995 and 1996. At the end of 1995, 324 Sitka residents held over 1.7 million lb of halibut IFQ, valued at \$3.0 million. Because of liberalized sweep-up and fish-down allowances, fewer QS holders and vessels are currently active in the fishery. Alternative 2, Part 3, Suboption would benefit the 8,632 residents of Sitka.

Alternative 2 would displace from the closed area approximately 29 commercial category A-C vessels which harvested approximately 106,000 lb of halibut worth \$190,000 ex-vessel in 1996. Around 45 category D vessels would be limited to 1,000 lb of halibut per trip inside the proposed area during the IFQ season, except for June, July, and August when they would be prohibited from fishing inside closed waters with a less restrictive southern boundary (Biorka Island line) than larger commercial vessels

(salmon boundary line). The trip limit would have no effect on roughly 32 of the 45 category D vessels harvesting halibut during 1996. Thirteen category D vessels may be required to take multiple trips to harvest their IFQs in the Sound. Up to 61,000 lb of halibut valued at \$173,000 are fished on category D vessels.

Approximately 200 charterboats would have the same closed water boundary as commercial category D vessels during June, July, and August. The Sitka guided halibut harvest of 13,400 fish in 1995 generated estimated gross revenues of \$1,036,800 and total spending of over \$2 million. Alternative 2 may result in approximately 6,000 fewer halibut removed by charter anglers from Sitka Sound; roughly 176,000 lb at 29 lb/fish net weight. These fish still may be intercepted as they enter the Sound, if fishing activity shifts to Salisbury Sound and along the western side of Kruzhof and Baranof islands.

Some effects of Alternative 2 remain unknown: (1) the amount of category A-C IFQs that might be harvested in other statistical areas or landed in other ports; (2) whether the 1,000 lb trip limit would reduce removals from the Sound or just further slow the pace of fishing effort; and (3) the effect of greater running time to fishable waters outside the Sound on charterboat client bookings; (4) future resolutions of halibut subsistence may affect the current agreement.

Local Area Plans

As a result of the submission of the Sitka Sound proposal, the Council has examined the development of future proposals through discussion and staff working papers. A draft protocol has been developed for halibut local area management proposals in consultation with Alaska Board of Fisheries members on the Joint NPFMC/BOF Committee (Item C-2(b)). The protocol, if adopted, would authorize the BOF to call for proposals for a specific area on a 3-year cycle.

The Scientific and Statistical Committee did not address this agenda item.

Report of the Advisory Panel

(a) *Sitka Sound Local Area Management Plan*. The AP recommended the Council adopt Alternative 2, with two changes: change trip limit poundage to 2,000 lbs, and delete the suboption "for Sitka residents only." The AP further requested that NMFS and the RAM Division assist in notifying affected commercial fishermen of the change.

(b) *Protocol for Local Area Management Plans*. The AP recommended the Council have staff continue to develop a protocol with particular attention to time frames for submission of proposals in light of Council and Board meeting schedules.

DISCUSSION/ACTION

(a) *Sitka Sound Local Area Management Plan*

Linda Behnken moved to approve Alternative 2 (see Action Memo above) with the following changes: change trip limit poundage to 2,000 lbs; and revise (3) to read: Charter vessels would be prohibited from fishing inside the same areas defined for Category D vessels during June, July and August. Ms. Behnken stressed that the definition for "charter" would be the same as used in the Magnuson Act. The motion was seconded and carried without objection.

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(b) Protocol for Local Area Management Plans

Linda Behnken moved to adopt the protocol developed at the joint Council/Board meeting and agreed to discuss other local area proposals at the joint Council/Board committee meeting in July 1998. The motion was seconded by Earl Krygier and carried without objection. A copy of the approved protocol is Appendix III to these minutes.

SUMMARY

The Council adopted a local area halibut management plan for Sitka which will provide more local fishing opportunities. The plan was developed through consensus of representatives of affected user groups in the Sitka area. The Council also adopted a protocol for development of future local area management plans for groundfish and halibut.

C-3 Inshore-Offshore 3

ACTION REQUIRED

Review progress on analyses and provide direction as necessary.

BACKGROUND

At the September 1997 meeting the Council developed a problem statement and set of alternatives for analysis. This issue was not on the Council's agenda in December, though we did present the SSC with preliminary information which focused on the variables and assumptions which will be used to complete the analytical package for review in April. Item C-3(a) is a copy of the December SSC comments on this issue.

As you may recall, last September we provided you with a 'profile package' of the BSAI pollock fisheries which included information from the 1991, 1994, and 1996 fisheries. The intent was to profile the evolution and current status of the BSAI pollock fisheries relative to a variety of issues including: number and size of operators in each relevant sector; harvest, product mix, and processing levels of each sector; bycatch, discards, and utilization indices; relative operational dependence; prices and product forms; employment patterns; CDQ program linkages; foreign ownership; tax issues; and CVOA considerations.

At that time there were several gaps remaining to be filled including: the foreign ownership information; further development of the CDQ program linkages, employment information (particularly for the offshore component), and both exvessel and wholesale price information. Ultimately this profile information will form a critical part of the overall analytical package and be included as an appendix to the main document. From these profiles we will construct a 'base case' picture of the fisheries against which to compare proposed alternatives, mainly composed of information and data from the 1996 fisheries. Detailed and accurate characterization of the current state of the fisheries, and the role of each sector, has been stressed by our SSC as perhaps the most critical part of the analysis, given limitations on making 'net benefit' assessments of the alternatives, or other bottom-line impact assessments. We feel this is an area where we can provide very useful information to the Council decision process. Our goal is to shed as much light as possible on each of the issues identified by the Council.

To that end we have developed a document titled 'Status Report on Baseline Information for the Inshore/Offshore 3 Analysis', which was mailed to you last week. This document incorporates the 'white paper' presented to the SSC in December, and further describes each of the assumptions and parameters of the analysis. It also includes selected parts from the 'profile package' we presented last

September. This document will end up being the essence of our 'base case' (as well as status quo alternative) for the analysis. Projections of impacts of the alternatives will flow from this baseline information.

Our primary intent at this meeting is to update you on the status of each of these profile components, as well as other aspects of the analysis including a description of the variables and assumptions which will be used to complete the analysis. We also want to identify January 26, 1998 for you where gaps remain and whether and to what extent we anticipate being able to fill those gaps by April, including the issue of how to incorporate information submitted by industry.

There are two basic types of information we are dealing with: (1) information that exists in and of itself, and will not factor into further analyses - one example of this would be the vessel and processor ownership information. It is presented as information requested by the Council to depict the status of the fisheries, but does not factor into any quantitative projections; (2) information that is used to characterize the status quo, and will factor into further analysis and projections of impacts - for example, product mix and product prices are used to depict the base case and are used to project changes resulting from the alternatives. In either case we feel that now is the time to present the Council with as much detail as possible on these parameters, and get feedback on them before we complete the analysis for review in April.

Our overall effort on this project consists of several discrete, though related, components, undertaken by Council staff, NMFS staff, State agencies, and consultants. The document also addresses the status of these 'outside' efforts.

Public Comments

We have received numerous letters, mainly last fall, on the inshore-offshore issue. Under this tab I have placed several more substantial letters plus examples of many letters that were sent to Mr. Austin and forwarded to our office. The background materials to Finley's letter, and the many letters sent to Mr. Austin, are available in two special reference books. These are available from Helen Allen, our executive secretary.

Report of the Scientific and Statistical Committee

The SSC discussed several problematic issues concerning the analysis, including utilization (product recovery) rates, price data, employment, markets and spillover effects, and how to use industry-supplied data to help fill holes in the analytical documents. Following is a brief recap of SSC comments. More detailed SSC comments on this issue can be found in the SSC Minutes, Appendix IV to these minutes.

The SSC stressed that caution should be used in comparing utilization rates across sectors because 'percent utilization' is not necessarily a good proxy for 'net economic value.' Care should be taken to describe any data used and their sources. Because of major data gaps for price data, the SSC encourages staff to consult a larger cross-section of the industry to develop an estimate of the fraction of onshore price to be used as the offshore exvessel price paid vessels delivering codends to at-sea processors. To reduce concerns about credibility of industry-supplied data, every effort should be made to verify it by an independent source where possible.

The SSC reiterated previous recommendations for mandatory reporting of prices along with catch data, and collection of needed economic data on costs from the industry.

Report of the Advisory Panel

The Advisory Panel submitted a list of over 20 suggestions for strengthening or adding to the analysis. Please see Appendix II to these minutes for the entire list.

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DISCUSSION/ACTION

Staff was asked whether they would be able to respond to AP and SSC concerns and recommendations. Chris Oliver responded that staff could address most of them.

The majority of Council discussion centered on the use of industry-supplied data in the analysis. While most agreed that the information would be very useful in developing a more complete analysis, there was concern over how staff could verify its validity. At-sea processors suggested that industry-supplied data be audited before submission to the Council. Council members agreed with this solution but still had concerns regarding the ability of an auditor to determine whether data submitted was complete, or selective. Council members asked Bryce Morgan, with the accounting firm Kueckelhan, Crutcher and Company, to respond to questions regarding auditing methods. Although it was agreed that an independent audit may be satisfactory, Chairman Lauber made it clear that the Council does not have the funds to pay for auditors for the industry.

Dave Benton moved that the Council take the following actions to try to incorporate use industry-generated data into the analysis, in order:

- 1. That the North Pacific Fishery Management Council would choose the CPA firm which would be involved in the review, and that that CPA firm would not have any business relationship with the seafood industry.**
- 2. That the Council would appoint a small committee composed of representatives of the National Marine Fisheries Service, the Washington Department of Fisheries (or Washington State if they choose someone else), the State of Alaska, and the Council; that this committee would be charged with developing the agreed procedures for the review, agreed-upon procedures report, and the conditions of that report.**
- 3. That for the employment data, the review be extremely rigorous and would at least utilize the W2 forms and W3 forms, and**
- 4. For the price data, that it would be equally as rigorous, that there would be a very large sample of industry's books reviewed, and that that review include records that are verifiable, and**
- 5. That it be for a consistent set of years with what is presently in the analysis and that the time series would be the same as what the staff is currently using for the rest of the analysis.**

The motion was seconded by Linda Behnken and carried without objection.

Council members stressed that because this is an extraordinary step, caution must be exercised to ensure the accuracy of information and not create the perception of special favors or the use of information that is inappropriate. Any industry data used in the analysis will be clearly identified as such and the source listed. The Council will determine in April how such information should be used in the final analysis.

The Committee to choose an auditor is as follows: Steve Pennoyer, Dennis Austin, Dave Benton, and Clarence Pautzke (or their designees).

Bob Mace moved to direct staff to review and consider the items proposed by the AP and SSC (other than the auditing recommendations) when developing the analysis for April. The motion was seconded by Robin Samuelsen and carried without objection.

Linda Behnken moved to follow up on the SSC's recommendation to initiate an amendment to institute mandatory reporting of prices along with catch data and the collection of economic data on costs from the industry. The motion was seconded by Dave Benton and carried without objection.

Council members agreed that it is critical that the Council needs to get data collection started for future allocative decisions. It was pointed out that staff resources will limit the time spent on this project until inshore-offshore is completed. Steve Pennoyer said that Dr. Marasco has volunteered to work with the SSC and staff to develop the necessary program, however, he does not anticipate that it will happen soon.

Lisa Lindeman advised the Council that she will be re-examining General Counsel's opinion with regard to the legal opinion on National Standard 4 and excessive shares and its relationship to inshore-offshore and report back to the Council in April.

SUMMARY

The Council instructed staff to continue to develop the analysis, including recommendations made by the AP and SSC when feasible, for initial review at the April meeting. The Council also devised a method to use needed industry-supplied data for the offshore sector, using data audited by a certified public accounting firm.

C-4 Essential Fish Habitat

ACTION REQUIRED

- (a) Preliminary Review of Essential Fish Habitat reports and amendment.
- (b) Comment on the interim final rule.

BACKGROUND

(a) Essential Fish Habitat Amendments

The Magnuson-Stevens Act amendments emphasized the importance of habitat protection to healthy fisheries and strengthening the ability of the National Marine Fisheries Service (NMFS) and the Councils to protect and conserve habitat of finfish, mollusks, and crustaceans. This habitat is termed essential fish habitat (EFH), and is broadly defined to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity". The Councils are required to amend their fishery management plans by October 1998 to:

- identify and describe EFH for species managed under a fishery management plan;
- describe adverse impacts to that habitat from fishing activities;
- describe adverse impacts to that habitat from non-fishing activities; and
- recommend conservation and enhancement measures necessary to help minimize impacts, protect, and restore that habitat.

Once the FMPs are amended with this EFH information, NMFS and the Councils can be more proactive in protecting habitat areas by alerting other federal and state agencies about areas of concern. Federal agencies engaging in activities that may adversely affect EFH must consult with NMFS regarding those activities. NMFS and the Council may make suggestions on how to mitigate any potential habitat

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damage. The Council will be required to comment on any project that may affect salmon habitat or habitat of any other anadromous fish (smelt, steelhead, etc.). However, the interim final rule encourages coordination between NMFS and the Councils, and may allow for the Council to delegate the consultation process to NMFS.

Over the past year, Council staff has worked closely with NMFS and ADF&G to prepare preliminary EFH reports for groundfish, crab, salmon, and scallops, which were released for public review in December. EFH can only be defined for target species defined in FMPs, according to a NOAA GC-AK opinion. Hence, EFH will not be designated for halibut or herring. However, ADF&G and IPHC have agreed to provide habitat information for these species, and this information will be included as an appendix in the final groundfish plan amendment package.

The Council is scheduled to make a preliminary review of these documents in February. These reports will form the basis of preliminary NMFS EFH recommendations in April, when the Council is scheduled to make an initial review of the analysis. Final review of the EFH amendments is scheduled for June, 1998. The alternatives proposed to be analyzed in the EA/RIR for these amendments are the following:

Alternative 1: Status quo.

Alternative 2: All habitat where a species life stage occurs would be deemed EFH.

Alternative 3: In the case of level 2 information and greater, EFH would be a subset of all habitat [e.g. hotspots]

At this time, only one management measure is proposed to address the impacts of fishing gear on habitat. A 4-mile by 4-mile pinnacle area off Sitka has been proposed as a no fishing area to protect habitat important for juvenile rockfish and lingcod.

Staff will present a summary overview of the reports and timetable for completion.

(b) Interim Final Rule

On December 19, NMFS published the interim final rule (attached as Item C-4a) to implement the EFH provisions of the Magnuson-Stevens Act. The rule establishes guidelines to assist the Councils and the Secretary of Commerce in the description and identification of EFH in FMPs, including identification of adverse impacts from both fishing and non-fishing activities and identification of actions required to conserve and enhance EFH. Although the rule became effective on January 20, comments are being solicited through February 17, 1998.

Also, as part of their activities on EFH, NMFS contracted a study of gear impacts on habitat. Study results were presented at a public meeting on Wednesday evening, February 4. Written testimony received on the study is placed under C-4 Supplemental. As I understand it, this first draft will be revised and then go out for a 60-day comment period that overlaps our April 1998 meeting.

Report of the Scientific and Statistical Committee

The SSC commended efforts to date on developing the essential fish habitat documents and made several specific recommendations (see SSC Minutes, Appendix IV to these minutes).

Report of the Advisory Panel

The AP recommended that equivalent information in a comparable format on halibut, herring and GOA crab stocks be included in future documents. They also requested that studies of non-trawl gear impacts be included where available and that there be a more detailed description of the size and type of gear used when discussing the commercial fishery-related impacts on essential fish habitat.

DISCUSSION/ACTION

Council members discussed the NOAA-GC opinion that essential fish habitat can not be designated for prohibited species and non-specified species, or species not covered by a fishery management plan. It was noted by staff that the EFH Core Team plans to include habitat information for those species as an appendix to the EFH report.

Linda Behnken moved that Council comments to the Secretary on EFH should include the following: (1) emphasize the importance of developing a criteria system for identifying high-value habitat types; (2) that NMFS include equivalent information in a comparable format on habitat for halibut, herring, and Gulf of Alaska crab stocks, and (3) ask NOAA legal counsel to re-examine the legal interpretation of Congressional intent with regard to excluding the non-FMP species from EFH. The motion was seconded by Robin Samuelsen.

For the purpose of discussion and voting, the motion was bifurcated into the first two points as one part and the third point as the second part of the motion.

The first part of the motion (points (1) and (2)) carried without objection.

There was some discussion regarding the legal opinion and whether NOAA GC should go back to research legal intent. Lisa Lindeman responded that they will re-examine the issue but not research Congressional intent at this point.

The second part of the motion carried without objection.

C-5 Scallop Management

ACTION REQUIRED

- (a) **Status Report on Amendment 3.**
- (a) **Discussion of Limited Entry for the Alaska Scallop Fishery.**

BACKGROUND

(a) Amendment 3

In December 1997, the Council approved Amendment 3 to the Scallop FMP. Since 1996, the scallop fishery off Alaska has been managed under a State-Federal management regime. This regime is cumbersome in that each State regulation and management action must be duplicated by a parallel Federal action. Amendments to Magnuson-Stevens Act enabled the Council to delegate to the State the authority to manage some or all aspects of the scallop fishery in Federal waters off Alaska.

Amendment 3 will delegate to the State authority to manage all aspects of the scallop fishery in Federal waters off Alaska except limited access (moratorium, licenses, etc.). Under this Amendment, limited access management will remain a Federal responsibility under the FMP, and will require an FMP amendment to change. All other Federal scallop regulations will be repealed and the authority to manage all other aspects of the scallop fishery will be delegated to the State.

At this meeting, we hope to have an indication whether the State accepts management of this fishery.

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(b) Limited Entry

In December 1996, the Council tasked staff to begin analysis of a license limitation system to replace the Federal vessel moratorium, which is scheduled to expire in the year 2000. Since that time, the Alaska State Legislature approved a statute establishing a scallop vessel moratorium, which is more restrictive than the Federal moratorium (10 vessels versus 18). Given other priorities and linkage of this action with Amendment 3, work has yet to be initiated. At the time Amendment 3 was adopted, the Council requested that a discussion of a license limitation for the scallop fishery be put on the February agenda.

To assist in these discussions, Council staff together with NMFS, CFEC, and ADF&G staff have provided additional information on vessel participation, landings, and price (see attachment Item C-5a). The adjacent table shows vessel participation in recent scallop fisheries before and after the federal moratorium (effective July 1997).

Additionally, a preliminary January 27, 1998 breakeven analysis was prepared to assist the Council in developing reasonable alternatives for a license limitation system for the scallop fishery. The breakeven analysis indicates that given annual landings of about 750,000 pounds and an exvessel price of \$6.50/lb, approximately 6 vessels could participate in the statewide scallop fishery (outside Cook Inlet) at a breakeven level.

Based on previous Council deliberations, the following alternatives and options for a license limitation system are put forth for discussion purposes:

Alternative 1: Status quo.

The scallop vessel moratorium would expire in 2000. [open access].

Alternative 2: All vessels that qualified for the Federal moratorium would receive a license. [18 vessels].

Alternative 3: Only vessels that qualified for the State moratorium would receive a license. [10 vessels].

Alternative 4: Only vessels that qualified for the Federal moratorium that made legal landings in 1996 or 1997 would receive a license. [9 or 10 vessels, the difference being how the Council will handle one moratorium permit holder that leased non-qualified vessels].

Vessels making legal landings of scallops in Alaska, 1994-1997, based on preliminary CFEC fish ticket data.

Area and Vessel	Moratorium qualified	1994	1995	1996	1997
Cook Inlet					
Alaska Beauty	F,S	X		X	
Northern Explorer	F,S	X		X	X
Kilkenny	F	X		X	X
La Brisa/Wayward	F,S	X			
Willin (state waters)	no	X			
Billy D	no			X	
Trina	no				X ¹
Outside Cook Inlet					
Pursuit	F,S	X	X	X	X
Jacqueline & Joseph ²	F,S	X	X		
Rush	F,S	X	X		
Provider	F,S	X	X	X	X
Trade Wind	F,S	X	X		
Carolina Boy	F,S	X	X	X	X
Carolina Girl 2	F,S	X	X	X	X
Northern Explorer	S		X		
Ocean Hunter	F	X			X
Forum Star	F	X			X
Captain Joe	no	X			
Mister Big	F	X			
Lorraine Carol	F	X	X		
Fortune Hunter	F	X	X		
Arctic Rose	F	Did not fish for scallops in these years			
Phoenix	F	Did not fish for scallops in these years			
Wayward Wind	F	(PERMIT USED ON OTHER VESSELS)			

¹The Trina fished the Wayward Wind federal moratorium permit.

²Jacqueline and Joseph renamed Arctic Queen.

OPTION 1 (applicable to alternatives 2-4): Retain separate licenses for Cook Inlet and statewide areas. [e.g., for alternative 4, this option would result in 3 or 4 licenses for Cook Inlet and 6 permits for outside of Cook Inlet]

OPTION 2 (applicable to alternatives 2-4): Retain or further restrict moratorium limits on reconstruction, replacement, and transfers.

Analysis of license limitation for the scallop fishery could be ready for initial review in September.

The SSC did not address this agenda item.

Report of the Advisory Panel

The AP recommended the following be incorporated into the analysis for a limited entry program for scallops:

- (1) Clarify Alternative 4 to include federal or state moratorium participation;
- (2) add a suboption to Alternative 4 that would award the licenses to moratorium permit holders, rather than vessels;
- (3) add an alternative to create a combined Cook Inlet and statewide license;
- (4) add an option in which vessel length is based on the vessel length which qualified in 1996 or 1997; and
- (5) add an option that would restrict horsepower to vessel capability during the qualifying period.

DISCUSSION/ACTION

Clarence Pautzke recapped discussion during the joint meeting with the Board of Fisheries: the alternatives should be provided to the joint committee in July before going to Council for initial review. The committee stressed that they would like to have several opportunities to review the alternatives and comment.

Linda Behnken moved to continue with the analysis of limited entry, using the following Problem Statement:

The Council is dealing with a sensitive resource and overcapitalized fishery. In 1993 the Council determined, through the moratorium, that "unrestricted access to the fishery can be harmful to the resource and cause net loss to the nation." With the moratorium set to expire, the number of latent permits in existence, which if activated, would exacerbate the problem.

Alternatives for analysis, in addition to current ones listed in the Action Memo, should include AP recommendations 1-4. Recommendation 4 would be amended to add the word "beginning" before "vessel length." [(4) add an option in which vessel length is based on the beginning vessel length which qualified in 1996 or 1997.]

The motion was seconded by Robin Samuelson.

It was clarified that the AP's recommendation (5) on restricting horsepower is not necessary and was not included in the motion.

Wally Pereyra moved to amend to include, for analysis purposes, that dredge size would be limited to the size used during the qualifying years. The motion was seconded by Dennis Austin and carried with Linda Behnken objecting.

The main motion, as amended, carried without objection.

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SUMMARY

Staff was instructed to continue development of a limited access system for the scallop fisheries, working with the State to resolve any conflicts between the State and Federal moratoriums.

C-6 License Limitation

ACTION REQUIRED

- (a) Receive status report on Crab Buyback Program.
- (b) Discuss potential LLP amendments and provide direction to staff.
- (c) Discussion of CDQ vessel exemptions and progress on multi-species CDQ program implementation.
- (d) Discuss extension of vessel moratorium and task staff.

BACKGROUND

(a) Crab Buyback Program

The Council last heard from the Crab Reduction and Buyback (CRAB) group in September, where we received a copy of a draft buyback plan and analysis. At that meeting you endorsed the efforts of the CRAB group, and we sent a letter from the Council to NMFS (Item C-6(a)(1)) urging our support and for the agency to take the necessary steps to get the program implemented, including the required referendum regarding industry funding through a fee system. The letter also endorsed the CRAB groups' draft business plan as appropriate comment to NMFS regarding development of the proposed regulations (general guidelines) for buyback program development.

According to the language of the Magnuson-Stevens Act (Item C-(a)(2)), the Secretary must publish an implementation plan for each proposed buyback program, to be followed by a 60-day public comment period which includes a public hearing in each State affected by the program. Within 45 days after such comment period the Secretary, in consultation with the Council, would publish a final implementation plan.

Proposed regulations, which will include the specific implementation plan for the North Pacific crab buyback program, are currently under review in NMFS and are expected to be completed soon and published as a Proposed Rulemaking. This schedule should allow the Council to review and formally comment on that plan at the April 1998 meeting. CRAB group representatives are available to report further to the Council.

(b) Potential amendments to the LLP

In December an issue was raised by staff regarding a potential 'loophole' in the LLP regulations, as they relate to ownership of a vessel on June 17, 1995 and subsequent transfers of the fishing rights. To summarize, the Council's LLP program specifically attempted to disallow certain vessels (or replacement capacity) from re-entering U.S. fisheries off Alaska, where the owners of such vessels, as of June 17, 1995, were unable to document a vessel according to Chapter 121, Title 46, U.S. Code. The Council also wanted transfers of catch history to be recognized by NMFS in the process of license issuance.

For vessels in the ownership situation described above, transfers of catch history prior to June 17, 1995 would be approved. The problem is that the proposed regulations as drafted would also allow transfers which occurred after that date, and a license would be granted, thereby allowing those vessels, or replacement vessels, back into the fisheries. In order to close the apparent loophole staff recommended that an amendment be initiated to clarify that catch history transfers would be

recognized, *except those occurring after June 17, 1995, and where the owner of the vessel at that time was unable to document a vessel under Chapter 121, Title 46, U.S. Code.*

The Council requested staff to report back at this meeting regarding the number of vessels involved and the potential impacts of such an amendment. Since we do not know of private ownership and catch history transfers, we can only provide an upper bound estimate of the vessels involved. In December you also requested that information be provided on a possible recent participation requirement for basic LLP qualification (for example, a vessel must have fished in 1995 and 1996, in addition to already approved requirements, to qualify for the LLP). Such a requirement would likely subsume the June 17 ownership issue described above, and would have additional implications as well.

NMFS and Council staff have prepared a discussion paper (Item C-6(b) Supplemental) which provides information relative to the issues raised above, as well as information on a number of proposed LLP amendments raised by the AP in December - these include: a recent participation requirement specifically for the crab fisheries; addition of gear designations to disallow fixed gear vessels from 'becoming trawlers'; prohibiting transfers of licenses earned without a federal fisheries permit; and, adjustment of the groundfish landings requirements for the Western Gulf and the BSAI (to require one landing in each of two endorsement years).

In addition to vessel number impacts, the paper addresses other considerations including process and timing implications. Comments received on LLP issues are included under Item C-6(b)(1). Primarily these comments are in reference to the Council discussions from December, though one is a letter (and the staff response) proposing adjustment of the landings requirements for lost vessels.

(c) Status of CDQ regulations and CDQ vessel exemption issue

NMFS will summarize for the Council the status and implementation outlook for the multi-species CDQ Program. One specific issue raised at the December meeting was the potential 'loophole' involved in the CDQ vessel exemption under LLP (as well as under the vessel moratorium). The concern appears to be that vessels could be constructed under this provision, and then compete in the LLP fishery, in addition to fishing the CDQ allocations. Item C-6(c)(1) is a letter expressing this concern. While there is no evidence that this provision is being abused, you requested that we put the issue on this agenda for further discussion. The relevant provision in the LLP regulations exempts:

"A catcher vessel or catcher/processor vessel that does not exceed 125 ft. LOA, and that was, after November 18, 1992, specifically constructed for and used exclusively in accordance with a CDP approved by the Secretary of Commerce under subpart C of this part, and is designed to meet specific needs that are described in the CDP."

(d) Moratorium extension

With implementation of the LLP program delayed until 1999, and potentially longer if eligibility amendments are initiated, the Council needs to formally extend the existing vessel moratorium beyond the current December 31, 1998 expiration date. We believe that this will not be a big analytical undertaking, but more of a technical amendment which we would bring back in April for review, with final approval in June.

The SSC did not address this agenda item.

Report of the Advisory Panel

The AP recommended the Council initiate an amendment to extend the moratorium. The AP also had extensive recommendations for alternatives to be included in an amendment to the license limitation program (please see AP minutes, Appendix II to these minutes).

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DISCUSSION/ACTION

Bob Mace moved to accept the AP recommendations that dealt with the moratorium and license limitation clarification issues, as follows:

- 1. Initiate an amendment to extend the moratorium until superseded by further CRP measures.**
- 2. Initiate a regulatory amendment to adopt a moratorium application closure date as of today's date, or the soonest possible date that can be legally implemented.**
- 3. Initiate an amendment to the LLP that prevents transfer of permits from vessels that never held a federal fishery permit during the LLP qualifying period and that transfers of fishing histories and subsequent licenses will not be allowed as of February 3, 1998. This would apply to all vessels.**
- 4. Initiate a plan amendment not allowing licenses and fishing histories earned by vessels employing non-trawl gear to be used on vessels employing trawl gear, with grandfather rights issued only to those persons who can demonstrate significant financial commitment to apply a non-trawl license or fishing history to a trawl operation as of February 3, 1998, with the following sup-
options:**
 - (1) has made a landing with trawl gear by February 3, 1998;**
 - (2) has made a significant investment in conversion of a vessel to deploy trawl gear by February 3, 1998.**
- 5. Rescind the CDQ vessel exemption portion of the LLP, issuing grandfather rights to any vessels currently built or operating in an existing CDQ under this provision.**
- 6. Initiate an amendment to clarify that catch history transfers would be recognized, except those occurring after June 17, 1995, and where the owner of the vessel at that time was unable to document a vessel under Chapter 121, Title 46, U.S. Code.**

The motion was seconded by Wally Pereyra.

With regard to recommendation #2, establishing a moratorium permit closure date to avoid the reappearance of latent permits, NMFS staff clarified that this would have no effect on the license limitation program since the qualification dates for the two programs are different.

Linda Behnken moved to delete the recommendation (#2) regarding establishment of a moratorium permit closure date. The motion was seconded by Joe Kyle and carried without objection.

Linda Behnken moved to amend the motion to substitute the date of February 7, 1998 for the date February 3, 1998 wherever it appears in the motion. The motion was seconded by Joe Kyle and carried without objection.

Dave Benton moved to amend the recommendation to analyze an extension of the moratorium to extend it for a period of one year only. The motion was seconded by Joe Kyle.

Mr. Benton stressed that the intent of the moratorium was to allow the development and implementation of the LLP and there isn't a need to have a moratorium in effect for any longer than is necessary. NMFS staff stated that the agency is currently expecting to have the license program implemented by January 1, 2000. However, that is assuming that the additional fiscal and human resources are made available. If there is any delay, LLP might not be implemented before a one-year moratorium extension would expire, and yet another amendment package would be required.

Linda Behnken moved to amend the amendment to add the option of two years. Mr. Benton accepted this as a friendly amendment. The options for analysis would be: (a) Status quo - moratorium would expire; (b) Extend moratorium for 1 year; and (c) Extend moratorium for 2 years.

The motion to amend item #1, analysis of a moratorium extension, carried without objection.

With regard to item #4, to restrict licenses and fishing histories earned by non-trawl gear to be used on vessels employing trawl gear, **Kevin O'Leary moved to include the reverse, to restrict use of licenses and fishing histories earned by trawl gear to be used on vessels employing non-trawl gear.** The motion was seconded and carried without objection.

The main motion, as amended, carried without objection.

Dave Benton moved to adopt the AP recommendation to initiate an amendment to the license limitation program for crab to include a recent participation clause, as follows:

Crab LLP: General umbrella only

- Crab landings in:**
- (a) 1995 (originally omitted and then re-inserted)**
 - (b) 1996**
 - (c) 1997**
 - (d) through February 7, 1998**
 - (e) any combination of those single or multiple years above.**

The motion was seconded by Dave Fluharty.

Mr. Benton pointed out that during public comment crab industry members indicated a need for this change because of the possible number of latent permits that could be re-activated and cause increased capacity. It was stressed that this would be a "trailing" amendment to the LLP program and is not intended to delay implementation. Phil Smith indicated that while it may be possible to get this change made before implementation, it may not be before the actual license issuance period and that it may be necessary to issue some type of an interim permit. In that case the overall amendment package should include the concept of an interim permit so that an additional amendment would not have to be initiated.

Linda Behnken moved to amend that if this motion is approved and is not implemented by the start of the Crab LLP, then interim permits would be issued, with permanent licenses issued after implementation of this amendment. This was considered a friendly amendment by Mr. Benton.

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Linda Behnken moved to amend to include analysis of vessel size classes, as follows:

- (a) Vessels under 60 feet**
- (b) Vessels 60-125 feet**
- (c) Vessels over 125 feet**

This was also considered a friendly amendment. Ms. Behnken indicated the Council should have the option during final deliberations to require different numbers of years of participation for different size vessels.

Steve Pennoyer advised the Council that resources to develop all these amendments are simply not available and that the Council may have to consider contracting some or all of them out for analysis.

The motion carried, 8 to 3, with Kyle, Mace and Pereyra voting against.

Dave Benton moved to direct staff to write a letter to the Secretary of Commerce stressing the need for timely implementation of the LLP and multi-species CDQ program, and to ask that adequate funding and FTEs be made available to the Region as soon as possible to accomplish implementation of both programs. The Region's budget document should be included with the letter, and the letter should be copied to the governors of Alaska, Washington and Oregon, and their respective Congressional delegations. The motion was seconded by Linda Behnken and carried with Pennoyer abstaining.

CDQ Committee

The Council had received a written request from the Western Alaska Fisheries Development Association (WAFDA) for the Council to appoint a CDQ implementation committee to assist the regulatory development and implementation of the multi-species CDQ program.

Joe Kyle moved to endorse the concept recommended by WAFDA to appoint a committee to work with the agency in a manner mutually agreed to be feasible to get the program working well as soon as possible. The motion was seconded by Linda Behnken and carried without objection.

Steve Pennoyer stressed that the first priority for NMFS is to respond to comments on the proposed rule and get the final rule published in order to get the program implemented as soon as possible. He does not feel that now is the time to re-design how the system will work, but agrees that a committee would be valuable in assessing how the program is working and suggesting any necessary improvements for the future.

Chairman Lauber indicated that the committee would be as recommended by WAFDA: CAPT O'Shea will be the chair, committee members would be: Julie Anderson (Yukon Delta Fisheries Development Assn.), Larry Cotter (Aleutian Pribilof Island Community Development Assn.), and Paul Peyton (Bristol Bay economic Development Assn).

SUMMARY

The Council approved analysis of an extension to the moratorium and an amendment for several clarifications to the license limitation program for groundfish and crab, as well as analysis of a recent participation requirement for the crab LLP. A CDQ committee was approved to assess the multi-species CDQ program as it progresses and provide recommendations to the Council and NMFS for necessary changes or improvements.

C-7 Catch and Bycatch Measurement

ACTION REQUIRED

- (a) **Magnuson-Stevens Act requirements on catch and bycatch estimation; Reports by NMFS and ADF&G.**
- (b) **Salmon bycatch retention regulations.**

BACKGROUND

(a) **Magnuson-Stevens Act Requirements**

Section 313 of the Magnuson-Stevens Act was amended in 1996, placing several new and significant requirements on the North Pacific Council. Specifically, Section 313(h) reads as follows:

Section 313(h) CATCH MEASUREMENT

- (1) **By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.**
- (2) **To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, USC) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.**

When we first considered these requirements in December 1996, under the agenda item on tasking, I suggested that paragraph 1 appeared to be largely satisfied by existing observer, reporting, and monitoring requirements, and that paragraph 2 may be satisfied by some weighing requirements already initiated by the Council. Below is a history of Council activities on these subjects. We need to determine what more needs to be done to satisfy the requirements of the Act.

In 1990 the Council requested NMFS to analyze a requirement to weigh catch processed at sea. NMFS implemented regulations on May 16, 1994 requiring CDQ pollock vessels to either provide certified bins for volumetric estimates of catch or scales to weigh catch. Then in October 1994 the Council approved a requirement for all processors in the directed pollock fishery to weigh all pollock harvest on a scale, intending that the program be implemented within two years. The Council was briefed periodically by NMFS in 1995 on development of scale requirements and NMFS published an advanced notice of proposed rulemaking on February 20, 1996, stating its intent to require weighing of all fish on pollock processing vessels.

In April 1996, NMFS informed the Council that certified scales would be needed before the new multispecies CDQ program could be implemented. Then at the February 1997 meeting, NMFS reiterated that point and described the funding needed to commence such a program. We wrote a letter to NOAA on February 13, 1997, urging funding for the certified scale program so that the new CDQ programs could be implemented.

A proposed rule was published on June 16, 1997 that responded to comments received in the February 1996 notice, but did not require specific processors or vessels to use certified scales to weigh catch

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at sea. The proposed rule laid out the groundwork for testing and certifying scales and performance and technical requirements in the At-Sea Scales Handbook. (As of December 1997 the final rule reportedly was undergoing review in Washington, D.C.)

Also in June 1997, the Council requested a report from NMFS for December 1997 on the accuracy and precision of current catch reporting, in direct response to the new Section 313(h) provisions of the Act. In July, we wrote letters to NMFS on groundfish, and ADF&G on salmon, crab and scallops, requesting assessments for our December meeting. On November 20, NMFS wrote the Council requesting the agenda item be postponed until February 1998 (item C-7(a)(1)).

At this meeting, I need an indication from NMFS and the Council on whether you are satisfied that we have met the requirements of Section 313(h), and if not, what more needs to be done. To help us with this, the SSC will have held a special workshop on Monday to review our estimation procedures and catch reporting. Hopefully, they will be able to give us some idea of the adequacy of our current programs.

In addition, the following reports have been sent to you recently:

1. **Observer Coverage Needs. June 1997. (Council mailing on 1/16/98)**
2. **Evaluation of Haul Weight Estimation Procedures Used by At-Sea Observers in Pollock Fisheries off Alaska. AFSC Processed Report 97-07. December 1997. (Council mailing on 1/16/98)**
3. **Analytical and Statistical Review of Procedures for Collection and Analysis of Commercial Fishery Data Used for Management and Assessment of Groundfish Stocks in the U.S. Exclusive Economic Zone off Alaska. October 1997. (Council mailing on 1/16/98)**
4. **ADF&G report on catch enumeration in the salmon, crab, scallop and Southeast Alaska demersal shelf rockfish fishery (Item C-7(a)(2)).**

The bottom line action needed at this meeting is to determine whether we have satisfied the new Magnuson-Stevens Act requirements as described above. And, if not, determine what more needs to be done in 1998.

(b) Salmon Retention Regulations

In September 1997, the Council received a letter from NMFS requesting the removal of the salmon retention regulations that prohibit the discard of salmon taken as bycatch in the BSAI groundfish trawl fisheries until the number of salmon has been determined by a NMFS-certified observer (Item C-7(b)(1)). A report by Turnock and Karp from June 1997 was presented to support this recommendation, and is attachment 4 in the "Observer Coverage Needs" document sent to you in the January 16, 1998 mailing.

In September, the Council scheduled this issue for December, but, at NMFS' request it was postponed until this meeting. At the joint Board of Fisheries/Council committee meeting in early January, this issue was on the agenda because the State has similar regulations on the books, and they would have to be repealed also. At the committee meeting, NMFS reiterated their position that the regulations should be withdrawn because blend estimates are used to monitor salmon bycatch.

We will discuss this issue with the Board on Tuesday, and at this meeting we need to take action up or down on removing the regulation.

Report of the Scientific and Statistical Committee

Catch & Bycatch Measurement. The SSC commended NMFS for its work to improve catch estimation and documenting protocols and procedures and encouraged further work in that direction. Although the SSC had several specific recommendations with regard to further work (see SSC Minutes, Appendix IV to these minutes), they agreed with the suggestion in the Executive Director's action memo that the Council's existing measures for observer, reporting, and monitoring requirements provide for a reasonable system of total catch and bycatch estimation.

Salmon Retention Regulations. The SSC pointed out that because the true number of salmon caught is unknown, it is impossible to know which bycatch estimates are more accurate, the observer data, or data gathered under the salmon retention regulation. To properly resolve the issue, the SSC recommended an experiment in which the true number of salmon can be determined and the basket sampling procedure evaluated at a variety of sampling fractions. They also noted that the problem of accurately estimating the catch of rarely occurring species within a larger total catch is likely to arise in other contexts such as the multi-species CDQ program and any future vessel bycatch accounting or multi-species IFQ program.

Report of the Advisory Panel

Catch & Bycatch Measurement. The AP had several recommendations for research proposals (see AP Minutes, Appendix II to these minutes), and also requested that NMFS review and report on compliance with observer coverage requirements in the hook and line rockfish fisheries.

Salmon Retention Regulations. The AP recommended against repealing the current salmon retention regulations and requested that NMFS continue development of onboard protocols and research priorities to increase the accuracy of the data.

DISCUSSION/ACTION

Catch & Bycatch Measurement

Council members discussed what measures the Council needs to take to be in compliance with the Magnuson-Stevens Act amendments. Dave Benton said that though the Council may feel they are doing a good job, Congress has mandated that the regional councils will improve catch measurement and bycatch management. He suggested that the Council needs to show Congress that they are trying to improve their current methods, and if weighing will not work, then the Council needs to provide an explanation of why it won't.

Dave Benton moved that the Council initiate an analysis for a plan amendment for catch management measures in the pollock and yellowfin sole fisheries in the Bering Sea/Aleutian Islands, and that there be two options analyzed: (1) a certified bin program; and (2) a scale program. The motion was seconded by Wally Pereyra.

Mr. Benton said that with the information provided by NMFS that identifies areas of uncertainty in the present methods of measuring catch, he feels that by looking at these options some of the uncertainty could be avoided.

Steve Pennoyer stressed the fact that NMFS would have to do the analysis and that they just don't have the staff time to do it right now.

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It was pointed out that the Council need not submit a fully developed amendment to Congress at this point. The Council can report they have taken this action and work on the amendment could begin when staff is available.

The motion carried without objection.

Council discussion then centered on what steps the Council should take to advise Congress how they will proceed to more accurately enumerate catches in other fisheries. David Benton suggested that the Council could ask NMFS to provide a report or evaluation of current practices for catch estimation in other fisheries and recommend whether or not further action is needed.

David Benton moved to ask NMFS to put together a matrix of current measures used in each fishery for a report to the Council at a future meeting. The motion was seconded by Linda Behnken and carried without objection.

Steve Pennoyer suggested that NMFS could prepare a report outlining what the Council is doing now, and what they plan to do. A matrix could be included as well as listing the SSC and staff suggestions as areas where the Council will be looking at improved methods of catch measurement., but stressed that at this point it would be a report, not an analysis.

Dennis Austin asked whether, between this meeting and April or June, NMFS could look at SSC recommendations and include in the package being submitted to Congress a framework for a plan to improve total catch estimation, not just a matrix. Mr. Benton accepted this as a friendly amendment to the motion, but Mr. Pennoyer stressed that the report to Congress will contain a matrix with general discussions, which are already frameworked in their report to the Council at this meeting.

Clarence Pautzke pointed out that at some point the Council will also have to report on fisheries delegated to State management. David Benton said they are prepared to provide the information for the report being prepared by NMFS.

Linda Behnken asked that NOAA General Counsel provide a legal opinion as to whether the Council is meeting the requirements of the Act. Ms. Lindeman said they will try to provide one.

Density Factors

During public testimony earlier in the meeting concern was raised by industry members that NMFS had begun using new density factors in catch measurement without notice to industry or an explanation of why the new factors are being used.

Steve Pennoyer pointed out that NMFS had conducted a controlled experiment on this issue, resulting in the change. However, because of the confusion, both among observers and within industry, Mr. Pennoyer announced that NMFS will meet with industry and seek more input and in the interim they will use the previous density factor of .93. They expect to have a full report for the Council in April and then make a decision on changes to the density factor.

Salmon Retention Regulations

Dave Benton moved that the Council not eliminate the salmon retention requirement. The motion was seconded by Linda Behnken and carried without objection.

Ms. Behnken pointed out the SSC recommendation for an experiment to determine the true number of salmon and the basket sampling procedure evaluated at a variety of sampling fractions, and suggested that it would be a worthwhile project when resources are available to carry it out.

SUMMARY

The Council approved analysis of an amendment to improve catch measurement in the BSAI pollock and yellowfin sole fisheries and directed NMFS to prepare the necessary report to Congress on the Council's current catch management measures and plans for future improvements. The Council also declined to eliminate the salmon retention requirement.

C-8 International Fisheries

ACTION REQUIRED

- (a) Update on transboundary pollock issues.
- (b) Update on Pacific pelagics.

BACKGROUND

Transboundary Pollock

The Bering Sea Fisheries Advisory Body will meet this week with Tucker Scully of the U.S. Department of State to discuss upcoming activities on negotiations with the Russians on transboundary pollock stocks and the maritime boundary dispute. Mr. Scully will then present a report to the Council on those issues and others on the international front.

Pacific Pelagics

In early December we received a letter from the Pacific Fishery Management Council proposing an inter-council policy committee that would have representatives from the Pacific, North Pacific, and Western Pacific councils. At our December meeting, we approved participating in the committee. I have not heard anything from the Western Pacific Council, but I understand that NMFS will be making a decision soon on proceeding with the development of an FMP during 1998, and the three councils will have varying roles in development and administration of the plan. I thought we would have a letter from NMFS with the details of the schedule by now, but will just have to keep you posted when it finally arrives.

There were no SSC or AP reports on this agenda item.

DISCUSSION/ACTION

This was an information-only agenda subject and no action was taken. However, later in the meeting Tucker Scully, Director of the Office of Ocean Affairs for the U.S. Department of State, gave a brief report on the progress in fisheries cooperation with Russia.

C-9 Research Priorities

ACTION REQUIRED

Initial review of research priorities for submission to NMFS.

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BACKGROUND

During their November meetings, the Groundfish Plan Teams recommended the research priorities as listed in Item C-9(a). The 1997 list of research priorities is attached as Item C-9(b), as amended. After receiving comments from NMFS and the SSC in February, the Council will forward the priorities to NOAA for use in preparing its annual budget.

Report of the Scientific and Statistical Committee

The SSC reviewed plan team recommendations for additional research and updated its February 1997 recommendations (see SSC Minutes, Appendix IV to these minutes). The SSC wished to emphasize again the critical need for the Council to support the development and maintenance of basic social and economic data on the fisheries and fishery dependent communities of the GOA and BSAI.

The AP did not address this agenda item.

DISCUSSION/ACTION

Council members discussed a variety of areas in which research is needed for fishery management, including stock assessment, and winter distribution of pollock relative to interaction with sea lions.

Linda Behnken moved to approve the recommendations of the SSC with regard to research needs. The motion was seconded by Earl Krygier and carried without objection.

Chairman Lauber stressed the need to prepare a more detailed proposal of research needs because of the new Dinkin-Sands funds which will become available.

D. FISHERY MANAGEMENT PLANS

D-1 Groundfish Amendments with Action Required

D-1(a-c) Final Action Amendments

ACTION REQUIRED

- (a) Final action on a regulatory amendment to revise the Western and Central GOA pollock trimester apportionments.
- (b) Final action on Plan Amendments 52/52 for vessel pre-registration and 24-hr stand-down provision.
- (c) Final action on BSAI Plan Amendment 53 to set gear allocations for shortraker/rougheye.

BACKGROUND

(a) Revise the Western and Central GOA pollock trimester apportionments

The objective of revising the Western and Central GOA pollock trimester apportionments is to reapportion the pollock TACs so that increases in projected pollock removals during the second season

would occur during a potentially less stressful foraging period for sea lions. The benefit to sea lions comes as both potential increase in available forage and shorter fishing duration in the third quarter.

The analysis of the proposed regulatory amendment (Item D-1(a)) contains the following alternatives:

Alternative 1: No Action.

Alternative 2: Reapportion 10 percent of the pollock TAC in the W/C Regulatory Areas from the third season (September 1) to the second season (June 1) resulting in a 25/35/40 split.

Alternative 3: Adopt an FMP Amendment that would framework a process whereby the percentage of pollock TAC apportioned to each season would be specified during the annual harvest specification process.

A reapportionment of 10 percent of the pollock TAC from the third to the second season for the 1998 fishing season could be accomplished through an interim regulatory amendment as described in Alternative 2. Alternative 3 is a framework FMP amendment that would allow the seasonal apportionments of pollock TAC to be specified by the Council during the annual TAC specification. Because the 1998 pollock TAC has already been approved by the Council, the plan amendment proposed under Alternative 3 would not take effect until the Council begins to consider TACs for 1999. Adoption of both Alternatives 2 and 3 would allow for a 10 percent reapportionment in 1998 and would retain management flexibility to adjust the seasonal apportionments of pollock TAC in the combined W/C Regulatory Areas in subsequent years if changes in status of pollock stocks and new information about Steller sea lions in subsequent years suggest that another seasonal split is optimal. The economic effects of a 10 percent shift in pollock TAC in the W/C Regulatory Area from September to June are estimated to be a reduction in exvessel value of approximately \$525,000 using 1997 prices.

(b) Vessel registration and 24-hr stand-down provision

In recent years, several BSAI and GOA fisheries have been "at risk" of exceeding their TACs or PSC limits. These "at risk" fisheries are characterized as short in duration, usually less than 2 weeks, due to TACs that are small relative to fishing effort. Catch information in these fisheries, obtained through the current reporting procedures, are neither timely nor accurate enough to allow proper management. Currently, NMFS does not have advance knowledge of fishery-specific effort, nor the authority to obtain such information. These management problems have been particularly acute in the pollock and Pacific cod fisheries of the Western Regulatory Area of the GOA.

In September 1997, the Council received a report from its industry committee, formed to examine possible trip limits for western GOA pollock and Pacific cod fisheries. However, the industry committee failed to reach consensus on a trip limit proposal for western GOA fisheries. The Council delayed formal analysis of trip limit options and voted to proceed with formal analysis of only two short-term measures for Western GOA fisheries: (1) a stand down period for vessels switching between the BSAI and GOA and vice versa, and (2) a requirement that vessels register in western and central GOA fisheries before they are allowed to participate. In the longer term, the Council also scheduled a discussion of GOA management measures for pollock and Pacific cod in the western and central GOA for this meeting (see item D-2(a)). The Council will then develop a problem statement and identify the specific alternatives to be developed further, with the intent of implementing the measures by January 1, 1999.

During initial review of the analysis in December 1997, the Council requested that staff revise the analysis to address: (1) 48-hr, 72-hr, or 96-hr stand-down period for all fisheries for vessels in the pollock or Pacific cod fisheries that planned to switch between the BSAI and GOA and vice versa; and (2) a requirement that vessels register in Western or Central GOA fisheries before they are allowed to participate in the fishery.

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The following alternatives are considered in this analysis of Plan Amendments 52/52 (Item D-1(b)). Alternatives 2 and 3 are not mutually exclusive and may complement each other. Either or both alternatives could be adopted. However, the Council may wish to framework these types of management actions in the plan amendment and implement those listed below in a regulatory amendment to allow the Council and NMFS greater flexibility. If approved, implementation is planned for the pollock B season in 1998.

Alternative 1: No Action.

Alternative 2: Establish a vessel registration program for "At risk" fisheries which meet certain criteria.

Alternative 3: Establish a stand down requirement for vessels transiting between the BSAI and GOA.

Vessel and gear options

- Option 1. Stand down requirement would apply to all groundfish vessels**
- Option 2. Stand down requirement would apply to trawl vessels only**
- Option 3. Stand down requirement would apply to trawl catcher vessels only**

Fishery options

- Option 1. Stand down requirement would apply to all target fisheries.**
- Option 2. Stand down requirement would apply to vessels engaged in directed fishing for pollock and Pacific cod only.**

Options for length of stand down period

- Option 1. 48 hours**
- Option 2. 72 hours**
- Option 3. 96 hours**

Options for beginning and ending of stand down period

- Option 1. Stand down period begins at the time gear retrieval is completed in one area and ends when gear is deployed in the new area.**
- Option 2. Stand down period begins on the date of delivery and fishing may resume in the new area at 12 noon, Alaska local time, 2, 3, or 4 days after the date of delivery.**

(c) Amendment 53 - Gear allocations for shortraker/rougheye

Shortraker/rougheye rockfish in the Aleutian Islands subarea typically are closed to directed fishing at the beginning of the fishing year because the full TAC amount is needed as bycatch in other fisheries. Unfortunately, bycatch rates were higher than anticipated in 1997, and fisheries that take these species as bycatch were closed to prevent reaching the overfishing level. The closure of these fisheries resulted in foregone opportunity to harvest available groundfish TACs and the threat of closure of the sablefish IFQ fishery. These series of events prompted development of an analysis to reduce maximum retainable bycatch (MRB) percentages and gear allocations for shortraker/rougheye rockfish. At its September 1997 meeting, the Council voted to establish a separate MRB percentage for shortraker/rougheye of 7 percent relative to deepwater species (rockfish species, sablefish, Greenland turbot, and flathead sole) and 2 percent relative to all other species except arrowtooth flounder, which cannot be used as a species against which shortraker/rougheye may be retained. In December, the Council approved the analysis for public review.

The EA/RIR was mailed to you on January 28, 1998. If approved, the actions would be implemented by July 1, 1998. Two separate management alternatives are considered:

Alternative 1: Status Quo. The shortraker/rougheye rockfish TAC would not be allocated between gear groups. MRB constraints would be the only management tool in place to reduce

bycatch rates and bycatch amounts in the trawl fisheries would continue to threaten fixed gear fisheries with closures if overall bycatch amounts exceed TAC and result in overfishing concerns.

Alternative 2: The shortraker/rougheye rockfish TAC would be allocated between vessels using trawl and non trawl gear. Options for gear allocations as follows:

**30 percent to non trawl gear/70 percent to trawl gear - Industry recommendation
20 percent to non trawl gear/80 percent to trawl gear - Historical catch distribution**

The SSC did not take up any of these agenda subjects.

Report of the Advisory Panel

(a) GOA Trimester Pollock Allocations. The AP recommended the Council adopt Alternative 2 (Reapportion 10 percent of the pollock TAC in the Western/Central Regulatory Areas from the third season (September 1) to the second season (June 1) resulting in a 25/35/40 split).

(b) GOA Stand-down and Preregistration. The AP recommended the Council adopt Alternative 2, which establishes a vessel registration program for "at risk" fisheries which meet certain criteria, and Alternative 3, which establishes a stand-down requirement for vessels transiting between the BSAI and GOA, with the following options:

Vessel and Gear Options: Option 3 (stand-down would apply to trawl catcher vessels only), including an exemption for trawl catcher vessels delivering to at-sea processors in the GOA Pacific cod fishery.

Fishery Options: Option 1 (Stand-down requirement would apply to all target fisheries).

Length of Stand-down Period: The AP proposed a new Option 4:

96 hours between the BSAI and GOA

48 hours between the GOA and BSAI

(c) Amendment 53 - Gear Allocations for Shortraker/Rougheye. The AP recommended the Council adopt Alternative 2 (shortraker/rougheye rockfish TAC would be allocated between vessels using trawl and non-trawl gear), Option 1 (30% to non-trawl gear/70% to trawl gear).

DISCUSSION/ACTION

(a) GOA Trimester Pollock Allocations

Bob Mace moved to adopt Alternative 2: (Reapportion 10 percent of the pollock TAC in the Western/Central Regulatory Areas from the third season (September 1) to the second season (June 1) resulting in a 25/35/40 split). The motion was seconded by Steve Pennoyer and carried without objection.

Council members expressed the desire for NMFS to monitor the situation carefully with regard to Steller sea lions and make appropriate recommendations when necessary.

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(b) GOA Stand-Down and Preregistration

Linda Behnken moved to adopt the AP recommendation, with some changes, as follows:

Adopt Alternative 2 to establish a vessel registration program for "at risk" fisheries which meet NMFS criteria, and Alternative 3 to establish a stand-down requirement for vessels transiting between the Bering Sea/Aleutian Islands and Gulf of Alaska, with the following options:

- (1) Stand-down requirement would apply to all trawl catcher vessels only, with an exception for trawl catcher vessels delivering to at-sea processors in the Gulf of Alaska Pacific cod offshore fishery.
- (2) Stand-down would apply to all target fisheries when pollock or cod fisheries are open in the Western and/or Central Gulf.
- (3) Stand-down would be 48 hours in Area 620 and 72 hours in Area 610.
This was later clarified by the maker of the motion, as follows:
 - 72 hours between the Bering Sea and Area 610 in the Gulf, in each direction;
 - 72 hours from the Bering Sea to Areas 620 and 630 in the Gulf, and 48 hours from Areas 620 and 630 to the Bering Sea.
- (4) Stand-down period begins at 12 Noon on the date of delivery and fishing may resume in the new area at 12 Noon, Alaska local time, two or three days later, respectively.

The motion was seconded by Joe Kyle and carried without objection.

Ms. Behnken stressed that the action is necessary to improve management and stop the shift of effort which has led to quota overages and confounded efforts to manage quotas in these areas. The intent would be to have regulations in place in 1998 for the pollock and cod fisheries.

(c) Shortraker-Rougheye Gear Allocation

Bob Mace moved to adopt Amendment 53, Alternative 2, which would allocate the shortraker-rougheye TAC between vessels using trawl and non-trawl gear: 30% to non-trawl gear, and 70% to trawl gear. The motion was seconded by Linda Behnken and carried without objection.

D-1(d-e) Groundfish Amendments for Initial Review

ACTION REQUIRED

- (d) Initial review of Plan Amendments 48/48 to revise the annual specification process in the BSAI and GOA.
- (e) Initial review of a plan amendment to separate the Eastern Gulf regulatory area.

BACKGROUND

- (d) Revise the annual specification process

In December 1996, the Council approved development of a plan amendment proposed by NMFS. The objective of this amendment is to streamline the Council's current groundfish quota specification process. Allowable Biological Catches (ABCs) and Total Allowable Catches (TACs) would remain

unchanged from year to year until revised in a final rule. The proposed change would eliminate several steps, thereby increasing overall efficiency and clarity, without sacrificing public access to information and the opportunity for public comment. First, publication of proposed and interim specifications in the *Federal Register* would be eliminated. Second, obsolete references to foreign and joint venture fishery management measures would be omitted from the FMPs. Neither foreign nor JV fishing vessels have operated in Alaska waters since 1991, and any discussion of foreign and JV allocations is unnecessary. As a result, the annual specifications would become more succinct and easier to understand. The analysis was mailed to you on January 28, 1998. The management alternatives are:

Alternative 1. Status quo.

Alternative 2. Publication of preliminary and interim specifications for Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries would be eliminated. Final specifications are effective unless modified, superseded, or rescinded. References to foreign and joint venture fisheries would be deleted from the FMP.

(e) Separate the Eastern Gulf regulatory area

The issue of separating the Eastern GOA into West Yakutat (Area 640) and East Yakutat/Southeast Outside (Area 650) regulatory areas in the FMP arose as a direct result of the trawl prohibition east of 140° W. longitude (Area 650) in Amendment 41 (License Limitation Program). In December, the Council adjusted the Eastern area sablefish ABCs and shifted the East Yakutat/Southeast Outside trawl apportionment to the West Yakutat area because of the pending trawl closure. This adjustment has caused some initial confusion with the public in calculating their IFQs, but seems to have diminished the need for a change in the Eastern area boundary as was contemplated in the development of the LLP. So, instead of proceeding with further development of this boundary change now, staff is recommending that the GOA Plan Team review this issue at its next meeting and report back to the Council.

Report of the Scientific and Statistical Committee

The SSC recommended the amendment to revise the annual specification process be sent out for public review. They think the process outlined in the amendment would make the specification process more efficient and allow the SSC to spend more time on reviewing stock assessment models and harvest strategies at the October meeting.

The SSC did not comment on the amendment to separate the Eastern Gulf regulatory area.

Report of the Advisory Panel

(d) Revise the Annual Specification Process. The AP recommended the amendment be sent out for public review.

The AP did not address the remaining subject under this agenda item, an amendment to separate the Eastern Gulf regulatory area.

DISCUSSION/ACTION

The Council was advised that there was no need to address agenda item D-1(e), the amendment to separate the Eastern Gulf regulatory area because NMFS staff has indicated the separation may not be needed since the Council may address the apparent conflict between the sablefish trawl allocation in the Eastern Gulf and the trawl ban east of 140°W longitude through the annual specification process. The issue will be turned over to the Gulf

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plan team for further discussion of any biological ramifications in maintaining the status quo in the Eastern Gulf area now that the trawl ban has been approved.

(d) *Revise the Annual Specification Process*

Wally Pereyra moved to send the amendment out for public review. The motion was seconded by Linda Behnken and carried without objection.

D-2 General Issues for Discussion

(a) *Western/Central Gulf Management Measures for Pollock and Pacific Cod*

ACTION REQUIRED

Discussion of management measures for Western/Central Gulf pollock and Pacific cod.

BACKGROUND

The Council has been considering management measures to address the needs expressed by industry in the Western and Central groundfish fisheries in 1997. An industry committee forwarded its recommendations to the Council in September 1997. The Council approved developing two of the recommendations which are scheduled for final action at this meeting (under Agenda item D-1(b)). Plan Amendments 52/52 would require a stand-down before moving between fishing grounds in the pollock and Pacific cod fisheries and/or vessel registration before entering the fisheries.

For longer term solutions, the Council scheduled a discussion of GOA management measures for pollock and Pacific cod in the Western and Central GOA for this meeting. The Council expressed its intent to develop a problem statement and identify the specific alternatives to be developed further, with the intent of implementing the measures by January 1, 1999. The industry committee's minutes and a staff discussion paper are included as Items D-2(a)(1) and (2).

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

Linda Behnken moved to reconvene the committee (formerly called the trip limit committee) to address the problems identified in the Western Gulf, with the specific options to be addressed to include, but not be limited to, trip limits. The motion was seconded by Joe Kyle and carried without objection.

Dennis Austin suggested that a broad scope of possible trip limits should be explored, such as on a graduated scale based on vessel size, and that observer and enforcement issues should be taken into consideration when developing options. Ms. Behnken accepted these suggestions as a friendly amendment to the motion.

Other suggestions for the committee included vessel allocations, species apportionments, exclusive registration, staggered openings, subarea reserves, and IFQs.

Earl Krygier said he would rather hold off on any further work on an amendment until the Council has some feedback on whether the stand-down and preregistration regulations are addressing the problems in the Western Gulf, however Ms. Behnken said she would prefer to have something prepared and ready to submit in case those measures are not effective enough.

D-2(b,c) Vessel Bycatch Accounts & Bycatch Amendments

ACTION REQUIRED

- (b) Receive report from Vessel Bycatch Accounts (VBA) Committee; determine next steps.**
- (c) Receive status report on analysis of bycatch amendments and provide further direction to staff.**

BACKGROUND

(b) VBA Committee

In February 1997, the Council appointed an industry Committee to further develop a 'strawman' VBA program for consideration. A related task of the Committee was to identify, and resolve where possible, a variety of monitoring, enforcement, and legal issues surrounding VBA program development. In April, the Committee reported back to the Council with a preliminary list of alternatives, elements, and options, as well as a discussion of the monitoring, enforcement, and legal considerations. The Committee again met in August.

In September, the Council did not address this issue due to time constraints. However, the AP received a report from the Committee and provided the following advice:

"The AP recommends the Council have the committee continue its efforts. Further, the AP requests the Council have NOAA GC address the legal issues including enforceability, and have the committee examine the effects of the VBA program on the current observer program. Motion carries unanimously."

Based on this recommendation, the Committee met again in November to examine these issues. A summary of the proceedings from both meetings is attached as Item D-2(b)(1). A critical issue for implementing a VBA program, and other individual vessel monitoring programs, is monitoring via the observer program. The current observer program is a scientific program to determine total catch composition, whereas VBA is a compliance-based program. Some changes to the observer program may be required to achieve an effective VBA style of management. These changes likely involve observer sampling procedures including whole haul sampling for PSC's, re-evaluation of observer work priorities, fishery specific observer duties and other aspects of the observer program which are being re-evaluated to meet changing needs of the fishery and its management.

Chairman Steve Hughes will be available to report on the Committee's progress. At this meeting, the Council will provide further direction to the Committee and staff.

(c) Bycatch Amendments

In this past summer's annual call for proposals, we emphasized the need for additional bycatch management measures to comply with the provisions of the Magnuson-Stevens Act. At the September meeting, the Council initiated development of several of the proposals received. These include:

- a plan amendment to eliminate non-pelagic trawling for pollock in the BSAI, and to explore other options for the GOA.
- a plan amendment to further control bycatch of chinook salmon taken in BSAI trawl fisheries. The PSC limit of 48,000 chinook salmon could apply to the entire year (currently just through April 1), or be reduced to 36,000 salmon.
- create an individual checklist program, similar to harvest priority, where participating vessels would have access to special harvest amounts.

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- **create a halibut mortality avoidance program through trawl towing protocols and regulated deck sorting, and re-evaluate methods for estimating halibut mortality including development of regulations for quick release of halibut to reduce mortality.**

The first two of these potential amendments will be developed for review by the Council in April 1998. The remaining proposals, along with ongoing efforts on the Vessel Bycatch Account (VBA) initiative, may require additional analytical time. Other selected amendments initiated by the Council include: (1) an analysis of the maximum retainable bycatch (MRB) of Pacific cod in the shallow water flatfish fishery in the GOA, and increasing the MRB of arrowtooth flounder in the GOA; and, (2) two ADF&G proposals, one to require full retention of demersal shelf rockfish (DSR) and the other to prohibit fishing on the Cape Edgecomb pinnacles.

Staff has prepared a short discussion paper on the bycatch proposals (Item D-2(c)(1)). The paper lays out the alternatives considered for analysis and other issues for Council consideration. The staff needs direction from the Council at this meeting on the scope of alternatives in order to provide the analysis for initial review in April.

The SSC did not have any comments on these two agenda items.

Report of the Advisory Panel

(b) VBA Committee. The AP reiterated their recommendation from September 1997 which was to have the committee continue its efforts and ask NOAA-GC to address the legal issues, including enforceability, and to have the committee examine the effects of the VBA program on the current observer program.

(c) Bycatch Amendments. The AP recommended the Council appoint a committee to further develop the Halibut Mortality Avoidance Program (HMAP) and Individual Vessel Checklist Program (IVCP) with membership consisting of the appropriate industry representation. The AP also recommended that the Council begin an analysis on a proposal to review the chinook salmon bycatch management regime: (a) sampling methodology/estimation procedures; (b) fishery-specific area closures and triggers; and (c) discrete hot spot closure.

DISCUSSION/ACTION

Linda Behnken moved that with regard to the analysis of chinook salmon bycatch, staff should include hotspots as one of the alternatives. The motion was seconded by Dave Fluharty and carried without objection.

Wally Pereyra moved to establish a committee to further develop the halibut mortality avoidance program (HMAP) and to include those portions of the individual checklist program that are complementary to the program and that the committee include individuals that are involved in both of the programs. The motion was seconded by Bob Mace.

Linda Behnken moved a substitute motion: To approve the Advisory Panel's recommendation to include both proposals in their entirety for discussion and development, with committee membership consisting of appropriate representation. The motion was seconded by Earl Krygier.

Wally Pereyra pointed out that the individual checklist program is a type a harvest priority program and the Council has tried to develop that type of program before. Enforcement and legal counsel have expressed concern with this type of program.

The substitute motion carried, 6 to 5, with Austin, Fluharty, Mace, Salveson and Pereyra voting no.

D-2(d,e) MRBs and IR/IU Implementation

ACTION REQUIRED

Discuss and provide direction on IR/IU monitoring and implementation committee.

BACKGROUND

MRBs

We have grouped these closely related issues under the same agenda item. When the Council approved the IR/IU program for the GOA last June, they also considered the issue of directed fishing standards (or MRBs) requiring discarding, or partial discarding, of subject species when those fisheries go to bycatch or PSC status during the fishing season. NMFS was requested to evaluate the MRBs for pollock and Pacific cod and adjust them as necessary to more closely reflect 'natural' bycatch rates, and minimize unnecessary bycatch and discard of those species. The issue of MRB adjustment has also been discussed by the Council on a more general level, in the context of minimizing unnecessary bycatch of all non-target species. Adjustments have been made in selected fisheries, but no comprehensive analysis of MRBs has been initiated yet. Some experience under the IR/IU program will be necessary before a meaningful analysis can proceed, at least for those species covered under IR/IU. NMFS management staff may have additional information for the Council on the MRB issue.

A second request was made of NMFS last June, and that was to assess whether their mandatory program will be able to detect whether the IR/IU program is causing fishermen to be more selective in their harvest practices. Examining this issue will likely involve comparison of bycatch rates under IR/IU to bycatch rates in previous years. This may provide insights to assist in adjustment of the MRBs for those species.

NMFS will report on these two issues at this meeting.

IR/IU Monitoring and Implementation Committee

When the Council discussed a new IR/IU monitoring committee, it was more specifically focused on the issues of monitoring progress of the program, as opposed to addressing implementation details as was done by the Council's original IR/IU Committee chaired by Joe Kyle. Since the IR/IU program has come on line, however, several implementation issues have been raised (see Item D-2(e) Supplemental). Industry comments are under Item D-2(e)(1). It appears that any IR/IU Committee might benefit the Council by addressing both monitoring and implementation issues, whether that committee consists of the original members or new appointments. Some of the original members have expressed a desire to continue their involvement, and Item D-2(e)(2) contains additional nominations.

Neither the AP nor SSC addressed these agenda items.

DISCUSSION/ACTION

(d) Maximum Retainable Bycatch (MRB)

NMFS staff stressed that any adjustments to MRBs probably will not be addressed until there has been some experience with the IR/IU program. The same is true for a request the Council made last year to assess whether

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the mandatory program will be able to detect whether the IR/IU program is causing fishermen to be more selective in their harvest practices.

(e) IR/IU Monitoring and Implementation Committee

Several concerns and issues have been raised by industry with regard to the implementation of the IR/IU, including the sand flea problem raised by the North Pacific Longline Association. NMFS recommended that rather than try to amend the program on a piece-meal basis, that an industry committee should be formed to address implementation issues and recommend possible solutions.

The Council agreed that IR/IU implementation concerns and issues should be addressed by an industry committee, using essentially the same members as before. With regard to the sand flea problem, a motion was made to begin a regulatory amendment to respond to the issue, but Council members generally agreed that NMFS would work with the committee and possibly come back in April with some solutions before beginning work on a regulatory amendment.

SUMMARY

The Council agreed with the National Marine Fisheries Service that they should wait until the IR/IU program has been in effect for a year before considering making changes to MRBs. An industry committee will work with NMFS to address any IR/IU implementation issues which may arise.

E. PUBLIC COMMENTS

There were no additional public comments.

F. ADJOURNMENT

Chairman Lauber adjourned the meeting at approximately 1:25 p.m. on Sunday, February 8, 1998.