

# North Pacific Fishery Management Council

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Certified Richard B. Lauber  
Richard B. Lauber, Chairman *RL*

Date: 2/14/00

## MINUTES

**140th Plenary Session  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
October 12-18, 1999  
Doubletree Hotel-SeaTac  
Seattle, Washington**

The North Pacific Fishery Management Council met June 9-14, 1999, at the Best Western Kodiak Inn in Kodiak, Alaska. The Scientific and Statistical Committee met June 7-9 at the Fishermen's Hall, Kodiak, and the Advisory Panel met June 7-11, at the Elks Lodge in Kodiak. The following members of the Council, staff, SSC and AP attended the meetings.

### Council

Richard Lauber, Chairman  
Dennis Austin for Jeff Koenings  
RADM T. Barrett/CAPT V. O'Shea  
Doug Alcorn  
Linda Behnken  
David Fluharty  
John Bundy

Bob Mace for J. Greer  
Dave Hanson  
Joe Kyle  
Kevin O'Leary  
Steve Pennoyer  
H. Robin Samuelsen, Jr.  
Dave Benton for Frank Rue

### NPFMC Staff

Clarence Pautzke, Executive Director  
Darrell Brannan  
Cathy Coon  
Jane DiCosimo  
Elaine Dinneford  
Chuck Hamel

Chris Oliver, Deputy Director  
Nicole Kimball  
David Witherell  
Helen Allen  
Gail Bendixen  
Maria Shawback

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**Support Staff**

Lisa Lindeman, NOAA-GCAK  
Jon Pollard, NOAA-GCAK  
Lauren Smoker, NOAA-GCAK  
Earl Krygier, ADFG  
Sue Salvesson, NMFS-AKR  
Jay Ginter, NMFS-AKR  
Sally Bibb, NMFS-AKR  
Steve Meyer, NMFS Enforcement

Kent Lind, NMFS-AKR  
Tim Ragen, NMFS-AKR  
Mike Payne, NMFS-AKR  
Jeff Hartman, ADFG  
Robert Bentz, ADFG  
Steve Davis, NMFS-AKR  
Tamra Faris, NMFS-AKR  
Nina Mollett, NMFS-AKR

**Scientific and Statistical Committee**

Jack Tagart, Vice Chair  
Keith Criddle  
Doug Eggers  
Sue Hills  
Doug Larson

Dan Kimura for Jim Balsiger  
Seth Macinko  
Terry Quinn  
Al Tyler  
Hal Weeks

**Advisory Panel**

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

Stephanie Madsen, Vice Chair  
Kris Fanning  
Dave Fraser  
Arne Fuglvog  
Steve Ganey  
Justine Gundersen  
Spike Jones  
Melody Jordan

Hazel Nelson  
Doug Ogden  
Jeff Stephan  
Robert Ward  
Lyle Yeck  
Grant Yutzenka

**Other Attendees**

The following people signed the attendance register:

Tom Gemmell  
Alf Holz  
Buck Laukitis  
Joe Plesha  
Heather McCarty  
Wade Bassi  
Mary Boggs  
Phillip Lestenkof  
Linda Kozak  
Steve Toomey  
Ken Roemhildt  
Arni Thomson

Vince Addington  
Bill Atkinson  
Chris Blackburn  
Ed Glotfelty  
Dick Kink  
Suzanne K. King  
Alan Forney  
Ken Tippet  
Jude Henzler  
Thorn Smith  
Jim Michaels  
Shari Gross

Marie Windrow  
Agafan Krukoff  
Ted Angason  
Beth deGroen  
Stephen R. Taufen  
Jan Jacobs  
Bob Trumble  
Glenn Reed  
Jack Crowley  
David Jentry  
John Iani  
Jon Smee

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Becky Mansfield  
Bruce Jenkinson  
Alec W. Brindle  
Joe Bersch  
Bill Jacobson  
Matt Doherty  
Paul Clarke  
Robert Mikol  
John Henderschedt  
Steve Hughes  
Simeon Swetozof, Jr.  
Garry Loncon  
Margaret Hall  
Dave Allison  
Heidi Lovett  
Dennis Deaver

Bruce Cotton  
Ted Angason  
Douglas Holmberg  
Levii Kochin  
Kelly Kurito  
John Dooley  
Vern Hall  
Walter Koch  
Gary Haugen  
John Hugg  
Gordon Blue  
Jim McManus  
Beth Stewart  
Bill Lock  
Susan Williams  
Kris Norosz

Wayne Mitchell  
Richard Foote  
Vince Curry  
Einar Petersen  
Eugene Asicksik  
Steven Patterson  
Steve Minor  
Steven Carr  
John Young  
Paul MacGregor  
F. Gregory Baker  
Michael Lake  
Stuart Currie  
Brent Paine  
Al Geiser  
Char Kirkwood

**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)**

The Council met jointly with the International Pacific Halibut Commission on Tuesday morning, October 12. A separate summary of that meeting has been prepared. Chairman Rick Lauber called the Council's plenary session to order at approximately 1:35 p.m. on Tuesday, October 12, 1999. Linda Behnken was unable to attend the first day of the meeting.

Steve Pennoyer presented certificates of appointment to Robin Samuelsen and John Bundy. Msrs. Samuelsen and Bundy were sworn in during a Council teleconference on August 12, 1999. Also during that teleconference Rick Lauber was elected Chairman and Bob Mace as Vice Chairman.

Agenda and Minutes. The agenda was approved as submitted. Minutes of the April and June 1999 meetings had been mailed to Council members and were held until the end of the meeting for comments or corrections.

**B. REPORTS**

The Executive Director's report (B-1), reports on the status of the fisheries by ADF&G (B-2), NMFS (B-3), and enforcement reports by NMFS and the Coast Guard (B-4), were submitted in written form.

Discussions resulting from reports

Executive Director's Report. Council members discussed a suggestion from the Gulf Council to request that the Census Bureau separate fishing statistics from farming and forestry in the upcoming census. **Dennis Austin moved to write a letter to the Census Bureau, through Secretary Daley, endorsing this request. The motion was seconded and carried without objection.**

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National Marine Fisheries Report. Sue Salveson provided Council members with preliminary VIP bycatch standards for the first half of 2000. Council members did not recommend any changes.

Ms. Salveson advised that NMFS processed four experimental fishing permits in 1999 and stressed that the paperwork and procedures involved delay work on other Council actions. She requested that in the future Council members clearly indicate their priorities, and suggested that priorities should be reviewed at each Council meeting. **Council members agreed that a specific time will be set aside at each meeting to discuss tasking and priorities, tentatively immediately after lunch on the last day of each meeting.**

**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. And, last will be a section describing Council **Discussion and Action**, if any.

**C. NEW OR CONTINUING BUSINESS**

C-1 BSAI Fixed Gear Pacific Cod Allocations

**ACTION REQUIRED**

**Final Action on the BSAI Pacific Cod Fixed Gear Allocations.**

**BACKGROUND**

In April the Council developed alternatives that would apportion the fixed gear BSAI Pacific cod allocation among freezer longliners, longline catcher vessels, and pot gear vessels (or all longline and pot vessels). The non-CDQ Pacific cod TAC in the BSAI is currently allocated 51 percent to fixed gear, 47 percent to trawl gear, and 2 percent to jig gear. Only the portion of the BSAI Pacific cod TAC that is allocated to fixed gear vessels is being considered as part of this amendment package.

Should the Council select a preferred alternative at this meeting, it is unlikely the program could be implemented at the start of the 2000 fishing season. Mid-season implementation of a fixed gear allocation may be possible. However, it is more likely that the program would not be in place until 2001.

Four alternatives (plus sub-options) are currently under consideration by the Council, in addition to the status quo. The options are based on various catch history combinations from the years 1995-98 (Table 1). While the Council only selected four main alternatives, it has the latitude to select any allocation percentage that falls within the range of the options being considered. For example, if the Council wanted to allocate 20 percent of the fixed gear quota to pot vessels and 80 percent to longline vessels, they would have that option available.

**Table 1: Distribution of Pacific cod catch (in mt) within the fixed gear sector, excluding roll-over catch.**

Options (Years)	Freezer Longliners			Longline CVs			Pot CPs			Pot CVs		
	#	%	mt.	#	%	mt.	#	%	mt.	#	%	mt.
<b>Baseline:</b>	3	87.6%	73,10	9	0.0%	16	7	3.5%	2,91	78	8.9%	7,462
<b>#1: (96, 97)</b>	4	79.2%	66,11	3	0.2%	134	1	5.2%	4,38	110	15.4%	12,86
<b>#2: (97, 98)</b>	4	85.4%	71,29	2	0.1%	83	1	3.4%	3,02	108	10.9%	9,103
<b>#3: (96-98)</b>	4	81.6%	68,12	4	0.1%	100	2	4.7%	3,96	134	13.6%	1,131
<b>#4: (95-98)</b>	5	81.6%	68,14	5	0.3%	215	2	4.6%	3,85	171	13.5%	11,28

Source: ADF&G Fishtickets and NMFS Blend data 1995-98.

Metric tons were calculated by multiplying the allocation percent by the 1999 fixed gear TAC (83,500mt)

Including fixed gear catch resulting from rollovers of the trawl or jig gear allocation will increase longline vessel's percentage of historical catch by about 1 percent and decrease the pot vessel's percent of catch by the same amount.

Using the allocation percentages above, the 1999 TACs, and an ex-vessel price of \$0.192 per pound for pot vessels and \$0.193 for longline catcher vessels derived from 1998 ADF&G Fishticket data, the four alternatives would result in similar estimates of gross ex-vessel value. The allocation shifts being considered, based on 1999 TACs, range from 12 to 178 mt. A difference of \$0.001 per pound, means that total gross revenues are projected to change by \$26 to \$392 depending on the alternative selected. Given the level of uncertainty associated with these estimates, differences in gross revenue projections among the alternatives are likely close to zero, but we cannot say with certainty that they would increase/decrease with a larger allocation to one gear type or the other.

Table 2 reports estimates of first wholesale revenues. These estimates were based on the pot and longline catcher vessel deliveries of Pacific cod being worth \$923/mt, Pot C/Ps \$1,166/mt, and freezer longliners \$1,010/mt at the first wholesale level. Catcher vessel values may be under estimated in this analysis because products made from trawl deliveries could not be separated from products made with fixed gear deliveries.

Changes in first wholesale revenue among the alternatives are relatively small. Summing the revenues across all sectors yields a total first wholesale gross revenue of \$69.06 million under the baseline, \$68.83 million under option 1, \$68.77 million under option 2, \$68.89 million under option 3, and \$68.87 million under option 4. The baseline and option 3 provide the upper and lower bounds of the range, respectively, in total revenue terms. This range of \$0.29 million accounts for less than a half of 1% of total revenues under either the baseline or option 3. However, there are notable distributional impacts among sectors at the first wholesale level associated with the various options.

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**Table 2: Estimates of first wholesale value generated by harvest sector under each option.**

Options	Freezer Longliners		Longline CV		Pot C/P		Pot CV	
	Vessels	\$ Million	Vessels	\$ Million	Vessels	\$ Million	Vessels	\$ Million
Baseline: (98)	36	\$60.62	9	\$ 0.01	7	\$ 2.80	78	\$ 5.63
#1: (96, 97)	44	\$ 54.81	36	\$ 0.13	19	\$ 4.15	110	\$ 9.74
#2: (97, 98)	42	\$ 59.10	26	\$ 0.06	15	\$ 2.72	108	\$ 6.89
#3: (96-98)	48	\$ 56.47	42	\$ 0.06	20	\$ 3.75	134	\$ 8.60
#4: (95-98)	53	\$ 56.47	59	\$ 0.19	22	\$ 3.67	171	\$ 8.54

Two sub-options are included in the Council's suite of alternatives which would increase the allocation of Pacific cod to longline catcher vessels less than 60' length overall (LOA). They could be allocated either 2% of the fixed gear BSAI Pacific cod quota, or 2% of the overall BSAI Pacific cod TAC. These sub-options could be implemented in conjunction with any of the main alternatives, and would result in the small longline catcher vessels increasing their allocation by 6 to 13 fold. If one of these sub-options is selected, the Council will also need to provide direction on whether the allocation will come out of the longline, pot, or fixed gear sector's allocation.

Future roll-overs of jig or trawl apportionments would be allocated by the same formula used to divide the fixed gear Pacific cod quota. Which means if the fixed gear allocation were divided using option #1, then any roll-overs would also be allocated 79.2 percent to freezer longliners, 0.2 percent to longline catcher vessels, and 20.7 percent to pot vessels.

The Council also included a provision stating that during each year an allocation of Pacific cod between the components of the fixed gear sector that is under Council consideration is not implemented, the Council would, at the time it adopts final groundfish specifications in December of the prior year, apportion 10 percent of the BSAI Pacific cod fixed gear TAC to the second trimester, and apportion no halibut PSC to the second trimester. This provision would allow only pot vessels to target Pacific cod in the second trimester of the year.

Information that is currently available on the 1999 fishery has also been included in the document, but the Council has informed industry that catch from that year would not count towards the allocation. Excluding 1999 from the catch history calculations is expected to discourage fishermen from increasing their effort in the Pacific cod fishery, in an effort to improve their personal or their sector's catch history. Also using a partial year's catch in this analysis may provide misleading results, since the pot and longline vessels harvest rates vary by season.

A final decision on this amendment package is scheduled for this meeting. A discussion paper on the number of vessels projected to be eligible to participate in the BSAI fixed gear cod fishery has also been provided under agenda item C-3(b). The options included in that discussion paper were provided to the staff by the Council at the April meeting. That information is mentioned here, because it may be considered relevant to making a decision on the division of the fixed gear quota among gear types. An initial analysis of the Pacific cod license amendment is tentatively scheduled for December.

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

## Report of the Advisory Panel

The AP had the following recommendations:

1. BSAI fixed gear cod be distributed as follows:
  - 80% freezer longliners
  - 0.3% catcher longliners
  - 1.4% pot or longline vessels under 60'
  - 18.3% pot vessels over 60'
2. Any unfished portion of the catcher vessel longline and the under 60' vessel quota that is unused shall be rolled over to the freezer longliner fleet in September.
3. Any jig or trawl rollovers would be apportioned between the freezer longline and pot sectors according to the actual harvest of rollovers for 1996- 1998; and
4. NMFS be requested to implement this cod split by emergency rule as early in 2000 as possible; and
5. Bycatch of Pacific cod in other fixed gear fisheries would be subtracted from the overall fixed gear allocation before allocations for the directed fisheries are set.

## DISCUSSION/ACTION

NOAA General Counsel Lisa Lindeman advised Council members that she had reviewed the financial disclosure statements of Council members Bundy, Kyle, O'Leary and Samuelsen and found that action on this agenda subject would not have a significant benefit to their financial interest, as defined in the conflict of interest regulations, therefore they would not be required to recuse themselves from voting on this subject.

During reports, staff advised that implementation of any action on this amendment could not occur until at least mid-year 2000, and more likely not until the beginning of 2001.

**Joe Kyle moved to approve the AP recommendations, with a change to item 5, to change the word "overall" to "each". The paragraph would then read:**

**Bycatch of Pacific cod in other fixed gear fisheries would be subtracted from each fixed gear allocation before allocations for the directed fisheries are set.**

**The motion was seconded by Robin Samuelsen.** Council members agreed to discuss and vote on the emergency rule portion (#4) of the motion separately.

In commenting on the motion, Mr. Kyle pointed out this action would protect longline and pot fishermen who have made significant long-term investments and are significantly dependent on the BSAI cod fisheries. In addition, minimizing effort on cod in the affected area may have a positive impact on Steller sea lions. Mr. Kyle also stressed that implementing regulations by emergency rule is critical because of the possibility of

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latent effort coming in as early as February from the crab fisheries which will upset the stability of the freezer longliner fleet, and he stressed the importance of moving ahead as quickly as possible with the current species/gear amendment to the license limitation program.

**Linda Behnken moved to amend item 2 by inserting the words, “projected to be” before the word “unused.” Item 2 would then read:**

**Any unfished portion of the catcher vessel longline and the under 60' vessel quota that is projected to be unused shall be rolled over to the freezer longliner fleet in September.**

The motion was accepted as friendly.

During discussion Ms. Behnken expressed concern with the wording of item #5, as amended by Mr. Kyle, because the implications of subtracting bycatch by sector before setting allocations are not clear, i.e., if the bycatch needs in the IFQ fishery are higher than the .3% the Council is allocating to the catcher longliners, what happens to the catcher longliners with a history in the directed P. cod fishery?

Ms. Salveson agreed that the current analysis does not address bycatch needs, so it is difficult to determine whether the AP's recommendations are the appropriate proportionate allocation among the sectors. With either motion, the AP's or Mr. Kyle's, an assessment of bycatch needs would have to be done. If NMFS's estimate is that the bycatch needs are higher than the allocation to the directed fishery, then the directed fishery would not open, however with the AP recommendation, NMFS would have more flexibility than handling it on a individual gear basis as recommended in Mr. Kyle's motion.

**By friendly amendment, the motion was changed to read as recommended in the AP motion.** Mr. O'Leary suggested that the Council should reconsider this issue when the bycatch data is available and if necessary initiate a trailing amendment based on the new information.

With regard to the recommendation on rollovers (item #3), it was clarified that the rollover would apply only to the over 60-ft. category and that the 1.4% was a set-aside exclusively for the under 60-ft. vessels. Ms. Salveson requested that the wording on size category be changed to conform with the vessel categories under the observer program, i.e., “18.3% pot vessels equal to or greater than 60 ft”. This was accepted as a friendly amendment. After further discussion, however, **the motion was changed back to read “18.3% pot vessels, (irrespective of their length)”**.

Sue Salveson advised the Council that NMFS faces the same challenge here as under AFA in monitoring catch in increasingly smaller segments of the fleet and that NMFS will likely have to require processors receiving cod from vessels to use the electronic reporting system, similar to the requirement for AFA deliveries. The action the Council is contemplating on P. cod may also require additional recordkeeping and reporting requirements.

**Dave Benton moved to sunset the allocation in the year 2004 (clarified: December 31, 2003). This motion was accepted as a friendly amendment.** Mr. Benton cited the fact that rapidly changing circumstances because of the status of crab stocks and the ripple effects of AFA actions makes it difficult to determine the long-term effects of the current action. This motion would ensure that the Council would review this allocation scheme in light of the changes in the fisheries in the next couple of years.



The main motion, as amended carried, 9 to 2, with Lauber and Mace voting against. Salvesson was voting for Pennoyer.

Linda Behnken moved to initiate an analysis of prohibited species bycatch of halibut within or between the fixed gear sector. The motion was seconded by Joe Kyle and carried without objection.

Linda Behnken moved to examine the appropriateness of the directed fishing standard for Pacific cod for BSAI fisheries, for both trawl and fixed gears. The motion was seconded by Joe Kyle and carried without objection.

Kevin O'Leary moved to recommend the Council's action on the Pacific cod fixed gear allocation be implemented by emergency rule. The motion was seconded by Dave Benton and carried, 7 to 4, with Behnken, Mace, Salvesson and Lauber voting against.

In support of an emergency rule, Mr. O'Leary cited serious biological and conservation as well as economic issues. Serious problems in the crab fisheries as well as marine mammal closures will force more effort into the pot fisheries, including Steller sea lion critical habitat. It was not possible to anticipate all of the ramifications of the American Fisheries Act on other fisheries, and the Council needs to avoid a substantial shift in effort.

C-2 American Fisheries Act

**ACTION REQUIRED**

- (a) Performance Report on 1999 co-ops: discuss expectations.
- (b) Receive status report on proposed rulemaking for AFA actions.
- (c) Review report from Processor Sideboard Committee and related analyses: final action on processor sideboards.
- (d) Review issues paper on excessive share cap amendment and provide direction as appropriate.
- (e) Review analyses of inshore pollock co-op structure: action as appropriate.
- (f) Update on meeting data requirements of the AFA.
- (g) Review Committee report on GOA co-ops.
- (h) Management of red king crab catcher vessel sideboards: discuss.

**BACKGROUND**

- (a) Performance report on 1999 co-ops

In February 1999 the Council passed a motion to "request that NMFS prepare a preliminary report on the 1999 co-ops for the October 1999 Council meeting and a final report for the February 2000 meeting. The report should specifically assess:

1. The effectiveness of pollock co-ops in reducing bycatch (all species).
2. The effectiveness of management measures to protect other fisheries from adverse impacts caused by the AFA or pollock co-ops.
3. A discussion of how transfers within co-ops may affect issues 1 and 2 above.
4. Utilization and recovery rates by species and product categories.
5. Method of monitoring and enforcement.

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The report should include the most specific catch and bycatch information available on an individual vessel level to help the co-op and the Council realize the public disclosure requirements for such information envisioned in Section 210(a)(1)(A) of the AFA.”

Given the timing of the 1999 fisheries, coupled with other staff priorities for AFA implementation, such a report has not been drafted. A preliminary report may be possible for review in December, with a final report in February. Some of the information requested by the Council may be available in co-op agreements to be reviewed in December, or may be available through the industry’s own internal cop-op monitoring efforts. The Council may wish to provide some additional direction regarding their expectations for this information (in terms of NMFS reports vs information which may be provided by industry) and the timing of its presentation.

**(b) Status of Proposed Rulemaking for AFA implementation**

In June the Council passed several actions related to AFA implementation and sideboard restrictions for AFA harvesters. These are reiterated under Item C-2(b) from the June newsletter. NMFS staff will highlight the status of the regulations being developed to implement those actions.

**(c) Processor sideboards**

In June the Council deferred action on processor sideboards, and appointed a Committee to further flesh out the issues and report back to the Council at this meeting, where final action is scheduled. The Committee report was distributed in early September and is included as Item C-2(c)(1). Barring Council action to the contrary, processing sideboards for crab would be implemented by NMFS per the provisions of the AFA (although there is still some question as to whether such limits would be applied in aggregate, or on individual companies/entities). The AFA is far less specific with regard to groundfish processing sideboards, and it is up to the Council to define appropriate sideboards for groundfish. Options for defining such sideboards were analyzed and reviewed by the Council in June (Chapter 8 from the AFA analysis, which is included under Item C-2(c)(2)).

The Council also requested that staff supplement those analyses with any additional information deemed necessary. The Processor Sideboard Committee identified additional information needs, some of which are included in the report (updated information on crab processing), and some of which are included under Item C-2(c)(3), Supplemental Analyses for Processor Sideboards. This latter information consists of updated information on Pacific cod, in terms of AFA vs non-AFA share of processing, and information for all species aggregated by entity and using recent years of participation for comparison against the original Chapter 8 data aggregations. The essential questions for this action remain:

- (3) Whether limits would be applied to individual plants, companies, or entities vs in aggregate across all processors (or across each sector);**
- (4) Whether AFA catcher processors should be subject to processing sideboards in addition to their existing sideboards;**
- (5) If applied at the individual level, whether the limits would apply at a facility level, a company level, or an entity level. Implicit is the question of whether sideboards would apply to all facilities owned by AFA companies, or just to their pollock facilities.**
- (6) Which base years of processing history to use in determining sideboard limits. While the original analysis examined 1995-1997, there is interest in looking at more recent participation patterns.**
- (7) Whether and how to apply the 10% ownership rule in defining entities subject to the sideboards.**

Item C-2(c)(4) is a discussion paper on these issues which was provided to the Committee. This paper primarily summarizes issues which are treated in more detail in the original Chapter 8 analysis.

(d) Excessive shares

The AFA stipulates excessive share caps for BSAI pollock harvesting (at 17.5% applied to an entity using the 10% ownership linkage rule) which will be included in the regulations being developed by NMFS. The AFA also mandates the Council to establish excessive share caps for BSAI pollock processing, with some specific directions regarding potential percentages, also using the 10% entity rule, but under no time certain. Finally, the AFA contains a paragraph which mandates the Council to establish excessive share caps for harvesting and processing of all BSAI groundfish and crab species - there is no stipulation to use the 10% entity rule in this paragraph nor is there a time certain associated with this mandate. In February the Council bifurcated development of excessive share caps from the sideboard measures, with direction to bring back an analysis for initial review this December. At that time the Council identified alternatives for that analysis.

Since that time we have struggled with several issues related to processing sideboards, which are also critical to the issue of excessive shares. As these issues have developed in the context of processing sideboards over the past several months, so has the realization that we cannot, or should not, proceed too far with formal analysis of excessive shares until some of these issues are resolved, and until we have further discussions with the Council regarding the alternatives for excessive shares. Foremost among these issues is how to deal with ownership linkages (and definition of entities), since excessive share caps by definition have to be applied at an individual level. The analyses of processor sideboards provide some information of relevance to the excessive share issue, at least in terms of historical processing shares, by species, for the AFA companies/entities.

Full analysis of excessive shares will require identification of ownership linkages for all harvesters and processors of BSAI groundfish and crab, and aggregations of data based on historical activities, just as a baseline for analysis. Rather than attempt to provide such data at this time, we have put together an issues paper for Council consideration at this meeting. If certain issues can be resolved, and alternatives further specified, we hope to make the process of excessive share development easier for the Council and the industry, as well as staff. The discussion paper is included as Item C-2(d)(1). This discusses issues identified by staff and outlines potential areas of analysis, beyond compilation of the baseline data, identified by Council and NMFS staff. Given the issues identified and analyses proposed, we do not feel it is realistic to have an analysis for Council review this December. February, or even April, may be more realistic, given that compilation of ownership linkages, baseline data, and percentages resulting from the alternatives would be one portion of the analysis; once that is complete we would hand off those results to a contractor with expertise in the fields of industrial organization and markets. A primary decision point (as with processor sideboards) is whether and how to apply the 10% rule in terms of defining entities. Compilation of baseline data, and subsequent analyses, will revolve directly around this decision.

(e) Inshore pollock co-op structure

In February the Council requested development of "a qualitative analysis of the economic and policy issues associated with formation of processor/catcher vessel (and mothership/catcher vessel) cooperatives under the AFA, including the alternatives outlined in the independent catcher vessel proposal with a preliminary report to the Council in June 1999 and a final report in September 1999". In April, as part of the overall draft AFA analyses, we presented some analyses of this issue in the context of an Initial Regulatory Flexibility Analysis. At that time you directed us to examine this issue in the broader context of economic and policy issues and have such an analysis available for review in October. Staff's perception of your intent was that you may take action at the October meeting, if the analysis was sufficient and warranted a co-op structure different than what is prescribed by the AFA. The overall rulemaking for AFA actions is still in the process of completion, and changes to the

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co-op structure regulations could likely be made in time for 2000 implementation, if that is the recommendation of the Council. We contracted with a team of analysts from the University of Washington and Oregon State University to conduct this analysis, which was distributed in mid-September. Dr. Robert Halvorson from the University of Washington will be making the presentation on this issue.

**(f) Data requirements under the AFA**

The AFA presents several new challenges with regard to both real-time, in-season monitoring and reporting of catch and bycatch data that heretofore have been largely confidential in nature. At our February meeting you passed a series of motions relative to data issues as follows:

“As described in NMFS’ January 28, 1999, discussion paper, the Council requests NMFS to begin to develop the regulatory infrastructure to provide disclosure of:

1. Vessel identification.
2. Harvest amounts by species including prohibited species and harvest rates of species.

Further, the Council initiated an analysis to consider use of a dual form of fish tickets to be used by NMFS and ADF&G that would not fall under the State of Alaska’s confidentiality regulations.

The Council requests that ADF&G initiate efforts to change AS 16.05.815 to allow for the release of confidential data as provided by Section 210(a)(1)(B) and Section 211(d) of the AFA.

The Council urges NMFS to make testing of its new system to capture catch delivery information from shoreline operation a top priority for implementation this summer. The Council will write a letter to the Secretary of Commerce highlighting NMFS’s need to budget additional staff and resources to improve our catch and bycatch reporting systems in order to aid the Council’s ability to comply with the bycatch reduction mandates that were included in the Magnuson-Stevens Act.” (Letter sent on March 10).

Since that time NMFS has been developing an electronic vessel delivery report (to be submitted by processors) to facilitate implementation of the AFA provisions. Numerous concerns with that development have been raised by ADF&G, in terms of potential redundancies and disruptions to the existing State fish ticket system. At this time it appears that NMFS and ADF&G are working to resolve these concerns, and a consensus agreement is being developed. NMFS staff can report further on the status of this effort.

**(g) GOA co-ops**

The Council established a Committee to look into development of co-ops for the Gulf of Alaska fisheries. Previous Committee reports are included under Item C-2(g). That Committee is scheduled to meet again this week and will have another report for Council consideration.

**(h) Red king crab catcher vessel sideboards**

In June the Council established sideboards caps for AFA eligible harvest vessels, including a motion that “those AFA vessels that hold a BBRKC endorsement shall be capped at their 5-year (91-97, excluding 94-95) weighted average share; these vessels shall be managed in the aggregate; and, this share of future catch shall apply to the pre-season GHF”. At that meeting you received a report from ADF&G regarding potential management options for such a sideboard limit. The basic approach outlined by ADF&G would use a formula which divides the GHF amount by the number of vessels expected to participate, and the resulting poundage would be set as a trip limit. This approach

results in an equal distribution of poundage among the AFA vessels participating, regardless of each vessel's historical catch share. At that meeting you requested ADF&G staff to meet with industry to further develop the management plan for the sideboard fishery. After these meetings there appear to still be concerns from the industry with the proposed management plan from ADF&G, and several requests have been made to add this item to the Council's agenda for discussion.

### Report of the Scientific and Statistical Committee

The SSC commented on the following portions of this agenda item:

C-2(d) Excessive Shares. The SSC stated that the discussion paper does a good job of outlining the complexities and potential pitfalls this issue presents to the Council and analytical staff and suggested that the Council carefully consider whether it is reasonable to devote further staff time to analysis of this issue. The SSC suggested that it may be prudent to wait until specific action on processing sideboards is identified because of the interrelationship between sideboards and excessive shares, and also pointed out that future consideration of this issue would benefit from more information on trends in markets as the post-AFA era unfolds.

C-2(e) Inshore Catcher Vessel Cooperatives. The SSC had extensive comments on this issue. Please see the SSC minutes (Appendix II to these minutes) for their entire report. The SSC suggested that the document should be fleshed out to include an introduction with a purpose, need for action, explicit identification of alternatives, and a detailed description of the context, i.e., to conform to the requirements of an EA/RIR.

### Report of the Advisory Panel

C-2(a) Performance Report on 1999 Cooperatives. The AP recommended the following, in addition to the five Council recommendations outlined in the Action Memo in the Council notebooks:

That cooperatives annually must prepare a report containing the information listed below for the Council. A preliminary report covering activities through November 1 by December 1, with a final report by January 30<sup>th</sup>.

1. Allowed catch and bycatch in pollock and all sideboards by whatever method is used to determine those allocations.
2. Actual catch and bycatch in pollock by vessel and sideboarded fisheries by whatever method is used to determine those sideboards.
3. Method used to monitor fisheries in which cooperative vessels participated.
4. Actions taken by cooperatives to enforce vessel or aggregate catches that exceed allowed catch and bycatch in pollock and all sideboarded fisheries.

C-2(b) Proposed Rulemaking for AFA Actions. The AP recommended the following amendments:

#### *Catcher Vessel Sideboards: GOA Groundfish Sideboards*

1. Shall be applied throughout the year and the total sideboard cap will be subdivided between vessels with less than 1700 mt of annual pollock landed catch history and vessels with 1700mt or greater and administered as two separate caps.
2. Shall apply at the AFA eligible catcher vessel sector level in 2000. However, NMFS shall publish the proportion of the cap represented by the aggregate catch history of the vessels under and over

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1700 mt in each cooperative, and encourage the formation of an inter-cooperative agreement to monitor the subdivision of the caps at the cooperative level. NMFS shall require each cooperative agreement to contain provisions that would limit its participants to their collective 1995-97 harvest in other fisheries.

Additionally, modify 5 and 6 to use "AFA permitted" to describe vessels.

C-2(c) Processor Sideboards.

**Crab Sideboards**

1. The AP recommended the Council adopt a single aggregate processing cap that would apply to all processing facilities owned by inshore or mothership sector AFA entities.
  - a. NMFS will determine which processing facilities are owned by inshore or mothership AFA entities using the "limited 10% rule".
  - b. Owners of inshore or mothership AFA pollock facilities that process crab under the Council's jurisdiction would be required to identify to NMFS as part of their processing permit requirements any processing facilities in which the owner has more than a 10% interest using the limited 10% rule.
2. A processing facility is any plant or US documented vessel that processes crab under the jurisdiction of the North Pacific Fishery Management Council.
3. Only the limited 10% rule will be used in determining AFA entities for purposes of the historic processing cap.
4. AFA catcher processors would not be subject to additional processing sideboards.
5. The historic processing cap would be determined annually based on the average of the 1995-1997 processing history of US documented processing vessels and processing plants owned by inshore and mothership AFA entities at the start of the fishing year.
  - A. If an inshore or mothership AFA entity sells a crab processing facility to a non-AFA entity, or if a processing vessel is no longer US documented, the 1995-1997 average processing history of that plant or vessel is removed from the historic processing cap. Likewise, if an inshore or mothership AFA entity buys a non-AFA processing plant or US documented vessel, then the 1995-1997 average processing history of that plant or vessel is added to the historic processing cap.
  - B. The historic processing cap would be determined based on the percentage of the GHL processed inshore or mothership AFA entities.
  - C. There would be no cap for undeveloped species or species without a current GHL.
  - D. The cap would apply year around.

*Groundfish sideboards*

1. The AP recommended the Council adopt a single aggregate processing cap that would apply to all processing facilities owned by inshore or mothership sector AFA entities.
  - A. NMFS will determine which processing facilities are owned by inshore or mothership AFA entities using the "limited 10% rule"
  - B. Owners of inshore or mothership AFA pollock facilities that process fish under the Council's jurisdiction would be required to identify to NMFS as part of their processing permit requirements any inshore or mothership AFA eligible processing facilities in which the owner has more than 10% interest using the limited 10% rule.
2. A processing facility is any plant or US documented vessel that processes fish under the jurisdiction of the North Pacific Fishery Management Council.
3. The limited 10% rule will be used in determining AFA entities for purposes of the historic processing cap.
4. AFA catcher processors would not be subject to additional processing sideboards.
5. The historic processing cap would be determined annually based on the average of the 1995-1997 processing history of US documented processing vessels and processing plants owned by inshore and mothership AFA entities at the start of the fishing year.
  - A. If an inshore or mothership AFA entity sells a non-pollock processing facility to a non-AFA entity, or if a processing vessel is no longer US documented, the 1995-1997 average processing history of that plant or vessel is removed from the historic processing cap. Likewise, if an inshore or mothership AFA entity buys a non-AFA processing plant or US documented vessel, then the 1995-1997 average processing history of that plant or vessel is added to the historic processing cap.
  - B. For fully utilized species, the historic processing cap would be determined based on the percentage of the TAC processed by inshore or mothership AFA entities.
  - C. Flatfish in the Bering sea would be exempt from any processing caps.
  - D. The processing cap would apply to all facilities of AFA entities regardless of whether or not the AFA entity received pollock from a cooperative.
  - E. The cap would apply year around
  - F. NMFS would establish a phased-in cap to allow AFA entities to process bycatch after the directed fishing cap is reached. This phased approach should not allow the AFA entities to exceed the aggregate cap.

Additionally, the AP recommended the Council exempt CDQ organizations and their non-pollock and crab investments from the AFA entity rule where the only ownership link is the CDQ organization between an AFA facility or company and other investments by the CDQ organization.

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**C-2 (d) Excessive Share Caps**

Given the action recommended for processor sideboards for non-pollock, the need for excessive share caps is unclear and the AP recommended the Council review the need at a later date. But with respect to pollock, the AP recommended the Council move forward with an analysis with the following options and suboptions:

- A. Excessive share caps of between 10-20%  
SUBOPTIONS
1. Include grandfather provisions
  2. Exclude CDQ pollock
  3. Apply "limited 10% rule"
  4. Apply at the Company level

**C-2 (e) Inshore Pollock Cooperative Structure**

The AP recommended the Council amend the AFA to allow onshore catcher vessels to change processors without going through an open access year.

AP also recommended 80% or more of the qualified catcher vessels participating in any inshore cooperative be limited to the first calendar year in which the cooperative will receive its allocation pursuant to the AFA.

Furthermore, the AP recommended:

1. Changing the definition of which vessels may be eligible to join a cooperative to "legally entitled under the 1934 law governing the cooperatives."
2. Removing the requirement of a qualified vessel to make a delivery every year in order to be qualified the following year.

Additionally, the AP recommended section 210 (b) relating to catcher vessel inshore cooperatives be amended to add the following new subsections:

1. Cooperative Accepted Catcher Vessels. In addition to the rights of those catcher vessels defined as Qualified Catcher Vessels all 208 (a) onshore catcher vessels whether such vessels harvested pollock in the directed pollock fishery or not, shall be eligible to join any existing AFA onshore cooperative provided:
  - a. The owner of the catcher vessel is accepted for membership in the AFA cooperative based on criteria provided by the individual cooperative on a case by case basis; and
  - b. Prior to the calendar year in which the vessel participates in the cooperative, which shall not be before the year 2001, the owner of the catcher vessel becomes a party to the contract which implemented the fishery cooperative under the same terms and conditions as were accepted by the owners of "qualified catcher vessels."

**DISCUSSION/ACTION**

NOAA General Counsel Lisa Lindeman advised that the portion of the AP recommendation regarding exempting the CDQ fisheries from the excessive share caps is not required because the AFA does not include CDQ pollock. With regard to the anti-trust issue (§210(b) of the AFA), Ms. Lindeman advised that General Counsel cannot advise the Council without an opinion from the Justice Department. Ms. Lindeman



recommended the Council consider the following: (1) retain the current co-op inshore provisions, pending advice from the Justice Department; these provisions may still be subject to private litigation under the anti-trust laws; and (2) move to supercede provisions in §210(b) requiring formation of a 1934 co-op, by de-linking the inshore co-ops from the 1934 Act. The Council could allow the formation of co-ops only for the purposes of receiving an allocation of a co-op. If the Council does decide to supercede the provisions of the Act, it should take into consideration the Counsel's opinion on excessive shares, under "Elements to be Considered" on page 2 of that written opinion.

C-2(a) Performance Report on 1999 Cooperatives

**Bob Mace moved to approve the recommendations of the Advisory Panel. The motion was seconded by Joe Kyle.** It was clarified that the AP recommendations are in addition to previous requirements for cooperatives as well as the five requirements listed in the Action Memo. Those actions, 1-5, in the Action memo are agency requirements, and the requirements in the AP motion are requirements for cooperatives.

**John Bundy moved to amend to request that staff commence analysis with respect to implementation of Section 211(d) of the AFA relating to public disclosure of all catch and bycatch in all groundfish fisheries in the GOA and BSAI on a vessel-by-vessel basis. The motion was seconded by Steve Pennoyer and carried without objection.**

**The main motion, as amended, carried without objection.**

With regard to the timing of the analysis on public disclosure of catch and bycatch information on a vessel-by-vessel basis, it was noted that it would be undertaken as soon as time and staff permits. There was no specific timeline specified in the motion.

C-2(b) Proposed Rulemaking for AFA Actions

**Bob Mace moved the AP recommendations. The motion was seconded by John Bundy.**

**Joe Kyle moved the following substitute motion:**

**Delay action on the 1700 mt exemption provision of GOA groundfish sideboard final rule until an analysis can be performed on following range of alternatives for an exemption:**

**For the years 1995-97, AFA catcher vessels less than 125 ft with average annual BSAI pollock and Pacific cod landings less than:**

- A 1700 mt
- B 1200 mt
- C 750 mt
- D 500 mt

**and to allow vessels that meet the poundage requirements above with greater than**

- A 15 GOA groundfish landings
- B 20 GOA groundfish landings

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- C 30 GOA groundfish landings
- D 40 GOA groundfish landings

**to be exempted from GOA sideboards.**

The motion was seconded by Dave Benton.

Steve Pennoyer pointed out that this action would have to be a comment to the Secretary on the proposed rule being published with the Council's June action on this subject. It was clarified that the analysis for December would be mainly data in the form of graphs and charts to show effects of the action, and not a substantive analysis because of the timing and other staff priorities.

**Mr. Kyle's substitute motion carried without objection.**

C-2(c) Processor Sideboards

**Bob Mace moved to adopt the recommendations of the AP with regard to crab sideboards. The motion was seconded by Dave Benton.**

Kent Lind advised that this motion would not change regulations already set to take effect in 2000. This set of measures would supercede those when it becomes effective. However, he did not have an estimate of the timing. Mr. Lind noted that NMFS would have to consult with the State and industry to determine how the measures would work and whether the Crab FMP would need to be changed. In the meantime, the interim regulations would be in effect. The Council would also have to comment to the Secretary on the current regulations.

There was some discussion as to whether the motion would apply to all processors or only to processors accepting fish from a co-op.

Linda Behnken moved to amend to state that sideboard caps would apply whether or not a processor is receiving fish from a co-op, but withdrew the motion when it was clarified that the Advisory Panel's intent was that it would apply only to crab processors receiving fish from a co-op, as stated in the statute. **Dennis Austin moved to state this in the motion for clarity. The motion was seconded and carried with Ms. Behnken objecting.**

**Linda Behnken moved to amend Section 5.B. of the AP recommendation to replace "GHL" with the word "catch." The motion was seconded by Robin Samuelsen, and carried without objection.**

**The motion, as amended, carried without objection.**

In discussing the "10% rule," Council members agreed that the motion should read, "10% or more interest" to comply with the Act. Steve Pennoyer also indicated that the AFA does not mention the term "limited 10% rule" as used in the AP motion and that if the Council wishes to change that, there should be some supporting statement or justification. Council members indicated that public testimony on this issue was part of their decision as well as the discussion in Chapter 8 of the original analysis, supplied in the Council notebooks for this meeting. In addition, Council members felt this modification reflects the intent of Congress as well as clarifying it and making it more workable.

Groundfish Processing Sideboards/Excessive Share Caps

**Bob Mace moved to approve the recommendations of the AP with regard to groundfish processing sideboards. The motion was seconded by David Benton.**

**Joe Kyle moved to amend, in the last paragraph, regarding exempting CDQ organizations, to add "or entity" after "AFA facility, or company," in order to comport with analyses that include all three terms. This was accepted as a friendly amendment.**

**John Bundy moved a substitute motion, as follows:**

**That the subject of groundfish processing sideboards be combined with the subject of non-pollock excessive share caps for Council review at a later date.**

**But, with respect to pollock excessive share caps, move the AP language:**

**That the Council move forward with an analysis with the following options and suboptions:**

- A. Excessive share caps of between 10-20 %**  
**Suboptions:**
  - 1. Include grandfather provisions**
  - 2. Exclude CDQ pollock**
  - 3. Apply "limited 10% rule"**
  - 4. Apply at the company level**

The motion was seconded by Robin Samuelsen.

Mr. Bundy felt that the Council should wait to address non-pollock excessive share caps until after some experience has been gained from the AFA and co-ops.

**Dave Benton moved to amend as follows: That the subject of groundfish processing sideboards be combined with the pollock excessive share cap issue. That the Council move forward with an analysis of the following options and suboptions for pollock processing excessive share caps:**

- A. Excessive share caps of between 10-20 %**  
**Suboptions:**
  - 1. Include grandfather provisions**
  - 2. Exclude CDQ pollock**
  - 3. Apply "limited 10% rule"**
  - 4. Apply at the company level**

**Include the groundfish processor sideboard recommendations of the AP and the pollock excessive share cap alternatives and bring the analysis to the February 2000 Council meeting for final action.**

**This was accepted as a friendly amendment.**

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Mr. Benton explained that the intent is to provide more time for the Council and industry to consider all the ramifications of the processing sideboard caps and to look at this issue in reference to excessive shares and the framework within which the Council is making decisions about entities, plants, facilities. With regard to timing, staff indicated that if a final decision was made in April, implementation in 2001 could be possible, although that will be hard to determine until the final alternative is chosen. It was clarified that staff should provide a **preliminary analysis in February with a final decision scheduled for the April 2000 Council meeting**. Also, the Council would have in front of them at the February meeting all of the options previously identified for groundfish processing sideboards, and the options identified by the AP at this meeting.

**The following changes and/or additions were added to the motion by friendly amendment:**

- **The word “processing” should precede “excessive share caps” everywhere it appears in the motion. (Pennoyer)**
- **An option of 30% was added to the options of 10% and 20%. (Fluharty)**
- **In the excessive share cap analysis, analyze the impact on competitive markets for independent catcher vessels of the different excessive share options, to the extent that analysis is possible. (Behnken)**
- **In lieu of the exemption of flatfish in the Bering Sea from processing caps, analyze a processing cap for flatfish in the Bering Sea based on historic (95-97) processing history of AFA motherships, catcher processors, inshore processors in aggregate, to the extent that analysis is possible. (Behnken)** It was clarified that the original analysis covers the necessary information to allow the Council to decide in favor of the exemption if they choose to.

**The motion, as amended, carried without objection.**

**C-2(e) Inshore Pollock Cooperative Structure**

**Bob Mace moved to adopt the recommendations of the Advisory Panel. The motion was seconded by Dave Benton.**

**Joe Kyle moved the following substitute motion:**

**The Council adopts the following problem statement to address problems perceived with the inshore pollock cooperative structure as prescribed under the American Fisheries Act.**

**Problem Statement**

**The goal of the AFA cooperative structure is that both harvesters and processors benefit from the rationalization of the pollock fishery. The following problems with the AFA cooperative structure, however, have been identified by public testimony and staff reports:**

1. **It is unclear whether an appropriate balance will exist between harvesters and processors when rents are shared from rationalization of the inshore sector;**
2. **The Department of Justice has been asked to determine if processor owned vessels can be members of cooperatives. It is unclear how the benefits of rationalization will occur for the harvesting and processing participants in the inshore sector if the**

- Department of Justice rules that processor owned vessels cannot be members of cooperatives; and
3. The AFA's balance of benefits among and within the sectors in the Bering Sea pollock fishery (offshore, mothership, and inshore) may be eliminated if one sector is unable to receive benefits of rationalization in the fishery.

Prompt Council action is needed to examine the balance that existed before passage of the American Fisheries Act among and between the sectors in the Bering Sea pollock fishery; and the balance that may exist under the Act as well as various other alternatives.

Staff is directed to prepare an EA/RIR that addresses the problems perceived above within the context of the Act, the Dooley Hall proposal, the Advisory Panel recommendation from the October 1999 Council meeting and the alternatives noted in the Halvorson/Khalil/Lawarree qualitative analysis prepared for the October 1999 Council meeting.

This analysis should be undertaken and completed so that Council may take final action at the February 2000 meeting of the North Pacific Fishery Management Council.

The motion was seconded by Robin Samuelsen.

By friendly amendment, the following alternatives were added to the analysis:

Alternatives for analysis:

1. Options for catcher vessels to move from one cooperative to another without going through one year in open access.  
Suboptions:
  - (a) once every calendar year;
  - (b) once every other calendar year.
2. Prohibit processor-owned catcher vessels from entering the open access inshore directed pollock fishery unless a processor is unable to form a cooperative.
3. Prohibit dual-qualified mothership catcher vessels from entering the directed inshore pollock fishery except as members of a cooperative unless no cooperatives are formed in the inshore directed fishery.

The motion carried, 8 to 3, with Behnken, Fluharty and Mace voting against. It was clarified that processor-owned catcher vessels are to be defined as in the Halverson study and the open access fishery is the inshore directed pollock fishery. The entire Council action on this agenda item is found in Appendix III to these minutes.

C-3 License Limitation Program

**ACTION REQUIRED**

- (a) Progress report on Implementation.
- (b) Review preliminary analyses of Pacific cod species/gear endorsements.
- (c) Discuss crab license buyback program.

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**BACKGROUND**

**(a) LLP implementation**

The basic LLP is being implemented beginning in January 2000 with application packages mailed by the RAM division in September. The first year will be an interim license as some of the recent Council actions have not been finalized in rulemaking and will not be incorporated in the first year (the October 1998 actions). Additionally, based on the original LLP rules, these licenses will be transferable next year. NMFS staff will update the Council on these and other details.

**(b) Fixed gear Pacific cod species/gear endorsements**

As a follow up amendment to the BSAI fixed gear Pacific cod split, the Council is considering limiting the number of vessels eligible to participate in the fixed gear BSAI Pacific cod fishery, relative to the number that would qualify under the current Groundfish License Limitation Program (LLP). Initial projections of the number of fixed gear vessels that would qualify in the BSAI under LLP are about 340 catcher vessels and 100 catcher/processors. LLP licenses are not species specific, so all of these vessels could target Pacific cod. These numbers are substantially larger than the number of vessels that actually targeted Pacific cod in recent years.

A discussion paper has been developed to provide information on the number of vessels that would qualify under the Pacific cod limited entry program alternatives under consideration by the Council. That discussion paper was mailed out along with Amendment 64 (Allocation of Pacific cod Among Fixed Gear Sectors), and is included here as Item C-3(b)(1). The alternatives range from allowing 39 to 43 freezer longliners, 3 to 7 longline catcher vessels, and 19 to 203 pot vessels to qualify to target Pacific cod in the future. Adding the minimum and maximum numbers provides a range of the total number of vessels that are projected to qualify. That math results in a minimum of 61 and a maximum of 253 vessels, with the difference being primarily in the number of pot vessels qualifying. Both of these numbers are much lower than the 440 vessels under the current LLP.

The Council is tentatively scheduled for initial review of the EA/RIR/IRFA on this issue in December. A final decision would then be planned for February 2000. Given that this amendment would not be effective until 2001, and given other tasking deadlines, it may be more realistic to schedule this issue on a February/April timeline. In either case, any changes to the list of alternatives being considered will need to be made at this meeting.

We have received one comment, from the Aleut Corporation, which is germane to this issue. Their letter, item C-3(b)(2) seeks a specific cod allocation for the Adak area. I have also placed it under the proposals in item D-4, Staff Tasking.

**(c) Crab license buyback program**

In late 1997 the Council reviewed a proposed business plan developed by the Crab Reduction and Buyback (CRAB) Group, and expressed their support for continued development of that plan. In July of 1998 we also distributed a revised draft of that business plan (dated June 5, 1998) to the crab industry soliciting their comments, with the expectation that the Council would be reviewing this issue again in late 1998. You may recall that the plan at that time contained an 'A' and 'B' license concept which would require FMP amendment for consistency. We received two direct responses, and a comment summarizing the draft plan's compliance with the Magnuson Act. Since then, further development of that plan has been on hold pending two primary issues: (1) final action by the Council regarding the LLP recent participation criteria (and AFA sideboard measures), which would determine the number of crab licenses in the fisheries, and (2) publication by NMFS of proposed rules specifying the necessary content and process for buyback plans.

We now have final resolution by the Council regarding the LLP program (subject to SOC approval), and NMFS, in February 1999, published a proposed rule specifying buyback program requirements (Item C-3(c)(1)). Comments on that proposed rule submitted by the ACC are included as Item C-3(c)(2). A final rule has not yet been published, but the proposed rule specifies a rather involved process for implementation of a buyback, requiring substantial up-front work by both the buyback business plan drafters and the Council. For example, the industry referendum will not be conducted unless and until bids are invited, received, and accepted, and, the regulations to implement the bidding process are in effect. The basic process is as follows:

1. The buyback proponents prepare a final business plan and submit it to the Council;
2. The Council approves the plan, prepares and approves any necessary FMP amendments and regulations, holds a public hearing (could be a Council meeting), and submits the entire package to NMFS;
3. NMFS reviews and approves the package; publishes regulations to implement it contingent upon the bid and referendum process; invites, tallies, and accepts the (binding) bids; conducts a referendum; and, if referendum is approved, begins the capacity reduction program.

This process is somewhat different, and more involved, than we originally anticipated. It is also true that conditions in the crab fisheries, which may affect the feasibility of a buyback, have changed dramatically - while a buyback program may be more desirable than ever, the ability of industry to fund it may be diminished. The process for a subsidized buyout program is slightly different, and is of course dependent on federal appropriations. Because fishery conditions and the process to implement a buyback program have changed since we last discussed this agenda item, it is probably an appropriate time to re-evaluate where we are with this program and what steps would need to be taken to move forward. A summary of recent industry meetings addressing issues related to a possible crab license buyback is included under D-3 Supplemental.

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

### Report of the Advisory Panel

The AP recommended the Council move forward with an EA/RIR/RFA for BSAI Fixed Gear Pacific cod species/gear endorsements with the following changes to the discussion paper:

1. Catcher longline vessels
  - a. Add 1995
  - b. Add sub-option allowing catcher vessels less than 60' to use their jig landings as part of their catch history to apply towards a minimum landing requirement.
2. Pot Gear Vessels
  - Qualification years*
    - a. Add option 6 - Any one year 96, 97, 98
  - Qualification landings*
    - b. Add Option 5 - A landing only, no minimum poundage required
3. Add an alternative for analysis of a "grandfather" provision that would exempt from the cod species/gear participation and landing requirements catcher/processor vessels that (i) met the original License Limitation Program general qualifying period and area endorsement period requirements for BSAI groundfish non-trawl endorsement; (ii) were purchased prior to December 1998 with the

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express purchaser intent of being employed in the fixed gear cod fishery, and evidenced by documented processing equipment and/or vessel modification or improvement investments that are specific to groundfish, and (iii) were employed in the fixed gear cod fishery during 1999.

Owners of grandfathered vessels would have a one-time election to choose either a longline or pot endorsement, but not both.

Additionally, the AP requested that the Council have staff develop a discussion paper for GOA Pacific cod fisheries species/gear endorsements similar to options in BSAI with the addition of trawl gear.

**DISCUSSION/ACTION**

**Linda Behnken moved that the Council move forward with an EA/RIR/RFA for BSAI Fixed Gear Pacific cod species/gear endorsements with the following changes to the discussion paper:**

- 1. Catcher longline vessels**
  - a. Add 1995**
  - b. Add sub-option allowing catcher vessels less than 60' to use their jig landings as part of their catch history to apply towards a minimum landing requirement.**
  - c. A landing only – no minimum poundage (all catcher longliners).**
  
- 2. Pot Gear Vessels**

*Qualification years*

  - a. Add option 6 - Any one year 96, 97, 98**

*Qualification landings*

  - b. Add Option 5 - A landing only, no minimum poundage required**

**The motion was seconded by Dave Benton.**

By friendly amendment, the following suboption was added under Option 1(c):

**A landing only – no minimum poundage for vessels under 60 ft.**

**John Bundy moved to amend the motion to incorporate the AP's recommendation regarding analysis of a grandfather provision, with changes (noted by underlines),:**

**Add an alternative for analysis a "grandfather" provision that would exempt from the cod species/gear participation and landing requirements catcher/processor vessels that (i) met the original License Limitation Program general qualifying period and area endorsement period requirements for BSAI groundfish non-trawl endorsement ; (ii) were purchased between July 1, 1997 and December 31, 1998 with the express purchaser intent of being employed in the fixed gear cod fishery, as evidenced by documented processing equipment and/or vessel modification or improvement investments of no less than \$100,000\* that are specific to groundfish, and (iii) were employed in the fixed gear cod fishery during 1999. Council staff to work with industry to determine the number of vessels that would qualify under this provision and provide a preliminary report at the December 1999 meeting. \*Clarified that purchase of gear would not apply.**



**Owners of grandfathered vessels would have a one-time election to choose either a longline or pot endorsement, but not both.**

The motion was seconded by Dave Fluharty.

Staff was asked whether this provision would measurably slow up the analysis. Darrell Brannan responded that it is his understanding that this would not be a formal EA/RIR, but a brief discussion paper with available data to determine the number of vessels in this category.

During public comment, it was stressed that industry would like very much to get something in place as soon as possible. Sue Salveson responded that the fact that the action conforms to AFA and other statutes will be helpful in getting a regulation through the system. However, there are still other issues, such as a significant appeals process. A substantial number of people would be cut out of the fishery and the appeals process could be time consuming meaning that it is unlikely any reduced fishing will be noticed until after appeals are settled.

**The amendment carried, 8 to 3, with Behnken, Benton and Kyle voting no (Salveson voting for Pennoyer).**

**Sue Salveson moved to include 1999 participation in every place in the analysis where it states 1998 (with the exception of the grandfather provision). The motion was seconded by Dave Benton and carried without objection.** Ms. Salveson noted that the Council needs to consider current participation. Council members asked staff to make it clear in any public notices that the Council could change the 1999 date to include recent participation up until final action in April or June.

Timing for the analysis for this amendment would be initial review at the February 2000 Council meeting; however an informational report on the number of vessels that would qualify under the grandfather provision will be provided at the December 1999 meeting.

**The main motion carried, 10 to 1, with Benton voting against. (Salveson voting for Pennoyer)**

**Dennis Austin moved to reconsider his vote on this agenda item. The motion was seconded by Dave Benton and carried without objection.**

**Mr. Austin moved to add a suite of alternatives that would look at qualifying poundages in any two out of four years, 1995, 1996, 1997, or 1998, or any two years of 1995, 1996 and 1997, consider a minimum poundage requirement in the aggregate of those two years of 200,000 to 600,000 pounds.** the motion was seconded and carried without objection. It was clarified that 1999 would be included in Option 2 to satisfy the current participation requirement. The Council delayed voting on the motion until a written final copy was distributed.

**The motion, as amended, carried, 7 to 4, with Behnken, Benton, Kyle and Samuelsen voting against. (Salveson voting for Pennoyer)** Final Council action on this agenda item is found in Appendix IV to these minutes.

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C-4 Multispecies CDQs

**ACTION REQUIRED**

- (a) Review and comment on the State of Alaska's percentage allocation recommendations for selected species for the 2000 CDQ fisheries.
- (b) Discuss CDQ observer issues.

**BACKGROUND**

- (a) State of Alaska's recommendations for selected species for the 2000 CDQ fisheries

The State of Alaska is forwarding to the Council its recommendations for CDQ group allocation percentages for the 2000 groundfish fisheries for pollock, arrowtooth flounder, "other species," chinook salmon prohibited species quota (PSQ), and non-chinook salmon PSQ. The State recommendations are essentially "rolled over" from 1999 and are attached as Item C-4(a). This consultation is required under NMFS regulations before the State may submit their recommendations to NMFS for approval and implementation.

- (b) CDQ observer issues

Sally Bibb, NMFS - Multispecies CDQ Coordinator, will brief the Council on problems in 1999 with some MSCDQ vessels and processors being unable to obtain observers. Problems also occurred in some of the open access fisheries. Letters from observer contractors to NMFS and NMFS' response are attached (Item C-4(b)(1)). NMFS staff will ask the Council to: (1) review the attached MSCDQ Program management objectives, catch accounting, and monitoring requirements (Item C-4(b)(2)); and (2) determine whether problems this year warrant changes to the CDQ Program management objectives or catch monitoring requirements.

The issue of CDQ observer coverage for shoreside processors was delayed from April 1999 to this meeting at the request of the Council. NMFS staff has not updated or revised the draft analysis prepared for April. Staff will review the problem statement and proposed alternatives and request further direction from the Council on this issue. Copies of the April analysis will be available for your review, if needed.

Lastly, MSCDQ staff tasking will be reviewed at the meeting. The Council may wish to provide additional guidance to NMFS regarding the priorities of the listed actions (Item C-4(b)(3)).

Neither the Scientific and Statistical Committee nor the Advisory Panel addressed this agenda item.

**DISCUSSION/ACTION**

- (a) CDQ Pollock Allocations for 2000

The Council was provided with the State's recommendations for CDQ pollock and bycatch allocations for 2000. Glenn Haight of the State Dept. of Commerce and Economic Development advised the Council that the recommendations for 2000 are the same as those in place for 1999, and gave a brief update on the program. Council member John Bundy asked how the State plans to respond to the NRC report on the CDQ program. Mr. Haight and Mr. Benton advised that some of the recommendations in the report have already been implemented. Currently the State is developing a response to the report and waiting for a formal NRC presentation at a future Council meeting.

**Joe Kyle moved to recommend approval of the State's recommendations for CDQ pollock and associated bycatch allocations for the year 2000. The motion was seconded by Linda Behnken and carried without objection.**

(b) MSCDQ Observer Issues

Dr. Dan Ito was introduced as the new head of the NMFS observer program. The Council received an extensive report from Sally Bibb on the MSCDQ observer program, including problems by industry in obtaining observers.

Council members had received public comment regarding the lack of MSCDQ-trained observers and discussed possible ways to mitigate the problem while more observers are being trained. NMFS explained that waivers are only granted in very special circumstances but they are working on other ways to solve this problem, including inseason adjustments to requirements when necessary.

**Dave Benton moved the following statement:**

**It is the policy of the North Pacific Fishery Management Council to have the best, most accurate, and responsive fishery monitoring program in the world. Rigorous catch accounting is becoming the norm rather than the exception. The Council believes that the MSCDQ program is a prototype for fishery management in the North Pacific. It has set the stage for implementation of the American Fisheries Act and sea lion conservation measures. The problem is how to reconcile the current observer qualification and training requirements with the realities of the new fishery monitoring and management needs imposed by the AFA, sea lion conservation, and MSCDQ programs. Given the shortages of qualified observers, it is apparent that this problem is reaching a critical level. Therefore, the Council will reconstitute the Observer Committee to include appropriate representatives from industry, observers and observer companies, environmental groups, and CDQ organizations. The Council will ask the committee to review the observer program in its entirety and make recommendations to improve the program to attain the Council's policy objectives.**

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

Mr. Benton stressed that the committee will not be limited to the MSCDQ program, but that the committee should look at observer requirements in light of the AFA, sea lion issues, and other data needs and tell the Council how best to meet the needs of those programs. The committee should address immediate, short-term needs first and then proceed to address long-term needs.

**Robin Samuelsen moved that the Council request that NMFS not increase the observer coverage to two MSCDQ observers on the AFA-qualified vessels needing observers; that the observer coverage will consist of one MSCDQ observer and one regular observer. This would be an interim measure until the committee has time to flesh out the observer availability problems. The motion was seconded by Dave Benton.**

Sue Salvesson pointed out that the current program is set to phase in to 2001 and there is already a proposed rule in progress for 2000. She asked whether the Council intended this motion to be a comment to the Secretary. Ms. Salvesson also asked for clarification of Council intent with regard to NMFS action during

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the season if the current level becomes constraining. She also noted that this particular item is not an action item for the Council at this meeting and suggested that in December NMFS will have more information on their plans for 2000 and the Council could discuss it at that time.

**Linda Behnken moved to amend to state that the Council would comment to the Secretary on the proposed rule requesting that in 2000 the requirement be one lead and one regular observer, i.e., one Level 1 and one Level 2 observer.** This was accepted as a friendly amendment and carried without objection.

Linda Behnken moved that the committee address two immediate issues at their first committee meeting: (1) the level of shoreside observers needed in plants and the appropriate poundage requirement that kicks in the need for an observer, and (2) the issue of the appropriate observer requirements on catcher longline vessels between 60 and 125 ft participating in the MSCDQ program. Her intent would be that appropriate committee recommendations could be enacted in time for next year's fisheries. This motion was later withdrawn after Council discussion.

During discussion there were many comments regarding what can and cannot be done in time for next year's fisheries. Dave Hanson said the Council doesn't have the necessary information on appropriate levels of coverage and that it is too early to make those kinds of determinations.

**C-5 Observer Program**

**BACKGROUND**

It's been a while since this has been a major agenda item for the Council, so an update on major program developments is in order. Several things are happening, including the independent program review being conducted by Marine Resource Assessment Group (MRAG) under contract to NMFS. This and other initiatives are summarized under Item C-5(a). Regarding recent shortages in NMFS-certified observers, Item C-5(b) is a September bulletin from NMFS noticing their intent for short-term adjustments which will allow observer coverage requirements to be covered over a 6-month period instead of the quarterly requirement. This allowance is scheduled to expire at the end of this year.

The Council's last direction to staff and the Observer Advisory Committee (OAC) was to begin re-development of some type of fee-based funding mechanism for the program. For reference, the OAC report from last September is included under Item C-5(c). Following completion of the independent program review the Council may be in a better position to provide additional direction.

This agenda item was discussed along with Agenda Item C-4. Discussion and action are found in that portion of the minutes.

**C-6 Steller Sea Lions**

**ACTION REQUIRED**

- (a) Status of litigation, emergency rules for 1999, and amendments for 2000.**
- (b) Status of RPAs and discuss need for court-ordered revisions.**

**BACKGROUND**

This is mainly going to be a NMFS update on the Steller sea lion issue. The Council last considered this issue in June when it took final action on a suite of measures to protect sea lions in 2000. The actions are summarized in item C-6(a), an excerpt from the June newsletter. Item C-6(b) is a notice published by NMFS on July 7 for the 1999 pollock B and C seasons.

On July 9, U.S. District Court Judge Thomas S. Zilly issued a ruling supporting the NMFS determination of jeopardy for the pollock fishery, and no jeopardy for the Atka mackerel fishery. The Reasonable and Prudent Alternatives (RPAs) were found to be arbitrary and capricious because they were not justified under the prevailing legal standards and the record did not show that they were reasonably likely to avoid jeopardy. Just as importantly, the judge found that NEPA requires preparation of a programmatic SEIS analyzing the environmental impacts of the fishery management plans as a whole on the North Pacific ecosystem. This last issue is covered under agenda item C-7.

On July 19, the plaintiffs filed a proposed order of remand calling for intensive analysis and implementation of management measures to ensure that pollock fisheries avoid jeopardizing Stellers and any adverse modification of critical habitat, and requiring NMFS to show how the measures temporally and spatially disperse the fisheries and protect rookeries and haulouts.

On August 6, NOAA GC met with Judge Zilly and he remanded the December 1998 Biological Opinion back to NMFS, directing them to explain how the revised RPAs will avoid the likelihood of jeopardy or adverse modification of critical habitat. If revised RPAs are determined to be necessary, NMFS needs to file them by October 15<sup>th</sup>, and within three days of that date, they need to be filed with the court and served on all parties. The Court scheduled a status conference for October 29, 1999, at 9 a.m., to determine the parties' intent to pursue further motions and relief in this action, including challenges to the remanded 1998 Biological Opinion. The remand order was sent to you in a Council mailing on September 3<sup>rd</sup>.

NMFS will report on its activities since early August and how the Council should be involved in the next few months in developing protective measures for Steller sea lions.

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

### **Report of the Advisory Panel**

The Advisory Panel requested that in the event the Council does not adopt the AP recommendation relative to the 1700mt exemption, that the Council remove the exemption to the seasonal exclusive area requirement for catcher vessels fishing between the BSAI and GOA, for vessels less than 125' in areas 620 (east of 157°) and 630.

### **DISCUSSION/ACTION**

The Council received an update on the status of the lawsuit and the revised reasonable and prudent alternatives. During public comment it was pointed out that the closures around Kodiak will force vessels to fish in areas and at times that could cause safety problems. Chairman Lauber asked Jay Stinson of Alaska Draggers Assn. to form a group to begin monitoring the safety impacts of the sea lion regulations on the Kodiak fleet. Capt. O'Shea said that the Coast Guard would be interested in working with industry to gather information on this issue.

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**C-7 Groundfish SEIS**

**ACTION REQUIRED**

**Scoping and further action.**

**BACKGROUND**

NMFS prepared and issued a supplemental environmental impact statement (SEIS) for the groundfish fisheries authorized under the groundfish plans for the Gulf of Alaska and Bering Sea and Aleutian Islands areas in December 1998. U.S. District Court ruled in Greenpeace v. NMFS that the 1998 SEIS was legally inadequate, and remanded the document to NMFS for further action consistent with the requirements of NEPA (Item C-7(a)). NMFS announced its intention to prepare a programmatic SEIS on Federal groundfish fishery management in the EEZ waters off Alaska in the Federal Register October 1, 1999 (Item C-7(b)). The scope of the analysis will include all activities addressing the conduct of groundfish fisheries authorized and managed under both FMPs and amendments thereto. NMFS staff will present information about its plans to prepare the programmatic SEIS, explain the NEPA process, and advertise time and locations of scoping meetings. The Council may wish to comment on the range of alternatives to be examined in the document.

The Advisory Panel did not address this agenda item.

**Report of the Scientific and Statistical Committee**

The SSC reviewed a copy of the SEIS Remand Order and received an oral presentation by NMFS Regional Staff. Choice and wording of alternatives to be considered will be a critical element. The number of possible combinations of potential fishery management measures (e.g. harvest levels, seasons and areas of operations, allocation to gear types, etc) is infinite, but the ability to make analytic distinctions between many of these will be quite limited. The alternatives chosen need to cover a realistic range of biologic removals and human impacts to the ecosystem, but without mandating the analysis of minuscule distinctions.

**DISCUSSION/ACTION**

The Council received a brief presentation from Steve Davis and Tamra Faris on the plans for developing the SEIS. However, because of a lack of time the Council did not provide much discussion. They did approve a motion requesting NMFS be receptive to the many requests to extend the comment period. Because this was a request of the agency, Ms. Salveson abstained from the vote which carried without further objection.

**C-8 Halibut and Sablefish Management**

**ACTION REQUIRED**

- (a) Review committee report on IFQ weighmaster program.**
- (b) Discuss scheduling final action for halibut subsistence management.**

## BACKGROUND

### Weighmaster program

In December 1996, the Council initially reviewed a weighmaster program submitted by Icicle Seafoods as an IFQ proposal and tasked staff with development of a discussion paper of requiring weighmasters to monitor offloadings to enhance IFQ accountability. IPHC staff submitted a discussion paper for the September 1997 meeting. In response to the IPHC report, the Council requested that NMFS Enforcement prepare an implementation plan for a weighmaster program. The Council reviewed the implementation plan in October 1998 and referred it for review and recommendations to a joint committee of the IFQ Implementation Team and Enforcement Committee. The Council tasked the joint committee with reviewing: 1) adequate compliance monitoring levels; 2) the potential for involving personnel from ADF&G, USCG, NMFS and the IPHC in achieving the compliance monitoring program; and 3) proposals to address the remaining needs at achieving adequate compliance monitoring levels. Task 1 was addressed in the first meeting on December 10, 1998. Tasks 2 and 3 were addressed at the April 20, 1999 meeting. The minutes of those meetings are attached as Items C-8(a)(1) and (2).

The committee recommends the following actions to the Council:

- To not proceed, at this time, with the weighmaster program as presently described.
- That it submit a letter to Assistant Administrator for Fisheries Penny Dalton and the new Chief of NMFS Enforcement, emphasizing its strong interest in continued funding for IFQ enforcement, and to request funding of the nine positions previously identified under AFA to address additional enforcement workload in other groundfish fisheries, particularly BSAI pollock co-ops.
- Request NMFS Enforcement to prepare a report on a reassessment of the recommended 20% IFQ enforcement coverage by determining an appropriate coverage rate, including USCG IFQ enforcement efforts in determining current coverage levels. The report should reexamine the materials used in developing the original determination of the 20% target IFQ enforcement coverage and the four tier enforcement concept. This could include an assessment of additional agency coordination, although the committee commends the current levels of NMFS/USCG coordination. The report should be presented at the October IFQ Implementation Team meeting, which would then submit recommendations to the Council.
- Request NMFS Enforcement to prepare an annual report on IFQ enforcement to be provided at each February Council meeting.

### Halibut Subsistence

Action to develop management measures on halibut subsistence was initiated in September 1996 as a result of a conflict between the IFQ/CDQ regulations and customary and traditional practices of Alaska Natives in IPHC regulatory area 4E, whereby halibut CDQ fishermen were retaining undersized halibut for personal use. The Council formed a Halibut Subsistence Committee and initiated a regulatory amendment process to address this conflict. In April 1997, the Council approved the staff analysis for public review and scheduled final action for June 1997. The Council took final action on part of the proposed action, which allowed Area 4E CDQ fishermen to retain undersized halibut while commercial fishing.

While the federal government retains complete jurisdiction for managing all halibut fishing sectors due to the international treaty between the US and Canada, the remainder of the proposed subsistence action has been tabled since then recognizing the sensitive nature of continuing

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discussions between the federal and state governments and the public on subsistence harvests for all fish and wildlife. The Council has periodically put the issue on the Council agenda to discuss the status of the federal takeover. The federal takeover of subsistence management occurred on October 1, 1999, and NMFS has requested the Council reactivate its consideration of the issue (Item C-8(b)). The Executive Summary of the earlier analysis is under C-8(c). The analysis will need to be revised given new NMFS directives on the preparation of EA/RIR/IRFAs.

The Advisory Panel did not address this agenda item.

**Report of the Scientific and Statistical Committee**

The SSC received a briefing on the progress of the Halibut GHF analysis. Their comments can be found in the SSC Minutes (Appendix II to these minutes).

**DISCUSSION/ACTION**

The Council received a brief staff report on halibut subsistence and the progress on the Halibut GHF analysis. However, the Council did not have sufficient time for discussion.

**Robin Samuelsen moved to put the halibut subsistence issue on the December agenda for discussion and review of the previous analysis for halibut subsistence and personal use management alternatives in order to provide staff direction for an initial review draft of the analysis in April and final action to be scheduled for June 2000. The motion was seconded and carried without objection.**

C-9      Essential Fish Habitat

**ACTION REQUIRED**

**Preliminary Review of Habitat Areas of Particular Concern analysis.**

**BACKGROUND**

Habitat areas of particular concern (HAPC) are those areas of special importance that may require additional protection from adverse effects. HAPC is defined on the basis of its ecological importance, sensitivity, exposure, and rarity of the habitat. Several habitat types have been already identified as HAPC as part of the essential fish habitat amendments. These HAPC's included:

1. Living substrates in shallow waters (e.g., eelgrass, kelp, rockweed, mussel beds, etc.)
2. Living substrates in deep waters (e.g., sponges, coral, anemones, etc)
3. Freshwater areas used by anadromous fish (e.g., migration, spawning, and rearing areas)

In October 1998, the Council approved for analysis several proposals regarding habitat areas of particular concern (HAPC). These proposals requested that a gap analysis be prepared, and additional habitat types and areas be designated as HAPC. Proposed HAPC habitat types included seamounts and pinnacles, the ice edge, the shelf break, and biologically-consolidated fine-grained sediments. Proposed specific HAPC areas included a deep basin in Prince William Sound, the Chrikov Basin north of St. Lawrence Island, and the red king crab bycatch areas around Kodiak Island.



The HAPC technical team has completed a preliminary analysis of HAPC types and alternatives to minimize potential impacts. An executive summary of the analysis is provided as Item C-9(a). At this meeting, the Council will review the analysis and provide additional direction to staff. Note that the Ecosystem Committee has recommended additional options to be analyzed. Initial review of this amendment package has been tentatively scheduled for December and final action in February 2000.

The Council did not take up this agenda item because of time constraints.

C-10      Joint Board of Fisheries/North Pacific Council Activities

**ACTION REQUIRED**

Review protocol and any other recommendations from joint committee.

**BACKGROUND**

The joint committee of the Board and Council met in Anchorage on September 15<sup>th</sup> and considered two main agenda items: revisions to the Council-Board Protocol and the preseason gear restrictions. The draft meeting minutes are under item C-10(a). Recommendations for the protocol are considered below; the preseason gear restriction is treated under agenda item D-3(d).

Protocol Revisions

The joint committee reviewed the joint protocol and the State/Federal Action Plan and recommended approval of an addendum to those documents. The draft addendum seeks to expand the purview of the State/Federal Policy Group and describes a process for categorizing crab proposals and addressing important, off-cycle issues. The committee also identified inter-jurisdictional issues that potentially could be of mutual concern to both bodies. Item C-10(b) is a copy of the original protocol and State/Federal Action Plan, a draft addendum for approval, and the list of inter-jurisdictional issues. The Board will address this matter and our recommendations at their work session later this month.

Neither the Advisory Panel nor the Scientific and Statistical Committee addressed this agenda item.

**DISCUSSION/ACTION**

Kevin O'Leary moved to adopt the addendum to the Joint Protocol. The motion was seconded by Linda Behnken and carried without objection.

C-11      Magnuson-Stevens Act Reauthorization

**ACTION REQUIRED**

Update of Magnuson-Stevens Act reauthorization.

**BACKGROUND**

MSA reauthorization is beginning to come into focus a bit. It is unclear how fast it will progress, but at least we have a sense of the issues that may be considered. For example, the Regional Council chairmen met the end of June in Rhode Island and developed the recommendations under C-11(a). These were passed on to the House Subcommittee on Fisheries Conservation, Wildlife and Oceans

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at a hearing on July 22 by the chairman of the New England Council. Our own Chairman Lauber presented them to the Senate Subcommittee on Oceans and Fisheries on July 29. The testimony of Chairman Lauber and Council member Fluharty is under C-11(b). Item C-11(c) is the testimony of the new Assistant Administrator of the NMFS, Penny Dalton, at a Senate field hearing on September 25, 1999. It mainly focuses on New England issues, but also touches on NMFS issues for reauthorization starting on p. 6. Also, note that she put in a good word for Alaska fisheries on p. 3.

The House will hold a hearing on essential fish habitat sometime in February, submit a draft reauthorization bill, and then hold a second general hearing. The Senate may hold field hearings early in 2000 and possibly one may occur in Alaska in January. I have been cautioned that little in the way of new bills normally are passed in a presidential election year, so Magnuson-Stevens may not be amended until 2001.

Due to time constraints, the Council did not address this agenda item.

C-12 Ecosystems Management

**ACTION REQUIRED**

Receive report from Ecosystem Committee.

**BACKGROUND**

The Ecosystem Committee met on September 20 in Seattle. The purpose of the meeting was to review the preliminary HAPC analysis and discuss ways to incorporate ecosystem information into fishery management. Minutes from the meeting are attached.

Due to time constraints, the Council did not take up this agenda item.

**D. FISHERY MANAGEMENT PLANS**

D-1 Groundfish Amendments

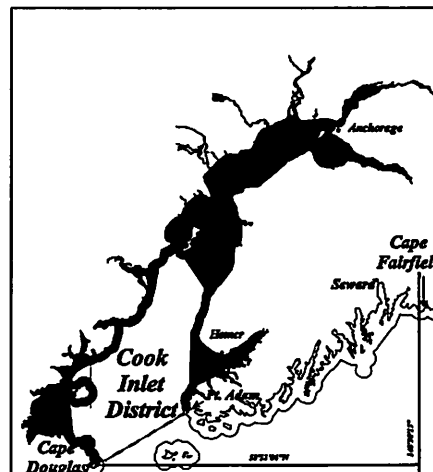
**ACTION REQUIRED**

- (a) Initial review of an analysis to prohibit the use of non-pelagic trawl gear in Cook Inlet.
- (b) Initial review of an analysis to manage sharks and skates in the BSAI and GOA.
- (c) Receive committee report on the pelagic trawl definition.

**BACKGROUND**

Cook Inlet non-pelagic trawl gear ban

At its October 1998 meeting, the Council approved a proposal submitted by the Alaska Department of Fish and Game (ADF&G) and requested that staff prepare an analysis of alternatives to prohibit the use of non-pelagic trawl gear in federal waters of Cook Inlet in the Gulf of Alaska (GOA). To protect and promote rebuilding of king and Tanner crab resources, the Alaska Board of Fisheries prohibited



the use of non-pelagic trawl in state waters of Cook Inlet. However, a significant portion of critical habitat for these crab resources occurs in federal waters of Cook Inlet. Although little fishing effort has occurred with non-pelagic trawl gear, previous efforts to prohibit non-pelagic trawling in this habitat have largely been reactive. Greater long-term, proactive protection is needed for this habitat to promote rebuilding of these resources. The EA/RIR for this change to the GOA FMP analyzes four alternatives for gear specifications for the federal portion of Cook Inlet in the GOA. The executive summary is attached at Item D-1(a)(1). The following alternatives were included in the analysis.

Alternative 1: No action.

Alternative 2: Prohibit the use of non-pelagic trawl in federal waters of Cook Inlet.

Alternative 3: Defer management of groundfish in federal waters of Cook Inlet to the State of Alaska.

Alternative 4: Remove waters of Cook Inlet from the Gulf of Alaska FMP.

The SSC and AP reviewed the analyses in April 1999. The SSC approved the analysis for public release with changes to be made. An excerpt of the April 1999 SSC minutes is attached as Item D-1(a)(2). The AP requested that staff expand the analysis and schedule initial review again for October. Its recommendations are attached as Item D-1(a)(3). Due to a lengthy agenda, the Council did not review this analysis in April. Accordingly, staff revised the discussion as suggested by the AP and only added its list of new alternatives recommended to the analysis, but did not incorporate them fully into the analysis, pending Council approval. Final action will be scheduled for February 2000 to allow staff to revise the analysis to conform with new NMFS guidelines for preparation of EA/RIR/IRFAs.

Alternative 5: Require observer coverage when operating within the proposed closure area.

Alternative 6: Establish time and area closures.

Alternative 7: Place federal waters of Cook Inlet under a Commissioner's Permit.

Alternative 8. Establish Cook Inlet as a marine reserve.

#### Shark and skate management

The potential for rapid growth in commercial fishing, and the potential for over-exploitation in combined state and federally managed fisheries convinced the Alaska Board of Fisheries in February 1998, to close the directed commercial fishery for sharks and establish a Commissioner's permit requirement to commercially fish skates and rays in state waters of Alaska. Under these actions, bycatch of sharks was limited to 20% of other landed groundfish. The Board also took action to place an annual statewide harvest limit on the sport take of sharks.

ADF&G submitted a proposal to revise management of sharks and skates in Alaska EEZ waters during the summer 1998 call for proposals. The Board brought the issue to the Council at the July 29-30, 1998 meeting of the Joint Committee of the Board of Fisheries/North Pacific Fishery Management Council. At this meeting, complementary federal action was discussed and the joint committee recommended that the Council proceed with development of an analysis of the proposed alternatives. The Council initiated analysis of plan amendments to the BSAI and GOA groundfish FMPs at its October 1998 meeting. It was scheduled for initial review in April 1999. Only the SSC reviewed the analysis at that meeting and approved the analysis for public review pending some changes (Item D-1(b)(1)). The SSC also recommended that the Plan Teams review the assessments of sharks and skates and the impacts of creating a separate management category for these species. The Teams' comments are attached as Item D-1(b)(2).

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The analysis was mailed to you on October 1, 1999. The executive summary is attached as Item D-1(b)(3). The suite of alternatives are listed below. While ADF&G staff initially supported Alternative 4, the analysis indicates that the best management approach would likely occur under Alternative 2. Final action is scheduled for February 2000 to allow staff to revise the analysis to incorporate stock assessment and Plan Team findings from their November meeting and to conform with new NMFS guidelines for preparation of EA/RIR/IRFAs.

**Alternative 1: No action.**

**Alternative 2: Separate sharks and skates from the "other groundfish" species category and enact specific federal regulations.**

**Alternative 3: Separate sharks and skates from the "other groundfish" species category and defer management to the state.**

**Alternative 4: Delete sharks and skates from the BSAI and GOA groundfish FMPs.**

**Pelagic trawl definition**

In March 1999, the Board was scheduled to take complementary action to mirror the bottom trawl ban in federal waters that was approved by the Council in June 1998. The Board sent a letter to the Council which identified a conflict in the federal and state definitions of pelagic trawl gear. The issue was referred to the Council's Enforcement Committee in April 1999. The Council's charge to the Enforcement Committee from the Council was to identify: 1) if a conflict occurs between the state and federal definitions of pelagic trawl gear; 2) if a problem occurs as a result of conflicting gear definitions; and 3) a new definition of pelagic trawl gear, if needed. The committee meeting was well-attended by the public and after discussion, it determined that no problem exists in terms of enforcement of the respective gear definitions. The state definition is enforceable in state waters and the federal definition is enforceable in federal waters. The committee determined that the State and Federal pelagic trawl definitions are clear and not confusing within the separate governmental jurisdictions. Committee minutes are attached as Item D-1(c).

The Enforcement Committee report was scheduled to be placed on the summer agenda of the Joint Board/Council committee meeting, but was deferred due to other committee business. The Council may wish to direct staff to send a letter to the Board conveying these comments.

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

**Report of the Advisory Panel**

*(a) Non-pelagic Trawl Gear in Cook Inlet*

The AP recommended the Council release the analysis for public review after deleting Alternative 8—"Establish Cook Inlet as a Marine Reserve."

*(b) Management of Sharks and Skates in the BSAI/GOA*

The AP recommended the Council release the analysis for public review after clarifying that the enacting Federal requirements mirror the State of Alaska Board of Fish regulations to ban finning for sharks only.

## DISCUSSION/ACTION

### *(a) Non-Pelagic Trawl Gear in Cook Inlet*

Bob Mace moved to approve the AP recommendation to release the analysis for public review after deleting Alternative 8. The motion was seconded by Dave Benton and carried without objection.

### *(b) Sharks and Skate Management in the BSAI/GOA*

Bob Mace moved to approve the AP recommendations. The motion was seconded by Robin Samuelsen.

Linda Behnken offered a friendly amendment, which was accepted, to include under Alternative 2, in the discussion of retention of shark bycatch, to consider also allowing retention of skates.

Another amendment by Dave Benton to modify the analysis to include a request for comments on whether or not Federal requirements should mirror State requirements was accepted as friendly.

The motion, as amended, carried without objection.

### D-2      Groundfish Specifications for 2000

## ACTION REQUIRED

- (a) Review revised specification process.
- (b) Approve preliminary and interim BSAI and GOA groundfish specifications.

## BACKGROUND

### Revised specification process

In June 1998, the Council approved Amendments 48/48 to streamline the specification process to allow the previous year's final specifications to remain in effect until superceded by subsequent final specifications. NMFS notified the Council in July 1999 that the Council's preferred action will not be forwarded to the Secretary for approval based on legal and technical difficulties (Item D-2(a)). NMFS and Council staff have agreed to table further development of streamlining while NMFS and the Council produce the revised SEIS, Steller sea lion management measures, AFA amendments, and other analyses.

Beginning in 1998, the Council streamlined its own Groundfish Plan Team process for approving preliminary and interim specifications. As no new ABC recommendations are made at the September Plan Team meetings, the Teams have recommended rolling over all 1999 final specifications as preliminary specifications for 2000. These preliminary specifications will be used as the basis for interim specifications to start the commercial groundfish fisheries on January 1. In November, the Plan Teams will be making OFL and ABC recommendations based on new stock assessments for all groundfish species. The Council will adopt final recommendations for the 2000 fishing year at its December meeting, based on the November 1999 SAFE report.

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NMFS staff have prepared a draft environmental assessment (EA) for the Council to review in its deliberations of preliminary specifications. It contains: 1) the Preliminary 2000 Bering Sea Aleutian Islands (BSAI) Stock Assessment and Fishery Evaluation (SAFE) report; the Preliminary 2000 Gulf of Alaska SAFE report; the Preliminary 2000 Economic SAFE report; and the Preliminary 2000 Ecosystem Chapter. The combined document was mailed to you on September 29.

**BSAI and GOA groundfish specifications**

The preliminary SAFE reports, BSAI and GOA groundfish ABCs and TACs, bycatch apportionments, and halibut discard mortality rates need to be approved and made available for public review and comment. Tables 1 and 2 from the EA are attached to this memo and list the 1999 final specifications that the Council is considering for approval as preliminary specifications for 2000.

The final 1999 Prohibited Species Caps (PSC) limits for the BSAI are listed in Tables 3 and 4. The final 1999 PSC limits for GOA halibut are listed below. The 1999 halibut discard mortality rates are listed in Tables 5 and 6. These are all recommended to be rolled over as part of the preliminary specifications. Joint and Gulf of Alaska Plan Team minutes are attached as Items D-2(b)(1) and (2).

			GOA		
Trawl gear			Hook and Line		
1st quarter	600 mt	(30%)	1st trimester	250 mt	(86%)
2nd quarter	400 mt	(20%)	2nd trimester	15 mt	( 5%)
3rd quarter	600 mt	(30%)	3rd trimester	25 mt	( 9%)
4th quarter	400 mt	(20%)	DSR	10 mt	
<hr/>			<hr/>		
2,000 mt			300 mt		

**Report of the Scientific and Statistical Committee**

The SSC reviewed a series of progress reports on the generation of groundfish ABCs. They had lengthy discussions on several general issues, including consistence in ABC determinations, risk assessment, and the new approach of presenting the groundfish EA/RIR for TAC setting. Please see the SSC Minutes (Appendix II to these minutes) for their discussions.

**Report of the Advisory Panel**

The AP recommended the Council release the BSAI and GOA SAFE documents for review and that the Council approve the interim BSAI and GOA groundfish specifications as outlined in the Council's Action Memo, with the following changes:

Tables 3 and 4 and the table for GOA trawl gear: remove seasonal Halibut PSC apportionments with the exception of rockfish.

**DISCUSSION/ACTION**

**Linda Behnken moved to approve the AP recommendations. The motion was seconded by Joe Kyle and carried without objection.**

Ms. Behnken requested that the sablefish stock assessment scientists provide the Council with both area apportionments, one showing the traditional method using survey data, and the other using their suggested method of combining information from the survey and fishery CPUE.

Dennis Austin moved to approve the SSC recommendation to form a subcommittee of 3 SSC members and 3 groundfish plan team members to construct alternatives to current ABC/OFL specifications. The motion was seconded and carried without objection. (See SSC minutes for specifics on this committee.)

D-3 Crab Management

**ACTION REQUIRED**

- (a) Receive plan team report and review the Crab SAFE.
- (b) Take final action on *C. bairdi* rebuilding plan. (Includes Board of Fisheries comments.)
- (c) Development of rebuilding plans for *opilio* and St. Matthew blue king crab: Council direction.
- (d) Review joint committee recommendations on standdown alternatives.
- (e) Discuss possible amendments to clarify Category 1 and 3 measures in the Crab FMP.

**BACKGROUND**

(a) BSAI Crab SAFE

The Crab Plan Team recently met to assemble the Stock Assessment and Fishery Evaluation (SAFE) report for king and Tanner crab stocks of the Bering Sea and Aleutian Islands. The SAFE details the current biological and economic status of fisheries, guideline harvest levels (GHL), and support for different management decisions or changes in harvest strategies. Copies of the SAFE were distributed last week.

The status of BSAI crab stocks is mixed. Some stocks are stable (e.g., Bristol Bay red king crab), whereas other stocks are declining (e.g., *C. opilio*). Most importantly, it appears that the Bering Sea *opilio* stock and St. Matthew blue king crab stock have fallen below their minimum stock size thresholds, and will require development of rebuilding plans within the year. A summary of the 1999 survey results is attached as Item D-3(a).

(b) C. bairdi Rebuilding Plan

The Bering Sea Tanner crab (*C. bairdi*) was declared "overfished" on March 3, 1999, because survey data indicated that spawning biomass was below the minimum stock size threshold established for this stock. The Magnuson-Stevens Act requires development of a rebuilding plan within one year. The Council reviewed a draft rebuilding plan in June, and released it for public review with several additions suggested by the SSC and AP. The revised analysis was distributed for public review on September 1. The executive summary is attached as Item D-3(b)(1).

At this meeting, the Council will make a final review of the analysis, and adopt a preferred alternative. Plan Team minutes, including their recommendations on the tanner crab rebuilding plan, are attached as Item D-3(b)(2). Additionally, a representative of the Board of Fisheries will comment on this issue.

(c) Rebuilding plans for *opilio* and St. Matthew blue king crab

On September 24, 1999, NMFS informed the Council that the Bering Sea *opilio* stock and the St. Matthew blue king crab stocks were below minimum stock size thresholds (MSST), and thus were declared "overfished" pursuant to the Magnuson Act guidelines (Item D-3(c)). We are thus required to prepare and submit a rebuilding plan for these crab stocks within one year. To meet this time frame, a plan will need to be ready for initial review in April, 2000, with final action at the June

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meeting. The crab plan team has suggested that the bairdi rebuilding plan be used as a template; therefore, harvest strategy, bycatch controls, and habitat protection would be examined as possible components of the rebuilding plans. The Council may provide staff with additional direction on these rebuilding plans.

**(d) Preseason Gear Restrictions**

The draft committee report is under item C-10(a). Here is the part dealing with preseason gear restrictions:

“The joint committee was tasked to develop alternative solutions for the prospecting and fair start issues in the crab fisheries. A tentative list of alternatives, and a problem statement, were provided by Mr. Austin after meeting with industry. The committee forwarded the list below of alternatives and the accompanying problem statement to the full Council and Board for their consideration and revision as appropriate in October.

Alternatives may include, but are not limited to, the following:

1. 100% observer coverage - consider exception for vessels that deliver unsorted codends directly to catcher processors or motherships.
2. Modify western boundary of exclusion area based on historical catch information (exclude areas where there are few crab; 164 W was suggested in earlier correspondence from the appellants).
3. Consider an exclusion period of less than 30 days (e.g., 15 days).
4. Consider effects of AFA sideboards since the combination vessels would have a lid on their fishery and prospecting would not effect the rest of the fleet.
5. Revise definition of pelagic trawls.

The suggested problem statement is as follows:

“It is the goal of the Council and Board to achieve a fair and equitable start for all fishers engaged in the Bristol Bay red king crab (BBRKC) fishery. The opportunity currently exists for prospecting to occur prior to the BBRKC fishery. Prospecting occurs when gear targeted to harvest other species is used to catch crab and thus determine the distribution of the population prior to the fishery opening. It is the desire of the Council and Board to reduce/eliminate the opportunity to prospect.”

Council or Board final action may be required, depending on the alternatives chosen from the above list. It is the committee’s expectation that the parallel processes for consideration by both bodies will come together at the full joint Board-Council meeting in February 2000, after public review. Both bodies can then discuss final actions that might be taken at the ensuing Council meeting in February and the Board meeting in March.”

The staff needs direction on how to proceed in further development and analysis of the preseason standdown issue. We will report your recommendations to the Board at their late October work session.

**(e) Crab FMP category 1 and 3 measures**

Council member Dennis Austin has requested that the Council consider amending the Crab FMP to move category 3 “other” measures to a category 1 measure, and to clarify the jurisdiction of the Alaska Board of Fisheries. A copy of his letter is attached as Item D-3(e)(1). An executive summary of the Crab FMP is attached as Item D-3(e)(2).



### **Report of the Scientific and Statistical Committee**

The SSC received a brief overview of the revised analysis for the *C. bairdi* rebuilding analysis and noted that it responded to SSC and AP comments. The SSC also reviewed proposals to develop rebuilding plans for *C. opilio* and St. Matthew blue king crab which have been declared overfished. The SSC noted that the scientific basis for the current exploitation rates for *C. opilio* is based on a yield per recruit strategy and needs to be re-evaluated in terms of more current information on growth, natural mortality, maturity, and molting probabilities.

The SSC also suggested that proposals for rationalizing the Bering Sea crab fisheries, such as IFQ or cooperative fishing arrangements, should be considered as potential alternatives in rebuilding plans because they could result in significantly lower crab bycatch rates. Responding to testimony that trawl fishing groups engaged in efforts to reduce crab bycatch rates continue to have difficulty in obtaining observer data on an individual vessel basis, the SSC urged NMFS to develop means to release this data to trawl fishing groups engaged in voluntary efforts to reduce crab bycatch.

### **Report of the Advisory Panel**

The AP recommended the Council adopt the Crab Plan Team recommendations for the Bairdi rebuilding plan:

- Harvest strategy - option 2
- Bycatch controls - option 1 and Option 3
- Habitat - option 2

The AP also recommended that the habitat analysis suggested in Alternative 2C, option 3 be conducted for *opilio* crab in the rebuilding plan needed for that stock.

Finally, the AP urged the Council to form an industry work group to identify issues and actions needed to establish cooperatives for crab.

### **DISCUSSION/ACTION**

#### *(b) Bairdi Rebuilding Plan*

The Council heard from Ed Dersham, representing the Alaska Board of Fisheries, on the bairdi rebuilding plan. Mr. Dersham advised the Council that the Board endorses the Plan Team's recommendation for Option 3 under bycatch control and stands ready to do its part in considering other management measures in the crab fisheries to address bycatch and handling mortalities. The Board committee endorses the Plan Team's comments under Options 2 and 3 under Habitat, particularly to give high priority to the need for additional research. The Board committee recommends a precautionary approach by the Council when considering habitat issues, erring on the side of conservation.

**Bob Mace moved to approve the recommendations of the Advisory Panel, and that Dave Fluharty be authorized to volunteer as a facilitator for the industry workgroup recommended. The motion was seconded by Joe Kyle.**

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During discussion it was agreed that Kevin O'Leary would serve as a co-facilitator with Dave Fluharty for the crab industry workgroup.

**Linda Behnken moved to amend to clarify the AP recommendation with regard to the habitat analysis: that the habitat analysis be used as a template for similar analyses on other crab stocks. This was accepted as a friendly amendment.**

**Linda Behnken moved to task the Plan Team with the following: (1) assembling all existing information on bairdi distribution and habitat needs, including annual survey data, observer data, and fishery data; (2) identifying measurable rebuilding milestones so that progress towards the rebuilding goal can be evaluated in two, four, six, and eight years, and to bring these recommendations back to the Council in April; and (3) identifying additional rebuilding measures that could be implemented if those rebuilding milestones are not reached. This was accepted as a friendly amendment.**

Dave Witherell advised the Council that most if not all of these items can be addressed in the annual Crab SAFE report to the Council and if the Plan Team does not see improvement in the stock, they could then provide recommendations to the Council.

**John Bundy moved that, particularly in view of the status of crab stocks, and Council adoption of a bairdi rebuilding plan and quickly moving toward an opilio rebuilding plan, the Council reaffirms its policy as published in the Federal Register that fishing histories in the crab fisheries after December 31, 1998 may not count for purposes of any future rationalization program. The motion was seconded by Joe Kyle and carried without objection.**

*(d) Preseason Gear Restrictions*

**Dennis Austin moved to accept the joint Board/Council committee's problem statement and preliminary list of alternatives (included in Council Action Memo) and to agenda the subject for the December meeting to discuss additional alternatives, with initial review and discussion during the joint Board/Council meeting in February. The motion was seconded by Linda Behnken and carried without objection. The motion was amended to schedule the first discussion during the joint meeting in February and the analysis of alternatives to begin after that meeting.**

The problem statement was edited to insert the word "if" in place of "when" in the third sentence, which would then read: "Prospecting occurs if gear targeted to harvest other species is used to catch crab and thus determine the distribution of the population prior to the fishery opening. . . ."

*(e) Crab FMP Categories*

**Linda Behnken moved to send this issue to the joint committee for discussion, with their recommendations brought back to the Council and Board for further discussion in February. The intent would be to evaluate and clarify procedures. The motion was seconded and carried without objection.**

D-4 Staff Tasking

**ACTION REQUIRED**

- (a) Review status of current tasking.
- (b) Review new groundfish and crab proposals.

**BACKGROUND**

(a) Current Tasking

In addition to minor projects, committee and Plan Team meetings, conferences, and other duties, the following major tasks are on the Council staff's plate in the immediate future:

- excessive share cap amendment per AFA
- analysis of P. cod species/gear endorsements
- two crab rebuilding plans
- rewrite/update BSAI and GOA groundfish FMPs
- halibut charterboat GHL/moratorium analysis
- halibut/sablefish IFQ analyses to be tasked in December 1999
- HAPC amendments
- HMAP amendments
- full retention for GOA shortraker/rougheye rockfish

The Council approved a rewrite of the BSAI and GOA FMPs in 1997, but staff has yet to complete it, other than including newly approved FMP amendment text. NOAA General Counsel has recently highlighted the need to have the FMPs revised and this needs to be a high priority for the Council. Some of the Plan Coordinators' time definitely needs to be earmarked for this effort, possibly for initial review in April and final action in June, which would precede the public release of the revised groundfish SEIS next October.

The Council will have to initiate amendments to the BSAI crab FMP to develop rebuilding plans for *opilio* and St. Matthew Island blue king crab. These plans will need to be ready for initial review in April 2000 and final action in June. Analysis of excessive share caps and P. cod species/gear endorsements are both major projects, the priority of which is up to the Council. Either or both of these will require outside contracting assistance. The halibut GHL analysis will be time consumptive as well, particularly between now and December to have the document available for public review.

Potential additional projects coming out of this meeting include: analysis of up to six CDQ program amendments; crab standdown alternatives; possible amendment to the crab FMP; further work on GOA co-ops; and, work associated with a crab buyback program should the Council go ahead with developing the industry proposal. Sablefish/halibut IFQ proposals will be reviewed and tasked in December.

NMFS staff, in addition to processing rulemakings for previous and new actions, is currently consumed by three primary issues: (1) Steller sea lion-related actions, (2) preparation of the groundfish SEIS, and (3) implementing co-ops, sideboards, and other aspects of the AFA. A variety of MSCDQ actions, shown in D-4(a), also are consuming staff time.

(b) 1999 groundfish and crab proposals

The BSAI and GOA Plan Teams and Crab Plan Team provided comments on the 14 groundfish proposals submitted in 1999. Three of those also pertained to crab management. A staff summary of the proposals incorporates committee and staff recommendations (Item D-4(b)(1)). The proposals were assigned to four descriptive categories: overfishing, bycatch, GOA management, and other. Two proposals (to revise the overfishing definitions) were ranked very high, five were ranked high,

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six were ranked medium, and one was ranked as low priority. The proposals are included as (Item D-4(b)(2)).

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

**Report of the Advisory Panel**

The AP endorsed ranking of the proposals by the Plan Team with the following changes:

That the Council initiate analysis of Proposal 8: GOA management split Pacific cod by gear type "mobile/fixed" based on 1994-1998 average and any combination in between.

In addition, the AP requested the Council have staff develop a discussion paper for GOA Pacific cod fisheries species/gear endorsements similar to options in BSAI with the addition of trawl gear.

**DISCUSSION/ACTION**

Because of the current staff workload resulting from AFA and other major issues due for final decisions in February and April, **Dave Benton moved to postpone consideration of new amendment proposals, including IFQ proposals, until the February 2000 meeting. The motion was seconded by Robin Samuelsen and carried without objection.**

During discussion the following clarifications were made with regard to current staff tasking:

- AFA pollock structure EA/RIR: Analysis out for Council and public review before February meeting so that final action can be taken at that meeting (preferred by NMFS for implementation in 2001).
- Processing sideboards/excessive share cap issues: Preliminary review in February with possible final action in April.

Linda Behnken recommended that before additional staff time is spent on the analysis of shorttraker/rougheye retention in IFQ fisheries, that NOAA General Counsel should review the alternatives to determine whether they are implementable.

Bob Mace requested that for future meetings, a definite time be set aside on the agenda to discuss staff tasking, preferably before the very end of the meeting when things are usually rushed. Council members approved this suggestion and agreed to discuss timing of the discussion at the beginning of the last day of each meeting.

**E PUBLIC COMMENTS**

There were no additional public comments.

**E. ADJOURNMENT**

Chairman Lauber adjourned the meeting at approximately 3:35 p.m. on Monday, October 18, 1999.