

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *Chris*  
Executive Director

DATE: January 17, 2003

SUBJECT: Improved Retention and Utilization (IR/IU) for flatfish

ESTIMATED TIME 4 HOURS
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**ACTION REQUIRED**

Initial review of Trailing Amendments C and D

**BACKGROUND**

In October 2002, the Council voted to delay implementation of IR/IU flatfish regulations for the BSAI until June 1, 2004. The Council also initiated analyses of four trailing amendments as a means to accomplish bycatch reductions and facilitate reductions in flatfish discards:

1. **Amendment A** (PSC cooperatives) - Establish prohibited species bycatch reduction cooperatives operating in the BSAI.
2. **Amendment B** (bycatch caps) - Create bycatch caps (discard caps) for the flatfish fisheries in the BSAI.
3. **Amendment C** (minimum retention standards) - Establish minimum groundfish retention standards as an alternative to flatfish retention requirements in the BSAI.
4. **Amendment D** (5% exemption) - Establish regulatory process for the routine review of flatfish bycatch in the BSAI and GOA fisheries and the exemption of fisheries with less than 5 percent bycatch of IR/IU flatfish from flatfish retention and utilization rules.

Amendment A and B would be completed as soon as practicable and Amendments C and D would be expedited for final action in April 2003.

The IR/IU Technical Committee met in Seattle on January 14, 2003 to provide further input to the Council on how best to create a minimum groundfish retention standard in the BSAI (Amendment C) given NMFS has determined that flow scales are necessary to enforce a retention standard. The Committee recommends the Council develop a retention goal for the BSAI fleet and then encourage the fleet to meet these standards. The amendment would be a change to the FMP Goal and Objectives and would not promulgate any new regulations. In addition, the Committee also recommends the Council pursue enforceable standards only for the trawl catcher processor fleet. In the trawl catcher processor fleet, NMFS has reported that 26 of the 32 trawl catcher processors over 125 feet already have approved flow scales on board. For the 7 trawl catcher processors under 125 feet, the Committee recommended they should be exempt from having to install flow scales. Minutes from the January 14<sup>th</sup> Committee meeting are attached as Item C-6(a).

An EA/RIR/IRFA analysis for Amendment D and a discussion paper of Amendment C are presented for initial review. The Executive Summary for Amendment D is attached as Item C-6(b). With regards to Amendment C, the increasing complexity in recent weeks and the need for further guidance from the Council has delayed development of a full EA/RIR/IRFA in time for initial review at the February meeting. In its place is a discussion paper on Amendment C that outlines the work to date. After the February Council meeting, the discussion paper will be integrated into the EA/RIR/IRFA for final review in April 2003. The discussion paper provides an overview on the purpose and need for action, a description of the fishery, and a detailed description on the mechanics of establishing a minimum groundfish retention standard. Staff will be on hand to summarize the analysis for Amendments C and D.

**Draft Minutes  
IR/TU Committee  
January 14, 2003**

The IRIU Technical Committee met at the National Marine Fishery Service Alaska Fishery Science Center in Seattle, Washington on January 14, 2003.

Committee members that were present included: Dave Hanson, John Henderschedt, Bill Orr, Donna Parker, Michelle Ridgeway, and Susan Robinson.

The committee was assisted by Chris Oliver, Jon McCracken, Kent Lind, Garland Walker, Sue Salvesson, Marcus Hartley, and Bob Trumble.

Members of the audience included: Brent Paine, Mike Szymanski, Lori Swanson, and Dave Wood.

The first topic for the meeting was a presentation of a proposed discussion paper for Amendment C planned for the February Council meeting. The purpose of the discussion paper is to provide feedback and guidance on the mechanics of establishing a minimum groundfish retention standard in the BSAI. The conclusion presented in the discussion paper is that flow scales would be required on vessels in order to enforce a minimum groundfish retention standard in the BSAI due to weakness in self-reporting of total catch.

The committee discussed the conclusion of the paper at length. Overall, the discussion focused on two concepts for retention standards that when combined provide an overarching minimum groundfish standard program. The first concept is to implement a FMP amendment that would create a retention goal for the BSAI fleet and then encourage vessels to meet these standards. The amendment would be a change to the FMP Goal and Objectives and would not promulgate any new regulations. The idea behind this concept is to encourage the fleet to continue improving their retention rates, building on the existing seven year trend of improving rates. The second concept is to pursue retention standards that would be enforceable only for the trawl catcher processor fleet. As noted above, the stumbling block for enforceability is a need for flow scales to be on all vessels targeting groundfish in the BSAI. However, in the trawl catcher processor fleet, NMFS has reported that 26 of the 32 trawl catcher processors over 125 feet already have approved flow scales on board (including the 16 AFA catcher processors). It was the view of the committee that requiring flow scales on the remaining 6 catcher processors over 125 feet is not insurmountable. For vessels under 125 feet in length, the committee felt they should be exempt from having to install flow scales, but they would still be required to meet the retention standards. An option discussed for these vessels, since flow scales would not be required, is to increase observer coverage from 30 percent to 100 percent and use bin measurements for estimates of total catch.

The committee also agreed that having 200 percent observers was not necessary since there were other ways of insuring proper use of the flow scales. Some of the ideas discussed were requiring audit trails for catch or installing video cameras.

After some discussion on exempting specific fisheries from the retention standard, the committee decided to exempt only the pollock fishery. The recommendation was based on two factors. First, the pollock fishery already has a very high retention rate and any retention standard selected would likely be well below the current retention rate. Second, by including the pollock fishery into the retention standard program, AFA

vessels would be an advantage over non-AFA due to the sheer volume of the fishery. Allowing AFA vessels to include the pollock fishery in their estimates of retention rate, AFA vessels could exploit the high retention rates and high volume of catch to discard high levels of other species.

There was also a brief discussion on the official NMFS product recovery rates. It was the view of the committee that outdated official product recovery rates if different from more realistic product recovery rates is only a minor issue. The thought of the committee was that vessels would simply adjusted their level of retained catch depending on their individual product recovery rates in comparison to NMFS product recovery rates.

The remaining portion of the meeting was spent narrowing down the individual options for consideration. The committee went through each of the options and selected their preferred alternatives in order to help focus the analysis. The following are the options consider and the committee's preferred choice.

- Option 1:** At what level of the fleet should enforcement of the minimum retention standard be?
- a. Fleetwide
  - b. Pools
  - c. Individual vessels

The committee recommended that enforcement should be at either the pool level or individual vessel level.

- Option 2:** To which fisheries would the standard apply?
- a. General retention standard would apply to all fisheries.
  - b. General retention standard would apply to selected fisheries or gear types.

The committee recommended the retention standard apply to all fisheries unless specifically exempted. The pollock fishery was recommended for exemption.

- Option 3:** Single standard or multiple standards?
- a. Establish a single minimum retention rate for all target fisheries combined to which the retention requirement applies.
  - b. Establish a different standard for each target fishery.

The committee recommended as their preferred alternative both single standard and multiple standards.

- Option 4:** On what basis should minimum retention rate standards be set?
- a. Based on a consideration of catch composition and target retention rates for each species harvested in a target fishery.
  - b. Some other minimum retention standard.

The committee agreed that any minimum retention rate standard should not be based on consideration of catch composition and target retention rates for each species harvest in a target fishery. It was also concluded that the option is a policy decision of the Council and should not be considered as a decision point. Rather, the staff in their analysis could provide some reasonable methods in which to base the minimum retention standard on.

**Option 5:** What should the minimum utilization standard be? The committee selected a 15 percent minimum utilization standard.

- a. 15% (current standard for pollock, Pacific cod, and flatfish starting in June 2004).
- b. Some other minimum utilization standard.

The committee recommended a 15 percent minimum utilization standard.

**Option 6:** Would the period of time and how the standard be enforced using cumulative running total or final total for the following periods?

- a. Weekly
- b. Fishing trip
- c. Monthly or quarterly

The committee recommended all three options be considered. However, the committee did recommend striking the cumulative running total option.

**Option 7.** Does a general groundfish retention standard, that isn't species specific, supercede the current pollock and Pacific cod retention standard?

- a. For all fisheries
- b. For all non-pollock fisheries
- c. All fisheries excluding pollock and cod

The committee recommended that pollock and Pacific cod retention standard should **not** be superceded by the minimum retention standard.

The committee also recommended two new options be included in the options for consideration. The first is to have two different minimum retention standards for two different time periods. For example, during the winter fishery have a retention standard of 60 percent, while for the summer fishery would have retention standard of 70 percent. The second option that was recommended for consideration is to increase the MRBs to between 25 to 35 percent. The increase would be done on a fishery by fishery basis and would only apply to those fisheries where it were appropriate. The analysis for MRBs should also include a distribution of vessels to eliminate the influence from high liners.

Finally, although the committee could not reach a consensus, a majority of the committee urged the Council to implement cooperatives as soon as possible since they are essential tool for a minimum groundfish retention standard program.

**Executive Summary of EA/RIR/IRFA to Exempt Certain Fisheries from  
IR/IU Flatfish Regulations**

In October 2002, the NPFMC approved Amendment 75 to the BSAI FMP, delaying implementation of IR/IU flatfish regulations for the BSAI until June 1, 2004. IR/IU rules for shallow-water flatfish harvested in the GOA became effective January 1, 2003. In delaying the full implementation of IR/IU for flatfish in the BSAI, the Council cited the likelihood that IR/IU for flatfish could result in severe economic losses to certain participants in the fishery, while less than 100 percent retention of only these species is not enforceable. At the same time the Council took action to delay implementation of IR/IU for flatfish, it also initiated four trailing amendments that would potentially result in a program that would mitigate the potentially detrimental socioeconomic effects of full implementation while ensuring that discards of groundfish continue to decline to a practicable level. This document is an EA/RIR/IRFA of one of the four IR/IU trailing amendments initiated at the October 2002 Council. It examines the effects of exempting fisheries from IR/IU Flatfish regulations that exhibit low levels of flatfish discards. The analysis examines two alternatives as described below:

**Alternative 1 (status quo/no action):** The IR/IU regulations for flatfish in the BSAI would be implemented beginning June 1, 2004. These regulations would require that all rock sole and yellowfin sole harvested in the BSAI be retained and that processors create products that yield at least 15 percent from each fish harvested.

**Alternative 2:** Exempt fisheries from IR/IU flatfish regulations if flatfish discards are less than 5 percent of total groundfish catch—implementation of IR/IU flatfish regulations would take place beginning June 1, 2004, but would apply only to fisheries in which discards of IR/IU flatfish species are 5 percent of total catch or greater. The time period used to calculate the discard rate for each fishery would be the most recent three years for which there are estimates of the amount of IR/IU flatfish discarded. Fisheries would be defined by standard TAC/gear/area definitions with the exception that the BSAI Pacific cod trawl catcher processor fishery would be divided according to eligibility to harvest BSAI pollock under the American Fisheries Act. Two sub-alternatives developed for reviewing the exemption status of fisheries are listed below.

**Subalternative 2.1** Under this subalternative, there would be no regularly scheduled review of the exemption status of each fishery. However, the NPFMC could request that NOAA Fisheries periodically provide a report of discards of IR/IU flatfish in all fisheries, both exempt and non-exempt. In addition, the NPFMC could, at its discretion, proceed with a regulatory amendment to remove the fishery from the exempt list. This would be a Federal action requiring rulemaking. As such, all the analytical requirements of the National Environmental Policy Act, the Regulatory Flexibility Act, and Executive Order 12866 would apply, as well as the requirements of the Administrative Procedure Act (APA).

**Subalternative 2.2** Under this alternative, NOAA Fisheries would conduct a regularly scheduled assessment of fishery discard rates. If a fishery exceeded the 5 percent standard during the assessment period, a regulatory amendment to remove the fishery from the exempt list would follow. As above, this action would require a regulatory amendment.

The analysis concludes that if fisheries that had less than 5 percent discard of IR/IU Flatfish were exempt from IR/IU regulations, then only the following fisheries would be affected by IR/IU Flatfish regulations.

- BSAI Non-AFA Trawl CP Pacific cod fishery (assume Non-AFA and AFA Trawl CP fisheries are defined as separate fisheries)
- BSAI flathead sole fishery (CDQ and non-CDQ)
- BSAI rock sole fishery (CDQ and non-CDQ)
- BSAI yellowfin sole fishery (CDQ and non-CDQ)
- WGOA SFLT fishery

The analysis also concludes that the NPFMC should initiate a regulatory amendment process to remove fisheries from the exempt list at such time as it receives sufficient evidence from NMFS that exempt fisheries are not maintaining low discard levels. This information would be supplied to the NPFMC through NMFS annual management reports which the analysis recommends would include accounting of flatfish discards on a fishery-by-fishery basis.

## Groundfish Forum

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Mr. Dave Benton  
Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99601

January 20, 2003

RE: Non-AFA cooperatives as an alternative to IRIU implementation

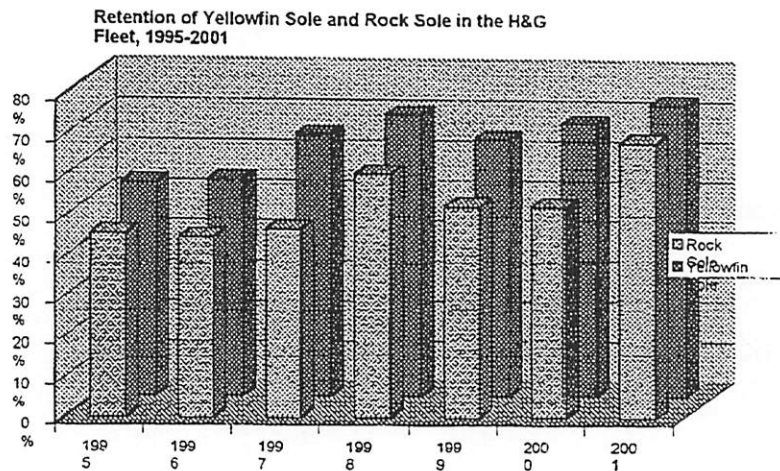
Dear Dave,

The non-AFA catcher-processor ('H&G') sector is caught in a catch-22, facing implementation of full retention of yellowfin and rock sole by June of 2004 but without the necessary tools to achieve this requirement. If a viable alternative is not developed by that time, many of our members will be faced with loss of their livelihoods.

Quite simply, requiring full utilization of rock sole and yellowfin sole will cause many of the head-and-gut trawlers to go out of business, as shown in the Northern Economics analysis presented to the North Pacific Fisheries Management Council in May of 2002. At the same time, doing nothing violates Amendment 49 and is unacceptable to industry participants and to the public. Partial implementation (requiring a retention rate higher than the historic rate but lower than 100%) has proven to be a near-impossible hurdle for NMF approval, as have other alternatives such as H-MAP which were intended to reduce bycatch mortality. The IRIU Committee is working diligently to come up with alternatives that are practical and achievable, but we are concerned that all of the focus is on the setting of the retention standards and ease of their enforcement, without adequate attention to providing the fleet with the tools needed to meet the standards while maintaining an economically viable fishery.

Our vessels are using all of the options available to maximize retention while remaining competitive in the current race for fish. The following table (from the NPFMC IRIU memorandum November 25, 2002) shows the steady increase in retention over the last seven years:





Further improvement is hampered by competition for both target species and the bycatch species necessary to prosecute these fisheries. We believe that it is possible to increase retention even further by easing this competition and allowing participants to explore more time-intensive and experimental avenues for bycatch avoidance, production techniques and market development. These options become 'practicable' when fishermen are no longer threatened with pre-emption if they invest the time and money necessary to pursue them.

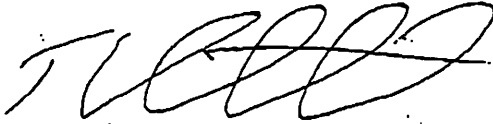
The implementation of the American Fisheries Act has clearly demonstrated that allocating quotas by sector or group allows fishermen to fish more efficiently and carefully. The Secretary has the authority to allocate quotas among sectors of the fishing industry. We propose that the Secretary allocate a percentage of target and bycatch species to the non-AFA C/P sector with which to form cooperatives, based on catch history of cooperative participants. Each cooperative will be responsible for managing the harvest of species within its allocation, to maximize the harvest while staying within catch limits.

The effects of this action are twofold: first, it frees our sector to pursue methods of improved retention that are not realistic in the current competitive environment. Second, it relieves NMFS of the burden of designing a workable IRIU monitoring program that allows the fishery to continue.

This plan gives us the chance to find out how much we can do NOW, given the proper tools. At worst, retention will not improve and NMFS and the industry will be forced back to the current situation. At best, we will be able to improve retention to the point that the IRIU mandate is satisfied.

Facilitating the voluntary formation of cooperatives by the non-AFA sector of the BSAI is the most reasonable alternative for meeting the IRIU objectives. We encourage the Council to expedite the development and implementation of cooperatives for the trawl H&G fleet.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Luttrell', written in a cursive style.

Ed Luttrell  
Executive Director

# PUBLIC TESTIMONY SIGN-UP SHEET FOR AGENDA ITEM C-6 IRIU

**PLEASE SIGN ON THE NEXT BLANK LINE.  
LINES LEFT BLANK WILL BE DELETED.**

	NAME	AFFILIATION
✓ 1.	BRENT PAINE	U.C.B.
✓ 2.	Julie Bonny	AGDB
✓ 3.	Dave Wood	US Seal/03/05
✓ 4.	<sup>ED LUTRELL / LORI SAMPSON</sup> TED LU / BREN / LORI / SAMPSON	G P F
✓ 5.	THOMAS MARTIN	NPLA
✓ 6.	Micelle Ridgway	
7.		
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