

MINUTES

157th Plenary Session  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
June 6-12, 2002  
Dutch Harbor, Alaska

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# North Pacific Fishery Management Council

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Certified \_\_\_\_\_

David Benton, Chairman

Date \_\_\_\_\_

## MINUTES

### **157th Plenary Session NORTH PACIFIC FISHERY MANAGEMENT COUNCIL June 6-12, 2002 Dutch Harbor, Alaska**

The North Pacific Fishery Management Council met June 6-12, 2002, at the Grand Aleutian Hotel in Dutch Harbor, Alaska. The Scientific and Statistical Committee met June 3-5 at the same location, and the Advisory Panel met June 3-8 at the Unisea Central Building. The following members of the Council, staff, SSC and AP attended the meetings.

#### Council

David Benton, Chairman  
Stosh Anderson  
Jim Balsiger  
John Bundy  
Kevin Duffy/Earl Krygier for Frank Rue  
Dave Hanson

Dennis Austin, Vice Chair  
David Fluharty  
Roy Hyder for Lindsay Ball  
Stephanie Madsen  
Bob Penney  
CAPT Richard Preston  
H. Robin Samuelsen, Jr.

#### NPFMC Staff

Chris Oliver, Executive Director  
Cathy Coon  
Elaine Dinneford  
Mark Fina  
Nicole Kimball  
Jon McCracken

David Witherell  
Gail Bendixen  
Maria Shawback  
Shannon Vivian  
Diana Evans

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**Support Staff**

John Lepore, NOAA-GCAK  
Tom Meyer, NOAA-GCAK  
Joe McCabe, NOAA-GCAK  
Jay Ginter, NMFS-AKR  
Herman Savikko, ADFG  
Steve Davis, NMFS  
Michael Payne, NMFS-AKR

Jeff Passer, NMFS-Enforcement  
Tamra Faris, NMFS-AKR  
Ted Meyers, NMFS-AKR  
Shane Capron, NMFS-AKR  
Cindy Hartmann, NMFS-AKR

**Scientific and Statistical Committee**

Jack Tagart, Vice Chair  
Steve Hare  
Jeff Hartman  
Mark Herrmann

Sue Hills  
Dan Kimura  
Seth Macinko

**Advisory Panel**

John Bruce, Chairman  
Ragnar Alstrom  
Dave Benson  
Dave Boisseau  
Al Burch  
Craig Cross  
Ben Ellis

Tom Enlow  
Dan Falvey, Co-Vice Chair  
Dave Fraser  
Teresa Kandianis  
Tracey Mayhew  
Hazel Nelson  
Kris Norosz

Jim Preston  
Michelle Ridgway  
Jeff Steele  
Jeff Stephan

**Other Attendees**

The following people signed the attendance register:

Jim Paulin  
John Henderschedt  
Phillip Lestenkof  
Myron Melovidov  
Michelle Ridgway  
Ben Enticknap  
Eugene Asicksik  
Craig Cross  
Shari Gross  
Brent Paine  
Robert Mikol  
Ed Page  
Bryce Edgmon

Arni Thomson  
Marcus Alden  
Matt Doherty  
Rick Mezich  
Barry Collier  
Joe Plesha  
Stephen Hall  
Denby Lloyd  
Frank Kelty  
Keith Colburn  
Heather McCarty  
Jim McManus  
Jake Jacobsen

Glenn Reed  
Steve Toomey  
Linda Kozak  
Joe Sullivan  
Scott Matalich  
Donna Parker  
Pat Carlson  
Jeff Stephan  
Joe Childers  
Eric Hollis  
Thorn Smith

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

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

Chairman David Benton called the meeting to order at approximately 9:05 a.m. on Thursday, June 6, 2002. The Council meeting started a day later than scheduled due to council members' and the public's flights being delayed due to bad weather in Dutch Harbor.

Agenda. Robin Samuelsen moved to amend the agenda to include discussion about Dutch Harbor continuing as a meeting location due to weather constraints. The motion was seconded by Kevin Duffy. Chris Oliver pointed out that although the meeting started a day late, the schedule should allow the Council to proceed according to the current agenda including adding the discussion about Dutch Harbor. The motion carried without objection and the agenda was approved, with minor scheduling changes.

Minutes. The minutes of the April 2002 meeting had not been reviewed by Council Members and therefore were not approved.

Stephanie Madsen thanked the Council for their support in her family emergency during the April meeting.

Bob Storrs, Unalaska Native Fishermen's Association, introduced visitors from Dutch Harbor's sister city, Petropavlosk, Russia, who wanted to meet the Council Members. They were very interested in the Council process and meeting industry folks as well.

Chairman Benton reminded everyone about the reception being held on Friday evening at the Unisea Sports Bar for outgoing Council Member Robin Samuelsen. He also welcomed Diana Evans, the newest staff member to the Council.

Stephanie Madsen complimented Chairman Benton on the great job he did in Anchorage in coordinating people at the airport who were trying, despite bad weather, to get to Dutch Harbor for the meeting.

**B. REPORTS**

The Council received written reports from the Executive Director (Agenda item B-1), who also stated he had made comments on the petition from Oceana (as requested) and would submit copies to Council members for their comments. The Council also received written reports from ADF&G (B-3), NMFS (B-4), and Coast Guard Enforcement (B-5), and verbal reports from Argos and NMFS on Vessel Monitoring Systems.

**DISCUSSION RESULTING FROM REPORTS**

**Executive Director's Report**

Chris Oliver stated he had made comments to the petition from Oceana and would distribute them to Council Members. He also stated that the Council needed to approve the nomination of IPHC's Bill Clark replacing Gregg Williams on the Groundfish Plan Team.

**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 an "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 will **not** be attached to the minutes, but will be part of the meeting record and available from the

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

**C. NEW OR CONTINUING BUSINESS**

C-1 Gulf of Alaska Rationalization

**ACTION REQUIRED**

Review progress from GOA Working Group.

**BACKGROUND**

The GOA Working Group convened on May 13 and 14, 2002 to continue its development of alternatives, elements, and options for rationalizing the Gulf of Alaska groundfish fisheries. The working group will convene briefly on June 3 at 5 PM for a final review of its May minutes. Those minutes, which will include a list of draft elements and options under three rationalization alternatives will be distributed during the Council meeting. Additional work group meetings are scheduled for August 21 in Anchorage and September 19-21 in Kodiak.

NMFS staff has scheduled a series of scoping meetings for this summer. A summary of public scoping comments will be presented at the October Council meeting. The Notice of Intent for Scoping is scheduled to be published in the *Federal Register* on May 28, 2002 and will be included in your supplemental folder.

<b>Sand Point</b>	<b>August 17</b>	<b>9 AM - 12 NOON</b>
<b>King Cove</b>	<b>August 18</b>	<b>9 AM - 12 NOON</b>
<b>Kodiak</b>	<b>August 23</b>	<b>1 - 4 PM</b>
<b>Cordova</b>	<b>September 16</b>	<b>5 - 8 PM</b>
<b>Homer</b>	<b>September 24</b>	<b>2 - 5 PM</b>
<b>Petersburg</b>	<b>September 26</b>	<b>3 - 6 PM</b>
<b>Seattle</b>	<b>October 1</b>	<b>6 - 9 PM</b>

**Scientific and Statistical Committee Report and Advisory Panel Report**

Neither the SSC nor the AP addressed this agenda issue.

**DISCUSSION/ACTION**

The Council did not address this agenda issue.

C-2 Essential Fish Habitat

**ACTION REQUIRED**

- (a) Receive EFH committee report**
- (b) SSC to review gear impact analysis**

## BACKGROUND

### EFH committee report

The Council appointed an EFH Committee in May 2001, to work with NMFS and Council staff to develop alternatives for EFH & HAPC designation, and alternatives to minimize adverse effects of fishing. The Council will adopt final alternatives for analysis at its October meeting. A preliminary draft of the Supplemental Environmental Impact Statement (SEIS) will be ready for initial review in April 2003.

The EFH committee met May 15th-17th in Sitka. The purpose of the meeting was to review draft reports on: fishery descriptions, modifications to the EFH & HAPC designation alternatives, definition of "to the extent practicable," fishery impacts analysis, and concept of rationalization as a mitigation tool. Additionally the committee discussed preliminary recommendations for the Council on HAPC proposals for analysis in the EIS. The draft schedule for the SEIS is attached as Item C-2 (a). Draft minutes will be distributed at the meeting.

The committee will have a teleconference the third week of August to review staff reports on preliminary analysis on HAPC & EFH designation, HAPC sites and types as examples to include in the HAPC designation alternatives analysis, and the findings of the effects of fishing. They will then meet in Kodiak, at the Fisheries Technology Center, on September 16-18th. The intent of the meeting will be to finalize recommendations on the designation alternatives for EFH and HAPC, finalize alternatives for mitigation, discuss the public process for HAPC proposals, and receive an update on the Council Board of Fish Joint Protocol Committee.

### Scientific and Statistical Committee Report

The Scientific and Statistical Committee was briefed by staff on the development of methods for evaluation of EFH impacts. Staff advised the SSC of their intent to present mitigation alternatives at the October Council meeting. Given the number of SSC members unable to participate at this meeting, they asked staff to circulate copies of their draft analytical approach to the entire SSC.

### Advisory Panel Report

The Advisory Panel did not address this agenda issue.

## DISCUSSION/ACTION

Stosh Anderson, EFH Committee Vice-Chair, reported that committee members represented several different interests and that they were working very well together. He was very happy with the Committee's progress and at the Committee's last meeting in Sitka they modified the alternatives.

**Stosh Anderson moved that the Council forward the following directions to the Committee:**

- 1) **recommends changes to the EFH and HAPC designation alternatives as outlined in the draft minutes of the May 15-17, 2002 EFH Committee Meeting;**
- 2) **the process for developing mitigation alternatives would be aided by a strawman being formulated by staff directed by the Committee at its August Committee meeting. The Committee will use this strawman as a start for developing mitigation alternatives for the October Council Meeting;**

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- 3) **identify 2 of 3 representative HAPC sites for each HAPC alternative. The Council at its October meeting will decide which recommendations of the Committee if any or all of these specific HAPC examples will be forwarded as examples or to be implemented as HAPC sites or types upon final action; and**
- 4) **proceed between October and April to develop a process for future EFH HAPC designations or modifications.**

**The motion was seconded by Stephanie Madsen.**

The Council discussed how to prioritize and grade HAPC proposals and what should be included. They agreed there needs to be criteria in order to judge proposals and that there are diverse opinions on what information should be included for a legitimate HAPC proposal.

**Earl Krygier moved to strike the language in #3 of Stosh Anderson's motion regarding the Council's evaluation of HAPC proposals at the October Council meeting and to replace it with the following: "the Council directs the EFH Committee to evaluate the HAPC alternatives by using pinnacles and seamounts, gregonian corals and shelf breaks as examples for each alternative with example mitigation measures for each of the alternatives." Stephanie Madsen seconded the motion.**

The Council discussed the fact that Alternative 5 was species specific not geographically specific and that they would all like to see a comprehensive approach relative to HAPC. The examples brought forward would help show the difference between the first four alternatives.

**Stephanie Madsen moved to amend the amendment by adding king crab to the list of examples so that Alternative 5 could be addressed. Bob Penney seconded the motion and it carried without objection.**

**Earl Krygier's amendment then also carried without objection.**

**Stephanie Madsen then moved to amend the main motion to include the Council's intent not to formalize a public call for proposals until such time as a process for designation of HAPCs and EFH has been adopted. The motion was seconded by Bob Penney and carried without objection.**

**Robin Samuelsen moved to table the motion until later in the meeting after it was typed by Staff. The motion was seconded and carried without objection.**

**Later in the meeting, David Fluharty moved to bring the motion back to the table. The motion was seconded by Stephanie Madsen and carried without objection.**

**Earl Krygier moved to substitute the following motion:**

1. **The Council accepts the EFH Committee's recommended changes to the EFH and HAPC designation alternatives as outlined in the May 15- 17 EFH Committee meeting draft minutes.**
2. **The Committee in developing mitigation alternatives would be aided by the formulation of a 'STRAWMAN' prepared by staff prior to the August meeting. The Committee will use the 'STRAWMAN' as a starting point for developing mitigation alternatives for the October Council meeting.**

3. The Council directs staff (within the SEIS analysis) to describe how each HAPC designation alternative would apply to each of the following four example HAPCs: pinnacles and seamounts, grogonian corals, Bristol Bay Red King Crab habitat (or similar species habitat), and shelf break. The EFH Committee should develop example mitigation measures for each case to help with understanding what the alternatives might do.
4. After the October Council meeting and before the April 2003 Council Meeting the Council recommends that the EFH Committee develop a process for the public to interact with the Council to develop and amend HAPC designation.
5. The Council expresses its intent to the public that there will be no call for HAPC proposals until a process has been established by the Council.

The motion was seconded by Stosh Anderson and carried without objection.

Stosh Anderson moved that the Council adopt the EFH Committee's suggestion that the following items from their May 15-17 draft EFH Committee minutes be brought to the attention of the Joint Protocol Committee: 1) cross-representation of Council and ADF&G MPA Committees; 2) ADF&G Advisory Committees *and affected regions* to review EFH, HAPC, and MPAs within each region as they are being developed; 3) communications between agencies on projects and proposals being considered for action. The motion was seconded by Earl Krygier.

Robin Samuelsen moved to amend the motion at 2) above as shown in italics. The motion was seconded by Stephanie Madsen and carried without objection.

Stosh Anderson moved that the Council write a letter to Congress based on Ben Enticknap's public testimony from June 1, 2002 stating:

*The United States Congress is currently in the process of reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act). The Council requests the Chair to write Congress a letter that outlines the public process initiated for the development of EFH designation and mitigation alternatives. We feel that at this juncture of the Council's work and present reauthorization of the Magnuson Act, it would be valuable to express to Congress the process this Council is undertaking.*

The motion was seconded by Robin Samuelsen and carried without objection.

C-3 Crab Rationalization

#### ACTION REQUIRED

- (a) Selection of a preferred rationalization alternative.
- (b) Discuss the report to Congress on rationalization.
- (c) Selection of a suite of alternatives for analysis in the EIS.

#### BACKGROUND

At its June 2001 meeting, the North Pacific Fishery Management Council (Council) adopted a suite of alternatives, elements and options for analysis of a rationalization program for the Bering Sea and Aleutian Islands (BSAI) crab fisheries. After status reports and reviews at its December 2001, February 2002, and April 2002 meetings, the Council amended its motion to its current form (Item C-

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**3(a)) and scheduled selection of a preferred rationalization alternative at this meeting. The analysis was provided to the Council family and released to the public prior to this meeting.**

The proposed action would develop an IFQ or cooperative program to manage the BSAI crab fisheries. A change in management from the current License Limitation Program (LLP) may be necessary to alleviate problems of resource conservation, bycatch and handling mortality, excessive harvesting capacity, lack of economic stability, and safety that have arisen because of the race to fish that occurred under the open access fishery prior to the LLP and under the current LLP management structure.

Final action for this package is unlike most final actions taken by the Council, since Congress may need to modify their moratorium on IFQ programs (and perhaps jurisdiction over inshore processors) before the Council could submit either an IFQ or cooperative alternative to the Secretary of Commerce (SOC). Once the Council's preferred alternative is identified, it would then need to be melded into the crab EIS, that is also currently being developed, as the preferred alternative. It is expected that this can be completed during the summer and fall of 2002 for action by the Council and submission of the formal EIS/RIR/IRFA package to the SOC early next year (assuming Congressional action allowing the Council to move forward at that time).

The analysis considers three overriding alternative management structures for the BSAI crab fisheries; status quo (or continued management under the LLP), an IFQ program, or a cooperative program. The IFQ program alternative includes options defining either a one-pie harvester only IFQ program or two-pie program, which would include both harvester shares and processor shares. The cooperative program alternatives include two structures that could be selected. The Voluntary Cooperative alternative is a program that would allocate shares to harvesters and processors and allow each harvester to join a cooperative with one or more other harvesters associated with one or more processors. The Plurality Cooperative alternative is a program that would allow each harvester to join a cooperative associated with the processor that it delivered the most crab to during a specified qualifying period. Harvesters that join a cooperative would receive an allocation based on qualifying catch history. Harvesters that elect to forgo joining a cooperative would be limited to participating in an open access fishery. This program alternative includes several different options that would protect processor interests to varying degrees and that would define movement between cooperatives.

The variety of elements and options could create difficulties in developing a decision that is fully consistent and comprehensive. To assist the Council in developing its decision, staff has prepared a decision guide (Item C-3(b)). The decision guide is an attempt to categorize all of the different elements in the Council motion to enable the Council to consider all elements in a topic area at one time.

#### Initial review of the analysis of the crab rationalization alternatives

The current draft of the analysis of the crab rationalization alternatives is similar in format and content to the April 2002 draft. The changes mostly involve the new options added by the Council at the April 2002 meeting, which are shown with bolding and strikeouts in the attached Council motion (Item C-3(a)). The following is a summary of the contents of the document.

#### Background (Section 2)

As a foundation for the analysis of alternatives, the analysis contains an extensive background section that describes the current conditions in the different fisheries under consideration for rationalization. The section includes subsections describing the affected environment, fishery biology, fishery management, the harvesting sector, the processing sector, community and social impacts, ex vessel prices, and various market and economic conditions. Table E1 shows the

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maximum GHL, the minimum GHL, and closure years (if any) for the fisheries under consideration for rationalization.

Fishery	Maximum GHL (millions of pounds)	Minimum GHL (millions of pounds)	Closures (Years/Season)
Bering Sea Snow Crab ( <i>C. opilio</i> )	333 (1992)	25.3 (2001)	None
Bristol Bay Red King Crab	18 (1991)	5 (1996)	1994, 1995
Bering Sea Tanner ( <i>C. bairdi</i> )	39.2 (1991/92)	2.2 (1996)	1997, 1998, 1999, 2000, 2001
Pribilof Islands Red King Crab	3.4 (1993)	1.25 <sup>a</sup> (1998)	1991/92 & 1999, 2000, 2001
Pribilof Islands Blue King Crab	2.5 <sup>a</sup> (1995)	1.25 <sup>a</sup> (1998)	1991/92, 1993, 1994, 1999, 2000, 2001
St. Matthew Blue King Crab	5 (1997)	2.4 (1995)	1999, 2000, 2001
Western Aleutian Islands (Dutch Harbor)	3.2 <sup>b</sup>	3.0 <sup>b</sup>	
Golden (Brown) King Crab	(1996, 1997, 1998)	(1998, 1999, 2000, 2001)	None
Eastern Aleutian Islands (Adak) Golden (Brown) King Crab	2.7 <sup>b</sup> (1996, 1997, 1998)	2.7 <sup>b</sup> (1996, 1997, 1998)	None
Eastern Aleutian Islands (Adak) Red King Crab	c	c	1996/97, 1997/98, 1999/2000, & 2000/2001

<sup>a</sup> Combined red and blue king crab.

<sup>b</sup> Managed with GHL since 1996. Managed with inseason monitoring prior to 1996.

<sup>c</sup> Managed with historic landings and inseason monitoring prior to 1996, rather than GHL.

**Table E1: Maximum and Minimum GHLs for various crab fisheries and years the fishery was closed**

Table E2 reports the weighted average annual ex-vessel price of the various crab fisheries under consideration. These data were derived from ADF&G fishtickets. The data in the report show that the mid-1990s were in general strong years for ex-vessel prices. Ex-vessel prices also increased in 1999 and 2000 (relative to the 1997 and 1998) except in the Bristol Bay red king crab fishery.

**Table E2: Weighted average annual ex-vessel prices from ADF&G fishtickets (prices have not been adjusted for inflation)**

Year (Fishing Season)	WAI golden king <sup>1</sup>	Adak red <sup>1</sup>	Bristol Bay red king <sup>3</sup>	BS <i>C. opilio</i> <sup>3</sup>	BS <i>C. baird</i> <sup>2</sup>	EAI golden king crab <sup>2</sup>	Pribilof blue king <sup>3</sup>	Pribilof red king <sup>3</sup>	St. Matthew blue king <sup>3</sup>
1998-1999	\$ 2.04	closed	\$ 6.26	\$ 0.56	closed	\$ 1.87	\$ 2.34	\$ 2.39	\$ 1.87
1999-2000	\$ 3.14	closed	\$ 4.81	\$ 0.88	closed	\$ 3.22	closed	closed	closed
2000-2001	\$ 3.15	closed	\$ 4.14	\$ 1.85	closed	\$ 3.50	closed	closed	closed

1) Fishing seasons span two years

2) The fishing seasons that took place in one calendar year are identified by the first year listed in the year column.

Table E3 is a summary of the first wholesale prices derived from Commercial Operator Annual Report data. These prices were calculated by dividing the total first wholesale value reported by the processor by the total pounds of the product form produced.

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Table E3: First Wholesale Crab Prices by Species and Product Form, 1991-2000 (prices have not been adjusted for inflation)

Species	Product	1998	1999	2000
Red King Crab	Shellfish Sections	\$ 5.52	\$11.25	\$ 9.11
	Whole	\$ 3.83	\$10.69	\$ 7.74
Blue King Crab	Shellfish Sections	\$ 4.80	Conf.	Conf.
Golden King Crab	Shellfish Sections	\$ 4.24	\$ 6.90	\$ 7.22
	Whole	\$ 4.90	\$ 3.79	\$ 4.60
C. bairdi	Shellfish Sections	\$ 4.81	\$ 4.23	\$ 5.83
	Whole	\$ 2.95	\$ 3.71	\$ 3.33
C. opilio	Shellfish Sections	\$ 2.03	\$ 2.92	\$ 4.16
	Whole	\$ 2.05	\$ 1.06	

Source: Commercial Operator's Annual Reports (1998-2000)

Analysis of the Alternatives (Section 3)

Section 3 presents the analysis of the alternatives. The section begins with a brief discussion of the status quo, which draws from the extensive background analysis in Section 2.

Biology, Management, Environmental, and Safety Implications of Rationalization (Section 3.2).

This section presents an analysis of the biological, management, environmental, and safety impacts of rationalization of the BSAI crab fisheries. This section examines the appropriateness of the different fisheries for rationalization, potential changes in deadloss, size limits, incidental catch, seasons, pot limits, the potential impacts of overlapping seasons of different species, and the effects of rationalization on rebuilding programs. The section also examines the environmental factors including the impacts of rationalization on endangered species and marine mammals. The section concludes with discussions of the division of management authority between State and federal managers and the impacts of rationalization on safety in the fishery. The analysis in this section was provided to Council staff by representatives of State of Alaska ADF&G and NMFS.

The analysis suggests that the Bering Sea *C. opilio*, Bristol Bay red king crab, Bering Sea *C. bairdi*, Pribilof blue king crab, Pribilof red king crab, St. Matthew blue king crab, and the two Aleutian Islands golden king crab be included in the rationalization program. The Aleutian Islands red king crab, the Aleutian Islands *C. bairdi*, the Pribilof golden king crab, and Bering Sea Tanner fisheries are suggested for exclusion from rationalization.

Rationalization should have environmentally-friendly impacts on the crab stocks and their habitat as long as concerns over highgrading and ghost fishing from lost pots do not evolve. Managers are concerned that highgrading may occur when the time pressures are removed from the fishery. Fishermen will be more likely to keep only the highest valued catch since any catch landed will be counted against their quota. Therefore, keeping second quality crab (especially when there are large differences in ex-vessel price) might not maximize profits. Under the current low GHs and race-for-fish management system all marketable crab are currently being retained. The State of Alaska feels that new regulations will likely need to be developed to protect the biological integrity of the stock. They also indicate that onboard observer coverage and dockside sampling are needed to determine if changes in fishery selectivity occur and the mechanisms that cause those changes. Pot limits may be relaxed in a rationalized fishery. For pot limits to be changed the Board of Fisheries (BOF) would need to be petitioned or a proposal would need to be submitted to the BOF requesting that pot limits be modified.

Seasons for the different species proposed for inclusion in the rationalization program are considered. The primary biological objective in scheduling seasons is avoidance of mating and

molting. Table E4 shows the molting and mating seasons for the different species being considered for rationalization. The analysis also considers the use of concurrent seasons for species included in the rationalization program. An advantage of multi-species fisheries is the potential decrease in mortality of discards. As crab fishing seasons are lengthened the possibility of gear conflicts with trawl and longline vessels increase. Those conflicts would need to be monitored to ensure that they were not increasing to an unacceptable level.

**Table E4: Bering Sea Crab Fishery Molting/mating time periods as determined by the Crab Plan Team in September 2001**

Species	Molting/mating time period
C. opilio	May 15 to July 31
C. bairdi	April 1 to July 31
blue king crab	February 1 to July 31
red king crab	January 15 to June 30
red king crab (Norton Sound)	September 15 to October 31
golden king crab	January 1 to December 31

Source: Alaska Department of Fish & Game (2001).

The analysis also supports provisions which would create no allowance for overages or underages on the principle that overages and underages should be fully avoidable in a rationalized fishery. The analysis also supports full accounting of deadloss. The analysis suggests that the slower pace of a rationalized fishery will improve sorting of crab by gear, thereby decreasing handling mortality and deadloss.

The analysis provides that the rationalized fisheries would need to be managed with TACs instead of the current GHL management. TAC management would provide certainty of allocations necessary to realize the full benefits of rationalization. The allocation of a minor open access fishery, as proposed in the Plurality Assignment cooperative program alternative, could also be problematic for managers that are required to monitor a small GHL in an open access fishery. The more precise management under a TAC (without provision for overages) could also aid rebuilding efforts in the fisheries.

Monitoring participants in a rationalized fishery would be challenging due, in part, to the extended seasons. The analysis supports the use of Vessel Monitoring Systems (VMS). VMS would not only improve monitoring activities of participants but also would improve data collection. ADF&G has suggested that the costs of this system could be borne by either participants in the fisheries or the federal government. Additional monitoring of landings may also be required. Observer requirements and the disbursement of costs of those requirements will also need to be assessed in a rationalized fishery.

The analysis assesses the need to maintain a minimum fleet size to ensure that harvests reach an optimum level. Caps on ownership could be used to ensure that fleets are maintained at a size necessary to maintain harvests in the event excessive stocks require additional harvesting power.

The section includes a discussion of the interaction of State and federal management and monitoring of the fisheries. Limitations of delegation of management authority by the federal government may require that NMFS assume responsibility for allocations of quota in the fisheries. Setting of TACs (or GHLs), regulating fishing activity, and collecting harvest date for monitoring harvest limits and enforcement of regulations are currently conducted by the State and could, for the most part, continue

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to be subject to State management in a rationalized fishery. Further detail on the joint management of the fisheries is provided in this section.

The section also presents an analysis of the environmental impacts of rationalization. Potential changes in stewardship and biological conservation, and the effects of rationalization on habitat are discussed. The section also examines the effects of rationalization on endangered species. A history of crab FMP consultations is presented, as well as a discussion of the implications of the Marine Mammal Protection Act.

The section concludes with a discussion of the implications of rationalization on safety in the fisheries.

The Allocation of Harvest Shares (Section 3.3).

This section of the analysis examines the different alternatives for allocating harvest shares. The analysis examines the rules that define eligibility to receive an initial allocation and the calculation of those allocations. Both proposed options would base eligibility on whether a vessel has met the requirements for an LLP license. Table E5 shows the number of endorsed LLP licenses in the fisheries and the estimated number of vessels that would qualify for a crab endorsed LLP license and hence an initial allocation in each fishery being considered for rationalization.

Table E5: LLP licenses and the Estimated Number of Vessels that Qualify for LLP licenses endorsed for BSAI Crab Fisheries.

Fishery	Number of Permanent LLP Licenses	Number of Interim LLP Licenses	Estimated Number of Vessels Eligible for an Allocation
WAI (Adak) Golden King Crab	27	14	23
WAI (Adak) Red King Crab	24	22	28
Bristol Bay Red King Crab	260	89	266
Bering Sea <i>C. Opilio</i>	260	93	256
Bering Sea <i>C. Bairdi</i>	260	93	266
EAI (Dutch Harbor) Golden King Crab	27	14	20
Pribilof Blue King Crab	110	48	84
Pribilof Red King Crab	110	48	122
St. Matthew Blue King Crab	154	59	180

Source: NMFS Alaska Region RAM Office and State of Alaska ADF&G Fish ticket files.

The sum of permanent and interim licenses is the maximum number of vessels that could qualify. The “estimated number of vessels eligible for an allocation” is the minimum number that would qualify, as that does not include vessels that rely on Amendment 10 exemptions for qualification, which define limited exemptions and circumstances when activities from multiple vessels may be combined to meet the qualification criteria. The consistency of the different allocation options with the current LLP management is discussed. The section also includes quantitative analysis of the allocations under the different qualifying year options for each fishery. The analysis shows that the allocations in the Bering Sea *C. opilio*, Bristol Bay red king crab, Bering Sea *C. bairdi*, Pribilof blue king crab, St. Matthew blue king crab, and Western Aleutian Islands (Adak) red king crab are very similar under all of the qualifying year options. In the Pribilof red king crab fishery, the allocation to the leading four vessels varies somewhat under the different options. In the two Aleutian Islands golden king crab fisheries (particularly in the Western subdistrict), the allocations under the various options show greater variation. Graphical representations of the allocations and descriptive statistics appear in the section. Graphs included in this section show groupings of four vessels to protect confidential data.

The same vessels are not always in the same groups for the different allocation options. The portion of the total allocation to catcher/processors in each fishery under each option is also shown.

#### The IFQ Program Elements (Section 3.4).

This section analyzes the options for development of an IFQ program. The section includes analyses of the various measures that define the rights to own, purchase, and use harvest shares in the different fisheries. The section includes an analysis of the two-pie IFQ alternative, including the initial allocation, transfer rights, and ownership and use caps on processor shares and limits on vertical integration.

#### Harvest Shares

The analysis examines use and ownership caps on harvest shares in the different fisheries at the initial allocation. These caps are intended to limit consolidation of harvest shares, in part, to ensure competition in the harvest sector. This analysis is limited by the poor availability of vessel and LLP license ownership information. Based on available data, no persons would exceed a 5 percent ownership cap in the Bering Sea *C. opilio*, Bristol Bay red king crab, Bering Sea *C. bairdi*, or St. Matthew blue king crab fisheries. Four persons would exceed the 5 percent cap in the Pribilof blue king crab fishery. Data concerning the number of persons exceeding an 8 percent or 5 percent cap in the Pribilof red king crab fishery cannot be shown because of confidentiality restrictions on the release of data. Several persons would exceed a 1 percent cap in all of these fisheries. In the Western Aleutian Islands golden king crab fishery, the number of persons exceeding a 40 percent, 20 percent, or 10 percent cap cannot be shown because of confidentiality restrictions on the release of data. In the Eastern Aleutian Islands golden king crab fishery, no persons would exceed the 40 percent cap. The number of persons exceeding the 20 percent cap in this fishery cannot be shown because of confidentiality restrictions on the release of data. If the allocation in Aleutian Islands golden king crab fisheries is based on the combined participation in both areas, no persons would exceed the 40 percent cap and the number of persons exceeding the 20 percent cap cannot be shown because of confidentiality restrictions on the release of data.

#### Processing Shares

A complete analysis of the two-pie IFQ program is also contained in this section. Program elements including the initial allocation of shares, transfer rights, and ownership and use caps are examined. Two options for allocating processing privileges to catcher/processors are proposed. Under the first, catcher/processors would be allocated processing shares in the same manner as those shares are allocated to other processors. Alternatively, catcher/processors could be allocated a "catcher/processor share" that includes both harvest and processing privileges.

#### Analysis of the option under which catcher/processors are allocated processing shares

If catcher/processors are allocated processing shares, in the Bering Sea *C. opilio*, the Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries approximately 30 processors (including catcher/processors) will receive an allocation. The leading four processors would receive an average allocation of between 12 and 14 percent depending on which qualifying year option is selected. The average allocation would be less than 5 percent and the median<sup>1</sup> allocation would be approximately 1 percent or less. In the Pribilof red king crab, Pribilof blue king crab, and St. Matthew blue king crab fisheries approximately 15 processors would receive allocations. The leading four processors would receive on average less than 20 percent of the total allocation. The median allocation would be less

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<sup>1</sup> The median allocation is the allocation at the midpoint of the distribution, for which half of the allocations would be larger and half of the allocations would be smaller.

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than 5 percent. In the two Aleutian Islands golden king crab fisheries, between 8 and 13 processors would receive an initial allocation. The four largest processor allocations would be between 20 and 25 percent of the total allocation. In the Eastern Aleutian Islands fishery, the median allocation would be between approximately 4 and 8 percent of the total allocation. In the Western Aleutian Islands fishery, the median allocation would be less than one percent.

In the Bering Sea *C. opilio*, Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries 10 or 11 catcher/processors would receive processing allocations that collectively account for between 7 and 8 percent of the allocations in these fisheries. In the St. Matthew blue king crab and the Eastern Aleutian Islands and Western Aleutian Islands golden king crab fisheries 2 or 3 catcher/processors would receive an allocation of processing shares.<sup>2</sup> In the Pribilof king crab fisheries, no catcher/processors would receive a processing allocation.

Ownership and use caps on processor shares are analyzed based on the initial allocations. These caps are intended to limit consolidation of processing shares. The analysis is limited because of confidentiality restrictions on the disclosure of data. The analysis shows that with the exception of the Western Aleutian Islands (Adak) golden king crab fishery, no processors would exceed a 50 percent cap based on the initial allocation. In the Bering Sea *C. opilio*, the Bristol Bay red king crab, the Bering Sea *C. bairdi*, the Pribilof red king crab, and the Pribilof blue king crab fisheries, no processors would exceed a 30 percent cap.

The section also examines vertical integration in the crab fisheries by analyzing the allocation of harvest shares to persons affiliated with processors (including catcher/processors). The Council has proposed limiting processor ownership of harvest shares to 8, 5, or 1 percent of the total allocation of harvest shares to restrict vertical integration in the fisheries.<sup>3</sup> In the Bering Sea *C. opilio*, the Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries approximately 40 vessels affiliated with processors (including independently owned catcher/processors) would receive an allocation. Many of the initial allocation options between 4 and 5 processors would exceed a 1 percent cap on harvest share ownership in these fisheries. No processors would exceed a 5 percent cap in the Bering Sea *C. opilio* or the Bering Sea *C. bairdi* fisheries. In the Aleutian Islands golden king crab fisheries, between 1 and 4 processors would receive harvest share allocations depending on the allocation option selected. In the Western subdistrict, the number of processors exceeding any caps cannot be shown because of confidentiality restrictions. In the Eastern subdistrict, no processors would exceed either an 8 or 5 percent cap. Under the option that would determine the allocation based on combined harvests in the two subdistricts, the number of processors exceeding any caps cannot be shown because of confidentiality restrictions. In the Pribilof red king crab and Pribilof blue king crab fisheries, between 4 and 6 processors would receive an allocation of harvest shares. In the Pribilof red king crab fishery, no processors would exceed an 8 percent cap. No further information on the caps can be disclosed for this fishery. In the St. Matthew blue king crab fishery, 11 processors would receive an allocation of harvest shares. No processors would exceed either an 8 or 5 percent cap in this fishery. The number of processors exceeding the 1 percent cap cannot be disclosed. In the Western Aleutian Islands red king crab fishery, three processors would receive an initial allocation of harvest shares. No information concerning the number of processors exceeding the proposed share caps can be disclosed for this fishery.

**Analysis of the option under which catcher/processors are allocated catcher/processor shares**

**If catcher/processors are allocated catcher/processor shares, in the Bering Sea *C. opilio*, the Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries between 19 and 26 processors would receive**

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<sup>2</sup> These allocations cannot be disclosed because of confidentiality restrictions.

<sup>3</sup> Common ownership is defined as having 10 percent common ownership of a vessel and a processor.

an allocation in each fishery. The leading four processors would receive an average allocation of between 14 and 16 percent of the total processing allocation depending on which qualifying year option is selected. The average allocation would be less than 6 percent and the median<sup>4</sup> allocation would be less than 3 percent. In the Pribilof red king crab, Pribilof blue king crab, and St. Matthew blue king crab fisheries approximately 15 processors would receive allocations. The leading four processors would receive on average less than 20 percent of the total allocation. The median allocation would be less than 5 percent. In the two Aleutian Islands golden king crab fisheries, between 6 and 11 processors would receive an initial allocation. For those options which information can be disclosed, the four largest processor allocations would be between 20 and 25 percent of the total allocation. In the Eastern Aleutian Islands fishery, the median allocation would be between approximately 4 and 10 percent of the total allocation. In the Western Aleutian Islands fishery, the median allocation would be less than one percent.

In the Bering Sea *C. opilio*, Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries between 9 and 13 catcher/processors would receive catcher/processor share allocations. In the St. Matthew blue king crab fishery 5 catcher/processors would receive catcher/processor share allocations. In the Eastern Aleutian Islands golden king crab fishery 0 or 1 catcher/processor would receive catcher processor shares. In the Western Aleutian Islands golden king crab fisheries and under the allocation option that would combine the Aleutian Islands golden king crab fisheries 1 or 3 catcher/processors would receive catcher processor shares. In the Western Aleutian Islands red king crab fishery 2 catcher/processors would receive catcher processor shares. In the Pribilof king crab fisheries, 0, 1, or 2 catcher/processors would receive catcher/processor shares depending on the qualifying year option selected.

Ownership and use caps on processor shares are analyzed based on the initial allocations. The analysis is limited because of confidentiality restrictions on the disclosure of data. The analysis shows that with the exception of the Western Aleutian Islands (Adak) golden king crab fishery, no processors would exceed a 50 percent cap based on the initial allocation. In the Bering Sea *C. opilio*, the Bristol Bay red king crab, the Bering Sea *C. bairdi*, the Pribilof red king crab, and the Pribilof blue king crab fisheries, no processors would exceed a 30 percent cap.

The section also examines vertical integration in the crab fisheries by analyzing the allocation of harvest shares to persons affiliated with processors (excluding catcher/processors). In the Bering Sea *C. opilio*, the Bristol Bay red king crab, and the Bering Sea *C. bairdi* fisheries between 25 and 35 vessels affiliated with processors (excluding independently owned catcher/processors) would receive an allocation. Under all of the initial allocation options 4 or fewer processors would exceed a 1 percent cap on harvest share ownership in these fisheries. In the Aleutian Islands golden king crab fisheries 1, 2, or 3 processors would receive harvest share allocations depending on the allocation option selected. In neither subdistrict under the option that would allocate shares on combined harvests in the two districts would any processors exceed either an 8 or 5 percent cap. The number of processors exceeding a 1 percent cap cannot be shown because of confidentiality restrictions. Under some of the qualifying year options, no processors would exceed the 1 percent cap. In the Pribilof red king crab, Pribilof blue king crab, and St. Matthew blue king crab fisheries, between 3 or 4 processors would receive an allocation of harvest shares. In the Pribilof red king crab fishery, no processors would exceed an 8 percent cap. In the St. Matthew blue king crab fishery, no processors would exceed a 5 percent cap. No further information on the caps can be disclosed for these fisheries. In the Western Aleutian Islands red king crab fishery, 1 processor would receive an initial allocation of harvest shares. No information concerning the number of processors exceeding the proposed share caps can be disclosed for this fishery.

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<sup>4</sup> The median allocation is the allocation at the midpoint of the distribution, for which half of the allocations would be larger and half of the allocations would be smaller.

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Cooperative Program Alternatives (Section 3.5)

This section examines the cooperative program alternatives advanced in the Council motion. The section begins with a brief discussion of the cooperative alternatives that the Council has considered and excluded from analysis. These cooperative program options were deemed unsuitable for the crab fisheries. These options would potentially distort allocations from the historical participation, providing limited share protection to both harvesters and processors.

More importantly, the section examines the Voluntary Cooperative program and Plurality Assignment Cooperative program currently under consideration. The Voluntary Cooperative program would allocate harvest and processing shares similar to those under the IFQ program alternatives. The program would permit harvest share holders to form cooperatives associated with one or more processors holding a processing allocation. The program is intended to provide maximum flexibility, allowing the development of cooperative arrangements between participants that see an advantage to creating those arrangements. These agreements could help to ensure that more of each person's allocation is more fully harvested. This would be accomplished through pooling remaining shares at the end of a season so one vessel from the cooperative could be sent out to "mop-up" the remaining quota. This has been done in the BSAI pollock cooperatives, where the percentage of the TAC being left unharvested each year is very low relative to the halibut and sablefish IFQ programs.

Under the Voluntary Cooperative program share allocations would be made to both harvesters and processors regardless of whether cooperative agreements are entered. Because of this allocation system there would be no "open access" fishery. Persons that do not elect to join a cooperative would still receive a protected allocation.

The second cooperative program (the Plurality Assignment Cooperative program) would permit each harvester to enter a single cooperative associated with the processor to which he/she delivered the most pounds of crab during the qualifying period. Allocations are made to each cooperative based on the catch history of its members. Allocations earned by harvesters that do not join a cooperative are made to an open access fishery that is fished competitively by harvesters that do not join cooperatives. Because of the eligibility rules and a requirement that a cooperative have at least two members, over half of the processors that received deliveries from the crab fisheries during the qualifying period (but were not the recipient of the most catch from at least two harvesters) would not be able to associate with a cooperative in the first year of the program. Also under a 1994-99 qualifying period, five vessels would not be eligible to join a cooperative because they were the only vessel qualified to form a cooperative with their primary processor. These vessels would be required to participate in an open access fishery the first year of the program. Each year, participants in the open access fishery would become eligible to join a cooperative associated with the processor to which it delivered the most crab in the open access year.

The all-or-nothing allocation of catch history to processors under this alternative could result in disparities between processing history and processor allocations. Historical data show that many catcher vessels made deliveries to multiple processors over the qualifying period. For example in the Bristol Bay red king crab for the open season from 1993-1999, a total of 255 vessels had qualifying landings. Only 163 of the vessels delivered at least 50 percent of their catch to the same processor. That means that only about 64 percent of catcher vessels delivered at least half of their catch to one processor. Under the Plurality Assignment Cooperative all the catch would be assigned for delivery to a single processor. To lessen the impact of requiring all of the catch to be assigned to a specific processor, alternatives are included that would require a cooperative to deliver a set percentage (ranging between 10 and 100 percent) of its allocation to its associated processor. Members of the catcher vessel sector have indicated that requiring only 80 percent of the catch to be delivered to the cooperative's processor would benefit harvesters, in terms of bargaining power and maintaining traditional markets, much more than requiring a 90 percent delivery rate. Processors on the other

hand feel that as the percentage decreases from 100 percent they tend to be in a much weaker position to negotiate prices and make long term plans for their operations.

This program is difficult to characterize because several options have been proposed with vary degrees of connection between harvesters in a cooperative and the associated processor. The most stringent option would require delivery of all or most of a cooperatives allocation to an associated processor. The most lenient option would not require any deliveries to the associated processor. Similarly, the program has options defining the ability of harvesters to move between cooperatives. These range from unrestricted movement, subject only to the approval of the cooperative to which the harvester is moving, to options that require a year in the open access fishery.

The alternatives for allocation of shares to vessels under the cooperative program are the same as under the IFQ alternatives. Therefore, the discussion of quota allocations is only covered in the section on IFQ allocations.

### Regionalization (Section 3.6)

This section examines the two alternatives that would establish a regionalization program. Regionalization of the fisheries is intended to protect community interests. The first alternative would divide the fishery into north and south regions, creating a requirement that landings and processing activity be distributed between the regions in accordance with historic participation patterns. Estimates of the distribution of shares under the alternatives are provided. North allocations in the Pribilof red king crab and Pribilof blue king crab, and St. Matthew blue king crab fisheries exceed 50 percent of the fishery. The allocations, however, vary by more almost 10 percent in the Pribilof blue king crab fishery and by more than 5 percent in the Pribilof red king crab fishery depending on whether the allocation is made under the years designated for allocating regional shares or the years designated for determining processor allocations. The significance of this difference is that use of different years for determining regional allocations and processor allocations could result in some processors being allocated shares for use in a region in which they have no processing history or facilities. In the Bering Sea *C. opilio* fishery the allocation to the north would be approximately 40 percent of the fishery. In the Bering Sea *C. bairdi* fishery the north allocation would be less than 5 percent under the only applicable regionalization option. Allocation of shares under the processor allocation option would allocate more than 20 percent to the north, because this allocation would be based on activity in the *C. opilio* fishery. In the Bristol Bay red king crab fishery, the allocation to the north would be less than 10 percent under any of the regionalization and processor allocation options. In the Aleutian Islands golden king crab fisheries, the north would receive no allocation.

The second regionalization alternative would create a link between processing activity and communities in which processing historically occurred. Under this option, processing would be permitted to relocate from a community only with permission of the community. In this draft, analysis of this option is strictly qualitative. The allocation of shares to communities has the potential to impose hardships on both harvesters and processors. Determining the appropriateness of this option requires balancing these potential hardships against the potential benefit to communities of establishing a link between the processing activity and communities. Small allocations could burden processors by requiring that they either run processing facilities with small processing allocations or forgo processing a portion of their allocation. In addition, coordinating deliveries of crab to communities to exactly match the community allocation could be very challenging. Inability to reach an exact match would result in a portion of the GH (or TAC) going unprocessed (and unharvested).

### Binding Arbitration (Section 3.7)

This section examines the potential of a binding arbitration program to govern ex-vessel price determinations between harvesters and processors. The literature on binding arbitration suggests that implementing a binding arbitration process increases the conflicts between the two sides, and

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suggests that better outcomes are reached when two sides reach a negotiated agreement. Binding arbitration, however, has achieved some success in resolving price disputes in the fisheries of Newfoundland.

**Options for Skippers and Crew (Section 3.8)**

This section examines four options that are intended to protect skipper and crew interests. The first option would make an initial allocation of quota shares to skippers and/or crew. The allocation would be intended to provide those actively working in the fishery with an interest in the fishery. Several options for determining the allocation have been proposed. Eligibility would be based on either landings, verifiable by ADF&G fish tickets (or affidavits in the case of crew), or a point system, under which points are awarded based on participation verified by fish tickets or affidavit. Allocations could be made equally to all eligible participants or could be based on landings or points or some combination of these measures. Quantitative analysis of the option is limited by available data.

The second option would provide skippers and crew with a first-right-of-refusal on a portion of each share allocation, when those shares are first transferred. A similar provision would create an owner on board requirement for a portion of any shares transferred after a specified period. These options are intended to provide a method of entry to skippers and crew that wish to have an interest in the fishery. The third option would protect skippers and crew by guaranteeing their historical crew share and prohibiting vessel and quota share holders from reducing crew shares to cover the cost of participation in a share based fishery. This option is based on a system in the Canadian groundfish fishery. Preliminary research on this option suggest that enforcement of the provision could be problematic. The last option would create a low interest loan program to fund the purchase of quota shares by skippers and crew. This option would establish a program similar to that in the halibut and sablefish fishery.

**CDQ Allocations (Section 3.9)**

This section examines options for changing the allocations to CDQ groups in the different fisheries proposed for inclusion in the rationalization program. The analysis examines the allocations to both the CDQ groups and non-CDQ participants. Based on the GHF in the most recent fisheries, assuming the option for the highest CDQ allocation is adopted, the allocations to CDQ groups could range from a high of 3.3 million pounds in the Bering Sea *C. opilio* fishery to approximately 150 thousand pounds in the Pribilof red and blue king crab fisheries combined. These allocations would result in a decrease of approximately 13 thousand pounds and 1.3 thousand pounds from eligible non-CDQ participants in these fisheries.

**Other Management and Allocation Issues (Section 3.10)**

This section examines various management implications of the rationalization program, including the effects of rationalization on other fisheries, the possible need to continue AFA sideboards to limit activities of AFA participants in the BSAI crab fisheries, options that would specify the duration of the rationalization program and schedule periodic review of the program, and the need for a cost recovery program to cover the cost of management of the rationalized fisheries.

Crab rationalization may increase the opportunities for BSAI crab vessels to participate in other fisheries. LLP data indicates that 253 of the crab vessels hold at least one groundfish endorsement (this includes the 42 AFA catcher vessels). These vessels would be allowed to participate in groundfish fisheries using that license. However the options for many of these vessels are limited in groundfish. Groundfish endorsements are area specific and licenses are expected to have gear endorsements added in the next year. Pacific cod endorsements are expected to be added to BSAI groundfish licenses as a result of Amendment 67 (47 pot catcher vessels are expected to qualify for a cod endorsement). Pacific cod is the most likely candidate for expansion by the crab fleet.

However, the restrictions currently in place for the cod fishery limit the expansion that can occur in that fishery. The quota is already split among fixed, trawl, and jig gear vessels and Amendment 67 limits new entry. However, Amendment 64, which further allocates the quota among the fixed gear components, sunsets at the end of 2003. There may be more concern in the GOA cod fisheries where fewer restrictions are placed on entry. Information on the number of vessels licensed to harvest groundfish in the GOA, the number of vessel that actually participated in Western and Central Gulf, and the catch of those vessels over the 1995-2000 fishing seasons is reported in this section.

Increases in participation of BSAI crab vessels in State managed fisheries, including the GOA crab and the State of Alaska GOA cod fishery, could be limited by State regulations. The State waters cod fisheries are often managed with pot limits and vessel size restrictions. Those limits either make the fisheries unavailable or less attractive to large crab vessels. The GOA crab fisheries have had relatively low GHs, when open in recent years. The pot limits applied to those fisheries may also make them less attractive to large BSAI crab vessels.

Including AFA vessels/processors in the quota allocation process may eliminate the need for harvesting processing sideboards in the BSAI crab fisheries. The allocation alternatives would result in AFA vessel harvests and processing allocations similar to the caps. Limits on the amount of quota AFA vessels and processors can purchase after the initial allocation could prevent them from using BSAI pollock monies to increase their share holdings. These limits could also be accomplished through the ownership caps being considered.

A cost recovery program is mandated for all new IFQ programs. The maximum fee that can be levied against the fleet is 3 percent of the ex-vessel value for harvest IFQ programs. However, the possible processor allocations raise the question of whether cost recovery should apply to processors under a two-pie IFQ program. Since they are benefitting from an allocation that would have management costs associated with it, should they be included in a cost recovery program to pay for its management?

#### **Effects of Rationalization on Products and Consumers (Section 3.11)**

This section examines potential changes in products and other effects on consumers of rationalization of the fisheries. The analysis draws on prior experiences in North Pacific fisheries as well as conversations with participants in the industry. The expected slower pace of the fishery and less compacted delivery times should allow processors to improve sorting and grading of crab and improve employee training. Improved product grading could benefit both participants in the fisheries and consumers. Also expanding season lengths should decrease storage costs and allow consumers to purchase a fresher product as harvests can be better timed to market demand. Freezing techniques could also be modified to make more use of plate and blast freezers which would result in a higher quality product.

#### **The Effects of the Crab Vessel Buyback Program (Section 3.12)**

This section of the analysis examines the effects of the vessel buyback program on the rationalization program. We have assumed that the buyback program will purchase vessels, LLP licenses, and catch history. The analysis is qualitative because the participation in this voluntary program cannot be quantitatively predicted.

The buyback program will tend to increase the allocation of the harvesters that remain in the fishery by the percentage of qualifying catch that was removed from the quota share pool. Because the buyback program is specific to harvesters, it will cause a redistribution of processor "allocations" under the Plurality Assignment Cooperative. Processors that have more of their fleet bought out (in terms of cooperative allocation) relative to other processors would be worse off as a result of the buyback. Also, because catcher/processors are not part of the buyback, they will receive a larger

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harvest allocation under all of the rationalization alternatives. Depending on whether processing allocations to catcher/processors are based on their harvest allocations or their processing history, buyback could either allow them to process their entire harvest and increase their processing allocations or prevent catcher/processors from processing their entire allocation and have no effect on their processing allocations.

**Stranded Capital in the Processing Sector and the Potential for a Processor Buyback (Section 3.13)**

This section of the analysis examines the effects of the vessel buyback program on the rationalization program. We have assumed that the buyback program will purchase vessels, LLP licenses, and catch history. The analysis is qualitative because the participation in this voluntary program cannot be quantitatively predicted. The section also includes a discussion of the potential for a processor buyback program and the issue of stranded capital in the processing sector.

**Foreign Ownership (Section 3.14)**

This section analyzes foreign ownership in the BSAI crab fisheries. Foreign ownership of both harvesting and processing sector interests are considered.

**Custom Processing (Section 3.15)**

This section presents an analysis of custom processing in the BSAI crab fisheries. Custom processing accounted for more than 8 percent of the processing of red king crab between 1995 and 2000. In 2000, custom processing accounted for more than 10 percent of all crab processing in the regions that process BSAI crab. The analysis also discusses the potential for custom processing in a rationalized fishery.

**Economic Effects of Rationalization (Section 3.16)**

This section examines various economic effects of rationalization. The section begins with an analysis of net benefits that examines changes in benefits that might be realized by producers (including both harvesters and processors) and consumers, as well as changes in benefits realized through management cost changes and environmental impacts. The section also examines the distributional consequences of rationalization relying on economic analyses of rationalization programs in other North Pacific fisheries. The section also examines opportunities for entry to the rationalized fisheries and the effects of rationalization on different vessel classes.

**Consistency with Other Applicable Laws (Section 4)**

This section analyzes the consistency of the rationalization alternatives with applicable laws including the National Standards of the Magnuson-Stevens Fishery Management Conservation Act, the Fishery Impact Statement requirement of the Magnuson-Stevens Fishery Management Conservation Act, and Executive Order 12866.

**Regulatory Flexibility Act (Section 5)**

This section analyzes the effects of the proposed rationalization alternatives on small entities as required by the Regulatory Flexibility Act. The section estimates the number of small entities that might be affected by the rationalization program and analyzes both the reporting requirements and the potential impacts of the alternatives on small entities.

**(b) Discuss the report to Congress on crab rationalization**

As part of the Consolidated Appropriations Act of 2001 (Pub. L. No. 106-554), Congress directed the Council to examine the Bering Sea crab fisheries under its jurisdiction to determine whether rationalization is needed and provide an analysis of several specific approaches to rationalization, including individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The Council is required to present its analysis to the appropriations and authorizing committees of both the House of Representatives and the Senate in a timely manner. The current analysis evaluates all of the programs options and considerations requested by Congress. Staff requests Council direction on the preparation of a synthesized version of the analysis for Congress. Staff suggests that a report to Congress could be written that emphasizes the preferred alternative and the rationale of the Council for selecting that alternative. The report could also briefly discuss other programs considered in the analysis. The complete public review draft could be appended to the report to Congress to verify the level of scrutiny devoted to the development of the preferred rationalization alternative by the Council.

**Scientific and Statistical Committee Report**

The Scientific and Statistical Committee believes that it is essential for the Council to indicate to Congress that collection of social and economic data must occur no matter which alternative is forwarded to Congress. Currently, the Magnuson Stevens Act may prohibit the mandatory collection of economic data and generic authorizing language is necessary to address the problem.

The SSC noted that existing language on economic data collection in the April 2002 Council motion is currently located under the heading of "Taxes" and should be placed in a more prominent location.

The implementation of mandatory collection of economic data continues to be a high priority with the SSC, and is necessary to accomplish the stated Council goals of tracking post rationalization changes in the net economic benefits of BSAI crab fisheries, distribution of rents and/or sector asset values, regional economic impacts, and other community and social effects of the program. The SSC supports the additional industry and agency planning, recommended by Council staff, required to prepare the necessary documentation to implement the data collection.

**Advisory Panel Report**

The Advisory Panel attempted to craft a rationalization program that addressed resource conservation priorities and the concerns of harvesters, communities, and processors but were unable to pass a motion for a basic program design. Program details were discussed and voted on, but no comprehensive recommendation was forwarded to the Council.

The Advisory Panel's report on crab rationalization is attached to these minutes as Appendix II while the remainder of their minutes are found in Appendix III.

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**DISCUSSION/ACTION**

**a) Selection of a preferred rationalization alternative**

**Kevin Duffy moved to approve the following motion for the Bering Sea Crab Rationalization Program. Mr. Duffy's motion is shown below with Council Members' amendments to the elements and options shown as additions in italics and deletions shown as strikethrough. The motion was seconded by Bob Penney.**

Mr. Duffy explained that his motion incorporates the preferred portions of the "Draft Council Motion for item C-5 BSAI Crab Rationalization" dated April 14, 2002, as outlined in the Bering Sea Crab Rationalization Program Alternatives – Public Review Draft (pages 12-33) issued in May 2002. For ease of reference, the number system of the April 14, 2002 motion is retained, however, only those preferred elements of the April motion are included here. **Mr. Duffy's changes to the April 14, 2002 motion are shown with additions in bold and underlined, and deletions bold and struck out.** This motion advances a VOLUNTARY THREE PIE COOPERATIVE, designed to recognize the prior economic interests and importance of the partnership between harvesters, processors and communities.

**BSAI Crab Rationalization Problem Statement**

Vessel owners, processors and coastal communities have all made investments in the crab fisheries, and capacity in these fisheries far exceeds available fishery resources. The BSAI crab stocks have also been highly variable and have suffered significant declines. Although three of these stocks are presently under rebuilding plans, the continuing race for fish frustrates conservation efforts. Additionally, the ability of crab harvesters and processors to diversify into other fisheries is severely limited and the economic viability of the crab industry is in jeopardy. Harvesting and processing capacity has expanded to accommodate highly abbreviated seasons, and presently, significant portions of that capacity operate in an economically inefficient manner or are idle between seasons. Many of the concerns identified by the NPFMC at the beginning of the comprehensive rationalization process in 1992 still exist for the BSAI crab fisheries. Problems facing the fishery include:

Resource conservation, utilization and management problems;  
Bycatch and its' associated mortalities, and potential landing deadloss;  
Excess harvesting and processing capacity, as well as low economic returns;  
Lack of economic stability for harvesters, processors and coastal communities; and  
High levels of occupational loss of life and injury.

The problem facing the Council, in the continuing process of comprehensive rationalization, is to develop a management program which slows the race for fish, reduces bycatch and its associated mortalities, provides for conservation to increase the efficacy of crab rebuilding strategies, addresses the social and economic concerns of communities, maintains healthy harvesting and processing sectors and promotes efficiency and safety in the harvesting sector. Any such system should seek to achieve equity between the harvesting and processing sectors, including healthy, stable and competitive markets.

## Alternative Rationalization Programs

*Program alternatives for Crab Rationalization are as follows:*

~~The Council adopted elements and options for analysis of alternative rationalization programs for the BSAI crab fisheries. The alternative models under consideration include several IFQ style and cooperative style rationalization models that may be structured as either harvester only or harvester-processor programs depending on the Council's choice of options. Additional features may be included to address coastal community and skipper/crew issues. The following elements and options apply to any rationalization model under consideration as applicable:~~

### Harvesting Sector Elements

#### **Harvester shares shall be considered a privilege and not a property right.**

1.1 Crab fisheries included in the program are the following fisheries subject to the Federal FMP for BSAI **crab**:

Bristol Bay red king crab  
Brown king (AI Golden king) crab  
Adak (**WAI**) red king crab – West of 179° W  
Pribilof Islands blue and red king crab  
St. Matthew blue king crab  
Opilio (EBS snow) crab  
Bairdi (EBS Tanner) crab

c) Exclude the EAI Tanner, WAI Tanner, Dutch Harbor (**EAI**) red king crab, and Adak (WAI) red king crab east of 179° West longitude.

1.2 Persons eligible to receive an initial allocation of QS must be:

Option 1. Any person that holds a valid, permanent, fully transferable LLP license.

1.3 Categories of QS/IFQs

1.3.1 Crab Fishery Categories - QS/IFQs will be assigned to ~~one~~ each of the crab fisheries included in the program as identified in paragraph 1.1 except Dutch Harbor red king, EAI Tanner, and WAI Tanner and WAI red king crab **east of 179° West longitude**.

a) Brown king crab (AI golden king crab) option.

Option 1. Split into two categories: Dutch Harbor (**EAI**) brown king crab (east of 174° W long.) and Western Aleutian Islands brown king crab (west of 174° W long.).

1.3.2 Harvesting sector categories - QS/IFQs will be assigned to one of the following harvesting sector categories:

a. catcher vessel (CV), or  
b. catcher/processor (CP)

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QS-IFQ for the Catcher/Processor sector is calculated from the crab that were both harvested and processed onboard the vessel. This shall confer the right to harvest and process crab aboard a catcher processor in accordance with section 1.7.2.

1.3.3 Processor delivery categories - QS/IFQs for the CV sector **shall** be assigned **to the following two processor delivery categories if processor quota shares (PQS) are included in the program** processor delivery categories (~~options~~ for the percentage split between class A/B shares **for initially allocated QS appear** is defined under the Processing Sector Elements, **2.4**):

- a) Class A – allow deliveries only to processors with unused PQS
- b) Class B – allow deliveries to any processor, except catcher processors

1.3.4 Regional Categories - QS/IFQs for the CV sector **may is be** assigned to regional categories **if. Regionalization is included in the program. The** two regions **would be are** defined as follows (see Regionalization Elements for a more detailed description of the regions):

North Region - All areas on the Bering Sea north of 56° 20' N. Latitude.

South Region - All areas on the Bering Sea south of 56° 20' N. Latitude and on the Gulf of Alaska.

1.4 Initial allocation of QS

1.4.1. Calculation of initial QS distribution will be based on legal landings excluding deadloss.

(a) Calculation of QS distribution. The calculation is to be done, on a vessel-by-vessel basis, as a percent of the total catch, year-by-year during the qualifying period. Then the sum of the yearly percentages, on a fishery-by-fishery basis, is to be divided by the number of qualifying years included in the qualifying period on a fishery-by-fishery basis to derive a vessel's QS.

*Suboption:*

*For each of the fisheries for which such a vessel holds valid endorsement for any years between the sinking of the vessel and the entry of the Amendment 10 replacement vessel to the fishery and was active as of June 9, 2002, allocate QS accordingly to 50% of the vessel's average history for the qualifying years unaffected by the sinking.*

(b) Basis for QS distribution.

Option 1. For eligibility criteria in paragraph 1.2, Option 1, the distribution of QS to the LLP license holder shall be based on the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per vessel. **However, the initial allocation of quota share will allow stacking or combining of valid, permanent, fully transferable LLP licenses and of histories of vessels as permitted under the LLP.**

~~Subo~~ (Option 1): Persons who have purchased LLP, with GQP, EQP, and RPP qualifications to remain in a fishery may obtain a distribution of QS on the history of either the vessel on which the LLP is based or on which the LLP is used, NOT both. *License transfers for purposes of combining LLPs must have occurred by January 1, 2002.*

~~(Old option 3)~~ *In cases where the fishing privileges (i.e. moratorium qualification or LLP license) of an LLP qualifying (i.e. GQP, EQP, RPP and Amendment 10 combination) vessel have been*

*transferred, the distribution of QS to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. Only one catch history per LLP License.*

~~Suboption: With the exception of Amendment 10 replacement vessels, catch histories from different vessels shall not be combined for any single fishery, nor shall distribution of QS be based in whole or in part, on any catch history of any vessel not lawfully U.S. documented and endorsed as a fishing vessel at the time such QS distribution is made. License transfers for purposes of combining LLPs must have occurred by January 1, 2002. (Could be applied to any of the above options or suboptions):~~

1.4.2. Qualifying Periods for Determination of the QS Distribution:

1.4.2.1 Opilio (EBS snow crab)

- Option 4. 1996 - 2000 (5 seasons)  
a. Best 4 seasons

1.4.2.2 Bristol Bay red king crab

- Option 3. 1996 - 2000 (5 seasons)  
a. Best 4 seasons

1.4.2.3 Bairdi (EBS Tanner crab)

- Option 3. Based on a 50/50 combination of Bristol Bay red king Crab and opilio harvests.

1.4.2.4 and 1.4.2.5 Pribilof red and blue king crab

- Option 2. 1994 - 1998  
b. Drop one season

1.4.2.6 St. Matthew blue king crab

- Option 2. 1994 - 1998  
b. Drop one season

1.4.2.7 Brown king crab (based on biological seasons)

*(Options apply to both Dutch Harbor (EAI) and Adak western Aleutian Island brown king crab)*

- Option 4. ~~96-97-2000-01 (5 seasons)~~ 95/96 – 99/00 (5 seasons)  
a. Best 4 seasons.

- Suboption: Award each initial recipient QS based on:  
b. historical participation in each region.

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1.4.2.8 Adak (**WAI**) red king crab - west of 179° west long.

Option 1. **1992/1993 – 1995/1996 (4 seasons)**  
**d. Best 3 seasons**

1.5 Annual allocation of IFQs:

1.5.1 Basis for calculating IFQs:

Option 2. Convert GHL to a TAC and use the TAC as the basis.

1.6 Transferability and Restrictions on Ownership of QS/IFQs:

1.6.1 Persons eligible to receive QS/IFQs by transfer:

Option 2. US citizens who have had at least:  
(b). 150 days of sea time

Option 3. Entities that have a U. S. citizen with 20% or more ownership and at least:  
(b). 150 days of sea time

Suboption: Initial recipients of harvesting quota share grandfathered  
\*Definition of sea time

Option 1. Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

1.6.2 Leasing of QS (leasing is equivalent to the sale of IFQs without the accompanying QS.)  
Leasing is defined as the use of IFQ on vessel which QS owner holds less than 10% ownership of vessel or on a vessel on which the owner of the underlying QS is present:

Option 1. Leasing QS is allowed with no restrictions **during the first five years after program implementation.**

1.6.3 Separate and distinct QS Ownership Caps - apply to all harvesting QS categories pertaining to a given crab fishery with the following provisions:

- a. Initial issues that exceed the ownership cap **are grandfathered at their current level as of June 9, 2002;**
- b. Apply individually and collectively to all QS holders in each crab fishery;
- c. Percentage-cap options for the Bristol Bay red king crab, Opilio, Bairdi, Pribilof **red and blue** king crab and St. Matthew blue king crab fisheries (a different percentage cap may be chosen for each fishery):

**Option 4. 1.0% of the total QS pool for Bristol Bay red king crab.**

**Option 5. 1.0% of the total QS pool for Opilio crab.**

**Option 6. 1.0% of the total QS pool for Bairdi crab.**

**Option 7. 2.0% of the total QS pool for Pribilof red and blue king crab.**

**Option 8 2.0% of the total QS pool for St. Matthew blue king crab.**

- d. A percentage-cap of **10% is adopted** for the Dutch Harbor (**EAI**) brown king crab, and a **10%** cap for western Aleutian Island (**Adak**) brown king crab.
- e. A percentage-cap of **10%** is adopted for WAI (**Adak**) red king crab **west of 179° West longitude.**

1.6.4 Controls on vertical integration (ownership of harvester QS by processors):

Option 2: A cap of 5% with grandfathering of initial allocations **as of June 9, 2002.**

Option 3: ~~An entity that owns PQS may not own harvester QS in addition to those harvesters QS that owns PQS may no own harvester QS addition to those harvester QS that were issued to the PQ holder in the initial allocation.~~ Vertical integration ownership caps on processors **shall be implemented** using both the individual and collective rule using 10%, minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level.

### Catcher Processor Elements

1.7.2.1.1 Catcher/Processors shall be granted CP-QS in the same manner as catcher vessels.

3. Allowance for Catcher/Processors:

Option 1. Catcher/Processors ~~are~~ *shall be* allowed to purchase additional PQS from shore based processors *as long as the shares are processed within 3 miles of shore in the designated region.* ~~well as PQS from other Catcher/Processors.~~

Option 4. Catcher/Processors may sell ~~processed or~~ unprocessed crab to:

b. any processor

Option 5. Only catcher processors that both caught and processed crab onboard their qualifying vessels in any BSAI crab fishery during 1998 or 1999 will be eligible for any CP QS in any IFQ or Coop program.

Option 6. CP-QS initially issued to a catcher/processor shall not be regionally or community designated.

**Option 7. Holders of CP shares cannot own or lease separate harvesting and/or processing shares in excess of those shares received as an initial allocation.**

**Option 8. The CP sector is capped at the aggregate level of initial sector-wide allocation.**

4. Transfers to shore-based processors:

c. Catcher/Processors shall be allowed to sell Catcher-Processor Quota Shares *as separate Catcher Vessel Quota Shares and Processor Quota Shares. The shares shall be regionally designated when sold (both shares to same region).* ~~to shore-based processors, without a regional designation.~~

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Other Harvester Options

1.7.3 Catch accounting under IFQs - All landings including deadloss will be counted against IFQs. Options for treatment of incidental catch are as follows:

Option 4. Discards of incidentally caught crab will be allowed, **as regulated by the Alaska BOF.**

1.7.4 Use caps on IFQs harvested on any given vessel **are provided for those vessels not participating in a voluntary cooperative described under section 6.1.**

*Option 1.*

**c. Two times the ownership cap:**

**2.0% for BS Opilio crab**

**2.0% BB red king crab**

**2.0% BS bairdi crab**

**4.0% for Pribilof red and blue king crab**

**4.0% for St. Matthew blue king crab**

**20% for EAI (Dutch Harbor) brown king crab**

**20% for Adak (WAI) brown king crab**

**20% for Adak (WAI) red king crab west of 179° West longitude**

1.8.1 Options for skipper captain and crews members:

1.8.1.2 (⊕) Percentage to Captain:

1. Initial allocation of **5%** shall be awarded to qualified captains.

1.8.1.3 (⊕) Species specific:

1. As with vessels.

1.8.1.4 (⊕) Eligibility:

1. **A qualified captain** determined on a fishery by fishery basis by 1) having at least one landing in the qualifying years used by the vessels and 2) having recent participation in the fishery as defined by at least one landing per year in the fishery in the last two seasons **prior to June 9, 2002.**

2. **A captain is defined as the individual owning the Commercial Fishery Entry Permit.**

1.8.1.5 (⊕) Qualification period:

1. As with vessels.

1.8.1.6 (⊕) Distribution per Captain:

1. Shares based on landings (personal catch history based on ADF&G fish tickets) **using harvest share calculation rule.**

2. **Captains with C/P history shall receive C/P captain shares on initial issuance. CP captain shares are eligible to be used on catcher vessels for harvesting purposes only.**

1.8.1.7 ~~(VII)~~ Transferability criteria:

Sale of QS.

- a. QS may be purchase only by persons who are US citizens who have had at least 150 days of sea time in any of the US commercial fisheries in a harvesting capacity.

IFQ leasing

- a. Captains QS are leasable for three years for the following fisheries only:  
Pribilof red and blue crab  
St. Matthew blue crab
- b. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of captain quota shares may lease QS, upon documentation and approval, (similar to CFEC medical transfers) for the term of the hardship/disability or a maximum of 2 years.

1.8.1.8 ~~(Option 4)~~ Loan program

1. A low-interest rate loan program consistent with MSA provisions, for skipper and crew purchases of QS, shall be established for IFQ purchases by captains and crew members using 25% of the Crab IFQ fee program funds collected.

1.8.1.9 ~~(VII)~~ Captain/Crew on Board requirements

1. Holders of captain QS or qualified lease recipients are required to be onboard vessel when harvesting IFQ.

1.8.2 Overage Provisions for the Harvesting Sector:

Allowances for overages during last trip:

Option 2. Overages up to 3% will be forfeited. Overages above 3% results in a violation and forfeiture of all overage.

1.8.5 Sideboards. Sideboards shall be addressed through a TRAILING AMENDMENT.

Options:

1. Non AFA vessels that qualify for QS in the rationalized opilio crab fisheries would be limited to their
  - a. GOA groundfish catch history excluding sablefish or
  - b. Inshore pcod catch history in the GOA fisheries (with offshore pcod exempt).
2. The years for qualification would be the same as the qualifying period selected from 1.4.2.1.
  - b. Sideboard exemptions:
3. Exempt vessels from sideboards which had opilio landings in the qualifying years of:
  - Option a. <100,000 pounds
  - Option b. <70,000 pounds

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Option c. <50,000 lbs

Option d. <25,000 lbs

4. Exempt vessels with more than 100, 200, or 500 tons of cod total landings in the years 95-99
5. Vessels with <10, <50 and <100 tons total groundfish landings in the qualifying period would be prohibited from participating in the GOA cod fishery.

**Suboption a: Council staff should analyze economic dependency of participants in the Bering Sea Korean hair crab fishery to determine if sideboards are warranted.**

2. Processing Sector Elements

**Processor shares shall be considered a privilege and not a property right.**

2.1 Eligible Processors - processors (including catcher-processors) eligible to receive an initial allocation of processing quota shares (PQS) are defined as follows:

- (a.) U.S. corporation or partnership (not individual facilities) that processed crab during 1998 or 1999, for any crab fishery included in the IFQ program.

2.2 Categories of Processing Quota Shares

2.2.1 Crab fishery categories - processing quota shares **shall may be issued for the same crab species identified in section 1.1**

2.2.2 Regional categories - processing quota shares will be categorized into two regions if regionalization is adopted (see Regionalization Elements for description of regions):

Northern Region - All areas on the Bering Sea north of 56° 20' N. latitude

Southern Region - All areas on the Bering Sea south of 56° 20' N. latitude and all areas on the Gulf of Alaska

2.3 Initial allocation of processing quota shares

Option 1. Processing quota shares shall be initially issued to Eligible Processors based on three-year average processing history<sup>1</sup> for each fishery, determined by the buyer of record listed on ADF&G fish tickets, as follows:

- (a) 1997 - 1999 for Bristol Bay red king crab
- (b) 1996 - 1998 for Pribilof **red and blue** king crab,
- ~~(c) 1996 - 1998 for Pribilof blue king crab~~
- (c) 1996 - 1998 for St. Matthew blue crab
- (d) 1997 - 1999 for opilio crab
- (e) **EBS** bairdi crab based on 50/50 combination of processing history for BBRKC and opilio
- (f) **1996/97 - 1999/00** seasons for brown king crab
- (g) The qualifying years for issuance of IPQ in the Adak (WAI) red king crab fishery **west of 179° West longitude** will be:

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<sup>1</sup> The three-year average shall be the three-year aggregate pounds purchased by each Eligible Processor in a fishery divided by the three-year aggregate pounds purchased by all Eligible Processors in that fishery.

Option B. Based on Western Aleutian Islands brown king crab IPQ

Option 4. If the buyer can be determined **by NMFS using the State of Alaska Commercial Operators Annual Report, fish tax records, or evidence of direct payment to fishermen** to be an entity other than the entity on the fish ticket, then the IPQ shall be issued to that buyer.

2.4 Percentage of season's GHL or TAC for which IPQs are distributed:

2.4.1 IPQs will be issued for a portion of the season's GHL or TAC for each species to provide open delivery processing as a means to enhance price competition:

Option 3. :90% of GHL (or TAC) would be issued as IPQs - the remaining 10% would be considered open delivery.

2.5 Implementation of the open delivery-processing portion of the fishery:

Catcher vessel QS/IPQs are categorized into Class A and Class B shares. Purchases of crab caught with Class A shares would count against IPQs while purchases of crab caught with Class B shares would not. Crab caught with Class B shares may be purchased by any processor on an open delivery basis.

2.6 Transferability of processing shares - provisions for transferability include the following:

- Processing quota shares and IPQs would be freely transferable, including leasing
- IPQs may be used by any facility of the eligible processor (without transferring or leasing)
- Processing quota shares and IPQs categorized for one region cannot be transferred to a processor for use in a different region.

**d. New processors may enter the fishery by purchasing IPQ or by purchasing Class B Share crab.**

2.7 Ownership and use caps –

2.7.1 Ownership caps

**Option 4. No ownership to exceed 30% of the total PQS pool. Add on a fishery by fishery basis with initial issues grandfathered.**

PQS ownership caps should be applied using the individual and collective rule using **10%** minimum ownership standards for inclusion in calculating the cap. PQS ownership caps are at the company level.

2.7.2 Use Caps.

**Option 3. In the Northern Region annual use caps will be at 60% for the opilio crab fishery.**

2.8 Other Optional Provisions:

The crab processing caps enacted by Section 211(c)(2)(A) of the AFA would be terminated

2.8.3 ~~Option for use of a~~ **A private sector managed (non-governmental), binding arbitration process for failed price negotiations, between fishermen and processors will be implemented through a TRAILING AMENDMENT . To the extent that this may be**

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a key design feature in a two pie IFQ program, the analysis should consider the mechanics and applicability to a two pie I/fq program.

3. Regionalization Elements

3.1 Two regions are proposed:

a. Northern Region - All areas on the Bering Sea north of 56° 20' N. latitude. (This region includes the Pribilof islands and all other Bering Sea Islands lying to the north. The region also includes all communities on Bristol Bay including Port Heiden but excludes Port Moller and all communities lying westward of Port Moller.)

b. Southern Region - All areas on the Bering Sea south of 56° 20' N. latitude and all areas on the Gulf of Alaska (This region includes all parts of the Alaska Peninsula westward of and including Port Moller. All of the Aleutian Islands are included in the South Region as are all ports and communities on the Gulf of Alaska.)

Suboption: Regional categories for deliveries of Aleutian Islands brown king crab are split into a "Western" (west of 174° West longitude) and "Eastern" (east of 174° West longitude) area. 50% of the WAI IPQ brown king crab QS shall be processed in the WAI region.

3.2 Regional categorization of processing and/or harvesting quota shares

3.2.1 Categorization will be based on all historical landings. Periods used to determine regional percentages are as follows:

Option 2. 1997 – 1999 **except 1996/97 to 1999/00 for brown king crab.**

Option 3.

There shall be no regional designation of the bairdi fishery shares. **When there is a harvestable surplus of bairdi, an open season, and the vessel has bairdi quota, bairdi will be retained and delivered as incidental catch bycatch in the red /blue king crab and opilio fisheries.**

~~There shall be no regional designation of the Bristol Bay red king crab fishery shares.  
Pribilof red king crab Class A shares shall all be designated for the Northern Region.  
Pribilof blue king crab Class A shares shall all be designated for the Northern Region.  
All St. Matthew Blue King crab shall be designated to the northern region.~~

3.2.2 Options for the harvesting sector:

Option 2. Only Class A CV quota shares are categorized by region (**applies to point of delivery and not point of harvest**).

3.2.3 Options for the processor sector:

Option 1. Processing quota shares and IPQs are categorized by region

3.2.4 Once assigned to a region, processing and/or harvesting quota shares cannot be reassigned to a different region.

- 3.2.5 Options for addressing any remaining mismatch of harvesting and processing shares within the region.
1. The base years for determining processing shares and the base period for determining the share assigned to each region shall be the same.
  2. If the cumulative harvester quota associated with each region differs from the total regional share, by species, the harvester share, by species, shall be adjusted, up or down, in the following manner:
    - a. The adjustment shall apply only to harvesters with share in both regions.
    - b. The adjustment shall be made on a pro rata basis to each harvester, so that the total share among those harvesters, by region, equals the total share assigned to each region.
3. The adjustment shall only be on shares that carry a regional designation; Class B quota would be excluded from the adjustment.

3.3 Delivery and processing restrictions - the following provisions apply to the delivery and processing of crab with IFQs or IPQs that are categorized by region:

- a. Crab harvested with catcher vessel IFQs categorized for a region must be delivered for processing within the designated region
- b. Crab purchased with IPQs categorized for a region must be processed within the designated region.

3.4 Alternative Regionalization/Community Protection Option: **This option in its entirety will be considered as part of the trailing amendment. Refer to draft motion of April 14<sup>th</sup>, 2002.**

4. Community Development Allocation (based on existing CDQ program):

Option 2. Expand existing program to all crab fisheries approved under the rationalization program **with the exception of the Western AI brown king crab**

Option 3. Increase for all species of crab to 10%. **A minimum of 25% of the total CDQ allocation must be delivered on shore.**

Option 5. For the WAI brown king crab fishery, the percentage of resource not utilized (difference between the actual catch and GHL) during the base period is allocated to the community of Adak. **In any year, that sufficient processing exists at that location, the percentage of the difference between the GHL and actual catch, that was not harvested in these 4 years is not to exceed 10%.**

5. Program Elements

Option 2. Formal program review **5** years after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. **Subsequent reviews are required every 5 years.**

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**Option 5. for management and enforcement of the IFQ/IPO program shall be forwarded to the State of Alaska for use in management and observer programs for BSAI crab fisheries**

6. Cooperative model options:

6.1 Coop model with the following elements and options:

1) Individual harvesting and processing histories are issued to both catcher and processors. (Harvesters under Section 1.3.2 a) which meet program qualifications. Processors under Section 2.1, 2.3, and 2.4 (Options 1-4) which meet qualifications of the program).

2) Cooperatives may be formed through contractual agreements among fishermen who wish to join into a cooperative associated with one or more processors holding processor history for one or more species of crab. Fleet consolidation within this cooperative may occur either by internal history leasing and vessel retirement or by history trading within the original cooperative or to a different cooperative. **A coop agreement would be filed annually with the Secretary of Commerce, after review by the Council, before a coop's catch history would be set aside for their exclusive use.**

3) Suboption only : There must be at least 4 or more unique **harvester quota share holders**—vessels engaged in one or more crab fisheries to form a coop with a processor. Vessels are not restricted to deliver to a particular plant or processing company.

4. New processors may enter the fishery by purchasing IPQ or by purchase of crab caught with B share landings. **New processors entering the fishery may form cooperatives.**

5. Custom processing would continue to be allowed within this rationalization proposal.

7. Regional Categories: **As adopted earlier**

8. Duration of coop agreements.

Option 4. A harvester quota shareholder may exit the cooperative at any time after one season. One season shall mean the season established by the Alaska Board of Fisheries for the fishery associated with the quota shares held by the harvester.

10. Observer requirements: **Defer observer requirements to the Alaska Board of Fisheries.**

11. Length of program: **Same as earlier in Section 5.**

12. Option for skipper and crew members: **Same as developed earlier.**

13. Catch Accounting - All landings including deadloss will be counted against a vessel's quota. Options for treatment of incidental catch are as follows: **Same as developed earlier.**

14. Taxes: ~~Require owners of CP vessels to pay a fee equivalent to the tax that would have been imposed had the CP operated in State waters.~~

15. ~~Require certain socioeconomic data from the crab catching, processing and catcher/processors participants during implementation of the crab rationalization program. This information is to include, but~~

not be limited to: harvest and production costs; expenditure patterns; vessel ownership data including vessel identifiers (name and address files); and employment and earnings data. Individual socioeconomic data will be collected from fishing and processing entities and tabulated by the resource agencies, and maintained in a secure and confidential manner for analysis by the State and Federal fishery management agencies and the NPFMC. A team of Council and agency staff shall be appointed to develop a list of specific data to be collected, and the mechanism by which the data would be collected. Upon development of the draft plan, the team will meet with Council identified industry members to refine the program.

16. **Notwithstanding any other provision of law<sup>2</sup>the North Pacific Fishery Management Council and the National Marine Fisheries Service shall have the authority to implement a mandatory data collection program of cost, revenue, ownership and employment data upon members of the BSAI crab fishing industry harvesting or processing fish under the Council's authority. Data collected under this authority will be maintained in a confidential manner and may not be released to any party other than staffs of federal and state agencies directly involved in the management of the fisheries under the Council's authority and their contractors.**

**A mandatory data collection program shall be developed and implemented as part of the crab rationalization program and continued through the life of the program. Cost, revenue, ownership and employment data will be collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the crab rationalization program as well as collecting data that could be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. This data collection effort is also required to fulfill the Council problem statement requiring a crab rationalization program that would achieve "equity between the harvesting and processing sectors" and to monitor the "...economic stability for harvesters, processors and coastal communities". Both statutory and regulatory language shall be developed to ensure the confidentiality of these data.**

**Any mandatory data collection program shall include:**

**A comprehensive discussion of the enforcement of such a program, including enforcement actions that would be taken if inaccuracies in the data are found. The intent of this action would be to ensure that accurate data are collected without being overly burdensome on industry for unintended errors.**

After these modifications were made, Staff was requested to prepare a revised motion and provide it in hard copy for Council review and final approval.

**The following modifications were made on the revised final motion:**

- **Under Section 1.7.3, Robin Samuelsen moved to modify Option 4 by deleting the words "as regulated by the Alaska BOF." and adding a new Option 5: Request ADF&G & BOF & BOF NPC Protocol Committee to address concerns of discard, highgrading, incidental catch and need for bycatch reduction and improved retention in season with monitoring to coincide with implementation of a crab rationalization program. The motion was seconded by Stephanie Madsen and carried without objection.**

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<sup>2</sup>Among other provisions, the Magnuson Stevens Sustainable Fishery Act, currently contains constraints to collection of economic data from processing firms. Protection from releasing any individual entity and firm level information through the Freedom of Information Act, is also sought.

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- **Under Section 1.4.2.7, Option 4, Stephanie Madsen moved to reconsider the qualifying years. The motion was seconded by Dennis Austin and passed 8-3 with Bundy, Hyder and Samuelsen voting against. Stephanie then moved to amend the qualifying years and through friendly amendment was finally agreed upon as 96/97 – 2000/01 with all years in the suboption. The amended motion was seconded by Robin Samuelsen and passed 10-1 with David Fluharty voting against. The reconsidered amended amendment carried without objection.**
- **Under Section 1.4.2.3, Robin Samuelsen moved to substitute the years 91/92 through 95/96, Best 4 of 6 years. The motion was seconded by Roy Hyder and passed 10-1 with Madsen voting against.**
- **Under Section 1.8.1.2, Robin Samuelsen moved to change the percentage from 10% to 3%. The motion was seconded by Stephanie Madsen and passed 7-4 with Anderson, Fluharty, Penney and Benton voting against.**
- **Roy Hyder made a friendly amendment to Stephanie Madsen’s amendment to add a new Section 1.8.3, AFA Vessel Option. Eliminate harvester sideboard caps. The motion was seconded by Bob Penney and passed 7-4 with Anderson, Duffy, Samuelsen and Benton voting against.**
- **Under Section 2.1, David Fluharty moved to include hardship provisions for processors that didn’t process crab in 1998 or 1999 but met the following provisions:**

**A processor, not Catcher-Processor, that processed opilio crab in each season between 1988 and 1997 and invested significant capital in the processing platform after 1995, will be determined to be a qualified processor. Significant capital is defined as a direct investment in processing equipment and processing vessel improvements in excess of \$1 million.**

**The motion was seconded by Dennis Austin and passed 6-5 with Anderson, Duffy, Madsen, Penney and Samuelsen voting against.**

- **Under Section 2.3, Option 4, Stephanie Madsen moved to add the following language after “determined by NMFS . . . “using the State Of Alaska Commercial Operators Annual Report, fish tax records or evidence of direct payment to fishermen” . . . and then continue with “to be an entity other than the entity on the fish ticket, then the IPQ shall be issued to that buyer.” The motion was seconded by Kevin Duffy and carried without objection.**
- **Under Section 3.1(b), Dennis Austin moved to change the definition of Southern Region as “all areas not in the Northern Region.” The motion was seconded by Kevin Duffy and carried without objection.**
- **Under Section 2.8.3, David Fluharty moved to append report received from Binding Arbitration Committee as an indication of the direction the Council is headed at this time in implementation along with a request to Congress to assist the Council in incorporating this should the Council so choose. The motion was seconded by Bob Penney and carried without objection.**
- **Under Section 3.4, Alternative Regionalization/ Community Protection, Stephanie Madsen moved to add a new option as part of the trailing amendment while still retaining the option in Mr. Duffy’s main motion from the April Council Draft Motion.**

- **Transfers of IPQ out of a region are prohibited.**
- **If an owner of IPQ decides to sell the IPQ, the right of first refusal to purchase the IPQ shall be granted to CDQ groups (for IPQ in the Bering Sea) or a community organization approved by the local government (for IPQ in the Gulf Of Alaska) providing that any IPQ so purchased is processed at a facility owned at least 50% by the CDQ organization or community group.**
- **The amount of IPQ in any year shall not exceed the percentage of the TAC for any crab species as follows:**
  - Option 1: IPQ percentage times a TAC of 150 million pounds.**
  - Option 2: IPQ percentage times a TAC of 200 million pounds.**

The motion was seconded by Robin Samuelsen and carried without objection.

- **Under Section 5.0 – Stephanie Madsen moved to amend Option 2 regarding Program Review changing “5 years after implementation” to “preliminary review 3 years after implementation and at the first Council Meeting after implementation . . .” Through friendly amendment the motion included receiving annual reports from NMFS’ RAM Division in conjunction with the State of Alaska data being gathered. The motion was seconded by Robin Samuelsen and carried without objection.**
- **Under Section 5, Option 5, Jim Balsiger moved to substitute language so that it reads: “A proportional share of fees charged to the harvesting sectors and processing sectors . . .” then continuing with “for management and enforcement . . .” The motion was seconded by John Bundy and passed 10-1 with Anderson voting against.**
- **Under Section 6.1, (4) John Bundy moved to add “or by processing CDQ” to the end of the sentence (after “landings”). The motion was seconded by Bob Penney and carried without objection.**
- **Under Section 6.1, (12) David Fluharty moved to delete the language after the word “members:” beginning with “Protection of traditional . . .” to the end of the sentence. The motion was seconded by Bob Penney and carried without objection.**
- **Under Section 6.1, (15), Bob Penney moved to delete the first part of the sentence from “Notwithstanding any other provision of law”. The motion was seconded by Stephanie Madsen and carried without objection.**
- **After Section 2.8.3, Robin Samuelsen moved to add the following language as direction to the Binding Arbitration Committee regarding focus:**
  - 1. The Committee should continue its efforts to refine the system of Binding Arbitration that will accomplish the goals articulated in the Council Crab Rationalization Problem Statement. The Committee should meet over the course of the summer and return with a report at the October 2002 Council Meeting.**
  - 2. The system of binding arbitration will create a mechanism to establish a minimum or formula price for all crab delivered using Class A harvesting shares.**
  - 3. This minimum or formula price to be the “safety net” for the “last man standing” facing**

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the last IPQ holder. It is intended to ensure that any harvester without market options has the option of an arbitrated minimum price.

4. There be one arbitration event per IPQ holder per season. Once through arbitration of price, price shall not be the subject of arbitration for that IPQ holder again for that season.
5. The system of price formation encourage the tradition of harvesters voluntarily engaged in collective bargaining with individual processing firms for the minimum ex-vessel price or formula in large GHF fisheries.

**Bob Penney seconded the motion and it carried without objection.**

- Under Section 1.6.1, Robin Samuelsen moved to add a new Option 4: Allow a CDQ organization to be exempted from the restriction for the 150 days of sea time requirement under 1.6 Transferability and Restrictions on Ownership of QS/IFQs. The motion was seconded by Stephanie Madsen and passed 10-1 with Hyder voting against.
- Under Section 3.1(b) Suboption, David Fluharty moved to substitute the following language for the last sentence: Up to 50% of the WAI IPQ brown king Crab QS may be processed in the WAI region.” The motion was seconded by Bob Penney and carried without objection.

The amended motion passed unanimously and can be found attached to these minutes as Appendix IV.

Robin Samuelsen moved to reconsider the final motion. Bob Penney seconded and the motion failed unanimously.

C-3(c)            Crab Rationalization - EIS

**ACTION**

- a) Selection of alternatives for analysis in the EIS

**BACKGROUND**

The Council is also scheduled to select alternatives for analysis in the programmatic EIS for the BSAI crab FMP. NMFS staff will be presenting a discussion paper (Item C-3(c)) on the process and schedule for the subsequent crab EIS, including a discussion of the structure of alternatives to be included in that EIS. The discussion is intended to guide the Council in its consideration of appropriate alternatives to be included in the EIS. The preferred rationalization alternative will be the preferred alternative in the EIS. Additional alternatives selected by the Council will be developed for comparison to that preferred alternative and the status quo.

**Scientific and Statistical Committee Report**

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

## Advisory Panel Report

The AP recommended the Council request staff analyze the following alternatives in the BSAI Crab FMP EIS:

Alternative 1: Status quo

Alternative 2: A 2-pie model such as the suite of elements and options identified in the AP motion

Alternative 3: A 1-pie model such as the suite of elements and options in the modified voluntary coop proposal

Alternative 4: No fishing

The AP also strongly supports the inclusion of mitigation measures within the analysis of each alternative. If required by NOAA GC, the no fishing alternative should be labeled as a mitigation alternative recognizing it as analyzed primarily for contrast purposes.

## DISCUSSION/ACTION

**Stephanie Madsen moved that the Council's intent was to work on initial action in October 2002, final action in December 2002, and final approval of the Crab EIS in February 2003. The motion was seconded and carried without objection.**

**Stephanie Madsen then moved that the Council adopt the alternatives outlined on Page 5 of the analysis to include for analysis in the BSAI FMP EIS. The motion was seconded by Robin Samuelsen and carried without objection.** The Council discussed whether Alternative 3 (no fishing) was really a viable alternative and that it was highly doubtful that they would shut down the entire fishery, but a reasonable alternative from a NEPA standpoint. The Advisory Panel also discussed relabeling the "no fishing alternative" as "describing mitigation alternatives". The Council questioned staff whether the AP-developed concept on an IFQ system with limited processor entry was included in the analysis and although it wasn't specifically developed as a suboption, it might be a different alternative. The analysis did include an AFA coop, plurality coop and moved around the AP concept in many ways, but not exactly what the AP developed. Staff concluded that adding another option to the analysis now wouldn't be inconsequential. It would need to be fully developed and thought through and it's come to the Council a little late so chose not to offer it as an additional alternative.

C-4      CDQ Policy Amendment Package

## ACTION REQUIRED

**Final action on CDQ policy amendment package.**

## BACKGROUND

**The proposed action would implement several policy and administrative changes to the Community Development Quota (CDQ) Program, including changes to the role of NMFS and the State of Alaska in program oversight and the CDQ allocation process. The CDQ Program was created by the Council in 1992 as part of the inshore/offshore allocations of pollock in the BSAI. The Council established the program to provide western Alaska fishing communities an opportunity to participate in the BSAI fisheries that had been foreclosed to them because of the high capital investment needed to enter the fishery. The current goals and purpose of the program as stated in Federal regulation, are to allocate CDQ to eligible western Alaska communities to provide the means for starting or supporting**

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commercial fisheries business activities that will result in an ongoing, regionally-based, fisheries-related economy (50 CFR 679.1(e)).

The proposed action would be an amendment to the BSAI FMP (Amendment 71). The action was categorically excluded under NEPA from further environmental review and the requirement to prepare an environmental review document, as it was determined that the action does not have the potential to pose significant individual or cumulative impacts on the human environment.

The analysis (RIR/IRFA) considers eight policy issues that would change the administration of the current CDQ Program. The complete list of alternatives, as revised at the April Council meeting, is attached to this memo as Item C-4(a). The no action alternative is included under every issue, as well as a suite of alternatives to the status quo. Each issue represents a distinct decision-making point, but many of the issues are inter-related. The eight issues under consideration are:

- Issue 1: Determine the process through which CDQ allocations are made
- Issue 2: Periodic or long-term CDQ allocations
- Issue 3: Define the role of government in oversight of the CDQ Program
- Issue 4: CDQ allocation process - Type of quotas
- Issue 5: CDQ allocation process - The evaluation criteria
- Issue 6: Extent of government oversight (Definition of a CDQ project)
- Issue 7: Allowable investments by CDQ groups (fisheries-related restriction)
- Issue 8: Other administrative issues

This amendment was initiated for several reasons. The National Research Council (NRC) prepared a comprehensive report on the performance and effectiveness of the CDQ Program in 1999 upon request of Congress. The NRC made several recommendations to improve the program, many of which are at issue in this analysis. Secondly, Congressman Don Young has proposed the Western Alaska CDQ Program Implementation Improvement Act of 2001 (H.R. 553) in the 107<sup>th</sup> session of Congress. This legislation would amend Section 305(i) of the Magnuson-Stevens Act which addresses implementation of the CDQ Program. The amendments would make some significant policy and fisheries management changes to the CDQ Program, including increasing the autonomy of the CDQ groups by allowing them to determine the evaluation criteria used for making the allocations, as well as limiting government oversight to CDQ projects funded only by CDQ royalties. A Congressional hearing was held on July 19, 2001, and the bill remains within the Subcommittee on Fisheries Conservation, Wildlife, and Oceans. All of the policy changes proposed in H.R. 553 have been encompassed in this analysis under various alternatives and are discussed in more detail within the analysis.

In addition to the NRC report and H.R. 553, there is a general understanding that the CDQ Program and the CDQ groups have matured significantly since 1992. The CDQ Program has surpassed the expectations of many in accomplishing its goals, and the CDQ groups have gained valuable experience in managing their fisheries and related investments. As a result, the Council recognized the need to evaluate the CDQ Program and to identify issues of concern and alternatives to address those issues. The Council appointed a CDQ Policy Committee in December 2000 to address issues related to the CDQ oversight responsibilities of government as well as provide policy recommendations regarding the allocation process and overall program administration. The committee met in April and May of 2001 and provided a report to the Council at the June 2001 Council meeting. Based on the recommendations of the committee, the Council requested that staff prepare an analysis of the policy issues listed above.

Also attached to this memo (Item C-4(b)) is draft FMP language to mirror the alternatives that staff has proposed should be incorporated into the FMP. The majority of the issues on which the Council is going to take action will be promulgated in Federal regulations. However, staff has suggested that two specific issues should also be included in the FMP (in addition to Federal regulations): 1) the role of government in Issue 3, and 2) the goals and purpose of the CDQ Program in Issue 7. Should the Council take no action on Issue 3, no changes to the FMP would need to be made with respect to that

issue. Note however that staff suggests that the Council add language describing the goals and purpose of the program to the FMP, even if the Council chooses no action as its preferred alternative under Issue 7. While staff has provided draft FMP language based upon the alternatives and options proposed in the analysis under only these two issues, the Council may recommend revisions to the wording of the FMP related to any of the issues addressed in the analysis.

The Council approved sending the analysis out for public review at the December 2001 meeting, with the intent that the analysts would complete the document, including recommended modifications and analysis of several new alternatives and options. In February, the Council received a status report of staff's progress on the analysis. In April, the Council reviewed the public review draft of the analysis and requested specific modifications and analysis of several new options. Final action on the amendment is scheduled for this meeting. The public review draft was mailed to the Council on May 16, 2002.

### Scientific and Statistical Committee Report

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

### Advisory Panel Report

The AP recommended the Council adopt the following alternatives and options for the eight issues contained in the analysis.

Issue 1: Determine the process through which CDQ allocations are made.

**Alternative 2:** Define the process in regulation, an expanded state hearing and comment process, but no formal NMFS appeals process.

Issue 2: Periodic or long term CDQ allocations:

**Alternative 2, Option 2, Suboption 1:** Set fixed 3 year allocations with possible mid-cycle adjustment for extra-ordinary circumstances.

Additionally, the AP recommended the regulations be revised to reflect that suspension or termination of CDQ allocations be an administrative determination by NMFS and that the CDQ groups involved would be allowed an opportunity to appeal NMFS's initial administrative determination on any changes in CDQ allocations. The AP also recommended removing the requirement to publish a notice in the Federal Register about suspension or termination of a CDQ allocation.

Issue 3: Role of Government Oversight:

**Alternative 2:** Amend the BSAI FMP to specify government oversight purposes as described in the analysis.

Issue 4: CDQ allocation process - Types of quotas:

**Alternative 1:** No action

Issue 5: CDQ allocation process - the evaluation criteria:

**Alternative 2:** Publish allocation criteria in the NMFS regulations with the following changes to the criteria:

7. In areas of fisheries harvesting and processing, past performance of the CDQ group, to the extent practicable, in promoting conservation-based fisheries by taking actions that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to essential fish habitats.

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8. Apply proximity to the resource only to these species: halibut, Norton Sound red king crab, Pribilof red king crab, St. Matthew blue king crab.

Issue 6: Extent of Government oversight:

**Alternative 4:** (From HR 553) Revise NMFS regulations to clarify that government oversight extends only to the activities of the CDQ group that are funded by royalties from the CDQ allocations.

There was a minority report that supported making adjustments to the maturing CDQ program where appropriate. They believe that, due in large part to conservative management and accountability to the communities, the success of the program can continue. However, Alternative 4 erodes that accountability and offers large opportunity for CDQ management changes that could bring the future of the program into question.

Issue 7: Allowable investments by CDQ groups - fisheries related projects:

**Alternative 3**, with the following **amended option 2, suboption 1** for limits on non-fisheries related projects, and sub-option A to make goals and purposes primarily fisheries related: Allow investments in non-fisheries related economic development in-region projects up to 20% of the previous years' pollock royalties.

Issue 8: Other CDQ Administrative Issues:

**Alternative 2:** Simplify quota transfer and alternative fish plan process.

**DISCUSSION/ACTION**

**Robin Samuelsen moved to accept the AP's recommendations with modifications to Issues 5, 7 and 8 as shown below with additions in italics and deletions in strikethrough:**

**Issue 5: CDQ Allocation Process – evaluation criteria:**

The council adopts Alternative 2, publish the criteria in the NMFS regulations with the following change to the criteria.

7. In areas of fisheries harvesting and processing, past performance of the CDQ group, to the extent practicable, in promoting conservation-based fisheries by taking action that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to essential fish habitats.

8. ~~Apply~~ Delete proximity to the resource as an evaluation criteria. ~~Only to these species: halibut, Norton Sound red king crab, Pribilof red king crab, St. Matthew blue king crab.~~

**Issue 7: Allowable investments by CDQ groups – Fisheries related projects.**

The council adopts Alternative 3, with the amended option 2, suboption 1 for limits on non-fisheries related projects, and sub-option A to make the goals and purposes primarily fisheries related: Allow investments in non-fisheries related economic development *projects* in region projects up to 20% of the previous ~~years'~~ *year's* pollock CDQ royalties.

**Issue 8P: Other CDQ Administrative Issues:**

The council adopts Alternative 2, *with all 3 options*: Simplify quota transfer and alternative fish plan process.

Bob Penney moved to amend Issue 7 of the main motion to read “Allow investments in non-fisheries related economic development projects *within Alaska in-region* up to 20% of the previous year’s pollock CDQ royalties.” Roy Hyder seconded the motion.

Mr. Bundy then moved to amend Mr. Penney’s amendment to read “Allow investments in non-fisheries related economic development projects within Alaska *in an amount equal to up to 20% of the previous year’s pollock CDQ royalties plus 100% of profit distributions to the CDQ group in the previous year.*” The motion was seconded by Jim Balsiger and failed 7-4 with Austin, Balsiger, Bundy and Fluharty voting in favor.

Kevin Duffy moved to amend Mr. Penney’s amendment to Issue 7 of the main motion, Suboption A (amending the goal and purpose statement in Federal Regulation), to read: “The goals and purpose of the CDQ Program are to allocate CDQ to qualified applicants representing eligible western Alaska communities *primarily as the first priority* to provide the means for investing in, participating in, starting, or supporting commercial fisheries business activities that will result in an on-going, regionally-based fisheries economy and *secondarily as a second priority* to strengthen the non-fisheries related economy in the region.” Mr. Penney concurred with Mr. Duffy’s amendment to his amendment and the motion passed 8-3 with Austin, Bundy and Fluharty voting against.

Jim Balsiger moved to amend Issue 1 of the main motion such that the Council adopt Alternative 2, define the process in regulation, an expanded state hearing and comment process, but include the formal NMFS appeals process. The motion was seconded by Stosh Anderson. John Lepore spoke to the motion in that NMFS needs to include a formalized appeals process in compliance with the law (procedural due process is mandated). Sally Bibb, NMFS Staff, commented that in the analysis on pages 46-47 the current process is 9 months and that another 6 months would accommodate the appeals process. Chairman Benton asked Mr. Lepore to comment on the possibility of the Secretary rejecting the entire amendment to change the CDQ program because there is no appeals process included. He might just write a letter to the Council stating that it needed to implement an appeals process instead of disapproving the entire amendment. Mr. Lepore confirmed that this was, in fact, correct. **The motion failed 7-4 with Austin, Balsiger, Fluharty and Hyder voting in favor.**

John Bundy moved to substitute the following language on Issue 6: “Revise NMFS regulations to clarify that prior approval of government oversight extends only to activities of the CDQ group that are funded by royalties from the CDQ allocations or by debt incurred by the CDQ group.” The intent of the motion is to limit prior approval authority with respect to subsidiaries, but not to remove all government oversight as the CDQ groups would still be required to submit information about their subsidiaries in annual and quarterly reports. **The motion was seconded and failed 6-5 with Austin, Balsiger, Bundy, Fluharty and Hyder voting in favor.**

David Fluharty moved to substitute language from page 116 of the analysis for language in the motion on Issue 5, #8: adding “proximity to the resource” as a criterion. The motion was seconded by Bob Penney and passed 6-5 with Anderson, Austin, Bundy, Hyder and Samuelsen against.

The main motion was seconded by Stephanie Madsen and passed unanimously, however Bob Penney moved to reconsider the main motion and Stephanie Madsen seconded. The motion to reconsider passed 9-2 with Duffy and Hyder voting against.

Dave Hanson reminded Council Members that they can’t make the same motion that previously failed. Chairman Benton added that if someone wanted to amend a motion that failed, that would be OK.

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**Mr. Penney moved to reconsider the portion of the motion he previously amended, on Issue 7, so that the 4<sup>th</sup> sentence read: “economic development ~~within Alaska~~ *in region* for projects up to 20% . . .”. The motion was seconded by Kevin Duffy.** The Council further discussed specifically what “in region” meant. Robin Samuelsen stated that the CDQ Policy Committee intended that the definition of “in region” meant the borders of the CDQ region, i.e., those communities within 50 nautical miles from the Bering Sea. This means that the CDQ region is bounded by the 50 nm criteria, but that non-fisheries related projects are not limited only to CDQ member communities. The intent is for the benefits of non-fisheries related dollars to have a major affect on the communities of the CDQ region.

**Kevin Duffy moved to amend Mr. Penney’s amendment of the definition of “in-region” by adding a new sentence from page 189 of the analysis to read: “ ‘In region’ extends to the borders of the 65 communities that currently participate in the CDQ Program.”** The intent, as noted in the analysis, is that “in-region” extends to any community within the CDQ region. The motion was seconded by Robin Samuelsen and carried without objection.

**Mr. Penney’s amended amendment carried without objection.**

**Mr. Bundy moved to substitute language of the main motion on Issue 6 as follows: The following rules apply to separate legal entities owned in whole or in part, directly or indirectly, by a CDQ Group. Investment by a CDQ Group in such an entity is a CDQ project which may be subject to a CDP amendment. Investment by such an entity which involves commitment of the resource royalty of a CDQ Group is a CDQ Project which may be subject to a CDP amendment. Other investments by such an entity are not CDQ Projects. However, the CDQ Group shall provide all information reasonably required by Government oversight concerning such other investments to ensure compliance by the CDQ Group with oversight purposes as described in the analysis. The motion was seconded by David Fluharty, and failed 6-5 with Anderson, Balsiger, Duffy, Madsen, Samuelsen and Benton voting against.**

**The final motion, as amended, passed unanimously and is attached as Appendix V.**

C-5 Programmatic Groundfish SEIS

#### **ACTION REQUIRED**

1. Clarify Purpose and Needs Statement.
2. Review alternatives for revised analysis.

#### **BACKGROUND**

At the February meeting, the Council adopted a revised purpose and needs statement for the SEIS, and a set of eight alternatives for further consideration. Further it was clarified that the intent was to amend the FMPs policy goals and objectives pursuant to MSA, and that alternatives are alternative amendments for FMP goals and objectives. The Council requested that NMFS continue to work with interested stakeholders to further refine the policy alternatives. In addition, the Council requested that NMFS further develop the case studies and a description of the proposed analytical framework for review at the April Council meeting.

In April, the Council consolidated the eight alternatives developed in February into four policy alternatives, as described in Attachment C-5(a). Each alternative to the status quo would also include two FMP-like examples that will serve as bookends to an FMP framework within which future project

level management decisions will be made. This means that in the final Record of Decision (ROD) document, the Council will select a preferred alternative that could contain an amendment to the FMP's policy goals and objectives. In addition, the Council would also be committing to amending its FMPs on a time schedule developed by the Council (in the ROD) in a manner consistent with the FMP framework. Developing two FMP bookends for each alternative to status quo would allow the Council to seriously consider potential FMP actions that would be further developed by the Council as follow-on amendments relying on its normal FMP decision making process. The time schedule for developing any follow-on amendments would be determined after the Council has constructed its preferred alternative, reviewed data requirements and public comment, and prioritized its policy objectives.

We requested public comments on the draft alternatives and FMP bookends, and copies of these comments are attached. Steve Davis, project leader, will provide a set of revised alternatives and bookends for the Council to review at this meeting. The Council will finalize the PSEIS alternatives and forward them on to NMFS for analysis at this meeting.

#### **Scientific and Statistical Committee Report and Advisory Panel Report**

Neither the SSC nor the AP addressed this agenda issue.

#### **DISCUSSION/ACTION**

Steve Davis, NMFS, gave the staff report and handed out an overview of the alternatives including an updated version of the comparison of FMP frameworks spreadsheet dated June 3, 2002. Chairman Benton reached Lisa Lindeman, NOAA General Counsel, via conference call so that she could participate in the discussion. Mr. Davis answered questions regarding the food web and his view of the schedule/timing of this issue at the October meeting. Chairman Benton asked if an initial target could be the February Council meeting. Steve felt early next spring was reasonable and that the intent was to get something back to the Council as soon as possible to help construct a preferred alternative and integrate it into the next draft for NEPA review next summer.

The Council reviewed the spreadsheet section by section and discussed several possible changes due to some issues being in more than one place. Chairman Benton suggested the way to move forward was for a Council Member to make a motion to adopt the spreadsheet document and make changes to the document, section by section, through amendments. The Comparison of FMP Frameworks spreadsheet is appended to these minutes as Appendix VI.

**Earl Krygier moved to adopt the staff's working document framework of the Programmatic SEIS dated June 3, 2002 including the series of tables illustrating the various alternatives. The motion was seconded by Stephanie Madsen.**

**Stosh Anderson moved to amend the main motion to instruct staff to include a preamble in the document instructing how to make choices and submit comments on alternatives or preferred alternatives. The motion was seconded by Stephanie Madsen and carried without objection (Penney and Samuelsen absent).**

**Stephanie Madsen moved to replace the TAC-Setting Process under Alternative 3.1 where the OY is specified as a range with the same as shown in Alternative 1. (This would change Alternative 3.1 from the OY specified as a range; OY cap = the sum of ABCs, to the OY specified as a range for the BSAI: 1.4-2.0 million metric tons and OY specified as a range for the Gulf of Alaska: 116,000-800,000 metric**

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**tons; the BSAI OY cap: if the sum of the TAC is less than 2 million metric tons then the TAC will be adjusted down.) The motion was seconded by Stosh Anderson and passed 9-0 (Penney and Samuelson absent).**

Lisa Lindeman asked if this made any difference because it was for analytical purposes. Steve Davis explained that there is a difference between the TAC-Setting Process outlined in Alternatives 3.1 and 3.2 in that Alternative 3.2 has a formula and Alternative 3.1 is a fixed number. The range concept is still there, but the number changes to something that would float.

The Council discussed the fact that the B20 and B40 rules had been moved in the updated document. The B40 rule used to be under TAC-Setting Process, now it's under Steller sea lions. These control rules could be moved at a later date as they have a bearing on what ABC and TACs will be modeled. Staff added that their concern was that up to this point the Steller sea lion package transcended all bookends with the exception of Alternative 4.1 and they thought it wise to show they could do something more.

**Stosh Anderson moved to change the Spatial/Temporal Management heading shown in yellow to read "Spatial/Temporal Management of TAC". The motion was seconded by Dennis Austin and carried without objection.**

**Earl Krygier moved to include the Aleutian Island closure under Alternative 3.1 under Stellar Sea Lion Measures. The motion was seconded by Stephanie Madsen, and then amended by Jim Balsiger to park it under the EFH category. The amendment was seconded by David Fluharty and carried without objection.**

**Stephanie Madsen moved to replace the word "and" with "of the" under Alternative 2.2 of Bycatch Restrictions where the sentence begins with "Where sufficient stock status . . ." and then in Alternative 3.1, under Gulf of Alaska, replace the language beginning with "Establish PSC limits on salmon and crab based on 5-year bycatch rate" with "Establish PSC limits with a not to exceed 25,000 cap for chinook and a 20,500 cap for other salmon". The motion was seconded by Dennis Austin and carried without objection.**

**Stephanie Madsen moved to add the following language under Alternative 3.1, Gulf of Alaska, Bycatch Restrictions: "Establish PSC limits for crab as a percentage of biomass or other fisheries data." The motion was seconded by Earl Krygier and carried without objection. Ms. Madsen clarified that the GOA halibut PSC limit remains at 0-10% because she did not address that portion of the paragraph.**

**Stosh Anderson moved to add the following language to Alternative 3.1, Bycatch Restrictions, where it begins "Repeal VIP Program": Control bycatch of salmon and crab by closing hotspot areas when bycatch limits are attained." The motion was seconded by Stephanie Madsen and carried without objection.**

**Earl Krygier then moved to include HMAP in Alternative 3.2, Bycatch Restrictions, in the column beginning with "Incentive program for discard reduction, e.g." The motion was seconded by Stephanie Madsen and carried with Stosh Anderson objecting to the motion.**

The Council then discussed the definition of the word "bycatch" and that if the Magnuson-Stevens Act changed the definition, it was the Council's intent to use the statutory definition throughout this document to be consistent with the use of bycatch to statutory requirements. **Jim Balsiger moved to amend the document such that this was the case. John Lepore stated that he didn't think a motion to that effect**

was necessary as the Council can't do anything that's not statutory. Earl Krygier seconded the motion and it carried without objection.

Stephanie Madsen moved to insert the words "scientifically based" prior to "fishing methods" throughout the document. The motion was seconded by Earl Krygier and carried without objection.

Roy Hyder moved to adjust the category "Seabird Bycatch" so that staff has latitude in selecting a more appropriate term such as "Seabird Mortalities", "Seabird Avoidance Measures", "Seabird Deadloss". Mr. Hyder then stated he didn't think a motion was necessary, but Chairman Benton agreed that this was in keeping with the motion the Council passed on cleaning up their language on bycatch.

Stephanie Madsen moved to delete the "Gulf of Alaska prohibition . . ." in Alternative 3.1 under Gear Restrictions and Allocations, but leave the Bering Sea/Aleutian Islands prohibition and move the Gulf of Alaska language to Alternative 3.2 under Gear Restrictions and Allocations. The motion was seconded by Roy Hyder and carried without objection.

Earl Krygier moved to add the following language under Alternative 1, Gear Restrictions and Allocations: "Retain all existing gear restrictions and allocations". The motion was seconded by Stephanie Madsen and carried without objection.

Earl Krygier moved to add the following language: "additional community programs" under Alternatives 3.1 and 3.2, under Overcapitalization. The motion was seconded by Stephanie Madsen and it carried without objection.

David Fluharty moved to change the heading "Overcapitalization" to "Overcapacity". The motion was seconded by Earl Krygier and carried without objection.

David Fluharty moved to add a new bullet under Alternative 1, Alaska Native Issues to read: Allow for subsistence uses consistent with Federal law." The motion was seconded by Roy Hyder and carried without objection.

Stephanie Madsen moved to substitute language under Alternative 3.1, Observer Program, to read: "Same as Alternative 1 or modified based on data and compliance need and scientifically based." The motion was seconded by Earl Krygier and carried without objection.

Stephanie Madsen moved to delete the section entitled "Notes Regarding Research" from the alternatives and handle it separately in the document as a separate chapter, as recommended by the SSC. The motion was seconded by Earl Krygier and carried without objection.

Stephanie Madsen moved to change Alternative 3 of the updated document by adding the changes in italics shown below and deleting those shown as ~~strikeout~~.

### ALTERNATIVE 3

#### Management Approach

**"Accelerate precautionary management measures through community or rights-based management, ecosystem-based management principles *and, where appropriate and***

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*practicable*, increased habitat protection and additional bycatch constraints. This policy objective seeks to provide sound conservation of the living marine resources; provide socially and economically viable fisheries and fishing communities, minimize human-caused threats to protected species; maintain a healthy marine resource habitat; and incorporate ecosystem-based considerations into management decisions. This policy recognizes the need to balance many competing uses of marine resources and different social and economic goals for fishery management. This policy will utilize and improve upon existing processes to involve a broad range of the public in decision making. Further, these objectives seek to maintain the balanced goals of the ~~MSA and other MSA provisions~~, the National Standards and *other provisions of the MSA*, as well as the requirements of other applicable law, all as based on the best scientific information available. This policy takes into account the National Academy of Science's Sustainable Fisheries Policy Recommendations. Under this approach, ~~more conservative mitigation~~, *additional conservation and management* measures will be taken *as necessary* to respond to social, economic or conservation needs, or if scientific evidence indicates that the fishery is negatively impacting the environment."

**Prevent Overfishing:**

1. Adopt conservative harvest levels for *multi-species and* single species fisheries.
2. Provide for adaptive management. ~~by e~~ Continuing to specify OY as a range. [M - MSA to set OY; D to set as range]
3. Initiate a scientific review of the adequacy of the existing OY range and implement improvements accordingly. [D, MSA]
4. Continue to collect scientific information and improve upon MSSTs including obtaining biological information necessary to move Tier 4 species into Tiers 1-3 in order to obtain MSSTs.

**Preserve Food Web:**

5. Incorporate ecosystem-based considerations into fishery management decisions. [NAS SF]
6. Develop indices of ecosystem health as targets for management. [EPAP]
7. Develop a conceptual model of the food web. [EPAP]
8. Improve the procedure to ~~reduce adjust~~ ABCs ~~in order~~ as necessary to account for uncertainty and ecosystem factors such as predator-pre relationships and regime shifts.
9. Initiate a research program to identify the habitat needs of different species that represent the significant food web. [EPAP]

**Reduce and Avoid Bycatch:**

10. Continue and improve current bycatch management program.
11. Developing incentive programs for bycatch reduction, *including the development of mechanisms to facilitate formation of bycatch pools, VBAs, or other bycatch rationalization systems.*
12. ~~Initiate~~ Encourage research programs to evaluate current population estimates for non-target species with a view to setting *appropriate* bycatch limits as information becomes available.

13. Evaluate current population estimates for non-target species and their vulnerability by region in order to select species for necessary bycatch limits.
14. Continue program to reduce discards by developing management measures that encourage the use of gear and fishing techniques that reduce discards *bycatch*.

**Avoid Impacts to Seabirds and Marine Mammals:**

15. Continue to cooperate with USFWS to protect ESA-listed and other seabird species. [M, ESA-listed species; D, other species]
16. Initiate joint research program with USFWS to evaluate current population estimates for all seabird species that interact with the groundfish fisheries.
17. Maintain ~~current~~ *or adjust* protection measures ~~in order as appropriate~~ to avoid jeopardy to ESA-listed Steller sea lions. [M, ESA]
18. ~~Initiate~~ *Encourage* research programs to review status of other marine mammal stocks and fishing interactions *and develop fishery management measures as appropriate* (right whales, sea otters, etc.).

**Reduce and Avoid Impacts to Habitat:**

- ~~19. Develop goals, objectives and criteria and then establish a system to evaluate the efficacy of marine protected areas and no-take marine reserves distributed over a range of habitat types and geographic areas as tools to maintain abundance, diversity, and productivity of marine organisms. Consider implementation of MPAs if and where appropriate, giving due consideration to areas already closed to various types of fishing operations. [NRC MPA; EO 13158]~~
20. Develop a research program to identify regional baseline habitat information and mapping.
21. Evaluate the impacts of all gear on habitat through the implementation of a comprehensive research plan, to determine *appropriate* habitat protection measures *as necessary and appropriate*.
22. Identify and designate EFH and HAPC.

**Allocation Issues:**

23. Provide economic and community stability to harvesting and processing sectors through fair allocation of fishery resources.
24. Maintain LLP program and further decrease excess fishing capacity and other adverse effects of the race for fish by *eliminating latent licenses and* extending programs such as community or rights-based management to all groundfish fisheries. [NAS SF]
25. Provide for adaptive management by periodically evaluating the effectiveness of rationalization programs and the allocation of property rights based on performance.
26. To support fishery management, extend the cost recovery program to all *rationalized* groundfish fisheries.

**Increase Alaska Native Consultation:**

27. Continue to incorporate traditional knowledge in fishery management.

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28. ~~Initiate a research study to collect~~ *Consider ways to enhance collection of traditional knowledge from communities, and include information incorporate such knowledge in fishery management where appropriate.*
29. Increase Alaska Native participation in consultation and fishery management.

Data Quality, Monitoring and Enforcement:

27. Increase the utility of groundfish fishery observer data for the conservation and management of living marine resources. ~~and address the equity problems of the current funding mechanism.~~
28. Improve groundfish Observer Program *and consider ways to address the disproportionate costs associated with the current funding mechanism.*
29. Improve community and regional economic impact assessments through increased data reporting requirements.
30. Increase the quality of monitoring data through improved technological means.
31. Establish a coordinated, long-term ecosystem monitoring program to collect baseline information and compile existing information from a variety of on-going research initiatives.
32. Adopt the recommended research plan included in this document.
33. Cooperate with research institutions such as the North Pacific Research Board in identifying research priorities to address pressing fishery issues.

Ms. Madsen's motion was seconded by John Bundy. David Fluharty amended Ms. Madsen's motion above to reinstate #19 with amendments to read as follows:

19. Develop goals, objectives and criteria ~~and then establish a system to evaluate the efficacy of marine protected areas and no-take marine reserves distributed over a range of habitat types and geographic areas~~ *as tools to maintain abundance, diversity, and productivity of marine organisms. Consider implementation of MPAs if and where appropriate, giving due consideration to areas already closed to various types of fishing operations. [NRC MPA; EO 13158]*

The amended motion was seconded and carried without objection.

Earl Krygier moved to amend the motion to remove #7 and #13, which was done by staff in their updated document. The motion was seconded by Roy Hyder and carried without objection.

The amended motion passed without objection.

David Fluharty moved to change Alternative 4 of the updated document by adding the changes in italics shown below and deleting those shown as strikeout.

ALTERNATIVE 4

Management Approach

~~Adopt a highly restrictive~~ *very precautionary approach to managing fisheries under scientific uncertainty in which the burden of proof is shifted to the user of the resource to demonstrate that the intended use will not have a detrimental effect on the*

environment. Modify restrictive conservation and management measures as additional, reliable scientific information becomes available. Establish a fishery conservation and management program to maintain ecological relationships *between among* exploited, dependent and related species as well as ecosystem processes that sustain them. Management decisions assume that science cannot eliminate uncertainty and that no action must be taken in the face of large uncertainties, guided by policy priorities and the strict interpretation of the precautionary principle. Management decisions will involve and be responsive to the public but *minimize decrease emphasis on* industry and community concerns; incorporate and apply strict ecosystem principles; address the impact fishing on predator-prey, habitat and other important ecological relationships in the marine environment; implement measures that avoid or minimize bycatch; and include the use of explicit allocative or cooperative programs to reduce excess capacity and allocate fish to particular gear types and fisheries; *identify and incorporate non-consumptive use values*; draw upon federal, state, academic and other capabilities in carrying out research, administration, management, and enforcement. This strategy is based on the assumption that fishing does produce adverse impacts on the environment but due to lack of information and uncertainty, we know little about these impacts. This strategy would result in a number of significant changes to the FMPs that would significantly curtail the groundfish fisheries until more information is known about the frequency and intensity of fishery impacts upon the environment. Expanded research and monitoring programs will fill critical data gaps. Once more is known about fishery effects on the ecosystem, scientific information will be used to modify and relax the precautionary measures initially adopted. To meet the goals of this overall program, the Council and NMFS Staff will seek to achieve the following management values.

Stephanie Madsen seconded the motion. Dennis Austin moved to amend the first sentence to read “Adopt an *extremely precautionary* approach . . .” The amended amendment was seconded by Earl Krygier and passed 7-2 with Anderson and Benton voting against (Penney and Samuelsen absent).

David Fluharty then moved to incorporate new language (#22) following #21 under “Allocation Issues” of Alternative 4 on page 9 of the modified handout by Steve Davis as shown below, and then renumber to the bottom of the page ending with #29.

22. Consider non-consumptive use values.

Stephanie Madsen seconded the motion and it carried without objection.

John Bundy moved to insert new language in the second to last paragraph of “Management Approach” of Alternative 1(b) on page 3 of the modified handout to read: “The Council will continue to use the National Standards *and other applicable law* as its guide in practicing adaptive . . .” The motion was seconded by David Fluharty and carried without objection.

Stosh Anderson moved to reconsider the earlier motion that moved the Aleutian Island closure from the EFH heading to the Steller sea lion heading in Alternative 3.1. The motion was seconded by John Bundy and passed 7-2 with Balsiger and Hyder voting against (Penney and Samuelsen absent).

John Bundy then moved to amend the motion to place the Aleutian Island closure back under the Steller sea lion heading in Alternative 3.1 and under Alternative 3.2 to extend the Aleutian Island

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closure so that there is a range to analyze. The motion was seconded by Earl Krygier and passed 7-2 with Balsiger and Fluharty voting against (Penney and Samuelsen absent).

John Bundy moved to remove any reference to individuals or organizations throughout all the elements and options in the modified document. The motion was seconded and carried without objection.

The main motion, as amended above, passed unanimously 9-0.

David Fluharty moved that the Council send a letter to Dr. Hogarth regarding seabird protection and avoiding seabird bycatch in the longline fisheries. The letter will be written by both Chris Oliver and Chairman Benton.

The motion was seconded by Earl Krygier and carried without objection.

C-6 Steller Sea Lions

**ACTION REQUIRED**

Final review of analysis for two trailing amendments.

**BACKGROUND**

In October 2001, the Council adopted alternative 4 of the draft Supplemental Environmental Impact Statement (SEIS) as its final preferred alternative to protect Steller sea lions, with only minor modifications and clarifications. The Council also identified eight items to be analyzed in a trailing amendment, for possible implementation in the 2003 season (Item C-6(a)).

At the February meeting, the Council voted to move ahead with analysis of two trailing amendments, items #7 and #9 (the AI pollock fishery allowance, and the Board of Fisheries exemptions). All of the other items, with the exception of item # 4 (exemption for all vessels < 60') would be sent to the sea lion committee for their review and recommendations. In April, the Council requested that the sea lion committee also consider possible season date changes for the GOA pollock and cod fisheries. The sea lion committee has not yet met to discuss possible tradeoffs that may be required to implement any of these options and still avoid jeopardy and adverse modification of Steller sea lion habitat.

At this meeting, the Council will make a final review of the analysis (executive summary attached as Item C-6(b)). The analysis examined five alternatives. Alternatives 1 to 3 are mutually exclusive and Alternatives 4 and 5 are mutually exclusive. However any of Alternatives 1 to 3 may be chosen in combination with either Alternative 4 or 5.

Aleutian Islands pollock

Alternative 1: Allow an AI pollock fishery with split season outside of critical habitat, with 40% of the TAC from January 20-June 10, and 60% of the TAC from June 10-November 1.

Alternative 2: Closure of the AI to pollock fishing.

Alternative 3: Allow an AI pollock fishery with a single season outside of critical habitat.

Caton Island-Cape Barnabas Pacific cod pot

Alternative 4: No exemption for vessels using pot gear.

Alternative 5: Exempt pot fishing vessels from sea lion closures from 0-3 nm around Caton Island and Cape Barnabas.

**Items for a trailing amendment:**

1. **Area 8 exemption: allow catcher vessels (of any LOA) using longline gear to fish 3-10 nm from haulouts of Reef-Lava and Bishop Point.**
2. **Area 4 exemption: allow vessels under 60 feet LOA using fixed gear to fish in waters of the Chignik area.**
3. **Stand down provisions between A/B and C/D seasons for pollock in the GOA**
4. **Exemption for all longline, pot, jig gear, and trawl catcher vessels and catcher processors under 60 ft. Identify as a preliminary preferred alternative that the exemption would only apply to catcher vessels.**
5. **Examine options for a Gulf of Alaska Pacific cod split other than the current 60/40 split.**
6. **For the BSAI Atka mackerel fishery, analyze options to change percentage inside/outside critical habitat of 50/50 and 70/30.**
7. **For the Aleutian Islands pollock fishery, examine three options:**
  - a) **closure;**
  - b) **a single season outside of critical habitat;**
  - b) **a split season (40/60 % of TAC).**
8. **In Area 9, analyze a range of caps for pot, longline and jig gear.**
9. **(December 2001 addition). The Board of Fisheries modifications.**

**Comparison of measures adopted by the Council and by the Board of Fisheries.**

<u>Area</u>	<u>Council Action</u>	<u>Board Action</u>
Cape Barnabas	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Caton Island	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Chignik Area	Open State waters cod fishery seven days after closure of directed Federal season in Central Gulf	open state fishery on March 1

**Scientific and Statistical Committee Report**

The SSC did not address this agenda issue.

**Advisory Panel Report**

The AP recommended the Council adopt Alternative 1 - no action, as it would not jeopardize the continued existence of the Steller sea lions or adversely modify critical habitat. The AP believes if there are concerns with the status of pollock stocks, they should be handled under the annual TAC setting process as has been

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done in the past. Additionally, the AP recommended the Council adopt Alternative 5 - Exempt Pot Fishing Vessels from Sea Lion Closures from 0-3 nm around Canton Island and Cape Barnabas.

**DISCUSSION/ACTION**

The Council did not address this agenda issue.

C-7(a) American Fisheries Act - Single Geographic Location and Plan Language Changes: Final Action

**ACTION REQUIRED**

Final action on single geographic location amendment and proposed inshore/offshore language changes.

**BACKGROUND**

In April, 2002, staff presented, for initial review, the EA/RIR/IRFA for Amendment 62/62. The Council approved the document for public review with final action scheduled for June, 2002. The document addresses the single geographic location restriction for AFA-qualified inshore floating processors, and AFA inshore/offshore-related amendment changes. The document was sent out for public review on May 13, 2002. The Executive Summary is attached as Item C-7(a)(1).

**Single Geographic Location**

The purpose of this action is to provide greater flexibility for AFA-qualified inshore floating pollock processors during a fishing year by allowing them to process targeted BSAI pollock in more than one geographic location.

There are two alternatives under consideration in this action item. The first alternative is to leave intact the language that restricts AFA-qualified inshore floating processors to a single geographic location during a single fishing year while processing BSAI targeted pollock. The second alternative is to allow AFA-qualified inshore floating processors to process targeted BSAI pollock in more than one location in a single fishing year.

**Inshore/Offshore Language Proposals**

The purpose of this action is to revise obsolete or inconsistent inshore/offshore language in the BSAI and GOA Groundfish FMPs. The passage of the AFA in 1998 superseded inshore/offshore language in the BSAI Groundfish FMP. As a result, inshore/offshore language currently contained in the BSAI FMP is obsolete or no longer consistent with AFA. The GOA inshore/offshore language in the GOA FMP was also impacted by the passage of the AFA. There are multiple references to BSAI inshore/offshore categories and operating restrictions that no longer are relevant under the AFA. Currently, the GOA inshore/offshore allocation is scheduled to sunset on December 31, 2004. The rationale for that sunset date was to be consistent with the AFA, allowing simultaneous review of the AFA and GOA inshore/offshore allocation. However, Congress recently eliminated the December 31, 2004 sunset for AFA, thus extending the act indefinitely. With the extension of AFA, the rationale for a 2004 sunset in the GOA no longer appears valid. To extend the GOA inshore/offshore allocation indefinitely and to eliminate obsolete language and rectify inconsistent language between the AFA and inshore/offshore regime, a number of options are included in this Amendment.

In this action item, there are five alternatives under consideration. These alternatives are exclusive from one another, so any combination of alternatives can be selected. The first alternative is no

action. The second alternative is remove obsolete inshore/offshore language from the BSAI Groundfish FMP. The third alternative is update the CVOA to accommodate AFA-related changes. The fourth alternative is remove references to BSAI inshore/offshore from the GOA Groundfish FMP. The final alternative is remove the December 31, 2004, sunset date for GOA inshore/offshore allocations.

### Scientific and Statistical Committee Report

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

### Advisory Panel Report

The Advisory Panel recommended the Council adopt Alternative 2, allowing AFA inshore floating processors to move to a different location between reporting weeks. The AP understands that Steller sea lion requirements apply and that pollock processed is harvested under AFA regulations. Their intent was to not create additional burden on the two floating inshore processors that are different than for other AFA participants. The AP also recommended the Council adopt Alternatives 2-5 regarding the inshore/offshore language proposals.

### DISCUSSION/ACTIONS

**Robin Samuelsen moved to accept the Advisory Panel's recommendations to adopt Alternative 2 allowing AFA inshore floating processors to move to a different location between reporting weeks. The AP understands that Steller sea lion requirements apply and that pollock processed is harvested under AFA regulations. Further, the intent is not to create additional burden on the two floating in-shore processors that is different for other AFA participants. Additionally, the AP recommended the Council adopt Alternatives 2 through 5 regarding in-shore/off-shore language proposals. The motion was seconded by Earl Krygier. David Fluharty moved to table this motion so the public has more opportunity to comment and on-going discussions between industry groups can continue in an effort to resolve a few differences. The motion was seconded by Stosh Anderson and passed 6-4 with Krygier, Madsen, Samuelsen and Benton voting against (Penney absent).**

**David Fluharty moved to bring Robin Samuelsen's motion back before the Council. The motion was seconded by John Bundy and carried without objection.**

**Stephanie Madsen moved to amend the main motion at Alternative 3 by deleting the B Season from the Catcher Vessel Operating Area and substituting new language to read: "AFA Catcher Processors are prohibited from engaging in directed fishing for pollock in the CVOA during non-roe seasons unless they are participating in the CDQ fishery." The motion was seconded by Earl Krygier.**

The Council debated the fact that Steller sea lions are a moving target and the possibility of rephrasing the motion to make it generic. Chairman Benton suggested the possibility of bifurcating the main motion into two separate issues; one being to adopt an alternative for single geographical location and the other being in-shore/off-shore language proposals. Both motions were then withdrawn, with concurrence by their respective seconds.

**Stephanie Madsen moved to adopt the Advisory Panel's motion regarding regulatory changes to the in-shore/off-shore language in the BSAI/GOA Groundfish FMP and to remove the December 31, 2004 sunset date in the Gulf of Alaska in-shore/off-shore with an amendment to Alternative 3 to delete the**

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**“B” season and add an “s” to “non-roe season”s”. The motion was seconded by Robin Samuelsen and carried without objection.**

**John Bundy then moved to table the remainder of this agenda item until the October 2002 Council meeting. The motion was seconded by David Fluharty and passed 9-1 with Stephanie Madsen voting against (Penney absent).**

C-7(b) American Fisheries Act - Improved Retention and Utilization (IR/IU) Adjustments

**ACTION REQUIRED**

**Initial review of revised analysis for proposed IR/IU adjustments for flatfish.**

**BACKGROUND**

**In April the Council reviewed an analysis which included: AFA processing sideboards based on processing history; proposed adjustments to the IR/IU requirements for flatfish scheduled for implementation in January 2003, as a potential alternative to level the playing field between AFA and non-AFA processors; further development of a potential Halibut Mortality Avoidance Program (HMAP); and, potential reduction in the BSAI trawl halibut PSC cap. At that meeting the Council bifurcated the IR/IU issue as a separate analysis from HMAP and further bycatch controls, and postponed further consideration of processing sideboards based on catch history. The revised analysis was mailed out on May 22, and is scheduled for initial review at this meeting, final action in October. The analysis attempts to address issues raised by the SSC, as well as changes and additional alternatives included by the Council. Additional options by the Council include delaying implementation of IR/IU requirements for flatfish by one to three years, and exempting ‘fisheries’ with less than 5% bycatch of relevant flatfish species.**

**Northern Economics, Inc. conducted the analyses for this project under contract to the Council, and will present the revised analysis. Further work on HMAP or other bycatch management approaches will be the subject of a separate initiative and a new Bycatch Committee to be appointed by the Council, with a report in October.**

**Scientific and Statistical Committee Report**

The SSC did not address this agenda issue.

**Advisory Panel Report**

The AP recommended the problem statement for IR/IU be revised to reflect the conclusions of the analysis that 100% retention of rocksole and yellowfin sole is not practicable as it would result in severe economic loss while less than 100% retention is not enforceable; and that the document be released for initial review with the following changes to the alternatives:

**Alternative 3:**

Incorporate a qualitative description of the following trailing amendments:

- A. A bycatch reduction coop structured as follows:
  - 1. PSC caps for halibut and crab in the BSAI are subdivided into two pools. One pool is for vessels that wish to participate in a bycatch reduction program. The other pool is for vessels

- remaining in open access. The subdivision of PSC is calculated by summing the groundfish catch by target for each group, applying an appropriate bycatch rate to each target and assigning that amount of PSC bycatch to the BRC and the open access fishery.
2. Companies in the BRC will be required to agree to limit each vessel to the above calculated share of halibut and crab relative to total groundfish catch. Evidence of binding private contracts and remedies for violations of contractual agreements must be provided to NMFS for the BRC to be approved. Participants in the BRC must demonstrate an adequate system for the estimation, monitoring, reporting and overall accounting of the PSC available to the BRC.
  3. Bycatch reduction will be accomplished by:
    - a. Bycatch rate reduction that results in a more efficient use of the PSC available to the BRC
    - b. PSC available to the BRC will be reduced by 5% beginning in year two of the program
    - c. A periodic review of PSC use and PSC available to the cooperative to allow consideration of further reductions of PSC allocated to the BRC. Further PSC reductions should be based on achieving a balance between the optimum yield objectives and the bycatch reduction objectives contained in the MSA.
  4. THE BRC is for the non-pollock catcher processor sector.
  5. The BRC will be as inclusive as possible for all non-pollock CP's in the BSAI (i.e. both AFA and non-AFA , TAC controlled fisheries and PSC controlled fisheries).
  6. Subdivision of current PSC caps between sectors (CV's CP's and/or AFA CP's and non AFA CP's) may be necessary.
  7. Allocation within the BRC such as qualifying years or amounts of PSC available to individual vessels will be decided by members of the BRC.
  8. Monitoring requirements and costs will be distributed equitably among BRC members.
  9. Monitoring requirements will be developed with one objective being minimizing these costs to BRC members.
  10. Protections for non-cooperative fisheries, if necessary, will be specified.
- B. An alternative to create discard caps for the flatfish fisheries upon triggering a cap, 100% retention would be required.
1. Add a suboption to Alternative 4 which would allow separate exemptions by region, gear, CV-CP, AFA/non-AFA, and by an average of bycatch rates over a period of years.

## **DISCUSSION/ACTION**

**Stephanie Madsen moved to accept the AP's recommendations as outlined above with the following changes:**

**Change the added suboption to Alternative 4 (shown above) by deleting the language after "AFA/non-AGA" beginning with "and by an average . . ." to the end of the sentence..**

**Alternative 2: Suboption - exempt arrowtooth from 100% retention requirement.**

**Alternative 4: Exempt fisheries with IR/IU flatfish bycatch less than 5%.**

1. **Calculate discards (as opposed to 'incidental catch') of IR/IU species as a percentage of total catch, such that credit is awarded for the retention of those species.**

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2. Analyze the use of a rolling average (1-3 years) to calculate the discard rate for determination of IR/IU exemption under Alternative 4.
3. Analyze a suboption to which would allow separate exemptions by TAC region, CV and CP, and AFA/Non-AFA.

**Additionally, the analysis should:**

1. Define “bycatch” so that it is consistent with MSA and the intent of flatfish Improved Retention and Improved Utilization. Specifically, the analysis should include the incidental catch of yellowfin sole and rocksole for each BSAI fishery and sector and the retention of those species in both tons and as a percentage of the total groundfish catch. The remaining discarded amount will be the bycatch amount in that fishery, including the direct yellowfin sole and rocksole fisheries. The numbers should be displayed in summary tables so that the Council and the public can easily understand and compare the bycatch rates as defined here for each fishery and sector.
2. Define AFA CPs as a single group rather than as surimi CPs and fillet CPs.

To assist in the task of the Council Bycatch Committee, NMFS should include specific recommendations in management of the fisheries that would permit reduced incidental catch of unwanted fish and increased retention of IR/IU flatfish species. Specifically, the agency should make recommendations regarding catch and bycatch monitoring, MRB adjustments and/or other recommendations that will help focus the Committee and Council on solutions that will allow the intent of a modified flatfish IR/IU program to be captured in an extended timeline.

The Council requests the Bycatch Committee come up with two prototypes:

1. Reduce PSC usage in flatfish fisheries (i.e., as proposed in the AP Proposal).
2. Reduce discards of IR/IU flatfish species (i.e., as proposed in Item B of the AP proposal).

The motion was seconded by John Bundy.

Kevin Duffy moved to amend the motion to add a new #3 to read:

3. Apply IRIU to all BSAI flatfish species excluding arrowtooth.

The motion was seconded by John Bundy and carried without objection.

John Bundy then discussed the issue about the definition of bycatch being outlined in the motion and moved that the Gulf of Alaska trawl sector data be broken out in the analysis between Catcher Processors and Catcher Vessels. The motion was seconded by Kevin Duffy and carried without objection.

The main motion, as amended above, passed without objection and is appended to these minutes as Appendix VI.

The Council discussed the intent of convening the Bycatch Committee and how they envisioned its role in the next stage of the process. The Chairman purposefully didn't appoint members to the Committee prior to this meeting so that industry could work out technical issues prior to the Council passing this motion. Maybe a short-lived Technical Committee could be appointed to flesh out the technical issues currently at hand and then a more Global Committee could be appointed that looks at bycatch in the big picture. The

Council will provide guidance on separating the two committees into one that handles long-term issues of bycatch and the other that handles technical issues in the short-term.

C-8      Research Priorities

**ACTION REQUIRED**

**Discuss and identify research priorities.**

**BACKGROUND**

The BSAI and GOA Groundfish Plan Teams revised the current list of research priorities during its November 2001 joint meeting (**Item C-8(a)**). No revisions were provided by the Crab Plan Team. In April, the SSC also agreed to organize a working group to draft thematic priorities to be reviewed and finalized by the SSC at this meeting. After receiving comments from NMFS and the SSC at this meeting, the Council will forward a revised set of research priorities to NOAA for use in preparing its annual budget. These will also be forwarded to the North Pacific Research Board.

**Scientific and Statistical Committee Report**

The SSC typically revises its research priorities list annually. However, the list was not addressed in 2001 due to pressing Council concerns over groundfish/Steller sea lion management measures. The SSC chose to roll over, with minor edits, its previous research priority list as amended by the BSAI and GOA Plan Teams. The edited list can be found in the SSC Minutes which are appended to these minutes as Appendix VII.

**Advisory Panel Report**

The Advisory Panel did not address this agenda issue.

**DISCUSSION/ACTION**

The Council did not address this agenda issue.

D-1(a)      TAC-Setting Process

**ACTION REQUIRED**

**Initial review.**

**BACKGROUND**

NMFS and Council staff have been analyzing alternatives to revise the annual harvest specifications process since 1998. The current analysis incorporates suggested changes by the Groundfish Plan Teams, the Scientific and Statistical Committee, NMFS Alaska Fisheries Science Center, NMFS Alaska Regional Office, and the NOAA General Counsel Alaska Region. The changes are needed to meet requirements of NEPA and the Administrative Policy Act in noticing the public of potential future actions. The analysis was mailed to you on May 23, 2002. The executive summary is included as **Item D-1(a)**.

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**The Groundfish Plan Teams will review the public review draft of the analysis and provide their recommendations at the October 2002 meeting.**

**Scientific and Statistical Committee Report**

The SSC recommended withholding the draft EA/RIR/IRFA from public review as they have several concerns that they wish to be addressed and this is the fourth time this issue has come before them. In February 2001, the SSC reviewed a First Draft and recommended it be sent out for public review. The report was tabled, subsequently modified and now returned for Initial Review. The draft report incorporated a number of earlier SSC comments defining four Alternatives with two options. The range of options offered in the four Alternatives are considerably less broad than offered in previous drafts and the report includes new simulation and retrospective analyses on potential effects of adopting the three alternatives.

The SSC stated in their February 2001 minutes: *“The problem with the current annual specifications process, as well as the objectives from the evaluating alternative specification processes should be clarified. While the SSC is sympathetic with the need to comply with administrative requirements, it is more concerned with ensuring that the alternative selected preserves the integrity of stock assessments.”*

The SSC continues to believe that the three alternatives (other than Alternative 1, status quo) are all variations on a theme that extends the time between the collection of stock abundance survey data and establishment of annual TACs. Missing from the report is a viable alternative that satisfies the APA and maintains the current timeline of annual harvest specifications.

The SSC also questioned whether there could be a danger of violating National Standard 2, by adopting one of the three alternatives.

The SSC recommends the following changes to the analysis prior to release for public review: 1) a focused problem statement, 2) addition of an alternative that maintains the current harvest specification timeline; i.e., promotes use of the best scientific information available, and 3) modification of text to avoid overstating the perceived benefits of the alternatives.

**Advisory Panel Report**

The AP concurs with the SSC’s problem statement in their February 2001 minutes and requests the analysis be clarified to reflect the problem statement. They then recommended the Council release the draft EA/RIR/IRFA with the following changes: 1) expand discussion of the current public process such as plan team meetings, Council meetings, etc., in the context of meeting the public process and APA requirements; 2) expand the analysis of Alternative 3 to include an option to establish a separate timeline for sablefish fisheries to maintain consistency with the halibut fishery.

**DISCUSSION/ACTION**

The Council discussed meeting the requirements of the Administrative Procedures Act and that the public process the Council uses doesn’t seem to be on the ledger. They also discussed FMP cleanup by removing the plan teams’ role in looking at PSC apportionment and then receiving comments the plan team might have on that or the economic analyses. NOAA General Counsel explained that the Council does have a public process and that there may be conflict between the APA and the MSA and how they interact, but right now the Council does comply with both the APA and MSA. If Congress wants to waive the administrative

requirements the Council should still use the best information available and it still has to go through the APA.

**David Fluharty moved to accept the AP's recommendations to send out the document incorporating some of the SSC's suggestions. Stosh Anderson seconded the motion and it carried without objection.**

Chairman Benton added that the debate here is whether this is a perceived conflict or not and that the Council needs to be in a position to respond appropriately to the issue. Hopefully it also speaks to other potential solutions through this matter and maybe other solutions that are more appropriate will present themselves when the Council takes final action on this issue in October. This motion highlights the problem and it's important to show that irrespective of whether it's a problem, the Council needs to resolve it.

D-1(b)     Differential Gear Impact Analysis

**ACTION REQUIRED**

**Review workplan and provide direction.**

**BACKGROUND**

**At the February meeting, the Council reviewed a proposal to prepare an informational document, which would provide data to evaluate effects of different gear types used in the groundfish fisheries. The proposal is attached as Item D-1(b)(1). The Council requested that staff review the proposal for scope and prepare a statement of work for possible contracting with outside analysts to pull together this information. A summary of the scope for this analysis will be provided at this meeting, and the Council will review the scope of work and provide direction to staff on how to proceed.**

**Scientific and Statistical Committee and Advisory Panel Reports**

Neither the SSC nor the AP addressed this agenda issue.

**DISCUSSION/ACTION**

The Council did not address this agenda issue.

D-1(c)     BSAI FMP Amendment 68–Pacific Cod Pot Gear Split

**ACTION REQUIRED**

**Final action on BSAI Amendment 68.**

**BACKGROUND**

**The current Pacific cod total allowable catch (TAC) in the BSAI is apportioned 51% to fixed gear, 47% to trawl gear, and 2% to jig gear (BSAI FMP Amendment 46). In October 1999, the Council adopted Amendment 64 to the BSAI FMP, which further split the fixed (hook-and-line and pot) gear Pacific cod allocation as follows: 80% to freezer longliners; 0.3% to longline catcher vessels; 1.4% to pot or longline catcher vessels less than 60 feet LOA; and 18.3% to pot vessels. This action was intended to promote stability in the BSAI Pacific cod fixed gear fishery until comprehensive rationalization is completed. Amendment 64 was approved by the Secretary of Commerce on July 12, 2000, and was**

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effective starting September 1, 2000. Thus, 2001 is the first full year of fishing under the fixed gear allocations.

Upon approval of Amendment 64, the Council acknowledged that a further split of the Pacific cod pot gear allocation between pot catcher/processors and catcher vessels may be necessary to preserve the recent harvest distribution attributed to those sectors, as was done for freezer longliners and longline catcher vessels. However, because the public had not been noticed that this action may take place under Amendment 64, the Council delayed action specific to the pot sector and initiated this follow-up amendment in October 1999.

Amendment 68 proposes to split the 18.3% BSAI Pacific cod pot gear allocation among pot catcher/processors and catcher vessels according to the historical catch distribution. The options for analysis consider catch from 1995-1999 and are similar to those previously considered under Amendment 64; the only exception is that 1999 catch data is now available and included. The analysis calculates the options both including and excluding catch that has been reallocated annually from other gear sectors. Overall, the proposed options would allocate between 4.4 - 4.6% of the total fixed gear share of the BSAI Pacific cod TAC to pot catcher processors and 13.7 - 13.9% to pot catcher vessels. (Using the 2002 TAC, this equates to about 4,129 - 4,317 mt to catcher processors and 12,857 - 13,045 mt to catcher vessels.)

Recall also that the Council adopted BSAI Amendment 67 in April 2000, which requires vessels  $\geq 60$  feet fishing BSAI Pacific cod with hook-and-line or pot gear to have a Pacific cod endorsement in addition to their LLP license. The final rule for this amendment was issued April 15, 2002, and the cod endorsements will be effective on January 1, 2003. This means that by the end of 2002, NMFS will reissue any LLP licenses with Bering Sea and/or Aleutian Islands area endorsements if the cod endorsement is either established by the NMFS Official LLP Record or claimed by the license holder. Amendment 67 provides specific participation and landings criteria to qualify for a cod endorsement; the analysis supporting the amendment indicates that the pot cod quota will be taken by substantially fewer pot catcher/processors and pot catcher vessels upon full implementation. In light of this major change to the number of participants in the fishery, the options under consideration are also discussed and calculated using only the catch histories of those vessels that are both LLP qualified and estimated to qualify for a Pacific cod endorsement under the Council's preferred alternative.

The analysis was mailed to you on May 16 and is scheduled for final review at this June Council meeting. The options for establishing separate allocations for the BSAI Pacific cod pot gear sectors are provided in the executive summary, attached as item D-1(c)(1).

#### **Scientific and Statistical Committee Report**

The SSC did not address this agenda issue at this meeting.

#### **Advisory Panel Report**

The AP recommended the Council adopt Alternative 1: No Action. A motion failed to adopt Alternative 2, Option 5: Apportion the BSAI Pacific cod pot gear TAC between pot CVs and pot CPs based on catch histories from 1995-1999. Suboption a: unused quota from either pot sector would be reallocated to the other pot sector before it is rolled over to other fixed gear sectors. If the quota remained unharvested, it would be reallocated to the longline CV sector (0.3%). Additionally, the (5%) cod quota that is reallocated to the pot sector annually from the trawl and jig sectors would be reallocated to the pot sector as a whole.

## DISCUSSION/ACTION

David Fluharty moved to adopt Alternative 2, Option 4 to apportion BSAI Pacific cod pot gear TAC between pot CVs and pot CPs based on catch histories from 1995 to 1998. Suboption a: The unused quota from either pot sector would be reallocated to the other pot sector before it is rolled over to other fixed gear sectors. If the quota remained unharvested, it would be reallocated to the longline CV sector (0.3%). Additionally, the 5% cod quota that is reallocated to the pot sector annually from the trawl and jig sectors would be reallocated to the pot sector as a whole. Finally, this action would be linked to the reconsideration of Amendment 64 due to expire in 2003. The motion was seconded by John Bundy.

The Council discussed the fact that the intent of this motion was to implement it as soon as possible (for next year's fishing season) and then link it to the re-authorization of Amendment 64 which will re-evaluate the split between CVs and Cps in the longline and pot sectors in the BSAI Pacific cod fishery. Although it may seem to be a burden to staff it would put the CV/CP group on stronger footing as their season has already been shortened from 9 months down to, in some cases, 1 month.

Stephanie Madsen moved to substitute adopting Alternative 1 (No Action). The motion was seconded by Earl Krygier. Ms. Madsen spoke to her motion in that the latest information available on this is from 1999 and that the previous motion would be in place for one season and then the Council would need to review the whole thing again due to Amendment 64 being reviewed (sunsets in 2003).

Ms Madsen's substitute motion passed 6-4 with Austin, Balsiger, Bundy and Fluharty against (Penney absent).

D-2        Staff Tasking

## ACTION REQUIRED

- (a) Review existing tasking and provide direction.
- (b) Discuss annual proposal cycle.

## BACKGROUND

### Tasking

There are three items for reference under this tab: (1) the familiar table summarizing current Council projects - I will go over these in further detail; (2) a specific breakdown of each staff members' current tasking and availability for new projects (noting that weeks currently projected do not include projects on the 'potential new projects' or 'lower priority' list); and, (3) a three-meeting outlook for reference.

One other item to mention is Council Committees. At the April meeting we established several new Committees, including a Community QS Purchase Committee, a Bycatch Committee, a VMS Committee, a Data Collection Committee in conjunction with crab rationalization, and a Binding Arbitration Committee, also in conjunction with crab rationalization. The latter two Committees are already active, while the first three are pending appointment. All five will likely be active between now and October, in addition to existing Committees, some of which will also be active over the summer (EFH, Observers, GOA Rationalization, Sea lion, Subsistence). We tried to reflect these, to the extent Committee schedules are known at this time, in each staff members' current tasking. An updated list of Committees is under Item D-2(a). We also have a Council/Board Joint Protocol Committee meeting

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scheduled over the summer to address a number of items, including initiatives relative to marine protected areas.

While these are rough estimates, it is obvious that there is limited staff time available for new projects, and such time is only available for certain staff. The new Plan Coordinator position will not be filled, and up and running, till about October.

**Annual Proposal Cycle**

Another issue, related to staff tasking, that I want to discuss with the Council is our annual proposal cycle. Our Standard Operating Practices and Procedures (SOPPs) detail an annual proposal cycle whereby we solicit proposals each summer, review them in the fall, and determine which proposals to move forward into a formal analytical/amendment process. For the past two years we have not solicited groundfish proposals (IFQ proposals are already on a two-year cycle) due to the backlog of existing projects and the press of often unexpected events. However, many new amendment proposals are initiated by the Council outside of the formal proposal process, under staff tasking or other agenda items at each meeting. These are often by necessity, reacting to events as they unfold (and represent a necessary flexibility), but sometimes are by virtue of public proposals submitted to the Council on a meeting-by-meeting basis.

Having been questioned on numerous occasions about the process for submitting proposals, I would like to have some Council feedback on whether you feel the annual proposal cycle is still relevant to our process. It may well be obsolete, particularly given the major rationalization initiatives currently underway. We are in the process of updating our SOPPs, to reflect new guidelines published last fall, and I would like to clarify this process in the new SOPPs. The 'regulatory streamlining process' I mentioned under the ED report will also impact the overall process of developing amendments, in terms of both content of analyses and timing of Council review and approval.

**New proposals**

Under Item D-2(b) are two proposals leftover from the April meeting, where we did not get to the staff tasking agenda item. One is a letter from Max and Scott Hulse, requesting the Council to re-visit it's scallop LLP decision, and alter the single, six foot dredge limit for certain LLP licenses. This issue is currently under litigation - the court rule in favor of the agency, supporting the Council's original decision, but the case is currently under appeal.

The other item is a letter from Council member Bob Penney to the Alaska Board of Fisheries regarding near shore depletion of halibut in Cook Inlet, and potential measures to address this issue. Action through the LAMP process is being requested, so it is unclear whether any Council action is necessary, though it was requested that this issue be discussed at the June meeting. It also appears that some of these measures, such as legal size for retention, fall under authority of the IPHC.

**Scientific and Statistical Committee and Advisory Panel Reports**

Neither the SSC nor the AP addressed this agenda issue.

**DISCUSSION/ACTION**

The Executive Director briefed the Council on Staff Tasking issues and the fact that there are 9-10 committees actively meeting over the summer including 3-4 crab committees, the EFH Committee, Gulf of Alaska Rationalization Committee, Observer Committee and Joint Protocol Committee. Mr. Oliver also briefed the Council on the Gulf Rationalization issue and the Differential Gear Impact issue on the agenda. A draft Committee Report is available from the Chair/Co-Chair of the Gulf Rationalization Committee

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containing recommendations to the Council on additional analysis and data requests in order that the Committee continue their work. Mr. Oliver volunteered the best resolution was for him to work closely with the Committee Chairs to do what they can in terms of staff and contract help to answer those data requests. Similarly, with the Differential Gear Impact issue, back in April the Council went through a 2-3 page list of items on that proposal and many issues were huge analytical undertakings. Mr. Oliver and Dave Witherell, Deputy Director, scoped out staff tasking needs for each of those items and discovered it's a large amount of work. One item would require basically our entire staff for quite a while so at some point we would need to sit down with the Council to prioritize and pare down the level of detail on how we want to attack that issue. For the time being, Mr. Oliver thought there was a level of data compilation that staff can begin through outside contract help that will be applicable on a broad level to addressing those issues laid out in the proposal. He also suggested they might have a better idea in October and lay out for the Council then what they think what will appear in those two documents with pieces remaining.

Mr. Oliver then addressed the annual proposal cycle detailed in our Standard Operating Policies and Procedures (SOPPs) where Staff solicits proposals every summer. They work through our Plan Team process and come to the Council in the fall and in past years we've had as many as 60-70 proposals to amend our groundfish plans. In the last two years, we have not solicited proposals because of the press of other major issues we were handling. We have, through a more ad hoc process and sometimes through necessity of events as they unfold, have proposals come in on a meeting by meeting basis and we initiate new amendments and new analytical projects. We need to have some flexibility to handle those that come in on a meeting by meeting basis, but at the same time we're struggling with how to respond to public inquiries about how they get their ideas into the process. We've got major initiatives going on now with Gulf Rationalization, Programmatic Groundfish, and other things on our plate such that we need to know whether we should solicit proposals this summer and whether we should, in updating our SOPPs, indicate that the Council MAY solicit proposals as they deem appropriate or attainable rather than the current wording that we WILL do this every year.

Chairman Benton, having agreement by Council Members, wanted to make it very clear they won't be soliciting any proposals for more work and thought it was a good idea to modify the wording in our SOPPs. Council Members agreed, but didn't want to send a signal to the public they we're stepping back from the public process, but simply overwhelmed at the moment and could go back to that process sometime in the future.

The last item addressed by the Executive Director was the appointment of Dr. Bill Clark to the Groundfish Plan Teams who replaced Gregg Williams. **Kevin Duffy moved as such and the motion was seconded by David Fluharty. There was no objection to the motion and it carried without objection.**

## **CLOSING**

The Chairman thanked the Cities of Dutch Harbor and Unalaska for being very gracious to the Council and congratulated the Council Members on their groundbreaking actions at this meeting. The meeting adjourned at 11:54AM, Wednesday, June 12, 2002.