

# North Pacific Fishery Management Council

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## ADVISORY PANEL MINUTES June 3-6, 2014 Nome, Alaska

The following members were present for all or part of the meetings (absent ~~stricken~~):

Ruth Christiansen	Heath Hilyard	Paddy O'Donnell
<del>Kurt Cochran</del>	Jeff Kauffman	Joel Peterson
John Crowley	Mitch Kilborn	Theresa Peterson
Jerry Downing	<del>Alexus Kwachka</del>	Sinclair Wilt
Jeff Farvour	Craig Lowenberg	Lori Swanson
Becca Robbins Gisclair	Brian Lynch	Anne Vanderhoeven
John Gruver	Chuck McCallum	Ernie Weiss

Minutes from the April 2014 meeting were approved.

### C2 Observer Program

The AP endorses all of the OAC recommendations (in bold, bulleted and buried in the text) regarding the 2013 Annual Report. Further, the AP recommends that the Council ask the agency to move vessels from the vessel selection pool into a separate trip selection pool.

*The 2<sup>nd</sup> sentence (above) was an amendment to the motion which passed 15/2. Entire motion passed 18/0.*

#### Rationale:

- Council policy has been to prioritize coverage on vessels with PSC limits, which are now in the trip selection pool.
- Moving vessels from the vessel selection pool into the trip selection pool may dilute the coverage on existing trip selected vessels.
- Keeping vessels currently in the vessel selection pool separate from those currently in the trip selection pool will allow differential observer coverage rates for these two groups.

The AP recommends that the Council urge the NPGOP to develop a system that accurately credits observers for sampling any set or haul. This needs to include a system whereby second observers voluntarily placed as second observers on fixed gear vessels are credited for sampled sets that will accrue toward LL2 certification. *Motion passed 19/0.*

#### Rationale:

- It's a matter of time before a vessel is left at the dock for lack of an available LL2 certified observer.
- The new program was previously identified as the training/experience gaining forum to replace LL2 observers lost to attrition.
- Deploying fewer observers in fixed gear partial coverage will exacerbate the apparent shortage of newly-qualified LL2 observers when EM becomes available to that fleet.

- The Council previously asked the agency, industry and observer providers to work together to find a viable solution, but they appear to be at an impasse.

The AP recommends the Council request staff to prepare a discussion paper to:

1. Identify how many fixed-gear, newly LL2 qualified observers were certified in 2013 working in each the full coverage and partial coverage programs.
2. How many fixed-gear, LL2 certified observers were available for deployment in 2013 compared to 2012.
3. Identify alternative methods to develop a sustainable, renewable and adequate pool of fixed-gear, LL2 qualified observers. Methods could be regulatory (such as further modifications to prior experience requirements) or non-regulatory (such as additional work with an in-season advisor via ATLAS, especially during early days of the cruise).

The discussion paper is intended to guide the Council in developing potential alternatives for a regulatory amendment package to the Observer Program.

*Motion passed 19/0.*

The AP recommends the Council request NMFS to develop an alternative for:

1. Deployment by gear type (trawl, longline, and pot) for 2015 Annual Deployment Plan (ADP)
2. Deployment strategies that secure representative data using EM from the non-observed fleet.

*Motion passed 11/8.*

Rationale:

- Council has prioritized PSC fisheries for coverage. Table 4.6 on page 84 and Table 4.1 on page 80 show that the under the new program the amount of observed catch on hook and line boats increased, the amount of observed catch on pot boats remained relatively the same but the observed catch on GOA trawl CV's trawl catch decreased by about 50%.
- Secures the ability to provide usable data from the non-observed (<40' and conditionally exempted) vessels.

*Minority Report: The minority felt that it is important to continue with the current priority for observer coverage on fisheries with PSC limits and this is not served by dividing deployment by gear type. Further, having not yet received the EM Workgroup report, the feasibility of developing EM for 2015 is unclear. Signed by: Anne Vanderhoeven, Lori Swanson, John Gruver, Jerry Downing, Ruth Christiansen, Mitch Kilborn, Paddy O'Donnell, and Sinclair Wilt.*

**C3 Observers for Tendering**

The AP recommends that the Council ask the agency to evaluate and report back on tendering data for the first part of 2014 before prioritizing this package. *Motion passed 18/0.*

Rationale:

- Expanded data will help the Council understand the scale of the problem and the appropriate priority for action.
- This presents a middle ground between no action (waiting for GOA bycatch management action to address this) and taking action at this time
- This is consistent with the OAC recommendation on Page 6 of the OAC report.

The AP recommends that option 2, the option to allow observers to monitor pollock offloads at the tender in order to census salmon, be removed from this amendment package, and considered as part of the GOA trawl bycatch management package. *Motion passed 18/0.*

Rationale:

- Salmon sampling issues are specific to trawl gear and are already being contemplated as part of the GOA bycatch management action.
- This is consistent with the OAC recommendation on Page 6 of the OAC report.

#### **C4 EM Workgroup Report**

The AP recommends the Council accept the Electronic Monitoring Workgroup minutes and take the necessary actions to move the implementation of EM forward with analytical work and the amendment process with consideration and recognition of the following points:

1. Track 1 is critical to provide context and scope of how an operational program might work and to provide a workable alternative for vessels that are unable to accommodate a human observer.
2. Track 3 is a research track for stereoscopic camera/chute technology which is at a different stage of development and will need operational testing on a variety of boats without a technician onboard. Further the AP notes that chute technology development should not slow down or limit implementation of an operational EM program.
3. The AP supports the EM workgroup's recommendation that field work to develop EM support capacity and socialization continue during Council decision making and regulatory process. The AP recommends the Council encourage NMFS and EM workgroup to identify ways to expand the scope of cooperative research in 2015 to test vessel selection methods for obtaining representative data with emphasis on vessels with bunk space constraints.

*Motion passed 17/2.*

*A motion to amend to strike the 2<sup>nd</sup> sentence of item 3, failed 7/11. (The AP recommends the Council encourage NMFS and EM workgroup to identify ways to expand the scope of cooperative research in 2015 to test vessel selection methods for obtaining representative data with emphasis on vessels with bunk space constraints.)*

Minority Report: *A minority of the AP feel that conditional releases based on bunk space are difficult to verify and present a major loophole for avoiding observer coverage, and believe that focusing EM actions on vessels requesting these particular releases is inappropriate. The balance of the sentence is duplicative of a motion that passed under Agenda Item C3 (Observer Program Review). Signed by: Lori Swanson, Anne Vanderhoeven, Sinclair Wilt, John Gruver, Jerry Downing, Mitch Kilborn, and Ruth Christiansen*

#### **C5 BSAI Chinook/Chum Salmon Bycatch**

The AP recommends the Council prioritize moving forward on implementing the regulatory changes necessary to incorporate Bering Sea chum salmon bycatch avoidance measures into the Chinook salmon Incentive Plan Agreements (IPA) by replacing the Amendment 84 non-Chinook salmon exemption to the Chum Salmon Savings Area (CSSA) regulations with an exemption for vessels participating in a Chinook IPA that includes chum salmon avoidance measures. The IPA chum salmon avoidance measures must prioritize Chinook salmon avoidance while preventing high chum salmon bycatch, with a focus on avoiding Western Alaska origin chum salmon, while allowing flexibility to harvest pollock in times and places that best support these goals as exemplified by the industry submitted chum salmon IPA provisions at its October 2013 meeting.

Regarding additional Chinook salmon bycatch controls, the AP finds the three sector specific IPA responses to the October 2013 motion to be both reasonable and adequate measures for addressing Chinook bycatch concerns specific to each sector.

*Motion passed 11/8.*

Minority Report: *A minority of the AP did not support the substitute motion and supported the original motion to analyze 3 alternatives: (1) abundance based performance standard/cap; (2) amend the performance standard in Amendment 91 to analyze a range of 14,000-35,000; and (3) amend the overall cap and analyze a range of 20,000-50,000.*

*The substitute motion is not responsive to the Chinook salmon crisis in Western Alaska. In 2014 subsistence fisheries on the Yukon and Kuskowkwim Rivers, which account for 80% of the Chinook salmon subsistence harvest in Alaska, are completely shut down in an effort to meet escapement goals. Effectively, 100% of the Chinook salmon harvest is allocated to the Pollock fishery in 2014. While we do not know the cause of the declines, under the current state of the runs, every single Chinook salmon matters, and they all need to return to spawn to rebuild the runs. Bycatch at the current cap levels would devastate Western Alaska runs in their current condition. It's critical that the upper limit is lowered to ensure that bycatch doesn't threaten the ability of Western Alaska Chinook salmon to meet escapements and recover. While industry efforts to reduce bycatch are important, the IPA proposals are not sufficient to address the current situation. Signed by: Theresa Peterson, Ernie Weiss, Heath Hilyard, Chuck McCallum, Becca Robbins Gisclair, Jeff Kaufman, Jeff Farvour, and Joel Peterson*

## **C6 Crab ROFR**

The AP recommends that the Council adopt Alternative 2 to apply the ROFR to all terms and conditions of the proposed sale or to any subset of those assets, as otherwise agreed to by the PQS holder and the community entity, as the preliminary preferred alternative moving forward.

*Motion passed 18/0 with 1 abstention.*

### Rationale:

- This alternative is a common sense solution that allows for an adaptable process.
- Strengthens the ability of processors and communities to work together, but does not compel either party to any side agreement.

## **C7 CDQ Pacific Cod**

The AP recommends the Council release the draft EA/RIR/IRFA for public review after revising Alternative 4 to incorporate elements in the "NMFS Recommendations" document. This would constitute a Preliminary Preferred Alternative (PPA).

The elements of the NMFS recommendations are an expansion of Alternative 4, which would include elements of Alternative 3, Option 2 and several new components and clarifications.

The alternative would apply to vessels <= 46' length overall (LOA) using hook-and-line gear to conduct directed fishing for Pacific cod for CDQ groups that also have halibut CDQ allocations in the area being fished or for vessels with adequate amounts of halibut IFQ to support the incidental catch of halibut while Pacific cod fishing.

Under existing regulations, any vessel retaining more than the 20% maximum retainable amount (MRA) of Pacific cod would be considered directed fishing for Pacific cod. Each CDQ group and the vessels fishing on its behalf can choose to remain under the regulations that govern “halibut CDQ fishing” by discarding any amount of Pacific cod that would exceed the 20% MRA. This provision would continue.

The following regulations would apply to vessels  $\leq 46'$  LOA that the CDQ group chose to allow to conduct directed fishing for Pacific cod CDQ. In all cases below, reference to “the vessel” means a catcher vessel  $\leq 46'$  LOA while directed fishing for Pacific cod CDQ.

- i. LLP exemption: NMFS recommends exempting vessels between 32' and 46' LOA from the LLP requirements rather than creating a separate CDQ LLP.
- ii. Documentation of eligibility for LLP exemption: If an LLP exemption is selected, NMFS recommends that each CDQ group be required to submit a list of vessels between 32' and 46' LOA that it is authorizing to conduct directed fishing for Pacific cod CDQ on its behalf. NMFS also would post a list of the vessels registered to fish on behalf of each CDQ group on NMFS's website as an additional piece of information to document the vessels eligible for the LLP exemption.

ADDITION: Any vessel authorized to fish CDQ cod, and who participates in an IFQ halibut trip, and does NOT wish to retain groundfish as required under this program, must be removed from the CDQ group's list of eligible vessels for the duration of that IFQ halibut trip.

- iii. Partial observer coverage: Any vessel on the CDQ group's list of eligible vessels would be placed in the partial observer coverage category while CDQ fishing. For example, under the current regulations, in 2014, vessels less than 40' LOA would be in the no coverage pool and vessels between 40' and 46' LOA would be in the vessel selection pool.

- iv. Halibut retention requirements: Vessel operators would be required to retain all legal sized halibut caught as either halibut CDQ or halibut IFQ.

- v. Pacific cod retention requirements: Current IR/IU regulations require operators of vessels directed fishing for groundfish CDQ to retain all Pacific cod as long as the CDQ group has available Pacific cod allocation. This requirement does not apply to vessels “halibut CDQ fishing.” No additional regulatory amendments are needed to maintain this provision.

- vi. Retained Pacific cod: Any Pacific cod retained, landed, and reported as CDQ will accrue to the CDQ group's Pacific cod CDQ allocation.

- vii. At-sea discards of groundfish: NMFS would estimate the at-sea discards of all groundfish, by these vessels, including those species allocated to the CDQ Program, based on applying discard rates from observed vessels to the landed catch weight of the CDQ trips. The estimates of at-sea discards, including Pacific cod, while these vessels are directed fishing for Pacific cod on behalf of a CDQ group, would accrue to the non-CDQ allocation of the TACs. Estimates of at-sea discards of Pacific cod would accrue to the non-CDQ allocation of Pacific cod to the hook-and-line and pot vessels less than 60 ft.

- viii. Seasonal limitations: The provisions described in (i) – (vii) would be provided only while the halibut fishery is open because retention of halibut must be allowed to implement the exemption from halibut PSC accounting by these vessels.

ix. SSL and habitat protection measures: All other regulations that apply to vessels using hook-and-line gear and directed fishing for Pacific cod would apply to these vessels. These requirements include closure areas and VMS requirements. However, as the VMS requirement may be limiting for some smaller vessels, there remains interest in developing alternatives to VMS and in the VMS discussion paper currently in the Council process.

**Under the revised Alternative 4, also analyze the following three options, which are not mutually exclusive:**

Option 1: Apply the proposed management measures to all vessels  $\leq 46'$  using hook-and-line gear while directed fishing for any groundfish species allocated to the CDQ Program, except sablefish. Option 1 would apply full retention requirements only to those groundfish species already required to be retained in the CDQ fisheries (Pacific cod, Pollock, and sablefish). Option 1 would not apply to sablefish because sablefish already is managed under regulations similar to Alternative 4 as a result of the regulation of harvest provisions of the MSA that require fixed gear sablefish CDQ to be regulated no more restrictively than the sablefish IFQ.

Option 2: Expand the current prohibition against discarding legal sized halibut while IFQ fishing to people fishing for halibut CDQ while the CDQ group has remaining halibut CDQ.

Option 3: In a situation when there is no halibut available (either CDQ or IFQ) to fund the CDQ small boat Pacific cod fishery, another workable alternative would need to be developed, such as a mutually acceptable halibut PSC discard rate system.

*Motion passed 19/0.*

## **D1 BSAI PSC Halibut Stock Impacts**

The AP recommends the Council take the following actions:

1. Initiate a Council review of halibut bycatch caps in the Bering Sea/Aleutian Islands groundfish fisheries, including the potential need for regulatory action to reduce caps, in a range below actual bycatch levels, with a consideration of linking caps to halibut abundance, going up as well as going down.
  - In order to provide more immediate relief for directed halibut users, initiate an emergency regulatory process to reduce halibut PSC limits by 15% to 20% from current PSC use (5-year average).
  - The Council should immediately adopt guidelines for groundfish industry sectors to voluntarily reduce halibut bycatch—from the current PSC use (5-year average)—by at least 300 metric tons in the near term, and 20% percent in the longer term, and require periodic reports on industry progress, with the first report provided in October. This element should include a white paper in October on the appropriate methods for measuring industry accomplishments, the applicability of industry incentive programs modeled after the Chinook salmon bycatch avoidance measures, and an evaluation of the potential effectiveness of the cooperative and regulatory suggestions made in the June 2014 industry reports.
  - Option to all above: Recognize significant past bycatch reduction efforts in PSC fisheries.
2. Initiate the formation of a Joint Protocol Committee with the IPHC—or another formalized arrangement such as a series of joint meetings between the Council, NMFS, and the IPHC—to enable a coordinated approach to management of both the directed halibut fishery and the halibut bycatch fishery. The goals of such a cooperative framework must be clearly defined, and should

include fostering an understanding at the Council level of the survey, science and management process at the IPHC, and an understanding at the IPHC level of the information needs of the Council for effective management of the halibut bycatch fishery.

3. Fast-track the process underway to make regulatory changes regarding deck sorting procedures on vessels (Amendment 80) in some groundfish trawl fisheries to reduce halibut mortality. In particular prioritize the means to weigh and/or measure halibut.
4. Initiate a Council review of existing observer protocols, including potential improvements in recording halibut bycatch age and size, and quantifying bycatch mortality.
5. Initiate a review of the halibut nursery area that is currently closed to directed halibut fishing but open to all other commercial groundfish fishing sectors. Include an analysis of directed fishery target catches along with bycatch rates, amounts and size ranges for each fishery in that area over a range of years.

*Motion passed 15/3.*

Rationale:

- This emergency action is premised on the recent assessments of the halibut biomass, which have resulted in dramatic declines of the directed fishery catch limits in the Bering Sea/Aleutian Island area.
- Such declines may lead to potential closures by management area of the halibut directed fishery, resulting in a commercial fishery failure. Such an outcome would have severe economic impacts on halibut dependent small boat fleets and communities.
- The declining halibut resource in the BSAI, the halibut bycatch in the BSAI groundfish fisheries, and the subsequent decline in halibut available for directed halibut fisheries are serious conservation and management concerns.
- Halibut bycatch is having a disproportionate economic effect on directed halibut users whose IFQ and CDQ quotas in the BSAI have been reduced by up to 70% over the last three years.
- The IPHC, NMFS and the NPFMC are not adequately coordinated, and scientific data and stock information are not mutually understood.
- BSAI halibut PSC limits may be at a level unrelated to the current status of the halibut resource, particularly in the under 26 (U26) component that make up a substantial proportion of halibut bycatch in groundfish fisheries, and halibut wastage in the directed fishery.
- Management should address the need to reduce total halibut mortality to achieve both yield and conservation goals.

*A motion to delete the first bullet under item 1 (emergency action to cut the halibut cap), failed 7/11.*

*Minority report: The minority felt that emergency action is an unnecessary step and will not provide any additional benefits to the other actions. Emergency actions require staff to prepare review documents, followed by action by the Council, and can only be in place for two 6-month periods. Industry can respond immediately and the effectiveness of the response can be reviewed at the Council's request. It was also felt that it ignored past reduction efforts in the HAL sector and discouraged future voluntary PSC reduction practices from being implemented. Signed by: Lori Swanson, John Gruver, Anne Vanderhoeven, Paddy O'Donnell, and Joel Peterson.*

*A motion to replace the 5<sup>th</sup> bullet with a request for the most recent IPHC report on the halibut nursery area, failed 7/11.*

Minority report: A motion to replace item 5 (review of the nursery grounds) with a request for the most recent IPHC report on the nursery area failed 7/11. A minority of the AP felt that data on the location and rate of bycatch is already available. Further, the analysis foreshadows action to close the nursery area, which would effectively close or severely displace major Bering Sea fisheries for flatfish, pollock and Pacific cod. Management by closed area is problematic, and much finer-scale control is available by the vessels themselves operating under PSC caps. The recent IPHC report was thought to contain pertinent information on the history and purpose of the closure to the directed halibut fishery. Signed by: Lori Swanson, John Gruver, Anne Vanderhoeven, and Paddy O'Donnell.

A motion to allow Amendment 80 vessels to harvest their cod allocations with longline or pot gear, failed 8/8.

Rationale for:

- Harvesting cod with fixed gear could result in lower halibut PSC catch.
- Amendment 80 vessels could either fish the cod themselves or lease to fixed gear vessels.
- Any change in harvest would be voluntary.

Rationale against:

- The Amendment 80 fleet has expressed no interest in this proposal.
- Cod allocations to the Amendment 80 fleet are so restrictive that there is little if any directed cod fishery.
- The chances of any vessel making use of this option are extremely small.

### **D3 Norton Sound RKC LLPs**

The AP recommends the Council urge the fleet and local stakeholders to work together to bring potential solutions or alternatives back to the Council at a future meeting. *Motion passed 16/0.*

### **D6 BS Trawl Salmon Excluder EFP**

The AP recommends the Council approve the request for an Experimental Fishing Permit to continue research on salmon bycatch reduction devices as outlined in the letter from NMFS dated May 15, 2014. *Motion passed 14/2.*