

North Pacific Fishery Management Council

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Approved Richard B. Lauber
Date 1/31/95

MINUTES

**114th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
September 28-October 5, 1994
Red Lion Hotel - SeaTac
Seattle, Washington**

The North Pacific Fishery Management Council met September 28 through October 5, 1994 at the Red Lion Hotel in Seattle, Washington. The Advisory Panel and Scientific and Statistical Committee began meeting on September 26. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Richard Lauber, Chairman
Alan Millikan for Robt. Turner
CAPT Bill Anderson for RADM Rufe
Linda Behnken
David Fluharty
Dave Hanson
Ron Hegge

Walter Pereyra, Vice Chair
Bob Mace for R. Rosen
Steve Pennoyer
Steve Rideout for D. Allen
Carl Rosier
Robin Samuelsen
Clem Tillion

NPFMC Staff

Clarence Pautzke, Executive Director
Darrell Brannan
Marcus Hartley
Jane DiCosimo
Jon McCracken
David Witherell

Chris Oliver, Deputy Director
Judy Willoughby
Helen Allen
Gail Bendixen
Linda Roberts

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Support Staff

Lisa Lindeman, NOAA-GCAK
Ron Berg, NMFS-AKR
Earl Krygier, ADFG
Steve Meyer, NMFS Enforcement
Jay Ginter, NMFS-AKR
Jeff Passer, NMFS-Enforcement
Seth Macinko, ADFG

Sue Salveson, NMFS-AKR
Phil Smith, NMFS-AKR
Jessie Gharrett, NMFS-AKR
Sally Bibb, NMFS-AKR
Kim Rivera, NMFS-AKR
Loh-lee Low, AFSC
Sandra Lowe, AFSC
John Lepore, NMFS-AKR

Scientific and Statistical Committee

Terrance Quinn, Chair
Doug Eggers
Rich Marasco
Susan Hills
Hal Weeks
Bill Aron

Keith Criddle, Co-Chair
Jack Tagart
Phil Rigby
Dan Huppert
Al Tyler
Marc Miller

Advisory Panel

John Bruce, Chair
Dave Benson
Al Burch
Bruce Cotton
Steve Drage
Dan Falvey
Spike Jones
Kevin Kaldestad
David Little
Stephanie Madsen
Pete Maloney

Beth Stewart, Vice Chair
Hazel Nelson
Doug Ogden
Dean Paddock
Penny Pagels
Byron Pfundt
John Roos
John Sevier
Harold Sparck
Mick Stevens
Robert Wurm

Other Attendees

The following people signed the attendance register:

Jake Jacobsen
Larry Cotter
Lennie Gorsuch
C. Jensen

Dick Powell
Steve Hughes
Chris Blackburn
Scott Matulich

Karl Hellberg
Diane Lauber
Paul Seaton
Scott Highleyman

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Thorn Smith
Ron Rogness
Bill Noll
Joe Kyle
Perfenia Pletnikoff
Thomas Bean
John Henderschedt
Jack Hill
Doug Starkey
Bill Hayes
John Iani
Brad Matsen
Norman Cohen
Denise Fredette
Alexander Galanin, Sr.
Brian Bigler
Jonathan W. Smee
Dick Tremaine
Gary Painter
Bob Storrs
Margaret Hall
Greg Baker
Katie Kull
Mike Atterberry
Agafon Krukoff
Paul Fontz
Steve Davis
Andrew Grossman
Edwin Glotfelty
Harold Jones
Norman Gorsuch
William Chappell
Richard Sharpe
Phyllis Carnilla
John vanAmerongen
Robert Czeisler
Lon Fleming
J.L. Shockley
David Capri
Paul Duffy

Ted Painter
Bill Alwert
Kris Norosz
Michael Lake
Tom Adams
Rance Morrison
Karl Ohls
Martin Richard
Ed Wyman
Jonathan Spool
F. Bodal
Julie Anderson
Naofumi Yoskiike
Barry Ohti
Jeff Stephan
Mark Alwert
Keith Casey
Susan Reeves
Tom Casey
Gordon Blue
Bill Myhre
Doug DeMaster
Don Braun
Ed Ebisui
Shari Gross
Kevin O'Leary
Casey Twohy
J. Clint Laird
Rob Harrington
John Hovey
Art Hodgins
Mark Lundsten
Thomas R. Parks
J.R. Pace
Ed Crane
Mike Parfit
Linda Kozak
Nick Delaney
Bruce Robertson
Everett Allen

Chuck Bundrant
Michael Green
Ron Peterson
Alvin Osterback
Robert Gudmundson
Kitty Simonds
Mark Kandianis
Gregg Williams
Tuck Donnelly
Debbie Hicks
Wm. Kelliher
Doug Dixon
Michael Johnson
Joe Plesha
Joe Blum
Phil Mundy
Bill Jacobson
Karen Teig
Mike Tolva
Arni Thomson
Bill Arterburn
Julie Anderson
Erling Skaar
Steve Toomey
Mark Earnest
Andy McCracken
Dave Allison
Johnathom Hillstrand
Fortiskew Slausner
Phil Anderson
Levin Kochin
Bochard Hummand
Kurt Jastad
William Atlemim
Rebecca Baldwin
W. Rodgers, Jr.
George Knowles
Arthur Campbell
Dan Albrecht
Frank Warrens
Larry Six

NOTE: A list of persons testifying before the Council is found in Appendix I to these minutes.

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

The meeting was called to order at approximately 8:11 a.m. on Wednesday, September 28 by Chairman Richard Lauber. Council member Linda Behnken was unable to attend the first day of the meeting. **The agenda was approved as submitted.**

Steve Pennoyer, Director of the NMFS-Alaska Region administered the Oath of Office to Rick Lauber, Clem Tillion and Dave Fluharty.

Election of Officers. Rick Lauber and Wally Pereyra were nominated to the offices of Chair and Vice Chair, respectively. There were no further nominations and both were elected by unanimous consent.

Chairman Lauber asked for a ruling from NOAA General Counsel on Dr. Fluharty's eligibility to vote at this meeting because his appointment had been made less than 45 days prior to the meeting. Lisa Lindeman, NOAA-GC, said that the "45-day rule" has to do with the Secretary procedures and should not affect Dr. Fluharty's eligibility to vote.

The minutes of the April and June 1994 NPFMC meetings were approved as submitted.

B. REPORTS

B-1 Executive Director's Report

Executive Director Clarence Pautzke provided Council members with a draft revision to the Council's Policy on Confidentiality of Information. The purpose of the revision would be to clear up whether contractors that work for the Council will have as much access to data as those that work for NMFS. It was decided that Dr. Pautzke would work with NOAA General Counsel on the policy and provide it for Council review at a future meeting.

Council members were provided with tentative meeting dates for 1995 and beyond and asked to comment. The only dates discussed were those for the June 1995 meeting in Dutch Harbor. Because of a conflict with fishing seasons, Robin Samuelsen prefers to meet early in the month. At this time the Council is scheduled for the week of June 19; the hotel is already booked for the week immediately prior to June 19. Bob Mace suggested the agenda be structured to handle issues important to Mr. Samuelsen early in the week so he could leave for fishing as soon as possible. The June 19 date was retained, but staff will inquire again about the possibility of moving the meeting up a few days. No comments or decisions were made on the remaining meeting schedules.

B-2 Domestic Fisheries Report by ADF&G

Earl Krygier reviewed the written report summarizing activities occurring since the last Council meeting in fisheries managed under delegated authority of the State of Alaska. He also advised that ADF&G's annual meeting with the crab industry would take place in Anchorage on October 13.

B-3 NMFS Management Report

Ron Berg summarized a written report on the status to date of the various groundfish fisheries in the Gulf of Alaska and Bering Sea/Aleutian Islands and the status of amendments and regulations in process.

B-4 Enforcement Reports

Coast Guard Report

International Fisheries. The U.S. Coast Guard reported that approximately 35 trawlers from Japan, Republic of Korea, and Russia have been operating this summer in the Russian Zone along the US/RS Convention Line north of the "Donut," and that the threat of illegal encroachment into our zone has increased this year over last. Although there have been no incidents with the trawlers from Japan and Korea, there have been two cases involving Russian trawlers. On July 7, a Russian trawler/processor was boarded and issued citations by the CGC MELLON for improper gear stowage and conducting fish processing operations three miles inside the U.S. EEZ. On July 30 another Russian trawler/processor was observed by helicopter trawling at night inside the U.S. EEZ. The vessel was videotaped cutting its gear and ignored orders to stop. The MELLON gave chase but had to break off at the Russian territorial sea near Cape Navarin. All evidence has been forwarded, via the State Department, to Russian officials for review.

Dixon Entrance. The Coast Guard group in Ketchikan used 100-foot CG patrol boats from Ketchikan, Petersburg, Juneau and Seward to deter Canadian vessels from fishing in undisputed U.S. waters and maintained a continuous patrol presence from mid-June to mid-August in the high threat area between Ketchikan and Dixon Entrance. Air Station Sitka also provided helicopter surveillance. The Coast Guard seized three Canadian vessels for illegal fishing in U.S. waters during the season.

Donut. The Coast Guard continues to monitor the Central Bering Sea to ensure compliance with the current moratorium on fishing agreed to by the coastal states (U.S. and Russia) and the four historical fishing nations (Japan, Republic of Korea, Poland and People's Republic of China). The Coast Guard has observed no fishing activity by either signatory or other flag states in 1994.

Driftnet Fisheries. For the high seas driftnet fisheries, 1994 has been quiet. The Coast Guard used 134 cutter days and 223 C-130 aircraft hours patrolling the high threat areas of the North Pacific and observed no indications of violation of the U.N. Moratorium on large scale pelagic driftnetting on the high seas.

Domestic Fisheries

Halibut. Over 270 boardings were conducted during the June 6 halibut opener in the Gulf of Alaska and reported a noticeably higher compliance rate than in previous years. Search and rescue activity was high, however, with seven vessel sinkings and one life lost during the September opener.

Salmon Savings Area. The Coast Guard monitored the new salmon savings area north of Unimak Pass during the pollock B season and reported that compliance is excellent with no observed closed area violations through the end of August.

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Fisheries Training Team. Development of the new training team, headed up by LT Mike Cerne, is moving along quickly. An initial class to train the trainers has been scheduled for October 10-21, with instructors from the Coast Guard, NMFS Enforcement, NMFS Management, NMFS Observer Program, NOAA General Counsel, NPFMC staff, ADF&G staff, and industry expected to participate.

Fishing Vessel Safety. Statistics for 1994 continue to show encouraging industry trends. From 1987 to 1992 the commercial fishing industry in Alaska averaged 36 deaths; in 1993 the number dropped to 18, and through September 23, 1994, the number is 12. Of particular note is lives saved from vessel losses. Thirty-three vessel losses have resulted in three deaths and 119 lives saved.

NMFS Enforcement Report

During the reporting period June 1, and September 30, 1994, NMFS initiated 131 investigations. Further actions were taken on 235 pending cases; 118 of those were closed as unfounded, and one was closed due to lack of enforcement resources. Four cases were handled with written warnings, four cases were suspended, and three were referred to other regions or agencies. Twenty-nine cases were handled with written warnings and 28 were settled with summary settlement penalties totalling \$34,675. Sixty-four cases were settled through voluntary abandonment with forfeited proceeds and property valued at \$72,000. Thirty-six cases were referred to NOAA General Counsel who issued 14 Notices of Violation, assessing a total of \$69,983 in penalties. An additional ten Notices of Violation were settled by General Counsel with penalties totalling \$28,000.

During the September halibut opening NMFS enforcement personnel encountered numerous violations. The vast majority were very minor overage cases and were handled by voluntary abandonment of the overage when reported by the vessel/processor prior to government boarding. Twelve major cases were initiated ranging from use/possession of crucifiers, early fishing, fraudulent logbook, non-continuous transit, substantive DCPL recordkeeping violations, and closed area/major overage with full load seizure.

NMFS Enforcement reported that all five special agent fraud investigators have been hired for the IFQ program. Application fraud cases continue to be investigated. The 19 enforcement officer positions have been filled with initial basic training to begin October 3. Special agents from the Alaska Enforcement Division have met with several national and international counterparts to review existing IFQ programs and discuss successful and unsuccessful strategies.

In Council discussion of enforcement issues, members asked about the status of the proposed prohibitions on bringing Russian fish products into U.S. waters from outside the EEZ. NMFS was asked to look into the issue.

B-5 Marine Mammal Report

Richard Ferrero and Dr. Doug Demaster of the National Marine Fisheries Service Marine Mammal Laboratory reported on the key elements of the 1994 amendments to the Marine Mammal Protection Act and the determination of potential biological removals.

Dr. Richard Merrick, NMFS Marine Mammal Lab, briefed the Council on the current status of the Steller sea lion. Survey data indicate a continuing population decline of Stellers in much of Alaska. For adults and juveniles,

declines were observed in overall (haul-out and rookery) trend site numbers in all Alaska regions except southeast Alaska and the western Gulf of Alaska.

C. NEW AND CONTINUING BUSINESS

C-1 Moratorium

On August 5, 1994 the Secretary of Commerce disapproved the moratorium approved by the Council on June 24, 1992. The Secretary cited significant difficulties with the crossover provisions and the qualifying period. The Council was scheduled to review the disapproval letter and consider further action.

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

Report of the Advisory Panel

The Advisory Panel had the following recommendations:

1. Remove halibut and sablefish from the moratorium since both fisheries are under an IFQ program.
2. Replace the moratorium appeals process with the same process adopted for the sablefish/halibut IFQ program.
3. Retain the February 9, 1992 eligibility cut-off date.
4. Change the beginning eligibility date from January 1, 1980 to January 1, 1988.
5. Restrict crossovers between crab and groundfish fisheries to those vessels with fishing history during the qualification period in both crab and groundfish.

Because the AP felt the crossover and eligibility provisions recommended are a major deviation from the original program, they recommended the Council request analysis of the amendments for further Council review at the December 1994 Council meeting.

COUNCIL DISCUSSION/ACTION

The Council reiterated their conviction that a moratorium is necessary to freeze the effort in the crab and groundfish fisheries while a comprehensive rationalization program is being developed. In response to the Secretary's concerns over the crossover provisions, Council members stressed their feeling that during the moratorium period current fishermen should have the flexibility necessary to adjust to changing trends, some of which have been caused by regulations promulgated by the Council. The Council did agree to an adjustment of the beginning eligibility date, but remained supportive of the crossover allowances in the program. The following motions were made during their discussion:

Bob Mace moved to change the qualification period to January 1, 1988 through February 9, 1992, with

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the provision that anyone who has fished from 1980 to 1988 would be considered for crossover. The motion was seconded by Alan Millikan.

The motion would change the beginning eligibility date from January 1, 1980 to January 1, 1988 but would allow those with fishing history in crab and/or groundfish during the years 1980 to 1988 to retain crossover privileges during the moratorium period.

By friendly amendment, the following AP recommendations were added to the motion:

-Remove halibut and sablefish from the moratorium since both fisheries now come under an IFQ program (in consideration of the current court challenge of the IFQ program, this was subsequently re-worded to say "when" both fisheries come under an IFQ program);

-Replace the moratorium appeals process with the appeals process incorporated in the halibut/sablefish IFQ program.

-Retain February 9, 1992 as moratorium eligibility cut-off date.

-Fast track resubmission to Secretary; Council could comment during the Secretarial comment period.

These elements were later identified in the following written draft motion which was distributed to Council members and the public:

1. Remove halibut and sablefish from the moratorium since both fisheries now come under an IFQ program.
2. Replace the moratorium appeals process with the appeals process incorporated in the halibut/sablefish IFQ program.
3. Retain the February 9, 1992 moratorium eligibility cut-off date.
4. Change the beginning moratorium eligibility date from January 1, 1980 to January 1, 1988.
5. Restrict crossovers between groundfish and crab fisheries to those vessels with fishing history during the period January 1, 1980 to February 9, 1992 in both crab and groundfish.
6. Fast track the moratorium and place on the December agenda the opportunity for the Council to comment to the Secretary of Commerce on the Proposed Rule.

The following was added to the bottom of the motion for Council consideration:

Substitute for No. 5: Restrict eligibility to receive groundfish or crab moratorium permit to those vessels with fishing history in the respective fishery between January 1, 1980 and _____.

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By unanimous consent, the wording in #1 was changed to read:

"Remove halibut and sablefish from the moratorium since when both fisheries now come under an IFQ program."

This action was taken in consideration of the current court challenge of the sablefish/halibut IFQ program.

Ron Hegge moved to delete #5. The motion was seconded by Linda Behnken.

Mr. Hegge, as well as other Council members, reiterated their concern over restricting crossovers and changing the rules after many in industry have made business decisions and operated with the understanding that there would be no restrictions on crossovers during the moratorium period.

Wally Pereyra moved to change the eligibility date from February 9, 1992 to September 29, 1994. The motion was seconded by Steve Pennoyer for discussion.

The motion was subsequently withdrawn and replaced with the following:

Restrict eligibility to receive groundfish or crab moratorium permit to those vessels with fishing history in the respective fishery (fisheries) between January 1, 1980 and February 9, 1992, provided that such qualified vessels would remain eligible to receive permits based on any additional fishing history between February 9, 1992 and September 29, 1994.

In further discussion, both Mr. Mace and Mr. Pereyra agreed with the suggestion to vote on the language suggested on the written draft identified as "Substitute for No. 5," worded as follows:

Restrict eligibility to receive groundfish or crab moratorium permit to those vessels with fishing history in the respective fishery between January 1, 1980 and September 29, 1994.

The motion to approve the new language in item 5 failed, 6 to 5, with Mace, Millikan, Pennoyer, Pereyra, and Fluharty voting in favor.

The original motion to delete item 5 passed, 6 to 5, with Mace, Millikan, Pennoyer, Pereyra, and Fluharty voting against.

The amended motion on the floor:

1. Remove halibut and sablefish from the moratorium since both fisheries now come under an IFQ program.
2. Replace the moratorium appeals process with the appeals process incorporated in the halibut/sablefish IFQ program.
3. Retain the February 9, 1992 moratorium eligibility cut-off date.
4. Change the beginning moratorium eligibility date to from January 1, 1980 to January 1, 1988.

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5. Fast track the moratorium and place on the December agenda the opportunity for the Council to comment to the Secretary of Commerce on the Proposed Rule.

Carl Rosier moved to amend to include a sunset date of October 1, 1996. The motion was seconded, but later withdrawn.

The original moratorium has a sunset date of three years from the effective date of the moratorium, with a possible two-year extension if a comprehensive program is imminent. Council members felt that this was still appropriate.

The main motion, as amended, carried 9 to 1, with Pereyra voting no and Pennoyer abstaining.

NOAA General Counsel Lisa Lindeman asked Council members to discuss whether or not they considered the crossover provision an integral part of the program and non-severable. Ms. Lindeman reiterated earlier concerns that the record may not reflect the rationale needed to approve the moratorium with the crossover provision. Council members again stressed their opinion that there is a need for those fishermen qualifying under the moratorium to have the flexibility to adapt to the rapidly changing fisheries during the time the Council is considering a comprehensive rationalization program and to limit them at this time would not be fair since the Council is continuously making changes to fisheries regulations and forcing fishermen to change their methods and, in some case, their fisheries.

Linda Behnken moved to recommend to the Secretary that the moratorium package should be considered as a whole and that the crossover provision is integral to the program and should not be severed. The motion was seconded and carried, 7 to 4, with Pereyra, Mace, Millikan and Pennoyer voting no.

[The entire Council discussion on this agenda item has been transcribed; copies are available from the Council office upon request.]

C-2 Pacific Pelagics

The Western Pacific Fishery Management Council is seeking concurrence from the Pacific and North Pacific Councils for the WPFMC to lead in developing management and data reporting amendments for the Pacific Pelagic Fisheries Management Plan. Those fisheries include bigeye, yellowfin, bluefin, albacore and skipjack tuna, swordfish, marlin, wahoo, and dolphin.

Edwin Ebisui, Chairman of the Western Pacific Council, provided the Council with a draft paper, "Management of US Pacific Pelagic Fisheries: Single Council Designation," giving the history of the fisheries and goals of the Pacific Pelagics FMP. The concern of the Western Pacific Council is their inability to collect data from those who fish pelagics immediately outside their jurisdiction. Those fishermen, from other areas such as the West Coast and North Pacific, are not legally bound by WPFMC's data collection programs, thus making regulation of the fisheries more difficult.

North Pacific Council members asked staffs from the Western, Pacific and North Pacific Council to continue to develop a strategy for either a single-council designation for management of the fisheries, or some type of joint management program. One suggestion was to use the North Pacific Council's Bering Sea/Aleutian Islands King

and Tanner Crab FMP as an example of a plan where responsibility for management is delegated to one entity with parameters listed for actions which would require the consent of all involved councils. A draft plan of action could be presented to the Council for review in December or January. Council members also requested that the Advisory Panel review the plan and the Scientific and Statistical Committee review the data collection aspects of any plan.

C-3 Sablefish and Halibut IFQ Program

The Council was scheduled to receive a status report on the overall program implementation and various plan and regulatory amendments initiated in previous meetings, review an issues paper on potential hardship provisions, discuss the issue of titles and liens registry, and review sablefish/halibut CDQ applications/apportionments for 1995-97.

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

Report of the Advisory Panel

The AP had the following recommendations:

1. Recommended that the Council initiate a plan amendment to exempt CDQ compensation quota share from the provisions of the block rule, with the following alternatives to be analyzed:
 - (a) temporary exemption (i.e., 1 year) to allow consolidation and then apply the block rule;
 - (b) permanent exemption from the block rule; and
 - (c) exemption from the vessel size category rule, but not from the freezer/catcher boat restriction.
2. Urged the Council to request in the strongest possible language that the NMFS Central Office fast track implementation of a registry for titles and liens; and request receipt of a detailed status report from NMFS on the item within 30 days.
3. Recommended the Council make no change in current IFQ program to accommodate hardship claims.

COUNCIL DISCUSSION/ACTION

Hardship Issue

The NMFS RAM Division provided a discussion paper on the issue of hardship provisions for the sablefish and halibut IFQ program. NMFS pointed out that the current application appeals process would not suffice for hardship appeals. A new appeals process and application period would be required to consider hardship appeals. The Council reconfirmed their intent that the original program was designed, through liberal eligibility provisions, to avoid the necessity of providing for hardship appeals.

Robin Samuelsen moved to reaffirm the Council's previous decision in not providing for hardship appeals under the sablefish and halibut IFQ program. The motion was seconded by Clem Tillion and carried, 10 to 1, with Lauber voting against.

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Titles and Liens Registry

Lisa Lindeman, NOAA-GC reiterated NOAA's opinion that NMFS does not have the statutory authority to set up such a system which could preempt the Uniform Commercial Code.

The Council stressed their feeling that some reliable method of tracking liens on IFQs or quota shares is necessary so fishermen can use them as collateral. Several representatives of financial institutions that deal with the fishing industry also testified to the necessity of such a system. Council members, through consensus, asked the Executive Director to prepare a letter to the appropriate parties encouraging a change in the Magnuson Act which would give NMFS the enabling legislation and authority and necessary resources to set up such a system. Steve Pennoyer abstained from the vote.

CDQ Compensation/Block Amendment Proposal

The Council received information indicating that the quota shares allocated as CDQ compensation will likely be issued in a multitude of small "pieces" and that a full or partial exemption from the provisions of the Block Amendment would likely make transfers of these small pieces easier for both fishermen holding the pieces and the NMFS-RAM Division.

Linda Behnken moved to approve the AP recommendation:

To initiate a plan amendment to exempt CDQ compensation quota share from the provisions of the block rule, with the following alternatives to be analyzed:

- (a) temporary exemption (i.e., 1 year) to allow consolidation and then apply the block rule;**
- (b) permanent exemption from the block rule; and**
- (c) exemption from the vessel size category rule, but not from the freezer/catcher boat restriction.**

The motion was seconded and carried without objection.

Aleutian Islands Sablefish Opening

In June, the Council requested NMFS look at a request from industry to allow the Aleutian Islands sablefish fishery to be prosecuted in January as is their usual practice. Steve Pennoyer reported that they have discussed the proposal and have determined that a regulatory amendment to accomplish it would be fairly complex in addition to the necessity to coordinate with the IPHC, which may not wish to open any area earlier than March. If the IFQ plan implementation extends beyond March, they may have to reconsider, but at this time NMFS will not pursue a regulatory amendment.

Linda Behnken suggested that this is an issue that should be pursued for future years. Mr. Pennoyer responded that they will likely discuss it with the IPHC.

IPHC/IFQ Halibut Regulations

The Council requested that staff prepare information needed to review conforming regulatory changes which may be necessary for halibut under the IFQ program. This will be on the December meeting agenda.

Bering Sea Ownership Caps

Linda Behnken asked about progress on a previous request to address the IFQ ownership caps in the Bering Sea. Staff reported that it is on the tasking list and they will have a progress report in December.

CDQs

John Walsh, Donna Parker, and David Benton, representing Alaska Rural Development, Economic Development, and the Alaska Department of Fish and Game, respectively, provided an overview of the applications received for the sablefish and halibut CDQ program for 1995-97. Council members were provided with executive summaries of the applications and plans. Seven fishery and economic development groups applied for community development quota for either halibut or sablefish, or both. The Governor's recommendations were as follows:

Aleutian Pribilof Island Community Development Assn. (APICDA):	10% Aleutian Islands Sablefish
Atka Fishermen's Assn/APICDA:	100% Area 4B Halibut
Bristol Bay Economic Development Corp:	30% Area 4E Halibut; 23% Area 4D 25% Aleutian Islands Sablefish
Coastal Villages Fisheries Cooperative:	70% Area 4E Halibut, 24% Area 4D 25% Aleutian Islands Sablefish
Yukon Delta Fisheries Development Assn:	33% Area 4D Halibut; 10% AI Sablefish, 75% BS Sablefish
Pribilof Island Fishermen	100% Area 4C Halibut
Norton Sound Economic Development Corp:	20% Area 4D Halibut 30% AI Sablefish, 25% BS Sablefish

The AP and SSC did not address this agenda item.

Bob Mace moved to approve the recommendations of the Governor of Alaska for Community Development Quota apportionments for halibut and sablefish for 1995-97. The motion was seconded by Linda Behnken and carried without objection.

Dr. Pereyra emphasized that the intent of the CDQ program is to create opportunity for Western Alaska residents to get involved in the fisheries and hopes that funds received from the program will be used to fulfill that intent.

C-4 Observer Plan

The Council was scheduled to receive a report from the Observer Oversight Committee (OOC) on 1995 fee percentages, and take final action on the percentage for 1995.

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Report of the Observer Oversight Committee

The OOC reviewed information affecting the percentage to be levied under the first year of the Plan. The materials included the final rule for the Plan, the proposed rule for the 1995 Plan specifications, projected fish prices and observer costs, a report on coordination between the groundfish and shellfish programs, and recommendations from NMFS on the required fee percentage in 1995.

Following is a summary of their recommendations:

1. Set the 1995 fee percentage at 2%.
2. Consider adjusting the exvessel price for Atka mackerel and Bering Sea longline-caught Pacific cod if NMFS, after reviewing industry data, suggests the change is warranted.
3. Request that a mechanism for adjusting exvessel prices and/or the fee percentage inseason should substantive changes in any exvessel price or tonnage of any delivered species occur. The intent is to protect the integrity of the observer program and avoid using fish prices which are substantively different from actual fish prices.

Report of the Scientific and Statistical Committee

The SSC received the report on determination of standard exvessel prices to be used in the assessment of recoverable fees and noted that information on price variation between trawl and other gear catches for the BSAI and Eastern and Western Gulf of Alaska, as well as seasonal variations for pollock and rock sole were included as previously requested. The SSC had no recommendation on a fee percentage.

Report of the Advisory Panel

The AP expressed their continuing concern with details in the Research Plan that have not been addressed by the OOC, including costs that will be incurred to accommodate systems for recordkeeping. The AP recommended that a committee of affected parties (shorebased processors), Council, NMFS and State of Alaska staff meet as soon as possible to identify solutions and develop implementation plans that result in no, or minimal, delays in implementation. The AP recommended the Council adopt the 2% assessment for 1995 as recommended by the OOC.

COUNCIL DISCUSSION/ACTION

The Council received public testimony as well as the AP's report expressing concern over the initial cost to industry, specifically onshore processors, to set up the recordkeeping programs required to provide the information necessary to collect fees from fishermen and submit them to NMFS. Sue Salvesson told Council members that the system has been approved and to change now could delay implementation of the entire program for up to a year. NMFS will consult with industry as the AP has recommended, but Ms. Salvesson told Council members that it is unlikely that any major change could be made for the 1995 season. Council members were concerned over the possibility of excessive cost to industry but did not want the program delayed. They asked NMFS to work with industry toward some acceptable solution.

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Linda Behnken moved the AP recommendations, including the 2% fee for 1995. The motion was seconded by Clem Tillion.

Ms. Behnken expressed the hope that some way can be found to mitigate excessive costs on industry, but stressed the need to get the program in place for 1995.

After their initial report, the AP was asked to review the standard exvessel prices and make recommendations to the Council after their initial report. After reviewing the standard exvessel prices for groundfish, shellfish, and halibut provided on page 13 of the report provided by Joe Terry, "Establishing the Fee Percentage and Standard Exvessel Prices for 1995," the AP recommended their approval with some minor adjustments (see AP minutes for list - Appendix II to these minutes).

Ron Hegge moved to approve the standard exvessel prices as recommended by the Advisory Panel. The motion was seconded by Robin Samuelsen and carried without objection.

Joe Terry pointed out that there were some minor crab species not included in his report, but that industry had made the following recommendations: Tanneri - \$1.40/pd; Angulatus - \$1.40/pd; and Cousi - \$2.00/pd.

Bob Mace moved approval of the recommended prices as recommended by industry and stated by Dr. Terry. The motion was seconded and carried without objection.

C-5 Comprehensive Rationalization Planning (CRP)

The Council was scheduled to review a draft license limitation analysis to release for public review, review future IFQ programs, and receive a status report on social impact analyses.

The Council received a draft license limitation analyses prior to the meeting for review. Council staff provided an overview of the document and answered Council questions regarding various alternatives. The analysis contains thousands of alternatives at this time; however, staff cautioned against reducing options at this time and suggested that the Council could highlight those elements/options which appear most viable when releasing the document for public comment.

Lisa Lindeman, NOAA-GC reviewed for the Council a legal opinion in response to a Council question regarding whether the Secretary and the Council could, in the course of implementing an IFQ system for groundfish and crab, impose more restrictive foreign ownership limitations on corporate ownership of U.S.-documented fishing vessels that those already applicable under the Anti-Reflagging Act, and corresponding stock ownership limitations on the corporate ownership of shorebased processing plants where no pre-existing legal limitations exist. General Counsel's opinion is that prohibiting majority foreign-owned U.S. enterprises currently owning grandfathered vessels that harvest groundfish and crab in the North Pacific from participating in the initial allocation of quota share would likely constitute an expropriation, for which compensation would be due. However, restricting the subsequent transfer to quota share to vessels owned by U.S.-controlled entities is probably permissible under customary international law and applicable treaties or other international agreements. Denying quota share to foreign-controlled onshore processors would likely constitute either an expropriation for which compensation would be due and/or a denial of national treatment under applicable treaties and other international agreements.

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Report of the Scientific and Statistical Committee

The SSC noted that the analysis is extremely complex and burdensome because of the huge number of alternatives and repeated their recommendation that the Council indicate a preferred option or list of options to be similarly analyzed. The SSC noted that the report provides an analysis using all information currently available, but that some deficiencies still detract from the completeness of the economic impact analysis. The SSC also requested that they have the opportunity to review the yet-to-be-drafted socioeconomic assessment chapter before it is sent out for public review, and that the new chapter be incorporated in the draft EA/RIR before releasing it for public review.

Report of the Advisory Panel

The AP recommended that the analysis not be sent out for formal public review at this meeting. Because of the large number of alternatives they requested an extra day during the December Council meeting to review the alternatives and suggestions received from industry. However, they did feel that the current document will be useful to the public in paring down alternatives and suggested the Council encourage the public to request copies of the document in advance of the December meeting.

Council Discussion/Action

Alan Millikan moved to reverse the previous Council decision and consider IFQs as a first priority, completing the license limitation package as quickly as possible, but in a secondary way, and move as quickly as possible toward comprehensive rationalization. The motion was seconded by Wally Pereyra.

Mr. Millikan referred to comments from the industry during public testimony indicating that a license limitation program will not address the problem statement for comprehensive rationalization. Mr. Pereyra said the current document shows the difficulty in going forward with a license limitation program and that any decisions made in that direction will have impacts on future allocations under an IFQ program. Steve Pennoyer pointed out that the analysis doesn't show a linkage to an IFQ program to allow the public and Secretary to see where the Council is headed with comprehensive rationalization.

The motion failed, 7 to 4, with Fluharty, Millikan, Pennoyer and Pereyra voting in favor.

Carl Rosier moved to work from Appendix I of the License Limitation document (options and elements as approved by the Council in June 1994) to identify options for a workable license limitation program. The motion was seconded by Linda Behnken.

Bob Mace moved a substitute motion to delay Council discussion and any decision until December, per the AP recommendation. The motion was seconded by Wally Pereyra.

Lisa Lindeman suggested sending the analysis out as a "scoping document" to allow industry to look at possible alternatives and how they will affect them or the environment. The Council could benefit from comments in December when they begin to narrow the alternatives. The current document doesn't analyze the impacts of alternatives and so does not fulfill the requirements of an Environmental Assessment at this time.

Both Mr. Mace and Mr. Rosier withdrew their motions.

Carl Rosier moved to proceed with discussion of the analysis as a scoping document. The motion was seconded.

The Council was to use this motion as a framework to amend various options.

Carl Rosier moved to highlight as an option of interest to the Council, the following:

Option C, with Suboption A, modified as follows: General licenses for FMP areas with endorsements for each subspecies/subarea; Suboption A: separable endorsements. This option should include the species endorsements, catcher and catcher-processor designations, and catcher vessel size categories specified under Option D.

Captain Anderson expressed concern over enforcement difficulties with this option.

Carl Rosier withdrew the motion in favor of a suggestion to highlight the options the Council would not be interested in.

Clem Tillion moved to reinstate Mr. Rosier's original motion - to work from Appendix I to identify workable options. The motion was seconded by Linda Behnken.

Linda Behnken moved a substitute motion: send the analysis out as a scoping document and request the Advisory Panel to review it in December and star the serious alternatives. The Council would then take the AP's recommendations and narrow the options in December. The motion was seconded by Bob Mace.

Through friendly amendment, the Rosier motion for workable alternatives (Appendix III to these minutes) is to be sent out for public comment along with the scoping document.

The motion carried without objection.

Council members provided several comments to staff for release of the document, including using a baseline of 1993 as the "status quo" so industry can determine where they would fit in, and a discussion on the linkage of a license limitation program to a future IFQ program, including soliciting comments on whether or not the Council should continue to pursue IFQs.

Bob Mace moved to include the proposal submitted by Midwater Trawlers Co-op (Appendix IV to these minutes) with the scoping document for comment. The motion was seconded by Linda Behnken and carried without objection.

Staff indicated that analyzing the proposal could take several weeks. Council members instructed staff to attach the proposal to the document as a discussion item and request comments on it.

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C-6 Full Utilization and Harvest Priority

In June 1993 the Council directed staff to prepare a discussion paper on the issue of prohibiting discards of groundfish in all fisheries. The discussion paper was presented to the Council in September, and further discussions were held at subsequent meetings. NMFS provided a discussion paper for this meeting to explore alternatives for full retention and full utilization. In December of 1993 the Council received a proposal from the Alaska Marine Conservation Council for a harvest priority program wherein incentives would be provided for fishermen to reduce bycatch and discards. NMFS also provided the Council with a discussion paper on this issue.

Report of the Scientific and Statistical Committee

The SSC had extensive comments on the subjects of full utilization/retention and harvest priority (see SSC Minutes, Appendix V to these minutes). One point made by the SSC is that given the current inability to quantify the cost and benefits of management measures developed to address either of these issues, the Council may want to take an incremental or adaptive approach to their implementation. In the case of full retention/full utilization such an approach may require the selection of target retention/utilization standards which could be phased in over a defined period of time to allow assessment of industry actions taken to modify fishing strategies and the way fish are used.

Report of the Advisory Panel

The AP believes that harvest priority and full retention/full utilization have the potential to address some management problems in the interim period before implementation of a CRP program and will fully integrate with whatever CRP program is ultimately implemented. The AP urged the Council to proceed with establishing two committees (one for Harvest Priority, and one for Full Retention/Full Utilization) to further develop these programs in order to prepare for an EA/RIR for each program. Under Full Utilization /Full Retention, alternatives should include (1) all species, (2) all species for which there is a TAC, (3) PSC. The AP recommended some names for committee membership.

COUNCIL DISCUSSION/ACTION

Linda Behnken moved to adopt the AP recommendation under Full Utilization and Harvest Priority:

Proceed with establishing 2 committees (one for Harvest Priority, and one for Full Retention/Full Utilization) to further develop these programs in order to prepare for an EA/RIR for each program. Under the FR/FU, alternatives should include (1) all species, (2) all species for which there is a TAC, and (3) PSC.

In addition, the Council should move ahead with a plan amendment to institute full utilization for pollock and rocksole.

The motion was seconded by Carl Rosier.

Ms. Behnken clarified that by full utilization of those two species she is referring to harvesting in the target mode as was recommended by the AP, of the target species, and looking at a range of 90 to 100% retention of those

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species for 1996. Ms. Behnken recognized that it may be too early in the process to begin an EA/RIR for harvest priority, but with regard to full utilization and retention she felt that the issue has been in front of the Council for some time and that the process should be initiated to determine whether there are workable solutions.

Steve Pennoyer acknowledged that the Council has been trying to develop a workable bycatch reduction program for some time and that it still too early to determine whether the Vessel Incentive Program will accomplish what was intended. However, with current tasking levels, he is reluctant to assign staff to begin an analysis at this time without giving the industry committee time to work through some of the preliminary alternatives. He also suggested that one committee, rather than two, would be better for staffing purposes. He suggested four "case history" fisheries for the committee and staff to work on: rocksole in the Bering Sea, the pollock midwater trawl fishery in the Bering Sea, a Gulf flatfish fishery as yet unnamed, and the longline cod fishery in the Bering Sea.

Robin Samuelsen moved a substitute motion to delete the plan amendment language from the main motion and add the "case history" fisheries recommended by Steve Pennoyer. Also, to give the Chairman the freedom to appoint more people to the committee(s).

This was accepted by Ms. Behnken as a friendly amendment to her motion, which carried without objection.

The Council discussed whether there should be one committee or two. Mr. Pennoyer reiterated his idea for one committee. It was suggested that the issues could be taken up consecutively, perhaps in a two-day meeting, so that committee members would only have to attend the portion that they were particularly interested in, i.e., full retention/full utilization or harvest priority. It was the consensus of Council members that one committee could be appointed encompassing members interested in both issues.

C-7 Inshore-Offshore

The Council in April directed staff to begin work on an analysis of the rollover of inshore/offshore and the associated pollock CDQ program which are now scheduled to expire at the end of 1995. In June, the Council identified two alternatives for analysis: (1) no rollover of inshore-offshore - the program would expire at the end of 1995; and (2) continuation of the current program, as is. Because of other analyses in progress, staff has not had to opportunity to begin work on the inshore-offshore amendment.

Report of the Scientific and Statistical Committee

The SSC's comments focused on the analytical needs in support of an amendment to continue the inshore-offshore and CDQ fishery allocations. If the problem addressed by a continuation is that Comprehensive Rationalization Planning has taken longer than originally intended and that an extension of existing interim measures is needed, then a relatively simple qualitative analysis of socio-economic impacts may be adequate. If the problem is stated in more substantive terms (such as specific biological or economic objectives), it is likely to require more complex evaluation to satisfy National Standards under the Magnuson Act. (See SSC Minutes, Appendix V, for additional comments.)

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Report of the Advisory Panel

The AP recommended the inshore-offshore amendment be analyzed with the following alternatives:

- (1) Status quo - do nothing, let program expire; and
- (2) Roll-over current program as is.

The AP also strongly urged the Council to assign this amendment the highest priority.

COUNCIL DISCUSSION/ACTION

Lisa Lindeman, NOAA-GC, pointed out that another analysis of inshore-offshore is a new action and the Council will still need to look at all reasonable alternatives. The original analysis, however, could be incorporated into the new one by reference.

Clem Tillion moved the inshore-offshore amendment be analyzed with the following alternatives:

- (1) **Status quo - do nothing, let program expire; and**
- (2) **Roll-over current program as is, including the CDQ program as an integral part, for three additional years.**

Linda Behnken seconded the motion, which carried unanimously.

Mr. Tillion clarified that if a comprehensive rationalization program is implemented before the end of three years, the inshore-offshore program would automatically expire.

Maintaining the current "status quo" is necessary to maintain stability while the Council is working toward a comprehensive program. Some Council members thought that the three-year extension may not be enough, and that additional alternatives should be considered.

C-8 Sablefish Longline Surveys

The Council had been asked to consider making a recommendation on whether foreign vessels should be involved in sablefish longline surveys off Alaska. However, Dr. Aron, Director of the Alaska Fisheries Science Center, told Council members that NMFS is already taking action to discontinue foreign participation. The SSC volunteered to review standardization procedures between the current domestic survey and the older cooperative survey. NMFS will supply information to the SSC before the December meeting. The Council did not discuss or take action on this agenda item.

C-9 International Fisheries

In August Chairman Lauber appointed a committee to review the United Nations Convention on the Law of the Sea (UNCLOS) and assess its potential ramifications for other agreements that affect North Pacific Fisheries. The Committee met during Council week to review the agreements.

Neither the SSC nor the AP addressed this agenda item.

Report of the Law of the Sea Committee

Concerns

1. The U.S. position in the U.N. Law of the Sea negotiations to accept binding international arbitration in dispute settlement could cause problems with management of Central Bering Sea pollock stocks. This dispute resolution could be left under the authority of an unidentified international tribunal. A non-party to current regional agreement could trigger this dispute settlement process and possibly obtain a different management arrangement than now exists.
2. The settlement process described above also applies to the current driftnet moratorium. The moratorium is now voluntary. The desires of Italy, Spain or France to commence driftnet fisheries may set a precedent for some nation with interests in the Pacific to pursue a change in the driftnet moratorium that now protects salmon stocks.
3. Other fisheries could emerge on the high seas, e.g., pair trawling for squid, which could take salmon. This would have to be settled by an international tribunal and the outcome is much less likely to be in our favor than if regional pressures and mechanisms were used.
4. Fisheries could arise on species of ecosystem concern.
5. There is no restraint on new fisheries. In effect, a fishery can continue until it is proven adverse. This is different and not as desirable as prohibiting a fishery until it can be proven to not be adverse.

Future Steps

1. All regional Councils need to start tracking these issues and the ongoing straddling stocks conference. The text as it pertains to both straddling stocks and highly migratory species needs to be examined. Pollock, salmon, tuna, billfish, and other pelagics all are affected by this conference.
2. The global driftnet moratorium has to be made binding.
3. An issues paper needs to be drafted and distributed to all Councils by the time the Executive Directors meet in November. The Marine Fisheries Commissions also need to be apprised of the issues.
4. The issues paper and any consensus multi-council position that is established need to be transmitted to the U.S. State Department and to interested industry sectors this fall.
5. Efforts need to be made to request the Senate to carefully review these concerns when providing advice and consent on UNCLOS and any agreements derived from the straddling stocks conference.
6. The LOS Committee will confer again in mid-October on development of the issues paper. The paper should be ready for distribution at the Pacific Council meeting on October 24.

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Dave Hanson moved to approve the Committee report and direct the Committee to draft a position statement to submit this fall. The motion was seconded by Linda Behnken and carried without objection.

D. FISHERY MANAGEMENT PLANS

D-1 Crab Management

The Council received a report on the status of crab stocks in the Bering Sea/Aleutian Islands from Bob Otto, NMFS, and an area management report prepared by the State of Alaska and NMFS.

Report of the Crab Plan Team

The Crab Plan Team has expressed concern for red king crab conservation and recommended setting the red king crab bycatch cap in the groundfish fishery in that portion of Zone 1 of 163°W longitude to zero, and that the Council/Board of Fish Crab Consultation Group discuss crab bycatch issues. Additionally, the Plan Team requested that the Council examine bycatch caps, observer sampling protocols and bycatch estimation methods, biological characteristics of crab bycatch, and distribution of king crab in Zone 1 relative to the trawl closure area.

Report of the Scientific and Statistical Committee

The SSC recommended that the Crab and BSAI Groundfish Plan Teams examine bycatch issues jointly and report to the Council in December. The Plan Teams should focus on the conservation benefits of reduced bycatch, impacts on groundfish target fisheries which may be affected by additional time/area closures, and impacts on bycatch of other species by potentially displaced groundfish fisheries.

Report of the Advisory Panel

The AP recommended that in preparation for a potential emergency rule on red king crab bycatch that the staff prepare an analysis of potential time and area closures for all fisheries that take red king crab, using the Plan Team's recommendations.

COUNCIL DISCUSSION/ACTION

This action was taken during the BSAI groundfish specifications discussions under Agenda item D-3(b).

Bob Mace moved to initiate an emergency rule for special time and area closures in the BSAI groundfish fisheries based on Crab Plan Team recommendations. The motion was seconded by Linda Behnken. The motion was tabled until Council discussion of the 1995 BSAI groundfish specifications. At that time, Council members requested that additional data on crab bycatch in the groundfish fisheries in the area be provided for discussion during a special Council teleconference sometime in early November.

Wally Pereyra said the Council also needs to look at the downstream effects of crab closures.

The Council asked the Executive Director to work with the Executive Director for the Board of Fisheries to set up a meeting of the Council/Board consultation group.

D-2 Salmon Bycatch Issues

(a) **Salmon Foundation**

The Council received a report from the Salmon Foundation on "B" season activities. With significant cooperation and assistance from the Observer Program, the Sea State reports from the fleet have evolved into useful tools. However, a review of the Sea State reports also indicates the limitations of a "hot spot" oriented approach to salmon bycatch management. Because the "B" season opened with a significant portion of the 42,000 "other salmon" cap having been recorded by NMFS as already taken, and a relatively high rate of bycatch experienced by the fleet during the first few days of the fishery resulting in a 5-block closure three days after the fishery opened, the fleet did not have the opportunity to review and respond to "hot spot" information as of the closure announcement. However, skippers continue to use the reports to guide their fishing activities. The Foundation also reported on progress with Program Development.

(b) **Salmon Retention/Delivery to Foodbanks**

The Council was scheduled to take final action on a plan amendment addressing salmon retention and delivery to foodbanks. The alternatives considered were:

Alternative 1. Status quo. Salmon retained only until observer has determined the number of salmon and taken scientific samples as required. No other type of retention would be authorized, and salmon must be discarded at sea as PSC.

Alternative 2. Mandatory retention and processing of salmon. All salmon taken as trawl bycatch would be required to be retained, processed for human consumption, and donated to foodbanks. This alternative was not fully evaluated, as NOAA GC has determined that NMFS lacks the statutory authority under the Magnuson Act to implement this alternative.

Alternative 3. Voluntary retention and processing of salmon. All salmon taken as trawl bycatch could be voluntarily retained and processed for foodbanks. This alternative would require that permits be issued to those processing, possessing, or distributing these salmon.

The SSC and AP did not comment on this agenda item.

COUNCIL DISCUSSION/ACTION

Earl Krygier moved to approve Alternative 3, voluntary retention. The motion was seconded by Robin Samuelsen and carried without objection.

(c) **Time/Area Closures to Reduce Bycatch of Chum and Chinook Salmon**

Salmon bycatch controls originally were part of Amendment 21 to the BSAI FMP. In April 1992, the Council reviewed a draft document and requested additional analysis. A revised analysis, which included time and area patterns in chinook bycatch, was reviewed in January 1993. Further revisions were made and the document was

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reviewed in April 1993. Although the analysis was released for public review, no action was taken in part due to the development of the Salmon Foundation. In April 1994, the Council reviewed a discussion paper on alternatives to reduce bycatch of "other" salmon (mostly chums) in the BSAI trawl fisheries. The Council requested an Emergency Rule to be in place for the 1994 pollock "B" season that would close five 30-mile by 30-mile blocks within the CVOA (an option analyzed in the discussion paper) to all trawling when 42,000 other salmon were taken as bycatch. For this meeting, analysis of salmon bycatch reduction measures was broken out into two separate documents, with one addressing chum salmon bycatch, and the other addressing chinook bycatch.

Chum Salmon Bycatch Analysis

The objective of this proposed amendment is to provide a mechanism to accurately assess and reduce excessive "other" salmon bycatch in the BSAI groundfish fisheries with the least impact on the domestic groundfish harvesting and processing industry while assuring that any action is balanced and equitable to all segments of the industry. Three alternatives were examined:

- Alternative 1.** Status quo. NMFS would not have the authority to close areas of the BSAI to trawling to prevent high bycatch of "other" salmon.
- Alternative 2.** A specified area of the BSAI (depending upon the closure option selected) would be closed to trawling year-round.
- Alternative 3.** A specified area of the BSAI (depending upon the closure option selected) would be closed to trawling during the period of high "other" salmon bycatch (generally July through October). An option to this alternative would be to close specified areas when a bycatch limit is reached.

There are seven different options for closed areas under both Alternative 2 and Alternative 3. These are essentially the areas described in the previous discussion paper.

Chinook Salmon Bycatch Analysis

The purpose of the proposed amendment is to provide a means to control the bycatch of chinook salmon in the BSAI groundfish fisheries should the Council decide that current or other methods (such as the Salmon Foundation) were not effective. Three alternatives were analyzed:

- Alternative 1.** Status quo. No PSC limit for chinook in the BSAI groundfish fisheries.
- Alternative 2.** Implement chinook salmon PSC limits for BSAI trawl fisheries that would trigger a time/area closure. Several options for area closures, and a range of PSC limits (8,000 to 48,000 chinook), apportioned to target fisheries, are evaluated.
- Alternative 3.** Implement specific time/area closures on the BSAI trawl fisheries in the absence of PSC limits. Closures would be triggered during times of high chinook bycatch (January-April and September -December), and would be selectively applied to

fisheries that have historically accounted for a majority of the chinook bycatch (midwater and bottom pollock, and possibly Pacific cod).

Report of the Scientific and Statistical Committee

Chinook Salmon Analysis. The SSC reviewed the draft EA/RIR/IRFA noting that the document has been updated to include 1993 and 1994 data and two new alternatives and adequately addresses a variety of AP and SSC comments. The SSC recommended sending the document out for public review.

Chum Salmon Analysis. The SSC reviewed the draft EA/RIR/IRFA and noted that the revised analysis addresses several SSC and AP comments, including 1995 bycatch data, more complete review of stock identification information, updated status of Western Alaska chum salmon, and more alternative closures areas. The SSC recommended sending the document out for public review.

The Advisory Panel did not address this agenda item due to a lack of time.

Council Discussion/Action

Earl Krygier moved to send both documents out for public review. Additionally, it should be made clear for public review purposes that accounting in the analysis for chum salmon in the CVOA begins on July 1. The motion was seconded by Clem Tillion.

Wally Pereyra wanted to amend to include an alternative with options under a Individual Bycatch Quota system, but NMFS staff said that NMFS does not have the management tools to monitor individual PSC quotas. Mr. Krygier also indicated the need for action now; an individual bycatch quota alternative would cause a delay while an analysis is completed.

Bob Mace stressed the need to obtain as much chum salmon bycatch in the report, including that taken in other fisheries. Mr. Krygier agreed this would be included in the public review draft.

The motion carried without objection.

D-3 Initial Groundfish Specifications for 1995

(a-b) Bering Sea/Aleutian Islands SAFE and Preliminary Specifications for 1995

The Council was scheduled to review and release for public review the preliminary Stock Assessment and Fishery Evaluation (SAFE) document for BSAI groundfish fisheries for 1995 and set preliminary harvest specifications, including bycatch allowances.

Report of the Scientific and Statistical Committee

The SSC provided several comments for Plan Team consideration at the November plan team meeting and recommended that the Plan Team Terms of Reference be approved after a revision to make Plan Team minutes available to the entire Council family.

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With regard to the 1995 BSAI groundfish specifications, the SSC provided a review of assessments where there was new information. Please see SSC Minutes, Appendix V, for their specific comments. The SSC agreed with Plan Team recommendations for ABCs for all species except Greenland turbot and Atka mackerel (See table, Appendix VI).

For Greenland turbot, the SSC recommends that no modification be made of the 1995 Greenland turbot ABC until the assessment analysis containing result of the 1994 bottom trawl survey is completed. The SSC recommends an initial ABC of 7,000 mt.

For Atka mackerel, the SSC recommended continuing its 1992 recommendation to reduce the calculated ABC for Atka mackerel by 5/6 with subsequent annual increases of 1/6. The SSC recommended this procedure be continued because of survey variability and concerns for northern fur seals and Steller seal lions which feed heavily on Atka mackerel. This would mean the calculated ABC for 1995 should be reduced by 4/6, resulting in an ABC of 163,350 mt. As required by Amendment 28, the ABC should be distributed among the Western, Central and Eastern subareas relative to survey biomass: Western: 71,900 mt; Central: 73,500 mt; and Eastern: 17,950 mt.

The SSC also agreed with a plan team recommendation to include squid in the "other species" complex because the lack of biological and fishery information does not justify separate management at this time. They recommended, however, that catch statistics for squid should continue to be collected in the event that a directed fishery develops.

Report of the Advisory Panel

See Appendix VI to these minutes for a list of the Advisory Panel's preliminary 1995 TAC recommendations. Additionally, the AP recommended the following:

1. For the BSAI pollock A/B season, change the apportionment to 40%/60%, respectively.
2. Roll over the 1994 Pacific cod apportionments for fixed gear as preliminary 1995 apportionments.
3. Roll over the 1994 PSC caps and apportionments as preliminary 1995 PSC caps/apportionments.
4. Roll over bycatch rates and VIP standards.

The AP also recommended that the halibut mortality rates for the Bering Sea and Gulf of Alaska be set equal to the IPHC recommendations found in Table 4, agenda item D-3(f)(1) in the agenda notebooks (included in Appendix VI to these minutes), with the exception that the GOA bottom trawl pollock mortality rate be set at 54%-shoreside and 81%-offshore.

COUNCIL DISCUSSION/ACTION

Bob Mace moved to approve the preliminary SAFE document, the ABCs recommended by the SSC, and the TACs recommended by the AP, for public review. The motion was seconded.

It was pointed out that including squid in the "other species" category would require a FMP amendment. This recommendation was removed from the motion, and the ABC and TAC were set at 3,100 mt for the squid category and the "other species" category adjusted accordingly.

Bob Mace moved to set the pollock allocation for the A & B seasons at 40/60%, respectively, as recommended by the AP. The motion was seconded by Linda Behnken.

Mr. Pereyra said reducing the A season from 45% will cost industry \$25 million, and there has been no biological information to support such a change.

The motion was amended to send both allocations (40/60 and 45/55) out for public comment.

Mr. Pereyra disagreed, saying this is sending the wrong message to industry and the fact that the Council is considering the change will affect price negotiations and other industry decisions.

Mr. Pereyra abstained from voting on the motion, which carried without further objection.

Bob Mace moved to approve for public review the AP recommendations for seasonal apportionments for Pacific cod for fixed gear (90% 1st trimester; 10% 2nd trimester, with any unused rolled over into 3rd trimester) plus additional recommendations submitted by NPLA and others during public testimony. The motion was seconded by Linda Behnken and carried without objection.

Bob Mace moved to take no action on allocating the amount of pollock that can be taken with bottom trawls. The motion was seconded by Wally Pereyra, but subsequently withdrawn. If the Council takes no action at all, the results will be the same. Mr. Pereyra was concerned that if the Council does not notice a discussion of the issue there won't be any public input or analysis of sizes of onbottom versus midwater harvests that could show how much pollock on the bottom is caught in non-trawl fisheries.

Carl Rosier brought up the issue of a TAC for capelin and suggested that because of its importance as a food animal for marine mammals and bird populations, the Council should consider taking it out of the "other species" category establishing a separate management category. Ron Berg suggested that if the Council wants to manage capelin more directly, an FMP amendment should be initiated to place capelin into a target fishery category. If the Council does not want a directed fishery on capelin, then an amendment could be initiated to make it a PSC species. It was pointed out that there is a current amendment proposal on this subject which will be reviewed by the plan teams before Council review in December.

Wally Pereyra also mentioned possible renewed interest in the snail fisheries and asked that ADF&G keep the Council informed of any new information gathered on those fisheries.

(c-d) GOA SAFE and Preliminary Specifications for 1995

The Council was scheduled to review and release for public review the preliminary Stock Assessment and Fishery Evaluation (SAFE) document for GOA groundfish fisheries for 1995 and set preliminary harvest specifications, including halibut mortality rates.

Report of the Scientific and Statistical Committee

With regard to the 1995 GOA groundfish specifications, the SSC provided a review of assessments where there was new information. Please see SSC Minutes, Appendix V, for their specific comments. The SSC agreed with

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Plan Team recommendations for ABCs for all species except POP, other slope rockfish, thornyhead and Atka mackerel (See table, Appendix VI). For Pacific cod, the SSC recommended sending out a range of ABCs for public comment, using the Plan Team's recommendation as the upper end of the range. The SSC noted that the Plan Team's higher ABC recommendation came partly from the new stock synthesis model application. It was decided the model was the best that could be developed given the level of uncertainty in the data, but that additional analyses are needed.

For Pacific ocean perch, the SSC did not agree with the Plan Team's reduced ABC to provide a buffer between the ABC and overfishing level (OFL). The SSC recommended that the ABC equal the OFL (8,830 mt), as they did last year, and requested the Plan Team reexamine the issue.

For thornyheads, the Plan Team's recommendation of ABC was a two-fold increase over the 1994 ABC, based on a new assessment which uses improved information, including maturity data and longline survey catches and size compositions which indicate the presence of larger thornyheads in deeper depths not sampled by the trawl survey. However, because rockfish are vulnerable to overexploitation, the SSC recommended phasing in the new, larger ABC. They recommended a four-year stair step so that the procedure can be reevaluated after the 1996 trawl survey. For 1995, the ABC recommended by the SSC would be 5/8 of the new ABC (1,450 mt). For subsequent years, the SSC requested that the Team provide an ABC calculation based on altered fishing mortality values.

For Atka mackerel, the SSC recommends continuing the reduction of the ABC by 1/6 each year as initiated in 1994, which would result in a 1995 ABC of 4,300 mt. This would maintain consistency in approach between the BSAI and GOA areas in addition to addressing concerns about survey variability and concerns for northern fur seals and Steller sea lions which feed on Atka mackerel.

Report of the Advisory Panel

The AP recommended 1995 Gulf of Alaska preliminary TACs as shown in Appendix VI to these minutes.

COUNCIL DISCUSSION/ACTION

Bob Mace moved to send out the Gulf of Alaska SAFE for public review, and to approve for public review the preliminary 1995 GOA ABCs and TACs as recommended by the SSC and AP, respectively. The motion was seconded.

Linda Behnken moved to amend the other slope rockfish TAC to include a range from 2,235 mt to 6,930 mt for public review. The motion was seconded. Ms. Behnken said she will be proposing this species as bycatch-only for 1995 as in 1994. The motion carried without objection.

The main motion, as amended, carried without objection.

Exempt IFQ Sablefish Fishery from Halibut Cap

Bob Mace moved to approve an AP recommendation that NMFS initiate a regulatory amendment to exempt the IFQ sablefish fishery from the halibut cap in the GOA, subject to annual review. The motion

was seconded, and carried without objection. The amendment will be structured such that it would only become effective when the IFQ program is implemented.

PSC Apportionments and Seasonal Allowances

Bob Mace moved to set the 1995 PSC hook and line gear PSC limits at a total of 300 mt, contingent on the IFQ fishery being exempted, and set 1994 trawl apportionments and seasonal allowances as 1995 allowances for public review. The motion was seconded by Linda Behnken and carried without objection.

Steve Pennoyer moved approval of the AP recommendation for the apportionments between shallow water and deepwater complex (the same as for 1994, see AP minutes, Appendix II). The motion was seconded and carried without objection.

(e) **Vessel Incentive Program Rates**

No Council action was necessary. The Regional Director has the authority to roll over the 1994 rate.

(f) **Halibut Mortality Discard Rates**

Linda Behnken moved to approve the AP recommendation that the halibut mortality rates for the Bering Sea and Gulf of Alaska be set equal to the IPHC recommendations in Table 4 of agenda item D-3(f)(1) (see Appendix VII of these minutes) with one modification: that the pollock mortality rate be 54% for shoreside and 81% for offshore. The motion was seconded.

Ron Hegge moved to amend the motion to set the halibut mortality rates in the BSAI Pacific cod hook & line fishery at 12% instead of 18%. The motion was seconded and carried without objection after a friendly amendment to send out a range of 12% to 18% for public comment.

(g) **Plan Team Terms of Reference**

The Plan Teams Terms of Reference document was provided for Council information. The Council approved of the operating procedures, but suggested that membership should be flexible enough to include other agencies and universities.

D-4 Groundfish Regulatory Amendments

(a) **Total Weight Measurement**

In June the Council reviewed a draft analysis for a proposed regulatory amendment to improve total catch weight estimates in the groundfish fisheries. Based on Council recommendations, the analysis was revised to include other approved procedures for determining total weight, and released for public comment. Five alternatives were analyzed:

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Alternative 1: status quo

Alternative 2: standardize and improve current methods of total catch estimation for trawl catcher/processors and mothership processor vessels (by using certified bins).

Alternative 3:* the total weight of all catch harvested or processed by processors with 100 percent observer coverage must be assessed (using scales or other approved procedures) prior to discard or processing.

Alternative 4:* the total weight of all catch harvested or processed by all processors must be assessed (using scales or other approved procedures) prior to discard or processing.

Alternative 5:* the total weight of all catch in the groundfish fisheries must be assessed (using scales or other approved procedures) prior to discard or processing.

*One of the following options must be specified for Alternative 3, 4, or 5:

Option A: Scales. The weight of all catch must be determined by weighing on a scale that meets specific performance standards.

Option B: Approved procedures. The weight of all catch must be determined within a specified range of accuracy by any approved procedure as long as such methods are verified by weight.

The Council was scheduled to take final action at this meeting.

Report of the Scientific and Statistical Committee

The SSC appreciated staff's efforts to incorporate the SSC's comments and suggestions from previous meetings. The SSC noted that the analysis is qualitative and it is not possible to determine the accuracy or bias of either current estimation methods and, therefore, of the benefits of the alternatives discussed. Alternative 5 would provide the greatest confidence in estimates of total removals, although such a system probably cannot be implemented at the current time. Although the costs and logistical implications of this alternative cannot be completely assessed, they are the greatest of all the alternatives.

Report of the Advisory Panel

The SSC was unable to agree on a preferred alternative. A motion to select Alternative 4, Option A with a 18-month phase-in period ended in a tie vote.

COUNCIL DISCUSSION/ACTION

Linda Behnken moved to approve Alternative 4, Option B as a pilot program in the directed pollock fishery only, to be implemented within 2 years. The motion was seconded by Earl Krygier.

Mr. Behnken said that information gathered under such a program will be required before the Council can institute some type of harvest priority or IFQ program in the groundfish fisheries. Pollock represents over half of the removals from the ecosystem and is the logical pilot fishery. The CDQ groups have been able to work under a similar program.

Earl Krygier moved to amend to change from Option B to Option A. The motion was seconded by Clem Tillion.

Wally Pereyra and Bob Mace both expressed concern over the cost to a specific industry sector while others are not required to participate. This would be specific to catcher/processors, motherships, and shorebased processors participating in the directed pollock fishery. Mr. Millikan said he would support full total weight measurement for all fisheries, but not just pollock, a fishery that is in good condition. He didn't feel that the Council should take action at this time, pointing out that the Council's Advisory Panel could not come to a satisfactory consensus on the issue.

The motion to amend carried, 6 to 5, with Fluharty, Hegge, Mace, Millikan and Pereyra voting no. [Ron Berg voted for Pennoyer and Earl Krygier voted for Rosier on this issue.] The Chair ruled this vote carried the main motion.

Earl Krygier asked that NMFS report to the Council in December with a discussion of the regulations they will be proposing on this amendment and to advise the Council of any problems they may foresee in implementing them.

(b) Trawl Mesh Regulations

In June the Council requested analysis of codend mesh regulations for the BSAI rock sole fishery (6" diamond); the BSAI cod fishery (8" diamond); the GOA cod fishery (6" diamond); and the GOA and BSAI pollock fisheries (4" square). In order to provide flexibility during the semi-annual setting of VIP guidelines, the Council also initiated analysis of a regulatory amendment to separate rock sole from the other flatfish category as a part of the amendment package. The Council also formed an ad-hoc committee to refine codend mesh recommendations and advise the Council and staff. A revised analysis was released for Council and public review in early September. Three alternatives were examined:

- Alternative 1. Status quo--codends used in North Pacific trawl fisheries would not require minimum mesh size or configuration.
- Alternative 2. Regulations would require codends to have a single layer top panel with the following minimum mesh sizes in the trawl fisheries specified:
 - BSAI rock sole and GOA Pacific cod, 6" minimum diamond mesh;
 - BSAI Pacific cod, 8" diamond mesh;
 - GOA and BSAI pollock, 4" square mesh.

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To accommodate changes in bycatch rates that would likely be caused by a mesh regulation of the BSAI rock sole fishery, rock sole would be separated out from the other trawl category in the Vessel Incentive Program and assigned a maximum allowable rate.

Option: Set mesh regulations for only the rock sole, Pacific cod, or pollock fishery.

Alternative 3: Similar to Alternative 2, except mesh would be square configuration, and of slightly smaller size. Under this alternative, regulations would require codends to have a single layer top panel with the following minimum mesh sizes in the trawl fisheries specified:

- BSAI rock sole and BSAI and GOA Pacific cod, 6" minimum square mesh;
- GOA and BSAI pollock, 3.25" square mesh.

To accommodate changes in bycatch rates that would likely be caused by a mesh regulation of the BSAI rock sole fishery, rock sole would be separated out from the other trawl category in the Vessel Incentive Program and assigned a maximum allowable rate.

Option 1: Set mesh regulations for only the rock sole, Pacific cod, or pollock fishery.

Option 2: Entire codends, rather than just the top panel, could be made of single layer diamond mesh with the same BK size as specified above.

Dr. Ellen Pikitch provided the Council with an overview of a revised analysis of potential changes in yield and discarding prepared by Fisheries Research Institute staff, based on empirical data from recent mesh selectivity studies for BSAI pollock, and a different theoretical model based on morphology. The revised analysis suggests that the proposed alternatives may result in less retention of juvenile pollock (i.e., lower discard) than reported in the draft EA/RJR. Rick Methot, NMFS, provided the Council with a review of his discussion paper on pollock yield per recruit.

Report of the Scientific and Statistical Committee

The SSC received the report on the FRI/AFDF study as well as a related pollock yield per recruit discussion paper by Rick Methot, NMFS. On the basis of available information the SSC was not able to identify a preferred alternative. The SSC pointed out several possible implications of mesh size selectivity (see SSC Minutes, Appendix V) and suggested that further studies on mesh selectivity are necessary to test whether the catch of smaller fish could be reduced by mesh restrictions in our groundfish fisheries.

The Advisory Panel did not have sufficient time to address this agenda item.

COUNCIL DISCUSSION/ACTION

Bob Mace moved to approve Alternative 3, Option 1 as recommended by the industry group appointed to review options. The motion was seconded and carried without objection. [Linda Behnken, Robin Samuelsen and Clem Tillion were not present for this vote.]

The Council did not have enough time to address agenda item D-5 (opilio bycatch measures discussion paper).

D-6 Staff Tasking

The Council did not have enough time to address this agenda item and the numerous proposals received. They requested the plan teams and the Plan Amendment Advisory Group to review amendments and report back to the Council in December.

E. FINANCIAL REPORT

The Finance Committee met during Council week and approved the following items:

1. Change the Council SOPP to allow payment to an annuity upon retirement or death of a Council employee, for up to 100 days sick leave.
2. Start two accounts to cover the sick leave and annual leave for departing employees. It was noted the FY94 administrative budget will have about a \$60,000, the bulk of which can be used for this purpose.
3. Approved final payment to Impact Assessment Inc. for the Social Impact Assessment study (\$10,000).
4. Approved a supplement to the above contract for between \$5,000 and \$10,000.
5. Approved soliciting for a contract for construction of a Comprehensive Data Base. The Committee suggested using the SSC and other data experts to oversee this project. This could be as much as \$25,000, which will likely have to come from the FY95 budget.

F. PUBLIC COMMENTS

There were no further public comments.

G. ADJOURNMENT

Chairman Lauber adjourned the meeting at approximately 2:30 p.m. on Wednesday, October 5, 1994.