

North Pacific Fishery Management Council

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MINUTES

127th Plenary Session

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

April 15-19, 1997

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Certified Richard B. Lauber

MINUTES

Date Sept 29, 1997

127th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
April 15-19, 1997
Hilton Hotel
Anchorage, Alaska

The North Pacific Fishery Management Council met April 15-19, 1997 at the Hilton Hotel in Anchorage, Alaska. The Advisory Panel and the Scientific and Statistical Committee met April 14-17 at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Richard Lauber, Chairman
Dennis Austin for Bern Shanks
CAPT Vince O'Shea for RADM Riutta
Linda Behnken
David Fluharty
Dave Hanson
Bob Mace for R. Ingram

Walter Pereyra, Vice Chair
Kevin O'Leary
Steve Pennoyer
Everett Robinson-Wilson
H. Robin Samuelsen, Jr.
Dave Benton for Frank Rue
Clem Tillion

NPFMC Staff

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

Chris Oliver, Deputy Director
Helen Allen
Gail Bendixen
Linda Roberts

Support Staff

Lisa Lindeman, NOAA-GCAK
Ron Berg, NMFS-AKR
Earl Krygier, ADFG
Sue Salvesson, NMFS-AKR
Kim Rivera, NMFS-AKR
Jay Ginter, NMFS-AKR

John Lepore, NMFS-AKR
Jim Hale, NMFS-AKR
John Heifitz, NMFS -Auke Bay
Rich Ferrero, NMFS-AFSC
Joe Terry, NMFS-AFSC
Bob Wolfe, ADFG

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Scientific and Statistical Committee

Keith Criddle, Chair
Jim Balsiger
Sue Hills
Steve Klosiewski
Doug Larson
Seth Macinko

Jack Tagart, Vice Chair
Marc Miller
Terry Quinn
Phil Rigby (Alt)
Hal Weeks

Advisory Panel

John Bruce, Chair
Ragnar Alstrom
Dave Benson
Al Burch
Bruce Cotton
Craig Cross
Dan Falvey
Kris Fanning

Stephanie Madsen, Vice Chair
Dave Fraser
Arne Fuglvog
Steve Ganey
Justine Gundersen
Spike Jones
John Lewis
Hazel Nelson

Dean Paddock
John Roos
Jeff Stephan
Teresa Turk
Robert Ward
Robert Wurm
Lyle Yeck
Grant Yutrzenka

Other Attendees

The following people signed the attendance register:

Denby Lloyd
Robert Junglov
James T. Gould
Mike Wing
Dick Hemmen
Debby Swenson
Joe Plesha
John Crowley
Jack Crowley
Ed Richardson
Thorn Smith
Lennie Gorsuch
Linda Kozak
Jennifer Ferdinand
Cliff Heckathorn
Vince Curry
Phillip Lestenkof
John Henderschedt
Joe Kyle
Melanie Gundersen
Robert Peele
Phillip Kairainek
Brian Bigler

Agafon Krukof, Jr.
Dwain A. Foster, Sr.
Jerry Brennan
Eric Hollis
Carol Foster
Andy McCracken
Jude Henzler
Morris Hansen
Michael Galginaitis
Bob Trumble
Alvin Pedersen
Chuck Meacham
Craig Cross
Rob Gudmundson
Brent Paine
Karl Ohls
Robert Willard, Jr.
Bill Jacobson
Caleb Pungowiyi
Lee Clayton
Gordon Blue
Robert Young, Sr.
Chris Blackburn

Frank Kely
Arni Thomson
Rosita Worl
Helga Eakon
Sandy Rabinowitch
Steve Hughes
Matt Doherty
John Iani
Wanetta Ayers
Tom Suryan
Tim Wilkie
Kent Hall
Joel K. Blatchford
Norman Cohen
Tom Okey
Cary Swasand
Steve Grabacki
Ruel Holmberg, Sr.
Capt. Rick Aneline
Vincent Jameson
Joe Sullivan
Paul Seaton
Karl H. Bratvold
Stan Hovik

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

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

Chairman Rick Lauber called the meeting to order at 8:15 a.m. on Tuesday, April 15, 1997.

Agenda. Earl Krygier asked that the issue of trip limits for the Western Gulf be added to the agenda for discussion. The subject was previously scheduled for discussion at an earlier meeting, but was not taken up because of a lack of time. NOAA General Counsel clarified that discussion items could be added to the agenda, but that items requiring action could not be added without prior notice, unless an emergency exists. The agenda was approved with the addition of a discussion of the subject. Council members directed staff to add the subject of Western Gulf trip limits to the June agenda. A previous discussion paper has already been prepared and staff has been working on the issue as time permits.

AP Officers. The Council endorsed the re-election of John Bruce and Stephanie Madsen as Chair and Vice-Chair, respectively, of the AP for 1997.

Announcements. Steve Pennoyer announced that Don Collinsworth, Deputy Director of the Alaska Region, has retired, and the impending retirement of Ken Griffin, ADF&G, was announced by Earl Krygier.

B. REPORTS

The Executive Director's Report (Agenda item B-1) was provided in written form. Fishery progress reports were provided by the National Marine Fisheries Service (NMFS) and the Alaska Department of Fish and Game, and enforcement reports were provided by NMFS and the Coast Guard. A special enforcement report for the IFQ fisheries was provided by Dayna Matthews, who prepared the report under contract to NMFS.

DISCUSSION/ACTION RESULTING FROM REPORTS

Executive Director's Report. Council members decided to begin the June meeting on Tuesday because a lengthy agenda is anticipated. Wally Pereyra brought up the June 1998 meeting and expressed concern about meeting in Dutch Harbor because of the cost to industry participants. He was advised that the Alyeska Prince, which had been suggested as an alternative, does not have adequate meeting space and the room rates are much higher than the Council normally pays.

NMFS Management Report.

During the NMFS Management Report, Dave Benson of Tyson Seafoods, asked the Council to consider special interim regulations to allow a floating processor to move from the Bering Sea into the Kodiak area for the June pollock season to replace the processing facility there that recently burned. He told Council members that many jobs could be saved and that the processing plant also contributes to the general Kodiak economy.

Later in the meeting, NMFS staff provided Council members with draft wording to revise current regulations by emergency rule to allow the processor to move between areas mid-year. The emergency regulation would be in effect for six months, which would cover the processing needs of Tyson Seafoods.

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Dave Benton moved to approved the draft regulatory language provided by NMFS, as follows:

In section 679.7, revise paragraph (a)(87(i) by adding underlined language as follows:

Sec. 679.7 Prohibitions

In addition to the general prohibitions specified in section 600.725 of this chapter, it is unlawful for any person to do any of the following:

(7) Inshore/Offshore (applicable through December 31, 1998)

(i) Operate any vessel in more than one of the three categories included in the definition of "inshore component," in sec. 679.2, during any fishing year[.], except that an inshore component vessel may make a one-time transition to the "shoreside processing operation" category during a fishing year only for the purpose of replacing a shoreside processor that is rendered incapable of processing any pollock or Pacific cod due to the physical destruction of the shoreside processor during the first four months of that fishing year.

(ii) Operate any vessel under both the "inshore component" and "offshore component" definitions in sec. 679.2 during the same fishing year.

In sec. 679.2, "inshore component" is defined as including three categories:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft LOA that process no more than 126 metric tons per week. State waters during a fishing year.

The motion was seconded and carried unanimously, with Ron Berg abstaining from the vote because it was an emergency rule request. [NOTE: In early May, Tyson withdrew its request for the exemption, announcing that it would not be bringing a processor in to Kodiak after all. NMFS advised it was discontinuing further work on the amendment.]

IFQ Enforcement Report. Council members received an extensive report on enforcement in the IFQ fisheries prepared by Dayna Matthews for the National Marine Fisheries Service. Council members expressed concern over the adequacy of enforcement and Linda Behnken moved that the Council send a letter to the NMFS Central Office outlining their concerns over inadequate fishery enforcement in general, and in the IFQ fisheries in particular, and stating that the Council would like to see the situation remedied as quickly as possible. The motion was seconded by Earl Krygier and carried unanimously with Regional Administrator Steve Pennoyer abstaining from the vote. Copies of the letter are to be sent to the Alaska and Washington Congressional delegations.

Steve Pennoyer indicated that NMFS will be responding to Dayna Matthews' report and that the Council should receive a copy at the June meeting if not before.

FORMAT FOR COUNCIL MEETING MINUTES:

Each agenda item requiring Council action will begin with a copy of the original "Action Memo" from the Council meeting notebook. This will provide a "historical" background leading up to the current action. This section will be set in a different type than the actual minutes. Any attachments referred to in the Action Memo (e.g., C-1(a), etc.) will not be attached to the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be the reports of the Scientific and Statistical Committee, Advisory Panel, and any other relevant committee or workgroup on the subject. Next will be a section for discussion and motions on the subject. Finally, there will be a brief summary of actions taken, unless there is only one action and it is self-explanatory.

C. NEW OR CONTINUING BUSINESS

C-1 Halibut Charterboat Management

ACTION REQUIRED

Review draft analysis for release to public review

BACKGROUND

In February the Council reviewed a preliminary analysis prepared by Council staff and the Institute for Social and Economic Research (ISER). Considerable revisions and additions were requested by the SSC, AP, and Council. We mailed to you last week a partial draft of the revised analysis, specifically the ISER portion of the study. The remaining chapters, and summary of conclusions, have been provided to you at this meeting. The Council's current schedule calls for a public review period after this meeting with final action at the June meeting in Kodiak. We would have a couple of weeks following this meeting to make any final revisions to the document prior to public review. Council staff and Dr. Scott Goldsmith of ISER will present the draft analysis at this time. Written comments received since February are under Item C-1(a).

We hope to have draft analyses available in June on several related issues initiated by the Council in February: analysis of the Sitka Sound Task Force local area management plan, and the analysis of possession limits for halibut sport fisheries.

Report of the Scientific and Statistical Committee

The SSC acknowledged that the majority of topics identified in its February minutes received attention in the revised analysis. However, they recommended against releasing the document for public review at this time. The SSC Minutes (Appendix II to these minutes) outline the SSC's concerns and recommendations for the analysis. The SSC particularly pointed out that they believe the underlying data will not support comprehensive quantitative analysis and strongly endorsed efforts to collect systematic data on the halibut sport fisheries to help fill the large data gaps that currently exist. The SSC also strongly objected to the late receipt of the analysis and asked the Council to take steps to avoid the situation in the future.

Report of the Advisory Panel

The AP remains concerned with the validity of some of the assumptions contained in the analysis. However, they believe allowing the public to review and comment on the work done to date would provide additional

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information, and productive alternatives and would be in the best interest of public policy. The AP recommended that the document be released for public comment with the addition of:

1. A cover letter which both focuses public comment on the scope and nature of the alternatives and notices the public that the quantitative aspects of the analysis may be subject to future refinement and changes.
2. An expanded executive summary which lays out the alternatives, characterizes the various halibut user groups, and qualitatively examines the impacts of the alternatives.
3. A section discussing the ability of traditional management tools (bag limits, annual limits, etc.) to address elements of the problem statement and to mitigate the impacts of proposed alternatives.
4. A discussion of the proposed Jones Act changes and their impact on current charter operations and future catches.

Additionally, the AP requests that final action should not be taken in June except for:

1. scheduling final action on Alternative 2 (to implement reporting requirements), and
2. taking final action on the moratorium with a control date of April 16, 1997. It was the understanding of the AP that approving this control date did not preclude subareas from being excluded from a moratorium, suggesting qualifications specific to subareas or requesting a control date for their area beyond April 16, 1997.

DISCUSSION/ACTION

The Council received a review of the revised analysis from staff members Chris Oliver and Marcus Hartley and from Dr. Scott Goldsmith of the University of Alaska Institute for Social and Economic Research. Based on concerns voiced by the SSC and AP, the Council discussed ways the analysis should be revised to make it more "user friendly" to those wishing to review it and make comment.

Linda Behnken moved to adopt the Advisory Panel's first four recommendations:

1. A cover letter which both focuses public comment on the scope and nature of the alternatives and notices the public that the quantitative aspects of the analysis may be subject to future refinement and changes.
2. An expanded executive summary which lays out the alternatives, characterizes the various halibut user groups, and qualitatively examines the impacts of the alternatives.
3. A section discussing the ability of traditional management tools (bag limits, annual limits, etc.) to address elements of the problem statement and to mitigate the impacts of proposed alternatives.
4. A discussion of the proposed Jones Act changes and their impact on current charter operations and future catches.

The motion was seconded and carried without objection.

Council member Clem Tillion had submitted a "strawman" proposal for a charterboat management regime. Although it was never submitted as a motion, the Council asked staff to include it with the public review document as a stand-alone proposal. Staff was asked to point out anything in the proposal that is not included in the formal analysis. Council members also asked that the participation criteria recommended by the United Halibut Charter Associations of Alaska be included in the analysis. Other additions to the analysis include:

- Addition of a proposed control date of April 15 (highlighted as a preferred alternative) along with the date of final action.
- Include consideration of lodges, outfitters, to the extent possible, including clear definitions.

The Council stressed the need for a simplified and easy-to-review executive summary for the document, and the need to distribute it widely among the halibut charter and sport fishing industry for comment.

Robin Samuelsen moved to delay final action on the charterboat issue until the September meeting. The motion was seconded by Dave Fluharty and carried without objection.

Linda Behnken asked about the status of the Sitka Sound proposal and the issue of near-shore depletion. Staff indicated that they will try to provide some discussion points at the June meeting, but the ability to do that will depend on other staff tasking, i.e., the charterboat and subsistence analyses.

SUMMARY

The Council approved sending the charterboat analysis out for public review with some additions and revisions. They also requested that the document be accompanied by an abbreviated executive summary. Final action on the issue was delayed until September.

C-2 Halibut Issues

ACTION REQUIRED

- (a) Final Review of Seabird Avoidance EA/RIR.
- (b) Initial Review of Area 4 Catch Sharing Plan EA/RIR.
- (c) Initial Review of Subsistence EA/RIR.
- (d) Final Review of Amendments 50/50 to allow donation of halibut to food banks.
- (e) Review of IPHC Halibut Stock Assessment - SSC only.

BACKGROUND

- (a) Final Review of Seabird Avoidance EA/RIR

At its December 1996 meeting, the Council approved gear modifications, seabird avoidance devices, or changes in fishing methods designed to reduce the incidental mortality of seabirds for the longline groundfish fisheries in the Gulf of Alaska and Bering Sea/Aleutian Islands. Seabird avoidance regulations are attached as Item C-2(a)(1). The required measures include the following:

1. All hook-and-line fishing operations would be conducted in the following manner:
 - Baited hooks must sink as soon as possible after they are put in the water. This could be accomplished by the use of weighted groundlines or thawed bait.

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- **The dumping of offal shall be avoided to the extent practicable while gear is being set or hauled; if discharge of offal is unavoidable, the discharge must take place aft of the hauling station or on the opposite side of the vessel to that where gear is set or hauled.**
 - **Every effort shall be made to ensure that birds brought aboard alive are released alive and that wherever possible, hooks are removed without jeopardizing the life of the bird.**
- 2. One or more of the following measures would be employed at all times when baited hooks are being set:**
- **A buoy, board, stick, broom, or other like device shall be towed behind the vessel at a distance appropriate to prevent birds from taking baited hooks. Multiple devices may be employed, or;**
 - **A streamer line designed to effectively discourages birds from settling on baits during deployment of gear, shall be towed, or;**
 - **Gear shall be set only at night (between the times of nautical twilight). When fishing at night, only the minimum vessel's lights necessary for safety shall be used; or**
 - **Baited hooks shall be deployed under water using a lining tube designed and manufactured for such a purpose, or;**
 - **With the approval of the Regional Administrator, other experimental seabird avoidance devices may be substituted for those listed above.**

The Council deferred action for the halibut hook-and-line fishery until the IPHC had reviewed the proposed regulations. The IPHC concurred with development of regulations to implement similar requirements in the halibut fisheries at its annual meeting in January 1997. The EA/RIR was mailed to you on April 7, 1997.

(b) Initial Review of Area 4 Catch Sharing Plan RIR

In December 1995 the Council approved an interim measure to set Area 4 subarea allocations using the historical commercial fishery allocations. This plan was to be in place until the IPHC approved a revised method for determining Area 4 subarea apportionments based on a biologically based approach. In January 1997, the IPHC approved such a method and requested that the Council remove Area 4A and 4B from its catch sharing plan (CSP). Under this proposal, the IPHC will set catch limits for Area 4A, 4B, and a combined 4C-E. The Council's CSP would then allocate the combined Area 4C-E catch limit according to historical allocations.

Alternative 2 would continue to apportion the IPHC combined Area 4C-E catch limit with the Council status quo subarea apportionments: 4C: 46.4%; 4D: 46.4%; and 4E: 7.2%. With the proposed removal of Areas 4A and 4B from the CSP beginning in 1998, the formula for allocating an additional 80,000 lb for any catch limit above 5.92 million lb to Area 4E will be adjusted to deduct that amount from Areas 4C and 4D only. Alternative 3 would withdraw the CSP. The IPHC would set subarea allocations for Area 4A, Area 4B, and a new Area 4C. Under this alternative, the Council would have to redistribute all IFQs and CDQs in Areas 4C, 4D, and 4E to the new Area 4C. A revised RIR is attached in Item C-2(b)(1). Alternatives included in this analysis are:

Alternative 1: Status quo.

Alternative 2: Remove Areas 4A and 4B from the Area 4 catch sharing plan.

Alternative 3: Withdraw the Area 4 catch sharing plan.

(c) Initial Review of Subsistence EA/RIR

The Halibut Subsistence EA/RIR analyzes management options to allow for the legal harvest of halibut for subsistence use in the Bering Sea/Aleutian Islands and Gulf of Alaska. First, subsistence halibut harvests are currently included within the personal use or sportfish regulations largely because the

subsistence fishery's pattern of use has not been adequately documented. Sportfish regulations do not reflect the customary and traditional use of halibut in rural communities. Regulations for Alaska limit all non-commercial halibut harvests to two fish per person per day, caught on a single line with a maximum of two hooks or a spear, from February 1 through December 31. Increased enforcement of commercial halibut IFQ and CDQ regulations led to increased awareness of the conflict between halibut regulations and customary and traditional subsistence practices of Alaska Natives in coastal communities.

Second, subsistence harvests may not be adequately accounted for in the International Pacific Halibut Commission calculations of total halibut removals. Despite the lack of accurate landings information, all non-commercial halibut harvests are estimated to account for less than one percent of total halibut removals.

In September 1996, the Council received a NMFS report on enforcement issues related to halibut subsistence and designated a committee to advise the Council on management of subsistence halibut harvests. In October 1996, staff from the Council, NMFS Enforcement, NOAA General Counsel, and Alaska Department of Fish and Game Subsistence Division met with Alaska Native Tribal representatives to exchange information on the Council process for developing fishing regulations and Tribal subsistence customs. Agency staff met in November 1996 and provided a report to the Council in December on numerous management issues related to development of halibut subsistence regulations. At that meeting, the Council named seven representatives of Native Alaskan Tribes to the Halibut Subsistence Committee with Robin Samuelsen as Chairman. The committee met in January 1997 and provided recommendations for the development of halibut subsistence regulations in its report to the Council in February. At its February meeting, the Council initiated preparation of an EA/RIR for a regulatory amendment to allow the legal harvest of halibut for subsistence in rural communities to conform with state and federal statutes that provide for the opportunity for the continued existence of these traditional cultures and economies.

The EA/RIR was mailed to you on April 8, 1997. The following management alternatives are addressed:

Alternative 1. Status quo.

Alternative 2. Allow the harvest of halibut for subsistence.

OPTION 1. Define subsistence.

Halibut subsistence regulations are needed to allow the continued practice of long-term customary and traditional practices of fishing halibut for food for families in a non-commercial manner for non-economic consumption. Subsistence is defined as 'non-commercial fishing for food.'

OPTION 2. Define eligibility for halibut subsistence:

Suboption A. Members of Alaska Native Federally-recognized Tribes with customary and traditional use of halibut. (Subsistence Committee definition)

Suboption B. Alaska rural residents as defined in ANILCA and identified in the table entitled 'Alaska Rural Places and Native Groups with Subsistence Halibut Uses,' and will also include other communities for which customary and traditional findings are developed in the future. (ANILCA definition)

Suboption C. Tribal members and non-Native permanent residents of Native villages who have legitimate subsistence needs. (Migratory Bird Treaty Act definition)

OPTION 3. Define legal gear.

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Legal halibut subsistence gear is defined as (1) hook-and-line gear (including set and hand-held gear) with a range of 10 hooks, 30 hooks, and 60 hooks and (2) rod-and-reel gear. An individual would be limited to one skate of gear up to 1,800 ft long (not including the buoy line), with hooks set 18-20 ft apart, with a legibly marked buoy.

Suboption. Allow Tribal governments to contract with NMFS to register designated fishermen to fish for the community using:

- A. 1 - 3 skates of gear, up to 60 hooks each**
- B. any gear type**

OPTION 4. Define minimum size.

Suboption A. No minimum size be imposed for subsistence harvests of halibut.

Suboption B. Revise the commercial halibut minimum size regulations to allow the retention of halibut under 32 inches caught with authorized commercial halibut gear in Area 4E for subsistence use.

OPTION 5. Allow the customary and traditional trade of subsistence halibut.

Suboption A. Allow the customary and traditional trade of subsistence caught halibut.

Suboption B. Allow the barter of subsistence caught halibut, limited to an annual amount:

- 1. \$200**
- 2. \$400**
- 3. \$600**

Allow low monetary, non-commercial sale of halibut to legalize current practice of compensating subsistence fishermen for fuel or other fishing expenses in exchange for fish. The analysis would define 'barter,' 'non-commercial,' 'low monetary value,' and 'customary trade' and analyze the enforcement and monitoring costs of allowing barter.

OPTION 6. Sale of subsistence halibut.

Suboption A. Allow the commercial sale of subsistence-caught halibut.

Suboption B. Prohibit the commercial sale of subsistence-caught halibut.

OPTION 7. Collect subsistence harvest estimates through cooperative agreements with Tribal, State, and Federal governments.

Option 2, Suboption A would qualify nearly 42,000 individuals from 118 Alaska Native Tribes for proposed halibut subsistence regulations. Suboption B would qualify over 82,000 Alaska rural residents from 114 coastal communities that had established customary and traditional halibut subsistence practices. Suboption C would qualify over 88,500 Alaska Natives and non-native residents from 114 communities. Halibut consumption was estimated to be approximately 1.8 million lb under Suboption A, 3.3 million lb under Suboption B, and 3.5 million lb under Suboption C, based on per capita rates reported by resident type and community. Other impacts of the proposed management options are discussed in the EA/RIR.

(d) Final Review of Amendments 50/50 to Allow Donation of Halibut to Food Banks

The proposed action would authorize a distributor to coordinate the donation of halibut taken as bycatch and landed at specified shoreside processing sites in the Alaska trawl fisheries for donation to economically disadvantaged individuals through a tax-exempt, authorized distributor selected by NMFS. This action, the Halibut Donation Program (HDP), would be implemented under Amendments 50/50 to the BSAI and GOA FMPs, respectively.

At its January 1993 meeting, the Council recommended to NMFS and the IPHC that limited retention of halibut be permitted, on a temporary basis, to assess the feasibility of a charitable donation program for dead prohibited halibut bycatch. Terra Marine Research and Education and Northwest Food Strategies (NWFS) applied for an Experimental Fishing Permit (EFP) to develop a means to improve resource utilization and reduce waste. NMFS approved three EFPs to NWFS, effective during 1993 through 1996. The three EFPs addressed only the retention of prohibited salmon bycatch. However, the information gained as a result of the study is directly applicable to the retention of dead prohibited halibut bycatch landed at shoreside processing sites.

At its January 1996 Annual Meeting, the IPHC approved a pilot program allowing limited retention of halibut bycatch for use by food banks. The pilot program was intended to explore ways to reduce waste and to improve bycatch records. The IPHC approved retaining 50,000 pounds (net weight) of halibut, landed by trawlers at shore plants in Dutch Harbor, for distribution in the manner previously used for salmon bycatch from factory trawlers. NWFS was responsible for conducting the distribution. During 1996, NWFS received only 572 pounds of halibut bycatch from two shore plants for the project. NMFS approval of the NWFS program was not effective until the start of the pollock B season. NMFS Enforcement and NOAA General Counsel could not identify an acceptable administrative procedure to transfer halibut bycatch landed at shore plants from the vessel or plants to the government. An acceptable method has since been developed. The EA/RIR was mailed to you on April 2nd.

The following two alternatives are addressed in the analysis:

Alternative 1: Status quo.

Alternative 2: FMP amendments would be implemented to authorize the distribution of halibut taken as bycatch, and landed ashore at specified shoreside processing facilities, in the Alaska trawl fisheries, for donation to economically disadvantaged individuals. This alternative would require a NMFS-authorized distributor to issue Halibut Retention Permits (HRPs) to vessel operators and processors to authorize the donation of halibut caught as bycatch in the groundfish trawl fisheries to economically disadvantaged individuals. The NMFS-authorized distributor(s) would be determined by the Regional Director under a HDP. This alternative provides a voluntary alternative to regulatory discard through an authorized distributor selected by NMFS.

(e) Review of IPHC Halibut Stock Assessment - SSC only

Pat Sullivan, IPHC staff, will present an overview of the revised Pacific halibut stock assessment procedures to the Scientific and Statistical Committee.

Report of the Scientific and Statistical Committee

With regard to the subsistence analysis, the SSC recommended that the document be released for public review, but did request inclusion of some discussion of alternative legal definitions of subsistence. The SSC also expressed concern about putting dollar limits on the amount of halibut that can be bartered or traded because of difficulties in defining relevant prices and enforcement. They suggested that quantity limits may pose fewer problems.

Report of the Advisory Panel

Seabird avoidance in halibut fisheries. The AP recommended the Council release the document for public review, using the revised language (minor revision to Alternative 2.1b) in the addendum provided by NMFS.

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Area 4 Catch Sharing Plan. The AP recommended the Council release the document for public review with the following changes;

1. Delete Alternative 3.
2. Add an alternative allowing the CDQ portion of Area 4 C, D, and E to be set aside to be distributed by the State of Alaska with options that allow the harvest to occur either across IPHC regulatory C, D, and E areas or confine to existing C, D, and E areas.

Subsistence EA/RIR. The AP recommends the Council release for public review the EA/RIR creating and defining a Halibut Subsistence fishery category with the following changes:

1. Delete Option 6.
2. Option 2, suboption C: substitute "non-tribal" in place of "non-native".
3. Option 3, suboption B: add 2 hooks to analysis.
4. Add to Option 5, suboption C to either prohibit or allow the exchange (trade, barter) of halibut for other goods with:
 - a. other tribes
 - b. any Alaska rural resident
 - c. any Alaska resident
 - d. anyone.
5. Option 7: revise to read, "Develop cooperative agreements with Tribal, State and Federal governments."
6. Add Option 8: a daily bag limit of between 2-20 fish per day.

The AP expressed its concern that there is currently no satisfactory system for assessing the size and trends in the subsistence fishery catch in rural Alaska.

The AP further requests the Council ask staff to expand the analysis to include:

1. A discussion of current case law relative to halibut in the British Columbia Indian food fishery and the Washington state treaty right uses of halibut.
2. A response to issues raised by the Alaska State Legislature's letter, particularly question 2 (below), including a discussion about racial versus aboriginal based allocations and a summary of the status of sovereignty status in current case law.

Question 2 - "Under what authority can the Council adopt allocation criteria based on race which are in conflict with the State's constitution?"

3. Enforcement concerns if in fact a conflict exists with the Alaska State Constitution.

Amendments 50/50 - Donation of halibut to food banks. The AP recommended the Council adopt Alternative 2, which would authorize the distribution of halibut taken as bycatch, in the Alaska trawl fisheries, and landed ashore at specified shoreside processing facilities, for donation to economically disadvantaged individuals.

DISCUSSION/ACTION

Seabird Avoidance in the Halibut Fisheries

Linda Behnken moved to adopt the recommendation of the Advisory Panel to send the document out for public comment after incorporating the changes recommended by NMFS in the addendum provided in Council notebooks. The motion was seconded by Robin Samuelsen and carried without objection.

David Fluharty suggested that the public review document include the preamble from the guidelines provided to the Council by NMFS staff. There was no objection to including it.

Halibut Area 4 Catch Sharing Plan Revision

Robin Samuelsen moved to approve the AP recommendation to delete Alternative 3 from consideration, and to add an additional alternative allowing the CDQ portion of Area 4D and E to be set aside to be distributed by the State of Alaska with options that allow the harvest to occur either across IPHC regulatory areas 4D and E, or confined to existing D and E areas. The motion was seconded by Linda Behnken and carried without objection.

Halibut Subsistence Analysis

The Council received a staff report on the draft analysis from Jane DiCosimo, NPFMC staff. Bob Wolfe, Research Director for the Division of Subsistence, ADF&G, was also on hand to clarify several areas of discussion. At the request of Council members, Tom Boyd, the Deputy Assistant Regional Director for the U.S. Fish & Wildlife Service, updated the Council on the current status of state and federal jurisdiction in subsistence fisheries in Alaska.

Bob Mace moved to approve the AP recommendation:

Release for public review the EA/RIR creating and defining a halibut subsistence fishery category with the following changes:

1. Delete Option 6.
2. Option 2, suboption C: substitute "non-tribal" in place of "non-native".
3. Option 3, suboption B: add 2 hooks to analysis.
4. Add to Option 5, suboption C to either prohibit or allow the exchange (trade, barter) of halibut for other goods with:
 - a. other tribes
 - b. any Alaska rural resident
 - c. any Alaska resident
 - d. anyone.
5. Option 7: revise to read, "Develop cooperative agreements with Tribal, State and Federal governments."
6. Add Option 8: a daily bag limit of between 2-20 fish per day.

And, to expand the analysis to include:

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1. A discussion of current case law relative to halibut in the British Columbia Indian food fishery and the Washington state treaty right uses of halibut.
2. A response to issues raised by the Alaska State Legislature's letter, particularly question 2 (below) including a discussion about racial versus aboriginal based allocations and a summary of the status of sovereignty status in current case law.

Question 2 - "Under what authority can the Council adopt allocation criteria based on race which are in conflict with the State's constitution?"

3. Enforcement concerns if in fact a conflict exists with the Alaska State Constitution.

Linda Behnken moved to add a new Alternative 3, as follows:

Provide for personal consumptive use of halibut ~~by Alaska residents~~ within existing regulatory framework.

Option 1: Define legal gear

- Sub-option A: Number of hooks per line. (1-3)
- Sub-option B: 1-3 skates up to 60 hooks each
- Sub-option C: Any gear type

Option 2: Modify legal gear

- Sub-option A: Statewide
- Sub-option B: By halibut quota area
- Sub-option C: By sub-area

Option 3: Define minimum size of halibut

- Sub-option A: No minimum size shall be imposed for personal use.
- Sub-option B: Revise the commercial halibut minimum size regulations to allow the retention of halibut under 32 inches caught with authorized commercial halibut gear in area 4E for personal use.

Option 4: Allow trade and barter of personal use halibut

- Sub-option A: Trade and barter allowed
- Sub-option B: Trade and Barter not allowed

The amendment was seconded by Kevin O'Leary.

Ms. Behnken noted that the alternative is one suggested by the Alaska Legislature and she felt it should be made available for public comments. NOAA General Counsel Lisa Lindeman expressed concern with the words, "by Alaska residents," because the Halibut Act prohibits discrimination among residents of different states. Ms. Behnken agreed to strike those words from the motion.

Ms. Lindeman also suggested that some discussion should be included in the analysis of how this option relates to the problem statement.

Mr. Samuelsen cautioned that Council members were trying to mix personal use with subsistence issues and that they were two distinctive and separate issues.

The amendment to the motion carried, 6 to 5, with Austin, Fluharty, Berg, Pereyra, and Samuelsen voting against.

The main motion carried, 9 to 1, with Pereyra voting against and Tillion absent for the vote.

The motion, as adopted, is as follows:

ALTERNATIVE 1. Status quo.

ALTERNATIVE 2. Allow the harvest of halibut for subsistence.

OPTION 1. Define subsistence.

Halibut subsistence regulations are needed to allow the continued practice of long-term customary and traditional practices of fishing halibut for food for families in a non-commercial manner for non-economic consumption. Subsistence is defined as 'long-term, customary and traditional use of halibut.'

OPTION 2. Define eligibility for halibut subsistence:

Suboption A. Members of Alaska Native Federally-recognized Tribes with customary and traditional use of halibut and non-Native permanent residents of such Native villages.

Suboption B. Alaska rural residents as defined in ANILCA and identified in the table entitled 'Alaska Rural Places and Native Groups with Subsistence Halibut Uses,' and will also include other communities for which customary and traditional findings are developed in the future.

Suboption C. Tribal members and non-Tribal permanent residents of Native villages who have legitimate subsistence needs.

OPTION 3. Define legal gear.

Suboption A. rod-and-reel gear

Suboption B. hook-and-line gear (including set and hand-held gear) with a range of:
1. 2 hooks
2. 10 hooks
3. 30 hooks
4. 60 hooks.

Suboption C. Allow Tribal governments to contract with NMFS to register designated fishermen to fish for the community using:
1. 1 - 3 skates of gear, up to 60 hooks each
2. any gear type

OPTION 4. Define minimum size.

Suboption A. No minimum size be imposed for subsistence harvests of halibut.

Suboption B. Revise the commercial halibut minimum size regulations to allow the retention of halibut under 32 inches caught with authorized commercial halibut gear in Area 4E for subsistence use.

OPTION 5. Allow the customary and traditional trade of subsistence halibut.

Suboption A. Prohibit the customary and traditional trade of subsistence-caught halibut.

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Suboption B. Allow the customary and traditional trade of subsistence-caught halibut limited to:

(i) an annual amount of:

- 1. \$200**
- 2. \$400**
- 3. \$600**

(ii) and exchanges with:

- 1. other Alaska Tribes**
- 2. any Alaskan rural resident**
- 3. any Alaskan resident**
- 4. anyone.**

OPTION 6. Define a daily bag limit of between 2-20 halibut.

OPTION 7. Develop cooperative agreements with Tribal, State, and Federal governments to collect, monitor, and enforce subsistence harvests and develop local area halibut subsistence use plans in coastal communities.

ALTERNATIVE 3. Provide for personal consumptive use of halibut.

OPTION 1. Define legal gear.

Suboption A. 1-3 hooks per line

Suboption B. 1-3 skates, up to 60 hooks each

Suboption C. any gear type.

OPTION 2. Define legal gear by area.

Suboption A. statewide

Suboption B. IPHC halibut regulatory area

Suboption C. through local use plans.

OPTION 3. Define minimum size.

Suboption A. No minimum size be imposed for personal use harvests of halibut.

Suboption B. Revise the commercial halibut minimum size regulations to allow the retention of halibut under 32 inches caught with authorized commercial halibut gear in Area 4E for personal use.

OPTION 4. Define trade and barter of personal use halibut.

Suboption A. Prohibit the customary and traditional trade of personal use halibut.

Suboption B. Allow the customary and traditional trade of personal use halibut.

Donation of Halibut to Food Banks

The Council received a draft regulatory amendment to halibut regulations which would allow the donation of halibut bycaught in the Alaska groundfish fisheries to be donated to organizations for distribution to food banks.

Earl Krygier moved to approve the AP recommendation to approve Alternative 2: Authorize the distribution of halibut taken as bycatch in the Alaska trawl fisheries and landed ashore at specified shoreside processing facilities, for donation to economically disadvantaged individuals.

The motion was seconded by Linda Behnken and carried without objection, with Pereyra abstaining from the vote.

SUMMARY

The Council reviewed and released for public review regulatory amendments for seabird avoidance measures in the halibut fisheries, and a revised halibut catch sharing plan for IPHC Area 4. The Council also approved the release to the public of a revised EA/RIR to create and define a halibut subsistence category in federal regulations. The Council added an alternative to the analysis that would define a personal use category for halibut. In addition, the Council approved a regulatory amendment that would allow the donation of halibut bycaught in the Alaska groundfish fisheries to be donated to organizations for distribution to food banks.

C-3 Halibut and Sablefish Individual Fishing Quotas

ACTION REQUIRED

- (a) Initial Review of IFQ amendments.
- (b) Status Report on the IFQ and CDQ fee and loan programs.
- (c) Status Report on the central title registry program.
- (d) Status Report on the national IFQ panel.
- (e) Status Report on the proposed IFQ weighmaster program.

BACKGROUND

(a) Initial Review of IFQ Amendments

In December 1996, the Council approved development of analyses of two changes to the halibut and sablefish IFQ programs as recommended by the IFQ Industry Implementation Team. The Team unanimously supported a proposal to allow QS transfers to immediate family members, under the 3-year emergency provision. This proposal would change 'surviving spouse' to 'heir.' A revised draft analysis is attached as Item C-3(a)(1).

The Team also recommended defining ownership of a vessel for hiring skippers, since current requirements result in widespread defacto leasing and are in conflict with the Council's goals of an owner-operated fleet under the IFQ program. A loophole exists in the IFQ regulations that allows leasing in perpetuity by initial recipients due to inexact language related to ownership of vessels on which QS is fished. An individual may take part ownership in a vessel temporarily (say, for as little as \$1) in order to hire a vessel and skipper to fish his QS. In April 1995, the Team recommended that the Council implement a "controlling interest" (e.g., 51%) or other requirement to prevent "paper" ownership that circumvents Council intent for an owner/operator IFQ fleet. In May 1995, the Council forwarded to NMFS the Team's recommendation for a 51% ownership requirement as evidenced by U.S. Coast Guard Abstract of Title, Vessel Registration, etc. In November 1995 and October 1996, the Team reiterated their support of a 51% controlling interest. A revised draft analysis is included here as Item C-3(a)(2).

(b) IFQ/CDQ Fee Programs and North Pacific Loan Program

The NMFS Task Group, along with representatives from the Council and the State of Alaska, has met since the February Council meeting to further develop the IFQ/CDQ fee program. As you may recall from our earlier Magnuson-Stevens Act discussions, the fee program for IFQ and CDQs will levy a fee of up to 3% on exvessel value, and is required to be developed and implemented by the agency (Secretary of Commerce). The North Pacific Loan Program is an offshoot of the overall fee program, but is to be developed and submitted by the North Pacific Council by October of 1997. A report on fee program development, including an initial outline for analyses, will be presented by task leader Jay Ginter.

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Based on our work group discussions, some key points can be raised before we go into the specifics of the report. Because the language in the Act specifies that fees be collected either at or after the time of landings, we cannot collect fees in advance. The previous report to the Council indicated that it would very likely be 1999 before this fee program was up and running. However, it is possible that we could collect fees on 1998 landings, though it would be at the end of 1998, depending upon when the regulations are actually promulgated. We will continue to research this possibility with agency and NOAA-GC representatives. The fee plan would probably have to be fully developed by this September for that to happen.

The previous report to the Council also discussed the Loan Program, which takes 25% of the fees, and indicated that the Loan Program, being dependent upon the fee program, could not actually be implemented until fee collection begins. In reviewing the actual language of the Act, it appears that the Loan Program may not be directly dependent upon the fee program after all. Although the Act specifies that 25% of the fees will be directed to the Loan Program, it calls for that portion of the fees "to be deposited in the Treasury (as opposed to the LASFA fund) and made available, *subject to annual appropriations*, to cover the costs of new direct loan obligations and new loan guarantee commitments..."

This language implies that actual funding of the Loan Program: (1) is subject to annual appropriations by Congress; (2) that such appropriations could be more or less than the actual amount of fees collected; and, (3) that the Loan Program could be 'jump started' beginning in late 1997 by appropriation, without fees having been actually assessed and collected. We have requested assistance from NMFS in developing the Loan Program in order to satisfy our October 1997 deadline, and will keep you apprised of progress on this issue, which is somewhat separate from the overall fee program.

(c) Central Title Registry

Section 305(h) of the Magnuson-Stevens Fishery Conservation and Management Act requires the Secretary to establish:

...an exclusive central registry system...for limited access system permits established under section 303(b)(6) or other federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interest, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary...

Although the Act requires that the registry system be "central," it may be administered on a regional basis. It also provided that operation of the registry could be contracted to a private sector firm. Over 90% of all transferable limited access system permits in the country are administered through the Alaska Region of NMFS (RAM Division).

To seek public input on the wide variety of legal and administrative issues involved with implementing the registry system, NMFS published an Advanced Notice of Proposed Rulemaking (ANPR) on March 7. The ANPR posed some 28 questions, ranging from whether NMFS should operate the registry (as opposed to contracting for its operation) to necessary procedures for nonjudicial foreclosure. Comments on the ANPR were due April 7, 1997. The ANPR, in worksheet form, was mailed to the Council on March 11, 1997.

At a workshop in Kodiak on March 20 (sponsored by the Alaska Driggers Association, Kodiak Vessel Owners, and Access Unlimited, Inc.) a group of industry representatives discussed the legal requirements of the Act, the questions posed by the ANPR, and the needs of industry. The unanimous recommendation of those assembled was to request a 6-month extension on the comment period (through October 7, 1997) to allow for greater industry involvement in devising the regulations that would govern the registry's operations (Item C-3(c)(1)).

(d) National Academy of Science IFQ/CDQ Studies

The Council nominated Chairman Lauber and Ms. Behnken for the IFQ Review Group to the National Research Council for its IFQ study, based on a March 24 deadline (the deadline for nominations was since extended to April 14). Item C-3(d)(1) contains the *Federal Register* Notice soliciting nominations. NMFS staff may be able to provide additional information on this, and on the formation of the CDQ Review Group.

(e) Status Report on the Proposed IFQ Weighmaster Program

In October 1996, the IFQ Implementation Team unanimously approved requiring weighmasters at the point of landing, noting that there is an existing pool of community members in selected ports currently employed by IPHC to interview skippers and collect otoliths. In December, the Council requested that a discussion paper be prepared to discuss the enforcement need and costs of such a program. NMFS has reported to the Council that it lacks the staff resources to begin the requested assessment at this time (Item C-3(e)(1)).

Comments received on these agenda topics are attached as Item C-3 Supplemental.

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

Report of the Advisory Panel

IFQ Amendments. The AP recommended the Council release for public review the EA/RIR amending the vessel ownership requirement for the IFQ program, with the following changes:

1. Under Alternative 2, Option B: substitute 49% in place of 51%
2. Under Alternative 2: add Option C of 5%
3. Add a new alternative to grandfather ownership levels held at:
 - a. date of Secretarial approval
 - b. as of April 16, 1997

Additionally, the AP requests the analysis:

1. add a description of the number of pounds involved and the number of vessels for 1995, 1996 and year-to-date for 1997.
2. include a discussion of the effects of the options on crew members.

The AP also recommended the Council release for public review the EA/RIR extending transfer privileges to surviving heirs of deceased QS and IFQ holders. The AP requested an addition of an alternative to address their concern in cases when the family (spouse or children) continue to hold ownership of the vessel. In such cases, the surviving spouse would remain vested with the right to employ a hired skipper beyond the three years as long

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as they continue to hold ownership of the vessel. In the case of surviving children, they would have the same right for three years after reaching age 18.

Lien Registry. The AP requested that the Council support the lending institutions' request to Congress for a six-month extension on implementation of a lien registry for the IFQ program so they can further refine and develop a registry.

DISCUSSION/ACTION

Initial Review of Amendments

Allow QS transfers to immediate family members - This amendment would change "surviving spouse" to "heir" in order to include children of the deceased QS holder.

Define ownership of a vessel for hiring skippers - This amendment would close an existing loophole that allows leasing in perpetuity by initial recipients due to inexact language related to ownership of vessels on which QS is fished.

Bob Mace moved to approve the recommendations of the Advisory Panel:

Release for public review the EA/RIR amending the vessel ownership requirement for the IFQ program with the following changes:

- 1. Under Alternative 2, Option B: substitute 49% in place of 51%**
- 2. Under Alternative 2: add Option C of 5%**
- 3. Add a new alternative to grandfather ownership levels held at:**
 - a. date of Secretarial approval**
 - b. as of April 16, 1997**

Add the following to the analysis:

- 1. add a description of the number of pounds involved and the number of vessels for 1995, 1996 and year-to-date for 1997.**
- 2. include a discussion of the effects of the options on crew members.**

Release for public review the EA/RIR extending transfer privileges to surviving heirs of deceased QS and IFQ holders in the IFQ program, with the addition of an alternative to address concerns in cases when the family (spouse or children) continue to hold ownership of the vessel. In such cases, the surviving spouse would remain vested with the right to employ a hired skipper beyond the three years as long as they continue to hold ownership of the vessel. In the case of surviving children, they would have the same right for three years after reaching age 18.

Kevin O'Leary asked that a proposal submitted by John and Jack Crowley be included in the analysis. The proposal states that: **any individual, partnership or corporation who was initially allocated quota share and chooses to purchase a portion of a vessel so as to use their quota, would only be required to purchase that portion which reflects their percentage of poundage versus a vessel cap.**

This was accepted as a friendly amendment to the main motion, which carried without objection.

IFQ/CDO Fee and Loan Program

Chris Oliver provided a report on the progress to date in developing a IFQ/CDQ fee program. He reported that although previous reports to the Council indicated that it would be 1999 before the fee program was up and running, it may be possible to collect fees on 1998 landings, depending on when the regulations are actually promulgated. The fee plan would probably have to be fully developed by September for that to happen.

Central Title Registry

Jay Ginter, NMFS-Alaska Region, provided a report on the progress in developing the program. Several industry organizations and lending institutions are petitioning Congress for a six-month extension of the comment period to allow for greater industry involvement in devising the regulations.

Bob Mace moved to approve the AP's recommendation to request a six-month extension on the comment period for the lien registry program. The motion was seconded by Linda Behnken and carried without objection.

National Academy of Science IFQ/CDO Studies

Council members were advised that Chairman Lauber and Ms. Behnken have been nominated for the IFQ Review Group for the National Research Council's IFQ study.

Status Report on the Proposed IFQ Weighmaster Program

Council members received a letter from Regional Administrator Steve Pennoyer stating that the proposal for a weighmaster program raises numerous substantive programmatic and enforcement issues and that they believe the cost of such a program could be prohibitive. Because of fiscal and staff limitations at this time he recommended that the proposal be postponed.

Linda Behnken suggested that IPHC staff may be available and willing to provide a discussion paper on the issue for a future meeting. Bob Trumble, IPHC, said he would discuss the possibility with IPHC executive director, Don McCaughran. Council members requested Clarence Pautzke to send a letter to Dr. McCaughran asking him to assign staff to the project.

SUMMARY

The Council approved two draft amendments for public review and comment: one to allow QS transfers to immediate family members by changing the current wording from "spouse" to "heir," and one to close a loophole in the existing IFQ regulations that allows leasing in perpetuity by initial recipients. They received status reports on the IFQ/CDQ fee and loan programs and the central title registry program, and agreed to ask IPHC to develop a discussion paper on a weighmaster program.

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C-4 Groundfish/Crab License Limitation and CDQs

ACTION REQUIRED

- (a) Receive progress report on Proposed Rulemaking.
- (b) Receive progress report on skipper reporting system.
- (c) Receive progress report on buyback program.

BACKGROUND

(a) Proposed Rulemaking

Proposed Rulemaking for the LLP/CDQ program is very near completion and is expected to be published for formal review and comment prior to the June meeting. The LLP portion of that rule was previously reviewed by the Council, in draft form, and is essentially the same, with one change to more accurately reflect Council intent (the section dealing with initial allocation and recognition of vessel transfers). The CDQ portion of the package continues to be a much more complex regulatory package, though that portion is also near completion.

Item C-4(a)(1) is a recent letter to the Council from Mr. Rollie Schmitt outlining the agency's commitment to processing this package, but cautioning against unrealistic expectations. According to that letter, the Council should expect the LLP program to be implemented in 1999, if approved, while the CDQ portion for groundfish could be implemented sometime in 1998. Implementation of the crab CDQ program is possible in early 1998 according to the letter. The Council's existing moratorium will serve to mitigate any adverse impacts resulting from delayed implementation of the LLP. The Council may wish to schedule a detailed review of the actual regulations for these programs at the June meeting.

(b) Skipper Reporting System

When the Council approved its LLP, they also urged development of a system for collecting information on skipper participation in the groundfish and crab fisheries. NMFS, ADF&G, and Council representatives met in March to discuss this issue, with those meetings forming the basis for the letter from NMFS under Item C-4(b)(1). In summary, this letter describes a process whereby the relevant information can be collected, largely within existing State and Federal reporting systems. However, this is based on the assumption that the 'skipper' would be defined as the CFEC permit holder, which may not be consistent with the Council's intent with regard to 'skipper' definition. Voluntary submission of fish tickets would be available for at-sea operations. This is an issue for which we will need some Council feedback. An alternative system, depending on Council direction with regard to 'skipper' definition, would likely be coupled with the initiative for electronic reporting which is currently being developed by NMFS, and would be developed separately from the LLP. Other relevant information on this issue is contained in previous correspondence between the Council and NMFS (Item C-4(b)(2)).

(c) Vessel Buyback Program

During the December 1996 meeting the Council reviewed two proposals recommending development of a buyback program for the crab LLP fisheries. At that time industry representatives came forward to take a lead role in developing such a program, potentially accomplished through industry funding. Gordon Blue and Arni Thomson will report to the Council regarding progress on that initiative.

Neither the AP nor the SSC addressed this agenda item.

DISCUSSION/SUMMARY

The Council received an update from NMFS regarding preparation of the proposed rulemaking for the License Limitation (LLP) and CDQ programs approved by the Council in 1995. It is anticipated that a proposed rule will be published prior to the end of May and available for Council review at the June meeting. NMFS advised that the crab CDQ program is scheduled for implementation in early 1998, while the multi-species groundfish CDQ program will not be implemented before mid-1998. Implementation of the License Limitation Program (LLP) could begin in 1998, if approved, but fishing under that program would not begin until 1999.

The Council expressed considerable concern over the delay in publishing the proposed rule for the groundfish and crab license limitation program and asked that adequate time be allotted on the June agenda for a major discussion of the program. Dave Benton stressed that the State is prepared to handle the scale program in order to get the CDQ program going.

A preliminary report on a skipper reporting system was given to the Council at this meeting. The report outlined options for defining 'skipper' and options for collecting the necessary information, but no action was taken. The Council expressed interest in receiving feedback on the proposed options from the affected industry participants, and will discuss this issue again at the June meeting.

The Council also heard a report from an industry group which is organizing a potential vessel buyback program for the BSAI crab fisheries. The Capacity Reduction and Buyback (CRAB) group has been incorporated under Alaska statute, and has initiated an industry survey to ascertain the level of interest and potential participation in a buyback program and hopes to have an update for the Council in June.

C-5 Gulf of Alaska Improved Retention and Utilization

ACTION REQUIRED

Review document and approve for public review.

BACKGROUND

When the Council approved the IR/IU program for the BSAI, they initiated development of a similar program for the GOA, with the expectation of concurrent implementation of both programs in 1998. The analysis for the GOA program was mailed to you in late March, and was reviewed by the Council's IR/IU Committee on April 1. Dr. Lew Queirolo, primary author of the IR/IU documents, will review the analysis for the Council, followed by the IR/IU Committee report. That report is included in your notebooks as Item C-5(a).

The Committee also reviewed a summary of the proposed rule for the BSAI program and their comments are contained in the report. The actual proposed rule is not yet published, so the formal comment period is still pending. The summary of the major components of the proposed rule is under Item C-5(b).

Report of the Scientific and Statistical Committee

The SSC noted that the issues in this analysis are substantially parallel to those for the BSAI IR/IU initiative although some new issues arise. The SSC advised caution in interpreting the discard savings estimates because they don't address changes in operating costs to the industry, costs of adjustment and compliance, or price

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responses in new product markets. The SSC also pointed out that smaller less mobile vessels are most likely to be severely affected and that catcher vessels in the smallest category (<60 feet) are much more prevalent in the GOA. They also have concern that observer coverage is low for many components of the GOA fleet because of the smaller-sized vessels and suggested it would be useful to explore what can be done to enhance observer coverage levels.

Report of the Advisory Panel

The AP recommended the Council release the document for public review with the addition of an alternative allowing a defined legal buffer below the directed fishing standards. They also asked the Council to direct staff to initiate a regulatory amendment examining a change in the directed fishing standards such as rolling average of overages/underages, relative to IR/IU in both the Gulf of Alaska and Bering Sea/Aleutian Islands.

Report of the IR/IU Committee

The IR/IU committee reviewed the draft analysis for the Gulf of Alaska IR/IU program. During discussion several points were raised and some recommendations offered. The full report is contained in Appendix III to these minutes. Following is a summarized list of their major points of discussion:

- Suggested breakdowns of information by Central, Eastern, and Western subareas to better characterize impacts or highlight potential differential impacts by subarea.
- Recommended that estimates of observer coverage levels for each fishery category be provided.
- Concurred that a substantial risk of preemption is present if a IR/IU program is implemented for the BSAI and not for the GOA.
- Stressed that it is critical that the State of Alaska adopts complementary regulations because of the high percentage of landings in the Gulf that go to onshore processing facilities.
- Pointed out that the directed fishing standards issue needs to have more attention, particularly in the Gulf where there are many more smaller vessels which do not sort at sea.

Please refer to Appendix III for more details on these points and other comments made by the Committee.

DISCUSSION/ACTION

Linda Behnken moved to approve the AP's recommendation to release the analysis for public review, with the addition of an alternative allowing a defined legal buffer below the directed fishing standards. The motion was seconded by Bob Mace and carried without objection.

The Council discussed the issue of the directed fishing standard and the difficulties that may arise for smaller vessels who do not sort at sea. It may be difficult for them to determine whether or not they have exceeded the 20% retention rule and could be cited even for small infractions. There have been some concerns about enforcement of the suggested alternative. Ron Berg, NMFS, suggested that their staff work with enforcement on the issue and meet with industry to try to come up with a solution and report back at a future Council meeting.

Linda Behnken pointed out that the same situation exists in the halibut/sablefish IFQ fisheries and concern within the industry that they may exceed the limit may encourage them to discard to avoid prosecution.

With regard to the AP's recommendation to develop a regulatory amendment examining a change in the directed fishing standards, e.g., a rolling average of overages and underages with regard to the IR/IU programs in both the Gulf of Alaska and Bering Sea/Aleutian Islands, Ron Berg stated that this type of regulation is not feasible for NMFS. Tracking through a series of hauls across a trip and determining retentions and discards, would probably be impossible for them to implement and enforcement would also be very difficult, if not impossible. Mr. Berg advised that NMFS would object to developing such an amendment.

SUMMARY

The Council reviewed and approved for public review the analysis for the Gulf of Alaska improved retention and utilization program. Final action is scheduled for the June meeting with the intent for concurrent implementation in 1998 with the BSAI program. The Council also requested a discussion paper from NMFS on changes that will be needed in directed fishing standards once IR/IU is implemented.

C-6 Vessel Bycatch Allowances

ACTION REQUIRED

Review Committee report and provide further direction to Committee and staff.

BACKGROUND

At its last meeting the Council reviewed several documents relative to a proposed VBA program including: an initial analytical outline with potential alternatives, elements, and options by Dr. Joe Terry; a proposal submitted by United Catcher Boats (UCB); a proposal submitted by Dave Fraser incorporating the VBA 'pool' concept; the recent Magnuson Act language regarding VBAs; a report on Canada's IBQ program; and, previous AP and SSC minutes on the VBA issue.

Citing the potential merit in a VBA program, the Council appointed an industry Committee to further develop a 'strawman' VBA program for consideration. A related task of the Committee was to identify, and resolve where possible, a variety of monitoring, enforcement, and legal issues surrounding VBA program development. Item C-6(a) contains the Committee's report, starting with the Committee's initial list of alternatives, elements, and options. The remainder of the report provides a summary of the major points of Committee discussion as well as a discussion of the monitoring, enforcement, and legal considerations. While many of these issues remain unresolved, it is possible that analysis could begin on several components of the proposed program, though the initial allocation alternatives would likely need to be identified prior to any formal analyses. Continued work by the Committee and Council, coupled with further resolution of outstanding legal issues, could occur concurrently, with an analysis possibly being available for review in September.

Item C-6(b) is a copy of the initial response from NOAA-GC on several of the legal issues surrounding the VBA proposal.

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Report of the Scientific and Statistical Committee

The SSC noted that they could provide only limited feedback regarding the eventual analysis and asked that they be kept informed as the analytical outline is developed. The SSC did note that the Council has not provided a clear statement of objectives for the analysis and encouraged the Council to formulate one as soon as possible.

Report of the Advisory Panel

The AP recommended that the Council direct the VBA Committee, in conjunction with NOAA General Counsel, NMFS enforcement staff and representatives of the observer program, including the Association for Professional Observers, to address the following issues to determine whether adequate monitoring and enforcement are feasible before proceeding with a formal analysis. The AP specifically indicated that issues identified in the following documents be addressed:

1. January 1996 analytical outline by Joe Terry, page 3,
2. Legal issues raised in the NOAA GC memo dated 4/1/97, and
3. VBA Committee report.

The AP also requested that the Council specifically identify salmon and herring for possible inclusion in any VBA alternative.

DISCUSSION/ACTION

Bob Mace moved to adopt the AP recommendation with regard to vessel bycatch allowances -- to task the Committee to continue determining adequate monitoring and enforcement issues, along with the proposed objectives, and that they be prepared to report to the Council in September. The motion was seconded by Robin Samuelsen and carried without objection. (Council members Behnken, Samuelsen and Tillion were out of the room for the vote.)

David Benton moved adoption of the following problem statement for Committee consideration:

National concerns regarding the biological and ecological impacts of bycatch are reflected in the new Magnuson-Stevens Act. The Magnuson-Stevens Act calls for the reduction and minimization of bycatch nationwide, with specific guidance for the North Pacific in Section 313. In order to address these national mandates the Council will develop specific bycatch reduction measures which may include programs to promote individual vessel accountability. For several years the Council has been frustrated in its attempts to increase the level of individual vessel responsibility for prohibited species bycatch and bycatch reduction. The Council would like to address the industry and intra-industry problems posed by prohibited species bycatch on an individual vessel level in a manner that reflects recent Magnuson-Stevens Act revisions.

The motion was seconded by Dennis Austin and carried without objection. (Council members Behnken, Samuelsen and Tillion were out of the room for the vote.)

It was clarified that the purpose of the motion is to provide the preliminary problem statement to the VBA Committee for their consideration and recommendations.

DISCUSSION/ACTION

The Council requested that staff, NOAA General Counsel enforcement representatives, and the VBA Committee continue to work on resolutions to initial allocation options and monitoring and enforcement issues relating to a program for individual vessel bycatch accountability. A preliminary problem statement was approved for Committee consideration. A Committee report is expected at the September Council meeting.

C-7 Inshore/Offshore 3

ACTION REQUIRED

Begin development of alternatives for analysis.

BACKGROUND

At the December 1996 meeting, during Council discussions of overall staff tasking, the inshore/offshore issue was scheduled for discussion at the April 1997 meeting. The current allocations are scheduled to expire at the end of 1998, and any analyses of a reauthorization would need to begin fairly soon in 1997. One of the groundfish proposals reviewed from last year's cycle, submitted by the North Pacific Seafood Coalition, proposed to 'review and modify as appropriate the inshore/offshore pollock allocations of Amendment 18 (BSAI), and to extend the allocation percentages of Amendment 23 (GOA)'. In 1995, the Council extended these allocations through the year 1998, including the 7.5% pollock CDQ allocations.

	<u>Inshore</u>	<u>Offshore</u>
BSAI pollock	35%	65%
GOA pollock	100%	0%
GOA Pacific cod	90%	10%

When the Council approved its License Limitation Program (LLP) and multi-species CDQ program in 1995, pollock CDQs were specifically excluded from that action. While the recent Magnuson-Stevens Act mandates CDQ allocations for all species, Council staff has been advised by NOAA-GC that a plan amendment is nonetheless required to extend the pollock CDQ allocations beyond 1998. If the Council initiates a reauthorization of the inshore/offshore allocations beyond 1998, we assume that the pollock CDQ amendment would be included as part of that action.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

The Council had considerable discussion regarding the inshore-offshore issue and the process needed to continue the program, or revise it. Concerns were expressed by some Council members and industry members, during public comment, that to change the current regime would cause disruption in the fisheries and that simply renewing the current regulations until the implementation of the groundfish and crab license limitation program would be the preferred alternative. However, during public comment the Council received several alternative options for consideration.

Dave Benton moved to ask staff to consolidate the various options received (from American Factory Trawlers, North Pacific Seafood Coalition, and United Catcher Boats) for Council review in June, with

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some preliminary background analysis and a review the data that would be required to make a decision on how to narrow the options for eventual analysis. The motion was seconded by Linda Behnken.

Mr. Benton pointed out the comments received during public testimony indicating that a return to the original status quo (i.e., before inshore/offshore allocations) would be very disruptive to the industry. However, they also received several new options for the allocations, and the Council will need to take into considerations changes that have occurred within the industry since the original allocations were made.

Mr. Benton suggested that it would be useful for the Council to have information on several issues, including a breakdown in the Bering Sea/Aleutian Islands pollock components, i.e., catcher vessels, motherships, catcher processors; how many shoreplants and motherships and factory trawler processing vessels have been built over the last five years, or migrated out the fishery; which operations have exited the fishery and where they've gone; information on harvest delivery patterns over the past five years, i.e., how much goes to catcher vessels, catcher processors, and motherships.

Bob Mace suggested that the two previous problems statements, for the original inshore/offshore allocation, and from the revised program, be included in any public comment packages. The suggestion was incorporated into the motion by friendly amendment.

Council member Wally Pereyra provided a draft problem statement for Council review. By consensus, the problem statement will be included for comment with the information be distributed for public review and comment. All allocation alternatives proposed, as well as their reciprocal percentages, would be noticed in the newsletter.

Council members stressed that at this point in the process it is important to solicit comments on the options being presented, as well as their perception of the problem to be addressed, and to request early submission of the comments so Council members will have time to review and consider all comments before proceeding to identify alternatives for analysis.

The motion carried, 9 to 2, with Pereyra and Samuelsen voting against.

SUMMARY

The Council received public comment, identified current issues for consideration, discussed potential problem statements, and approved posting the aggregate information in the Council's newsletter to gather public comments and suggestions for further consideration. In June the Council will develop a problem statement and finalize alternatives for a formal analysis.

C-8 Experimental Fishing Permit

ACTION REQUIRED

Provide NMFS with recommendations on experimental fishing permit request.

BACKGROUND

Groundfish Forum, Inc., has applied for an Experimental Fishing Permit (EFP) as detailed in item C-8(a). The experiment would be conducted in the Bering Sea in areas 513, 514, 517, and 521 during August

1-14, 1997. A trawl design will be tested that has an open panel in the intermediate portion of the trawl. Only net straps, not meshes, are present in the open panel. It will be compared with standard gear to determine if pollock and cod catches can be reduced while still retaining adequate amounts of flatfish, particularly yellowfin sole. The expected catch of yellowfin sole is around 4,500 metric tons. Bycatch amounts are described on p. 6 of the application.

The development of this EFP was supported in concept by the Council's IR/IU Committee last September as a potential method for: (1) reducing catch of non-target species, and (2) determining more appropriate VIP rate standards associated with modified trawl gears (larger mesh, altered panels, etc.). The permit responds directly to the Council's proposed IR/IU program for pollock and cod intended to start in 1998, and the dilemma faced by the head and gut boats in having to keep those species. John Gauvin is available to describe the intended research in more detail.

Report of the Scientific and Statistical

The SSC commended the applicants for presenting an experimental design that is well conceived and clearly presented. The SSC pointed out that the proposed experiment, to test the efficacy of new net designs to reduce pollock and cod catch in Bering Sea flatfish fisheries, represents the type of gear and behavioral changes envisioned by the IR/IU amendment.

Report of the Advisory Panel

The AP recommended the Council support the approval of the experimental fishing permit request submitted by Groundfish Forum, Inc.

DISCUSSION/ACTION

Linda Behnken moved to approve the AP's recommendation to express support for the experimental fishing permit request. The motion was seconded by Bob Mace and carried without objection.

D. FISHERY MANAGEMENT PLANS

D-1 Gulf of Alaska Groundfish Issues

ACTION REQUIRED

- (a) Review discussion paper for rockfish directed fishing standards.
- (b) Review discussion paper for rolling closures during NMFS sablefish longline survey.

BACKGROUND

(a) Rockfish Directed Fishing Standards

In September 1996, the Council took final action to approve revised directed fishing standards (bycatch rates) for two groundfish fisheries in the Gulf of Alaska. Allowing arrowtooth flounder as a basis species (5%) for P. cod and pollock and reducing the maximum retainable bycatch (MRBs) of sablefish from 15 to 7 percent against nine groundfish species became effective April 10, 1997. A third proposal originally considered in September, to prohibit the use of GOA northern rockfish as a basis for retaining shortraker/rougheye rockfish, was scheduled for reconsideration after the analysis was expanded to address all rockfish species using NMFS observer haul data. A discussion paper examining

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management alternatives for DFS rates for all GOA rockfish prepared by Dr. Jon Heifetz (NMFS Auk Bay Lab) and David Ackley (ADF&G) was sent to you last week.

In September, the Council also requested that future DFS adjustments be implemented through a framework procedure. NMFS responded with a groundfish proposal (#36, Agenda item D-1(a)) in August 1996 to implement GOA and BSAI FMP amendments to expand the existing NMFS in-season adjustment authority (§679.25) to provide clear authority to decrease MRBs as an in-season action. This action would allow for species or species groups to be better managed, control the harvest of bycatch species, and reduce the likelihood of prohibited species catch status for a given species, and reduce the associated regulatory discards. The Council may wish to consider whether the above, and future, DFS changes should be implemented through the proposed in-season process.

(b) Sablefish Rolling Closures

In December 1996, the Council initiated an analysis to consider gear closures during the NMFS sablefish longline surveys, upon recommendation by the IFQ Industry Implementation Team meeting. The Team has expressed its concern since the IFQ program was initiated that fishing effort during the sablefish longline survey under an extended IFQ season may significantly impact survey results. Efforts to minimize fishery interactions under a two year program of voluntary compliance to avoid survey stations has not been entirely successful. Since the effects of fishing during the survey cannot be scientifically quantified and recent stock assessments indicate a continuing downward trend in stock abundance, the Team recommended that the Council initiate an analysis of rolling closures to longline and trawl vessels during the sablefish survey.

Trawl industry representatives met in Seattle on February 27, 1996 with Drs. Jeff Fujioka and Mike Sigler of the NMFS Auke Bay Lab to discuss possible management alternatives to minimize the impact of area closures on the trawl fleet. Their discussion paper was mailed to you last week.

Report of the Scientific and Statistical Committee

Rockfish directed fishing standards. An analysis of individual rockfish vessels indicate that selective targeting for sablefish does occur. Recommendations for further analysis depend upon the objectives or expected use of the analysis, which should be further clarified. Regardless of the objectives, the SSC recommends that any future analysis include:

1. major geographic and seasonal differences,
2. sensitivity of results to the target algorithm,
3. the same target algorithm for both survey and observer data.
4. the 1996 observer data,
5. in the tables: total tonnage, besides total number of hauls.

Rolling closures near sablefish longline survey stations. The SSC recommended that if the Council chooses to request an analysis of the need for and benefits from regulatory measures to prevent fishery interference with the sablefish longline survey, they would recommend that the analysis include an evaluation of (1) the impacts due to conservation bias (as may result from depressed survey indices if interference takes place), versus the possible economic impacts from rolling closures, and (2) whether rolling closures should extend to mobile gear as well as fixed gear. The views of NMFS and Coast Guard enforcement personnel should also be sought and incorporated into the analysis.

Report of the Advisory Panel

The AP commented only on the issue of rolling closures. The AP recommended the Council proceed with development of an analysis to implement rolling closures around the sablefish survey areas, with the following options added to those already proposed:

1. Change in sampling area sequence (re-ordered survey),
2. Nearshore open area for halibut and other fisheries, and
3. Gear specific exemptions to be renewed annually.

DISCUSSION/ACTION

Rockfish Directed Fishing Standards

The Council received a report from John Heifitz, NMFS Auke Bay Lab, on the discussion paper prepared on directed fishing standards for all Gulf of Alaska rockfish species.

Linda Behnken moved to request the analysts to continue to work on analyzing the background, or intrinsic, bycatch rates of rockfish species, incorporating the SSC recommendations, and incorporate the bycatch in the longline fisheries. The motion was seconded by Wally Pereyra and carried without objection (O'Leary not present for the vote).

Ms. Behnken pointed out that there has been a continuing problem with management of rockfish. With rockfish species being put on PSC status and fishermen then required to discard them, it's important to have all the information available to protect the rockfish resource which is long-lived species and sensitive to manage.

Rolling Closures -Sablefish Survey Sites

Linda Behnken moved to approve the recommendation of the AP to begin development of an EA/RIR to implement rolling closures around the sablefish survey sites, with the following additional options to be included:

1. Change in sampling area sequence (re-ordered survey),
2. Nearshore open area for halibut and other fisheries, and
3. Gear specific exemptions to be renewed annually.

The motion was seconded by Earl Krygier and carried without objection. Council member O'Leary was not present for the vote. Council member Fluharty suggested that the analysis include a careful look at ways to improve voluntary compliance. It was also stressed that NMFS enforcement and Coast Guard personnel be involved in development of the options.

SUMMARY

The Council approved the development of an EA/RIR to implement rolling closures around sablefish survey sites and asked staff to continue to work on the bycatch of rockfish species.

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D-2 Bering Sea/Aleutian Islands Groundfish Management

ACTION REQUIRED

- (a) Final review of forage fish amendment (BSAI and GOA).
- (b) Initial review of 2% jig allocation of Atka mackerel.
- (c) Approve VIP standards for second half of year.

BACKGROUND

(a) Forage Fish

In January 1995, the Council directed staff to prepare an EA/RIR to examine potential impacts of prohibiting a directed fishery on forage fish. Forage fish are an important ecosystem component, and are prey for marine mammals, seabirds, and commercially important fish species. Recent changes in predator abundance have raised concerns that forage fish may require additional protection.

In December 1996, the Council reviewed the draft EA/RIR, and released it for public review with several revisions suggested by the SSC and AP. A revised draft was distributed to the public and Council in early February, 1997. An executive summary is attached as Item D-2(a). NMFS staff will be on hand to review the analysis. Two main alternatives were examined, along with several options for Alternative 2. The alternatives are as follows:

Alternative 1: Status quo. Catch of forage fish could be retained under either the "other species" category TAC or as a "non-specified species".

Alternative 2: A "forage fish species" category would be established for both the BSAI and GOA groundfish FMPs. There are four options for this alternative.

- Option 1: Manage the forage fish species category as for other groundfish with a TAC, ABC, and OFL.
- Option 2: Restrict the forage fish species category to a bycatch only fishery.
- Option 3: Manage the forage fish species category as a prohibited species with no retention allowed.
- Option 4: Prohibit the sale, barter, trade, other commercial exchange, and processing of forage fish.

(b) Atka Mackerel Jig Gear Allocation

In December 1996, the Council adopted for analysis a proposal from the Unalaska Native Fishermen's Association for a 2% allocation of Atka mackerel to jig gear. Such an allocation would provide more opportunity to the local small vessel jig gear fleet. Under the existing management program, directed fishing for Atka mackerel closes to all vessels, including those that fish with jig gear. An analysis of the proposal was mailed out to the Council family prior to the meeting, and an executive summary is provided as Agenda Item D-2(b)(1). Alternatives examined in the analysis include the following.

Alternative 1: Status quo, no action. The jig gear fleet would continue to compete with trawl gear operations for access to the Atka mackerel fishery.

Alternative 2: Allocate a portion of the annual Atka mackerel TAC specified for one or more of the Aleutian Island (AI) districts to vessels using jig gear.

- Option 1: Allocate 2 percent of the Atka mackerel TAC specified for the Eastern AI/ Bering Sea subarea to vessels using jig gear.

- Option 2: Allocate 1 percent of the Atka mackerel TAC specified for the Eastern AI/ Bering Sea subarea to vessels using jig gear.
 Option 3: Allocate 2 percent of the Atka mackerel TAC specified for the BSAI.
 Option 4: Allocate 1 percent of the Atka mackerel TAC specified for the BSAI.

Alternative 3: Authorize the exemption of vessels using jig gear from closures of the directed fishery for Atka mackerel.

Alternative 4. Establish separate Atka mackerel TACs for the Eastern Aleutian Islands District and the Bering Sea and authorize directed fishing for Atka mackerel in the Bering Sea only by vessels using jig gear.

(c) **VIP Rate Standards**

The Vessel Incentive Program (VIP) rate for halibut and crab Prohibited Species Catch (PSC) includes all trawl fisheries in both the BSAI and GOA. The grouping for VIP fishing categories is:

	<u>Fishery</u>	<u>PSC Species</u>	<u>Current Standards</u>
BSAI	midwater pollock	halibut	1.0 kg halibut / metric tons groundfish
BSAI	bottom pollock	halibut	7.5 kg (1st quarter), 5.0 (2-4 quarters)
BSAI	yellowfin sole	halibut	5.0 kg halibut / metric tons of groundfish
		red king crab	2.5 crab / metric tons of groundfish
BSAI	other trawl	halibut	30.0 kg halibut / metric tons groundfish
		red king crab	2.5 crab / metric tons of groundfish
GOA	midwater pollock	halibut	1.0 kg halibut / metric tons of groundfish
GOA	other trawl	halibut	40.0 kg halibut / metric tons of groundfish

Note that regulations specify that the vessel incentive program for the midwater pollock fishery becomes effective after the directed fishery for pollock by trawl vessels using non-pelagic gear is closed. Item D-2(c)(1) is a letter from the Regional Director containing the VIP rate standards used in the first half of 1997 and catch rates observed during past years for these fishery categories. The Council will need to recommend to the Regional Director the bycatch rate standards for these categories for the second two quarters of the 1997 fishery.

Report of the Scientific and Statistical Committee

The SSC only commented on the Atka mackerel jig allocation. The SSC recommended that the EA/RIR be released for public review after several issues are qualitatively addressed. (See SSC Minutes, Appendix II to these minutes for detailed description.) They also suggested that the statement of alternatives needs some clarification.

Report of the Advisory Panel

Forage Fish Amendment. The AP recommended that the Council adopt a combination of Alternative 2, Option 2, and Alternative 2, Option 4, with following language changes:

1. Under Alternative 2, Option 2 change the 1% to 5%, and

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2. Under Alternative 2, Option 4 add the language: "To facilitate disposition of forage fish taken as bycatch, forage fish may be used in meal production but cannot exceed 1% (0.01) of the total amount of product (waste and whole fish) used for meal within each calendar quarter."

Atka Mackerel 2% Jig Allocation. The AP recommended that the Council release for public review the EA/RIR that would authorize an allocation of Atka mackerel to vessels using jig gear with the following option changes:

1. Alternative 2: all options would be modified to include a suboption for step-up provisions of ½% increments up to 2% that would be frame-worked to allow moving to the next increment if quota was taken.
2. Delete Alternative 3.

Additionally the AP recommends the analysis include supplemental discussion regarding:

1. Alternative 4: what the TAC would have been in the Bering Sea the past six years if it was split out.
2. Discussion of the communities of Atka and Nikolski and their ability to use CDQ quota in the jig fishery.

VIP Standards The AP recommended the Council approve the VIP standards outlined in the letter from the NMFS Regional Director for the second half of 1997. The AP further suggested to the Council that it is appropriate to establish a *C. bairdi* VIP rate for the cod fishery in the Bering Sea.

DISCUSSION/ACTION

Forage Fish Amendment

Linda Behnken moved to approve Alternative 2, Option 2, as follows:

Alternative 2: A forage fish species category would be established for both the BSAI and GOA groundfish FMPS;

Option 2: Restrict the FFS category to a bycatch only fishery. A directed fishery for the FFS would not be allowed but these species could be harvested as bycatch in other directed fisheries. A 5% maximum retainable bycatch amount would be established for the forage fish species category in the aggregate.

The motion was seconded.

Wally Pereyra suggested that some reference to herring should be included in the analysis to indicate the Council wasn't ignoring it. Robin Samuelsen pointed out that the Council has protected herring by instituting a PSC cap and savings area and that further action is not necessary.

Ron Berg indicated that he could not support the motion because he felt the 5% maximum retainable bycatch amount was excessive.

By friendly amendment, the 5% maximum retainable bycatch amount was changed to 2%.

Earl Krygier moved to amend to include Option 4, as amended:

Option 4: The sale, barter, trade and any other commercial exchange, as well as the processing of FFS in a commercial processing facility, would be prohibited. However, some forage fish species are harvested in subsistence activities and this option does not intend to prohibit subsistence take and traditional trade and barter of FFS.

To facilitate disposition of forage fish taken as bycatch, forage fish may be used in meal production but cannot exceed 1% (0.01) of the total amount of product (waste and whole fish) used for meal within each calendar quarter.

The amendment failed, 7 to 4, with Berg, Krygier, Samuelson and Tillion voting in favor.

The main motion carried, 10 to 1, with Mace voting against.

Later in the meeting, Dave Benton moved to reconsider the motion. The motion to reconsider was seconded and carried without objection.

Dave Benton moved to amend the motion to include the following:

A vessel is prohibited from selling, bartering, trading or receiving any other remuneration for forage fish species other than that received for meal production. To facilitate disposition of forage fish taken as bycatch, forage fish may be used in meal production.

The motion was seconded and carried without objection. Council member Tillion was out of the room for the vote.

Atka Mackerel 2% Jig Allocation

Bob Mace moved to send the analysis out for public comment after incorporating the AP and SSC recommendations. The motion was seconded by Wally Pereyra.

Linda Behnken moved to amend the motion so that the step-up provision apply only to Options 3 and 4 under Alternative 2. The maker of the motion accepted this as part of the main motion.

The modified motion carried without objection.

VIP Standards

Bob Mace moved to approve the VIP rates for the second half of 1997 as proposed by the Regional Administrator in his letter dated April 8, 1997. The motion was seconded by Linda Behnken and carried without objection. The VIP rates are included with these minutes as Appendix IV.

With regard to the AP's suggestion to establish a VIP rate for *bairdi* in the cod fishery, staff was asked to report back in September with what would be required to accomplish this action.

SUMMARY

The Council approved an amendment to establish forage fish as a species category for both the Gulf of Alaska and Bering Sea/Aleutian Islands and to prohibit the establishment of target fisheries on forage fish species. The amendment will establish a 2% maximum retainable bycatch amount in other directed fisheries and prohibit the selling, bartering, trading, or receiving any other remuneration for forage fish species. The Council approved the release for public review of an analysis which would establish a 2% allocation of Atka mackerel to the jig fishery in the Bering Sea/Aleutian Islands, and approved VIP standards for the second half of 1997.

D-3 Scallop Management

ACTION REQUIRED

- (a) Review final SAFE report and approve TAC and PSC specifications.
- (b) Review Board of Fisheries actions.

BACKGROUND

Scallop SAFE and Specifications

The stock assessment and fishery evaluation (SAFE) is a requirement of the North Pacific Fishery Management Council's *Fishery Management Plan for the Scallop Fishery off Alaska*. The SAFE details the current biological and economic status of fisheries, total allowable catch levels (TACs), and support for different management decisions or changes in harvest strategies. The 1997 SAFE report was assembled by the scallop plan team with contributions from the State of Alaska Department of Fish and Game and the National Marine Fisheries Service. A copy of the SAFE was distributed to the Council family on April 2, and will be distributed to the public at this meeting.

Table 1. Scallop TAC amounts for the period July 1, 1997, through June 30, 1998, in pounds and kilograms of shucked scallop meat by scallop registration area and district.

Scallop Registration Area	TAC	
	lb	kg
Area A (Southeastern)	zero	zero
Area D (Yakutat)		
District 16	35,000	15,880
All other districts	250,000	113,430
Area E (Prince William Sound)	17,400	7,893
Area H (Cook Inlet)		
Kamishak District	28,000	9,074
Area K (Kodiak)	400,000	181,488
Area M (Alaska Peninsula)	200,000	90,718
Area O (Dutch Harbor)	170,000	77,132
Area Q (Bering Sea)	600,000	272,155
Area R (Adak)	75,000	43,019
TOTAL	1,767,400	810,789

The Council must approve scallop TACs and crab bycatch limits (CBLs) for the July 1, 1997 through June 30, 1998 scallop fishing year. The total annual TAC for scallops off Alaska will be established within the OY range of 0 to 1.8 million lb (0 to 815.5 metric tons) of shucked scallop meat. The State has established scallop guideline harvest levels (same as TACs) in regulation, and the State recommends that scallop TACs remain unchanged from the previous fishing year. These TACs are displayed in Table 1. A summary of the 1996 fishery is attached as Item D-3(a).

CBLs for the scallop fishery will vary from the 1996-97 fishing year because CBLs are based on a percentage of the crab abundance in each area as determined by the most recent crab survey in each area. In Area Q (Bering Sea) the Council has established CBLs according to specific formulas in regulation (C. bairdi at 0.13542%, C. opilio at 0.003176%). The CBL for red king crab in the Bering Sea must be specified within the range of 500 to 3,000 crabs. In all other areas where CBLs are necessary, the State has traditionally established CBLs at 1 percent or 0.5 percent of the most recent crab population estimate depending upon whether or not crab populations are sufficiently healthy to support

a directed fishery in that area. The 1997-1998 CBLs have been updated with the most recent crab survey results, as shown in Table 2.

Table 2. Crab bycatch limits for the period August 1, 1997, through June 30, 1998, in numbers of crabs by scallop registration area and district.

Scallop Registration Area	Crab Bycatch Limits		
	Red king	C. bairdi	C. opilio
Area A (Southeastern)	-	-	-
Area D (Yakutat)	-	-	-
Area E (Prince William Sound)	-	630	-
Area H (Cook Inlet)			
Kamishak District	60	29,000	-
Outer/Eastern Districts	98	2,170	-
Area K (Kodiak)			
Shelikof District	35	51,000	-
Northeast District	50	91,600	-
Area M (Alaska Peninsula)	79	45,300	-
Area O (Dutch Harbor)	10	10,700	-
Area Q (Bering Sea)	500	238,000	172,000
Area R (Adak)	50	10,000	-
Total	882	478,400	172,000

Board of Fisheries Actions

At their March meeting, the Alaska Board of Fisheries approved a change in the opening dates for the Yakutat/District 16 and Prince William Sound scallop fisheries from January 10 to July 1 with a biological closure of February 15. This change allows scallop fisheries in all areas to open simultaneously on July 1, with the exception of Cook Inlet that opens on August 15. Other changes included a requirement for vessels to obtain an ADF&G permit to commercially fish scallops in Cook Inlet, as well as closing waters to scalloping east of 162° W Longitude and around the Pribilof Islands to match trawl closures in the Bering Sea area. A proposal requiring a maximum 6-foot dredge size in state waters was not approved.

Report of the Scientific and Statistical Committee

The SSC cautioned that the scallop resource is poorly understood and recruitment is apparently highly variable. With the current lack of information they are not able to state that the GHs recommended by the State are appropriate and stressed the importance of ADF&G monitoring and in-season management. The SSC stressed the importance of developing an information base from resource surveys and analytical modeling to provide confidence that this fishery is being managed in a conservative fashion to ensure long-term sustainability.

Report of the Advisory Panel

The AP recommended that the SAFE report be approved and that the TAC and PSC allocations as outlined in the Council action memo, agenda item D-3, be approved.

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DISCUSSION/ACTION

With respect to the scallop fishery, Bob Mace moved to adopt the TAC and PSC numbers in Tables 1 and 2 in agenda item D-3. The motion was seconded and carried without objection. Council member O'Leary was out of the room for the vote.

E. FINANCIAL REPORT

The Council's Finance Committee met on Friday, April 18, to review the recent audit of the Council's last two years' funding (Cooperative Agreements). Representatives of the accounting firm Delloite-Touche provided the audit report to the Committee. No questioned costs or other negative findings were found in the audit. The Committee also approved payment of two Council contracts- (1) payment to Northern Forum for contract work performed on the Russian-U.S. cooperative management initiative, and (2) payment to the University of Alaska's Institute for Social and Economic Research (ISER) to contract work performed relative to the study of management alternatives for the guided sport fishery (charterboat fishery) for halibut. The Committee also discussed the issue of pass-through funding levels to the member States, but took no action with regard to that issue.

F. PUBLIC COMMENTS

There were no further public comments.

G. ADJOURNMENT

Chairman Lauber adjourned the meeting at approximately 12:30 p.m. on Saturday, April 19, 1997.