

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director



ESTIMATED TIME
3 HOURS

DATE: October 4, 1999

SUBJECT: Groundfish Amendments

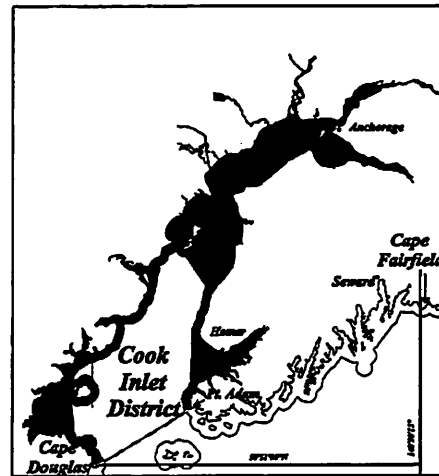
ACTION REQUIRED

- (a) Initial review of an analysis to prohibit the use of non-pelagic trawl gear in Cook Inlet.
- (b) Initial review of an analysis to manage sharks and skates in the BSAI and GOA.
- (c) Receive committee report on the pelagic trawl definition.

BACKGROUND

Cook Inlet non-pelagic trawl gear ban

At its October 1998 meeting, the Council approved a proposal submitted by the Alaska Department of Fish and Game (ADF&G) and requested that staff prepare an analysis of alternatives to prohibit the use of non-pelagic trawl gear in federal waters of Cook Inlet in the Gulf of Alaska (GOA). To protect and promote rebuilding of king and Tanner crab resources, the Alaska Board of Fisheries prohibited the use of non-pelagic trawl in state waters of Cook Inlet. However, a significant portion of critical habitat for these crab resources occurs in federal waters of Cook Inlet. Although little fishing effort has occurred with non-pelagic trawl gear, previous efforts to prohibit non-pelagic trawling in this habitat have largely been reactive. Greater long-term, proactive protection is needed for this habitat to promote rebuilding of these resources. The EA/RIR for this change to the GOA FMP analyzes four alternatives for gear specifications for the federal portion of Cook Inlet in the GOA. The executive summary is attached at Item D-1(a)(1). The following alternatives were included in the analysis.



- Alternative 1: No action.
- Alternative 2: Prohibit the use of non-pelagic trawl in federal waters of Cook Inlet.
- Alternative 3: Defer management of groundfish in federal waters of Cook Inlet to the State of Alaska.
- Alternative 4: Remove waters of Cook Inlet from the Gulf of Alaska FMP.

The SSC and AP reviewed the analyses in April 1999. The SSC approved the analysis for public release with changes to be made. An excerpt of the April 1999 SSC minutes is attached as Item D-1(a)(2). The AP requested that staff expand the analysis and schedule initial review again for October. Its recommendations are attached as Item D-1(a)(3). Due to a lengthy agenda, the Council did not review this analysis in April. Accordingly, staff revised the discussion as suggested by the AP and only added its list of new alternatives recommended to the analysis, but did not incorporate them fully into the analysis, pending Council approval. Final action will be scheduled for February 2000 to allow staff to revise the analysis to conform with new NMFS guidelines for preparation of EA/RIR/IRFAs.

- Alternative 5: Require observer coverage when operating within the proposed closure area.
- Alternative 6: Establish time and area closures.
- Alternative 7: Place federal waters of Cook Inlet under a Commissioner's Permit.
- Alternative 8. Establish Cook Inlet as a marine reserve.

Shark and skate management

The potential for rapid growth in commercial fishing, and the potential for over-exploitation in combined state and federally managed fisheries convinced the Alaska Board of Fisheries in February 1998, to close the directed commercial fishery for sharks and establish a Commissioner's permit requirement to commercially fish skates and rays in state waters of Alaska. Under these actions, bycatch of sharks was limited to 20% of other landed groundfish. The Board also took action to place an annual statewide harvest limit on the sport take of sharks.

ADF&G submitted a proposal to revise management of sharks and skates in Alaska EEZ waters during the summer 1998 call for proposals. The Board brought the issue to the Council at the July 29-30, 1998 meeting of the Joint Committee of the Board of Fisheries/North Pacific Fishery Management Council. At this meeting, complementary federal action was discussed and the joint committee recommended that the Council proceed with development of an analysis of the proposed alternatives. The Council initiated analysis of plan amendments to the BSAI and GOA groundfish FMPs at its October 1998 meeting. It was scheduled for initial review in April 1999. Only the SSC reviewed the analysis at that meeting and approved the analysis for public review pending some changes (Item D-1(b)(1)). The SSC also recommended that the Plan Teams review the assessments of sharks and skates and the impacts of creating a separate management category for these species. The Teams' comments are attached as Item D-1(b)(2).

The analysis was mailed to you on October 1, 1999. The executive summary is attached as Item D-1(b)(3). The suite of alternatives are listed below. While ADF&G staff initially supported Alternative 4, the analysis indicates that the best management approach would likely occur under Alternative 2. Final action is scheduled for February 2000 to allow staff to revise the analysis to incorporate stock assessment and Plan Team findings from their November meeting and to conform with new NMFS guidelines for preparation of EA/RIR/IRFAs.

- Alternative 1: No action.
- Alternative 2: Separate sharks and skates from the "other groundfish" species category and enact specific federal regulations.
- Alternative 3: Separate sharks and skates from the "other groundfish" species category and defer management to the state.
- Alternative 4: Delete sharks and skates from the BSAI and GOA groundfish FMPs.

Pelagic trawl definition

In March 1999, the Board was scheduled to take complementary action to mirror the bottom trawl ban in federal waters that was approved by the Council in June 1998. The Board sent a letter to the Council which identified a conflict in the federal and state definitions of pelagic trawl gear. The issue was referred to the Council's Enforcement Committee in April 1999. The Council's charge to the Enforcement Committee from the Council was to identify: 1) if a conflict occurs between the state and federal definitions of pelagic trawl gear; 2) if a problem occurs as a result of conflicting gear definitions; and 3) a new definition of pelagic trawl gear, if needed. The committee meeting was well-attended by the public and after discussion, it determined that no problem exists in terms of enforcement of the respective gear definitions. The state definition is enforceable in state waters and the federal definition is enforceable in federal waters. The committee determined that the State and Federal pelagic trawl definitions are clear and not confusing within the separate governmental jurisdictions. Committee minutes are attached as Item D-1(c).

The Enforcement Committee report was scheduled to be placed on the summer agenda of the Joint Board/Council committee meeting, but was deferred due to other committee business. The Council may wish to direct staff to send a letter to the Board conveying these comments.

EXECUTIVE SUMMARY

The Magnuson-Stevens Act emphasizes the importance of bycatch effects on achieving sustainable fisheries. National Standard 9 mandates that conservation and management measures shall, to the extent practicable: minimize bycatch; and to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. This analysis addresses the use of non-pelagic trawl gear in federal waters of Cook Inlet in the Gulf of Alaska north of a line from Cape Douglas to Point Adam. This area is currently managed as part of the Central Regulatory area in the Gulf of Alaska. Historically, Cook Inlet supported significant fisheries for King and Tanner crab and currently supports limited fisheries for Pacific cod. King and Tanner crab resources in the Cook Inlet portion of the Gulf of Alaska remain depressed. King crab fisheries have remained closed since 1984. Commercial Tanner crab fisheries have remained closed since 1994. In the absence of Gulf of Alaska federal management of crab stocks in the GOA prior to August 1, 1996, the State has jurisdiction for managing all crab stocks in the GOA EEZ.

To protect and promote rebuilding of King and Tanner crab resources, the Alaska Board of Fisheries prohibited the use of non-pelagic trawl in state waters of Cook Inlet. However, a significant portion of critical habitat for these crab resources occurs in federal waters of Cook Inlet. Although little fishing effort has occurred with non-pelagic trawl gear, previous efforts to prohibit non-pelagic trawling in this habitat have largely been reactive. Greater long-term, proactive protection is needed for this habitat to promote rebuilding of these resources. The EA/RIR for this change to the Gulf of Alaska Fishery Management Plan analyzes seven alternatives for gear specifications for the Cook Inlet portion of the Gulf of Alaska:

Alternative 1: No action.

Alternative 2: Prohibit the use of non-pelagic trawl in federal waters of Cook Inlet.

Alternative 3: Defer management of groundfish in federal waters of Cook Inlet to the State of Alaska.

Alternative 4: Remove waters of Cook Inlet from the Gulf of Alaska FMP.

The status quo alternative was not recommended by the State of Alaska as it would allow crab stocks to continue to be vulnerable to bycatch mortality by non-pelagic trawling in federal waters of Cook Inlet.

Alternative 2, the preferred alternative by the Alaska Department of Fish and Game (ADF&G), would prohibit the use of non-pelagic trawl gear in federal waters of Cook Inlet. The Alaska Board of Fisheries (Board) has prohibited the use of non-pelagic trawl gear in state waters of Cook Inlet. The proposed closure in federal waters would provide long-term protection to depressed King and Tanner crab resources in Cook Inlet and would provide concurrent management approaches with ADF&G. Because little fishing with non-pelagic trawl gear has occurred in this area, this will not significantly impact existing fisheries. Alternative 2 would implement consistent gear restrictions in this area to optimize protection and rebuilding of crab resources.

Alternative 3 would defer management of groundfish in federal waters of Cook Inlet north of a line from Cape Douglas to Cape Elizabeth to the State of Alaska. It would expand upon the management authority proposed under Alternative 2, by authorizing ADF&G and the Board to manage all groundfish stocks within federal waters of Cook Inlet, while retaining ultimate management authority under the National Marine Fisheries Service (NMFS), in consultation with the Council. This area currently supports fisheries for Pacific cod.

Alternative 4 would withdraw Cook Inlet from the Gulf of Alaska FMP. The State of Alaska would assume management authority of groundfish in the absence of federal management, as constrained by Section 306(a)(3) of the Magnuson-Stevens Act. The primary groundfish fishery in this area is currently Pacific cod. The Alaska Board of Fisheries has prohibited the use of non-pelagic trawl gear in Cook Inlet state waters. Because little fishing with non-pelagic trawl gear has occurred in this area, this alternative will not significantly impact existing fisheries. Alternative 4 would clarify fishing opportunities by establishing a single management agency for groundfish in Cook Inlet, while also optimizing protection and rebuilding of crab resources.

D-1(c) PROHIBIT NON-PELAGIC TRAWL GEAR IN COOK INLET

Bill Bechtol of ADF&G presented the EA/RIR/IRFA for a proposed amendment to ban non-pelagic trawl gear in Cook Inlet. No public testimony was received.

Historically, there has been very little non-pelagic trawl activity in Cook Inlet. The intent of the action proposed here is to minimize impacts on the brood stocks of Cook Inlet king and Tanner crab stocks. There has been no commercial harvest of king crab from Cook Inlet since 1984 and no commercial harvest of Tanner crab since 1994.

The SSC finds that the document is generally well structured and recommends it be released for public comment conditioned upon addition and expansion of the following discussion points:

1. There is no discussion of economic opportunities foregone due to closure of the area to non-pelagic trawling.
2. A listing of the groundfish composition in the region should be included as well as any survey data from the region.
3. The ADF&G has already closed state waters in Cook Inlet to non-pelagic trawling. A description of the proportion of total crab habitat and/or biomass that remains vulnerable to impact from bottom trawling would be helpful, i.e., identification of the fraction of the crab resource found in federal waters.
4. A figure showing trawl survey locations used to compute the trawl survey index should be added.
5. The decline in both the king and Tanner crab stocks has occurred at the same time as declines in many of the other crustacean stocks in the Gulf of Alaska. The document should discuss these declines in a broader ecosystem context.
6. A ban on trawling around Kodiak Island was instituted following collapse of those king crab stocks in the early 1980's. To date, those stocks have not recovered. It is likely that rebuilding of these stocks may await improved environmental conditions. The proposed activity is a pro-active measure whose intent is to preserve brood stock such that the populations are able to take advantage of a crab-favorable change in the environment.

D-1(c) Non-pelagic Trawl Ban in Cook Inlet

The AP recommends the Council postpone action on the EA/RIR prohibiting the use of non-pelagic trawl gear in Cook Inlet until an analysis identifying less stringent alternatives such as:

1. Observer coverage requirement when in area.
2. Time and area closures.
3. Commissioner's permit.

can be included for initial review in October 1999.

Additionally, include (1) a discussion regarding other fisheries that are currently prosecuted in this area and their effect on habitat, and (2) examine the suitability of this area as a marine sanctuary. Motion carries 15/2.

D-1(e) SHARK MANAGEMENT

The SSC received a report on the Draft EA/RIR/IRFA for Amendment 63/63 to the Fishery Management Plans for the Groundfish Fisheries of the Bering Sea/Aleutian Islands and Gulf of Alaska from Jane DiCosimo (NPFMC) and Linda Brannian (ADF&G). We recommend that the document be released for public review after the following issues are addressed:

1. Reconsider the inclusion of common thresher sharks in the amendment given that its distribution is from British Columbia south to central Baja, California, Mexico.
2. Alternative 2 proposes to remove sharks and skates from the "other species" category and enact appropriate federal management measures

It is suggested that the forage fish species model is one way of managing these resources. The SSC suggests that a discussion of the implications of using the ABC/TAC approach be included in the document.

3. During the SSC's discussion of this amendment, it was suggested that the Plan Team review the "other species" category generally to determine if adequate protection is provided for individual species to ensure their conservation.

Sharks and skates. Jane DiCosimo presented a brief summary of the shark and skate analysis. No specific federal regulations specific to protect sharks in the North Pacific currently exist. The teams discussed whether current state regulations (both commercial and sport) were adequate to ensure conservation of sharks. Alaskan sharks likely have between-species differences in vulnerability to overfishing. In particular, salmon sharks are vulnerable to targeting because they can aggregate in shallow waters where sport fishing generally occurs. The teams further recommended that a quantitative population analysis is needed to evaluate whether current state regulations are adequate to protect salmon sharks from overfishing. Implementing the same regulations in the EEZ may not be adequate.

In response to the SSC's April 1999 minutes, the teams do not believe that current federal management of other species can be determined to be adequate for individual species. Determination is limited by current survey methodology, catch estimations (lack of observer coverage in the GOA contributes to poor identification at the species level for some species), and possible under-reporting of catch (an undetermined amount used as bait). However, adequate protection may be occurring at the group level. Team members suggested that sharks may need special protection, and that a bycatch only restriction may be appropriate, although there was not a clear consensus on this recommendation. The teams agreed that current catch rates and biomass estimates for skates do not currently warrant a bycatch only fishery. The teams noted that the State of Alaska has recently set a bycatch rate for sharks of 20%, but perhaps could support rates as high as 35% to allow utilization of bycaught harvest amounts.

Public comment suggested that bycatch only status may be appropriate for sharks, but that further restrictions on commercial exploitation of the other species are not warranted. The teams also discussed that skates would likely support commercial fisheries, since marketing of bycaught skates currently occurs and cumulative catch of all other species in the GOA is well under the 5% cap on catch. They also recommended restricting a proposed finning ban to sharks. Al Burch reported that a commercial market for skate wings brings in approximately \$0.35-.40/lb and a relatively high recovery rate from the trawl fleet.

In reviewing the alternatives in the analysis, the Teams recommend that the Federal government not defer management to the state of Alaska for three reasons: 1) Sharks are an important part of the ecosystem in Federal waters, implying that groundfish and sharks in Federal waters should be managed together. For an ecosystem and multispecies management approach, it is more appropriate to maintain shark management in conjunction with other groundfish species management within federal waters of the North Pacific ecosystem. 2) Most shark harvests occur in Federal waters. 3) No specific state management and research program is in place. However, sufficient rationale based on distribution, catch, and research efforts leads the teams to recommend continued federal management of both species (Alternative 2). The teams further recommend additional efforts to sample other species as current data collection is inadequate. The teams support the ADF&G decision to reinstate salmon shark reporting in the statewide charter logbook in 2000 after being dropped in 1999. The team further supports reporting of all recreational shark catches by species (ADF&G sport logbook). Additional data collection towards collecting information on bycatch mortality in the commercial gillnet and seine salmon fisheries and at-sea discards would address needs to augment total estimates of removals.

EXECUTIVE SUMMARY

Little information exists regarding the stock structure or status of shark and skate populations in Alaska. Life history information, however, suggests shark species are easily over-exploited and, once over-fished, recovery may take decades. Experiences in other management jurisdictions show shark stocks in both the Pacific and Atlantic oceans to be over-exploited. A small commercial market in Alaska occurs for skates. A precautionary approach to managing these species is also warranted given the potential to overfish skates as bycatch in groundfish fisheries. The barndoor skate is currently being considered by the National Marine Fisheries Service for inclusion on the list of threatened or endangered wildlife on the east coast of the U.S.

The potential for rapid growth in commercial fishing, and the potential for over-exploitation in combined state and federal managed fisheries, convinced the Alaska Board of Fisheries to take regulatory action to close the directed commercial fishery for sharks and skates. The Board brought the issue forward at the July 29-30, 1998, meeting of the Joint Committee of the Board of Fisheries/North Pacific Fisheries Management Council. At this meeting, complementary federal action was discussed and the joint committee recommended that the Council proceed with development of an analysis of the proposed alternatives. Invoking the precautionary approach to management of these long-living, slow-growing, and low fecund fishes and other regional and international efforts to conserve sharks and skates, at its October 1998 meeting the Council initiated analysis of the following four alternatives (as modified). Alternatives 2 through 4 are intended to promote conservation and improve management of Atka mackerel and "other species," and to further the goals and objectives of the FMP. Alternative 2 could be undertaken through the annual specifications process. Alternatives 3 and 4 require a plan amendment to the Bering Sea/Aleutian Islands and the Gulf of Alaska groundfish FMPs.

Alternative 1: No action.

Alternative 2: Separate sharks and/or skates from the "other species" category through the annual specifications process and enact federal regulations as specified by the Council.

Alternative 3: Amend the BSAI and GOA groundfish FMPs to separate sharks and/or skates from the "other groundfish" species category and defer management to the State of Alaska.

Alternative 4: Amend the BSAI and GOA groundfish FMPs to delete sharks and/or skates from the BSAI and GOA groundfish FMPs.

**Enforcement Committee
Minutes
April 21, 1999**

The committee convened at April 21, 1999 at approximately 6 p.m. Committee members in attendance: Dave Hanson (Chairman), Bill Karp, Sue Salveson, Steve Meyer, CAPT Vince O'Shea, and CAPT Al Crain and Col. John Glass (State of Alaska Fish and Wildlife Protection). Other staff in attendance: Jane DiCosimo, Earl Krygier, and Jay Ginter. Public in attendance were Craig Cochran, Al Burch, Carl Halflinger, John Henderschedt, John Gauvin, Paul MacGregor.

Earl Krygier informed the committee and participants on the background to the Council charge to the committee. Both the State and Federal regulations define pelagic and non-pelagic trawl gear. The state definition for non-pelagic trawl gear does not allow for any contact of gear with the seabed. The federal definition of non-pelagic trawl gear is performance based, and allows incidental contact with the bottom with the allowance of 20 crab of any species ≤ 1.5 inches (38 mm) at the widest dimension. The BOF has proposed a third definition for "demersal" trawl that would equate to the federal definition of non-pelagic trawl. The federal definition of pelagic trawl definition would be redefined as equivalent to "mid-water" trawls. This third definition is proposed to eliminate regulatory confusion to fishermen in both state and federal waters.

The committee determined that no problem exists in terms of enforceability of the respective gear definitions. The state definition is enforceable in state waters; the federal definition is enforceable in federal waters.

The committee determined that the State and Federal pelagic trawl definitions are clear and not confusing within the separate governmental jurisdictions. The committee heard testimony from the public that the industry accepts the inconvenience of the different definitions due to its overwhelming support of the federal definition which can allow for truly incidental contact with the bottom. The committee recommends not changing the federal definition. Additional consideration of gear impacts on the bottom may be addressed by the Council with other management mechanisms, such as habitat areas of special concern.