

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



ESTIMATED TIME  
4 HOURS

DATE: October 6, 1999

SUBJECT: Staff Tasking

**ACTION REQUIRED**

- (a) Review status of current tasking.
- (b) Review new groundfish and crab proposals.

**BACKGROUND**

(a) Current Tasking

In addition to minor projects, committee and Plan Team meetings, conferences, and other duties, the following major tasks are on the Council staff's plate in the immediate future:

- excessive share cap amendment per AFA
- analysis of P. cod species/gear endorsements
- two crab rebuilding plans
- rewrite/update BSAI and GOA groundfish FMPs
- halibut charterboat GHM/moratorium analysis
- halibut/sablefish IFQ analyses to be tasked in December 1999
- HAPC amendments
- HMAP amendments
- full retention for GOA shortraker/rougheye rockfish

The Council approved a rewrite of the BSAI and GOA FMPs in 1997, but staff has yet to complete it, other than including newly approved FMP amendment text. NOAA General Counsel has recently highlighted the need to have the FMPs revised and this needs to be a high priority for the Council. Some of the Plan Coordinators' time definitely needs to be earmarked for this effort, possibly for initial review in April and final action in June, which would precede the public release of the revised groundfish SEIS next October.

The Council will have to initiate amendments to the BSAI crab FMP to develop rebuilding plans for *opilio* and St. Matthew Island blue king crab. These plans will need to be ready for initial review in April 2000 and final action in June. Analysis of excessive share caps and P. cod species/gear endorsements are both major projects, the priority of which is up to the Council. Either or both of these will require outside contracting assistance. The halibut GHM analysis will be time consumptive as well, particularly between now and December to have the document available for public review.

Potential additional projects coming out of this meeting include: analysis of up to six CDQ program amendments; crab standdown alternatives; possible amendment to the crab FMP; further work on GOA co-ops; and, work associated with a crab buyback program should the Council go ahead with developing the industry proposal. Sablefish/halibut IFQ proposals will be reviewed and tasked in December.

NMFS staff, in addition to processing rulemakings for previous and new actions, is currently consumed by three primary issues: (1) Steller sea lion-related actions, (2) preparation of the groundfish SEIS, and (3) implementing co-ops, sideboards, and other aspects of the AFA. A variety of MSCDQ actions, shown in D-4(a), also are consuming staff time.

(b) 1999 groundfish and crab proposals

The BSAI and GOA Plan Teams and Crab Plan Team provided comments on the 14 groundfish proposals submitted in 1999. Three of those also pertained to crab management. A staff summary of the proposals incorporates committee and staff recommendations (Item D-4(b)(1)). The proposals were assigned to four descriptive categories: overfishing, bycatch, GOA management, and other. Two proposals (to revise the overfishing definitions) were ranked very high, five were ranked high, six were ranked medium, and one was ranked as low priority. The proposals are included as (Item D-4(b)(2)).

**Update on Regulatory Actions and Requested Analyses for the Multispecies  
Community Development Quota Program**

October 4, 1999

	Action	Status (date)	Staff Responsible
1	AFA proposed rulemaking (PR)	Monitor development of AFA PR to ensure consistency between AFA and CDQ catch accounting regulations	NMFS (Bibb)
2	Proposed rule for Amendment 66 - removing squid as CDQ species and defining directed fishing for pollock CDQ (60% threshold)	Draft FMP amendment, PR in review in Regional Office. PR could publish about 12/1/99. Final rule will not be in effect by 1/20/2000.	NMFS (Bibb)
3	Approval of 2000 pollock CDQ allocations	Conduct review of State's recommendations in October, 1999 and publish FR notice by December 15, 1999.	NMFS (Davis)
4	Analysis of problems in CDQ catch accounting for longline catcher vessels and small catcher/processors	Discuss analysis at Oct. Council meeting.	NMFS (Kinsolving/Bibb)
5	Steller sea lion protection measures PR	Ensure that PR correctly implements protection measures that are meant to apply to CDQ fisheries	NMFS (Bibb)

6	Final rule for pollock CDQ under AFA	Preparation of final rule package starting in Dec. 1999.	NMFS (Bibb)
	Analysis of alternatives to reduce observer coverage requirements for shoreside processors in CDQ fisheries	Council requested analysis at October, 1998 meeting. Draft prepared for April, 1999 meeting but was postponed. At October, 1999 Council meeting we need to review status of this issue	NMFS (Bibb) could be reassigned if high enough priority
	Add new eligible communities to 50 CFR 679, Table 7	2000 Recordkeeping and Reporting PR	NMFS (Bearden)
	Halibut area 4D/4E issues (trip limit, location of catch)	Analysis and rulemaking package being prepared. Expected implementation for 2000.	NMFS (Lepore)
	Crab CDQ season start date	Analysis and proposed rule package being prepared.	NMFS (Harrington)
	CDQ trawl season start date	Prepare analysis for Council review. Work on this analysis has not yet begun.	not assigned
	Alternative CDQ quota management measures (underage and overage provisions, remove CDQ species, etc.)	Prepare analysis for Council review. Work on this analysis has not yet begun.	not assigned

Groundfish Plan Team review of 1999 amendment proposals received through September 27, 1999						
No.	Proposal	Proposer	Area	Amendment	Effect*	Rank
<b>Overfishing</b>						
1	est. MSSTs, inc. target stock size, adopt conservative harvest control rules	CMC	both	plan	C	H+
2	analyze MSSTs to overfishing definitions	AMCC	both	plan	C	H+
<b>Bycatch</b>						
3	groundfish & crab IFQ program	fraser	both	plan	E	H
4	public disclosure of new catch and bycatch data	AMCC	both	neither	B	H
5	establish true PSC limits for BS pollock fishery	AMCC	BSAI	regulatory	B	M
6	rescind chum salmon savings area trawl closure & manage cap under coop	UCB	BSAI	plan	B	L
7	reapportion PSC amounts between fisheries in same gear group	G. Forum	both	regulatory	B	H
<b>GOA management</b>						
8	split P. cod by gear type "mobile/fixed" based on 1995-97 average	ADA	GOA	plan	A	M
9	rockfish preseason reg.; CG season apportion; allocate at-sea/catcher vessels	AGDB	GOA	plan	A	M
10	rockfish preseason registration & other measures to restrict preemption	G. Forum	GOA	plan	A	M
11	longline only on October 1 in CG	Filiatraut	GOA	plan	A	M
12	buyback program for GOA trawlers	ADA	GOA	plan	E	H
15	change pollock 'C' season start date & release halibut PSC on October 15	Ocean Beauty	GOA	regulatory	A	LATE
<b>Other</b>						
13	allow 24" tunnel opening in fish pots in >200 fm, west of 172 W, May - Aug	Jacobsen	BSAI	regulatory	E	H
14	framework BSAI longline cod season in 1st & 3rd trimesters	NPLA	BSAI	plan	E	M
16	establish P. cod allocation for Adak	Aleut Corp.	BSAI	plan	A	LATE

A= Allocation, B = Bycatch, C= Conservation, E = Efficiency, H = High, M = Medium, L = Low

10/8/1999

AGENDA D-4(b)(1)  
OCTOBER 1999

## 1999 GROUND FISH AND CRAB PROPOSALS

The Council received 14 plan and regulatory amendment proposals in the 1999 amendment cycle. The following section summarizes these proposals and incorporates comments from the Groundfish and Crab Plan Teams. These proposals are in addition to 10 IFQ proposals that were submitted in the biennial call for IFQ proposals. The halibut and sablefish IFQ proposals will be reviewed by the Council for staff tasking at the December Council meeting.

### Overfishing

**#1&2** A lengthy three-part proposal by the Center for Marine Conservation identified the need to: 1) establish explicit and precautionary minimum stock size thresholds (MSSTs) for each of the groundfish stocks in the BSAI and GOA; 2) increase the default target stock size to 50% of the pristine stock size; and 3) adopt more conservative harvest control rules. Alaska Marine Conservation Council (AMCC) also submitted a proposal to add MSSTs to the BSAI and GOA FMPs overfishing definitions. The Groundfish Plan Teams ranked these proposals for plan amendments as having the **highest priority** of all submitted in 1999. NMFS AFSC has already identified the need to calculate MSSTs (see Balsiger letter dated August 5 under Supplemental). The Groundfish Plan Teams discussed the need to include status determination criteria (for each stock presently in tiers 1-3). MSSTs will be provided by stock assessment authors beginning in November. Grant Thompson, AFSC, would likely take the lead in preparing the analysis. Initial and final review could be scheduled for April and June 2000.

### Bycatch

**#3** Dave Fraser submitted a proposal to begin analysis of a comprehensive individual fishing quota program for these fisheries. This proposal was ranked **high** by the Groundfish Plan Teams, recognizing the overcapitalized state of the fisheries, the race for fish, National Research Council support for lifting the Congressional prohibition on development of additional IFQ programs, and crashed *opilio* crab stocks. The Groundfish Plan Teams noted that a comprehensive IFQ program would address many of the problems raised by other groundfish proposals submitted this cycle. The Crab Plan Team also noted that the Board of Fisheries and ADF&G have management difficulties due to high fishing effort on crab stocks. As noted in previous team minutes, analysis should examine other options (such as individual pot quotas, co-ops, restrictive LLP) to address overcapacity, the race for fish, and associated problems. In 1998, the Groundfish Plan Teams also ranked this proposal as a high priority. Analysis of this proposal would require significant staff time and would not likely be scheduled for initial review before April 2001, given previously assigned analyses.

**#4** AMCC submitted a proposal to allow public disclosure of catch and bycatch data. The Groundfish Plan Teams noted this proposal is not a plan or regulatory proposal, but ranked it as **high** priority for development into the discussion paper to describe the legal issues and public interest in describing bycatch. The Groundfish Plan Teams further noted that it may more appropriately be submitted to Congress as an MSFCMA amendment or to NMFS and the state of Alaska to develop a data request protocol for public acquisition of currently confidential data. This would not require a significant amount of staff time.

- #5** AMCC also submitted a proposal to establish “true” PSC limits for the Bering Sea pollock fishery, requiring a BSAI regulatory amendment to separate pollock from the pollock/Atka mackerel/“other species” category and to account for pollock bycatch separately. The Groundfish Plan Teams ranked this proposal as having **medium** priority because regulations are currently in place to prevent exceeding overall PSCs. The Groundfish Plan Teams noted that PSCs have not been exceeded by the trawl fleet in recent years. Further discussion can be found on a related issue under proposal #7. The Crab Plan Team noted that the midwater pollock fishery generally catches very few crabs. The team would like more research on unobserved mortality of crabs due to pelagic and bottom trawl gear. This analysis would likely require a low to moderate amount of staff time.
- #6** United Catcher Boats submitted a BSAI plan amendment to: 1) rescind the mandatory August trawl closure and to 2) allow for a chum salmon cap of 42,000 to be managed under the co-op system. The Groundfish Plan Teams ranked this proposal as **low**, noting that the Council is examining an individual bycatch accounting program. This would require a reasonably significant amount of staff time.
- #7** Groundfish Forum submitted a BSAI and GOA regulatory amendment to allow PSC limits to be reapportioned from one fishery category to another within the same gear group during a fishing year, thus providing flexibility to adjust to unforeseen market and fishery conditions. The Groundfish Plan Teams gave a **high** ranking to development of a discussion paper of this proposed change. The Crab Plan Team noted that flexibility could potentially result in crab bycatch limits reaching the caps. The team was particularly concerned that the bairdi caps not be allowed to be adjusted between zones. It was noted that the flexibility may be more important for halibut than crab, and the team suggested that this first be tried with halibut only, if the proposal is recommended for analysis. This analysis would likely require a low to moderate amount of staff time.

### **GOA management**

- #8** Alaska Dragers Association submitted a placeholder proposal for a GOA plan amendment to split the Pacific cod quota by gear (mobile vs fixed) based on the 1995-97 average. The Groundfish Plan Teams noted that this proposal addresses a longstanding problem in the GOA between trawl and fixed gear fisheries and provides greater access for all fishing sectors. This fishery may also see additional effort as a result of the opilio crab situation (see recommendations under #11 and 12). The Groundfish Plan Teams ranked this as **medium** priority. This would likely require a significant investment of staff time, as seen by the work required to develop the BSAI cod split (BSAI Amendment #64).
- #9&10** Alaska Groundfish Databank submitted a GOA plan amendment proposal to: 1) create a 14-day advance registration program for rockfish fisheries; 2) apportion Central GOA rockfish fisheries into several short openings; and 3) allocate rockfish between at-sea and catcher vessels. Groundfish Forum also submitted a GOA plan amendment proposal to create an advance registration program for rockfish fisheries in the Central GOA to prevent TAC shortages/overages and to minimize preemption of shore-based catcher vessels and processors. Its intent is similar to #9, except for designating the advance notice. The Groundfish Plan Teams supported such a registration program, and noted that the Council already recommended a preseason registration program for Western/Central GOA pollock and cod that has not yet been implemented. These proposal would create two additional TACs, but would provide a benefit to the fleet. Industry noted that these proposals are placeholders while industry attempts to resolve quota overages for GOA rockfish and that LLP will impact participation in 2000 and beyond. The Groundfish Plan Teams recommend a

staff review panel (Council, NMFS Regional Office, NMFS AFSC, and ADF&G) for management of GOA rockfish and ranked this proposal as **medium** priority (see related discussion under #10).

#11 Robert Filiatraut submitted a GOA plan amendment to open the October 1 Pacific cod fishery to the longline fleet instead of trawl fleet and increase the halibut PSC limits for longliners. The Groundfish Plan teams suggested that a direct solution to the lack of halibut PSC later in the fishing year could be addressed under the specifications by shifting more halibut PSC on October 1, but would need the gear split as proposed under proposal #8. This proposal was ranked as **moderate** priority (see related discussion under #8). This would require a low investment of staff time, because the Council can effect a change during final specifications.

#12 Alaska Draggers Association submitted a GOA plan amendment for a buy-back program for GOA trawlers. This proposal by itself does not reduce the race for fish but should be included for analysis as one tool to reduce overcapitalization. It received a **high** ranking (#3 would address this problem). A buy-back program could require a significant amount of staff time.

#15 Ocean Beauty submitted a GOA groundfish proposal to: 1) change the season start date for the Central Gulf pollock "C" season from August 20 to September 1; and 2) to release the 4<sup>th</sup> quarter halibut PSC limit on October 15 to provide equal access to all fishing sectors. The August 20 start date was selected in 1999 as part of the overall Steller sea lion RPA action. Alternative dates were included as part of that recent analysis. While one outcome of the new date may be increased salmon bycatch, there are obvious legal issues related to the proposed action. The second part of the proposal, and the impacts on catcher vessels of preemption of halibut PSC amounts by catcher processors, can be addressed during final specifications. On Oct 1, busy fishing pollock and catcher processor fleet could be fishing other groundfish and using up halibut bycatch, preemption issue but don't want neutral for management, has socioeconomic impacts and would have wide support locally. This was submitted after the committees had met; therefore, there are no ranking or comments. (LATE)

#### Other

#13 Scott Jacobsen et al. submitted a BSAI regulatory amendment to allow a 24 inch tunnel in fish pots to allow the use of the gear in the Greenland turbot fishery due to high predation on fish from killer whales. The Groundfish Plan Teams assigned this proposal a **high** ranking as an experimental fishing permit proposal. It would increase the tunnel opening from 9 to 24 inches; the 9 inch size was originally chosen to avoid halibut bycatch and allowed a pot exemption for halibut PSCs. Benefits to this change include: 1) allowing participation by pot vessels in the turbot fishery; 2) providing a better estimate of fishing mortality for Greenland turbot due to orca predation; and 3) allowing the TAC to be taken. Negative impacts include: 1) the possibility of increased bycatch of crab and halibut with this gear configuration; and 2) enforcement problems resulting from the difficulty of determining the actual depth the gear is fished. This may not require a significant amount of staff time, but all EFPs now require a regulatory amendment.

#14 North Pacific Longline Association resubmitted this proposal from 1998 as a late proposal in this cycle. The proposed BSAI cod split may mitigate the need for this action, but inseason frameworking of season start dates would enhance efficiency. It was ranked low in 1998, but received a **medium** ranking in 1999. Given when shorttail albatross leave the fishing grounds, a delayed start date could



further minimize seabird interactions; however using seabird interactions as a sole justification for this action would make an earlier start date (back to October 1 through frameworking) would be harder to justify. Frameworking this change may not require a significant initial staff investment, but the potential for annual changes may affect staffing.

#16 The Aleut Corporation has requested a Pacific cod allocation for Adak residents. The allocation would be near Seguam Pass for vessels under 60 feet. (LATE)

# ACTION TRACKING - STATUS

ID	Task Name	1998												1999								
		Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
1	<b>Amendment 57 BSAI - Bottom trawl ban</b>																					
2	Council Action																					
3	Staff finalization of documents/ NMFS review																					
4																						
5	<b>Amendment 59 (GOA) - Prohibit fishing on Cape Edgecomt</b>																					
6	Council Action																					
7	Staff finalization of documents/NMFS review																					
8																						
9	<b>Amendment 54/54 - IFQ amendments</b>																					
10	Council Action																					
11	Staff finalization of documents/NMFS review																					
12																						
13	<b>Amendments 60/58/10 - LLP</b>																					
14	Council Action																					
15	Staff finalization of documents/NMFS review																					
16																						
17	<b>Amendment 4 - Scallop LLP</b>																					
18	Council Action																					
19	Staff finalization of documents/NMFS review																					
	<b>Amendment 58 (BSAI) - Chinook salmon bycatch</b>																					
	Council Action																					
	Staff finalization of documents/NMFS review																					



1950

1951

1952

1953

1954

1955

1956

1957

1958

# ACTION TRACKING - STATUS

ID	Task Name	1998												1999									
		Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	
25	<b>Amendment 6 - Salmon overfishing</b>																						
26	Council Action																						
27	Staff finalization of documents/NMFS review																						
28																							
29	<b>Amendment 66 (BSAI) - Remove squid from CDQ</b>																						
30	Council Action																						
31	Staff finalization of documents/NMFS review																						
32																							
33																							
34																							
35																							
36																							
37																							
38																							
39																							
40																							
41																							
42																							
43																							
44																							
45																							
46																							
47																							
48																							

# ACTION TRACKING - STATUS

1998

Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 1999  
 Jan Feb Mar Apr May Jun Jul Aug Sep Oct

Task Name	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	
50 Sitka halibut LAMP Council Action	◆																					
51 PR Published in Federal Register																						
52 FR Published in Federal Register																						
53 Regulatory Amendment - SRRE MRB retention																						
54 Council Action																						
55 PR Published in Federal Register																						
56																						
57																						
58 Council Action																						
59 Staff finalization of documents/NMFS review																						
60 PR Published in Federal Register																						
61 Final Rule Submitted to DOC																						
62																						
63																						
64 Commercial Operator's Annual Report																						
65 Council Action																						
66 Staff finalization of documents/NMFS review																						
67																						
68 Regulatory Amendment - Atka mackerel VMS																						
69 Council Action																						
70 Staff finalization of documents/NMFS review																						

64 FR 22826

64 FR 52468

64 FR 42080

64 FR 5868

**From:** Hiroshi Hasegawa <hasegawa@bio.sci.toho-u.ac.jp>  
**To:** Thorn Smith <Thorndog@worldnet.att.net>  
**Date:** Thursday, August 26, 1999 7:43 AM  
**Subject:** Many thanks for your e-mails

---

Dear Thorn,

I am very sorry that I didn't send my messages for some time. After coming back from Torishima where we did managements of the nesting habitats of the Short-tailed Albatross, I had to guide two courses of field biology for the students, and at last, from the mid-August, I became able to enjoy my summer vacations. From your e-mails, I knew you and your family had nice summer holidays in Holland.

A lot of things I have to reply:

1) The name and address of the Secretary General of the Fisheries Agency of Japan is:

Mr. Isao NAKASU,  
Secretary General,  
Fisheries Agency, The Government of Japan,  
1-2-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8907 Japan.

I wish to suggest that your letter to him would aim at getting official replies on the policy of Japanese government and regulations or practical activities about the avoidance of incidental takes of seabirds in fisheries, in particular of the Short-tailed Albatrosses, by explaining your recent endeavors to coexist the birds and fisheries industry. From my experiences, the Japanese government sometimes reject such a letter, even of an honest protest or sincere questions, by replying formally, that is in a bureaucratic way. Therefore, it would be better to cite international issues like the FAO recommendations (or rule now?) about the incidental takes of seabirds by fisheries and the US-Japan Migratory Bird Treaty under which the Short-tailed Albatross is designated as one of the species that both nations have to protect jointly.

2) Thank you very much for your kindness in sending me the print of the photograph of the fishing boat "Albatross" in Kodiak, which was beached by "Tsunami" (big wave) of the Alaska earthquake in 1964. When I visited Kodiak Island briefly in September 1988 by the M/V Tiglax of the US Fish and Wildlife Service at Homer, I learned the "scar" by the 1964 earthquake, but never saw the boat.

3) The question about the "undiscovered" nesting stations of the Short-tailed Albatrosses is of course very important for my research, and I have been thinking about the possibilities for a long time. But, at



present, I do not believe that there would be another nesting site for the Short-tailed Albatrosses except on Torishima (30 degr.29 min. North, 140 degr.18 min. East.) and on Minami-kojima (25 degr.45 min. North, 123 degr.36 min East) in the Senkaku Islands. On a tiny islet in the Mukojima Group in the Bonin Islands, one or two birds are sometimes frequenting in the Black-footed and Laysan Albatrosses breeding colonies, but no recent records of Short-tailed Albatross breeding there. One or two are also frequenting Midway Atoll, but breeding is not confirmed.

As you know, all of the six birds recovered in the Alaska waters during the last two decades by the fisheries had the bands that I put as the chick on Torishima. I suspect that the seemingly "unbanded" birds might be misidentified because from 1998 I put one metal ring on each bird that is very small to be identified at sea except from very close ranges. Please watch my banding practice in the video. You will soon understand the size of the metal ring. Now the number of only-metal-banded birds comprise more than 20% of estimated world population of the Short-tailed Albatrosses (about 125 birds of 1998 fledged immature plus about 140 juvenile fledged in 1999 out of about 1200 birds in the world, that is about 1050 from Torishima plus 150 from Senkaku islands). If you need more duplicate copies of the TV program on the Short-tailed Albatross, please let me know. I will make and send them to the address you show me.

4) The Seattle Mariners' cap was your gift to me when I met you in September 1997. Thank you very much again. It is very tough and very good to wear in the field since it protect my glasses from rain and strong sunlight on the island.

I hope your research project on developping the seabird avoidance techniques will be successful this season and no Short-tailed Albatrosses would be taken in the longline. Soon the Short-tailed Albatrosses will make preparations for migration to Torishima and its adjacent waters by eating as much as they can in order to deposit fats in their bodies.

I think around the month of September (from the end of August to the early October) would be a critical period of incidental takes of the hungry birds in the longline as the past recovery data indicate. So, I would like to recommend you to notice your longliner vessels that the longliner fishermen should be most careful for not taking the Short-tailed Albatrosses from now on to the early October because birds would possibly be hungry enough to eat everything eatable for the preparations of migration in the conditions of the decreasing daylength and reducing temperatures in the Alaska waters.

Thanks again, --- Hirsohi

Hiroshi Hasegawa, Biology Department, Toho University, Miyama, Funabashi, Chiba 274-8510 Japan. Telefax:81-47-472-5236

AUG-17-1998 15:39

**RECEIVED**  
AUG 17 1998

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**N.P.F.M. North Pacific Fishery Management Council**

Please check applicable box(es):	
<input type="checkbox"/>	Bycatch Reduction
<input checked="" type="checkbox"/>	BSAI Groundfish FMP
<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

Name of Proposer: North Pacific Longline Assoc. 8/17/98  
Date:  
Address: 4209 21st Ave. W., Seattle, WA 98199

Telephone:  
(206) 283-7700

**Brief Statement of Proposal: LONGLINE**  
Framework BSAI ~~fixed gear~~ cod season so that in any given year the first trimester could begin from January 1 to January 20, third trimester to begin September 1 to ~~September 30~~. **OCTOBER 15.**

**Objectives of Proposal (What is the problem?):**

The purpose of the first trimester framework is to minimize repetitive flights for crews wishing to be home at Christmas. The purpose of the second framework is to vary the third trimester to address halibut bycatch, ~~or~~ TAC considerations (how much is left to catch), **OR SEABIRD AVOIDANCE (ENDANGERED SPECIES)**

**Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

Without the frameworking measure, season changes require full plan amendments (or regulatory ramendments), which take a year or more.

**Foreseeable Impacts of Proposal (Who wins, who loses?):**

Happier crews, reduced transportation expense. Reduced halibut bycatch, adequate time to harvest third trimester apportionment, **REDUCED SEABIRD BYCATCH (ENDANGERED SPECIES)**

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

No known alternatives.

**Supportive Data & Other Information (What data are available and where can they be found?):**

Signature: *Thom Smith*





# United States Department of the Interior



in reply, refer to:  
WAES

## FISH AND WILDLIFE SERVICE

Ecological Services Anchorage  
605 West 4th Avenue, Room 62  
Anchorage, Alaska 99501-2249

8 October, 1999

Mr. Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 W. 4th Ave, suite 306  
Anchorage, AK 99501

Dear Chairman Lauber:

As you are aware, The U.S. Fish and Wildlife Service has been working closely with the National Marine Fisheries Service and the longline industry to reduce seabird bycatch in the longline fishery. We are particularly concerned with the bycatch of the endangered short-tailed albatross.

Industry has proposed a plan amendment that would allow postponement of the opening of the longline "C" season for cod in the Bering Sea/Aleutian Islands Area. We understand that it is number 14 in your package of amendment proposals. We are unaware of all of the implications of such an amendment, but believe we can advocate for this amendment from the point of view of short-tailed albatross conservation based on three pieces of information.

- 1) Dr. Hiroshi Hasegawa of Toho University in Japan, is probably the undisputed world expert on short-tailed albatross biology. It is his belief that this species is feeding heavily during September in an effort to build up energy stores for their impending migration and breeding season.
- 2) Three of six documented short-tailed albatross taken in longline fisheries have occurred during September ( Sept. 27, 1996; Sept. 21, 1998; Sept. 28, 1998). Two more of the six documented mortalities occurred within a week of September (Aug. 28th, 1995 and Oct. 8, 1995).
- 3) We have data which suggest that albatross numbers peak in Alaskan waters from June to September. Very few birds seem to be present in Alaskan waters from October through April.

We understand that this amendment would affect the longline fishery only, and that it would have no effects on allocations. It appears that the proposed amendment will have only beneficial effects to the short-tailed albatross. Although we understand that there may be implications resulting from this action of which we are unaware, we believe that from the point of view of the Endangered Species Act, this proposed amendment is a positive step.

Sincerely,

Ann G. Rappoport  
Field Supervisor



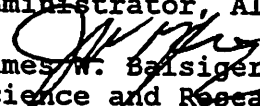
AGENDA D-4  
OCTOBER 1999  
Supplemental

**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Alaska Fisheries Science Center  
7600 Sand Point Way NE, Bldg. 4  
Seattle, WA 98115

AUG 5 1999

MEMORANDUM FOR: Steven Pennoyer  
Administrator, Alaska Region

FROM:   
James W. Balsiger  
Science and Research Director, Alaska Region

SUBJECT: Groundfish status determination criteria

This memo describes the Alaska Fisheries Science Center's proposal for addressing shortcomings in the status determination criteria defined by Amendments 56/56 to the BSAI and GOA Groundfish FMPs. This proposal involves both short-term and long-term components. The short-term component addresses the immediate need to provide a status determination report that is compliant with the National Standard Guidelines (NSGs). The long-term component addresses the need to make the existing status determination criteria more explicitly compliant with the NSGs.

#### Short-Term

The NSGs require that status determination criteria include, to the extent possible, both a maximum fishing mortality threshold (MFMT) and a minimum stock size threshold (MSST), where the latter is defined as whichever of the following is greater: one-half the MSY stock size, or the minimum stock size at which rebuilding to the MSY level would be expected to occur within 10 years if the stock were exploited at the MFMT.

Amendments 56/56 present two problems in this regard. The first problem is that the amendment text lacks any mention of an MSST. The Center's proposal for addressing this problem is as follows. Because Amendments 56/56 do not explicitly forbid the use of an MSST, and because the NSGs explicitly require the use of an MSST, Amendments 56/56 should be interpreted to imply the use of an MSST. Given the MFMT contained in Amendments 56/56, all that is required for use of an MSST is the specification of an MSY level.

The second problem is that, for Tiers 3-6, the amendment text lacks any mention of an MSY level. The Center's proposal for addressing this problem is as follows. First, because the EA/RIR is clear that  $F_{35\%}$  serves as a proxy for  $F_{MSY}$  in Tier 3, Amendments 56/56 should be interpreted as implying that  $B_{35\%}$  is the appropriate proxy for  $B_{MSY}$  in that tier. Second, because no reference biomass levels of any kind can be estimated for Tiers 4-6, those tiers are exempted from the requirement to specify an MSST, in which case no MSY level is needed.



### *Long-Term*

The above proposals for addressing short-term needs are problematic in some respects. Most importantly, they result in Amendments 56/56 being interpreted in ways that are markedly different from those intended by the SSC. First, the SSC was explicit in its desire that an MSST not be used. Second, the SSC was explicit in its desire that  $B_{40\%}$  serve as the reference biomass level in Tier 3 that would correspond to  $B_{MSY}$  in Tier 2 and, in fact, requested that an early draft which used  $B_{35\%}$  in this capacity be changed to use  $B_{40\%}$  instead. To eliminate confusion between original intentions and current interpretations, the Center therefore proposes that a new plan amendment be undertaken. Alternatives could include the proposed interpretation of Amendments 56/56 described above, alternatives considered in the original draft of Amendments 56/56 but eliminated from the final draft, and alternatives suggested by other participants in the Council process.



North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252  
VIA FAX: 907 271 2817

RECEIVED

AUG 30 1999

N.P.F.M.C

August 27, 1999

RE: FMP AMENDMENT PROPOSALS

To the Groundfish Plan Team and Council:

In recent years, Greenpeace has submitted Amendment Proposals for the BSAI and GOA groundfish Fishery Management Plans, especially as they relate to management of these fisies in the context of Steller sea lion protection and the ecosystem as a whole. In light of the fact that we are currently engaged in litigation regarding these fisheries and their impact on this endangered species and the overall ecosystem, we have decided it would be inappropriate for us to submit amendment proposals for the 2000 fisheries at this time.

By not submitting amendment proposals, we have not, however, chosen to bypass the Council process in the management of these fisheries. We will continue to monitor and participate in the Council and Plan Team meetings and processes as they relate to these and other fisheries, and the North Pacific ecosystem as a whole. We will also continue to monitor and participate in the activities of NMFS and other federal and state agencies as they relate to this ecosystem.

We understand that the Council and Plan Team face a difficult and complicated task in managing these fisheries and their impact on the environment. We hope that these bodies will continue to take into account the testimony Greenpeace and other organizations have submitted in the past, and will utilize a conservative, precautionary approach in the decisions made regarding this valuable public resource.

We look forward to working with you at the Plan Team and Council meetings this fall.

Sincerely,

Paul Clarke  
Oceans Campaign

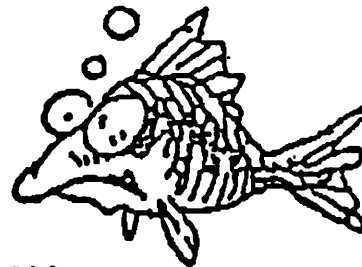
4649 Sunnyside Avenue N. • Seattle, WA 98103 • Tel (206) 632-4326 • Fax (206) ~~632-4326~~ 547 9844

Argentina • Australia • Austria • Belgium • Brazil • Canada • Chile • Czech Republic • Denmark • Finland • France • Germany • Greece • Guatemala • Ireland • Italy  
Japan • Luxembourg • Mexico • The Netherlands • New Zealand • Norway • Russia • Spain • Sweden • Switzerland • Tunisia • Ukraine • United Kingdom • USA

**North  
Pacific  
Longline  
Association**

---

Agenda D-4



October 1, 1999

Mr. Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4th Avenue  
Anchorage, AK

**RE: Framework Season to Avoid Seabirds**

Dear Rick:

Last year we submitted a proposed amendment to the BSAI groundfish plan that would framework the openings of the "A" and "C" season for fixed gear groundfish. Recently I resubmitted the proposal for the longline fishery only, adding a critical purpose - the avoidance of short-tailed albatrosses during our "C" season. I am hopeful that the Council will recommend moving forward with this amendment right away.

Attached you will find a letter from Dr. Hiroshi Hasegawa of Toho University, Japan. He is the man who has visited Torishima Island, where the short-tails breed, three times a year for the last 25 years. He is largely responsible for the remarkable recovery of the bird, thought to have been extinct only 50 years ago. On the second page of his letter Dr. Hasegawa recommends that we be particularly careful to avoid short-tails during the month of September, when they are eating ravenously to add body fat for their migration to Torishima in early October. Our "C" season normally opens on September 1, and as you may recall we caught two short-tails within a week last September (we here at the nervous center will never forget it!). Our current regulations for changing the season opening based on halibut savings are too cumbersome and would not allow us to change the dates back after we have resolved the bird bycatch problem. As you will see by reading the proposal, we would like to be able to postpone our "A" season opening, as well.

Please note that this proposed amendment would affect only longliners. I sincerely hope that the Council will help us in this regard - it is our best current opportunity to further reduce short-tail bycatch

Thank you for your attention.

Sincerely,

Thorn Smith

RECEIVED  
AUG 17 1998

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council  
**N.P.F.M.C.**

Name of Proposer: North Pacific Longline Assoc. 8/17/98  
Address: 4209 21st Ave. W., Seattle, WA 98199

Telephone:  
(206) 283-7700

Please check applicable box(es):	
<input type="checkbox"/>	Bycatch Reduction
<input checked="" type="checkbox"/>	BSAI Groundfish FMP
<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

**Brief Statement of Proposal: LONGLINE**  
Framework BSAI ~~fixed gear~~ cod season so that in any given year the first trimester could begin from January 1 to January 20, third trimester to begin September 1 to ~~September 30~~. **OCTOBER 15.**

**Objectives of Proposal (What is the problem?):**

The purpose of the first trimester framework is to minimize repetitive flights for crews wishing to be home at Christmas. The purpose of the second framework is to vary the third trimester to address halibut bycatch, ~~or~~ TAC considerations (how much is left to catch), **OR SEABIRD AVOIDANCE (ENDANGERED SPECIES)**

**Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

Without the frameworking measure, season changes require full plan amendments (or regulatory amendments), which take a year or more.

**Foreseeable Impacts of Proposal (Who wins, who loses?):**

Happier crews, reduced transportation expense. Reduced halibut bycatch, adequate time to harvest third trimester apportionment, **REDUCED SEABIRD BYCATCH (ENDANGERED SPECIES)**

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

No known alternatives.

**Supportive Data & Other Information (What data are available and where can they be found?):**

Signature: *Thom Smith*

**From:** Hiroshi Hasegawa <hasegawa@bio.sci.toho-u.ac.jp>  
**To:** Thorn Smith <Thorndog@worldnet.att.net>  
**Date:** Thursday, August 26, 1999 7:43 AM  
**Subject:** Many thanks for your e-mails

---

Dear Thorn,

I am very sorry that I didn't send my messages for some time. After coming back from Torishima where we did managements of the nesting habitats of the Short-tailed Albatross, I had to guide two courses of field biology for the students, and at last, from the mid-August, I became able to enjoy my summer vacations. From your e-mails, I knew you and your family had nice summer holidays in Holland.

A lot of things I have to reply:

1) The name and address of the Secretary General of the Fisheries Agency of Japan is:

Mr. Isao NAKASU,  
Secretary General,  
Fisheries Agency, The Government of Japan,  
1-2-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8907 Japan.

I wish to suggest that your letter to him would aim at getting official replies on the policy of Japanese government and regulations or practical activities about the avoidance of incidental takes of seabirds in fisheries, in particular of the Short-tailed Albatrosses, by explaining your recent endeavors to coexist the birds and fisheries industry. From my experiences, the Japanese government sometimes reject such a letter, even of an honest protest or sincere questions, by replying formally, that is in a bureaucratic way. Therefore, it would be better to cite international issues like the FAO recommendations (or rule now?) about the incidental takes of seabirds by fisheries and the US-Japan Migratory Bird Treaty under which the Short-tailed Albatross is designated as one of the species that both nations have to protect jointly.

2) Thank you very much for your kindness in sending me the print of the photograph of the fishing boat "Albatross" in Kodiak, which was beached by "Tsunami" (big wave) of the Alaska earthquake in 1964. When I visited Kodiak Island briefly in September 1988 by the M/V Tiglax of the US Fish and Wildlife Service at Homer, I learned the "scar" by the 1964 earthquake, but never saw the boat.

3) The question about the "undiscovered" nesting stations of the Short-tailed Albatrosses is of course very important for my research, and I have been thinking about the possibilities for a long time. But, at

present, I do not believe that there would be another nesting site for the Short-tailed Albatrosses except on Torishima (30 degr.29 min. North, 140 degr.18 min. East.) and on Minami-kojima (25 degr.45 min. North, 123 degr.36 min East) in the Senkaku Islands. On a tiny islet in the Mukojima Group in the Bonin Islands, one or two birds are sometimes frequenting in the Black-footed and Laysan Albatrosses breeding colonies, but no recent records of Short-tailed Albatross breeding there. One or two are also frequenting Midway Atoll, but breeding is not confirmed.

As you know, all of the six birds recovered in the Alaska waters during the last two decades by the fisheries had the bands that I put as the chick on Torishima. I suspect that the seemingly "unbanded" birds might be misidentified because from 1998 I put one metal ring on each bird that is very small to be identified at sea except from very close ranges. Please watch my banding practice in the video. You will soon understand the size of the metal ring. Now the number of only-metal-banded birds comprise more than 20% of estimated world population of the Short-tailed Albatrosses (about 125 birds of 1998 fledged immature plus about 140 juvenile fledged in 1999 out of about 1200 birds in the world, that is about 1050 from Torishima plus 150 from Senkaku islands). If you need more duplicate copies of the TV program on the Short-tailed Albatross, please let me know. I will make and send them to the address you show me.

4) The Seattle Mariners' cap was your gift to me when I met you in September 1997. Thank you very much again. It is very tough and very good to wear in the field since it protect my glasses from rain and strong sunlight on the island.

I hope your research project on developing the seabird avoidance techniques will be successful this season and no Short-tailed Albatrosses would be taken in the longline. Soon the Short-tailed Albatrosses will make preparations for migration to Torishima and its adjacent waters by eating as much as they can in order to deposit fats in their bodies.

I think around the month of September (from the end of August to the early October) would be a critical period of incidental takes of the hungry birds in the longline as the past recovery data indicate. So, I would like to recommend you to notice your longliner vessels that the longliner fishermen should be most careful for not taking the Short-tailed Albatrosses from now on to the early October because birds would possibly be hungry enough to eat everything eatable for the preparations of migration in the conditions of the decreasing daylength and reducing temperatures in the Alaska waters.

Thanks again, --- Hiroshi

Hiroshi Hasegawa, Biology Department, Toho University, Miyama, Funabashi, Chiba 274-8510 Japan. Telefax:81-47-472-5236



## F/V HAZEL LORRAINE

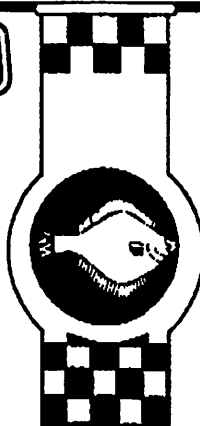
202 Center Street  
Suite 315-274  
Kodiak, AK 99015

**RECEIVED**

OCT - 1 1999

Tel: 907-486-7599

Mr. Richard Lauber **N.P.F.M.C**  
Chairman, NPFMC  
605 West 4th Avenue  
Anchorage, Ak 99501-2252



September 30, 1999

Re: Pacific cod, Separation of gear types in the GOA by percentage of history 1995-97

Dear Richard,

The Pacific cod fishery is a fully utilized fishery that has rapidly developed into another race for fish in the Gulf of Alaska. This fishery eight years ago was primarily prosecuted by the trawl fleet, running from January well into October. Low returns in other pot fisheries and poor salmon prices forced many vessels to turn to the pot cod and cod longline fisheries. The result is a compressed fishery that is concentrated in the first quarter of the year, creating a race between the gear types, with increased gear conflicts. The safety of the smaller vessels trying to compete in the poorest weather months contributes to waste of the target (vessels blown off their fixed gear often come back to rags and skeletons [target and by-catch]) and pushes the trawl fleet into a very early competitive search that uses up valuable by-catch.

Dividing the Pacific cod fishery in the GOA by gear type using historical landings (best two out of three) in the years 1995, 1996 and 1997, should dovetail with other Council management goals. Splitting the fishery by gear type would allow for adaptive management of the fisheries, lowering by-catch, diminishing gear conflicts, increasing safety and ending the unfair start between gear types. This will give needed stability for those vessel that have a long history in the fishery, which directly translates to long term benefits to the communities and labor force.

Your help in this matter will assure a rational and orderly future for the GOA fishing vessels and communities.

Respectfully,

Albert Geiser  
Owner/Captain

cc: Al Burch, Alaska Draggers Association  
Capt. Barry Fisher, Midwater Trawlers Cooperative

NORTHERN AURORA FISHERIES, INC.  
410 BELLEVUE WAY SE STE 304  
BELLEVUE, WA. 98004  
PH-425-450-0187 FX-425-450-0189

RECEIVED  
SEP 28 1999  
N.P.F.M.C

9-28-99

DEAR COUNCIL MEMBERS;

WE OWN AND OPERATE THE F/V NORTHERN AURORA WHICH IS A FREEZER-LONGLINER. WE HAVE BEEN IN THIS FISHERY SINCE JANUARY OF 1992 AND WE UTILIZE 100% OF OUR ALLOWABLE FISH TIME ON PACIFIC COD. WE EMPLOY 23 TO 25 PEOPLE AT ALL TIMES FOR OUR OPERATION.

WE ARE 100% DEPENDENT AND DERIVE 100% OF OUR INCOME FROM THE COD FISHERY. MOST FREEZER-LONGLINERS ARE UNABLE TO CROSS OVER TO OTHER FISHERIES LIKE SO MANY OF THE TRAWLERS DO. THEY FISH POLLOCK AND THEN GO CRAB FISHING FOR RED KINGS AND OPILIO, THEN GO BACK TO POLLOCK AND FOR OTHER BOTTOM FISH SUCH AS COD.

WITH THE ANNOUNCEMENT OF THE NEAR DEMISE OF THE OPILIO CRAB FISHERY AND REDUCED RED KING QUOTA, THERE COULD BE THE POSSIBILITY OF 200 TO 300 CRAB BOATS WANTING TO GO POT COD FISHING THAT HAVE NEVER DONE IT BEFORE. THIS WOULD GREATLY UPSET THE SO CALLED BALANCE THAT EXISTS NOW ON THE COD RESOURCE. AS SOON AS THE CRAB STOCKS REBOUND, THESE BOATS WILL GO BACK TO THEIR TRADITIONAL FISHERY BUT IN THE MEANTIME HAVE LEFT THE COD QUOTA AND ALLOCATION IN DISARRAY.

I IMPLORE THE COUNCIL TO ADDRESS THE COD SPLIT ISSUE IN YOUR UPCOMING MEETING RATHER THAN WAITING TO ADDRESS THIS ISSUE AT A LATER DATE. IT WOULD BE SO MUCH EASIER TO IMPLEMENT NOW. WE NEED A POSITIVE RULING ON THIS SPLIT WHICH WOULD GIVE US THE PROTECTION AND STABILITY WE HAVE LONG DESIRED.

PS- HOOK AND LINE CAUGHT COD HAS THE HIGHEST ECONOMIC VALUE BY FAR COMPARED TO THE TRAWL AND POT COD FISHERY.

*F. Dale Dier* PRESIDENT AND OWNER

October 3, 1999

Mr. Richard Lauber  
Chairman, NPFMC  
605 West 4<sup>th</sup> Avenue  
Anchorage, Alaska 99501-2252

RECEIVED

OCT - 4 1999

N.P.F.M.C

Re: Pacific cod, fixed and mobile gear split in the GOA

Dear Richard:

My name is Tami Starr. My husband, Richard, is the captain of the F/V DEFIANT. As I write this letter he is out trawling for Pacific cod in the Alaskan Gulf. We have been involved in fishing for generations, and were one of several vessel involved in the early years of trawling. This fishery is fully capitalized and is coming under additional pressure as the value of cod increases. Long before 1995 there were more than enough vessels in all of the fisheries in Alaska. The division of this fishery should be made on the record of the catches made in the years 1995, 1996, and 1997, taking the average percentage of the two best years for each gear type. Splitting the fishery into two segments will allow for adaptive management in the future so the fish can be harvested with the least amount of by-catch. Separation of the gear types will also lower the potential for gear conflict and spread the harvest over a longer period of time. Your help in the matter will assure a rational and orderly future for the GOA fishing vessels and, just as importantly, their communities.

Sincerely,



Tami Starr  
F/V DEFIANT  
1518 E. Rezanof Drive  
Kodiak, Alaska 99615

October 1, 1999

Mr. Richard Lauber  
Chairman, NPFMC

RECEIVED

OCT - 1 1999

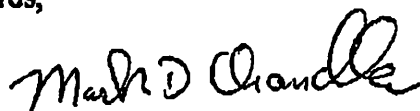
N.P.F.M.C

Mr. Lauber,

A GOA groundfish proposal has been submitted that would split the pacific cod TAC into fixed and mobile gear group segments. There will likely be a significant increase in effort next year in this fishery. I have been trawling in the GOA with the F/V Topaz since 1981, and feel this measure would be a great benefit in the rationalization of this fishery. The cod fishery has been a large part of our income for many years. If this proposal, ranked "high" by the plan team, is adopted, it would allow much more orderly management that could reduce bycatch and gear conflicts while increasing the value of the fishery.

The years 1995 through 1997 are the key allocative years for AFA and in fairness to participants in all North Pacific fisheries should be the key years in all future groundfish allocations to gear types or vessels.

Regards,



Mark Chandler  
F/V Topaz  
4934 Lakeshore Dr.  
Florence, OR 97439  
541-997-3869

Mr. Richard Lauber  
Chairman NPFMC  
605 West 4<sup>th</sup> Ave  
Anchorage, AK 99501-2252

RECEIVED

OCT - 5 1999

N.P.F.M.C

Re: Pacific Cod, fixed gear, mobil gear split GOA

Dear Mr Lauber

I operate the F/V Excalibur II, and have harvested Cod and Pollock in Alaska for 12 yrs. I feel its important to split the cod allocation in the GOA by gear type. Whats happening is, as more gear is thrown in the water, draggers have less time to harvest, and are forced to fish in places, during times of high halibut bycatch. If Given seperate allocations, It would also end conflicts on the grounds, where our different harvest methods clash. Please consider splitting the Cod allocation as a method of reducing bycatch and proper management

Thanks Kevin Thurston

September 30, 1999

RECEIVED  
OCT - 4 1999  
N.P.F.M.C.

Dear Mr. Lauber:

I have been the captain of the F/V Mar Pacifico since 1985. We trawl for cod in the Gulf of Alaska.

Since it makes up a big part of our incomes, the cod fishery is very important to my family and crew. There are a lot of effort and gear conflicts on the grounds and the situation is getting worse. I believe that if the cod quota was split between fixed and trawl gear in the GOA, gear conflicts and unnecessary bycatch would diminish. It goes without saying that we could use this saved bycatch for some of the other fisheries, such as arrowtooth and other flatfish, which we haven't been able to fully utilize.

I strongly urge you to consider separating quotas for both fixed and trawl gear.

As it stands, we are forced to fish, even though it may not be an ideal time because of the high ratio of bycatch.

Sincerely,

Wayne Tipler

Wayne A Tipler  
P.O.B 8666  
KODIAK AK.  
907 486-8842

Mr Richard Laube  
Chairman, NPFMC  
605 West 4<sup>th</sup> Ave  
Anchorage, AK 99501

RECEIVED

OCT - 5 1999

NPFMC

Re: Pacific cod, fixed and mobile gear split  
in the GOA

Mr Laube

I operate the 58 foot trawler  
St. Patrick for Pacific cod in the Gulf  
of Alaska. This fishery is very important  
to myself and my crew. We have been  
doing it since 1991, and have come to  
depend on the income it generates. This  
fishery is coming under additional pressure  
as the value of cod increases, not to  
mention the pressure that will surely be  
felt from the passage of the American Fisheries  
Act. Long before 1995 there were more  
than enough vessels in all of the fisheries  
in Alaska. The division of this fishery  
should be made on the record of the  
catches made in the years 1995, 1996, and  
1997, taking the average percentage of the  
two best years for each gear type. Splitting  
the fishery into two segments will allow  
for adaptive management in the future so

The fish can be harvested with the least amount of by-catch. Separation of the gear types will also lower the potential for gear conflict, which is becoming all too common, and spread the harvest over a longer period of time. It would also make it safer for the many smaller boats of both gear types that feel compelled to fish no matter what the weather. As the seasons get shorter and shorter.

Your help in this matter will assure a rational and orderly future for the Gulf of Alaska fishing vessels and communities.

Sincerely,

Victor Cramer

Victor Cramer  
F/V St Patrick  
7890 Fletcher Bay Rd NE  
Bainbridge Is WA 98110  
206-780-5950



DATE

10/4/99

RECEIVED

OCT - 4 1999

N.P.F.M.C

MR RICHARD LAUBER  
CHAIRMAN NPFMC  
605 W 4TH AVE  
ANCHORAGE AK 99501-2252

DEAR MR. LAUBER

MY HUSBAND & I OWN & OPERATE  
THE F/V CAPTIN ART. HE HAS BEEN  
TRAWLING IN THE GULF OF ALASKA SINCE  
THE 80'S. OUR FAMILY IS VERY DEPENDENT  
ON TRAWLING.

WE NEED YOUR HELP IN THE PACIFIC  
COD FISHERY. FIXED & MOBILE GEAR  
SPLIT IN THE GULF OF ALASKA. THE  
FUTURE OF OUR FISHERMEN & COMMUNITY  
ARE DEPENDING ON IT.

SINCERELY

BONNIE TORMALA

DATE

10/4/99

MR. RICHARD LAUBER  
CHAIRMAN NPFMC  
605 W 4<sup>th</sup> AVE  
ANCHORAGE AK  
99501-2252

RECEIVED  
OCT - 4 1999  
N.P.F.M.C

DEAR MR. LAUBER,

I OWN & OPERATE THE F/V CAPT'N ART AND TRAWL FOR PACIFIC COD IN THE GULF OF ALASKA. I HAVE BEEN TRAWLING SINCE THE 80'S IN THE GULF & THIS FISHERY IS VERY IMPORTANT TO MY FAMILY & CREW.

THE DIVISION OF THIS FISHERY SHOULD BE MADE ON THE RECORD OF CATCHES FOR 1995-1997 TAKING THE AVERAGE PERCENTAGE OF THE TWO BEST YEARS FOR EACH GEAR TYPE.

SPLITTING THE FISHERY INTO TWO SEGMENTS WILL ALLOW FOR ADAPTIVE MANAGEMENT IN THE FUTURE SO THE FISH CAN BE HARVESTED WITH THE LEAST AMOUNT OF BY-CATCH. SEPARATION OF THE GEAR TYPES WILL ALSO LOWER THE POTENTIAL FOR GEAR CONFLICT & SPREAD THE HARVEST OVER A LONGER PERIOD OF TIME.

YOUR HELP IN THIS MATTER WILL ASSURE A BETTER FUTURE FOR OUR FISHERMEN & OUR COMMUNITY.

SINCERELY  
Tom Tomala

RECEIVED

OCT - 4 1999

N.P.F.M.C

DEAR Richard

I AM a crewman on the FV EXCALIBUR II  
IN YEARS past you have had a chance to implement  
a fair start program with the Pacific Cod fishery  
which is now way over boated DUE TO the high price  
& DEMAND for COD fish you now have a chance to  
correct the ERROR of this by splitting the quota  
while you at it please consider getting all  
factory trawlers out of the gulf of Alaska

Sincerely  
Leece R Bege  
5 OCT 99

October 4, 1999

Mr. Richard Lauber  
Chairman, NPFMC  
605 West 4th Avenue  
Anchorage, AK 99501

RECEIVED  
OCT - 4 1999  
N.P.F.M.C.

Re: Gear split for Pacific cod in GOA

Dear Chairman Lauber,

I own and operate the F/V Excalibur II, which fishes for cod in the GOA. I would like to urge you to support the amendment proposal to split gray cod between fixed and mobile gear types. The way the seasons are now structured forces trawlers to fish cod when they are not in prime condition, and when we have higher bycatch numbers. This bycatch then further impacts sole fisheries in the Gulf, preventing us from taking the allowable quota of flat fish.

Having a split fishery would also spread the take out over a longer time, which would help processors maintain a more stable work force.

Thank you for your consideration.

Sincerely,

Kent Leslie

Kent Leslie  
F/V Excalibur II

Box 69  
Kodiak, AK 99615

# F/V Coho Inc.

PO Box 706  
Warrenton, OR 97146  
(503) 338-6190 phone  
(503) 338-6272 fax  
dragesl@pacifier.com

October 2, 1999

Mr. Richard Lauber  
Chairman, NPFMC  
605 West 4<sup>th</sup> Avenue  
Anchorage, AK 99501-2252

RECEIVED

OCT - 5 1999

N.P.F.M.C.

Dear Mr. Lauber,

I own and operate the fishing vessel Coho out of Kodiak, Alaska. We trawl for Pacific cod in the Gulf of Alaska. This fishery is very important to myself, my crew and all our families. We helped to pioneer this fishery, to develop markets and create demand. This fishery is fully capitalized and is coming under additional pressure as the value of cod increases. Long before 1995 there were more than enough vessels in all of the fisheries in Alaska. The division of this fishery should be made on the record of the catches made in the years 1995, 1996, and 1997, taking the average percentage of the two best years for each gear type. Splitting the fishery into two segments will allow for adaptive management in the future so the fish can be harvested with the least amount of by-catch. Separation of the gear types will also lower the potential for gear conflict and spread the harvest over a longer period of time. This of course will benefit the communities and families that depend of fishing.

Your help in this matter will assure a rational and orderly future for the GOA fishing vessels and communities.

Sincerely,



Philip S. Drage, Captain  
F/V Coho  
(503) 338-6190

Cc: Al Burch, Alaska Draggers Association

October 4, 1999

Mr. Richard P. Lauber  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2253

RECEIVED

OCT - 5 1999

I am a GOA fisherman. I own a 58-foot combination fishing vessel that fishes ~~trawls~~ long-lines and pot-fishes. My boat has been in these fisheries for a long time. This diversity has allowed me, as a small boat fisherman, to survive. However, losing our trawl fisheries right now would be devastating because trawling is my number one moneymaking fishery. I would like to see the NPFMC do the following:

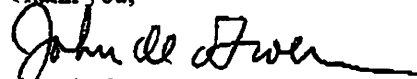
Our number one goal in the GOA should be trying to get a form of closed access, based on the qualifying years, which the AFA used for the BSAI ground-fisheries.

AFA boats can lease or sell their quota to the co-op and thereby be free of ANY AFA sideboards. These larger boats can then build fishing history in the gulf at a much faster rate than the small boat that I have. That brings up the number two goal: It is the short-term problem of keeping other boats from fishing in the GOA. These boats consist of AFA boats that lease out their quota and crab pot boats looking for a cod fishery as a replacement fishery. Oddly enough, one solution is offered by the problem. The NPFMC should extend the same allocation scheme that is proposed for the BSAI fixed gear fleet to the Gulf. Give us a trawl allocation based on recent participation in the Gulf. Give the trawl fleet their historic percentage of the P-cod and pollock fisheries and only let boats that have participated in recent years fish for it. That is what the BSAI fixed gear participants are getting and that is also the main reason why so many of the crabbers will be coming to the Gulf to fish p-cod. The Council railroaded this issue for the BSAI fishermen. The issue was introduced in April, and it is up for final approval in October. If the council could get this separate trawl allocation set up for recent participants in the GOA, the crabbers wouldn't hurt us. However, if the proposed changes are approved as they stand presently, the AFA crossover boats could take up full-time residency in the Gulf. Therefore, the recent participation criteria established for the trawl sector allocation, must also become the criteria to be used in awarding individual allocations later. Right now we must STOP the clock!

Small boat fishermen in the GOA want the following:

- P-cod and pollock allocation in the Gulf done by gear type and with recent participation (for example, 1995-97) just like the BSAI fixed gear P-cod split.
- The recent participation criteria used to establish the allocations in the GOA, should be the same criteria used in an ITQ like system in the future.

Thank you,

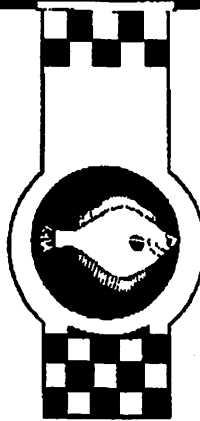


John de Groen  
Primus, Inc.  
9810 SW 148<sup>th</sup> St  
Vashon, WA 98070

**RECEIVED**  
 BY HAZEL LORRAINE  
 OCT - 5 1999  
 N.P.F.M.C

202 Center Street  
 Suite 315-274  
 Kodiak, AK 99615

Tel: 907-486-7599



Mr. Richard Lauber  
 Chairman, NPFMC  
 605 West 4th Avenue  
 Anchorage, Ak 99501-2252

October 5, 1999

Re: Trawl vessel buyback plan for the GOA, looking down the long barrel of the economy of the GOA communities.

Dear Richard,

The **Preamble** of the proposed FMP to buyback GOA trawl vessels clearly defines the socioeconomic stresses that the fishing communities and trawl vessels in the Gulf are experiencing. The labor forces in these communities continues to decline to a point that businesses not directly related to fishing are now experiencing great difficulty in finding employees. The erosion of the quarterly trawl openings is the single largest contributing factor to the destabilization of the labor base. Lack of work for long periods of time in isolated communities drains the savings of these individuals and puts so much economic stress on them that they are not returning to Alaska.

The **problem** statement outlines all of the additional outside stress (mercurial stress that contributes to the chaos of quarterly GOA groundfish openings) factors in the form of additional catcher vessels and factory trawlers. Under these variable stress factors the fishermen, processors and communities can not make a business plan in this environment (it's like throwing darts in a gale after to many beers at "Henrys")? The boats can't come within 20%-25% guess of what their gross annual income will be, year to year, making it impossible to plan improvements (spend money in the community). The canneries have to divine the future too, making very large decisions that trickle or rush through the communities economy. The environment suffers with these pulse removals on several counts; bycatch becomes the race as each user group tries to "get the most trips in before the closure is called.

The **relief** can only come from the forward thinking of the NPFMC using the only vehicle that is available as stewards of the resources and the socioeconomic well being of the communities of the GOA. Only the Council has the ability to tap section 312(1) (d) of the Magnuson-Stevens Act and in accordance with section 1111 of Title XI of the Merchant marine Act, 1936 to create a buyback program for the small but over capitalized trawl fleet.

There is a trawl fleet buyback program that the PFMC has under consideration for the past three years that is currently stalled due to a lack of intestinal fortitude and foresight. The PFMC had a chance in 1984 to stop the over capitalization of the trawl fleet when the industry asked for a moratorium. The PFMC gave industry a moratorium with a window that went **forward** for two additional years (counter intuitive leadership)

## **FV HAZEL LORRAINE**

Page 2

Chairman Richard Layber

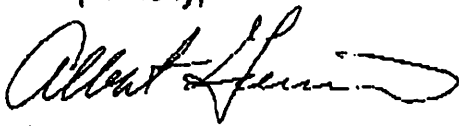
Re: Trawl vessel buyback plan for the GOA, looking down the long barrel of the economy of the GOA communities.

that nearly doubled the fleet when most of the shrimpers jumped into trawling, fearing they would be blocked out of a fishery. The west coast fleet has approximately three hundred trawl vessels working on one tenth (before the recent cuts) the amount of fish available to the GOA fleet. The GOA inshore fleet is comprised of approximately 55 active trawlers with 10-15 occasional vessels that are working the openings in the Bering Sea and on the west coast.

The combined efficiency of both sectors of the industry (trawler, processor) has worked almost in reverse if this decade is used as a yard stick; Example, Kodiak: At the end of the 80's the shore based groundfish fishery began to take shape (pollock, cod, and sole) along with all of the other fisheries, Kodiak had twelve working canneries. All of the fisheries kept the plants and their thousands of employees working ten to eleven months each year. The early 90's saw additional stresses put upon the local fisheries by U.S. factory trawlers, creating a race for the by-catch, and the groundfish. The price for wild salmon came under serious pressure from around the world by farmed salmon. The halibut derby ended in IFQ's, now the majority of the halibut are delivered to other ports. All of these factors contributed to the loss of six canneries (while the number of trawlers increased) in the last nine years. Trawl caught groundfish in the form of pollock, cod and sole comprise the economic backbone of the remaining working canneries. The number of fishing days has dropped to the point that there are not enough working days to sustain the work force. Efficiency? Is this the direction that will sustain the Gulf economy and Alaska's newest fish processing community, Anchorage?

Reducing the fleet by up to 40% would help extend the number of working days for the plants and the remaining vessels. This would also slow the fisheries down and contribute to better utilization of by-catch (economic and prohibited) to help create new markets for underutilized fisheries. The communities of the GOA are sitting on top of the largest remaining underutilized biomass of fish (arrowtooth) on the planet. Without creative forward planning this biomass will continue to eat one hundred times its weigh, each year, of more desirable commercial fish or be pitched overboard as waste. Is there a choice?

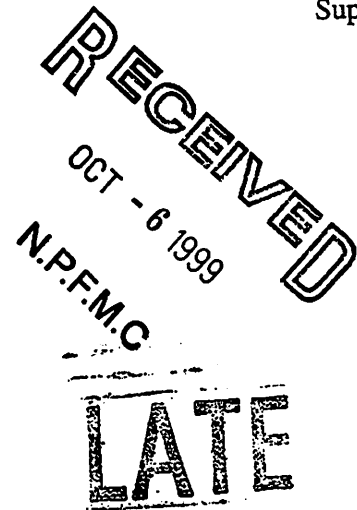
Respectfully,



Albert Geiser

cc: Al Burch, Director Alaska Draggers Association  
Capt. Barry Fisher, Midwater Trawlers Association  
John Whiddon, Kodiak Chamber of Commerce, Fisheries Chair





October 7, 1999

Mr. Richard B. Lauber, Chairman  
Mr. Clarence G. Pautzke, Executive Director  
North Pacific Fisheries Management Council  
605 West 4<sup>th</sup> Avenue, Suite 305  
Anchorage, Alaska 99501

Re: Request to address the Advisory Panel and the Full Council

Dear Messers Lauber and Pautzke:

The Aleuts of the western Aleutian Islands have been working for three years to build a new community at the former Naval Air Facility on Adak Island. The federal government has assisted The Aleut Corporation to start reuse of these facilities by providing planning assistance and allowing the community to start up of commercial and port activities. The Port has started normal operations, the airport maintains scheduled jet service to Anchorage, the fuel facilities - for the first time - are supplying diesel fuel to the local fleet and visiting ships, the school is not the second largest on the Aleutians (48+ students) and the community has seen a recent investment in a shore processing plant for cod, halibut and other groundfish. The community is starting well; however, the critical economic foundation for the new community, local fishing, appears to be in jeopardy.

We understand that the Council is about to make enduring cod allocation decisions, based on formulas and plans that preclude a guaranteed local fishery for Aleuts and other residents of Adak. We request an allocation that will support the foundation for our new community on Adak.

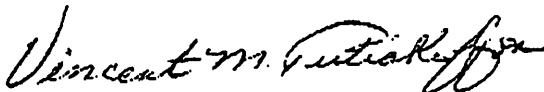
The purpose of this correspondence is to request time on the agendas of both the Advisory Panel and the full Council to discuss the need of the community to have an allocation of Cod for a small boat fishing industry. Specifically, we request a reasonable allocation of Cod to the Andreonof Islands 170°, West of Segueum Pass, for vessels under 60 feet, similar to the allocation given by the Council in the past for the Shumagin Islands. The bulk of our local fishermen will be expecting to use pot and jig gear with a small amount of Cod by-catch from ITQ halibut boats.

Lauber/Pautzke - October 7, 1999  
Page 2

The Aleut reoccupation of Adak follows almost one hundred, seventy-five years of forced exile through government decree and war. Finally, Aleuts and others are able to reuse their historical fishing base on Adak. It is patently wrong to not allow our people to have an allocation of Cod under the new License Limitation Program (or the gear-split proposal) when we were physically and legally restricted from qualifying in the Adak area in the past. It would only continue a historic pattern of resource denial to Aleuts if local fish were given a distant fleet, without some consideration of local Native (and other) fishermen who have moved to Adak to start our new community.

We respectfully urge the Council to consider and approve Cod allocation to the Andreonof Islands.

Sincerely,  
THE ALEUT CORPORATION



Vincent Tutiakoff, Sr.  
Chairman and President

Cc: Governor Tony Knowles  
Senator Ted Stevens  
Senator Frank Murkowski  
Congressman Don Young

**OCEAN BEAUTY**  
SEAFOODS, INC.

**RECEIVED**

SEP 29 1999

LATE

September 29, 1999

**N.P.F.M.C**

Steve Pennoyer  
Regional Director, Alaska Region  
National Marine Fisheries Service\NOAA

SENT VIA FAX: (907) 586-7131

Dear Sir:

We are writing to request a change in the year 2000, Central Gulf pollock, "C" season opening. Our preference is to have the opening moved from August 20th (as currently scheduled) to September 1<sup>st</sup>. At a minimum, we would like it moved to August 25<sup>th</sup>.

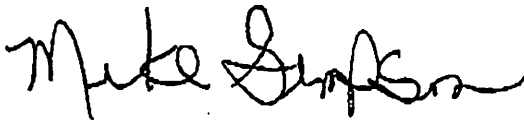
We are making this request due to our concern over the conflict in our processing capabilities with the salmon fishery. A slightly later opening date for the C season will increase the work available to our local work force as well as assure that all processors in the Central Gulf have an equal opportunity to process pollock. Not all facilities can handle pollock and salmon at the same time. In addition, the requested opening date will increase the availability of tenders for salmon operations since many of the trawlers are also employed as tenders. We would also expect higher yields and better size assortments with the September 1 opening as fish quality improves the later in the year that fish are taken.

If possible, we would also appreciate having the 4<sup>th</sup> quarter halibut release occur on October 15 to allow all trawlers, catcher processors and catcher vessels to equally compete in the 4<sup>th</sup> quarter trawl fisheries.

Thank you for your consideration of our request.

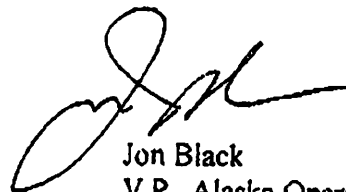
Sincerely,

Ocean Beauty Seafoods, Inc.



Mike Simpson  
Kodiak Plant Manager

Ocean Beauty Seafoods, Inc.



Jon Black  
V.P., Alaska Operations

Cc: ✓ Rick Lauber Chairman, NPFMC  
Tim Ragen  
Andy Smoker  
Brad Gilman Robertson, Monagle & Eastaugh Attorneys at Law

Fax: (907) 271-2817  
Fax: (907) 586-7012  
Fax: (907) 586-7465  
Fax: (703) 527-0421



KING CRAB / KODIAK FACILITY  
P.O. BOX 1457 • KODIAK, ALASKA 99615 • (907) 486-5791 • FAX (907) 486-8244  
P.O. BOX 70739 • SEATTLE, WASHINGTON 98107 • (206) 285-6800 • FAX (206) 286-2581

LATE



# ALASKA PACIFIC SEAFOODS

DIVISION OF NORTH PACIFIC PROCESSORS, INC.  
 HOME OFFICE: 2300 EASTLAKE AVE. EAST SEATTLE, WASHINGTON 98102  
 P.O. BOX 31179 SEATTLE, WASHINGTON 98103-1179  
 (206) 726-9900

PROCESSING PLANT: 627 SHELKOF KODIAK, ALASKA 99615  
 (907) 486-3234  
 FAX: (907) 486-5164

September 30, 1999

N.P.F.M.C.

OCT - 1 1999

RECEIVED

Steve Pennoyer, Regional Director  
 Alaska Region, NMFS/NOAA

Dear Mr. Pennoyer

We are all quite aware of the many challenges facing the fishing industry currently. Uncertainty surrounding American Fisheries Act and sea lion protective measures are making it increasingly difficult to manage and/or participate in an orderly fishery, especially in the Gulf of Alaska with small quotas, smaller vessels, etc., in the gulf. Traditionally both vessels and plants have had to, mostly out of necessity, participate in multiple fisheries; Pollock, Cod, Salmon, Halibut, Black Cod and possibly others.

It is extremely important to maintain some order for vessels, plants, and crews, and some stability for communities such as Kodiak. A September 1<sup>st</sup> start date for the C season maintains some order. Whereas, an August 20<sup>th</sup> start date provides a major conflict for both plants and boats. The Kodiak salmon fishery is quite active up until September 1<sup>st</sup>. Many of the Pollock vessels tender Salmon during the summer, including the August 20<sup>th</sup> to September 1<sup>st</sup> period. For example, at Alaska Pacific Seafood's, we have seven Pollock boats of which five, tender salmon up until the end of August.

The proposed August 20<sup>th</sup> C season opening date will create a very serious hardship for our plant and fleet. Not to mention the vessel crews, local plant workers and community support businesses that need every available opportunity to work and stay busy. With shrinking quotas in the gulf it seems there would be little problem presenting the C and D seasons from September 1<sup>st</sup> until October 31<sup>st</sup> even with a fifteen-day stand down.

Developing and keeping a resident work force in Kodiak has been extremely difficult. Overlapping seasons complicates an existing labor shortage. Generally speaking the quality of Pollock increases the later that fishing commences also.

Beginning the season September 1<sup>st</sup> keeps all gulf processors at an equal start date. If the start date is moved ahead it will severely disadvantage those plants and vessels that need to participate in more than just the Pollock fishery.

Thank you very much for considering this matter.

Sincerely,

*Matthew Mow*  
 Plant Manager

Cc: Tim Ragen  
 Andy Smoker  
 Rick Lauber, Chairman, NPFMC



CENTER FOR  
**MARINE**  
CONSERVATION

**Alaska Field Office**  
425 G Street, Suite 400  
Anchorage, AK 99501  
Phone: (907) 258-9922  
Fax: (907) 258-9933

**Headquarters**  
1725 DeSales Street,  
Suite 600  
Washington, DC 20036  
Phone: (202) 429-5609  
Fax: (202) 872-0619  
Web: [www.cmc-ocean.org](http://www.cmc-ocean.org)

1

July 26, 1999

Mr. Rick Lauber, Chair  
North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Avenue, #306  
Anchorage, Alaska 99501-2252

Dear Mr. Chair and Other Members of the Council:

Enclosed you will find the Center for Marine Conservation's three-part proposal. First, we request that the North Pacific Fishery Management Council (Council) establish explicit and precautionary minimum stock size thresholds for each of the groundfish stocks in both the Bering Sea/Aleutian Islands and Gulf of Alaska regions. Second, we request that the Council increase the default target stock size to 50% of the pristine stock size. Finally, we request that the Council adopt more conservative harvest control rules that, in the event of inadvertent overestimates of appropriate fishing mortality rates, would reduce such rates before stocks fall to unproductive levels.

This proposal is a high priority for CMC, and represents the combined efforts of our Alaska Field Office and our national scientific staff. We hope that through our participation we will help ensure that the Council adopt conservation and management measures which are necessary and appropriate to prevent overfishing and rebuild overfished stocks, and which protect, restore, and promote the long-term health and stability of the fishery, as required by the Magnuson-Stevens Fishery Conservation and Management Act. See 16 U.S.C. § 1853(a)(1)(A).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kris Balliet".

Kris Balliet  
Director, Alaska Field Office

**Enclosures:** Proposal, Supporting Document, "Control Optimization Theory and Fisheries"

**cc:** Dr. Clarence Pautzke, Executive Director

# FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL

## North Pacific Fishery Management Council

Date: 26 July 1999

Name of Proposer: Center for Marine Conservation  
Address: 425 G Street, Anchorage, Alaska 99501-2143  
Telephone: 258-9922

Please check applicable box(es):	
<input type="checkbox"/>	Bycatch Reduction
<input checked="" type="checkbox"/>	BSAI Groundfish FMP
<input checked="" type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

### Brief Statement of Proposal:

The North Pacific Fishery Management Council manages its groundfish through two fishery management plans (FMPs), one for the Bering Sea and Aleutian Islands and another for the Gulf of Alaska. These FMPs make progress towards avoiding overfishing, particularly through reduction of fishing mortality in response to drops in stock abundance. We propose that the Council take three additional steps to more effectively avoid overfishing, maintain productive fish stocks into the future, and ensure compliance with the Sustainable Fisheries Act (SFA). The groundfish FMPs currently lack explicit minimum stock size thresholds (MSSTs) and suitably precautionary target stock sizes and harvest control rules. We propose that the Council:

- (1) establish an explicit and precautionary MSST for each groundfish stock;
- (2) increase the default target stock size to 50% of the pristine stock size; and
- (3) adopt more conservative harvest control rules that, in the event of an inadvertent overestimate of an appropriate fishing mortality rate, would reduce that rate before stocks fall to unproductive levels.

As part of these efforts, we suggest that the Council begin calculating a maximum sustainable yield (MSY) and an optimum yield (OY) for each groundfish stock independently. These calculations are largely done already as part of the process of setting acceptable biological catches, will provide a more scientifically rigorous assessment of the status of each stock, and are required under the SFA.<sup>1</sup>

These changes, while intended to maintain productive fisheries well into the future, could have a negative impact on fishers who target certain stocks. We propose that the Council consider phasing in the changes recommended in our proposal so that their impact on catches in any given year will not be too severe.

### Objectives of Proposal (What is the problem?):

#### *Minimum Stock Size Threshold (MSST)*

We propose that the Council adopt an MSST for each of its groundfish species based on the National Standard Guidelines.<sup>2</sup> The current groundfish policies eliminate fishing on only the best-understood stocks and only once they

<sup>1</sup> Under the Sustainable Fisheries Act (SFA) and the National Standard Guidelines for the SFA, MSY and OY must be established for each fishery. "Fishery" means one or more stocks of fish which can be treated as a unit for purposes of conservation and management. 16 U.S.C. § 1802(13)(A). According to the Guidelines, "In the case of a mixed stock fishery, MSY should be specified on a stock-by-stock basis." 50 C.F.R. § 600.310(c)(2)(iii). These calculations are possible, as evidenced by the Council's TAC setting process.

<sup>2</sup> The National Standard Guidelines state that, to the extent possible, the stock size threshold should equal whichever of the following is greater: one-half the MSY stock size, or the minimum stock size at which rebuilding to the MSY level would be

drop to a level set at a default of 5% of the MSY level, typically equal to 2% of the pristine stock size. This level is inadequate as an MSST and lies far below the levels recommended by the National Standard Guidelines.

Our proposal would raise the MSST up to either half of the MSY level, or would set MSST at a level capable of rebuilding to MSY within 10 years under the maximum fishing mortality threshold (MFMT), whichever is greater. With an MFMT equal to that associated with MSY, a population's ability to rebuild even modest amounts to MSY stock size will be severely limited. As such, the MSST would have to remain fairly close to the MSY stock size if the MFMT were specified at MSY levels. The Council could choose from three options: 1) relatively low MSST (i.e., 20% of virgin biomass) with a correspondingly low MFMT; 2) high MSST (i.e., 35-40% of virgin biomass) with a correspondingly high MFMT; or 3) some intermediate between the two. The existing proxy for MSST, interpreted by NMFS at 2% of pristine stock size, is low enough that few if any groundfish stocks would be capable of rebuilding to MSY levels within 10 years, even in the complete absence of fishing. Under our proposal, the Council would be alerted to potential overfishing when a stock was still relatively productive and thus capable of rebuilding in a reasonable timeframe without severe new restrictions.

### ***Default Target Stock Size***

For groundfish stocks with insufficient information to estimate the MSY stock level directly, the Council uses 40% of pristine stock size as a target biomass level. Although this level is based on the National Standard Guidelines, 50 C.F.R. § 600.310 (c)(3), it is not founded in law or based on the best available science. The SFA states that any fishery management plan shall contain measures to "prevent overfishing," 16 U.S.C. § 1853 (a)(1)(A), with overfishing defined as "a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis." 16 U.S.C. § 1802 (29). NMFS asserts that "the phrase 'on a continuing basis' in the SFA definition of 'overfishing' indicates that stocks are to be maintained at levels capable of producing MSY (and OY) on a continuing (uninterrupted) basis." 63 Fed. Reg. 24216 (May 1, 1998). Thus, there is a legal obligation for management to target a stock size that is most likely to produce MSY.

There is a strong scientific foundation for selecting a target equal to 50% of the pristine stock size. First, this level is predicted by the better-studied of the two models NMFS considered. 63 Fed. Reg. 24219 (May 1, 1998). Second, the Council would achieve a better ecosystem outcome by erring on the side of "too many" fish. If the Council inadvertently maintains a stock level slightly higher than that which is maximally productive, the excess productivity goes to ecosystem functions like predation or competition. In contrast, if the Council errs on the side of too few fish, the productivity is lost because there are insufficient parents to produce maximum numbers of offspring, with no ecosystem benefit.

### ***Harvest Control Rule***

The Council's policy for stocks in tiers 1-3 links fishing mortality rates to biomass. This is an appropriate management approach because most managed fishery stocks lack a definitive determination of the fishing mortality rate that will produce maximum sustainable yields ( $F_{MSY}$ ). For example, of all the groundfish stocks identified in the two North Pacific FMPs, only one (Eastern Bering Sea pollock) has a reliable point estimate of  $F_{MSY}$ . See THE PLAN TEAM FOR THE GROUND FISH FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS, STOCK ASSESSMENT AND FISHERIES EVALUATION REPORT FOR THE GROUND FISH RESOURCES OF THE BERING SEA / ALEUTIAN ISLANDS REGIONS (1998); THE PLAN TEAM FOR THE GROUND FISH FISHERIES OF THE GULF OF ALASKA, STOCK ASSESSMENT AND FISHERIES EVALUATION REPORT FOR THE GROUND FISH RESOURCES OF THE GULF OF ALASKA (1998). As such, there is a high probability that the best estimate of this fishing mortality rate will be incorrect and a

---

expected to occur within 10 years if the stock or stock complex were exploited at the maximum fishing mortality threshold. 50 C.F.R. § 600.310(d)(2)(ii).

realistic possibility that it will lie far above the true value. A policy in which the fishing mortality rate is scaled back if stocks drop below desired levels has great potential to address this challenge. However, the Council's policy scales back fishing mortality rates only once stocks drop below the target biomass level, and then only slightly. For example, under the Council's default policy, fishing mortality rates are set to zero when a stock drops to 2% of its pristine stock size, in comparison to 0% under a fixed fishing mortality rate policy. This degree of precaution is inadequate to address the high uncertainty associated with most groundfish stocks. The FMPs also suffer from a lack of strong precaution towards the stocks about which we know the least, tiers 4-6.

We propose that the Council modify its groundfish FMPs to better utilize the advantages this kind of policy can provide. First, we request that the Council establish a target biomass level for every groundfish stock it manages, including those in tiers 4-6. Second, we request that the Council adopt its biomass-based fishing mortality rates to all its stocks. Finally, we propose that the Council choose  $\alpha$  levels (a parameter related to the biomass at which the fishery shuts down) more conservatively and based on tier assignment. For tiers 4-6, we recommend  $\alpha = 0.75$  (close the fishery at 75% of the target biomass). For tiers 2 and 3, we recommend  $\alpha = 0.5$  (close the fishery at 50% of the target biomass), and for tier 1, we recommend  $\alpha = 0.25$  (close the fishery at 25% of the target biomass).

These changes would be a substantial improvement over existing policy for several reasons. Broadening the biomass-based policy and establishing targets to include all tiers would offer an additional measure of precaution for those stocks that need it the most. Increasing the threshold at which fishing is prohibited and scaling down fishing mortality rates on stocks below the MSY biomass level will greatly improve the Council's abilities to correct for inadvertent overestimates of acceptable fishing rates. Not only will these corrections be made in a more timely manner, but they will also occur when stocks are more productive and thus more capable of rebuilding to MSY levels. Finally, selecting  $\alpha$  levels based on tier assignment applies the precautionary principle effectively, with the greatest precaution afforded to the least-understood stocks.

If adopted, our proposed changes to the Council's groundfish FMPs will provide additional insurance for North Pacific groundfish stocks. In other regions of the country (e.g., New England) groundfish fisheries are in crisis. By establishing explicit and more precautionary MSSTs, the Council will receive better early signs of potential overfishing while also providing a more scientifically rigorous assessment of the status of groundfish stocks within its jurisdiction. With this change and a modification of its current harvest control rule and target stock size, the Council can create an automatic and effective rebuilding plan for stocks so that they rarely or never drop to unproductive levels.

#### **Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

The Council and the Department of Commerce are required by the SFA to include overfishing provisions in every FMP. These provisions must include conservation and management measures which are necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery. 16 U.S.C. § 1853(a)(1)(A). Our proposal, if enacted, will significantly improve the Council's ability to meet these legal mandates.

#### **Foreseeable Impacts of Proposal (Who wins, who loses?):**

This proposal stands to benefit fishers, coastal communities, and others who rely on or enjoy the rich groundfish fishery resources of Alaska. If enacted in full, this proposal will significantly reduce the chance of crisis in North Pacific groundfish stocks.



The proposal would have two potentially negative impacts in the near term. It would reduce some fishing quotas and thus have a short-term negative impact on sectors of the fishing industry that rely on large quantities of fish. Short-term quota reductions would most affect those stocks farthest below their target biomass. In the Gulf of Alaska, pollock, sablefish, and Pacific Ocean perch are identified as below their target biomass levels. In the Bering Sea and Aleutian Islands, pollock, Pacific cod, Greenland turbot, sablefish, and Bering Sea Pacific Ocean perch are below their target biomass levels. However, these reductions would most likely lead to greater productivity of these stocks in the future without requiring the severe restrictions that could be required if stocks declined further.

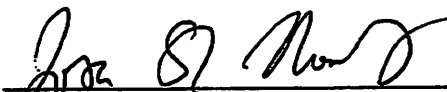
Our proposal would also add to the paperwork requirements of the Council in the near future. However, these small sacrifices in the near term will lead to higher and more stable catches and less crisis-oriented management measures in the future. Crisis-oriented management monopolizes the time and efforts of other councils, and precautionary management now will provide this Council with additional protection from this fate.


**Are there Alternative Solutions? If so, what are they and why do you consider our proposal the best way of solving the problem?**

This proposal is clearly superior to its alternatives. The most likely alternative to consider would be the status quo. However, the status quo leaves the Council vulnerable to overfished stocks, large time and resource expenditures towards crises as they develop, and the potential for lawsuits and court-mediated management measures. The Council's own Scientific and Statistical Committee recommended that the Council consider MSST in a future amendment proposal. We believe it is in the best interest of the Council, the resource, and the resource users to add MSSTs and modify the harvest control rules. Our proposal is the only logical alternative that links management with our level of understanding, and provides effective checks against crises wrought by errors predicting maximum fishing rates.

**Supportive Data & Other Information (What data are available and where can they be found?):**

see attached document and references within

Signature:   
Joshua Sladek Nowlis, Ph.D.  
Senior Conservation Scientist

  
Mariel Combs  
North Pacific Legal Analyst

**Supporting Document Groundfish Proposal -- Center for Marine Conservation**

by

Joshua Sladek Nowlis, Ph.D  
Senior Conservation Scientist

and

Mariel Combs  
North Pacific Legal Analyst

26 July 1999

**I Introduction**

The Center for Marine Conservation (CMC) submits this document in support of its proposal to modify the North Pacific Fishery Management Council's groundfish fishery management plans. It examines, from both legal and scientific standpoints, the Council's current policies regarding minimum stock size thresholds (MSST), default target stock sizes, harvest control rules, and stock-specific management. CMC draws several conclusions. First, the Council must set MSSTs for individual stocks. Second, the Council should increase the proxy for the maximum sustainable yield stock size to 50% of pristine stock size where possible, and define it in other terms for cases where pristine stock size is not known. Third, the Council must adopt a more conservative precautionary approach to its harvest control rules which takes into account the tier under which a stock falls. Finally, the Council must set maximum sustainable yields and optimum yields for individual stocks, especially considering the fact that it already sets fishing limits on a stock-by-stock basis. CMC makes this proposal to change overfishing provisions in the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fishery management plans. We also support policies that reduce bycatch, protect essential fish habitat, and otherwise help to protect vulnerable species and maintain proper ecosystem function. Although our suggestions are made within a system of single-species management, we advocate couching any single-species management plan into a broader framework that addresses ecosystem management.

**II Minimum Stock Size Threshold**

**A. Legal Requirement.**

The Magnuson-Stevens Fishery Conservation Act (MSFCMA) is designed to prevent overfishing, reduce bycatch, and protect essential fish habitat. Conservation and management measures must prevent overfishing while "achieving, on a *continuing basis*, the optimum yield

from each fishery.” 16 U.S.C. § 1851(a)(1) (emphasis added). An overfished fishery is defined as one in which the “rate or level of fishing mortality jeopardizes the capacity of a fishery to produce the maximum sustainable yield (MSY) on a *continuing basis*.” 16 U.S.C. § 1802(29) (emphasis added). Minimum stock size thresholds are required under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1802(29), 1851(a)(1), and the National Standards Guidelines. Under the National Standard Guidelines, the Council “must” set both a maximum fishing mortality threshold and a minimum stock size threshold, or reasonable proxies for each. 50 C.F.R. § 600.310(d)(2)(i).

The Guidelines assert that the stock size threshold should equal the *greater* of one-half the MSY stock size or the “minimum stock size at which rebuilding to the MSY level would be expected to occur within [ten] years if the stock . . . were exploited at the maximum fishing mortality threshold.” 50 C.F.R. § 600.310(d)(2)(ii)(emphasis added).

#### B. Current Council Policy

The North Pacific Fishery Management Council has not established minimum stock sizes for any of the stocks it manages under either the Bering Sea/Aleutian Islands (BSAI) or Gulf of Alaska (GOA) fishery management plans (FMP). Instead, it uses a biomass-based policy which reduces fishing mortality rates as stock sizes decrease, but only does so for the best-understood stocks. NMFS has interpreted  $\alpha$ , the parameter representing the stock size at which fishing is prohibited, as an equivalent for MSST. However, the Council sets  $\alpha$  at 5% of the MSY biomass, or approximately 2% of pristine stock size. Thus,  $\alpha$  in the Council’s definition is nowhere near the level called for in the National Standard Guidelines and is hardly sufficient to prevent a stock from being decimated by overfishing.

#### C. Statement of Proposal

The Center for Marine Conservation proposes that the Council adopt an MSST for each of its groundfish species based on the National Standard Guidelines. Our proposal would raise the MSST up to either half of the MSY level, or would set MSST at a level capable of rebuilding to MSY within ten years under the maximum fishing mortality threshold, whichever is greater. If the Council adopts an MSST for each stock, it would be alerted to potential overfishing when a stock is still relatively productive and therefore capable of rebuilding in a reasonable timeframe without severe new restrictions. The existing proxy for MSST, at 2% of pristine stock size, is low enough that few if any groundfish stocks would be capable of rebuilding to MSY levels within ten years, even in the complete absence of fishing.

#### D. Scientific Analysis

Fisheries managers must operate in the face of considerable uncertainty. The North Pacific Fishery Management Council is responsible for dozens of groundfish stocks, yet can only

reliably predict the optimum fishing rate ( $F_{MSY}$ ) for one (eastern Bering Sea pollock). See The Plan Team for the Groundfish Fisheries of the Bering Sea and Aleutian Islands, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Bering Sea / Aleutian Islands Regions (1998); The Plan Team for the Groundfish Fisheries of the Gulf of Alaska, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Gulf of Alaska (1998). In addition, the Council is uncertain about the stock status for the majority of stocks managed under its groundfish fishery management plans, i.e., whether they are overfished or not according to current definitions. National Marine Fisheries Service, Report to Congress: Status of Fisheries of the United States (1998). This high degree of uncertainty about the Council's groundfish stocks calls for a correspondingly high degree of precautionary management. Otherwise, stocks will be at risk of being driven to unproductive levels or even extinction.

When used as part of a policy to scale back fishing mortality rates if stock size decreases below desired levels, an MSST can both aid precautionary management and maximize long-term average yields. Ricker showed that reducing fishing mortality rates when stocks are small produces a substantial increase in average catch, even when stock attributes are known. See W.E. Ricker, *Maximum Sustained Yields from Fluctuating Environments and Mixed Stocks*, 15 J. Fish. Res. Board Can. 991, 1006 (1958). More recently, studies have documented that an MSST, at which fishing is reduced to zero, can maximize long-term average yields when stock attributes are not known. See C.J. Walters, *Optimal Harvest Strategies for Salmon in Relation to Environmental Variability and Uncertain Production Parameters*, 32 J. Fish. Res. Board Can. 1777, 1784 (1975); T.J. Quinn et al., *Threshold Management Policies for Exploited Populations*, 47 Can. J. Fish. Aquat. Sci. 2016, 2029 (1990); S. Engen et al., *Harvesting Strategies for Fluctuating Populations Based on Uncertain Population Estimates*, 186 J. Theor. Biol. 201, 212 (1997); J. Sladek Nowlis, *Control Systems Optimization and Fisheries* (6 May 1999) (unpublished manuscript, on file with author). When stock attributes are not known, threshold biomass levels can be used to check the performance of estimated fishing rates and are even more important than they are when stock attributes are known.

If MSST represents the threshold at which fishing mortality is reduced to zero, studies show that the optimal value depends on a variety of circumstances but can range from 10 to 60% of pristine stock size. Id. If MSST represents the threshold below which fishing mortality is scaled below maximal rates as a function of stock size, the optimal value of MSST will lie even higher.

The Council's current plan does begin scaling back the fishing mortality rate at the MSY stock size ( $B_{MSY}$ ), and eliminates it at 2% of pristine stock size if we assume the Council's default value of  $B_{MSY}$ ). NMFS has accepted this plan with the understanding that 2% of pristine stock size is a reasonable proxy for an MSST. The best scientific information would argue otherwise. Scientists estimate that optimal values for eliminating fishing mortality may lie between 10% and 60% of pristine stock size. Id.

In contrast, our proposal of an MSST that meets the National Standard Guidelines falls within the values supported by the best available science. Our proposal would, at minimum, establish an MSST equal to 50% of  $B_{MSY}$ , with the possibility of a higher threshold if stocks would be unable to rebuild from this level to  $B_{MSY}$  over the course of 10 years at the maximum fishing mortality threshold. These proposed MSST values correspond to 20% or higher of pristine stock size, assuming the Council's default value for  $B_{MSY}$ .

#### E. Legal Analysis

The FMPs for the BSAI and GOA groundfisheries must contain conservation and management measures that "prevent overfishing and rebuild overfished stocks, and . . . protect, restore, and promote the long-term health and stability of the fishery." 16 U.S.C. § 1853(a)(1)(A). MSSTs will promote the long-term health and stability of the fishery by helping to achieve OY on a continuing basis, as required under the MSFCMA. 16 U.S.C. § 1851(a)(1). MSSTs will promote the stability of fisheries by serving as a warning flag so that managers may initiate rebuilding plans before stocks drop to critical levels below which the ability to produce OY on a continuing basis would be jeopardized.

An overfished fishery is one in which the "rate *or* level of fishing mortality . . . jeopardizes its capacity . . . to produce the maximum sustainable yield on a continuing basis." *Id.* § 1802(29) (emphasis added). Under the canons of statutory construction, "where two clauses or phrases are expressed in the disjunctive, they are coordinate and either is applicable to any situation to which its terms relate." 82 C.J.S. Statutes § 335 (1955). Here, the two disjunctive terms are "rate" and "level". Therefore either a fishing rate or biomass level may be used to determine whether a fishery is overfished. Additional language in the MSFCMA states that a fishery may be declared overfished based on fishery resource size. *Id.* § 1854(e). The Guidelines also approve examining a fishery's biomass level to determine whether it is overfished. According to the Guidelines, overfished means "any stock or stock complex whose size is sufficiently small that a change in management practices is required . . . to achieve an appropriate level and rate of rebuilding." *Id.* Therefore, a fishery may be declared overfished when its *level* of biomass is too low to produce the maximum sustainable yield.

"Must" indicates an obligation to act and is used when "referring to requirements of the Magnuson-Stevens Act, the logical extension thereof, or of other applicable law." *Id.* § 600.305(c)(1). MSST and maximum fishing mortality thresholds "must be expressed in a way that enables the Council and the Secretary to monitor the stock or stock complex and determine annually whether overfishing is occurring and whether the stock or stock complex is overfished." 50 C.F.R. § 600.310d(2). Under the Guidelines, the Council "must" set both a maximum fishing mortality threshold and a minimum stock size threshold (MSST), or reasonable proxies for each. *Id.* § 600.310(d)(2)(i). The first addresses fishing rates which may jeopardize a stock's ability to produce MSY on a continuing basis while the second addresses stock size which may jeopardize

a stock's ability to produce MSY on a continuing basis. Therefore, NMFS has interpreted the MSFCMA to require the Council to set MSST or a reasonable alternative. Because the current method does not identify a stock size that would trigger rebuilding, the Council is in violation of the MSFCMA.

The Council has set overfishing rates<sup>1</sup> for individual stocks or stock complexes, not the groundfisheries as a whole. David Witherell, North Pacific Fishery Management Council, Summary of the Bering Sea and Aleutian Islands Groundfish Fishery Management Plan 2 (1997). The MSFCMA requires rebuilding to a level consistent with producing MSY<sup>2</sup> once a fishery is declared overfished. 16 U.S.C. § 1802(28)(C). Rebuilding must be as short as possible and must not exceed ten years, except under certain, specified circumstances. *Id.* § 1854(e)(4)(A). Assuming that the Council has set the overfishing level at 2% of pristine stock size, even the most productive stocks will require ten or more years to increase from 2% to 40% of pristine stock size, and then only in the complete absence of any fishing. Under the MSFCMA, the Council must maintain stocks at levels that produce MSY and OY on a continuing basis. *Id.* §§ 1802(29), 1851(a)(1). The Guidelines state that the phrase "on a continuing basis" indicates that the Council must maintain stocks at levels capable of producing MSY (and OY) on an uninterrupted basis. 63 Fed. Reg. 24,216 (May 1, 1998). Ten or more years of no fishing does not fit within the intent of the law, and therefore the Council's overfishing levels do not satisfy the MSFCMA.

In contrast, our proposal would raise the MSST up to either half of the MSY level, or would set MSST at a level capable of rebuilding to MSY within ten years, whichever is greater. This is in accordance with the National Standard Guidelines and the letter and intent of the MSFCMA.

### **III. Default Target Stock Size**

#### **A. Legal Requirement**

The MSFCMA states several national standards for fishery management, including the establishment of conservation and management measures that "prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery." 16 U.S.C. § 1851 (a)(1). To achieve this standard, the MSFCMA requires each fishery management plan to contain measures which are "necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery." *Id.* § 1853 (a)(1)(A). Overfishing is defined explicitly within the context of maximum sustainable yields, as "a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis." *Id.* § 1802 (29).

NMFS asserts that "the phrase 'on a continuing basis' in the MSFCMA definition of 'overfishing' indicates that stocks are to be maintained at levels capable of producing MSY (and

OY) on a continuing (uninterrupted) basis." 63 Fed. Reg. 24216 (May 1, 1998). Thus, there is a legal obligation for management to target a stock size that is most likely to produce MSY.

B. Current Council Policy

Most stocks managed by the Council lack sufficient information to estimate the MSY stock level directly. Instead, the Council relies on a proxy target equal to 40% of pristine stock size. NMFS in the National Standard Guidelines states that "a stock size approximately 40 percent of [pristine stock size] *may* be a reasonable proxy for the MSY stock size." 50 C.F.R. § 600.310 (c)(3) (emphasis added).

C. Statement of Proposal

We request that the Council increase its proxy MSY stock size to 50% of the pristine stock size, for stocks where such a policy is possible. We believe this change will better reflect realistic MSY levels, and thus ensure compliance with the MSFCMA and with the best available scientific information. For stocks with unknown pristine levels, we recommend that the Council consider using either the highest-known historic abundance or current abundance as a proxy for MSY stock size.

D. Scientific Analysis

NMFS justified their assertion that 40% of pristine stock size is a reasonable target as follows:

NMFS believes a prudent rule can be established as follows: Two of the best known models in the fishery science literature find that, on average, the stock size at MSY is approximately 40 percent of the stock size that would be obtained if fishing mortality were zero (the pristine level). (The actual values are 36.8 percent (Gompertz-Fox model) and 50 percent (Verhulst-Schaefer model). 63 Fed. Reg. 24219 (May 1, 1998).

This statement suffers from faulty averaging. The actual average of 36.8 and 50% would be 43.4% of pristine stock size. There can be valid reasons for weighing one component more than another in an average. But this concept cannot explain NMFS' faulty computation because the two clear arguments for performing a weighted average would both argue for weighting the 50% more heavily than the 36.8%. Doing so would create a weighted average greater than 43.4%. The first argument is that the Verhulst-Schaefer model (i.e., 50%) is an ecological tool with a history of common use stretching back a century. C.W. Clark, *Ecological Modeling* (1990). In contrast, the Gompertz-Fox model (i.e., 36.8%) is used primarily in text books as an alternative for consideration, but rarely in practice. The second argument hinges on the fate of lost productivity if the Council incorrectly estimates MSY stock size. The Council will achieve a better ecosystem outcome by erring on the side of "too many" fish. If the Council inadvertently maintain a stock level slightly higher than that which is maximally productive, the excess

productivity goes to ecosystem functions like predation or competition. In contrast, if the Council errs on the side of too few fish, the productivity is lost because there are insufficient parents to produce maximum numbers of offspring, with no ecosystem benefit.

#### E. Legal Analysis

The Council's policy is consistent with levels specified in the National Standard Guidelines. 50 C.F.R. § 600.310 (c)(3). However, NMFS' guidance is inconsistent on this point. Although they assert the need to maintain stocks "at levels capable of producing MSY on a continuing (uninterrupted) basis", 63 Fed. Reg. 24216 (May 1, 1998), they also suggest that a target level equal to 40% of pristine stock size may be reasonable. 50 C.F.R. 600.310 (c)(3). Their justification for this level is in violation of the MSFCMA's mandate to use the best available science. 16 U.S.C. § 1851(a)(2). *See supra* Part III.D.

### IV. Harvest Control Rule

#### A. Legal Requirement

The MSFCMA has a number of provisions relevant to precautionary management and the specification of optimum yields (OYs). The MSFCMA requires that management measures "promote long-term health and stability of the fishery." 16 U.S.C. § 1853 (a)(1)(A).

It also requires plans to prevent overfishing and rebuild overfished stocks, *Id.* § 1853 (a)(1)(A), and defines these two conditions in the context of jeopardy to produce maximum sustainable yields on a continuing basis. *Id.* § 1802 (29). Optimum yield is also specified on a continuing basis -- "Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery." *Id.* § 1851 (a)(1).

NMFS provides extensive guidance on using the precautionary approach in the specification of OYs, and in particular focuses on two issues: "that stocks are to be maintained at levels capable of producing MSY (and OY)," 63 Fed. Reg. 24216 (May 1, 1998), and that "greater uncertainty should correspond to greater caution in setting target catch levels" 63 Fed. Reg. 24219 (May 1, 1998). NMFS asserts that "the phrase 'on a continuing basis' in the MSFCMA definition of 'overfishing' indicates that stocks are to be maintained at levels capable of producing MSY (and OY) on a continuing (uninterrupted) basis; thus short-term overfishing that causes populations to decline below these levels is not permissible." 63 Fed. Reg. 24216 (May 1, 1998). NMFS also asserts that "a stock or stock complex that is below the size that would produce MSY should be harvested at a lower rate or level of fishing mortality than if the stock or stock complex were above the size that would produce MSY." 50 C.F.R. § 600.310 (f)(5)(ii).

NMFS provides additional criteria for precautionary approaches to OY:

Any MSY values used in determining OY will necessarily be estimates,



and these will typically be associated with some level of uncertainty. Such estimates must be based on the best scientific information available (see § 600.315) and must incorporate appropriate consideration of risk (see § 600.335).

Criteria used to set target catch levels should be explicitly risk averse, so that greater uncertainty regarding the status or productive capacity of a stock or stock complex corresponds to greater caution in setting target catch levels. Part of the OY may be held as a reserve to allow for factors such as uncertainties in estimates of stock size . . . .

Id. §§ 600.310(c)(2)(ii), 600.310(f)(5)(iii).

#### B. Current Council Policy

The Council's policy for stocks in tiers 1-3 links fishing mortality rates to biomass. Most managed fishery stocks lack a definitive determination of the fishing mortality rate that will produce maximum sustainable yields ( $F_{MSY}$ ). For example, of all the groundfish stocks identified in the two North Pacific FMPs, only one (Eastern Bering Sea pollock) has a reliable point estimate of  $F_{MSY}$ . See The Plan Team for the Groundfish Fisheries of the Bering Sea and Aleutian Islands, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Bering Sea / Aleutian Islands Regions (1998); The Plan Team for the Groundfish Fisheries of the Gulf of Alaska, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Gulf of Alaska (1998). Therefore, there is a high probability that the best estimate of this fishing mortality rate will be incorrect and a realistic possibility that it will lie far above the true value. A policy in which the fishing mortality rate is scaled back if stocks drop below desired levels has great potential to address this challenge, and was apparently part of the rationale for the harvest control rules in the Council's groundfish FMPs. However, the Council's policy scales back fishing mortality rates only once stocks drop below the target biomass level, and then only slightly. For example, under the Council's default policy, fishing mortality rates are set to zero when a stock drops to 2% of its pristine stock size, in comparison to 0% under a fixed fishing mortality rate policy. This degree of precaution is inadequate to address the high uncertainty associated with most groundfish stocks. The FMPs also suffer from a lack of strong precaution towards the stocks about which we know the least, tiers 4-6.

#### C. Statement of Our Proposal

We propose that the Council modify its policy to better utilize the advantages this kind of approach can provide. First, we request that the Council establish a target biomass level for every groundfish stock it manages, including those in tiers 4-6. Second, we request that the Council adopt its biomass-based fishing mortality rates to all its stocks. Finally, we propose that the Council choose  $\alpha$  levels -- a parameter related to the biomass at which the fishery shuts down -- more conservatively and based on tier assignment. For tiers 4-6, we recommend  $\alpha = 0.75$  (close the fishery at 75% of the target biomass). For tiers 2 and 3, we recommend  $\alpha = 0.5$  (close the

fishery at 50% of the target biomass), and for tier 1, we recommend  $\alpha = 0.25$  (close the fishery at 25% of the target biomass).

These changes would be a substantial improvement over existing policy for several reasons. Broadening the biomass-based policy and establishing targets to include all tiers would offer an additional measure of precaution for those stocks that need it the most. Increasing the threshold at which fishing is prohibited and scaling down fishing mortality rates on stocks below the MSY biomass level will greatly improve the Council's abilities to correct for inadvertent overestimates of acceptable fishing rates. Not only will these corrections be made in a more timely manner, but they will also occur when stocks are more productive and thus more capable of rebuilding to MSY levels. Finally, selecting  $\alpha$  levels based on tier assignment applies the precautionary principle effectively, with the greatest precaution afforded to the least-understood stocks.

If adopted, our proposed changes to the Council's groundfish FMPs will provide additional insurance for North Pacific groundfish stocks. By establishing explicit and more precautionary MSSTs, the Council will receive better early signs of potential overfishing while also providing a more scientifically rigorous assessment of the status of groundfish stocks within its jurisdiction. With this change and a modification of its current harvest control rule, the Council can create an automatic and effective rebuilding plan for stocks so that they rarely or never drop to unproductive levels.

#### D. Scientific Analysis

The arguments for a harvest control rule that scales down fishing mortality with stock size are quite similar to those for a minimum stock size threshold. In both cases, the need arises from uncertainty in fishing rates that will produce maximum sustainable yields. The North Pacific Council is charged with managing over a hundred stocks of groundfish between its Bering Sea / Aleutian Islands and its Gulf of Alaska Fishery Management Plans. National Marine Fisheries Service, Report to Congress: Status of Fisheries of the United States, (1998). Yet the Council can only reliably predict the optimum fishing rate for one stock, pollock in the eastern Bering Sea. The Plan Team for the Groundfish Fisheries of the Bering Sea and Aleutian Islands, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Bering Sea / Aleutian Islands Regions (1998); The Plan Team for the Groundfish Fisheries of the Gulf of Alaska, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Gulf of Alaska (1998). This high degree of uncertainty about the Council's groundfish stocks calls for a correspondingly high degree of precautionary management. Otherwise, stocks will be at risk of being driven to unproductive levels or even extinction.

Scientific studies over several decades give us strong guidance of how to achieve precautionary management using harvest control rules. Early studies showed that reducing fishing mortality rates when stocks are small produces a substantial increase in average catch but

increases the year-to-year variability in yield. See W.E. Ricker, *Maximum Sustained Yields from Fluctuating Environments and Mixed Stocks*, 15 J. Fish. Res. Board Can. 991, 1006 (1958). More recent studies have reaffirmed these results. See C.J. Walters, *Optimal Harvest Strategies for Salmon in Relation to Environmental Variability and Uncertain Production Parameters*, 32 J. Fish. Res. Board Can. 1777, 1784 (1975); T.J. Quinn et al., *Threshold Management Policies for Exploited Populations*, 47 Can. J. Fish. Aquat. Sci. 2016, 2029 (1990); S. Engen et al., *Harvesting Strategies for Fluctuating Populations Based on Uncertain Population Estimates*, 186 J. Theor. Biol. 201, 212 (1997); J. Sladek Nowlis, Control Systems Optimization and Fisheries (6 May 1999) (unpublished manuscript, on file with author). Together, these studies demonstrate that policies which scale fishing mortality rates down substantially when biomass drops below target levels maintain more productive stocks than policies that maintain more constant fishing mortality rates. The disadvantage of such a policy is that it creates greater uncertainty for fishers, as total catches fluctuate more widely from year-to-year. The logical, and scientifically credible, approach to this trade-off is stated clearly in the National Standard Guidelines: "Criteria used to set target catch levels should be explicitly risk averse, so that greater uncertainty regarding the status or productive capacity of a stock or stock complex corresponds to greater caution in setting target catch levels." 50 C.F.R. §600.310 (f)(5)(iii). In the context of harvest control rules, this suggests that when the Council has little information, it should scale back fishing substantially when stocks drop below desired levels, and when it has good information, it can maintain more constant fishing mortality rates.

The current Council management regime does not adjust management with the state of knowledge of the stock. The best known stocks that fall in tiers 1-3 receive a small amount of this precautionary approach. Fishing mortality rates are scaled back if stocks drop below target levels. However, the rate of decrease is modest. Lesser-known stocks in tiers 4-6 do not receive such protection. The rationale behind constant fishing mortality rates for stocks in these tiers is likely that, because the pristine stock size is unknown, it is difficult to estimate a target stock size. While a target based on pristine stock size would be preferable, it is still possible to establish a proxy target for these stocks. For the least-studied stocks, the Council could use the highest recorded stock size or the current stock size as a target. Whatever it chooses, fishing mortality rates should be scaled down most dramatically for these stocks if their biomass drops.

The existing harvest control rule for groundfish stocks in tiers 1-3 could also be modified to fit more in line with existing science. Studies that have optimized harvest control rules have shown the best policy is to lower fishing mortality rates once stocks drop below target levels. Optimal policies from these studies have also shown that fishing mortality rates should be lowered more dramatically than the Council's plan. See W.E. Ricker, *Maximum Sustained Yields from Fluctuating Environments and Mixed Stocks*, 15 J. Fish. Res. Board Can. 991, 1006 (1958); C.J. Walters, *Optimal Harvest Strategies for Salmon in Relation to Environmental Variability and Uncertain Production Parameters*, 32 J. Fish. Res. Board Can. 1777, 1784 (1975); T.J. Quinn et al., *Threshold Management Policies for Exploited Populations*, 47 Can. J. Fish. Aquat. Sci. 2016, 2029 (1990); S. Engen et al., *Harvesting Strategies for Fluctuating Populations Based on Uncertain Population Estimates*, 186 J. Theor. Biol. 201, 212 (1997); J. Sladek Nowlis, Control

Systems Optimization and Fisheries (6 May 1999) (unpublished manuscript, on file with author). In particular, since most stock-recruitment relationships suggest stocks lose productivity dramatically as they drop from 30% to 20% of pristine stock size, the Council should never let stocks drop to these unproductive levels.

The Council's current plan does not meet these standards. It does not tie the degree of precaution to the state of our knowledge about each stock. Moreover, for the stocks whose fishing mortality rate is tied to abundance, the drops in fishing mortality rates are smaller than is advised by the best available science.

Our proposal does meet these standards. We recommend greater precaution for tiers with the least amount of information. We further recommend biomass-based reductions in fishing mortality rate that are consistent with the best available science. Thus, our proposal represents a substantial improvement on the current harvest control rule.

#### E. Legal Analysis

Any FMP promulgated by the Council must contain conservation and management measures which prevent overfishing and rebuild overfished stocks, and "which protect, restore, and promote the long-term health and stability of the fishery." 16 U.S.C. § 1853(a)(1)(A). Additionally, conservation and management measures must "prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery." *Id.* § 1851(a)(1). According to NMFS, the MSFCMA requires that fishing mortality not exceed rates which would jeopardize a stock's capacity to produce MSY on a continuing basis. 63 Fed. Reg. 24216 (May 1, 1998). Therefore, the Council must implement a harvest control rule which does not jeopardize a stock's capacity to produce its MSY and OY on a continuing basis.

NMFS has stated that the Council's biomass-based policy complies with the MSFCMA because it provides for automatic rebuilding. 63 Fed. Reg. 57095 (Oct. 20, 1998). However, the Council admits that it does not know the fishing rate that produces MSY for BSAI groundfish as a whole, and only knows the rate for one individual stock. The Plan Team for the Groundfish Fisheries of the Bering Sea and Aleutian Islands, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Bering Sea / Aleutian Islands Regions (1998). The Council does not know the fishing rate that produces MSY for any stock in the Gulf of Alaska. The Plan Team for the Groundfish Fisheries of the Gulf of Alaska, Stock Assessment and Fisheries Evaluation Report for the Groundfish Resources of the Gulf of Alaska (1998). Therefore, current fishing rates may be too high and may lead to overfished stocks. A policy in which the fishing mortality rate is scaled back if stocks drop below desired levels has great potential to address this challenge. This follows the National Standard Guidelines that call for lower harvest rates for stocks that are below the size that would produce MSY. 50 C.F.R. § 600.310(f)(5). It also allows for greater caution in setting target catch levels when there is greater uncertainty regarding the status or productive capacity of a stock. *See id.* Only by initiating such

a policy may the Council ensure continuous production of MSY and OY from each managed stock, as required by the MSFCMA.

Additionally, tiers 4-6 are not covered by the Council's current policy which links fishing mortality rates to biomass. This does not comply with NMFS' Guidelines that call for risk averse catch levels. *Id.* § 600.310(f)(5)(iii). Specifically, the Council's policy does not follow NMFS' Guidelines which state that greater uncertainty regarding the status of a stock should correspond to greater caution in setting catch levels. *Id.* In contrast, the Council has used greater precaution in setting catch levels for those stocks about which it knows the most.

## V. Maximum Sustainable Yield and Optimum Yield

### A. Legal Requirement

The concept behind maximum sustainable yield (MSY) is that populations reach peak productivity at some intermediate level of stock size ( $B_{MSY}$ ), with an associated fishing mortality rate ( $F_{MSY}$ ). The actual values of  $B_{MSY}$  and  $F_{MSY}$  will depend on several factors that vary from population to population. Populations have the necessary attributes for establishing this peak, but groups of populations or species may not. Consequently, MSY is inherently a population-level concept. C.W. Clark, *Ecological Modeling* (1990).

Optimum yield and overfishing are both defined in the Sustainable Fisheries Act in the context of MSY. 16 U.S.C. § 1802 (28)-(29). Consequently, both OY and overfishing must also apply to populations -- or stocks, an equivalent to populations in fisheries management.

Under the MSFCMA, "to the extent practicable, an individual stock of fish [must] be managed as a unit throughout its range, and interrelated stocks of fish [must] be managed as a unit or in close coordination." *Id.* § 1851(a)(3). The National Marine Fisheries Service recognizes this point explicitly. "In the case of a mixed-stock fishery, MSY should be specified on a stock-by-stock basis. However, where MSY cannot be specified for each stock, then MSY may be specified on the basis of one or more species as an indicator for the mixed stock as a whole or for the fishery as a whole." 50 C.F.R. § 600.310 (c)(2)(iii).

The Secretary of Commerce also lends support to the practice of establishing MSY, OY, and overfishing thresholds on a stock-by-stock basis. In the Secretary's fulfillment of reporting obligations under the MSFCMA, 16 U.S.C. § 1854 (e)(1), he or she identifies the status of each stock of groundfish in both the Gulf of Alaska and the Bering Sea/Aleutian Islands independently. National Marine Fisheries Service, *Report to Congress: Status of Fisheries of the United States*, (1998).

B. Current Council Policy

The Council has not set MSY or OY for individual stocks which make up the BSAI and GOA groundfisheries. The Council estimated the Bering Sea/Aleutian Islands groundfish MSY when it first developed the FMP for the region in 1979-1981. Letter from Clarence Pautzke, Executive Director, North Pacific Fishery Management Council, to Dr. Richard Marasco, Alaska Fisheries Science Center (May 12, 1998). The Council set MSY at 1.7-2.4 million metric tons by summing the predicted MSYs of individual species. *Id.* At that time, the National Marine Fisheries Service defined the groundfish complex and its associated fisheries as "a distinct management unit of the Bering Sea" and therefore set MSY for the complex as a whole, rather than for specific species. National Marine Fisheries Service, U.S. Dep't of Commerce, Regulatory Impact Review/Initial Regulatory Flexibility Analysis of Amendment 1 to the Fishery Management Plan for the Bering Sea and Aleutian Islands Groundfish Fishery 7 (1982).

The Council estimated MSY for the Gulf of Alaska (GOA) at 1,000,750 million tons for the 1987 fishing year. Letter from Clarence Pautzke, Executive Director, North Pacific Fishery Management Council, to Dr. Richard Marasco, Alaska Fisheries Science Center (May 12, 1998). The Council has not set MSY for any single species other than Eastern Bering Sea pollock. *Id.* Currently, the Council's Scientific and Statistical Committee does not believe that a reliable MSY estimate exists for any GOA groundfish stock or complex of stocks. Grant Thompson, National Marine Fisheries Service, Evaluation of Current OY Specifications in the GOA and BSAI Groundfish FMPs with Respect to Requirements of the Magnuson-Stevens Act 5-6 (1998).

When the Council set OY for the BSAI, it estimated the MSY at between 1.7 and 2.4 million metric tons. The Council set the OY at 85% of the MSY range, or 1.4 to 2.0 million metric tons. National Marine Fisheries Service, U.S. Dep't of Commerce, Regulatory Impact Review/Initial Regulatory Flexibility Analysis of Amendment 1 to the Fishery Management Plan for the Bering Sea and Aleutian Islands Groundfish Fishery 8 (1982).

The OY for the GOA ranges from 116,000 metric tons to 800,000 metric tons. The lower value approximates the lowest historical groundfish catch during the period 1965-1985. Plan Team for the Groundfish Fishery of the Gulf of Alaska and the Staff of the North Pacific Fishery Management Council, Regulatory Impact Review/Final Regulatory Flexibility Analysis for Amendment 15 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska 12 (1987). The upper end of the range is approximately 95% of the average MSY for the years 1983-1987. *Id.*

The remainder of the Council's management scheme is based on individual stocks. The Council favors this approach because it gives it the flexibility to annually adjust catch levels without amending the Fishery Management Plan. However, other fishery management councils reserve this kind of flexibility by establishing a management framework that allows them to adjust annual catch levels according to established guidelines. *See e.g., Pacific Fishery*

Management Council, Final Environmental Assessment/ Regulatory Impact Review for Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan § 3 (1998).

The Council's Plan Team prepares annual Stock Assessments and Fishery Evaluations for each managed stock. David Witherell, North Pacific Fishery Management Council, Summary of the Bering Sea and Aleutian Islands Groundfish Fishery Management Plan 4 (1997). The Plan Team gives a preliminary description of the acceptable harvest rate based on status of the stock, environmental conditions, ecological factors and technological characteristics of the fishery. Id. at 2, 4. The Council refers to this harvest rate as Acceptable Biological Catch (ABC) and caps it at the overfishing rate for each stock. Id. at 2. The Council's adjustment from the overfishing rate to ABC is analogous to setting OY below MSY based on economic, social, or ecological factors. See 16 U.S.C. § 1802(28)(B). The Council recommends Total Allowable Catch (TAC) levels for each target species and the "other species" category based on the best available data on the stocks and the fisheries. David Witherell, North Pacific Fishery Management Council, Summary of the Bering Sea and Aleutian Islands Groundfish Fishery Management Plan 4 (1997). TACs differ from ABCs in that the sum of the individual TACs must be within OY for each groundfishery. See id. The Council recommends TACs based on 1) biological conditions of the stocks as specified in the Stock Assessment and Fishery Evaluation prepared each year by the Council's Plan Team and NOAA Fisheries, and 2) socioeconomic considerations. Id.

#### C. Statement of Our Proposal

We propose that the Council begin calculating MSY and OY for each groundfish stock independently. These calculations are largely done already as part of the process of setting acceptable biological catches, will provide a more scientifically rigorous assessment of the status of each stock, and are required under the MSFCMA.

#### D. Scientific Analysis

Maximum sustainable yield is inherently a stock-specific concept. C.W., *Ecological Modeling* (1990). It is based on measures of productivity of a stock that vary from species to species, and even from population to population (i.e., stock to stock) of the same species. As such, it can be dangerous to apply this concept to mixed stocks. Decades ago, Ricker alerted us to this danger. "When a number of stocks of differing reproduction potentials are mixed in a common fishery, maximum sustained yield may in some cases be obtained only by fishing at a rate which exterminates one or more of them. A larger total yield is always obtainable when each such different stock can be fished and regulated separately." See W.E. Ricker, *Maximum Sustained Yields from Fluctuating Environments and Mixed Stocks*, 15 J. Fish. Res. Board Can. 991, 1006 (1958).

The Council currently performs the calculations necessary to manage each stock based on MSY or MSY proxies, but does not refer to these calculations in MSY terminology. The practice

of creating an MSY for all groundfish stocks across a broad region flies in the face of the best available science.

Our proposal, for the Council to calculate MSY and OY for each stock independently, fits better with the best available science.

#### E. Legal Analysis

Under the MSFCMA and the National Standard Guidelines for the MSFCMA, MSY and OY must be established for each fishery. "Fishery" is defined as "one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics." 16 U.S.C. § 1802(13). According to the National Standard Guidelines, fishery management councils should set MSY for individual stocks when possible. 50 C.F.R. § 600.310(c)(2)(iii).

It is unacceptable to set MSY solely for entire groundfish fisheries. According to the MSFCMA, "to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range." 16 U.S.C. § 1851(a)(3). Although the MSFCMA allows management of one or more stocks of fish, the National Standard Guidelines state that "[i]n the case of a mixed-stock fishery, MSY should be specified on a stock-by-stock basis." 50 C.F.R. § 600.310(c)(2)(iii). Accordingly, only when the Council *cannot* specify MSY for each stock should it set MSY for the fishery as a whole. *See id.* The Council has demonstrated that it can set MSY for the BSAI and GOA groundfisheries stocks because it set MSY for individual stocks prior to the most recent FMPs for these regions. Therefore, the Council should set MSY for those stocks.

The fact that the Council sets OY and MSY for the BSAI and GOA groundfisheries as a whole when it manages the fishery on a stock by stock basis suggests that the Council is avoiding its legal obligation to set MSY and OY for the fisheries it manages. Under the Guidelines, "stock or stock complex" is a synonym for "fishery." Like the term "fishery," "stock or stock complex" is defined as equal to "one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, technical, recreational, or economic characteristics." *Id.* § 600.305(c)(12). By establishing a management regime that focuses on specific stocks, the Council has recognized that it can effectively manage these smaller units, not the complex as a whole. The MSFCMA requires the Council to prepare a fishery management plan for each fishery under its authority that requires conservation and management. 16 U.S.C. § 1852(h)(1). For any fishery that requires an FMP, the Council must set the maximum sustainable yield and optimum yield for the fishery. *Id.* § 1853(a)(3). Because the Council is managing individual stocks as units, it must set MSY and OY for those stocks.



---

<sup>1</sup> The Council refers to its stock-specific overfishing rates as overfishing levels (OFLs). However, these "levels" are established based on fishing mortality rates, not levels. These two are not synonymous, as recognized by the MSFCMA and the National Standard Guidelines. See 16 U.S.C. § 1802(29); 50 C.F.R. § 600.310(d)(1)(iii).

<sup>2</sup> The Council uses 40% of pristine stock size as a proxy for MSY stock size.

## **Control Systems Optimization and Fisheries**

by Joshua Sladek Nowlis, Center for Marine Conservation  
in collaboration with Bruce Bollermann, B & Z Engineering Consulting  
6 May 1999

### ***Why this project***

Currently, managers rely heavily on policies where the optimal fishing rate is determined by detailed mathematical and statistical studies of a population's life history, often with several important unknowns or little-knowns.

The Pacific Fishery Management Council adopted a plan for groundfish that modifies fishing rates as a function of population abundance. This got me thinking... There should be ways to adapt fishing rates so that an optimum population abundance is maintained.

### ***Question***

Are there other policy options, besides a fixed fishing rate, that can optimize long-term yields?

If so, what are their strengths and weaknesses?

### ***General approach***

Acknowledge lots of ignorance -- assume we do not know absolute productivity of population, but that we CAN select a target range of population abundance

Apply control systems optimization

### ***Details***

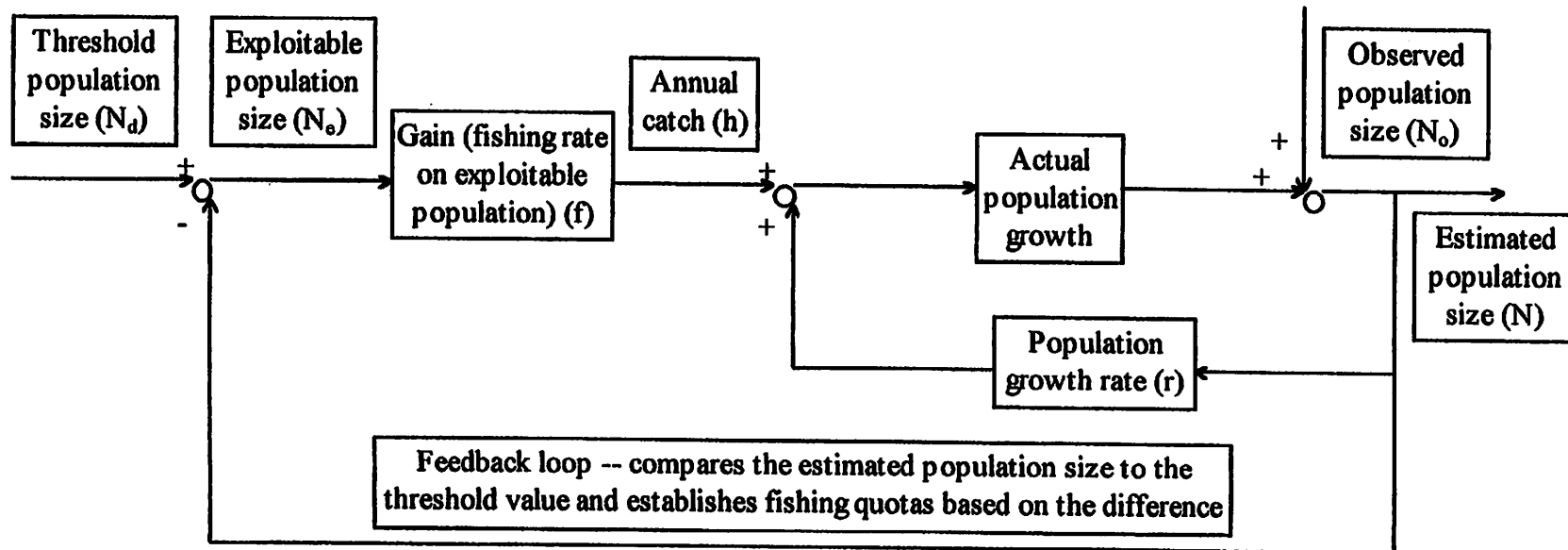
$$\frac{dN}{dt} = r(N)N - h(N) \quad (1)$$

Assume that  $r(N)N$  peaks at some optimum  $N_{opt}$

Treat as a linear function for analytical simplicity. If we really do not know the function  $r(N)$ , and we are aiming for a population stabilizing near  $N_{opt}$ , a linearization may not be a big problem unless the dynamics away from that equilibrium make it unlikely we will achieve it.

$$\frac{dN}{dt} = rN - hN \quad (2)$$

Now we apply control systems feedback loop



In control systems,  $N_d$  would be the desired population, and the goal would be to get  $N_e$ , the error, as small as possible. In fisheries, we can interpret this figure differently. We can instead see  $N_d$  as the threshold below which we shut down the fishery. Then  $f$  becomes the fishing rate on the exploitable population abundance ( $N_e$ ). Under these conditions, the harvest,  $h$ , is given by:

$$h = f(N - N_d) \quad (3)$$

We can solve for  $N_{ss}$ , the population at equilibrium, and  $h_{ss}$ , the harvest at equilibrium.

$$N_{ss} = \frac{N_d}{1 - r/f} \quad (4)$$

$$h_{ss} = rN_{ss} = \frac{r}{1 - r/f} N_d \quad (5)$$

We can also run a stability analysis to determine that the system is only stable if  $f > r$

Since we're examining a linear system, it will not give us insight into the choice of  $N_{opt}$ . This setup allows us to choose a combination of  $f$  and  $N_d$  satisfying (4). If  $N_{ss}$  is the optimum population abundance level (i.e.  $N_{ss} = N_{opt}$ ), we will achieve an optimum harvest.

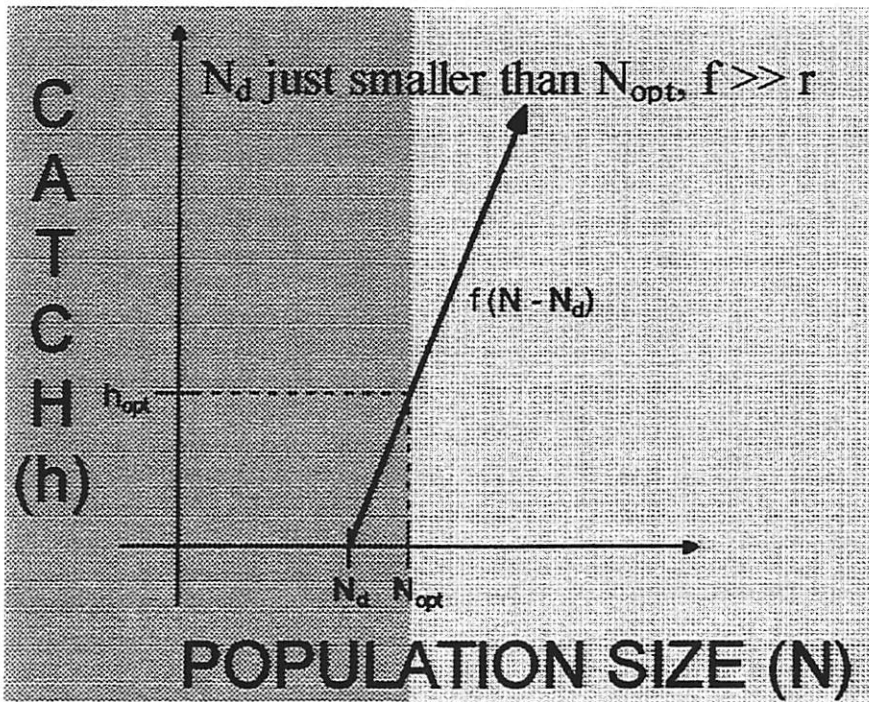
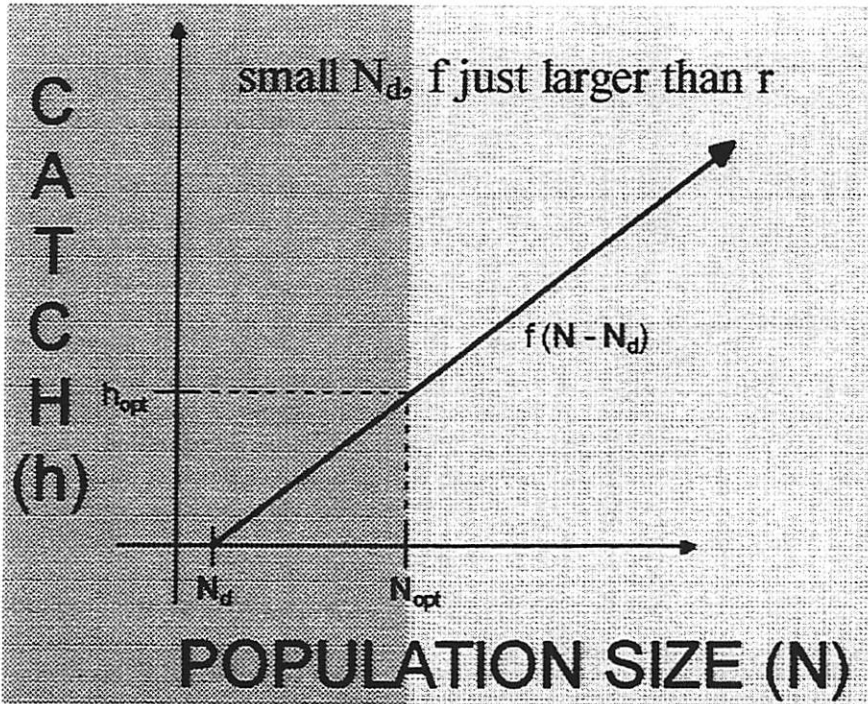
Thus, we can achieve an optimum yield using a continuum of policies. One end of the continuum is represented by:

$$\begin{aligned} f &\sim r \\ N_d &\sim 0 \end{aligned} \quad (6)$$

The other is represented by:

$$\begin{aligned} f &\gg r \\ N_d &\sim N_{opt} \end{aligned} \quad (7)$$

These policies are illustrated below. Equation (6) corresponds to a fixed  $f$  policy, whereas equation (7) corresponds to a fixed escapement policy. There also exist a continuum of options in between.



***What are the advantages and disadvantages?***

**A little more math**

First, let's discuss optimum yields. There is no optimum combination of  $f$  and  $N_d$  within the context of this model. However, there are infinite combinations of these parameter values, satisfying (4), such that the stable population size is equal to the optimum population size ( $N_{ss} = N_{opt}$ ). If we either know, or can ballpark, the optimum population size, we can use this approach to maintain a population at near that population size. And even though various combinations of  $f$  and  $N_d$  produce similar yields, they do differ in other respects. In particular, they vary in their sensitivity to inaccuracies in our understanding of  $r$ .

$$\frac{\partial h}{\partial r} = \frac{N_d}{(1 - r/f)^2} \quad (8)$$

The change in harvest rate, per change or inaccuracy in  $r$  is largest when  $f$  is close to  $r$ , and smallest when  $f$  is very large.

**Fixed fishing rate policy**

Under this option, represented by equation (6), the fishing rate must be chosen as a close approximation of  $r$ . As equation (8) shows, this leads to a high chance of catch loss if our understanding of  $r$  is poor. Recall that here  $r$  represents the productivity of the population at equilibrium. I do not believe we understand this value well for any fishery population.

The advantage of this population is that, in a fluctuating environment, the fishery will almost never be shut down.

**Fixed escapement policy**

Under this option, represented by equation (7), the value of  $r$  is almost irrelevant. Our estimate of  $r$  can be off substantially, and because of the tight control, we can nevertheless maintain a productive population.

This options disadvantages come from the strict control as well. As a result, the fishing industry would have less stability in catches from year to year. Here, we maintain the population very close to the threshold level at which fishing is shut down. Consequently, any unanticipated drop in fish population abundance would result in a closure. This sensitivity to population abundance levels would make fishing extremely dependent on our current understanding of the population status. At present, we have a slow and not especially accurate system for determining population abundance of most ocean fishery populations. This policy would require substantial improvements in these monitoring efforts.

A happy medium?

Given the problems at both ends of the continuum, perhaps we should be considering a happy medium. The key advantage of the constant escapement policy is that it makes our policy less sensitive to inaccuracies in  $r$ , the productivity of our fish population. We could still reap those benefits if we set  $f$ , the fishing rate on the exploitable population, higher than  $r$  is ever likely to be, but no higher. Relatively well-studied populations could then be managed closer to the fixed fishing rate end of the spectrum, whereas relatively poorly-studied populations could be managed closer to the fixed escapement end.

*Conclusions*

Are there other policy options, besides a fixed fishing rate, that can optimize long-term yields?

Yes, there is a continuum of options, with fixed fishing rate on one end and fixed escapement on the other.

If so, what are their strengths and weaknesses?

Both ends of the continuum have problems. The best solution might be an intermediate choice, where the fishing rate on the exploitable population is larger than the productivity is ever likely to be, but no larger. This policy would adapt policy based on our knowledge of a population, and achieve an intermediate balance between risking low yields due to poor estimates of population productivity and risking widely fluctuating catch levels due to environmental variations and limited monitoring.

Maybe it DOES take a rocket scientist to manage fisheries...

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council**

Date: August 16, 1999

Name of Proposer: Alaska Marine Conservation Council  
Address: Box 101145, Anchorage, Alaska 99510  
Telephone: 277-5357

**RECEIVED**

AUG 16 1999

Please check applicable box(es):	
<input type="checkbox"/>	Bycatch Reduction
<input checked="" type="checkbox"/>	BSAI Groundfish FMP
<input checked="" type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

**Brief Statement of Proposal:**

**N.P.F.M.C**

This proposal would initiate an analysis to add "minimum stock size thresholds" (MSST) to the overfishing definitions for the BSAI and GOA groundfish FMPs. MSSTs could be expressed in terms of spawning biomass or some other measure of productive capacity. If a fish stock falls below this threshold, the stock would require conservation measures to build the population to more productive levels. The Magnuson-Stevens Act National Standard Guidelines call for MSSTs equal to whichever of the following is greater: one-half the maximum sustainable yield (MSY) stock size, or the minimum stock size at which rebuilding to the MSY level would be expected to occur within 10 years if the stock were fished at the allowable maximum fishing mortality rate (63 Fed. Reg. 84 at 24230).

At a minimum, both of the options from the National Standard Guidelines should be alternatives in an analysis of this concept. While the Council currently does not calculate MSY on a species-by-species basis, it does use proxies of MSY in calculations of Allowable Biological Catch (ABC) for each species and we believe MSSTs that correspond to these MSY proxies can be analyzed in the proposal. The intent of the proposal is that MSSTs, however derived, would serve as a complement to the existing overfishing definition, not a replacement. The effect would be an overfishing definition that includes two parts: a maximum fishing mortality rate, and a minimum population size for each stock. Under such a definition, if the rate of fishing is too high or if the population size is too low, corrective action would be taken to stop overfishing and/or to rebuild stocks to more abundant levels capable of supporting sustainable fisheries.

**Objectives of Proposal (What is the problem?):**

This proposal addresses two problems. First, the existing overfishing definition, while a promising conservation approach in important ways, can and should be made more protective of fish stocks for long-term conservation purposes. Second, adding MSSTs to the overfishing definition is needed to fulfill an outstanding obligation of the overfishing requirements added to the Magnuson-Stevens Act in 1996.

Conservation. The current overfishing definition fails to provide managers with an objective "bright line" to determine when a fish stock may be in trouble and when we need to take a closer look at things or take additional conservative action. This "bright line" is analogous to a "floor," or biomass level at which corrective conservation action to rebuild a fish stock to a more sustainable level is triggered. The current approach includes an insufficient "floor" for some species and none for others. In effect, the current approach provides no meaningful objective measure or point within the existing overfishing definition to determine when a fish stock is "depleted," "overfished," or in need of additional conservation attention.

Under tiers 1-3 of the current overfishing definition, stocks are allowed to be fished or to decline to approximately 5% of the stock size required to produce MSY (roughly 2% of virgin biomass). Under tiers 4-6, there is no "floor" below which a stock cannot drop. This is an insufficient management framework for conservation purposes. The primary purpose of adding MSSTs as a complement to the overfishing definition is to insure that the rules that



govern our overfishing definition are sufficiently protective to maintain productive stocks and prevent stocks from dropping to dangerously low levels before taking conservation action.

One criticism of the MSST concept is that a variety of factors can contribute to fish stocks dropping below population thresholds making it inappropriate to declare stocks below such thresholds "overfished." For example, environmental factors can have considerable influence on the condition of fish stocks. Similarly loss of essential habitat caused by human activities can also play a role in the decline of fish stocks. While these examples may create a rationale to argue against declaring all stocks below MSSTs "overfished," (perhaps the term "depleted" is better) they do not represent a flaw in the MSST concept itself. Again, the primary purpose of MSSTs within an overfishing definition is to maintain productive stocks and prevent stocks from dropping to dangerously low levels before taking conservation action. In instances where natural or other factors contribute to a stock decline, MSSTs in an overfishing definition should insure that fishing does not exacerbate the decline by driving the population below productive levels from which it cannot rebuild and sustain itself.

The Magnuson-Stevens Act. The 1996 amendments to this Act set new requirements to prevent and stop overfishing and to rebuild overfished stocks. Specifically, the amended act requires managers to take actions to (1) end overfishing and (2) rebuild affected stocks. 16 U.S.C § 1851(a)(1) and 1854(e)(1) and (2). The law directs the agency to develop "status determination criteria" to be used to determine when action is needed to accomplish both objectives. 16 U.S.C § 1853(a)(10). In the final rulemaking on National Standard Guidelines to implement these new requirements, NMFS explicitly and clearly interprets the law to require MSSTs. The agency concludes:

*"The only way that both needs ("end overfishing" and "rebuild affected stocks") can be addressed is if the status determination criteria include measures appropriate to each - namely, one measure pertaining to the rate of fishing mortality and another measure pertaining to the size of the stock. That is, if only a maximum fishing mortality threshold were specified, it would be possible to determine which fisheries require action to end overfishing, but it would not be possible to determine which fisheries require action to rebuild affected stocks. Conversely, if only a minimum stock size threshold were specified, it would be possible to determine which fisheries require action to rebuild affected stocks, but it would not be possible to determine which fisheries require action to end overfishing."*

- 63 Fed. Reg. 84 at 24218.

NMFS goes on to state that in all cases and for each FMP, overfishing status determination criteria must specify both a maximum fishing mortality threshold and a minimum stock size threshold. NMFS use of the term "must" in this context is further indication that MSSTs are an obligation under the Magnuson-Stevens Act overfishing requirements. The National Standard Guidelines define the term "must" as follows:

*"Must is used, instead of "shall", to denote an obligation to act; it is used primarily when referring to requirements of the Magnuson-Stevens Act, the logical extension thereof, or of other applicable law."*

- 63 Fed. Reg. 84 at 24229.

Thus, this proposal solves two problems by improving the effectiveness of the existing overfishing definition and helping the Council fulfill an outstanding obligation of the Magnuson-Stevens Act.

#### **Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

It is solely the responsibility of the Council and NMFS to establish an overfishing definition that sufficiently protects the health of fish stocks under their jurisdiction and satisfies the conservation obligations of the Magnuson-Stevens Act.

**Forseeable Impacts of Proposal (Who wins, who loses?):**

Those with an interest in precautionary management and long-term sustainable fisheries clearly win. MSSTs can help prevent the need for more aggressive action and hardship on fishing communities in the long run by dictating that managers take preventative actions earlier. Under MSSTs, loss is likely to be short-term and well-balanced by a long-term gain through healthier stocks and more sustainable fisheries. It is difficult to determine exactly what fisheries and which stocks might be effected under a MSST set at 50% of the MSY stock size. Some likely stocks that may be "in the neighborhood" or at least candidates for a good close look include Bogoslof pollock, sablefish, Greenland turbot, and Pacific ocean perch.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

It is possible that alternative solutions exist. A thorough analysis of this proposal may produce alternative ideas.

**Supportive Data & Other Information (What data are available and where can they be found?):**

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 et seq.

Department of Commerce. May 1, 1998. Magnuson-Stevens Act Provisions; National Standard Guidelines; Final Rule. 50 CFR Part 600.

Signature:



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council**

Date: 8-26-99

Please check applicable box(es):

- Bycatch Reduction
- BSAI Groundfish
- GOA Groundfish FMP
- BSAI Crab FMP
- FMP Scallop FMP
- Habitat Areas of Particular Concern (HAPC)

Name of Proposer: dave fraser  
 Address: PO Box 771 Port Townsend WA 98368  
 Telephone: 360-385-6248

**Fisheries Management Plan:**  
BSAI/GOA Groundfish & Crab

**Brief Statement of Proposal:**  
Begin analysis of a Comprehensive IFQ program for groundfish and crab, in order to be ready to have a complete program to submit to the SOC at the end of the congressional moratorium on ITQs. (see attached outline of groundfish and crab IFQ programs.)

**Objectives of the Proposal: (What is the problem?)**  
 The LLP allows for thousands of licenses beyond the actual current level of participation in the fishery. This represents a huge potential capacity increase. Bycatch problems in the fisheries are exacerbated by the race for fish and the crowding of the grounds. More effort in the fisheries will make bycatch problems more difficult to resolve.  
 If we delay beginning to process of developing groundfish and crab IFQ amendments until the moratorium expires, we will lose the time needed to develop appropriate data sets on costs, etc.

**Need and Justification of Council Action: (Why can't the problem be solved through other channels?)**  
 The EA/RIR for Amendment 39 made it clear that the underlying problem was overcapitalization and almost none of the 14 facets of the problem can be addressed effectively by LLP. The Secretary of Commerce's letter approving LLP indicated it was to be a 1st step. IFQs were, according to the analysis, the alternative most likely to address the root problem. Its time to move on with the council's often repeated commitment to the next step.  
 The National Academy of Science's report to Congress on guidelines for IFQ programs has been released and the Congressional moratorium on submission of IFQ plans expires in the near future. The development of a plan amendment of this magnitude takes longer than 1 year, thus this is the appropriate amendment cycle to begin development of a groundfish IFQ program.

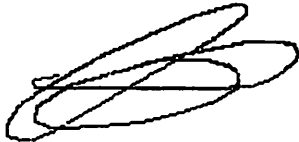
**Foreseeable Impacts of the Proposal: (Who wins, who loses?)**  
Winners include those who want to limit capacity increases and control bycatch levels

**Are there Alternative Solutions? If so, what are they and why to you consider your proposal the best way of solving the problem?**

Yes, coops for the whole fishery, but they have been classified as ITQs by NOAA-GC so there are no alternative solutions that deal as directly with the problems related to over-capitalization and the race for fish. There are various sub-optimal alternatives, which involve applying band-aids to the LLP program. The next best alternative would be a pollock only IFQ program for the BSAI, coupled with a VBA program. (see attached pollock only IFQ proposal)

**Supportive Data & Other Information: What data are available and where can they be found?**  
Past analysis of LLP, CRP, and Individual Bycatch Quota proposals.

**Signature:**

A handwritten signature consisting of several overlapping, loopy strokes, likely representing the name of the author.

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Date: August 16, 1999

Name of Proposer: Alaska Marine Conservation Council  
Address: Box 101145, Anchorage, Alaska 99510  
Telephone: 277-5357

**RECEIVED**  
AUG 16 1999  
N.P.F.M.C

Please check applicable box(es):	
<input checked="" type="checkbox"/>	Bycatch Reduction
<input type="checkbox"/>	BSAI Groundfish FMP
<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

**Brief Statement of Proposal:**

Pursuant to section 211(d) of the American Fisheries Act (AFA), this proposal requests the public disclosure of new catch and bycatch data that will be beneficial in the implementation of section 301(a)(9) and section 303(a)(11) of the Magnuson-Stevens Act (see Proposal Specifics below). This request can be folded into a discussion paper already tasked by the Council to examine disclosure of catch and bycatch pursuant to section 211(d) of the AFA (See April 7, 1999 AFA EA at 40). The discussion paper being developed should also consider the following Council requests from February 1999 concerning State and Federal data confidentiality rules:

1. *The Council initiated an analysis to consider use of a dual form of fish tickets to be used by NMFS and ADF&G that would not fall under the State of Alaska's confidentiality regulations.*
2. *The Council requested that ADF&G initiate efforts to change AS 16.05.815 to allow for the release of confidential data as provided by section 210(a)(1)(B) and section 211(d) of the AFA.*

As part of folding this proposal into the ongoing development of a discussion paper and other work on this issue, we request that the entire package receive priority attention under staff tasking. The work currently tasked has not been prioritized and we are aware of no schedule for progress on this important issue.

Proposal Specifics

**Data.** The specific information we request for public disclosure is a combination of information currently found in state fish tickets and NMFS observer data as follows:

- A. vessel and captain or cruise I.D. (or some other type of identifier)
- B. point-data for each species caught, including
  - (i) time of catch
  - (ii) date of catch
  - (iii) position of catch
  - (iv) amount of catch
  - (v) how caught
- C. nature of catch: target or non-target

**Disclosure.** Ideally, each individual tow could be displayed as a line across a spreadsheet, so that it would be easy to see exactly how each tow played out. Most likely, NMFS will want to have one line for each species in a tow because that is the way they display the information currently. While not as convenient, such a format would do the job. As long as the delivered product is easily accessible, the format should be left up to NMFS. However, the data should be in a common format importable to Windows 95/98. Common formats include: CSV, DBF, tab delimited, text or Excel. DBF or CSV might be preferred because it is easier and faster to download off the Internet.

**Purpose of disclosure in this manner.** The purpose in seeking this information is to educate and inform the public, industry, Council, and NMFS about the specifics of the bycatch that currently occurs – how much, when, where, how it is caught, and by whom. This data will help develop a much more accurate picture of the bycatch situation that can be used to implement the bycatch reduction mandates of the Magnuson-Stevens Act and to improve management. It will also allow those who want to fish cleanly to determine the optimum places and times to fish to avoid bycatch. If this information is released along with vessel and captain I.D., it may also enhance peer-pressure as an incentive for individual vessels to reduce bycatch.

**Objectives of Proposal (What is the problem?):**

While some of the data we would like to see publicly disclosed is available on the NMFS bulletin board, the current system does not allow the public to develop and distribute information about the specifics of the bycatch that currently occurs. Specifically, it is difficult for the public to determine how much bycatch there is, when it is caught, where, how, and by whom. Mostly this is because the existing publicly available data is either incomplete, confidential or not user-friendly. This can make it difficult to put the data together to determine the best times and places to fish in order to avoid bycatch. Further, it is not possible to get an accurate picture of what different vessels are doing, because the information lacks a common identifier.

**Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

The Council and NMFS have been newly empowered to publicly disclose this type of information pursuant to section 211(d) of the AFA. The Council and NMFS are also responsible for implementation of the Magnuson-Stevens Act bycatch reduction mandates that should be aided by the public disclosure of this previously confidential data. This proposal takes advantage of a new tool to address an existing obligation of the Magnuson-Stevens Act that requires further work. The proposal concerns a problem solely under the jurisdiction of NMFS, the Council and ADF&G.

**Forseeable Impacts of Proposal (Who wins, who loses?):**

The public, managers and the fishing industry gain by a better understanding of the specifics of the existing bycatch situation. This in turn may improve bycatch management, enhance and refine bycatch reduction efforts, and possibly even enhance the economics of fishing. Those who have an interest in keeping catch and bycatch data confidential lose.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

This is the first time federal law has empowered the public, fishery managers and industry to use full public disclosure of bycatch data to benefit efforts to reduce bycatch.

**Supportive Data & Other Information (What data are available and where can they be found?):**

The NMFS bulletin board illustrates what information is currently available and the limitations both of data and format discussed above. Some of this information can be found on the internet:

<http://www.fakr.noaa.gov/1999/pscinfo.htm>

<http://www.fakr.noaa.gov/1999/pscrates.txt>

<http://www.fakr.noaa.gov/1999/bycrabb.txt>

For other sites, see generally - <http://www.fakr.noaa.gov/1999/1999.htm>

Signature:



**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

Date: August 16, 1999

Name of Proposer: Alaska Marine Conservation Council  
Address: Box 101145, Anchorage, Alaska 99510  
Telephone: 277-5357

**RECEIVED**  
AUG 16 1999  
N.P.F.M.C

Please check applicable box(es):	
<input checked="" type="checkbox"/>	Bycatch Reduction
<input type="checkbox"/>	BSAI Groundfish FMP
<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

**Brief Statement of Proposal:**

Establish true prohibited species cap (PSC) limits for the Bering Sea pollock fishery. This would require a regulatory amendment to split out pollock from the pollock/Atka mackerel/other species category and to account for pollock fishery bycatch separately. The Bering Sea pollock fishery would be closed to fishing in specified areas when PSC limits are reached.

Analysis of this proposal should consider true PSC limits for all four prohibited species (halibut, crab, salmon, herring). Also, building off the analyses from BSAI Amendment 57 and the American Fisheries Act (Amendment 61/61), analysis of this proposal should consider establishing a "ceiling" for these caps. The "ceiling" would stipulate that the bycatch caps not exceed historic bycatch amounts (as recalculated under the pelagic gear and performance-based definitions to avoid rewarding higher amounts of bycatch from past bottom trawling practices). An option to consider bycatch caps lower than these historic amounts should also be considered to fulfill the bycatch reduction potential of fishery cooperatives.

**Objectives of Proposal (What is the problem?):**

The objective of this proposal is to secure bycatch reduction in the Bering Sea pollock fishery intended by previous management actions, national legislation and Council decisions. Four interrelated items describe the problem:

- The National Marine Fisheries Service has never issued even a *proposed* rule to implement the Council approved prohibition on bottom trawl gear in the Bering Sea directed pollock fishery (BSAI Amendment 57). The Council approved this amendment to reduce bycatch in June 1998.

Though the overall Bering Sea halibut and crab caps were lowered this year in the specifications process to reflect the bycatch savings of those species identified in BSAI Amendment 57, the broader Council intent of this action remains unfulfilled. In addition to slightly reducing halibut and crab bycatch caps, the Council intended to get this fishery "off the bottom" to also avoid approximately 1,581 mt (3,478,200 lbs.) of other groundfish bycatch. May 12, 1998 NPFMC EA/RIR for BSAI Amendment 57. Because pelagic gear can be - indeed might be regularly - fished on bottom, and because the fishery is not accountable for such action, the broader bycatch reduction intent of the Council remains unfulfilled. Having NMFS enact regulations codifying a prohibition on bottom trawl gear for this fishery, while a necessary action, is not by itself sufficient.

- The American Fisheries Act (AFA) allows the Bering Sea pollock fleet to establish fishery cooperatives. One of the primary purposes of fishery cooperatives - and of Congress in authorizing their establishment - is to reduce bycatch. When speaking to the Council about the AFA in December 1998, the Act's primary author, Senator Ted Stevens, made the following statements--

*" With fishery cooperatives we've been told the bycatch levels should come down... Implement this Act to insure that the conservation benefits that we intend in Congress with this bill are fully realized... This new Act provides new authority and direction.... It is our hope that you would use*

*this new authority to fulfill the promises of fishery cooperatives and to meet the bycatch reduction requirements of the Magnuson-Stevens Act* (emphasis added).

- Section 211 of the AFA mandates establishment of conservation and management measures - called sideboards - that establish hard bycatch caps for the Bering Sea pollock fleet. This fact is amply supported by the text of the statute, accepted conventions of statutory construction, the legislative history, and common sense as detailed in previous public comment to the Council (See supporting information below).
- The Council action on implementation of section 211 of the AFA explicitly directs that--

*"NMFS will manage all fisheries such that sideboards and PSC caps are not exceeded"* (emphasis added). - Final Council AFA motion, June 1999

Establishing true PSC limits for the Bering Sea pollock fishery will thus fully realize the Council's intent on bycatch reduction in BSAI amendment 57, and it will also secure the bycatch reduction purpose of the AFA and of the Council in how it implemented section 211 of the AFA.

#### **Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

Complying with the Magnuson-Stevens Act bycatch reduction mandates and appropriately implementing the AFA require follow-up attention from the Council. The Council's intent on the former (BSAI amendment 57) has not been fully realized and needs further Council attention. Similarly, this proposal will help the Council realize its intent in implementing section 211 of the AFA. Simply put, the most straightforward method of fully realizing the intent of both of these Council actions is to apply true PSC limits to the Bering Sea pollock fishery. Such an action is typically a Council responsibility in the current management scheme.

#### **Forseeable Impacts of Proposal (Who wins, who loses?):**

This should be a win-win scenario. The Council will fully implement BSAI amendment 57, making progress on implementing the Magnuson-Stevens Act bycatch reduction mandates, while it will also have helped secure congressional intent to reduce bycatch through fishery cooperatives by appropriately implementing section 211 of the AFA. The Bering Sea pollock fleet benefits from fishery cooperatives - the very type of program it has insisted it needed to reduce bycatch. Thus the fleet will find themselves enabled with an industry crafted tool to live within true PSC limits. Other users of marine resources and the public benefit by securing bycatch reduction in a major federal fishery.

#### **Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

This proposal a simple, straightforward method of securing the full bycatch reduction potential of BSAI amendment 57, section 211 of the AFA, and fishery cooperatives.

#### **Supportive Data & Other Information (What data are available and where can they be found?):**

- The American Fisheries Act
- June 1, 1999 letter to NPFMC on agenda item C-1 from Trustees for Alaska
- June 1999 final Council motion on AFA implementation
- December 1998 Statement to the Council on AFA implementation from Senator Ted Stevens
- May 12, 1998 NPFMC EA/RIR ON BSAI Amendment 57

Signature:





6

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council**

Please check applicable box(es):

- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP
- Halibut/Sablefish IFQs
- Habitat Areas of Particular Concern (HAPC)

**RECEIVED**  
AUG 16 1999  
N.P.F.M.C

**Name of Proposer:** Brent Paine, United Catcher Boats  
**Date:** August 16, 1999  
**Address:** 1711 W. Nickerson, Suite B, Seattle, WA 98119  
**Telephone:** (206) 282-2599

**Brief Statement of Proposal:**

Rescind mandatory trawl closure (Aug. 1 - 31) of chum salmon savings area. Allow for a chum salmon cap of 42,000 with management thereof by individual Pollock cooperatives.

**Objectives of Proposal (What is the problem?):**

Area restrictions imposed by sea lion RPA's have pushed inshore fleet into more concentrated areas farther from delivery points. Costs of operating have increased and localized depletions are more likely to occur. Fishermen are forced into areas of smaller fish during the month of August.

**Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

Amendment 35 (chum salmon savings area) was approved by the Council in January 1995, prior to catch restrictions in sea lion critical habitat and before the American Fisheries Act authorized pollock cooperatives.

**Foreseeable Impacts of Proposal (Who wins, who loses?):**

Fishermen will be able to deliver better quality product due to less travel time and costs should be reduced. The pollock co-ops will manage the overall cap of 42,000 chum salmon through inter-cooperative agreements and the burden of accounting and avoiding bycatch will be the responsibility of the individual co-ops. When a co-op reaches its pro-rata share of chum salmon PSC based on pollock harvest share, that co-op's vessels will have to fish outside the savings area until October 15 (the current date of re-opening the savings area if the cap is triggered).

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

No, because this requires an FMP amendment to rescind the August closure. As long as the bycatch cap remains in place it should provide protection against excessive chum salmon bycatch yet allow the burden of avoiding bycatch to be shifted to individual operators. Sea lion RPA's have dramatically reduced the catch allowed in the CVOA/CH, which encompasses the chum salmon savings area. This reduction in catch should equate to a reduction in bycatch as well. Fishing cooperatives have shown to be effective in reducing bycatch.

**Supportive Data & Other Information (What data are available and where can they be found?):**

Amendment 35, the American Fisheries Act, sea lion RPA's. Also a performance review of the At-sea sector's cooperatives in 1988.

Signature:

*Bob C. Row*  
UNITED CATCHER BOATS

**RECEIVED**BSAI  
GDA

7

AUG 16 1999

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
North Pacific Fishery Management Council**Name of Proposer:** Groundfish Forum**Date:** August 16, 1999**Address:** 4215 21<sup>st</sup> Ave. West, Suite 201, Seattle, WA 98199**Telephone:** (206) 301-9504

**Brief Statement of Proposal:** Create a regulatory mechanism for the reapportionment of prohibited species from one fishery category to another within the same gear group during a fishing year in response to unforeseen changes in effort distribution and/or market conditions.

**Objectives of Proposal (What is the problem?):** Prohibited species catch (PSC) is apportioned to each fishery based on that fishery's historical use of PSC and its anticipated future PSC requirements relative to other fishery categories' PSC use and anticipated PSC requirements. This apportionment of PSC is a part of the Council's annual specification process. The Council generally receives extensive testimony from industry regarding the best and most efficient use of PSC and has supported industry's recommendations in the past.

Despite industry's best efforts to predict the next year's target species catch rates, unforeseen circumstances such as bycatch rates, market conditions and other factors that affect fishing effort and the use of PSC in various fisheries, inevitably result in too much PSC being assigned to one fishery and not enough assigned to another. Unfortunately, the FMP does not appear to provide the Regional Administrator with the clear authority to reapportion PSC in response to changes in effort distribution and/or market conditions, even with unanimous industry support.

The Regional Administrator's inability to reapportion PSC in response to unforeseen circumstances in the fishery often results in inappropriate use of PSC and economic waste. Knowing that there is no way to reapportion PSC as published in the annual specifications, fishermen have a reduced incentive to move away from PSC bycatch "hotspots" or to leave a fishery if they are experiencing high PSC bycatch rates. When so many groundfish fisheries are commonly constrained by halibut bycatch, it makes little sense to force fishermen to choose between using up PSC in a fishery with unacceptably high bycatch rates and not using the PSC at all.

With changes in PSC abundance and bycatch rates relative to PSC caps it is absolutely necessary that the Regional Administrator have the authority to make in-season adjustments to the PSC fishery category apportionment at the request of industry. The reduction of a PSC cap would clearly increase the likelihood that even small changes in effort distribution might result in unintended constraints on some fisheries if PSC cannot be reapportioned during the year.

The most obvious example of a situation in which the inability to reapportion PSC results in foregone catch and economic loss to industry is when the total allowable catch for a fishery is reached before its PSC limits are reached. For example, the 1999 trawl cod fishery for both catcher vessels and catcher processors has been closed to directed fishing since late April due to achievement of the Pacific cod TAC. There are still more than one hundred metric tons of halibut bycatch remaining in that fishery category, which will go unused unless it can be "reallocated" to the other flatfish fishery. The fleet's ability to optimize its groundfish harvest should be more dependant upon their ability to fish at low bycatch rates and less dependant upon industry's and the Council's ability to predict months in advance how PSC will be used in various fisheries, or how, for example, economic conditions will affect global seafood markets.

The Regional Administrator should have the authority to reapportion PSC among target fishery categories at industry's request in the face of changes in market conditions as well. Not being able to make these adjustments causes economic inefficiency and hinders the fleet's optimization of its groundfish harvest. When the council apportioned PSC for the 1999 fishery at its December, 1998 meeting, industry recommended that a large percentage of trawl halibut and crab PSC be allocated to the yellowfin sole fishery. The yellowfin sole market was expected to be strong and there was general consensus within industry that it was a wise use of PSC. Since that time, however, the market has softened considerably – to the point that effort has dwindled severely because most vessels cannot break even in the fishery. The fleet presently faces the possibility that a large amount of PSC will go unused in the yellowfin sole fishery while valuable other flatfish go unharvested because the other flatfish category's PSC cap has been reached. The Regional Administrator should have the authority to move halibut PSC from the "yellowfin sole" category, for example, to the "other flatfish" category.

**Foreseeable Impacts of Proposal (Who wins, who loses?):** Assuming reapportionment is made only with unanimous support of the affected industry, this is not an allocative action and there are no losers. The fishermen would be better able to optimize the amount and the value of their annual catch, and fishing effort would better respond to changes in PSC bycatch rates and market conditions.

The process would be better served because there would be less incentive for different sectors of the industry to lobby the Council for "buffer" amounts of PSC to insure that "their" fishery had enough PSC to get through the year. The inability to reapportion PSC motivates industry participants to "pad" the PSC apportionment for the fisheries in which they participate with more PSC than necessary in order to reduce the likelihood that their fishery might be constrained. Both industry and Council would know, during the setting of annual specifications, that they should make their best attempt at an appropriate apportionment of PSC but could revisit the issue at a later time if there were unforeseen circumstances during the fishing season.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?:** The only alternative solution would be to not allocate PSC between fishery categories within the various gear sectors. While this might insure that the constraining PSC was fully used by year's end, it would also disrupt the balance and order of the fisheries. Even with the ability to reapportion PSC, certain fisheries will continue to

be constrained by PSC limits and would, without apportionment of PSC among fishery categories, use up a disproportional amount of PSC.

**Supportive Data & Other Information (What data are available and where can they be found?):** The best available data to quantify the benefits of this plan amendment proposal are the NMFS groundfish and PSC catch reports. The analysis should focus on those instances in which some fisheries remained closed because they reached a PSC species cap while amounts of that same PSC species remained available at year's end in other fishery categories. This was the case with trawl halibut PSC in both 1997 and 1998, and will likely be the case with trawl halibut at the end of 1999 as well.

*Signed copy  
John R. Quinn*

8

**FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Name of Proposer:** Alaska Druggers Association

**Date:** August 16, 1999

**Address:** P.O. Box 991  
Kodiak, Alaska 99615

**Telephone:** (907) 486-3910 **Fax:** (907) 486-6292

**RECEIVED**

AUG 16 1999

N.P.F.M.C

**Fishery Management Plan:** Gulf of Alaska Groundfish FMP

**Brief Statement of Proposal:**

Split gray cod by gear type "mobile/fixed" in the Gulf of Alaska based on 1995/96/97 average.

**Objectives of Proposal (What is the problem?):**

Now there is a race for gray cod. The trawlers are forced to fish too early. If we had our own allocation we could ask the Council to work with us to create seasons that would reduce bycatch and to harvest the fish when they are in the best market conditions.

**Need and Justification for Council Action (Why can't the problem be resolved through other channels?):**

Need - Only the Council can do this. Justification - To allow a more rational fisheries that would be easier managed.

**Foreseeable Impacts of Proposal (Who wins, who loses?):**

Less bycatch, better quality fish for the processors, more time for the workers. A more rational fishery for the trawlers.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

Yes. If I suggest them, I would probably have to leave town.

**Supportive Data & Other Information (What data are available and where can they be found?):**

Work done years ago by the Council.

**Signature:**

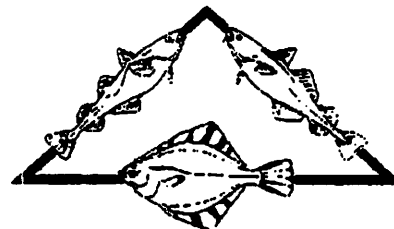
A handwritten signature in cursive script, appearing to read "Al Burch".

**Al Burch  
Executive Director**

# Alaska Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615

9



## GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL North Pacific Fishery Management Council

Please check applicable box(es)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Bycatch Reduction             | <input checked="" type="checkbox"/> BSAI Groundfish FMP | <input checked="" type="checkbox"/> COA Groundfish FMP |
| <input type="checkbox"/> BSAI Crab FMP                 | <input type="checkbox"/> Scallop FMP                    | <input type="checkbox"/> Observer Program              |
| <input type="checkbox"/> Habitat of Particular Concern |   |  |

Name of Proposer: ALASKA GROUND FISH DATA BANK Date: AUGUST 16, 1999

Address: P. O. BOX 948, KODIAK, AK. 99615

Telephone: 907-486-3033 FAX: 907-486-3461

Fishery Management Plan: GULF OF ALASKA AND BERING SEA

**Brief Statement of Proposal:**

1. 14 days prior to the rockfish season require all vessels to register for the rockfish fishery and the reporting area in which the vessel will start its rockfish fishery. 14 days prior to the fishery opening.
2. Apportion the Rockfish fisheries in the Central Gulf into several short openings to allow management to assess catch.
3. Consider allocating Rockfish in the Central Gulf between at-sea and catcher vessels.

**Objectives of Proposal: (What is the problem?)**

1. The managers have no way of knowing how much rockfish catcher vessel effort is entering each reporting area, and no way to know when a catcher processor is entering an area until the c/p has started fishing.
2. The rockfish fishery is too short to allow management to assess effort and CPUE. This results in premature closures and managers have to reopen. Premature closures and reopenings in the Central Gulf create severe allocative and effort level problems.
3. It may be necessary to apportion rockfish in the Central Gulf between at sea and shorebased operations.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)**

Only the Council can recommend pre-season registration, a series of preset openings and closures and, should it be necessary, apportionment of the Central Gulf rockfish between catcher vessels and catcher processors.



**AGDB PROPOSAL - ROCKFISH MANAGEMENT - AUGUST 16, 1999 -- PAGE 2 OF 2****Foreseeable Impacts of Proposal: (Who wins, Who loses?)**


Management of the rockfish fisheries will be based on better knowledge of the effort in each area. If there is an apportionment of rockfish between catcher processors and catcher vessels in the Central Gulf each mode will be better able to take responsibility for its share of the rockfish fishery.

It should be noted that the Central Gulf catcher vessel organizations and Groundfish Forum have in the past, and continue to, work together on shared fisheries. However, one company with considerable capacity has not participated in any of the agreements. This makes voluntary agreements among the rest of the rockfish fleets difficult to carry out. If there is an apportionment between catcher/processors and catcher vessels in the Central Gulf, the problems caused by this company will fall on the catcher/processor segment.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

We see no alternative solutions. The stakeholders in the trawl rockfish fisheries intend to work with management and together to improve the management and fishing of rockfish. However, since not all the companies involved are willing to participate in voluntary measures, regulations through the Council must be considered.

**Supportive Data & Other Information: What data are available and where can they be found?** Data on fleet distribution, percent of rockfish quotas taken by mode and company, and season lengths is available from National Marine Fisheries Service in Juneau.

  
Chris Blackburn, Director  
Alaska Groundfish Data Bank

**RECEIVED**

GOA

10

AUG 16 1999

FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

**N.P.F.M.C**

Name of Proposer: Groundfish Forum

Date: August 16, 1999

Address: 4215 21<sup>st</sup> Ave. West, Suite 201, Seattle, WA 98199

Telephone: (206) 301-9504

**Brief Statement of Proposal:** Require catcher vessels and catcher processors intending to participate in the Central Gulf of Alaska (CGOA) rockfish fisheries to commit to a fishing area in advance of the start of the season so as to prevent TAC overages/shortfalls and to minimize preemption of shore-based catcher vessels and catcher processors. Consider additional measures to reduce the chance of preemption and disproportionate effort including an allocation of CGOA rockfish between sectors and further measures to restrict preemption within the at-sea sector.

**Objectives of Proposal (What is the problem?):** There have been numerous collaborative efforts by both the Kodiak-based trawl fleet and Groundfish Forum member companies to distribute fishing effort such that one sector does not preempt the other in the Central Gulf of Alaska rockfish fishery. That fishery has been important to the C/P fleet since the mid-1980s and has been important to many shorebased trawlers since the mid-1990s. Despite considerable efforts by the above groups to solve in-season management challenges and preemption, we are still experiencing many difficulties in CGOA rockfish and we feel it is time for some additional measures to be put in place. The often-unexpected influx into the CGOA rockfish fishery of vessels whose owners have not supported the efforts by the above groups to prevent in-season management failures and preemption has resulted in shortened seasons and rapid closures of this rockfish fishery.

Examples of attempts to solve CGOA management and preemption problems are numerous. In 1997, Groundfish Forum and Alaska Groundfish Databank supported a regulatory "pre-announcement" system for checking into "sensitive" management fisheries, but such a system has never been implemented. In the absence of regulations for pre-announcement, voluntary efforts to pre-declare to NMFS managers where vessels will start fishing have been thwarted by inaccurate information from some vessels in the at-sea sector. Additionally, Groundfish Forum and Alaska Groundfish Databank jointly proposed a simultaneous start of the Bering Sea 3<sup>rd</sup> quarter "Other Flatfish" fishery, the rockfish fishery in the Aleutians, and the Gulf rockfish fisheries to help ensure that effort was spread over many areas to make the fisheries more manageable and prevent preemption and excessive harvesting shares. The above groups also have worked to lower MRBs for sablefish and high-valued rockfish bycatch species such as thornyheads and shortraker to slow down the rockfish fishery and decrease incentives to shift excessive effort into Gulf rockfish fisheries. While most of these measures have been implemented and some have had some limited success, certain vessels remain uncooperative and the problems in the Central Gulf fishery persist.

An example of the problem is well illustrated through a recent episode. Prior to the start of a recent rockfish re-opening in the CGOA, Groundfish Forum and Alaska Groundfish Databank undertook to poll association members to learn how many vessels were planning to participate. Groundfish Forum, Alaska Groundfish Databank, and the Alaska Druggers Association had earlier asked NMFS to move up the date of the rockfish reopening to a time when Bering Sea "Other Flatfish" was still open so as

to distribute effort between GOA and Bering Sea fisheries and therefore facilitate in-season management of the CGOA fishery.

In response to the poll, one at-sea company with 5 vessels announced that it was unlikely to send more than one or two vessels. Based in this information, a fleet of approximately 10 catcher vessels and 3 Groundfish Forum catcher processors made plans to fish POP during the reopening which they and NMFS expected would last at least 7 days. Just prior to the start of the fishery, however, the company with 5 vessels announced that it was not certain exactly where its five large catcher processors would fish but that they would likely all go to the CGOA to fish for rockfish. Upon learning this this, NMFS was forced to close the fishery 48 hours after it started.

The above account is a typical example of the problem we have experienced in the Central Gulf over the last 3 years. The current lack of an effective system for pre-declaration of fishing area that forces participants to stick to their decision is thwarting accurate estimation of fleet size and harvest rates. When such management is not possible, excessive operating losses and opportunity costs are created for those companies who are attempting to work together. In the case of the above example, with the prospect of a week-long rockfish re-opening, some of the Kodiak trawlers opted to stay in the Gulf instead of fishing in the Bering Sea pollock B season. In the same way, 3 of the 18 Groundfish Forum boats opted to make the 2.5 day steam to the CGOA from the Bering Sea flatfish grounds. These well-intentioned efforts to make use of the TAC available for the re-opening were dashed by the non-cooperation of five vessels owned by one at-sea company. This shift in effort resulted in a much-shortened fishery and tremendous economic waste.

Potential solutions: Groundfish Forum suggests that the Council approve and NMFS implement an effective pre-season announcement system that commits vessels to a starting place and penalizes them for failing to abide by their commitment. We would also like the Council to consider allocating CGOA rockfish between the catcher vessel fleet and the catcher processors based on each group's historical shares.

We are fully aware that such an allocation alone will not eliminate any possibility of preemption. In fact, such a split will cause 100% of the damage caused by an influx of effort by a large company's catcher processor fleet to fall on the members of the at-sea sector who have worked diligently to prevent this problem. For this reason, we also request the Council develop additional measures to eliminate preemption within the at-sea sector. Alternatives for these additional measures should include use of the Council's existing authority to restrict excessive harvest shares. A committee of industry representatives should be formed to recommend solutions to all the above problems.

**Need and Justification for Council Action (Why can't the problem be resolved through other channels?):** As described above, Groundfish Forum and Kodiak trawlers have worked together for several years to find ways to minimize or avoid preemption – the simultaneous openings of Bering Sea, Aleutian Islands and Gulf of Alaska fisheries, the adjustment of the MRB percentages, the timing of re-openings to coincide with ongoing trawl fisheries in the Bering Sea – these were all intended to prevent the concentration of effort that can cause failures in in-season management and preemption. Having exhausted these avenues we are now determined to request the Council review the problem and recommend measures that solve the problem without punishing those who have worked hard to prevent in-season management difficulties and preemption. We are willing to participate in an industry committee to work out the details of a pre-declaration of fishing area, the allocation of rockfish, and additional measures to prevent aggravated preemption problems in the at-sea sector.

**Foreseeable Impacts of the Proposal (Who Wins, who loses?):** With the implementation of an advance registration system for the GOA rockfish fishery, NMFS would have more advance knowledge of the amount of effort going into the rockfish fishery. This would allow the agency to make more accurate estimates of daily harvest rates and should increase the accuracy of its projections of when rockfish TACs might be reached. More accurate closure projections support sound management of the resource, and industry would benefit from there being fewer premature closures.

Even assuming a fair split of the quota between the Kodiak catcher vessel fleet and the catcher processors, those members of the at-sea sector who have been working to prevent in-season problems need additional protection rather than simply a catcher boat/ catcher processor split. In fact, the traditional participants in the CGOA rockfish fishery that Groundfish Forum represents would be entirely vulnerable to unexpected influxes of effort by a company owning five large catcher processors, as occurred in 1999. This is why the industry committee to discuss in-season and allocation problems should also be requested to develop additional measures to prevent preemption within the different sectors.

**Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?:** Groundfish Forum, Alaska Groundfish Databank, and Alaska Dragger Association have already attempted to solve this problem and proposed and supported an array of solutions. Unfortunately, these measures have fallen short of the objective of resolving in-season management problems and preemption.

**Supportive Data and Other Information (What data are available and where can they be found?):** The NMFS fisheries status report provides a detailed listing of fisheries openings and closures. From this report one can determine the length of the GOA rockfish openings and the timeframe in which the in-season managers must gather and process data in order to project closing dates.

Data showing the number of vessels (both catcher boats and catcher processors) in the GOA rockfish fisheries should be available from NMFS. These data would provide the analyst with a clear picture of sector participation in the GOA rockfish fishery and the range of effort from both sectors over the past few years.

NMFS catch data can easily be used to determine the historical participation of different sectors in the CGOA rockfish fishery. A sector split of rockfish in the CGOA should be based on these historical average shares.



**RECEIVED**  
 JUL 15 1989  
 FISHERY MANAGEMENT PLAN AMENDMENT

PROPOSAL  
 North Pacific Fishery Management Council  
 N.P.F.M.C.

Name of Proposer: ROBERT FILATRAT  
 Date: 7/14

Address: BOX 71 OUZIBKIE, AK 99644

Telephone: 486-0739

Please check applicable box(es):

- Bycatch Reduction
- BSAI Groundfish FMP
- GOA Groundfish FMP
- BSAI Crab FMP
- Scallop FMP
- Halibut/Sablefish IFQs
- Habitat Areas of Particular Concern (HAPC)

Brief Statement of Proposal: LET THE SMALL BOAT KODIAK FLEET, LONGLINE DURING OCT I OPERATE, INSTEAD OF DRAGGERS. FOR THE REMAINDER OF FEDERAL SEASON

Objectives of Proposal (What is the problem?): THE DRAGGERS ARE KILLING OFF THE BANKS, IT IS NOT FAIR THAT A DRAGGER CAN FISH IN MY BRUNT YARD AND I CANNOT GO SET A LONGLINE!

Need and Justification for Council Action (Why can't the problem be resolved through other channels?): THERE ARE NO OTHER CHANNELS - NMFS SAYS TO CONTACT YOU! WE ARE GETTING RIPPED OFF BIG TIME.

Forecastable Impacts of Proposal (Who wins, who loses?): THEIR ARE MORE BOATS WITH MORE CREW MAKING A LIVING (2) THE PRICE OF COD WILL REMAIN HIGH (3) IT IS GOOD FOR THE LOCAL ECONOMY (4) LESS DAMAGE TO THE ENVIRONMENT WITH GREATER FUTURE RETURNS (5) THE CANNIBALS WONT OWN US

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem? WHERE EVER THEY DRAG EXTENSIVELY IT IS FISHED OUT, ALSO UP THE BRATCH ON LONGLINE HALIBUT (REQUIRE DEAD HALIBUT BE KEPT FOR IFQ) LOWER BRATCH FOR DRAG FISH

Supportive Data & Other Information (What data are available and where can they be found?): LONGLINE BRATCH FOR HALIBUT 270 TONS ESTIMATED FROM LONGLINE VESSELS LARGE ENOUGH TO REQUIRE A DRAGGER (DRAGGER BRATCH 2000 TON. THESE SAME BRATCH RATES ARE FROM 89 AND HAVE NOT CHANGED SIGNATURE: EVEN THOUGH THIS IS TWICE AS MUCH HALIBUT, I ONLY CAUGHT A HALF DOZEN HALIBUT LAST FEDERAL SEASON AND RETURNED THEM ALIVE

(11)

12

**GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL**  
**North Pacific Fishery Management Council**

**Name of Proposer:** Alaska Druggers Association

**Date:** August 16, 1999

**Address:** P.O. Box 991  
Kodiak, Alaska 99615

**Telephone:** (907) 486-3910 **Fax:** (907) 486-6292

**RECEIVED**

AUG 16 1999

N.P.F.M.C

**Fishery Management Plan:** Gulf of Alaska Groundfish FMP

**Brief Statement of Proposal:**

Due to the drastic reduction in fishing time and quota's created by the need to do something to protect the Steller sea lion, the trawl fleet is facing economic disaster. Attached is a proposed buy-back program for GOA trawlers.

**Preamble:**

Fishing communities in the Gulf of Alaska (GOA) are experiencing a sharp decline in their fish plant work force, which is directly linked to shorter groundfish openings. Trawl caught fish has become the backbone for the processing plants in the GOA, normally helping to keep a large labor force intact. The last three years have witnessed a flight of labor from all the communities due to early closures which puts the labor force out of work for up to six weeks at a stretch. The loss of experienced plant workers lowers recovery, yielding a net loss in all of the fisheries, cod, sole, salmon and Pollock. Three of the four Gulf groundfish producing communities can only be accessed by air service at high cost, making it very difficult to recruit labor on demand. These same conditions prevail at the catcher vessel level, making it more difficult to retain experienced safe crew. Shorter groundfish openings have several additional negative impacts to the fishery; creating quarterly fishing derbies where safety of crews and the vessels are put at higher risk, racing for fish. These derbies also take their toll on the environment "racing for the target species at the expense of by-catch" and the management of the stocks when quotas are over/under shoot.

**The Problem:**

Over capitalization in the inshore harvesting and processing sectors combined with offshore pressures, have assured the foreshortening of most GOA groundfish openings. The present matrix of 45-50 trawlers delivering ground fish to processors in the GOA have come under additional pressure from vessels qualified under LLP but displaced from trawl fisheries in the Pacific Northwest due to economic and regulatory conditions. There is additional threat from Bering Sea Mega trawlers with past history after SB1221. This overwhelming combination has shortened the number of potential delivery days in the GOA by approximately ninety (90) days. The overall result has pushed the catcher vessels to their economic limits, increasing risk taking at sea to gain one more delivery in shortened openings. These same shorter openings put additional stress on the processors and the people that must put in the overtime to produce the final product form. The mechanics of the GOA communities are dependent on the wide variety of fisheries that support the processing sector. A failure of any portion of either sector could result in long lasting destabilizing effects for the communities. These problems characterize a fully mature open access fishery that has the potential to collapse if any additional stress factors are introduced. Including races for bycatch when additional factory trawlers are displaced from the Bering sea due to economic, biological, or by-catch reasons. Business planning for both sectors in this environment drives the thinking to add capacity to "get my share" further exacerbating the situation. Vessels in the GOA and those that qualify to come in under LLP have continued to upgrade electronic, navigation, fish-finding and fish hold capacity significantly increasing the harvesting efficiency of the fleet. In years where there are strong year classes of fish this "capacity build-up" is masked. When the cycle turns down, with weak year classes, this build up will shorten the quarterly openings too mere days, with disastrous effect.

**Need for Capacity Reduction Program:**

Reducing fleet capacity would allow the available groundfish resource to be distributed among a smaller fleet, increasing the number of delivery days for the remaining vessels. This step would slow the taking of the resources and translate to more worker days in the communities. Slowing the catch creates benefits related to managing the fisheries and the environment. Management can more accurately keep track of open fisheries and slow removals in the environment allowing fisherman to find areas of least by-catch.

**Prevention of Replacement of Post-buyback Fishing Capacity:**

The NPFMC would have to adopt a FMP amendment that prevents the replacement of fishing capacity removed by the program (with sideboards for the GOA still open to identify the eligible vessels (window year 1997, with 75% participation)). The Magnuson-Stevens Act requires that the FMP be consistent with the capacity reduction program to ensure that the benefits of a capacity reduction program accrue to those who participate in the program.

**Goal:**

The goal of the GOA groundfish capacity reduction program is to achieve a permanent reduction of capacity in the groundfish fishery as a means to prevent destabilization of the GOA communities, to prevent overfishing, rebuild stocks, and achieve measurable and significant improvements in conservation and management of the groundfish fishery and by-catch. The sectors of the industry that are reduced should receive the benefits of the capacity reduction program.

**Target:**

The objective of the GOA groundfish capacity reduction program is to reduce the number of active (to be defined by pounds delivered/year) trawl vessel permits by approximately 40%. Remove all latent groundfish trawl permits (sunken vessels) to eliminate any possibility of increased capacity.

**Description of the Capacity Reduction Program:**

The proposed capacity reduction program shall be funded by an industry fee system established under section 312(1) (d) of the Magnuson-Stevens Act and in accordance with section 1111 of Title XI of the Merchant marine Act, 1936.

**Permit Purchase Policy:**

The buy back program must have a guiding policy governing the conditions of when a permit is to be purchased. Minimizing the total cost of the program must be balanced with the need to remove a large number of permits. To give additional incentive to this program a one time complete tax exemption should be offered to entice owners that view this life style as part of their heritage. Or should include provisions to lower substantial tax consequences by allowing the money from the buy out to be placed directly into IRA/KEOGH plans.



**Purchase Mechanism:**

Request a direct grant of 20 million dollars to offset the burden of the vessels that have been displaced from the Pacific Northwest due to economic and regulator conditions and a loan amount of 20 million dollars. Each qualified LLP holder would be contacted and asked to submit a bid. No buyback could proceed unless 20% of the qualified LLP permit holders offered bids.

**Program Revenue:**

This program will be funded by the sale of a government bond which will be repaid by the remaining trawl fleet at a rate not to exceed 5% of the remaining vessels gross revenue for the next twenty years.

**Capability of Repaying Debt Obligation:**

The Magnuson-Stevens Act requires that a capacity reduction program be cost-effective and capable of repaying any debt obligation incurred under section 1111 of title XI of the Merchant Marine Act, 1936. The capacity of the post buy back fleet to repay debt obligation is directly linked to the benefits (and no benefits if SSL closes it) that will accrue to the remaining permit holders as a result of the program. The benefit to the remaining permit holders will be, all things remaining equal, an increase in the amount of fish available to be caught as reflected in the increased number of trips.

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels)?**

Action needs to be taken by the NPFMC because they are the only channel to recommend that these measures be taken to the Secretary of Commerce.

**Foreseeable Impacts of Proposal: (Who Wins, Who loses?)**

The GOA coastal communities will win. No one will lose.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

Not that we know of. We are open to suggestions.

**Signature:**

Al Burch  
Executive Director

**Fishery Management Plan Amendment Proposal** BSAI Groundfish FMP  
**North Pacific Fishery Management Council**

**Name of Proposer:** Scott Jacobsen, Mason Williams, Erling Jacobsen

**Date:** 30 July 1999

**Address:** 4917 Leary Ave. NW Seattle, WA 98107

**Phone:** (206) 784-071

**Statement of Proposal:** The proposers petition the Council to make amend the regulation of fish pots to allow a 24" tunnel opening in fish pots used at a depth greater than 200 fathoms in an area west of 172.00°W in the BSAI from May to August inclusive.

**Objective of Proposal:** Allowing a 24" tunnel in fish pots will allow the harvesting of Turbot with pots. In the past, turbot has been harvested by longlining and trawling. Problems with Orca have limited the profitability of longlining for Turbot. Fish pot tunnels are restricted to an opening width of 9" - too narrow to allow marketable Turbot to enter. Allowing a 24" opening will permit the bycatch-friendly fishing of Turbot in an economically feasible manner.

**Need and Justification for Council Action:** The council has the authority to make the requested changes.

**Foreseeable Impacts of Proposal:** boats using pots would harvest Quota otherwise available to longliners. Two of the proposers are owners of a longline vessel that also has the ability to fish with pots. There are several longliners with a similar capability.

**Are there Alternative Solutions:** No

**Supportive Data & Other Information:** Bycatch can be returned unharmed. Vessels will have observers to monitor bycatch.



Signature:

AUG-17-1999 15:39

RECEIVED

AUG 17 1998

FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL  
North Pacific Fishery Management Council

Regulatory

14

Name of Proposer: North Pacific Longline Assoc. 8/17/98  
Address: 4209 21st Ave. W., Seattle, WA 98199

Please check applicable box(es):	
<input type="checkbox"/>	Bycatch Reduction
<input checked="" type="checkbox"/>	BSAI Groundfish FMP
<input type="checkbox"/>	GOA Groundfish FMP
<input type="checkbox"/>	BSAI Crab FMP
<input type="checkbox"/>	Scallop FMP
<input type="checkbox"/>	Habitat Areas of Particular Concern (HAPC)

Telephone: (206) 283-7700

Brief Statement of Proposal: **LONGLINE**  
Framework BSAI ~~fixed gear~~ cod season so that in any given year the first trimester could begin from January 1 to January 20, third trimester to begin September 1 to ~~September 30~~. **OCTOBER 15.**

Objectives of Proposal (What is the problem?):

The purpose of the first trimester framework is to minimize repetitive flights for crews wishing to be home at Christmas. The purpose of the second framework is to vary the third trimester to address halibut bycatch, ~~or~~ TAC considerations (how much is left to catch), **OR SEABIRD AVOIDANCE (ENDANGERED SPECIES)**

Need and Justification for Council Action (Why can't the problem be resolved through other channels?):  
Without the frameworking measure, season changes require full plan amendments (or regulatory amendments), which take a year or more.

Foreseeable Impacts of Proposal (Who wins, who loses?):

Happier crews, reduced transportation expense. Reduced halibut bycatch, adequate time to harvest third trimester apportionment, **REDUCED SEABIRD BYCATCH (ENDANGERED SPECIES)**

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?

No known alternatives.

*Smucker thinks it's a good idea*

*try to do part framework in bags*

Supportive Data & Other Information (What data are available and where can they be found?):

Signature: *Thom Smith*