

# North Pacific Fishery Management Council

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## MINUTES

**142nd Plenary Session  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
February 9-14, 2000  
Hilton Hotel  
Anchorage, Alaska**

The North Pacific Fishery Management Council met February 9-14, 2000 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met February 7-9 and the Advisory Panel met February 7-10, also at the Hilton Hotel. The following members of the Council, staff, SSC and AP attended the meetings.

### Council

Richard Lauber, Chairman  
Dennis Austin for Jeff Koenings  
RADM T. Barrett/CAPT V. O'Shea  
Linda Behnken  
Dave Benton for Frank Rue  
David Fluharty  
John Bundy

Bob Mace for J. Greer  
Dave Hanson  
Joe Kyle  
Kevin O'Leary  
Steve Pennoyer  
H. Robin Samuelsen, Jr.

### NPFMC Staff

Clarence Pautzke, Executive Director  
Darrell Brannan  
Cathy Coon  
Jane DiCosimo  
Elaine Dinneford  
Chuck Hamel

Chris Oliver, Deputy Director  
Nicole Kimball  
David Witherell  
Helen Allen  
Gail Bendixen  
Maria Shawback

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**Support Staff**

Lisa Lindeman, NOAA-GCAK  
Lauren Smoker, NOAA-GCAK  
Earl Krygier, ADFG  
Sue Salvesson, NMFS-AKR  
Jay Ginter, NMFS-AKR  
Kent Lind, NMFS-AKR

Tim Ragen, NMFS-AKR  
Mike Payne, NMFS-AKR  
Steve Davis, NMFS-AKR  
Loh-lee Low, AFSC  
Rob Bentz, ADFG  
Doug Vincent-Lang

**Scientific and Statistical Committee**

Rich Marasco, Chair  
Jack Tagart, Vice Chair  
Keith Criddle  
Steve Hare  
Jeff Hartman  
Dan Kimura for Jim Balsiger

Doug Larson  
Seth Macinko  
Terry Quinn  
Al Tyler  
Hal Weeks

**Advisory Panel**

John Bruce, Chair  
Ragnar Alstrom  
Dave Benson  
Dave Boisseau  
Al Burch  
Craig Cross  
Dan Falvey

Stephanie Madsen, Vice Chair  
Kris Fanning  
Dave Fraser  
Arne Fuglvog  
Justine Gundersen  
Spike Jones  
Melody Jordan

Teressa Kandianis  
Hazel Nelson  
Doug Ogden  
Jeff Steele  
Jeff Stephan  
Robert Ward  
Lyle Yeck

**Other Attendees**

The following people signed the attendance register:

Bill Jacobson  
Mike Amberg  
C. Lowenger  
Corky Singleton  
Rick Mezich  
Brent Paine  
David Jentry  
Heather McCarty  
Phil Cutler  
Brendan McKenna  
Patrick Sterling  
Phillip Lestenkof  
Patience Mercurief

Ed Glotfelty  
Joseph Malatesta, Sr.  
Suzanne King  
Frank Kelty  
C. Mateo Paz-Soldan  
Johanna Eiler  
Steve Heimel  
Simeon Swetzof, Jr.  
Donna Bondioli  
Bryan Bondioli  
Shari Gross  
Jim Preston  
Jay Lloyd

Kenneth Simpson  
John Goodhand  
Arthur Schwartz  
Mildred Flores  
Karen DiBai  
Gary Indreland  
Randolph Huber  
Matthew Kope  
David Wallen  
Troy Martin  
Nick Walsh  
Bruce Gabrys  
Robert Kiesel

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Gordon Blue  
Wendy Cope  
Mark Lundsten  
Shirley Marquardt  
Tim Henkel  
Gerry Merrigan  
Otto Florschutz  
Dave Chartier  
Alan Norieda  
Paul Clarke  
Tom Gemmell  
Sharon Moesel  
Nancy Washburn  
Ray Zernia  
Ronald Johnson  
Margie Bauman  
Dick Curran  
Howard Teds  
Larry Hall  
Patrick Day  
Thomas Witcher  
Stephan Santilli  
Callahan McVay  
Neil Erickson  
Dan Hull  
Paul Barnes  
Jim Lee  
Peter Hardy  
Peggy McNees  
Anton Bowers  
Neal Forde

Ellen Lockyer  
Steve Zernia  
Bob Jaynes  
Marvin Peters  
Sue Aspelund  
Robert Candopoulos  
Neil Huff  
Michael Mayo  
Richard Bremicker  
Bob Crooker  
Mike Patterson  
Nazary Basargin  
Donald Westlund  
Wayne Davenport  
David Martin  
Will Brown  
Gary Ault  
Steve Vanek  
Joe Plesha  
Steve Hughes  
Richard Davis  
Greg Markson  
L. Larson  
Jeff Peterson  
John Iani  
Perfenia Pletnikoff  
Donna Parker  
Kenneth Simpson  
John McCombs  
James Swift  
Richard Freisinger

Drew Sparlin  
Arni Thomson  
Kenneth Simpson  
Steve Toomey  
Ken Roemhildt  
Jim Paulin  
Ron Alexander  
Thorn Smith  
Steve Grabacki  
Erika Ellers  
Clifford Young  
Deborah Swenson  
John Henderschedt  
Paula Brogdon  
Ron & Maria Painter  
Ray Nielsen, Jr.  
Earl Comstock  
John Dooley  
Jack Crowley  
Glenn Reed  
Stuart Ferris  
Dustin Dickerson  
Cory Swasand  
Beth Stewart  
Lisa Wilson  
Jody Seitz  
Mike Szymanski

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

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

Chairman Lauber called the meeting to order at approximately 8:10 a.m., Wednesday, February 9, 1999.

Agenda. The agenda was approved as drafted.

Minutes. No comments were offered on the October 1999 meeting minutes which will stand approved as submitted.

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**B. REPORTS**

The Executive Director's report (B-1), and reports on the status of various regulatory and plan amendments and the Sablefish and Halibut IFQ program by NMFS staff (B-2), were submitted in written form.

**Discussions Resulting From Reports**

Executive Director's Report: Council members asked the Executive Director to send a letter to Assistant Administration Penny Dalton requesting an update at the Council's June meeting on the effort to measure levels of capacity in federally managed fisheries.

NMFS Management Report: The Council was advised that NMFS has determined that the amendment implementing the allocation of fixed gear Pacific cod in the Bering Sea by emergency rule will not be necessary as it appears that the first seasonal allowance for the fixed gear fleet will be attained by mid-March and the fishery would then be closed until September 1.

NMFS also advised the Council that plans are underway to extend the current interim observer program for two years while the Observer Committee and Observer Program staff work toward resolving funding and programmatic problems. No changes will be made in order to implement the extension in a timely manner. However, NMFS staff is currently finalizing analyses for changes previously recommended by the Council and will submit them to the Council in April.

**FORMAT FOR COUNCIL MEETING MINUTES:**

Each agenda item requiring Council action will begin with a copy of the original "Action Memo" from the Council meeting notebook. This will provide a "historical" background leading up to the current action. This section will be set in a different type than the actual minutes. Any attachments referred to in the Action Memo (e.g., C-1(a), etc.) will not be attached to the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be the **reports** of the Scientific and Statistical Committee, Advisory Panel, and any other relevant committee or workgroup on the subject. And, last will be a section describing Council **Discussion and Action**, if any.

**C. NEW OR CONTINUING BUSINESS**

C-1 Halibut Charterboat Management

**ACTION REQUIRED**

**Final action on halibut charterboat GHL and management measures.  
Discussion of an Individual Fishing Quota Program for the halibut charter fleet.**

**BACKGROUND**

Final action

**In December 1999, the Council approved for public review the analysis for implementing a guideline harvest level (GHL) and management measures to keep harvests under the GHL for the halibut charter fishery in Gulf of Alaska Areas 2C and 3A. It adopted the restructured alternatives as proposed by the staff to simplify the decision-making process and added to the analysis: (1) possession limits as a**

possible management tool; (2) a 3-year rolling average for determining whether an area GHL is exceeded; (3) an option to apply the GHL as a percentage to the constant exploitation yield (CEY) by area after non-guided sport and personal use deductions are made, but prior to deductions for commercial bycatch and wastage; (4) additional discussion of available baseline economic data for Area 2C; (5) clarification of the participation rate model's application to the bag limit analysis; (6) a suboption to reduce the GHL range of fish by an amount proportionate to a reduction in the CEY; and (7) additional discussion of implementation and enforcement issues.

The public review draft of the GHL analysis, which included revisions addressing # 1 - 5 (above), was distributed on January 14, 2000. The current list of alternatives scheduled for final action (Agenda C-1(a)) and the executive summary (Agenda C-1(b)) are attached. An addendum, which addressed # 6 - 7 and the results of the IPHC halibut stock assessment, was distributed on February 1 and is also attached under Agenda C-1(c). It includes a new proposal for preseason temporal bag limit changes and a framework for an implementation schedule. A 1995 NOAA General Counsel memo clarifying that State authority to regulate fishing for Pacific halibut in Convention waters is preempted by federal law is under Agenda C-1(d). Comments by the IPHC are attached under Agenda C-1(e). Public comments received are bound separately and identified as Agenda C-1 Supplemental.

### IFQs

The Council requested that a discussion be scheduled at this meeting of changes to the halibut individual fishing quota program which would allow the purchase of IFQs by the charter fleet. Some individuals in the charter industry have also proposed the development of an IFQ program based on charter harvests in lieu of the GHL. Such a program would be based, for example, on fishing history as reported on the State logbooks for the period 1998-1999 (as an initial allocation) and then allow transfers of quota shares across sectors. There is some question as to whether this would be considered a "new" IFQ program or simply a change to the existing program. In any case, the current Congressional moratorium does not preclude the Council from discussion and development at this time. A more detailed proposal for such a program is included in your notebooks under Agenda C-1(f).

### **Report of the Scientific and Statistical Committee**

The SSC noted that the analysis and addendum present a substantial amount of useful information about the sport and commercial halibut sectors, but that several key caveats and issues highlighted by the SSC in December are still relevant. (Please see the SSC Minutes, Appendix II to these minutes for the detailed points reiterated from December.) The SSC once again stressed that the current suite of management measures under consideration will require constant allocation decisions and recommended that the Council seriously consider the feasibility of IFQ proposals being recommended by members of industry.

### **Report of the Advisory Panel**

The Advisory Panel provided extensive specific recommendations for Halibut Charter GHL and management measures, including the following (see the AP Minutes, Appendix III to these minutes for the entire motion):

**Moratorium**--Area wide moratorium in 2C and 3A with the provision to allow LAMPS, upon implementation, to supercede provisions of the area wide moratorium, with the following criteria:

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Years of participation

Option 3: 1 of 3 (1995-97), plus 1998 logbook or, in place of the 1998 logbook, use the combination of IPHC and CFEC licenses for all years 95-97 plus 1999 logbook

Owner vs Vessel

Option 1: owner/operator or lessee (the individual who has the license and fills out logbook) of the charter vessel/business that fished during the eligibility period (based on an individual's participation and not the vessel's activity)

Evidence of participation

- mandatory:  
IPHC license (for all years)  
CFEC number (for all years)  
1998 logbook

Vessel upgrade

Option 1: license designation limited to 6-pack, if currently a 6-pack, and inspected vessel owner limited to current inspected certification (held at number of people, not vessel size)

Transfers

will be allowed within an area

Duration for review

Option 1: tied to the duration of the GHL

**Basis for GHL**-Set GHL equal to 12.76% in 2C and 15.61 % in 3A. This percentage would be annually converted into numbers of fish based on the previous year's average weight of charter halibut harvest for each area.

**Management Measures--**

- Apply management measures as identified in the revised (see AP Minutes) Figures 6.7 and 6.8 of the supplemental analysis
- Prohibit harvest by skipper and crew immediately.
- 0-20% reduction measures would be implemented in the season following the overage.
- In years of 20%+ overage, the 0-20% measures would be implemented in the following season, and additional measures implemented one year later to allow for verification of guided sport catch. Establish an annual framework process to review and adjust the management measures which would be implemented in the event of an overage.

**Varying halibut abundance--**

- Option 1—The GHL percentage varies on an annual basis with area halibut abundance.
- Apply this percentage to the CEY setting process as outlined in matrix found in AP Minutes.

**GHL or Allocation--**

- Option 1 - Under a GHL and the current IPHC setline quota formula, halibut unharvested by the charter fleet in one year are rolled into the commercial setline quota the following year.

**IFQ Program--**

- The AP recommends the Council fast track development of an addition to the Halibut IFQ program which incorporates the guided sport fishery. The AP further requests the council appoint a workgroup consisting of industry members, NMFS, Council and ADF&G staff to refine and develop elements and options for this IFQ program. A discussion paper summarizing the results of the work group should be brought back to the Council at the April meeting for further action.

**COUNCIL DISCUSSION/ACTION**

**Robin Samuelsen moved to adopt the recommendations of the Advisory Panel.** The motion was seconded by Bob Mace.

By consensus, the Council bifurcated the motion to consider the moratorium issue separate from the GHL issue.

With regard to the moratorium, the following friendly amendment was accepted by the maker of the motion:

- Under years of participation, owner vs vessel, the preferred option was changed to read: Owner or lessee of the charter vessel/business that fished during the eligibility period.

Steve Pennoyer advised the Council that an area-wide moratorium would not address the issue of communities that do not want or need a moratorium at this time. In addition, staff time developing a moratorium and implementing regulations would be better spent in preparing other alternatives such as the GHL and some type of limited access program. Dave Benton also said he could not support an area-wide moratorium because a number of outlying communities have not had the opportunity to develop charter operations for needed economic development.

**The motion to adopt an area-wide moratorium failed, 6 to 5, with Bundy, Fluharty, Mace, Samuelsen and Lauber voting in favor.**

**Linda Behnken moved to express Council support for development of area-specific moratoriums under the LAMP program.** The motion was seconded by Dave Benton and carried without objection.

**Dave Benton moved the following amendment for Issue 1--Basis for the GHL:**

**To establish a proportional GHL consisting of a set of stairstep guideline harvest levels based on pounds. The GHL would be reduced proportional to the reduction in abundance for halibut.**

**In Area 2C, the initial GHL would be set based on the 1995-1999 average for the sport charter industry, with the upper bound of 1.4 million pounds – 125% of the 1995-1999 average, as the base year. Proportional reductions for the stairsteps: 15% for the first reduction in abundance and 10% for reductions thereafter.**

**In Area 3A, the GHL would be set based on the 1995-1999 average, with the upper bound of 3.91 million pounds. The stairsteps would be: 15% for the initial reduction and 10% thereafter.**

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**The base years to be used to establish a relationship in terms of abundance would be 1999 and 2000, which will average out differences between the two and incorporate most recent data.**

**The motion was seconded by Joe Kyle, and carried, 9 to 2, with Kyle and Mace voting against.**

**Linda Behnken moved to amend the main motion for Issue 2, Management Measures, as follows:**

**Substitute the AP-recommended management measures with the matrix submitted by Arne Fuglvog during public comment, and retain the following AP recommendations:**

- 0-20% reduction measures would be implemented in the season following the overage.**
- In years of 20%+ overage, the 0-20% measures would be implemented in the following season, and additional measures implemented one year later to allow for verification of guided sport catch, earlier if catch can be verified earlier.**

**The motion was seconded by Dave Benton.**

**The motion was amended as follows:**

- Dave Benton offered an amendment to include the AP recommendation to establish a framework process to evaluate the efficacy of the measures and adjust by regulatory amendment when required. The amendment was accepted as friendly.**
- Dave Benton moved to amend the matrix to remove the “>60%” category under Area 3A. The motion was seconded by Joe Kyle and carried, 7 to 4, with Behnken, Bundy, Mace and O’Leary voting against.**
- Steve Pennoyer recommended that it be stated that the management measures would be undertaken if required after verification of catch, and that management measures would remain in effect until no longer necessary. This was accepted as a friendly amendment.**

**Ms. Behnken’s motion, as amended, carried 10-1, with Mace voting against.**

**Dave Benton moved to delete the AP recommendations on Issues 3 and 4. The motion was seconded by Steve Pennoyer and carried without objection.**

**Mr. Benton felt that it would be better for the IPHC and NMFS to determine how the process is going to work and that the IPHC continue to make the decisions as to what is the best indicator of abundance and how it would be used to make the determinations under the Council’s action on the GHF level and the stairstep arrangement.**

**Linda Behnken moved to substitute the following for the AP recommendations on IFQs: that the Halibut Charter IFQ Committee develop elements and options for Council review in October 2000 and final action scheduled for February 2001, and that staff also provide an analysis at that time for a possible moratorium for areas 2C and 3A. The motion was seconded by Robin Samuelsen.**

**During discussion Council members stressed that the public should be made aware that the Council does not intend to use the year 2000 catch figures to determine initial IFQs. Mr. Benton recommended that logbook**



data from 1998-1999, as submitted to ADF&G as of February 12, 2000, would be used to establish initial criteria for participants and shares. This was incorporated as a friendly amendment.

**The motion carried, 9 to 2, with Mace and Lauber voting against.**

Mr. Benton indicated that ADF&G staff would offer assistance with the IFQ analysis.

**Dave Benton moved to ask that the Halibut Charter IFQ Committee use the industry IFQ proposal (submitted by Bob Ward and Mike Bethers, dated 2/2/00) as a starting point of discussion. Additionally, that the committee would be instructed to bring to the Council in April a set of elements and options for a guided sport fishery halibut IFQ program that would be used for Council discussion and for analysis in developing the program. The motion was seconded by Joe Kyle and carried without objection.**

Mr. Benton stressed that the committee should also take into consideration the range of options the Council had during their deliberations in terms of allocation, from actual current harvest numbers to other variations and not fixed to one particular number.

**Dave Benton moved to ask the Executive Director to inform the Alaska Board of Fisheries of Council action and indicate appreciation for the Board's continuing work with the LAMP process and encourage that they continue with that progress in as expeditious manner as possible. The motion was seconded by Joe Kyle and carried without objection.**

With regard to the problem statement for the current Halibut GHF analysis, Linda Behnken pointed out that inclusion of outfitters and lodges is no longer appropriate because analysis has shown that the Council does not have jurisdiction in those areas. **Linda Behnken moved to strike outfitters and lodges from the current problem statement wherever it occurs. The motion was seconded by Kevin O'Leary and carried without objection.**

A summary of the Council's final actions on this agenda item are found in Appendix IV to these minutes.

C-2 Steller Sea Lions

**ACTION REQUIRED**

- (a) Receive status report on implementation of RPAs.
- (b) Review regulatory amendment for research on effects of closures.

**BACKGROUND**

In December, NMFS staff provided an update on the status of litigation on two claims pertaining to the Endangered Species Act and the potential effects of groundfish fisheries on Steller sea lions. First, the Plaintiffs challenged the "no jeopardy" finding of the Biological Opinion on 1999 TAC specifications (referred to by the court as BiOp2). On January 25, 2000, Judge Zilly denied NMFS's motion to dismiss the claim, or in the alternative, for a temporary stay of litigation pending completion and issuance of a comprehensive groundfish consultation. The Judge granted the plaintiffs' motion for summary judgment (Item C-2(a)). NOAA General Counsel will be on hand to discuss Judge Zilly's decision.

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The Plaintiffs have also challenged the merits of the Revised Final Reasonable and Prudent Alternatives (RFRPAs) issued by NMFS. The parties met to mediate these matters, as requested by the Court, and we will receive a report on the outcome.

NMFS issued an emergency interim rule implementing the RPAs necessary to avoid the likelihood that the Alaska pollock fisheries will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. The FR notice of the emergency rule is attached as Item C-2(b). Comments on the rule are due February 24.

NMFS has prepared a regulatory amendment to examine the effects of fishery closures on Steller sea lions.

The study will require two actions: establishing a ban on all trawl fishing in the Chiniak Gully region off the eastside of Kodiak Island and allowing the reopening of the 10 nm no trawl zone around Gull Point and Cape Barnabas to conduct experiments on the effects of fishing in nearby waters. It is expected that this action will be in effect from August 1<sup>st</sup> to a date no later than September 20<sup>th</sup> during the years 2000 to 2003. An executive summary of the analysis is included as Item C-2(c).

**Report of the Scientific and Statistical Committee**

The SSC reviewed the draft environmental assessment for a proposed regulatory amendment to temporarily re-open the 10nm no-trawl zones around Gull Point and Cape Barnabas to allow analysts to employ hydro-acoustic surveys to further understand impacts of fishing on pollock distribution and abundance as part of a more extensive research program on sea lion/fishery interactions. The SSC strongly supports this proposal and noted that adding additional experimental units (locations) would likely be the most effective way to increase the power of the experiment. The SSC also pointed out that this experiment begins to respond to one of the SSC's research priorities.

**Report of the Advisory Panel**

The AP recommended the Council approve the EA for the regulatory amendment and further recommended that the Council ask NMFS to provide an annual update on the results of the investigation. The AP also requested that the Council ask NMFS to conduct a thorough review of the method used in the Shelikof Strait to set the 2000 TAC and report to the Council by the October 2000 meeting.

**DISCUSSION/ACTION**

**Bob Mace moved to approve the recommendations of the Advisory Panel. The motion was seconded by Linda Behnken and carried without objection.**

C-3 American Fisheries Act

**ACTION REQUIRED**

- (a) Comment on Proposed Rule for 2000 and/or initiate regulatory action as appropriate.**
- (b) Initial review of analysis of groundfish processing sideboards and excessive share caps for BSAI pollock processing.**

## BACKGROUND

### Comment on Proposed Rule

At our last meeting the Council provided direction on specific aspects of the AFA rulemaking which was in preparation by NMFS via two emergency rules, the first of which dealt with permitting and the second which dealt with all other major provisions of the AFA including harvest specifications, sideboards, and exemptions. The two emergency rules were mailed to you last week, and are also in your notebooks under Items C-3(a and b). Your expectation was to comment further on specific aspects of the proposed rule at this meeting or to possibly initiate separate rulemaking where necessary. While the proposed rule is not yet published, it will essentially mirror the emergency rules before you. Therefore, your comments on various aspects are still relevant at this time, some of which could be incorporated in either the proposed or final rule. Your December motions are included here for reference:

### DECEMBER American Fisheries Act (AFA) Actions

#### EMERGENCY RULES

- Express support to NMFS for the first emergency rule to ensure inshore co-ops and sideboards can be in place for 2000.
- Request NMFS to move forward with the 2<sup>nd</sup> Emergency Rule, with the following revisions:

-With regard to the single geographic location (SGL) issue, use same regulations as under Inshore-Offshore; i.e., vessels that process pollock at a SGL in State waters during a fishing year (can change between years).

-Under Section 679.61(4), the Council expressed the intent to allow NMFS to use the appropriate regulatory text to reflect the specific calculation of sideboards as approved by the Council.

-For AFA catcher vessels which meet the Council's qualifying criteria for exemptions under the 1700 mt rule in the Bering Sea cod and Gulf of Alaska groundfish fisheries:

1. Bering Sea cod:
  - A. Vessels less than 125 feet in length, and
  - B. The catcher vessel had a minimum of 30 landings in the directed Bering Sea cod fishery over the period of 1995, 1996 and 1997;
2. Gulf of Alaska Groundfish:
  - A. Vessels less than 125 feet in length, and
  - B. The catcher vessel had a minimum of 40 groundfish landings in the Gulf of Alaska over the period of 1995, 1996 and 1997,

#### Vessels qualifying for the GOA exemption cannot lease their pollock quota.

- Catcher vessels that meet the requirements of being an exempt vessel shall be treated by NMFS, in those fisheries to which the exemption applies, as a non-AFA vessel. The catch history of the exempt vessel (in the fishery to which the exemption applies) will not be included within the AFA cap for that fishery and the harvest of the exempt vessel will not be counted against the AFA cap.

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- **With regard to accounting of crab sideboards, add language under (d) (p 35) of the 2<sup>nd</sup> Emergency Rule, to read: “. . .or as may be adjusted based on total catch, whichever is higher.”**

**The proposed rule will also be published with the above provisions.**

**OTHER ACTIONS**

- 3. Initiate an analysis for separate sideboard caps for AFA catcher vessels which meet the Council's qualifying criteria for exemptions in the Bering Sea cod and Gulf of Alaska groundfish fisheries, as follows:**

**Options:**

- (a) 1700 mt**
- (b) 1200 mt**

**Bering Sea cod:**

- A. Vessels less than 125 feet in length, and**
- B. The catcher vessel had a minimum of 30 landings in the directed Bering Sea cod fishery over the period of 1995, 1996 and 1997;**

**Gulf of Alaska Groundfish:**

- A. Vessels less than 125 feet in length, and**
- B. The catcher vessel had a minimum of 40 groundfish landings in the Gulf of Alaska over the period of 1995, 1996 and 1997,**

**Establish a separate sideboard pool in each area that is based on the aggregate catch history (95-97) of those vessels that qualify for the exemption.**

**Option: Require vessels that participate in these pools to fish their Bering Sea pollock, i.e., no leasing.**

- 2. Notice the public that the Council will be reviewing all aspects of the Proposed Rule in February, and may be addressing the following items, either as comment to the Proposed Rule or to initiate separate rulemaking.**
  - (a) Ensure that the dates in the Proposed Rule and Final Rule for co-op agreement submittal will ensure review by the Council at the December meeting.**
  - (b) Require re-submittal of co-op agreements for Council review if modified, with re-submittal scheduled such that revised co-op agreements would be reviewed by the Council at its next regular meeting.**
  - (c) Establish requirements for co-ops to submit economic information, including price data, in their performance reports.**
  - (d) Establish an application deadline of December 1, 2000 to become an AFA-qualified vessel.**
- 3. The Council in February will also be reviewing the issue of using total vs retained catch for calculating sideboards. Staff will provide to the public and the Council any existing analyses relevant to this issue, and to the extent possible, supplemental tables showing the difference between retained and total catch in the appropriate categories.**

4. Add to current analysis of groundfish processing sideboards, the following option: For Bering Sea flatfish species, a processing cap for AFA qualified processors would apply in the aggregate to the at-sea, mothership and shoreside processors overall. The cap would be based on the total of each sector's average processing history of BS flatfish species for 1995-1997. (The intent is that the Council would have the option to apply such a cap either overall or by sector.)

Available information on the issue of total vs retained catch will be provided at this meeting by staff.

#### Processing sideboards and excessive share caps

In October you took action to define crab processing sideboards, but deferred action on groundfish processing sideboards and combined that issue with excessive share caps for BSAI pollock processing for initial review at this meeting. We mailed you a draft analysis last week which was based on the original Chapter 8 from the larger AFA analysis from last June. That was revised to focus only on groundfish, with updated descriptions of ownership linkages (for purposes of defining entities) and updated information on processing history of various species by AFA companies/entities. We also added a chapter which focuses on the excessive share cap for AFA pollock processors. The ownership charts developed are relevant to that issue as well. For processing sideboards, the primary decision points remain:

- (a) Whether limits would be applied to individual plants, companies, or entities vs in aggregate across all processors (or across each sector);
- (b) Whether AFA catcher processors should be subject to processing sideboards in addition to their existing sideboards;
- (c) If applied at the individual level, whether the limits would apply at a facility level, a company level, or an entity level. Implicit is the question of whether sideboards would apply to all facilities owned by AFA companies, or just to their pollock facilities.
- (d) Which base years of processing history to use in determining sideboard limits. While the original analysis examined 1995-1997, the analysis now includes more recent participation patterns (through 1999).
- (e) Whether and how to apply the 10% ownership rule in defining entities subject to the sideboards.

The Advisory Panel provided a recommendation on these issues at the October 1999 meeting, which is included as an Appendix to the analysis. However, the Council noticed the public that all alternatives and options would remain for consideration. Regarding excessive share caps for pollock processing, similar decision points exist, though by definition excessive share caps would be applied individually (at the company or entity level). That part of the analysis examines a processing cap which ranges from 10% to 30%, encompassing the percentage shares currently enjoyed by the AFA entities. The Executive Summary from the analysis is under Item C-3(c), and will be presented by staff. Comments received on this issue are under Item C-3(d).

#### **Report of the Scientific and Statistical Committee**

The SSC reviewed the draft analysis for processing sideboards and excessive shares and noted that while the analysis presents a considerable amount of relevant information, there are a number of deficiencies which the SSC considers serious. (Please see the SSC Minutes, Appendix II to these minutes for specific points.) The SSC recognized the difficulty of the analytical task and commended the analysts for their efforts and recommended the draft analysis be released for public review after SSC comments are addressed. The SSC also noted that the Council is likely to face a continuing stream of AFA mitigation measures and recommended the Council ensure that undesirable consequences are avoided with each measure addressed.

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**Report of the Advisory Panel**

The AP recommended the Council request further analysis of the issues listed below, with the understanding that the document will be available for initial review in April with as many of the suggested changes as possible.

Further analysis and discussion of the expected effects of each of the alternative processing caps on the following:

- a. ex-vessel prices and value
- b. sector competition under aggregate caps (*i.e. the impacts on AFA catcher processors of being included in sector aggregate or "pooled" processing sideboards with other AFA processors*).
- c. IR/IU requirements
- d. AFA and non-AFA processors,
- e. Efficiency
- f. Product types and markets

The AP also recommended inclusion of:

1. A problem statement and how each alternative addresses the problem.
2. Discussion of the status quo alternative (*i.e. Department of Justice anti-trust limitations*).
3. A definition of "excessive barrier" (*i.e. consideration of recent sale of Northern Victor and American Seafoods*).
4. Further discussion of the "sliding historical period" (*page 47 of the AFA processor sideboard analysis*).
5. A description of past custom processing activity, including possible definitions and discussion of the impacts under alternatives if prohibited.
6. List of non-AFA processors and the BSAI species currently processed by those processors.
7. Further discussion of possible decision points on the "grandfather clause."
8. An option of not imposing additional processing sideboards, beyond those specifically included in the AFA, on the AFA-eligible catcher/processors.
9. A discussion of the impact to catcher vessels of implementing processing caps (*i.e. P.cod history of catcher vessels delivered to catcher processors removed from fishery*).

The AP had the following comments on the Proposed Rule for 2000:

The AP, recognizing that under the BSAI King and Tanner crab FMP the State of Alaska has primary in-season management for crab fisheries, recommends the Council request NMFS and ADF&G develop a management program to manage crab processing sideboards in the aggregate as the Council has recommended.

The AP reiterated its recommendations made to the Council in December 1998 and again in June 1999 that catcher processor sideboards be calculated based on the total harvest formula that is specified in the American Fisheries Act.

The AP also reiterated recommendations made to the Council that catcher vessel sideboards be calculated based on the total catch rather than retained catch.

## DISCUSSION/ACTION

Council members received an update on implementation of regulations associated with the AFA being implemented by emergency rule for this year. Proposed and final rulemaking will not occur until late in the year, so Council members voted to defer comments on specific aspects of the Proposed Rule until the October meeting.

The Council received staff reports on the analysis for groundfish processor sideboards and excessive share caps for BSAI pollock processing. The following actions were taken on that issue.

**Bob Mace moved to adopt the recommendations of the Advisory Panel with respect to groundfish processing sideboards and excessive share caps.** The motion was seconded by Dave Benton.

Council members were advised that if the Council took final action at the June meeting, regulations likely would not be in place for the beginning of 2001.

The AP recommendations were amended, as follows, through several formal or friendly motions:

- Evaluation of the potential for advantages resulting from AFA for competing more effectively in first wholesale markets upon which non-AFA sector depends. This motion was a result of recommendations for analysis made by John Gauvin, Groundfish Forum, and included several separate analytical tasks. Staff indicated that this would be a task that could not be addressed in a detailed, quantitative manner, but that staff will attempt to address them to the extent practicable.
- SSC comments would be addressed to the extent possible.
- In the AP recommendations, items 1(e) under the first recommendation ('efficiency'), and items 2, 6 and 8 under the second set of recommendations were deleted.
- Initial review of the document delayed until the June meeting (this was a motion by Dennis Austin which carried, 9 to 2, with Behnken and Fluharty voting against).
- A qualitative discussion of cumulative effects of the present sideboards, and those that the Council is considering, on the catcher processor sector.

**The main motion, as amended, carried, 9 to 2, with Mace and Lauber voting against.**

**Dave Benton moved the following draft problem statement:**

**The American Fisheries Act (AFA) was passed by Congress in the fall of 1998. The AFA established non-CDQ allocations of BSAI pollock among three major sectors (offshore, inshore, and motherships), it established specific limitations on who could participate in the harvest and processing of BSAI pollock, and it facilitated the formation of fishery cooperatives in the BSAI pollock fisheries. In establishing these operating advantages for the pollock fishery participants, the AFA recognized a need for limiting their participation in other, non-pollock fisheries as necessary to prevent adverse impacts on traditional harvesters and processors of those other fisheries due to the AFA or cooperatives in the**

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**pollock fishery. Congress directed the Council to address these concerns by developing processor sideboards and excessive share caps. The problem before the Council is to develop measures that take into account the impacts on AFA and non-AFA harvesters, and processors, and fishing communities.**

The motion was seconded by Linda Behnken and carried without objection.

A summary of the Council's final action on this issue is found under Appendix V to these minutes.

**C-4 Pacific Cod LLP Endorsements**

**ACTION REQUIRED**

**Review analysis and release it for public review.**

**BACKGROUND**

**In June 1995, the Council approved the groundfish License Limitation Program (LLP) for vessels operating in Federal waters off Alaska's coast (BSAI Plan Amendment 39). This program went into effect January 1, 2000. Since the LLP was approved, the Council also passed Plan Amendment 46, which allocated BSAI P. cod among the various gear sectors. Under the amendment, 51% of the P. cod TAC is allocated to fixed gear, 47% to trawl gear, and 2% to jig gear. To continue toward the goal of comprehensive rationalization and stabilization of the fishery, the Council passed Amendment 64 in October 1999. This amendment further allocated the fixed gear portion of BSAI P. cod TAC (51%) among the fixed gear fleets: 80% to freezer longliners; 0.3% to catcher longliners; 1.4% to pot or longline vessels less than 60 feet LOA; and 18.3% to pot vessels.**

**Given the recent increases in the market value of cod products and the threat of new entrants in an already fully utilized fishery, a follow-up amendment (Am. 67) was initiated in April 1999 to add a P. cod endorsement to BSAI fixed gear licenses for vessels that meet specified qualification criteria. The intent of Amendment 67 is to curb increasing competition for P. cod and protect fishermen with extensive catch histories who are dependent on the resource.**

**In October 1999, the Council selected the list of alternatives for analysis, including years of participation and harvest requirements for each sector of the fixed gear fleet. The alternatives count landings made in 1995-99, or a subset of those years. Qualification is based on numbers of landings or poundage minimums during the relevant years. The Council voted to drop a discussion of a grandfather clause from this initial review document. However, they did notice the public that they would reconsider the grandfather provision at the February meeting, whereby they may add a grandfather provision into the analysis that would be available for final Council review in April.**

**At the December meeting, the Council indicated that a separate qualification criteria may be necessary for pot catcher vessels and pot catcher/processors. Therefore, the list of options with regard to pot vessels may be applied differently to the catcher processor and catcher vessel sectors. The analysis was mailed to you on January 20, and is scheduled for initial review at this February Council meeting. Final review is scheduled for April. Under the planned time line for final Council action, the program will likely not have any affect until the 2002 fishing season given due process issues and current staff work loads. The analysis maintains all the options and suboptions for limiting entry to the BSAI P. cod fishery as approved by the Council in December 1999 and is provided in the executive summary, attached as item C-4(a).**



Finally, Table 4.1 was inadvertently left out of Chapter 4 of the analysis. It should have appeared on page 51, under the section 4.2.1 No Action Alternative. We have included it below.

**Table 4.1: Fixed gear vessels qualified in the BSAI P. cod Fishery under the no action alternative<sup>1</sup>**

<b>Length</b>	<b>Catcher/Processors</b>	<b>Catcher Vessels</b>
<b>&lt;60'</b>	<b>1</b>	<b>117</b>
<b>60-124'</b>	<b>25</b>	<b>179</b>
<b>125'+</b>	<b>41</b>	<b>69</b>
<b>Total</b>	<b>67</b>	<b>365</b>

<sup>1</sup>Designations under the current ILP do not differentiate by gear type. Numbers for catcher/processors include both freezer longliners and pot c/p. Numbers for catcher vessels include longline, jig, and pot vessels.

**Report of the Scientific and Statistical Committee**

The SSC recommended the analysis be released for public review after several revisions. (Please see SSC Minutes, Appendix II to the minutes, for detailed suggestions for revision.)

**Report of the Advisory Panel**

The AP recommended the Council release the EA/RIR/IRFA for the proposed amendment for public review with the following revisions:

1. Include revised grandfather provision language (as presented in Feb. 3, 2000 letter from Mundt Mac Gregor.)
2. Provide more detailed discussion on where LLP qualified vessels without P.cod catch history may fish - specifically the Bering Sea state waters and in State and Federal waters in the Gulf of Alaska.
3. Provide further discussion on bait issue - would vessels using bait for their crab fishery need a P.cod endorsement.
4. Include an explicit discussion on impacts of IR/TU
5. Add a histogram with amounts of pounds of P.cod by vessel for each sector by year or group of years
6. Add option:
  - a. To exempt vessels under 60' from any P. cod endorsements
  - b. That would allow the Council to use different qualifying criteria for catcher vessels under 60' and over 60'
7. Clarify that the 32' exemption from LLP continues
8. Provide number of boats qualifying for LLP
9. Add suboption which allows jig landings to apply to pot catcher vessel minimum landing requirements
10. Define when combining catch histories would be allowed at the general LLP level
  - replacement vessel - catch history before then
  - purchase complete license to get an area endorsement

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- vessel with no LLP and a catch history could buy LLP package and use catch history  
Further provide place holder in order to make explicit decisions on above
11. Add option that would require CDQ partners to be:
1. LLP Qualified
  2. LLP qualified with P. cod endorsement
  3. Exempt from LLP

**DISCUSSION/ACTION**

**Bob Mace moved to adopt the recommendation of the AP to release the analysis for public review after inclusion of AP and SSC suggestions as prioritized, as time permits. The motion was seconded by Robin Samuelsen.**

The following amendments were accepted as friendly and included in the main motion:

- Items 5, 6a, and 11 of the AP recommendations were deleted.
- Under the AP recommendation item 8, provide a general description of how many potential vessels were qualified under the moratorium and how many are qualified under the LLP, and how many would qualify under this set of criteria.

**Dave Fluharty moved to amend the motion as follows:**

**Consider exemption for:**

1. **Vessel that sank after June 17, 1995 that was LLP-qualified with respect to Pacific cod landings prior to that sinking.**
2. **A sunken vessel is replaced with a qualified replacement vessel within the normal time allowed by the Internal Revenue Service.**
3. **Owner of replacement vessel as demonstrated continued intent to fish for Pacific cod by recent landings (as defined by any landing before December 31, 1999).**
4. **Consider appropriateness of either:**
  - A. **Accepting catch history from sunk vessel;**
  - B. **Combining catch histories of sunk vessel and replacement vessel. Expand the discussion of this topic (refer to discussion on page 68 of the analysis).**

**In the analysis in qualitative or quantitative terms, as possible, discuss the impact on other members of the class of like-licensed vessels in the Pacific cod fishery.**

The amendment was seconded by Dennis Austin and carried without objection.

The main motion, as amended, carried unanimously (Salveson voting for Pennoyer).

C-5 Groundfish SEIS

**ACTION REQUIRED**

**Receive status report.**

## BACKGROUND

We have been receiving regular status reports on this issue over the past several meetings, and Steve Davis, Regional NEPA Coordinator for NMFS, will again provide you a status report at this meeting. While Steve will provide you with additional detail on the progress of that effort, I want to highlight the need for our input and coordination with NMFS in this effort. Recall that NMFS is operating under a judicial mandate to prepare a programmatic SEIS which assesses the cumulative impact of our existing management regime, including *“all activities authorized and managed under the Fishery Management Plans (FMPs) and all amendments thereto, and that addresses the conduct of the Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI) groundfish fisheries and the FMPs as a whole.”* I have included, as Item C-5(a), the more specific direction from the Court which we also saw in December.

After participating in an agency workshop in mid-January, I have come to better appreciate the daunting scope of NMFS' task relative to preparing this SEIS, and the critical importance of this to the Council and our fisheries management programs. While the onus is on NMFS, it is quite literally our FMPs that are being called into question, and 24 years of hard work by this and previous Councils which could be in jeopardy. With a first cut of this document due in June, and a Draft SEIS due by October for public comment, NMFS is going to be devoting a tremendous amount of its available Region and Center staff to this effort. Certain parts of that SEIS, particularly a description and chronology of all of our management measures (plan and regulatory amendments over 24 years), as well as some of the ecosystem related chapters, can most efficiently be compiled by our own Council staff as part of this effort. We have also been putting off, due to other priorities, a complete update of our FMPs. That is going to be a necessary hand-in-glove part of preparing this SEIS. Item C-5(b) is a summary of the recent workshop to give you a better idea of how this will all unfold.

Item C-5(c) is a December 16 letter from NMFS requesting the Council staff's assistance in this effort. Our Finance Committee has already discussed the possibility of devoting some of our anticipated SEIS funding to NMFS, as some portions can be done under contract to outside consultants. We have not yet received that funding, but probably need to discuss further how much we can make available to NMFS when we get it. More important to the early stages of this effort will be the assistance of Council staff to the project. I believe we can discuss this further when we get to staff tasking at the end of this meeting, but I wanted to first share with you my thoughts as to the importance of this effort, and the fact that NMFS staff will be largely devoted to this in the near future. And finally, that we need to seriously consider that NMFS workload, and the level of involvement of Council staff, when we do get to staff tasking discussions. With that I will turn it over to Steve to give you the finer details.

Neither the SSC nor the AP commented on this agenda subject.

## DISCUSSION/ACTION

Steve Davis updated the Council on the progress on the updated SEIS for the groundfish fisheries. It is anticipated that a draft programmatic SEIS will be ready for public review by October. This was an information-only agenda item and no Council action was taken on this agenda subject.

### C-6 Board/Council Issues

## ACTION REQUIRED

- (a) Summary of joint meeting.
- (b) Comment on BOF proposals (including State waters P. cod closure).
- (c) Further direction on stand-down measures and crab FMP revisions.

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**BACKGROUND**

By the time we get to this agenda item, we will have met with the Board and discussed the following topics:

1. Groundfish gear usage restrictions preceding the crab season; crab FMP revisions
2. Crab management (C-3 for crab sideboard issues and crab co-op development)
3. Proposals of mutual concern
4. Habitat areas of particular concern (D-1)
5. Halibut management issues (C-1)
6. Steller sea lions (C-2)
7. Application of the groundfish/crab LLP to State waters fisheries (C-4)

I will have a summary of our joint meeting discussions available and then the Council may consider further action/direction on any of the above topics, either under this broader agenda item, or under the specific Council agenda items cross-referenced above. Two specific issues for which there are no separate agenda items in the Council notebooks include #1 and 3 above.

**Board Proposals**

Proposals that will be considered by the Board in March were made available in your joint meeting notebooks for February 8<sup>th</sup>, and are not repeated here. One that stands out, however, is proposal #418, which in its latest revision by the Aleut Corporation, would restrict State waters cod and rockfish fisheries between 173 and 178 W to jig or fixed gear vessels equal to or less than 60 ft. Two other proposals, #417 and 420, would establish inshore State waters pollock fisheries. As you will recall, the Council members on the joint committee voted to recommend the Board drop #417 and 420 from further consideration because of concerns over Steller sea lions. The Council may want to comment on other proposals as well. Also please recall that the Board has sent to the Council, Resolution #2000-198-FB which requests revisions to observer protocols on trawl vessels in the Gulf of Alaska.

**Preseason Gear Restrictions and Crab FMP Revisions**

The staff will need further direction as appropriate on these two topics, particularly if the Council wants to initiate changes to our groundfish regulation or crab plan. All available information related to these topics was provided in your special joint meeting notebooks.

Neither the SSC nor the AP addressed this agenda item.

**DISCUSSION/ACTION**

Council members expressed particular concern over Board proposal #418 which would restrict State waters cod and rockfish fisheries between 173° and 178°W longitude to jig or fixed gear vessels equal to or less than 60 ft. Possible preemption of State authority was discussed but abandoned in favor of further communication to the Board on the impacts of this proposal.

Linda Behnken moved to send a letter urging the Board of Fisheries to review all relevant information and consider recent actions taken by the Council to accommodate operators of small vessels and communities in the Aleutian Islands to provide them with access to local resources and that the Council is gravely concerned about actions currently being considered by the Board. The motion was seconded by Joe Kyle and carried without objection.

It was suggested that a letter previously written by John Bundy on this subject also be forwarded to the Board, in addition to other materials from the recent joint Council-Board Committee meeting.

Other issues Council members requested be addressed in the letter included (a) the Council's concern over the lack of jurisdiction of the license limitation program within State waters, suggesting that the Board request CFEC to address the issue of license limitation in State waters for the cod fishery, (b) a recommendation that the current trawl standdown be extended to freezer longliners in light of information indicating a possibility of prospecting by that fleet; and (c) request that the Board consider impacts on Steller sea lions when considering action on proposals 417 and 420, or any proposals relating to the pollock fishery.

Ms. Salvesson pointed out that there could possibly be an appeal on the Board's original action on the standdown and by supporting sending the letter, she wanted to stress that her vote would not in any way prejudice the outcome of an appeals process.

#### C-7 Research Priorities

#### **ACTION REQUIRED**

**Discuss and identify research priorities.**

#### **BACKGROUND**

During their November meetings, the Groundfish Plan Teams reviewed and endorsed the list of research priorities developed by the SSC and approved by the Council in February 1999 (Item 7(a)). The Teams also highlighted the following items for priority consideration:

1. **More research is needed to understand pollock movements within the GOA and BSAI.**
2. **Some of our stocks are disproportionately harvested across large areas of the GOA and BSAI due to area closures, other management actions, or fishery behavior. Additional analysis should be undertaken to examine potential effects of disproportional harvesting.**
3. **More information is needed on "other species." Observer data should be collected and analyzed for individual species. Better estimates of abundance are needed. Lastly, life history data is limited for many of the species in this complex.**
4. **Mapping of benthic habitat (both bottom type and living substrate) is important for more precise density estimates for many species.**
5. **Better distribution and improved availability of information would be beneficial to the public and scientists.**
6. **Data rescue. For example, it would be helpful for some assessments if existing logbook data were entered and available.**

After receiving comments from NMFS and the SSC at this meeting, the Council will forward the priorities to NOAA for use in preparing its annual budget.

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**Report of the Scientific and Statistical Committee**

The SSC provided an updated list of research priorities. Please refer to the SSC Minutes, Appendix II to these minutes for the extensive list.

**Report of the Advisory Panel**

The AP also provided a list of research priorities for Council consideration (see AP Minutes, Appendix III to these minutes) for the list.

**DISCUSSION/ACTION**

**Dave Benton moved to adopt the research priorities identified by the SSC and AP, with one exception: In the SSC recommendations, page 6, #11, remove the italicized statement, “*The use of Markov Chain-Monte Carlo (MCMC) methods appears to be a promising line of research and its use with AD Model Builder should be further explored*”. The motion was seconded by Joe Kyle and carried without objection.**

**D. FISHERY MANAGEMENT PLANS**

**D-1 Habitat Areas of Particular Concern**

**ACTION REQUIRED**

**Initial Review of Habitat Areas of Particular Concern analysis.**

**BACKGROUND**

**The Magnuson-Stevens Act requires that fishery management plans identify and describe essential fish habitat (EFH), recommend measures to conserve and enhance EFH, and minimize to the extent practicable, adverse impacts from fishing on EFH. In June 1998, the Council adopted amendments to fishery management plans that describe essential fish habitat for managed species, as phase one in the EFH process. EFH is defined on the basis of general distribution, and is described as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. Phase two in this process is to identify additional habitat areas of particular concern (HAPC) and establish conservation measures to protect HAPC.**

**Habitat areas of particular concern (HAPC) are those areas of special importance that may require additional protection from adverse effects. HAPC is defined on the basis of its ecological importance, sensitivity, exposure, and rarity of the habitat. Several habitat types have been already identified as HAPC as part of the essential fish habitat amendments. These HAPC's included:**

- 1. Living substrates in shallow waters (e.g., eelgrass, kelp, rockweed, mussel beds, etc.)**
- 2. Living substrates in deep waters (e.g., sponges, coral, anemones, etc)**
- 3. Freshwater areas used by anadromous fish (e.g., migration, spawning, and rearing areas)**

**In October 1998, the Council approved for analysis several proposals regarding habitat areas of particular concern (HAPC). These proposals requested that a gap analysis be prepared, and additional habitat types and areas be designated as HAPC. Proposed HAPC habitat types included**

seamounts and pinnacles, the ice edge, the shelf break, and biologically-consolidated fine-grained sediments. Proposed specific HAPC areas included a deep basin in Prince William Sound, the Chrikov Basin north of St. Lawrence Island, and the red king crab bycatch areas around Kodiak Island.

At this meeting the Council will review the initial draft of an amendment that may identify additional HAPC, and proposes two management measures to protect HAPC from fishing effects. The first measure being considered would potentially prohibit directed fishing for certain HAPC biota (corals, sponges, kelp, rockweed, and mussels). The second measure would establish several marine protected areas where Gorgonian corals are found in abundance. Gorgonian corals have been shown to be important shelter for rockfish and other fish species, very long lived, easily damaged by fishing gear, and slow to recover from damage. The areas under consideration are shown in the attached figures (Item D-1(a)). The executive summary is attached as Item D-1(b).

At this meeting, the Council will make initial review of this amendment package; final action is scheduled for April 2000. Note that the Ecosystem Committee met on February 6 and will provide the Council with recommendations on the analysis.

On a related issue, NMFS has prepared a letter outlining their intent regarding implementation of the Sitka Pinnacles Marine Reserve (Item D-1(c)).

### **Report of the Scientific and Statistical Committee**

The SSC recommended the Council take a measured, comprehensive and scientific approach to habitat issues and expressed concern that the current analysis is focusing on isolated habitat concerns without any strong connections drawn to resultant fish productivity. With respect to the analysis, the SSC provided several specific comments to the analysts (see SSC Minutes, Appendix II to these minutes) and recommended the Council send only the portion of the document related to definition of HAPC out for review. They recommended that the portion dealing with management measures be withheld pending development of a more comprehensive plan.

### **Report of the Advisory Panel**

The AP provided the following recommendations:

That the EA/RIR be revised to focus the public review on current proposals for specific HAPC areas and the management actions under Option 1 and 2, and that the following additions be made subject to time constraints:

1. A problem statement
2. A suboption explicitly prohibiting commercial sale of corals
3. A description of areas of importance where fishing is not occurring
4. A description of area where fishing is occurring but no data is available
5. A description of Habitat losses which have already occurred
6. An expanded discussion of differential impacts associated with fishing practices. This discussion should include long line survey and scallop observer data and identify separate thresholds for different gear types
7. A discussion of the effectiveness of current closed areas on habitat protection

With respect to other issues raised in the analysis, the AP recommends the following be initiated:

1. A stakeholder process inclusive of local advisory panels, local regional fishermen of all gear

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types, environmental interests, and agency staff to develop specific boundaries and management objectives for the proposed fishery closures using the best available information.

2. Develop criteria for defining HAPC types against which HAPC proposals can be evaluated.
3. Management objectives associated with protecting the HAPC types.

**DISCUSSION/ACTION**

**Linda Behnken submitted the following motion in written form:**

**Split the amendment and associated analyses into two parts.**

**Part 1:**

**Release for public review that portion of the analysis relevant to the following problem statement:**

**The Council recognizes that some invertebrates (corals, sponges, mussels, rockweed and kelp), which provide important habitat for fish have the potential to be developed into large-scale commercial fisheries. The Council currently has little or no controls on the harvesting of these invertebrates. Adopting management measures as a precautionary approach would allow the Council to control any commercial fishery that might develop.**

**This problem statement, along with appropriate portion of this analysis would be released to public with Option 1 and Option 2 under "C. Options for Fishery Management Actions."**

**Part 2:**

**The rest of the amendment/analysis would not go out for public review at this time, but would be held while the Council develops a more comprehensive and iterative process involving researchers, stakeholders and management agencies.**

**To guide further development of EFH management, I suggest the following draft problem statement from the Ecosystem Committee:**

**Problem Statement: Scientific research shows that alteration of seafloor habitat changes the diversity and relative abundance of species, creates environments for opportunistic species, and may reduce the resilience of original species. It is the Council's responsibility to consider fishery impacts relative to natural impacts and to determine the supportable or sustainable threshold for fishery impacts. Management for habitat complexity and diversity is a precautionary approach that takes into account our limited knowledge of marine ecology and the effects of fishing practices. The primary objective for HAPC conservation is to establish a seafloor habitat conservation regime to ensure natural habitat complexity and biological diversity important for productive fisheries, a healthy marine ecosystem, and stable, flexible fishing economies.**

**The NPFMC has established time/area closures in the Gulf of Alaska and Bering Sea/Aleutian Islands for bycatch and habitat protection. However, a deliberate effort is**



needed to ensure that the range of HAPC types in each FMP are adequately addressed in a conservation regime.

Habitat protection does not require a prohibition on all fishing but rather a prohibition or modification of fishing practices that are most likely to harm essential habitats. To develop management plans that protect the full range of sensitive habitat types will be a phased process involving proposals, analyses, and public participation.

Furthermore,

(1) that the Council request that a scientific committee be convened, as suggested by the SSC, to develop a discussion paper that identifies possible management approaches to meet habitat protection objectives and the pros and cons of each.

(2) that Council staff be requested to develop an expanded analysis that incorporates comments from the Ecosystem Committee, Advisory Panel, and public, outlines HAPC categories, and defines process initiated by submission of a HAPC proposal, through the steps of evaluation, identification, stakeholder involvement and, if indicated, management actions.

(3) Finally, initiate in as expedient a time frame as possible and as a HAPC process prototype, the stakeholder process to better define high density coral areas and develop appropriate management alternatives.

The motion was seconded amended as follows friendly amendments and consensus:

- The problem statement offered for part two of the analysis will be considered a “draft” while the Council develops a more comprehensive process.
- The draft problem statement in Part 2 was edited to delete the word “seafloor”.
- Under the last portion of the motion, Point 2 was revised to include comments from the scientific community when preparing an expanded analysis, and to substitute the word “where” for the word “if” in the underlined phrase in the last line of that point, i.e., where indicated.
- Under Point 3 of the same section, insert the word “Gorgonian” before “coral”.

The motion, as amended, carried without objection.

#### D-2 Staff Tasking

#### **ACTION REQUIRED**

Review groundfish and IFQ proposals and give direction to staff.

#### **BACKGROUND**

In October you deferred consideration of new management proposals due to the existing Council and staff workload, and noticed that you would review those proposals in February, along with IFQ

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proposals which typically were reviewed in December. The 14 groundfish/crab proposals we received last summer are summarized under Item D-2(a) and the 10 IFQ proposals are discussed under Item D-2(b) as part of the IFQ Implementation Committee report. Council staff will review these for you at this time. In addition to these proposals, there are some lingering amendments and analyses which have been initiated by the Council which have yet to be completed, or even begun. These include:

**\*Completion of an EA/RIR/IRFA relative to inshore co-op structure (the Dooley-Hall proposal) - while much of this work is being done under contract to Dr. Robert Halvorsen from the University of Washington, additional work by Council/NMFS staff will be required to turn that discussion paper into a more formal analysis for Council action in April.**

**\*Pursuant to your October action to subdivide the BSAI fixed gear cod allocations, you requested development of two related analyses - (1) a plan amendment to allocate halibut PSC among the longline components of the fixed gear sector, and (2) an analysis of Pacific cod bycatch needs in other trawl and fixed gear fisheries to determine the impacts of bycatch accounting among the various sectors.**

**\*In December you requested development of a plan amendment which would further subdivide the BSAI Pacific cod pot gear allocation between pot catcher vessels and pot catcher processors.**

**\*In December, during discussions of AFA sideboard exemptions, you requested development of an amendment which would establish separate sideboard limits for three categories of AFA catcher vessels.**

**\*Rebuilding plan amendments for St. Matthew Blue and Opilio crab still have to be completed for initial review in April, and there is still some work to do on the Cook Inlet pelagic trawl ban and the Shark/Skate plan amendment.**

**\*There are also several CDQ program amendments which have been previously requested, but which have not been developed for rulemaking. These include observer coverage requirements at shore plants, and for longline vessels > 60'; season start dates for CDQ crab and trawl fisheries; alternative underage/overage provisions; and, trip limits and 4D/4E boundaries relative to the halibut CDQ program.**

**\*An omnibus package of observer program regulatory amendments approved for development in late 1998 - these are being referred to the new Observer Committee which will meet on March 20-21.**

**\*The halibut subsistence analysis still needs additional work prior to review in April.**

**\*An amendment to require SR/RE retention is still on our screen for initial review in April, and I suspect there will be some work to do (prior to release for public comment) on analyses that are up for initial review at this meeting.**

In addition to these specific amendments, there are two major analytical tasks that we are facing over the next several months: (1) the SEIS document that was discussed under C-5; this is going to require a substantial commitment from Council staff, particularly our two plan coordinators and recently hired analysts. Along with the FMP updates required, and existing tasks described above, this could consume most of their available time over the next few months. (2) Under the mandates of the AFA, the North Pacific Council is required to submit a report to Congress by October 1, 2000 *"on the implementation and effects of this Act, including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska CDQ program, on any fisheries outside of the authority of the NPFMC, and such other matters as the NPFMC deems appropriate"*. With limited experience under co-

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ops it will be a real challenge to address many of these issues in any meaningful detail. Some of the information requested is available through the offshore co-op reports, but a complete report as envisioned by the Act will require substantial resources. This may be a good candidate to use some of our AFA funds to contract an outside consultant.

Other projects that have been discussed, but not specifically tasked to date, include development of co-ops for the crab fisheries and the Gulf of Alaska fisheries. For these programs to be developed through the Council process will require the Council to devote substantial amounts of its time and staff analytical resources. Initial alternatives and options for crab co-ops were among the background materials contained in the Council/Board folders, and you can see the possible scope of that analysis. The potential scope of co-ops for the Gulf, based on discussions to date, could essentially result in an entire new FMP for that fishery (Item D-2(c) contains minutes from the last meeting of the Gulf Co-op Committee). The kind of analysis required, looking at the limited entry aspects, catch history determinations, and what we have been doing over the last year relative to the AFA, will likely be on a par with what is required for a comprehensive IFQ program. My read at this time is that we need further refinements at the industry level, and perhaps legislative guidance, before we start any formal analyses through the Council.

Just given the existing tasks listed above, and the scope of the SEIS project, I believe you will need to give us some direction on your priorities, particularly if any new proposals are to be developed. We do not expect our economists to be deeply involved in the SEIS project, but there are several amendments listed above which will require their time. Also keep in mind that, regardless of how many amendments are developed and approved by the Council, the agency can only process them so fast. Despite our desire to streamline the review and approval process, the reality is that everything we do is subject to higher analytical standards than ever, more scrutiny relative to NEPA, the National Standards, the Regulatory Flexibility Act, etc., and more levels of legal review than ever. In recent staff discussions with NMFS, it is apparent that additional analyses, both environmental and economic, will likely be required to accompany the general proposed rule package implementing the AFA. That will also have to occur over the next few months.

The SSC did not address this agenda item.

### **Report of the Advisory Panel**

The AP suggested the following tasks be considered a high priority for staff tasking:

- Programmatic SEIS/FMP updates
- October report to Congress on AFA
- Additional analysis of current AFA measures
- Crab rebuilding amendments
- EFH/HAPC
- Observer program rollover and ATLAS requirements

Additionally, the AP provided suggestions for several projects that would have the next-highest priority, and recommended two high priority new projects. Please see the AP Minutes (Appendix III to these minutes) for the complete list.

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**DISCUSSION/ACTION**

Staff provided the Council with the following list of existing analytical tasks, and noted AP recommendations as well.

**Existing Analytical Tasks (reflects AP recommendations)**  
(does not include processing of Council actions already taken, SSL issues, or MSST)

★	Programmatic SEIS/FMP Updates
★	October report to Congress on AFA
★	Additional Analysis of current AFA measures (EIS)
★	Crab Rebuilding Amendments (initial review in April)
★	Observer Program Rollover (and ATLAS requirements)
★	Essential Fish Habitat/Habitat Areas of Particular Concern (final action in April)
●	Revisions to LLP Pacific cod species/gear endorsements (final action April)
●	Additional analysis of processors sideboard/excessive share caps (initial review April)
●	Halibut Charter IFQ discussion paper (review in April)
●	Halibut Subsistence Regulatory Amendment: Complete for final action in April
●	Inshore co-op structure: Complete for final action in April
	BSAI Pacific cod regulatory amendments (bycatch and PSC)
	Plan Amendment to split BSAI Pacific cod Pot Quota
	Analysis for 3 separate sideboard pools for AFA catcher vessels
	Shortraker/Rougheye Retention
	Shark/Skate FMP Amendments
	5 CDQ Program Regulatory Amendments
	Observer Program Regulatory Amendments
	Halibut Mortality Avoidance Program
	Cook Inlet non-pelagic trawl ban
	Analysis of IFQs for halibut charter fleet

- ★ - Required tasks
- - AP priority (for April)

**Potential New Tasks (As per AP motion)**

	GOA/crab CRP - catch history data/confidentiality
	IFQ amendment package

**Dave Benton moved that the Council identify for staff tasking priorities those items on the table with stars and dots. Staff would be instructed to defer further work on items on the table not marked with a star or dot, until the Council takes up tasking at some future meeting. Items identified under “potential news task” would not be addressed at this time and action all IFQ proposals 1-10 would be deferred, with no action at this time.**

The motion was seconded by Bob Mace.

During discussion it was implied that those items on the chart without a star or dot would become priority items when staff time becomes available, and that Council would not add new tasks, at least before the June 2000 meeting. Steve Pennoyer pointed out that there are other tasks not included in the Council staff's list, such as the biological opinions, that are already in progress and will require NMFS and Council staff support.

Kevin O'Leary moved to include development of a discussion paper bringing forward the elements presented to the Council by the Gulf of Alaska Coastal Communities Coalition regarding possible community ownership of IFQs. This was accepted as a friendly amendment with the understanding that the Coalition was take the lead in developing an initial issues paper to be provided to the Council for future consideration.

**Dave Benton moved to encourage NMFS to work with the CDQ groups to implement the experimental program on catch accounting in the CDQ Pacific cod fishery. The motion was seconded and carried without objection.**

**Dave Benton moved to send a letter to Asst. Administrator Penny Dalton expressing support for the hard work of the Region but expressing strong concern that work on high priority items such as AFA, Steller sea lions, and the groundfish SEIS is critical and request that she do everything in her power to make the staff and resources available to accomplish these tasks in a timely and effective manner. The motion was seconded by Robin Samuelsen and carried with Sue Salvesson abstaining from the vote.**

The motion carried without objection.

## **E. ADJOURNMENT**

Chairman Lauber adjourned the meeting at approximately 4:20 p.m. on Monday, February 14.