

TABLE OF CONTENTS

MINUTES

**143rd Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
April 12-17, 2000**

A. CALL TO ORDER/APPROVAL OF AGENDA/MINUTES OF PREVIOUS MEETING(S) 3
B. REPORTS 3
C. NEW OR CONTINUING BUSINESS 4
 C-1 Halibut Charter GHL/IFQ 4
 C-2 Observer Program 10
 C-3 Steller Sea Lions 12
 C-4 Pacific Cod LLP Endorsements 14
 C-5 American Fisheries Act 18
 C-6 Halibut Subsistence 19
 C-7 Habitat Areas of Particular Concern 22
D. FISHERY MANAGEMENT PLANS 24
 D-1 Groundfish Management 24
 D-2 Crab Management 27
E. ADJOURNMENT 30

APPENDICES

I Public Comments
II Minutes of the Advisory Panel
III Alternatives for Analysis of Halibut Charter IFQ Program
IV Observer Committee Report
V Summary of Council Action on Pacific Cod LLP Endorsements
VI Minutes of the Scientific and Statistical Committee

North Pacific Fishery Management Council

Richard B. Lauber, Chairman
Clarence G. Pautzke, Executive Director



605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

MINUTES

**143rd Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
April 12-17, 2000
Hilton Hotel
Anchorage, Alaska**

The North Pacific Fishery Management Council met April 12-17, 2000 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met April 10-11, and the Advisory Panel met April 10-13, 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
Nicole Kimball

Chris Oliver, Deputy Director
David Witherell
Diane Provost
Helen Allen
Gail Bendixen
Maria Shawback

**MINUTES
NPFMC
APRIL 2000**

Support Staff

Lisa Lindeman, NOAA-GCAK
Lauren Smoker, NOAA-GCAK
Sue Salveson, NFMF-AKR
Earl Krygier, ADFG
Jay Ginter, NMFS-AKR
Kent Lind, NMFS-AKR
Rich Ferrero, NMFS-NMML

Mike Payne, NMFS-AKR
Steve Davis, NMFS-AKR
Tamra Faris, NMFS-AKR
Doug Vincent-Lang, ADFG
Jeff Bush, ADCED
Bridgette Mansfield, NMFS-AKR
Sarah Gaichas, NMFS-AFSC

Scientific and Statistical Committee

Rich Marasco, Chair
Jack Tagart, Vice Chair
Keith Criddle
Doug Eggers
Steve Hare
Jeff Hartman

Sue Hills
Dan Kimura for Jim Balsiger
Seth Macinko
Terry Quinn
Al Tyler

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 Fuglveg
Justine Gundersen
Spike Jones
Melody Jordan

Teressa Kandianis
Hazel Nelson
Michele Ridgway
Jeff Steele
Jeff Stephan
Robert Ward
Lyle Yeck

Other Attendees

The following people signed the attendance register:

Arni Thomson
Robert Williams
Karen Wood DiBari
Steve Grabacki
Tony R. Zellers
Dennis L. Mathers
Heather McCarty
Dennis Deaver
Shari Gross
Jean Franquelin
Brent Paine
Phillip Lestenkof
Jim Preston
Margie Bauman

Jim Alexander
Ed Glotfelty
Bill Jacobson
John Iani
Lou Fleming
Ken Tippet
Joe Gillas
Simeon Swetozof, Jr.
John Hendschedt
Paul Clarke
Stuart Ferris
Paula Brogdon
Helen Jentry
Paul Seaton

Beth Stewart
Linda Kozak
Lisa (Swasand) Wilson
Joe Sullivan
Al Burch
Thorn Smith
Vince Curry
Donna Parker
C. Mateo Paz-Soldan
Steve Toomey
Steve Hughes
Wandra Jentry
Bill Noll
Robert Penney

Harold P. Martin
Matt Kookesh
Denny Akeya
Larry Mercurieff
Laura Bottger
Glenn Merrill
Tom Anglin
Dick Tremaine
Trevor McCabe

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 8:15 a.m., Wednesday, April 12, 2000.

Agenda. The agenda was approved as drafted.

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

Advisory Panel Election: Bob Mace moved to confirm the election of John Bruce and Stephanie Madsen to serve as Chair and Vice Chair, respectively, of the Advisory Panel for 2000.

B. REPORTS

The Executive Director's report (B-1), the State Fisheries report (B-2), reports on the status of various regulatory and plan amendments by NMFS (B-3), and enforcement reports from NMFS and the Coast Guard (B-4) were submitted in written form. Deputy Commissioner Jeff Bush of the Alaska Dept. of Community and Economic Development Division provided the Council an update on the Community Development Quota Program and changes being considered by the Department, including a users fee to be collected until the federal fee system is in place, and allowing non-fisheries related projects to be included in CDQ programs. Kim Rivera, NMFS, provided a report on seabird bycatch, and Dan Coffey, Chairman of the Alaska Board of Fisheries reported on recent Board activities (B-6). Molly McCammon of the ExxonValdez Trustees Council provided the Council with a recently-completed report on the Gulf of Alaska ecosystem (B-7). Marcus Hartley of Northern Economics addressed the Council regarding a suggestion for revisions to the Magnuson-Stevens Act to facilitate collection of harvester employment data.

Discussions Resulting From Reports

NMFS Management Report: Sue Salvesson advised the Council that the scallop license limitation program may not be implemented prior to the fishery opening and suggested that an emergency Council teleconference may be called to take action, perhaps an emergency extension of the moratorium.

**MINUTES
NPFMC
APRIL 2000**

The North Pacific Longline Association submitted a request to NMFS to transfer 75 mt of halibut PSC from BSAI cod to the BSAI turbot fishery this year. **Kevin O’Leary moved to support this request. The motion was seconded by Linda Behnken and carried without objection.**

State Fisheries Report: **Linda Behnken moved to instruct the State to consult with the Council before proceeding to implement any of the changes to the CDQ program discussed in Mr. Bush’s report. The motion was seconded by Steve Pennoyer and carried without objection.**

Seabird Protection Report: Linda Behnken suggested to NMFS staff that a brochure be prepared for the fleet giving suggestions on handling birds that land on deck of fishing vessels at night after being disoriented by the lights.

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 Charter GHL/IFQ

ACTION REQUIRED

Review committee recommendations for developing an IFQ program for the halibut charter fishery.

BACKGROUND

In February the Council approved a GHL program for the halibut charter fishery and fast-tracked development of an Individual Fishing Quota program. A committee was named shortly thereafter and met on March 22-23. Its report with recommendations is under item C-1(a). They will meet again April 10 and may have additional comments or revisions.

Our intent is to come back in October with a preliminary analysis of the elements and options approved at this meeting. This issue will not be on the Council agenda in June, though the SSC may be asked to review the analytical approach to ensure we are on the right track.

As you will see in the committee report, there are several issues beyond the IFQ options, on which we could use some guidance. First and foremost is how to proceed with submission of the GHL amendment. The proposed IFQ program potentially could alleviate the need for a GHL. With transferability of IFQ between the charter and commercial fishing sectors, there will no longer be the potential for an open-ended reallocation from the commercial sector, and the charter sector will be able to exceed the GHL with purchase of quota (unless, of course, the Council places a cap on transferability). An IFQ program may also alleviate the need for reductions in charterboat harvest limits in periods of low abundance, and for management measures to constrain harvests within the GHL.

Nevertheless, it's my intention, unless I hear otherwise, to finalize our GHF package and submit it to the Region for review. This is going to create work for NMFS which may prove unnecessary in the long run, but at least we will have restrictions in place if somehow the development of IFQs is delayed or derailed for one reason or another.

Report of the Charter Halibut IFQ Committee

The Committee met once prior to and once during April Council meeting to develop elements and options for the proposed halibut charter IFQ program. Those elements and options are listed as follows:

Each of the following elements and options are predicated on the assumption that initial issuance is based on present day abundance. No reductions would occur prior to time of issuance (i.e., 1.4 Milb in 2C and 3.9 Milb in 3A) even if that does not occur for 3-4 years.

Issue 1. Qualification Criteria

Initial allocations will be based on an individual's participation and not the vessel's activity. Anyone not meeting the qualification criteria would have to purchase QS or transfer (lease) IFQs to participate in the halibut charter fishery.

- Option 1. Halibut charter operators who carried clients in 1998 and 1999 and who submitted ADF&G logbooks (as received by ADF&G by February 12, 2000)
- Option 2. Halibut charter operators who carried clients in 1998 or 1999 and who submitted ADF&G logbooks (as received by ADF&G by February 12, 2000)
- Option 3. Halibut charter operators who carried clients prior to June 24, 1998 and who submitted at least one ADF&G logbook (as received by ADF&G by February 12, 2000)
- Option 4. Four out of five years between 1995-1999 as evidenced by IPHC and CFEC licenses for 1995-99 and submitted logbooks for 1998 and 1999
- Option 5. Four out of five years between 1995-1999 as evidenced by IPHC and CFEC licenses for 1995-99 and submitted logbooks for either 1998 or 1999

Issue 2. Initial allocation of IFQs would be issued to U.S. citizens or to U.S. companies on the following basis:

- Option 1. Charter vessel owner/operator - individual who owns and operates (captains) the charterboat and charterboat business
- Option 2. Bare vessel lessee - person that leases a vessel and controls its use as a charterboat for this fishery. May operate the vessel or may hire a captain/skipper. Lessee determines when the vessel sails and by whom captained
- Option 3. Owners of charterboats that hired licensed captains/skippers - persons that owned the vessel that they controlled as a charterboat but hired a captain/skipper to operate the vessel

**MINUTES
NPFMC
APRIL 2000**

Option 4. Hired skipper - individual without financial interest in the vessel, hired for the labor only of operating a charterboat and paid a wage or commission as compensation

Issue 3. To receive halibut IFQ by transfer:

Option 1. Must be an individual initial charter issuee

Option 2. Must be a qualified individual charter operator as defined by State of Alaska requirement*
*this would require a change in the commercial regulations to allow transfer of commercial QS/IFQ to charter operator

Option 3. Must have transfer eligibility certificate

Issue 4. Transferability of QS (permanent) and IFQs (on annual basis [leasing])

Option 1. Within a sector

Option 2. Within an area

Option 3. Two-way (between commercial and charter sectors).
suboption. 3-yr one way transfer from commercial to charter

Option 4. Caps

suboption 1. no caps - free transferability

suboption 2. on percentage of annual IFQ transfers (de facto leasing) between sectors not to exceed 25% of total IFQ and 5% of annual IFQ transfers from charter to commercial; not to exceed the amount needed to meet the area GHL (1.4 M lb in Area 2C and 3.91 M lb in Area 3A) from commercial to charter

suboption 3. on percentage of annual QS transfers between sectors not to exceed 25% of total QS and 5% of annual QS transfers from charter to commercial; not to exceed the amount needed to meet the area GHL (1.4 M lb in Area 2C and 3.91 M lb in Area 3A) from commercial to charter

suboption 4. allow splitting of commercial blocks for transfers to charter sector

suboption 5. from commercial B, C, and D only vessel category sizes to charter

suboption 6. from charter to commercial 1) D category only; 2) B, C, and D category

suboption 7. initial transfer from undesignated charter to a particular commercial vessel category locks in at that commercial category

suboption 8. one transfer of QS/IFQ each year between sectors for each QS holder

suboption 9. minimum size of transfer is range of 20-72 fish

Issue 5. Initial IFQs may be based on:

Option 1a. 3.91 Mlb in Area 3A and 1.4 Mlb in Area 2C

- Option 1b. 125 percent of above (4.89 MIb in Area 3A and 1.75 MIb in Area 2C)
- Option 2. 70% of 125% of 1998 and 1999 logbook average with an additional 10% (of the 125%) added for each year of operation 1995-97. The balance could then be re-issued to the whole group of participants (some individuals vessel's total could be over 125% of the 1998 and 1999 logbook average, new entrants may receive only 70% of their 1998 and 1999 logbook average), or this balance could be set aside for initial issue hardships (longevity reward)
- Option 3. client-days of bottomfish effort fished in 1998 and 1999
- Option 4. Modified Kodiak proposal: 5-30% for A, 33% for B, 37-62% for C (see attachment)
Part A: each individual gets an equal percentage of the qualified pool as identified by the Council's final action
Part B: each individual's average 98/99 logbook harvest as percentage of overall harvest is multiplied by 33% of the average 1995-99 GH.L.
Part C: one point for each year of participation during 1995-99
- Option 5. Initial issuance would be fixed at Option 1a or 1b in perpetuity; transferred QS would be subject to TAC.
- Option 6. 50% of an individual's QS initial issuance would be fixed and the remaining 50% would float with abundance.
- Issue 6. IFQs associated with the charter quota shares may be issued in:**
- Option 1. Pounds
- Option 2. Numbers of fish (based on average weight determined by ADF&G)
- Issue 7. Reporting:**
- Option 1. Require operator to report landings at conclusion of trip
- Option 2. ADF&G logbook
- Issue 8. Other aspects of charter QS**
- Option 1. ownership cap of ¼, ½, and 1% of combined QS units in Area 2C and ¼, ½, and 1% of combined QS units in Area 3A and grandfather initial issues at their initial allocation
- Option 2. maximum line limit of 12 in Area 3A (remains at 6 lines for Area 2C), grandfather initial issues

**MINUTES
NPFMC
APRIL 2000**

- Option 3. 10% rollover provision of total QS
- Option 4. 10% overage provision of total QS to be deducted from next year's QS
- Option 5. appeals process
- Option 6. recovery of program costs
- Issue 9. Charter IFQ program for Areas 2C and 3A only**
- Issue 10. Duration of charter IFQ would have no specific ending date (similar to commercial IFQs)**
- Issue 11. Charter IFQ program replaces the recently approved Guideline Harvest Level (GHL) program**

Report of the Advisory Panel

Using the Halibut Charter IFQ Committee's recommendations as a guide, the AP made several recommendations to augment the analysis or add options. Please see the AP Minutes (Appendix II to these minutes) for the detailed motion.

DISCUSSION/ACTION

Bob Mace moved to approve the Halibut Charter IFQ Committee recommendations dated April 11, 2000. The motion was seconded by Joe Kyle.

Through motions and friendly amendments, the motion was amended as follows. If the motion was friendly or carried without objection, the vote will not be noted.

- Under Issue 2, include a suboption A, as follows:
Suboption A: Definition of US citizen or US company as:
 1. 51% US owned
 2. 75% US owned.
- Under Issue 3, Option 2, add a second suboption, as follows:
B. Must be a qualified individual charter operator as defined by State of Alaska requirement AND hold a USCG license.
- Under Issue 4, Option, 3, add a new suboption under A: 1-year one-way transfer from commercial to charter.
- Under Issue 4, delete Option 2 and make it a provision - i.e., QS could not be used in an area other than where it was purchased.
- Under Issue 4, the analysis should explore, in a qualitative manner, the options of (1) no leasing quota share within the charter sector, or between the commercial and charter sectors; and (2) leasing quota

share within the charter sector, or between the commercial and charter sectors. Leasing should be defined in its broadest context possible.

- Under transferability options, add an option that would designate or identify charter quota share into two classes: one class would be 75% of the initial allocation and non-transferable to the commercial sector; the other class would be 25% of the initial allocation which would be transferable to the commercial sector.
- Under Issue 4, Option 4, Suboption 5, add “A” shares to the list. (Motion carried 9 to 2, with Kyle and Mace voting no.)
- Under Issue 4, Option 4, Suboption 6, add a new suboption which would be: (3) “C and D only.”
- Under Issue 4, Option 4, add a new suboption to analyze a provision that quota share transferred from the charter sector to the commercial sector would be: (A) unblocked; or (B) blocked, with block size in aggregate up to 5,000 lbs. The intent is to be consistent with current IFQ “sweep-up provisions. (Motion carried with Kyle objecting.)
- Under Issue 4, Option 4, suboption 4, add the following suboption: “Allow splitting of commercial blocks once transferred to charter sector.”
- Under Issue 5, Option 1, add the following suboption:
 - 1c. 100 percent of ‘98 and ‘99 logbook landings
- Under Issue 5, Option 1, delete suboption 1b (125% of 3.91 Milb in Area 3A and 1.4 Milb in Area 2C). (Motion carried, 10 to 1, with Mace objecting.)
- Delete Option 5 under Issue 5.
- Under Issue 8, Option 5, add two suboptions: (a) appeals of fact; and (b) appeals of hardship circumstances, similar to the LLP program.
- Under Issue 5, delete Option 3 as option 4 will accomplish the same thing. (Motion carried 7-4, with Kyle, Austin, Benton and Lauber voting against.)
- Under Issue 11, add “upon implementation” at the end of the sentence: Charter IFQ program replaces the recently approved Guideline Harvest Level (GHL) program *upon implementation*. Staff will reword this to convey the Council’s intent that the GHL will be implemented as soon as possible, and then will be repealed upon implementation of an IFQ program.
- The following draft problem statement was approved for inclusion in the analysis:

The Pacific halibut resource is fully utilized. The NPFMC recently adopted a GHL to resolve allocation issues between the guided sport sector and other users of the halibut resource. Upon adoption by the Secretary of Commerce, the GHL will stop the open-ended reallocation between commercial and guided sport fishermen, address a number of conservation concerns, and provide a measure of stability to the halibut fishery. Guided sport

**MINUTES
NPFMC
APRIL 2000**

IFQs will address problems related to overcapitalization in the guided sport sector. Extending the existing halibut quota share program to include the guided sport sector, with provisions to recognize the unique nature of the guided sport sector, will resolve future allocation conflicts between the commercial and guided sport sectors, and provide access opportunities for halibut fishermen, processors and consumers.

- Regarding an Advisory Panel recommendation regarding allocation to fishery dependant coastal communities, Council members approved the following motion:

Issues provided by the Advisory Panel regarding a community based charter IFQ program will be incorporated into the discussion paper being developed on the Gulf Coastal Community Coalition's IFQ trust proposal. The issue paper will provide a discussion of problems and opportunities in the commercial halibut IFQ fishery, but also address access to opportunities in the charter fishery for those communities.

- Regarding the Advisory Panel recommendation regarding LAMPs, ADF&G staff will provide a short, qualitative discussion for the IFQ charter analysis on the relationship of the IFQ program and LAMP development, including the issue of potential migration of quota share inside or outside of the smaller areas of jurisdiction where LAMPs might be developed.
- The Council approved sending a letter to the Alaska Board of Fisheries urging the expedition of LAMP development in Areas 2C and 3A.

The entire list of elements and options to be analyzed for the proposed halibut charter IFQ program are listed in Appendix III to these minutes.

C-2 Observer Program

ACTION REQUIRED

- (a) **Receive Observer Committee report.**
- (b) **Initial review of regulatory amendment package.**
- (c) **Receive report on EFP for observer sampling methods.**

BACKGROUND

- (a) Committee report

Your Observer Committee met in Seattle on March 20-21 to discuss near-term program issues, including CDQ observer qualifications and observer shortages, and longer-term, programmatic issues. Their report is under Item C-2(a) and will be summarized by staff and Committee Chair Joe Kyle.

- (b) Regulatory amendment package

NMFS staff has developed an analysis for initial review at this meeting which contains several proposed changes to the current program, which could be implemented in time for the 2001 fishing season. These changes resulted from previous Observer Advisory Committee and Council requests.

NMFS staff will review the issues, the alternatives being considered, and the analysis of alternatives at this time. It is anticipated that the Observer Committee will review the analysis further, and provide recommendations on alternatives, prior to the Council's June meeting where final action is scheduled.

(c) EFP on observer sampling methods

The Groundfish Forum and NMFS collaborated in research to examine species composition and length frequency sampling methods used by at-sea observers in trawl fisheries. This research was conducted under an experimental fishing permit (EFP) approved by the Council and NMFS in June 1999. Fieldwork was completed in the Bering Sea on the F/T American No 1 in September 1999. John Gauvin and John Henderschedt of Groundfish Forum coordinated the fieldwork with assistance from Craig Rose and Sarah Gaichas (NMFS). The experimental design called for removing six 100 kg subsamples from each of 60 commercial sized (10-12 mt) trawl catches, as well as accounting for all production and discards by species group for each haul. The length frequency sampling portion of the experiment required deck sorting of halibut to minimize mortality as well as collecting 120 length samples at specified intervals throughout each haul. The report summarizes analyses estimating the extent of stratification by species, the precision of species total catch estimates at the haul, day, week, and cruise level, and the accuracy of estimated total catch weight and numbers for selected prohibited and non-target species. In addition, sample estimates of total catch were compared with production estimates of total catch for target species. Item C-2(Supplemental) is a more detailed write-up of the results which will be presented to the Council.

Report of the Scientific and Statistical Committee

The SSC advised the Council that explicit clarification and prioritization of observer requirements by the Council would help facilitate improvements in all areas of the observer program. The SSC recommended sending the current regulatory amendment for program changes out for public review. The SSC discussed the issue of deliberate bias introduced by manipulation of observer coverage in the pot fisheries and suggested the Council consider multiple requirements to limit the opportunity to subvert representative sampling. Suggestions include a requirement to monitor at least 30% of all pot lifts and at least 30 percent of all pot fishing days and at least 30% of the total pot catch within each regulated monitoring stratum. The SSC also expressed concern over observer availability and its effect on data quality and quantity and recommended the Council request an evaluation of the current retention rates for observers, including an objective appraisal of the reasons observers leave the program.

Report of the Advisory Panel

The AP recommended the EA/RIR on changes to Observer Coverage Requirements be sent out for public review with the following changes:

1. Under proposed action 1: Add a new Alternative D which would allow processors, 3 days after any federal fishery closure, to adjust their observer coverage for the remainder of the month provided they do not exceed a range of 125-250 MT/week.
2. Under proposed action 4, alternative B: Add a suboption which would base observer coverage on a range of 10-30% of pot lifts occurring on a calendar quarter.
3. Under proposed action 4, alternative C: Include a range of 12-123 pot retrievals per fishing day and include a new suboption which would reduce required coverage levels to 10%.
4. Under proposed action 4: Add a new alternative E which would base the coverage trigger on 10% of catch (as opposed to days fished.)

**MINUTES
NPFMC
APRIL 2000**

The analysis should discuss how these actions compare with trawl and other fisheries, and the effect of these actions on data quality.

DISCUSSION/ACTION

The Council received an extensive report from the Observer Committee with recommendations in several different areas: CDQ observers, the issue of an observer shortage, amendments to the current Observer Program; research, long-term program changes, possible amendments to the Magnuson-Stevens Act, and restitution of an observer seat on the Advisory Panel. Please see Appendix IV to these minutes for the entire committee report.

Bob Mace moved to send the EA/RIR for changes to the Observer Program out for public review after incorporating the AP's recommendation #1 (Under Proposed Action 1: add a new Alternative D which would allow processors 3 days after any federal fishery closure to adjust their observer coverage for the remainder of the month provided they do not exceed a range of 125-250 mt/week.) The motion was seconded by Joe Kyle.

By friendly amendment, a new suboption under Proposed Action 4, Alternative C, was added for analysis: "Include a range of 12-123 pot retrievals per fishing day."

Additionally, staff was requested to attempt, to the extent possible, to incorporate into the analysis the SSC recommendations with reference to a combination of sampling requirements in an attempt to limit the opportunity to subvert representative sampling.

The motion carried without objection.

Linda Behnken stressed that at some point the Council needs to have an analysis of what minimum level of observer coverage is needed to obtain statistically reliable data.

Experimental Fishing Permit

Sarah Gaichas (NMFS-AFSC) and John Gauvin (Groundfish Forum) provided the Council with an overview of research to examine species composition and length frequency sampling methods used by at-sea observers in trawl fisheries.

C-3 Steller Sea Lions

ACTION REQUIRED

- (a) Status report on litigation, implementation of sea lion measures, and comprehensive FMP consultation.**
- (b) Extend emergency rule for protective measures.**
- (c) Discussion of Pacific cod interactions.**
- (d) Status report on U.S.-Russia sea lion research.**

BACKGROUND

(a) Litigation

In February, NMFS staff provided a status report on litigation pertaining to the Endangered Species Act (ESA) and the potential effects of groundfish fisheries on Steller sea lions. 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 ruled that BiOp2 was insufficient in scope and that NMFS was out of compliance with the ESA. NMFS is preparing a comprehensive biological opinion on the groundfish FMPs, with completion scheduled for October 2000, well before the 2001 fisheries.

On March 30, 2000, the plaintiffs filed a motion for injunction on all groundfish trawling within Steller sea lion critical habitat (attached as Item C-3(a)). A map showing these critical habitat areas is attached as Item C-3(b). The plaintiffs have also filed legal claims against the revised final reasonable and prudent alternatives (RFRPAs); no hearings or briefings have been scheduled yet.

(b) Emergency Rule

On January 25, 2000, NMFS issued an emergency interim rule implementing the RFRPAs 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 (65 FR 3892). This emergency interim rule (attached as Item C-3(c)) will expire on July 19, 2000. A permanent rule is being prepared, but won't be ready before the emergency rule expires. At this meeting, the Council may recommend that the emergency rule be extended through December 31, 2000.

(c) Pacific Cod Interactions

The 1999 biological opinion on TAC specifications for Alaskan groundfish fisheries suggested areas of concern about potential competition between cod fisheries and Steller sea lions. At this meeting, NMFS staff will review the information regarding competition and describe ongoing analyses to further evaluate the issue. The Council may wish to provide input on any additional analysis required. In June, NMFS will present their findings. If the analysis indicates that these fisheries may be competing for Steller sea lion prey, the Council may be requested to recommend appropriate measures to alleviate those concerns prior to the 2001 fisheries.

(d) U.S.-Russia Sea Lion Research

Our marine mammal scientists recently met with their Russian counterparts. We will receive a status report on research on sea lion abundance and sea lion-fisheries interactions in the Russian EEZ.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

The Council received an update on the current litigation from Michael Payne, NMFS-Alaska Region. NMFS is now looking at the issue of possible effects of the Pacific cod fisheries in the Gulf of Alaska and Bering Sea/Aleutian Islands on the availability of prey for Steller sea lions. NMFS plans to bring a preliminary analysis to the Council in June and may request a special Council meeting or teleconference in August or September for final action.

**MINUTES
NPFMC
APRIL 2000**

Linda Behnken moved to recommend extension of the current emergency rule through December 31, 2000. The motion was seconded and carried with Steve Pennoyer objecting.

Council member Fluharty stressed that the Council's action is not simply a "rollover". No additional information has been brought forward that would indicate additional protection measures are required and Dr. Fluharty wanted it stressed to the Secretary that the current measures are responsive to the situation and serve the interests of Steller sea lion protection.

C-4 Pacific Cod LLP Endorsements

ACTION REQUIRED

Final action on Pacific Cod LLP species and gear endorsements for fixed gear vessels (Amendment 67 to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan).

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 51% of the BSAI P. cod TAC 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 the 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 into 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 both a years of participation and a harvest amount requirement for each sector of the fixed gear fleet. The alternatives count landings made in the years 1995-99, or a subset of those years. Qualification is based on numbers of landings or poundage minimums during the relevant years. At the December meeting, the Council indicated that a separate qualification criteria may be considered 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.

In February 2000, the Council voted to include several new alternatives in the analysis. Firstly, the Council reinitiated a discussion of grandfather clauses for the final review document, adding two possible grandfather provisions to the analysis. The Council also indicated that a separate qualification criteria may be considered for pot and/or longline catcher vessels <60' and ≥60' LOA. Lastly, two suboptions were added to the alternatives for pot catcher vessels that mirror those originally included for longline catcher vessels. Suboption 1 would allow pot catcher vessels <60' LOA to use their jig landings as part of their catch history to apply towards a minimum landing requirement, and Suboption 2 would allow pot catcher vessels of any length to use their jig landings as part of their catch history to apply towards a minimum landing requirement.

In addition to the new alternatives, the final review document uses two methods to report the numbers of vessels expected to qualify. The first reports the total number of vessels that meet the

recent landings criteria, while ignoring whether the vessels were LLP qualified for a general BSAI groundfish license. These numbers are reported because it represents the maximum number of Pacific cod endorsements that could be issued, and there is still a great deal of uncertainty surrounding the total number of vessels that will qualify for a general LLP license once appeals are finalized. The second method reports the number of vessels that meet the recent landings criteria and appear to be LLP qualified at this time. The actual number of vessels that qualify for a Pacific cod endorsement will likely fall between those reported under the two methods, but are expected to be closer to those reported using the second method.

The public review draft of the analysis, which included the new alternatives discussed above, was distributed on March 10, 2000. The public review document includes additional information that was requested by the Council at the February meeting. That request included that staff provide a more detailed discussion of where vessels might fish if they did not qualify for a cod endorsement, further discussion on the bait issue (including would vessels need a license to fish for bait), a discussion of combining catch histories, and a discussion of the number of vessels that accounted for 25%, 50%, 75%, and 90% of a sector's P. cod catch.

The current list of alternatives scheduled for final action is included in the attached executive summary (Agenda C-4 (a)). The Council is scheduled to make a final decision on the Pacific cod endorsements at this April meeting. However, given due process issues and current staff workloads, the program is not scheduled to be implemented until the 2002 fishing season.

Report of the Scientific and Statistical Committee

The SSC reported that the revised draft analysis addresses most of the shortcomings identified in the earlier draft. Although the SSC did not have a specific recommendation, they pointed out that the distributional consequences of the LLP remain poorly characterized in the analysis.

Report of the Advisory Panel

The Advisory Panel provided the following recommendations for the Pacific cod LLP endorsements:

Freezer longline vessels

Qualification years:

Option 2: Any one year 1996, 1997, 1998, 1999

Minimum poundage requirement during any qualifying year:

Option 3: 300 mt

Catcher longline vessels

Qualification years:

Option 2: Any one year 1995, 1996, 1997, 1998 or 1999

Minimum poundage requirement during any qualifying year:

Option 2: 7.5 mt

Suboption 2: Allow catcher vessels of any length to use their jig landings as part of their catch history to apply toward minimum landing requirements.

Pot gear vessels - Catcher vessels

Qualification years:

Option 3: Any two years of 1995, 1996, 1997, 1998

Qualification landings:

Minimum pounds required for delivery during each qualifying year

Option 4: 100,001 lbs - 300,000 lbs.

**MINUTES
NPFMC
APRIL 2000**

Pot gear vessels - Catcher Processor

Qualification years:

Option 3: Any two years of 1995, 1996, 1997, 1998

Qualification landings:

A. Minimum pounds required for delivery during each qualifying year

Option 5: Greater than 300,000 lbs.

Combining catch histories of different vessels

Prohibit transfer or stacking of licenses or catch history except as outlined in Grandfather Provision #1 as amended:

1. Vessels that sank after January 1, 1995 which were LLP qualified with respect to P. cod landings prior to that sinking.
2. A sunken vessel is replaced with a qualified replacement vessel within the normal time allowed by the IRS.
3. Owner of the replacement vessel, after combining catch histories, must meet the qualifying criteria appropriate for that sector.

Vessels participating in the bait fishery

The AP recommended the Council not discriminate against properly documented bait landings. In the future, status quo should be maintained for "personal use" bait without a P. cod endorsement. This would allow the sale of "personal use" bait without a P. cod endorsement.

CDQ Vessels

CDQ groups should have the latitude to contract with any LLP qualified vessel to engage in the P. cod fishery.

The AP also requested the Council to initiate an analysis to establish P. cod species and area endorsements in the GOA that mirror the BS elements and options.

DISCUSSION/ACTION

Lauren Smoker, NOAA General Counsel, advised that, under the current conflict of interest statutes, Council members O'Leary and Samuelsen would have to recuse themselves from voting on some specific aspects of the current issue. Mr. O'Leary would not be able to vote on issues connected to the qualifying criteria for freezer longliners nor on eligibility criteria for the "grandfather" provision with regard to freezer longliners. Mr. Samuelsen would not be able to vote on issues related to qualifications for pot catcher vessels, including the grandfather clause on sunken vessels. Neither Mr. O'Leary nor Mr. Samuelsen would be able to vote on the final motion which would include these provisions.

Bob Mace moved to adopt the recommendations of the Advisory Panel with respect to Pacific cod license limitation endorsements (as found in the AP minutes dated 4/14/00). The motion was seconded by Joe Kyle.

Through motions and friendly amendments, the following changes were made to the main motion:

**MINUTES
NPFMC
APRIL 2000**

- For freezer longliners, under “Minimum poundage requirement during any qualifying year,” the tonnage was changed from 300 mt to 270 mt. (Motion carried 9 to 1; Kyle voting against and O’Leary recused.)
- Vessels under 60 feet will not be required to have a Pacific cod endorsement to fish cod in the Bering Sea/Aleutian Islands; however they must meet the requirement of the current License Limitation Program. (Unanimous vote)
- The Advisory Panel recommendation to give CDQ groups the latitude to contract with any LLP-qualified vessel to engage in the Pacific cod fishery was deleted from the motion. (Council members noted this provision would not be required because of the exemption for vessels under 60 feet.)
- Qualifying years and minimum landing requirements for pot catcher vessels were amended to require participation in any two of the years 1995, 1996, 1997, 1998, or 1999 with a minimum landing of 100,001 lbs in each of those two years. Landings of Pacific cod made with jig gear (by vessels of any length) would count toward qualification for the Pacific cod endorsement as if they had been made with longline gear. (Motion carried 6 to 4; Behnken, Benton, Pennoyer and Lauber voted no; Samuelsen recused.)
- The following “Hardship Provision” language was adopted:

Adapted from 50 CFR §679.4(k)(8)(iv), which applies to eligibility determinations under the original LLP program, the clause that would apply to such determinations under the LLP BSAI Pacific cod “recency” amendments would contain the following provisions:

A qualified person who holds a BSAI groundfish license issued under the LLP, but whose vessel was unable to meet all the criteria required for a BSAI Pacific cod endorsement under this amendment because of an unavoidable circumstance (i.e., the vessel was lost, damaged, or otherwise unable to participate in the license limitation groundfish or crab fisheries) may receive an endorsement if the qualified person is able to demonstrate that:

- (A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to use the vessel to conduct directed fishing for BSAI Pacific cod during the relevant time period(s) or to make harvests sufficient to meet the thresholds established by this amendment; and
- (B) The specific intent was thwarted by a circumstance that was
 1. Unavoidable, and
 2. Unique to the owner of that vessel or unique to the vessel, and
 3. Unforeseen and reasonably unforeseeable to the owner, and
 4. Weather-related, generating safety concerns significantly impacting the crew and vessel.
- (C) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstances, and
- (D) Any amount of BSAI Pacific cod was harvested on the vessel in the BSAI during the recent period for that vessel type, and that such harvest of pacific cod occurred after the vessel was

**MINUTES
NPFMC
APRIL 2000**

prevented from participating by the unavoidable circumstance, but before April 16, 2000. Motion carried without objection (O'Leary recused).

- Vessels qualifying for a Pacific cod endorsement in more than one gear sector will be issued an endorsement for each sector for which they qualify. Pacific cod endorsements that are earned by a vessel will be attached to that vessel's general license and would not be severable from a general license.
- The AP recommendation to initiate analysis of Pacific cod species endorsements from the GOA was removed from the main motion to be discussed later in the meeting.

The main motion, as amended, carried 5 to 4, with Behnken, Benton, Pennoyer and Lauber voting against and O'Leary and Samuelson recused.

Dave Benton moved to schedule a discussion for the June meeting with regard to initiation of an analysis to establish Pacific cod species and area endorsements for the Gulf of Alaska. Additionally, the Council notices the public that landings in Gulf of Alaska fisheries after April 16, 2000 may not be counted when the Council considers any type of rationalization program. The motion was seconded by Linda Behnken and carried without objection. If staff can prepare a short discussion paper it would be helpful, but the Council needs to have a general discussion on Gulf rationalization and how to proceed.

A summary of the Council's final action on Pacific cod license endorsements for the Bering Sea/Aleutian Islands is found in Appendix V to these minutes.

C-5 American Fisheries Act

ACTION REQUIRED

- (a) Extend emergency rules for 180 days.
- (b) Receive status report on development of EIS for the AFA actions.

BACKGROUND

The emergency rules implementing the AFA for year 2000 (item c-5(a)) must be extended to cover the second half of the fishing year. NMFS is anticipating that extension to be simple and straightforward, and there is no real opportunity for any major changes to those rulemakings. As we reported in February, major efforts by NMFS and Council staffs are being made to get an overall EIS completed by the end of the summer for long-term implementation of the AFA. This will require substantial revisions and additions to the original AFA analysis, but that work will also dovetail with a report to Congress on AFA implementation which is due in October. This work is in addition to the programmatic SEIS discussed under Agenda D-1. NMFS staff will report further at this meeting on both the emergency rule extension and the AFA EIS efforts.

Comments received since February on the AFA are contained under Item C-5(b).

The Scientific and Statistical Committee did not address this issue.

Report of the Advisory Panel

The AP recommended the Council initiate a supplemental analysis on the following criteria for P.cod sideboards be developed and brought back for Council consideration at the June meeting.

- a. NMFS shall calculate the amount of BS P.cod harvested by the vessels in each of the years 1995, 1996, and 1997 (each year being a "base year" and each base year harvest being a denominator.)
- b. NMFS shall calculate the sum of all vessels' two highest annual percentages.
- c. NMFS shall then divide the sum of each vessel's two highest annual percentages by the total. The amount so calculated for each vessel shall be its percentage of the aggregate cod sideboard.

Additionally, the AP recommended the Council initiate an analysis for Council action in June comparing the current method used to distribute inshore co-op quotas to a formula that uses a denominator that is the aggregate inshore deliveries of AFA qualified vessels only.

DISCUSSION/ACTION

Linda Behnken moved to recommend the extension of the current emergency rule, with the additions of a December 1, 2000 deadline for applications for inclusion under the AFA, and a December 1 annual application deadline for co-op permits. The motion was seconded by Robin Samuelsen and carried with Salveson objecting.

Linda Behnken moved to approve the AP recommendation to initiate an analysis for Council action in June comparing the current method used to distribute inshore co-op quotas to a formula that uses a denominator that is the aggregate of inshore deliveries of AFA qualified vessels only. The motion was seconded by Robin Samuelsen and carried without objection.

Dave Benton moved to approve the AP recommendation for a supplemental analysis on criteria for Pacific cod sideboards such that the analysis would used the years 1995, 1996 and 1997 for the catcher vessel sector in the AFA fleet. The motion was seconded by Joe Kyle and carried without objection.

Dave Fluharty moved to request that staff flesh out the issue brought out during public comment regarding a possible crab sideboard exemption and report back to the Council in June for possible further tasking. The motion was seconded by Linda Behnken and carried without objection.

Dave Benton also asked staff to look at the impact of crab processing sideboards on the fleet this season with regard to delayed offloading of crab. This would be an issue for Council discussion in June. Depending on information compiled the Council could take action (in June or October) to alter or repeal crab processing sideboards.

C-6 Halibut Subsistence

ACTION REQUIRED

Approve revised analysis for public review.

**MINUTES
NPFMC
APRIL 2000**

BACKGROUND

Management measures for halibut subsistence were first developed in September 1996 because of a conflict between the IFQ/CDQ regulations and customary and traditional practices of Alaska Natives in IPHC regulatory Area 4E, whereby halibut CDQ fishermen were retaining undersized halibut for personal use. The Council formed a Halibut Subsistence Committee, initiated a regulatory amendment, and in June 1997, took final action on the part of the proposed action that allowed Area 4E CDQ fishermen to retain undersized halibut while commercial fishing. That measure took effect June 4, 1998, and was renewed by the IPHC through December 31, 2001.

The broader issue of defining subsistence for Pacific halibut is addressed in the analysis mailed to you on March 31, 2000. The executive summary is attached as item C-6(a). Item C-6(b) provides a complete list of Alaska Native federally-recognized tribes with customary and traditional use of halibut and other permanent residents in such Native villages under Alternative 2, Option 2, Suboption A. Under that suboption, about 88,662 people, of which 42,003 are Alaska Native and 46,659 are non-Native, would be deemed eligible. The alternatives in the analysis were revised by the Council at its December 1999 meeting. The current analysis contains the same data analysis as the original May 1997 public review draft, updated to reflect the revised list of alternatives. The May 1997 draft had been recommended for release by the SSC and is not scheduled for further SSC review.

Co-management agreements with NMFS (items C-6(c-d)) for beluga whales and harbor seals are attached as examples for Council consideration in designing a cooperative agreement with Tribal, State, and Federal governments to collect, monitor, and enforce subsistence harvests and develop local area halibut subsistence use plans in coastal communities under Alternative 2, Option 6. Reporting vehicles for undersized halibut in Area 4E CDQ fisheries are included in the analysis in Appendix III.

The SSC did not address this issue.

Report of the Advisory Panel

The Advisory Panel had the following recommendations for the halibut subsistence analysis before releasing it for public review:

1. Clarify that all references to "permanent rural resident" require a minimum of one year residency.
2. Include discussion of the potential impact on State of Alaska revenues generated by the sale of sportfish licenses.
3. Add to option 3:
 - A. Define legal gear and
 - B. add the following alternatives under suboption D:
 1. Statewide
 2. 4C,D and E only
 3. Require subsistence fishermen to designate a particular trip as a subsistence trip outside of areas 4C, D and E

**MINUTES
NPFMC
APRIL 2000**

- Add an additional suboption for eligibility that would indicate that the only persons eligible for halibut subsistence would be tribal members residing in communities with customary and traditional designations.

Dave Benton suggested that staff identify areas of authority more clearly with regard to the various authorities, i.e., the Halibut Act, ANILCA, and authorities of the State of Alaska. NOAA General Counsel was also asked to delve into this issue, particularly with regard to the Council authority to delegate responsibility to entities other than the State of Alaska.

The Council also discussed the subject of "designated fishers" and proxies. Staff indicated the analysis will make it clear that the Council may consider some type of proxy system.

The amended motion carried without objection.

Robin Samuelsen moved to schedule final action for the subsistence issue for October 2000. The motion was seconded by Dave Benton and carried without objection.

Linda Behnken moved to request IPHC look at the appropriateness of the 32" size limit in the commercial fishery. The motion was seconded by Robin Samuelsen and carried without objection.

C-7 Habitat Areas of Particular Concern

ACTION REQUIRED

Final Review of Habitat Areas of Particular Concern: Part 1.

BACKGROUND

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.

In February 2000, the Council reviewed an initial draft of a proposed amendment that would consider identifying additional HAPC, and two management measures to protect HAPC from fishing effects. The first measure 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, are very long lived, easily damaged by fishing gear, and slow to recover from damage.

Based on public testimony, and input from its advisory committees, the Council voted to split the amendment and associated analysis into two parts. Part one, which was to be ready for final action in April, would allow for control on the harvest of HAPC biota, based on 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.

At this meeting, the Council is scheduled to take final action on Part 1. The analysis was distributed for public review on March 6. An executive summary is attached as Agenda Item C-7a. The alternatives to the status quo would either make HAPC biota a prohibited species, or would reclassify HAPC biota as a new category.

This proposed amendment flows from existing regulations that limit directed fisheries and gear types to those defined in regulations. Although these regulations prevent a new fishery from developing without NMFS approval, regulations do allow for bycatch to be taken in the specified fisheries using specified gear type. So the proposed amendment would allow for added control on bycatch of HAPC biota in the EEZ. Staff will be on hand to discuss the merits and limitations of each alternative.

Part two of the HAPC amendments, which will require a longer time line, will be to develop a more comprehensive and iterative process for HAPC identification and habitat protection involving researchers, stakeholders, and management agencies. A scientific committee will be tasked to develop a discussion paper that identifies possible management approaches to meet habitat protection objectives and the pros and cons of each. Council staff will expand the analysis of HAPC categories, and define the process initiated by submission of a HAPC proposal, through the steps of evaluation, identification, stakeholder involvement and, where indicated, management actions. Once these actions have been taken, the stakeholder process would be initiated to better define high density Gorgonian coral areas and develop appropriate management alternatives. Staff will be working on part two of the HAPC amendments over the summer, for initial review possibly in October.

Report of the Scientific and Statistical Committee

The SSC determined the analysis was sufficient to support final action with two clarifications: (1) clarify jurisdictional issues involved; and (2) discuss how the action affect vessels transiting Federal waters with biota that is permitted to be retained in State waters, but not in Federal waters.

Report of the Advisory Panel

The AP recommended the Council adopt Alternative 3 with a modified Option 3 as follows:

Option 3: Prohibit the sale, barter, trade or processing of corals and sponges. Kelp, (including rockweed), and mussels would not be subject to additional management regulations at this time.

Additionally, the AP requested the Council review other FMPs needing modification to reflect this action (i.e.

**MINUTES
NPFMC
APRIL 2000**

halibut and crab). Further, the AP recommended the Council respectfully request the Board of Fisheries consider adopting similar regulations for State of Alaska waters.

DISCUSSION/ACTION

Linda Behnken moved to adopt the recommendations of the Advisory Panel. The recommendation to review other FMPs will be addressed during future discussions of staff tasking. The motion was seconded by Dave Fluharty.

Sue Salveson offered a substitute motion: Establish corals and sponges as a PSC category whose management measures would be specified in regulations and would prohibit sale, barter and trade of corals and sponges taken in the groundfish fisheries. The motion was seconded by Kevin O'Leary and carried without objection. It was clarified that the motion would include the portions of the AP recommendations with regard to reviewing other FMPs and requesting the Board of Fish to take similar action in State waters.

D. FISHERY MANAGEMENT PLANS

D-1 Groundfish Management

ACTION REQUIRED

- (a) **Review SEIS Scoping Document.**
- (b) **Review discussion paper on TAC setting process.**
- (c) **Review halibut excluder experimental fishing permit.**

BACKGROUND

(a) FMP updates/SEIS Scoping Document

Steve Davis, Regional NEPA Coordinator for NMFS, will again provide a status report on the development of the programmatic supplemental environmental impact statement (SEIS) on groundfish fishery management in the Exclusive Economic Zone (EEZ) off Alaska. NMFS published a scoping summary report on March 27, 2000, which we mailed to you on March 31. It summarizes the scoping process, identifies issues raised during scoping, and describes the SEIS structure and content including alternatives for analysis that resulted from scoping (Item D-1(a)(1)). The notice of availability for the scoping summary report was published on April 6, 2000, beginning a 30-day comment period (Item D-1(a)(2)). Our FMP coordinators will be contributing to the preparation of the SEIS and will also be revising the BSAI and GOA FMPs to coincide with the public review of the SEIS, a long-standing project of theirs.

(b) TAC setting process

NMFS staff will present a discussion paper on issues and options for revising the annual TAC setting process. In December 1996, the Council initiated the development of Amendments 48/48 to the groundfish fishery management plans. The Council took final action in April 1998 and submitted the analyses for Secretarial review in May 1998. The intent of these amendments was to streamline the

4. Amend Option 3, suboption A to define hand held gear as:
 1. Rod and reel gear
 2. Spear
 3. Hand troll gear
5. Include appropriate State of Alaska regulations
6. Expand discussion in Option 6 to incorporate examples of current cooperative agreements
7. Amend Option 2: Define eligibility for halibut subsistence,
suboption A: Members of Alaska Native Federally recognized tribes with customary and traditional use of halibut and other permanent rural residents in "*communities with customary and traditional uses of halibut.*"
8. Amend Option 2: Define eligibility for halibut subsistence to include under suboption c "Tribal..." Alternatives to define what entity determines "legitimate subsistence needs"
 1. State of Alaska
 2. Tribes
 3. Co-management authority

DISCUSSION/ACTION

Bob Mace moved to release the EA/RIR/IRFA for creating and defining a halibut subsistence category for public review as outlined by the Advisory Panel. The motion was seconded by Robin Samuelsen.

Through friendly amendments and motions, the action was amended as follows:

- Under Alternative 2, Option 2, the language was changed to read as follows:

Suboption A: Members of Alaska Native federally-recognized tribe with customary and traditional use of halibut are eligible. Also, other permanent rural residents of communities with customary and traditional use of halibut are eligible.

Suboption C: Members of Alaska Native federally-recognized tribes with customary and traditional use of halibut are eligible. Also, other permanent rural residents who have legitimate subsistence needs in communities with customary and traditional use of halibut are eligible.
- A new suboption under Alternative 2, Option 2, which would separate suboption A into two separate options: (1) Members of Alaska Native federally-recognized tribe with customary and traditional use of halibut are eligible; and (2) Other permanent rural residents of communities with customary and traditional use of halibut are eligible.
- Under Alternative 2, Option 6, add "and other entities" to the end of the sentence: Develop cooperative agreements with Tribal, State, and Federal governments to collect, monitor, and enforce subsistence harvests and develop local area halibut subsistence use plans in coastal communities and other entities.

Council's annual groundfish harvest specification process by: (1) rolling over final harvest specifications established for one year into the following year to serve as preliminary specifications and eliminate the need to publish interim specifications; and (2) issuing annual specifications through a single Federal Register document which would be published after the December Council meeting.

NMFS subsequently identified legal and technical problems with amendments 48/48. These problems stemmed largely from compliance issues with National Environmental Policy Act (NEPA), the Administrative Procedure Act (APA), Regulatory Flexibility Act, and Endangered Species Act associated with "rolling over" TAC amounts from one year to the next, as well as the recent development of more rigorous agency guidelines for compliance with these statutes. As a result, the original concept for amendments 48/48 was tabled in mid-1999.

NMFS again is attempting to develop options for revising the existing TAC specification process to respond more effectively to the following objectives:

1. Manage fisheries based on the best available information;
2. Facilitate adjustments to TACs to respond to new information or conservation concerns;
3. Facilitate compliance of annual TACs with NEPA, ESA, and RFA provisions while minimizing unnecessary disruption to fisheries;
4. Provide adequate opportunity for public review and comment on new information leading to annual TAC recommendations; and
5. Promote administrative efficiency.

A draft analysis is scheduled for Council consideration at its June 2000 meeting. Final Council action could occur at the October meeting.

(c) Halibut excluder experimental fishing permit

NMFS is initiating consultation with the Council on an experimental fishing permit application to develop a device for the BSAI and GOA Pacific cod fisheries that would lower halibut bycatch rates without significantly lowering catch rates of cod by Groundfish Forum and At-Sea Processors Association (Item D-1(c)). John Gauvin, Groundfish Forum, and Dr. Craig Rose, NMFS-AFSC, will review the application for the Council. Upon approval by the Council, NMFS will initiate a regulatory amendment to allow the experiment by a head-and-gut vessel in the GOA in September 2000 and pollock/cod fillet vessel in the BSAI in March 2001 to occur.

Report of the Scientific and Statistical Committee

SEIS Scoping Document. The SSC expressed concern that the range of alternatives may be too narrow, and that the document focuses on communities of interest rather than geographic communities. Please see the SSC Minutes (Appendix VI to these minutes for complete comments on this issue).

TAC Setting Process. The SSC reviewed a discussion paper prepared by NMFS staff that outlined several alternatives to the current TAC-setting process. The SSC favored Alternative 4, to publish proposed specifications based on those adopted by the Council in December with interim specifications issued by inseason notice following the December Council meeting, based on a non-discretionary adjustment of the prior year TACs by the ratio of the present year ABC to the prior year ABC. Final specifications would be published by May 1. However, the SSC also suggested that an additional alternative be added to the analysis in order to avoid interim rules and meet all administrative procedures. That alternative would have the Council's ABC and TAC setting process occurring earlier in the year based on the previous years' stock assessment data.

**MINUTES
NPFMC
APRIL 2000**

EFP for Halibut Excluders. The SSC indicated general support for industry/science partnerships that attempt to lower bycatch mortality rates and recommended the Council support this application for an EFP.

Report of the Advisory Panel

SEIS Scoping Document. The AP recommended Alternative 6 in the SEIS scoping document be expanded to include a broader discussion of rights-based management programs, the incorporation of performance elements, and mechanisms for changing use provisions of such systems.

EFP for Halibut Excluders. The AP recommended approval of the application for an EFP.

DISCUSSION/ACTION

SEIS Scoping Document

Linda Behnken moved to adopt the recommendations of the Advisory Panel and SSC with regard to the SEIS scoping document and urge that they be incorporated into the current work on the SEIS. The motion was seconded by Earl Krygier and carried without objection.

TAC Setting Process

NMFS staff provided the Council with a discussion paper outlining issues relative to the current specification process. Alaska Region NMFS staff is working with scientists at the Alaska Fisheries Science Center and General Counsel to come up with alternatives that will meet the objectives of using the most current scientific information available and providing adequate public comment opportunities while allowing fisheries to be opened on schedule. Staff will also meet with industry and provide the Council with a more comprehensive discussion of alternatives for initial review.

EFP for Halibut Excluders

Linda Behnken moved to approve the Advisory Panel recommendation to endorse the Halibut Excluder EFP. The motion was seconded by Earl Krygier and carried without objection. Ms. Behnken expressed the hope that the experiment will lead to reduced halibut mortality.

D-2 Crab Management

ACTION REQUIRED

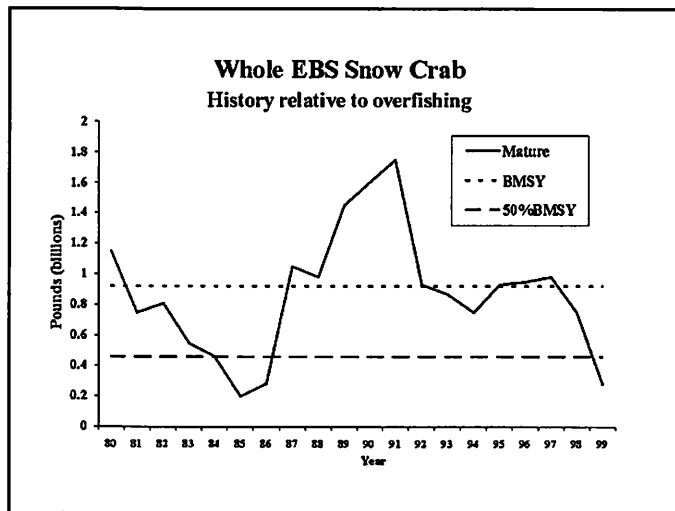
- (a) Initial review of rebuilding plans for opilio and St. Matthew blue king crab.
- (b) Receive status report on crab co-ops and permit buyback program.

BACKGROUND

(a) Crab Rebuilding Plans

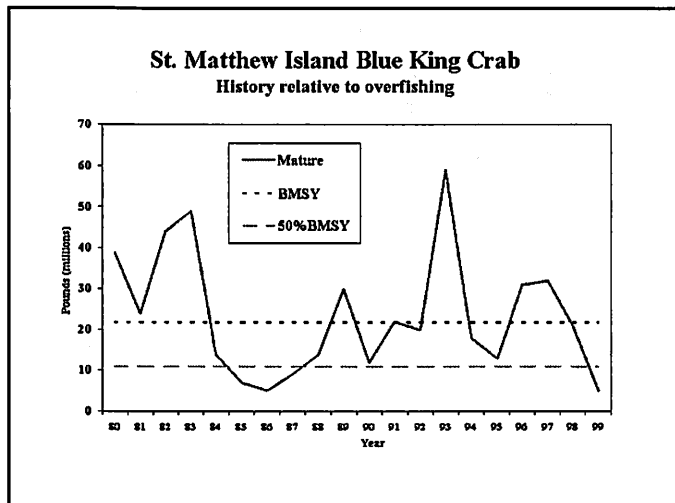
Opilio Rebuilding Plan - Proposed Amendment 14

Amendment 7 to the BSAI King and Tanner Crab FMP redefined overfishing, OY, and MSY, and updated the FMP with new information. The amendment established MSY point estimates, along with minimum stock size thresholds (MSST) for individual crab stocks based on prevailing environmental conditions (1983-1997 period). Overfishing is now defined as a fishing mortality rate in excess of natural mortality ($M=0.2$ for king crabs, $M=0.3$ for Tanner and snow crabs) and overfished is defined as a biomass that falls below MSST.



The 1999 NMFS Bering Sea survey indicated that the snow crab stock was below the minimum stock size threshold (MSST) established for this stock. Abundance of snow crab (*C. opilio*) declined sharply this year, resulting in a spawning biomass value (283.3 million pounds) that falls below the MSST (460.8 million pounds) and hence precipitated a severe curtailment of the fishery in the 2000 season. On September 24, 1999, NMFS informed the Council that this stocks was declared "overfished" pursuant to the Magnuson Act guidelines, which require a rebuilding plan to be developed within one year.

A draft rebuilding plan for this stock was mailed out on March 14, 2000. The Board of Fisheries has since adopted a revised harvest strategy for this stock, as detailed in the proposed rebuilding plan. An executive summary of the plan is attached as Agenda Item D-2(a)(1). Staff will provide additional details of their analysis. At this meeting, the Council is scheduled to approve the plan for public review, so that final action can be taken in June.



St. Matthew Blue King Crab - Proposed Amendment 15

The 1999 NMFS Bering Sea survey indicated that the Saint Matthew blue king crab stock

**MINUTES
NPFMC
APRIL 2000**

was below the minimum stock size threshold (MSST) established for this stock. Abundance declined sharply this year, resulting in a spawning biomass value (4.8 million pounds) that falls below the MSST (11.0 million pounds). On September 24, 1999, NMFS informed the Council that this stock was declared "overfished" pursuant to the Magnuson Act guidelines, which require a rebuilding plan to be developed within one year.

A draft rebuilding plan for this stock was mailed out on March 14, 2000. The Board of Fisheries has since adopted a revised harvest strategy for this stock, as detailed in the proposed rebuilding plan. An executive summary of the plan is attached as Agenda Item D-2(a)(2). Staff will provide additional details of their analysis. At this meeting, the Council is scheduled to approve the plan for public review, so that final action can be taken in June.

(b) Crab Co-ops and Permit Buyback Program

The crab industry has continued to work on developing alternatives for a potential cooperative style management program, possibly in conjunction with some type of permit buyback program. At the same time there has been a request by St. Paul for emergency disaster relief related to the situation in the opilio crab fishery. A meeting was held on March 3 in Seattle (attended by over 100 fishermen and processors) to further discuss these issues, and was presided over by Council members Dave Fluharty and Kevin O'Leary. A brief meeting summary is included as Item D-2(b). Among the primary outcomes of that meeting was the establishment of two committees, one to work on a near-term solution related to a buyback program, and the other to work on a longer-term horizon towards a co-op solution. Council members Fluharty and O'Leary, or members of industry, may have additional information for the Council at this time. A meeting of the industry committees is tentatively scheduled for April 26 in Seattle.

Report of the Scientific and Statistical Committee

The SSC determined that the rebuilding plans meet the technical requirement of NMFS guidelines and that they should be released for public review. The SSC had extensive comments on rebuilding strategies and suggestions for the analysis (please see SSC Minutes, Appendix ?? to these minutes) for the entire set of comments.

Report of the Advisory Panel

Bering Sea C. opilio

The AP recommended the Council release the EA/RIR/IRFA "A Rebuilding Plan for the Bering Sea C. Opilio Stock" for public review with the following additions:

1. Include a discussion and examine CDQ crab fishery data to determine the effect of longer soak times on bycatch reduction.
2. Include data prepared in 1996 for snow crab with particular attention to the time series with width frequency distribution of bycatch in trawl fisheries.
3. Expand discussion on page 26 to include written descriptions of the gains in rebuilding time of each alternative as illustrated by figures 36 and 37 on pages 120 and 121.
4. Expand discussion of Alternative 2B Option 2 to include the effects on trawl fisheries of a recruitment event that follows a year of low abundance.
5. Expand discussion (page 43) to provide additional detail on habitat requirements for Opilio crab and the effects of fishing gear on these habitats.

6. Provide maps on same scale for easier comparison for bycatch areas and crab distribution.
7. Include the annual crab bycatch in target trawl fisheries by seasons.

The AP also requested the Council commit to the development of a rationalization plan for the crab fisheries as soon as possible.

Additionally, the AP requested the Council request the crab plan team re-evaluate the application of the current overfishing definition for crab stocks.

St. Matthew Blue King Crab Rebuilding Plan

The AP recommended the Council release the EA/RIR/IRFA "A Rebuilding Plan for the St. Matthew Blue King Crab Stock" for public review, and that the Council commit to development of a rationalization plan for the crab fisheries as soon as possible. Also, the AP recommended the Council request the crab plan team re-evaluate the application of current overfishing definition for crab stocks.

Crab Co-ops and Permit Buyback Program

The AP recommends that the Council send a letter to the congressional delegations from Alaska, Washington and Oregon stating that:

1. The Bering Sea crab fisheries are at critically low levels and that they can no longer support the current fleet size and effort.
2. The Council needs congressional assistance in reducing the crab fleet through a federally supported effort reduction program utilizing congressional appropriations, federal loans, and restructuring the Capital Construction Funds currently deposited by crab fishermen. The Council also requests congressional authorization for the Council to proceed with development of a catch history based rationalization plan.
3. The Council is committed to rationalize the remaining effort to prevent similar problems from re-occurring in the Bering Sea crab fisheries.

DISCUSSION/ACTION

Bob Mace moved to adopt the recommendations of the Advisory Panel with regard to the rebuilding plan for Bering Sea *C. opilio*, including the recommendation of Simeon Swetsof of St. Paul to include an option under Alternative 2: a discussion of ecosystem-based management. The motion was seconded by Dave Benton. Sue Salvesson suggested an additional alternative that would include "no fishing". This was accepted as a friendly amendment to the motion. It was clarified that the motion would not include the AP recommendation with regard to commitment to a rationalization plan at this time as this issue is being addressed in other ways. It was also understood that the recommendation with regard to review of the overfishing definitions could not be achieved in the near future. The motion carried, as amended, without objection.

Bob Mace moved to adopt the AP recommendations with regard to the rebuilding plan for St. Matthews blue king crab. The motion was seconded by Robin Samuelsen and carried without objection. It was clarified that the same comments on the previous motion would apply to this one as well.

**MINUTES
NPFMC
APRIL 2000**

Regarding the SSC recommendation to draft a letter to NMFS requesting greater flexibility in the development of overfishing definitions, Council members agreed that the draft letter could be circulated to members by fax before the Chairman and Executive Director finalize and submit the letter to the Assistant Administrator.

Crab Permit Buyback/Co-ops

Dave Benton moved to adopt the recommendation of the Advisory Panel to send a letter to the Congressional delegations of Alaska, Washington and Oregon urging assistance in reducing the crab fleet. The motion was seconded and carried with Steve Pennoyer objecting. A copy of the letter is to be sent to the Governors and fishery directors of each of the three states.

E. ADJOURNMENT

Chairman Lauber adjourned the meeting at approximately 1:50 p.m. on Monday, April 17, 2000.