

MINUTES

**134th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
October 7-12, 1998**

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North Pacific Fishery Management Council

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Certified Richard B. Lauber
Richard B. Lauber, Chairman

Date: April 26, 1999

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**134th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
October 7-12, 1998
Doubletree Hotel - SeaTac
Seattle, Washington**

The North Pacific Fishery Management Council met October 7-12, 1998 at the Doubletree Hotel in Seattle, Washington. The Scientific and Statistical Committee met October 5-7, and the Advisory Panel met October 5-9, at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Richard Lauber, Chairman
Dennis Austin for Bern Shanks
RADM T. Cross/CAPT Vince O'Shea
Linda Behnken
David Fluharty
Dave Hanson
Joe Kyle

Walter Pereyra, Vice Chair
Bob Mace for J. Greer
Kevin O'Leary
Jim Balsiger/Sue Salvesson for S. Pennoyer
H. Robin Samuelson, Jr.
Dave Benton for Frank Rue

NPFMC Staff

Clarence Pautzke, Executive Director
Jane DiCosimo
David Witherell
Darrell Brannan
Chuck Hamel

Chris Oliver, Deputy Director
Helen Allen
Gail Bendixen
Linda Roberts

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James M. [Signature]
1991, 1992

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

MEMORANDUM FOR THE DIRECTOR, FBI
SUBJECT: [Illegible]

TO: [Illegible]

FROM: [Illegible]

DATE: [Illegible]

CLASSIFICATION: [Illegible]

APPROVAL: [Illegible]

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Support Staff

Jon Pollard, NOAA-GCAK
Earl Krygier, ADF&G
Jay Ginter, NMFS-AKR
John Lepore, NMFS-AKR
Lowell Fritz, NMFS-AFSC
Steve Meyer, NMFS Enforcement
Tamra Faris, NMFS-AKR
Andy Smoker, NMFS-AKR

Phil Smith, NMFS-RAM Division
Kent Lind, NMFS-AKR
Cindy Hartmann, NMFS-AKR
Tim Ragen, NMFS-AKR
Rich Ferrero, NMFS-NMML
Peggy Murphy, ADF&G
Loh-lee Low, AFSC
Sandra Lowe, AFSC

Scientific and Statistical Committee

Richard Marasco, Chair
Al Tyler
Keith Criddle
Doug Eggers
Sue Hills
Dan Kimura

Doug Larson
Seth Macinko
Jack Tagart, Vice Chair
Terry Quinn
Hal Weeks

Advisory Panel

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

Stephanie Madsen, Vice Chair
Dave Fraser
Arne Fuglvog
Steve Ganey
Justine Gunderson
John Henderschedt
Spike Jones
John Lewis

Hazel Nelson
Dean Paddock
Jeff Stephan
Robert Ward
Lyle Yeck
Grant Yutrzecka

Other Attendees

The following people signed the attendance register:

Steven Hare
Tuck Donnelly
Lt. Randy Schneider
Brad Faulkner
Thomas Abel
Stephen Taufer
Arni Thomson
Shari Gross
Ole Mathisen
Robert Miller
Edwin Glotfelty
Paul Clarke
Steven Patterson
Jennifer Chris

Denise Fredette
Thorn Smith
Eric Olson
Vince Curry
Steve Davis
Vern Hall
Tom Rueter
Joe Sullivan
Craig Cochran
Rob Gudmundson
Bill Fitzgerald
J. Russel Ostrom
Steve Toomey
Russ Moore

Guy Haugen
Steve Hughes
Jake Jacobsen
Rolf Myhre
Dick Tremaine
Joe Plesha
Terry Leitzell
Einar Langesater
Patrick Dwyer
Torbjorn Trondsen
David Wilson
Chris Blackburn
Angelique Iankor
Einar Pedersen

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Ron Frels
Mike Perry
Linda Kozak
Gordon Kristjanson
Beth Stewart

Sig Hansen
John Halthem
Brian Fujimoto
Thor Olson
Leonard Herzog

J. McManus
Rob Campbell
Bill Wells
Gerry Merrigan
Gordon Blue

NOTE: 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 Rick Lauber called the meeting to order at 8:12 a.m. on Wednesday, October 7, 1998.

Agenda and Minutes. The agenda was approved as written. The minutes of the April and June 1998 meetings were held until the end of the meeting for comments, after which time they were to be considered approved.

Election of Chair and Vice Chair. Bob Mace moved to nominate Rick Lauber as Chairman; nominations were closed and Mr. Lauber was re-elected by acclamation. Mr. Mace also moved the nomination of Wally Pereyra as Vice Chair. Nominations were closed and Mr. Pereyra was elected by acclamation.

Plan Team Member. The Council approved the appointment of Benjamin Turnock, NMFS-AFSC, to replace Jerry Reeves on the BSAI King and Tanner Crab Plan Team.

Senate Bill 1221. The Council agreed to defer discussion of the bill until receipt of the newest version. It was decided that the Council will need a special meeting to discuss staff tasking required after passage of the bill. The meeting is to be scheduled for early November in Anchorage. NMFS requested that the agenda for the meeting include a presentation on the results of Section 7 consultations with regard to marine mammals. Council members agreed that these two items would comprise the agenda for the special meeting.

B. REPORTS

The Executive Director's Report (Agenda item B-1) was provided in written form. Fishery progress reports were provided by the Alaska Department of Fish and Game and National Marine Fisheries Service (NMFS) (Agenda items B-2, B-3), and enforcement reports were provided by the Coast Guard and NMFS Enforcement (Agenda item B-4).

DISCUSSION/ACTION RESULTING FROM REPORTS

Executive Director's Report. The Council agreed to delay the October 1999 meeting for one week (the week of October 11) because of scheduling problems at the Doubletree Hotel.

Regarding the letter from the Atlantic States Marine Fisheries Commission (agenda item B-1(a)) requesting Council comments on the role of government in subsidizing the fishing industry or influencing capital investment in fisheries, Mr. Pereyra said he would work with the Executive Director on relevant comments.

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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, a section describing Council Discussion and Action, if any.

C. NEW OR CONTINUING BUSINESS

C-1 License Limitation Program

ACTION REQUIRED

Final action on proposed groundfish and crab LLP amendments.

BACKGROUND

(a) Proposed LLP Amendments

In February of this year the Council initiated several potential amendments to the LLP scheduled for year 2000 implementation. The analysis of these proposed amendments was reviewed during the June Council meeting and released for public review after changes suggested by the Council, SSC and AP were incorporated into the document. These proposed amendments are primarily geared towards further capacity reduction in the groundfish and crab fisheries.

At the June meeting NMFS provided the Council a list of changes they anticipated making to the LLP final rule. One change dealt with the issue of requiring that a vessel be listed on the license. The proposed rule indicated that the vessel would be listed on the license, however the final rule, as proposed, would not link the vessel and license. Based on Council concerns over this proposed change, NMFS has developed a discussion paper on this issue which will be made available and presented at the meeting.

Six major final decision points are scheduled under the LLP agenda item. They are the following:

1. Prevent transfer of permits from vessels that never held a federal fishery permit during the LLP qualifying period and prohibit transfers of fishing histories and subsequent licenses which would be issued as a result of those transfers that occurred after February 7, 1998, (applies to all vessels, regardless of size). An option to this amendment would allow licenses to be transferred, so long as the vessel originally assigned to the license is also transferred along with the license.
2. Prohibit licenses and fishing histories earned by vessels employing non-trawl gear to be used on vessels employing trawl gear and licenses and fishing histories earned by vessels employing trawl gear to be used on non-trawl gear vessels (i.e., if a vessel never used trawl gear during the original qualification periods, that license could not be converted for using trawl gear, and vice-versa).
 - a. Grandfather rights only to persons who can demonstrate significant financial commitment to apply a non-trawl license or fishing history to a trawl operation (and the reverse) through February 7, 1998, with the following suboptions:

- (i) has made a landing with trawl gear (or the reverse, non-trawl) through February 7, 1998;
 - (ii) has made a significant investment in conversion of a vessel to deploy trawl (or the reverse, non-trawl) gear through February 7, 1998.
- 3. Rescind the CDQ vessel exemption portion of the LLP, with grandfather rights to any vessels currently built or operating in an existing CDP under this provision.
- 4. Clarify that catch history transfers would be recognized, except those occurring after June 17, 1995, and where the owner of the vessel at that time was unable to document a vessel under Chapter 121, Title 46, U.S. Code. This change would also modify the plan amendment to clarify that the fishing history of those vessels, whose owner could not document a vessel on June 17, 1995, would be extinguished.
- 5. Initiate an amendment (possibly a trailing amendment) to the Crab LLP to include a recent participation clause, the following recent participation options were specifically studied in this analysis:
 - a. Alternatives explicitly studied
 - (i) Status quo
 - (ii) 1996
 - (iii) 1995 and 1996 (requires participation in both calendar years)
 - (iv) 1996 and 1997 (requires participation in both calendar years)
 - (v) 1997 and January 1, 1998 through February 7, 1998 (requires participation in both calendar years)
 - (vi) 1995, 1996, and 1997 (requires participation in all three calendar years)
 - (vii) 1996, 1997, and January 1, 1998 through February 7, 1998 (requires participation in all three calendar years)
 - (viii) 1995, 1996, 1997, and January 1, 1998 through February 7, 1998 (requires participation in all four calendar years)
 - (ix) 1996, 1997, or January 1, 1998 through February 7, 1998 (requires participation in any year)
 - (x) 1995, 1996, 1997, or January 1, 1998 through February 7, 1998 (requires participation in any year)
 - (xi) Any two of the four calendar years 1995, 1996, 1997, or January 1, 1998 through February 7, 1998
 - b. Analysis will consider:
 - (i) all vessels
 - (ii) vessels under 60 ft.
 - (iii) vessels 60-125 ft.
 - (iv) vessels over 125 ft.
- The recent participation requirement would apply to the general umbrella license only (i.e., if a vessel satisfies the recent participation criteria chosen, it would receive its original umbrella license and all the species/area endorsements originally earned under that umbrella — new species/area endorsements could not be ‘earned’ during the new qualification period).
- Options to allow exemptions for lost or destroyed vessels, vessels < 60’ LOA, vessels under construction, and vessels that participated in 1998 have been added to this section of the analysis

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- This amendment is not to impede or delay implementation of the LLP program.
 - The amendment/regulations should be structured such that interim permits could be issued for the Crab LLP if these changes cannot be fully implemented when the LLP program takes effect, and structured such that permanent permits could then be issued without additional amendments to the plan.
 - Council serves notice that the above dates for meeting performance standards are very firm. The Council may examine more recent participation than February 7, 1998, in making its final decision (such as date of final Council action), but cannot now foresee any extraordinary circumstances that would allow the cut-off dates to be advanced past those shown above.
6. Proposed amendment would allow limited processing for catcher vessels in the BSAI and GOA under the following options:
- Option A: Maintain the status quo.
- Option B: Allow processing of bycatch amounts of any groundfish, up to directed fishing standards, by vessels with a catcher vessel designation.
- Option C: Allow processing of any species, excluding pollock as a target species, of (a) up to 5 mt round weight per day for vessels <60'; and (b) up to 18 mt round weight per day for vessels >60'.

This analysis, completed primarily under contract to Northern Economics, Inc., was mailed to you on August 21. Marcus Hartley will present the findings of that analysis. A copy of the Executive Summary is under Item C-1(a), a list of potential implementation/enforcement issues is included under Item C-1(b), and correspondence received is under Item C-1(c).

Report of the Scientific and Statistical Committee

The SSC noted that the revised analysis addressed critical concerns expressed in June, but cautioned that many of the conclusions in the document are speculative with little or no supporting data.

Report of the Advisory Panel

The AP recommended the Council initiate a regulatory amendment to designate a vessel on a LLP license. The AP further recommends that transfers of LLP licenses to a different vessel be limited to one transfer per calendar year.

Action 1: Restrict Transfers of Non-Federally Permitted Vessels

The AP recommended the Council restrict the transfer of licenses from vessels which never held a federal fisheries permit as follows:

1. Licenses may be transferred only if the vessel originally assigned the license is transferred along with the license. This restriction should not prohibit the replacement of the original vessel if lost.
2. Transfers of fishing histories and subsequent licenses which would be issued as a result of those transfers that occurred after February 7, 1998 would be prohibited.

Action 2: Add Trawl and Non-Trawl Gear Designations to the Groundfish LLP

The AP recommended that the Council add a trawl gear designation to the groundfish LLP. The trawl designation would be based on trawl gear used by the qualifying vessel during the original qualifying period, regardless of area. A provision would be included that would require a vessel to declare a trawl or non-trawl designation for the cod target fishery annually.

Additionally, the AP recommended the Council allow vessels not qualifying for trawl designation to receive a trawl designation by showing they have made a significant financial commitment to use trawl gear in the groundfish fishery either by:

1. having made a legal landing through Feb. 7, 1998, with trawl gear, or
2. document a significant* investment toward the conversion of a vessel before February 7, 1998 and made a landing by December 31, 1998, in a North Pacific trawl fishery.

*The AP suggests the Council define "significant" financial commitment as a minimum \$100,000 purchase of equipment specific to trawl equipment .

Action 3: Rescind the Community Development Quota (CDQ) Vessel Exemption

The AP recommended the Council rescind the CDQ vessel exemption portion of the LLP, with grandfather rights to any vessels currently built or operating in an existing CDP.

Action 4: Clarify the Council's Intent on the Transfer of Catch History

The AP recommended no action at this time.

Action 5: Require Recent Participation in Crab Fisheries

The AP recommended the Council adopt Alternative 10 which requires participation at least once between 1995 and February 7, 1998.

The AP also recommended the Council allow an exemption to the recent participation provision for any vessel that made landings in any BSAI crab fishery in 1998, on or before February 7, 1998 and for which the owner acquires license limitation rights related to a vessel that meets the GQP and EQP landing requirements.

The AP further recommended the Council allow an exemption for a lost or destroyed vessel which made a landing in a BSAI crab fishery at any time from the time the vessel left the fishery through January 1, 2000. Vessel would be deemed to have met the recent participation criteria and would be granted a general license and endorsements to which it was entitled under the original Crab LLP.

Interim Permits

The AP recommended the Council implement the changes to the crab LLP as soon as possible. If interim use permits are necessary we recommend they mirror the license process as closely as possible for simplicity and consistency.

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Action 6: Allow Limited Processing for Catcher Vessels

The AP recommended allowing a limited processing upgrade in any fishery, excluding pollock target species, for catcher vessels, not to exceed:

GOA: 5 mt round weight per day (Motion passed 13-6)

BSAI: 5 mt round weight per day.

DISCUSSION/ACTION

The Council discussed the possibility that some facets of the license limitation program may have to be amended after the final version of SB 1221 is approved. It was noted, however, that if the current amendment proposals aren't approved at this meeting, they may not be in place by the time the program becomes effective (in time for the beginning of the fishing seasons in 2000).

Proposed Action 1:

Linda Behnken moved to approve the AP's recommendation to restrict the transfer of licenses from vessels which never held a federal fisheries permit, as follows:

- 1. Licenses may be transferred only if the vessel originally assigned the license is transferred along with the license. This restriction should not prohibit the replacement of the original vessel if lost.**
- 2. Transfers of fishing histories and subsequent licenses which would be issued as a result of those transfers that occurred after February 7, 1998 would be prohibited.**

The motion was seconded and carried without objection.

Linda Behnken moved to require, for those licenses issued to non-federally permitted vessels referred to in the previous motion, that vessel names be assigned to the license at time of issuance. The motion was seconded by Dave Fluharty and carried without objection.

Further discussion clarified that the cut-off date for obtaining a federal fishery permit would be October 9, 1998; this would not apply to item 2 of the motion with regard to grandfather rights, which would remain February 7, 1998.

Proposed Action 2

Kevin O'Leary moved to add trawl gear, non-trawl gear, or all-gear designations to the groundfish LLP. The designations would be based on all gears used by a qualifying vessel during the original qualification periods regardless of area. Additionally, this action would allow qualifying vessels to change their gear designation by showing that they have made a significant financial commitment to the use of the new gear types in the groundfish fisheries, either by: having made a legal landing on or before February 7, 1998 with the new gear type, or documenting a significant investment towards the conversion of a vessel or the deployment of the new gear type on or before February 7, 1998. The motion was seconded.

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Mr. O'Leary pointed out that the intent of the motion is to allow those who have already fished those fisheries to continue while not allowing additional effort.

Joe Kyle suggested that the words, "**and made a landing by December 31, 1998 in the appropriate North Pacific fishery**" and the end of the sentence, following ". . . February 7, 1998." This was accepted as a friendly amendment.

With regard to the term "significant financial commitment," the Council agreed to the following clarification: **The Council defines "significant" financial commitment as a minimum \$100,000 purchase of equipment specific to trawl equipment, or having acquired groundline hooks, pots and hauling equipment for the purpose of prosecuting the fixed gear fisheries.**

Linda Behnken moved to amend the motion to allow vessels who earned strictly a trawl license [not an all-gear license, but a trawl-only license] to make a one-time transfer to fixed gear. That transfer would be permanent, i.e., there would be no opportunity to transfer back to trawl-only. The motion was seconded by Wally Pereyra.

Ms. Behnken pointed out that this option would encourage clean gear and lower the impact on habitat and bycatch. However, some Council members felt this could allow too much shift in effort into the fixed-gear cod fishery, although the motion was not restricted to the cod fishery.

Dennis Austin moved to amend the motion to make the opportunity for such a one-time transfer contingent on future quota shifts between the trawl and fixed gear cod fisheries. The motion was seconded by Kevin O'Leary. However, Mr. O'Leary withdrew his second and the motion failed for lack of a second.

Ms. Behnken's motion failed, 6 to 5, with Behnken, Benton, Mace, Pereyra and Lauber voting in favor.

Mr. O'Leary's motion, as amended and clarified, carried with Linda Behnken objecting.

The final motion, as passed, follows:

Kevin O'Leary moved to add trawl gear, non-trawl gear, or all-gear designations to the groundfish LLP. The designations would be based on all gears used by a qualifying vessel during the original qualification periods regardless of area. Additionally, this action would allow qualifying vessels to change their gear designation by showing that they have made a significant financial commitment to the use of the new gear types in the groundfish fisheries, either by: having made a legal landing on or before February 7, 1998 with the new gear type, or documenting a significant investment towards the conversion of a vessel or the deployment of the new gear type on or before February 7, 1998 and made a landing by December 31, 1998 in the appropriate North Pacific fishery. The Council defines "significant" financial commitment as a minimum \$100,000 purchase of equipment specific to trawl equipment, or having acquired groundline hooks or pots and hauling equipment for the purpose of prosecuting the fixed gear fisheries.

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Proposed Action 3

Bob Mace moved to rescind the CDQ vessel exemption portion of the LLP, with grandfather rights to any vessels currently built or operating in an existing community development program. The motion was seconded by Joe Kyle and carried without objection.

Proposed Action 4

The Council took no action to amend the current LLP program with regard to transfer of catch history.

Proposed Action 5

The Council spent a considerable amount of time discussing the various alternatives for a recent participation requirement for crab fisheries under the LLP. It was pointed out that in researching the crab license buyback program it became apparent that there is a large number of "latent" licenses in the LLP program, therefore the Council was asked by industry to consider a recent participation requirement for the Crab LLP.

Bob Mace moved to approve the Advisory Panel recommendation to adopt Alternative 10 which requires participation at least once between 1995 and February 7, 1998. The following exemptions would apply:

- (1) For any vessel that made landings in any BSAI crab fishery in 1998, on or before February 7, 1998, and for which the owner acquires license limitation rights related to a vessel that meets the GQP and EQP landing requirements.**
- (2) For a lost or destroyed vessel which made a landing in a BSAI crab fishery at any time from the time the vessel left the fishery through January 1, 2000. The vessel would be deemed to have met the recent participation criteria and would be granted a general license and endorsements to which it was entitled under the original Crab LLP.**

The motion was seconded by Joe Kyle.

Kevin O'Leary moved to amend the motion to approve Alternative 11 which requires participation in any BSAI crab fishery in at least two different years between 1995 and February 7, 1998 for vessels under 125 feet; and adopt Alternative 6, requiring participation in all three years, 1995-1997, for vessels 125 feet and over. The motion was seconded by Dave Benton.

It was clarified that vessels under 60 feet would be exempt from any recent participation requirement.

Dennis Austin asked staff to provide details on the effects of the current motion with regard to the number of vessels affected.

Staff provided a new table showing projected results of the current motions on the floor. The Council also received a statement provided by NOAA General Counsel stressing the need for the Council to provide rationale for any changes to the current program, particularly with regard to the "fair and equitable" provisions of the National Standards.

Dave Benton moved to amend to adopt Alternative 11 as described in the analysis, with no size class differentiation. The exemptions in the original motion by Mr. Mace would remain intact. The motion was accepted as a friendly amendment.

Mr. Benton indicated that he felt that the earlier amendment with the split between vessel size classes may possibly violate the fairness and equity considerations mentioned by NOAA General Counsel, and based on the information received from staff that Alternative 11 would accomplish the Council goal of lowering the number of vessels in the fishery more closely to the number identified by the Alaska Board of Fisheries as necessary for conservation purposes.

The amendment failed, 6 to 5, with Behnken, Benton, Fluharty, O'Leary, and Samuelsen voting in favor.

Linda Behnken moved to amend to adopt Alternative 9. The motion was seconded by Kevin O'Leary and carried, 10 to 1, with Samuelsen voting against.

The main motion, as amended, carried without objection.

It was clarified that the exemptions in the initial motion would be included in this motion, including the exemption for vessels under 60 feet.

During subsequent discussion, the Council clarified their intent that the recent participation criteria would not apply to the Norton Sound fishery endorsement.

In addition, Linda Behnken moved to verify the Council's intent that if a person has multiple vessels, and only one meets the recent qualifying criteria, only one license would be issued. The acquisition or entering into a contract for acquisition for any qualifying history must have been acquired prior to October 7, 1998 at 8:36 a.m, Pacific Standard Time. This cut-off date applies to all aspects of the exemption, the overall LLP, and stacking of histories. The motion was seconded by Dennis Austin and carried without objection.

It was clarified that this would still allow the vessel owner to combine previous fishing histories of the vessels for the endorsement purposes on the licensed vessel.

Proposed Action 6

Linda Behnken moved to allow limited processing upgrades, up to 1 mt round weight per day, for fisheries in the GOA and BSAI for vessels under 60 feet. The motion was seconded.

Dennis Austin moved to amend to restrict this allowance to the GOA only. The motion was seconded by Dave Fluharty and failed, 8 to 3, with Austin, Benton and Salveson voting in favor.

The original motion carried with Kyle objecting.

Vessel License Transfers

Robin Samuelsen moved to initiate a regulatory amendment to designate the vessel name on the LLP license, and to restrict transfers of an LLP license to another vessel to one transfer per calendar year. The motion was seconded and carried without objection.

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Interim Permits

Linda Behnken moved to approve the AP recommendation to implement the changes to the LLP approved by the Council as soon as possible. If interim permits are necessary they should mirror the license process as closely as possible for simplicity and consistency. The motion was seconded and carried without objection.

C-2 Crab Buyback Program

ACTION REQUIRED

Review program elements and options and give direction on further development.

BACKGROUND

Last fall the Council reviewed an initial draft of a Buyback Business Plan (BBP) for the BSAI crab fisheries, submitted by the Crab Reduction and Buyback (CRAB) Group. At that time you endorsed the efforts of the CRAB Group as well as the concept of the buyback program, and we sent a letter to NMFS expressing the Council's endorsement to proceed with such a buyback program. Since that time progress has been somewhat on hold for two primary reasons: (1) the generic buyback program guidelines have yet to be published by NMFS (though several drafts have been in various stages of circulation); and, (2) the Council, in late 1997 and early 1998, began consideration of proposed amendments to the LLP which could add new participation requirements for crab LLP qualification, and thereby affect the number of eligible vessels and the specifics of a crab buyback program. Resolution of the Council's proposed action, as well as perhaps resolution of S. 1221, will be necessary before the CRAB business plan can be finalized and submitted for industry referendum. Certain provisions of S. 1221 appear to overlap with the proposed amendments of the Council and create some uncertainties as to the number of vessels eligible to fish BSAI crab.

Also required will be an analysis of the buyback plan provisions as required by the Magnuson-Stevens Act and generic guidelines yet to be finalized. Item C-2(a) is a copy of the Act provisions. Item C-2(b) is an April 16, 1998 letter from NMFS which recognizes our request to proceed with the buyback program, but which also contains a list of statutory determinations which must be completed prior to Secretarial review of the buyback program. Those same requirements likely will show up again in whatever guidelines are finally published.

NMFS emphasizes that consistency with our existing FMP is a primary criterion for review, along with timing of any necessary FMP amendments, as well as adequacy and feasibility of the BBP, justification for the program, prevention of replacement capacity, and evidence that it is cost-effective and capable of repaying the debt obligation. A series of questions outlines what must be answered prior to a more formal submittal. Many of those are answered by the most recent version of the CRAB BBP, dated June 5, 1998 and included as Item C-2(c). Others will need to be answered by Council/NMFS staff, working with the CRAB Group, prior to formal submittal. My cover letter attached to the CRAB BBP reflects our efforts to help distribute the BBP to the crab industry and solicit comment prior to this meeting. Item C-2(d) contains comments received to date, both opposing and supporting the current buyback plan.

My recommendation at this time, assuming Council resolution of the crab LLP eligibility requirements, and consideration of S. 1221, is that we review the major provisions of the BBP and determine whether any revisions are warranted, or whether there are plan amendments we need to pursue to enable the buyback program to develop. For example, a primary provision of the BBP is

for two classes of licenses - 'A' licenses for which \$45 million of buyback funds are earmarked, and 'B' licenses for which \$15 million in funds are earmarked. The 'B' license category contains restrictions on use and transferability which are inconsistent with the Council's current FMP. If the Council's LLP action at this meeting reduces the fleet to a certain point (below 280 licenses), the 'B' licenses will be moot (according to the BBP as drafted) and there will be no inconsistency. However, to the extent the 'B' licenses remain part of the BBP, then the Council may need to consider whether to initiate an FMP amendment which creates two license categories, or whether the CRAB BBP needs to be revised.

This and other major provisions of the BBP could be discussed at this time, with input from CRAB Group representatives. Then the staff needs to be tasked to work this fall and winter to address the specific statutory determinations (based on the expected guidelines) and bring that back for Council review in February, prior to formal submittal to the Secretary.

Item C-2(e) is an informational item describing the East Coast pilot buyback program initiated by NOAA.

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

Report of the Advisory Panel

The Advisory Panel recommended the Council modify the LLP to permit severability of a crab license from a joint crab/groundfish license for the sole purpose of retiring the crab license in perpetuity.

DISCUSSION/ACTION

Linda Behnken moved to approve the AP recommendation to modify the LLP to permit severability of a crab license from a joint crab/groundfish license for the sole purpose of retiring the crab license in perpetuity. The motion was seconded by Earl Krygier and carried without objection.

Linda Behnken moved to direct staff to prepare the required analysis for a buyback program and provide necessary information to industry in order to have a final Council decision in February 1999. In addition, the Executive Director was asked to determine whether the Council can assist NMFS in any way in getting the Proposed Rule published and to advise them that the Council has taken the necessary steps to move the process along quickly and express the hope that NMFS can do the same. The motion was seconded and carried without objection.

C-3 Social and Economic Data

ACTION REQUIRED

- (a) NMFS initiative on data collection: status report.**
- (b) Social and Economic Data Committee report.**
- (c) Proposed plan amendment for data collection: discussion and direction.**

BACKGROUND

In June 1997 the Council passed a motion to establish a committee that would be tasked with determining social and economic data needs and to develop a process to routinely collect the information. Then, in February 1998, the Council passed a motion to initiate an amendment calling for collection of socioeconomic data such as cost and price information. The Social and Economic

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Data Committee held their first meeting during the week of the April 1998 Council meeting and decided that more progress was needed in developing the models, and the data that those models require, before decisions could be made on how to best collect that information. The goal of these efforts is to build a database that we can draw on to perform more quantitative cost-benefit analyses, rather than always coming up short on data when we need to analyze very contentious allocational issues such as I/O3.

Since the Council last considered this issue almost six months have passed. The Center now has two economists that are primarily tasked with developing survey instruments and models. Doug Larson, from the University of California Davis (and a member of the Council's SSC), has also continued his work on related issues under a Pacific States Marine Fisheries Commission contract. NMFS will present a white paper on the progress of these efforts. That paper will be made available at the Council meeting.

Report of the Scientific and Statistical Committee

The SSC received a staff presentation describing progress towards developing occasional and routine collection of economic data and expressed encouragement by the progress to date.

The Advisory Panel did not address this agenda item.

DISCUSSION/ACTION

The Council did not take up this agenda item because of time constraints. They did, however, receive a written report from the Social and Economic Data Committee.

C-4 Community Development Quotas

ACTION REQUIRED

- (a) Status report on implementation of Multi-Species CDQ Program.
- (b) CDQ Implementation Committee Report.
- (c) Approve State recommendations for pollock CDQs.
- (d) Review proposed rule for halibut CDQ fisheries.

BACKGROUND

(a) Status of Multi-species CDQ Program

Item C-4(a) is a report by Sally Bibb, NMFS, on implementation of the Multi-Species Groundfish CDQ Program set to begin on October 1, 1998. Summaries of the applications from the six CDQ groups were sent to you in an August 25th Council Mailing. As NMFS reports, please be aware that they are seeking Council advice on a regulatory amendment to defer management of the crab CDQ fishery to the State of Alaska. Also a change is needed in the regulations to allow opilio fishing during the State's shellfish management year, rather than a calendar year basis. For opilio, this would allow fishing on the 1999 CDQ to begin in December 1998.

(b) CDQ Implementation Committee Report

The CDQ Implementation Committee has continued to meet regularly to discuss initial implementation of the Multi-Species CDQ Program. Minutes from the September 11, 1998 meeting are attached as Item C-4(b). The committee has submitted two groundfish proposals to address: (1)

the starting date for the CDQ pollock trawl fishery (#38) and (2) bycatch issues in the MS CDQ fisheries (#39). These proposals are included as Appendix IV to the September 1998 minutes. The committee requested that the Council give these proposals a high priority. CAPT O'Shea chaired the committee and may want to expand on the report.

(c) Approve State Recommendations for Pollock CDQs

Applications for pollock CDQ allocations for 1999 and 2000 were reviewed by the State of Alaska this summer and the State will provide its recommendations at this meeting. NMFS will implement these allocations before January 1, 1999. The State and Council may also want to comment on their intentions for apportionment of any additional pollock that may be allocated to the CDQ program as a result of the S. 1221 legislation that would raise the pollock CDQ to 10%.

In reviewing the State's recommendations on pollock CDQs, as well as other species CDQs, the Council should be aware of its role in the process, especially since the CDQ fisheries have expanded in magnitude and are quasi-permanent. Below I review the role given us by the Act, and in our FMPs and federal regulations, and the activities the Council has been involved with in monitoring the CDQ program.

Magnuson-Stevens Act. Section 305(i) covers CDQ programs and paragraph (A) gives the Council and Secretary authority to establish the overall percentages of the TAC for groundfish and crab to be allocated to the CDQ programs. Section 305(i)(B)(iii) charges the Governor of Alaska to develop criteria for communities to participate in the program, subject to the Secretary's approval. The Act mentions the Council only in terms of establishing the overall percentage to be set aside for the CDQ programs for groundfish and crab. Requirements for State consultation with the Council are embodied in the FMP language and federal regulations as described below.

BSAI Fishery Management Plan Language. Original BSAI FMP Language for Pollock CDQs: Section 14.4.11.6, Western Alaska Community Quota:

"For a Western Alaska Community Quota, 50% of the BSAI pollock reserve as prescribed in the FMP will be held annually until the end of the third quarter. This held reserve shall be released to communities on the Bering Sea Coast which submit a plan, approved by the Governor of Alaska, for the wise and appropriate use of the released reserve. Any of this held pollock reserve not released by the end of the third quarter shall be released in accordance with the inshore and offshore formula established in section 14.4.11.4.

The Western Alaska Community Quota program will be structured such that the Governor of Alaska is authorized to recommend to the Secretary that a Bering Sea Rim community be designated as an eligible fishing community to receive a portion of the reserve. To be eligible a community must meet the specified criteria and have developed a fisheries development plan approved by the Governor of Alaska. The Governor shall develop such recommendations in consultation with the Council (emphasis added). The Governor shall forward any such recommendations to the Secretary, following consultation with the Council. Upon receipt of such recommendations, the Secretary may designate a community as an eligible fishing community and, under the plan, may release appropriate portions of the reserve."

The above plan language, though in a different section of the FMP, also pertains to sablefish CDQs. New language covering the multispecies program refers to section 14.4.11.6 as far as consultation with the Council by the State of Alaska. The plan language pretty much follows the actual text of the preferred alternative for inshore-offshore 1 in 1991.

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Federal Regulations. Federal regulations pertaining to CDQs have been consolidated into section 679.30. The Council's role is described in Section 679.30(c), Council consultation.

"Before the State sends its recommendations for approval of proposed CDPs to NMFS, the State must consult with the Council and make available, upon request, the proposed CDPs that are not part of the State's recommendations."

Monitoring CDP Performance. Section 679.30(g) requires the State to submit to NMFS by October 31 each year, an annual progress report for the previous calendar year for each CDP. The report must be organized on a project-by-project basis and describe how each milestone has been met. An annual budget report is due to NMFS by December 15 preceding the year for which the annual budget applies. It must be approved by NMFS.

Council Review of Percentage Allocations. After the initial approval of the CDQ programs for pollock, sablefish and halibut, the Council in April 1992 reviewed the criteria for the program drafted by an interagency team from the State of Alaska. The State was to solicit proposals from CDQ groups in early November 1992, on the day the final rule was to be published. The Council held a special teleconference on November 25, 1992 to review and approve the Governor's recommended pollock allocations to the various CDPs for 1992-93.

In September 1993, the Council reviewed and approved the Governor's recommended pollock CDQ apportionments for 1994-95. In September 1995 the Council reviewed the Governor's recommendations for pollock CDQs for 1996-1998. In September 1997, the Council approved the multispecies CDQ program percentages for each CDP.

In September 1993 and September 1995, the Council notebooks contained extensive reports from each of the CDQ groups. In September 1997, the Council only had a letter from the State, and a list of the recommended percentages by species and CDQ group. We did not receive extensive background materials on the CDQ plans for the multispecies program, however, as I noted above, plan summaries were sent out to the Council on August 25, 1998.

Council Review of CDP Progress. As far as tracking the progress of the CDQs, I receive quarterly reports for all six groups. In the early days of the pollock program, I sent them out to all Council members in a mailing. Then, because of their volume (the most recent report is 150 pages), I started just putting a notice in the Council mailing that we had the quarterly reports and would send them on request, of which few if any have been received.

Summary. The Council obviously has a consultative role that is well established in the FMP and federal regulations for the CDQ program. We have approved the percentages of each species for each CDP, but have not gone into any detailed review or critique of the individual programs, depending instead on the State of Alaska and NMFS to perform that review. If we want to become more involved in reviewing the CDPs and their performance, December or February each year may be a good time, after the State submits its annual performance report to NMFS.

(d) **Review Proposed Rule for Halibut CDQ Fisheries**

Sally Bibb will present a summary of the draft proposed rule for management of the halibut CDQ fisheries and other miscellaneous amendments to MS CDQ regulations (Item C-4(c)). Comments provided by the Council at this meeting will be addressed in preparing the proposed rule for publication in the *Federal Register*. The proposed regulatory amendments fall into three categories:

1. **Those addressing management of vessels halibut CDQ fishing or harvesting halibut CDQ in groundfish CDQ fisheries and the processors or registered buyers taking deliveries from these vessels;**
2. **Removal or revision of sections addressing management of the fixed gear sablefish or pollock CDQ fisheries in 1998;**
3. **Other miscellaneous technical or editorial revisions to the MS groundfish CDQ regulations that have been identified since publication of the final rule on June 4, 1998.**

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

Report of the Advisory Panel

The AP noted a number of problems associated with the implementation of the multi-species CDQ program that may jeopardize the viability of the fishery and had the following recommendations for the Council:

1. Move forward with Amendment 38, the January start date for CDQ fisheries.
2. Move forward with Amendment 39, squid and other species bycatch limitations in the multi-species CDQ fishery.
3. Encourage NMFS and CDQ implementation committee to find timely solutions to other problems identified:
 - the availability of observers for 1998 fishery
 - requirements for small onshore processors in the CDQ fisheries be the same as in open access fisheries
 - technical amendment addressing trip limits in 4E
 - regulations needed to allow CDQ opilio fishery during the State's shellfish management year instead of calendar year.
 - convene the IFQ and CDQ Implementation Committees to review and suggest revisions to correct the conflict between harvesting CDQ and IFQs in the same trip.

DISCUSSION/ACTION

Linda Behnken moved to approve the State of Alaska's recommendations for pollock CDQ allocations for 1999. The motion was seconded by Robin Samuelsen and carried without objection. [The table of recommendations is included as Appendix II to these minutes.]

Dave Benton moved to adopt the following portions of the AP recommendations:

- 1 **To move forward with amendment proposal 38 (the January start date for CDQ fisheries) for analysis, with Options 1 and 3, (removing pollock from the analysis).**
2. **To move forward with analysis of proposal 39 (squid and other species bycatch limitations in the multi-species CDQ fishery), Options 1, 3 and 5.**
3. **To encourage NMFS and the CDQ Implementation Committee to find timely solutions to other problems identified, such as the availability of observers for the 1998 fishery and requirements for onshore processors in the CDQ fisheries to be the same as in the open access fisheries, and**

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to convene the IFQ and CDQ Implementation Committees to review and suggest revisions to correct the conflict between the harvesting CDQ and IFQ in the same trip.

The motion was seconded by Robin Samuelsen.

The motion was modified by several "friendly amendments," as follows:

- With regard to the confusion over the trip limits in Area 4E, restate Council intent that the trip limits in 4E should remain in force and as NMFS reviews the record, if it requires a regulatory amendment to reinstate them, then NMFS should proceed with an amendment.
- Change the third point, to say, "Convene the CDQ Implementation Team to review and suggest revisions to correct the conflict between harvesting CDQs and IFQs on the same trip, placing the focus on avoiding waste and resolving any existing regulatory conflicts. Representatives of the observer industry and members of the IFQ Implementation Team should be invited to attend, however a joint meeting of both the CDQ and IFQ teams is not necessary."

Ms. Behnken, who suggested this amendment, expressed her thoughts that ensuring that fishers are able to retain halibut if they're using fixed gear, whether fishing groundfish CDQs or whether fishing IFQs, and also be allowed to retain Pacific cod and rockfish if they're in an IFQ mode, will help to reduce waste and that other issues with observer coverage should be resolved, keeping the waste issue as the focus.

When discussing the issue of bycatch of some species limiting the CDQ multi-species fisheries, particularly squid, Mr. Benton stressed that when the Council adopted the multi-species program those issues were discussed and the Council's intent was very clear with regard to the 7.5%, transferability issues for bycatch species and regulations fairly capture that discussion. When Congress enacted the amendments to the Magnuson-Stevens Act, some issues have arisen. He thinks a plan amendment will be required to solve these questions.

Additional "friendly amendments" to the motion include:

- With regard to trip limits in the Area 4E halibut fishery, NMFS would allow a waiver of the trip limits on September 1 in order to allow every opportunity to harvest the quota. The CDQ group in that area would notify other CDQ groups by August 15 if they determine that they cannot harvest the quota, giving other groups the opportunity to do so. If no other CDQ group can harvest the quota, then the trip limit would be waived on September 1. Mr. Samuelsen, who offered this amendment, indicated that markets are not always available to the small boat fleet in early August because of other fisheries going on in Bristol Bay.
- Under amendment proposal 39, add an option for analysis that would give the Council a framework authority for non-target and non-PSC species only to be removed from the CDQ list of fisheries and that there be a suboption under the alternative to require retention of all target species.

The motion, as amended, carried with Pereyra objecting. These amendments will be developed during the April-June amendment cycle.

With regard to the issue of the CDQ crab fishery management year, **Dave Benton moved that the Council accept the recommendation of NMFS to initiate a regulatory amendment to remove the existing conflict**

with the deferred management of the CDQ crab fisheries to the State of Alaska by allowing the CDQ crab reserves to be specified annually on the basis of the State's fishing year, rather than a calendar year. The motion was seconded and carried, 9 to 2, with Austin and Mace voting no.

With regard to industry concerns over an early start for the CDQ crab fisheries, Kevin O'Leary moved to send a letter to the Alaska Board of Fisheries advising them of the action just taken to correct a technical error and stress that the Council's action is not in any way meant to prejudice the Board's decision for an early opening for the CDQ crab fishery. The letter would also indicate that the Council has been made aware through public testimony that there are serious concerns on the part of industry in opening the CDQ fishery before the general crab fishery. The motion was seconded by Linda Behnken.

Robin Samuelsen offered a substitute motion, that in the letter it should be stated that it's the clear intent of the Council to remain neutral on the fair-start issue and that would be left to the purview of the Board of Fisheries. The motion was seconded by Joe Kyle.

Mr. Benton pointed out the issue only applies to the opilio fishery; the Board has indicated they would not be addressing an earlier start for any other crab fishery; also, any early start that may be approved would only apply to one-half of the CDQ quota.

Mr. Benton recommended the following language be included in the letter to the Board: **The action previously taken implies no endorsement one way or another, but the Council would urge the Board of Fisheries to give due consideration to the concerns raised by industry and CDQ groups and the operational characteristics of both open access and CDQ fisheries in its deliberations.** This was accepted as a friendly amendment to Mr. Samuelsen's motion, which carried without objection.

C-5 Observer Program

ACTION REQUIRED

Receive progress report and provide direction as necessary.

BACKGROUND

In late 1995 the Council voted to repeal the Research Plan and proceed with development of a modified pay-as-you-go program utilizing a third party contractor as an interface between industry and the observer contracting companies. Fees collected in 1995 were refunded following the repeal of the Research Plan. At the same time the Council also requested that mechanisms be explored to address the cost differential issue under pay-as-you-go which results in some operators paying a disproportionate amount of gross revenues in observer costs. Options included a fleet-wide surcharge, observer pooling, and adjustments to observer coverage requirements for these vessels. The Council also requested that the development of the third party program take into account consistency and compatibility with the shellfish observer program.

This process evolved into development of a joint partnership agreement (JPA) between NMFS and the Pacific States Marine Fisheries Commission throughout 1996 and 1997. During that time the Council was involved in development of the JPA program structure, ultimately recommending adoption of the JPA, with certain qualifications. Among those was that efforts be devoted to re-development of a fee-based funding mechanism which could be used to fund the program, under either the JPA or some other administrative structure. In late 1997 the Council also voted to resume development of a fee-based funding mechanism, following completion of the JPA program structure.

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During the same period ADF&G began development of its own funding mechanism for the shellfish program, which would set aside a portion of the guideline harvest levels (GHLs) to be harvested to pay for the costs of placing observers in the crab fisheries. Also during this time the Association of Professional Observers (APO) was formed and unionization of the observers was effected in 1997. Because observer compensation was a major issue relating to costs of the program, the unionization has resulted in some resolution of the overall cost issue. In the meantime, the existing pay-as-you-go program was kept in place, with minor changes, through 1998.

Contracting issues, as well as issues relating to the respective roles of NMFS and the PSMFC, resulted in the demise of the JPA concept, requiring Council action in June 1998 to once again rollover the existing pay-as-you-go program for an additional two years (through 2000). It is possible that a fee plan could be developed in this time frame, with year 2000 being the start-up period for initial fee collection with full implementation in 2001. At the June 1998 meeting the Council agreed that a broad re-examination of observer program issues would be undertaken, within the scope of re-development of a fee-based program. It was recognized that fundamental to this effort would be an assessment of the overall goals and objectives of the program and an assessment of necessary coverage levels to achieve those goals and objectives. While the Council has given standing direction to re-develop a fee-based funding mechanism, they also concurred with NMFS recommendations this past June to take a broader look at overall program objectives, and a broader look at potential program structures to support the program.

With that in mind we scheduled a meeting of the Observer Advisory Committee (OAC) for September 24-25 in Seattle to begin that process. In preparation for that meeting Council staff prepared a discussion paper intended to facilitate discussions by the (OAC) and Council in their efforts to re-develop the North Pacific Fisheries Research Plan, or a similar fee-based funding mechanism, to support observer placement in the North Pacific groundfish fisheries. The paper included: (1) a background summary of the original Research Plan development and subsequent events, (2) a recap of the major issues and impediments to final implementation of that plan, and (3) a discussion of options of how to proceed from here in developing a funding plan for the program. Because several attachments relating to previous discussions make the overall document quite large we have not copied it for your notebooks.

We also, along with PSMFC and NMFS, have set up a public Observer Program Workshop to be held in Seattle next month (November 12-13) to gather broad industry input into this process. It is intended to be a forum for discussion of critical program issues including contracting, cost distribution, observer sampling and working conditions, coverage requirements, and any other issues relating to the program development. Results of that workshop are expected to feed into both the Council's efforts and NMFS' efforts to resolve the direction of the observer program. Item C-5(a) is a recent letter from NMFS describing their proposed plan of attack to get to that point. That letter appears consistent with the process envisioned by the Council, though it will likely require more time than originally envisioned. Essentially the letter suggest that NMFS will undertake an extensive program review, utilizing outside review panels with persons of appropriate expertise, in a formal review process. The need for public and industry perspectives in this review process is recognized in the letter from NMFS, and the OAC meeting and the planned workshop in November provide mechanisms for that input.

Your OAC met in September and the report from that Committee is under Item C-5(b). OAC Chair Chris Blackburn is available to provide that report to the Council. Attached to that report is an additional item which was reviewed by the OAC - a matrix illustrating current, effective coverage levels by fishery. Item C-5(c) contains recent comments and proposals submitted relevant to the observer program, and Item C-5(d) contains a specific list of regulatory amendment proposals from observers, industry, and NMFS. These proposals represent potential changes to the current system which will be in place at least through the year 2000. The Council may wish to provide direction on

these proposals at this time, or address them within the context of overall staff tasking under Agenda Item D-6 where they are also summarized. The OAC report contains recommendations on these proposals. The one observer program proposal which was not addressed by the OAC, but which is included under D-6, was a proposal from FVOA suggesting that vessels >60' harvesting sablefish have 30% of their IFQs observed, as opposed to the present quarterly requirements.

At this time it appears that consideration of proposed changes to the current program may be the primary task at hand for the Council. In-depth discussion and resolution of the bigger issues of program structure and fee-based funding mechanisms will likely benefit from the proposed work at the agency and staff level, taking into account the OAC recommendations, the results of the November workshop, and any general direction from the Council.

Report of the Scientific and Statistical Committee

The SSC believes that conducting a review of the program will be helpful in identifying approaches to problems that led to development of the Joint Partnership Agreement. Possible changes in program structure and costs should be part of the review panel's terms of reference. They reiterated their recommendations from September of 1995:

Regardless of any future program structure or funding mechanism, there are several elements essential to an effective program:

- observer placement must be flexible in order to be representative of the fleet,
- compensation and treatment of observers must be sufficient to retain experienced and well-trained personnel,
- there is a need for flexibility in establishing coverage levels and distribution of coverage across the fleet. Although well distributed observer coverage of 20% to 30% may be adequate for stock assessment; bycatch estimation levels for some species may need closer to 90% coverage, and management programs requiring individual vessel compliance will require 100% or greater coverage,
- the observer program should undergo a periodic, independent evaluation of objectives, methodologies and data collected, and
- data needs and priorities should be assessed and provided to observer program managers annually.

The status quo seems likely to endure indefinitely. The SSC believes that departure from the status quo is unlikely given current industry attitudes. Debate over coverage levels can continue to delay serious considerations of alternatives to the status quo. If alternatives are to be seriously pursued, the SSC suggests that the current level of observer coverage be used as a default in the initial design and cost estimation stages.

Report of the Advisory Panel

The AP provided the following recommendations to the Council on proposals outlined in Agenda Item C-5(d)

1. Develop an evaluation of observer performance as related to the duration of their experience.
2. Develop regulations which specify the policy of not distributing personal information on observers.
3. Develop a MOU with the Coast Guard on the handling of safety complaints by observers.
4. Develop regulations for observer housing and working conditions onshore.

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5. Defer this issue until NMFS has finished its evaluation of coverage needs and industry can address this issue in a comprehensive manner.
6. No action on establishing observer station guidelines at this time.
7. Develop regulations allowing substitutions by NMFS observers corp.
8. No action at this time.
9. Develop regulations to base coverage on weekly reporting periods.
10. Defer this issue until NMFS has finished its evaluation
11. Require NMFS to be responsible for supplying computers to observers.
12. Defer action until NMFS has finished its evaluation.
13. Develop regulations to reduce observer coverage to 10% for vessels using pot gear.

Additionally, the AP recommended the Council revise regulations to base the observer coverage requirements during IFQ fishing upon 30% of the IFQ pounds rather than quarterly requirements and re-examine the current requirements in southeast.

DISCUSSION/ACTION

The Council did not take up the discussion of the future direction of the groundfish observer program because of a lack of time. They did, however, approve a package of regulatory amendments to the existing pay-as-you-go program as recommended by the Observer Advisory Committee (see Agenda item D-6, Staff Tasking).

C-6 Sustainable Fisheries Act

ACTION REQUIRED

Status report on compliance with provisions of SFA.

BACKGROUND

The Sustainable Fisheries Act of 1996 imposed many new requirements on all eight councils including ours. Many of these provisions have deadlines of October 11, 1998, and we are progressing well in meeting them. Progress is summarized in item C-6(a).

This was an informational item. Neither the Scientific Statistical Committee, the Advisory Panel, nor the Council took up this agenda item for discussion at this meeting.

C-7 Ecosystem Based Management

The Council was scheduled to receive a report from the National Research Council, however this issue was taken off the agenda because the report is not yet available.

C-8 Halibut and Sablefish IFQs

ACTION REQUIRED

- (a) Final action on IFQ amendments
- (b) Receive status report on hired skippers
- (c) Receive status report on weighmaster program
- (d) Receive status report on cost recovery fee collection program

BACKGROUND

(a) Final Action on IFQ Amendments

Final action is scheduled at this meeting on five proposed changes to the IFQ program. Amendments 54/54 address four separate actions. Supporting analyses were mailed to you on September 3.

Action 1 would reinstate a ten-percent leasing provision to allow B, C, or D category QS holders to lease ten percent of their IFQ holdings across all areas. The original leasing provision for individual reporting areas sunsetted on January 2, 1998. The alternatives are:

Alternative 1: Status quo: allow no leasing of IFQ.

Alternative 2: Allow leasing of up to 10% of a QS holder's total IFQ.
Option A: Renew leasing provision for all areas.
Option B: Renew leasing for the Bering Sea area only.

Action 2 would revise FMP language to allow a QS holder's corporate association to a vessel owner to substitute for a QS holder's vessel ownership for purposes of hiring a skipper to fish the QS holder's IFQ. Interpreted literally, current FMP language requires the person holding the QS to be the documented owner of the vessel. The alternatives are:

Alternative 1: Status quo: require that the QS holder wishing to hire a skipper be the named owner of the vessel on USCG vessel documentation.

Alternative 2: Revise FMP language to allow QS holders wishing to hire skippers to establish indirect vessel ownership through corporate ties.

Action 3 would revise the FMP definition of "a change in the corporation or partnership" to include a dissolution of the corporation. A "change" in a corporation or partnership is currently defined as the addition of a shareholder to the corporation or partnership. Nothing in the plan language or regulations explicitly defines a dissolution of the corporation or partnership as a change. As a result, corporations which lose their status as legitimate corporations under applicable laws of incorporation may, unless NMFS is notified that such change has occurred, be erroneously issued annual IFQ deriving from the corporate QS. The alternatives are:

Alternative 1: Status quo: "a change in the corporation or partnership" will continue to be defined as the addition of a shareholder or partner.

Alternative 2: Redefine "a change in the corporation or partnership" to include "a dissolution of the corporation or partnership."

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Related to this issue is the question of whether a partnership dissolves when a partner is bought out by the remaining partner. Item C-8(a) is a request for clarification of Council intent.

Action 4 would change sablefish use limits from percentage of the total number of QS units to a specific number of QS units. The alternatives are:

Alternative 1. Status quo: sablefish use limits will remain expressed as a percentage of the QS pool.

Alternative 2. Revise the methodology of calculating use caps for fixed gear sablefish from percent to QS units based on 1996 QS units.

The fifth issue involves an action approved by the Council in June 1997 and subsequently withdrawn by the Secretary in January 1998 because it conflicted with aspects of the emergency transfer provisions to spouses in the FMPs. The Regulatory Impact Review now adds a third alternative to the status quo and rejected alternatives that would allow QS holders to provide NMFS/RAM with the name of an immediate family member as a beneficiary to whom the existing survivorship transfer privileges will be granted in the absence of a surviving spouse. The alternatives under consideration for final action are:

Alternative 1: Status Quo. Provide IFQ transfer privileges for a period of three years to a deceased QS holder's surviving spouse only.

Alternative 2: Revise regulations to extend transfer privileges of QS and IFQ to an heir of a deceased QS holder who receive QS by right of survivorship.

Alternative 3: Allow QS holders to provide NMFS/RAM with the name of an immediate family member as a beneficiary to whom the existing survivorship transfer privileges will be granted in the absence of a surviving spouse.

(b) Status Report on Hired Skippers

In September 1997, the Council recommended a change to require a 20% minimum interest in vessels for quota share (QS) holders wishing to hire skippers. The Council also grandfathered QS holders who had employed a hired skipper on or before April 17, 1997 to continue to use a hired skipper at the ownership level they had used prior to April 17, 1997. Any QS holder grandfathered under this provision will lose those grandfather rights if they purchase or otherwise acquire ownership or control of additional QS after September 23, 1997. In June 1998, the Council requested a brief report on the incidence of "hired skippers" in the halibut/sablefish IFQ program during the 1998 season, as compared with earlier seasons. Agenda C-8(b) is a RAM Division report on this issue.

(c) Review Discussion Paper for a Weighmaster Program for the Halibut and Sablefish IFQ Program

In October 1996, Icicle Seafoods brought a proposal for a weighmaster system similar to the Canadian validator system to the Council's IFQ Industry Implementation Team. The Team supported the weighmaster concept, but not all the details of the Icicle proposal. In April 1997, the Council asked IPHC to prepare a discussion paper on advantages and disadvantages of a weighmaster system. In September 1997, the Council reviewed a discussion paper prepared by the IPHC staff on a possible IFQ weighmaster program for monitoring IFQ offloadings. The conclusions of that report are attached as Agenda C-8(c).

Concurrently, the Council reviewed a report in April 1997 by Dayna Mathews on IFQ enforcement in the halibut and sablefish fisheries off Alaska. On May 14, 1997, the Council sent a letter to Secretary Baker expressing concern over the current level of enforcement in Alaska's IFQ fisheries. The Secretary responded on June 30, 1997 that five additional officers were being trained for the 1998 IFQ season.

At this meeting Steve Meyer, NMFS Enforcement, will present a paper describing a proposal for a weighmaster program for the halibut and sablefish IFQ programs in Alaska.

(d) Receive Agency and Committee Reports on Cost Recovery Fee Collection Program

NMFS has continued to develop the cost recovery program (IFQ/CDQ fees) mandated by the Magnuson-Stevens Act, with the input of the Council's IFQ/CDQ Fee Committee established in April. The reports of the Council's Committee, chaired by Kevin O'Leary, are contained under Item C-8(d). That Committee met with NMFS staff four times over the summer to discuss the details of the cost recovery program. While a myriad of issues was discussed, two of the most significant were (1) whether to assess the fee on IFQ permit holders, or on registered buyers (processors), and (2) whether to base the fee on actual or standardized exvessel prices. The Committee was divided on the first issue, but agreed that actual prices should be used whenever possible, recognizing that standardized prices were necessary in many cases. An additional issue was bifurcation of the CDQ fee program, in order to expedite implementation of the IFQ fee program. While the Committee recognized the rationale for this bifurcation, they did urge NMFS to incorporate at least the halibut CDQ fisheries in the first year implementation.

NMFS will provide a written report which summarizes the current status of the program, the decisions made with regard to the two issues above, and time table for further development, comment, and implementation.

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

Report of the Advisory Panel

(a) Final Action on IFQ Amendments

- Action 2: The AP recommended the Council adopt Alternative 2 (revise FMP language to allow QS holders wishing to hire skippers to establish indirect vessel ownership through corporate ties).
- Action 3: The AP recommended the Council adopt Alternative 2 (redefine "a change in the corporation or partnership" to include "a dissolution of the corporation or partnership").
- Action 4: The AP recommended the Council adopt Alternative 2 (revise the methodology of calculating use caps for fixed gear sablefish from percent to QS units based on 1996 QS units).
- Action 5: The AP recommends the Council adopt Alternative 3 (allow QS holders to provide NMFS/RAM with the name of an immediate family member as a beneficiary to whom the existing survivorship transfer privileges will be granted in the absence of a surviving spouse).

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(b) Report on Weighmaster Program

The AP noted that the weighmaster program calls for hiring more than 110 part-time personnel and shifts enforcement from a random monitoring program of at least 20% to a 100% observation of landing weights on deliveries over a minimum size. Given the good compliance history of the IFQ program and the lack of landing weight violations from established processors, the AP believes this shift in policy is unnecessary. The weighmaster program as proposed is a costly means of compensating for the understaffing situation at NMFS.

The AP further noted that several of the potential IFQ enforcement issues raised in the Matthews report have been addressed by standardized slime and ice deductions and the US Coast Guard's at-sea efforts. However, the AP remains concerned about the understaffed condition of NMFS enforcement and its effects on fisheries enforcement in Alaska.

In an effort to raise the IFQ compliance monitoring levels above the 20% minimum identified at the beginning of the proposal, the AP recommends the Council hold a joint meeting of the IFQ Implementation Committee, or a sub-set thereof, and the Council's Enforcement Committee. The joint meeting would be tasked with evaluating the following:

1. adequate compliance monitoring levels
2. the potential for involving personnel from ADF&G, USCG, NMFS and the IPHC in achieving the compliance monitoring program.
3. proposals to address the remaining needs at achieving adequate compliance monitoring levels.

(c) IFQ Cost Recovery Fee Program

The AP recommends the Council direct NMFS to work cooperatively with ADF&G, processors and fishermen to develop a standardized fee collecting mechanism which will provide consistency between current fee collection programs, the IFQ fee, CDQ program, and potential future fee programs.

With respect to the proposed IFQ fee program, the AP recommends it not go forward until a mechanism to reflect actual prices and an appeals mechanism is in place. If NMFS moves forward with the program as proposed, the AP recommends in the strongest possible terms that a mechanism be included which allows fishermen to submit evidence demonstrating discrepancies between standard prices charged by NMFS and actual prices received by the individual fishermen.

DISCUSSION/ACTION

(a) IFQ Amendments

Linda Behnken moved to approve the AP recommendations relative to Actions 2, 3, 4 and 5, as numbered in the AP minutes. To be sure the record is clear regarding, Action 3, Ms. Behnken read the proposed Alternative 2, from the analysis, Page 6:

Revise the definition of "a change in the corporation or partnership" to include the dissolution of an estate by the legal determination of an heir to the estate. Estates so dissolved would be required to transfer any estate-held QS to a qualified individual.

Other AP recommendations included in this motion are:

- Action 2: Adopt Alternative 2 (revise FMP language to allow QS holders wishing to hire skippers to establish indirect vessel ownership through corporate ties).**
- Action 3: Adopt Alternative 2 (redefine “a change in the corporation or partnership” to include “a dissolution of the corporation or partnership”).**
- Action 4: Adopt Alternative 2 (revise the methodology of calculating use caps for fixed gear sablefish from percent to QS units based on 1996 QS units).**
- Action 5: Adopt Alternative 3 (allow QS holders to provide NMFS/RAM with the name of an immediate family member as a beneficiary to whom the existing survivorship transfer privileges will be granted in the absence of a surviving spouse).**

The motion was seconded and carried with Balsiger and Austin abstaining.

With regard to an issue brought forward in public testimony by John Winther, Ms. Behnken made a motion in an effort to clarify the intent of the Council when the original IFQ program was being formulated.

The Council understands that at the time the IFQ program was written that a change in the corporation or partnership was defined to include the addition of any new shareholder and that relative to the catcher boat class the Council is anxious to see over time that fleet revert to an owner-operated fleet. But, with regard to the freezer vessel class, since the regulations are silent on the definition of dissolution, that it would be the Council's understanding that in the event of existing partners buying out another existing partner, that that would not result in the dissolution of the partnership.

The motion was seconded and carried with two abstentions (Austin and Balsiger).

(b) Weighmaster Proposal

The Council received a report from Steve Meyer, NMFS Enforcement, outlining a weighmaster program. Council discussion focused on the need for such a program, and the problem of inadequate enforcement resources in the IFQ fisheries.

Linda Behnken moved to approve the recommendations of the AP:

In an effort to raise the IFQ compliance monitoring levels above the 20% minimum identified at the beginning of the proposal, a joint meeting of the IFQ Implementation Committee, or a sub-set thereof, and the Council's Enforcement Committee will be convened with the task of evaluating the following:

- 1. adequate compliance monitoring levels**
- 2. the potential for involving personnel from ADF&G, USCG, NMFS and the IPHC in achieving the compliance monitoring program.**
- 3. proposals to address the remaining needs at achieving adequate compliance monitoring levels.**

The motion was seconded and carried without objection.

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Ms. Behnken said that representatives of Enforcement, Coast Guard, IPHC, and NMFS should be represented during these discussion.

(c) Cost Recovery Fee Program

Linda Behnken moved to approve the AP recommendation that NMFS work cooperatively with ADF&G, processors and fishermen to develop a standardized fee collecting mechanism which will provide consistency between current fee collection programs, the IFQ fee, CDQ program, and potential future fee programs. In addition, request that NMFS provide industry with their budget and accounting for the use of the 3% fee that is collected.

The motion was seconded and carried without objection. [Mr. Mace was not present for the vote.]

Sue Salveson told Council members that the industry will definitely be advised on the budget and accounting through a required annual report on the program. She indicated that the final rule must be published before the start of the IFQ fishery on March 15, 1999, but that fees won't be collected until the end of 1999, or early 2000.

C-9 American Fisheries Act (S. 1221)

ACTION REQUIRED

Review provisions of Manager's Amendments to S.1221.

BACKGROUND

There have been several meetings of industry with Senate staff to work out provisions of S. 1221 which would overhaul the management and composition of the BSAI pollock fisheries. As we go to press with the Council meeting notebooks, the manager's amendments are a work in progress. I will try to have the latest version available for your review on Wednesday, October 7. I have invited Senator Stevens' principal fisheries staffer, Trevor McCabe, to brief the Council.

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

Report of the Advisory Panel

The AP recommended that the Council notify Congress and the Secretary of Commerce that the Magnuson-Stevens Act of 1996 sets out the legitimate, public process for resolving fishery management issues in the 200-mile (EEZ) zone off Alaska, and that process requires public deliberation and full scientific disclosure through the Advisory Panel (AP), Scientific & Statistical Committee (SSC), Council, and the Secretary of Commerce so as to assure due process of law and fair and equitable industry regulation. The Congress of the United States needs the regional knowledge, experience and expertise of the Council process to conduct credible commercial fisheries management in the 200-mile zone off Alaska.

The AP also recommended that the Council advise Congress to allow the NPFMC to resolve the inshore/offshore pollock allocation dispute through the conventional Council/SOC process. The AP further recommends the Council urge Congress to conduct an open hearing process should they choose to go forward with SB 1221.

DISCUSSION/ACTION

Because the Council did not have a copy of the most recent amendments to the Senate Bill 1221 and no Congressional staff was available to brief them, they deferred discussion on the bill and how it might affect current Council decisions. Council members did mention throughout the meeting that they may have to readdress some decisions depending on the final bill. Council members agreed to schedule a special meeting in November to address the bill and any resulting staff tasking necessary. NMFS requested that the issue of Section 7 consultations for marine mammals, particularly Steller sea lions, be added to the agenda for the special meeting.

During discussions under the Staff Tasking agenda item, Council members discussed agenda topics for the special November meeting. Specifically, some Council members were concerned that when the Senate Bill is finalized there may be follow-up action required on the Council's part, specifically relating to the action just taken on the recent participation alternative for the Crab LLP. After considerable discussion it was decided, on a 6-4 vote (Mace was not present for the vote), that the Council will take reports and information at the November meeting, but if there appears to be a need for further action on this subject, it will be scheduled for a future meeting.

Also at the November meeting, the State was invited to provide any comments or concerns they may have with regard to management of the crab fisheries in light of current Council action, and any actions taken by Congress.

Council members discussed the Advisory Panel's recommendations for comments to the Secretary but felt that commenting at this time would not be appropriate. On a vote of 5 to 4, with 1 abstention (Balsiger) and one member absent for the vote (Kyle) the Council did, however, vote to forward the AP's recommendations to the Secretary, verbatim. Council members agreed that the transmittal letter should be specific as to how each member voted.

D. FISHERY MANAGEMENT PLANS

D-1 Groundfish Amendments with Action Required

(a) BSAI Chinook Salmon PSC Revisions

ACTION REQUIRED

Review analysis of amendment to minimize BSAI chinook salmon bycatch, and release for public review.

BACKGROUND

The Magnuson-Stevens Act amendments emphasized the importance of bycatch effects on achieving sustainable fisheries. National Standard 9 mandates that conservation and management measures shall, to the extent practicable: (1) minimize bycatch; and (2) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. To comply with these provisions of the Act, the Council highlighted the need for additional bycatch management measures during the 1997 call for proposals, and initiated development of several proposals received.

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(a) Chinook Salmon Bycatch

One of the proposals approved for analysis was a proposal to lower the chinook salmon bycatch limits that trigger a closure of the Chinook Salmon Savings Areas in the Bering Sea. This proposal, submitted by the Yukon River Drainage Fisheries Association, identified that the current bycatch trigger of 48,000 chinook salmon is inadequate and does not reduce chinook salmon bycatch. Additionally, bycatch of chinook salmon after April 15 does not apply towards the PSC limit that triggers a closure.

In April 1998, the Council reviewed a draft analysis, and requested that the analysis be revised to include additional alternatives, including hotspot area closures at the start of the fishing year and an option that the closure would apply only to the pollock fishery. Further, the Council requested that the analysis discuss several issues, including a requirement for 100% observer coverage on vessels over 60' when fishing in the hotspot area, use of vessel monitoring systems on vessels fishing for pollock, accuracy of basket sampling for salmon, measures to ensure accurate enumeration of catch, and possible gear interactions resulting from a hotspot closure. The revised analysis examines the following alternatives:

Alternative 1: No Action. Trawling is prohibited in the Chinook Salmon Savings Areas (CHSSA) through April 15 upon attainment of a bycatch limit of 48,000 chinook salmon in the BSAI.

Alternative 2: Include salmon taken after April 15 toward the bycatch limit of 48,000 chinook salmon. The Chinook Salmon Savings Areas would close upon attainment of the bycatch limit, whenever this would occur. Hence these areas could close, or remained closed, during the pollock 'B' season.

Alternative 3: Reduce the trigger level to 36,000 chinook salmon in the BSAI. Trawling would be prohibited in the Chinook Salmon Savings Areas through April 15 upon attainment of a bycatch limit of 36,000 chinook salmon in the BSAI.

Option 1 (applicable to Alternatives 2 and 3): Seasonally allocate the PSC limit, such that there are separate triggers for the pollock 'A' and 'B' season.

Option 2 (applicable to Alternatives 2 and 3): Begin accounting toward the PSC limit at the start of the 'B' season (currently September 1), with the amount carried over to the next pollock 'A' season.

Alternative 4: Annual closure of specific "hot spot" blocks. These specific blocks are the five contiguous blocks of the current Chinook Salmon Savings Area that in the vicinity of Unimak Island. These have been labeled in the document as 200, 201, 202, 227, 228, and 254. Block 201 has been further subdivided in half east to west and labeled as 997 (the eastern half) and 998 (the western half).

Option 1: Consider a seasonal closure of the selected blocks.

Option 2 (applicable to Alternative 4 and Option 1): The closure would only apply to the pollock fisheries although chinook salmon bycaught in all fisheries would apply toward a cap if in effect.

Alternative 5: Alternative 4 would be combined with Alternatives 1, 2, and 3. A cap would apply to closure of the "hot spot" blocks.

An executive summary of the analysis is attached as Item D-1(a)(1). Dave Ackley (ADF&G) will be on hand to discuss the results of his analysis.

Report of the Scientific and Statistical Committee

The SSC had several comments on the analysis and made specific recommendations for revisions before sending the document out for public review. Please see the SSC Minutes (Appendix III to these minutes) for specifics.

Report of the Advisory Panel

The Advisory Panel recommended the Council send the analysis out for public review and comment.

DISCUSSION/ACTION

Linda Behnken moved to send the analysis out for public review after the SSC's comments have been addressed. The motion was seconded by Joe Kyle.

Wally Pereyra moved to amend to include analysis of alternatives to divide the chinook salmon cap between the pollock and non-pollock fisheries based on the average total chinook salmon bycatch for the last three years, and to further subdivide the pollock portion of the cap between the catcher processor, mothership, and shoreside sectors based on the annual division of the directed pollock TAC.

Ms. Behnken accepted this as a friendly amendment to her motion. The amended motion carried without objection. The analysis will be considered for final approval at the February 1999 meeting.

(b) Total Catch Measurement

ACTION REQUIRED

Review new information and discuss.

BACKGROUND

At the February 1998 meeting the Council had a lengthy discussion regarding compliance with various Magnuson-Stevens Act mandates, particularly the provisions for total catch and bycatch measurement, and whether our current management program satisfies those requirements. The SSC spent nearly two days on this issue and made several specific recommendations, as well as an overall statement as follows..."...the SSC agrees with the Executive Director's suggestion in the cover memo that existing measures for observer, reporting, and monitoring requirements provide for a reasonable system of total catch and bycatch estimation. In many respects, the system in place is better than any found around the world..."

Council discussion pointed out that the Act nevertheless calls for improvements in catch and bycatch management, and you requested further information, in the form of a matrix, which more specifically addressed the adequacy of measures by specific fishery. You also passed a motion to begin analysis (when staff became available) of scales and certified bins as additional measures for the pollock and yellowfin sole fisheries. At that time NMFS indicated that a report could be provided for this meeting, but not a formal analysis. At some point we need to provide a report to Congress on how we view our compliance with the Act, and update them on what additional measures we may be taking. NMFS staff will provide a status report at this meeting.

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Report of the Scientific and Statistical Committee

The SSC received information reports from NMFS staff and indicated that during their February 1999 meeting the SSC plans to address total catch measurement with particular attention to the extrapolation of observer data from sampled to un-sampled hauls. The SSC also anticipates a review of species composition sampling methods and estimation procedures. With respect to the reports received at this meeting, the SSC noted some confusion over presentation of some of the information and provided the authors with comments.

REPORT OF THE ADVISORY PANEL

The AP recommended the Council direct staff to prepare a discussion paper on ways to review and improve the adequacy of catch and bycatch accounting in order to ensure compliance with provisions in the Magnuson-Stevens Act.

DISCUSSION/ACTION

The Council did not take up this agenda item because of the press of other issues. They agreed that the subject could be discussed at the special November meeting in the context of requirements and agency abilities.

(c,d,e,f) Sablefish Rolling Closures, GOA DSR Retention, GOA Fair-start Amendment, IR/IU Amendment

ACTION REQUIRED

- (c) **Final action on rolling closures of fishing grounds during the sablefish longline survey.**
- (d) **Initial review of analysis to require retention of demersal shelf rockfish in fixed gear fisheries.**
- (e) **Initial review of analysis to change the start of the Pacific cod longline fishery in Areas 610-640.**
- (f) **Initial review of analysis of four changes to the Improved Retention/Improved Utilization Program.**

BACKGROUND

- (c) **Final action on sablefish rolling closures**

In September 1997, the Council approved releasing to public review the analysis for rolling closures in the groundfish fisheries during the sablefish longline survey. Final action was scheduled for this meeting. The one-year delay was to determine if the reordered sablefish longline survey and industry education were sufficient to minimize fleet interactions with the survey. Item D-1(c)(1) is a report from Mike Sigler on fleet interactions with the survey. The public review version of the EA/RIR was mailed to you in October 1997. The Executive Summary is attached as Item D-1(c)(2). Alternatives for final action are:

Alternative 1: No action. Voluntary closed areas, reordered survey sequence.

Alternative 2: Regulatory closed areas, gear specific exemptions with annual review.

(d) Initial review of retention of demersal shelf rockfish in fixed gear fisheries

Alaska Department of Fish and Game submitted a groundfish proposal in the 1997 cycle to require retention of demersal shelf rockfish (DSR) in fixed gear fisheries since total bycatch mortality of DSR in other fisheries is unknown. A high level of unreported mortality of DSR is believed to be occurring in the directed and bycatch fisheries. Currently, the DSR maximum retainable bycatch limits fishermen to 10 percent by weight of DSR against their halibut longline harvest. Any poundage in excess of the 10 percent limit is discarded at sea. Amending the regulations to require all DSR bycatch to be landed would enhance efforts to increase the accuracy of the accounting of total bycatch mortality of these fish. The proposed action would reduce waste and enhance estimates of total removals of demersal shelf rockfish species for stock assessment purposes.

The alternatives in this analysis (Item D-1(d)) include:

Alternative 1: No action.

Alternative 2: Require full retention of DSR in the fixed gear fisheries in GOA Regulatory Area 650.

(e) Initial review of fair start for GOA Pacific cod fisheries

The Western/Central Gulf Committee identified a preemption issue in the GOA Pacific cod fishery at its April 1998 meeting. It recommended that a fair start opening on January 20 in Areas 610-640 in the GOA be implemented for the longline P. cod fisheries. It exempted pot and jig gear from its recommendation for a longline fair start. The committee expressed concern that: (1) freezer longliners could preempt this fishery, particularly as BSAI P. cod biomass declines and (2) gear allocations on small quotas, and effort increases under the pending LLP, may exacerbate management/biological problems, and up to half of the quota may be preempted.

At its April 1998 meeting, the Council initiated this analysis of a delayed start for the P. cod longline fishery to provide equity with the P. cod trawl fishery. This EA/RIR examines the following management alternatives for fishery starting dates for the P. cod longline fishery in Areas 610-640. It was mailed to you on September 3.

Alternative 1: No action.

Alternative 2: Start the Pacific cod longline and trawl fisheries on January 20 in Areas 610-640.

Alternative 3: Start the Pacific cod longline and trawl fisheries on another date in Areas 610-640.

(f) Initial review of changes to the Improved Retention/Improved Utilization Program

In April 1998, the Council approved recommendations for a number of changes to the IR/IU program recommended to it by the IR/IU Implementation Committee. Three of those were recordkeeping and reporting changes and have been made for 1999 on the logbook forms:

- IR/IU reporting was removed from the catcher vessel logs (reported by processor)
- separate logbook for trawlers and longliners
- created whole fish code (not products or discard) in discard categories

Industry and NMFS have suggested a number of revisions to the program to increase its effectiveness and reduce several unintended impacts to sectors of the groundfish fleet. Four actions were recommended by the committee and approved by the Council in April for analysis (Item D-1(f)(1)). The committee reviewed an earlier draft of the analysis on September 21 and its comments (Item D-1(f)(2)) were addressed by the analyst in the revised EA/RIR. Kent Lind, NMFS, will present the following action items in the analysis:

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- Alternative 1: Allow Discards of Adulterated Fish**
- Alternative 2: Increase the Maximum Allowable Roe Percentage in the Aleutian Islands**
- Alternative 3: Add Additional Product Forms Against Which Pollock Roe may be Retained**
- Alternative 4: Clarification of Retention and Utilization Requirements for IR/IU Species Used as Bait and Consumed On Board a Vessel**

Report of the Scientific and Statistical Committee

The SSC had comments on two of these issues:

DSR Full Retention. The SSC recommended the analysis be released for public review. The SSC pointed out that if adopted, DSR landings and bycatch may increase since it would be legal to retain DSR equivalent to more than 10% of weight of halibut or sablefish catch in the IFQ fisheries, possibly precluding a DSR directed fishery. However, the proposed measure could improve total mortality estimates for DSR by accounting for a significant portion of catch that is not recorded; the proposed measure could also reduce discard and waste.

IR/IU. The SSC recommended the analysis be released for public review.

Report of the Advisory Panel

Sablefish Rolling Closures. At the suggestion of NMFS, the AP recommended the Council adopt Alternative 1 - status quo. However, because longline interactions are still occurring during the survey, the AP recommended that the Council continue to request that NMFS develop a sablefish assessment program that includes logbook and age/length data in conjunction with the survey. The AP also requested that names of vessels sighted fishing near survey sites be published.

DSR Retention in Fixed-gear Fisheries. The AP recommended the Council release the analysis for public review after adding an option under Alternative 2 which would require IFQ registered buyers to accept deliveries of rockfish and Pacific cod as a condition of their permit. The AP also recommended that the analysis should include the following: (a) a discussion of the procedures for the surrender of overages, and (b) a discussion of how the proceeds of the sale of forfeited fish would accrue to fisheries management, research, and possible use of observer coverage in the directed DSR fishery.

GOA Fair Start Amendment. The AP recommended the Council table action on this issue at this time.

IR/IU Amendments. The AP recommended the Council release the analysis for public review, including an option under Alternative 2 which would allow adjustment to the maximum allowable roe percentage in the Bering Sea, and information on industry and CDQ sources on actual roe recovery rates.

DISCUSSION/ACTION

(c) *Sablefish Rolling Closures*

The Council took no action on this issue.

(d) *DSR Retention in Fixed-gear Fisheries*

Linda Behnken moved to send the analysis out for public review after incorporating the recommendations of the Advisory Panel. The motion carried with Mace objecting.

Jon Pollard, NOAA General Counsel, pointed out that requiring processors to accept bycatch may be difficult. General Counsel has no legal opinion at this time, but if the amendment goes forward, they will work with State and Federal entities to try to resolve this issue.

(e) *GOA Fair Start Amendment*

The Council took no action on this issue.

(f) *IR/IU Amendments*

Linda Behnken moved that staff proceed with a performance report on the IR/IU program, with a preliminary report in December to be forwarded to Congress. The report should put an emphasis on measuring or evaluating the effectiveness of the program in reducing bycatch. A fuller report will be available in February. The motion was seconded by Dave Benton and carried without objection.

Council members agreed that NMFS and ADF&G should put out a press release at the end of the year stressing the positive results of the program.

Dave Benton moved to release for public review the analysis of amendments to the IR/IU program, with one modification. Under Action item 3, add an analysis of deleting meal as a primary product form. The motion was seconded.

Wally Pereyra moved to amend to add the Bering Sea (under Action item 3). The motion was seconded and carried, 7 to 4, with Behnken, Benton, Kyle and O'Leary voting no.

The main motion, as amended, carried without objection.

D-2 Initial Groundfish Specifications for 1999

Bering Sea/Aleutian Islands

ACTION REQUIRED

- (a) **Review Preliminary 1999 BSAI Stock Assessment and Fishery Evaluation (SAFE) document.**
- (b) **Approve preliminary BSAI groundfish specifications for 1999.**
- (c) **Recommend bycatch rate standards for the Vessel Incentive Program.**

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BACKGROUND

(a,b) Specifications and SAFE

Normally, at our September/October meeting, the Council makes initial recommendations for groundfish and bycatch specifications. These initial specifications are used to manage the groundfish fisheries until superseded by publication of the Council's final specifications.

In April 1998, the Council approved Plan Amendments 48/48 to revise the annual specification process. This amendment will eliminate publication of proposed and interim specifications for BSAI and GOA groundfish fisheries. The previous year's specifications will remain effective until superseded, and no preliminary ABC recommendations will be made by the Plan Teams, SSC, or Council. Although Amendments 48/48 have yet to be approved by the Secretary, the Council can recommend "rolling over" specifications, as was done last year. Catch specifications for 1998 BSAI groundfish fisheries are listed in Table 1, and bycatch limit specifications are listed in Table 2.

The Groundfish Plan Teams met on September 15-17 to prepare the preliminary SAFE report, which was distributed prior to the Council meeting. Due to changes adopted by NMFS-AFSC and the Plan Teams under Amendment 48/48, the preliminary SAFE no longer contains ABC recommendations. Instead, the report includes revised assessments for those stocks where additional information has become available. This year's preliminary SAFE contains updated Bering Sea pollock and Atka mackerel assessments. NMFS staff will be on hand to discuss the results of these assessments.

(c) Bycatch rate standards for the Vessel Incentive Program

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

	<u>Fishery</u>	<u>PSC Species</u>
BSAI	midwater pollock	halibut*
BSAI	bottom pollock	halibut
BSAI	yellowfin sole	halibut; red king crab**
BSAI	other trawl	halibut; red king crab
GOA	midwater pollock	halibut
GOA	other trawl	halibut

* % of groundfish

**number of crabs per ton of groundfish

Note that regulations specify that the vessel incentive program for the midwater pollock fishery becomes effective after the directed fishery for pollock by trawl vessels using non-pelagic gear is closed.

Item D-2(c)(1) is a letter from the Regional Administrator containing the VIP rate standards used in 1998 and catch rates observed during past years for these fishery categories. The Council will need to recommend the bycatch rate standards for these categories for the first two quarters of the 1999 fishery.

Report of the Scientific and Statistical Committee

The SSC reviewed the Plan Teams' SAFE documents and complemented them on the new format for the preliminary SAFEs. The SSC reviewed the assessments and made comments on each species where there were changes in methodology or results (see the SSC Minutes, Appendix III to these minutes for specific comments). No ABC recommendations were made at this meeting.

Report of the Advisory Panel

The AP recommended that the Council set the 1999 preliminary groundfish specifications at the ABC and TAC levels established in the 1998 final specifications and further recommended that the Council set the preliminary PSC apportionments for trawl and non-trawl fisheries as apportioned in the 1998 final specifications. The AP recommended that the opilio bycatch cap for trawl fisheries be apportioned as follows:

yellowfin sole	3,397,420	or 73%
rocksole/other flat	837,720	or 18%
Greenland turbot	46,540	or 1%
rockfish	46,540	or 1%
Pacific cod	139,620	or 3%
pollock	186,160	or 4%
	4,654,000	or 100%

The AP recommended not making a seasonal apportionment of PSC in the preliminary specifications. Additionally, the AP recommended the Council set the preliminary VIP rates as listed in the bycatch rate standards in the region's September 29, 1998 letter to the Council.

And, finally, the AP recommended that the preliminary specifications for 1999 allow the use of up to 10,000 red king crab of the rocksole/other flatfish red king crab apportionment in the 56° - 56°10' strip of the Red King Crab Savings Area.

DISCUSSION/ACTION

Linda Behnken moved to approve the recommendations of the Advisory Panel with regard to the preliminary 1999 BSAI groundfish specifications. The motion was seconded.

Jim Balsiger expressed concern over the AP's recommendation for pollock because the stock is showing downward trends. At Mr. Balsiger's suggestion, the motion was amended to set the preliminary ABC for pollock in the BSAI at 1.035 million metric tons.

The amended motion carried without objection.

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Gulf of Alaska

ACTION REQUIRED

- (d) Review Preliminary 1998 GOA Final Stock Assessment and Fishery Evaluation (SAFE) document.
- (e) Approve preliminary GOA groundfish and bycatch specifications for 1998.
- (f) Receive Plan Team report on Eastern GOA boundary change.

BACKGROUND

While the Council approved Amendment 48 to streamline the specification process in June 1998, it has not yet been submitted to the Secretary and is not yet in effect. The preliminary SAFE report, groundfish ABCs and TACs, and bycatch apportionments need to be approved and made available for public review and comment. These initial specifications will be used for management of the 1999 groundfish fisheries until superseded by publication of the Council's final specifications. As no new ABC recommendations were made at its September 1998 meeting, the GOA Plan Team has recommended rolling over all 1998 final specifications as initial specifications for 1999, following the recommendations in Amendment 48. In November, the Plan team will be making OFL and ABC recommendations based on new stock assessments for all GOA groundfish species. The Council will adopt final recommendations for the 1999 fishing year at its December meeting, based on the November 1998 SAFE report.

(d) GOA SAFE Document

The groundfish Plan Teams met in Seattle during September 15-17, to prepare the preliminary SAFE documents provided at this meeting. The preliminary 1998 GOA SAFE contains only two chapters, for walleye pollock and arrowtooth flounder. No new ABC recommendations are provided in the SAFE report. GOA plan team minutes are attached as Item D-2(d)(1) and Joint team minutes are attached as Item D-3(d)(2).

(e) Preliminary ABCs and TACs

The attached table from the SAFE lists the 1998 final specifications and comprise the GOA Plan Team's recommended 1999 ABCs and corresponding overfishing levels for each of the species or species complexes (Item D-2(d)(3)).

TAC considerations for State waters Pacific cod fishery

Beginning in 1997, the Council has reduced the GOA Pacific cod TAC to account for removals from the State waters P. cod fisheries. In December 1997, the Council allowed for the automatic increase in the Kodiak subarea and reduced the Central area TAC accordingly. At its December meeting, the BOF decided to rescind that automatic increase for 1998 in the Kodiak area. NMFS subsequently made the correction to the final specifications as listed in the box at right

1998 Gulf Pacific cod ABC, TAC and State guideline harvest level (mt).				
Specifications	Western	Central	Eastern	Total
ABC	27,260	49,080	1,560	77,900
BOF GHL	4,090	7,360	400	11,840
(%)	15	15	25	15.2
TAC	23,170	41,720	1,170	66,060
	Cook Inlet	1,104	2.25%	
	Kodiak	3,680	7.5%	
	<u>Chignik</u>	<u>2,576</u>	<u>5.25%</u>	

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According to ADF&G, Chignik, and the Alaska Peninsula likely will take their full allocations in 1998, while Prince William Sound and Cook Inlet/N. Gulf Coast will not (Item D-2(d)(4)). Because the federal fishery will reopen in the Central area on October 5 and all cod landings will count against the federal TAC, it is unknown at this point if Kodiak will reach its GHL. If Kodiak, Chignik and Alaska Peninsula achieve their full allocation before the end of the year, they will automatically ramp up in 1999. Using these projected increases in state water GHLs and last year's ABCs the federal TAC for P. cod would be adjusted as listed at right.

1999 Gulf Pacific cod ABC, TAC and State guideline harvest level (mt).				
Specifications	Western	Central	Eastern	Total
ABC	27,260	49,080	1,560	77,900
BOF GHL	5,452	9,448	400	15,290
(%)	20	19.25	25	19.6
TAC	21,808	39,632	1,170	62,610
	Cook Inlet	1,104	2.25%	
	Kodiak	4,908	10.0%	
	<u>Chignik</u>	<u>3,436</u>	<u>7.0%</u>	

Theoretically, the Board of Fisheries could cap the Kodiak and Chignik harvests at this year's level, because both those areas are "in-cycle" this coming fall. The ramp-up of the Alaska Peninsula quota could only be stopped if the Board responded favorably to an agenda change request filed by September 29, 1998.

A second issue concerned the release of unharvested State-water's TAC back to the federal fishery prior to October 1. ADF&G noted that a framework mechanism with appropriate criteria is needed by ADF&G to give them flexibility to return unused cod to the federal fishery. While it will not be needed in 1998 because the quotas for Kodiak, Chignik and Alaska Peninsula likely will be fully utilized, it could be needed in future years as the State quotas are increased. ADF&G was requested to develop a mechanism for transferring unharvested State quota to the federal fisheries in time for the fleet to respond to the additional quota. The Board will discuss this issue at their December meeting.

Initial PSC Limits for Halibut

As part of streamlining, the PSC limits for halibut in the Gulf of Alaska would also be rolled over for the start of the 1999 fishing year.

Trawl gear			Hook and Line		
1st quarter	600 mt	(30%)	1st trimester	250 mt	(86%)
2nd quarter	400 mt	(20%)	2nd trimester	15 mt	(5%)
3rd quarter	600 mt	(30%)	3rd trimester	25 mt	(9%)
4th quarter	400 mt	(20%)	DSR	10 mt	
	2,000 mt			300 mt	

Quarter	Trawl apportionments		Total
	Shallow water Complex	Deep water Complex	
1	500 mt	100 mt	600 mt
2	100 mt	300 mt	400 mt
3	200 mt	400 mt	600 mt
4	No apportionment		400 mt

Halibut Discard Mortality Rates

The GOA and BSAI SAFE reports contain recommendations by IPHC staff for managing halibut bycatch in 1999. Item D-2(d)(5) lists the IPHC recommendations for setting discard mortality rates

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for the 1999 fishery. A number of modifications to the methodology used by IPHC were made to the report as recommended by the Plan Teams and SSC. Gregg Williams, IPHC, will present this report.

(f) Plan Team Report on Eastern GOA Boundary Change

The GOA Plan Team reviewed the weighting schemes derived from the 1990, 1993, and 1996 GOA trawl surveys presented by Michael Martin (RACE Division) to calculate separate West Yakutat/East Yakutat-Southeast Outside ABCs to account for the prohibition of trawling in the East Yakutat-Southeast Outside subarea (east of 140°). Team members expressed concerns regarding the expansion of survey catches by strata where some areas were not surveyed and possible tradeoffs between post-stratification of the survey and adding an additional management line. The Team may recommend to maintain the EGOA ABC and TAC, except where biological reasons (i.e., depletion) indicate a need for an ABC split. The Team identified pollock and some flatfish and rockfish species for which separate ABCs may be needed.

For the November Plan Team meeting, the Team requested that RACE provide an estimate of the variance of the survey biomass distributions. The Team will provide further guidance after reviewing this and other related assessment information in November.

Report of the Scientific and Statistical Committee

The SSC reviewed the Plan Teams' SAFE documents and complemented them on the new format for the preliminary SAFEs. The SSC reviewed the assessments and made comments on each species where there were changes in methodology or results (see the SSC Minutes, Appendix III to these minutes for specific comments). No ABC recommendations were made at this meeting.

Report of the Advisory Panel

The AP recommended the Council set the preliminary 1999 GOA groundfish specifications at the ABC and TAC levels established in the 1998 final specifications. The AP further recommends the Council set the preliminary PSC apportionments for trawl and hook & line as apportioned in the 1998 final specifications.

DISCUSSION/ACTION

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

Tables showing the approved preliminary groundfish specifications for 1999 are attached to these minutes as Appendix IV.

D-3 Groundfish Issues for Discussion

ACTION REQUIRED

(a) **Receive report from Vessel Bycatch Accountability (VBA), Halibut Mortality Avoidance Program (HMAP), and Individual Vessel Checklist Program (IVCP) Committees and provide further direction to staff.**

(b) **Shark Management.**

BACKGROUND

(a) VBA Committee

In February 1997, the Council appointed an industry Committee to further develop a 'strawman' VBA program for consideration. A related task of the Committee was to identify, and resolve where possible, a variety of monitoring, enforcement, and legal issues surrounding VBA program development. The Committee has met several times to work through these issues. Chairman Steve Hughes reported the Committee's findings to the Council back in February. The Council recommended that the Committee meet once more to iron out remaining issues before initiating analysis of a VBA program.

The Committee met again on May 13 to finalize details and options of a strawman VBA program for Council consideration and analysis. A summary of the proceedings from the meeting is attached as Item D-3(a). Minutes from previous meetings are also attached as Item D-3(b). Chairman Steve Hughes will be available to report on the Committee's findings and recommendations. At this meeting, the Council will provide further direction to staff.

HMAP and IVCP

In February 1998, the Council formed a committee to discuss issues related to proposals for a Halibut Mortality Avoidance Program (HMAP) and an Individual Vessel Checklist Program (IVCP). The existing VBA committee was used as a forum for these discussions. The HMAP/IVCP Committee met on May 14, following the VBA committee meeting. Minutes of the meeting are attached as Item D-3(c). The group elected Beth Stewart as committee chair, and she will be available to report on the Committee's findings and recommendations.

(b) Shark Management

The BOF recently took actions to protect shark stocks by prohibiting directed commercial fisheries, and placing limits on the sport fishery statewide. Given that sport fisheries are not mentioned in the groundfish FMPs, the BOF extended its sport fish regulations into the EEZ. The Board requested that the Council take complementary actions at the Federal level for commercial fisheries. This could be accomplished by various means, including (1) amendment of the Council's groundfish FMPs to separate shark from the other species category and enact specific regulations, (2) delete sharks from the Council's FMPs and allow management to defer to the State in Federal waters, or (3) amend the Council's FMPs to separate sharks and make explicit management deferrals to the State (as with demersal shelf rockfish). Item D-3(d) is a letter from Bob Clasby, Director of Commercial Fisheries for the State of Alaska, providing background information on the State action with regard to shark fisheries and comments on the alternatives.

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

Report of the Advisory Panel

The AP only addressed the subject of shark management, and had the following recommendation:

Initiate an EA/RIR for shark management with the following alternatives (taken from Robert Clasby's letter of 9/25/98):

- Alternative 1. Maintain the status quo and continue management under different commercial fishing regulations in state and federal waters.

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- Alternative 2. Amendment of the Council's groundfish FMPs to separate sharks, skates, and rays from the "other groundfish" species category and enact specific federal regulations.
- Alternative 3. Amend the Council's FMPs to separate sharks, skates, and rays from the "other groundfish" species category and make explicit management deferrals to the state (as with demersal shelf rockfish).
- Alternative 4. Delete sharks from the Council's FMPs and allow management to defer to the state in federal waters (as with lingcod).

DISCUSSION/ACTION

(a) Bycatch Issues

Linda Behnken moved to express Council intent to move ahead with the VBA and HMAP checklist program, asking the respective committees to meet after the November Council meeting to develop pilot projects for Council consideration. The motion was seconded by Robin Samuelson and carried without objection.

(b) Shark Management

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

D-4 Scallop FMP

ACTION REQUIRED

Initial review of amendment to establish a license limitation program for the scallop fishery.

BACKGROUND

In December 1996, the Council approved for analysis a proposal to establish a license limitation program for the Alaska scallop fishery. Amendment 4 has been proposed to establish a license limitation system for the scallop fishery to replace the Federal vessel moratorium, which is scheduled to expire in the year 2000. At its February 1998 meeting, the Council reviewed participation and other data from the scallop fishery and developed a problem statement and alternatives for analysis. These alternatives are as follows:

- Alternative 1:** Status quo. The scallop vessel moratorium would expire in 2000 [open access].
- Alternative 2:** Vessel owners who qualify for Federal moratorium permits would receive a license [18 licenses total].
- Alternative 3:** Vessel owners who qualify for State moratorium permits would receive a license [10 licenses total].
- Alternative 4:** Holders of either Federal or State moratorium permits that used their moratorium permits to make legal landings of scallops in 1996 or 1997 would receive a license. The federal or state moratorium qualification period would serve as the historic qualifying period and the years 1996 and 1997 would serve as the recent qualifying period.

- Option 1 Area Endorsements (applicable to Alternatives 2-4):**
- A:** Separate endorsements for Cook Inlet and statewide areas. Must have a legal landing of scallops in each area during the qualifying period to receive an endorsement in that area.
 - B:** No area endorsement. All licenses are statewide.
 - C:** No area endorsements. All licenses are statewide. However, license holders who never made a legal landing of scallops from outside Cook Inlet during the qualifying periods would be restricted to a single 6 ft dredge in all areas (e.g., restricted and unrestricted licenses).
- Option 2 Vessel Reconstruction and Replacement (applicable to alternatives 2-4):**
- A:** No restrictions on reconstruction or replacement.
 - B:** Maximum length overall (LOA) would be equal to 120% of the length of the vessel on January 23, 1993 (maximum LOA under Federal moratorium).
 - C:** Maximum vessel length would be restricted to 120% of the LOA of the vessel on which the permit was used in 1996 or 1997 on or before December 31, 1997. If a permit was used on more than one vessel in 1996 or 1997, maximum LOA would be calculated using the longest vessel.
- Option 3 License Recipient (applicable to alternatives 2-4):**
- A:** Licenses would be issued to current owners of vessels that fished in qualifying years 1996 or 1997.
 - B:** Licenses would be issued to current moratorium permit holders for those permits that were fished in qualifying years 1996 or 1997.

Note that participation in 1998 has not been considered for qualifying under these alternatives. A draft analysis was mailed out to you in August. An executive summary is attached as Item D-4(a) in your briefing books.

A draft of this analysis was reviewed by the Joint Council/Board of Fish Committee. The Committee agreed that all reasonable alternatives are contained in the document as drafted, and took no action regarding a request (by Dave Erickson of Dames and Moore) to add 1998 as a year of eligibility under Option 4. The Committee did express a desire to eventually have one limited entry program which applies to both Federal and State waters, noting that action by the Legislature (or CFEC possibly) may be required to complement the Council's limited entry program. The Committee continues to support a common set of qualifying rules for the scallop fishery so that qualified fishers are the same in both areas. It was acknowledged that the BOF and Council would be meeting jointly, in February 1999, prior to the Council's final decision on this issue.

At the this meeting, the Council is scheduled to review the analysis and release it for public review. Final action on this amendment is scheduled for February 1999.

Report of the Scientific and Statistical Committee

The SSC recommended the draft amendment be released for public review after incorporating several specific recommendations:

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1. The SSC asks that data and arguments regarding the absolute magnitude of the scallop resource be expanded and clarified.
2. Caution should be exercised in interpreting the reported break-even analyses. The conclusions drawn from these analyses are contingent on the assumption that the operating cost structure and the annual round of activity are identical for all current or potential participants. Break-even analyses should not be confused with an assessment of changes in net benefits to the nation. These benefits should be qualitatively addressed where the data will not support a quantitative analysis.
3. The Council may wish to re-examine the problem statement to ensure that it reflects concern for the economic hardship occasioned by the threat of additional entry to this fishery. Economic hardship is a theme that dominates the current document.
4. The SSC noted that confidentiality laws may constrain public access to data relevant to a host of management concerns given the small number of participants in the scallop fishery and potential further consolidation. The SSC wonders if it would be possible for scallop fishery participants to waive confidentiality rights as a requirement under the License Limitation Program so that data could be more widely accessible for management purposes.

Report of the Advisory Panel

The AP recommended the Council release Amendment 4 (Scallop License Limitation Program) for public review with the following revisions:

1. Add option under Alternative 4 to include 1998 up to October 9, 1998.
2. Add suboption to above option requiring participation in two of the three years (1996, 97, through October 9, 1998).
3. Delete "A" under Option 3.

DISCUSSION/ACTION

Earl Krygier moved to approve the AP's recommendations, incorporating the SSC's recommendations before releasing the analysis for public review. The motion was seconded by Robin Samuelsen.

Linda Behnken moved to amend the problem statement by adding the following sentence to the end: Additional participation or increased harvesting capacity in the scallop fishery would also impose significant economic hardship on current participants.

This was accepted as a friendly amendment to the motion.

Dennis Austin, referring to the SSC's fourth recommendation regarding confidentiality laws, asked that the analysis address the issue of data confidentiality and identify options that might mitigate the problems. This was also accepted as a friendly amendment.

The motion, as amended, carried without objection. Final action on this amendment will be scheduled for February 1999.

D-5 Bering Sea/Aleutian Islands Crab FMP

ACTION REQUIRED

- (a) Review the Crab SAFE.
- (b) Develop alternatives for *C. bairdi* rebuilding plan analysis.

BACKGROUND

(a) BSAI Crab SAFE

The Crab Plan Team recently assembled a Stock Assessment and Fishery Evaluation (SAFE) report for king and Tanner crab stocks of the Bering Sea and Aleutian Islands. The SAFE details the current biological and economic status of fisheries, guideline harvest levels (GHL), and support for different management decisions or changes in harvest strategies. Copies of the SAFE were distributed in September.

The status of BSAI crab stocks is mixed. Some stocks are increasing in abundance (Bristol Bay red king crab), whereas other stocks are declining (*C. opilio*). A summary of the 1998 survey results is attached as Item D-5(a).

(b) C. bairdi Rebuilding Plan

In 1996, the Sustainable Fisheries Act (SFA) amended the Magnuson-Stevens Act. The SFA added a definition of "overfishing" and "overfished," changed the definition of "optimum," required that each fishery management plan specify objective and measurable criteria for identifying when a fishery is overfished and added a section on identifying and rebuilding overfished fisheries.

In June 1998, the Council adopted Amendment 7 to the BSAI King and Tanner Crab FMP to redefine overfishing, OY, and MSY, and update the FMP with new information. The amendment will establish MSY point estimates, along with minimum stock size thresholds (MSST) for individual crab stocks based on prevailing environmental conditions (1983-1997 period). Overfishing will be defined as a fishing mortality rate in excess of natural mortality ($M=0.2$ for king crabs, $M=0.3$ for Tanner crabs) or a biomass that falls below MSST. Because the current *C. bairdi* spawning biomass is below MSST, the stock will be deemed "overfished" based on the guidelines, and will require that a rebuilding plan be developed within the coming year.

In August, the Crab Plan Team met to review amendment proposals and discuss options for *C. bairdi* rebuilding. The Team discussed content of a rebuilding plan, and agreed that all sources of mortality (including bycatch in crab, scallop and groundfish fisheries) should be considered in the analysis. The major component of the plan is the harvest strategy being developed by ADF&G. The Team felt that a stairstep harvest rate and associated thresholds should be considered, along the lines of the strategy developed two years ago for the Bristol Bay red king crab stock. This approach is also advocated in the NOAA Technical Manual (Restrepo et al. 1998).

A major unknown at this time is whether or not *C. bairdi* should be managed as two separate stocks east and west of 168°W. Two separate rebuilding plans may be required, as there are currently very few *C. bairdi* in the western area around the Pribilof Islands. The evidence for two separate stocks comes from differences in growth, size frequencies, size at maturity, and genetic work. If two stocks were considered by managers, and different size limits were needed for each stock, then options considered could include a *C. bairdi* fishery on the eastern stock coincident with the red king fishery in Bristol Bay, a fishery on the western stock coincident with the *C. opilio* fishery or depending on size of the western stock, harvest as bycatch in the *C. opilio* fishery.

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Crab Plan Team chair Peggy Murphy will be on hand to discuss proposed contents of the plan and a timeline for analysis. Plan Team minutes are attached as Item D-5(b).

Report of the Scientific and Statistical Committee

The SSC noted that the 1998 Crab SAFE is improved over past SAFE documents, but suggested that significant improvements can still be made. In their minutes (Appendix III to these minutes), the SSC provided several specific comments for the authors of the SAFE. The SSC also identified some concerns with respect to crab stock conditions and harvest strategies. With regard to public comment regarding the LBA model, the SSC expressed the opinion that the model is a fundamentally sound analytical approach to stock assessment and recommended that the Plan Team conduct a public workshop to explain the model and its data inputs. The SSC supported the Plan Team's recommendations with regard to a C. bairdi rebuilding plan.

Report of the Advisory Panel

The AP recommended the Council use the alternatives for a *C. bairdi* rebuilding plan as outlined by the Plan Team with the following additions to be included in the analysis:

- a. all sources of mortality including handling and bycatch in the directed crab fishery as well as bycatch in the scallop and groundfish fisheries.
- b. stair-step harvest rates as well as stair-step pot limits.
- c. any proposed modification of PSC caps or closure zones should include an analysis of the effects of such action on bycatch of other groundfish, crab species and gear conflicts.
- d. evaluation of any proposals submitted that would be effective for rebuilding.

The AP also requested the Council ask NMFS and ADF&G to meet in order to evaluate methods to improve current crab models and report back in February 1999. The AP encouraged that the meeting allow public observation.

DISCUSSION/ACTION

Linda Behnken moved to approve the recommendations of the AP, deleting item (a), and rewording item (d), to read, "explicitly address bairdi habitat needs that would be effective for rebuilding, particularly those in amendment proposals #11 and #13. The motion was seconded and carried without objection.

With regard to industry concerns with the crab model, Linda Behnken moved to request that at the November Plan Team meeting scientists explain the model and its data inputs to any interested member of the public. The motion was seconded by Kevin O'Leary.

Joe Kyle suggested that a specific session be set up to explain the model. Ms. Behnken agreed that this would be an acceptable solution.

The motion carried without objection.

D-6 Staff Tasking

ACTION REQUIRED

- (a) Review status of current tasking.
- (b) Review groundfish and crab proposals and task staff accordingly.

BACKGROUND

(a) Current Tasking

Item D-6(a) is an updated list of current Council management actions, including regulatory amendments, plan amendments, reports, and Committee meetings. These existing projects, along with continued work on Senate Bill 1221 and other pending actions such as implementation of license limitation, redeveloping funding options for the Observer Program, developing fees for the IFQ program, and analysis of halibut charterboat GHL and moratorium alternatives, will keep the staff pretty busy between now and next spring. NMFS has also identified four additional housekeeping amendments that staff are preparing internally to address changes to CDQ regulations, IFQ regulations, electronic reporting, and GOA gear requirements. The Council has already had some discussion this week regarding actions needed by the Council and NMFS to implement provisions of Senate Bill 1221, and needs to keep those in mind as we look at new proposals.

(b) 1998 groundfish and crab proposals

The BSAI and GOA Plan Teams, Crab Plan Team, and Essential Fish Habitat Core Team reviewed 38 groundfish and 1 crab proposal submitted for 1998. Plan Team recommendations are provided under Item D-6(b). A limited number of copies of the entire proposal package are available for your inspection. Of the 39 proposals, eleven proposals were ranked high, three were ranked moderate/high, one was ranked as moderate, one was ranked as moderate/low, and 16 were ranked as low priorities. Seven proposals were ranked as being in progress.

Council staff also prepared a handout that will be available by the end of the week that summarizes these proposals in a thematic fashion and incorporates comments, ranking, and workload estimates from Council staff, NMFS staff, ADF&G staff, Groundfish Plan Teams, Crab Plan Team, Ecosystem Committee, and Essential Fish Habitat Core Team. The handout groups the proposals into ten descriptive categories. Staff is available to review these proposals and provide additional comments.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

Using the table of amendment proposals marked "Agenda D-6(b), October 1998" (Appendix V to these minutes), Dave Benton moved to proceed with analysis of the following proposals:

- Under Groundfish Bycatch Management, Proposals 17 and 37
- Under Crab Bycatch Management, Proposal 3
- Under Habitat Areas of Particular Concern, Proposals 12, 13, 16

In addition, all the proposals (15, 22, 23, 24) under Marine Mammal Concerns would be incorporated by NMFS in the Section 7 process and, that one of the alternatives for consideration by the Agency be

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a CVOA 'A' season in the BSAI, and also that the analysis for Inshore-Offshore 3 be brought forward as part of that process for consideration in November.

Proposals 28, 29, 30, and 34 would be deleted from further consideration.

All remaining proposals would be set aside pending passage of SB 1221 and consideration in November.

Proposal 30 (development of a comprehensive IFQ program for groundfish and crab) was moved back into a category for future consideration, but not in November.

[Proposals 38 and 39 were previously recommended for analysis under Agenda item C-4.]

The motion was seconded by Linda Behnken.

Sue Salvesson asked that the Council include the changes to the existing Observer Program, as recommended by the Observer Advisory Committee. Mr. Benton accepted the friendly amendment. The following proposals for amendments to the Observer Program were included in the motion:

Establish regulations prohibiting contractors from distributing personal information (resumés, for example) on observers.

Establish minimum housing standards for observers at shore plants.

Limit an observer from having to cover more than one 100% plant, or more than two 30% plants, when pollock fisheries are being conducted.

Allow NMFS observer program staff to be employed at NMFS' discretion either in lieu of or in addition to the vessel's regular observer.

Revise shoreside coverage requirement to be based on weekly, as opposed to monthly, reporting period.

Clarify definition of a fishing day for pot vessels.

The motion carried without objection.

At this time the Council also discussed the agenda for the November special Council meeting. A recap of that discussion is under Agenda C-9.

E. FINANCE REPORT

The Finance Committee met October 11, 1998 and reviewed the status of the 1998 budget and indicated that at the November meeting they would consider additional projects to be funded. A tentative budget for FY 1999 was approved, but will need to be adjusted after Congress passes final appropriations for the Department of Commerce.

F. PUBLIC COMMENTS

There were no additional public comments.

G. ADJOURNMENT

Chairman Lauber adjourned the meeting at approximately 12:45 p.m., Monday, October 12, 1998.