

North Pacific Fishery Management Council

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Certified Richard B. Lauber
Richard B. Lauber, Chairman

Date June 21, 1996

MINUTES

**122nd Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
April 17-21, 1996
Hilton Hotel
Anchorage, Alaska**

The North Pacific Fishery Management Council met April 17-21, 1996 at the Hilton Hotel in Anchorage, Alaska. The Advisory Panel met April 15-18 and the Statistical Committee met April 15-17, at the Hilton. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Richard Lauber, Chairman
Morris Barker for Robt. Turner
CAPT Bill Anderson for RADM Riutta
Linda Behnken
David Fluharty
Dave Hanson
Bob Mace for R. Rosen

Walter Pereyra, Vice Chair
David Colson/State Dept.
Kevin O'Leary
Steve Pennoyer
Dave Benton for Frank Rue
Robin Samuelsen
Clem Tillion

NPFMC Staff

Clarence Pautzke, Executive Director
Darrell Brannan
Marcus Hartley
Jane DiCosimo
David Witherell

Chris Oliver, Deputy Director
Diane Provost
Helen Allen
Gail Bendixen
Linda Roberts

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Support Staff

Lisa Lindeman, NOAA-GCAK
Ron Berg, NMFS-AKR
Earl Krygier, ADFG
Steve Meyer, NMFS Enforcement
Peggy Murphy, ADFG
Sue Salvesson, NMFS-AKR
Ken Griffin, ADFG

Bill Karp, NMFS-AFSC
Jay Ginter, NMFS-AKR
John Lepore, NMFS-AKR
Kim Rivera, NMFS-AKR
Sally Bibb, NMFS-AKR
Lewis Queirolo, NMFS-AFSC
Grant Thompson, NMFS-AFSC

Scientific and Statistical Committee

Keith Criddle, Chair
Jim Balsiger
Seth Macinko for Doug Eggers
Doug Larson
Sue Hills

Jack Tagart, Vice Chair
Phil Rigby
Terry Quinn
Al Tyler
Hal Weeks

Advisory Panel

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

Stephanie Madsen, Vice Chair
Kris Fanning
Dave Fraser
Arne Fuglvog
Justine Gundersen
Scott Highleyman
Spike Jones
John Lewis

Pete Maloney
Hazel Nelson
Dean Paddock
John Roos
John Sevier
Robert Wurm
Lyle Yeck

Other Attendees

The following people signed the attendance register:

Capt. Vince O'Shea
Steve Hughes
Shari Gross
Brian Bigler
Gary Stock
LCDR Michael Cerne
Kevin Thurston
Thorn Smith
Denby Lloyd
Bill Atkinson
Steve Toomey
Vince Curry
Frank Kelty
Jack Nichol
John Henderschedt

Kris Norosz
Bob Mikol
Paul Seaton
Thor Olsen
Mary Stadum
Ed Glotfelty
Sinclair Wilt
Michael Galginaitis
Joe Kyle
Denise Fredette
Beth Stewart
Lisa Polito
Steve Grabacki
Jerry Nelson
Kenneth Adams

Phillip Lestenkof
Frank O'Hara
Norman Cohen
Michael Lake
Dick Bower
Don Malcolm
Chuck Hagan
Liz Cabrera
Jeff Stephan
Joe Plesha
Mark Kandianis
John Iani
Gordon Blue
Steve Fogg
Melanie Gundersen

Dwain A. Foster, Sr.
Freg Fisk
Larry Cotter
Debby Swenson
Wilbur McClashon
Karl Ohls
Suzanne Sanford
Brent Paine

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

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. Next will be a section for discussion and motions on the subject. Finally, there will be a brief summary of actions taken, unless there is only one action and it is self-explanatory.

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

Chairman Lauber called to meeting to order at 8:19 a.m. on Wednesday, April 17, 1996. The agenda was approved as printed.

Draft minutes from the December 1995 and January 1996 meetings were available for approval, however because of time constraints the Council did not consider them.

B. REPORTS

Written reports included: Executive Director's Report (Agenda item B-1), Domestic Fisheries Report by Alaska Department of Fish and Game (Agenda item B-2), National Marine Fisheries Report on groundfish fisheries, current amendments, and regulations in progress (Agenda item B-3), Enforcement Report by the United States Coast Guard (Agenda item B-4), and an update on 1995 Sablefish/Halibut IFQ fisheries and activities of the IFQ Research Planning Team (Agenda item B-5). Steve Meyer provided an oral report on NMFS Enforcement Activities (Agenda item B-4). In addition, Ambassador Dave Colson briefed the Council on international fishery issues and Bruce Turris, Department of Fisheries and Oceans, British Columbia, provided a overview of limited entry programs in Canada. LCDR Mike Cerne, USCG, provided a presentation on the activities of the North Pacific Regional Fisheries Training Center in Kodiak.

The Council also heard from U.S. Senator Patty Murray (WA), via teleconference, regarding Magnuson Act reauthorization issues.

Dr. Terry Quinn, University of Alaska, Southeast, addressed the Council regarding a proposed University of Alaska wing at the new NMFS Auke Cape regional fisheries facility. Council members agreed to send a letter to Senator Ted Stevens in support of the wing and urge his help in providing funding.

DISCUSSION/MOTIONS

Scallop FMP. NMFS Regional Director Steve Pennoyer advised Council members that NMFS is working to develop the amendment and moratorium for the Scallop Fishery Management Plan adopted by the Council, however, it is not likely they can both be completed by August 29 when the current closure expires. He advised that they will give priority to the plan amendment for Federal management first, and follow with the moratorium regulations, which would probably go into effect sometime in 1997. Mr. Pennoyer asked for Council concurrence with this course of action.

Dave Benton moved to adopt the recommendations of NMFS with regard to the scallop fishery. The motion was seconded by Wally Pereyra and carried without objection.

VIP Rates. The Council was advised that the bycatch rate standards for halibut and crab in the trawl fisheries under the vessel incentive program (VIP) for the second half of 1996 are scheduled to be published in the *Federal Register* by July 1, 1996. A review of recent bycatch rates indicates that a changes are not warranted and NMFS will publish the Council's previously adopt rates unless otherwise directed. The Council took no action on this subject.

C. NEW AND CONTINUING BUSINESS

C-1(a) BSAI Pacific Cod Allocations

ACTION REQUIRED

Initial review of gear allocation analysis (proposed Amendment 46) - includes CV/CP split for trawl apportionment

BACKGROUND

Amendment 24, adopted by the Council in 1993, and implemented for the years 1994, 1995, and 1996, allocates the BSAI Pacific cod TAC between trawl gear (54%), fixed gear (44%), and jig gear (2%). Because this amendment sunsets at the end of this year, the Council initiated an analysis of a new plan amendment to continue these allocations for an additional three years, with potential changes in the percentages allocated to trawl gear and fixed gear (jig gear would remain at 2%). The amendment also includes a potential further split of the trawl gear apportionment between catcher vessels and catcher/processor vessels. More specifically, the following alternatives were identified:

- 1. No Action - the allocations would expire at the end of 1996.**
- 2. The existing split of 54%/44%/2% (trawl/fixed gear/jig gear)**
- 3. The reciprocal, or 44%/54%/2% (trawl/fixed gear/jig gear)**
- 4. A 69%/29%/2% (trawl/fixed gear/jig gear) split**
- 5. A 59%/39%/2% (trawl/fixed gear/jig gear) split**
- 6. A 39%/59%/2% (trawl/fixed gear/jig gear) split**
- 7. A 29%/69%/2% (trawl/fixed gear/jig gear) split**

The Council also identified the suboptions of further dividing the trawl apportionment 60%/40% (and the reciprocal 40/60) between catcher and catcher/processor vessels. In developing these alternatives the Council also articulated the following Problem Statement for Amendment 46:

The Bering Sea/Aleutian Islands Pacific cod fishery continues to manifest many of the problems that led the NPFMC to adopt Amendment 24 in 1993. These problems include

compressed fishing seasons, periods of high bycatch, waste of resource, and new entrants competing for the resource due to crossovers allowed under the NPFMC's Moratorium Program. Since the apportionment of BSAI cod TAC between fixed gear, jig, and trawl gear was implemented on January 1, 1994, when Amendment 24 went into effect, the trawl, jig, and fixed gear components have harvested the TAC with demonstrably differing levels of PSC mortality, discards, and bycatch of non-target species. Management measures are needed to ensure that the cod TAC is harvested in a manner which reduces discards in the target fisheries, reduces PSC mortality, reduces non-target bycatch of cod and other groundfish species, takes into account the social and economic aspects of variable allocations and addresses impacts of the fishery on habitat. In addition, the amendment will continue to promote stability in the fishery as the NPFMC continues on the path towards comprehensive rationalization.

The Draft EA/RIR/IRFA for this action was completed just prior to this meeting and will be presented by Council staff. The document will need to go out for public review by May 10 in order to allow a 30-day public comment period prior to a final decision by the Council at the June meeting. We will have a few weeks after this meeting to finalize the document in response to Council review.

Item C-1(a)(1) contains correspondence received on this issue.

Report of the Scientific and Statistical Committee

The SSC did not have adequate time to review the analysis and determine whether it is adequate for release to public review. They reiterated their advice from December and January that time and data limitations preclude the development of a quantitative analysis of net national benefits sufficient to provide a basis for choosing between alternative allocation splits. In addition, the SSC had several specific concerns and recommendations which are detailed in the SSC Minutes, Appendix II to these minutes.

Report of the Advisory Panel

The AP recommended the analysis be released for public review after deleting the more extreme options, 4-7. They also recommended that the trawl apportionment option be based on a 3-year historical total catch and requested that staff incorporate anecdotal information regarding the pot fleet's participation and harvest ability to date in the 1996 Pacific cod fishery and a discussion of the disposition of any halibut PSC not utilized by an allocation of Pacific cod. The AP recommended the analysis be sent out for public comment as soon as possible. They also requested that the Council form a group of fishermen and processors to negotiate percentages of allocation before the June Council meeting.

DISCUSSION/ACTION

Bob Mace moved to adopt the recommendations of the Advisory Panel with regard to the analysis of BSAI Pacific cod allocations, adding options to consider splits of 60/40 and 40/60 between catcher processors and catcher vessels, respectively. The motion was seconded by Wally Pereyra.

Mr. Mace clarified that he was including all AP recommendations in the motion, however Council members agreed with a recommendation from Linda Behnken to address the issue of the negotiating committee separately.

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Clem Tillion moved to amend to include options 5 and 6 in the public review document (59/39/2 and its reciprocal). The motion was seconded and carried, 10 to 1, with Mace voting no. Council members stressed that they do not wish a sunset date associated with this action.

Council members requested that the analysis include discussions of possible impacts of the allocations if full retention and/or full utilization regulations are implemented, impacts of the allocations on shorebased operations, and on how halibut savings would be handled.

The main motion, as amended, carried unanimously on a roll call vote.

Industry Negotiating Committee

Council members recommended the following industry sectors be considered for inclusion on the proposed committee: freezer/longliner; catcher longliner, pot fishing vessel; factory trawler, shoreside delivery trawler, mothership delivery trawl vessel, and shoreside processor.

SUMMARY

The Council reviewed a draft analysis of the alternatives for BSAI Pacific cod allocations which were identified last December. After public testimony and recommendations from the SSC and AP, the Council identified the following alternatives for release to public review:

1. No Action - the allocations would expire at the end of 1996.
2. The existing split of 54%/44%/2% (trawl/fixed gear/jig gear).
3. The reciprocal, or 44%/54%/2% (trawl/fixed gear/jig gear).
4. A 59%/39%/2% (trawl/fixed gear/jig gear) split.
5. A 39%/59%/2% (trawl/fixed gear/jig gear) split.
6. A 49%/49%/2% (trawl/fixed gear/jig gear) split.

The Council also identified the suboptions of further dividing the trawl apportionment 60%/40% (and the reciprocal 40/60) between catcher and catcher/processor vessels, as well as including the three-year historical split between these two sectors. The three-year historical split is 45/55 between catcher vessels and catcher processors. Following a recommendation from the Advisory Panel, the Council asked the Chairman to appoint a committee of industry representatives to meet before the June Council meeting to discuss and determine whether agreement is possible on a specific allocational split.

C-1(b) Ban on Night Trawling

ACTION REQUIRED

Review previous reports on this issue and provide further direction.

BACKGROUND

At its last meeting the Council indicated that it wished to re-examine the issue of a ban on night trawling for cod as a means to reduce halibut bycatch in that fishery. A proposal to ban night trawling was discussed by the Council in 1993, and they decided not to proceed with such a ban. A discussion paper April 1993 on this issue is included here as Item C-1(b)(1). Although studies to date indicate that halibut bycatch rates in the cod fisheries are higher at night, and some savings could be expected, the

Council did not proceed with the proposal, primarily because of enforcement concerns. Item C-1(b)(2) is a copy of the 1993 letter from NMFS Enforcement Division, which outlines the reasons for their advice that such a ban would be unenforceable.

Item C-1(b)(3) is a recent letter from the IPHC (dated April 2, 1996) which addresses the Council's current considerations of this proposal. They reiterate the earlier findings that cod come off the bottom at night, and that a cessation of night trawling would reduce bycatch of halibut and crab, perhaps as much as 15%, and increase the CPUE for cod. However, they also note the potential implementation problems with this proposal; in addition to enforceability, they cite the difficulties associated with very short daylight hours during much of the year, and the potential allocative implications of increased cod catches associated with this proposal. Their letter requests that the Council weigh the possible benefits of this program against the benefits of alternative programs such as the VBA proposal.

Item C-1(b)(4) is a copy of the report from the IPHC concerning differences in bycatch rates between day and night trawling.

Report of the Scientific and Statistical Committee

The SSC pointed out that there has been no new analysis of the issue since it was last considered by the Council in 1993 but that it appears that previously articulated concerns about enforcement are still relevant and that other mechanisms are available for achieving the goal of bycatch reduction. They also pointed out that the previous analysis was based on a relatively small number of tows in 1990 and it would now be possible to use observer data to address the issue with the benefit of a much larger data base.

Report of the Advisory Panel

The AP recommended that the Council direct staff to proceed with an analysis of a ban on night trawling for Pacific cod and development of an amendment. They suggested that the analysis should include an evaluation of a check-in requirement declaring the directed fishery for a vessel and that a range of options should be included for determining start/stop times. The AP further recommended the formation of an industry group (trawlers) to develop elements of a plan; NMFS enforcement should be included in the group. The AP received a status report on trawl mesh regulations and requested the Council to encourage NMFS to work with an industry trawl committee to resolve outstanding issues related to the physical definition of a codend, as well as enforcement problems related to the directed fishing standards. The AP also requested that the Council initiate consideration of a check-in requirement to ease these concerns.

DISCUSSION/MOTIONS

The Executive Director pointed out that there is no staff available at this time to work on a new analysis for a possible ban on night trawling for BSAI Pacific cod. NMFS indicated they will begin gathering information and data, including enforcement issues, for Council discussion in June.

Wally Pereyra moved to table this agenda item until the June Council meeting. At that time the Council will have a better opportunity to review the issue in light of information expected on a vessel bycatch program. The motion was seconded and carried without objection.

SUMMARY - Consideration of this issue postponed until June.

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C-2 Crab Bycatch Issues

ACTION REQUIRED

- (a) NMFS report on crab bycatch in the Gulf of Alaska.
- (b) Report of Board of Fisheries activities.
- (c) Report from the Crab Rebuilding Committee.
- (d) Initial review of analysis on crab caps and closures in Bristol Bay.

BACKGROUND

Gulf of Alaska Crab Bycatch

In January 1996, the Council requested that NMFS provide crab bycatch data from the Gulf of Alaska groundfish fisheries to assess whether or not bycatch management measures for the GOA may be necessary. The current crab bycatch management measures in the Gulf include trawl closure areas to protect red king crab habitat around Kodiak Island. NMFS will provide a handout of GOA crab bycatch numbers during the meeting.

Board of Fisheries Activities

The Board of Fisheries (BOF) met in March to review statewide crab issues. The BOF adopted the following measures for Bering Sea crab fisheries:

1. new gear restrictions (escape rings or minimum mesh size) for brown king crab, Tanner crab, and snow crab fisheries;
2. regulations mandating that pots used in the Adak/Dutch Harbor area (combined to form Aleutian Islands king crab registration area) be longlined as a way to reduce lost pots;
3. changes to season opening dates (September 1 for Aleutians brown king crab) and closing dates (EO for St. Matthew king crab rather than fixed date);
4. changes regarding landing provisions and delivery times, pot storage areas, and tank inspection times.

The BOF also passed a resolution urging the NPFMC to close the Red King Crab Savings Area year-round to non-pelagic trawling, and to close all nearshore areas east of 162°W in the eastern Bristol Bay area to all trawling. Additional information on Board of Fisheries activities is included in the State Management Report (Tab B-2).

Crab Rebuilding Committee Report

In January 1995, the Council established a committee composed of members of the BSAI groundfish and crab plan teams to develop a rebuilding plan for the Bering Sea crab stocks. The Committee met for two days in 1995 and again on April 4-5, 1996. The minutes from the latter meeting are attached as Item C-2(a). The focus of the meeting was to review the EA/RIR on proposed crab bycatch management measures. Additionally, the Committee has prepared a Terms of Reference to define the Committee's membership, organization, focus, and function. The Council needs to review these terms and provide guidance to the Committee on developing the rebuilding plan. Council member/Committee Chair Dave Fluharty and staff coordinator Dave Witherell will summarize the Committee's report and provide the Committee's recommendations on the EA/RIR.

Initial Review of Proposed Crab Bycatch Management Measures

In January, the Council identified three potential management measures for the current crab bycatch management regime for Bering Sea trawl fisheries. Specifically, these management measures are:

1. **Revise the trawl closure time period for the Bristol Bay Red King Crab Savings Area,**
2. **Modify existing crab PSC bycatch limits, and initiate bycatch limits for snow crab, and**
3. **Establish a trawl closure area in nearshore waters of Bristol Bay.**

A draft Environmental Assessment/Regulatory Impact Review for these management measures was distributed on March 28, 1996. The executive summary is attached as Item C-2(b). The analysis was also reviewed by the crab plan team, and their recommendations are included in their minutes (Item C-2(c)). Staff will provide a presentation of alternatives and analysis at the meeting.

Note that management measure 1 examines changing the closure duration for the Bristol Bay Red King Crab Savings Area. The Council previously adopted a January 1 to March 31 closure for Amendment 37 in September, 1995. Though the amendment has not been sent to Secretarial review, it does represent a Council final action, and thus is considered status quo. No additional action would be required if the Council keeps these dates as the preferred option. If a change in closure duration is desired, the Council in June would need to rescind their previous action (by majority vote) before making a motion to modify Amendment 37. At this meeting, the Council will examine the analysis and consider releasing it for public review. Final action could be taken in June.

Management measures 2 and 3 are proposed as a separate amendment, tentatively identified as Amendment 41. The suite of management measures has been examined together in one package, so that the impacts of these proposed measures can be analyzed comprehensively. At this meeting, the Council will make an initial review of the document, and consider releasing it for public review. Final action could be taken in June. If adopted and approved, management measures would be implemented in January 1997.

Report of the Scientific and Statistical Committee

The SSC commended the analysts on the draft EA/RIR for proposed Amendment 41 and the additional analysis of the Red King Crab Savings Area, Amendment 37, noting that as a single package the documents provide a more comprehensive analysis of three possible management actions to protect Bering Sea crab. The SSC also noted that their concerns with the initial analysis for Amendment 41 have all been dealt with and additional sections on background and management measures have been developed. The SSC recommended the analysis be released for public review. Additional SSC comments with regard to the alternatives are found in the SSC Minutes, Appendix II to these minutes. The SSC also recommended that the Crab Rebuilding Committee be tasked with a examination of a comprehensive treatment of bycatch control measures involving time-area closures.

Report of the Advisory Panel

The AP recommended that the Council send out the EA/RIR for public review with the following changes:

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Bristol Bay Red King Crab Savings Area

1. Add Alternative 2, Option C: closure from January 1 to August 1.
2. Add Alternative 2, Option D: close area based on modified version of the old pot sanctuary.
 - Boundaries of the closure would close all waters in the Bering Sea east of a line originating at Cape Constantine, extending to 58°10' N, 160°W to 57°10'N, 163°W to 56°30'N, 163°W to 56°30'N, 164°W, then south to 56°N. After April 1, this closure would extend south to the Alaska Peninsula.
 - This option would require 100% observer coverage for fishing north of 58° and east of 162° and would be limited to May and June (see attached chart).
 - Further, the area between 163° and 164° between 56°30' and 57°00' would not open until April 1 and would be closed upon reaching a red king crab cap in a range of 5,000 to 15,000 red king crab. (Note this alternative deals with both Bristol Bay Red King Crab Savings Area and the nearshore Bristol Bay Trawl Closure Area.)

PSC Caps

- a.) Alternative 3: reduce the lower end of Tanner crab caps to .10.
- b.) Alternative 3: reduce the lower end of red king crab caps to .10.
- c.) Alternative 2: range of 1.5 - 2.1 million in Zone 2.
- d.) Alternative 2: add Option C — 6 million opilio PSC cap.

Nearshore Bristol Bay Trawl Closure Area

1. Alternative 5, Option A: allow fishing north of 58° and east of 160° to 159° as recommended by crab rebuilding committee. This option requires 100% observer coverage.

Additionally, the AP recommended that the Council include in the analysis:

1. Recision of trawl exemption area of Port Moller, as described by the Crab Rebuilding Committee.
2. Based on trawl survey, plot species that correlate with crab habitat as identified in the EA/RIR.
3. Economic analysis should examine impacts of different TACs for pollock and other groundfish.
4. Model run to combine all three actions: crab savings area, critical habitat areas, and caps.
5. Plot highest CPUE of yellowfin sole by block, by month.
6. Chart to include all closed areas identified in Appendix 5, page 177, for the Bering Sea/Aleutian Islands and Gulf of Alaska, as well as closures in state waters.

The AP also expressed concern about the impacts of different types of fishing gear on habitat and unobserved mortality and encourages the Crab Rebuilding Committee and Crab Plan Team to pursue research in these areas.

Report of the Crab Rebuilding Committee

Dr. Fluharty summarized a comprehensive written report of Committee activities. (See Appendix III to these minutes for the written report.) The Committee had the following recommendations with regard to the analyses for crab bycatch measures:

Measure 1: Revise time Period for Bristol Bay red King Crab Savings Area

-If the Council's objective was to reduce mortality on softshell crab, a closure through July 1 would provide more protection. However, a year-round closure to bottom trawling could be justified as a way to protect habitat and reduce unobserved mortality. Regardless of what option is chosen, closure areas should be re-evaluated on a regular basis because crab abundance and distribution change over time.

-A full economic analysis of tradeoffs among crab and groundfish fisheries should be performed if possible when data become available.

Measure 2: Modify Existing Crab PSC Bycatch Limits

-The problem statement and list of alternatives should be presented separately for each crab species.

-Alternative 3 would have fewer problems if PSC limits were based on survey abundance of large crab rather than the total index of all size groups.

-The analysis provides sufficient information for industry representatives to negotiate bycatch limits.

Measure 3: A Trawl Closure Area in Nearshore Bristol Bay

-It would be prudent to prohibit trawling from areas containing juvenile king crab habitat.

-The area between 159° and 160°W, and north of 58°N should be included as a suboption to continue trawling in this area.

-The regulation allowing trawling for Pacific cod off Port Moller should be repealed given new information on juvenile habitat and red king crab stock status. The required regulatory amendment language could be rolled into the EA/RIR for Amendment 41.

The Committee also asked for further guidance from the Council regarding their Terms of Reference, how the rebuilding plan should be approached, whether industry should be involved in the committee process, and whether the Committee should examine GOA crab stocks.

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Report on Board of Fisheries Activities

Ken Griffin, ADF&G, and Dick Bower, Alaska Board (Board) of Fisheries member, briefed the Council on recent Board actions with regard to the crab fisheries, including BSAI crab regulations dealing with district/registration area boundary changes, the Adak king and Tanner crab season, closed waters, gear modifications, tank check and delivery times, pot storage, and the observer program. The Board also established a Bristol Bay red king crab harvest strategy with a threshold of 8.4 million mature female crabs, and an effective spawning biomass of 14.5 million pounds threshold. The mature male harvest rate will be 10% when the population is above threshold and the effective spawning biomass is below 55 million pounds, and 15% when the effective spawning biomass is above 55 million pounds. The Board also asked ADF&G to analyze a size limit reduction from 6.5 to 6 inches in an effort to reduce handling of non-target crabs during the Bristol Bay red king crab fishery. In addition, the Board passed a resolution urging the Council to close the Bristol Bay Red King Crab Savings Area year-round to non-pelagic trawling and to close all nearshore areas east of 162° in the eastern Bristol Bay area to all trawling.

Report of the BSAI Crab Plan Team

Ken Griffin reported the following recommendations of the BSAI Crab Plan Team:

The Team recommended that the Council adopt Alternative 2, Option B, for a year-round closure in the Bristol Bay Red King Crab Savings Area. Because crab distribution may change over time, the Team also recommended that they monitor distribution as part of their regular SAFE review, such that the closure area could be altered or even eliminated if and when the situation changes. Regarding crab bycatch limits, the Team concluded that for Alternative 3 for PSC limits, there would be fewer problems if the PSC limits were based on the survey abundance of large crab. The Team also agreed that bycatch numbers should be negotiated by industry representatives, as scientists can only provide some of the information required for allocative evaluations.

DISCUSSION/MOTIONS

Crab Bycatch in the Gulf of Alaska. NMFS provided the Council with crab bycatch data from the Gulf of Alaska groundfish fisheries to assess whether or not additional bycatch management measures for the GOA may be necessary.

Earl Krygier moved to table this agenda item until the December meeting. ADF&G will meet with industry and gather more information from NMFS on sex and size and provide a report to the Council with recommendations on possible rebuilding schemes. The motion was seconded and carried without objection.

It had been suggested that the Crab Rebuilding Committee could address the issue of crab bycatch in the GOA groundfish fisheries; however, Committee Chair Dr. Fluharty indicated that the Committee is focusing on Bering Sea issues at this time and may not be able to address the Gulf of Alaska in the near future. He noted, however, that findings from the BSAI crab study may have management implications for GOA crab stocks.

Initial Review of Analysis on Crab Caps and Closures in Bristol Bay

Council members asked staff if the additions suggested by the Advisory Panel could be accomplished in time for the document to be released to public review. Staff indicated that most could be accomplished except that the alternative areas suggested by the AP and Dave Fraser would be a little more difficult to analyze and may have to be treated in a more qualitative manner because model runs couldn't be accomplished in the available time.

Bob Mace moved to adopt the AP recommendations with regard to the Bristol Bay red king crab closure, and the nearshore Bristol Bay trawl closure, modified by the recommendations offered by the American Factory Trawlers (AFTA). The motion was seconded by Linda Behnken and carried without objection.

The recommendations for analysis for the northern Bristol Bay closures made by AFTA during public comment were as follows:

The area north of 58°43'N and east of 162°W would be closed to trawling on a year-round basis. The area north of 58°N and east of 162°W exclusive of the area closed year round (as described above), will be open to trawling during the period of April 1 to June 15 each year. One hundred percent observer coverage is to be mandated for trawling north of 58°N and east of 162°W.

By friendly amendment the motion was altered to include a discussion of indexing caps.

Dave Fluharty indicated that some language should be included to show Council intent to continuously review closures so they could be discontinued when no longer necessary.

Robin Samuelsen asked for a report from U.S. Fish and Wildlife at the June meeting on the status of stocks for seals and birds in the Togiak Wildlife Refuge. Staff indicated the analysis will be sent to the Wildlife Service with a request for comments on those specific issues.

With regard to the Crab Rebuilding Committee, Council members will review the Committee's Terms of Reference and provide further direction, possibly at the June meeting, time permitting. It was decided there is no need for a Committee meeting between now and the June Council meeting.

SUMMARY

The Council reviewed the draft Environmental Assessment/Regulatory Impact Review (EA/RIR) for three potential management measures to address crab bycatch in the Bering Sea/Aleutian Islands, and released it for public review with several modifications suggested by the Advisory Panel. Modifications include the addition of two closure options that would continue to allow trawling in a portion of northern Bristol Bay, a 7-month closure for the Red King Crab Savings Area, options for further reduced PSC caps, and rescission of the trawl exemption area off Port Moller. Final action is scheduled for the June meeting. If adopted and approved, management measures would be implemented in January 1997. The Council also took reports and recommendations from the Crab Rebuilding Committee and Crab Plan Team regarding the Environmental Assessment/Regulatory Impact Review. Recent actions taken by the Alaska Board of Fisheries on conservation and management of BSAI crab stocks were summarized.

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C-3 Observer Program

ACTION REQUIRED

- (a) **Receive Report on Draft Statement of Work (SOW) for 'Third Party' Program and EA/RIR to repeal Research Plan and establish Third Party Program.**
- (b) **Receive report of Observer Advisory Committee.**
- (c) **Final action on EA/RIR and comments on SOW.**

BACKGROUND

In December 1995 the Council voted to repeal the fee-based Research Plan and initiate development of a modified pay-as-you-go Observer Program utilizing a third party 'Prime' contractor as an interface between observer contracting companies and vessels/plants required to carry observers. The Council's motion is included for reference as Item C-3(a). It is likely that such a system will not be fully in place until mid-1997, while the Plan language requiring observer coverage in the groundfish fisheries will expire at the end of 1996. Therefore, the Council needs to take final action at this meeting in order to have a replacement program in place at the beginning of 1997. Basically, this Plan Amendment will re-establish existing observer requirements, while including the flexibility to incorporate the third party 'Prime' contractor in mid-1997.

The SOW and the EA/RIR were mailed to you last week and will be presented at this meeting by NMFS staff. In addition to taking action on the EA/RIR (plan amendments), the Council will be reviewing and providing comment on the draft SOW. The comment period on this SOW ends on April 22, after which time NMFS will re-issue it as a Request for Proposals (RFP). Selection of the Prime contractor could occur this fall - allowing for start-up time, the new program probably would not be fully operational until mid-1997.

The Council's Observer Advisory Committee (OAC) met on March 28-29 in Seattle to review the same documents and provide recommendations to the Council. Their report, which includes specific recommendations on the SOW, is included as Item C-3(b), and will be presented by OAC Chair Chris Blackburn. Part of the Council's motion from December included development of alternatives to address the disproportionately high costs that burden some smaller operations (as percentage of gross revenues from groundfish) under a pay-as-you-go program. This plan amendment does not directly address that issue, and more time will be needed to research the viability of the alternatives posed to date. It is uncertain whether this issue can be addressed in time for 1997 implementation.

Comments received on this issue are under Item C-3(c). Item C-3(d) is a letter and information from NMFS regarding the refund process for fees collected under the Research Plan.

Report of the Scientific and Statistical Committee

The SSC stressed that the most important issue is to ensure that current collection of data does not stop after 1996. In previous reports, the SSC has indicated that either the Research Plan or Modified Pay-As-You-Go (PAYG) would solve problems found in the current PAYG system. During this meeting the SSC was advised that there is great uncertainty in what observer costs and compensation would be under the Modified PAYG system and that ADF&G and NMFS have not yet developed a unified approach to utilizing observers. Another problem is that the observer costs under the modified program are not likely to be known until the bid process

is completed. Resolution of some of these uncertainties may be helpful before the Council gives final approval to a modified plan and may require the Council to stay with the current PAYG plan for one more year. The SSC reiterated that the current system is flawed and movement toward a new system is urgently needed.

Report of the Advisory Panel

The AP recommends extending the existing Observer Program for one year until a final decision on a replacement plan can be made. Funds collected for the start-up of the Research Plan should be returned. The AP further requested that the Observer Advisory Committee continue to attempt to identify the total cost of a the third-party program and any additional programs, and any mitigation measures for reducing the impact of the third-party plan on 30% vessels. The results of these efforts should be incorporated into the analysis in addition to an updated evaluation of labor costs under the Research plan.

DISCUSSION/MOTIONS

Linda Behnken moved that the Council adopt an interim observer program that provides authority for mandatory groundfish observer requirements beyond 1996. The interim program will be a rollover of the existing program that incorporates implementable improvements recommended by the staff. This interim program will remain effective until December 31, 1997 or until a long-term program that addresses concerns about observer data integrity, equitable distribution of costs, observer working conditions, and other concerns raised by the Observer Advisory Committee, is adopted and approved by the Secretary, whichever comes first. (However, the Council may roll over the interim program until the final program is implemented.) During this time, staff will assess the potential costs and benefits of alternative long term observer programs (the Research Plan, the third party contract alternative, or other alternatives) and fully develop the draft analysis comparing these alternatives. At its June or September 1996 meeting, and after review by the Observer Advisory Committee, the Council will take action on a long-term observer program that addresses the concerns that gave rise to the Research Plan.

The following "Proposed Changes to Current Observer Regulations that Would be Implemented Under an Interim Observer Program-FMP Amendments 47/47/6" submitted by NMFS were approved as part of the motion:

- 1. Observer coverage requirements would apply to vessels issued a Federal fisheries permit and processors issued a Federal processor permit. Fishing operations by these vessels and processors in Federal and State waters would be subject to Federal observer coverage requirements. Under the Research Plan, Federal observer coverage requirements only could be applied to fisheries in Federal waters.**
- 2. Current observer coverage requirements for vessel and shoreside processors would remain unchanged in regulations.**
- 3. A waiver provision from observer coverage requirements would be added to regulations that is similar to the provision currently stipulated by the State of Alaska. This provision would allow the Regional Director to waive a vessel or processor coverage requirement if the observer is unavailable**

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despite the good faith effort of the vessel operator or shoreside processor manager and for a reason which is totally beyond the control of the vessel or processor.

- 4. Similar to the Research Plan, the Regional Director could make inseason adjustments in observer coverage requirements. Any inseason adjustment would be based on specified findings (unchanged from the Research Plan) and be implemented using the procedure for inseason adjustments at 50 CFR part 672.22(c). Similar to the Research Plan, any inseason adjustment to observer coverage requirements would be published in the Federal Register at least 10 calendar days prior to the effective date.**
- 5. Vessels and shoreside processor responsibilities would remain unchanged except that they would be required to provide facilities necessary for observer sampling to be safely conducted with sufficient space and access to catch.**
- 6. Criteria and procedure for the certification, suspension, and decertification of observers and NMFS-certified observer contractors would be set in regulations. The proposed criteria and procedures are essentially unchanged from the provision set out under the old Observer Plan, except that:**
 - a. Observer contractors must provide proof of insurance coverage that complies with the recommendations of the Council's Insurance Technical Committee. This coverage shall include the following provisions:**
 - (A) Maritime liability to cover "seamans" claims under the Jones Act and General Maritime Law;**
 - (B) Coverage under the U.S. Longshore and Harbor Workers Act;**
 - (C) States Workers Compensations as required; and**
 - (D) Contractual General liability.**
 - b. Observer contractors would be required to submit to NMFS periodic reports that could be used by the Agency to identify the ongoing ability of a company to meet the stipulated requirements of a certified contractor, e.g. payment of observers. NMFS will need to develop the specific reporting requirements necessary to meet the intent of this information collection, but requirements could include a compilation of specified financial information, observer deployment and deployment plans, observer salary payment schedules and amounts, other observer compensation information, and information on inappropriate requests from fishing companies for deployment of observers.**

The motion carried, with Pereyra objecting.

SUMMARY

Because the potential costs of a modified observer program cannot be accurately quantified at this time, the Council withheld final action on the modified program until those costs can be further defined. The Council requested that the agency continue towards resolution of these unknown cost questions and come back to the Council in September, at the earliest, with a more fully developed analysis of the modified program. At that time, the Council would determine the long-term management plan for the Observer Program. Although fees collected in 1995 under the Research Plan will be refunded in the near future, the Council has indicated that some type of

fee-based program, or some type of blend program utilizing both fees and direct payments, is not out of the question for the future. The Council did take final action to keep in place the existing pay-as-you-go observer program (with minor adjustments) through at least the end of 1997, or until replaced by a long-term program, whichever is earlier.

C-4 Sablefish & Halibut IFQs

ACTION REQUIRED

- (a) Final review of Amendment 43/43 to increase halibut and sablefish sweep-up limits.
- (b) Initial review of regulatory amendment to allow the use of pot longlines for sablefish in the Bering Sea and increase halibut use caps in the Bering Sea/Aleutian Islands.

BACKGROUND

(a) Final Review of Sweep-up Amendment 43/43

The Council is scheduled for final action on Amendment 43/43 to increase the current sweep-up limits of less than 1,000 lb for halibut IFQs and less than 3,000 lb for sablefish IFQs, based on 1994 TAC levels. Industry has reported that current sweep-up levels do not equal the harvest of a worthwhile fishing trip and has requested a moderate increase to provide economically "fishable" amounts, without overly increasing consolidation or creating large blocks. Further, fishermen report there is little market for small QS blocks because of the two-block cap. A moderate increase in the sweep-up levels could facilitate transfer of very small blocked QS to crewmen and small boat fishermen who seek to increase their holdings. Smaller blocks are reportedly available at relatively low price per pound and total price.

The EA/RIR for Amendment 43/43 was mailed to you on February 15, 1996. Three tables, revised from data recently provided by the RAM Division, are attached as Item C-4(a). Public comments are attached under Item C-4(b).

The following sweep-up levels are included in the analysis:

Alternative 1: Status quo.

- QS blocks less than 1,000 pounds of halibut can be combined as long as the resulting block does not contain QS that would equate to more than 1,000 pounds of IFQ at 1994 levels.
- QS blocks less than 3,000 pounds of sablefish can be combined as long as the resulting block does not contain QS that would equate to more than 3,000 pounds of IFQ at 1994 levels.

Alternative 2: Increase the halibut sweep-up levels under the Modified Block Program to:

- Option A. 3,000 lb.
- Option B. 5,000 lb.

Alternative 3: Increase the sablefish sweep-up levels under the Modified Block Program to:

- Option A. 5,000 lb.
- Option B. 7,000 lb.

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The analysis draws the following conclusions about potential consolidation and availability of QS under the various alternatives and options. These results should be considered as potential or hypothetical limits of consolidation; it is not expected that QS holders will optimally combine small shares into the exact sweep-up limits. For example, under the current sweep-up rule allowing blocked halibut QS to be combined into blocks less than 1,000 lb, 25% of current halibut blocks could have been combined. In actuality, less than 1% were combined in 1995.

Alternative 2 would allow halibut QS blocks to be combined into blocks equivalent to less than 3,000 lb under Option A or 5,000 lb under Option B. The 5,991 halibut QS blocks issued by RAM as of December 1995 could be consolidated by 25% to 4,489 blocks under the current sweep-up limit of 1,000 lb and the 1994 base year. Potential consolidation under Option A could be 44% to 3,340 blocks; Option B could consolidate blocks by 55% to 2,678. Raising the sweep-up level from Option A to Option B increases consolidation by 11%. Most consolidation occurs in Areas 2C, 3A, and 3B under all alternatives due to the small size of issued QS.

Alternative 3 would allow sablefish QS blocks to be combined into blocks of less than 5,000 lb under Option A or 7,000 lb under Option B. The 1,046 sablefish QS blocks could be consolidated by 39% to 853 blocks under the current sweep-up limit of 3,000 lb and the 1994 base year. Potential consolidation under Option A could be 49% to 718 blocks; Option B would consolidate blocks by 57% to 601. Raising the sweep-up level from Option A to Option B increases consolidation by 8%. Most consolidation occurs in the Central Gulf area under all alternatives.

In addition to raising the sweep-up levels, the Council may also revise sweep-up operational procedures in two ways. The Council may choose to update the current 1994 base year upon which the sweep-ups are calculated to 1996. The IFQ pounds associated with the sweep-up limits, originally based on 1994 TACs, change along with the annual TAC in each regulatory area and no longer equal the 1,000 lb halibut limit and 3,000 lb sablefish limit set in 1994 (e.g., 1,000 lb in 1994 in halibut Area 2C is equivalent to 772 lb in 1996). Updating the base year to 1996 increases halibut QS block consolidation to the actual sweep-up poundage chosen by the Council (e.g., 772 lb in Area 2C to 1,000 lb). This adds 255,131 lb to the 1,000 lb halibut sweep-up category and increases consolidation by 1% under all alternatives. For sablefish, 260,786 lb is added to the 3,000 lb category and increases consolidation by 3% under all alternatives.

The Council may also continue to specify the actual sweep-up pounds (status quo) by area in the IFQ regulations. While an issuee's QS are more or less fixed, the associated IFQs fluctuate according to the TAC. The Council could recommend that the QS units associated with the preferred sweep-up level (using either a 1994 or 1996 base year) be specified in the regulations and allow the associated pounds to fluctuate with the TAC. Or the Council could specify the preferred sweep-up pounds be fixed in the regulations and allow the associated QS units to fluctuate annually with the TAC. The NMFS RAM Division has indicated an annual calculation of either method is feasible.

(b) Initial Review of Sablefish Pot Longline and Halibut Use Cap Regulatory Amendment

In January 1996, the Council directed staff to prepare a draft analysis for two regulatory amendments: authorizing the use of pot longlines for sablefish in the Bering Sea, and increasing the QS use caps for halibut in the Bering Sea and Aleutian Islands. The analysis was mailed to you on April 5. If the Council decides to send the draft amendments out for public review, final action could be scheduled for June.

(1) Pot Longlines for Sablefish in the Bering Sea. This industry proposal was submitted primarily because of interactions with killer whales. The issue raises concern over competition with killer whales for the resource as well as the possibility of harmful gear interactions. The endangered short-tailed albatross also have been impacted by the sablefish longline fishery. The main concern expressed by industry, however, is depredation of hooked sablefish by killer whales, which makes fishing inefficient and may be precluding full attainment of the TAC. The fixed gear IFQ fishery in the Bering Sea was allocated 1,410,944 lb for the 1995 fishing year. Only 61% of the Total Allowable Catch (TAC) was taken, leaving over 400,000 lb of sablefish unharvested.

Pots, an alternative to hook-and-line gear, may be used, but not on longline gear because of a 1992 prohibition in the Bering Sea based on grounds preemption. Fishing practices under the sablefish IFQ

fishery may have mitigated the preemption problem because the fleet can spread out over the fishing grounds over the extended eight-month fishing season.

Under the proposed action, Bering Sea fishermen could switch from hook-and-line to pot longline gear to minimize killer whale and short-tailed albatross interactions and increase their ability to harvest their IFQs. Longline and pot longline gear may compete for prime sablefish grounds in areas not experiencing high predation by killer whales. Pot longline gear may also be fished in areas currently avoided by the longline fleet due to high killer whale activity. It appears likely, however, that the two gear groups may be well-separated on the fishing grounds. Hook-and-line longline landings in 1993 and 1994 were concentrated around the 200 m depth contour. Pot longlines may be fished at greater depths, between 350-800 m. However, even if the gears are fished at similar depths, the IFQ program allows for separation in space and time of the fishing vessels as a result of the end of derby-style fishing practices.

Proposed alternatives include:

Alternative 1: Status quo. Prohibit the use of pot longline gear in the Bering Sea.

Alternative 2: Allow the use of pot longline gear for sablefish in the Bering Sea:

Option A. by season:

- (i) the entire sablefish IFQ fishing season;
- (ii) *month? to month?*, when peak killer whale/sablefish H&L longline fishery interactions occur;
- (iii) August and November, when short-tailed albatross were taken by the sablefish H&L longline fleet;
- (iv) other.

Option B. by area:

- (i) the entire Bering Sea;
- (ii) Statistical Reporting Areas 517, 518, and 519, where peak killer whale/sablefish H&L longline fishery interactions occur;
- (iii) outside of a 15-mile buffer surrounding the 200 m depth contour;
- (iv) other.

Options A and B and their respective suboptions provide a range of seasons and areas for use of pot longlines to meet various objectives. Option A (i) is the most liberal for seasons: it would allow the use of pot longlines for the entire IFQ season in the Bering Sea, March 15 to November 15. Fishermen now using hook-and-line longline gear could choose to use pot longlines to reduce killer whale predation and seabird interactions, and thereby would most likely improve their efficiency in catching sablefish. They would not be required, however, to switch gears, and may not do so if the cost of rerigging to pot longlines is prohibitive. To the extent that fishermen would choose to switch to pot longlines, Option A (i) would provide for maximum reduction in interactions with killer whales and short-tailed albatross particularly as they occur throughout the year.

The Option B suboptions provide for various area closures to the use of pot longlines. Option B (i) is the most expansive and would allow fishermen to switch to pot longlines anywhere in the Bering Sea. This would allow for the most reduction in fishery interactions with killer whales and short-tailed albatross, particularly as they might occur outside areas identified in the remaining suboptions.

Options A (ii) and (iii) and B (ii) and (iii) would have similar, but reduced, effects. Because whales occupy the Bering sea year-round, it has been difficult to identify a period of peak fishery/killer whale interactions as would be provided under Option A (ii). Most reports of interactions have come in the summer months, but that simply may be an artifact of harvest activity being the highest then. The two months chosen under Option A (iii) coincide with months of reported takings of endangered seabirds, however, it may be expected that additional takings may occur in other months, but are unreported due

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to the difficulty in identification of seabirds by the industry and observers. Numerous other seabirds are known to be taken on longline gear throughout the fishing season.

Option B (ii) would offer much of the same benefits as Option B (i) since 89% of all Bering Sea sablefish landings are reported from the areas defined within Option B (ii). This alternative may offer some protection from competition for fishing grounds for those smaller vessels that may be unequipped to fish with pot longlines. Option B (iii) would similarly restrict pot longlines to certain geographic areas to limit gear interactions; however, a review of the fishing patterns of the sablefish longline fleet, other groundfish fisheries, and the depths at which sablefish pot longlines would be fished suggests that minimal gear conflicts would occur as a result of allowing the use of pot longlines in this fishery. Additionally, the extended eight-month IFQ season would spread the fleet out over area and time.

(2) Halibut Quota Share Use Caps in the Bering Sea/Aleutian Islands The second management action under Council consideration would relax halibut use caps for second generation QS holders in the Bering Sea/Aleutian Islands. Current regulations stipulate that halibut Area 4 use caps may not exceed ½ percent of the total amount of halibut QS for IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E, combined. The use caps are a result of the concern that an unrestricted market for QS could result in a few powerful interests controlling most of the landings and result in excessive decreases in the numbers of vessels and fishermen participating in the fixed gear halibut fishery.

Industry, however, reports that the current ½ percent cap for Area 4 is too low. The 1996 QS pool totals 33,002,937 QS units for Area 4. The ½ percent cap for all of Area 4 equals 165,015 QS units. Some fishermen have reported that this restriction does not allow them to purchase sufficient QS for a viable fishing trip in the BSAI. The cap amounted to 26,500 lb based on combined Area 4 1994 TACs and 23,610 lb based on 1995 and 1996 TACs. Most QS, however, is distributed among multiple areas, further exacerbating the problem of low use caps. Industry has reported that the ½ percent cap on new QS owners is insufficient to justify the expense of traveling to remote areas in the western Aleutian Islands and Bering Sea to harvest halibut. The status quo individual QS cap of 165,015 units converted to 1996 IFQ pounds by Area 4 is listed by subarea to the right.

<u>Area</u>	<u>1996 IFQ</u>
4A	21,573 lb
4B	32,813
4C	16,005
4D	18,980
4E	0

Proposed alternatives include:

Alternative 1. Status quo. Halibut QS use will be limited to ½ percent of the total amount of halibut QS for IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E, combined.

Alternative 2. Increase Halibut QS use of the total amount of halibut QS for IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E, combined to:

- Option A. 1.0 percent;
- Option B. 2.0 percent.

Alternative 2, Option A would allow an additional 32 QS holders (7% of the total) to increase their QS to the proposed 1 percent cap of 333,029 units. This alternative would allow the transfer of a theoretical maximum of 2,536,373 units to 32 currently capped QS holders to reach the higher 1 percent cap.

Alternative 2, Option B would allow an additional 50 QS holders (10% of the total) to increase their QS holdings to the 2 percent cap of 660,058 QS units. The theoretical maximum of QS units required to allow all 50 QS holders to reach the cap under this alternative exceeds the available QS units held by the remaining 509 QS holders under the current cap, so not all 50 could increase to the maximum amount allowed.

Area 4A is the only area with unblocked shares, totaling less than 12 million QS units. With the Area 4A 1996 TAC of 1,950,000 lb and QS_{pool}/IFQ ratio of 7.649, these QS units translate into 1,530,138 lb. At a reported ex-vessel price of \$2.20/lb, the value of the resource that may be transferred from small QS holders to large QS holders is approximately \$3.4 million. It is assumed that the current block restrictions would limit the transfer of blocked QS, although this may be slightly mitigated under proposed action to increase sweep-up limits.

Joint IPHC/NPFMC Meeting

At their January 1996 meeting, the International Pacific Halibut Commission requested to meet jointly with the Council to discuss halibut bycatch in the Alaskan groundfish fisheries. The Council accepted the invitation and has scheduled the joint meeting for Tuesday afternoon, June 11. This meeting will precede the start of the June Council meeting in Portland. Other topics that may be discussed include a commission staff report on Halibut Area 4 sub-area biomass calculations, a NMFS staff report on halibut grid-sorting, and an inter-agency report on the halibut and sablefish IFQ program. Item C-4(c) is a report from the Commission meeting.

Additional Materials

Item C-4(d) has two letters from Steve Pennoyer. The first is to the IFQ Implementation Team and concerns halibut landings by salmon trollers. The second is to the Council Chairman and concerns NMFS' decision not to allow emergency transfers of IFQs.

There was no SSC report on this agenda item.

Report of the Advisory Panel

Amendments 43: "Sweep-ups". The AP recommended adoption of Alternative 2, Option A, to increase halibut to 3,000 lbs and Alternative 3, Option A, to increase sablefish to 5,000 lbs. Both sweep-ups would be in 1996 quota share units that yield the appropriate poundage.

Sablefish Pot Longlines in Bering Sea/Halibut OS Use Caps in BSAI. The AP recommended that the analysis be sent out for public review with the following additions:

Sablefish pot longline issue: Add Option C: to allow the use of "C" class (under 60') catcher vessels sablefish quota shares in the Bering Sea when harvested with pot gear by a class "B" (over 60') vessel.

Halibut QS use caps in BSAI: Add a section describing the unused quota share in the Bering Sea.

DISCUSSION/MOTIONS

Amendment 43 - Sweep-Ups

Bob Mace moved that the Council adopt Alternative 2, Option A, to increase halibut sweep-ups to 3,000 lbs, and Alternative 3, Option A, to increase sablefish sweep-ups to 5,000 lbs. Both would be in the 1996 quota share units that yield the appropriate poundage. The motion was seconded by Linda Behnken and carried, 8 to 3, with Barker, Fluharty, and Pereyra voting against.

Ron Berg pointed out that current regulations are addressed in pounds; NMFS would like the regulations to reflect quota share units. Council members agreed that the regulations could be addressed in quota share units.

Dave Benton stressed that although he supports this action, he is concerned about the effect of consolidation on entry-level fishermen and crew members and suggested that the Council consider a future amendment to address breaking up the "swept-up" blocks under specific circumstances. Linda Behnken said that this issue has been

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discussed in the past and the general feeling is that it is unlikely that a quota share holder would want to sell off blocks smaller than the "swept-up" amount because the smaller the block, the less market value it has.

Pot Longlines for Bering Sea Sablefish/BSAI Halibut Use Caps

Linda Behnken moved to send out for public review the analysis of BSAI halibut quota share use caps, with the addition of a section describing the unused quota share in the Bering Sea as requested by the AP, and a table that shows the theoretical minimum, by area, for the two options, 1% or 2%. The motion was seconded by Bob Mace and carried without objection.

After discussion of the Bering Sea sablefish pot longline issue, Council members decided to take final action at this meeting because of conservation problems caused by the unaccounted take of sablefish from longlines by killer whales.

Linda Behnken moved to take final action at this meeting on the use of longline pots for sablefish in the Bering Sea, adopting Alternative 2, Option a(ii):

Allow the use of pot longline gear for sablefish in the Bering Sea. During the month of June the fishery would be hook and longline only; every other month would be open to both hook and longline and pot longline gear. The desire is to move forward as quickly as possible for a possible implementation in 1996.

The motion was seconded by Robin Samuelsen and carried 8 to 3, with Barker, O'Leary, and Pereyra voting against. Although the Council did not request an emergency rule, they did express the desire to have the amendment processed as quickly as possible.

The Council also discussed the IPHC's decision not to extend the halibut season to January in the Aleutian Islands area. This will mean that IFQ holders taking part in the winter sablefish fishery in the Aleutian Islands would not be able to retain halibut even though they have halibut IFQ. NMFS suggested that one way to handle this would be to calculate halibut bycatch against the Prohibited Species Catch limits rather than against the IFQ. It was determined that no action is required at this time to alter previous Council actions because the IPHC decision would override any Council action. It was also pointed out that the Council regulation has not yet been submitted for Secretarial review and can be changed to reflect the IPHC's decision.

SUMMARY

The Council approved new sweep-up levels of less than 3,000 lbs for halibut and less than 5,000 lbs for sablefish. The new sweep-up levels will be based on 1996 TACs and will be set in the quota share (QS) units equivalent to the new sweep-up poundage levels for each area. A regulatory amendment that authorizes the use of pot longlines for sablefish in the Bering Sea was also approved. Pot longline gear is already allowed in the Aleutian Islands and now would be allowed in the Bering Sea regulatory area for the entire IFQ season, except for the month of June. Prohibiting pot longline gear in June will minimize potential gear interactions with small boat hook-and-line longliners who may be unable to use pot gear because of safety concerns on their smaller vessels.

The Council also approved for public review a regulatory amendment to increase the Bering Sea halibut QS use caps. Options range from ½ percent (status quo) to 2 percent of the total amount of halibut QS for regulatory areas 4A, 4B, 4C, 4D, and 4E, combined. Final action is scheduled for June 1996.

C-5 Improved Retention and Utilization

ACTION REQUIRED

Receive progress report on analysis, review report of the IR/IU Committee, and provide guidance as necessary to analysts.

BACKGROUND

In December 1995 the Council reviewed preliminary analyses on the IR/IU program and finalized the alternatives for formal analysis. That list of alternatives is included as Item C-5(a). The preliminary analyses identified several implementation issues, for both the retention and utilization aspects of the program, which required further development and resolution. To assist in addressing these implementation issues the Council appointed a Committee with representation of the major industry and public sectors involved. As discussed by the Council at the January 1996 meeting, the Council would review the Committee's findings and then provide any necessary redirection to the analysts, with the intent of having an analysis completed for review in June and a final decision in September.

This Committee spent a total of five days, over two separate meetings, accomplishing significant resolution of many of these complex issues. Their report is contained under Item C-5(b), and will be summarized by Committee Chair Joe Kyle. Lead analyst on the project, Dr. Lew Queirolo, will present some of his preliminary findings to the Council and identify areas where he would like further guidance. The Council should be made aware of two particular issues which will affect the depth and scope of the analysis.

The first issue concerns the availability of economic data. As part of the Committee process, an information collection process was initiated to gather industry input on capacity indicators, processing through-put limits, capital investment requirements, market responses, and technological responses. Unfortunately this initiative had to be canceled because we lack OMB clearance. The analysis will have to make certain assumptions and will be somewhat less empirical as a result.

The other issue is that of allowing limited processing by catcher vessels - originally discussed when the Council approved its License Limitation program (with catcher and catcher/processor license designations), the Council decided to consider this issue in the context of the IR/IU initiative. A separate discussion paper relative to this issue was prepared for the December 1995 meeting, but time constraints did not allow the Council to address the implementation issues raised, or to provide further guidance for the analysts. Therefore, this issue is not included in the overall IR/IU analysis being prepared for the June 1996 meeting. However, it can be addressed subsequently, in a separate analysis, and still be resolved prior to 1998 implementation of the License Limitation program.

For reference, Item C-5(c) contains the preliminary analyses prepared by NMFS for the December 1995 meeting. Item C-5(d) contains correspondence received on this issue. Item C-5(e) summarizes recent proposed changes to the Magnuson Act that concern bycatch and waste reduction.

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

Report of the Advisory Panel

The AP recommended development of an EA/RIR for Improved Retention and Utilization for pollock, Pacific cod, rocksole and yellowfin sole, focusing on a species-based approach and issues and concerns contained in the IR/IU Committee report. Other recommendations for the analysis were: (1) include pollock, Pacific cod, shallow water flatfish and rex sole in the Gulf of Alaska; (2) identify as goals: (a) utilizing the resource for human

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consumption to the greatest extent possible, and (b) provide incentives for avoidance of unwanted and unmarketable catch. The AP felt that implementation should be as soon as possible, but no later than 1998 for pollock and Pacific cod with a 5-year phase-in beginning at 60% retention for the flatfish species. It is important that implementation be concurrent in the BSAI and GOA. The AP also recommended that the IR/TU Committee continue to meet and work on details as the analysis proceeds and the program develops.

Improved Retention/Improved Utilization Committee Report

The Council also received an extensive report and recommendations from the IR/TU Committee. A summary of their recommendations is attached to these minutes as Appendix IV.

DISCUSSION/MOTIONS

The Council discussed the specific recommendations of the IR/TU Committee and provided the analysts with direction on those specific issues, as follows:

Bleeding or dumping of codends. The Committee recommended that this practice should be prohibited in IR/TU regulated fisheries. They recommended that if bleeding is necessary to avoid placing a vessel in peril, each occurrence should be logged in the vessel's permanent record, along with a description of the extenuating circumstances necessitating the event. An estimate of the quantity and species composition of the groundfish should also be provided. Hook shaking and outright dumping of codends would be prohibited. **By consensus, the Council agreed with this recommendation.**

Retention Options. The Committee recommended that retention should be species-based and that the target-based retention options should be eliminated from further consideration.

Dave Benton moved to eliminate retention Option 1 (target-based retention) from further consideration. The motion was seconded by Linda Behnken and carried without objection.

Monitoring and Enforcement. The Committee pointed out that only a base level enforcement program is likely to be possible and stressed that because current observer requirements will be used for the purposes of the program, any additional observer requirements should be analyzed not in the context of this particular program, but in the context of all other fishery management programs and regulations.

Council members stressed the importance of some indication of the enforceability of the various alternatives in the analysis. NOAA General Counsel expressed concern over using PRRs for enforcement purposes. Mr. Benton suggested that current information on weighing at sea should at least be included in the document even though the Council already has a separate initiative in process for that kind of regulation.

Interaction with Regulatory Discards. The Committee concurred with the analyst's conclusion that Directed Fishing Standards (DFS) shall always supersede "retention" requirements and that when any of the four designated species is in a "bycatch only" status, as defined under DFS, then all catches of the designated species must be retained up to the specified bycatch amounts. When any of the four species is in "prohibited" status, under DFS, all catches of that (those) species must be discarded. Therefore, any apparent conflict between IR

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requirements to retain and DFS requirements to discard will be resolved by requiring retention to the maximum extent consistent with DFS discard requirements.

Essentially, Council members felt it important that the analysis address the overall question of regulatory discards, at least qualitatively, including an indication of what regulatory discards are, both directed fishing standards and PSC, and, if possible, some examples of the current system.

Contaminated or Damaged Fish. The Committee prefers an outright prohibition on discards, whether damaged or contaminated. Council members felt this subject is covered under the issue of regulatory discards and no further discussion was needed.

Defining Utilization. The Committee was divided on the fundamental policy question of whether utilization should be defined in terms of human consumption (Utilization Option 2), whether there should be limits on meal production (Option 3), or whether each operation should be allowed to define utilization in their own terms (Option 1). The Committee developed approaches to deal with whichever option is chosen by the Council (see the Committee's minutes, Appendix IV to these minutes).

Council members indicated that the information provided by the Committee and that already being developed by the analysts provide sufficient guidance at this time.

Potential Phase-in for Flatfish. The Committee discussed at length potential implementation problems for the flatfish species and recommended that the Council move as quickly as is feasible with IR/IU but weight the factors identified by the Committee which may impede effective implementation for some species, particularly flatfish. If these impediments will delay implementation, the Committee suggested a phase-in for the flatfish species over a period of two to five years, while retaining the 100% retention requirement for pollock and cod.

Dave Benton moved that an option be added to the analysis for a phase-in for flatfish species, specifically rock sole and yellowfin sole, and that the options include: (1) no phase-in; and (2) a two-year and five-year phase-in period with suboptions under each of those, beginning with 60% and graduating to 100% within the period of the phase-in. The motion was seconded by Linda Behnken and carried without objection. It was clarified that the phase in would begin in 1998, i.e., for the two-year phase-in, it would be 60% in 1998, 80% in 1999, and 100% at the beginning of the third year.

Later in the discussion Mr. Benton suggested that the Council also include an option for a delayed implementation for the flatfish species. Council members had no objection to adding the option.

Limited Processing Allowance for Catcher Vessels. Some Committee members feel that this issue should be dealt with as part of the package, not as a follow-up analysis, though the consensus of the Committee is that it could be dealt with separately and should not hold up the basic IR/IU program implementation. Of the options available, the Committee felt the only viable option would be Option 3 which allows a very specific amount of processing.

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Staff indicated that it would not be possible to analyze this option as a part of the IR/IU program within the current analysis time frame, but suggested that it could be done on a separate time track and still be available for implementation concurrent with the license limitation program.

Linda Behnken moved to put this portion of the analysis on a separate track and analyze only Option 3. The intent would be to have the regulation available for implementation concurrent with the IR/IU program. The motion was seconded by Wally Pereyra and carried without objection.

The Council also discussed the inclusion of the Gulf of Alaska in the analysis. Analysts indicated that to do so would delay Council review and approval of the program on their current time schedule.

Dave Benton moved to remove consideration of the Gulf of Alaska from the current analysis. The motion was seconded and carried without objection.

Dave Benton moved to initiate an analysis of the options for the Gulf of Alaska that were identified by the Advisory Panel for improved retention/improved utilization, that the analysis commence immediately following the conclusion of the current analysis and process to adopt measures for the Bering Sea/Aleutian Islands, with the intent that both suites of measures would be implemented concurrently. The motion was seconded by Wally Pereyra and carried without objection.

The Council also discussed the lack of Council authority to require onshore processors to accept fish if a full retention measure is approved. Dave Benton assured the Council that the State would do everything possible to pass complementary regulations to ensure compliance. It may be that the State already has the authority to impose such a requirement.

During the discussion, it was suggested that the Council may want to consider a framework for the required retention portions of the program so that any necessary changes could be made by regulatory amendment rather than a plan amendment.

Wally Pereyra suggested that some of the options for cod would take vessels out of a fishing mode and put them into a processing mode, incurring the extra expense of specific regulations for processors. He asked that this aspect should also be discussed in the analysis. Dave Fluharty suggested that possible impacts IR/IU requirements would have on markets should also be discussed and that there should be some way to define circumstances to allow discards when they are absolutely unavoidable or economically impossible.

NOTE: Transcription of Council discussion on this agenda item available in Council office.

SUMMARY

The Council provided direction to the analysts on several aspects of the proposed program. Major issues for which the Council took action included elimination of retention requirements based on target fisheries. The program will be species based, and will apply to BSAI pollock, Pacific cod, yellowfin sole, and rock sole, whenever and wherever they occur (though subject to other regulatory provisions such as directed fishing standards). The Council also included an option to phase-in implementation of this program for the flatfish species over a period of two to five years, starting at 60% in the first year (assumed to be 1998). Pollock and

Pacific cod would begin at 100% retention in all groundfish fisheries. Various options for utilization requirements are still under consideration.

Finally, the Council has also included the Gulf of Alaska (GOA) for consideration under this program, though that will be analyzed on a separate track from the BSAI program, with concurrent implementation expected in 1998. The Council will also be analyzing on a separate track the potential allowance for limited processing by catcher vessels as defined in the License Limitation program scheduled for 1998 implementation. This allowance could also be implemented in 1998 if approved by the Council. These latter two analyses will not be available for review until at least the September 1996 meeting; the BSAI Improved Retention/Utilization analysis will be reviewed by the Council in June, with a final decision scheduled for the September meeting.

C-6 License Limitation

ACTION REQUIRED

Review structure of proposed program implementation and provide comments to NMFS.

BACKGROUND

The NMFS Regional Office has been working on the Proposed Rule to implement the license limitation program. We have an opportunity now to provide input on that package before it goes to the Secretary of Commerce (SOC). Rather than reviewing the whole complex of regulations, NMFS will highlight the basic structure of the package and specific areas where clarification of intent is needed. This is divided into two basic components: (1) the provisions of the License Limitation program, and (2) the provisions of the expanded CDQ program.

The regulatory package will be completed for submittal to the SOC, hopefully by early summer. Included will be the Council staff's Final Supplementary Analysis of the Preferred Alternative for the License Limitation Program, which has been utilized in developing these draft regulations. The program is still on line for 1998 implementation, if approved by the SOC. Attached for reference (item C-6(a)) is a copy of the program elements approved by the Council in June 1995.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/MOTIONS

NMFS staff provided the Council with draft regulatory language for the license limitation CDQ programs and asked for clarification on several points.

License Limitation Program

Definition of Maximum Length Overall, i.e., 20% Rule. NMFS staff requested clarification of the date to be used to determine the "length overall" of a vessel for the purposes of the license program. Council members clarified that the date should be the moratorium date, June 24, 1992, not the date of final Council action (June 17, 1995).

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Definition of "qualified person" for Norton Sound King Crab Fishery. NMFS staff asked for clarification with regard to the two exemptions and issuance of licenses to corporate vessel owners and whether the Council intended for more than a single license to be issued, i.e., a single license to the corporation, or a license to each owner. The Council stressed that it was their intent that only one license be issued, to the corporation. It was also clarified that under Section D, Other Provisions, Paragraph 3(a) should read "Individuals who held a State of Alaska permit for the Norton Sound king crab summer fishery and who made at least one landing in 1993 or 1994; AND (b) . . ."

Clarification of Norton Sound King Crab Endorsement - Which Species? The Council clarified that the species should include only red or blue king crab and not brown.

Review of Hardship Provision. NMFS staff asked the Council to review the hardship provision as outlined in the draft regulatory language to ensure it reflected Council intent. The Council agreed that the language reflected the intent of the Council's action.

Capt. Anderson brought up the issue of vessel ownership at the time of qualification. After some discussion it was clarified that the document reflects the Council's decision that the owner of record as of June 17, 1995 would be the eligible license recipient, unless there is a specific written agreement to the contrary. If there is a dispute over ownership, a license would not be issued until ownership is determined by the parties in dispute.

CDQ Program

Sally Bibb, NMFS, provided the Council with a review of the CDQ regulations and requested Council clarification of several issues.

Wally Pereyra expressed concern over the process because he felt the issues raised required Council action rather than just clarification of previous action. He suggested that the Council agenda the issue for a future meeting and give notice of action required. Chairman Lauber indicated that the Council would consider clarifications and that there would be adequate opportunity for Council and public comment on any of the issues during the Secretarial review period.

Weighing at Sea Requirements. Concern was expressed by Mr. Pereyra regarding NMFS's decision to require weighing at sea for the CDQ fisheries. He suggested that the technology for accurate weighing at sea is not yet available. In addition, the cost of such a requirement could dramatically alter CDQ plans and expected revenues.

Merging CDQ Programs. The Council discussed the various CDQ programs and the need to merge them by the time the pollock CDQ program is scheduled to sunset in December 1998. Council members clarified their intent that the pollock CDQ program would be a separate and distinct program through 1998. During discussion and deliberation of whether to extend the program, the Council can determine whether to meld the two programs and how it should be accomplished.

Dave Benton moved that the Council reaffirm action taken previously that for the interim year of 1998, the pollock CDQ and license limitation CDQ programs will be separate, with the intention of considering merging the two programs when the Council considers whether or not to extend the pollock CDQ program beyond 1998. The motion was seconded by Kevin O'Leary and carried without objection.

Dave Benton moved that for the interim year of 1998 the pollock CDQ fishery will be designated a midwater trawl gear, or pelagic trawl, fishery. The motion was seconded by Linda Behnken and carried without objection. This measure will reduce PSC catches and have a positive impact on the directed pollock fishery under the license program.

Accounting for Groundfish Bycatch in the Halibut CDQ Fisheries.

NMFS staff had asked the Council to consider several options for accounting for groundfish bycatch in the Halibut CDQ fisheries, including:

- A. Groundfish bycatch must be accounted for by individual CDQ groups with halibut CDQ in the same manner as all other groundfish CDQ catch.
- B. Estimated groundfish bycatch from the halibut CDQ fisheries would be deducted from the CDQ reserves on a species-by-species basis before allocation to individual CDQ groups.
- C. Groundfish bycatch in the halibut CDQ fisheries would accrue to the license fisheries' TACs and would not be deducted from the CDQ groundfish reserves or individual group allocations.

Dave Benton moved that in 1998 the Council, as part of the process of merging the license limitation program and the pollock CDQ program, also take into consideration and address the need for accounting for groundfish bycatch in the halibut and sablefish program but until that time current regulations for the halibut and sablefish program would remain in place. The motion was seconded by Linda Behnken and carried with Barker objecting.

NMFS staff indicated that their request for clarification on this issue pertained only to halibut. However, Mr. Benton stressed that he intended that sablefish be included because the sablefish and halibut allocations, in the allocation process that's employed by the Secretary and upon the recommendation of the State, are very closely linked.

Groundfish and PSC Bycatch in the Pollock CDQ Fisheries in 1998.

Dave Benton moved to concur with the NMFS proposal that PSC bycatch be non-transferable in the CDQ fisheries; however transfers of quota and bycatch pre-season would be allowed until January 31, or some appropriate date prior to January 31, chosen by NMFS that is in keeping with the TAC-setting process. The motion was seconded by Kevin O'Leary.

Wally Pereyra moved to amend that, on an experimental basis, NMFS allow for transferability of PSCs within the CDQ fisheries. The motion was seconded by Dave Fluharty and failed, 8 to 2, with Pereyra and Fluharty voting in favor; Tillion was absent for the vote.

The main motion carried, 7 to 3, with Barker, Mace and Pereyra voting no; Tillion was absent for the vote.

NOTE: Transcript of Council discussion on the CDQ portion of this agenda item available in the Council office.

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SUMMARY

The Council received a report from NMFS staff on regulations for the license limitation and CDQ programs for groundfish and crab and provided them with clarifications on several issues, including the date to be used in determining the length overall of a vessel for the purposes of the license limitation program (June 24, 1992), the definition of a qualified person for the Norton Sound king crab fishery and species endorsements for that fishery and verified that NMFS's interpretation of the Council's intent for hardship provisions were correct. For the CDQ program, the Council discussed weighing at sea requirements, clarified that the pollock CDQ program and the groundfish and CDQ programs will remain separate through the year 1998, recommended a regulatory amendment to require that only midwater trawl, or pelagic gear, be used during the 1998 pollock CDQ fishery,. The Council also advised NMFS they would consider accounting for groundfish bycatch in the halibut CDQ fisheries as part of the process of merging the license limitation and pollock CDQ programs, leaving current regulations for the halibut and sablefish CDQ program in place until that time, and clarified that PSC bycatch in the CDQ fisheries will be non-transferable except during a pre-season period, until January 31, or an appropriate date determined by NMFS.

C-7 Magnuson Act Reauthorization

ACTION REQUIRED

Status report on Magnuson Act reauthorization.

BACKGROUND

Item C-7(a) summarizes and compares provisions of H.R. 39 and S. 39, the two primary vehicles for amendments to the Magnuson Act. H.R. 39 passed the House on October 18, 1995. S. 39 passed the Senate Commerce Committee on March 28, 1996. I have heard that the Senate may get to the bill this spring or early summer. I have keyed the summary to the March 19 draft of S. 39, and added new information from the March 26th staff draft, and amendments made in Committee. I will prepare a new summary once I have the latest version of S. 39 which should be available later this week.

Ten amendment areas which could most impact our Council are summarized under the following issues in C-7(a):

- | | |
|------------------------------|--|
| Bycatch: | Broad authority to address bycatch and waste concerns. |
| Conflict of Interest: | New recusal mechanism and procedures to ensure conflicts of interest do not occur at voting time. |
| Council Procedures: | No agenda changes within 14 days of meeting. |
| CDQs: | New mandates and limitations. A 3% fee. |
| Fees: | Broad new fee authorities for IFQs, buyback, loan programs, bycatch, CDQs. |
| Overfishing: | New constraints on setting of ABC and TAC; they no longer can exceed MSY. Rebuilding schedules cannot exceed 10 years except under extraordinary circumstances. |

- N. Pacific Loan Prog.:** By 1997 we need loan guarantee program to help entry level and small boat fishermen purchase IFQs.
- N. Pac. Fish. Conserv.:** New initiatives to reduce bycatch, establish fees and IBQs, total catch measurement, reductions in waste, establish human consumption standards.
- ITQs:** Moratorium on new programs until after FY2000. A 3% fee, lien registry, loan guarantees for small boaters and entry level fishermen, etc.
- State Jurisdiction:** Provisions to extend jurisdiction into EEZ for Alaska only.

SUMMARY

This was a status report only. Because of time constraints the Council did not take up this agenda item for discussion.

C-8 Regulatory Consolidation

ACTION REQUIRED

- (a) Review consolidated regulations for groundfish and crab.
- (b) Review Proposed Rule to repeal Salmon Fishery Management Plan.

BACKGROUND

In a letter dated February 23, 1996, Rollie Schmitt informed us that NMFS was consolidating our regulations as part of a nationwide effort to further reform the Federal regulatory system. The letter and a press release are under item C-8(a). Similar letters went to the other Councils. The letter also indicated that the Secretary was withdrawing approval of our salmon FMP because it was no longer necessary for managing the fisheries. As I note below, the review period for the consolidated regulation package has passed, but we still have time to submit comments on the salmon plan withdrawal.

(a) Consolidated Regulations

Item C-8(b) contains a March 22 letter and schedule from the Region describing the consolidation of CFR Parts 671-673 and 675-677 into a new CFR Part 679. We have scanned the new regulations, but it would take an inordinate amount of time to compare them word-for-word with the original regulations (a double-sided copy of the new regs is almost an inch thick). I believe that NMFS has done a good job of consolidating the regulations, but we will also be sure to compare both the old and new regulations when developing regulatory changes over the next six months or so, just to be completely sure that they track. The comment period on the consolidated regulatory package ended on April 12.

(b) Salmon FMP Withdrawal

Item C-8(c) contains a transmittal letter and proposed rule withdrawing the salmon plan, a schedule for processing the withdrawal, a news release, and letters from the State and us commenting on the

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proposed action. Our basic objections to withdrawing the plan center on whether the Secretary can just up and remove a plan without Council action, whether the State will be able to regulate the fishery outside three miles absent a plan, and various concerns with issues involving the Endangered Species Act. We have until May 9 to comment.

Neither the AP nor the SSC addressed this agenda item.

DISCUSSION/MOTIONS

Regulatory Consolidation

The Executive Director advised Council members that staff will be comparing the new regulations with the old ones to be sure no problems occur in the re-write.

Salmon FMP

Steve Pennoyer advised the Council that even though the Secretary is considering withdrawal of the Salmon FMP, the normal procedures for handling the 1996 fishery need to be followed.

Steve Pennoyer moved the following:

In the absence of having a specific proposed management regime to evaluate at this time, the Council delegates to the Regional Director, Alaska Region, NMFS, the authority to review the Southeast Alaska chinook salmon management plan proposed by the State of Alaska and to make determination as to whether the proposed plan satisfies the conditions of deferral under the Council's Salmon Fishery Management Plan. If the proposed management plan meets the requirements, the Regional Director will certify to the Council, in writing, prior to the start of the fishery that the requirements have been satisfied. If the Regional Director cannot make such certification, he will notify the Council and propose to the Council what emergency rulemaking is required to satisfy the Federal obligation under the Pacific Salmon Treaty, the objectives of the Salmon Fishery Management Plan, the Magnuson Act, and other applicable law.

The motion was seconded by David Benton and carried without objection.

Withdrawal of the Salmon FMP

The Council expressed strong objections to the unilateral withdrawal of a fishery management plan by the Secretary without specific consultation with the Council. There was a question of whether or not the Secretary has the authority to take this action. Lisa Lindeman, NOAA General Counsel, indicated that General Counsel has determined that the Secretary does have the implied authority to do so. Council members requested a written opinion but were advised it may not be received in time for Council comment during the public comment period.

Dave Benton moved that the Council formally register its objection to the Secretary's withdrawal of the North Pacific Fishery Management Council's Salmon Fishery Management Plan. The motion was seconded by Linda Behnken and carried, with Mr. Pennoyer abstaining from the vote.

Dave Benton moved that the Council submit a formal Freedom of Information Act request for all legal memoranda and legal interpretations pertaining to the Secretary's authority to withdraw an FMP without a recommendation from the Council. The motion was seconded by Linda Behnken and carried with Mr. Pennoyer abstaining.

SUMMARY

The Council delegated authority to the Regional Director to review the Southeast Alaska chinook salmon management plan proposed by the State of Alaska and determine whether the proposed plan satisfies the conditions of deferral under the Council's Salmon Fishery Management Plan. The Council also voted to register a strong objection to withdrawal of the Salmon FMP and to submit a FOIA request for information on the determination that the Secretary has authority to take such an action without consultation with the appropriate regional fishery management council.

D. FISHERY MANAGEMENT PLANS

D-1 Groundfish Management

(a) BSAI Pollock "B" Season Delay

ACTION REQUIRED

Final review of a proposal to delay the start of the pollock B season until September 1.

BACKGROUND

In December 1995 the Council requested staff to develop a regulatory amendment to the BSAI FMP which would delay the start of the pollock 'B' season until September 1, for either the offshore sector only, or both onshore and offshore sectors. In January the staff provided the Council with an outline for that analysis - this consisted of utilizing the previous analysis from 1993 which was done under contract by UAA's Institute for Social and Economic Research (ISER), coupled with a supplementary analysis of specific issues including: (1) additional bycatch implications, particularly for chum salmon in the CVOA, (2) potential marine mammal implications, and (3) interactions with other groundfish fisheries, particularly the yellowfin sole fisheries. The completed draft analysis was mailed to the Council family on March 22. The Council would need to take final action at this meeting to have the delay in place for this year's 'B' season.

The specific alternatives are as follows:

Alternative 1: Status Quo - the season would open on August 15 for all sectors.

Alternative 2: Delay the start of the 'B' season until September 1 for both inshore and offshore sectors.

Alternative 3: Delay the start of the 'B' season until September 1 for the offshore sector only.

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Within Alternatives 2 and 3 there are suboptions discussed for addressing the interaction with the yellowfin sole fisheries. There is also the option of including a November 1 cut-off for pollock fisheries under a September 1 opening, due to marine mammal concerns (the analysis shows that no pollock fishery, other than CDQ fisheries, would extend beyond that time in any case).

The Supplemental Analysis mailed to you on March 22 contained: (1) an Executive Summary of the original ISER analysis which looked explicitly at a September 1 opening date (that analysis utilized a detailed modeling process which we have not attempted to duplicate for purposes of the current proposal), (2) a further examination of the three issues identified above, and (3) as an Appendix, the full ISER analysis from 1993. An abbreviated summary of these findings is provided in item D-1(a)(1).

Report of the Scientific and Statistical Committee

The SSC reviewed the analysis and provided some general comments; however, they did not indicate a preference of alternatives.

Report of the Advisory Panel

The AP recommended adoption of Alternative 2 - delay the start of the "B" season until September 1. Under this agenda item the AP also recommended the Council amend the regulations implementing Gulf of Alaska FMP Amendment 45, establishing GOA pollock trimesters, to reflect a September 1 opening for the 3rd trimester in the Western Gulf.

DISCUSSION/MOTIONS

With regard to the delay of the BSAI pollock "B" season, David Benton moved to accept the AP recommendation to adopt Alternative 2: delay the opening of the BSAI pollock "B" season to September 1 for inshore and offshore sectors. The motion was seconded by Linda Behnken.

A friendly amendment by Wally Pereyra was added to the main motion: Any vessel which fishes for any BSAI or GOA groundfish, other than pollock in the CDQ fisheries, in the seven-day period (168 hours) prior to September 1 will not be able to participate in the pollock directed fishery for the first seven days of the "B" season.

It was clarified that the intent is to have the "stand-down" provision mirror that provided in the "A" season regulations and to also include the November 1 automatic cutoff regardless of whether the pollock TAC has been taken. This provision was originally included in the "A" season regulations to provide protection for juvenile sea lion.

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

(b) Overfishing Definitions

ACTION REQUIRED

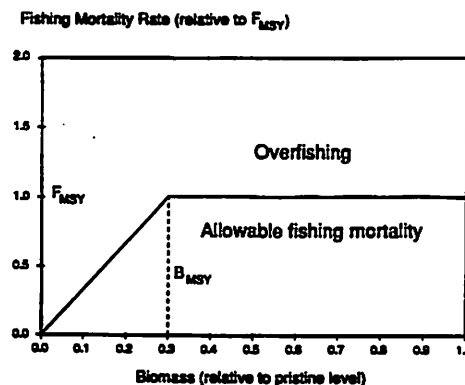
Initial review of plan amendment to revise the overfishing definition for BSAI and GOA groundfish.

BACKGROUND

In 1990, the *602 Guidelines* mandated that overfishing be defined in FMPs as follows:

"Overfishing is a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce maximum sustainable yield on a continuing basis", and that "Each FMP must specify, to the maximum extent possible, an objective and measurable definition of overfishing for each stock or stock complex covered by that FMP, and provide an analysis of how the definition was determined and how it relates to reproductive potential."

The Council added overfishing definitions to the GOA (Amendment 21) and BSAI (Amendment 16) fishery management plans in 1990, defining a maximum fishing mortality rate that declines at low stock sizes. Specifically, for any stock or stock complex under management, the maximum allowable mortality rate is set at the level corresponding to maximum sustainable yield (F_{msy}) for all biomass levels in excess of the level corresponding to maximum sustainable yield (B_{msy}). For lower biomass levels, the maximum allowable fishing mortality rate varies linearly with biomass, starting from a value of zero at the origin and increasing to a value of F_{msy} at B_{msy} , consistent with other applicable laws. These relationships are shown- in the figure below.



If data are insufficient to calculate F_{msy} or B_{msy} , the maximum allowable fishing mortality rate will be set equal to the following (in order of preference):

- (1) the value that results in the biomass-per-recruit ratio (measured in terms of spawning biomass) falling to 30% of its pristine value;
- (2) the value that results in the biomass-per-recruit ratio (measured in terms of exploitable biomass) falling to 30% of its pristine value; or
- (3) the natural mortality rate (M).

If data are insufficient to estimate any of the above, the TAC shall not exceed the average catch taken since 1977.

The current overfishing definitions do not necessarily provide a buffer between acceptable biological catch (ABC) and the overfishing level (OFL). The Plan Teams and SSC have expressed concern about

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harvesting stocks to the OFL level as an acceptable target. In January 1995, the Council adopted for analysis a Scientific and Statistical Committee proposal (Item D-1(b)(1)) to evaluate the OFL and amend the plans as necessary. Grant Thompson, NMFS-AFSC will be on hand to present his analysis.

Report of the Scientific and Statistical Committee

The SSC recommended the analysis be sent out for public review after some minor revisions (see SSC Minutes, Appendix II to these minutes).

Report of the Advisory Panel

The AP recommended the analysis be sent out for public review after some clarifications (see AP Minutes, Appendix V to these minutes).

DISCUSSION/MOTIONS

Bob Mace moved to adopt the AP recommendation to send the analysis out for public review. The motion was seconded and carried without objection. It was clarified that the author of the analysis should address the concerns and suggestions of the AP and SSC before releasing the document.

(c) Demersal Shelf Rockfish License Limitation Program

ACTION REQUIRED

Define alternatives for DSR License Limitation Program.

BACKGROUND

Item D-1(c)(1) contains a groundfish proposal to develop a license limitation program for the Southeast Alaska demersal shelf rockfish fishery submitted by industry in November 1994. Sufficient time has lapsed to warrant a reexamination of the list of proposed elements and options in the industry proposal and for the Council to revisit the issue and offer guidance to the analysts, particularly on the qualifying criteria and the transferability of licenses. ADF&G staff will prepare the analysis and report back to the Council later this year.

The SSC did not address this agenda item.

Report of the Advisory Panel

The AP recommended that if a license limitation program goes forward for the DSR fishery, it should be included in the Groundfish License Limitation Program. An AP motion to recommend that an analysis be initiated for a DSR license limitation program was defeated.

DISCUSSION/MOTIONS

Linda Behnken reported that the industry workgroup has met several times to upgrade their proposal. An analysis of the proposal has been delayed because of other priorities within ADF&G. Ms. Behnken requested that the issue be put on the Council agenda because she thought the Council needed to approve the changes suggested by the industry workgroup. However, it was determined that no action is necessary at this time and the Council did not discuss the alternatives. The issue will not be on the agenda for action until September or December.

(d) Request for Experimental Fishing Permit

ACTION REQUIRED

Review request for Experimental Fishing Permit

BACKGROUND

Item D-1(d)(1) is an application for an experimental fishing permit in area 650, Southeast Alaska. Its primary purpose is to determine the viability of a pelagic trawl fishery for rockfish species and provide information on whether a restriction on use of midwater trawls for sebastes is really warranted. The applicant requests 250 mt of the sebastes complex, with limitations on catches of yellowtail and widow rockfish, and 100 mt of pollock. These species will be retained and sold. Fishing will occur outside 100 m depth to avoid DSR, during a one- month period between May 1 and August 1. The applicant is particularly interested in demonstrating there is no need for the complete trawl restrictions in Southeast Outside and East Yakutat that were made part of the Council's license limitation program. The NMFS Regional Director has requested comments from the Council.

Report of the Scientific and Statistical Committee

With some additional information from the proposer, the SSC believes the project could provide valuable information. Criteria should be established to provide protection to the resource and to enhance the scientific value of the experiment. The SSC made specific suggestions for additions to the permit language (see SSC Minutes, Appendix II to these minutes).

The Advisory Panel did not address this agenda item.

DISCUSSION/MOTIONS

Dave Fraser, the applicant for the permit, provided an overview of his request and answered questions from Council members. A majority of Council members felt that Mr. Fraser could conduct the fishery during the normal fishing season and also noted concern over the Pacific ocean perch requested in the permit in light of the status of that stock and the current rebuilding plan.

Linda Behnken moved that the Council recommend to NMFS that the permit not be granted. The motion was seconded by Dave Benton and carried 7 to 4, with Barker, Fluharty, Berg, and Pereyra voting against.

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D-2 Staff Tasking

BACKGROUND

Item D-2(a) is an updated summary of the Council's current plan and regulatory amendments and other initiatives. One issue which is still somewhat in limbo, pending resolution of Council funding via the Federal FY 96 budget, is the halibut sport (charter) analysis. We intend to issue a Request for Proposals (RFP) as soon as we receive positive news on the budget resolution, and have therefore provided a draft RFP to the SSC for review at this meeting, for which they may have recommendations to the Council. The scope of this study has the potential to be quite large given the current suite of alternatives, perhaps beyond what can be supported by Council funding. I suggest that we take some time during this discussion to address that issue, and if possible, narrow the scope of that study.

Item D-2(b) contains letters recently received on issues which are not on the agenda for this meeting. Included is a request from the Peninsula Marketing Association that the Council reconsider its action on the GOA pollock trimester allocations, as that action pertains to the Western Gulf, or to consider initiating measures to mitigate the potential impacts of that action. Secondly, there is a request that the Council revisit the moratorium as it relates to qualification, or lack thereof, of vessels which made GOA crab landings.

Report of the Scientific and Statistical Committee

The Council asked the SSC to review a draft Request for Proposals (RFP) for possible future limitations on the growth of the halibut sport fishery. The SSC reviewed the draft RFP and suggested that it calls for an overly ambitious effort given the time and funds which may be available. The SSC provided several other comments for possible improvements in the RFP.

DISCUSSION/MOTIONS

The Council did not take up staff tasking as a discussion item. They deferred any discussion or action on the RFP until June when more information on budgets should be available.

E. FINANCIAL REPORT

There was no financial report at this meeting.

G. ADJOURNMENT

Chairman Lauber adjourned the meeting at approximately 6:05 p.m. on Sunday, April 21, 1996.