

North Pacific Fishery Management Council

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ADVISORY PANEL MINUTES APRIL 21-25, 1991 KODIAK, AK

The Advisory Panel for the North Pacific Fishery Management Council met on April 21-24, 1991, at the Fishery Industrial Technology Center in Kodiak, Alaska. Members in attendance were:

George Anderson
Loretta Lure
Pete Maloney
Dave Woodruff
Dan O'Hara
Kevin Kaldestad
Jay Skordahl

David Little
Harold Sparck
Beth Stewart
Lyle Yeck
Ed Fuglvog
John Roos
Perfenia Pletnikoff

John Bruce
Al Burch
Phil Chitwood
Dave Fraser
Robert Wurm
Lyle Yeck

Minutes for the January 1991 meeting were approved.

C-1 INSHORE/OFFSHORE

The AP received a detailed presentation on Amendment 18/23 (a.k.a. the inshore/offshore amendment) from the analytical team which reviewed the issues, proposed alternatives and the results of the supplemental environmental impact statement. At the request of the AP, Peter Fricke, NMFS also provided a summary of recent NMFS policy decisions and guidelines with regard to preparation and subsequent use of social impact analysis.

The AP ^{one objection} ~~unanimously~~ recommends that the Council approve the SEIS analysis for a 45-day public review. In support of this motion, the AP recognize that the Council will be in a position to take final action on this amendment at its June meeting. Some members voiced their concern that without specific Council action on this issue in June, inshore industry could face increased preemption. Other members noted that any industry concerns with the management alternatives and the analysis will be identified during public review.

Among the AP, there was a general understanding that the Council has the ability to modify the 'rules' section of Alternative 3 at the June meeting (i.e., move freezer/longliners back to the offshore sector or modify the 'mothership' classification) within the framework of the Council's analysis

package, as well as the Council's ability to select percentage allocations within the range analyzed as opposed to the specific examples in the EA/RIR.

There was also a motion to initiate development of a community development quota system in association with the inshore/offshore for the June meeting. This motion failed 2-15; the AP felt that CDQ concerns are being handled under limited access proposals.

C-2 USER FEE PLAN

The AP reviewed the EA/RIR analysis of the proposed user-fee program. Given the many alternatives and suboptions presented in the analysis, the AP undertook a process to select their "preferred alternative" by choosing various options under Alternative 2. The AP's recommendations are provided in Attachment 1.

C-3 SABLEFISH MANAGEMENT

The AP received the staff report on the revised Supplement to the SEIS for sablefish limited entry. There was general frustration at having to review a document on such short notice and make a recommendation on whether to send it out for public review. The AP then took public testimony from three persons. A major concern gleaned from this testimony was that a program would be approved which has not been thought out as to the logistics of how it would actually work. This concern was shared by a majority of the AP who felt that the document was deficient in this area.

Specifically, the AP believes that any analysis of limited entry should include thought out details of how the system will work in terms of administration, enforcement, financing. Examples of unanswered questions which were pointed out include: How exactly will NMFS track landings of sablefish for individual QS holders? Where will the unloading sites be and how will this effect the operations of fishermen and processors? What additional costs would be imposed on the fleet due to the methods of tracking landings and due to specific unloading sites? How is the program going to be financed given the tight budgets NMFS is already operating under? Would this program impose such costs on the fishermen and to what degree?

The AP is reluctant to sign off on a system in which these details would be worked out later. Since the sablefish analysis is likely to be a blueprint for all other limited entry analyses, the AP feels these concerns should be answered before the fact, not after. Some members of the AP felt that the document was also deficient in its content of social impact analysis.

A motion was unanimously adopted by the AP which reads "we recommend that the analysis be sent out for a public comment period between now and the June meeting; the Council should at that time chose a preferred alternative for the sablefish IFQ system and that a more detailed analysis of that preferred alternative would be performed before making a final decision". It was the sense of the AP that this analysis would address the concerns listed above.

C-4 HALIBUT MANAGEMENT

The AP received the staff report which outlined the alternatives based on the alternatives in the sablefish package tentatively identified for the halibut IFQ analysis. The AP in general identified the same concerns with this analysis as with the sablefish analysis in terms of the logistics of the system. Again, the same unanswered questions should be answered before the Council makes a final decision.

Public testimony from 2 persons was received during which the same concerns were expressed. The potential need for a social impact assessment was also discussed by the AP.

The AP then undertook to identify a preferred alternative to be analyzed together with the status quo. A main motion was formulated which read: 'the AP recommends to the Council that the staff proceed with an analysis of the 2 alternatives (1) the status quo and (2) Alternative 5 from the spreadsheet (the Tillion/Hegge proposal) amended as follows":

The AP then went down the list of provisions under this alternative and proceeded with amendments to the main motion, to add and/or delete provisions from the alternative. The resultant alternative, which the AP recommends for analysis reads as follows:

1. Gear and areas

Same as depicted in spreadsheet.

2. Shares and Quotas

Same as depicted in spreadsheet.

3. Initial Assignment of QS

Same as depicted in spreadsheet.

4. Qualifying period and Initial QS amount

Option 1 - must have fished 1984-1990; use best 5 of 6 years.

Option 2 - must have fished 1986-1990; use best 3 of 5 years.

5. Emphasis on recent landings

Same as depicted on spreadsheet (no weighting).

6. Vessel category designations

Option 1 - NO vessel categories.

Option 2 - Vessel categories as follows:

(a) < 35' length overall

(b) 35-60'

(c) 60-90'

(d) > 90'

7. Duration of QS program

Same as depicted in spreadsheet.

8. Calculating IFQ poundages

IFQ poundage is calculated by multiplying the QS percentage times the halibut quota for an area; this is the quota after the 20% set aside has been subtracted.

9. Transfer of QS/IFQs

Option 1 - QS/IFQs fully saleable and:

Suboption (a) leasable; any 'Person' may control IFQs. Proof of citizenship or majority ownership and control may be required.

Suboption (b) non-leasable; Any 'Person' may purchase QS, but must own the vessel the QS/IFQs will be used on, or must be on board the vessel using the QS/IFQs as crew or operator.

Option 2 - Applies to both catcher vessels and freezer/longliners - Initial recipients can be 'Persons' and do not have to be on the vessel or sign the fish ticket to use the IFQs. Subsequent users must be (or designate within 90 days) a U.S. citizen as owner of the QS who must be on board the vessel using the IFQ and who must sign the fish ticket, unless an allowable lease exists. Then, the leaseholder must be a U.S. citizen and must be aboard and sign the fish ticket. No more than 50% of any person's IFQs may be leased except in cases of illness, injury, or emergency to be defined by NMFS.

10. Limitations on holdings (own/control)

2% of overall fixed gear quota, but initial recipients of more than 2% may continue to own or control the excess but not more. No more than 2% can be used on one vessel. Suboption for a 1% cap on ownership.

11. General Provisions

Same as depicted in spreadsheet with the following additions:

* up to 5% of the fixed gear QS could be purchased by other gear groups. So, up to 5% of the fixed gear quota could be valid for other gear groups.

* QS would be designated a use right and could not be attached.

12. Discards

Holders of unused IFQ must retain legal sized halibut.

13. Open Access

20% of fixed gear TAC will be set aside for open access fishery as described below (community development quota could be included within this 20% umbrella):

Each area's fixed gear TAC divided 80% IFQs and 20% open access. IFQ holder for any area would not be permitted to fish any area's open access fishery except as noted

in this paragraph. Open access fishery managed by exclusive registration area (existing IPHC areas to begin with). Fourth quarter clean-up fishery open to any person or vessel if they do not own/control unused IFQs. Exclusive areas rescinded.

14. Coastal Community Considerations

Up to 8% of the fixed gear TAC may be used as CDQ to disadvantaged communities. This would come out of the 20% set aside.

15. Administration

Same as depicted in spreadsheet.

16. Unloading provisions

Option 1 - No unloading provisions

Option 2 - All first point of sale purchasers of halibut (processed or unprocessed) would be required to obtain a purchaser's license from NMFS. Vessels may unload halibut (processed or unprocessed) only in areas agreed to by industry and NMFS. Prior notification of such offloading may be required by NMFS.

17. Program financing

Same as depicted in spreadsheet.

The main motion, as amended, passed by a vote of 14-4. An additional motion was made to recommend that the analysis for halibut include a social impact assessment (SIA) similar in scope and content to the one prepared for the inshore/offshore analysis. This motion passed by a vote of 16-2.

C-5 FISHERY MANAGEMENT PLANNING

a. Moratorium

The AP reviewed the staff's moratorium summary document and the recommended revisions of the Fishery Planning Committee as presented in item C-5(a). There was considerable discussion on the general concept of the moratorium and whether its merits, given the Council's current agenda and workload, warrant proceeding with the proposal at this time.

A motion to recommend that the Council withdraw the moratorium proposal from Council consideration failed 6-12. The makers of this motion argued that the Council has a history of announcing their intentions to develop a moratorium or limited entry program and then change direction or change the qualifying criteria which results in increased instability in the regulatory environment.

The majority of the AP view the moratorium proposal as the only proposal before the Council that in any way attempts to directly address the problem of overcapitalization in our fisheries. Many members agree that a moratorium is not the solution to overcapitalization, but a step toward a solution.

Therefore, the AP recommends that the Council instruct staff to proceed with analysis of the revised objectives and elements of a proposed moratorium on all fisheries under its jurisdiction as outlined in Attachment 2 and to develop a schedule for implementation. This motion passed 16-3.

The AP used the FPC's revised list of options as the basis for its recommendations. Attachment 2 presents a further refinement of the list of options to simplify and improve the analysis.

b. Groundfish and Crab Limited Access.

The AP recommends that the Council communicate to the Secretary their desire to develop and have evaluated, a comprehensive management program for the groundfish and crab fisheries in conjunction with a moratorium. This motion passed 11-5.

The AP believes this letter would signal the Council's desire to accept NMFS funds for IFQ analysis and that the Council wants to move ahead with a limited access program.

D-1 Groundfish

(a) Bycatch Management in the Groundfish Fisheries

1. Review performance of new "pelagic" trawls

The AP wishes to reiterate its feeling, as it did originally concerning this issue, that they do not want to see fisheries managed by gear type. For example, they would rather see the directed cod fishery close when a bycatch cap is reached as opposed to trying to manage with a gear definition. The AP unanimously adopted a motion which supports the NMFS efforts to accomplish this ASAP and further recommends that the directed fishing definition for that closed fishery be reduced to some level below the current 20% level to help eliminate "getting around" the closure. The AP recommends emergency action to accomplish this, if necessary, and that the same measures be instituted for the Gulf of Alaska.

2. Status report on revised incentive program

The AP received the report stating that the measures are being reviewed in D.C. and might be in effect by early May.

3. Set bycatch standards for 3rd and 4th quarters

The AP recommends the following bycatch rate standards for the 3rd and 4th quarters of 1991 (unanimous vote):

BSAI Pacific cod - 2.2%

BSAI flatfish -.3% (this was set low to be able to get the vessel who may be fishing at .6%, for example, instead of setting it at .6%)

GOA rockfish - 4.0% (same as preliminary standards)

GOA Pacific cod - 3.29% for 3rd quarter and 5.15% for 4th quarter (same as preliminary standards)

BSAI flatfish (for King crab) - 1.5 animals/mt

4. Report on activities of Ad Hoc Bycatch Committee

The AP reviewed the minutes from the Bycatch Committee; no further action was taken by the AP on this issue.

5. Joint statement on salmon bycatch

The AP reviewed the joint statement.

6. Work schedule for 1992 bycatch management

The AP reviewed the list of 14 bycatch issues currently before the Council and the Bycatch Committee. The AP recommends that the Council begin immediately to develop a comprehensive bycatch management system which will provide for individual bycatch accounting in both the Gulf of Alaska and the Bering Sea/Aleutian Islands areas. This motion passed unanimously.

7. Report on 1991 salmon bycatch and possible Council action.

The AP recommends the following salmon bycatch initiatives be implemented by the Council: (unanimous vote)

A. That in the event that the Council determines that a 4th quarter groundfish fishery will be pursued in the EEZ off Alaska in 1991, that an emergency regulation be put in place to limit king salmon bycatch.

B. That the NPFMC recommend that the Secretary put in place a chinook salmon bycatch plan amendment on an expedited schedule for the 1992 fishing year, and implemented January 1, 1992 by emergency order.

C. That the Council request that the Secretary determine the time and area of salmon of U.S. origin in the international waters of the Bering Sea, the Donut Hole.

D. That the Council seek a Plan Amendment attaching the permits of U.S. vessels permitted to fish within the EEZ that fish in the Donut Hole.

E. That the Council extend its zone of authority beyond the EEZ into waters where scientific evidence demonstrates salmon of U.S. origin, and that the Council request that the Secretaries of Commerce and Transportation put into regulation a rebuttal presumption claim to all waters of the Bering Sea in the event that the Secretary determines salmon of U.S. origin are to be found in that zone, and further seek authority to seize any vessels found in the Donut Hole with salmon on board presumed to be U.S. in origin.

The AP is deeply concerned with the chinook bycatch matter in the International waters of the Bering Sea and in the EEZ off Alaska. We urge the Council to initiate action which will address this issue expeditiously.

(b) 17/22 Groundfish Plan Amendments

The AP received a staff review of the proposed Amendment 17/22 package. The amendment is comprised of 5 amendment topics.

The AP recommends that the Council approve the amendment document for public review with the following suggestions:

With reference to the proposed Walrus Islands closed areas: The AP recommends that the team include estimates of the entire Bering Sea walrus population in the document.

With reference to experimental fishery permits: The AP recommends that observer costs for vessels participating in experimental fisheries be paid by the permit holder. Also, the Regional Director must consult with Council before publishing Notice in the Federal Register (unanimous).

With reference to the issue of a groundfish pot definition: The AP recommends that a 4th alternative be added which would allow for registration and identification (with a tag) of pots. This alternative would address the stated problem by providing management and enforcement with a method of identifying the gear as either a groundfish or crab pot.

The AP also recommends a 5th alternative which is to formally deter Council action on this issue until a Industry/Government Workshop can be held to develop better pot definitions. The AP heard a report from ADF&G staff which mentioned that such a workshop was being planned.

The AP passed this motion by a vote of 18-1.

(c) Consideration of Schedule for Analyzing Quarterly Cod Allocations in the Bering Sea Aleutian Area

The AP received a brief staff report regarding the issue of quarterly Pacific cod allocations in the BS/AI.

The AP discussion initially focused on Pacific cod allocation in the Bering Sea-Aleutian Island area. The discussion shifted to problems resulting from having BSAI fishing effort transfer to the GOA when BSAI quarterly allocations were met. Concern was expressed regarding trawl vs. longline vs. pot fishing effort.

The following motion was made in response to this discussion. "The AP requests the council to task the staff with analyzing a plan amendment that would provide the Council with the authority to seasonally/quarterly allocate Pacific cod in both the BSAI and GOA". The motion was adopted, 7-3.

D-1(e) Prohibit Trawling in the Eastern Gulf of Alaska.

The AP discussed a request the council had received from the Alaska Longline Fishermen's Association (ALFA) regarding trawling fishing effort in the Eastern Gulf of Alaska.

Discussion centered on initiating this proposal through either an out of cycle Plan Amendment or an emergency order. The AP took public testimony regarding this issue.

The AP questioned the intent of this proposal, whether it was based on conservation or socio-economic intentions. If the intent of the request was to reduce the negative impacts to the

traditional SE hook and line fishing community by trawling effort in the GOA, then the AP questioned the appropriateness of an emergency rule to achieve the objectives of this proposal.

Discussion also included state vs. federal management of Demersal Shelf Rockfish.

A motion was adopted by the AP which reads "The AP recommends that the Council initiate an offcycle Plan Amendment to propose a prohibition of bottom trawling east of 140 West longitude as a priority bycatch issue.

The AP also adopted another motion recommending the Council implement an emergency rule prohibiting bottom trawling east of 140 West longitude due to habitat degradation and socio-economic concerns to be effective July 1, 1991. This motion passed on a roll call vote, 7-4. Members voting for the motion include: J. Bruce, L. Lure, P. Pletnikoff, J. Skordahl, B. Stewart, D. Woodruff and R. Wurm. Members voting against the motion include: G. Anderson, P. Maloney, D. Fraser and L. Yeck.