

Public Testimony Sign-Up Sheet

Agenda Item D-4 STAFF TASKING

	NAME (PLEASE PRINT)	AFFILIATION
1	✓ <i>Dustin DeLorenson</i>	UNFA
2	✓ <i>Stephen Jaufen</i>	Lu Dochtermann Flv Stormbird, ^{FN/North} Point
3	✓ <i>Joe Sullivan</i>	Mundt MacGregor
4	✓ <i>Theresa Peterson</i>	Ameq
5	✓ <i>ALEXIS KWACHKA</i>	SELF
6	✓ <i>Julie by</i>	AGDB
7	✓ <i>Heather McLarty</i>	Island Seafoods
8	✓ <i>John Gruver</i>	UCB
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

**GROUND FISH FISHERY IMPACTS ON HALIBUT AND SABLEFISH PROGRAMS
RESUBMITTED FOR STAFF TASKING RE OBSERVER PROGRAM**

AMENDMENT PROPOSAL

REVISED for DECEMBER 2008, 185th Plenary Session

North Pacific Fishery Management Council

Fax: (907) 271-2817

Name of Proposer: Ludger W. Dochtermann **Date:** ~~June 1, 2005~~ / December 5, 2007

Address:

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Kodiak, Alaska

Telephone:

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Brief Statement of Proposal:

Complete (near 100%) Observer Coverage on All GOA Trawl Vessels for the Year 2008, and once in every 5 or 7 years thereafter. By "Year 2008," I mean before any further Rationalization (incl. sector split) regulations are promulgated. So inherent in this proposal is a halt to further action until the best (adequate) scientific data is made available.

Objectives of Proposal (What is the problem?):

To accurately evaluate the trawl fisheries' entire catch performance regarding the bycatch of non-targeted species and the on-board management conduct of the fishery's prosecution. There is a serious need to have years of full knowledge regarding bycatch for several reasons, not the least of which is for comparison with other years of reduced coverage where the Nation relies upon self-reporting during non-observer hauls.

Need and Justification for Council Action (Why can't the problem be resolved through other channels?):

Due to the nature of the extraordinary value of bycatch – often exceeding the value of targeted species, and due to the nature of massive discards when incidents of 'bad hauls' occur, NOAA Fisheries and the Council need more accurate base data years' statistics. Also needed due to continual ill-behavior of bottom-trawlers smashing tanner crab. Absent the presence of constant recording cameras and other means of full data collection, and given the need for human confirmation of such 'remote sensing' were it to even be present, the 2006 2008 fishery would be a first start in accurate measurement. Human behavior in the interests of overwhelming economic rewards absent effective comparison data and enforcement commands that NOAA base its decisions on more accurate data, and confirm that behavior is not incorrectly reported when observer coverage is not at 100% levels.

Foreseeable Impacts of Proposal (Who wins, who loses?):

The program would arguably be costly and operationally inconvenient to many vessels, however government could cover much of the costs in return for the knowledge gained. For

the cost of not having full and complete knowledge – at least once every 7 years, and at least “once” (in 2008) – before creating any further arbitrary resource allocation (property rights shifting) regulations (such as “rationalization schemes”) may be a grave loss to society and regional economies as heavy-impact, intense methods of fishing – i.e. hard-on-bottom trawling – proceed unabated and unwatched.

The question of “who wins and who loses?” is moot under the logic that the Public resource is an invaluable asset of the Nation, and no one loses when we all know what the true conditions of the prosecution of such fisheries are. Everyone wins when regulations are based on the best data, and when they follow the National Standards in the Magnuson-Stevens and Sustainable Fishery Acts, in their spirit and intent – especially when the regulatory process proceeds on science, not politics and greed.

Are there Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?:

There is another means of keeping an eye on the prosecution of the fishery, but the cost of having numerous Coast Guard vessels on site, around the clock, along with ‘random-boarding’ (fair) observer coverage would be much higher than instituting a full-coverage year-stratification program that operates only once every 5 to 7 years.

Supportive Data and Other Information (What data are available and where can they be found?):

This is a complex matter, as NOAA has not had adequate budgets for better research. But the conduct of the trawl fishery and the witnessing of its highly destructive prosecution are well known among NOAA, Alaskan communities and fishing crews. The Council and NOAA might have greater insight on data collection and statistical need, and that could all come out during the evaluation of this proposal were the Council to create an agenda item specifically to task going forward with 100% observer coverage in 2008.

Additional Note:

The Council has not made any progress on this, since we first submitted it in June 2005. It was suggested that the issue be brought up with the Observer Committee, however that program proceeded WITHOUT considering this serious set of needs.

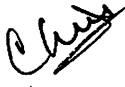
The SSC plays an important role in this 100% coverage due to several factors: 1) the amount of damaged resources, a.k.a. “trawl crab” – tanners damaged by hard-on-bottom trawling in our Kodiak Island fishery – is reaching monumental proportions; 2) the issue is increasingly one of making the best policy based on the best scientific information, and given factor #1, this committee should further my proposal to the Council for inclusion in its regulatory framework. I ask you to **please propose staff tasking** on this issue and **to conduct that analysis as soon as possible**. I will be carrying further public comment to the AP and Council level.

Signature:

Sincerely yours,

*Ludger Dochtermann – F/V Stormbird, F/V
North Point; home port – Kodiak, Alaska.*

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver 
Executive Director
DATE: November 27, 2007
SUBJECT: Staff Tasking

ESTIMATED TIME 4 HOURS

ACTION REQUIRED

- (a) Review tasking and committees and provide direction.
- (b) Review the Council's community outreach plan, and discuss actions pursuant to the NMFS Policy on Stakeholder Participation.

BACKGROUND

Committees and Tasking

The list of Council committees is attached as Item D-4(a)(1). Item D-4(a)(2) is the three meeting outlook, and Item D-4(a)(3) and Item D-4(a)(4) respectively are the summary of current projects and tasking. In addition, an updated workplan for implementing the programmatic groundfish management policy is attached Item D-4(a)(5).

At the last meeting, the Council initiated several new projects (BSAI crab rationalization 90/10 evaluation, BSAI crab arbitrator immunity, BSAI crab arbitration regulations, Arctic FMP, GOA fixed gear LLP recency, and GOA salmon and crab bycatch updates) to the tasking list. The Council may wish to discuss tasking priorities to address these projects, as well as potential additions discussed at this meeting, given the resources necessary to complete existing priority projects.

Outreach Plan

The Council revised its BSAI and GOA groundfish management policy in 2004, following a comprehensive programmatic review of the fisheries. The policy contains a management approach and 45 objectives, which are categorized by goal statements. Three of the management objectives exist under the heading "Increase Alaska Native Consultation":

- 35. *Continue to incorporate local and traditional knowledge in fishery management.*
- 36. *Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate.*
- 37. *Increase Alaska Native participation and consultation in fishery management.*

While all of the management objectives resulting from the Programmatic SEIS are part of the overall management policy, there are several that have been identified as priority actions at this time. The Council thus adopted a workplan of priority actions to implement its overall management policy, and the status of the workplan is updated at every Council meeting. The management objectives related to local and traditional

knowledge (#35 & #36) are not identified in the workplan at this time. However, one of the priority actions in the workplan is to increase Alaska Native and community consultation, which is directly related to management objective #37. The priority is stated in the workplan as follows:

Increase Alaska Native and Community Consultation

- a. Develop a protocol or strategy for improving the Alaska Native and community consultation process*
- b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions*

Council staff has prepared a short discussion paper (attached as Item D-4(b)(1)) outlining a potential approach to implementing the Council's groundfish policy workplan priority to increase Alaska Native and community consultation. The action at this meeting is to review the discussion paper and either approve or make recommendations to revise the approach as necessary or direct staff to proceed with implementing this approach in an iterative manner.

Stakeholder Participation

In February 2006, the Government Accountability Office (GAO) published a report on stakeholder participation in Council development of quota-based programs (Executive Summary attached as Item D-4(b)(2)). Although the GAO found the Councils complied with all legal requirements, they concluded that stakeholder involvement in development of limited access privilege programs (LAPPs) could be enhanced and lead to a more inclusive decision-making process. The NOAA response to the GAO report (attached as Item D-4(b)(3)) committed NMFS and the Councils to establish a more formal policy and framework to enhance stakeholder involvement. Council staff provided feedback to NMFS at the 2006 CCED meeting and through staff teleconferences. In January 2007, NMFS adopted a formal policy on stakeholder involvement (attached as Item D-4(b)(4)). The NMFS policy states that Councils should adopt the core principles on stakeholder involvement to guide their communication strategies and activities. These core principles are:

1. Use an open and clearly defined decision-making process.
2. Make key information readily available and understandable.
3. Actively conduct outreach and solicit stakeholder input.
4. Involve stakeholders early and throughout the decision-making process.
5. Foster responsive, interactive communication between stakeholders and decision-makers.
6. Use formal and informal participation methods.
7. Include all stakeholder interests.

While the policy is not a statutory requirement, it will be discussed annually at the Council Coordinating Committee meetings, which will provide a forum to exchange information on this topic and share documents, methods, and media that support this policy. Staff has prepared a discussion paper that reviews the current practices of the North Pacific Council relative to the seven core principles for stakeholder participation, and provides a list of potential additions that that could be explored. The discussion paper is attached as Item D-4(b)(5).

The Council may wish to adopt these core principles and discuss potential changes to improve stakeholder involvement. In addition, the Council may wish to write a letter to NMFS to let them know that the Council has adopted the core principles on stakeholder involvement to guide its activities, and continues to develop and refine its communication strategies.

NPFMC Committees & Workgroups
(Revised November 28, 2007)

Council/Board of Fisheries Joint Protocol Committee

Updated: 8/10/07	<u>Council:</u> Dave Benson Sam Cotten Gerry Merrigan	<u>Board:</u> Larry Edfelt John Jensen Mel Morris
Staff: Jane DiCosimo		

Council Coordination Committee

[Designated and renamed by Magnuson Act reauthorization April 2007]

Appointed: 4/05 Updated: 8/10/07	<u>CFMC:</u> C: Eugenio Pinerio ED: Miguel Rolon	<u>NPFMC:</u> C: Eric Olson ED: Chris Oliver
	<u>GMFMC:</u> C: Robin Riechers ED: Wayne Swingle	<u>PFMC:</u> C: Donald Hansen ED: Don McIsaac
	<u>MAFMC:</u> C: W. Peter Jensen ED: Dan Furlong	<u>SAFMC:</u> C: George J. Geiger ED: Robert Mahood
Staff: Chris Oliver	<u>NEFMC:</u> C: John Pappalardo ED: Paul Howard	<u>WPFMC:</u> C: Sean Martin ED: Kitty Simonds

Council Executive Committee

Updated: 8/10/07	Chair: Eric Olson Jim Balsiger/Alternate Denby Lloyd/Alternate Roy Hyder Jeff Koenings/Alternate
Staff: Chris Oliver	

Bering Sea Crab Advisory Committee

Appointed 4/25/07	Sam Cotten, Chair	Lenny Herzog
Revised 11/15/07	Jerry Bongen	Kevin Kaldestad
	Steve Branson	Frank Kelty
	Florence Colburn	John Moller
	Linda Freed	Rob Rogers
	Dave Hambleton	Simeon Swetsof
	Phil Hanson	Ernest Weiss
Staff: Mark Fina	Tim Henkel	

NPFMC Committees & Workgroups
(Revised November 28, 2007)

Bering Sea Salmon Bycatch Workgroup

Appointed: 3/07	Stephanie Madsen, Co-chair Eric Olson, Co-chair John Gruver Karl Haflinger Jennifer Hooper	Paul Peyton Becca Robbins Gisclair Mike Smith Vincent Webster (BOF)
Staff: Diana Stram		

Crab Interim Action Committee
[Required under BSAI Crab FMP]

Jim Balsiger, NMFS Denby Lloyd, ADF&G Jeff Koenings, WDF
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Ecosystem Committee

Updated: 8/10/07	Chair: Stephanie Madsen Jim Ayers Sue Salveson/Jon Kurland Dave Benton Doug DeMaster Dave Fluharty John Iani
<u>Status</u> : Active	
Staff: Chris Oliver/David Witherell/Diana Evans	

Enforcement Committee

Updated: 7/03	Chair: Roy Hyder LCDR Lisa Ragone, USCG James Cockrell, F&W Protection Bill Karp, NMFS Earl Krygier, ADF&G Lisa Lindeman, NOAA-GC Jeff Passer, NMFS-Enforcement Sue Salveson, NMFS
<u>Status</u> : Active	
Staff: Cathy Coon/Chris Oliver	

NPFMC Committees & Workgroups

(Revised November 28, 2007)

Finance Committee

<p>Updated: 8/10/07</p> <p><u>Status</u>: Meet as necessary</p> <p>Staff: Gail Bendixen/Chris Oliver</p>	<p>Chair: Eric Olson Jim Balsiger/Alternate Denby Lloyd (ADF&G)/Alternate Dave Hanson Roy Hyder Jeff Koenings (WDF)/Alternate Gordon Kruse/SSC Chair</p>
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Fur Seal Committee

<p>Updated: 8/10/07</p> <p><u>Status</u>: Active</p> <p>Staff: Bill Wilson</p>	<p>Chair: David Benson Larry Cotter Aquilina Lestenkof Paul MacGregor Heather McCarty Anthony Mercurief</p>
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GOA Groundfish Rationalization Community Committee

<p>Appointed: 11/04</p> <p>Staff: Nicole Kimball</p>	<p>Chair: Hazel Nelson Julie Bonney Duncan Fields Chuck McCallum Patrick Norman Joe Sullivan Chuck Totemoff Ernie Weiss</p>
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Halibut Charter Stakeholder Committee

<p>Appointed: 1/06 Revised: 11/5/07</p> <p>Staff: Jane DiCosimo</p>	<p>Chair: Dave Hanson Seth Bone Robert Candopoulos Ricky Gease John Goodhand Kathy Hansen Dan Hull</p>	<p>Chuck McCallum Larry McQuarrie Rex Murphy Peggy Parker Charles "Chaco" Pearman Greg Sutter Doug Vincent-Lang</p>
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NPFMC Committees & Workgroups
(Revised November 28, 2007)

IFQ Implementation Committee

Reconstituted: 7/31/03 Updated: 8/10/07 Staff: Jane DiCosimo	Chair: Jeff Stephan Bob Alverson Julianne Curry Tim Henkel Dennis Hicks Don Iverson	Don Lane Kris Norosz Paul Peyton <i>*Vacancy (1)</i>
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Non-Target Species Committee

Appointed: 7/03 Updated: 8/10/07 Staff: Jane DiCosimo, NPFMC/ Olav Ormseth, AFSC	Chair: Dave Benson Julie Bonney Ken Goldman Karl Haflinger Simon Kinneen Michelle Ridgway	Janet Smoker Paul Spencer Lori Swanson Jon Warrenchuk Dave Wood
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Observer Advisory Committee

Reconstituted: 1/06 <u>Status</u> : Active Staff: Chris Oliver/ Nicole Kimball	Chair: Joe Kyle Bob Alverson Jerry Bongen Julie Bonney Rocky Caldero Paul MacGregor Tracey Mayhew	Brent Paine Peter Risse Kathy Robinson Susan Robinson Thorn Smith <i>*Vacancy (1)</i>
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Pacific Northwest Crab Industry Advisory Committee

Appointed: 2/07 Staff: Diana Stram	Chair: Steve Minor Keith Colburn Lance Farr Phil Hanson Kevin Kaldestad Garry Loncon Gary Painter	Rob Rogers Vic Sheibert Gary Stewart Tom Suryan Arni Thomson, Secretary (non-voting)
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Socioeconomic Data Collection Committee

Appointed: _____ Staff: _____	<i>To Be Announced</i>	
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NPFMC Committees & Workgroups
(Revised November 28, 2007)

Steller Sea Lion Mitigation Committee

Appointed: 2/01 Updated: 8/10/07 [formerly SSL RPA Committee; renamed February 2002] Staff: Bill Wilson	Chair: Larry Cotter Jerry Bongen Julie Bonney Ed Dersham John Gauvin John Henderschedt Daniel Hennen Sue Hills	Frank Kelty Terry Leitzell Dave Little Steve MacLean Stephanie Madsen Max Malavansky, Jr Art Nelson Beth Stewart
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VMS Committee

Appointed: 6/02 <u>Status</u> : Idle, pending direction Staff: Cathy Coon	Chair: Earl Krygier Al Burch Guy Holt Ed Page LCDR Lisa Ragone Lori Swanson
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December 3, 2007 Anchorage, Alaska	February 4, 2008 Seattle, WA	March 31, 2008 Anchorage, AK
<p>National Bycatch Report: Update</p> <p>AFA Processor Permit Application: Receive Public Comment</p> <p>GOA P cod sector split: Progress report/direction GOA Sideboards: Review discussion paper/AP report</p> <p>WGOA pollock trip limit: Final Action CGOA Rockfish post-delivery transfers: Final Action AM80 Post-delivery transfers/rollovers: Initial Review Trawl LLP Recency: Initial Review</p> <p>BSAI Crab 'C' Share 90/10 exemption: Final Action BSAI Crab custom processing: Final Action BSAI Crab post-delivery transfers: Final Action BSAI Crab 'C' Share active participation: Prelim. Review BSAI Crab 3 Year Review: Review Workplan, action as necessary</p> <p>Charter Halibut Allocation/Reallocation: Review Progress/Provide Direction Charter Halibut Longterm: Committee Report</p> <p>Observer Program Reg. Package: Initial Review</p> <p>BSAI Salmon Bycatch: Workgroup Report/NOI/Refine Alts GOA Crab and Salmon Bycatch: Discussion paper</p> <p>Arctic FMP: Update on Outreach AI FEP: Report from Ecosystem Committee VMS Exemption for Dinglebar Gear: Discussion paper</p> <p>BSAI Crab Overfishing Definition: Final Action</p> <p>Other Species: Review discussion paper Groundfish specifications and SAFE Reports: Final Action Draft SIR on specifications EIS: Action as necessary</p> <p>PSEIS Outreach Plan: Review</p>	<p>Review proposed rule for ACL Guidelines (T) SSLMC Report on proposals SSL BiOp/Recovery Plan: Progress Report AI pollock EFP: Report</p> <p>AFA Coop Reports: Review GOA P cod sector split: Initial Review GOA fixed gear LLP recency: Initial Review</p> <p>GOA Rockfish Pilot Program Review: Review Outline AM 80 Post Delivery Transfers/rollovers: Final Action Trawl LLP Recency: Final Action</p> <p>Social and Economic Data Committee: Report BSAI Crab data collection quality and confidentiality: Report BSAI Crab Committee: Report BSAI Crab Arbitrator Immunity: Discussion paper (T) BSAI Crab Arbitration Regulations: Initial Review (T) BSAI Crab 'C' Share active participation: Initial Review (T) St George protection measures: Initial Review</p> <p>Charter Halibut Longterm: Action as necessary</p> <p>BSAI Salmon Bycatch: Action as necessary</p> <p>Arctic FMP: Preliminary Review Evaluation of HAPC Criteria: SSC Review (T) VMS Exemption for Dinglebar Gear: Initial Review</p> <p>4E Seabird Avoidance Measures: Initial Review</p> <p>GOA OSpecies ABC/OFL Specifications: Initial Review</p> <p>BS and AI P cod sector apportionment: Review (T)</p>	<p>Joint Meeting with BOF</p> <p>SSL Recovery Plan: Review Final Plan</p> <p>GOA P cod sector split: Final Action GOA fixed gear LLP recency: Final Action</p> <p>BSAI Crab Arbitrator Immunity: Initial Review (T) BSAI Crab Arbitration Regulations: Final Action (T) BSAI Crab 'C' Share active participation: Final Action (T) St George protection measures: Final Action (T)</p> <p>Charter Halibut Allocation/Reallocation: Initial Review Charter Halibut Logbook Program: Report; Action as nec. Charter Halibut Longterm: Committee Report Halibut Subsistence Rural Definition: Initial Review Observer Program Reg. Package: Final Action</p> <p>BSAI Salmon Bycatch: Preliminary Review (T)</p> <p>Arctic management: Initial Review</p> <p>VMS Exemption for Dinglebar Gear: Final Action (T)</p> <p>4E Seabird Avoidance Measures: Final Action</p> <p>GOA OSpecies ABC/OFL Specifications: Final Action Other Species Mgmt: Review Progress; Action as nec.</p> <p>Scallop SAFE: Review and Approve</p>

AI - Aleutian Islands
GOA - Gulf of Alaska
SSL - Steller Sea Lion
BOF - Board of Fisheries
FEP - Fishery Ecosystem Plan
CDQ - Community Development Quota
ESA - Endangered Species Act
(T) Tentatively scheduled

TAC - Total Allowable Catch
BSAI - Bering Sea and Aleutian Islands
IFQ - Individual Fishing Quota
GHL - Guideline Harvest Level
EIS - Environmental Impact Statement
LLP - License Limitation Program
SAFE - Stock Assessment and Fishery Evaluation
PSC - Prohibited Species Catch

Future Meeting Dates and Locations
February 4 - , 2008 in Seattle
March 31 - , 2008 in Anchorage
June 2- , 2008 in Kodiak
September 29- , 2008 in Anchorage
December 8- , 2008 in Anchorage
February 2 - , 2008 in Seattle
March 30 - , 2008 in Anchorage

Council Project Summary November 29, 2007

Council Projects	Projected Weeks	Council/ NMFS %	Comments
Groundfish Fishery Issues			
GOA P. cod Sector Splits	4	70/30	Initial review in February (Jeannie)
GOA fixed gear recency	?	90/10	Initial review in February (Jeannie)
GOA Sideboards	6	90/10	Discussion paper in December (Jon/NMFS)
Break out other species category into TAC groups	10	40/60	Disc paper in December (Jane/NMFS)
GOA O.species ABC and OFL	3	90/10	Initial Review in February (Diana E)
Observer Program (changes to existing program)	2	80/20	Initial Review in December (Nicole/NMFS)
BSAI and GOA Dark Rockfish	0	90/10	Being Prepared for Secretarial Review (Diana S./NMFS)
CGOA Rockfish post-delivery transfers	1	80/20	Final Action in December (Mark/NMFS)
Trawl LLP Recency	4	90/10	Initial Review in Dec (Jim/Jeannie/NMFS)
GOA arrowtooth MRA	1	30/70	Being prepared for Secretarial Review (NMFS/Jon).
Pacific cod BS and AI split	6	90/10	Tabled for further discussion in Feb 2008 (Jon/Nicole/NMFS)
Comprehensive economic data collection	?	10/90	Workgroup report in February (NMFS/Mark)
Am 80 post-delivery transfers and rollovers	2	80/20	Initial Review in December (Jon/NMFS)
GOA pollock trip limits	2	80/20	Final Action in December (Jim/NMFS)
CGOA Rockfish pilot program review	?	80/20	Discuss workplan in February (Mark/NMFS)
BSAI Sablefish pot fishery regulations	?	70/30	Plan Team Workgroup formed December 2006 (Jane/NMFS)

Halibut Fishery Issues

Halibut Charter Moratorium	2	90/10	Being prepared for Secretarial Review (Jane/Nicole/NMFS/contractor)
Halibut Charter Allocation/Compensated Reallocation	6	90/10	Initial Review in February (T) (Jane/contractor/NMFS)
Halibut Charter Share Based Solutions/Permit Endorsements	?	90/10	Committee Recommendations in Dec 2007 (Jane/contractor)
Halibut Charter 2C GHM Measures	0	90/10	Being prepared for Secretarial Review (NMFS)
Halibut Charter 3A GHM Measures	2	90/10	Final Action in October 2008 (Jane/contractor/NMFS)
Halibut Subsistence Eligibility	4	90/10	Initial Review in April (Jane/Nicole/NMFS)
IFQ Omnibus 5	0	90/10	Submitted for Secretarial Review (Jane/Jim/NMFS)

Crab Fishery Issues

Crab Overfishing definition revision	1	50/50	Final Action in December (NMFS/ADF&G/Diana S/Jon)
BSAI Crab Custom Processing	1	90/10	Final Action in December (Mark)
BSAI Crab C-Share 'Active Participation'	2	90/10	Initial Review in February (Mark/NMFS)
BSAI Crab C-Share 90/10 exemption	1	90/10	Final Action in December (Mark/NMFS)
BSAI Crab Post-delivery Transfers	1	80/20	Final Action in December (Mark/NMFS)
BSAI Crab Economic Data Reporting	?	30/70	Discuss in February (NMFS/Mark)
BSAI Crab Arbitration amendments	3	80/20	Initial Review in February (Mark/NMFS)
BSAI Crab St. George Protection Measures	2	80/20	Initial Review in February (Mark/NMFS)
BSAI Crab Rationalization Program 3-year review	12	80/20	Review in October 2008 (Mark/NMFS/contractor)
BSAI Crab 90/10 Evaluation	12	90/10	Review in October 2008 (Mark/NMFS/contractor)
BSAI Crab Advisory Committee	?	90/10	Report in February (Mark/NMFS)

CDQ Issues

CDQ: After the fact transfers	2	10/90	Reg. am. being prepared for SOC. (Nicole)
CDQ Cost-Recovery	?	10/90	Discuss in future meeting (NMFS/Nicole)
CDQ Amendment 71/22 (remaining MSA provisions)	?	50/50	Discuss in future meeting (Nicole/NMFS)
CDQ: Regulation of harvest (MSA provision)	4	10/90	Being Prepared for Secretarial Review (Nicole/NMFS)

Bycatch Issues

Repeal of VIP	0	0/100	Being prepared for Secretarial Review (NMFS)
GOA Salmon and Crab Bycatch Controls	?	80/20	Discussion paper in December (Cathy)
BSAI Salmon Bycatch (Package B)	10	70/30	Workgroup report in December (Diana S./other)
Non-target (other rockfish, other flatfish, o. species) development	?	60/40	Committee to discuss in future (Jane/NMFS).

Ecosystem Issues

Bering Sea habitat conservation	1	50/50	Being Prepared for Secretarial Review (NMFS/Cathy)
AI Habitat Conservation Area adjustment	1	60/40	NOA issued on Nov 13 (Cathy/NMFS)
Relax VMS requirement for vessels fishing dinglebar gear	2	20/80	Discussion paper in December (NMFS/Cathy)
Ecosystem-based Management	?	90/10	Alaska Marine Ecosystem Forum meeting upcoming (Diana E)
Aleutian Islands Fishery Ecosystem Plan	2	90/10	Summary brochure being produced (Diana E.)
Arctic Fishery Management Planning	8	90/10	Prelim Review in February (Bill, Diana E/NOAA GC)
Seabird avoidance measures in 4E	4	40	Initial Review in February (NMFS/Bill)

Project timeline and major tasking for Council analytical staff. Updated 11/20/07

Analytical Staff	December	January	February	March	April	May	June
Mark Fina, Sr. Economist							
BSAI crab St. George community			Initial Review (T)		Final Action (T)		
BSAI crab custom processing	Final Action						
BSAI crab active participation	Prelim Review		Initial Review (T)		Final Action (T)		
BSAI crab C share 90/10 exemption	Final Action						
BSAI crab post delivery transfers	Final Action						
BSAI crab 3 yr review & 90/10 package	discuss						
BSAI crab arbitrator Immunity					Initial Review (T)		Final Action (T)
Jon McCracken, Economist							
Crab Overfishing (assist)	Final Action						
Am 80 rollovers/transfers	Initial Review		Final Action (T)				
GOA Sideboards	discuss						
Jim Richardson, Economist							
GOA pollock trip limit	Final Action						
Misc. economic assistance							
Trawl LLP Recency	Initial Review						
Jeannie Heltzel, Data Analyst							
GOA P.cod sector split	discuss		Initial Review		Final Action (T)		
GOA fixed gear recency			Initial Review		Final Action (T)		
AKFIN Liaison							
Jane DiCosimo, Sr. Plan Coord							
Halibut Charter longterm	discuss						
Halibut Charter allocation/compensation	discuss		Initial Review (T)		Final Action (T)		Final Action (T)
Halibut Subsistence Eligibility					Initial Review		Progress Report
Other Species Management							
Diana Stram, Plan Coordinator							
BSAI Salmon bycatch (Lead)	discuss		discuss		Prelim Review (T)		Initial Review (T)
Scallop management			PT 2/22-23		Review SAFE		
Crab Overfishing Def./Management	Final Action					PT 5/5-8	PT Report
Bill Wilson, Protect Species							
Arctic Mgmt issue	discuss		Prelim Review		Initial Review		Final Action (T)
Marine Mammal issues							
Seabird Bycatch			Initial Review (4E)		Final Action		
FMP Consultation		SSLMC (T)					
Diana Evans, NEPA Specialist							
EAM and AI FEP	discuss FEP	AMEF (T)					
GOA Other Species ABC/OFL			Initial Review		Final Action		
NEPA assistance							
Cathy Coon, Fishery Analyst							
VMS dinglebar exemption	Discussion paper		Initial Review		Final Action		
GOA Salmon & crab bycatch	Discussion paper						
Bering Sea EFH (lead)							
Nicole Kimball, Fishery Analyst							
CDQ Projects (lead)							
Observer Program (lead)	Initial Review				Final Action		
GOA community issues							

Groundfish Workplan

Priority actions revised in February 2007, status updated to current

General Priority (in no particular order)	Specific priority actions	Related to management objective:	Status (updated 11-20-07)	2007					2008				2009			
				Dec	Feb	Apr	Jun	Oct	Dec	Feb	Apr	Jun	Oct	Dec		
Prevent Overfishing	a. continue to develop management strategies that ensure sustainable yields of target species and minimize impacts on populations of incidentally-caught species	5	'other species' breakout analysis for BSAI and GOA initiated; action to set ABC/OFL for GOA ospp for Feb 08	██████████												
	b. evaluate effectiveness of setting ABC levels using Tier 5 and 6 approaches, for rockfish and other species	4	AFSC responding to CIE review of rockfish harvest strategy as part of harvest specifications process	██████████												
	c. continue to develop a systematic approach to lumping and splitting that takes into account both biological and management considerations	5	on hold pending National Standard 1 guideline revisions													
Preserve Food Web	a. encourage and participate in development of key ecosystem indicators	10	ecosystem SAFE presented annually; AI FEP identified indicators for the Aleutians	██████████									██████████			
	b. Reconcile procedures to account for uncertainty and ecosystem considerations in establishing harvest limits, for rockfish and other species	11	on hold pending National Standard 1 guideline revisions													
	c. develop pilot Fishery Ecosystem Plan for the AI	13	FEP summary in development; further implementation being discussed by Ecosystem Committee	██████████												
Manage Incidental Catch and Reduce Bycatch and Waste	a. explore incentive-based bycatch reduction programs in GOA and BSAI fisheries	15	partially addressed by BSAI salmon bycatch analysis, initial review Jun 08	██████████												
	b. explore mortality rate-based approaches to setting PSC limits in GOA and BSAI fisheries	20														
	c. consider new management strategies to reduce incidental rockfish bycatch and discards	17														
	d. develop statistically rigorous approaches to estimating bycatch in line with national initiatives	14, 19	National Bycatch Report update in Dec 07	██████████												
	e. encourage research programs to evaluate population estimates for non-target species	16	Part of research priorities, adopted in June 2007													
	f. develop incentive-based and appropriate biomass-based trigger limits and area closures for BSAI salmon bycatch reduction, as information becomes available	14, 15, 20	analysis for regulatory closure areas initiated, initial review in Jun 08	██████████												
	g. assess impact of management measures on regulatory discards and consider measures to reduce where practicable	17	partially addressed by GOA arrowtooth MRA analysis (approved Oct 07)													

**A potential approach to implementing the Council's Groundfish Policy Workplan priority:
Increase Alaska Native and Community Consultation**

Introduction

The Council revised its BSAI and GOA groundfish management policy in 2004, following a comprehensive programmatic review of the fisheries. The policy contains a management approach and 45 objectives, which are categorized by goal statements. Three of the management objectives exist under the heading "Increase Alaska Native Consultation":

- 35. Continue to incorporate local and traditional knowledge in fishery management.*
- 36. Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate.*
- 37. Increase Alaska Native participation and consultation in fishery management.*

The Record of Decision on the Final Alaska Groundfish Fisheries Programmatic SEIS (NMFS, August 26, 2004) states that "The goals and policies for Alaska Native consultation and participation in fishery management under the Preferred Alternative in the Programmatic SEIS would increase from current levels by expanding informal and formal consultation between NOAA Fisheries and the Council, and Alaska Native participants and tribal governments. Local and Traditional Knowledge would be more formally incorporated in fishery management and additional data would be collected." (p. 25). The Record of Decision also notes that: the alternatives analyzed in the PSEIS consider all of the statutory requirements and Executive Order (E.O.) mandates relevant to fisheries management, including E.O. 13084 (Consultation and Coordination with Indian Tribal Governments). The Record of Decision notes that the Preferred Alternative policy responds to E.O. 13084 by explicitly recognizing that Alaska Native consultation is an important part of the decision-making process (p. 27).

While all of the management objectives resulting from the Programmatic SEIS are part of the overall management policy, there are several that have been identified as priority actions at this time. The Council thus adopted a workplan of priority actions to implement its overall management policy. The status of the workplan is updated at every Council meeting, and the workplan was last updated by the Council in February 2007. The management objectives related to local and traditional knowledge (#35 & #36) are not identified in the workplan at this time and are not directly addressed in this paper. However, one of the priority actions in the workplan is to increase Alaska Native and community consultation, which is directly related to management objective #37:

Increase Alaska Native and Community Consultation

- a. Develop a protocol or strategy for improving the Alaska Native and community consultation process*
- b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions*

Current Council process

Currently, the Council notifies and consults with affected stakeholders, including Alaska Native and coastal community representatives, through public notice of meetings. The Statement of Organization, Practices, and Procedures (June 2007) for the Council states that timely notice of each regular meeting, hearing, and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting is also published in the Federal Register.¹ These are the primary mechanisms to make the public, including Alaska Native and community entities, aware of the specific issues being addressed by the Council.

The Council itself is comprised of 11 voting members, and 4 non-voting members. The eleven voting members include the Commissioner of the Alaska Department of Fish and Game, Director of the Washington Department of Fish and Wildlife, Director of the Oregon Department of Fish and Wildlife, the Alaska Regional Administrator of NOAA Fisheries, five members appointed by the Secretary from the State of Alaska, and two members appointed by the Secretary from the State of Washington.

The four non-voting members include the Alaska Regional Director of the U.S. Fish and Wildlife Service, the Commander of the Seventeenth Coast Guard District, the Executive Director of the Pacific States Marine Fisheries Commission, and a representative of the U.S. Department of State. Aside from these parameters, there is no seat is guaranteed to any gear type, fishery, geographic area, or Native Alaska organization. Currently, one of the Alaska appointees to the Council is an Alaska Native from a Community Development Quota (CDQ) group, which represents several rural communities from the Bristol Bay region primarily comprised of Alaska Natives. For the past fifteen years, the composition of the Council has included one Alaska Native.

In fulfilling the Council's responsibilities and functions, Council members may meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information, or make decisions regarding material before them. Each regular meeting and each emergency meeting is open to the public, and interested persons may present oral or written statements regarding the matters on the agenda at meetings, within reasonable limits established by the Chair. Current Council policy on oral testimony limits individuals to three minutes, and organizations to six minutes, per agenda item (SOPP, 2007). Written testimony can be provided prior to the Council meeting; if it is within established limits (typically received at least one week prior), it is copied and provided in the Council's written meeting materials.

The Council also appoints an Advisory Panel (AP) of recognized experts (a maximum of 20) from the fishing industry and several related fields. AP members represent a variety of gear types, industry and related interests as well as a spread of geographic regions of Alaska and the Pacific Northwest having major interest in the fisheries off Alaska. The Council relies on the AP for comprehensive industry advice on how various fishery management alternatives will affect the industry and local economies, on potential conflicts between user groups of a given fishery resource or area, and on the extent to which the United States will utilize resources managed by the Council's fishery management plans.

While no particular seat is guaranteed to any gear type, fishery, geographic area, or Native Alaska organization, the Council SOPP recognizes that: "The AP membership should represent a broad

¹The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or such notice must be given at least 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c) of the Act, in which case public notice shall be given immediately.

geographic spread both for Alaska and the Pacific Northwest. Representation for the three states should be in the same proportions as those of the voting membership of the Council...The AP membership should represent a variety of interests within the fishing industry and others with interests in maintaining and managing Council fisheries. While it is hoped that major gear types from the harvesting sector will be broadly represented, as with geographic representation, no particular seat is guaranteed to a gear type or fishery.”² The Council does not designate seats for particular stakeholders, recognizing that issues and priorities change over time. Currently, the AP members represent a broad geographic area, and include several members who may give voice to Alaska Native and community concerns, such as a Gulf of Alaska small coastal community representative, a member of a Community Development Quota (CDQ) group representing rural, western Alaska communities in the Norton Sound region, and a Native Alaskan from the Aleutian Islands.

The Council may also appoint standing and ad hoc committees from among the voting and non-voting members as it deems necessary for the conduct of Council business. The Council Chair may also appoint to these committees industry representatives or other participants to address specific management issues or programs (SOPP, 2007). In cases in which a defined sector, community, or other entity is potentially affected by the proposed action, the Council attempts to ensure that the affected entities are represented on the committee or working group appointed to make recommendations to the Council on that particular issue. Committee appointments are voluntary, non-paid positions that require submission of an application/nomination prior to consideration for acceptance.

Federal policies & processes for Native and community consultation

There is an extensive list of Federal laws, treaties, executive orders, policy directives, and Federal regulations that place legal responsibilities for addressing community and tribal interests on executive branch agencies. The relationship between the U.S. government and Federally-recognized Indian tribes is considered to be government-to-government in nature. These orders indicate that United States and its agencies, including NOAA, acknowledge the governmental powers of the recognized tribes, and that such power stems not from a delegation of U.S. authority, but from a pre-existing state of sovereignty.

For example, the National Environmental Policy Act (NEPA) establishes a framework of public and tribal involvement in land management planning and actions. NEPA also provides for consideration of historic, cultural, and natural aspects of our environment. Specifically, places of cultural and religious significance to tribes are to be considered by Federal agencies in policy and project planning.

The following sections highlight two key executive orders pertaining to the consideration of Native/tribal community interests during the development of Federal regulations, policy, or legislation. These sections are followed by examples of tribal policies implemented by three Federal agencies: the Department of Commerce, the Environmental Protection Agency, and the U.S. Army Corps of Engineers.

Executive Order 12898

Executive Order 12898, approved on February 11, 1994, also pertains to tribal entities and communities. The E.O. states that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. Among groups specifically singled-out for impact assessment are Native Americans. (Note that E.O. 12898 also covers groups that are not necessarily Federally-recognized

²Statement of Organization, Practices, and Procedures of the North Pacific Fishery Management Council, Draft June 10, 2007, p. 6.

tribal entities.) In addition, included is a provision that states that each Federal agency responsibility set forth under the order shall apply equally to Native American programs (Section 6-606). The provision further states that the Department of the Interior, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

Executive Order 13175

Executive Order 13084³ was approved in May 14, 1998, in part to ensure that each agency has an effective process to permit elected officials and other representatives of Indian tribal governments⁴ to provide meaningful and timely input in the development of regulatory policies on Federal matters *that significantly or uniquely affect their communities*. This executive order was replaced by E.O. 13175 on November 6, 2000, in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies *that have tribal implications*. "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have *substantial direct effects* on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The definition of "Indian tribe" did not change under E.O. 13175.

Among other things, E.O. 13175 establishes policymaking criteria to which Federal agencies must adhere, to the extent permitted by law, when developing and implementing policies that have tribal implications. The order also includes a section on consultation, requiring that each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.

Department of Commerce Tribal Policy

As stated previously, the relationship between the U.S. government and Federally-recognized Indian tribes is considered to be government-to-government in nature. Recognition of this relationship is a matter of Federal policy, including for the U.S. Department of Commerce (DOC). The DOC approved an internal policy in recognition of the unique status of U.S. tribal governments in 1995: *American Indian and Alaska Native Policy*⁵. This policy pertains to Federally-recognized tribes, which are those officially recognized as such by inclusion in the list of "Indian Entities Recognized and Eligible to Receive Services from the U.S. Bureau of Indian Affairs."⁶ This list currently includes 225 Alaska Native entities within the state of Alaska.

The DOC's policy pertaining to actions dealing with American Indian and Alaska Native governments includes seven policy principles. Two of those in particular apply to the consultation process. One principle "acknowledges the trust relationship between the Federal government and American Indian and Alaska Native Tribes as established by specific statutes, treaties, court decisions, executive orders, and regulations." In keeping with this fiduciary relationship, DOC will consult with tribal governments prior

³Executive Order 13084 - Consultation and Coordination with Indian Tribal Governments [Federal Register: May 19, 1998 (Volume 63, Number 96)].

⁴"Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

⁵<http://www.census.gov/prod/ccn2000/d-3288.pdf#Page=34>

⁶Federal Register: July 12, 2002 (Volume 67, Number 134), Page 46327-46333.

to implementing an action when developing legislation, regulations, and/or policies that will affect the natural and/or environmental resources of tribes. The second principle states that DOC “will consult with tribal governments before making decisions or implementing programs that may affect tribes to ensure that tribal rights and concerns are addressed.” In sum, DOC will seek tribal input on policies, programs, and issues that may affect a tribe.

EPA Tribal Policy

Following publication of the President’s Federal Indian Policy in 1983,⁷ the Environmental Protection Agency (EPA) developed and published a “Policy for the Administration of Environmental Programs on Indian Reservations” on November 8, 1984. The purpose of the statement was to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position on the relationship of the Federal government to tribal governments. The statement sets forth nine principles to guide the EPA in dealing with tribal governments and in responding to the problems of environmental management *on American Indian reservations* in order to protect human health and the environment.⁸

In addition, the EPA has formalized several approaches to consultation with tribal governments in response to E.O. 13175, which requires consultation and coordination in the development of Federal policies that have tribal implications. One of the ways in which the EPA has implemented the intent of this order is through the establishment of an EPA-Tribal Science Council in 2000.⁹ The EPA-Tribal Science Council, comprised of tribal and EPA representatives, provides a mechanism through which the EPA can understand the tribes’ highest priority scientific issues at a national level and an opportunity for tribes to influence the EPA’s scientific agenda. It appears to be a successful approach not only to a consultation process, but also to sharing local traditional knowledge with EPA scientists in order to contribute to improved environmental protection overall. As part of this effort, the EPA initiated a series of workshops, seminars, and projects that involve tribes in forming a framework for integrating tribal knowledge into EPA risk assessment and decision-making.

U.S. Army Corps of Engineers Tribal Policy

A third example is the approach used by the U.S. Army Corps of Engineers (Corps). The Corps has established several Tribal Policy Principles. In August 2001, regulations were established for the Northwestern Division covering the policy, responsibilities, and implementation of the Corps’ Tribal Policy Principles. One of these is “*Pre-decisional and Honest Consultation: The Corps will reach out, through designated points of contact, to involve tribes in collaborative processes designed to ensure information exchange, consideration of disparate viewpoints before and during decision making, and utilize fair and impartial dispute resolution mechanisms.*”

In effect, consultation is achieved through an effective communication process in which government officials engage in regular and meaningful discussions with representatives of Indian tribal governments. For example, the Corps engages and involves tribes in collaborative processes designed to facilitate the exchange of information and to effectively address effects of Federal actions and policies on tribal interests and rights. The Corps commonly documents this consultation process through an appendix to the relevant feasibility studies or environmental impact statements.

⁷The Federal Indian Policy (published January 24, 1983) supported the primary role of tribal governments in matters affecting American Indian reservations. The policy stressed two themes: 1) that the Federal government will pursue the principle of Indian “self-government”, and (2) that it will work directly with tribal governments on a ‘government-to-government’ basis.

⁸<http://www.epa.gov/indian/1984.htm>

⁹Cirone, Patricia, 2005. ‘The Integration of Tribal Traditional Lifeways into EPA’s Decision Making’, *Practicing Anthropology* Vol 27. No. 1, 20 – 24.

The appendix, typically entitled “Tribal Coordination and Consultation,” serves to identify potentially affected tribes whose interests may be affected by proposed Federal actions in the NEPA document. This document also describes the process undertaken to consult and coordinate with affected tribes, including public meetings, distribution of draft documents and other background materials, and solicitation of input from tribes on how they want the Corps to fulfill plans for future consultation. A brief summary of the issues discussed at each of these meetings is provided and made available to decision makers.

Approach to implementing the Council’s Groundfish Policy Workplan priority: Increase Alaska Native and Community Consultation

The Council’s workplan priority to increase Alaska Native and community consultation is intended to be implemented through the two specific goals outlined above. In addition to the stated priority in the workplan, the need for an approach to improve the consultation process has been highlighted recently in the development of the Arctic Fishery Management Plan. Prior to its June 2007 meeting, the Council received letters from the Native Village of Kotzebue, and the Maniilaq Association, which represents twelve communities located in Northwest Alaska.¹⁰ The correspondence from these entities noted concern with the Council’s lack of communication with communities living adjacent to the Arctic EEZ about the potential development of an Arctic FMP. Their comments on potential alternatives for an Arctic FMP were combined with a request for the Council to pursue “full consultation and input from affected communities and residents”¹¹, as well as a request to be considered for a role on an Arctic Plan Team to further develop an Arctic FMP.¹²

There are several possible approaches to developing: 1) a protocol for improving Alaska Native and community consultation, and 2) a system for documenting this participation. Several conceptual approaches are outlined below:

Proposed protocol to expand formal consultation:

- Create criteria to determine whether a Federal action has substantial direct effects on one or more Alaska Native entities or communities.
- Develop a GIS database that links standardized geographic areas (e.g., ADF&G statistical areas, IPHC areas, Federal management areas, etc) to a list of potentially affected communities located in or adjacent to those areas. Further links could be developed between the geographic community and the Alaska Native and/or governing entities present in the community. This would allow a more standardized approach to identifying the Alaska Native and other community entities that should be contacted and/or consulted with during the development of a management action in a particular geographic area.
- Contact/survey the identified entities to solicit input as to how they prefer to be contacted should the Council need to contact or consult with them on a proposed management action.
- Contact (by email, fax, or letter) and solicit input from each entity identified as being potentially affected by the proposed action, prior to the development of the final suite of alternatives for

¹⁰Member villages of the Maniilaq Association include Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak, and Pt. Hope.

¹¹Letter from H. Bolen, Maniilaq Association to S. Madsen, NPFMC. May 25, 2007.

¹²Letter from A. Whiting, Native Village of Kotzebue to S. Madsen, NPFMC. May 25, 2007.

analysis. Provide each entity with the upcoming brochure on the Council process (*Navigating the North Pacific Council Process*).

- Convene meetings or teleconferences, as necessary and appropriate, during the scoping of the alternatives for analysis. This step may only be necessary when it is determined that a Federal action has significant, unique, or substantial direct effects on an Alaska Native entity or community.
- Upon formation of a Council committee, workgroup, or plan team on a particular issue, consider representation from an affected Alaska Native and/or community entity or entities.
- Contact (by email, fax, or letter) and solicit input from each entity identified as being potentially affected by the proposed action, prior to the Council's scheduled final action.
- Hire a Tribal Liaison or assign existing Council staff to oversee this protocol and maintain ongoing and proactive relations with tribal communities (many natural resource management bodies have tribal liaisons).

Proposed protocol to expand informal consultation:

- Create a standing committee of Alaska Native, rural community and Council representatives to discuss ongoing issues and convey information between parties.
- Participate in national, regional, and local conferences pertaining to tribal and community fishing and environmental interests (e.g., the National Tribal Environmental Conference; Alaska's Fishing Communities: Harvesting the Future; Alaska Young Fishermen's Summit)

Proposed documentation:

- Create a section in or appendix to each analytical document (EA/RIR/IRFA or EIS/RIR/IRFA) provided to the Council that identifies the tribes and/or communities whose interests may potentially be affected by the proposed action. Include a summary of the process undertaken to solicit input from affected entities, including solicitations for input, public meetings, or the distribution of documents. A brief summary of the issues discussed at meetings should be provided and made available to decision makers. This ensures that the consultation process is part of the formal record.
- Hire a Tribal Liaison or assign existing Council staff to document the Alaska Native entities or organizations that provide written responses/testimony on proposed actions. Update the GIS database as necessary with this information, so as to keep a comprehensive database of all potentially affected entities.

Summary and potential Council action

There are several possible approaches the Council could take to implement its workplan priority to improve the Alaska Native and community consultation process and documentation of such a process. A protocol to expand both formal and informal consultation could be approved by the Council and implemented in an iterative manner, in accordance with the type of management action being considered by the Council at the time. The suggested protocol in this paper should be considered a starting point for Council review.



Highlights

Highlights of GAO-06-289, a report to congressional requesters

FISHERIES MANAGEMENT

Core Principles and a Strategic Approach Would Enhance Stakeholder Participation in Developing Quota-Based Programs

Why GAO Did This Study

Dedicated access privilege (DAP) programs are one tool the National Marine Fisheries Service (NMFS) uses to help end overfishing and promote conservation. Under a DAP program, NMFS sets an allowable catch in a fishery and allocates the privilege to harvest a portion of the total to eligible entities, such as fishermen. Because DAP programs can have significant impacts on fishermen and their communities, many believe that effective participation by fishermen and other stakeholders in the development of these programs is critical. GAO was asked to determine (1) the extent to which the regional fishery management councils are using a framework for effective participation and (2) the methods stakeholders and participation experts suggest for enhancing stakeholder participation in developing DAP programs.

What GAO Recommends

GAO recommends that NMFS establish a formal policy for stakeholder participation, including adopting a set of core principles; provide guidance and training to the councils and others on developing and using a strategic approach to stakeholder participation; and ensure that the councils develop and implement a framework for effective stakeholder participation.

NOAA reviewed a draft of this report and the agency generally agreed with the findings and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-06-289.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Anu K. Mittal at (202) 512-9846 or mittala@gao.gov.

What GAO Found

The fishery management councils that GAO reviewed lack key elements of an effective stakeholder participation framework and therefore may be missing opportunities for all stakeholders to participate in the DAP program development process. Based on GAO's review of the literature and the experience of leading federal agencies in stakeholder participation, such a framework should include a strategic implementation approach that embodies a set of core principles, such as making key information readily available and understandable and fostering responsive, interactive communication between stakeholders and decision makers. However, fisheries stakeholders identified several areas where council practices do not fully adhere to the core principles GAO identified. For example, while the councils make DAP-related information available to stakeholders, this information is not always presented in an easily understandable way. Also, while stakeholders can testify at council meetings, according to participation experts, this one-way communication is not an effective way to share information because it does not lead to a dialogue between stakeholders and decision makers. Unlike other federal agencies, NMFS has neither developed a formal stakeholder participation policy nor provided the councils with guidance or training on how to develop and use a strategic approach to enhance stakeholder participation. While not legally required to do so, if NMFS adopted such an approach it could help ensure, among other things, that all relevant stakeholders are identified, specific participation goals are defined, and participation plans are implemented by the councils developing DAP programs.

Methods suggested by stakeholders and participation experts that could enhance stakeholder participation in the DAP program development process principally fall into five categories: (1) providing education and outreach; (2) holding meetings using different times, locations, and formats; (3) streamlining the DAP program development process; (4) diversifying interests represented in the council process; and (5) sharing decision-making authority. While using these methods can result in more effective participation, particularly when they are employed as part of a participation plan, these methods can also have certain disadvantages, such as increased costs. For example, the Marine Resource Education Project (MREP), which is sponsored by a group of universities in New England, offers several examples of promising practices. MREP provides stakeholders with training on fisheries management and science to help them better understand the council process and DAP issues, teaches the importance of being involved early and throughout the process, and provides diverse stakeholders with the opportunity to exchange information in informal settings. However, such training can be costly and may reach relatively few stakeholders.



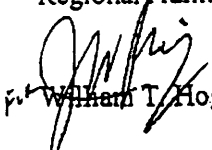
UNITED STATES DEPARTMENT OF
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

THE DIRECTOR

AGENDA D-4(b)(3)
DECEMBER 2007

APR 28 2006

MEMORANDUM FOR: Regional Administrators, FMC Executive Directors

FROM: 
for William T. Hogarth, Ph.D.

SUBJECT: Implementing GAO Recommendations Regarding
Stakeholder Participation in Developing Quota-Based
Programs, GAO Report No. GAO-06-289

Last fall the GAO investigated stakeholder participation in Council development of quota-based programs. In a report, published in February, the GAO found that Councils are working in compliance with all laws related to public involvement. However, despite our strong work with stakeholders, I do agree with the GAO's finding that "opportunities exist for more strategic and effective stakeholder involvement that could lead to a more inclusive decision-making process on what are frequently controversial issues."

Overall, I think NMFS and the Councils do a good job at the monumental task of engaging widely dispersed stakeholders. However, the commitment we have made to develop new dedicated access programs (DAPs) will require us to do more to involve and inform stakeholders. For most constituents, a DAP is not business as usual, and we must commit to preparing them for the new concepts and issues surrounding market-linked fisheries management.

The GAO made three recommendations to enhance stakeholder involvement in the development of DAPs.

- Establish a formal policy, adopting a set of core principles to guide stakeholder participation activities,
- Provide guidance to the Councils and train NMFS staff, Council staff, and Council members on developing and using a strategic approach to stakeholder participation; and
- Ensure the Councils develop and implement a framework for stakeholder participation.

Communication strategy.

The first challenge is to form a NMFS policy on stakeholder involvement that will ultimately be put into action by the Councils. The greatest assurance that the policy will be practicable and effective will be realized if current Council practices and limitations inform its development. I request that each Council and Regional Office (RO) assign a staff member to this project. Involvement in this project will require review of the GAO report and some staff work and several conference calls in advance of a two day meeting



some time during the early summer. Over the last several years, an informal National Communications Team, consisting of RO and Council outreach staff, has formed to work on issues of common concern. Though I leave it to your discretion whom to tap for this assignment, it seems those staff currently on the team would be best prepared for this project.

A copy of the GAO report and our draft plan of action for implementation of its recommendations are attached. Please send the name of your staff who will participate in this project to Daniel.Morris@noaa.gov by May 12, 2006. If you have any questions about the GAO report and our responses to it, contact Alan Risenhoover, 301.713.2334. I appreciate your support of this initiative, and I expect this to be topic for discussion at the CCED meeting in May.

Attachments

**NOAA Comments on the Draft GAO Report Entitled
"Core Principles and a Strategic Approach Would Enhance
Stakeholder Participation in Developing Quota-Based Programs"
(GAO-06-289/February 2006)**

The Government Accountability Office (GAO) made three recommendations to the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) regarding stakeholder participation in the development of quota-based fishery management programs.

Recommendation 1: Establish a formal policy for stakeholder participation, including adopting a set of core principles to guide stakeholder participation activities.

NOAA Response: NMFS agrees with this recommendation. The core principles of participation noted by GAO are embodied in the various statutes governing Council and NMFS proceedings. But nowhere are principles of participation for NMFS articulated in a single, concise format. Therefore, the Assistant Administrator for NMFS will request input from outreach professionals from the NMFS headquarters and regional offices to develop a draft policy for stakeholder participation. NMFS will also work closely with the Regional Councils and will seek recommendations from individual Council staff members to develop the draft policy. The input will be used to refine the core principles listed in this report for application within the context of Council operations, to draft the policy, and to describe the NMFS and Council-specific activities that may be necessary to put the policy into practice. The stakeholder participation policy will form an integral part of a larger, broader NMFS outreach and education policy that is currently in development.

Actions

(1) NMFS will contact outreach professionals from headquarters, the regional offices, and the Councils to gain their perspectives and input for consideration in the development of a draft policy on stakeholder participation in Council processes with special attention paid to the issue of dedicated access programs (DAPs). The policy will include core principles that have been adapted from the GAO report for specific application in Council processes, and it will include a descriptive list of NMFS and Council-specific activities that may support implementation of the new policy and enhance stakeholder involvement.

< *Deliverable:* A draft NMFS policy on stakeholder involvement in Council processes, with special emphasis on the development of DAPs.
Target completion date: 29 September 2006

(2) After internal review of the draft policy and consultation with Council leadership, the draft policy will be finalized by NMFS staff and, with the approval of the NMFS Assistant Administrator, will be entered into the NMFS Policy Directive System (PDS).

Deliverable: Final clearance of the policy and incorporation into the NMFS PDS.
Target completion date: 31 December 2006

Recommendation 2: Provide guidance to the Councils and train NMFS staff, Council members, Council staff on developing and using a strategic approach to stakeholder participation.

NOAA Response: NMFS agrees with this recommendation. Current bills under consideration in the Congress to reauthorize the Magnuson-Stevens Act (MSA) include amendments that would require NMFS to establish a training program for new and existing members of the Councils. NMFS will ensure that stakeholder participation and DAPs are components of any training plan mandated by the reauthorized MSA.

The recommendation to "provide guidance to the Councils" will be addressed under recommendation #3. NMFS staff and Council staff are the principal agents of outreach and the facilitating of stakeholder participation. The actions below focus on providing training and outreach tools to the staffs, but the tools will be available also for use by Council members and the general public.

Actions

(1) Using the Policy on Stakeholder Participation as a basis, NMFS will develop an internet-based clearinghouse for information and training materials related to stakeholder participation and DAPs. The webpage will include the GAO report, the NMFS policy, each Council's framework for implementing the policy on stakeholder participation, a toolkit for Council and regional staff engaged in outreach, and primers on various subjects related to DAPs. The website, though targeting NMFS and Council staff will be available to Council members and the general public and may support industry collective initiatives related to DAPs.

Deliverable: An internet website that will serve as a clearinghouse for information and training materials related to stakeholder participation and DAPs.

Target completion date: The website should be established by 17 November 2006.

(2) The NMFS Office of Sustainable Fisheries will designate a training coordinator, who, among other duties, will be responsible for supporting the training efforts of NMFS regional and Council staffs, especially as they relate to stakeholder involvement in the development of DAPs and implementation of new training requirements under the reauthorized MSA.

Deliverable: A staff member in the NMFS Office of Sustainable Fisheries with training responsibilities and with specific tasking related to implementing the NMFS policy on stakeholder participation.

Target completion date: 29 September 2006

Recommendation 3: Direct the Councils to develop and implement a framework for stakeholder participation that includes core principles and a strategic approach.

NOAA Response: Stakeholder participation is the shared concern of NMFS and the Councils. NMFS will collaborate with Council staffs and members to implement a framework for stakeholder participation that includes the jointly developed core principles. The national dialog that will inform the stakeholder participation policy will be the first opportunity for outreach professionals from the NMFS regions and Councils to collaborate on this effort, to explore outreach and participation ideas, and to set priorities for future activities to enhance stakeholder participation.

Actions

(1) The NMFS Assistant Administrator will issue a letter directing the Council Chairs and Executive Directors and the Regional Administrators to develop and implement a framework for stakeholder participation, which shall be discussed at the a subsequent Council meeting. The letter will follow completion of actions under recommendation #1 and will distribute the policy, draft framework, and report of the working group discussed above.

Deliverable: Letter from the NMFS Assistant Administrator to all Regional Administrators, Council Chairs and Executive Directors on the subject of stakeholder participation in the development of market-based fishery management programs.

Target completion date: 31 December 2006

(2) Stakeholder participation, especially as it relates to the development of dedicated access programs, will be a subject on the agenda at least one of the two Council Chair/Executive Director (CCED) meetings convened semi-annually by the NMFS Assistant Administrator. The meeting will be used to discuss implementation of the framework for stakeholder participation, resources for outreach, common concerns, and success stories. Because such meetings are not Council meetings under section 302(g) of the Magnuson-Stevens Act, NMFS will ensure that the participants provide their individual views and not consensus advice.

Deliverable: Inclusion of this subject in one of the two semi-annual CCED meetings.

Due date: 31 December 2006. NMFS will include stakeholder participation at the upcoming fall meeting of the CCED (yet to be scheduled) and will ensure that the stakeholder participation is a standing agenda item, but will not report on this action item further.

<i>NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 30-129</i> <i>Effective February 1, 2007</i>	
<i>Administration and Operations</i>	
<i>STAKEHOLDER PARTICIPATION IN COUNCIL DEVELOPMENT OF LIMITED ACCESS PRIVILEGE PROGRAMS</i>	
NOTICE: This publication is available at: http://www.nmfs.noaa.gov/directives/ .	
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<i>SUMMARY OF REVISIONS:</i>	

1. Background. In 2005, the US Government Accountability Office (GAO) examined the involvement of stakeholders in the development of limited access privilege programs (LAPPs) by Fishery Management Councils. The GAO found Council practices are consistent with laws related to stakeholder involvement but concluded that opportunities exist for improvement in the way Councils include and inform stakeholders. The GAO suggested a more targeted or “strategic” approach to communication and recommended that the Councils adopt a set of core principles to guide stakeholder participation.

A full description of the GAO’s methods and findings are available at <http://www.gao.gov/new.items/d06289.pdf>.

2. Limited Access Privilege Programs. LAPPs are an important fishery management tool, and NMFS encourages Councils to make wider use of LAPPs. However, the concepts and terminology of LAPPs may be new for many stakeholders. As such, the first step should be the development of an easy to understand overview of market-based fisheries management practices and issues for stakeholders.

3. Improving Stakeholder Involvement. The GAO recommends communication procedures or plans that are specific to each Council to help ensure effective stakeholder communication and involvement. According to the GAO, a set of core principles, a general communications policy, and a Council commitment to outreach will allow for increased communication and stakeholder involvement in the development of LAPPs.

4. Strategies. Fishery Management Councils already have communication strategies in place that are specific to their regions and the fisheries that they manage. If not current practice, Councils should use these communication strategies or plans to address stakeholder involvement in LAPPs. As part of their process, the Council’s should adopt the core principals on stakeholder involvement to guide their activities.

5. Core Principles. The GAO wanted to know what makes for successful public communication and involvement. As such, they asked facilitation and stakeholder engagement experts and found that the identification and use of certain “core principles” are the hallmark of any successful

public deliberative process. At the recommendation of the GAO, NMFS has adopted the following core principles for engagement of the public in the development of LAPPs:

- Use an open and clearly defined decision-making process;
- Make key information readily available and understandable;
- Actively conduct outreach and solicit stakeholder input;
- Involve stakeholders early and throughout the decision-making process;
- Foster responsive, interactive communication between stakeholders and decision makers;
- Use formal and informal participation methods; and
- Include all stakeholder interests.

6. *Statutory Requirements.* This process on stakeholder involvement is not a statutory requirement. However, all regulatory and statutory requirements related to communication procedures and openness by the Council's and NMFS still apply.

7. *Council Coordination.* NMFS will work with the Councils to implement this policy. NMFS will suggest that the subject of stakeholder participation in the development of LAPPs be included on the agenda for discussion at one Council Coordinating Committee meeting each year. This meeting (and other forums, as necessary) may be used to exchange information on this topic and to share and consider documents, methods, and media that support this policy nationally or across several Councils.

Signed William T. Hogarth 18 Jan. 2007
William T. Hogarth, Ph.D. Date
Assistant Administrator
National Marine Fisheries Service