

**FINAL MINUTES**  
191st Plenary Session  
North Pacific Fishery Management Council  
February 4-9, 2009  
Renaissance Hotel  
Seattle, Washington

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# North Pacific Fishery Management Council

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APPROVED: \_\_\_\_\_

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## FINAL MINUTES

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Renaissance Madison Hotel  
Seattle, Washington

The North Pacific Fishery Management Council met February 4-9, 2009 at the Renaissance Madison Hotel in Seattle, Washington. The Scientific and Statistical Committee met February 2-4, and the Advisory Panel met February 2-6 at the same location. The following Council, SSC and AP members, and NPFMC staff attended the meetings.

### Council Members

Eric Olson, Chair  
Dave Benson, Vice Chair  
Sam Cotten  
Ed Dersham  
Duncan Fields  
Dave Hanson  
John Henderschedt  
Roy Hyder

Denby Lloyd/Dave Bedford  
Doug Mecum  
Gerry Merrigan  
Bill Tweit for Phil Anderson  
LCDR Lisa Ragone for RADM Brooks  
Nicole Ricci  
[Greg Balogh did not attend]

### NPFMC Staff

Gail Bendixen  
Jane DiCosimo  
Diana Evans  
Mark Fina  
Jeannie Heltzel  
Nicole Kimball  
Peggy Kircher

Jon McCracken  
Chris Oliver  
Maria Shawback  
Diana Stram  
Bill Wilson  
Dave Witherell

Scientific and Statistical Committee

Pat Livingston, Chair  
Troy Buell  
Robert Clark  
Keith Criddle, Vice Chair  
Anne Hollowed  
George Hunt  
Kathy Kuletz

Seth Macinko  
Franz Mueter  
Lew Queirolo  
Terry Quinn II  
Farron Wallace  
Ray Webster  
Doug Woodby

Advisory Panel

Mark Cooper  
Craig Cross  
John Crowley  
Julianne Curry  
Jerry Downing  
Tom Enlow  
Tim Evers  
Jeff Farvour  
Jan Jacobs  
Bob Jacobson

Simon Kinneen  
Chuck McCallum  
Mike Martin  
Matt Moir  
Rex Murphy  
Theresa Peterson  
Ed Poulsen  
Beth Stewart  
Lori Swanson

**Appendix I contains the public sign-in register and a tape log of Council proceedings, including those providing reports and public comment during the meeting.**

**A. CALL TO ORDER**

Chairman Eric Olson called the meeting to order at approximately 8:05 a.m. on Wednesday, February 4, 2009.

Agenda. The agenda was approved with the notations that Agenda item, C-8, MPA Nomination Process, has been delayed to a future meeting pending more information, and Item D-2(c), Review of a halibut sorting EFP, was delayed until the April meeting pending completion of the application.

Minutes. The minutes of the December 2008 NPFMC meeting were approved with the correction of a mis-recorded vote on page 36.

[NOTE: Mr. Tweit participated in the entire meeting in place of Phil Anderson.]

**B. REPORTS**

The Council received the following reports: Executive Director's Report (B-1); NMFS Management Report, including a report from Dr. DeMaster, Director of the Alaska Fisheries Science Center (B-2); NMFS Enforcement Report (B-3), ADF&G Report (B-4); USCG Report (B-5); IPHC Report (B-7), and Protected Species Report (B-8). There was no report from the USF&W (B-6) at this meeting.

### Executive Director's Report

Chris Oliver, Executive Director, reviewed his written report, including an update on National Standard 1 guidelines relating to annual catch limits. Mr. Oliver confirmed that NPFMC's existing annual specifications process is consistent with the intent of the legislation although there may be some technical amendments required to fulfill the specifics of the guidelines. At the upcoming CCC meeting, each regional Council has been requested to provide a status of its progress relative to the final rule. Mr. Oliver provided the Council with a written summary of NPFMC's status report.

With regard to a discretionary provision in the rule, creating a ecosystem component classification within FMPs, Mr. Oliver noted that the Council is already dealing with the spirit of that provision with several analyses to manage skate, squid, octopus, shark, sculpin, and grenadier groups as separate specification categories, however, the Council may wish to refer the issue of creating an EC category to the Non-Target Species Committee for discussion. This was also discussed during Staff Tasking, Agenda item D-3.

Mr. Oliver also advised Council members of two nominations to Scallop Plan Team: Mr. Ryan Burt to replace Jeff Barnhart (retired), and Mr. Rich Gustafson to fill a new position as recommended by the Plan Team. Both nominees are employed by ADF&G. After an affirmative recommendation by the Scientific and Statistical Committee, the Council approved these appointments during Staff Tasking (Agenda item D-3).

### NMFS Management Report

The Council received a report on current amendments and inseason management from Sue Salvesson (NMFS-AKR staff), a review of current litigation from Lauren Smoker (NOAA General Counsel), and Dr. Doug DeMaster, Director of the Alaska Fisheries Science Center, updated the Council on Center activities.

Regarding the report on amendments in progress, Mr. Tweit suggested that the Council send a letter to NMFS HQ encouraging NMFS maintain a high priority for review of the halibut charter moratorium. After staff reports and public comment, **Duncan Fields moved to send a letter to NMFS stating that the Council is very anxious to see the Agency's work on the halibut moratorium amendment package continue to be a high priority and that the proposed rule be published as soon as possible.** The motion was seconded and carried without objection. [Mr. Bedford was sitting in for Mr. Lloyd for this discussion.]

### NMFS Enforcement Report

Matt Brown, NMFS-Enforcement-AKR, provided the Council with a recap of enforcement activities for 2008. Council members requested more information on the role of 'affidavits' and how they relate to actual enforcement actions.

### ADF&G Report

Herman Savikko provided a review of fisheries of interest to the Council. Additionally, he reviewed proposals before the Board of Fisheries that may be of Council interest.

### USCG Report

Vice Admiral Pekoske, Commander of the Pacific Region, addressed the Council, emphasizing his simultaneous priorities of safety and enforcement. He noted a troubling trend of rising safety violations

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and asked the Council to stress safety requirements whenever possible. Admiral Pecoske also noted the challenge of aging Coast Guard vessels in light of future tasks, particularly in the Arctic region. LCDR Lisa Ragone provided the Council with an overview of Coast Guard activities off Alaska for 2008.

IPHC Report

Dr. Bruce Leaman, Director of the International Pacific Halibut Commission, provided the Council with the annual review of halibut assessment and stock status. The Commission is recommending an overall 10.4% decrease from the 2008 catch limits. Two exceptions were noted: The Area 3B catch limit will remain the same as that for 2008, and Area 4B which will receive a slightly increased catch limit for 2009. The season for the U.S. IFQ and CDQ fisheries will begin at Noon on March 21 and end at Noon on November 15.

The Commission relayed two issues for Council consideration. (1) development of a harvest tag or fish ticket for data collection in all Alaska recreational fisheries for more accurate and timely accounting; (2) allow retention of Area 4 IFQ halibut during the Bering Sea sablefish pot fishery (the IPHC requested the Council refer this proposal to its Halibut IFQ Implementation Team for discussion and recommendations).

The Commission also discussed the one-fish bag limit approved by the Council but not yet implemented. The Commission noted that in consideration of the GHL of 788,000 pounds defined for this fishery, that it will monitor the implementation of this regulation and in the event of conservation concerns will be prepared to take extraordinary action should there be any delay or problem with implementation of the regulation.

The Council discussed these issues during Staff Tasking (Agenda item D-3).

Protected Species Report

Bill Wilson (NPFMC staff) reviewed several marine mammal issues, including an update on a petition to list the ribbon seal, proposed designation of critical habitat for the northern sea otter, results of a 2008 survey of northern fur seal pups on the Pribilof Islands, Cook Inlet beluga whales, North Pacific right whales, and Steller sea lions. Additionally, Mr. Wilson advised the Council of a request from the Oregon and Washington Department of Fish and Wildlife requesting that the NMFS Alaska Region move forward with delisting the eastern Distinct Population Segment of Steller sea lion.

The Council also received a presentation from Lowell Fritz (AFSC) on the 2008 Steller sea lion non-pup survey.

Doug Mecum (NMFS-AKR) advised the Council that the agency is still on track to release the draft status quo Biological Opinion (BiOp) in August and suggested that the Council's Steller Sea Lion Mitigation Committee should review it. If jeopardy is found, the Council will be in a position to provide input on RPAs at its October 2009 meeting.

Mr. Wilson also reviewed the Council's previous discussions regarding dividing the BSAI Pacific cod sector allocations between the Bering Sea and Aleutian Islands. The Council deferred further action because splitting cod between the Bering Sea and Aleutian Islands is complicated by the ongoing Endangered Species Act consultation process and the development of the status quo BiOp on the effects of current Alaska groundfish fisheries on ESA-listed species, particularly Steller sea lions. The draft status BiOp, currently scheduled for release in August 2009, may include conclusion of jeopardy or

adverse modification of designated critical habitat. Additionally, the Council did not want to delay the process of developing the BiOp by altering Pacific cod management in the BSAI.

In December 2008 the Council discussed establishing a committee that could provide recommendations on dividing Pacific cod between the Aleutian Islands and Bering Sea reflective of current catch patterns of the sectors. The Council also discussed having the SSLMC review the issue in addition to other Pacific cod proposals. The Council discussed the creation of a new committee during Staff Tasking (Agenda item D-3).

## **FORMAT FOR COUNCIL MEETING MINUTES FOR 'C' AND 'D' AGENDA ITEMS**

Each agenda item will begin with a copy of the original "Action Memo" from the Council meeting notebook. This will provide an "historical" background leading to any discussion and/or action. This section will be set in a different typeface and size than the actual minutes. Any attachments referred to in the Action Memo will **not** be included in the minutes, but will be part of the meeting record and available from the Council office on request. Following the Action Memo will be reports of the Scientific and Statistical Committee and Advisory Panel on the subject. Last will be a section describing Council **Discussion and Action**, if any.

### **C. MAJOR ISSUES/FINAL ACTION ITEMS**

#### **C-1 AFA Co-op Reports**

##### **ACTION REQUIRED**

**Review AFA cooperative agreements and end of year cooperative reports**

##### **BACKGROUND**

**Each year the AFA pollock fishery cooperatives are required to submit year-end reports summarizing their fishing activities from the preceding year. They are also required to submit cooperative agreements for the upcoming fishing year (we have interpreted this requirement such that the cooperatives submit information only if and to what degree such agreements have been modified from existing agreements). Due to the volume of these materials, a few copies of the complete reports will be made available at the meeting, and full copies are available from our offices. Co-op representatives will provide a joint, summary report to the Council at this meeting.**

This issue was not on the agenda of either the Scientific and Statistical Committee or the Advisory Panel.

##### **COUCNCIL DISCUSSION/ACTION**

[NOTE: Sue Salvesson and David Bedford participated in this discussion for Doug Mecum and Denby Lloyd, respectively.]

The Council received presentations from John Gruver (Catcher Vessel Inter-coop), Ed Richardson (High Seas pollock Co-op) and Karl Haflinger (Bering Sea pollock Inter-coop salmon avoidance agreement). This was an informational agenda issue, required by the American Fisheries Act, and there was no Council action required. Copies of the reports can be obtained from the Council office.

**C-2 Arctic Fishery Management Plan**

**ACTION REQUIRED**

Receive draft Arctic FMP and draft EA/RIR/IRFA and take action as necessary.

**BACKGROUND**

**A. 2008 Beaufort Sea Fish Survey**

In 2008, the Alaska Fisheries Science Center (AFSC) conducted a trawl and hydroacoustic survey of a portion of the western Beaufort Sea offshore Alaska to collect information on fish and other marine biota (see map of sampling area, Item C-2(a)). Supported by the Minerals Management Service, this is the first survey of offshore Beaufort Sea fish resources since the 1980s and is an important new data set that was used to support development of the Council's proposed Arctic Fishery Management Plan. The 2008 survey is the first quantitative assessment of fish in the Alaskan Arctic using contemporary stock assessment techniques. It also is an important baseline against which scientists can measure future environmental change in the Arctic. The AFSC report was previously sent to you in a Council mailing. Dr. Libby Logerwell from the AFSC will present an overview of the study and results.

**B. Arctic FMP**

At its October 2008 meeting, the Council, SSC, AP, and Ecosystem and Enforcement Committees reviewed the preliminary draft Arctic Fishery Management Plan (FMP) and accompanying draft EA/RIR/IRFA. During the October 2008 meeting, the Council requested that staff address all comments to the extent possible by the end of October, and meet with the SSC in December 2008 to further discuss the Arctic FMP and remaining SSC concerns. The Council requested that, once the SSC's December 2008 comments have been addressed, the draft FMP and EA/RIR/IRFA be sent out for public review. The draft Arctic FMP documents were again reviewed with the SSC in December; the SSC concluded that the documents were ready for public review after addressing some additional SSC concerns (an excerpt from the December 2008 SSC meeting minutes is attached as Item C-2(b)).

Since that time, staffs have continued to work on the Arctic FMP documents, including coordination with Alaska Fisheries Science Center staff to update the database used to inform the development of Options 1, 2, and 3 for setting conservation and management measures and to address the remaining SSC comments. The public review draft Arctic FMP and EA/RIR/IRFA was sent out for public review on January 12-13, 2009, and sent to you in a Council mailing. The Council is scheduled to pick its preferred alternative and take final action to adopt the Arctic FMP at its February 2009 meeting. The Executive Summaries of the draft FMP and the draft EA/RIR/IRFA and a map of the Arctic Management Area are attached as Item C-2(c).

Staff recommends revising the language of the statement of policy and goals and management objectives as a replacement for that section in the draft FMP. The recommended statement is attached as Item C-2(d). This language is clearer and more Arctic-focused but does not change intent.

**Report of the Scientific and Statistical Committee**

The SSC reviewed the revised analyses and recommended the Council consider approving Option 3, under the preferred alternative. The SSC noted several issues of concern with Alternatives 3 and 4 that indicate Alternative 2 may be the more preferred alternative. The SSC provided additional comments for changes to the final EA/RIR/IRFA (see the SSC Minutes, Appendix II to these minutes, for detailed comments).

### **Report of the Advisory Panel**

The AP recommended that the Council approve the EA/RIR/IRFA for the Arctic FMP, with the selection of Alternative 2, Option 3 as the preferred alternative, and approve the Arctic FMP. The AP also recommended the Council amend the BSAI King and Tanner Crab FMP to terminate its geographic coverage at Bering Strait. Additionally, the AP recommended continued outreach to Arctic communities.

### **Report of the Ecosystem Committee**

Stephanie Madsen, Committee chair, reported that after reviewing the analyses and receiving presentations on the draft FMP, the Ecosystem Committee recommends that the Council identify Alternative 2, Option 3 in the EA/RIR/IRFA as the preferred alternative and adopt the Arctic FMP consistent with this preferred alternative. Please refer to the Ecosystem Committee minutes (Appendix III to these minutes) for more detailed comments.

### **COUNCIL DISCUSSION/ACTION**

Bill Wilson (NPFMC staff) and Melanie Brown (NMFS-AKR staff) reviewed the issues and options for the Council. Libby Logerwell (AFSC staff) provided a review of the 2008 Beaufort Sea fish survey. The Council received recommendations from the SSC, AP, and Ecosystem Committee and oral public comments on this issue.

Nicole Ricci, representing the U.S. Department of State, delivered a letter from David Balton, Deputy Asst. Secretary for Oceans and Fisheries, supporting the Council's efforts in developing the Arctic FMP. Secretary Balton noted the need to coordinate with other Arctic governments in order to conserve and manage future activities in the Arctic and advised that the Canadian and Russian governments have been apprised of the Council's progress and are being encouraged to address these issues as well.

**Denby Lloyd moved that the Council approve the draft EA/RIR/IRFA for the Arctic FMP and Amendment 29 to the BSAI King and Tanner Crab FMP. The Council adopts Alternative 2, Option 3, as the preferred alternative for the Arctic FMP which includes an amendment of the BSAI King and Tanner Crab FMP to terminate its geographic coverage at Bering Strait; and adopts the text of the draft Arctic FMP dated January 20, 2009, with revisions recommended by the SSC and the revised draft management policy, goals and objectives recommended by staff (in the Action Memo). The motion was seconded by Dave Benson.**

Mr. Lloyd noted that the intent is to adopt the substance of the provisions contained in the draft Arctic FMP, but to allow staff to correct typographical errors and make necessary clarifications and formatting changes prior to submission for Secretarial review.

In support, Mr. Lloyd noted that the action would establish federal fishery management in the Arctic management area that complies with the Magnuson-Stevens Act before unregulated fisheries emerge that may cause adverse impacts to the marine resources and ecosystem of the Arctic EEZ off Alaska. Prohibiting commercial fishing will allow time for scientific study of the fish and ecosystems before the Council considers allowing commercial fisheries.

The Council expressed concern about the potential effects of this action on the reported (but largely anecdotal) small historic fishery for red king crab in the southeastern Chuckchi Sea. The Council's decision includes recognition that any fishery in the Arctic Management Area, including a red king crab fishery, could be considered in the future by the Council either through an FMP amendment process or



through the Exempted Fishing Permit process. The latter could offer opportunity for exploratory fishing in localized areas to better determine the nature of any crab resource that might be fished in the future. The Council also noted that this action will not affect future crab fishing within State waters that are managed by the State.

**Bill Tweit moved that the Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions. The motion was seconded by Doug Mecum and carried without objection.**

The main motion, as amended, carried unanimously.

### **C-3 Salmon Bycatch**

#### **ACTION REQUIRED**

**Review ICA proposals and Bycatch Committee report.**

#### **BACKGROUND**

In June of 2008, the Council took initial review of the Chinook Salmon Bycatch Management Measures EIS/RIR/IRFA and selected a preliminary preferred alternative (PPA). The Council's PPA includes a specified cap level of 68,392 Chinook salmon (Annual scenario 1) "if an ICA is in place that provides explicit incentive(s) for each participant to avoid salmon bycatch in all years". The hard cap in the absence of such an approved ICA (Annual scenario 2) would be 47,591 Chinook salmon. The motion from the June 2008 meeting is attached as Item C-3(a).

The Council requested that the pollock industry develop the specifics of an ICA that meets the requirements of the PPA and present information about their progress to the Council at this meeting. Representatives from the pollock industry will provide these progress reports under this agenda item. The Council also requested that the Salmon Bycatch Workgroup meet prior to this meeting to likewise review industry progress on these incentive programs. The workgroup met on January 20<sup>th</sup>, 2009 in Anchorage, AK. The report from that meeting is attached as Item C-3(b). An overview of the committee meeting and comments will be provided by staff.

Given the schedule for the draft EIS and the fact that the Council's PPA does not include detailed requirements for elements of an ICA, no specific incentive program under the ICA is analyzed in the draft EIS(DEIS)/RIR/IRFA. The analysis includes a description of the general requirements in the Council's PPA and the process for reviewing and approving the proposed ICA. However, only the impacts of the different cap levels in the PPA are analyzed in detail in the draft EIS/RIR/IRFA.

In advance of final action in April 2009, the Council may clarify some aspects of the PPA as currently conceived. Two items for clarification include whether or not multiple ICAs could be submitted annually to meet the PPA intent, and the criteria by which these ICAs will be annually evaluated and by whom. The specific criteria for approval or disapproval by NMFS of the ICA under the PPA is specified in the Council motion. Analysts current interpretation of the Council's intent about the ICA is described in section 2.4.3.1 of the DEIS (intent regarding one ICA) and 2.5.4.1 of the DEIS (intent regarding criteria for approval or disapproval by NMFS). These sections of the DEIS are attached as Item C-3(c). However, it is not clear that this description accurately captures Council intent with regard to multiple ICAs. Under this PPA, the Council would select either Annual scenario 1 (68,392 chinook salmon) or Annual scenario 2 (47,591 chinook salmon) based upon information received by the industry of their proposed programs and the extent to

which they appear to meet the Council's intent as specified in the motion. Should the Council select Annual scenario 1 and confer a cap of 68,392, following implementation of this cap level, an annual report would be prepared by industry detailing their efforts to reduce bycatch as proposed in their incentive programs. The Council would not be in a position to approve or disapprove annual ICAs based on this report however, only NMFS would have that authority and would use the criteria as specified in the motion (and afterwards in regulation) to meet the approval process. If the Council is dissatisfied with the progress towards bycatch reduction, it would need to initiate an analysis (i.e. an FMP amendment) to modify its selected program.

The draft EIS/RIR/IRFA was released on December 3<sup>rd</sup>, 2008. The comment period for the DEIS has been extended until February 23<sup>rd</sup>, 2009. Final action on the Chinook DEIS will occur at the April 2009 Council meeting. At that time the Council will receive several reports on the action as well as public comment prior to selecting its final preferred alternative. The reports for the April meeting will include: a staff report on the analysis (including analysis of the PPA); a report on the comments received during the Council's outreach efforts for this analysis; a summary of the comments received during the public comment period; and final reports from the industry on their proposed incentive- based bycatch reduction programs.

#### **Report of the Scientific and Statistical Committee**

After receiving staff reports and industry presentations on potential incentive programs, the SSC recommended that if the Council wishes to move forward with consideration of the PPA, that alternative ICA strategies be formally defined and clearly articulated and that their efficacy, efficiency, and distributional impacts be evaluated and characterized in a revised draft EIS/RIR/IRFA to be released for public comment. Additionally, the SSC noted that if the Council selects the PPA, annual ICA reports should be structured to provide data that will allow independent assessment of performance with respect to the ICA requirements specified in the PPA.

#### **Report of the Advisory Panel**

The AP also received industry presentations on two potential incentive plans (the Legacy plan and the Financial Incentive Plan) and advised that the plans meet the criteria outlined in the Council's preliminary preferred alternative.

#### **COUNCIL DISCUSSION/ACTION**

The Council received a progress report on the Salmon Bycatch draft EIS, noting that because the Council's PPA does not include detailed requirements for elements of an ICA, no specific incentive program under the ICA is analyzed in the current draft EIS.

The Council also received presentations for potential incentive plans: John Gruver (United Catcher Boats) Stephanie Madsen and Ed Richardson (PCC) and Joe Plesha (Trident Seafoods). The Council also received the recommendations of the SSC and AP and extensive oral public comment on the issue of salmon bycatch.

The Council discussed many issues that needed clarification for future development of the EIS, including specific criteria for determining the eligibility of an ICA, performance standards, a requirement for annual performance reports, and possibly an annual assessment by NMFS of actual performance compared to the proposed criteria.

Additionally, the Council discussed the following specific issues that it would like reviewed by the SSC in April:

The Council requests the SSC review the final industry-proposed incentive programs for Chinook salmon bycatch reduction at their April 2009 meeting. The Council understands that this type of request is outside of the normal analytical review requests to the SSC but feels that guidance from the SSC on these proposed programs is critical in the Council's consideration of them at final action in April under its current PPA structure.

The Council has requested that industry representatives provide final documentation to the Council office by March 13 so that the SSC will have two weeks to review the proposals prior to the start of the March/April meeting. The Council notes that ideally these materials will be provided by industry in a single, comprehensive package. This final documentation provided by industry must include the following:

1. Description of the structure of the ICA agreement including information on the rules governing the inter-relationship of the different incentive programs and operation under these programs (transfers, other operational ground rules, etc) between sectors.
2. Clear description of each incentive program proposed under the ICA agreement. This description should include detailed explanation of how each incentive program will work and the mechanics of the specific programs by sector.
3. Analysis to demonstrate how well each incentive program will achieve the Council's goals of bycatch reduction.

In order to provide direction to the SSC in this endeavor, the Council provides the following general objectives in reviewing the programs:

1. Whether the elements of each incentive plan adequately address the Council's objectives in the PPA of:
  - Providing incentive(s) for each vessel to avoid salmon bycatch under any condition of pollock and salmon abundance in all years;
  - Including rewards for salmon bycatch avoidance and/or penalties for failure to avoid salmon bycatch at the vessel level
2. Whether the programs can be expected to promote reductions in actual individual vessel bycatch rates relative to what would have occurred in absence of the incentive program. Incentive measures must promote salmon savings in any condition of pollock and salmon abundance, such that they are expected to influence operational decisions at bycatch levels below the hard cap.

Duncan Fields asked for discussion of a possible mandatory donation program for salmon bycatch. This issue was addressed during Staff Tasking, Agenda item D-3.

#### **C-4 Amendment 80**

#### **ACTION REQUIRED**

#### **Initial review of Amendment 80 Cooperative Formation**

#### **BACKGROUND**

**At the June 2008 meeting, the Council reviewed a discussion paper on the goals of the existing Amendment 80 cooperative formation standards, current conditions in the Amendment 80 fisheries, and the implications of modifying cooperative formation criteria for the Amendment 80 sector. In response, the Council developed a purpose and need statement for relaxing cooperative formation and tasked staff to prepare analysis for initial review that would modify the existing**

**standards for cooperative formation under the Amendment 80 Program. The following are the alternatives recommended by the Council and addressed in the analysis:**

- **Alternative 1: (Status quo) – A minimum of three unique quota share holders holding at least nine quota share permits are required to form a cooperative.**
- **Alternative 2: Reduce the number of unique quota share holders required to form a cooperative from three to two or one unique quota share holder.**
- **Alternative 3: Reduce the number of quota share permits required to form a cooperative from the existing 9 permits to some lower range.**
- **Alternative 4: Reduce both the number of unique quota share holders and the number of quota share permits required to form a cooperative (combination of Alternatives 2 and 3).**
- **Alternative 5: Allow a cooperative to form with a single or collective group of entities that represent 20%, 25%, or 30% of the sector quota share.**
- **Alternative 6: Allow the groundfish retention standard (GRS) to be applied in aggregate to all cooperatives if this calculation meets or exceeds the GRS requirement.**

**At this meeting, the Council is scheduled to take initial action on this agenda item. The analysis for this agenda item was mailed out on January 21, 2009; an executive summary of that analysis is attached (Item C-4(1)).**

#### **Report of the Scientific and Statistical Committee**

The SSC recommended releasing the draft analysis for public review, but cautioned that the analysis may overstate the ability of a cooperative structure to induce behavior that will result in lower bycatch on the part of all members of a cooperative, especially as the minimum number of vessels required to form a cooperative is decreased. For additional SSC comments on this issue, please see the SSC Minutes, Appendix II to these minutes.

#### **Report of the Advisory Panel**

The AP recommended that the analysis be released for public review with the following changes:

1. Clarify that Alternative 5 provides an additional alternative to the existing 3 company/9 vessel threshold, not a replacement.
2. Change Alternative 6 to a sub-option under each of the alternatives, including Alternative 1. The sub-option should read “The GRS will be applied in aggregate to all cooperatives if this calculation meets or exceeds the GRS requirement.”

The AP also recommended that the Council request written confirmation from NMFS Enforcement and NOAA General Counsel that the GRS can be applied in aggregate to all cooperatives as envisioned in this suboption.

#### **COUNCIL DISCUSSION/ACTION**

[NOTE: David Bedford participated in this discussion for Denby Lloyd.]

The Council received a review of the draft amendment from Glenn Merrill, NMFS-AKR staff, the SSC and AP reports, and oral public comments on this issue.

**John Henderschedt moved that the analysis be released for public review with the following changes:**

1. Clarify that Alternative 5 provides an additional alternative to the existing 3 company/9 vessel threshold, not a replacement.

- 2. Change Alternative 6 to a sub-option under each of the alternatives, including Alternative 1. The sub-option should read “The GRS will be applied in aggregate to all cooperatives if this calculation meets or exceeds the GRS requirement.”**

The motion was seconded by Roy Hyder.

Mr. Henderschedt clarified that earlier points discussed during the staff report would be addressed in the public review document.

Mr. Merrigan pointed that it is fairly early into the program and there is not enough information at this point to determine whether the original purpose, to reduce the race for fish, is being accomplished and therefore too early to making changes. Mr. Bedford and Mr. Tweit agreed and stressed that timing and priority for this action should be discussed during staff tasking.

**Gerry Merrigan moved a substitute motion: To direct staff to revise the analysis as noted in Mr. Henderschedt's motion, but not release it for public review at this point.** The motion was seconded and failed, 6-5, with Fields, Tweit, Bedford, Merrigan and Olson voting in favor.

**Gerry Merrigan moved** to amend the original motion to add 7 and 8 permits (in addition to 9, 6, 3) to Alternative 3 for analysis. The motion was seconded and carried without objection.

The main motion carried, as amended, without objection.

#### **C-5 BSAI Pacific Cod Parallel Waters Fishery**

##### **ACTION REQUIRED**

**Initial review of the proposed action to limit access by Federally-permitted vessels to the BSAI Pacific cod parallel waters fishery**

##### **BACKGROUND**

At its October 2008 meeting, the Council reviewed a discussion paper that described potential Council actions to limit access by Federally-permitted vessels to the BSAI Pacific cod parallel waters fishery. Specifically, the discussion paper addressed potential measures to limit access by hook-and-line and pot CPs to the BSAI Pacific cod parallel waters fishery. During 2008, 5 pot and hook-and-line CPs participated in the AI parallel waters Pacific cod fishery that do not have the Federal permits and LLP licenses needed to participate in the Federal waters fishery. This parallel waters activity may be circumventing the intent of previous decisions made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting. After reviewing the discussion paper, the Council initiated a regulatory amendment analysis (EA/RIR/IRFA).

Under the proposed action, there are two alternatives. Alternative 1 (status quo) would not make any changes to the Federal permit or licensing requirements for vessels fishing in the BSAI parallel waters fishery. Alternative 2 would preclude Federally-permitted catcher processors from participating in the BSAI Pacific cod parallel waters fishery using pot or hook-and-line gear if they do not have an Amendment 67 Pacific cod endorsement and the appropriate area (BS or AI) endorsement. Suboption 1 under Alternative 2 would also require pot and hook-and-line catcher processors that hold an FFP or LLP to adhere to seasonal closures of their respective Amendment 85 sector allocations. Suboptions 2 and 3 under Alternative 2 would prevent vessel operators from surrendering and later reapplying for the FFP within a specified time period (calendar year, 18 mos, 2 years, or the 3-year term of the permit). The rationale for the proposed

action is concern that increased parallel waters participation by vessels that do not have an Amendment 67 Pacific cod endorsement has the potential to erode historic catch shares of those participants who contributed catch history to the Amendment 85 sector allocations and depend on the BSAI Pacific cod resource.

Recently, the Board of Fisheries reviewed a proposal to limit the size of hook-and-line vessels allowed to participate in the BSAI Pacific cod parallel waters fishery. The BOF took final action on the proposal in December 2008. The vessel size restriction will take effect on June 1, 2009, and limits the size of hook-and-line vessels allowed to participate in the BSAI Pacific cod parallel waters fishery to 58 ft LOA. However, the BOF action does not apply to vessels using pot gear. The proposed regulatory amendment would complement the BOF action by limiting participation in the BSAI Pacific cod parallel waters fishery by Federally-permitted pot CPs.

At this meeting, the Council is scheduled to make an initial review of the BSAI Pacific cod parallel waters analysis. The analysis was mailed out on January 16, 2009; an Executive Summary is attached to this action memo as Item C-5(1).

#### Report of the Scientific and Statistical Committee

The SSC recommended the analysis be released for public review, with the expectation that some of the readily correctable deficiencies will be addressed to the extent possible. Please see the SSC Minutes, Appendix II to these minutes, for the SSC's recommendations for revision.

#### Report of the Advisory Panel

The AP recommends the following changes/additions/deletions to the alternatives and problem statement: (additions are underlined; deletions are stricken through)

Alternative 1: No Action

Alternative 2: Require any catcher processor using pot or hook-and-line gear with an FFP or an LLP to have an Amendment 67 Pacific cod endorsement and the appropriate area endorsement to participate in the BSAI Pacific cod parallel waters fishery.

Alternative 3: ~~In addition, require the above Federally permitted or licensed vessels~~ Require any catcher processors using pot or hook-and-line gear with an FFP or an LLP that fish in parallel waters to adhere to seasonal closures of the BSAI Pacific cod CP pot or CP hook-and-line sectors (as defined in Amendment 85) corresponding to the sector the vessel is operating in.

Alternative 4: ~~Suboption 2~~ In the BSAI, CP pot and CP hook-and-line vessels with a CP designation on their FFP cannot amend the CP designation, and can only surrender and/or reactivate the FFP:

- (a) Once per calendar year
- (b) Once every eighteen months  
~~Once every two years~~
- (c) ~~Suboption 3~~ FFP cannot be surrendered during the 3 year term of the permit.

Alternative 5: Vessels with a CP designation on their FFP cannot amend the CP designation, and can only surrender or reactivate the FFP:

- (a) Once per calendar year
- (b) Once every eighteen months
- (c) FFP cannot be surrendered during the 3 year term of the permit.

The Council may choose more than one alternative (i.e. Alternative 2, 3, 4 and/or 5 at the time of final action).

Problem Statement: Several fixed gear CPs are participating in the parallel waters fisheries that do not hold the permits, licenses, and endorsements necessary to participate in the Federal waters fisheries, and the potential exists for participation to increase. This vessel activity may be circumventing the intent of previous decisions made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting. Additionally, the increased participation in the BSAI CP hook-and-line sector in the parallel fishery undermines recent capacity reduction undertaken by the fleet. While this vessel activity could occur in numerous fisheries, it has recently occurred in the BSAI Pacific cod fishery within the CP pot and hook-and-line sectors. An increasing number of vessels without LLPs, or without Amendment 67 Pacific cod endorsements on their LLPs, have entered the BSAI Pacific cod parallel waters fishery in recent years. This vessel activity has resulted in shortened seasons, has exacerbated the race for fish, and has increased the concentration of Pacific cod harvest inside 3 miles. Long-term participants in the fishery need protection from those who have little or no recent history and have the potential to increase their participation in the fishery. The intent of the proposed action is to prevent fixed gear CPs which lack Federal permits and licenses from entering the BSAI parallel waters Pacific cod fishery. Additionally, changes to rules regarding federal fisheries permits for CP designated licenses may need to be consistent across the North Pacific fisheries to reduce the administrative burden for NMFS and prevent unforeseen permitting loopholes. This action requires prompt attention to promote stability in the fixed gear sectors that participate in the BSAI Pacific cod fishery.

#### COUNCIL DISCUSSION/ACTION

[NOTE: David Bedford participated in this discussion for Denby Lloyd.]

The Council received a review of the regulatory amendment from Jeannie Heltzel, NPFMC staff, the AP and SSC reports, and oral public comments on this issue.

**Gerry Merrigan moved to approve the recommendations of the Advisory Panel, with the following changes:**

- **Change suboptions under alternative 4 to alternatives**
- **Additional changes to Problem Statement (indicated by italics):**

Problem Statement: Several fixed gear CPs are participating in the parallel waters fisheries that do not hold the permits, licenses, and endorsements necessary to participate in the Federal waters fisheries, and the potential exists for participation to increase. This vessel activity may be circumventing the intent of previous decisions made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting. Additionally, the increased participation in the BSAI CP hook-and-line sector in the parallel fishery undermines recent capacity reduction undertaken by the fleet. While this vessel activity could occur in numerous fisheries, it has recently occurred in the BSAI Pacific cod fishery within the CP pot and hook-and-line sectors. An increasing number of vessels without LLPs, or without Amendment 67 Pacific cod endorsements on their LLPs, have entered the BSAI Pacific cod parallel waters fishery in recent years. This vessel activity has resulted in shortened seasons, has exacerbated the race for fish, and has increased the concentration of Pacific cod harvest inside 3 miles. *The increased vessel activity and catch in the parallel fishery increases the complexity and difficulty in managing adherence to sector allocations; seasonal apportionments; area apportionments; and maintaining catch below ABC/TAC.* Long-term participants in the fishery need protection from those who have little or no recent history and have the potential to increase their participation in the fishery. The intent of the proposed action is to prevent fixed gear CPs which *hold* Federal permits and licenses *but not the necessary Amendment 67 and area endorsements* from entering the BSAI parallel waters Pacific cod fishery. Additionally, changes to rules regarding federal fisheries permits for CP designated licenses may need to be consistent across the North Pacific fisheries to reduce the administrative burden for NMFS and prevent unforeseen permitting loopholes. This action requires

prompt attention to promote stability in the fixed gear sectors that participate in the BSAI Pacific cod fishery.

The motion was seconded.

**Ed Dersham moved to clarify 'parallel' waters to indicate 'state parallel waters' wherever appropriate in the motion.** The motion was seconded and carried without objection.

The main motion, as amended, carried without objection.

The Council directed staff to provide the revised analysis for review at the June 2009 meeting.

#### **C-6 GOA Sideboards**

##### ***(a) Discussion Paper on GOA Sideboards for AFA CVs***

#### **ACTION REQUIRED**

**Review discussion paper on GOA pollock and Pacific cod sideboards for non-exempt AFA CVs.**

#### **BACKGROUND**

**This discussion paper reviews the potential impacts of the proposed action to revise the Gulf of Alaska Pacific cod and pollock sideboard limits for the non-exempt American Fisheries Act (AFA) catcher vessel fleet. The sector directly affected by the proposed action consists of catcher vessels that are permitted under the AFA and are not exempt from GOA groundfish catcher vessel sideboards. There are currently 111 AFA permitted catcher vessels, and 17 of these vessels are exempt from Pacific cod and pollock sideboards in the GOA. The objective of the proposed action is to reduce the potential impacts to non-AFA vessels resulting from participation by the non-exempt AFA catcher vessels in directed fisheries for GOA Pacific cod and pollock.**

**At its December 2007 meeting, the Council identified a set of alternatives for the proposed action. The Council reviewed a draft initial EA/RIR/IRFA for the proposed action at the June 2008 meeting. At that time, the Council elected to take no further action on the analysis and directed staff to incorporate the issues raised by the Council and the Advisory Panel into a discussion paper for Council review in October 2008. After reviewing the discussion paper in October, the Council asked staff to add new information to an expanded paper.**

**Specifically, the Council requested that the discussion paper include the following information:**

- (1) Catch history of non-exempt vessels that qualify under the trawl recency action.**
- (2) Capacity of the non-exempt fleet to catch the entire sideboard limits once the trawl recency action is implemented.**
- (3) Effects of recalculating the sideboards on Intercooperative transactions.**
- (4) Effects of recalculating the sideboards on communities, processors, and non-AFA participants.**

**At this meeting, the Council is scheduled to review the discussion paper. The discussion paper was mailed out on January 16, 2009; an executive summary of the paper is attached Item C-6(a)(1).**

This agenda issue was not on the agenda of the Scientific and Statistical Committee.

#### **Report of the Advisory Panel**



After a failed motion to recommend Alternative 3, the AP took no further action on this issue.

#### **COUNCIL DISCUSSION/ACTION**

[NOTE: David Bedford participated in this discussion for Denby Lloyd.]

Jeannie Heltzel (NPFMC staff) provided a review of the discussion paper, the report of the Advisory Panel, and public comments on this issue.

**Sam Cotten moved the following:**

**Council Action:** The Council directs staff to prepare an initial review of a proposed regulatory amendment to the Gulf of Alaska pollock and Pacific Cod sideboards for the non-exempt AFA catcher vessel fleet.

#### **Draft Purpose and Need Statement:**

Since the establishment of GOA groundfish sideboard limits for non-exempt AFA catcher vessels by the American Fisheries Act (AFA) of 1998, changes in both GOA and BSAI fisheries warrant re-examination of these sideboard limits. The majority of the current sideboard limits for pollock and Pacific cod have gone unharvested by the non-exempt AFA catcher vessel sector in recent years, while during that time other vessels have increased their dependency on these fisheries in the GOA. On the other hand, given changes in the BSAI fisheries, including declining BSAI pollock TACs in recent years, the potential exists for increased effort in GOA pollock and Pacific cod fisheries by non-exempt AFA catcher vessels, thereby reducing harvest opportunities for vessels that have developed an increased dependency on these relatively small, fully subscribed fisheries.

#### **Alternatives to be considered:**

##### **Alternative 1 - No Action**

Alternative 1 would not change the existing GOA pollock and Pacific cod sideboards for non-exempt AFA catcher vessels. Currently, sideboard amounts are calculated annually as a fixed percentage of the Western and Central GOA pollock and Pacific cod TACs. The percentages are based on retained catch by non-exempt AFA catcher vessels of pollock and Pacific cod, respectively, during 1995 through 1997, divided by the TAC for that species over the same period. Sideboard amounts are calculated annually by multiplying the sideboard percentages by the pollock and Pacific cod TACs available to catcher vessels in that year. The sideboards are then divided into seasonal apportionments.

##### **Alternative 2— Recalculate sideboards based on catch history from 2005 through 2007**

Under Alternative 2, the GOA Pacific cod and pollock sideboard limits for non-exempt AFA catcher vessels would be recalculated. Sideboards would be based on the retained catch of non-exempt AFA CVs of each species from 2005 through 2007 divided by the TAC for that species over the same period.

**Suboption:** The recalculated sideboards could be adjusted upward by up to 10%.

##### **Alternative 3— Recalculate sideboards based on catch history from 2001 through 2005**

**Under Alternative 3, the GOA Pacific cod and pollock sideboard limits for non-exempt AFA catcher vessels would be recalculated. Sideboards would be based on the retained catch of non-exempt AFA CVs of each species from 2001 through 2005 divided by the TAC for that species over the same period.**

**Suboption: The recalculated sideboards could be adjusted upward by up to 10%.**

**Alternative 4 -- Recalculate sideboards based on catch history from 2000-2008**

**Under Alternative 4, the GOA Pacific cod and pollock sideboard limits for non-exempt AFA catcher vessels would be recalculated. Sideboards would be based on the retained catch of non-exempt AFA CVs of each species from 2000-2008 divided by the TAC for that species over the same period.**

**Suboption: The recalculated sideboards could be adjusted upward by up to 10%.**

**Alternative 5 -- Recalculate sideboards based on the 1995-1997 catch history for vessels that:**

**Option 1 - are currently (as of December 2008) assigned to each qualified trawl LLP.**

**Option 2 - were originally assigned to each qualified LLP.**

**Option for all Alternatives: Non-exempt AFA sideboards will be apportioned seasonally in the same proportions as the area TACs, and the rollover rules that apply to the area TACs will also apply to the seasonal sideboard limits (This option can be made applicable to any and all alternatives for the purposes of analysis and implementation, including Alternative 1).**

The motion was seconded by David Bedford.

**Bill Tweit moved a substitute motion: that the Council take no further action on this issue. The motion was seconded by Dave Benson and carried, 6 to 5, with Cotten, Fields, Bedford, Merrigan and Olson voting against.**

In support of his motion, Mr. Tweit noted that the information provided in the discussion paper and public comment does not indicate there is any basis for proceeding with this action at this time. During discussion it was pointed out that that the trawl recency action, in tandem with existing regulations, may preclude the non-exempt fleet from substantially increasing its GOA pollock and Pacific cod harvests in the future.

**C-6(b) GOA B Season Sideboards for Crab Vessels**

**ACTION REQUIRED**

**Initial review of GOA B season sideboards for BSAI crab vessels**

**BACKGROUND**

**In October 2008, the Council took final action to change the GOA Pacific cod sideboard exemption for qualified BSAI crab vessels. The Council removed the GOA B season Pacific cod sideboard exemption section from the sideboard amendment package to allow for further consideration as a separate amendment.**

**Under this proposed action, there are three alternatives. Alternative 1 (status quo) would not change the B season GOA Pacific cod sideboard limits. Alternative 2 would permit those non-AFA crab vessels/licenses that are prohibited from targeting GOA Pacific cod to target GOA Pacific cod from November 1 to December 31 absent of any sideboard limits. Alternative 2 would also exempt from sideboard limits, from November 1 to December 31, those non-AFA crab vessels/licenses limited by GOA Pacific cod sideboards. Alternative 3 would exempt from GOA Pacific cod sideboard limits during November 1 to December 31 only those non-AFA crab vessels/licenses that are restricted by GOA Pacific cod sideboard limits. In each of the action alternatives, the Council included two options that would establish a minimum tonnage and/or a percent of TAC that must be available on November 1 for the exemption to apply. These options would be applied to both the inshore and offshore components of the western GOA and central GOA.**

**At this meeting, the Council is scheduled to make an initial review of the analysis. The analysis for this agenda item was mailed out on January 16, 2009; an executive summary of that analysis is attached (Item C-6(b)(1)).**

#### **Report of the Scientific and Statistical Committee**

The SSC recommended the draft analysis be released for public review after minor edits, including the addition into the RIR of the OMB market failure rationale text developed previously by the SSC. The SSC called the Council's attention to the discussion in the draft analysis regarding the interplay between the proposed action and several other pending and newly implemented Council actions. The SSC believes it will be impossible to fully consider the effects of the proposed action without knowing the outcome of these other actions. The SSC also noted that the selection of "thresholds" presented in the analysis (points that would trigger the contemplated exemptions) is purely subjective on the part of the analyst and should be regarded as "for illustrative purposes" only.

#### **Report of the Advisory Panel**

The AP recommended the Council delay action on this agenda item until the Council finalizes fixed gear recency and Pacific cod sector splits in the Gulf of Alaska.

#### **COUNCIL DISCUSSION/ACTION**

[NOTE: Sue Salvesson participated in this discussion for Doug Mecum.]

The Council received a staff report from Jon McCracken, NPFMC staff, the AP and SSC reports, and oral public comments on this issue.

**Denby Lloyd moved to delay action on this agenda item until the Council finalizes fixed gear recency and Pacific cod sector splits in the Gulf of Alaska.** The motion was seconded and carried without objection.

Mr. Merrigan noted that he hopes the Council will take this issue up as soon as possible after the sector split and recency issues are resolved.

**C-7 BSAI Crab Issues**

**ACTION REQUIRED**

- (a) Initial review BSAI Crab Regional Delivery Relief.

**BACKGROUND**

(a) Initial review BSAI Crab Regional Delivery Relief

At its October 2008 meeting, the Council received a discussion paper from staff outlining potential options to define an emergency exemption from regional landing requirements established by the program. Based on that discussion paper and public testimony, the Council directed staff to analyze alternatives for creating such an exemption. Under the alternatives, the exemption could allow a harvester to make a delivery outside of an IFQ's designated region, if delivery in the designated region is prevented by an unavoidable circumstance. The alternatives adopted for analysis would rely on civil contracts between harvesters, processors, and the designee of affected communities or regions to define the circumstances that would qualify for the exemption and other terms (such as any compensation for lost economic activity or revenues that might arise out of the exemption from the regional landing requirement). The exemption would be granted for a specific delivery on the IFQ holder filing an affidavit attesting to a circumstance that qualifies for the exemption. The reliance on civil contracts and affidavits is intended to avoid administrative complexities, which could limit the utility of the exemption, if the exemption were directly administered by NOAA Fisheries. The analysis was mailed to the Council in mid-January. A copy of the executive summary is attached (see Item C-7(a)).

In advancing these alternatives for possible action, the Council should consider that none of the options for identifying a regional representative for negotiation of the exemption contract fully identify regional representatives. All of the options use community right of first refusal designations to identify the regional representatives. Since some regionally designated PQS are not subject to rights of first refusal, no community is identified for the purposes of selection of a regional designation. A complete discussion of this issue appears on pages 35 through 38 of the draft analysis.

**Report of the Scientific and Statistical Committee**

The SSC recommended releasing the draft analysis for public review after completing the missing sections of the EA. The analytical presentation in the RIR is well designed and conveys the important economic and operational implications associated with the suite of alternatives and options. The SSC commented on the numerous subsections, particularly in the draft EA, that were incomplete. The SSC were given assurance these would be completed prior to release for public review. Likewise, the draft IRFA is insufficient and clearly requires substantial additional work. However, until the Council identifies its preferred alternative for this action, the SSC acknowledged that the IRFA cannot be completed.

**Report of the Advisory Panel**

The AP recommends releasing the document for initial review with the following changes noted:

*In developing the crab rationalization program, the Council included several measures to protect regional and community interests. Among those provisions, the Council developed regional designations on individual processing quota and a portion of the individual fishing quota that require the associated catch to be delivered and processed in the designated region. In the first three years of*

*the program, all the crab IFQ was harvested and delivered. However, icing conditions in the Northern Region did create safety concerns, and delayed and in some cases prevented harvesters from entering harbors to deliver to shore-based and floating processors located in the regions, as required by the regional share designations. Periodically, including at times in the first three years of the program, harbors in the Northern Region as defined in the program, are closed by the advance of the Bering Sea ice pack. These ice conditions have disrupted the crab fishery, contributing to safety risks and preventing harvesters from entering harbors to deliver to shore-based and floating processors located in the region, as required by the regional share designations. In addition, other unforeseeable events, events such as an earthquake or tsunami, or man-made disaster, could prevent deliveries or limit the available processing capacity in a region necessary for compliance with the regional designations on Class A IFQ and IPQ. A well-defined exemption from regional landing and processing requirements of Class A IFQ and IPQ that includes requirements for those receiving the exemption to take efforts to avoid the need for and limit the extent of the exemption could mitigate safety risks and economic hardships that arise out of unforeseeable events that prevent compliance with those regional landing requirements. Such an exemption should also provide a mechanism for reasonable compensation to communities to the parties harmed by the granting of the exemption to ensure that the community benefits intended by the regional designations continue to be realized despite the exemption.*

#### **Alternatives**

The Council has adopted the following alternatives for analysis:

Alternative 1 – Status quo (no exemptions from regional landing requirements)

Alternative 2 – Contractually Defined Exemption

Method of defining the exemption and compensation:

The exemption shall be generally defined in regulation. To receive an exemption, however,

**Option 1:** an IFQ holder the holder of matched IPQ, and the entity holding (or formerly holding) the right of first refusal for the IPQ, or

**Option 2:** an IFQ holder the holder of matched IPQ, and an entity identified by the community benefiting from (or formerly benefiting from) the right of first refusal for the IPQ, or in the event that the subject IPQ was never subject to a ROFR, any entity qualified to act as the regional representative with respect to any IPQ in that region and fishery may act as the regional representative for the subject IPQ.

**Option 3:** an IFQ holder the holder of matched IPQ, and a regional entity agreed to by the communities benefiting from rights of first refusal (or formerly benefiting from rights of first refusal) in the designated region of the IFQ and IPQ,  
shall have entered a contract defining conditions under which an exemption will be granted and the terms of any compensation.

#### **Administration of the exemption**

The exemption shall be administered through submission of an affidavit by the holder of the IFQ for which the exemption is applied. An affidavit attesting to the satisfaction of requisite conditions for the exemption (as agreed in the contract) shall constitute conclusive evidence of qualification for the exemption.

### Definition of the exemption

**Qualifying circumstance:** An unavoidable circumstance that prevents the delivery or processing of crab in a region as required by regionally designated IFQ and matched IPQ will qualify for the exemption from regional landing requirements. To qualify for the exemption a circumstance must: a) be unavoidable, b) be unique to the IFQ and/or IPQ holder, c) be unforeseen or reasonably unforeseeable, and d) have actually occurred.

**Option:** Additional specificity of the exemption and its term will may be included in any contract between the IFQ holder, the holder of matched IPQ and the entity representing region/community interests.

### Mitigation requirements

**Requirement to attempt to mitigate:**

**Provision 1-Option 1:** To receive an exemption the IFQ holder and the holder of matched IPQ shall have exerted all reasonable efforts to avoid the need for the exemption, which may include attempting to arrange delivery to other processing facilities in the designated region unaffected by the unavoidable circumstance, attempting to arrange for the use of IFQ (and IPQ, if needed), and CDQ not requiring delivery in the affected region, and delaying fishing.

**Provision 2-Option 2:** An IFQ holder will not be granted an exemption, if the IFQ holder holds any unused Class B IFQ, C share IFQ, or Class A IFQ that may be delivered outside of the affected region.

### Compensation

Compensation shall be as agreed in the contract among the IFQ holder, the holder of matched IPQ, and the entity representing regional/community interests.

### Contract finalization dates:

- Option 1: Fishery openings
- Option 2: January 1
- Option 3: Open, and can be finalized at any time

### COUNCIL DISCUSSION/ACTION

Denby Lloyd moved to adopt the Advisory Panel's recommendations with changes, noted by underlined additions and strikethrough for deletions:

The Council requests staff update AP ~~recommends releasing the document for initial review in April with the following purpose and need statement and alternatives changes noted:~~

In developing the crab rationalization program, the Council included several measures to protect regional and community interests. Among those provisions, the Council developed regional designations on individual processing quota and a portion of the individual fishing quota that require the associated catch to be delivered and processed in the designated region. In the first three years of the program, all the crab IFQ was harvested and delivered. However, icing conditions in the Northern Region did create safety concerns, and delayed and in some cases prevented harvesters from entering harbors to deliver to shore-based and floating processors located in the regions, as required by the regional share designations. ~~Periodically, including at times in the first three years of the program, harbors in the Northern Region as defined in the program, are closed by the advance of the Bering Sea ice pack. These ice conditions have disrupted the crab fishery, contributing to safety risks and preventing harvesters from entering harbors to deliver to shore-based and floating processors located in the region, as required by the regional share designations.~~ In addition, other unforeseeable events, events such as an earthquake or tsunami, or man-made disaster, could prevent deliveries or limit the available processing capacity in a region necessary for

compliance with the regional designations on Class A IFQ and IPQ. A well-defined exemption from regional landing and processing requirements of Class A IFQ and IPQ that includes requirements for those receiving the exemption to take efforts to avoid the need for and limit the extent of the exemption could mitigate safety risks and economic hardships that arise out of unforeseeable events that prevent compliance with those regional landing requirements. Such an exemption should also provide a mechanism for reasonable compensation to ~~the parties~~ communities and IPQ holders harmed by the granting of the exemption to ensure that the ~~benefits~~ protections intended by the regional designations continue to be realized despite the exemption.

#### Alternatives

The Council has adopted the following alternatives for analysis:

Alternative 1 – Status quo (no exemptions from regional landing requirements)

Alternative 2 – Contractually Defined Exemption

#### Method of defining the exemption and compensation:

The exemption shall be generally defined in regulation. To receive an exemption, however,

**Option 1:** an IFQ holder the holder of matched IPQ, and the entity holding (or formerly holding) the right of first refusal for the IPQ, or

**Option 2:** an IFQ holder the holder of matched IPQ, and an entity identified by the community benefiting from (or formerly benefiting from) the right of first refusal for the IPQ, or in the event that the subject IPQ was never subject to a ROFR, any entity qualified to act as the regional representative with respect to any IPQ in that region and fishery may act as the regional representative for the subject IPQ.

**Option 3:** an IFQ holder the holder of matched IPQ, and a regional entity agreed to by the communities benefiting from rights of first refusal (or formerly benefiting from rights of first refusal) in the designated region of the IFQ and IPQ, shall have entered a contract defining conditions under which an exemption will be granted and the terms of any compensation.

#### Administration of the exemption

The exemption shall be administered through submission of an affidavit by the holder of the IFQ for which the exemption is applied. An affidavit attesting to the satisfaction of requisite conditions for the exemption (as agreed in the contract) shall constitute conclusive evidence of qualification for the exemption.

#### Definition of the exemption

**The following provision shall be included in the civil contract among the IFQ holder, the holder of matched IPQ and the entity representing community interests:**

**“Qualifying circumstance: An unavoidable circumstance that unreasonably delays or prevents the delivery or processing of crab in a region as required by regionally designated IFQ and matched IPQ will qualify for the exemption from regional landing requirements. To qualify for the exemption a circumstance must: a) be unavoidable, b) be unique to the IFQ and/or IPQ holder, c) be unforeseen or reasonably unforeseeable, and d) have actually occurred.”**

Additional specificity of the exemption and its term may be included in any contract between the IFQ holder, the holder of matched IPQ and the entity representing region/community interests.

**A contract executed by the three parties identified above shall provide conclusive evidence that a qualifying circumstance has been adequately described in satisfaction of this requirement.**

#### Mitigation requirements

Requirement to attempt to mitigate:

**The following provision shall be included in the civil contract among the IFQ holder, the holder of matched IPQ and the entity representing community interests:**

**Provision-1:** “To receive an exemption the IFQ holder and the holder of matched IPQ shall have exerted all reasonable efforts to avoid the need for the exemption, which may include attempting to arrange delivery to other processing facilities in the designated region unaffected by the unavoidable circumstance, attempting to arrange for the use of IFQ (and IPQ, if needed), and CDQ not requiring delivery in the affected region, and delaying fishing.”

**Option Provision-2:** An IFQ holder will not be granted an exemption, if the IFQ holder holds any unused Class B IFQ, C share IFQ, or Class A IFQ that may be delivered outside of the affected region

#### Compensation

Compensation shall be as agreed in the contract among the IFQ holder, the holder of matched IPQ, and the entity representing regional/community interests.

#### Contract finalization dates:

- Option 1: Fishery openings
- Option 2: January 1
- Option 3: Open, and can be finalized at any time.

The motion was seconded and carried without objection.

Additional review is scheduled for June 2009. At that time the Council will take additional comments from industry participants and interested parties concerning potential changes to the current alternatives. Additionally, NOAA fisheries will advise on the enforceability of the proposed alternatives.,

#### **C-7(b-d) BSAI Committee Report/Workplan/EDR Surveys**

#### **ACTION REQUIRED**

- (b) Receive Crab Committee Report.
- (c) Receive proposed workplan and timeline for crab analysis/discussion papers.
- (d) Receive progress report on Crab EDR surveys.

#### **BACKGROUND**

##### **(b) Report of the crab advisory committee**

At its December 2008 meeting, the Council received a report from its crab advisory committee that included the committee's discussion of proposed measures to address crew interests arising under the program. On receipt of the report and public testimony, the Council requested the committee to discuss two such proposals. Under the first proposal, a regional fishery association (RFA) would be formed to address crew interests. The C share allocation (available exclusively to active participants in the fishery) would be increased to between 6 and 10 percent and the RFA would hold and distribute quota on behalf of its members. Under the second proposal, a private



financing program would be developed by industry to increase share acquisition by active participants in the fisheries. The program would apply to both owner and C share purchases, with fixed goals identifying the amount of quota to be held by active participants by given dates. The minutes of the committee's meeting at which these issues were discussed are attached (see Item C-7(b)).

**(c) Receive proposed workplan and timeline for crab analysis/discussion papers**

At its December 2008 meeting, the Council received a staff report summarizing the performance of the Bering Sea and Aleutian Islands crab rationalization program during its first three years. That report considered the effects of all aspects of the program, including effects on harvesters, processors, communities and crew. The Council also received a report from the its advisory committee concerning proposals to address crew issues, community rights of first refusal, and the Western Aleutian Islands golden king crab fishery. Staff also presented a brief paper summarizing alternatives created by the Council's April 2008 motion to revise the crab rationalization program.

In response to these presentations and public testimony, the Council revised its purpose and need statement and its proposed alternatives to modify the program, focusing its alternatives on crew issues and the redesignation of owner quota share and crew quota share, the development of regional fishery associations to address crew issues, and an industry proposal to facilitate crew acquisition of quota share. In addition, the Council tasked staff to produce discussion papers concerning four topics: two possible revisions to management of the Western Aleutian Islands golden king crab fishery to address unutilized individual fishing quota, potential extinguishment of processor quota shares from all fisheries, and measures to address the effects of leasing on crew and crew compensation (see Item C-7(c)).

The Council's motion creates several overlapping staff assignments. The Council's motion currently contains alternatives to redesignating a portion of the owner QS pool (accessible to most fishing interests) and/or PQS pool as C share QS (accessible only active participants), as well as capping the annual allocation of individual processing quota. Requested discussion papers concern the elimination of processor shares, potential changes to leasing provisions, and broad changes in management of the Western Aleutian Islands golden king crab fishery. In addition, portions of the Council's motion directed the Council's crab advisory committee to consider development of alternatives to address crew issues. Were the Council to take action based on issues considered by the committee or these discussion papers, those actions could obviate, modify, or interact with changes already advanced for analysis by the Council. These interactive effects could make it more difficult for the Council to understand the implications of any of its decisions, if the actions are not analyzed as part of a single package. For example, the Council might choose to redesignate a portion of the owner QS pool as C share QS in one action. If the Council then elects to revisit leasing rules with respect to either C share QS or owner QS, it is possible that the effects of the first action would not have been fully understood at the time of the decision because of the interaction of the share redesignation with the leasing changes. As a result of these complexities, staff proposes to proceed with the assigned discussion papers prior to preparing analyses of the identified alternatives. This approach will allow the Council to better frame its alternatives, which, in turn, will allow staff to prepare a more focused analysis of actions that the Council wishes to consider.

Assuming that the Council agrees with this approach, staff will begin preparing discussion papers, which will be presented to the Council as they are ready. The Council should advise staff concerning its priorities for the discussion papers.

**(d) Receive progress report on Crab EDR surveys**

At its December 2008 meeting, the Council received an update on the progress of the data quality review of data collected under the Economic Data Reporting program. At that time, the Council

**directed staff and the Pacific Northwest Crab Industry Advisory Committee (PNCIAC) to continue that process, including completion of metadata (specifying data quality for each variable) and revision of existing surveys and the process for data submission to improve data quality. Since that meeting, staff has continued its work on the metadata and has begun the process of survey revisions. No further report is available at this time, as that process is ongoing.**

#### **Report of the Scientific and Statistical Committee**

The SSC received an informational update from Mark Fina (NPFMC) on a range of crab related issues. The SSC expressed its appreciation for the update, but had no other comments.

#### **Report of the Advisory Panel**

The AP recommended the Council delete the Auction option from further consideration, and that the Council delete Alternative 4. Additionally, the AP recommended the Council request staff to draft a discussion paper that explores the potential for RFAs and fishing communities to address items in the problem statement. The AP also recommended the Council eliminate the Leasing Restrictions discussion paper.

#### **COUNCIL DISCUSSION/ACTION**

The Council received a review of the Crab Advisory Committee report, the proposed workplan and timeline for crab analyses and discussion papers, and a progress report on Crab EDR surveys from Mark Fina (NPFMC staff), the AP and SSC reports, and oral public comment on these issues.

The Council discussed the workplan and discussion papers previously requested. Dr. Fina provided suggestions for the order in which the papers would be developed and recommended that the discussion papers, some of which contain overlapping issues, should be completed prior to analysis of any amendments to the program.

**Sam Cotten moved to request staff develop an additional discussion paper on three ROFR issues discussed by the Crab Committee:**

- (1) Possibility of changing the 3-year lapse provision for ROFRs to a permanent 'never lapse' provision;**
- (2) The possibility of changing the time period for exercising and performing rights to change to 120 days for exercising and 150 days to perform; and**
- (3) Document the nature of the current rule that states a ROFR applies to all assets in a transaction, the difficulties with it, and options to change the rule to avoid current problems.**

The motion was seconded by Duncan Fields. There was considerable discussion regarding tasking staff with additional discussion papers, however Dr. Fina indicated that he thought he could accomplish the requested tasks and that, as previously mentioned, some issues may overlap and could be combined in one discussion paper.

The motion carried, 9 to 2, with Benson and Henderschedt voting against.

With regard to the leasing restriction discussion paper, the Council recommended staff use points offered by the Alaska Crab Coalition during public comment as additional guidance. John Henderschedt asked that staff include a discussion of amounts paid for leases and amounts taken out of crew shares to

compensate for the leases, and to look into the legality of the Council limiting lease fees or crew share calculations.

With respect to timing for providing the discussion papers to the Council, Dr. Fina noted that he anticipates providing two per Council meeting, but the order will depend on the complexity and time required for research. The Council agreed that the discussion papers should be provided before work on any proposed amendments, and that combining the two Western Alaska golden king crab issues into one discussion paper would be acceptable.

**NOTE: Agenda Item C-8, MPA Nomination Process, was deferred to a future meeting.**

## **D. OTHER ISSUES**

### **D-1 Halibut/Sablefish Issues**

#### **ACTION REQUIRED**

- (a) Review/Rescind previous action to remove inactive quota shares (Council only).**
- (b) Review halibut catch sharing plan discussion papers (SSC only).**

#### **BACKGROUND**

##### **(a) Inactive halibut and sablefish quota shares**

In June 2006 the Council adopted a preferred alternative<sup>1</sup> to 1) withdraw all inactive initial halibut and sablefish quota shares (QS) held by initial recipients from the QS pools and 2) redistribute inactive halibut QS through a lottery, if the amount of inactive QS exceeds the number of QS units equivalent to 50,000 lb for all IPHC regulatory areas in the year of the lottery. The Council defined "inactive persons" as those who have neither fished nor transferred even 1 QS unit or 1 IFQ lb since initial issuance.

The Council recommended that NMFS 1) contact inactive halibut and sablefish IFQ permit holders by certified letter and indicate that these persons would need to act affirmatively by notifying NOAA in writing of their desire to retain inactive QS (Attachment D-1(a)) and 2) provide broad public notice of its intent to redistribute inactive QS, within 60 days of notice after implementation. However, the number of proposed halibut actions that were recommended by the Council since 2006 resulted in a low priority placed on implementing this proposed action; therefore, the Council decided in December 2008 to notice the public of its interest in reviewing its preferred alternative during the February 2009 Council meeting.

At the end of 2008, 278 inactive persons held QS: 275 held halibut QS and 4 held sablefish QS (one person held QS for both species). Using 2008 ratios, these QS represent 34,714 halibut IFQ pounds and 924 sablefish IFQ pounds. These numbers compare to 534 inactive persons holding halibut QS and 7 inactive persons holding sablefish QS at the end of 2005. The proposed action would result in some administrative cost savings and would require minimal additional work by Council staff and an estimated 100 hours of NOAA staff (SF, RAM, GC, and OLE) if implemented by the Secretary. Only rescinding the preferred alternative would require no additional Council or

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<sup>1</sup> The Council dropped options to 1) redistribute inactive sablefish QS because the administrative costs of a lottery exceeded the benefits because there were very few inactive sablefish IFQ permits and 2) allow voluntary relinquishment of inactive QS because requiring inactive IFQ permit holders to notify NMFS of their interest to retain their permits would attain optimal yield of the halibut and sablefish resources with greater administrative cost savings (i.e., purge more inactive permit holders).

NOAA staff effort. Any change to the preferred alternative would require additional analysis by Council staff with subsequent rulemaking by NOAA staff, and any new proposal may be directed by the Council to the IFQ Implementation Team prior to such a decision.

**(b) Halibut Catch Sharing Plan –(FOR SSC REVIEW only at this meeting)**

In October 2008, the Council selected its preferred alternative to replace the current Guideline Harvest Level Program with a catch sharing plan (CSP) that establishes an allocation between the charter sector and commercial setline sector in Area 2C and Area 3A (see tables below). Under the Plan, the Council would request that the International Pacific Halibut Commission (IPHC) set a combined charter and commercial setline catch limit each year and apply the sector allocations. The combined catch limit and projected charter harvests would determine the harvest restrictions governing charter clients in the new fishing season. The regulations that would implement the CSP therefore need to explicitly describe 1) the possible management measures, 2) the tier system under which they would be implemented, and 3) the “formula” for determining the appropriate bag limit and size limit restrictions.

The Council intends that annual harvest restrictions be implemented under IPHC regulations each year and not be subject to separate Council or IPHC review and action and/or NMFS rulemaking. Therefore new restrictions would be published based on IPHC determination of the combined catch limit either in the annual IPHC measures or in an annual notice prior to the start of the charter halibut season. NMFS would identify the regulatory restrictions to be in effect for the charter sector in the next season based on 1) the CSP tiers that would have been published in regulations that implemented the CSP and 2) projected charter sector harvest under alternate regulations. There may be a delay between IPHC determination of the combined catch limit and NMFS determination of associated harvest restrictions because of staff time needed to determine projected charter harvests under the charter sector allocation of a particular combined catch limit.

The Council’s preferred alternative does not define 1) how to determine the maximum size limit under the lowest combined catch limits (i.e., Tier 1 and Tier 2) and 2) how to determine projected charter harvests. Two discussion papers are provided for SSC review to assist staff in preparing the final draft of the analysis for Secretarial review of the Catch Sharing Plan. One paper identifies several issues in selecting a maximum length limit to manage charter halibut harvest in times of low abundance and seeks SSC guidance for implementation (Attachment D-1(b)(1)). A second paper identifies several more general issues on how the charter halibut harvest would be projected and also seeks SSC guidance for implementation (Attachment D-1(b)(2)). Once these issues are resolved, staff will 1) report to the Council on resolution of these issues in an implementation plan to be prepared by NMFS and 2) incorporate additional analysis into the Secretarial Review Draft for the CSP.

**Area 2C Halibut Catch Sharing Plan**

Tier	Combined Catch Limit (million lb)	Allocation	Charter Fishery Bag & Size Limit Regulations		
			If charter harvest within allocation range	If charter harvest projected to exceed allocation range	If charter harvest projected to be below allocation range
1	<5	Comm alloc = 82.7% Charter alloc = 17.3% Charter range = 13.8-20.8%	One Fish	Maximum size limit imposed that brings harvest to 17.3%	One Fish
2	≥5 - <9	Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6%	One Fish	Maximum size limit imposed that brings harvest to 15.1%	Two fish, but one must be less than 32" in length
3	≥9 - <14	Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6%	Two fish, one must be less than 32" in length	One Fish	Two Fish
4	≥14	Comm alloc = 84.9% Charter alloc = 15.1% Charter range = 11.6-18.6%	Two Fish	Two fish, but one must be less than 32" in length	Two Fish

**Area 3A Halibut Catch Sharing Plan**

Tier	Combined Catch Limit (million lb)	Allocation	Charter Fishery Bag & Size Limit Regulations		
			If charter harvest within allocation range	If charter harvest projected to exceed allocation range	If charter harvest projected to be below allocation range
1	<10	Comm alloc = 84.6% Charter alloc = 15.4% Charter range = 11.9-18.9%	One Fish	Maximum size limit imposed that brings harvest to 15.4%	One Fish
2	≥10 - <20	Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5%	One Fish	Maximum size limit imposed that brings harvest to 14.0%	Two fish, but one must be less than 32" in length
3	≥20 - <27	Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5%	Two fish, one must be less than 32" in length	One Fish	Two Fish
4	≥27	Comm alloc = 86.0% Charter alloc = 14.0% Charter range = 10.5-17.5%	Two Fish	Two fish, but one must be less than 32" in length	Two Fish

**Report of the Scientific and Statistical Committee**

Halibut catch sharing discussion papers. The SSC reviewed the discussion papers on estimation and projection problems related to implementation of the halibut catch sharing plan and provided extensive comments and recommendations for further development of the discussion papers. See the SSC Minutes, Appendix II to these minutes, for more detailed recommendations.

**These two halibut/sablefish agenda issues were not on the agenda of the Advisory Panel.**

**COUNCIL DISCUSSION/ACTION**

(a) Review/rescind previous action to remove inactive IFO quota shares

The Council received a review of the issue from Jane DiCosimo (NPFMC staff). The Scientific and Statistical Committee and Advisory Panel did not address this subject. There were no oral public comments offered.

**Duncan Fields moved to request a discussion paper regarding the transfer of inactive initially issued halibut and sablefish quota shares to a "newly-qualified" entity representing (a) crew members, or (b) CQE communities, with discussion of possible criteria for qualifying the entity and identification of issues associated with the qualification.** The motion was seconded.

**Sam Cotten moved to amend to delete sablefish noting that available sablefish quota is negligible.** The motion was seconded and carried without objection.

During discussion, it was pointed out that more direction to staff would be required before developing the discussion paper, and in view of current staff tasking, a priority would need to be set.

Mr. Henderschedt said that he thinks that the Council has achieved its original goal of getting shares back into circulation and that the Council should not add to the current staff workload.

The amended motion failed, 7 to 4, with Cotten, Fields, Merrigan and Olson voting in favor. As a result, rulemaking will proceed to remove inactive halibut and sablefish permits and withdraw those QS from the pool.

*(b) Halibut catch sharing discussion papers*

The Council received the SSC's report on this issue. No action was required at this time. The Council received a request from several charter halibut associations in Southeast and Southcentral Alaska to inactivate the charter stakeholder committee and appoint a new committee when necessary to address issues associated with the charter halibut sector.

**D-2 Miscellaneous Issues**

**D-2(a) Committee Report on Comprehensive Data Collection**

**ACTION REQUIRED**

**Report from the workgroup on comprehensive economic data collection**

**BACKGROUND**

**At its October 2006 meeting, the Council requested staff of the Alaska Fisheries Science Center to coordinate a workgroup of social and economic analysts and researchers from the NMFS, ADF&G, and Council staff to develop a comprehensive economic data collection program and survey formats supporting that collection. Since that time, the Council has received periodic reports from that workgroup describing its progress in development of the program. The workgroup is scheduled to meet again on Monday, February 2<sup>nd</sup>. An agenda for that meeting is attached (see Item D-2(a)). Staff will update the Council on the workgroup's progress.**

**Report of the Scientific and Statistical Committee**

The SSC was encouraged to learn that the committee has issued specific assignments to its members, and plans more frequent meetings, employing conference calls and video conferencing opportunities. Regrettably, the presentation did not include examples of the data collection tables or summaries of the data that have been collected and organized. The intent of the Comprehensive Data Collection program is to provide information that is essential to improving the rigor of analyses of the likely social and economic consequences of proposed management actions. The SSC requests a more detailed presentation for the April or June meeting.

**The Advisory Panel did not address this agenda issue.**

**COUNCIL DISCUSSION/ACTION**

The Council received staff reports from Jeannie Heltzel and Mark Fina (NPFMC staff) and the Scientific and Statistical Committee report. No oral public comment was offered on this issue. The Council was advised that Council and NOAA fisheries staff will conduct an industry workshop later in the month to continue the process. This was an informational item and no Council action was required.

**D-2(b) Halibut PSC Discard Survival EFP**

**ACTION REQUIRED**

**Review of Halibut PSC Discard Survival EFP**

**BACKGROUND**

An exempted fishing permit (EFP) application has been submitted to allow incidentally-caught Pacific halibut to be held on a trawl vessel after capture, in order to research survivability. The project proposes to collect data necessary to construct a reflex action mortality predictor (RAMP) for predicting delayed mortality in individual trawl caught halibut, and to assess the tradeoffs of adding the RAMP method to the current IPHC viability method for predicting delayed mortality in individual fish. The collected data may provide for more accurate projections of halibut mortality in trawl fisheries. A letter to the Council chairman from Mr. Doug Mecum (NMFS AKR) regarding receipt of this application, AFSC's approval of the experimental design, and the EFP application itself, are attached as Item D-2(b)(1). Item D-2(b)(2) is a letter from the International Pacific Halibut Commission which raises some concerns about the ability of the experiment, as designed, to achieve the stated objectives.

The experiment would begin on March 1, 2009, and continue until 100 halibut have been sampled, tagged, observed in live holding tanks, evaluated for potential survival, and all recording of the data for the study is carried out. The applicant, Mr. Todd Loomis, of the North Pacific Fisheries Foundation, will be available to present a description of the experiment.

**Report of the Scientific and Statistical Committee**

Noting that the experiment will not result in additional target or non-target mortality (all halibut captured in this experiment will be released or discarded, and all discards will be evaluated under current IPHC protocol for estimating discard mortality and counted against the sector PSC,) the SSC recommended approval of the EFP.

**Report of the Advisory Panel**

The Advisory Panel recommended approval of the Halibut PSC Discard Survival EFP. Additionally, the AP strongly recommended a neutral party with scientific background be on board for the study of the halibut PSC discard survival EFP.

**COUNCIL DISCUSSION/ACTION**

The Council received a review of the proposed research from Todd Loomis and Dr. Gary Stauffer of the North Pacific Fisheries Foundation, the SSC and AP reports, and oral public comments on this proposal.

**Dave Benson moved to approve the recommendation of the Advisory Panel to approve the Halibut PSC Discard Survival EFP.** The motion was seconded and carried without objection.

**D-2(c) Review of Halibut Sorting EFP** -- Review of the EFP was delayed until the April 2009 Council meeting, pending more information.

**D-2(d) Review Discussion Paper on Bering Sea Bottom Trawl Sweeps**

(d) Discussion paper on BSAI bottom trawl sweep requirements.

**BACKGROUND**

At the June 2008 meeting, the Council initiated an analysis to require modified trawl sweeps in Bering Sea flatfish bottom trawl fisheries. The Council requested staff bring forward a discussion paper identifying the problem statement and alternatives that were originally analyzed with respect to this action as part of the June 2007 Bering Sea Habitat Conservation action, BSAI Groundfish FMP Amendment 89. The Council received the discussion paper in October 2008, but did not have time to address this issue then. The discussion paper is attached as Item D-2(d)(1). The AP minutes relating to this agenda item, from October, are attached as Item D-2(d)(2).

Although requiring modified sweeps for flatfish trawls in the Bering Sea was included in the preferred alternative for Bering Sea Habitat Conservation, the modification was not included in Amendment 89. Action was deferred because of implementation issues with regard to the practicality and enforceability of requiring the modified sweeps on all vessels participating in the fishery. The Council received a report in June 2008 from John Gauvin and Dr Craig Rose on additional field testing and research to resolve the challenges of using the modified sweeps on vessels without net reels, of using clamps and other methods to attach the discs to combination rope (two-inch diameter fabric over cable material commonly used for trawl sweeps), and of the correct spacing of the discs to achieve the habitat benefits while also achieving feasibility in terms of being able to roll the modified discs onto net reels and sweep or main wire winches.

On September 8, 2008, the Council sponsored a public workshop in Seattle to discuss implementation issues for the proposed trawl sweep modification. Mr. Gauvin and Dr. Rose presented their gear design and field testing results, and Melanie Brown, of NMFS Alaska Region, discussed the draft regulation that would implement the required modification. About 30 people attended, and discussed monitoring and enforcement issues arising from the draft regulation. A report from the workshop is attached as Item D-2(d)(3).

In October 2008, the Council's Enforcement Committee reviewed the discussion paper and implementation issues, and had specific comments on the enforceability of the draft regulation. The Committee's October minutes are included in the discussion paper (Item D-2(d)(1)) as Appendix 2. To address the Enforcement Committee's concerns, an agency meeting was held in late October 2008, the summary of which is also in the discussion paper under Appendix 2. The meeting identified that the major outstanding enforcement issue to be resolved is the following: *Can a regulatory standard that specifies only a required clearance and spacing standard for modified gear be credibly enforced by NMFS?* In order to address this question, the agency representatives decided that an at-sea demonstration would be necessary to view the modified gear in situ. The sea trial was organized by Mr. John Gauvin, on the F/V Vaerdal, on January 9, 2009, in Seattle. A report from the demonstration is attached as Item D-2(d)(4). The final conclusion of agency personnel participating in the at-sea demonstration was that at-sea inspection of and compliance with the standards can be safe and successful, and that the regulation as written can be credibly enforced as long as it is accompanied by a comprehensive enforcement plan addressing both a strict penalty schedule and a plan for at-sea inspection.

With the benefit of this new information, the Enforcement Committee will meet again on February 3<sup>rd</sup>. The Committee will revisit this agenda item, and their previous minutes on this subject, and consider any further recommendations for the Council.

The Council's actions at this meeting are described in the discussion paper in section 8, and summarized below.



- **The Council's primary task is to review the problem statement and alternatives, and amend them as necessary. Once the Council has adopted a problem statement and alternatives specific to this action, staff will develop a new EA/RIR/IRFA, which can tier off the information included in Amendment 89, and also include any new information as appropriate.**
- **During the development of this discussion paper, a question has been raised about the boundaries adopted under Amendment 89 for the "wedge" and the St Matthew Island Habitat Conservation Area. If the Council is interested in pursuing this issue, staff could investigate and evaluate these boundary areas as part of this amendment package.**
- **Finally, as part of this amendment, staff would like to include a housekeeping change to the BSAI Groundfish FMP. The proposed change is not substantive, but would correct the description of the Crab and Halibut Protection Area, which was effectively superseded by the Nearshore Bristol Bay closure, and renumber certain figures in the FMP. Specific information on this change will be included in the Initial Review Draft of the analysis.**

#### **Report of the Scientific and Statistical Committee**

The SSC noted that the information provided in the discussion paper summarized the methods and results of NMFS experiments. The SSC requests an opportunity to review the manuscripts documenting the gear modification experiments as they become available. Given that manuscripts are still under development, the SSC also requests inclusion of the additional information in the amendment package. For a list of those requests, please see the SSC Minutes, Appendix II to these minutes.

#### **Report of the Advisory Panel**

The AP recommended that the Council develop a revised problem statement for bottom trawl sweep modification requirements, which could include the following elements:

- Research has shown that sweep modifications can reduce gear contact with the sea floor and may not have negative effects on catch rates.
- Modifications appear to meet the Council's intent to consider practicable measures to reduce potential adverse effects of non-pelagic trawl fishing on bottom habitat.
- The "wedge" is reported to contain high concentrations of flatfish and low concentrations of other bycatch species.
- Re-opening of the 'wedge' was linked to implementation of sweep modifications in final action on Amendment 89.

Further, the AP recommended that the Western boundary of the wedge and the Eastern boundary of the St. Matthew Habitat Conservation Area be delineated by a North/South line at 171 degrees 55 minutes West.

The AP recommended that the Council move this document forward for initial review.

#### **Report of the Enforcement Committee**

The Enforcement Committee received the presentation of an at-sea demonstration of modified trawl sweeps and offered the following points:

1. For the purposes of enforcement, modified trawl sweeps should be of "standard" design, and such gear should be commercially manufactured by certified companies.

2. Further, given the difficulty in checking bobbin spacing, it may be necessary to have several manufactured types of modified trawl sweep "units" (i.e., bobbins and sweep sold as a unit and intended for deployment as an integral unit) certified by NMFS.
3. Regulations should require the vessel to conduct visual inspections of the modified gear for any wear upon deployment and hauling of each set.
4. Vessels using modified gear should be "endorsed" on their FFP (or other appropriate permit that is issued to them by NMFS) for such use.

For more detailed comments, please see the minutes of the Enforcement Committee, Appendix IV to these minutes.

### **COUNCIL DISCUSSION/ACTION**

The Council received reports from Diana Evans (NPFMC staff), Melanie Brown (NMFS-AKR staff) and Dr. Craig Rose (AFSC staff) on the discussion paper, research, and results of at-sea demonstrations of modified Bering Sea bottom trawls. The Council also received reports from the SSC, AP Enforcement Committee, and oral public comments on this issue.

**Bill Tweit moved to task staff to develop an analysis for initial review at a subsequent meeting.**

### **Problem Statement**

**Research has shown that sweep modifications can reduce gear contact with the sea floor and may not have negative effects on catch rates. Modifications appear to meet the Council's intent to consider practicable measures to reduce potential adverse effects of non-pelagic trawl fishing on bottom habitat. The "wedge" is reported to contain high concentrations of flatfish and low concentrations of other bycatch species. Re-opening of the "wedge" was linked to implementation of sweep modifications in final action on Amendment 89.**

### **Alternatives**

**Alternative 1: Status quo**

**Alternative 2: Require non-pelagic trawl vessels targeting flatfish in the BSAI to use elevating devices on trawl sweeps to raise them off the seafloor.**

**Note: Relevant regulations would be reviewed after 3 years.**

**Alternative 3: Require non-pelagic trawl vessels targeting flatfish in the BSAI to use elevating devices on trawl sweeps to raise them off the seafloor, and adjust the southern boundary of the Northern Bering Sea Research Area (NBSRA) to exclude an area that would be designated as a "Modified Gear Trawl Zone." Anyone fishing with non-pelagic trawl gear in this area must use the modified trawl sweeps required by regulation. The polygon would be delineated on the north by a line at 61 degrees west latitude, to the east at 168 degrees west longitude, to the south by the existing NBSRA boundary, and to the west by the St. Matthew HCA boundary (which may be revised under the option listed below).**

**Note: Relevant regulations would be reviewed after 3 years.**

**St. Matthew Island HCA Option:** The following option addresses concerns about whether the boundaries of the St. Matthew Island HCA meet the Council's intent to protect blue king crab habitat, and can be adopted under any of the three alternatives listed above.

**SMIHCA Option:** Adjust the St. Matthew HCA boundary on the east side to be consistent with the Council's intent to protect blue king crab habitat, based on the best available information.

The motion was seconded.

Mr. Tweit noted in his supporting comments that staff will also be tasked with making the housekeeping changes mentioned by staff on page 15 of the discussion paper:

"As part of this amendment, staff would like to include a housekeeping change to the BSAI Groundfish FMP. As all changes to the FMP, even minor typographical changes, require an FMP amendment that is approved by the Council, this could be handled as a separate action that is implemented under this FMP amendment. The proposed change is not substantive, but would correct the description of the Crab and Halibut Protection Area, which was effectively superseded by the Nearshore Bristol Bay closure. Specific information on this change will be included in the Initial Review Draft of the analysis. The housekeeping amendments will also include the renumbering of figures in Section 3 of the FMP, which became confused with the adoption of Amendment 89."

Additionally, staff will respond to comments and requests of the SSC and provide additional information on Pacific cod CPUE.

**Doug Mecum moved to remove all references to the Aleutian Islands, as this action applies to the Bering Sea.** The motion was seconded and carried without objection. It was noted that this was a drafting error.

**Duncan Fields moved to amend by adding the following statement to the end of the problem statement: "In addition, there may be some associated typographical, formatting, and description issues that have caused confusion and may not reflect Council's intent."** The motion was seconded and carried without objection.

Denby Lloyd clarified that with regard to the St. Matthew boundary, Council will need advice from the Crab Plan Team and other relevant staff.

The main motion, as amended, carried without objection.

**D-2(e) Review Discussion Papers on GOA Rockfish Program Changes**

**ACTION REQUIRED**

**(e) Receive discussion paper concerning possible rockfish program revisions**

**BACKGROUND**

At its June 2008 meeting, the Council received a paper reviewing the performance of the Central Gulf of Alaska rockfish pilot program in its first year. On receiving the report, public testimony, and recommendations of the Advisory Panel, the Council requested staff to prepare a discussion paper examining certain possible changes to the program, including:

- 1) A possible amendment to qualify persons with Central Gulf rockfish history who acquired a license to remain eligible to fish in the Central Gulf fisheries.
- 2) The use of a harvester only cooperative for the entry level trawl fishery and other possible mechanisms that could be used to control effort in the entry level trawl fishery.
- 3) Additional options to rollover catch from the fixed gear entry level fishery to the trawl entry level fishery, including various dates for the rollover and different allocations to the fisheries.
- 4) A change in the management of shortraker in the catcher processor sector from an allocation to a maximum retainable amount (MRA).
- 5) A change in the management of MRAs under the program to include catch of allocated secondary species in the basis for determining the MRA of a species that is not allocated.
- 6) A change in the management of halibut PSC in the entry level trawl fishery.

The attached paper examines these changes, as well as the process for development of a possible amendment package (see Item D-2(e)). In particular, the time for analysis and implementation of the suggested amendments could be protracted, resulting in only a single year of fishing under the revisions prior to the 5 year sunset of the program, unless the Council chooses to broaden an analysis as the vehicle to continue the program without additional legislation. In that event there are a number of issues to consider which are further addressed in the discussion paper.

Neither the Scientific and Statistical Committee nor the Advisory Panel addressed this agenda issue, at this meeting. However, the Advisory Panel provided the following comments at the December 2008 meeting:

The AP recommends that the Council begin the process of extending the CGOA rockfish pilot program beyond the sunset date. The rockfish industry will bring back recommendations on specific elements to be included for extension of the program and possible elements to address issues raised in the Council staff discussion paper.

#### **COUNCIL DISCUSSION/ACTION**

The Council received a staff report from Mark Fina (NPFMC staff) and oral public comments on this issue.

**John Henderschedt moved that the Council task staff to initiate the process of creating a CGOA rockfish program for implementation by January, 2012. This process should be started with the development of a description of alternatives that will include the following:**

1. No action - Description of the LLP fishery should the CGOA RPP sunset prior to the implementation of a new rockfish program;
2. Elements of the current CGOA Rockfish Pilot Program;
3. A range of new elements that address the new MSA LAPP provisions;

**4. Possible changes in the rockfish program (e.g., those outlined in the February, 2009 discussion paper).**

**The draft alternatives should be presented to the Council at the June, 2009. The public is encouraged to provide recommendations and comments regarding additional elements that should be considered for analysis at the June meeting.**

The motion was seconded by Sam Cotten and, after discussion, carried without objection.

Council members directed staff to provide public notice that the Council will be seeking industry input for alternatives and elements to be analyzed.

**D-2(f) Review revised discussion paper on Aleutian Islands Pacific cods processing sideboards**

**ACTION REQUIRED**

**(f) Review discussion paper on Aleutian Islands Pacific cod processing sideboards**

**Background**

**At its December 2008 meeting, the Council reviewed two separate discussion papers on potential options to establish processing sideboards for catcher vessel harvests in the Eastern and Central Aleutian Islands of: 1) Pacific cod, and 2) Atka mackerel and Pacific ocean perch.<sup>2</sup> Note that a sideboard is a collective limit for all vessels subject to the sideboard; it does not represent a guaranteed allocation. The actions would essentially limit the amount of catcher vessel harvests of these species that could be processed by catcher processors and motherships that participate in a rationalization program with a processing element. The purpose of each paper was to review the Council's draft problem statement and provide a preliminary assessment of the proposed options.**

**In December, the Council approved a motion to revise the proposed alternatives and options relative to the Pacific cod processing sideboards, and requested that the discussion paper be updated with the results of those changes. The Council also approved a motion to table the Atka mackerel and Pacific ocean perch proposal indefinitely, due to the short time period in which the BSAI trawl limited access allocation has existed (2008 is the first year) and the currently limited shoreside markets for these species in the Aleutians. Thus, at this February meeting, the Council's action is limited to a review of the revised discussion paper on AI Pacific cod processing sideboards.**

**Specifically, the action proposes to limit the amount of catcher vessel Pacific cod harvest in Areas 541 and 542 that can be processed by a processing vessel (catcher processor/floater/mothership) that is part of an identified rationalization program (American Fisheries Act, BSAI crab rationalization, and BSAI Amendment 80). The Council's problem statement is on page 1 of the discussion paper and the alternatives and options are provided on page 22. Generally, however, the problem statement notes that recent rationalization programs provide benefits to processing vessels participating in these programs and afford opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod catcher vessel fishery. This is one of the few remaining primary fisheries in the BSAI that is not operating under a rationalization program. While there are limitations on the amount of Pacific cod *harvested* by the rationalized sectors, there are no limits on the amount harvested by catcher vessels that can be delivered to catcher processors or floating processors that operate under these rationalized**

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<sup>2</sup>Note that a June 2008 Council motion redirected staff from providing a formal analysis, as requested in April 2008, to developing discussion papers.

programs. In the recent past, representatives from Adak have proposed Council action to provide such processing limits (sideboards) in the Eastern and Central Al Pacific cod fisheries, in order to protect shoreside processing opportunities for these species.

#### Alternatives and options

The suite of options provides various sets of qualifying years by which to establish a processing sideboard for the rationalized sectors, based on each sector's cod processing history (acting as a mothership) in Area 541 and 542. In brief, the sideboards are proposed to be based on either the greatest amount of the species delivered within the range of qualifying years, or the average annual amount. The qualifying years are generally based on either: recent years ranging from 2003 to 2007; or the 3-year or 5-year period prior to each of the three rationalization programs. In addition, the proposed action includes a sideboard date for consideration (i.e., prior to a specified date, these processing vessels could not take catcher vessel deliveries of Pacific cod harvested in the Eastern or Central Aleutians).

The sideboards can be constructed as one processing sideboard that applies to all three rationalized sectors combined, or a separate sideboard for each of the three rationalized sectors. Note that data confidentiality issues preclude staff from providing the sideboard amounts resulting from the proposed options that would establish separate sideboards for each of the three rationalized sectors. There are too few vessels participating in each individual sector to provide these data.

#### Revisions from December 2008

Upon review of the discussion paper in December, the Council approved a motion to exempt AFA processing vessels from the proposed sideboards, if they had continuous processing participation in the Area 541/542 Pacific cod fishery since the implementation of the AFA (1999). Note that while the Council discussion during the motion was relative to exempting AFA vessels that had been acting as motherships, receiving and processing Pacific cod harvested by catcher vessels, the wording of the exemption is not specific to that activity. One could interpret 'continuous processing participation' to mean catcher processor activity, i.e., processing cod caught by the same vessel. Staff suggests clarifying the wording, as the expressed intent was to limit the exemption to vessels that have acted as motherships, which is consistent with the proposed action.

The exemption was based on a review of the December 2008 discussion paper and public testimony that showed that one AFA catcher processor has been receiving and processing cod harvested by catcher vessels in Areas 541 and 542 since long before the implementation of the AFA. In effect, the one exempted AFA CP's history is not used to calculate the proposed sideboards, nor is it subject to those sideboards. This is consistent with the approach used in other sideboard exemptions created in the AFA and the crab rationalization programs. Excluding the exempted vessel's history clearly results in processing sideboards that are lower than would result otherwise.

The Council also added an option for consideration that would limit the entire action to Area 542. Thus, the revised discussion paper evaluates each option for the sideboard amount and sideboard date for both Areas 541 and 542 combined, and also for Area 542 separately. Overall, the great majority of the catcher vessel harvest of Pacific cod from these two areas comes from Area 541.<sup>3</sup> Thus, should the Council limit the proposed processing sideboard only to catcher vessel cod landings in Area 542, it would represent a much smaller effect on the affected mothership sectors, as well as smaller 'protections' for the onshore processing sector.

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<sup>3</sup>On average from 1994 to 2008, 85% of the catcher vessel Pacific cod landings from these two areas were harvested in Area 541, as opposed to Area 542. The most recent nine years (2000 – 2008) result in the same average distribution between areas.

The Council also requested additional information such as borough tax data and additional background tables on the relative amount of Pacific cod harvested and processed by each rationalized sector (i.e., operating as CPs). These are included in the attached paper, with discussion provided as time allowed.

Finally, the Council was interested in the results of an Alaska Board of Fisheries (Board) meeting on December 31, 2008, prior to initiating a formal analysis of this action. Specifically, the Council noted interest in Board Proposals 371 and 372, which were proposed by the Aleut Enterprise LLC. At its recent meeting, the Board took action on Proposal 371 to establish a vessel size limit of 60 feet for all gear types in the State waters Al Pacific cod fishery. While the original proposal requested this change for both the A and B season, the proponents subsequently supported, and the Board recommended, that this action apply only to the B season (opens June 10). The intent is to provide additional opportunity for a relatively new, local, small boat fleet in Adak by preventing larger vessels from prosecuting this fishery later in the year.

The Board did not take action on Proposal 372, which would have reduced the daily catch limit to 75,000 pounds for the State waters Al Pacific cod fishery (the existing limit of 150,000 pounds was maintained, with clarification on the Board's enforcement intent). The intent of the proposal was to slow harvest rates and lengthen the season, in order to provide sufficient fishing time for small vessels to base operations in Adak, and potentially deliver to the onshore processor.

The discussion paper was sent to you on January 16 and is also attached as Item D-2(f)(1). The Council is scheduled to review the paper at this February Council meeting. Note that NMFS Sustainable Fisheries Division has provided a letter (Item D-2(f)(2)), summarizing a discussion with NOAA GC relative to National Standards in the Magnuson-Stevens Act that the Council should carefully evaluate with respect to the proposed action. Upon review of the discussion paper and the letter, the Council could initiate a formal analysis (EA/RIR/IRFA), or request additional information prior to taking this step. The Council could also determine that further action is not warranted at this time.

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

#### **Report of the Advisory Panel**

The Advisory Panel recommended the Council take no further action on this item at this time.

#### **COUNCIL DISCUSSION/ACTION**

The Council received a review of the revised discussion paper from Nicole Kimball (NPFMC staff), the Advisory Panel report, and oral public comment on this issue.

**Denby Lloyd moved to forward the discussion paper for analysis and initial review at the June 2009 meeting.** Mr. Lloyd noted that his intent would be to include recommendations made by staff with regard to including clarifying words, 'participation as a mothership' in the problem statement and wherever appropriate. The motion was seconded.

**Bill Tweit moved to amend to change the initial review date to the October 2009 meeting.** The motion was seconded by John Henderschedt and carried without objection.

**Bill Tweit moved to amend Component 3, to strike Option 2--'program specific sideboards.'** The motion was seconded by Doug Mecum and carried, 8 to 3, with Benson, Fields, and Hyder voting against.

Mr. Tweit said he offered the amendment because it seems unlikely an analysis would accomplish much because of confidentiality issues. No data can be provided on that option, due to confidentiality restrictions, thus the Council could not see the results of program-specific sideboards.

The main motion, as amended, carried 7 to 4, with Benson, Henderschedt, Hyder and Merrigan voting against.

**D-3 Staff Tasking**

**ACTION REQUIRED**

- (a) Review tasking and committees and provide direction.
- (b) Receive report on Alaska Native/Community Outreach.

**BACKGROUND**

- (a) Committees and Tasking.

The list of Council committees is attached as Item D-3(a)(1). Item D-3(a)(2) is the three meeting outlook, and Item D-3(a)(3) and Item D-3(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 as Item D-3(a)(5). The Council may wish to discuss priorities for completing ongoing projects, as well as any new tasks assigned during the course of this meeting.

As discussed in the Executive Director's report, staff has begun to assess FMP and regulatory changes that may be required to comply with the recently published National Standard 1 Guidelines. It is clear that several amendments will be required, and staff will report back with more details regarding tasking in April.

Another possible task on the horizon is a review of the regulation to allow Area 4C Halibut IFQ and CDQ to be harvested in Area 4D. When this regulatory change was adopted in by the Council in 2004, the Council expressed an interest in reviewing this regulatory change after the third year of implementation (the regulation was implemented on August 2005). The Council may wish to schedule such a review for a future meeting, or include this issue as an item to be discussed by the IFQ Implementation Team in 2009.

- (b) Receive report on Alaska Native/Community Outreach

In June 2008, the Council reviewed a discussion paper that was provided in response to the Council's policy priority to improve communication and participation with Alaska Native and rural communities, as identified in the workplan resulting from the Programmatic SEIS. Upon review of several suggestions to expand both ongoing communication and outreach specific to particular projects, the Council initiated a small workgroup to further review potential approaches and provide recommendations. This workgroup met on November 24, the report for which is attached as Item D-3(b)(1).

One of the main recommendations of the workgroup is to create a standing committee of Alaska Native, rural community, and Council representatives. This committee would be charged with three primary tasks: 1) to advise the Council on how to provide opportunities for better understanding and participation from Native Alaska and rural communities; 2) to provide feedback on community impacts sections of specific analyses; and 3) to provide recommendations regarding which proposed Council actions need a specific outreach plan.



With regard to the third task, a primary example is the recent outreach plan implemented for the Draft EIS on limiting Chinook bycatch in the Bering Sea pollock fishery. In addition to direct mailings to stakeholders, regional outreach meetings were attended. The results of these meetings will be included in a report presented to the Council prior to its taking final action. A list of the regional outreach meetings for this particular project is provided as Item D-3(b)(2). The standing committee that is being recommended by the outreach workgroup would work as a filter to recommend whether a proposed action needs a specific outreach plan and prioritize multiple actions when necessary.

This committee is not intended to be the primary mechanism for community input on Council actions, instead, it is intended to assist the Council in improving the overall outreach process and analyses relevant to community concerns and to do so within the constraints of staff and budgetary limitations. The workgroup recommends that the Council initiate this committee, with the intent that it meet and provide further recommendations to the Council at its April or June 2009 meeting.

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

#### **Report of the Advisory Panel**

The AP recommended the Council follow the recommendations of the Alaska Native community outreach workgroup including the formation of a full-time standing committee, the creation of a meeting database, and direction to further discuss the outreach strategies as identified by the workgroup and the May 2008 policy paper. Additionally, the AP recommended the Council ask staff to submit a proposal to the Council to allow pot gear to be legal for the halibut IFQ fishery in Area 4.

#### **COUNCIL DISCUSSION/ACTION**

Chris Oliver, Executive Director, reviewed the action memo, the three-meeting outlook, and subjects from the current meeting that needed discussion. Nicole Kimball provided the workgroup's report on Alaska Native and community outreach. The Council received the AP report and oral public comments.

#### Committees

Chairman Olson announced that Jeff Kauffman has been appointed to the IFQ Implementation Committee and Kenny Down will replace Dave Little on the SSL Mitigation Committee.

#### Community Outreach Committee

**Duncan Fields moved to approve the recommendations provided by the Community Outreach Workgroup.** The motion was seconded and carried without objection.

The Chairman will appoint a Community Outreach Committee before the June 2009 Council meeting, and schedule a meeting of the committee shortly thereafter. A call for nominations to the committee will be published in the Council's newsletter.

#### BSAI Pacific Cod Split Committee

**John Henderschedt moved to establish an industry committee to provide input to the Council on the proposed BSAI Pacific cod allocations split.** The motion was seconded and carried without objection.

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A call for nominations will be included in the Council newsletter. During discussion it was noted that the committee should be small, with appropriate representation of the affected industry sectors and communities.

Agenda Issues

Noting that final action on the salmon bycatch EIS will require considerable time on the April agenda, the Council advised the Executive Director and Chair that the following items could be moved to subsequent meetings: Bering Sea chum salmon bycatch, BSAI skates complex, and HAPC criteria and process.

Halibut/Sablefish

**Gerry Merrigan moved to open a call for halibut/sablefish proposals with a deadline of June 1.** The motion was seconded and carried without objection. The call for proposals will be published in the Council's newsletter, and the request from the IPHC regarding IPHC Area 4A, should be added to new proposals.

The Council advised staff to forward the IPHC's request for a harvest tag data collection program, to ADF&G and NMFS for comment.

Northern Sea Otter Critical Habitat

**Duncan Fields moved that the Council direct staff to draft comments on the proposed critical habitat designation, advising that the Council approves of the precise designation of the area proposed as critical habitat and noting that it does not overlap with any Council-managed fishery.** The motion was seconded and carried without objection.

Salmon Bycatch Retention/Donation

During discussion of the Chinook salmon bycatch analysis Mr. Fields suggested that the Council consider requiring retention of salmon bycatch for donation to food banks. He offered a motion to develop a discussion paper on the issue, however the motion was withdrawn after discussion. Council members elected to delay further discussion until industry has an opportunity to provide recommendations on salmon bycatch reduction.

It was suggested that the Executive Director schedule a presentation at a future meeting by Sea Share which administers the current donation program. It was also suggested that the Council should wait for industry to provide suggestions/strategies to address this. It was also noted during discussion and public comments that the salmon incidentally caught is normally of a size and quality that is not readily adapted to this type of program. Council members discussed the need for accurate accounting of the bycatch and Mr. Lloyd and Mr. Mecum agreed to provide a status report on the development of sampling protocols for Chinook salmon bycatch in the trawl fishery.

Letters

**Bering Sea Trawl Sweeps.** The Council asked staff to send a letter of appreciation to the appropriate parties for hosting the at-sea demonstration and for their time and effort in making it a success.

**Crew Loan Program.** The Council directed staff to send another letter to NMFS-HQ Financial Services Division urging progress on the crew loan program.

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**Halibut Moratorium.** The Council instructed staff to draft a letter to NMFS urging a high priority be assigned to the halibut moratorium.

Scallop Plan Team Appointments

The Council approved the appointment of Ryan Burt to replace Jeff Barnhart (retired), and Rich Gustafson to fill a new position on the Team.

Miscellaneous

**Barrow Outreach.** The Council discussed sending Council representatives to Barrow to explain Council action on the Arctic FMP. It was noted that the Council Chair and Executive Director should discuss the options and proceed as appropriate.

**ACL Rule Ecosystem Component.** The Council agreed to task the Non-target Species Committee to consider whether to incorporate an ecosystem component category into the groundfish FMPs.

**Future Council Meetings.** Mr. Fields urged the Chair and Executive Director to try to book a Council meeting in Dutch Harbor in 2010. Chris Oliver advised that the Council has signed contracts for meetings through 2010, but he will contact the hotel(s) to see if there is any leeway in re-booking.

**ADJOURNMENT**

Chairman Olson adjourned the meeting at approximately 4:20 pm on Monday, February 9, 2009.