


# Public Testimony Sign-Up Sheet

Agenda Item D-4 Staff Tasking

	NAME (PLEASE PRINT)	AFFILIATION
1	TERRY LEITZEL	ICICLE
2	dave fraser	AF
3	Julia Penny	AKPB
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members  
FROM: Chris Oliver   
Executive Director  
DATE: January 29, 2008  
SUBJECT: Staff Tasking

ESTIMATED TIME 4 HOURS
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**ACTION REQUIRED**

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

**BACKGROUND**

Committees and Tasking

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

At the last meeting, the Council initiated several new projects (halibut and sablefish IFQ constructive loss, BSAI crab loan eligibility, GOA sideboards for BSAI crab vessels, GOA sideboards for Amendment 80 vessels, GOA sideboards for WGOA rockfish vessels, GOA sideboards for AFA CVs) to the tasking list. The Council may wish to discuss tasking priorities to address these projects, as well as potential additions discussed at this meeting, given the resources necessary to complete existing priority projects.

Outreach Plan

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

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

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

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

*Increase Alaska Native and Community Consultation*

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

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

Stakeholder Participation

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

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

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

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

**NPFMC Committees & Workgroups**  
(Revised January 30, 2008)

AGENDA D-4(a)(1)  
FEBRUARY 2008

**Council/Board of Fisheries Joint Protocol Committee**

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

**Council Coordination Committee**

[Designated and renamed by Magnuson Act reauthorization April 2007]

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

**Council Executive/Finance Committee**

Updated: 8/10/07	Chair: Eric Olson
<u>Status:</u> Meet as necessary	Jim Balsiger (NMFS)/Alternate Dave Hanson Denby Lloyd (ADFG)/Alternate Roy Hyder Jeff Koenings (WDF)/Alternate
Staff: Chris Oliver/Dave Witherell/Gail Bendixen	

**Bering Sea Crab Advisory Committee**

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

# NPFMC Committees & Workgroups

(Revised January 30, 2008)

## Bering Sea Salmon Bycatch Workgroup

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

[Required under BSAI Crab FMP]

<p>Jim Balsiger, NMFS Denby Lloyd, ADF&amp;G Jeff Koenings, WDF</p>
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## Ecosystem Committee

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

<p>Updated: 7/03</p> <p><u>Status</u>: Active</p> <p>Staff: Jon McCracken</p>	<p>Chair: Roy Hyder LCDR Lisa Ragone, USCG James Cockrell, F&amp;W Protection Bill Karp, NMFS Earl Krygier, ADF&amp;G Lisa Lindeman, NOAA-GC Jeff Passer, NMFS-Enforcement Sue Salveson, NMFS</p>
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## Fur Seal Committee

<p>Updated: 8/10/07</p> <p><u>Status</u>: Active</p> <p>Staff: Bill Wilson</p>	<p>Chair: David Benson Larry Cotter Aquilina Lestenkof Paul MacGregor Heather McCarty Anthony Mercurief</p>
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**NPFMC Committees & Workgroups**  
(Revised January 30, 2008)

**GOA Groundfish Rationalization Community Committee**

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

Appointed: 1/06 Revised: 11/5/07  Staff: Jane DiCosimo	Chair: Dave Hanson Seth Bone Robert Candopoulos Ricky Gease John Goodhand Kathy Hansen Dan Hull	Chuck McCallum Larry McQuarrie Rex Murphy Peggy Parker Charles "Chaco" Pearman Greg Sutter Doug Vincent-Lang
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**IFQ Implementation Committee**

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

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

Reconstituted: 1/06 Updated: 12/07 <u>Status</u> : Active  Staff: Chris Oliver/ Nicole Kimball	Chair: Joe Kyle Bob Alverson Christian Asay Jerry Bongen Julie Bonney Todd Loomis Paul MacGregor	Tracey Mayhew Brent Paine Peter Risse Kathy Robinson Thorn Smith  <i>*Vacancy (1)</i>
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**NPFMC Committees & Workgroups**  
(Revised January 30, 2008)

**Pacific Northwest Crab Industry Advisory Committee**

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

Appointed: 12/07  Staff: Mark Fina	Glenn Reed (Chair) Bruce Berg Michael Catsi Dave Colpo Paula Cullenberg	Brett Reasor Ed Richardson Mike Szymanski Gale Vick
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**Steller Sea Lion Mitigation Committee**

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

Appointed: 6/02  <u>Status</u> : Idle, pending direction  Staff: Jane DiCosimo	Chair: Earl Krygier Al Burch Guy Holt Ed Page LCDR Lisa Ragone Lori Swanson
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**DRAFT NPFMC THREE-MEE. OUTLOOK - updated 1/29/08**

February 4, 2008 Seattle, WA	March 31, 2008 Anchorage, AK	June 2, 2008 Kodiak, AK
<p>Adak Kanaga Sound NMFS PR Review: <b>Report</b> SSL EIS NOI and Consultation: <b>Update</b></p> <p>AFA Coop Reports: <b>Review</b></p> <p>GOA State Mgmt P. cod jig fishery: <b>Discussion paper</b></p> <p>CGOA Rockfish Coop Reports: <b>Review</b> GOA Rockfish Pilot Program Review: <b>Review Outline</b> AM 80 Post Delivery Transfers/rollers: <b>Final Action</b> Trawl LLP Recency: <b>Initial Review</b></p> <p>BSAI Crab data collection quality and confidentiality: <b>Report</b> BSAI Crab Committee: <b>Report</b> BSAI Crab Arbitrator Immunity: <b>Discussion paper (T)</b> BSAI Crab Arbitration Regulations: <b>Initial Review (T)</b> BSAI Crab 'C' Share active participation: <b>Initial Review (T)</b> St George protection measures: <b>Initial Review (T)</b> BSAI Crab Loan Eligibility: <b>Discussion Paper</b></p> <p>Social and Economic Data Committee: <b>Report (T)</b></p> <p>Observer Program Reg. Package: <b>Initial Review</b> BSAI Salmon Excluder EFP: <b>Review</b> BSAI Salmon Bycatch Analysis: <b>Refine Alternatives</b> AI FEP Implementation: <b>Ecosystem Committee report</b> Arctic FMP: <b>Preliminary Review</b></p> <p>VMS Exemption for Dinglebar Gear: <b>Discussion paper</b></p> <p>4E Seabird Avoidance Measures: <b>Preliminary Review</b></p> <p>GOA OSpecies ABC/OFL Specifications: <b>Initial Review</b> Other Species Mgmt: <b>Review discussion paper; ctte report</b> BS and AI P. cod area split: <b>Report</b></p> <p>PSEIS Outreach Plan: <b>Review</b> Stakeholder Participation Principles: <b>Review</b></p>	<p><b>Joint Meeting with BOF</b> AI pollock EFP: <b>Report</b></p> <p>SSL Recovery Plan: <b>Review Final Plan</b> SSLMC Report on proposals Review proposed rule for ACL Guidelines (T) GOA fixed gear LLP recency: <b>Initial Review</b> GOA P cod sector split: <b>Initial Review</b> GOA sideboards for BSAI crab vessels: <b>Initial Review</b></p> <p>Trawl LLP Recency: <b>Final Action</b></p> <p>BSAI Crab Arbitrator Immunity: <b>Initial Review (T)</b> BSAI Crab Arbitration Regulations: <b>Final Action (T)</b> BSAI Crab 'C' Share active participation: <b>Final Action (T)</b> St George protection measures: <b>Final Action (T)</b></p> <p>Charter Halibut Allocation/Reallocation: <b>Initial Review</b> Charter Halibut Logbook Program: <b>Report; Action as nec.</b></p> <p>Halibut Subsistence Rural Definition: <b>Initial Review</b></p> <p>Observer Program Reg. Package: <b>Final Action</b></p> <p>BSAI Salmon Bycatch EIS: <b>Preliminary Review</b> GOA Crab and Salmon Bycatch: <b>Discussion paper</b> Arctic FMP: <b>Initial Review</b> Evaluation of HAPC Criteria: <b>SSC Review (T)</b> VMS Exemption for Dinglebar Gear: <b>Initial Review</b></p> <p>4E Seabird Avoidance Measures: <b>Initial Review</b></p> <p>GOA OSpecies ABC/OFL Specifications: <b>Final Action</b> CDQ Program: <b>Update on Oversight Regulations</b></p> <p>Scallop SAFE: <b>Review and Approve</b></p>	<p>SSL dEIS: <b>Select Preferred Alternative</b> SSL draft status quo BiOp: <b>Review and Comment</b> SSLMC Report on proposals</p> <p>GOA Rockfish Pilot Program Review: <b>Report</b></p> <p>GOA fixed gear LLP recency: <b>Final Action</b> GOA P cod sector split: <b>Final Action</b> GOA sideboards for BSAI crab vessels: <b>Final Action</b> GOA sideboards re Am 80 PSC: <b>Initial Review</b> GOA sideboards re GOA rockfish: <b>Initial Review</b> GOA sideboards for AFA CVs: <b>Initial Review</b></p> <p>BSAI Crab Arbitrator Immunity: <b>Final Action (T)</b></p> <p>Halibut Subsistence Rural Definition: <b>Final Action</b></p> <p>BSAI Salmon Bycatch EIS: <b>Initial Review</b></p> <p>Arctic FMP: <b>Final Action</b></p> <p>VMS Exemption for Dinglebar Gear: <b>Final Action</b></p> <p>4E Seabird Avoidance Measures: <b>Final Action</b></p> <p>Other Species Mgmt: <b>Review Progress; Action as nec.</b></p> <p>PSEIS Priorities: <b>Review workplan</b></p>

AI - Aleutian Islands  
GOA - Gulf of Alaska  
SSL - Steller Sea Lion  
BOF - Board of Fisheries  
FEP - Fishery Ecosystem Plan  
CDQ - Community Development Quota  
VMS - Vessel Monitoring System  
NOI - Notice of Intent  
(T) Tentatively scheduled

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

Future Meeting Dates and Locations  
February 4 - , 2008 in Seattle  
March 31 - , 2008 in Anchorage  
June 2- , 2008 in Kodiak  
September 29- , 2008 in Anchorage  
December 8- , 2008 in Anchorage  
February 2 - , 2009 in Seattle  
March 30 - , 2009 in Anchorage



## Council Project Summary January 29, 2008

Council Projects	Projected Weeks	Council/ NMFS %	Comments
<b>Groundfish Fishery Issues</b>			
GOA P. cod Sector Splits	4	70/30	Initial review in April (Jeannie/NMFS)
GOA fixed gear recency	4	90/10	Initial review in April (Jeannie)
GOA Sideboards for BSAI crab vessels	6	90/10	Initial review in April (Jon)
GOA Sideboards for Am 80, CGOA rockfish, AFA CVs	12	90/10	Initial review in June (Jon)
Break out other species category into TAC groups	12	40/60	Initial Review in October 2008 (T) (Jane/NMFS)
GOA O.species ABC and OFL	2	90/10	Initial Review in February (Diana E)
Observer Program (changes to existing program)	2	80/20	Initial Review in February (Nicole/NMFS)
CGOA Rockfish post-delivery transfers	1	80/20	Being prepared for Secretarial Review (NMFS/Mark).
Trawl LLP Recency	4	90/10	Initial Review in February (Nicole/Jeannie/NMFS)
GOA arrowtooth MRA	1	30/70	Being prepared for Secretarial Review (NMFS/Jon).
Pacific cod BS and AI split	6	90/10	Discussion in Feb 2008 (Jon/Nicole/NMFS)
Comprehensive economic data collection	?	10/90	Workgroup report in February (NMFS/Mark)
Am 80 post-delivery transfers and rollovers	2	80/20	Final action in February (Jon/NMFS)
GOA pollock trip limits	2	80/20	Being prepared for Secretarial Review (NMFS).
CGOA Rockfish pilot program review	?	80/20	Discuss workplan in February (Mark/NMFS)

### Halibut Fishery Issues

Halibut Charter Moratorium	2	90/10	Being prepared for Secretarial Review (Jane/Nicole/NMFS/contractor)
Halibut Charter Allocation/Compensated Reallocation	6	90/10	Initial Review in April (Jane/contractor/NMFS)
Halibut Charter Share Based Solutions/Permit Endorsements	?	90/10	Committee Recommendations in Dec 2007 (Jane/contractor)
Halibut Charter 2C GHL Measures	0	90/10	Proposed rule published 12/31/07 (NMFS)
Halibut Charter 3A GHL Measures	1	90/10	Final Action in October 2008 (Jane/contractor/NMFS)
Halibut Subsistence Eligibility	3	90/10	Initial Review in April (Jane/Nicole/NMFS)
Halibut/sablefish IFQ 'constructive loss'	3	50/50	Initial Review in October (T) (Jane/NMFS)
IFQ Omnibus 5	0	90/10	Undergoing Secretarial Review (Jane/Jim/NMFS)

**Crab Fishery Issues**

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

**CDQ Issues**

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

**Bycatch Issues**

GOA Salmon and Crab Bycatch Controls	?	80/20	Discussion paper in April (Diana S.)
BSAI Salmon Bycatch EIS	12	70/30	Initial Review in June (Diana S./other)
Non-target (other rockfish, other flatfish, o. species) development	?	60/40	Committee report in February (Jane/NMFS).

**Ecosystem Issues**

Bering Sea habitat conservation	0	50/50	Being Prepared for Secretarial Review (NMFS)
Relax VMS requirement for vessels fishing dinglebar gear	1	20/80	Initial Review in April (NMFS)
Ecosystem-based Management	?	90/10	Alaska Marine Ecosystem Forum meeting upcoming (Diana E)
Aleutian Islands Fishery Ecosystem Plan	0	90/10	Summary brochure produced (Diana E.)
Arctic Fishery Management Plan	10	90/10	Prelim Review in February (Bill, Diana E/NMFS/NOAA GC)
SSL SSLMC/dEIS	10	30/70	Review in April and June (Bill/NMFS)
Seabird avoidance measures in 4E	4	40/60	Initial Review in February (NMFS/Bill)

**Project timeline and major tasking for Council analytical staff. Updated 1/29/08**

<b>Analytical Staff</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>
<b>Mark Fina, Sr. Economist</b> CGOA Rockfish Program review BSAI crab St. George community BSAI crab C-share active participation BSAI crab arbitration regulations BSAI crab 3 yr review & 90/10 package BSAI crab arbitrator Immunity	review outline Initial Review Initial Review Initial Review		Final Action Final Action Final Action		Report     Final Action				Review
<b>Jon McCracken, Economist</b> Am 80 rollovers/transfers GOA sideboards for BSAI crab vessles GOA Sideboards: Am80,CGOA rockfish,AFA	Final Action		Initial Review		Final Action Initial Review				
<b>Jeannie Heltzel, Data Analyst</b> GOA P.cod sector split GOA fixed gear recency Data mgmt., AKFIN Liaison			Initial Review Initial Review		Final Action Final Action				
<b>Jane DiCosimo, Sr. Plan Coord</b> Halibut Charter 3A measures Halibut Charter allocation/compensation Halibut Subsistence Eligibility Halibut/sablefish 'constructive loss' Other Species Management			Initial Review Initial Review		Final Action			Groundfish PT 9/22-24	Final Action (T) Final Action (T)  Initial Review Initial Review
<b>Diana Stram, Plan Coordinator</b> BSAI Salmon bycatch GOA crab and salmon bycatch Scallop management Crab Overfishing Def./Management	discuss SSC review PT 2/22-23		Prelim Review (T) discuss Review SAFE	PT 5/5-8	Initial Review	PT Report/OFLs		Groundfish PT 9/22-24 PT 9/15-18 (T)	SAFE Report
<b>Bill Wilson, Protect Species</b> Arctic FMP Marine Mammal issues Seabird Bycatch FMP Consultation	Prelim Review		Initial Review		Final Action				
<b>Diana Evans, NEPA Specialist</b> EAM and AI FEP VMS exemption for dinglebar gear GOA Other Species ABC/OFL NEPA assistance	Eco committee discussion Initial Review		Initial Review Final Action		Final Action				
<b>Nicole Kimball, Fishery Analyst</b> CDQ Projects (lead) Observer Program (lead) Trawl LLP Recency GOA halibut charter community issues		Initial Review Initial Review	Report Final Action Final Action (T)						

# Groundfish Workplan

Priority actions revised in February 2007, status updated to current

General Priority (in no particular order)	Specific priority actions	Related to management objective:	Status (updated 1-22-08)	2008					2009					
				Feb	Apr	Jun	Oct	Dec	Feb	Apr	Jun	Oct	Dec	
<b>Prevent Overfishing</b>	a. continue to develop management strategies that ensure sustainable yields of target species and minimize impacts on populations of incidentally-caught species	5	'other species' breakout analysis for BSAI and GOA initiated; action to set aggregate ABC/OFL for GOA for Feb 08	█	█	█	█							
	b. evaluate effectiveness of setting ABC levels using Tier 5 and 6 approaches, for rockfish and other species	4	AFSC responding to CIE reviews as part of harvest specifications process											
	c. continue to develop a systematic approach to lumping and splitting that takes into account both biological and management considerations	5	on hold pending National Standard 1 guideline revisions											
<b>Preserve Food Web</b>	a. encourage and participate in development of key ecosystem indicators	10	ecosystem SAFE presented annually; AI FEP identified indicators for the Aleutians					█						█
	b. Reconcile procedures to account for uncertainty and ecosystem considerations in establishing harvest limits, for rockfish and other species	11	on hold pending National Standard 1 guideline revisions											
	c. develop pilot Fishery Ecosystem Plan for the AI	13	FEP brochure published Dec 07; further implementation being discussed by Ecosystem Committee	█										
<b>Manage Incidental Catch and Reduce Bycatch and Waste</b>	a. explore incentive-based bycatch reduction programs in GOA and BSAI fisheries	15	partially addressed by BSAI salmon bycatch analysis, initial review Jun 08	█	█	█	█							
	b. explore mortality rate-based approaches to setting PSC limits in GOA and BSAI fisheries	20												
	c. consider new management strategies to reduce incidental rockfish bycatch and discards	17												
	d. develop statistically rigorous approaches to estimating bycatch in line with national initiatives	14, 19	National Bycatch Report update in Dec 07											
	e. encourage research programs to evaluate population estimates for non-target species	16	Part of research priorities, adopted in June 2007											
	f. develop incentive-based and appropriate biomass-based trigger limits and area closures for BSAI salmon bycatch reduction, as information becomes available	14, 15, 20	analysis for regulatory closure areas initiated, initial review in Jun 08	█	█	█	█							
	g. assess impact of management measures on regulatory discards and consider measures to reduce where practicable	17	partially addressed by GOA arrowtooth MRA analysis (approved Oct 07)											



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

**Introduction**

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

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

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

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

*Increase Alaska Native and Community Consultation*

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

## **Current Council process**

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

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

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

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

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

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

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

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

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

### **Federal policies & processes for Native and community consultation**

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

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

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

#### ***Executive Order 12898***

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

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



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

### *Executive Order 13175*

Executive Order 13084<sup>3</sup> was approved in May 14, 1998, in part to ensure that each agency has an effective process to permit elected officials and other representatives of Indian tribal governments<sup>4</sup> to provide meaningful and timely input in the development of regulatory policies on Federal matters *that significantly or uniquely affect their communities*. This executive order was replaced by E.O. 13175 on November 6, 2000, in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies *that have tribal implications*. "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have *substantial direct effects* on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The definition of "Indian tribe" did not change under E.O. 13175.

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

### *Department of Commerce Tribal Policy*

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

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

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

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

<sup>5</sup><http://www.census.gov/prod/cen2000/d-3288.pdf#Page=34>

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

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

### *EPA Tribal Policy*

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

In addition, the EPA has formalized several approaches to consultation with tribal governments in response to E.O. 13175, which requires consultation and coordination in the development of Federal policies that have tribal implications. One of the ways in which the EPA has implemented the intent of this order is through the establishment of an EPA-Tribal Science Council in 2000.<sup>9</sup> The EPA-Tribal Science Council, comprised of tribal and EPA representatives, provides a mechanism through which the EPA can understand the tribes’ highest priority scientific issues at a national level and an opportunity for tribes to influence the EPA’s scientific agenda. It appears to be a successful approach not only to a consultation process, but also to sharing local traditional knowledge with EPA scientists in order to contribute to improved environmental protection overall. As part of this effort, the EPA initiated a series of workshops, seminars, and projects that involve tribes in forming a framework for integrating tribal knowledge into EPA risk assessment and decision-making.

### *U.S. Army Corps of Engineers Tribal Policy*

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

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

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

<sup>8</sup><http://www.epa.gov/indian/1984.htm>

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

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

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

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

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

Proposed protocol to expand formal consultation:

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

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

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

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

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

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

Proposed protocol to expand informal consultation:

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

Proposed documentation:

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

### **Summary and potential Council action**

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



**GAO**  
Accountability Integrity Reliability  
**Highlights**

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

## FISHERIES MANAGEMENT

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

### Why GAO Did This Study

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

### What GAO Recommends

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

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

[www.gao.gov/cgi-bin/getrpt?GAO-06-289](http://www.gao.gov/cgi-bin/getrpt?GAO-06-289).

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

### What GAO Found

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

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

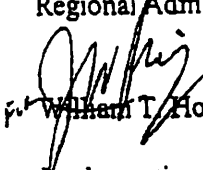


UNITED STATES DEPARTMENT OF  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
1315 East-West Highway  
Silver Spring, Maryland 20910

THE DIRECTOR

APR 28 2006

MEMORANDUM FOR: Regional Administrators, FMC Executive Directors

FROM:  William T. Hogarth, Ph.D.

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

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

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

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

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

*Communication strategy.*

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



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

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

**Attachments**

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

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

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

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

Actions

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

< *Deliverable:* A draft NMFS policy on stakeholder involvement in Council processes, with special emphasis on the development of DAPs.

*Target completion date:* 29 September 2006

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

*Deliverable:* Final clearance of the policy and incorporation into the NMFS PDS.

*Target completion date:* 31 December 2006

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



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

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

### **Actions**

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

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

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

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

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

*Target completion date:* 29 September 2006

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

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

## Actions

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

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

*Target completion date:* 31 December 2006

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

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

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

<p><b>NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 30-129</b> <b>Effective February 1, 2007</b></p>
<p><b>Administration and Operations</b></p>
<p><b>STAKEHOLDER PARTICIPATION IN COUNCIL DEVELOPMENT OF LIMITED ACCESS PRIVILEGE PROGRAMS</b></p>
<p><b>NOTICE:</b> This publication is available at: <a href="http://www.nmfs.noaa.gov/directives/">http://www.nmfs.noaa.gov/directives/</a>.</p>
<p><b>OPR:</b> SF (C. Moore) <b>Certified by:</b> SF (A. Risenhoover) <b>Type of Issuance:</b> Initial</p>
<p><b>SUMMARY OF REVISIONS:</b></p>

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

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

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

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

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

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

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

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

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

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

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

**DRAFT NPFMC Plan for Outreach,  
Communication, and Stakeholder Participation**

AGENDA D-4(b)(5)  
FEBRUARY 2008

The U.S. Government Accountability Office (GAO) released a report in 2006 on the involvement of stakeholders in the development of limited access privilege programs (LAPPs) by regional fishery management councils. The GAO Report "Core Principles and a Strategic Approach Would Enhance Stakeholder Participation in Developing Quota-based Programs" found that while Council practices are consistent with laws related to stakeholder involvement, there are additional opportunities for improvement. The report also made a number of recommendations to NMFS, including: establishing a formal policy for stakeholder participation; providing guidance to the Councils and training on developing approaches to stakeholder participation; and directing the Council to develop and implement a framework for stakeholder participation that includes core principles and a strategic approach.

The NMFS Policy on Stakeholder Participation relies on the Councils to develop and use communication strategies and plans to address stakeholder involvement. The policy further notes that as part of this process, the Councils should adopt the core principles on stakeholder involvement to guide their activities.

The following draft plan was prepared by staff for the North Pacific Fishery Management Council (NPFMC) to improve communication and stakeholder participation in all aspects of fishery management, including, but not limited to, LAPPs. The plan is developed around the seven core principles for effective stakeholder participation identified in the GAO report. For each principle, the Council's current stakeholder participation practices are described, and potential improvements are listed.

**Principle #1: Use an open and clearly defined decision-making process.** The GOA report further explains that this means "an organization makes program development processes open and accessible to all interested stakeholders, and that the organization has informed stakeholders about what roles they can play and how the organization uses stakeholder input, such as oral statements provided at council meetings, in decision making. A transparent process gives stakeholders clear expectations about how decisions will be made, enhancing understanding and trust in the organization's decisions".

**Current Process**

- ✓ The current NPFMC process is open and transparent in that all deliberations and decisions are made in public after public testimony and input from the advisory panel and/or scientific and statistical committee.
- ✓ To assist persons 'new' to the council process, there is a 'How to Get Involved' section on our website describing the process and how to make provide comments. Within this section is a 2-page "Frequently Asked Questions" flyer, written in plain language. Additionally, the Council just published a new brochure "Navigating the North Pacific Council Process" for wide distribution and posting on the website.
- ✓ Relative to how public comment is incorporated into decision-making, Council members sometimes refer to specific public testimony in the rationale for various motions. However, in the case of allocation programs, where motions include complex alternatives and options, it would be unrealistic to expect Council members (or the minutes) to address how every public comment was incorporated.
- ✓ It is not uncommon to have oral comments from 50 or more persons (and 20 or more written comments) every time a major program is discussed.

**Possible Improvements**

- Council members could (more frequently) reference how they incorporated public comments into a motion they are making when they speak to the motion.

**Principle #2: Make key information readily available and understandable.** The GOA report explains that stakeholders must have access to information in an understandable fashion, allowing stakeholders to participate in a meaningful way. Stakeholders have complained that analyses are too lengthy and difficult to understand.

#### Current Process

- ✓ All analytical documents are distributed to the Council family (AP, SSC, and Council members) prior to the meeting. They are also posted on our website at that time, and written copies of the analyses are mailed to persons requesting them. Further, copies of all briefing materials, including written public comments, are provided to anyone attending AP, SSC and Council meetings.
- ✓ For LAPPs, which by nature are very complex, it may be naïve to assume that the analyses can be packaged in a brief fashion and still allow someone to understand the various impacts and participate in a meaningful way. When it comes to how a LAPP might affect a particular stakeholder, it is necessary to understand the details of the program. Staff analyses attempt to categorize the effects of a proposed action by sector or particular set of stakeholders.
- ✓ For all issues, we include a short description of the issue in the 'Action Memo' and an executive summary for each analysis.

#### Possible Improvements

- A revised environmental review process may reduce the length (and repetition) of analytical documents and make them more easily understandable.
- Staff could prepare background information brochures and status sheets on LAPP programs, written in plain English, similar to what the USFWS and USGS prepare for outreach on some issues, and similar to the 'True North' series published by the Council in the early and mid-1990s. A single staff person would need to serve as editor to ensure consistency in style.

**Principle #3: Actively conduct outreach and solicit stakeholder input.** The GAO report recommends that decision makers seek out those potentially affected by a decision and request input, paying particular attention to those that have traditionally been less involved (such as crew members). As a first step, the GOA recommended that Councils expand mailing lists by adding names and addresses from permit applications and other sources.

#### Current Process

- ✓ The Council attempts to contact potentially affected stakeholders through a variety of public outreach means: web site, mailings, newsletters, other agency contacts.
- ✓ Meeting dates and locations are announced years in advance.
- ✓ The Council newsletter is sent (snail mail hard copies and electronically via email) to everyone who has requested to be on the distribution list.
- ✓ The Council website contains meeting announcements and an enormous amount of background information on current issues, including LAPPs and meeting agendas, as well as a three meeting outlook of future issues.
- ✓ Meeting attendees, along with members of our Advisory Panel and numerous committees also serve as an information source and communicate with potentially affected parties back in their home ports.
- ✓ The local fishermen's magazine (e.g., Pacific Fishing), newspaper articles, and fishery radio broadcasts provide further notification of LAPP development and other Council initiatives and actions.

- ✓ One of the fishery management workplan priorities resulting from the Council's Final Programmatic SEIS was to increase Alaska Native and community consultation. An approach is currently being developed to implement the intent of this priority. It will include: 1) a protocol for improving the Alaska Native and community consultation process and 2) a method for systematic documentation of Alaska Native and community participation in the development of management actions.
- ✓ The Council has helped develop, sponsor, and participate in an Alaska fishing community conference in 2005 and 2006, in order to specifically solicit ideas, concerns, and feedback from rural communities and stakeholders that have traditionally been less involved in the Council process. The next conference is planned for fall 2008.

#### Possible Improvements

- Put sign up list for e-mail or snail mail distribution of newsletters on the testimony sign-up table.
- Add federal fishing license holders to the mail distribution list when LAPP specific items are being considered.
- Consider holding public hearings once per year in a few coastal communities, covering relevant issues. The hearing could be held by as few as 2 Council members, with NPFMC and NMFS staff support. As a two-way dialog, the Council could make a presentation on current and upcoming activities, and the public could offer comments on these and other issues. A report of these meetings could then be presented to the full Council at the next meeting.

**Principle #4: Involve stakeholders early and throughout the decision-making process.** The GAO report notes that stakeholders can participate in the process by providing oral and written testimony at meetings and by being members of advisory bodies. However, the length of the LAPP development process, and its associated time and travel costs, precludes many from participating throughout the process. The report recommended that meetings be broadcast by other means (e.g., conference calls), holding meetings in locations likely to be affected by LAPPs, increasing the diversity of Council and AP membership, as well as streamlining and shortening the analytical process (i.e., amend MSA to incorporate NEPA requirements).

#### Current Process

- ✓ The remote locations of fishing communities in Alaska make it challenging to involve all stakeholders, particularly in a lengthy analytical and decision process. When a meeting is held in a coastal fishing community (which are accessible only by air), it costs more for others attending from elsewhere. The Council holds most of our meetings in Anchorage, which is centrally located.
- ✓ Staff has supported efforts to streamline the environmental review process specified by the MSA.
- ✓ While there is no seat is guaranteed to any gear type, fishery, geographic area, or organization, AP and Council members represent a broad geographic area and include diverse interests, including several members who give voice to various stakeholder and community concerns.

#### Possible Improvements

- Develop specialized mailings to notify appropriate parties when a big issue (such as LAPPs) involves stakeholders not normally involved in the Council process.
- Develop community and/or stakeholder outreach plans for specific issues uniquely or significantly affecting a particular region (e.g., the Council is developing such an outreach plan for the Arctic FMP.) Identification of stakeholders and participation plans could be incorporated in the action plan developed for each issue.

**Principle #5: Foster responsive, interactive communication between stakeholders and decision makers.** The GAO report notes that the Council system relies on one-way communication

with stakeholders communicating their concerns to Council members through oral and written comments, and that it is intimidating to give public testimony. Councils generally do not respond to every oral or written comment.

#### Current Process

- ✓ Council members do question testifiers during their public comment (limit of 2 questions per Council member per testifier). However, it is not an open dialog because this can quickly degenerate into a debate among Council members and a testifier. In addition, because of the number of testifiers and the need to complete the meeting in the time allotted, the Council cannot engage in open debate during testimony.

#### Possible Improvements

- Make the Council less intimidating by creating personal profiles for Council members and staff (see PFMC website <http://www.pcouncil.org/staff/staff.html>)
- Council members and staff could wear name badges at meetings to make them easily identifiable to those new to the process.

**Principle #6: Use formal and informal participation measures.** The GAO report suggests that while Councils effectively use formal measures, they offer few informal opportunities that are open to all stakeholders to participate. It was suggested that there be organized opportunities to informally discuss issues.

#### Current Process

- ✓ Council members talk informally with stakeholders during meetings in the hallway or elsewhere, and prior to the meetings by phone (Council member phone #'s are listed on website).
- ✓ Committee meetings offer meaningful opportunities for informal exchanges.
- ✓ Council 'family' participates in national, regional, and local conferences pertaining to fishing interests

#### Possible Improvements

- Time could be set aside on the agenda for stakeholders to meet informally with Council members. For example, Council members could make themselves available in the public area of the Council meeting room in the mornings, say at 7:45 am each day, or after lunch for 15 minutes or so.

**Principle #7: Include all stakeholder interests.** The GAO survey suggested that crew members were poorly represented in the development of LAPPs, and that Councils and APs did not always have balanced representation among all stakeholder interests.

#### Current Process

- ✓ The Council chair attempts to include representation of all relevant user groups when ad-hoc committees are constituted (or reconstituted) on a particular issue, within manageable limits.
- ✓ The Council has established a new policy for AP membership. Appointments occur every year with an eye to getting balanced representation by state, management area, gear type, processing sector, fishery, etc.
- ✓ Staff has been made available to fishing communities interested in getting informal presentations on Council activities and how to get involved.

#### Possible Improvements

- Create a standing committee of crew members, community and Council representatives to discuss ongoing issues and convey information between parties if a new LAPP is being developed.





125 Christensen Dr., Suite 2  
Anchorage, AK 99501

Tel.: 907-277-8234

Fax: 907-272-6519

January 29, 2008

Mr. Eric Olsen, Chair  
North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Ave., Suite 306  
Anchorage, AK 99501

Dear Mr. Chairman:

We request that the North Pacific Fishery Management Council begin a new solicitation process for submitting habitat area of particular concern (HAPC) proposals. The process that was proposed for HAPC identification by the Council and Tetra Tech FW called for a new solicitation cycle every three years. It has now been more than four years since the last HAPC proposal solicitation.

Identifying and establishing appropriate protections for vulnerable habitats requires periodic review to incorporate new research and increased understanding of potential ecological, economic, and cultural impacts. In the four years since the last HAPC proposal solicitation, there have been several relevant habitat studies in the region, including benthic surveys in the Aleutians and of Bering Sea canyons. The available data on the impacts of climate change on Arctic and sub-Arctic waters has also advanced considerably in this time period.

We look forward to working with the Council to develop HAPC proposals for your consideration, and urge you to take the opportunity to initiate a new solicitation process at the Seattle meeting.

Sincerely,

George Pletnikoff  
Alaska Oceans Campaigner  
Greenpeace

D-4  
Supplemental



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
Silver Spring, MD 20910

JAN 25 2008

Mr. Chris Oliver  
Executive Director  
North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage, AK 99501-2252

RECEIVED  
FEB - 1 2008

N.P.F.M.C.

Dear Mr. Oliver,

Per our discussion at the recent Council Coordination Committee meeting, this letter requests action from each Council, as appropriate, regarding permit fees. The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) established a policy (attached) in 2004 to collect fees in association with all permits. As you know, NMFS may charge permit fees to recover its administrative costs to the extent fees are provided for under a fishery management plan pursuant to section 303(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Historically, decisions whether to charge administrative fees for MSA permit processing and issuance expenses have been made on a case-by-case basis. The result is a set of inconsistent permit fee policies around the country in which fishermen may or may not be charged, or charged differing fees, for similar permits.

My goal is to establish a consistent application of agency policy providing for the assessment and collection of fees that recovers the expenses of permit processing and issuance for all permits issued by NMFS to the extent allowed by law. To achieve this goal, I ask that each Regional Fishery Management Council work closely with their NMFS Regional Administrator to ensure that each of their fishery management plans contains the authority necessary to collect fees and, if not, to amend those plans to provide for the collection of fees. In some cases, fees or the authority for fees for all permits may be in place and no new action necessary.

Please work with your Regional Administrator to develop a plan of action for establishing these fees within your area of jurisdiction. Additionally, implementation of fees around the country will necessitate outreach to the fishing industry to explain the basis for the new fees and I would like to hear your thoughts on how to best accomplish such outreach. I will ask that each Council/Region report on their plans to establish these fees at the next Council Coordination Committee meeting in May.

Sincerely,

Samuel D. Rauch, III  
Deputy Assistant Administrator for  
Regulatory Programs

Enclosure  
Cc: James Balsiger, Regional Administrator



***NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 30-120***

***Administration and Operations***

***NMFS Permit Fees***

**NOTICE:** This publication is available at: <http://www.nmfs.noaa.gov/directives/>.

**OPR:** F/P (M. Holliday)

**Certified by:** F/P (M. Holliday)

**Type of Issuance:** Renewed 07

***SUMMARY OF REVISIONS:***

**Introduction.** The authority for the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) to charge permit fees to recover its administrative costs is contained in five statutes. Historically, each NMFS permit program individually decided whether or not to use this authority to charge an administrative fee for the recovery of permit processing and issuance expenses. The result is a set of inconsistent permit fee policies around the country. The purpose of this directive is to establish a more consistent agency permit program that recovers the expenses of permit processing and issuance for all permits issued by NMFS to the extent allowed by law.

**Objective.** Permits are used to identify participants who are eligible to conduct specific activities in programs regulated by NMFS. To receive this benefit, participants must meet certain criteria and submit an application and supporting documentation to a specified NMFS office. The process of application review, certification and permit issuance carries with it an administrative cost. The objective is to implement a consistent policy across NMFS of recovering these costs from applicants. As part of the policy implementation, issues to be resolved include retention of permit fees in NMFS accounts, harmonization of the regional application, review, certification and issuance process, and establishing uniform online application and payment options for applicants.

**Authorities and Responsibilities.** This directive establishes the following authorities and responsibilities:

- (1) Under its authority for administration of the Fisheries Information System, the Office of Science and Technology has responsibility for developing and managing the plan to transition to the new policy of recovering fees for all permits.
- (2) To assist in and monitor the implementation of the policy, a Leadership Council subcommittee is created comprised of the NMFS Chief Information Officer, the directors of the Offices of Science and Technology, Sustainable Fisheries, Management and Budget, Enforcement, and the Northeast Regional Administrator. The subcommittee will be chaired by the director of the Office of Science and Technology.
- (3) The plan should target full implementation of this policy within 18 months of issuance of this directive.



**DRAFT NPFMC THREE-MEETING OUTLOOK - updated 2/11/08**

March 31, 2008 Anchorage, AK	June 2, 2008 Kodiak, AK	September 29, 2008 Anchorage, AK
<p><b>Joint Meeting with BOF</b> AI pollock EFP: <b>Report</b></p> <p>SSL Recovery Plan: <b>Review Final Plan</b> SSLMC Report on proposals Review proposed rule for ACL Guidelines (T)</p> <p>GOA fixed gear LLP recency: <b>Initial Review</b> GOA P cod sector split: <b>Initial Review</b> GOA sideboards for BSAI crab vessels: <b>Initial Review</b></p> <p>Trawl LLP Recency: <b>Final Action (T)</b></p> <p>Crab Cttee Report/Problem statement/alternatives BSAI Crab Arbitrator Immunity: <b>Discussion paper</b> BSAI Crab Arbitration Regulations: <b>Final Action</b> BSAI Crab 'C' Share active participation: <b>Final Action</b> St George protection measures: <b>Final Action</b></p> <p>Charter Halibut Allocation/Reallocation: <b>Initial Review</b> Charter Halibut Logbook Program: <b>Report; Action as nec.</b></p> <p>Halibut Subsistence Rural Definition: <b>Initial Review (T)</b></p> <p>Observer Program Reg. Package: <b>Final Action (T)</b></p> <p>BSAI Salmon Bycatch EIS: <b>Preliminary Review</b> GOA Crab and Salmon Bycatch: <b>Discussion paper</b> Arctic FMP: <b>Initial Review</b></p> <p>VMS Exemption for Dinglebar Gear: <b>Initial Review</b></p> <p>4E Seabird Avoidance Measures: <b>Initial Review</b></p> <p>GOA OSpecies ABC/OFL Specifications: <b>Final Action</b></p> <p>Scallop SAFE: <b>Review and Approve</b></p>	<p>SSLMC Report SSL dEIS: <b>Select Preferred Alternative</b> SSL draft status quo BiOp: <b>Review and Comment</b></p> <p>GOA Rockfish Pilot Program Review: <b>Report</b></p> <p>GOA fixed gear LLP recency: <b>Final Action</b> GOA P cod sector split: <b>Final Action</b> GOA sideboards for BSAI crab vessels: <b>Final Action</b> GOA sideboards re Am 80 PSC: <b>Initial Review</b> GOA sideboards re GOA rockfish: <b>Initial Review</b> GOA sideboards for AFA CVs: <b>Initial Review</b></p> <p>BSAI Crab 90/10 Amendment: <b>Action as necessary</b> BSAI Crab Arbitrator Immunity: <b>Initial Review</b></p> <p>Halibut Subsistence Rural Definition: <b>Final Action (T)</b></p> <p>CDQ Program: <b>Update on Oversight Regulations</b></p> <p>BSAI Salmon Bycatch EIS: <b>Initial Review</b></p> <p>Arctic FMP: <b>Final Action</b></p> <p>VMS Exemption for Dinglebar Gear: <b>Final Action</b></p> <p>4E Seabird Avoidance Measures: <b>Final Action</b></p> <p>Other Species Mgmt: <b>Review Progress; Action as nec.</b></p> <p>PSEIS Priorities: <b>Review workplan</b></p>	<p>GOA sideboards re Am 80 PSC: <b>Final Action</b> GOA sideboards re GOA rockfish: <b>Final Action</b> GOA sideboards for AFA CVs: <b>Final Action</b></p> <p>BSAI Crab/3-year review: <b>Review</b> BSAI Crab 90/10 Amendment: <b>Initial Review</b> BSAI Crab Arbitrator Immunity: <b>Final Action</b></p> <p>Charter Halibut Allocation/Reallocation: <b>Final Action (T)</b></p> <p>Halibut/Sablefish IFQ Constructive Loss: <b>Initial Review</b></p> <p>BSAI Salmon Bycatch EIS: <b>Final Action</b></p> <p>P. Cod area split (BS/AI): <b>Update &amp; Action as necessary</b></p> <p>Amendment 62/62: <b>Discussion paper</b></p> <p>Groundfish Specifications: <b>Initial Action</b></p>

AI - Aleutian Islands  
GOA - Gulf of Alaska  
SSL - Steller Sea Lion  
BOF - Board of Fisheries  
FEP - Fishery Ecosystem Plan  
CDQ - Community Development Quota  
VMS - Vessel Monitoring System  
NOI - Notice  
(T) Tentative

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

**Future Meeting Dates and Locations**

March 31 - , 2008 in Anchorage  
June 2- , 2008 in Kodiak  
September 29- , 2008 in Anchorage  
December 8- , 2008 in Anchorage  
February 2 - , 2009 in Seattle  
March 30 - , 2009 in Anchorage

**2007**

**AMERICAN FISHERIES ACT**

**CATCHER VESSEL INTERCOOP**

**ANNUAL REPORT**

**TO THE**

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

**Prepared by:**

**John Gruver**

**United Catcher Boats Association**

**Seattle, Washington**

**February 2008**

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## Section 1. Introduction

### 1.1 Purpose of the Catcher Vessel Intercooperative Report

The AFA Catcher Vessel Intercooperative Report is a summary of the nine catcher vessel cooperative reports required by the American Fisheries Act (AFA) regulations. While the individual coop reports track the annual activities of each cooperative, a summary of AFA catcher vessel harvests in the Bering Sea and Gulf of Alaska fisheries is needed as NMFS allocates the catcher vessel sideboard caps in the aggregate to the catcher vessel fleet, not by individual cooperatives. The Catcher Vessel Intercooperative Report provides the North Pacific Fisheries Management Council, and the public, with a simple means of evaluating the AFA catcher vessel fleet's aggregate fishing performance under the AFA regulations. Additionally, this report provides information beyond the required elements of the individual coop reports to provide a broader understanding of catcher vessel cooperative activities.

### 1.2 The 2007 Catcher Vessel Intercooperative Agreement

The nine AFA catcher vessel cooperatives renewed the Intercooperative Agreement for 2007 with no significant changes from previous agreements other than the addition of Section 3.e.(ii). This new section recognizes that previous sideboard limitations of fisheries covered by the Rockfish Pilot Program (RPP) must now be handled differently. The set of qualification years for the RPP is more recent than the AFA years; the new section shifts management from the AFA years, 1995 through 1997, to the RPP initial RPP allocations. The 2007 agreement continues to emphasize the commitment by all members towards reducing bycatch in each Bering Sea and Gulf of Alaska groundfish fishery in which they participate.



**Primary elements of the Intercoop Agreement:**

- 1) Allocation, monitoring, and compliance of the BSAI and GOA sideboard limits and PSC caps among the AFA catcher vessel fleet;
- 2) Allocation, monitoring, and compliance of BSAI pollock harvest inside the Steller sea lion conservation area;
- 3) Establishment of penalties for coops that exceed pollock and sideboard allocations;
- 4) Provides for the harvest of BSAI pacific cod by the “under 1700 mt” exempt vessels while complying with AFA PSC limits;
- 5) Establishment and monitoring of sideboard species transfers between cooperatives;
- 6) Promotes compliance of the Council’s recommended sideboard measures and PSC limits while allowing for the maximum harvest of AFA pollock and sideboard allocations; and
- 7) Promotes reduction of prohibited species catch (PSC) in the Bering Sea pollock fishery.

A copy of the 2007 Catcher Vessel Intercoop Agreement is found in Appendix I.

### **1.3 AFA Pollock and BSAI/GOA Sideboard Enforcement Actions**

No coop enforcement or penalty actions regarding the over-harvest of AFA pollock, directly fished BSAI sideboard fishery caps, directly fished GOA sideboard caps, and BSAI & GOA PSC limits occurred in 2007.

## Section 2. Bering Sea Pollock Fishery

### 2.1 Allocations and Harvest

The 2007 Bering Sea pollock Total Allowable Catch (TAC) was initially set at 1,394,000 metric tons. A portion of TAC (10%) is set aside for the Community Development Quota (139,400 metric tons). From the remaining 1,254,600 metric tons, 35,129 metric tons is reserved to fund the Incidental Catch Allowance (ICA). The ICA is established to cover pollock harvested in other Bering Sea groundfish fisheries. The remaining 1,219,471 metric tons, the Directed Fishing Allowance (DFA), is allocated among the three AFA harvest sectors. The inshore sector is allocated 50% of the DFA, the mothership sector is allocated 10%, and the catcher/processor sector is allocated 40%. Catcher vessels that historically delivered pollock to the c/p sector are allocated 8.5% of the c/p sector share (3.4% of the DFA).

On September 17, 2007 NMFS reallocated 2,000 mt of pollock from the ICA to the AFA fisheries. The final Bering Sea DFL became 1,221,741 metric tons.

There are a total of 111 AFA qualified catcher vessels. The inshore sector has 98 qualified vessels of which all 98 were members of inshore cooperatives in 2007. The mothership sector has a total of 19 qualified vessels, the Mothership Fleet Cooperative, of which thirteen are "dual qualified" for both the mothership and inshore sector fisheries. Seven catcher vessels are qualified for the catcher/processor sector and make up the High Seas Catchers Cooperative.

The following information on Table 2.1 provides data for the number of members in each cooperative; each coop's allocation percentage; each coop's annual allocation; each coop's total directed pollock harvest; and the amount of pollock over or under the annual allocation. Note that none of the catcher vessel cooperatives exceeded their annual pollock allocation in 2007.

**Table 2.1**

Source: Annual Catcher Vessel Coop Reports & NMFS

<b>2007 AFA CATCHER VESSEL COOPERATIVES' ALLOCATIONS AND DIRECTED FISHING HARVESTS</b>					
<b>Cooperative</b>	<b>Number of Vessels in Coop</b>	<b>Annual Allocation Percentage</b>	<b>Annual Allocation (includes ICA release)</b>	<b>Harvest in Metric Tons</b>	<b>Over / (Under) Allocation</b>
<b>INSHORE CATCHER VESSEL COOPERATIVES</b>					
Akutan Catcher Vessel Assoc.	36	31.145%	190,213	178,663	(11,550)
Arctic Enterprise Assoc.	1	1.146%	6,997	6,497	(500)
Northern Victor Fleet Cooperative	13	8.412%	51,377	49,312	(2,065)
Peter Pan Fleet Cooperative	10	2.876%	17,567	16,876	(691)
Unalaska Fleet Cooperative	11	12.191%	74,453	69,016	(5,437)
UniSea Fleet Cooperative	15	25.324%	154,664	148,594	(6,070)
Westward Fleet Cooperative	12	18.906%	115,464	102,426	(13,038)
<b>Inshore Coop Totals</b>	<b>98</b>	<b>100.000%</b>	<b>610,736</b>	<b>571,384</b>	<b>(39,352)</b>
<b>OFFSHORE CATCHER VESSEL COOPERATIVES</b>					
Mothership Fleet Cooperative	19	10% of DFA	122,147	121,512	(635)
High Seas Catchers Cooperative	7	3.4% of DFA	41,530	Details of the HSCC pollock harvest are covered in the joint PCC and HSCC report	

The shoreside sector left 39,352 metric tons of pollock unharvested. Over the past several years the majority of unharvested pollock was left in the water by the AFA GOA exempt vessel fleet due to their limitations on pollock leasing. That issue has been well documented in previous reports. In 2007 a significant portion of the unharvested pollock once again came from the GOA exempt vessels. Additionally, the shortfall also came

from the general catcher vessel inshore fleet as well. Slow pollock fishing conditions close to the shore plant ports in the Aleutians drove many vessels into making long runs to fishing grounds northwest of the Pribilof Islands. The double hit of either long runs or slow fishing created much longer turnaround times per trip than had been expected. This resulted in pre-season fishing plans quickly falling behind schedule and, as fishing conditions dropped off in all areas of the Bering Sea by mid September, it became evident that most sectors, not just the inshore fleet, was going to have difficulty harvesting their pollock allocation.

Fuel costs, poor fishing, and high bycatch issues caused some inshore vessels to drop out before harvesting their individual allocations prior to the end of the season on November 1<sup>st</sup>. Finally, despite improvement in pollock harvest rates during the second half of October, the fleet was unable to make up for the earlier below average fishing conditions.

## **2.2 Salmon Bycatch Management**

During 2007 all ten AFA cooperatives, catcher vessel and catcher/processors alike, were members to the Salmon Bycatch Management Agreement. The “A” season portion of the agreement focused on reducing Chinook bycatch and the “B” season portion focused on reducing both chum salmon (chum salmon greatly dominate the “other salmon” category) and Chinook salmon. A copy of the agreement can be found in Appendix II.

The salmon agreement utilizes a “rolling hot spot” closure system which, twice weekly, identifies the areas of the Bering Sea pollock fishery with the highest bycatch rate and initiates “Savings Closures” for those areas. Each week individual coops, based on their member’s recent bycatch performance, are assigned to a “tier level”. Tier 1 for coops with the best bycatch performance, tier 2 for medium performance, and tier 3 for the lowest performance. A coop’s tier level determines the amount of fishing area restriction the coop will have for the ensuing week. The agreement also incorporates an element of peer pressure on poor performing vessels via three types of “Dirty Twenty Lists” which

are updated and published each week. These lists specifically name the vessels with the highest bycatch rates on: 1) a weekly, 2) a 2 week rolling average, and 3) a seasonal basis. Additionally, the agreement requires tow-by-tow bycatch reporting by all AFA pollock vessels. Sea State, Inc. has been contracted to gather the data, compile it into useful information, and distribute it to back to the fleet.

The NPFMC passed Amendment 84a in October of 2005 with hopes of implementation sometime during the 2006 B season. Amendment 84a provides an exemption to the current regulatory salmon savings areas in the Bering Sea to pollock cooperatives that have entered into an acceptable intercooperative agreement as described in the Amendment 84z regulations. The coops' salmon agreement was rewritten for 2006 with the intention to meet the criteria of Amendment 84a and qualify for the exemption. However, due to regulatory implementation issues beyond those originally anticipated by both NMFS and the coops, it became clear that Amendment 84a could not be implemented in 2006, and as it turned out, not in 2007 either. Therefore the coops applied for and were granted an Exempted Fishing Permit (EFP) in August of 2006 and again in January of 2007 that mirrored the intent of Amendment 84a. The EFPs' purpose was to test provisions of the Salmon Bycatch Management Agreement that needed to be specifically addressed in Amendment 84a regulations. A report required under the provisions of the EFP was made to the Council in December of 2006 with a follow-up compliance/enforcement audit report was made at the February 2007 Council meeting. Similarly, reports will be made for the 2007 EFP; however due to scheduling issues for the December 2007 Council meeting the initial 2007 EFP report was combined with the enforcement report for the February 2008 meeting.

A copy of the 2007 EFP permit can be found in Appendix II immediately following the 2007 Salmon Bycatch Management Agreement.

## **2.3 Squid Bycatch Avoidance**

In 2006 the fleet encountered unusually high squid bycatch west of Unimak Pass at the beginning of the B season. To prevent squid bycatch from exceeding the 2006 BSAI squid over fishing level the AFA coops entered into a squid bycatch management agreement. In 2007 the coops paid careful attention to squid bycatch throughout the pollock fishery and at no time did squid bycatch approach unusually high rates, consequently it was unnecessary to implement a squid bycatch management agreement in 2007.

### Section 3. Sideboard Fishery Management

The American Fisheries Act directed the North Pacific Fisheries Management Council (NPFMC) to provide regulations aimed at protecting non-AFA vessels participating in other groundfish and crab fisheries from adverse impacts that may occur due to the rationalization of Bering Sea pollock fishery. This mandate brought about the development of groundfish, crab, and prohibited species catch (PSC) sideboard limits by the NPFMC for the AFA fleet. Prior to the NPFMC Crab Rationalization Program, implemented in 2005, AFA catcher vessels eligible to participate in the Bristol Bay red king crab fishery were sideboarded to 10.96% of the general fishery guideline harvest level. However, under the Crab Rationalization program the AFA sideboards were lifted, the AFA fleet was issued quota shares, and participated in the program just the same as the non-AFA crab fleet. Consequently the AFA coop reports no longer include details of their member's participation in the Bristol Bay red king crab fishery.

Vessels with less than 1700 mt of historic catch in the BSAI pollock fishery and that meet minimum landing requirements in either the BSAI and/or GOA are granted exemptions to the BSAI cod fishery and/or GOA groundfish and PSC sideboards. Vessels in the Mothership cooperative also become exempt to BSAI cod sideboards after March 1. Exemptions to BSAI cod sideboards only apply to the directed fisheries; all AFA BSAI cod boats are subject to the PSC sideboard limits associated with the fishery.

NMFS restricts the non-exempt AFA catcher vessel fishing by an aggregate sideboard cap for each groundfish species category, and an associated PSC bycatch limit. In turn, the Intercoop Agreement manages the initial distribution, and re-distribution via intercoop transfers, of the aggregate sideboard caps and associated PSC among the nine catcher vessel coops based on their members catch history. In some cases the assigned caps are so small that, without the harvest management and monitoring provided by the Intercoop Agreement, NMFS would not open those fisheries to directed fishing by the

AFA non-exempt catcher vessels. BSAI cod exempt vessels must meet PSC bycatch standards or face losing their exempt status (see section 3.a. and 3.b. of the Intercoop Agreement in Appendix 1.)

Tables covering the directed groundfish sideboard fisheries prosecuted by the AFA non-exempt vessels in 2007 are located in Appendix III. These tables provide information on initial coop allocations of sideboard cap, the transfer of allocations between coops, the directed harvest by each coop, and the amount of sideboard cap that was remained unharvested by the AFA non-exempt fleet.

### 3.1 Groundfish Sideboards

The following tables 3.1a and 3.1b provide aggregate information regarding the allocation and harvest of BSAI and GOA sideboard species by AFA non-exempt catcher vessels. The tables report the aggregate harvest of each sideboard species taken as directed catch and as incidental catch in other directed fisheries.

**Table 3.1a** Harvest data supplied by Annual Coop Reports & Sea State, Inc.

<b>2007 BSAI AFA CATCHER VESSEL AGGREGATE GROUND FISH SIDEBOARD CATCH</b>				
Species	Fishery	Sideboard Limit	Aggregate Catch, Directed & Bycatch	Over / (Under) Sideboard Limit
Pacific Cod	Jig Gear	0	0	0
	Hook & Line	0	0	0
	Pot Gear 1/1-6/10	4	0	(4)
	9/1-12/31	3	0	(3)
	CV < 60' H&L or Pot	1	0	(1)
	Trawl Gear CV	31,949	22,489	(9,460)
Sablefish	BS Trawl	115	0	(115)
	AI Trawl	39	0	(39)



**Table 3.1a (continued)**

Atka Mackerel	Eastern AI&BS Jig	1		(1)
	Other Gear 1/1-4/15	35	341	306
	Other Gear 9/1-11/1	35		(35)
	Central AI 1/1-4/15	1	1	0
	HLA Limit	1		(1)
	9/1-11/1	1		(1)
	HLA Limit	1		(1)
	Western AI 1/1-4/15	0	0	0
	HLA Limit	0		0
	9/1-11/1	0		0
	HLA Limit	0		0
	Yellowfin Sole	BSAI	7,479	161
Rock Sole	BSAI	1,594	1,997	403
Greenland Turbot	BS	92	13	(79)
	AI	13	1	(12)
Arrowtooth	BSAI	1,173	1,919	746
Alaska Plaice	BSAI	937	14	(923)
Other Flatfish	BSAI	375	874	499
Flathead Sole	BS	1,288	2,646	1,358
POP	BS	184	266	82
	Eastern AI	35	231	196
	Central AI	12	1	(11)
	Western AI	0		0
Northern rockfish	BSAI	64	46	(18)
Shortraker	BSAI	1	0	(1)
Rougheye	BSAI	1	1	0
Other Rockfish	BS	2	29	27
	AI	5	4	(1)
Squid	BSAI	641	507	(134)
Other Species	BSAI	1,718	1,302	(416)

**Table 3.1b**

Harvest data supplied by Annual Coop Reports & Sea State, Inc.

<b>2007 GOA AFA CATCHER VESSEL AGGREGATE GROUND FISH SIDEBOARD CATCH</b>				
<b>Species</b>	<b>Fishery</b>	<b>Sideboard Limit</b>	<b>Aggregate Catch, Directed &amp; Bycatch</b>	<b>Over / (Under) Sideboard Limit</b>
Pollock	WYK	489		(489)
	SEO	2,154		(2,154)
	610 A,B,C,&D	15,288	2,135	(13,153)
	620 A,B,C,&D	2,981	2,972	(9)
	630 A,B,C,&D	3,620	1,193	(2,427)
Pacific Cod	WGOA Inshore A&B	2,580	169	(2,411)
	WGOA Offshore A&B	207		(207)
	CGAO Inshore A&B	1,845	394	(1,451)
	CGOA Offshore A&B	205		(205)
	EGOA Inshore (annual)	26		(26)
	EGOA Offshore (annual)	3		(3)
Deep-water Flatfish	WGOA	0	0	0
	CGOA	279	15	(264)
	EGOA	71		(71)
Rex Sole	WGOA	1	2	1
	CGOA	219	18	(201)
	EGOA	38		(38)
Flathead Sole	WGOA	7	4	(3)
	CGOA	131	51	(80)
	EGOA	10		(10)
Shallow-water Flatfish	WGOA	70	6	(64)
	CGOA	777	345	(432)
	EGOA	31		(31)
Arrowtooth Flounder	WGOA	17	9	(8)
	CGOA	927	963	36
	EGOA	10		(10)
Sablefish	WGOA Trawl	0	0	0
	CGOA Trawl	89	50	(39)
	EGOA Trawl	14		(14)
POP	WGOA	264	10	(254)
	CGOA	659	615	(44)
	EGOA	130		(130)
Shortraker	WGOA	0	15	15
	CGOA	8	24	16
	EGOA	4		(4)
Rougheye	WGOA	0	0	0
	CGOA	14	22	8
	EGOA	3		(3)
Other Rockfish	WGOA	2	0	(2)
	CGOA	80	0	(80)
	EGOA	0		0

**Table 3.1b (continued)**

<b>2007 GOA AFA CATCHER VESSEL AGGREGATE GROUND FISH SIDEBOARD CATCH</b>				
<b>Species</b>	<b>Fishery</b>	<b>Sideboard Limit</b>	<b>Aggregate Catch, Directed &amp; Bycatch</b>	<b>Over / (Under) Sideboard Limit</b>
Northern Rockfish	WGOA	0	1	1
	CGOA	128	254	126
Pelagic Shelf Rockfish	WGOA	0	10	10
	CGOA	0	297	297
	EGOA	5		(5)
Thornyhead Rockfish	WGOA	16	0	(16)
	CGOA	30	5	(25)
	EGOA	22		(22)
Big Skates	WGOA	6		(6)
	CGOA	20	28	8
	EGOA	5		(5)
Longnose Skates	WGOA	1		(1)
	CGOA	18		(18)
	EGOA	8	8	0
Other Skates	Gulfwide	15	23	8
Demersal Shelf Rockfish	SEO	1		(1)
Atka Mackerel	Gulfwide	46	53	7
Other Species	Gulfwide	41	153	112

The aggregate sideboard harvest tables report overages in several species not directly fished by the AFA non-exempt vessels. The overages occurred in species taken as incidental catch in directed fisheries such as Bering Sea pollock and BSAI cod. While the coops have successfully managed the directed fisheries' sideboard limits, the incidental catch of species associated with those directed fisheries varies from season to season and from year to year. Because the sideboard limits are based on a three-year average it should be expected that the sideboard caps of species taken as incidental catch, rather than directed catch, would at times be exceeded. Additionally, rises in species abundance and changes in location may be different now than during the 3 year snapshot of the AFA sideboard years causing increases in the incidental catch of some species.

Finally, overages in the GOA rockfish species are the result of transfers allowed by the Rockfish Pilot Program. Further details are covered in that program's report.

### 3.2 PSC Sideboards

Tables 3.2a, 3.2b, and 3.2c cover prohibited species bycatch amounts taken by AFA catcher vessels participating in BSAI and GOA groundfish fisheries.

**Table 3.2a**

Data supplied by Sea State and Annual Coop Reports

<b>2007 BSAI AFA CATCHER VESSEL AGGREGATE PSC SIDEBOARD CATCH</b>				
<b>PSC Species</b>	<b>Target Fishery</b>	<b>Sideboard Limit</b>	<b>Aggregate PSC Mortality</b>	<b>Over / (Under) Sideboard Limit</b>
<b>Halibut</b>	Pacific Cod, Trawl	825	441	(384)
	Pacific Cod, fixed gear	2	0	(2)
	Yellowfin Sole	107	2	(105)
	Rock Sole	235	0	(235)
	Turbot, Arrowtooth, Sablefish	0	0	0
	Rockfish	2	0	(2)
	Pollock/A.Mack/O.Species	5	182	177
<b>Red King Crab, Zone 1</b>	Pacific Cod	16,424	0	(16,424)
	Yellowfin Sole	3,872	0	(3,872)
	Rsole/Fhead Sole/O.Flatfish	34,493	0	(34,493)
	Pollock/A.Mack/O.Species	9	6	(3)
<b>C.Opilio, COBLZ</b>	Pacific Cod	74,636	7,358	(67,278)
	Yellowfin Sole	354,444	0	(354,444)
	Rsole/Fhead Sole/O.Flatfish	182,904	0	(182,904)
	Pollock/A.Mack/O.Species	2,740	1,136	(1,604)
	Rockfish	986	0	(986)
	Turbot, Arrowtooth, Sablefish	9,363	0	(9,363)
<b>C.Bairdi, Zone 1</b>	Pacific Cod	113,218	29,576	(83,642)
	Yellowfin Sole	38,993	0	(38,993)
	Rsole/Fhead Sole/O.Flatfish	103,787	0	(103,787)
	Pollock/A.Mack/O.Species	391	0	(391)
<b>C.Bairdi, Zone 2</b>	Pacific Cod	200,438	0	(200,438)
	Yellowfin Sole	204,600	0	(204,600)
	Rsole/Fhead Sole/O.Flatfish	169,367	0	(169,367)
	Pollock/A.Mack/O.Species	624	0	(624)
	Rockfish	269	0	(269)

**Table 3.2b**

Data supplied by Annual Coop Reports

<b>2007 GOA NON-EXEMPT AFA CATCHER VESSEL PSC SIDEBOARD CATCH</b>				
<b>PSC Species</b>	<b>Target Fishery</b>	<b>Sideboard Limit</b>	<b>Aggregate PSC Catch</b>	<b>Over / (Under) Sideboard Limit</b>
Halibut (mortality in metric tons)	Trawl, 1st Season Allowance			
	Shallow water Targets	153	10	(143)
	Deep water Targets	7	0	(7)
	Trawl, 2nd Season Allowance			
	Shallow water Targets	34	14	(20)
	Deep water Targets	21	0	(21)
	Trawl, 3rd Season Allowance			
	Shallow water Targets	68	23.00	(45)
	Deep water Targets	28	11	(17)
	Trawl, 4th Season Allowance			
	Shallow water Targets	51	0	(51)
	Deep water Targets	0	0	
	Trawl, 5th Season Allowance			
	All Targets	61	0	(61)

**Table 3.2c**

Data supplied by Sea State, Inc.

<b>2007 BSAI AFA CATCHER VESSEL AGGREGATE SALMON &amp; HERRING BYCATCH</b>		
<b>PSC Species</b>	<b>Target Fishery</b>	<b>Aggregate Bycatch</b>
Chinook	Pollock	83,176
	Pacific Cod	236
	Total	83,412
Other Salmon	Pollock	57,676
	Pacific Cod	72
	Total	57,748
Herring	Pollock	282
	Pacific Cod	0
	Total	282

## **Appendix I**

**2007 Catcher Vessel**

**Intercooperative Agreement**

## 2007 INTERCOOPERATIVE AGREEMENT

This 2007 INTERCOOPERATIVE AGREEMENT is entered into by and among HIGH SEAS CATCHERS COOPERATIVE (“High Seas”), MOTHERSHIP FLEET COOPERATIVE (“MFC”) and the “Inshore Coops”, i.e., AKUTAN CATCHER VESSEL ASSOCIATION, ARCTIC ENTERPRISE ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET COOPERATIVE and WESTWARD FLEET COOPERATIVE, all of which are Washington Fish Marketing Act corporations, as of January 31, 2007, with respect to the following facts:

A. High Seas, MFC and the Inshore Coops (together, the “Coops”) are composed of certain catcher vessels (the “Vessels”) eligible to harvest Bering Sea (“BS”) pollock under the American Fisheries Act (the “AFA”). High Seas and the MFC are composed of all of the catcher vessels eligible to harvest BS and AI pollock in the “catcher/processor” and “mothership” sectors of such fisheries, respectively. The Inshore Coops have each received an allocation of BS pollock in accordance with Section 210 of the AFA. The members of each of the Coops have allocated among themselves the pollock available to their respective Coop, and have agreed that an over-harvest of its allocation by any member shall subject such member to a penalty.

B. The North Pacific Fishery Management Council (the “Council”) has adopted “trigger amounts” of Chinook, other salmon and herring (the “Trigger Amounts”). Attainment of a Trigger Amount causes certain “savings areas” to be closed to trawling for pollock for certain periods of time. The Coops are also subject to limits on their incidental catch of halibut and crab (the “PSC Limits”). Each Coop’s members have agreed to exercise their best efforts to conduct their fishing efforts such that their Coop operates within the Trigger Amounts and PSC Limits, and to comply with the related management measures.

C. Pursuant to Section 211(c) of the AFA, the Council has adopted certain measures to prevent the Vessels from exceeding in the aggregate their traditional harvest levels in certain fisheries other than BS pollock (the “Sideboards”). The members of each of the Coops have allocated the Sideboards limits among themselves, and have agreed that an over-harvest of a Sideboard limit by any member shall subject that member to a penalty.

D. The Coops are subject to certain time and area limits on their harvest of BS pollock in connection with Steller sea lion protection measures (the “RPAs”).

Now, therefore, the parties agree as follows:

1. Trigger Amount Management. The Coops agree to exercise all reasonable efforts to reduce their salmon and herring bycatch to the lowest commercially practical levels, and specifically agree to coordinate their members' fishing activities with the goal of achieving the lowest practicable bycatch rates. For purposes of this Section, Coop catch data produced by the Monitoring Agent (as identified in Section 6.a, below) in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate.

a. Bycatch Reporting. Each Coop shall arrange to have each of their members' Vessels' bycatch data (to the fullest extent available, with tow-by-tow data being considered optimal) released directly from the NMFS Observer Program to the Monitoring Agent and the Intercoop Manager (as identified in Section 8, below). The Monitoring Agent and the Intercoop Manager are hereby authorized to release all such data in forms and to parties as they reasonably deem appropriate to promote bycatch reduction.

2. Sideboard Limits. Subject to applicable Sideboard exemptions (including the "1700 metric ton" BS/AI cod and Gulf of Alaska ("Gulf") groundfish Sideboard exemptions and the mothership sector BS/AI cod sideboard exemption), the Coops agree to limit their collective members' Vessels' aggregate annual harvest of each Sideboard species to the amount that the Coop members' Vessels' collective catch histories contribute to the annual Sideboard for such species, as calculated by the National Marine Fisheries Service ("NMFS") in accordance with 50 C.F.R. § 679.64(b). To give effect to this provision, each Coop shall (i) limit its non-exempt members' Vessels' aggregate annual harvest of each Sideboard species to the amount that such Vessels contribute to the aggregate annual Sideboard for such species; or (ii) in the case of two or more Coops entering into an intercooperative agreement under which the parties have agreed to limit their collective non-exempt members' Vessels' aggregate annual harvest of one or more Sideboard species to the amount that such Coops' members' Vessels' collective catch histories contribute to the annual Sideboard for such species, limit its members catch in compliance with such intercooperative agreement.

3. Sideboard Management. The Coops acknowledge and agree that coordinated Sideboard management is essential to insure compliance with the aggregate Sideboard limits established under the AFA. Therefore, the Coops agree to the procedures set forth in this Section 3. For purposes of this Section, Coop catch data produced by the Monitoring Agent in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate.

a. Sideboard and Sideboard-Related PSC Cap Allocation. The Monitoring Agent will annually allocate the BS/AI Pacific cod Sideboard (the "Cod Sideboard") in accordance with the terms and conditions of that certain Cod Allocation Agreement among the Coops dated as of June 1, 2000 (the "Cod Agreement"). The Monitoring Agent, in consultation with NMFS, will allocate all Sideboard species other



than BS/AI Pacific cod and will allocate all PSC Caps (including those applicable to BS/AI Pacific cod) in accordance with this Section 3.a.

The Monitoring Agent will first reserve an amount of each such Sideboard species necessary to fund the bycatch needs of pollock and other directed groundfish fisheries in which the AFA catcher vessels participate. Then, the Monitoring Agent will initially allocate the BS, AI and Gulf non-exempt vessel Sideboard directed fishery allowances, exempt vessel Sideboard reserves and PSC Limits among the Coops as set forth herein. The allocations will be based on NMFS data and formulas to the extent feasible, and on the best available data otherwise. Each Coop agrees to exercise its best efforts to provide the Monitoring Agent with all catch data that the Monitoring Agent reasonably requests for purposes of calculating such allocations. Upon the Monitoring Agent having allocated the non-exempt and exempt vessel Sideboard allowances among the Coops, the Monitoring agent shall allocate the PSC Limits such that:

(i) each Coop shall receive PSC Limit allocations for each of the Sideboard fisheries in which its vessels operate without exemptions proportionate such Coop's related Sideboard species allocations, provided that each Coop's initial PSC Limit allocations related to non-exempt vessel BS/AI cod harvest shall be reduced by five percent (5%) to fund the "traditional time and area" buffer (the "Buffer") provided to the exempt vessels pursuant to (ii), below; and

(ii) each Coop shall receive separate PSC Limit allocations for each of the fisheries in which one or more of its vessels operate on an exempt basis, proportionate to such vessels' contribution to the related NMFS reserve, provided that each Coop's initial "1700 mt" exempt vessel BS/AI cod PSC allocation shall be adjusted upward by a pro rata amount of the Buffer. In cases where an exempt vessel contributes less than 500 metric tons ("mt") to the BS/AI cod exempt vessel reserve, the initial allocation of PSC relative to that vessel shall be based on a presumed contribution of 500 mt.

For purposes of this Section 3, the mothership sector catcher vessels shall be considered "non-exempt" prior to March 1, and their initial coop Sideboard and PSC Limit allocations shall be made accordingly. The mothership catcher vessels shall become "exempt" as of March 1, and thereupon shall become eligible for a reallocation of PSC pursuant to Subsection b., below, if as a coop group they have harvested their initial BS/AI cod Sideboard allocation without exceeding their initial allocation of PSC.

b. BS/AI and Gulf Cod PSC Reallocation. The Monitoring Agent will track the aggregate BS/AI and Gulf cod catch and halibut and crab bycatch of each Coop's exempt vessels. Upon the Monitoring Agent determining that a Coop's exempt vessels (as a group) have harvested their initial or subsequent allocation(s) of cod in the BS/AI or Gulf cod fishery without exceeding the Coop's related allocation of exempt vessel PSC (as adjusted by intra or inter Coop transfers) (such Coop being a "Complying Coop"), the Monitoring Agent will reduce each Coop's (including the Complying

Coop's) remaining allocation of cod-related PSC for such cod fishery (if any) pro rata, according to the proportion of its initial non-exempt allocation of such PSC vis-a-vis the other Coops, such that the sum of the reductions is the lesser of (i) the amount of PSC necessary for each exempt vessel in the Complying Coop to harvest an additional 300 mt of cod at the pre-Buffer non-exempt cod/PSC ratio, or (ii) the proportionate amounts of such PSC that the Monitoring Agent deems necessary for the Complying Coop's exempt vessels to operate at such ratio until such fishery is closed to catcher vessel trawling; provided that the sum of such reductions under (i) or (ii) above shall in no case exceed that amount of PSC calculated to harvest 1500 mt at the pre-Buffer non-exempt cod/PSC ratio. The Monitoring Agent will then increase the relevant Coop's exempt vessel cod-related PSC allocations for such fishery by the sum of such reductions. On the other hand, if a Coop's exempt vessels harvest their initial or subsequent cod-related PSC allocation for the BS/AI or Gulf cod fishery (as adjusted by inter or intra Coop transfers) before having harvested the Coop's cod allocations made available therewith, the Monitoring Agent will not increase such Coop's exempt vessel allocations, and such Coop shall require such vessels to cease their directed fishing in that cod fishery, notwithstanding their exemption. If the Monitoring Agent determines that a PSC reallocation under this Section has provided a Coop with PSC in excess of the amount necessary to fish until fishery closure, the Monitoring Agent will have the authority to release an amount of the surplus that the Monitoring Agent deems reasonable back to the contributing Coops.

c. BS/AI Cod Harvest Timing. To facilitate harvest of the full amount of the BS/AI cod Sideboard, each Coop agrees to manage its non-exempt vessels' BS/AI cod directed fishing harvest such that no more than sixty percent (60%) of the related initial PSC allocation is harvested prior to March 1.

d. Optimal PSC Utilization. Each Coop agrees to exercise its best efforts to manage its vessels such that their aggregate PSC catch (as determined by the Monitoring Agent in accordance with NMFS procedures) does not exceed the Coop's PSC Limit allocations, as adjusted by transfers with other Coops and pursuant to Subsection 3.b., above. Each Coop agrees to release to the Monitoring Agent on a timely basis for redistribution at no cost the PSC it determines is not necessary to harvest its Sideboard allocations.

e. Gulf of Alaska Groundfish Sideboard Exemption.

(i) The Coops acknowledge that the Council has stipulated that no Vessel shall be exempt from the Gulf of Alaska groundfish Sideboards in any year during which other vessels are permitted to lease any portion of such Vessel's BS or AI pollock allocations. The Coops acknowledge that the Council's stipulation was intended to prevent a Vessel from using its ability to transfer or license its Coop BS or AI pollock allocation to increase its opportunity to harvest Gulf groundfish in excess of applicable Sideboards. The Coops agree to require that an exempt Vessel that actually exceeds an otherwise applicable Gulf groundfish Sideboard in 2007 shall not have transferred any

amount of such Vessel's BS/AI pollock allocation for 2007 to another vessel such that the aggregate amount of such exempt Vessel's annual BS/AI pollock allocation is reduced by such transfer(s). The Coops agree that an exempt Vessel which actually exceeds a Gulf groundfish Sideboard and fails to comply with the BS/AI pollock transfer limitations of this Section shall be deemed to have over-harvested its Sideboard allocation, notwithstanding its exempt status, and shall be subject to the related over-harvest penalties per the enforcement provisions of its Coop's Membership Agreement and this Agreement. For purposes of this provision, a Vessel's pollock allocations shall be calculated net of the amount normally reserved for harvest by a Coop "sweep-up" Vessel for purposes of season and/or area harvest limit compliance.

(ii) The Coops agree that while AFA vessels exempt from Gulf of Alaska Sideboards are restricted as described in Section 3.e.(i), above, the Council, through Congressional direction, has implemented the Gulf of Alaska Rockfish Pilot Program (RPP) which recognized a different set of years to define each vessel's historic participation in the Gulf of Alaska rockfish fisheries than the AFA Sideboard years of 1995, 1996, and 1997. Therefore, for purposes of this section, an AFA Gulf exempt Vessel's rockfish Sideboard limits will be equal to their initial RPP allocations.

#### 4. Over-harvest Prevention Measures.

a. Harvest Limits. The Coops agree to exercise their best efforts to prevent any of their members from exceeding their pollock allocation and Sideboard limits. In cases where a member has done so, the Coops agree to exercise their best efforts to prevent such over-harvest from affecting non-members and/or resulting in a violation of fishery regulations. To that end, the Coops agree to facilitate pollock allocation and Sideboard limit transfers among members when practicable, agree to transfer PSC Limit apportionments among Coops when practicable, and to issue "stop fishing" orders as appropriate when such transfers are not practicable. The Coops also agree to encourage their members to mitigate the effects of inadvertent over-harvests by making directed fishing and PSC Limit allocations available to other Coop members on reasonable terms and conditions. However, other than as provided in Section 4.f.(ii), below, nothing in this Section 4 shall constitute an affirmative obligation on the part of any Coop or its members to transfer an allocation at the request of another Coop or other members.

b. Pollock Allocation and Sideboard Penalties. The Coops acknowledge that notwithstanding the provisions of Section 4.a, above, adopting and enforcing appropriate penalties is necessary to create over-harvest disincentives. The Inshore Coops therefore each agree to adopt the uniform penalty for an Inshore Coop member exceeding its BS, AI or Gulf pollock directed fishing allocation amount or area or season proportion of one hundred fifty percent (150%) of the total ex-vessel value of such over-harvest. For purposes of this Subsection 4.b and Subsection 4.c, below, provision, ex-vessel value shall be deemed to be the ex-vessel price paid by the processor(s) to which the over-harvesting member delivered for the over-harvested species during the season(s) in which the over-harvest takes place, and shall include all

consideration paid for the over-harvested allocation, including but not limited to all bonuses and post season adjustments. The Coops each agree to adopt the uniform penalty amount of One Thousand Dollars (\$1,000.00) per metric ton for over-harvests in the directed BS, AI and Gulf Pacific cod fisheries, and the amount of Three Hundred Dollars (\$300.00) per metric ton for over-harvests in all other BS, AI and Gulf directed groundfish fisheries. Over-harvests shall be determined on the basis of the best available data. Harvest reports developed by the Monitoring Agent shall be presumed accurate in the absence of demonstrable error.

c. PSC Limit Enforcement. Upon a Coop receiving written notice from the Monitoring Agent that it does not have an adequate PSC Limit allocation to support further fishing activity by its members' vessels, such Coop shall immediately cause its members' vessels to cease fishing in the relevant directed fisheries. The Coops hereby adopt as a uniform penalty for each landing following such notice that includes a PSC species harvested in excess of a Coop's PSC Limit allocation an amount equal to twice the ex-vessel value of all commercially harvestable species delivered in such landing. For purposes of this Subsection, Coop catch data produced by the Monitoring Agent in conformance with NMFS catch accounting and bycatch estimation procedures will be presumed accurate. The Coops agree to take all actions and execute all documents reasonably necessary to give effect to this provision.

d. Liquidated Damages. The Coops acknowledge that the financial impact associated with over-harvesting an allocation or exceeding a Sideboard limit or PSC Limit are difficult to estimate, and that penalty amounts are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Therefore, the Coops agree that the penalty amounts established under 4.b. and 4.c., above are liquidated damages, the payment of which (together with reasonable costs of collection) shall satisfy a member's obligation with respect to any harvest in excess of an allocation, Sideboard or applicable PSC Cap. The Coops hereby waive any and all claims to direct, indirect or consequential damages related to such over-harvest.

e. Rights of Action. Each Coop agrees that the members of all other Coops shall have rights to initiate penalty actions and to be paid overharvest forfeitures and related costs of collection equivalent to such Coop's own members' rights. Each Coop agrees to take all corporate action necessary to give effect to this provision.

f. Indemnification.

(i) Each Coop (an "Indemnifying Coop") hereby agrees to indemnify, defend and hold harmless all other Coops and their members (the "Indemnitees") against all third party claims, legal actions and proceedings of any type whatsoever (the "Actions"), and against all third party damages, including but not limited to all liabilities, obligations, judgments, penalties, fines, forfeitures, costs of defense and reasonable attorneys' fees (including fees incurred enforcing this indemnification)

(together, the "Damages") that the Indemnitees incur as a result of an overharvest of a pollock allocation, Sideboard species or PSC Limit by a member of the Indemnifying Coop.

(ii) For purposes of this provision, in cases where an over-harvest by a member is (a) not willful or repeated; (b) is capable of being corrected by other members (of the same or other Coops) restraining their harvest(s), and timely written notice is provided to such members' Coop(s); and (c) for which the appropriate amount of liquidated damages is tendered by the originally over-harvesting member to a qualified third party escrow agent in readily available funds, the obligation of indemnification for third party claims related to the original over-harvest shall shift to the Coop(s) receiving notice and the tender of liquidated damages.

#### 5. Steller Sea Lion-Related Management Measures.

a. Non-Exempt Vessels. Other than as necessary to give effect to exemptions for which its members qualify, each Inshore Coop agrees to limit the aggregate annual pollock harvest of its members per season and per area (as determined in accordance with NMFS accounting procedures related to such harvests) to the percentage of the annual inshore pollock directed fishing allowance generally permitted to be harvested during such season and/or in such area.

b. SCA Exemption for Vessels Equal to or Less than 99' in Overall Length. The Coops acknowledge that under the current Steller sea lion-related management measures, vessels equal to or less than 99 feet in length are eligible to harvest all of their BS pollock A season allocations inside the SCA. So long as this exemption remains in effect, the Coops agree that the Monitoring Agent in consultation with NMFS will calculate and reserve from the Coops' aggregate pollock allocations an amount of quota inside the SCA adequate to fund the total seasonal directed harvest of all members' Vessels equal to or less than 99 feet (the "99' Reserve"). The Monitoring Agent will then allocate the 99' Reserve among the Coops pro rata, according to the relative catch histories of their vessels under 99'. Each Coop shall in turn allocate its share of the 99' Reserve among its members operating vessels under 99' in length, prior to establishing the inside SCA allocations for its members' Vessels over 99' in length. The Coops agree to require that any license or transfer of pollock quota from a vessel equal to or less than 99' to a vessel over 99' shall be subject to generally applicable regulations concerning spatial and temporal distribution of catch, including but not limited to proportions which may be harvested inside the SCA, notwithstanding the exemption extended to vessels less than or equal to 99'.

#### 6. Data Reporting.

a. Appointment of Monitoring Agent. The Coops acknowledge that it will not be possible to obtain the benefits associated with cooperative harvesting

activity unless catch data is reported on a timely basis to a centralized monitoring and reporting agent (the "Monitoring Agent"). The Coops agree to independently contract with Sea State, Inc. as their agent for that purpose.

b. Data Gathering. Each Coop agrees to take all commercially reasonable actions to obtain catch data and other information that may be necessary for effective fishery management from its members as soon as reasonably possible, and to provide such data to the Monitoring Agent as soon as reasonably possible after receiving such data. Data produced for the Coops by the Monitoring Agent shall be presumed accurate, which presumption shall only be rebuttable upon clearly demonstrating inaccuracy.

7. Vessel Pre-registration. The Coops acknowledge that it may be necessary for their members to provide advance notice of their intent to employ Vessels in certain fisheries, to provide NMFS and the Coops with the ability to project catch rates and amounts. Each Coop agrees to obtain such elections from its members and report them to the Monitoring Agent on a timely basis.

8. Intercooperative Management. The Coops acknowledge that resolving issues related to cooperative harvesting operations will be a continuing process. Each Coop agrees to appoint a person to represent it in intercooperative matters. The Coops further agree to retain United Catcher Boats ("UCB") to provide ongoing intercooperative coordination services and an intercooperative manager (the "Intercoop Manager") through December 31, 2007. The Coops agree such services shall not include representing the Coops or any of them in political or general policy matters, other than as authorized by all Coops in advance.

9. Term. This Agreement shall take effect upon execution by all of the Coops. This Agreement shall expire on November 30, 2007. The Coops agree to meet in good faith negotiations concerning modification of this Agreement and extension of its term not later than October 1, 2007, with the express intent of replacing or extending this Agreement prior to November 30, 2007.

#### 10. Miscellaneous.

a. No amendment to this Agreement shall be effective against a party hereto unless in writing and duly executed by such party. The parties agree to amend this Agreement as reasonably necessary to comply with changes in law, and policies and regulations implementing the American Fisheries Act.

b. This Agreement shall be governed by and construed in accordance with applicable federal law and the laws of the State of Washington.

c. This Agreement may be executed in counterparts which, when taken together, shall have the same effect as a fully executed original. Delivery of

a signed copy of this Agreement by telefacsimile shall have the same effect as delivering a signed original.

d. The parties agree to execute any documents necessary or convenient to give effect to intents and purposes of this Agreement.

e. All notices required to be given under this Agreement shall be deemed given five (5) days following deposit in certified first class U.S. mail, postage prepaid, with the correct address, or upon the first business day following confirmed telefacsimile transmission to the recipient. Each Coop agrees to provide the name, postal address, telefacsimile number and e-mail address (if any) of its representative for purposes of receiving notices under this Agreement within three (3) days of executing this Agreement.

f. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severed from this Agreement, and such holding shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

g. Each Coop agrees to use its best efforts to resolve any disputes arising under this Agreement through direct negotiations. Other than disputes related to overharvest of pollock, Sideboard limits or PSC Limits in connection with which one or more Coops or their members seek an injunction, a restraining order or some other form of equitable relief, all disputes not resolved through direct negotiation and/or dispute resolution will be submitted to arbitration in Seattle, Washington upon the request of any party to this Agreement. The party's written request will include the name of the arbitrator selected by the party requesting arbitration. The other party will have ten (10) days to provide written notice of the name of the arbitrator it has selected, if any. If the other party timely selects a second arbitrator, the two arbitrators will select a third arbitrator within ten (10) days. If the other party does not timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Every arbitrator, however chosen, must have no material ties to any Coop or Coop member. The decision of the arbitrator (or in the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The parties will be entitled to limited discovery as determined by the arbitrator(s) in its or their sole discretion. The arbitrator(s) will also determine the "prevailing party" and that party will be entitled to its reasonable costs, fees and expenses, including attorneys' and arbitrator fees, incurred in the action by said party. In no event will arbitration be available pursuant to this paragraph after the date when commencement of such legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.

## **Appendix II**

**2007 Salmon Bycatch Management Agreement**

**and**

**2007 Exempted Fishing Permit**



**SALMON BYCATCH MANAGEMENT AGREEMENT  
2006 – 2008 BERING SEA POLLOCK FISHERY**

This SALMON BYCATCH MANAGEMENT AGREEMENT is entered into by and among POLLOCK CONSERVATION COOPERATIVE (“PCC”), the HIGH SEAS CATCHERS COOPERATIVE (“High Seas”), MOTHERSHIP FLEET COOPERATIVE (“MFC”), the “Inshore Coops”, i.e., AKUTAN CATCHER VESSEL ASSOCIATION, ARCTIC ENTERPRISE ASSOCIATION, NORTHERN VICTOR FLEET COOPERATIVE, PETER PAN FLEET COOPERATIVE, UNALASKA FLEET COOPERATIVE, UNISEA FLEET COOPERATIVE and WESTWARD FLEET COOPERATIVE, and the “CDQ Groups”, i.e., ALEUTIAN PRIBILOF ISLAND COMMUNITY DEVELOPMENT ASSOCIATION, BRISTOL BAY ECONOMIC DEVELOPMENT CORPORATION, CENTRAL BERING SEA FISHERMEN’S ASSOCIATION, COASTAL VILLAGES REGION FUND, NORTON SOUND ECONOMIC DEVELOPMENT CORPORATION and YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION, and SEA STATE, INC. (“Sea State”) and UNITED CATCHER BOATS ASSOCIATION (“UCB”) as of Feb. 1, 2006. PCC, High Seas, MFC, and the Inshore Coops are hereafter collectively referred to as the “Coops”.

This Agreement is entered into with respect to the following facts:

**RECITALS**

Western Alaskans have expressed conservation and allocation concerns regarding the incidental catch of salmon in the Bering Sea pollock fishery. While such bycatch is regulated by the North Pacific Fishery Management Council (the “Council”) and the National Marine Fisheries Service (“NMFS”), the Coops desire to address this issue by inter-cooperative agreement, out of respect for the concerns of Western Alaskans, to

avoid unnecessary incidental catch of salmon and to obviate the need for regulatory salmon savings areas.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## AGREEMENT

1. Purpose of Agreement. The purpose of this Agreement is to implement a private, contractual inter-cooperative program to reduce salmon bycatch in the 2006, 2007 and 2008 Bering Sea directed pollock fishery, inclusive of both the Community Development Quota ("CDQ") and non-CDQ allocations (the "Fishery"). Each party to this Agreement agrees exercise all commercially reasonable efforts to achieve that purpose.

2. Monitoring and Management. The Coops shall retain Sea State to provide the data gathering, analysis, fleet monitoring and reporting services necessary to implement the bycatch management program contemplated under this Agreement. The Coops shall retain United Catcher Boats (UCB) to provide day-to-day management of inter-cooperative matters related to the performance of this Agreement.

3. "A" Season Bycatch Management. The parties agree that during the Fishery "A" seasons, Chinook salmon bycatch in the Fishery shall be managed on an inter-cooperative basis as follows. Sea State shall use a bycatch rate (the "Base Rate") as a trigger for identifying areas closed to pollock fishing by certain Coops ("Savings Areas"), and as a basis for determining each Coop's tier status, which in turn shall govern whether, and if so, when, each Coop's members may harvest pollock inside of a Savings Area. The Base Rate will be adjusted once during each "A" season in response to Chinook bycatch experienced during the season, to take into account fluctuations in Chinook abundance.

a. Initial Chinook Base Rate Calculation. The initial "A" season Chinook Base Rate shall be equal to the Fishery "A" season Chinook bycatch rate for the prior "A" season, calculated by dividing the total number of Chinook taken incidentally in the Fishery "A" season during the prior year by the total number of metric tons of Fishery "A" season pollock catch during the prior year, provided that if the initial "A" season Chinook Base Rate for any given year is less than or equal to .04 Chinook per metric ton of pollock, the initial Base Rate shall be .04 Chinook per metric ton, and if the initial Base Rate for any given year is equal to or greater than .06 Chinook per metric tone, the initial Base Rate shall be .06 Chinook per metric ton.

b. Chinook Base Rate In-Season Adjustment. On February 14 of each year, Sea State shall recalculate the "A" season Chinook Base Rate. The recalculated

Base Rate shall be the Chinook bycatch rate for the then-current year, calculated by dividing the total number of Chinook salmon taken incidentally in the then-current Fishery "A" season by the total number of metric tons of Fishery "A" season pollock catch during the then-current season. The recalculated Base Rate shall become the governing Base Rate for purposes of this Section 3 as of the first "Thursday Announcement" and "Friday Closure" (as defined below) following recalculation.

c. Implementation of Salmon Savings Measures. Sea State shall use Fishery "A" season bycatch data from the period January 20 through January 29 of each year to provide Coops with preliminary information regarding the location and concentration of Chinook salmon, and to determine initial Savings Area closures and Coop Tier assignments (as defined below). Sea State shall implement Chinook Savings Area closures as appropriate commencing on January 30<sup>th</sup> of each year, and thereafter through the balance of each Fishery "A" season.

d. Cooperative Tier Assignments. Rate calculations for purposes of tier assignments will be based on each Coop's pollock catch in the Fishery for the prior two weeks (the denominator) and the associated bycatch of Chinook salmon taken by its members (the numerator), with the exception of the initial tier assignments as described in Section 3.c. For purposes of this Section, a Coop's salmon bycatch amount shall be based on observed, counted Chinook salmon (i.e., whole haul samples), or sample sizes sufficiently large that Sea State reasonably concludes that estimated number of Chinook salmon has a high probability of being accurate. Classification of inshore Coops shall be based on plant observer data, and not on tow-by-tow estimates from the fishing grounds.

- Coops with Chinook salmon bycatch rates of less than 75% of the Base Rate shall be assigned to "Tier 1".
- Coops with Chinook salmon bycatch rates equal to or greater than 75% of the Base Rate but equal to or less than 125% of the Base Rate shall be assigned to "Tier 2".
- Coops with Chinook salmon bycatch rates greater than 125% of the Base Rate shall be assigned to "Tier 3".

e. Bycatch Hot Zone Identification. When the Fishery "A" season is open to any of the inshore, catcher/processor or mothership components, Sea State shall calculate the Chinook salmon bycatch rates for each Alaska Department of Fish and Game ("ADF&G") statistical area for which Sea State receives a salmon bycatch report, and when feasible, for each lateral half of each such statistical area. Bycatch rates shall be recalculated and updated every four (4) or seven (7) days during the season, immediately preceding the closure announcements described in Section 3.f., below, as Sea State determines appropriate given the quality of data available for the area. The bycatch rates shall be calculated on the basis of reports Sea State determines to be adequately accurate, including NMFS observer reports and Coop vessel electronic log

books, and may include reliable tow-by-tow estimates from the fishing grounds. In every case, rates calculated on the basis of the actual number of salmon observed per tow will be given priority over rates based on sampling and extrapolation.

f. “A” Season Salmon Savings Areas. On January 30 of each year and on each Thursday and on each Monday thereafter, for the duration of the Fishery “A” season, Sea State shall, subject to the criteria set forth below, provide notice to the Coops identifying one or more areas designated as “Chinook Savings Areas”, within which pollock fishing will be restricted on the basis of each Coop’s Tier status.

(i) Savings Area Designation Criteria. To qualify as a Chinook Savings Area, (a) an amount of pollock that Sea State in its sole discretion determines to be substantial must have been taken in the Savings Area during the period on which its designation as a Chinook Savings Area is based, or the area must have been designated a Chinook Savings Area for the prior notification period and there must be evidence satisfactory to Sea State in its sole discretion that suggests that Chinook bycatch rates in the area are not likely to have changed, and (b) the Chinook salmon bycatch rate in the area for the period on which its definition as a Savings Area is based must exceed the Base Rate. For purposes of (a), above, Sea State shall consider a pollock harvest of two percent (2%) of the total amount of pollock harvested in the Fishery during the period on which a Savings Area designation is based to be indicative of, but not dispositive of, whether a substantial amount of pollock has been harvested in an area.

(ii) Savings Area Boundaries and Limitations. Subject to the limits set forth in this Section, Chinook Savings Areas shall be defined by a series of latitude/longitude coordinates as Sea State determines appropriate to address Chinook bycatch. Notwithstanding the foregoing, the following limits will apply to designations of Chinook Savings Areas: (i) for any single closure period, the Chinook Savings Area(s) West of 168 degrees West may not exceed five hundred (500) square miles in area; (ii) the total area within all Chinook Savings Area closures during any single closure period may not exceed one thousand (1000) square miles; and (iii) there may be no more than two (2) distinct Chinook Savings Areas West of 168 degrees West longitude and no more than two (2) distinct Chinook Savings Areas East of 168 degrees West longitude during any single closure period.

g. Chinook Savings Area Closure Announcements. Chinook Savings Area closures announced on Thursdays (the “Thursday Announcement” of the “Friday Closures”) shall be effective from 6:00 pm the following Friday through 6:00 pm the following Tuesday, and Chinook Savings Area closures announced on Mondays (the “Monday Announcement” of “Tuesday Closures”) shall be effective from 6:00 pm the following Tuesday through 6:00 pm the following Friday. Upon a Chinook Savings Area closure taking effect, fishing by Coop vessels participating in the Fishery shall be restricted pursuant to Subsection 3.h., below. Each Thursday Announcement shall include the following information: (i) season update on pollock harvest and Chinook bycatch by pollock fishery sector and in total; (ii) each Coop’s updated rolling two week

bycatch rate, associated Tier status, and Chinook Savings Area closure dates, times and days; (iii) the coordinates describing each Chinook Savings Area, and a map of the Area; (iv) Chinook bycatch rates for each Alaska Department of Fish and Game statistical area in which there was directed pollock fishing during the previous week; and (v) updated vessel performance lists, as defined in 3.i., below. Each Monday Announcement shall include the information described in clauses (i), (iii), (iv), and a reminder to each Coop of its Tier status.

h. Chinook Savings Area Implementation. During the Fishery "A" seasons, Savings Area closures shall apply to Coop member vessels as follows. Chinook Savings Areas announced as Friday Closures shall be closed to fishing by Tier 3 Coop vessels for seven (7) days. Chinook Savings Area announced as Friday Closures shall be closed to fishing by Tier 2 Coop vessels through 6:00 pm the following Tuesday. Tier 1 Coop vessels may fish in Chinook Savings Areas closed to the Tier 2 and Tier 3 coops.

i. Vessel Performance Lists. On a weekly basis, Sea State shall provide the following vessel performance information to the Coops:

i. A list of the 20 Coop member vessels with the poorest season-to-date Chinook bycatch performance. Vessels shall be selected for the list by assigning each vessel a number of points for each time the vessel is on the weekly list described in (iii), below. The vessel on the top of the weekly list shall be assigned 20 points, the vessel in second place shall be assigned 19 points, and so on. Each vessel's point score shall be tabulated on a weekly basis, and the vessels with the top 20 point scores shall appear on the list. A vessel must have harvested more than 500 mt of pollock in the season to date to be placed on this list.

ii. A list of the 20 vessels with the highest Chinook salmon bycatch rates in excess of the Base Rate for the previous 2 weeks.

iii. A list of the 20 vessels with the highest Chinook salmon bycatch rates in excess of the Base Rate for the previous week.

j. Advisory Notices. Throughout the term of this Agreement, Sea State shall provide Chinook salmon "hot spot" advisory notices concerning areas of high bycatch that do not fall within Chinook Savings Area closures.

4. "B" Season Bycatch Management. The parties agree that during the Fishery "B" seasons, Chinook and chum salmon bycatch in the Fishery shall be managed on an inter-cooperative basis as follows. Sea State shall use a bycatch rate (the "Base Rate") as a trigger for identifying areas to be closed to pollock fishing by certain Coops ("Savings Areas"), and as a basis for determining each Coop's tier status, which in turn shall govern whether, and if so, when, each Coop's members may harvest pollock inside of a Savings Area. However, in contrast to "A" seasons, during which only Chinook salmon bycatch

is used to determine Savings Areas closures and Coop tier status, during "B" seasons, Sea State shall monitor both Chinook and chum salmon bycatch, and may announce Savings Areas for either or both species, and Sea State shall assign each Coop both a Chinook and chum bycatch tier status. In addition, Sea State shall have the authority to declare up to two salmon Savings Areas in the Bering Sea region East of 168 degrees West longitude (the "East Region") and up to two salmon Savings Areas in the Bering Sea/Aleutian Islands region west of 168 degrees West longitude (the "West Region"). However, in cases where both Chinook and chum bycatch exceed the respective "B" season Base Rates within a region, Sea State shall announce Chinook Savings Area closures for that region, and provide non-binding avoidance recommendations for areas of high chum bycatch within that region. The chum salmon Base Rate shall be adjusted once during each "B" season in response to chum bycatch rates, to take into account fluctuations in chum salmon abundance. For the years 2006 and 2007, the initial "B" season Chinook Base Rate shall not be adjusted. Thereafter, the initial Chinook Base Rate shall be the 2007 Fishery "B" season Chinook average bycatch rate, unless and until the Fishery "B" season initial Base Rate is further amended.

a. Initial Chum Base Rate. The initial "B" season chum salmon Base Rate shall be 0.19 chum salmon per metric ton of pollock.

b. Chum Base Rate In-Season Adjustment. Commencing on July 1 of each year that this Agreement is in effect, and on each Thursday through the duration of each "B" season thereafter, Sea State shall recalculate the "B" season chum salmon Base Rate. The recalculated Base Rate shall be the three week rolling average of the Fishery "B" season chum bycatch rate for the then-current year. The recalculated Base Rate shall be the governing chum salmon Base Rate for purposes of each "Thursday Announcement" of a "Friday Closure" (as defined below) following recalculation.

c. "B" Season Chinook Salmon Base Rate. For the 2006 and 2007 BS/AI pollock "B" seasons, the Chinook salmon base rate shall be .05 Chinook salmon per metric ton of pollock. For the 2008 "B" season and thereafter, Sea State shall calculate a Base Rate by dividing the Chinook salmon bycatch during a period of the prior year's Fishery "B" season that Sea State determines in its sole discretion to be representative by the Coops' directed pollock harvest (including CDQ pollock) for the same period. The recalculated Base Rate shall become the governing Chinook salmon Base Rate for purposes of this Section 4 as of the first "Thursday Announcement" and "Friday Closure" (as defined below) following recalculation.

d. Implementation of Salmon Savings Measures. Sea State shall use Fishery "B" season bycatch data from fishing activity after June 10 of each year to provide Coops with preliminary information regarding the location and concentration of chum and Chinook salmon, and to determine initial Savings Area closures and Coop Tier assignments (as defined below). Sea State shall implement Savings Area closures as appropriate upon chum and/or Chinook bycatch rates exceeding the relevant Base Rate, and thereafter through the balance of each Fishery "B" season.

e. Cooperative Tier Assignments. Rate calculations for purposes of tier assignments shall be based on each Coop's pollock catch in the Fishery for the prior two weeks (the denominator) and the associated bycatch of chum and Chinook salmon taken by its members (the numerators). For purposes of this Section, a Coop's salmon bycatch amount shall be based on observed, counted chum and Chinook salmon (i.e., whole haul samples), or sample sizes sufficiently large that Sea State reasonably concludes that estimated number of chum and Chinook salmon has a high probability of being accurate. Classification of inshore Coops shall be based on plant observer data, and not on tow-by-tow estimates from the fishing grounds.

- Coops with chum and/or Chinook salmon bycatch rates of less than 75% of the applicable Base Rate shall be assigned to "Tier 1" for the relevant species.
- Coops with chum and/or Chinook salmon bycatch rates equal to or greater than 75% of the applicable Base Rate but equal to or less than 125% of the Base Rate shall be assigned to "Tier 2" for the relevant species.
- Coops with chum or Chinook salmon bycatch rates greater than 125% of the applicable Base Rate shall be assigned to "Tier 3" for the relevant species.

f. Bycatch Hot Zone Identification. When the Fishery "B" season is open to any of the inshore, catcher/processor or mothership components, on an ongoing basis Sea State shall calculate the bycatch rates for each Alaska Department of Fish and Game ("ADF&G") statistical area for which Sea State receives a salmon bycatch report, and when feasible, for each lateral half of each such statistical area. Bycatch rates shall be recalculated and updated every four (4) or seven (7) days during the season, immediately proceeding the closure announcements described in Section 4.g., below, as Sea State determines appropriate given the quality of data available for the area. The bycatch rates shall be calculated on the basis of reports Sea State determines to be adequately accurate, including reliable tow-by-tow estimates from the fishing grounds. In every case, rates calculated on the basis of the actual number of salmon observed per tow shall be given priority over rates based on sampling and extrapolation.

g. "B" Season Salmon Savings Areas. On each Thursday and on each Monday following June 10, for the duration of the Fishery "B" season, Sea State shall, subject to the criteria set forth below, provide notice to the Coops identifying one or more areas designated as "Chinook Savings Areas" and/or "Chum Savings Areas", within which pollock fishing shall be restricted on the basis of each Coop's Tier status.

(i) Savings Area Designation Criteria. To qualify as a Chinook Savings Area, (a) an amount of pollock that Sea State in its sole discretion determines to be substantial must have been taken in the Savings Area during the period on which its designation as a Savings Area is based, or the area must have been designated a Savings Area for the prior notification period and there must be evidence satisfactory to Sea State

in its sole discretion that suggests that salmon bycatch rates in the area are not likely to have changed, and (b) the salmon bycatch rate in the area for the period on which its definition as a Savings Area is based must exceed the relevant Base Rate. For purposes of (a), above, Sea State shall consider a pollock harvest of two percent (2%) of the total amount of pollock harvested in the Fishery during the period on which a Savings Area designation is based to be indicative of, but not dispositive of, whether a substantial amount of pollock has been harvested in an area.

(ii) Savings Area Boundaries and Limitations. Subject to the limits set forth in this Section, Savings Areas shall be defined by a series of latitude/longitude coordinates as Sea State determines appropriate to address salmon bycatch. Notwithstanding the foregoing, the following limits shall apply to designations of “B” season Savings Areas: (i) Chum Savings Area closures in the East Region may not exceed three thousand (3,000) square miles in total area during any single closure period; (ii) Chum Savings Areas in the West Region may not exceed one thousand (1,000) square miles in total area during any single closure period; (iii) Chinook Savings Areas in the East Region may not exceed five hundred (500) square miles in total area during any single closure period; (iv) Chinook Savings Areas in the West Region may not exceed five hundred (500) square miles in total area during any single closure period; (v) there may be up to two (2) Savings Areas per Region per closure period; (vi) within either Region, Sea State may declare Chum Savings Area closures or Chinook Savings Area closures, but may not declare both Chum and Chinook Savings Areas. In the event that the Base Rates for both chum salmon and Chinook salmon are exceeded within a Region, assuming the other criteria for declaring a Savings Area are met, Sea State shall declare one or two Chinook Savings Areas in the Region, and issue a non-binding avoidance recommendation for the area(s) of high chum bycatch.

h. “B” Season Savings Area Closure Announcements. Fishery “B” season Savings Area closures announced on Thursdays (the “Thursday Announcement” of the “Friday Closures”) shall be effective from 6:00 pm the following Friday through 6:00 pm the following Tuesday, and Savings Area closures announced on Mondays (the “Monday Announcement” of “Tuesday Closures”) shall be effective from 6:00 pm the following Tuesday through 6:00 pm the following Friday. Upon a Savings Area closure taking effect, fishing by Coop vessels participating in the Fishery shall be restricted pursuant to Subsection 4.k., below. Each Thursday Announcement shall include the following information: (i) season update on pollock harvest and salmon bycatch by pollock fishery sector and in total; (ii) each Coop’s updated rolling two week chum salmon bycatch rate, associated Tier status, and Savings Area closure dates, times and days; (iii) the coordinates describing each salmon Savings Area, and a map of the Area; (iv) salmon bycatch rates by species for each Alaska Department of Fish and Game statistical area in which there was directed pollock fishing during the previous week; and (v) updated vessel performance lists, as defined in 4.j., below. Each Monday Announcement shall include the information described in clauses (i), (iii), (iv), and a reminder to each Coop of its chum bycatch Tier status.



i. "B" Season Savings Area Implementation. During the Fishery "B" seasons, Savings Area closures shall apply to Coop member vessels as follows. Chum Savings Areas announced as Friday Closures shall be closed to fishing by Tier 3 Coop vessels for seven days. Chum Savings Areas announced as Friday Closures shall be closed to fishing by Tier 2 Coop vessels through 6:00 pm the following Tuesday. Tier 1 Coop vessels may fish in Chum Savings Areas closed to the Tier 2 and Tier 3 Coop vessels. Chinook Savings Areas shall be closed to fishing by all Coop vessels, regardless of Tier status.

j. Vessel Performance Lists. On a weekly basis, Sea State shall provide two salmon bycatch performance lists to the Coops, one calculated on the basis of Chinook bycatch, the other calculated on the basis of chum bycatch:

i. A list of the 20 Coop member vessels with the poorest season-to-date bycatch performance. Vessels shall be selected for the list by assigning each vessel a number of points for each time the vessel is on the weekly list described in (iii), below. The vessel on the top of the weekly list shall be assigned 20 points, the vessel in second place shall be assigned 19 points, and so on. Each vessel's point score shall be tabulated on a weekly basis, and the vessels with the top 20 point scores shall appear on the list. A vessel must have harvested more than 500 mt of pollock in the season to date to be placed on this list.

ii. A list of the 20 vessels with the highest bycatch rates for the previous 2 weeks in excess of the Base Rate.

iii. A list of the 20 vessels with the highest bycatch rates for the previous week in excess of the Base Rate.

k. Throughout the Fishery "B" season, Sea State shall provide salmon "hot spot" advisory notices concerning areas of high salmon bycatch that do not fall within Savings Area closures.

5. Inshore Vessels Landing Pollock to a Non-Associated Processor. The provisions of this Section 5 shall apply in circumstances under which a Coop member elects to employ its vessel to deliver pollock to a processor with which the member's Coop is not affiliated (a "Non-affiliated Processor").

a. If a Coop member elects to employ its vessel to deliver pollock to "Non-affiliated Processor" under an Amendment 69 charter arrangement, prior to commencing the first fishing trip under such arrangement, the member shall execute and deliver to the Authorized Representative of the Coop into which it is being chartered (the "Charter Coop") and to the intercoop manager an adherence agreement under which such member agrees to comply with all of the applicable terms and conditions of the Charter

Coop's Membership Agreement, and grants such Charter Coop authority to impose penalties as appropriate for any failure to comply with such terms and conditions. The member shall notify the intercoop manager of each delivery made in whole or in part under an Amendment 69 charter within two (2) days of making such delivery. All salmon taken as bycatch under an Amendment 69 charter shall be counted as Charter Coop bycatch, and the vessel shall be subject to the salmon Savings Area closures applicable to the Charter Coop in connection with each fishing trip made under an Amendment 69 charter.

b. If a member's vessel delivers to a Non-affiliated Processor from the member's Coop's ten percent (10%) "free market" allocation, such deliveries shall be subject to all of the terms and conditions of the member's Coop's Membership Agreement. All salmon taken as bycatch in connection with such deliveries shall be counted as the member's Coop's bycatch, and the vessel shall be subject to the salmon Savings Area closures applicable to the member's Coop in connection with all such deliveries.

c. If a member's vessel delivers to a Non-Affiliated processor fish harvested both under an Amendment 69 charter and from the member's Coop's free market allocation during a single fishing trip (such trip being a "Split Trip"), the member shall comply with the terms and conditions of the Membership Agreements of both the member's Coop and the Charter Coop, and, without limitation, shall comply with the more restrictive of the Savings Area closures applicable to each of such Coops. All salmon bycatch taken during a Split Trip shall be allocated between the member's Coop and the Charter Coop in proportion to the amount of pollock taken under each such Coop's allocation during each such trip.

6. Data Gathering and Reporting. The Coops acknowledge that the effectiveness of the bycatch management program being implemented under this Agreement depends on rapidly gathering, analyzing and disseminating accurate data concerning Chinook and chum salmon bycatch in the Fishery. The Coops therefore agree as follows.

a. Each Coop shall require its members to take all actions necessary to release their vessels' NMFS observer reports and official landing records to Sea State as soon as commercially practicable after such documents are completed. Each Coop shall request its members' vessels to exercise commercially reasonable efforts to report to Sea State within 24 hours the location of, estimated pollock tonnage of and estimated number of Chinook and chum salmon in each trawl tow. PCC may satisfy its obligation under this section 6.a. by arranging to have its members' vessels' observer reports concerning salmon bycatch transmitted to Sea State. MFC and High Seas may satisfy their obligations under this Section by arranging to have the pollock amounts and Chinook and chum salmon counts for their members' vessels reported to Sea State by the observers on the processing vessels to which their members' vessels deliver. The Inshore Coops shall arrange for their vessels to report the crew's best estimate of the amount of pollock and the number of Chinook and chum salmon in the tow when reporting its location. Each

Inshore Coop shall develop its own methods and means to accurately calculate (when feasible) or estimate the amount of pollock and the number of salmon contained in each tow by its members' vessels, and to rapidly and accurately report that information to Sea State.

b. The Inshore Coops acknowledge that the Vessel Monitoring System ("VMS") is the most efficient means for reporting tow-by-tow data to Sea State, and the Inshore Coops therefore agree to encourage their members to use the VMS system to do so.

c. Sea State shall from time to time announce a Chinook or chum bycatch rate that shall trigger an incident reporting requirement. Each Coop shall require its members' vessels to notify their coop manager (if applicable), the intercooperative manager and, if feasible, Sea State as soon as possible of any tow with a chum or Chinook salmon bycatch rate that the crew estimates to be equal to or greater than the incident reporting rate threshold.

7. Savings Area Closure Enforcement. Upon a Coop receiving a Savings Area closure notice which has the effect of closing one or more Savings Areas to fishing by its members' vessels under this Agreement, the Coop shall timely notify its members. Each Coop agrees to take enforcement action with respect to any violation of a Savings Area closure notice, and to collect the assessments set forth below in cases where a vessel is found to have violated a closure.

a. Sea State shall monitor the fishing activities of all Coops' members' vessels, and shall promptly report all apparent Savings Area violations to all Coops. Upon receiving notice of an apparent violation from Sea State, the Board of Directors of the Coop to which the vessel belongs shall have sixty (60) days to take action in connection with the apparent violation, and to provide a report of the action taken and a copy of the record supporting that action to all other Coops. If the vessel's Coop Board of Directors fails to take action that is consistent with the terms and conditions of this Agreement within such 60 day time period, or fails to provide a report of the action taken and the supporting record to all other Coops within such 60 day period, then Sea State and/or UCB shall provide each other Coop, the CDQ Groups, the Association of Village Council Presidents ("AVCP"), Bering Sea Fishermen's Association ("BSFA"), Tanana Chiefs' Conference ("TCC") and Yukon River Drainage Fishermen's Association ("YRDFA") with notice to that effect, and each of such parties shall have standing to pursue Savings Area closure enforcement or penalty actions equivalent to such Coop's own rights with respect to its members.

b. The Coops hereby adopt a uniform assessment for a member's first violation of a Savings Area closure of Ten Thousand Dollars (\$10,000.00), a uniform assessment for a member's second violation of a Savings Area closure of Fifteen Thousand Dollars (\$15,000.00), and a uniform assessment of Twenty Thousand Dollars (\$20,000.00) for a member's third and subsequent violations in a year. The Coops

acknowledge that the damages resulting from violating a Savings Area closure are difficult to estimate, and that the foregoing assessment amounts are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Therefore, the Coops agree that the assessment amounts established under this Subsection 7.b are liquidated damages, the payment of which (together with reasonable costs of collection) shall satisfy a Coop's and its members' obligations related to a Savings Area closure violation. The Coops hereby waive any and all claims to direct, indirect or consequential damages related to such violation.

c. The Coops agree that any funds collected in connection with a violation of this agreement, in excess of those necessary to reimburse the prevailing party for its costs and attorneys fees, shall be used to support research concerning the stocks of origin of salmon taken incidentally in the Fishery. The Coops agree to consult with the CDQ Groups, AVCP, BSFA, TCC and YRDFA regarding the most appropriate use of such funds.

d. For purposes of this Section 7, State and Federal landing reports, observer data, VMS tracking data, vessel log books and plotter data and Coop catch data produced by the Sea State in conformance with NMFS catch accounting and bycatch estimation procedures shall be presumed accurate and sufficient for determining whether a vessel violated a Savings Area closure, absent a clear and compelling demonstration of manifest error. The Coops agree to take all actions and execute all documents necessary to give effect to this provision.

e. The Coops agree to require their members to obtain and maintain an operational VMS unit approved by Sea State on their vessels, provided that such units are available on a commercially reasonable basis. The Coops agree to cause their members to release their VMS tracking data to Sea State. Sea State agrees not to disclose any such information, other than as specifically authorized under this Agreement, as necessary to fulfill the intents and purposes of this Agreement, or with prior consent from the affected vessel owner. The Coops agree that the damages resulting from vessels operating in non-compliance with this subsection are difficult to estimate, and the Coops therefore hereby adopt a uniform assessment of One Thousand Dollars (\$1,000.00) per day for each consecutive day over thirty (30) consecutive days that a Coop member's vessel is employed in the Fishery without an operational VMS unit approved by Sea State, provided such unit is available on a commercially reasonable basis.

8. Release and Waiver of All Claims Against SeaState and United Catcher Boats: Indemnification and Hold Harmless. The parties acknowledge that the effectiveness of this Agreement depends to a significant extent on Sea State's and UCB's discretion and judgment in designating and defining Savings Areas, determining each Coop's Tier status, monitoring compliance with Savings Area closures, and initiating and supporting enforcement actions under circumstances where a Coop member appears to have violated this Agreement. The parties further acknowledge that if Sea State or UCB were potentially liable for simple negligence in connection with such actions, it would be

necessary for Sea State and UCB to charge a substantially larger fee for the services they provide in connection with this Agreement, to offset that potential liability. It is therefore in the parties' interest to reduce Sea State's and UCB's potential liability under this Agreement. Therefore, the Coops and the CDQ Groups hereby waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB. Further, the Coops jointly and severally agree to indemnify, defend and hold Sea State and UCB harmless against any third party claims asserted against Sea State or UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

9. Coop Membership Agreement Amendments. To give effect to this Agreement, the Coops agree to cause each of their Membership Agreements to be amended prior to the opening of the 2006 Fishery "A" season to include the following provisions.

a. Each Coop member shall acknowledge that its vessel's operations are governed by this Agreement, and shall agree to comply with its terms.

b. Each Coop member shall authorize its Coop's Board of Directors to take all actions and execute all documents necessary to give effect to this Agreement.

c. Each member shall authorize its Coop Board of Directors to enforce this Agreement, and if the Board fails to do so within sixty (60) days of receiving notice from Sea State that a cooperative member may have failed to comply with the Agreement, each member shall authorize each other Coop, each of the CDQ groups, AVCP, BSFA, TCC and YR DFA to individually or collectively enforce this Agreement.

d. Each member shall agree to maintain an operational VMS unit approved by Sea State on its vessel at all times that its vessel is participating in the Fishery, provided such VMS unit is available on a commercially reasonable basis, and shall agree to cause its vessel's VMS tracking data to be released to Sea State on a basis that permits Sea State to determine whether the member's vessel has operated in compliance with this Agreement. Each Coop member shall release to Sea State its State and Federal landing reports, observer data, VMS tracking data, and vessel log books and plotter data for purposes of determining its compliance with this Agreement, and agrees that in the event Sea State concludes that its vessel may have violated a hot spot closure, Sea State may release such data as Sea State in its sole discretion determines appropriate to facilitate enforcement of this Agreement.

e. Each member shall agree that the information contained in the records identified in d., above, shall be presumed accurate absent a clear and compelling demonstration of manifest error, and shall be presumed sufficient to determine its compliance with this Agreement.

f. Each member shall agree that the damages resulting from violating a Savings Area closure are difficult to estimate, and that the assessment amounts provided under this Agreement are therefore intended to be a substitute in all cases for direct, indirect and consequential damages. Each member shall agree that its Coop Board of Directors may modify Savings Area violation assessment amounts from time to time, as necessary to maintain an effective deterrent to Savings Area violations. Each member shall agree that each trawl tow during which the member's vessel fishes in a Savings Area in violation of this Agreement shall constitute a separate violation for purposes of assessment calculation. Each member shall agree that damages for violating this Agreement shall apply on a strict liability basis, regardless of a member's lack of knowledge of the violation or intent to violate the agreement. Each member shall agree that actual damages for violating this Agreement would be difficult to calculate, and shall therefore agree to pay the assessment amounts established under this Agreement, as amended from time to time, as liquidated damages. Each member agrees to modify its skipper contracts to make its skipper(s) fully responsible for the assessments levied in connection with a breach of the agreement. Further, each member agrees that in the event a skipper fails to assume such assignment of liability, or in the event such assumption of liability is deemed invalid, the member shall be liable for the full amount of such assessment, and all related costs and attorneys' fees.

g. Each member shall agree that in connection with any action taken to enforce this Agreement, the prevailing party shall be entitled to the costs and fees it incurs in connection with such action, including attorneys' fees.

h. Each member shall agree that in addition to legal remedies, the Board of Directors of each cooperative, each of the CDQ groups, and BSFA and YRDFA shall be entitled to injunctive relief in connection with the second and subsequent violations of this Agreement.

i. Each member shall agree to waive and release any and all claims against Sea State and UCB arising out of or relating to Sea State's or UCB's services in connection with this Agreement, other than those arising out of gross negligence or willful misconduct by Sea State or UCB.

10. Term. This Agreement shall take effect as of January 20, 2006. The initial term of this Agreement shall extend through November 1, 2008. The term of this Agreement shall be automatically extended for an additional year as of September 15 each year it remains in effect, i.e., as of September 15, 2006, the new expiration date of this Agreement shall be November 1, 2009, and so on. A party to this Agreement may terminate its status as a party by providing written notice to all other parties to this Agreement to that effect, provided that the effective date of such party's termination shall be the expiration date of this Agreement in effect at the time the termination notice is delivered. For example, if a Coop provides termination notice on August 15, 2006, its termination shall not be effective until November 1, 2008. If a Coop provides

termination notice on October 1, 2006, its termination shall not be effective until November 1, 2009. Notwithstanding any party's termination of its participation in this Agreement or the expiration of its term, the enforcement provisions of Section 7, above, shall survive with full force and effect.

11. **Breach and Termination of Exemption.** Each Coop acknowledges that, as of the opening of the 2006 "B" season Fishery, NMFS is expected to issue an annual exemption to the regulatory salmon savings closures (the "Exemptions") to each Coop that is a party to and complies with this Agreement. Further, each Coop acknowledges that a Coop's material breach of this Agreement that is not timely cured shall result in forfeiture of such Coop's right to retain its Exemption. The following shall constitute material breaches of this Agreement:

(i) a Coop failing to take enforcement action within sixty (60) days of being notified by Sea State of an apparent violation of a Savings Area closure by one or more of its members, as provided in Section 7.a, above;

(ii) a Coop failing to collect and/or disburse an assessment in compliance with this Agreement within sixty (60) days of a determination that its member(s) violated a Savings Area closure, as provided in Sections 7.b and 7.c, above;

(iii) a Coop failing to collect and/or disburse an assessment in compliance with this Agreement within sixty (60) days of a determination that a member of the Coop failed to maintain an available, operational VMS unit approved by Sea State on its vessel as provided in Section 7.e of this Agreement and/or failed to cause such vessel(s) to release their VMS tracking data to Sea State as provided in Section 7.e of this Agreement.

In the event of a material breach of this Agreement by a Coop that is not cured within thirty (30) days of such Coop's authorized representative receiving written notice of such breach from one or more other Coop(s), a CDQ Group, AVCP, BSFA, TCC or YR DFA, any one of such parties may demand that the breaching Coop tender its Exemption to NMFS, and such Coop shall do so within ten (10) days. If a Coop fails to timely tender its Exemption, any of such parties may seek injunctive relief requiring such Coop to tender its Exemption.

## 12. Miscellaneous.

a. No amendment to this Agreement shall be effective against a party hereto unless in writing and duly executed by such party. The parties agree to amend this Agreement as reasonably necessary to conform with changes in law or circumstances.

b. This Agreement shall be governed by and construed in accordance with applicable federal law and the laws of the State of Washington.

c. This Agreement may be executed in counterparts which, when taken together, shall have the same effect as a fully executed original. Delivery of a signed copy of this Agreement by telefacsimile shall have the same effect as delivering a signed original.

d. The parties agree to execute any documents necessary or convenient to give effect to the intents and purposes of this Agreement.

e. All notices required to be given under this Agreement shall be deemed given five (5) days following deposit in certified first class U.S. mail, postage prepaid, with the correct address, or upon the first business day following confirmed telefacsimile or e-mail transmission to the recipient. Each party to this Agreement agrees to provide the name, postal address, telefacsimile number and e-mail address of its duly authorized representative(s) for purposes of receiving notices under this Agreement within three (3) days of executing this Agreement.

f. In the event that any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed to be severed from this Agreement, and such holding shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

g. Each Coop agrees to use its best efforts to resolve any disputes arising under this Agreement through direct negotiations. Breaches of this Agreement for which a party seeks a remedy other than injunctive relief that are not resolved through direct negotiation shall be submitted to arbitration in Seattle, Washington upon the request of any party to this Agreement. The party's written request will include the name of the arbitrator selected by the party requesting arbitration. The other party will have ten (10) days to provide written notice of the name of the arbitrator it has selected, if any. If the other party timely selects a second arbitrator, the two arbitrators will select a third arbitrator within ten (10) days. If the other party does not timely select the second arbitrator, there shall be only the one arbitrator. The single arbitrator or the three (3) arbitrators so selected will schedule the arbitration hearing as soon as possible thereafter. Every arbitrator, however chosen, must have no material ties to any Coop or Coop member. The decision of the arbitrator (or in the case of a three (3) arbitrator panel, the decision of the majority) will be final and binding. The arbitration will be conducted under the rules of (but not by) the American Arbitration Association. The parties will be entitled to limited discovery as determined by the arbitrator(s) in its or their sole discretion. The arbitrator(s) will also determine the "prevailing party" and that party will be entitled to its reasonable costs, fees and expenses, including attorneys' and arbitrator fees, incurred in the action by said party. In no event will arbitration be available pursuant to this paragraph after the date when commencement of such legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations.





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
*National Marine Fisheries Service*  
P.O. Box 21668  
Juneau, Alaska 99802-1668

January 23, 2007

AFA Intercooperative  
4005 20<sup>th</sup> Avenue West  
Suite 116  
Seattle, WA 98199

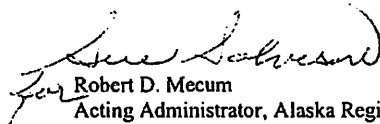
Re: Exempted Fishing Permit No. 07-02

Dear Mr. Gruver:

We have approved the AFA Catcher Vessel Intercooperative and Pollock Conservation Cooperative's request for an exempted fishing permit (EFP) authorizing vessels participating in the salmon bycatch reduction intercooperative agreement from salmon savings area closures. Enclosed is a copy of the EFP 07-02, which authorizes exempted fishing from January 20, 2007, through November 1, 2007.

A copy of this EFP must be on board the permitted vessel when fishing under the EFP, and as long as groundfish from exempted fishing is retained on board the vessel. The permit holder and permitted vessel owner and operator must comply with all provisions of this EFP, the Magnuson-Stevens Fishery Conservation and Management Act, and 50 CFR 679, except as provided in the terms and conditions of the EFP. If you have any questions regarding this permit, please contact Jason Anderson of the Sustainable Fisheries Division at (907) 586-7650 or email at [jason.anderson@noaa.gov](mailto:jason.anderson@noaa.gov).

Sincerely,

  
for Robert D. Mecum  
Acting Administrator, Alaska Region

Enclosure



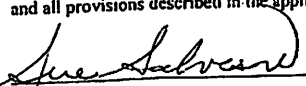
ALASKA REGION - [www.fakr.noaa.gov](http://www.fakr.noaa.gov)

BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA (BSAI)  
GROUNDFISH FISHERY  
EXEMPTED FISHING PERMIT  
AUTHORITY: 50 CFR 600.745(b) AND 50 CFR 679.6

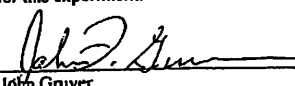
PERMIT #07-02

The Administrator, Alaska Region, National Marine Fisheries Service (NMFS), acting on behalf of the Secretary of Commerce, hereby permits vessel(s) acting under the direction of the permit holders, AFA Catcher Vessel Intercooperative and Pollock Conservation Cooperative, to conduct experimental fishing within closures of the Chinook and chum salmon savings areas to evaluate the effectiveness of a salmon bycatch reduction intercooperative agreement (ICA) as a mechanism for identifying areas of elevated salmon bycatch during the course of the Bering Sea pollock season and reducing pollock fishing activity within those areas to avoid salmon bycatch. Activities conducted under this permit may occur between January 20, 2007, and November 1, 2007.

The United States exercises fishery management authority in the Bering Sea and Aleutian Islands Management Area under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). The permit holders and the owners and operators of all authorized vessels must comply with the provisions of this Exempted Fishing Permit (EFP) and the provisions of the Magnuson-Stevens Act and 50 CFR parts 600 and 679, except as provided in the attached terms and conditions incorporated herein. This permit is valid from January 20, 2007, through November 1, 2007, when signed by the permit holders, the Regional Administrator, and an authorized representative for each participating vessel, unless terminated earlier by provisions of this EFP or by regulatory action pursuant to 50 CFR part 679, or revocations, suspension, or modification pursuant to 15 CFR part 904. Vessel owners or charterers that are members of pollock harvesting cooperatives that have executed the ICA will be considered to have agreed that their vessels will conduct their operations in accordance with the ICA and all provisions described in the application materials for this experiment.

*for*   
Robert D. Mecum  
Acting Administrator,  
Alaska Region, NMFS

1-23-07  
Date Signed

  
John Gruver,  
AFA Catcher Vessel Intercooperative

Jan 22, 2007  
Date Signed

  
Doug Christensen  
Pollock Conservation Cooperative

1-18-07  
Date Signed

BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA  
GROUNDFISH FISHERY

BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA  
GROUND FISH FISHERY  
EXEMPTED FISHING PERMIT #07-02  
TERMS AND CONDITIONS

AUTHORITY: 50 CFR 600.745(b) AND 50 CFR 679.6

TESTING THE FEASIBILITY OF SALMON BYCATCH REDUCTION INTERCOOPERATIVE  
AGREEMENT IN THE POLLOCK FISHERY

A. Permit Holders

AFA Catcher Vessel Intercooperative  
4005 20<sup>th</sup> Ave. West  
Suite 116  
Seattle, Washington 98199  
(206) 282-2599

Pollock Conservation Cooperative  
4039 21<sup>st</sup> Ave. West  
Suite 400  
Seattle, Washington 98199  
(206) 285-5139

B. Permitted Vessels

All American Fisheries Act (AFA) vessels operating under the salmon bycatch reduction intercooperative agreement (ICA) are authorized to participate in this Exempted Fishing Permit (EFP) experiment. A list of these vessels is included as Appendix A to this permit. The ICA is attached to this permit as Appendix B.

A copy of this EFP must be onboard the permitted vessels during the course of the experimental fishery and as long as any groundfish retained under this permit are onboard the vessels.

C. Timing of the Experiment

Experimental fishing under the terms of this permit is authorized for the periods between January 20, 2007, and November 1, 2007.

D. Reporting Requirements

The permit holders are required to provide the report described in Section K, below, to the North Pacific Fishery Management Council (Council), and to provide a summary report concerning activity conducted under the permit described in Section L, below. As part of the report described below in Section L, the permit holder is required to provide copies to Council and NMFS Alaska Region of all salmon hotspot closure notices described in the attached ICA (Appendix B).

E. Exempted Activities

Vessel operators operating under this EFP are exempt from regulations closing the Bering Sea Chinook and chum salmon savings areas to pollock fishing. Regulations governing these closures are found at 50 CFR 679.7(d)(9) and (10), 679.21(e)(7)(vii) and (viii), and 679.22(a)(10).

This EFP will be conducted within the Bering Sea directed and community development quota (CDQ) pollock fisheries described at 50 CFR 679 and in the environmental assessment/regulatory impact review/final regulatory flexibility analysis prepared for the 2006-2007 BSAI and Gulf of Alaska Harvest Specifications for 2006-2007. No additional fish or prohibited species catch are allocated under this EFP.

F. Area of the Experiment

Experimental fishing under the terms of this permit is authorized in the Bering Sea subarea, inclusive of the Chinook and chum salmon savings areas.

H. Vessel Selection

Vessels authorized to participate in this permit are listed in Appendix A.

I. Requirements for Participating Vessels

This permit does not exempt vessel owners, charterers or operators of vessels identified in Appendix A from complying with all applicable fishing regulations not specifically listed in paragraph E above, including recordkeeping and reporting, catch monitoring, or observer requirements. In addition:

1. Owners, charterers, and operators of the vessels identified in Appendix A must agree to conduct fishing operations according to the salmon bycatch reduction ICA attached as Appendix B, and to all provisions described in the application materials for this experiment. Vessel owners or charterers that are members of pollock harvesting cooperatives that have executed the ICA will be considered to have agreed that their vessels will conduct their operations in accordance with the ICA and all provisions described in the application materials for this experiment.
2. The permit holders must notify NMFS and the vessel if there are any reports or indications that such vessel is not meeting the requirements for participation in the experiment. The permit holders also will terminate participation in the experiment of any vessel that is violating the experimental protocols agreed upon in the fishing plan.

J. Administration of the Experiment

The permit holders will provide at least one project manager, which may be a permit holder. The project manager(s) will be responsible for ensuring unanticipated occurrences and problems are resolved in a manner that does not jeopardize the conduct or validity of the experiment. The project manager(s) also will be responsible for contacting NMFS and the permit holder if unanticipated problems arise that require adjustments to the test.

The permit holders, through the interaction of their project manager(s), are responsible for making sure each vessel in the experiment is operated in compliance with the ICA and the permit conditions, and that in the event that a determination is made pursuant to the ICA that a vessel is no longer qualified to operate under the exemption, the permit holders will notify the vessel owner or charterer and NMFS that the vessel is no longer a participant under the EFP, and the vessel will be removed from the attached list of approved vessels.

All parties operating under the EFP will coordinate their activities on a cooperative basis as described and required in the ICA (attached). The ten AFA pollock cooperatives are responsible for overseeing their member vessels' role in supplying Sea State, Inc. (Sea State) with bycatch information as well as access to their Vessel Monitoring System data as described in the ICA for pollock harvested in the AFA pollock fishery as well as the CDQ pollock fishery. Additionally, each cooperative is responsible for distributing all Sea State reports to their member vessels in a timely manner.

K. Analysis of Results

The permit holder will conduct an analysis of the data. A draft report will be prepared for presentation at the December 2007 Council meeting that describes the following information:

1. Number of salmon taken by species during the experiment;
2. Estimated number of salmon avoided as demonstrated by the movement of fishing effort away from salmon hot-spots;
3. A list of each vessel's number of appearances on the weekly "dirty 20" lists for both salmon species; and
4. Copies of the weekly (or semi-weekly) reports and fleet-wide notices made pursuant to the ICA issued by Sea State will be made available to the NPFMC and the NMFS Alaska Region offices.

The following report will be presented at the February 2008, Council meeting:

1. A compliance/enforcement report that will include the results of an external audit designed to evaluate the accuracy of the approach used by Sea State to monitor compliance with the agreement, and a report on the effectiveness of enforcement measures stipulated under the ICA in cases of non-compliance. Examination of a randomly selected subset of vessel/days representing 10% of the catch during the

experiment will be used as the basis of the audit.

L. Dissemination of Study Results

The permit holders will prepare a succinct final report explaining the results and basic statistical confidence in those results. The purpose of this report is to provide to the Council and public an assessment of the feasibility of operating under a salmon bycatch reduction ICA. This information may be used by the Council in evaluating future salmon bycatch measures.

This industry report will be disseminated free of charge to the public upon request and presented to the Council upon request of the Council.

M. Sanctions

Failure of the permit holders and/or the permitted vessel owners or operators to comply with the terms and conditions of this permit and all applicable provisions of 50 CFR parts 600 and 679, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), or any other regulations promulgated thereunder, or any other applicable law, shall be grounds for revocation, suspension, or modification of this permit as well as civil or criminal penalties under the Magnuson-Stevens Act.

N. Waiver

The permit holders on their own behalf, and on behalf of all persons conducting activities authorized by the permit under their direction, waive any and all claims against the United States, and its agents and employees, for any liability whatsoever for personal injury, death, sickness or damage to property directly or indirectly due to activities under this permit.

## **Appendix III**

### **Coop Sideboard Caps, Transfers, and Harvest in Directed Sideboard Fisheries**

**Prosecuted in 2007**

**Table 1. BSAI PACIFIC COD**

Sideboard cap less bycatch requirements: 30,948

Coop	Coop Sideboard Percentage	Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan Catcher Vessel Assoc.	28.38%	8,783	1,450	10,233	8,063	2,170
Arctic Enterprise Assoc.	1.20%	371	843	1,214	1,087	127
High Seas Catchers Cooperative	10.57%	3,271	697	3,968	3,238	730
Mothership Fleet Cooperative	14.97%	4,633	-812	3,821	2,771	1,050
Northern Victor Cooperative	13.49%	4,175	566	4,740	2,770	1,970
Peter Pan Fleet Cooperative	1.55%	480	-214	266	0	266
Unalaska Fleet Cooperative	8.11%	2,510	-834	1,676	0	1,676
UniSea Fleet Cooperative	13.81%	4,274	-1,196	3,078	1,190	1,888
Westward Fleet Cooperative	8.38%	2,593	-499	2,094	539	1,555
<b>Intercoop Totals</b>	<b>100.46%</b>	<b>31,090</b>	<b>0</b>	<b>31,090</b>	<b>19,658</b>	<b>11,432</b>

**Table 2. BSAI YELLOWFIN SOLE**

Season Sideboard cap less bycatch requirements: 7,479

Coop	Coop Sideboard Percentage	Initial Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan Catcher Vessel Assoc.	9.29%	695	0	695	243	452
Arctic Enterprise Assoc.	0.00%	0	0	0	0	0
High Seas Catchers Cooperative	2.65%	198	0	198	0	198
Mothership Fleet Cooperative	2.72%	203	0	203	0	203
Northern Victor Cooperative	1.26%	94	0	94	0	94
Peter Pan Fleet Cooperative	0.19%	14	0	14	0	14
Unalaska Fleet Cooperative	25.39%	1,899	0	1,899	0	1,899
UniSea Fleet Cooperative	44.48%	3,327	0	3,327	0	3,327
Westward Fleet Cooperative	14.02%	1,049	0	1,049	0	1,049
<b>Intercoop Totals</b>	<b>100%</b>	<b>7,479</b>	<b>0</b>	<b>7,479</b>	<b>243</b>	<b>7,236</b>



**Table 3. AREA 610 POLLOCK**

AFA CV Sideboard Cap (metric tons): 15,288

Coop	Coop Sideboard Percentage	Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan CV Assoc.	36.47%	5,576	-263	5312	109	5,203
Arctic Ent. Assoc.	0.66%	101	0	101	0	101
HSCC	0.31%	47	263	311	264	47
Mothership Coop	0.91%	139	0	139	0	139
N. Victor Coop	6.58%	1,006	0	1006	0	1,006
Peter Pan Fleet Coop	0.75%	115	0	115	0	115
Unalaska Fleet Coop	16.10%	2,461	0	2461	1493	968
UniSea Fleet Coop	16.85%	2,576	0	2576	0	2,576
Westward Fleet Coop	21.36%	3,266	0	3266	0	3,266
<b>Intercoop Totals</b>	<b>100%</b>	<b>15,286</b>	<b>0.00</b>	<b>15,286</b>	<b>1,866</b>	<b>13,420</b>

**Table 4. AREA 620 POLLOCK**

AFA CV Sideboard Cap (metric tons): 2,981

Coop	Coop Sideboard Percentage	Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan CV Assoc.	60.52%	1,804	-170	1634	1341	293
Arctic Ent. Assoc.	0.00%	0	0	0	0	0
HSCC	1.80%	54	0	54	0	54
Mothership Coop	0.21%	6	0	6	0	6
N. Victor Coop	13.17%	393	-305	88	0	88
Peter Pan Fleet Coop	0.03%	1	197	198	0	198
Unalaska Fleet Coop	10.55%	314	596	910	759	151
UniSea Fleet Coop	5.28%	157	-121	36	0	36
Westward Fleet Coop	8.44%	252	-197	55	0	55
<b>Intercoop Totals</b>	<b>100%</b>	<b>2,981</b>	<b>0.00</b>	<b>2,981</b>	<b>2,100</b>	<b>881</b>

**Table 5. AREA 630 POLLOCK**

AFA CV Sideboard Cap (metric tons): 3,620

Coop	Coop Sideboard Percentage	A Season Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan CV Assoc.	49.33%	1,786	0	1,786	0	1,786
Arctic Ent. Assoc.	3.34%	121	0	121	0	121
HSCC	3.99%	144	0	144	0	144
Mothership Coop	8.54%	309	0	309	0	309
N. Victor Coop	9.64%	349	-210	139	0	139
Peter Pan Fleet Coop	6.18%	224	0	224	0	224
Unalaska Fleet Coop	12.31%	446	210	656	645	11
UniSea Fleet Coop	3.23%	117	0	117	0	117
Westward Fleet Coop	3.43%	124	0	124	0	124
<b>Intercoop Totals</b>	<b>100%</b>	<b>3,620</b>	<b>0</b>	<b>3,620</b>	<b>645</b>	<b>2,975</b>

**Table 6. CENTRAL GULF COD**

Seasonal AFA CV Sideboard Cap (metric tons): 1,845

Coop	Coop Sideboard Percentage	A Season Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan CV Assoc.	50.23%	927	0	927	0	927
Arctic Ent. Assoc.	0.00%	0	0	0	0	0
HSCC	7.00%	129	0	129	0	129
Mothership Coop	10.01%	185	0	185	0	185
N. Victor Coop	5.29%	98	0	98	0	98
Peter Pan Fleet Coop	8.09%	149	-14	135	0	135
Unalaska Fleet Coop	10.79%	199	14	213	98	115
UniSea Fleet Coop	0.01%	0	0	0	0	0
Westward Fleet Coop	8.59%	158	0	158	0	158
<b>Intercoop Totals</b>	<b>100%</b>	<b>1,845</b>	<b>0</b>	<b>1,845</b>	<b>98</b>	<b>1,747</b>

Seasonal AFA CV Sideboard Cap (metric tons): 927

**Table 7. CENTRAL GULF ARROWTOOTH**

Coop	Coop Sideboard Percentage	Initial Sideboard Allocation (mt)	Sideboard Cap Transfers	Final Sideboard Allocation (mt)	Directed Catch	Remaining Sideboard Allocation
Akutan Catcher Vessel Assoc.	12.56%	116	0	116	0	116
Arctic Enterprise Assoc.	0.00%	0	0	0	0	0
High Seas Catchers Cooperative	2.06%	19	0	19	0	19
Mothership Fleet Cooperative	0.03%	0	0	0	0	0
Northern Victor Cooperative	0.00%	0	0	0	0	0
Peter Pan Fleet Cooperative	5.46%	51	0	51	0	51
Unalaska Fleet Cooperative	74.49%	691	0	691	405	286
UniSea Fleet Cooperative	0.00%	0	0	0	0	0
Westward Fleet Cooperative	5.40%	50	0	50	0	50
<b>Intercoop Totals</b>	<b>100%</b>	<b>927</b>	<b>0</b>	<b>927</b>	<b>405</b>	<b>522</b>