

North Pacific Fishery Management Council

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ADVISORY PANEL MINUTES Anchorage, Alaska April 11-12, 1988

The Advisory Panel for the North Pacific Fishery Management Council met in the Sheraton Hotel on April 11-12, 1988. The following members were present:

Nancy Munro, Chair	Ron Hegge
Robert Alverson, Vice Chair	Richard Lauber
Arne Aadland	Daniel O'Hara
Alvin Burch	Ron Peterson
Lamar Cotten	Jon Rowley
Mark Earnest	Richard White
Barry Fisher	Dave Woodruff
Pete Granger	Fred Zharoff

The minutes of the January 18-19, 1988 Advisory Panel meeting were approved as read.

C-1 Legislative Update

Ron Miller updated the AP on recent Congressional actions related to ocean and fisheries issues.

The AP is very concerned about the implications for the fishing industry should Northern Fur Seals and Northern Sea Lions be declared "depleted species" under the Marine Mammal Protection Act. The AP would encourage the Council to provide staff time to follow this issue, and where appropriate, to support the fishing industry negotiations on this issue. The motion carried unanimously.

C-2 MARPOL Annex V Proposed Regulations

The AP heard a report from LCDR Carl Crampton about the marine discard provisions of MARPOL Annex V. LCDR Crampton stressed the importance for people to provide information to the Coast Guard as they write implementing regulations.

AP members commented:

- (1) That many small coastal communities do not have adequate dock space for a waste facility nor revenues to build a waste facility.
- (2) That regulations requiring wastes to be ground to 25 mm or less may be unrealistic. Barry Fisher suggested compactors on board may be a better solution.

C-3 Nonprofit Research Foundation

Barry Fisher reported that the interested associations are still trying to organize the foundation and will report back at the June Council meeting. No action was taken.

C-4 Bering Sea International Waters

The AP heard a report from Jim Traynor of NWAFC on the results of the NMFS pollock survey in the Donut Hole. No action was taken.

C-5 Domestic Observer Program

The AP heard a report from Clarence Pautzke on the status of the observer program. No action was taken.

C-8 Future of Groundfish Committee

The AP heard a report from Dorothy Lowman on progress and policy issues facing the FOG Committee. No action was taken.

C-9 U.S. Support Industry Proposal

The AP heard a report from John Pollard, NOAA-GC, on the legal authority to provide a U.S. Support Industry Proposal under the MFCMA. No action was taken.

D-1 Salmon FMP

No was action taken.

D-2 King and Tanner Crab FMP

The AP heard a report on the status of the King and Tanner Crab FMP. The crab industry has requested that public review of the Draft FMP be postponed until the June meeting so they may meet with the Crab Management Committee and the State to draft a consensus package. No action was taken.

D-3 Gulf of Alaska Groundfish FMP

Amendment 17

1. Delay the opening of the sablefish season.

The AP recommends that this proposal be sent out for public review. The AP requests that the staff expand the proposal and analyze possible allocative impacts of changing the opening date including:

- (a) Examining what effect the change of season would have on other fisheries (e.g., salmon and herring).
- (b) Examining the impacts on product quality and demand (i.e., what does the market place want?).

The motion carried unanimously.

2. Require vessels receiving groundfish in the EEZ to have federal permits.

The AP recommends that this proposal be sent out for public review. The motion carried unanimously.

Regulatory Amendment

The AP recommends the Council approve the regulatory amendment to reduce the percentage of sablefish allowed as incidental longline catch. The motion carried unanimously.

Shelikof Pollock Survey

The AP received a report from Jim Traynor of the NWAFC regarding preliminary results from the Shelikof pollock survey. No action was taken.

D-4 Bering Sea/Aleutian Islands Groundfish FMP

Amendment 12

1. Bycatch management for crab and halibut.

The AP heard extensive testimony from industry, the plan team, and the Bycatch Committee about a bycatch program for crab and halibut in the Bering Sea.

Generally, members of the crab sector testified that the Bycatch Committee's recommendations were flawed, and members of the trawl sector testified that the Bycatch Committee's recommendations were a carefully worked compromise on a difficult and complex issue.

Industry critics of the Bycatch Committee's plan (Alternative 3) had the following comments:

- (a) The plan lacks an incentive to minimize bycatch.
- (b) The plan lacks a method to ensure accountability.
- (c) The plan's method for determining the amount of crab allocated for bycatch is unacceptable.

Some industry critics suggested time and area closures and others suggested revisions to Alternative 3. Two suggested revisions were:

- (a) Base the crab bycatch limits (i.e., 1% of C. bairdi population) on an average of 2-3 years of surveys (running average) rather than just one year.
- (b) Set a floating cap which would be based on the historical performance (i.e., crab bycatch rate x yellowfin sole catch) and adjust it for biomass changes or changes in fishing effort.

Much confusion surfaced in the discussions, including questions such as:

- (a) Would the Council have the authority under the proposed plan to allocate less than the maximum bycatch allowance (i.e., 1% of C. bairdi population)?
- (b) What would happen if the performance of the crab fishery indicated a smaller crab biomass than the previous summer survey?

Larry Cotter, Chair of the Bycatch Committee, addressed the AP to clarify the process delineated by the proposed bycatch management regime.

Subsequent to that discussion the plan team expressed their concerns about Alternative 3:

- (a) Definition of "target fisheries".

The Bycatch Committee proposal identifies many specific target fisheries. The plan team suggests this may cause problems in:

- Preseason calculations.
- Inseason management.
- Enforcement.

Their basic concern is how to apply a mixed trawl to one of many directed fisheries. Do you analyze the data tow-by-tow?

- (b) Accountability

- How do you credit bycatch to individual target fisheries?
- Doesn't monitoring require observers? Will the plan fail without observers?

- (c) What criteria can be developed to guide discretionary authority by the Regional Director?
- What exactly are the "innocuous" and "stringent" measures--and when precisely does the Regional Director use them?
 - If the Regional Director establishes extreme measures for one fishery (e.g., rock sole) but the yellowfin sole fishery is still going on--how do you enforce these measures?
- (d) Enforcement
- There are many practical problems with this detailed proposal; it is difficult and costly.
 - How could observers not have an enforcement role?

The plan team suggested that a partial solution to several practical problems would be to aggregate "target fisheries" by gear type and sector (e.g., DAP and JVP bottom trawl and longline).

Larry Cotter responded that the problem with an aggregate approach is that it ignores the differences between fisheries and you lose the flexibility to manage by individual target fishery.

After further discussion the AP unanimously passed a motion recommending that the Council send this proposal out for public review with two additions:

- (a) As a subset of Alternative 3, redefine the target fisheries as DAP trawl, JVP trawl, DAP longline, and JVP longline and incorporate the plan team's concerns.
- (b) Add a fourth alternative, involving a closed area and bycatch caps reduced from those in Amendment 10 (see attached).

2. Require vessels to have federal permits.

The AP voted to send this proposal out for review. The AP is still concerned about the reporting system, specifically the speed with which data from fish tickets is being incorporated. The AP suggests that the Council create a group to examine this reporting problem.

The motion carried unanimously.

3. Non-retainable groundfish catch limits.

The AP recommends this proposal be sent out for public review. The motion carried unanimously.

4. Resource Assessment Document deadline.

The AP recommends this proposal be sent out for public review. The motion carried unanimously.

5. Prohibit JV targeting on roe-bearing rock sole.

The AP recommends Alternative 2 be amended to specify "retention" on a weekly basis and that the proposal be sent out for public review. The motion carried unanimously.

6. Revise the upper limit of the OY range.

AP recommends this proposal be sent out for public review. The motion included a note to the Council to be particularly sensitive to implications of public comment on item (c) of Alternatives 2 and 3. Some members felt these options were not substantially different from the status quo.

"Directed Fishing" Definition

The AP heard testimony from industry regarding recent enforcement actions related to the definition of "directed fishing". Members of the joint venture trawl fleet stated that NMFS was interpreting the 20% rule on a tow-by-tow basis, causing much of the fleet to be criminals.

The industry's concern is two-fold. First, they felt that the regulation as written, particularly the "rebuttable presumption" provision, was vague and difficult to understand. Secondly, they felt that the current "tow-by-tow" interpretation was unworkable for a ubiquitous species like pollock.

The AP recommends that the Council direct NMFS to interpret this regulation on the basis of retention rather than catch, defining "retention" as what a vessel has onboard in the aggregate.

The AP also encourages the Council to add NMFS enforcement personnel to the subcommittee of the Bycatch Committee working on this issue. The AP requests a report from this subcommittee at the June meeting and at that time would consider adding this issue to an emergency amendment cycle.

The motion carried 10 to 1, with 1 abstention.

Subsequent to this discussion and action, Jon Pollard explained the implications of interpreting this regulation on the basis of retention only. He described a case where a vessel could fill 80% of its hold with pollock and then target on sablefish. Jon also suggested that a different interpretation to the regulation was not the best solution to the problem. Jon recommended that if the AP wanted a different rule they should recommend a rule change.

PAINTER-LOWENBERG-CASEY

Bycatch Management Proposal 1989-1990

1. Prohibit DAP or JVP trawling in the area between 160°W and 163°W, south of 58°N.
2. In Zone 1 (all caps for JVP and DAP):
 - (a) Bairdi cap shall be 80,000 animals in 1989 and 72,000 animals in 1990.
 - (b) King crab cap shall be 80,000 animals in 1989 and 72,000 animals in 1990.
 - (c) At 75% threshold, NMFS applies prudent conditions to on-bottom trawling.
3. In Zone 2 (all caps for JVP and DAP):
 - (a) Bairdi cap shall be 300,000 animals in 1989 and 270,000 animals in 1990.
 - (b) Red king crab cap shall be determined by NMFS and ADF&G biologists, with industry input.
 - (c) At 75% threshold, NMFS applies prudent conditions to on-bottom trawling.
4. Opilio Cap and Rates (all caps for JVP and DAP):
 - (a) In Zones 2 and 3, combined, the total opilio bycatch shall not exceed 1,000,000 animals.
 - (b) Trawlers with low bycatch should receive preference over those with high bycatch.
5. Halibut cap shall not exceed 2,000 tons in 1989, or 1,800 tons in 1990.

*Average weight of trawl caught halibut shall be 5 pounds per fish, subject to more accurate data.