

MINUTES

165th Plenary Session
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
February 4-9, 2004
Anchorage, Alaska

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North Pacific Fishery Management Council

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Certified Stephanie D. Madsen
Stephanie Madsen, Chair

Date June 9, 2004

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165th Plenary Session NORTH PACIFIC FISHERY MANAGEMENT COUNCIL February 4-9, 2004 Anchorage, Alaska

The North Pacific Fishery Management Council met February 4-9, 2004 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met February 2-4, and the Advisory Panel met February 2-7 at the same location. The following members of the Council, staff, SSC and AP attended the meetings.

Council

Stephanie Madsen, Chair
Stosh Anderson
Jim Balsiger
David Benson
John Bundy
Rowan Gould/Tony DeGange
Kevin Duffy/Earl Krygier

Dennis Austin, Vice Chair
Dave Hanson
Arne Fuglvog
Roy Hyder
Hazel Nelson
RADM Underwood/CAPT Richard Preston
Edward Rasmuson

NPFMC Staff

Chris Oliver, Executive Director
Cathy Coon
Elaine Dinneford
Diana Evans
Mark Fina
Nicole Kimball
Jon McCracken

Diana Stram
Bill Wilson
David Witherell
Gail Bendixen
Maria Shawback
Shannon Vivian

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Support Staff

Lisa Lindeman, NOAA-GCAK
Loren Smoker, NOAA-GCAK
Sue Salveson, NMFS-AKR
Michael Sturtevant, NMFS Financial Services
Herman Savikko, ADF&G
Jay Ginter, NMFS-AKR
Steve Davis, NMFS
Brandee Gerke, NMFS-AKR

Bill Karp, AFSC Observer Program
Marcus Hartley, Northern Economics
Ben Muse, NMFS-AKR
Sally Bibb, NMFS-AKR
Jon Kurland, NMFS-AKR
Gretchen Harrington, NMFS-AKR
Shane Capron, NMFS-AKR

Scientific and Statistical Committee

Rich Marasco, Chair
Patty Burke
Keith Criddle
Mark Herrmann
Sue Hills
George Hunt

Gordon Kruse
Franz Mueter
Ken Pitcher
Terry Quinn
Farron Wallace
Doug Woodby

Advisory Panel

John Bruce, Chair
Al Burch
Cora Crome
Craig Cross
Tom Enlow
Dan Falvey
Duncan Fields

Dave Fraser
Jan Jacobs
Bob Jacobson
Teresa Kandianis
Mitch Kilborn
Kent Leslie
John Moller

Kris Norosz
Eric Olson
Jim Preston
Michelle Ridgway
Jeff Stephan

Other Attendees

The following people signed the attendance register:

Ed Dersham
Joe Kyle
Jack Hill
Glenn Reed
Thorn Smith
Brent Paine
Beth Stewart
Marcus Alden
Susan Robinson
Eric Hillis
Paul MacGregor
Jeff Stephan
Craig Cross

Ken Simpson
Lori Swanson
Steve Toomey
Joe Childers
Joe Moore
Heather McCarty
Joe Sullivan
Phillip Lestenkof
Jon Warenduck
Frank Kelty
Mike Szymanski
Russell Prtichett
Steve Grabacki

Michael Lake
Pat Carlson
Bill Orr
Peter Risse
Earl Comstock
Al Burch
Gerry Merrigan
Donna Parker
Jim Sykes
Kevin Suydam
Doug Hoedel

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A list of those who provided public comment during the meeting is found in Appendix I to these minutes.

A. CALL TO ORDER/APPROVAL OF AGENDA/MINUTES OF PREVIOUS MEETING(S)

Council Chair Stephanie Madsen called the meeting to order at approximately 8:06 a.m. on Wednesday, February 4, 2004.

Agenda - The agenda was approved as submitted.

Tony DeGange introduced Dr. Rowan Gould, Regional Administrator for U.S. Fish and Wildlife in Alaska. Mr. Gould sat in on a portion of the meeting.

United States Senator Lisa Murkowski addressed the Council on Saturday, February 7. She thanked the Council for its work and the example it has set for other fishery management councils and voiced her support for Council issues in Washington, DC.

Alaska Governor Frank Murkowski also addressed the Council on February 7. Governor Murkowski briefly updated the Council on several resource-related issues being dealt with on the state level.

B. REPORTS

The Council received written reports from the Executive Director (Agenda item B-1), NMFS Management (B-2), Coast Guard (B-3), ADF&G (B-4), and verbal reports from U.S. Fish and Wildlife (B-5) and the International Pacific Halibut Commission (B-6).

DISCUSSION RESULTING FROM REPORTS

Executive Director's Report

Regarding commissioning a panel of experts to develop an experimental design relative to Steller sea lion science and management, as recommended by the National Academy of Sciences/National Research Council, Chris Oliver reported that internal staff discussions (Council, NMFS And AFSC staff), have led to a recommendation to delay doing so at this time. Reasons given included (1) there are ongoing fisheries interaction studies being conducted by the AFSC; (2) attempting to create further, large scale, open/closed areas could be very disruptive to the overall suite of approved management measures in place; (3) the delicate balance of ESA-approved measures should generally be allowed to remain constant for a while; (4) commissioning the development of such an experimental design would not necessarily result in the experiment being conducted; (5) funds can be reserved for such a study to be conducted later if the Council considers it appropriate.

The Council discussed an industry request to allow the use of VBS units on an interim basis because of the lack of VMS units at this time. Capt. Preston pointed out that three companies have VMS units that have been approved, but more publicity is needed to get the word out to the industry. Mr. Austin recommended that availability of the units be noticed in the Council newsletter and the Council concurred. Mr. Austin also suggested that the issue of back-up software be referred to the Enforcement Committee for recommendations, assuming that NMFS does not have any objection. The Council also agreed with this recommendation. The Council will send a letter to NOAA Enforcement regarding concerns expressed during public comment, and request a status report in April on the VMS program.

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NMFS Management Report

Regarding Amendment 71, for CDQ administrative changes, Sue Salvesson reported that the legal and policy framework in existence at the time the amendment was approved has changed dramatically and that some of the recommendations in the amendment are becoming obsolete. Of primary concern to NMFS include the way in which allocations to CDQ groups are made, the level of desired oversight of subsidiaries, and the role of NMFS of prior review and approval of CDQ investments. A series of opinions from NOAA General Counsel has changed NMFS's understanding of its role in the oversight of the program relative to the State's role. Based on legal advice, NMFS's involvement in decisions regarding economic development aspects of the program will grow. At this time NMFS is struggling with how to balance legal advice and the expectations of the Council and the State and does not think that the Amendment 71 process now provides the regulatory framework that would meet all of the requirements and expectations. As a result, Ms. Salvesson advised that regulations for implementation of the amendment will not be in place in time for the next allocation cycle. Responding to questions from Council members, Sally Bibb (NMFS-AKR) explained that the current allocation cycle expires December 31, 2005. The current allocation process could be used, although NMFS is still discussing other possible options. Council members were also advised the U.S. Fish and Wildlife Service has contacted NMFS regarding a CDQ project to build a processing plant in Nelson Lagoon expressing concern because the area is in critical habitat for the Steller's eider. The USFWS is suggesting that approval of community development plans or individual projects would be a federal action under the ESA and would require NMFS to consult with USFWS on such actions. NMFS is currently working with USFWS regarding these issues.

B-5 USFWS Report

Regarding the Southwest stock of sea otters and the current lawsuit, Kevin Duffy requested that the Council receive a copy of the written response from the Department of Justice when it is issued. Mr. DeGange said he would make a copy available to the Council.

Later in the meeting, Mr. DeGange advised the Council that Secretary Norton will announce next week that the Southwest (Aleutian Islands through the Kodiak archipelago) stock of Steller sea lions will be listed as endangered.

FORMAT FOR COUNCIL MEETING MINUTES

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

C. NEW OR CONTINUING BUSINESS

C-1 Gulf of Alaska Rationalization

ACTION REQUIRED

Review Board of Fisheries Workgroup Report.

C-1(a) Board of Fisheries Workgroup Report

BACKGROUND

The Alaska Board of Fisheries groundfish rationalization committee, or workgroup, met in December and again in January to discuss options for addressing state waters fisheries issues relative to the Council's GOA rationalization initiative. Their reports are under C-1(a) and will be summarized for the Council by Board Chairman Ed Dersham. They are scheduled to meet again later this month, and forward their recommendations to the Board. Recommendations from the Board to the Council could be made at our April meeting, where we are scheduled to meet jointly, via the Protocol Committee and/or via a full meeting with the Board.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

Ed Dersham, Chair of the Alaska Board of Fish, updated the Council on progress of the Board's GOA rationalization workgroup. The group has agreed to pursue legislative action for a moratorium on new entrants into the groundfish fisheries into State waters of Alaska. The goal is to provide the Council with as much information as possible about Board of Fish options and to provide Council staff with the information about those options for any required analysis.

This was an information item and no Council action was required.

C-1(b) Review and refine alternatives, elements and options

ACTION REQUIRED

Review and refine alternatives, elements, and options.

BACKGROUND

In June 2003, the Council identified for analysis a suite of alternatives, elements, and options to rationalize the Gulf of Alaska groundfish fisheries. At its October 2003 and December 2003 meetings, the Council has revised and refined those alternatives, elements, and options based on staff discussion papers and public comment. At this meeting, staff has prepared a discussion paper to aid the Council in continuing that process. The discussion paper covers several issues including:

- (1) A request from staff for the Council to develop elements and options necessary for defining alternative 2C, a program that would allocate harvest shares to both harvesters and processors;
- (2) Preliminary analyses of provisions that
 - a) define processing interests under the program, including provisions that determine whether processing is defined at the plant or company level and whether processors

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- are designated by community or region;**
 - b) govern leasing and establish owner-on-board requirements; and**
 - c) govern transfers of catcher/processor shares, including the transfer of those shares catcher vessels and shore-based participants.**
- 3) Policy questions and legal issues concerning community protection options.**

Staff has also annotated a copy of the Council motion from December 2003, which is intended to aid the Council in clarifying the alternatives, elements, and options. In addition, staff will update the Council on discussions with NOAA General Counsel concerning the legal issues that arise under the community protection options.

The SSC did not address this agenda item.

Report of the Advisory Panel

The Advisory Panel recommended the Council adopt the staff recommendations (Attachment 'a' to Council action memo in meeting notebooks) with changes approved during the AP meeting (see AP Minutes, Appendix II to these minutes).

DISCUSSION/ACTION

Staff provided a copy of the Council's December 2003 motion, with annotations to indicate areas which need clarification or supplementation. (Please see Attachment 'a' to Council action memo in meeting notebooks; the 43-page document will not be included here.) The Council was also provided with an extensive verbal report on those recommendations. Staff pointed out that the Council does not need to make decisions on particular elements and options at this time, but should consider where additional information might be needed on the alternatives, elements and options.

Roy Hyder moved to approve the AP recommendations (to approve staff recommendations with AP revisions). The motion was seconded by Arne Fuglvog.

The Council spent a considerable amount of time revising the alternatives, elements and options through discussion and motions to provide staff direction on further development of an analysis. The final motion, approved without objection, is found in Appendix III to these minutes.

C-1(c) Review Discussion Paper on Salmon and Crab PSC

ACTION REQUIRED

Review staff paper on salmon and crab PSC

BACKGROUND

A staff discussion paper reviewing salmon and crab bycatch in the GOA and suggesting potential alternatives for bycatch limits was presented to the Council in October 2003. At that time it was requested that staff expand upon the preliminary paper to include additional data, information and alternatives. This expanded discussion paper will be handed out on Monday morning as C-1(c)(1). Staff will provide a summary.

The SSC did not address this agenda item.

Report of the Advisory Panel

The Advisory Panel recommended the Council direct staff to provide the draft bycatch paper to ADF&G GOA crab and salmon managers and solicit their input regarding:

1. Species for which bycatch measures should be prioritized.
2. Efficacy of alternatives drafted for achieving bycatch measures.
3. Prioritize geographic areas where bycatch/trigger measures would be most effective.
4. Other comments and recommendations.

The AP also recommended the Council request staff to further refine the discussion paper considering the following:

1. Provide bycatch rates in tables.
2. Add a Pacific cod pot bycatch alternative for Tanner crab.
3. Provide maps showing distribution of king and Tanner crab relative to bycatch hotspots and show existing distribution maps.
4. Provide size and age of Tanner crab caught as bycatch to ascertain impact on population and harvestable stock.
5. Refine and quantify the discussion on relationship between observed and unobserved vessel data.

DISCUSSION/ACTION

The Council discussed these recommendations and took action as part of the main motion on GOA Rationalization alternatives, elements and options [C-1(b), above].

C-2 Observer Program

ACTION REQUIRED

- (a) **Receive overview of North Pacific Groundfish Observer Program**
- (b) **Review NMFS letter on recommendations for the draft analysis to restructure the funding and deployment mechanism in the North Pacific Groundfish Observer Program**

Background

- (a) **Receive overview of North Pacific Groundfish Observer Program**

A general overview of the North Pacific Groundfish Observer Program will be presented by Dr. Bill Karp. Dr. Karp was recently appointed Observer Program Leader at NMFS in June 2003, having also served in this position from 1993 - 1999.

- (b) **Review NMFS letter on recommendations for the draft analysis to restructure the funding and deployment mechanism in the North Pacific Groundfish Observer Program**

In April 2003, the Council reviewed a draft schedule and analytical outline to restructure the observer funding and deployment mechanism in the North Pacific Groundfish Observer Program, based on the recommendations of the Council and the Observer Advisory Committee (OAC). Under the new system, NMFS would contract directly with observer providers for observer coverage, and this would be supported by a broad-based user fee and/or direct Federal funding. The problem statement guiding the amendment identified data quality and disproportionate cost issues resulting from the current program structure. Concerns with the existing program arise from the inability of NMFS to determine when and where observers should be deployed, inflexible coverage levels established in regulation,

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cost-equity issues among the various fishing fleets, and the difficulty to respond to evolving data and management needs in individual fisheries.

The analytical outline the Council reviewed in April has since been developed into the standard EA/RIR/IRFA format, and the Council reviewed a preliminary draft of this analysis at its December 2003 meeting. The existing alternatives stemming from the current problem statement are distinguished primarily by which fisheries would be included in the new funding mechanism and program design. They range from including only GOA groundfish vessels, to including all GOA groundfish vessels and processors, halibut vessels, and BSAI groundfish and halibut vessels with currently less than 100% coverage requirements. Thus, the alternatives currently before the Council focus on effecting these changes primarily in the GOA, since the issues to be addressed by a new program structure were recognized as most acute in the Gulf fisheries.

A summary of the existing five alternatives is included at the end of this memo.

In addition to reviewing the preliminary draft analysis in December, the Council also received a report from NMFS detailing some potential issues of concern related to observer certification/decertification and the application of a new NMFS policy which defines wage rates and overtime requirements for observers under service delivery models that include direct contracts between NMFS and observer providers. NMFS requested additional time to address these issues, in order to determine whether the agency could support a hybrid program in which some vessels (primarily BSAI vessels) would operate under the current pay-as-you-go model and the remaining vessels (primarily GOA vessels) would operate under the new contract system. NMFS noted that such a hybrid program may mean two different procedures for addressing observer performance and conduct problems in the BSAI and the GOA fisheries, and potential differences in observer remuneration between the two systems.

NMFS has since determined that effective procedures for addressing observer performance and data quality issues can only be put in place through a service delivery model that provides direct contractual arrangements between NMFS and the observer providers. NMFS has provided a letter (Attachment C-2(a)) to that effect, describing the rationale for this determination and recommending that the Council include an additional alternative to the draft analysis. The new alternative would apply the proposed direct contract model program-wide, so that all observer services in both the BSAI and the GOA would be provided by observer companies that have direct contracts with NMFS.

The NMFS letter was sent to the Council on January 22. The Council is scheduled to review the letter at this February meeting, and consider taking action based on NMFS' recommendations. In sum, the recommendations include:

- 1) Adding a new alternative to the draft analysis for restructuring the observer program funding and deployment mechanism to extend a direct contract model for observer services to all vessels in the GOA and the BSAI
- 2) Revising the problem statement to encompass the existing alternatives as well as the proposed alternative above

In light of the above recommendations, a discussion of the schedule may be necessary at this meeting. Initial Council review of the draft analysis will likely need to be rescheduled for June 2004 at the earliest, as opposed to the current April timeframe. As suggested in the letter, the Council may want to task the OAC with refining the suite of alternatives, including those that may meet a program-wide approach, should that approach be approved by the Council at this meeting. The OAC is currently scheduled to meet March 11 - 12 in Seattle.

Alternatives currently proposed for the EA/RIR/IRFA to establish a new program for observer procurement and deployment in the North Pacific are as follows:

- Alternative 1. *No action alternative.*** Under this alternative, the current interim “pay-as-you-go” program would continue to be the only system under which groundfish observers would be provided in the groundfish fisheries of the BSAI and GOA.
- Alternative 2. *GOA groundfish vessels only.*** Under this alternative, a new fee-based program would apply only to GOA groundfish vessels, including GOA groundfish vessels under 60' length overall. The current 0%, 30%, and 100% coverage categories would be terminated and NMFS would determine when and where to deploy observers based on data collection and monitoring needs. The fee would be based on a percentage of the ex-vessel value of each vessel's GOA groundfish landings and would be collected through annual billing by NMFS.
- Alternative 3. *GOA groundfish and halibut vessels only.*** This alternative is the same as Alternative 2 except that halibut vessels from all areas off Alaska would be included in the program. Fees would be collected from halibut landings as well as groundfish landings, and NMFS would have the authority to place observers on halibut vessels as well as groundfish vessels.
- Alternative 4. *GOA groundfish and halibut vessels and GOA-based groundfish processors.*** This alternative is the same as Alternative 3 except that GOA groundfish processors would be included in the program. However, in contrast to Alternatives 2 and 3, fees would be collected by processors and fee proceeds would be submitted to NMFS on a quarterly basis.
- Alternative 5. *GOA groundfish vessels, halibut vessels, GOA-based groundfish processors, and BSAI groundfish vessels with less than 100% coverage requirements.*** This alternative is the same as Alternative 4 except that BSAI groundfish (and halibut) vessels that currently have less than 100% coverage requirements would be included. This includes all groundfish trawl and fixed gear vessels under 125' LOA, all pot vessels of any length, and all halibut vessels. BSAI-based groundfish processors that take deliveries from vessels participating in the program would have the option to participate in the program.

Report of the Scientific and Statistical Committee

The SSC reiterated its view that the primary objective of an observer program should representatively gather biological data from each of the fisheries engaged in harvest while simultaneously providing data for unbiased estimates of total catch, and secondarily, to the extent practicable, should provide requisite data on compliance with the many regulatory requirements imposed on the fisheries. The SSC has pointed out many concerns over the past 10 years and expressed disappointment that so little progress has been made in addressing those concerns (Please see SSC Minutes, Appendix IV to these minutes for more specific comments).

The SSC believes there is a major flaw in the current Observer Program for many segments of the industry--the deployment of observers does not ensure representative sampling of retained and discarded catches--and stresses that this flaw must be addressed to ensure the quality and representativeness of the data essential for stock assessment and in-season management. The SSC noted that MRAG has recently completed a review of strategies for deployment of observers in the Gulf of Alaska, and requested an opportunity to review the analysis in advance of the April meeting.

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Report of the Advisory Panel

The Advisory Panel recommended the Council task the Observer Committee with: (1) reviewing and potentially adding to the Problem statement; (2) refining the existing alternatives; and (3) exploring new alternatives that will address the issue of combining BSAI and GOA as one program. The AP also recommended that the Observer Committee should explore the potential use of a mixed model for collecting observer cost data in any service delivery model that may be chosen as well as the potential cost of these different models to industry.

Additionally, the AP recommended the Council task the Committee to:

1. Investigate the “fishing operation exemption” of FLSA;
2. The cost of NMFS recommendation to provide “overtime” coverage for Observers; and
3. Investigate how to increase flexibility in the current service model to address NMFS observer program issues.

Further, the AP recommended the Council direct staff to draft a letter to NMFS Headquarters requesting the reconsideration of the adoption of the FLSA agency policy to industry-funded observer programs in Alaska.

DISCUSSION/ACTION

Jim Balsiger moved to task the Observer Advisory Committee (OAC) with reviewing and recommending any appropriate changes to the Problem Statement, refining existing alternatives, and exploring new alternatives to address the issue of combining BSAI and GOA as one program, including the concept of a direct contract with observer providers. Additionally, the OAC should explore the potential use of a mixed model for collecting observer cost in any service delivery model that may be chosen as well as the potential cost of these different models to industry. The OAC should also examine the following:

1. Investigate the “fishing operation exemption” of FLSA;
2. The cost of NMFS recommendation to provide “overtime” coverage for Observers; and
3. Investigate how to increase flexibility in the current service model to address NMFS observer program issues.

The motion was seconded by Ed Rasmuson.

Arne Fuglvog moved to amend: Add the following task:

4. To investigate observer insurance costs.

The motion was seconded by Roy Hyder and carried without objection.

John Bundy moved to amend to add the following to the main motion:

The Council urges NMFS headquarters to reconsider its adoption of the policy on observer compensation issued on November 13, 2003. The Council requests a response from NMFS headquarters addressing the following issues: (1) how the new overtime policy would impact observer compensation costs under a direct contract approach for the North Pacific Groundfish Observer Program (NPGOP); (2) whether the policy would require that observers be compensated on an hourly plus overtime basis for all non-productive waiting time spent on board the vessels; (3) whether and how the policy addresses the issue of whether observers fall with the FLSA exemption for employees engaged in fishing operations; and (4) how the number of hours worked by

an observer will be verified if the policy requires contractors to compensate observers on an hourly basis. To permit the Observer Advisory Committee (OAC) to move forward with its work on the proposed restructuring of the NPGOP, the Council requests that agency headquarters address and resolve these issues prior to the OAC meeting scheduled for March 11-12, 2004. Council staff will prepare correspondence to NMFS headquarters to this effect.

The motion was seconded by Dave Benson and carried without objection, carrying the main motion.

Ms. Madsen pointed out that although the motion refers to vessels, she believes there could also be an issue for shore plants in reference to non-productive work hours, and the program itself should be clarified as to a definition of non-productive hours. Mr. Bundy agreed that this would be within the intent of his motion. Responding to an explanation of the task to the committee to “investigate the fishing operation exemption of FLSA,” it was clarified that the Committee should take into account the information/direction received from NMFS Headquarters in response to the letter requesting clarification of the policy.

C-3 IR/IU

ACTION REQUIRED

- (a) Receive update on Amendment 79
- (b) Receive progress report on Amendments 80a and 80b

BACKGROUND

(a) Amendment 79

In June 2003, the Council completed final action on Amendment 79, which establishes an overall minimum groundfish retention standard for non-AFA trawl catcher/processors greater than 125' starting in 2005. The Council also requested the IR/IU Technical Committee to review several issues concerning the implementation of Amendment 79. During the subsequent Committee report to the Council at the October 2003 meeting, some questions were raised concerning the implementation timing of the amendment. To assist in addressing these questions, the Council requested NMFS to provide a report on the approval issues related to Amendment 79. In December 2003, NMFS provided a report that identified three principal analytical issues that could improve the amendment package with respect to conformance with National Standard 9. Subsequently, the EA/RIR/IRFA for Amendment 79 was revised to address these analytical issues noted by NMFS. On January 12, 2004, the EA/RIR/IRFA was resubmitted to NMFS. Submittal for formal Secretary of Commerce review would occur when NMFS determines the package is adequate and complete.

(b) Amendment 80

In April 2003, the Council reviewed a discussion paper and decision tree for proposed Amendment 80 that would develop a cooperative structure for the non-AFA trawl CP sector. At that meeting, Amendment 80 was expanded to include allocation alternatives for dividing BSAI groundfish and PSC species among all BSAI fishing sectors. Since June 2003, the Council has continued to refine the components and options for Amendment 80a (sector allocations) and 80b (cooperative structure for non-AFA trawl CP sector). At the December 2003 meeting, the Council finalized the components and options for Amendment 80a and 80b for the purpose of analysis. The revised components and options for Amendment 80a and 80b are attached as Item C-3(a). Note, staff has added a clarification to Component 1, 3 and 10 for Amendment 80a.

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Presented below are a number of different issues that relate to further development of Amendment 80.

Limited Time Line and 2003 Fish Ticket Data

Since the December 2003 Council meeting, the analytical team has begun preparing an EA/RIR/IRFA for Amendment 80. However, staff has some concerns on the time line. Currently, Amendment 80 is scheduled for initial review in April 2004 and final action in June 2004. Based on this schedule, there are only six weeks remaining before the April 2004 meeting. Given the complexity of the proposed amendment, the EA/RIR/IRFA is likely to be incomplete at the time of initial review. In addition, there is a potential for delays in 2003 data to further slow the work on the EA/RIR/IRFA. Given these issues, coupled with further work necessary relative to monitoring and enforcement issues, a June 2004 target for initial review is likely more realistic.

Amendment 80a and 80b Alternatives

In order to satisfy NEPA requirements, the EA portion of the analysis must have realistic and contrasting alternatives from which the Council can select their preferred alternative. Reasonable and contrasting alternatives have been crafted for Amendment 80b by the Council, but alternatives have not been fashioned for Amendment 80a. To assist in crafting these alternatives, staff has created two strawman alternatives, in addition to status quo, that are based on different configurations from among the components and options. The alternatives are for the purpose of analysis, and do not necessarily restrict the Council from selecting different options to craft their preferred alternative.

Alternative 1 - No Action/Status Quo

Under this alternative, current management of groundfish and PSC in the BSAI would continue to be managed in accordance with existing Federal management measures, including any management measures pending. One of those pending management measures is the groundfish retention standard (GRS) assuming SOC approval. This action will phase in a minimum retention standard for the non-AFA trawl catcher processors over 125 feet over a four year period starting in 2005 at 65 percent and culminating in 2008 at 85 percent.

Alternative 2 - Allocate all Groundfish

This alternative would allocate all groundfish except pollock. In addition, if an allocation of a groundfish species was an amount too small to harvest, then that species would not be allocated. ICAs along with soft caps will be used to managed those groundfish species not allocated to the sectors. This alternative would use 1995 to 2002 for the sector's catch history, but would exclude the AFA-9 catch history. This alternative would allocate Pacific cod in the same method used to allocate the other targeted species, and thus supercede all existing apportionments of Pacific cod in the BSAI. PSC allocations would be based on historic fishery group's apportionment and PSC usage by the sector. This alternative would not include a harvest threshold for underutilized species. Finally, the alternative would have a liberal eligibility requirement for vessels to qualified to participate in a sector.

Alternative 3 - Allocate only Primary Target Groundfish

This alternative would only allocate primary target groundfish species (Pacific cod, yellowfin sole, rock sole, flathead sole, Atka mackerel, Greenland turbot, and Al Pacific Ocean perch). ICAs along with hard caps would be used to manage those groundfish species not allocated to the sectors. This alternative would use 1998 to 2002 for the sector's catch history and would include the AFA-9 catch history. Pacific cod allocations would be based on apportions in the regulations as modified by Amendment 77. In addition, the Pacific cod apportionment for the trawl CP sectors would be split between the non-AFA trawl CP at 18.3 percent and the AFA trawl catcher processors at 5.2 percent.

PSC would be allocated based on the proportion of PSC harvest attributed to the fishery group and the proportion of target species harvested in the fishery group. This alternative would have a low harvest threshold for underutilized species. Finally, this alternative would have more restrictive eligibility requirements for vessels to participate in a sector.

A full description of the proposed Alternative 2 and 3 is attached as Item C-3(b).

Amendment 80a and 80b Problem Statement

In order to complete the initial analysis of Amendment 80, a problem statement will need to be drafted. Staff has drafted a strawman problem statement for Amendment 80, based on the evolution of this proposed action, and it is presented below.

Problem Statement for Amendment 80 to the BSAI FMP

The Council's primary concern is to maintain a healthy marine ecosystem to ensure the long-term conservation and abundance of the groundfish and crab resources. To this end, the Council is committed to reducing bycatch, minimizing waste, and improving utilization of fish resources to the extent practicable in order to provide the maximum benefit to present generations of fishermen, associated fishing industry sectors, communities, and the nation as a whole, while at the same time continuing to look for ways to further rationalize the fisheries. The Council also recognizes that the fishing industry is made up of participants who have a vested interest in the continued improvement in the long-term conservation of the groundfish resources, but at times could be burdened with additional costs associated with management programs that improve conservation or reduce bycatch. The problem facing the Council is two fold. First, is to fashion a management program that would mitigate the cost, to some degree, for those participants burdened with additional costs associated with management programs that improve conservation and reduce bycatch, while also continuing to reduce discards of groundfish and crab to practicable and acceptable levels. Second, is to develop programs to slow the race for fish, and reduce bycatch and its associated mortalities, while maintaining a healthy harvesting and processing industry, recognizing long term investments in the fisheries, and promoting safety, efficiency, and further rationalization in all sectors.

Amendment 80 EA or EIS

At the December Council meeting, the question was raised whether an EA is the appropriate NEPA document for Amendment 80 or whether it should be an EIS. Currently, an EA is being prepared for the action proposed. To better answer the question raised at the December meeting, staff has prepared a discussion paper outlining the more significant issues to consider, including estimated time lines for each approach. The discussion paper is attached as Item C-3(c).

Amendment 80 Monitoring and Enforcement Issues

Item C-3(d) is a discussion paper prepared for the February 3 Enforcement Committee meeting. The paper summarizes NOAA Fisheries' initial efforts to document monitoring and enforcement issues for Amendment 80. These issues will have to be further developed to complete the analytical package for Council review and action.

The SSC did not address this agenda item.

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Report of the Advisory Panel

The Advisory Panel recommended a lengthy new Needs and Purpose Statement (Please see AP Minutes, Appendix II to these minutes) and recommended incorporating the following components and options:

- 80A Component 5: Option 5.2.1 Change “exclude” to “include AFA-9 catch history...” (Alternative 2)
- 80A Component 5: Option 5.4 Change “include” to “exclude AFA-9 catch history...” (Alternative 3)
- 80A Component 5: Add an Option 5.6, 2000-2003 with a suboption to exclude 2001
- 80A Component 10: Delete
- 80B Component 4: Add Option 4.7 - 100%
- 80B Component 6: Option 6.3 add suboption: don't drop a year
- 80B Component 6: Add suboption to 6.4 98-03 drop 2 years

DISCUSSION/ACTION

Earl Krygier moved to approve the problem statement provided by staff on page 3 of the Action Memo, with some changes, for both Amendments 80a and 80b:

Problem Statement for Amendment 80 to the BSAI FMP

The Council's primary concern is to maintain a healthy marine ecosystem to ensure the long-term conservation and abundance of the groundfish and crab resources. To this end, the Council is committed to reducing bycatch, minimizing waste, and improving utilization of fish resources to the extent practicable in order to provide the maximum benefit to present generations of fishermen, associated fishing industry sectors, communities, and the nation as a whole, while at the same time continuing to look for ways to further rationalize the fisheries. The Council also recognizes that the fishing industry is made up of participants who have a vested interest in the continued improvement in the long-term conservation of the groundfish resources, but at times could be burdened with additional costs associated with management programs that improve conservation or reduce bycatch. The problem facing the Council is two fold. First, is to develop programs to slow the race for fish, further rationalize all sectors, and reduce bycatch and its associated mortalities, while maintaining a healthy harvesting and processing industry, recognizing long term investments in the fisheries, and promoting safety and efficiency. Second, is to fashion a management program that would mitigate the cost, to some degree, for those participants burdened with additional costs associated with management programs that improve conservation and reduce bycatch, while also continuing to reduce discards of groundfish and crab to practicable and acceptable levels.

Additionally, approve the following recommendations of the Advisory Panel:

- 80A Component 5: Option 5.4 Change “include” to “exclude AFA-9 catch history...” (Alt. 3)**
- 80A Component 5: Add an Option 5.6, 2000-2003 with a suboption to exclude 2001**
- 80B Component 4: Add Option 4.7 - 100%**
- 80B Component 6: Option 6.3 add suboption: don't drop a year**
- 80B Component 6: Add suboption to 6.4 98-03 drop 2 years**

The motion was seconded by Arne Fuglvog and carried, as amended, without objection.

Dave Benson moved to add the following:

80A Component 5: Option 5.2.1 Change “exclude” to “include AFA-9 catch history. . .”
(Alternative 2)

The motion was seconded by Dennis Austin and carried without objection.

The main motion, as amended, carried without objection.

C-4 HAPC

ACTION REQUIRED

Receive report on initial call for proposals and provide any guidance for plan team review.

BACKGROUND

During the October 2003 meeting the Council established a HAPC process which is documented in the draft environmental impact statement (EIS) for EFH under Appendix J. A notice of the Draft Environmental Impact Statement (DEIS) for Essential Fish Habitat (EFH) was released in January 2004, attached as Item C-4(a). Note that the revised settlement agreement requires that “final regulations implementing HAPC designations, if any, and any associated management measures that result from this process will be promulgated no later than August 13, 2006, and will be supported by appropriate NEPA analysis.”

Within the HAPC process the Council set habitat priorities and issued an initial call for proposals, which ended January 10, 2004 (Item C-4(b)). A summary of the proposals attached as Item C-4(c).

As a portion of the HAPC process the proposals will be reviewed by the Council’s plan teams including the additions of an enforcement and socioeconomic component in early March. Submitted proposals will be evaluated on ecological and management considerations, socio-economic concerns, and for practicability (Item C-4(d)). The plan teams will rank the proposals using a matrix and their recommendations will be forwarded to the Council in April.

The Advisory Panel did not address this agenda item.

Report of the Scientific and Statistical Committee

The SSC cautioned against using the staff proposal to sum the rankings across categories to provide an overall measure of how well the proposal meets Council priorities and HAPC considerations without further consideration of the importance of each category. The SSC also stressed the importance of scoring the proposals in a uniform manner to ensure some level of objectivity, and recommended that HAPC definitions should periodically be reviewed to reflect improved knowledge derived from research. Please see the SSC Minutes, Appendix IV to these minutes, for more detailed discussion of recommendations.

DISCUSSION/ACTON

Earl Krygier moved to forward all 23 proposals to the Plan Team for review, and to forward three of the five tables found in Agenda Item C-4, Supplemental, February 2004, for the evaluation process, with the following changes:

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Table 1 - Under the column labeled, “Rarity”, divide the column into two subsections labeled: “Local” and “Global”

Table 2 - No Changes

Table 5 - Add a new column entitled, “Scientific and Technical Review”

The motion was seconded by Stosh Anderson.

Mr. Krygier noted that there should be no scoring on the first two columns - “Area radius and Area size.” Tables 3 and 4 would not be forwarded to the Plan Team.

John Bundy moved to amend that early in its agenda the Plan Team review and discuss Council criteria, and identify any non-responsive proposals, if any. The motion was seconded by Dave Benson and carried without objection.

The main motion carried, as amended, without objection.

Dave Benson moved the Council forward the seamount HAPC proposals for evaluation and further consideration and notify the public that the Council will consider designating seamounts as EFH through the EFH EIS process. Additionally, request staff to identify and provide information from the EFH EIS or other applicable sources to be available for public review and Council consideration at the appropriate step in the EFH EIS process (i.e., prior to the meeting where the Council will choose its preferred EFH alternative).

The motion was seconded by Arne Fuglvog and carried without objection.

C-5 Crab EIS

ACTION REQUIRED

Initial review of crab preliminary draft EIS

In June 2002, in response to concern from participants and a Congressional directive, the Council completed an analysis of rationalization alternatives for the BSAI crab fisheries. At that meeting, the Council adopted for analysis in an Environmental Impact Statement a suite of alternatives, including a preliminary preferred alternative, to rationalize the Bering Sea and Aleutian Islands (BSAI) crab fisheries. At its meetings in October 2002, December 2002, February 2003, April 2003, and June 2003, the Council developed a series of trailing amendments for incorporation into that preliminary preferred alternative and refined and revised the other alternatives for EIS analysis. Council and NOAA Fisheries staff have completed a preliminary draft of the EIS, which is scheduled for Council initial review at this meeting. A copy of the executive summary to the EIS (Item C-5(a)(1)) and the specific provisions from the Council’s motions identifying the preferred alternative (Item C-5(a)(2)) are attached. At this meeting the Council needs to decide whether the EIS is ready to be released for publication as a draft EIS, for public comment and subsequent final action.

The EIS examines three rationalization alternatives and the status quo. Because of unique problems in these fisheries, recognized by the Council and implicitly acknowledged in the Congressional directive, the preferred alternative is a management program that includes provisions that were beyond the scope of the Council’s general authority under the Magnuson Stevens Act at the time the preliminary preferred alternative was identified. Since that time, the Council provided two reports

advising Congress of its preliminary preferred alternative. In response to those reports, Congress included in its Omnibus Appropriations bill for fiscal 2004 (HR 2673) a provision directing the Secretary of Commerce to approve and implement the Council's preliminary preferred alternative. Copies of the language from the bill (Item C-5(a)(3)), the associated conference report (Item C-5(a)(4)), and Senator Stevens floor statement (Item C-5(a)(5)), are attached.

Report of the Scientific and Statistical Committee

The SSC recommended sending the Crab EIS out for review and comment, after consideration of several issues provided to the authors (Please see SSC Minutes, Appendix IV to these minutes for those comments and recommendations).

Report of the Advisory Panel

The AP recommended the release of the Draft BSAI Crab EIS for public review and comment. The AP further recommended staff incorporate the SSC's comments and the following AP recommendations if inclusion of these comments and recommendations can be done prior to release and will not delay final action.

1. Include the "Council Motion for BSAI Crab Rationalization June 10, 2002 as updated April 2003" in the EIS.
2. Include discussion relative to 4.6.7.3 on page 4-217 of the EIS, be updated to include discussion of the DOJ letter dated August 27, 2003 relative to anti-trust risk associated with binding arbitration.
3. The AP endorses the SSC's recommendation #5 on page 5 of their February 2004 minutes. Additionally, the AP requests staff prepare a document to be circulated to the public before the June meeting which would show the allocation of IPQs to individual processors and the distribution of IPQs among communities.
4. The discussion of the August 5, 2002 letter to Congress identifies that other (non-MSFCMA) statutes would need to be amended to implement the mandatory data collection program. This section of the EIS should identify those statutes and whether the data collection may be constrained, given that 801 (j) (l) only addresses MSFCMA restrictions on data collection. (4.6.7.5 page 4-224)
5. Expand discussion of the short and long term effects of crab rationalization, and that efficiency be clearly defined and applied consistently to both the harvesting and processing sectors.

DISCUSSION/ACTION

Ed Rasmuson moved that the Council direct staff to prepare an analysis for delivery to the Council 18 months after the fleet begins fishing under the crab rationalization program. The analysis will examine effects of the 90/10 A share/B share split and the binding arbitration program on the distribution of benefits between harvesters and processors in the BSAI crab fisheries. On receiving the analysis, the Council will consider whether the 90/10 split and arbitration program are having their intended effects and whether some other A share/B share split (e.g., 80/20, 70/30, or 50/50) may be appropriate. The motion was seconded by Kevin Duffy and carried without objection.

Mr. Rasmuson stated that he's proposing the review in 18 months so the Council can address any problems that may arise during the first year of the program in a timely manner.

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Relating the Crab EIS, Loren Smoker advised that General Counsel is looking into the requests from industry to provide an analysis showing allocation of IPQ to individual processors and communities and how the issue of confidentiality applies. Ms. Smoker alerted the Council that it may not have authority to release data requested by the Advisory Panel and SSC. NOAA GC will provide the Council with an interpretation as soon as possible.

Arne Fuglvog moved to release the Preliminary Draft BSAI Crab EIS for public comment and review. The Council concurs with the recommendations of the SSC and requests that NMFS and Council staff take those into consideration in preparing the final draft of the EIS. The motion was seconded by John Bundy and carried with Anderson objecting.

Mr. Fuglvog said that he believes the EIS contains a reasonable range of alternatives to give the Council and the public a reasonable basis for making a decision on whether to rationalize the BSAI crab fisheries and, if so, which alternative to select. Comments and recommendations by the SSC will help refine the document for final review and decision and should be incorporated in the final document.

Stosh Anderson moved that the Council request clarification from NOAA-GC concerning the scope of section 801(j)(8) confidentiality waiver in new Section 313(j)(8) of the MSA. Further, the Council requests that the analysis be revisited to show the individual PQ allocations that would result under the preliminary preferred alternative, to the extent staff is able to do so under confidentiality waiver, with special attention to the interplay between those allocations and community protection measures. The motion was seconded by Arne Fuglvog and carried without objection.

C-6 Congressional Legislation

ACTION REQUIRED

- (a) **Receive supplemental information relevant to management of a directed pollock fishery in the Aleutian Islands and respond to the recent Congressional action.**
- (b) **Receive report from NOAA Fisheries on implementation of a pilot rockfish fishery rationalization program in the GOA per recent Congressional action.**

BACKGROUND

During its December 2003 meeting, the Council was informed that a rider to the 2004 omnibus appropriations bill (Sections 801-804, Title VIII - Alaskan Fisheries, in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004) may require the Council to provide for a directed Aleutian Islands pollock fishery and to apportion the TAC to the Aleut Corporation for economic development in Adak (Section 803). That rider also would require the Council to implement a pilot rockfish fishery rationalization program in the GOA. In December, the Council discussed options for how they might respond to the Congressional intent in these two measures, but recognized that the legislation had not yet passed and this issue should be addressed if/when it passes.

Therefore, the Council decided to wait until Congress takes action on the appropriations bill and address these issues in their February 2004 meeting. However, to prepare for the possibility that the legislation does pass, and the measures outlined in the rider become law, the Council requested staff to prepare several documents for Council review and action at its February 2004 meeting. The Council also formally initiated a comprehensive analysis of the Aleutian Islands pollock fishery for

review in June 2004. This analysis would form the basis for a NEPA documentation to accompany consideration of a fishery beyond 2004.

Aleutian Islands Directed Pollock Fishery

The Council asked for two documents in February:

- (1) A discussion document from NOAA Fisheries that summarizes the options available to the Council to respond to the Congressional rider, and
- (2) A document from NOAA Fisheries and Council staff that provides information necessary for examining, to the extent possible, the potential cumulative effects of opening the Aleutian Islands to a directed pollock fishery. The Council also asked that this document include the information requested in the Council motion made during its October 2002 meeting.

In response to the Council's request, NOAA and Council staffs have developed both of these documents. The "options analysis" document is attached as Item C-6(a). It was prepared by NOAA Fisheries and NOAA GC and provides guidance to the Council as it considers options for addressing the issue of apportioning TAC to the Aleut Corporation for a directed Aleutian Islands pollock fishery.

NOAA Fisheries and NOAA GC staff will present this options paper and will be available for questions.

The "cumulative effects document" is provided as C-6(Supplemental). This document is a discussion document that includes the following information:

- An historic review of precious Council discussions and actions on the Aleutian Islands pollock fishery issue
- A summary of the Congressional rider (Section 803) and a discussion of options the Council has to respond
- An overview of the Aleutian Islands pollock fishery including historic fishing patterns and revenues; historic pollock fishery bycatch data; historic pollock harvest relative to Steller sea lion critical habitat, seabirds, habitat types, and other target fisheries; and State managed and parallel fisheries
- A summary of other target fisheries in the Aleutian Islands
- Information on Steller sea lions in the Aleutian Islands area including stock structure, prey fields and densities, prey depletion, telemetry data, and fishery effects on sea lions
- Information on the structure of the pollock stock in the Aleutian Islands
- A supplement to the NMFS letter of March 13, 2003 that summarizes various NOAA and Council documents and initiatives under way at the time that responded to the Council's October 2002 information request
- Excerpted language from the Congressional Record that includes Senator Stevens' remarks on Section 803 of Title VIII of the Consolidated Appropriations Act, 2004

NOAA Fisheries and Council staff will be available to review this information and to answer questions. Regardless of the action taken by the Council in this meeting, these materials will be further developed for the longer-term NEPA analysis scheduled for completion in June. The Council may wish to re-visit the schedule for completion of this document in light of the specifications process - i.e., the Council likely would need to take final action on this issue in June in order to treat the AI pollock fishery quota in the normal specifications process; if final action is taken in October 2004, the specifications for a 2005 AI pollock fishery would have to be set using an emergency rule.

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GOA Pilot Rockfish Fishery Rationalization

NOAA Fisheries has prepared a discussion document relevant to establishing a pilot rockfish fishery rationalization program in the GOA (Item C-6(b)). The Act directs the Secretary to develop such a program (in consultation with the Council), but is silent relative to many aspects of the program that will need to be considered, and does not specify a target date for implementation of such a program. NOAA is looking to the Council to help develop the specifics of the program, which is expected to require typical analyses of different approaches and options, and standard rulemaking under MSA and NEPA.

The actual language in the Consolidated Appropriations Act, 2004 (Title VIII - Alaskan Fisheries), as well as the floor statement and legislative history for these riders, are under Item C-6(c).

The SSC did not address this agenda item.

Report of the Advisory Panel

The AP have the following recommendations:

Crab Rationalization

The AP recommends the Council initiate a trailing amendment that analyzes a range of alternative ratios of A shares and B shares in the BSAI crab fishery. The amendment would have as its range of alternatives: 50/50, 60/40, 70/30 and 80/20.

Further, the AP recommends that the amendment be ready no later than December 30, 2005. As a suboption, all shares originally designated as A shares shall retain their regional designations, should the ratios between A shares and B shares be modified.

GOA Rockfish

The AP recommends the Council not take action at this time pending further input by the stakeholders and proposers. Additionally, the AP recommends the Council request staff agenda this item for the April 2004 meeting.

Further, the AP expresses its intent that the rockfish pilot program should not slow down the GOA Groundfish Rationalization package and requests that the proposers align the program with the options for rockfish under GOA Groundfish rationalization where possible.

AI Pollock

The AP recommends that an amendment to the BSAI FMP be initiated for an AI pollock fishery that would follow the April/June schedule alternative to mesh with the normal specifications process for a fishery to occur in 2005.

Further, the AP provides the following comments on the potential FMP amendment alternatives:

Optimum Yield (OY) cap:

- Require, in the FMP, that pollock allocations to an AI fishery come from within the OY cap

Use of B season allocation:

- No action. Maintain current 40/60 season apportionment requirement for pollock fisheries

- Put B season allocation in a reserve, permitting reallocation of harvest amount to another gear group in the B season, to the EBS subarea, or to another species or species group
 - SUBOPTION: Pro-rate to the species which it was deducted

Small vessels

- Provision for small vessels to fish starting in 2005
- Defer small vessel participation until a later date 2 or 5 years from now to allow for development of a management program

Economic development mandate

- Require an annual report to the Council

Mandatory vessel activity

- Have NMFS staff consult with enforcement and provide the Council with options.
- Mandatory shoreside monitoring

Expand the charge of the SSL Mitigation Committee to include discussion of modifying Aleutian Islands SSL closure areas to accommodate small vessels fishing during the A season for the Aleut Corporation pollock allocation.

DISCUSSION/ACTION

[The Council discussed CRAB EIS issues under a separate agenda item, C-1.]

Aleutian Island Pollock Fishery

Arne Fuglvog moved the following:

The Council recommends an amendment to the BSAI FMP for an Aleutian Islands pollock fishery. In the development of this amendment, the Council will be cautious that any opening of a directed Aleutian Islands pollock fishery is accomplished in full compliance with all applicable law and not disruptive to existing fisheries to the extent practicable. The Council will avoid taking any action in regards to this fishery which would require a new consultation under the current biological opinion or Endangered Species Act covering Steller sea lions.

It is the Council's intent that this amendment should be developed on a schedule that will address all these considerations. These considerations must be met in order for the fishery to occur. As long as these considerations are met and, if possible, the schedule should mesh with the normal specifications process for a fishery to occur in 2005. The schedule will be [determined by staff].

Initial Allocation Amount

For guidance in determining the allocation amount to the AI pollock fishery, the Council shall consider pollock allocations given to the various groups that participate in the CDQ program in order to recommend a reasonable amount of AI pollock to the Aleut Corporation and in no case should this amount exceed 40,000 mt.

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Optimum Yield Cap & allocation of Unutilized AI Pollock Allocation

The following options will be analyzed:

The pollock allocation to an AI fishery will come from within the OY cap.

Option 1: The pollock allocation to the AI fishery will be funded by a reduction in the EBS pollock TAC. Any unused pollock TAC from the AI fishery will be rolled back to the EBS pollock TAC. This will occur at the earliest time possible in the calendar year.

Option 2: The pollock allocation to the AI fishery will be funded by taking proportional reductions in the TACs for each of the existing groundfish fisheries in the BSAI. Any unused pollock TAC from the AI fishery will be rolled back on a pro-rated basis to the fisheries from where it originated in the same proportion. This should occur at the earliest possible time in the calendar year.

Suboption i.) exempt the BSAI sablefish IFQ fishery from the proportional reduction.

Use of the B Season Allocation

Option 1: Maintain current 40/60 seasonal apportionment requirement for pollock fisheries.

Small Vessels [as in AP motion]

Option 1: Provisions for small vessels to fish starting in 2005.

Option 2: Defer small vessel participation until a later date 2 or 5 years from now to allow for development of a management program.

Economic Development Mandate [as in AP motion]

Option 1: Require an annual report to Council.

Mandatory Vessel Activity [as in AP motion]

Option 1: Have NMFS staff consult with enforcement and provide the Council with options.

Option 2: Mandatory shoreside monitoring.

Safety and Efficiency of Small Vessel Operations

Option 1: No change in SSL protection measures.

Option 2: Charge the SSL Mitigation Committee to consider changes to the SSL protection measures to allow small pollock trawlers to operate more safely and efficiently. The Council will not take any action which would require a new consultation under the ESA.

The motion was seconded by Stosh Anderson.

It was clarified that this motion would not initiate a new analysis, but would be developed by modifying the current document staff has provided and would supercede previous Council direction on that document.

Jim Balsiger moved to amend the last sentence of the motion to read: “The Council will not take any action which would require a formal consultation under the ESA.

The motion was seconded by Stosh Anderson.

John Bundy moved to amend the amendment to substitute with the following: “The Council will not take any action which would likely result in an adverse effect requiring formal consultation under the ESA.” The motion was seconded by Dave Benson and carried without objection; this amendment carried Mr. Balsiger’s amendment.

Dave Benson moved to amend the last sentence in the first paragraph to read: “The Council will avoid taking any action in regards to this fishery which would likely result in an adverse effect requiring a formal consultation under the current Biological Opinion or the ESA covering Steller sea lions.” The motion was seconded by Arne Fuglvog.

Stosh Anderson moved to amend the amendment by deleting the words, “covering Steller sea lions” from the sentence. The motion was seconded by Kevin Duffy and carried without objection. Mr. Benson’s amended amendment carried without objection.

NOAA-GC Loren Smoker asked for Council discussion relating to the deletion of the alternative to allow a pollock allocation in excess of the 2 million metric ton cap because of the enabling legislation, and because under NEPA all reasonable alternatives need to be considered.

Staff advised that when this issue was tasked, the question was whether or not to allow a pollock fishery in the Aleutian Islands, and Council members made it fairly clear that exceeding the 2 mmt cap was not a viable option they would care to consider. Some Council members agreed that analysis of that option may be considered in the future but that it should not be folded into this analysis with the current timeframe to allow a 2005 AI pollock fishery.

John Bundy moved to reinsert Option 1: The pollock allocation to the AI fishery would be in addition to the 2 million metric ton cap consistent with the provisions in Section 803(c). The motion was seconded by Dave Benson, and failed, 8 to 3, with Benson, Bundy and Hyder voting in favor.

The main motion, as amended, carried without objection. A copy of the final motion is included as Appendix V to these minutes.

GOA Rockfish

Roy Hyder moved to approve the Advisory Panel recommendations on rockfish:

The Council will not take action at this time, pending further input by stakeholders and proposers. Additionally, this issue will be placed on the April 2004 meeting agenda for further discussion.

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Further, the intent is that the rockfish pilot program should not slow down the GOA Groundfish Rationalization package and the Council requests that the proposers align the program with the options for rockfish under GOA groundfish rationalization where possible.

The motion was seconded by Ed Rasmuson.

Arne Fuglvog moved to amend to delete the second paragraph. The motion was seconded by Dave Benson and carried without objection. The main motion, as amended, carried without objection.

C-7 American Fisheries Act

ACTION REQUIRED

Review 2003 pollock cooperative year-end reports, and 2004 cooperative agreements.

BACKGROUND

Final, year-end co-op reports for 2003 were due February 1, along with cooperative agreements for the 2004 fisheries. Consistent with recent practice, we have not provided full copies of all the reports to you, but we have copies available here in a reference manual, and we will provide copies to anyone requesting the full reports. Pollock co-op representatives are on hand to provide a summary of these reports to the Council, as well as any changes to the co-op agreements.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

This was an informational item. The Council received an oral report from representatives of the Pollock Co-op.

C-8 DPSEIS

ACTION REQUIRED

- (a) Report on comments received on revised draft (Council and AP only)
- (b) Report on ESA consultation (Council, AP and SSC)
- (c) Report on Groundfish FMP revisions (Council and AP only)

BACKGROUND

- (a) Report on comments received on revised draft

The public comment period on the revised draft Alaska Groundfish PSEIS closed on November 6, 2003. NOAA Fisheries received 13,400 public comments on the revised draft. An overview of the comments received is attached as Item C-8(1). Most were submitted using the Agency's e-Comment website. The issues raised in the comments have been synthesized under various topic headings, ranging from commenting on the Council and Agency's preliminary preferred alternative, to issues with the analysis, to legal compliance and public process issues. The resulting draft Comment Analysis Report is scheduled to be made available to the Council and the public by March 1, 2004. The Council will receive a status report on the processing and review of these comments and the actions to be taken by the Council at its April and June 2004 meetings.

(b) Report on ESA consultation

In conjunction with the release of the revised draft PSEIS, NOAA Fisheries initiated Section 7 consultation with NOAA Fisheries Protected Resources division and the USFWS on the PSEIS and the preliminary preferred alternative. A draft Biological Assessment (BA) has been prepared, and the Executive Summary is attached as Item C-8(2). The draft conclusion of the BA is that the anticipated action, namely reauthorizing the Alaska Groundfish Fisheries under the management policy articulated in the preliminary preferred alternative, will not result in jeopardy, and that no new Biological Opinion need be prepared for the BSAI and GOA groundfish FMPs at this time. Staff will report on the findings of the BA, and the response by Protected Resources and USFWS.

(c) Report on Groundfish FMP revisions

A supplemental element of the PSEIS FMP amendment to redefine the management policy of the groundfish fisheries will be a housekeeping action to revise the language and organization of the BSAI and GOA groundfish FMPs. The groundfish FMPs for the BSAI and GOA have each been amended over 60 times, and contain text that is out-of-date or irrelevant. Also, the organization of the BSAI and GOA FMPs varies considerably. To improve the accessibility of the FMP material, the FMPs will be reorganized and updated to be consistent with each other. Staff will provide a report on the proposed changes using the BSAI FMP as a template. The Executive Summary and Table of Contents for the revised BSAI FMP is attached as Item C-8(3).

The Advisory Panel did not address this agenda item.

Report of the Scientific and Statistical Committee

The SSC received a staff report on the biological assessment for the Draft Programmatic Supplemental Environmental Impact Statement but did not offer any comments or suggestions.

DISCUSSION/ACTION

Diana Evans, Council staff, provided the Council with a review of the issues outlined in the above Action Memo. This was an informational item and no Council action was taken.

C-9 SSL Mitigation Adjustments in the GOA

ACTION REQUIRED

Review NMFS informal consultation and receive report from Steller Sea Lion Mitigation Committee. Review and approve for analysis a package of proposed amendments to the Gulf of Alaska Groundfish FMP. Consider charging the SSLMC to develop a more broad package of SSL regulatory changes.

BACKGROUND

During its April 2003 meeting, the Council asked the Steller Sea Lion Mitigation Committee (SSLMC) to review the current Steller sea lion protection measures in the Gulf of Alaska and develop proposed regulatory changes that would provide some economic relief to Gulf communities. The SSLMC met several times in 2003 and developed a package of proposed regulatory changes that was reviewed by the Council at its December 2003 meeting. At that meeting, the Council approved sending the package to NMFS for informal consultation on possible effects of the proposed measures on the endangered Steller sea lion. A copy of the proposal package is attached as Item C-9(a).

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NMFS has completed their review of the Council's proposed amendment package. The process of the review was an informal Section 7 consultation conducted under the terms of the Endangered Species Act. The results of the NMFS review are attached as Item C-9(b). The SSLMC met on January 20, 2004 to receive the NMFS report and to discuss concerns raised in the NMFS review. The minutes of the SSLMC meeting are attached as Item C-9(c).

Several elements of the SSLMC's proposed amendment package were judged by NMFS as having the potential to adversely impact the western population of Steller sea lion (wSSL). While the Council can move these proposals forward to analysis, this likely would trigger a formal Section 7 consultation, which would require more time and perhaps the preparation of an Environmental Impact Statement. These proposed amendments and a brief summary of NMFS concerns are provided in the following:

1. Open the closed area around Marmot Island to 10 n mi for pollock trawling during the A and B seasons and compensate for this expanded open area with a closure around Sea Otter Island.

NMFS notes that Marmot Island was once the largest wSSL rookery in the GOA. Survey data show that wSSL pup counts on Marmot have declined considerably in the 1990s. This rookery is listed as critical habitat for wSSLs. NMFS believes this group of animals that use Marmot are key to the overall recovery of sea lions in the GOA and the prey field used by these animals should receive continued protection from pollock trawling. The proposed regulatory change would reduce this protection and potentially adversely affect wSSLs. NMFS also noted this measure was not supported by the SSC.

2. Open an area around Atkins Island to allow for Pacific cod trawling to 3 n mi offshore from Castle Rock.

The wSSL population using Atkins Island has declined considerably in the 1990s. This rookery was once one of the larger rookeries in the western GOA. This rookery is listed as critical habitat for wSSLs. While the intent of this proposal is to allow for more Pacific cod trawl fishing effort around Castle Rock, the current sea lion closures around Atkins Island prevent fishing close to Castle Rock. Relaxing the Atkins closures would allow for more fishing near Castle Rock but would at the same time also relax the closure around Atkins Island. NMFS believes that the prey field used by sea lions on the Atkins Island rookery should continue to receive protection from Pacific cod trawling. The proposed regulatory change would reduce this protection and potentially adversely affect wSSLs.

3. Change the seasonal apportionment of Pacific cod TAC to a 60-20-20 split.

The current regulations require no more than 60 percent of the Pacific cod TAC be harvested in the GOA in the A season (January 1 [nontrawl] or January 20 [trawl] through June 10); the remaining 40 percent can be taken in the B season (June 10 through November 1 [trawl] or December 31 [nontrawl]). This 60-40 TAC split is required by the current sea lion protection measures in the GOA. NMFS believes that changing to a 60-20-20 split would effectively result in a fishery that would be concentrated in the early part of the year. This situation is what NMFS considered would jeopardize wSSLs in the 2001 Biological Opinion. NMFS believes that the current 60-40 apportionment of TAC provides necessary protection to the Pacific cod prey field for wSSLs. Changing to a 60-20-20 apportionment would potentially adversely affect wSSLs.

In addition to the above concerns, NMFS also noted that for the proposed regulatory changes at Kak Island, the SSLMC proposed a compensatory closure at Kilokak Rocks. NMFS believes that a closure at Kilokak Rocks would provide very minimal to negligible additional protection to wSSLs and that this measure may be unnecessary.

More detailed information on the NMFS review is provided in Item C-9(b).

STELLER SEA LION COMMITTEE RECOMMENDATIONS

The SSLMC recommends moving forward with the elements of the proposed amendment package that NMFS has concluded would not require further mitigative action and would not require reinitiation of formal Section 7 consultation. If the Council approves, this package would proceed to analysis and preparation of an EA/RIR/IRFA. Depending on staffing and other considerations, the Council could review this EA during its April meeting and would release that document for public review. The Council could take final action at its June 2004 meeting. This schedule would likely provide sufficient time for the noticing and rulemaking process in late 2004 so that regulation changes could be effective for the 2005 fishing season.

The SSLMC requests that the Council approve for analysis and eventual public review the following proposed regulatory changes. These proposed regulatory measures are the same as those previously recommended to the Council:

1. Open the closed area around the Puale Bay wSSL haulout to 3 n mi for pollock trawl fishing during January 20 through June 10. All other fishing restrictions around Puale Bay would remain as is. As a compensatory action, close the area around the Cape Douglas/Shaw Island wSSL haulout to 20 n mi to pollock trawling during January 20 through June 10.
2. Open the closed area around the Kak Island wSSL haulout to 3 n mi for Pacific cod pot fishing. All other fishing restrictions around Kak Island would remain as is.
3. Open an area around the Castle Rock wSSL haulout to the shoreline for Pacific cod pot fishing.
4. Remove the two-week stand-down periods between the A and B seasons and between the C and D seasons in the GOA pollock trawl fishery. Allow continuous fishing from the A season into the B season (and from the C season into the D season) until either the quarterly TAC is reached in the A season (and C season) or the B season (and D season) ends.
5. Change the method for rolling over unharvested pollock TAC in the Western/Central Regulatory Areas in the GOA pollock trawl fishery. Roll over any unharvested TAC within the same region and up to the 20 percent limit of the seasonal apportionment so that any unharvested TAC apportioned to an area may be further rolled over into the remaining open areas in proportion to the projected pollock biomass in those areas (as estimated by the Plan Team at the beginning of each year).

In addition to the above, the SSLMC discussed how to proceed with further consideration of the proposed amendments that would likely trigger reinitiation of formal Section 7 consultation. The Committee felt that the Council might consider proceeding with these proposals, regardless if they may trigger formal consultation. Then perhaps the Council would want to include in that process other issues associated with groundfish fisheries and Steller sea lions it believes should be examined. The SSLMC recommends that the Council broaden the review of these issues to include the BSAI.

To effect these recommendations, the SSLMC asks that the Council charge the SSLMC to re-examine the three proposed regulation changes listed above, and include in this process an evaluation of other potential changes to SSL protection measures, not only in the GOA but also in the BSAI, that could be included in a more broad formal consultation. That charge would include reviewing new information on Steller sea lions, prey fields, predation, and new fishery issues that might be suggested through a public proposal process. The SSLMC would report back to the Council at its

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June meeting with a preliminary report on the types of actions the Committee and the Council might consider reviewing in the GOA and BSAI.

SSLMC Chairman Cotter and NMFS and Council staff will be available to answer questions.

Members of the SSLMC:

Larry Cotter, Chair	John Iani
Dave Benson	Terry Leitzell
Jerry Bongen	Denby Lloyd
Julie Bonney	Chuck McCallum
Shane Capron	Matt Moir
Tony DeGange	Bob Small
Doug DeMaster	Beth Stewart
Steve Drage	Farron Wallace
John Gauvin	John Winther
Sue Hills	

Report of the Scientific and Statistical Committee

The SSC received reports and staff answered members' questions. The SSC had no recommendation at this time.

Report of the Advisory Panel

The AP recommended the Council move forward with the 5 elements of the proposed amendment package that NMFS has concluded would not require further mitigative action and would not require reinitiation of formal Section 7 consultation.

Additionally, the AP requested that the Council charge the SSLMC to re-examine the three proposed regulation changes which would initiate a formal section 7 consultation, and include in this process an evaluation of other potential changes to SSL protection measures, not only in the GOA but also in the BSAI.

Finally, the AP requested the Council direct NMFS to prepare a summary of research completed subsequent to the FMP level bi-op then subsequent to the 2001 and 2003 supplemental, and a list of current research projects and their expected completion dates.

DISCUSSION/ACTION

Roy Hyder moved to approve the recommendations of the Advisory Panel (see above). The motion was seconded, but the voice was unidentifiable.

Arne Fuglvog moved to amend to delete the second paragraph and replace with the following:

Further consideration of regulatory changes that are likely to result in initiation of formal Section 7 consultation under the Endangered species Act shall be deferred until such time as the National Marine Fisheries Service has an opportunity to revise and update the FMP-level biological opinion that currently evaluates the cumulative impacts of North Pacific fishing activities on the Western population of Steller sea lions. At that time all of the new data and other information that has been generated

since the existing FMP-level biological opinion was originally prepared will be reviewed and evaluated to determine whether or not there is still reason to believe that nutritional stress or localized depletion of prey caused by fishing activities are likely sources of mortality and continuing factors in the Western population of Steller sea lions in Alaska.

The motion was seconded by Earl Krygier. Mr. Fuglvog pointed out that new information has been gathered since the Biological Opinion prepared in 2000 and this information should be taken into consideration before the Council initiates changes that would result in a Section 7 consultation. It was clarified that by replacing this paragraph would eliminate the suggestion to include the Bering Sea/Aleutians at this time.

Jim Balsiger moved to amend the amendment to revise the first sentence to read: “Further consideration of regulatory changes to Steller sea lion protection measures that are likely to result in the initiation. . .” The motion was seconded by Earl Krygier and carried without objection.

Mr. Fuglvog’s amendment, as amended, carried without objection. The main motion, as amended, carried without objection.

The five proposed Gulf of Alaska regulatory changes to be considered are summarized below:

1. Reduce the size of the pollock trawl fishery closed area around the Puale Bay SSL rookery and provide for a larger closed area around Cape Douglas/Shaw Island.
2. Reduce the size of the Pacific cod pot fishery closed area around the Kak Island SSL haulout.
3. Reduce the size of the Pacific cod pot fishery closed area around the Castle Rock SSL haulout.
4. Remove the two-week stand down periods between the A and B seasons and between the C and D seasons in the GOA pollock trawl fishery.
5. Change the method for rolling over unharvested pollock TAC in the Western/Central Regulatory Areas in the GOA pollock trawl fishery.

D. GROUND FISH MANAGEMENT

D-1(a) Review National Bycatch Strategy and Alaska Region Report

BACKGROUND

On March 6, 2003 NOAA Fisheries announced a National Bycatch Strategy, followed by development of regional implementation plans. A draft for the Alaska Region was developed over the summer and fall of 2003, and became available in December 2003 (attached D-1(a)(1)). Council staff was invited, and did participate to a limited degree, in development of this draft. In transmitting this draft to each Region, Dr. Hogarth stated “*I am attaching these regional implementation plans for your information. I consider each of these bycatch plans to be a ‘living document’; they will need to be refined and updated as new information becomes available, and your input during this process is very important. We will be working closely with you to develop these recommendations further, consider other recommendations, and ensure that our goals are met*”.

The document focuses on progress made, identifies remaining challenges, and highlights priorities for monitoring, research, management, and education/outreach. I believe the document recognizes that more specific measures have to go through the Council process for evaluation and approval. My read is that NOAA Fisheries is looking to the Council for agreement that this draft accurately portrays our progress, current initiatives, and general priorities relative to bycatch. NOAA Fisheries staff will provide additional detail on this draft for the Council.

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The Advisory Panel did not address this agenda item.

Report of the Scientific and Statistical Committee

The SSC received staff reports from NMFS staff on the NMFS-Alaska Region's bycatch and priorities implementation plan and provided several comments and suggestions for consideration. Please see SSC Minutes, Appendix IV to these minutes for those specific comments.

DISCUSSION/ACTION

Council members agreed to have the Executive Director draft a letter to Dr. Hogarth identifying concerns expressed during public comment relating to the national bycatch strategy, specifically the use of a different definition than what is in the Magnuson-Stevens Act. The Chair would review the letter and it would be sent to Council members for review. When making comments to the Region, the Council asked that the SSC's comments be included, as well as comments made by the Council during discussion at this meeting. Mr. Fuglvog stressed the need for more interaction between the agency and industry when the regional bycatch strategy is being devised.

D-1(b) Review Exempted Fishing Request for Rockfish Fishery

BACKGROUND

The Alaska Fishery Development Foundation has submitted a request for an EFP to investigate and develop hook-and-line techniques for the harvest of rockfish species in the Southeast Outside Area. The experiment would target species historically harvested with trawl gear in the area, including Pacific ocean perch, pelagic shelf rockfish, and other rockfish. Fishing would occur in the spring and fall of 2004 and 2005, with an expected catch of 50 mt each of POP, other rockfish, and pelagic shelf rockfish, 15 mt of RE/SR, and 2 mt each of thornyheads and DSR. Halibut and sablefish bycatch are estimated at 10 mt each, with retention covered by IFQ held by the participants. Alaska Longline Fishermen's Association (ALFA) is the primary contractor working with AFDF on this project. Mr Cip Treinen is the project manager and is available to provide additional detail to the Council.

The process for approving EFPs includes consultation with the Council prior to approval by NMFS. The AFSC has reviewed the proposed EFP and determined that it includes all necessary information upon which to judge approval of the EFP.

The AP did not address this agenda item.

Report of the Scientific and Statistical Committee

The SSC supported forwarding the Exempted Fishing Request to NMFS for consideration and provided several suggestions to enhance the design of the EFP. Please see SSC minutes, Appendix IV, for specific suggestions.

DISCUSSION/ACTION

Arne Fuglvog moved that the Council approve the Exempted Fishing Permit request for the SEO District experimental hook-and-line fishery for underutilized rockfish species. The motion was seconded by Kevin Duffy and carried without objection.

There was discussion regarding whether the Council would approve Phase 1 and 2 at this time, as well as the SSC's suggestion that the SSC should review the analytical design of Phase 2 before it is approved. Mr. Fuglvog clarified that his motion would be to approve both phases. NMFS staff pointed out that although the Council can endorse the concept of both phases, NMFS would issue a permit for Phase 1 only and after development of an acceptable scientific design for a second phase which would be reviewed by the Alaska Fisheries Science Center would NMFS issue the second permit. It would not be necessary to be reviewed by the Council again. It was suggested that the design for the second phase could be put on the SSC's agenda for review when it is available.

D-1(c) Review Crab/Groundfish Overfishing Definitions & Multispecies Models (SSC Only)

ACTION REQUIRED

Review Crab/Groundfish overfishing definitions and modeling of fishery performance indices (SSC only)

1. **National Standard 1 guidelines revision update**
2. **Crab working group update on revised overfishing definitions**
3. **Model of fishery performance indices**

BACKGROUND

National Standard 1 guidelines revision

The NMFS National Standard 1 Working Group (NS1WG) was formed in April 2003. The purpose of the working group was to develop recommendations regarding whether or not to revise the existing guidelines for National Standard 1 and to prioritize aspects for revision if necessary. The report of the Working Group to NMFS was produced in November 2003. A proposed rule based upon these recommendations has not yet been drafted. Dr. Grant Thompson of the Alaska Fisheries Science Center will provide a summary of the Working Group's recommendations.

Crab working group on revised overfishing definitions

At their October 2003 meeting, the Crab Plan Team reviewed the current overfishing definitions in the FMP for BSAI king and Tanner crab stocks. The current overfishing definitions were adopted by the Council under Amendment 7 in 1998. At that time, the plan team recommended that the overfishing definitions be reviewed five years after the adoption of Amendment 7. A working group, comprised of analysts from state and federal agencies, has been organized by the plan team to evaluate the necessity of revising these overfishing definitions in the Crab FMP and the scope of work involved in doing so. A work plan prepared by the working group, detailing the scope of their task and those elements of the current definitions in the FMP that merit revision, was mailed to you on January 22 and is attached as Item D-1(c)(1). Dr. Lou Rugolo (NMFS) and Dr. Shareef Siddeek (ADF&G) will provide an overview of the working group's work plan.

Model of fishery performance indices

Dr. Joshua Sladek Nowlis (NMFS) will present a study evaluating performance indices for fishery management policy decisions. The study specifically looks at a range of indices in order to evaluate the impact of alternative fishery management decisions. These were sent to you previously and hard copies are available.

Report of the Scientific and Statistical Committee

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This agenda item was scheduled for SSC review only. The SSC commended the National Standard 1 Working Group for excellent work and careful consideration of issues raised by the Council and looks forward to the opportunity to examine revisions to the NPFMC overfishing definitions after the revised guidelines are published. Please see the SSC Minutes, Appendix IV to these minutes for additional comments on this agenda item.

D-2 Scallop Management

ACTION REQUIRED

- (a) Review and approve SAFE report**
- (b) Discuss FMP Update**

BACKGROUND

Scallop SAFE Report

The Scallop Plan Team met in Juneau on October 29-30, 2003 to review the status of the weathervane scallop stocks in Alaska and to prepare the Stock Assessment and Fishery Evaluation (SAFE) report. This SAFE report was mailed to you on January 22. The minutes from the Scallop Plan Team meeting are attached as Item D-2(a). The SAFE report provides an overview of scallop management, scallop harvests and the status of the regional weathervane scallop stocks. Scallop stocks are neither overfished nor approaching an overfished condition.

Scallop FMP Update

At their October 2003 meeting, the Scallop Plan Team discussed updating the Scallop FMP to reflect the current management of the scallop fishery. The current FMP has been amended 7 times since the FMP was approved in 1995. A summary of the FMP and amendments is attached as Item D-2(b) and the amended FMP will be handed out separately. Staff seeks guidance on the type of FMP revisions needed to increase clarity and include updated information on biology and management of the scallop stocks.

Public comments submitted regarding scallop management issues are attached as Item D-2(c).

The Advisory Panel did not address this agenda item.

Report of the Scientific and Statistical Committee

The SSC received reports on the Scallop SAFE and the Scallop FMP. The SSC fully supports the Plan Team's intention to prepare an annual SAFE document and provided several suggestions for improvement to the document. Please see the SSC Minutes, Appendix IV to these minutes for the specific suggestions. The SSC also supports an FMP amendment to bring the plan up to date in a easier-to-read document.

DISCUSSION/ACTION

In addition to the reports on the SAFE and the Plan Team recommendation to update the FMP, the Council received public comment requesting consideration of a FMP amendment relating to a gear restriction that affects only two of the nine scallop permit holders. There was some discussion relating to the differences between the State and Federal regulations. The restriction referred to in public testimony refers to Cook Inlet waters where both State and Federal regulations restrict gear to a 6-foot dredge. The State will be pursuing

a statutory changes when the current moratorium expires. At that time the issue of the inconsistency between State and Federal waters outside of Cook Inlet relating to gear sizes will be addressed.

John Bundy moved to initiate an analysis to modify the FMP to eliminate the negative endorsement, to be done in conjunction with the FMP update. Alternatives for this amendment to the FMP would include: (a) Status quo; or (b) remove the 6-foot dredge restriction. The motion was seconded, but the voice was unidentified. The motion carried without objection.

Staff indicated that the Council will be provided with alternatives and background information in April, although a full analysis may not be completed by that time.

D-3 Staff Tasking

ACTION REQUIRED

Review tasking and provide direction to staff.

Attached is a summary of the status of Council projects (Item D-3(a)) and a three-meeting outlook (Item D-3(b)). Two new items (GOA Rockfish Demonstration Project and AI Pollock Allocation) have been added to the 'Mandatory Actions' portion of project list, as a result of the Consolidated Appropriations Act. You will have discussed many of the complexities regarding these issues under Agenda C-6. However, the Council may need to adjust workload or revise scheduling of other items to analyze and implement the actions recently legislated by Congress, including writing the regulations to implement the crab rationalization program.

BSAI Salmon Bycatch

In October, the Council voted to add a discussion paper on BSAI salmon bycatch management to the staff tasking list. The stated intent of this discussion paper was to examine the effectiveness of the existing area closures, and examine other possible means of controlling chinook and chum salmon bycatch (through cooperatives actions for example).

In December, the Council discussed a motion regarding the possibility of foregoing the discussion paper, and instead, initiating an analysis to modify the existing chum and chinook bycatch management regulations. The Council also reviewed a possible problem statement and possible alternatives for analysis. Rather than try to work through the details in the last few moments of the meeting, the Council moved to postpone action on these items until February at which time these issues would be discussed during staff tasking. A copy of the original motion is attached as Item D-3(c).

Committees

A list of committees is attached as Item D-3(d). In December, the Council reviewed the list of committees and made the following determinations:

- **The Community QS Purchase and Implementation Committee was no longer needed.**
- **A GOA community protection committee may be needed in the future, but not at this time.**
- **Appointments to the Charter IFQ Committee are not needed at this time.**
- **The IRIU Technical Committee will stay on the list of committees, but the makeup may be revised sometime in the future.**

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- **A new committee, the Advisory Panel Review Committee, was formed to review ways to improve the structure of the AP by examining staggered terms, term limits, size, and temporary appointments. The AP Review Committee will be chaired by Roy Hyder.**

At this meeting, the Council will decide on appointments to the Pacific Northwest Crab Industry Advisory Committee during executive session.

Neither the SSC nor the AP addressed this agenda item.

DISCUSSION/ACTION

BSAI Salmon Bycatch

The Council's motion to analyze alternatives for modifying current salmon bycatch regulations (postponed at the December 2003 meeting) was presented for consideration as part of this agenda item. Due to the full work schedule of Council and NMFS staff, the Council did not discuss further development of the alternatives and the motion therefore continues to be postponed.

Aleutian Islands Pollock Amendment/SSL Mitigation Measures

The Council discussed whether or not to schedule initial and final approval of the Aleutian Island pollock amendment at the same meeting. NOAA General Counsel advised that there is no legal impediment, that is strictly a matter of Council procedure, and that the Council has done it before. Some Council members were uncomfortable with dealing with the amendment in one meeting, and the consensus was to have initial review in April with final consideration in June.

Staff indicated that the GOA SSL measures are fairly straightforward and it may make sense to deal with the two issues on the same timeline. Staff will attempt to provide some direction for the GOA SSL measures as soon as possible, but it may be necessary to take initial and final action at one meeting (June) on those measures.

Letter to Board of Fisheries Regarding Proposal #77

Chris Oliver provided Council members with a draft letter to the Board requesting the Board not to take action at this time on Proposal #77. With some minor edits, the Council approved the draft to be finalized and submitted to the Board of Fisheries.

Committees

The Council concurred with the recap of Council discussion of Committees during the December meeting (contained in the Action Memo, above). Ms. Madsen said that Council members Austin and Duffy will be appointed to the Advisory Panel Review Committee chaired by Roy Hyder.

Exempted Fishing Permits

Sue Salvesson responded to a Council question regarding four EFPs. The Council approved the rockfish EFP at this meeting and NMFS will develop an EA to begin the process for Agency approval. Two other EFP applications are in early stages and will take a tremendous amount of work or have legal issues which put them in jeopardy for further staff work at this time. The fourth, relating to supplementing a current EFP for salmon bycatch exclusion devices in the pollock fishery, is a continuation of a current project, NMFS will

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likely have to issue a permit and do a supplement to the EA. There is a question on this permit as to whether it would need to come back before the Council for consultation.

Earl Krygier moved that the Council would assign high priority to the salmon bycatch and rockfish longline EFPs within the EFP category. The motion was seconded by Arne Fuglvog and carried without objection.

SE Alaska Inter-Tribal F&W Commission Request

The Council received a request from the SE Alaska Inter-Tribal F&W Commission requesting Council reconsideration of inclusion of the communities of Klukwan, Haines and Saxman in the program for community purchase of halibut/sablefish IFQs. The Council opted to take no action on this request at this meeting.

Appointments

- The Council approved the appointment of Dave Carlile to the BSAI Groundfish Plan Team.
- The Council appointed Dr. David Sampson of the Oregon Department of Fish and Wildlife to the Scientific and Statistical Committee.
- PNCIAC: The following members were appointed for a 2-year term (2004-05): Gary Painter, Keith Colburn, Lance Farr, Phil Hanson, Kevin Kaldestad, Garry Loncon, Rob Rogers, Clyde Sterling, Gary Stewart, Tom Suryan, Vic Sheibert, Steve Minor, and Arni Thompson.

E. ADJOURNMENT

Chair Stephanie Madsen adjourned the meeting at 2:01 p.m. on Monday, February 9, 2004.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

**February 2004 Meeting
Anchorage, Alaska**

PERSONS GIVING PUBLIC COMMENT

B Reports

Larry Cotter, Aleutian/Pribilof Island Community Development Association
Brent Paine, United Catcher Boats, and Thorn Smith, North Pacific Longline Assoc.

C-1 Gulf of Alaska Rationalization

Craig Cochran, Midwater Trawlers Association
Sam Cotten, Aleutians East Borough
Alexus Kwachka, Gulf Groundfish Fishermen's Association
Tim Blott, Ocean Beauty Seafoods
David McArthur, Deep Sea Fishermen's Union
Joe Sullivan, representing City of Kodiak
David Soma, Deep Sea Fishermen's Union
Dorothy Childers, Alaska Marine Conservation Council
Thorn Smith, North Pacific Longline Association; Gerry Merrigan, Prowler Fisheries
Buck Laukitis, North Pacific Fishing Association
Teresa Kandianis, Kodiak Fish Company
Julie Bonney, AK Groundfish Data Bank
Susan Robinson, Fishermen's Finest
Joe Childers and Charlie Parsons, Western Gulf of Alaska Fishermen
David Polushkin, K-Bay Fishing Associates
Ed Luttrell and Lori Swanson, Ground Fish Forum
Ken Tippett, Alaska Boat Company
Ilia Kuzmin, Fisherman, K-Bay Fishing Association Board Member

C-2 Observer Program

Michael Lake, Alaskan Observers, Inc.
Susan Robinson, Fishermen's Finest
Joe Sullivan, representing Alaska Draggers Association, AK Groundfish Data Bank, and At-Sea Processor's Association
Tracey Mayhew, Association for Professional Observers
Paul MacGregor, At-Sea Processor's Association
John Gauvin, Ground Fish Forum
Jon Warrenchuck, Oceana
Joe Kyle, Aleutian/Pribilof Islands Community Development Association

C-3(a) IRIU – Amendments 79, 80a and 80b

Dave Wood, U.S. Seafoods
 Gerry Merrigan, Prowler Fisheries
 Teresa Kandianis, Fishing Company of Alaska
 Donna Parker, Arctic Storm
 Thorn Smith, North Pacific Longline Association
 Paul MacGregor, At-Sea Processor's Association
 Ed Luttrell and Lori Swanson, Ground Fish Forum; Susan Robinson, Fishermen's Finest; joined
 later by Mike Szymanski, Fishing Company of Alaska

C-4 HAPC

John Gauvin, Groundfish Forum
 Joe Moore, The Ocean Conservancy
 Ben Enticknap, Alaska Marine Conservation Council
 Dan Falvey, AK Longline Fishermen's Association
 Ron Clarke and Heather McCarty, Marine Conservation Alliance
 Donna Parker, High Seas Conservation Coop
 Gerry Merrigan, Prowler Fisheries
 Jon Warrenchuck, Oceana

C-5 Crab EIS

Dave Fraser, F/V Muir Milach (testified out of order on this issue due to leaving Anchorage).
 Linda Kozak, Kozak and Associates
 John Garner, North Pacific Crab Association
 Joe Sullivan, for City of Kodiak
 Mateo Paz-Soldan, City of St. Paul
 Frank Kelty, City of Unalaska
 Terry Leitzell, Icicle Seafoods

C-6 Congressional Legislation on AI pollock and GOA rockfish

Dave Fraser, F/V Muir Milach; testifying for both C-6 and C-5 (Crab EIS)
 Earl Comstock, Crab Rationalization and Buyback Group (CRAB)
 Clem Tillion and Sandra Moller, Aleut Enterprise Corporation
 Terry Leitzell, Icicle Seafoods
 Pat Carlson, Kodiak Island Borough
 Kevin Kennedy, TDX Corporation
 Steve Minor, Central Bering Sea Fishermen's Association
 Mateo Paz-Soldan, City of St. Paul
 Gerry Merrigan, Prowler Fisheries and Thorn Smith, NPLA
 Joe Moore, The Ocean Conservancy
 Garry Loncon, Royal Aleutian Seafoods
 Donna Parker, High Seas Catcher Vessel Cooperative

C-6 Congressional Legislation on AI pollock and GOA rockfish (cont'd)

Arni Thomson, Alaska Crab Coop
 Julie Bonney, AK Groundfish Data Bank and Mike Szymanski, Fishing Company of Alaska
 Kevin Suydam, F/V Lady Alaska
 Brent Paine, United Catcher Boats
 Frank Kelty, City of Unalaska
 Paul MacGregor, At-Sea Processor's Association
 Ed Luttrell and Lori Swanson, Groundfish Forum
 Margaret Hall, Rondy's Inc. (family-owned catcher boats)
 John Garner, North Pacific Crab Association
 Rick Shelford, Crab Fisherman

C-7 American Fisheries Act – Coop Reports

No Public Testimony

C-8 DPSEIS

Donna Parker, Marine Conservation Alliance

C-9 SSL mitigation adjustments in GOA

Julie Bonney, AK Groundfish Data Bank
 Paul MacGregor, representing At-Sea Processor's Association
 Donna Parker, Arctic Storm

D-1(a) Groundfish Management – Nat'l Bycatch Strategy

Thorn Smith, North Pacific Longline Association
 Gerry Merrigan, Prowler Fisheries
 Lori Swanson, Groundfish Forum
 Paul MacGregor, representing At-Sea Processor's Association
 Gary Patton, Government of the Kaliakk Nation
 Brent Paine, United Catcher Boats

D-1(b) Groundfish Management – Exempted Fishing Permit for Rockfish

No Public Testimony

D-1(c) Groundfish Mgmt – Crab/Groundfish overfishing definitions & multispecies models

Issue not Addressed by Council

D-2 Scallop Management

Max and Scott Hulse, Scallop Fishermen

D-3 Staff Tasking

Heather McCarty, Evie Whitten and Phillip Lestenkof, Pribilof Islands Collaborative
Julie Bonney, AK Groundfish Data Bank