

MINUTES
196th Plenary Session
North Pacific Fishery Management Council
February 10-15, 2010
Benson Hotel
Portland, Oregon

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North Pacific Fishery Management Council

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Chris Oliver, Executive Director

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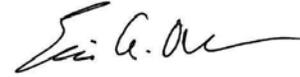


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APPROVED: _____



DATE: 4-13-2010

FINAL MINUTES

196th Plenary Session
North Pacific Fishery Management Council
February 10-15, 2010
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The North Pacific Fishery Management Council met February 10-15, 2010 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met February 8-10, and the Advisory Panel met February 8-14 at the same location. The following Council, SSC and AP members, and NPFMC staff attended the meetings.

Council Members

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

Roy Hyder
Dan Hull
Denby Lloyd/Dave Bedford
Doug Mecum/Sue Salvesson
Bill Tweit and Phil Anderson
ADM C.C. Colvin and Capt. Mike Cerne

NPFMC Staff

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

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

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Scientific and Statistical Committee

Pat Livingston, Chair
Robert Clark
George Hunt
Seth Macinko
Keith Criddle

Farron Wallace
Gordon Kruse
Franz Mueter
Doug Woodby
Milo Adkinson

Anne Hollowed
Kathy Kuletz
Lew Queirolo

* Absent: Terry Quinn and Sue Hills

Advisory Panel

Joe Childers
Mark Cooper
Craig Cross
John Crowley
Julianne Curry
Jerry Downing
Tom Enlow

Tim Evers
Jeff Farvour
Becca Robbins Gisclair
Jan Jacobs
Bob Jacobson
Simon Kinneen
Chuck McCallum

Matt Moir
Ed Poulsen
Beth Stewart
Lori Swanson
Anne Vanderhoeven

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

A. CALL TO ORDER

Chairman Eric Olson called the meeting to order at approximately 8:04 am on Wednesday, February 10, 2010.

Mr. Bill Tweit participated in the entire meeting in place of Phil Anderson, WDF Director.

AGENDA: The agenda was approved as published. MINUTES: The minutes of the October and December 2009 Council meeting were approved.

B. REPORTS

The Council received the following reports: Executive Director's Report (B-1); NMFS Management Report (B-2); ADF&G Report (B-3); USCG Report (B-4); USF&W Report (B-5); and Protected Species Report (B-6).

Executive Director's Report:

Chris Oliver, Executive Director, briefly reviewed his written report, noting that the Council Chairmen's Coordination Committee met in January to review budget matters, and will be meeting in Anchorage in May.

Stephanie Madsen and Diana Evans gave the Ecosystem Committee, noting that the Committee's recommendations on Marine Spatial Planning are included in the Council's notebook.

Mr. Oliver noted that after public comment and input, a letter would be drafted and submitted as part of the national public comment on Marine Spatial Planning, with a copy to Secretary Lubencheco.

NMFS Management Report

Ms. Sue Salvesson briefly reviewed an overview of regulatory action and NMFS in-season management report. Ms. Salvesson noted Mr. Jay Ginter was retiring, and Chris Oliver presented him with a plaque noting appreciation for 26 years of fisheries management. Dr. Bill Karp also gave a report on current Alaska Science Center activities.

John Lepore, NOAA General Counsel, provided a brief update on litigation of interest to the Council.

ADF&G Report

Karla Bush (ADF&G) provided the Council with a review of the State fisheries of interest to the Council and answered general questions from the Council Members.

IPHC Report

Chairman Olson introduced Dr. Leaman, Gregg Williams, and Heather Gilroy. They gave a lengthy presentation regarding current issues from their annual meeting.

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NOAA/Office of Litigation and Enforcement

Susan Auer and Ms. Meyers gave a report on the status of NMFS enforcement issues. Public comment was heard and brief questions from the Council were fielded, noting the timeline for replacement cutters to be placed in Alaska.

USCG Report

Lt. Cmdr. Ray Reichl of the USCG provided the Coast Guard Enforcement Report for 2009, Year in Review, following a brief address by ADM Colvin.

U.S. Fish and Wildlife Report

Greg Balogh of USF&W provided a written report.

Protected Species Report

Jeannie Heltzel gave the protected resources report. Ed Melvin, of the University of Washington, gave a presentation to the Council about seabird interactions with the trawl fisheries. Rob Suryan of Oregon State University gave an update on short tailed albatross. Jeannie Heltzel, along with Bill Wilson and Larry Cotter, gave an update from the Steller Sea Lion Committee and the upcoming biological opinion. There was general discussion regarding additional Council input; scheduling for preparation of the analytical documents and rulemaking to implement necessary changes to the fishery.

Public comment was heard for all B items.

There was discussion on Marine Spatial Planning, **and Mr. Henderschedt moved that comments on the draft letter would be given to Mr. Oliver, or Ms. Evans and a final letter would be drafted in time to meet the deadline. Motion was seconded.** Motion passed without objection.

FORMAT FOR COUNCIL MEETING MINUTES FOR ‘C’ AND ‘D’ AGENDA ITEMS

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

C. MAJOR ISSUES/FINAL ACTION ITEMS

- C-1 (a) Review IFQ proposals, receive IFQ Implementation Committee report**
C-1 (b) Review Discussion paper on Community Quota Entity Program

BACKGROUND

- (a) *IFQ proposals*

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In 2009, the Council called for proposals to amend the halibut and sablefish IFQ program. The Council extended the deadline to January 15, 2010, as proposals continued to be submitted after the June 2009 deadline. Fourteen proposals were submitted in the first round. The IFQ Implementation Team convened to review and comment on the proposals on September 30, 2009 and seven have been recommended to the Council for analysis. The Team convened again on February 4, 2010 to review and comment on four additional proposals; team recommendations will be provided at the meeting. The proposals are provided under Items C-1(a)(2) and (3). The first team report is provided under Item C-1(a)(4). Agency staff also reviewed the proposals to advise the Council (Item C-1(a)(5)). The team and agency reports on the second set of proposals will be available at the meeting.

Jane DiCosimo gave an overview of the IFQ proposals and their ranking by the committee, and fielded questions from the Council regarding specific proposals. She noted that the proposals that were recommended for analysis were considered more complete and those that were recommended for discussion papers may need more direction and/or refined elements and options.

(b) Review discussion paper on Community Quota Entity Program

The Council developed the halibut and sablefish IFQ Program in the early 1990s, and NMFS implemented the program in 1995. This program changed the management structure of the fixed gear halibut and sablefish program by issuing quota share (QS) to qualified applicants who owned or leased a vessel that made fixed gear landings of halibut during a specified time period. The quota share issued was transferable, with several restrictions on leasing. The Council developed leasing and other restrictions in order to achieve some benefits associated with IFQ management but also retain the owner-operator nature of the fisheries and limit consolidation of quota share. To that end, the Council only allowed persons who were originally issued catcher vessel quota share or who qualify as IFQ crew members¹ to hold or purchase catcher vessel quota share (B, C, and D category). Thus, only individuals² and initial recipients could hold catcher vessel quota share.

Under GOA Amendment 66, the Council revised the IFQ program to allow a distinct set of 42 remote coastal communities with few economic alternatives to purchase and hold catcher vessel QS in Areas 2C, 3A, and 3B, in order to help ensure access to and sustain participation in the commercial halibut and sablefish fisheries. Eligible communities can form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the IFQ resulting from the QS must be leased to community residents annually. Thus, the Council's action was implemented as 'the CQE Program'. In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit the community and its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity. This amendment was approved by the Secretary of Commerce and effective in June 2004.

The Council is scheduled to review the CQE Program review at this February meeting. No action is required as a result of this report. However, the Council may request a more detailed report on specific issues, should more extensive data or analysis be determined necessary. The Council may also choose to initiate new FMP or regulatory amendments in order to consider changes to the current program.

Ms. Kimball reviewed a discussion paper on the Community Quota Entity Program, and fielded questions from the Council regarding the elements and actions of the discussion paper.

¹IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2).

²Per 50 CFR 679.2: Individual means a natural person who is not a corporation, partnership, association, or other such entity.

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Mr. Roy Hyder gave the Council a report from the Enforcement Committee and reviewed the committee minutes on the C-1 agenda items that they discussed, and noted that enforcement staff are available for questions of a more technical nature. A copy of the minutes is included as Appendix 4. Lori Swanson gave the AP report on this agenda item, and public comment was taken.

Council Discussion/Action

Dan Hull presented the following motion which was seconded by Mr. Fields.

The Council recommends the following IFQ proposals be analyzed:

Proposal 3. Initiate an analysis to allow Area 4B category D shares to be fished on category C vessels.

Proposal 4. Initiate an analysis to prohibit use of hired skippers for future transfers of halibut and sablefish B, C, and D class QS, and set a control date of February 12, 2010. It is expected that the analysis will include the following elements:

- 1) A comparison of the attrition rate of initial recipients of halibut and sablefish QS in regulatory areas 2C and SE where hired skipper privileges are allowed only for non individuals, against the attrition rate in other regulatory areas.
- 2) The effect of hired skipper provisions on QS prices, compared to other factors.
- 3) The kinds of business models and relationships that have developed around the use of the hired skipper provision.
- 4) Changes in the way IFQ is harvested by all types of QS holders over time, relative to the program goal of evolving towards an owner on board or owner-operated fleet.
- 5) Program elements, and factors outside the program, that provide incentives or disincentives for QS holders to retire from the fishery.
- 6) Changes in QS held over time by different types of QS holders.
- 7) Changes in the availability of QS on the market that might result from this action.

Draft Purpose and Need Statement

A key element of the IFQ program is the requirement for catcher vessel QS holders to be on board the vessel during harvest and offloading of IFQ halibut and sablefish. The Council did not wish to constrain existing small business practices and therefore created an exception for initial issues of catcher vessel QS. The Council is concerned about the apparent consolidation and reduced opportunities for new entrants/second generation fishermen to enter the fishery. This reduced opportunity may be attributable to provisions that allow initial issues to harvest not only their initially issued quota, but also new quota acquisitions without having to be onboard the vessel. Amending the hired skipper privileges for catcher vessel quota in the halibut/sablefish IFQ program to extend these privileges only to current QS holdings is not expected to be disruptive to existing hired skipper arrangements, but would prevent further consolidation of QS to initial issues using hired skippers and the associated extraction of rents from the fishery.

There was lengthy discussion regarding Proposal 4 and hired skippers and corporate structure, and Mr. Hull noted it was his intent to include corporations and individuals in the analysis.

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Mr. Henderschedt moved to amend, and seconded by Mr. Benson, by adding “by individuals only” after “hired skippers” in Proposal 4. There was lengthy discussion on whether or not the “prohibit use of hired skippers” should be limited to individuals only, and how that limits corporations. **Motion failed 3/8, with Benson, Tweit, and Henderschedt voting in favor.**

Mr. Tweit moved to amend which was seconded, to strike the last sentence of the purpose and needs statement: “extraction of rents from the fishery.” There was brief discussion regarding the ability to examine other issues that are unrelated to hired skippers. **Motion failed 5/6 with Hyder, Mecum, Tweit, Benson and Henderschedt voting in favour.**

Amended main motion passed 8/3 with Benson, Henderschedt, and Tweit voting against.

There was brief discussion noting that it is the Council’s intent that completion of the Area 2C/3A halibut charter Catch Sharing Plan remains a higher priority than these new analyses and any discussion papers. Staff work on these new analyses and discussion papers will occur as time becomes available, with the analyses taking precedence over the discussion papers.

Mr. Hull moved the following, which was seconded:

The Council recommends the following be developed in discussion papers:

Proposal 1. Develop a discussion paper to allow the retention of 4A halibut incidentally caught while targeting sablefish in the Bering Sea and Aleutian Island regulatory areas. Included in the discussion paper is the premise that sablefish pot tunnel regulations will not change in the BS/AI regulatory area.

Proposal 2. Develop a discussion paper to explore the implications of using pots for the Gulf of Alaska sablefish fishery, and address the following issues:

- 1) restrictions to gear usage
 - a) single vs longline pots
 - b) pots retained on grounds for long soaks vs retrieved during deliveries
 - c) pot storage
 - d) gear configuration requirements
 - e) gear conflicts
 - f) use the 200 fathom depth contour to mark open areas
 - g) pot soak time
- 2) area management (SE vs GOA)
- 3) exacerbation of halibut mortality
- 4) dynamic (social/economic) effects
 - a) safety issue related to use of pots by small vessels
 - b) crew employment
 - c) QS prices
 - d) ongoing acoustic research for avoiding whale depredation

Following development of the discussion paper, the Council may consider forming a gear committee composed of affected stakeholders to discuss the findings of the paper and make recommendations to the Council.

Proposal 16. Develop a discussion paper to assess whether the problem of unharvested halibut IFQ in Area 4 is attributable to the current vessel IFQ cap.

Mr. Lepore commented on the “control date” and its effect in the final rule, noting that it will have to be approved by the Secretary in the proposed and final rule, if there’s sufficient justification. Mr. Hull noted that he is proposing two separate analyses, and that the elements in his motion are not an all inclusive list.

Mr. Tweit moved, which was seconded, to amend the motion by deleting in the second sentence of proposal 1 “sablefish pot tunnel regulations will not change in the BSAI regulatory area,” and replace it with “this action has the objective of not increasing halibut bycatch levels.” Mr. Tweit noted that this allows some flexibility to achieve objectives of IRIU of an existing level of bycatch without allowing the fishery to increase its bycatch levels. **Amendment passed without objection.**

Mr. Henderschedt moved to: initiate a discussion paper for removal of the block system for sablefish A shares and increase in the sablefish A share only cap. The A share exemption, would be from the overall sablefish use cap and apply a use cap at between 1.25% and 2% of the current use cap for vessels that only fish A shares (no catcher vessel QS onboard) and regardless of whether the sablefish harvest was processed. The discussion paper should explore adding a use cap increase to the BSAI.

Mr. Henderschedt noted that raising the use cap would allow larger vessels participate. There was brief discussion on the use caps. Removal of the A shares should avoid some foregone catch.

Mr. Fields moved to amend, which was seconded, to change “for vessels that only fish A shares” to “vessels that fish only in that area.” Mr. Fields, along with the second, withdrew his motion.

Mr. Fields moved to amend the motion, which was seconded, to delete the language: “apply a use cap at between 1.25% and 2% of the current use cap for vessels that only fish A shares.” Motion passed without objection.

The amended amendment passed without objection.

Mr. Fields moved to amend Proposal 16, inserting at the end of the sentence: Initiate a discussion paper to discuss whether the problem of unharvestable halibut IFQ in Area 4 is attributable to the current vessel IFQ cap or are there other factors that could identified as contributing to unharvested halibut in Area 4. Amendment passed without objection.

The amended main motion passed.

Mr. Fields presented the following printed motion to initiate a regulatory amendment which was seconded by Mr. Cotten :

- 1. CQE entities located in halibut management Area 3A are permitted to purchase Area 3A “D” class halibut quota shares with the following limitations:**
 - a. Area 3A “D” class quota shares purchased by Area 3A CQEs must have the annual IFQ fished on “D” class vessels. (Affidavit by grantee indicating use on “D” class vessel to be submitted by CQE when requesting IFQ transfer.)**
 - b. Area 3A CQEs are limited in their cumulative purchase of “D” class quota shares to an amount equal to the total “D” class quota shares that were initially issued to individuals that resided in Area 3A CQE Communities.**

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Mr. Fields noted that the concerns of CQEs being able to buy D class quota, has been unfair competition with other entry level fishers. There was also discussion regarding having the agency modify the federal IFQ loan program regulations so CQEs can participate. **Mr. Lloyd moved to amend Mr. Field's written motion which would have requested the agency draft a letter to that effect.** Mr. Lloyd noted that two disparate ideas within one motion make it difficult to consider either motion. **The amendment passed without objection.**

Mr. Field's main motion passed without objection.

Mr. Field then moved to initiate a discussion paper regarding issues and options associated with the development of a "CQE type" program for halibut management Area 4B communities. In addition to the ideas provided through written and public testimony, the discussion paper should include discussion of a "residency" requirement for fishing the CQE type quota shares in Area 4B.

Mr. Hull moved to amend adding the text... "Area 4B halibut/and or AI sablefish..." for Area 4B communities There was discussion whether to include sablefish, and the effect on bycatch. **Motion passed 9/2, with Henderschedt and Hyder voting against.**

Halibut Moratorium Final Rule

Mr. Lloyd noted that the final rule grants more angler days per permit than the Council had intended. Mr. Lloyd requested assistance from staff and agency to address the issue. There was lengthy discussion and explanation from both staff and Council, and discussion regarding the deeming motion under the Magnuson Act and the Halibut Act, and how they differ. It was generally agreed to have staff come back during the staff tasking agenda item, or another time to address these issues.

C-2 Observer Program

- (a) *Review progress on implementation plan for restructuring the North Pacific Groundfish Observer Program; action as necessary*

The existing North Pacific Groundfish Observer Program (Observer Program), in place since 1990, establishes coverage levels for most vessels and processors based on vessel length and amount of groundfish processed, respectively. Vessels and processors contract directly with observer providers to procure observer services to meet coverage levels in regulation. In the past several years, the Council, NMFS, and the Observer Advisory Committee (OAC) have been working to develop a new system for observer funding and deployment in the Observer Program. The concept previously proposed was often called 'observer restructuring.'

The draft implementation plan was first reviewed by the OAC in September 2009, and the Council reviewed both the OAC recommendations on the plan and the plan itself at its October 2009 meeting. The revised version of the implementation plan was provided to the OAC and Council via email on January 20, and it was posted on the Council website. A hardcopy was mailed to you on January 25. The Council's review of the revised implementation plan, with action as necessary, is scheduled for this February meeting. Note that the next version of the implementation plan is intended to be provided within the construct of the EA/RIR/IRFA for the proposed action to restructure the observer program.

The Council heard reports from Nicole Kimball (NPFMC) Martin Loefflad (AFSC), Brandee Gerke (NMFS), and Craig Faunce (AFSC). The report was given from the AP, and public comment was taken.

Ms. Kimball also gave the Observer Advisory Committee report, and answered questions from the Council.

Council Discussion/Deliberation

Mr. Lloyd recognized staff, the Committee, and participants for working together to develop issues and elements to be analyzed, before a formal analysis is drafted.

Nicole Kimball noted that staff had intended, unless there was objection from the Council, that they would take recommendations from the OAC into their next iteration of the analysis.

Mr. Hull noted, and it was generally agreed, that the Council requests a progress report at the April meeting on outreach efforts with the halibut and small boat sectors. Additionally, it was generally agreed that the Chairmen of the Committee would be encouraged to seek input from representatives from Canada Department of Fisheries and Oceans should they require it.

Mr. Hyder noted that he'd like to have a discussion on observer fees and exemptions, regarding the state waters GHL fisheries. Lloyd noted that staff can bring either a recommendation or summary about the issue. It was generally agreed that staff can review the information, present it to the committee for discussion, and bring the analysis to the June meeting for Council decision.

It was also generally agreed that discussion about the Observer Cadre program and Electronic Monitoring will be addressed during staff tasking.

C-3 Bering sea and Aleutian Islands Crab Issues

C-3 (a) Initial Review of right of first refusal modifications

At its October 2009 meeting, the Council received an analysis of three actions to modify the community right of first refusal on processor quota shares. Under the first action, community representatives holding the right would have an additional 30 days to exercise the right and perform under the contract. The second action would remove any lapse of the right, which occurs under current rules, if the processor shares are used outside of the community for three consecutive years or if a community representative elects not to exercise the right on an applicable transfer. The third action would limit the application of the right to assets located in the community benefiting from the right. Under the current structure, a community representative that exercises the right must accept the contract on its terms, which may include assets that are not located in the subject community.

After public testimony, the Council requested staff to expand the analysis of the third action to include an alternative under which the right would apply only to the processor quota shares. The Council scheduled an initial review of this analysis for this meeting.

Mark Fina gave a report on and fielded questions from the Council members. Lori Swanson gave the AP report, and public comment was taken.

Council discussion/action

Mr. Henderschedt moved and was seconded to move forward the AP motion with the following changes/additions noted in *italics*:

The ~~AP~~ *Council* recommends the following actions and alternatives move forward for analysis *and additional review with the following changes*; ~~noting the changes (bold and strikeout) to Action 2, Alternative 2 below:~~

Action 1: Increase a right holding entity's time to exercise the right and perform as required.

Alternative 1 – status quo

- 1) Maintain current period for exercising the right of first refusal at 60 days from receipt of the contract.
- 2) Maintain current period for performing under the right of first refusal contract at 120 days from receipt of the contract.

Alternative 2: Increase an entity's time to exercise the right and perform.

- 1) Require parties to rights of first refusal contracts to extend the period for exercising the right of first refusal from 60 days from receipt of the contract to 90 days from receipt of the contract.
- 2) Require parties to rights of first refusal contracts to extend the period for performing under the contract after exercising the right from 120 days from receipt of the contract to 150 days from receipt of the contract.

Action 2: Increase community protections by removing the ROFR lapse provisions.

Alternative 1 – status quo

- 1) Maintain current provision under which the right lapses, if IPQ are used outside the community of the entity holding the right for three consecutive years.
- 2) Maintain current provision, which allows rights to lapse, if the PQS is sold in a sale subject to the right (and the entity holding the right fails to exercise the right).

Alternative 2 – Strengthen community protections under circumstances where ROFR may lapse.

~~Increase community protections by removing the provisions under which the right lapses.~~

Option 1: Require parties to rights of first refusal contracts to remove the provision that rights lapse, if the IPQ are used outside the community for a period of three consecutive years

Option 2: If any entity with a right of first refusal chooses not to exercise its right, and the IPQ PQS is sold and used in another community, then the right of first refusal as to the original entity lapses and is acquired by the community entity where the IPQ is currently being used.

~~Require parties to right of first refusal contracts to remove any provision for the right to lapse, if an entity chooses not to exercise its right~~

Suboption a. After 3 years

Suboption b. After 5 years

Option 3: Require that any person holding PQS that met landing thresholds qualifying a community entity for a right of first refusal on program implementation to maintain a contract providing that right at all times

Action 3: Apply the right to only PQS and assets in the subject community.

Alternative 1 – status quo

The right of first refusal applies to all assets included in a sale of PQS subject to the right, with the price determined by the sale contract.

Alternative 2: Apply the right to only PQS.

Require parties to rights of first refusal contracts to provide that the right shall apply only to the PQS subject to the right of first refusal. In the event other assets are included in the proposed sale, the price of the PQS to which the price applies shall be determined by a) agreement of the parties or b) if the parties are unable to agree, an appraiser jointly selected by the PQS holder and the entity holding the right of first refusal.

Alternative 3: Apply the right to only PQS and assets in the subject community.

Require parties to rights of first refusal contracts to provide that the right shall apply only to the PQS and other assets physically present in the community benefiting from the right of first refusal. In the event other assets are included in the proposed sale, the price of the PQS to which the price applies shall be determined by a) agreement of the parties or b) if the parties are unable to agree, an appraiser jointly selected by the PQS holder and the entity holding the right of first refusal.

Mr. Fields moved and was seconded by Mr. Lloyd to add in Alternative 2 and Alternative 3, a third option: “C. an arbitrator jointly selected by the PQS holder and the entity holding the first right of refusal” Motion passed without objection.

Chairman Olson noted it is the Council’s intent that staff continue with the clarifications and definitions as outlined in the analysis in the future revision(s) of the document.

Amended main motion passed without objection.

The Council had continued discussion regarding the role of NMFS enforcement, and further discussion regarding concerns brought up in public testimony, and how they may be out of the purview of the Council’s authority.

C-3 (b) Initial review of an exemption from West region landing requirement for the Western Aleutian Islands golden king crab fishery

Since the second year of fishing under the Bering Sea and Aleutian Island crab rationalization program, participants in the Western Aleutian Island golden king crab fishery have expressed concern that the West region landing requirement may be unworkable in that fishery.

The Council request that NOAA Fisheries undertake emergency rulemaking establishing an exemption from the West region landing requirement for the current 2009-2010 crab fishing season. The Council letter formalizing that request and the NMFS response letter are in the Council notebooks. In addition, the Council requested that staff develop an analysis of alternatives for an amendment that would either allow for exemptions from the landing requirement in future years based on the agreement of qualified parties that no shoreside processor is available in the region or remove the West region landing requirement altogether.

Mark Fina gave a report on and fielded questions from the Council members. Lori Swanson gave the AP report, the SSC report had already been given, and public comment was taken.

Mr. Mecum moved, which was seconded, the following motion:

**The Council recommends the document be released for public review with the following revisions:
Remove Alternative 2, Option 2**

Purpose and need statement:

The purpose of this proposal is to develop a regulation to allow wavier of the requirement that west-designated Western Aleutian Islands gold king crab (WAG) individual fishing quota (IFQ) be delivered west of 174 W longitude. A reliable shoreside processing facility may not be available each season to take delivery and process WAG IFQ. Relaxing the regional landing requirements would allow the IFQ to be delivered outside the west region, to promote full utilization of the TAC.

Mr. Cotten moved to amend and Mr. Lloyd seconded to remove Alternative 3. Mr. Cotten noted that Alternative 3 belongs in another section, and doesn't account for other communities. **Motion passed 8/3, with Benson, Henderschedt, and Mecum voting against.**

Mr. Henderschedt moved to strike the last sentence in the purpose and need statement. There was brief discussion regarding inclusion for analysis and deleting at a later date. **Motion failed 8/3, with Henderschedt, Tweit, and Benson voting in favor.**

Amended Main amended motion passed with no objection.

C-3 (c) NOAA/Bering Sea Fisheries Research Foundation survey report

BACKGROUND

NOAA Fisheries and the Bering Sea Fisheries Research Foundation (BSFRF), an industry organization, conducted a cooperative survey using side-by-side tows with two different types of nets to understand the selectivity of the NMFS annual Bering Sea trawl survey net for snow crab. A report from AFSC staff, reviews the research to estimate snow crab selectivity and efforts to understand the sensitivity of the snow crab model to the selectivity parameters. This report discusses the extent to which the cooperative survey data can be compared with the NMFS trawl survey data and the selectivity differences between the two types of nets. A report from BSFRF (initially presented to the Crab Plan Team in September 2009) is attached as Item C-3(c)(2). Representatives from the BSFRF and AFSC will be on hand to report on these surveys.

Diana Stram (NMFS) gave a brief overview of the Council's Scott Goodman and David Somerton reviewed their report and answered questions for the Council.

The SSC report was heard, and public comment was taken.

Council Discussion/Action

Mr. Lloyd noted that he is pleased with the collaborative industry and agency effort, and he encourages state and agency to continue working together. Many Council members echoed his comments.

Dr. Stram noted that a special crab plan team will be addressing these sensitivity analyses with respect to the snow crab model, and preliminary review of the ACLs and rebuilding plans. Both reports will be available in April.

C-4 Groundfish Annual Catch Limits (ACLs)

BACKGROUND

The Magnuson-Stevens Act and the National Standard 1 Guidelines require Councils to develop measures to prevent overfishing, rebuild overfished stocks, achieve optimum yield, and to establish annual catch limits (ACLs) and accountability measures (AMs) for species and species groups identified to be "in the fishery." An ecosystem component (EC) category may also be included in the FMPs for species and species groups that are not targeted for harvest, not likely to become overfished or subject to overfishing, and not generally retained for sale or personal use.

The proposed action is to amend the BSAI and GOA Groundfish FMPs to identify target groundfish stocks in the fishery, forage fish species either in the fishery or in the ecosystem component category, prohibited species in the EC category, and non-specified species outside of the FMPs

[Dave Bedford participated for Denby Lloyd]

Jane DiCosimo gave the staff report, and Lori Swanson provided the AP report. Pat Livingston previously had reported the SSC's recommendation, and public comment was taken.

Council discussion/action

Mr. Benson moved to adopt staff recommended language in the problem statement (page 4 of document) with 2 changes:

In the middle of the second paragraph, last sentence should read, "...those stocks." May require action to preserve those stocks. (Insert the words FOR and MAY). Additionally, Mr. Benson recommended that the document be released for public review.

Mr. Benson noted that the Non-Target Species Committee will be meeting before the next Council meeting, and reviewing the proposed alternatives as well as developing alternatives for a second ACL analysis.

The Council will have the document for review for final decision in April, with advice from the Non Target Species Committee. **Motion passed without objection.**

C-5 (a) Amendment 80 Cooperative

(a) Amendment 80 Lost Vessel Replacement

At the October 2008 meeting, the Council initiated an analysis for a proposed FMP amendment to address lost vessels in the Amendment 80 program. The analysis was initiated to address a May 19, 2008, ruling of the U.S. District Court of the Western District of Washington that invalidated the Amendment 80 provisions limiting the vessels used in the Amendment 80 program. In Arctic Sole Seafoods, Inc. v. Gutierrez, the district court found the statutory language of the Capacity Reduction Program ambiguous

as to whether replacement of qualifying vessels with non-qualifying vessels was permissible, and found the agency's interpretation of the statute to be arbitrary and capricious.

[Dave Bedford participated for Denby Lloyd]

Glenn Merrill (NMFS) gave a report and fielded brief questions from the Council. Lori Swanson gave the AP report, and the SSC report had been given at an earlier date. Public comment was heard.

Council discussion/action

Mr. Bedford made the following motion which was seconded:

Move that the Council approve the Purpose and Need Statement as written and forward the analysis for public review with the following modifications to the alternatives and options (starting with the AP's motion, deletions shown with ~~strike through~~ and additions are underlined):

~~Staff Suggested~~ Purpose and Need

Allowing Amendment 80 vessel owners to replace their vessels due to actual total loss, constructive total loss, permanently ineligibility to be used in a U.S. fishery, or for other reasons would allow vessel owners to improve vessel safety, meet international class and load line requirements that would allow a broader range of onboard processing options, or to otherwise improve the economic efficiency of their vessels. Allowing smaller vessels to be replaced with larger vessels could improve the ability of vessel owners to comply with the groundfish retention standard (GRS) applicable to all Amendment 80 vessels.

Alternative 1: Status quo. Vessels may not be replaced.

Alternative 2: The owner of an Amendment 80 vessel may replace that vessel with another vessel only in cases of actual total loss, constructive total loss, or if that vessel permanently ineligible to be used in a U.S. fishery under 46 U.S.C. 14108. Only one replacement vessel may be used at the same time (one-for-one replacement).

Alternative 3: The owner of an Amendment 80 vessel may replace that vessel with another vessel for any purpose. Only one replacement vessel may be used at the same time (one-for-one replacement).

Option 1 (Applicable to Alternatives 2 and 3): Vessel size restrictions.

- (a) A replacement vessel may not have a length overall greater than the original qualifying Amendment 80 vessel it replaces.
- (b) A replacement vessel may have a length overall 10% or 20% greater than the original qualifying Amendment 80 vessel it replaces.
- ~~(b)~~(c) The maximum length overall (MLOA) requirements on LLP licenses assigned to an Amendment 80 vessel would still apply.
- ~~(e)~~(d) No length restriction on replacement vessels (the MLOA requirements on LLP licenses assigned to an Amendment 80 vessel would not apply).

Suboption 1 (Applicable to all Options): Different vessel size restrictions may be applied to large (>145 feet LOA or 200 feet LOA) and small (<145 feet LOA or 200 feet LOA) vessels.

Option 2 (Applicable to Alternatives 2 and 3): GOA flatfish sideboard restrictions. A replacement vessel that replaces an original qualifying Amendment 80 vessel that is allowed to directed flatfish in the GOA:

- (a) would not be allowed to directed fish for flatfish
- (b) would be allowed to directed fish for flatfish

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- Option 3 (Applicable to Alternatives 2 and 3): *Golden Fleece* sideboard restrictions. A replacement vessel that replaces the *Golden Fleece*:**
- (a) would not receive the same exemptions that apply to the *Golden Fleece*. Amendment 80 sideboards in the Gulf of Alaska would be adjusted to account for the history of the *Golden Fleece* in the same manner as other Amendment 80 vessels.
 - (b) would receive the same exemptions that apply to the *Golden Fleece*.
 - (c) if the replacement vessel for the *Golden Fleece* is greater than the LOA of the license that was originally assigned to the *Golden Fleece*, then that replacement vessel will be subject to all sideboards that apply to other Amendment 80 vessels, with the catch and PSC use of the *Golden Fleece* added to the existing GOA sideboards. If the *Golden Fleece* replacement vessel is less than or equal to the LOA of the license that was originally assigned to the *Golden Fleece*, then the *Golden Fleece* sideboards would apply.
- Option 4 (Applicable to Alternatives 2 and 3): Assigning QS to Lost Vessels. Allow the owner of an Amendment 80 Vessel to choose to assign a QS permit from an original qualifying Amendment 80 vessel to the replacement vessel or to the LLP license derived from the originally qualifying vessel.**
- (a) A replacement vessel cannot enter an Amendment 80 fishery without QS being assigned to that vessel.
 - (b) Persons holding a QS permit associated with a vessel that is permanently ineligible to re-enter US fisheries is eligible to replace the vessel associated with its QS permit.
- Option 5 Any vessel replaced under this program would be ineligible to be designated on an FFP and an LLP.**

Suboption: Replaced vessels may be used to replace other Am80 vessels

- **Requirement under all alternatives: Monitoring and enforcement, permitting, recordkeeping and reporting, prohibitions, and general GOA sideboard measures that apply to original Amendment 80 vessels would continue to apply to all replacement vessels.**

~~The AP recognizes the need to address the unique situation of the *Ocean Peace* which could lose its ability to fish its AFA allocation if the vessel is replaced.~~

~~The AP notes that there are continuing legal concerns with the authority of the Council to allow Amendment 80 vessel replacement under the proposed alternatives, given the definition of the non-AFA trawl CP sector in legislation and the limited scope of the decision in *Arctic Sole v. Gutierrez*. The AP recommends that the Council request further clarification of this issue by NOAA GC.~~

~~The AP recommends the Council request that the analysis contain a table that indicates the age of each of the Amendment 80 vessels.~~

Mr. Bedford discussed his motion, noting that the process is in very early stages, and thanked the staff for getting the information, so this action can deal with some of the problems and questions: safety, efficiency, and producing products that can feed the world.

Mr. Bedford also requested that some AP recommendations and comments from public testimony be brought up during staff tasking. The Council discussed the motion, asking questions of NOAA General Counsel, regarding replacement vessels in previous cases. The Coast Guard noted preference for providing comments in the next review of the document.

Mr. Henderschedt moved and was seconded to amend the motion with the addition of a suboption under Alternative 3: add to (b), (c), and (d), add minimum size restriction of 180.

Mr. Henderschedt noted that this would have lesser impacts in GOA than other options (Option 2). It was generally noted that option D has no length restrictions,

Amendment passed without objection.

Mr. Tweit moved to amend, and was seconded by Mr. Henderschedt, to create a suboption D (only under the no length restriction): He noted that the replacement vessel could not be fished under the AM80 limited access sector. There was brief discussion of the competitive effects of the motion.

Motion passed without objection.

Mr. Hyder moved and it was seconded to add under Option 2, suboption B, add option “subject to sideboards.” Mr. Hyder noted there are potential impacts in the GOA for increased capacity in the flatfish fishery; vessels aren't sideboarded. Staff noted that discussion will include vessel size class may or may not affect halibut PSC use. **Motion passed without objection.**

Amended motion passed without objection.

NOAA General counsel discussed current litigation and legislative fixes in relation to public comment.

C-5 (b) Amendment 80 Cooperative Formation

In June 2008, the Council initiated an analysis that would modify the existing standards for cooperative formation under the Amendment 80 Program. At the December 2009 meeting, the Council conducted initial review and released the document for public review.

Glenn Merrill gave the staff report, the AP report was heard, and public comment was taken.

Council discussion/action

Mr. Mecum moved and Mr. Fields seconded to select Alternative 4, suboption 1 as the preferred alternative (2QS holders, 7 QS permits.); Select the QS assignment suboption effective beginning two years after the implementation of the final rule.

Mr. Mecum noted that this modification maintains the quota-based management and cooperative structure central to the Amendment 80 Program. This action would further the goals of Amendment 80 by ending the race for fish and provides the opportunity for slightly more relaxed standards that can facilitate cooperative formations relative to the status quo.

Mr. Mecum restated that he is not changing the number of cooperatives that may form, and recommends a two year phase-in period to give industry time to establish terms in coop contracts, and that participants would be able to form cooperatives with flexibility.

There was discussion regarding the Groundfish Retention standard, and the responsibility of the cooperatives and the agency.

Mr. Henderschedt moved to amend, and was seconded, that the GRS should be applied in aggregate to all cooperatives if this calculation meets or exceeds the GRS requirement. Mr. Henderschedt spoke to challenges of the fleet in meeting the GRS, and this option allows one more tool for the fleet to better meet the requirement, taking note that fixing one area of the problem will not necessarily create disproportionate burden on the agency. Additionally, he noted that this will go a long way in maintaining necessary balance in the cooperative in all areas and sectors.

There was lengthy discussion regarding the necessity of the action; if the incentive is there for smaller boats to encourage formation of cooperatives.

The amendment passed 6/5, with Dersham, Fields, Bedford, Mecum, and Olson voting against.

Mr. Tweit moved, and was seconded, that the Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions.

Mr. Tweit noted that the Council has choices to either see entire proposed draft regulations and make comment, or to allow the Chairman and Executive director to provide direction consistent with Council intent work with council staff to refine the regulations. **Amendment passed without objection.**

Mecum thanks industry and staff, and package as proposed is an improvement. Improving quality and value, and increasing retention, and this will go a long way in doing that.

Mr. Mecum noted that this alternative does provide the opportunity for slightly more relaxed standards that can facilitate cooperative formations relative to the status quo, also noting that this alternative does not change the maximum number of cooperatives that could form. Most importantly, under this alternative the current participants in the limited access fishery would be eligible to form a cooperative without the requirement that the one QS holder (the Golden Fleece owner) would be required to participate in the Amendment 80 program, or require that the membership of the existing cooperative (BUC) would need to be altered. Industry participants have stated a strong preference to modify the cooperative standard to provide additional opportunities for participants to integrate into cooperative management and take advantage of the flexibility provided to cooperatives under the program.

Mr. Mecum continued, pointing out that this alternative does not relax the cooperative formation standards so dramatically that it removes a key component of the Amendment 80 Program -- to provide opportunities for larger and smaller vessel operators to coordinate fishing operations to improve efficiencies and to better meet the GRS.

Motion passed unanimously.

C-6 Central Gulf of Alaska Rockfish Program

- (a) Receive 2009 Cooperative Report*
- (b) Preliminary review of the analysis*

BACKGROUND

At this meeting, the Council will make a preliminary review of the Central GOA Rockfish Program analysis. The draft analysis, which was mailed on January 25, 2010, analyzes many of the issues in detail. However, the document is not yet complete as some provisions have yet to be analyzed, such as excessive shares caps (for both harvesting and processing sectors), transfer rules on processor allocations, and the Kodiak landing requirement. In addition, NMFS must review and comment on certain sections, such as

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the effects on management, monitoring, and enforcement and associated costs, effects on other fisheries, and the program duration and review.

The public heard reports from Julie Bonney and Mike Szymanski on the two Rockfish Cooperatives in the Central GOA. Lori Swanson gave the AP report, Roy Hyder gave the enforcement report on this topic, and there was no public comment on C-6(a). Mark Fina and Jon McCracken gave a report on the alternatives for the limited access permit program which would succeed the pilot program. Mr. Fina noted that there is no action needed at this time, but wanted to update and highlight certain areas of the developing elements and options. The AP report was given, and public comment was heard.

Council Discussion/Action

Mr. Bedford moved and was seconded by Mr. Benson (adding to the AP motion) to:

- **Add an option for CP excessive share use caps to include 20, 30, 40%**
- **Add an option to remove sideboard provision in CP sector with respect to stand downs under 18.2 and sideboards for WYAK/WGOA rockfish and SW/DW halibut**

Mr. Bedford spoke to his motion, noting that the public brought up the fact that the qualifying years could create circumstances where a CP sector has a history beyond 10%, and Council may benefit from broadening that option.

Staff reviewed information that can be included in the revision of the document, and data that can be added to give the public a better idea of their allocations.

Mr. Cotten moved to amend, which was seconded by Mr. Fields, to request the analysis address 2 other options for calculating halibut PSC:

Option 1: based on the number of tons of halibut mortality in the first 3 years of the Rockfish Pilot Program

Option 2: based on the historic average usage calculated as 50 percent on halibut usage in the qualifying period and 50 percent on halibut usage in the first three years of the Rockfish Pilot Program.

There was brief discussion, noting that there are savings in halibut mortality based on the operating methods of the program, and having this information available for comparison would allow allocating halibut based on that experience.

The amendment passed 9/2, with Benson and Henderschedt voting against.

Mr. Cotten moved to amend, which was seconded, to add an option of 10, 25, 50, 75 and 100% of the allocation of halibut PSC that has not been utilized by November 15, or after the declaration to terminate fishing will be added to the last seasonal apportionment during the current fishing year. The remaining portion of any allocation will be unavailable for use.

Mr. Cotten noted that the point is to reward fishermen who have saved halibut in the program as a rollover, and to look at value of flatfish relative to the potential halibut PSC rollover to that fishery. There was brief discussion regarding necessity of amendment. Halibut PSC will be discussed in a

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separate agenda item; paper may not be finalized, so staff will add discussion here, with the Council reserving right to reverse support. Discussion regarding which fishery added last seasonal apportionment.

Amendment passed 7/4, with Benson, Henderschedt, Hyder, and Tweit voting against.

Mr. Fields moved to amend with a second to change item 13 to clarify:

- 13 Cooperative Harvest Use Caps**
CV cooperatives
No person may hold or use more than 3-5% of the CV historic shares, using the individual and collective rule
Option: with grandfather provision.

Mr. Fields noted he is clarifying what is already implied by using a range and making it clear that the grandfather provision is an option, that may or may not be chosen.

Motion passed without objection.

Mr. Fields moved to amend, and was seconded by Mr. Cotten to change section 2.2 in the elements and options to adjust the “step-ups” as follows:

- 2.2 Fixed gear only entry level fishery (EL-3)**
The annual set aside will be;
1 – 10 mt of the POP TAC
1 - 10 mt of the northern rockfish TAC
10 - 30 mt of the pelagic shelf rockfish TAC.
ADD OPTION: the set aside would be doubled until it exceeds 100mt, then increased by 100mt increments up to the cap:

Mr. Fields noted we have to have a realistic option for developing fisheries. There was general discussion noting the step-ups in the original pilot program.

Amendment failed 5/6 with Tweit, Benson, Dersham, Henderschedt, Hull, and Mecum voting against.

Mr. Hyder moved to amend, which was seconded, that fixed gear exemption from VMS requirements becomes an option in sections 2.1 and 2.2. He noted that there are area specific fisheries may need VMS, and would like the analysis to reflect the option. **Motion passed without objection.**

Mr. Hull noted that during public comment, it was brought up that harvesters and processors have provided their catch and processing history that would otherwise not be available because of confidentiality, but would like that included. It was agreed it would be included, as long as a confidentiality waiver was signed.

Amended main motion passes without objection.

Mr. Henderschedt requested to get the denominators out as soon as possible, and marked this for the staff tasking discussion. Additionally, he also requested about the procedure of selecting a preliminary preferred alternative regarding the release of document, notice to the public, etc. Mr. Oliver noted that

there is no implication on scheduling; it's an optional policy to assist the public in comment and intent of the Council. Mr. Oliver noted that further discussion can be held later in the meeting under staff tasking.

Mr. Bedford moved to adjust the order of the D Miscellaneous items to take item (b) , followed by (g), then the remainder of the list in sequence. Motion passed without objection.

D-1 AFA Cooperative reports

Reports were heard from John Gruver and Karl Haflinger for the Catcher Vessel Intercoop, and Stephanie Madsen and Ed Richardson presented the report from the Pollock Conservation Cooperative and the High Seas Catchers' Cooperative.

No action was taken by the Council

D-2 Data Collection Discussion Paper

BACKGROUND

At its October 2010 meeting, the Council received a brief report from the Pacific Northwest Crab Industry Advisory Committee (PNCIAC) recommending a process to review the Crab Economic Data Reports to improve the accuracy and efficiency of data reported in that program. Based on this recommendation, public testimony, and its experience with the data collection initiative for Chinook prohibited species catch (PSC) measures, the Council requested staff to prepare a discussion paper reviewing the potential objectives for economic data collection and the structuring of data collection initiatives to achieve those objectives. The Council requested staff to discuss both the potential for the data collection initiatives to directly inform management questions and research initiatives using information from the agency's data quality review of the Crab Economic Data Reports and PNCIAC's recent review of those data, as well as any information from the Amendment 80 EDR process and the Chinook PSC data collection analysis. The paper is intended to assist the Council in developing future data collection programs and making revisions to the crab Economic Data Reports.

Stephanie Moreland is sitting in for Dave Bedford

Mark Fina gave the staff report; the AP report was taken, and public comment was heard.

Council Discussion/Action

Mr. Henderschedt moved which was seconded by Mr. Benson:

Using the process suggested in the February 2010 discussion paper on economic data collection, the Council tasks staff, with input from the Alaska Fisheries Science Center, to begin a process of assessing and refining the Crab EDR and Amendment 80 economic data collection programs. The purpose of this assessment is to identify refinements to these data collection programs so that they more effectively address Council objectives for these data collections consistent with the Magnuson Stevens Act and ensure that quality information is collected to support analyses to ass and meet management objectives. This process of assessment should be completed before new data collection programs are developed.

To begin this process, a discussion paper assessing the Crab EDR should be developed first, followed by an assessment of the Amendment 80 program. Both discussion papers should focus on an assessment of the Council's purpose for establishing each data collection program. As framed by that purpose, and based on the written assessments of the existing collection by AFSC staff and industry, a summary will be developed evaluating each variable's informative value, accuracy, and collection cost. Using the assessment as a starting point, the Council's intent would be to then develop modifications to the data collection programs as necessary.

Mr. Henderschedt thanked the parties involved in assembling discussion paper. He noted that the SSC reviewed paper, and agreed with recommendations contained in paper, as did the AP and is confident that recommendations in this paper will be useful in future actions by the Council. He encouraged the industry to continue to work closely with council to develop solutions to these data collection issues.

Ms. Moreland suggested focusing on areas that are more difficult, then Council can weigh whether or not to pursue those outlets. It was noted that the work product (discussion paper) has been developed around areas already identified, and can inform future data collection action.

Motion passed without objection.

D-3 Bering Sea Chum Salmon Bycatch

D-3 (b) Review of new area closure options for chum bycatch alternatives

Background

The draft alternatives for the chum salmon bycatch measures include two different alternative time/area triggered closure configurations. The first was developed by staff in 2008 with iterative review and modification by the Council while the second results from work following the December 2009 Council meeting per request for staff to develop new candidate closures. A discussion paper is attached as Item D-3(b)(1) which review the following information as it relates to alternative time/area closures: 1- the alternative closure already contained in the Council's draft suite of alternatives and its methodological approach; 2- new candidate area closures; 3-timing and trigger cap formulations and application related to area closures. The full Council motion on the chum salmon bycatch alternatives from December 2009 is attached to the discussion paper.

At this meeting the Council will review the candidate closures and trigger applications as described in this paper. The Council should refine alternatives as necessary and provide direction to staff for revisions to area options, trigger levels and applications as necessary to allow for final review and revisions to Alternative 3 in June 2010.

Diana Stram gave a report on the agenda item D-3 (b) and Roy Hyder gave a brief report from the Enforcement Committee. The AP report was given, and the SSC report was given earlier. Public comment was taken.

Council Discussion/Action

Mr. Lloyd distributed a lengthy motion as follows, which was seconded by Mr. Hull:

The Council requests staff develop an expanded discussion paper based on Advisory Panel recommendations. Additions to the Advisory Panel recommendations are shown underlined and deletions in strikethrough.

The ~~AP recommends~~ the Council moves ~~forward with~~ the following revised (~~bold~~) components for analysis:

Component 5: Area Option

- a) Large area closure
- b) Discrete, small area closures identified by staff in February Discussion paper (20 ADF&G statistical areas, identified in Table 4)
- c) Groupings of the small area closures (described in Option b above) into 3 zones that could be triggered independently with subarea, rather than statistical area, level closures

Component 6: Timing Option – Dates of Area Closures

- a) Trigger closure of Component 5 areas when the overall cap level specified under Component 1(a) was attained
- b) Under Component 5(b) discrete small closures would close when an overall cap was attained and would close for the time period corresponding to periods of high historical bycatch, considering both number of salmon and bycatch rate (i.e. Table 11 in February Discussion Paper)
Under Component 5(c) subareas within a zone would close for the time period corresponding to periods of high historical bycatch within the subarea when a zone level cap was attained
- c) Under Component 5, areas close when bycatch cap is attained within that area (i.e. Table 12 in February Discussion Paper)
 - a. for the remainder of year
 - b. for specific date range

Component 7 Rolling Hot Spot (RHS) Exemption - Similar to status quo, participants in a vessel-level (platform level for mothership fleet) RHS would be exempt from regulatory triggered closure(s).

Sub-option (a) RHS regulations would contain an ICA provision that the regulatory trigger closure (as adopted in Component 5) apply to participants that do not maintain a certain level of rate-based chum salmon bycatch performance.

In addition, include the following items in the next discussion paper:

- Analyze discrete area approach normalized across years (i.e. proportion of salmon caught in an area in a year rather than numbers of salmon)
- Discuss how Component 7 and suboption would be applied
- In depth description of the rolling hot spot regulations (Amendment 84), focusing on parameters that could be adjusted if the Council found a need to refine the program to meet objectives under Component 7
- Discussion from NMFS of catch accounting for specific caps for discrete areas, and area aggregations described in Component 5 and for areas within those footprints that may have other shapes that could be defined by geographic coordinates ~~{Component 6(e)}~~

- Discussion from NMFS on the ability to trigger a regulatory closure based on relative bycatch within a season (with respect to catch accounting system and enforcement limitations) considering changes in bycatch monitoring under Amendment 91
- Contrast a regulatory closure system (Components 5 and 6) to the ICA closure system (Component 7) including data limitations, enforcement, potential level of accountability (i.e., fleet-wide, sector, cooperative, or vessel level)
- Examine differences between high bycatch years (i.e. 2005) and other years to see what contributes to high rates (i.e. timing/location, including fleet behavior and environmental conditions)
- Examine past area closures and potential impacts of those closures on historical distribution of bycatch and on bycatch rates (qualitative); include 2008 and 2009 data and contrast bycatch distribution under VRHS versus the Chum Salmon Savings Area

Component 5 Area Options

- (a) Large area closure
- (b) Discrete, small area closures shown in the February discussion paper as 20 ADF&G statistical areas accounting for 80 percent of the historical chum bycatch
- (c) Groupings of the small area closures (described in option b) into 3 zones that could be triggered independently with subareas rather than statistical area level closures.

Component 6 Timing Option – Dates of Area Closure

- (d) Trigger closure of Component 5 area when the overall cap level specified under Component 1(a) was attained.
- (e) Under Component 5(b-c), each discrete area would close once the overall cap was triggered for period of highest historical bycatch, considering the relative number of salmon taken from the area within each year and bycatch rate (as shown in Table 11 of the February Discussion paper)

Component 7 Rolling Hot Spot (RHS) Exemption - Similar to status quo, participants in a vessel-level (platform level for mothership fleet) RHS would be exempt from regulatory triggered closure(s).

Sub-option (a) RHS regulations would contain an ICA provision that the regulatory trigger closure (as adopted in Component 5) apply to participants that do not maintain a certain level of rate-based chum salmon bycatch performance.

In addition, include the following items in the next discussion paper:

- Analyze discrete area approach normalized across years (i.e. proportion of salmon caught in an area in a year rather than numbers of salmon)
- Discuss how Component 7 and suboption would be applied
- In depth description of the rolling hot spot regulations (Amendment 84), focusing on parameters that could be adjusted if the Council found a need to refine the program to meet objectives under Component 7
- Discussion from NMFS of catch accounting for specific caps for discrete areas, and area aggregations described in Component 5 and for areas within those footprints that may have other shapes that could be defined by geographic coordinates ~~{Component 6(e)}~~

- **Discussion from NMFS on the ability to trigger a regulatory closure based on relative bycatch within a season (with respect to catch accounting system and enforcement limitations) considering changes in bycatch monitoring under Amendment 91**
- **Contrast a regulatory closure system (Components 5 and 6) to the ICA closure system (Component 7) including data limitations, enforcement, potential level of accountability (i.e., fleet-wide, sector, cooperative, or vessel level)**
- **Examine differences between high bycatch years (i.e. 2005) and other years to see what contributes to high rates (i.e. timing/location, including fleet behavior and environmental conditions)**
- **Examine past area closures and potential impacts of those closures on historical distribution of bycatch and on bycatch rates (qualitative); include 2008 and 2009 data and contrast bycatch distribution under VRHS versus the Chum Salmon Savings Area**

Mr. Lloyd noted that AP suggestions are expanded in order to ensure the Council will be able to identify an appropriate range of options for area closures in June to meet the Council's objectives. The paper has raised many questions about the utility of area closures and about data and enforcement limitations in developing meaningful area closures. Additionally, he noted that the range proposed carries forward the area closure from previous documents, and adds the 20 ADF&G statistical areas identified in the current paper as having made up approximately 80 percent of the bycatch. In addition to the APs recommendation for discrete area closures, this motion would allow the Council to consider grouping the statistical areas.

Motion passed without objection.

D-3 (d) Review and adopt HAPC criteria and schedule

BACKGROUND

Under the Council's existing Habitat Areas of Particular Concern identification process, the Council will periodically issue a call for proposals for candidate areas that encompass specific, priority habitat types to be identified as HAPC. The sites proposed under this process are then sent to the Plan Teams for scientific review to determine whether they have ecological merit, and are also reviewed for socioeconomic and management and enforcement impacts. During the last HAPC proposal cycle, in 2003-2004, the Council received feedback from the public and the Plan Teams criticizing the criteria established to evaluate the HAPC site proposals. The Council has asked the SSC to revise the criteria.

Diana Evans (NPFMC) gave a brief report on this agenda item, the AP report was given; the SSC report had been heard earlier, and public comment was taken.

Council Discussion/Action:

Mr. Tweit asked for clarification definitions on "habitat."

Mr. Tweit moved which was seconded to announce "timeline B," a longer HAPC proposal cycle, starting in April 2010 with final action in June 2011, as its schedule, recognizing that this is an important process which should not be rushed. He noted it provides a longer public comment period, and would conflict less with Plan Team preparation of SAFE documents and pending review of ACLs.
Motion passed without objection.

Mr. Tweit moved which was seconded that the Council announce its intention to adopt the HAPC criteria in April, taking SSC recommendations into consideration at this time. Motion passed without objection.

D-3 (e) Report and action as necessary on the AI FEP addendum

BACKGROUND

The Council's Aleutian Islands Ecosystem Team met January 27-28, 2010, in Seattle. The Team reviewed new information about the AI, and discussed future directions for the FEP and the Team. The Team proposed developing Terms of Reference for the Team, and also a plan for updating the FEP. During the final afternoon, the Team met jointly with the Ecosystem Committee to discuss their suggestions and recommendations.

The Ecosystem Committee generally agreed with the direction and schedule suggested by the Team for further work. Additionally, the Committee made recommendations to the Council on the national Coastal and Marine Spatial Planning framework that is currently out for public comment

Diana Evans gave the staff report on this agenda item and fielded a few questions from Council. Mr. Oliver reminded the Council that a letter had been drafted and finalized earlier in the meeting highlighting our Fishery Ecosystem Plan as an example of marine spatial planning already underway.

Council Discussion/Action

There were no public comments, and no action was taken.

D-3 (f) Review discussion paper on stranding of BSAI Pacific cod TAC

BACKGROUND

At its December 2009 meeting, the Council received public testimony on the amount of unharvested Pacific cod total allowable catch (TAC) in the Bering Sea and Aleutian Islands (BSAI). The Council requested staff to prepare a discussion paper examining reasons for unharvested Pacific cod and possible changes to fully use the TAC.

Currently, there is no regulatory mechanism that authorizes reallocation of Pacific cod from the Amendment 80 sector to other sectors. The discussion paper describes the issue, and proposes several possible options to address reallocations from the Amendment 80 sector, all of which would require rulemaking.

Sue Salvesson gave the staff report on this agenda item; the AP report was taken, and the SSC did not take up the issue. Public comment was also taken.

Council Discussion/Action

Mr. Tweit thanked staff for the quick response with the discussion paper, and noted that although this process may take a while with FMP amendments, having the background provides an opportunity to explore the options in creating a new cooperative for a sector (freezer longline sector) that may facilitate transfers between the Amendment 80 and freezer longline sector. This may mitigate the issue of unharvested TAC in the future. There was lengthy discussion and interest in monitoring this issue in the future.

No action was taken.

D-3 (g) Halibut PSC Limits

BACKGROUND

At the December 2009 meeting, the Council directed staff to prepare a discussion paper on the process for changing the halibut PSC limits in the GOA and the BSAI. The paper, prepared by NMFS staff, describes how PSC limits for halibut are established in both the BSAI and the GOA, and how PSC limits in the GOA could be modified under the process currently in existence. The paper identifies scheduling considerations for the Council should you wish to consider changing PSC limits as part of an upcoming harvest specifications process. Alternatively, the paper also briefly describes the process that would be required for an FMP amendment to change the GOA process for establishing PSC limits to mimic the process in place in the BSAI FMP.

Sue Salvesson (NMFS) gave a detailed report on this agenda item, and answered many questions from the Council members on process, timing and implementation on establishing PSC limits. The AP report was given, the SSC report was given earlier, and there was no public comment.

Council Discussion/Action

Mr. Cotten made a motion which was seconded, based on the motion from the Advisory Panel.

Council staff should bring back a discussion paper that develops the background information and clarifies the nature of the problem that needs to be addressed in context of considerations set forth in the GOA FMP for the establishment of halibut PSC limits, (Appendix 1 to the February discussion paper.) This paper would inform a subsequent decision to pursue an analysis to adjust halibut PSC limits under either an FMP amendment or the annual specification process for the GOA.

The Council further requests a second discussion paper be developed to evaluate halibut PSC caps in the Bering Sea relative to the types of criteria and considerations set forth in Appendix 1 of the discussion paper (noting adjustment in the Bering Sea would be done by regulatory amendment).

Mr. Cotten noted that Appendix 1 is only relevant to the GOA FMP, but the considerations and criteria are relevant to the issues that would need to be explored in adjusting BSAI halibut PSC caps. Additionally, he noted it would be a preferable approach to addressing Council and IPHC concerns over halibut PSC in the groundfish fisheries compared to a separate IPHC bycatch workgroup charged with developing recommendations that later feed into the Council process.

There was brief discussion regarding the longevity of PSC limits, and the need to identify a problem before staff can analyze it. Mr. Oliver discussed timing of a discussion paper as it relates to the 2011 TAC numbers, and there was lengthy discussion regarding impacts on future council actions.

Mr. Benson noted that in addition to staff resources being increased with this proposed process, that he is concerned that observer coverage and tweaking the PSC limits on an annual basis would not cause a good outcome.

Motion passed without objection.

D-4 Staff Tasking

Chris Oliver reviewed the items scheduled for decision during this agenda item and briefly reviewed issues tentatively scheduled for discussion at the April Council meeting. Lori Swanson gave the AP report and public comment was taken.

[Stefanie Moreland sat in for Denby Lloyd for this agenda item.]

Council Discussion/Action

Charter Halibut Moratorium

Doug Mecum moved, which was seconded, a problem statement and alternatives for amending the issuance of charter halibut permits for businesses that would be issued multiple permits:

Problem Statement

The methodology used to assign angler endorsements to charter halibut permits held by charter halibut businesses initially issued more than one permit could result in excessive fishing capacity in the charter halibut fishery. The Council intends to more closely align angler endorsements with the actual greatest number of anglers for each vessel that gave rise to each charter halibut permit.

Alternatives for businesses that would be issued multiple permits:

- Alternative 1. Status quo. All permits issued to a business receiving multiple permits would be issued with an angler endorsement equal to the greatest number of charter vessel anglers onboard any vessel used by the business to generate a permit as reported to ADF&G on any bottom fish logbook trip in 2004 or 2005, but not less than 4.*
- Alternative 2. One permit would be issued to a business with an endorsement equal to the greatest number of charter vessel anglers onboard any vessel used by the business to general a permit as reported to ADF&G on any bottom fish logbook trip in 2004 or 2005, but not less than 4. Each subsequent permit issued to the same business would be issued with an endorsement equal to the next greatest number of charter vessel anglers onboard any other vessel used by the business to generate a permit, whose catch history has not already been used by the business to determine an angler endorsement, as reported to ADF&G on any trip in 2004 or 2005, until all permits are issued. The year selected for determining angler endorsements must be the year selected by the applicant for permit qualification.*

There was general discussion regarding the alternatives and their applicability to unique business situations. Mr. Mecum noted the intent is to bring this back to the Council with final action in April, not impeding implementation of the Moratorium Program. It was recommended to widely notice in newsletter and on web.

Motion passed without objection. Stefanie Moreland thanked NMFS staff and NPFMC staff for their assistance in drafting the proposed problem statement and proposed alternatives for Council consideration.

SSL Clarification

Ms. Moreland listed the State's expectations for the SSL Biop. Mr. Tweit noted that the Council will need as much information as possible, and input from the Committee, to determine whether or not the Biop has all the tools necessary to develop appropriate SSL mitigation measures.

Mr. Henderschedt provided the Council with recommended additional clarifications that will better inform the Council and the public during review of the draft BiOp. The Council suggests that NMFS prepare a short, concise white paper that could be made available concurrent with the draft BiOp. The paper should:

Clearly describe the methodology NMFS is applying to determine the status (counts) of WDPS SSLs relative to the downlisting criteria, including:

- The specific methodology used in the SSL Recovery Plan to determine the 42,500 animal baseline in downlisting criteria 1. SSLRP page xiii.
- The specific methodology used to establish the 53,100 animal target set for 2015, as set out in downlisting criteria 1.
- A clear determination of the current status of the WDPS as gauged against these criteria by applying the specific methodology used to calculate the 42,500 animal baseline.

There was brief discussion regarding how the Council should take action. It was generally agreed to discuss Mr. Henderschedt's additional SSL items, and take additional Council input and Mr. Oliver will capture Council intent in a letter to the agency. Mr. Mecum noted the exchange is between Council and Agency.

Mr. Henderschedt briefly reviewed the CIE Statement of Work and Terms of Reference. It is attached as Appendix 6.

Additionally, Mr. Henderschedt included the following in relation to the SSLMC:

For its March, 2010 meeting, the Steller Sea Lion Mitigation Committee shall be tasked with reviewing the draft Biological Opinion and providing comments that can inform the council's development of comments on the draft BiOp to the National Marine Fisheries Service at its April, 2010 meeting.

Further, the SSLMC is tasked with commenting on the feasibility of the Council developing appropriate SSL mitigation measures given the content and findings of the draft Biological Opinion. It is the Council's intent, upon consideration of the SSLMC comments and recommendations, to decide whether or not to further engage the committee and initiate the development of SSL mitigation measures in response to the draft BiOp.

It was generally agreed the Council would be the vehicle to synthesize all the input from the various bodies and committees. Additionally, it was agreed the Council will need to have extra information to make an informed decision on findings from the BiOp.

Mr. Olson noted all these items will be incorporated into a letter to the agency.

NS2 Letter

Mr. Fields noted he would like item 4 removed or revised from the list of comments to be forwarded. Mr. Mecum noted that we would get another chance to comment on the proposed rule. Importance was stressed over SSC being primary review body. Comments on local and traditional knowledge, and SSC comments will be reworded. Mr. Oliver will draft comments on the proposed rule, and circulate to Council members.

Deeming Motions

There has been increasing concern over the Council and Agency and miscommunicating or misinterpreting Council intent during the final action and proposed rule stage. Mr. Fields noted that the current process is adequate, however is highlighting concern and sensitivity to time and review necessary for Council/Agency staff to review on Council members' behalf. Ms. Moreland noted that should there be discrepancy between Agency/Counsel/Staff that these items should be brought up in the B reports. She also noted that in absence of a policy, each action the Council "deems," should be addressed in a case by case basis. There was general discussion noting that there are safeguards in place now, and diversion from what we do now also have significant pitfalls.

Catch Share Policy

Mr. Oliver will be drafting a letter on a Catch Share Policy either for review at the April meeting or before. Mr. Henderschedt noted that in the EDR discussion paper, Mr. Fina pointed out some of the pitfalls associated with implementing data collection programs as part of implementing a Catch Share Program; this may good content for comments on Catch Share Policy. Mr. Tweit pointed out it is necessary to ensure the Council has sufficient resources to develop new plans and maintain existing ones. Mr. Fields noted new kinds of resources that may be needed, and all that goes into post implementation, also. It was noted that comments from enforcement committee would be beneficial, and to remember necessary resources for enforcement when drafting comments.

Regional Delivery Relief

Mr. Hyder would like to have Bering Sea Emergency relief agenda item on the April meeting. Mr. Hyder noted that he would like to forward the AP request noting same, and requests that industry and community representatives provide a consensus document of elements and options for that meeting. Ms. Moreland noted that specific issues that are under the Council's purview should be addressed, as opposed to contractual negotiations.

TIMING

Mr. Olson and Mr. Oliver noted that these timing issues are generally scheduled after meeting with staff and the Chairman.

- Mr. Oliver noted that the rockfish denominators will be available within a few weeks, and can make them available.
- The ROFR will come back for initial review in April, tentatively scheduled.
- Halibut: IFQ amendment, discussion paper on halibut PSC, discussion paper on data collection – NMFS/NPFMC staff need to meet regarding what is practical to expect for April

Chris Oliver encouraged Council members to identify agenda items of specific concern.

Mr. Henderschedt noted that there are items with extreme time sensitivity – and these should be noted on the agenda.

Mr. Fields highlighted GOA Rockfish program as a priority to be discussed at the April Council meeting.

MINUTES
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Mr. Tweit encouraged Council to consider staff resources and wanted to prioritize the Catch Share program and Observer Program restructuring for those resources. He noted that in EFH and HAPC, the Council has made public obligations and should continue on the set schedule.

Mr. Fields is concerned with items scheduled for June, since it will be in Sitka – specifically the Hagemeister item. Item placement will be reviewed in April. Additionally, Mr. Fields noted that the Observer Program restructuring should be a high priority, and report on progress from Dr. Loefflad would be appreciated.

Mr. Hull had questions on the list of discussion papers and when they would show up on the Council's agenda. Mr. Oliver noted that NPFMC/NMFS staff would need to have a discussion and develop a map of items and timing. It was generally agreed that the catch share plan is a priority over all other issues, and that analytical packages take priority over discussion papers. He will provide an update in April on the development of those actions.

Mr. Mecum is concerned about staff tasking, but wanted it noted that NMFS staff and NPFMC need a chance to sit down and discuss timing and tasking, before items are prioritized for the April meeting.

Mr. Tweit emphasized the need to devote a large chunk of time to SSL issues, and noted that the Council could revisit EDR in April, noting much information has already been provided. It was agreed that the Council is asking for just an assessment, a "game plan" and has the information to move forward. This would also allow the industry to be prepared and additional work to get underway.

Ms. Moreland noted the BSAI Pcod Split is on the April agenda. It was discussed that there may not be time for staff to address this issue and return with meaningful discussion.

Mr. Hull noted that the AP made a recommendation regarding the Catch Shares Integration Program late proposal. He wanted to note that the Catch Share plan is moving forward, and requested the Council notify stakeholders that this proposal would fit in down the line as a long range solution. Mr. Dersham voiced his concurrence.

It was noted that in the letter for Catch Share policy, it was agreed that the Council could address enforcement efforts; making sure Coast Guard has the right platforms, funding and personnel.

Mr. Fields referenced a January 12 letter from Monterey Bay Aquarium which responded to Mr. Oliver's letter. It resulted in substantial changes in the way they assess the Pollock fishery. Council commended Mr. Oliver for the letter, and noted the impact.

Mr. Olson thanked everyone for their time and will see everyone in April.

Meeting adjourned at 11:06 am.