

# North Pacific Fishery Management Council

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

DATE: \_\_\_\_\_ 10/3/2009 \_\_\_\_\_

## FINAL MINUTES

193<sup>rd</sup> Plenary Session  
North Pacific Fishery Management Council  
June 3-9, 2009  
Hilton Hotel  
Anchorage, Alaska

The North Pacific Fishery Management Council met June 3-9, 2009 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met June 1-3, and the Advisory Panel met June 1-6 at the same location. The following Council, SSC and AP members, and NPFMC staff attended the meetings.

### Council Members

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

Roy Hyder  
Dave Bedford/Stefanie Moreland  
for Denby Lloyd  
Doug Mecum/Sue Salvesson  
Gerry Merrigan  
Bill Tweit for Phil Anderson  
RADM Brooks/LCDR Lisa Ragone  
[Nicole Ricci did not attend]

### NPFMC Staff

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

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

Scientific and Statistical Committee

Pat Livingston, Chair  
Troy Buell  
Robert Clark  
Keith Criddle, Vice Chair  
Anne Hollowed  
George Hunt  
Gordon Kruse

Kathy Kuletz  
Seth Macinko  
Franz Mueter  
Lew Queirolo  
Terry Quinn II  
Farron Wallace  
Doug Woodby

Advisory Panel

Joe Childers  
Mark Cooper  
Craig Cross  
John Crowley  
Julianne Curry  
Jerry Downing  
Tom Enlow  
Tim Evers  
Jeff Farvour

Becca Robbins Gisclair  
Bob Jacobson  
Simon Kinneen  
Chuck McCallum  
Matt Moir  
Theresa Peterson  
Ed Poulsen  
Beth Stewart  
Lori Swanson

**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 8:06 a.m. on Wednesday, June 3, 2009.

Denby Lloyd was unable to attend this meeting. David Bedford participated in this portion of the meeting for Commissioner Lloyd.

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

Agenda. The agenda was approved as published, with minor scheduling revisions.

Minutes. The minutes of the April 1-7, 2009 NPFMC meeting were approved as submitted.

**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-5); USF&W Report (B-6), and Protected Species Report (B-7).

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Executive Director's Report

Chris Oliver, Executive Director, reviewed his written report, including a summary of the recent annual Council Coordination Committee meeting. Issues discussed included NEPA, catch shares as a management tool, the 5-year budget process, and the Marine Protected Area (MPA) site nomination process. Mr. Oliver also provided Council members with draft comments on the proposed rule for Council SOPPs revisions. Comments are due by July 6 and Council members were asked to provide Mr. Oliver with comments on the draft during this meeting.

Mr. Oliver also provided a project tasking overview developed after meetings with NMFS Alaska Region staff to show amendments in process and those to be developed as staff becomes available. Mr. Hyder noted that it would be helpful to have a similar overview at each meeting.

Mr. Oliver also introduced members of a Korean fisheries delegation visiting the meeting to observe the Council process.

NMFS Management Report

Dr. Doug DeMaster, Director of the Alaska Fisheries Science Center, presented the Council with an overview of NOAA's plans to update its Strategic Plan and noted that individuals and organizations are invited to submit opinions and feedback. The updated plan is scheduled to be completed in the Spring of 2010.

Sue Salvesson (NMFS-AKR) provided an overview of the status of current FMP and regulatory amendments and the current status of groundfish fisheries. Lauren Smoker (NOAA General Counsel) briefly reviewed current litigation.

ADF&G Report

Herman Savikko (ADF&G) provided the Council with a review of State fisheries of interest to the Council.

NOAA Enforcement Report

Matt Brown (NOAA Fisheries Office of Law Enforcement) provided a report of enforcement activities for the period January to June 2009.

USCG Report

Admiral Brooks advised the Council that he will be reassigned soon and that Admiral Chris Colbin will be the new Director of the 17<sup>th</sup> Coast Guard District and the Coast Guard's Council designee. The Council presented the Admiral with a plaque expressing appreciation for his leadership and participation in the enforcement and management of the fisheries off Alaska. LCDR Ragone provided the Coast Guard Enforcement Report for April – May 2009.

U.S. Fish & Wildlife Report

Greg Balogh provided a review of U.S. Fish & Wildlife issues of interest to the Council, including recent information on the translocation of short-tailed albatross chicks from Torishim Island to Mukojima Island in Japan, the walrus/fisheries issue in Bristol Bay, and sea otter critical habitat.

Protected Species Report

Bill Wilson (NPFMC staff) and Kaja Brix (NMFS-AKR staff) provided a brief overview of protected resource issues, including an update on the Steller sea lion draft status quo biological opinion.

**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 GOA Groundfish Issues**

*(a) Central Gulf of Alaska Rockfish Program*

**ACTION REQUIRED**

**Review alternatives for Central GOA Rockfish Program**

**BACKGROUND**

In February 2009, the Council reviewed a discussion paper identifying potential changes to the Central Gulf of Alaska Rockfish Pilot Program. In addition to outlining possible amendments to the program, the paper noted that the pilot program is scheduled to expire after the 2011 fishing season. Realizing the protracted time needed to develop and analyze a comprehensive management program that could substitute for the existing pilot program after its expiration, the Council is considering the process of developing that substitute program. That program would be fashioned to address adjustments to the existing program, as well as comply with any applicable new Magnuson-Stevens Act requirements. To that end, the Council tasked staff to provide a description of four alternatives that range from taking no action and allowing the program to expire, to redesigning elements of the existing program to satisfy concerns expressed by stakeholders, for the June 2009 meeting. The alternatives specifically include:

1. No action, under which the fishery would revert to management under the License Limitation Program,
2. The current rockfish pilot program,
3. A variation on the existing program with changes to address issues that arise under the new Magnuson-Stevens Act limited access privilege program requirements, and
4. A variation on the existing program with changes to address concerns of various interests.

**The attached paper examines these alternatives and includes a brief discussion on the purpose and need for the action (see Item C-1(a)(1)).**

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

## Report of the Advisory Panel

The Advisory Panel provided the following recommendations for elements and options for the Rockfish Pilot Program alternatives: (Additions are indicated in ***bold and italics*** and deletions are indicated as ~~stricken~~.)

### ICA Set Aside

Prior to allocation of catch history to the sectors, NMFS shall set aside an Incidental Catch Allocation (ICA) of Pacific Ocean perch (POP), northern rockfish, and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the cooperative program.

### Entry-level Set Aside

A percentage of CGOA POP, northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program.

#### Trawl and fixed gear entry level fisheries

The annual set aside will be 5 percent of each of these target rockfish species.

Set-asides shall be apportioned at 50% for trawl gear and 50% for fixed gear  
The trawl sector's allocation by weight (based on the aggregate TAC for Pacific Ocean perch, Northern and pelagic shelf rockfish) shall first be Pacific Ocean perch.

Unharvested allocations to either sector shall be available to both sectors at the end of the third quarter.

The entry level fishery will be managed as a limited entry fishery

Start dates for the entry level fishery should be January 1 for fixed gear and approximately May 1 for trawl gear.

#### Halibut PSC Limit Allocation

Option 1 – (Alt. 2) Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species. If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), the start date will be on the next release of halibut PSC.

Option 2 – (Alt. 4) Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species. If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), halibut usage will be deducted against the following quarter's halibut PSC allowance.

Vessels that can participate in the Entry Level fishery are those vessels that did not qualify for the CGOA rockfish cooperative program. Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a statement from a non-qualified processor confirming an available market.

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

Entry level fixed gear sector are exempt from VMS requirements.

Fixed gear only entry level fishery (Alt. 3/4)

The annual set aside will be;

***5 mt percent*** of the POP TAC

***5 mt percent*** of the northern rockfish TAC

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~~25 mt percent~~ of the pelagic shelf rockfish TAC.

If the entry-level fishery harvests 90% or more of their allocation of a species, the set-aside would increase **by the amount of the initial allocation the following year: by \_\_\_\_\_ percent, up to a maximum set aside of 5 percent**

**5 mt POP**

**5 mt Northern rockfish**

**25 mt pelagic shelf rockfish**

**This increase would be capped at a maximum of:**

**POP**

- a. 1%**
- b. 3%**
- c. 5%**

**Northern Rockfish**

- a. 2%**
- b. 3%**
- c. 5%**

**Pelagic Shelf Rockfish**

- a. 2.5%**
- b. 3%**
- c. 5%**

The entry level fishery will be managed as a limited entry fishery

Start date for the entry level fishery should be January 1.

Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species.

Any **vessel or gear type exempt from CGOA LLP requirements or any** holder of a CGOA fixed gear LLP may enter a vessel in the entry level fishery. ~~Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel~~

Entry level fixed gear sector are exempt from VMS requirements.

*Notes: Provisions concerning processor qualification are omitted, as those requirements may be inapplicable under this structure.*

*In addition, no provision is made for reallocations of unharvested amounts, as it is assumed that the allocation to the entry level sector will be set based on harvest performance of the fishery.*

*Options for cooperative management, individual allocations, and lotteries are not included, as those options appear unable to address problems cited with the entry level fishery. If the Council wishes to pursue an entry level trawl fishery under cooperative management, additional effort could be devoted to that management structure.*

*The provision for an entry level fishery might satisfy the requirement of §303A(c)(5)(C) for the consideration of a set aside for entry level and small vessel owner-operators, where necessary and appropriate.*

**The trawl gear entry level fishery will be eliminated. Qualified Trawl entry level participants will graduate into the main quota share program.**

**Program eligibility**

The eligibility for entry into the cooperative program is one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period using a CGOA trawl LLP license.

Options (Alt.4) - In addition, the following participants would be eligible to enter the program:

Option 1 - Those persons whose vessel had one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period with interim trawl CGOA license that was later determined to be an invalid trawl CGOA endorsement, but who acquired a valid CGOA trawl license prior to December 31, 2003, which ~~is still~~ **has been continuously** assigned to ~~that the~~ vessel **with the target landing since acquired until the date of final Council action.**

~~Option 2 - Eligible entry level CGOA trawl LLPs that participated in the entry level program.~~

**Qualified catch**

Basis for the allocation to the LLP license holder is the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the allocation of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option (Alt. 4) – For licenses qualified based on catch of a vessel using an interim license, the basis for the allocation will be the catch history of such vessel, notwithstanding the invalidity of the interim Central Gulf trawl LLP endorsement under which the vessel operated during the qualifying period. History allocated under this provision shall be assigned to the LLP license.

Catch history will be the history during the following qualifying period:

- 1) 1996-2002 (drop two) Alt. 2
- 2) **1998-2006 (drop two or four) Alt. 3**
- 3) **2000-2006 (drop two) Alt. 3**

Qualified target species history is allocated based on retained catch (excluding meal) during the rockfish target fishery. Different years may be used (or dropped) for determining the history of each of the three rockfish species.

The CP catch history will be based on WPR data.

CV catch history will be based on fish tickets.

*To include participants in the pilot program entry level fishery, pilot program years (i.e., 2005-2008) could be considered qualifying years.*

***Entry Level Trawl qualification/allocations for the main program:***

- 1) Vessels / LLPs that do not qualify for Cooperative quota (CQ) for the CGOA rockfish cooperative program.***
- 2) The trawl LLP must have registered for the entry level fishery both in 2007 and 2008.***
- 3) The trawl LLP must have made a landing of fish in the entry level fishery with trawl gear in either 2007 or 2008.***

***The Qualified Trawl LLP would receive an allocation of QS for the primary rockfish species equivalent to:***

- 1) Average of the lowest one-quarter to one-third of the qualified CV LLPs that actively fished in the RPP program in either 2007 or 2008.***
- 2) Average of the lowest one-quarter to one-third of all qualified CV LLPs.***
- 3) Actual catch history of the vessel/LLP in 2007 or 2008 (information would be withheld due to confidentially restrictions unless the vessel(s) agrees to have the data released to the public).***

*Note: secondary and Halibut PSC allocations are calculated the same as the other qualified LLPs.*

**Sector definitions**

Trawl catcher vessel – A trawl catcher-vessel that has a CV or CP LLP license, but does not process its catch on board;

Trawl catcher processor - A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

**Rationalized areas**

History is allocated for the CGOA only (NMFS statistical areas 620 and 630)

**Sector allocations**

Target rockfish species

Catch history is determined by the sector's qualified catch in pounds as a proportion of the total qualified catch in pounds.

Sector allocations of target rockfish species are based on individual qualified vessel histories applying any applicable drop year provision at the vessel level.

Full retention of the target rockfish species required

Secondary species

Secondary species history is allocated based on retained catch of the species while targeting rockfish over retained catch in all fisheries.

Except as provided below, history will be allocated to each sector for the following secondary species:

sablefish,  
shortraker rockfish  
roughey rockfish,  
thornyhead rockfish, and  
Pacific cod.

All non-allocated species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, Atka mackerel and other rockfish. Basis species for purposes of determining MRAs will be:

Option 1 (Alt. 2) - Only primary allocated rockfish species

Option 2 (Alt. 4) - All allocated species

Except as otherwise provided below, secondary species allocations will be based on:

The sector's average annual percentage of retained catch of the secondary species by the rockfish target fisheries during the qualifying period. For each qualifying year calculate the sector's retained catch of the species in the target rockfish fisheries divided by the retained catch of all CGOA fisheries. Sum these percentages and divided by the number of qualifying years. The calculated average annual percentage is multiplied by the secondary species TAC for that fishery year and allocated to each sector in the cooperative program.

Exceptions:

For the catcher processor sector, Pacific cod history will be managed by MRA of 4 percent.

For shortraker and roughey:

For the CP sector, a shortraker allocation of the TAC will be:

Option 1a (Alt. 2): 30.03 percent

Option 1b (Alt. 4): 50 percent

to be managed as a hard cap, and a roughey allocation of 58.87% of the TAC, to be managed as a hard cap.

Option 2 (Alt. 4): shortraker and rougheye will be managed with a combined MRA of 2%.

For the CV sector, shortraker and rougheye should be managed with a combined MRA of 2 percent. If harvest of shortraker by the CV sector reaches 9.72% of the shortraker TAC, then shortraker should go on PSC status for that sector.

Participants must retain all allocated secondary species and stop fishing when cap is reached.

Prohibited species (halibut mortality)

Allocation to the rockfish cooperative program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years by the number of years. This allocation will be divided between sectors based on the relative amount of target rockfish species allocated to each sector (e.g., the sector's share of total qualified catch).

**Allocation from sector to vessel**

Within each sector, history will be assigned to LLP holders with CGOA endorsement that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.

Target Species

Each LLP holder will receive an allocation of history equivalent to the license's proportion of the total of the sector qualifying history.

Secondary Species

Each LLP holder will receive an allocation of allocated secondary species equal to the license's proportion of the sector's target rockfish history

PSC (Halibut Mortality)

Each LLP holder will receive an allocation of halibut mortality equivalent to the license's proportion of the sector's target rockfish history

Allocations are revocable privileges

The allocations under this program:

- 1) may be revoked, limited, or modified at any time,
- 2) shall not confer any right of compensation to the holder, if it is revoked, limited, or modified, and
- 3) shall not create or be construed to create any right, title, or interest in or to any fish before the fish is harvested by the holder.

Domestic processing

All fish harvested with an allocation from this program must be processed in the U.S.

*Alt. 3 – required by Section 303A(c)(1)(E)*

***Regionalization – Apply to catcher vessel sector only***  
***All CV CQ must be landed in the Port of Kodiak.***

**Shore based processor provisions – Apply to catcher vessel sector only**

Processor eligibility

An eligible processor is a processing facility that has purchased:

Option 1 (Alt. 2) - 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish harvest per year, for 4 years, from 1996 to 2000.

Option 2 (Alt. 3) - 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish *per year, for 4 years, from 2000 to 2006.*

***Suboption: (entry level fishery processor): 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish harvested from 2007 to 2008.***

Harvesters can participate in a:

Option 1 (Alt. 2): cooperative or LLP/open access. The LLP's share will be fished in a competitive fishery open to rockfish qualified vessels that are not members of a cooperative and must be delivered to one of the qualified processors.

Option 2 (Alt. 4): cooperative

*This option can be modified to consider years other than those provided in the rockfish legislation.*

**Option A - Processor allocation of harvest shares (Alt. 3/4)**

Allocation of the primary rockfish, secondary species, and halibut PSC to the CV sector shall be apportioned between harvesters (CV only) and shore based processors:

Option 1: 90/10

Option 2: 80/20

Option 3: **100/0**

Eligible processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares in proportion to its qualifying processing history. Annual allocations will be of the same species and subject to the same allocation and harvest rules governing catcher vessel allocations.

***Suboption: Eligible Entry Level Processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares that are derived from those trawl LLPs that graduate from the entry level trawl fishery into the main program.***

**Processor qualifying years**

Each eligible shore based processor is allocated processor catch history based on individual processor histories of CGOA target rockfish for the years:

Option 1 - 1996-2000 (drop 1 year)

Option 2 - **2000-2006 (drop 2 year)**

Option 3 - \_\_\_\_

***Suboption: (entry level processors): 2007-2008***

*This option can be modified to consider years other than those provided in the rockfish legislation.*

**Option:** Processor allocations of CV harvest shares may be harvested only by vessels that are not owned or controlled by the holder of **those harvester** shares (using the AFA rules for determining control and ownership).

**Option:** A holder of catcher vessel harvest history or processor histories may join a cooperative to coordinate the harvest of allocations. (Cooperatives are subject to general cooperative rules below.) Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Option B – Harvester cooperatives with processor associations (Alt. 2)**

Voluntary cooperatives may form between eligible harvesters in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the processor qualifying years. If an LLP holder has no deliveries to a qualified processor, the LLP holder may join a cooperative with any one of the qualified processors, but its membership would not be considered in determining whether the threshold is met for cooperative formation.

Harvester cooperative/processor association qualifying years are:

1996-2000 (drop 1 year)

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Drop year is selected by the processor and applied to all LLP licenses when determining associations.

Catcher vessel cooperatives are required to have at least 75 percent of the eligible historical shares for each cooperative associated with its processor

If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

The processor will be an associate of the cooperative but will not be a cooperative member.

A pre-season contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an annual allocation.

Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Processors are limited to 1 co-op per plant.

Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Harvester cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Option C – Modified harvester cooperatives with initial processor association (Alt. 3/4)**

On implementation of the program, each eligible harvester will be eligible to join a cooperative in association with any processing facility in the community to which it delivered the most pounds of the three rockfish species combined in the processor qualifying years.

Harvester cooperative/processor association qualifying years are:

Option 1 - 1996-2000 (drop 1 year)

Option 2 – 2000–2006 (*drop 2 years*)

*Suboption:– (entry level processor 2007–2008 (no drop)*

Drop year is selected by the processor and applied to all LLP licenses when determining associations.

If an eligible harvester joins a cooperative in association with the processor to which it delivered the most pounds of the three rockfish species combined during the processor qualifying years, it will maintain all landings history without forfeiture. An eligible harvester may elect not to join the cooperative in association with the processor identified by its landings history in any year, including the first year of the program. In the first season that an eligible harvester elects not to join a cooperative in association with the processor identified by its landings history, it will forfeit:

Option 1 - 10 percent

Option 2 - 20 percent

Option 3 – *0 percent*

of its qualified catch history to the *(1) identified processor or (2) identified processor affiliated cooperative. The share forfeiture is (1) a permanent forfeiture or (2) a temporary forfeiture for a period of 1 to 2 years. If the forfeiture is a permanent forfeiture, the harvester may elect to enter and exit any cooperative in the fishery without share forfeiture. If the forfeiture is a temporary share reduction the harvester pays the penalty: (1) one time or (2) each time they exit a cooperative.*

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If an LLP holder has no deliveries to a qualified processor, the harvester may join a cooperative associated with any processor in the community to which it delivered the most pounds of the three rockfish species during the harvester cooperative/processor qualifying years. After the first year, the harvester will make a forfeiture of qualified catch history on changing processor associations, as if the processor were identified by the harvester's landings history.

If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

The processor will be an associate of the cooperative but will not be a cooperative member.

Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

Membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Harvester cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Catcher processor cooperatives**

More than one co-op may form within the sector

Allocations may be transferred between co-ops of at least two LLPs.

Participants would have a choice of participating in:

Option 1 (Alt. 4): a co-op or opt out of the rockfish program,

Option 2 (Alt. 2): a co-op, a limited access fishery, or opt of the rockfish program

Under the LLP/open access fishery option, the LLP's historic share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative.

**General cooperative provisions – apply to both sectors**

Duration of cooperative agreements is 1 year.

The cooperative membership agreement (and an ancillary agreement with an associated processor, if applicable) will be filed with the RAM Division. The cooperative membership agreement must contain a fishing plan for the harvest of all cooperative fish.

Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative agreement.

Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the cooperative to the extent permitted under the Contract.

The cooperative agreement must have a monitoring program. Cooperative members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target rockfish species, secondary species and PSC mortality, as may be adjusted by inter-cooperative transfers.

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A cooperative may adopt and enforce fishing practice codes of conduct as part of their membership agreement.

Option (Alt. 2) - Cooperative membership agreements shall allow for the entry of other eligible harvesters into the cooperative under the same terms and conditions as agreed to by the original agreement.

Cooperatives will report annually to the Council as per AFA.

**Sector Transfer provisions**

CP annual allocations may be transferred to CV cooperatives. CV annual allocations may not be transferred to CP cooperatives.

All transfers of annual allocations would be temporary and history would revert to the original LLP at the beginning of the next year.

A person holding an LLP that is eligible for this program may transfer that LLP. That transfer will effectively transfer all history associated with the LLP and any privilege to participate in this program that might be derived from the LLP.

Permit post-delivery transfers of cooperative quota (annual allocations to cooperatives).

There would be no limits on the number or magnitude of post-delivery transfers. All post-delivery transfers must be completed by December 31st.

No cooperative vessel shall be permitted to begin a fishing trip unless the cooperative holds unused cooperative quota.

**Cooperative Harvest Use Caps**

CV cooperatives (Alt. 2)

No person may hold or use more than 5% of the CV historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CV cooperative shall be capped at 30% of aggregate POP, Northern Rockfish and PSR for the CV sector.

CP cooperatives (Alt. 2)

No person may hold or use more than 20% of the CP historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CP shall be capped at 60% of aggregate POP, Northern Rockfish and PSR for the CP sector. Eligible CPs will be grandfathered at the current level.

Shoreside Processor Use Caps

Shoreside processors shall be capped at the entity level.

No processor shall process more than 30% of aggregate POP, Northern Rockfish and PSR for the CV sector. (The year 2002 will be used as a base (or index) year for applying the aggregate caps.)

Eligible processors will be grandfathered.

*At the time of implementation, the Council expressed an intent to reconsider use caps for share holdings and vessels, in the event this program has a duration of more than 2 years. The Council could consider whether to modify use caps by changing cooperative or individual use cap levels or by including vessel use caps.*

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*Whether processor use caps are necessary might depend on the processor provisions that are incorporated into the program.*

**Harvesting provisions**

The cooperative season start date is May 1 and closing date is November 15.

Secondary species allocations may be fished independently of the primary species allocations.

Full retention of all allocated species is required.

**Program review**

A formal detailed review of the program shall be undertaken 5 years after implementation. The review shall assess:

- 1) the progress of the program in achieving the goals identified in the purpose and need statement and the MSA, and
- 2) whether management, data collection and analysis, and enforcement needs are adequately met. Additional reviews will be conducted every 7 years there after coinciding with the fishery management plan policy review.

Antitrust review – An information collection system and a review process will be defined to provide any information to determine whether any illegal acts of anti-competition, antitrust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges.  
*Alt. 3 – required by Section 303A(c)(1)(J) – note, this is required in any program, but its scope will be based on the program selected – further scoping can be provided after consultation with NOAA GC, NMFS, and other agencies (such as the Department of Justice)*

**Share duration (Alt. 3)**

The duration of all CGOA rockfish LAPP program permits are **10** years. These permits shall be renewed before their expiration, unless the permit has been revoked, limited, or modified.

The Secretary may revoke any privilege under this program from any person found to have violated antitrust laws.

**Cost recovery (Alt. 3)**

A fee, not to exceed 3 percent of ex vessel value, will be charged on all landings to cover the costs of administration of the program.

**Sideboards**

**General Provisions**

There are no exemptions from sideboards, except for a partial exemption for CP vessels which opt out of the cooperative program or join cooperatives.

**WYAK and WGOA Primary Rockfish Species**

Option 1 (Alt. 2/3) For fisheries that close on TAC in the GOA, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in aggregate, in the month of July to the historic average catch of those vessels based on the retained catch as a percentage of the retained catch in the fishery in the month of July during the qualification years ~~1996 to 2002~~. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish.

Option 2 (Alt. 4) For catcher processors, remove sideboard limits for WYAK and WGOA primary rockfish species.

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Option 3 (Alt. 4) For catcher vessels, prohibit directed fishing for WYAK and WGOA primary rockfish species.

Halibut PSC

Option 1 (Alt. 2) For flatfish fisheries in the GOA that close because of halibut bycatch, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in the aggregate, in the month of July to the historic average halibut mortality taken by those vessels in the target flatfish fisheries in the month of July by deep and shallow complex as a Gulf-wide cap.

Option 2 (Alt. 4) For catcher processors, remove sideboard limits for WYAK and WGOA 3rd season halibut PSC.

***Option 3 (Alt. 3/4): For the month of July, limit all CVs to the shallow halibut complex fisheries (except for rockfish target fisheries in CGOA, WYAK and WGOA).***

***Suboption: Limit all CPs to the deep water halibut complex fisheries for the month of July.***

In the event that one or more target rockfish fisheries are not open, sideboard restrictions will not apply for those target allocations.

IFQ halibut and sablefish are exempt from sideboard provisions

CP Specific Sideboard Provisions

CP vessels may decide to opt out of the CGOA cooperative program on an annual basis. These CP vessels may not target POP, Northern rockfish or Pelagic Shelf rockfish in the CGOA in the years they choose to opt out. They may retain these species up to the MRA amount in other fisheries. They will be sideboarded at the sector level in the GOA as described in the general provisions.

The history of CP vessels which opt out will remain with the sector.

CPs that opt out of the rockfish cooperative program will be prohibited, for two weeks following the start of the traditional July rockfish fishery, from entering other GOA fisheries in which they have not previously participated. Participation shall be defined as having been in the target fishery during the first week of July in at least two of the qualifying years. For purposes of qualifying under this provision, history from area 650 (SEO) will be considered the same as history from area 640 (WY). The following weekending dates will be used for determining participation in a target fishery:

1996 – July 6  
1997 – July 5  
1998 – July 4  
1999 – July 10  
2000 – July 15  
2001 – July 7  
2002 – July 6

Opting out is an annual decision. CP vessels which choose to opt out must so notify NMFS. The decision to opt out should not in any way alter the status of their catch history for future rationalization programs.

For the CP sector, the cooperative program fishery participants must either:

- 1) start fishing in the target rockfish fisheries at the same time as the opening of the CGOA rockfish limited access fisheries (in July) and harvest 90% of their CGOA rockfish allocation prior to entering any other GOA non-pollock groundfish fishery, or
- 2) standdown for two weeks from the opening of the CGOA rockfish limited access fishery prior to participating in any other GOA non-pollock groundfish fishery.

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A vessel which has met either standdown requirement can then move into the GOA open access fisheries subject to the sector level limitations in the GOA in the general sideboard provisions.

To the extent permitted by the motion, history may be leased between vessels ~~that are not members of a cooperative~~. Each ~~non~~-member of a cooperative that transfers its history to another CP or CV must still refrain from operating in any other GOA groundfish fishery until the earlier of:

- 1) 90% of all of the CGOA rockfish allocation on the stacked vessel is harvested in the CGOA, provided fishing of the allocation began on or after the opening of the limited access fishery
- 2) two weeks from the opening of the limited access fishery prior to participating in any other GOA groundfish fishery.

Members of a cooperative will be subject to all limitations and restrictions described in the general sideboard provisions and CP specific sideboard provisions except that cooperative members shall not be subject to any standdown in the GOA groundfish fisheries, ***if all vessels in the co-op maintain adequate monitoring plan during all fishing for CGOA rockfish sideboard fisheries.***

In addition to the other limitations and restrictions described above, each cooperative will be limited in the aggregate:

- 1) for fisheries that close on TAC in the GOA in the month of July, to the historic average total catch of the cooperative members in the month of July during the qualification years 1996 to 2002. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish, and
- 2) for flatfish fisheries in the GOA that close because of halibut bycatch in the month of July, to the historic average halibut mortality taken by cooperative members in the target flatfish fisheries in the month of July by deep and shallow complex.

The limited access fishery starts at the same time as the traditional rockfish target fishery (early July). For vessels that account for less than 5% of the allocated CP history in the Pacific Ocean perch fishery that participate in the limited access rockfish fishery, there are no additional intra-sector sideboards. For vessels that account for greater than or equal to 5 percent of the allocated CP history in the Pacific Ocean fishery that participate in the limited access rockfish fishery and GOA standdowns are in place until 90% of the limited access Pacific Ocean perch quota is achieved.

#### CV Specific Sideboard Provisions

The qualifying vessels in the trawl CV sector cannot participate in the directed yellowfin sole, other flatfish (flathead, etc) or Pacific Ocean perch fisheries in the BSAI in the month of July.

***Alt 4: The qualifying vessels in the trawl CV sector can participate in the limited access yellowfin sole, other flatfish or Pacific Ocean perch fisheries in the BSAI in the month of July.***

Qualifying vessels in the trawl CV sector would be limited, in aggregate, in the month of July, to the historic average catch of those vessels in the BSAI Pacific cod fishery based on the retained catch as a percentage of retained catch in the CV trawl fishery in July during the qualification years 1996 to 2002.

***Alt 4: The qualifying vessels in the trawl CV sector can participate in the BSAI Pacific cod fishery in the month of July.***

AFA non-GOA exempt CVs qualified under this program are subject to the restraints of AFA sideboards and their coop agreement, and not subject to additional sideboards under this program.

The AP recommends that the Council adopt the following Purpose and Need Statement:

The existing CGOA Rockfish Pilot Program (RPP) will sunset after 2011 unless extended by the North Pacific Fisheries Management Council or the U.S. Congress. The RPP has improved safety at sea, provided economic benefits to the community of Kodiak, controlled capacity of the fleet, and improved

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NMFS' ability to conserve and manage the species in the program. Economic benefits of the program to the community of Kodiak include stabilizing the residential processing work force, removing processing and fleet conflicts with salmon, bringing more rockfish on shore, and slowing the fishery to increase quality of rockfish products. Conservation benefits of the program for all sectors include no over-fishing, full retention of allocated species, vessel accountability, less sea floor contact due to more off-bottom fishing, and reduced halibut bycatch in the rockfish fishery that in turn has allowed for increased catches of underutilized flatfishes species. If the fishery reverts back to management under the license limitation program, the benefits of this share-based management program will be lost.

The Council needs to resolve identified issues in the management and viability of the entry level fishery. Additionally, the Council needs to consider issues that arise under the new MSA limited access privilege program requirements.

The intent of the action is to retain the conservation, management, safety and economic improvements created by the RPP through an amendment to the GOA FMP for the management of Central GOA Rockfish which will maintain benefits to the fishery for historically dependent harvesters, processors, catcher-processors and the community of Kodiak.

### **COUNCIL DISCUSSION/ACTION**

[NOTE: Stephanie Moreland participated in this discussion for Denby Lloyd.]

Jon McCracken and Mark Fina (NPFMC staff) provided a review of the description of alternatives developed as requested by the Council in February 2009. The Council also received the recommendations of the Advisory Panel and oral public comments on this agenda item.

**Doug Mecum moved to analyze a new Central Gulf of Alaska Rockfish Program, using the AP recommendations in their entirety (see AP recommendations above).** The motion was seconded by Gerry Merrigan.

Mr. Mecum said the goal of the action is to incorporate necessary limited access privilege provisions and changes to improve the program's operations and meet the goal of doing that within a very limited time frame. He noted that the purpose and needs statement is particularly relevant to the action which is meant to retain the conservation, management, safety and economic improvements created by the rockfish pilot program.

Mr. Cotten suggested that the Council will need General Counsel's opinion on some of the options and elements which may not be within the Council's authority; additionally he wanted to verify that the Council would have the option to consider a one-pie alternative.

During discussion of the timeline for the next steps, Dr. Fina indicated that in light of the complexity of the package, he would prefer to come back with a pre-initial review to make sure that the alternatives are structured as the Council intends and are workable. Waiting until one meeting before final approval may not allow time to revise the analysis in order to have the program in place before the pilot program expires.

The following amendments were offered:

**Duncan Fields moved to amend: On page 2 of the AP motion, "Fixed gear only entry level fishery (Alt. 3/4). . .to amend the "5 mt: and "25 mt" ranges to ranges of "3 to 10 mt" and "20 to 30 mt," respectively, both in the first and second use of the numbers.** The motion was seconded.

Mr. Fields indicated that these figures have been suggested during public comments.

**John Henderschedt moved to amend the amendment to change the suggest ranges, as follows: For POP and rockfish: 1-10 mt; and 10-30 mt for pelagic shelf rockfish.** The motion was seconded and carried without objection.

**Duncan Fields moved to amend the main motion, under “Fixed Gear Only Entry Level Fishery” on page 2, to delete the following sentence: “The entry level fishery will be managed as a limited entry fishery.”** The motion was seconded and failed, 7 to 4, with Cotton, Fields, Moreland and Olson voting in favor.

**Duncan Fields moved to amend, on page 4 of AP motion – “Catch History,” to add a new alternative (4): “For LLP-qualified vessels that have deliveries of 250mt – 750mt of Central GOA groundfish landings for the years 2006-2008 an equal split of the rockfish quota.** The motion was seconded and failed, 7 to 4, with Benson, Cotten, Fields and Olson voting in favor.

**Duncan Fields moved to amend the section “The Qualified Trawl LLP would receive an allocation of QS for the primary rockfish species equivalent to. . .” to add an additional alternative under (1): “Average of the qualified CV LLPs that actively fished in the RPP in either 2007 or 2008” and under add an additional option under (2): “Average of all qualified CV LLPs.”** The amendment was seconded and carried without objection.

**Gerry Merrigan moved to amend the “Secondary Species” on page 5 of the AP motion: To add two options appropriate to Alternatives 3 and 4: Option 1: no directed fishing on the secondary species of P. cod and sablefish, i.e., harvest will be incidental under MRAs; Option 2: Modify the MRAs of P. cod and sablefish.** The motion was seconded by Duncan Fields, and carried, 6 to 5, with Benson, Henderschedt, Hyder, Tweit and Mecum voting no.

**John Henderschedt moved to amend Option A (page 7 of AP motion), suboption 2 to read “50/50” (replacing “80/20”).** The motion was seconded a failed, with Benson, Dersham, Fields, Henderschedt and Tweit voting in favor.

**Sam Cotten moved to amend, page 7 of AP motion, First paragraph, “Harvesters can participate in a:” -- amend Option 1 to delete the words “and must be delivered to one of the qualified processors.”** The motion was second.

Mr. Cotten noted that he did not want it to appear that the Council is creating a ‘closed’ class of processors.

**Bill Tweit moved to substitute to include suboptions under Option 1 with and without this requirement, i.e., “. . .and must be delivered to one of the qualified processors.”** The motion was seconded and carried without objection.

**Dave Benson moved to amend Option C, at the top of page 9 of the AP motion, to include an additional option: “4) 30%”.** The motion was seconded and carried, 8 to 3, with Cotten, Hyder, Olson voting against.

**Duncan Fields moved to revise the Problem Statement, as follows:**

The intent of this action is to retain the conservation, management, safety and economic gains created by the Rockfish Pilot Program while also considering the goals and limitations of the Magnuson-Stevens Fisheries Conservation and Management Act Limited Access Privilege Program (LAPP) provisions.

The existing CGOA Rockfish Pilot Program (RPP) will sunset after 2011. Consequently, if the management, economic, safety and conservation gains enjoyed under the RPP are to be continued, the Council must act to create a long term CGOA rockfish LAPP. For both the onshore and offshore sectors, the RPP has improved safety at sea, controlled capacity of the fleets, improved NMFS' ability to conserve and manage the species in the program, increased vessel accountability, reduced sea floor contact, allowed full retention of allocated species and reduced halibut bycatch. In addition the rockfish fishery dependent communities in the CGOA and qualified processors have benefited from stabilization of the work force, more shoreside deliveries of rockfish, additional non-rockfish deliveries with the RPP halibut savings, increased rockfish quality and diversity of rockfish products. Moreover, other CGOA fishermen and qualified processors have benefited from the removal of processing conflicts with GOA salmon production. The motion was seconded.

Gerry Merrigan moved to amend the first sentence to read as follows:

The intent of this action is to retain the conservation, management, safety and economic gains created by the Rockfish Pilot Program, to the extent practicable while also considering the goals and limitations of the Magnuson-Stevens Fisheries Conservation and Management Act Limited Access Privilege Program (LAPP) provisions. The motion was seconded and carried, with Hyder objecting.

Gerry Merrigan moved to amend to add the following sentence to the Problem Statement: **The Council needs to resolve identified issues in the management and viability of the entry level fishery. Additionally, the Council needs to consider issues that arise under the new MSA limited access privilege program requirements.** The motion was seconded and carried unanimously.

The amended problem statement carried, 6 to 5, with Benson, Dersham, Henderschedt, Tweit, and Mecum voting against.

Mr. Fields offered a motion to instruct the Community Outreach Committee to interact with the Kodiak City and Borough on the current analysis for the rockfish program. However, after discussion, the motion was withdrawn with the understanding that the Executive Director and Chair will respond to individual requests for staff consultation. It was noted that the Community Outreach Committee has not yet been appointed and that there would be little time for the committee to interact with Kodiak entities prior to the Council's first review of the analysis.

Gerry Merrigan moved to amend on Page 6 of AP motion, to designate the **“Regionalization – Apply to catcher vessel sector only; All CV CQ must be landed in the Port of Kodiak” as an Option, rather than a stand-alone requirement.** The motion was seconded and carried without objection.

The amended main motion carried, 10 to 1, with Duncan Fields voting against. Mr. Fields expressed his opinion that there has not been enough community input at this time. A copy of the final motion is included as Appendix II to these minutes.

A motion to request NOAA GC to provide a legal opinion on the Council's authority with regard to cooperatives was withdrawn after it was stressed that General Counsel will be involved in the development of the amendment and will be providing the necessary legal assistance and opinions.

C-1(b-c) Review Alternatives for Parallel Waters Issue in Pacific Cod Sector Split/GOA Vessel Capacity Issue

**ACTION REQUIRED**

- (b) Review discussion paper on parallel waters options in the GOA Pacific cod sector split motion
- (c) Review discussion paper on options for addressing the GOA vessel capacity issue

**(b) GOA Pacific cod parallel waters fishery**

**BACKGROUND**

In December 2008, the Council completed initial review of the draft EA/RIR/IRFA for the proposed action to allocate the Western and Central GOA Pacific cod TACs among the various gear and operation types. Currently, separate TACs are identified for Pacific cod in the Western, Central, and Eastern GOA management areas, but the TACs are not divided among gear or operation types. This results in a race for fish and competition among the sectors for shares of the TACs. Sector allocations may provide stability to long-term participants in the fishery by reducing competition among sectors for access to the GOA Pacific cod resource. However, if entry into the parallel waters fishery remains open, the objective of stability may not be achieved. Initial review of the GOA Pacific cod sector split action is scheduled for October 2009.

Prior to initial review, the Council requested that staff prepare a discussion paper that examines the possible goals, objectives, elements, and options for addressing management issues in the GOA Pacific cod parallel waters fishery within the context of the proposed sector allocations. The intent of reviewing the discussion paper at the June meeting is to give the Council the opportunity to refine the parallel waters options in the overall sector split motion, and to direct staff to incorporate these options into the initial review document for October. The rationale for including the parallel waters options in the amendment is concern that participation in the GOA Pacific cod parallel waters fishery by vessels that do not hold LLP licenses may increase. If sector allocations are established, parallel waters activity by new entrants has the potential to erode the catch shares of those participants who contributed catch history to the allocations and depend on the GOA Pacific cod resource. There are currently no limits on entry into the parallel waters groundfish fisheries, and no limits on the proportion of the GOA Pacific cod TAC that may be harvested in parallel waters. Vessels fishing in Federal waters are required to hold an LLP license with the appropriate area, gear, and where implemented, species endorsements, but vessels fishing in State waters (parallel and State-managed fisheries) are not required to hold an LLP license.

The discussion paper begins with a description of the management issues and a review of the regulatory context. The background section is followed by a discussion of the possible purpose and need of addressing the parallel waters issues. Finally, the paper describes the elements and options that the Council could consider advancing for further analysis, and the potential advantages and disadvantages of each approach. The paper provides background information that may help the Council and the State of Alaska consider interactions between the proposed Pacific cod sector allocations and management of the parallel waters Pacific cod fishery. The Council could provide recommendations to the Alaska Board of Fisheries (BOF) for capping parallel waters catches in order to balance the objectives of providing stability to the existing sectors while providing opportunities for new entry. The Council is also considering options to

preclude Federally-permitted vessels that do not have LLP licenses from participating in the parallel fishery. These options could complement action taken by the BOF to cap parallel waters catches.

At this meeting, the Council is scheduled to review the discussion paper and could modify the parallel waters options, if desired. The discussion paper was mailed on May 15, 2009, and is attached as Item C-1(b).

(c) GOA vessel capacity

**BACKGROUND**

The Council has expressed interest in exploring ways to limit entry of high capacity 58 ft to 60 ft LOA pot and hook-and-line vessels into the GOA Pacific cod fisheries. One approach identified in the fixed gear recency action was to add a vessel capacity endorsement (i.e., width or simple gross tonnage) to fixed gear licenses. Currently, LLP licenses have a maximum length overall (MLOA) designation, but there is no limit on the width or tonnage of the vessel that may be assigned to a license. The capacity endorsement that was considered in the fixed gear recency action would have provided such a limit by restricting vessels to a 3-to-1 length to width ratio based on the length overall of the vessel currently assigned to the license. Licenses assigned to vessels that exceeded this ratio would have been grandfathered at their present length to width ratio.

At its April 2009 meeting, the Council reviewed a staff discussion paper that described regulatory, enforcement, and safety concerns with the proposed length to width restriction. Although vessel width can be defined in regulation, the action could impose substantial costs on participants if width measurements are required to be certified by a marine surveyor. NMFS Enforcement also expressed concern that vessel width may be difficult to measure in the field. Finally, establishing regulations that discourage specific vessel configurations may conflict with National Standard 10 (promote safety at sea).

As a result of the concerns expressed in the discussion paper, public testimony, and during AP and Council deliberations, the Council removed the capacity endorsement component from the fixed gear recency motion. The Council requested that staff develop another discussion paper for the June meeting, describing potential ways to address the capacity issue within the fixed gear fleet. The Council requested that the paper explore possible alternative width-to-length ratios and any other solutions to the vessel capacity issue suggested by the public (e.g., trip limits or other output controls). The discussion paper begins with a description of the management issues and a review of the regulatory context. The background section is followed by a discussion of the possible purpose and need of addressing the vessel capacity issue. Finally, the paper describes the elements and options that the Council could consider advancing for further analysis.

At this meeting, the Council is scheduled to review the discussion paper, and take action as necessary. The discussion paper is attached as item C-1(c).

The Scientific and Statistical Committee did not address these agenda issues.

**Report of the Advisory Panel**

On the parallel waters issue, the AP recommended that the Council adopt the following changes to the options in Component 10 for further analysis:

Delete Option 1. Aleutian Islands sablefish model (parallel fishery catch cap).

Revise suboption ii, under Option 2, to read as follows:

- ii. Suboption: ~~In the Western/Central GOA, vessels may only surrender and/or reactivate the FFP:~~  
*(a) vessels may surrender and reactivate the FFP, or (b) vessels may surrender or reactivate the FFP:*
- 1) Once per calendar year
  - 2) Once every eighteen months
  - 3) Once every *three* ~~two~~ years

### COUNCIL DISCUSSION/ACTION

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

#### C-1(b) Parallel Waters Options in GOA P. Cod Sector Split

The Council received a review of the discussion paper from Jeannie Heltzel (NPFMC staff), the Advisory Panel report, and oral public comments on this agenda issue.

**Ed Dersham moved to make the following changes to the options in Component 10 for further analysis:**

#### **Component 10: Potential models for resolving parallel fishery issue**

##### **Option 1. ~~Aleutian Islands sablefish model (parallel fishery catch cap)~~**

###### **Develop recommendations for the BOF on parallel waters that could compliment Council action such as:**

- **gear limits,**
- **vessel size limits, and/or**
- **exclusive registration.**

##### **Option 2. Limit access to the parallel zone for Federal fishery participants.**

**Require any pot and longline vessel with an LLP or an FFP to have a Pacific cod endorsement and the appropriate area endorsement to participate in the Western GOA or Central GOA Pacific cod parallel water fishery. Require any trawl vessel with an LLP or an FFP to have the appropriate gear and area endorsement to participate in the Western GOA or Central GOA Pacific cod parallel water fishery.**

- i. Suboption: In addition, require the above Federally-permitted or licensed vessels that fish in the parallel waters to adhere to Federal seasonal closures of the Western/Central GOA sector allocations corresponding to the sector in which the vessel operates.**
- ii. Suboption : ~~In the Western/Central GOA, vessels may only surrender and/or reactivate the FFP:~~**
  - (a) vessels may surrender and reactivate the FFP, or**
  - (b) vessels may surrender or reactivate the FFP:**

- 1) Once per calendar year
- 2) Once every eighteen months
- 3) Once every three ~~two~~ years

iii. Suboption: FFP may not be surrendered during the 3 year term of the permit.

**Addition to Purpose and Needs Statement:**

**The Council in consideration of options and recommendations for the parallel fishery will need to balance the objectives of providing stability to the long term participants in the sectors, while providing opportunities for new entrants who do not hold Federal permits or licenses to participate in the parallel fishery.**

The motion was seconded by Sam Cotten.

During discussion, Mr. Dersham noted that the options are meant to be complementary, not mutually exclusive. With regard to Option 1 (developing recommendations for the Board of Fisheries on parallel waters), Mr. Dersham noted that this is meant only to be a 'placeholder' and would be separate from the actual analysis. The intent is to solicit industry input prior to developing recommendations.

**Gerry Merrigan moved to amend Option 2 to add the following at the end of both sentences: “. . .on the LLP and the GOA area designation and appropriate operation type and gear designation on the FFP.”** The motion was seconded and carried without objection. Mr. Merrigan noted that his intent is to make this consistent with action previously taken on the BSAI Fixed Gear Parallel Fisheries amendment.

**Gerry Merrigan moved to amend Option 2, suboption ii, as follows:**

**Add an option (c): vessels may remove the area of operation, operation type, and gear designation on the FFP, subject to the same choices listed under suboptions (a) and (b): 1) once per calendar year; 2) once every eighteen months; 3) once every three years.**

The motion was seconded and carried without objection. Staff pointed out that in order to be consistent with previous action, suboption (a) would no longer be relevant. Council instructed staff to reformat the section as appropriate based on Council action. During discussion Mr. Merrigan clarified that jig gear is purposely not included, with the intent that that gear type could participate without the constraint of these requirements.

The main motion, as amended, carried without objection. Staff will provide a preliminary analysis in October 2009. A copy of the amended motion is included as Appendix III to these minutes.

C-1(c) GOA Vessel Capacity

The Council received a review of the discussion paper from Jeannie Heltzel (NPFMC staff) and Glenn Merrill (NMFS staff), and oral public comments on this issue. The Advisory Panel received the reports but provided no recommendations. Ken Lawrence, USCG naval architect, was available to answer Council questions.

During discussion, Council members discussed other methods of measuring vessel capacity and it was suggested that staff explore the question of historic levels of harvest by various size classes in the fishery and the level of gear deployed, noting that this could lead to consideration of trip or pot limits.

**Doug Mecum moved to take no action on this issue at this time.** The motion was seconded by Bill Tweit and carried without objection.

Council members cited current demands on staff and noted that there haven't been pressing reasons presented for continuing to pursue this issue at this time. It was also noted that information is being developed for the P. cod sector split issue which will provide further information that may help with future exploration of trip or pot limits.

## **C-2      BSAI Fixed Gear Parallel Fisheries**

### **ACTION REQUIRED**

**Final action on regulatory amendment to limit access by Federally-permitted vessels to the BSAI Pacific cod parallel State waters fishery.**

### **BACKGROUND**

In February 2009, the Council completed initial review of the draft EA/RIR/IRFA for the proposed action to limit access by Federally-permitted vessels to the BSAI Pacific cod parallel State waters fishery. Specifically, the proposed action includes measures to limit access by Federally-permitted hook-and-line and pot catcher processors (CPs) to the BSAI Pacific cod parallel State waters fishery. During 2008, 5 pot and hook-and-line CPs participated in the AI parallel State waters Pacific cod fishery that do not have the Federal permits and LLP licenses needed to participate in the Federal waters fishery. This parallel State waters activity may be circumventing the intent of previous decisions made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting.

At the February 2009 meeting, the Council made several additions and refinements to the motion, and released the document for public review. The Council is scheduled to take final action at this meeting. New information in this document includes:

- An expanded discussion of the potential effects of selecting one or more of the action alternatives (Alternatives 2, 3, 4, and/or 5).
- Information on the number of Federal Fisheries Permits (FFPs) with CP designations that were surrendered during 2002 through 2008, and the gear types used by the vessels holding these permits. No CPs that used trawl gear in the groundfish fisheries surrendered their FFP during this time period. This information is relevant to Alternatives 4 and 5.
- Additional background information requested by the SSC on the potential impacts to protected resources if fishing effort in the BSAI parallel State waters Pacific cod fishery increases.

The analysis was mailed on May 8, 2009; it is attached as Item C-2(1).

The Scientific and Statistical Committee did not address this agenda issue at this meeting.

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

The AP recommended that the Council take final action on this issue with the following alternatives and modifications:

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

Alternative 3: as written

Alternative 4: Vessels with a BSAI endorsement, CP designation, and a pot or hook-and-line gear endorsement on the FFP cannot remove the BSAI endorsement, CP designation, or the pot or hook-and-line gear endorsement from the FFP, and:

(c) FFP cannot be surrendered during the 3-year term of the permit.

The AP recommended that the Council modify the Purpose and Need Statement to remove the second to the last sentence which reads, "Additionally, changes to the rules regarding Federal Fisheries Permits for CP designated licenses may need to be consistent across the North Pacific fisheries to reduce the administrative burden for NMFS and prevent unforeseen permitting loopholes."

### **COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Jeannie Heltzel (NPFMC staff), the Advisory Panel report, and oral public comments on this agenda issue.

**Gerry Merrigan moved the following written motion:**

**Adopt the revised purpose and need statement and Alternatives 2, 3 & 4(c) as follows:**

- 1. Purpose and need statement. (p. 3 of Public Review Draft): Delete the second to the last sentence, "Additionally, changes to the rules regarding Federal Fisheries Permits for CP designated licenses may need to be consistent across the North Pacific fisheries to reduce the administrative burden for NMFS and prevent unforeseen permitting loopholes."**
- 2. For purposes of this action, a catcher-processor is defined as a vessel that is used to catch and process fish. A vessel that has a catcher processor license, but is not used to catch and process fish, is not considered a catcher processor for purposes of this action. This definition is consistent with the way in which NMFS accounts for catch under the Amendment 85 sector allocations. (as stated on p. 4 of the Public Review Draft).**
- 3. Alternative 2 (revised): Require any catcher-processor using pot or hook-and-line gear with a FFP or LLP to have a CP designation for vessel type of operation, a BSAI designation for area of operation, a pot or hook-and-line gear designation on the FFP; and the appropriate Amendment 67**

**Pacific cod endorsement (CP pot or CP hook-and-line – corresponding to the gear type being used) with the appropriate area endorsement on the LLP – in order to participate in the BSAI Pacific cod parallel State waters fishery.**

**4. Alternative 3 (as stated on p. 4 of Public Review Draft): Require any catcher-processor using pot or hook-and-line gear with an FFP or LLP that fishes in the parallel State waters to adhere to seasonal closures of the BSAI Pacific cod CP pot sector or CP hook-and-line sector (as defined in Amendment 85) corresponding to the sector the vessel is operating in.**

**5. Alternative 4 (revised): Vessels with a CP designation for vessel type of operation, a BSAI designation for area of operation, and a pot or hook-and-line gear designation on the FFP cannot remove the CP designation, the BSAI area designation, or the pot or hook-and-line gear designation from the FFP; and can only surrender or activate the permit:**

**c. FFP cannot be surrendered during the 3-year term of the permit.**

The motion was seconded by Doug Mecum.

**Bill Tweit moved to amend to add approval of the EA/RIR/IRFA, before listing the alternatives.**  
The motion was seconded and carried without objection.

**Bill Tweit moved to amend to add the following:**

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

The motion was seconded and carried without objection.

In support of the action, Council members noted that this action would address the purpose and needs statement by providing stability to long-term participants in the fishery by reducing competition among sectors for access to the GOA Pacific cod resources.

The main motion, as amended, carried unanimously.

**C-3 BSAI Crab Program**

**C-3(a) Emergency Delivery Relief**

**ACTION REQUIRED**

**(a) Initial review of Emergency Exemptions from regional landing requirements in the BSAI Crab rationalization program.**

**BACKGROUND**

At its October 2008 meeting, the Council received a discussion paper from staff outlining potential options to define an emergency exemption from regional landing requirements established by the BSAI crab rationalization program. Based on that discussion paper and public testimony, the Council directed staff to analyze alternatives for creating such an exemption. Under the alternatives, the exemption could allow a harvester to make a delivery outside of an IFQ's designated region, if delivery in the designated region is prevented by an unavoidable circumstance. The alternatives adopted for analysis would rely on civil contracts between harvesters, processors, and the designee of affected communities or regions, to define the circumstances that would qualify for the exemption and other terms (such as any compensation for lost economic activity or revenues that might arise out of the exemption from the regional landing requirement). The exemption would be granted for a specific delivery by the IFQ holder filing an affidavit attesting to a circumstance that qualifies for the exemption. The reliance on civil contracts and affidavits is intended to avoid administrative complexities, which could limit the utility of the exemption, if the exemption were directly administered by NOAA Fisheries. A copy of the motion defining the alternatives is attached (Item C-3(a)(1)).

At its February 2009 meeting, the Council received an analysis of its alternatives, and a copy of the executive summary of the analysis is attached (Item C-3(a)(2)). The Council received testimony from the public suggesting that industry and community representatives may suggest possible changes to the alternatives after further consideration and discussion of the possible exemption. Based on that testimony, the Council elected to schedule a second initial review of this action in June 2009 to allow for changes to the alternatives.

The Scientific and Statistical Committee did not address this agenda issue at this meeting.

**Report of the Advisory Panel**

The Advisory Panel reviewed the draft analysis and provided recommendations for changes and/or additions for further analysis. Please see the AP Minutes, Appendix IV to these minutes, for those recommendations.

**COUNCIL DISCUSSION/ACTION**

[NOTE: Stefanie Moreland participated in this discussion for Denby Lloyd.]

The Council received a review of the revised draft analysis from Mark Fina (NPFMC staff), the recommendations of the Advisory Panel, and oral public comments on this issue.

Council asked staff when a revised analysis could be provided, if the Council made some of the changes recommended by the Advisory Panel and public. Dr. Fina advised that if there are extensive additions or revisions to the current alternatives and options, it's possible that the revised preliminary analysis could

be available in October, with final review in December. However, some of the provisions cannot be implemented mid-season.

Council members received public comment indicating that industry is continuing to work toward a mutually-agreeable solution to the issue of emergency delivery relief exemptions and elected to suspend discussion until the October meeting.

**Gerry Merrigan moved that the Council strongly urges parties (communities, harvesters, processors) to exercise their collective best effort to arrive at a consensus recommendation for a preliminary preferred alternative prior to the October council meeting.** The motion was seconded.

**Duncan Fields moved to amend to preface the motion, as follows:**

**The Council takes no action at this time, [but strongly urges. . .].** The amendment was seconded and carried without objection.

The amended motion carried without objection.

**C-3(b-c) BSAI Crab Discussion Papers/5-year Program Review**

**ACTION REQUIRED**

- (b) Review discussion papers**
  - 1) Right of first refusal modifications**
  - 2) Western Aleutian Islands golden king crab regionalization and processor quota issues**
  - 3) Extinguishing processor quota**
  - 4) Leasing restrictions**
- (c) Discuss plan for 5-year review of the program**

**BACKGROUND**

**(b) Review discussion papers**

At its October 2008 meeting, the Council received the three-year review of the BSAI crab rationalization program. Upon receiving that report and public testimony, the Council developed a purpose and need statement and proposed alternatives to modify the crab rationalization program. This possible amendment package focuses on crew issues and the redesignation of owner quota share and crew quota share, the development of regional fishery associations to address crew issues, and an industry proposal to facilitate crew acquisition of quota share. A copy of that motion is attached as Item C-3(b)(1). In addition, the Council tasked staff to produce discussion papers concerning four topics: two possible revisions to management of the Western Aleutian Islands golden king crab fishery to address unutilized individual fishing quota; potential extinguishment of processor quota shares from all fisheries; and measures to address the effects of leasing on crew and crew compensation.

At its February 2009 meeting, the Council accepted a staff recommendation that the discussion papers be prepared prior to staff proceeding with the analysis of possible modifications to the crab rationalization program, as those discussion papers could lead to further modifications to the program. In response to the Council, staff has prepared the attached four discussion papers for consideration at this meeting (see Items C-3(b)(2), (3), (4), and (5)).

**(c) Discuss plan for 5-year review of the program**

**In adopting the BSAI crab rationalization program, the Council elected to define a series of reports and reviews to ensure that the program meets its intended purpose. Specifically, the motion establishing the program includes the following:**

**The Council directs staff to prepare an analysis for delivery to the Council 18 months after fishing begins under the program. The analysis is to examine the effects of the 90/10 A share/B share split and the binding arbitration program on the distribution of benefits between harvesters and processors. After receiving the analysis, the Council will consider whether the A share/B share split and the arbitration program are having their intended effects and, if not, whether some other A share/B share split is appropriate. In addition, staff shall the prepare an analysis of the application of the 90/10 Class A/Class B split and regionalization to captain and crew shares (C shares) for consideration by the Council 18 months after fishing begins under the program. The analysis is to examine the landings patterns of C shares to determine whether the distribution of landings among processors and communities of C shares differs from the distribution of landings of the general harvest share pool. After receiving the analysis, the Council will consider whether to remove the 90/10 Class A/Class B split from C shares, which is scheduled to take effect three years after the beginning of fishing under the program.**

**RAM Division in conjunction with State of Alaska will produce annual reports regarding data being gathered with a preliminary review of the program at 3 years.**

**Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.**

**In the past week, the last of the season's crab fisheries have closed, completing fishing in the fourth year of the program. Annual reports, the 18-month review, and the three-year review have all been completed as requested by the Council, providing the Council with a relatively complete view of the performance of the fishery under the program at various times. In addition, the analysis of amendments proposed by the Council should supplement those reports by providing the Council with additional information relevant to the performance of the fisheries.**

**Given the Council's request for a comprehensive review of the program after its 5<sup>th</sup> season, the time needed to complete such a review, the different reviews and reports already available to the Council, and the ongoing analyses, it is appropriate for the Council to begin consideration of the scope of the 5-year review. While the Council has already received several analyses and reports that describe the performance of the program, it should view the upcoming review as an opportunity to gain increased understanding of the program's performance to date, in addition to simply gaining more current information concerning recent changes in the program's operation. This agenda item is intended to allow the Council to begin the scoping process for this report.**

The Scientific and Statistical Committee did not address these two agenda issues.

## **Report of the Advisory Panel**

### **C-3(b)(1) Right of first refusal (ROFR)**

The AP recommends the Council adopt the purpose and need statement and alternatives below to enhance the community/processor right of first refusal (ROFR) agreements.

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

The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program recognizes the unique relationship between specific crab-dependent communities and their shore-based processors, and has addressed that codependence by establishing community “Right of First Refusal” agreements as a significant feature of the Program. These ROFR agreements apply to the Processor Quota Shares (PQS) initially issued within each community, and are entered into and held by Eligible Crab Community Organizations (ECCO) on behalf of each respective community.

To date there have been several significant Processor Quota Share transactions, resulting in ECCOs now owning between 20% and 50% of the PQS in each rationalized fishery. These community ownership levels exceed the Council’s expectations this early in the Program.

In spite of this success, some communities feel that ROFRs should be permanent, and the terms for each ROFR transaction should be liberalized.

**Alternative 1:** Status quo, no action.

*(Alternatives 2 and 3 can be combined).*

**Alternative 2:** Increase community protections by making ROFRs permanent.

- a) Require parties to rights of first refusal contracts to remove the provision that rights lapses, if the IPQ are used outside the community for a period of three consecutive years.
- b) 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.
- c) Require that any person holding PQS that meet landing thresholds qualifying a community entity for a right of first refusal to maintain a contract providing that right at all times.

**Alternative 3:** Increase an ECCOs timeframe for acceptance and execution of a ROFR.

- a) 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.
- b) 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.

The AP recommends that the Council write a letter to the Secretary of Commerce supporting the creation of a loan program.

**C-3(b)(2) Western AI golden king crab regionalization and PQ issues**

The AP recommends that harvesters, processors and communities work together to develop proposals for an exemption from regionalization in the event processing capacity is unavailable as described in the discussion paper. Proposals are due back by October 2009.

**C-3(b)(3) Extinguishing crab PQ**

The AP recommends the Council take no further action on this item.

**C-3(b)(4) Leasing restrictions**

The AP recommends the Council take no further action on this discussion paper.

**C-3(c) Plan for 5-year Review of Crab Program**

The AP received the staff report on this issue.

**COUNCIL DISCUSSION/ACTION**

[NOTE: Stefanie Moreland participated in these discussions for Denby Lloyd. Mr. Fields had left the meeting due to a family emergency.]

The Council received a review of each the four discussion papers from Mark Fina (NPFMC staff), the Advisory Panel reports, and oral public comments.

**C-3(b)(1) Right of First Refusal**

**Stefanie Moreland moved the following written motion:**

**The Council moves the AP recommendations with changes as noted. Additions are underlined and deletions are shown with strikethrough.**

**The ~~AP recommends~~ the Council adopts the purpose and need statement and alternatives below for initial review to enhance the community/processor right of first refusal (ROFR) agreements.**

**Purpose and Need Statement:**

**The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program recognizes the unique relationship between specific crab-dependent communities and their shore-based processors, and has addressed that codependence by establishing community “Right of First Refusal” agreements as a significant feature of the Program. These ROFR agreements apply to the Processor Quota Shares (PQS) initially issued within each community, and are entered into and held by Eligible Crab Community Organizations (ECCO) on behalf of each respective community.**

**To date there have been several significant Processor Quota Share transactions, resulting in ECCOs now owning between 20% and 50% of the PQS in each rationalized fishery. These community ownership levels exceed the Council’s expectations this early in the Program.**

**In spite of this success, some communities feel that ROFRs should be permanent, and the terms for each ROFR transaction should be liberalized.**

**Alternative 1: Status quo, no action.**

*(Alternatives 2 and 3 can be combined).*

**Alternative 2: Increase community protections by making ROFRs permanent.**

- d) **Require parties to rights of first refusal contracts to remove the provision that rights lapses, if the IPQ are used outside the community for a period of three consecutive years.**
- e) **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.**
- f) **Require that any person holding PQS that meet landing thresholds qualifying a community entity for a right of first refusal to maintain a contract providing that right at all times.**

**Alternative 3: Increase an ECCOs timeframe for acceptance and execution of a ROFR.**

- c) **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.**
- d) **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.**

**The AP ~~recommends that the Council~~ shall write a letter to the Secretary of Commerce supporting the creation of a loan program.**

The motion was seconded.

**Sam Cotten moved to add a fourth alternative, found in the discussion paper on page 10:**

**Alternative 4: 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) **an appraiser jointly selected by the PQS holder and the entity holding the right of first refusal, or,**
- b) ***further options to be developed by the Council.***

**Amend Purpose and Need statement by adding the following statement at the end: In addition, some communities, when exercising their ROFR, may have no interest in purchasing assets in another community and feel that ROFR contract should exclude any such requirement.**

The motion was seconded.

Dr. Fina noted that some aspects of the program with respect to the appraisal process and timing aspects may need to be re-worked as a result of this amendment.

Mr. Cotten's amendment carried, 8-2, with Henderschedt and Tweit voting against; Fields absent.

Gerry Merrigan moved to delete the last two sentences of the Purpose and Need Statement, and add the following: “However, the ability of the ROFR to lapse may diminish the intent to protect community interests. Additionally, the limited time period to exercise the right may conflict with the ability to exercise the right for acceptance and execution of a ROFR.”

The motion was seconded and carried without objection.

Doug Mecum moved to amend Alternative 2 by adding the following to the end of the introductory statement: “**Increase community protections by making ROFRs permanent by removing ROFR lapse provisions.**” The amendment was seconded and carried without objection.

*C-3(b)(2) Western AI Golden King Crab Regionalization and PQ Issues*

Stefanie Moreland moved that the Council requests harvesters, processors and communities work together to develop proposals for an exemption from regionalization in the event processing capacity is unavailable as described in the discussion paper. Proposals are due back by October 2009. The motion was seconded and carried without objection.

*C-3(b)(3) Extinguishing Crab PQ*

Bill Tweit moved that the Council directs staff to provide analysis within the scope of the 5-year review of the Crab Rationalization Program; the analysis shall consider the social, legal and resource management impacts that could result from the removal of PQ from the program.

The socio-economic analysis contained in the 5-year review shall examine the impacts of Eligible Crab Communities that could result from the removal of PQ; including their relative dependency on the crab resource, impacts on their ability to compete for landings and the investments made by the community-owned Eligible Crab Community Organizations established under this Program.

The analysis shall, to the extent possible, examine legal issues that may arise from this action, including Congressional intent and limitations established under the Magnuson Stevens Act amendment that authorized this Program; and any other legal consequences that could arise.

The analysis shall also more closely examine impacts on Processor Share Quota holders and remedies that may be available to compensate for the removal of PQ from this Program.

The motion was seconded by Dave Benson, but **withdrawn** after Council discussion.

*C-3(b)(4) Leasing Restrictions*

Based on public comments and the recommendation of the Advisory Panel, the Council opted to take no action on this discussion paper at this time.

*C-3(c) Plan for 5-year Review of the BSAI Crab Rationalization Program*

After receiving the scoping report on the upcoming 5-year review of the BSAI Crab Rationalization Program, the Council requested staff to provide an outline of the Review at the October meeting.

**C-3(d) Review Crab Plan Team Report, draft SAFE and approve OFLs, rebuilding plan alternatives**

**ACTION REQUIRED**

**Receive Crab Plan Team Report, draft BSAI Crab SAFE report, rebuilding plan alternatives**

## BACKGROUND

The Crab Plan Team met in Seattle from May 11-15, 2009, to review draft BSAI crab stock assessments and provide recommendations for the model parameterizations and tier establishments for BSAI crab stocks. The team also participated in a crab stock assessment/data weighting workshop. This is the second year of the new process for annual determination of crab OFLs, and the Crab Plan Team is part of the newly established review process. There are ten crab stocks in the BSAI Crab FMP and all ten must have annually established OFLs. Six of the ten stocks will have OFLs established following the summer survey information availability. Two of the ten stocks (Norton Sound red king crab and AI golden king crab) have OFL recommendations at this time, in order to have approved OFLs prior to the summer fisheries for these stocks. The Council can approve these two OFLs at this June meeting. The remaining two stocks (Adak red king crab and Pribilof Islands golden king crab) have OFLs recommended based on Tier 5 formulation (average catch) and OFLs will be recommended in conjunction with the final SAFE report in the fall. Much of the Crab Plan Team's stock assessment and OFL recommendations are contained within the Crab SAFE Introduction while some additional recommendations and discussions are included in the Crab Plan Team Report. The Crab Plan Team report is attached as Item C-3(d)(1) while the Crab SAFE Report Introduction was mailed to you previously and is attached as Item C-3(d)(2).

In conjunction with this agenda item, the Council will be briefed on progress towards rebuilding for the three crab stocks currently under rebuilding plans: EBS snow crab, Saint Matthew blue king crab, and Pribilof Island blue king crab. Of the three stocks, Pribilof Island blue king crab shows no sign of recovery. Given new estimates of stock recovery and the potential that additional measures could be taken to protect this stock, the rebuilding plan for this stock needs to be revised. At this meeting, the Council is scheduled to discuss recommended alternatives and consider initiating an analysis for a revised rebuilding plan.

### Report of the Scientific and Statistical Committee

The SSC provided recommendations for tier designations, years of biomass or catch, gamma (a multiplier for natural mortality), natural mortality and OFL. This year, the SAFE reports for Pribilof Islands golden king crab and Adak red king crab will be reviewed in September by the Crab Plan Team (CPT) and in October by the SSC. Next year, the assessments will be ready for the May CPT meeting. The SSC also provided a number of recommendations and requests for future assessments. Please see the SSC minutes, Appendix V to these minutes, for those recommendations/requests.

The Advisory Panel did not receive a report on this issue.

### COUNCIL DISCUSSION/ACTION

[NOTE: Stefanie Moreland participated in this discussion for Denby Lloyd.]

Diana Stram (NPFMC staff) provided a review of the Crab Plan Team report, the Crab SAFE, and a review of rebuilding plan alternatives for Eastern Bering Sea snow crab, Saint Matthew blue king crab, and Pribilof Island blue king crab.

**Gerry Merrigan moved to adopt the draft Crab SAFE, OFLs as recommended by the SSC, as well as revisions and recommendations of the SSC for future assessments.** The motion was seconded and carried without objection.

With regard to the rebuilding plan for the Pribilof Islands blue king crab stock, the Crab Plan Team has recommended that the Council consider new alternatives for a revised rebuilding plan. The Council will review proposed alternatives and affected fisheries at the October 2009 meeting.

#### **C-4 Bering Sea Salmon Bycatch**

##### **ACTION REQUIRED**

- (a) Refine alternatives for chum salmon bycatch analysis**
- (b) Receive discussion paper and committee report on Chinook salmon bycatch data collection**

##### **BACKGROUND**

###### **(a) Refine alternatives for chum salmon bycatch analysis**

At the April 2008 Council meeting, the Council took action to bifurcate the analysis of management measures for Chinook and chum salmon. Final action on the Chinook salmon bycatch management measures DEIS/RIR/IRFA was taken in April 2009. For chum (non-Chinook) salmon bycatch management measures, the Council last modified the existing suite of alternatives in April 2008 and discussed initiating a scoping period in December 2008. The Council indicated that further review and modification of chum management alternatives would be scheduled for the June 2009 Council meeting.

At this meeting, the Council will review a discussion paper (Item C-4(a)(1)) which includes the current suite of alternatives for chum (non-Chinook) salmon bycatch in the EBS pollock trawl fishery, as amended in April 2008. The Council may modify the alternatives at this time and discuss an appropriate timeline for this analysis. Information contained in this paper summarizes the current bycatch trends by season and sector through 2008 (as non-Chinook bycatch is almost exclusively in the B season pollock fishery), the current suite of alternatives, and considerations for the forthcoming analysis with respect to appropriate NEPA analyses necessary, as well as staff timing and availability. The scoping period for this action began January 8 and ended March 23, 2009. A separate scoping report provided by NMFS was mailed to you previously and is included as Item C-4(a)(2).

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

The SSC addressed item C-4(b) – Chinook salmon bycatch data collection. The SSC noted that the six sample analytic goals outlined in the discussion paper (page 3) could serve as a focus for refinement of the Council's purpose statement. The SSC notes that, while the discussion paper considers questions that address program effects on some aspects of the pollock fishery (e.g., incremental operating costs of compliance), it does not address questions that explore the broader extent to which PSC avoidance savings translate into increased returns of salmon to their streams of origin, nor how Chinook PSC avoidance compliance may impact profitability, sectoral economic stability, operational size-sector competitiveness, and consolidation with the regulated pollock sectors or value to the Native communities.

The SSC noted that the administrative and procedural time-constraints associated with Amendment 91 implementation (which is dependent upon data acquisition). The present target date of October 2009 for this action precludes a highly complex and elaborate data acquisition program. The SSC suggested that consideration be given to a phased implementation of the data collection program. For a more additional comments, see the SSC Minutes, Appendix V to these minutes.

## **Report of the Advisory Panel**

The AP received staff reports on the chum salmon bycatch analysis and salmon bycatch data collection and provided extensive recommendations on both issues. Please see the Advisory Panel Minutes, Appendix II to these minutes, for those recommendations.

## **COUNCIL DISCUSSION/ACTION**

### (a) Refine Alternatives/Purpose & Need Statement – Chum Salmon Bycatch Analysis

[NOTE: Dave Bedford participated in this discussion for Denby Lloyd. Mr. Fields was not present.]

The Council received a staff report from Diana Stram (NPFMC staff), the Advisory Panel report, and oral public comments on this issue.

**Dave Bedford moved to forward the AP recommendations as an extended discussion paper, including a look at the interactions that might be expected between the Chinook salmon program and these options and those recommended in the discussion paper; additionally the discussion paper be provided to the Salmon Bycatch Committee and the results of that review be submitted to the Council.** The motion was seconded by Doug Mecum.

**John Henderschedt moved to amend, as follows: Replace Component 7 with the following:**

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

**Sub-option: 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.**

The motion was seconded by Bill Tweit and carried without objection.

A motion by Greg Balogh to include 2007 mathematical chum salmon bycatch averages under Component 1, Alternatives 2 and 3, was withdrawn after Council discussion. It was noted that the Council is will be provided with the most recent data available before taking final action.

Chairman Olsen requested that staff provide the Bycatch Committee with the data collected before the extended discussion paper is provided to the Council.

The amended main motion carried without objection.

### C-4(b) Discussion Paper/Committee Report on Salmon Bycatch Data Collection

[NOTE: Stefanie Moreland participated in this discussion for Denby Lloyd.]

The Council received staff reports from Jeannie Heltzel and Mark Fina (NPFMC staff) and Dr. Alan Haynie and Ron Felthoven (NMFS-ASFC), the recommendations of the SSC and Advisory Panel, and oral public comments on this agenda issue.

**John Henderschedt moved to task staff to develop a discussion paper examining the use of available fishery data to identify statistical measures that would detect behavior resulting from Chinook avoidance incentives and to inform the Council on its development of a plan to independently verify that IPAs are creating the intended incentives. Such measures might include (for example only):**

comparisons of bycatch rates of vessels fishing simultaneously in different areas, trends and changes in the standard deviation of individual vessel bycatch rates, comparison of individual vessel bycatch rates, comparison of individual vessel bycatch rates prior to and following changes in fishing locations, comparison of individual vessel bycatch rates relative to distance traveled from port, calculation of salmon avoidance through rolling hot spot closures, comparison of percentage of TAC harvested at times of relatively high and low encounter rates, and comparison of Chinook bycatch rates achieved by vessels participating in an IPA and by vessels not participating in an IPA. Further, this discussion paper should evaluate the availability and data collection feasibility of cost, revenue and product information required in Alternatives 3 and 4 in the committee report, and the time frame for developing the appropriate survey to collect these data.

The motion was seconded by Duncan Fields.

**Stefanie Moreland moved a substitute motion:**

Incorporate elements of Mr. Henderschedt's motion with respect to the use of data available under status quo, but direct staff to prepare an analysis for initial review in October, incorporating a discussion under Status Quo of the issues Mr. Henderschedt proposed, and move forward with analysis of the alternatives recommended by the Advisory Panel. The discussion needs to be framed by time constraints associated with putting a program in place. Staff is requested to provide discussion on how each alternatives meets the purpose of evaluating the effectiveness of IPA programs, but also on the feasibility of each of the options that are analyzed given the time constraints involved. A draft purpose and need statement should include a clarification of intent as discussed in Mr. Henderschedt's comments and guidance offered by questions 1 and 2 on page 3 of the draft paper provided by the AFSC, focusing on performance of IPAs and effectiveness of reducing. Additionally, staff needs to recognize the need for implementation at the time Chinook salmon bycatch management measures would be in place, expected to be 2011.

The motion was seconded.

**John Henderschedt moved to amend:** Under Alternatives 2a and 2b, strike the lead sentence and replace with "Information regarding changes in fishing grounds would include:" The motion was seconded and carried without objection.

The main motion as amended, carried without objection.

#### **C-5 MPA Nomination Process**

#### **ACTION REQUIRED**

Receive status report on nomination process for MPAs

#### **BACKGROUND**

Back in 2000, President Clinton signed Executive Order 13158, which requires NOAA to establish a Marine Protected Area Center to develop a framework for a national system of marine protected areas (MPAs). The executive order is attached as Item C-5(a). In late November 2008, the final framework was published on the MPA Center's website ([www.mpa.gov](http://www.mpa.gov)). In December, the Council received a report from Dr. Joe Uravich, Director of the MPA Center, about the National System of MPAs and the nomination process for the incorporation of existing MPAs, into the national system. Summary information on the framework and nomination process is attached (Item C-5(b)).

In February 2009, NMFS published a policy directive to establish a process for consulting with the councils on (1) whether sites established by Council action should be included in the National System of MPAs, and (2) when adding, modifying, or removing MPAs from the National System. The Policy Directive, attached as Item C-5(c), details steps in the consultation process for the initial listing, as summarized below:

- The MPA Center identifies eligible sites, and sends the list to NMFS.
- NMFS notifies the Council by letter of those sites within its jurisdiction.
- NMFS RA consults with the Council on a process for reviewing the list and providing public comment at Council meetings. The Council process is expected to occur over the course of two Council meetings, and conclude with a Council vote on a proposed list of sites to be included in the National System. Should the Council recommend any eligible site not be included, it must include a brief justification.
- NMFS RA reviews the Council recommendation and prepares the final list, including any justifications for any changes from the Council recommendations.
- NMFS RA submits this list to the MPA Center for publication in the Federal Register and provide an opportunity for public comment.
- NMFS will share the public comments with the Council.
- The Council reviews the comments and may recommended changes, and documents it in a letter that would include any information required by the MPA Center.
- The NFMS RA reviews the Council's final recommendation, and submits a final list of sites for submission to the MPA Center. NMFS will justify any changes from the Council's recommendation.

Late last week I received the letter from the NMFS Alaska Region RA, per bullet #2 in the policy directive noted above (please refer to Item C-5(d)). At this point it is my understanding that the Council is now in the position of determining whether and how to engage in the listing process per the policy directive, including the timeline for that process. While the policy directive makes reference to a "two-meeting" cycle by the Council, it seems likely that this process could take more than two meetings, and the Council needs to determine when to initiate in this process. My suggestion is that the Council request its staff, in collaboration with NMFS staff, to work on a discussion paper which further examines the issues and concerns associated with this process, and provides an initial evaluation of the potential sites for inclusion. The Council could review this paper in October and at that time determine an appropriate schedule for potential further analysis, public comment, and eventual action by the Council.

Neither the Scientific and Statistical Committee nor the Advisory Panel addressed this agenda issue.

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

[Dave Bedford participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

Chris Oliver, Executive Director (NPFMC) provided an overview of the issue, and the Council received oral public comments.

Council members were advised that although the letter received from NMFS-Alaska Region initiating consultation with the Council regarding potential nomination of sites to the National System of Marine Protected Areas (MPAs), this meeting does not necessarily trigger the "two-meeting cycle" noted in the policy directive.

Council members discussed the many aspects of the program and posed questions to Mr. Oliver and Doug Mecum, Acting Administrator for the Alaska Region. Concerns were raised over the inventory of sites within the Council's management area that could be included in the national program. Council members

continue to be concerned about the process of changing or withdrawing a site after it has been included in the national program.

**Dave Bedford moved to request Council staff, in collaboration with NMFS staff, to work on a discussion paper which further examines the issues and concerns associated with this process, and provide an initial evaluation of the potential sites for inclusion. The Council could review the paper in October and at that time determine an appropriate schedule for potential further analysis, public comment, and eventual action by the Council. The motion was seconded and carried without objection.**

## **D. OTHER ISSUES**

### **D-1 National Issues**

#### **ACTION REQUIRED**

- a) Initial Review of analysis to establish permit fees for all fisheries
- b) Discuss work plan to meet annual catch limit requirements and take action as necessary

#### **BACKGROUND**

##### **(a) Establish permit fees**

In December 2004, NMFS Policy Directive 30-120 called for the establishment of a uniform national policy of charging applicants for the cost of processing permit applications. Except for cost recovery implemented under the halibut and sablefish IFQ program and the Crab Rationalization Program, the fishery management plans for Alaska groundfish, crab, scallops, and salmon do not authorize the collection of fees to reimburse the federal government for the cost of issuing permits. Thus, NMFS prepared an analysis of the required FMP amendments and associated regulations so that agency policy is extended more fully to the North Pacific fisheries.

Alternative 2 would exempt permits for subsistence halibut harvest, and other options would exempt permits for the prohibited species donation programs, and/or exempted fishing permits from new fees. These exemptions are considered because without them, the potential exists that program objectives designed around these permits could be compromised. The analysis was distributed on May 8, 2009, and the executive summary is attached (Item D-1(a)). The alternatives are:

**Alternative 1: Status quo**

**Alternative 2: Amend FMPs to require cost recovery for all permits and registrations except those already covered under a program to recover the costs of a limited access privilege program (LAPP) and except those required under the halibut subsistence program.**

**Option 1: exempt no permits or registrations except those for LAPPs already under cost-recovery, or those required for the halibut subsistence program**

**Option 2: exempt exempted fishery permits (EFPs) from cost recovery**

**Option 3: exempt prohibited species donation (PSD) permits from cost recovery**

**Option 4: charge for cost recovery of all permits under Option 1 except those exempted under Options 2 and 3.**

**Under D-1 supplemental is the letter we wrote to NMFS last July following our first review of this proposal.**

### **(b) ACL requirements**

On January 16, 2009, NMFS issued final revised guidelines for National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) on how to comply with new annual catch limit (ACL) and accountability measure (AM) requirements for ending overfishing of federal fisheries. Annual catch limits are amounts of fish allowed to be caught in a year. A legal review found several inadequacies in the fishery management plans (FMPs) for BSAI and GOA groundfish, crab, and scallop that need to be addressed. The newly proposed Arctic FMP was developed in accordance with the guidelines. Several work groups (e.g., ABC/ACT Control Rules, Vulnerability Evaluations) have been created to produce reports on how to carry out the more technical components of the guidelines. Statutory deadlines require compliance with the MSA by the start of the 2011 fisheries, although these work group reports have not been finalized.

The ACL amendments to the FMPs are necessary to facilitate compliance with requirements of the MSA to end and prevent overfishing, rebuild overfished stocks, and achieve optimum yield. Some of the amendments to the groundfish FMPs are “housekeeping” in nature, while amendments to the crab and scallop FMPs are more substantive. Draft action plans for amendments to the FMPs for groundfish (Item D-1(b)(1)), crab (Item D-1(b)(2)), and scallop (Item D-1(b)(3)) are attached.

Recommendations from members of the SSC and Plan Teams which arose from an ACL workshop held on May 21 and 22, 2009 at the Alaska Fishery Science Center are also attached (Item D-1(b)(4)). Due to statutory deadlines, the Council and NMFS should prioritize these amendments for action in 2009/2010. The statutory deadline of January 1, 2011, for implementation of ACL/AM requirements for groundfish requires Council final action no later than April 2010. The Council may wish to reevaluate its previous tasking priorities for revising management of its “other species” FMP amendments (see Agenda D-2). Statutory deadlines of October 2011 and June 2011 for the crab and scallop FMP amendments also require Council action in 2010.

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

Permit Fees Analysis. The SSC recommending releasing the analysis for public comment.

ACL Work Plan. The SSC provided several general comments regarding the timeline for revising FMPs to comply with the MSRA, and noted that altering the analytical approach for setting harvest specifications for groundfish, crab and scallops is an important activity that should be carefully analyzed, while the timeline for completion of these analyses is very short. The SSC also noted that if the NPFMC elects to consider major modifications to the harvest strategy in the FMPs, then the scope of this analysis will be large because of the technical interactions between species and fishing sectors and different stakeholders involved, making it difficult to meet the required timelines for compliance with ACL provisions of the MSRA. Please see the SSC Minutes, Appendix V to these minutes, for additional comments/recommendations.

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

Permit Fees Analysis. The Advisory Panel recommended the Council send the analysis out for public review.

ACL Work Plan. The AP recommended the Council adopt the action plans and move forward with the timeline recommended in the plans.

Additionally, the AP recommended that the Council request NOAA General Counsel provide legal guidance to the industry regarding what the implications of the opilio rebuilding plans are by August 1, 2009. Specifically, guidance is requested on the following issues:

- State actions that are possible under deferred authority
- Requirements to meet rebuilding plans.

### **COUNCIL DISCUSSION/ACTION**

[NOTE: Stephanie Moreland participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

#### **(a) Permit Fees Analysis**

The Council received a review of the analysis from Sue Salvesson (NMFS staff) and recommendations from the SSC and AP. There were no oral comments on this issue.

**John Henderschedt moved to approve the recommendations of the AP and SSC, and to inclusion of include Option 4, under Alternative 2, to exempt experimental fishing permits, and PSC donation permits.** The motion was seconded and carried with Olson and Merrigan objecting (Fields absent).

During discussion it was also clarified that the analysis currently exempts all permits associated with halibut subsistence. While some Council members disagreed with the fees initiative they noted that the Region is following the directive of NOAA to establish a uniform national policy for collection of costs to process fishing permits.

#### **(b) Annual Catch Limits Work Plan**

[Stephanie Moreland participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

Dr. Jim Balsiger (NOAA Fisheries) provided an overview of the final revised guidelines for National Standard 1 on compliance with the new annual catch limit and accountability measure requirements for ending overfishing of federal fisheries. The Council also received an overview of workplans for complying with the guidelines for Alaska groundfish fisheries from Jane DiCosimo and for crab and scallop fisheries from Diana Stram (both NPFMC staff). The Council also received SSC and AP reports, but did not receive any oral public comments on this issue.

**Gerry Merrigan moved to adopt the action plans, alternatives and guidelines as provided by staff for groundfish, crab and scallop FMPs.** The motion was seconded and carried without objection.

**Gerry Merrigan moved to approve the recommendation of the Advisory Panel to request legal guidance to the industry by August 1, 2009 regarding possible implications of the opilio rebuilding plans. Specifically, guidance is requested on the following issues:**

- **State actions that are possible under deferred authority**
- **Requirements to meet rebuilding plans.**

The motion was seconded and carried without objection.

### **D-2 Groundfish Issues**

#### **(a) Initial Review of analysis of bottom trawl gear sweep requirements**

#### **ACTION REQUIRED**

##### **(a) Initial review of analysis of bottom trawl gear sweep requirements**

## **BACKGROUND**

In June 2008, the Council initiated an analysis to require elevating disks on trawl sweeps on bottom trawl vessels targeting flatfish in the Bering Sea. An initial review draft of the analysis was mailed to the Council in May; the executive summary of this analysis is attached as Item D-2(a)(1).

In addition to evaluating the requirement for elevating disks on trawl sweeps, the analysis also includes an alternative under which a small subarea of the Northern Bering Sea Research Area would be opened to fishing by vessels using the modified trawl gear. Additionally, an option is analyzed to adjust the boundaries of the St. Matthew Island Habitat Conservation Area (HCA), to ensure adequate protection of blue king crab. The St. Matthew HCA is adjacent to the area that may be reopened to modified trawl gear.

The Council requested the Crab Plan Team review the boundaries of the St. Matthew HCA to determine whether the boundary adequately protects blue king crab, and if not, what adjustments would be needed to allow for adequate protection. The Crab Plan Team met on this issue on May 15, and consequently, its input was not included in the initial review draft mailed to the Council. The Plan Team felt that further evaluation of the HCA boundary compared to stock distribution for both blue king crab and snow crab would be beneficial, and offered to take up the issue again at its September Plan Team meeting, prior to the Council's final action on this agenda item. The Plan Team's comments relating to this agenda item are included in the Plan Team minutes with the action memo material for Item C-3(d).

The proposed FMP amendment resulting from this analysis would also address three housekeeping changes to the FMP: a) remove reference to the Crab and Halibut Protection Area, which was effectively superseded by the Nearshore Bristol Bay closure, b) renumber figures in the FMP sequentially, and correct cross-references; and c) adjust the northern boundary of the Northern Bering Sea Research Area to conform with the boundary for NMFS Statistical Area 514. These housekeeping changes are described in the initial review analysis.

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

The SSC recommended that the draft analysis not be released for public review until it can be revised to address several issues pointed out by the SSC. Please see the SSC Minutes, Appendix V to these minutes, for detailed comments and recommendations.

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

The Advisory Panel recommended the Council release the analysis for public review and comment.

## **COUNCIL DISCUSSION/ACTION**

[NOTE: Stefanie Moreland participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

Mr. Benson noted a comment in the SSC's report regarding an inconsistency in the document relating to the reduction in impacts improving the productivity of fish stocks beyond what they are under status quo. Staff responded that the SSC's comments can be accommodated by clarifying the issues raised and including research results. Staff also noted that they are confident they can address all of the SSC comments and release the analysis for public review in a timely manner, with the exception of Crab Plan Team comments because of the Team's meeting schedule.

**John Henderschedt moved to approve the recommendation of the Advisory Panel to release the analysis for public review.** The motion was seconded and carried without objection.

Mr. Henderschedt noted that he believes the analysis is adequate for release and that the Plan Team can provide additional comments in October.

**(b) Initial review of analysis to set catch specifications for BSAI skate complex**

**ACTION REQUIRED**

**(b) Initial Review of analysis to revise management of BSAI skates**

**BACKGROUND**

**BSAI skates**

Skates, sharks, sculpins, and octopods are included in the Bering Sea/Aleutian Island (BSAI) "other species" quota category. A single overfishing limit (OFL), acceptable biological catch (ABC), and total allowable catch (TAC) is specified annually for the "other species" assemblage despite their very different life histories. The problem in the BSAI groundfish fishery is that the management of the assemblage offers minimal protection to individual species or groups. The potential for the entire TAC, which is set for the assemblage, to be taken as skates under the No Action alternative exists, even though a directed fishery has yet to develop. The policy objective for this proposed action is to prevent overfishing and maintain healthy stocks of skates. The action would require the Council to annually establish an OFL, ABC, and TAC for skates as a group or individual skate species, thereby enhancing the management tools to control their harvest.

A complementary amendment to federal regulations at 50 CFR part 679 would: 1) remove skates from the maximum retainable amounts (MRAs) for the "other species" category and create a new skate MRA category; and 2) list new species code(s) for BSAI skates. The MRA of a species closed to directed fishing is the maximum weight of that species that may be retained onboard a vessel, calculated as a percentage of the weight of the retained catch onboard the vessel of each species open to directed fishing (i.e. the basis species). The new MRA would specify the maximum amount of skates that could be retained while directed fishing for other groundfish species, and the maximum amounts of other groundfish not open for directed fishing that could be retained while directed fishing for skates. Proposed skate MRAs would be set to the same amounts as identified for "other species."

The analysis was mailed to you on May 15, 2009. The executive summary is attached under Item D-2(b)(1). The two alternatives under consideration for revising management of BSAI skates are:

**Alternative 1:** (The No Action Alternative) Skates would continue to be managed as a part of the BSAI "other species" category.

**Alternative 2:** Move skates from the "other species" category to the "target species" category in the BSAI Groundfish FMP and amend federal groundfish regulations at Part 679: 1) set maximum retainable allowances for BSAI skates equal to MRAs for other species in Table 11, and 2) add species codes for BSAI skates in Table 2a.

In 2008, the Council identified that this proposed action was its first priority in revising management of the component groups in the "other species" category while the Council awaited publication of revised guidelines for National Standard 1. The Council (through its Non-Target Species Committee) may wish to review the remaining actions to revise management of squids, sharks, sculpins, octopods, and grenadiers, in light of the revised guidelines which were published in January 2009 and in light of other pressing priorities. More detail on staff requests for policy clarifications are relevant to the BSAI skate analysis listed under Item D-2(b)(2).

**Request for Clarifications** The analysts request Council consideration of a number of nested policy issues relevant to the analysis to revise management of BSAI skates. Clarifications could

streamline future analyses for the remaining groups in the BSAI and GOA other species assemblages which are scheduled for action in 2009 and 2010.

1. Section 1.5 addresses the unintended consequence of allowing increased retention of bycatch species under a separate MRA for BSAI skates under Alternative 2; the analysts used the creation of the GOA skate MRA as a precedent for including such an action in this analysis. Increased retention of squids, sharks, octopods, sculpins, and grenadiers could result from creation of separate MRAs for these groups in both the BSAI and GOA<sup>1</sup> under future analyses initiated by the Council in 2008. Because of the potential increased retention of skates under the proposed action, the Council could identify the MRA issue as a rejected alternative during initial review or not select it as part of its preferred alternative at final action.

Further, the Council could:

- develop an overarching policy regarding the creation of new MRAs that would result in streamlining future analyses (i.e., staff would not prepare MRA analyses).
  - remove the separate MRAs for BSAI squids and GOA skates by considering whether to list:
    - 1) BSAI squids under the aggregated other species MRA in the BSAI/GOA squid analysis scheduled for review in October 2009; and
    - 2) GOA skates under the aggregated other species MRA in this BSAI skate analysis; or
    - 3) take no action on BSAI squid and GOA skate MRAs because the Council deems their management to be appropriate (e.g., the BSAI squid MRA has been in place for many years and the GOA skate MRA was created because a target fishery was expected to develop but deem that new MRAs for bycatch species are not appropriate.
2. If the Council decides in favor of the status quo for new MRAs, then proposed regulatory changes would be streamlined to the listing of new species codes in federal regulations in each future analysis or the Council could initiate one regulatory amendment to add all necessary species codes for BSAI skates, GOA squids, BSAI and GOA sharks, BSAI and GOA octopods, BSAI and GOA sculpins, and BSAI and GOA grenadiers. This regulatory amendment could proceed as a “housekeeping” change and not come back for Council action but proceed directly to Secretarial review. Species codes are in federal regulations to enhance record keeping and reporting. New species codes could number up to 100 if this approach is expanded to *all* the other species groups, although many minor species could be excluded, which could reduce the number of new codes to around 40 (which species codes to include would be the subject of the RIR).
  3. *At most* streamlining could result in the development of five EAs to revise management of other species (which requires a Notice of Availability, a 60-day comment period, response to comments, and a Notice of Approval but does not require proposed and final regulations) and one RIR to add species codes to federal regulations. It may be possible to certify the species code changes under the Regulatory Flexibility Act.

**In summary, the Council could select from among the following policy approaches for these analyses:**

1. Skate TAC FMP amendment, skate MRA change, skate species codes (same approach for all groups)
2. Skate TAC FMP amendment, skate species codes (same approach for all groups)
3. Skate TAC FMP amendment (same approach for all groups); and all other species codes (with FMP amendment or separate analysis)

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<sup>1</sup> Separate MRAs for BSAI squids and GOA skates are listed in federal regulations.

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

The SSC recommended the analysis be released for public review and comment.

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

The Advisory Panel recommended the analysis be released for public review and comment.

### **COUNCIL DISCUSSION/ACTION**

[NOTE: Stefanie Moreland participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

The Council received a review of the draft analysis from Jane DiCosimo (NPFMC staff) and the AP and SSC recommendations. There were no oral public comments on this issue.

**John Henderschedt moved to release the draft EA/RIR for Amendment 95 revising the management of BSAI skates for public review, with the following modifications:**

**--Add an alternative (on page 4 of draft analysis, Section 1.2.3):**

**Move skates from the “other species” category to the “target species” category in the BSAI groundfish FMP, but NOT list a separate MRA for skates and continue to manage incidental catches of skates under the collective MRA for other species due to the potential for increased harvests of those species and groups still managed under the other species assemblage.**

**--Add to the RIR the change in the CFR section 679.21, the phrase, “pollock, Atka mackerel, other species, skates.”**

**--Provide guidance to staff that the Council intends to maintain the status quo for MRA management of species presently in the “other species” categories as summarized in #3 at the bottom of page 3 of the Action Memo.**

The motion was seconded by Dave Benson and carried without objection.

Mr. Merrigan requested that the analysis include a discussion of PSC issues if skates are split out of ‘other species.’

### **D-3 Ecosystem Issues**

#### **ACTION REQUIRED**

- (a) Status report on the HAPC process and take action as necessary**
- (b) Review of Northern Bering Sea Research Plan Outline**

## **BACKGROUND**

### **(a) Status report on the HAPC process and take action as necessary**

Habitat areas of particular concern (HAPCs) are areas within essential fish habitat (EFH) that may require additional protection from adverse effects. Essential fish habitat is designated for the managed species identified in the Council's five Fishery Management Plans (BSAI and GOA groundfish, BSAI crab, Scallop, and Salmon). The EFH guidelines provide that HAPCs may be identified as specific types or areas of habitat within EFH, based on one or more of the following four considerations: they provide an important ecological function, are sensitive to human-induced environmental degradation, are subject to stress from development activities, or are rare.

In 2005, the Council formally revised its approach to the designation of HAPCs by adopting a site-based approach. The Council developed a detailed process to be used to identify HAPC sites in the future, which is outlined in Item D-3(a)(1). As described, the Council will periodically set priority habitat types, and call for HAPC nominations through a proposal process that will focus on specific sites consistent with those priorities. HAPC proposals will be considered by the Council on a three-year cycle, or on a schedule decided by the Council. The sites proposed under this process will then be reviewed by the Plan Teams for ecological merit, and also reviewed by staff for socioeconomic, management, and enforcement impacts. Based on this combined review, the Council may choose to advance various HAPC proposals for further analysis. The Council may designate specific management measures, if needed, to apply to each HAPC location.

#### **Council's 2003-2004 HAPC proposal cycle**

To date, there has been one HAPC nomination process under the revised approach. It was initiated in October 2003, and resulted in the implementation of several HAPC designations in the Gulf of Alaska and the Aleutian Islands in 2006. For the initial 2003-2004 HAPC process, the Council identified two specific priority areas for HAPC proposals:

1. Seamounts in the exclusive economic zone (EEZ), named on National Oceanic and Atmospheric Administration (NOAA) charts, that provide important habitat for managed species.
2. Largely undisturbed, high-relief, long-lived hard coral beds, with particular emphasis on those located in the Aleutian Islands, which provide habitat for life stages of rockfish or other important managed species.

Additionally, nominations were to be based on best available scientific information and include the following features:

1. Sites must have likely or documented presence of Fishery Management Plan (FMP) rockfish species.
2. Sites must be largely undisturbed and occur outside core fishing areas.

The Council received 23 HAPC proposals from six different organizations. The proposals were reviewed by the Plan Teams and staff. Ultimately, the Council identified a range of alternatives, staff completed an analysis, and the Council established several new HAPCs. Management measures for these HAPCs were implemented in August 2006.

#### **Council discussion of priorities and proposals for the next HAPC cycle**

During the 2003-2004 HAPC proposal cycle, six proposals were received that did not meet the Council's designated priorities. These identified two sites in the Bering Sea with dense aggregations of soft corals; three deepwater canyons, two in the Bering Sea and one in Prince William Sound; 54 pinnacles in the Gulf of Alaska; 82 pinnacles in the Aleutian Islands; and the Eight Fathom Pinnacle in the Gulf of Alaska. The Council minutes from April 2004 note that these proposals were removed from the current analysis, but were placed on hold for further

consideration under the next HAPC cycle. The proposals would be considered “alive”, and need not be re-submitted, although it was expected that the submitters would participate in updating and revising their proposals.

Additionally, during the discussion of Bering Sea Habitat Conservation at the Council, in 2006-2007, the SSC and the Council considered Bering Sea skate nurseries and Bering Sea canyons as possible candidates for priorities in the next HAPC cycle. A summary of available research on these subjects was prepared and presented. In June 2007, the Council determined that it would be premature to initiate a call for proposals as there were no identified conservation concerns at that time.

**HAPC proposal evaluation criteria**

During the 2003-2004 HAPC proposal cycle, the Council received feedback from the public and the Plan Teams about the criteria used to evaluate the HAPC site proposals. It was noted that the review criteria had not been made available during the call for proposals, so that the proposers had no way of knowing the full range of information that would be required to rate their respective proposals. Additionally, some of the rating criteria were ambiguous, making it difficult for the Plan Teams to evaluate proposals in a consistent manner. The Council asked the SSC to develop specific criteria for evaluating future HAPC proposals.

In April 2009, the SSC received a presentation about the four HAPC considerations that are listed in the EFH guidelines. The SSC began to develop rating criteria, which would be used to evaluate candidate sites submitted as HAPC proposals. The SSC created a workgroup, and will report to the Council on their discussion at this meeting.

**Council action with respect to HAPC process**

As 2009 marks the three-year interval since the conclusion of the most recent HAPC process, the Council may wish to consider whether to resolicit for HAPC proposals. In order to initiate a new HAPC process, the Council must specify priorities for HAPC nominations. A request for proposals (RFP) would then be issued based on these priorities, and announced in the Federal Register.

The Council must also include criteria for evaluating the HAPC proposals in the RFP. The SSC is currently developing specific review criteria for the four HAPC considerations from the EFH guidelines. The Council has specified that HAPC proposals must meet the rarity consideration, and at least one other consideration (see Section 2.1 in Item D-3(a)(1)). The Council may also wish to specify whether HAPC proposals must meet the habitat type priorities identified by the Council. In the 2004 RFP, the Council additionally identified two other criteria for HAPC proposals: 1) requiring the presence of rockfish species, and 2) the location of the HAPC site must be outside of core fishing areas.

Should the Council decide to proceed with identifying HAPC priorities at this meeting, the following table illustrates a sample timeline for the HAPC cycle that would be initiated. Note, in April 2009, the SSC suggested that the HAPC process be delayed to synchronize with the EFH 5-year review, which is tentatively scheduled to come before the Council in December 2009.

June 2009	Council identifies HAPC priorities Review evaluation criteria for HAPC proposals Issue call for HAPC proposals, initiated by FR notice
September 2009	Proposal period closes
October 2009	Summary of all HAPC proposals to Council Council review and decision as to which ideas should be forwarded for Plan Team review
Nov 2009 to	Plan Team review of HAPC ideas

March 2010	Preliminary enforcement and socioeconomic reviews
April 2010	Summary of all reviews to Council Council finalizes HAPC alternatives for analysis
May to Sept 2010	Analysis of alternatives
October 2010	Initial review
December 2010	Final review, Council decision

**(b) Review of Northern Bering Sea Research Plan Outline**

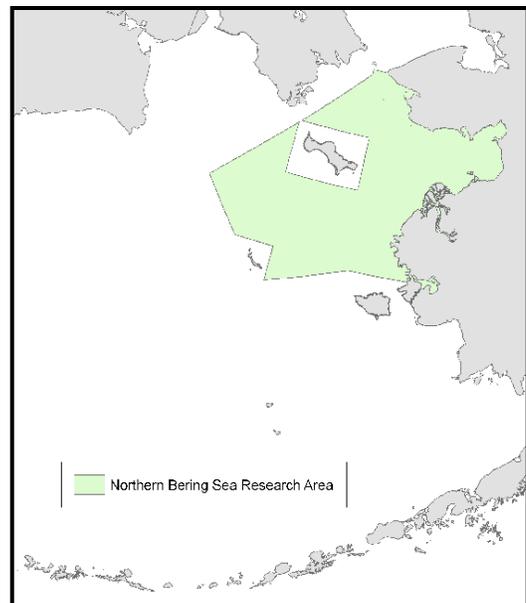
The Alaska Fisheries Science Center (AFSC) is assisting the Council in developing a scientific research plan for the Northern Bering Sea Research Area (NBSRA) to study the effects of bottom trawling on the benthic community. The NBSRA was established by the Council and became effective in 2008, and is currently closed to bottom trawl fishing. The intent was to develop a research plan within two years, under which research and experimental bottom trawl fishing in this area could be conducted. The primary goals of the plan would be to investigate the effects of bottom trawling on bottom habitat, and provide information to help with developing future protection measures.

The proposed research plan is intended to:

- establish guidelines for an adaptive management plan for bottom trawl fishing that includes closing control areas to fishing to allow research on the effects of bottom trawling on habitat,
- require all vessels conducting experimental fishing in the NBSRA, under the research plan, to work in conjunction with the AFSC,
- identify information needed to protect crab, marine mammals, and endangered species within the NBSRA from adverse impacts of bottom trawling, and
- identify information needed to protect subsistence needs of Western Alaska communities from adverse impacts of bottom trawling in areas of the NBSRA

Cynthia Yeung is the AFSC lead for developing the plan, and will present an outline of the plan to the SSC at this meeting. The outline was mailed to the Council in mid-May, and is attached as Item D-3(b)(1).

An inconsistency with respect to the timeline has been raised by the public. In adopting the original motion creating the NBSRA, the Council indicated that the research plan should be developed within two years of the implementation of the closure, i.e., by July 2010. Subsequently, in response to public testimony, the Council agreed to tie the development of the research plan and any management measures that may result from the plan, to the timeline for revisiting the boundaries of the Nunivak-Etolin Straits-Kuskokwim Bay Habitat Conservation Area, a review of which is scheduled for 2011. The Council may wish to clarify how these actions will synchronize with each other.



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

Status Report on HAPC process. In preparation for the next RFP process for HAPC sites, the SSC formed an ad-hoc group composed of SSC and plan team members to review HAPC proposal evaluation criteria. The workgroup has just been formed and a chair has been assigned. The workgroup will meet over the summer to design a set of rating criteria that will be used to evaluate candidate HAPC sites. These criteria will be presented to the Plan Teams in September and to the SSC and Council in October.

Northern Bering Sea Research Plan. The SSC reviewed a draft outline of the research plan and provided comments and recommendations. Please see the SSC Minutes, Appendix V to these minutes, for those comments.

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

HAPC Process. The AP recommended the Council delay the HAPC solicitation process until the 5-year review of EFH is completed.

Northern Bering Sea Research Plan. The AP received a report on the proposed plan but did not provide any comments.

### **COUNCIL DISCUSSION/ACTION**

[NOTE: Dave Bedford participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

The Council received a review of the issues from Diana Evans (NPFMC staff), recommendations from the AP and SSC, and oral public comments.

#### HAPC Process

The Council discussed the timeline for the 5-year review of the Essential Fish Habitat program. Staff noted that EFH components are listed in each of the FMPs. Stock assessment authors will review EFH components and descriptions with a particular focus on possible HAPCs. The currently schedule to have a joint presentation to the Plans Teams in September and staff will report back to the Council in December. Because of the extent of the project, staff is recommending that presentations be staggered, i.e., groundfish in December and crab, scallops and salmon at later meetings.

**Gerry Merrigan moved that the HAPC solicitation review process be incorporated with completion of the 5-year review of the EFH program and the completion of the HAPC proposal evaluation criteria.** The motion was seconded by Bill Tweit and carried without objection.

Mr. Merrigan noted that the SSC is in the process of addressing the evaluation criteria and will be addressing the issue in September and October, and it seems appropriate to address HAPC issues in combination with the review of the EFH program before calling for new HAPC proposals

Mr. Tweit suggested that staff provide a new timeline for the 5-year EFH review in view of this new direction to staff.

#### Northern Bering Sea Research Plan

**John Henderschedt moved that the Council draft a letter to NMFS requesting information on the feasibility of and timeframe for expanding survey efforts into the Northern Bering Sea research area, and draft a letter to the North Pacific Research Board requesting that mapping of bottom**

**habitats in the Northern Bering Sea research area be included in its next suite of requests for proposals.**

Mr. Henderschedt noted that this will put the plan on a slower path than originally anticipated, but he thinks it is important to have some more information before further development of a plan. He also noted that industry comments support this approach.

The motion was seconded and carried with Hyder objecting. Mr. Hyder indicated he is uncomfortable with delaying work on the plan.

In further discussion, Mr. Henderschedt stated that he anticipates the following steps: (1) Gathering the data – expanded survey data, bottom habitat mapping, which will provide some information to the commercial fishing fleet about where they are likely to operate; (2) incorporating that information in workshops with industry, scientists, subsistence stakeholders, NGOs, etc., to gather comments regarding both the location of fishing and research activities; and (3) following those workshops a research plan would be developed. In further discussion, it was clarified that Steps (1) and (2) need not necessarily be sequential. The intent would be that by the time the plan is developed it will already include subsistence users' concerns, industry and scientific concerns, and research will be focused on areas where fisheries are likely to occur.

Mr. Tweit requested that staff provide a revised timeline describing how all the various aspects of developing the research plan would be connected and communicate that information to interested parties. The longer time frame will provide industry, communities, and all interested parties with adequate time to develop comments and recommendations.

#### **D-4 Staff Tasking**

##### **ACTION REQUIRED**

- a) **Review tasking and committees and provide direction**
- b) **Discuss Rural Outreach Committee activities**
- c) **Review groundfish policy objectives and workplan**

##### **BACKGROUND**

###### **(a) Committees and Tasking**

The list of Council committees is attached as Item D-4(a)(1). Item D-4(a)(2) is the three meeting outlook, and Item D-4(a)(3) provides a summary of current projects and tasking. The Council may wish to discuss priorities for completing ongoing projects, as well as any new tasks assigned during the course of this meeting.

###### **(b) Rural Outreach Committee**

Upon review of a discussion paper on ways to further the Council's policy priority to improve communication and participation with Alaska Native and rural communities (as identified in the workplan resulting from the Programmatic SEIS), the Council initiated a small workgroup to further review potential approaches and provide recommendations.

Upon review of the workgroup report in February, the Council approved the workgroup's recommendation to initiate a standing committee to provide input to the Council on ways to improve outreach to communities and Alaska Native entities. The committee will have three primary tasks: 1) to advise the Council on how to provide opportunities for better understanding

and participation from Alaska Native and rural communities; 2) to provide feedback on community impacts sections of specific analyses; and 3) to provide recommendations regarding which proposed Council actions need a specific outreach plan and prioritize multiple actions when necessary.

The Council recommended a small committee of no more than nine members, which includes two Council members. The primary goal is to appoint members with the appropriate expertise, not necessarily specific group or geographic representation. The committee would be no-host, as are all Council committees. Several people sent letters of interest prior to the March 31 deadline. It is expected that the committee will be appointed shortly after the June Council meeting, and Council staff will contact the interested parties. A committee meeting will likely be scheduled over the summer in Anchorage.

### (c) Groundfish Policy Objectives and Workplan

Consistent with the goals of adaptive management, the Council annually reviews its groundfish management policy. The Council's groundfish policy, including the approach statement and objectives, is attached as Item D-4(c)(1). It was adopted by the Council in 2004, following a comprehensive programmatic review of the fisheries.

The Council has developed a workplan to guide the full implementation of that policy in the management of the fisheries. This workplan was last revised by the Council in February 2007, and is attached as Item D-4(c)(2). The Council reviews the status of this workplan at each meeting, and the status update is attached as Item D-4(c)(3).

At this meeting, the Council is scheduled to review its policy objectives and the implementing workplan, and if appropriate, make any changes. While changes to the workplan can be made at any time, changes to the policy objectives require an FMP amendment. It has been five years since completion of the programmatic groundfish FMP SEIS, which contained the analysis supporting the Council's adoption of the current groundfish management policy. At some point, the current programmatic approach to groundfish fishery management, including the Council's stated objectives and accompanying analysis, will likely need to be supplemented or revised. The factors that influence whether and when to supplement or revise the policy objectives and accompanying analysis include, but are not limited to: (1) consideration of how fisheries management has changed since the objectives and analysis were originally prepared, (2) how environmental conditions affecting the fisheries have changed, (3) the status of the fish stocks and other marine life, and (4) whether new information has become available which may indicate the necessity for revised analyses. During the development of the PSEIS, it was expected that the useful lifespan for the analysis of the programmatic objectives was likely to be five to ten years. In considering what would be the appropriate timing for supplementing or revising the management objectives and the PSEIS, the Council may also want to look ahead to its upcoming agenda, as there may be changes planned to groundfish management that the Council may wish to resolve before initiating a programmatic review.

To assist with your review of the management policy and workplan, a discussion paper is attached as Item D-4(c)(4), which briefly reviews the management and environmental changes affecting the groundfish fisheries in the five years since the adoption of the management policy. The paper also provides a short background on the development of the 2004 PSEIS, and some considerations for supplementing the review in the future.

Finally, the Council has previously discussed the possibility of issuing a call for proposals focusing on the groundfish workplan. The Council may wish to take this into consideration at this meeting.

Neither the Scientific and Statistical Committee nor the Advisory Panel addressed this agenda item.

## **COUNCIL DISCUSSION/ACTION**

[NOTE: Dave Bedford participated in this discussion for Denby Lloyd; Mr. Fields had left the meeting.]

Chris Oliver, Executive Director (NPFMC) provided an overview of staff tasking issues. Nicole Kimball (NPFMC staff) updated the Council on activities of the Rural Community Outreach Committee, and Diana Evans (NPFMC staff) and Steve Davis (NMFS) reviewed the Council's workplan for its annual review of policy and objectives for the groundfish fisheries. The Council also received oral public comment on staff tasking issues.

### Future Agenda Issues

Council members provided input to the Chair and Executive Director on the development of agendas for upcoming meetings. It was suggested that Aleutian Islands processing sideboards be scheduled for February which may allow time for industry to develop an agreeable solution. It was also suggested that Chinook salmon catch sampling should be on the October agenda, either under the observer agenda item, or under Chinook salmon data gathering. The final report on the electronic monitoring project was also considered an integral part of the observer issue and was recommended for the October agenda. As is Council policy, the Chairman and Executive Director will take these recommendations under consideration when developing a draft agenda for Council consideration. A discussion of the timeline for IPA development will be scheduled for October during staff tasking.

Crab PSC Limits/Crab Plan Team Pursuant to comments by the Crab Plan Team and industry comments, the Council requested that the Crab Plan Team develop a discussion paper reviewing crab bycatch in other fisheries and how that relates to the catch of crab in the directed fisheries for presentation to the Council in October.

### Committees

Rural Community Outreach Committee. Chairman Olson announced the following appointments to the new committee: Duncan Fields, Pete Probasco, Paula Cullenberg, Jennifer Hooper, Ole Olsen, and Tom Okleasik. Mr. Olson will serve as Chair of the committee. The committee may hold its initial meeting in July or August.

Observer Advisory Committee. Appointments to the newly-constituted OAC were: Denby Lloyd (Chair), Bill Tweit (Co-Chair), Paul MacGregor, Julie Bonney, Kenny Down, Bob Alverson, Todd Loomis, Kathy Robinson, Tracey Mayhew, Jerry Bongen, Brent Paine, Christian Asay, Theresa Petersen, Matt Hegge, Michael Lake, and Ann Vanderhoeven. The committee plans to meet in late September.

Ecosystem Committee. The Council tasked the Ecosystem Committee with reviewing upcoming Council actions on essential fish habitat, priorities for determining habitat areas of particular concern, and identifying marine protected areas to be nominated for the national registry. The Committee will meet on these issues prior to the December Council meeting. Additionally, when the Ecosystem Committee addresses the Northern Bering Sea research plan, Chairman Olson noted that he may supplement committee membership with rural community representation.

Non-Target Species Committee. Dave Benson noted that the Non-Target Species Committee will meet on September 15, one day in advance of the groundfish plan team meetings.

Mr. Cotten requested that all Council members be copied with committee meeting notices and agendas.

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Chairman Olson also announced the appointment of Gerry Merrigan to the *SSL Mitigation Committee*.

Legal Opinion-CGOA Rockfish Program

Bill Tweit offered a motion requesting a written opinion from NOAA Regional Counsel on several issues relating to the CGOA Rockfish Program. However, the motion was withdrawn after discussion. Lisa Lindeman, NOAA-GCAK, assured the Council that General Counsel staff will be interacting with Council and NMFS staff to provide guidance and opinions throughout development of the program. It was suggested that perhaps the Executive Director and Mark Fina provide a list of questions/opinions that relate specifically to the analysis.

ACL Task Force

The Council noted that when the Executive Director receives information on the process for nominating members to the task force and a time line, he will forward that information to Council members for a discussion on nominations.

**ADJOURNMENT**

Chairman Olson adjourned the meeting at approximately 11:20 am on Tuesday, June 9, 2009.

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Anchorage, Alaska

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**APPENDICES**

- I. Tape Log and Public Attendance Register
- II. Council Action – CGOA Rockfish Program
- III. Council Action – GOA Pacific Cod Sector Allocations
- IV. Advisory Panel Minutes
- V. Minutes of the Scientific and Statistical Committee

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Wednesday, June 3, 2009

8:06am Call to order/Agenda & Minutes Approval  
8:11am B-1 Executive Director's Report – Chris Oliver (NPFMC staff)  
8:45am Doug DeMaster, Dir., Alaska Fisheries Science Center – NOAA Strategic Plan  
8:50am B-2 National Marine Fisheries Service Report – Sue Salveson (NMFS staff)  
9:12am Lauren Smoker, NOAA General Counsel – Litigation Issues  
9:26am B-3 Alaska Department of Fish and Game Report – Herman Savikko (ADF&G staff)  
9:30am B-4 NOAA Enforcement Report - Matt Brown, NOAA/NMFS Staff  
10:00am Break  
10:14am B-5 United States Coast Guard Report – RADM Brooks/LCDR Ragone  
10:43am B-6 U.S. Fish & Wildlife Service – Greg Balogh, USFWS  
10:48am B-7 Protected Species Report – Bill Wilson (NPFMC staff); Kaja Brix (NMFS staff)  
11:07am Break  
11:20am C-1(a) CGOA Rockfish Program – Jon Mcracken (NPFMC staff) – Report  
12:03am Lunch  
1:10pm Continue staff reports – C-1(a), CGOA Rockfish Program  
2:25pm Break  
2:32pm Lori Swanson, Advisory Panel Report, CGOA Rockfish Program  
3:44pm Break  
4:00pm Public Comments - -1(a) CGOA Rockfish Program  
4:01pm Chuck McCallum, Lake and Peninsula Borough  
4:13pm Gale Vick, Gulf of Alaska Coastal Community Coalition  
4:22pm Stephen Taufen, Groundswell Fisheries Movement  
4:29pm Joe Plesha, Trident Seafoods  
4:34pm Mike Szymanski, Fishing Company of Alaska  
4:41pm Susan Robinson, Fishermen's Finest  
4:49pm Julie Bonney, Alaska Groundfish Data Bank  
5:08pm John Iani, Gulf Processors  
5:17pm Margaret Hall, F/Vs Progress and Vanguard  
5:20pm Bob Krueger, Alaska Whitefish Trawlers Assn.  
5:33pm Heather McCarty, Island Seafoods  
5:40pm Recess for Day

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Thursday, June 4, 2009

8:02am Call to Order  
8:06am Council Discussion/Action, C-1(a) CGOA Rockfish Program  
9:58am Keith Colburn, ACP Co-op (public comment on C-3, Crab Emergency Del. Relief  
10:03am Break  
10:19am Continue Council discussion, C-1(a) CGOA Rockfish Program  
11:47am Lunch  
1:12pm C-2 BSAI Pacific Cod Fixed Gear Parallel Fisheries – Jeannie Heltzel (NPFMC staff) - Report  
1:42pm Lori Swanson, Advisory Panel Report, C-2, BSAI P. cod Fished Gear Parallel Fisheries  
1:46pm Public Comments - C-2 BSAI Pacific Cod Fixed Gear Parallel Fisheries  
1:47pm Kenny Down, Freezer Longline Coalition  
1:53pm Todd Loomis, Cascade Fishing  
2:00pm Council Discussion/Action, C-2 BSAI Pacific Cod Fixed Gear Parallel Fisheries  
2:25pm C-1(b) Parallel Waters Issue in Pacific cod Sector Split – Jeannie Heltzel (NPFMC staff) – Report  
2:59pm Jerry Bongen, public comment on C-1(c), GOA vessel capacity issue  
3:11pm Break  
3:39pm Continue staff report – C-1(b)  
3:45pm Lori Swanson, Advisory Panel report - C-1(b) Parallel Waters Issue in Pacific cod Sector Split  
3:47pm Public Comments - C-1(b) Parallel Waters Issue in Pacific cod Sector Split  
3:48pm Kenny Down, Freezer Longline Coalition  
3:53pm Mike Alfieri, Western GOA Fishermen  
4:00pm Chris and Ken Holland, F/V Point Omega  
4:06pm Jeff Stephan, United Fishermen’s Marketing Assn.  
4:11pm Ilia Kuzman, K-Bay Fisheries  
4:14pm Council Discussion/Action - C-1(b) Parallel Waters Issue in Pacific cod Sector Split  
4:30pm C-1(c) GOA Vessel Capacity – Jeannie Heltzel (NPFMC staff) – Report  
4:47pm Glenn Merrill (NMFS staff) – Report  
5:00pm Recess for Day

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Friday, June 5, 2009

8:06am Call to Order  
8:07am Continue staff reports, C-1(c) GOA Vessel Capacity  
8:49am Public Comments - -1(c) GOA Vessel Capacity  
8:50am Linda Kozak, Kozak & Associates  
8:55am Jeff Stephan, United Fishermen's Marketing Assn.  
9:17am Council Discussion/Action - -C-1(c) GOA Vessel Capacity  
9:28am C-4(b) Salmon Bycatch Data Collection – Jeannie Heltzek/Mark Fina (NPFMC staff) – Report  
9:39am Alan Haynie (NOAA Fisheries staff) – Report – C-4(b), Salmon Bycatch Data Collection  
9:55am Break  
10:13am Continue staff reports/Council questions, C-4(b), Salmon Bycatch Data Collection  
10:40am Lori Swanson Advisory Panel Report, C-4(b) Salmon Bycatch Data Collection  
10:48am Pat Livingston, SSC Report, C-4(b) Salmon Bycatch Data Collection  
10:57am Public Comments - C-4(b) Salmon Bycatch Data Collection  
10:58am Harry Wilde, Sr, Mountain Village  
11:04am Glenn Reed, Pacific Seafood Processors Assn.  
11:15am Stephanie Madsen, At-sea Processors Assn.  
11:20am Julie Raymond Yakoubian, Kawerak, Inc.  
11:25am Bubba Cook, World Wildlife Fund  
11:28am Becca Robbins Gisclair, Yukon River Delta Fishermen's Assn.  
11:35am Donna Parker, High Seas Salmon Cooperative  
11:43am John Gruver, United Catcher Boats  
11:49am Lunch  
1:05pm Dr. Jim Balsiger, Asst. Administrator for Fisheries, NOAA (ACLs)  
1:32pm Pat Livingston, Remainder of SSC report  
2:27pm Break  
2:49pm Council Discussion/Action - C-4(b) Salmon Bycatch Data Collection  
3:24pm Break  
3:40pm C-3(a) Emergency Delivery Relief – Mark Fina (NPFMC staff) – Report  
3:55pm Break  
4:02pm Lori Swanson, Advisory Panel Report, C-3(a) Emergency Delivery Relief  
4:24pm Public Comments, C-3(a) Emergency Delivery Relief  
4:25pm Jennifer Lincoln, NIOSH  
4:32pm Vern Hall, F/V Provider  
4:36pm Doug DeBoer, F/V Provider  
4:41pm Mike Woodley/Margaret Hall, F/V Atlantico  
4:46pm Roger Thomas/George Hall, Crab Group of Independent Harvesters  
4:49pm Joe Sullivan, Mundt MacGregor, ICE  
5:25pm Recess for Day

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Saturday, June 6, 2008

8:03am Continue public comments, C- C-3(a) Emergency Delivery Relief  
8:04am Joe Plesha, Trident Seafoods  
8:10am Simeon Swetzoff/Mateo Paz-Soldan, City of St. Paul  
8:21am Jake Jacobsen, Bering Sea Crab Co-op; KBO Co-ooop  
8:36am Heather McCarty, Central Bering Sea Fisheries Assn.  
8:52am Pat Hardina, Icicle Seafoods  
9:03am Steve Minor, North Pacific Crab Assn.  
9:14am Larry Cotter, Aleutian Pribilof Islands Comm. Dev. Assn (W. AI golden king crab)  
9:27am Council Discussion/Action - C-3(a) Emergency Delivery Relief  
10:05am Break  
10:27am C-3(d) Crab Plan Team Report/SAFE/OFLs – Diana Stram (NPFMC) – Report  
11:35am Public Comments - C-3(d) Crab Plan Team Report/SAFE/OFLs  
11:36am Arni Thomson, Alaska Crab Coalition  
11:40am Leonard Herzog, Alaska King Crab Harvesters Co-op  
11:46am Frank Kelty, City of Unalaska  
11:50am Council Discussion - C-3(d) Crab Plan Team Report/SAFE/OFLs  
12:00pm Lunch  
1:04pm C-4(a) Chum Salmon Bycatch Alternatives – Diana Stram (NPFMC) – Report  
1:39pm Lori Swanson, AP Report – C-4(a) Chum Salmon Bycatch Alternatives  
1:53pm Public Comments - C-4(a) Chum Salmon Bycatch Alternatives  
1:54pm Karl Haflinger, Sea State  
2:00pm S. Madsen, G. Reed, B. Paine, J. Gruver, Pollock Industry  
2:05pm Paul MacGregor, At-sea Processors Assn.  
2:11pm William Beans, Mtn. Village Tribe  
2:16pm Harry Wilde, Sr., Mtn. Village Tribe  
2:22pm Bubba Cooke, World Wildlife Fund  
2:37pm Becca Robbins Gisclair, YRDFA  
2:44pm George Pletnikoff, Greenpeace  
2:48pm Julie Raymond Yakoubian, Kwerak, Inc.  
2:51pm Council Discussion –C-4(a) Chum Salmon Bycatch Alternatives  
3:17pm Break  
3:37pm Margaret Hall, Roger Thomas, George Hall (comment on C-4(b) items)  
3:48pm C-3(c) BSAI Crab 5-year Review – Mark Fina (NPFMC staff) – Report  
4:00pm C-3(b)(1) BSAI ROFRs – Mark Fina (NPFMC staff) – Report  
4:42pm C-3(b)(3) Extinguishing PQS - – Mark Fina (NPFMC staff) – Report  
5:03pm Recess for Day

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Sunday, June 7, 2009

8:09am C-3(b)(2) Western AI Golden King Crab – Mark Fina (NPFMC staff) – Report  
8:35am C-3(b)(4) Leasing Practices  
9:25am Lori Swanson, Advisory Panel Report – C-3(b)&(c)  
9:35am Public Comments on C-3(b) & (c) BSAI Crab Rationalization Issues  
9:36am Stephen Taufen, Groundswell Fisheries Movement  
9:45am Lenny Herzog, Alaska King Crab Co-op  
9:50am Mike Stanley, Golden King Crab Harvesters Assn.  
10:05am Break  
10:20am Shawn Dochtermann, Crewmen’s Assn/B.S. Crab Crewmen’s Assn.  
10:33am Linda Kozak, Kozak & Associates  
10:38am Clem Tillion, Aleut Corporation  
10:43am Steve Minor, North Pacific Crab Assn.  
10:55am Dick Tremaine, SioAlaska  
11:05am John Iani, Alaska Crab Processors Arbitration Org.  
11:10am Heather McCarty, Central Bering Sea Fishermen’s Assn.  
11:14am Dave Fraser, Adak Fisheries/Adak Community Dev. Corp.  
11:19am Simeon Swetzoff/Mateo Paz-Soldan, City of St. Paul  
11:26am Arni Thomson, Alaska Crab Coaliton  
11:35am Ernest Weiss, Aleutians East Borough  
11:36am Karen Montoya, Aleutia  
11:39am Frank Kelty, City of Unalaska  
11:47am Lu Dochtermann, Kodiak Harvester  
11:52am Lunch Break  
1:04pm Council Discussion/Action – C-3(b) & (c) – Crab Rationalization Program Issues  
2:26pm Break  
2:37pm Continue Council Discussion C-3(b) & (c)  
2:49pm Break  
3:06pm Scheduling Info  
3:08pm C-5 MPA Nomination Process – Chris Oliver (NPFMC staff) – Report  
3:41pm Public Comments – C-5: Brent Paine, United Catcher Boats  
3:47pm Council Discussion/Action - C-5 MPA Nomination Process  
3:55pm D-1(a) Establish Permit Fees for All Fisheries – Sue Salvesson (NMFS staff) –  
Review analysis  
4:23pm Council Discussion/Action - D-1(a) Establish Permit Fees for All Fisheries  
4:35pm D-2(a) Bottom Trawl Gear Sweep Requirements – Diana Evans (NPFMC staff) and  
Melanie Brown (NMFS staff) – review analysis  
5:03pm Recess for the Day

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Monday, June 8, 2009

8:07am Continue, D-2(a), Trawl Sweep Requirements  
8:17am Lori Swanson, AP Report, D-2(a)  
8:19am Public Comments – D-2(a) Modified Trawl Sweep Requirements  
8:19am Jon Warrenchuk, Oceana  
8:28am John Gauvin, Best Use Cooperative  
8:42am Lori Swanson, Groundfish Forum  
8:44am Council Discussion/Action – D-2(a) Mod. Trawl Sweep RFequirfements  
8:50am D-1(b) Annual Catch Limits – Jane DiCosimo/Diana Stram (NPFMC staff)  
9:29am Lori Swanson, Advisory Panel Report – D-1(b)  
9:33am Council Discussion – D-1(b) Annual Catch Limits  
9:38am D-2(b) BSAI Skates Mgmt – Jane DiCosimo (NPFMC staff) – Review Issue  
9:55am Break  
10:19am Continue staff report – D-2(b)  
10:23am Lori Swanson, Advisory Panel Report – D-2(b) – BSAI Skates  
10:24am Public Comment – D-2(b): Lori Swanson, Groundfish Forum  
10:26am Council Discussion – D-2(b) BSAI Skate Management  
10:38am D-3 Ecosystem Issues – HAPC/NBSRP – Diana Evans (NPFMC staff)  
10:54am Nicole Kimball (NPFMC staff) – Outreach Efforts – NBSRP  
11:00am Lori Swanson, Advisory Panel Report – D-3 Ecosystem Issues  
11:01am Public Comments – D-3 Ecosystem Issues  
11:01am Dorothy Childers, Alaska Marine Conservation Council  
11:07am Bubba Cook, World Wildlife Fund  
11:15am John Gauvin, Best Use Cooperative  
11:28am Jon Warrenchuk, Oceana  
11:31am Break  
11:44am Council Discussion – D-3 Ecosystem Issues  
12:05pm Lunch Break  
1:19pm Continue Council Discussion, D-3 Ecosystem Issue  
1:41pm Recess for Day

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Tuesday, June 9, 2009

8:10am Call to Order  
8:11am D-4 Staff Tasking – Chris Oliver, Executive Director (NPFMC staff)  
8:44 am Community Outreach update - Nicole Kimball (NPFMC staff)  
8:46 am Groundfish Policy Objectives/Workplan Review – Diana Evans (NPFMC staff)  
9:08 am Public Comments – Staff Tasking  
9:08 am Linda Kozak, Kozak and Associates  
9:11 am Sky Starkey, Association of Village Council Presidents  
9:22 am Heather McCarty, Central Bering Sea Fishermen’s Assn.  
9:24 am Dave Wood, U.S. Seafoods  
9:34 am Julie Bonney, Alaska Groundfish Data Bank  
9:40 am Dorothy Childers, Alaska Marine Conservation Council  
9:47 am Break  
10:10 am D-4 Staff Tasking – Council Discussion  
11:22 am Adjourn Meeting



Central Gulf of Alaska rockfish program  
June 2009

Purpose and Need Statement:

*The intent of this action is to retain the conservation, management, safety, and economic gains created by the Rockfish Pilot Program to the extent practicable, while also considering the goals and limitations of the Magnuson-Stevens Fisheries Conservation and Management Act Limited Access Privilege Program (LAPP) provisions.*

*The existing CGOA Rockfish Pilot Program (RPP) will sunset after 2011. Consequently, if the management, economic, safety and conservation gains enjoyed under the RPP are to be continued, the Council must act to create a long term CGOA rockfish LAPP. For both the onshore and offshore sectors, the RPP has improved safety at sea, controlled capacity of the fleets, improved NMFS' ability to conserve and manage the species in the program, increased vessel accountability, reduced sea floor contact, allowed full retention of allocated species and reduced halibut bycatch. In addition, the rockfish fishery dependent communities in the CGOA and qualified processors have benefited from stabilization of the work force, more shoreside deliveries of rockfish, additional non-rockfish deliveries with the RPP halibut savings, and increased rockfish quality and diversity of rockfish products. Moreover, the CGOA fishermen and qualified processors have benefited from the removal of processing conflicts with GOA salmon product. The Council needs to resolve identified issues in the management and viability of the entry level fishery.*

Elements and Options

Additions are indicated in *bold and italics* and deletions are indicated as ~~stricken~~.

ICA Set Aside

Prior to allocation of catch history to the sectors, NMFS shall set aside an Incidental Catch Allocation (ICA) of Pacific Ocean perch (POP), northern rockfish, and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the cooperative program.

Entry-level Set Aside

A percentage of CGOA POP, northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program.

Trawl and fixed gear entry level fisheries

The annual set aside will be 5 percent of each of these target rockfish species.

Set-asides shall be apportioned at 50% for trawl gear and 50% for fixed gear. The trawl sector's allocation by weight (based on the aggregate TAC for Pacific Ocean perch, Northern and pelagic shelf rockfish) shall first be Pacific Ocean perch.

Unharvested allocations to either sector shall be available to both sectors at the end of the third quarter.

The entry level fishery will be managed as a limited entry fishery.

Start dates for the entry level fishery should be January 1 for fixed gear and approximately May 1 for trawl gear.

Halibut PSC Limit Allocation

Option 1 – (Alt. 2) Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species. If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), the start date will be on the next release of halibut PSC.

Option 2 – (Alt. 4) Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species. If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), halibut usage will be deducted against the following quarter's halibut PSC allowance.

Vessels that can participate in the entry level fishery are those vessels that did not qualify for the CGOA rockfish cooperative program. Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a statement from a non-qualified processor confirming an available market.

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

Entry level fixed gear sector are exempt from VMS requirements.

Fixed gear only entry level fishery (Alt. 3/4)

The annual set aside will be;

*1 – 10 mt percent of the POP TAC*

*1 - 10 mt percent of the northern rockfish TAC*

*10 - 30 mt percent of the pelagic shelf rockfish TAC.*

If the entry-level fishery harvests 90% or more of their allocation of a species, the set-aside would increase *by the amount of the initial allocation the following year: by \_\_\_\_\_ percent, up to a maximum set-aside of 5 percent*

*1 - 10 mt POP*

*1 - 10 mt Northern rockfish*

*10 - 30 mt pelagic shelf rockfish*

*This increase would be capped at a maximum of:*

*POP*

*a. 1%*

*b. 3%*

*c. 5%*

*Northern Rockfish*

*a. 2%*

*b. 3%*

*c. 5%*

***Pelagic Shelf Rockfish***

- a. 2.5%
- b. 3%
- c. 5%

The entry level fishery will be managed as a limited entry fishery.

Start date for the entry level fishery should be January 1.

Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species.

Any ***vessel or gear type exempt from CGOA LLP requirements or any*** holder of a CGOA fixed gear LLP may enter a vessel in the entry level fishery. ~~Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel~~

Entry level fixed gear sector are exempt from VMS requirements.

*Notes: Provisions concerning processor qualification are omitted, as those requirements may be inapplicable under this structure.*

*In addition, no provision is made for reallocations of unharvested amounts, as it is assumed that the allocation to the entry level sector will be set based on harvest performance of the fishery.*

*Options for cooperative management, individual allocations, and lotteries are not included, as those options appear unable to address problems cited with the entry level fishery. If the Council wishes to pursue an entry level trawl fishery under cooperative management, additional effort could be devoted to that management structure.*

*The provision for an entry level fishery might satisfy the requirement of §303A(c)(5)(C) for the consideration of a set aside for entry level and small vessel owner-operators, where necessary and appropriate.*

***The trawl gear entry level fishery will be eliminated. Qualified Trawl entry level participants will graduate into the main quota share program.***

**Program eligibility**

The eligibility for entry into the cooperative program is one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period using a CGOA trawl LLP license.

Options (Alt.4) - In addition, the following participants would be eligible to enter the program:

Option 1 - Those persons whose vessel had one targeted landing of POP, northern rockfish or PSR caught in CGOA during the qualifying period with interim trawl CGOA license that was later determined to be an invalid trawl CGOA endorsement, but who acquired a valid CGOA trawl license prior to December 31, 2003, which ~~is still~~ ***has been continuously*** assigned to ~~that the~~

vessel *with the target landing since acquired until the date of final Council action.*

~~Option 2 – Eligible entry level CGOA trawl LLPs that participated in the entry level program.~~

### **Qualified catch**

Basis for the allocation to the LLP license holder is the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the allocation of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option (Alt. 4) – For licenses qualified based on catch of a vessel using an interim license, the basis for the allocation will be the catch history of such vessel, notwithstanding the invalidity of the interim Central Gulf trawl LLP endorsement under which the vessel operated during the qualifying period. History allocated under this provision shall be assigned to the LLP license.

Catch history will be the history during the following qualifying period:

- 1) 1996-2002 (drop two) Alt. 2
- 2) **1998-2006 (drop two or four) Alt. 3**
- 3) **2000-2006 (drop two) Alt. 3**

Qualified target species history is allocated based on retained catch (excluding meal) during the rockfish target fishery. Different years may be used (or dropped) for determining the history of each of the three rockfish species.

The CP catch history will be based on WPR data.  
CV catch history will be based on fish tickets.

*To include participants in the pilot program entry level fishery, pilot program years (i.e., 2005-2008) could be considered qualifying years.*

### ***Entry level trawl qualification/allocation for the main program:***

- 1) Vessels / LLPs that do not qualify for Cooperative quota (CQ) for the CGOA rockfish cooperative program.**
- 2) The trawl LLP must have registered for the entry level fishery both in 2007 and 2008.**
- 3) The trawl LLP must have made a landing of fish in the entry level fishery with trawl gear in either 2007 or 2008.**

***The qualified trawl LLP would receive an allocation of QS for the primary rockfish species equivalent to:***

- 1) Average of the lowest one-quarter to one-third of the qualified CV LLPs that actively fished in the RPP program in either 2007 or 2008.**
- 2) Average of the lowest one-quarter to one-third of all qualified CV LLPs.**

- 3) *Actual catch history of the vessel/LLP in 2007 or 2008 (information would be withheld due to confidentiality restrictions unless the vessel(s) agrees to have the data released to the public).*
- 4) *Average of the qualified CV LLPs that actively fished in the RPP program in either 2007 or 2008*
- 5) *Average of all qualified CV LLPs*

*Note: secondary and halibut PSC allocations are calculated the same as the other qualified LLPs.*

### **Sector definitions**

Trawl catcher vessel – A trawl catcher-vessel that has a CV or CP LLP license, but does not process its catch on board.

Trawl catcher processor - A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

### **Rationalized areas**

History is allocated for the CGOA only (NMFS statistical areas 620 and 630).

### **Sector allocations**

#### Target rockfish species

Catch history is determined by the sector's qualified catch in pounds as a proportion of the total qualified catch in pounds.

Sector allocations of target rockfish species are based on individual qualified vessel histories applying any applicable drop year provision at the vessel level.

Full retention of the target rockfish species required

#### Secondary species

Secondary species history is allocated based on retained catch of the species while targeting rockfish over retained catch in all fisheries.

Except as provided below, history will be allocated to each sector for the following secondary species:

sablefish,  
shortraker rockfish  
rougeye rockfish,  
thornyhead rockfish, and  
Pacific cod.

***Option 1: No directed fishing for secondary species Pacific cod and sablefish.***

***Option 2: Manage Pacific cod and sablefish under a modified MRA.***

All non-allocated species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, Atka mackerel and other rockfish. Basis species for purposes of determining MRAs will be:

Option 1 (Alt. 2) - Only primary allocated rockfish species

Option 2 (Alt. 4) - All allocated species

Except as otherwise provided below, secondary species allocations will be based on:  
The sector's average annual percentage of retained catch of the secondary species by the rockfish target fisheries during the qualifying period. For each qualifying year calculate the sector's retained catch of the species in the target rockfish fisheries divided by the retained catch of all CGOA fisheries. Sum these percentages and divided by the number of qualifying years. The calculated average annual percentage is multiplied by the secondary species TAC for that fishery year and allocated to each sector in the cooperative program.

**Exceptions:**

For the catcher processor sector, Pacific cod history will be managed by MRA of 4 percent.

For shortraker and rougheye:

For the CP sector, a shortraker allocation of the TAC will be:

Option 1a (Alt. 2): 30.03 percent

Option 1b (Alt. 4): 50 percent

To be managed as a hard cap, and a rougheye allocation of 58.87% of the TAC, to be managed as a hard cap.

Option 2 (Alt. 4): shortraker and rougheye will be managed with a combined MRA of 2%.

For the CV sector, shortraker and rougheye should be managed with a combined MRA of 2 percent. If harvest of shortraker by the CV sector reaches 9.72% of the shortraker TAC, then shortraker should go on PSC status for that sector.

Participants must retain all allocated secondary species and stop fishing when cap is reached.

**Prohibited species (halibut mortality)**

Allocation to the rockfish cooperative program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years by the number of years. This allocation will be divided between sectors based on the relative amount of target rockfish species allocated to each sector (e.g., the sector's share of total qualified catch).

**Allocation from sector to vessel**

Within each sector, history will be assigned to LLP holders with CGOA endorsement that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.

**Target Species**

Each LLP holder will receive an allocation of history equivalent to the license's proportion of the total of the sector qualifying history.

**Secondary Species**

Each LLP holder will receive an allocation of allocated secondary species equal to the license's proportion of the sector' target rockfish history.

**PSC (Halibut Mortality)**

Each LLP holder will receive an allocation of halibut mortality equivalent to the license's proportion of the sector's target rockfish history.

Allocations are revocable privileges

The allocations under this program:

- 1) may be revoked, limited, or modified at any time,
- 2) shall not confer any right of compensation to the holder, if it is revoked, limited, or modified, and
- 3) shall not create or be construed to create any right, title, or interest in or to any fish before the fish is harvested by the holder.

Domestic processing

All fish harvested with an allocation from this program must be processed in the U.S.

***Regionalization – Apply to catcher vessel sector only:***

***Option 1: All CV CQ must be landed in the Port of Kodiak.***

**Shore based processor provisions – Apply to catcher vessel sector only**

Processor eligibility

An eligible processor is a processing facility that has purchased:

Option 1 (Alt. 2) - 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish harvest per year, for 4 years, from 1996 to 2000.

Option 2 (Alt. 3) - 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish *per year, for 4 years, from 2000 to 2006.*

***Suboption: (entry level fishery processor): 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish harvested from 2007 to 2008.***

Harvesters can participate in a:

Option 1 (Alt. 2): cooperative or LLP/open access. The LLP's share will be fished in a competitive fishery open to rockfish qualified vessels that are not members of a cooperative.

***Suboption: The LLP/open access share must be delivered to one of the qualified processors.***

Option 2 (Alt. 4): cooperative

*This option can be modified to consider years other than those provided in the rockfish legislation.*

**Option A - Processor allocation of harvest shares (Alt. 3/4)**

Allocation of the primary rockfish, secondary species, and halibut PSC to the CV sector shall be apportioned between harvesters (CV only) and shore based processors:

Option 1: 90/10

Option 2: 80/20

Option 3: ***100/0***

Eligible processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares in proportion to its qualifying processing history. Annual allocations will be of the same species and subject to the same allocation and harvest rules governing catcher vessel allocations.

***Suboption: Eligible entry level processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares that are derived from those trawl LLPs that graduate from the entry level trawl fishery into the main program.***

Processor qualifying years

Each eligible shore based processor is allocated processor catch history based on individual processor histories of CGOA target rockfish for the years:

Option 1 - 1996-2000 (drop 1 year)

Option 2 - 2000–2006 (drop 2 year)

***Suboption: (entry level processors): 2007–2008***

***This option can be modified to consider years other than those provided in the rockfish legislation.***

Option: Processor allocations of *CV* harvest shares may be harvested only by vessels that are not owned or controlled by the holder of ***those harvester*** shares (using the AFA rules for determining control and ownership).

Option: A holder of catcher vessel harvest history or processor histories may join a cooperative to coordinate the harvest of allocations. (Cooperatives are subject to general cooperative rules below.) Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Option B – Harvester cooperatives with processor associations (Alt. 2)**

Voluntary cooperatives may form between eligible harvesters in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the processor qualifying years. If an LLP holder has no deliveries to a qualified processor, the LLP holder may join a cooperative with any one of the qualified processors, but its membership would not be considered in determining whether the threshold is met for cooperative formation.

Harvester cooperative/processor association qualifying years are:

1996-2000 (drop 1 year)

Drop year is selected by the processor and applied to all LLP licenses when determining associations.

Catcher vessel cooperatives are required to have at least 75 percent of the eligible historical shares for each cooperative associated with its processor

If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

The processor will be an associate of the cooperative but will not be a cooperative member.

A pre-season contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an annual allocation.

Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Processors are limited to 1 co-op per plant.

Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Harvester cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Option C – Modified harvester cooperatives with initial processor association (Alt. 3/4)**

On implementation of the program, each eligible harvester will be eligible to join a cooperative in association with any processing facility in the community to which it delivered the most pounds of the three rockfish species combined in the processor qualifying years.

Harvester cooperative/processor association qualifying years are:

Option 1 - 1996-2000 (drop 1 year)

Option 2 – 2000–2006 (*drop 2 years*)

***Suboption – (entry level processor 2007–2008 (no drop)***

Drop year is selected by the processor and applied to all LLP licenses when determining associations.

If an eligible harvester joins a cooperative in association with the processor to which it delivered the most pounds of the three rockfish species combined during the processor qualifying years, it will maintain all landings history without forfeiture. An eligible harvester may elect not to join the cooperative in association with the processor identified by its landings history in any year, including the first year of the program. In the first season that an eligible harvester elects not to join a cooperative in association with the processor identified by its landings history, it will forfeit:

Option 1 - 10 percent

Option 2 - 20 percent

Option 3 – ***0 percent***

***Option 4 – 30 percent***

of its qualified catch history to the ***(1) identified processor or (2) identified processor affiliated cooperative. The share forfeiture is (1) a permanent forfeiture or (2) a temporary forfeiture for a period of 1 to 2 years. If the forfeiture is a permanent forfeiture, the harvester may elect to enter and exit any cooperative in the fishery without share forfeiture. If the forfeiture is a temporary share reduction the harvester pays the penalty: (1) one time or (2) each time they exit a cooperative.***

If an LLP holder has no deliveries to a qualified processor, the harvester may join a cooperative associated with any processor in the community to which it delivered the most pounds of the three rockfish species during the harvester cooperative/processor qualifying years. After the first year, the harvester will make a forfeiture of qualified catch history on changing processor associations, as if the processor were identified by the harvester's landings history.

If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

The processor will be an associate of the cooperative but will not be a cooperative member.

Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

Membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Harvester cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

### **Catcher processor cooperatives**

More than one co-op may form within the sector

Allocations may be transferred between co-ops of at least two LLPs.

Participants would have a choice of participating in:

Option 1 (Alt. 4): a co-op or opt out of the rockfish program,

Option 2 (Alt. 2): a co-op, a limited access fishery, or opt of the rockfish program

Under the LLP/open access fishery option, the LLP's historic share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative.

### **General cooperative provisions – apply to both sectors**

Duration of cooperative agreements is 1 year.

The cooperative membership agreement (and an ancillary agreement with an associated processor, if applicable) will be filed with the RAM Division. The cooperative membership agreement must contain a fishing plan for the harvest of all cooperative fish.

Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative agreement.

Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the cooperative to the extent permitted under the Contract.

The cooperative agreement must have a monitoring program. Cooperative members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target rockfish species, secondary species and PSC mortality, as may be adjusted by inter-cooperative transfers.

A cooperative may adopt and enforce fishing practice codes of conduct as part of their membership agreement.

Option (Alt. 2) - Cooperative membership agreements shall allow for the entry of other eligible harvesters into the cooperative under the same terms and conditions as agreed to by the original agreement.

Cooperatives will report annually to the Council as per AFA.

### **Sector Transfer provisions**

CP annual allocations may be transferred to CV cooperatives. CV annual allocations may not be transferred to CP cooperatives.

All transfers of annual allocations would be temporary and history would revert to the original LLP at the beginning of the next year.

A person holding an LLP that is eligible for this program may transfer that LLP. That transfer will effectively transfer all history associated with the LLP and any privilege to participate in this program that might be derived from the LLP.

Permit post-delivery transfers of cooperative quota (annual allocations to cooperatives).

There would be no limits on the number or magnitude of post-delivery transfers. All post-delivery transfers must be completed by December 31st.

No cooperative vessel shall be permitted to begin a fishing trip unless the cooperative holds unused cooperative quota.

### **Cooperative Harvest Use Caps**

#### CV cooperatives (Alt. 2)

No person may hold or use more than 5% of the CV historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CV cooperative shall be capped at 30% of aggregate POP, Northern Rockfish and PSR for the CV sector.

#### CP cooperatives (Alt. 2)

No person may hold or use more than 20% of the CP historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CP shall be capped at 60% of aggregate POP, Northern Rockfish and PSR for the CP sector. Eligible CPs will be grandfathered at the current level.

### Shoreside Processor Use Caps

Shoreside processors shall be capped at the entity level.

No processor shall process more than 30% of aggregate POP, Northern Rockfish and PSR for the CV sector. (The year 2002 will be used as a base (or index) year for applying the aggregate caps.)

Eligible processors will be grandfathered.

*At the time of implementation, the Council expressed an intent to reconsider use caps for share holdings and vessels, in the event this program has a duration of more than 2 years. The Council could consider whether to modify use caps by changing cooperative or individual use cap levels or by including vessel use caps.*

*Whether processor use caps are necessary might depend on the processor provisions that are incorporated into the program.*

### Harvesting provisions

The cooperative season start date is May 1 and closing date is November 15.

Secondary species allocations may be fished independently of the primary species allocations.

Full retention of all allocated species is required.

### Program review

A formal detailed review of the program shall be undertaken 5 years after implementation. The review shall assess:

- 1) the progress of the program in achieving the goals identified in the purpose and need statement and the MSA, and
- 2) whether management, data collection and analysis, and enforcement needs are adequately met. Additional reviews will be conducted every 7 years there after coinciding with the fishery management plan policy review.

Antitrust review – An information collection system and a review process will be defined to provide any information to determine whether any illegal acts of anti-competition, antitrust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges.

*Alt. 3 – required by Section 303A(c)(1)(J) – note, this is required in any program, but its scope will be based on the program selected – further scoping can be provided after consultation with NOAA GC, NMFS, and other agencies (such as the Department of Justice)*

### Share duration(Alt. 3)

The duration of all CGOA rockfish LAPP program permits are **10** years. These permits shall be renewed before their expiration, unless the permit has been revoked, limited, or modified.

The Secretary may revoke any privilege under this program from any person found to have violated antitrust laws.

### Cost recovery (Alt. 3)

A fee, not to exceed 3 percent of ex vessel value, will be charged on all landings to cover the costs of administration of the program.

### Sideboards

#### General Provisions

There are no exemptions from sideboards, except for a partial exemption for CP vessels which opt out of the cooperative program or join cooperatives.

#### WYAK and WGOA Primary Rockfish Species

Option 1 (Alt. 2/3) For fisheries that close on TAC in the GOA, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in aggregate, in the month of July to the historic average catch of those vessels based on the retained catch as a percentage of the retained catch in the fishery in the month of July during the qualification years ~~1996 to 2002~~. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish.

Option 2 (Alt. 4) For catcher processors, remove sideboard limits for WYAK and WGOA primary rockfish species.

Option 3 (Alt. 4) For catcher vessels, prohibit directed fishing for WYAK and WGOA primary rockfish species.

#### Halibut PSC

Option 1 (Alt. 2) For flatfish fisheries in the GOA that close because of halibut bycatch, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in the aggregate, in the month of July to the historic average halibut mortality taken by those vessels in the target flatfish fisheries in the month of July by deep and shallow complex as a Gulf-wide cap.

Option 2 (Alt. 4) For catcher processors, remove sideboard limits for WYAK and WGOA 3rd season halibut PSC.

***Option 3 (Alt. 3/4): For the month of July, limit all CVs to the shallow halibut complex fisheries (except for rockfish target fisheries in CGOA, WYAK and WGOA).***

***Suboption: Limit all CPs to the deep water halibut complex fisheries for the month of July.***

In the event that one or more target rockfish fisheries are not open, sideboard restrictions will not apply for those target allocations.

IFQ halibut and sablefish are exempt from sideboard provisions

#### CP Specific Sideboard Provisions

CP vessels may decide to opt out of the CGOA cooperative program on an annual basis. These CP vessels may not target POP, Northern rockfish or Pelagic Shelf rockfish in the

CGOA in the years they choose to opt out. They may retain these species up to the MRA amount in other fisheries. They will be sideboarded at the sector level in the GOA as described in the general provisions.

The history of CP vessels which opt out will remain with the sector.

CPs that opt out of the rockfish cooperative program will be prohibited, for two weeks following the start of the traditional July rockfish fishery, from entering other GOA fisheries in which they have not previously participated. Participation shall be defined as having been in the target fishery during the first week of July in at least two of the qualifying years. For purposes of qualifying under this provision, history from area 650 (SEO) will be considered the same as history from area 640 (WY). The following weekending dates will be used for determining participation in a target fishery:

1996 – July 6  
1997 – July 5  
1998 – July 4  
1999 – July 10  
2000 – July 15  
2001 – July 7  
2002 – July 6

Opting out is an annual decision. CP vessels which choose to opt out must so notify NMFS. The decision to opt out should not in any way alter the status of their catch history for future rationalization programs.

For the CP sector, the cooperative program fishery participants must either:

- 1) start fishing in the target rockfish fisheries at the same time as the opening of the CGOA rockfish limited access fisheries (in July) and harvest 90% of their CGOA rockfish allocation prior to entering any other GOA non-pollock groundfish fishery, or
- 2) standdown for two weeks from the opening of the CGOA rockfish limited access fishery prior to participating in any other GOA non-pollock groundfish fishery.

A vessel which has met either standdown requirement can then move into the GOA open access fisheries subject to the sector level limitations in the GOA in the general sideboard provisions.

To the extent permitted by the motion, history may be leased between vessels ~~that are not members of a cooperative~~. Each ~~non-member~~ of a cooperative that transfers its history to another CP or CV must still refrain from operating in any other GOA groundfish fishery until the earlier of:

- 1) 90% of all of the CGOA rockfish allocation on the stacked vessel is harvested in the CGOA, provided fishing of the allocation began on or after the opening of the limited access fishery
- 2) two weeks from the opening of the limited access fishery prior to participating in any other GOA groundfish fishery.

Members of a cooperative will be subject to all limitations and restrictions described in the general sideboard provisions and CP specific sideboard provisions except that cooperative members shall not be subject to any standdown in the GOA groundfish

fisheries, *if all vessels in the co-op maintain adequate monitoring plan during all fishing for CGOA rockfish sideboard fisheries.*

In addition to the other limitations and restrictions described above, each cooperative will be limited in the aggregate:

- 1) for fisheries that close on TAC in the GOA in the month of July, to the historic average total catch of the cooperative members in the month of July during the qualification years 1996 to 2002. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish, and
- 2) for flatfish fisheries in the GOA that close because of halibut bycatch in the month of July, to the historic average halibut mortality taken by cooperative members in the target flatfish fisheries in the month of July by deep and shallow complex.

The limited access fishery starts at the same time as the traditional rockfish target fishery (early July). For vessels that account for less than 5% of the allocated CP history in the Pacific Ocean perch fishery that participate in the limited access rockfish fishery, there are no additional intra-sector sideboards. For vessels that account for greater than or equal to 5 percent of the allocated CP history in the Pacific Ocean fishery that participate in the limited access rockfish fishery and GOA standdowns are in place until 90% of the limited access Pacific Ocean perch quota is achieved.

#### CV Specific Sideboard Provisions

The qualifying vessels in the trawl CV sector cannot participate in the directed yellowfin sole, other flatfish (flathead, etc) or Pacific Ocean perch fisheries in the BSAI in the month of July.

***Alt 4: The qualifying vessels in the trawl CV sector can participate in the limited access yellowfin sole, other flatfish or Pacific Ocean perch fisheries in the BSAI in the month of July.***

Qualifying vessels in the trawl CV sector would be limited, in aggregate, in the month of July, to the historic average catch of those vessels in the BSAI Pacific cod fishery based on the retained catch as a percentage of retained catch in the CV trawl fishery in July during the qualification years 1996 to 2002.

***Alt 4: The qualifying vessels in the trawl CV sector can participate in the BSAI Pacific cod fishery in the month of July.***

AFA non-GOA exempt CVs qualified under this program are subject to the restraints of AFA sideboards and their coop agreement, and not subject to additional sideboards under this program.

**REFERENCE Appendix A** here (tables provided by NMFS staff, Glenn Merrill)

Issues for inclusion in any analysis –

- 1) The interaction of harvester share forfeiture provisions on use caps – how will the use caps be applied to processor holdings, if a processor receives a forfeiture.
- 2) Literature review of owner operator provisions

- 3) Include a description of harvester and processor privileges under the various alternatives.
- 4) Examine market control potential for ownership cap analysis.
- 5) Compare MRA management of Pacific cod and sablefish as allocated species, specifically examining the allocations and potential harvests under MRA management. Compare current allocation of secondary species with potential allocations, if those species were allocated using the same methodology as used for primary species allocations.
- 6) A description of the reallocation of saved halibut to the fall flatfish fisheries and the effects of that reallocation (including effects on habitat).

**North Pacific Fishery Management Council Motion**  
**C-1(b) Gulf of Alaska Pacific Cod Sector Allocations**  
**June 2009**

*Note: Only the purpose and need statement and Component 10 were revised at the June meeting.*

**C-1(b) Gulf of Alaska Pacific Cod Sector Allocations**

The GOA Pacific cod sector split action should be pursued immediately following resolution of the LLP recency issue. It is also highly desirable that the State waters parallel fishery problems be resolved. Concepts for addressing the State waters fishery issues are contained within this motion. In order to refine and incorporate recent public input into this package, the Council directs staff to develop an initial review draft of the Pacific cod sector split analysis based upon the following purpose and need statement, components, and options.

**Purpose and Need Statement**

The limited access derby-style management of the Western GOA and Central GOA Pacific cod fisheries has led to competition among the various gear types (trawl, hook-and-line, pot and jig) and operation types (catcher processor and catcher vessel) for shares of the total allowable catch (TAC). Competition for the GOA Pacific cod resource has increased for a variety of reasons, including increased market value of cod products, rationalization of other fisheries in the BSAI and GOA, increased participation by fishermen displaced from other fisheries, reduced Federal TACs due to the State waters cod fishery, and Steller sea lion mitigation measures including the A/B seasonal split of the GOA Pacific cod TACs. The competition among sectors in the fishery may contribute to higher rates of bycatch, discards, and out-of-season incidental catch of Pacific cod.

Participants in the fisheries who have made long-term investments and are dependent on the fisheries face uncertainty as a result of the competition for catch shares among sectors. Allocation of the catch among sectors may reduce this uncertainty and contribute to stability across the sectors. Dividing the TACs among sectors may also facilitate development of management measures and fishing practices to address conservation (e.g. Steller sea lion mitigation measures, bycatch reduction, and prohibited species catch (PSC) mortality) and social objectives, including considerations for small boat sectors and coastal communities. Given that harvest sector allocations would supersede the inshore/offshore processing sector allocations for Pacific cod by creating harvest limits, the Council may need to consider regulatory changes for offshore and inshore floating processors.

The timing of the Pacific cod A and B seasons may have limited the participation of jig vessels in the parallel and Federal fisheries of the GOA. Additionally, the State waters jig allocation has gone uncaught in some years, potentially due to the lack of availability of Pacific cod inside three miles. A non-historical Federal catch award, together with the provision of access in Federal waters for the State Pacific cod jig allocations, offers entry-level opportunities for the jig sector.

The Council, in consideration of options and recommendations for the parallel fishery, will need to balance the objectives of providing stability to the long term participants in the sectors, while providing opportunities for new entrants who do not hold Federal permits or licenses to participate in the parallel fishery.

**ALTERNATIVE 1.**

**No Action.** The GOA Pacific cod TACs would not be allocated to the sectors.

**ALTERNATIVE 2.**

The GOA Pacific cod TACs would be allocated to the sectors.

### **Component 1: Management areas**

The Western and Central GOA Pacific cod TACs will be allocated among the various gear and operation types, as defined in Component 2 (the management areas could be treated differently within Component 2).

### **Component 2: Sector definitions**

The Western and Central GOA Pacific cod TACs will be allocated among the following sectors. The Council has the option to either give a single allocation to each sector, or to divide any allocation by vessel length based on the option(s) listed below.

- Trawl catcher processors
- Trawl catcher vessels
- Hook-and-line catcher processors
  - Option: Hook-and-line catcher processors <125 ft
  - Hook-and-line catcher processors ≥125 ft
- Hook-and-line catcher vessels
  - Option: Hook-and-line catcher vessels <60 ft
  - Hook-and-line catcher vessels ≥60 ft
- Option (CG only): Hook-and-line catcher vessels <50 ft
- Hook-and-line catcher vessels ≥ 50 ft
- Pot catcher processors
- Pot catcher vessels
  - Option: Pot catcher vessels <60 ft
  - Pot catcher vessels ≥60 ft
- Jig vessels

Option: For Western GOA only create a combined sector allocation for trawl and pot catcher vessels.  
Suboption: Applies only to vessels <60 ft.

Option: Restrict vessels from participating in the GOA Pacific cod fishery using more than one operation type.

Suboption 1: Restrict CP licenses to the operation type on their license (licenses with a catcher processor designation could only fish off the catcher processor sector allocation).

Suboption 2: Add a CV/CP Pacific cod endorsement to both trawl and non-trawl CP licenses that have operated as catcher vessels during the qualifying period. These CP/CV licenses will elect to participate as either a CP or CV in the GOA Pacific cod fishery either:

- (i) annually
- (ii) as a permanent, one-time election

### **Component 3: Definition of qualifying catch**

Qualifying catch includes all retained legal catch of Pacific cod from the Federal and parallel waters fisheries in the Western and Central GOA.

- Catch will be calculated using Fish Tickets for catcher vessels and Catch Accounting/Blend data for catcher processors.
- Under all options, incidental catch allocated to trawl catcher vessels for the Central GOA Rockfish program (currently, 2.09% of the Central GOA Pacific cod TAC) will be deducted from the Central GOA trawl catcher vessel B season allocation.
- All sector allocations will be managed to support incidental and directed catch needs.

#### **Component 4: Years included for purposes of determining catch history**

Option 1: Qualifying years 1995-2005: average of best 5 years

Option 2: Qualifying years 1995-2005: average of best 7 years

Option 3: Qualifying years 2000-2006: average of best 3 years

Option 4: Qualifying years 2000-2006: average of best 5 years

Option 5: Qualifying years 2002-2007: average of best 3 years

Option 6: Qualifying years 2002-2007: average of best 5 years

Option 7: Qualifying years 2002-2008: average of best 3 years

Option 8: Qualifying years 2002-2008: average of best 5 years

Note: The Council has the option to choose separate qualifying years for each sector and scale them to equal 100%

- When sectors are divided into subsectors (e.g., by vessel length), the allocation will be calculated using the best set of years for the sector, and the sum of the subsector allocations will equal the allocation to the sector.

Seasonal apportionment of sector allocations (different options may be selected for the management areas):

Option 1: Apportion each sector's annual allocation 60% to the A season and 40% to the B season.

Option 2: Apportion each sector's annual allocation based on that sector's seasonal catch history during the qualifying years, while maintaining the overall 60%/40% apportionment of the TAC.

Option 3: For the WGOA, only the A season TAC will be apportioned among sectors; the B season TAC will not be apportioned among sectors.

- These seasonal apportionment options do not apply to the jig sector.

#### **Component 5: Allocation of Pacific cod to jig sector**

Set aside 1%, 3%, or 5% of the Western and Central GOA Federal Pacific cod TACs for the initial allocation to the jig vessel sector, with a stairstep provision to increase the jig sector allocation by 1% if 90% of the Federal jig allocation in an area is harvested in any given year. The jig gear allocation will be capped at 5% of the respective Western and Central GOA Federal Pacific cod TACs.

Subsequent to the jig allocation increasing, if the harvest threshold criterion described above is not met during three consecutive years, the jig allocation will be stepped down by 1% in the following year, but shall not drop below the level initially allocated.

The jig allocation could be set aside from the A season TAC, the B season TAC, or divided between the A and B season TACs.

The Council requests that staff continue to work with the State of Alaska and NMFS to explore considerations required to implement possible options for the jig fishery management structure (both State parallel/Federal and State) that create a workable fishery and minimize the amount of stranded quota, focusing on Option 1. Possible solutions that could be explored are:

Option 1: State parallel/Federal managed Pacific cod jig fishery. Federal allocation managed 0-200 miles through a parallel fishery structure. Any State waters jig GHL could (under subsequent action by the Alaska Board of Fisheries) be added to this State parallel/Federal managed jig sector allocation so that the jig sector is fishing off of a single account. If the Board of Fisheries chooses not to take the jig GHL, it would roll into the Federal jig allocation.

If a combined parallel/Federal fishery is created the fishery would be managed as follows. There would be no seasonal split of the combined parallel/Federal TAC. The fishery would open on Jan 1st and close when the TAC is reached.

Option 2: If a distinct Parallel/Federal and State waters fisheries continue to exist the two fisheries will be managed as follows:

The Federal TAC would be divided into an A/B season of 60%/40%. The A season would open on Jan 1st and close when the TAC is reached or on March 15th. The State jig fishery could open either when the Federal season closes due to TAC or on March 15th. The Federal B season would open on Sept 1st.

Option 3: State managed Pacific cod jig fishery. Federal management authority delegated to the State of Alaska to manage the Pacific cod jig fisheries in the Western and Central GOA from 0-200 miles.

### **Component 6: Management of unharvested sector allocations**

Any portion of a CV, CP, or jig allocation determined by NMFS to remain unharvested during the remainder of the fishery year will become available as soon as practicable to either:

Option 1: Other respective CV or CP sectors first, and then to all sectors as necessary to harvest available TAC.

Option 2: All sectors.

### **Component 7: Apportionment of hook-and-line halibut PSC (other than DSR) between catcher processors and catcher vessels**

Option 1: No change in current apportionments of GOA halibut PSC.

Option 2: Apportion the GOA hook-and-line halibut PSC to the CP and CV sectors in proportion to the total Western GOA and Central GOA Pacific cod allocations to each sector. No later than November 1, any remaining halibut PSC not projected by NMFS to be used by one of the hook-and-line sectors during the remainder of the year would be made available to the other sector.

### **Component 8: Community protection provisions**

This component would protect community participation in the processing of Pacific cod and protect community delivery patterns established by the inshore/offshore regulations. For the purposes of Options 1, 2, and 3 under Component 8, motherships include catcher processors receiving deliveries over the side and any floating processor that does not meet the regulatory definition of a stationary floating processor in 679.2. Stationary floating processors may only process groundfish at a single geographic location during a given year.

For each management area, the mothership processing cap will be:

Option 1: No motherships.

Option 2: A percentage of the Pacific cod TAC based on the same qualification criteria as selected for the harvesting sector allocations, but calculated from mothership processing activity.

Option 3: A percentage of the Pacific cod TAC to be selected by the Council (5-10%).

- Under Option 2 and Option 3, mothership processing will end for the year when the processing cap is reached. All cod catch counts towards the cap.

Suboptions that apply to Options 1, 2, and 3:

Suboption 1: Choose different options for each management area.

Suboption 2: Applies only to directed landings of Pacific cod.

Suboption 3: Exempt motherships operating within the municipal boundaries of a community.

Option: Limit weekly processing by exempted motherships to (a) 125 mt per week, (b) 200 mt per week, or (c) 300 mt per week.

- (i) Applies to all cod landings
- (ii) Applies to directed cod landings

**Component 9:** To address conservation, catch monitoring, and social objectives, potential allocations to any sector based on catch history may be adjusted.

### **Component 10: Potential models for resolving parallel fishery issues**

Option 1. Develop recommendations for the Alaska Board of Fisheries on the parallel fishery that could complement Council action, such as:

- gear limits
- vessel size limits
- exclusive registration

Option 2. Limit access to the parallel fishery for Federal fishery participants.

- Require any pot or longline vessel with an LLP or an FFP to have the appropriate Pacific cod endorsement and area endorsement on the LLP; and the GOA area designation and the appropriate gear and operation type designations on the FFP in order to participate in the Western GOA or Central GOA Pacific cod parallel waters fishery.
- Require any trawl vessel with an LLP or an FFP to have the appropriate gear and area endorsements on the LLP; and the GOA area designation and the appropriate gear and operation type designations on the FFP in order to participate in the Western GOA or Central GOA Pacific cod parallel waters fishery.

Suboption 1: In addition, require the above Federally-permitted or licensed vessels that fish in the parallel waters to adhere to Federal seasonal closures of the Western/Central GOA sector allocations corresponding to the sector in which the vessel operates.

Suboption 2: Vessels with a GOA area designation and the gear and operation type designations specified in Option 2 cannot remove these designations from the FFP and can only surrender or reactivate the FFP:

- a. Once per calendar year
- b. Once every eighteen months
- c. Once every three years

Additional information requested:

The Council requested additional information on pot CV catch by vessel width for vessels 50 to 60 ft LOA.



ADVISORY PANEL MINUTES  
North Pacific Fishery Management Council  
June 1–6, 2009

Approved \_\_\_\_\_

Date \_\_\_\_\_

The following members were present for all or part of the meetings:

Joe Childers	Tom Enlow	Chuck McCallum
Mark Cooper	Tim Evers	Matt Moir
Craig Cross	Jeff Farvour	Theresa Peterson
John Crowley	Becca Robbins Gisclair	Ed Poulsen
Julianne Curry	Bob Jacobson	Beth Stewart
Jerry Downing	Simon Kinneen	Lori Swanson

The AP unanimously approved the minutes from the previous meeting.

### **C-1(a) Central GOA Rockfish Pilot Program**

**The AP recommends the following elements and options for the Rockfish Pilot Program alternatives.** *The motion passed 18/0.* (Additions are indicated in ***bold and italics*** and deletions are indicated as ~~stricken~~.)

#### **ICA Set Aside**

Prior to allocation of catch history to the sectors, NMFS shall set aside an Incidental Catch Allocation (ICA) of Pacific Ocean perch (POP), northern rockfish, and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the cooperative program.

#### **Entry-level Set Aside**

A percentage of CGOA POP, northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program.

##### Trawl and fixed gear entry level fisheries

The annual set aside will be 5 percent of each of these target rockfish species.

Set-asides shall be apportioned at 50% for trawl gear and 50% for fixed gear  
The trawl sector's allocation by weight (based on the aggregate TAC for Pacific Ocean perch, Northern and pelagic shelf rockfish) shall first be Pacific Ocean perch.

Unharvested allocations to either sector shall be available to both sectors at the end of the third quarter.

The entry level fishery will be managed as a limited entry fishery

Start dates for the entry level fishery should be January 1 for fixed gear and approximately May 1 for trawl gear.

##### Halibut PSC Limit Allocation

Option 1 – (Alt. 2) Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species. If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), the start date will be on the next release of halibut PSC.

Option 2 – (Alt. 4) Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species. If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), halibut usage will be deducted against the following quarter's halibut PSC allowance.

Vessels that can participate in the Entry Level fishery are those vessels that did not qualify for the CGOA rockfish cooperative program. Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a statement from a non-qualified processor confirming an available market.

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

Entry level fixed gear sector are exempt from VMS requirements.

Fixed gear only entry level fishery (Alt. 3/4)

The annual set aside will be;

~~5 mt percent~~ of the POP TAC

~~5 mt percent~~ of the northern rockfish TAC

~~25 mt percent~~ of the pelagic shelf rockfish TAC.

If the entry-level fishery harvests 90% or more of their allocation of a species, the set-aside would increase *by the amount of the initial allocation the following year*: by \_\_\_\_\_ percent, up to a maximum set-aside of 5 percent

**5 mt POP**

**5 mt Northern rockfish**

**25 mt pelagic shelf rockfish**

*This increase would be capped at a maximum of:*

**POP**

a. 1%

b. 3%

c. 5%

**Northern Rockfish**

a. 2%

b. 3%

c. 5%

**Pelagic Shelf Rockfish**

a. 2.5%

b. 3%

c. 5%

The entry level fishery will be managed as a limited entry fishery

Start date for the entry level fishery should be January 1.

Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species.

Any *vessel or gear type exempt from CGOA LLP requirements or any* holder of a CGOA fixed gear LLP may enter a vessel in the entry level fishery. ~~Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel~~

Entry level fixed gear sector are exempt from VMS requirements.

*Notes: Provisions concerning processor qualification are omitted, as those requirements may be inapplicable under this structure.*

*In addition, no provision is made for reallocations of unharvested amounts, as it is assumed that the allocation to the entry level sector will be set based on harvest performance of the fishery.*

*Options for cooperative management, individual allocations, and lotteries are not included, as those options appear unable to address problems cited with the entry level fishery. If the Council wishes to pursue an entry level trawl fishery under cooperative management, additional effort could be devoted to that management structure.*

*The provision for an entry level fishery might satisfy the requirement of §303A(c)(5)(C) for the consideration of a set aside for entry level and small vessel owner-operators, where necessary and appropriate.*

***The trawl gear entry level fishery will be eliminated. Qualified Trawl entry level participants will graduate into the main quota share program.***

### **Program eligibility**

The eligibility for entry into the cooperative program is one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period using a CGOA trawl LLP license.

Options (Alt.4) - In addition, the following participants would be eligible to enter the program:

Option 1 - Those persons whose vessel had one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period with interim trawl CGOA license that was later determined to be an invalid trawl CGOA endorsement, but who acquired a valid CGOA trawl license prior to December 31, 2003, which ~~is still~~ ***has been continuously assigned to that the vessel with the target landing since acquired until the date of final Council action.***

~~Option 2 - Eligible entry level CGOA trawl LLPs that participated in the entry level program.~~

### **Qualified catch**

Basis for the allocation to the LLP license holder is the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the allocation of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option (Alt. 4) – For licenses qualified based on catch of a vessel using an interim license, the basis for the allocation will be the catch history of such vessel, notwithstanding the invalidity of the interim Central Gulf trawl LLP endorsement under which the vessel operated during the qualifying period. History allocated under this provision shall be assigned to the LLP license.

Catch history will be the history during the following qualifying period:

- 1) 1996-2002 (drop two) Alt. 2
- 2) **1998-2006 (drop two or four) Alt. 3**
- 3) **2000-2006 (drop two) Alt. 3**

Qualified target species history is allocated based on retained catch (excluding meal) during the rockfish target fishery. Different years may be used (or dropped) for determining the history of each of the three rockfish species.

The CP catch history will be based on WPR data.  
CV catch history will be based on fish tickets.

*To include participants in the pilot program entry level fishery, pilot program years (i.e., 2005-2008) could be considered qualifying years.*

***Entry Level Trawl qualification/allocation for the main program:***

- 1) Vessels / LLPs that do not qualify for Cooperative quota (CQ) for the CGOA rockfish cooperative program.***
- 2) The trawl LLP must have registered for the entry level fishery both in 2007 and 2008.***
- 3) The trawl LLP must have made a landing of fish in the entry level fishery with trawl gear in either 2007 or 2008.***

***The Qualified Trawl LLP would receive an allocation of QS for the primary rockfish species equivalent to:***

- 1) Average of the lowest one-quarter to one-third of the qualified CV LLPs that actively fished in the RPP program in either 2007 or 2008.***
- 2) Average of the lowest one-quarter to one-third of all qualified CV LLPs.***
- 3) Actual catch history of the vessel/LLP in 2007 or 2008 (information would be withheld due to confidentiality restrictions unless the vessel(s) agrees to have the data released to the public).***

***Note: secondary and Halibut PSC allocations are calculated the same as the other qualified LLPs.***

### **Sector definitions**

Trawl catcher vessel – A trawl catcher-vessel that has a CV or CP LLP license, but does not process its catch on board;

Trawl catcher processor - A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

### **Rationalized areas**

History is allocated for the CGOA only (NMFS statistical areas 620 and 630)

### **Sector allocations**

#### **Target rockfish species**

Catch history is determined by the sector's qualified catch in pounds as a proportion of the total qualified catch in pounds.

Sector allocations of target rockfish species are based on individual qualified vessel histories applying any applicable drop year provision at the vessel level.

Full retention of the target rockfish species required

Secondary species

Secondary species history is allocated based on retained catch of the species while targeting rockfish over retained catch in all fisheries.

Except as provided below, history will be allocated to each sector for the following secondary species:

sablefish,  
shortraker rockfish  
rougheyeye rockfish,  
thornyhead rockfish, and  
Pacific cod.

All non-allocated species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, Atka mackerel and other rockfish. Basis species for purposes of determining MRAs will be:

Option 1 (Alt. 2) - Only primary allocated rockfish species

Option 2 (Alt. 4) - All allocated species

Except as otherwise provided below, secondary species allocations will be based on:

The sector's average annual percentage of retained catch of the secondary species by the rockfish target fisheries during the qualifying period. For each qualifying year calculate the sector's retained catch of the species in the target rockfish fisheries divided by the retained catch of all CGOA fisheries. Sum these percentages and divided by the number of qualifying years. The calculated average annual percentage is multiplied by the secondary species TAC for that fishery year and allocated to each sector in the cooperative program.

Exceptions:

For the catcher processor sector, Pacific cod history will be managed by MRA of 4 percent.

For shortraker and rougheyeye:

For the CP sector, a shortraker allocation of the TAC will be:

Option 1a (Alt. 2): 30.03 percent

Option 1b (Alt. 4): 50 percent

to be managed as a hard cap, and a rougheyeye allocation of 58.87% of the TAC, to be managed as a hard cap.

Option 2 (Alt. 4): shortraker and rougheyeye will be managed with a combined MRA of 2%.

For the CV sector, shortraker and rougheyeye should be managed with a combined MRA of 2 percent. If harvest of shortraker by the CV sector reaches 9.72% of the shortraker TAC, then shortraker should go on PSC status for that sector.

Participants must retain all allocated secondary species and stop fishing when cap is reached.

Prohibited species (halibut mortality)

Allocation to the rockfish cooperative program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years by the number of years. This allocation will be divided between sectors based on the relative amount of target rockfish species allocated to each sector (e.g., the sector's share of total qualified catch).

**Allocation from sector to vessel**

Within each sector, history will be assigned to LLP holders with CGOA endorsement that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.

Target Species

Each LLP holder will receive an allocation of history equivalent to the license's proportion of the total of the sector qualifying history.

Secondary Species

Each LLP holder will receive an allocation of allocated secondary species equal to the license's proportion of the sector's target rockfish history

PSC (Halibut Mortality)

Each LLP holder will receive an allocation of halibut mortality equivalent to the license's proportion of the sector's target rockfish history

Allocations are revocable privileges

The allocations under this program:

- 1) may be revoked, limited, or modified at any time,
- 2) shall not confer any right of compensation to the holder, if it is revoked, limited, or modified, and
- 3) shall not create or be construed to create any right, title, or interest in or to any fish before the fish is harvested by the holder.

Domestic processing

All fish harvested with an allocation from this program must be processed in the U.S.

*Alt. 3 – required by Section 303A(c)(1)(E)*

***Regionalization – Apply to catcher vessel sector only***

***All CV CQ must be landed in the Port of Kodiak.***

**Shore based processor provisions – Apply to catcher vessel sector only**

Processor eligibility

An eligible processor is a processing facility that has purchased:

Option 1 (Alt. 2) - 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish harvest per year, for 4 years, from 1996 to 2000.

Option 2 (Alt. 3) - 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish *per year, for 4 years*, from 2000 to 2006.

**Suboption: (entry level fishery processor): 250 MT of aggregate Pacific Ocean perch, northern rockfish, and pelagic shelf rockfish harvested from 2007 to 2008.**

Harvesters can participate in a:

Option 1 (Alt. 2): cooperative or LLP/open access. The LLP's share will be fished in a competitive fishery open to rockfish qualified vessels that are not members of a cooperative and must be delivered to one of the qualified processors.

Option 2 (Alt. 4): cooperative

*This option can be modified to consider years other than those provided in the rockfish legislation.*

**Option A - Processor allocation of harvest shares (Alt. 3/4)**

Allocation of the primary rockfish, secondary species, and halibut PSC to the CV sector shall be apportioned between harvesters (CV only) and shore based processors:

Option 1: 90/10

Option 2: 80/20

Option 3: **100/0**

Eligible processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares in proportion to its qualifying processing history. Annual allocations will be of the same species and subject to the same allocation and harvest rules governing catcher vessel allocations.

***Suboption: Eligible Entry Level Processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares that are derived from those trawl LLPs that graduate from the entry level trawl fishery into the main program.***

Processor qualifying years

Each eligible shore based processor is allocated processor catch history based on individual processor histories of CGOA target rockfish for the years:

Option 1 - 1996-2000 (drop 1 year)

Option 2 - **2000-2006 (drop 2 year)**

Option 3 - \_\_\_\_

***Suboption: (entry level processors): 2007-2008***

***This option can be modified to consider years other than those provided in the rockfish legislation.***

Option: Processor allocations of CV harvest shares may be harvested only by vessels that are not owned or controlled by the holder of **those harvester** shares (using the AFA rules for determining control and ownership).

Option: A holder of catcher vessel harvest history or processor histories may join a cooperative to coordinate the harvest of allocations. (Cooperatives are subject to general cooperative rules below.) Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Option B - Harvester cooperatives with processor associations (Alt. 2)**

Voluntary cooperatives may form between eligible harvesters in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the processor qualifying years. If an LLP holder has no deliveries to a qualified processor, the LLP holder may join a cooperative with any one of the qualified processors, but its

membership would not be considered in determining whether the threshold is met for cooperative formation.

Harvester cooperative/processor association qualifying years are:

1996-2000 (drop 1 year)

Drop year is selected by the processor and applied to all LLP licenses when determining associations.

Catcher vessel cooperatives are required to have at least 75 percent of the eligible historical shares for each cooperative associated with its processor

If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

The processor will be an associate of the cooperative but will not be a cooperative member.

A pre-season contract between eligible, willing harvesters in association with a processor is a prerequisite to a cooperative receiving an annual allocation.

Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Processors are limited to 1 co-op per plant.

Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Harvester cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

**Option C – Modified harvester cooperatives with initial processor association (Alt. 3/4)**

On implementation of the program, each eligible harvester will be eligible to join a cooperative in association with any processing facility in the community to which it delivered the most pounds of the three rockfish species combined in the processor qualifying years.

Harvester cooperative/processor association qualifying years are:

Option 1 - 1996-2000 (drop 1 year)

Option 2 – 2000–2006 (*drop 2 years*)

*Suboption:– (entry level processor 2007–2008 (no drop)*

Drop year is selected by the processor and applied to all LLP licenses when determining associations.

If an eligible harvester joins a cooperative in association with the processor to which it delivered the most pounds of the three rockfish species combined during the processor qualifying years, it will maintain all landings history without forfeiture. An eligible harvester may elect not to join the cooperative in association with the processor identified by its landings history in any year, including the first year of the program. In the first season that an eligible harvester elects not to

join a cooperative in association with the processor identified by its landings history, it will forfeit:

Option 1 - 10 percent

Option 2 - 20 percent

Option 3 – **0 percent**

of its qualified catch history to the *(1) identified processor or (2) identified processor affiliated cooperative. The share forfeiture is (1) a permanent forfeiture or (2) a temporary forfeiture for a period of 1 to 2 years. If the forfeiture is a permanent forfeiture, the harvester may elect to enter and exit any cooperative in the fishery without share forfeiture. If the forfeiture is a temporary share reduction the harvester pays the penalty: (1) one time or (2) each time they exit a cooperative.*

If an LLP holder has no deliveries to a qualified processor, the harvester may join a cooperative associated with any processor in the community to which it delivered the most pounds of the three rockfish species during the harvester cooperative/processor qualifying years. After the first year, the harvester will make a forfeiture of qualified catch history on changing processor associations, as if the processor were identified by the harvester's landings history.

If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.

The processor will be an associate of the cooperative but will not be a cooperative member.

Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Co-ops may engage in inter-cooperative transfers of annual allocations to other cooperatives with agreement of the associated qualified processor.

Membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

Harvester cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

### **Catcher processor cooperatives**

More than one co-op may form within the sector

Allocations may be transferred between co-ops of at least two LLPs.

Participants would have a choice of participating in:

Option 1 (Alt. 4): a co-op or opt out of the rockfish program,

Option 2 (Alt. 2): a co-op, a limited access fishery, or opt of the rockfish program

Under the LLP/open access fishery option, the LLP's historic share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative.

### **General cooperative provisions – apply to both sectors**

Duration of cooperative agreements is 1 year.

The cooperative membership agreement (and an ancillary agreement with an associated processor, if applicable) will be filed with the RAM Division. The cooperative membership agreement must contain a fishing plan for the harvest of all cooperative fish.

Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative agreement.

Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the cooperative to the extent permitted under the Contract.

The cooperative agreement must have a monitoring program. Cooperative members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target rockfish species, secondary species and PSC mortality, as may be adjusted by inter-cooperative transfers.

A cooperative may adopt and enforce fishing practice codes of conduct as part of their membership agreement.

Option (Alt. 2) - Cooperative membership agreements shall allow for the entry of other eligible harvesters into the cooperative under the same terms and conditions as agreed to by the original agreement.

Cooperatives will report annually to the Council as per AFA.

### **Sector Transfer provisions**

CP annual allocations may be transferred to CV cooperatives. CV annual allocations may not be transferred to CP cooperatives.

All transfers of annual allocations would be temporary and history would revert to the original LLP at the beginning of the next year.

A person holding an LLP that is eligible for this program may transfer that LLP. That transfer will effectively transfer all history associated with the LLP and any privilege to participate in this program that might be derived from the LLP.

Permit post-delivery transfers of cooperative quota (annual allocations to cooperatives).

There would be no limits on the number or magnitude of post-delivery transfers. All post-delivery transfers must be completed by December 31st.

No cooperative vessel shall be permitted to begin a fishing trip unless the cooperative holds unused cooperative quota.

### **Cooperative Harvest Use Caps**

#### CV cooperatives (Alt. 2)

No person may hold or use more than 5% of the CV historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CV cooperative shall be capped at 30% of aggregate POP, Northern Rockfish and PSR for the CV sector.

CP cooperatives (Alt. 2)

No person may hold or use more than 20% of the CP historic shares, using the individual and collective rule (with grandfather provision).

Control of harvest share by a CP shall be capped at 60% of aggregate POP, Northern Rockfish and PSR for the CP sector. Eligible CPs will be grandfathered at the current level.

Shoreside Processor Use Caps

Shoreside processors shall be capped at the entity level.

No processor shall process more than 30% of aggregate POP, Northern Rockfish and PSR for the CV sector. (The year 2002 will be used as a base (or index) year for applying the aggregate caps.)

Eligible processors will be grandfathered.

*At the time of implementation, the Council expressed an intent to reconsider use caps for share holdings and vessels, in the event this program has a duration of more than 2 years. The Council could consider whether to modify use caps by changing cooperative or individual use cap levels or by including vessel use caps.*

*Whether processor use caps are necessary might depend on the processor provisions that are incorporated into the program.*

**Harvesting provisions**

The cooperative season start date is May 1 and closing date is November 15.

Secondary species allocations may be fished independently of the primary species allocations.

Full retention of all allocated species is required.

**Program review**

A formal detailed review of the program shall be undertaken 5 years after implementation. The review shall assess:

- 1) the progress of the program in achieving the goals identified in the purpose and need statement and the MSA, and
- 2) whether management, data collection and analysis, and enforcement needs are adequately met. Additional reviews will be conducted every 7 years there after coinciding with the fishery management plan policy review.

Antitrust review – An information collection system and a review process will be defined to provide any information to determine whether any illegal acts of anti-competition, antitrust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges.

*Alt. 3 – required by Section 303A(c)(1)(J) – note, this is required in any program, but its scope will be based on the program selected – further scoping can be provided after consultation with NOAA GC, NMFS, and other agencies (such as the Department of Justice)*

### **Share duration(Alt. 3)**

The duration of all CGOA rockfish LAPP program permits are *10* years. These permits shall be renewed before their expiration, unless the permit has been revoked, limited, or modified.

The Secretary may revoke any privilege under this program from any person found to have violated antitrust laws.

### **Cost recovery (Alt. 3)**

A fee, not to exceed 3 percent of ex vessel value, will be charged on all landings to cover the costs of administration of the program.

## **Sideboards**

### **General Provisions**

There are no exemptions from sideboards, except for a partial exemption for CP vessels which opt out of the cooperative program or join cooperatives.

### **WYAK and WGOA Primary Rockfish Species**

Option 1 (Alt. 2/3) For fisheries that close on TAC in the GOA, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in aggregate, in the month of July to the historic average catch of those vessels based on the retained catch as a percentage of the retained catch in the fishery in the month of July during the qualification years ~~1996 to 2002~~. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish.

Option 2 (Alt. 4) For catcher processors, remove sideboard limits for WYAK and WGOA primary rockfish species.

Option 3 (Alt. 4) For catcher vessels, prohibit directed fishing for WYAK and WGOA primary rockfish species.

### **Halibut PSC**

Option 1 (Alt. 2) For flatfish fisheries in the GOA that close because of halibut bycatch, the qualified vessels in each sector (trawl CV and trawl CP) would be limited, in the aggregate, in the month of July to the historic average halibut mortality taken by those vessels in the target flatfish fisheries in the month of July by deep and shallow complex as a Gulf-wide cap.

Option 2 (Alt. 4) For catcher processors, remove sideboard limits for WYAK and WGOA 3rd season halibut PSC.

***Option 3 (Alt. 3/4): For the month of July, limit all CVs to the shallow halibut complex fisheries (except for rockfish target fisheries in CGOA, WYAK and WGOA).***

***Suboption: Limit all CPs to the deep water halibut complex fisheries for the month of July.***

In the event that one or more target rockfish fisheries are not open, sideboard restrictions will not apply for those target allocations.

IFQ halibut and sablefish are exempt from sideboard provisions

## CP Specific Sideboard Provisions

CP vessels may decide to opt out of the CGOA cooperative program on an annual basis. These CP vessels may not target POP, Northern rockfish or Pelagic Shelf rockfish in the CGOA in the years they choose to opt out. They may retain these species up to the MRA amount in other fisheries. They will be sideboarded at the sector level in the GOA as described in the general provisions.

The history of CP vessels which opt out will remain with the sector.

CPs that opt out of the rockfish cooperative program will be prohibited, for two weeks following the start of the traditional July rockfish fishery, from entering other GOA fisheries in which they have not previously participated. Participation shall be defined as having been in the target fishery during the first week of July in at least two of the qualifying years. For purposes of qualifying under this provision, history from area 650 (SEO) will be considered the same as history from area 640 (WY). The following weekend dates will be used for determining participation in a target fishery:

1996 – July 6  
1997 – July 5  
1998 – July 4  
1999 – July 10  
2000 – July 15  
2001 – July 7  
2002 – July 6

Opting out is an annual decision. CP vessels which choose to opt out must so notify NMFS. The decision to opt out should not in any way alter the status of their catch history for future rationalization programs.

For the CP sector, the cooperative program fishery participants must either:

- 1) start fishing in the target rockfish fisheries at the same time as the opening of the CGOA rockfish limited access fisheries (in July) and harvest 90% of their CGOA rockfish allocation prior to entering any other GOA non-pollock groundfish fishery, or
- 2) standdown for two weeks from the opening of the CGOA rockfish limited access fishery prior to participating in any other GOA non-pollock groundfish fishery.

A vessel which has met either standdown requirement can then move into the GOA open access fisheries subject to the sector level limitations in the GOA in the general sideboard provisions.

To the extent permitted by the motion, history may be leased between vessels ~~that are not members of a cooperative~~. Each ~~non~~-member of a cooperative that transfers its history to another CP or CV must still refrain from operating in any other GOA groundfish fishery until the earlier of:

- 1) 90% of all of the CGOA rockfish allocation on the stacked vessel is harvested in the CGOA, provided fishing of the allocation began on or after the opening of the limited access fishery
- 2) two weeks from the opening of the limited access fishery prior to participating in any other GOA groundfish fishery.

Members of a cooperative will be subject to all limitations and restrictions described in the general sideboard provisions and CP specific sideboard provisions except that cooperative

members shall not be subject to any standdown in the GOA groundfish fisheries, *if all vessels in the co-op maintain adequate monitoring plan during all fishing for CGOA rockfish sideboard fisheries.*

In addition to the other limitations and restrictions described above, each cooperative will be limited in the aggregate:

- 1) for fisheries that close on TAC in the GOA in the month of July, to the historic average total catch of the cooperative members in the month of July during the qualification years 1996 to 2002. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish, and
- 2) for flatfish fisheries in the GOA that close because of halibut bycatch in the month of July, to the historic average halibut mortality taken by cooperative members in the target flatfish fisheries in the month of July by deep and shallow complex.

The limited access fishery starts at the same time as the traditional rockfish target fishery (early July). For vessels that account for less than 5% of the allocated CP history in the Pacific Ocean perch fishery that participate in the limited access rockfish fishery, there are no additional intra-sector sideboards. For vessels that account for greater than or equal to 5 percent of the allocated CP history in the Pacific Ocean fishery that participate in the limited access rockfish fishery and GOA standdowns are in place until 90% of the limited access Pacific Ocean perch quota is achieved.

#### CV Specific Sideboard Provisions

The qualifying vessels in the trawl CV sector cannot participate in the directed yellowfin sole, other flatfish (flathead, etc) or Pacific Ocean perch fisheries in the BSAI in the month of July.

***Alt 4: The qualifying vessels in the trawl CV sector can participate in the limited access yellowfin sole, other flatfish or Pacific Ocean perch fisheries in the BSAI in the month of July.***

Qualifying vessels in the trawl CV sector would be limited, in aggregate, in the month of July, to the historic average catch of those vessels in the BSAI Pacific cod fishery based on the retained catch as a percentage of retained catch in the CV trawl fishery in July during the qualification years 1996 to 2002.

***Alt 4: The qualifying vessels in the trawl CV sector can participate in the BSAI Pacific cod fishery in the month of July.***

AFA non-GOA exempt CVs qualified under this program are subject to the restraints of AFA sideboards and their coop agreement, and not subject to additional sideboards under this program.

The AP recommends that the Council adopt the following Purpose and Need Statement:

The existing CGOA Rockfish Pilot Program (RPP) will sunset after 2011 unless extended by the North Pacific Fisheries Management Council or the U.S. Congress. The RPP has improved safety at sea, provided economic benefits to the community of Kodiak, controlled capacity of the fleet, and improved NMFS' ability to conserve and manage the species in the program. Economic benefits of the program to the community of Kodiak include stabilizing the residential processing work force, removing processing and fleet conflicts with salmon, bringing more rockfish on shore, and slowing the fishery to increase quality of rockfish products. Conservation benefits of the program for all sectors include no over-fishing, full retention of allocated species, vessel accountability, less sea floor contact due to more off-bottom fishing, and reduced halibut

bycatch in the rockfish fishery that in turn has allowed for increased catches of underutilized flatfishes species. If the fishery reverts back to management under the license limitation program, the benefits of this share-based management program will be lost.

The Council needs to resolve identified issues in the management and viability of the entry level fishery. Additionally, the Council needs to consider issues that arise under the new MSA limited access privilege program requirements.

The intent of the action is to retain the conservation, management, safety and economic improvements created by the RPP through an amendment to the GOA FMP for the management of Central GOA Rockfish which will maintain benefits to the fishery for historically dependent harvesters, processors, catcher-processors and the community of Kodiak.

**REFERENCE Appendix A** here (tables provided by NMFS staff, Glenn Merrill)

*The motion passed 17/1.*

*A motion recommending the Council appoint a workgroup to make recommendations regarding community options failed 13/4/1.*

*Minority Report: Four members of the AP supported recommending the Council appoint a work group to discuss and recommend community options for the Rockfish Program, including allocative set-asides, per MSA requirements to consider community provisions in any new LAPP. The work group would report to the Council at the October 2009 meeting.*

*The minority noted that some of the relevant issues were identified on page eight of the discussion paper: "In developing participation criteria for communities the Council is required to consider traditional fishing and processing practices and fishery dependence, the cultural and social framework in the fishery, economic barriers to fishery access, the existence and severity of projected economic and social impacts of LAPPs on harvesters, captains, crew, processors and other businesses substantially dependent on the fishery, and the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting and processing in the fishery (see 303A(c)(3))."*

*The minority also noted that:*

- *It was understood and appreciated that the timeline presented challenges but the minority believed that the issues raised by the LAPP provisions of MSA were just too important to give short shrift to.*
- *The Rockfish Program is complicated*
- *The new LAPP provisions are also complex*
- *There was inadequate time to gather meaningful comment from the CQE communities in response to the issues raised in the discussion paper*
- *Rulemaking/Guidance from NOAA on the LAPP provisions of MSA has not been finalized*

*Signed: Chuck McCallum, Theresa Peterson, Becca Robbins Gisclair and Simon Kinneen.*

## **C-1(b) Parallel Waters Issue in Pacific Cod Sector Split**

The AP recommends that the Council adopt the following changes to the options in Component 10 for further analysis:

Delete Option 1. Aleutian Islands sablefish model (parallel fishery catch cap).

Revise suboption ii, under Option 2, to read as follows:

ii. Suboption: ~~In the Western/Central GOA, vessels may only surrender and/or reactivate the FFP:~~

**(a) vessels may surrender and reactivate the FFP, or (b) vessels may surrender or reactivate the FFP:**

- 1) Once per calendar year
- 2) Once every eighteen months
- 3) Once every **three** ~~two~~ years

*The motion passed 18/0.*

## **C-2 BSAI Fixed Gear Pacific Cod Parallel State Waters Fishery**

The AP recommends that the Council take final action on this issue with the following alternatives and modifications:

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

Alternative 3: as written

Alternative 4: Vessels with a BSAI endorsement, CP designation, and a pot or hook-and-line gear endorsement on the FFP cannot remove the BSAI endorsement, CP designation, or the pot or hook-and-line gear endorsement from the FFP, and:

- (c) FFP cannot be surrendered during the 3-year term of the permit.

*The motion passed 18/0.*

The AP recommends that the Council modify the Purpose and Need Statement to remove the second to the last sentence which reads, "Additionally, changes to the rules regarding Federal Fisheries Permits for CP designated licenses may need to be consistent across the North Pacific fisheries to reduce the administrative burden for NMFS and prevent unforeseen permitting loopholes." *The motion passed 18/0.*

### C-3 BSAI Crab Program

#### C-3(a) Initial Review of Emergency Delivery Relief analysis

The AP recommends the Council add as options the following changes to the purpose and need statement and alternatives on the emergency delivery relief analysis. *The motion passed 17/0.* (Additions are indicated in ***bold and italics*** and deletions are indicated as ~~stricken~~.)

##### Purpose and need statement:

In developing the crab rationalization program, the Council included several measures to protect regional and community interests. Among those provisions, the Council developed regional designations on individual processing quota and a portion of the individual fishing quota that require the associated catch to be delivered and processed in the designated region. In the first three years of the program, all the crab IFQ was harvested and delivered. ***However, Congress's adoption of Section 122(e) of the Magnuson-Stevens Act, which grants custom processing use cap exemptions for Opilio IPQ holders on the condition that they process on shore or in the harbor of North region community, resulted in North region Opilio deliveries being concentrated in St. Paul harbor to a greater degree than prior to rationalization.*** However, icing conditions in the Northern Region did create safety concerns, and delayed and in some cases prevented harvesters from entering harbors to deliver to shore-based and floating processors located in the regions, as required by the regional share designations. In addition, other unforeseeable events, events such as an earthquake or tsunami, or man-made disaster, could prevent deliveries or limit the available processing capacity in a region necessary for compliance with the regional designations on Class A IFQ and IPQ. A well-defined exemption from regional landing and processing requirements of Class A IFQ and IPQ that includes requirements for those receiving the exemption to take efforts to avoid the need for and limit the extent of the exemption could mitigate safety risks and economic hardships that arise out of unforeseeable events that prevent compliance with those regional landing requirements. Such an exemption should also provide a mechanism for reasonable compensation to communities and IPQ holders harmed by the granting of the exemption to ensure that the protections intended by the regional designations continue to be realized despite the exemption.

##### Alternatives:

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

Alternative 2 – Contractually Defined Exemption

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

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

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

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

Option 3: an IFQ holder, the holder of matched IPQ, and a regional entity agreed to by the communities benefiting from rights of first refusal (or formerly benefiting from rights of first refusal) in the designated region of the IFQ and IPQ,

shall have entered a contract defining conditions under which an exemption will be granted and the terms of any compensation.

Administration of the exemption

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

***The exemption shall be administered through delivery submission of an affidavit by the holder of the IFQ for which the exemption is applied to the IPQ holder and regional representative, attesting to the satisfaction of requisite conditions for the exemption (as agreed in the contract). On receipt by NOAA Fisheries of notice of such delivery of an affidavit NOAA Fisheries shall grant the exemption. NOAA Fisheries granting of an exemption shall not affect any claim or obligation a party may have under the contract (including any claim concerning the sufficiency or content of the affidavit).***

Definition of the exemption

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

***An affidavit may only be filed if “Circumstances Outside of a Harvester’s or Processor’s Control” made it “Impracticable” for a harvester to deliver crab within the designated region to the processor(s) with whom the related Class A IFQ are matched or their designated agents, or make it “Impracticable” for a processor to process crab within the designated region.***

***“Circumstances Outside Of A Harvester’s or Processor’s Control” include ice, earthquake, volcanic eruption, silting, erosion, flooding, fire, explosion, mechanical breakdown, injury, disease, governmental agency action and comparable conditions that make it “Impracticable” for a harvester to deliver crab in the designated region to the processing facility designated by the IPQ holder with whom the related IFQ is matched, or make it Impracticable for a processor to process crab at such facility, during the applicable crab fishing season.***

***“Impracticable” means that delivery or processing of crab (a) is prohibited by governmental authority, (b) appears to be impossible, (c) involves extreme and unreasonable delay, difficulty, or expense, (d) in the judgment of the master of the affected vessel, would result in a significant risk of injury to crew or damage to vessel, or (e) involves a significant risk of substantial loss of value to the crab (i.e., equal to or greater than five percent (5%) of the affected crab’s fair market value).***

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

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

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

Mitigation requirements or Conditions to Be Satisfied to File Affidavit

Requirement to attempt to mitigate:

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

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

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

Conditions to be Satisfied to File Affidavit

*Additional conditions that must be satisfied to file an affidavit are:*

- 1. If Circumstances Outside of a Harvester’s or Processor’s Control are affecting a fishing trip that is in progress, such circumstances must not have been reasonably foreseeable at the time the affected harvester began setting fishing gear;*
- 2. Circumstances Outside of the Harvester’s or Processor’s Control must exist at the time that an IFQ holder or IPQ holder files an affidavit, and must continue to exist as of the date on which crab is transported out of the designated region under the related NMFS exemption;*
- 3. An affidavit must contain an accurate description of the Circumstances Outside of the Harvester’s or Processor’s Control that make it Impracticable to deliver the affected crab using regionally designated Class A IFQ for an alternate region; and*
- 4. The affidavit shall only request re-designation of an amount of IFQ and IPQ equal to the estimated amount of crab that the affected harvester or processor reasonably projects that the harvester will be unable to deliver or that the processor will be unable to process as a result of Circumstances Outside of the Harvester’s or Processor’s Control.*

*It would be a breach of the emergency relief contract for an IFQ holder or IPQ holder to file an affidavit if any of the conditions specified above is not satisfied at the time that the affidavit is filed.*

Compensation

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

Mitigation (as an alternative to Compensation)

*To mitigate the effect of emergency relief on communities in the North region, harvesters and processors would have an obligation to insure that the percentage of Opilio crab delivered in the North region on a 3 year rolling average basis would equal or exceed the percentage of Opilio crab required to be delivered in that region during that period.*

*The 3 year rolling average requirement would apply only in connection with short term conditions that make North region landings impracticable, such as intermittent sea ice. The requirement would not*

*apply in connection with circumstances that make it impracticable to deliver in the North region for an extended period, such as an extended harbor closure or loss of an essential processing facility.*

*Class B, Class C, Catcher-Processor Owner (“CPO”) and CDQ landings in the North region would be counted toward the 3 year rolling average requirement. However, there would be no obligation to use Class B, Class C, CPO or CDQ to meet the 3 year rolling average requirement.*

*In the event that Class B, Class C CPO and CDQ landings in the North region are not sufficient to offset emergency relief landings taken out of the region, harvesters and processors would need the ability to deliver South region Class A IFQ in the North region as necessary to meet the 3 year rolling average requirement.*

*Suboption: Remove the South region designation from an appropriate amount of Class A IFQ through an amendment to the crab rationalization program.*

*Suboption: Provide for a “mitigation affidavit” under the emergency relief contract, which, when filed, would compel NMFS to remove the South region designation from the amount of South region Class A IFQ specified in the affidavit, permitting it to be delivered in the North region.*

### Arbitration

*To facilitate use of Class A IFQ to address regional delivery relief, provide for one additional arbitration proceeding per processor per fishery per year.*

#### Contract finalization dates

Option 1: Fishery openings

Option 2: January 1

Option 3: Open, and can be finalized at any time.

The AP requests the document be released for public review, if possible.

*The motion passed 16/0/1.*

### C-3(b)(1) Right of first refusal (ROFR)

The AP recommends the Council adopt the purpose and need statement and alternatives below to enhance the community/processor right of first refusal (ROFR) agreements.

#### Purpose and Need Statement:

The Bering Sea/Aleutian Islands (BSAI) Crab Rationalization Program recognizes the unique relationship between specific crab-dependent communities and their shore-based processors, and has addressed that codependence by establishing community “Right of First Refusal” agreements as a significant feature of the Program. These ROFR agreements apply to the Processor Quota Shares (PQS) initially issued within each community, and are entered into and held by Eligible Crab Community Organizations (ECCO) on behalf of each respective community.

To date there have been several significant Processor Quota Share transactions, resulting in ECCOs now owning between 20% and 50% of the PQS in each rationalized fishery. These community ownership levels exceed the Council's expectations this early in the Program.

In spite of this success, some communities feel that ROFRs should be permanent, and the terms for each ROFR transaction should be liberalized.

Alternative 1: Status quo, no action.

*(Alternatives 2 and 3 can be combined).*

Alternative 2: Increase community protections by making ROFRs permanent.

- a) Require parties to rights of first refusal contracts to remove the provision that rights lapses, if the IPQ are used outside the community for a period of three consecutive years.
- b) 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.
- c) Require that any person holding PQS that meet landing thresholds qualifying a community entity for a right of first refusal to maintain a contract providing that right at all times.

Alternative 3: Increase an ECCOs timeframe for acceptance and execution of a ROFR.

- a) 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.
- b) 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.

The AP recommends that the Council write a letter to the Secretary of Commerce supporting the creation of a loan program. *The motion passed 18/0.*

### **C-3(b)(2) Western AI golden king crab regionalization and PQ issues**

The AP recommends that harvesters, processors and communities work together to develop proposals for an exemption from regionalization in the event processing capacity is unavailable as described in the discussion paper. Proposals are due back by October 2009. *The motion passed 17/1.*

### **C-3(b)(3) Extinguishing crab PQ**

The AP recommends the Council take no further action on this item. *The motion passed 16/2.*

### **C-3(b)(4) Leasing restrictions**

The AP recommends the Council take no further action on this discussion paper. *The motion passed 13/4.*

*Minority Report: Minority members believe the implications of leasing and comparable transactions in rationalized fisheries is an important discussion to continue. There are currently three rationalized programs from which we can learn. There has been a decline in percentages paid to the deck and this action should be monitored. It is important to capture the characteristics of the pre-rationalized fleet, to monitor and to modify each program in order to meet the intent and unforeseen consequences of the program. Signed: Theresa Peterson, Jeff Farvour, Chuck McCallum, Rebecca Robbins Gisclair*

### **C-3(c) Plan for 5-year Review of Crab Program**

The AP received the staff report on this issue.

### **C-4(a) Bering Sea Chum Salmon Bycatch**

The AP recommends the Council move forward with the following refinements to the chum salmon bycatch alternatives:

#### **Alternative 1 – Status Quo**

Alternative 1 retains the current program of the Chum Salmon Savings Area (SSA) closures triggered by separate non-CDQ and CDQ caps with the fleet's exemption to these closures per regulations for Amendment 84 and as modified by the Amendment 91 Chinook bycatch action.

#### **Alternative 2 – Hard Cap**

Component 1: Hard Cap Formulation (with CDQ allocation of 10.7%)

- a) 58,000
- b) 206,000
- c) 353,000
- d) 488,000

Component 2: Sector Allocation

- a) No sector allocation
- b) Allocations to Inshore, Catcher Processor, Mothership, and CDQ
  - 1) Pro-rata to pollock AFA pollock sector allocation
  - 2) Historical average
    - i. 2004-2006
    - ii. 2002-2006
    - iii. 1997-2006
  - 3) Allocation based on 75% pro-rata and 25% historical
  - 4) Allocation based on 50% pro-rata and 50% historical
  - 5) Allocation based on 25% pro-rata and 75% historical

Component 3: Sector Transfer

- a) No transfers or rollovers
- b) Allow NMFS-approved transfers between sectors

Suboption: Limit transfers to the following percentage of salmon that is available to the transferring entity at the time of transfer:

- 1) 50%
  - 2) 70%
  - 3) 90%
- c) Allow NMFS to roll-over unused bycatch allocation to sectors that are still fishing

Component 4: Cooperative Provision

- a) Allow allocation at the co-op level for the inshore sector, and apply transfer rules (Component 3) at the co-op level for the inshore sector.

Suboption: Limit transfers to the following percentage of salmon that is available to the transferring entity at the time of transfer:

- 1) 50%
- 2) 70%
- 3) 90%

**Alternative 3 – Trigger Closure**

Component 1: Trigger Cap Formulation

- a) 45,000
- b) 58,000
- c) 206,000
- d) 353,000
- e) 488,000

Application of Trigger Caps

- a) Apply trigger to all chum bycatch
- b) Apply trigger to all chum bycatch in the CVOA
- c) Apply trigger to all chum bycatch between specific dates

Component 2: Sector allocation

- a) No sector allocation
- b) Allocations to Inshore, Catcher Processor, Mothership, and CDQ
  - 1) Pro-rata to pollock AFA pollock sector allocation
  - 2) Historical average
    - i. 2004-2006
    - ii. 2002-2006
    - iii. 1997-2006
  - 3) Allocation based on 75% pro-rata and 25% historical
  - 4) Allocation based on 50% pro-rata and 50% historical
  - 5) Allocation based on 25% pro-rata and 75% historical

Component 3: Sector Transfer

- a) No transfers or rollovers
- b) Allow NMFS-approved transfers between sectors

Suboption: Limit transfers to the following percentage of salmon that is available to the transferring entity at the time of transfer:

  - 1) 50%

- 2) 70%
- 3) 90%
- c) Allow NMFS to roll-over unused bycatch allocation to sectors that are still fishing  
Suboption: Limit transfers to the following percentage of salmon that is available to the transferring entity at the time of transfer:
  - 1) 50%
  - 2) 70%
  - 3) 90%

Components 4: Cooperative Provisions

- a) Allow allocation at the co-op level for the inshore sector, and apply transfer rules (Component 3) at the co-op level for the inshore sector.  
Suboption: Limit transfers to the following percentage of salmon that is available to the transferring entity at the time of transfer:
  - 1) 50%
  - 2) 70%
  - 3) 90%

Component 5: Area Option

- a) Area identified in October, 2008 discussion paper
- b) Existing Chum Salmon Savings Area (differs from status quo with application of other components)

Component 6: Timing Option – Dates of Area Closure

- a) Existing closure dates (August 1 – August 31 and September 1 through October 14 if trigger is reached.)
- b) New closure dates

Component 7: VRHS Exemption – Similar to status quo, participants in a vessel-level (platform level for Mothership fleet) VRHS would be exempt from a triggered closure.

- a) All VRHS participants would be exempt from a triggered closure (as provided by Amendment 84)
- b) VRHS participants achieving a certain level of rate-based performance would be exempt from the triggered closures. (Enforcement through VRHC agreement).

The AP recommends that the Council: (a) compile available data on recent bycatch rates; and (b) use a blended rate of CDQ and CDQ partners' bycatch for calculating historical bycatch rates.

The AP recommends that an EIS is the appropriate measure to be used. The AP views the significance of the proposed chum salmon bycatch management measures makes an EIS essential. Not only are the proposed measures likely to be controversial in nature, but the size and scope of their potential environmental, social and economic effects on the human environment are likely to be quite substantial as well. These are two of the factors cited as key to the identification of “significant” actions which compel the preparation of an EIS under the Department of Commerce’s Administrative Order (DAO) 216-6.01 and 6.02—the Order by which the DOC implemented the National Environmental Policy Act. Under these circumstances, preparation of an EIS is clearly mandated.

*The motion passed 16/0.*

## **C-4(b) Bering Sea Salmon Bycatch Data Collection**

The AP recommends that the Council proceed with analysis of the alternatives proposed by the Comprehensive Data Collection Committee with revisions noted. Referring to Alternatives 2A and 2B, replace components (2) and (3) which proposed using surveys to determine why a skipper chose to move fishing operations to a new area in hopes of reducing Chinook bycatch and at what cost, with the language below (additions are indicated in *bold and italics* and deletions are indicated as ~~stricken~~).

### Alternative 1

Status quo (existing data sources)

### Alternative 2A

In addition to the status quo data sources:

- (1) Transaction data for salmon – quantity and price of transfers (survey will be used to determine whether these are arm’s length transactions).
- ~~(2) Surveys to estimate costs of moving vessels to avoid salmon bycatch (vessel fuel use, transit time, and lost fishing time).~~
- ~~(3) Post-season surveys of skippers to determine rationale for decision making during the pollock season (fishing location choices and salmon bycatch reduction measures).~~

***(2) Mandatory Inseason Bycatch Management Report to be filled out at the time of a move. Information collected would include:***

- a) For both the original and new fishing grounds, the date, time bycatch rate, location and CPUE of tow.***
- b) Pollock quota remaining for harvest and salmon allowance remaining at time of event.***
- c) Time, distance and use of fuel in searching for cleaner fishing grounds.***

### Alternative 2B

In addition to the status quo data sources:

- (1) Transaction data for salmon and pollock– quantity and price of transfers (survey will be used to determine whether these are arm’s length transactions).
- ~~(2) Surveys to estimate costs of moving vessels to avoid salmon bycatch (vessel fuel use, transit time, and lost fishing time).~~
- ~~(3) Post-season surveys of skippers to determine rationale for decision making during the pollock season (fishing location choices and salmon bycatch reduction measures).~~

***(2) Mandatory Inseason Bycatch Management Report to be filled out at the time of a move. Information collected would include:***

- a) For both the original and new fishing grounds, the date, time bycatch rate, location and CPUE of tow.***
- b) Pollock quota remaining for harvest and salmon allowance remaining at time of event.***
- c) Time, distance and use of fuel in searching for cleaner fishing grounds.***

### Alternative 3

In addition to the status quo data sources:

- (1) Transaction data for salmon and pollock– quantity and price of transfers (survey will be used to determine whether these are arm’s length transactions).
- (2) Surveys to estimate costs of moving vessels to avoid salmon bycatch (vessel fuel use, transit time, and lost fishing time).
- (3) Post-season surveys of skippers to determine rationale for decision making during the pollock season (fishing location choices and salmon bycatch reduction measures).

(4) Survey of roe quantity, quality, and revenues at the minimum level collected by the company (e.g., lot, trip).

Alternative 4

In addition to the status quo data sources:

- (1) Transaction data for salmon and pollock– quantity and price of transfers (survey will be used to determine whether these are arm’s length transactions).
- (2) Surveys to estimate costs of moving vessels to avoid salmon bycatch (vessel fuel use, transit time, and lost fishing time).
- (3) Post-season surveys of skippers to determine rationale for decision making during the pollock season (fishing location choices and salmon bycatch reduction measures).
- (4) Survey of roe quantity, quality, and revenues at the minimum level collected by the company (e.g., lot, trip).
- (5) Survey of daily vessel operating costs (labor, observer, etc.).

NMFS staff should develop draft surveys that could be shared with interested stakeholders for comment. Workshops could be held with industry and other stakeholders to discuss revisions to surveys. Once revised, surveys could be incorporated into an analysis for presentation to the Council for initial review at its October meeting.

*The motion passed 17/0.*

**D-1(a) Establish Permit Fees for all Fisheries**

The AP recommends that the Council send out the analysis for public review. *The motion passed 13/0.*

**D-1(b) Workplan for ACL Requirements and Salmon FMP Withdrawal**

The AP recommends the Council adopt the action plans and move forward with the timeline recommended in the plans. *The motion passed 15/0.*

Additionally, the AP recommends that the Council request NOAA General Counsel provide legal guidance to the industry regarding what the implications of the opilio rebuilding plans are by August 1, 2009. Specifically, guidance is requested on the following issues:

- State actions that are possible under deferred authority
- Requirements to meet rebuilding plans.

*The motion passed 15/0.*

**D-2(a) Bottom Trawl Gear Sweep Requirements**

The AP recommends that the Council send out the document for public review. *The motion passed 14/0.*

**D-2(a) Catch Specifications for BSAI Skate Complex**

The AP recommends the Council move the analysis forward. *The motion passed 15/0.*

**D-3(a) HAPC Process**

The AP recommends the Council delay the HAPC process until the 5-year review of EFH is completed.  
*The motion passed 17/0.*

**D-3(b) Northern BS Research Plan**

The AP received the staff report on this issue.



**DRAFT REPORT  
of the  
SCIENTIFIC AND STATISTICAL COMMITTEE  
to the  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
June 1-3, 2009**

The SSC met during June 1-3, 2009 at the Hilton Hotel, Anchorage, Alaska. Members present were:

<b>Pat Livingston, Chair</b> <i>NOAA Fisheries—AFSC</i>	<b>Keith Criddle, Vice Chair</b> <i>University of Alaska Fairbanks</i>	<b>Troy Buell</b> <i>Oregon Department of Fish and Wildlife</i>
<b>Robert Clark</b> <i>Alaska Department of Fish and Game</i>	<b>Anne Hollowed</b> <i>NOAA Fisheries—AFSC</i>	<b>George Hunt</b> <i>University of Washington</i>
<b>Gordon Kruse</b> <i>University of Alaska Fairbanks</i>	<b>Kathy Kuletz</b> <i>US Fish and Wildlife Service</i>	<b>Seth Macinko</b> <i>University of Rhode Island</i>
<b>Franz Mueter</b> <i>University of Alaska Fairbanks</i>	<b>Lew Queirolo</b> <i>NMFS—Alaska Region</i>	<b>Terry Quinn II</b> <i>University of Alaska Fairbanks</i>
<b>Farron Wallace</b> <i>Washington Dept of Fish and Wildlife</i>	<b>Doug Woodby</b> <i>Alaska Department of Fish and Game</i>	

Members absent were:

<b>Sue Hills</b> <i>University of Alaska Fairbanks</i>	<b>Ray Webster</b> <i>International Pacific Halibut Commission</i>
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### **C-3(d) BSAI Crab SAFE**

Diana Stram (NPFMC), Forrest Bowers (ADF&G), and Jack Turnock (NMFS-AFSC) presented information from the Crab Plan Team report and SAFE analyses.

Table 1 shows the SSC recommendations for tier designations, years of biomass or catch, gamma (a multiplier for natural mortality), natural mortality and OFL. This year, the SAFE reports for Pribilof Islands golden king crab and Adak red king crab will be reviewed in September by the Crab Plan Team (CPT) and in October by the SSC. Next year, the assessments will be ready for the May CPT meeting.

### **General recommendations to all assessment authors for future assessments:**

1. As reiterated from our June 2008 report, “future stock assessments should provide analyses to support the choice of  $\gamma$ ...” in Tier 4. Currently, analysts have used and the Crab Plan Team and the SSC have supported a value of 1 for  $\gamma$  in the calculation  $F_{OFL} = \gamma M$ , in which  $M$  is natural mortality, which results in a proxy for  $F_{MSY}$ . The SSC recommends that analysts provide rationale for the selection of  $\gamma=1$ . The value of 1 for  $\gamma$  is the default value used in Tier 5 for groundfish and should be conservative for crab stocks, since only the legal male component of the adult stock is harvested. However, analysis in the Environmental Assessment for Amendment 24 to revise overfishing definitions for crab showed that values of  $\gamma$  between 2 and 3 might be appropriate for  $F_{msy}$  estimation for some Bering Sea crab stocks. Therefore, it is desirable to investigate whether alternative approaches can be developed. Some suggestions for doing this will be forthcoming from the crab data weighting and stock assessment workshop held in Seattle during the May Crab Plan Team meeting. A report from that workshop will be available in time for the September Crab Plan Team meeting.

2. The SSC encourages stock assessment authors and the Plan Team to discuss whether there is evidence for a common year that corresponds with a shift in recruitment across stocks. If there is not a single year, then evidence should be examined for a number of years that are common across groups of species or areas.

### **EBS Snow Crab**

Public testimony was provided by Leonard Herzog (Alaska King Crab Harvesters Coop), and Arni Thomson (Alaska Crab Coalition).

The SSC has reviewed this assessment several times over the last few years. The central component of this assessment is a length-based model, which integrates length composition, fishery catch, and survey data. A CIE review and an external review completed last year provided many useful suggestions for improvement. **The SSC supports continued use of this model for stock status determinations and specifications.**

The SSC appreciates the author's efforts to improve methodological descriptions and to undertake retrospective and projection analyses. The SSC concurs with the recommendations made on page 10 of the Introduction to the SAFE for improvements to be completed this year (for the September Plan Team meeting) and next year (for the May Plan Team meeting).

The SSC has three additional recommendations for the stock assessment authors to complete by September:

- 1) Provide a comparison of model results between the model using old survey data in this document and a model using newly revised data that corrects previous errors in the database. The SSC is interested in seeing the results of this analysis to evaluate the sensitivity of the model to changes in the biomass time series. We do not envision a complete MSE evaluation with the new data for September, because a project to do that is being funded by NPRB.

- 2) The SSC strongly reiterates the need for additional work on the effect of selectivity on the stock assessment. In October 2008, the SSC requested an analysis of survey selectivity to be presented at this meeting. We noted that the model estimates of selectivity (approximately = 1 depending on year) are considerably higher than those estimated by an underbag experiment, as shown in Figure 24. The requested analysis has not yet been conducted. Instead, the current SAFE report explains that a second field experiment is to be done this year to provide new, and hopefully improved, experimental estimates. While it is commendable to conduct these new experiments to obtain improved estimates, the results of the original selectivity study by Somerton and Otto (1999, Fish. Bull. 97) are currently the best scientific information available and may be more realistic than the model derived estimates.

**The SSC requests that, by June of 2010, the stock assessment author include a thorough investigation of the effect of using the model derived survey selectivities in comparison to using the experimentally derived survey selectivities** of Somerton and Otto (1999) and the results of new field experiments on selectivity to be conducted in the summer of 2009. Specifically, the SSC requests comparisons of all reference points, including  $B_{35\%}$  and  $F_{35\%}$ , as well as time series of mature and legal male biomass estimates, fits to survey size frequencies for male and female crabs, and projections of future populations toward the rebuilding target.

- 3) The projection analyses in the document show that the probability of achieving the rebuilding target in the next two years is less than 50% under current harvest policy. However, the analyses suggest that a 50% probability of rebuilding could be achieved with a substantial reduction in fishing mortality. The

Plan Team recommends such an approach and suggests how it would be implemented. The SSC requests that forecast errors be included in the projection graphs, so that the uncertainty in the projections can be better visualized. Also, it would be helpful for the author to provide an indication of the uncertainty in the rebuilding target biomass. This could be done either for the original target in the Rebuilding Plan or for an updated target based on more recent information, or both. This will help show how uncertainty in data and model inputs affect the perception of stock rebuilding.

**The SSC concurs with the Plan Team recommendations for OFL: the stock should be managed under Tier 3, the range of years (1979 and later) used for parameter estimation is appropriate, and OFL should be determined using F35% and the model. Council staff informed the SSC that the revised snow crab SAFE will be available for SSC review at the October Council meeting. To accommodate this additional level of review, the Alaska Department of Fish and Game will delay setting the EBS snow crab TAC until after SSC review in October.**

Unlike the Plan Team, the SSC has no recommendation on the issue of adjusting TAC downward to increase the probability of reaching the rebuilding target within the 10 year timeframe required in the rebuilding plan (year 2011). The topic of how often to evaluate and revise harvest rebuilding plans during the stock rebuilding period has been debated nationally in scientific and management circles. There is no clear consensus on the optimal approach but it is clear that there are tradeoffs. However, this does not remove the obligation to rebuild overfished stocks.

**The SSC recommends that changes in rebuilding policy be carefully evaluated under a range of management scenarios and population responses.** The current harvest strategy provides for rebuilding to the target level. Progress in stock rebuilding has already been made, and the time of rebuilding will depend on future recruitment trends, population status, and magnitude of harvesting. The SSC seeks clarification before the October Council meeting about its role in providing advice on rebuilding overfished crab stocks in which management authority has been delegated to the State of Alaska.

### **Bristol Bay Red King Crab**

A length-based model using trawl survey data, catch data (retained + bycatch), length-frequencies from the fishery, and fishery CPUE data is used to estimate abundances and management parameters. This model was first introduced in 1995 and underwent some major changes in 2004. Last year's model was based exclusively on post-1984 data, but at the request of the CPT and the SSC, this year's model was again fit to the full time series from 1968-2009. Additional changes from last year include the incorporation of revised trawl survey data from 1975-2008, incorporation of the Bering Sea Fisheries Research Foundation (BSFRF) survey data for 2007/2008, and allowances for temporal variation in female maturity and in male and female natural mortality. The authors present results for three models: Model 1 includes a fixed natural mortality ( $M=0.18$ ) with "additional" mortality terms for males and females in 1980-84, and for females in 1976-79 and 1985-93. Model 1 also includes the BSFRF survey data. Model 2 assumes a constant  $M=0.18$  across years and includes BSFRF data. Model 3 is similar to Model 1 but without the BSFRF data.

The results suggest that Model 2 fits the data very poorly, as evidenced by the much higher value of the negative log-likelihood and by poor fits to the survey data (Fig. 12). Models 1 and 3 have very similar fits in terms of the log-likelihood, but there are some marked differences in the estimated biomass series, in particular during the peak in the late 1970s / early 1980s and in recent years. However, estimates from both models are well within the 95% confidence intervals of the survey data. The SSC supports continued exploration of the implications of including the BSFRF data. However, the SSC concurs with the CPT that, without better documentation of the BSFRF data and without some examination of its apparent

influence on biomass trajectories, the data should not be included for setting the OFL for 2009/10. The SSC also remains concerned about the apparent ad-hoc approach to incorporating additional mortality terms as detailed below.

In addition to the choice of models, another issue concerns the time period over which recruitment estimates should be averaged to estimate  $B_{35\%}$  (as a proxy for  $B_{MSY}$ ). As in last year's assessment, the authors argue for using the recruitment series since 1995 because of the documented 1989 regime shift (affecting recruitment about 6 years later in 1995) and the apparent higher productivity following the regime shift (Figure 33). The SSC provisionally accepted the 1995-2008 period for last year's assessment and concurs with the author's and the CPT's choice of the 1995-2009 recruitments for estimating  $B_{35\%}$  in this year's assessment.

**The SSC concurs with the CPT recommendation that the stock continue to be managed under Tier 3 and that Model 1 using the 1995-2009 series of estimated recruitments be used as a basis for estimating  $B_{35\%}$  and the associated  $F_{OFL}$  and OFL, once 2009 survey data are incorporated.**

The SSC appreciates the author's responsiveness to previous requests and the improved documentation of the model, model results, and much of the underlying data. We recognize that the Bristol Bay red king crab model is one of the best developed crab stock assessments and encourage further development of the model in an attempt to move the stock to an eventual Tier 1 designation. However, a number of issues remain to be resolved and the SSC offers the following points for consideration in the 2010 assessment cycle:

1. We request that the authors continue to explore a model that uses a constant  $M$  over time or other ways of accounting for the large biomass peak in the late 1970s / early 1980s and the subsequent steep decline in crab abundance. It remains unclear whether the decline was due to increased mortality (e.g. predation by Pacific cod), a shift in productivity, or a fishing impact. In particular, any changes in fishing mortality should be modeled as such, based on the history of changes in gears and fishing practices. Although Model 2 fit the data poorly, the reasons for the poor fit, in particular to the latter parts of the time series, are not entirely clear and may in fact suggest failure of convergence in the optimization routine rather than model misspecification.
2. The incorporation of a number of periods that allow for "additional" male and/or female mortality needs to be re-evaluated and a sound rationale for the choice of these periods must be provided. For example, the rationale for why the time periods are different for males and females and why female mortality differs between 1980-84, 1976-79, and 1985-93 is not clearly stated. To the extent possible, these periods should be based on clearly documented oceanographic and biological considerations.
3. The SSC continues to question the rationale for using the 1995-current time period of recruitment for estimating  $B_{35\%}$ . We recognize that the rationale is more developed for this stock than for some other stocks and is primarily based on a perceived shift in productivity in 1989 (first apparent in the 1995 recruitment of 6-year old crab). However, while recruitment was somewhat higher in the post-1988 period, the difference in mean recruitment is not significant (fertilization years 1977-88, i.e. post 76/77 shift, vs. 1989-2002:  $t = 0.125$ ,  $p = 0.91$ ; 1979-88, the period used in the assessment, vs. 1989-2002:  $t = 1.57$ ,  $p = 0.13$ ). Therefore we request that model runs continue to be based on both periods for comparison, and that the rationale for using only the post-1988 period be re-evaluated, perhaps as part of a broader evaluation of appropriate productivity periods across crab stocks in this region.
4. There is a discrepancy between the recruitment estimates summarized in Table 6, those shown in Figure 33, and those shown in the stock-recruitment relationship in Figure 35. The latter seem to

be labeled by year of hatching rather than the year of mating, as stated in the legend. These need to be checked in order to provide appropriate recruitments for estimating reference points. In addition to the parameter estimates in Table 6, it would be very useful if the document included a table of actual recruitment estimates.

5. The rationale for using three different time periods for estimating average size at 50% maturity (Figure 9) is unclear and needs to be clearly articulated in the document. For example, these periods differ from those that were used to model additional mortality for females and it could be argued that the same mechanism may be responsible for higher mortalities and smaller size-at-maturity, suggesting that the same periods be used for modeling changes in these parameters. A more objective approach to modeling size-at-maturity might be to fit a smooth trend to size at 50% maturity over time or use an appropriate algorithm to find change points in the time series.
6. The SSC appreciates the inclusion of likelihood components that incorporate appropriate coefficients of variation, rather than arbitrary weights. We request that the weighting issue be explored further following recommendations from the recent stock assessment/data weighting workshop. Possible approaches to pursue include conducting additional sensitivity analyses to examine the influence of different weights, estimating effective N for multinomial likelihood components within the model as is done for many groundfish assessments, or employing a fully Bayesian implementation of the model with appropriate priors as recommended by the CPT.
7. In addition to using the BSFRF data to get an improved estimate of capture probability by size, the data should also be included in a model alternative presented to the CPT and SSC. However, as noted earlier, all data must be clearly described and documented and the model fit to the data should be shown.

## Tanner Crab

Estimates of MMB biomass are derived annually from information collected during the EBS trawl survey. Following this summer's survey, assessment authors will incorporate new estimates into revised assessments for CPT review in September 2009. Fish ticket and observer data are used to estimate retained and non-retained catch and assumed handling mortality rates are applied to the non-retained portion of the catch to estimate a total catch OFL. Estimated abundance of legal males increased over 2007 abundance by 9%, largely due to a high density of legal males observed at a single survey station. Although the stock was determined to be rebuilt in 2007, the 2008 survey showed a marked decline in estimated abundance across all other size classes of males and females, possibly signifying the commencement of a declining period of abundance for this stock.

The revised EBS bottom trawl time series was not used in the Tanner crab assessment. **This information is important for stock status determination and the SSC recommends use of the revised time series for the final assessment in 2009. The SSC agrees with the CPT and authors that the OFL for this stock should be based on the Tier 4 control rule since no formal assessment has been developed for the entire EBS region. The SSC agrees with the CPT and authors that  $B_{REF}$  be based on the average mature male biomass (MMB) for the years 1969-1980, discounted by fishery removals (retained and non-retained mortalities) and natural mortality between the time of survey and mating, and that  $\gamma=1.0$  and  $M=0.23$ . This equates to a  $B_{REF}$  of 189.76 million pounds of MMB.** The SSC notes that the current BSAI Crab SAFE Introduction mistakenly lists the range of years for calculating  $B_{REF}$  as 1975-1980.

The SSC recommends that the stock assessment authors should:

1. Use most recent data available, including revised survey data to be included for review in September and revised bycatch data from the groundfish fisheries when those become available.
2. By September, 2009, provide complete documentation on data sources and the calculations and assumptions used in the stock assessment for computing OFL. Table headings should clearly and accurately describe the data, including indicating when data includes a handling mortality assumption.
3. Further an assessment model that incorporates the entire stock area in the next assessment cycle

### **Pribilof Islands Red King Crab**

**The SSC agrees with the Plan Team recommendations for management of Pribilof Islands Red King Crab under Tier 4, setting  $\gamma=1$ ,  $M=0.18$ , using the 1991 - 2009 period to determine the average mature male biomass as a proxy for  $B_{MSY}$ , once the 2009 bottom trawl survey results for this area are available.** The SSC appreciates the inclusion of estimates of  $B_{MSY}$  proxies for the two time periods, 1980 – 2009 and 1991-2009, and looks forward to the results of the final analysis in October. The Plan Team's rationale for beginning the time series at 1991 was based on the observation that red king crab were relatively uncommon in the area prior to 1991. The SSC would like to see this rationale included in the final SAFE report. The SSC also looks forward to seeing the implementation of the catch-survey analysis in next year's iteration of the assessment.

The SSC notes that there is a possibility that the abundance trends of red king crab are related to those of blue king crab, in that red king crab may be replacing blue king crab in the Pribilof Islands area. Given this possibility, it would be valuable to include interactions between these crab species as a factor in any future development of population dynamics models. This might take the form of a single king crab model with partitioning of size class abundances between the two species, or of two separate models with a factor in each to account for the interaction.

In regards to ecosystem considerations, the SSC would like to see consideration given to time trends in the abundance and potential influence of major fish predators, including arrowtooth flounder. Also, the SSC suggests that calculations of the impact of pot gear on the substrate should be based on the area inhabited by the Pribilof Islands red king crab population, rather than the entire area of the Bering Sea shelf.

### **Pribilof Islands Blue King Crab**

**The SSC agrees with the Plan Team recommendation for management of Pribilof Islands Blue King Crab under Tier 4 with  $\gamma=1$ ,  $M=0.18$  using the 1980 -1984 and 1990-1997 time periods to determine the average MMB as a proxy for  $B_{MSY}$ , estimated as 9.01 million pounds.** The SSC appreciates seeing the written justification in the SAFE omission of the 1985-1989 period because it may not represent the productive potential of the current stock.

This stock was declared overfished in 2002 and, even though there has not been any directed fishing since 1999, the stock has continued to decline and it is unlikely that it will be rebuilt by the end of the rebuilding plan 10 year horizon in 2012. Recognizing that a new rebuilding plan will be needed, and that additional protective measures could be taken, the SSC commends the Plan Team for considering 5 alternatives (listed in the September 2008 plan team minutes) to reduce bycatch of blue king crab, four of which pertained to closing areas to all targeted groundfish harvest or just to directed Pacific cod harvest,

whereas the fifth was to modify pot gear for Pacific cod. If the Council initiates a review of these alternatives, the SSC requests that the analysts identify expected bycatch reductions that might be accrued. The SSC also encourages additional observer coverage as appropriate to improve monitoring of blue king crab bycatch. While the Plan Team suggested not considering item 5 above, the SSC suggests that use of a slick ramp for Pacific cod pots to make entry into a pot difficult for king crab could be considered.

In regards to a revised rebuilding plan, the SSC recommends that the time frame for estimation of  $B_{REF}$  be reconsidered in terms of potential environmental changes that may have altered the potential productivity of the population. The SSC also requests that when a revised rebuilding plan is developed, it include an analysis examining information on stock separation from the St. Matthew Island blue king crab stock and the possibility of competitive or predation interactions with Pribilof Islands red king crab.

### **St. Matthew Island Blue King Crab**

St. Matthew blue king crabs are assessed by a four-stage catch-survey analysis of males only. This stock was declared overfished in 1999, and the fishery has since been closed and managed under a rebuilding plan. This stock has been recovering and mature male biomass exceeded the rebuilding target in 2008. If this occurs in 2009 as well, which the Crab Plan Team feels is likely, the stock will be considered to be rebuilt.

Five model scenarios were analyzed. Among these, the Crab Plan Team recommended scenario 1 with a fixed catchability coefficient ( $q$ ) and natural mortality ( $M$ ), with a separate  $M$  estimated for 1999. **The SSC agrees with the choice of model scenario 1, the Plan Team's recommendation for Tier 4 designation, and the Plan Team's itemized comments listed on p. 18 of the introduction section of the Crab SAFE**, which, in summary, are: (1) towards possible future Tier 3 designation, continue model refinements for review at the May 2010 Crab Plan Team meeting; (2) include bycatch in the estimation model, so that a total male catch OFL can be estimated and, ultimately, total male and female catch OFL; (3) include confidence intervals on model output and CVs for surveys; (4) examine the sensitivity of weighting choices; (5) include separate likelihood components for total number of crab and breakdown to size classes; (6) report the number of parameters for each model scenario; (7) justify how changes in molting probability affect model results; and (8) run the model to determine how the stock might respond at a  $F_{MSY}$  proxy to inform  $B_{MSY}$ .

### **Norton Sound Red King Crab**

This assessment utilizes a length-based model that combines multiple sources of data, including information from four surveys and three fisheries. The revised model does not include discard mortality or mortality from non-directed fishery bycatch. The stock trajectory exhibits a sharp decline in the 1980s from high biomass levels during the 1970s followed by a gradual increase after 1996. The harvest rate was high in the late 1970s and early 1980s and it fluctuated around 10% after 1983. The authors addressed the SSC request for a likelihood profile on natural mortality.

**The CPT recommended and the SSC agrees that the assessment model output should be used as the basis for estimating biological reference points for the 2009/10 season.** The author provided scenarios under two different assumptions regarding natural mortality ( $M = 0.3$  and  $M = 0.18$ ). The CPT recommended, and the SSC concurs that the scenario based on  $M = 0.18$  should be used for estimating stock status in 2009. The CPT also recommended, and the SSC concurs, that this stock qualifies for Tier 4 management, that the reference time period for estimation of  $B_{MSY}$  proxy should be 1983-2009, and

gamma should be set at 1. **Based on these considerations, the SSC recommends a 2009/10 OFL for Norton Sound red king crab of 0.71 million pounds (retained catch OFL).**

In addition to the recommendations above, the CPT provided the following recommendations for improvements to the model (see following paraphrased from CPT minutes). The SSC agrees with the CPT that these additional requests should be addressed in the 2010 assessment including:

1. The assessment model from the previous year should be included in the current assessment in order to evaluate the impact of changes made to the model, and to have those results as a fall-back option if the current model is unsuitable and rejected for OFL-determination.
2. In this assessment, stock losses due to natural mortality and retained catch are considered. Mortalities due to directed fishery discards and non-directed bycatch are not included; thus, handling mortality is explicitly set equal to zero. In the absence of observer data on discards and bycatch, the assessment should include a sensitivity analysis as to a plausible range of non-retained mortalities. Also, the approach used in the Bristol Bay red king crab assessment for estimating discard catch in the directed fishery should be investigated with the results compared to those from the zero non-retained mortality assumption.
3. The assessment should be updated for September 2009 with the 2008/09 retained catch in order to determine if overfishing was occurring in 2008/09.
4. Further analysis of the retrospective pattern in the assessment should be performed given concerns regarding the consistent pattern indicating an overestimate of biomass compared to the trawl survey.
5. The assessment should include an assumed bycatch and discard mortality.

The CPT also requested and the SSC concurs that subsequent assessments include an OFL calculation based on Tier 5. However, the SSC continues to encourage the author to work on the Norton Sound red king crab assessment model with a long-term goal of moving this stock to Tier 3. In particular, the SSC requests that likelihood profiles on natural mortality be included in the 2010 assessment to re-examine the results when bycatch mortality and discard are included in the model.

The SSC recognizes that the author made last minute adjustments to the SAFE chapter in response to CPT requests. Several sentences appear to be remnants from the earlier version and should be fixed. For example:

1. Page 15 2<sup>nd</sup> paragraph. The author should clarify that the information available for the assessment has changed since the publication of Zheng et al. 1998. The conclusions made in 1998 may not reflect the conclusions that would be made with the current model under different assumptions of the baseline natural mortality rate.
2. Page 17, first full paragraph, last sentence. This sentence appears to be in conflict with the recommendation for setting  $\gamma = 1$ .

### **Aleutian Islands Golden King Crab**

Public testimony was provided by Linda Kozak (Kozak & Assoc.) and Dick Tremaine (Norton Sound Economic Development Corporation).

The Crab Plan Team has determined that the assessment model for Aleutian Islands golden king crab is insufficient and should not be used. They recommend managing this stock under Tier 5 using a retained catch OFL. **The SSC agrees with Tier 5 designation for this stock, but had much discussion over the time period to be used to calculate catch averages.**

The Crab Plan Team recommends using the time period of 1990/1991-1995/1996, whereas the SSC continues to recommend the period of 1985/1986-1995/1996. The SSC and Crab Plan Team agree that data prior to 1985/1986 are not appropriate to include due to a reduction in minimum size limit in 1985. The Crab Plan Team argued that catches during 1985/1986-1989/1990 are inappropriate for OFL estimation because declines in average weight (4.5 to 4.1 lbs) and fishery CPUE (11.9 to 8.0 crabs per pot) during this period might be indicative of an unsustainable level of harvest. However, the SSC finds that those declines are rather small relative to variability over the history of the fishery. Moreover, the SSC notes that the fishery may have been affected by other factors, such as changes in fishing effort, market price, and other BSAI crab fishing alternatives. The SSC notes that the management system was relatively constant from 1985 onward. This provides another justification for using the longer time period to calculate catch averages. A longer time period likely provides a more robust estimate than a shorter time period

**The SSC recommends a retained catch OFL of 9.18 million pounds (same as last year) under Tier 5 based on average catch over 1985/1986 to 1995/1996.** The SSC looks forward to further improvements in model development in hopes that this stock can be managed under Tier 4 in the near future.

**The SSC endorses the detailed CPT comments on page 8 of the May 2009 Crab Plan Team Report,** which in summary are: (1) fits to size-composition data suggest model mis-specification; (2) need for clarity on fully selected F given that selectivity does not reach 1.0 at any size; (3) investigation of unexpected model results that suggest that some large crab are discarded; (4) consideration of whether eq. 25 is redundant with eq. 21 with clarification on what is observed vs. predicted and examination of model sensitivity to removal; (5) consideration that the penalty terms are in disparate units, which may have substantial effects on model performance; (6) fix typos on variables for C and D in eqs. 10 and 11; and (7) include scenarios both with and without commercial CPUE data consistent with previous SSC advice.

Table 1. SSC recommendations, June 2009

(Note: diagonal fill indicated parameters not applicable for that tier level while shaded sections are to be filled out for the final SAFE in September 2009 and bold indicates changes from the CPT recommendations.)

Chapter	Stock	Tier	Status (a,b,c)	B <sub>M<sub>SY</sub></sub> or B <sub>M<sub>SY</sub>proxy</sub>	Years <sup>1</sup> (biomass or catch)	2009 <sup>2,3</sup>		γ	Mortality (M)	2009/10 OFL mill lbs [retained]
						MMB	MMB / MMB <sub>M<sub>SY</sub></sub>			
1	EBS snow crab	3			1979-current [recruitment]				0.23 (males, immat.) 0.29 (mature females)	
2	BB red king crab	3			1995-current [recruitment] <sup>5</sup>				0.18 default, estimated otherwise <sup>4</sup>	
3	EBS Tanner crab	4		189.76	1969-1980 [survey]			1.0	0.23	
4	Pribilof Islands red king crab	4			1991-current [survey] <sup>5</sup>			1.0	0.18	
5	Pribilof Islands blue king crab	4		9.01	1980-1984; 1990-1997 [survey] <sup>5</sup>			1.0	0.18	
6	St. Matthew Island blue king crab	4			1989-current [model estimate] <sup>5</sup>			1.0	0.18 (1978-98, 2000-08); 1.8 (1999)	[total male catch]
7	Norton Sound red king crab	4	a	0.18	1983-current [model estimate]	5.83	1.9	1.0	0.18	0.7125 [retained]
8	AI golden king crab	5			1985/86-1995/96 [retained catch]					9.18 [retained]
9	Pribilof Island golden king crab	5			TBD [retained catch]					TBD [retained]
10	Adak red king crab	5			TBD [retained catch]					TBD [retained]

<sup>1</sup> For Tiers 3 and 4 where B<sub>M<sub>SY</sub></sub> or B<sub>M<sub>SY</sub>proxy</sub> is estimable, the years refer to the time period over which the estimate is made. For Tier 5 stocks it is the years upon which the catch average for OFL is obtained.

<sup>2</sup> MMB as projected for 2/15/2010 at time of mating.

<sup>3</sup> Model mature biomass on 7/1/2009

<sup>4</sup> Additional mortality males: two periods-1980-1985; 1968-1979 and 1986-2008. Females three periods: 1980-1984; 1976-1979; 1985 to 1993 and 1968-1975; 1994-2008. See assessment for mortality rates associated with these time periods.

<sup>5</sup> Revised EBS trawl survey time series data used

#### C-4(b) Bering Sea salmon bycatch data collection

Mark Fina (NPFMC) and Jeannie Heltzel (NPFMC) provided an overview of the minutes of the Comprehensive Data Collection Committee meeting on data collection needs for monitoring and assessment of the efficacy and impacts of Amendment 91. Alan Haynie (AFSC) and Ron Felthoven (AFSC) presented a discussion paper on AFA Pollock Fishery Data Collection and Salmon Bycatch Quota Program Analysis. The paper outlines a menu of data elements that could be collected and the types of questions the data could be used to address. Public testimony was provided by Glenn Reed (Pacific Seafood Processors Association), Stephanie Madsen (At-Sea Processor Association), and Brent Paine (United Catcher Boats).

The Council's purpose for the Chinook PSC avoidance data collection program is not clearly articulated resulting in some ambiguity regarding the choice of metrics to assess program performance with respect to that purpose and the data needed to address those metrics. The question is whether, in the Council's view, a functional Chinook PSC Avoidance Program is demonstrated by a simple reduction in Chinook PSC count in the AFA pollock fisheries or by an increase in net benefit to society. Data and analytic needs depend on which of these questions is central to the Council's purpose for program monitoring and evaluation. **The six sample analytic goals outlined in the discussion paper (page 3) could serve as a focus for refinement of the Council's purpose statement. The SSC notes that, while the discussion paper considers questions that address program effects on some aspects of the pollock fishery (e.g., incremental operating costs of compliance), it does not address questions that explore the broader extent to which PSC avoidance savings translate into increased returns of salmon to their streams of origin, nor how Chinook PSC avoidance compliance may impact profitability, sectoral economic stability, operational size-sector competitiveness, and consolidation with the regulated pollock sectors or value to the Native communities.**

The SSC recognizes the administrative and procedural time-constraints associated with Amendment 91 implementation (which is dependent upon data acquisition). The present target date of October 2009 for this action precludes a highly complex and elaborate data acquisition program. **The SSC suggests that consideration be given to a phased implementation of the data collection program.**

The structure of the salmon bycatch reduction program is unique. We do not have prior experience with similar programs off Alaska, or elsewhere. Thus there are no programs that can be used to judge the likely intended and unintended impacts of this program. Experience with other innovative management programs off Alaska suggests that unintended impacts are likely. Therefore, the SSC reiterates the need for a comprehensive program evaluation in the near future. As noted in our April, 2009 report:

**the efficacy and consequences ...of Amendment 91 should be subject to a thorough program review three to five years after implementation.**

The discussion paper could benefit from a formal listing of hypotheses that derive from the key questions and an appendix that describes models and hypothesis tests that would be used to explore the hypotheses. In addition, the appendix could assess the likelihood that the data to be collected would be sufficiently well-behaved to lead to rejection of null hypotheses.

#### D-1(a) Permit fees

The SSC received a presentation (via teleconference) on the draft RIR/IRFA from Ben Muse (NMFS-AKR). Public testimony was provided by John Gauvin (Best Use Cooperative).

The draft analysis contains a thorough review of benefits and costs involved in charging fees to cover the costs of issuing permits in various fisheries managed by the NPFMC. The SSC notes that some “special” types of permits (e.g., experimental fishing permits and food donation permits) may present “public goods” benefits. For these permits, benefits may accrue to a broader collection of beneficiaries (e.g., the public at large) in addition to providing benefits to the holders of these permits. **The SSC recommends that the draft analysis be released for public review.**

#### D-1 (b) ACL work plan

Jane DiCosimo (NPFMC), Grant Thompson (NMFS, AFSC), and Jack Turnock (NMFS, AFSC) presented information on the NPFMC’s Annual Catch Limit Workshop held May 21-22, 2009 at the Alaska Fisheries Science Center, Seattle, Washington.

Jane DiCosimo reviewed the actions needed to bring the Groundfish, Crab and Scallop Fishery Management Plans into compliance with the revised Magnuson Stevens Reauthorization Act (MSRA). The required actions outlined in these Action Plans differ by FMP and are detailed in D-1(b) (1-3).

The SSC provides the following general comments regarding the timeline for revising FMPs to comply with the MSRA. Altering the analytical approach for setting harvest specifications for groundfish, crab and scallops is an important activity that should be carefully analyzed, while the timeline for completion of these analyses is very short. **If the NPFMC elects to consider major modifications to the harvest strategy in the FMPs, then the scope of this analysis will be large because of the technical interactions between species and fishing sectors and different stakeholders involved, making it difficult to meet the required timelines for compliance with ACL provisions of the MSRA.**

The technical guidelines for the MSRA recommend that scientific uncertainty and management uncertainty be taken into account when setting annual catch limits. A summary of three approaches to assess scientific uncertainty in stock assessments that were discussed at the NPFMC ACL workshop were presented: 1) a qualitative approach, 2) a probability only (PO) approach, and 3) a decision theoretic (DT) approach. An example was presented that applied the PO approach but limited the source of uncertainty to trawl survey data. Next presented were results from an application of the PO approach to Tanner crab, which assessed the size of the buffers relative to the probability of exceeding the FOFL (including the sloping control rule) under different levels of uncertainty in F35%, natural mortality, maturity, and handling mortality. Finally, the DT approach used a factorial analysis to assess the magnitude of the uncertainty buffer under various assumptions of absolute risk aversion and different levels of uncertainty in natural mortality, process error at all ages except age-0, recruitment (Age-0), and relative spawning per recruit. The SSC noted that the PO and DT approaches were highly technical and we did not have sufficient lead time to review the methodology and were therefore unable to make recommendations on a preferred analytical approach to assessing uncertainty.

The SSC notes that the qualitative approach would require several judgment calls on weights and buffers and suggests that it would be useful to list the sources of uncertainty that have not been addressed. However, the SSC does not believe that authors should attempt to make judgment calls on the magnitude of the uncertainty and the weights or the buffers. The SSC was informed that assessing all sources of uncertainty in the assessment was not a requirement of the MSRA, so simplicity is desirable in the formulation of the amendment packages.

**The SSC recommends to stock assessment authors that if harvest strategies are modified to explicitly incorporate uncertainty in the buffer between OFL and ABC, then authors should strive to select the “best estimate” for parameterizing models and not the most precautionary estimate.**

**Groundfish FMPs:**

Preliminary review of proposed Amendments to the GOA and BSAI Groundfish FMPs is scheduled for October or December 2009. Actions required to modify the FMPs are outlined in Agenda Item D-1(b)(1).

In the case of groundfish management, a buffer currently exists between the OFL and the ABC (ACL). Thus, it is expected that the groundfish management strategy will be compliant with the provisions of the technical guidelines for the MSRA. The key activity will be to assess the level of precaution currently afforded by the management strategy for the groundfish stocks or stock complexes. It was reported that NMFS groundfish assessment authors plan to apply the PO and DT approaches to assess the performance of the current harvest strategy. These analyses should be completed by August 1, 2009. **The SSC supports this activity and will comment on the results at the October NPFMC meeting.**

It was reported that analyses of species currently listed in the Groundfish FMP's will be needed to determine which species or species groups should be included in the FMP and which of these species within the FMP should be managed as Ecosystem Components (EC) or as components "in the fishery." One strategy would be to remove non-specified species from the FMP and to consider forage fish and prohibited species as candidates for EC management. NMFS analysts presented a vulnerability assessment tool at the NPFMC workshop that considers the susceptibility of a species to fisheries and the productivity of the species. Workshop participants recommended that the vulnerability of forage species, target species, non-target species (members of the other species complex), and prohibited species should be assessed over the summer. **The SSC supports the recommendation to conduct the vulnerability analysis and will comment on management category assignments at the October Council meeting.**

**Crab FMP**

Preliminary review of the proposed amendments to the BSAI crab FMP is scheduled for June 2010. Actions required to modify the BSAI crab FMP are outlined in Agenda Item D-1(b)(2).

It appears that the major change required is that ABCs (ACLs) will have to be determined in addition to OFLs. **The SSC seeks clarification about ACL requirements and their role in ACL determinations in FMPs in which TAC-setting has been deferred to the State of Alaska.**

**The SSC reiterates concern that the current timeline for review of OFL determinations for crab stocks does not allow a SSC review of the final OFL recommendations prior to the release of the TACs by the State of Alaska.** Hopefully, this issue will be revisited by the Council and Board of Fish.

If the Crab FMP is modified to provide an ABC (ACL) control rule, it should explicitly consider uncertainty. Workshop participants suggested that the PO and DT approaches could be considered as a method for setting the buffer between ABC (ACL) and OFL. The workshop report suggested that groundfish could be used as a starting point: the analysis should include a table, by tier category, with the implied assumptions regarding P\* or the level of risk aversion underlying each buffer. However, the SSC noted that crab assessment authors do not necessarily need to tie their selection of uncertainty buffers to the results from the retrospective analysis of the performance of the groundfish harvest strategy. The SSC recommended that crab stock analysts work over the summer on PO techniques like that presented for Tanner crab. This PO approach could be extended to Tier 3 crab stocks using model estimates of OFL including uncertainty in current biomass,  $F_{35\%}$  and  $B_{35\%}$ . There are several outstanding sources of

uncertainty in crab assessments including: biomass measure (male limited), vulnerability and spatial differences in growth and reproductive processes.

### Scallop FMP

Preliminary review of proposed Amendments to the Scallop FMP is scheduled for June 2010. Actions required to modify the BSAI scallop FMP are outlined in Agenda Item D-1(b)(3). The SSC notes that, like crab, major modification of the Scallop FMP will be needed for ACL specification. **As in the case of crab, the SSC had uncertainty about ACL requirements and the SSC role in ACL determinations in deferred management situations.**

The SSC reviewed alternative approaches for the scallop ACL analysis (item 38 in the workshop report). **The SSC concluded that the approaches identified by the workshop participants represented a reasonable suite of alternatives.**

### D-2(a) Trawl Sweep requirements in the Bering Sea flatfish fishery

The SSC received a presentation of an initial review draft of the EA/RIR/IRFA for this action from Diana Evans (NPFMC) and Melanie Brown (NMFS-AKR). Public testimony was received from John Gauvin (Best Use Cooperative) and George Pletnikoff (Greenpeace). The SSC reviewed a discussion paper on this action in February 2007, and thanks the analysts for their efforts to address SSC comments from that time. The analysis reports on a potentially economically and environmentally desirable fishery technology change, which should be regarded as a good first step to reduce adverse fishing impacts imposed by Bering Sea flatfish trawls on the benthic ecosystem.

The SSC notes that the option to expand the boundaries of the St. Matthew Island Habitat Conservation Area (SMIHCA), as presented in the analytical document, has little obvious relation to the modified trawl sweep requirement and recommends that the document be clarified to explain why gear modification and area restrictions are being considered simultaneously. While the draft EA/RIR/IRFA provides sufficient information in relation to the proposed action requiring use of modified trawl sweeps, the same is not true for the alternatives that consider opening of the modified gear trawl zone (MGTZ or “wedge”) or the proposed expansions of the SMIHCA boundaries. **Therefore, the SSC recommends that the draft not be released for public review and that a revised document should be reviewed by the SSC when these issues have been addressed.**

Specific recommendations for improvements to the document are:

- Modify title of document to better reflect all of the actions contemplated. The current title refers solely to trawl sweep modifications, but should also refer to the proposed changes to boundaries of the MGTZ, SMIHCA, and the Northern Bering Sea Research Area.
- Include a detailed map of the distribution of NMFS trawl survey tows in relation to the MGTZ and the SMIHCA and analysis of the species composition of tows occurring in those areas.
- Include input from Crab Plan Team (CPT) on the proposed changes to the SMIHCA boundaries. It was noted that agency members of the CPT could access confidential information to aid in developing their recommendations. Alternatively, a waiver could be sought.
- Add depictions of MGTZ and SMIHCA options to all maps of fishing effort, target species, non-target species, marine mammal, and seabird distributions, especially those for blue king crab.
- The definition of the 2.5 inch clearance performance standard for modified sweeps needs to be clarified in the RIR. As written, the performance standard requires that a minimum of 2.5 inches clearance “from the bottom” or “from the substrate” must be maintained, clearly an unenforceable

standard, and contrary to the definition of the performance standard in the draft regulatory language.

- Statements regarding the effects of modified sweeps on invertebrates (e.g. page vii) should be qualified to indicate size and statistical significance of effects.
- Discussion of potential effects of MGTZ and SMIHCA options on seals, walrus, seabirds, and subsistence resources should be expanded. There is a known walrus haul-out on the east side of St. Matthew Island, and known high densities of some seabird species in the area directly east of St. Matthew Island.
- Tables 1 and 34 state that “reduction in impacts is expected to improve the productivity of fish stocks beyond what they would have been under the status quo.” This statement needs to be modified to reflect the finding of no substantial beneficial impact to habitat from the adoption of Alternative 2 in the EA, and similar findings on page 115 of the RIR.

Alternatives 2 and 3 were reviewed by the SSC as part of the Amendment 89 analysis, at which time concern was expressed about requiring the gear modification. The concern was based on small sample sizes, limited habitats sampled, and limited information on impacts to target catch rates, bycatch rates, and PSC rates. While additional work has been conducted on effects of modified sweeps on benthic habitats, the SSC notes that no additional research has been conducted on target species catch rates, bycatch rates, or PSC rates. The SSC recommends that, if the MGTZ is opened, the NMFS trawl survey should be expanded into that area. In addition, at least 100% observer coverage should be required on all vessels fishing in the MGTZ.

Discussion of economic impact and small entity implications of the proposed alternative fishing area changes in the document is inadequate. For example, there was no discussion regarding impacts to other fisheries that may be affected by changes in the definition of SMIHCA. As a result, the public would be unlikely to find the necessary data and analysis in the current document to understand the relative benefits and costs of those actions, and to whom these may accrue.

The SSC notes that if the Council wishes to move forward with Alternative 2 (require modified trawl sweeps in Bering Sea flatfish fisheries) at this meeting, this could be separated from the MGTZ alternative and SMIHCA option, but that this may not be optimal for some stakeholders.

#### **D-2(b) Catch specifications for BSAI skates**

The SSC heard a presentation by Jane DiCosimo (NPFMC) on the need to adopt Amendment 95 to the BSAI Groundfish FMP. The purpose of the amendment is to manage skates as a target species category, rather than have them included in the Other Species category. The amendment also specifies the maximum retainable amounts (MRA) for skates.

Skates are long-lived species with low fecundity, and therefore are vulnerable to overfishing. As presently managed in the other species category, a fishery for skates could develop using the entire ABC and TAC for all species in the Other Species category. To provide more protection for skates in the BSAI, Amendment 95 assigns skates to the Target Species category, thereby requiring the NPFMC to establish annually OFL, ABC and TACs for skates, as is presently done for skates in the GOA.

The proposed Amendment will provide the desired management control without significantly impacting other fisheries or ecosystem components. The analysis is complete and well justified. We commend the authors on including a discussion of the MRA issue and the potential for the proposed changes to MRAs to allow an increase in skate catch. **The SSC recommends that the draft document be released for public review.**

### **D-3(a) Status Report on HAPC process**

In preparation for the next RFP process for HAPC sites, the SSC formed an ad-hoc group composed of SSC and plan team members to review HAPC proposal evaluation criteria. The workgroup has just been formed and a chair has been assigned. The workgroup will meet over the summer to design a set of rating criteria that will be used to evaluate candidate HAPC sites. These criteria will be presented to the Plan Teams in September and to the SSC and Council in October.

### **D-3(b) Northern Bering Sea research plan**

The Alaska Fisheries Science Center (AFSC) is preparing a research plan for the North Bering Sea research area (NBSRA), as stipulated under Amendment 89 to the BSAI groundfish FMP. Cynthia Yeung (NMFS-AFSC) presented a draft outline of the research plan developed by an AFSC workgroup. The workgroup seeks guidance from the SSC on the plan outline, the proposed trawl studies, and recommendations for a future workshop. Public testimony was given by Arthur Lake (Bering Sea Elders Advisory Group), John Gauvin (Best Use Cooperative), and Dorothy Childers (Alaska Marine Conservation Council).

The draft outline identified four components: (1) preliminary trawl surveys to establish baselines; (2) nonpelagic trawl impact studies; (3) fishery-dependent research; and (4) ecological studies. Only component 2 was described in any detail. The outline is obviously in an early stage of development, and was provided as a starting point for discussion.

The draft plan stated that there is a “lack of baseline information on the bottom habitats and community ecology of the North Bering Sea (NBS) for assessing the effects of nonpelagic bottom trawling”. Although it mentions the ongoing BEST/BSIERP studies in the NBS, the outline does not fully acknowledge the scope of these and other studies that have occurred in the area over the past three decades. Areas utilized by marine mammals, seabirds, crab, listed species, and subsistence resources and users should be mapped. These data should be compiled and integrated either as part of component 1 of the new research plan, or as a new separate mapping and retrospective analysis component. The results of this retrospective analysis may inform the experimental study design and designation of trawl/no trawl areas.

The SSC suggests the expansion of the AFSC summer trawl surveys into the NBSRA to collect data and monitor benthic communities in the NBSRA. Such new survey data will be important to estimate potential fishery resources as well as species that may be impacted.

The before-after, control-impact (BACI) experimental design appears to be appropriate for investigation of the impact of nonpelagic trawling on the benthic environment (component 2). However, the authors should clarify details of the proposed experiment, such as whether there is spatial overlap of trawl and control study sites, what constitutes a modified research trawl compared to commercial trawls, and how the impacts of research trawls and survey trawls will affect the results. The research plan could consider using low impact sampling methods such as submersibles or ROV's. Also, the design might consider the potential effects from pelagic trawlers, which occasionally have bottom contact, to minimize these influences on study results. The authors should also clarify whether experimental areas will be open to commercial fishing or only under research charters to commercial vessels.

Component 3, ‘Fishery-dependent research’ is not well described in the document, but it includes recommendations for areas within the NBSRA that should not be opened to bottom trawling. The SSC concludes that the proposed nonpelagic trawling boundary of 63<sup>0</sup>N parallel (north with no trawling, south

with experimental trawling) is arbitrary and has no physical or biological basis other than roughly dividing the NBSRA into equal parts. The 63°N cuts through the St Lawrence Island Conservation area and omits most of the Spectacled Eider Critical Habitat Area. The SSC suggests that part of the goal of the proposed workshop should be to define these boundaries, and should include asynthesis of detailed maps and information on the distribution of benthic habitats, non-target and protected species, as well as resources important to Native community subsistence users.

The explanation of the 'Ecological studies' component is sparse and general, so it is difficult to comment on how this might integrate into the whole plan. In the introduction the authors note the potential for direct and indirect effects of nonpelagic trawling on protected species and higher trophic levels in general. However, the current study plan outline does not address these effects, other than reference to ecological studies, and refers only to 'affected benthic invertebrates and their linkages to managed fish stocks'. This component of the plan should more fully explain how it will integrate linkages to upper trophic levels, including eiders, whales, walrus, and subsistence resources. In addition, the impetus for the NBSRA study plan is the potential redistribution of fisheries due to climate change, yet the outline does not indicate how it will incorporate environmental change into the plan. Some research (e.g., Grebmeier) has already indicated that ecological changes are occurring in this region owing to climate change.

The SSC agree with the proposal to convene a workshop to prepare a detailed research plan. The SSC recommends that at least two workshops be convened, with the first occurring in Alaska and at a time when members of Bering Sea communities can participate. Two potential meetings in 2009 include the October 22-24, Alaska Federation of Natives, and the December 1-5 BIA Providers Conference, both to be held in Anchorage. Native communities should be brought into this process early, and should be provided with guidance as to information that could be of value for the workshop. For instance, information on harvested subsistence resources and subsistence harvest areas is critical. The second workshop could occur in Seattle or Anchorage to accommodate researchers, and would benefit by inclusion of investigators from historic and on-going studies such as OCSEAP, St Lawrence Island Polynia Studies, cetacean research, and BEST/BSIERP. Identification of subsistence and other resources in advance would help identify appropriate scientists to invite. In addition to researchers, this second workshop should include some managers to identify potential management alternatives and council information needs, questions, and priorities. The workshops should also include members of the fishing industry to identify interest in potential commercial species and areas. Participants from ADF&G and federal agencies with specific knowledge of subsistence practices should also be included.

The SSC recommends that the research plan include a timeline of expected task completions and products, such as scheduling of workshops, deadlines for completed maps, and when to complete the priority list of research questions. The plan should identify priorities for protected resources, areas of interest to industry, and areas important to communities for subsistence, including the habitats that support subsistence species. The SSC heard in public testimony that included industry representatives, that there is no rush to have a final research plan in place. The current timeline may not allow for a fully informed process, and it is important that the draft plan include management issues and involve all interested parties. **The SSC requests clarification from the Council on the timeline for development of the NBSRA research plan, which was stated in the presentation as 2010 but may have been changed to 2011.**