

ADVISORY PANEL MINUTES
September 30, 2002 to October 5, 2002
Doubletree, SeaTac, Washington

Advisory Panel members in attendance:

Alstrom, Ragnar	Fraser, Dave
Benson, Dave	Fuglvog, Arne
Boisseau, Dave	Kandianis, Teresa
Bruce, John (Chair)	Jacobsen, Bill
Burch, Alvin	Mayhew, Tracey
Cross, Craig	Norosz, Kris
Ellis, Ben	Olson, Eric
Enlow, Tom	Preston, Jim
Falvey, Dan	Ridgway, Michelle
Fields, Duncan	Steele, Jeff
Farr, Lance	Stephan, Jeff
	Yeck, Lyle

C-1 CRAB MANAGEMENT

The AP recommends releasing the Community Protection, Binding Arbitration, Captain QS, and Sideboards trailing amendments for public review with the following revisions/additions: *Motion passed 18/1.*

Community Protection: The AP recommends the Council create a committee with community and industry representatives to further develop the two community protection alternatives by identifying additional issues and options, such as direct allocations of PQS to communities, for the Council to consider and in doing so, address concerns expressed by NOAA GC. In addition, the committee would develop the “right of first refusal” alternative and provide additional issues and options for the Council’s consideration. *Motion passed 12/9.*

Further, the AP recommends adding the following options to section 3.6.4 - Maximum IPQ allocation:

for the opilio fishery, (maximum harvest in 1992-2002, 313 million lbs., minimum 22 million)

Option 3: IPQ percentage times a TAC of 100 million pounds.

Option 4: IPQ percentage times a TAC of 50 million pounds.

for Bristol Bay red king crab, (maximum harvest 1992-2002, 14.5 million, minimum 0)

Option 1: IPQ percentage times a TAC of 10 million pounds

Option 2: IPQ percentage times a TAC of 5 million pounds

for the Eastern Aleutians brown crab fishery, (maximum harvest 1992-2002, 5.4 million)

Option 1: IPQ percentage times a TAC of 4 million pounds

Option 2: IPQ percentage times a TAC of 2 million pounds

for the Western Aleutians brown crab fishery, (maximum harvest 1992-2002, apx. 4 million)

Option 1: IPQ percentage times a TAC of 3 million pounds

Option 2: IPQ percentage times a TAC of 1.5 million pounds

for the Bairdi fishery, (maximum harvest 1992-2002, 35 million lbs., minimum 0)

Option 1: IPQ percentage times a TAC of 30 million pounds

Option 2: IPQ percentage times a TAC of 20 million pounds

Option 3: IPQ percentage times a TAC of 10 million pounds

for the St. Matthews blue king crab fishery, (maximum harvest 1992-2002, 4.6 million, min. 0)

Option 1: IPQ percentage times a TAC of 3 million pounds

Option 2: IPQ percentage times a TAC of 1.5 million pounds

for the Pribilof red and blue king crab fisheries, (maximum harvest 1992-02, 2.6 million, min. 0)

Option 1: IPQ percentage times a TAC of 2 million pounds

Option 2: IPQ percentage times a TAC of 1 million pounds

Add an option to attach a regional designation to all alternatives.

Motion passed 12/6/4

Minority Report

The undersigned opposed the motion to expand the options under 3.6.4 - Maximum IPQ allocation. The original request for analysis under the community protection trailing amendment was confined to an opilio IPQ threshold of 150 and 200 million lbs. This motion expands to all crab species and adds more restrictive thresholds which would have been exceeded in a majority of past seasons. As an example, proposed option 4 for opilio IPQ threshold is 50 million lbs. This would have been exceeded in 10 of the past 13 seasons and would have limited IPQ to less than 45 million lbs. Similarly, for BBRKC, the option 2 limit of 5 million lbs would have constrained IPQs in each of the last 15 seasons.

Limiting IPQs to restrictive thresholds diminishes the value of investments made by processors, and is simply an attempt to tip the bargaining balance in favor of harvesters. From the analysis: page 3.6-13: "Increasing the share of the fishery that is not subject to IPQ delivery requirements will increase the bargaining strength of the harvesters." It provides little benefit to communities even if the newly created B shares are regionalized.

Signed: Kris Norosz, Tom Enlow, Dave Boisseau and Dave Benson

Binding Arbitration: The AP recommends the Council request NOAA GC provide a legal opinion on anti-trust issues associated with binding arbitration using a fleet-wide single event vs binding arbitration with individual processors. We further request the committee address the issues of uniformly applying quality standards at time of delivery and develop options for a price smoothing function under model 5. *Motion passed 22-0.*

Captain QS: The AP recommends expanding the definition of active participation in section 1.8.1.7 to include evidence from other verifiable sources. *Motion passed 22-0.*

Crab Sideboards: The AP requests staff expand discussion on how sideboards would be applied to each vessel, LLP transfers, and a cooperative agreement. *Motion passed 22-0.*

Data Collection: The AP believes the program must fulfill two tasks: first, to provide data to support which ever structure is chosen for binding arbitration and make the necessary data available to the market analyst and arbitrators in a timely manner. Second, to provide socio-economic information to evaluate the long-term impacts of rationalization. With respect to socio-economic information, the AP notes that rationalization programs may have significant impact on crew members in terms of employment and crew share. We request the data committee examine additional means of gathering information to determine the impacts of rationalization on crew members with a history in the crab fisheries.

We request the committee identify data and collection means necessary to fulfill both tasks and to provide an estimate of the costs associated with this program.

The AP further requests staff work with community representatives to identify data sources necessary to track demographic changes in communities as a result of crab rationalization.

Motion passed 20/0/1.

Additionally, the AP requests an additional sunk vessel provision for persons whose eligibility to replace their vessel was denied under PL 106-554. The sunk vessel must have been replaced with a newly constructed vessel or and have been under construction by June 10, 2002 for a person to receive a benefit under this provision.

For each of the fisheries for which such a vessel holds valid endorsement, for all seasons between the sinking of the vessel and the entry of the replacement vessel to the fishery within the IRS replacement period (as extended by IRS, if applicable) allocate QS according to (50-100%) of the vessel's average history for the qualifying years unaffected by the sinking. *Motion passed 22-0.*

C-1 (d) Bering Sea Crab EIS

The AP requests the Council add the following options to the EIS:

Option 1: add analysis of different ratios of "A" and "B" shares

- a. 80/20
- b. 70/30
- c. 60/40
- d. 50/50

Option 2: add analysis of a new option for processor quota - Processor Aggregate Quota.

The qualification rules for processors remain the same, as do all other particulars of the program except the portion of quota allocated to qualified processors (90%, 80%, etc) is allocated to the class of qualified processors, not as individual transferrable quota. "Processor qualification" may be transferred and consolidated with new suboptions describing the limitations on this activity.

Suboption 1) Stacking. No more than

- A.. 2
- B. 3

Processor Qualifications may be stacked

Suboption 2) caps.

- A. The present AFA caps on processing of crab shall apply
- B. The AFA caps on processing of crab will be removed.

Motion passed 11/7/4.

Minority Report

We, the undersigned, believe that Option 1 of the motion calling for analysis of alternate processor quota share discounts, has already received analysis and that the sufficiency of that analysis will be adequately demonstrated in the appendices of the formal EIS document.

We also believe that Option 2, calling for an analysis of the distribution of processor quota shares in aggregate, previously presented to the AP in June 2002, but unable to obtain a majority, is counter to the form of rationalization intended by the Council as plainly indicated in the Council's choice of a preferred alternative in June 2002.

Signed, Jeff Steele, Tom Enlow, David Boisseau, David Benson, Lance Farr, Kris Norosz

C-2 (c) Steller Sea Lion Management Measures - Cape Sarichef closure

The AP recommends the Council adopt alternative 4 with the closure contingent on the continuation of the experiment. *Motion passed 19/1.*

C-4 IRIU

The AP recommends the Council adopt alternative three (3) to delay implementation of IRIU flatfish regulations for a period of three (3) years. However, if possible, superceding regulations would be implemented prior to the end of the three year exemption period. *Motion passed 21/1.* Additionally, the AP recommends the following:

Adoption of Alternative four (4), exempting fisheries with less than a 5% IRIU flatfish bycatch, to be adopted upon implementation of IRIU flatfish regulations and that the 5% IRIU flatfish bycatch rate retention exemption be established using a three (3) year rolling average and that the retention exemption be reassessed annually.

Further, the AP recommends the Council initiate analysis on the three trailing amendments identified by the IRIU committee, as amended by the following, with the understanding that these amendments are interactive in nature and should be analyzed standing alone, and in combination. The Council should clarify that these amendments are limited to BSAI fisheries.

1. Amendment A: Establish Prohibited Species Bycatch Reduction Co-Operatives
 - a. Decision Point 8 — The AP requests the IRIU technical committee further define options for transferability - specifically, can catch history be separated from the vessel, from the LLP and can catch history be subdivided. Further we request the committee provide options for second generation entry into bycatch co-operatives in the event a limited number of co-op form, controlling all available PSC.
2. Amendment B: Create Bycatch caps (Discard Caps) for the Flatfish Fisheries
 - a. No Changes
3. Amendment C: A Minimum Groundfish Retention Standard as an Alternative to Flatfish Retention Requirements
 - a. Decision Point 5:
 1. Eliminate section 5.1: Daily
 2. Add Decision Point 6: Can the groundfish retention limits be measured across groups or pools?
 - 6.1 Groundfish retention limits can be measured across pools
 - 6.2 Groundfish retention limits cannot be measured across pools
 3. Add Decision Point 7: Does a general groundfish retention standard, that isn't species specific, supercede the current pollock and cod retention standard?
 - 7.1 For all fisheries
 - 7.2 For all non-pollock fisheries.

The AP recommends that under Amendment C the following language be included in the preamble. “The purpose of this amendment is to encourage fishermen to avoid unwanted catch, increase utilization of fish that are taken, and, thus, reduce discards of whole fish to the extent practicable (1997 IRIU EA/RIR/IRFA). Additionally, the AP recommends the Council request NOAA General Counsel to issue an opinion regarding definition of “Bycatch Reduction” under the Magnuson Stevens Act inclusive of the concepts of bycatch reduction by rate and/or amount.

The AP further recommends that the 5% flatfish IRIU discard rate exemption, should it be implemented in 3 years for Gulf of Alaska Fisheries, be re-examined as part of the Gulf of Alaska Rationalization Initiative.

Motion carries 18/2/1.

C-5 EFH

The AP recommends the Council release the EFH and HAPC designations for public review. *Motion passed 18/0.* Additionally, the AP requests the Council consider the following modifications to the committees' frameworked mitigation alternatives:

- adopt the EFH committee's mitigation alternatives including alternative 4 and alternative 9. *Motion passed 18/0*
- treat the gear modification portion of Alternative 4 as a suboption so that the analysis shows the relative effect of the gear-modification component vs the area restriction component of the measures. *Motion passed 18/0*
- direct the EFH committee to refine the designated open areas in Alternative 9. *Motion passed 18/0*
- delete alternative 7. *Motion passed 16/2*

The following motion failed 14/3 after reconsideration: *add an Aleutian Island open area component to the mitigation Alternative 3. Motion passed 17/1*

To accomplish these goals in a way that the Council, agency and the public can best evaluate the proposed measures, the AP requests that the SEIS include following as practicable:

1. Clarification that task of EFH mitigation measures is to reduce habitat degradation that has or has the high probability of negatively impacting the productivity of FMP species.
2. An assessment of the productivity of the FMP species using the SAFE documents and other available information.
3. Information or evidence linking any adverse effects on the productivity of the FMP species to fishing.
4. Evidence that the proposed mitigation measures will properly mitigate specific adverse impacts to FMP species.
5. An assessment of the level of certainty of information used to determine adverse impacts, linkages to fishing and effectiveness of proposed measures to mitigate specific adverse effect.
6. A cost benefit analysis to determine the "*practicability and consequences*" of adopting proposed mitigation measures. This should also include an assessment of unintended consequences such as increased bycatch and bycatch-triggered closures.
7. An assessment of the costs and benefits of measures already imposed to protect the FMP species including the Bering Sea crab and Pribilof habitat closure areas, salmon, herring, walrus and Steller sea lion closures, and similar closures in the GOA including the Eastern GOA trawl closure and the Mt. Edgecomb Pinnacles and any other closed areas that restrict impact on local habitat.
8. The two million metric ton cap in the BSAI should also be factored in as an existing mitigation measure since the proposed alternatives recommend that TAC reductions should accompany area closures to further protect habitat by reducing fishing effort.
9. A table that compares the proposed mitigation measures, any adverse impacts to FMP species, certainty of scientific information used to determine adverse impact, projected effectiveness and cost of measures to coastal communities and industry participants and projected unintended consequences.
10. An evaluation and comparison of each alternative to the requirements of the National Standards.

Motion passed 18/0.

Additionally, the AP recommends the Council request staff to solicit public input on the frameworked EFH mitigation alternatives prior to the December council meeting. *Motion passed 18/0.*

C-6 Gulf of Alaska Rationalization

The AP requests the Council endorse the letters and information request (Appendix 1-4) drafted by the GOA working group. We further request the work group receive a response by November 1st, if possible. *Motion passed 22/0.*

C-8 Observer Program

The AP recommends the Council support the work of the OAC, and task them to develop a problem statement and alternatives to be presented at the December meeting. *Motion passed 17/0.*

C-9 (a) Pacific cod sideboards

The AP requests that Alternative 2 be amended to read: Limiting access to the directed trawl fishery for Pacific cod in January and February in area 655430 to open access vessels which have a history of economic dependency upon the winter Bering Sea Pcod fisheries, demonstrated by average January and February deliveries of at least 250,000 lbs for 4 out of 5 pre-AFA years of 1995-1999 and to the cod exempt AFA vessels. Additionally, the AP would like to send out the document for public review, with the following comments from their April 2002 minutes: *Motion passed 21/0.*

The information in the draft EA for amendment 73 and in public comment indicates that the concerns of the 3 “traditional cod vessels” may have components other than direct AFA impacts. This issue requires a broader problem statement than the proposed "prevent AFA impacts" problem statement.

Problem Statement.

The problem statement should be revised to incorporate elements of the problem statement the Council developed for the fixed gear split and cod endorsement analysis which focused on preventing impacts to vessels with a history of investment and dependence on cod from the entry of new vessels.

The Analysis

The analysis should attempt to distinguishing AFA impacts from other elements are at work that impact CV cod vessels, both AFA and non-AFA. Areas that should be explored in the analysis include:

- a) TAC changes - The absolute amount of catch per vessel is partly a function of TAC changes (270,000 MT in 1997 vs 188,000 MT in 2001). Cod TACs have been lower in recent years, so on average most vessels have seen reductions in catch that may not reflect a change in the share of the catch
- b) SSL regulations in place in various years (area closures and seasonal apportionments) that have reduced the available grounds and intensified the need to race for the seasonal apportionment.
- c) Latent licenses becoming more active through the entry of non-AFA vessels without a long term dependence on the cod fishery may have eroded the historic share of the traditional non-AFA cod. (RAM LLP database show there are 38 CV non-AFA trawl permits for the BS in addition to the 3 “traditional” non-AFA vessels)
- d) Increased effort by the pot cod fleet, particularly in 2000 when opilio was delayed, may have reduced the area available to the trawl CV's.

Questions for the analysis:

How many latent licenses exist in the Bering Sea CV trawl sector for non-AFA vessels?

What are the participation patterns for AFA and non-AFA Bering Sea CV's in the cod trawl fishery at various thresholds i.e., 250k, 500k. (the "Matulich" style figures used in the fixed gear cod endorsement analysis)?

What are the catch history shares from 1995-2002 as a % of TAC of:

- the 3 traditional cod vessels
- other "latent"(?) non-AFA catcher vessels
- the AFA non-exempt vessels
- the AFA exempt vessels
- non-LLP endorsed trawl CV's fishing in state waters

What are the post AFA catch shares from 1995-2002 as a % of TAC and the daily/weekly participation patterns of:

- the 3 traditional cod vessels
- other "latent"(?) non-AFA catcher vessels
- the AFA non-exempt vessels
- the AFA exempt vessels
- non-LLP endorsed trawl CV's fishing in state waters

CPUE - Does a statistical analysis demonstrate there are significant changes to CPUE that are directly attributable to change in the number of vessels on the grounds during January and February, separate from inter-annual variation in CPUE?

Has redistribution of effort under AFA provided offsetting benefits in market opportunities and reduced competition in March?

Alternatives

The alternatives should be expanded to include:

- eliminating latent licenses in the BSAI CV cod fishery
- limits on the number of AFA vessels fishing prior to the 5th week of the fishery in stat area 655430
- rationalization of the BSAI CV cod trawl fishery

Finally, the AP endorses the SSC's comment encouraging the parties to continue working towards a negotiated agreement.

Motion passed 18/0.

C-10 (a) Halibut Management

The AP recommends NMFS and the Council continue working on both the GHL and IFQ packages. We request NMFS clarify the legal issues associated with the GHL and other trigger/response issues used by the Council for management purposes. We also concur with the SSC's recommendation to further examine the log book data issue and provide the Council with an update in December. *Motion passed 18/0.*

C-10 (c) Akutan request

The following two motions failed:

The AP recommends the Council initiate modification to Amendment 66 to allow Akutan to be an eligible community to purchase commercial halibut and sablefish QS. Failed 5/10/2.

The AP recommends that this issue, and those affected by it, should confer with the Aleutian East Borough, the State of Alaska, and APIDCA. The AP is sympathetic and recognizes the uniqueness of this situation. We further request the Council schedule this report at a further time. Motion failed 7/8/2

D-1 (b) TAC Setting Process

The AP recommends the Council delay final action and analyze the two MCA alternatives, and that NMFS provide a report of the legal review of those alternatives at the December meeting. *Motion passed 18/0.*

D-1 (c-f)

The AP recommends the 2003 BSAI TAC be set equal to the 2002 TAC, except for Northern rockfish which would be set equal to the 2003 ABC, due to concerns of decreased biomass projections, Atka mackerel TAC was set equal to the 2003 ABC, and yellowfin sole TAC was set at 10,000 mt below the 2002 TAC to account for the increase in the Atka mackerel TAC. *Motion passed 15/2/1.*

Additionally, the AP requests the Council breakout shortraker/rougheye and northern rockfish in the Aleutian Islands by East, West and Central AI districts and EBS, (as is done for POP), contingent on NMFS ability to treat CDQ rockfish allocation once reached, as a PSC prohibited species (discard status) rather than a cap. Motion failed 7/9/2.

The AP also recommends the Council initiate a discussion paper for review at the December meeting regarding splitting out the Rockfish TAC's by area and district for the BSAI. *Motion passed 18/0.*

The AP recommends that the PSC's be set at the interim level (25%) as per the aggregates in table D-1 (d)(4) with the exception of rockfish which will be set at 0. *Motion passed 17/0.*

Further, the AP recommends the Council draft a letter to NMFS requesting they consider redefining "overfishing" and "overfished" so that the SAFE evaluations can be used. *Motion passed 17/0.*

Finally, the AP recommends rolling the 2002 VIP rates to 2003 for the first half of the year. *Motion passed 18/0.*

GOA

The AP endorses the SSC's recommended 2003 ABC's and recommends setting the TAC equal to ABC's with the following exceptions:

1. Pacific cod W=14,777
C=21,743
E=2,273
TOTAL=38,793

2. For SW flatfish, flathead sole, arrowtooth flounder and other slope rockfish, set 2003 TACs equal to 2002 TACs. *Motion passed 17/0.*

PSC

The AP recommends that the Council set trawl halibut cap at 2000MT, and set hook and line halibut cap at 300MT. Additionally, the AP recommends the PSCs be set as apportioned in the table. *Motion passed 17/0.*