

**Testimony of Mr. Chris Oliver, Executive Director
North Pacific Fishery Management Council**

**Before the
Committee on Resources
United States House of Representatives**

October 27, 2005 in Washington, D.C.

Good afternoon and thank you for the opportunity to testify today. In previous testimony to the subcommittee, in November 2004 and July 2005, our Council Chair has provided materials outlining the North Pacific Council's conservative, ecosystem based approach to fisheries management, including specific examples of how the current system, guided by the existing Magnuson-Stevens Act (MSA), can work very successfully. I have reiterated much of that information in my written comments for today's hearing, and will briefly review the highlights of our management system, then focus some additional comments on a few of the most critical issues that are the subject of current MSA reauthorization efforts.

Highlights of North Pacific Fisheries and Management Approach

Primary fisheries managed by the North Pacific Council include Bering Sea/Aleutian Islands and Gulf of Alaska groundfish (Pacific cod, Pollock, flatfish species, rockfish species, Atka mackerel, sablefish), Bering Sea crab, scallops, and Pacific halibut. Groundfish harvests have ranged between 3 and 5 billion pounds annually since 1976, with a current exvessel value close to \$1 billion, prior to any value added processing. No managed groundfish stock are overfished and the three crab stocks that are defined as overfished are the subject of aggressive rebuilding plans, including no harvest allowance.

All federal water fisheries are managed under some type of limited entry/capacity reduction program. A moratorium on entry to all groundfish fisheries was implemented in 1995, followed by a strict license limitation program approved in 1998. Halibut and sablefish longline fisheries have operated under an IFQ program since 1995, and the Bering Sea crab fisheries are now, beginning this year, operating under an IFQ/IPQ program. The pollock fisheries in the Bering Sea have operated under a fishery cooperative system since 1999, with the passage and subsequent implementation of the American Fisheries Act.

Fundamental to our management approach is a strict reliance on annual catch quotas (total allowable catch) for all managed species, and a reliance on sound science to establish the upper limits for those catch quotas, as well as for review of all other proposed management measures. Stock assessments are prepared annually by the Alaska Fisheries Science Center (Alaska Department of Fish and Game provides information for crab, scallop, and some rockfish species) which are reviewed each year by the Council's Groundfish Plan Teams, composed of agency and university scientists. The Groundfish Plan Teams compile the annual Stock Assessment and Fishery Evaluation (SAFE) document, including chapters on socio-economics and ecosystem considerations, with recommendations for overfishing levels and Acceptable Biological Catch (ABC) levels for each species or species complex. The final, critical step in this process is a thorough review of the SAFE and Plan Team recommendations by the Council's Scientific and Statistical Committee (SSC), composed of world class scientists with expertise in stock assessment, fish population dynamics, socioeconomics, marine mammals, seabirds, and ecological/ecosystem function. The SSC provides the final recommendations on ABC for each species, and from there the Council sets the Total Allowable Catch (TAC) at or below the ABC levels. Given the Council's long-standing OY caps (2 million metric tons in the Bering Sea and 800k metric tons in the

Gulf of Alaska), 2005 ABCs totaled close to 4 million metric tons, while overall TACs totaled only 2.5 million metric tons.

Close, real-time monitoring of catch and bycatch, through a comprehensive system of electronic reporting, fish tickets, weighing requirements, and an onboard observer program, is critical to ensuring that catch remains within the established limits. Over 500 observers log more than 36,000 observer days in these fisheries each year, at direct cost to the fishing industry of about \$12 million. When catch or bycatch limits are reached, fisheries for those species are closed. Several other measures are important to the overall, ecosystem-based management approach in the North Pacific, which are further detailed in the following written comments. These include numerous, large areas closed to trawling, or in some cases to all fishing, to protect benthic habitat; numerous closed areas to minimize fishery interactions with protected species such as Steller sea lions; seabird avoidance measures; and, prohibitions on directed fishing for forage fish species. Most recently the Council acted to designate and protect essential fish habitat (EFH) by closing 95% of the Aleutian Islands management area to bottom trawling – nearly 300,000 square nautical miles.

In order to more explicitly incorporate ecosystem considerations in its management approach, the Council has taken the initiative recently on two fronts: (1) coordinating with relevant state and federal agencies to develop an ecosystem forum, consistent with the concepts from the U.S. Commission on Ocean Policy and the President's Ocean Action Plan. This body would not have regulatory authority but would allow exchange of information on fishery and non-fishery activities affecting the overall ecosystem (using the Aleutian Islands area as a pilot project); and (2) pursuing the development of an overarching fishery ecosystem plan (FEP) for the Aleutian Islands area, or designation of that area as a special management unit with the existing FMP. This FEP would not replace the FMPs but would serve as a strategic planning document – specific management measure would still be implemented through the existing FMP process.

As part of this overview I will briefly address funding for management and science. Existing baseline funding for the Regional Councils (single line item shared among all eight Councils) has been level, or nearly so, for several years at around \$15 million. This funding level is insufficient for even baseline administrative and operational expenses to support the Councils' collective management mandates. The North Pacific Council has been fortunate in recent years to receive additional funding to support necessary management activities related to Steller sea lion protection, American Fisheries Act implementation, and other North Pacific activities. Other Regional Councils have been less fortunate in this regard. New initiatives or legislative requirements will require additional funding for all Regional Councils. In terms of broader funding issues to support science and management, there are a number of areas of concern. Resource surveys in the North Pacific may have to be reduced to every other year (in some areas) because of lack of available vessel time; funding for marine mammal related research has been reduced from levels in 2001 to 2003, resulting in some important long-range studies being curtailed; DAP programs such as crab rationalization are expensive to set up, monitor, and manage, and funding for these programs appears to be coming from agency baseline budgets; additional focus on ecosystem related research and management will also require additional funding support for both the Councils and NOAA Fisheries.

North Pacific Council Structure and Function

The successful management program for Alaska's offshore fisheries has been developed by the North Pacific Council, through its partnership with NOAA Fisheries and close working relationship with other state and federal agencies, including the Alaska Department of Fish and Game (ADF&G), the International Pacific Halibut Commission, the Pacific States Marine Fisheries Commission, and the United States Coast Guard.

The North Pacific Fishery Management primarily manages groundfish in the Gulf of Alaska, Bering Sea, and Aleutian Islands. Groundfish include cod, pollock, flatfish, Atka mackerel, sablefish, and rockfish species harvested by trawl, longline, jig, and pot gear. The Council also makes allocation decisions for halibut, in concert with the International Pacific Halibut Commission which manages biological aspects of the resource for U.S.-Canada waters. Other large Alaska fisheries such as salmon, crab, scallops and herring are managed jointly with the State of Alaska.

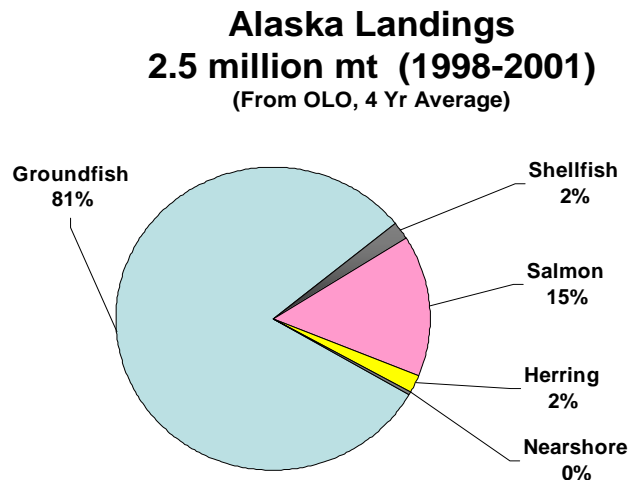
The Council has eleven voting members representing state and federal fisheries agencies, and fishery participants. Six are from Alaska, three are from Washington, one from Oregon, and one representative from NOAA Fisheries. The Council's four non-voting members represent the U.S. Coast Guard, U.S. Fish and Wildlife Service, Department of State, and the Pacific States Marine Fisheries Commission. The Council receives advice at each meeting from a 20 member Advisory Panel (representing commercial fishing and processing industry sectors, environmentalists, recreational fishermen, and consumer groups), and from a 15 member Scientific and Statistical Committee (SSC) of highly respected scientists who review all information and analyses considered by the Council.

Decisions must conform with the Magnuson-Stevens Act, the National Environmental Policy Act, Endangered Species Act, Marine Mammal Protection Act, Regulatory Flexibility Act, and other applicable law including several executive orders. Regulatory changes may take a year or longer to develop, analyze, and implement, particularly if complex or contentious. All Council decisions are forwarded as recommendations to the Secretary of Commerce, for review and approval.

One of the keys to successful fishery management is incorporating diverse views into decision making through a transparent public process. Council meetings are open, and public testimony - both written and oral - is taken on each and every issue prior to deliberations and final decisions. Public comments are also taken at all Advisory Panel and Scientific and Statistical Committee meetings.

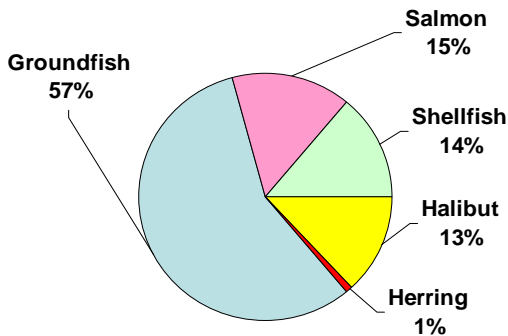
Importance of Alaska Fisheries

Fisheries are one of the most important industries in Alaska, culturally and economically, providing nearly half of all private sector jobs, and second only to the oil industry in providing revenue to the state. Over 10,000 people are involved in groundfish fishing and processing alone; thousands more work in the salmon, crab, scallop, and other fisheries. In addition, thousands of people work in other fisheries and fishing support industries, such as sport fishing guides, gear and fuel suppliers, restaurants, hotels, airlines, and others. With over 47,000 miles of coastline, and 336,000 square miles of fishable continental shelf area, the waters off Alaska support a variety of fisheries. Approximately 1,400 vessels participate in the groundfish and crab fisheries directly managed by the Council, ranging from small 20 foot skiffs fishing for near-shore halibut, to a 200+ foot catcher/processors prosecuting midwater pollock fisheries in the open waters of the Bering Sea. The majority of the fleet, however, consists of mid-size vessels, anywhere from 40 to 150 feet in length. These vessels are engaged in longline fisheries for halibut, sablefish, and cod; trawl fisheries for cod, pollock, and flatfish species; and pot fisheries for cod and crab. Recreational fisheries for halibut and salmon are an important part of the fisheries off Alaska.



Ex-Vessel Value of All Alaska Landings \$1.08 Billion (2001-2003 Average)

(From Table 2.1 of Economic Chapter)



this program allows these remote coastal communities to continue and enhance their participation in Alaska fisheries.

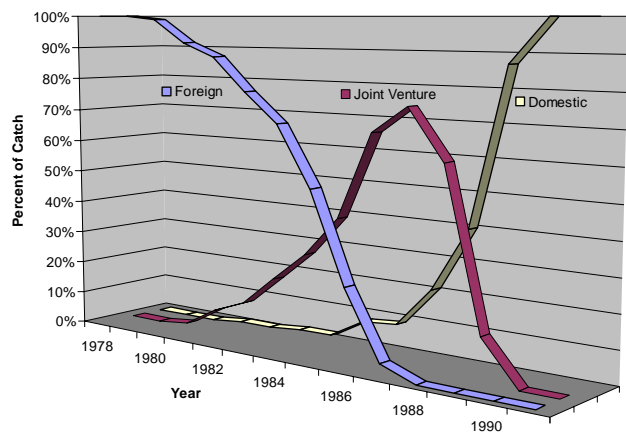
Major Turning Points in Alaska Fisheries

Passage of the Magnuson-Stevens Act in 1976 marked a new era in U.S. fisheries management. Foreign fisheries in the EEZ off Alaska were rapidly phased out through joint-ventures, with the fisheries fully prosecuted by domestic fisheries ('Americanized') by 1990. Management efforts in the early 1990's focused on limiting effort of the burgeoning domestic groundfish fleet. By 1992, the fleet had grown to over 2,200 vessels, including about 110 trawl catcher processors (factory trawlers). The symptoms of overcapacity intensified; the 'race for fish' resulted in shorter fishing seasons and allocation disputes among various fishing and processing interests.

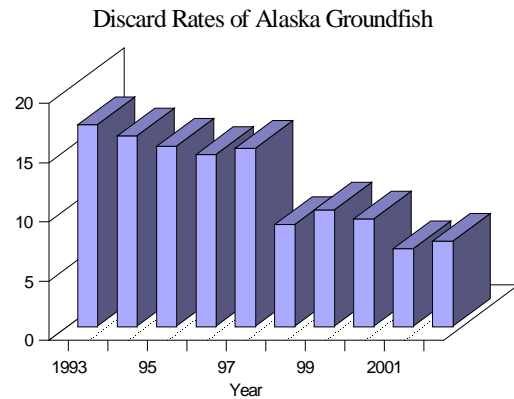
To address the overcapacity problem, the Council, working together with the NOAA Fisheries Alaska Regional office, aggressively pursued capacity limitations in all managed fisheries. An Individual Fishing Quota program for halibut and sablefish fisheries was adopted in 1992, and fully implemented in 1995. A moratorium on new vessel entry for groundfish and crab fisheries was implemented in 1996, with a more restrictive license limitation program in place by 2000. In 1998, the American Fisheries Act was passed by Congress and implemented by the Council and NOAA Fisheries the following year. The Act limited access to the Bering Sea pollock fisheries only to qualifying vessels and processors, eliminated a number of large catcher processor vessels from the fleet, and established a system of fishery cooperatives that allows for individual catch and bycatch accountability. Lower bycatch and significantly higher product recovery rates have resulted under the pollock cooperative system. In 1999, the Council adopted a very restrictive limited entry program for the scallop fishery. In 2003, the Council completed its work on an individual fishing and processing quota system for the Bering Sea crab fisheries (crab rationalization), consistent with Congressional legislation. Current Council initiatives include development of further rationalization programs for Bering Sea non-pollock groundfish fisheries, and development of some form of rationalization program for Gulf of Alaska groundfish fisheries.

These fisheries are worth nearly \$1 billion ex-vessel annually (amount paid to fishermen at delivery, prior to value-added processing). The groundfish fisheries account for a majority of the overall value, but the halibut, salmon, and shellfish (crab) fisheries also contribute substantially. Additionally the Council's community development quota (CDQ) program allocates from 7.5% to 10% of all groundfish and crab quotas to six CDQ groups consisting of 66 western Alaska coastal communities. Through partnerships with other industry groups, and through direct involvement in fisheries and development of fisheries related infrastructures,

Americanization of Alaska Groundfish Fisheries



Measures implemented in the 1990's also were designed to limit impacts on target and bycatch species, marine mammals and seabirds, and habitat, and provide opportunities for disadvantaged coastal communities along the Bering Sea. A comprehensive domestic groundfish observer program, funded by participating vessels, was instituted in 1990 to provide the basis for controlling catch within allowable levels and monitoring removals of both target and bycatch species. Closure areas and bycatch limits were established for chinook and chum salmon taken in Bering Sea trawl fisheries. Additional year-round trawl closure areas were established to reduce bycatch and protect habitat for Bering Sea crab stocks. To reduce bycatch and discards of Alaska groundfish, mandatory retention of all pollock and cod was required beginning in 1998. Retention requirements are soon to be implemented for Bering Sea flatfish fisheries, and further reductions in bycatch and discard amounts (currently about 7%) are expected.

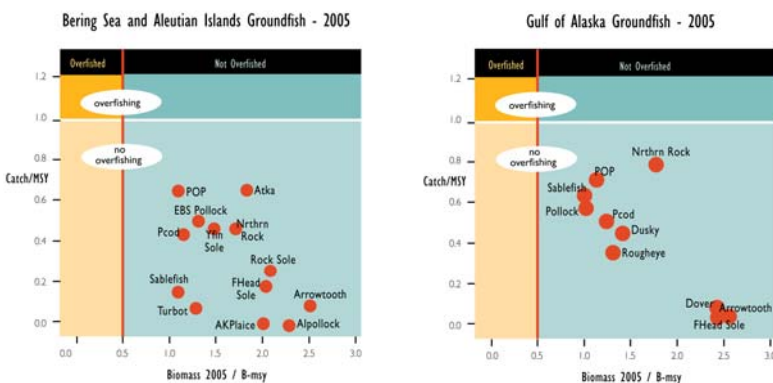


In 1990, Steller sea lions were listed as threatened under the Endangered Species Act, and numerous measures were implemented over the following decade to minimize potential interactions with fisheries and potential competition for prey. These measures included incidental take limits, 3 nm no entry buffer zones, 10 nm no trawl zones around rookeries, 20 nm no pollock fishing zones, seasonal and spatial dispersal of pollock and mackerel fisheries, and a prohibition on the harvest of forage fish. In 2001, a comprehensive suite of protection measures was implemented through Council recommendation which closed over 58,000 square miles of ocean to fishing for certain species, or in some cases to all fishing activities, to reduce fish removals and fishing activities in Steller sea lion critical habitat areas throughout the Gulf of Alaska, Bering Sea, and Aleutian Islands.

Foundation for Success

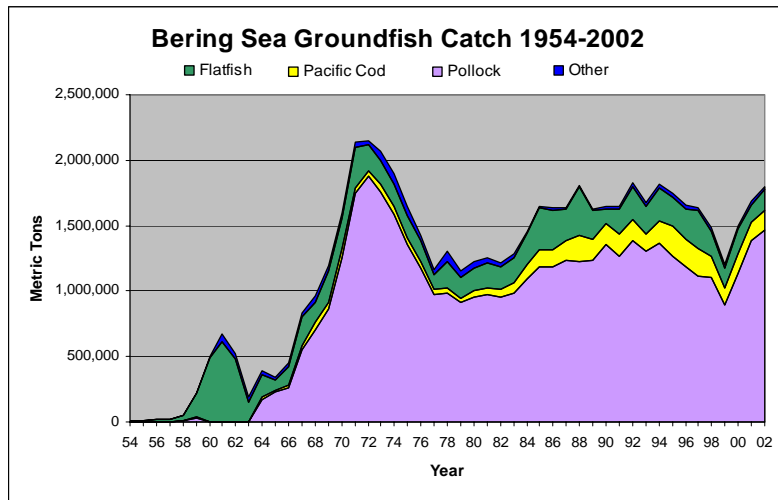
Management of fisheries off Alaska is, by all accounts, a success story of biological and economic sustainability. The foundation for success has been the long-standing, precautionary approach embraced in the North Pacific, supported by an underpinning of sound science and a reliance on that science, and by

a fishing industry supporting a priority toward long-term sustainability. Strict catch quotas for all managed species, coupled with an effective monitoring program, represent the forefront of the conservative management approach in the North Pacific. Since 1976, groundfish harvests have been maintained in the range of 3 to 5 billion pounds annually, and **no groundfish stocks are overfished**. Vast areas of the Bering Sea and Gulf of Alaska are closed to trawling, or in some cases to all fishing, to protect habitat, minimize bycatch, or minimize interactions with protected species such as Steller sea lions.



Status of groundfish stocks, showing catch rates well below 'overfishing' levels, and biomass well above 'overfished' levels.

The Council's precautionary management approach is to apply judicious and responsible fisheries management practices, based on sound scientific research and analysis, proactively rather than reactively, to ensure the sustainability of fishery resources and associated ecosystems for the benefit of future, as

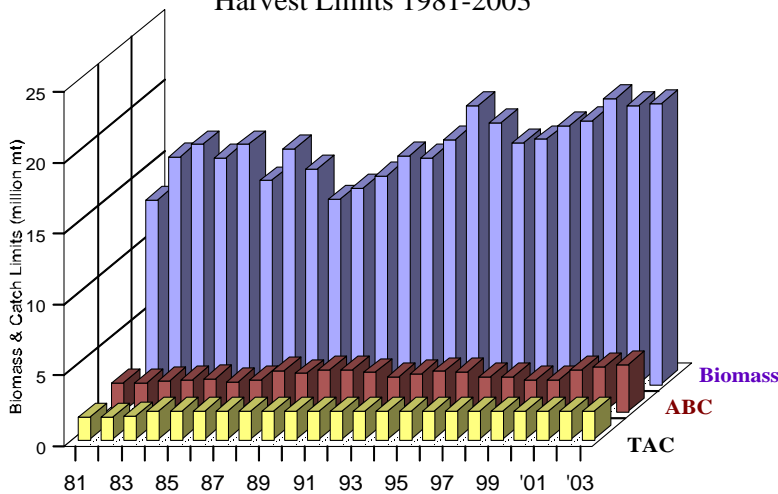


well as current generations. The basic tenets of this approach include public participation, reliance on scientific research and advice, conservative catch quotas, comprehensive monitoring and enforcement, limits on bycatch of non-target species, marine protected areas, measures to protect marine mammals and seabirds, and other measures.

Strict annual catch limits for every groundfish fishery are the foundation of the sustainable fisheries management approach in

the North Pacific. A rigorous process in place for almost 30 years ensures that annual quotas are set at conservative, sustainable levels. Beginning with scientific data from regular groundfish abundance surveys, stock assessment scientists recommend acceptable biological catch (ABC) levels for each species. These are reviewed by the Council's Groundfish Plan Teams, then further reviewed by the Council's Scientific and Statistical Committee, prior to the Council's setting of the Total Allowable Catch (TAC), which is always set at or below the ABC, and far below the designated overfishing level.

Bering Sea/Aleutian Islands Groundfish Harvest Limits 1981-2003



As an additional precautionary measure, the Bering Sea and Aleutian Islands quotas, for all groundfish combined, are capped at a maximum of 2 million metric tons (mt) annually, regardless of the maximum recommended ABC levels. For example, ABCs for the past several years have ranged from 3 to 4 million mt, yet TACs were reduced to stay within the 2 million mt cap. The Gulf of Alaska has a similar overall TAC cap. Catch of all species, whether targeted or taken as bycatch, whether retained or discarded, count toward the annual catch limits, and fisheries are closed when these limits are reached. This is one of the fundamental aspects of responsible management in the North Pacific groundfish fisheries.

These catch quotas are closely monitored to ensure accurate accounting on a real-time basis. At the core of the monitoring system is a comprehensive, industry-funded, on-board observer program, coupled with requirements for total weight measurement of most fish harvested. Except for small vessels less than 60 feet, all vessels fishing for groundfish in federal waters are required to carry observers, at their own expense, for at least a portion of their fishing time. The largest vessels, those over 125 feet, are generally required to carry observers 100% of the time, with multiple observers required on catcher/processors and

in certain fisheries. Scales to weigh catch are also required on many of the larger vessels. Most shoreside processing plants are also required to have observers at all times, and to weigh all fish landed at each processing location. Observers estimate total catch weight, catch composition, and discards, and collect biological information critical to stock assessment. In excess of 36,000 observer days, by over 500 observers, are logged in these fisheries each year. In the North Pacific's largest fishery, for walleye pollock, nearly 85% of the total catch is measured and sampled by observers, with 99% of the catcher/processor (factory trawler) harvest sampled by observers. Used in conjunction with reporting and weighing requirements, the information collected by observers provides the foundation for in-season management and for tracking species-specific catch and bycatch amounts.

The Council and NOAA Fisheries are currently developing amendments to the fishery management plans that are designed to better ensure ongoing collection and quality observer data. These amendments will examine alternative funding mechanisms (for example, a fee-based program instead of direct payment by vessels required to carry observers), and alternative service delivery models, all designed to allow fisheries managers to more effectively determine specific observer deployments by fishery and by vessel. Technological innovations, such as digital (video) observer applications, are also being evaluated by the Council and NOAA to potentially supplement onboard observers.

Enforcement of fishery regulations is accomplished by complementary efforts of NOAA and State enforcement agencies, and the U.S. Coast Guard, both on the grounds and dockside. As part of their patrol activities, the Coast Guard enforces a complex array of domestic regulations and international treaties, including enforcement of the maritime boundary and high seas driftnet violations. The Coast Guard also maintains its priority mission of search and rescue, a critical mission in all U.S. waters, particular in the volatile Bering Sea. NOAA Enforcement also conducts patrols and investigations throughout coastal Alaska to enforce fisheries regulations and total catch limits.

The North Pacific region also enjoys one of the strongest science support structures of any region. The Alaska Fisheries Science Center conducts annual stock assessments in the North Pacific, and provides the information upon which annual catch quotas are set. The comprehensive North Pacific groundfish observer program also is managed through the Science Center, and biological and economic analyses of proposed actions often involve Science Center personnel. The Alaska Department of Fish and Game also administers an observer program for the crab fisheries, and provides stock assessment information and in-season management for the crab fisheries, as well as the scallop fisheries and some rockfish species.

Notwithstanding this success, the Council and NOAA Fisheries continue to develop new and innovative approaches to address issues such as bycatch, protecting habitat, overcapacity, and further development of ecosystem-oriented management approaches. In 2004 the Council and NOAA Fisheries completed a comprehensive assessment of its overall management programs through approval of a programmatic supplemental environmental impact statement (PSEIS). This process included adoption of revised goals and objectives for the groundfish FMPs, which further strengthen the precautionary, ecosystem-based approach to management.

How is Science Integrated?

The Council has an active Scientific and Statistical Committee (SSC) that reviews all analytical documents prepared for each management change. The SSC consists of biologists, economists, and social scientists from academia and federal and state agencies. The SSC meets five times per year, concurrent with and at the same location as the Council meetings. In addition to providing comments to analysts, the SSC makes recommendations to the Council on the adequacy of analytical documents relative to the best available scientific information, including biological, economic, and social impact analyses. The SSC

also reviews development of models and other analytical approaches for understanding impacts of fishery measures. Further, the SSC provides recommendations on priority areas for research.

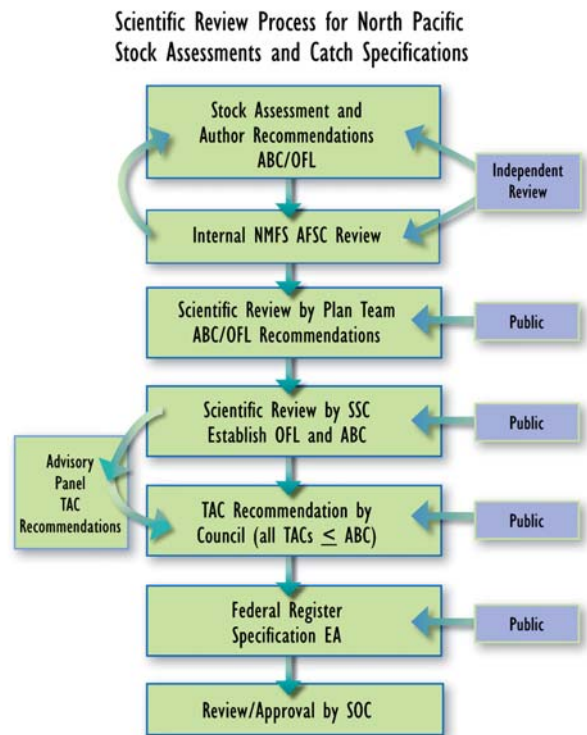
The scientific review process used by the Council is multi-tiered and robust. For example, stock assessments and acceptable biological catch limits undergo a thorough internal review by the Alaska Fisheries Science Center. Each year, a couple of these assessment models are further reviewed by the Center for Independent Experts. Once completed by NOAA Fisheries scientists, the assessments are scientifically reviewed by the Plan Teams, consisting of federal, state, and university scientists. The SSC has final scientific review authority for the assessments. The Council then approves the Stock Assessment and Fishery Evaluation Report for public distribution, and adopts the SSC's recommendations for Acceptable Biological Catch limits (ABCs). Total Allowable Catch levels (TACs) are then established by the Council with the SSC recommended ABCs as an upper bound. Because this process has worked so successfully, we have not made any additional changes to the existing scientific review process.

The Council also coordinates with the recently formed North Pacific Research Board (NPRB) and other governmental and academic research organizations to identify priority areas for funding of proposed research activities. Through direct membership and participation on the NPRB, and through annual reviews of funded research, the Council maintains a close working relationship with the scientific research community and is regularly apprised of pertinent scientific information.

Progress towards Ecosystem-based management

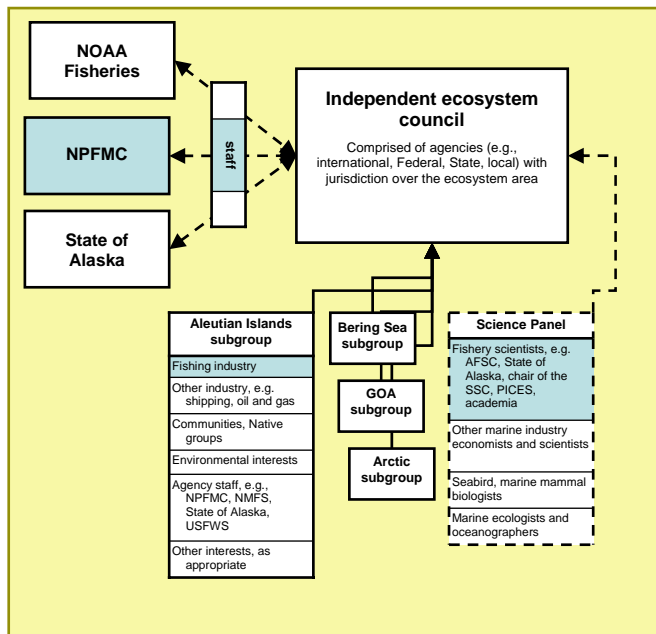
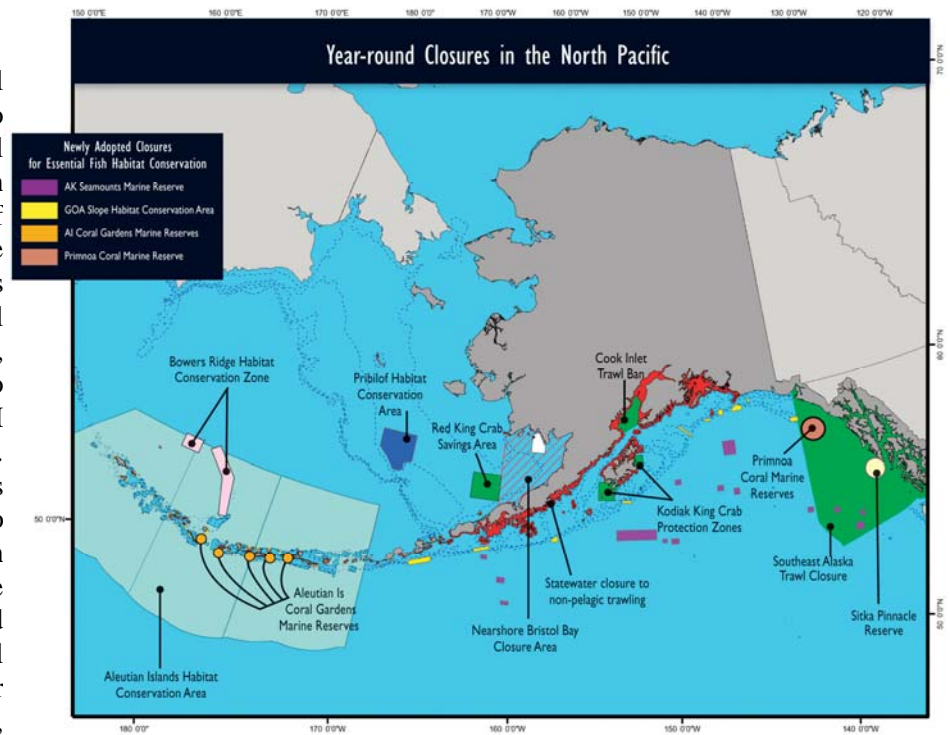
The North Pacific Fishery Management Council has a long track record of making precautionary fishery management decisions, and has continued developing its ecosystem-based approach. The approach is built upon four goals: 1) maintain biodiversity consistent with natural evolutionary and ecological processes, including dynamic change and variability; 2) maintain and restore habitats essential for fish and prey; 3) maintain system sustainability and sustainable yields for human consumption and non-extractive uses; and 4) maintain the concept that humans are part of the ecosystem.

The existing Alaska Groundfish FMPs contain many components of fishery ecosystem plans, or an ecosystem approach to management. Specific measures have been taken to minimize potential impacts to marine mammals, seabirds, and other components of the Alaska marine ecosystem. Major measures include limits on total removals from the system, a prohibition on directed fishing for forage fish species, seabird deterrent devices to minimize incidental bycatch of seabirds, a variety of measures to protect Steller sea lions from disturbance and potential competition with prey, and quasi marine reserves to conserve benthic biodiversity. However, recent recommendations from the U.S. Commission on Ocean Policy, and NOAA's own internal initiatives, underscore the need to even more explicitly incorporate ecosystem considerations in management of all U.S. fisheries.



Flow chart depicting the scientific review process for stock assessments and establishment of catch specifications in the North Pacific region. Catch specifications include the overfishing level (OFL), the acceptable biological catch level (ABC), and total allowable catch limits (TAC), where $TAC < ABC < OFL$.

In February 2005, the Council took significant action to identify and conserve essential fish habitat (EFH) from potential adverse effects of fishing. A 2,500+ page scientific analysis was prepared to evaluate the total impacts of fishing on EFH, and evaluate alternatives to describe and conserve EFH from fishing impacts. Although the analysis concluded that fisheries do have long term effects on habitat, these impacts were considered minimal and would not have detrimental effects on fish populations or their habitats. Nevertheless, continuing with its long history of precautionary, ecosystem-based management policy, the Council adopted several new and significant measures to conserve EFH. Specifically, to protect deep-water corals, the Council took action to prohibit all bottom trawling in the Aleutian Islands, except in small discrete 'open' areas. Over 95% of the Aleutian Islands management area will be closed to bottom trawling (277,100 nm²) and about 4% (12,423 nm²) will remain open. Additional bottom trawl closures were created in the Gulf of Alaska. Further, on the Alaska seamounts, and in areas with especially high density coral and sponge habitat, the Council voted to close these areas to all bottom contact fishing gear (longlines, pots, trawls, etc.). As a result, these areas will essentially be considered 'marine reserves'. While pelagic fishing would be allowed in these areas, none is anticipated, so resource extraction will be nil in the areas.



The North Pacific Council, through its newly constituted Ecosystem Committee, is actively pursuing additional avenues to further and more explicitly implement an ecosystem approach to management, both at a fisheries-specific level (EAF), and at a broader level addressing non-fishing considerations (EAM). Given the unique environment and management context of the Aleutian Islands ecosystem, the Council is planning to use this area as a test case for development of a separate Fishery Ecosystem Plan (FEP), and for development of an Ecosystem-Approach to Management (EAM) using a regional ecosystem council model (or other coordinating body) to discuss and exchange information on fishery and non-fishery activities. The Aleutian Islands FEP is in the developmental stages and we anticipate a draft later this year. Details of the FEP,

including possible designation of an Aleutian Island Plan Team, are still being developed at this time. Council staff is also involved with a NOAA internal working group to draft national guidelines for implementing the ecosystem approach to fisheries. The Councils support the development of such guidelines, as a guiding strategic document for the FMPs, rather than explicit statutory requirements at this time. The Council is also in discussions with other State and Federal agencies regarding the larger ecosystem coordination issues, and is planning to hold a workshop with the State of Alaska and NOAA fisheries later this year to determine how best to coordinate the broader ecosystem approach.

Regional Issues and Challenges

The Council's basic precautionary approach to management cuts across all FMPs and geographic regions under our jurisdiction. The comprehensive goals and objectives (recently revised in the PSEIS process) pertain to both the Bering Sea/Aleutian Islands and the Gulf of Alaska FMPs. While these basic tenants apply to all areas we manage, there are some regional differences and specific regional challenges that are currently being addressed by the Council.

The Bering Sea fisheries can be characterized as more industrial in nature than fisheries in the Gulf of Alaska, and are dominated in volume and value by the enormous pollock resource. While the pollock fishery is operating under a fully rationalized system established by the American Fisheries Act and the Council, other groundfish fisheries are in need of further rationalization programs, beyond the basic limited entry programs currently in place. Cod fisheries are a significant resource for a number of user groups and the Council is in the process of re-evaluating the current allocations among gear types, and considering even more discrete allocations to more narrowly defined user (gear) groups. The Council is addressing bycatch and discard issues by imposing minimum groundfish retention standards, and in conjunction with that initiative is developing a program of fishery cooperatives for the non-AFA catcher processors (the head and gut or H&G fleet) which we expect to approve later this year. The Council will also be considering further measures with regard to essential fish habitat and habitat areas of particular concern in the Bering Sea, in addition to the measures recently approved for the Gulf of Alaska and Aleutian Islands areas.

Gulf of Alaska groundfish fisheries are characterized by more numerous, smaller vessels, lower overall resource abundance, direct ties to a greater number of coastal communities, and a greater number of user groups/constituencies (gear groups, coastal communities, sport fisheries, etc). Fisheries in the Southeast area of Alaska are primarily fixed gear (longlining for halibut and sablefish, or salmon troll fisheries), and state water salmon fisheries. This area, along with areas in the Central Gulf of Alaska, also has an important recreational fishery component, primarily for salmon and halibut. Management of the guided sport fishery for halibut (charter boat fishery) is under Council jurisdiction and we have approved both a guideline harvest level (GHL) program for that fishery, and a charter boat IFQ program which, if approved by the Secretary, would incorporate this fishery into the existing IFQ program for halibut. Halibut is also critical to subsistence users and the Council and NOAA have approved and implemented regulations recognizing and protecting subsistence use of the halibut resource.

The most significant program currently under development by the Council, and one of the most challenging, is focused on a comprehensive rationalization of the Gulf of Alaska groundfish fisheries, which would apply primarily to Central and Western Gulf fisheries. Recognizing the operational and economic benefits of Bering Sea rationalization programs, and coupled with the logistical challenges posed by the numerous Steller sea lion restrictive measures in the Gulf of Alaska, the Council is attempting to develop some type of quota-based, cooperative style program for Gulf fisheries. Working closely with the State of Alaska and the State Board of Fisheries, this is an ambitious program with numerous competing constituencies and overlapping jurisdictions with regard to state waters inside three

miles. Completion of the environmental impact statement (EIS) required for this program will not occur until sometime in 2006, with actual implementation not likely until at least 2008.

Major Reauthorization Issues

In summary, I believe our overall management program illustrates that the current Magnuson-Stevens Act contains the necessary tools for successful, sustainable fisheries management. Strengthening the existing tools, or imposing requirements to use the existing tools, may be necessary in the reauthorization process but it does not appear that significant new requirements are necessary at this time. Below I provide a brief summary related to some of the primary reauthorization issues.

Ecosystem approach to management: Regarding ecosystem approaches to fisheries management, we believe that we have long been using an ecosystem approach to fisheries management, as are many of the other regional Councils, and we do not believe that amendments to the Act are necessary in order for the Councils and NOAA to move forward with the ecosystem based approach to fisheries management. However, we recognize that a more explicit recognition and application of this approach may be warranted, and we do not oppose the concepts being discussed in the current reauthorization process, such as regional coordination bodies, ecosystem planning documents, and guidelines for ecosystem approaches. In fact we are already working in the North Pacific on a collaborative process to establish a regional ecosystem coordination body, which I discussed earlier, and we are working specifically on an Aleutian Islands area ecosystem planning document (fishery ecosystem plan or special management area designation) due to the unique oceanographic and management aspects of that area. We believe that development of national guidelines is appropriate, which would then be used as strategic guidance (rather than as regulatory requirements) for implementation of specific regulatory programs through the existing FMPs. In fact I am part of a NOAA/Council staff team that has been working on a first draft of such guidelines. We believe that extreme caution should be exercised with regard to specific statutory requirements for fishery ecosystem plans, until we have some experience with voluntary, pilot projects regarding fishery ecosystem plans, and some experience with collaborative efforts on the broader EAM front. The North Pacific has long embraced this approach and is working hard to more explicitly incorporate that approach in our management programs.

Improving science in management: Regarding the integration of science and management, we believe that the North Pacific model clearly illustrates (1) the importance of closely linking science and management; (2) the ability of the existing SSC structure and process to provide the nexus between science and management by the regional Councils; and, (3) the flaw in the argument to somehow separate science and management (allocation) decisions. We believe that the integration of science in management works very well in the North Pacific, and we are very concerned that changes could be imposed on that process, in order to address other regional problems. We also believe that any potential new requirements for 'independent peer review' of data and analyses needs to be considered carefully, given the additional cost and time implications and given the ability of the current SSC process (or similar existing processes) to provide quality, objective peer review of the majority of information used by the Council and NOAA fisheries. We are working with NOAA now to make the necessary adjustments to our SSC process so that our SSC complies with the peer review requirements recently imposed through OMB guidelines implementing the Information Quality Act.

IFQs or other DAP programs: Regarding individual quota programs, or other dedicated access privileges (DAP) such as fishery cooperatives, we believe that multiple programs currently operational in the North Pacific (or pending such as Bering Sea crab) illustrate the benefits of 'rationalized' fisheries. We also believe that these programs reflect the differences among fisheries and regions, and underscore the need for maximum flexibility in designing these programs. In the halibut and sablefish IFQ program, in place since 1995, the Council included numerous provisions in the program design, such as restrictions on

transfers across vessel categories and restrictive share caps, in order to maintain the important social and community fabric of those fisheries. The pollock fishery cooperative system, and to some degree the crab IFQ/IPQ program, are designed to reflect the more industrial nature of those fisheries, though in the case of the crab IFQ/IPQ program there are still, for example, regional delivery provisions which were designed to protect existing community involvement in those fisheries. Programs currently under development, such as the Gulf of Alaska rationalization program, will require a different set of provisions to address the specific regional, social, economic, and fishery conditions. We do not support requirements for referenda or sunset provisions for these programs.

Reconciling statutes: The development of fishery management programs, and the review and approval process, is overly complicated, takes way too long, and often is not user-friendly to the public and to the fishing industry. This is primarily due to the number of often redundant and overlapping statutory requirements, including the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act, the National Marine Sanctuary Act, the Endangered Species Act, the Marine Mammal Protection Act, the Magnuson-Stevens Act, and numerous additional Acts and Executive Orders. In the North Pacific, our close working relationship with NOAA Fisheries Alaska Region and Science Center has been crucial to our ability to successfully implement our core management measures, as well as many innovative, cutting-edge management programs. And that close coordination has allowed us to do so, for the most part, while still addressing the myriad statutes and executive orders that apply to fisheries management actions. However, while the Councils and NOAA Fisheries have made substantial progress over the past few years in terms of ‘streamlining’ this regulatory process, and reducing litigation, we strongly believe that there needs to be some Congressional action to clarify and reconcile the competing statutes. Our ability to design, analyze, and implement complicated DAP programs in particular is hindered by the redundant applications of several statutes.

NEPA: Last, but not least, I would like to address the issue of reconciling NEPA with MSA. I am not addressing the other statutory conflicts at this time in any detail, because I personally believe this to be the single most important issue being discussed, and which could have the greatest influence, not only in reducing litigation, but in terms of improving the fisheries management process generally. We have an Act that appropriately governs fisheries management in the EEZ, including conservation and environmental protections – that is the Magnuson-Stevens Fishery Conservation and Management Act (MSA). However, NEPA has subsumed the MSA as the guiding Act for fisheries management in the U.S. The eight regional fishery management Councils are unanimous in their agreement on this subject and have submitted proposed language that would once again make the MSA the guiding Act for fisheries management in this Nation. This language, or similar language submitted by other interested parties, would place key conservation related provisions of NEPA directly in the MSA, and exempt the Councils and NOAA from NEPA application for the development of fisheries management plans and regulations.

While the words ‘exempt from NEPA’ often elicit a negative reaction, it is critical to recognize that this ‘exemption’ is not intended to undermine the basic environmental protections and conservation intent of NEPA. Rather, it will allow the Councils and NOAA to more efficiently and effectively develop fisheries management measures, including conservation and environmental protections. This approach is supported by the State of Alaska (reference comments previously submitted to the subcommittee) and by the Marine Conservation Alliance, an organization representing about 90% of the fishing industry that operates in Alaskan and Pacific Northwest waters, including a vast array of user groups, harvesters, processors, gear types, support groups, CDQ groups and community organizations.

We have submitted a number of specific examples of the over-application of NEPA to fisheries management measures, in the North Pacific and in other regions around the country. Two in the North Pacific stand out and are worth reiterating. The first is the 7,000 page SEIS that was prepared to support our Bering Sea/Aleutian Islands and Gulf of Alaska groundfish FMPs, wherein one of the alternatives that

had to be fully analyzed under NOAA GC's instructions for NEPA compliance was a 'No Fishing Alternative'. In a fishery where the Acceptable Biological Catch (ABC) levels total 4 million metric tons (and have for three decades), a fishery where Total Allowable Catch (TAC) levels total half that (or 2 million metric tons), a fishery which supplies half the Nation's annual seafood production.....we were required to analyze a 'No Fishing Alternative'. This part of the analysis took about 200 pages, about the total noted in CEQ guidance as the standard for an overall EIS. In addition, we are still required to prepare an annual Environmental Assessment (NEPA document) to support the annual TAC setting process, which continues to include a 'No Fishing Alternative'. And finally, the agency is in the process of considering whether that annual NEPA document should actually be a full-blown EIS.

The second example is the Essential Fish Habitat protection measures that were recently approved for the Gulf of Alaska and the Aleutian Islands. As noted, the Council action would close about 95% of the Aleutian Islands area to bottom trawling or in some cases to all fishing (nearly 300,000 square nautical miles) to protect deep water corals and other fish habitat. Because the specific alternatives analyzed in the EIS for the Bering Sea did not match with the alternative finally developed through the Council process with input from all sides of the issue, we were advised by NOAA GC that we could not pick that alternative without reinitiating the entire EIS process (under NEPA). Therefore, the Council proceeded with action relative to the Aleutian Islands and the Gulf of Alaska, but not the Bering Sea. We are now addressing the Bering Sea EFH measures through an additional, separate process which will involve preparation of similar NEPA analytical documents, additional staff and Council time, and delays (likely years) in implementation of EFH measures for the Bering Sea. If promulgated under MSA alone, the Council could have picked the alternative that made sense, conducted the further, necessary analyses specific to that alternative, and submitted the proposed measure for Secretarial review and approval along with the other EFH protection measures a year ago.

While I believe that these examples are compelling, they are only an artifact of the greater underlying problem associated with NEPA application to fisheries management processes. Some have asserted that the Councils' concerns with NEPA are perceived rather than real, and that it is just a simple matter of different time schedules for review and approval. Nothing could be further from the truth. NEPA was never intended, and will never fit, the unique and dynamic nature of the fisheries management process. The attempts to apply the letter of NEPA (rather than the intent), and to bulletproof all fisheries management actions against litigation under NEPA, have resulted in an extremely cumbersome, overly complicated, bureaucratic process of never ending legal review and regulatory revisions. While the timelines for review and approval of Council recommendations under NEPA could easily be matched with MSA requirements, the real problem lies within the up front development of management measures, and associated analytical documents such as EAs and EISs, prior to getting to a Council decision.

Requirements for contrived, often unreasonable alternatives, for the sake of having multiple alternatives to comply with NEPA, coupled with seemingly unending lines of regulatory and legal reviews, often cause even the most simple, straightforward management actions to take years from conception to Council action, and additional years for rulemaking, approval, and finally implementation. The 'Regulatory Streamlining Process', or RSP, is the agency's answer, wherein all of these requirements and review processes are front-loaded onto the Council process, requiring approval by the Regional Administrator and NOAA GC at several steps before the Council can even take action on an issue. In addition to institutionalizing the inefficiencies associated with this NEPA over-application, it also significantly diminishes the authority of the Regional Councils, further replacing it with that of the agency, or more specifically, the Office of General Counsel. The efforts to attain NEPA perfection are, more and more, subsuming policy decisions that appropriately belong to the regional Councils.

We fully support the development of more complete analyses to support proposed management actions and have been working with our NOAA counterparts to implement the spirit of RSP in this regard.

However, if we could do so under the authority of the MSA, rather than NEPA, we could develop and implement necessary conservation and management measures more quickly and at far less cost to the public, while still maintaining a focus on environmental protection and public process. Public process would be better served by providing meaningful, understandable analyses of management actions, as prescribed by the MSA, and we could once again devote the majority of our resources to practical fisheries management, rather than devoting those resources to the self-fulfilling prophecy of litigation avoidance in which we are currently engaged. The MSA already contains the provisions necessary to capture the intent of NEPA – with a few additions it can more than adequately capture both the letter and the intent, and free up valuable Council and NOAA resources to address real fisheries management challenges.

Mr. Chairman, members of the Committee, there are a number of other issues we could discuss today, but I believe that I have covered the basic management approach used in the North Pacific, and covered the primary issues we see in the upcoming Magnuson-Stevens Act reauthorization. I thank you again for the opportunity to comment on these issues, and further apprise you of our management approach and specific issues here in the North Pacific. We stand ready to help in any way we can as you are further shaping important changes to the Act, and to respond to those changes when they are finalized.