

FINAL MINUTES

186th Plenary Session
North Pacific Fishery Management Council
February 6-11, 2008
Renaissance Madison Hotel
Seattle, Washington

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North Pacific Fishery Management Council

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APPROVED: 

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The North Pacific Fishery Management Council met February 6-11, 2008 at the Renaissance Hotel in Seattle, Washington. The Scientific and Statistical Committee met February 4-6, and the Advisory Panel met February 4-9 at the same location. The following Council, staff, SSC and AP members attended the meetings.

Council Members

Eric Olson, Chair
Jim Balsiger/Sue Salvesson
Dave Benson
John Bundy, Vice Chair
Lenny Corin
Sam Cotten
Duncan Fields

Dave Hanson
Roy Hyder
Denby Lloyd/Earl Krygier
Gerry Merrigan
Bill Tweit for Jeff Koenings
CAPT Inman/LCDR Lisa Ragone
for RADM Olson
Nicole Ricci

NPFMC Staff

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

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

Scientific and Statistical Committee

Pat Livingston, Chair
Robert Ames
Keith Criddle, Vice Chair
Sue Hills
Anne Hollowed
George Hunt

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
Tom Enlow
Bob Gunderson
John Henderschedt
Jan Jacobs
Bob Jacobson

Simon Kinneen
Chuck McCallum
Tina McNamee
Mike Martin
Matt Moir
John Moller
Ed Poulsen
Michelle Ridgway
Beth Stewart
Lori Swanson

Appendix I contains the public sign-in register, and a tape 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 8:05 a.m. on Wednesday, February 6, 2008.

Agenda. The agenda was approved as published. Later in the meeting the Council reassessed the agenda and took the following issues off the agenda due to time constraints: C-5--AFA Co-op reports; C-6(a)--Rockfish program co-op reports; D-2(d)--Report on BS/AI Pacific cod split; and D-3--Ecosystem Issues.

Minutes. The minutes of the December NPFMC 2007 meeting were approved with minor editorial changes.

[NOTE: Mr. Tweit participated in the entire meeting in place of Dr. Koenings. Mr. Corin and Ms. Ricci were unable to attend until the latter portion of the meeting.]

B. REPORTS

The Council received the following reports: Executive Director's Report (B-1); NMFS Management Report (B-2); NMFS Enforcement (written only) & NOAA GC Enforcement Reports (B-3); USCG Report (B-4); ADF&G Report (B-5); USF&W Report (written only) (B-6); IPHC Report (B-7); and Protected Species Report (B-6). Following are brief recaps of discussion or action taken during reports.

Executive Director's Report

Chris Oliver reported on the recent interim meeting of the Council Coordination Committee (CCC). The Committee discussed the status of various MSA reauthorization and budget issues. It was noted that regulations implementing annual catch limits and guidelines for development of LAPPS have not yet been published. A CCC subcommittee was able to review the draft proposed rule for NEPA revisions and expressed concern that it seems the general approach will be to formalize in regulation the NEPA process as the vehicle for Council amendments, rather than incorporating the NEPA process into the Council process, as Committee members feel that Congress intended. Mr. Oliver submitted a letter to NMFS, CEQ and OMB expressing concerns with the draft proposed rule, as well as the method of agency consultation with Council representatives. A copy of the letter was provided in the Council notebooks.

Mr. Oliver also advised the Council of progress on the issue of funds to cover stipends for SSC members and other peer reviewers. NMFS has not yet determined that stipends must be provided. The CCC will continue to monitor this subject.

The Council was provided with the proposed rule for revising the process of granting exempted fishing permits (EFPs) for scientific and research activities. Comments on the rule are due by March 20.

Gerry Merrigan moved to submit comments on the proposed rule for EFPs stressing the need for consistency with the current procedure of Council involvement in reviewing EFPs in terms of the source of the TAC and the amount and type of species involved. The motion was seconded by Duncan Fields and carried without objection.

NMFS Management Report

Sue Salvesson reviewed the status of regulatory actions. Two issues were highlighted for Council consideration.

Crab Overfishing Amendment NMFS staff advised that during review of the Council's approved action on Amendment 24 to the King and Tanner Crab FMP (overfishing definitions) it was found that there were inconsistencies between the analysis for the overfishing definitions and the actual motion that the Council approved. The table that was before the Council at that time does not seem to reflect Council intent. Ms. explained that currently the Council's approved motion would not include accounting for crab bycatch in other fisheries when fishing for stocks at status level 'c' is closed and could close down other fisheries with crab bycatch. NMFS asked the Council to reconfirm its original intent and provided recommendations to correct the table in the motion that at stock status level 'c' the directed fishery mortality would be zero and any incidental catch in other fisheries of crab would be within a range that would keep the overfishing level at less than or equal to F_{msy} . This would allow for incidental catch in other fisheries to occur but it would be accounted for in the rebuilding plan for crab. Additionally, staff noted a typo in the table--

Jim Balsiger moved to amend an action previously taken in December 2007 for Amendment 24 to the King and Tanner Crab FMP, to correct overfishing definitions in Table 6-1 in the Environmental Assessment to reflect Council intent and corrects the overfishing level specified when the stock is in status 'c'. The motion was seconded by Gerry Merrigan.

Bill Tweit moved to amend to include correction of a typographical error in the table, as noted by the SSC—to change the default value for a under the Five-Tier system from $a = 0.05$ to $a = 0.1$. The amendment was seconded and carried without objection. The main motion, as amended, carried unanimously.

Amendments 62/62 to BSAI/GOA FMPs Ms. Salveson also noted that NMFS is requesting that the Council schedule a discussion and update on these amendments because of the time that has elapsed since final action. The amendments, which address flexibility on geographic locations for floating processors, are over five years old and have not yet completed NMFS review because of other priorities and it may be that other actions in the interim could require an update of the amendment before proceeding.

John Bundy moved that Amendments 62/62 be brought back to the Council with a discussion paper for review and action as necessary. The motion was seconded by Dave Benson and carried without objection. Ms. Smoker noted that the analysis has been updated and asked whether a separate discussion paper would be necessary. Mr. Bundy clarified that he only meant that staff should review previous action for the Council and advise of any issues which may necessitate reconsideration of the amendments.

Other Issues

The Council was also advised that NMFS has published the notice to the public on the revised halibut GHM as result of a reduced CEY approved by the International Halibut Commission action, noting the reduced GHM for IPHC Area 2C which will result in management measures previously approved by the Council, including a one-fish daily bag limit.

The Council received a written response its request for guidance on legal considerations associated with the State management of the Pacific cod jig fishery in Federal waters in the Gulf of Alaska. The Council was informed that there is no legal impediment as long any delegation under the FMP is consistent with provisions of the Magnuson-Stevens Act. The letter noted that it is assumed that the Council would retain Pacific cod harvested by jig gear under management of the Council's GOA Groundfish FMP because of the necessity for Federal oversight of Steller sea lion protection measures associated with Pacific cod as a prey species.

The Council received a review of current catches in the various fisheries and heard of concerns from industry participants relating to a change in the reporting process. Dr. Martin Loefflad, director of the Observer Program, explained the process to the Council and noted that while there have been some 'rough spots' in instituting the new accounting methods, he does not believe that catch reports have been compromised.

Regarding a report that in the 2008 Bering Sea Pacific cod pot fishery three catcher processors fished in the State of Alaska parallel fishery inside three miles without Federal permits, staff noted this was a new situation that occurred and may not be an isolated case. There are vessels in State water fishery that do not have Federal permits and are not required to comply with Federal reporting requirements so NMFS had to obtain inseason catch information from those vessels through an informal process. That information ultimately varied substantially from the fish ticket information submitted to the State. As a result, NMFS had a difficult time trying to ascertain total harvests in order to determine when the fishery should be closed. Council members suggested this may be a subject for the Joint Protocol Committee to determine if there is a way to get better information for inseason management.

NMFS Enforcement/NOAA GC Enforcement Report

The Council received a written report only from NMFS Enforcement as Jeff Passer was unable to attend the meeting. Susan Auer, NOAA General Counsel, Alaska Region, provided a report on enforcement cases. Ms. Auer advised the Council that there have been recent cases in which observers have not been available when needed in the 30% coverage sector. Enforcement actions against vessels that fish without

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an observer in these cases are not feasible under current regulations and data from those fishing trips are not collected. She suggested the Council consider initiating amendments to the regulations to resolve this situation. Mr. Merrigan noted that the NMFS Enforcement Report, the Council requested that the report also include the final disposition on cases that were not proven or where the defendant was found not guilty.

USCG Report

CAPT Inman, (Chief, Response, 17 USCG District) attended a portion of the meeting in place of Admiral Brooks who could not attend. Captain Inman reported on several current rescue operations, including a missing balloonist, delivering an injured crew to medical facilities. The Captain also noted that the Coast Guard continues to move forward to deploy Coast Guard assets to the Arctic during the summer and is communicating with the local Native Alaskan organizations and other stakeholders regarding the increased Coast Guard activity. Captain Inman noted that the Coast Guard expects activity along U.S.-Russia maritime boundary will increase over last summer which will require additional CG resources. He noted that a C-130 will be deployed out of Nome which will allow more time available along the maritime boundary line.

LCDR Lisa Ragone provided the Coast Guard's overview of the Coast Guard's activities for 2007.

ADF&G Report

Herman Savikko provided the Council with the status of current state-managed fisheries and on recent Board of Fisheries activities, including adoption of an emergency regulation to address mirroring changes in the Federal regulations on seabird avoidance measures. The emergency regulation is valid for 120 days, and the Board will address permanent regulatory changes at its March 2008 meeting. Mr. Savikko also noted that a bill submitted to the Alaska State Legislature to delay the sunset date to repeal the authority of the CFEC to maintain the limited entry programs for Bering Sea Korean hair crab and weathervane scallops has been re-introduced to the Alaska State Legislature. A previous bill was held in Committee and the Board will also be taking up this issue at its March meeting.

The Council directed the Executive Director and Chairman to draft and send a letter to the Alaska Legislator supporting the removal of the sunset date for the scallop limited entry program. It was noted that the Council stated its position in a previous letter and that position should be restated.

IPHC Report

Bruce Leaman reviewed actions taken by the IPHC during its annual meeting. Dr. Leaman advised that changes in the total CEY will trigger decreases in the halibut charter GHU in Area 2C. In Areas 2B and 2C sport fishery overruns have been documented, and that there are productivity and sustainability concerns for Area 4. Appendix II to these minutes lists regulations adopted by the Commission.

Protected Species Report

Bill Wilson, NPFMC staff, reviewed the action memo which provided an update on the SSL Recovery Plan, FMP consultation, the BiOp and EIS. Larry Cotter, chair of the Steller Sea Lion Mitigation Committee provided an overview of the Committee's recent meeting. The Committee suggested that the Council consider data needs for proposals #8 (change Atka mackerel fishery management in the Aleutian Islands to allow directed fishing for Atka mackerel between 10 and 20 nm of SSL sites in two discrete Bering Sea areas) and #16 (open the GOA pollock C season later to avoid conflict in processing the end

of the season pink salmon harvests and the beginning of the C season Pollock harvests in Kodiak) as priorities. A copy of the Committee's minutes are attached as Appendix III.

Bill Tweit moved that the Council consider initiating actions relative to two proposals (#8 and #16) from the Committee's report, starting with a discussion paper to determine whether moving ahead would adversely affect ability to move forward with other elements of the Committee's recommendations in the current timeframe. The motion was seconded by Duncan Fields, and carried, 8 to 2, with Merrigan and Balsiger voting no.

Mr. Tweit noted that proposal #8 is an issue that affects the Amendment 80 sector in forming co-ops, and that proposal #16 would allow more efficient use of processors, especially in Kodiak. Some Council members expressed concern that focusing on these two issues, even through a discussion paper, will delay progress on the entire plan.

Mr. Wilson also advised the Council of correspondence from the Qayassig Walrus Commission requesting the Council consider effects of trawl fleet noise on walrus feeding habits near Round Island, and the Walrus State Game Sanctuary area, including Togiak Bay, Kulukak Bay, from Cape Newhenham down to the North Aleutian Basin area.

During Council discussion, Mr. Oliver and Mr. Wilson were directed to communicate with the Walrus Commission and other appropriate agencies to clarify the issue and report back to the Council in April. Council members stressed that any communication should not indicate that the Council contemplates any action at this time.

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. NEW OR CONTINUING BUSINESS

C-1 BSAI Crab Issues

C-1(a-c)

ACTION REQUIRED

- (a) Report of the Crab Advisory Committee**
- (b) Report on crab data collection quality and confidentiality**
- (c) Proposed social and economic analyses for the three-year review.**

BACKGROUND

(a) Report of the Crab Advisory Committee

At its October 2007 meeting, the Council requested staff to prepare an analysis (for review at the October 2008 meeting) examining the effects of a change in the A share/B share split. The analysis should examine:

- 1) the status quo 90/10 split, as well as 80/20, 70/30, 50/50, and 0/100 share splits;
- 2) incremental changes in the share split over a period of years;
- 3) a one-pie IFQ allocation to vessel owners, processors, and skippers and crewmembers based upon each sector's investments and participation in the fishery; and
- 4) the effects of shifts in the share split as the annual TAC levels rise and fall in each fishery.

The Council also requested the Crab Advisory Committee to continue its work, with a focus on programmatic issues and effects of policy decisions related to the BSAI crab rationalization program. The committee was also tasked to discuss potential solutions to concerns that may arise from any adjustments to the A share/B share split. These could include concerns such as 1) potential compensation to processors from harvesters for lost economic opportunity from a shift in market power, 2) potential changes in landing distribution, 3) the remaining need and necessary changes to the binding arbitration program, 4) use and effectiveness of regional landing requirements to protect communities, and 5) respective impacts on crew. The committee was also requested to make recommendations on how best to provide for economic data needs. Specifically, the crab advisory committee was asked to develop recommendations for a protocol, including an audit process, to obtain timely information about ex vessel price, by share type and region, and first wholesale price. Committee recommendations for improving ex vessel and wholesale price information should be prioritized, so that the data becomes available to inform the Council's ongoing analytical process. The committee was requested to provide a report to the Council at the February 2008 meeting indicating its progress on this assignment.

In response to the Council's request, the committee has prepared the attached report (Item C-1(a)(1)). The report includes several proposals for the Council's purpose and need statement, as well as discussion of potential bases for the Council's proposed action. The report also summarizes the committee's discussions of the proposed revisions to the current 90/10 A share/B share split, community, processor, and crew concerns (under both the existing program and under the proposed program revisions), and emergency relief from regionalization. The report includes two proposals advanced to address crew issues and recommended processes for addressing arbitration issues and data issues.

(b) Report on crab data collection quality and confidentiality

At its December 2006 meeting, the Council passed a motion directing staff to develop protocols concerning data collected under crab rationalization Economic Data Reporting (EDR) program. The protocols would apply to two general areas, maintaining data confidentiality and assessing the quality of the data to ensure accuracy. To maintain confidentiality, the Council directed staff to develop protocols for Council review specifying aggregation requirements to avoid revealing proprietary data of fishery participants. That process is currently ongoing, with review of legal, analytical, and policy considerations, and will be presented to the Council at a later meeting.

The direction concerning data quality included several areas of interest to the Council. The Council recommended that staff develop descriptions of data, their quality, deficiencies, and variability. These descriptions, in turn, would be used to draft protocols. Among other purposes, these descriptions would be used to determine appropriate revisions to the EDR questionnaires.

The attached discussion paper (Item C-1(b)(1)) describes the results of work completed to date on assessment of data quality and the development of data documentation to support proper use and interpretation of EDR data by analysts. Extensive work has been performed to assess data quality, including mandatory audits conducted by an independent accounting firm and both formal and informal submitter feedback. The principal objective of this paper is to describe the data quality assessment methods employed by PSMFC and AFSC personnel to ensure that EDR data meet requirements of federal law and NOAA guidelines for data quality assessment and documentation. Detailed audit reports and a detailed review of known data quality concerns for individual EDR data elements are included as appendices to this discussion paper. These appendices will be handed out at the meeting.

(c) Proposed social and economic analyses for the three-year review.

In October of 2008, the Council is scheduled to receive an analysis of the effects of the first three years of the crab rationalization program (the three year review). Staff presented an outline of that analysis to the Council at its December 2007 meeting (Item C-1(c)(1)). To assist in the development of the understanding of the effects of the program, the staff of the Alaska Fisheries Science Center intends to undertake several analyses. To the extent feasible, the results of these analyses will be incorporated into the three year review. All proposals are preliminary and are subject to revision. Specifically, the following studies will be undertaken:

1) A study analyzing changes in crew opportunities since rationalization. The project description states, in part: "As the initial effects of the rationalization program begin to stabilize, it is important to understand the actual impacts of this program on crewmembers. Loss of crew jobs was a predicted effect, but the specifics of crew impacts are not understood in great detail. Beginning in the fall of 2007, this project will use ethnographic techniques to study current and former crewmembers, how they have been affected, and how their communities have been affected. This study will take place in Seattle, Dutch Harbor, Kodiak, and additional communities. Interviews will include specific issues (e.g., alternative income sources for displaced crew and what factors enable crewmembers to retain their jobs) that may be useful in understanding how crewmembers might be affected in other rationalization initiatives. Decision theory and occupational communities theory will provide the preliminary analytical framework for this research." (Lead: Jennifer Sepez)

2) An analysis of the distribution of harvester revenues and/or quasi-rents among vessel owners, captains, crew, and ITQ owners. Using EDR data one can estimate/compute the revenues (including post-season adjustments lacking in fish tickets) and quasi-rents earned within each fishery (or the year overall) and see how this "pie" is split up among crew, captains, vessel owners, and quota owners. Quota holders notwithstanding, it is likely that we will be able to compare how this distribution has changed pre- and post-rationalization. This distribution can also be broken out several ways to see if the patterns are consistent across fisheries, regions, co-ops, and vessel types or sizes. There will be no modeling component to this analysis since we believe the conclusions on distribution drawn here are less likely to be influenced by market impacts than a study that examined a change in the magnitude of benefits and whether they went up or down (which is drastically impacted by crab market prices, fuel prices, etc.). Plus, our time constraints may not allow the development of a model. (Lead: Brian Garber-Yonts, with assistance from Ron Felthoven).

3) An analysis comparing ex-vessel prices to reservation prices for both vessel owners and processors. The reservation price of the harvesters represents the minimum price they would be willing to accept for their harvested fish. Neglecting the role of outside options, this harvester reservation price will be the average cost associated with harvesting (which can be estimated from the EDR data). The reservation price of the processors represents the maximum price they would be willing to pay for the fish, which may be represented by the price they receive for the finished product minus the average cost of processing (also estimable from the EDR data). While we understand the binding arbitration system sets the ex-vessel prices at an agreed-upon ratio of

historic revenues from harvesters and processors, the result of this system, when combined with vessel and processor costs, generates a realization of quasi-rents. Even if the revenue formula consistently mimics the pre-rationalization period and is considered to be "fair" to both parties, any welfare differentials attributable to the two sectors will thus be driven by costs. Differential changes in cost margins for either sector after rationalization provide an indication of whether one group is better or worse off (depending on the distribution within each sector). It should be noted that the results of such comparisons may not solely reflect impacts due to changes in fishery management. However, the results could suggest that on average, one of the groups is better able to realize the benefits of rationalization (for example, if one is more readily able to substitute labor for capital to offset the marked fuel price increases we've observed). In sum, generating these rent share differentials will provide some informative results about welfare changes, but interpreting these results and attributing portions to rationalization will require modeling, which could require a great deal of time. Alan will work toward this end, but by October results may only be speculative. (Lead: Alan Haynie with possible assistance from Harrison Fell (of Resources for the Future)).

4) An analysis of world crab market trends and fuel costs. Many of the welfare impacts observed over the last few years will be driven by the drastic changes we've seen in crab prices and fuel prices. Any discussion of the effects of rationalization should take these factors into consideration and Mike's work will frame these trends nicely. (Lead: Mike Dalton).

5) A regional impact analysis of crab rationalization. A state-level Social Accounting Matrix model is under development that can be used to analyze the total state impacts of changes in the crab fisheries for both Alaska and Washington. Finer scaled regional analyses are possible, if assumptions concerning the absorption of impacts at various sub-regions of Alaska (based on landings or revenues in such regions) are employed. Time constraints suggest a fairly simple broad analysis over all regions, or a more specific analysis of a few sub-regions may be conducted, if the required assumptions are deemed acceptable. More refined modeling will be possible in the future after finer-scaled regional data collections are completed this spring. (Lead: Chang Seung).

Report of the Scientific and Statistical Committee

The SSC received the reports under this agenda item and had several comments for the staff presenters. Please see the SSC Minutes, Appendix IV to these minutes for those comments. They specifically noted that while there is room for improvement, the crab EDR data represents a vast improvement over all previous information on these fisheries and is vastly superior to information currently available on any other Alaska region fishery.

Report of the Advisory Panel

The Advisory Panel recommended that the problem statement should be limited to the current and specific problems identified below:

1. Underutilization of West-designated Western Aleutian Islands golden king crab.
2. Review and possible revision of the community right of first refusal (ROFR)
3. Industry-initiated improvements to the binding arbitration process.

All other issues should be incorporated and analyzed as part of the 36-month review which is already established under this program. The AP also suggested the Crab Committee examine the extent to which the Hinkel proposal may address crew member concerns. [The entire AP report is attached to these minutes as Appendix V.]

COUNCIL DISCUSSION/ACTION

The Council received staff reports from Mark Fina (NPFMC), Brian Gabrion (AFSC), and Ron Felthoven (AFSC), the Crab Committee and SSC and AP reports, and oral public comment on these agenda items.

Bill Tweit moved to approve the recommendations of the Advisory Panel (see above). The motion was seconded by John Bundy.

Council discussion indicated that this direction to the Committee would not supplement earlier Council tasking, but should be considered a priority for the next committee meeting. Committee Chair Larry Cotter asked whether Committee should consider only the Hinkel proposal, or in concert with the other industry proposal submitted. Council members indicated that the committee should have some leeway in their discussions of the issue.

Gerry Merrigan moved to amend, as follows:

WAI GKC (Western Aleutian Islands Golden King Crab = WAG): The TAC has not been fully harvested under the crab program for a variety of factors including market conditions, share matching issues, processing use caps, and other factors. It is unknown at this time if the Council's recent action on custom processing use cap exemptions will result in full utilization of the TAC. The Council recommends that the Committee should:

1. Review existing crab program requirements for WAG.
2. To the extent possible, determine specifically why the WAG TAC is not being fully harvested (i.e., identify problems).
3. Determine if the identified problems are unique to WAG or apply to EAG as well.
4. Determine to the extent possible if the recent action on custom processing will address or partially address the identified problems in the future.
5. Review alternatives proposed.
6. Develop a range of alternatives to address identified problem(s), including status quo. The alternatives should be developed with the goals of promoting full harvest of the TAC; maximizing the value of golden king crab; provide for community protection and/or regionalization, maintaining a sufficient number of viable processors to ensure competitive pricing; and recognize historic processing as well as historic dependency on the resource by communities and processors.

The motion was seconded.

Mr. Cotten, Chair of the Crab Committee, noted that these are all good questions, but he would prefer a more general list of suggestions for committee discussion. Mr. Merrigan responded that it is not his intent to tie the committee's hands, but feels that these points should have a higher priority.

Duncan Fields moved to amend to strike the preamble portion of the motion and substitute the following: "The Council suggests that the Committee may want to, but is not limited to, consider the following 6 items, adding 'and Eastern AI golden king crab' to item 1." The motion was seconded by Denby Lloyd and carried without objection.

Before voting, several Council members noted that the intent is that this direction is not intended to restrict or micromanage the Committee's work.

Sam Cotten moved to amend the 'title' in the first line to read as follows: "Aleutian Islands Golden King Crab." The motion was seconded and carried without objection.

Mr. Merrigan's original amendment, as amended, carried without objection.

Gerry Merrigan moved to amend the main motion (Tweit) as follows:

Emergency Exemption from the Regionalization: The Council recommends the Committee continue work on this issue in developing alternatives and options. The Committee should discuss: a) the efficacy and implementation issues of using subjective criteria as "unavoidable" and "all reasonable steps" – versus using set definitive conditions and/or circumstances when the exemption would apply; b) what region(s) would the proposed exemption apply to (all regions or a subset), c) if the exemption applies to more than one region, should the criteria for the exemption be the same for all regions, and d) potential complexities of redistribution of taxes. Discuss including an option regarding raw fish tax that would accrue in part or in whole to the city where the crab is actually landed via the exemption. The motion was seconded.

Mr. Merrigan clarified that his intent would be the same as discussed earlier—that the Committee is not limited to only these items, but is encouraged to continue discussion of this issue.

Duncan Fields moved to amend to include that clarification: "The Committee's discussion could include, but not be limited to, the following." The motion was seconded and carried without objection.

With regard to item (d) in Mr. Merrigan's motion it was pointed out that the Council has no authority under the MSFCMA to influence distribution of state or local taxes. Additionally, Mr. Cotter pointed out that the Committee has already discussed this issue at length.

Several Council members expressed concern that the large list of 'priority' tasking issues will measurably slow the Committee's work and prevent a timely report with recommendations for the Council.

Mr. Merrigan's amendment, as amended, carried 6 to 3, with Benson, Hyder and Tweit voting against and Mr. Cotten abstaining.

Gerry Merrigan moved to amend the main motion (Tweit) to add the following:

Crew Participation. The Council recommends the Committee should continue to work on proposals submitted with the intent of providing equitable access to the program and facilitating participation by crew. The Council recommends the Committee also consider the following proposal (a variation on DSFU proposal, i.e. re-designation of shares but at a date certain rather than at time of transfer). For all proposals, the Committee should discuss the impact of an increased proportion of C shares on community protections. The motion was seconded by Denby Lloyd.

Mr. Fields offered an amendment to suggest the Committee could consider hybrid alternatives, however withdrew that motion after Council discussion regarding the amount of specificity and detail when tasking the Committee.

Duncan Fields moved to strike second sentence of Mr. Merrigan's amendment. The motion was seconded by Jim Balsiger and carried with two objections (couldn't identify who those were).

Dave Benson to amend the last sentence (of Mr. Merrigan's motion) to include vessel owners and processors, i.e., "For all proposals, the Committee should discuss the impact of an increased

proportion of C shares on community, vessel owner, and processor protections." The amendment was seconded and carried without objection.

Mr. Merrigan's amendment, as amended, carried without objection.

The main motion (Tweit), as amended, carried without objection.

At the end of the discussions of BSAI crab issues, **Mr. Merrigan offered the following motion:**

The Council recommends that staff complete the metadata table and that analysts do a public review of the data, including meeting with industry and public, in order to further verify their assumptions in the data base, and to report back to the Council on the results. The motion was seconded and carried without objection.

Mr. Merrigan noted that he is concerned about some of the assumptions being used and there seem to be some inconsistencies in the table. AFSC staff can use their judgment as to how best to conduct the public meetings.

C-1(d-e)

ACTION REQUIRED

- (d) Initial review of active participation requirements for C shares**
- (e) Analysis of loan program provisions**

BACKGROUND

- (d) Initial review of active participation requirements for C shares**

The crab rationalization program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares). In the first two years of the program, some participants have questioned the specific provisions defining active participation requirements for C share acquisition and use. During the transition to the rationalization program, the fleet contracted substantially, eliminating eligibility of many crew to acquire C shares. In addition, some participants believe a strict owner-on-board requirement is overly restrictive. To address these issues, the Council has identified alternatives to the current active participation requirements for analysis. At this meeting, the Council is scheduled to make an initial review of that analysis. The analysis was mailed out to you in mid-January; an executive summary of that analysis is attached (Item C-1(d)(1)).

- (e) Analysis of loan program provisions**

Under the Magnuson Steven Act, loan programs are authorized to fund the purchase of shares (in a share based management program) by entry level and small vessel fishermen. As a part of the development of the rationalization program, the Council included provisions defining a loan program to support the purchase of quota by active captains and crew. NOAA Fisheries Financial Services Division recently received authority to extend loans for crab IFQ purchases in the amount of \$3 million. To implement the loan program, several aspects of that program require further definition. Financial Services Division has requested that the Council make specific recommendations for these aspects of the loan program for incorporation into the proposed rule. The attached document (Item C-1(e)(1)) includes analysis of the following potential provisions of the loan program:

- **Definition of crewmember,**
- **Definition of active participant,**
- **Definition of first time purchases by entry level fishermen,**
- **Definition of small vessels,**
- **Share caps for loan eligibility for individual fisheries for entry level fishermen,**
- **Share caps for loan eligibility for individual fisheries for persons fishing from small vessels,**
- **Share caps for aggregate holdings in all fisheries for persons fishing from small vessels, and**
- **Annual limits on borrowing**

NOAA Fisheries Financial Services Division has suggested that time is of the essence for completing rule making to ensure loan funds are available to borrowers at the soonest possible date. To aid in expediting rulemaking, NOAA Fisheries Financial Services Division has suggested that the Council make its recommendations at this meeting.

Report of the Scientific and Statistical Committee

The SSC provided the analysts with suggested technical edits and recommended that the discussion of exvessel prices and price differentials be characterized as being anecdotal. The SSC recommended that the draft analysis be released for public review after those concerns have been addressed. [See SSC Minutes, Appendix IV to these minutes for more detailed comments.]

Report of the Advisory Panel

(d) Active Participation Requirements for C shares

The AP recommends the Council release the document for final review with the following changes/additions:

The Council has identified the following alternatives for this action:

Options for revision of active participation requirements for C share holders:

~~To receive an annual allocation of IFQ, a C share holder must have participated in:~~

Option A: **have participated in** at least one delivery in a fishery subject to the crab rationalization program in the 3 years preceding the application for IFQ.

Suboption B: have received an initial allocation of C shares and participated in 30 days of State of Alaska or **Alaska** Federal fishing in the 3 years preceding the application for IFQ.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that ~~3 percent of the~~ portion of the TAC available to active C share holders **is equivalent to the C share portion of the overall QS pool.**

~~If a C share holder has not participated in at least one delivery in a rationalized crab fishery in the preceding 5 seasons, that C share holder will be required to divest of all C share holdings. A C share holder who does not meet one of the following active participation criteria will have all C share QS holdings revoked:~~

Option: The person must have participated in at least one delivery in one of the rationalized crab fisheries in the preceding 2 - 5 seasons (i.e., crab fishing years).

Suboption: The person must have received an initial allocation of C share QS and have participated in 30 days of fishing in State of Alaska or Alaska federal fisheries in the preceding 5 seasons (i.e.; crab fishing years).

This provision will not require individuals to divest of Quota Share until 5-10 years after implementation of the crab program.

Options to address current transition:

For a period of 5 or 7 years from the implementation of the program, C shares can also be acquired by an individual who:

- 1) is a U.S. citizen,
- 2) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historic participation), and

Option 1: received an initial allocation of C shares

Option 2: demonstrates participation in the **BSAI rationalized crab fisheries** during

- a. 3 of the 5 seasons or
- b. 2 of the 3 seasons

immediately preceding implementation of the crab rationalization program.

(e) Analysis of loan program provisions

Active participation definition:

1. is a U.S. citizen,
2. has at least 150 days sea time, as part of a harvesting crew in any U.S. commercial fishery,
3. has made at least one delivery in a fishery subject to the crab rationalization program in:
 - a. 2 of the 3 years prior to the application for the loan, or
 - ~~b. the 3 years prior to the application for the loan.~~

Fishermen who fish from small vessels:

In the Bering Sea and Aleutian Islands rationalized crab fisheries, this is to be defined as “fishermen who fish from any or all vessels”.

First time purchase of individual fishing quota by entry-level fishermen and fishermen who fish from small vessels is to be defined through the following options:

Maximum **aggregate** threshold quota share holdings to qualify for the loan program, by fishery:

Bristol Bay red king crab, Bering Sea C. opilio, and Eastern and Western Bering Sea C. bairdi fisheries share holdings thresholds:

- a) ~~0.05 percent~~
- b) 0.10 percent
- c) ~~0.25 percent~~
- d) ~~0.50 percent~~

Pribilof red and blue king crab and St. Matthew Island blue king crab fisheries share holdings thresholds:

- a) ~~0.10 percent~~
- b) 0.20 percent
- c) ~~0.50 percent~~
- d) ~~1.00 percent~~

Western Aleutian Islands red king crab, Western Aleutian Islands golden king crab, and Eastern Aleutian Islands golden king crab fisheries share holdings thresholds:

- a) ~~0.5 percent~~
- b) 1.0 percent
- c) ~~2.5 percent~~
- d) ~~5.0 percent~~

Loan cap amounts per individual:

- a) ~~\$150,000 per year~~
- b) ~~\$300,000 per year~~
- c) ~~\$450,000 per year~~

10% of amount available, subject to an “individual and collective” rule.

COUNCIL DISCUSSION/ACTION

The Council received a staff report from Mark Fina (NPFMC), AP and SSC reports, and oral public comment on both agenda issues [C-1(d-e)].

'C' Share Eligibility

Duncan Fields moved the following:

The Council directs staff to release the document for final review with the following changes/additions:

The Council has identified the following alternatives for this action:

Options for revision of active participation requirements for C share holders:

To receive an annual allocation of IFQ, a C share holder must:

Option: have participated in at least one delivery in a fishery subject to the crab rationalization program in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

Suboption: have received an initial allocation of C shares and participated in 30 days of State of Alaska or Alaska Federal fisheries in the 3 seasons (i.e., crab fishing years) preceding the application for IFQ.

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that the portion of the TAC available to active C share holders is equivalent to the C share portion of the fishery as established by the Council (currently 3%).

A C share holder who does not meet one of the following active participation criteria will have all C share QS holdings revoked:

Option: The person must have participated in at least one delivery in one of the rationalized crab fisheries in the preceding 4 - 5 seasons (i.e., crab fishing years).

Suboption: The person must have received an initial allocation of C share QS and have participated in 30 days of fishing in State of Alaska or Alaska federal fisheries in the preceding 4 - 5 seasons (i.e., crab fishing years).

This provision will not require individuals to divest of Quota Share until 5-10 seasons after implementation of the crab program.

Option: C share holders that are cooperative members are not exempt from owner on board requirements and leasing prohibitions.

Options to address current transition:

For a period of 5 or 7 years from the implementation of the program, C shares can also be acquired by an individual who:

- 3) is a U.S. citizen,
- 4) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery (historic participation), and

Option 1: received an initial allocation of C shares

Option 2: demonstrates participation in the BSAI rationalized crab fisheries during

- a. 3 of the 5 seasons or
- b. 2 of the 3 seasons

immediately preceding implementation of the crab rationalization program.

The motion was seconded by Roy Hyder.

Bill Tweit moved to delete the "owner on board" exemption option. The motion was seconded and carried, 6 to 4, with Cotten, Fields, Lloyd and Olson voting no.

GM moved to amend, as follows:

Suboption to the "Annual allocation of IFQ" paragraph:

Suboption: Persons who received an initial allocation of C share QS and are 60 years of age or older on the date of implementation of this amendment are exempt from active participation requirements.

Suboption 1: Exemption limited to initially issued C share QS.

The motion was seconded.

Denby Lloyd expressed concern that this could possibly infer that quota shares are assets, or a property right; but for purposes of analysis he would not object at this time. Lauren Smoker noted the issue of age discrimination which will also have to be explored. Staff noted that age data is not currently collected, but there is data on initial recipients of C share QS and it would be possible to determine how many of those still retain C Shares.

Roy Hyder moved to amend to revise the suboption to include both (a) limited to initially issued C share QS, and (b) not limited to initially issued C share QS. The motion was seconded by Duncan Fields and carried without objection.

It was clarified that the intent is that an individual who has this exemption would not be able to buy additional C shares.

Mr. Merrigan's amended motion carried without objection.

Duncan Fields moved to initiate a trailing amendment, as follows:

C share holders that are cooperative members are not exempt from owner on board requirements and leasing prohibitions.

Suboption: Persons who received an initial allocation of C share QS and are 60 ears of age or older on the date of implementation of the active participation amendment remain exempt from owner on board and leasing prohibitions,

- 1. Exemption limited to initially issued QS**

Suboption: Persons with a “ medical emergency” as defined in the current IFQ regulations would be exempt for the owner on board and leasing prohibitions

Suboption: Persons who are called to full time government service would be exempt from the owner on board and leasing prohibitions.

Suboption: Owner on board requirements and leasing prohibitions would not be imposed on C share holders for a period of 7-10 years from implementation of the BSAI Crab Rationalization Program.

The motion was seconded by Roy Hyder.

Gerry Merrigan moved a substitute motion to send this motion to the Crab Committee for discussion. The motion was seconded and failed on a 5-5 tie vote (Balsiger, Benson, Bundy, Tweit and Merrigan voting in favor; Cotten, Fields, Hyder, Lloyd and Olson voting no).

Mr. Fields' motion also failed on a tie vote of 5-5 (Balsiger, Benson, Bundy, Tweit, and Lloyd voting no; Cotten, Fields, Hyder, Merrigan and Olson voting yes).

BSAI Crab Loan Eligibility

Gerry Merrigan moved the following:

BSAI Crab Loan Program Terms

- 1. Crew definition^{new}: (as defined in current program) "Crew" includes any individual, other than fishery observers, working on a vessel that is engaged in fishing. This definition of crew includes skippers. For Administration purposes, the Council recommends that at the time of application for a loan, the individual must hold either a valid CFEC permit card or crew license.**
- 2. Active participation requirement (to be eligible to apply for a loan): The Council recommends that to be eligible for a loan, a person needs to qualify as crew (as defined above) AND the following criteria as an active participant: {as in AP motion}**
 - a. be a U.S. citizen, and**

- b. have at least 150 days sea time as part of a harvesting crew in any U.S. commercial fishery, and
 - c. made at least one delivery in a fishery subject to the crab rationalization program in two of the three years prior to application for the loan.
3. **Active Participation verification *{new}***: The Council recommends that the verification of past participation can be demonstrated as a CFEC permit holder on a fish ticket; or in the absence of a fish ticket, vessel owner or captain verification of participation should be required.
4. **"Small vessels"**: In the interest of safety and practicality, the Council recommends that "small vessels" includes any or all vessels in the BSAI crab fisheries. *{same intent as in AP motion}*
5. **Individual fishery share thresholds for fishermen who fish on small vessels (i.e., all crab vessels) and/or entry level fishermen**: The Council recommends that a single threshold be established for each crab fishery and the threshold based on the initial QS pool will be the maximum amount of QS shares that a person may hold in that fishery upon completing purchases with the loan program. *{same threshold numbers as in AP motion}*
 - a. Bristol Bay RKC: 0.1%
 - b. BS Opilio: 0.1%
 - c. E & W BS bairdi: 0.1%
 - d. Pribilof red and blue KC: 0.2%
 - e. St. Mathew blue KC: 0.2%
 - f. WAI RKC: 1.0%
 - g. WAI GKC: 1.0%
 - h. EAI GKC: 1.0%
6. **First time purchase by entry level fishermen *{new}***: The Council recommends that this rule should be applied independently to each crab fishery (so a person who purchased shares in only one crab fishery would be considered a first time purchaser in all other crab fisheries).
7. **Annual borrowing limit**: The Council recommends that a borrowing limit be established that would limit the total amount of funds an individual person could borrow in any one year. That limit would be 10% of the available funds in that year. *{as in the AP motion}*
8. **Continued active participation requirements *{new}***: The Council does not recommend that proof of continued active participation be required as a loan condition for the duration of the loan. The intertwining of active participation as a loan condition with IFQ allocations appears unworkable and poses loan administration difficulties. However, the Council has a proposed action that will define active participation requirement to be eligible to acquire C shares and to receive C share IFQ. This action may serve to encourage continued participation (without making it a condition of the loan program).

The motion was seconded by John Bundy.

Sam Cotten moved to add an additional point (9):

9. **First preference shall be given to applicants applying with first-time purchaser criteria (in that fishery) as opposed to those applying with small vessel criteria.**

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

It was pointed out that Financial Services approves loans based on a first-come, first-served basis as well as financial criteria and has expressed concern about this type of preference. Council members noted that Financial Services could consider the Council's suggestion and determine whether or not it is feasible.

Mr. Cotten also proposed a motion to restrict loans to C share purchases, however the motion was withdrawn after staff indicated that the administrative needs to track this type of provision would be extensive.

Mr. Merrigan's main motion, as amended, carried without objection.

C-1(f-g)

ACTION REQUIRED

(f) Initial review of amendments to the arbitration program

~~**(g) Discussion paper concerning potential grants of immunity under the arbitration program**~~

BACKGROUND

(f) Initial review of amendments to the arbitration program

An important component of the crab rationalization program is the arbitration system that is used to resolve delivery terms between holders of Class A individual fishing quota (IFQ), which must be delivered to a processor holding unused individual processing quota (IPQ). In the first two years of the program, certain technical aspects of the arbitration system have limited the effectiveness of that system. This action includes alternatives that would modify the following three aspects of the arbitration system to improve it effectiveness:

- Removal of the requirement of market reports and non-binding price formulas for fisheries unlikely to open. The action would require arbitration organizations to agree to provisions for the contingency of a fishery opening being announced unexpectedly.**
- Modification of the timeline for the golden king crab market report and formula to allow for data from most recent fishery to be used.**
- Address staleness of the market reports by allowing those reports to be produced and supplemented at any time (provided those reports contain only publicly available information to allay any potential antitrust concerns).**

At this meeting, the Council scheduled an initial review of that analysis. The executive summary is attached (Item C-1(f)(1)).

~~**(g) Discussion paper concerning potential grants of immunity under the arbitration program**~~

This paper is not ready for this meeting and will be rescheduled for the April meeting.

Report of the Scientific and Statistical Committee

The SSC provided staff with suggested technical edits and recommended that the draft analysis be released for public review after those edits are addressed. [See SSC Minutes, Appendix IV to these minutes for more detailed comments.]

The Advisory Panel did not address this agenda issue.

COUNCIL DISCUSSION/ACTION

The Council received a staff report from Mark Fina (NPFMC) and a report from the SSC. There was no oral public comment offered on this agenda issue.

John Bundy moved to approve the recommendations of the SSC. The motion was seconded and carried without objection.

C-1(h)

ACTION REQUIRED

(h) Initial review of extension of 'cooling off' and right of first refusal for St. George

BACKGROUND

Under the crab rationalization program, processors were allocated processor quota shares (PQS) based on their respective processing histories. To protect community interests, most processing shares were required to be used in the community in which the processing history occurred during the first two years of the program (the 'cooling off period'). In addition, holders of most processor shares were required to enter agreements granting community designated entities a right of first refusal on certain transfers of those shares. The agreements also specify that the right of first refusal will lapse, if the holder of the PQS processes those shares outside of the community for a period of 3 consecutive years. Due in part to intervening circumstances, and notwithstanding these protections, no shares designated for processing in the City of St. George were processed in that community during the first two years of the rationalization program. This action considers extending the 'cooling off period' for the City of St. George and revising the conditions under which the right of first refusal will lapse with respect to those shares.

Since initiating this action, Aleutian Pribilof Island Community Development Association has challenged the decision of NOAA Fisheries to waive the cooling off requirement during the second season of the program (2006-2007). As noted in the analysis, Aleutian Pribilof Island Community Development Association (the holder of the right of first refusal on behalf of St. George) has reached a settlement with one of the two PQS holders subject to the St. George-based right of first refusal, settling any issue concerning the 'cooling off' period and right of first refusal with respect to that PQS holder. The dispute remains outstanding with the second PQS holder. The hearing administrator in the case has issued a decision concerning potential remedies. That decision states that the administrator has authority to prevent the lapse of the right of first refusal (by restarting the timeline for lapsing of the right of first refusal); however, the decision also states that the administrator has no authority to require processing in St. George.

At this meeting, the Council scheduled an initial of review that analysis. The executive summary of that analysis is attached (Item C-1(h)(1)).

Report of the Scientific and Statistical Committee

The SSC noted that the draft analysis provides a balanced discussion of the implications of the proposed alternatives and recommended the analysis be released for public review after inclusion of some suggested technical edits. [See SSC Minutes, Appendix IV to these minutes for more detailed comments.]

Report of the Advisory Panel

The AP recommends the Council send out the analysis for final review with the following modifications and additions:

Alternatives:

Cooling off Period

Alternative 1: Status Quo

Alternative 2: Begin a new two year cooling off period with a starting date of October 1, 2009.

Alternative 3: Begin a new one year cooling off period with a starting date of October 1, 2009.

Right of First Refusal

Alternative 1: Status quo

Alternative 2: Begin a new ROFR three-year period with a starting date of October 1, 2009 (unless the ROFR can be renewed prior to expiration).

For Alternatives 2 and 3 for the cooling off period and Alternative 2 for ROFR, analyze an option to provide relief from the cooling off period and ROFR if NMFS is notified of an agreement between the community entity representing St. George and the owner(s) of the PQS.

COUNCIL DISCUSSION/ACTION

The Council received a staff report from Mark Fina (NPFMC) and SSC and AP reports. There was no oral public comment offered on this agenda issue.

Gerry Merrigan moved to release the analysis for public review with the following alternatives:

Alternative 1: Status quo.

Alternative 2: Extension of community protection provisions. A processor who holds St. George IPQ is subject to a two-year cooling off period and a new ROFR three-year agreement with a starting date of October 1, 2009 – unless that processor and the community entity provide proof to NMFS that they have otherwise entered into a written contract that addresses both the cooling off period and the ROFR.

Alternative 3: Extensions of community protection provisions. A processor who holds St. George IPQ is subject to a one-year cooling off period and a new ROFR three-year agreement with a starting date of October 1, 2009 – unless that processor and the community entity provide proof to NMFS that they have otherwise entered into a written contract that addresses both the cooling off period and the ROFR.

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

Completed final motions for BSAI crab issues are found in Appendix VI to these minutes.

C-2 LLP Trawl Recency

ACTION REQUIRED

Initial review of trawl LLP recency regulatory amendment package (RIR/EA/IRFA).

BACKGROUND

At the December 2007 Council meeting, the SSC and AP reviewed the initial draft of the RIR/EA/IRFA to remove latent trawl CV and CP licenses from the BSAI and GOA groundfish fisheries. Due to time constraints, the Council rescheduled its initial review to this February 2008 meeting. In general, the amendment proposes two alternative approaches to remove subarea endorsements (BS, AI, WG, and CG) from latent trawl catcher vessel and trawl catcher processor licenses. In order to retain the area endorsement, the license must meet specified landings criteria. Note that there are three provisions which outline exemptions to the proposed landings criteria: 1) an AFA exemption from the BSAI landings criteria; 2) a Central Gulf rockfish pilot program exemption from the CG landings criteria; and 3) a BSAI Amendment 80 exemption from the BSAI landings criteria. Other exemptions are proposed as options within the amendment package.

Since the December 2007 meeting, the analysis has been rewritten and reorganized, including an update to the data. The suite of alternatives, components, and options has also been revised and reorganized by staff, although no substantive changes were intended. Because of the numerous changes to the language of the original motion, however, the Council may find it prudent to formally approve the changes to the suite of alternatives. The original suite of alternatives (dated October 2007) and the newly revised version (dated January 2008) are provided as Item C-2(a) and Item C-2(b), respectively.

Because the Council did not have the opportunity to adopt either the SSC or AP comments from December, staff has not addressed their substantive comments in the February review draft. The December SSC comments are focused on two areas. The SSC points out a basic dichotomy within the proposed amendment—the primary objective of the amendment is to reduce latent LLP licenses, while a separate part of the amendment (Component 4) proposes to add new AI endorsements on existing LLP licenses. The most straightforward way to address the SSC concerns would be to split the amendment, such that Component 4 would proceed as a separate amendment. The SSC also had comments relating to Component 4, Option 3. The AP comments requesting clarification in the analysis were incorporated in the February draft; the substantive changes to the options were not incorporated, pending Council approval.

The analysis was sent to you on January 18, and the executive summary is attached as Item C-2(c). Should the Council release the analysis for public review at this meeting, final action is tentatively scheduled for the April 2008 Council meeting.

Neither the **Scientific and Statistical Committee** nor the **Advisory Panel** addressed this agenda issue at this meeting, however they did discuss the issue at the December 2007 meeting.

COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salvesson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively.]

The Council received a staff report from Nicole Kimball (NPFMC) and oral public comment on this agenda issue.

Earl Krygier moved the following:

The Council forwards the February 2008 C-2 LLP Trawl recency analysis for final action with the following revisions. Additions are underlined and deletions are shown in strikethrough.

Alternative 1. No action. All trawl LLPs currently issued with a BSAI and/or GOA area endorsement will continue to be valid for the BSAI and/or GOA trawl groundfish fisheries.

Alternative 2. Remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the overall management area (BSAI or GOA).

Alternative 3. Remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the specified subarea.

Alternatives 2 and 3 apply to all trawl CV and CP LLPs in the areas specified except for those identified in the following exemptions:

AFA exemption from BSAI landings thresholds: Exempt BSAI LLP endorsements originally issued to vessels qualified under the AFA and any non-AFA BSAI LLPs assigned to AFA vessels not having any other license. (Applied to CPs and CVs).

Central Gulf Rockfish Pilot Program exemption from CG landings thresholds: Exempt CG subarea endorsements on CG rockfish pilot program qualified licenses. (Applies to CPs and CVs).

Amendment 80 exemption from BSAI landings thresholds: Exempt BSAI LLP endorsements originally issued to vessels qualified under Am. 80 and BSAI LLPs used for eligibility in Am. 80.

The following components are applicable to Alternative 2 and Alternative 3.

Component 1 – Landings thresholds in the specified area

Option 1. At least one landing of groundfish during 2000 – 2005.

Option 2. At least two landings of groundfish during 2000 – 2005.

Option 3. At least [one or two] landings of groundfish during 2000 – 2006.

Suboption: Apply Option 3 only to BSAI endorsements.

Option 4. Exempt BSAI endorsements on trawl LLPs with MLOA of <60' that have trawl or non-trawl landings in the BSAI directed Pacific cod fishery (in any one year 2000 – 2005) of:

Suboption 1: one landing

Suboption 2: two landings

Suboption 3: 200 mt

~~Option 5.~~ Exempt AI endorsements from meeting the landings thresholds.

Option 5. (applicable only under Alternative 3)

In order to retain both GOA subarea endorsements, significant landings must have been made in one of the management areas (e.g. WG and CG). The trawl LLP must meet the landing criteria selected (Options 1, 2, or 3 above) for a specific subarea (e.g. WG), plus the license must have participation in the same subarea (e.g. WG) in 2005 or 2006 or 2007 of at least:

Suboptions: 20, 30, or 40 landings

Component 2 – Multiple LLPs stacked on a single vessel. Groundfish harvest history is credited to each LLP stacked on a single vessel at the time of landing.

Suboption: Stacked licenses will remain linked and can not be severed back into separate licenses.

Component 3 – Option: Exempt LLPs originally issued to vessels qualified under Amendment 80 and LLPs used for eligibility in Amendment 80 from the GOA landing thresholds.

Component 4 – Adding new AI endorsements to trawl LLPs

Option 1. Award AI endorsements to non-AFA trawl CV <60' MLOA licenses if they meet the landing thresholds in the AI parallel P. cod fishery during 2000 – 2005 of at least:

Suboption 1: 50 mt

Suboption 2: 250 mt

Suboption 3: 500 mt

Option 2. Award AI endorsements to non-AFA trawl CV ≥60' MLOA LLPs if they have at least one landing in the AI parallel groundfish fishery or AI State water P. cod fishery in 2000 – 2006 and meet the following threshold in the BSAI P. cod fishery in 2000 –2006:

Suboption 1: 500 mt

Suboption 2: 1000 mt

~~**Option 3. NMFS will exempt a limited number of vessels, selected annually by the Aleut Corporation, from the requirement to hold an AI endorsement to participate in the AI groundfish fishery.**~~

~~**Suboption 1: up to 10 vessels <60' LOA can be exempted annually**~~

~~**Suboption 2: up to 4 vessels <125' LOA can be exempted annually**~~

Option 3. All Aleutian Islands endorsements issues under Component 4 shall be severable and transferable.

The motion was seconded by Sam Cotten.

Concern was expressed that these options represent some substantive changes which may not allow for final action in April as scheduled. Ms. Kimball noted that one difficulty is that 2007 data will not be available until late February. Mr. Krygier responded that it would be his intent to take final action in April, but if the Council determines there isn't adequate information, action could be delayed.

Gerry Merrigan moved to amend the suboption under Component 2 to include the words "at the time of implementation" at the end of the sentence: "Stacked licenses will remain linked and can not be severed back into separate licenses, at the time of implementation." The motion was seconded and carried without objection.

Mr. Cotten proposed an amendment to establish a control date, but withdrew it after Ms. Lindeman (NOAA General Counsel) noted that a control date could not be imposed at this stage.

Duncan Fields moved to amend Component 1, Option 5, to change the first full line to read as follows (changes noted by strikethrough/underline):

In order to retain both GOA subarea endorsements, significant landings must have been made in one of the management areas (e.g. WG ~~and~~ or CG). [The rest of the option would remain the same.]

The motion was seconded by Sue Salvesson and carried without objection.

Sue Salvesson moved to amend the second sentence of Option 5, Component 1, to read as follows (changes noted by strikethrough/underline):

The trawl LLP must meet the minimum landing criteria selected (Options 1, 2, or 3 above) for a specific subarea (e.g. WG), plus the license must have participation in ~~the same subarea (e.g. WG)~~ either the WG or CG in 2005 or 2006 or 2007 of at least:

Suboptions: 20, 30, or 40 landings

The motion was seconded and carried without objection.

Sue Salveson moved to amend Component 4, Option 1, to change the landing threshold requirement years to 2000—2006. The motion was seconded and carried without objection.

Ms. Salveson noted that this would make the years consistent with those in with Option 2.

Dave Benson moved to amend Component 1 to re-insert the original Option 5 (exempt AI endorsements from meeting the landings thresholds), renumbering the options as necessary. The motion was seconded and failed, 6 to 4, with Benson, Bundy, Hyder and Merrigan voting in favor.

Sue Salveson moved to amend Component 4, Option 3, to add a new type of Aleutian Islands area endorsement, as follows:

The new Aleutian Islands area trawl endorsement can only be transferred to a non-AFA trawl CV with a trawl CV designation, and an MLOA of less than 60ft or greater than, or equal to, 60ft as applicable to Options 1 or 2.

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

Ms. Salveson noted this amendment is an attempt to clarify the restricted nature of the new types of area endorsements. There may be additional questions for the Council after staff has had the opportunity to look at the whole amendment. The intent is to limit benefits of the AI endorsements to only those vessels that are within the scope of Component 4.

The Council discussed whether staff would be able to finalize the analysis for final review and action in April considering the new amendments at this meeting.

Dave Benson moved to strike the portion of the motion calling for final action in April, and to insert: "the Council forwards the February 2008 action for public review." The motion was seconded and carried without objection. The Council noted that the Executive Director and staff should make the determination on what can be available for the April meeting.

The main motion, as amended, carried with Duncan Fields objecting. Mr. Fields noted that his objection is to the fact that the program does not include community protections.

Duncan Fields moved the following for a trailing amendment:

NMFS will reserve 1-2 GOA trawl LLPs for each Community Quota Entity (CQE) eligible community located in management areas 610, 620, 630 (13 possible CQEs). Upon application by the CQE, NMFS will transfer reserved LLPs annually to a designated individual that is a resident in the respective CQE communities (as defined in Amendment 66). The motion was seconded by Sam Cotten. [Mr. Fields clarified this would involve 1-2 (determined by Council) permits per community, per year, and would not be cumulative.] The motion failed, 6 to 4 (Cotten, Fields, Hyder and Olson voting in favor).

The Council's final motion is included as Appendix VII to these minutes.

C-3 Amendment 80 Cooperatives

ACTION REQUIRED

Final action on Amendment 90: post-delivery transfers and rollovers

BACKGROUND

At its December 2007 meeting, the Council released for public review an analysis of an amendment to the Amendment 80 program that would (1) allow cooperatives to engage in post-delivery transfers to cover quota overages, and (2) authorize rollovers of Amendment 80 limited access allocations that are projected to be unharvested to the Amendment 80 cooperatives. The post-delivery transfer provision would be intended to reduce the potential for enforcement actions related to unintended overages, in the event a cooperative can acquire shares to cover an overage within a reasonable time. The rollovers of projected unharvested Amendment 80 limited access allocations to Amendment 80 cooperatives would be intended to reduce unharvested species allocations to ensure the TAC is utilized to the fullest extent practicable. At this meeting, the Council is scheduled to take final action on this issue. The public review draft is attached as Item C-3(a).

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

Report of the Advisory Panel

Post Harvest Transfers

The AP recommended the Council adopt Alternative 2, unlimited post-harvest transfers as its preferred alternative.

AM80 Limited Access Rollovers

Additionally, the AP recommended the Council adopt Alternative 2 which provides rollovers for unharvested AM80 limited access quota.

COUNCIL DISCUSSION/ACTION

[Note: Earl Krygier and Sue Salveson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively.]

The Council received a staff report from Jon McCracken (NPFMC), the Advisory Panel report, and oral public comment on this issue.

Sue Salveson provided a 4-part written motion. The Council agreed to take up each portion separately.

Sue Salveson moved to bifurcate the two proposed actions of post-delivery transfers and rollovers of Amendment 80 limited access allocations and consider each separately. The motion was seconded and carried without objection.

Sue Salveson moved:

Adopt Alternative 2 under the post delivery transfer action to allow post delivery transfers of shares among Amendment 80 cooperatives. The number of post-delivery transfers a person may receive and their size would not be limited.

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).

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 section 303(c) are consistent with these instructions. The motion was seconded by Earl Krygier and carried unanimously.

Ms. Salveson noted that this alternative will allow directed species to be more fully harvested and provide an opportunity to maximize harvest opportunities within the co-op structure.

Sue Salveson moved to table the proposed action that would allow the rollover of projected unharvested amounts of Amendment 80 species and PSC from the Amendment 80 limited access fishery to the Amendment 80 cooperatives until the October 2008 Council meeting, at which time the Council may better assess the need for this action as well as other options for optimizing harvest of groundfish allocated to the Amendment 80 sector. The motion was seconded.

Ms. Salveson noted that there isn't enough experience with the Amendment 80 fishery yet to determine whether rollovers are necessary.

Dave Hansen moved to amend to postpone further consideration on the rollover with the intent that it would be back in front of the Council at its October 2008 meeting. The motion was seconded by Dave Benson.

Duncan Fields moved to amend to remove the October meeting portion of the amendment. The motion was seconded and carried without objection.

Council members noted that there still may not be enough experience with the Amendment 80 fisheries in order to take final action in October.

Mr. Fields' amendment carried without objection and was considered to carry Mr. Hanson's motion.

Sue Salveson moved to task staff to develop a discussion paper to review the criteria for establishing cooperatives in the Amendment 80 sector. This discussion paper should provide a qualitative discussion reviewing the goals of the existing cooperative formation standards, current conditions in the fishery, and the implications of modifying cooperative formation criteria. The discussion should review criteria for the number of unique entities required to form a cooperative, the number of QS permits needed to form a cooperative, and amount of QS that must be assigned to a cooperative to form. Staff should select a range of options, and should analyze the effects of modifying one of the criteria at a time, as well as the effects of modifying several of the criteria simultaneously, to the extent possible. This discussion paper should be provided to the Council at the June meeting. The motion was seconded and carried without objection.

With regard to when the discussion paper would come back to the Council, it was determined that the Chairman and Executive Director will have the discretion to schedule depending on staff availability and future agendas.

C-4 Observer Program

ACTION REQUIRED

Initial review of Observer Program regulatory amendment package (RIR/IRFA)

BACKGROUND

Initial review of Observer Program regulatory amendment package

The existing North Pacific Groundfish Observer Program (Observer Program), in place since 1990, establishes coverage levels for most vessels and processors based on vessel length and amount of groundfish processed, respectively. Vessels and processors contract directly with observer providers to procure observer services to meet coverage levels in regulation. In the past several years, the Council, NMFS, and the Observer Advisory Committee (OAC) have been working to develop a new system for observer funding and deployment in the Observer Program. The concept previously proposed was often called 'observer restructuring.' In general, the program would be restructured such that NMFS would contract directly with observer providers for observer coverage, and this would be supported by a broad-based user fee and/or direct Federal funding. Concerns with the existing program arise from the inability of NMFS to determine when and where observers should be deployed, inflexible coverage levels established in regulation, disproportionate cost issues among the various fishing fleets, and the difficulty to respond to evolving data and management needs in individual fisheries.

The Council thus reviewed an amendment package in 2006, with alternatives intended to address a variety of longstanding issues associated with the existing system of observer procurement and deployment. As part of initial review in February 2006, NMFS presented a letter (Item C-4(a)) regarding observer compensation issues and the status of observers with regard to the requirements for overtime pay under the Fair Labor Standards Act (FLSA) and the Service Contract Act (SCA). This issue was brought to the forefront in a memo from Dr. Bill Hogarth in November 2003, which stated that NMFS maintains that fisheries observers are biological technicians and therefore eligible for overtime compensation under the FLSA. NMFS subsequently reaffirmed its position that observers employed by companies which contract directly with the agency or use Federal funds for provision of observer services must apply FLSA and SCA criteria to determine observer compensation requirements.

The NMFS letter reviewed in February 2006 outlines ongoing concerns with not being able to provide a definitive assessment of observer costs under a new service delivery model at the time, due to uncertainty about the applicability of the SCA and FLSA. Costs may not be possible to assess until actual contracts between NMFS and observer providers are finalized. In addition, NMFS has not received a response from the Department of Labor on its request for clarification of the applicability of several FLSA provisions. The NMFS letter also outlined the type of increased costs expected under any alternative other than status quo, as well as the need to ensure that funds are available to cover costs associated with oversight and management of a flexible, effective observer program.

Also at the time of final action in June 2006, NOAA General Counsel, Alaska Region (GCAK) provided a preliminary determination that the Research Plan authority provided in the MSA (Section 313) to assess a fee for observer coverage could not be applied to only a subset of the vessels in the fisheries for which the Council and NMFS have the authority to establish a fee program. Therefore, all of the restructuring alternatives, which assessed different fees against different fisheries or sectors, were likely to require new statutory authorization.

Given the cost and statutory issues described above, at the time of final action in June 2006, the Council approved an extension of the current program, by removing the December 31, 2007 sunset date in existing regulations. This action was also recommended to the Council by NMFS and the OAC, given the need for continuing the program in the short-term and the lack of control over Congressional authority and cost issues. The final rule for this action was published on June 13, 2007 (72 FR 32559).

Also in June 2006, the Council recommended that a new amendment proposing restructuring alternatives for the Observer Program should be considered by the Council at such time that: (1) legislative authority is established for fee-based alternatives; (2) the FLSA issues are clarified (by statute, regulation, or guidance) such that it is possible to estimate costs associated with the fee-based alternatives; and/or (3) the Council requests reconsideration in response to changes in conditions cannot be anticipated at this time. Thus, the previous analysis of the restructuring alternatives was intended as a starting point for a future amendment.

Since final action in June 2006, the Magnuson-Stevens Act (MSA) was reauthorized (January 12, 2007). These amendments include changes to Section 313 which allow the Council and Secretary to prepare a fisheries research plan which establishes a system of fees which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan. The MSA amendments also allow for a fee system to provide for the cost of electronic monitoring systems, as well as human observers. The revisions to Section 313 of the MSA are provided as Item C-4(b).

Thus, while one of the criteria (statutory authority) the Council stated was necessary to meet in order to reconsider an amendment to restructure the Observer Program was provided through MSA reauthorization, the FLSA and cost issues remain unresolved. NMFS has not yet received a response from the Department of Labor on its request for clarification of the applicability of several FLSA provisions, nor have these issues been clarified by statute or regulation, significantly affecting staff's ability to estimate costs associated with a fee-based system. In April, the Council approved a motion to send another letter to Dr. Bill Hogarth, requesting a response from the Department of Labor on the FLSA issues, in order to make further progress on observer restructuring. NMFS has also requested cost estimates from observer programs in other regions, in order to provide a (limited) means for comparison.

Given that the cost issues remain, in March 2007, NMFS sent a letter recommending that the Council continue to set the restructuring amendment package aside, and focus its efforts on necessary changes to the existing Observer Program (Item C-4(c)). There are several relatively short-term type actions to change the existing Observer Program that NMFS believes need to occur regardless of observer restructuring; these have been proposed in one regulatory package. The Observer Advisory Committee met on May 21 – 22, and recommendations on the proposed changes and alternatives were provided at the June Council meeting. (The May OAC report is also attached to the draft analysis.)

The Council initiated this regulatory amendment (RIR/IRFA) at the June 2007 Council meeting. The analysis is organized under seven different issues. It examines several alternatives to revise Federal regulations relevant to numerous administrative and procedural requirements applicable to observer providers, observers, and industry participating in the Observer Program. Specifically, the proposed actions would:

- **Issue 1: Modify the current permit issuance process to reflect that observer and observer provider permit issuance is a discretionary NMFS decision.**
- **Issue 2: Amend current Federal regulations addressing observer behavior involving drugs, alcohol, and physical sexual conduct to remove NMFS oversight of observer behavior that does not affect job performance. Require that observer providers submit policies related to these activities and continue to notify NMFS upon learning of an incident. NOAA GC advises that current regulations are unenforceable, and/or outside the authority of NMFS.**
- **Issue 3: Clarify in Federal regulations that observer providers are allowed to provide observers or technical staff for purposes of exempted fishing permits, scientific research permits, or other scientific research activities.**
- **Issue 4: Revise the definition of “fishing day” in Federal regulations.**
- **Issue 5: Require observer providers to annually submit detailed economic information to NMFS.**
- **Issue 6: Specify a date by which observers who have collected data in the previous fishing year would be required to be available for debriefing.**
- **Issue 7: Implement housekeeping issues related to errors or clarifications in existing regulations.**

Initial review of the draft analysis was completed by the SSC and AP at the December 2007 meeting, and SSC comments were incorporated in the current version of the draft analysis. Due to time constraints, Council initial review was rescheduled for this February 2008 meeting. The analysis was sent to you on January 8, and the executive summary is attached as Item C-4(d). Note that NMFS recently sent a letter outlining its recommendations on three of the seven issues (Item C-4(e)). Should the Council release the analysis for public review at this meeting, final action is tentatively scheduled for the April 2008 Council meeting.

Observer Data Request

NMFS staff is preparing a series of tables to respond to the following Council data request stemming from the OAC’s May 2007 meeting:

The Council requests that NMFS provide a breakout of the percentage of harvest observed for each year 2004 – 2006 for the subset of observed vessels >60’ LOA, in order to evaluate the effective rate of coverage in particular target fisheries. The data should be broken out by observer coverage category (30%, 100%), gear type, area (BSAI, and Western and Central Gulf subareas), and component of the catch by the ≤60’ fleet that is unobserved.

These tables will be ready for review by the OAC at its March 17, 2008 meeting and review by the Council at its April 2008 meeting. The tables generally update and expand on the information about the percentage of total catch observed in Table 4-10 of the Observer Restructuring analysis (Amendments 86/76) last reviewed by the Council in June 2006. The tables will provide an estimate of the total groundfish catch by vessels while carrying an observer as a percentage of the total groundfish catch for all vessels by area (BSAI and GOA), gear type, target fishery, and vessel length category (<60’ LOA, 60’ to 125’ LOA, and ≥125’ LOA). Data from the CDQ fisheries will not be included in these tables because almost all catch in the CDQ fisheries occurs on vessels carrying an observer and much of the CDQ catch data are confidential at the level of detail of the tables.

Neither the Scientific and Statistical Committee nor the Advisory Panel addressed this agenda item, however they did discuss this issue at the December 2007 meeting.

COUNCIL DISCUSSION/ACTON

The Council received staff reports from Nicole Kimball (NPFMC) and Martin Loefflad (AFSC) and oral public comments on this agenda issue.

Sue Salvesson moved that the analysis be sent out for public review and comment. The motion was seconded by Gerry Merrigan.

Gerry Merrigan moved to amend Issue 5, Alternative 4, to strike the word 'paid' [invoices] and insert the word 'actual' [invoices]. Additionally, under Issue 4, Alternative 2, for the fishing day definition, add an option as suggested during public comment: Add an additional option to look at the 1200 A.l.t. to 1200 A.l.t. The motion was seconded and carried to the amendment.

It was clarified that the SSC's comments would be addressed by the staff.

The main motion, as amended carried without objection. A copy of the current issues and alternatives for revisions to the Observer Program are found in Appendix VIII to these minutes.

C-5 American Fisheries Act Co-op Reports

ACTION REQUIRED

Review AFA cooperative agreements and end of year cooperative reports

BACKGROUND

Each year, the AFA pollock fishery cooperatives are required to submit year-end reports summarizing their fishing activities from the preceding year. They are also required to submit cooperative agreements for the upcoming fishing year (we have interpreted this requirement such that the cooperatives submit information only if and to what degree such agreements have been modified from existing agreements). Due to the volume of these materials, a few copies of the complete reports will be made available at the meeting, and full copies are available from our offices. Co-op representatives will provide a summary report to the Council at this meeting.

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

COUNCIL DISCUSSION/ACTION

The Council did not take the oral reports for the year-end AFA Pollock fishery cooperatives because of time constraints.

C-6 CGOA Rockfish Program

ACTION REQUIRED

- (a) Review 2007 cooperative reports**
- (b) Outline of program review**

BACKGROUND

- (a) Review 2007 cooperative reports**

Under the demonstration management program for the Central Gulf of Alaska rockfish fishery, participants in that fishery are permitted to form cooperatives, which fish exclusive allocations of primary rockfish, secondary species caught in the rockfish fisheries, and halibut prohibited species catch. Cooperatives under the program are required to submit annual reports

summarizing their harvests, transfers, and cooperative performance. Attached are the cooperative reports submitted under these requirements (Items C-6(a)(1) and C-6(a)(2)).

(b) Outline of program review

In development of the rockfish pilot program for the Central Gulf of Alaska, the Council scheduled a review of the program after the first year of fishing. Since the first year of fishing under the program ended in December of 2007, staff is planning for delivery of the requested review to the Council in June of 2008. Attached is a brief outline of the proposed review of the program (Item C-6(b)(1)).

Report of the Scientific and Statistical Committee

The SSC received the preliminary report on the CGOA rockfish pilot program from Julie Bonney, Alaska Groundfish Data Bank, and Mark Fina (NPFMC) provided an outline for the one-year program review, and noted that the SSC will look forward to reviewing the completed report in June.

Report of the Advisory Panel

While the AP received the reports mentioned above, they had no comments at this time.

COUNCIL REVIEW/ACTION

[Note: Earl Krygier and Sue Salvesson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively.]

The Council received a brief staff report from Mark Fina (NPFMC), the SSC and AP reports, and oral public comments on this issue. To save time, the Council did not take oral presentations on the co-op reports; however, Julie Bonney (Alaska Groundfish Data Bank) gave an abbreviated overview during public comment.

The Council did not take any action on this agenda issue. Staff will continue work on the one-year program review which is due in June 2008.

C-7 Social and Economic Data Collection

ACTION REQUIRED

Receive a report from the committee on comprehensive economic data collection.

BACKGROUND

At its October 2007 meeting, the Council elected to form a comprehensive data collection committee. The following persons have been appointed to the committee:

**Glenn Reed (Chair), Pacific Seafood Processors Assn
Bruce Berg, Shelford Fisheries
Michael Catsi, Southwest Alaska Municipal Conference
Dave Colpo, Pacific States Marine Fisheries Commission
Paula Cullenberg, Marine Advisory Program, Alaska Sea Grant
Brett Reasor, Royal Aleutian Seafoods**

**Ed Richardson, At-Sea Processors Association
Mike Szymanski, Fishing Company of Alaska
Gale K. Vick, Gulf of Alaska Coastal Community Coalition**

The committee's first meeting is to be held on the 4th of February at the Renaissance Hotel in the Northwest Room from 5:00 pm to 7:00 pm. The meeting agenda is attached (Item C-7(a)). Staff will brief the Council concerning the outcome of that meeting.

Report of the Scientific and Statistical Committee

The SSC noted that it has repeatedly noted that a comprehensive time series of financial and economic data would provide an improved basis for completing analyses required for Council decision-making and is encouraged by the progress to date.

Report of the Advisory Panel

The Advisory Panel had no comments on this agenda issue.

COUNCIL DISCUSSION/ACTION

[Note: Earl Krygier and Sue Salvesson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively.]

The Council received a staff report from Mark Fina (NPFMC) and the SSC report. There was no oral public on this issue. No action was required on this issue, however Council members suggested the committee continue to assist in constructing a data collection program that meets the needs of fishery managers with minimal burden to industry.

D. GROUND FISH MANAGEMENT D-1 Salmon Bycatch Issues

ACTION REQUIRED

- (a) **BSAI salmon bycatch: Review EFP results; Review stream of origin information; Refine BSAI salmon bycatch alternatives; other action as necessary.**
- (b) **GOA salmon and crab bycatch: Review GOA salmon and crab bycatch discussion paper (SSC only).**

BACKGROUND

- (a) **BSAI Salmon Bycatch:**

Salmon Bycatch EFP results

The BSAI pollock Intercoop final report covering the rolling hotspot exempted fishing permit (EFP) will be presented to the Council by John Gruver (Intercoop Manager) and Karl Haflinger (Sea State). A written report covering the EFP for the 2007 A and B seasons will be made available at the meeting. As stipulated by the EFP, that report will include:

1. Number of salmon taken by species during the experiment.
2. Estimated number of salmon avoided as demonstrated by the movement of fishing effort away from salmon hot-spots.
3. A compliance and enforcement report including the results of an external audit performed by Alaska Biological Research (ABR Inc).

Review information on stock composition of bycatch samples

In conjunction with the on-going analysis and at the request of the Council, Dr. Jim Seeb (UW) and Bill Templin (ADF&G) will provide a presentation of current investigations into the stock composition of incidentally-caught Chinook salmon from BSAI pollock trawl fisheries. This work focuses upon samples from the 2005 B season, 2006 A and B seasons, and the 2007 A season (only excluder samples for the 2007 A season were available). Preliminary information on stock composition, by season and area, of the bycatch samples will be provided to the Council.

Also in conjunction with the forthcoming EIS, Dr. Jim Ianelli (AFSC) will provide the Council with an update on his methodological approach to evaluate run-size impacts by salmon species. This approach may be formulated both to establish a cap relative to salmon returns (per alternative 2, option 2), as well as to evaluate the impact of various cap level on returns to individual river systems. The latter aspect will form the basis of the salmon stock-specific impact analysis for the forthcoming EIS. This work has been presented previously both to the SSC as well as the Council's Salmon Bycatch Workgroup.

Refine Salmon Bycatch EIS Alternatives

To move forward with a defined suite of alternatives for analysis in a forthcoming EIS, the Council needs to continue to refine the alternatives under consideration for salmon bycatch reduction measures. A discussion paper is attached as Item D-1(a)(1) which provides additional information on aspects of the alternatives in need of further refinement. This discussion paper was mailed to you on January 18th. Aspects of the Council's December 2007 motion have been incorporated into the alternative structure. Alternatives have been reorganized to facilitate the Council's review and further refinement. Specific aspects of the alternative structure that are highlighted in this paper include the following:

- **Revised alternative structure**: A new alternative structure is proposed using the approved elements from the Council's previous motions.
- **Cap formulation** (Alternative 2: Hard cap): Preliminary numbers are presented in conjunction with the Council's December motion on cap formulation. *Note revised Chinook numbers are provided in attachment D-1(a)(4).*
- **Area closure options**: Candidate closure options are presented for incorporation into the alternatives. *Note: revised information on area closure options will be provided at the Council meeting.*
- **Sector split on salmon cap**: A discussion paper is provided which addresses the specific aspects of the cooperative-level bycatch caps as included per the December Council motion ("Addressing salmon bycatch through salmon bycatch quota trading among pollock cooperatives").

Another discussion paper is attached as Item D-1(a)(2) which addresses some monitoring and enforcement considerations with respect to sub-divided caps. Tables of updated historical salmon mortality by species in the BSAI groundfish fisheries and the pollock trawl fishery separately from 1991-2007 are included as Item D-1(a)(3). An updated table of resulting Chinook cap numbers (per alternative 2 option 1 and option 4) and revised chum numbers is attached as Item D-1(a)(4).

A draft timeline for the EIS schedule is attached as Item D-1(a)(5). This schedule was mailed to you on January 18th. NMFS staff will provide an overview of the major milestones and decision-points for the Council and the Agency in order to maintain the schedule as currently drafted.

(b) GOA salmon and crab bycatch discussion paper (SSC only).

In October 2007, the Council tasked staff to update a previous discussion paper on options for salmon and crab bycatch reduction measures in the GOA. The previous paper was presented to the Council in October 2005, as part of the GOA groundfish rationalization initiative. The SSC will review a staff discussion paper which provides updated information on salmon and crab bycatch, an overview of species abundance, and discusses the previous (2005) alternatives. This discussion paper was mailed out on January 18th. This agenda item is scheduled for Council review at the April meeting.

Report of the Scientific and Statistical Committee

The SSC received several presentations on this issue: Final report – 2007 EFP (VRHS program); new stock of origin information; bycatch quotas and salmon fees; monitoring and enforcement issues, and area closure options and provided extensive comments on the issues. Points highlighted in the SSC's written minutes include the following. Please see the SSC Minutes, Appendix IV to these minutes for the entire set of comments.

New information on stock of origin. In addition to summarizing information about the stock composition of Chinook and chum salmon bycatches, the EIS should summarize current information on hatchery outputs of chum salmon from Japan, Russia, the US, Canada, and elsewhere, as well as an analysis of how these apparently large releases may affect the alternatives.

Monitoring and enforcement issues. The EIS should include a discussion of how monitoring and enforcement activities would need to be changed in order to ensure compliance under the bycatch allocation alternatives. In addition, the EIS should describe why salmon bycatch in the Pollock fishery is more difficult to monitor than other PSC limits, such as halibut or crab PSC in the flatfish trawl fisheries.

Bycatch quotas and salmon fees. The EIS should fully explore market-based options as possible elements of the alternatives. The market-based options should explore the continuum from individual vessel allocations to cooperative or sector allocations. Including the options outlined in this discussion paper with an analysis of possible changes in the structure of monitoring and enforcement activities would be a helpful addition to the EIS.

Area closure options. The SSC supports a conceptual approach of frameworking the methods for setting boundaries on area closures, to allow modifications to the boundaries as conditions change between years. For fixed closures, the SSC would like to see an analysis of how different closed areas would have performed historically in terms of salmon saved by way of a retrospective studying using different sequences of bycatch data (e.g., the most recent 3, 10, 15 years).

Report of the Advisory Panel

The AP recommended that the Council approve the staff's recommended revised alternative structure as presented in the staff discussion paper. The AP further recommended that the Council adopt the following changes to those alternatives:

The AP recommended that non-Chinook and Chinook be bifurcated, and that hard caps for non-Chinook not be considered at this time.

Description of Alternatives:

Option 1. The option to begin the accounting period in B season should only apply to the triggered closure option.

Alternative 2. Hard Cap

Change the accounting so that only non-Chinook salmon bycatch from the directed pollock fishery would count toward the non-Chinook caps.

Option 2. Cap set relative to salmon returns

Information describing how forecasts are determined for the Yukon, Kuskokwim and Nushagak rivers should be included in the analysis. A ten-year time series table should be constructed that would include the following information:

Forecasted returns, actual returns, catches, and escapement for the three river systems. Data from the annual BASIS survey documenting the annual ocean outmigration from AYK rivers should also be provided.

Option 5. Divide the final cap by sectors based on:

- i) 10% of the cap to the CDQ sector, and the remaining 90% allocated 50% to the inshore sector, 40% to the offshore sector and 10% to the mothership sector.
 - ii) The 1997-2006 10-year average distribution of salmon bycatch between sectors.
 - iii) Use the same years as those used to calculate the hard cap.
- Add an option that would allow rollovers of unused salmon bycatch to other sectors still fishing.

Option 6. Add new second sentence: The analysis should examine monitoring and enforcement requirements as they apply to vessels with 30% observer coverage.

Modify ii. to read: "Purchase salmon bycatch from other cooperatives and cooperatives in other sectors."

Add an option that would roll over unused salmon bycatch to other sectors and coops still fishing.

Alternatives 3 and 4 Option 2 Area Options, Candidates for Closure (pages 8 and 10)

For candidate closure areas defined by rate based criteria, add an additional tier rate of 0.15 Chinook/pollock (t).

Delete the part of Option 6 under Alternative 4 that allows trading pollock or salmon in order to avoid area closures.

The AP recommended that industry present additional candidate closure areas at the April 2008 meeting.

COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salveson participated in this discussion for Denby Lloyd and Jim Balsiger.]

The Council received the following reports on this agenda issue:

1. Dr. Diana Stram (NPFMC): History and status of BSAI salmon bycatch reduction measures & scoping for the EIS.
2. Sally Bibb (NMFS-AKR): Monitoring and enforcement issues.
3. John Gruver (Inter-cooperative manager) and Karl Haflinger (SeaState): Final report on 2007 EFP (VRHS program).
4. Dr. Alan Haynie, AFSC: Bycatch quotas and salmon fees.
5. Dr. Jim Seeb (Univ. of Washington): Stock of Origin studies.
6. Dr. Jim Ianelli (AFSC): Modeling bycatch impacts on salmon stocks.

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The Council also received reports from the SSC and AP and oral public comment on this issue.

Earl Krygier moved to forward a revised problem statement and alternatives and options as provided in the February 2008 D-1(a) staff discussion paper for analysis, with several revisions. The lengthy motion as submitted is included as Appendix IX(a) to these minutes. The motion was seconded .

It was clarified that Mr. Krygier's intent would be for staff to address the SSC's recommendations to the extent possible.

The following motions were made to amend Mr. Krygier's motion:

Gerry Merrigan moved to amend the problem statement: In the second paragraph, third sentence, delete the word 'maximum'. The sentence would then read: "Hard caps, area closures, and/or other measures may be needed to reduce salmon bycatch to the extent practicable under National Standard 9 of the MSA." The motion was seconded and carried without objection. Mr. Merrigan noted this is an editorial change; it is redundant when considering the language in National Standard 9.

Sue Salveson moved to amend Alternative 2, Option 6, the last line of the first paragraph, to read as follows: When ~~the Chinook~~ a salmon co-op cap is reached, the co-op must stop fishing for Pollock and may: [continue with suboptions as stated] The motion was seconded and carried without objection.

Sue Salveson moved to amend Alternative 2, Option 5, suboption (ii) to read as follows: "NMFS will rollover unused salmon bycatch to other sectors and ~~inshore~~ other cooperatives still fishing. " The motion was seconded and carried without objection.

Bill Tweit moved to add a third option under Alternatives 2 and 4 – Chinook salmon, as follows: Provide a 3-year step-down mechanism starting with the value derived from the 20% increase of the pre-2007 highest year in the first year of implementation, to the target hard cap in even increments. The motion was seconded, and failed, 7 to 3, with Benson, Bundy and Tweit voting in favor.

Mr. Tweit noted that industry participants have pointed out that the impacts of the hard cap could test their creativity and ability to adapt. Industry has indicated they should have the ability to try to meet the goals with some flexibility. The goal is to reduce bycatch to the extent practicable.

Earl Krygier noted that industry will have two or three years before the regulations are implemented to work toward reducing bycatch in order to stay under the caps. Ms. Ricci noted that the State Department has advised the Council that decreasing salmon bycatch is critical because of international implications and that this motion would give the Department great concern.

John Bundy moved to amend to add the recommendation of the Advisory Panel that industry be requested to provide additional candidate closure areas for Council consideration at the April 2008 meeting. The motion was seconded and carried without objection.

Duncan Fields moved to amend the second-to-the-last paragraph of the motion (Mr. Bundy's previous amendment became the last paragraph) to read as follows:

The Council requests staff further develop a discussion paper to reduce BSAI salmon bycatch in the pollock trawl fishery through market mechanisms ~~such as~~ including, but not limited to, per salmon fees (likely administered by industry) or forced transfer of some increment of pollock for each salmon harvested. This discussion paper should include an overview of legal concerns, possible fee collection and use options, and management/administrative concerns.

The motion was seconded and carried without objection.

The amended main motion carried with Mr. Benson objecting. The final amended motion is found in Appendix IX(b) to these minutes.

With regard to the requested discussion paper, Ms. Salveson advised that the highest priority will be on the EIS because of staff availability and may not be able to provide the discussion paper in April. Ms. Salveson also advised the Council that NMFS will be inviting the State to be a cooperating agency on the EIS.

Ms. Lindeman noted that there is some concern about whether inter-coop transfers are allowed under the AFA and the Agency will be looking at that between now and June.

Mr. Merrigan suggested that staff be given the leeway to re-structure the analysis as needed to make it easier to determine which options apply to Chinook and which apply to chum. Council members agreed with this suggestion.

Mr. Tweit asked about progress in developing an adequate sampling strategy. Mr. Krygier reviewed progress to date. ADF&G has been working with several agencies and scientists and is planning to award a contract to an appropriate scientist/agency to assist in developing a design for a reasonable sampling mechanism. Industry has indicated it will provide some funds to be funneled through ADF&G for the contract. Mr. Krygier will provide an update at the April meeting.

D-2 Groundfish Management

D-2(a-b)

ACTION REQUIRED

- (a) **Initial Review of GOA 'other species' catch specifications amendment**
- (b) **Review discussion paper on analytical approach, action plan, and Non-Target Species Committee recommendations on proposed joint GOA/BSAI Groundfish Plan amendment to revise management of other species complex. (Council only)**

BACKGROUND

In April 2005, the Council initiated an analysis to split the other species complex into separate groups. In 2007, the Council added an alternative to amend the Gulf of Alaska (GOA) Groundfish Fishery Management Plan (FMP) to allow the Council to recommend an overfishing level and acceptable biological catch for the GOA other species assemblage. Council staff recommended that the Council bifurcate the combined analysis into two separate actions.

(a) Initial Review of GOA Other Species catch specifications

The Council received the Initial Review Draft for this amendment in mid-January. The draft included an environmental assessment (EA), a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA). It has since been determined that the RIR and IRFA are not required for the proposed action, as it would be solely a FMP amendment with no accompanying regulatory change. Item D-2(a)(1) is the full analysis.

The proposed action would amend the GOA groundfish FMP to require the Council to annually set an aggregate overfishing limit (OFL) and acceptable biological catch level (ABC) for the 'other species' complex. The Council currently sets total allowable catch (TAC) for the 'other species' complex according to a formula in the FMP. Under Alternative 2, the Council would instead use the OFL and ABC specifications to determine the TAC for the 'other species' complex, according to the harvest specifications procedure laid out in the FMP for other groundfish species (see table below).

Comparison of harvest specifications for the ‘other species’ complex under the alternatives (illustrated using 2007 available data)

	Alternative 1 (status quo - set TAC only)	Alternative 2 (set OFL, ABC, and TAC)
ABC and OFL	none	ABC = 7,943 mt; OFL = 10,588 mt Sum of recommended Plan Team/SSC ABCs and OFLs for component species groups (only recommended for purposes of this analysis)
Maximum permissible TAC	13,271 mt Council may set TAC at $\leq 5\%$ of combined TACs for target species	7,943 mt Council may set TAC \leq ABC
Actual TAC	4,500 mt Council reduces TAC from maximum, to allow for incidental catch and limited directed fisheries, but reduce risk of excessive harvest on a single stock or the complex as a whole	$\leq 7,943$ mt Council would retain prerogative to reduce TAC, as in Alternative 1

In addition to the proposed substantive change, this FMP amendment will also make a technical change to the FMP, to add a description of Amendment 68. The proposed text for this FMP amendment is attached as Item D-2(a)(2).

A draft action plan for the GOA FMP amendment is presented under Item D-2(a)(3), which also describes the timeline to implementation. Final action is scheduled for April 2008, with implementation planned for the beginning of the 2009 GOA groundfish fisheries.

- (b) Review tasking plans for managing Other Species complex and discussion paper on analytical approach. Review Non-Target Species Committee report.

A second proposed action would amend the GOA and Bering Sea/Aleutian Islands Groundfish FMPs to allow the Council to set separate specifications for sharks, skates, squids, sculpins, and octopuses, and possibly grenadiers. A draft action plan is presented under Item D-2(b)(1). Scott Miller (NMFS) will discuss his preliminary findings (Items D-2(b)(2)).

This agenda item was addressed by the SSC (Item D-2(b)(3)) and AP (see below) in October 2007.

“The AP requests the Council to bifurcate the other species breakout initiative into two separate proposed actions. The first proposed action would amend the GOA groundfish FMP to allow the Council to recommend and overfishing level and allowable biological catch for the GOA and other species assemblage. Motion passed 13/0.

Further, the AP recommends the Council task staff to proceed with the staff-proposed methodology and the “next steps” as recommended by the SSC. Motion passed 13/0.”

The Non-Target Species Committee met on November 12, 2007 to review the action plans and discussion paper and to provide recommendations to the Council. The committee concurred with separating the two actions and scheduling final action on the GOA FMP amendment for April 2008 and to continue analysis of the joint FMP amendment to break out the groups from the other species assemblage. The committee suggested numerous possible actions that industry could initiate in place of Federal closures under group level quotas. The committee also discussed different ways to prioritize the proposed alternatives for separating the groups from the assemblage (e.g., BSAI skates only, all groups in one of the FMPs, or deleting the option to add grenadiers to the TAC-setting process). The committee report is attached as (Item D-2(b)(4)).

Council staff has provided brief comments on possible approaches to prioritize the proposed alternatives (Item D-2(b)(5)).

Report of the Scientific and Statistical Committee

The SSC recommended that the EA be released for public review.

Report of the Advisory Panel

The Advisory Panel recommended that the Council send the analysis out for review.

COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salveson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively. Mr. Tweit was absent due to illness.]

The Council received staff reports from Diana Evans (NPFMC), Jane DiCosimo (NPFMC), Scott Miller (NMFS), and AP and SSC reports. There was no oral public comment on these two issues.

(a) GOA Other Species Catch Specifications Amendment

Sue Salveson moved to send the draft analysis out for public review and comment. The motion was seconded by Duncan Fields and carried without objection.

(b) Management of GOA/BSAI 'Other Species' Complex

Gerry Merrigan moved the following:

The Council concurs with the staff approach on prioritizing and revising the current alternatives on management of BSAI and GOA other species assemblages. Therefore the Council supports the staff approach, and encourages the Committee to consider:

- 1. Moving BSAI and/or GOA squid into the forage fish category (new alternative).**
- 2. Moving BSAI and/or GOA octopus into the forage fish or remove from the FMPs and defer mgmt to the State of Alaska (new alternative)**
- 3. Deleting Alternative 5 (adding grenadiers to the TAC specifications process).**
- 4. Separating into distinct BSAI and GOA amendment packages.**

The motion was seconded and carried without objection.

Ms. Salveson asked why Mr. Merrigan was removing grenadiers from consideration. Mr. Merrigan responded that it is a matter of prioritization—grenadiers have a very large biomass which doesn't appear to have any risk or biological concern at this time and there doesn't seem to be an economic interest.

D-1(c)

ACTION REQUIRED:

- (c) Discussion paper on VMS exemption for dinglebar gear (Council only)

BACKGROUND

An operable vessel monitoring system (VMS) is required on all federally permitted vessels in the Gulf of Alaska with mobile bottom contact gear onboard. Mobile bottom contact gear is defined as non-pelagic trawl, dredge, and dinglebar gear. The VMS requirement was implemented as part of a suite of measures to conserve and protect essential fish habitat, including a prohibition on fishing with mobile contact gear in the GOA Coral Habitat Protection Areas.

In April 2007, the Council requested a discussion paper that reviews the impacts of the VMS requirement on the dinglebar fishery for lingcod. The VMS requirement has been questioned because of the small numbers of operators, the small size of the vessels, the short period of the fishery, and the relatively small revenues generated. The paper (executive summary attached as Item D-2(c)(1)) reviews the history of the VMS requirement in the dinglebar fishery, describes the fishery, describes the utility of the VMS requirement, and provides cost estimates of compliance with the requirement.

The Council's action at this meeting is to review the discussion paper, and decide whether or not to proceed with development of a regulatory amendment analysis. The AP and Enforcement Committee received the report in December 2007 and their comments are provided below.

Extract from AP Minutes, December 2007

The AP recommends the Council direct staff to develop the current dinglebar discussion paper into an EA focused on providing an exemption to VMS requirements for this fleet. *Motion passed 17/0.*

Extract from Enforcement Committee Report, December 2007

The Enforcement Committee received a report from Cathy Coon regarding a potential VMS exemption for the lingcod dinglebar fishery. A VMS requirement for this fishery was implemented as part of the EFH regulations of 2006.

The Committee concurred that the dinglebar exemption is a policy decision. The Committee consensus was that VMS is a valuable tool for enforcement personnel, but specific to EFH and these specific coral closure areas, enforcement is not an issue due to the closure depths and the depths the fishery occurs. In general, however, the Committee strongly supports the utilization of an extensive VMS program for enforcing regulations.

Neither the **Scientific and Statistical Committee** nor the **Advisory Panel** addressed this agenda item at this meeting (see AP recommendations and Enforcement Committee comments from Dec 2007 noted in the Action Memo above).

COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salvesson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively. Mr. Tweit was absent due to illness.]

Earl Krygier moved the following:

Problem Statement: Dinglebar fishermen fishing for lingcod are required to carry VMS to enforce regulations to prohibit fishing in HAPC. However, the threat they pose to Gorgonian corals

protected within HAPC may be small, and insufficient to justify the costs of VMS. Log book evidence suggests that most dinglebar fishing takes place above 50 fathoms. Other evidence suggests that most protected Gorgonian corals occur below 80 fathoms.

Alternatives:

1. Status quo; no change in current regulations
2. Redefine mobile bottom contact gear to exclude dinglebar gear (this would remove the requirement that dinglebar fishermen avoid HAPC and the requirement that vessels in the GOA with the gear on board carry VMS)
3. Exempt dinglebar fishermen from the VMS requirement

The motion was seconded by Gerry Merrigan and carried without objection.

NOTE: Agenda item D-2(d) – Report on BS and AI Pacific cod area split was deferred to the April meeting. Agenda item D-2(e) – Flatfish Stock Assessment CIE Review was an SSC-only agenda item—See the SSC Minutes, Appendix IV to these minutes for comments.

D-2(f)

ACTION REQUIRED

Review preliminary analysis of seabird deterrence exemption in IPHC Area 4E

BACKGROUND

At the February 2007 meeting, the Council approved changes in regulations for seabird deterrence in groundfish fisheries. As part of the motion, the Council requested an analysis of a trailing amendment to consider an exemption for small vessels from seabird deterrence regulations in all or part of IPHC Area 4E. Available data suggested that such an exemption in Area 4E might be appropriate, but an analysis of new short-tailed albatross satellite tagging data would be required to better inform such a decision.

Staff has developed a preliminary analysis of available data on short-tailed albatross (STAL) distribution, abundance, and movement patterns in the eastern Bering Sea and Aleutian Islands area; this analysis partly involves geospatial analysis techniques. The analysis of STAL data will be factored into an overall EA/RIR/IRFA that examines several alternatives for an exemption in Area 4E. A preliminary draft EA/RIR/IRFA was sent in a Council mailing, but additional analysis and initial results of geospatial analysis of the STAL data will be provided at this meeting.

The proposed alternatives in the analysis areas follow. Note that alternatives 2, 3, and 4 reference a “STAL subarea” which will be determined based on the results of the spatial analysis referenced above:

1. Status Quo for vessels greater than 26 ft LOA in Area 4E:

- a. Vessels less than 55 ft LOA with masts, poles, or rigging using snap-on hook-and-line gear are required to deploy one streamer line while setting gear. Specifically, the streamer line must be at least 45 m long and must be maintained with a minimum aerial extent of 20 m.
- b. Vessels less than 55 ft LOA with masts, poles, or rigging not using snap-on hook-and-line gear (conventional gear) are required to deploy one streamer line while setting gear. Specifically, the streamer line must be at minimum of 90 m long and must be maintained with a minimum aerial extent of 40 m.

- c. Vessels less than 55 ft LOA without masts, poles, or rigging and not capable of adding poles or davits to accommodate a streamer line (including bowpickers) must tow a buoy in such a way to deter birds from the sinking groundline, without fouling on the gear, while setting hook-and-line gear.
- d. Vessels less than or equal to 32 ft LOA in IPHC area 4E shoreward of EEZ (inside 3 nm) are currently not required to use seabird avoidance measures.
- e. Vessels greater than 55 ft LOA with snap-on gear are required to use one streamer line that meets the standard. Vessels greater than 55 ft LOA with other than snap-on gear are required to use paired streamer lines.

2. EXEMPTION FOR 26-32' VESSELS: Maintain status quo seabird protection measures except that vessels greater than 26 and less than or equal to 32 ft LOA are not required to use seabird avoidance measures in area 4E. **NOTE:** Vessels less than or equal to 32 ft LOA in IPHC area 4E shoreward of EEZ (inside 3 nm) are currently not required to use seabird avoidance measures. One of the following options would continue to require seabird avoidance measures in the STAL subarea of 4E outside of 3nm:

- Option 1. Vessels fishing in the STAL subarea of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.
- Option 2. **EXCEPT:** Vessels fishing in the STAL subarea of 4E are required to use only a buoy bag to deter seabirds.

3. EXEMPTION FOR 26-55' VESSELS: Maintain status quo seabird protection measures except that vessels greater than 26 and less than or equal to 55 ft LOA are not required to use seabird avoidance measures in area 4E. One of the following options would continue to require seabird avoidance measures in the STAL subarea of 4E:

- Option 1. **EXCEPT:** Vessels fishing in the STAL subarea of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.
- Option 2. **EXCEPT:** Vessels fishing in the STAL subarea of 4E are required to use a buoy bag to deter seabirds.

4. EXEMPTION FOR ALL VESSELS OVER 26': Seabird avoidance measures are not required in area 4E, except as required by one of the following options:

- Option 1. Vessels fishing in the STAL subarea of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.
- Option 2. Vessels fishing in the STAL subarea of 4E are required to use only a buoy bag to deter seabirds.

Table 1-1 below (reproduced from the analysis) provides a summary of the alternatives. A map of the IPHC regulatory areas offshore Alaska is provided below also.

At this meeting, the Council will review the analysis, and revise the alternatives as necessary. Initial review of the analysis is scheduled for April, with final action in June 2008.

Table 1-1. Seabird Avoidance Measures Alternatives for Hook and Line Gear in IPHC Area 4E for vessels > 26' LOA

Location, Vessel Size & Config	26-55' in the EEZ >32' to ≤ 55' in 0-3 nm w/o masts, poles, or rigging	26- 55' in the EEZ >32' to ≤ 55' in 0-3 nm with masts, poles, or rigging	>55' in the EEZ >55' in 0-3 nm
Alt 1 (Status Quo)	1 buoy bag line	1 streamer line with standard (snap-on gear) ¹	1 streamer line with standard (snap-on gear) ¹
		1 streamer line with standard (other than snap-on gear) ²	Paired streamer lines with standard (other than snap-on gear) ²
Alt 2	26-32' - no seabird avoidance measures required in 4E, >32' - status quo		
option 1	Vessels 26-32' LOA fishing in the STAL subarea ³ of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.		
option 2	Vessels 26-32' LOA fishing in the STAL subarea ³ of 4E are required to use only a buoy bag to deter seabirds.		
Alt 3	26- 55' - no seabird avoidance measures required in 4E, > 55' - status quo		
option 1	Vessels 26-55' LOA fishing in the STAL subarea ³ of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.		
option 2	Vessels 26-55' LOA fishing in the STAL subarea ³ of 4E are required to use only a buoy bag to deter seabirds.		
Alt 4	all vessels - no seabird avoidance measures required in 4E		
option 1	All vessels fishing in the STAL subarea ³ of 4E are required to use seabird avoidance regulations as detailed in alternative 1, above.		
option 2	All vessels fishing in the STAL subarea ³ of 4E are required to use only a buoy bag to deter seabirds.		

1 Streamer line standard that is 45 m in length and in the air for 20 m aft of stern.

2 Streamer line standard that is 90 m in length and in the air for 40 m aft of stern.

3 STAL subarea - southern portion of 4E where albatross are more likely to occur. See Figure X

Report of the Scientific and Statistical Committee

The SSC provided analysts with several comments and recommendations for issues that should be addressed in the next draft of the analysis. Please see the SSC Minutes, Appendix IV to these minutes for those recommendations.

Report of the Enforcement Committee

After receiving a review of the draft analysis, the Enforcement Committee noted that none of the alternatives in this action pose any significant challenges for enforcement. Lisa Ragone (USCG) noted that having specific latitudes and longitudes in the regulations would be best for enforcement.

The **Advisory Panel** did not address this agenda issue.

COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salvesson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively. Mr. Tweit was absent due to illness.]

The Council received staff reports from Bill Wilson (NPFMC), Kristin Mabry (NMFS-AKR), and Greg Balogh (USF&WS), reports from the SSC and the Enforcement Committee, and one oral public comment on this issue.

No action was required at this meeting; staff will continue working on the analysis, taking into account SSC comments. With regard to a request from the Central Bering Sea Fishermen's Assn. to include Area 4C in the exemption, Lenny Corin noted some reservations because he does not believe the same situation exists in 4C with regard to the presence of albatross. Eric Olson suggested that between now and the next iteration of the analysis the stakeholders and analysts discuss the request and see if there is

some way to accommodate their concerns without triggering a formal consultation. With regard to timing for initial review, staff noted that they will try for initial review in April but because of other staffing tasks, that it may not be available until June.

D-3 Ecosystem Issues

ACTION REQUIRED

- (a) Report from Ecosystem Committee**
- (b) Report from Alaska Marine Ecosystem Forum**
- (c) Review preliminary draft EA/RIR/IRFA for Arctic FMP**

BACKGROUND

- (a) Report from Ecosystem Committee**

The Ecosystem Committee is meeting on Wednesday, February 5th. The draft agenda is attached as Item D-3(a)(1). The Committee will be discussing the Arctic FMP, as well as a staff discussion paper on ways to move forward with the Aleutian Islands Fishery Ecosystem Plan. The Committee's recommendations will be available at the time this agenda item is presented to the Council.

- (b) Report from Alaska Marine Ecosystem Forum**

The Alaska Marine Ecosystem Forum (AMEF) held their third meeting on January 23, 2008. Representatives from 10 of the 11 Federal entities, including the Council, and 2 of the 4 State agencies were present. The AMEF is a regional ocean collaboration, with the purpose to improve coordination and cooperative understanding between the agencies on issues of shared responsibilities related to the marine ecosystems off Alaska's coast. The initial focus of the AMEF was on the Aleutian Islands marine ecosystem, however the group is now considering broader Alaskan ecosystem issues. The Council signed a Memorandum of Understanding (MOU) in 2006 with the Federal and State agencies, to create the AMEF. The agenda is attached as Item D-3(b)(1), and the meeting report is attached as Item D-3(b)(2).

- (c) Review preliminary draft EA/RIR/IRFA for Arctic FMP**

At its June 2007 meeting, the Council directed staff to begin preparing a draft Arctic Fishery Management Plan (FMP) and draft amendments to the scallop and crab FMPs that terminate their geographic coverage at Bering Strait, and to develop an accompanying analysis that considers two options for the Arctic FMP: (1) close the entire Arctic region to all commercial fishing, or (2) close the entire Arctic region to commercial fishing except for the red king crab fishery that has previously occurred in the southern Chukchi Sea.

Report of the Scientific and Statistical Committee

The SSC provided comments and recommendations to staff for the next draft of the Arctic FMP analysis. Please see the SSC Minutes, Appendix IV to these minutes, for those recommendations.

Report of the Advisory Panel

The Advisory Panel expressed support for the development of an Arctic FMP and recommended analysts continue outreach to engage Arctic Alaskans and other stakeholders in crafting the FMP. Further, the AP recommended the analysts incorporate the recommendations of the Ecosystem Committee.

COUNCIL DISCUSSION/ACTION

The Council did not take up this agenda issue due to time constraints, however a copy of the Ecosystem Committee Report was provided to the Council. Please see Appendix XI to these minutes for that report.

D-4 Staff Tasking

ACTION REQUIRED

- (a) Review tasking and committees and provide direction.**
- (b) Review the Council's community outreach plan, and discuss actions pursuant to the NMFS Policy on Stakeholder Participation.**

BACKGROUND

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) and Item D-4(a)(4) respectively are the summary of current projects and tasking. In addition, an updated workplan for implementing the programmatic groundfish management policy is attached Item D-4(a)(5).

At the last meeting, the Council initiated several new projects (halibut and sablefish IFQ constructive loss, BSAI crab loan eligibility, GOA sideboards for BSAI crab vessels, GOA sideboards for Amendment 80 vessels, GOA sideboards for WGOA rockfish vessels, GOA sideboards for AFA CVs) to the tasking list. The Council may wish to discuss tasking priorities to address these projects, as well as potential additions discussed at this meeting, given the resources necessary to complete existing priority projects.

Outreach Plan

The Council revised its BSAI and GOA groundfish management policy in 2004, following a comprehensive programmatic review of the fisheries. The policy contains a management approach and 45 objectives, which are categorized by goal statements. Three of the management objectives exist under the heading "Increase Alaska Native Consultation":

- 35. Continue to incorporate local and traditional knowledge in fishery management.***
- 36. Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate.***
- 37. Increase Alaska Native participation and consultation in fishery management.***

While all of the management objectives resulting from the Programmatic SEIS are part of the overall management policy, there are several that have been identified as priority actions at this time. The Council thus adopted a workplan of priority actions to implement its overall management policy, and the status of the workplan is updated at every Council meeting. The management objectives related to local and traditional knowledge (#35 & #36) are not identified in the workplan at this time. However, one of the priority actions in the workplan is to increase Alaska Native and community consultation, which is directly related to management objective #37. The priority is stated in the workplan as follows:

Increase Alaska Native and Community Consultation

- a. Develop a protocol or strategy for improving the Alaska Native and community consultation process***
- b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions***

Council staff has prepared a short discussion paper (attached as Item D-4(b)(1)) outlining a potential approach to implementing the Council's groundfish policy workplan priority to increase Alaska Native and community consultation. The action at this meeting is to review the discussion paper and either approve or make recommendations to revise the approach as necessary or direct staff to proceed with implementing this approach in an iterative manner.

Stakeholder Participation

In February 2006, the Government Accountability Office (GAO) published a report on stakeholder participation in Council development of quota-based programs (Executive Summary attached as Item D-4(b)(2)). Although the GAO found the Councils complied with all legal requirements, they concluded that stakeholder involvement in development of limited access privilege programs (LAPPs) could be enhanced and lead to a more inclusive decision-making process. The NOAA response to the GAO report (attached as Item D-4(b)(3)) committed NMFS and the Councils to establish a more formal policy and framework to enhance stakeholder involvement. Council staff provided feedback to NMFS at the 2006 CCED meeting and through staff teleconferences. In January 2007, NMFS adopted a formal policy on stakeholder involvement (attached as Item D-4(b)(4)). The NMFS policy states that Councils should adopt the core principles on stakeholder involvement to guide their communication strategies and activities. These core principles are:

1. Use an open and clearly defined decision-making process.
2. Make key information readily available and understandable.
3. Actively conduct outreach and solicit stakeholder input.
4. Involve stakeholders early and throughout the decision-making process.
5. Foster responsive, interactive communication between stakeholders and decision-makers.
6. Use formal and informal participation methods.
7. Include all stakeholder interests.

While the policy is not a statutory requirement, it will be discussed annually at the Council Coordinating Committee meetings, which will provide a forum to exchange information on this topic and share documents, methods, and media that support this policy. Staff has prepared a discussion paper that reviews the current practices of the North Pacific Council relative to the seven core principles for stakeholder participation, and provides a list of potential additions that that could be explored. The discussion paper is attached as Item D-4(b)(5).

The Council may wish to adopt these core principles and discuss potential changes to improve stakeholder involvement. In addition, the Council may wish to write a letter to NMFS to let them know that the Council has adopted the core principles on stakeholder involvement to guide its activities, and continues to develop and refine its communication strategies.

The Scientific and Statistical Committee does not address task staffing.

Report of the Advisory Panel

The AP recommended the Council convey its concern to NMFS that work assignments support the preparation of stock assessments in time for public review prior to the November plan team meeting.

The AP had a discussion regarding the concern that the availability of socio-economic data from the halibut charter and sportfish halibut sectors may be inadequate. Therefore, the AP recommended that the Council task staff with preparing a discussion paper addressing the availability of socio-economic data from all fisheries under the Council's jurisdiction, including halibut charter and sportfish halibut, to insure that any gaps in data can be addressed by the Council and/or the socio-economic committee.

COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salveson participated in this discussion for Denby Lloyd and Jim Balsiger, respectively. Mr. Tweit was absent due to illness.]

(a) Staff Tasking

Chris Oliver reviewed committee issues and the 3-meeting outlook, noting that the Council is scheduled for a joint meeting with the Alaska Board of Fisheries on Tuesday, April 1st. In addition to the Advisory Panel recommendations, the Council received oral public comment on staff tasking issues.

Committees: Mr. Oliver noted that after consultation with the Chair, the Council Executive Committee and Finance Committee will be combined since membership on those committees was almost identical. A SSC representative on the Finance Committee was appointed only for a special issue and will no longer be needed. Dave Hanson will be added to the reconstituted Executive Committee.

After the staff presentations under the PSEIS Stakeholder agenda issue, Duncan Field suggested that the Council could initiate a Council committee that could interact with the Council and staff early in the process on issues of mutual interest. Council members thought a committee could be formed later in the process and agreed to discuss it at the April meeting.

NOAA/NMFS Request for Discussion on Fees for Permits: The Council received a letter from NMFS advising that NOAA/NMFS is reviewing its policy of collecting fees in association with permits. To date fees charged to recover administrative costs have been instituted on a case-by-case (program) basis. NMFS is reviewing that procedure and working to establish a more consistent application of the policy and requested that the subject be placed on a future Council agenda for discussion. Council members agreed to put the issue on the April agenda.

Agenda Scheduling:

Council members discussed the heavy April agenda and whether some items could be delayed to June or whether the Council should schedule an 8-day meeting. Because the meeting with the Board of Fisheries is scheduled for a half-day on Tuesday, Council members suggested that the Council begin its plenary session that afternoon if hotel space is available.

Duncan Fields suggested the Council could consider moving the GOA fixed gear LLP recency and GOA Pacific cod sector split issues to the June meeting in Kodiak since those issues are important to the region and industry will want to provide public comments. Council members concurred that this may be a good idea, but left it up to the Executive Director and Chairman to set the agenda based on information on various tasking from staff.

Request for Additional Support for Dr. Ianelli's Salmon Abundance Project: The Council directed the Executive Director, in consultation with the Chair, to send a letter to NOAA/NMFS asking that Dr. Ianelli's project be given a high priority and provide him with the necessary resources to accomplish it in a timely manner.

Additionally, the Council noted that as a consulting agency on the SEIS, ADF&G will be able contribute some resources to the project.

(b) PSEIS Community Outreach

Diana Evans (NPFMC) reviewed the discussion paper provided in the Council meeting materials. There was no oral public comment on this issue.

Chris Oliver noted that the Council has no formal requirement as do Federal and State agencies to have a 'formal' tribal consultation policy. However, the Council is already making progress in seeking Native and community consultation on Council issues that may impact those stakeholders. Duncan Fields suggested that the Council could initiate a Council committee that could interact with the Council and staff early in the process on issues of mutual interest. Council members thought a committee could be formed later in the process.

NMFS Policy on Stakeholder Participation-GOA Report

David Witherell (NPFMC) briefly reviewed the issue for Council members. Staff provided a discussion paper reviewing current practices of the North Pacific Council relative to the seven core principles for stakeholder participation adopted by NMFS. The discussion paper also provided a list of potential additions that that could be explored. There was no oral public comment on this issue.

Duncan Fields moved that the Council adopt the seven principles presented (by NMFS) including, but not limited to, LAPPS. The motion was seconded and carried with Gerry Merrigan and John Bundy objecting. Mr. Bundy objected on the principle that the GAO should not be involved and Mr. Merrigan stated that he objects to principle #7 because it is too broad.

Mr. Fields noted that his motion includes only the seven principles, not the points provided for possible improvement. The seven principles would be incorporated into the Council SOPPs. Council members discussed how the descriptions accompanying the principles would be handled and some were cautious about incorporating those into the SOPPs. It was suggested that the principles can be evaluated on a regular basis using those descriptions without having them in the SOPPs. It was noted that the text could be forwarded to NMFS as an example of Council intent. Mr. Witherell suggested that staff could update the Council on the principles each June when the Council reviews and updates its Workplan.

(c) Preliminary Review of the Arctic FMP

The Council did not address this agenda item due to time constraints. However, the SSC and AP received staff reports. Please see the SSC and AP minutes, Appendices IV and V, respectively, for their comments.

ADJOURNMENT

Chairman Olson adjourned the meeting at approximately 1:50 p.m. on Monday, February 11, 2008.