

MINUTES

181st Plenary Session  
North Pacific Fishery Management Council  
March 28-April 3, 2007  
Hilton Hotel  
Anchorage, Alaska

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# North Pacific Fishery Management Council

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Certified Stephanie D. Madsen  
Stephanie Madsen, Chair

Date June 6, 2007

## MINUTES

181<sup>st</sup> Plenary Session  
North Pacific Fishery Management Council  
March 28–April 3, 2007  
Hilton Hotel  
Anchorage, Alaska

The North Pacific Fishery Management Council met March 28-April 3, 2007 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met March 26-28, and the Advisory Panel met March 26-31, at the same location. The Council also met jointly with the Alaska Board of Fisheries on Wednesday afternoon, March 28. The following Council, staff, SSC and AP members attended the Council's Plenary Session:

### Council Members

Stephanie Madsen, Chair  
Jim Balsiger/Sue Salvesson  
Dave Benson  
John Bundy\*, Vice Chair  
Lenny Corin  
Dave Hanson  
Doug Hoedel

Roy Hyder  
Denby Lloyd/Earl Krygier  
Gerry Merrigan  
Bill Tweit for Jeff Koenings  
Eric Olson  
ADM Brooks/LCDR Lisa Ragone  
Ed Rasmuson

Note: A State Dept. representative was not in attendance.

\*Mr. Bundy left the meeting after Wednesday because of illness.

### NPFMC Staff

Gail Bendixen  
Cathy Coon  
Jane DiCosimo  
Elaine Dinneford  
Diana Evans  
Mark Fina  
Jeannie Heltzel  
Nicole Kimball

Peggy Kircher  
Jon McCracken  
Chris Oliver  
Jim Richardson  
Maria Shawback  
Diana Stram  
Bill Wilson  
Dave Witherell

**[NOTE: A list of staff support from various agencies and presenters of reports is found in Appendix I to these minutes.**

Scientific and Statistical Committee

Pat Livingston, Chair  
Bill Clark  
Anne Hollowed  
Gordon Kruse  
Seth Macinko  
Franz Mueter

Steve Parker  
Ken Pitcher  
Terry Quinn II  
Farron Wallace  
Dave Woodby

Advisory Panel

Lisa Butzner  
Joe Childers  
Craig Cross  
Julianne Curry  
Tom Enlow  
Duncan Fields  
Bob Gunderson  
John Henderschedt  
Jan Jacobs

Bob Jacobson  
Simon Kinneen  
Tina McNamee  
Mike Martin  
Matt Moir  
John Moller  
Ed Poulsen  
Michelle Ridgway  
Lori Swanson

**A list of persons signing the attendance register and those providing public comment during the meeting is included in Appendix I to these minutes.**

**A. CALL TO ORDER**

Stephanie Madsen, Council Chair, called the meeting to order at approximately 8:10 a.m. on Wednesday, March 28, 2007.

Agenda. The agenda was approved as published.

Minutes. The minutes of the February 2007 meeting were approved with one correction, on page 24.

[NOTE: Mr. Tweit participated in the entire meeting in place of Dr. Koenings.]

**B. REPORTS**

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

Executive Director's Report

*Plan Team Appointments.* The Council approved the recommendations of the SSC to appoint William Bechtol and Dr. Andre Punt to the Scallop Plan Team.

*NEPA Process.* Chris Oliver provided an update on the development of new procedures for NEPA compliance, as well as a 'strawman proposal' developed by a workgroup consisting of representatives of NOAA HQ, Council on Environmental Quality, and a subcommittee of Council Executive Directors.

**Dave Benson moved the following:**

**The NPFMC received an overview of NOAA's request for comments on a revised NEPA procedure, and an overview of a 'strawman' revised procedure developed by the subcommittee of the Council Coordination Committee (CCC), and offers the following comments:**

**General Comments:**

The NPFMC believes that section 107 of the MSA provides not only a great opportunity for revising and improving the current regulatory process, but the mandate to do so. We also believe that this can be done in a manner that provides more meaningful public input and more relevant analytical documents, and which does not compromise the underlying environmental protections of NEPA. We believe that an appropriate procedure cannot be accomplished by minor revisions to the existing procedure, but will require a significant change in overall perspective, and recognition of the existing MSA process as an appropriate vehicle in which to incorporate environmental analyses to comply with the provisions of NEPA.

**Specific comments relative to the 10 questions posed by NOAA:**

(1) *In the context of fishery management actions, how should NOAA Fisheries, in consultation with the Councils and CEQ, revise and update agency procedures for compliance with NEPA?*

The NPFMC believes that the MSA provides nearly all the mechanisms and provisions to allow for compliance with the provisions of NEPA, and that the current application of CEQ regulations and Administrative Order 216-6 create a largely redundant and over-burdensome application of NEPA intent. A new Administrative Order, and new CEQ regulations if necessary, should be developed which would recognize the processes already existing under the MSA, and which would apply to development of fishery management actions under MSA.

(2) *What opportunities exist to improve efficiencies in NEPA process that have not been applied in the past?*

The NPFMC believes that the current regulatory, analytical, and review processes applied to fisheries actions under MSA greatly exceed the actual provisions of NEPA, and to some extent associated CEQ regulations. Development of a revised procedure that more accurately reflects the actual NEPA requirements, and recognizes the existing MSA provisions and processes, can greatly improve our ability to manage fisheries in an effective and timely manner.

(3) *How should the Councils and NOAA fisheries ensure that analysis is conducted at an appropriate scale for various types of fishery management actions? What criteria should be developed and applied to ensure that the level of analysis is commensurate with the scope of the action?*

The NPFMC believes that the level of analysis will necessarily vary depending upon the nature of the action and the available information. This is how analyses are currently conducted (whether labeled as an EA or an EIS), and this approach would not necessarily

change under a revised procedure. Great caution should be exercised in attempting to create differential criteria, or categories of actions, as these can be very subjective and the information available can vary greatly.

(4) *Should NOAA Fisheries consider eliminating the distinction between an EA and an EIS and instead rely solely on an integrated environmental impact analysis?*

Yes. The current distinction between an EA and an EIS is relatively moot with regard to content, and only significantly affects process and timing. Categorical exclusions should still be allowed under the revised process.

(5) *How should a 'reasonable' range of alternatives be defined for purposes of the new procedures?*

One of the greatest difficulties with the current application of NEPA is the effect of requiring the Councils to often consider unreasonable, unrealistic, and often contrived alternatives, merely for the sake of having some number of alternatives. A reasonable range of reasonable alternatives should be the primary goal, and this could be accomplished by considering whether alternatives are consistent with the National Standards contained in the MSA, whether they are consistent with the purpose and need statement, and whether a recent programmatic review has identified an overall policy for an FMP, and whether the alternatives are consistent with that policy. The Councils have the knowledge and expertise to determine a reasonable range of alternatives, depending on the problem being addressed, and are granted that authority under the MSA. In certain circumstances, only one alternative to the status quo may well be appropriate. In most circumstances, the 'No Action' alternative as required by CEQ regulations should be defined as the status quo situation (for example, No Action for determination of annual catch limits would be the status quo situation, rather than no fishing at all).

(6) *What opportunities exist to develop a more effective scoping process? Should scoping occur at Council meetings and should Council meeting agenda notices serve as a traditional Notice of Intent to prepare and environmental analysis?*

The process under MSA provides for ample public notice and scoping processes. In fact, scoping does currently occur through Council meetings and agenda notices. This is a prime example of where NEPA provisions are redundant to Council process under MSA.

(7) *Should the environmental analysis for different types of fishery management actions be developed on a different scale based on the action's duration or effect?*

The effect of an action cannot be known prior to an analysis being conducted. In many cases, the duration of an action may be indeterminate. Relative to scaling of analyses, see response to question 3 above.

(8) *What key features of the current NOAA NEPA process or of CEQ's regulations should be modified in the new procedures?*

A meaningful revised procedure will require modification of numerous provisions of the current CEQ regulations and NOAA's Administrative Order for NEPA compliance. Primary among the areas requiring modification are defining reasonable alternatives, utilizing the Council process under MSA to accommodate scoping and public input, and integrating the environmental analyses within the MSA process.

(9) *How should emergency actions be treated under the new procedures?*

Emergency actions should be promulgated under the existing MSA process for such actions, while incorporating relevant environmental analysis within that framework.

(10) *To what extent does the public feel that shorter comment periods (e.g. a minimum of 30 days) could affect your ability to participate effectively in the NEPA process?*

This question appears to be relevant to a proposal to make the current Council process a substitute for the traditional NEPA scoping/comment period, and would shorten that from 45 to 30 days (based on current Council practice relative to approving documents for public comment prior to final action).

Comments relative to 'strawman' proposal from CCC subcommittee

Generally the NPFMC believes that the MSA process is and should be the primary Act guiding development of fishery management actions, and that NEPA application in recent years has subsumed the MSA in that regard, resulting in an extremely cumbersome regulatory process and to some degree, erosion of Council authority provided under the MSA. We believe that the 'strawman' proposal developed by the CCC subcommittee is a definite step in the right direction, and appropriately reinstates the MSA as the primary vehicle for fishery management actions. A revised procedure such as outlined could result in meaningful regulatory streamlining. We support the concept of a single environmental review procedure, which eliminates the distinction between an EA and an EIS, and which incorporates the environmental analysis within the MSA process. To the extent this revised process is reflected in a new Administrative Order, and/or CEQ regulations pertaining to fishery management actions, this process would effectively establish a revised process and a revised baseline for NEPA compliance, and thereby also reduce the use of litigation as a fishery management tool.

The NPFMC fully supports the development of a new and separate NOAA Administrative Order for fisheries management actions which reflects the procedure outlined in the CCC subcommittee draft. We fully support the intent of the 'strawman' procedure to instill reason in the development of reasonable management alternatives, and fully support the concept that it is not necessary to advance all alternatives for detailed study. We fully support the use of the current Council process to effect the requirements for scoping and public input, recognizing the additional opportunities for public input at the Secretarial level, following Council final action. While we recognize the potential desire of NOAA to create differential tiers of management actions under this new procedure (and thereby define some differential levels of analysis) we generally believe the level of environmental analysis will be determined by the scope of the action and the information available, rather than by a potentially subjective, up-front label. If such tiers are developed, the criteria and expectations for analysis should be made very clear in the draft procedure published in July, so that further comment on such tiers can be provided prior to finalizing the revised procedure.

The motion was seconded.

**Gerry Merrigan moved to insert the word 'potential' in front of the words 'use of litigation' in the last sentence of the second-to-last paragraph –“ . . . reduce the potential use of litigation. . .”** The motion was seconded by Roy Hyder and carried without objection.

The main motion, as amended, carried without objection. Mr. Benson noted that time is a factor and these comments should be submitted as soon as possible.

National Offshore Aquaculture Initiative

Chris Oliver noted that the Administration's National Offshore Aquaculture Initiative has been formally transmitted to Congress. Ms. Madsen noted that she would hope that councils will have a strong consultative position on any proposed aquaculture ventures off Alaska. The Council agreed, and Ms. Madsen will convey those wishes at the next Council Chairs' meeting. Commissioner Lloyd noted that the State of Alaska is opposed to aquaculture ventures and hopes that any legislation would allow governors of states to comment and possibly deny such ventures off their coasts.

NMFS Management Report

Sally Bibb, NMFS-AKR, provided an update of amendments in progress and Andy Smoker (NMFS-AKR) provided the inseason management report. Lisa Lindeman, NOAA General Counsel, advised the Council that a recent lawsuit filed by industry challenging retention regulations in Amendment 79 has been denied.

Susan Auer and Garland Walker (GCEL) provided a brief summary of recent enforcement actions.

Annual Catch Limits & Accountability Measures. Recent amendments to the MSFCMA establish new requirements to end and prevent overfishing, including Annual Catch Limits (ACLs) and Accountability Measures (AMs). NMFS is currently working on proposed guidance for development and implementation of those new requirements. Galen Tromble, NMFS-HQ provided the Council with a draft of measures currently undergoing a national scoping process.

The Council was somewhat concerned that while the amendments to the Act were partly based on the North Pacific Council's methods, the proposed new guidelines may require that all of the Council's FMPs and other documents using the current terminology for ABCs, TACs, and OFLs, be revised to reflect any new guidelines.

The Council agreed to submit a letter to NMFS by the deadline of April 17 laying out concerns of the Council and stating that the Council supports retaining all three proposed alternatives at this time. The Council requested that SSC comments on the subject also be included, particularly with regard to Tier 6 stocks.

Bill Tweit noted that comments made during public comment regarding the North Pacific Council's use of ABCs as a very important biological reference point in setting TACs. The current draft ACL guidelines do not include the use of 'ABC' and this is of concern as it may mean that the Council would have to revise procedures that have worked very well in setting conservative harvest levels to avoid overfishing.

Ms. Salvesson brought up exempted fishing permits which often require compensation fishing or exceedance of an ABC, and asked that the Council's comments reflect the need to accommodate those situations to support research initiatives.

National Bycatch Report. Dr. Bill Karp (AFSC) provided the Council with a brief update on the National Bycatch Report, noting that first draft is due sometime in 2008. Dr. Karp will update the Council in October after Bycatch Steering Committee meets in the fall.

FINAL MINUTES  
NPFMC  
MARCH 2007

U.S. Coast Guard Report

Admiral Brooks addressed the Council briefly, noting the partnership between the State of Alaska Board of Fisheries and the Coast Guard which helped to achieve mandatory commercial fishing vessel safety inspections and call-in before getting underway for crab fishing trips. This has allowed the Coast Guard to identify stability and other safety problems before vessels embark. Also, VMS in the fishery has been very useful to locate vessels that had not been inspected.

LCDR Lisa Ragone provided a review of Coast Guard activities from December 2006 through March 2007. Stephanie Madsen pointed out that while the CG report notes no patrols for high seas driftnet enforcement, NMS reported at the last Council meeting that there has been a significant increase in number of vessels sighted and fishermen have contacted her noting they have seen an increased number of net-marked fish. Commander Ragone reviewed plans for coordinated patrols by the Coast Guard as well as Canadian and Japanese patrols throughout the summer.

Alaska Dept. of Fish & Game Report

Herman Savikko provided the Council with an overview of State fisheries for salmon, crab, and groundfish since the last Council report. Mr. Savikko also advised the Council that the Board of Fisheries passed Proposal 259, relating to EFH measures complimentary to those enacted by the Council, and deferred two proposals, 182 (State P. cod fishery) and 185 (58' vessel length proposal) to the Joint Protocol Committee for further discussion.

Protected Species Report

Steller Sea Lion Recovery Plan

The Council received an update on the Plan and Dr. Tom Loughlin, TRL Wildlife Consulting, provided a scoping paper for review and comparison of recovery criteria in the 2006 draft sea lion recovery with similar plans for other endangered species.

NMFS advised the Council that the draft Recovery Plan will be reviewed by the Center for Independent Experts. Ms. Madsen expressed concern that the time NMFS is allowing for the CIE review may not be adequate.

During Staff Tasking, the Council approved a motion to direct staff to work with the North Pacific Research Board to arrange a separate independent review of the Plan. The Council also agreed to schedule a special meeting in August to review the draft Plan.

**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 Charter Halibut Management**

**C-1(a-e) Charter Halibut Reports/Papers:**

**ACTION REQUIRED**

- (a) NMFS report on IPHC action and subsequent Secretarial action
- (b) Receive Stakeholder Committee report; action as necessary.
- (c) State/Federal Management - review discussion paper.
- (d) Review discussion paper on sport fish discard mortality.
- (e) Discussion paper on halibut allocations, action as necessary.

**BACKGROUND**

**(a) Secretarial action**

In January 2007, the International Pacific Halibut Commission (IPHC) recommended a regulation for a one-fish halibut bag limit for charter fishing in Area 2C from June 15 - July 31, 2007 and for Area 3A from June 15 - 30, 2007 (Item C-1(a)(1)). On March 1, 2007, the Department of State notified the IPHC that it did not accept those recommendations (Item C-1(a)(2)). Instead, the Department of Commerce would publish regulations that are consistent with those recommendations (Item C-1(a)(3)). The alternatives that are being considered in the NMFS analysis are as follows:

Alternative 1. No Action

Alternative 2. Two-fish daily bag limit with at least one fish of a specified minimum length (45, 50, 55, or 60 inches);

Alternative 3. Two-fish daily bag limit with both fish at least 32 inches in length; and

Alternative 4. Two-fish daily bag limit with at least one fish of a specified maximum length (30, 32, or 35 inches).

NMFS has identified Alternative 4, with a maximum size of 32 inches for one of the two fish allowed in the daily bag limit, as its preferred alternative. The preferred alternative would maximize the probability of charter vessel anglers being able to retain two fish per day while reducing the estimated charter vessel harvest by about 425,000 pounds. In addition, this alternative would present the least disruption between charter operators in inside waters and those in outside waters. The final rule would be published by June 1, 2007. A letter from NMFS-AKR is under Item C-1(a)(4).

**(b) Stakeholder Committee report**

The Charter Halibut Stakeholder Committee convened on February 27-28, 2007 to provide recommendations to the Council on: 1) a preferred alternative for the moratorium for charter fisheries in Areas 2C and 3A; 2) alternatives and options to set an allocation and possible share-based systems; and 3) other management issues (Item C-1(b)). The committee will convene again on April 12-13, 2007 to complete its recommendations for allocation and share-based alternatives.

**(c) State/Federal Management**

In response to a Council request, ADF&G Sport Fish Division staff prepared a discussion paper on a proposed process the State of Alaska would use to implement delegated authority to manage recreational Pacific halibut fisheries (Item C-1(c)(1)). A previous paper by NMFS staff is provided for additional reference (Item C-1(c)(2)).

(d) **Sport fish discard mortality**

In response to a Council request, ADF&G Sport Fish Division staff prepared a discussion paper on sport halibut discard mortality rates. A preliminary study resulted in the application of an average rate of 5 percent in the analysis of Area 2C guideline harvest level management measures. *The requested report will be rescheduled for the October 2007 meeting.*

(e) **Halibut allocations**

In December 2006, the Council requested a discussion paper which would examine the effects of establishing a stand-alone allocation for the charter halibut fisheries in IPHC Areas 2C and 3A, prior to implementation of a permanent solution. This paper (Item C-1(e)) identifies the trade-offs between setting an allocation as a stand-alone decision or as part of the permanent solution. In summary, an allocation without restrictive measures to limit harvests to that allocation can not be administered by NMFS. An addendum will be provided at the meeting, which will describe the Area 2A catch sharing plan and how the approach may be adapted to for Areas 2C and 3A.

If a separate analysis to set an allocation for the charter sector is initiated by the Council, it should also decide whether to limit the analysis to the allocation and the overage/underage allowances or address all aspects of the proposed allocation alternative (including five proposed funding mechanisms to increase the allocations).

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

**Report of the Advisory Panel**

*C-1 (c) State Management*

The AP supports an amendment of the Halibut Act that would allow the delegation of authority for management of the halibut charter fishery to the State of Alaska. This recommendation is not intended to speak in support of or against actual delegation at this time.

*C-1 (e) Halibut Allocations*

The AP recommended the Council initiate and fast track a distinct amendment package that is limited to the issues of the allocation of halibut and the compensated transfer of commercial halibut quota share/IFQ between the commercial halibut and the halibut charter sectors. The AP proposed elements and options for staff analysis. [Please see AP Minutes, Appendix II to these minutes, for the recommended elements and options.]

**COUNCIL DISCUSSION/ACTION**

*C-1(a) NMFS Report on IPHC Action/Secretarial Action*

Jay Ginter reported that NMFS has decided not to approve and implement IPHC's bag limit recommendations for Areas 2C and 3A for 2007 and briefed the Council on halibut charter regulations drafted by the Secretary. The Secretary's preferred alternative would impose a two-fish daily bag limit with at least one fish of a specified maximum length (32 inches). Mr. Ginter advised that the proposed rule should be scheduled within a week and final regulations in place by June 1. The final rule will not have a sunset date, but would be superseded by future Council action.

*C-1(b) Stakeholder Committee Report*

The Council received the report and recommendations from the Stakeholder Committee on the moratorium, alternatives and options to set an allocation and possible share-based systems, and other management issues. Please see Appendix III to these minutes for the complete report.

C-1(c) State/Federal Management Discussion Paper

Doug Vincent-Lang (ADF&G) and Jay Ginter (NMFS) provided an overview of the issues associated with delegation of authority to the State for management of the charter halibut fishery during the joint meeting of the Council and Alaska Board of Fisheries. During the Council meeting staff were available for questions.

**Denby Lloyd moved to approve the AP recommendation to support the amendment of the Halibut Act that would allow the delegation of authority for management of the halibut charter fishery to the State of Alaska. This recommendation is not intended to speak in support of or against actual delegation of authority to the State.** The motion was seconded by Ed Rasmuson and failed, 6 to 3, with Lloyd, Rasmuson and Madsen voting in favor and Balsiger abstaining.

Council members voting against the motion felt that it is premature at this time to seek any changes. General Counsel John Lepore stated he was uncomfortable at this point with the Council commenting on or seeking changes in international law. It was also pointed out that public comments during this meeting did not indicate strong support for this action.

C-1(d) Discussion Paper on Sport Fish Discard Mortality

This paper was rescheduled to the October 2007 meeting.

C-1(e) Discussion Paper – Halibut Allocations

Jane DiCosimo, Council staff, presented a discussion paper examining the effects of establishing a stand-alone allocation for the charter halibut fisheries in IPHC Areas 2C and 3A, prior to implementation of a permanent solution. Ms. DiCosimo advised the Council that an allocation without restrictive measures to limit harvests to that allocation cannot be administered by NMFS.

**Ed Rasmuson moved to initiate and fast track a distinct amendment package that is limited to the issues of the allocation of halibut and the compensated transfer of commercial halibut quota share/IFQ between the commercial halibut and the halibut charter sector, with the following options for staff analysis with the intent to initiate an analysis to set the initial allocation simultaneously with initiation of an analysis of compensated reallocation (transfer) mechanisms.**

**Element 1      Establish an allocation to the halibut charter sector that includes sector accountability**

**Option 1: Fixed percentage of combined commercial/charter catch limit:**

<b>Formula</b>	<b>Area 2C</b>	<b>Area 3A</b>
<b>a. 125% of average harvest of 2000-2004, translated to %</b>	<b>16%</b>	<b>15%</b>
<b>b. equal to the 1995-99 GHL, translated to %</b>	<b>13%</b>	<b>14%</b>
<b>c. percentage of combined 2004 commercial/charter catch</b>	<b>15%</b>	<b>13%</b>
<b>d. convert current GHL into percentage based on 2004</b>	<b>12%</b>	<b>13%</b>
<b>e. equal to 2005 charter harvest, translated to %</b>	<b>16%</b>	<b>13%</b>
<b>f. 125% of 2001-2005 average harvest</b>	<b>17%</b>	<b>15%</b>

**Option 2:**

a. update the GHJ to 125% of the average harvests of 2000-2004	1.6Mib	4.0Mib
b. equal to the 1995-1999 GHJ	1.4Mib	3.7Mib
c. 125% of 2001-2005 average harvest	1.9Mib	4.2Mib

**suboption: Sub-area allocations may be considered**

**suboption: Allow overages/underages to be transferred between commercial and charter sectors**

The motion was seconded by Doug Hoedel.

Jim Balsiger pointed out that the percentages and pounds calculations do not agree. Staff was asked to revise them appropriately.

**Dave Hanson to amend to delete the subarea allocation suboption.** The motion was seconded by Bill Tweit, and carried without objection.

Mr. Hanson pointed out that it has been stressed by the working committee and industry that this will create large allocation battles that the Council may have to address later, after an overall allocation is determined. Mr. Lloyd asked NOAA General Counsel to clarify that deleting the subarea options would not preclude subarea management in the future. Mr. Lepore responded that it would not.

**Dave Benson moved to amend to delete the second suboption that would allow overage and underage transfers.** The motion was seconded by Jim Balsiger and carried without objection.

Mr. Benson noted that this option is premature and belongs in the long-term solutions package.

**Gerry Merrigan moved to drop the fixed pounds option (Option 2).** The motion was seconded by Denby Lloyd for discussion and failed, 8 to 2, with Merrigan and Olson voting in favor (Bundy absent). Mr. Merrigan stated that he believes that a percentage that floats with abundance would be more appropriate. Fixed pounds may not be appropriate for the charter fishery.

**Gerry Merrigan moved to amend to include a suboption under each component of Option 2 to stairstep down the fixed poundages with changes in abundance in the total CEY, in increments of 15%, and 10%, and 10%.** The motion was seconded.

**Dave Hansen moved to amend to add stairstepping up as well, using the same percentages.** The motion was seconded by Ed Rasmuson and carried, 9 to 1, with Madsen voting against (Bundy absent).

The amended amendment carried without objection. The amended main motion carried without objection.

Denby Lloyd offered four motions based on recommendations from the Commercial/Charter Working Group on Compensated Reallocation. Please see Appendix IV-1 for the written motions, before amendments.

**Denby Lloyd moved the following Problem Statement for analysis of halibut allocations:**

**The absence of a hard allocation between the longline and the charter halibut sectors has resulted in conflicts between sectors and tensions in coastal communities dependent on the halibut resource. Unless a mechanism for transfer between sectors is established, the**

**Council will continue to serve as the arbitrator and the existing environment of instability and conflict will continued. The Council seeks to address this instability while balancing the needs of all who depend on the halibut resource for food, sport, or livelihood.**

The motion was seconded.

**Bill Tweit moved to amend to strike the words “The Council will continue to serve as the arbiter and”.** The motion was seconded by Roy Hyder and carried without objection.

The main motion, as amended, carried without objection.

**Denby Lloyd moved to replace Elements 2 and 3 of the Advisory Panel recommendations with the following additions to the Commercial/Charter Working Group Recommendations on Compensated Reallocation recommendation of 3/31/07, as follows:**

- **Under Element 3, add, add “/Lease” following “Purchase” in the title (so it reads “Method for Purchase/Lease); and**
- **Under Element 7, issue 10, add a suboption to read “Pro-rata reduction and compensation.”**

The motion was seconded by Ed Rasmuson and carried without objection. Eric Olson noted that he would like to see a discussion of implementation costs associated with ‘pro-rata reduction and compensation’ issues.

**Denby Lloyd moved that the Council direct the Stakeholder Committee to focus work at its April 12<sup>th</sup>-13<sup>th</sup> meeting on further development of Elements 2-7 as amended, recognizing that the composition of the Stakeholder Committee makes it incapable of addressing the allocation issues contained in Element 1. The Stakeholder Committee should report its progress to the Council at its June meeting, including the pros and cons of the elements and options discussed, whether recommended or rejected.** The motion was seconded by Bill Tweit and carried without objection.

Mr. Rasmuson stressed that he would like this package expedited and completed as soon as possible. Mr. Oliver noted that staff could begin work on Element 1 now, but will have to wait for the recommendations of the Stakeholder Committee before work on Elements 2 and 3 can begin, however the two sections will be voted on as a single package.

**Denby Lloyd moved that the Council direct the Stakeholder Committee to further develop the long-term solutions with emphasis on the limited entry option (including permit endorsements), given all the work previously done on the IFQ option of which angler days is a variant. The Stakeholder Committee should report its progress on long-term solutions in October.**

The motion was seconded and carried with Rasmuson objecting.

**C-1(f) Charter Halibut Moratorium**

**ACTION REQUIRED**

**Final Action on Moratorium Analysis**

**BACKGROUND**

The Council is scheduled to select a preferred alternative to limit entry into the charter halibut fisheries in Areas 2C and 3A, based on a revised analysis that was mailed to the Council on March 5, 2007. The analysis includes a preliminary preferred alternative (Item C-1(f)(1)) from among an expanded suite of alternatives and options (Item C-1(f)(2)). One alternative would take no action. The second alternative would implement a moratorium on entry into the charter sector, as of December 9, 2005. Permits would be issued to persons based on minimum threshold levels of participation, and to certain eligible communities based on maximum threshold levels of charter halibut participation in those communities. Both types of entities would be subject to use caps and other restrictions. An executive summary of the analysis is attached as Item C-1(f)(3). If approved by the Secretary, limited entry permits would be issued for the 2009 season, at the earliest, due to the necessary rulemaking and application/appeals process.

**Report of the Scientific and Statistical Committee**

The SSC noted that while it would have been preferable for the analysis to have included more quantitative estimates of the impacts of the alternatives, there is adequate information to provide a basis for decision-making.

**Report of the Advisory Panel**

The Advisory Panel suggested several changes to the preliminary preferred alternative from February 2007 before approving the final moratorium program. Please see the AP Minutes, Appendix II to these minutes, for those recommendations.

**Report of the Enforcement Committee**

The Committee noted that any changes to the status quo regarding management of the charter halibut fleet will require building an effective enforcement presence within the fleet. This presence is a critical tool for enforcement such that regulatory compliance for an industry this large (40,000 charter trips/year) is imperative. Please see the full Enforcement Committee report in Appendix VI to these minutes.

**COUNCIL DISCUSSION/ACTION**

**Denby Lloyd moved to approve the recommendations of the Advisory Panel (see Appendix II to these minutes) with two changes:**

**ISSUE 5: The number of allowable permanent transfer of permits for vessels that qualified at trip levels of 15 and above would be 15 for both Area 2C and 3A; permits issued below trip levels of 15 in both areas would be not transferable.**

**ISSUE 11: Use caps, with grandfather provision. Maximum number of permits associated with an entity under the use cap will be 5 permits.**

Commissioner Lloyd noted that the Council has received a great amount of oral and written testimony on the moratorium issue and there is a lot of support for moving forward expeditiously with a moratorium while working on more long-term management tools for the charter halibut fishery. He noted the following rationale for the changes he is recommending: Regarding Issue 5, the higher number of qualified trip levels for transferability in 3A is somewhat more in line with recommendations from the Stakeholder Panel's recommendations. Under the use cap provisions, the Council has heard a large amount of testimony that use caps of 3 would simply be insufficient to foster reasonable operations.

The Council discussed the issue of exemption of military vessels participating in the Morale, Welfare and Recreational program and those harvests would be accounted for. It was noted that the current analysis does not provide the Council with adequate information at this time on this particular issue. However, Council members indicated that this is an issue that needs to be addressed in future Council action.

**Gerry Merrigan moved to amend to clarify that the NOAA Office of Administrative Appeals staff should use language similar to that implemented under the groundfish LLP when considering criteria for medical and other hardships, constructive loss, etc., noted in Footnote 10 of the motion.** The motion was seconded and carried without objection. Staff had noted that while the Advisory Panel discussed this, it evidently was not carried over into its recommendations. This motion was to give staff clear guidance when developing final implementing regulations.

General Counsel John Lepore brought up the issue of obtaining data from the State to develop the program. He noted that NMFS and State staff are working together to make sure the necessary data will be available to NMFS to implement the moratorium. Access to State charter halibut data is necessary for implementing the moratorium, the Secretarial action in Area 2C in 2007, as well as the Council's proposed Area 2C GHF action

Mr. Lepore also advised the Council that the issuance of interim permits to those appealing their initial permit status is a Council decision. However, he stressed that appeal officers do not have the authority to go beyond the regulatory structure – they have to stay within the construct of the regulations promulgated by NMFS.

There was considerable discussion and two motions were subsequently withdrawn regarding the individual military hardship provision in Footnote 10. The maker of the motions and others were concerned that a person applying under this provision would be required to go through the appeals process, and discussed placing it as a part of the program itself. They were also concerned that it may create a tremendous number of interim permits.

Mr. Lepore suggested the Council allow NMFS to look at the military hardship provision and craft a new approach to the interim permit issue, to be reported to the Council in June.

**Bill Tweit moved to add Issue 7, “Permit Endorsement for Number of Halibut Clients on Board; Permits issued under the military hardship provision would receive a maximum halibut client endorsement of 6.**

The motion was seconded by Eric Olson.

**Gerry Merrigan moved to amend the amendment to say ‘equal to 6’ instead of the word ‘maximum’.** The motion was seconded and carried without objection.

Mr. Tweit's motion, as amended, carried without objection.

**Gerry Merrigan moved to amend the last recommendation of the Advisory Panel to read: The Agency should issue interim permits to licensed fishing guide business owners appealing their permit status.**

The motion was seconded by Doug Hoedel and carried without objection.

The main motion carried unanimously (Bundy absent). The final motion and a transcript of Council member's comments in support are found in Appendix IV-2 to these minutes.

### **C-1(g) Charter Halibut Area 2C GHL Measures**

#### **ACTION REQUIRED**

#### **Initial Review of Analysis of Area 2C Guideline Harvest Measures**

#### **BACKGROUND**

In December 2006, the Council rescinded its April 2006 preferred alternative for a 5-fish annual charter halibut limit in Area 2C to reduce harvests to the guideline harvest level of (GHL), after receiving a recommendation by NMFS to rescind its action based on high implementation costs. This action was initially selected due to a 22 percent overage of the 1.432 million pound GHL in that area in 2004. In 2006, harvests exceeded the Area 2C GHL by more than 40 percent.

The Council requested that the analysis (to reduce charter halibut harvests to the Area 2C GHL) be augmented by adding a number of proposed management measures. The intent is that one or more of these measures would achieve the needed level of harvest reduction. In addition to the no action alternative, the Council is considering the following eight options under Alternative 2 to reduce halibut harvests to the GHL (1.432 million pounds) in Area 2C:

- (1) No more than one trip per vessel per day;
- (2) No harvest by skipper and crew;
- (3) Annual limits of four fish or five fish per angler;
- (4) Reduced bag limits of one fish per day in July, August, or for the entire season;
- (5) A one-fish bag limit with the option to harvest a second fish larger than 45 inches, 50 inches, 55 inches, or 60 inches;
- (6) Closing the season after August 15th, September 1st, or September 15th;
- (7) Closing one or more days during the week to halibut fishing;
- (8) A minimum size limit of 32 inches.

The analysis was mailed to the Council on March 12, 2007. The executive summary is attached as **Item C-1(g)**. Final action is scheduled for June 2007. Implementation is intended for 2008.

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

The SSC noted that it believes the analysis is reasonable and should be released for public review. The SSC provided several comments regarding effects of some of the proposed options and provided some suggestions for the analysts. The SSC also expressed concern that the upper range of sizes being considered for a minimum size limit for the second fish may be impractical as measuring large fish may be difficult if not dangerous for many charter operations. The SSC also suggested that the Council consider adding a crossover provision that would allow charter operators to purchase/lease commercial quota/IFQ in order to individually adapt to catch restrictions. Please see the SSC Minutes, Appendix VII to these minutes, for additional comments.



## Report of the Advisory Panel

The Advisory Panel recommended the Council send the analysis out for public review with several revisions and requested a discussion in the analysis of the possibility that the GHL stepdown provisions may be triggered in 2008 as a result of declining CEY in area 2C . Please see the AP Minutes, Appendix II to these minutes for recommended changes to the analysis.

## COUNCIL DISCUSSION/ACTION

The Council received a review of the current analysis from Jonathan King, Northern Economics, and a report from Gregg Williams on the assessment model used by the IPHC and current projections for the halibut resource in 2008.

### Gerry Merrigan moved the following:

#### GHL Management Measures

##### Area 2C

**The Council recommends releasing the 2C portion of the analysis for public review for final action in June with the following revisions:**

##### Alternative 2

- Option 1:** No more than one trip per vessel per day.
- Option 2:** No harvest by skipper and crew; line limits (number of lines = numbers of clients).
- Option 3:** Annual limits of four or five or six fish per angler
- Option 4:** Reduced bag limits of one fish per day for May, June, July, August, September, or the entire season.
- Option 5:** A two-fish bag limit with one fish any size and one fish larger than 45", 50.
- Option 6:** A two-fish bag limit with one fish any size and one fish less than 32 inches.
- Option 7:** A two-fish bag limit with one fish any size and one fish either less than 32" or greater than 45", or 50".

**[Delete]:** Closing the season after August 15, Sept 1, or Sept 15.

**[Delete]:** Closing one or more days of the week to halibut fishing.

**[Delete]:** A minimum size limit of 32 inches.

**For illustration of additive effects, the Council requests staff to analyze the following combinations of management options:**

- Suboption a:** 1, 2, & 6 (*one trip; skipper/crew; 32" 2<sup>nd</sup> fish*)
- Suboption b:** 1, 2, 7 (*one trip; skipper/crew; 32" or trophy 2<sup>nd</sup> fish*)
- Suboption c:** 1, 2, & 5 (*one trip; skipper/crew; trophy 2<sup>nd</sup> fish*)
- Suboption d:** 1, 2, 3, & 6 (*one trip; skipper/crew; annual limits; 32" 2<sup>nd</sup> fish*)

**The Council can select any combination of options. All options and suboptions are to be analyzed to the extent practicable for a reasonable estimate of demand reduction and adaptive behavior by charter clients and charter operators.**

**The Council requests staff to provide a means to not only compare options relative to status quo (Alt 1) but Option 6 (NMFS preliminary preferred alternative) as well.**

**Include in the analysis a discussion of the possibility that the GHL stepdown provisions may be triggered in 2008 as a result of a reduced CEY in Area 2C. This is to inform the public that the Council may choose to select management measures to achieve a harvest of either the current GHL of 1,432 M lbs or the stepdown of 1.217 M lbs for Area 2C.**

#### **Area 3A**

**The Council recommends the augmenting and revising the options in the original 3A GHL management measure portion of the analysis. These measures are to constrain charter halibut harvests to the GHL in Area 3A. Council intent is to have final action no later than the October meeting.**

- Option 1: No more than one trip per vessel per day.**
- Option 2: No harvest by skipper and crew; line limits (number of lines = numbers of clients).**
- Option 3: Annual limits of four or five or six fish per angler**
- Option 4: Reduced bag limits of one fish per day for May, June, July, August, September, or the entire season.**
- Option 5: A two fish bag limit with one fish any size and one fish larger than 45" or 50".**
- Option 6: A two fish bag limit with one fish any size and one fish less than 32", 34", or 36".**
- Option 7: A two fish bag limit with one fish any size and one fish less than 32" or larger than 45" or 50".**

The motion was seconded by Denby Lloyd.

Ms. Salvesson suggested that those items Mr. Merrigan excluded from the motion (closing the season after a specific date in August or September; closing fishing one or more days of the week; and a minimum size limit of 32 inches) be identified in the analysis as alternatives that were considered by the Council but found to be not feasible so the public will know why they will not be further considered.

Staff noted that the analysis for Area 3A could be prepared for initial review in October. The Council discussed that possibility of considering initial/final action at one meeting because a previous 3A analysis has been before the Council and the public.

Mr. Merrigan noted that public testimony and Council discussion have indicated that a definition for a 'trip' merits more development and asked staff to draft language for further Council consideration.

**Denby Lloyd moved to amend to add two additional suboptions under Area 2C options (for additive effects of combinations of management options):**

**Suboption e: 1, 2, 3, & 5**

**Suboption f: 1, 2, 3, & 7**

The motion was seconded by Ed Rasmuson and carried without objection.

Ms. Madsen indicated that she would prefer to delay this action for a year since the regulations issued as a result of Secretarial action will be in effect until the Council approves other measures. She believes the more pressing issues of the moratorium and long-term solutions should have priority.

The main motion, as amended, carried without objection. The Council's final action is found in Appendix IV-3 to these minutes.

**C-2 GOA Groundfish Management**

**ACTION REQUIRED**

- (a) Discussion paper on Gulf of Alaska sideboards
- (b) Gulf of Alaska Pacific cod sector splits
- (c) Gulf of Alaska LLP recency
- (d) Western Gulf of Alaska pollock trip limits

**BACKGROUND**

- (a) Discussion paper on Gulf of Alaska sideboards

In adopting rationalization programs, the Council typically establishes sideboard limits constraining the effort of beneficiaries of those programs in non-rationalized fisheries. Currently, sideboards applicable to Gulf of Alaska fisheries limit catch and effort by American Fisheries Act pollock cooperative participants, crab rationalization program participants, Central Gulf of Alaska rockfish pilot program participants, and Amendment 80 fisheries participants. At its December 2006 meeting, the Council heard public testimony that some of these Gulf of Alaska sideboard limits maybe overly restrictive, thus preventing full harvest of the TAC in some Gulf fisheries. Other testimony contended that some of the sideboard limits may not restrictive enough, allowing sideboard vessels to encroach on Gulf dependent vessels. To begin assessing whether changes in sideboard limits in the Gulf of Alaska fisheries are needed, the Council requested staff prepare a brief summary outlining the sideboard limits applicable to Gulf of Alaska fisheries and the catch of sideboarded participants in those fisheries. Attached is that summary (Item C-2(a)).

- (b) Gulf of Alaska Pacific cod sector splits

At its February 2007 meeting, the Council received a report from staff exploring the goals, objectives, elements, and options to divide the Gulf of Alaska Pacific cod fishery among various sectors, and a potential action to identify latent licenses for removal from the non-trawl sector fisheries in the Gulf. At that time the Council elected to sever the two actions. In addition, the Council elected to defer action on either item until this meeting to allow for additional public testimony and additional time to consider the development of the two actions.

The attached discussion paper (Item C-2(b)) is largely the same as the first section of the discussion paper on this matter that the received Council at its February 2007 meeting. The paper is supplemented with additional information concerning the purpose and need statement, as requested by the Council. The first part of the paper is a brief description of the Gulf of Alaska Pacific cod fisheries, including some information on recent seasons and catches that the Council could consider in defining its purpose and need statement. The second part of the paper examines potential issues that could be identified in a purpose and need statement. The paper then goes on to enumerate different options that could be included in analysis, which should

address needs identified in the purpose and need statement. The options should specify the areas (i.e., Central Gulf and Western Gulf), sector definitions (including possibly gear and operation type distinctions). Assuming that the Council wishes to define the allocations based on catch histories, years used to define that history will need to be specified. The Council may also wish to consider provisions that supplement allocations for some sectors to allow for growth and provisions that allow for full harvest, in the event a sector does not take its entire allocation (i.e. opening an allocation to other sectors or rollovers).

(c) Gulf of Alaska LLP recency

This agenda item concerns the potential action to remove latent LLPs from the Gulf of Alaska non-trawl fisheries. Attached is a discussion paper (Item C-2(c)) on this subject for Council review. The first part of the paper describes the LLP and the system of limited entry established by the program. The second part of the paper discusses potential rationales for the action, including a draft purpose and need statement for consideration by the Council. The paper goes on to discuss potential alternatives, including sectors to be included in the action, years used for defining recent participation, and catch or landing thresholds that could be applied. The Council should consider whether this action will be used to redefine the LLP sectors. Currently, the LLP qualifies vessels to participate in fisheries using either trawl or non-trawl gear (or both). Licenses carrying a catcher processor endorsement may operate as a catcher processor or catcher vessel, while licenses with a catcher vessel designation may only operate as a catcher vessel. The LLP also defines areas that a person may enter, in which any authorized gear or operation type may be used for any groundfish species (except sablefish). The Council could choose to further refine the system of designations and endorsements. For example, the Council could elect to subdivide the non-trawl designations, so that licenses with exclusively pot history would be permitted to fish only pot gear and licenses with exclusively longline history would be permitted to fish only longline gear.

(d) Western Gulf of Alaska pollock trip limits

At its February 2007, the Council heard testimony that the current structure of the Western Gulf of Alaska 300,000 lb pollock trip limit may be ineffective for limiting temporal concentration of catch in that fishery. According to the testimony, regulations permit deliveries to tenders. Some participants in the fishery are asserted to have made multiple 300,000 pound trips daily. In response, the Council requested staff to bring back the February 2005 discussion paper concerning this issue at this meeting (Item C-2 (d)). The Western Gulf of Alaska trip limit discussion paper is a preliminary study of a proposal submitted by a representative of Western Alaska groundfish fishermen that recommends eliminating the 300,000 pound pollock trip limit, and implementing a 300,000 pound limit of unprocessed pollock during a 24 hour period.

At the February 2005 meeting, the Council expressed concern about pollock overages in the 2005 'A' season in the Western Gulf (Area 610). However, the Council tabled further action indefinitely after receiving assurances from industry representatives that the pace of future fishing would be slower, and from NMFS that the 2006 'A' season would be more closely managed. At that time, the Council stated that if the problem is not addressed voluntarily, they may schedule further discussion and possible regulatory action in the future.

Since 2005, the fishery has seen increasingly shorter openings, which may be in part due to the continuing ineffectiveness of the trip limit. In order to manage this fishery, NMFS has shortened the fishery openers and pre-announces fishery closures based on historical daily catch rates. As depicted in the table below, 2006 had six openers of which 5 were 3 days or less. For 2007, the fishery has had five openers thus far, four of which were 3 days and one was 4 days. These relatively short, concentrated openings suggest that temporal dispersion of effort remains a problem in the fishery.

Openers	Number of Days	# vessels	# deliveries	Deliveries per vessel
<b>2007</b>				
1/20-1/22	3	21	33	1.6
2/5-2/7	3	13	24	1.8
2/8-2/10	3	13	22	1.7
3/10-3/13	3	10	24	2.4
3/16-3/18	3			
<b>2006</b>				
2/20-2/22	3	22	33	1.5
2/26-2/27	2	20	31	1.6
3/10-3/14	5	19	80	4.2
8/25-8/28	4	16	42	2.6
8/31-9/3	4	13	32	2.5
9/6-9/27	22	17	117	6.9
<b>2005</b>				
1/20-1/23	4	22	75	3.4
3/10-3/12	3	11	31	2.8
8/25-9/3	10	22	146	6.6
10/1-10/14	14	25	208	8.3

Source: NMFS

### Report of the Scientific and Statistical Committee

The SSC offered the following comments:

For both the sector split and latent permit issues it appears that more direction is needed from the Council before staff can proceed further. It is not clear to the SSC exactly what “the action” is in each case. Staff can offer an informed guess as to the problem being treated but it would be better if the Council provided more clarity.

The SSC notes that action on these two items may not be independent of other present Council actions and of potential long-range developments. In particular, the relationship between these actions and the Council’s interest in Gulf “rationalization” warrants careful attention and should be considered in light of constraining future policy options.

### Report of the Advisory Panel

The Advisory Panel offered recommendations for components and options for a GOA sector split (Agenda item C-2(b)), and requests for information and provided a number of possible changes to the current suite of sideboard polices and provisions (Agenda item C-2(a)). Please see the AP Minutes, attached as Appendix II to these minutes, for the entire range of options recommended.

## COUNCIL DISCUSSION/ACTION

[NOTE: Earl Krygier and Sue Salveson participated in these discussions for Denby Lloyd and Jim Balsiger, respectively.]

### C-2(a) GOA Sideboards Discussion Paper

Jon McCracken, Council staff, provided a review of a discussion paper reviewing current sideboards established under the AFA pollock cooperative participants, crab rationalization program participants, CGOA rockfish pilot program participants, and Amendment 80 fisheries participants. Public comments during the December 2006 meeting suggested that some of the sideboard limits may be overly restrictive while others may not be restrictive enough.

**Doug Hoedel moved to approve the recommendations of the Advisory Panel (see Appendix II to the minutes).** The motion was seconded by Earl Krygier.

**Earl Krygier moved to amend to include in the discussion paper information on the number and collective harvests of rationalized crab vessels that have been sold since implementation of the crab rationalization program and have since entered into the GOA pot cod fisheries, both parallel and State water.** The motion was seconded by Doug Hoedel and carried without objection. The main motion, as amended, carried without objection. The expanded discussion paper will be available at the October 2007 meeting.

### C-2(b) GOA Pacific Cod Sector Splits

**Denby Lloyd moved the following:**

**The Council adopts the following modified language from the AP motion for Components 1-7:**

**Bold underline** = added language to AP motion

**~~Strikethrough~~** – deleted language from AP motion

**The Council adopts the staff purpose and need statement included on page 9 of the C-2 (b) discussion paper and requests staff to begin the analytic process to include the following components and define issues of concern.**

**Component 1** – Area

Pacific cod sector split in CGOA & WGOA

**Component 2** – Identify and define sectors

Trawl CP

Trawl CV

H&L CP

H&L CV

Pot CP

Pot CV

Jig

Inshore Trawl CP

Inshore H&L CP

Optional vessel length subdivision for sectors:

- a) Pot CV sector: <60 ft and >=60 ft
- b) All CP sectors: <125 ft and >=125 ft

**Move the following sections to LLP eligibility actions for fixed gear [C-2 (c)] and trawl (C-3):**

Inshore CP sector provisions

- A) Elect annually to either be considered “inshore” or “ offshore”.
- B) One time election to be considered either “inshore or “offshore”.

Multiple Endorsement Provisions

- A) CV’s operating with a qualifying catch history in both the “trawl” and the “non trawl” sectors shall elect annually sector participation.
- B) CV’s operating with a qualifying catch history in both the “trawl” and “non trawl” sectors shall have a one time election of sector participation
- C) CV’s operating with a qualifying catch history in both the “trawl” and “non trawl” sectors shall be able to elect to participate in both sectors in a single season.

**Component 3 – Qualifying catch**

Option 1) For purposes of determining catch history, “catch” means retained legal catch. A sector’s catch history includes all retained legal catch from both the Federal fishery and parallel fishery in the CGOA and WGOA. This includes retained legal catch from both LLP and non-LLP vessels.

Option 2) For purposes of determining catch history, “catch” means retained legal catch excluding fish meal. A sector’s catch history includes all retained legal catch excluding fish meal from both the Federal fishery and parallel fishery in the CGOA and WGOA. This includes retained legal catch excluding fish meal from both LLP and non-LLP vessels.

Option 3) For purposes of determining catch history, “catch” means Pcod catch retained when the Pcod fishery is open for directed catch. A sector’s catch history includes all Pcod catch retained when the Pcod fishery is open for directed catch from both the Federal fishery and parallel fishery in the CGOA and WGOA but excludes fish meal. This includes retained legal catch when the Pcod fishery is open for directed catch from both LLP and non LLP vessels.

The analysis will also provide each sector’s catch history based on total catch (retained and discarded) where practicable.

**Component 4 – Sector catch histories**

The AP recommends the Council adopts the following options for determining catch histories:

Each sector is allowed to choose:

**Option 1:** their best 5 or 7 years (as a percentage of TAC or directed catch) from the years 1995-2005 to obtain an average % of TAC or directed catch for that sector. The sector split would then be based on the relative comparison of these averages.

- ~~Example 1. 1. Trawl fleet has a 7 year average % of TAC or directed catch of 65%~~
- ~~2. Pot fleet has a 7 year average % of TAC or directed catch of 50%~~
- ~~3. Longline fleet has a 7 year average % of TAC or directed catch of 25%~~
- ~~4. Jig fleet has a 7 year average % of TAC or directed catch of 15%~~

~~Total % of TAC or directed catch is 155%~~

- ~~i. Trawl sector split is 65/155 of annual TAC or directed catch~~
- ~~ii. Pot sector split is 50/155 of annual TAC or directed catch~~
- ~~iii. Longline sector split is 25/155 of annual TAC or directed catch~~
- ~~iv. Jig sector split is 15/155 of annual TAC or directed catch~~

**~~Western GOA suboption~~**

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Each sector is allowed to choose

**Option 2:** their best 3 or 5 years as a percentage of TAC or directed catch from the years 2000 through 2006 to obtain an average % of TAC or directed catch for that sector. The sector split would then be based on the relative comparison of these averages.

\*\* The CGOA trawl sector allocation will be decreased by the amount of p. cod that is allocated to the trawl rockfish pilot program during the tenure of the program.

**New Component X:**

**Management of incidental cod catch needs for sectors:**

**Option 1: NMFS will determine the amount of Pacific cod needed to support directed fishing for all other GOA fisheries and reserve that amount off the top before allocating to the sectors.**

**Option 2: Each sector will be responsible for their own incidental catch needs. NMFS will determine the reserve amount needed within sector each year with the remainder available for directed fishing.**

**Component 5** – Allocation to Sectors: Allocations to sectors are to be based on catch history (Component 4) except for the jig sector.

The set aside for the jig sector shall be 1%, 3% or 5% of the GOA TAC.

- a. shall be taken from the A season allocation
- b. shall be taken from the B season allocation
- c. shall be taken from a and b seasonal allocations

The jig allocation shall be available for harvest by other sectors on August 1, Sept. 1, October 1.

**Jig gear quota availability:**

**This will necessitate a Board of Fisheries review to structure openings and closings in state waters, both in the parallel and actively state-managed Pacific cod fisheries.**

**Component 6**—Allowing harvest of an allocation by other sectors

Trawl sector – when the trawl sectors reach their final allocation of halibut PSC for the year

1. CV trawl sector allocation available to other CV sectors
2.
  - a. CP trawl sector allocation available to other CP sectors
  - b. CP trawl sector allocation available to both CP and CV sectors (CV sector catch accounts to other CV sector allocations first before accounting to the CP sectors allocation)

Longline sector – when the longline sectors reach their final allocation of halibut PSC for the year

1. CV longline sector allocation available to other CV sectors
2.
  - a. CP longline sector allocation available to other CP sectors
  - b. CP longline sector allocation available to both CP and CV sectors (CV sector catch accounts to other CV sector allocations first before accounting to the CP sectors allocation)

Year end harvests by other sectors

Quota not caught by the CV sector y November 1, 15<sup>th</sup> or December 1<sup>st</sup> shall become available to:

1. all CV sectors



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2. all sectors

Quota not caught by the CP sector by November 1, 15 or December 1<sup>st</sup> shall become available to:

1. all CP sectors
2. all sectors

**~~Component 7 – Program Review~~**

~~Sector split allocations may be reviewed on the basis of:~~

- ~~a. New or improved bycatch information~~
- ~~b. ability to catch quota allocation~~
- ~~c. fisheries management policy issues~~

The motion was seconded.

**Bill Tweit moved to amend the last sentence of the draft Purpose and Need Statement to read as follows:**

**Dividing the TAC among sectors may also facilitate development of management measures and fishing practices to address Steller sea lion mitigation measures, bycatch reduction, and PSC mortality issues.**

The motion was seconded and carried without objection.

**Eric Olson moved to amend Component 5 as follows:**

- The set aside for the jig sector shall be 1%, 3%, 5%, or 7% of the GOA TAC.**
- Include an suboption to stairstep increase based on the sector harvesting 90% of its allocation; the stairstep increases would be capped at 7% of the TAC.**

**Gerry Merrigan moved that the upper cap of the jig sector set aside be capped at 7%. The motion was seconded and carried without objection. Mr. Olson's amended amendment carried with Benson objecting.**

The main motion, as amended, carried with Benson objecting.

C-2(c) GOA LLP Recency

**Gerry Merrigan moved:**

**In order to better focus public input, the Council adopts the staff purpose and need statement included on page 7 of the C-2 (c) discussion paper as a draft.**

**The Council adopts the following modified language from the AP motion, as modified:**

**The Council requests staff expand the 'Gulf fixed gear LLP' discussion paper to include additional tables and information to enable the public to provide testimony at the June council meeting in anticipation of Council clarifying issues and options in a subsequent staff analysis. Include a summary of non-trawl license transfers in the CGOA and WGOA since 2000.**

**In addition, the Council will consider the following options in the development of elements and options:**

**Inshore CP sector provisions**

- A) Elect annually to either be considered “inshore” or “ offshore”.**
- B) One time election to be considered either “inshore or “offshore”.**

**Multiple Endorsement Provisions**

- A) CV’s operating with a qualifying catch history in both the “trawl” and the “non trawl” sectors shall elect annually sector participation.**
- B) CV’s operating with a qualifying catch history in both the “trawl” and “non trawl” sectors shall have a one time election of sector participation**
- C) CV’s operating with a qualifying catch history in both the “trawl” and “non trawl” sectors shall be able to elect to participate in both sectors in a single season.**

The motion was seconded by Earl Krygier and carried without objection.

C-2(d) WGOA pollock Trip Limits

**Gerry Merrigan moved to initiate an analysis for an amendment to impose a 300,000 trip limit for WGOA pollock, using the alternatives outlined in the staff discussion paper.** The motion was seconded by Doug Hoedel.

**Denby Lloyd moved to amend to specify a 24-hour period as a trip.** The motion was seconded by Ed Rasmuson and carried without objection.

The amended motion carried without objection.

Copies of the Council’s approved motions on Agenda Item C-2 are included in Appendix V to these minutes.

**C-3 Trawl LLP Fixed Gear Recency**

**ACTION REQUIRED**

- a) Progress report on interactions with other limited entry programs.**
- b) Review discussion paper on implementation issues, and take action as necessary.**

**BACKGROUND**

**Staff has been proceeding with analyses of a possible amendment to address latent capacity by trawl catcher vessels and trawl catcher processor vessels in the BSAI and GOA. The current list of alternatives, components, and options is attached as Item C-3(a).**

**In February, the Council requested two discussion papers to provide new information regarding the alternatives and components associated with the proposed amendment. Specifically, the discussion papers were to: (1) evaluate how elimination of endorsements will impact access to allocations and sideboards established under AFA/Am80/GOA rockfish, and (2) analyze the effects of different alternatives for gear/area endorsement criteria on LLP program, the process**

necessary to provide the necessary data to support the alternatives under consideration, and preliminary assessment of implementation issues.

The first discussion paper was not completed prior to the Council meeting. As the analyst worked through the LLP data, additional complex data issues arose that could not be addressed in the limited amount of time available. Consequently, staff is developing a new data base to more effectively address the potential effects of eliminating LLPs. At the February meeting, staff presented preliminary results on the numbers of LLPs that would meet the threshold criteria and those that would not meet the threshold criteria, under the various alternatives, components and options. At the June meeting, updated results will be presented using the new data set, along with the completed discussion paper evaluating interactions with other limited entry programs.

The second discussion paper, prepared by NMFS staff, examines issues related to implementation of alternatives and components in the proposed amendment. At the February 2007 meeting, the Council discussed the effects of the different alternatives for gear/area endorsements for this amendment. The feasibility of revisions to the structure of NOAA Fisheries RAM Division LLP area/gear data files was raised, and the attached discussion paper (Item C-3(b)) is the response to that inquiry.

Currently the proposed amendment provides a choice of two approaches related to achievement of the threshold groundfish landings. Alternatives 2 & 4 base achievement of the threshold criteria on trawl groundfish landings. The drawback of this approach is the potential unintended consequence of extinguishing non-trawl area endorsements for LLPs trawling in other areas. Alternatives 3 & 5 base achievement of the threshold criteria on both trawl and non-trawl landings. The drawback of this approach is the potential unintended consequence of allowing future trawl gear use in areas where the LLP has been inactive with trawl gear in the qualifying period. Since this amendment addresses the problem of latent effort in the trawl groundfish fishery, this could be an undesirable result.

Although the Council has not expressed a preference between these two approaches, the discussion paper presents new information on data issues relating to this decision, and discusses the potential for structural changes within the RAM Division data that would link area and gear designations on an LLP to resolve the issues noted above. In addition, the discussion paper provides information on data limitations related to, and the level of effort required, if the Council chooses the longer qualification period (1995-2005) vs. the later qualification period (2000-2005). The new information presented may assist the Council with the decision of an appropriate qualification period for the amendment.

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

The SSC received a progress report on the development of the amendment and looks forward to reviewing the analyses as they are being developed.

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

The AP provided the following recommendations:

- Delete Alternatives 3 and 5 and make Alternatives 2 and 4 applicable only to trawl LLP endorsements.
- Addition of a suboption under component 3, Option 1 to exclude AFA vessels from LLP qualification requirements for the BS and AI only.

- That January 2006 be added to the appropriate components and alternatives based on comments from the owner of the F/V Ocean Hunter

### **COUNCIL DISCUSSION/ACTION**

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

#### **Sue Salveson moved:**

- (1) Delete Alternatives 3 & 5, and make Alternatives 2 and 4 applicable only to trawl LLP endorsement;**
- (2) Direct staff to provide a discussion on exemptions that may be provided for LLP licenses used on vessels in the AFA Amendment 80 and CGOA rockfish programs.**
- (3) Direct staff to assess landings data for 2006 and determine the appropriateness of minimum 2006 landings and/or investments prior to 2006 as trawl recency qualification test.**
- ~~(4) Remove the Council's previous action on C-2(b) (Pacific cod sector split) that moved the inshore CP sector and trawl non-trawl qualifying issues into C-3.\*\*~~**

The motion was seconded by Gerry Merrigan.

There was some discussion about Item (4) and whether the Council can remove something from a previous action without voting on reconsideration. Ms. Salveson removed that item from the motion indicating the Council can deal with that issue in the future, if necessary.

Ms. Salveson spoke to the main motion pointing out that including Alternatives 3 and 5 would make the analysis overly broad, as noted by the Advisory Panel and public comment. Additionally, the Council heard a lot of testimony about potential effects on LAP participants which is a complicated issue requiring more time and consideration. Staff will be asked to look at those participants specifically. The third provision in the motion broadens the Advisory Panel motion which was specific to one vessel and Ms. Salveson noted that the issue deserves further attention and assessment as to whether or not licenses used to fish in 2006 represent special issues that deserve consideration. The Council needs to look at that activity in 2006 to determine whether or not exemptions should be applied.

Dave Benson pointed out that item (3) is very broad, noting that everybody made investments prior to 2006. Ms. Salveson responded that the intent is to look at vessel activities associated with licenses that were not used recently, but were used in 2006.

Dave Benson asked that staff include a discussion under item (2) of how sideboards are used within each cooperative.

The motion carried without objection.

#### **C-4 BSAI Crab Management**

### **ACTION REQUIRED**

- (a) 18 month review of the crab rationalization program**
- (b) Report on Economic Data Reporting confidentiality and data quality protocols**

## BACKGROUND

### a) 18 month review of the crab rationalization program

As a part of the crab rationalization program, the Council requested an analysis to be delivered 18 months after implementation of the program examining two aspects of the program: a) the distribution of benefits between harvesters and processors arising under the harvest share/processor share allocations and arbitration system, and b) the distribution of landings of different harvest share types. Specifically, the Council requested:

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

The attached paper (**Item C-4(a)(1)**) is staff's response to that request. The first part of the paper examines the 10/10 A share/B share split and binding arbitration program. That portion of the paper examines several aspects of the program, including:

- The arbitration organizations that administered the program in the first two years of the program (p. 9)
- The market reports prepared by the market analysts in the first two years of the program (pp. 10-12)

## Report of the Scientific and Statistical Committee

### (a) 18-Month Review

The SSC noted that the review document provides a good discussion of the structure and operation of the BSAI crab IFQ/IPQ program. However, as the analysis fails to address the distribution of benefits between harvesters and processors arising under the harvest/processor share allocations and the arbitration system, the document does not meet the two stated purposes of the Council. Also, there is little analysis of the distribution of benefits between participants in the structure crafted by the Council compared to those electing to participate in the general pool. The lack of discussion of the magnitude and distribution of net benefits is disappointing in light of the controversy that has arisen regarding the impacts of the program and given the mandatory reporting of cost data required under the program. The author of the review indicated that limited data were available at this juncture and those data available were not yet ready for analysis. Given this, it is imperative to include a complete analysis of the distribution of net benefits in the 36-month review.

The SSC also noted that the Council should clarify whether it is intended that the arbitration formula be constructed to preserve the historic allocation of gross revenues or if it was the Council's intent that the arbitration formula be constructed to preserve the historic allocation of profits (net revenues). Please see the SSC Minutes, Appendix VII to these minutes, for comments directed to staff for the 36-month review.

## **Report of the Advisory Panel**

### (a) 18-month Review

The AP requested the Council direct staff to draft a discussion paper analyzing how B shares are being used and whether their uses are consistent with the original intent.

The AP also requested the Council initiate staff analysis to allow C shares to remain open-access shares, without regional designation, and A and B share splits. Analysis needs to be initiated now, or the C shares will defacto become designated to the regions and the 90/10 A/B split will occur automatically at the three year anniversary of the program's implementation. Also, include options in the analysis for extension of the three year sunset date on leasing of C shares and present it at the June meeting.

Additionally, the AP recommended the Council move ahead with analysis for change of the non-controversial aspects of the program identified in the NPFMC February Newsletter, page 3, for presentation at the October meeting. These issues are primarily regulatory in nature and they should take minimal staff time.

Additionally, the AP requested the Council take action to provide legal immunity for the arbitration organizations and arbitrators.

The AP recommended the Council appoint a BSAI crab advisory committee to address the regulatory issues identified in the 18 month review.

### (b) Crab Data Collection

The AP recommended the processes contained in the confidentiality and data quality protocols for BSAI Crab Economic Data paper be followed.

## **COUNCIL DISCUSSION/ACTION**

[NOTE: Sue Salvesson participated for Jim Balsiger during this discussion.]

### (a) 18-month Review

The Council received a presentation from John Sackton, Non-Binding Price Formula Arbitrator and Crab Market Analyst, on the crab arbitration process to date, and Dr. Mark Fina, NPFMC staff, provided the 18-month review of the BSAI Crab Rationalization program.

Ms. Madsen noted that there was concern expressed during public comment that if the proposed Nichiro-Maruha merger occurs, the 30% cap in one of the fisheries would be exceeded and Glenn Merrill (NMFS-AKR) to explain how the Agency would handle that situation. Mr. Merrill explained that processors have to declare a change in ownership when applying for their PQs. The agency would not issue PQ above that ownership cap and any excess IPQ would be spread throughout other PQ holders.

Ms. Salvesson noted there are several requests of industry and the Advisory Panel resulting the 18-month review for further analysis and discussion and asked Dr. Fina whether the information is available, and whether staff would be able to fulfill those requests. Dr. Fina replied that a good deal of the information would be anecdotal from fishery participants and while he could make calls to gather more information, he understands that industry participants are also working on these issues.

With regard to the issue of real-time transfers of shares, Jessie Gharrett (NMFS-RAM Div.) advised Council members that there would need to be some regulatory changes in order to achieve real-time

transfers and the ability to accomplish this is at least a year away. Ms. Madsen pointed out that if there is a need for regulatory changes, perhaps the Council should be advised of what those changes would be in order to decide whether the Council is interested in proceeding.

**Denby Lloyd moved the following:**

**The Council directs staff to draft a discussion paper analyzing how B shares are being used and whether their uses are consistent with the original intent. A draft of this paper will be prepared by June 2007 for discussions by the Bering Sea/Aleutian Islands Crab Advisory Committee (see below). A final draft will be presented to the Council in October 2007.**

**The Council requests a staff analysis to allow C shares to remain open-access shares, without regional designation and A and B share splits. Analysis needs to be initiated now, or the C shares will defacto become designated to the regions and the 90/10 A/B split will occur automatically at the three year anniversary of the program's implementation. Also, include options in the analysis for extension of the three year sunset date on leasing of C shares and present it at the June meeting.**

**Additionally, the Council directs staff to move ahead with analysis for change of the non-controversial aspects of the program identified in the NPFMC February Newsletter, page 3, for presentation at the October meeting. These issues are primarily regulatory in nature and they should take minimal staff time.**

**Additionally, take action to provide legal immunity for the arbitration organizations and arbitrators.**

**The Council shall appoint a BSAI crab advisory committee to address the draft discussion paper on B Shares (see above) and the regulatory issues identified in the 18 month review. This committee will work with staff to make recommendations to the Council in October 2007 on issues such as the elimination of market reports for crab fisheries not likely to open in a given year, change the 50-day market report requirement for golden king crab to 30 days to allow timely supplements to the market reports, alternatives to extend the time periods for share matching, and other relevant issues.**

The motion was seconded by Ed Rasmuson.

During discussion, Council members indicated that perhaps requesting an analysis to change the non-controversial aspects of the program as requested by the Advisory Panel may be premature since a discussion paper has already been requested for June.

**Eric Olson moved to strike the third paragraph of the motion, with the intent that the discussion paper previously requested would be provided in June, as scheduled.** The motion was seconded and carried without objection.

**Sue Salvesson moved that NMFS develop a discussion paper on the issue of immunity for arbitration organizations and arbitrators for the October 2007 Council meeting.** The motion was seconded by Bill Tweit.

**Gerry Merrigan moved to amend to also look at the market analysis issue.** The motion was seconded by Bill Tweit and carried without objection. The amended amendment carried without objection.

During discussion regarding direction for the new BSAI crab committee, Mr. Lloyd clarified that the intent would not be to limit the committee's focus if important issues arise during the committee discussions, however he would not wish to force the committee to require a consensus on the issues. Comments on the 'B' share issue would be included in the scope of the committee as well.

Mr. Benson noted that he has concern with a portion of the motion as he does not think use of 'B' shares is an issue at this time. He does not believe that 18 months is a sufficient amount of time to determine whether 'B' shares are achieving the Council's intended effect.

**Dave Benson moved to delete the first paragraph of the motion, and to delete the 'B' share issues from the BSAI crab committee's work.** The motion was seconded by Bill Tweit, and failed on a tie vote, 5 to 5 (Benson, Hoedel, Tweit, Salvesson and Madsen voting in favor; Hyder, Lloyd, Merrigan, Olson and Rasmuson voting against).

It was noted anecdotal information has indicated that 'B' shares are not being used as originally intended, that rather than providing a check on the market, and to facilitate processor entry, 'B' shares have been used to offset deadloss, to offset difficulties in delivery timing, and as a contingency buffer for other incidents during the first season. Because it appears that the shares are being used in a manner other than intended, the Council should have more information in order to determine whether or not changes should be made in the program.

The main motion, as amended, carried without objection.

(b) Crab Data Collection

Brian Garber-Yonts of the Alaska Fisheries Science Center, reviewed the document, "Confidentiality and Data Quality Protocols for BSAI Crab Economic Data: A Discussion and Proposal." The Council was provided a copy of the document in their meeting notebooks.

There was no formal action required on this issue at this meeting, however the following motion was made:

**Sue Salvesson moved to acknowledge the process laid out in the discussion paper and to approve the Advisory Panel's recommendation that the processes contained in the confidentiality and data quality protocols discussion paper be followed, and to move forward with the protocols for the Economic Data Reporting program.** The motion was seconded and carried without objection.

**C-5 Observer Program**

**ACTION REQUIRED**

**Progress report and action as necessary.**

**BACKGROUND**

**Observer Restructuring**

**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 the 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-5(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.<sup>1</sup>

The NMFS letter reviewed in February 2006 outlines the ongoing concerns with not being able to provide a definitive assessment of observer costs under a new service delivery model at this time. Costs may not be possible to assess until actual contracts between NMFS and observer providers are finalized. In addition, NMFS had 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 proposed rule for this action was published on February 22, 2007 (72 FR 7948), and the public comment period ended March 23, 2007.

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 that cannot be anticipated at this time. Thus, the previous analysis of the

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<sup>1</sup>Memo from Dr. William Hogarth to industry groups, November 29, 2005. At the same time, Dr. Hogarth also sent a letter to the DOL requesting an interpretation of the applicability of the SCA and FLSA to fisheries observers employed by observer service providers that are either under contract with or permitted by NMFS. This letter requests guidance in computing hours worked, geographical applicability, and the associated rules governing compensation of fisheries observers. Both letters are included in Appendix II of the analysis for Amendments 86/76.

**restructuring alternatives was intended as a starting point for a future amendment. The Council's problem statement from the June 2006 action is provided below for reference.**

**BSAI Amendment 86/GOA Amendment 76 Problem Statement (June 2006)**

The North Pacific Groundfish Observer Program (Observer Program) is widely recognized as a successful and essential program for management of the North Pacific groundfish fisheries. However, the Observer Program faces a number of longstanding problems that result primarily from its current structure. The existing program design is driven by coverage levels based on vessel size that, for the most part, have been established in regulation since 1990. The quality and utility of observer data suffer because coverage levels and deployment patterns cannot be effectively tailored to respond to current and future management needs and circumstances of individual fisheries. In addition, the existing program does not allow fishery managers to control when and where observers are deployed. This results in potential sources of bias that could jeopardize the statistical reliability of catch and bycatch data. The current program is also one in which many smaller vessels face observer costs that are disproportionately high relative to their gross earnings. Furthermore, the complicated and rigid coverage rules have led to observer availability and coverage compliance problems. The current funding mechanism and program structure do not provide the flexibility to solve many of these problems, nor do they allow the program to effectively respond to evolving and dynamic fisheries management objectives.

While the Council continues to recognize the issues in the problem statement above, existing obstacles prevent a comprehensive analysis of potential costs. Immediate Council action on a restructured program is not possible until information is forthcoming that includes clarification of cost issues that arise from Fair Labor Standards Act and Service Contract Act requirements and statutory authority for a comprehensive cost recovery program. During the interim period, the Council must take action to prevent the expiration of the existing program on December 31, 2007.

**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 establish a system of fees to pay for the costs of implementing a fisheries research plan which requires that observers are deployed on vessels and in processors. The MSA explicitly allows for a system that may establish fees that vary by fishery, management area, or observer coverage level. 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-5(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 undefined. 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.**

**Given that the cost issues remain, NMFS recently sent a letter recommending that the Council continue to set the restructuring amendment package aside at this time, and focus its efforts on necessary changes to the existing program (Item C-5(c)). NMFS has proposed a list of regulatory changes to the existing Observer Program that it believes need to occur regardless of observer restructuring (Item C-5(d)). This list is comprised of relatively short-term type actions that can be developed in one regulatory package. Dr. Bill Karp, Director of the Fisheries Monitoring and Analysis Division at the Alaska Fisheries Science Center and NMFS staff will be available to review and discuss the proposed changes with the Council.**

**After its December 2006 meeting, the Council sent a letter to NMFS requesting that it be involved in the process to determine changes to the existing program (Item C-5(e)). Two letters have also**

been sent from an observer provider company, Alaskan Observers, Inc., with regard to informing and involving observer providers in the process of modifying or creating new internal policies or regulations that affect the industry. These letters were at least partially in response to a memo from NMFS (12/4/06) soliciting input on improving operational constraints facing the Observer Program. And an additional memo from Dr. Karp was distributed on March 12. These four letters are provided as Item C-5(f).

Council action at the April 2007 meeting is to review the report provided and take action as necessary. The Council may also want to consider taking action 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. In addition, the Council may choose to convene the Observer Advisory Committee to review NMFS's proposed changes to the existing program. If an OAC report was requested at the June Council meeting, tentative OAC meeting dates would be May 21 – 22 in Seattle. NMFS could provide an expanded discussion paper on the proposed changes for the OAC meeting, if this is the approach taken by the Council.

Based on the above, action at the June Council meeting could then be to review the expanded discussion paper, the OAC recommendations, and potentially initiate and approve alternatives for a regulatory amendment package to make changes to the existing Observer Program.

#### Changes to the Atlas Regulations

NMFS staff will provide a brief update on the current effort to upgrade the Atlas software. Regulations at § 679.50(g)(1) and (g)(2) require each Atlas-use computer to meet processing chip, memory, operating system, disk drives, and modem minimum specifications. Since its implementation, Atlas requirements have been periodically upgraded through proposed and final rulemaking. NMFS is currently developing a proposed rule to address issues associated with another upgrade.

One reason for the current upgrade is that the commercial database software used to store observer-collected information and interface with the Atlas software is no longer supported by the manufacturer. The new Atlas software should increase overall data quality by increasing the functionality and efficiency of the Atlas, and interface with new, supported commercial database software. The new Atlas software is expected to be available for installation for the 2008 fishing year.

However, rather than propose necessary hardware and software component upgrades to support new Atlas software, NMFS is proposing to remove these specific requirements. Alternatively, NMFS proposes to require that each vessel or processor already subject to Atlas requirements provide hardware and software that is fully functional and operational with the NMFS-supplied software. The term "functional" means that all of the tasks and components of the NMFS-supplied software could be executed, and data transmissions to NMFS could be initiated effectively by such communications equipment. This approach means NMFS would no longer revise Atlas hardware and software requirements through rulemaking. As changes to the software component of the Atlas become necessary to support electronic communications of observer data, Observer Program staff would communicate in writing with vessel and plant personnel to ensure the personal computer provided for use by an observer meets the minimum requirement to enable implementation of these changes. At that time, vessels and processors would be required to upgrade their computer hardware and software components to meet these minimum requirements.

In sum, if this proposed regulation is adopted, catcher vessels, catcher processors, motherships, and shoreside or stationary floating processors must ensure the Atlas computer meets the minimum specifications necessary for the NMFS-supplied software to execute all of its tasks, including communication with NMFS computers to transmit data, starting in the 2008 fishing year.

**Publication of the proposed rule is expected in late March or early April, with the intent to publish the final rule, if approved, by fall 2007.**

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

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

The AP recommended that the Council:

1. Follow through on plans for an OAC meeting on May 21 and 22;
2. Encourage NMFS to reiterate its request to the Department of Labor for clarification regarding fair labor standards as they apply to groundfish observers;
3. Encourage NMFS to continue its efforts to develop a “contract debriefer” program to increase its debriefing capacity during peak periods.

### **COUNCIL DISCUSSION/ACTION**

The Council did not have sufficient time to address this agenda item at this meeting. It will be rescheduled for the June meeting.

#### **C-6 CDQ**

#### **ACTION REQUIRED**

##### **a) Status report on the CDQ Program and Magnuson Stevens Act amendments**

#### **BACKGROUND**

Staff previously provided the Council with a status report of recent Congressional legislation that made significant changes to the western Alaska Community Development Quota (CDQ) Program. On July 11, 2006, the President signed the Coast Guard and Maritime Transportation Act of 2006 (the Coast Guard Act). Section 416(a) of the Coast Guard Act revises section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) by replacing all of the existing language in this section with new language. Subsequent to this action, the MSA was reauthorized on January 12, 2007, and included several more changes to Section 305(i). Section 305(i)(1) of the MSA, as recently revised, is attached as Item C-6(a).

The MSA amendments address fisheries management, allocations, and oversight of the CDQ Program. At its October 2006 meeting, the Council was provided with an outline of the various MSA amendments to the CDQ Program and the intended regulatory vehicles for implementing these provisions. Several of the provisions of the Act are already included in the appropriate analyses, and these are expected to be implemented in Federal regulations in 2007 and 2008. Those provisions currently underway include:

- **BSAI Amendment 85.** The MSA reauthorization increased the CDQ Pacific cod allocation from 7.5% to 10.7% of the BSAI Pacific cod TAC, effective January 1, 2008. This increase will be implemented in Federal regulation through Am. 85, which pertains to BSAI Pacific cod allocations for all sectors and is scheduled to be implemented January 1, 2008. Language was also included in HR 5946 to trigger the CDQ increase in 2007, if a sector of the BSAI Pacific cod fishery forms a fishing cooperative in 2007. The proposed rule for Am. 85 was published in early February (72 FR 5654, 2/7/07), and the comment period closed March 26.
- **BSAI Amendment 80.** The proposed rule for Amendment 80 is being prepared to be consistent with the MSA requirement that 10.7% of the TAC of each directed fishery in the

BSAI (except pollock, sablefish, halibut, and crab) be allocated to the CDQ Program starting on January 1, 2008. Revisions to the list of species that will be allocated to the CDQ Program and the 10.7% allocations starting in 2008 also were included in the 2007 and 2008 final specifications for the BSAI groundfish fisheries.

- Regulatory amendment for CDQ transfers after overages. NMFS is preparing a proposed rule that would implement the new MSA requirement that “Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting.” The Council’s December 2005 recommendation to allow transfers after overages for halibut PSQ also will be included in this proposed rule. NMFS is currently allowing transfers after overages for groundfish and halibut CDQ under the authority of the MSA. Regulatory amendments will revise NMFS regulations by the end of 2007 to be consistent with the MSA. The State of Alaska has been notified that the MSA requirement to allow transfers after overages also applies to the crab CDQ allocations.
- Regulatory amendment for regulation of harvest. NMFS is preparing a proposed rule to revise observer coverage, catch retention, and LLP requirements to comply with the new MSA requirement that the “harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated...in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.” This proposed rule would make revisions in the regulations governing the harvest of pollock, halibut, and sablefish CDQ. NMFS’s goal is to publish a final rule implementing these revisions for the 2008 CDQ fisheries.

The above provisions of the MSA relate primarily to CDQ allocations and fisheries management issues. There are also several additional administrative and oversight issues that may require changes in Federal regulations and possibly amendments to the BSAI Groundfish FMP and BSAI King and Tanner Crab FMP. Some of these are relatively complicated and require significant analysis and/or legal interpretation from NOAA GC. NOAA GC intends to provide a legal opinion in early May 2007, related to the roles and responsibilities of the Council, CDQ Panel, and NMFS, resulting from the MSA amendments. The legal opinion would be sent to the Council prior to the June Council meeting, and review of the opinion could be scheduled for the June meeting.

Note that several months ago, the Western Alaska Community Development Association (CDQ Panel) sent a letter to the Acting Administrator of the NMFS, Alaska Region, providing the CDQ Panel’s interpretation of the authority given to the CDQ Panel under the amendments to the MSA. This letter (11/28/06), and NMFS’s response (12/1/06), are provided as Item C-6(b). A subsequent letter from the CDQ Panel, providing additional legal analysis about the CDQ Panel’s authority under the MSA, was received by NMFS in January. This letter (1/16/07), and NMFS’s response (1/24/07), are provided as Item C-6(c). Senator Murkowski also recently provided a letter to the Secretary of Commerce regarding MSA amendments affecting the CDQ Program and the authority of the CDQ Panel (2/15/07). This letter and the Secretary’s response are provided as Item C-6(d).

Except to receive this status report, there is no action for the Council at this meeting under this agenda item. The Council could schedule a review of the legal opinion for the June meeting and take action as deemed necessary. Depending on the timing of the release of the legal opinion, the Council could also consider tasking staff at this meeting to analyze the legal opinion and provide a discussion paper at the June Council meeting outlining whether the Council has further responsibilities for implementing additional provisions of the MSA, and if so, potential alternatives for consideration. Some issues may not require Federal regulations; those could also be identified in the discussion paper. If there is not sufficient time to develop a discussion paper for the June meeting, it could be scheduled for October.

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

## **COUNCIL DISCUSSION/ACTION**

The Council did not address this agenda item because of time constraints.

### **C-7 Socioeconomic Data**

#### **ACTION REQUIRED**

**Report from the workgroup on comprehensive economic data collection**

#### **BACKGROUND**

At its October 2006 meeting, the Council requested staff of the Alaska Fisheries Science Center to coordinate a workgroup of social and economic analysts and researchers from the NMFS, ADF&G, and Council staff to develop a comprehensive economic data collection program and survey formats supporting that collection. The attached discussion paper (Item C-7(a)) is the initial product of that workgroup. The paper begins by outlining the rationale for expanding the collection of economic and social data collection. The paper goes on to identify different data shortfalls, particularly cost, revenue, employment, coastal community expenditure, community, ownership, and social impact data. For each of these areas, the nature of analytical data needs is discussed along with potential reporting requirements to satisfy those needs. Data confidentiality concerns are outlined and potential means of addressing those concerns are identified. The paper briefly discusses approaches to collection of data, specifically defining persons who could be required to submit data, and whether to use sampling or census data collection. The paper concludes with a brief description of collection of biodiesel fuel and inventory data, as suggested by the SSC. After reviewing the discussion paper, the Council could provide the workgroup with additional direction concerning its work in development of the program, including the scope of the program and possible surveys that will be developed.

The **Scientific and Statistical Committee** did not address this agenda item because of time constraints.

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

The AP recommended the workgroup continue with the work requested by the Council, including development of surveys for the different sectors, a draft problem statement, additional discussion regarding confidentiality under FOIA and authority for collection, and, finally, cost, to agency and industry. In addition, the AP recommended the workgroup be expanded to include representatives of all sectors of the industry that participate in the federal fisheries, including the charter halibut fisheries.

## **COUNCIL DISCUSSION/ACTION**

The Council received progress reports from Mark Fina, NPFMC staff, and Ron Felthoven, AFSC staff. The workgroup plans to continue, with industry involvement in the future. Mr. Felthoven advised that AFSC staff will need to work with state agencies to explore various possibilities for data collection as well as to determine which fisheries should be involved based on economic feasibility.

Ms. Madsen noted that in the next progress report she would be interested in having samples of programs in other regions – samples of forms and how they are used.

Council members expressed interest in having SSC comments on this subject and hope that the SSC can address the issue in a future meeting. Ms. Salvesson said that the formal workgroup has been effective in getting the preliminary ideas together, but if the Council is interested in pursuing a comprehensive data collection program, a more formal workgroup may be necessary, although she thinks it's premature at

this point. Regarding inclusion of the charter halibut fishery in such a program, it was decided that the Council first needs to determine what results they are hoping to achieve and then decide whether the charter halibut fishery would fit with a program for the commercial fisheries.

## **D. FISHERY MANAGEMENT PLANS**

### **D-1 Scallop Management**

#### **ACTION REQUIRED**

**Receive Plan Team Report, Review and Approve SAFE report**

#### **BACKGROUND**

##### **Scallop SAFE Report**

The Scallop Plan Team met in Anchorage on February 22-23, 2007 to review the status of the weathervane scallop stocks in Alaska and to prepare the Stock Assessment and Fishery Evaluation (SAFE) report. This SAFE report was mailed to you on March 9th. The minutes from the Scallop Plan Team meeting are attached as Item D-1(a). The minutes from the SSC meeting pertaining to the previous Scallop SAFE report (from April 2006) are attached as Item D-1(b). The SAFE report provides an overview of scallop management, scallop harvests and the status of the regional weathervane scallop stocks. Scallop stocks are neither overfished nor approaching an overfished condition.

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

The SSC was advised that the State is anticipating moving to a visually-based survey methodology and is exploring alternative population assessment models as the supporting information is developed. The SSC is encouraged by the potential for new survey methodologies and modeling approaches to improve and synthesize the understanding of scallop stock dynamics and looks forward to the development of this model and recommended research effort in the areas of stock unit identification and recruitment processes, further development of population survey techniques, and discard mortality, as these subjects will be critical in the development of a stock assessment model. The SSC also provided a few specific suggestions to improve the SAFE document. Please see the SSC Minutes, Appendix VII to these minutes, for specific comments and suggestion.

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

The Council received staff reports from Diana Stram, NPFMC staff, and Jeff Barnhart, ADF&G and Scallop Plan Team member.

Mr. Barnhart advised the Council that the State limited entry program for scallops is scheduled to sunset at the end of 2008 and must be renewed by the State Legislature. The Council expressed concern with the possibility of reverting to an open access fishery in State waters and potential adverse effects relative to State/Federal management.

**Bill Tweit moved to approve the Scallop SAFE report and forward the comments of the SSC to the Plan Team for future reports.** The motion was seconded by Dave Benson and carried without objection. Mr. Tweit noted that the scallop fishery has been managed well by the State.

Regarding a recommendation to send a letter to the State Legislature supporting extension of the limited entry program for scallops, **the Council agreed that the Chair would work with the Executive Director and Denby Lloyd to draft a letter and see that it is sent to the appropriate parties.**

Regarding the recommendation of the Advisory Panel to send a letter to the University of Alaska and ADF&G encouraging them to continue to support research and analysis of scallop stocks, and other scallop issues, **Bill Tweit moved to approve that recommendation, noting that inclusion of the SSC comments may also be useful.** The motion was seconded and carried without objection.

## **D-2 Groundfish Management**

### **a) 'Other Species' Management**

#### **ACTION REQUIRED**

Receive discussion paper and take action as necessary.

#### **BACKGROUND**

In April 2005, the Council initiated an analysis to eliminate the "other species" category in the BSAI and GOA Groundfish Fishery Management Plans (FMPs) and set annual specifications for sharks, skates, squids, sculpins, and octopuses, with an option to add grenadiers. For the other species category, the FMPs require an overfishing level (OFL), allowable biological catch (ABC), and total allowable catch (TAC) in the BSAI, but only a TAC in the GOA. The OFL and ABC for the BSAI other species category is set equal to the sum of the estimates for the species groups. The GOA TAC for other species is established as a percentage of the combined GOA groundfish TACs. The issue is that management of the assemblage may not offer sufficient protection from overfishing of the component groups.

A NMFS discussion paper offers a preview of five possible alternatives to manage the other species (Item D-2(a)). In addition, the paper discusses an option to add grenadiers to the management program. Mr. Andy Smoker (NMFS staff) will be available to present the findings of his paper.

The other species analysis is scheduled tentatively for initial review in October 2007, with final action in December 2007. Implementation would occur no earlier than under implementation of the 2009 groundfish specifications. The proposed amendments are viewed as interim, while a long-term solution to management of all non-target groundfish species is developed by the Council through its scientific and industry advisory committees. After the other species analysis is complete, staff will reinitiate discussions of non-target species management, incorporating additional guidance on addressing overfishing from NMFS headquarters, when available.

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

The SSC requests that a clear distinction be made between alternatives and options. If more than one alternative can be approved, then the word "option" is usually better. The SSC notes that a major element for consideration is the uncertainty in catch and bycatch estimates. The SSC requests that a careful explanation of catch accounting be included in the EA.

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

The AP recommended the issue of management of other species be given to the Council's non-target species committee for further recommendations for Council consideration.



## COUNCIL DISCUSSION/ACTION

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

The Council received staff reports from Jane DiCosimo, NPFMC staff, and Andy Smoker, NMFS-AKR.

**Earl Krygier moved that further work on this issue be placed on hold until new direction is provided by the upcoming national workshop. Additionally the Council requests that NMFS invite North Pacific specialists on other species stocks to the workshop. Once the new direction is provided from national workshop, then the issue will be forwarded to the Council's Non-target species committee for further work or recommendations.**

The motion was seconded and carried without objection.

The Council also approved a suggestion from Mr. Krygier to write a letter to NMFS strongly encouraging the national workshop be held after Ms. Salveson advised that the workshop is not a certainty at this point.

### **D-2(b) Dark Rockfish Management**

#### **ACTION REQUIRED**

**Final Action on Dark Rockfish management**

#### **BACKGROUND**

**In February, 2007, The Council took initial review of an Environmental Assessment, Regulatory Impact Review and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) which describes the proposed amendment to remove dark rockfish (*Sebastes ciliatus*) from the GOA and BSAI groundfish FMPs. This analysis was revised following SSC and Council requests and released for public review. The Public Review draft was mailed to you on March 12<sup>th</sup>. This species is currently contained in the pelagic shelf rockfish (PSR) assemblage in the GOA and in the other rockfish complex in the BSAI. It comprises a small proportion of the total biomass in each complex, is more often found in nearshore waters, and is caught in State fisheries. Removing this species from these FMPs would turn management for this species in both State and Federal waters over to the State of Alaska.**

**Two actions are analyzed in this document. Action 1 refers to the GOA groundfish FMP, and under this action there are two alternatives: Alternative 1, to continue managing dark rockfish within the larger pelagic shelf rockfish complex; and Alternative 2, to remove dark rockfish from the GOA FMP and turn over to the State of Alaska for management. Action 2 refers to the BSAI groundfish FMP; under this action there are also two alternatives: Alternative 1, to continue managing dark rockfish within the other rockfish complex; and Alternative 2, to remove dark rockfish from the BSAI FMP and turn over to the State of Alaska for management.**

**There is limited impact in the Federal fishery of removing this species from either FMP. Dark rockfish comprise a small proportion of the total biomass in the GOA PSR assemblage, which is dominated by the target species, dusky rockfish. Impacts to other PSR stocks as well as other groundfish stocks are minimal due to the relatively minor contribution to the overall exploitable biomass from the dark rockfish stock. In the BSAI Dark rockfish makes up a very minor component of the total biomass in the other rockfish complex. This is not a target fishery, and**

retained catch is dominated by shortspine thornyhead rockfish and dusky rockfish. These two species make up the majority of the biomass in the complex.

Management of dark rockfish by the State is anticipated to be an improvement over Federal management within the PSR complex due to the State's ability to manage this stock as a single stock and on smaller management areas to protect against the potential for localized depletion. There are no anticipated impacts to marine mammals, seabirds, threatened or endangered species, habitat or the ecosystem.

At this meeting, the Council will select its preferred alternative. The executive summary of the analysis is attached as Item D-2(b)(1).

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

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

#### For the GOA:

The AP recommended that the Council adopt Alternative 2 as the preferred alternative. This will remove dark rockfish from the GOA FMP (PSR complex) and turn it over to State management.

#### For the BSAI:

Additionally, the AP recommended the Council adopt Alternative 2. This will remove dark rockfish from the BSAI FMP and turn it over to the State for management.

### **COUNCIL DISCUSSION/ACTION**

[NOTE: Earl Krygier participated in this discussion for Denby Lloyd.]

The Council received a staff report from Diana Stram, NPFMC staff.

**Ed Rasmuson moved to approve the recommendations of the Advisory Panel.** The motion was seconded by Eric Olson and carried unanimously (Bundy absent).

Mr. Krygier noted that the State of Alaska believes it can better manage the rockfish resource because it has smaller subdistricts. The Alaska Board of Fisheries has indicated that it is willing to assume the responsibility and develop management plans and regulations where appropriate. Ms. Salveson asked if the State will revise fish tickets to differentiate between dark rockfish and dusky rockfish. Mr. Krygier responded that he doesn't believe it will take much time to add the new code to the fish tickets.

In approving the motion, Council members noted that the analysis supports the action which has also been endorsed by the GOA and BSAI Groundfish Plan Teams and the Scientific and Statistical Committee.

**Earl Krygier moved that the Council submit a letter to NMFS requesting continued rockfish F40 funds to help the State assure MSY of this species and black and blue rockfish the State is already managing under delegated authority from the Council.** The motion was seconded and carried without objection.

**D-2(c) Stock Assessment Review Guidelines**

**ACTION REQUIRED**

**Provide comment on stock assessment review guidelines; action as necessary**

**BACKGROUND**

Stock assessment review guidelines have been drafted in order to provide clear guidance to the public on the appropriate timing and expected results of any external review of a stock assessment. These draft guidelines are attached as Item D-2(c)(1). The SSC requested input from the Council's plan teams (BSAI groundfish, GOA groundfish, BSAI crab and Scallop) on the applicability of these guidelines for each of the Council's fishery resources. Comments from the groundfish plan teams are provided as Item D-2(c)(2), from the Crab Plan Team as Item D-2(c)(3) and the Scallop Plan Team as Item D-2(c)(4). These guidelines are to be revised and approved at this meeting, taking into account comments from the plan teams, the interested public, SSC, AP and Council.

**Report of the Scientific and Statistical Committee**

The SSC recommended that the guidelines be adopted for groundfish assessments and be modified when necessary by the Groundfish Plan Teams. The SSC encourages the Crab and Scallop Plan Teams to carefully review these guidelines and revise them to provide for a similar process that accommodates their schedules and needs.

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

**COUNCIL DISCUSSION/ACTION**

The Council reviewed draft guidelines for external reviews of stock assessments, and decided the guidelines should be revised so as to create separate guidelines for groundfish, scallops, and crabs, given the different timing required for completing the assessments and establishing annual catch limits. The Council will consider final approval of the revised stock assessment review guidelines in June.

**D-2(d) Salmon Bycatch Workshop Report**

**ACTION REQUIRED**

**Receive report on the SSC Salmon Bycatch Workshop and take action as necessary.**

**BACKGROUND**

A SSC workshop on salmon bycatch will be held on Tuesday, March 27. This workshop will review the existing research on stock origins of incidentally-caught salmon species in the BSAI, assessment information for Pacific Salmon stocks and other research relevant to the Council's continued activities with salmon bycatch reduction measures. An agenda for this workshop is attached as Item D-2(d)(1). Abstracts of the presentations are provided as Item D-2(d)(2). A moderated discussion will follow the formal presentations. The goal of the moderated discussion will be to review the materials presented in the context of the information needs to refine the alternatives for Amendment 84B. The topics for workshop discussion are included as Item D-2(d)(3). At the Council meeting, staff will provide the Council with an overview of the discussion and findings (as applicable) of this workshop as it relates to the Council's activities and progress towards refining alternatives in amendment 84B.

The current suite of alternatives including additions made at the February 2007 Council meeting

are attached as Item D-2(d)(4). The Council in February moved to appoint a workgroup to work with staff in examining the appropriate methodology for establishing trigger caps and hard caps for the analysis. The workgroup has been appointed and an update on the membership of the committee as well as their proposed meeting schedule will be provided by staff at this meeting.

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

Please see the SSC Minutes, Appendix II to these minutes, for a summary of the Salmon Bycatch Workshop and SSC comments and recommendations.

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

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

The Council was unable to address this agenda item due to time constraints.

##### **D-3 Habitat Conservation**

##### **D-3(a,b) BS Habitat Conservation Measures/HAPC Priorities**

#### **ACTION REQUIRED:**

- a) Initial review of Bering Sea habitat conservation measures.
- b) Review HAPC priorities and timing, and take action as necessary.

#### **BACKGROUND:**

##### **Bering Sea Habitat Conservation**

The Council took action in February 2005 to conserve essential fish habitat (EFH) from potential adverse effects of fishing. The EIS prepared for the action concluded that while fisheries do have long term effects on benthic habitat, these impacts were minimal and had no detrimental effects on fish populations. The Council adopted several new measures to minimize the effects of fishing on EFH in the Aleutian Islands and Gulf of Alaska. In evaluating alternative measures for the Eastern Bering Sea area, the Council determined that additional habitat protection measures were not required, and that an expanded analysis of potential mitigation measures should be conducted prior to taking action. In December 2005, the Council discussed alternatives and finalized a problem statement.

*The Council intends to evaluate potential new fishery management measures to protect Essential Fish Habitat (EFH) in the Bering Sea. The analysis will tier off of the 2005 EFH Environmental Impact Statement and will consider as alternatives open and closed areas and gear modifications. The purpose of the analysis is to consider practicable and precautionary management measures to reduce the potential adverse effects of fishing on EFH and to support the continued productivity of managed fish species.*

The Council developed alternatives for the analysis during several meetings in 2006. In February 2007, the Council reviewed a preliminary draft of the analysis, and refined the alternatives and options. The February Council motion is attached as Item D-3(a)(i).

A revised draft analysis was mailed to you two weeks ago; the executive summary is attached as **Item D-3(a)(ii)**. At this meeting, the Council will make an initial review of the analysis. Final action is scheduled for the June meeting.

**Habitat Areas of Particular Concern (HAPC)**

In December 2006, the Council received a staff report on the HAPC identification process. HAPC are site-specific areas of EFH for managed species. Identification of HAPC provides focus for additional conservation efforts for those habitat sites that are ecologically important, sensitive to disturbance, exposed to development activities, or rare. During deliberations of the Bering Sea Habitat Conservation alternatives in December, the Council decided that skate nurseries will be considered as a priority in the next HAPC cycle. Additionally, the Council scheduled for the March meeting, a discussion of possible HAPC priorities and a schedule for solicitation of HAPC proposals.

The HAPC identification process is defined in Appendix J of the EFH EIS (attached as **Item D-3(b)(i)**). The HAPC cycle begins with a call for HAPC nominations, with a focus on specific sites consistent with HAPC priorities designated by the Council. Appendix J specifies that HAPC proposals may be solicited every 3 years or on a schedule established by the Council. For the 2004 cycle, the Council designated as priorities the EEZ seamounts and areas with corals associated with rockfish. The Council received 23 HAPC proposals from six different organizations. After an initial screening by staff, the proposals were reviewed by the Plan Teams and underwent an initial review to consider management, enforcement, and socioeconomic issues. Ultimately, the Council identified a range of alternatives, staff completed an analysis, and the Council established several new HAPCs. Management measures for these HAPCs were implemented in August 2006. The timeline for the 2004 process is captured in the table below:

October 03	Council Identifies HAPC Priorities FR Notice to Initiate Call for HAPC Proposals
January 04	Comment Period Closes
February 04	Council review and decision as to which ideas should be forwarded for Plan Team review.
March 04	Plan Team Review- Special Meeting Preliminary Enforcement and Socioeconomic Reviews
April/June 04	Council Identifies HAPC Alternatives for Analysis
December 05	Initial Review
February 05	Final Review

At this meeting, the Council may wish to discuss HAPC priorities, and a timeline for the next HAPC identification process.

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

The SSC provided the following comments:

The SSC commends the authors of the revised EA for addressing many of the SSC concerns raised at the February 2007 meeting. The document has been nicely restructured around alternatives and options that are more streamlined and not confounded. Much of the data we asked to be incorporated has been added, and the new maps have been produced at a scale that is easy to interpret and yet dense with data.

The SSC has two comments pertaining to the Council's choice of alternatives. The first comment is that it is not clear if alternatives 2 and 3 are considered mutually exclusive or if both can be selected. While these are described as alternatives, the EA appears to consider alternative 3 (gear modifications) to apply only to the open areas under alternative 1 in the analysis of habitat impacts in section 4.1.2 (e.g., paragraph 7, page 45). If the intent is to be able to select from and combine the current alternatives and options they could simply be provided as a "menu" of 7 options under a single "Action" alternative. Options 2 and 3 pertain to minimizing conflicts with resource use patterns of local communities, however this goal is not included in the problem statement. Perhaps the problem statement should be expanded.

The SSC also provided several suggestions to the authors of the analysis. Please see the SSC Minutes, Appendix VII to these minutes for those suggestions.

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

The AP recommended the Council modify options 2, 3 and 4 to reflect the boundary around Nunivak Island, the south end of Etolin Strait, and Kuskokwim Bay agreed to through negotiations between the flatfish industry and the AVCP. A map describing this line is attached to this report.

The AP also encouraged the Council to provide staff resources between industry and tribal leaders to share scientific knowledge for the area around Nunivak Island. Additionally, the AP recommended changing "fish species" to "council managed species in the text of the problem statement.

### **Report of the Enforcement Committee**

The Committee discussed implementation issues associated with the proposed program for modification of trawl sweeps for non-pelagic trawl vessels fishing flatfish in the Bering Sea. While the Committee generally felt that the program possesses no compliance monitoring issues which would preclude effective monitoring of the program, Committee members noted several issues that should be addressed to increase effective enforcement of the program, one of which would be to expand the analysis to explore the use of VMS. The Committee supported the release of the analysis for public review, taking into account the issues discussed in the Committee's report (see the full report in Appendix VI to these minutes).

### **COUNCIL DISCUSSION/ACTION**

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

#### **(a) Bering Sea Habitat Conservation Measures**

The Council received staff reports from Cathy Coon (NPFMC staff) and Melanie Brown (NMFS-AKR) and Greg Balough (USFW).

**Earl Krygier moved the following:**

**The Council adopts the Draft initial review EARIR/IRFA for EFH with the following changes and requests it be sent out for final review with proposed final action in June 2007.**

**1) The Problem Statement is modified by replacing “managed fish species.” with “Council managed species.” as noted by staff. A final sentence is added “EFH closures for habitat delineation shall be done in consideration of local community use.”**

**2) The Council moves to adopt the agreed upon southern boundary at Nunivak Island, Etolin Strait and Kuskokwim Bay by the AVCP/industry working group. The Council will, 2 years after implementation, review the results of the AVCP/industry working group to decide if further refinement of the southern boundary line near Nunivak Island/Etolin Strait is needed. The Council will use the process used in the AVCP/industry working group discussions to refine this southern boundary line to inform the Council on how to meet the goals of their Policy Planning document.**

**3) Measures establishing non-pelagic trawl (NPT) closures around Nunivak, St. Matthew, and St. Lawrence Islands are separate actions and not affected by any measures developed for the Northern Research Area ([NRA] Option 4).**

**Clarification of Option 4 (NRA): Inside the NRA, NPT fishing would be prohibited for a period of time during which a management plan for the NRA will be developed for Council review. The plan will consider and identify protection measures as may be necessary within the NRA for king and opilio crab, marine mammals, endangered species, and subsistence needs for Western Alaska costal communities in nearshore areas. In addition to establishing these protection measures, the plan will identify areas where NPT fishing is allowed pursuant to a scientific research plan. In these open areas, control closures will be established based on representative habitats needed to allow scientifically valid comparisons of the effect of NPT fishing. Access to the NRA by NPT will be established once the protection measures and control areas described above are delineated. The plan shall be developed within 18 months and implemented within 3 years of final action on this item. Council will review this program in 5 years.**

**4) A new Suboption to Option 4 is added that defines the northern boundary. The wedge, as described by the attached map, would move a portion of the northern boundary northward between Nunivak and St. Matthew Islands to 61° N. This boundary would be analyzed to consider the spatial distribution of the flathead sole fishery.**

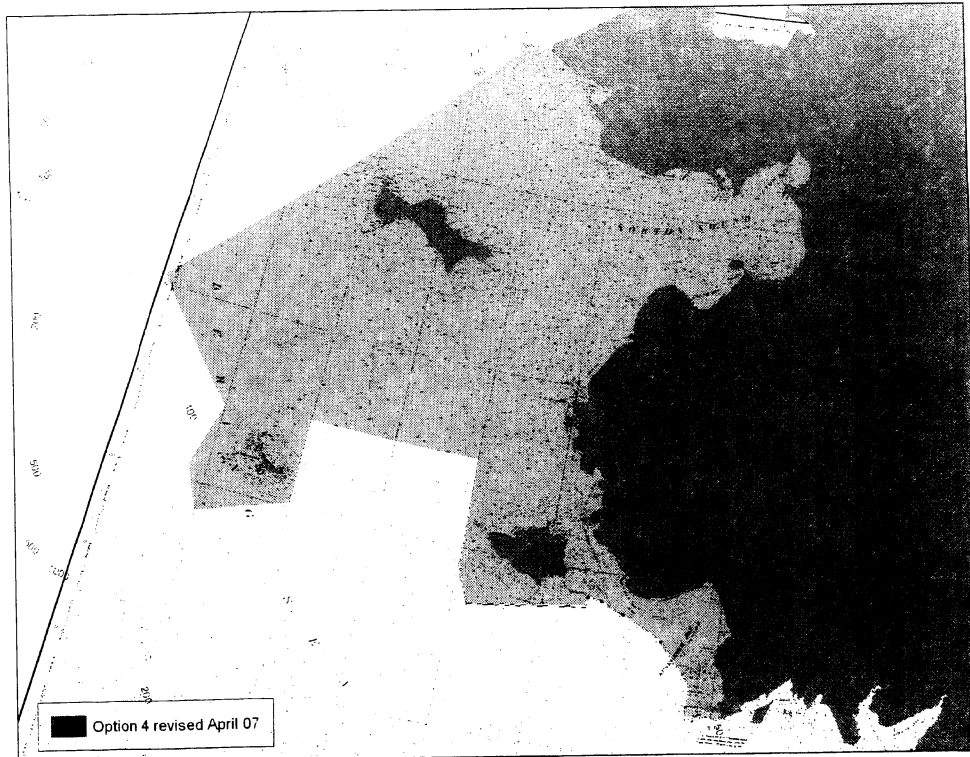
**5) Prior to analysis going out for public review, NMFS will work with USCG to develop a chapter on appropriate monitoring and enforcement requirements and as part of that discussion will be reviewing existing requirements for VMS under other programs and assessing what additional, if any, requirements for this program**

**Additionally the Council will forward a letter to the NPRB and request that they set the issues described in the NRA above, including seabirds, as well as Bering Sea Canyons, described in the December 2006 Review document, as research priorities.**

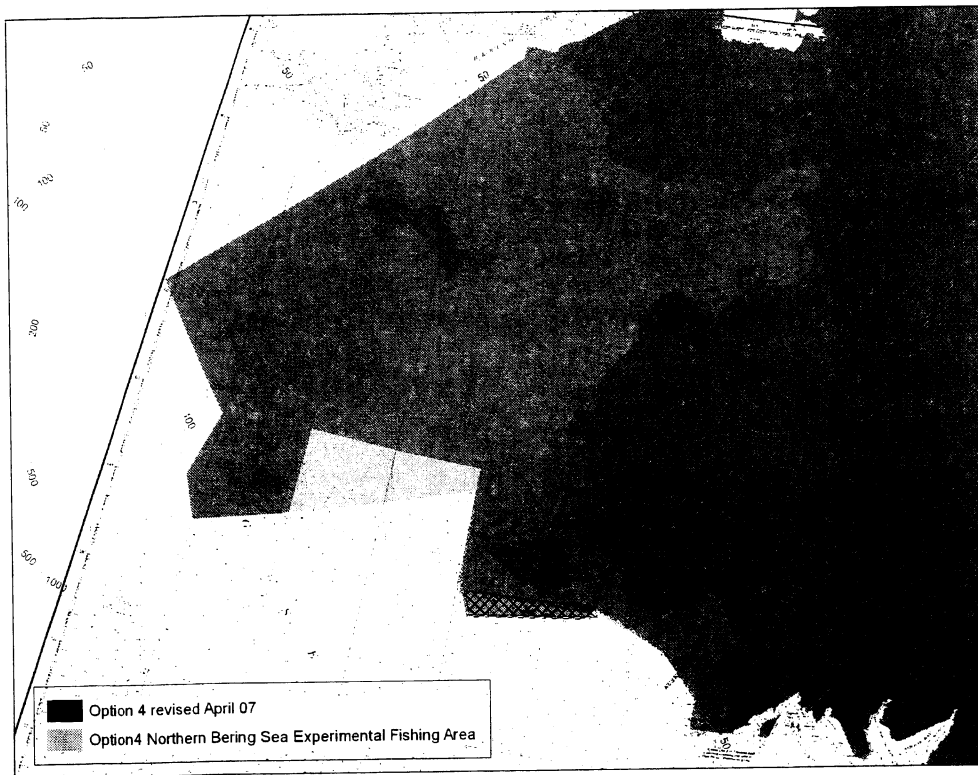
The motion was seconded by Sue Salveson.

Responding to the Enforcement Committee’s recommendation, **Sue Salveson moved to amend, as follows:**

**Prior to the analysis going out for public review, NMFS will work with the Coast Guard to develop a chapter on appropriate monitoring and enforcement requirements. As part of that discussion staff will review existing requirements for VMS under other programs and assess what additional,**



**Figure -1. Bering Sea Habitat Conservation- Option 4 proposed revision.**



**Figure 2. Bering Sea Habitat Conservation- Difference between Option 4 and proposed changes to Option 4.**



**if any, requirements would be needed for this program.** The motion was seconded by Bill Tweit and carried without objection.

Lauren Smoker asked for clarification of the list of species to be considered and identified for protection measures under Option 4 and whether the intent is to address only endangered species, or would include threatened as well. Mr. Krygier responded that all listed species should be included.

**Gerry Merrigan moved to remove the word “proposed” from the first sentence of the motion – the intent would be to definitely schedule final action in June.** The motion was seconded by Ed Rasmuson and carried without objection.

The main motion, as amended, carried without objection.

**D-3(b) Review HAPC Priorities**

The Council did not address this agenda item due to time constraints.

**D-3(c) EFH Aleutian Islands Open Area Adjustment**

**ACTION REQUIRED:**

**c) Final action on EFH AI open area adjustment**

**BACKGROUND:**

**Aleutian Island Habitat Conservation**

The Council took action in February 2005 to conserve essential fish habitat (EFH) from potential adverse effects of fishing. EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. The EIS prepared for the action concluded that while fisheries do have long term effects on benthic habitat, these impacts were minimal and had no detrimental effects on fish populations. The Council adopted several new measures to minimize the effects of fishing on EFH in the Aleutian Islands and Gulf of Alaska.

The Aleutian Island Habitat Conservation Area (AIHCA) was adopted as part of a suite of conservation measures to minimize the adverse effects of fishing in the Aleutian Islands subarea. The AIHCA prohibits the use of non-pelagic trawl fishing gear in designated areas of the AI to reduce the effects of fishing on corals, sponges, and hard bottom habitats, while allowing most fishing areas that have been trawled repeatedly in the past remain open.

During the June 2006 meeting, fishery participants requested that the open area boundaries be slightly modified to allow fishing in areas historically fished and to prevent bottom trawling in areas that have not been repeatedly fished. One location near Agattu Strait had been historically fished and was included into the closure area. A second location near Buldir Island was included in the portions of the AIHCA open to bottom trawling but has some documented presence of sponges. The proposed amendment would open the Agattu area and close the Buldir area. The Council made an initial review of the analysis in February. The analysis for final review was mailed to you two weeks ago; the executive summary is attached as Item D-3(c)(i). The Council is scheduled to take final action at this meeting.

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

**Report of the Advisory Panel**

The AP recommended the Council adopt Alternative 2: Modify the latitude and longitude definitions for open areas for the AIHCA.

### **COUNCIL DISCUSSION/ACTION**

The Council received staff reports from Cathy Coon Melanie Brown.

**Earl Krygier moved to approve the recommendation of the Advisory Panel: Adopt Alternative 2.** The motion was seconded and carried unanimously.

Mr. Krygier offered the following statement of support for the motion:

The Council's intent in the development of the AIHCA was to prohibit non-pelagic trawling in those areas that had not been historically fished or contained fragile benthic biota such as corals and sponges. Areas where fishing was left open were historically fished or were not known to contain corals or sponges. After the implementation of the AIHCA, fishers determined that a portion of the closure near Agattu Island included areas historically fished for Pacific cod, and no evidence exists for corals and sponges occurring in this area. In addition, the industry determined that a portion of the open area near Buldir warranted protection by closing the area to non-pelagic trawling because of the rocky relief and documented presence of coral and sponges. This action would correct the opened and closed area boundaries in these to locations to ensure the Council's original intent for the AIHCA is met.

#### **D-4 Aleutian Islands FEP**

### **ACTION REQUIRED**

**Initial review of the AI Fishery Ecosystem Plan.**

### **BACKGROUND**

**The AI Fishery Ecosystem Plan (FEP) was initiated by the Council to meet the following purposes:**

- 1. Integrate AI information across FMPs**
- 2. Identify ecosystem indicators for the AI**
- 3. Develop and refine tools, i.e. models**
- 4. Identify uncertainty / research needs**
- 5. Assist Council with management objectives and understanding cumulative effects**

**The AI FEP is intended as a guidance document for the Council, to better understand the ecosystem implications of management actions affecting the Aleutian Islands.**

**A draft of the FEP has been developed by the AI Ecosystem Team. This draft was mailed to the Council and posted on the website on March 8, 2007. The draft describes the physical, biological, and socioeconomic ecosystem processes of the Aleutian Islands, and identifies key ecosystem interactions. Many data gaps about the AI ecosystem are highlighted in the draft. The AI Ecosystem Team will meet in early April to develop the remaining FEP sections, so that the Council may receive a final draft for the June meeting.**

**The Council also requested that communities in and around the ecosystem area be given the opportunity to participate in the developing of the FEP, by providing input. Public meetings will take place in Unalaska and Adak during the week before the Council meeting, and in Atka in late April. A copy of the powerpoint presentation for these meetings is attached as Item D-4(a).**

**The Ecosystem Committee is meeting on March 27, 2007, and will provide recommendations to the Council for consideration during this agenda item.**

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

The SSC was impressed with the amount of work accomplished since February. However, the SSC noted that despite excellent progress, there are still large gaps in the document. The SSC recommended that the timeline for completing the document be extended and would like to review an updated draft at a future meeting before it is finalized. The SSC provided extensive comments to the analysts for further work. Please see the SSC Minutes, Appendix VII to these minutes, for those recommendations and comments.

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

### **COUNCIL DISCUSSION/ACTION**

[NOTE: Sue Salveson participated in this discussion for Jim Balsiger.]

The Council received staff reports from Diana Evans (NPFMC staff) and Dr. Sarah Gaichas (AFSC).

This was a progress report and no Council action was scheduled. Mr. Tweit noted that the staff should continue work on the Plan to prepare for release on schedule, but that the document and should continue as a 'living' document – updated as more information and data become available and suggested the Council should schedule an annual update on the FEP and perhaps a report on how the Plan was used in the past year.

Ms. Salveson suggested that the Workgroup could assess the SSC's comments relating to risk analysis and correlation between the food web modeling and the oceanography associated with different trophic levels for future work on the FEP and perhaps to also clarify the umbrella nature of the FEP and how that might relate to the programmatic EIS for the groundfish fisheries.

### **D-5 Arctic Management**

#### **ACTION REQUIRED**

**Receive revised discussion paper and take action as necessary.**

#### **BACKGROUND**

**At its October 2006 meeting, the Council asked staff to prepare a draft discussion paper on options for management of fisheries in the Arctic waters of the Alaskan Exclusive Economic Zone (EEZ). The Council is interested in exploring possible policy options, such as a Fishery Management Plan (FMP), to address management of existing or potential future commercial fisheries in this region. The Council received that report at the December meeting, and tasked staff to further develop options for fishery management in the Arctic. Specifically, the Council's motion was:**

**For waters north of Bering Strait, the Council moves to develop an analysis that would include the following alternatives:**

- 1. Status quo for those waters.**
- 2. Amend the existing scallop FMP, the BSAI groundfish FMP, and the BSAI king and Tanner crab FMP to prohibit commercial fishing in the Chukchi Sea.**
- 3. Adopt a new FMP for the waters north of Bering Strait for any species not covered by**

an FMP (including krill and other forage species) with the following sub options:

- a) Close all Federal waters to commercial fishing until such time as the Council develops a policy for opening the waters to select commercial fishing practices, or
- b) Close all Federal waters north of Bering Strait to commercial fishing for forage species, and all waters north of a line at Point Hope to commercial fishing for all species (see Figure 1 map in staff discussion paper).

The Council's motion was accompanied with additional notes:

1. The effect of (b) would be to allow for commercial fishing for fish species (other than forage species) in the waters between Bering Strait and Pt. Hope.
2. The policy for opening waters north of Bering Strait could be developed through a Fishery Ecosystem Plan or other mechanism as the Council deems appropriate.
3. Initial analysis should flesh out what is required under each alternative, such as what is required as part of an FMP (e.g. EFH), and whether these requirements could be deferred until such time as the Council decides to open a fishery.
4. Under each alternative, describe the requirements for deferring management to the State of Alaska, and the procedures for deferring management.

The revised Arctic fishery management discussion paper was sent out in a Council mailing in early March. At this meeting, the Council is scheduled to receive and discuss this report and take action as appropriate.

**Note:** On January 30, 2007, NMFS sent a letter to the Minerals Management Service commenting on the draft EIS for the Chukchi Sea Planning Area – Oil and Gas Lease Sale 193 and Seismic Survey Activities Associated with this Sale. NMFS' concerns include potential impacts of oil and gas development on living marine resources, their habitats, and fisheries. NMFS references the Council's ongoing discussions of fishery management options in the Arctic. The NMFS letter is attached as Item D-5(a).

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

The SSC endorsed the Council's precautionary approach to management in this area, and provided the following comments:

"The Arctic ecosystem is distinct from the Bering Sea and has a number of unique and probably sensitive stocks, as well as endangered species. It is also likely to undergo rapid change due to warming over the next few decades.

Under present FMPs and Alaska statutes, the Arctic region is already protected against the development of any unregulated fishery. However, the SSC noted that a comprehensive FMP for the Arctic would advance an integrated ecosystem approach to management in that region. The SSC suggests that a Fishery Ecosystem Plan (FEP) could also be written to accomplish the Council's purpose of setting policy for the region. An FEP alternative might not be as simple and direct as developing a regional FMP, but we recommend that it be considered at least briefly in the analysis for completeness. Presumably, an FEP would need to be considered as an option in combination with one of the other alternatives. In view of the lack of any fishery problems in the Arctic at present, we also recommend that the analysis should provide an estimate of the cost in staff time to accomplish the Council's purpose under the different alternatives."

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

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

The Council postponed discussion of this agenda item to a future meeting because of time constraints.

#### **D-6 Staff Tasking**

##### **ACTION REQUIRED**

**Review tasking and committees and provide direction.**

##### **BACKGROUND**

The list of Council committees is attached as Item D-6(a). A Bering Sea Salmon Bycatch Workgroup has been appointed, and will be meeting to develop recommendations for the June Council meeting. I would note that the Council Chairs and Executive Directors Committee could be abolished, as compliance with FACA is no longer an issue due to the MSA revisions establishing a Council Coordination Committee.

Item D-6(b) is the three meeting outlook, and Item D-6(c) and Item D-6(d) respectively are the summary of current projects and tasking. Item D-6(e) is the Council's groundfish workplan, which was revised and adopted in February. At the last meeting, the Council initiated several new projects (BSAI crab 'active participation', BSAI crab post-delivery transfers, halibut subsistence for rural residents, ESA recovery criteria review, and discussion papers related to GOA sector splits and LLP recency) 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.

The Council received one proposal (Item D-6(f)) requesting changes to halibut subsistence regulations in the Ketchikan area (expanding fishing area and increased amount of hooks). The Council has already requested a discussion paper, scheduled for review in June, regarding proposed changes in defining rural area boundaries for purposes of halibut subsistence.

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

The AP recommended the Council develop a discussion paper that reviews the creation of subareas in area 3A for Charter halibut GHL management.

The AP recognized that the charter industry is facing acute crisis that affect business and the coastal communities that depend on them. For this reason, the AP recommends that the Council encourage staff to focus on this issue by establishing the halibut charter moratorium package as a very high priority for implementation by 2008 if possible.

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

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

##### **Request for Change in Halibut Subsistence Regulations**

The Council received a request to change the for the halibut subsistence fishery regulations in the Ketchikan area to expand the fishing area and increase the amount of hooks. Mr. Oliver noted that the Council already has requested a discussion paper to be reviewed in June regarding proposed changes in defining the rural area boundaries for purposes of halibut subsistence.

BSAI Crab Rationalization

Earl Krygier noted that he would like to initiate a plan amendment to the Crab Rationalization Program to extend for 2 years the cooling-off period and right-of-first refusal to communities designated as a Federal disaster in the last 2 years. However, Ms. Salveson said that that the cooling-off-period extension would require an FMP amendment and could not be in place by summer. Additionally, the cooling-off period may be more of a Rofer provision adjustment and Ms. Salveson recommended that NMFS investigate ways the issue could be addressed before initiating an amendment. In June Agency staff will provide a discussion paper outlining what regulations may be required and whether there are other solutions outside of regulatory action.

**Earl Krygier moved to request NMFS Financial Services Division to provide a rationale for including 'C' share IFQ holders in the fee recovery for the crab capacity reduction program, and request information on the possibility of removing 'C' share crab IFQ holders from the fee recovery program for the vessel buyback.** The motion was seconded and carried without objection. The Executive Director will draft a letter for the Chair's signature.

Charter Halibut Stakeholder Committee

The Council directed staff to fully represent the elements and options considered by the Stakeholder Committee, whether recommended or rejected, in the Committee's meeting minutes in order to fully inform the public, the AP and the Council on the pros and cons of potential actions.

Request for Change of Season Dates

The Council agreed to ask staff to draft a letter to the Board of Fisheries asking that they look at season opening and ending dates for Bering Sea *opilio* because of the compressed time frames for IFQ/IPQ share matching and arbitration requirements for the Bering Sea *opilio* and *bairdi* components. This request is based on public comment during the Council meeting.

Dingle Bar Gear/EFH Requirements

**Earl Krygier moved to direct staff to provide a discussion paper at the June Council meeting on implications of the removal of dingle bar gear from VMS requirements under the existing EFH regulations.** The motion was seconded by Roy Hyder.

Mr. Krygier indicated that in the analysis supporting the VMS requirement indicated that the impact on the dingle bar gear sector was overly burdensome. Mr. Krygier stressed that timing is an issue, but it was determined that because the requirements are already in place any change would require a regulatory amendment and could not be implemented as quickly as Mr. Krygier suggested. It was also noted that NMFS has been requested to clarify the regulations with regard to this gear type, although Ms. Salveson confirmed that she thinks a regulatory amendment will be required.

**Gerry Merrigan moved to amend the motion to remove the June timeframe for the discussion paper.** The motion was seconded by Eric Olson and carried without objection.

The main motion carried, 8 to 2, with Benson and Tweit voting against (Bundy absent).

SSL Recovery Plan

The Council discussed the possible role of the SSL Mitigation Committee in review of the SSL Recovery Plan, and the possibility of supporting an independent peer review of the Recovery Plan, separate from the CIE review.

**Gerry Merrigan moved the following:**

**The Council wishes to conduct an independent scientific review of the SSL Recovery Plan (SSLRP). To initiate this action, the Council will;**

- **Ask the Chair and the ED to contact the NPRB and explore whether or not NPRB would assist in conducting this review;**
- **Assuming NPRB will assist in this review, ask the Chair and ED to work with the NPRB to establish a process to select a panel of scientists to review the SSLRP, a scope of work and terms of reference, and schedules;**
- **Consider the overall schedule for completing the SSL RP for completing the SSLRP and that consideration will guide the review;**
- **Ensure the scope of work and terms of reference will build on the terms of reference NOAA provided the CIE;**
- **Consider whether or not this review should be structured to include a review of the findings of the CIE; and**
- **Ask the Chair to report on progress at the June meeting.**

The motion was seconded by Doug Hoedel and carried without objection.

The Council agreed to hold a special meeting in early August to review the SSL recovery plan.

Council Chairs/EDs Committee

The Council was asked to approve a motion formalizing the Committee in order to mitigate concerns arising from the FACA regulations.

**Sue Salveson moved to approve the motion approving a formal Council Chairs/Executive Directors Committee.** The motion was seconded by Ed Rasmuson and carried without objection.

Bob Mace Distinguished Service Award

Ms. Madsen asked whether Council members would agree to establish an annual ‘Mace’ recognition award to someone within the fishery management arena for extraordinary or special contributions in the North Pacific fishery management arena. Council members agreed that this would be a good idea. Recipients will be chosen based on Council nomination and approved by the members in Executive Session. Only one award would be approved each year, and presented at the December Council meeting.

Review of Council Statement of Operating Policy & Procedures

A committee comprised of Chair Madsen and Council members Hyder, Tweit and Krygier will review the SOPPs and provide recommendations for revision at the next meeting.

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Observer Issues

The Council agreed to send a letter to NMFS-HQ asking the Administrator to follow-up on previous request for clarification of Fair Labor Standards Act relative to observers.

Proposed Maruha-Nichiro Merger

**Earl Krygier moved to direct Council staff to evaluate the proposed Maruha-Nichiro merger with particular attention paid to the community protection and pricing issues and program ownership caps.** The motion was seconded by Eric Olson and failed, 7 to 3, with Krygier, Olson and Salveson voting in favor. Some Council members expressed reluctance to get involved with the issue at this time. Other Federal regulatory agencies are better suited to resolve any problems that may arise from the merger and there is a question whether the Council has any authority. The Council also discussed this subject briefly under the BSAI crab agenda item.

**ADJOURNMENT**

Council Chair Stephanie Madsen adjourned the meeting at approximately 5:35pm on Tuesday, April 3, 2007.

NOTE: Minutes prepared by Helen Allen, A-Typical Office Support Services, under contract to the NPFMC.