

## **Enforcement Committee Agenda**

**October 5, 2010**

**1pm – 5pm**

**Hotel Captain Cook/ Club Room**

**Anchorage, Alaska**

### **I) - D-3(d) Preliminary Review of HAPC Proposals**

At the April 2010 meeting, the Council undertook review and adoption of HAPC criteria and priorities. The Council set a habitat priority type—skate nurseries—and issued a call for proposals for candidate areas in conjunction with the completion of the EFH 5-year review process. The Request for Proposals (RFP) was announced in the Federal Register (75 FR 21600) and Council newsletter. The proposal period opened April 26, 2010 and continued until August 31 (extended from August 16).

The RFP yielded two HAPC proposals recommending six skate nursery areas in the Bering Sea. As per the HAPC process, Council staff has initially screened the proposals to determine consistency with the EFH Final Rule, application completeness, and whether the proposal meets the current priority type. In September 2010, the joint Plan Teams reviewed the submitted HAPC proposals for ecological merit. Additional analysis of the proposals is not needed or required at this step in the HAPC process, as proposals will undergo further analysis for ecological merit, socioeconomic, and management and enforcement considerations after Council selection.

After review of the skate nursery HAPC proposals received for this HAPC cycle, Council staff makes the following statements and suggestions:

- Six HAPC skate nursery areas are proposed within two HAPC proposal applications.
- Skate nursery HAPC area proposals may be forwarded by the Council for further review by the Plan Teams for scientific review (ecological merit), which will rank the proposal using the established HAPC criteria.
- The Council may wish to discuss what action may be needed, if any, should future research identify additional skate nursery areas. (I.e., EFH 5-year review could identify new HAPC sites meeting prior HAPC priorities.)

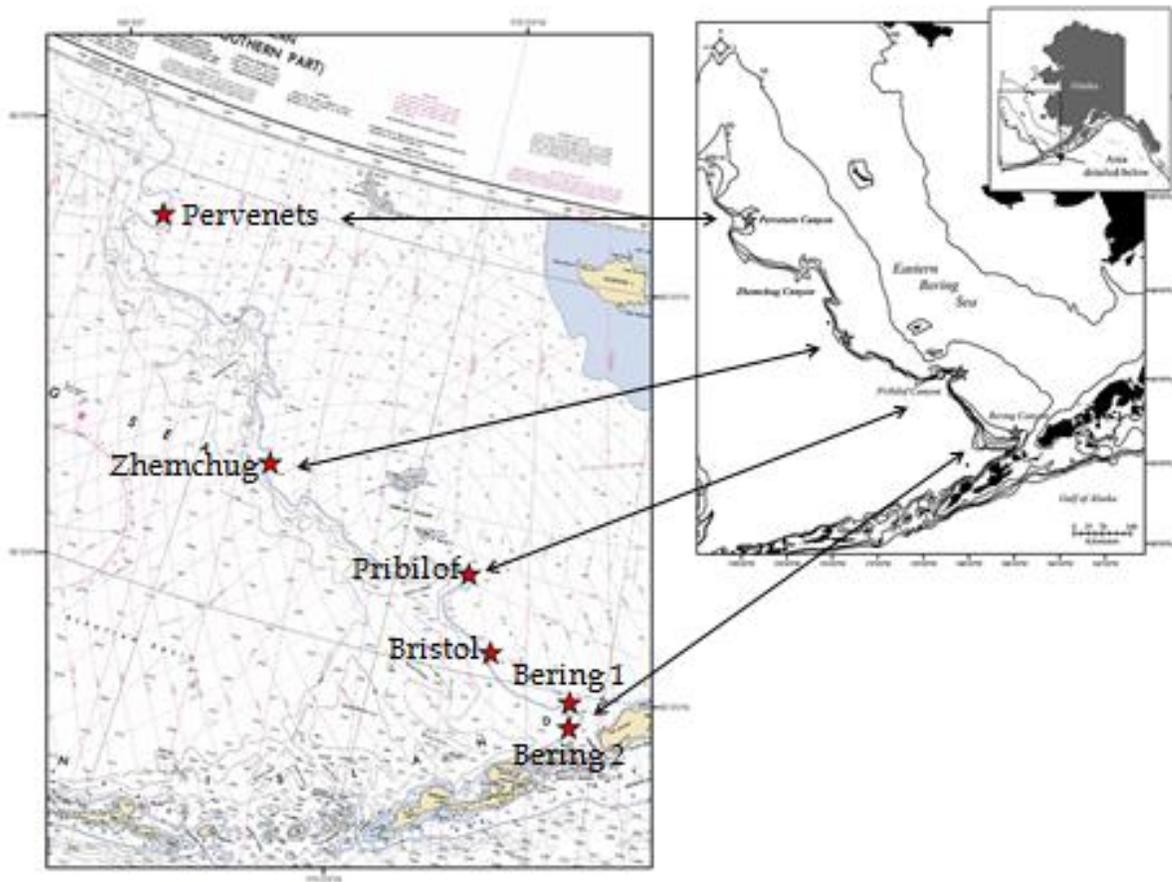


Figure 1. Six Bering Sea HAPC Skate Nursery Areas, corresponding between HAPC proposals.

Note that proposals depict skate nursery areas as a subset of habitat within Bering Sea canyon areas.

A schedule outlining the steps involved in the current HAPC proposal cycle is provided below:

Steps in the HAPC process	Timeline
Council identifies HAPC priorities	April 2010
FR Notice for Request For Proposals; period to submit opens and closes	April 26-August 31 (18 weeks)
Council staff initial screening of proposals for adherence to priorities and completeness	September 2010
Plan Teams joint meeting for scientific review and ecological merit of proposals	September 2010
<i>Council review and decision on proposals to forward for Plan Team review</i>	<i>October 2010 (*)</i>
Council staff review of proposals for socioeconomic and management and enforcement	October-November 2010
Council decision on whether to formulate proposals into an amendment analysis	December 2010 or Feb. 2011 ( <b>T</b> )
Initial review of amendment analysis	February or April 2011 ( <b>T</b> )
Final action on amendment analysis	April or June 2011 ( <b>T</b> )

(**T**) = Tentatively scheduled

(\*) = The Council is currently at this step of the HAPC proposal cycle.

## **II) - C-5 GOA Tanner Crab Bycatch**

The purpose of this action is to provide additional protection to Gulf of Alaska (GOA) Tanner crab from the potential adverse effects of groundfish fisheries, in order to facilitate rebuilding of Tanner crab stocks. This would be achieved by closing areas around Kodiak Island that are important to the Tanner crab stocks. Areas would be closed to some or all groundfish fishing, depending on the vessel's gear type or gear configuration. An alternative in the analysis would allow a vessel to be exempt from the closures if the vessel carries 100% observer coverage<sup>1</sup>. This would provide the Council with a high level of confidence in the assessment of any bycatch caught in the closed area, as a basis for future management action as necessary.

### **Alternatives**

The alternatives evaluated in this analysis were adopted by the Council in October 2009, and modified during initial review in April 2010.

Alternative 1: Status Quo – No action

Alternative 2: Close the areas specified below to pot and trawl groundfish fisheries.

Component 1: Area definition

#### *ADF&G Northeast Section*

Option 1: Statistical Area 525807 and the area east of Statistical Area 525807 north of 58 degrees latitude, south of 58 degrees 15 min. latitude and west of 151 degrees 30 min. longitude.

Option 2: Chiniak Gully (Four corners at 152°19'34" W x 57°49'24" N by 57°29' N x 151°20' W by 57°20' N x 151°20' W by 57° x 152°9'20' W), excluding State waters

#### *ADF&G Eastside Section*

Option 3: Statistical Area 525702

#### *ADF&G Southeast Section*

Option 4: Statistical Area 525630

Component 2: Closure timing

Option 1: Year round

Suboption 1: trawl gear

Suboption 2: pot gear

Suboption 3: Vessels using approved, modified gear would be exempt from closures (e.g., trawl sweep modifications or pot escape mechanisms).

Suboption 4: Vessels using pelagic trawl gear would be exempt from closures

Suboption 5: Vessels using pelagic trawl gear to directed fish for pollock would be exempt from the closures

Option 2: Seasonally (January 1 – July 31)

Suboption 1: trawl gear

Suboption 2: pot gear

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<sup>1</sup> 30% observer coverage required for pot vessels less than 125 ft

Suboption 3: Vessels using approved, modified gear would be exempt from closures (e.g., trawl sweep modifications or pot escape mechanisms).

Suboption 4: Vessels using pelagic trawl gear would be exempt from closures

Suboption 5: Vessels using pelagic trawl gear to directed fish for pollock would be exempt from the closures

Alternative 3: In order to fish in the areas specified below, require 100% observer coverage on all trawl groundfish vessels and 30% observer coverage on all pot groundfish vessels less than 125 feet. Note, fishing days and observer coverage in these areas would be separate from and not count towards meeting a vessel's overall 30% groundfish observer coverage requirement.

Area definition

*ADF&G Northeast Section*

Option 1: Statistical Area 525807 and the area east of Statistical Area 525807 north of 58 degrees latitude, south of 58 degrees 15 min. latitude and west of 151 degrees 30 min. longitude.

Option 2: Chiniak Gully (Four corners at 152°19'34" W x 57°49'24" N by 57°29' N x 151°20'W by 57°20' N x 151°20'W by 57° x 152°9'20' W), excluding State waters

*ADF&G Eastside Section*

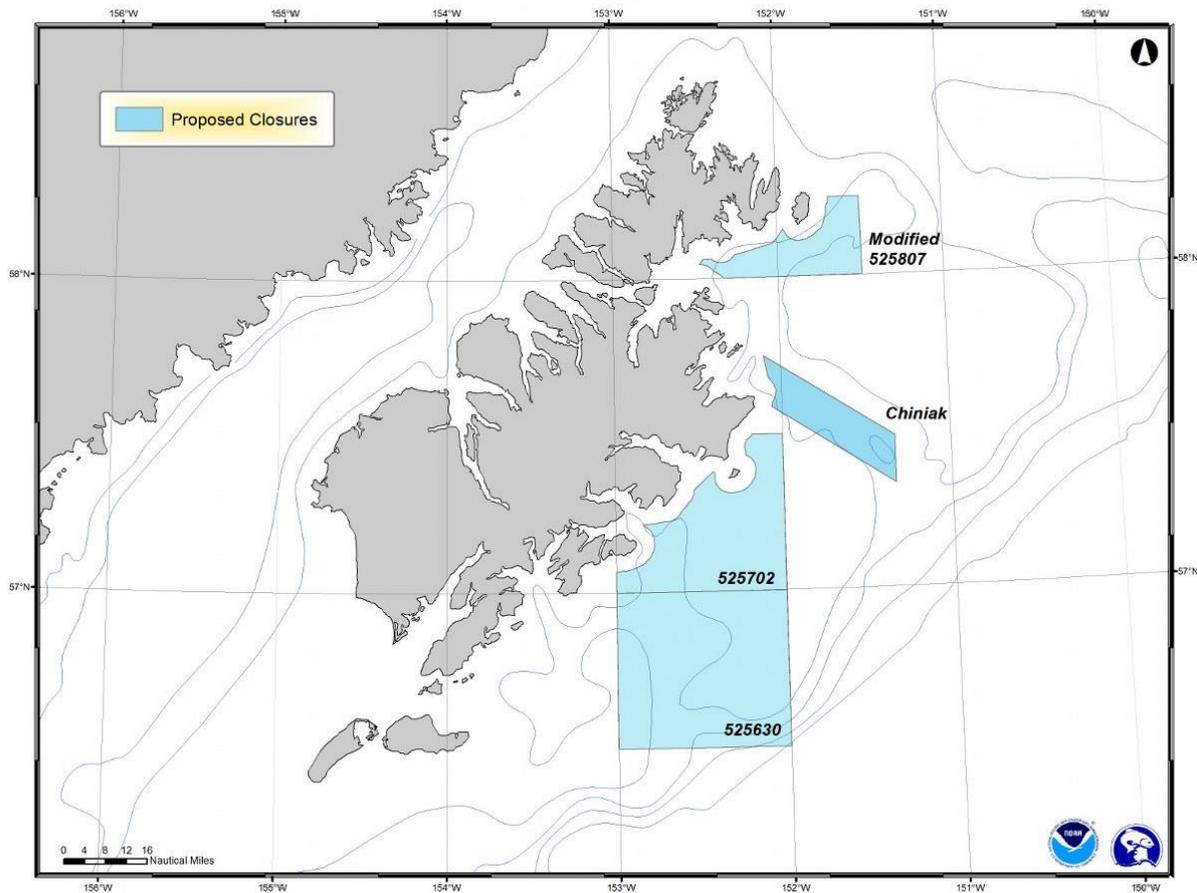
Option 3: Statistical Area 525702

*ADF&G Southeast Section*

Option 4: Statistical Area 525630

Note, the options and suboptions under Alternatives 2 and 3 are not intended to be mutually exclusive, and may be applied in combination. Also, in April 2010, the Council clarified that at final action, they may select closure areas that are smaller than the areas described in the four options under the 'area definition' component.

**Figure 2 Area closures around Kodiak Island considered in Alternatives 2 and 3**



### **Management and Enforcement Considerations**

The boundaries of the proposed closure areas under Alternatives 2 and 3 are defined by existing ADF&G statistical areas and by polygons defined by latitude and longitude coordinates. Closure areas defined in this manner are easier for both the regulated industry to understand and comply with, as well as enforcement entities to patrol and enforce. The proposed closure areas present no noteworthy enforcement challenges.

Proposed modified gear requirements under Alternative 2, Suboption 3, such as trawl sweep modifications or pot escapement mechanisms, require a detailed description in regulations of the specific gear modification that would be required to qualify for exemption of the area closures. Such specifications have been discussed in general in this analysis, but no specific gear modifications have been described or widely tested for efficacy in protection of Tanner crab in the GOA fisheries. Therefore, Alternative 2, Suboption 4 should not be included in the preferred alternative as a specific recommended regulatory amendment at this time.

Suboptions 4 and 5 would exempt vessels using pelagic trawl gear from the proposed area closures. There are several areas around Kodiak Island that already are closed to nonpelagic (bottom) trawling. These closure areas overlap with some of the closure areas proposed under Alternative 2. These existing closure areas are regulated through both a prohibition against having nonpelagic trawl gear onboard the vessel. In addition, the “trawl gear performance

standard”, which specifies that it is unlawful to possess aboard a vessel, at any point in time, 20 or more crab of any species, with a carapace width of more than 1.5 inches, also applies for vessels directed fishing for pollock. Enforcement of this standard on any vessel (observed or unobserved) is difficult, and it is virtually impossible to monitor and enforce on unobserved vessels.

Alternative 3 would allow fishing in the proposed closure areas by vessels using trawl gear only if they carry an observer 100% of the days they conducted directed fishing for groundfish in these areas. All vessels using pot gear to directed fish for groundfish would be required to have 30% observer coverage. In addition, observer coverage for fishing inside these closure areas would be separate from and not count towards meeting a vessel’s 30% observer coverage requirements that applied for fishing outside of these closure areas. This last provision was added to the alternative to address the concern NMFS identified in the initial review draft that increased observer coverage requirements inside the proposed closure areas could decrease the observer data available from fishing outside of the closure areas. While this provision addresses that concern, the other concern identified in the initial review draft about the extrapolation of observer data to generate PSC estimates remains.

NMFS uses observer data and extrapolates prohibited species catch (PSC) sampled on observed trips to similar unobserved trips in the larger federal reporting area (by processing sector, week ending date, target fishery, gear, and federal reporting area). NMFS does not create separate PSC estimates for each ADF&G state statistical area or for catcher vessels fishing inside and outside of closure areas, such as those proposed in this action. It is not known whether data collected from the proposed closure areas would be representative of fishing over the entire reporting area. However, through ongoing work NMFS is working to improve the estimation process in concert with the observer restructuring efforts. The restructured program would enable NMFS to define estimation strata and randomly select trips at a consistent rate within them. Action to increase observer coverage in this one GOA area without modifications to the NMFS catch estimation process could result in estimates which are biased by data from this specific area. Thus NMFS would need to make changes to the current estimation process to accommodate this change in coverage. Likely NMFS would need to handle estimation for this specific area discrete from other areas in the GOA. Modifications to the catch estimation process would be complex and expensive, and would compete with other priorities for additions and improvements to NMFS’s catch accounting system.

Some vessels less than 60 feet LOA may have fished in the proposed closure areas in the past. Under Alternative 3, any vessels of this size class would be required to carry observers for at least some of the fishing inside the proposed closure areas (unless they didn’t meet the minimum threshold for observer coverage of 3 days per quarter). Although some vessel operators may choose to fish outside the closure areas rather than incur the cost of the required observer coverage, some of these vessels may seek observer coverage. They would be required to comply with existing safety and all other vessel requirements in 50 CFR part 679.50.

If the Council recommends increased observer coverage for vessels fishing with the GOA Tanner crab protection areas under Alternative 3, this would add a third special area with 100% observer coverage requirements to NMFS’s current regulations. Existing areas are the Nearshore Bristol Bay Trawl Closure Area and the Red King Crab Savings Area, both in the BSAI management area. These specific requirements for 100% observer coverage within special areas currently are not included in the categories that would require  $\geq 100\%$  observer coverage under the observer restructuring alternatives. Therefore, if the Council recommends an observer restructuring alternative that places vessels in the  $< 100\%$  observer coverage category in a management area

under a sampling plan, NMFS would remove the increased observer coverage for the “special areas” in the relevant management area. Vessels in the <100% observer coverage category would be subject to assignment of observer coverage under a sampling plan as described in the observer restructuring analysis.

The Council’s current alternatives for restructuring the observer program could accommodate continuation of 100% observer coverage requirements for all vessels within these special areas. Vessels that are in the <100% coverage category would pay an exvessel value based fee for observers, and these vessels would be subject to an annual sampling plan developed by NMFS. Should vessels choose to fish in the special areas, the sample design could require that they carry observers 100% of the time they are directed fishing for groundfish in these areas. Thus, even though many of the affected vessels would not have 100% coverage any other time or in any other area, the observer restructuring action allows for flexibility in determining coverage on vessels in the <100% coverage category. If a group of vessels is determined to need 100% coverage at specific times of the year, seasons, or areas, NMFS could direct observer deployment to accommodate those needs. The fee paid by those vessels would not change, but the coverage amount could be modified to account for those circumstances; this flexibility is part of the impetus of restructuring. This accommodation in the sampling plan is not currently described in the observer restructuring analysis, as that level of detail by sector was not deemed necessary. Establishing special areas of 100% observer coverage would significantly complicate the current sampling plan and necessarily reduce the amount of coverage days available for other fisheries and management priorities in the GOA. The vessel selection plan currently included in the observer restructuring analysis does not assign observer coverage based on what a vessels intends to do. Instead, it takes parameters such as vessel length and gear type, which are known in advance, and assigns random coverage of trips based on a pre-determined coverage rate. Vessels would call in prior to trips and be selected for coverage or not regardless of where they planned to fish.

### **III) – Halibut/Sablefish IFQ Leasing Issues**

Office of Law Enforcement (OLE) will present a paper describing some of the challenges of enforcing some of the tenets of the Alaska Halibut/Sablefish IFQ Program. Specifically, OLE has been investigating leasing schemes occurring in this fishery, which are believed contrary to the program design and goals. These schemes are difficult to address, due in part to the lack of a specific prohibition addressing leasing of IFQ (other than what is specifically allowed in the regulations). This would be a preliminary, broad discussion of the enforcement concerns associated with this issue, and OLE is not specifically recommending any particular action at this point.