

**FINAL MINUTES**

184th Plenary Session  
**North Pacific Fishery Management Council**  
December 5-11, 2007  
Hilton Hotel  
Anchorage, Alaska

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- VIII. Council motion on Salmon Bycatch
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- X. Council action-BSAI 2008/09 groundfish harvest specifications
- XI. Council action-GOA 2008/09 groundfish harvest specifications

# North Pacific Fishery Management Council

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## FINAL MINUTES

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The North Pacific Fishery Management Council met December 5-11, 2007 at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Committee met December 3-5, and the Advisory Panel met December 3-8 at the same location. The following Council, staff, SSC and AP members attended the meetings.

### Council Members

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

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

### NPFMC Staff

Gail Bendixen  
Cathy Coon  
Jane DiCosimo  
Diana Evans  
Mark Fina  
Jeannie Heltzel  
Peggy Kircher

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

Scientific and Statistical Committee

Pat Livingston, Chair  
Robert Ames  
Bill Clark  
Keith Criddle, Vice Chair  
Sue Hills  
Anne Hollowed

George Hunt  
Franz Mueter  
Lew Queirolo  
Terry Quinn II  
Farron Wallace  
Doug Woodby

Advisory Panel

Lisa Butzner  
Joe Childers  
Craig Cross  
Julianne Curry  
Tom Enlow  
John Henderschedt  
Jan Jacobs  
Bob Jacobson  
Simon Kinneen  
Kent Leslie

Chuck McCallum  
Tina McNamee  
Mike Martin  
Matt Moir  
John Moller  
Jeb Morrow  
Ed Poulsen  
Michelle Ridgway  
Lori Swanson

**Appendix I contains the public sign-in register, and a tape log of Council proceedings, including those providing reports and public comment during the meeting.**

**A. CALL TO ORDER**

Chairman Eric Olson called the meeting to order at approximately 8:06 a.m. on Wednesday, December 5, 2007.

Agenda. The agenda was approved as published, with minor scheduling changes. Denby Lloyd requested the Council schedule some time to discuss ways to shorten Council meetings (see D-5, Other Business). Later in the meeting the Council found it necessary to delay discussion of several agenda items due to time constraints.

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

[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

Chris Oliver briefly reviewed the Executive Director's report, including an update on the Magnuson-Stevens Act.

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With regard to the ongoing process to develop revisions to NEPA procedures, Council members were advised that until the draft proposed rule is published, the document is not available for public review, including the CCC and fishery management councils. Mr. Oliver said the CCC is requesting that NMFS allow the committee to review the revisions and provide comments in advance of the publication of the proposed rule. **Dave Benson moved that the Council send a letter to NMFS requesting that the Council be provided an opportunity for meaningful input on NEPA changes prior to publication of the proposed rule.** The motion was seconded.

Mr. Oliver explained that it is not likely the document would be released to the Council. Mr. Benson replied that he feels his motion is broad enough and the intent would be to have the document released to the CCC.

The motion carried without objection. Later in the meeting, Dr. Hogarth, NMFS Administrator, visited the Council meeting and said that he is working to get the CCC access to the draft.

NMFS Management Report

Jay Ginter reviewed the status of current regulatory and FMP amendments. The Council also received a report from Glenn Merrill on the crab rationalization loan program and Andy Smoker on inseason management. With regard to the crab loan program, **Gerry Merrigan moved that the Council request staff develop definitions to be provided to Financial Services for use in the rulemaking process for the loan program.** The motion was seconded and carried without objection. It was clarified that these definitions would not be the same as for active participation for 'C' shares, but specific to participation in the loan program. Mr. Merrigan also noted that it is important to get a timely response to Financial Services for its target date for proposed rulemaking. Council members requested the discussion paper be provided for Council review at the February 2008 meeting.

Jay Ginter reviewed two letters dated November 5, 2007, to the Council from the Regional Administrator. The first addressed clarifications of the Council's previous action to define ownership in relation to the IFQ constructive loss provision previously approved by the Council. NMFS advised the Council that the provision will require a new proposed and final rule process because the new concept of 'temporary loss' is substantively different from the initial 'constructive total loss' used in the original proposed rule.

**Gerry Merrigan moved to request NMFS to proceed with a proposed rule to address the previously identified limited and temporary exemption to the 12-month ownership requirement and clarifying that this is not an exemption to the 20% ownership, just a 12-month requirement. This was previously adopted by the Council, but not adopted by the agency. Further, the Council requests Council staff to assist NMFS in developing the proposed rule. However, in recognition of both staffs' workloads in regard to halibut issues, the Council requests that staff prioritize halibut charter issues above this proposed rule.** The motion was seconded and carried without objection. It was clarified by staff that the action would require a new regulatory amendment with the accompanying analyses. The task was assigned a low priority with possible Council review in June 2008.

The second letter addressed the Council's recent actions to pursue management measures to restrict the charter halibut harvest in Area 2C for 2008. Based on new information provided in the draft EA/RIR/IRFA, the Council was advised that the 2007 charter fishery in Area 2C may not have exceeded the GHF and if the Council's proposed measures are implemented in 2008, harvest will likely fall below GHF. NMFS advised that it will continue to develop the proposed rule to implement the proposed management measures for the IPHC Area 2 charter halibut fishery as adopted by the Council but will likely focus public review and comment on whether less restrictive measures may be more appropriate. Mr. Ginter noted that since the letter was drafted

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new information was presented to the Council by Gregg Williams, IPHC staff, regarding projected CEY in 2008. Mr. Ginter also noted that it is likely that the comment period on the proposed rule will be completed before the Council's February meeting and therefore the Council would not have a further opportunity to comment.

In his presentation to the Council, Gregg Williams reviewed IPHC staff catch recommendations for 2008 and information on halibut abundance and CEY presented to the IPHC at its recent interim meeting. He was accompanied by Dr. Bill Clark, chief assessment scientist for the IPHC. Mr. Williams noted that for Area 2C assessments the catch per unit has continued to decline over the last several years causing the IPHC concern over harvests in those areas which will likely trigger changes in the GHL, particularly in Area 2C.

Bill Karp (AFSC) provided an update on National Bycatch Report, advising that he anticipates a draft for internal review early in 2008. Council members again expressed concern with the procedures being considered to calculate bycatch rates. **John Bundy moved that the Council send a letter to NMFS requesting that a Council staff representative be assigned to work with the committee or with Dr. Karp to assure that the Council's viewpoints on bycatch calculations are represented in the report.** The motion was seconded and carried without objection.

USCG Report

Admiral Brooks presented a special commendation to Jeb Morrow of the F/V *Willow* for helping to evacuate passengers from the grounded cruise ship, the *Empress of the North*.

The Admiral also told the Council that the Coast Guard cutter *Boutwell* seized three more Chinese vessels in the high seas driftnet area, and that the Chinese government is taking the cases very seriously, seizing catch and vessels.

The Admiral noted the Coast Guard's continued focus on safety in cooperation with federal and state agencies, particularly in the crab fisheries. He also talked about the necessity to develop plans cooperatively with NMFS, the Council, and other appropriate agencies for the possibility of increased activities in the Arctic. LCDR Lisa Ragone provided the Council with information on Coast Guard activities since the last report.

ADF&G Report

Herman Savikko provided the Council with the ADF&G report on stocks and advised the Council of proposals before the Board that may be of Council interest. The Board approved a proposal to create daily trip limits for pollock vessels in the Gulf of Alaska to close a loophole. Additionally, a previously approved request for an exempted fishery permit for pollock in the Gulf was repealed because of concerns expressed by NMFS over low abundance of pollock in the area as well as implications for Steller sea lions.

The Board also requested the Council ask NMFS Protected Resources to evaluate a modified Aleutian Island state water pollock fishery. However, the Board requested that if the evaluation indicates the need for a formal consultation, that work on the request be halted. **Earl Krygier moved that, given that the formal consultation on fishery measures is already occurring on a comprehensive level and proposals are being evaluated under the process, the Council requests that NMFS evaluate this proposal and determine whether it has independent merit and can be implemented outside the ongoing process or whether it should be included with all other proposals currently being evaluated.** The motion was seconded and carried without objection.

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A proposal to reduce the maximum size limit of participating vessels to no more than 60-foot overall length failed because of safety concerns as well as documented history in the fishery by larger vessels. A proposal to amend the Pacific cod management plan to provide for a pot gear reopening of the 'A' season after the GHF is attained failed, mainly due to concerns over changes to the 70/30 seasonal split.

Additionally, the Board voted to exclude the bulbous bow when calculating length overall of vessels in all fisheries other than the Korean hair crab fishery. The Board is requesting the Council consider a similar regulation because of the participation of some vessels in both State and Federal waters.

Dr. Jim Fall (ADF&G) reviewed the draft report on subsistence harvests of halibut in Alaska. He noted that funding will be continued for the fifth year of the study (through 2007) supported by a grant from NMFS.

USF&WS Report

Lenny Corin provided a review of U.S. Fish & Wildlife Service activities, including current work on assessing the necessity for a critical habitat designation for northern sea otters. A finding is expected by November 2008. Mr. Corin also advised that on October 9 the USF&WS made a positive 90-day finding in response to a petition to list the blackfooted albatross. The finding will initiate a 12-month process to determine if listing is warranted. He noted that the vast majority of this species nests in the Hawaiian Islands and the lead on this project will be located in that region. Mr. Corin told the Council that the most recent data available indicates that approximately 43 blackfooted albatross are caught incidentally in the Alaska longline fisheries; however incidental catch in foreign and domestic fisheries off the Hawaiian Islands numbers in the thousands.

Protected Species Report

The Council received a progress report from Bill Wilson (NPFMC staff) on the updated schedule for completion of the final revised Steller sea lion recovery plan, the ongoing formal Consultation, the draft status quo biological opinion and its accompanying EIS process. At the October 2007 meeting NMFS staff provided a draft Notice of Intent (NOI) for the scoping period on the EIS and recommended the NOI be published as soon as possible to provide a longer scoping period and more opportunity for public comment, however the Council asked NMFS to delay publication of the NOI until April 2008 so that the final SSL recovery plan would be available to the public to help formulate scoping comments.

**Earl Krygier moved to amend a previous motion that requested that the NOI to prepare an EIS be delayed until April 2008 and to request that a letter be sent to NMFS acknowledging that Council and NMFS staff have developed a new schedule for completion of the final SSL recovery plan, status quo BiOp, and EIS that addresses the Council's previous concerns and desire to meet a 2010 deadline for implementation of new regulations. The NOI may be published earlier and that the scoping period be scheduled so that it overlaps and provides for a 30-day review period after publication of the final SSL recovery plan. . The ocess of developing the Recovery Plan and draft Bi-op. Mr. Krygier asked that the Council send NMFS a follow-up letter explaining that after receiving reports on staff work on the issue that indicates publishing the NOI at this point will more closely meet the needs of the Council process. The motion was seconded and carried without objection.**

## 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

##### ACTION REQUIRED

- (a) Committee report on interim and long term solutions.
- (b) Review staff report on interim solution analysis and refine alternatives as necessary.

##### BACKGROUND

###### Committee report on interim and long term solutions

After its review of a preliminary analysis of previously proposed interim solution alternatives in October 2007, the Council adopted a number of motions related to interim and long term management of the charter halibut fisheries in Areas 2C and 3A (Item C-1(a)(1)). One Council motion identified a suite of alternatives for an interim program that would set an initial allocation for the charter sector (tied to a delayed feedback of regulatory measures to restrict charter halibut harvest to that allocation) and provisions to allow transfer and conversion of commercial halibut IFQs for use in the charter sector by individual limited entry permit holders. The Council also forwarded options for common pool management, pro rata reduction of commercial QS to fund an increase in charter allocation, and other community protection options to the committee for consideration in the long term solution.

The Halibut Stakeholder Committee convened in late October 2007 and provided recommendations on final alternatives for analysis of an interim solution. The committee also has recommended five alternatives for a long term solution and is requesting approval to convene (after the February 2008 Council meeting) to finalize a comprehensive alternative that was submitted for committee review during the meeting but not addressed due to lack of meeting time and advanced review. Committee minutes are provided under Item C-1(a)(2).

###### Staff report on interim solution

In October 2007, the Council requested that staff from NOAA, NMFS, IPHC, ADF&G, and the Council convene to review its "strawman" motion for an interim solution to charter halibut management. An interagency staff meeting was convened preceding the Stakeholder Committee meeting, and staff recommendations were provided to the committee (Item C-1(b)(1)). The committee adopted staff recommendations as the basis for its recommendations to the Council. The interagency staff convened again briefly to review committee recommendations and provide additional comments to the Council (Item C-1(b)(2)). Due to the nature of the October 2007 Council changes to the alternatives and potential Council action based on committee recommendations at this meeting, staff suggests that the Council schedule initial review of the interim solution analysis no sooner than April 2008.

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

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

The Enforcement Committee received a report on enforcement aspects of halibut charter initial and future allocation issues and noted that the Committee will want to provide comments on the analysis being prepared for the April 2008 meeting.

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

The AP recommends the Council adopt the Stakeholder Committee's recommended revisions to the staff revisions to the Council's October motion on allocation and interim solution, with the following additional changes:

1. In Alternative 2, Element 1 (on page 1 Stakeholder version):
  - A. revise the percentages so they are round number percentages
  - B. revise the 50% fixed / 50% floating allocation option (Option 3) so that it reads as follows:  
Option 3. 50% fixed/50% floating allocation of the combined charter and commercial catch limit.

#### **Area 2C**

- a. **50% of 13% and 50% of 1.43Mlb**
- b. **50% of 16% and 50% of 1.69Mlb**
- c. **50% of 17% and 50% of 1.90Mlb**

#### **Area 3A**

- a. **50% of 14% and 50% of 3.65Mlb**
- b. **50% of 15% and 50% of 4.01Mlb**
- c. **50% of 15% and 50% of 4.15Mlb**

2. In Alternative 2, Element 5 (on pages 3 and 4 of the Stakeholder version)

A. change "GSM" (which stood for Guided Sport Moratorium) and "moratorium" to "LEP" (for Limited Entry Permit) *so that the terms are used consistently throughout Element 5 because the Stakeholder Committee opted to use LEP rather than GSM but the document as posted by the Council does not reflect that; and*

B. incorporate as new item "I" in Element 5 the restriction that "Commercial and charter fishing may not be conducted from the same vessel on the same day."

Additionally, the AP recommends inclusion of the following:

- Reinstated Alternative 2, Element 5 Number 3 Option 1 back into the analysis –  
Option 1. May convert all or a portion of their commercial QS to GAF on a yearly basis if they own and fish it on their own GSM permit vessel(s)
- Add to Element 5 (leasing of commercial QS) A suboption that allows commercial QS holders that hold less than 500 lbs to 1000 lbs to lease up to 50 to 100% of their IFQs to the charter sector
- As part of data collection, require the collection of length measurements when supplemental IFQs are leased for use and compare to the annual average length to make sure that accurate removable poundage is accounted for and to allow length measurement information gathered to be used in the formulation of the average weight used in the conversion of IFQs to GAF.

### **COUNCIL DISCUSSION/ACTION**

The Council received a report from Jane DiCosimo (NPFMC staff), the Advisory Panel and Enforcement Committee reports, and oral public comments on this issue.



Based on the recommendations of the Advisory Panel, Denby Lloyd moved the following, noting changes from the AP's recommendations. Additionally, Mr. Lloyd noted that instead of rounding to the nearest percent as recommended by the AP, allocation percentages are rounded to the nearest tenth of a percent.

**Charter Halibut Interim Measures: Initial Allocation and Future Reallocation between charter sector and commercial sector in Area 2C and Area 3A**

**Alternative 1. No Action.**

**Alternative 2. Establish a catch sharing plan that includes sector accountability**

**Element 1. Initial allocation**

**Option 1: Fixed percentage. ~~of combined charter and commercial catch limit.~~**

	Area 2C	Area 3A	based on:
a.	<u>13.1</u> <del>13.09%</del>	14.00%	125% of the 1995-1999 avg charter harvest (current GHL formula)
b.	<u>17.3</u> <del>17.31%</del>	15.4 <del>15.44%</del>	125% of the 2001-2005 avg charter harvest (GHL formula updated thru 2005)
c.	<u>11.7</u> <del>11.69%</del>	12.70%	Current GHL as percent of 2004
d.	<u>15.1</u> <del>15.14%</del>	<u>12.7</u> <del>12.65%</del>	2005 charter harvest

**Option 2: Fixed pounds. ~~to be deducted from a combined charter and commercial catch limit~~**

	Area 2C	Area 3A	based on:
a.	1.43 Mlb	3.65 Mlb	125% of the 1995-1999 avg charter harvest (current GHL)
b.	1.69 Mlb	4.01 Mlb	125% of the 2000-2004 avg charter harvest (GHL updated thru 2004)
c.	1.90 Mlb	4.15 Mlb	125% of the 2001-2005 avg charter harvest (GHL updated thru 2005)

**Option: Stair step up and down. The allocation in each area would be increased or reduced in stepwise increments based on a change in the total CEY. If the halibut stock were to increase or decrease from 15 to 24 percent from its average total CEY of the base period selected for the initial allocation at the time of final action, then the allocation would be increased or decreased by 15 percent. If the stock were to increase or decrease from at least 25 to 34 percent, then the allocation would be increased or decreased by an additional 10 percent. If the stock increased or decreased by at least 10 percent increments, the allocation would be increased or decreased by an additional 10 percent.**

**Deferred to Interagency Staff regarding pros and cons of setting formulas v pounds in regulation**

**Option 3. 50% fixed/50% floating allocation. ~~of a combined charter and commercial catch limit.~~**

	Area 2C		Area 3A		
	50% of:	and	50% of:	and	50% of:
a.	<del>13.1</del> 13%	1.43Mlb	<del>14.1</del> 14%		3.65Mlb
b.	<del>16.4</del> 16%	1.69Mlb	<del>15.9</del> 15%		4.01Mlb
c.	<del>17.3</del> 17%	1.90Mlb	<del>15.4</del> 15%		4.15 <del>4.14</del> Mlb*

\*error discovered in the AP minutes

**Element 2. Annual regulatory cycle**

The initial charter allocation would be a common harvest pool for all charter limited entry permit holders. It would not close the fishery when the charter allocation is exceeded. Instead, the allocation would be linked to an annual regulatory analysis of management measures (delayed feedback loop) that take into account the projected CEY for the following year and any overages by the charter industry in the past year(s). This system would work best if there is not a time lag between the overage year and the payback year. The Council will not revisit or readjust the sector split. An allocation overage would trigger the regulatory process automatically, in contrast with current GHL management. Any underages would accrue to the benefit of the halibut biomass and would not be reallocated or paid forward. The Council assumes (and would request) that the International Pacific Halibut Commission set a combined charter and commercial sector fishery catch limit ~~CEY~~ and would apply the allocations between the two sectors that would be recommended by the Council in a type of catch sharing plan to the combined fishery catch limit ~~CEY~~.

**Element 3. Management toolbox.**

Tier 1 measures will be utilized by the Council to try to manage the charter common pool for a season of historic length and a two-fish daily harvest limit. Tier 2 measures will be utilized if Tier 1 measures are inadequate to constrain harvest by the charter common pool to its allocation. Due to the delayed feedback loop in implementation of management measures, management measures will, in general, be more restrictive to ensure that the charter sector allocation is not exceeded. In providing predictability and stability for the charter sector, it is likely that charter fish may be left in the water.

**Tier 1 management measures include:**

- 1 trip per vessel per day
- No retention by skipper or crew
- line limits
- Second fish of minimum size
- Second fish at or below a specific length.

**Tier 2 management measures include:**

- Annual catch limits
- 1 fish bag limit for all or a portion of the season
- Season closure
  - Suboption: seasonal closures on a monthly or sub-seasonal basis

**Element 4. Timeline.** The current timeline for the proposal is as described below. [Staff should discuss what would be needed to implement February Council action for June (the same year)]

**Example scenario 1: 4–year feedback loop**

- Charter fishery ends 2007
- **October 2008:** Council receives ADF&G report on final charter halibut harvest estimates for 2007. If the ADF&G report indicates that an allocation overage occurred in 2007, the Council will initiate the analysis of management measures necessary to restrict charter halibut harvests to its allocations.
- **December 2008:** Council reviews staff analysis (possibly in the form of a supplement) that updates the previous year’s analysis with final 2007 harvest estimates.
- **January 2009:** IPHC adopts combined catch limits for 2009.
- **February 2009:** Council takes final action on management measures that would be implemented in year 2010.
- **Winter 2009:** NMFS publishes the rule that will be in effect for 2010.

**Example Scenario 2: 3–year feedback loop (Staff response to Council request)**

- Charter fishery, with in-season monitoring, ends 2007
- **October 2007:** Council receives ADF&G report on final charter halibut harvest estimates for 2007. If the ADF&G report indicates that an allocation overage occurred in 2007, the Council will initiate the analysis of management measures necessary to restrict charter halibut harvests to its allocations.
- **December 2007:** Council reviews staff analysis (possibly in the form of a supplement) that updates the previous year’s analysis with final 2007 harvest estimates.
- **January 2008:** IPHC adopts combined catch limits for 2008.
- **February 2008:** Council takes final action on management measures that would be implemented in year 2009
- **Winter 2008:** NMFS publishes the rule that will be in effect for 2009

**Element 5. Supplemental individual use of commercial IFQ to allow limited entry permit holders to lease commercial IFQ in order to provide anglers with additional harvesting opportunities, not to exceed limits in place for unguided anglers**

**A. Leasing commercial IFQ for conversion to Guided Angler Fish (GAF).**

1. A LEP (Limited Entry Permit) holder may lease IFQ for conversion to GAF for use on the LEP.
2. Commercial halibut QS holders may lease up to 1500 pounds or 10% (whichever is greater) of their annual IFQ to LEP holders (including themselves) for use as GAF on LEPs. A COE may lease up to 100% of its annual IFQ for use as GAF on their own LEPs. Commercial halibut QS holders may lease up to 10% of their annual IFQs to LEP holders for use as GAF on LEP. Dual permit holders are constrained to leasing only 10% of their QS whether to themselves or someone else
3. LEP holder per vessel may not lease more than 200-400 fish.  
Suboption: vessels with LEP w/endorsement for more than 6 clients may not lease more than 400-600 fish.
4. ~~Commercial Halibut QS holders who also hold an LEP may convert all or a portion of their commercial QS to GAF on a yearly basis if they own and fish it on their own LEP vessel.~~

- ~~Suboption: allow commercial QS holders that holds 500 lb. to 1000 lbs. to lease up to 50 to 100% of their IFQs to the charter sector.~~
- B. LEP holders harvesting GAF while participating in the guided sport halibut fishery are exempt from landing and use restrictions associated with commercial IFQ fishery, but subject to the landing and use provisions detailed below.
  - C. GAF would be issued in numbers of fish. The conversion between annual IFQ and GAF would be based on average weight of halibut landed in each region's charter halibut fishery (2C or 3A) during the previous year as determined by ADF&G. The long-term plan may require further conversion to some other form (e.g., angler days).
  - D. Subleasing of GAF would be prohibited.
  - E. GAF holders may request NMFS convert unused GAF into IFQ pounds for harvest in compliance with commercial fishing regulations provided the GAF holder qualifies under the commercial IFQ regulations.
  - F. Conversion of GAF back to commercial sector
    - 1. GAF holders may request NMFS convert unused GAF into IFQ pounds for harvest in compliance with commercial fishing regulations provided the GAF holder qualifies under the commercial IFQ regulations.
    - 2. Unused GAF may revert back to pounds of IFQ at the end of the year and be subject to the underage provisions applicable to their underlying commercial QS.
  - G. Guided angler fish derived from commercial QS may not be used to harvest fish in excess of the non-guided sport bag limit on any given day.
  - H. Charter operators landing GAF on private property (e.g., lodges) and motherships would be required to allow ADF&G samplers/enforcement personnel access to the point of landing.
  - I. Commercial and charter fishing may not be conducted from the same vessel on the same day.

**Element 6. Catch accounting system**

- 1. The current Statewide Harvest Survey and/or logbook data would be used to determine the annual harvest.
- 2. A catch accounting system will need to be developed for the GAF fish landed in the charter industry.
- 3. As part of data collection, ~~recommends require~~ the collection of length measurements when supplemental IFQs are leased for use and compare to the annual average length to make sure that accurate removable poundage is accounted for and to allow length measurement information gathered to be used in the formulation of the average weight used in the conversion of IFQs to GAF.

The motion was seconded by Ed Rasmuson and carried without objection. With regard to the leasing provision, it was clarified that shares could only be leased in the area in which they were issued. A copy of Council action on this agenda issue is found in Appendix II.

**Denby Lloyd moved to approve the previously submitted problem statement:**

**Problem Statement:** 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 existing environment of instability and conflict will continue. 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 by Ed Rasmuson and carried without objection.

**Denby Lloyd moved that the Stakeholder Committee's Statement of Management Objectives from its October/November committee meeting be included in the analysis package.**

**In establishing this catch sharing plan for the commercial and sport charter halibut sectors, the Council intends to create a management regime that provides separate accountability for each sector. The management of the commercial sector remains unchanged under the plan, and new management measures are provided for the sport charter sector.**

**These new measures for the sport charter sector are designed to address the specific need of the sport charter sector for advance notice and predictability with respect to the management tools and length of season that will be used to achieve the allocation allotted to that sector under the plan. In order to achieve the allocation, it is the Council's intent that management tools and season length would be established during the year prior to the year in which they would take effect, and that the tools selected and season length would not be changed in season.**

**The Council will evaluate its success in achieving the sport charter sector allocation each year, and will adjust its management tools as needed. In designing this regime for the sport charter sector the Council recognizes that providing advance notice and predictability may result in a charter harvest that does not precisely meet the sector allocation for that particular year. Therefore, the Council intends to adjust its management measures as needed to ensure that the sport charter sector is held at or below its allocation on average over a rolling five-year period. In meeting its conservation mandate while accommodating the charter industry's need for predictability and stability, the Council will necessarily err on the side of conservation in the selection of management tools and season length, with the result that the sport charter sector may not be able to harvest its entire allocation.**

The motion was seconded by Ed Rasmuson.

**Bill Tweit moved to amend the first sentence of the third paragraph to revise the sentence to read: The Council will evaluate its success in achieving the sport charter sector allocation, and specific needs for predictability, advance notice, and season length each year, and will adjust its management tools as needed.**

The motion was seconded and carried without objection. The main motion, as amended, carried without objection.

**Denby Lloyd moved that the management agencies consider these Stakeholder Committee's recommendations (from its 10/30-11/1/07 meeting minutes) in the development of a recordkeeping system:**

One of the critical issues for successful implementation of a successful interim management regime for charter halibut operators is to shorten the feedback loop for collection of data regarding charter harvests. The Council has requested that staff include in their report a discussion of options for shortening the feedback loop. The Stakeholder Committee would like to suggest three options for discussion and analysis in the staff report.

Any data collection option should be made as simple as possible, minimize inconvenience to clients, and be conducted in a machine readable or electronic format.

It is also the intent of the Stakeholder Committee in proposing these options that the real time collection of data should not be used for in-season management changes or in-season closures; rather it is the intent of the Stakeholder Committee that these options be used to shorten the data collection feedback loop to facilitate the timely advance adoption of management tools designed to achieve the charter sector allocation without in-season changes or in-season closures in order to maintain, to the extent possible, a season of historic length with a minimum two fish bag limit.

- Option 1. Electronic Reporting. Each GSM permit holder would be assigned a unique reporting number and would use that number to electronically report the number of halibut caught by clients that day on a daily basis. The electronic reporting would be done either through an Internet website or a dial-in telephone system. As additional verification each client would sign the mandatory logbook next to the entry containing their name, license number, number and type of fish caught, and any other required information. Logbooks would continue to be submitted weekly.
- Option 2. Harvest Tag. Uniquely numbered harvest tags would be distributed to each GSM permit holder at the beginning of the season and additional tags would be available throughout the season if needed. The number of harvest tags would be greater than the number of fish allocated to the charter sector for that year (i.e., the tags are not a management tool for restricting or closing charter fishing in-season). When a halibut is landed the harvest tag would be required to be inserted in the jaw and the harvest tag number recorded in the log book entry for the angler license number of the person who caught the fish. When the fish is processed the tag would be removed and mailed in using pre-addressed, stamped envelopes supplied for that purpose. GSM operators would pay a fee to cover the cost of the envelopes and tags. Harvest tags would preferably be bar coded to enable machine reading, with peel off bar code stickers for placement in the log book.
- Option 3. Punch Cards. Each GSM permit holder would be issued a supply of uniquely numbered punch cards with punch outs equal to any daily bag limit for that year or six halibut (whichever is fewer). The cards would issued at the beginning of the season and additional cards would be available as needed (i.e., the cards are not a management tool for restricting or closing charter fishing in-season). Each day every client angler would be assigned a punch card and that punch card number would be entered in the log book next to the license number. As each halibut is landed by a client their respective card would be punched, and at the end of the day the client would sign the punch card in the space provided. The punch card would then be sealed in a supplied stamped and addressed envelope, which would be mailed by the permit holder. GSM permit holders would pay a fee to cover the cost of the punch cards and mailing envelopes. Any log book entry for which a signed punch card is not received would be corrected to read the maximum number of fish printed on a punch card (i.e., the daily bag limit or six fish).

The motion was seconded by Ed Rasmuson.

**Duncan Fields moved to amend to insert a period at the end of the second sentence in the first paragraph, deleting the remainder of that sentence, and replacing the words "Stakeholder Committee" with "Council" throughout to indicate that this is the Council's intent.** The motion was seconded and carried without objection.

Mr. Lloyd noted that his intent was that staff should consider the suggestions made by the Stakeholder Committee but not be restricted to considering only those options. Mr. Merrigan said his view of Mr. Lloyd's inclusion of the Committee suggestions in the motion would be that monitoring and enforcement

staff could provide appropriate information to analysts on the various aspects of these suggestions and any problems that might be anticipated in implementing data collection and enforcement portions of the program so the Council will have appropriate information on which to base its decisions.

The main motion, as amended, carried without objection.

**Denby Lloyd moved that the Council initiate an analysis of this amendment package with an initial review in April 2008 and final action in October 2008.** The motion was seconded by Duncan Fields.

Mr. Fields noted that after realizing that the Council would not be taking up the issue at the June Council meeting in Kodiak where many Area 3A charter operators reside, he could not support the motion. Mr. Lloyd noted that the motion is a statement of intent and that the timing could change. However, charter halibut operators have indicated that June meetings are in the middle of their season and would prefer the Council not take action on the issue during the summer months. Additionally, the scope of the Council's action on this amendment will entail significant staff work. Mr. Merrigan noted that the April and October dates will be during the commercial fishing season, but that he would support the amendment.

The motion carried with Duncan Fields objecting.

**C-2      BSAI Crab Issues**

**C-2(a) BSAI Crab 'C' Share Active Participation**

**ACTION REQUIRED**

**Preliminary review of the analysis**

**BACKGROUND**

The crab rationalization program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares). In the first two years of the program, some participants have questioned the specific provisions defining active participation requirements for C share acquisition and use. During the transition to the rationalization program, the fleet contracted substantially, eliminating eligibility of several for crew to acquire C shares. In addition, some participants believe a strict owner-on-board requirement is overly restrictive. To address these issues, the Council has identified alternatives to the current active participation requirements for analysis. At this meeting, the Council is scheduled to review the analysis to provide staff with any additional guidance necessary to respond to the concerns to be addressed by the proposed action. The draft analysis is attached (Item C-2(a)(1)).

The **Scientific and Statistical Committee** did not address any of the issues under Agenda item C-2, BSAI Crab Issues.

**Report of the Advisory Panel**

The AP recommends the Council make the following changes to the document prior to initial review in February:

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

Option 1: To receive an annual allocation of IFQ, a C share holder must have participated in

**Option A:** at least one delivery in a fishery subject to the crab rationalization program in the **3 years** preceding the application for IFQ and/or

**Option B: 30 days of Alaska State or Federal fishing** in the **3 years** preceding the application for IFQ

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that 3 percent of the TAC is available to active C share holders

Option 2: If a C share holder has not demonstrated active participation in a rationalized crab fishery for a period of 3 consecutive seasons, that C share holder will be required to divest of all C share holdings. This provision will not require individuals to divest of Quota Share until a) 5 b) 7 years after implementation of the crab program.

Options to address current transition:

For a period of ~~3~~, 5, or 7 years from the implementation of the program, C shares can also be acquired by an individual who:

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

Option 1: received an initial allocation of C shares

Option 2: demonstrates participation in a rationalized crab fishery during

a. 3 of the 5 seasons or

b. 2 of the 3 seasons immediately preceding implementation of the crab rationalization program

**COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Mark Fina (NPFMC), recommendations from the Advisory Panel, and public comment on this issue.

**Denby Lloyd moved the following:**

**The Council adopts the Advisory Panel's recommendations with the following additions and deletions. Additions are underlined and deletions are shown in strikethrough.**

**The Council requests staff make the following changes to options currently in the analysis for initial review in February.**

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

**Option 1: To receive an annual allocation of IFQ, a C share holder must have participated in**

**Option A:** at least one delivery in a fishery subject to the crab rationalization program in the **3 years** preceding the application for IFQ ~~and or~~

**Option B: 30 days of Alaska State or Federal fishing in the 3 years preceding the application for IFQ**

Suboption: Establish a mechanism for the annual allocation of C share IFQ to ensure that 3 percent of the TAC is available to active C share holders

**Option 2: If a C share holder has not demonstrated active participation in a rationalized crab fishery for a period of 3 consecutive seasons, that C share holder will be required to divest**



**of all C share holdings. This provision will not require individuals to divest of Quota Share until a) 5, or b) 7 years after implementation of the crab program.**

**Options to address current transition:**

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

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

**Option 1: received an initial allocation of C shares**

**Option 2: demonstrates participation in a rationalized crab fishery during**

**a. 3 of the 5 seasons or**

**b. 2 of the 3 seasons**

**immediately preceding implementation of the crab rationalization program**

The motion was seconded.

**Duncan Fields moved to amend Option 2 to replace the suboptions (a) and (b), for 5 or 7 years, with a range of 5 to 10 years.**

The motion was seconded and carried without objection.

Ms. Salveson pointed out that Option 2 may be more of a suboption if the intent is to get IFQ in the hands of active participants. Option 1 does that. Option 2 deals with the more long-term concern of having quota share holders that have not been active in the fishery for a lengthy period of time and getting the quota share to active participants, therefore it doesn't seem that Option 1 and 2 are separate options. Option 2 would be more of a suboption to Option 1 because it does not address the objective of getting IFQs to active participants in a timely way.

**John Bundy moved to re-insert Option B.** The motion was seconded by Sam Cotten and carried with Mr. Tweit objecting. Mr. Bundy indicated that he thinks it would be helpful to have the option included in a preliminary analysis.

**Sue Salveson moved to amend Option 2, to designate it as a suboption, to read as follows:**

**If a C share holder has not demonstrated at least 1 delivery in a fishery subject to the Crab Rationalization Program in the preceding 5 years, the C share holder will be required to divest of all C share holdings. This provision will not require individuals to divest of Quota Share until 5 to 7 years after implementation of the crab program.** The motion was seconded by Duncan Fields and carried without objection.

The main motion, as amended, carried without objection. A copy of the Council's final action on crab rationalization agenda items is found in Appendix III of these minutes.

C-2(b) BSAI Crab C Share 90/10 Exemption

**ACTION REQUIRED**

**Final action on BSAI Crab 'C' share 90/10 exemption.**

## **BACKGROUND**

The crab rationalization program is unique in several ways, including the allocation of a portion of the harvest share pool to captains for exclusive use by captains and crew (C shares), the allocation of processing shares corresponding to a portion of the harvest share pool, and the designation of certain harvest shares for landing in a specific region. At the time it adopted the rationalization program, the Council exempted C shares from the regional and processing share landing requirements for the first three years of the program. This exemption is scheduled to expire at the beginning of the 2008-2009 fishing season. When the Council adopted the rationalization program, it also tasked staff to provide a review of landing patterns of C shares to assess whether the exemption should be extended indefinitely. At its March/April 2007 meeting, staff delivered that review to the Council and the Council tasked staff to prepare an analysis of an action to extend the exemption of C shares from regional and processor share landing requirements indefinitely. After considering that review, the Council adopted a draft purpose and need statement and an alternative to indefinitely exempt C shares from the 90/10 A share/B share split. It reviewed an analysis of that alternative and the status quo at its October 2007 meeting, releasing the analysis for public review and final action at this meeting. An executive summary of the analysis is found in your notebook.

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

The AP recommends Alternative 2 (C shares are indefinitely exempt from 90/10 A share /B share split, with all C shares exempt from regional and processing share landing requirements) be selected as the preferred alternative for final action.

## **COUNCIL DISCUSSION/ACTION**

The Council received a staff report from Mark Fina (NPFMC), recommendations from the Advisory Panel, and public comment on this issue.

**DL moved to adopt Alternative 2: C shares are indefinitely exempt from 90/10 A share/B share split, with all C shares exempt from regional and processing share landing requirements.** The motion was seconded and carried unanimously.

Comments by Council members in support of the motion pointed out that this action was proposed by the Advisory Panel and is a consensus of opinion expressed during public comment that there is no reason to burden skipper and crew with requirements of share matching, binding arbitration, and other complexities of the A share aspects of the program. The original action was set for review at this juncture and after analysis and public comment the Council found that there is no need for this provision in the crab rationalization program, and through this exemption, may facilitate use of C shares and, along with the loan program, provide better opportunities for entry-level participation.

C-2(c) BSAI Crab Custom Processing

## **ACTION REQUIRED**

**Final action on BSAI Crab custom processing.**

## **BACKGROUND**

The recent reauthorization of the Magnuson Stevens Act (MSA) included a provision to exempt custom processing in the North region of the Bering Sea *C. opilio* fishery from processing use

caps established under the crab rationalization program. The exemption is believed to be intended primarily to improve efficiency in processing in that fishery. At its February 2007 meeting, the Council received a staff discussion paper concerning the implementation of this amendment and the potential for the Council extending the exemption to other fisheries included in the crab rationalization program. After receiving the discussion paper, input from the Advisory Panel, and hearing public testimony, the Council elected to consider whether this exemption should be extended to include all of the traditionally small crab fisheries governed by the rationalization program:

- the Western Aleutian Islands golden king crab fishery,
- the Western Aleutian Islands red king crab fishery,
- the Eastern Aleutian Islands golden king crab fishery,
- the St. Matthews blue king crab fishery, and
- the Pribilof red and blue king crab fishery.

At its June 2007 meeting, the Council adopted a draft purpose and need statement and elements and options for the action. After initial review of the analysis at the October 2007 meeting, the Council released the analysis for public review and action at this meeting. The regulatory analysis to implement the exemption for the North region of the *C. opilio* fishery is combined with the analysis and development of the amendment package considering extension of the exemption to the other fisheries. As requested by the Council, the analysis also examines a provision to exempt custom processing of transferred shares in their community of origin from the use cap. This issue arises because of the possible divestiture of shares by an entity to comply with the use cap. Under the current rules, on divestiture those shares could not be custom processed at the plant of origin, effectively forcing either a new processor (either shore plant or floater) to be opened in the community or the shares to be moved from the community. The Council is scheduled to take final action at this meeting on this amendment package. The executive summary of the analysis follows.

#### Report of the Advisory Panel

The AP recommends the Council select the following alternatives and options as its preferred alternative:

#### Custom Processing Cap Exemption

##### Fisheries and Regions:

Custom processing will be exempt from use caps in the following regions and fisheries:

The North region of the Bering Sea *C. opilio* fishery (analyzed here for regulation change from MSA reauthorization – not optional)

- Option 1) the Western Aleutian Islands golden king crab fishery,  
Suboption2: West designated or Undesignated shares processed in the West region
- Option 2) the Western Aleutian Islands red king crab fishery
- Option 3) the Eastern Aleutian Islands golden king crab fishery
- Option 4) the St. Matthew Island blue king crab fishery
- Option 5) the Pribilof Islands red and blue king crab fishery

##### Definition of custom processing exemption:

- Option 1) Physical processing of crab at a facility owned by an entity does not count toward the cap of the entity (only processor share holdings count toward an entity's cap).

Locations qualified for the exemption:

Custom processing will qualify for the exemption provided that processing is undertaken in the applicable fishery and region at:

Option 2) a shore plant, or a floating processor that is moored at a dock or docking facilities (e.g. dolphins, permanent mooring buoy) in a harbor in a community that is a first or second class city or home rule city.

**Facility cap**

Outside of the West region, no facility may process more than 60% of

- a) EAI golden king crab
- b) WAI red king crab

**Provisions to protect interests of the community of origin**

Option 2) In the event that processing shares currently or formerly subject to a right of first refusal are transferred from the initial recipient, custom processing of shares in the community of origin will not be counted toward cap of the processing plant (the shares would only count toward the cap of the share holder).

**COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Mark Fina (NPFMC), the Advisory Panel report, and oral public comments on this issue.

**EK moved the following:**

**The Council selects the following alternatives and options as its preferred alternative:**

**Custom Processing Cap Exemption**

**Fisheries and Regions:**

**Custom processing will be exempt from use caps in the following regions and fisheries:**

**The North region of the Bering Sea *C. opilio* fishery (analyzed here for regulation change from MSA reauthorization – not optional)**

- Option 1) the Western Aleutian Islands golden king crab fishery,  
Suboption2: West designated or Undesignated shares processed in the West region**
- Option 2) the Western Aleutian Islands red king crab fishery**
- Option 3) the Eastern Aleutian Islands golden king crab fishery**
- Option 4) the St. Matthew Island blue king crab fishery**
- Option 5) the Pribilof Islands red and blue king crab fishery**

**Definition of custom processing exemption:**

**Option 1) Physical processing of crab at a facility owned by an entity does not count toward the cap of the entity (only processor share holdings count toward an entity's cap).**

**Locations qualified for the exemption:**

**Custom processing will qualify for the exemption provided that processing is undertaken in the applicable fishery and region at:**

**Option 2) a shore plant, or a floating processor that is moored at a dock or docking facilities (e.g. dolphins, permanent mooring buoy) in a harbor in a community that is a first or second class city or home rule city.**

**Facility cap**

**Outside of the West region, no facility may process more than 60% of**

- a) EAI golden king crab**
- b) WAI red king crab**

**Provisions to protect interests of the community of origin**

**Option 2) In the event that processing shares currently or formerly subject to a right of first refusal are transferred from the initial recipient, custom processing of shares in the community of origin will not be counted toward cap of the processing plant (the shares would only count toward the cap of the share holder).**

The motion was seconded by Ed Rasmuson.

In support of the motion, Mr. Krygier pointed out this action will provide needed opportunities to communities adjacent to the resource as well as providing needed protection for those communities. Additionally, the action will improve costs and efficiency as well reduce deadloss.

GM moved to amend Option 2 (under "Location qualified for the exemption") by adding the following at the end of the sentence, after: ". . ." or a home rule city," add: **except for the community of Atka where a floating processor may anchor at any location, providing that it is within the municipal boundary.** The motion was seconded and carried without objection.

Mr. Merrigan noted this option was proposed during public testimony and will clear up the ambiguity in the analysis as to whether Atka has a 'qualified harbor' and assure the community will be included in the program.

The main motion, as amended, carried unanimously. A copy of the Council's action on all crab rationalization issues is found in Appendix III to these minutes.

C-2(d) BSAI Crab Post-delivery Transfers

**ACTION REQUIRED**

**Final action BSAI Crab post-delivery transfers.**

**BACKGROUND**

**At its June 2007 meeting, the Council adopted a draft purpose and need statement and alternatives to amend the crab rationalization program to permit the transfer of IFQ to cover overages after the time of landing. The provision would be intended to reduce the potential for enforcement actions related to unintended overages, in the event the fisherman can acquire shares to cover the overage within a reasonable time. In response to the Council's request, staff drafted an analysis of the alternatives, which the Council reviewed at its October 2007 meeting. After that review, the Council directed staff to release the document for public review and action at this meeting. An executive summary of the analysis is in your notebook.**

**Report of the Advisory Panel**

The AP recommends the Council select Alternative 2 as its preferred alternative:

Alternative 2 – Unlimited post-delivery transfers (Preferred alternative in bold text)

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

- B share IFQ
- A share IFQ (provided a processor simultaneously commits matching IPQ)
- C share IFQ
- Catcher processor IFQ
- IPQ

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

Suboption: All post-delivery transfers must be completed by the end of the crab fishing year (June 30<sup>th</sup>).

Eligibility for post-delivery transfers:

1. All harvesters

**COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Mark Fina (NPFMC), the Advisory Panel report, and oral public comments on this issue.

**EK moved to adopt the AP motion, as follows, with one change, to amend the deadline for all post-delivery transfers, as follows: Delete current language [the end of the crab fishing year (June 30)], and insert: 30 days following the regulatory closure . The motion was seconded by Ed Rasmuson.**

**The Council selects Alternative 2 as its preferred alternative:**

Alternative 2 – Unlimited post-delivery

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

- B share IFQ**
- A share IFQ (provided a processor simultaneously commits matching IPQ)**
- C share IFQ**
- Catcher processor IFQ**

**IPQ**

**Limits on the magnitude of a post-delivery transfer**

None

**Limits on the number of post-delivery transfers**

None

**No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.**

**Limits on the time to undertake a post-delivery transfer**

**Suboption: All post-delivery transfers must be completed ~~by the end of the crab fishing year (June 30<sup>th</sup>)~~ by 30 days following the regulatory closure. For *C. opilio*, which has separate closure dates for the Eastern and Western subdistricts, assign the later date of May 31<sup>st</sup>.**

**Eligibility for post-delivery transfers:**

**1. All harvesters**

Mr. Krygier noted that the one change he is proposing--to require reports submitted within 30 days of the regulatory closure--has to do with the fact that ADF&G does the inseason management of the fishery and is responsible for the fish tickets, dockside delivery summaries and getting that information out to the industry. Those summaries and other reports have to be done on a specific time schedule. A delay of six months would cause an overlap with other duties in the department and would make the management of the fishery more difficult. The 30-day window for submitting final reports seems reasonable for industry participants while allowing ADF&G to complete its necessary tasks.

In support of the motion, Mr. Krygier pointed out that the action will promote efficiency, leaving less TAC unharvested at the end of the year. However, he pointed out that industry is encouraged to use this provision conservatively to avoid exceeding the TAC.

With regard to the deadline for post-delivery transfers, Lauren Smoker noted that there may be some concern with setting dates in federal regulation that are tied to dates set in state regulation and the interplay between what federal regulations require versus what the state management agency can change if it deems it necessary.

**Jim Balsiger moved to amend the deadline for post-delivery transfers to reinsert the AP's recommendation: all post-delivery transfers must be completed by the end of the crab fishing year (June 30).** The motion was seconded by Sam Cotten and carried without objection.

In support of the final motion, Council members noted that this action will allow full deliveries and reduce bycatch, promote operating efficiencies, and reduce enforcement costs without compromising rational management of the fisheries. Additionally, the amendment conforms with National Standards, including bycatch reduction and managing for optimum yield.

The main motion, as amended, carried unanimously. A copy of the Council's action on all crab rationalization issues is found in Appendix III to these minutes.

C-2(e) Workplan – BSAI Crab 3-yr Review/Problem Statement for A/B Share Amendment

**ACTION REQUIRED**

Review workplan for the BSAI Crab Rationalization Program 3-year review, and draft purpose and need (problem) statement for possible program changes, and take action as necessary.

**BACKGROUND**

In development of the Beaufort Sea and Aleutian Islands crab fishery management program, the Council scheduled a preliminary review of the program three years after its implementation. Since fishing under the program began in August of 2005, staff is planning for the delivery of the requested review to the Council in October of 2008. At its October 2007 meeting, the Council also identified preliminary alternatives, and initiated an analysis to revise the program. At that time, the Council adopted a draft purpose and need statement stating its intention to revisit that purpose and need statement at this meeting. This paper lays out a brief outline of the proposed review of the program and provides a discussion that could be used by the Council to refine the purpose and need statement.

Crab 3-year review outline

The Council's motion establishing the program included the following provision for a review of the program after 3 years of fishing:

*RAM Division in conjunction with State of Alaska will produce annual reports regarding data being gathered with a preliminary review of the program at 3 years.*

*Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities by addressing concerns, goals and objectives identified in the Crab Rationalization problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.*

Since the contents of this review are not defined by the Council motion, staff proposes the following outline:

Description of management

Review of State/Federal joint management  
Pre-rationalization limited access management  
Description of rationalization program

Harvest share holdings

Initial allocations by sector (CVO, CPO, CVC, CPC) and region  
Transfers – number of transactions and numbers of shares transferred by sector, share type (QS/IFQ) and region  
Current holdings – concentration by sector, share type, and region/use caps  
Active participation by share holders (by share type) – to the extent practicable

Harvest sector – pre/post-rationalization comparisons and analysis by fishery and comprehensive

Vessel participation  
Summary of leasing and cooperative fishing  
Vessel operations  
Number of trips/deliveries/average trip/use caps



**Cost comparison using EDR data – consider variable costs to the extent practicable**

**Captains and crew**

**Number of captains and crew and compensation of captains and crew**

**Participation in other fisheries (vessels currently active in crab/vessels not active in crab)**

**Integration with crab activity**

**Review of sideboards**

**Processor share holdings**

**Initial allocations by region**

**Transfers – number of transactions and numbers of shares transferred by sector, share type (QS/IPQ) and region**

**Current holdings – concentration by region/use caps**

**Processing sector – pre/post-rationalization comparisons and analysis by fishery and comprehensive**

**Plant participation**

**Summary of custom processing (interaction with use caps)**

**Vessel operations**

**Number of trips/deliveries/average trip**

**Cost comparison using EDR data – consider variable costs to the extent practicable**

**Labor – overview of plant labor using EDR data**

**Participation in other fisheries – integration with crab activity**

**Markets and prices – pre/post-rationalization comparison**

**Review of crab markets and prices – retail/first wholesale (if possible consider CPs separately)**

**New market development/changes in existing markets**

**Review ex vessel prices**

**Review of arbitration program**

**Discussion of standard and its application (include data issues)**

**Discussion of procedure**

**Share matching process**

**Terms of deliveries – timing, etc.**

**Entry**

**Harvest sector entry (share holders/vessels)**

**Processing sector entry (share holders/plants – entry with A share landings/B share landings)**

**Safety**

**Equipment, working conditions, emergency response time**

**Biological Issues**

**Biological management issues**

**spatial and temporal dispersion**

**incidental catch rates/soak times and gear sorting**

**handling mortality/deadloss**

**high grading**

**Community Issues – pre/post-rationalization comparison**

**General profiles of communities with focus on crab dependence**

**Distribution of activities among communities**

**Geographic distribution of share holders**

**Harvesters (by share type – CVO/CPO/CVC/CPC)**

**Distribution of processing shares by community of plant(s)**

Activities of home ported vessels (active in crab/inactive in crab)  
Distribution of landings among communities  
    Review of processors and processor activities (including processing labor effects)  
    Landings by share type - CVO A share/CVO B share/CVC – include discussion of effectiveness of “cooling off” and “right of first refusal provisions”

Harvesting crew affects/job loss  
Community revenues  
Community support businesses

Management – pre/post rationalization comparison

Costs (e.g., additional management burdens)  
Benefits (e.g., more precise harvest of TAC)

Other issues – CDQ share holdings – portion of program shares held by CDQ groups

CDQ allocation use – is it integrated with use of shares from the program  
Effects of the buyback

Draft Purpose and Need Statement

At its October 2007 meeting, the Council directed staff to prepare an analysis for review at the October 2008 meeting examining the effects of a change in the A share/B share split. That analysis is expected to examine several share splits, including the current 90/10 split, phased in revisions of the split, a standard IFQ alternative that would allocate shares to vessel owners, processors, and captains and crew, and a system under which the split would change with TAC changes.

As a part of that motion, the Council revised the direction to the Crab Advisory Committee, to focus its work on programmatic issues and effects of policy decisions related to the BSAI crab rationalization program. Committee membership was also revised to include four community members and two crew representatives, to ensure that the interests of those groups are represented in the committee’s work. The committee is also intended to address concerns that may arise from any adjustments to the A share/B share split, including 1) the potential need for harvesters to compensate processors for lost economic opportunity from the resulting change in market power, 2) potential changes in landing distribution, 3) the remaining need and necessary changes to the binding arbitration program, 4) the use and effectiveness of regional landing requirements to protect communities, and 5) effects on crew. The Crab Advisory Committee is scheduled to provide a report to the Council at the February 2008 meeting indicating its progress.

To facilitate the work of the committee and to better focus the requested analysis, the Council indicated its intent to revisit its draft purpose and need statement. This revision is intended to ensure the purpose and need statement clearly identify the Council’s concerns and intent for considering this action. At the October 2007 meeting, the Council adopted the following draft purpose and need statement:

*Share allocations to harvesters and processors under the BSAI crab rationalization program were intended to increase efficiencies and provide economic stability in both the harvesting and processing sectors. Recognizing that processor quota shares reduce market competition for deliveries subject to share match requirements, the Council adopted B share IFQ to provide some degree of competition, encourage processors to pursue market opportunities for their products, and possibly facilitate processor entry. The Council included a system for binding arbitration in the program to resolve price disputes for deliveries subject to share match requirements.*

*The Council has heard many concerns about the BSAI crab rationalization program suggesting the proportion of B shares is not adequate to meet the Council’s intended purpose for those shares and, thus, towards furthering the goals of the program.*

*Information to date has not shown that the 90/10 split has promoted 1) competitive negotiated deliveries, or 2) unserved and underserved markets, or 3) processor entry; there is no indication that the current A share/B share split is sufficient to promote all three.*

The Council also requested staff to summarize issues raised during discussion and in public testimony. Through public testimony, several issues have been identified that may be of concern to the Council in revising the purpose and need statement. The following is a list of items that have been raised in public testimony and Council and Advisory Panel deliberations that could be considered relative to in the purpose and need statement, at the Council's discretion:

- The B share allocation is inadequate to support entry to the processing sector
- The B share allocation is inadequate to support competition for landings
- The B share allocation is inadequate to support development of new markets and products
  - (all of the above could be conditioned on current TAC levels)
- The B share allocation is inadequate to support development of crab processing in certain communities
- The B share allocation is inadequate to support historic levels of processing in certain communities
- The system of binding arbitration is unable to produce a fair price for landings because:
  - The arbitration system is unable to distinguish prices by location of landing
  - The arbitration system is unable to distinguish prices by terms of delivery
  - The arbitration system is unable to create incentives for processors active in low value markets to improve production and market performance
  - Available data are not adequate to establish historic division of first wholesale revenues
- The system of binding arbitration discourages the development of new products and markets
- The system of binding arbitration is too costly and complex
- The share matching system necessary to facilitate coordination of A shares and IPQ is too complex and costly
- Processor consolidation has prevented the development of new products and markets
- Processor consolidation has threatened community sustainability
- Fleet consolidation has resulted loss of captain and crew positions
- Fleet consolidation has resulted in lower quality and lower paying jobs for captain and crew
- Fleet consolidation has resulted in extended processing seasons preventing processors from realizing production efficiencies
- Fleet consolidation has harmed community-based support industries
- Fleet consolidation has harmed community-based harvesting crews
- Current allocations of harvester and processor shares do not adequately reflect historic participation and investment in the fisheries by harvesters, processors, captains, and crew
- The absence of a harvest share allocation to crew is unfair and inequitable
- The 3 percent harvest share allocation to captains is inadequate, unfair, and inequitable
- Gifting of long term (or permanent) allocations of harvesting and processing shares unjustly enriches recipients of those shares and deprives the public of the benefits of the resource
- Regional landing requirements and community provisions are inadequate to protect processing activity in certain communities
- Regional landing requirements limit the ability of participants to address contingencies that arise in the fisheries

Further refinement of the purpose and need statement will allow the committee the opportunity to produce more relevant work and will facilitate a more focused analysis of alternatives.

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

The AP recommends the Council encourage the industry to work with staff in developing the 8 datasets outlined in the letter from the North Pacific Crab Association in support of developing the 36-month review.

Further, the AP recommends the Council work with staff to develop a 3-year review as outlined in the workplan on the projected schedule. Additionally the AP recommends that staff thoroughly examine issues regarding CDQ and crew participation in the BSAI crab fisheries.

### **COUNCIL DISCUSSION/ACTION**

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

#### Workplan for 3-yr review

The Council made several suggestions and clarifications to ensure that the analysis will adequately explore all facets of the program, including effects of the 90/10 split and arbitration on communities and crew. The Council chose not to revise draft the purpose and need statement for modification of the program, but tasked the newly-reconstituted crab advisory committee to review it and propose necessary revisions to the statement, as well as alternatives, to modify the crab rationalization program. Chairman Olson advised that Sam Cotten will chair the new crab committee. Mr. Cotten spoke about plans to get the committee started by having Mark Fina provide necessary background information along with a draft agenda and workplan.

Gerry Merrigan distributed a list of possible issues for the committee to address to determine which issues are considered problematic by the industry and need to be pursued by formal action after the 3-year review. The Council discussed the tasks, but did not give any direction other than to provide it to the Chair of the committee.

Mr. Merrigan also noted several issues to be covered in the workplan mentioned during public comment, including consideration of the effects of the "right of first refusal," the investment of communities to encourage promotion of the crab fishery in those communities, including processing. Mark Fina advised that he had taken note of the issues mentioned during Council discussion and public comment and will supplement the outline that will be provided to the committee and as new issues are brought forward he will continue to update the workplan.

Mr. Tweit pointed out that because sufficient data will not be available, the '3-year review' to be provided in October will not be based on a full three years of data for most species under the program. He also expressed his concern that staff is working concurrently on the 3-year review and analytical tasks that, in his opinion, should arise after the completion of the review.

**C-3      GOA Groundfish Issues**

**C-3(a)    GOA Pacific Cod Sector Allocation**

**ACTION REQUIRED**

**Receive staff discussion paper on Gulf of Alaska Pacific cod sector allocation. Refine components and options for analysis as needed.**

**BACKGROUND**

In October 2007, the Council reviewed a preliminary draft EA/RIR/IRFA for the proposed Gulf of Alaska Pacific cod sector allocations. At that time, the Council requested that staff provide additional information on incidental catch of Pacific cod (including discards) and the State waters Pacific cod fisheries. The purpose of this discussion paper (Item C-3(a)(1)) is to provide the Council with information needed to refine the components and options pertaining to 1) incidental catch, and 2) interaction of the sector allocations with State waters Pacific cod fisheries.

**Incidental catch**

Management of incidental catch under sector allocations is addressed in Component 5 of the motion. Options include setting aside a separate incidental catch allowance (ICA) or managing each sector's incidental catch needs within its own allocation. The discussion paper first describes how NMFS currently manages incidental catch in the Pacific cod fisheries. Second, the paper provides data on total and discarded incidental catch of Pacific cod in the Gulf of Alaska and discusses management tools for reducing discards. Third, the paper discusses the proposed options for managing incidental catch under sector allocations.

**State waters Pacific cod fishery**

The Council's current motion does not specifically address the State waters fishery. Two concerns were raised at the October Council meeting regarding coordination of the state and federal seasons under sector allocations. This paper provides additional information on the State waters fishery that may help the Council address these concerns. One concern was that the State GHs have not been fully utilized in recent years, resulting in stranded quota. A second concern was that sector splits might change the timing of the federal A season and potentially delay the opening of the State waters season. To address these issues, the paper first discusses current management, GHs, and catch levels in the Gulf of Alaska State waters fisheries. Second, the paper discusses current timing of the federal and state seasons and overlap in participation in the state and federal Pacific cod fisheries. Addressing these concerns will likely require coordination of the Council action with State managers. A satisfactory solution will require consideration of the interactions between the two management systems.

The **Scientific and Statistical Committee** did not address any of the C-3 agenda issues.

**Report of the Advisory Panel**

The AP recommends the Council move forward in developing an EA/RIR/IRFA regarding Pacific cod sector splits with the following changes:

In Component 2:

1. Delete all CP less than 125 and all CP greater or equal to 125ft.
2. Establish pot catcher vessels less than 60' and pot catcher greater than or equal to 60' as an option under pot catcher vessels

In Component 5:

Delete current language and replace with October AP motion with an addition as follows:

**Component 5: Allocation of Pacific cod to jig sector**

The AP recommends Component 5 read as follows:

Options include 1%, 3%, 5%, or 7% of the Western and Central GOA Pacific cod allocations for the jig catcher vessel sector, with a stairstep provision to increase the allocations by:

- 1%
- 2%
- 3%

If 100% of the Federal jig allocation and 90% of one of the Central Gulf state waters district GHGs or the Western Gulf state waters GHG is harvested. Subsequent to the jig allocation increasing by a stairstep up, if the harvest threshold criteria described above are met, the jig allocation will be stepped down by 1% in the following year, **but shall not drop below 1%.**

The jig allocation could be set aside from the A season TAC, the B season TAC, or divided between the A and B season TACs.

Additionally:

The AP recommends Council task the State of Alaska, NOAA GC and council staff to explore possible solutions for the jig fishery management structure (both federal and State) that creates a workable fishery that will minimize the amount of stranded cod quota.

Possible solutions that could be explored are as follows:

1. Separate State and federal allocations – manage accounting by seasonal structure
2. No State managed jig fishery – State allows federal management for both the state jig GHG and federal quota as one federal quota fishery.
3. State managed jig Pcod fishery – federal management authority goes to the state of Alaska to manage a state gear specific fishery.

**COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Jeannie Heltzel, (NPFMC staff), the Advisory Panel Report, and oral public comments on this issue.

**Denby Lloyd moved to approve the recommendations of the Advisory Panel, with the following changes:**

**The ~~AP recommends~~ the Council requests staff move forward in developing an EA/RIR/IRFA regarding Pacific cod sector splits with the following changes:**

**In Component 2:**

1. Delete all ~~CP~~ catcher processors less than 125 ft. and all ~~CP~~ catcher processors greater or equal to 125 ft.
2. Establish pot catcher vessels less than 60' and pot catcher greater than or equal to 60' as an option under pot catcher vessels.
3. Establish trawl CPs less than 125 ft. and trawl CPs  $\geq$ 125 ft.

**In Component 5:**

Delete current language and replace with October AP motion with an addition as follows:

**Component 5: Allocation of Pacific cod to jig sector**

~~The AP recommends Component 5 read as follows:~~

~~Options include 1%, 3%, 5%, or 7% of the Western and Central GOA Pacific cod allocations for the jig catcher vessel sector, with a staircase provision to increase the allocations by:~~

- ~~• 1%~~
- ~~• 2%~~
- ~~• 3%~~

~~If 100% of the Federal jig allocation and 90% of one of the Central Gulf state waters district GHLs or the Western Gulf state waters GHL is harvested. Subsequent to the jig allocation increasing by a staircase up, if the harvest threshold criteria described above are met, the jig allocation will be stepped down by 1% in the following year, but shall not drop below 1%.~~

~~The jig allocation could be set aside from the A season TAC, the B season TAC, or divided between the A and B season TACs.~~

**Additionally:**

In addition to Component 5 currently in the analysis, the Council requests staff work with The AP recommends Council task the State of Alaska and NOAA GC and council staff to explore possible solutions for the jig fishery management structure (both federal and State) that creates a workable fishery that will minimize the amount of stranded cod quota in the state managed fishery..

Possible solutions that could be explored are as follows:

1. Separate State and federal allocations – manage accounting by seasonal structure
2. ~~No State managed jig fishery – State allows federal management for both the state jig GHL and federal quota as one federal quota fishery.~~
3. 2. State managed jig Pacific cod fishery – federal management authority goes to the state of Alaska to manage a state gear specific fishery.

Within Component 5 currently in the analysis, change the reference to "jig catcher vessel sector" to jig vessel sector."

The motion was seconded by Sam Cotten.

Sue Salveson moved to amend as follows: Delete Component 6, and in Component 3 [Page 3 of the discussion paper] insert the following sentence at the end of the last paragraph: "Further, all sector allocations will be managed to support incidental and directed catch needs." The motion was seconded and carried without objection.

Gerry Merrigan moved to amend: Under component 3, Option 2, re-word as follows for clarification: All retained Pacific cod harvested during the directed Pacific cod federal and parallel fisheries. The motion was seconded and carried without objection. Mr. Merrigan noted that this motion was for clarification of the Council intent.

Mr. Benson proposed an amendment for Option1 under Component 3, to clarify that it refers to federal and parallel groundfish fisheries, however the motion was withdrawn after staff clarification and Council discussion relating to the accounting methods used for the current discussion paper versus those used in the previous analysis.

**Sue Salvesson moved to amend the first paragraph of Component 5, to change the stairstep provision, as follows: "If 90% or more of the jig gear allocation in an area is harvested, . . ." The motion was seconded and carried without objection.**

**Gerry Merrigan moved to amend to request staff add the following option under the hook and line catcher vessels: Less than 60 ft, and greater than or equal to 60 ft. The motion was seconded and carried without objection.**

With regard to the possible solutions for the jig gear fishery management structure listed in the last portion of the motion, it was clarified by Mr. Lloyd that it was not meant to be integrated into the current the analysis for sector allocations, but to request NMFS and State staff to explore possible solutions and return to the Council at a later date with a problem statement and/or a suite of possible solutions.

Gerry Merrigan and Duncan Fields both proposed motions to amend the Component 5 stairstep provision to include a ceiling, however after discussion both amendments were withdrawn after it was pointed out that the highest year of the jig harvest is currently 1.2% and it's very unlikely that the 7% level would be reached.

The main motion, as amended, carried without objection.

**Denby Lloyd moved to delay initial review of the analysis until the April 2008 meeting. The motion was seconded and carried without objection. The Council's final action on this agenda item is found in Appendix IV to these minutes.**

C-3(b) GOA Sideboards

## **ACTION REQUIRED**

**Review discussion paper and take action as necessary**

## **BACKGROUND**

**At the April 2007, the Council reviewed a discussion paper on GOA sideboard limits and directed staff to expand the discussion paper to include assessments of the following:**

- **Potential conflicts between the CGOA Rockfish Pilot Program and Amendment 80 to determine overlaps, and if so, how sideboard limits might be combined, removed, or modified while maintaining the intent of the limits;**
- **An option to allow AFA CV GOA sideboard exempt fleet to lease their BSAI pollock allocation during the B season (June 10 to November 1);**
- **Removing the 14 day stand down (July 1 to July 14) for CP vessels participating in the CGOA Rockfish Pilot Program and form cooperatives in the BSAI fisheries under Amendment 80;**
- **Exempt non-AFA Pacific cod sideboarded crab vessels from GOA Pacific cod sideboards on November 1<sup>st</sup> if B season Pacific cod in WGOA and CGOA directed fisheries will not be fully harvested;**
- **An option to change the formula for determining GOA Pacific cod sideboard exemption status for non-AFA crab vessels;**
- **An option to exempt non-AFA crab vessels from GOA pollock sideboard limits who historically have been dependent upon the GOA pollock fishery; and**
- **Examine the number and collective harvest of crab rationalized vessels that have been sold and then enter the pot cod fishery in GOA.**



In October 2007, the Council postponed presentation of the GOA sideboard limits discussion paper until the December meeting due to time constraints. The AP did review this agenda item in October and provided recommendations to the Council concerning the GOA sideboard limits. Pertinent AP minutes are provided below:

*The AP recommends that the Council initiate an analysis for a regulatory amendment to exempt CP trawl vessels that participate in the CGOA Rockfish pilot program cooperative or limited access sectors and also belong to a cooperative in the BSAI fisheries under Amendment 80 from the July stand-down period. (motion passed 17/0)*

*The AP recommends that the Council initiate an analysis for a regulatory amendment to add an amount of halibut PSC to the Amendment 80 3<sup>rd</sup> quarter deep-water halibut PSC sideboard proportionate to the halibut available to the rockfish catcher-processor limited access and opt-out fisheries. (motion passed 17/0)*

*The AP recommends the Council initiate an analysis for a regulatory amendment to address crab rationalization sideboards with the following revisions to the options provided in the discussion paper:*

*Option 2 – Replace “allocation” with “catch history”*

*Add – Option 3 – exempt non-AFA crab vessels from GOA Pacific cod sideboards if the vessel’s Bering Sea opilio catch history is less than 500,000 lbs and the vessel landed more than 2,500 mt of GOA Pacific cod from 1996-2000. (motion passed 18/0)*

*The AP wishes to re-affirm that this exemption would apply only those non-AFA crab vessels/licenses that are eligible to participate in the GOA Pacific cod fishery.*

*The AP recommends that Council task staff with further developing the discussion addressing the Council’s policy that requires vessels to fish their BSAI pollock allocation to maintain their exempted status. (motion passed 18/0)*

Attached as Item C-3(b)(1) is a revised discussion paper of the GOA sideboards and options for consideration associated with the American Fisheries Act (AFA) BSAI Pollock Cooperative Program, Crab Rationalization Program, Rockfish Pilot Program, and Amendment 80 Cooperative Program. Where appropriate, staff has also provided some information on the AP’s October recommendations.

At this meeting, the Council will review the discussion paper and decide whether or not to initiate analysis of possible changes to sideboard limits or other measures.

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

The AP wishes to reiterate its motion from the October 2007 minutes:

The AP recommends that the Council initiate an analysis for a regulatory amendment to exempt CP trawl vessels that participate in the CGOA Rockfish pilot program cooperative or limited access sectors and also belong to a cooperative in the BSAI fisheries under Amendment 80 from the July stand-down period.

The AP recommends that the Council initiate an analysis for a regulatory amendment to add an amount of halibut PSC to the Amendment 80 3<sup>rd</sup> quarter deep-water halibut PSC sideboard proportionate to the halibut available to the rockfish catcher-processor limited access and opt-out fisheries.

The AP recommends the Council initiate an analysis for a regulatory amendment to address crab rationalization sideboards with the following revisions to the options provided in the discussion paper:

Option 2 – Replace “allocation” with “catch history”

Amend Option 3: Exempt non-AFA crab vessels from GOA Pcod sideboards if the vessel’s BS opilio catch history is less than 500,000 lbs and the vessel landed more than 2,500 mt of GOA Pcod from 1996-2000 **OR if a vessel has less than 500,000 lbs of BS Opilio catch history and 20 GOA Pollock trawl landings and 1,500,000 mlbs of GOA pcod landings during the years 1996-2000.**

The AP wishes to re-affirm that this exemption would apply only those non-AFA crab vessels/licenses that are eligible to participate in the GOA Pacific cod fishery.

The AP recommends that Council task staff with further developing the discussion addressing the Council’s policy that requires vessels to fish their BSAI pollock allocation to maintain their exempted status.

### **COUNCIL DISCUSSION/ACTION**

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

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

**Gerry Merrigan provided a written motion, including comments in support. The motion follows:**

**The Council is initiating an analysis for a regulatory amendment package on potential exemptions to the crab rationalization sideboards. Staff should develop a draft purpose and need statement as well as reorganize current elements and options accordingly. It is the Council's intent to have an idea of the potential impact (number of vessels that might be exempt) from each distinct option and suboption – to the extent practicable.**

**The purpose and need statement should include that the application of crab sideboards (with the combination of thresholds, time periods, etc.) some historical participants in the GOA groundfish fisheries may have been unduly prevented from participating in the apportionment of crab sideboard amounts. For balance, the purpose and need statement should also reflect the original intent of crab sideboards, i.e., not to transfer increased effort to the groundfish fisheries as a result of vessels receiving a "benefit" from flexibility acquired due to crab rationalization. Additionally, the permanent nature of the sideboard does not allow for participants to opt out of the crab program (i.e., receive no "benefit") and remove the sideboard restriction. The purpose and need statement should also reflect that GOA B season Pacific cod has not been harvested in recent years.**

**Suggested elements and options (the intent is to include the AP motions with some revisions). These are intended as guidance for staff, and is not intended to limit (or sideboard) their analytic abilities.**

#### **1. Vessel Exempted Status**

**A. Exempted vessel status for Pacific cod (going from the larger pool of potential vessels to the smaller pool of potential vessels). Staff can substitute threshold currencies (%QS, pounds, etc.) that provide the most consistency and ease of analysis while capturing the same intent.**

**Option 1: No changes to the exempted status requirements**

**Option 2: To receive exempted status, the vessel/LLP would forfeit all BS opilio shares.**

**Suboption: To receive exempted status, vessel LLP would forfeit their Bering Sea opilio shares that are in excess of the 100,000 pound landing threshold during the qualifying years 1996-2000.**

**Option 3: Exempt non-AFA crab vessels from GOA Pacific cod sideboards if the vessel's Bering Sea opilio catch history is less than 0.22% and the vessel LANDED MORE THAN 500 MT OF GOA Pacific cod from 1996-2000.**

**Suboption: To receive exempted status, vessel/LLP would forfeit their BS opilio shares that are in excess of the 100,000 pound landing threshold during the qualifying years 1996-2000.**

**Option 4. Exempt non-AFA crab vessels from the GOA Pacific cod sideboards if the vessel's Bering Sea opilio catch history is less than 500,000 pounds and the vessel landed more than 2500 mt of GOA Pacific cod from 1996-2000.**

**Option 5: Exempt non-AFA crab vessels from the GOA Pacific cod sideboards if the vessel's Bering Sea opilio catch history is less than 500,000 pounds and the vessel has landed 680 mt of GOA Pacific cod landings from 1996-2000.**

**Suboption: In addition to the above, must also have 20 GOA pollock trawl landings during 1996-2000.**

**All these exemptions apply to those non-AFA crab vessels/LLPs that are eligible to participate in the GOA Pacific cod fishery (have appropriate LLP).**

**B. Exempted vessel status for pollock:**

**Option 1: No exempted status.**

**Option 2: Exempt Non-AFA crab vessels from GOA pollock sideboards if the vessel's Bering Sea opilio allocation is less than 0.22% and the vessel had: 1) 5 pollock deliveries, 2) 10 pollock deliveries, or 3) 20 pollock deliveries from 1996 to 2000.**

**All these exemptions only apply to those non-AFA crab vessels/LLPs that are eligible to participate in the GOA groundfish fishery (have appropriate LLP).**

**C. Proposed exemption from B season Pacific code sideboard limit after November 1.**

**Options to include lifting sideboard restriction from 1) those that have a GOA Pacific cod sideboard, and 2) those that have GOA groundfish sideboard.**

**This exemption only applies to those non-AFA crab vessels/LLPs that are eligible to participate in the GOA Pacific cod fishery (have appropriate LLP).**

**The analysis should include how this November 1 exemption may interact with GOA Pacific cod sector splits.**

The motion was seconded by Dave Benson.

Mr. Merrigan noted in his comments in support of the motion that three potential regulatory amendment packages could be initiated from the discussion paper addressing crab rationalization sideboards, Amendment 80 sideboards, and CGOA rockfish pilot program sideboards, although the origin was in response to concerns raised over the crab rationalization program. Mr. Merrigan noted that with current staff workloads and the need to have shorter meetings, that the Council should prioritize and address the original issue at this time.

Mr. McCracken advised that the option which would base the first threshold on Bering Sea opilio allocation, is a very complex issue, difficult to analyze, and is more problematic because of confidentiality issues, so staff would not be able to provide much information.

**Sue Salvesson moved to amend, to include the following provisions recommended by the Advisory Panel:**

**Initiate an analysis for a regulatory amendment to exempt CP trawl vessels that participate in the CGOA Rockfish pilot program cooperative or limited access sectors and also belong to a cooperative in the BSAI fisheries under Amendment 80 from the July stand-down period.**

**Initiate an analysis for a regulatory amendment to add an amount of halibut PSC to the Amendment 80 3<sup>rd</sup> quarter deep-water halibut PSC sideboard proportionate to the halibut available to the rockfish catcher-processor limited access and opt-out fisheries.** The motion was seconded.

During discussion, Council members discussed prioritization of these issues and determined that they should be analyzed in a separate amendment package in order not to delay action on the crab issues. With that understanding, the amendment carried without objection.

The main motion, as amended, carried without objection.

**Sam Cotten moved to initiate an analysis for a regulatory amendment to the GOA non-exempt AFA CV groundfish harvest sideboards for Pacific cod and pollock:**

- Option 1. Status quo**
- Option 2. Limit harvest to 2005-2007 catch history**
- Option 3. No sideboard limits**
- Option 4. No harvest allowed**

The motion was seconded.

**Dave Benson moved to amend to add a new option to expand the range of years: average harvests for 2001-2005.** The motion was seconded and carried without objection.

Lisa Lindeman, NOAA General Counsel, expressed concern with proposing elements and options before developing a purpose and need statement. Mr. Merrigan noted that the proposal has not yet been addressed by the Advisory Panel, and there were only two persons providing public comments. Mr. Fields noted that changes in the BSAI fisheries could have adverse effects on Gulf of Alaska fisheries and those possible effects should be considered.

Mr. Cotten's motion, as amended, carried, 6 to 5 (Benson, Bundy, Hyder, Tweit, and Merrigan voting against). In terms of priority, Mr. Cotten stressed that he's not asking that a high priority to be assigned to this analysis.

The final motion on GOA sideboards is found in Appendix V to these minutes.

C-3(c) GOA Pollock Trip Limit

**ACTION REQUIRED**

**Review the Gulf of Alaska Pollock Trip limit RIR/IRFA for consideration of final action**

**BACKGROUND**

In October, the Council reviewed the draft analysis of the Gulf of Alaska pollock trip limit. The Council requested that the draft be updated to include trawl pollock landings throughout the Gulf of Alaska (including areas 630 and 640). The revised draft, which was mailed out on November 9 and attached as Item C-3(c)(1), incorporates that change.

New information in the analysis shows increased instances where vessels participating in the Gulf of Alaska trawl pollock fishery made landings greater than 300,000 pounds (136 mt) during a calendar day. In the previous report, where only landings from management areas 610 and 620 were included, there were 187 instances where vessels made daily landings greater than 300,000 pounds over the period 1999-2006. When the analysis was extended to be Gulf-wide (including areas 630 and 640 - consistent with the wording in current regulation), the number of instances where daily trawl pollock landings greater than 300,000 pounds in a calendar day occurred increased to 241 over the period 1999-2006.

The Alaska Board of Fisheries has been considering action in State waters on the trip limit issue. At their November 2007 meeting in Homer, the Board of Fisheries passed a motion to introduce a new regulation with language similar to Alternative 2 (a) of the proposed Council action. Details of the Board of Fisheries action will be presented in B-4, but they did not include in their action the second portion (Alternative 2 (b)) of the Council's proposed action shown below.

*(b) The cumulative amount of pollock harvested from any GOA regulatory area landed by a trawl catcher vessel cannot exceed the daily trip limit of 136 metric tons times the numbers of calendar days the fishery is open in the respective regulatory area.*

At their November meeting, the Board of Fisheries received information from the State of Alaska Attorney General's Office expressing concern that the State would have difficulty enforcing the proposed regulation in 2 (b), since it includes both landings in State and Federal waters.

Alternative 1, the no action alternative, would continue the current trip limit regulation with no change. The language in Alternative 2 is intended to more effectively restrict trawl pollock harvests in the Gulf of Alaska and allow enforcement of the trip limit regulation as the Council intended when the limit was initially implemented.

At the October 2007 meeting, staff advised the Council that they intended to meet the National Environmental Policy Act (NEPA) requirements for this action through a Categorical Exclusion. An application was filed with NMFS on October 16, 2007, requesting a Categorical Exclusion Determination under NEPA for the proposed action. Council staff met with NMFS staff via teleconference on October 23<sup>rd</sup> to discuss this matter, and was advised that the exclusion would be appropriate in the opinion of the NOAA General Council's office. Therefore, NEPA considerations should not be an impediment to passage of this amendment.

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

The Committee received a report from Ken Hanson, NMFS-AKR, and noted that the regulatory language for the draft proposed rule relies on reporting areas, not regulatory areas, in order to better account for the location of the harvest.

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

The AP recommends the Council adopt Alternative 2 as its preferred alternative.

### **COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Jim Richardson (NPFMC), the Advisory Panel Report, and oral public comments on this issue.

**Sam Cotten moved to approve the recommendation of the Advisory Panel to adopt Alternative 2 as the Council's preferred alternative:**

#### **Alternative 2:**

**(a) Limit trawl catcher vessels in the Gulf of Alaska pollock fishery to landing no more than 136 metric tons, through any delivery means, in a calendar day – 12 AM to 12 AM (or 0001 hrs to 2400 hrs); and**

**(b) The cumulative amount of pollock harvested from any Gulf of Alaska regulatory area landed by a trawl catcher vessel cannot exceed the daily trip limit of 136 metric tons times the numbers of calendar days the fishery is open in the respective regulatory area.** The motion was seconded.

Mr. Cotten noted that the amendment addresses a problem with the existing regulations which were originally proposed to temporarily disburse pollock activity because of sea lion concerns. This action will close a loophole that has existed and is a refinement of current trip limits, dealing with technical issues.

**Sue Salveson moved to amend Alternative 2, option (b), to replace the word 'regulatory' in both places with the word 'reporting'.** [i.e., 'reporting area' instead of 'regulatory area'] The motion was seconded and carried without objection.

The main motion, as amended, carried unanimously.

C-3(d) CGOA Rockfish Post-delivery Transfers

### **ACTION REQUIRED**

**Final action on CGOA rockfish post-delivery transfers.**

### **BACKGROUND**

**At its June 2007 meeting, the Council adopted a draft purpose and need statement and alternatives to amend the Central Gulf of Alaska rockfish pilot program to permit the transfer of cooperative quota to cover overages after the time of landing. The provision would be intended to**

reduce the potential for enforcement actions related to unintended overages, in the event the fisherman can acquire shares to cover the overage within a reasonable time. In response to the Council's request, staff drafted an analysis of the alternatives for Council review. At its October 2007 meeting, the Council reviewed that analysis and directed staff to release it for public review and action at this meeting. The executive summary of the analysis follows.

#### Executive Summary

In March of 2007, fishing in the Central Gulf of Alaska rockfish fisheries began under a new share-based management program. Under this program, cooperatives receive annual allocations of rockfish and other species (including halibut prohibited species catch) based on the qualified catch histories of their members. These annual allocations are binding without provision to cover any overage or compensate for any underage. This action considers allowing harvesters to engage in post-delivery transfers of their respective shares to cover overages.

#### Purpose and need statement

The Council has adopted the following purpose and need statement for this action:

*Participants in the Central Gulf of Alaska rockfish fishery pilot program are permitted to join cooperatives, which receive annual allocations of cooperative quota, which provide exclusive privileges to catch specific numbers of pounds of Pacific ocean perch, northern rockfish, pelagic shelf rockfish, Pacific cod, sablefish, thornyhead rockfish, shortraker rockfish, rougheye rockfish, and halibut prohibited species catch. Any harvest in excess of a cooperative quota allocation is a regulatory violation punishable by confiscation of catch and other penalties. Since all catch is counted against cooperative quota, the uncertainty of catch quantities and composition creates potential for overages. A provision allowing for post-delivery transfer of cooperative quota to cover overages could reduce the number of violations, allowing for more complete harvest of allocations, and reduce enforcement costs without increasing the risk of overharvest of allocations.*

#### Alternatives

The Council has identified three alternatives for this action. Alternative 1 is the status quo, under which no post-delivery transfers are permitted. Any overage at the time of landing is considered a violation subject to a potential enforcement action. Under Alternative 2, post-delivery transfers are relatively unlimited. Post-delivery transfers of shares are permitted. The number of post-delivery transfers a person may receive and their size are not limited. Post-delivery transfers are limited to being used to cover overages. Two options for limiting the time period during which the transfer may be made are set out. Under the first, the transfer must take place within 30 days of the landing. Under the second, the transfer must take place by December 31<sup>st</sup>. Under Alternative 3, moderate limits are placed on post-delivery transfers. Post-delivery transfers are allowed exclusively to cover overages. Transfers are limited to five transfers of each species allocated. Any post-delivery transfer of a species, except halibut PSC, is limited to 25 metric tons. A transfer of halibut PSC are limited to 5,000 pounds. Two options limiting the time to make transfers are under consideration. Under the first, transfers are required to be made within 15 days of the landing with the overage. Under the second, transfers must be made by December 31<sup>st</sup>.

#### Effects of Alternative 1 (status quo)

Under the status quo alternative, all overages are subject to an enforcement action and penalty. No provision for post-delivery transfers to cover overage is made. Enforcement actions and penalties are at the discretion of agency enforcement officers and attorneys.

Since the program is in its first year, it is difficult to predict the extent to which participants will commit violations by overharvest of allocations. Each cooperative is limited by 7 or 8 species allocations (depending on the sector). As each cooperative approaches the end of its allocation, it is likely that some risk of overage will arise. End of year consolidation will be driven, in part, by the requirement that a vessel not begin a fishing trip without quota of all species. Allocations will likely be consolidated in one or two cooperatives with harvesters in those cooperatives making 'sweep up' trips to complete the season's harvests. Although consolidation of allocations in one

or two cooperatives can be used to avoid overages, it is likely that overages will occur periodically.

Under the status quo, no post-delivery transfers are permitted. Cooperatives that have an overage at the time of landing cannot make a transfer to cover that overage. Processors are generally unaffected by this provision, since the overage charged to the harvester will not affect the processor's operations. Minor enforcement burdens are expected under the status quo, as few overages are likely to occur.

**Effects of Alternative 2 (unlimited post-delivery transfers)**

Alternative 2 would establish a system of almost unlimited post-delivery transfers to cover overages. Despite the absence of limits, the provision is likely to be used in a limited way. Participants are only likely to rely on the provision for unintended small overages. In most cases, these transfers could be, to some extent, prearranged through an inter-cooperative that has formed in the catcher vessel sector. The number of overages at the time of landing could be slightly higher than under the status quo, if participants gain confidence that they will be able to cover the overage with a prearranged transfer. Overages not covered with a transfer and subject to penalty should be fewer than under the status quo, since the provision will allow participants to address some overharvest with transfers.

Since the rockfish fishery has relatively few cooperatives that hold shares and the shore-based sector is well-organized through the inter-cooperative agreement, quota are likely to be closely tracked throughout the season. The inter-cooperative is likely to contribute to more stable and predictable prices for post-delivery transfers. Although punitive lease rates will likely apply to large overages, lease rates for minor, infrequent overages are likely to be at a reduced rate.

The Council motion includes two options defining the time during which post-delivery transfers must be completed. Under the first option, a post-delivery transfer must be made within 30 days of the overage. The second option would require the overage to be covered by December 31<sup>st</sup>. Establishing a time limit based on the date of the overage might be supported to avoid harvesters believing that the extended period allows substantial time for finding shares to cover an overage. A lengthy period for covering an overage could lead the cooperative to unreasonably delay finding shares to cover the overage, which could result in more uncovered overages. On the other hand, the potential cost of overage penalties is likely to deter most cooperatives from delaying covering an overage. Delaying obtaining a post-delivery transfer needed to cover an overage until shares are unavailable for that transaction is unlikely to be a persistent problem.

Processors will be affected by this alternative in a few minor ways. Under the program, shore-based cooperatives are permitted to transfer allocations to other shore-based cooperatives. Any cooperative transfer requires the consent of the associated processor. This requirement, together with the requirement that cooperative formation requires consent of the associated processor, ensures the associated processor's involvement in inter-cooperative transfers (including those undertaken to cover overages).

Two factors should limit the effects of post-delivery transfers on processors. First, any unexpected transfers are likely to be for relatively small amounts of catch, limiting their effect on processors. Second, any larger post-delivery transfer is likely to be prearranged with the processor's involvement in the negotiation. A processor is unlikely to approve a transfer that it views as relevant, in the absence of compensation. Although this processor involvement in transactions is likely to complicate transactions for harvesters, the need for processor consent will ensure that transfers are not detrimental to processors.

The increase in administrative and record keeping requirements to address post-delivery transfers is somewhat limited. Yet, changes in the timing of administrative decisions and processes will pose challenges. In general, NOAA Fisheries will oversee share accounts and share usage, maintaining a record of any overage. Instead of referring overages to NOAA



Fisheries Office of Law Enforcement immediately, that notice would defer reporting until the time permitted to cover the overage with a post-delivery transfer has lapsed. Under the option that limits the time to cover overages from the date of landing (i.e., 30 days from the landing), overages would be reported on a rolling basis as overages become final (or the time to cover the overage lapses). Basing the limitation on the time from the landing could contribute to disputes. The burden of timing these notices is expected to be minor. Overall, allowing post-delivery transfers should reduce the number of enforcement actions prosecuting overages, since cooperative will have the opportunity to acquire shares to correct the pending violation.

**Alternative 3 (moderately limited post-delivery transfers)**

Alternative 3 is similar to Alternative 2, but imposes a few additional restrictions on post-delivery transfers. The effects of the two alternatives are largely the same, except for differences arising from these additional restrictions. The limits are likely sufficient to cover an unintentional overage arising from a single tow. In some instances, it is possible (although unlikely) that an overage arising from a single tow could exceed a limit. The thresholds could be effective in deterring unreasonable reliance on the post-delivery transfer ability to cover an excessive overage. Yet, the possibility of unreasonable reliance on a speculative post-delivery transfer to cover an excessive overage is limited. Participants are likely to realize that the cost of covering an overage will rise with the magnitude of the overage. This alternative would also limit each cooperative to five post-delivery transfers per species. This limit would allow a vessel to make up to five independent trips with an overage of a species. Although it is possible that a cooperative could have multiple overages of a species, it is unlikely that the limit of five post-delivery transfers would be constraining. This alternative includes the same two options for defining the time for completing a post-delivery transfer as Alternative 2. Neither option is likely to constrain effectiveness of the provision.

The effects of this alternative on processors and management and enforcement are likely to be the same as the effects of Alternative 2.

**Net benefits to the Nation**

A minor overall net benefit to the Nation is likely to arise from this action. The action is likely to reduce the number of overages by allowing participants to use post-delivery transfers. The risk of increasing the magnitude of any overage is also limited, since enforcement actions and the associated penalties are likely to deter careless overharvest of allocations. The action has the potential to reduce administrative and enforcement costs by reducing the number of enforcement actions for overages.

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

**Report of the Advisory Panel**

The AP recommends the Council select the following as its preferred alternative:

**Alternative 2 – Unlimited post-delivery transfers**

**Purpose of post-delivery transfers**

Post-delivery transfers would be allowed exclusively to cover an overages.

**Shares used for post-delivery transfers**

Post-delivery transfers of the following shares are permitted:

- catcher vessel CQ
- catcher processor CQ

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

Limits on the time to undertake a post-delivery transfer

Suboption: All post-delivery transfers must be completed by December 31<sup>st</sup>.

**COUNCIL DISCUSSION/ACTION**

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

The Council received a staff report from Mark Fina (NPFMC), the Advisory Panel report, and oral public comments on this issue.

**Ed Dersham moved to adopt Alternative 2, unlimited post-delivery transfers for the Gulf of Alaska Rockfish Pilot Program.**

Purpose of post-delivery transfers

**Post-delivery transfers would be allowed exclusively to cover overages.**

Shares used for post-delivery transfers

**Post-delivery transfers of the following shares are permitted:**

**catcher vessel CQ**

**catcher processor CQ**

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

Limits on the time to undertake a post-delivery transfer

**Suboption: All post-delivery transfers must be completed by December 31<sup>st</sup>**

**No cooperative shall be permitted to begin a fishing trip unless the cooperative holds unused CQ.**

The motion was seconded by Ed Rasmuson and carried unanimously.

In support of the motion, Mr. Merrigan pointed out that Alternative 3 would have imposed more restrictions on industry without any appreciable gain and would require more enforcement. Alternative 2 addressed the problem statement and needs identified during public comment.

**C-4      LLP Trawl Recency**

Because of time constraints, this agenda item was delayed until the February 2008 Council meeting. The SSC and AP received staff reports on this issue. The comments and recommendations can be found in the SSC and AP Minutes, Appendices VI and VII, respectively, to these minutes.

**C-5      Amendment 80**

**ACTION REQUIRED**

**Initial review of the analysis**

**BACKGROUND**

At its October 2007 meeting, the Council adopted a draft purpose and need statement and alternatives to amend the Amendment 80 program to permit (1) transfer of cooperative quota to cover overages after the time of landing and (2) rollovers of Amendment 80 limited access allocation that is projected to be unharvested to the Amendment 80 cooperatives. The post-delivery transfer provision would be intended to reduce the potential for enforcement actions related to unintended overages, in the event a cooperative can acquire shares to cover an overage within a reasonable time. The rollovers of projected unharvested Amendment 80 limited access allocations to Amendment 80 cooperatives would be intended to reduce unharvested species allocations to ensure the TAC is utilized to the fullest extent practicable. In response to the Council's request, staff drafted an analysis of the alternatives for Council review. At this meeting the Council will decide whether the analysis, Item C-5(a), is sufficient to be released for public review.

**Report of the Scientific and Statistical Committee**

The SSC provided several recommendations to staff for revisions to the analysis before it is released for public review. Please see the SSC Minutes, Appendix VI to these minutes, for the entire set of recommendations.

**Report of the Advisory Panel**

The AP recommends the Council release the analysis for public review and final action in February. The AP further recommends the Council adopt the following as its preliminary preferred alternative:

Post Delivery Transfers: Alternative 2

Rollovers: Alternative 2

No 5% deduction at time of rollover

**COUNCIL DISCUSSION/ACTION**

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

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

**Earl Krygier moved to approve the recommendations of the Advisory Panel (see above).** The motion was seconded by Dave Benson and carried without objection.

Mr. Fields asked staff about the possibility that an owner of multiple vessels could place some vessels in a co-op and others in the open access to close that fishery by aggressively fishing to close it by bycatch in some species, thus allowing potentially more valuable species to roll over into the co-op fishery. Mr. McCracken stated that is a potential scenario. Mr. Fields suggested that there should be further analysis of this possibility before moving the analysis out for public review, perhaps including a provision that

would require an owner to join a cooperative with all his economic interests in the fishery, or join the open access fishery. Staff indicated that option could potentially take a lot of analytical work and may slow progress on the amendment.

Mr. Benson pointed out that a similar provision was included in the proposed rule for Amendment 80 generating a lot of industry opposition and it was subsequently changed in the Final Rule. The Council had the opportunity to address that provision during that public comment period and chose not to. Mr. Benson noted that there were a couple of other issues mentioned that had been brought up during public comment and if the Council wishes, it could include this issue with those and initiate a separate amendment package instead of delaying the current one with addition options for analysis.

#### **C-6 Observer Program**

This agenda item was deferred to the February 2007 meeting because of time constraints. The SSC and AP received staff reports on this issue. Their comments and recommendations can be found in the SSC and AP Minutes, Appendices VI and VII, respectively, to these minutes.

#### **C-7 AFA Permit Application**

##### **ACTION REQUIRED**

**Consider request for approval of unrestricted AFA processing permit**

##### **BACKGROUND**

In October the Council was requested by Adak Fisheries LLC to review an application for an unrestricted AFA processor permit (Item C-7(a)). The relevant statutory provision and regulations outlining this process are included as Item C-7(b). In essence, NMFS may grant such a permit application only upon recommendation by the Council to do so. The Council may only make such recommendation when the combined BSAI TAC for pollock, in any year, exceeds 1,274,900 mt, or upon the actual total or constructive loss of an existing AFA processor, and after providing an opportunity for public comment. The regulations also allow the Council to establish additional procedures for review and approval of such permit requests.

While the upcoming ABC for pollock appears at this time to fall below the threshold, the literal wording of the regulations allow the Council to consider a request "*at any time prior to or during a fishing year*" in which the TAC exceeds the threshold (as it does in 2007). The regulations go on to specify that the Council will establish the duration of the permit, which "*may be for any duration.....or the Council could recommend that a permit issued under this paragraph remain valid as long as the TAC remains above the threshold (for example)*".

In summary, this means that the Council could recommend issuance of a permit at this meeting, even though the TAC for the coming fishing year would appear at this time to be well below the threshold referenced in regulation. The regulations do not specify what the Council must consider before making a recommendation, only that the Council provide opportunity for public comment. The Council may wish to have some kind of analysis before it considers such a permit request, but that is the prerogative of the Council. NMFS however will need to have an appropriate analysis (such as a NEPA document) before approving any Council recommendation for a permit, as that would constitute a federal action.

There also appear to be serious implementation aspects, in terms of timing of such a permit approval relative to cooperative contracts already in place, but these have not been fully assessed by staff. The Council could choose to discuss these issues at this meeting, including the process for reviewing such requests in the future, including establishment of any additional

procedures which the Council has the authority to establish under the regulations. Or the Council could request that a more detailed discussion paper be prepared to better flesh out these issues for future reference. If the Council were to recommend that a permit be approved, it is likely that NOAA Fisheries would have to flesh out many of these details before considering whether to approve the permit. Item C-7(c) is a letter from NOAA Fisheries with further explanation of the process and issues.

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

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

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

Chris Oliver, Council Executive Director, reviewed the action memo and the Council received oral public comments. After reviewing the proposal and regulatory language, the Council elected to take no action on the application. There was concern that the proposal had not gone through Council analysis and review normally undertaken for changes in regulations. Additionally, some Council members felt that approving this request would not necessarily conform to the intent of the original Congressional action. It was pointed out, however, that the community of Adak has tried on several occasions to propose various solutions to the challenges it faces and that the Council should make an effort to work with Adak to achieve the goals they have set out.

#### **D. GROUND FISH MANAGEMENT**

##### **D-1(a) BSAI Salmon Bycatch**

#### **ACTION REQUIRED**

**Review salmon bycatch EFP results; Receive Salmon Bycatch Workgroup Report and refine alternatives for analysis; Review Notice of Intent and take action as necessary**

#### **BACKGROUND**

##### **Salmon Bycatch EFP results**

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

1. Number of salmon taken by species during the experiment
2. Estimated number of salmon avoided as demonstrated by the movement of fishing effort away from salmon hot-spots.

A separate report on compliance/enforcement will be presented to the Council in February and will include the results of an external audit to be performed by Alaska Biological Research.

##### **Salmon Bycatch Analysis Alternatives**

The Council is in the process of refining alternatives for a forthcoming salmon bycatch reduction amendment package for the BSAI pollock fishery. The current suite of alternatives was last revised by the Council in June 2007, when a request was made to the Salmon Bycatch Workgroup to provide input to the Council on further refinement of these alternatives. The Salmon Bycatch Workgroup has met twice since that time to provide their recommendations to the Council. The Council revised the problem statement for the analysis at their October 2007 meeting. The problem statement and the existing suite of alternatives are attached as Item D-1(a)(1). In

October, the Council moved forward with suggested revisions to the cap formulation options under the alternative structure and proposed that consideration be given to subdivision of any such cap by sector or within sectors by cooperatives as applicable. The Council did not move to refine the alternatives in this manner at that time however, and instead referred discussion of the refinements to the Council's Salmon Bycatch Workgroup for their input prior to the December meeting. The Salmon Bycatch Workgroup thus convened a meeting on November 2, 2007 in order to review the Council's October motion and discuss where the cap formulation options differed from the Salmon Bycatch Workgroup's August 2007 recommendations, as well as to discuss the proposed sector split on a salmon cap in the pollock fishery. The report from the Salmon Bycatch Workgroup is attached as Item D-1(a)(2). The full October 2007 Council motion is appended to that report.

A discussion paper from staff is attached as Item D-1(a)(3). The discussion paper provides information to assist the Council with refinement of alternatives at this meeting, relative to the following:

1. **Cap formulation:** Distinctions between the proposed cap limits and ranges per the Salmon Bycatch Workgroup's August 29 recommendations to the Council and the Council's October motion.
2. **Sector split on salmon cap:** Proposed cap limits by sector per Council October motion, the potential catch constraint implications by sector, and length-frequency data for salmon bycatch by sector per Salmon Bycatch Workgroup November 2 request.
3. **Area closure options:** Candidate closure options for incorporation into the alternatives.

The Council will review both the report from the workgroup, as well as the discussion paper by staff, and further refine alternatives as necessary.

#### Notice of Intent

In conjunction with the agency's recommendation that the NEPA documentation to analyze the forthcoming amendment package will be an Environmental Impact Statement (EIS), and the necessity of informing the public to that extent, the agency has drafted a Notice of Intent (NOI). The NOI must include a description of the proposed action, possible alternatives to the proposed action, and a description of the scoping process. The draft NOI was mailed to the Council on November 14<sup>th</sup>, and a copy is attached as Item D-1(a)(4). The action before the Council with respect to this NOI is to review the description of the proposed action, the preliminary range of salmon bycatch management alternatives, and the preliminary identification of issues to be analyzed as noted therein, in order to ensure that the Council and the agency have a similar understanding of these issues. Provided the Council concurs on the NOI as drafted, NMFS will publish this and begin the scoping period. This scoping period would end in February 2008.

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

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

The AP recommends the Council adopt the problem statement and move forward the analysis and alternatives proposed by the Salmon Bycatch Workgroup in their May and August 2007 meetings and as described on pages 1 and 2 of D-1 (a)(1) and pages 3 and 4 of D-1 (a) (3) with the following changes:

Option B) Cap formulation based on:

1. Establish cap based on:
  - a. Average historical bycatch;
    - i. 3 years (2004-2006)
    - ii. 5 years (2002-2006)

iii. 10 years (1997-2006)

~~Option: Drop 2000~~

**Suboption: drop lowest year**

**Suboption: drop highest year**

- b. Percentage increase of :
  - i. Historical average
    - 1. 10%
    - 2. 20%
    - 3. 30%
  - ii. Highest year
    - 1. 10%
    - 2. 20%
    - 3. 30%
- 2. Set cap relative to salmon returns:

Recommend that analysts prepare draft language to better characterize on-going investigations by analysts here for presentation to the Council in October
- 3. Incidental Take Permit amount
- 4. International treaty considerations
  - a. Average historical bycatch pre-2002
    - i. 3 years (1999-2001)
    - ii. 5 years (1997-2001)
    - iii. 10 years (1992-2001)
  - b. Percentage decrease of historical averages:
    - i. 10% decrease
      - 1. 3 years (1999-2001)
      - 2. 5 years (1997-2001)
      - 3. 10 years (1992-2001)
    - ii. 20% decrease
      - 1. 3 years (1999-2001)
      - 2. 5 years (1997-2001)
      - 3. 10 years (1992-2001)
    - iii. 30% decrease
      - 1. 3 years (1999-2001)
      - 2. 5 years (1997-2001)
      - 3. 10 years (1992-2001)

The AP also recommends adding an option to the alternatives for new closures that would allow for an exemption such as the one currently implemented under amendment 84 for the fleet to these new closures.

Delete Element 4 from the elements and options.

Additionally, the AP recommends adding an option to divide the final cap by sectors (50% shore based CV fleet; 10% for the mothership fleet and 40% for the offshore CP fleet). The sector allocations of Chinook salmon bycatch will be divided up by Pollock coops within each sector based upon the percent of total sector Pollock catch their coop allocation represents. When the Chinook salmon coop cap is reached, the coop must stop fishing for pollock and may lease their remaining Pollock to another coop (inter-cooperative transfer) within their sector for that year (or similar method to allow Pollock harvest with individual coop accountability.)

The analysis will consider equal treatment by the CDQ program under each alternative. The intent is that any alternative under consideration would be no more restrictive than the other options to CDQ.

### COUNCIL DISCUSSION/ACTION

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

The Council received staff reports from Diana Stram (NPFMC) and Jason Anderson (NMFS-AKR), the Advisory Panel report, and oral public comments on this issue.

**Earl Krygier moved to approve the recommendations of the Advisory Panel, with the following changes:**

**The ~~AP recommends~~ the Council adopts the problem statement and move forward the analysis and alternatives proposed by the Salmon Bycatch Workgroup in their May and August 2007 meetings and as described on pages 1 and 2 of D-1 (a)(1) and pages 3 and 4 of D-1 (a) (3) with the following changes:**

#### **Option B) Cap formulation based on:**

##### **1. Establish cap based on:**

###### **1- Average historical bycatch;**

- i. 3 years (2004-2006)**
- ii. 5 years (2002-2006)**
- iii. 10 years (1997-2006)**

**Suboption: drop lowest year**

**Suboption: drop highest year**

###### **2- Percentage increase of :**

###### **i. Historical average (3 years, 2004-2006)**

- 1. 10%**
- 2. 20%**
- 3. 30%**

###### **ii. Highest year, pre-2007**

- 1. 10%**
- 2. 20%**
- 3. 30%**

##### **2. Set cap relative to salmon returns:**

**Recommend that analysts prepare draft language to better characterize on-going investigations by analysts here for presentation to the Council in October**

##### **3. Incidental Take Permit amount**

##### **4. International treaty considerations**

###### **1- Average historical bycatch pre-2002**

- i. 3 years (1999-2001)**
- ii. 5 years (1997-2001)**
- iii. 10 years (1992-2001)**

###### **~~2- Percentage decrease of historical averages:~~**

###### **~~i. 10% decrease~~**

- ~~1. 3 years (1999-2001)~~**
- ~~2. 5 years (1997-2001)~~**
- ~~3. 10 years (1992-2001)~~**



- ~~ii. 20% decrease~~
  - ~~1. 3 years (1999-2001)~~
  - ~~2. 5 years (1997-2001)~~
  - ~~3. 10 years (1992-2001)~~
- ~~iii. 30% decrease~~
  - ~~1. 3 years (1999-2001)~~
  - ~~2. 5 years (1997-2001)~~
  - ~~3. 10 years (1992-2001)~~

~~The AP also recommends adding~~ Add an option to the alternatives for new closures that would allow for an exemption such as the one currently implemented under amendment 84 for the fleet to these new closures.

~~Delete Element 4 from the elements and options.~~

~~Additionally, the AP recommends adding~~ Add an option to divide the final cap by sectors based upon:

Option 1. 50% shore based CV fleet; 10% for the mothership fleet, and 40% for the offshore CP fleet).

Option 2: historical average of percent bycatch by sector

~~The sector allocations of Chinook salmon bycatch will be divided up by Pollock coops within each sector~~ Add another option to further subdivide sector allocation by cooperative based upon the percent of total sector Pollock catch their coop allocation represents. When the Chinook salmon coop cap is reached, the coop must stop fishing for pollock and may lease their remaining pollock to another coop (inter-cooperative transfer) within their sector for that year (or similar method to allow Pollock harvest with individual coop accountability) or purchase salmon bycatch from other cooperatives.

The analysis will consider equal treatment by the CDQ program under each alternative. The intent is that any alternative under consideration would be no more restrictive than the other options to CDQ.

The Council also approves publication of the draft Notice of Intent prepared by NMFS.

The motion was seconded by Gerry Merrigan and carried without objection. The final motion is found in Appendix VIII to these minutes.

#### **D-1(b) VMS Exemption for Dinglebar Gear**

This agenda item was deferred to the February 2008 Council meeting because of time constraints. The Advisory Panel and Enforcement Committee received the staff report on this issue. Comments and recommendations of those panels can be found in Appendices VII and IX, respectively, to these minutes.

#### **D-1(c) Other Species Management**

This agenda item was deferred to the February 2008 Council meeting because of time constraints.

#### **D-1(d) Final BSAI 2008/09 Groundfish Specs/SAFE**

### **ACTION REQUIRED**

Final action to approve the 2007 BSAI Stock Assessment and Fishery Evaluation (SAFE) report and final BSAI groundfish harvest specifications for 2008 and 2009:

1. Acceptable Biological Catch (ABC) and annual Total Allowable Catch (TAC)
2. Prohibited Species Catch Limits and seasonal apportionments of Pacific halibut, red king crab, Tanner crab, opilio crab, and herring to target fishery categories

## BACKGROUND

At this meeting, the Council is scheduled to make final recommendations on groundfish and PSC specifications to manage the 2008 and 2009 Bering Sea/Aleutian Islands (BSAI) groundfish fisheries.

**BSAI SAFE Report** Since 2005, the Council has recommended ABCs and TACs for the next two fishing years and allows the preparation of updated assessments for species whose assessments are dependent largely on data from the EBS slope survey and the Aleutian Islands shelf survey. These surveys are conducted only in even-numbered years; therefore, the BSAI SAFE report does not contain new assessments for five rockfish categories.

The BSAI Groundfish Plan Team met in Seattle on November 13-17, 2007, to prepare the BSAI Groundfish SAFE report. The SAFE report forms the basis for BSAI groundfish harvest specifications for the 2008 and 2009 fishing years. The introduction to the BSAI SAFE report was mailed to the Council and Advisory Panel in late November 2007. The full report was mailed to the SSC.

The BSAI Groundfish Plan Team final recommendations for 2008 and 2009 are under Item D-1(d)(1). In September, preliminary projections of ABC and OFL were made on the basis of last year's stock assessments (Item D-1(d)(2)). In this SAFE report, the Plan Team has revised most of those projections. Such revisions are typically due to the development of new models; collection of new catch, survey, age composition, or size composition data; or use of new methodology for recommending ABCs. The SSC and AP recommendations will be provided to the Council during the meeting.

**ABCs, TACs, and Apportionments** The BSAI Groundfish Plan Team recommended OFLs and ABCs for 2008 and 2009. The sums of the recommended ABCs for 2008 and 2009 are 2,440,000 t and 2,560,000 t, respectively. They are approximately 236,000 t and 118,000 t below the sum of the 2007 ABCs. However, these values still exceed the 2 million t cap set by the Council as a conservation measure in setting TACs. Overall, the status of the stocks continues to appear favorable, although many stocks are declining due to poor recruitment in recent years. The total biomass of 16.6 million t for 2008 declined by 300,000 t from 2007.

Overall groundfish exploitable biomass is high but declining, especially for pollock and Pacific cod. The bottom trawl survey biomass estimate for pollock in 2007 was 4.3 million t, only 87% of the long-term mean of the bottom-trawl survey. The 2007 echo-integration (EIT) survey biomass estimate was 1.88 million t, only 55% of the long-term mean for this survey. Both surveys indicate that the 2006 year class is strong and that the 2005 year class is now apparently below average. The biomass estimate from the 2007 bottom trawl survey for Pacific cod of 424,000 t is down about 18% from the 2006 estimate, and is the all-time low. Plan Team ABC recommendations are trending down for gadoids, but generally up for flatfishes. The abundances of AI pollock, sablefish, all rockfishes, all flatfishes, and Atka mackerel are projected to be above target stock size. The abundances of EBS pollock and Pacific cod are projected to be below target stock size.

The 2004 Consolidated Appropriations Act requires the Council to allocate pollock TAC to the Aleut Corporation for a directed pollock fishery in the Aleutian Islands. Starting in 2005, the Council has recommended a separate Total Allowable Catch (TAC) level of 19,000 t for the AI

fishery. A mandatory 10% CDQ allocation (1,900 t) and an incidental catch allowance (ICA) of 1,600 t to cover bycatch of pollock in other AI fisheries are deducted from the TAC. The result is a directed pollock fishery allocation for the Aleut Corporation of 15,100 t. The Council has notified its intent to examine the ICA amount in recommending future AI pollock TACs.

**Adopt prohibited species catch limits for Pacific halibut, crab, and herring**

Beginning in 2008, the head and gut trawl catcher/processor sector, which targets flatfish, Pacific cod, and Atka mackerel, will be allocated groundfish TACs and PSCs among members of the "Amendment 80" sector that joined a cooperative. Regulations now require that crab and halibut trawl PSC be apportioned between the BSAI trawl limited access and Amendment 80 sectors after subtraction of prohibited species quota (PSQ) reserves, as presented in Table 7a for proposed 2008 and 2009 PSCs under Item D-1(d)(3). Crab and halibut trawl PSC assigned to the Amendment 80 sector is then sub-allocated to Amendment 80 cooperatives as PSC cooperative quota (CQ) and to the Amendment 80 limited access fishery as presented in Tables 7d and 7e. PSC CQ assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. Regulations require the apportionment of each trawl PSC limit not assigned to Amendment 80 cooperatives be assigned into PSC bycatch allowances for seven specified fishery categories.

The Council may revise the proposed 2008 and 2009 fishery category allocations for the BSAI trawl limited access and the Amendment 80 limited access sectors as shown in Tables 7b, 7c, and 7e. Specifications for PSCs as shown in Tables 7a and 7d are fixed.

**Halibut Trawl Fisheries:** A 3,675 t limit on halibut mortality has been established for trawl gear. This limit can be apportioned to the trawl fishery categories as shown in the adjacent box.

**Halibut Fixed Gear Fisheries:** A 900 t non-trawl gear halibut mortality limit can be apportioned to the fishery categories listed in the adjacent box. Beginning in 2008, Amendment 85 divides the halibut PSC limit for the hook-and-line Pacific cod fishery between the hook-and-line CP and CV sectors (CVs ≥60 ft (18.3 m) LOA and CVs <60 ft (18.3 m) LOA combined).

The Council can provide varying amounts of halibut PSC by season to each sector, tailoring PSC limits to suit the needs and timing of each sector.

**Crab:** Since 1997, prescribed bottom trawl fisheries in specific areas are closed when PSC limits of *C. bairdi* Tanner crab, *C. opilio* crab, and red king crab are taken. A stair step procedure for determining PSC limits for red king crab taken in Zone 1 trawl fisheries based on abundance of Bristol Bay red king crab has been in place. Based on the 2007 estimate of effective spawning biomass of 73 million pounds, the PSC limit for 2008 is 197,000 red king crabs. Up to 25% of the red king crab PSC limit can be used in

Categories used for prohibited species catch	
<b>Trawl fisheries</b>	
1.	Greenland turbot, arrowtooth flounder and sablefish
2.	rock sole, flathead sole, and "other flatfish"
3.	yellowfin sole
4.	rockfish
5.	Pacific cod
6.	pollock, Atka mackerel and "other species"
<b>Non-trawl fisheries</b>	
1.	Pacific cod
2.	other non-trawl (longline sablefish and rockfish, and jig gear)
3.	groundfish pot (exempt in recent years)

PSC limits for red king crab and <i>C. bairdi</i> Tanner crab			
Species	Zone	Crab Abundance	PSC Limit
Red King Crab	Zone 1	< threshold or 14.5 million lb effective spawning biomass (ESB)	33,000
		> threshold, but < 55 million lb of ESB	97,000
		> 55 million lb of ESB	197,000
Tanner Crab	Zone 10	10-150 million crabs	0.5% of abundance
		150-270 million crabs	750,000
		270-400 million crabs	850,000
		> 400 million crabs	1,000,000
Tanner Crab	Zone 20	175-290 million crabs	1.2% of abundance
		290-400 million crabs	2,100,000
		290-400 million crabs	2,550,000
		> 400 million crabs	3,000,000

the 56° - 56°10'N strip of the Red King Crab Savings Area. The red king crab cap has generally been allocated among the pollock/mackerel/other species, Pacific cod, rock sole, and yellowfin sole fisheries.

PSC limits for *bairdi* in Zones 1 and 2 have been based on total abundance of *bairdi* crab as indicated by the NMFS trawl survey. Based on 2007 abundance (787 million crab), and an additional reduction implemented in 1999, the PSC limit in 2008 for *C. bairdi* will be 980,000 (1,000,000 minus 20,000) *bairdi* crab in Zone 1 and 2,970,000 (3,000,000 minus 30,000) crab in Zone 2.

Since 1998, PSC limits for snow crab (*C. opilio*) are based on total abundance of *opilio* crab as indicated by the NMFS standard trawl survey. The snow crab PSC cap is set at 0.1133% of its abundance index, with a minimum PSC of 4.5 million snow crab and a maximum of 13 million snow crab. This number was further reduced by 150,000 crab in 1999. The 2007 survey estimate of 3.33 billion crabs results in a 2008 *opilio* crab PSC limit of 3,775,156 crabs, if left unadjusted. However, the crab FMP mandates a minimum of 4,350,000 snow crab. Snow crab taken within the "Snow Crab Bycatch Limitation Zone" accrues toward the PSC limits established for individual trawl fisheries.

**Herring:** In 1991, an overall herring PSC bycatch cap of 1 percent of the EBS biomass of herring was implemented. This cap is apportioned to the seven PSC fishery categories. Annual herring assessments indicate there will be very little change in the Bering Sea herring PSC limit for 2008. The herring biomass estimate for spring 2007 for the eastern Bering Sea was 178,652 t. The corresponding herring PSC limit for 2007 at 1% of this amount was be 1,787 t. ADF&G will provide the 2008 herring biomass estimate at the meeting.

**Seasonal apportionment of bycatch limits** The Council may also seasonally apportion the bycatch allowances. Regulations require that seasonal apportionments of bycatch allowances be based on information listed in the adjacent box.

**Halibut discard mortality rates** Halibut bycatch mortality rates for the 2007-2009 open access fisheries were adopted by the Council in October 2006. In October 2007, the Council adopted International Pacific Halibut Commission staff recommendations for DMRs for the 2008 BSAI CDQ fisheries (shown in the summary table below). Rates for CDQ fisheries will likely be set on a 3-year cycle when the next cycle commences for the non-CDQ fisheries in 2009 for 2010-2012.

**Factors to be considered for seasonal apportionments of bycatch allowances.**

1. Seasonal distribution of prohibited species;
2. Seasonal distribution of target groundfish species relative to prohibited species distribution;
3. Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;
4. Expected variations in bycatch rates throughout the fishing year;

**Minutes from the BSAI Groundfish Plan Team meeting will be distributed at the meeting.**

CDQ Fisheries	
Gear/Target	Recommended DMR
<i>Trawl</i>	
Atka mackerel	85
Bottom pollock	86
Rockfish	82
Flathead sole	87
Pelagic pollock	90
Rock sole	86
Yellowfin sole	86
<i>Pot</i>	
Sablefish	34
<i>Longline</i>	
Pacific cod	10
Turbot	4

**Report of Scientific and Statistical Committee**

The SSC concurred with the Plan Team on OFLs and ABCs for all BSAI species with the exceptions of Pacific cod and skates (in the Other Species complex). With regard to Pacific cod, the SSC noted that the assessment of Pacific cod is very challenging and is still a work in progress. The SSC noted that while the recent trawl survey trend has been downward and the present biomass is low relative to the mid-1980s, the model indicates that the spawning biomass will be on an upward trend from 2008. Therefore, the SSC recommends keeping the ABC and OFLs at the 2007 levels for 2008 and 2009.

With regard to skates, the SSC disagreed with the Plan Team authors' recommendation to move Alaska skates under Tier 3 because of concerns with the ongoing skate assessment, discussed at the SSC's October 2006 meeting. Therefore the SSC recommended an OFL of 50,100 mt, and an ABC of 37,600 mt for skates for 2008/09.

The SSC provided more detailed comments on several BSAI groundfish species assessments and recommendations for assessment authors. Please see the SSC Minutes, Appendix VI to these minutes, for those comments.

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

The AP recommends the Council approve the SAFE and adopt final specifications for 2008-2009 OFLs, ABCs and TACs as shown in the attached table (see the AP Minutes, Appendix VII to these minutes for Advisory Panel recommendations).

Additionally, the AP recommends rolling over the 2008 TACs for 2009, and in cases where the 2008 TAC exceeds the 2009 ABC, TAC shall be set at ABC.

The AP recommends the Council adopt the:

- 2008-2009 apportionment of PSC allowances to non-trawl gear, CDQ, AM 80 and the BSAI trawl limited access sectors
- 2008-2009 herring and red king crab sub-area PSC allowances for all trawl sectors
- 2008-2009 PSC allowances for the BSAI trawl limited access sector and non-trawl fisheries,
- 2008-2009 PSC allowances for the BSAI AM 80 limited access sector

As noted in the attached tables.

### **COUNCIL DISCUSSION/DISCUSSION**

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

The Council received a staff report from Jane DiCosimo (NPFMC) and a review of the status of BSAI groundfish stocks from Drs. Loh-lee Low and Jim Ianelli, AFSC, as well as reports from the SSC and AP, and oral public comments on this agenda item.

**Gerry Merrigan moved to approve the 2008/09 BSAI OFLs/ABCs/TACs as recommended by the SSC and Advisory panel, with the exception of the TAC for the Other Species complex which would be set at 40,000 mt for 2008/09.** The motion was seconded.

Mr. Merrigan noted that his recommendation for the Other Species category is meant to ensure that no directed fishery occurs in the Other Species complex but not to constrain incidental harvest allocations.

**Bill Tweit moved to amend the motion to change the 2008 TAC for yellowfin sole from 205,000 mt to 225,000 mt.** The motion was seconded and carried without objection.

Mr. Tweit noted that the increase proposed is still under the ABC and OFL recommended by the Plan Team and SSC. The proposed increase is intended to address possible uses of yellowfin sole discussed during the Amendment 80 process and in the final Amendment 80 package. The increased TAC would be for 2008 in order to allow time to assess the situation before considering a similar increase for 2009. Mr. Tweit suggested a mid-year update on the fishery.

**Dave Benson moved to amend the main motion to set the 2008 TAC for the Other Species complex be set at 50,000 mt and to advise NMFS that the Council prefers that the complex be managed to ensure it is a bycatch only fishery.** The motion was seconded and carried without objection. Mr. Benson noted that flatfish TACs are increased from last year, in some cases quite substantially, and he wishes to assure that incidental catch needs can be met in those fisheries.

**John Bundy moved to increase arrowtooth flounder TAC from 50,000 mt to 75,000 mt for 2008 and 2009.** The motion was seconded and carried without objection.

Mr. Bundy noted that his intent is not to encourage a directed fishery on arrowtooth flounder but to avoid possible constraints in the prosecution of CDQ fisheries.

Mr. Tweit pointed out that the Council is acting conservatively and that even with the recommended changes to the TACs the total BSAI TAC is about 1.85 million while the ABC is 2.47 million. Additionally, the pollock cooperative industry has been able to anticipate and plan for the current downturn in pollock abundance.

The main motion, as amended, carried unanimously.

**Gerry Merrigan moved to approve the 2008/09 BSAI PSC and seasonal apportionments of halibut, crab and herring (as noted on Tables 7a, 7b, and 7c – as amended to 593 mt for P. cod halibut mortality under trawl limited access fishery) as recommended by the Advisory Panel (see AP Minutes, Appendix VII to these minutes), and to change the halibut mortality under non-trawl fisheries to change the seasonal apportionment for the catcher vessel sector to 15, 10, 3, and 2. Additionally, approve for 2008 only the proposed PSC bycatch allowances for the BSAI Amendment 80 cooperatives found in Table 7d and PSC bycatch allowances for the BSAI Amendment 80 limited access fisheries (Table 7e).** The motion was seconded by Earl Krygier.

**Bill Tweit moved to substitute Table 7e as revised and submitted by Mike Szymanski, FCA, and U.S. Seafoods for the Amendment 80 limited access fishery for 2008 only.** While the recommended changes address seasonal allowances, the total amount of PSC allowances remain unchanged from the original. The motion was seconded and carried without objection.

Mr. Tweit pointed out that the main effect of the changes would be the **change in halibut mortality in metric tons for Pacific cod from 25 mt to 1 mt and redistributing that halibut mortality primarily into the yellowfin sole category and some into the rock sole category.** Additionally, **change the opening date for rockfish from July 1 to January 20.** Council members expressed cautious support and stressed that they will need to review industry performance next year to determine if the agreement has accomplished what it was designed to do. There was some concern with changing the season opening date, but it was noted that the parties involved will negotiate an agreement to try to avoid problems for other industry participants.

**Bill Tweit moved to amend Table 7c, to reduce the halibut mortality for Pacific cod to 585 and increase the allowance for yellowfin sole to 162 and, conforming to his previous motion, change the season start date for rockfish to January 20.** The motion was seconded and carried without objection. Mr. Tweit noted that moving eight metric tones of halibut to yellowfin sole is meant to accompany the increase in the yellowfin sole TAC.

**Bill Tweit moved to amend Table 7d, the herring and red king crab savings area PSC to change the season start date to January 20.** The motion was seconded by Jim Balsiger and carried without objection.

The main motion, as amended, carried unanimously.

**Jim Balsiger moved to approve the BSAI SAFE report.** The motion was seconded by Gerry Merrigan and carried without objection.

Tables showing the Council's final action on BSAI groundfish 2008/09 groundfish harvest specifications are found in Appendix X to these minutes.

#### **D-1(e) Final GOA 2008/09 Groundfish Specs/SAFE**

#### **ACTION REQUIRED**

**Review and approve GOA SAFE report (including Ecosystem and Economic SAFEs) and approve final GOA Harvest Specifications for 2008-2009 including:**

- 1. Acceptable Biological Catch (ABC), and annual Total Allowable Catch (TAC).**
- 2. TAC considerations for the State Pacific cod fishery.  
Prohibited Species Catch Limits**

#### **BACKGROUND**

At this meeting, the Council makes final recommendations on groundfish and bycatch specifications as listed above to manage the 2008 and 2009 Gulf of Alaska (GOA) groundfish fisheries.

#### **GOA SAFE Document**

The groundfish Plan Teams met in Seattle November 13-16, 2007 to prepare the final SAFE reports and to review the status of groundfish stocks. The GOA SAFE report forms the basis for the recommended GOA groundfish specifications for the 2008 and 2009 fishing years. Note that there are three volumes to the SAFE report: a stock assessment volume, a fishery evaluation volume ("economic SAFE"), and an ecosystems considerations volume. The introduction to the GOA SAFE report was mailed to the Council and Advisory Panel in late November 2007. The full GOA SAFE report, the economic SAFE report and the ecosystem considerations volume were mailed to the SSC November 20th. The Joint Plan Team and GOA Plan Team minutes are attached as Items D-1(e)(1) and D-1(e)(2), respectively. An overview of the GOA SAFE report and ecosystem considerations volume will be provided to you at the meeting.

#### **Two year OFL and ABC Determinations**

Amendment 48 to the GOA groundfish FMP made two significant changes with respect to the stock assessment process. First, since new data during years when no groundfish surveys are conducted are limited, annual assessments are no longer required for long-lived GOA species. These species include the rockfishes, flatfishes, and Atka mackerel. A trawl survey was conducted in the GOA in the summer of 2007 thus this year we present full assessments for all species. The second significant change is that the proposed and final specifications can be specified for a period of up to two years. This requires providing ABC and OFL levels for 2008 and 2009.

In September of this year, preliminary projections of ABC and OFL levels for 2008 and 2009 were made on the basis of the 2008 specifications. In this SAFE report, the Plan Team has revised most of those projections. Such revisions are typically due to the development of new models; collection of new catch, survey, age composition, or size composition data; or use of new methodology for recommending ABC.

#### **ABCs, TACs, and Apportionments**

At this meeting, the Council will establish final catch specifications for the 2008 and 2009 fisheries. The SSC and AP recommendations will be provided to the Council during the meeting. Item D-1(e)(3) lists the 2007 specifications and catch (through November 4, 2007) and GOA Plan Team recommendations for OFLs and ABCs for 2008 and 2009. The sum of the GOA Plan Team's recommended ABCs for 2008 is 536,191 t. The sum of the ABCs increased 9% compared with last



year. This increase is primarily driven by increases in the flatfish stocks. ABC levels increased in deep water flatfish (2%), shallow water flatfish (19%), arrowtooth flounder (23%), and flathead sole (14%). ABC levels also increased in some rockfish, such as Pacific ocean perch (2%), roughey rockfish (30%), shortraker rockfish (7%) and other slope rockfish (3%). The species with ABCs that declined relative to 2007 are pollock (-12%), sablefish (-11%), northern rockfish (-8%), pelagic shelf rockfish (-6%), demersal shelf rockfish (-7%), thornyhead rockfish (-14%) and big skates (-6%).

The abundances of rex sole, Dover sole, flathead sole, arrowtooth flounder, Pacific ocean perch, roughey rockfish, northern rockfish, and dusky rockfish are above target stock size. The abundances of pollock and sablefish are below target stock size. The target biomass levels for other deep-water flatfish, shallow-water flatfish, shortraker rockfish, demersal shelf rockfish, other pelagic shelf rockfish, other slope rockfish, thornyhead rockfish, Atka mackerel, and skates are unknown. The status of Pacific cod is unknown based on the present stock assessment. However, in 2006 it was estimated to be above the  $B_{40\%}$  target level. None of the groundfish stocks are overfished nor are they approaching an overfished condition.

In June of 2005, the Council took final action to implement a calculation change to the other species complex in the GOA under amendment 69 to the GOA FMP. The 5% TAC calculation was modified such that the Council may recommend a TAC at or below 5% of the sum of the target species TACs during the annual specifications process. The Council's intent was to establish a TAC level which would meet incidental catch needs in other directed fisheries with the potential to establish this TAC at a higher level which could allow for directed fishing on the complex but be placed low enough to prevent excessive harvest of a single targeted species or on the complex as a whole. This interim measure is intended to provide additional flexibility in responding to potential conservation concerns as they arise until more comprehensive management changes can be made to the other species complex (i.e., analysis of individual species level assessments).

During this specifications process, the Council will recommend an other species TAC level at or below 5% of the sum of the target groundfish TACs. In order to provide the Council information to establish a TAC for the other species complex, the Plan Team discussed the incidental catch needs for directed fisheries. Information regarding these incidental catch needs is contained in the summary section of the introduction to the GOA SAFE Report. Additional information on other species is provided in the executive summaries of the other species assessments which are included as appendices to the GOA SAFE report. Full assessments for these species were presented to the Plan Team in 2006 in anticipation of a forthcoming amendment analysis to evaluate establishing separate harvest specifications (individually or by complex) for these species. This year the Plan Team requested updated information as available for each species or complex. Additionally, information is presented on forage fish in the GOA.

**TAC Considerations for State Pacific Cod Fishery**

Since 1997, the Council has reduced the GOA Pacific cod TAC to account for removals of not more than 25% of the Federal P. cod TAC from the state parallel fisheries. The relative percentage in the Central GOA was increased by the Board of Fisheries in March 2005 from 24.25 in 2004 to 25%. Using the area apportionments of the 2008 and 2009 Pacific cod ABC recommended by the Plan Team, the Federal TAC for Pacific cod would be adjusted as listed below.

Plan Team recommended 2008-2009 Gulf of Alaska Pacific cod ABCs, and resulting TACs and state Guideline Harvest Levels (GHLs) (t).

Specifications	Western	Central	Eastern	Total
ABC	25,932	37,901	2,660	66,493
State GHL	6,483	9,475	266	16,224
(%)	25	25	10	24.4
Federal TAC	19,449	28,426	2,394	50,269

**Prohibited Species Catch Limits**

In the GOA, Prohibited Species Catch (PSC) limits are established for halibut. Since 1995, total halibut PSC limits for all fisheries and gear types have totaled 2,300 t. This cap was reduced from 2,750 t after the sablefish IFQ fishery was exempted from the halibut PSC requirements in 1995. The halibut PSC apportionments recommended based upon the 2006 apportionments for the Gulf of Alaska groundfish fisheries are shown below.

**GOA Pacific halibut PSC Limits**

2008-2009 Trawl		2008-2009 Hook and Line		
Jan 20 – Apr 1	550 t	1st trimester	Jan 1 - Jun 10	250 t
Apr 1 - Jul 1	400 t	2nd trimester	Jun 10 - Sep 1	5 t
Jul 1 - Sep 1	600 t	3rd trimester	Sept 1 - Dec 31	35 t
Sept 1 - Oct 1	150 t			
Oct 1 - Dec 31	300 t	DSR	Jan 1 - Dec 31	10 t
<b>TOTAL</b>	<b>2,000 t</b>			<b>300 t</b>

Trawl fishery categories			
	Shallow Water	Deep Water	Total
<i>Season</i>			
Jan 1 - Apr 1	450 t	100 t	550 t
Apr 1 - Jul 1	100 t	300 t	400 t
Jul 1 - Sep 1	200 t	400 t	600 t
Sep 1 - Oct 1	150 t	any rollover	150 t
Oct 1 - Dec 31	<i>no apportionment</i>		300 t
<b>TOTAL</b>	<b>900 t</b>	<b>800 t</b>	<b>2,000 t</b>

**Report of the Scientific and Statistical Committee**

The SSC agreed with the Plan Team's recommendations for 2008/09 OFLs and ABCs for GOA groundfish species. The SSC provided more detailed comments for assessment authors on several GOA groundfish species. Please see the SSC Minutes, Appendix VI to these minutes, for those comments.

**Report of the Advisory Panel**

The AP recommends the Council adopt the GOA SAFE report and final GOA specs for 2008-2009 OFLs, ABCs and TACs as shown in the attached tables.

**Summary:**

Set the 2008 and 2009 GOA proposed specifications where TAC is equal to ABC for all stocks with the following exceptions:

The Pacific cod TAC is reduced according to the table in the action memo to account for the apportionment to the State waters fishery in 2008 and 2009.

Rollover the 2007 TAC for 2008 and 2009 for:

- a. Shallow water flatfish and flathead sole in the Central and Western GOA
- b. Arrowtooth flounder for all areas

- c. Other slope rockfish in the EYAK/SEO
- d. GOA Atka mackerel
- e. GOA other species

Additionally, the AP recommends the Council adopt the GOA halibut PSC apportionments annually and seasonally, as indicated in agenda item D-1(e) for 2008-2009.

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

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

The Council received a staff report from Diana Stram (NPFMC staff) and a report on the status of GOA groundfish stocks from Jim Ianelli, AFSC. Additionally, the Council received the SSC and AP reports and oral public comment on this agenda item.

**Gerry Merrigan moved to approve the GOA SAFE report and the final groundfish specifications for 2008/09 as recommended by the SSC and Advisory Panel.** The motion was seconded by Dave Benson and carried unanimously.

Tables showing the Council's final action on the 2008/09 GOA groundfish harvest specifications are found in Appendix XI to these minutes.

#### **D-1(f) Draft SIR on Specifications EIS**

#### **ACTION REQUIRED**

**Review Supplemental Information Report for Groundfish Specifications**

#### **BACKGROUND**

NMFS prepared a draft supplemental information report (SIR) for Council review. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2008/2009 groundfish harvest specifications. An SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). The SIR analyzes the information contained in the Council's 2007 Groundfish Stock Assessment and Fishery Evaluation (SAFE) Reports and information available to NMFS and the Council to determine whether a SEIS should be prepared. Gretchen Harrington will summarize the draft SIR (Item D-1(f)).

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

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

The Council received a draft of the SIR prior to the Council meeting. It was noted that the preliminary conclusions in the draft report indicate there are no significant issues requiring an EIS for the 2008/09 groundfish specifications for Bering Sea/Aleutian Islands or Gulf of Alaska groundfish.

#### **D-1(g) GOA Salmon & Crab Bycatch Discussion Paper**

The Council did not address this agenda issue due to time constraints. The Advisory Panel received a staff report and provided comments in its written report (Appendix VII to these minutes).

**D-2 Crab Overfishing Definitions**

**ACTION REQUIRED**

**Final action on BSAI Crab overfishing definitions**

**BACKGROUND**

The Council is scheduled to take final action on Amendment 24 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs (FMP). An Environmental Assessment (EA) has been prepared for this amendment which evaluates proposed changes to the current overfishing definitions for BSAI crab stocks. The BSAI crab FMP establishes a State/Federal cooperative management regime that defers crab fisheries management to the State of Alaska with Federal oversight. The Magnuson-Stevens Act requires that FMPs specify objective and measurable criteria for identifying when the fishery is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stock). The OFLs are a Category 1 measure in the FMP, and as such revisions to the OFLs require an FMP amendment.

Determinations of total allowable catches (TACs) and guideline harvest levels (GHLs) are a Category 2 management measure and are deferred to the State following the criteria in the FMP. Catch levels established by the State must be in compliance with OFLs established in the FMP to prevent overfishing. NMFS annually determines if catch levels exceed OFLs or if stocks are overfished or are approaching an overfished status. If either of these occurs, NMFS notifies the Council and the Council has two years to develop an FMP amendment to end overfishing and the rebuild the stock.

The purpose of the proposed action is to establish status determination criteria in compliance with the Magnuson-Stevens Act and the national standard guidelines. The analysis presents three alternatives with two different sets of options. These are summarized below:

**Alternative 1: (Status Quo) Amendment 7 provided fixed values in the FMP for the status determination criteria: minimum stock size threshold (MSST), maximum sustainable yield (MSY), optimum yield (OY), and maximum fishing mortality threshold (MFMT) for the BSAI king and Tanner crab stocks.**

**Alternative 2: Tier system with five Tiers. The FMP amendment would specify the Tier system and a framework for annually assigning each crab stock to a Tier and for setting the OFLs (see Options 1 and 2). The Tier system with five Tiers would provide an OFL for all FMP stocks (see Options A and B).**

**Alternative 3: Tier system with six Tiers. The FMP amendment would specify the Tier system and a framework for annually assigning each crab stock to a Tier and for setting the OFLs (see Options 1 and 2). The Tier system with six Tiers would provide an OFL for stocks with sufficient catch history and, in Tier 6, set a default OFL of zero for those stocks with insufficient information from which to set an OFL, unless the SSC establishes an OFL based on the best available scientific information**

The two sets of options are summarized as follows:

Options 1 and 2 provide options for the OFL setting and review process by which stocks would be annually assigned to Tier levels, the OFLs would be set, and the timing of the annual review process by the Crab Plan Team, Scientific and Statistical Committee, and Council.

**Option 1: Council annually adopts OFLs. In June, the Council would adopt the final Tier level assignments and OFLs for each stock. OFLs would be determined based**

upon model estimates prior to the summer survey because the Council would adopt the OFLs before the survey.

**Option 2:** Council annually reviews OFLs. OFLs would be calculated after the survey data are available in late August. The Council would review the status of the stocks, the OFLs, and the TACs in the Fall.

Options A and B provide options for the stocks managed under the FMP, and therefore, determine the stocks for which OFLs are required.

**Option A:** This option would remove eleven stocks from the FMP for which the State is interested in the conservation of management of the stock and there is no need for additional Federal management.

**Option B:** Status quo FMP species

The analysis reviews the impacts on crab stocks, groundfish incidental catch limits for crab species, seabirds, marine mammals, threatened and endangered species and the economic impacts on participants in the crab fisheries. The executive summary of the EA is attached as Item D-2(a). The full analysis was mailed to you on November 9<sup>th</sup>. An excerpt from the Crab Plan Team minutes from September 2007 which provides the Crab Plan Team's recommendations for a preferred alternative and lays out implementation issues with the new definitions is included as Item D-2(b).

A letter from the Council to NMFS and ADF&G was drafted following discussion of the implementation issues during initial review of the analysis in October. The issues mainly revolve around the staffing needs to accomplish, on an annual basis, the more rigorous stock assessment and status determination process required by Amendment 24. Amendment 24 will also require that and Federal rebuilding plans, and possibly the State harvest strategies, be revised to reflect the new biological reference points. While annual status determination for all stocks is the responsibility of NMFS, it has yet to be determined who will do the actual assessment work on an annual basis for each stock under the co-management structure of the FMP. Additional implementation issues exist for Tiers 5 and 6 stocks because more information and work is likely to be required for making annual status determinations. The Crab Plan Team also reiterated the need for more rigorous review of the stock assessments themselves prior to their use to determine abundance, OFLs, and TACs. A copy of this letter is attached as Item D-2(c).

The Council will take final action at this meeting on this analysis. In doing so, the Council will need to identify its preferred alternative including the choice of options at this time.

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

The SSC noted that the analysis has been revised as requested and is clearly sufficient for aiding the Council in making its decision. The SSC noted that while it does not normally provide advice on final action items, it determined that because the policy decision in this case involves the use of science in defining overfishing and tasking for the SSC in the future, SSC involvement is appropriate. The SSC noted that Alternative 1, status quo, is clearly unacceptable because the current overfishing definitions do not provide sufficient flexibility. The SSC provided more detailed comments on Alternatives 2 and 3, and recommended the Council adopt Option 2 under whichever alternative it should choose. Please see the SSC Minutes, Appendix VI to these minutes, for the SSC's full set of comments.

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

The AP recommends the council select Alternative 2, Option 2, Option A as its preferred alternative.

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

[Sue Salvesson participated in this discussion for Jim Balsiger.]

The Council received a staff report from Diana Stram (NPFMC), reports from the SSC and AP, and oral public comments on this issue.

#### **Denby Lloyd moved to adopt Alternative 2, Option 2, Option A:**

**Alternative 2: Tier system with five Tiers. The FMP amendment would specify the Tier system and a framework for annually assigning each crab stock to a Tier and for setting the OFLs (see Options 1 and 2). The Tier system with five Tiers would provide an OFL for all FMP stocks (see Options A and B).**

**Option 2: Council annually reviews OFLs. OFLs would be calculated after the survey data are available in late August. The Council would review the status of the stocks, the OFLs, and the TACs in the Fall.**

**Option A: This option would remove twelve stocks from the FMP for which the State is interested in the conservation of management of the stock and there is no need for additional Federal management.**

The motion was seconded by Ed Rasmuson and carried unanimously.

Mr. Lloyd noted that reports of the Plan Team, SSC and Advisory Panel, members of the industry, and local civic governments supporting at least two of the elements of the motion, Alternative 2 and Option 2. With regard to Option A, there wasn't a consensus, however, Mr. Lloyd noted that he thinks it is the prudent choice, to relegate management of twelve stocks to the State, removing a burden to define OFLs at zero. The State is willing to take on the responsibilities.

#### **D-3 Ecosystem Issues**

#### **ACTION REQUIRED**

- (a) Receive update on outreach program for the Arctic FMP and take action as necessary.
- (b) ~~Report from Ecosystem Committee on AI FEP Implementation.~~ [postponed until February]
- (c) Alaska Regional Collaboration Team report.

#### **BACKGROUND**

##### **Arctic FMP**

At the June 2007 meeting, the Council directed staff to begin preparing a draft Arctic Fishery Management Plan (FMP) and draft amendments to the scallop and crab FMPs that terminate their geographic coverage at Bering Strait, and to develop an accompanying analysis that considers two options for the Arctic FMP: close the entire Arctic region to all commercial fishing, or close the entire Arctic region to commercial fishing except for the red king crab fishery that has previously occurred in the southern Chukchi Sea. The Council's June 2007 motion included a recommendation to consult with stakeholders, including Arctic communities, to present the Council's plans for developing an Arctic FMP and to seek input and suggestions for future fishery

management in Alaskan Arctic EEZ waters. Also, the Council requested that staff consult with the Ecosystem Committee for guidance as necessary.

Between June and October 2007, staff developed a work plan for accomplishing the Council's requested Arctic FMP and related documents, and reviewed this information with the Ecosystem Committee. The Ecosystem Committee made several recommendations on the work plan (an excerpt from the Ecosystem Committee's minutes is attached as Item D-3(a)(1)), and the Council passed a motion in October that provided additional direction to staff (see Item D-3(a)(2)). One of the Council's requests was to review progress on outreach at its December 2007 meeting. The draft outreach program is attached as Item D-3(a)(3). Note that the Ecosystem Committee made several suggestions relating to outreach, which were adopted by the Council. Staff will update the Council at this meeting.

Contacts have been made with individuals associated with a variety of organizations to introduce the Council's intent in an Arctic FMP. These include:

- North Slope Borough (email)
- Northwest Arctic Borough (email)
- Maniilaq Association (in-person)
- Kawerak, Inc. (in-person)
- Kotzebue IRA (email)
- Eskimo Walrus Commission (in-person)
- Arctic Slope Regional Corporation (in-person)
- Norton Sound Economic Development Corporation (in-person)
- Alaska Dept. of Fish and Game, Nome (in-person)
- Petroleum Industry (BP, Conoco-Phillips, AOGA)(email)
- U.S. Coast Guard (in-person)

Presentations to regional gatherings have included:

- U.S. Arctic Research Commission
- North Slope Science Initiative

Staff have made a variety of other contacts including media interviews, a booth at the Alaska Federation of Natives convention in Fairbanks, emails or discussions with Arctic researchers, and discussions with conservation organizations. One outreach highlight was participating in a U.S. Coast Guard HC 130 reconnaissance flight over the Arctic on November 8, 2007 which included a stop in Barrow where staff accompanied Coast Guard personnel in meetings with representatives from the North Slope Borough, Arctic Slope Regional Corporation, Barrow Arctic Science Consortium, and others.

In-person discussions and presentations, and/or email exchanges, have focused on the Council process, how FMPs guide fishery management decision making, and the current schedule for developing the draft Arctic FMP and opportunities for public comment. A one-page flyer, approved by the Council in October 2007, was used to aid discussion (Item D-3(a)(4)).

A presentation to Kawerak's Board of Directors is scheduled for December 13 in Nome, and organizations who have expressed an interest in a presentation include the North Slope Borough, Northwest Arctic Borough, Alaska Eskimo Whaling Commission, Eskimo Walrus Commission, and Maniilaq Corporation.

#### NOAA Alaska Regional Collaboration Team

According to the NOAA website, NOAA has been "working to integrate program activities while working with partners and customers— that is, by combining internal regional *coordination* with external regional *collaboration*. Regional Collaboration will engage diverse programs across the

agency, as well as agency partners in each region, to address regionally-distinct priorities with the full breadth of NOAA's abilities." Background materials relative to this effort are attached as **(Item D-3(c)(1))**. A representative from the Alaska Regional Collaboration Team will provide a brief report on progress to date.

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

## **COUNCIL DISCUSSION/ACTION**

The Council received the staff report from Bill Wilson (NPFMC) on outreach efforts in connection With developing an Arctic Fishery Management Plan, and oral public comments. No action was required but Council members encouraged staff to continue with the outreach and noted that a draft FMP is scheduled for preliminary review in February 2008.

The Council also heard from Laura Furgione, Regional Director of the National Weather Service, and the leader for NOAA's Alaska Regional Collaborative Team. The Team is part of a national NOAA effort to increase communication and cooperation among NOAA activities in order to improve NOAA's productivity and value to the public. The Council and stakeholders are being asked to participate in development of an assessment of current services in preparation of an integrated services plan.

### **D-4     Staff Tasking**

#### **ACTION REQUIRED**

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

#### **BACKGROUND**

##### **Committees and Tasking**

The list of Council committees is attached as **Item D-4(a)(1)**. **Item D-4(a)(2)** is the three meeting outlook, and **Item D-4(a)(3)** and **Item D-4(a)(4)** respectively are the summary of current projects and tasking. In addition, an updated workplan for implementing the programmatic groundfish management policy is attached **Item D-4(a)(5)**.

At the last meeting, the Council initiated several new projects (BSAI crab rationalization 90/10 evaluation, BSAI crab arbitrator immunity, BSAI crab arbitration regulations, Arctic FMP, GOA fixed gear LLP recency, and GOA salmon and crab bycatch updates) to the tasking list. The Council may wish to discuss tasking priorities to address these projects, as well as potential additions discussed at this meeting, given the resources necessary to complete existing priority projects.

##### **Outreach Plan**

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

- 1. Continue to incorporate local and traditional knowledge in fishery management.**



**2. Consider ways to enhance collection of local and traditional knowledge from communities, and incorporate such knowledge in fishery management where appropriate.**

**3. Increase Alaska Native participation and consultation in fishery management.**

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

***Increase Alaska Native and Community Consultation***

***a. Develop a protocol or strategy for improving the Alaska Native and community consultation process***

***b. Develop a method for systematic documentation of Alaska Native and community participation in the development of management actions***

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

**Stakeholder Participation**

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

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

While the policy is not a statutory requirement, it will be discussed annually at the Council Coordinating Committee meetings, which will provide a forum to exchange information on this topic and share documents, methods, and media that support this policy. Staff has prepared a

**discussion paper that reviews the current practices of the North Pacific Council relative to the seven core principles for stakeholder participation, and provides a list of potential additions that that could be explored. The discussion paper is attached as Item D-4(b)(5).**

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

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

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

The AP recommends the Council request a discussion paper that examines the utilization of PSC in the non-amendment 80 BSAI yellowfin sole threshold fishery.

### **COUNCIL DISCUSSION/ACTION**

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

Chris Oliver provided a draft 3-meeting review for the Council and reviewed issues to be addressed as a result of earlier discussions or issues brought up during public comment.

#### Jig Fishery Management

**Duncan Fields moved to request a discussion paper on State management of the jig gear in State and Federal waters for the February Council meeting.** The motion was seconded and carried without objection.

#### Fixed Gear LLP Recency

**Gerry Merrigan moved to re-schedule the Gulf of Alaska fixed gear LLP recency analysis for initial review at the April meeting, with final action scheduled for the June meeting.** The motion was seconded and carried without objection. Mr. Merrigan noted that this would match up initial review of this action with the cod sector split analysis.

#### GOA Rockfish Program Review

**Sue Salveson moved to schedule the GOA Rockfish Program review for June 2008.** The motion was seconded and carried without objection. Ms. Salveson stated that it is assumed that the review will encompass entry-level fishery issues as well as any other issue the Council determines appropriate in the outline to be developed at the February 2008 meeting.

#### Crab Rationalization Loan Program

Under the B reports a motion was approved to develop definitions to be reviewed by the Council in February and subsequently forwarded to the Financial Services Division in support of the proposed rule to be developed for the loan program.

**Gerry moved to include as part of the discussion paper the suggestions presented during public comment by Skippers for Equitable Access in support of the Council's original intent that the loan**

**program be geared toward entry-level fishermen.** The motion was seconded. Mr. Merrigan noted that staff would not be limited to those suggestions in the industry proposal, but that those suggestions should be included in the discussion paper.

**Duncan Fields moved to add the following suboption under "active participation" (item #3): 2 of 3 years prior to the loan program.** The motion was seconded and carried without objection. The amended main motion carried without objection.

GOA Bycatch Discussion Paper

**Duncan Fields moved to schedule review of the GOA bycatch discussion paper for the April meeting.** The motion was seconded and carried without objection.

Mr. Merrigan noted that he had reviewed the draft and noticed some numbers that may be incorrect. Staff will review those numbers before the April review.

**Gerry Merrigan moved to request SSC review of the discussion paper at the February meeting, in advance of Council review.** The motion was seconded.

Mr. Oliver noted that the SSC does not normally review documents until a formal analytical document is prepared.

Mr. Merrigan's motion carried without objection.

**D-5 Other Business**

During discussion of the agenda at the beginning of the meeting, Mr. Lloyd requested that the Council schedule a discussion of possible ways to make the meetings more efficient and reduce the length over a period of time.

During that discussion, it was pointed out that requirements of NEPA, MSA, ESA, and other laws have added to staff analysis workloads and lengthened Council deliberation and discussions. Additionally, it was pointed out that the Council has addressed some very challenging issues, such as Steller sea lion protection measures and Bering Sea essential fish habitat in the past several years. Some suggestions were made for the Chair and Executive Director to consider when developing draft agendas for future meetings. One subject discussed was the length of 'B' reports and how they may be shortened, with opportunities for questions from the Council. Other suggestions were for Council members to try to keep questions to staff and public to the point. It was also noted that the Council might consider re-initiating its annual amendment proposal cycle which is not currently being utilized. As a result, industry members are asking the Council to consider possible amendments at almost every meeting. Council members have asked the Chair and Executive Director to work together and with any interested Council members to look at ways to reduce meeting lengths by a half day each meeting, with the goal of ending meetings on Sunday. Another goal would be to try to mail as much pre-meeting material as possible to the Council two weeks in advance. Also, Council members will try to address staff tasking under each agenda issue as it is considered, with a review of staff tasking at the end of the meeting, as usual.

**ADJOURNMENT**

Before adjournment the Chair announced the following appointments to the Advisory Panel and Scientific and Statistical Committee:

**Advisory Panel**

Reappointments

Joe Childers (3-year term)  
Julianne Curry (3-year term)  
Tom Enlow (3-year term)  
John Henderschedt (3-year term)  
Simon Kinneen (3-year term)  
Ed Poulsen (3-year term)  
Bob Jacobson (2-year term)

New Appointments

Mark Cooper (3-year term)  
Chuck McCallum (2-year term)  
John Crowley (1-year term)  
Beth Stewart (1-year term)

**SSC Appointments**

All SSC members were reappointed to 1-year terms, with Dr. Kathy Kuletz (USFWS) being appointed as a new member.

Chairman Olson adjourned the meeting at approximately 2:33 p.m. on Tuesday, December 11, 2007.

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