

# North Pacific Fishery Management Council

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Certified \_\_\_\_\_  
Stephanie, Chair

Date \_\_\_\_\_

## MINUTES

North Pacific Fishery Management Council  
April 6-9, 2005  
Anchorage Hilton Hotel  
Anchorage, Alaska

The North Pacific Fishery Management Council met April 6-9, 2005, at the Hilton Hotel in Anchorage, Alaska. The Scientific and Statistical Council met April 4-6, and the Advisory Panel met April 4-8 at the same location.

The following Council, staff, SSC and AP members attended the meeting:

### Council Members

Stephanie Madsen, Chair  
Dennis Austin, Vice Chair  
Jim Balsiger/Sue Salvesson  
Dave Benson  
John Bundy  
Tony DeGange  
Arne Fuglvog

Dave Hanson (April 8-9)  
Doug Hoedel  
Roy Hyder  
Doug Mecum  
Hazel Nelson  
CDR Mike Cerne for ADM Olson  
Ed Rasmuson

### NPFMC Staff

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

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

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Support Staff/Presentations

Lauren Smoker, NOAA-GCAK  
John Lepore, NOAA-GCAK  
Bubba Cook, NMFS-AKR  
Herman Savikko, ADF&G

Earl Krygier, ADF&G  
Kim Rivera, NMFS-AKR  
Glenn Merrill, NMFS-AKR  
Art Nelson, Chair, ABOF

Scientific and Statistical Committee

Gordon Kruse, Chair  
Pat Livingston, Vice Chair  
Keith Criddle  
Steven Hare  
Mark Herrmann  
Sue Hills  
Anne Hollowed

George Hunt  
Franz Mueter  
Seth Macinko  
Terry Quinn  
Farron Wallace  
Dave Woodby

Advisory Panel

Eric Olson, Chair  
John Bruce  
Al Burch  
Joe Childers  
Cora Crome  
Craig Cross  
Tom Enlow  
Duncan Fields  
Dave Fraser  
John Henderschedt

Jan Jacobs  
Bob Jacobson  
Kent Leslie  
Matt Moir  
John Moller  
Jeb Morrow  
Ed Poulsen  
Jim Preston  
Michelle Ridgway  
Jeff Stephan

The following members of the public registered their attendance:

Glenn Reed  
Gerry Merrigan  
Thorn Smith  
Jack Hill  
Arni Thomson  
Lori Swanson  
Phillip Lestenkof  
Joe Kyle  
Margie Bauman  
Brent Paine  
Andrew Larsen  
Frank Kelty  
Steve Grabacki

Ken Holland  
Matthew Moir  
Marcus Alden  
Paul MacGregor  
Sergei Morozov  
Luci Roberts  
Dave Wood  
Mike Szymanski  
Jeff Stephan  
Patience Mercurief  
Joe Sullivan  
Heather McCarty  
Al Burch

**A list of persons giving public comment during the meeting is included in Appendix I to these minutes.**

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**A. CALL TO ORDER/AGENDA APPROVAL**

Stephanie Madsen, Council Chair, called the meeting to order at 8:10 a.m. The agenda was approved with the understanding that the CDQ agenda issue may be taken up on Friday, rather than Saturday because of staff availability. A notice of the day and time will be posted on the message board when the decision is made.

There were no minutes for approval at this meeting.

**B. REPORTS**

The Council received the following reports: Executive Director's Report (B-1), NMFS Management Report -- including a report on Data Quality Act requirements and VMS requirements for GOA EFH measures (B-2); Coast Guard (B-3); ADF&G (B-4) – including status of State GOA rationalization measures and the Adak pollock issue; and U.S. Fish and Wildlife (B-5). Following are brief recaps of any discussion or action taken during reports.

Executive Director's Report

Chris Oliver reviewed his written report, noting that draft minutes from the February joint meeting with the Alaska Board of Fisheries are available in the notebook. Mr. Oliver noted several upcoming meetings and conferences, and reminded Council members to make necessary travel arrangements for the June meeting in Girdwood as it will be held during Alaska's tourist season and reservations may be tight for airlines and rental cars. Members were encouraged to carpool if at all possible.

Mr. Oliver also advised of a request from the St. George Island Traditional Council requesting action by the Council to expand the Steller sea lion haul-out closures around the Island from the current 3 miles out to 10 miles. It was suggested the request be taken up during Staff Tasking later in the meeting.

Several Council members expressed appreciation for the work of the staff on the Managing Fisheries II conference. Mr. Oliver also expressed thanks to staff of other Councils and agencies that assisted at the conference. Mr. Oliver advised that the official proceedings of the conference will not be published until sometime this summer, but a draft summary is being prepared for Council members.

NMFS Management Report

Sue Salveson provided an update on current regulatory actions and groundfish harvests, noting that salmon bycatch in the Bering Sea pollock fishery is expected to close the Chinook salmon savings areas by September 1<sup>st</sup>.

Mr. Bundy asked when NMFS will address the rollover of unharvested pollock (both CDQ and Atka). Ms. Salveson replied that it is not certain at this time, but CDQ pollock would be rolled over to the 'B' season. With regard to Atka, if the pollock can't be harvested in the 'B' season, it would be rolled over into the Bering Sea 'B' season, but specific dates are not determined yet.

VMS – GOA

Ms. Salveson also reviewed a letter to the Council from Jim Balsiger, Regional Administrator, outlining several issues NMFS has identified while developing rulemaking for the EFH and HAPC amendments approved by the Council in February, the major one being the decision that a VMS requirement for the Gulf of Alaska (GOA) should be added. Although the Council did not address a VMS requirement for the Gulf of Alaska, NMFS has determined that VMS provides the method to enforce the Council's

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recommended GOA EFH and HAPC management measures. Accordingly, NMFS is drafting the proposed rule for the amendments to include VMS requirements for all Federally permitted vessels operating in the GOA with bottom contact gear on board. Dr. Balsiger pointed out that the agency (NMFS) does not believe that HAPCs are enforceable without a VMS requirement in place and cannot submit the amendments without a demonstration of enforceability.

Council members expressed concern over the fact that this requirement is being added to the amendments without going through the Council's normal public review process. Ms. Salveson explained that the schedule for rulemaking needs to be 'fairly aggressive' in order to complete the EIS process in compliance with legally mandated deadlines, and that the Council and public would have an opportunity to review and comment on the proposed rule in June, with Secretarial action planned for August. NMFS will prepare the additional analysis on this requirement and will include alternatives for exempting smaller vessels where installation of VMS could be difficult and costly.

**Arne Fuglvog moved to request NMFS to provide the proposed rule and supplemental analysis in June for a thorough review by the Council, SSC, Advisory Panel and public.** The motion was seconded and, after discussion, carried without objection.

It was clarified that the intent is to review only the portion of the proposed rule addressing the VMS requirement, not the proposed rule for the entire EFH/HAPC amendment.

Ms. Salveson also noted that NMFS encourages the Council to continue to work with the Alaska Board of Fisheries to implement counterpart EFH and HAPC management measures that include VMS requirements and parallel restrictions on the use of bottom contact gear in State waters as well as in Federal waters for the State-managed fisheries that extend into the EEZ.

*Data Quality Act Requirements*

Bubba Cook, NMFS, Alaska Region, provided an extensive review of the provisions of the Data Quality Act which will require new procedures for peer review of scientific information used in the Council process. A major concern is whether or not the fishery management council SSCs will qualify to provide the required peer review on actions that are considered 'influential' or 'highly influential'. Mr. Cook said that there are many aspects of the new procedures that have not yet been clarified and that the Council should follow the progress of these decisions. He noted that NOAA is in the process of issuing a data call for council actions that may be considered influential or highly influential which will be posted on a NOAA website and suggested that compliance bulletins on the website should be addressed early. He said that Council staff will be consulted in determining actions that may be included. Ms. Madsen suggested that in June the Council should look over the proposed list of actions to be included on the website in order to comment if necessary.

The Council also received extensive comments from the SSC on this issue. (Please see the SSC Minutes, Appendix II to these minutes).

Mr. Rasmuson suggested that some of these requirements might be mitigated through the reauthorization of the Magnuson Act.

*U.S. Coast Guard Report*

CDR Mike Cerne provided the Council with a written report of Coast Guard activities in Alaska for the period December 1, 2004 – March 15, 2005. The Commander pointed out that the low accident rate of

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recent years is overshadowed by the tragedy of the death of six crewmembers when the *Big Valley* capsized in January. Most violations encountered during the period were for inadequate or missing safety equipment. Ms. Madsen suggested that many of the violations recorded should be common sense and a part of doing business, however, it may be time to provide a reminder in the newsletter highlighting these issues. CDR Cerne also advised the Council that the Coast Guard will collaborate with Canadian fisheries enforcement officers and airforce this summer on flyovers in the North Pacific to watch for illegal driftnet fishers and other illegal fishing activities.

ADF&G Report

Art Nelson, Chairman of the Alaska Board of Fisheries, briefed the Council on the status of State efforts to institute complementary GOA rationalization measures in State waters. There has been considerable opposition to Senate Bill 113, which would provide legal authority for the Board to proceed with regulations. Mr. Nelson said that the legislature needs to hear from stakeholders in support of the program.

Regarding Proposal 455, a request to the Board to allow fishing for pollock closer to some Steller sea lion haul-outs than is currently allowed because of Steller sea lion protection measures, the Board has revised the proposal they received and suggests the Council/Board Joint Protocol Committee meet to review it and make recommendations to the Board and Council.

Herman Savikko provided a report on fisheries managed under delegated authority, including salmon, scallops and groundfish.

USFW Report

Tony DeGange updated the Council on recent Fish and Wildlife activities relating to the Endangered Species Act for the Southwest Alaska population segment of sea otters, Polar bears, and the yellow-gilled loon. Additionally, the Service will be involved with three seabird research projects recently funded by the North Pacific Research Board.

**FORMAT FOR COUNCIL MEETING MINUTES**

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 the current action. This section will be set in a different type and size than the actual minutes. Any attachments referred to in the Action memo will **not** be attached to 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 CDQ Program**

**ACTION REQUIRED**

- (a) NMFS Report on CDQ Allocation Process**
- (b) Review and comment on the State of Alaska's initial allocation recommendations for the 2006 - 2008 CDQ fisheries**

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**BACKGROUND**

**(a) NMFS Report on CDQ Allocation Process**

Sally Bibb (NMFS, CDQ Program Coordinator) and Ed Hein (NMFS, Alaska Region's Chief Administrative Appeals Officer) will provide an overview of the on-going CDQ allocation process, which is described, in part, in the background information below.

**(b) Review and comment on the State of Alaska's initial allocation recommendations for the 2006 - 2008 CDQ fisheries**

The State of Alaska is forwarding to the Council its initial recommendations for CDQ group allocation percentages for the 2006 - 2008 CDQ fisheries. Included in this 3-year allocation cycle are allocations to the CDQ groups for groundfish, prohibited species, crab, and halibut. In addition, in accordance with crab rationalization, two new crab species were added to the CDQ Program beginning in 2005: Eastern Aleutian Islands golden (brown) king crab and Adak red king crab. Thus, the State has also provided recommendations and rationale for allocating these two crab species in 2005. The 2005 crab allocations are a supplement to the current 2003 - 2005 CDPs. A letter from the State to the CDQ groups (February 16, 2005) explaining the process the State is undertaking is attached as Item C-1(a).

The Community Development Plans (CDPs) developed by each group for the 2006 - 2008 allocation cycle were submitted to the State by November 1, 2004. The executive summaries of the CDPs were mailed to you on March 25. Prior to developing its recommendations, the State conducted a public hearing in Anchorage on November 30, and then a second round of expanded public hearings December 15 - 17. Upon notifying the groups of the State's initial allocation recommendations on February 9, the State provided a 30-day comment period during which the CDQ groups could request that the State reconsider its initial CDQ allocation recommendations. This process is intended to improve the administrative process for determining CDQ allocations, so that the groups may better understand the basis for the State's CDQ allocation recommendations and may respond to or rebut the State's recommendations before they are finalized. Each group was allowed until March 11 (this was subsequently extended to April 1) to file a written request for reconsideration of the State's initial allocation recommendations, and the State has 30 days to respond to such reconsideration requests. The State's letter to the CDQ groups (Item C-1(a)) notes that any written requests for reconsideration would be included in the package submitted to the Council for consultation at the April 2005 Council meeting.

Additionally, the State announced in this letter that after considering comments from the first reconsideration process and after consultation with the Council at this April meeting, the State will provide each CDQ group with a revised draft of its allocation recommendations. At that time, each CDQ group will have a second opportunity to provide a written request for reconsideration of the State's recommendations. This reconsideration process is limited in scope to new issues not previously raised in any group's written application for reconsideration of the State's initial recommendations of February 9, 2005. Specifically, issues raised in this second reconsideration process are limited to those that exist as a result of:

- 1) the State providing a more detailed explanation of its initial allocation recommendations, which explanation was not set forth in the letter of February 9, 2005;
- 2) any allocation changes the State made, if any, to its initial allocation recommendations during the first reconsideration process; or
- 3) any allocation changes made, if any, after consultation with the Council.

The State has provided the CDQ groups with ten days from the date the allocation recommendations are faxed to the groups to provide the State with a second written request for reconsideration. Finally, the State will incorporate any comments from the Council during its consultation process, as well as any comments generated from the CDQ groups during the two reconsideration processes, into its written findings as part of the final allocation

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recommendations for submission to NMFS. Note that this is a different process than the State has undertaken in the past, in which the Council has reviewed the State's allocation recommendations and provided comments on the final recommendations prior to their being submitted to NMFS.

A table comparing the 2003 - 2005 CDQ allocations and the State of Alaska's 2006 - 2008 recommendations for all CDQ fisheries included in the program is provided as Item C-1(b). A formal letter to the Council (dated March 31, 2005), which includes the State's initial allocation recommendations and supporting letters that were sent to the groups on February 9, is provided as Item C-1(c). A separate letter from the State CDQ Team to Governor Murkowski (dated March 14, 2005) is provided as Item C-1(d). This letter was also sent to the CDQ groups, and provides more thorough justification in support of the State's initial allocation recommendations. The last two pages of this item contain the evaluation criteria used by the State CDQ Team per State regulations (6 AAC 93.040). The State will be available to answer questions that arise as a result of these letters or in public testimony. The State also intends to provide the Council with an updated CDQ Handbook at this meeting.

The State's consultation with the Council is required under Federal regulations before the State may submit its recommendations to NMFS for approval and implementation (50 CFR 679.30(c)).<sup>1</sup> The State is not required to submit its allocation recommendations and the rationale supporting those allocations to NMFS until October 15, 2005, but plans to submit those recommendations in late April in order to accommodate a six-month appeals process.

Please note that in a letter to the CDQ groups dated February 18, 2005 (Item C-1(e)), NMFS described NMFS's administrative appeals process and instructed that: (1) the State must provide the CDQ groups an opportunity to comment to the State on the complete CDQ allocation recommendations and rationale it intends to submit to NMFS, and (2) the CDQ groups must raise all factual issues and present all information during the State's request for reconsideration periods. NMFS will review the State's allocation recommendations and rationale on the basis of the record submitted by the State and the CDQ groups will not be allowed to raise new information or new factual disputes with the State in its appeal to NMFS.

In addition, in a letter to the State dated March 14, 2005, NMFS provided two comments on the format of the State's initial CDQ allocation recommendations. First, NMFS identified some incorrect quota categories in the allocation recommendation table. Second, NMFS notified the State that it intends to issue two separate decisions for the 2005 allocations of Eastern Aleutian Islands golden king crab and Adak red king crab and the 2006-2008 allocations for groundfish, prohibited species, halibut, and crab to improve the chance that the 2005 crab allocations could be approved in time for crab CDQ fishing after August 15, 2005. Combining the 2005 allocations with the 2006-2008 allocations may mean that final action by NMFS could not be completed in time for the CDQ groups to fish on the additional two crab allocations in 2005. This letter is provided as Item C-1(f).

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

### Report of the Advisory Panel

The AP recommended that the Council request the State of Alaska to submit final CDQ allocation recommendations so that the AP can fulfill its duties to advise the Council and NMFS on the Governor's recommendations.

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<sup>1</sup>Council consultation: Before the State sends its recommendations for approval of proposed CDPs to NMFS, the state must consult with the council and make available, upon request, the proposed CDPs that are not part of the state's recommendations (50 CFR 679.30(c)).

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**COUNCIL DISCUSSION/ACTION**

John Bundy advised the Council that he would recuse himself from participation in the discussion and action on this agenda issue. Mr. Bundy said he had been advised by NOAA General Counsel that he should do so, although he does not agree with Counsel's findings. Mr. Bundy said his recusal is based on the following portion of the conflict of interest rules: 'No Council member may participate in a particular matter primarily of individual concern such as a contract in which he or she has a financial interest, even if the interest has been disclosed.'

Council member Hazel Nelson also advised she must recuse herself from participation in this issue. Both members provided comments as individuals during the public comment portion of the meeting.

Sally Bibb, NMFS-AKR, provided the Council with background and history of the CDQ allocation process and explained how the process has been changed to provide an appeals process.

Edgar Blatchford, Commissioner of the Department of Commerce, Community and Economic Development addressed the Council on the State's findings for the current CDQ allocation process. He was joined by Greg Cashen, the State's CDQ manager, and Chris Poag, with the State's Department of Law. The Council had extensive questions for the group as they went through the various recommendations.

Council comments and concerns included issues surrounding the difficulty in determining just how the Community Development Plans are evaluated, what specific factors are used, how each is weighted, and whether the CDQ groups are aware of what factors will be used in the evaluations each new allocation cycle. Because of the new phases added by the State to allow CDQ groups to request reconsideration of the initial allocation recommendations, it is also unclear whether the Council will be advised and asked to comment on any changes in the allocations that might occur after reconsideration.

Commissioner Blatchford assured the Council that the State is working to improve the process to improve the 'lack of transparency' perception. Council members and the Commissioner all agreed that the program is a valuable one and has been successful in providing economic opportunities for Western Alaska communities

**Ed Rasmuson offered the following motion:**

**The Community Development Quota Program has grown to be a major source of revenue, employment and stability in Western Alaska fishery dependent communities. The growth of the program and the diversity of its effects have been rapid and widespread. While the program has provided many positives, many concerns have been raised by members of the North Pacific Fishery Management Council (NPFMC) about the program as it continues to mature. The Department of Commerce and Economic Development has presented its initial recommendations for the next phase of CDQ allocations, including the two new species for Eastern golden king crab and Adak red king crab. The Council encourages the State of Alaska to take the following action to ensure that the CDQ program continues to grow and operate in a manner that provides the maximum benefit to Western Alaska:**

**The Council strongly encourages the Governor of Alaska to establish a small "blue ribbon" committee which, after a review of the CDQ program in its entirety, will provide a report including any recommendations to the Governor with special attention to the following:**

- **Thorough review of the CDQ regulations to ensure that all regulations continue to fit the program as it evolves.**



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- Thorough and independent financial review of the CDQ investments and procedures and commitments.
- Prioritize the goals of the CDQ program with regard to the following:
  - Investment in local community infrastructure (i.e., Amendment 71)
  - Improvement in basic needs for community residents
  - Development of sustainable business ventures in the CDQ regions
  - The need to expand the opportunities for CDQ investment and development outside fishery businesses
  - Other items identified by the Governor

The motion was seconded by Arne Fuglvog and, after discussion, carried without objection (with Bundy and Nelson recusing themselves).

A transcript of the entire CDQ agenda item is available on request from the Council office.

**C-2 GOA Groundfish Rationalization**

**ACTION REQUIRED**

- (a) Receive report from Gulf Rationalization Community Committee and refine alternatives as appropriate
- (b) Update on status of Gulf Rationalization alternatives, elements, and options

**BACKGROUND**

- (a) Gulf Rationalization Community Committee report

The Gulf Rationalization Community Committee met March 30 in Anchorage to further refine several of the design and implementation issues related to the Community Fisheries Quota (CFQ) Program and Community

Purchase Program, which are components of a proposed rationalization program for Gulf of Alaska groundfish. The current Council motion on the community provisions is provided as Item C-2(a)(1). The committee agenda is Item C-2(a)(2). The committee report will be provided at this meeting.

- (b) Update on status of Gulf Rationalization alternatives, elements, and options

In June 2003, the Council identified a suite of alternatives, elements, and options to rationalize the Gulf of Alaska groundfish fisheries. At subsequent meetings, the Council revised and refined the alternatives based on staff discussion papers and public comment. Because of data availability, Council priorities, and the interest of facilitating public comment, the Council elected not to consider the general program alternatives at its February 2005 meeting. For this meeting, additional staff discussion and analysis of program alternatives, elements, and options are not available. Staff will update the Council on the status of the development of alternatives and analysis that will be provided at the June 2005 meeting. To that end, a summary description of the alternatives is provided as Item C-2(b)(1). In addition, the elements and options developed by the Council are attached as Item C-2(b)(2).

This update is also intended to focus the Council's attention on elements and options for which analyses may be provided at the June meeting and to prepare the Council for possible decision making at that time. Specifically, staff intends to provide analyses and data relevant to the following issues:

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**Alternative 2**

- **Definition of eligibility (treatment of holders of interim LLPs and catch without an LLP) (2.2.2.2 and 2.2.2.3)**
- **Crediting of catch in State waters and parallel fishery (inside 3 nm) (2.2.2.2 and 2.2.2.3)**
- **Allocation of B shares to processor affiliated participants (2.2.3.2.5)**
- **Leasing provisions (2.2.3.3.5)**
- **Caps on use and holdings (2.2.3.3.6)**
- **Owner on board requirements (2.2.3.3.7)**
- **Overages and underages (2.2.3.3.8)**
- **Deliveries to catcher processors (2.2.3.3.11)**
- **Block program (2.2.7)**
- **Percentage of shares that are delivery restricted (2.3.1.1.1)**
- **Linkage provisions (2.3.1.1.2)**
- **Movement between linked processors (2.3.1.1.3)**
- **Processor license qualification (2.3.1.2.1)**
- **Transfers of processor licenses (2.3.1.2.3)**
- **Processor license limitations (2.3.1.2.6)**
- **Cooperative agreement duration (2.4.2.3)**
- **Cooperative use caps (2.4.4.1 and 2.4.4.2)**
- **Movement among cooperatives (2.4.5)**

**Alternative 3**

- **Onboard processing threshold for catcher processor shares (3.2)**
- **Qualifying years (3.2.1 and 3.3.3.2)**
- **Crediting of catch in State waters and parallel fishery (inside 3 nm) (3.3.1)**
- **Provisions concerning catcher processors and on-board processing (3.4.7.1. and 3.4.7.2)**
- **Cooperative formation (3.3.5, 3.3.7, and 3.3.9)**
- **Duration of initial cooperative agreements (3.3.7.1)**
- **Duration of the “initial cooperative formation period” (3.3.12)**
- **Eligibility to receive shares (3.4.2.1)**
- **Caps on use and holdings for individuals, cooperatives, and processors (3.4.3, 3.4.4, 3.4.5, and 3.4.6)**
- **Catcher processors provisions (3.4.7)**

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

**Report of the Advisory Panel**

*Community Issues.* The AP recommended that the Council adopt the Gulf Rationalization Community Committee recommendations as outlined in the staff report from the March 30, 2005 committee meeting. In addition, AP recommended the following substitution (page 2 of the GOA Community Committee recommendations):

C1.2, Option 3: The makeup of the administrative entity board of directors shall reflect population, local participants' harvest history, and geography.

The AP also recommended the continued work of the Gulf Rationalization Committee.

*Other Issues.* The AP recommended the Council remove section 3.4.7.2, Transfer Provisions, from the proposed program.

The full text of the AP Minutes is found in Appendix III to these minutes.

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**COUNCIL DISCUSSION/ACTION**

**Hazel Nelson moved to approve the AP recommendations.** The motion was seconded by Arne Fuglvog. It was clarified that Ms. Nelson's motion did not include the additional AP recommendations regarding transfer provisions.

Ms. Madsen said that she thinks the Council needs more information and clarification of the Committee's recommendations. Before the Council adopts them it is important that there are clear definitions so staff understands Council intent. Other Council members agreed with these concerns. Ms. Madsen suggested that the Council need not adopt the recommendations at this meeting as staff will not be finalizing an analysis between now and the June meeting. Mr. Rasmuson suggested tabling the motion until the State legislature acts on measures the State will use to approach Gulf Rationalization. Stephanie Madsen suggested tabling the motion until the Council has additional time to consider the Committee's recommended changes.

**Dennis Austin moved to table the motion until the June Council meeting.** The motion was seconded and carried with Ms. Nelson objecting.

**C-3    GOA Rockfish Demonstration Project**

**ACTION REQUIRED**

**Initial review of the analysis**

**BACKGROUND**

Section 802 of Title VIII of the Consolidated Appropriations Act of 2004 directed the Secretary of Commerce to develop a rockfish demonstration program for the Central Gulf of Alaska rockfish fisheries in consultation with the Council. At its April and June 2004 meetings, the Council responded to the directive of the legislation, public testimony, and an industry stakeholder proposal, by adopting for analysis a set of alternatives and elements that could be used to select an alternative to establish the demonstration program. At its October 2004, December 2004, and February 2005 meetings, the Council further defined the alternatives including options for sideboards of pilot program participants. A copy of the current motion is attached as Item C-3(a).

Staff has prepared a draft RIR/EA/IRFA for this meeting, which was included in a Council mailing the week of March 21. The executive summary is attached as Item C-3(b). In addition, staff has prepared a discussion paper for consideration by the Council at this meeting attached as Item C-3(c). The discussion paper provides analyses of options within the alternatives for the main demonstration program that the Council has yet to decide. These include the allocation of halibut PSC, shortraker and roughey allocations to catcher vessels, and processor license eligibility provisions. Depending on whether the Council elects to decide these issues at this meeting, staff is prepared to modify the analyses accordingly.

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**Report of the Scientific and Statistical Committee**

The SSC noted that this is a very complicated design for a program that is intended to sunset after two years and has a strong potential to pre-configure the GOA comprehensive rationalization program. The SSC had several recommendations for additions to the analysis, including an expansion of the discussion of monitoring and enforcement of fishing under the program; more detail on the management of catch, a discussion of potential effects of the expanded season on rockfish reproduction, effects of vertical and horizontal integration and foreign ownership on the distribution of benefits under the program, and additional information concerning the relative share of revenues of the fishery that are derived from incidental catch species. For the full text of the SSC's recommendations, refer to the SSC Minutes, Appendix II to these minutes.

**Report of the Advisory Panel**

The Advisory Panel had the following recommendations:

**Issue 1. 3.3.1.3 Prohibited Species (halibut) Allocations:** The AP recommends the Council adopt method 2A (as described on page 2, Table 2 in the discussion paper) for Halibut PSC Quota Allocation

**Issue 2. 3.3.1.2 Secondary species allocation for SR/RE**

The AP endorses the Council's language (italicized paragraph at the top of page 4 of the discussion paper) and the following additional option for consideration of the secondary species SRRE allocation to the CV fleet: The shortraker/roughey allocation for the CV sector will be based on the total catch of the sector during the target rockfish fishery over total catch of all sectors which yields the highest annual percentage during the qualifying years.

The Shortraker/Roughey hard cap for the CV target rockfish fishery should be managed as an aggregate cap. Any disproportionate amount of shortraker taken by the CV sector should come out of the open access shortraker quota. This language should modify the existing alternative in 3.3.1.2 in the draft Alternatives, Elements, and Options (Item C-3(a)).

Staff should provide a discussion at the next meeting of other fisheries which take shortraker and roughey incidentally and what the impacts to those fisheries might be of allocating an amount of SR/RE to the trawl fisheries that may not leave enough TAC to accommodate historical harvest in other fisheries. (i.e., it appears that historical catch in other fisheries exceeds what the 2005 amount available would be after trawl rockfish allocations are subtracted from the TAC).

**Issue 3. 5.4 Processor Eligibility Suboption**

In Alternative 2 as described on page 6 of the discussion paper, insert the language "depreciated capital assets of " after the "of" but before the "(a)".

**Rockfish Fishery Opening and Closing Dates**

The AP recommends a start date of March 1 and a closing date of November 15.

**9.2 CP Specific Sideboards**

The AP recommends that for establishing participation in a fishery (9.2 CP Specific Sideboard Provisions in the Alternatives, Elements, and Options), NMFS examine the date of the rockfish fishery opening to the first week ending date following the opening from 1996 to 2002 with the exception of 1999 and 2000 where the 2<sup>nd</sup> week ending date following the opening should be used.

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**“Opting-Out” Review**

The language in Section 9.2 (CP Specific Sideboards) regarding the annual review of the program should be moved to the review provisions section (8. Program Review).

*Applies to Alternative 2 and 3:*

**5.4 CV Sector**

Harvesters may elect not to join a coop, and continue to fish in an LLP Open Access fishery. ~~Those LLPs that opt out of the cooperative portion of the pilot program will be penalized 0-20% of their historical share (annual allocation). The penalty share will be left with the LLPs associated cooperative.~~ The LLPs **remaining** share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative and must be delivered to one of the qualified processors.

**3.3.1.2 Secondary Species**

Add an alternative to 3.3.1.2 that SR/RE will be allocated to the CP sector based on 75-100% of their history.

The AP recommends the document, with the requested changes, be released for Final Action in June 05.

**COUNCIL DISCUSSION/ACTION**

**Roy Hyder moved to adopt the recommendations of the Advisory Panel.** The motion was seconded [unidentified]. Mr. Hyder pointed out that this is a program mandated by Congress and it is very complicated. Industry has worked to help formulate the program which is reflected by the majority votes during the Advisory Panel’s deliberations.

**Arne Fuglvog moved to amend Section 3.3.1.2: delete the portion of the first sentence in the second paragraph: The sentence, as amended, would read: The shortraker/rougheye hard cap for the CV target rockfish fishery will be calculated based on the aggregate shortraker/rougheye TAC and then divided: (a) 50% shortraker/50% rougheye; or, (b) 60% shortraker/40% rougheye.” The rest of the paragraph would remain the same.** The motion was seconded [unidentified].

**Dennis Austin recommended a friendly amendment to remove the sentence, “Any disproportionate amount of shortraker taken by the CV sector should come out of the open access shortraker quota.** The motion was seconded and carried without objection.

Mr. Fuglvog’s amendment, as amended, carried without objection.

**Doug Hoedel moved to amend the main motion: Under Section 3.3.1.2, add the following option: Option 2: Manage CV shortraker and rougheye using an MRA between 0.7% (average use) and 1.1% (highest annual use).** The motion was seconded by Ed Rasmuson and carried without objection.

Mr. Benson asked for clarification of the fishery opening and closing dates (March 1 and November 15, respectively) recommended by the AP. Mr. Fina replied that staff will discuss enforcement issues and any other ramifications of this suggestion. These dates will be provided as options in the final review document, along with discussion of any effects.

Regarding SSC recommendations, staff will address them to the extent possible. The intent is to get the analysis revised and available for public review in advance of the June meeting so the Council may take final action at that time. It’s possible that the normal 30-day review may have to be abbreviated in order to accomplish this.

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The main motion, as amended, carried without objection. The final motion is found in Appendix IV to these minutes.

Mr. Bundy asked when implementation of the program could be expected – April 2006 has been mentioned. Jim Balsiger responded that it is a very slight possibility implementation could occur by that date. Ms. Salveson explained that the program is quite complex and that it would be difficult to get a rule in place by next summer. Additionally, the same staff that is working to finalize the crab rule will work on the rockfish program. Ms. Salveson said she thinks the earliest a final rule could be published would be the summer of 2006, assuming the Council takes final action at the upcoming June meeting. Fishing under the program would probably not begin until the 2007 fishing year.

**C-4 BSAI Pacific Cod Allocations**

**ACTION REQUIRED**

**Review discussion paper on BSAI Pacific cod allocations and refine alternatives for analysis**

**BACKGROUND**

**In October 2004, the Council modified the elements and options for BSAI Amendment 80 and removed Pacific cod allocations from that amendment package. The intent was to streamline the analysis and shift it back to its original intent, to provide the non-AFA trawl catcher processor sector with a tool to meet the groundfish retention standards adopted in BSAI Amendment 79. The Council also reaffirmed that modifications to the Pacific cod allocations could be addressed in a separate amendment. To that end, the Council approved a problem statement and a document outlining draft components and options in December 2004 as a starting point for a new plan amendment to alter the current BSAI Pacific cod allocations. In February 2005, the Council was provided with another discussion paper and further revised the components and options for analysis.**

**The BSAI Pacific cod TAC has been apportioned among the different gear sectors since 1994 (trawl, fixed, and jig gear split), and a series of amendments have modified or continued the allocation system. Currently, Federal regulations at 50 CFR 679.20(a)(7) authorize distinct BSAI Pacific cod allocations for the following sectors (BSAI FMP Amendments 46 and 77):**

- **51% fixed gear  
(80% hook-and-line catcher processors)  
(0.3% hook-and-line catcher vessels)  
(3.3% pot catcher processors)  
(15.0% pot catcher vessels)  
(1.4% hook-and-line/pot vessels <60' LOA<sup>2</sup>)**
- **47% trawl gear  
(50% trawl catcher vessels)  
(50% trawl catcher processors)**
- **2% jig gear**

**The Council's current BSAI Pacific cod amendment package focuses on two primary issues: (1) BSAI Pacific cod allocations to all gear sectors (trawl, jig, hook-and-line, and pot); and (2) apportionment of the BSAI Pacific cod sector allocations between the BS and AI subareas. The**

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<sup>2</sup>While the <60' fixed gear (hook-and-line and pot) sector receives a separate allocation of BSAI Pacific cod, these vessels fish off the general hook-and-line CV and pot CV allocations, respectively by gear type, when those fisheries are open.

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first part of the problem statement notes the annual inseason reallocations of TAC among gear sectors and concerns that the BSAI Pacific cod allocations above do not adequately reflect actual use by sector. The second part of the problem statement addresses the need to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod TAC be apportioned between the BS and AI subareas during a future TAC specifications process.

The Council's current motion (February 12, 2005) proposes BSAI Pacific cod allocations for the following sectors, which includes a further apportionment of the trawl CP and trawl CV sectors between AFA and non-AFA vessels:

- AFA Trawl CPs
- Non-AFA Trawl CPs
- AFA Trawl CVs
- Non-AFA Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs  $\geq 60'$
- Pot CPs
- Pot CVs  $\geq 60'$
- Hook-and-line and pot CVs  $< 60'$
- Jig CVs

The discussion paper provided for review at this meeting (item C-4(a)) is intended to assist in further defining the current suite of components and options for analysis, as well as provide the Council and the public with preliminary calculations of the sector allocations under the current options. At the February meeting, the Council requested such preliminary analysis, as well as total catch (retained and discarded) data for the trawl sectors. The total catch data was not available in time for this meeting, but will be included in the analysis in order to help determine how much cod is needed to accommodate incidental catch needs in the various trawl sectors' non-cod target fisheries.

The discussion paper is divided into three parts:

**Part I. Eligibility criteria in Component 1, Option 1 for the non-AFA trawl CV sector**

Part I is provided to:

- allow the Council to clarify Component 1, Option 1 for the non-AFA trawl CV sector;
- understand the potential impact of Component 1, Option 1 in terms of the allocations to the non-AFA trawl CV sector and the AFA trawl CV sector; and
- allow the Council to clarify the language regarding the LLP license.

**Part II: Sector allocations resulting from Component 4**

Part II is provided to:

- indicate the range of allocation percentages that result from the current options under Component 4.
- assist the Council in determining whether the range of options in Component 5 is appropriate for the  $< 60'$  fixed gear sector and jig gear sector.

**Part III: Management of the sector allocations under Component 5**

Part III is provided to:

- highlight some of the issues associated with various options for managing the Pacific cod sector allocations and to assist the Council in determining how the trawl sector allocations should be managed. Staff's understanding from previous Council

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discussions is that the fixed gear allocations are to continue to be managed under the current system, and the new trawl allocations would be managed under a hard cap. Staff is seeking clarification of this approach at this meeting.

While no action is required at this meeting, the Council may take action to revise the current suite of components and options as necessary. The current Council motion is attached to the discussion paper. The marked up version of the motion, indicating the changes made at the February meeting, is provided as item C-4(b). Initial Council review of the analysis has been tentatively scheduled for October 2005, depending on data availability and other Council priorities. The discussion paper was mailed to you on March 14.

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

### Report of the Advisory Panel

The AP recommends the Council adopt the following clarifications, recommendations and changes, noted in bold:

Clarify Component 1 Option 1 to read:

A non-AFA trawl catcher vessel must have made 100 mt of cod landings **in each of the years 1995–1997.**

Modify Option 1 to read:

**Option 1. The holder of a license that arose from a vessel/history that made a minimum of 100 mt of cod landings during the years 1995–1997.**

5.2 Allocations to Sectors: Allocations to sectors are to be based on catch history (Component 4) as well as other considerations

The allocations (whether combined or separate) to the <60' fixed gear CVs and jig CVs (i.e. the 'small boat sectors') shall collectively not exceed:

- 5.2.1 Actual catch history percentage for jig and <60' fixed gear CVs collectively (from the set of years selected for all sectors in Component 4).
- 5.2.2 2.71% (*represents current 2% jig allocation plus .71% of non CDQ TAC ~~1.4% of 51% fixed gear~~*)
- 5.2.3 3% (**2% jig allocation, plus 1% of non CDQ TAC**)
- 5.2.4 4% (**2% jig allocation, plus 2% of non CDQ TAC**)

### **Rollover hierarchy for unused sector allocations** (*current regulations adapted to sector splits*)

6.2 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.

**The AP recommends the Council add a suboption that allocates rollover from trawl to fixed gear proportional to new fixed gear allocations.**

6.3 Projected unused allocation in the jig sector should rollover to the <60' fixed gear CV sector on a seasonal basis.

**The third trimester rollover should be available to the <60' fixed gear CV sector on September 1<sup>st</sup>.**



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The AP requests the Council bookmark the issue of allocating Pcod to coop and non-coop non-AFA trawl CP sectors in Amendment 80. .

Further, the AP requests NOAA Fisheries review alternative management measures that can be applied to hard and soft caps in order to avoid closing fisheries in which cod may occur as incidental bycatch and to avoid pre-emption of other fisheries and to avoid OFL. This motion would help in developing management measures other than hard caps.

**COUNCIL DISCUSSION/ACTION**

**Roy Hyder moved to adopt the recommendations of the Advisory Panel.** The motion was seconded [unidentified]. Mr. Hyder pointed out that the AP's motion is based on the Council's action in February which is included in the meeting notebook. He also clarified that the italicized portions in the AP minutes are not included in the current motion. It was also clarified that in Option 1, vessel/history of 100 mt of cod landings during the years 1995-1997 means in each of the years 1995-1997, as clarified during the oral AP report.

**Arne Fulvog moved to amend:**

**If the revised allocations result in a temporal distribution of the all gear harvest that closely approximates the current catch distribution, and the revised allocations result in changed seasonal apportionments of harvest within gear types (a seasonal apportionment that is different than that which is contained in the current regulations), will that be likely to trigger a formal re-consultation? If so, is there an acceptable level of change of the seasonal apportionments that would not result in formal reconsultation?** The motion was seconded [unidentified]. Mr. Fuglvog noted that this is mainly a direction to staff to confer with Protected Resources on this issue.

Ms. Madsen said that she thinks the issue put to staff was to determine if there is a way to maintain the seasonal allocations even if the splits are changed so that the change would not affect the percentages in the Steller sea lion protection measures.

Mr. Fuglvog said that his motion will accomplish this in a slightly different manner, and that it's important for the Council to have this information now, before taking any action that may trigger a formal reconsultation.

**Dave Benson moved a substitute motion (considered by AP, but failed):**

**Create Alternative 5.3 – Seasonal allocations to sectors—**

**Trawl and fixed gear allocations from January 1 through June 10 be set at their current proportion of the ITAC. For example:**

**Aggregate trawl 'A' season (January 20-April 1) 60% of 47% of ITAC**

**Aggregate trawl "B" Season (April 1-June 10) 20% of 47% of ITAC**

**Aggregate fixed gear "A" season (January 1-June 10) 60% of 51% of ITAC**

**C season allocations would then be calculated by subtracting the A/B season allocations for each sector from their annual allocations.**

The motion was seconded by John Bundy, and failed, 6 to 5, with Austin, Balsiger, Benson, Bundy and Hyder voting in favor.

**John Bundy moved to amend the Fuglvog amendment: Ask staff to explore alternative sector allocations that would least disturb the bounds of seasonal harvests.** The motion was seconded and carried without objection.

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**Jim Balsiger moved to delete the last sentence of the Fuglvog amendment (“If so, is there an acceptable level of change of the seasonal apportionments that would not result in formal reconsultation?”).** Dr. Balsiger pointed out that any change to the fisheries that would affect the sea lion protection measures would necessitate the Protected Resources’ review of the proposed action. Under most circumstances he would not anticipate a ‘formal’ consultation. This particular question is overly broad, in his mind, and would be almost impossible to answer. He would prefer not to have it included. The motion was seconded and carried without objection.

**Doug Hoedel moved to amend the main motion:**

**6.0 Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. When considering reallocations of inshore sector fish the following hierarchy shall be followed:**

**Any unused inshore fish from any inshore sector will rollover using the following hierarchy:**

**First to Jig CVs and/or H/L & Pot CVs <60’; then to  
H/L or Pot CVs ≥60’; then to  
Trawl CVs (both AFA and non-AFA)**

**Any fish that is not harvested or likely to be harvested through the above hierarchy will be rolled as per components 6.1 through 6.6 below.**

The motion was seconded and carried without objection.

**John Bundy moved to amend to add two additional sets of years for analysis: 95-03, and 97-00, as suggested in public testimony.** The motion was seconded [unidentified].

**Arne Fuglvog moved to amend to delete the option of 95-03.** The motion was seconded by Chuck Mecum and carried 7-4, with Benson, Bundy, Hoedel and Hyder voting against.

John Bundy’s amendment carried, as amended, without objection.

The main motion, as amended carried without objection. A copy of the final motion is in Appendix V to these minutes.

**C-5 BSAI Salmon Bycatch**

**ACTION REQUIRED**

- (a) Report from pollock cooperatives**
- (b) Finalize alternatives/review and revise problem statement**

**BACKGROUND**

**The Council is currently working to address salmon bycatch management issues in the BSAI groundfish trawl fisheries following reports of an increasing problem with both chum and Chinook salmon bycatch in 2003 and 2004 and suggestions that the current regulatory measures could be improved to address bycatch situations similar to that of the past two years. In December, the Council drafted a problem statement and draft alternatives to address alternative means of salmon bycatch management in the BSAI pollock trawl fisheries. At their February 2005 meeting,**

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the Council bifurcated these alternatives into two amendment packages, with the first package receiving prioritization for analysis. A summary of the alternatives (following their prioritization) and the draft problem statement for the analysis from the February 2005 Council motion are attached as Item C-5(a).

Prior to initiating an analysis, the Council requested further clarification from staff and the industry on several remaining questions with respect to the alternatives for analysis. These are the following:

- 1) **Rulemaking requirements.** The Council requested additional guidance on the rulemaking requirements and timeline for implementing either of the alternatives which repeal (Alternative 2) or suspend (Alternative 3) the existing regulatory closures.
- 2) **Revised Inter-cooperative Agreement.** The Council requested that the pollock cooperatives provide additional information on how their existing inter-cooperative agreement would be modified to account for the bycatch reduction criteria, CDQ group participation and additional comments as contained in the February 2005 Council motion.

Staff has prepared a brief discussion paper which reviews the Council's concerns regarding these issues and outlines clarifications remaining for the Council in refining the alternatives for analysis. This discussion paper is attached as Item C-5(b).

A summary from NOAA GC of information on the notice and comment rulemaking requirements under APA is provided under Item C-5(c).

Representatives from the inter-cooperative bycatch program will be available at the meeting to discuss their progress toward revising their agreement to meet the Council's requests.

At this meeting the Council will need to clarify the alternatives, review and refine the problem statement and establish a prioritization of the timeline for the analysis of both amendment packages.

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

The SSC noted that a great deal of analysis is required to support implementation of such a system and that the current hot spot closure system likely requires additional protection measures, such as a cap. The SSC provided the analyst with several comments and suggestions and requested future presentations on two topics:

1. The BASIS salmon program, emphasizing new information on the distribution of chum and Chinook salmon in the eastern Bering Sea, and
  2. recent genetic stock ID of chum and Chinook salmon in the eastern Bering Sea.
- Please see the SSC Minutes, Appendix II to these minutes, for the full set of comments and recommendations.

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

The AP recommends the following changes and additions (noted in bold) to the current problem statement and alternatives:

#### **Problem Statement for Amendment Package A:**

In the mid-1990's, the Council and NMFS implemented regulations to control the bycatch of chum salmon and Chinook salmon taken in BSAI trawl fisheries. These regulations established closure areas in areas and at times when salmon bycatch had been highest based on historical observer data. ~~Unfortunately, these regulations did not appear to have been effective in 2003 and 2004, when record~~

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~~amounts of salmon bycatch were taken.~~ Information from the fishing fleet indicates that bycatch ~~was~~ **may have been** exacerbated by the **current regulatory closure** regulations, as much higher salmon bycatch rates were **reportedly** encountered outside of the closure areas. Some of these bycaught salmon include Chinook and chum stocks of concern in western Alaska. Further, the closure areas impose increased costs on the pollock fleet. To address this immediate problem, the Council will examine and consider other means to control salmon bycatch **that have the potential to be more flexible and adaptive.**

**Amendment Package A**

Alternative 2: **Suspend** ~~eliminate~~ the regulatory salmon savings area closures.

Alternative 3: Suspend the regulatory salmon savings area closures ~~on a year-by-year basis~~ so long as the pollock cooperatives **and CDQ groups** have in place an effective salmon bycatch **voluntary rolling “hot spot” (VRHS) closure system to avoid salmon bycatch.** **The Council will require that the VRHS agreement have a term sufficient for analysis and implementation of the alternatives in Package B.**

**Suboption: The ICA managers will report to the Council immediately if there is non-participation or non-compliance without effective enforcement action under the VRHS system. In that event, the Council may recommend re-imposition of the regulatory salmon savings area closures on an expected basis. If the regulatory closure are system is reinstated, it is the Council’s intent that the closure areas be based on the most recent information available and if the analysis of Package B alternative 1 supports the approach, with regular adjustments.**

The AP recommends the development of amendment package A with high prioritization for initial review in June and Final Action in October.

**Problem Statement for Amendment Package B:**

**The Council and NMFS have initiated analysis of a promising voluntary rolling hotspot (VRHS) alternative to regulatory salmon savings area closures. Concurrent with that analysis and possible implementation, development will continue on the alternatives that could be implemented if the VRHS approach does not achieve the desired bycatch reduction.**

**Two possible scenarios under which the VRHS system could produce unsatisfactory results are (1) breach of the inter-cooperative agreement (i.e. one or more vessels fail to participate in the VRHS system, or there are substantial violations of VRHS closures that are not effectively halted through penalties or other measures); or (2) compliance what the VRHS system is good, but the VRHS system fails to achieve the Council’s desired level of salmon bycatch reduction.**

**In the first scenario, the Council may ask NMFS to reinstate on an expedited basis the regulatory salmon savings area closure system that is based on the best information available. In the second scenario, the Council intends to consider implementation of an alternative regulatory system from Package B, or consider and evaluate NMFS hot spot management authority as an option for salmon bycatch management.**

Alternative 1: Establish new regulatory salmon savings area closures ~~based on~~ **taking into account the current most recent** available salmon bycatch data. **This analysis should be completed first and be updated regularly so that it can be implemented on an expedited basis if necessary.**

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**Suboption A: Adjust the Chinook and non-Chinook regulatory closure areas annually based on the most current bycatch data available, such as the 2-3 year rolling average of bycatch rates by species and area.**

**Suboption B: Adjust the Chinook and non-Chinook regulatory closure areas once in-season based on the best bycatch information available**

Alternative 2: Insert “managed” at the start of each suboption

*(From the February 2005 Council motion, page 1)*

The Council moved to require an annual report on the results of the salmon bycatch by the cooperatives should the closures be suspended. The industry is requested to **provide** ~~include in their bycatch cooperative agreement a list of considerations by which the~~ **an** annual review of performance **that** will be evaluated **by the Council**. The industry ~~report agreement which is to be drafted (or revised from its current state)~~ should include the following in their bycatch reduction criteria:

Additionally, the AP requests the analysis cover bycatch of salmon in non-pollock BSAI trawl fisheries whose other salmon bycatch is included in the cap.

Further, the AP supports the initiation of a research plan in cooperation with the Pollock fleet, western Alaskan entities, NMFS and ADF&G to facilitate salmon bycatch reduction, including:

- Developing methods for reducing salmon bycatch in the pollock fishery through excluder devices, fishing behavior modification, net design and the like;
- Developing methods to gauge salmon abundance pre-season or in season so that trigger rates can be set appropriately based on the best scientific information; and
- Identifying the rivers of origin of salmon bycatch, and the timing and location of bycatch of the various stocks, paying particular attention to stocks of concern and developing methods to avoid these.

## COUNCIL DISCUSSION/ACTION

In addition to the staff report, the Council received a report from John Gruver, Joe Sullivan, and Karl Hafling on efforts of the AFA Inter-coop to formulate a salmon bycatch program.

**Doug Mecum moved the AP recommendations, with some minor revisions:**

**The Council moves the AP motion forward with minor changes and additions. Additions to the AP motion are in CAPITAL LETTERS, deletions to the AP language indicated with ~~striketrough~~.**

### **Problem Statement for Amendment Package A:**

**In the mid-1990’s, the Council and NMFS implemented regulations to control the bycatch of chum salmon and Chinook salmon taken in BSAI trawl fisheries. These regulations established closure areas in areas and at times when salmon bycatch had been highest based on historical observer data. Information from the fishing fleet indicates ~~that bycatch was may have been exacerbated by the current regulatory closure regulations, as much~~ higher salmon bycatch rates were reportedly encountered outside of the closure areas. Some of these bycaught salmon include Chinook and chum stocks of concern in western Alaska. Further, the closure areas impose increased costs on the pollock fleet. To address this immediate problem, the Council will examine and consider other means to control salmon bycatch that have the potential to be more flexible and adaptive, BUT STILL MEET COUNCIL INTENT TO MINIMIZE IMPACTS TO SALMON IN THE EASTERN BERING SEA.**

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**Amendment Package A**

**Alternative 2:** Suspend the regulatory salmon savings area closures.

**Alternative 3:** Suspend the regulatory salmon savings area closures so long as the pollock cooperatives and CDQ groups have in place an effective salmon bycatch voluntary rolling “hot spot” (VRHS) closure system to avoid salmon bycatch. The Council will require that the VRHS agreement have a term sufficient for analysis and implementation of the alternatives in Package B.

**Suboption:** The ICA managers will report to the Council immediately if there is non-participation or non-compliance without effective enforcement action under the VRHS system. In that event, the Council may recommend re-imposition of the regulatory salmon savings area closures on an expedited basis. If the regulatory closure area system is reinstated, it is the Council’s intent that the closure areas be based on the most recent information available and if the analysis of Package B alternative 1 supports the approach, with regular adjustments.

The ~~AP~~ COUNCIL recommends the development of amendment package A with high prioritization for initial review in June and final action in October.

**Problem Statement for Amendment Package B:**

The Council and NMFS have initiated analysis of a promising voluntary rolling hotspot (VRHS) alternative to regulatory salmon savings area closures. Concurrent with that analysis and possible implementation, development will continue on the alternatives that could be implemented if the VRHS approach does not achieve the desired bycatch reduction.

Two possible scenarios under which the VRHS system could produce unsatisfactory results are (1) breach of the inter-cooperative agreement (i.e. one or more vessels fail to participate in the VRHS system, or there are substantial violations of VRHS closures that are not effectively halted through penalties or other measures); or (2) compliance when the VRHS system is good, but the VRHS system fails to achieve the Council’s desired level of salmon bycatch reduction.

In the first scenario, the Council may ask NMFS to reinstate on an expedited basis the regulatory salmon savings area closure system that is based on the best information available. In the second scenario, the Council intends to consider implementation of an alternative regulatory system from Package B, or consider and evaluate NMFS hot spot management authority as an option for salmon bycatch management.

**Alternative 1:** Establish new regulatory salmon savings area closures taking into account the ~~current~~ most recent available salmon bycatch data. This analysis should be completed first and be updated regularly so that it can be implemented on an expedited basis if necessary.

**Suboption A:** Adjust the Chinook and non-Chinook regulatory closure areas annually based on the most current bycatch data available, such as the 2-3 year rolling average of bycatch rates by species and area.

**Suboption B:** Adjust the Chinook and non-Chinook regulatory closure areas once in-season based on the best bycatch information available

**Alternative 2:** Insert “managed” at the start of each suboption

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**SUBOPTION TO BOTH ALTERNATIVES: THE SSC NOTES THAT A GREAT DEAL OF ANALYSIS IS REQUIRED TO SUPPORT IMPLEMENTATION OF SUCH A SYSTEM AND THAT THE CURRENT HOT SPOT CLOSURE SYSTEM LIKELY REQUIRES ADDITIONAL PROTECTION MEASURES SUCH AS A CAP. ANALYSE THE NEED AND IMPLEMENTATION STRATEGY OF AN APPROPRIATE CAP TO MEET REQUIREMENTS OF NATIONAL STANDARD 9.**

**Additionally, the AP COUNCIL requests the analysis cover bycatch of salmon in non-pollock BSAI trawl fisheries whose other salmon bycatch is included in the cap.**

**Further, the AP COUNCIL supports the initiation of a research plan in cooperation with the Pollock fleet, western Alaskan entities, NMFS and ADF&G to facilitate salmon bycatch reduction, including:**

- Developing methods for reducing salmon bycatch in the pollock fishery through excluder devices, fishing behavior modification, net design and the like;**
- Developing methods to gauge salmon abundance pre-season or in season so that trigger rates can be set appropriately based on the best scientific information; and**
- Identifying the rivers of origin of salmon bycatch, and the timing and location of bycatch of the various stocks, paying particular attention to stocks of concern and developing methods to avoid these.**

**AS A BASIS FOR UNDERSTANDING SOME OF THESE ISSUES, THE COUNCIL FURTHER ADOPTS SSC RECOMMENDATIONS FOR PRESENTATIONS ON, BUT NOT LIMITED TO:**

- 1. THE “BASIS” SALMON PROGRAM, EMPHASIZING NEW INFORMATION ON THE DISTRIBUTION OF CHUM AND CHINOOK SALMON IN THE EASTERN BERING SEA.**
- 2. RECENT GENETIC STOCK ID OF CHUM AND CHINOOK SALMON IN THE EASTERN BERING SEA; AND**
- 3. AYK COMMERCIAL AND SUBSISTENCE SALMON OVERVIEW BY ADF&G STAFF.**

The motion was seconded by Ed Rasmuson.

**Arne Fuglvog moved to amend to re-include a sentence in AP’s motion: in the Problem Statement for Amendment Package A, second sentence: “that bycatch may have been exacerbated by the current regulatory closure regulations, as much”. . .[continue on with sentence in motion]. . . The motion was seconded and carried with Hazel Nelson objecting.**

**Dave Benson moved to amend to re-insert from the Council’s February motion the following language:**

**The Council moved to require an annual report on the results of the salmon bycatch by the cooperatives should the closures be suspended. The industry is requested to provide an annual review of performance that will be evaluated by the Council. The industry report should include the following in the bycatch reduction criteria:**

- Evidence of moving the fleet away from hot spots – this is dependant on trigger rates, the spread of bycatch rates between areas, and the size of area closed.**
- Trigger rates0these should recognize abundance, so rates are lower in years of low abundance and higher in years of high abundance. Guidelines for setting initial**

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**trigger rates and generally acceptable total catches are probably needed. An annual review of performance will be essential.**

- **Individual accountability-while there is a certain amount of randomness in salmon bycatch, there are also measures vessels can take to minimize bycatch. The co-ops should be encouraged to continue work on bycatch avoidance and individual accountability and required to report annually on these efforts.**
- **Review of the reliability of the total bycatch estimates.**

The amendment was seconded and carried without objection.

**Under Amendment Package A, Alternative 2, Jim Balsiger moved to substitute the word ‘suspend’ with the word ‘eliminate’ (the regulatory salmon savings area closures).** The motion was seconded by Arne Fuglvog and carried without objection.

Dr. Balsiger said that Alternative 2 essentially means to remove the current closures. Diana Stram (NPFMC staff) explained that she believes the AP’s understanding that eliminating the closures would not allow reinstating them if it was found to be necessary.

**In the Problem Statement for Amendment Package A, fifth sentence, Dave Benson moved to insert the words ‘and processors’ at the end of the sentence, to read: “Further, the closure areas impose increased costs on the pollock fleet and processors.”** The motion was seconded by John Bundy and carried without objection.

**In the Problem Statement for Amendment Package B, Roy Hyder moved to delete the words ‘promising voluntary’ (rolling hotspot (VRHS). . .).** The motion was seconded by Jim Balsiger. Mr. Hyder pointed out that he does not believe a voluntary program should be included in a regulatory package.

**Dave Benson moved to reinsert the word ‘voluntary’.** The motion was seconded by Ed Rasmuson and carried without objection. Mr. Hyder’s motion, as amended, carried without objection.

**John Bundy moved to amend the statement (under Amendment Package B) that states, ‘Further the Council supports the initiation of a research plan . . .’ to read” Further, the Council has identified the importance of a research plan. . .’.** The motion was seconded by Doug Hoedel and carried without objection.

With regard to the request for staff to address SSC requests for additional information on salmon abundance and stock composition, Mr. Mecum said that information is an integral part of a cap analysis and suggested that, if possible, Council, ADF&G, and NMFS staff should provide the Council with presentations in June on what is available with respect to genetic stock composition and talk about work that has been done previously with respect to salmon biomass and abundance trends in the North Pacific for chum and Chinook. Whether or not this can be done by June will be up to staff availability. Ms. Madsen suggested that this would better be scheduled for the October meeting as the June meeting will be very full. Because this information is more needed for the second amendment package, it was agreed that any available information would be presented to the Council in October.

The main motion, as amended, carried without objection. The revised motion is included in these minutes as Appendix VI.



C-6 Bairdi Crab Split

**ACTION REQUIRED**

Develop problem statement/refine alternatives and take action as necessary

**BACKGROUND**

At its December 2004 meeting, the Council, anticipating a change by the Alaska Board of Fisheries to manage Bering Sea *C. bairdi* as two separate stocks (one east of 166° W longitude and the other west of 166° W longitude) requested staff to initiate an analysis of the alternatives to allocate shares for the two separate fisheries. The action is necessary because the Council, in rationalizing *C. bairdi* in the Bering Sea, did not distinguish the management of these separate stocks. The alternatives proposed at the December 2004 meeting would allocation QS and PQS, respectively, to an eligible participant in a sector either equally for each fishery or proportional to their harvest in the respective area.

Staff has three requests of the Council at this meeting. First, the Council has yet to adopt a problem statement for this action. Council staff, in consultation with staff of ADF&G and NOAA Fisheries, has developed a draft problem statement for review and consideration by the Council. At this meeting, the Council should adopt a problem statement to direct the analysis and future Council action.

Second, it has come to the attention of the staff that the alternatives for processor allocations are inconsistent with the system for allocation of PQS in the Council's crab rationalization program. Specifically, allocations of PQS for the Bering Sea *C. bairdi* fishery in the current program are based equally on qualified history in the Bering Sea *C. opilio* fishery and the Bristol Bay red king crab fishery. Since the current alternatives would allocate PQS for the Bering Sea *C. bairdi* fishery based on harvests of Bering Sea *C. bairdi*, these alternatives appear inconsistent with the current program provisions. Staff requests that Council verify its intentions concerning the allocation of PQS, suggesting possible alternatives that are consistent with the provisions currently included in the program.

Lastly, NOAA Fisheries has advised staff that allocations of QS and PQS for the Bering Sea *C. bairdi* fishery will be completed in the near future, if implementation of those provisions are not delayed. The final rule (70 FR 10174) implementing the Council's program would allocate *C. bairdi* QS and PQS based on Amendment 18 to the BSAI crab FMP, which does not distinguish *C. bairdi* as two separate quota fisheries. If NMFS issues QS and PQS for the *C. bairdi* fishery based on Amendment 18, and the Council subsequently recommends changes to treat the two *C. bairdi* stocks as separate fisheries, NMFS would have to void the existing *C. bairdi* QS and PQS and reissue *C. bairdi* QS and PQS. This reissuance is problematic, particularly if allocations are traded. If, instead, allocations of QS and PQS for *C. bairdi* are withheld until regulations are amended to establish allocations of QS and PQS for the separate *C. bairdi* stocks, management complications and potential distributional effects of retracting allocations for a single fishery and reissuing allocations for two separate fisheries could be avoided.

Attached is a discussion paper, Item C-6(a), that presents a brief description of the fishery, a draft problem statement, and a description of the alternatives for the proposed action. This action is scheduled for initial review in June 2005 followed by final action in October 2005.

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

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**Report of the Advisory Panel**

The AP recommended the Council adopt the following Problem Statement;

Under the Fishery Management Plan for Bering Sea and Aleutian Islands king and Tanner crabs (FMP), the State of Alaska, Dept. of Fish and Game (ADF&G) has management authority for certain aspects of the Bering Sea/Aleutian Islands crab fisheries. Under the FMP, the State of Alaska is authorized to make changes in management subject to criteria defined in the FMP (category II measures), including adjustment of district and subdistrict boundaries for the purposes of managing reasonably distinct stocks of crab. As a part of their management of Bering Sea District *C. bairdi*, ADF&G has determined that two geographically separate *C. bairdi* inhabit the Bering Sea rounds that have historically supported the Bering *C. bairdi*. ADF&G has determined that these two stocks, one east of 166 degrees W longitude and the other west of 166 degrees W longitude should be managed separate. The Alaska Board of Fisheries has approved a management plan that directs ADF&G to manage the Bering Sea District *C. bairdi* as two separate stocks, east and west. The Council action to rationalize *C. bairdi* in the Bering Sea did not distinguish the management of these separate stocks. This action is to consider alternatives for the allocation of QS, PQS, IFQ, and IPQ for these separate fisheries. The Council intends to develop an allocation that is fair and equitable.

Additionally, the AP recommended that the Council request NOAA Fisheries withhold allocations of QS and PQS for *C. bairdi* until regulations are amended to establish allocations of QS and PQS for *C. bairdi* until regulations are amended to establish allocations of QS and PQS for the separate *C. bairdi* stocks. Management complications and potential distributional effects of retracting allocations for a single fishery and reissuing allocations for two separate fisheries will be avoided. The AP also recommended that the Council replace the current alternatives 1 and 2 with the new alternatives 1 and 2 on page 5 of the discussion paper, to be consistent with the 2002 Council motion.

[Those Alternatives are:

1. Make two equivalent allocations of PQS (one for each fishery) based equally on a company's qualified Bering Sea *C. opilio* processing history and qualified Bristol Bay red king crab processing history (regardless of where harvests that led to those landings occurred). This alternative would result in two PQS pools, one for each fishery.
2. Make one allocation of PQS for the Bering Sea *C. bairdi* fishery based equally on a company's qualified Bering Sea *C. opilio* processing history and qualified Bristol Bay red king crab processing history (regardless of where harvests that led to those landings occurred). This single type of PQS would yield IPQ that can be used for landings from either fishery (i.e., IFQ west of 166° W longitude or IFQ east of 166° W longitude). This alternative would result in one PSQ pool that would yield IPQ that could be used in either *C. bairdi* fishery. ]

**COUNCIL DISCUSSION/ACTION**

Doug Mecum moved to approve the recommendations of the Advisory Panel. The motion was seconded by Ed Rasmuson and carried without objection.

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**D. FISHERY MANAGEMENT PLANS**

**D-1(a) Non Target Species/Rockfish Discussion Paper**

**ACTION REQUIRED**

Receive report from Non-Target Species Committee

**BACKGROUND**

The Non-Target Species Committee is working to develop improved measures to manage non-target groundfish species. The committee has recommended a problem statement, goals and objectives, and draft alternatives for revising management of non-target species (attached). The Council is proceeding with interim steps for managing non-target groundfish species until revised National Standard 1 (NS1) guidelines are published. The Council's first step is an amendment to the Gulf of Alaska (GOA) Groundfish FMP to revise the TAC-setting process for the other species category under the next agenda item.

Under this agenda item, the Council will consider whether to take a second interim step to initiate a combined GOA and Bering Sea/Aleutian Islands FMP amendment to address management of the other species complex. For several years, the BSAI Groundfish Plan Team and SSC have recommended eliminating the other species category and setting separate catch specifications for sharks, skates, squid, sculpin, and octopus. In February 2005, the Council requested that the Non-Target Species Committee provide recommendations on this proposal. At its March 2005 meeting, the committee recommended that only BSAI skates, or BSAI skates and BSAI and GOA sculpins, be separated from the complex since this action is intended to address the potential for developing fisheries, while the larger issue of non-target species management awaits publication of revised NS1 guidelines. If the Council decides to initiate this joint plan amendment, it should adopt a problem statement for the analysis. Final action by the Council would be scheduled for June 2006 to incorporate the 2006 BSAI and GOA groundfish SAFE reports. Implementation would be targeted for 2007.

In February, the Council also requested that the committee develop an outline for the rockfish paper along the following topics: (1) by FMP area (both GOA and BSAI); (2) by species (all, some, case example); and then by: (a) harvest rates, (b) spatial and temporal bycatch information, and (c) habitat considerations/refugia. The committee recommended that Council staff develop the discussion paper by applying Alternative 4 to all rockfish species. It requested that staff develop a "strawman" (data analysis) for BSAI rockfish by May 31, for review and revision by the committee. Committee minutes will be distributed during the Council meeting.

The committee will reconvene in late summer/early fall to review the completed rockfish discussion paper. The Groundfish Plan Teams will review the paper in September, and the Council will review the paper at its October 2005 meeting.

**Report of the Scientific and Statistical Committee**

The SSC endorses the three-step approach recommended by the Committee because it is a logical progression of management measures, and recommended moving forward with an amendment package containing the alternatives listed in the Action Memo in the meeting notebook. More specific comments can be found in the SSC Minutes, Appendix II to these minutes.

**Report of the Advisory Panel**

The AP recommended the Council continue to support the development of the rockfish management discussion paper addressing the elements in Alternative 4B as well as the 3 items listed in the SSC minutes. The AP also recommended the Council initiate the joint plan amendment and accept the general problem statement and alternatives as proposed by the Council, Non-Target Species Committee, and BSAI Groundfish Plan Team with the addition of a modified Alternative 3:

**Alternative 3(a) Set aggregate "other species" OFL and ABC for the GOA**

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Alternative 3(b) Eliminate “other species” assemblage and manage quids, skates, sculpins, sharks, and octopi as separate assemblages under specification process.

Option: Add grenadiers and other non-specified species that are caught in the fishery.

Alternative 3(c) Break out BSAI skates from the other species category

Alternative 3(d) Break out BSAI skates and BSAI and GOA sculpins from the other species category.

**COUNCIL DISCUSSION/ACTION**

**Ed Rasmuson moved to approve the AP recommendations for non-target species.** The motion was seconded by Dave Benson and carried without objection.

**D-1(b) GOA Other Species Calculation**

**ACTION REQUIRED**

**Initial Review of EA/RIR/IRFA to change the TAC calculation for the other species complex in the GOA groundfish FMP**

**BACKGROUND**

At the December 2004 meeting, the Council initiated an amendment to modify the total allowable catch (TAC) calculation for the other species complex in the GOA groundfish FMP following recommendations from the Plan Teams, the SSC, and the Council’s Non-Target Species Committee. Currently there is no OFL or ABC specified for the other species complex, and the TAC for the complex is fixed as 5% of the sum of the target species TACs in the GOA. Concerns were raised regarding the potential to increase the harvest of specific members of the complex, particularly following the removal of individual species to target categories.

The other species complex currently contains the following species: squid, sculpins, sharks and octopus. As currently configured, the other species complex is open to directed fishing up to the TAC for the complex. The other species complex TAC can be taken on any single species within the complex-wide TAC. This has caused conservation concerns given the removal of several species over time from the complex, which under the current calculation has served to increase the complex TAC by placing additional species into target categories upon which the TAC for the other species complex is based. Additionally, given the configuration of the complex, it is possible to target one member of the complex up to the full complex-level TAC, inhibiting in-season management’s ability to control directed fishing within the complex, and raising concerns given the lack of available stock information on most members of the complex.

The executive summary of the analysis is attached as Item D-1(b)(1). The full EA/RIR/IRFA for this proposed amendment was mailed to you on March 21<sup>st</sup>.

The following three alternatives, including one sub-option, are examined in the analysis:

**Alternative 1:** Status Quo. TAC for the other species complex is fixed at 5% of the sum of the target groundfish TACs.

**Alternative 2:** Set the other species complex TAC at less than or equal to 5% of the sum of the target species TACs.

**Alternative 3:** Set the other species complex TAC at a level anticipated to meet incidental catch in other directed fisheries throughout the fishing year.

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**Sub-option:** Revise the maximum retainable amount for the other species complex by fishery.

Under Alternatives 2 and 3, the Council would be able to set TAC at lower levels than under Alternative 1. Under Alternative 2, the TAC would be set below 5%, and the opportunity could be provided to allow for limited directed fishing within the complex. Under Alternative 3, the TAC would also be set below 5%, but would be specifically established to meet only incidental catch needs in other directed fisheries. Under this alternative, there would be no directed fishing allowed in the other species complex.

This action is considered to be an interim, short term, measure towards the development for a longer term FMP amendment to revise the management strategy for non-targeted groundfish species, which is being developed by the Council's Non-target Species Committee. The immediate and cumulative effects are rated as insignificant for all the components of the GOA ecosystem for all of the alternatives considered.

This EA/RIR/IRFA is presented for Initial Review at this meeting. This analysis is tentatively scheduled for Final Action at the June 2005 meeting, such that regulatory changes may be in place in time for the 2006 specification process.

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

The SSC recommended that the draft analysis be released for public comment with some minor revisions (see SSC Minutes, Appendix II to these minutes for specific suggestions).

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

The AP recommended the Council release for public review the EA/RIR/IRFA to change the TAC calculation for the other species complex in the GOA Groundfish FMP.

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

**Arne Fuglvog moved that the Council release for public review the draft EA/RIR/IRFA to change the TAC calculation for the Other Species complex in the GOA Groundfish FMP.** The motion was seconded by Doug Hoedel and carried without objection.

Staff was asked if the recommendations of the SSC can be incorporated into the analysis before releasing for public review. Ms. Stram indicated that staff has reviewed the suggestions of the SSC and believe they can be addressed to the extent that information is available on the biomass surveys in 2001 and 2003. Additionally, staff will include information on the difference between State and Federal regulations for other species, as was mentioned during public comments from Julie Bonney, Alaska Groundfish Data Bank.

#### **D-1(c) EFP for Testing Initial Weight Groundfish Longline Gear**

#### **ACTION REQUIRED**

**Receive a request from the North Pacific Longline Association for an Exempted Fishing Permit to test integrated weight groundline longline gear as a seabird avoidance measure, and provide comments to NMFS as appropriate.**

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**BACKGROUND**

At its June 2004 meeting, the Council approved a request from the Washington Sea Grant Program (WSGP) for an Exempted Fishing Permit (EFP) to test a type of modified longline gear which showed promise for reducing incidental mortality to seabirds during longline fishing. Specifically, the request for an EFP was for testing integrated weight groundline (IWG) gear on freezer longliner vessels fishing for Pacific cod in the BSAI. WSGP proposed to test several different weights of IWG gear to compare their performance (fish catch rates, seabird behavior, sinking rate, etc.) against unweighted conventional gear, with and without paired streamer lines. To deter seabirds from interacting with longline gear, paired streamers are required while fishing with vessels larger than 55 feet LOA, and thus an EFP was required to waive this requirement during the proposed tests. Terms of the EFP included mandatory NMFS observer coverage on all vessels testing this gear.

The WSGP was unable to secure vessels for the proposed work, and the EFP was not issued by NMFS in 2004. However, NMFS has received from the North Pacific Longline Association (NPLA) an amended application for an EFP to conduct this work, and NMFS has asked for Council comments in a letter dated March 11, 2005. NMFS received requested comments from the Alaska Fisheries Science Center (AFSC). The NPLA, NMFS, and AFSC letters and the Federal Register notice of the amended application for an EFP all are at Item D-1(c)(1).

The experimental fishing proposed by NPLA would follow the same protocols to those outlined in the 2004 approved EFP, with several new provisions. The NPLA proposal is to test IWG gear in three different scenarios: 50 grams/meter integrated weight groundline without paired streamer lines, unweighted groundline with paired streamer lines, and unweighted groundline without paired streamer lines. NPLA's proposal is to compare catch rates of all fish species, the abundance and behavior of seabirds, and the sink rate of groundlines during each of the three fishing scenarios. The studies would involve two freezer longliners operating in the Pacific cod fishery in the BSAI during 2005 and 2006. Because paired streamer lines are required on these vessels when fishing, an EFP is required to conduct the experimental tests where paired streamer lines would not be deployed.

The request for an EFP also includes new provisions for the 2005 and 2006 IWG testing:

- 1) Starting the experimental fishing a month earlier (July 15, 2005 instead of August 15);
- 2) Allocating specified amounts of Pacific cod and bycatch species to participating vessels;
- 3) Harvesting Pacific cod beyond the TAC and ABC amounts specified for 2005; and
- 4) Exemption from IR/IU regulations at 50 CFR 679.27.

An environmental assessment of the proposed IWG tests has been prepared by NMFS (Item D-1(c)(2)). The levels of harvest and the manner in which the experimental fishing will be conducted are not expected to have a significant adverse impact on the marine environment.

Information from the proposed IWG experiment could be used to develop better and more effective seabird deterrent measures for North Pacific longline fisheries. Industry appears particularly interested in this experiment as it may yield information to help fishing vessels avoid incidental take of the endangered short-tailed albatross among other seabirds.

Representatives from NPLA and NMFS will be available to present additional information and to answer questions.

**Report of the Scientific and Statistical Committee**

The SSC supports the proposed research and the sampling design as outlined, particularly the addition of treatment 4 (combined IWG and paired streamer lines). NOAA Fisheries has completed a draft

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environmental assessment and concluded that environmental effects from issuing the EFP would be insignificant, however, the SSC suggests a need to check with the International Pacific Halibut Commission concerning the expected take of halibut associated with the project.

**Report of the Advisory Panel**

The Advisory Panel recommended the Council recommend approval of the EFP.

**COUNCIL DISCUSSION/ACTION**

**Dennis Austin moved that the Council recommend to NOAA that the application for this experimental fishery be approved.** The motion was seconded by Ed Rasmuson.

Tony DeGange noted that the U.S. Fish & Wildlife service has also reviewed this request and recommends Council support.

The motion carried without objection.

**D-1(d) EFP for Testing Salmon Excluder Gear**

**ACTION REQUIRED**

**Receive a request for an Exempted Fishing Permit to continue research on salmon excluder devices for the BSAI pollock fishery**

**BACKGROUND**

The Exempted Fishing Permit application for continued research on salmon excluder devices for the BSAI pollock fishery is attached as Item D-1(d)(1). This request builds upon several years of continued testing of salmon excluder devices by the Principal Investigator in the BSAI pollock fishery.

Two tests are proposed in the EFP application. The first experiment evaluates modifications to the excluder in order to potentially improve upon its performance. This experiment will use a recapture net on a catcher vessel to evaluate the performance effects of small adjustments to the excluder. These adjustments include placement of the excluder in the trawl intermediate, alternative tapers in the square-mesh funnel, and different placement locations for the funnel with respect to the escapement portals. This phase of the experiment will be primarily conducted during the B season in 2005 and 2006. However, if Chinook salmon are not available in sufficient amounts in the fall to satisfy the experimental design, there may be some necessity for conducting the remainder of the experiment during the following A seasons.

The second experiment is designed to test the performance of the existing excluder under "real world" conditions. This experiment uses paired tows (with and without the excluder) on an AFA at-sea processor according to an experimental design detailed in the application. In this experiment there is no recapture device attached to the excluder device. In addition to providing data on the relative performance of the excluder under a variety of fishing conditions, this will also provide information on the potential influence (on previous results) of the recapture device. The paired tows experiment would be conducted during the 2005 B season only.

The PIs request relief from the following existing regulations:

- 1- Request for the ability to conduct EFP testing within the Bering Sea Salmon Savings Areas and Catcher Vessel Operational Area (CVOA) regardless of whether they are

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- closed to pollock fishing (or prohibit the specific vessel type as with the B-Season at-sea processor experiment detailed in the application). For the EFP test conducted on an AFA CP, 2,500 mt of the overall amount of harvest (approximately 8,000 mt) that will take place for this part of the EFP test would occur in the CVOA/ Salmon Savings Areas.
- 2- Request for exemption from AFA observer requirements for the catcher processor conducting the paired testing experiment. As described in the application, in addition to an EFP project manager, the AFA CP vessel will carry three "sea samplers" (who are NMFS-trained observers not currently engaged in observing) for purposes of catch sampling and data collection. Given that the EFP work requires redirecting the sampling to undertake whole-hauls for salmon and expanded length samples for pollock, the PI has requested a waiver from AFA requirements for observer coverage during the EFP. Species composition sampling and other duties necessary for fully accounting for the catches during the EFP will still be conducted on a haul by haul basis to track the catches against the vessel and its cooperative's AFA allocations (during the portion of the EFP where the selected vessel will utilize its own AFA groundfish).
  - 3- Request for an allocation of 5,000 mt of groundfish catch in the pollock target for September 2005-March 2006 period for the two concurrent experiments (recapture net and paired tows) during the first year of the EFP. For September 2006-March 2007, 2,500 mt is needed for the continuation of the developmental work on the excluder utilizing a recapture device. These allowances would not count against the groundfish TAC.
  - 4- Request for a bycatch allowance request of up to 5,000 chum salmon and 2,000 Chinook salmon (500 Chinook estimated for recapture experiment, 1,500 Chinook estimated for paired tows). These allowances should not count against the salmon bycatch caps.

Item D-1(d)(2) details the requested allowances and exemptions for the 2005-2006 and 2006-2007 seasons. Additional technical information on the statistical methodology and rate calculations employed in the study is provided in Item D-1(d)(3). Item D-1(d)(4) responds to specific methodological questions raised in the recent AFSC review of the EFP application. This document provides additional information regarding the rationale behind the requested groundfish and salmon allocations and expands upon the justification for the requested exemption from specific AFA observer requirements for the catcher processor conducting the paired testing experiment.

Information from these experiments can be used to further develop effective means of salmon bycatch avoidance mechanisms for pollock trawl fisheries in the Bering Sea. In addition to the Bering Sea pollock fishery, the excluder device may also be adaptable to other trawl fisheries where salmon bycatch occurs.

An environmental assessment for the proposed EFP has been prepared and copies will be available at the meeting. The levels of harvest and the manner in which the experimental fishing will be conducted are not expected to have a significant adverse impact on the marine environment.

The Principal Investigator will be available to present additional information and to answer questions.

#### Report of the Scientific and Statistical Committee

The SSC recommended release of the EA for this program for public review.



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**Report of the Advisory Panel**

The Advisory Panel recommended the Council approve the request for an exempted fishing permit to continue with the salmon excluder gear studies.

**COUNCIL DISCUSSION/ACTION**

**Ed Rasmuson moved to approve the recommendations of the Advisory Panel.** The motion was seconded and carried without objection.

**D-2 Scallop FMP**

**ACTION REQUIRED**

- Review and Approve SAFE report
- Final Action on FMP update

**BACKGROUND**

**Scallop SAFE Report**

The Scallop Plan Team met in Anchorage on March 3, 2005 to review the status of the weathervane scallop stocks in Alaska and to prepare the annual Stock Assessment and Fishery Evaluation (SAFE) report. This SAFE report was mailed to you on March 21. The minutes from the Scallop Plan Team meeting are attached as Item D-2(a). In updating and improving upon the SAFE report from the previous year, the plan team paid particular attention to addressing the SSC's comments at the February 2004 meeting. The minutes from the SSC meeting pertaining to the Scallop SAFE report (from February 2004) are attached as Item D-2(b). The SAFE report provides an overview of scallop management, scallop harvests and the status of the regional weathervane scallop stocks. Scallop stocks are neither overfished nor approaching an overfished condition.

**Scallop FMP Update**

At their October 2003 meeting, the Scallop Plan Team discussed updating the Scallop FMP to reflect the current management of the scallop fishery. The current FMP has been amended 8 times since the FMP was approved in 1995. Staff has revised and updated the FMP, which was mailed to you on March 21. The executive summary and table of contents of the revised FMP is attached as Item D-2(c). An overview of the changes from the original FMP to the revised FMP is provided in Item D-2(d) and a list of questions and answers to provide information on FMPs in general is provided in Item D-2(e). Updating the FMP is a housekeeping amendment. It has simply been revised and updated for clarity and to reflect updated biological information as available and recent management actions. The amendment for the FMP update is scheduled for final action at this meeting.

**Report of the Scientific and Statistical Committee**

The SSC reviewed the improvements to the FMP and requested further attention be given to several stock assessment issues (see SSC Minutes, Appendix II to these minutes for specific requests). The SSC commended the staff for the revision of the Scallop FMP and recommended approval of the FMP subject to minor editorial revisions.

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**Report of the Advisory Panel**

The Advisory Panel recommended the Council approve the revised Scallop Fishery Management Plan and Stock Assessment and Fishery Evaluation Report.

**COUNCIL DISCUSSION/ACTION**

Roy Hyder moved to approve the recommendations of the AP to approve the Scallop FMP and SAFE report. The motion was seconded and carried without objection.

**D-3 Staff Tasking**

**ACTION REQUIRED**

- Review tasking and committees and provide direction
- Groundfish Management Policy and Workplan

**BACKGROUND**

**(a) Review tasking and committees and provide direction**

The list of Council committees is attached as Item D-3(a)(1). The Ecosystem Committee met by teleconference last month to review a staff discussion paper on the role of regional fisheries management councils in implementing ecosystem approaches to management (EAM). The committee is scheduled to again meet this week to further discuss how the Council might address EAM for Alaska, as well as reviewing the Aleutian Islands special management discussion paper as a starting point for more formally implementing ecosystem approaches for fisheries (EAF) in the North Pacific. An agenda is attached as Item D-3(a)(2).

Item D-3(a)(3) is the three meeting outlook, and Item D-3(a)(4) and Item D-3(a)(5) are the summary of current projects, timelines, and tasking. The Council may wish to discuss tasking priorities to address previously tasked projects that have not yet been initiated (e.g., IFQ amendments, Bering Sea habitat conservation, GOA dark rockfish etc.), and potential additions discussed at this meeting, given resources necessary to complete existing priority projects.

Relative to the Bering Sea habitat conservation amendment, the motion passed in February was to "Initiate an expanded analysis for the Bering Sea, as well as an assessment of gear modification, that tiers off of this EFH EIS analysis to further explore possible mitigation measures in the Bering Sea. The analysis should include the existing alternative, an alternative to leave the rolling closure area open, and options to open the 'red hatched' closed area south of Nunivak Island and north of the Bogoslof area, with other alternatives to be developed." The Council may wish to discuss how to proceed with tasking of this project, again relative to existing priorities.

Relative to the halibut and sablefish IFQ program changes amendment, the Council initiated analysis of four proposals to amend the halibut and sablefish IFQ program: (1) allow non-IFQ species to be frozen onboard while directed fishing for halibut and sablefish; (2) allow category A quota shares to be fished at any time and in any sequence with category B, C, and D quota shares; (3) allow the use of pot longline gear in the Bering Sea sablefish fishery during June; and (4) remove halibut and sablefish QS from initial recipients who have never fished any of those shares across all regulatory areas. In February, the Council made the following changes: (i) combined the first two issues into one action; (ii) added two discussion points for the analysis of sablefish pots (use of escape rings; and limiting soak time), and (iii) added an alternative to allow voluntary surrender of unused QS and an option to allow a lottery for awarding removed or surrendered QS to qualified crewmen. The Council has not yet prioritized this amendment relative to other tasking.

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**(b) Groundfish management policy and workplan**

In adopting the revised management policy for the groundfish FMPs in April 2004, the Council committed to conduct an annual review of the forty-five objectives that are part of the management policy. Specifically, the FMP language reads:

**Adaptive management requires regular and periodic review. Objectives identified in the management policy statement (Section 2.2) will be reviewed annually by the Council. The Council will also review, modify, eliminate, or consider new issues, as appropriate, to best carry out the goals and objectives of the management policy.**

The management approach statement and the 45 objectives are included in the FMP, and are attached as Item D-3(b)(1).

In June 2004, the Council developed a workplan to bring groundfish management in line with its revised management policy. This workplan is reviewed by the Council at each meeting as part of the staff tasking agenda item, and is posted on the Council's website. The workplan, updated to reflect the current status of each item, and its relationship to the management objectives, is attached as Item D-3(b)(2).

At this meeting, the Council is scheduled to review the policy objectives. Item D-3(b)(3) provides a summary of the objectives which may help the review.

Any additions, deletions, or modification to the objectives will require an FMP amendment. The type of NEPA document that would be required to support any change to the objectives will depend on the nature of the change; we would need to determine whether the suggested change has already been analyzed in the PSEIS, and if so, whether there were any significant environmental effects associated with the action.

The Council is also scheduled to redevelop the workplan, as necessary. Some of the items on the workplan have been achieved; the revised workplan might replace these items with other emerging priorities from the management policy.

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

**Report of the Advisory Panel**

The Advisory Panel made the following recommendations:

- That the Council appoint the Halibut Charter IFQ implementation committee in anticipation of the publication of the Halibut Charter IFQ proposed rule.
- Noting concern regarding increased catches in the halibut charter fleet, the AP requested that staff provide recent catch data and trend data for the Council to review in June as part of its discussion regarding implementation of the Halibut Charter IFQ program.
- That the Council task the SSLMC to work with the BOF's proposal RC98 and the Aleut Enterprise Corporation's proposal, and other pertinent information previously submitted to the committee to draft a safe and economically feasible opportunity for the harvest of the AI pollock allocation while avoiding jeopardy and adverse modification.
- That the Council request staff develop a strawman problem statement and conceptual alternative for Bering Sea essential fish habitat mitigation measures for presentation at the June 2005 meeting. The problem statement and conceptual alternatives should tier off the original EFH EIS, incorporating points raised in the February meeting unless further Council direction is provided.

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- That Council staff work with the Board of Fish to develop an overall overage/underage policy for crab rationalization.

**COUNCIL DISCUSSION/ACTION**

Committees

Executive Director reviewed the Enforcement Committee's report (not available in written form) the most recent meeting which included discussions . The Committee met and discussed the evolving enforcement precepts paper (a draft was distributed to Council members). In general, the paper was a culmination of enforcement input to general staff, SSC and the Advisory Panel for Council actions. The document is still in process and

Ms. Madsen noted that she, the Committee Chair, and the Executive Direction will consult and determine whether subjects to be added to committee agendas are appropriate to that committee.

Roy Hyder suggested that the Council task a small committee to formulate standard operating procedures for Council committees.

Chris Oliver, Diana Evans, and David Witherell provided the Council with the Ecosystem Committee Report (briefly reviewed in the action memo above). The Council discussed forming an interagency Ecosystem Council. Council members agreed that Ms. Madsen should approach other agencies that have jurisdiction and authorities in the Aleutian Islands to get a sense of interest in participating in a pilot project for ecosystem management in the AI. She will report back to the Council in June.

Regarding the AP's recommendation to appoint a Halibut Charter IFQ Implementation Team, Ms. Madsen said she is reluctant to do so at this time since the rule has not yet been forwarded to the Secretary of Commerce for review. Other Council members agreed with this approach. Mr. Fuglvog pointed out that even if the proposed rule came out after the June meeting, and given that the charter fleet will be actively fishing during the summer, that it may be possible to ask the agency to have a 60-day comment period, with the Council commenting in October.

One member of the Non-Target Committee, Whit Sheard, has changed employers and it is not certain at this time whether he will continue on the committee. Jane DiCosimo will track this and report to the Chair if a new member needs to be appointed.

Ms. Madsen also advised Council members that a committee of the Council Chairs, Vice Chairs, and Executive Directors of all fishery management councils is being formed because DOC attorneys that members attending Council Chairmen's meetings are not FACA-exempt and that any work done there can't be a consensus and cannot be provided to the agency because of this. Under MFCMA, all Council committees are FACA-exempt and it has been suggested that establishing this new committee may extend the FACA coverage to this new committee. Ms. Madsen pointed out it is more important at this point because at the next Chairmen's meeting they will be talking about and taking positions on amendments to Magnuson-Stevens Act.

Regarding the Board of Fisheries' recommendation that the Council/Board Joint Protocol Committee review their proposal RC98, Ms. Madsen suggested that a more focused committee may be better and suggested that she, Mr. Benson, Dr. Balsiger and three members from the Board review the proposal. There was no objection to proceeding in this manner.

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*Other Staff Tasking Issues*

Dennis Austin suggested that the Ecosystem Chapter Review currently on the agenda for the June meeting could be delayed until October. Ms. Madsen said it will be listed as “Tentative” at this point and when the agenda is fleshed out more thoroughly, it may be delayed if there is not enough time available. Mr. Austin said his concern is that the tentative June agenda looks quite full and he does not want staff to be overwhelmed between now and June.

Regarding the request from St. George to expand the Steller sea lion haul-out closures around the Island from the current 3 miles out to 10 miles, Dr. Balsiger suggested that the Council and NMFS develop a joint response to the St. George Traditional Council outlining that the request could be considered in the context of the existing SSL Bi-Op. The letter could also outline the Council and the Agency plans for consultations on Steller sea lions relative to receipt of new information already received, as well as research results expected. He suggested that by the June meeting it can be determined where the Agency is in terms of the consultations and the best way to move forward on the request. He stressed that the request should not be dropped. Council members agreed to this approach.

Hazel Nelson reiterated an earlier request that Council staff work with the Board of Fish to develop an overall overage/underage policy for CDQ crab. Mr. Oliver pointed out that current regulations for groundfish have a general prohibition, but relative to crab this would fall under Category II measures, which are under State purview, and while the Board has delayed their proposed action to preclude after-the-fact transfers, he is not sure that the Council has a role in this issue. It may be appropriate for the Joint Protocol Committee to discuss this issue. Ms. Nelson pointed out that requests to have this issue addressed continue to pass from one entity to the other and she would very much like to have it addressed by the appropriate agency.

Mr. Mecum said that he recalls that ADF&G submitted a proposal to the Board with respect to the CDQ overages and after-the-fact transfers which was intended to comport with the Federal regulations and those do not allow after-the-fact transfers for CDQs. The Board delayed action until they could verify Federal regulations. Ms. Madsen agreed that there should be some resolution and asked that staff look at the categories in the Crab Plan and determine whether the Council could take any action in June on underage/overages provisions, if they chose to do so and it is within their authority. Staff should consult with the Board to determine how they developed their proposal and what effect it may have on the Council’s program. The Executive Director will report back in June on this issue.

Regarding the Advisory Panel’s Concern regarding increased catches in the halibut charter fleet, Mr. Fuglvog asked that staff be requested to provide at the June meeting recent catch and trend data as well as the GHM measures the Council previously approved for consideration and possible action. Mr. Mecum advised that the data is compiled by ADF&G and is not available until a year after the fact, and that the most recent year available would probably be for 2003. Jane DiCosimo advised that data for 2004 would be available in October. Ms. Madsen suggested that it may not be possible to address this in June. Mr. Fuglvog pointed out that the 2003 data show a trend of coming within one percent of the GHM in that year. He would like to know if the Council is required to take action if the GHM is reached, or take action in anticipation of that. Ms. Madsen said that staff should bring back that information in June.

Regarding the Bering Sea EFH issue, **John Bundy moved to direct Council staff to draft a problem statement and alternatives that attempt to capture Council intent to look at subsets of Alternative 5b, including bottom trawl gear modification and discrete closures tied to production of managed species.** The motion was seconded by Dave Benson and carried without objection. Mr. Bundy said that staff can determine whether this could be provided at the June or October meeting.

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**ADJOURNMENT**

Stephanie Madsen, Council Chair, adjourned the meeting at approximately 4:26 pm on Saturday, April 9.

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