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North Pacific Fishery Management Council

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Council Completes Special November Meeting in Anchorage

The Council met November 10-13 in a special session to address issues associated with Senate Bill 1221 (the American Fisheries Act) and Steller sea lion protection. Senator Ted Stevens and his key fisheries staffer, Trevor McCabe, were in attendance and addressed the Council regarding passage of SB 1221. A summary of Council discussions and action are provided below. Both issues will also be on our December meeting agenda (see attachment for details of that meeting). Note that the halibut charter guideline harvest level (GHL) issue is not on our December agenda, but will be discussed at the February 1999 meeting in Anchorage.

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SB 1221 (American Fisheries Act)

The Council reviewed the provisions of the recent Act and discussed both immediate and follow-up actions required to implement the provisions of that Act. Council action was restricted to the immediate measures which had to be taken for implementation for the 1999 fisheries, and include the following:

- Comment to the Secretary of Commerce to revise the following IO3 regulations to be compatible with the various elements of the Act:

1. the allocation percentages and duration of allocations as written in the Act.
2. the 2.5% set aside for catcher vessels delivering shoreside is no longer necessary.
3. the exclusion of offshore catcher vessels from fishing in the CVOA during "B" season is no longer necessary.

- Adopted NMFS recommendation to exempt squid from the CDQ program under emergency rule-making, and requested that the CDQ groups develop bycatch avoidance programs for other potential limiting species.

- Approved an emergency rule to require two observers (at least one of which must be multispecies CDQ certified) on all eligible catcher/processors listed in the Act.

- Regarding the review process for co-op contracts in the pollock fisheries, the Council initiated development of a discussion paper examining the following conditions for cooperative agreements:

1. limiting co-op agreements to a range of 1-6 years.
2. prohibiting linkage of membership in co-ops to delivery of non-pollock species.
3. requiring disclosure of information on catch and bycatch by co-op participants, per SB 1221.
4. contracts must be submitted to Council by December 1 (for following year's co-op).

These requirements would be applicable to co-ops forming for year 2000 fisheries; for the 1999 catcher/processor co-ops, the review process will follow the basic guidelines contained in the Act.

- The Council further requested that NOAA General Counsel clarify the Council's ability to supersede provisions in 210(b) and 208(f) of the Act. These refer to (respectively) co-op conditions for catcher vessels delivering shoreside, and eligibility requirements for shoreside processors.

- Regarding catcher/processor sideboards to protect non-pollock fisheries, the Council concurred with NMFS plan to prohibit 1221 listed vessels from exceeding the "inside critical habitat" harvest percentage of the Atka mackerel caps as spelled out in 211 paragraph (b)(2)(c). These and other catch limitations described below will be implemented via the specifications process for 1999 fisheries.

- The Council approved the following guidelines for managing non-pollock target fisheries by the listed catcher/processors under AFA:

Groundfish:

1. Non-pollock groundfish caps for listed vessels will be established on the basis of the percent of groundfish harvests in non-pollock fisheries in 1995, 96, 97 (for Pacific cod, 1997 only).
2. NMFS will determine the bycatch needs for pollock and non-pollock fisheries and allow for directed fishing for non-pollock target species such that the total catch of those species should not exceed the caps as established in #1.

PSC Caps:

1. Total PSC cap for listed vessels will be established on the basis of percentage of PSC removals in the non-pollock groundfish fisheries in 1995, 96, 97.
 2. NMFS will allow for directed fishing of non-pollock species such that the total PSC removals do not exceed the PSC cap as established in #1.
 3. The listed vessels PSC caps will not be apportioned and will be managed under open access season apportionment closures.
- The Council also initiated an amendment to analyze pollock season opening dates (A & B season), and the removal of the stand-down provisions for inshore/offshore catcher vessels in the pollock fishery. This will be prepared in 1999 for possible application to the 1999 B" season, and for year 2000 and beyond. For early 1999, all opening dates and stand-down provisions remain in effect.

All other actions related to SB 1221, including follow-up amendments related to catcher vessel sideboards, measures to mitigate impacts on pollock-ineligible processors, catcher processor sideboards for 2000 and beyond, development of excessive share caps for pollock processing, and development of excessive harvest/processing caps for all other groundfish/crab, will be discussed at the December meeting. Some of these amendments are due for Council review in April 1999 and will therefore require Council direction in December.

The Council also discussed the crab LLP eligibility issue, specifically in the context of SB 1221 and State of Alaska management concerns regarding the number of eligible crab vessels, and scheduled that issue for possible further action at the December meeting. This could include rescinding the action taken in October 1998 and taking an alternative action regarding recent (since June of 1995) participation requirements.

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Steller Sea Lion Measures

The Council received a report from NMFS regarding the ongoing Section 7 consultations relevant to Steller sea lion status and possible actions affecting the fisheries. Extensive public comment was also received by the Council. At this time, NMFS has not yet made a determination of "jeopardy" relative to the fisheries, nor have they put forth any specific mitigation measures which would affect the fisheries. Such measures are still possible and will be discussed once again by the Council at our December meeting in Anchorage. At that time, NMFS may be presenting additional information, and may provide the Council with more specific guidance regarding possible mitigating measures. We expect this to be a major agenda item for the Council at this upcoming meeting. The Council did engage in general discussions of the sea lion issue last week, and passed the following motion:

The Council recognizes a Section 7 involves a fundamental shift in the burden of proof. The operative question is not whether the pollock fishery is a controlling factor in the decline of the Steller sea lion population, but rather is there a chance of the fishery impeding the recovery. The Council recommends that if there is a jeopardy finding, the reasonable and prudent alternatives (RPAs) adopted by NMFS be commensurate with the severity of the situation but as minimally disruptive to the industry as possible, paying particular attention to the issues of safety to small fishing vessels and communities that have been raised in the last few days. Further, the Council recommends:

- (1) Monitoring programs be implemented in conjunction with RPAs so that their efficacy can be determined and that future management be based on experimental design that provides information about the interactions of fisheries and Steller sea lions.
- (2) That the critical habitat areas be reexamined.

With regard to future research and Steller sea lion/fishery management measures, the Council proposes that the following five questions, suggested by the SSC, guide future work:

- (1) What is the distribution of fish in relation to areas that are used for fishing?
- (2) What is the distribution of fish in fishing areas during and after fishing?
- (3) How do sea lions use pollock in relation to pollock distribution?
- (4) What does the answer to #3 mean in relation to sea lion population dynamics?
- (5) Does the fishery affect sea lions in other ways, e.g., disturbance?

The Council, through the Chair, will establish a balanced committee that includes members of the industry, environmental organizations, and sea lion research teams including the Steller Sea Lion Recovery Team to develop a systematic and deliberative process for developing any future work relative to the sea lion issue."

Following this main motion, Council discussions raised additional points, or recommendations, for consideration by NMFS. These include:

- That NMFS consider all the public comment and Council discussions from the meeting.
- In relation to the SSC comments on distribution of fish, highlight that this is really focusing on those species and those sizes of importance to the nutrition and health of the Steller sea lion.
- Include the list of hypotheses that the SSC recommended the biological opinion address:

Hypothesis 1. Physical oceanographic conditions in the eastern Bering Sea and North Pacific changed in the mid-1970s. This change influenced the productivity of several species.

Hypothesis 2. Among the species that declined were forage fishes high in fat, including capelin, herring, eulachon and sandlance.

Hypothesis 3. At the start of the fatty forage fish decline the W. Steller sea lion (SSL) stock was in high abundance. The forage fish decline initiated the subsequent decline in SSL.

Hypothesis 4. Walleye pollock numbers increased as the W. SSL decreased and became the major prey of SSL.

Hypothesis 5. Pollock as a prey item are less nutritious than forage fish, to the point that SSL in captivity show declines in health when fed solely on pollock. By implication, feeding on pollock is contributing to the decline.

Hypothesis 6. The present fishery for pollock adversely affects the availability of prey limiting the ability of SSL to recover.

- The biological opinion should also address:
 - (a) Subsistence takes and information.
 - (b) The issue of Senate Bill 1221 and what effects that may have in the pollock fishery.
 - (c) Pollock bycatch in other trawl fisheries.
 - (d) Review of critical habitat for rookeries and effects of roe fishery in haul-outs where greater than 200 animals have been seen, ever.
 - (e) Economic analysis of consequences of various RPAs, including the possibility that catch has been underestimated in previous years due to an adjustment in the density factor.

(f) The current PSC cap on herring and the current herring bycatch savings area.

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