North Pacific Fishery Management Council

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Draft MINUTES

198th Plenary Session
North Pacific Fishery Management Council
June 9 – 15, 2010
Harrigan Hall, Sitka, Alaska

Appendices:

APPROVED:_____

DATE: October 6, 2010

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June 9-15, 2010
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The North Pacific Fishery Management Council met June 9-15 at Harrigan Hall, in Sitka Alaska. The Scientific and Statistical Committee met June 7-9, and the Advisory Panel met June 7-12 at the same location. The following Council, SSC and AP members, and NPFMC staff attended the meetings.

Council Members

Eric Olson, Chair
Dave Benson, Vice Chair
Greg Balogh
Sam Cotten
Duncan Fields
Dave Hanson
John Henderschedt
Roy Hyder
Dan Hull
Denby Lloyd/Stefanie Moreland
Jim Balsiger/Sue Salveson
Bill Tweit
Capt. Mike Cerne

NPFMC Staff

Gail Bendixen
Diana Evans
Mark Fina
Jeannie Heltzel
Nicole Kimball
Peggy Kircher
Jon McCracken
Sarah Melton
Chris Oliver
Maria Shawback
Diana Stram
Dave Witherell

Scientific and Statistical Committee

Pat Livingston, Chair
Robert Clark
George Hunt
Seth Macinko
Keith Criddle
Farron Wallace
Gordon Kruse
Franz Mueter
Doug Woodby
Ray Webster
Troy Buell
Anne Hollowed
Kathy Kuletz
Lew Queirolo

* Absent: Sue Hills

Advisory Panel

Joe Childers	Tim Evers	Matt Moir
Mark Cooper	Jeff Farvour	Theresa Peterson
Craig Cross	Becca Robbins Gisclair	Ed Poulsen
John Crowley	Jan Jacobs	Beth Stewart
Julianne Curry	Bob Jacobson	Lori Swanson
Jerry Downing	Simon Kinneen	Anne Vanderhoeven
Tom Enlow	Chuck McCallum	

Appendix I contains the public sign in register and a time log of Council proceedings, including those who provided reports and public comment during the meeting.

Mr. Fields moved, which was seconded, to approve the minutes of April 2010. Motion passed unanimously.

Mr. Lloyd moved to approve the two plan team nominations: Karla Bush to the Crab Plan Team, and Joseph Stratman to the Scallop Plan Team. Motion passed without objection.

A. CALL TO ORDER

Chairman Eric Olson called the meeting to order at approximately 8:06 am on Wednesday, June 9, 2010.

Mr. Bill Tweit participated in the entire meeting in place of Phil Anderson, WDF Director.

AGENDA: The agenda was approved as published.

B. REPORTS

The Council received the following reports: Executive Director's Report (B-1); NMFS Management Report (B-2); ADF&G Report (B-3); NOAA Enforcement Report (B-4); USCG Report (B-5); USF&W Report (B-6); and Protected Species Report (B-7).

Executive Director's Report:

Chris Oliver, Executive Director, reviewed his written report, highlighting the recent Council Coordination Committee meeting that was held in Anchorage mid-May. There was brief discussion regarding NOAA's Arctic Vision and Strategy guide, and it was generally agreed that Mr. Oliver would monitor its progress. The evening agenda was briefly reviewed, and there was a short discussion on the tentative August Steller Sea Lion biological opinion meeting. It was noted further discussion and decision would come under the Staff Tasking agenda item.

NMFS Management Report

Ms. Sue Salveson briefly reviewed an overview of regulatory action and NMFS in-season management report. Gretchen Harrington gave an overview of Amendment 91 regulation.

ADF&G Report

Karla Bush (ADF&G) provided the Council with a review of the State fisheries of interest to the Council and answered general questions from the Council members.

NOAA/Office of Litigation and Enforcement

Sherrie Meyers gave a report and provided a presentation on NOAA Enforcement issues, and gave a powerpoint presentation showing enforcement priorities in relation to pending and existing regulations.

USCG Report

Lt. Cmdr. Justin Forbes of the USCG provided the Coast Guard Enforcement Report, following a brief address by Captain Cerne.

U.S. Fish and Wildlife Report

Don Rivard of USF&W provided an update as well as a written report on current issues relevant to the Council.

Protected Species Report

Jeannie Heltzel gave the protected resources report. There was discussion of the timeline of the review process for the Stellar Sea Lion Biological Opinion to be released and the special August meeting the Council has planned for review.

COUNCIL DISCUSSION/ACTION

Public comment was heard on all B Agenda items.

Amendment 91

Gretchen Harrington (NMFS) reviewed the revisions to the proposed rule to implement BSAI Amendment 91. There was brief discussion regarding calculations for the Chinook salmon threshold amounts.

Mr. Henderschedt moved, which was seconded, that NMFS change the way the annual threshold amount is calculated so as to deduct an opt-out vessel's portion of the opt-out allocation from the annual threshold amount. Motion passed without objection.

Mr. Henderschedt also moved, which was seconded, that the Council recommend NMFS change the final rule to improve the implementation of sector entities by addressing the potential for more than one entity application and to better align the IPA and sector entity participation. He noted that this change in the rule would better prevent vessels from disrupting the orderly allocation of that sectors' cap among the participants of the IPAs and entity in that sector. **Motion passed without objection.**

There was discussion among the Council members regarding timing of the August special meeting, and the Council's and Agency's roles for action in the proposed timeline. Mr. Lloyd re-iterated that the State will continue to question the validity of having an August meeting, given the tentative late release of the

Biop. Mr. Henderschedt noted similar concerns, as did many of the other Council members. Mr. Oliver stated the Council would receive a suite of alternative management measures that would be put in place. The primary purpose of the August meeting would be to refine/identify the alternatives to move forward, in order to focus the analysis that the Council would receive in October. Dr. Balsiger confirmed that the August meeting would allow the Agency to have regulations in place for the 2011 fishing season.

FORMAT FOR COUNCIL MEETING MINUTES FOR 'C' AND 'D' AGENDA ITEMS

Each agenda item will begin with a brief background from part of the "Action Memo" from the Council meeting notebook. This section will be set in a different typeface and size than the actual minutes. Expanded portions and background of any agenda item are available in the Council notebooks and upon request. Following the Action Memo will be a very brief summary of the Staff, Advisory Panel, and Scientific and Statistical Committee Reports. Last will be a section describing Council **Discussion and Action**, if any.

C. MAJOR ISSUES/FINAL ACTION ITEMS

C-1 BSAI Chum Salmon Bycatch

BACKGROUND:

(a) Receive update on outreach initiatives

The Rural Community Outreach Committee (committee) and the Council reviewed the outreach plan for the Bering Sea non-Chinook (chum) salmon bycatch action earlier this year, and provided input and suggestions. One of the recommendations was to conduct a statewide public teleconference, thus, this effort was added to the outreach plan in April.

(b) Review discussion paper and finalize alternatives for analysis

The discussion paper summarizes current trends in chum salmon bycatch as well as the current suite of alternatives under consideration by the Council in the forthcoming chum salmon bycatch management measures analysis. The Council most recently reviewed the alternatives in December 2009 and February 2010. The Council's specific requests for additional analysis and clarification are included in the discussion paper. At this meeting, the Council will review and revise the current suite of alternatives for chum (non-chinook) salmon bycatch in the EBS pollock fishery.

(c) Update on chum and Chinook salmon genetics research and sampling design

Preliminary genetic stock identification results for chum salmon bycatch from the groundfish trawl fishery in 2009 is provided at this time both to update the Council on stock composition results for 2009 as well as to indicate the relative aggregate groupings that will be employed in the impact analysis for the Council's chum bycatch measures given the limitations on the regional break-outs for chum stock identification at this time. Dr. Jeff Guyon from the Auke Bay Laboratory at the Alaska Fisheries Science Center will provide an overview of these reports as well as an update on the sampling design proposed to provide additional genetic sampling in conjunction with Amendment 91 implementation.

Diana Stram gave a brief overview of scheduling on the C-1 items, and Dr. Jeff Guyon (AFSC) gave a presentation on the genetic research and sampling design. Dr. Guyon fielded specific questions from the

Council members, and discussed his future projects on genetics research. Additionally, he gave a presentation on Chinook stock sampling and composition. Nicole Kimball gave a report on the outreach efforts, and specifically an update on the recent teleconference. Lori Swanson gave the AP report, Pat Livingston gave the SSC report, and public comment was heard.

COUNCIL DISCUSSION/ACTION

Ms. Moreland participated in this portion of the meeting for Mr. Lloyd

Ms. Moreland read through a written motion based on the the AP's motion, noting the changes. A copy of this is attached as APPENDIX 4. Ms. Moreland spoke to her motion, noting that the rationale of bookends are just reference points for the analysis, and the Council will still have all the options available to them for record building and for the final decision on numbers for sector distribution. Ms. Moreland answered questions from the Council members, as did Council staff. The Council went through the motion page by page, voting on amendments.

Mr. Henderschedt moved, which was seconded by Mr. Benson, in Alternative 3, Component 1, "Application of a trigger cap" strike c) Apply trigger to all chum bycatch in a specific area.

Mr. Henderschedt noted that a Bering sea-wide application of a trigger is the alternative, and eliminating this option would remove having to track numbers in an area smaller number than the Bering Sea. The Council would design caps that would trigger the closures from the entire Bering Sea, not just a specific area. There was discussion regarding identifying and monitoring different areas and zones for bycatch accrual and trigger caps for each zone. **Motion passed noting one objection from Mr. Cotten.**

Mr. Henderschedt moved to amend, which was seconded, on page 3: Component 4,
c) 40% and 60%, qualitative impacts of area closures and for 50% a detailed, quantitative description of impacts.

Mr. Henderschedt noted his intent is to focus the analysis on a middle range, but to not limit the ability of the Council to go either direction, resulting in a streamlined analysis, specific impacts on the 50% historical rate, and addressing in a more qualitative fashion the impacts of 40% or 60%. There was discussion regarding the ability of the Council to make an informed decision using just the 50% as a qualitative analysis. **The amendment passed 7/4 with Cotten, Dersham, Fields and Olson voting against.**

Mr. Henderschedt moved to amend, which was seconded, on page 3 Component 4 "Timing Options" delete option c) and delete the sentence that refers to zone subareas in b). Motion passed without objection.

Mr Henderschedt moved to amend, which was seconded, to re-insert 1. from Component 6 and replace language "That do not maintain a certain level of rate-based chum salmon bycatch performance," with "**a rate in excess of 200% of the base rate."** Mr. Henderschedt noted that 200% left a natural break, and would be analyzed in the document. **There was brief discussion, and the amendment passed with Mr. Cotten objecting.**

Mr. Henderschedt moved to amend, which was seconded, to delete parenthetical in "additional items for review" in 3c. "i.e. how do fine amounts compare to total income for vessels/companies participating in the RHS program." Mr. Henderschedt noted that looking for income for vessels and

companies may cause problems. There was brief discussion noting that this would relieve the pressure of developing a specific data collection program. **Motion passes without objection.**

Mr. Fields moved to amend, which was seconded, to add in next to the above language "meaningfulness of fines, including histograms of the number and magnitude of fines over time…" Mr. Fields noted that adding this information would give the Council information as to the "meaningfulness" of fines. There was brief discussion regarding available information from the industry. **Motion passed without objection.** Ms. Smoker noted that even voluntary data collection can trigger the paperwork reduction act. Capt. Cerne commented briefly on enforcement issues and information related to ICA reports. He also requested an in-depth description of the rolling hot spot regulations, and situations under the current ICA agreement, be included in the analysis.

The Council members noted final comments. Mr. Fields stated he felt the focus was narrowed too much and would not be voting for the package. Ms. Moreland noted that there were changes to her original motion that streamlined the alternatives, but didn't take options off the table, and that the Council would be able to make informed decisions and future refinements when it comes before the Council in February. **Main motion passed with Mr. Fields objecting.**

Mr. Henderschedt moved which was seconded by Mr. Benson, to reconsider the prior motion, which passed without objection.

Mr. Henderschedt moved to adopt 2 alternatives: On the table showing options of cumulative vs. monthly limits for trigger area closures, assuming a trigger cap of 100,00 fish, monthly limit based on minimum of monthly cumulative value, and a 150% of monthly historical proportion, add: Alternative 1 : Monthly alternative is cumulative
Alternative 2: Cumulative and monthly limit Mr. Henderschedt spoke to his motion noting that the cumulative is the method that was proposed and kept in the analysis as an alternative. However, because of circumstances, there may be a large amount of bycatch before the trigger is hit. With the monthly and cumulative approach, each month the sector would have to have met both the cumulative and monthly limits.

Ms. Moreland moved to amend the amendment, adding that for discussion in the analysis, the cumulative monthly apportionment be the historical percentages, and for each month, + or – 25% on each side. Ms. Moreland noted that the range would highlight the monthly range, and have varying options to choose from. **Amendment passed without objection.**

Main motion passed with Mr. Fields objecting.

C-2 BSAI Crab ACLs and Snow Crab Rebuilding Plan

(a) Initial review of BSAI Crab Annual Catch Limit analysis and BSAI snow crab rebuilding plan.

BACKGROUND:
At this meeting, the Council will take initial review of an analysis of amendments to address BSAI Crab ACLs and the snow crab rebuilding plan. This environmental assessment evaluates two actions to amend the BSAI Crab FMP.

Diana Stram gave the staff presentation on this issue, and Brian Garber-Yonts gave the economic overview. Pat Livingston gave the SSC report, the AP did not address the issue, and public comment was heard.

COUNCIL DISCUSSION/ACTION

Mr. Lloyd moved, which was seconded by Mr. Hull, to recommend Alternative 1, status quo, as the preliminary preferred alternative, and recommend the analysis reflect the recommendations of the SSC. Mr. Lloyd spoke to his motion noting that there are ways that state management could satisfy the legal requirements of the ACLs and avoid the complex proposals under the other alternatives. Mr. Lloyd also suggested that the analytical package also include sigma b at the 0.1 level. Additionally, he asked that the analysts expand on the SSC's recommendations. Mr. Lloyd noted that although requested, a special meeting of the SSC is unnecessary. There was lengthy discussion regarding existing programs and processes as well as analysts' role in determining legal determinations and compliance. It was agreed that NOAA GC could work with Council staff.

Mr. Tweit moved to amend, which was seconded, by Mr. Henderschedt, to strike the reference to the term "Preliminary Preferred Alternative" in the motion. He noted that the record has not been built and notice has not been given to Alternative 1, and it may be premature to choose an alternative at this time. There was brief discussion, and discussion regarding the state's existing program of setting TACs and its applicability to the Magnuson-Stevens Act. **The amendment failed 8/3, with Tweit, Balsiger, and Henderschedt voting in favor.**

Discussion resumed regarding the analysis and its ability to provide new and substantial information on Alternative 1. **The motion passed 10/1, with Mr. Henderschedt objecting.**

Mr. Lloyd moved, which was seconded, to move the snow crab rebuilding package forward for initial review, acknowledging the SSCs comments that coming out of an overfished designation could be achieved within 1 year, rather than the current designation of two years. Additionally, he requested recognition of the joint NMFS/industry survey, and that the results of those surveys be released at the earliest possible dates in time for the quota setting process. **Motion passed without objection.**

(b) Approve Crab SAFE report/OFLs for some stocks.

BACKGROUND:
The Crab Plan Team met in Girdwood, AK from May 10-14, 2010 to review draft BSAI Crab stock assessments and provide recommendations for the model parameterizations and tier establishments for BSAI Crab stocks as well as OFL recommendations for 4 of the 10 stocks. There are 10 crab stocks in the BSAI Crab FMP and all 10 must have annually established OFLs. Six of the ten stocks will have OFLs established following the summer survey information availability. Two of the ten stocks (Norton Sound red king crab and AI golden king crab) have OFL recommendations put forward at this time in order to have approved OFLs prior to the summer fisheries for these stocks. The remaining two stocks (Adak red king crab and Pribilof Islands golden king crab) have OFLs recommended based on Tier 5 formulation (average catch) and OFLs are recommended in the spring. Much of the CPT's stock assessment and OFL recommendations are contained within the Crab SAFE Introduction while some additional recommendations and discussions are included in the CPT Report.

(c) Review PSC discussion paper

BACKGROUND:
As noted in the paper, following approval of Amendment 24 to the BSAI Crab FMP, all crab stocks now have annually-specified overfishing limits (OFLs). For all stocks for which information is available, these OFLs are intended to cover total removals from the stock, including bycatch in groundfish and scallop fisheries. As discussed under agenda item C-2(a), additional requirements for catch removals for crab stocks will be necessary to comply with Annual Catch Limits (ACLs). The Crab Plan Team discussed relative bycatch management measures in groundfish and scallop fisheries at the May 2020 meeting and their minutes are attached under agenda item C-2(b) above. The Team continues to recommend that the Council consider measures to restrict bycatch in groundfish fisheries. The Team reiterated its request and discussed specific bycatch concerns related to individual in conjunction with ACLs and Accountability Measures (AMs) at the March and May 2010 meetings. This paper intends to provide the Council with the information necessary to determine whether or not to initiate an analysis at this meeting to restrict bycatch of crab stocks in groundfish and scallop fisheries in order to prevent exceeding an annually specified ACL or OFL by crab stock due to catch outside of the directed crab fisheries.

The Council had heard the SSC's report on these agenda items (b and c) and took public comment.

COUNCIL DISCUSSION/ACTION

Mr. Lloyd moved, which was seconded by Mr. Hull, to adopt the following problem statement and alternatives for analysis:

Problem Statement

Total catch overfishing levels (OFLs) are specified annually for the ten crab stocks included in the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP); these OFLs account for all sources of fishing mortality including directed crab fishery discards and bycatch mortality caused by groundfish, scallop, and Pacific halibut fisheries. Requirements to comply with Annual Catch Limits (ACLs), addressing uncertainty in OFL estimates, include Accountability Measures (AMs) that trigger a management action if an ACL is exceeded.

Crab bycatch in the directed crab and scallop fisheries is controlled by the State of Alaska, however current management structure does not link the crab and groundfish FMPs; if a crab ACL is exceeded due to bycatch mortality in a groundfish fishery the resulting AM would reduce directed crab fishery harvest the following year. Crab bycatch management measures were first adopted for BSAI groundfish trawl fisheries in 1986. These measures, established in the BSAI groundfish FMP, consist of triggered or fixed time and area closures and prohibited species catch (PSC) limits; PSC limits apply only to Bristol Bay red king, Bering Sea Tanner, and Bering Sea snow crab. There are no PSC limits for the remaining seven FMP crab stocks and the existing closure areas do not circumscribe the full distributional range of stocks they are intended to protect, thereby allowing bycatch mortality to occur without accrual towards PSC limits. Furthermore no bycatch management measures are imposed on the fixed gear groundfish or Pacific halibut sectors. In order to address crab bycatch in all BSAI groundfish fisheries ~~control crab bycatch in BSAI groundfish fisheries,~~ the BSAI groundfish FMP must be amended.

Alternative 1 - No action
Maintain existing crab PSC limits and closure areas.
Alternative 2 - Fixed PSC limits

Crab PSC limits would be fixed in the BSAI groundfish FMP.

Alternative 3 - Variable PSC limits

Crab PSC limits would be set annually based on crab abundance. Note: Different alternatives may be chosen for each FMP crab stock.

Components with options that could be applied to alternatives 2 and 3:

Component 1: Closure areas
- a) Existing closure areas
- b) Expand triggered closure areas to include full distribution of each crab stock
  Option: Triggered closure areas encompassing distribution of vulnerable size/sex components of crab stock

Component 2: Timing of closure areas
- a) Fixed
  - i. Year-round
  - ii. Seasonal

Option: based on vulnerable life history or gear susceptibility
- b) Triggered
  - i. Full
  - ii. Stair-stepped (area closed expands as bycatch triggers are reached)

Component 3: Groundfish sectors/target fisheries included
- a) All trawl sectors
- b) All fixed gear sectors
- c) Halibut IFQ

Component 4: Overfished stocks
- a) Overfished/overfishing determination would trigger more restrictive PSC limits
- b) Overfished/overfishing determination would trigger more restrictive time and area closures

Component 5: Accountability measures
- a) Crab bycatch would accrue inseason towards groundfish sector PSC limit and an overage would trigger accountability measures during the subsequent season for that groundfish sector

Component 6: Catch accounting issues
- a) Account for PSC limit accrual against time/area closure thresholds on a crab fishing year (June-May)

Mr. Lloyd spoke to his motion, and answered questions from the Council members.

Mr. Henderschedt moved, which was seconded, to change language in the problem statement from "to control crab bycatch in BSAI groundfish fisheries", to "address crab bycatch in all BSAI groundfish fisheries." Mr. Henderschedt noted that the Council presently controls some bycatch of crab in certain groundfish fisheries, and there should be a linkage between the plans and the mortality in all the groundfish fisheries. **Motion passed without objection.**

Mr. Henderschedt moved, which was seconded, to add under Component 6, Catch Accounting Issues: b) Account for PSC limit accrual against time area closure thresholds on a groundfish fishing year (January – December). Mr. Henderschedt noted that there is value at looking at differing accounting years for crab bycatch mortality, and will ensure an adequate range of alternatives under component 6. **Motion passed without objection.**

It was generally agreed that sector designations could be defined further under Component 3, Item (b) "All fixed gear sectors," that the analysis would identify all potential gear types, and would leave it open to future refinement. There was brief discussion regarding caps in numbers, or weight, and it was generally agreed that that issue would be evaluated in the analysis, but that NMFS regional staff would like to move toward weight.

Mr. Benson moved to amend in Component 5: Accountability measures "…during the subsequent season or year." He noted that with various seasons in some fisheries, the whether the intent is to measure from one season to the next, or in the next year, it should be measured both ways. **Amendment was seconded, and passed without objection.**

Main motion passed without objection.

C-3 Scallop Annual Catch Limits

BACKGROUND
In June 2009 the Council tasked staff to begin analyses necessary to bring FMPs into compliance with new annual catch limit (ACL) and accountability measure (AM) requirements for ending overfishing of federal fisheries under the revised guidelines for National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Compliance with ACL requirements for the Alaska Scallop FMP requires substantive changes to that FMPs primarily in order to incorporate an ABC control rule into the annual specifications process as well as to address the necessary approach to manage non-target scallop stocks. At this meeting the Council will take initial review of this analysis with final action scheduled for October 2010 in order to meet the statutory requirements for implementation by the start of the 2011 scallop fishing season.

Diana Stram gave the staff report on this issue and fielded questions from the Council. The SSC had previously given their report, there was no public comment, and the AP did not address this issue.

COUNCIL DISCUSSION/ACTION

Mr. Lloyd moved, which was seconded by Mr. Fields, to release the document for public review, and to include the SSC's comments/recommendations from their written minutes, as well as expand the description of State of Alaska management under Alternative 1: status quo. He noted that the analysis could illustrate how the least divergent alternative under state authority could accommodate the Magnuson Act requirements for provisions of ACLs. Additionally, he noted that the discussion would be similar to that of crab ACLs. **Motion passed without objection.**

C-4 Observer Program

BACKGROUND
The existing North Pacific Groundfish Observer Program (Observer Program), in place since 1990, establishes coverage levels for most vessels and processors based on vessel length and amount of groundfish processed, respectively. In general, the program would be restructured such that NMFS would contract directly with observer providers for observer coverage, and this would be supported by a broad-based user fee and/or direct Federal funding. Concerns with the existing program arise from the inability of NMFS to determine when and where observers should be deployed, inflexible coverage levels established in regulation, disproportionate cost issues among the various fishing fleets, and the difficulty

to respond to evolving data and management needs in individual fisheries. Council initiated a new observer restructuring analysis (EA/RIR/IRFA), with a revised problem statement and suite of alternatives.

Note that final action is tentatively scheduled for October 2010. The current schedule, if action is recommended by the Council and subsequently approved by the Secretary of Commerce, provides for implementation no sooner than 2013.

Nicole Kimball and Darrell Brannan gave an overview of the economic analysis. Martin Loefflad and Craig Faunce of the Alaska Fishery Science Center gave a report on the sample design and implementation section of the analysis. The SSC and AP gave their reports, and public comment was heard.

COUNCIL DISCUSSION/ACTION

Mr. Lloyd moved the following alternatives and directed staff to include new options (underlined below), address SSC and Observer Advisory Committee recommendations to the extent practicable, and release the analysis for public review. The motion was seconded.

Alternatives

Alternative 1: Status quo; continue the current service delivery model.

Alternative 2: GOA-based restructuring alternative. Restructure the program in the GOA, including shoreside processors; and include all halibut and <60' vessels participating in groundfish fisheries in the GOA and BSAI. Vessels in the restructured program would pay an ex-vessel value based fee. Retain current service delivery model for vessels ≥60' and shoreside processors in the BSAI.

Alternative 3: Coverage-based restructuring alternative. Restructure the program for all fisheries and shoreside processors with coverage of less than 100 percent. Vessels in the restructured program would pay an ex-vessel value based fee. Leave vessels and processors with at least 100 percent coverage under the current service delivery model.

Alternative 4: Comprehensive restructuring alternative with hybrid fee system. Restructure program for all groundfish and halibut fisheries off Alaska. Vessels and shoreside processors with 100 percent or greater coverage would pay a daily observer fee; vessels and shoreside processors with less than 100 percent coverage would pay an ex-vessel value based fee.

Alternative 5: Comprehensive restructuring alternative that would assess the same ex-vessel value based fee on all vessels and shoreside processors in the groundfish and halibut fisheries in the GOA and BSAI.

<u>Option (Alternatives 2-5): For halibut fishery landings and landings by vessels less than 60' participating in groundfish fisheries (fisheries and sectors not currently subject to the observer program), vessels and shoreside processors would pay one half the ex-vessel value based fee established under the alternative.</u>

<u>Option (Alternatives 2-5): The agency shall release a draft observer program sampling design and deployment plan annually by September 1, available for review and comment by the Groundfish Plan Team at their September meeting. The SSC and Council shall review and approve the plan annually.</u>

Mr. Lloyd spoke to his motion and fielded questions and added clarification. He noted that while the Council cannot make decisions on each aspect of the program, that they have made prior decisions on

what the focus of the observer program should be. He noted that the current package does not outline in sufficient detail the levels of coverage for each fishery the agency is striving for and that his motion would set up an ongoing review and approval mechanism complete with public comment. There was general discussion regarding potential approval processes and timeline as well as funding. Electronic monitoring was briefly discussed, and Mr. Lloyd noted as abilities increase and advance for collecting data, opportunities and tools like electronic monitoring can be included in the program at a later date. The current analysis provides a funding mechanism for human observer and/or electronic monitoring.

Mr. Fields moved to amend, which was seconded by Mr. Cotten, the first sentence of the first option, to change "landings by vessels less than" to a range of 40'50'60' feet participating in groundfish fisheries. Mr. Fields noted that a larger range would help make a more informed opinion. **Motion passed without objection.**

Mr. Henderschedt moved to amend, which was seconded by Mr. Hyder, to add an option:
For halibut landings and IFQ landings for vessels less than 60' vessels and shoreside processors, would pay ½ ex vessel based value fee established under the alternative, plus the difference of 3% and the actual percentage charged as a management and enforcement fee up to a total percentage equal to the ex-vessel percentage established in the alternative. Mr. Henderschedt spoke to his motion noting that 3% is a big percentage, but that the current fee is usually smaller and that the intent is to provide a suboption that provides a middle ground between extreme options. There was brief discussion regarding how the fee would apply**. The amendment to the motion failed 6/5, with Benson, Cotten, Dersham, Hull, Lloyd and Olson voting against.**

Mr. Hull moved to amend the motion which would delete #7 in the summary of decision points on page 72: "nominal prices could be adjusted by the producer price index to help remove inflation effects when prices from prior years are used to determine the fee." The motion to amend was seconded by Mr. Lloyd. Motion passed without objection.

Mr. Tweit moved to amend the motion by removing alternative 5. It was seconded by Mr. Henderschedt. Mr. Tweit noted that the alternative would take too long to generate start-up funds, and on an annual basis, if revenues dip, there may be less funding and a smaller observer program (e.g. fewer observer days could be funded). Mr. Lloyd noted that the main motion deals with equity of payment equal across the board, and that the alternative should remain for analysis. **The motion failed 3/8, with Tweit, Benson and Henderschedt voting in favor.**

Mr. Hull moved to amend the motion to request that regional prices that RAM publishes be used as the ex-vessel price basis in the analysis. He noted that the analysis assumes a single price will be applied across all regions, however prices vary by gear type for IFQ halibut and sablefish. **Motion passed without objection.**

Mr. Fields noted interest in providing a discussion of linking selection to an IFQ holder as opposed to a vessel. Mr. Hyder was concerned about the opportunity to include electronic monitoring, and it was generally agreed to address the issue after discussion and vote on the main motion.

Main amended motion passed without objection.

Mr. Hull moved, which was seconded, to initiate a trailing amendment to develop a pilot program for electronic monitoring as an alternative tool for fulfilling observer coverage requirements, with the intent that this pilot program would be implemented at the same time as the restructured observer program, or as soon after as possible. Mr. Hull spoke to his motion, noting that EM as a tool

would not be considered as part of this package, but could offer an alternative, and the analysis for the trailing amendment could guide the Council as to how to develop the pilot program. There was lengthy discussion regarding timing, the need for a trailing amendment and its scope, and whether it should include VMS.

Mr. Hull withdrew his motion with concurrence of the second.

Mr. Hull moved, with a second from Mr. Lloyd, to task the Observer Advisory Committee and appropriate NMFS and Council staff to develop electronic monitoring as an alternative tool for fulfilling observer coverage requirements, with the intent that it's possible to implement at the same time as the restructured observer program. Mr. Hull noted that the intent is to make it a useable program at the same time of the new observer program, instead of a new pilot program. Additionally, he stated EM could be used as an alternate tool, or in addition to, or in conjunction with, the restructured observer program. Mr. Fields noted that he intends to be addressing the timing issue under staff tasking. There was lengthy discussion involving timing, the role of the observer committee, electronic monitoring as a tool, and VMS.

Mr. Benson moved to amend, which was seconded, to add the words "VMS" after electronic monitoring. He noted that VMS may be as viable and valuable as cameras. **Motion failed 8-3, with Blasiger, Benson and Hyder voting in favor.**

Motion passed without objection.

Mr. Fields moved, with a second from Mr. Lloyd, that the Council draft a letter letter to NOAA headquarters requesting that NMFS provide $10M for startup costs to implement a NPFMC restructured observer program and an annual appropriation of approximately 50% of observer costs incurred by any participants in a North Pacific Fishery catch share program.

Mr. Fields noted that the program will need startup costs, and the Council should be clear and communicate needs early, and to emphasize equity for observer costs throughout the nation.

Mr. Cotten moved to amend, which was seconded by Mr. Lloyd, to $17.7M, or the full portion of start-up funds under Alternative 5. It was generally agreed to try and secure necessary start-up funds by the year 2013, without specifying the amount. **The amendment passed without objection.**

Main amended motion passed without objection.

Mr. Hull brought up concern regarding how "A" shares in the halibut and sablefish IFQ program will be handled in regard to coverage and assessment, since many CPs act as CVs. Staff noted that the analysis will be revised such that the vessel will be treated by activity, rather than share designation.

Additionally, Mr. Hull noted that criteria for exemption for vessels 40'-58' should be more specific. Staff noted that will be discussed in further detail in the next draft.

There was brief discussion regarding working with the Alaska Department of Revenue to assess whether they would be interested in collecting fees for NMFS. Staff was asked to explore the possibility.

Additionally, it was generally agreed that the OAC would convene again before the October council meeting.

Mr. Lloyd requested a summary table for each alternative by industry segment compared to status quo. Staff noted that this would be possible in the next draft.

C-5 GOA Rockfish Catch Share Program

BACKGROUND
The Council conducted an initial review of the Central Gulf of Alaska rockfish program analysis and is scheduled to take final action on the program. The Council also took the opportunity to signal its intent to include certain elements in (and exclude others from) its preferred alternative for the Central Gulf rockfish program. Many of these choices are not reflected in changes in the analysis, as the Council chose not to establish its preferred alternative at the April meeting, but only to provide notice concerning elements that it may (or may not) include in the preferred alternative.

Mark Fina and Jon McCracken gave the staff report on this agenda item. The AP report was given by Lori Swanson, and public comment was heard.

Ms. Sue Salveson sat in during this portion of the meeting for Dr. Balsiger.

COUNCIL DISCUSSION /ACTION

Mr. Fields forwarded a 16 page motion which was seconded, and is attached as APPPENDIX 5.

It was generally agreed that the Council would review the motion page by page. Mr. Fields spoke to his motion, answered questions, and added clarification.

Amendments were addressed element by element:

Ms. Salveson moved to amend in section 2.2 (on page 2), that the "fixed gear only" second part should say "…set aside would be increased the following year by…" The motion was seconded, and she noted the additional wording helps clarify the intent. **Motion passed without objection.**

Mr. Henderschedt moved to amend section 4.2 to re-insert the stricken option 1) 1996-2002 and to choose it as the preferred alternative. It was seconded by Mr. Benson. Mr. Henderschedt spoke to his motion noting from a policy standpoint, 2006 may be reflected as the most recent year and reflection of participation in the rockfish fishery. Participants who chose to not fish from 2000-2006 may be now penalized, and that Option 1 is a more appropriate set of qualifying years. Mr. Benson noted that the rockfish program was designed with the intent that if successful, it would continue. There was noted concern about changing the dates and redefining the fields by changing qualifying years in regard to policy and administrative issues**. Motion failed 4/7, with Tweit, Benson, Henderschedt, and Hyder voting in favor.**

Mr. Henderschedt moved to amend the motion, which was seconded by Mr. Fields, in section 4.4, that a vessel that qualifies for both the entry level and main program, must opt out of one or the other. This is a one time selection. Opt out qualified catch from the entry level trawl would be re-distributed to the CV and CP sectors. Mr. Henderschedt spoke to his motion noting that whether or not qualifying for the main program by default would disqualify someone to to be an entry level vessel if they qualify for that program as well. A choice should be one or the other. Additionally, it was noted that the second change to the language will be to change the way the entry level rockfish was added, by using proportionate amounts from the CP and CV sectors. **Mr. Lloyd moved to amend, with a second from**

Mr. Cotten, to apply to CV only. Mr. Lloyd noted that we can choose to keep where the quota came from: CVs, but CVs and CPs are where they were originally assessed. There was discussion regarding calculations and distribution of the entry level pool. **Amendment to the amendment failed 4/7, with Dersham, Cotten, Fields, and Lloyd voting in favor, and amendment passed without objection.**

Ms. Salveson moved to amend, which was seconded by Mr. Fields to qualify language under Interim License Provision, Element 4.1: For licenses that qualify based on catch of an interim license (and for licenses used on a vessel that previously fished in the rockfish fishery during the qualifying years using an interim license), the basis of the allocation will be the catch history of such vessel using the interim license (plus the history of the vessel using the permanent license) during qualifying period, nothwithstanding the invalidity of the interim endorsement under which the vessel operated during the qualifying period. However, 1) no permanent license shall be assigned history from two vessels for any portion of the qualifying period and 2) no history shall be assigned to two licenses. To qualify for this provision, the permanent license must be assigned to the vessel on or before December 31, 2003 and must not be assigned to any other vessel through the date of final Council action. Ms. Salveson noted that there were questions of history relative to other participants in the program and that the language in the motion would clarify qualifications. **Motion passed without objection.**

Mr. Henderschedt moved to amend, which was seconded, to change in the Secondary Species Exceptions (7.2.4) of the CP Sector, a shortraker allocation of the TAC would be 40%, instead of the 30.03% currently in the motion. Mr. Henderschedt noted that in an effort to adequately accommodate natural bycatch in the fishery, prevent harvest beyond harvests set by the Council, balance all those issues and to avoid constraint on the CP sector, he suggests in his motion the midpoint of two hard cap alternatives in the analysis**.** There was lengthy discussion. **The amendment to the motion passed 6/5, with Tweit, Salveson, Benson, Dersham, Henderschedt, and Hyder voting in favor.**

Mr. Henderschedt moved to amend which was seconded by Mr. Tweit to remove the last sentence in 7.3: "The remaining portion of any allowance will remain unavailable for use." Mr. Henderschedt spoke to his motion noting his concern for allowing the savings to occur, and potentially constraining the fishery by lowering the allocation, and additionally not allowing the harvesters to use any of that savings in the other fisheries. There was brief discussion, and the **motion was withdrawn.**

Mr. Henderschedt moved to amend, which was seconded, in section 7.3, to read:
Prohibited Species (Halibut Mortality)
Allowance to the rockfish cooperative program will be based on historical average usage (during the qualifying years) calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years by the number of years.
Mr. Henderschedt clarified the amendment would strike 75% of historical usage and delete the last underlined sentence. There would be no upfront reduction, and leave in place a 25% reduction of any rollovers. There was lengthy discussion regarding halibut PSC and National Standards. Ms. Salveson advocated a more holistic assessment of all fisheries in the GOA, and within that assessment, take rockfish into consideration**. Motion passed 6/5, with Tweit, Salveson, Benson, Henderschedt, Hull, and Hyder voting in favor.**

Mr. Tweit moved which was seconded by Mr. Dersham to change section 7.3: strike 75% change to 50%. He noted that one of the benefits of the rockfish pilot program is the halibut savings. The most effective way to do that is when the halibut is still in the water. **Motion passed 9/2, with Benson and Fields voting against.**

Mr. Fields amended the amendment and it was seconded by Mr. Cotten: If the CV fleet exceeds 100MT halibut bycatch and/or if the CP fleet exceeds 63 MT in any 2 consecutive years of the program, allowance for the coop program will be based on 75% of the historical average usage (during the qualifying years) calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years by the number of years, and multiplying by 0.75. The difference between the historical average usage and the allowance provided above will remain unavailable for use. Mr. Fields noted that if a portion of the rollover is taken, his motion will ensure that there will still be motivation for halibut savings**.** There was lengthy discussion, **and the motion failed 4/7, with Dersham, Fields, Lloyd, and Olson voting in favor.**

Mr. Cotten moved to amend the motion by changing the percentage in Element 7.3 to 40%. His motion was ruled out of order.

Mr. Lloyd moved to amend in Element 9.4, "Coop formation for CVs," Harvesters must join a coop of at least two LLPs to participate in the target fisheries." There was brief discussion, and the motion was withdrawn.

Ms. Salveson moved to amend Element 9.4 by adding the words, "Any CV or CP coop must accept an application that meets the coops…." There was brief discussion, and the motion was withdrawn.

Mr. Tweit moved to amend, with a second from Mr. Lloyd, to add in Section 9.4 "Annual allocation to coops may be transferred between coops of <u>at least two LLPs</u>." Mr. Tweit noted that the coops need to ensure as much as possible that coops are comprised of multiple entities. The ability to transfer between coops is an essential part of the program. **The motion passed without objection.**

Mr. Henderschedt moved to amend, which was seconded by Mr. Dersham, to change 6% - 8% in the language under Element 13: "No CV may catch more than <u>8%</u> of the target CV annual cooperative allocations in the aggregate." And strike following language in the option that provides a grandfather option. Mr. Henderschedt spoke to the amendment noting his concern with inappropriately low levels of a harvest cap. Constraints, to a large degree, can undermine the benefits that come with a cooperative management of the fishery. There was general discussion, and the **amendment to the motion passed 7/4, with Cotten, Fields, Lloyd, and Olson in opposition.**

Ms. Salveson moved that language should be added in three places. Where it says "No processor shall receive more than 30%...should read "no processor shall process or receive more than 30%." She noted the intent is to bring in both fish that may be delivered to a processor, as well as fish that may be received directly from catcher vessels. **Motion passed without objection**

Mr. Henderschedt moved to amend, which was seconded by Mr. Tweit, in Element 13, page 11 under CP cooperatives: "no person may contribute more than 40% (change from 30%) of the CP sector catch history to annual cooperative allocations using the individual and collective rule." He spoke to his motion noting that percentages higher than 40% can still be held without having direct impact on market and prices internationally. Mr. Fields noted concern about consolidation. **The motion passed 7/4, with Benson, Cotten, Fields, and Olson in opposition.**

Ms. Salveson moved to amend, which was seconded, in Element 15, to add the language: "In addition to the review requirements of the MSA." She noted while there is no need to specifically outline a review, there will be a 3 year review, in addition to a 5 year review. **The motion passed without objection.**

Mr. Henderschedt moved to amend which was seconded by Ms. Salveson, in Element 16, to delete the section "program duration." Mr. Henderschedt spoke to his motion noting his concern with establishing a sunset date, will impede the coops ability to effect measures that would otherwise achieve many of the objectives laid out in the problem statement. Mr. Lloyd noted that there is no entitlement in perpetuity, and the investment is in the cooperative behavior and fishing aspects. There was general discussion, and **the motion failed 3/8, with Benson, Henderschedt, and Hyder voting in favor.**

Ms. Salveson moved to amend, which was seconded, that in Element 18.2 to add language after the sentence (page 14 of the motion) addressing stand down provisions for CPs: Participation shall be defined as having been in the shallow water complex or deepwater flat fish complex or rockfish target fishery…(top of page 15) at the end delete the word "target." Ms. Salveson noted that a target fishery usually refers to a specific fishery, but in this case a CP also catches other fish other than the target. In expanding the language to other complexes, the vessel will be able to retain other fish caught. **Motion passes without objection.**

Mr. Henderschedt moved to amend, which was seconded, under 18.2, (page 14), under "Standown for vessels that opt out of the rockfish fisheries."

- **Add in the last sentence: sideboarded at the "Amendment 80" sector level**
- **Strike "as described in the general provisions"**
- **Add "through 2009" after qualifying years (top of page 15)**
- **Strike the underlined "and opt out vessels" (top of page 16)**

Mr. Henderschedt spoke to his motion, noting the tradeoffs in the motion. He noted his concern with existing constraints. There was discussion over concerns of adding another qualification year as well as changing the sideboard levels, and clarification from staff. **The motion failed 3/8, with Tweit, Benson, and Henderschedt voting in favor.**

Ms. Salveson moved, which was seconded, to add "in the aggregate" before the text "will be limited" on the top of page 16. Motion passed without objection.

At this time, the Council reviewed the motion again.

Mr. Hull moved, which was seconded, to reinsert the main paragraph in 7.3, but to replace the percentage with 87.5% and in the second paragraph with .875%. Additionally, in the he rollover provision, which was previously at 50%, change to 55%. Mr. Hull noted that as a goal of the program, and NS 9 which identifies minimizing bycatch to the extent practicable, it would be more appropriate action by the Council to take some portion of the bycatch savings from the initial allowance, as well as to have some of the savings from the rollover. There was lengthy discussion, and **Mr. Fields moved a substitute motion with a second from Mr. Lloyd, to revert to original motion: 75% and 75%.** He noted it was important to take the percentage off the front, and to have the lower rollovers. He also is certain that the higher the percentage rollover is to the fleet, the higher incentive to save halibut. **The motion failed 2/9, with Mr. Fields and Mr. Olson voting in favor. Mr. Hull's amendment was voted on, and passed 6/5, with Salveson, Cotten, Dersham, Hull, Lloyd, and Olson voting in favor.**

Mr. Tweit moved to amend, with a second by Mr. Benson, to change under Element 13: Cooperative Harvest Use Caps: "No CV may catch more than 9%..." Mr. Tweit spoke to his motion noting that there may be more flexibility needed, the more prescriptive the environment. There was brief discussion, **and the motion failed 5/6, with Tweit, Salveson, Benson, Henderschedt, and Hyder voting in favor.**

Mr. Fields reviewed the GOA rockfish National Standards and how the Council action reflects them. Most of the discussion has focused on NS4 and does not discriminate between residents of different states. If it becomes necessary to allocate or align fishing privileges among various US fishermen, such allocations shall be (a) fair and equitable to all such fishermen, (b) reasonably calculated to promote conservation, and (c) carried out in such a manner that no particular individual, corporation or other entity acquires an excessive share of such privileges. He applauded the Council's efforts in keeping with the National Standards.

Mr. Tweit noted concerns; specifically that processors would be negatively affected.

Mr. Henderschedt stated he cannot support motion because the selection of years 2000-2006 fails to recognize that most recent participation which includes leasing and treating of quota negatively affects people who chose not to participate in the derby fishery, and there is a 10 year sunset. He emphasized his concern noting this element in combination with qualifying years can significantly reduce small amounts PSC: if you don't catch your own fish you're likely to lose it next time around, and cautioned the Council against making large, wholesale changes, rather than incremental changes.

Mr. Cotten expected benefits through the coop structure and achieving success in that regard, maximizing efficiency and stability, and safety.

NOAA GC John LePore spoke to the Council noting that the rockfish program is considered a limited access privilege program and reviewed specific requirements briefly.

Mr. Lloyd remarked that the Council did an admirable job in satisfying elements in the problem statement; reduce bycatch, enhance productivity and efficiencies especially through fishing in a cooperative pattern. He noted that the program may achieve many of the benefits without incorporating privatization of the package, with a conscious awareness that the program itself should not take center stage, but rather the fishing practices themselves.

There was brief discussion regarding the Deeming motion and regulatory timeline. It was generally agreed that the Council will be able to review the regulatory package prior to submission to the Secretary.

Mr. Tweit moved to amend, with a second from Mr. Lloyd, that the Council requests to see the proposed draft regulations prior to submission to the Secretary, hopefully at the December meeting. Additionally, staff will provide progress on development of regulations at the October meeting. Motion passed unanimously.

The vote on the amended main motion passed 8/3, with Benson, Henderschedt, and Hyder voting in opposition.

C-6 Amendment 80 Program

a. Report on GRS Program

BACKGROUND
At its April 2010 meeting, the Council requested NMFS report to the Council at its June 2010 meeting on the status of monitoring, enforcing, and prosecuting the Groundfish Retention Program (GRS) program. The Council requested that NMFS review the enforcement and prosecution concerns raised during the development of the GRS program, Amendments 80 and 93 to the Fishery Management Plan for

Groundfish of the Bering Sea and Aleutian Islands Area (FMP), any new concerns about monitoring and enforcing the GRS program that have been identified by the agency or industry participants, and potential concepts for refinement of the GRS Program to address these concerns.

The GRS program requires a minimum retention of all Federal groundfish in the BSAI for non-AFA trawl catcher/processors. The GRS requirement began at 65 percent in 2008, rising to 75 percent in 2009, 80 percent in 2010, and peaking at 85 percent in 2011 and all future years. GRS applies to all non-AFA trawl catcher/processors operating in the BSAI. Under GRS, each vessel participating in the limited access fishery must ensure that it meets the GRS requirements based on the amount of catch retained by that vessel. Vessels participating in a cooperative can aggregate the total catch by all vessels in the cooperative and the total retained catch by all vessels in the cooperative.

Glenn Merrill (NMFS) gave a brief report on the progress of the GRS program and fielded questions from the Councilmembers. The AP report was given by Lori Swanson, and public comment was heard.

Ms. Moreland participated in this section for Denby Lloyd.

COUNCIL DISCUSSION/ACTION

John Henderschedt moved to recommend, which was seconded:

1. **Temporary suspension of GRS regulations through emergency rule at this meeting.**
2. **Additionally, the AP recommends initiation of an FMP amendment to come back to the Council in October and explores revising the current GRS program by considering the following alternative approaches:**
   - **Revise the current GRS schedule to correlate groundfish retention considered in the Am 79 analysis to groundfish retention calculated with the current GRS enforcement methodology.**
   - **Allow the Am 80 sector to engage in internal monitoring and administration of a groundfish retention program to meet Council retention goals described in Am 79. At the October 2010 Council meeting, the Am 80 sector should provide the Council with a unanimous detailed civil contract that would hold each individual entity or cooperative accountable to meet these retention goals.**

Mr. Henderschedt noted that there are two types of problems with GRS currently, calculating the GRS, and enforcing whatever rates are implemented. Mr. Henderschedt noted that the Council has an obligation to provide a record for its designation of an emergency, and there have been economic and social hardships resulting in loss of seafood in global markets. He urged the Council and Agency to begin progression on emergency rule. There was brief discussion regarding priority of items that get re-ordered because of an emergency rule, and it was agreed to discuss during staff tasking. **The motion passed 10/1 with Dr. Balsiger objecting.**

(b) Amendment 80 Lost Vessel Replacement

BACKGROUND
At the October 2008 meeting, the Council initiated an analysis for a proposed FMP amendment to address lost vessels in the Amendment 80 program. The analysis was initiated to address a May 19, 2008, ruling of the U.S. District Court of the Western District of Washington that invalidated the Amendment 80 provisions that limit the vessels used in the Amendment 80 program. In Arctic Sole Seafoods, Inc. v.

Gutierrez, the district court found the statutory language of the Capacity Reduction Program ambiguous as to whether replacement of qualifying vessels with non-qualifying vessels was permissible, and found the agency's interpretation of the statue to be arbitrary and capricious.

Glenn Merrill (NMFS) and CDR Chris Woodley (USCG) gave the staff report on this issue. Lori Swanson gave the AP report, and public comment was taken.

COUNCIL DISCUSSION/ACTION

Dr. Balsiger moved, which was seconded by Mr. Benson, to select the following alternatives and options for final action:

Alternative 3: The owner of an Amendment 80 vessel may replace that vessel with another vessel for any purpose. Only one replacement vessel may be used at any given time (one-for-one replacement).

Vessel size restrictions

A replacement vessel cannot exceed an LOA of 295 feet.

GOA flatfish sideboard restrictions. A replacement vessel that replaces an original qualifying Amendment 80 vessel that is allowed to directed flatfish in the GOA

~~(b)~~ would be allowed to directed fish for flatfish.

Golden Fleece* sideboard restrictions. A replacement vessel that replaces the *Golden Fleece:

~~(c)~~ If the replacement vessel for the *Golden Fleece* is greater than the MLOA of the license that was originally assigned to *the Golden Fleece,* then that replacement vessel will be subject to all sideboards that apply to other Amendment 80 vessels, with the catch and PSC use of the *Golden Fleece* added to the existing GOA sideboards. If the *Golden Fleece* replacement vessel is less than or equal to the MLOA of the license that was originally assigned to the *Golden Fleece,* then the *Golden Fleece* sideboards would apply.

- **Assigning QS from lost vessels. Allow the owner of an Amendment 80 vessel to assign a QS permit from an original qualifying Amendment 80 vessel to the replacement vessel or to the LLP license derived from the originally qualifying vessel.**
  - **~~(a)~~ A replacement vessel cannot enter an Amendment 80 fishery without QS being assigned to that vessel or the associated permit.**
  - **~~(b)~~ Persons holding a QS permit associated with a vessel that is permanently ineligible to re-enter US fisheries is eligible to replace the vessel associated with its QS permit.**

  Any vessel replaced under this program may be used to replace other Amendment 80 vessels. Vessels not assigned to the Amendment 80 fishery would have a sideboard limit of zero in BSAI and GOA groundfish fisheries.

  Vessels must be classed and loadlined or meet the requirements of ACSA to be used to replace other Amendment 80 vessels

The Council recommends any Amendment 80 replacement vessel that is greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower be authorized for use in the EEZ under the jurisdiction of the North Pacific Fishery Management Council. This recommendation is intended to clarify that any Amendment 80 replacement vessel is eligible to receive a certificate of documentation consistent with 46 U.S.C. 12102(c) and MARAD regulations at 46 C.F.R. 356.47.

Requirement under all alternatives: Monitoring and enforcement, permitting, recordkeeping and reporting, prohibitions, and general GOA sideboard measures that apply to original Amendment 80 vessels would continue to apply to all replacement vessels.

Dr. Balsiger spoke to his motion noting that to be consistent with the purpose and needs statement, the motion would allow vessel owners to improve safety, meet class and load requirements, and allow a broader range of processing opportunities. 295' is the size of the largest of the current AM80 vessels, and would allow a limit to the maximum vessel size of the fleet, and provide a level playing field for all participants, as well as giving the Council a maximum LOA in analytical documents. It would allow vessels that are currently active in GOA flatfish fisheries to replace their vessels.

There was brief discussion regarding monitoring and enforcement, and consolidation within the fleet as vessels move towards replacement. There was also discussion regarding development of a trailing amendment or discussion paper that examines further the need for limitations and possible sideboard modifications beyond what is discussed in the analysis, and the interplay between limits on harvests and processing. It was generally agreed that this would be addressed in staff tasking.

Mr. Balsiger noted that the motion is consistent with the National Standards, and addresses fairly directly under Option1, particularly National Standard 5 (consider efficiency but do not have economic allocation as a sole purpose), 7 (minimize costs and avoid unnecessary duplication) and 10, (promote the safety of human life at sea).

Mr. Tweit amended the main motion, which was seconded, The Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions. Mr. Tweit noted that in this case the Council staff along with the executive director and chairman would be able to review the regulations. **Motion passed without objection.**

Main motion passed without objection.

Capt. Cerne noted that in his absence during staff tasking, he would note now any potential unintended consequences on safety issues be addressed in future analyses.

D-1 (a) GOA Pcod sideboards for crab vessels

BACKGROUND

In February 2009, the Council reviewed an initial draft of an amendment package to exempt crab vessels from GOA Pacific cod sideboards from November 1 to December 31 of each year. Given the Council has completed final action on GOA fixed gear recency and GOA Pacific cod sector split, the GOA B season sideboard exemption is scheduled for initial review at this meeting. Under this proposed action, there are three alternatives. Alternative 1 (status quo) would not change the B season GOA Pacific cod sideboard limits. Alternative 2 would permit those non-AFA crab vessels/licenses that are prohibited from targeting GOA Pacific cod to target GOA Pacific cod from November 1 to December 31 absent of any sideboard limits. Alternative 2 would also exempt from sideboard limits from November 1 to December 31 those non-AFA crab vessels/licenses limited by GOA Pacific cod sideboards. Alternative 3 would exempt from

GOA Pacific cod sideboard limits during November 1 to December 31 only those non-AFA crab vessels/licenses that are restricted by GOA Pacific cod sideboard limits. In each of the action alternatives, the Council included two options that would establish a minimum tonnage and/or a percent of TAC that must be available on November 1 for the exemption to apply. These options would be applied individually to both the inshore and offshore components of the western GOA and central GOA.

Jon McCracken gave the staff report on this issue, Lori Swanson gave the AP report, and the SSC had given their report earlier in the meeting. Public comment was heard.

Ms. Moreland participated in this discussion for Denby Lloyd.

COUNCIL DISCUSSION/ACTION

Ms. Moreland moved, which was seconded, to delay further action on this package until after the GOA Pcod sector split final rule is published. Ms. Moreland noted that the purpose is to recognize how this package will work with sector splits and that the Council may need to review and weigh in and provide additional direction to the Agency after they review the draft rule.

Mr. Fields moved a substitute motion, which was seconded, to take no further action. Mr. Fields noted that with the changing patterns in the gulf, and without the options being ready for public review, it is prudent to take no action. There was brief discussion, and the **substitute motion passed without objection, and carries the earlier motion.**

D-1 (b) Adjust MRAs in BSAI Arrowtooth

BACKGROUND
In 1994, the Council set most of the groundfish MRAs at zero, relative to retained amounts of arrowtooth flounder, to prevent vessels from using arrowtooth flounder (a species for which no market existed) as a basis species for retention of more readily marketable species. At that time, there were concerns that fishing vessel operators would target arrowtooth flounder to increase the retainable amounts of valuable species, closed to directed fishing, resulting in increased bycatch amounts of Pacific halibut, salmon, and crab. Increased halibut bycatch rates could have resulted in reaching halibut bycatch limits before the total allowable catches (TACs) established for other trawl target fisheries were harvested. However, since 1997, markets for arrowtooth flounder have developed and this species now supports a viable target fishery. To take advantage of the growing arrowtooth flounder market, the Council, in December 2009, initiated an analysis to consider changes to the MRAs of groundfish in the arrowtooth flounder fishery in the BSAI.

This analysis considers three alternatives. Alternative 1 (no action) would leave the MRAs for groundfish in the arrowtooth fishery unchanged from those in current regulations. Alternative 2 would set the MRAs for incidental catch species at the current Pacific cod level. Alternative 3 would set the MRAs for incidental catch species at the current flathead sole level.

Jon McCracken gave the staff report on this issue. Lori Swanson gave the AP report, and the SSC gave their report earlier. Public comment was taken.

COUNCIL DISCUSSION/ACTION

Mr. Henderschedt moved, which was seconded, that the Council adopt the AP motion with the following revisions:

- **Delete alternative 4 proposed by the Advisory Panel**
- **Addition of suboption to alts 2, and 3 of an MRA of Greenland turbot of 15%**

Mr. Henderschedt spoke to his motion, noting that the bycatch rate for Greenland turbot was 10% in 2008 and 2009, and managing by averages by itself can result in thresholds set too low. Mr. Henderschedt outlined that the intent is to establish a benchmark for analysis, and to flag that species as one to pay attention to when the Council drafts a motion to establish higher MRAs. **Motion passes without objection.**

D-2 (a) GOA Halibut PSC Limits

BACKGROUND
At the December 2009 meeting, the Council requested a discussion paper on the process for changing the halibut PSC limits in the GOA and the BSAI. In February 2010, the Council reviewed a NMFS discussion paper which described how PSC limits for halibut are established in both the BSAI and the GOA, and how PSC limits in the GOA could be modified under the current GOA Groundfish FMP. Halibut mortality PSC limits are specified annually as a component of the proposed and final GOA groundfish harvest specifications rulemakings. However, the actual amount of the trawl and non-trawl halibut PSC limits are discretionary, consistent with the considerations set forth in the FMP and implementing regulations. The FMP identifies criteria for the annual PSC limits that must be considered by the Council for setting or amending apportionments of halibut PSC.

The Council may choose to 1) take no action; 2) initiate an amendment (EA) to the GOA Groundfish FMP to revise the PSC setting process to mirror the regulatory process (RIR/IRFA) as in the BSAI, as needed; 3) initiate an analysis of halibut PSC limits to support the harvest specifications EA for 2012; or 4) include an analysis of halibut PSC limits in the next harvest specifications EA. The earliest that GOA halibut PSC limits could be revised is coincident with rulemaking for the annual groundfish specifications for 2012. The next step under any action alternative, if that is the Council's intent, would be for the Council to identify 1) a problem in the fishery, 2) goals and objectives for addressing the problem, and 3) management alternatives. If the Council chose to take no action to initiate a separate analysis, it always has the option to incorporate halibut PSC limit reductions in other proposed actions, as it did with BSAI Amendment 80. Even under no action, more widespread (mandatory or voluntary) use of halibut excluder devices would continue to result in a "win/win" situation whereby less halibut are taken as bycatch in groundfish fisheries thus leading to 1) potential increases in halibut abundance and commercial longline fishery catch limits and 2) increased GOA groundfish target harvests.

Chris Oliver gave the staff report on this agenda item. Gregg Williams of the IPHC fielded questions from the Council. Lori Swanson gave the AP report, and the SSC did not discuss this issue. Public comment was heard.

COUNCIL DISCUSSION/ACTION

Mr. Cotten moved the AP motion: to request an expanded discussion paper be presented at October 2010 and requests this as a priority. It was seconded by Mr. Hull:

Additionally, the Council requests the following to be included in the document:

1. Hull: Include discussion on basis of PSC limits
2. Hull: whether the Council can set PSC limits by area

3. Hyder: How mortality rates are established on discards, in relation to determining that fishing behavior matches requirements and what is the discard potential for bycatch reduction
4. Fields: Description of use of crucifiers by fishery over time; is there a direct correlation to mortality (e.g., P cod)
5. Henderschedt: examine at least in a general sense, management practices that drive mortality: presorting, etc. affect end result
6. Tweit: Two-prong approach to paper: 1) outline simple measures to reduce halibut bycatch in near term; and 2) action list of where to work with industry to reduce bycatch in the long term
7. Olson: Generate a discussion of what Canadians have done in regard to IPQ analysis, and what has changed over the years.
8. Invite BC fishermen to describe industry efforts to reduce bycatch
9. Invite DFO (Tamee Mawani) to describe fishery/bycatch reduction
10. Effects of restructuring observer program
11. Information on (exempted) jig fisheries (Pcod and rockfish), with ramp up levels from State.

Motion passed without objection.

D-2 (b) Receive briefing on Alaska MPAs and fishery overlap

BACKGROUND
In December 2009, the Council tasked staff to prepare a brief report with an initial evaluation of the "avoid harm" provision relative to fishing impacts on resources protected by the four MPAs off Alaska that are already part of the National System of MPAs. These are all managed by the Department of Interior, and include:

- *The Alaska Marine National Wildlife Refuge,*
- *The Arctic National Wildlife Refuge,*
- *Glacier Bay National Park and Preserve, and*
- *The Yukon Delta National Wildlife Refuge. This analysis examined fishery overlap with MPA sites by gear type (longline, pot, pelagic trawl, and non-pelagic trawl). The figures indicate virtually no overlap with the MPA System sites, although there may be a minimal amount of fishing effort by all gear types (at the lowest category of effort of 4-10 tows/hauls over a ten year period) within state waters on the north side of Kodiak Island. The DOI sites in question tend to be terrestrial or nearshore in nature, while most fisheries managed by NMFS and the NPFMC are outside state waters. The Council may wish to forward the results of this evaluation to the MPA Center and applicable DOI agencies (USFWS, NPS).*

David Witherell gave a brief report, and it was generally agreed that the Council will draft a letter with the results from the evaluation to the MPA centers and other partners. There was no public comment.

D-2 (e) AFA Preliminary Report removal

BACKGROUND
The Council is scheduled to take initial/final action on a proposed amendment to remove the requirement for AFA cooperatives participating in the directed pollock fishery to prepare and submit the preliminary annual report. Currently, a preliminary AFA cooperative report is due to the Council by December 1 of the year in which the pollock fishing occurred. The Council originally recommended a preliminary report, because it wanted to have this report available for its December Council meeting when it adopts annual groundfish harvest specifications for the upcoming fishing year. The preliminary report is followed by a final report, due by February 1 of the following year, to update or add any information that

became available after December 1. However, the Council may not be relying on the preliminary cooperative annual report to develop its recommendations on final groundfish specifications as much as it originally thought it would. Therefore, this action assess whether the existing final annual report submitted before February 1 of the following year is sufficient for the Council's and public's needs for information under section 210(a)(1) of the AFA.

Sue Salveson gave the staff report on this issue and Lori Swanson gave the AP report. The SSC did not address this issue. There was no public comment.

COUNCIL DISCUSSION / ACTION

Mr. Henderschedt moved, which was seconded, to adopt alternative 2 as its preferred alternative. He noted Ms. Salveson has provided rationale in her staff presentation, and does not affect timing of report and that it is appropriate that to streamline process.

Mr. Tweit moved to amend, which was seconded, that The Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions. The amendment passed without objection. The main motion passes unanimously via roll call vote.

D-3 STAFF TASKING

Chris Oliver reviewed the three meeting outlook and reviewed items the Council highlighted throughout the meeting. Public Comment was taken.

COUNCIL DISCUSSION/ACTION

Plan Team Nominations

Mr. Fields moved to approve appointments to the Groundfish Plan Teams: Peggy Murphy and Chris Lundsford. Mr. Balsiger seconded. Mr. Fields noted that the candidates are qualified, and the SSC had recommended the appointments. **Motion passed unanimously.**

Emergency Rule to repeal AM79

There was brief discussion regarding the Emergency Rule, and Mr. Balsiger noted that help from Council staff is available, and that the analysis and regulations will be completed within the scheduled timeline.

AM 80 Trailing Issues

Mr. Henderschedt commented on the Council's Vessel Replacement Action, and that it may not be adequate to address replacement vessels and participation in GOA flatfish fisheries. Use of replacement of vessels as motherships, and general movement of vessels within the fishery in different capacities was also briefly mentioned.

Mr. Henderschedt moved, which was seconded by Mr. Fields, that the Council initiate discussion paper with 3 parts:

1st part: start with issue of AM 80 vessel replacement vessel's access to GOA flatfish, examine broader range of ways to address that, as well as tangential issues. Possibly using MLOA threshold levels.
2nd part: CP sideboards as they apply to program participants and opt out vessels in WYAK and WGOA. Possibly review the downstream impacts of the Council's action, and how vessels have been affected that move into the rockfish pilot program.
3rd part: Identify areas of overlap and interrelationship between these, and other potentially outlying issues.

Mr. Henderschedt noted that he is committed to examining these issues. Mr. Fields noted that timing would be up to the discretion of the executive director and staff availability. **Motion passed without objection.**

WAG AIGKC Extension of Emergency Relief

NOAA GC John LePore reviewed provisions for emergency action. **Mr. Lloyd moved, with a second by Mr. Cotten, to have the Agency extend the emergency rule, until final regulations can be put in place**. Mr. LePore noted that the extension can only be extended 180 days, and is also dependent on the fact that the Council is moving forward on a permanent solution**. The motion passed with Mr. Balsiger objecting.**

Special August Meeting

Mr. Fields requested Mr. Balsiger update and clarify for the Council progress on the BiOp and upcoming timing for the proposed August meeting. Mr. Balsiger noted that the agency intends to have a draft biop done in time for the August meeting, then should the Council have comments they could then be reviewed in time for the October meeting, with intent to be in place by January 2011. There was brief discussion regarding the necessity of the SSL Mitigation Committee meeting in conjunction with the Council, and it was generally agreed that it was unnecessary at this time.

Chairman Eric Olson gave brief closing comments, and recognized the reappointment of Mr. Fields and Mr. Cotten.

The meeting adjourned at 11:50.