

North Pacific Fishery Management Council
Advisory Panel Minutes
 Anchorage Hilton Hotel
 Anchorage Alaska, February 2-7, 2004

The following members were present for all or part of the meeting:

John Bruce	Bob Jacobson
Al Burch	Teressa Kandianis
Cora Crome	Mitch Kilborn
Craig Cross	Kent Leslie
Tom Enlow	John Moller
Dan Falvey	Kris Norosz
Duncan Fields	Eric Olson
Dave Fraser	Jim Preston
Jan Jacobs	Michelle Ridgway
	Jeff Stephan

Lance Farr was absent.

The AP unanimously approved the minutes from the December 2003 meeting, and voted to postpone election of a chairman and vice-chair until the April 2004 meeting.

VMS

The AP recommends that the Council approve the temporary use of the VVS system as developed by Ocean Logic as an alternative to the VMS system for the 2004 BSAI and GOA groundfish fishery or until NMFS approved VMS's become available or until VVS is permanently approved. *Motion passed 18/0.*

C-2 Observer Program

The AP recommends the Council task the OAC with: reviewing and potentially adding to the Problem Statement; refining the existing Alternatives; and exploring new alternatives that will address the issue of combining BSAI and GOA as one program. Additionally the OAC should explore the potential use of a mixed model for collecting observer cost in any service delivery model that may be chosen as well as the potential cost of these different models to industry.

Additionally, the AP recommends the Council task the OAC to:

- 1) Investigate the "fishing operation exemption" of FLSA;
- 2) The cost of NMFS recommendation to provide "overtime" coverage for Observers;
- 3) Investigate how to increase flexibility in the current service model to address NMFS observer program issues.

Further, the AP recommends the Council direct staff draft a letter to NMFS headquarters requesting the reconsideration of the adoption of the FLSA agency policy to the industry funded observer program in Alaska. Specifically, the letter should question whether the agency considered the fisheries exemption. If not, why not? The letter should further query headquarters as to their decision to extend the provisions of FLSA outside the territorial area. *Motion passed 19/0*

C-3 IRIU

Needs and Purpose statement

The BSAI groundfish fisheries support a number of sectors using different gears and specializing in certain species and /or areas within the BSAI region. Currently, those sectors fish on common pools of target species, secondary species and prohibited species. Competition inter sector as well as intra sector has fostered derby style fisheries that increase waste and does not allow fishers to utilize fishing methods that better reduce waste and prohibited species catch.

The NPFMC's overarching mandate is to maintain a healthy marine ecosystem. Incorporated within this mandate is the MSA directive to Councils to reduce bycatch, minimize waste, and improve utilization. Over the past eight years, the Council has approved measures to further the region's attainment of these goals. During this time, the annual waste in the BSAI groundfish fisheries has declined steadily with utilization goals met in fisheries where margins are adequate to cover the increased costs of full retention. However, in the non AFA multispecies CP trawl sector, costs of increased retention in low margin fisheries imposed substantial costs that were not balanced with associated benefits. Subsequent to this finding, NMFS determined that the full retention of these low value species would impose such significant harm to a number of vessels within this sector that the full retention of yellowfin and rocksole did not meet the "to the extent practicable" test also mandated by the MSA. The Council has determined from their knowledge of existing rationalized fisheries that such measures could pass the practicability test when accompanied by appropriate tools enabling fishers to slow the race for fish.

The Council has determined the first step in devising these tools must be to allocate BSAI target species, secondary species, and prohibited species amongst the different sectors. This allocation will be done in a manner consistent with the MSA directives in regard to allocation. These include, among others, present participation, economic dependence, and capacity to engage in other fisheries. The Council has also determined that these sector splits could allow cooperative formation in these sectors if all participants agree; and that formation of cooperatives gives fishers the tools necessary to reduce waste and prohibited species catches, thus allowing the Council to reduce bycatch where practicable.

The greatest need for tools to reduce discards and PSC is in the non AFA CP trawl fleet who are reaching the maximum achievable under the current management system.

The purpose of the proposed action is to create a management program that increases utilization and retention, improves conservation, reduces bycatch and provides economic stability for fishers, processors, and communities. The sector split portion of this action will provide economic stability to current participants in the BSAI fisheries and remove the inter sector race for fish. It will also provide the foundation on which each sector can subsequently build a rationalization program that suits the unique characteristics that define the different sectors.

The proposed action will facilitate the construction of a cooperative for the non AFA trawl CP sector recognizing the near term need in this fishery for tools enabling compliance with Amendment 79 of the BSAI FMP (the groundfish retention standard).

This proposed action should also examine a management program to continue the reduction of prohibited species bycatch over time through cooperative formation, and examine how PSC reduction could be shared with the affected fisheries. *Motion passed 17/0/2*

The cooperative design should recognize and preserve the diversity of vessels, ownerships, and targets within the sector. Some consolidation is expected; however, that is not a primary goal of this action. The Council, in designing this cooperative, recognizes the monitoring model will be complex, given that the vessels range in length from 107' to 300' and in capacity from 15 mt/day to 120 mt/day, and that the monitoring model should examine capacities as well as length in achieving adequate data collection so as not to disadvantage low producing vessels to the extent they cannot join a cooperative.

The proposed action should slow the race for fish, stabilize fisheries and fisheries dependent communities, improve the safety of life at sea, maintain the relative efficiencies and diversity of the industry while recognizing long term investments in the fisheries.

Motion passed 18/1

Additionally, the AP requests the Council incorporate the following into the Components and Options in 80A and 80B:

80A Component 5: Option 5.2.1 Change “exclude” to “include AFA-9 catch history...” (Alternative 2)
Motion passed 18/0

80A Component 5: Option 5.4 Change “include” to “exclude AFA-9 catch history...” (Alternative 3)
Motion passed 18/0

80A Component 5: Add an Option 5.6, 2000-2003 with a suboption to exclude 2001 *Motion passed 16/1*

80A Component 10: Delete *Motion passed 18/0*

80B Component 4: Add Option 4.7 - 100% *Motion passed 15/2/1*

80B Component 6: Option 6.3 add suboption
don't drop a year
Motion passed 19/0

80B Component 6: Add suboption to 6.4 98-03 drop 2 years *Motion passed 19/0*

C-5 Crab Rationalization Environmental Impact Statement

The AP recommends the release of the Draft BSAI Crab EIS for public review and comment. The AP further recommends staff incorporate the SSC's comments and the following AP recommendations if inclusion of these comments and recommendations can be done prior to release and will not delay final action.

- ✓ Include the “Council Motion for BSAI Crab Rationalization June 10, 2002 as updated April 2003” in the EIS. *Motion passed 19/0.*
- ✓ Include discussion relative to 4.6.7.3 on page 4-217 of the EIS, be updated to include discussion of the DOJ letter dated August 27, 2003 relative to anti-trust risk associated with binding arbitration. *Motion passed 18/0.*
- ✓ The AP endorses the SSC's recommendation #5 on page 5 of their February 2004 minutes. Additionally, the AP requests staff prepare a document to be circulated to the public before the June meeting which would show the allocation of IPQs to individual processors and the distribution of IPQs among communities. *Motion passed 19/0.*
- ✓ The discussion of the August 5, 2002 letter to congress identifies that other (non-MSFCMA) statutes would need to be amended to implement the mandatory data collection program. This section of the EIS should identify those statutes and whether the data collection may be constrained, given that 801 (j) (1) only addresses MSFCMA restrictions on data collection. (4.6.7.5 pate 4-224) *Motion passed 18/0*
- ✓ Expand discussion of the short and long term effects of crab rationalization, and that efficiency be clearly defined and applied consistently to both the harvesting and processing sectors. *Motion passed 18/0/1.*

C-6 Congressional Legislation

Crab Rationalization

The AP recommends the Council initiate a trailing amendment that analyzes a range of alternative ratios of A shares and B shares in the BSAI crab fishery. The amendment would have as its range of alternatives: 50/50, 60/40, 70/30 and 80/20.

Further, the AP recommends that the amendment be ready no later than December 30, 2005. As a suboption, all shares originally designated as A shares shall retain their regional designations, should the ratios between A shares and B shares be modified. Motion passed 13/6.

Minority Report:

We, the undersigned members of the Advisory Panel respectfully disagree with the motion to initiate a "trailing amendment" on the percentage of fishing quota that should be A share and B share.

This issue was initially decided in June 2002 in the main Council motion. The Council then had before it the motion to adopt any of the range of alternatives in this motion. The June 2002 motion was debated fully, in public, voted on, and a motion to reconsider the vote was rejected. This amendment will take staff and Council time even though there has been no information developed from program operation that suggests a need for change. The Council, and staff, has many other high priorities that will be affected by taking on this additional project. In fact, the motion is simply requesting another vote on the issue with no new information and no experience with implementation. Following the June 2002 Council meeting, the Council considered various trailing amendments over the succeeding eleven months. A motion to rescind the vote on the 90/10 split could have been scheduled and made in order. That would have provided finality. Now, as NMFS works on implementation of the program, this motion calls for a vote in late 2005, in the middle of implementation to sow uncertainty in the entire program.

The Council program calls for a cool down period during the first two years of the program in which A shares must be utilized in the historical community if processing. The AP trailing amendment would remove that requirement for any shares converted from A shares to B shares under the motion.

We all hope that everyone will work together to successfully implement the crab rationalization program. With this trailing amendment, some may instead focus on strategies to lower the portion of A share fishing quota, which may in turn negatively affect the program.

Signed: Jim Preston, Teressa Kandianis, Tom Enlow, Kris Norosz, and Mitch Kilborn.

GOA Rockfish

The AP recommends the Council not take action at this time pending further input by the stakeholders and proposers. Additionally, the AP recommends the Council request staff agenda this item for the April 2004 meeting.

Further, the AP expresses its intent that the rockfish pilot program should not slow down the GOA Groundfish Rationalization package and requests that the proposers align the program with the options for rockfish under GOA Groundfish rationalization where possible.

Motion passed 18/0

AI Pollock

The AP recommends that an amendment to the BSAI FMP be initiated for an AI pollock fishery that would follow the April/June schedule alternative to mesh with the normal specifications process for a fishery to occur in 2005.

Further, the AP provides the following comments on the potential FMP amendment alternatives:

Optimum Yield (OY) cap:

- Require, in the FMP, that pollock allocations to an AI fishery come from within the OY cap

Use of B season allocation:

- No action. Maintain current 40/60 season apportionment requirement for pollock fisheries
- Put B season allocation in a reserve, permitting reallocation of harvest amount to another gear group in the B season, to the EBS subarea, or to another species or species group
 - SUBOPTION: Pro-rate to the species which it was deducted

Small vessels

- Provision for small vessels to fish starting in 2005
- Defer small vessel participation until a later date 2 or 5 years from now to allow for development of a management program

Economic development mandate

- Require an annual report to the Council

Mandatory vessel activity

- Have NMFS staff consult with enforcement and provide the Council with options.
- Mandatory shoreside monitoring

Expand the charge of the SLL Mitigation Committee to include discussion of modifying Aleutian Islands SSL closure areas to accommodate small vessels fishing during the A season for the Aleut Corporation pollock allocation.

*Motion passed 17/0***C-9 Steller Sea Lions**

The AP recommends the Council move forward with the 5 elements of the proposed amendment package that NMFS has concluded would not require further mitigative action and would not require reinitiation of formal Section 7 consultation.

Additionally, the AP requests that the Council charge the SSLMC to re-examine the three proposed regulation changes which would initiate a formal section 7 consultation, and include in this process an evaluation of other potential changes to SSL protection measures, not only in the GOA but also in the BSAI.

Finally, the AP requests the Council direct NMFS to prepare a summary of research completed subsequent to the FMP level bi-op then subsequent to the 2001 and 2003 supplemental, and a list of current research projects and their expected completion dates. *Motion passed 19/0*