

North Pacific Fishery Management Council

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ADVISORY PANEL Minutes April 4–7, 2017 Anchorage, AK

The following members were present for all or part of the meetings (absent ~~stricken~~):

Carroll, Shannon	Kauffman, Jeff	Scoblic, John
Christiansen, Ruth	Kwachka, Alexis	Stephan, Jeff
Cochran, Kurt	Lowenberg, Craig	Stevens, Ben
Crowley, John	McCallum, Chuck (2 days)	Upton, Matt (Co-Vice Chair)
Downing, Jerry	Nelson, Art	Weiss, Ernie (Chair)
Drobnica, Angel (Co-Vice Chair)	Nichols, Carina	Wilt, Sinclair
Donich, Daniel	O'Donnell, Paddy	
Gruver, John	Peterson, Joel	

The AP approved the minutes from the February 2017 meeting.

C1 Scallop SAFE, Plan Team Report, OFL/ABC Catch Specifications

The AP recommends the Council adopt the 2017 Scallop SAFE as well as the OFL and ABC as recommended by the Scallop Plan Team and the SSC. *Motion passed 19-0.*

C2 Salmon FMP Amendment - Discussion Paper

The AP recommends the Council initiate an analysis that examines ways in which the Council/NMFS and the State of Alaska can manage the EEZ salmon fisheries that occur in three traditional net areas of the western area: Prince William Sound, Upper Cook Inlet and the Alaska Peninsula. The following language is offered for consideration to be included in a purpose & need statement.

Due to a court decision, the Council must revisit the 2012 Salmon FMP and manage the salmon fisheries that occur in the EEZ in portions of Prince William Sound, Upper Cook Inlet, and the Alaska Peninsula. These fisheries have traditionally been managed by the State of Alaska as part of their comprehensive salmon management programs.

The Magnuson-Stevens Act is the primary domestic legislation governing management of the nation's marine fisheries. The Magnuson-Stevens Act requires FMPs to be consistent with a number of provisions with which all FMPs must conform and which guide fishery management. Section 303(a) of the Magnuson-Stevens Act requires a fishery management plan contain specific conservation and management measures. Section 301(a) of the Magnuson-Stevens Act requires a fishery management plan be consistent with ten National Standards. Additionally, NMFS published National Standard Guidelines (NS Guidelines; 50 CFR 600.310-600.355) to provide comprehensive guidance for the

development of FMPs and FMP amendments that comply with the Magnuson-Stevens Act national standards, and should be closely considered when developing options for meeting the Magnuson-Stevens Act requirements. ~~The 2012 FMP does not address any of these requirements for the fisheries in the three traditional net fishing areas, except for EFH.~~

[Amendment to strike last sentence passed 19-0.]

Alternative 1. Status quo: No action.

Alternative 2. Federal management of ~~commercial~~ EEZ salmon fisheries in PWS, UCI, and AK Peninsula.

Alternative 3. Shared/frameworked management between the Council/NMFS and the State of Alaska.

Alternative 4. Delegation, to the maximum extent possible, of EEZ salmon fisheries management to the State of Alaska.

[Amendment to strike 'commercial' and add 'salmon' passed 19-0.]

The AP recommends the Council form a committee of interested stakeholders to help develop the options for a salmon FMP.

[Amendment to add this sentence passed 14-5.]

Final motion as amended passed 19-0.

Rationale:

- The discussion paper identifies that the next step in the process is for the Council to develop alternatives for potential FMP management.
- The alternatives cover a full range of possible management regimes, from full federal management of the EEZ to maximum delegation to the State of Alaska, and something in between.
- In this motion the alternatives were not structured with the FMP provisions required under MSA section 303 (and outlined in table ES-1). These provisions will most likely be included as elements and options under each of these alternatives at some point in the future.
- In public comment and in testimony, there were requests for the creation of a stakeholder committee. This committee could help identify what management framework/s should be forwarded for analysis, and help inform a more efficient, stakeholder driven and streamlined process.
- In addition to a stakeholder group, the Council will want to work in close consultation with their Joint Protocol Committee and with the Alaska Board of Fisheries.
- Some AP members felt that the creation of a stakeholder committee may be premature and that it was not clear what they would be tasked with working on at this stage in the process.
- Conclusive statements are not appropriate as part of a Purpose and Need Statement intended to initiate an analytical process.

C3 Pollock ICA/IPA Reports; Salmon Genetics; Salmon PSC Genetics

The AP recommends the Council request a discussion paper broadening the current genetic information and studies towards determining contribution of hatchery fish versus wild salmon, and evaluating any temporal/spatial bycatch considerations applied to the various BSAI and GOA groundfish fisheries.

Motion passed 19-0.

Rationale:

- Additional genetic information will help groundfish fisheries avoid high bycatch areas.
- There is a need to better understand the composition of hatchery to wild fish in bycatch to determine whether PSC caps are being managed effectively to protect intended targeted salmon stocks or whether they are unnecessarily constraining on trawl fisheries.
- The trawl industry has been shut down and may again be shut down because of constraining salmon caps that may go beyond reducing bycatch to the extent practicable.

C4 Co-op Reports (AFA, Am80, GOA Rockfish, BSAI Crab)

The AP received oral reports from staff and industry. No action was taken.

C5 CGOA Rockfish Program Review - Work Plan

The AP recommends the Council follow the draft CGOA rockfish program review outline.

Motion passed 16-0.

Rationale:

- The work plan provides an exhaustive list and good outline.
- The timeframes included in the work plan are valuable in helping to understand the evolution of the program since its inception.

C6 EFH Omnibus Amendment - Initial/Final Review

The AP recommends the Council select the following for final action:

Action 1: BSAI Groundfish

- Alternative 2 – Update EFH descriptions and replace the existing EFH maps in the FMP.

Action 2: GOA Groundfish

- Alternative 2 – Update EFH descriptions and replace the existing EFH maps in the FMP.

Action 3: BSAI King and Tanner Crab

- Alternative 2 – Update EFH descriptions and replace the existing EFH maps in the FMP.

Action 4: Salmon

- Alternative 2 – Update EFH descriptions and replace the existing EFH maps in the FMP.

Action 5: Arctic Management Plan

- Alternative 2 – Update EFH descriptions and replace the existing EFH maps in the FMP.

Action 6: Non-Fishing Activities

- Alternative 2 – Update EFH conservation recommendations for non-fishing activities in all Council FMPs.

Action 7: HAPC

- Alternative 1 – Status quo.

Action 8: EFH Research Priorities

- Alternative 2 – Revise research priorities for EFH in all Council FMPs.

Motion passed 18-0.

Rationale:

- This action represents the culmination of a significant amount of work by multiple people that has resulted in a huge improvement in our understanding of EFH, including the level of uncertainty that still exists. This new objective model-based approach to EFH can be replicated and carried forward in to the future.
- While the multiple components that went into developing the new EFH descriptions and maps were not presented in their entirety as part of the EA, they are all available to be added (as appropriate) prior to Secretarial Review, therefore it is not necessary to delay final action at this time.
- Regarding Action 7, throughout this analytical process, there have been no areas identified that appear to warrant HAPC classification. Under status quo, the Council retains the ability to initiate the HAPC proposal process at any time, if deemed appropriate.

C7 Halibut Abundance-based PSC Limits - Discussion Paper

The AP recommends that the Council initiate an expanded discussion paper. The goal of the discussion paper is to incorporate feedback from the SSC, the Council, and stakeholders, and to make the information more accessible for decision-makers.

The AP recommends the Council exclude the GOA in abundance-based management at this time.

[Amendment passed 18-1.]

Specifically, the discussion paper should include or consider the following:

- A description of the individual components of each index (e.g., ABM1), the degree to which those components can be bundled, and whether there is any overlap between components.
- A concise, written description of how the different indices meet the objectives and principles of the action.
- Evaluate whether, and to the extent, each index tracks or is representative of the BSAI fisheries or directed IFQ fisheries encounters of halibut.

- A description of how each index will be responsive to potential changes in IPHC harvest policy and how discrepancies in biomass estimates between the Council index and IPHC assessment will be addressed.
- Evaluate how the indices will adapt to changes in NMFS survey frequency.
- Evaluate adult yield equivalency.
- A description of the historical baselines for each fishery, or the known limitations to achieving such understanding.
- Inclusion of the effects of the index on the directed halibut fishery in the strawman examples.
- Status quo alternative as an evaluation tool.

The AP also recommends that the Council continue development of performance metrics to help evaluate whether the alternatives (once decided upon) are likely to achieve the objectives of the action.

Amended motion passed 19-0.

Rationale in Favor:

- The AP appreciated the work of the ABM workgroup but needed additional information before it could make an informed decision regarding choosing or crafting alternatives (and other decision points).
- The enumerated list of items for the discussion paper to consider was based upon SSC discussion, questions during the workgroup presentation, and public testimony. The AP believes that these items are essential for informed decision-making.
- At this time, adding the Gulf of Alaska to the ABM action does not appear to be warranted based upon the differences between the Gulf of Alaska and the Bering Sea that were highlighted by the discussion paper and staff presentation.
- The development of performance metrics can occur concurrently with the continued analysis of indices.
- The paper chooses arbitrary starting points and control rules to illustrate how each alternative could impact levels of PSC, a similar translation to the impact on directed fisheries should be incorporated in future documents.

The AP recommends the Council add to the expanded discussion paper, a range of starting points for the levels of directed harvest and PSC catch, in combination with various combinations of indices. **The ABM workgroup should evaluate the scientific and practical benefits and drawbacks of these starting points.** [Amendment passed 15-3.] This information will help stakeholders and the Council more objectively select starting points to determine whether they meet the goals and objectives of the action.

1. 2016 PSC cap
2. **Average 2008-2016 PSC limits** [Amendment passed 18-0.]
3. Actual PSC usage in 2016
4. 2002-2011 average historical share of the TCEY between the directed halibut fisheries and the PSC mortality.
5. 2008-2016 average historical share of the TCEY between the directed halibut fisheries and the PSC mortality.

[Amended motion passed 12-6.]

Rationale In Favor:

- It important that the Council forward a potential range of starting points of directed harvest and PSC levels for the workgroup to analyze for strengths, weaknesses and merits. This information will help stakeholders and the council more objectively select starting points in the next iteration of the analysis to be tested against various indices to determine whether they meet the goals and objectives of the action.
- It's time to put allocation and equity among user groups on the table – we have a range of indices and control rules, and this is the missing piece that will contribute substantially to further development of ABM.
- Understanding the basis for starting points will assist all halibut users in selecting options to run through a future abundance index
- This is not an exhaustive or prescriptive list, identifying a number of starting points to evaluate will serve the interest of all halibut users
- The starting points should be measured to see if they meet the goals and intent of the purpose and needs statement and overarching Council objectives.
- The first date range, starting in the early 2000's, includes the decade prior to the major decline in biomass starting in 2011. Very little information exists on stock assessments in Area 4 prior to 2000.
- The second date range encompasses catches by both sectors both before and after the start of the decline.

Rationale Against:

- The AP took sufficient action in a previous motion to help direct further ABM development, including starting points will be a distraction and escalate AMB into an allocation battle.
- The current discussion paper has no data on fisheries that would help make an informed recommendation on the starting points,
- This motion is contradictory to what some felt needed to be a more systematic approach to fully understanding the abundance index.
- The dates and start points outlined are artificially low points given recent action of the Council to lower the PSC cap and the extraordinary efforts specifically from the Amendment 80 fleet to reduce PSC usage.
- The inclusion of both PSC caps and percentages is contradictory, and makes it sound like ABM should now also comprise a catch share agreement between sectors.

The following motion failed 9-9:

The AP recommends the Council request the staff to review the FVOA/DSFU proposal to see how the Bering Sea and Aleutian Islands FMP would have to be amended and what mechanisms or changes they would recommend to meet the intent of this proposal.

Rationale in Favor: The FVOA/DSFU proposal is a more transparent and easier approach to ABM as it allows the Council to set halibut caps by +/- 3% down to 2016 usage levels.

Rationale Against: ABM requires indices, the FVOA/DSFU proposal is an arbitrary moving cap approach to halibut PSC limits and a completely different approach that should be considered separately.

The AP recommends the Council host a workshop on gear considerations and selectivity to different sizes and levels of abundance to get input from groundfish fishermen to help the working group better understand the tools available to reduce bycatch, how they differ by sector/fishery, and how they are evolving. *[Motion passed 18-0.]*

Rationale in Favor:

- Groundfish fishermen all encounter halibut bycatch and the working group could benefit from learning what sort of practical, on the water tools/strategies are available for reducing bycatch.

C8 CDQ Ownership Caps - Final Action

The AP recommends that the Council take final action to revise regulations governing the ownership attribution model for CDQ groups for excessive share limitations under the AFA Program; revise the regulations and the Crab FMP governing the ownership attribution model for CDQ groups for the PQS ownership and IPQ use caps under the CR program to provide as directed in the Magnuson-Stevens Act.

Motion passed 17-0.

Rationale:

- Since the 2006 MSA amendments, NMFS has implemented the proportional attribution method for CDQ groups to monitor excessive share caps in the AFA and CR program, however these programs have not been revised to reflect the changes.
- This action would revise the regulations to be consistent with statutory changes and with current practice.
- This action would benefit CDQ groups and the public by clarifying the method that is currently used to attribute ownership and would not result in any practical differences from status quo.
- CDQ groups will continue to be held to the ownership and use limitations under the AFA and Crab programs.

C9 EM Working Group Report

The AP endorses the recommendations of the EM workgroup on the proposed rule and the 2018 EM Deployment Plan. We further wish to emphasize the need to provide staff resources to develop a cost model for EM integration, and an analysis of the data quality improvements associated with various trip selection rates in both the EM and observer pools. Developing these tools will require an iterative process and should begin with the 2018 ADP.

Motion passed 18-0.

Rationale:

- AP supports the 9 specific comments identified by the EM Workgroup that are contained in the March 28 and 29 “Electronic Monitoring Workgroup - Minutes” as points of NMFS and public consideration in reviewing the Proposed Rule, and suggests that these comments could help guide the industry in submitting their comments on such Proposed Rule.
- AP supports allowing up to 120 HAL vessel and 45 pot gear vessels into EM pool for 2018, funding permitting.
- December 2016 AP minutes noted *“The AP further recommends the Council task staff, the OAC, and the EM workgroup with the development of options and analytical tools to better evaluate the optimization of EM as an integrated component of the Annual Deployment Plan process. An initial framework for this optimization should be part of the October 2017 review of the 2018 ADP.”* We continue to prioritize the need for these tools to optimize the fee sharing between EM and observed fixed gear vessels.
- Our understanding is that fee sharing will begin in June 2019 under the NEW observer contract. We wish to emphasize the need for an iterative process, testing these tools as part of the October 2017 and 2018 ADP process to provide time for feedback and refinement.

C10 Lead Level 2 Observers – Initial Review

The AP recommends the Council release the initial review analysis for public review with the following revisions to the alternatives and the purpose and need statement.

Alternatives

Alternative 1: No action. Continue to require owners of freezer longline vessels selecting the scales with a single observer option to carry a nontrawl LL2 observer, and provide no exceptions if a nontrawl LL2 observer is not available.

Alternative 2: LL2 Exception: (Deletes 2.2. and 2.3; retains 2.1) Create a regulatory exception that would allow a freezer longline vessel to carry a substitute observer if a nontrawl LL2 observer is not available. The substitute observer must have a LL2 endorsement for a catcher/processor using trawl gear.

Alternative 3: Observer Options. Modify the nontrawl LL2 observer coverage requirement.

- Option 3.1: (Deletes 3.1.2; retains 3.1.1): Allow two observers to deploy as an alternate observer coverage option to the one nontrawl LL2 observer on a freezer longline vessel selecting the scales option. Both observers must have a Level 2 endorsement.
- Option 3.2: (Adds NMFS 3.2): Modify the nontrawl lead level 2 endorsement to allow sampling experience on trawl CPs to count toward nontrawl LL2 endorsement with an additional training requirement and require vessel owners to participate in a pre-cruise meeting if requested to do so by NMFS.

Alternative 4: (Deletes 4.2) Agency Funding. NMFS-funded deployment of second observers.

Purpose and Need Statement

The AP supports the intent of NMFS' proposed changes to the P&N statement. Support NMFS recommended language, with the following change to more clearly convey the agency's intent.

- Strike the following: "In addition to freezer longline vessels selecting the scales option, freezer longliners selecting the two-observer option and pot catcher/processors participating in the groundfish CDQ fisheries are also required to carry a nontrawl LL2 observer."
- Insert the following (in its place): "In addition to freezer longline vessels, pot catcher/processors participating in the groundfish CDQ fisheries are also required to carry a nontrawl LL2 observer."

On Option 3.2, the AP recommends Council request additional information be included in the public review on the training requirement and pre-cruise meeting, including the following:

- Training requirement: NMFS' intended implementation the proposed training class, including scheduling and availability of classes, required participants, costs and training curriculum.
- Pre-cruise meeting: Determinations NMFS would use to make a request, scheduling of meetings, and what NMFS and vessel personnel would be required to be present.

Motion passed 16-0.

Rationale:

- Recommended changes to Alt. 2 (delete 2.2 and 2.3) and to Alt. 3 (delete 3.1.2, add NMFS 3.2) reflect an intent by the AP to ensure a high level of data quality is maintained with all alternatives released for public review. These changes are consistent with NMFS recommendations for the alternatives and reflect impacts on data quality described in the analysis.
- The AP concurs with NMFS that Alt. 4, Opt. 4.2 would be difficult to implement due to limited available funding for the Observer Program and complicated administration. While Opt. 4.1 may face similar challenges, the AP supports maintaining the option (now simply Alt. 4) to support a reasonable range of alternatives in the analysis. Both Alt 1 (status quo) and Opt. 3.1 involve industry funding of observer training. Public comments noted that freezer longline vessel owners have paid nearly \$500K since 2014 to support deployment of voluntary 2nd observers, with additional deployments scheduled for 2017.
- Public testimony was supportive of the NMFS' addition of Opt. 3.2, but there was an interest in more clarity being provided in the public review on the implementation of the proposed training requirement and the pre-cruise meeting. How the Observer Program decides to implement these requirements could influence whether 3.2 will be an effective solution to increasing the pool of non-trawl LL2 endorsed observers.
- The recommended changes to the P&N statement more clearly conveys the agency's intent that this expansion of the analysis is limited to the inclusion of CP pot vessels in CDQ groundfish fisheries. The AP understands that this addition may apply to two vessels.

D1 BSAI Crab Binding Arbitration Formula – Discussion Paper

Motion 1 (failed)

The following motion failed 6-10: The AP recommends to the Council that they draft a letter to the crab processing arbitration organization and the crab harvesting arbitration organization that the Council intends for the non-binding price formula to include consideration of certain operational costs that impact either the harvesting or processing sector in a uniform, sector-wide manner. Each arbitration organization should be able to identify these types of costs and make their inclusion part of the retention agreement with the non-binding price formula arbitrator.

In support:

- Certain operational costs may warrant consideration for inclusion in the non-binding price formula.
- The decision on whether to consider and account for the distribution of costs is a policy choice and needs explicit guidance from the Council.
- The discussion paper references how minimum wage increases over the past two years may be a good example of a sector-wide cost that falls only on one sector (the processing sector). This has caused an increase in the processing of all crab species in the rationalized Crab Program, which directly affects two sections of the regulations 1: The formula must consider the 'efficiency and productivity of the harvesting and processing sector' and 2: 'the interest of maintaining financially healthy and stable harvesting and processing sectors'.
- The discussion paper provides a suggestion on how to implement an adjustment that doesn't necessitate an FMP or regulatory amendment; that the council draft a letter to the arbitrator clarifying its understanding that sector-wide costs can be considered by the non-binding price formula arbitrator.
- This action does not mean that the arbitrator would automatically make changes to the price formula, instead it would allow information on certain operational costs to be submitted through the processors or harvesters arbitration organizations and shared for review and comment.

In opposition:

- Operational costs are not appropriate to include in the price formula
- Further analysis of cost considerations in the price formula is warranted, but should be performed through the initiation of an FMP amendment to provide more regulatory clarity through a transparent public process.

Motion 2 (failed)

The following substitute motion also failed 5-12: The AP recommends the Council take no further action on this agenda item at this time.

In support:

- Operational costs were specifically excluded from consideration during development of the program to encourage efficient operational behavior.
- This minimum wage increase does not meet the standard of, an increased cost that will put an entire sector's financial health at-risk or an investment that increases the value of the first wholesale product

- A similar minimum wage increase was implemented during the development of the program. This cost concern was discussed at that time and specifically excluded from consideration
- A formula adjustment that would apply to the sector-wide is problematic; firms would be expected to address the impacts of increased costs individually and differently requiring third party verification of cost increase impacts on a firm-by-firm basis; there are two classes of IPQ holders, non-associated (13) and associated (5). Non-associated IPQ holders do not bear the impact of cost increases the same as associated IPQ holders

In opposition:

- The price formula was created over 20 years ago, and should be reexamined to reflect changes in certain costs to both harvesters and processors over this time

Motion 3 (Passed)

The AP recommends the Council initiate an analysis for a regulatory amendment to allow the non-binding price formula arbitrator under the BSAI crab rationalization program to consider sector-wide operational costs and their impact on the distribution of first wholesale revenue when establishing the non-binding price formula.

Alt 1 – No action

Alt 2 – Revise regulations ~~(at 50 CFR 680.20(g)(2)(ii)(B))~~ **[amendment to delete passed 14-2]** governing the non-binding price formula for crab fisheries, to include changes in operational costs in the harvesting and processing sectors as one of the considerations in establishing a price that preserves the historical division of revenues in the fishery.

Alt 3 – Allow the Contract Arbitrator to consider operational costs under the existing non-binding price arbitration formula.

Motion passed 14-2.

Rationale: Initiating an analysis of an FMP Amendment will allow for a transparent public process in which to explore whether certain cost considerations should be included in the non-binding price formula. This process will allow for the Council to more clearly state its intent of the existing standards used in the arbitration process

D2 BSAI Tanner Crab Custom Processing Cap – Discussion Paper

The AP recommends the Council take no further action on this agenda item. *Motion passed 18-0.*

Rationale:

- The discussion paper suggests that additional action by the Council does not appear to be warranted at this time and that the three options identified as alternatives to Am 47 do not appear to provide for opportunities to process Tanner crab that are more effective than current management.
 - Increasing the cap to 40% would still necessitate 3 processors so that use caps are not exceeded.

- Converting A share to B shares still poses the same problem that initiated Am 47, because the use cap would still be applied as a percentage of the quota pool.
- Exempting use caps using a capacity threshold would be administratively burdensome, force harvesters and unaffiliated IPQ holders into business arrangements that they may not otherwise enter into and could lead to stranded IPQ and IFQ if sufficient capacity did not exist.
- This action is responsive to public testimony from processor and harvester representatives.
- There are no regulatory barriers to new processor entrants under Am 47.

D3 BSAI Fishery Ecosystem Plan Update

The AP received an oral report from staff. No action was taken.

D4 Programmatic Groundfish Objectives – Review

The AP received an oral report from staff. No action was taken.

E1 Staff Tasking

No action was taken.