

DRAFT SUMMARY MINUTES
Ad Hoc Allocation Committee
Pacific Fishery Management Council
Embassy Suites Portland Airport Hotel
Cedar II and III Rooms
7900 NE 82nd Avenue
Portland, OR 97220
(503) 460-3000
May 27, 2004

THURSDAY, MAY 27, 2004 - 8:30 A.M.

Members Present:

Mr. Donald Hansen, Chairman, Pacific Fishery Management Council
Ms. Marija Vojkovich, California Department of Fish and Game
Dr. Patty Burke, Oregon Department of Fish and Wildlife
Mr. Phil Anderson, Washington Department of Fish and Wildlife
Mr. Steve Freese, National Marine Fisheries Service, Northwest Region
Ms. Eileen Cooney, National Oceanic and Atmospheric Administration, General Counsel

Others Present:

Mr. Rod Moore, West Coast Seafood Processors Association, GAP
Mr. Don Bodenmiller, Oregon Department of Fish and Wildlife
Mr. Mark Saelens, Oregon Department of Fish and Wildlife, GMT
Ms. Dorothy Lowman, Consultant, Environmental Defense
Mr. Brian Culver, Washington Department of Fish and Wildlife, GMT
Ms. Michele Robinson, Washington Department of Fish and Wildlife, GMT
Mr. Mark Cedergreen, Pacific Fishery Management Council
Mr. John Holloway, Oregon Anglers
Dr. Vidar Wespestad, Pacific Whiting Conservation Cooperative
Mr. Steve Joner, Makah Indian Tribe
Mr. Brad Pettinger, Oregon Trawl Commission
Mr. Kurt Schultz, Oregon State University, Marine Resource Management Program
Mr. Wesley Shaw, Oregon State University, Marine Resource Management Program
Mr. Mike Anderson, Oregon State University, Marine Resource Management Program
Mr. Dayna Mathews, National Marine Fisheries Service, Office of Law Enforcement
Mr. Jim Lone, Washington Recreational Fishing Industry Association, GAP
Mr. Bob Alverson, Fishing Vessel Owner's Association, Pacific Fishery Management Council
Ms. Yvonne deReynier, National Marine Fisheries Service, Northwest Region
Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council
Dr. John Coon, Deputy Director, Pacific Fishery Management Council
Mr. Mike Burner, Pacific Fishery Management Council Staff
Mr. John DeVore, Pacific Fishery Management Council Staff

Dr. Kit Dahl, Pacific Fishery Management Council Staff
Dr. Ed Waters, Pacific Fishery Management Council Staff

A. Call to Order

Roll Call, Introductions, Announcements, Approve Agenda, etc.

Ms. Burke introduced marine resource management students from Oregon State University participating in an Oregon Sea Grant program.

Opening Remarks and Agenda Overview

Dr. McIsaac reviewed the 2005-2006 management schedule. He noted that the process is slightly behind schedule. He highlighted changes to the schedule for submission of the NEPA and regulatory documents after the June meeting. These changes were the result of coordination efforts at the April Council meeting.

Dr. McIsaac reviewed the Council process at the June meeting. There will be a three-step process for adopting a preferred alternative (i.e., tentative adoption on Wednesday of the June Council meeting, followed by fine tuning by advisory bodies and final adoption of final management measures on Friday).

Mr. Anderson suggested a review of current definitions of optimum yield (OY), harvest guidelines, etc., as well as a discussion on the process of changing definitions in the fishery management plan (FMP) or in regulations.

B. Management Measure Alternatives for 2005-2006

Review of Alternatives and Analyses in Preliminary DEIS

Mr. DeVore reviewed the various chapters of the preliminary Draft Environmental Impact Statement (DEIS) and highlighted the chapters and sections that were chosen for today's handout.

Ms. Robinson noted that the section on new management lines needs to be revised to include the definitions for Washington Department of Fish and Wildlife (WDFW) management areas currently used in salmon management (Washington Marine Catch Areas 1-4). Specific coordinates for these lines have been submitted to National Marine Fisheries Service (NMFS) and are intended to be incorporated into the groundfish process.

Dr. McIsaac requested clarification on the issues surrounding the selective flatfish trawl issue and whether Scientific and Statistical Committee (SSC) and Groundfish Management Team (GMT) resolution is anticipated before tentative adoption of a preferred alternative in June. Mr. DeVore reviewed the questions regarding the seasonal or annual use of selective flatfish trawl bycatch rates and when the SSC will consider the issue. The SSC will consider the issue prior to Wednesday. Their input, as well as the input from the other advisory bodies, will be part of the report to the Council. Mr. Saelens, Dr. Burke, and Mr. Hansen all hoped questions regarding the

use of selective flatfish trawl bycatch rates are answered by the SSC or GMT without the need for Council deliberation.

Mr. Anderson questioned the canary rockfish impact estimates in the tribal whiting fishery (by 2005 OY alternative) and was curious about the differences in proposed management measures for this fishery between the alternatives. Mr. DeVore reported there may be a mistake in the value of 5.2 mt for the Medium OY and High OY alternatives reported on the scorecard as well as in Table 4.3-10. [NOTE: the tribal impact estimates were not incorrect. The tribal whiting sliding scale allocation formula has a maximum tribal allocation which is attained under Medium OY and High OY alternatives.]

There are lower impacts associated with the tribal yellowtail rockfish fishery under the action alternatives than those reported under the No Action alternative, even though the fishery is anticipated to increase in 2005-2006. Mr. Joner reported that this is due to the implementation of lower bycatch rates from tribal research results. The GMT has been provided a summary of this report but has requested the raw data. Mr. Joner stated the bycatch results are based on a threshold process by which vessels avoid areas of high bycatch. Mr. Anderson requested some detail as to the size and location of area closures and some raw data so that everyone can understand how this program works.

Ms. Vojkovich asked about the estimated yelloweye rockfish impacts for California recreational fisheries. Why is the estimate 1.5 mt and not 3.7 mt? Is there a commercial fishery component? Mr. DeVore replied the 1.5 mt impact represents the best estimate of recreational fishery impacts. The California recreational harvest guideline is 3.7 mt and was based on older models and impact estimates from previous years.

Mr. Moore noted the impact tables for the trawl fleet do not show trip limit alternatives for splitnose, will they be the same for slope rockfish? Mr. DeVore replied this is a question for the GMT and will need to be addressed at the June meeting between the GAP and the GMT. Mr. Moore explained there were no selective flatfish trawl options with trip limits for slope rockfish. Presumably, if vessels have to use the same gear through the entire period and although slope rockfish are not the intended target, there needs to be a placeholder for slope rock in the event that the gear is used in that capacity.

Mr. Moore asked about open access trip limit tables under the alternatives. Mr. DeVore said there are some holes in the preliminary DEIS including the lack of open access trip limits. The GMT and GAP will have to get together to address this issue at the June Council meeting.

Dr. Burke requested clarification of the sablefish tier limit error problem. Mr. DeVore and Mr. Moore reviewed the OY trajectory issue (re: the anticipated drop in recruitment), consistent use of bycatch rates, and acceptable biological catch (ABC) versus OY use in calculating the tier limits for 2004. The same model will be used for both inseason decision-making in 2004 and for modeling the 2005-2006 alternatives.

Ms. Vojkovich wondered why there is no difference between the No Action alternative and the action alternatives for Oregon and Washington recreational fisheries? Mr. DeVore stated there

may be an error in the scorecards on the use of best estimates versus harvest guidelines. Ms. Vojkovich stated that her question is not about numbers but rather why did the seasons not change when there were some issues of overage in 2003. She wanted to know how 2003 post-season fishery results compared with projections for 2004-2006. Mr. Bodenmiller stated that status quo is 2004, not 2003, and there were no significant overages (2% over on lingcod in 2003). Ms. Robinson and Mr. Culver reported that there were overages in Washington recreational catches of yelloweye rockfish reported in RecFIN, but that is largely due to the average weight values used by RecFIN that are currently under review since they are considerably higher than WDFW sampling results.

Ms. Vojkovich requested that reported catches and landings in the DEIS should be in the same units.

Mr. Anderson reviewed Washington management expectations for 2005-2006.

Dr. Burke requested review of the whiting OYs and the associated canary rockfish bycatch rates. Mr. DeVore reviewed the bycatch analysis and rates used and reminded the group that the rates are applied to a range of OYs. Ms. Robinson reviewed the schedule for incorporating the 2004 bycatch rates before the March meeting. Mr. Moore raised concerns about the canary rockfish rates used in the DEIS and for the June Council meeting. If canary rockfish bycatch rates are inaccurate and too high, there will be implications for all fishery sectors as canary rockfish is the most constraining stock for many fisheries. Council staff will review the rates being used in these analyses with the GMT and provide new information in June if appropriate.

C. Management Response to Recreational Harvest Guidelines for Canary Rockfish, Black Rockfish, and Lingcod

Ms. Cooney reviewed the FMP and regulatory definitions of harvest guidelines (HGs) and quotas. An HG is not a quota and does not require fishery closure if exceeded. There is flexibility in how an HG is managed. This should not require changing the HG definition in regulations, but should be specified in the management response. NMFS would decide whether the HGs are reasonable targets. The management response gives assurance that the management measures will stay within HGs and that OYs will not be exceeded. There needs to be specific responses at both the state and federal levels. NMFS could follow up on inseason actions that are consistent with state actions. The states would/could take the lead on inseason management decision-making for recreational fisheries. The management actions defined as routine in the FMP could be specified in the 2005-2006 management measures. Management measures not defined as routine in the FMP, such as specific area management concepts, need to be defined and fully analyzed in the regulatory package to enable them to be considered for routine inseason action.

Dr. Burke asked why NMFS would need to follow up on a state inseason action? Ms. Cooney explained that consistent federal rulemaking is needed especially if it affects fisheries in the exclusive economic zone (EEZ) outside 3 nautical miles. If state rules are more restrictive than federal rules, there is no difficulty when the state makes such decisions for state-managed fisheries. Dr. McIsaac said the Council can decide the trigger or management response and

recommend to NMFS how federal regulations need to conform to intended state actions. Ms. Cooney said this is true, but needs to be specified up front.

Mr. Anderson asked if NMFS considers exceeding the OY for an overfished species more egregious than for non-overfished species? Ms. Cooney explained that rebuilding plans in the FMP are more stringent than OYs in regulations for non-overfished species. While NMFS does not recommend exceeding any OY, those for overfished species are more stringent and should be considered as quotas. Therefore, the Council needs to be especially careful to define a state and collective response for exceeding an HG for any overfished species. Dr. Burke explained the reason this is an issue is states have different requirements for taking inseason management actions and California needs harvest goals specifically defined as HGs. Ms. Cooney said the federal definitions are adequate, but the Council needs to define the response to potentially exceeding an HG. Dr. McIsaac asked about the process for changing a federal definition for any of these harvest targets? Ms. Cooney does not recommend changing the HG definitions in the FMP and in regulations. However, the Council could define new terms in this upcoming regulatory action. Dr. Burke thought changing the definitions is not the answer. The tools available for state managers are different and the focus should be on how the states react to a problem inseason. Mr. Burner asked Ms. Cooney what HGs and management responses need to go into regulations? Ms. Cooney said any new strategies/measures that have not been previously identified as routine in the FMP need to be fully developed analytically before they can be considered routine. For instance, if California needs to close their fishery inseason, what does that mean? Closing the fishery? Prohibiting retention? This is the kind of specificity needed. Mr. Burner said he would provide the federal definitions to the Council in a supplemental report.

California

Ms. Vojkovich explained California Department of Fish and Game's (CDFG's) proposed inseason management response in 2005-2006. They anticipate the season structures recommended will stay within HGs. They do have the authority to close all or part of their fishery (by depth, region, season, etc.), prohibit retention, and do all this by region. They expect to reduce seasons south of 40°10' N. lat. and depths in the north. They will receive recreational catch updates monthly through California Recreational Fisheries Survey (CRFS), which is an improvement over the bimonthly data feed under Marine Recreational Fisheries Statistics Survey (MRFSS). They are considering putting all their inseason responses in federal regulations to reduce confusion. They are trying to reduce inseason action since they have staff capacity limitations. Dr. McIsaac asked what happens if the unexpected happens inseason in 2005-2006. Would CDFG want to see any state inseason action matched in federal regulations? Ms. Vojkovich said yes, for the most part, since many of the constraining species exist in state and federal waters. Also, this reduces public confusion. Ms. Cooney asked if they could do inseason action as an emergency rule? Ms. Vojkovich said they are exploring their authorities. They know they can prohibit retention but may need to go through the California Fish and Game Commission (CFGC) to change bag limits.

Oregon

Dr. Burke said Oregon Department of Fish and Wildlife (ODFW) is proposing no retention of canary and would restrict their recreational fishery to inside 30 fm if that HG is exceeded. Black rockfish HGs would be managed with a total recreational fishery closure. Their lingcod response would be addressed with bag limit changes or non-retention if needed. They will also consider shortening or lengthening the season if needed. Dr. McIsaac asked if these management responses should be in federal regulations. Dr. Burke said that was fine. Ms. Cooney said it would be less confusing for federal regulations to conform to state actions.

Mr. DeVore asked if the 30 fm closure should be considered coastwide or are there regional options on the table? Mr. Bodenmiller replied they originally wrote a coastwide proposal but regional management flexibility is desirable. Ms. deReynier reminded the group that partial closure issues would need to be fully discussed and analyzed at the June Council meeting. Dr. Burke stated that Oregon would go with a statewide approach for 2005-2006 on the implementation of a 30 fm restriction. In state waters, the state may explore area-specific closures.

Washington

Mr. Anderson explained WDFW's proposed response. They are proposing non-retention of canary rockfish in 2005-2006. They plan to restrict all or part of their fishery to inside 30 fm if the canary HG is exceeded. They intend to use their four marine recreational areas to provide regional management flexibility. They may also stratify their response north and south of the Queets River (boundary of marine areas 2 and 3). They also have the alternative to close the fishery outside 3 nautical miles north and south of the Queets River. The Washington recreational fishery predominantly occurs between May and October with June-August being the peak of the fishery. They will receive monthly landings data. Data updates through June and received in July will be the best chance to respond effectively to a problem inseason. They do not anticipate a black rockfish problem, but would address an unlikely problem with a bag limit change. For lingcod, they would increase the size limit, reduce the bag limit, or go to non-retention (similar to Oregon's response).

Dr. McIsaac asked if there should be matching federal regulations. Mr. Anderson was not certain. Ms. Cooney said federal regulations should match, but the state can still act on its own. Anglers licensed in Washington have to conform to state regulations to land regardless of regulations in federal waters. Mr. Matthews highlighted the Columbia River example of having state regulations inside 3 miles that differ in federal waters.

D. Canary Rockfish Commercial Allocation Issues

Mr. Saelens and Mr. DeVore discussed the issue of seasonal use of bycatch rates derived from the West Coast Groundfish Observer Program (WCGOP) vs. the selective flatfish trawl exempted fishing permit (EFP). The difference in non-whiting trawl impacts of canary rockfish is 8.1 mt when using EFP-derived bycatch rates year-round or 10.6 mt when using EFP rates during the summer periods and WCGOP rates during the winter periods (with the rockfish conservation area [RCA] configuration and trip limits under Action Alternative 3 in the

preliminary DEIS). The GMT and/or SSC should provide a recommendation in June on the best modeling approach.

GMT Report

Ms. Robinson reviewed the GMT report. She outlined 17 different trawl options without the additional four options for selective flatfish trawl. If the Council could give the GMT guidance on the trawl fishery allocation of canary rockfish, the GMT could then maximize the opportunities for the nontrawl fisheries to use the remaining available canary rockfish OY. This would include a set-aside for the whiting fishery that can be used in March for determining whiting specifications. The GMT could then recommend a whiting OY based on the available canary rockfish, similar to the analysis done in 2004 where the whiting OY was based, in part, on the predicted widow rockfish bycatch.

The group discussed alternative ways to compare the tradeoffs of varying canary rockfish impacts, such as settling the use of selective flatfish trawls or not first, then determining a commercial HG. Mr. Bodenmiller noted there are tradeoffs within the trawl fishery as well as tradeoffs for the other commercial sectors. Mr. Moore explained that the OY varies with the sector allocations, so it is difficult to pick a specific commercial HG. [NOTE: Table 1, which depicts 2005 and 2006 canary rockfish OYs in relation to variable commercial:recreational catch shares, has been appended to these draft summary minutes]. Additionally, we do not know the needs of the whiting fishery as the 2004 bycatch rates are not available. If you fix the non-whiting trawl and whiting sectors at a given HG, then any additional canary rockfish OY would go to other sectors. Mr. DeVore noted the maximum canary rockfish commercial allocation could be 10.6 mt based on existing modeling due to the fishery reaching the allowable take of some of the target species. Therefore, the idea of picking a commercial allocation is bound by factors that do not require SSC review. In the model run that attempted to allocate 12 mt of canary rockfish to the commercial fishery, target species take became limiting at 10.6 mt of canary rockfish. If the SSC recommends the use of selective flatfish trawl rates year-round, the difference between 10.6 mt and 8.1 mt would go to other sectors. Mr. DeVore recommended the Council should first receive SSC advice on the seasonal use of selective flatfish trawl rates and then decide whether the fishery should be managed using selective flatfish trawls exclusively shoreward of the RCA. Ms. Robinson said that would limit GAP input on the use of selective flatfish trawls. Mr. Moore reminded the group of the changing canary rockfish OYs under different sector allocations. The GMT will provide a table or summary of the OYs under various sector allocations. Dr. Burke recommended the exclusive use of selective flatfish trawls shoreward of the RCA in an attempt to limit the array of alternatives. Mr. Anderson noted that some Washington constituents were concerned about selective flatfish trawls. They reported that the increased trip limits from implementation of the selective flatfish trawls were not attainable in northern Washington. He was not willing to back a recommendation for selective flatfish trawls without going through the entire public process.

The GMT could narrow the range presented to the Council on Wednesday at the June Council meeting based on the SSC input on Monday. The Council could then provide guidance on the selective flatfish trawl issue on Wednesday.

E. Recreational Catch Sharing for Yelloweye Rockfish

Discussion of Status Quo, Regional Harvest Guidelines North and South of the Oregon/California Border, and State Harvest Targets

Mr. Anderson said he expected a preseason management intent from each state to manage to recreational yelloweye rockfish HGs specified at the Oregon-California border. He hoped to gain an Allocation Committee recommendation to the Council to manage recreational yelloweye impacts under two separate HGs: 3.7 mt south and 6.7 mt north. California would be expected to take inseason actions (depth closures, etc.) to manage to their HG and the states of Oregon and Washington would be expected to take what actions necessary to stay within the northern HG. The intent is to not exceed the state impact estimates.

Ms. Vojkovich said she was still at the same point as the last Allocation Committee meeting. She preferred no harvest guidelines for yelloweye rockfish. She said exceeding the yelloweye rockfish OY on a coastwide basis was not an issue. Oregon and Washington are not changing management strategies from 2004 and California is proposing widespread fishery restrictions. She was not clear where the need for regional management of yelloweye rockfish is coming from.

Dr. Burke thought this was a process issue. When this issue was first discussed by this committee, the recommendation was to not have a HG. State managers in April seemed to request state by state harvest targets. Oregon is not concerned about exceeding the OY or even having yelloweye rockfish become an inseason issue. No Council recommendation has ever included values for harvest targets, yet values keep coming forward from the GMT and are now in the DEIS. What happens on the Council floor should drive this process, not the desires of the GMT or the states. We have often talked about keeping these types of policy issues out of the GMT. This was voted on the Council floor twice and yet different issues continue to come forward. She strongly supports a coastwide approach at this time.

Mr. Anderson thought the action taken by the Council on Thursday in April was inappropriate as it circumvented public process. He also had trouble with the Allocation Committee making recommendations due to the lack of public process. Small numbers of available yelloweye rockfish and canary rockfish require state management response as the Council meetings are infrequent during the summer months. Implications that individuals were acting outside the process are incorrect and troubling.

Mr. Cedergreen said there are about 18 mt of canary rockfish and 10 mt of yelloweye rockfish available for recreational fisheries coastwide. These yields equate to about the same number of fish when you consider the average size of individuals. Why is there no need for a yelloweye rockfish HG and a need for a canary rockfish HG?

Ms. Robinson said the GMT looked at all of the options that were discussed in April. The GMT tried to determine how to specify HGs for yelloweye rockfish. The GMT reviewed all of the April Council motions. The Council directed the GMT to the Allocation Committee report which specified the use of values in the 2004 scorecard as an allocation alternative for yelloweye rockfish in 2005-2006.

Dr. Burke said the process is the problem, not the numbers. The range of alternatives is broader than the range suggested by the Council. The Council intent was to narrow the range of alternatives the GMT had to review. There needs to be better clarification on exactly what the motions state and, if there are concerns from the GMT, they should bring them back for Council consideration.

Mr. Anderson suggested the Allocation Committee step back and consider why HGs are important for the various species. Black rockfish has separate, area-specific assessments, and canary rockfish and yelloweye rockfish are constraining stocks.

F. *Other Issues*

The Allocation Committee recommended the GMT and GAP focus on alternatives that are structured with the following precepts:

- Non-trawl RCA boundaries for limited entry fixed gear and open access fisheries remain identical and at the lines specified in 2004 (seaward boundary at 150 fm south of 40°10' N. lat. and 100 fm north of 40°10' N. lat.);
- Any residual OY for any overfished species is not to be specified as a buffer;
- Use the 2004 Pacific whiting fishery canary rockfish impacts (7.3 mt) as a placeholder for 2005;
- The Council staff and ODFW will coordinate to ensure timely delivery of pertinent documents for SSC consideration of selective flatfish trawl bycatch rates;
- Use a tentative target for non-whiting trawl canary rockfish impacts of no more than 10 mt.

The meeting was adjourned at 4:00 P.M.

DEFINITIONS AND USAGES
May 27, 2004 Allocation Committee Meeting

Groundfish FMP (CH 2 pages 6 and 7)

“Harvest guideline (HG) is a specified numerical harvest objective which is not a quota. Attainment of a HG does not require closure of a fishery.”

[Identical in Federal Regulations 50 CFR Part 660, Subpart G]

“Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group. Groundfish species or species groups under this FMP for which quotas have been achieved shall be treated in the same manner as prohibited species.”

[Second sentence not included in Federal Regulations]

“Optimum yield means the amount of fish which will provide the greatest overall benefit to the U.S., particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems, is prescribed as such on the basis of the maximum sustainable yield from the fishery as reduced by any relevant economic, social, or ecological factor; and in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.”

[Federal regulations adds final sentence: “OY may be expressed numerically (as a harvest guideline, quota, or other specification) or non-numerically.”]

Salmon FMP (pages 5-7 and 6-3)

“Inseason management actions may be taken by the NMFS Regional Director to assure that the primary objective of the chinook **harvest guidelines** for each of the four recreational subareas north of Cape Falcon are met. Such actions might include: closure from 0 to 3, or 0 to 6, or 3 to 200, or 5-200 nautical miles from shore; closure from a point extending due west from Tatoosh Island for 5 miles, then south to a point due west of Umatilla Reef Buoy, then east to shore; . . .; change species which may be landed; or other actions as prescribed in the annual regulations.”

2004 Salmon Regulations

C.5. Inseason Management: Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines and season duration. Actions could include modifications to bag limits or days open to fishing, and extensions or reductions in areas open to fishing. NMFS may transfer coho inseason among recreational subareas north of Cape Falcon to help meet the recreational season

duration objectives (for each subarea) after conferring with representatives of the affected ports and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon. NMFS may also transfer fish between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the representatives of the Salmon Advisory Subpanel.

Table 1. Canary rockfish OYs (in mt) in relation to West Coast groundfish commercial and recreational catch shares in 2005 and 2006. Harvest level alternatives are in accordance with the canary rockfish rebuilding plan and due to differential size selectivities of commercial and recreational fishing gears.

Catch Shares		Rebuilding Plan OYs (mt)	
Commercial	Recreational	2005	2006
20%	80%	35.3	37.0
30%	70%	37.9	39.4
40%	60%	40.4	42.0
50%	50%	43.0	45.0
60%	40%	46.8	48.6
70%	30%	50.7	52.6
80%	20%	54.5	57.1

PFMC
06/09/04