



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

FEB 8 2005

F/SWR2:MH

Dr. Donald O. McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Dear Dr. McIsaac: *Don,*

Please find enclosed the proposed statement of work (SOW) to analyze and prepare the potential regulatory package for the proposed management and control of fishing for krill in the exclusive economic zone off the West Coast (Attachment 1). The SOW was prepared in response to the Pacific Fishery Management Council's (Council) initial conclusion to amend its Fishery Management Plan for Coastal Pelagic Species Fisheries (CPS FMP) as the preferred approach for controlling krill fishing in the EEZ.

The SOW is divided into two phases. The first phase involves preparing an alternatives analysis for evaluating alternative control rules for krill harvest. The alternatives analysis would provide the substantive information and analysis needed for a CPS FMP amendment consistent with the requirements of the National Environmental Protection Act and other applicable law. An outline of the alternatives analysis is provided in Attachment 2.

Should the Council identify a preferred alternative, the second phase would initiate preparation of the Regulatory Amendment and completions of environmental compliance documents. This would also include preparation of the proposed and final rules. Because of workload concerns with the CPS Team and CPS Advisory Subpanel, three different scheduling options for this phase are offered (Attachment 3). It is my understanding that the Council will have the opportunity to decide at the March meeting what option may be most appropriate.

The Southwest Region intends to assist the Council by undertaking both phases, keeping the CPS Team and CPS Advisory Subpanel apprised of our progress, and covering the costs of the effort. We are working with the National Marine Sanctuaries Program to assist us with the funding.

If you have any questions about the SOW or require additional details, please feel free to contact Mark Helvey at (562) 980-4040

Sincerely,

Rodney R. McInnis
Regional Administrator

Enclosure

cc: SWFSC, Dr. William Fox
SWFSC, Dr. Gary Sakagawa



**PROPOSED KRILL REGULATORY AMENDMENT
STATEMENT OF WORK**

1. PHASE I

DELIVERABLE: Alternatives Analysis for Management and Control of Fishing for Krill in the exclusive economic zone (EEZ) off the West Coast

PURPOSE AND NEED FOR ANALYSIS: The Pacific Fishery Management Council (Council) has agreed to consider a request from the NOAA National Marine Sanctuaries off central California to prohibit krill fishing in the EEZ around the sanctuaries. The Council has initially concluded that amendment of its Fishery Management Plan for Coastal Pelagic Species Fisheries (CPS FMP) would be the preferred approach for controlling krill fishing in the EEZ, but the Council will need an analysis identifying the need for controls and evaluating the impacts and implications of alternatives for achieving those controls before deciding whether to complete and submit an amendment to the CPS FMP or to take some other action. The contractors propose to complete this documentation (the alternatives analysis) for presentation to the Southwest Region and Southwest Fisheries Science Center, NMFS, and to the Council. The alternatives analysis would provide the substantive information and analysis needed for a CPS FMP amendment (or any other alternative) consistent with the requirements of the National Environmental Protection Act and other applicable law. An outline of the document is attached.

SCOPE OF ANALYSIS: The alternatives analysis would address the following aspects of the issue that must be considered by the Council:

Status and role of krill – This would be an expansion of the report provided to the Council in June 2004 and would encompass what is known about krill resources and the impacts of krill fishing and the effectiveness of controls in other areas (e.g., Antarctic, north Pacific). It would address the role and importance of krill in the ecosystem and the potential impacts of lack of control on krill harvest

Alternative approaches by which krill harvest controls can be implemented, including

Amend the CPS FMP to include krill as a management unit species

Rely on existing authorities (Federal and State)

Designate krill as element of essential fish habitat for one or more species of fish (this could possibly include designation of krill in the Sanctuaries as Habitat Areas of Particular Concern, or HAPC)

Designate krill as “forage” for one or more other species of fish

Alternative control rules for krill harvest including

Total prohibition of krill harvest throughout the EEZ (indefinite)

Immediate prohibition of krill harvest in EEZ but with a procedure whereby future harvest might be permitted as research and monitoring demonstrates this could be done with acceptable risk to krill and/or associated species

Prohibition of krill harvest in EEZ waters in the sanctuaries and possibly selected other areas of the EEZ but allowance of limited krill harvest in other waters

The analysis would evaluate the alternatives against a common set of criteria including:

Potential risk to krill

Potential risk to other animals (including implications for species of special interest such as marine mammals and species listed under the Endangered Species Act)

Administration (effects and effectiveness)

Finally, the alternatives analysis would identify research and data needs for improving future decisions on the management of krill in the EEZ.

The alternatives analysis would generally be in the format of an environmental assessment so that, if the Council decided to proceed with an amendment to the CPS FMP, little additional environmental review and analysis would be needed.

TIMING: A progress report (including a full description of the alternatives for analysis and of the scope of the analysis to be prepared) would be made to the Southwest Region and Center and to the Council in March 2005. The contractors would plan to meet with CPS Management Team and Advisory Subpanel members twice while developing the Alternatives Analysis, anticipating those meetings would be in Long Beach or Los Alamitos (only one contractor would have to travel for those meetings).

The alternatives analysis would be provided in draft to the Southwest Region and Center for review by the end of April 2005 and a final version could be provided to the Southwest Region and Center and to the Council as early as mid-May 2005 for consideration at the Council meeting in June 2005. However, other timing schedules are available for consideration by the Council.

A progress report (including a full description of the alternatives for analysis and of the scope of the analysis to be prepared) would be made to the Southwest Region and Center and to the Council in March 2005. The contractors would plan to meet with CPS Management Team and Advisory Subpanel members twice while developing the Alternatives Analysis, anticipating those meetings would be in Long Beach or Los Alamitos (only one contractor would have to travel for those meetings).

2. PHASE II

This phase includes summarizing formal public review comments with a proposed manner for addressing concerns to Council. The preparation of draft and final versions of the Regulatory Amendment including the required environmental compliance/economic analyses would be completed. Draft regulations would be prepared for Council's final adoption and the complete Council documents would be submitted to NMFS for review and approval.

**ALTERNATIVES ANALYSIS
MANAGEMENT OF KRILL FISHING OFF THE U.S. WEST COAST**

Draft Outline - Table of Contents

- 1.0. PURPOSE AND NEED FOR ACTION
 - 1.1 Purpose and Need
 - 1.2 Management and Regulatory History
 - 1.3 Objectives of the Analysis

- 2.0 SUMMARY OF THE ALTERNATIVES
 - 2.1 No Action (Rely on Existing Laws and Regulations)
 - 2.2 Include Krill in CPS Fishery Management Plan
 - 2.3 Designate Krill as Component of Groundfish EFH
 - 2.4 Designate Krill as a Forage Species
 - 2.5 Alternatives Considered but not Analyzed Fully

- 3.0 DESCRIPTION OF AFFECTED ENVIRONMENT
 - 3.1 Status of the Krill Resource
 - 3.2 Role of in Ecosystem off the West Coast
 - 3.3 Potential Role of Krill in Fisheries
 - 3.4 Protected Species under the Endangered Species Act and Marine Mammal Protection Act
 - 3.5 History and Potential Impacts of Krill Fisheries
 - 3.6 Existing State and Federal Management of Krill Fisheries off West Coast

- 4.0 ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVES CONSIDERED
 - 4.1 No Action
 - 4.1.1 Effects on Status of Krill
 - 4.1.2 Effects on Other Fish Species
 - 4.1.3 Effects on Other Living Marine Resources
 - 4.1.4 Effects of Fisheries
 - 4.1.5 Economic Effects
 - 4.1.6 Effects on Data Collection
 - 4.1.7 Effects on Bycatch
 - 4.1.8 Effects on Habitat
 - 4.1.9 Effects on Protected Species
 - 4.2 Include Krill in CPS FMP (Preferred Alternative)
 - 4.2.1 Effects on Fish Stocks
 - 4.2.2 Effects on Other Fish Species
 - 4.2.3 Effects on Other Living Marine Resources
 - 4.2.4 Effects on Other Fisheries
 - 4.2.4 Economic Effects
 - 4.2.4 Effects on Data Collection
 - 4.2.6 Effects on Bycatch
 - 4.2.7 Habitat
 - 4.2.8 Effects on Protected Species

- 4.3 Include Krill as Component of EFH
 - 4.3.1 Effects on Status of Krill
 - 4.3.2 Effects on Other Fish Species
 - 4.3.3 Effects on Other Living Marine Resources
 - 4.3.4 Effects on Other Fisheries
 - 4.3.5 Economic Effects
 - 4.3.6 Effects on Data Collection
 - 4.3.7 Effects on Bycatch
 - 4.3.8 Effects on Habitat
 - 4.3.9 Effects on Protected Species
- 4.4 Designate Krill as Forage Species
 - 4.4.1 Effects on Status of Krill
 - 4.4.2 Effects on Other Fish Species
 - 4.4.3 Effects on Other Living Marine Resources
 - 4.4.4 Effects on Other Fisheries
 - 4.4.5 Economic Effects
 - 4.4.6 Effects on Data Collection
 - 4.4.6 Effects on Bycatch
 - 4.4.8 Effects on Habitat
 - 4.4.9 Effects on Protected Species
- 4.5 Environmental Justice Concerns
- 4.6 Coastal Zone Management Act Concerns
- 4.7 American Indian Religious Freedom Act
- 4.8 Cumulative Impacts
- 4.9 Alternatives Considered but not Analyzed Fully

- 5.0 MITIGATION AND UNAVOIDABLE ADVERSE IMPACTS
 - 5.1 Mitigating Measures
 - 5.2 Unavoidable Adverse Impacts
 - 5.3 Irreversible and Irretrievable Commitment of Resources

6.0 CONSIDERATION OF NOAA AND CEQ SIGNIFICANT IMPACT CRITERIA

7.0 LIST OF PREPARERS

8.0 LIST OF AGENCIES AND PERSONS CONSULTED

9.0 SOURCES

ATTACHMENTS

Draft regulations for alternatives as appropriate

Krill Regulatory Amendment Schedule

	Option 1	Option 2	Option 3
1. NMFS briefs CPS Team (in writing) on planned contents/timing of Alternatives Analysis; discuss role and mechanisms for Team involvement; consider advice and discuss consequences with Council staff and NMFS	February-05	February-05	February-05
2. NMFS briefs Council on Alternatives Analysis (purpose, contents, timing, and points for Team and advisors' advice and Council decisions); seek initial decisions on alternatives for full analysis in prospective public review draft of Regulatory Amendment and associated environmental compliance documents (e.g. NEPA; ESA)	March-05	March-05	March-05
3. NMFS briefs CPS Team on progress of Alternatives Analysis; seek advice/comment from Team	April-05	April-05	April-05
4. Council action (after comment from CPS Team, advisors and others) to clear public review draft of Regulatory Amendment and environmental compliance documents based on AA comments/discussion. Actions include designation of preferred alternative as well as commitment to schedule for final Council action.	June-05	September-05	November-05
5. NMFS presents summary of formal public review comments to Council with proposed manner for addressing concerns; seek Council advice on any likely desired changes from preferred alternative and confirmation of schedule for final action.	September-05	November-05	March-06
6. NMFS presents proposed final Regulatory Amendment with required environmental/economic analyses and draft regulations to Council for final adoption	November-05	March-06	April-06
7. Complete Council documents for submission to NMFS for review and approval	January-06	May-06	June-06
8. Proposed rule published	February-06	June-06	July-06
9. Final rule published	April-06	August-06	September-06
10. Final rule implemented	June-06	October-06	November-06