

2004 Pacific sardine landings

The Pacific sardine harvest guideline for January 1, 2004, through December 31, 2004, was 122,747 metric tons (mt) (69 FR8572, February 25, 2004). As of December 31, 2004, the northern allocation had landed 44,937 mt, and the southern allocation area had landed 46,574 mt, for a total of 91,511 mt.

2004-2005 Pacific mackerel landings

The 2004-2005 Pacific mackerel harvest guideline was 13,268 mt with a directed fishery of 9,100 mt and a reserve of 4,168 mt. The Pacific mackerel season began on July 1, 2004, and ends on June 30, 2005. As of December 31, 2004, landings of Pacific mackerel were 3,464 mt.

NMFS and the Council would prefer to wait until the April 2005 Council meeting to release the unused portion of the Pacific mackerel directed fishery (as landings have been low) to allow for the directed Pacific mackerel fishery to continue as late into the season as possible.

Pacific sardine 2005 harvest guideline

A harvest guideline and biomass estimate for Pacific sardine for the 2005 fishing season were reviewed during public meetings of the Coastal Pelagic Species (CPS) Management Team (CPSMT) and the CPS Advisory Subpanel (CPSAS) held at the Southwest Region (SWR) in Long Beach, California, on September 28-30, 2004 (69 FR 55144, September 13, 2004). Based on a biomass estimate of 1,193,515 metric tons (mt), the harvest guideline for Pacific sardine for January 1, 2005, through December 31, 2005, is 136,179 mt. As required by the Fishery Management Plan (FMP), the harvest guideline will be allocated one-third for the northern subarea, which is north of 39° 00' N. latitude (Pt. Arena, California) to the Canadian border, and two-thirds for southern subarea, which is south of 39° 00' N. latitude to the Mexican border. For 2005, the northern subarea allocation would be 45,393 mt; the southern subarea allocation would be 90,786 mt.

A proposed rule was published on December 8, 2004 (69 FR 70973) that solicited public comment on the Council's harvest guideline recommendations. The public comment period ended on December 23, 2004. One comment was received that generally criticized commercial fishing rules but the comment did not yield information that would provide a basis for changing the 2005 Pacific sardine harvest guideline.

The final rule has been slowed because of salmon bycatch in the Pacific sardine fishery prompting the need for a formal Endangered Species Act (ESA) section 7 consultation.

Salmon bycatch & biological assessment

In order to implement the harvest guideline for Pacific sardine the final rule must include a determination section detailing that implementation of the harvest guideline will not affect other laws such as the ESA. In order to fulfill the determination section on ESA, the SWR had the Northwest Fisheries Science Center (NWFSC, Dr. Edmundo Casillas) perform an analysis of the likelihood of ESA listed salmon species being taken. The NWFSC concluded that the Pacific Northwest portion of the sardine fishery was indeed showing a likelihood of take of ESA listed salmon species. The take of ESA listed salmon species indicated by the NWFSC analysis triggered a formal section 7 consultation to assess the potential take of listed salmon species, and the likely effects or implications of those takes by the Pacific sardine fishery. The SWR-Sustainable Fisheries Division produced a biological assessment and the SWR-Protected Resources Division is currently producing a biological opinion on whether the Pacific sardine fishery will jeopardize the continued existence of ESA listed salmon species.

CPS observer program

The SWR initiated a pilot observer program on California purse seine fishing vessels landing CPS in July 2004. The pilot observer program's main focus is to gather data on total catch and bycatch, and on interactions between their fishing gear and protected species such as marine mammals, sea turtles, and sea birds. Observers were contracted and trained by NMFS in the beginning of July 2004. As of December 3, 2004, observers have completed 30 vessel trips ranging from Morro Bay, California, to San Diego, California. Out of 30 trips, 17 targeted Pacific sardine, one targeted tuna, one targeted northern anchovy, and 11 targeted market squid. Out of the 30 trips, there were 38 observations of net entanglements of California sea lions (one died and the other thirty-seven were released alive) and 18 interactions with unidentified seagulls. Additionally there were numerous incidents of bycatch of fish and other marine organisms including but not limited to: bat rays, bat stars, octopus, California barracuda, California halibut, Giant sea bass, jack smelt, Pacific sanddabs, sculpin, starry flounder, skates, pelagic stingrays, white croaker, and yellowfin croaker.

EFH 5-Year review

The SWR is coordinating with the Council on their effort for the 5-year review of Essential Fish Habitat (EFH). The SWR received a copy of a December 29, 2004, letter from the Council to Dr. Hogarth detailing the Team's initial conclusions about the current EFH information and their approval to use the process recommended by NMFS for formal Council review. The approach is for the Team to write a detailed report of their five-year review of CPS EFH in the 2005 CPS Stock Assessment and Fishery Evaluation (SAFE) document, to have the Council officially adopt the 2005 CPS SAFE document at their June 2005 Council meeting, and to document their process for the administrative record.

NATIONAL MARINE FISHERIES SERVICE REPORT ON
COASTAL PELAGIC SPECIES MANAGEMENT

National Marine Fisheries Service (NMFS) Southwest Region will briefly report on recent developments relevant to coastal pelagic species (CPS) fisheries and issues of interest to the Council. Additionally, NMFS will update the Council on management alternatives for krill under Agenda Item G.2.

Council Task:

Discussion.

Reference Materials:

1. Agenda Item G.1.a, NMFS Southwest Regional Office Report.

Agenda Order:

- a. Regulatory Activities
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion

Mark Helvey

PFMC
02/18/05

PACIFIC FISHERY MANAGEMENT COUNCIL

7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

CHAIRMAN
Donald K. Hansen

EXECUTIVE DIRECTOR
Donald O. Mclsaac

Telephone: 503-820-2280
Toll Free: 866-806-7204
Fax: 503-820-2299
www.pcouncil.org

December 16, 2004

Mr. Rod McInnis, Regional Administrator
National Marine Fisheries Service, Southwest Region
501 W Ocean Blvd, Ste 4200
Long Beach, CA 90802-4213

Dr. William Fox, Director
National Marine Fisheries Service
Southwest Fisheries Science Center
8604 La Jolla Shores Dr
La Jolla, CA 92037

Re: The Process for Developing Restrictions on the Directed Harvest of Krill Within the Pacific
Coast Exclusive Economic Zone

Dear Mr. McInnis and Dr. Fox:

This letter documents Pacific Fishery Management Council (Council) action related to the potential regulation of the directed harvest of krill (and possibly other forage species) within the Pacific Coast U.S. Exclusive Economic Zone (EEZ).

At its November 2004 meeting, the Council, based in part on recommendations from the Southwest Regional Office (SWR) of National Marine Fisheries Service (NMFS), acted to incorporate krill as a management unit species in the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). A principal reason the Council selected this course of action was strong assurance from the SWR and NMFS-Southwest Fisheries Science Center (SWFSC) that they were willing to consider taking the lead responsibility in preparing environmental assessment (EA) documents necessary for amendment of the CPS FMP.

By this letter, the Council is requesting confirmation from SWR and SWFSC of their intention to take the lead on this issue and to proceed with development of the EA, including draft management alternatives. For Council meeting planning purposes, we ask that you also provide a tentative schedule for Council consideration and action related to this matter.

Council Action

At the November 2004 meeting, the Council formally adopted "Option 2" (see enclosed *Options for Controlling Fishing for Krill – Agenda Item H.4.b, NMFS Report, November 2004*) as the intended course of action for potentially restricting the directed harvest of krill within federal waters of the Pacific Coast EEZ. As part of this action, the Council also requested inclusion of a specific management alternative that would prohibit the directed harvest of krill within Pacific Coast National Marine Sanctuaries.

Background

At the June 2004 meeting, the Council initiated consideration of prohibiting the development of directed fisheries for krill (and, potentially, other forage fish species). The Council took this action in response to a request from the National Marine Sanctuaries Program seeking prohibition of krill harvesting within Monterey Bay, Gulf of the Farallones, and Cordell Bank National Marine Sanctuaries. The sanctuaries highlighted the importance of krill as a prey item, a fundamental food source for much of the marine life along the West Coast.

In recognition of the importance of krill and other forage species, and to seek accord with existing state law, the Council initiated consideration of prohibiting directed fisheries for krill (and, potentially, other forage fish species). Council staff was directed to work with SWR and NOAA-General Counsel to develop information about procedural mechanisms for prohibiting fishing for krill and other forage species within the Pacific Coast EEZ.

At the September 2004 meeting, NMFS presented several options for developing and implementing measures to regulate directed fisheries for krill in Council-managed waters. NMFS stated their preference would be to incorporate krill into the CPS FMP. The Council requested the options paper developed by NMFS be provided to Council advisory bodies for review and comment.

After the September 2004 Council meeting, the SWR and SWFSC consulted with the Council's Executive Director and indicated they would consider taking the lead responsibility in preparing EA documents necessary for amendment of the CPS FMP. This was in recognition of the NMFS preference for inclusion of krill within the CPS FMP and because Council staff and the Council's CPS Management Team are fully subscribed in development of a long-term Pacific sardine allocation framework.

As noted previously, at the November 2004 meeting, the Council initiated development of a formal prohibition on directed fisheries for krill in Council-managed waters.

To reiterate, the Council is requesting confirmation from the SWR and SWFSC about development of the EA, including draft management alternatives, and a potential schedule for Council action. Thank you for your attention to these matters.

Mr. Rod McInnis
Dr. William Fox
December 16, 2004
Page 3 of 3

If you have any questions about our request or need additional information, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "D. O. McIsaac", with a long horizontal flourish extending to the right.

D. O. McIsaac, Ph.D.
Executive Director

DAW:kla

Enclosure

c: Mr. Robert Lohn
Dr. Steve Freese
Mr. Svein Fougner
Mr. Mark Helvey
Dr. Gary Sakagawa
Ms. Susan Smith



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

JAN - 5 2005

F/SWR2:MH

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

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JAN 10 2005

PFMC

Dear Dr. McIsaac: *Don,*

Thank you for your recent inquiry requesting confirmation from the Southwest Regional Office (SWR) and the Southwest Fisheries Science Center (SWFSC) regarding their intentions to take the lead responsibility for incorporating krill as a management unit species in the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). On behalf of Dr. William Fox at the SWFSC, I am acknowledging the commitment of both the SWR and SWFSC to prepare an alternatives analysis for the management and control of fishing for krill in the exclusive economic zone (EEZ) off the West Coast.

The analysis will address several aspects of krill management that must be considered by the Pacific Fishery Management Council (Council). These include the status and role of krill (this would be an expansion of the report provided to the Council in June 2004), alternative approaches by which krill harvest controls can be implemented, and alternative control rules for krill harvest. The analysis would evaluate the alternatives against a common set of criteria including potential risks to krill, potential risks to other organisms, and administrative effects and effectiveness. Lastly, the alternatives analysis would identify research and data needs for future improvement in the basis for and decisions on management of krill in the EEZ.

The intent is to prepare the analysis generally in the format of an environmental assessment. This would minimize any additional work should the Council decide to proceed with an amendment to the CPS FMP.

It is our expectation that a progress report will be made to the Council at its March 2005 meeting and that a final version would be provided to the Council by mid-May for consideration at the Council meeting in June 2005.

If you have any questions about the proposed alternatives analysis or require additional details, please feel free to contact me.

Sincerely,

Rod

Rodney R. McInnis
Regional Administrator

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





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**

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- 1.0. PURPOSE AND NEED FOR ACTION
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 - 1.3 Objectives of the Analysis

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 - 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
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 - 4.2 Include Krill in CPS FMP (Preferred Alternative)
 - 4.2.1 Effects on Fish Stocks
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- 4.3 Include Krill as Component of EFH
 - 4.3.1 Effects on Status of Krill
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- 4.4 Designate Krill as Forage Species
 - 4.4.1 Effects on Status of Krill
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- 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
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 - 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

ACTIVITIES

FISHERY MANAGEMENT PLAN AMENDMENT
KRILL MANAGEMENT UPDATE

At the November 2004 meeting, the Council, initiated development of a formal prohibition on directed fisheries for krill and directed staff to begin formal coordination with National Marine Fisheries Service (NMFS) for development of management measures to regulate directed fisheries for krill within Council-managed waters (Agenda Item G.2.a, Attachment 1). These measures would be incorporated into an amendment to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This proposed action is in recognition of the importance of krill as a fundamental food source for much of the marine life along the West Coast. Since state laws currently prohibit krill landings by state-licensed fishing vessels into California, Oregon, and Washington, respectively, Council action could provide for consistent federal and state management. There are currently no directed krill fisheries in Council-managed waters.

In response, NMFS has confirmed the intent of the Southwest Regional Office (SWR) and the Southwest Fisheries Science Center to take the lead responsibility for incorporating krill as a management unit in the CPS FMP (Agenda Item G.2.a, Attachment 2). Additionally, NMFS has prepared a proposed statement of work, a draft outline of the resulting alternatives analysis, and a summary table presenting three schedule options for completing the amendment (Agenda Item G.2.a, Attachment 3). The Council has expressed an interest in proceeding with this amendment as expeditiously as possible, but will need to consider an appropriate role for the CPSMT given currently scheduled workload items of long-term sardine allocation, publications of the CPS Stock Assessment and Fishery Evaluation, and annual sardine and mackerel harvest guidelines and management measures.

NMFS SWR staff will brief the Council on a proposed course of action for the management of krill in the West Coast Exclusive Economic Zone and National Marine Sanctuaries.

Council Task:

- 1. Review the NMFS proposal and schedule options for krill management and provide guidance on a preferred schedule and process.**

Reference Materials:

1. Agenda Item G.2.a, Attachment 1: December 16, 2004 letter from Dr. Donald McIsaac to Mr. Rod McInnis and Dr. William Fox regarding the process for developing restrictions on the directed harvest of krill.
2. Agenda Item G.2.a, Attachment 2: January 5, 2005 response letter from Mr. Rod McInnis to Dr. Donald McIsaac.
3. Agenda Item G.2.a, Attachment 3: February 8, 2005 letter from Mr. Rod McInnis to Dr. Donald McIsaac detailing a statement of work, draft alternative analysis outline, and schedule options.

Agenda Order:

- a. Agenda Item Overview
- b. NMFS Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. Council Discussion and Guidance on Progress of Analysis

Mr. Mike Burner
Mr. Mark Helvey

PFMC
02/18/05