

MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

During this agenda item, the Council has the opportunity to consider changes in the Council Membership Roster, including Council Members, advisory body membership, and appointments to other forums, and also any relevant changes in Council Operating Procedures (COP).

Election of Council Chair and Vice Chairs

As directed by COP 1, the Council elects its Chair and two Vice Chairs during the June meeting for a one-year term which commences August 11 and ends August 10 of the following year. The COP states an officer's appointment may be renewed for a second one-year term. This will be the first implementation of this August to August term which was approved in November 2007.

Changes in Council Member Committee Appointments

Since June will be Council Chair Don Hansen's last meeting, his positions on the Budget, Legislative, and Groundfish Allocation committees will be filled in September by the newly elected Council Chair. Also, prior to the September Council meeting, the new Council Chair will need to consider filling Mr. Warren's position on the Budget Committee and Ms. Fosmark's position on the Legislative Committee. Other vacancies in some ad hoc committees created by the change in Council members can be considered at the September and November Council meetings when the Council considers all of its advisory body membership.

Changes in Council Member Designees

None proposed at the time of advance Briefing Book release.

Council Advisory Body Appointments

Management and Technical Teams

None proposed at the time of advance Briefing Book release.

Advisory Subpanels

Groundfish Advisory Subpanel (GAP)

Mr. Steve Joner, Chief Biologist, Makah Fisheries Management, has nominated Mr. Roger Bain to fill the vacant Tribal Fisher position on the GAP (Closed Session A.1.a, Attachment 1).

Other Council Committees

None proposed at the time of advance Briefing Book release.

Unfilled Vacancies on Permanent Council Advisory Bodies

The National Marine Fisheries Service (NMFS) Northwest Region (NWR) position on the Salmon Technical Team is vacant with no nomination from the NMFS NWR.

There are currently two unfilled vacancies on the Model Evaluation Workgroup—one NMFS position (replacement for Dr. Tom Helser) and one California Department of Fish and Game position (replacement for Mr. Allen Grover).

The Oregon Department of Fish and Wildlife (ODFW) position on the Scientific and Statistical Committee (SSC) is vacant with no nomination from ODFW. The ODFW intends to send an alternate to the June meeting and provide a formal nomination for consideration in September.

The Idaho Department of Fish and Game (IDFG) position on the Habitat Committee is vacant with no nomination from IDFG.

Appointments to Other Forums

None proposed at the time of advance Briefing Book release.

Changes to Council Operating Procedures (COP)

At its April meeting, the Council took final action to modify COP 3 (Plan, Management, and Technical Teams) by adding a Northwest Fisheries Science Center (NWFSC) position to the Coastal Pelagic Species Management Team (CPSMT). The position was filled at the same time.

Council Action:

- 1. Confirm or provide guidance on appointments and potential COP changes.**
- 2. Specifically, with regard to appointments:**
 - a. Elect a Council Chair and two Vice Chairs.**
 - b. Provide input for the new Council Chair to make Council Member appointments to the Legislative and Budget Committees prior to the September Council meeting.**
 - c. Act on the nomination of Mr. Roger Bain to the Tribal Fisher position on the GAP.**
 - d. Provide direction with regard to unfilled vacancies.**

Reference Materials:

1. Closed Session A.1.a, Attachment 1: Nomination of Mr. Roger Bain to the GAP.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Management Entities and Advisory Bodies
- c. Public Comment
- d. **Council Action:** Consider Changes to Council Operating Procedures and Appoint Council Chair and Vice Chairs and New Advisory Body Members as Needed

John Coon

PFCM
05/27/09

SALMON PLAN AMENDMENT COMMITTEE

Council Staff requests the Council create an ad hoc salmon plan amendment committee with the purpose of developing a Fishery Management Plan (FMP) Amendment (16), which would address the annual catch limits (ACL)/accountability measures (AM) requirements of the Magnuson Stevens Fishery Conservation and Management Act (MSA) and any associated issues. The committee should include representatives from NMFS Northwest and Southwest Regions and Science Centers, NOAA General Council, the Salmon Technical Team, the Scientific and Statistical Committee, and Council Staff. The States of Washington, Oregon, and California, and Northwest Indian tribes may request additional representation as needed; members could represent multiple entities. The following people have been involved in preliminary discussions and should be considered for membership in the committee, while providing the opportunity to include others as needed:

NMFS NWR	Peter Dygert Peggy Busby
NMFS SWR	Jennifer Isé Shelby Mendez Corinne Pinkerton
NMFS NWFSC	Robert Kope (STT) Pete Lawson (SSC)
NMFS SWFSC	Michael Mohr Mike O'Farrell (STT)
NOAA General Council	Mariam McCall Sheila Lynch Eileen Cooney
Northwest Indian Tribes	Keith Lutz (STT)
Council Staff	Chuck Tracy

The committee will be meeting in July or August for two days to identify issues and alternatives for the formal Council scoping session scheduled for the September 2009 meeting. Specific topics the committee will be addressing include:

- Control rule definition
 - Potential for updating conservation objectives within the amendment process or other (e.g., technical amendment via methodology review).
 - Consider application of metrics such as exploitation rates or spawning escapement to the requirements for annual catch limits.
- Stock classification and categorization
 - In/out of the fishery, ecosystem components, stock complexes, indicator stocks, exceptions (international agreements, ESA, exploitation rate, etc.).
 - Conduct and/or review vulnerability assessment to assist with classification process.
- Status determination criteria
 - Establish explicit criteria for when stocks are classified as experiencing overfishing, overfished, and approaching an overfished condition.

- Definition of reference points
 - Define points (overfishing limit, allowable biological catch, annual catch limit) and the stock classifications to which they apply.
 - Determine implementation strategies, such as quota management for stock complexes.
- Identify accountability measures
 - Current and future measures, stratified by inseason and post season measures (e.g., inseason monitoring, overfishing assessments, rebuilding plans, *de minimis* fisheries).

PPMC

06/14/09

FISCAL MATTERS

The Council's Budget Committee will meet on Friday, June 12, 2009, at 3:00 P.M. to consider budget issues as outlined in Ancillary E, Budget Committee Agenda.

The Budget Committee's report is scheduled for Council review and approval on Thursday, June 18.

Council Action:

Consider the report and recommendations of the Budget Committee.

Reference Materials:

1. Agenda Item G.2.b, Supplemental Budget Committee Report.

Agenda Order:

- | | |
|---|--------------|
| a. Agenda Item Overview | John Coon |
| b. Budget Committee Report | Jerry Mallet |
| c. Reports and Comments of Management Entities and Advisory Bodies | |
| d. Public Comment | |
| e. Council Action: Consider the Report and Recommendations of the Budget Committee | |

PFMC
05/28/09

REPORT OF THE BUDGET COMMITTEE

The Budget Committee met on Friday, June 12, 2009 and received the Executive Director's Budget Report, presented by Dr. John Coon. The report covered the current status of funding and expenditures under the 2005-2009 Award, proposed budgets for calendar year (CY) 2009 base operations and the trawl rationalization program for CY 2009, and expectations for future funding.

The following Budget Committee members were present:

Mr. Jerry Mallet, Chairman	Mr. Craig Heberer (representing NMFS)
Mr. Donald K. Hansen	Mr. Frank Warrens

Absent:	Mr. Phil Anderson	Dr. Dave Hanson
	Mr. Frank Lockhart	Mr. Mark Helvey (represented by Mr. Craig Heberer)

Others Present: Mr. Mark Cedergreen, Dr. John Coon, Ms. Michele Culver, Mr. Rod Moore, Mr. Dave Ortmann, and Ms. Carolyn Porter.

Current Status of Funding and Expenditures (2005-2009 Award)

Summary of New Council Funding as of June 2009

Dr. Coon briefed the Budget Committee on the new funding the Council has received or expects to be available in CY 2009. The regional council line-item in the Federal fiscal year (FY) 2009 budget had a small increase over the 2008 budget. This small increase yields slightly over \$2.6 million for the Pacific Council compared to a little less than \$2.5 million in 2008. Additional soft money funding has been provided by NMFS to bring the total funding received to date to a little over \$3.7 million. We also expect to receive \$100,000 in the very near future that is dedicated to supporting a review and updating of the Council's essential fish habitat (EFH) description for salmon in Amendment 14. This review will be completed in late 2010. There is also an indication that funds for the purpose of developing an ecosystem based fishery management plan may be available later in the year.

Proposed 2009 Budgets and Status of Expenditures

Dr. Coon presented the committee with an initial total proposed CY 2009 operational base budget of \$3,478,027. Based on our current assessment, this budget will support the Council's ongoing programmatic activities and status quo staffing for 2009. Expenditure of the proposed CY 2009 budget is proceeding within normal expectations for the first four months of the year.

Remaining, dedicated funding for the groundfish trawl rationalization program stood at \$573,240 at the start of CY 2009. Dr. Coon presented the Budget Committee with a proposed CY 2009 trawl rationalization budget which fully utilizes that amount. Expenditure of the proposed CY 2009 budget is proceeding within normal expectations for the first four months of the year.

This is the final year of our 2005-2009 grant and a new grant will be required for the next five years. However, due to the extremely late timing of the receipt of FY 2009 funding and the ongoing nature of many programs in 2009 (e.g., amendments for annual catch limits, groundfish biennial management specifications, salmon EFH review, trawl rationalization, and perhaps ecosystem base management) a one year no cost extension of the 2005-2009 grant will be needed for transitional purposes in 2010. The one year no cost extension will utilize the available funding above the level proposed in the 2009 CY budgets. The Council staff will need to formally apply for and receive approval for a one year no cost extension of the 2005-2009 grant to provide for this purpose.

Preliminary Expectations for Future Funding

Dr. Coon reported that the President's FY 2010 budget request includes \$18.5 million for the regional council line item. If approved, this would only be about \$600,000 more than the 2009 line item budget and result in a Pacific Council appropriation of about \$2.7 million. As we have noted in the past, the line item total alone would be well short of the funding level the regional councils need to maintain status quo operations under the combination of hard and soft funding they have been receiving. That is again why the approval of a no cost one year extension of the 2005-2009 grant is important.

With regard to further details of the no cost extension for 2010, Dr. Coon indicated that further detail would be made available in September on the specific amounts and budget elements. Also, a better idea of the actual 2010 Federal FY funding available to the Council may be available at that time. At the September Budget Committee meeting, staff will provide recommendations for budget adjustments to reflect the best use of available funds.

Payment of Stipends to Eligible Scientific and Statistical Committee Members

Dr. Coon reported on the need to address language in the reauthorized Magnuson-Stevens Act (MSA) concerning payment of stipends. Subject to the availability of appropriations, the MSA provides for payment of a stipend to members of Council scientific and statistical committees (SSC) and advisory panels who are not employees of the Federal Government or a State marine fisheries agency.

The Council has received funds from National Marine Fisheries Service (NMFS) that may be used for the purpose of supporting our SSC review process, including payment of stipends. However, there are no specific guidelines beyond the limited language in the MSA for determining the details of the program with regard to limits on who may be paid, the basis for pay (meeting and/or travel time), the rate of pay, and other pertinent details.

Budget Committee Recommendations

2009 Base Budget, Trawl Rationalization Budget, and Preliminary 2010 No Cost Extension Budget

Recognizing the operational funding received by the Council in CY 2009, the Council guidance from November 2008, and the uncertainties of the budget process for 2010, the Budget Committee recommends the Council:

1. Adopt the initial CY 2009 proposed operational base budget of \$3,478,027;
2. Adopt the initial CY 2009 proposed trawl rationalization program budget of \$573,240;
3. Review funding and budget information available at the September Budget Committee meeting to determine recommendations for the details of the no cost one year extension of the 2005-2009 grant and make any other appropriate budget changes as a result of that review.

Payment of Stipends to Eligible Scientific and Statistical Committee Members

The Budget Committee notes that funds are available in CY 2009 for payment of SSC stipends and recommends the Pacific Council consider whether or not to pay stipends to eligible SSC members. Prior to any decision on stipends, the Budget Committee recommends the Council give guidance and direct staff to develop a draft Council Operating Procedure (COP) that sets out the criteria for such a program (e.g., priority for paying stipends, who is eligible, rate of pay, and other necessary administrative procedures). Such a draft COP might be developed and submitted for approval at the September Council meeting.

PFMC
6/18/2009

PROPOSED RULE ON COUNCIL OPERATIONS

The reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) in 2007 made several changes which affect operations and procedures of the Regional Fishery Management Councils (RFMCs). The National Marine Fisheries Service (NMFS) issued a proposed rule near the end of March which puts these changes into regulatory guidelines for the RFMCs (50 CFR Part 600). The Council should review the proposed changes and provide any comments to NMFS by the deadline of July 6, 2009 (we expect the deadline to be extended to near the end of July).

Council staff has reviewed the proposed regulations and provided a brief summary of the actions and proposed comments where appropriate (Attachment 1). The full body of the proposed regulations is contained in 74 FR 13386, March 27, 2009 (Attachment 2). Most of the proposed regulations simply codify the MSA requirements and closely follow the language in the MSA. Some of the changes update previous regulations.

In addition to the proposed regulations, NMFS has also requested input on the payment of stipends to the Scientific and Statistical Committees (SSC) and advisory panels. The reauthorized MSA contains language authorizing such payments to SSC and advisory panel members who are not employed by the Federal Government or a State marine fisheries agency, subject to availability of appropriations. NMFS seeks input on the amount and frequency of payments, what criteria must be satisfied for one to qualify for the stipend, and what priority should be given to the payment of stipends relative to the Council's other financial obligations (Attachment 2, page 13387). Until NMFS reviews this input and proposes further regulations, there is no standard guidance on how to administer stipends.

A proposed draft response letter for Council review and approval will be provided in Supplemental Attachment 3 at the meeting.

Council Action:

- 1. Review the proposed changes to the regulations that address the operations and administration of regional fishery management councils and the request for input on the issue of paying stipends to SSCs and advisory panels.**
- 2. Review the staff comments and proposed draft response.**
- 3. Approve a final response to NMFS.**

Reference Materials:

1. Agenda Item G.3.a, Attachment 1: Staff Comments on Proposed Changes to Regulations that Address the Operations and Administration of Regional Fishery Management Councils.
2. Agenda Item G.3.a, Attachment 2: Federal Register Notice Proposing Changes in Council Operations and Administration (74 FR 13386, March 27, 2009).
3. Agenda Item G.3.a, Supplemental Attachment 3: Proposed Draft Response Letter to NMFS Regarding Council Operations.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Management Entities and Advisory Bodies
- c. Public Comment
- d. **Council Action:** Provide Comments on the Proposed Rule

John Coon

PFMC

05/29/09

STAFF COMMENTS ON PROPOSED CHANGES TO REGULATIONS THAT ADDRESS
THE OPERATIONS AND ADMINISTRATION OF REGIONAL FISHERY MANAGEMENT
COUNCILS (74 FR 13386, March 27, 2009)

§ 600.10 Definitions

The distinction of “advisory panel” and “fishing industry advisory committee” raises an unnecessary problem for our Council. All of what we call our “subpanels,” which are the equivalent to “panels” in the Magnuson-Stevens Fishery Conservation and Management Act (MSA), include industry members and we consider them to be “advisory panels” and/or Fishing Industry Advisory Committee (FIACs). The MSA lists both entities as carrying out the same tasks for councils. Advisors on our Groundfish Allocation Committee would also appear to be eligible for pay.

Comment: distinguishing between “advisory panels” and FIACs goes beyond the directives in the MSA and may add an unnecessary and confusing distinction.

§ 600.105 Intercouncil Boundaries

Not applicable to our Council—no comment required.

§ 600.115 Statement of Organization, Practices, and Procedures (SOPP)

Primarily adds that upon approval of an SOPP, a Notice of Availability must be published in the FR that includes an internet address where it may be read and downloaded.

Comment: We support internet availability and our SOPP is already available on the Council website.

§ 600.117 Council Coordination Committee (CCC)

Implements creation and operation of CCC—staff supports the proposed language.

§ 600.125 Budgeting, Funding, and Accounting

This is a technical change that simply updates the reference to the documents that direct a council’s financial management. Staff supports the proposed language.

§ 600.133 Scientific and Statistical Committee (SSC)

This is a new section that lays out requirements for SSCs. Staff believes our Council’s establishment and use of the SSC complies and is consistent with this section and supports the proposed language.

§ 600.135 Meeting Procedures

This section modifies the existing language that requires public notice of Council and advisory body meetings primarily through news media. Besides clarifying the timing of such notice, which fits our current procedures, the section allows notice by any means that will result in wide publicity in the major fishing ports and other ports and areas that may be directly addressed in the meeting. It also specifies that notice by website and email alone is not sufficient.

Staff supports the proposed language.

§ 600.140 Procedure for Proposed Regulations

In September 2008, we incorporated our deeming process in Council Operating Procedure 1 which meets the requirements of this section. Staff supports the proposed language.

§ 600.207 Pacific Fishery Management Council Tribal Indian Representation and Alternate

This section implements the MSA language that allows the tribal representative to have one alternate. Staff believes the proposed language accurately implements the MSA.

§ 600.210 Terms of Council Members

This section removes unnecessary language from the requirement that a council member who has completed three consecutive terms is eligible for reappointment one full year after completion of the third consecutive term. Staff believes no comment is necessary.

§ 600.215 Council Nomination and Appointment Procedures

The changes in this section that apply to our Council are primarily aimed at tightening up the nomination procedures for council members to ensure adequate timing and information for making the appointments. Staff supports the proposed language.

§ 600.220 Oath of Office

This section adds the actual oath of office to the regulations which is the one used by the councils. Staff supports the proposed language.

§ 600.225 Rules of Conduct

This section merely serves as a preamble to § 600.227 which deals with prohibitions on lobbying. No comment is necessary.

§ 600.227 Lobbying

This section attempts to clarify the existing restrictions on the use of Federal funds (Council's cooperative agreement) by staff or Council members for lobbying the Administration, Congress, or State governments. Staff believes there is no change from our current practices. However, we suggest our that our legal counsel review the restrictions with the Council at this meeting and answer any questions.

Comment: The Council may wish to comment that NMFS revise this section to provide better clarity on just what Council's may or may not do and recognize the special relationship between the councils and NMFS.

§ 600.235 Financial Disclosure

This section:

- Adds SSCs to those required to file statements of financial interest ("affected individuals").
- Adds "lobbying" and "advocacy" to the list of financial interests that must be considered.
- Removes "environmental advocacy" from the financial interests that may be excluded from consideration.
- Requires that the financial disclosures made by Council members (not SSCs) be posted on the internet and accessible to the public.

Staff has no comments on these changes. Council and SSC members should carefully review the requirements to identify any problems or areas which are not clear.

§ 600.240 Security Assurances

This is primarily a clean up to specify that security clearances must be "acceptable" as well as just "completed." Staff supports the proposed language.

§ 600.250 Council Member Training

This implements the MSA requirement for Council member training. Staff supports the proposed language.

PFMC
05/29/09

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as _____ by the Postal Service has been terminated.

I certify that I have destroyed all materials subject to protective conditions, relevant to the above matter.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

[FR Doc. E9-6891 Filed 3-26-09; 8:45 am]
BILLING CODE 7710-FW-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 080102007-81097-01]

RIN 0648-AW18

Magnuson-Stevens Fishery Conservation and Management Act; Regional Fishery Management Councils; Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes changes to the regulations that address the operations and administration of regional fishery management councils (Councils). The regulatory changes are needed to implement amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that, among other things, govern the Council Coordination Committee (CCC), expand the role of the Councils' Scientific and

Statistical Committee (SSC), require that SSC members disclose their financial interests, and provide for training of Council members and staff. Additionally, the proposed rule would make changes to the regulations requiring Councils to provide procedures for proposed regulations, clarifying restrictions on lobbying, and clarifying timing in the Council member nomination process. The proposed rule would also make technical and minor corrections to the regulations unrelated to the most recent Magnuson-Stevens Act amendments.

DATES: Written comments must be received no later than 5 p.m. e.d.t. on July 6, 2009.

ADDRESSES: You may submit comments, identified by "RIN 0648-AW18," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
 - Fax: 301-713-1175.
 - Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910. Please mark the outside of the envelope "Council Operations."
- Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for

example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter n/a in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe pdf file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of Sustainable Fisheries at the mailing address or fax number specified above and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: William Chappell, at 301-713-2337.

SUPPLEMENTARY INFORMATION: Section 302 of the Magnuson-Stevens Act includes provisions for the establishment and administration of the Councils. The Magnuson-Stevens Act was reauthorized on January 12, 2007, with amendments throughout, and this proposed rule would implement some of the changes that were made to Section 302. Additionally, several issues regarding Council operations and membership have prompted proposed

changes to the regulations. Key aspects of the proposed rule are: requirements relative to the CCC; requirements for SSCs and financial interest reporting for SSC members; an update of Council and committee meeting announcement requirements; a requirement for Councils to have procedures for proposed regulations; designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council; requirements for nominating individuals to the Gulf of Mexico Fishery Management Council; revisions to the process and deadline for governors to submit Council member nominations to the Secretary; restrictions on direct or indirect lobbying by Council members, Council staff, and contractors; addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals; and the requirement for new Council members to attend a training course. Additionally, the proposed rule would implement several minor changes in Magnuson-Stevens Act section 302, as well as a number of technical changes and minor corrections, unrelated to the reauthorization of the Act. Many of the key aspects of the proposed rule reiterate statutory requirements of the Magnuson-Stevens Act. NMFS is including this statutory text in regulations so that relevant Council process provisions both statutory and regulatory are presented together for ease of reference.

Statement of Organization, Practices and Procedures (SOPPs)

There have been continuing questions regarding Councils' SOPPs. The general public often does not understand the Councils' functions, how they are organized and what their limits are in fisheries management and policy. SOPPs have provided that information, but the public must go to the Council office for a copy or request a copy by mail. The increased use of the Internet makes it appropriate for the Councils to post their SOPPs on line. Therefore, NMFS proposes to amend § 600.115 to require that Council SOPPs be made available on the Internet. Additionally, NMFS proposes to clarify the regulatory sections with which the SOPPs must comply.

Council Coordinating Committee (CCC)

The proposed rule at a new § 600.117 would govern the CCC. The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Councils or other Council members or staff, and discusses issues of relevance to all Councils, as specified in the

Magnuson-Stevens Act at section 302(l). The CCC is exempt from the requirements of the Federal Advisory Committee Act. Procedures for announcing and conducting open and closed meetings of the CCC are reflected in § 600.135.

Scientific and Statistical Committees (SSCs)

This proposed rule addresses several changes in Magnuson-Stevens Act section 302(g)(1) regarding SSCs. Section 600.133 of the proposed rule requires SSC members, appointed by the Councils, to be Federal employees, State employees, academicians, or independent experts with strong scientific or technical credentials and experience. It also requires SSC meetings to be held in conjunction with Council meetings to the extent practicable.

Section 302(g)(1)(D) of the Magnuson-Stevens Act includes a new requirement that SSC members shall be treated as "affected individuals" for purposes of sections 302(j)(2), (3)(B), (4) and (5)(A) of the Act, which pertain to the disclosure of financial interests by affected individuals. Consistent with the Act, the proposed rule at § 600.235 would require an SSC member to file the Financial Interest Form with the NMFS Regional Administrator within 45 days prior to appointment and within 30 days of substantial changes to his/her financial interests and update his/her form annually. NMFS would retain the records for five years.

Sections 302(j)(5)(B-C), (6) and (7) of the Act include requirements for public inspection of, and access to, Council member Financial Interest Forms and recusals from voting. Because SSC members are not "affected individuals" for purposes of these sections, the proposed rule does not require that SSC members' Financial Interest Forms be made available for inspection or made available on the internet. In addition, the proposed rule states that SSC members are not subject to the restrictions on voting under § 600.235. The proposed rule also clarifies that SSC members are not automatically subject to the requirements of 18 U.S.C. 208, which pertains to actions affecting personal financial interests. Those requirements would only apply if a person is an officer or employee of the executive branch of the United States Government, or falls under another category of persons specified in that statute. NMFS seeks comments from the public on the proposed regulations that would affect the composition, purpose, and operation of the SSC, as well as the financial disclosure requirements for its

members. Finally, existing regulations at § 600.235(h) provide that 18 U.S.C. 208 would also not apply to an affected individual who is in compliance with the requirements of that section for filing a financial disclosure report. Consistent with section 302(j)(8) of the Magnuson-Stevens Act, the proposed rule would clarify this exemption only applies to an affected individual "who is a voting member of a Council appointed by the Secretary, as described under section 302(j)(1)(A)(ii) of the Magnuson-Stevens Act."

Additional changes in Magnuson-Stevens Act section 302(g)(1)(A), (B) and (E) regard the function and roles of the SSC and the establishment of a peer review process. Some aspects of those changes were addressed in the National Standard 1 Guidelines revisions (74 FR 3178, January 16, 2009), which included guidance on annual catch limits and accountability measures and other aspects of overfishing and rebuilding. NMFS is continuing to explore other guidance that may be needed regarding these statutory changes.

Magnuson-Stevens Act section 302(g)(1)(F) requires the Secretary, subject to the availability of funds, to pay a stipend to members of SSCs and advisory panels who are not employed by the Federal Government or a State marine fisheries agency. NMFS seeks comment from the public on the implementation of stipends should funding be available. In addition to issues such as the amount and frequency of the payments, and what criteria must be satisfied for one to qualify for the stipend, NMFS seeks input from the public on the funding priority that should be given payment of the stipend, relative to the Councils' other financial obligations.

In anticipation of the stipend requirement, NMFS has begun to examine how Councils develop and use their SSCs, advisory panels, and other advisory committees. One concern has been that Councils use the terms "advisory panel" and "advisory committee" inconsistently. To help prepare for a clear analysis of the number and types of advisory committees and for a determination of who may be entitled to receive the stipend, NMFS proposes definitions in § 600.10 for an "advisory panel", which would be established pursuant to Magnuson-Stevens Act section 302(g)(2), and a "fishing industry advisory committee", established by a Council pursuant to section 302(g)(3)(A). In addition, definitions for "Region," "Regional Administrator," and "Science and Research Director" would be updated to reflect that there

are now 6 regions, each with a regional administrator and a science and research director.

Public Notice of Meetings

The proposed rule at § 600.135 would specify revised means for announcing meetings of a Council, SSC, advisory panels, other committees, and the CCC. The regulations currently require public notification specifically through the news media. The revised regulations would allow for notice of regular, emergency, and closed meetings by any means that will result, per section 302(i)(2)(c) of the Magnuson-Stevens Act, in wide publicity in the major fishing ports of the region and those other ports with an interest in any of the fisheries likely to be addressed in the proceedings. Also, the proposed rule stipulates that notices about regular and emergency meetings by website and e-mail postings alone are not sufficient.

Council Procedure for Proposed Regulations

A new § 600.140 is proposed to be added that would require each Council to establish clear internal procedures for proposed regulations, consistent with Magnuson-Stevens Act section 303(c). Section 303(c) pertains to the submission of proposed regulations to the Secretary which a Council deems necessary or appropriate for the purposes of implementing a fishery management plan or plan amendment and making modifications to regulations implementing a plan or plan amendment. Section 600.140 would require that each Council establish a clear procedure that sets forth how it deems proposed regulations as necessary or appropriate and also how it formally submits such regulations to the Secretary. Section 600.140 proposes that the procedure be described in the Council's SOPP or other written documentation available to the public to inform the public how it operates. The form and detail of the procedure may be prescribed by each Council, and may be based on any existing procedures as appropriate, subject to the requirements of the Magnuson-Stevens Act and approval by the Secretary.

Pacific Fishery Management Council Tribal Member Alternate

The proposed rule would establish a new section, § 600.207, to specify the conditions under which a tribal Indian representative to the Pacific Fishery Management Council may designate an alternate for the period of the representative's term. The requirements for designating an alternate would be similar to those of state members.

Gulf of Mexico Fishery Management Council Nominations

The proposed rule would specify new procedures in § 600.215 for nominating and appointing members to the Gulf of Mexico Fishery Management Council. Consistent with new language in the Magnuson-Stevens Act, the proposed rule requires the Governors of each Gulf state to ensure their list of nominees for appointment to the Council includes representatives of certain fishery sectors, as well as at least one other individual knowledgeable in fishery conservation and management. The rule also provides a process for the citizens of a Gulf coastal state to nominate individuals, should the Governor's nominees be determined by the Secretary to be unqualified for appointment.

Council Member Nomination Process

NMFS proposes to amend § 600.215 regarding the submission of Council member nominations by state governors to allow more flexibility in the timing. Current guidelines require state governors to submit names of Council seat nominees and their complete nomination packages to NMFS by March 15. The proposed rule would soften the deadline, requiring submission of nominees' names by March 15 and allowing until March 31 for submission of the completed nomination packages.

This proposed rule change is needed to accommodate the lengthy and complex procedure for Council nominees to file for and receive official security assurances. The security assurance application procedure requires extensive personal history information to be submitted by computer. Due to timing of the process, software and internet connectivity problems, and availability of the personal information, the security assurance filings can be delayed, resulting in submission of the completed nomination packages after March 15.

Recognizing the difficulty of the process, NMFS has accommodated late submission of nomination packages. NMFS intends to provide states every reasonable opportunity to submit nominations for open Council seats, and, therefore, while submission of the names for nomination must be submitted by March 15, the proposed rule would give states until March 31 to submit the completed nomination package.

NMFS retains the requirement for having completed packages prior to accepting nominations for any seat, and

the option not to consider any nominations for at-large seats not completed by March 31. It remains NMFS' expectation that governors will submit, at a minimum, their list of nominees by March 15.

The Secretary must make Council member appointments by June 27 to allow new members to be seated by August 11 and complete the regular nomination cycle. Any later submission of nominees jeopardizes that process.

Notifying governors and commencing the nomination process earlier may help the situation but would not solve the problem of late nomination package submissions. Currently, NMFS contacts governors each December and January to solicit nominations for upcoming obligatory and at-large seats. Some gubernatorial terms begin in January and a change in administration, as well as other year-end priorities can confound the state's Council nomination process.

Restrictions on Lobbying

NMFS proposes to add a new paragraph concerning lobbying to § 600.225, which sets forth the Council Rules of Conduct. There have been recent questions from the Councils and inquiries from the public regarding what is allowed and not allowed in the way of direct or indirect lobbying by Council members and staff. Direct lobbying involves contacts with legislators, their staffs, or other government officials, either in person or through written or oral communication. Indirect or "grassroots" lobbying involves contacting others and urging them to support or to advocate for improve appropriations or changes to legislation or policy.

To provide Council members, Council staff and members of the public a better idea of restrictions on lobbying activities, NMFS proposes to add a new § 600.227 Lobbying, Restrictions on lobbying activities that apply to the Regional Fishery Management Councils, as recipients of Federal financial assistance, are encompassed in 31 U.S.C. 1352(a)(1) and (2), 15 CFR 28.100(a), and in applicable cost-principles set forth at 2 CFR part 230. As a condition of receiving such assistance, the Councils agree to abide by these restrictions. The proposed § 600.227 would provide not only references to these lobbying restrictions, but also general guidance with respect to certain proscribed actions.

Financial Disclosure by Council and SSC Members

The amended Magnuson-Stevens Act expands the array of business activities

that must be reported by affected individuals in their financial disclosures. An "affected individual" is a person who is nominated by a state Governor or appointed by the Secretary to serve as a voting member of a Council under section 302(b)(2) and (b)(5) of the Magnuson-Stevens Act. Members of an SSC are also considered affected individuals for specific paragraphs of § 600.235. Affected individuals must disclose any financial interests they have in certain activities that may fall under the jurisdiction of the Council. Per the amended Magnuson-Stevens Act, lobbying and advocacy are added to fishery harvesting, processing, and marketing as the types of activities, upon which the individual must report. The proposed rule would implement this change by expanding and updating the definition of financial interests in § 600.235 to include the activities of lobbying and advocacy. It would also remove from the definition of financial interests the exclusion of financial concerns associated with environmental advocacy. For clarity, Financial Interest Form is defined.

Consistent with the Magnuson-Stevens Act, at § 600.235 the proposed rule would require the financial disclosures made by Council members appointed by the Secretary to be posted on the internet and accessible to the public.

Council Member Training

Another new section, § 600.250, addresses a Magnuson-Stevens Act requirement for the Secretary to develop a training course and for newly appointed Council members to attend the training course within one year of appointment. The minimum course content is specified in the Magnuson-Stevens Act and not addressed in this regulation. The course would be made available, not only to new Council members, but also to existing Council members, Council staff, and NMFS staff. The course may also be made available to Council committee and advisory panel members.

Technical Changes

In addition to implementing amendments to the Magnuson-Stevens Act, the proposed rule would make several technical changes and corrections to 50 CFR part 600 subparts A, B, and C. In § 600.105, "intercouncil boundaries," the latitude of the seaward boundary between Virginia and North Carolina would be corrected. In § 600.125, citations to two documents that direct a Council's financial management would be updated. Section 600.10 would be revised to clarify that

one full year must have elapsed after the completion of a member's third consecutive term before that person may take a seat on the same Council. The text of an oath of office would be reinserted in § 600.220. This oath was removed during the regulations consolidation in 1996, however it is still in use by the Councils and it requested by them and others, particularly when new members are about to be sworn in. The oath acknowledges and affirms the members' commitment to the conservation and management of living marine resources. Section 600.240 would be clarified by requiring that background checks be acceptable rather than just completed. Several additional minor corrections and clarifications reflecting changes already discussed would be made throughout the subparts.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

This proposed rule would update operational and administrative procedures of the eight Regional Fishery Management Councils. It consists of varied measures which implement 2007 amendments to the Magnuson-Stevens Act, respond to emerging Council issues, and make minor changes and technical corrections to the Council regulations. The proposed rule includes:

1. Requirements relative to the Council Coordination Committee (CCC) consisting of Council chairs, executive directors, and others, to work on issues of common concern;
2. Requirements relative to the Scientific and Statistical Committee (SSC) in the regulations and requirements for financial interest reporting by the SSC;
3. Update meeting announcement requirements for the Councils, their committees, advisory panels (AP), Fishing Industry Advisory Committees (FIAC), and the CCC, consistent with the Magnuson-Stevens Act;
4. Requirement for Councils to establish a procedure for proposed regulations submitted to the Secretary;
5. Designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council;
6. Requirements for nominating individuals to the Gulf of Mexico Fishery Management Council;
7. Revisions to the process and deadline for governors to submit Council member nominations to the Secretary;

8. Restrictions on direct or indirect lobbying of legislators by Council members, Council staff, and contractors.

9. Addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals;

10. Specifying that SSC members be treated as "affected individuals" as regards certain financial interest reporting requirements, consistent with the Magnuson-Stevens Act;

11. Requirement that financial disclosures made by appointed Council members to be posted on the internet, consistent with the Magnuson-Stevens Act; and

12. Requirement that new Council members to attend a training course developed by the Secretary, consistent with the Magnuson-Stevens Act.

Additionally, the proposed rule would make several technical changes and minor corrections to the existing regulations. For example, in the section on inter-council boundaries, the latitude of the seaward boundary between Virginia and North Carolina is corrected; citations to two documents that direct the Councils' financial management are updated; and the text of an oath of office is added to the regulations. Several additional minor corrections have been made throughout the subparts.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under Control Number 0649-0192. Public reporting burden for completing and submitting the Statement of Financial Interests, Form 88-195, is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to David_Rostker@omb.eop.gov or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: March 23, 2009.

Samuel D. Rauch III,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for part 600 continues to read:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.10, add definitions for “Advisory panel (AP)” and “Fishing industry advisory committee (FIAC)” in alphabetical order; and revise the definitions for “Region”, “Regional Administrator”, and “Science and Research Director” to read as follows:

§ 600.10 Definitions.

* * * * *

Advisory panel (AP) means a standing committee formed and selected by a regional fishery management council, under the authority of Magnuson-Stevens Act section 302(g)(2), to assist it in carrying out its functions. An AP may include individuals who are not members of the council.

* * * * *

Fishing industry advisory committee (FIAC) means an advisory group formed and selected by a regional fishery management council under the authority of the Magnuson-Stevens Act section 302(g)(3)(A). A FIAC is not an “advisory panel” as defined under this section.

* * * * *

Region means one of six NMFS Regional Offices responsible for administering the management and development of marine resources in the United States in their respective geographical regions.

Regional Administrator means the Administrator of one of the six NMFS Regions described in Table 1 to § 600.502, or a designee. Formerly known as Regional Director.

* * * * *

Science and Research Director means the Director of one of the six NMFS Fisheries Science Centers described in Table 1 to § 600.502, or a designee, also known as Center Director.

* * * * *

3. In § 600.15:

a. Redesignate paragraphs (a)(9) through (a)(15) as paragraphs (a)(11) through (a)(17), respectively.

b. Redesignate paragraphs (a)(5) through (a)(8) as paragraphs (a)(6) through (a)(9), respectively.

c. Add new paragraphs (a)(5) and (a)(10) to read as follows:

§ 600.15 Other acronyms.

(a) * * *

(5) CCC Council coordination committee

* * * * *

(10) FIAC Fishing industry advisory committee

* * * * *

4. In § 600.105, revise paragraph (b) to read as follows:

§ 600.105 Intercouncil boundaries.

* * * * *

(b) *Mid-Atlantic and South Atlantic Councils.* The boundary begins at the seaward boundary between the States of Virginia and North Carolina (36°33'01.0" N. lat), and proceeds due east to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.

* * * * *

5. In § 600.115, revise paragraph (b) to read as follows:

§ 600.115 Statement of organization, practices, and procedures (SOPP).

* * * * *

(b) Amendments to current SOPPs must be consistent with the guidelines in this section, subpart C of this part, the terms and conditions of the cooperative agreement (the funding agreement between the Council and NOAA that establishes Council funding and mandates specific requirements regarding the use of those funds), the statutory requirements of the Magnuson-Stevens Act, and other applicable law. Upon approval of a Council's SOPP amendment by the Secretary, a notice of availability must be published in the **Federal Register** that includes an internet address from which the amended SOPP may be read and downloaded and a mailing address to which the public may write to request copies.

* * * * *

6. Section 600.117 is added to subpart B to read as follows:

§ 600.117 Council coordination committee (CCC).

(a) The Councils may establish a Council coordination committee (CCC) consisting of the chairs, vice chairs, and executive directors of each of the eight Councils or other Council members or staff, in order to discuss issues of relevance to all Councils.

(b) The CCC is not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2). Procedures for announcing and conducting open and closed meetings of

the CCC shall be in accordance with § 600.135.

7. In § 600.125, revise paragraph (a) to read as follows:

§ 600.125 Budgeting, funding, and accounting.

(a) Council grant activities are governed by 15 CFR part 14 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit and Commercial Organizations), 2 CFR part 230 (Cost Principles for Non-Profit Organizations), 15 CFR part 14 (Audit Requirements for Institutions of Higher Education and Other Non-Profit Organizations), and the terms and conditions of the cooperative agreement.

* * * * *

8. Section 600.133 is added to subpart B to read as follows:

§ 600.133 Scientific and Statistical Committee (SSC).

(a) *Establishment of an SSC.* (1) Each Council shall establish, maintain, and appoint the members of an SSC to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each SSC shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(3) Members appointed by the Councils to the SSCs shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(4) An SSC shall hold its meetings in conjunction with the meetings of the Council, to the extent practicable.

(b) [Reserved]

(c) [Reserved]

9. In § 600.135, paragraphs (a), (b), (c), (d), and (e) are revised to read as follows:

§ 600.135 Meeting procedures.

(a) *Regular meetings.* Public notice of regular meetings of each Council, CCC, SSC, and AP, including the meeting agenda, must be published in the **Federal Register** at least 14 calendar days prior to the meeting date.

Appropriate notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) must be given. E-mail notification and website postings alone are not sufficient. The published agenda of a regular meeting may not be modified to include additional matters for Council action without public notice, or such notice must be given at least 14 calendar days prior to the meeting date, unless such modification is necessary to address an emergency under section 305(c) of the Magnuson-Stevens Act, in which case public notice shall be given immediately. Drafts of all regular public meeting notices must be received by NMFS headquarters office at least 23 calendar days before the first day of the regular meeting. Councils must ensure that all public meetings are accessible to persons with disabilities, and that the public can make timely requests for language interpreters or other auxiliary aids at public meetings.

(b) *Emergency meetings.* Drafts of emergency public notices must be transmitted to the NMFS headquarters office; recommended at least 5 working days prior to the first day of the emergency meeting. Although notices of and agendas for emergency meetings are not required to be published in the **Federal Register**, notices of emergency meetings must be promptly announced through any means that will result in wide publicity in the major fishing ports of the region. E-mail notification and website postings alone are not sufficient.

(c) *Closed meetings.* After proper notification by any means that will result in wide publicity in the major fishing ports within the region, having included in the notification the time and place of the meeting and the reason for closing any meeting or portion thereof to the public:

(1) A Council, CCC, SSC, AP, or FIAC must close any meeting, or portion thereof, that concerns information bearing a national security classification.

(2) A Council, CCC, SSC, AP, or FIAC may close any meeting, or portion thereof, that concerns matters or information pertaining to national security, employment matters, or briefings on litigation in which the Council is interested.

(3) A Council, CCC, SSC, AP, or FIAC may close any meeting, or portion thereof, that concerns internal administrative matters other than employment. Examples of other internal administrative matters include candidates for appointment to AP, SSC,

FIAC, and other subsidiary bodies and public decorum or medical conditions of members of a Council or its subsidiary bodies. In deciding whether to close a portion of a meeting to discuss internal administrative matters, the CCC, a Council, or subsidiary body should consider not only the privacy interests of individuals whose conduct or qualifications may be discussed, but also the interest of the public in being informed of Council operations and actions.

(d) Without the notice required by paragraph (c) of this section, a Council, CCC, SSC, AP, or FIAC may briefly close a portion of a meeting to discuss employment or other internal administrative matters. The closed portion of a meeting that is closed without notice may not exceed two hours.

(e) Before closing a meeting or portion thereof, the CCC, a Council, or subsidiary body should consult with the NOAA General Counsel Office to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings described in paragraph (c) of this section.

* * * * *

10. Section 600.140 is added to subpart B to read as follows:

§ 600.140 Procedure for proposed regulations.

(a) Each Council must establish a written procedure for proposed regulations consistent with section 303(c) of the Magnuson-Stevens Act. The procedure must describe how the Council deems proposed regulations necessary or appropriate for the purposes of implementing a fishery management plan or a plan amendment, or making modifications to regulations implementing a fishery management plan or plan amendment. In addition, the procedure must describe how the Council submits proposed regulations to the Secretary.

(b) The Councils must include the procedure for proposed regulations in its SOPP, see § 600.115, or other written documentation that is available to the public.

11. Section 600.207 is added to subpart C to read as follows:

§ 600.207 Pacific Fishery Management Council Tribal Indian representation and alternate.

(a) The tribal Indian representative to the Pacific Fishery Management Council may designate an alternate during the period of the representative's term. The designee must be knowledgeable concerning tribal rights, tribal law, and

the fishery resources of the geographical area concerned.

(b) New or revised designations of an alternate by the tribal Indian representative must be delivered in writing to the appropriate NMFS Regional Administrator and the Council chair at least 48 hours before the designee may vote on any issue before the Council. In that written document, the tribal Indian representative must indicate how the designee meets the knowledge requirements under paragraph (a) of this section.

12. In § 600.210 revise paragraph (c) to read as follows:

§ 600.210 Terms of Council members.

* * * * *

(c) A member who has completed three consecutive terms will be eligible for appointment to another term one full year after completion of the third consecutive term.

13. In § 600.215, redesignate paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; add new paragraph (c); and revise the newly redesignated paragraph (e) to read as follows:

§ 600.215 Council nomination and appointment procedures.

* * * * *

(c) *Nominees to the Gulf of Mexico Fishery Management Council.* (1) The Governors of States submitting nominees to the Secretary for appointment to the Gulf of Mexico Fishery Management Council shall include:

(i) At least one nominee each from the commercial, recreational, and charter fishing sectors, except that an individual who owns or operates a fish farm outside the United States shall not be considered to be a representative of the commercial or recreational sector; and

(ii) At least one other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(2) Notwithstanding the requirements of paragraphs (a) and (b) of this section, if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of paragraph (c)(1) of this section, the Secretary shall:

(i) Publish a notice in the **Federal Register** asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirements of this section that were not met for appointment to the Council; and

(ii) Add the name of any qualified individual submitted by the public who

meets the requirements of this section that were not met to the list of names submitted by the Governor.

(3) The requirements of this paragraph (c) shall expire at the end of fiscal year 2012, meaning through September 30, 2012.

* * * * *

(e) *Nomination deadlines.*

Nomination packages (governors' letters and completed nomination kits) should be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15. For appointments outside the normal cycle, the Secretary will provide a deadline for receipt of nominations to the affected Council and state governors.

(1) *Obligatory seats.* (i) The Governor of the state for which the term of an obligatory seat is expiring should submit the names of at least three qualified individuals to fill that seat by the March 15 deadline. The Secretary will appoint to the Pacific Fishery Management Council a representative of an Indian tribe from a list of no fewer than three individuals submitted by the tribal Indian governments.

(ii) If the Governor or tribal Indian governments fail to provide a nomination letter and at least three complete nomination kits by March 15, the obligatory seat will remain vacant until all required information has been received and processed and the Secretary has made the appointment.

(2) *At-large seats.* (i) If a Governor chooses to submit nominations for an at-large seat, he/she should submit lists that contain at least three qualified nominees for each vacant seat. A nomination letter and a nomination kit for each qualified nominee should be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15.

(ii) Nomination packages that are not substantially complete by March 31 will be returned to the nominating Governor and will be processed no further. At-large members will be appointed from among the nominations submitted by the governors who complied with the nomination requirements.

* * * * *

14. Section 600.220 is revised to read as follows:

§ 600.220 Oath of office.

As trustees of the nation's fishery resources, all voting members must take an oath specified by the Secretary as follows: "I, [name of the person taking oath], as a duly appointed member of a Regional Fishery Management Council established under the Magnuson-

Stevens Fishery Conservation and Management Act, hereby promise to conserve and manage the living marine resources of the United States of America by carrying out the business of the Council for the greatest overall benefit of the Nation. I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Nation's marine fisheries resources, being careful to balance competing private or regional interests, and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions, standards, and requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law, and shall conduct myself at all times according to the rules of conduct prescribed by the Secretary of Commerce. This oath is given freely and without mental reservation or purpose of evasion."

15. In § 600.225 redesignate paragraphs (b)(2) through (b)(8) as paragraphs (b)(3) through (b)(9) respectively; and add a new paragraph (b)(2) to read as follows:

§ 600.225 Rules of conduct.

* * * * *

(b) * * *

(2) Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements, especially with regard to lobbying, and other restrictions with regard to lobbying as specified in § 600.227 of this part.

* * * * *

16. Section 600.227 is added to subpart C to read as follows:

§ 600.227 Lobbying.

(a) Council members, employees and contractors must comply with the requirements of 31 U.S.C. 1352 and Department of Commerce implementing regulations published at 15 CFR 28, "New Restrictions on Lobbying." These provisions generally prohibit the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with the award. Because the Councils receive in excess of \$100,000 in Federal funding, the regulations mandate that the Councils must complete Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non Federal funds for lobbying. The Form SF-LLL shall be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained

in any disclosure form previously filed. The recipient must submit the Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

(b) Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements summarized as follows:

(1) Title 2 CFR part 230 - Cost Principles for Nonprofit Organizations (OMB Circular A-122) is applicable to the Federal assistance awards issued to the Councils.

(2) The purpose of the cost principles at 2 CFR part 230 is to define what costs can be paid on Federal awards issued to non-profit organizations. The regulation establishes both general principles and detailed items of costs.

(3) Under 2 CFR part 230, costs for certain lobbying activities are unallowable as charges to Federal awards. These activities would include any attempts to influence:

(i) The introduction of Federal or state legislation;

(ii) The enactment or modification of any pending legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public to contribute to or to participate in any demonstration, march, rally, fundraising drive, lobbying campaign, or letter writing or telephone campaign.

(4) Generally, costs associated with providing a technical and factual presentation directly related to the performance of a grant, through hearing testimony, statements, or letters to Congress or a state legislature are allowable if made in response to a documented request.

(5) Costs associated with lobbying to influence state legislation in order to reduce the cost or to avoid material impairment of the organization's authority to perform the grant are also allowable.

17. In § 600.235:

a. In paragraph (a), add paragraph (3) to the definition of "Affected individual", remove the definition of "Financial interest in harvesting, processing, or marketing", and add definitions for "Financial Interest Form" and "Financial interest in harvesting, processing, lobbying, advocacy, or marketing" in alphabetical order.

b. Revise paragraph (b).

c. Revise paragraph (c)(2) and add paragraph (c)(4).

d. Revise paragraphs (h) and (i).

The revisions and additions read as follows:

§ 600.235 Financial disclosure.

(a) * * *

Affected individual * * *

(3) A member of an SSC shall be treated as an affected individual for the purposes of paragraphs (b)(1), (b)(5) through (b)(7), and (i) of this section.

* * * * *

Financial Interest Form means NOAA Form 88–195, “STATEMENT OF FINANCIAL INTERESTS For Use By Voting Members of, and Nominees to, the Regional Fishery Management Councils, and Members of the Scientific and Statistical Committee (SSC)” or such other form as the Secretary may prescribe.

Financial interest in harvesting, processing, lobbying, advocacy, or marketing (1) includes:

(i) Stock, equity, or other ownership interests in, or employment with, any company, business, fishing vessel, or other entity engaging in any harvesting, processing, lobbying, advocacy, or marketing activity in any fishery under the jurisdiction of the Council concerned;

(ii) Stock, equity, or other ownership interests in, or employment with, any company or other entity that provides equipment or other services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned, such as a Chandler or a dock operation;

(iii) Employment with, or service as an officer, director, or trustee of, an association whose members include companies, vessels, or other entities engaged in any harvesting, processing, lobbying, advocacy, or marketing activity in any fishery under the jurisdiction of the Council concerned; and

(iv) Employment with an entity providing consulting, legal, or representational services to any entity engaging in, or providing equipment or services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned, or to any association whose members include entities engaged in the activities described in paragraphs (1)(i) and (ii) of this definition;

(2) Does not include stock, equity, or other ownership interests in, or employment with, an entity engaging in scientific fisheries research in any fishery under the jurisdiction of the Council concerned, unless it is covered under paragraph (1) of this definition. A financial interest in such entities is covered by 18 U.S.C. 208, the Federal conflict-of-interest statute.

(b) *Reporting.* (1) The Magnuson-Stevens Act requires the disclosure by each affected individual of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity, and of any such financial interest of the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on the Financial Interest Form (as defined in paragraph (a) of this section), or such other form as the Secretary may prescribe.

(2) The Financial Interest Form must be filed by each nominee for Secretarial appointment to the Council with the Assistant Administrator by April 15 or, if nominated after March 15, one month after nomination by the Governor. A seated voting member appointed by the Secretary must file a Financial Interest Form with the Executive Director of the appropriate Council within 45 days of taking office; must file an update of his or her statement with the Executive Director of the appropriate Council within 30 days of the time any such financial interest is acquired or substantially changed by the affected individual or the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; and must update his or her form annually and file that update with the Executive Director of the appropriate Council by February 1 of each year.

(3) The Executive Director must, in a timely manner, provide copies of and updates to the Financial Interest Forms of appointed Council members to the NMFS Regional Administrator, the Regional Attorney who advises the Council, the Department of Commerce Assistant General Counsel for Administration, and the NMFS Office of Sustainable Fisheries. These completed Financial Interest Forms shall be kept on file in the office of the NMFS Regional Administrator and at the Council offices, and shall be made available for public inspection at such offices during normal office hours. In addition, the forms shall be made available at each Council meeting or hearing and shall be posted for download from the internet on the Council's website.

(4) Councils must retain the Financial Interest Form for a Council member for at least 5 years after the expiration of that individual's last term.

(5) An individual being considered for appointment to an SSC must file the Financial Interest Form with the Regional Administrator for the geographic area concerned within 45 days prior to appointment. A member of the SSC must file an update of his or her statement with the Regional Administrator for the geographic area concerned within 30 days of the time any such financial interest is acquired or substantially changed by the SSC member or the SSC member's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; and must update his or her form annually and file that update with the Regional Administrator by February 1 of each year.

(6) An individual who serves as an SSC member to more than one Council shall file Financial Interest Forms with each Regional Administrator for the geographic areas concerned.

(7) The Regional Administrator shall maintain on file the Financial Interest Forms of all SSC members for at least five years after the expiration of that individual's term on the SSC. Such Forms are not subject to sections 302(j)(5)(B) and (C) of the Magnuson-Stevens Act.

(c) * * *

(2) As used in this section, a Council decision will be considered to have a “significant and predictable effect on a financial interest” if there is a close causal link between the decision and an expected and substantially disproportionate benefit to the financial interest in harvesting, processing, lobbying, advocacy, or marketing of any affected individual or the affected individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee, relative to the financial interests of other participants in the same gear type or sector of the fishery. The relative financial interests of the affected individual and other participants will be determined with reference to the most recent fishing year for which information is available. However, for fisheries in which IFQs are assigned, the percentage of IFQs assigned to the affected individual will be dispositive.

* * * * *

(4) A member of an SSC is not subject to the restrictions on voting under this section.

* * * * *

(h) The provisions of 18 U.S.C. 208 regarding conflicts of interest do not

apply to an affected individual who is a voting member of a Council appointed by the Secretary, as described under section 302(j)(1)(A)(ii) of the Magnuson-Stevens Act, and who is in compliance with the requirements of this section for filing a financial disclosure report. The provisions of 18 U.S.C. 208 do not apply to a member of an SSC, unless that individual is an officer or employee of the United States or is otherwise covered by the requirements of 18 U.S.C. 208.

(i) It is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by this section, or to knowingly vote on a Council decision in violation of this section. In addition to the penalties applicable under § 600.735, a violation of this provision may result in removal of the affected individual from Council or SSC membership.

18. In § 600.240, revise paragraph (a) to read as follows:

§ 600.240 Security assurances.

(a) DOC Office of Security will issue security assurances to Council nominees and members following completion of acceptable background checks. Security assurances will be valid for 5 years from the date of issuance. A security assurance will not entitle the member to access classified data. In instances in which Council members may need to discuss, at closed meetings, materials classified for national security purposes, the agency or individual (e.g., Department of State, U.S. Coast Guard) providing such classified information will be responsible for ensuring that Council members and other attendees have the appropriate security clearances.

* * * * *

19. Section 600.250 is added to subpart C to read as follows:

§ 600.250 Council member training.

(a) The Secretary shall provide a training course covering a variety of topics relevant to matters before the Councils and shall make the training course available to all Council members and staff and staff from NMFS regional offices and science centers. To the extent resources allow, the Secretary will make the training available to Council committee and advisory panel members.

(b) Council members appointed after January 12, 2007, shall, within one year of appointment, complete the training course developed by the Secretary. Any Council member who completed such a training course within 24 months of January 12, 2007, is considered to have met the training requirement of this section.

[FR Doc. E9-6896 Filed 3-26-09; 8:45 am]

BILLING CODE 3510-22-S

PROPOSED DRAFT RESPONSE LETTER TO NMFS REGARDING COUNCIL
OPERATIONS

DRAFT

DRAFT

DRAFT

Mr. Alan Risenhoover, Director
Office of Sustainable Fisheries
National Marine Fisheries Service
1315 East-West Highway, SSMC3
Silver Spring, MD 20910

Re: RIN 0648-AW18

Dear Mr. Risenhoover:

Thank you for this opportunity for the Pacific Fishery Management Council (Pacific Council) to review and comment on your proposed regulations governing Regional Fishery Management Council (Regional Council) Operations (74 FR 13386, March 27, 2009). Most of the proposed changes are straightforward and helpful in implementing the reauthorized Magnuson Stevens Fishery Conservation and Management Act (MSA) and have the support of the Pacific Council.

Two issues which raise our concern or require further clarification and input are:

- 1) The addition of Section 600.227 Lobbying; and
- 2) The proposed definitions for “advisory panel,” and “fishing industry advisory committee;” and their connection with the development of guidelines for paying stipends to scientific and statistical committees (SSC) and advisory panels.

The Pacific Council’s specific comments follow below. In addition, we have attached comments from our advisory bodies—[pending review of such at the Council meeting].

Clarification of Lobbying Restrictions (§ 600.227)

The proposed changes to Section 600.227 (Lobbying) leave several questions for the Regional Councils. The primary question concerns the role of the Regional Councils to advise the Federal administrative branch (primarily the Department of Commerce, National Oceanic and Atmospheric Administration, NMFS, but also DOI, FERC, and DOA). The proposed language is relevant to regular grantees, but fails to recognize the special relationship that Regional Councils have been mandated by the MSA to advise and direct the Secretary of Commerce on fishery management. It also ignores the provisions of 305(b)(3) regarding comments on actions that affect fish habitat. The Pacific Council requests that this proposed regulation be omitted or rewritten to clearly identify the special governmental advisory relationship of the Regional Councils and with regard to what is and is not prohibited.

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Definition of Advisory Panel (§600.10 Definitions)

In light of the variation in the structures of advisory bodies among and within the Regional Councils, the Pacific Council believes the proposed distinction and definitions of “advisory panel” [Section 302(g)(2)] and “fishing industry advisory committee” [Section 302(g)(3)] are too specific and limiting to Regional Council operations. The proposed definitions go beyond any specific direction within the MSA and do not meet the longstanding practices of the Regional Councils, nor do they provide a workable and consistent solution to determine which groups would receive stipends when funding becomes available.

Pacific Council Recommendation: The Pacific Council believes that it is not useful or appropriate to define advisory panels and definitely not as provided in the proposed rule. The issue of defining panels seems to only have relevance in terms of deciding who may receive stipends. We suggest other ways of making that determination in our recommendations below for handling stipends to SSCs and advisory panels.

Request for Input on Payment of Stipends to SSCs and Advisory Panels

If adequate funds are available without compromising other important priorities of the Regional Councils, the Pacific Council is supportive of paying stipends for SSC members and also for certain advisory panels. However, the Pacific Council recommends that no stipends be paid to SSC and advisory panel members until a Regional Council has adopted appropriate criteria within its formal operational procedures as we outline below.

Rather than using a definition to determine who is eligible for pay, we recommend that this determination could be handled by each Council in the same way the regulatory deeming process has been approached. That is, to allow each Council to develop and adopt a formal procedure which covers the criteria by which the Council will pay advisory panels and SSCs. This will establish a consistent practice within each Regional Council while recognizing the diversity of the advisory body structure among Regional Councils. The formal criteria would include details of who would be paid, the rate of pay and other necessary guidance to operate the stipend program. Several questions remain, however, which may complicate the development of criteria. Clarity on the issue of who is eligible for pay and paying for members that may already be receiving pay even though they are not employees of the Federal Government or a State marine fisheries management agency concern us. Promulgation of a NMFS operational guideline to clarify the intent of the language in the MSA as to who may reasonably receive pay could be helpful.

Background and Guidance for the Entities that Could Receive Stipends: The MSA speaks to payment of stipends to advisory panel members (if funding is made available) with the exception of those employed by the Federal Government or a State marine fisheries agency. It seems reasonable to the Pacific Council that stipends were meant primarily to help facilitate

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participation by knowledgeable persons who could provide significant service on permanent Regional Council advisory bodies and who currently are not directly paid to do so.

For the Pacific Council, the duty described in the previous paragraph is primarily served by an advisory subpanel for each of its four fishery management plans (FMP) which are permanent long-standing subpanels (e.g., Groundfish Advisory Subpanel). Each of these subpanels fits the proposed definition of a “fishing industry advisory committee,” but could also be considered an “advisory panel” as well. A significant number of these subpanel members, who generally represent the fishing industry, are independent business owners and are not directly reimbursed for the time they serve on the subpanel. The Pacific Council believes these are the primary parties intended for stipends by the MSA. In addition, the Pacific Council has permanent committees for habitat and groundfish allocation issues with unpaid industry members which would also be eligible for stipends.

The Pacific Council also has technical teams for each of its FMPs which consist primarily of fishery management entity personnel (including tribal entities) that are paid by their entity during the time they are meeting or working directly on technical team tasks. These advisors and those serving on numerous ad hoc committees the Pacific Council uses would not be candidates for stipends. However, in certain cases when special expertise is needed, rather than paying a stipend, a Regional Council may contract a person for that expert service on a panel. Finally, the Pacific Council also has standing committees consisting solely of Council members who are paid as Council members when they meet and should not be included for stipends.

The MSA makes no distinction for persons who may receive pay for their time other than the prohibition for those employed by the Federal Government or a State marine fisheries agency. In determining parties that may be paid, the Regional Councils and National Marine Fisheries Service should consider MSA intent with regard to other sources of pay that may be occurring. In addition to having council members on some of our permanent advisory bodies, the Pacific Council has panel participation by employees of the State of Idaho which does not have a marine fisheries management agency, employees of enforcement agencies, tribal fishery management employees, and employees paid by nonprofit entities such as conservation organizations and fishery associations.

Additional Comments

The Pacific Council especially notes comments or support to the following proposed changes:

- 600.115 – Quality Council and other pertinent websites are powerful tools for keeping our public apprised and involved in our activities. The Pacific Council has had its Statement of Organization, Practices, and Procedures (SOPP) posted on its website for several years. With regard to changes in SOPP, there should be a more timely process that allows for minor changes.

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- 600.133 -- We have a history of strong support for our SSC and believe the establishment and utilization of our SSC is already consistent with the proposed language.
- 600.140 – The Pacific Council has already approved a “deeming” process which is contained in our Council Operating Procedures (COP 1).

Thank you again for allowing this opportunity to comment on these important operational procedures for Regional Councils and for your attention to accurate and efficient implementation of the MSA.

Sincerely,

D. O. McIsaac, Ph.D.

Executive Director

Pacific Fishery Management Council

Stipend Payments to a Subset of Members on the Scientific and Statistical Committee and Advisory Panels

Fact Sheet

1. The reauthorized Magnuson Stevens Act (MSA) states the following:

"In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to the members of the scientific and statistical committee or members of advisory panels who are not employed by the Federal Government or a State marine fishery management agency."

2. In Federal Register Document E9-6891 (FR)(Agenda Item G.3.a, Attachment 2), NMFS is asking for comment on two matters:

- a. Implementation of paying stipends in the event funds become available ,and
- b. A proposed definition of an advisory panel.

3. The presumed rationale for stipends for scientific and statistical committee (SSC) members is to encourage scientists who are not employed by Federal or State marine fishery management agencies to participate on SSCs; the presumed rationale for stipends for advisory panel members is to compensate them for lost income via their participation on advisory panels.

4. Implementation of paying stipends.

- a. NMFS is asking for comments on various protocols to be used in paying stipends and the priority of paying stipends in the context of all the operational costs faced by Councils. The FR specifically asks:

"In addition to issues such as the amount and frequency of payments, NMFS seeks input from the public on the funding priority that should be given payment of the stipend, relative to the Councils' other financial obligations."

- b. The Pacific Council position leading to MSA reauthorization was to remove a proposed provision that would have provided stipends to members of the SSC, noting *"...the SSC should preserve its independent status..."* and *"...the Council has not experienced any difficulty attracting qualified candidates in the absence of stipends."* Further, the position stressed *"...that if stipends are ultimately approved, funds for those stipend should not come from Council appropriations."*

- c. In 2008, the NMFS explored payments of stipends with the Council Coordinating Committee (CCC), including paying SSC members as a priority over advisory panel members. The CCC unanimously adopted the following recommendation:

“For this year only, the CCC recommends that NMFS not pay honorarium (stipends) to SSC or Advisory Panel members and that any such designated funding instead be made available to the Council to cover the costs of additional SSC meeting days for MSRA purposes and allocated to Councils based on demonstrated need. If NMFS feels honorariums to SSC members are required, the CCC recommends that the level be set at \$100 per day.”

- d. The CCC meeting held February 25-27, 2009.

- i. After noting that they offered no specific guidance at the time and that they intended to issue an FR notice asking for advise on funding priority and protocols in paying stipends, NMFS asked the CCC to consider making a recommendation on paying stipends, among other recommendations about spending allocations. The Mid-Atlantic Fishery Management Council (MAFMC) made a motion, seconded by the New England Fishery Management Council (NEFMC), that as an interim measure, the CCC recommend \$500,000 be allocated among Councils using the traditional proportions, that only SSC members qualified under the MSA be paid, and that payment be at \$250 per day.

- 1. The motion passed 7-1, with the Pacific Council the dissenting vote. The vote in opposition was based on:

- a. concern about creating two classes of SSC members, one receiving stipends and one not;
 - b. lack of consideration for members of other advisory bodies;
 - c. lack of funding for higher priority funding matters;
 - d. lack of direction from NMFS that stipends were required to be paid in 2009; and
 - e. lack of consistency on what type of days (SSC meeting days, travel and homework days, stock assessment review (STAR) panel days, etc.) would be considered eligible for payments.

- 2. The Pacific Council CCC representatives said the vote results would be reported to the full Pacific Council, where a decision would be made on how to proceed.

- e. Subsequently, the Councils have indicated they will take different approaches to paying stipends to only eligible SSC members in 2009, as follows.

- i. The New England Council will pay
 - 1. \$250 per day for actual SSC meeting days, with no pay for travel or “homework” days unless the member must travel a long distance;
 - 2. \$800 per day for SSC members chairing or co-chairing their STAR panel type meetings, which may include preparatory and follow-up time; and
 - 3. It is unclear when payments will begin.
 - ii. The Mid-Atlantic Council will pay
 - 1. \$250 per day for any days SSC members meet, with no pay for travel, preparatory, or follow-up work days; and
 - 2. Payments begin April 7, 2009.
 - iii. The South Atlantic Council will determine payment specifics at their June Council meeting.
 - iv. The Gulf Council will pay
 - 1. \$250 per day for actual SSC meeting days, with no pay for travel or homework days, unless the member must travel a long distance; and
 - 2. Payments begin June 1, 2009.
 - v. The Caribbean Council will pay
 - 1. \$250 per day for actual SSC meeting days and two travel days per meeting, with no pay for preparatory or follow-up work days; and
 - 2. Payments will be retroactive to January 1, 2009.
 - vi. The Western Pacific Council will pay
 - 1. \$250 per day for actual SSC meeting days, with no pay for travel or homework days;
 - 2. \$800 per day for SSC members participating in their STAR panel type meetings; and
 - 3. Payments will be retroactive to January 1, 2009.
 - vii. The North Pacific Council will pay
 - 1. \$250 per day for actual SSC meeting days, with no pay for travel or “homework days”; and
 - 2. It is unclear whether payments will be retroactive to January 1, 2009.
- f. Pacific Council SSC and advisory panel members eligible to be paid:
 - i. It appears four members of the SSC are eligible to be paid;
 - ii. The term “advisory panels” is not in common usage at the Pacific Council, but could include as listed in the current Council Roster

1. Standing Committees – two, which are the Budget Committee and the Legislative Committee;
 2. Advisory Bodies – 13, including six composed of scientists, four composed of fishing/conservation/processor/public representatives, one composed of law enforcement specialists, and two of mixed composition, which are the Habitat Committee and the Groundfish Allocation Committee;
 3. Ad Hoc Committees – ten;
 4. It appears there are at least 80 stipend-eligible members of advisory panels, if taken in the broadest sense but not including Council members.
5. Proposed advisory panel definition:
- a. The purpose of the proposed definition seems to be driven by stipend payment clarity reasons.
 - b. Congressional language for stipend eligibility specifically states “advisory panel,” a term different than the “*fishing industry advisory committee*” term used in MSA § 302(g)(3)(A); “fishing industry advisory committees” have evolved in the Pacific Council into the current four advisory subpanels composed of fishing/conservation/processor/public representatives. The term “advisory panel” could have been selected to allow for the inclusion of more groups, such as our scientific advisory bodies other than the SSC, or it could have been selected to limit eligible groups, such as only the standing committees that NMFS is proposing.
 - c. NMFS proposes the following definition for advisory panel:

“Advisory panel (AP) means a standing committee formed and selected by a regional fishery management council, under the authority of MSA section 302(g)(2), to assist it in carrying out its functions. An AP may include members that are not members of the council.”
 - d. If implemented in this manner, Council members would be the only advisory body eligible for stipends since the membership of the current standing committees at the Pacific Council includes only Council members.
 - e. It is not clear whether renaming existing Pacific Council advisory bodies as standing committees, or renaming existing standing committee as advisory bodies, would allow the Council the de facto decision on stipend payment eligibility.

APPROVAL OF COUNCIL MEETING MINUTES

The draft minutes for the March 2009 Council meeting are attached for Council Member review and approval.

The full record of each Pacific Fishery Management Council (Council) meeting is maintained at the Council office, and consists of the following:

1. The proposed agenda (available online at <http://www.pcouncil.org/bb/bbarchives.html>).
2. The approved minutes (available online at <http://www.pcouncil.org/minutes/cminutes.html>). The minutes summarize actual meeting proceedings, noting the time each agenda item was addressed and identifying relevant key documents. The agenda item summaries consist of a narrative on noteworthy elements of the gavel to gavel components of the Council meeting and summarize pertinent Council discussion for each Council Guidance, Discussion, or Action item, including detailed descriptions of rationale leading to a decision and discussion between an initial motion and the final vote.
3. Audio recordings of the testimony, presentations, and discussion occurring at the meeting. Recordings are labeled by agenda number and time to facilitate tape or CD-ROM review of a particular agenda item (available from our recorder, Mr. Craig Hess, Martin Enterprises, phone (360) 425-7507).
4. All written documents produced for consideration at the Council meeting, including (1) pre-meeting briefing book materials, (2) pre-meeting supplemental briefing book documents, (3) supplemental documents produced or received at the meeting, validated by a label assigned by the Council Secretariat and distributed to Council Members, and (4) public comments and miscellaneous visual aids or handout materials used in presentations to Council Members during the open session (available online at <http://www.pcouncil.org/bb/bbarchives.html>).
5. A copy of the Council Decision Document. This document is distributed immediately after the meeting and contains very brief descriptions of Council decisions (available online at <http://www.pcouncil.org/decisions/archivedecisions.html>).
6. A copy of Pacific Council News. Refer to the Spring Edition for March and April meetings; the Summer Edition for the June meeting; the Fall Edition for the September meeting; and the Winter Edition for the October-November Council meeting (available online at <http://www.pcouncil.org/newsletters/archivenews.html>).

Council Action:

Review and approve the draft March 2009 Council meeting minutes.

Reference Materials:

1. Agenda Item G.4.a, Attachment 1: Draft March 2009 Council Meeting Minutes.

Agenda Order:

- a. Council Member Review and Comments
- b. **Council Action:** Approve March 2009 Council Meeting Minutes

Don Hansen

PFMC
05/27/09

DRAFT MINUTES
197th Session of the
Pacific Fishery Management Council
March 7-13, 2009
Marriott Hotel SeaTac Airport
3201 South 176th, Seattle, Washington 98188
Telephone 206-241-2000

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Call to Order

A.1 Opening Remarks and Introductions

Mr. Don Hansen, Chair, called the 197th meeting of the Pacific Fishery Management Council (Council) to order on Sunday, March 8, 2009 at 9 a.m. A closed session was held from 8 a.m. to 8:30 a.m. to discuss litigation and personnel matters.

A.2 Roll Call

Dr. Donald McIsaac, Council Executive Director, called the roll. The following Council members were present:

Mr. Phil Anderson (Washington State Official)
Mr. Mark Cedergreen (Washington Obligatory)
Ms. Kathy Fosmark (California Obligatory)
Mr. Donald Hansen, Chairman (At-Large)
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting)
Mr. Mark Helvey (National Marine Fisheries Service, Northwest Region)
Mr. Jerry Mallet (State of Idaho Official)
CDR Peter Martin (US Coast Guard, non-voting)
Mr. Rod Moore (At-Large)
Mr. Dale Myer (At- Large)
Mr. Dave Ortmann, Vice Chairman (Idaho Obligatory)
Mr. Tim Roth (US Fish and Wildlife Service, non-voting)
Mr. David Sones (Tribal Obligatory)
Ms. Marija Vojkovich (State of California Official)
Mr. Frank Warrens (Oregon Obligatory)
Mr. Gordon Williams (State of Alaska Official, non-voting)
Mr. Steve Williams (State of Oregon Official)
Mr. Dan Welford (At-Large)

The following Council member was absent from the entire meeting:

Mr. David Hogan (US State Department, non-voting)

A.3 Executive Director's Report

Dr. McIsaac provided the Council with an overview of the Informational Reports, budget status, Council staff retreat, and ways to improve Council meetings. Mr. Dan Welford asked that the security settings be changed on the PDF files for the Council website to allow commenting.

A.4 Council Action: Approve Agenda

The Council approved the agenda as shown in Agenda Item A.4, March Council Meeting Agenda. (Motion 1 moved by Mr. Rod Moore and seconded by Mr. Frank Warrens.)

B. Open Comment Period

B.1 Comments on Non-Agenda Items

B.1.a Agency and Advisory Body Comments

Mr. Anderson introduced Ms. Lisa Veneroso, new Coastal Pelagic Species Management Team (CPSMT) member from Washington Department of Fish and Wildlife (WDFW).

B.1.b Public Comments

Mr. Mark Cedergreen, Vice-Chair, referred the Council to the three public comments in the briefing book.

The following persons provided oral public comment to the Council.

Ms. Sara Winterlee, Oceana. Expressed concern about misusing exempted fishery permits (EFPs) to circumvent conservation and management measures.

Mr. Larry Collins, Crab Boat Owners Association, San Francisco, California. Spoke to negative impacts of the trawl rationalization program. His testimony is provided in http://www.pcouncil.org/bb/2009/0309/B1_SUP_OC2_0309.pdf.

Mr. Dave Bitts, Pacific Coast Federation of Fishermen's Associations (PCFFA), McKinleyville, California. He identified that most PCFFA members fish mainly for salmon and crab with some in other fisheries. However, groundfish is very important to the welfare of the ports used by PCFFA fishermen and a loss of groundfish fisheries could lead to closed ports, which would in turn take away the buyers and resources at each port. He asked that the Council make adjustments in its trawl rationalization program to prevent this.

B.1.c Council Discussion of Comments as Appropriate

None.

C. Coastal Pelagic Species Management

C.1 Stock Assessment Review (STAR) Panel Terms of Reference for 2009

C.1.a Agenda Item Overview (03/08/09; 10:04 a.m.)

Mr. Mike Burner provided the agenda item overview.

C.1.b Scientific and Statistical Committee Report

Dr. Steve Ralston provided Agenda Item C.1.b, Supplemental SSC Report.

C.1.c Reports and Comments of Agencies and Advisory Bodies

Mr. Mike Okoniewski provided Agenda Item C.1.c, CPSAS Report. Mr. Burner read Agenda Item C.1.c, CPSMT Report.

C.1.d Public Comment

None.

C.1.e Council Action: Adopt Final Terms of Reference for Coastal Pelagic Species STAR Panels

Mr. Anderson spoke to the Scientific and Statistical Committee (SSC) comments regarding Appendix C of the review draft of the Terms of Reference (TOR) (Agenda Item C.1.a, Attachment 1) and agreed with its removal as the specific names of the reviewers need not be included in the document. However, he felt that a brief description of the required expertise and number of reviewers should be included in the body of the text. Mr. Burner agreed and clarified an error in the original SSC report's listing of reviewers.

Ms. Vojkovich moved and Ms. Kathy Fosmark seconded a motion (Motion 2) to adopt the CPS TOR (Agenda Item C.1.b, Attachment 1) with the following alterations: remove Appendix C and the references to it and adopt, as a separate item, the table included in Agenda Item C.1.c, Supplemental SSC Report as revised by Mr. Burner.

Mr. Anderson asked Ms. Vojkovich if the main motion intends for the document to be silent to the type of expertise on the STAR Panel. Ms. Vojkovich stated that it would. Mr. Anderson moved and Mr. Dale Myer seconded an amendment (Amendment #1 to Motion 2) to include a description of the reviewers in the TOR.

Mr. Moore asked Ms. Vojkovich if it was the intent of the main motion to include all of the SSC recommendations in Agenda Item C.1.c, Supplemental Revised SSC Report.

Chairman Hansen asked that the Council vote on Mr. Anderson's amendment first. With that, Amendment #1 to Motion 2 passed unanimously.

Mr. Moore moved and Mr. Warrens seconded an amendment (Amendment #2 to Motion 2) to include all SSC recommendation in Agenda Item C.1.c, Supplemental Revised SSC Report.

Mr. Anderson asked Ms. Vojkovich why she didn't include all of the SSC recommendations in the original motion. Dr. Ralston clarified that the text change was intended to allow greater flexibility in the review process while preserving the intent of the assessment update process. Mr. Anderson and Ms. Vojkovich agreed and spoke in favor of the Amendment #2 to the main motion.

Amendment #2 to Motion 2 passed unanimously. Main Motion 2 passed unanimously as twice amended.

Mr. Burner will make the appropriate changes to the TOR and will have the revised document posted on the Council's website.

C.2 Exempted Fishing Permit (EFP) for Sardine Research

C.2.a Agenda Item Overview (03/08/09; 10:39 a.m.)

Mr. Burner provided the agenda item overview.

C.2.b Reports and Comments of Agencies and Advisory Bodies

Mr. Okoniewski provided Agenda Item C.2.b, Supplemental CPSAS Report. Mr. Burner read Agenda Item C.2.b, Supplemental CPSMT Report. Dr. Ralston provided Agenda Item C.2.b, Supplemental SSC Report.

C.2.c Public Comment

Mr. John Hillman, fish buyer, Monterey Bay, CA
Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA
Mr. Ryan Kapp, sardine fisherman, Bellingham, WA
Mr. Jerry Thon, Astoria Holdings, Astoria, OR
Mr. Ben Enticknap, Oceana, Portland, OR

C.2.d. Council Action: Adopt EFP for Public Review (03/08/09; 1:28 p.m.)

Mr. Anderson asked Mr. Helvey if there was a rulemaking process, other than an emergency rule, that could be used to increase the 1,200 mt research set-aside for the 2009 fishery. Mr. Helvey said that the initial consideration by NMFS indicated that a notice and comment rulemaking process could be conducted. Mr. Helvey noted that the Council in November 2008 adopted the 1,200 mt set aside as well as a mechanism for allocating unused portions to the directed fishery and he felt the Council could look at adjusting the management measures at this time. The question for National Marine Fisheries Service (NMFS) to consider is "what is the new set aside value going to be and what is the scientific basis for it?" He noted there will likely be other questions or issues to address as this matter is further scrutinized in the future, but at this time NMFS is willing to proceed if that is the direction the Council decides to go.

Mr. Anderson agreed with Mr. Jerry Thon's testimony regarding the importance of developing new indices and methods for Pacific sardine. Mr. Anderson stated that he felt the Council should focus on the long-term benefits to sardine research. He said that he had spoken with Dr. Jagielo who reported that the existing 1,200 mt set-aside would likely be inadequate for covering the geographic extent of both proposals. Mr. Anderson suggested that rather than trying to choose one EFP over another, the Council should consider increasing the set-aside to accommodate work in both areas. He felt that between the March and June Council meetings, industry could work on a single revised proposal and a revised set-aside value and the Council and NMFS could work on increasing the set-aside to a value to be determined.

Mr. Helvey noted that NMFS would need time to complete a rulemaking process and that waiting until the June meeting to identify a new set-aside value would likely mean it would not be in place until the fall. This would be too late for the work in the Pacific Northwest and would prevent using the collected data in the next assessment.

Mr. Anderson noted that if the research set-aside is not used in the second period, it would roll into the third period's directed fishery.

Dr. McIsaac asked if NMFS was proposing an emergency rule for this action. Mr. Feder said he is proposing notice and comment rulemaking because justification for an emergency has not yet been made.

Mr. Anderson moved (Motion 3) to adopt for public review the two EFP's found in Agenda Item C.2.a, Attachment 1 and Agenda Item C.2.a, Attachment 2; and that the Pacific sardine industry representatives work to provide a detailed single proposal for the area between Cape Flattery, WA to Monterey Bay, CA that addresses the recommendations of the SSC and the CPSMT. Mr. Dale Myer seconded the motion.

Ms. Vojkovich noted that testimony included disagreements between the industry representatives on the EFP proposals and she was wondering about how those differences would be reconciled. Mr. Anderson envisioned a process where the onus is on the industry representatives to negotiate a single EFP proposal in time for STAR Panel review in May. He also supports the concept that the resulting proposal and project be managed under a single entity guided by a scientific steering group. This could address concerns of duplication of effort and consistent methods.

Mr. Moore and Chairman Hansen asked the representatives to come forward to speak to the feasibility of developing a single proposal. Ms. Pleschner-Steele, Mr. Okoniewski, and Mr. Thon came to the table.

Mr. Okoniewski and Ms. Pleschner-Steele said that industry representatives can develop such a proposal, particularly if the set-aside could be bumped up to 2,400 mt. Further, industry could establish a non-profit entity and a Memorandum of Understanding for sharing the combined costs of oversight and data processing, etc. Industry would support allocating more of the harvest guideline (HG) to the set-aside while maintaining the provision of rolling any unused portion into the third period. Mr. Jerry Thon agreed that the two groups could work out the details of a single proposal and that the scientific advisors can work as a coordinated team.

Mr. Anderson and Mr. Okoniewski agreed that a single EFP would expedite the review process and could make for a better, more coordinated survey. Ms. Pleschner-Steele spoke to the differences and she suggested amendments to the EFP to address concerns of the California participants. Mr. Thon suggested that amending the proposals on the Council floor would not be efficient and recommends they both go forward for review to allow time for industry representatives to coordinate. Mr. Anderson thanked all of the industry representatives, but agreed with Mr. Thon and left his motion on the floor as originally stated.

Mr. Burner asked NMFS if the public comment period during the proposed notice and comment rulemaking process could encompass the June Council meeting to allow Council and advisory

body comments on its merits. Mr. Helvey noted that the comment period and final rule needs to be followed by a 30-day cooling off period before implementation. This schedule would significantly delay the start of the research and could complicate the management of the second period of the directed fishery.

Motion 3 passed unanimously.

Mr. Burner asked that the EFP proposal be submitted for publication on the Council website as soon as feasible, but no later than April 15, 2009 to allow for adequate review in advance of the May 4-8, 2009 STAR Panel meeting where survey methodology is scheduled for thorough evaluation.

Mr. Anderson said we had a total acceptable biological catch (ABC) of 66,932 mt with 1,200 mt set-aside for research and noted that 1,200 mt is not likely enough to carry out the two EFPs and obtain scientifically sound results. As a result of that, he thinks it would be wise for the Council to recommend that NMFS pursue the requisite rulemaking to increase the research set-aside. Mr. Burner expressed concern about inseason adjustments to the formally adopted harvest allocations in a single meeting inseason without the benefit of advisory body input. Mr. Anderson stated that he appreciates Mr. Burner's concerns, but he felt the proposal represents a relatively small amount of impacts to the overall industry while providing substantial benefits to the management of the resource.

Mr. Anderson moved (Motion 4) that the Council recommend revising the 2009 research set-aside from 1,200 mt to 2,400 mt with the understanding that any unused portion would roll into the third period of the directed fishery. Mr. Moore seconded the motion.

Mr. Helvey asked Mr. Anderson where the extra 1,200 mt the motion moves into the research set aside would come from. Mr. Anderson said he would prefer to maintain the allocation between the second and the third period by taking the 1,200 mt out of those two periods in proportion to the seasonal allocations to those two periods, including the rollover from the first period to the second period. Mr. Helvey asked if Mr. Anderson meant 600 mt from period 2 and 600 mt from period 3. Mr. Anderson said no, to account for the additional 1,200 mt research set-aside he recommends a reduction in the second and third seasonal allocation proportionally, (i.e., the second period is allocated 26,293 mt and the third period is allocated 16,433 mt and without doing the calculation this is roughly a 2/3:1/3 split that would be applied to the 1,200 mt to determine the amounts to be removed from the second and third periods). Mr. Helvey noted that the values in Mr. Anderson's example do not include previously adopted set asides to account for incidental landings. Mr. Anderson acknowledged those set asides, but continued to support using the values of 26,293 and 16,433 for calculating the proportion.

Mr. Anderson clarified that he did not have the exact numbers, but he suggested the following mechanism: 1) roll the remaining HG from the first period into the second period allocation, 2) use the resulting value for the second period and the 16,433 mt from the third period to calculate a proportion to be applied to the requested 1,200 mt (roughly 65:35 or 750 mt from the second period and 450 mt from the third period), 3) reduce the second and third period directed fishery allocations by roughly 750 mt and 450 mt respectively, and 4) roll any portion of the now 2,400 mt research set aside that is not used in the second period into the third period.

Ms. Vojkovich asked what happens if the rulemaking fails and the set-aside increase is not implemented. Mr. Anderson said he felt that at the June meeting, when the Council makes final recommendations on rulemaking, we will know the status of the rulemaking process. The Council can then recommend what to do with the available set-aside. If that value is inadequate or industry does not move forward with an EFP, there is the adopted provision to roll the set-aside into the directed fishery. Mr. Helvey appreciated Mr. Anderson's comments and said that NMFS will have to review this proposal further before moving forward with the rulemaking process.

Motion 4 passed unanimously.

C.3 Fishery Management Plan (FMP) Amendments to Implement Annual Catch Limit (ACL) Requirements

C.3.a Agenda Item Overview (03/08/09; 2:20 p.m.)

Mr. Burner provided the agenda item overview.

C.3.b Reports and Comments of Agencies and Advisory Bodies

Mr. Okoniewski provided Agenda Item C.3.b, Supplemental CPSAS Report. Dr. Steve Ralston provided Agenda Item C.3.b, Supplemental SSC Report. Mr. Burner read Agenda Item C.3.b, Supplemental CPSMT Report.

C.3.c Public Comment

Ms. Dianne Pleschner-Steele, California Wetfish Producers Association, Buellton, CA
Mr. Ben Enticknap, Oceana, Portland, OR

Mr. Enticknap's comments included a request that the Council consider the inclusion of a wide variety of forage species as Ecosystem Components in the CPS FMP.

C.3.d Council Action: Scope and Plan FMP Amendments to Implement ACL Requirements

Dr. McIsaac asked if the analysis of the proposed amendment under National Environmental Policy Act (NEPA) would involve an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Mr. Burner envisioned first completing an EA as an initial investigation into the significance of the impacts. At that time, the determination on whether an EIS is required would be made.

Ms. Vojkovich appreciated the input of the advisory bodies and requested some guidance on how best to proceed; in particular, she was interested in what guidance the Council may be giving on future workload.

Dr. McIsaac reviewed the schedule in Agenda Item C.3.a, Attachment 3. He noted that this is a scoping session for items to be considered in the CPS amendment process. The Council has heard from its advisory bodies and the public, including the Oceana request to include additional forage species in the CPS FMP. The Council is tasked with reviewing the revised National Standard 1 (NS1) guidance, taking scoping comments on the proposed FMP amendment, identifying additional issues for future analysis, and providing guidance on the amendment schedule.

Mr. Wolford expressed some reservation with including a broad range of forage species in the CPS FMP as Ecosystem Components. He noted that some forage species, such as smelt, are harvested recreationally and therefore may fall outside the intended use of the Ecosystem Component category in the NS1 guidance. He requested a thorough review of forage species when developing alternatives.

Mr. Anderson noted that under this agenda item there are topics of broad application of NS1 guidelines and Magnuson-Stevens Act (MSA) requirements across all Council management and others specific to CPS. He would prefer separation of the two categories in future discussions. He spoke to the Oceana request regarding the use of Ecosystem Components and expressed an interest in exploring the use to the Ecosystem Components category in all of the Council's FMPs.

Ms. Vojkovich reviewed the list of issues identified in the Coastal Pelagic Species Advisory Subpanel (CPSAS) and CPSMT reports under Agenda Item C.3.b, and noted that, although the items listed are of importance to Council CPS management, she expressed concern with the amount of work required to address them all in this amendment. She suggested that the Council first address the items that are directly related to meeting the MSA requirement and the NS1 guidelines and take up the other items such as those relating to improved landings reporting only after the core items are completed.

Mr. Moore asked which of the schedules presented in Agenda Item C.3.a, Attachment 3 the Council will be working under. Dr. McIsaac noted that the Council will likely proceed under the "moderate" schedule which would have this matter on the Council's September 2009 agenda. Mr. Burner noted that the November meeting traditionally includes more CPS business and there may be some efficiency to next addressing this amendment process then. Dr. McIsaac noted that the Council will make specific recommendations on scheduling under Agenda Item I.3, Future Council Meeting Agenda and Workload Planning.

D. Salmon Management

D.1 Review of 2008 Fisheries and Summary of 2009 Stock Abundance Estimates

D.1.a Report of the Salmon Technical Team (STT) (03/08/09; 3:58 p.m.)

Dr. Robert Kope reviewed the results of the stock assessment and fisheries evaluation for 2008 (Review of 2008 Ocean Salmon Fisheries) and the stock abundance projections for 2009

(Preseason Report I). He noted there was an update to the Queets River coho forecast, that was 31,400. The Snohomish and Stillaguamish natural coho forecasts were below the FMP conservation objective.

Mr. Williams asked for clarification of the lower than expected Klamath River fall Chinook (KRFC) spawning escapement in 2008. Dr. Kope replied the natural component of age-4 fish was about half the forecast and the hatchery component was less than half, resulting in failure to meet the 2008 objective of 40,700 natural area spawners and the fishery management plan (FMP) floor of 35,000.

Dr. McIsaac asked what the escapement to the Shasta Scott and Salmon rivers was in 2008. Dr. Kope replied all three had escapement comparable to 2007, which was relatively strong.

Mr. Roth asked what the returns to Sacramento Basin hatcheries were. Dr. Kope replied that Coleman, Nimbus, and Feather River all made their egg take although the numbers of spawners was below objectives.

Ms. Vojkovich asked what the status of KRFC was in 2009 compared to earlier forecasts. Dr. Kope replied abundance was good, similar to the 2004 brood.

D.1.b Reports and Comments of Agencies and Advisory Bodies

Dr. Peter Lawson presented Agenda Item D.1.b, Supplemental SSC Report D.1.b.

D.1.c Public Comment

Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA

D.1.d Council Action: Review and Discuss Relevant Fishery Information and Act on 2009 Abundance Estimates as Necessary

Ms. Vojkovich moved (Motion 5) to accept the abundance forecasts in Preseason Report I for use in modeling fisheries in 2009. Mr. Frank Lockhart seconded the motion; Motion 5 passed unanimously.

D.2 Identification of Stocks Not Meeting Conservation Objectives

D.2.a Agenda Item Overview (03/09/09; 8:05 a.m.)

Mr. Chuck Tracy presented the agenda item overview.

D.2.b Reports and Comments of Agencies and Advisory Bodies

Dr. Kope presented Agenda Item D.2.b, Supplemental STT Report, along with Table I-3 of Preseason Report I. Dr. Kope reported the following updates to Table I-3:

- 2008 Grays Harbor fall Chinook escapement was 13,700, below the FMP conservation objective;

- 2008 Queets fall Chinook escapement was 3,000, which achieved the FMP conservation objective;
- 2008 Grays Harbor coho escapement was 27,900, below the FMP conservation objective;
- 2008 Queets coho escapement was in the range of 4,300 to 4,700, below the FMP objective.

Mr. Anderson noted he had been provided a spawning escapement estimate for Grays Harbor coho of 36,154, which is above the FMP conservation objective.

Dr. Pete Lawson presented Agenda Item D.2.b, Supplemental SSC Report.

Mr. Lockhart reported NMFS sent a letter to the Council Executive Director in February clarifying the status KRFC. The letter noted that the Salmon FMP did not clearly specify Council action after an overfishing concern occurred and the Salmon Technical Team (STT) assessment was completed. NMFS staff discussed whether KRFC was or was not overfished or rebuilding. The letter details how NMFS interpreted the status of KRFC with regard to the report to Congress on overfished stocks, which was not overfished but rebuilding, because of achieving the conservation objective in 2007. The letter also recommended the Council address the status determination criteria in the FMP to reduce future confusion.

Dr. McIsaac asked if the letter was in the briefing materials. Mr Tracy replied it was under Agenda Item D.6.

Dr. McIsaac asked what the status was of the rebuilding plan for KRFC. Mr. Lockhart replied the rule is still in review and would not be finalized prior to final Council action on 2009 management measures in April.

Ms. Vojkovich asked if the overfishing concern would continue while KRFC was rebuilding. Mr. Lockhart replied yes.

Mr. Anderson noted the Washington coastal Chinook stocks were harvested at very low levels in Council Area and freshwater fisheries, and no further action by the Council could make a significant difference in meeting the FMP conservation objective. The new Pacific Salmon Treaty (PST) Chinook annex should result in reductions from West Coast Vancouver Island (WCVI) and Southeast Alaska (SEAK) fisheries and contribute to increased spawning escapements for these stocks. The state and tribes are working on better harvest rate estimates for Queets coho, and should be able to meet the FMP conservation objective in 2009 given the large forecast. The state is also working with the tribes to constrain harvest and with local governments to improve habitat conditions for Grays Harbor Chinook.

Mr. Steve Williams noted a number of stocks may benefit from the new PST Chinook annex; including north Oregon coastal Chinook; the state has also constrained river and estuary fisheries to improve the status of those stocks.

D.2.c Public Comment

None.

D.2.d Council Action: Direct Necessary Actions Required by the Salmon Fishery Management Plan

Mr. Anderson asked for confirmation of the harvest rate on Strait of Juan de Fuca coho in Council managed fisheries. He then asked for clarification on the requirement for a formal assessment of Stillaguamish coho. Mr. Tracy replied that the Section 3.2.2.2 of the FMP (Attachment 1, Agenda Item D.2.a) required the Council to request an assessment from pertinent state and tribal managers if a stock had triggered a conservation alert and also failed to meet its FMP conservation objective for two consecutive years.

Mr. Lockhart asked what would be required if the Council adopted management measures that would result in SRFC falling below its FMP conservation objective. Mr. Tracy replied the Council would need to request an emergency rule, and since it had failed to meet its FMP conservation objective in the most recent two years, a formal assessment would also be required.

Mr. Anderson asked for clarification on the responsible parties for completing the necessary assessments. Mr. Tracy replied that for Queets, Western Strait of Juan de Fuca, and potentially Grays Harbor coho, the STT would be responsible for the assessment since they had triggered an overfishing concern. For Snohomish coho, the Council should request the State of Washington and the Tulalip and Swinomish tribes to complete an assessment since that stock had triggered a conservation alert.

Dr. McIsaac asked if the determination for a conservation alert for SRFC would occur after final Council action in April. Mr. Tracy replied yes.

D.3 Identification of Management Objectives and Preliminary Definition of 2009 Salmon Management Options

D.3.a Agenda Item Overview (03/09/09; 10:38 a.m.)

Mr. Tracy presented the agenda item overview.

D.3.b Report of the Pacific Salmon Commission

Mr. Gordy Williams provided a brief update on the Pacific Salmon Commission (PSC) process, noting the Endangered Species Act (ESA) Biological Opinion (BO) covering the new PST Chinook agreement was received, which is in place for 2009 through 2018. The coho agreement was also updated and will be in place through 2018. The Fraser River sockeye and Pink salmon agreement is still under negotiation. U.S. and Canada are in the process of seeking funds for research and monitoring programs outlined in the agreement.

D.3.c NMFS Recommendations

Mr. Lockhart recommended at least one of the management options the Council develops for public review should include no ocean Chinook fishing south of Cape Falcon.

Dr. Peter Dygert recommended the Council consider recommending inseason action to modify commercial and recreational fisheries from Cape Falcon to the OR/CA border which are scheduled to open March 15, 2009.

Dr. Dygert presented Agenda Item D.3.c, Supplemental NMFS Report 2.

Dr. McIsaac asked how NMFS viewed Council involvement in the ESA recovery planning process for the lower Columbia River and for Sacramento River winter Chinook. Dr. Dygert replied the BO process is coordinated with the states and tribes, through which the Council could offer comments.

Mr. Steve Williams asked what issues need to be resolved for the lower Columbia River natural coho harvest matrix. Dr. Dygert replied the recovery plan needs to be completed; NMFS is reviewing the proposed Oregon recovery plan. Stock representation issues with the Clackamas and Sandy River may need to be broadened, and full seeding levels calibrated. Differences in harvest rate estimation procedures and metrics for in-river and ocean fisheries need to be resolved.

Mr. Anderson noted efforts to reform hatchery practices were necessary to continue hatchery production and fisheries. The alternative is that Federal funding for those programs would be cut.

Drs. Churchill Grimes and Peter Lawson presented Agenda Item D.3.c, NMFS Report 1 and a Powerpoint presentation, available on the Council's website at:
http://www.pcouncil.org/bb/2009/0309/D3c_SUP_NMFS_PPT_0309.pdf.

Mr. Hansen asked if the genetic stock identification (GSI) study required funding to be spent in 2009. Dr. Grimes replied the Saltonstall-Kennedy funds could be carried over.

Mr. Hansen asked if a bubble fishery for KRFC could be monitored with GSI. Dr. Lawson replied yes.

Mr. Moore asked if the whiting fishery would continue to be sampled for GSI. Dr. Lawson replied yes, and that a considerable backlog of samples would continue to be processed.

Mr. Williams asked what level of participation was necessary to achieve study objectives. Dr. Lawson replied interest has been on the level of 150-180 in Oregon.

Ms. Vojkovich asked what fishery benefits would accrue from the three levels of GSI study proposed. Dr. Lawson replied that in 2009 on the order of 10 to 20 boats in Oregon and about the same in California. The lowest level study would have no contact or impacts to salmon, but would benefit the technological and logistical process for future studies.

Mr. Lockhart asked when study benefits would be realized for managing fisheries. Dr. Lawson replied probably in five years.

Mr. Lockhart asked if there would be substantial benefit to sampling in a year when SRFC were a much smaller than average proportion of the total catch, or conversely if there would be little loss if the study was delayed. Dr. Lawson replied there would be benefits in such a year, but if the study was delayed the lost benefits could be recovered in time.

Dr. McIsaac asked if the infrastructure was in place for running the sampling program in California. Dr. Grimes replied yes, the same as in 2007.

D.3.d Tribal Recommendations (03/09/09; 1:15 p.m.)

Messrs. Stuart Ellis, Herb Jackson, Raphael Bill, and Bruce Jim representing the four Columbia River Treaty Tribes presented Agenda Item D.3.d, Supplemental Tribal Comment 2.

Mr. David Sones noted there is great concern from the Columbia River tribes and other Northwest tribes about the use of mark-selective fisheries; there were concerns that the monitoring agencies have not been able to answer the tribes' questions about selective fisheries. The tribes question if selective fisheries are meeting all of the needs of the species we are trying to protect and whether there is enough technical information to move forward with selective fisheries.

Messrs. Billy Matilton and George Kautsky of Hoopa Valley Tribal Fisheries Department presented Agenda Item D.3.d, Supplemental Hoopa Valley Tribe Report.

Mr. Dave Hillemeier reported that the Yurok Tribe did not support the Council adopted criterion for ending the KRFC overfishing concern of two consecutive years with a natural area spawning escapement of at least 40,700 adults. As a result the Yurok Tribe managed its 2008 fisheries for an escapement of 35,000 natural area spawners. Actual catch was less than the allocation for either of those objectives, and therefore the management of the Yurok tribal fishery in 2008 was not related to the spawning escapement shortfall of KRFC in 2008. For 2009 the Yurok Tribe recommended a precautionary approach to setting fall ocean fisheries as recommended in the KRFC rebuilding plan.

Mr. David Sones presented Agenda Item D.3.d, Supplemental Tribal Report 3.

D.3.e State Agencies Recommendations

Mr. Anderson, presented Agenda Item D.3.d/e, Supplemental WDFW/Tribal Recommendations.

He noted that mass marking programs were necessary to carry out hatchery reform policies and ensure recovery of natural spawning populations. Mass marking also allows for mark-selective fisheries in mixed stock fisheries. Without mass marking and mark-selective fisheries, WDFW and Federal agencies were unlikely to continue funding large hatchery programs if the results were large hatchery surpluses and hatchery fish interbreeding with natural origin fish. WDFW respects the rights of the treaty tribes and will not suggest anything that would violate those obligations. WDFW understands the concerns of the tribes over mass-marking and mark-selective fisheries, but without this tool, state fisheries and coastal communities would be much less viable.

Mr. Steve Williams concurred with Mr. Anderson's testimony about mark-selective fisheries.

D.3.f Report of the Salmon Advisory Subpanel

Messrs. Butch Smith, Jim Olson, Paul Heikkila, Duncan MacLean, Steve Watrous, Richard Heap, Mike Sorenson, and Craig Stone presented Agenda Item D.3.f, Supplemental SAS Report.

Mr. Olson noted the following corrections:

- Page 2, U.S./Canada border to Cape Falcon commercial fishery, Option II: Underlined text should apply from August 1-15 only.
- Page 1, U.S./Canada border to Cape Falcon commercial fishery, Option III, Supplemental management information bullet 2 should read "Non-Indian commercial troll TAC: 10,000 Chinook....," not "20,000 Chinook..."

Mr. Heikkila noted the following corrections:

- Page 4, Cape Falcon to Humbug Mt. commercial fishery, Option III, September 1 through October 31: Closed.
- Page 5, Humbug Mt. to Oregon/California Border commercial fishery, Option II: change the Chinook quota to 1,500, not 1,000.
- Page 5, Humbug Mt. to Oregon/California Border commercial fishery, Option III: Closed.

Mr. MacLean stated that Option I was the Salmon Advisory Subpanel (SAS) preferred option for commercial fisheries south of the Oregon/California border.

Mr. Ortmann stated his assumption that there would be no regulations or Council action required to implement the GSI study in Option III since no fishing would take place, but the Council would support the research. The Council concurred.

Mr. Watrous noted the following corrections:

- Page 10, Cape Alava to Queets River recreational fishery, Option III: Open seven days per week beginning September 19.

Mr. Sorenson noted the following corrections:

- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option I: replace underlined text "...release of legal fish prohibited, the first two legal fish caught per day must be retained..." with "...two fish per day..."
- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option II, Supplemental Management Information Bullet 5: replace 92,000 with 95,000.
- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option III, Supplemental Management Information: delete bullet 5.

Mr. Williams noted the state of Oregon is considering inland recreational fisheries permitting the retention of unmarked coho to take advantage of the large forecast of Oregon coastal natural coho.

Mr. Stone noted the following corrections:

Page 14, Horse Mt. to Point Arena recreational fishery, Option I: change February 13 to April 3.

D.3.g Reports and Comments of Advisory Bodies

None.

D.3.h Public Comment

Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA

Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA

D.3.i Council Recommendations for Initial Options for STT Collation and Description

Mr. Sones directed the STT to collate the following options for the treaty Indian ocean salmon fisheries in 2009:

Option I: 80,000 coho and 45,000 Chinook with 22,500 in the May-June Chinook directed fishery and the remainder in the July-September all species fishery.

Option II: 70,000 coho and 35,000 Chinook with 17,500 in the May-June Chinook directed fishery and the remainder in the July-September all species fishery.

Option III: 60,000 coho and 25,000 Chinook with 12,500 in the May-June Chinook directed fishery and the remainder in the July-September all species fishery.

Mr. Anderson directed the STT collate the non-Indian commercial and recreational ocean salmon options for the area between the U.S./Canada border and Cape Falcon as presented in Agenda Item D.3.f with the corrections noted during the SAS presentation.

Mr. Anderson noted his concern for Snohomish and Stillaguamish coho and the possibility for changing the coho quotas during the week to address those concerns.

Mr. Williams directed the STT collate the non-Indian commercial and recreational ocean salmon options for the area between Cape Falcon and the Oregon/California border as presented in Agenda Item D.3.f with the corrections noted during the SAS presentation, and to model the Option II GSI study during the four week period between May 1 and August 31 with the lowest Sacramento River fall Chinook (SRFC) impacts.

Ms. Vojkovich directed the STT to collate the non-Indian commercial and recreational ocean salmon options for the area between Oregon/California border and the U.S./Mexico border as presented in Agenda Item D.3.f with the corrections noted during the SAS presentation, and to model a Klamath River recreational fishery allocation of 15 percent in all three Options and model a Sacramento Basin recreational fishery allocation of 1,200 in Option I and zero in Options II and III. She also requested the STT provide separate estimates of SRFC impacts for the coho and Chinook directed fisheries in the Klamath Management Zone.

Mr. Anderson noted a correction to Table I-3 of Preseason Report I: the 2007 Snohomish natural coho escapement should have been 118,600 rather than 18,600, which means it did meet its FMP conservation objective in that year and therefore does not necessitate a formal assessment. The

Quinalt Indian Nation and WDFW technical staff reached agreement on 2008 Grays Harbor natural coho spawning escapement of 37,287, which achieves the FMP conservation objective, and therefore that stock had not triggered an overfishing concern.

Dr. McIsaac noted the Council direction meets the NMFS guidance in Agenda Item H.3.c, Supplemental NMFS Report 2, for targeting a natural spawning escapement of 40,700 adult KRFC.

D.4 Council Recommendations for 2009 Management Option Analysis

D.4.a Agenda Item Overview (03/10/09; 3:26 p.m.)

Mr. Tracy presented the agenda item overview.

D.4.b Report of the STT

Dr. Kope presented Agenda Item D.4.b, Supplemental STT Report, and noted that on page 19, Option II, the SRFC ocean commercial impacts should be 0.5, not 0.4, and on pages 23 and 24, Option II the SRFC impacts should be 96 not 48.

Mr. Wolford asked if the assumption for no retention of SRFC in river fisheries included any incidental mortality from non-salmon fisheries. Dr. Kope replied no.

Dr. McIsaac asked if the river recreational fishery in the Klamath could achieve an allocation of 30,000. Dr. Kope replied no, the 30,000 recreational allocation facilitated the tribal allocation.

Mr. Anderson asked if the Lower Columbia River natural (LRN) coho impacts assumed an ocean/inriver allocation sharing of two-thirds to one third. Dr. Kope replied yes.

Mr. Gordy Williams asked if the mark-selective Chinook fisheries in Agenda Item H.4.b, Supplemental STT Report, constituted low intensity fisheries, which would not result in biased results from the Chinook Fishery Regulation Assessment Model (FRAM). Dr. Kope replied yes. Mr. Anderson replied the monitoring and enforcement programs in place were designed to acquire information to assess the impacts of low intensity mark-selective fisheries contemplated for 2009, and that the SSC affirmed the Chinook FRAM was able to model such fisheries accurately.

D.4.c Reports and Comments of Agencies and Advisory Bodies

None.

D.4.d Public Comment

None.

D.4.e Council Direction to the STT and Salmon Advisory Subpanel on Options Development and Analysis

Mr. Anderson directed the STT to model non-Indian ocean fisheries north of Cape Falcon as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Pages 1 and 10, Option I, Supplemental Management Information, Bullet 1: change the Chinook TAC from 60,000 to 58,000 and the coho TAC from 25,000 to 22,5000.
- Pages 1 and 10, Option II, Supplemental Management Information, Bullet 1: change the Chinook TAC from 40,000 to 45,000.
- Pages 10 and 11, U.S./Canada Border to Cape Alava and Cape Alava to Queets River recreational fisheries, Option I: change "...marked Chinook (C.5)" to "...Chinook (C.5)", and change "All retained Chinook and coho..." to "All retained coho..."

Mr. Sones directed the STT to model treaty Indian ocean fisheries north of Cape Falcon as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Page 17, Option I, Supplemental Management Information, Bullet 1: change the coho TAC from 80,000 to 70,000.
- Page 17, Option II, Supplemental Management Information, Bullet 1: change the Chinook TAC from 35,000 to 37,500.

Mr. Williams directed the STT to model non-Indian ocean fisheries between Cape Falcon and the Oregon/California border as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Pages 4 and 12, Option I, Supplemental Management Information, Bullets 4 and 5: change the overall recreational coho TAC from 140,000 to 137,000 and the commercial coho TAC from 15,000 to 14,000.
- Page 5, Cape Falcon to Oregon/California Border commercial fishery, Option I: Close the GSI fishery.
- Page 12, Cape Falcon to Humbug Mt. recreational fishery, Option I, second bullet: change the coho quota from 10,000 to 7,000.
- Page 13, Humbug Mt. to Oregon/California Border recreational fishery, second bullet: Option I, delete July 3-6; Option II, Change August 15 to August 29; Option III, eliminate the August 29 through September 7 season.

Mr. Wolford requested the STT to provide any information available on the impacts of fall fisheries south of Cape Falcon on 2010 escapement of SRFC and KRFC.

Ms. Vojkovich directed the STT to model non-Indian fisheries between the Oregon/California border and the U.S./Mexico border as in Agenda Item D.4.b, Supplemental STT report with the following changes:

- Page 6, Options II and III: delete the GSI fisheries.
- Page 13, Oregon/California Border to Horse Mt. recreational fishery: Option I change open dates to August 29 to September 7; Option II and III are closed.

Ms. Vojkovich noted the California options for 2009 include two that are completely closed, including the river fisheries. California is focused on achieving the SRFC conservation

objective. GSI information is important for future management but not worth the risk given the few surplus fish available in 2009. She requested Oregon consider one option that is completely closed, the potential impacts of fall fisheries to 2010 fisheries, and reducing the number of days on the water in one coho option to reduce SRFC impacts.

Mr. Williams noted the Oregon coho fisheries represent a high priority for 2009.

D.5 Council Direction for 2009 Management Options

D.5.a Agenda Item Overview (03/11/09; 1:44 p.m.)

Mr. Tracy presented the agenda item overview.

D.5.b Report of the STT (2:30 p.m.)

Dr. Kope presented Agenda Item D.5.b, Supplemental STT Report.

D.5.c Reports and Comments of Agencies and Advisory Bodies

None.

D.5.d Public Comment

None.

D.5.e Council Guidance and Direction

Ms. Vojkovich requested Oregon align its Klamath Management Zone recreational fishery options with California's. She reported that based on coded-wire-tag (CWT) recoveries, the November-December river fishery targeting on late-fall stock Sacramento Chinook could reduce 2009 impacts to SRFC to less than 5 percent of the catch, or about 65 SRFC, if the fishery started after November 21. Option I should be modeled with a river allocation range of 1,200 to 65 SRFC.

Mr. Williams directed the STT to model non-Indian ocean fisheries between Cape Falcon and the Oregon/California border as in Agenda Item D.5.b, Supplemental STT report with the following changes:

- Pages 3 and 10, Option I, Supplemental Management Information, Bullets 4 and 5: change the overall recreational coho TAC from 137,000 to 117,000 and the commercial coho TAC from 14,000 to 11,000.
- Page 3, Cape Falcon to Humbug Mt. commercial fishery, Option I: change the closing date from October 31 to September 30; add landing and possession limits of 100 Chinook and 100 coho per vessel per calendar week.
- Page 3, Cape Falcon to Humbug Mt. commercial fishery, Option II: change the closing date from October 31 to September 30; change the landing and possession limits of 100 Chinook and 50 coho per vessel per calendar week to 50 Chinook and 100 coho.
- Page 3, Cape Falcon to Humbug Mt. commercial fishery, Option III: closed.

- Page 4, Cascade Head to Florence South Jetty commercial GSI fishery, Option II: closed.
- Page 4, Humbug Mt. to Oregon/California Border commercial fishery, Option I: change the opening date from September 1 to September 8; change the Chinook quota from 3,000 to 1,000; change the landing and possession limit of 100 Chinook per vessel per calendar week to 50 Chinook.
- Page 4, Humbug Mt. to Oregon/California Border commercial fishery, Option II: change the Chinook quota from 1,000 to 500; change the landing and possession limit of 50 Chinook per vessel per calendar week to 25 Chinook.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option I, first bullet: change the coho quota from 130,000 to 110,000; add bag limit to potential inseason adjustments.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option II, first bullet: add bag limit to potential inseason adjustments.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option III, first bullet: change the open dates from June 20 through August 31 to July 1 through August 30; change seven days per week to Wednesday through Sunday; add bag limit to potential inseason adjustments.
- Page 10, Cape Falcon to Humbug Mt. recreational fishery, Option III, second bullet: add open seven days per week; allow transfer of unused coho quota from the July-August recreational fishery.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Option I, first bullet: change the coho quota from 130,000 to 110,000.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Option I, second bullet: change the opening date from August 15 to August 29.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Option III, first bullet: change the open dates from June 20 through August 31 to July 1 through August 30; change seven days per week to Wednesday through Sunday.

Mr. Lockhart asked what the status of GSI research would be. Mr. Williams replied there would be none except what could be accomplished during open commercial seasons.

Mr. Tracy asked if the no impact GSI fishery on page 3 Option III would remain. Mr. Williams replied yes.

Mr. Lockhart requested Mr. Williams consider retaining the GSI study on page 4 Option II but moving it to Option I. Mr. Williams replied that would encompass a broader range for the options but may result in not meeting the conservation objective for SRFC.

Mr. Lockhart noted that in the past, options that did not meet all the FMP conservation objectives have been adopted for public review. Mr. Williams responded by modifying his guidance to move the page 4 GSI study in Option II to Option I rather than deleting it.

Mr. Anderson noted the bolded numbers for Skagit, Stillaguamish, and Snohomish coho on page 17 indicated a projected failure to meet the FMP conservation objectives, while the FMP allowed annual management targets to differ from the FMP objectives if agreed to by the parties of U.S. v. Washington, as was the case in 2009 based on Agenda Item D.3.d./e., Supplemental WDFW/Tribal Recommendations, and subsequent guidance to the STT. He recommended

additional discussion of the issue as it relates to triggering a conservation alert or an overfishing concern.

D.6 Fishery Management Plan Amendments to Implement ACL Requirements

D.6.a Agenda Item Overview (03/12/09; 1:58 p.m.)

Mr. Tracy presented the agenda item overview.

D.6.b Reports and Comments of Agencies and Advisory Bodies

Mr. Lockhart presented Agenda Item D.6.b, Supplemental NMFS Report.

Mr. Tracy read into the record Agenda Item D.6.b, Supplemental SSC Report.

Dr. Kope presented Agenda Item D.6.b, Supplemental STT Report.

Mr. Richard Heap presented Agenda Item D.6.b, Supplemental SAS Report.

Mr. Lockhart recommended NOAA General Council advise staff on the topic of exceptions to the annual catch limit (ACL) and accountability measure (AM) requirements. Ms. Cooney agreed.

D.6.c Public Comment

None.

D.6.d Council Action: Scope and Plan FMP amendments to Implement ACL Requirements

Mr. Anderson moved (Motion 33) to recommend staff include in an FMP amendment the major elements in Agenda Item D.6.a, Attachment 2 and the three advisory body reports, Agenda Items D.6.b, Supplemental SSC Report, Supplemental STT Report, and Supplemental SAS Report, and in addition, address the issue of the conservation alert requirement to completely close fisheries impacting the stock by including a *de minimis* fishery provision. The process should follow the moderate schedule in Attachment 2 with a target completion date of November 2010. Mr. Cedergreen seconded the motion.

Motion 33 passed unanimously.

D.7 Adoption of 2009 Management Options for Public Review

D.7.a Agenda Item Overview (03/12/09; 2:23 p.m.)

Mr. Tracy presented the agenda item overview.

D.7.b Report of the STT

Dr. Kope presented Agenda Item D.7.b, Supplemental STT Report. He noted that the SRFC conservation objective was not met only in Option I with an assumed river harvest of 65 SRFC. All options for other stocks met the annual conservation objectives.

D.7.c Reports and Comments of Agencies and Advisory Bodies

Mr. Bruce Jim presented Agenda Item D.7.c, Supplemental Tribal Comment 2.

Mr. Anderson stated that WDFW would like to meet with the Columbia River Technical Advisory Committee to discuss the capability of the Chinook FRAM to model mark-selective ocean fisheries, and to discuss the monitoring and evaluation programs associated with implementing ocean salmon fisheries.

Mr. Mike Orcutt and Mr. Billy Matilton presented Agenda Item D.7.c, Supplemental Comments of Hoopa Valley Tribe.

D.7.d Public Comment

Mr. Paul Pierce, Coastside Fishing Club, San Leandro, CA

Mr. Duncan MacLean, F/V Barbara Faye, El Granada, CA

D.7.e Council Action: Adopt Management Options for Public Review

Mr. Anderson moved (Motion 34) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and non-Indian commercial ocean salmon fisheries in the area north of Cape Falcon.

Mr. Cedergreen seconded the motion; Motion 34 passed unanimously.

Mr. Steve Williams asked if an emergency rule would be required to implement fisheries that failed to meet the conservation objective for SRFC. Mr. Lockhart replied yes.

Mr. Steve Williams moved (Motion 35) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and non-Indian commercial ocean salmon fisheries in the area between Cape Falcon and the Oregon/California border with the following changes:

- Page 4, Cape Falcon to Oregon/California Border commercial fishery, Option I: delete the GSI fishery.
- Pages 10 and 11, Cape Falcon to Humbug Mt. and Humbug Mt. to Oregon/California Border recreational fishery, Option I, first bullet: change the opening date from June 20 to July 1.
- Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Options I, II, and III: eliminate the 2010 fishery opening on March 15.
- Page 13, C.6: delete the second sentence, which limits Oregon State water fisheries to Chinook only.

Mr. Warrens seconded the motion.

Ms. Vojkovich asked if the range of alternatives that go out for public review requires a no fishing option south of Cape Falcon for the Council to consider such an option at the April meeting. Ms. Cooney replied that if new information was received between the March and April Council meetings that required a no fishing option, the Council could consider it.

Ms. Vojkovich asked if Oregon had considered restriction of fall fisheries as recommended in the KRFC rebuilding plan. Mr. Steve Williams replied yes, in Option III there was no commercial harvest and no directed recreational Chinook fishing.

Mr. Lockhart asked if Oregon would be opposed to requesting public comment on a no fishing option south of Cape Falcon. Mr. Steve Williams replied no.

Dr. McIsaac asked if there was a need to justify an emergency rule at the March meeting. Ms. Cooney replied no, but noting the potential need pending further information prior to the April meeting would allow the public to comment on that issue.

Mr. Steve Williams asked what form that notice would take. Mr. Tracy replied it would appear in Preseason Report II.

Ms. Vojkovich stated she would not support an option package having no opportunity for California fisheries in one option while there was opportunity for Oregon fisheries in all options.

Motion 35 passed. Ms. Vojkovich, Ms. Fosmark, and Mr. Wolford voted no.

Ms. Vojkovich moved (Motion 36) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and commercial ocean salmon fisheries in the area between the Oregon/California border and the U.S./Mexico border.

Ms. Fosmark seconded the motion; Motion 36 passed unanimously.

Mr. Sones moved (Motion 37) to adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report, for the treaty Indian ocean salmon fisheries in the area north of Cape Falcon.

Mr. Anderson seconded the motion; Motion 37 passed unanimously.

Mr. Wolford moved (Motion 38) to have the Council forward a letter to the California Fish and Game Commission (CFGF) stating the Council's opposition to an in-river salmon fishery in the Sacramento River based on the status of SRFC and the consequences of not achieving the conservation objective again in 2009.

Mr. Cedergreen seconded the motion; Motion 38 passed unanimously.

Mr. Tracy asked for clarification about the assumed impacts on SRFC in river fisheries, which included a range of impacts from 65 to 1,200. Ms. Vojkovich replied the CFGF had the

flexibility to choose a river fishery with impacts within that range, and that the associated escapement projections for SRFC should be presented in the option package

Mr. Tracy noted that if the package contained an option that failed to meet the SRFC conservation objective then the Council should formally justify the need for an emergency rule.

Ms. Vojkovich asked if the emergency rule justification was needed prior to public review or when the Council took final action. Dr. McIsaac replied it would be required prior to public review.

Ms. Cooney stated the record would require justifying the need for an emergency rule at some point, and that the public should be made aware of that possibility during the comment period.

Mr. Steve Williams noted the changes made to Oregon season options were intended to avoid the need for an emergency rule; if that was not the case he may request additional changes to the option package.

Mr. Lockhart suggested including the emergency rule criteria in Preseason Report II and noting the public may wish to comment on the possible need for an emergency rule.

Mr. Williams asked if the CFGC would take action prior to Council final action in April. Ms. Vojkovich replied no.

Mr. Tracy suggested the Council state their assumption for the river fishery and then address the need for other considerations in Preseason Report II. Ms. Cooney suggested the modeling results for both the upper and lower end of the range be presented in Preseason Report II

Mr. Steve Williams recommended noting the situation in Preseason Report II and requesting public comment. Mr. Lockhart agreed.

Mr. Anderson recommended presenting three points in Preseason Report II: 1) the freshwater fisheries impacts assumed for modeling purposes; 2) acknowledgement that CDFG will determine actual impacts at a meeting in April, which could result in greater impacts than assumed for modeling purposes; and 3) if that happens, the Council adopted regulations would need to be implemented by emergency rule, pending justification according to the criteria in the Council Operating Procedure 10 (Agenda Item D.3.a, Attachment 2) and the NMFS final rule (Agenda Item D.3.a, Attachment 3). Council concurred.

D.8 Salmon Hearings Officers

D.8.a Agenda Item Overview (03/12/09; 3:55 p.m.)

Mr. Tracy presented the agenda item overview.

D.8.b Council Action: Appoint Hearings Officers

Chairman Hansen appointed the hearing officers as follows:

Washington – Mr. Mark Cedergreen, Hearings Officer; Mr. Doug Milward, STT representative; Dr. Peter Dygert, NMFS representative.

Oregon – Mr. Frank Warrens, Hearings Officer; Mr. Craig Foster, STT representative; Ms. Peggy Busby, NMFS representative.

California – Mr. Dan Wolford, Hearings Officer; Mr. Chuck Tracy, STT representative; Mr. Mark Helvey, NMFS representative.

E. Enforcement Issues

E.1 U.S. Coast Guard Annual West Coast Fishery Enforcement Report

E.1.a Agenda Item Overview (03/09/09; 9:15 a.m.)

Mr. Jim Seger announced that RADM John Currier was present to make a presentation to the Council.

E.1.b Annual U.S. Coast Guard Fishery Enforcement Report

RADM John Currier was introduced. RADM Currier spoke about safety issues. He encouraged that the dockside inspection voluntary program be made mandatory, such as they did in Alaska. He also spoke about the number of people that lost their lives at-sea along the West Coast this past year. His concerns were the lack of safety on vessels, old or non-working safety equipment, having no safety equipment at all, expired United States Coast Guard (USCG) decals, and the increased use of illegal substances. RADM Currier spoke about budget concerns. He wanted people to understand the realities of budget cuts in the USCG and what strategies will be used to deal with those budget cuts as far as being able to monitor and protect the Pacific Exclusive Economic Zone (EEZ).

CDR Peter F. Martin and Mr. Brian Corrigan provided a powerpoint presentation of USCG activities: http://www.pcouncil.org/bb/2009/0309/E1b_USCG_0309.pdf.

E.1.c Reports and Comments of Agencies and Advisory Bodies

None.

E.1.d Public Comment

None.

E.1.e Council Discussion on USCG Annual West Coast Fishery Enforcement Report

Mr. Hansen noted that he had received no phone calls this year on illegal, unregulated, and unreported (IUU) fishing. He asked if there was any data on that. Data will be forwarded to Mr. Hansen on that issue.

F. Pacific Halibut Management

F.1 Report on the International Pacific Halibut Commission Meeting

F.1.a Agenda Item Overview (03/09/09; 3:32 p.m.)

Mr. Tracy presented the agenda item overview.

F.1.b Meeting Summary

Ms. Michele Culver presented Agenda Item F.1.b, IPHC Meeting Summary.

Dr. Bruce Leaman, Executive Director of the IPHC gave a powerpoint presentation summarizing the IPHC annual meeting process and results, and some background information on the stock status that was central to the IPHC deliberations.

Mr. Hansen asked why the growth rate of Pacific halibut has slowed. Dr. Leaman replied there were two main reasons, density dependence and increased abundance of arrowtooth flounder in the central Gulf of Alaska, which correlates well with reduced halibut growth rate.

Mr. Sones asked if the lower growth rate affects the productivity of the fishery. Dr. Leaman replied yes, particularly because male halibut never grow to legal size and so are unavailable to the fishery. The IPHC is investigating the effects of eliminating the minimum size limit to access that portion of the halibut population.

F.1.c Reports and Comments of Agencies and Advisory Bodies

None.

F.1.d Public Comment

None.

F.1.e Council Discussion

Mr. Anderson recommended Area2A representatives from the tribes, states, and NMFS attend the April 2009 IPHC biomass apportionment workshop.

F.2 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries

F.2.a Agenda Item Overview (03/09/09; 4:12 p.m.)

Mr. Tracy presented the agenda item overview.

F.2.b Reports and Comments of Agencies and Advisory Bodies

Mr. Paul Heikkila and Mr. Jim Olson presented Agenda Item F.2.b, Supplemental SAS Report.

Mr. John Holloway presented Agenda Item F.2.b, Supplemental GAP Report.

F.2.c Public Comment

Mr. Joel Kawahara, Salmon Troller, Quilcene, WA

F.2.d Council Action: Adopt Public Review Options for 2009

Mr. Anderson moved (Motion 6) to adopt for public review the options for incidental catch regulations in the 2009 non-Indian salmon troll fishery as shown in Agenda Item F.2.b, Supplemental SAS Report.

Mr. Dale Myer seconded the motion; Motion 6 passed unanimously.

Mr. Anderson moved (Motion 7) to adopt for public review a range of landing restrictions for Pacific halibut retention in the 2009 non-Indian commercial sablefish fishery north of Point Chehalis as listed in Agenda Item F.2.b, Supplemental GAP Report; with the addition of a third option of limiting pacific halibut landings to no more than 100 pounds dressed weight per trip.

Mr. Dale Myer seconded the motion.

Mr. Anderson stated that with only about 1,200 pounds of halibut available in the sablefish fishery, a broader range of options was necessary, which is why the third option was added.

Motion 7 passed unanimously.

G. Groundfish Management

G.1 Pacific Whiting Harvest Specifications and Management Measures for 2009

G.1.a Agenda Item Overview (03/10/09; 8:03 a.m.)

Mr. John DeVore provided the agenda overview.

Drs. Owen Hamel and Ian Stewart provided a PowerPoint presentation of the new 2009 Pacific whiting assessment and key results.

Mr. Rod Moore asked about the extended decision tables and why the 215,000 mt and 184,000 mt catch streams were constant catch streams after 2009. Dr. Hamel explained the interest was in projecting the effect of 2009 removals only on depletion harvest rate and spawning biomass abundance.

Mr. Moore asked about the pre-recruit survey index and Dr. Hamel said that index was not included because it was not informative. Mr. Moore asked if the STAT team factored in the high juvenile whiting bycatch in last year's shrimp fishery and Dr. Hamel said no.

Mr. Moore referred to figure 70 in the assessment and asked for an explanation of the negative log likelihood values for acoustic survey catchability (q). Dr. Stewart explained that there is substantial uncertainty in estimating q and estimates vary by few units of negative log likelihood. Mr. Moore asked about figure 69 and Dr. Stewart said the estimated value of q has a significant influence on model results. Mr. Moore asked what parameters in the model drove the estimate of q and Dr. Stewart said the selectivity blocking assumptions and the ageing error correction factors were the primary drivers in the change of scale in the assessment results. Mr. Moore noted this assessment did not benefit from a new acoustic survey and Dr. Hamel said yes, an acoustic survey will be done this year to inform next year's assessment.

Ms. Vojkovich noted there were multiple estimates of the current depletion of the stock and asked which one was correct. Dr. Hamel explained the maximum likelihood estimate (MLE) is 32 percent and the median of the posterior Bayesian estimate from the Monte Carlo Markov chain (MCMC) runs is 29 percent. He recommended the SSC should explain which estimate is used in which context. Mr. Lockhart asked why there were MLE and MCMC estimates and Dr. Hamel explained that MLE estimates are most often used but there is a recommendation from the SSC to do more Bayesian estimates. Dr. Stewart said the MLE estimate is used to determine current depletion, but the MCMC estimates are probabilistic estimates of forward projections.

Mr. Wolford asked for an explanation of Figure 68 and asked if the interpretation is that the exploitation rate is trending rapidly towards the overfishing level and Dr. Hamel said yes. He asked what explained the sudden changes in exploitation rates over time and Dr. Hamel said the emergence and disappearance of strong year classes were the factors influencing exploitation.

Mr. Anderson asked what drove the dramatic change in unexploited equilibrium biomass (B_0) and Dr. Stewart said the change in time blocking of fishery selectivity and the ageing error correction factors were applied to gain better data fits. These components changed the scale of the assessment. Mr. Anderson asked what the difference in depletion rates was in the new assessment and Dr. Hamel said the depletion rate in 2008 from last year's assessment was 38 percent and the 2008 estimate of depletion from the new assessment is 41 percent. The 2009 depletion estimate of 32 percent is due to the die-off of the strong 1999 year class. Mr. Anderson asked if the 2008 assessment detected the 2005 year class strength at a different recruitment strength than the 2009 assessment signal and Dr. Hamel said yes. This year's assessment downgraded the strength of the 2005 year class, but both estimates of recent year class strength are highly uncertain.

Mr. Myer asked if the 2005 year class showed up in the fishery data and Dr. Hamel said yes. This year class was detected in the 2007 acoustic survey and in the last two years of fishery data. The 2005 year class did not show up at all in the pre-recruit survey. Mr. Myer asked if changes in fleet behavior due to bycatch species avoidance were factored into the assessment and Dr. Hamel said the fishery selectivity flexibility is modeled by blocking the selectivity in 4-year blocks.

Mr. Moore noted the 2008 assessment benefitted from the 2007 acoustic survey and the pre-recruit survey and Dr. Hamel said that assessment did not include the pre-recruit survey. Mr. Moore asked why the 2005 year class recruitment strength was higher in the 2008 assessment than in the 2009 assessment and Dr. Hamel explained that was true, but the estimates of 2005 year class strength were highly uncertain in both assessments. One factor is the 2007 acoustic survey selectivity for two year olds (i.e., the 2005 year class) is quite low, resulting in a large abundance estimate.

Dr. McIsaac asked if the 2009 assessment assumed the fishery was avoiding the smaller fish and Dr. Hamel said the data directed the fishery selectivities. Dr. Stewart explained fishery selectivity time blocking which, in recent years, were selectivity curves held constant over four-year time periods. Dr. Hamel said that year class strength estimates improve over time since more information in surveys and fisheries on year class strength is factored into the model. Dr. McIsaac asked if more refined time blocks for fishery selectivities would provide more information and Dr. Hamel did not think it would have changed the result that much. Two-year time blocks were considered for fishery selectivities, but the STAR panel did not approve of that approach.

Dr. McIsaac asked about the MLE and MCMC estimates of depletion and asked which estimate was the best estimate of current depletion. He heard that MLE estimates are best used for current depletion estimates and MCMC estimates were best used in forward projections. Dr. Hamel explained the probabilistic distributions of both estimates are not in sync because the probability distributions are not symmetrical and the median estimates of the MLE and MCMC runs, where there is a 50 percent probability of a lower value and a 50 percent probability of a higher value, are therefore different.

Mr. Anderson asked about the Canadian reviewers' perspective at the STAR panel and Mr. DeVore said they were concerned about the downward trend in stock biomass and depletion. They wanted to apply precautionary specifications and management measures to address this concern. An alternative modeling approach reviewed by Canadian reviewers and the SSC showed similar trends in stock biomass and depletion. Mr. Anderson asked about MLE and MCMC results and which should be used. Mr. DeVore recommended posing that question to Dr. Ralston when he provides the SSC recommendations.

G.1.b Reports and Comments of Agencies and Advisory Bodies

NMFS Report

Mr. Frank Lockhart provided an update from the NMFS report. He explained that Amendment 15 was published this morning in the Federal Register. There is an error in the application dates, which will be corrected. The notice now reads that today is the application date deadline which will be extended 30 days from today in the correction notice.

Mr. Lockhart said there is a delay in implementing the Whiting Treaty Act first caused by the Canadian parliament and now in the U.S. based on a ruling that industry members cannot serve on advisory panels. That restriction will likely be addressed in legislation which will allow industry members into the process. The treaty will likely be implemented fully in a short time.

Mr. Lockhart explained there will be an EFP again this year in the shoreside whiting fishery. The Amendment 10 proposed rule will be published in the late spring/mid-summer period and should be implemented by 2010.

Fleet performance in avoiding bycatch has greatly improved in the last year. The monitoring program implemented last year worked well. NMFS will prepare a report explaining these details. Mr. Myer thanked NMFS for implementing Amendment 15. He recommended a mass notification to the fleets on this and Mr. Lockhart said that will be done.

Mr. Moore asked about monitoring the catcher vessels (CVs) in the mothership (MS) fleet and asked if that is an element in Amendment 10 and Mr. Lockhart said there will be a separate NEPA process for implementing the monitoring of these vessels. This will not be part of Amendment 10 or implemented this year.

Mr. Moore asked if 2010 will be the year of implementing the whiting treaty and Mr. Lockhart said yes.

Mr. Moore noted the shoreside whiting plant compliance monitoring caused an economic burden to the plants and asked if these impacts were analyzed. Mr. Lockhart said this was analyzed in a supplemental analysis of 100 percent coverage of the landings. This will be done this year and may occur at a lower cost to the plants. Mr. Moore noted the Council wanted full coverage of the landings, but did not anticipate compliance monitors standing around when landings are not occurring, which drives up costs. Mr. Lockhart acknowledged this.

Dr. McIsaac asked if this year's whiting management will be done under MSA or via the treaty elements. Will the current FMP management framework be used for this year? Mr. Lockhart said we are in transition and this is somewhat of a gray area. NMFS will take into account the recommendations of the Council to help decide what management framework will be used. Regardless, any decisions need to use the best available science. Therefore, there will be a need for scientific advice on what constitutes overfishing. Mr. Lockhart said there would still be discussion with the Northwest Fisheries Science Center (NWFSC) if the Council recommends harvest specifications that run counter to MSA mandate and NS1 guidelines. Ms. Cooney said the Canadian views and the MSA mandates need to be taken into account. There will be a need to stay below the overfishing threshold of $F_{40\%}$ in deciding the 2009 OY.

SSC Report

Dr. Steve Ralston provided Agenda Item G.1.b, Supplemental SSC Report.

Mr. Moore asked about the potential OY values in the SSC report and asked if the 253,582 mt value was the best ABC value and the 215,000 mt value would be the appropriate 40-10 OY and Dr. Ralston said yes. He clarified that these values are the MCMC values and incorporate all the uncertainty in the assessment. This is the most appropriate value for the ABC and 40-10 OY. Mr. Moore asked if we assume the 253,582 mt ABC and the coastwide OY of 215,000 mt would lead to a 24 percent depletion in 2010 and Dr. Ralston said yes. Mr. Moore asked if the 2009 OY is 184,000 mt and fully harvested would result in a depletion of 25 percent and Dr. Ralston

said yes and added that would be with a 50 percent probability. Mr. Moore asked for an explanation of the fishing mortality rate estimates of 1.0 vs. 0.93 and Dr. Ralston explained that is the harvest rate relative to the F_{MSY} threshold of F40 percent. Therefore, a 1.0 value is at the $F_{40\%}$ level and 0.93 is at 93 percent of the target F level.

Mr. Lockhart asked for an expanded explanation for why the SSC is recommending the MCMC values for forward projections. Dr. Ralston explained the central tendency of the MCMC projections (i.e., median values) is probabilistically at the central point in the distribution with 50 percent of the probability above the median and 50 percent below the median. These whiting projections distributions are skewed giving different MLE and MCMC estimates. They would be the same estimates if the distribution of parameter estimates was symmetrical.

Mr. Lockhart asked about the probabilities of the population collapsing with 2009 harvests of 253,582 mt or 215,000 mt and Dr. Ralston asked if by “collapsing” he meant falling below the overfished threshold and Mr. Lockhart said yes. Dr. Ralston explained that was unknown but the probability distributions provide risk-averse and risk-prone decisions.

Mr. Williams asked what happens if the stock falls below $B_{25\%}$ and Dr. Ralston said a rebuilding plan would need to be developed and decided and presumably the stock would have to be rebuilt within 10 years.

Mr. Anderson asked about the SSC statement that implies the 40-10 rule is likely to cause excursions into the overfished zone. Dr. Ralston said that is the implication of the default 40-10 and $B_{25\%}$ minimum stock size threshold (MSST) framework for whiting. It is likely different control rules need to be developed for whiting since it has extreme recruitment variability. It is likely the $B_{25\%}$ threshold is overly conservative for whiting. One could devise control rules that could more aggressively reduce harvest if the overfished threshold is attained.

Mr. Moore noted the whiting OYs have been set below the 40-10 OY for various precautionary reasons in recent years, does this mean that we have been fishing below the F_{MSY} level? Dr. Ralston said yes. Mr. Moore asked if we have been managing more conservatively than the 40-10 control rule and Dr. Ralston said yes.

GMT Report

Mr. Rob Jones and Dr. E.J. Dick provided Agenda Item G.1.b, Supplemental GMT Report.

Mr. Moore asked about the set-aside issue and assumed the data on the 2007 whiting bycatch in the shrimp fishery is new data and Mr. Jones said that is correct. He asked if we know past bycatch of whiting in the shrimp fishery and Mr. Jones says there is only anecdotal evidence that this bycatch in the shrimp fishery is increasing. Mr. Moore asked if he knew the age of the shrimp fishery whiting bycatch and he replied no, but he understands these were small fish.

Mr. Lockhart asked about the decision table and Figures 1 and 2 in the GMT report and Mr. Jones provided the explanation.

GAP Report

Mr. Dan Waldeck provided Agenda Item G.1.b, Supplemental GAP Report.

Mr. Moore noted Mr. Waldeck was the GAP representative at the 2008 and 2009 whiting STAR panels. Mr. Moore asked him if target strength of whiting in the acoustic survey was discussed and Mr. Waldeck said this was explored in depth in the 2008 STAR panel but not in the 2009 STAR panel.

Mr. Lockhart asked if the recommendation to do an MSE evaluation was similar to the SSC statement that the 40-10 rule may be inappropriate for whiting. Mr. Waldeck said that is part of the need for the MSE evaluation, but also the consideration for a more appropriate overfished threshold as stated by Dr. Ralston.

Mr. Anderson noted the majority of the GAP recommended an OY of 215,000 mt and asked about the minority opinion. Mr. Waldeck said a minority of the GAP preferred an OY of 184,000 mt.

EC Report

Chief Mike Cenci and Mr. Dayna Matthews provided Agenda Item G.1.b, Supplemental EC Report.

Mr. Moore thanked the Enforcement Consultants (EC) for their report. He asked about sensor data and thought there was only a requirement for cameras and shoreside monitoring. Mr. Matthews said that there is a hydraulic sensor that turns on the camera when the hydraulics are activated to haul back the net.

G.1.c Public Comment

Mr. Dennis Rydman, Ocean Gold Seafoods, Westport
Mr. Tom Libby, Pt. Adams Packing Company, Astoria, OR
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA
Mr. Ben Enticknap, Oceana, Portland, OR
Mr. Mike Okoniewski, Pacific Seafoods, Woodland, WA

G.1.d Council Action: Adopt Final 2009 Stock Assessment, Allowable Biological Catch, Optimum Yield, and Management Measures

Mr. Anderson moved and Mr. Lockhart seconded a motion (Motion 8) to adopt the SS3-based Pacific whiting assessment recommended by the SSC as representing the best scientific information for managing the 2009 whiting fishery.

Mr. Anderson said he is troubled by the significant difference in the assessment result from year to year. However, there were strong points brought forward by the stock assessment team (STAT) regarding why the 2009 assessment result was so different. The anecdotal evidence of strong recent year classes is encouraging but cannot be adequately assessed yet.

Mr. Moore supports the motion although somewhat reluctantly. He believes the STAT and STAR panel did a great job, but the data informing the assessment are troubling and there needs to be more work to explore such data as acoustic survey q and target strength of whiting to reduce the uncertainty in the assessment.

Mr. Myer thought statistical analysis of the q estimate would show great uncertainty and agrees with Mr. Moore's comments.

Motion 8 carried unanimously.

Ms. Vojkovich was unclear when more focused work to improve the assessment would occur. Drs. Clarke and Hastie explained the STAT and acoustics team are working through these STAR requests and have had two meetings already and a third one is planned for later this week. Dr. Clarke explained prioritizing will be required given budget realities. She does believe more work is needed to improve the acoustic survey. She plans to come back to the Council in the near future with a prioritized research plan.

Mr. Anderson asked what information should be used to decide the ABC and Mr. DeVore recommended the SSC report. Mr. Anderson asked Dr. Ralston whether the MLE estimate of 291,965 mt or the MCMC value of 253,528 mt would be the more appropriate value and Dr. Ralston said the SSC recommends an ABC of 253,582 mt.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 9) to adopt a coastwide ABC of 253,582 mt.

Motion 9 carried unanimously.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 10) to adopt a coastwide OY of 184,000 mt.

Mr. Anderson said he is concerned with the current stock status. Anecdotal information suggests there are strong recent year classes but betting on that future result would be risky in his opinion. An OY higher than 184,000 mt would be risky and would violate the NS1 guidelines in that the stock would be projected to fall under the overfished threshold at the beginning of next year. He understands the assessment uncertainty and realizes much will be learned in this year's acoustic survey. Next year's assessment should reveal the strength of the 2005 and more recent year classes. The fact that the stock is at its lowest spawning stock biomass must be heeded. There are scheduled discussions between WDFW and the tribes to discuss the tribal whiting set-aside this year.

Mr. Williams said he will support the motion and agrees with Mr. Anderson's comments. A higher OY would be risky.

Mr. Lockhart said he supports the motion and agrees with many of the points made by Mr. Anderson regarding assessment uncertainty and the risk assessment done to decide a 2009 OY.

He reminds the Council that, with sector-specific bycatch limits, we are likely to see sectors coming closer to attaining their allocations.

Mr. Moore said he will reluctantly support the motion. He doesn't necessarily believe that an OY of 184,000 mt is the correct harvest level, but the science is what it is. He is increasingly cynical of the continuing pessimism in the assessment result that is not borne out in subsequent assessments. However, there are legal limits and we must abide by them. The 184,000 mt limit is at this legal limit and should not be exceeded.

Ms. Vojkovich said she will support the motion. She also considers the value of this stock to the ecosystem and the support of Canadian managers for this level of harvest.

Mr. Sones said the tribe stopped fishing early last year because they could not avoid the small fish that were abundant last year. He emphasized the need to better assess the abundance of young fish in the whiting assessment. He agreed with the integrity of a conservative decision given the assessment uncertainty. In that spirit, he supports the motion.

Motion 10 carried unanimously.

Mr. Lockhart proposed that the Council recommend a set-aside for non-whiting, non-tribal bycatch of whiting.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 11) to adopt a 4,000 mt set-aside to account for whiting bycatch in non-tribal non-treaty fisheries.

Motion 11 carried unanimously.

Dr. McIsaac asked whether the tribal set-aside question should be addressed today and Mr. Anderson said the co-managers will meet later today on this issue and he hopes to come back to the Council later today with the results of that discussion.

Mr. Anderson came back after the lunch break with news regarding the co-manager meeting on the whiting set-aside to accommodate 2009 tribal fisheries. In June 2008, the Council set aside 50,000 mt for 2009 tribal fisheries with 42,000 mt for the Makah Tribe and 8,000 mt for the Quileute Tribe. At that time, the Council did not anticipate the results of the new whiting assessment, which turned out to be more pessimistic than anticipated. The co-manager meeting resulted in an offer from the Makah Tribe to reduce the set-aside for the 2009 Makah tribal whiting fishery to a level corresponding to 17.5 percent of the U.S. OY, which results in a Makah tribal set-aside of 23,789 mt. The Quileute Tribe discussions are ongoing to attempt to secure two vessels to prosecute a whiting fishery this year and a co-manager meeting between WDFW and the tribes will occur in April to finalize the Quileute Tribe's set-aside.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 12) to recommend to NMFS a yield rollover from the original tribal whiting set-aside of 50,000 mt of 18,211 mt to the non-treaty fisheries for 2009. This roll-over amount is calculated by subtracting the new Makah tribal set-aside of 23,789 from the original Makah set-aside of 42,000 mt.

Motion 12 carried (Mr. David Sones recused).

Mr. Lockhart appreciated the effort of WDFW and the tribes to reach this agreement and he looks forward to hearing the result of the WDFW and Quileute Tribe discussions in April.

G.2 Consideration of Inseason Adjustments (Including Pacific Whiting Bycatch Limits)

G.2.a Agenda Item Overview (03/10/09; 1:27 p.m.)

Mr. Merrick Burden provided the agenda item overview.

G.2.b Reports and Comments of Agencies and Advisory Bodies

Mr. Jones provided Agenda Item G.2.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item G.2.b, Supplemental GAP Report.

G.2.c Public Comment

Mr. Dave Bitts, PCFFA, McKinleyville, CA

Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA

Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA

G.2.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2009 Groundfish Fisheries

Mr. Myer moved (Motion 13), to remove 5 percent of the widow rockfish amount specified in the GMT scorecard from each of the non-tribal whiting fishery sectors – about 22.97 mt – and treat that as a buffer to use for management flexibility and uncertainty. Mr. Cedergreen seconded the motion.

Mr. Moore moved to amend the main motion (Amendment #1 to Motion 13). He moved that the non-tribal whiting fishery bycatch limit for widow rockfish be set at 396 mt, divided proportionately in the same manner whiting is distributed among the three sectors. Mr. Warrens seconded the motion.

Mr. Moore said he was concerned about the bycatch limits of widow rockfish. In recent years the widow bycatch has been increasing as the widow stock rebuilds. A bycatch limit could be restrictive on the whiting fishery and the Council should take this into account. However, Mr. Moore acknowledged that the Council had taken drastic action earlier in the day when they set the whiting OY to a very low level and a smaller whiting fishery may not need as much widow rockfish in order to prosecute the fishery. Mr. Moore indicated the desire to make sure that the Council had a buffer of widow rockfish in the scorecard, and also to set the widow rockfish bycatch limit at a low enough level that would still encourage fishermen to be careful and avoid widow rockfish. Rather than dropping the widow cap down by 5 percent from the numbers in the GMT scorecard, his amendment would drop the limit down by 8 percent. This would allow for a larger buffer and smaller bycatch limit than what was proposed in the main motion, but he did not think the more restrictive bycatch limit would hurt the whiting fishery.

Ms. Vojkovich indicated that she was having difficulty with both the main motion and the amendment. Ms. Vojkovich made reference to the size of the widow rockfish bycatch limit over the past several years and the Council's earlier decision to set a relatively low whiting OY. Both the main motion and the amendment would result in a higher widow bycatch limit than was set in recent years, even though the whiting OY had substantially decreased. She indicated that because the whiting fleet has done relatively well at reducing bycatch in recent years that it is difficult for her to now support a widow bycatch limit that is higher than recent years, especially since the whiting OY was substantially lower.

Mr. Moore said that one of the main issues with widow rockfish bycatch is that the widow stock is rebuilding. As a result, encounters with widow rockfish in the whiting fishery are increasing. He indicated that fishermen do not really know how much widow they might run into while fishing for whiting. Fishermen keep running into widow, no matter how conservative they are fishing.

Mr. Anderson indicated that he was not supportive of either the amendment or the main motion for the same reasons as Ms. Vojkovich. He made reference to the fact that the whiting fishery caught approximately 235 mt of widow rockfish in 2007 while taking 194,000 metric tons of whiting. He indicated that increasing the widow bycatch limit above recent levels while the whiting OY is being set lower than recent levels did not make sense to him.

Chairman Hansen asked for a vote on the amendment. Messrs. Moore, Myer, Cedergreen, and Williams voted yes; all the rest voted no. Amendment #1 to Motion 13 failed.

Main motion vote: Only Mr. Myer voted yes on the main motion. Main motion 13 failed.

Mr. Moore moved (Motion 14) to set the widow and darkblotched bycatch cap in the nontribal whiting fishery at 275 mt and 35 mt respectively. Mr. Dale Myer seconded the motion.

Mr. Moore said 275 mt on widow is where we have been the past couple of years. Even with larger whiting OYs in the past we have not attained that number, but at the same time the widow rockfish population is increasing. With darkblotched rockfish, that species is not fully attributed to the various sectors, so increasing the bycatch limit would not impact other fisheries. The at sea sector has run into problems with darkblotched rockfish and a larger bycatch limit would allow them more flexibility in their fishing operations.

Mr. Anderson asked Mr. Moore about darkblotched rockfish. He referenced the numbers on table 3, page 4 of the GMT Report and pointed specifically to the catch of darkblotched over the past four years relative to the motion for 35 mt. He indicated that we are obligated to rebuild these species in the shortest time possible, while taking into account the needs of the fishing community and that he was trying to reconcile the recent catch levels with the 35 mt in the motion along with the rebuilding obligation.

Mr. Moore addressed Mr. Anderson's concern. He indicated that one of the problems identified to him from industry about darkblotched is that by allocating darkblotched on a pro-rata basis to each sector, we end up with more darkblotched in the shorebased fishery than what is needed and

less in the MS fishery where it is needed. He indicated that he was trying to resolve that problem and would welcome other numbers. On widow rockfish, he expressed his desire to not have to come back later in the year to deal with widow bycatch cap increases, should the fishery hit that limit prematurely and be closed.

Mr. Lockhart indicated that he believes the purpose for having bycatch caps in the whiting fishery is to allow capture of the whiting OY to the extent possible. He asked whether staff had guidance for an appropriate bycatch limit level, given the Council's earlier decision on the whiting OY. Mr. Burden said that an appropriate level is difficult to estimate, but that during the last specifications process they found a relationship in the whiting fishery between the darkblotched bycatch limit and the widow bycatch limit. A relatively large widow limit might be accompanied with a relatively small darkblotched limit, while a small widow limit might be accompanied by a large darkblotched limit. Mr. Lockhart then asked if the GMT had any reason to believe that the catches of these rebuilding species would be higher than where we have been in the past couple of years. Mr. Burden replied that it is difficult to tell and did not know the answer.

Mr. Anderson asked for a substitute motion (Motion 15) to set the bycatch caps in the nontribal whiting fishery for darkblotched at 25 mt and widow at 250 mt. Ms. Vojkovich seconded the motion.

Mr. Anderson said that the darkblotched bycatch limit is significantly above what we have seen caught in the past four years and widow is slightly higher than what we have seen in the past four years. The substitute motion would leave buffer in the scorecard in case the Council needed to come back and address the problem later in the year. Given the relatively small US OY for whiting and the information available, it seems highly likely the fishery will harvest their whiting OY.

Ms. Vojkovich asked for clarification and whether bycatch limit adjustments can still be made inseason. Mr. Burden replied that bycatch limit adjustments are still specified as a routine inseason adjustment.

Mr. Myer spoke to the ability to make changes in bycatch limits later in the year. He indicated that relying on that mechanism is costly to the industry because the fishery would be shut down prematurely if a bycatch limit is met. To get a MS out fishing, it costs approximately one half a million dollars, so there needs to be a realistic expectation that the whiting available to the fishery can be caught in order to justify that expense. Mr. Myer then addressed Mr. Lockhart's statement that bycatch limits are set to provide for an opportunity to take the whiting allocation. He indicated that the difference between a 250 versus 275 mt bycatch limit of widow doesn't look like much on paper, but if the idea is to allow the whiting OY to be taken, then if one sector hits a bycatch cap, then that cap obviously wasn't enough for that sector to take their whiting. However, if a sector does take their whiting, then the bycatch species that aren't caught are then available to help in rebuilding. Therefore, by making the bycatch limits smaller we are just reducing the possibility of attaining the available whiting. Higher bycatch limits do not necessarily increase the chances of taking more widow or darkblotched just because it is available.

Mr. Moore said that the issue of changing bycatch caps in the whiting fishery also becomes one of timing. The MS and catcher/processor fishery starts April 15, but the first time the Council has a chance to examine where the catch is relative to the bycatch caps is in June. If for some reason the bycatch cap is reached prior to June, then waiting until June to take action might be too late to allow one of those sectors to effectively prosecute the fishery. Many vessels in the catcher processor and MS sector need to move to other fisheries in June. Therefore, the bycatch limits also become a timing issue, and that was why in his original motion he wanted to set bycatch limits at a size that the industry would be comfortable with so that the Council would not have to come back again to re-set the bycatch caps.

Motion 15 vote: Mr. Myer, Mr. Sones, and Ms. Fosmark voted no. Motion 15 passed.

Mr. Moore noted that he understood that there may be further information that will be brought forward to the Council from the GMT on Friday and that he would like to keep the Friday inseason adjustment agenda item open. He indicated that he had no plans to make further motions today, but might change his mind on Friday.

Mr. Burden said the Council took the only action that was necessary when they set the bycatch caps. He indicated that Mr. Moore was correct in that the GMT was intending to provide some additional information on Friday and if the Council did want to make further adjustments on Friday, they could.

Mr. Anderson referenced Page 2 of the GMT Report. He noted that there was a section of potential changes in trip limits as a result of having darkblotched rockfish available in the scorecard. He also indicated that he believed there was a reference to arrowtooth trip limits that wasn't in the GMT report. Mr. Burden indicated that the GAP requested that the GMT look into the possibility of increasing the arrowtooth trip limit.

The GMT will provide additional information under Agenda Item G.7 on Friday.

G.3 Fishery Management Plan Amendment 20 – Trawl Rationalization—Ownership and Miscellaneous Issues

G.3.a Agenda Item Overview (03/11/09; 8:08 a.m.)

Ms. Heather Brandon provided an agenda item overview for the eligibility portion of the agenda item.

Ms. Cooney spoke about the limitations and ownership control issues, what is required and what is allowed. There are two sections in the reauthorized MSA that are relevant to new Limited Access Privilege Program (LAPP) provisions. The Council has selected a preferred alternative of who is eligible to own quota shares (QS) and the MSA LAPP provisions add a requirement of who can own, which says we shall prohibit QS ownership by any person other than a U.S. citizen or permanent resident alien. Between now and the April meeting we can work with Council staff on clarifying the MSA and Amendment 20 language of who can and cannot own QS. Another MSA section speaks to authorizing the substantial participants in the fishery to hold QS. The

Council could limit who is eligible to own QS by defining who is a substantial participant in the fishery.

Mr. Moore said one of the things that we have maintained through the process of developing the trawl individual quota (TIQ) amendments was allowing an American Fisheries Act (AFA) authorized bare boat charter vessel to be eligible to own. Will these references be broad enough, including definition of “person,” to accomplish the Council wishes to allow QS ownership by AFA authorized vessels? Ms. Cooney said she thinks they are broad enough. Ms. McCall has been working on this in detail, and we will make sure it is included.

Ms. Vojkovich asked if the issue of legal aliens owning QS will be part of what the Council puts in the trawl EIS document or should she make a motion on it? Ms. Cooney did not know if legal aliens are specifically included in the current preferred option. If you want it in Amendment 20, you should make sure it is in there. If resident aliens are clearly within the group that can hold permits, then they could own QS. Ms. Brandon noted that Supplemental Attachment 10 shows the ownership language and implementing policy language from Amendment 6. The Amendment 20 language would mirror the language found in Amendment 6.

Mr. Myer asked about the wording on Amendment 6 and Amendment 20, do they mirror what Ms. Cooney was talking about earlier? No, said Ms. Brandon, but we intend to incorporate MSA information and highlight any differences at the April meeting.

Mr. Moore asked if we are to use the Amendment 6 language except where it conflicts with MSA? Ms. Cooney said she would assume so, but she didn’t see the language from the NMFS website until now and she will have to take a closer look at it.

Mr. Burden provided an agenda item overview for the additional clarifications piece of this agenda item.

G.3.b Reports and Comments of Agencies and Advisory Bodies (03/11/09; 9:50 a.m.)

Mr. Gregg Williams, noted that the staff of the IPHC has reviewed the recommendation for a methodology to establish an Individual Bycatch Quota (IBQ) for the rationalized west coast trawl fishery. Their comments can be found on the Council’s website at http://www.pcouncil.org/bb/2009/0309/G3c_SUP_IPHC_0309.pdf

Ms. Culver reviewed Agenda Item G.3.b, Supplemental WDFW Report 1 and Agenda Item G.3.b, Supplemental REVISED WDFW Report 2.

Mr. Tommy Ancona provided Agenda Item G.3.b, Supplemental GAP Report.

G.3.c Public Comment

Mr. Dave Bitts, PCFFA, McKinleyville, CA

Mr. Nate Grader, PCFFA, San Francisco, CA

Mr. Ben Bowman, Food & Water Watch, San Francisco, CA

Mr. Sam Shabacker, Food & Water Watch, San Francisco, CA

Mr. Larry Collins, Crab Boat Owners Association, San Francisco, CA
Mr. Don Muruska, Marine Interest Group, CA
Ms. Laura Pagano, NRDC, San Francisco, CA

G.3.d Council Action: Scoping of Ownership Trailing Action and Miscellaneous Clarifications

Chairman Hansen asked Mr. Ancona who can own QS? He replied that any person who is eligible to own a US documented vessel, as specified in the MSA, and any entity within our legal system.

Mr. Jerry Mallet asked if a longliner or charterboat owner/operator could qualify for one of these trawl permits? Ms. Cooney said the language deals with who can own QS not who can receive an initial allocation. Yes, Ms. Cooney said, a longliner would probably be eligible to buy a trawl permit and also be eligible to own QS. The longliner would have to buy a trawl permit in order to harvest the quota pounds.

Mr. Moore asked about process, the schedule in Attachment 1, there have been several public comments on the issue of establishing a definition for community fishing associations (CFAs). The definition of what constitutes a CFA does not appear on the agenda for this meeting or for any future meetings. Which agenda item should “CFA definition” go under? Dr. McIsaac said it could come up under this agenda item, or under G.4, or in April under the adaptive management program agenda item. Final Council decision making on the eligibility to own provision and the adaptive management program are scheduled for June. This agenda item is to direct staff to analyze groups that are eligible to own and bring back to the Council later. If there is an aspect within eligibility to own that needs a definition, such as a definition of a CFA, that could be taken up here preliminarily, and then we would bring something back in June. If you get into the adaptive management program (AMP) in April, which is just for guidance on analysis of the AMP, then CFAs could come up under that topic, should CFAs be an entity receiving AMP quota pounds.

Mr. Moore said if the Council wanted to think about having CFAs, and wanted to get staff analysis, advisory body comments, and public comments on how to define CFAs, we could do that by suggesting today that we would allow QS to be held by CFAs and request ideas in April on how to define a CFA. Can that be accommodated through this existing timeframe? Chairman Hansen nodded yes.

Council Action:

Ms. Heather Brandon referenced the current preferred option adopted by the Council at the November meeting. We are asking for guidance on additional analysis and possible further refinement of who can hold or is eligible to own QS.

Ms. Vojkovich moved (Motion 16) that the Council adopt eligibility criteria for the trawl rationalization program consistent with the MSA and the regulatory implementing language found in Groundfish Fishery Management Plan Amendment 6 (Supplemental Attachment 10). Mr. Lockhart seconded the motion.

Mr. Myer said the MSA is not here in Attachment 10. Ms. Cooney said we will work to get the MSA language and the preferred Amendment 20 alternative to mesh.

Ms. Vojkovich said the intent is to make this program consistent with the new provisions in the MSA that address ownership and make it consistent with what we currently have for who is eligible to hold a limited entry permit. The intent is to make sure that Amendment 6 and the new MSA language match for this program.

Mr. Moore asked Ms. Cooney about the issue of the AFA boat charter vessels and whether they are included in Ms. Vojkovich's motion. Ms. Cooney said we will look into that. She also said the MSA does include resident aliens, and we understand that you want that group included as eligible to own QS.

Ms. Culver asked to clarify that this motion selects a preliminary preferred alternative with a request for additional discussion and analysis later, in June or whenever this is on the agenda again. The maker of the motion confirmed this clarification is correct.

Motion 16 passed unanimously.

Mr. Lockhart was trying to recall the history and what he thought happened regarding the "owner on board" and "use it or lose it" provisions. He thought the "owner on board" and the "use it or lose it" ideas were considered by the TIQ Committee and the Groundfish Allocation Committee (GAC). He asked what the effect would be to remove these two items from this eligibility to own analysis? Isn't there already analysis on both of these? Mr. Seger said both have been analyzed, you have already taken action on those issues, and the Council could clarify that no further analysis on those two concepts would be needed.

Dr. Hanson moved and Mr. Moore seconded a motion (Motion 17) to delete the owner on board requirements and use it or lose it requirement from further consideration and be placed in the "options considered" section of the trawl EIS.

Dr. Hanson said we have considered this in the past, everyone already agreed that we do not wish to include these concepts in future alternatives. Ms. Cooney said the record will include how it was analyzed and why it was rejected, so it is certainly in the record.

Ms. Vojkovich said it sounds like we cannot consider something in the future if we remove it from consideration now, but I want to be able to consider everything that has been analyzed. Yes, that is what we are saying, said Chairman Hansen, we have analyzed it, rejected it for now, but nothing is precluded from being brought back up in the future. Mr. Lockhart said the analysis is already there, and if people don't know about it but want it, they should be shown where it is, or maybe they should ask. Dr. Hanson said that is correct.

Motion 17 passed unanimously.

Dr. McIsaac said Supplemental Attachment 10 shows the Amendment 6 language, but we don't have the MSA language you are referring to in front of us. Ms. Cooney said the MSA language

she is referring to says the Council can limit who can own QS, but the Council must consider substantial participation in the fishery and not throw those participants out. The Council can limit ownership further from the preliminary preferred alternative (PPA) or not. Dr. McIsaac stated that the motion that just passed did not state that those who are eligible to own QS must have ties to the fishery. Ms. Cooney responded that that is correct and said that the question for the Council is do you want to further refine the alternative you currently have? And do you want to continue to refine those earlier decisions?

Mr. Lockhart said in having discussions with legal counsel, the prior motion set the universe of who is eligible to own QS consistent with the MSA. The Council may want to limit the “universe,” and if we are thinking about limiting ownership eligibility to the substantial participants in the fishery then we must get going on it and request the analysis.

Mr. Moore thought we already had a substantial participation requirement that is defined as “you have to be involved in the fishery in some way” already in the trawl rationalization. Ms. Brandon said you might be referring to the November Council motion to initiate a trailing action process that would require eligibility criteria be developed to ensure that QS owners have direct ties with the fishery. Staff is asking the Council for further clarification on the direction the eligibility criteria should take.

Mr. Lockhart stated that under MSA the Council has the authority to define those who substantially participate in the fishery and limit QS ownership to that category of persons and entities. The Council would also need to describe why it is a good idea and why you support that refinement of eligible owners. Does the current analysis provide an adequate description of why, or is more needed to describe the Council action from November?

Dr. McIsaac asked for clarification on Mr. Lockhart’s description of the “universe.” He thought the intent of the motion was to not have a smaller universe or not have any direct ties to the fishing industry.

Ms. Vojkovich agreed that was the intent of the motion. She said it did not include “owner on board” or “use it or lose it” or define a group with direct ties to the fishery or define those with substantial participation in the fishery. The motion would be the broadest definition allowed by MSA of who can own QS – that was the intent of my motion.

Ms. Cooney said you have seen the analysis and you don’t want to further limit who can own QS.

Mr. Moore asked if the current language adopted in November allows ownership of quota by a yet undefined entity (i.e., a CFA) assuming the definition we would come up with would include substantial participation in the fishery? Ms. Brandon said yes. She described the current preferred option adopted by the Council in November.

Ms. Cooney said she was confused when he added “substantial participation”? Mr. Moore said he was sorry he didn’t mean to add that.

Mr. Moore moved and Dr. Hanson seconded a motion (Motion 18) to instruct Council staff to present at the April meeting options for defining what a CFA is for the purpose of soliciting comments from advisory bodies and public on that definition, with possible final action in June. Motion 18 was not voted on.

Ms. Vojkovich moved (Motion 19) to substitute that the Council staff define CFAs and the guidelines under which that CFA would operate, and use the proposal that is in public comment from The Nature Conservancy (TNC) as a baseline approach to start with, and the intent that the definitions and guidelines are completed by the time the whole trawl rationalization program is adopted in the final rule. Mr. Wolford seconded Motion 19.

To speak to her motion, Ms. Vojkovich said one of the elements we have been fighting is sending people off to develop things and then being concerned about the time and resources involved in that approach. There have already been suggestions made and well-developed approaches suggested to the Council through public comment as to what and who could be in a CFA. We should start with that, instead of starting from the beginning.

Mr. Williams asked for a clarification. Earlier this morning there was a suggestion that we had not seen any definition to help us with CFAs. And now you have a motion to narrow the options? Ms. Vojkovich said the motion is to start with that document that already has some definitions of CFAs and what it might look like. Council suggestions are already in that document.

Mr. Lockhart asked if the substitute motion does not preclude other options at all? That's true said Ms. Vojkovich.

Mr. Moore understands the motion and is not opposed to some of the ideas from TNC. But he has to oppose the motion because there is broader guidance on CFA criteria from the NOAA technical memorandum on Design and Use of LAPPs, and he would rather see formal guidance from NOAA used than suggestions from one particular constituent group.

Ms. Fosmark said the TNC Public Comment is G.4.c. We are under a short timeframe here and have some good ideas coming from TNC. She thinks no one has worked on it yet except TNC, and their ideas would give us a place to start.

Mr. Wolford concurred with Ms. Vojkovich's motion that it provides a starting point only and we can expand to include other definitions.

Mr. Lockhart said the motion would result in more than likely staff going forward with both the TNC and NOAA memorandum. Mr. Lockhart asked if both of those would be included. He moved to amend Motion 19 to include the guidance contained in the NOAA technical memorandum as well as TNC public comment letter. Mr. Myer seconded the amendment to Motion 19.

Ms. Culver asked Mr. Lockhart about his amendment, it did not speak at all to the process and timing. When would we get the options back? April or June? Mr. Lockhart said he is amending Ms. Vojkovich's motion, so it would follow her process. Ms. Vojkovich said the intent was that

the definitions would be completed at the same time as the trawl rationalization program is implemented; did not have a month or meeting when it would come before the Council.

Amendment to Motion 19 passed unanimously.

Main Motion 19 (Ms. Vojkovich's substitute motion) passed unanimously.

[The Council took a break until 1:10 p.m.]

Using Agenda Item G.3.c, Supplemental WDFW Report 1, Ms. Culver moved (Motion 20) and Mr. Moore seconded a motion, to clarify Motion #4 from the November 2008 meeting. It was the Council's intent to have three trawl sectors and to have the species for which IFQ is required in the shoreside sector be consistent with what was adopted by the Council in November 2008 for the nonwhiting sector. Specifically shoreside trawl vessels would be required to have IFQ for all species in the Council's ABC/OY table, except: longspine S. of 34°27'; minor nearshore rockfish (N & S); black rockfish (coastwide); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; and spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY.

Ms. Culver stated that she believed this was what the Council had intended in November and that it was consistent with the explanation provided in WDFW Attachment 1.

Motion 20 passed unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 21) to adopt a set of species for which the at-sea sector cooperatives would have catch limits: whiting, widow, canary, darkblotched rockfish, and Pacific ocean perch. The catches of all groundfish species in addition to these would be accounted for and tracked against the overall OY.

Ms. Culver stated that she believed this was what the Council had intended in November.

Motion 21 passed unanimously.

Ms. Vojkovich moved (Motion 22), that the Council use one latitudinal area south of 40° 10' N. latitude to make a finer area bycatch rate for the initial allocation of overfished species. Ms. Fosmark seconded the motion.

Ms. Vojkovich stated that using one latitudinal area would be a relatively less fine stratification of data for making an initial allocation of overfished species for vessels historically operating in that area. She indicated that she felt the less fine area was more appropriate because the data was relatively sparse in the southern areas. Furthermore, the result of using the relatively fine data stratification would mean that the amount of overfished species available for some of the permit holders would be prohibitive for them to even access fisheries. Using a single latitudinal area means that all of the permit holders operating in that area start with at least some overfished species.

Motion 22 passed unanimously.

Relative to the allocation of Pacific halibut south of 40° 10' N latitude, Ms. Vojkovich moved (Motion 23) that the Council establish a set aside and monitor and track the catch accordingly. Seconded by Kathy Fosmark.

She spoke to the motion. The amount of Pacific halibut caught south of 40° 10' N latitude accounts for a minimal amount of the overall halibut catch along the west coast. She indicated that it was more appropriate to have a pool of fish set aside for incidental catch in that area that is monitored and tracked accordingly rather than requiring vessels in that area to have IBQ. She stated that the appropriate set aside amount would be dealt with in the intersector allocation decision.

Motion passed unanimously on a voice vote.

Ms. Culver moved and Mr. Cedergeen seconded a motion (Motion 24) to adopt a similar action for Pacific halibut in the at-sea whiting sectors. A set aside would be established for the at-sea sectors to accommodate incidental catch in the at-sea fishery. As part of the motion, Council staff would be directed to look at an appropriate poundage set aside to accommodate the at-sea sector catches of Pacific halibut.

Mr. Myer said halibut bycatch in the at-sea sector is very little but it does occur.

Motion 24 passed unanimously.

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 25) using page 2 of Agenda Item G.3.c, Supplemental WDFW Report 1, Motion # 5 from November 2008 Council meeting, to clarify the intent of Option 2. With respect to the Council's decision on the initial allocation of QS, the equal division of the buyback permits' pool of QS for all groundfish, except overfished species, would be made among all qualifying permits plus allocation of the remaining QS based on each permit's history. This would include all A permit holders in the shoreside and MS sectors, but not the catcher/processor sector.

Mr. Myer noted three to five vessels that only participate in the MS sector but they are paying for the trawl sector buyback and therefore should receive some benefit through the initial allocation of non-whiting IFQ.

Motion 25 passed unanimously.

Ms. Culver noted that if the allocation of Pacific halibut to the trawl sector is to be taken up under the inter-sector allocation (ISA) process, that her next motion should be viewed as guidance for that document. Using Agenda Item G.3.c, Supplemental Revised WDFW Report 2 (page 2), Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 26) relative to the halibut IBQ, to establish a limit for total Pacific halibut bycatch mortality (legal-sized and sublegal fish) through the use of an IBQ in the trawl fishery. The initial amount for the first two years of the trawl rationalization program would be calculated by taking 15 percent of the Area 2A Total Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission (IPHC) for the previous year not to exceed 130,000 lbs per year for total mortality.

Beginning with the third year of implementation, the maximum amount set aside for the trawl rationalization program would be reduced to 100,000 lbs per year for total mortality. This amount may be adjusted downward through the biennial specifications process for future years. The motion would be preliminary action, brought up through the intersector allocation process.

Mr. Burden asked if the 130,000 applies to both legal and sublegal? Yes, said Ms. Culver. Mr. Moore said he appreciates this as preliminary action and asked how the maker of the motion arrived at 130,000 pounds. She said the difficulty in trying to come up with an amount, whether it was a percentage or a poundage amount, is that the halibut quotas are set on an annual basis. The Council does not know what the trawl rationalization allocation will be for the halibut quota for that year. As an initial allocation of IBQ, she proposed 15 percent of the CEY that is in the IPHC stock assessment for the previous year. The CEY has ranged from 640,000 pounds, which is what it was for the 2009 fishery upward of 1.5 million pounds. Ms. Culver stated that she attempted to specify a percentage with that range by looking at the NWFSC report on Pacific halibut mortality in the trawl fishery. Halibut bycatch has declined in recent years. 130,000 pounds is a reduction of 50 percent from the recent total bycatch estimate (legal and sublegal combined). The reason WDFW is putting this forward is because we know more about the implications from the action in November that set the bycatch limit at 10 percent. The CEY for Pacific halibut from this year was 640,000 pounds, and it looks like there is a potential for the CEY to go down as low as 500,000 pounds. We could be at a really low Pacific halibut CEY when the trawl rationalization program goes into place. If we stuck with the original motion of 10 percent, the initial allocation would be 65,000 pounds when trawl rationalization was implemented. The 130,000 pounds represents twice that amount for the initial start for the first two years, but still a reduction from current bycatch levels. We are trying to provide an incentive to minimize halibut bycatch and bycatch mortality; and at the same time prosecute a successful trawl rationalization program that is not overly restricted by halibut bycatch limits. So at this junction she is proposing to put in a limit that is at least two times the amount the Council adopted in November with the anticipation that harvesters would take the first two years to voluntarily change their behavior to minimize halibut bycatch.

Mr. Moore asked, similar to the IPHC recommendation, we are embarking on a process of capping a bycatch amount that is roughly 50 percent of what is currently occurring, then reducing it using a percentage of CEY? Ms. Culver nodded yes.

Mr. Burden asked whether the at-sea set aside would also be included in the 15 percent. Ms. Culver said the intent is this would be the maximum amount for the trawl fishery and whatever set asides for other items (research, EFPs, etc) would also be included within that 15 percent.

Ms. Vojkovich said she thought both options would be analyzed and come back to the Council through the intersector allocation analysis. She asked if the intention was for the affected sectors to make comments on that analysis and give feedback. Ms. Culver stated that bringing this analysis through the intersector allocation process and making the decision under that agenda item gives the industry a chance to see how the option plays into the broader picture of Pacific halibut quota in the rationalization program. Having said that, she wanted to make sure that Pacific halibut IBQ is in place for the trawl rationalization implementation. She asked Mr. Lockhart about the timing of when NMFS would need final action on IBQ. Mr. Lockhart said he

did not have an answer at this time; given where we are in the decision process for all of these things, he did not foresee the decision timing being a large problem.

Ms. Culver then asked Dr. McIsaac about the final action on intersector allocation in April. She asked if final action on this item would occur in April or whether there is an opportunity to bring Pacific halibut IBQ up at a later meeting. Dr. McIsaac said we will do everything we can to make final action in April. If the trailing actions are sealed up in June, the staff would be sending out the final trawl rationalization documents to the Secretary of Commerce for review in the fall. He further stated that there are other implementation necessities besides the Council's regulatory recommendations. He indicated that if the Council did not reach final decision on Pacific halibut IBQ in April, that staff would put it back on the agenda in June, September, or as soon as possible.

Mr. Lockhart said if the decision was made final in April and additional analysis was made and caused the Council to change their mind, that doing so would still be okay.

Motion 26 passed unanimously.

G.4 Fishery Management Plan Amendment 20 – Trawl Rationalization—Accumulation Limits

G.4.a Agenda Item Overview (03/11/09; 3:15 p.m.)

Mr. Seger provided the agenda item overview.

G.4.b Reports and Comments of Agencies and Advisory Bodies

Mr. Corey Niles and Mr. Merrick Burden provided Agenda Item G.4.a, Supplemental Powerpoint, which was done in lieu of reading Agenda Item G.4.b, GMT Report. Mr. Jones provided Agenda Item G.4.b, Supplemental GMT Report.

Dr. Todd Lee provided Agenda Item G.4.b, Supplemental SSC Report.

Ms. Culver provided Agenda Item G.4.b, Supplemental WDFW Report.

Mr. Seger summarized Agenda Item G.4.b, GAC Report.

Mr. Tommy Ancona read Agenda Item G.4.b, Supplemental GAP Report.

Council adjourned for the day.

Council back in session (03/12/09; 8:10 a.m.)

Dr. McIsaac noted there was one more report before the Council went to public comment.

Mr. Frank Lockhart introduced Agenda Item G.4.b, Supplemental NMFS Report. First he noted that the ranges of accumulation limits with the options under consideration have been very

consistent for months now. We have been looking at a similar set of ranges all along and most particularly since the November Council meeting. He stated that he had met with members of the GAP the night before to discuss the rationale for their recommendations on each species. The following was the GAP's general approach. In general, as a starting point the GAP developed control limits by looking at the maximum initial share that people would receive. They wanted to allow for some growth above that. Allowing for growth was important because that is where you get the benefits of the LAPP. You get some of the efficiencies that we are all counting on for the fishermen to make some money rather than just breaking even. The vessel limits, in general, were simply one-and-a-half times that. There were some exceptions. As indicated in the table footnotes, control limits for overfished species were treated differently because the GAP viewed it as particularly important to minimize excessive control. Control limits for these species were set at exactly the maximum initial allocations, rather than at a slightly higher level. However, they also went lower than the general approach in situations where a catch of a species was widely distributed along the coast and important to a number of different trawl strategies. They did not want to take a chance on one entity developing excess concentration that could potentially affect the entire coast. Occasionally, in the opposite situation they went somewhat higher, when the fishery was very limited geographically. In these situations, the effect of the concentration would be limited to a smaller geographic area and they did not believe there was any possibility for expansion of that fishery elsewhere. Mr. Lockhart also noted that information on current levels of control in the fishery is incomplete and the levels of control are constantly changing. There will never be perfect information but the Council can still develop a good rationale for setting the accumulation limits while fully recognizing this limitation.

G.4.c Public Comment

Mr. Tom Libby, Pt. Adams Packing Company, Astoria, OR
Mr. Shems Jud, Environmental Defense, Lake Oswego, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Ms. Margaret Spring, The Nature Conservancy, Monterey, CA
Mrs. Erika Feller, The Nature Conservancy, Monterey, CA
Mr. Larry Collins, Crab Boat Owners Association, San Francisco, California
Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA
Mr. Dave Bitts, PCFFA, McKinleyville, CA
Mr. Ben Bowman, Food & Water Watch, San Francisco, CA
Mr. Sam Shabacher for Mr. Edward Backus, North Pacific Fisheries Trust, Portland, OR
Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Bob Dooley, United Catcher Boats, Seattle, WA
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR
Mr. Mike Hyde, American Seafoods Company, Seattle, WA

G.4.d Council Action: Adopt Final Accumulation Limits (03/12/09; 10:15 a.m.)

Mr. Moore moved (Motion 27) to approve a Preliminary Preferred Alternative on accumulation limits for final action in June as follows (boxed text and tables):

Non-whiting Groundfish Species Aggregate Limit

- Set the Control Limit to 2.7 percent (GAP recommended)
- Set a Vessel Limit of 3.2 percent to ensure a minimum number of boats (this is the mid-point of the available options).

Control Limit for Non-overfished species

- Adopt GMT recommended control limits; where a range is present, adopt the low end of the range, except for the following

Species	Control Limit	Species	Control Limit
Lingcod – coastwide	2.5%	Minor rockfish (n) -slope	5%
Pacific cod	12%	Minor rockfish (s) -shelf	9%
Pacific whiting (Shoreside)	15%	Minor rockfish (s) -slope	6%
Sablefish (s 36)	10%	Dover sole	2.6%
Shortspine (s 34'27)	6%	Arrowtooth flounder	10%
Minor rockfish (n) -shelf	5%	Other fish	5%

Vessel Limit for Non-overfished species

- 1.5 times the control limit with the following exceptions

Species	Vessel Usage Limit	Species	Vessel Usage Limit
Pacific cod	20%	Arrowtooth flounder	20%
Pacific whiting (Shoreside)	15%	Starry Flounder	20%

Halibut IBQ

- Analyze a control limit range for quota share from 1-8%
- Analyze a vessel usage limit equal to control, up to 1.5 times control with a maximum of 10%

Overfished species

For vessel limits, analyze:

- Set vessel limit (QP) = control limit (QS)
- Set vessel limit (QP) greater than control limit (QS); with vessel limits 1.5 times the control limit but not to exceed 10%

Control limits:

- POP = 3.3% (GAP)
- Darkblotched rockfish = 2.0% (GAP)
- Widow = 2.5% (GAP)
- Canary rockfish = 5.2% (GAP)
- Bocaccio rockfish = 7.5% = 50% of GAP
- Yelloweye rockfish = 2.6% = 50% of GAP
- Cowcod = 10% = 50% of GAP

Task the GMT with analyzing the options in the GMT reports under Agenda Item G.4 and with exploring any additional options for control and vessel limits, with results to be made available for the May GAC meeting.

Species Category	Preliminary Preferred Alternative		GMT	GAP	
	Vess Lim*	Cntrl Lim		GAP Vessel Limit Option	GAP Control Limit Option
Nonwhiting Groundfish Species	3.2%	2.7%	20%	None	2.7%
Lingcod - coastwide	3.2%	2.5%		3.8%	2.5%
Pacific Cod	20.0%	12.0%		20.0%	12.0%
Pacific whiting (shoreside)	15.0%	15.0%		15.0%	10.0%
Pacific whiting (mothership)					
Sablefish			3%		
N. of 36° (Monterey north)	4.5%	3.0%		4.5%	3.0%
S. of 36° (Conception area)	15.0%	10.0%		15.0%	10%
PACIFIC OCEAN PERCH*	5.0%	3.3%		3.3%	3.3%
WIDOW ROCKFISH*	3.8%	2.5%		2.5%	2.5%
CANARY ROCKFISH*	7.8%	5.2%		5.2%	5.2%
Chilipepper Rockfish	15.0%	10.0%	10%	15.0%	10.0%
BOCACCI*	10.0%	7.5%			15.0%
Splitnose Rockfish	15.0%	10.0%	10%	15.0%	10.0%
Yellowtail Rockfish	7.5%	5.0%	5%	7.5%	5.0%
Shortspine Thornyhead			6%-10%		
N. of 34°27'	9.0%	6.0%		9.0%	6.0%
S. of 34°27'	9.0%	6.0%		9.0%	6.0%
Longspine Thornyhead			6%-10%		
N. of 34°27'	9.0%	6.0%		9.0%	6.0%
COWCOD*	10.0%	10.0%		20.0%	20.0%
DARKBLOTCHED*	3.0%	2.0%		2.0%	2.0%
YELLOWEYE*	3.9%	2.6%		5.2%	5.2%
Minor Rockfish North			6%-10%		
Shelf Species	7.5%	5.0%		7.5%	5.0%
Slope Species	7.5%	5.0%		7.5%	5.0%
Minor Rockfish South			6%-10%		
Shelf Species	13.5%	9.0%		13.5%	9.0%
Slope Species	9.0%	6.0%		13.5%	9.0%
Dover sole	3.9%	2.6%	5%+	3.9%	2.6%
English Sole	7.5%	5.0%	5%+	7.5%	5.0%
Petrale Sole	4.5%	3.0%	3%	4.5%	3.0%
Arrowtooth Flounder	20.0%	10.0%	10%+	20.0%	10.0%
Starry Flounder	20.0%	10.0%	10%+	30.0%	15.0%
Other Flatfish	15.0%	10.0%	10%+	15.0%	10.0%
Other Fish	7.5%	5.0%		7.5%	5%

Mr. Frank Warrens seconded Motion 27. Speaking to the motion, Mr. Moore noted the sentiment for taking final action at this meeting and that this motion is based on the GMT report which was first made available in the prior week. Where it is not based on the GMT report it relies on the GAP report which came out this week. This meeting was not advertised as a major

groundfish meeting and there is not the amount of participation by industry here that will be present in June. Given that the Council is dealing with new numbers and that the data and analyses on which these numbers are based was only available last week he did not feel it wise to go forward with final action at this time. Additionally, until recently people have not been able to get the data they need to see where their history lies within the control limits, and so do not have the information they need to be able to make a decision at this meeting. Therefore he prefers going with a preliminary preferred option and providing people an opportunity to provide input at the May GAC meeting.

With regard to the control limits for non-overfished species, Mr. Moore stated that most of the values in the motion came from the GAP report. Where the numbers differ from the GMT report, either the GMT report did not have the number or the GAP numbers were lower. An exception is for Pacific whiting shoreside. The GAP statement was unclear on this recommendation. Twenty percent was requested in public testimony, but this is too high. Fifteen percent is similar to what is recommended in the WDFW report. Fifteen percent of the shoreside whiting allocation would be equivalent to 6.3 percent of the total US whiting catch.

With regard to vessel limits for non-overfished species, Mr. Moore stated that the values used for the motion were also taken mainly from the GAP Report and some from the GMT report. There were differing values between the GAP and GMT on starry flounder so he used a number halfway between the two. On halibut IBQ, we need to set a control limit at the start. He is not certain what that number should be, therefore a range is presented.

With respect to overfished species, for vessel limits there were no clear values presented for vessel limits so a number of options are presented for analysis. For control limits for overfished species, the first four species listed are taken from the GAP. For the last three numbers, bocaccio, yelloweye and cowcod, he thought for those overfished species they were rather high, so he took 50 percent of what the GAP recommended. Mr. Moore also noted that since he relied on the GAP report for many of the values in his motion, the rationale provided for the GAP recommendations in Supplemental NMFS report G.4.c, would also apply. Mr. Moore then clarified that in the table on page 1, for minor slope rockfish north, the value was from the GMT recommendations rather than the GAP recommendation.

Ms. Vojkovich moved to amend Motion 27 (Amendment #1) to make this final adoption of the accumulation and control limits in Agenda Item G.4.d, Supplemental Motion in Writing, with the exception of the halibut IBQ, which should be forwarded for determination in June and drop the tasking of GMT for analyzing other options. Mr. Wolford seconded Amendment #1 to Motion 27. She later clarified that her motion was to use for the final values provided in the first two columns of the third page of the motion in writing (in the final table in Agenda Item G.4.d, Supplemental Motion in Writing). This effectively eliminated the overfished species text referencing a range but left intact the range for halibut IBQ.

Ms. Vojkovich said she understands that some of this information is new at this meeting, but disagreed that no one knew that this would be final action. She felt with the information from the GMT's document, from discussions with the GAP and the GAP report, and the rationale provided in the NMFS report this morning there is sufficient information for a final decision. Through the various iterations of these options, every time we get a new set of numbers and a

different way to look at it. What all of this has told her is that we all have an idea that we want to try to set the limits low enough for people to have as much diversity as possible and not so high that we get excessive control. She did not feel the Council would be more informed after today with a new option that comes in later and she suspected that no matter how much information the Council received some mistakes will still occur. There is never any way to find out how this is all going to work.

Mr. Myer supported Ms. Vojkovich's amendment and believes it is time to move forward. With respect to statements that people need to see what they would be getting before they could comment on the options, he stated that it would be wrong to personalize the decision and that doing so would drag it out and make it harder. With respect to consideration of excessive limits and how much is too much, the decision can be made without knowing who got what. The decision can be made based on criteria having to do with what we want the fleet to look like and the implications of the percentages. He does not necessarily agree with the values in the motion but agrees that it should be final action.

With respect to Mr. Meyer's concern that this not be personalized as people find out what their initial allocations might be, Mr. Moore noted that the issue is not whether one person knows what someone else is getting but rather whether the person who would be getting it himself knows what that amount would be. Those not in attendance at this meeting and those who have not had time to use the Fishermen's Marketing Association calculator do not know what the GMT and GAP recommendations are or where their potential allocations stand with respect to those recommendations. This is about trying to allow the public an opportunity to look at the data that is available and advise the Council.

Mr. Lockhart supported the motion noting it is important that the decision not be made in consideration of where any one particular individual's potential allocation stands with respect to the proposed limits. The decision should be supported by the rationale which has been provided, which is that we are trying to set the accumulation limits that allow for some growth to get the efficiencies out of that and prevent excessive consolidation. Much information has been provided on why that is needed and the GAP did a good job of spelling out why they varied from historic patterns and either raised or lowered the control limits given the individual circumstances of each species. He also felt that there had been notice that this decision was coming, that industry was aware of it, and that it had been spelled out at the November Council meeting.

Ms. Culver supported this being a preliminary action today. She believed that the Council should recognize the impacts of the accumulation limits and how it will affect, not necessarily the individuals, but how the fishery will look in the future. She did not feel that she had that level of comfort at this point. The Council and WDFW are concerned with protecting the coastal communities and concerned about levels of fleet consolidation and the only tools left to address these concerns are accumulation limits and adaptive management. She was not completely convinced that we are going to get it right with adaptive management. For that reason accumulation limits are an even more important tool and they need to be as correct as can be. She likes the proposed original motion that looks at the lower limits of the range to begin with; it is a good precautionary approach to take. We need to take a little more time, especially on the overfished species limits. At first glance there are one or two target species as well as some

overfished species for which she is not convinced the values are appropriate to accomplish the Council's objectives for the future. With respect to process, there has been discussion of taking final action then revisiting it in the future if there is a problem. She is not comfortable with that approach to decision making. This should be preliminary if there is a good chance that most if not all Council members will want to revisit the issue in June.

Mr. Cedergreen supported the amendment, stating this has been scheduled for action since November and he agreed with Mr. Myers' statement.

Dr. McIsaac asked Ms. Vojkovich about her amendment, what is the intent on how to handle the ranges in the motion? She said her amendment refers to page 3, the table and columns labeled "preliminary preferred alternative," that is what she is adopting. The info on the right hand side of the table is informational only and not part of the amendment.

Mr. Steve Williams did not support the amendment. He felt that while we have gained some clarity on the issue, the industry and public need more time to understand what is being presented. For the success of the program, it is important that the public become comfortable with the numbers, even if they are in disagreement with them. Hearing the industry response would also help clarify the issues for the Council. At the same time, he did not expect that there would be any new information that would change the numbers that are presented in the motion, with the exception of perhaps overfished species. Some of the technical experts had expressed to him concerns that these values may be too low and would be constraining. Delaying final action until June will not delay implementation but may benefit the process.

Mr. Wolford supports the amendment, noting that there had been proper notice and opportunity for public comment. However, more important is that it is not clear that additional analysis would provide any more insight on the issues.

Ms. Fosmark expressed her concern that the needs of communities and CFAs had not been well identified and there is no divestiture timeline. Given the uncertainty in her mind, she preferred to not make the decision today.

Mr. Ortmann agreed with Mr. Wolford's comments and supported Ms. Vojkovich's amendment. He noted that things are constantly changing and because of that final action is never final. He also expressed concern about other Council workload items that need to be addressed, support for high caps for underutilized species, and that there be a fair time span for divestiture.

The vote on Amendment #1 to Motion 27 was a roll call vote with the following people voting no: Mr. Sones, Mr. Moore, Ms. Fosmark, Ms. Culver, Mr. Steve Williams, and Mr. Warrens. The vote was 7 yes and 6 no; Chairman Hansen voted yes, so Amendment #1 to Motion 27 passed with Chairman Hansen's yes vote.

Ms. Fosmark moved to amend the motion (Amendment #2 to Motion 27) to analyze impacts of accumulations on CFA and communities and include a divestiture period of three years. The reason for doing that is that we haven't had time to develop any CFAs. Mr. Warrens seconded Amendment #2 to Motion 27 for purposes of discussion. Ms. Fosmark noted, we have heard testimony that they are concerned about impacts and the changes they have to face. There are

many unknowns at this point. The idea would be to take impacts on CFAs into account through the three year divestiture period. She noted that the motion did not address accumulation limits for CFAs. Several Council members expressed concern that this issue be addressed in a separate motion and noted that CFAs would be addressed again at the June Council meeting. In particular, divestiture is an issue that might be taken up separately. Mr. Myer opposed the motion because it clutters the motion. Mr. Wolford concurred with Mr. Myer; he would like to see this in a stand alone motion, rather than an amendment. With that, both maker and seconder of Amendment #2 withdrew the amendment.

Ms. Culver moved (Amendment #3 to Motion 27) to identify canary rockfish as a preliminary preferred alternative and not a final alternative. Mr. Cedergreen seconded Amendment #3 to Motion 27. Ms. Culver noted that the GMT report identified some species that could be benchmarks, for example, petrale and sablefish. These benchmark species are fully utilized, available coast wide, and not regionally distinct. The GMT recommendation was to set for those species a fairly low accumulation limit. Canary fits a similar definition. She did not think there was enough information today to tell us how fishing operations would be impacted by a canary rockfish limit twice as high as what is proposed for the directed petrale and sablefish fisheries.

Ms. Vojkovich spoke against the amendment. Looking at the canary rockfish amounts the tables for all the options, and the maximum historic annual share, the value is well within any of those numbers. She could not see where we would get other information that would lead us to a different decision.

Ms. Culver noted that with respect to historic harvest information we are looking at a historical time period when trawl vessels targeted canary rockfish and there were not limits on them. But looking today and into the future under our OYs specified in rebuilding plans we would not be looking at those high levels of what was achieved when canary was viewed as a target species.

Amendment #3 to Motion 27 passed; Mr. Wolford voted no.

Mr. Myer moved to amend Motion 27 (Amendment #4 to Motion 27) to make the following change: under the category of Pacific whiting shoreside strike 15 percent and replace it with 10 percent in the column of control limits. Mr. Cedergreen seconded Amendment #4 to Motion 27.

Mr. Myer said the change will make the recommendation more closely in line with what the GAP suggested. He believes the absence of rationale in the industry discussion was because of their belief that those were already the numbers that would be adopted. The industry came up with those numbers. He does believe the shoreside whiting is different than other sectors of the whiting fishery, it's more community based. It is important to keep all the plants and boats necessary to supply those plants. Getting up into the 15 percent range does have the chance to limit the number of plants that may be able to get deliveries.

Mr. Moore opposed Amendment #4. While he felt the 20 percent requested in public testimony was too high, the 15 percent is a reasonable number that prevents any problems with divestiture, will allow things to operate without establishing undue control, and the shoreside whiting fishery is not that different from the MS fishery. Mr. Myer noted that the difference between shoreside whiting and the offshore facilities is that plants are located in different areas of the coast, and

they will require deliveries. In response to a question from Mr. Lockhart, Mr. Myer indicated that the rationale regarding the need for a 10 percent limit for shoreside fisheries was one that had been expressed to him by members of that sector. Mr. Seger noted that the Council also had a recommendation from the GAC on this issue.

Amendment #4 to Motion 27 passed, Mr. Warrens and Mr. Moore voted no.

Main Motion Vote on Motion #27. Main motion 27 passed as amended. Mr. Moore voted no.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 28) to adopt the following: that the Council declare its intent to allow CFAs to own or control more QS and/or QP than may otherwise be allowed under the ownership control and accumulation limits of the non-whiting trawl rationalization program and direct Council staff to develop mechanisms for Council consideration. Analysis of various mechanisms should proceed only for CFAs and final adoption of that mechanism and or any limits for CFAs will take place at the June Council 2009 meeting. In the analysis the Council staff should take into consideration how the CFA definition might assist in preventing "excessive control." The intent of this motion is to have all of the provisions governing CFAs implemented along with all of the other provisions of the trawl rationalization program and at the same time.

Ms. Vojkovich said that over the time we have been deliberating on trawl rationalization, we have struggled with how to deal with communities and made several attempts to get communities involved with the process and find mechanisms in which that they can be fully engaged and also be protected from unexpected and expected changes that may be caused by going to this kind of system. We have an adaptive management program, however, she did not feel that program guarantees community access to QP. She is taking a forward-looking perspective of when this program gets implemented and the changes become more clear. She is relying on information in the draft documents which identifies vulnerable, and listened to public comment about impacts on communities, especially by those who are not part of the trawl fishery. A CFA provides an opportunity to sustain a fishing community. It may possibly serve as a vehicle to attract fishing activity into the ports, an opportunity to provide for new entry training for crew members – not just fishing participants, but fishing businesses, processors, buyers of fish, even tourism where people want to come and see an active fishing community, etc.. CFAs have a role they can play there. Since some of our fishermen will be allocated a small portion of QS, to maximize their benefits, they may not be able to fish them on their own and don't want to leave their community but want to support it. A CFA can be structured where QS and QP are managed by an entity for the benefit of the entire community. The definition of a CFA will play a big role in dealing with the issue of control and excessive ownership. The action took yesterday sets up the expectation that there will be guidelines on how a CFA would operate. The more structure we have, the more chance we have of having it work. Ms. Vojkovich thinks this is important because the trawl rationalization program is not just about trawl vessels and the trawl fleet, it's about the fishing communities. This is an opportunity that would be afforded for those communities that want to proceed down this road.

Ms. Culver agreed with the analysis Ms. Vojkovich requested relative to the mechanisms for Council consideration that would allow us to consider higher accumulation limits for CFAs. We do need to define what a CFA is and some guidelines. Ms. Culver had concerns about the use of

the word “intent.” In some cases after we see an analysis, we may want them to not own more QS/QP of certain species. We may want to hold them to the accumulation limits that other folks have. With that, Ms. Culver moved to amend Motion 28 (Amendment #1 to Motion 28) to change the wording to say “to consider allowing CFAs” in the first sentence. Mr. Myer seconded Amendment #1 to Motion 28.

Mr. Moore said we need to be looking at CFAs and what they can do for our local communities with the modification being suggested, he intends to support her amendment and if it fails, he will vote against the main motion.

Mr. Warrens also said the CFAs will be a good solution to stabilize communities which may otherwise be out in the cold. He asked Ms. Vojkovich if these would be in lieu of or in addition to the adaptive management program. She said they are two separate issues; adaptive management is a stand-alone program.

Amendment #1 to Motion 28 passed unanimously.
Main Motion 28 as amended passed unanimously.

Ms. Culver moved (**Motion 29**) to have the Council adopt as a final measure, whiting CV ownership limits in the MS sector of 20 percent and a whiting CV usage limit in the MS sector of 30 percent. Mr. Cedergreen seconded the motion.

Mr. Myer recused himself from this issue for both voting and discussion.

Ms. Culver, in looking at the whiting sectors, said the CP sector has 3 companies, and about 5 to 6 active vessels that participate in the fishery in a given year. The shoreside sector has 43 permits, but there are 30 vessels that actively participate. In the MS sector, 5 MS companies have 6 vessels. Most of the years, all six vessels participate in the MS fishery. We have 32 CV permits active in the sector and around 15 to 18 participants and CVs that participate in a given year. The MS sector is in between in terms of the number of participants, between the CP and shoreside sectors. We have adopted a co-op structure for the MS sector that is reliant on maintaining the balance of power between the MS and CVs, and maintaining those strong working relationships between the individual CVs and the MS they have historically delivered to. The Council in November adopted a MS usage limit of 45 percent; thereby requiring a minimum participation of three MS in this fishery. However the Council also did not establish a processor tie or any processor linkage of those CV to those MS. So in any given year we would have a minimum of three MS, however, there is no certainty or tie or obligation for any of the CVs to deliver to any particular MS. Having a use limit helps ensure that there is a minimum fleet that is available for those three MS to successfully prosecute the fishery. We have heard from public comment that we have one MS company that has had 1-2 CVs delivering to it. The other MS have had 3-4 CVs each. In looking at a minimum number of three MS it seems like they would need at least 5 CV's to prosecute that fishery. The recommendation of 20 percent ownership and 30 percent usages is consistent with the proposal put forward by United Catcher Boats Association; which seems to represent a general consensus of the participants in that fleet and the CVs in the fleet. Given the data that was presented to the Council in November and is referenced in the WDFW Supplemental Report, those limits would strike a balance between

achieving efficiency in the fleet, providing a minimum number of vessels needed to prosecute the fishery, and making sure that one entity did not have excessive control.

Mr. Lockhart asked Ms. Culver to expand on why the control limit of 20 percent is better than 18 percent or 15 percent? Ms. Culver explained that data we have available to us are relative to usage because there has not been ownership of quota. In looking at initial allocation of what the permits are expected to receive, there is one permit that is expected to receive an initial allocation of 9.5 percent based on the qualifying period. Setting a limit of 20 percent allows for room to grow in that fishery from the 9.5 up to a 20 percent limit. In looking at the maximum that occurred in the qualified period 94-03, we have a maximum usage of 29 percent. Twenty percent would strike a balance between those two while still not providing a level of control that we would deem as excessive.

Ms. Vojkovich asked Council staff, what were the decisions we made for the at-sea whiting fleet relative to ownership and vessel limits? Mr. Seger answered that in November there was a set of options for control limits but no action taken, so that was left undone. With respect to usage limits, there had been nothing on the table for consideration at that time. With that Ms. Vojkovich said she would vote against the motion. She had felt the entire fishery should be in an IFQ program but had been convinced otherwise because the fleet wanted co-ops. They felt they had been operating well all that time and that they could come to their own business arrangements. Putting a vessel limit in a co-op goes against the philosophy of a co-op and is inconsistent if we are not applying a vessel limit and control limit in the other part of the at-sea whiting fishery. If this is just to apply to the MS sector and for use in a co-op then she would vote against it.

Ms. Culver stated this only applies to the MS sector, not the entire at-sea sector. Usage limits are not needed in the CP sector because of the very small number of vessels that participate in that fishery. As you increase the number of participants, the necessity for a usage limit increases. The co-op must maintain its structure, otherwise the fishery would revert to an open access fishery. We've heard a lot of testimony relative to the desire to maintain and participate in the co-op and how the fall back of the non-co-op fishery is very undesirable. In a situation where some members of the co-op might want to have fewer CVs participate in the fishery (taking catch for the other vessels), some vessels may feel pressured to agree and forego their participation because if they did not do so, they would be forced into the non-co-op fishery. Some of those vessels are small and in the non-co-op fishery would be outcompeted by larger vessels. So there would be this pressure to agree with the co-op to maintain that co-op structure. As those disagreements build between the CVs and the MS and amongst the CVs, it calls into question the stability of the co-op management structure and avoiding having it turn into a "race for fish."

Ms. Vojkovich said she is troubled with the rationale, she thought that the co-op option that we have is essentially status quo. Vessel accumulation limits for the MS fishery have not been on the table throughout five years of discussion and was opposed in public comment. She did not understand how this got missed in all of the discussions and deliberations and why it is necessary now. Ms. Culver clarified that the fishery operating as a co-op is something new for the MS sector and they are looking to have some guidelines for their operations. In public testimony the

catcher vessels are all in agreement with the motion. There was one comment from a MS owner who did not want to have a usage limit on the catcher vessels.

Motion 29 passed. Ms. Vojkovich voted no. Mr. Myer recused himself.

Mr. Anderson spoke regarding concerns about values identified for overfished species and requested that the GMT review the values contained in the motion for overfished species and give the Council an assessment tomorrow as to the appropriateness of these values. The Council concurred.

Ms. Fosmark moved (Motion 30) to set a period of three years for permit holders to divest themselves of QS that exceed accumulation limits, and that divestiture can take place in any of the first three years following implementation of the program. Ms. Vojkovich seconded the motion.

Ms. Fosmark said it is important to allow time for organizations or folks that have permits that are going to exceed the limits to have an opportunity to divest themselves of the overages before they get rolled back into the program.

Mr. Anderson supported the motion and asked if the intent was for the 36 month period to start after the implementation date of the program? Ms. Fosmark said that is the intent.

Mr. Moore supported the motion, and noted that right now we have a two-year moratorium on transfer following implementation. The motion makes an exception for those that find they are over the control limit.

In response to questions from staff, Ms. Fosmark indicated that QP would be issued to those holding QS in excess of control limits and that any additional permits acquired prior to the time of initial allocation would be eligible to receive QS and participate in the divestiture period.

Mr. Anderson said that if we determine these control limits, he would not be comfortable with letting them catch and make profits on amounts above those limits during the divestiture period. A divestiture provision is making an accommodation for people who have history that results in QS that are beyond limits set this morning. We are giving them a grace period to get rid of them, not to make more money off them.

Mr. Moore moved to amend the motion (Amendment #1 to Motion 30), to add the language that says "QP associated with QS that are in excess of accumulation limits cannot be used or transferred." Mr. Anderson seconded the amendment.

Mr. Lockhart said the other side of the issue needs additional discussion. The other side is that you could just not assign it to them and then you wouldn't have to worry about divestiture. Why is this a preferred manner rather than just not assigning QS?

Mr. Moore noted the testimony from Ecotrust and Environmental Defense, both of which recommended divestiture to handle excess shares. The public also said they made investments in the fishery and we are recognizing the investments by giving them something of value, a limited

access privilege. To some of the people who have made investments we are saying “we’re sorry” you have made too much of an investment for us to be comfortable giving a privilege for the full value of your investment. Because of that we are going to give you an opportunity to recoup part of that investment, to divest your QS. The other mechanism we could use is that we are only going to allocate QS up to the control limits. The point at which any individual permit holder hits the control limits, the remaining QS would be put aside and we have to figure out what to do with the excess. We only have public comment recommending divestiture.

Mr. Myer said in June we will make a similar decision on other people that hold excess shares, CFAs. We should treat them similarly. If we are going to let those associations divest themselves, if members of the fishing community have excess shares it’s important to allow them to divest themselves as well.

Dr. Hanson recommended the issue be sent to the GAC for consideration. It is too complex to be dealt with now on the Council floor.

Mr. Anderson noted that when we set up the tiered limits for the program we had big losers in the top tier and they were not allowed to divest themselves.

Amendment #1 to Motion 30 passed unanimously.

Mr. Warrens moved to amend the motion (Amendment #2 to Motion 30) so that the Council take Dr. Hanson’s advice and defer the action on this motion until after the GAC has had time to deal with it and bring to the June meeting (table the motion). Mr. Steve Williams seconded Amendment #2 to Motion 30.

Amendment #2 to Motion 30 passed on a roll call vote. Mr. Moore, Ms. Vojkovich, Mr. Wolford, and Ms. Fosmark voted no.

The main motion was not voted on, as it was tabled to June.

Dr. Hanson moved and Mr. Moore seconded a motion (Motion 31) to apply control limits to QS and vessel use limits to QP. This had been recommended by both the GMT and GAC. Motion 31 passed unanimously.

Dr. Hanson moved and Mr. Wolford seconded a motion (Motion 32) to fix the weighting schemes of trawl allocations of the 2010 OYs for the aggregate limit.

Dr. Hanson said we need to specify a time period, this is the one recommended by industry. There could be other options. The staff needs some kind of set point. If the GMT sees a problem with what the Council does here they can bring it up on Friday when they report back on the overfished species accumulation limits.

Motion 32 passed unanimously.

[Friday, 03/13/09; 10:54 a.m.]

Mr. Robert Jones provided Agenda Item G.4.b, Supplemental GMT Report 2.

Mr. Williams moved to reconsider the final vote on Motion 27 (accumulation limits) made by Mr. Moore as amended by Amendments #1, #3, and #4. Mr. Warrens seconded the motion (Motion 41).

Motion 41 passed unanimously.

Ms. Culver moved (Motion 42) to amend Motion 27 by stating that the vessel limits and control limits of the main motion for overfished rockfish be viewed as preliminary amounts and that the GMT do an analysis of these amounts relative to how they could affect prosecuting an efficient viable groundfish trawl fishery; report back in June the effects of these amounts along with recommendations it may have for other amounts. For purposes of the Council action, the GMT should focus its priority in looking at vessel usage limits as they did in their recommendation to us earlier this week, understanding that control limits and ownership limits are more of a policy decision. Mr. Cedergreen seconded the motion.

Motion 42 passed unanimously.

Dr. Hanson noted there was another part to the GAP's thinking on overfished species limits, the GMT's maximum vessel concept. This does not need to go in front of the Council now but it has some possibilities and he asked that the GMT be directed to look at. The Council concurred.

The Main Motion 27, as amended by Motion 42, passed. Mr. Moore voted no.

G.5 Fishery Management Plan Amendment 22 – Open Access License Limitation

G.5.a Agenda Item Overview (03/12/09; 4 p.m.)

Mr. LB Boydston provided an agenda item overview which included a Powerpoint presentation, Review and Update of Open Access Fishery Preliminary Draft Environmental Assessment, Proposed Amendment 22,

http://www.pcouncil.org/bb/2009/0309/G5b_SUP_EA_TEAM_PPT_0309.pdf. During the powerpoint, Mr. Kevin Ford, NMFS, joined Mr. Boydston to answer questions. The slide show summarized (1) the license limitation alternatives, (2) the analysis of Alternative 6 (same as A-6, the Council's September 2008 adopted preliminary preferred alternative), and (3) new information regarding cumulative impacts and post window period landings.

During questions, it was clarified that the administrative process for the proposed B permit program would mimic that of the Limited Entry (A permit) program.

G.5.b Reports and Comments of Agencies and Advisory Bodies

Mr. Jones provided Agenda Item G.5.b, Supplemental GMT Report. Among other things, he noted that sablefish trip limits would not change until the fleet size was lowered to about 250

vessels and that a license limitation program would improve some aspects of the current management.

[Council adjourned for the day; returned back to Agenda Item G.5.b, on 03/13/09; 8 a.m.]

Mr. Ancona provided Agenda Item G.5.b, Supplemental GAP Report. The Council asked questions about issuing permits to previous vessel owners or fisherman and why the GAP recommended a relatively low landing threshold for a sablefish endorsement given that it made very little difference between the 100 lb or 500 lb thresholds.

Dr. McIsaac summarized Agenda Item G.5.b, GAC Report.

Ms. Vojkovich summarized Agenda Item G.5.b, Supplemental CDFG Report.

Mr. Lockhart summarized Agenda Item G.5.b, Supplemental NMFS Report. In addition, Dr. Clark reported that the proposed license limitation program under Alternative 6 would cause the observer program to redesign their at-sea sampling strategy and increase overall program cost.

Mr. Steve Williams summarized Agenda Item G.5.b, Supplemental ODFW Report.

G.5.c Public Comment

Mr. Dave Bitts, PCFFA, Eureka, CA

Mr. Steve Gray, Bell Buoy Crab Co., Seaview, WA

Mr. Bill James, Port San Luis Commercial Fishing Association

Mr. Larry Collins, Crab Boat Owners Association, San Francisco, CA

Mr. Jason Salvato, fisherman, Petaluma, CA

Mr. Santi Roberts, Oceana (for NRDC), Portland, OR

Public comments ranged from taking no action to requesting a much higher standard for a sablefish endorsement (to several thousand pounds).

G.5.d Council Action: Adopt a Final Preferred Alternative for Implementation (03/13/09; 9:55 a.m.)

Mr. Moore moved and Mr. Warrens seconded the following motion (Motion 39):

I move that the Council approve converting the Open Access Fishery to Federal Permit Management using the Council Preliminary Preferred Alternative (A-6) with the addition of sablefish and lingcod endorsements using the following criteria:

- The current owner of a vessel is eligible for a B permit if that vessel(s) was (were) used to make one or more directed B species open access fishery landings totaling ≥ 100 pounds from Federal and/or state waters off the Washington, Oregon or California coasts during the period April 9, 1998-September 13, 2006 (window period); and that at least one directed fishery landing was made during January 1 2004-September 13, 2006;
- A lingcod endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 100 pounds of lingcod in any one year during the window period;

- A sablefish endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 500 pounds of sablefish in any one year during the window period;
- Allow both a lingcod and a sablefish endorsement to be affixed to a B permit if the vessel qualifies for both endorsements;
- Affix species endorsements permanently to and for sole use with the original B permit and allow directed fishing for the endorsed species in addition to other B species groundfish;
- The endorsement provision is intended to preclude non-endorsed vessels from directly fishing for (targeting) endorsed species, but allow B permitted vessels without endorsements to land incidental amounts of the endorsed species under cumulative landing limits identified during the normal specifications process;
- Vessels that apply for and receive B permits, including any associated species endorsements, would be allowed to take and land B species groundfish using open access gear in amounts specified in Federal groundfish regulations;
- Vessels that do not receive a B permit and that do not possess a Limited Entry (A) permit will be allowed to take and land B species groundfish incidental to fishing for non-groundfish species in amounts specified in Federal groundfish regulations;
- Permits and associated species endorsements are transferable between vessels, including transfer during the first year;
- Allow A and B permits to be used alternately on the same vessel in the same year, but not in the same cumulative limit period. A declaration process is required as part of the A and B provision;
- Establish a process for initial issuance appeals;
- Remove C permit program provisions and provide a mechanism to account for and manage incidental catch of groundfish in these fisheries

Motion 39 was not voted on because Mr. Dan Wolford made a substitute motion.

Mr. Wolford moved and Ms. Kathy Fosmark seconded a motion (Motion 40) to adopt, with one exception, Alternative 2 (the vessel registration alternative on page 35 of Agenda Item G.5.a, Attachment 3) which establishes an annual Federal license requirement for vessel owners that intend to participate in the open access groundfish fishery. The one exception would be in the last sentence of the paragraph under Alternative 2 which should read: "However, a vessel owner may apply for an open access license for the following year at any time during the year."

Mr. Wolford stated that there has been a lot testimony by the public that the current fishery was viable and that many longtime fishermen, for one reason or another would not qualify to continue fishing under the more limiting alternatives. He noted that the fleet size reduction had been achieved; the proposed B permit program was too complex; the vessel monitoring system (VMS) requirement is effective in limiting fishery participation; a \$100 to \$200 annual registration fee would discourage frivolous vessel registrations; and a salmon vessel effort shift did not appear to be a problem in the fishery.

Mr. Wolford reviewed the seven items under the need for the proposed action of page 4 of the EA and compared his motion with the preliminary preferred alternative. His Alternative 2 with a simple registration program would be expected to have fewer vessels; would allow simple market forces rather than regulatory action to determine how communities would benefit; is as

effective or more effective than the preferred alternative with regard to eliminating restrictive landing limits; assists in efficiently meeting management goals with the registration of vessels; is neutral with regard to economic viability issues and salmon effort shifts; and achieves improved management and enforcement through simple registration as effectively as the preferred alternative.

He further noted that the analyses for Alternatives 2 and 6 had very similar results and that the directed fishery was too small to justify the high cost of a limited entry program.

It was further clarified that the purpose of this alternative is to identify all vessels and vessel owners that participate in the open access fishery and to aid managers in estimating fishery impacts to target and non-target species. This alternative would not limit fishery participation and the registration would be valid for directed or incidental fishing operations in both state and Federal waters. Registration would have to occur far enough in advance of the next year to allow for processing by NMFS.

Mr. Lockhart stated he would not be supporting the substitute motion. The primary reason is because the problem with open access (OA) is that it does provide an outlet for potentially increasing and expanding effort in the fishery. We don't see a lot of people in the fishery right now, but that hasn't always been true, and we don't know what will happen in the future. The Federal Government has a strong position in limiting capacity and matching capacity to the resource. And without capping this fishery, we cannot achieve that match. A simple registration does not do that. When we created this fishery 15 years ago, we did not anticipate that we would be here today when the limited entry (LE) system was designed. Everyone thought OA would be a minor thing, but it is not. There is significant effort on sablefish and possibly a growing problem with lingcod. The economic issues mentioned by Mr. Wolford are a concern, but all of these fisheries are linked. Decisions in one fishery affect other fisheries. The trawl rationalization decisions, such as the AMP, could help to alleviate some of these economic problems in the OA fishery. The EFP for a Community Fishing Association could be another venue for addressing some of these economic problems identified by Mr. Wolford. The substitute motion at its core does not address the primary problem, but the original motion does.

Mr. Warrens said that he was at the table when LE was created. We did not cut deep enough at that time, and now is the time to limit this. If not now, you will be back at this table again and again. I oppose the motion.

Ms. Vojkovich said she would support this motion as the preliminary preferred alternative (PPA). The suite of management measures we had 15 years ago are not that same as those we have now. If we give out 1000 permits under the PPA, it would not match the capacity to the resource given that California now has less than 700. The complexity of the program is far in excess of what is needed. It will have disproportional effects on California. Mr. Wolford's motion takes care of part of the issue, and we could discuss sablefish as a separate item.

Mr. Moore said the need for the proposed action is stated in the EA which says the number of vessels needs to be limited to match capacity and effort to match resource availability, but the analysis for Alternative 2 says this alternative would not limit fishery participation. I will have to oppose the substitute motion.

Ms. Fosmark stated she would support the motion. What she sees going forward with a more restrictive permitting system would not allow people to come in and out of a fishery that serves as a safety net. Our aging fleet and harvesters will leave, and young fishermen want to get in. This fishery allows them to get in with cheaper vessels and gear – you can't get into a more expensive fishery because no one will loan you the money to do so. This fishery is necessary to provide opportunity for young folks to enter the fishery.

Mr. Wolford said that with regard to how many permits would be available, the analysis under Alternative 2 estimates less than 713 permits would be needed initially and less than 713 permits in the long term. The same analysis shows that Alternative 6 would use those same numbers, but the analysis shows the PPA would have in excess of 1000 boats that would qualify. Therefore, the PPA does not limit entrants into the fishery any more than a simple registration. That excess is not needed.

Ms. Culver said that WDFW proposed an option similar to this three years ago to the Council, but over that time she realized she couldn't convince all Council Members to support it. One of the things that concerns her with the PPA is that 15 years ago the LE fishery was developed over 6 or 7 years. As a result, there were people identified that would not qualify for an LE permit. The Council decided an OA component would be available for people to enter annually when other fishing opportunities were not available, such as Dungeness crab and salmon troll. And for the last 15 years that's what OA was used for. The GMT said the trip limits would not change under the PPA; the landings in this fishery are directly related to the amount of sablefish that is available in the OY and OA allocation; and the trip limits would roughly be the same under the substitute motion. If we have concerns about the amount of effort in this fishery, and the quickness with which the OA allocation is obtained, and the potential bycatch in the fishery – then the Council should do a better job of managing the fishery through trip limits, and by applying the bycatch rate appropriately. The one thing she is most uncomfortable with in the PPA is creating a new LE permit that looks like a property right, even though we say it isn't. We had testimony today from people who feel like they have had a property right in the past, and giving out a permit sets that in concrete a little bit more. She stated she will support the substitute motion.

Motion 40 passed on a roll call vote with all voting members present. Mr. Moore, Mr. Warrens, Mr. Lockhart, Mr. Williams, and Mr. Ortmann voted no. Mr. Jerry Mallet abstained. The vote was 5 no, 7 yes, 1 abstention. The Chair did not vote nor abstain.

G.6 National Marine Fisheries Service Report (03/13/09; 10:45 a.m.)

G.6.a Regulatory Activities

Mr. Lockhart said that the trawl rationalization schedule includes deeming by June, but that is very likely too early for NMFS to have more than just an idea of where we are going.

Ms. Culver asked about the final rule for halibut this year, has it been published yet, because we are holding back on our state rule until the Federal rule is published.

Ms. Sarah Williams said that the final rule is now at headquarters and has not been published yet, but she will check into it.

G.6.b Fisheries Science Center Activities

Dr. Elizabeth Clarke gave a report on NWFSC activities. New observer reports have been produced, as well as a total mortality report. An informational report is now available on the Oregon and California pink shrimp and California halibut fisheries in 2004, 2005, 2007. An informational report is available on salmon bycatch in groundfish fishery. Petrale and splitnose stock assessments will happen in early May 2009 in Seattle. The SWFSC finished their piece of the historical catch reconstruction work, and ours is proceeding more slowly. We are working on a bycatch trends report using observer information, which will provide us with baseline information as we proceed into ecosystem work.

Mr. Moore asked about incidental catch of whiting in the shrimp fishery, and wondered if information from 2004, 2005, and 2007 is available on the web. Dr. Clarke said it was available.

G.6.c Reports and Comments of Agencies and Advisory Bodies

None.

G.6.d Public Comment

Mr. Santi Roberts, Oceana, Portland, OR

G.6.e Council Discussion

None.

G.7 Final Consideration of Inseason Adjustments (if Needed) (03/13/09; 12:33 p.m.)

G.7.a Agenda Item Overview

Mr. Burden provided the agenda item overview.

G.7.b Reports and Comments of Agencies and Advisory Bodies

Mr. Robert Jones provided Agenda Item G.7.b, Supplemental GMT Report. In that report, the GMT requested that the Council provide guidance on when to develop and implement methodologies to incorporate accounting for unidentified rockfishes into all Council processes that use historical and current recreational catch data, see the [updated bycatch scorecard](#) contained in that report.

Mr. Russell Porter, Pacific States Marine Fisheries Commission (PSMFC), said the RecFIN technical committee indicated that he hold a dialogue with the GMT on the issue of unidentified rockfish. He stated that based on his experience with sportfishing data since 1979 that unidentified rockfish has been an issue since the beginning. He indicated that the main issue

with resolving unidentified rockfish issues is the timeframe that this would be looked at. He indicated that the problem is that most anglers simply don't know what rockfish species they are catching and record that catch in the "unidentified rockfish category." He stated that RecFIN strives to be as accurate as possible in entering the data. He advised the Council that if they intended to examine the issue and try to resolve it, that the Council give themselves some time to do so. Coming up with methodologies and proxies is something that needs careful study. In order to resolve the issue appropriately, the Council might want to address this issue in the next management cycle. He reiterated that the issue needs careful time and thought. He then spoke to efforts being undertaken to help anglers accurately identify rockfish, including posters and fish identification cards that were being provided to anglers.

Dr. McIsaac asked about the people who may be infrequent anglers. He asked if those people are likely to even know what a rockfish is. He then addressed a question posed by the GMT regarding catch sampling procedures in the field. He asked if those sampling procedures could be improved and implemented this year. Mr. Porter said the main issue associated with resolving unidentified rockfish is working to educate the anglers more. He indicated that they (PSMFC) have a flipchart (30 pages) as a tool to assist anglers in identification. PSMFC samplers take time to assist anglers in determining species, as well as teaching and educating anglers.

Mr. Williams pointed Mr. Porter to the GMT report, where the report stated that unidentified fish might be filleted or given away – Oregon doesn't allow that. Mr. Williams indicated that a short-term solution might be to have the other areas not allow that. Mr. Williams asked about guidance from NMFS, what options do we have in dealing with it now or later?

Mr. Lockhart said there are limited resources for resolving these problems and that he too was struggling as to what to do. He asked if there were intermediate steps that could be taken to not affect the current workload for the GMT and the science center. He indicated that we have a lot of other things that have a higher biological consequence that are before us. Ms. Cooney said Mr. Lockhart's comments are good; this is the first she has seen of this and had not had time to talk about it; sounds like it would take some work to figure out what it would take and what the timing would be.

Mr. Ortmann stated that it is possible to educate someone today but then the next day there is a new person. He spoke to language and communication barriers. He then asked if there were resources available for the field biologists to provide their best judgments of the makeup of what the catch is, along with local enforcement agents. Mr. Porter said that staff used information from field biologists and enforcement agents in deciding whether to label catch as unidentified rockfish or unidentified fish. He indicated that it is difficult for RecFIN samplers to figure out what the anglers have caught if the anglers don't know what they have caught and discarded. In California, samplers ride on all the charter boats and record the discards; and a cross check is done with angler interviews about what they thought they threw back. On private boats where samplers cannot be aboard the boat, data is not complete or given to the samplers.

Ms. Vojkovich asked Mr. Porter, in the GMT report there is reference to "state staff," GMT, and the SSC. There is no reference to the RecFIN committee. Would you see this exercise as being an effort that is much broader than Council staffing? Yes, said Mr. Porter. He indicated that

RecFIN would like to be involved in the process. He said it is a complex thing, and reiterated that the topic should be put into next year's management cycle.

Mr. Lockhart suggested that maybe some general direction to the Council staff to work with the Science Centers, RecFIN committees, and other staff, to come up with an "analysis" to find ways to fix the problem. Mr. Lockhart said the stock assessment authors should be notified of this too as they may want to be kept abreast of the issue. Mr. Lockhart also spoke to the possibility that researching the unidentified rockfish topic may uncover a conservation concern. He stated that if problems were found, that those problems should be communicated to the Council. He stated that he thought resolving the issue would involve a lot of people and it was difficult for him to come up with a timeline for coming to a resolution.

Dr. McIsaac said it only takes a small fraction of a species such as yelloweye for this to be a concern. He asked if there was high potential of this being a conservation concern, and asked whether PSMFC looked into the potential for this to be a conservation matter. Mr. Porter said that there currently were not a lot of yelloweye juveniles that may have been in the unidentified category. He indicated that canary are the fish some people cannot identify; he did not think cowcod was an issue. He stated that he didn't think yelloweye, canary, cowcod, or bocaccio are problem fish for data recording as most people can identify those fish properly.

Mr. Burden noted Table 2 of the GMT report itemizes the amount of unidentified fish by area and that this may shed some light on the type of fish potentially being unidentified.

Ms. Culver asked Mr. Porter, in looking at the GMT report, they try to quantify the amount of unidentified rockfish that resulted from angler recorded discarded fish, as opposed to filleted fish. She would think that filets coming in could possibly be overfished rockfish. Mr. Porter said that in California, RecFIN samplers ride the boats. On private boats, the fish doesn't come in filleted. Mr. Porter said most of the unidentified is from private boats, where they discard them, and don't know what the identity of the species is.

Mr. Moore asked Mr. Porter about the potential for overfished species, there is a large number of unassessed rockfish out there; what do you think the impacts are on those species? Mr. Porter said there may be some conservation concern there. Mr. Moore asked if we have methodology and start working on this, that potentially could mean we have data coming back in September that might result in a conservation issue? Mr. Porter said that might be possible; and then he said the same procedure is used in the assessments and harvest guidelines.

G.7.c Public Comment

Mr. Dan Wolford read a statement from Mr. Bob Ingles.

G.7.d Council Action: Adopt or Confirm Final Adjustments to 2009 Groundfish Fisheries

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 43) to have RecFIN committees and appropriate state GMT staff, meet to assess and narrow down the discussion of the risks associated with the "unidentified group of rockfish" so the Council can determine the

priorities and further direction on what should take place; and identify priority needs in which revised data might be applied (situation, refine risks, what areas to focus attention on), report back to Council in September, then determine what it might take and how long it might take and when the data might be able to be used in Council management.

Ms. Culver asked, with the report coming back in September, did you envision having the SSC review the proposed conclusions the group might come to? Ms. Vojkovich said she did not expect to get a display of methodologies by September, if they could that would be great. But since most of the workload is in the state of California, she is really looking for a discussion on what it might take, not a full methodology report, just a prioritized listing with a “risk analysis.”

Mr. Moore moved to amend Motion 43 that the report come back to us in June. Mr. Warrens seconded the amendment. Mr. Moore indicated that he was sensitive to staffing concerns of California, etc., but waiting until September will not give us enough time to deal with conservation concerns should that come up or other actions if needed. He thought by waiting it might cause legal troubles too, not just conservation issues.

Ms. Vojkovich said that if the amendment passed, that she would have to prioritize between CDFG bringing inseason numbers to the Council in June, or working on the unidentified rockfish issue before June. She indicated that CDFG has staffing limitations.

Mr. Wolford, on the amendment, as a recreational angler in California, and facing the dockside samplers, he said he thinks the state of California has done an outstanding job of educating the anglers in species of concern. He did not believe that the fish that is “discarded” by anglers are species of concern. He did think that anglers in California are getting more educated and are identifying them.

Mr. Warrens asked Ms. Vojkovich about her response. He indicated that he assumed the unidentified category was part of catch accounting. He asked, couldn’t that just be done along with the catch for inseason? Ms. Vojkovich said it is determining what the species are as she understands it, and that is different from inseason catch estimates. Mr. Warrens stated that he interpreted the amendment as initiating the methodology discussion in the interim and get it back in June so we can be on board for the 2010 season if necessary.

Ms. Culver indicated that she thinks this is an important issue; not just identifying the fish that have been recorded, but exploring some alternatives to fix the larger problem of “how to reduce the amount of unidentified rockfish” recorded in the future. WDFW does not allow the filleting of rockfish at-sea. Getting a report back would be helpful and good to get information from the Enforcement Consultants as well.

There was a roll call vote on the Amendment to Motion 43. Voting no were Mr. Wolford, Ms. Vojkovich, Mr. Ortmann, Mr. Mallet, Mr. Cedergreen, Ms. Fosmark, and Chairman Hansen (6 yes, 7 no). The Amendment failed.

Mr. Lockhart asked if others could be involved if they had information. Mr. Lockhart asked if the stock assessment authors could be notified if there was a conservation concern.

Motion 43 passed unanimously.

G.8 Essential Fish Habitat Review Committee (EFHRC) Terms of Reference

G.8.a Agenda Item Overview (03/13/09; 1:34 p.m.)

Mr. Tracy presented the agenda item overview.

Mr. Warrens reported he met with the EFHRC at its December 2008 meeting in an effort to clear up any misunderstanding between the EFHRC and the Council that may have occurred at the initial meeting of the EFHRC during the September 2008 Council meeting; he was satisfied that the EFHRC was well prepared to carry out their duties towards achieving the Council's objectives for reviewing proposed modification to groundfish Essential Fish Habitat (EFH).

G.8.b Reports and Comments of Agencies and Advisory Bodies

Ms. Megan Mackey presented Agenda Item G.8.b, EFHRC Report.

Mr. Sones presented Agenda Item G.8.b, Supplemental Tribal Recommendation.

Mr. Tracy read into the record Agenda Item G.8.b, Supplemental HC Report.

G.8.c Public Comment

None.

G.8.d Council Action: Adopt Final Terms of Reference

Mr. Warrens moved (Motion 44) to adopt the Terms of Reference for review of proposed changes to groundfish EFH as shown in Agenda Item G.8.b, EFHRC Report.

Mr. Moore seconded the motion.

Motion 44 passed unanimously.

H. Habitat

H.1 Current Habitat Issues

H.1.a Agenda Item Overview (03/13/09; 11:10 a.m.)

Dr. John Coon provided the agenda item overview.

H.1.b Report of the Habitat Committee

Dr. Coon summarized Agenda Item H.1.b, Supplemental HC Report.

H.1.c Reports and Comments of Agencies and Advisory Bodies

Dr. Coon read Agenda Item H.1.b, Supplemental SAS Report.

H.1.d Public Comment

None.

H.1.e Council Action: Consider Habitat Committee Recommendations

Mr. Hansen noted that it could be difficult to talk to the Navy about naval training concerns and their habitat impacts.

Mr. Moore suggested that if CDFG and the Klamath tribes are invited to talk about dredging impacts, then a representative from the dredge mining industry should be invited as well. As a matter of public process, we should invite representatives of both sides of the issue.

Ms. Vojkovich said she was unsure whether CDFG representatives would be able to speak on this subject, since there might be a gag order due to an ongoing lawsuit.

Ms. Fosmark said she understands this is a recreational issue, and wasn't sure if the recreational miners would have a representative who could attend a Habitat Committee meeting.

Administrative Matters

I.1 Membership Appointments and Council Operating Procedures

I.1.a Agenda Item Overview (03/13/09; 1:47 p.m.)

Dr. John Coon provided the agenda item overview.

I.1.b Reports and Comments of Agencies and Advisory Bodies

None.

I.1.c Public Comment

Mr. Mike Okoniewski. Requested the Council create a new position on the Coastal Pelagic Species Management Team (CPSMT) for a NMFS Northwest Fisheries Science Center (NWFSC) representative. He cited the importance and growth of the northern sardine fishery as justification for adding the position.

I.1.d Council Action: Consider Changes to Council Operating Procedures and Appoint New Advisory Body Members as Needed

Ms. Michele Culver asked the Council to approve a new position on the CPSMT for a representative from the NWFSC. She indicated that it was important to get the new member on board as soon as possible in light of upcoming stock assessments and that the NWFSC has agreed to provide a nominee.

Dr. Coon noted that creating a new position would require a change in Council Operating Procedure 3 and such an action requires the Council to notice the action prior to making a final decision. The Council directed staff to notice the proposed change for the April Council meeting.

Mr. Steve Williams moved and Mr. Rod Moore seconded a motion (Motion 45) to appoint Mr. Greg Krutzikowsky to replace Ms. Cyreis Schmitt on the CPSMT. Motion 45 passed unanimously.

Mr. Steve Williams moved and Mr. Moore seconded a motion (Motion 46) to appoint Mr. Shems Jud to the Conservation position on the GAP (formerly held by Dr. Stephen Barrager). Motion 46 passed unanimously.

Mr. Lockhart moved and Ms. Kathy Fosmark seconded a motion (Motion 47) to appoint Dr. Kevin Piner to replace Dr. Suzanne Kohin on the HMSMT. Motion 47 passed unanimously.

Mr. Lockhart moved and Ms. Fosmark seconded a motion (Motion 48) to appoint Dr. Thomas Helser to replace Mr. Dell Simmons on the MEW. Motion 48 passed unanimously.

Mr. Myer moved and Mr. Moore seconded a motion (Motion 49) to appoint Mr. Thomas Libby to replace Ms. Heather Mann as the processor representative on the GAP. Motion 49 passed unanimously.

Mr. Cedergreen moved and Mr. Moore seconded a motion (Motion 50) to appoint Mr. Larry Giese to replace Mr. Rhett Weber as the Washington Charter Boat representative on the GAP. Motion 50 passed unanimously.

Mr. Moore moved and Mr. Myer seconded a motion (Motion 51) to appoint Mr. Andrew Bornstein as the non-voting Processor representative on the GAC. Motion 51 passed unanimously.

Mr. Sones moved and Ms. Culver seconded a motion (Motion 52) to appoint Mr. Joe Schumacker to the EFHRC. Ms. Culver seconded the motion. Motion 52 passed unanimously.

I.2 Approval of Council Meeting Minutes

I.2.a Council Member Review and Comments

Chairman Hansen asked for Council comments.

I.2.b Council Action: Approve March and September 2008 Council Meeting Minutes

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 53) to approve the March 2008 and September 2008 meeting minutes as shown; with the following changes:

- Draft September Minutes, page 37, where it says “Mr. Steve Williams moved,” correct “moved” to “seconded.”
- Draft March Minutes, page 49, where it says “Dr. Hanson noted that by its actions the Council has endorsed the report and adjourned the meeting for the day,” correct “Dr. Hanson” to “Mr. Hansen.”
- Draft March Minutes, page 41, where it says “Mr. Myer said he is in support of the motion. In the past he has voted to increase the OY because the 2005 year class had not shown an increase.” Change “an increase” to “a decrease.”

Motion 53 passed unanimously.

I.3 Future Council Meeting Agenda and Workload Planning

I.3.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview. He noted changes in the three supplemental attachments (the Year-at-a-Glance and preliminary proposed agendas for the April and June Council meetings). He also noted the HC report, which recommended three items for future agendas: ecosystem-based management, salmon EFH review, and nominations for MPAs.

I.3.b Reports and Comments of Advisory Bodies

Dr. McIsaac noted, Agenda Item I.3.b, Supplemental HC Report, regarding potential review of the Atlantis Model and ecosystem management plan issues on the Council agenda.

I.3.c Public Comment

Dr. McIsaac referred the Council to Agenda Item I.3.c, Supplemental Public Comment, concerning scheduling of the Highly Migratory Species Advisory Subpanel meeting in April. (It was later noted this issue had been addressed.)

I.3.d Council Action: Adopt April 2009 Agenda and Provide Guidance on Future Council Meetings and Priorities for Advisory Body Consideration

The Executive Director and staff worked with the Council to develop the April 2009 Agenda and plan future Council meetings and priorities for advisory body consideration.

Dr. McIsaac asked if it would be possible to delay the review of the sardine allocation from June to September. Ms. Culver agreed that would be appropriate. Mr. Lockhart asked about evaluating the new Council meeting schedule. Dr. McIsaac stated that would come after we had a few meetings under the new schedule.

[Under Agenda Item G.7, the Council indicated its desire to put a report on unidentified rockfish catches in the recreational fishery on the September agenda.]

ADJOURN

The 197th Council meeting was adjourned at 2:30 p.m. on Friday, March 13, 2009.

DRAFT

Council Chairman

DRAFT

Date

PFMC
6/2/2009

DRAFT VOTING LOG
Pacific Fishery Management Council
March 2009

Motion 1: Approve agenda as shown in Agenda Item A.4, March Council Meeting Agenda.

Moved by: Rod Moore

Seconded by: Frank Warrens

Motion 1 passed unanimously.

Motion 2: Adopt the TOR (C.1.b, Attachment 1) with the following alterations: remove Appendix C and remove the language on page 6 that references appendix C; adopt as a separate item the supplemental SSC Report Table as revised by Mr. Burner.

Moved by: Marija Vojkovich

Seconded by: Kathy Fosmark

Amdmnt#1: Include a description of the reviewers in the TOR.

Moved by: Phil Anderson

Seconded by: Dale Myer

Amendment #1 to Motion 2 passed unanimously.

Amdmnt#2: Include all recommendations listed in Agenda Item C.1.c, Supplemental Revised SSC Report.

Moved by: Rod Moore

Seconded by: Frank Warrens

Amendment #2 to Motion 2 passed unanimously.

Main Motion 2 passed unanimously as twice amended.

Motion 3: Adopt for public review the EFP's found in Agenda Item C.2.a, Attachment 1 and Agenda Item C.2.a, Attachment 2; and that it be made clear in the supporting documents that it is the desire to have a single EFP for Cape Flattery to Monterey Bay.

Moved by: Phil Anderson

Seconded by: Dale Myer

Motion 3 passed unanimously.

Motion 4: For the 2009 harvest guideline set-aside for research, change the set aside amount from 1,200 mt to 2,400 mt; designate the unused portion to be rolled back into the directed fishery.

Moved by: Phil Anderson

Seconded by: Rod Moore

Motion 4 passed unanimously.

Motion 5: Accept the abundance forecasts in Preseason Report I for use in modeling fisheries in 2009.

Moved by: Marija Vojkovich

Seconded by: Frank Lockhart

Motion 5 passed unanimously.

Motion 6: Adopt for public review the options for incidental catch regulations in the non-Indian salmon troll fishery as shown in Agenda Item F.2.b, Supplemental SAS Report:

Option 1: Status quo: Beginning May 1, license holders may land no more than one Pacific halibut per each three Chinook, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut per open period.

Option 2: Beginning May 1, license holders may land no more than one Pacific halibut per each two Chinook, except three Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut per open period.

Moved by: Phil Anderson
Motion 6 passed unanimously.

Seconded by: Dale Myer

Motion 7: Adopt for public review a range of landing restrictions for Pacific halibut retention in the non-Indian commercial sablefish fishery as listed in Agenda Item F.2.b, Supplemental GAP Report; with the addition of a third option limiting landings to no more than 100 pounds dressed weight per trip.

Moved by: Phil Anderson
Motion 7 passed unanimously.

Seconded by: Dale Myer

Motion 8: Adopt, consistent with the SSC's recommendation for management of Pacific whiting in 2009, the SS3 based Pacific whiting assessment as representing the best scientific information for managing the 2009 whiting fishery.

Moved by: Phil Anderson
Motion 8 passed unanimously.

Seconded by: Frank Lockhart

Motion 9: Adopt the coastwide ABC for Pacific whiting of 253,582 mt.

Moved by: Phil Anderson
Motion 9 passed unanimously.

Seconded by: Rod Moore

Motion 10: For Pacific Whiting, adopt a coastwide OY of 184,000 mt.

Moved by: Phil Anderson
Motion 10 passed unanimously.

Seconded by: Marija Vojkovich

Motion 11: For the 2009 whiting fishery, adopt a set-aside of 4,000 mt for research fish and incidental catch of whiting in non-tribal, nontreaty fisheries.

Moved by: Rod Moore
Motion 11 passed unanimously.

Seconded by: Frank Warrens

Motion 12: Recommend NMFS roll-over 18,211 mt from the original amount of tribal whiting into the non-Indian fleet (difference between 42,000 mt and 23,789 mt).

Moved by: Phil Anderson

Seconded by: Rod Moore

Motion 12 passed. Mr. David Sones recused.

Motion 13: For the non-tribal whiting fishery relative to the widow bycatch issue – remove 5% of the widow rockfish amount specified in the GMT score card from each of the non-tribal whiting fishery sectors – about 22.97 mt and treat that as a buffer for management uncertainty.

Moved by: Dale Myer

Seconded by: Mark Cedergreen

Amdt #1: Have the non-tribal whiting fishery cap for widow be set at 396 mt; divided proportionately in the same manner whiting is distributed among the 3 sectors.

Moved by: Rod Moore

Seconded by: Frank Warrens

Amendment #1 to Motion 13 failed. Mr. Moore, Mr. Myer, Mr. Cedergreen, and Mr. Williams voted yes; all the rest voted no.

Main Motion 13 failed. Only Mr. Myer voted yes on the main motion.

Motion 14: Set the bycatch cap in the whiting fishery (nontribal) at 35 mt for darkblotched and 275 mt for widow.

Moved by: Rod Moore

Seconded by: Dale Myer

Motion not voted on.

Motion 15: Substitute the following motion for Motion 14: Set the bycatch caps in the whiting fishery (nontribal) for darkblotched at 25 mt and widow at 250 mt.

Moved by: Phil Anderson

Seconded by: Marija Vojkovich

Motion 15 passed. Mr. Myer, Mr. Sones, and Ms. Fosmark voted no.

Motion 16: Adopt eligibility criteria for the trawl rationalization program consistent with the MSA regulatory language and implementing language found in Groundfish Fishery Management Plan Amendment 6 (Supplemental Attachment 10).

Moved by: Marija Vojkovich

Seconded by: Frank Lockhart

Motion 16 passed unanimously.

Motion 17: Delete the owner on board requirements and use-it-or-lose-it requirement from further consideration.

Moved by: Dave Hanson

Seconded by: Rod Moore

Motion 17 passed unanimously.

Motion 18: Instruct Council staff to present at the April meeting, options for defining what a CFA is for the purpose of soliciting comments from advisory bodies and public; with possible final action in June.

Moved by: Rod Moore
Motion 18 not voted on.

Seconded by: Dave Hanson

Motion 19: Substitute motion to direct Council staff to define CFAs and the guidelines under which the CFA would operate and use the proposal that is in public comment from The Nature Conservancy as a baseline to start with; with the intent that the definitions and guidelines are completed by the time the whole program is adopted in the final rule.

Moved by: Marija Vojkovich

Seconded by: Dan Wolford

Amdnt #1: Include the guidance contained in the NOAA technical memorandum on design and use of LAPPs.

Moved by: Frank Lockhart
Amendment to Motion 19 passed unanimously.
Main Motion 19 passed unanimously.

Seconded by: Dale Myer

Motion 20: Using Agenda Item G.4.b, Supplemental WDFW Report 1, adopt the following to clarify Motion #4 from the November meeting: IFQ is required for all species, except: longspine S. of 34°27'; minor nearshore rockfish (N & S); black rockfish (WOC); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY".

Moved by: Michele Culver
Motion 20 passed unanimously.

Seconded by: Rod Moore

Motion 21: Adopt for the at-sea whiting sectors, the species requiring IFQ would be: whiting, widow, canary, and darkblotched rockfish, and Pacific ocean perch. The catches of all other groundfish species would be accounted for and tracked against the overall OY.

Moved by: Michele Culver
Motion 21 passed unanimously.

Seconded by: Dale Myer

Motion 22: Use one latitudinal area south of 40°10' N. latitude to make a finer area bycatch rate for the initial allocation of overfished species.

Moved by: Marija Vojkovich
Motion 22 passed unanimously.

Seconded by: Kathy Fosmark

Motion 23: Relative to the allocation of Pacific halibut south of 40°10' N. latitude, establish a geographic set-aside and monitor the catch accordingly.

Moved by: Marija Vojkovich
Motion 23 passed unanimously.

Seconded by: Kathy Fosmark

Motion 24: Adopt a similar action for halibut south of 40°10' N. latitude to specify a set-aside for the at sea whiting sectors; and have staff look at an appropriate poundage set aside to accommodate sector catches vs. single sector catches.

Moved by: Michele Culver
Motion 24 passed unanimously.

Seconded by: Dale Myer

Motion 25: Using page 2 of Agenda Item G.3.c, Supplemental WDFW Report 1, Motion # 5 from November 2008 Council meeting, to clarify the intent of Option 2 – that it is an equal division of the buyback permits' pool of QS for all groundfish, except overfished species, among all qualifying permits plus allocation of the remaining QS based on each permit's history. This would include all A permit holders in the shoreside and mothership sectors, but not the catcher/processor sector.

Moved by: Michele Culver
Motion 25 passed unanimously.

Seconded by: Mark Cedergreen

Motion 26: Using Agenda Item G.3.c, Supplemental Revised WDFW Report 2, relative to the halibut IBQ, establish a limit for total Pacific halibut bycatch mortality (legal-sized and sublegal fish) through the use of an IBQ in the trawl fishery. The initial amount for the first two years of the trawl rationalization program would be calculated by taking 15% of the Area 2A Total Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission (IPHC) for the previous year not to exceed 130,000 lbs per year for total mortality. Beginning with the third year of implementation, the maximum amount set aside for the trawl rationalization program would be reduced to 100,000 lbs per year for total mortality. This amount may be adjusted downward through the biennial specifications process for future years. The motion would be preliminary action, brought up through the intersector allocation process.

Moved by: Michele Culver
Motion 26 passed unanimously.

Seconded by: Mark Cedergreen

Motion 27: Approve a Preliminary Preferred Alternative on accumulation limits for final action in June as follows:

Non-whiting Groundfish Species Aggregate Limit

- Set the Control Limit to 2.7% (GAP recommended)
- Set a Vessel Limit of 3.2% to ensure a minimum number of boats (this is the mid-point of the available options).

Control Limit for Non-overfished species

- Adopt GMT recommended control limits; where a range is present, adopt the low end of the range, except for the following

Species	Control Limit	Species	Control Limit
Lingcod – coastwide	2.5%	Minor rockfish (n) -slope	5%
Pacific cod	12%	Minor rockfish (s) -shelf	9%
Pacific whiting (Shoreside)	15%	Minor rockfish (s) -slope	6%
Sablefish (s 36)	10%	Dover sole	2.6%
Shortspine (s 34'27)	6%	Arrowtooth flounder	10%
Minor rockfish (n) -shelf	5%	Other fish	5%

Vessel Limit for Non-overfished species

- 1.5 times the control limit with the following exceptions

Species	Vessel Usage Limit	Species	Vessel Usage Limit
Pacific cod	20%	Arrowtooth flounder	20%
Pacific whiting (Shoreside)	15%	Starry Flounder	20%

Halibut IBQ

- Analyze a control limit range for quota share from 1-8%
- Analyze a vessel usage limit equal to control, up to 1.5 times control with a maximum of 10%

Overfished species

For vessel limits, analyze:

- Set vessel limit (QP) = control limit (QS)
- Set vessel limit (QP) greater than control limit (QS); with vessel limits 1.5 times the control limit but not to exceed 10%

Control limits:

- POP = 3.3% (GAP)
- Darkblotched rockfish = 2.0% (GAP)
- Widow = 2.5% (GAP)
- Canary rockfish = 5.2% (GAP)
- Bocaccio rockfish = 7.5% = 50% of GAP
- Yelloweye rockfish = 2.6% = 50% of GAP
- Cowcod = 10% = 50% of GAP

Task the GMT with analyzing the options in the GMT reports under Agenda Item G.4 and with exploring any additional options for control and vessel limits, with results to be made available for the May GAC meeting.

Species Category	Preliminary Preferred Alternative		GMT	GAP	
	Vess Lim*	Cntrl Lim		GAP Vessel Limit Option	GAP Control Limit Option
Nonwhiting Groundfish Species	3.2%	2.7%	20%	None	2.7%
Lingcod - coastwide	3.2%	2.5%		3.8%	2.5%
Pacific Cod	20.0%	12.0%		20.0%	12.0%
Pacific whiting (shoreside)	15.0%	15.0%		15.0%	10.0%
Pacific whiting (mothership)					
Sablefish			3%		
N. of 36° (Monterey north)	4.5%	3.0%		4.5%	3.0%
S. of 36° (Conception area)	15.0%	10.0%		15.0%	10%
PACIFIC OCEAN PERCH*	5.0%	3.3%	10%	3.3%	3.3%
WIDOW ROCKFISH*	3.8%	2.5%		2.5%	2.5%
CANARY ROCKFISH*	7.8%	5.2%		5.2%	5.2%
Chilipepper Rockfish	15.0%	10.0%		15.0%	10.0%
BOCACCI*	10.0%	7.5%			15.0%
Splitnose Rockfish	15.0%	10.0%	10%	15.0%	10.0%
Yellowtail Rockfish	7.5%	5.0%	5%	7.5%	5.0%
Shortspine Thornyhead			6%-10%		
N. of 34°27'	9.0%	6.0%		9.0%	6.0%
S. of 34°27'	9.0%	6.0%		9.0%	6.0%
Longspine Thornyhead			6%-10%		
N. of 34°27'	9.0%	6.0%		9.0%	6.0%
COWCOD*	10.0%	10.0%		20.0%	20.0%
DARKBLOTCHED*	3.0%	2.0%		2.0%	2.0%
YELLOWEYE*	3.9%	2.6%		5.2%	5.2%
Minor Rockfish North			6%-10%		
Shelf Species	7.5%	5.0%		7.5%	5.0%
Slope Species	7.5%	5.0%		7.5%	5.0%
Minor Rockfish South			6%-10%		
Shelf Species	13.5%	9.0%		13.5%	9.0%
Slope Species	9.0%	6.0%		13.5%	9.0%
Dover sole	3.9%	2.6%	5%+	3.9%	2.6%
English Sole	7.5%	5.0%	5%+	7.5%	5.0%
Petrale Sole	4.5%	3.0%	3%	4.5%	3.0%
Arrowtooth Flounder	20.0%	10.0%	10%+	20.0%	10.0%
Starry Flounder	20.0%	10.0%	10%+	30.0%	15.0%
Other Flatfish	15.0%	10.0%	10%+	15.0%	10.0%
Other Fish	7.5%	5.0%		7.5%	5%

Moved by: Rod Moore

Seconded by: Frank Warrens

Amdmnt#1: Make this the final adoption of the accumulation and control limits as shown in Agenda Item G.4.d, Supplemental Motion in Writing, with the exception of the halibut IBQ, which should be forwarded for determination in June and drop the tasking of the GMT for analyzing other options.

Moved by: Marija Vojkovich

Seconded by: Dan Wolford

The vote on Amendment #1 to Motion 27 was a roll call vote with the following people voting no: Mr. Sones, Mr. Moore, Ms. Fosmark, Ms. Culver, Mr. Steve Williams, and Mr. Warrens. The vote was 7 yes and 6 no; Chairman Hansen voted yes, so Amendment #1 to Motion 27 passed with Chairman Hansen's yes vote.

Amdmnt#2: Analyze impacts of accumulations on CFA and communities and include a divesture period of 3 years.

Moved by: Kathy Fosmark

Seconded by: Frank Warrens

Amendment #2 withdrawn and not voted on.

Amdmnt#3: Identify canary rockfish as a preliminary preferred alternative and not a final alternative.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Amendment #3 to Motion 27 passed; Mr. Wolford voted no.

Amdmnt#4: Under the category of pacific whiting shoreside strike 15% and replace it with 10% in the column of **control limits**.

Moved by: Dale Myer

Seconded by: Mark Cedergreen

Amendment #4 to Motion 27 passed, Mr. Warrens and Mr. Moore voted no.

Main Motion 27 passed as amended. Mr. Moore voted no.

[This motion later reconsidered and amended see Motions 41 and 42]

Motion 28: Adopt the following: that the Council declare its intent to allow CFAs to own or control more QS and/or QP than may otherwise be allowed under the ownership control and accumulation limits of the non-whiting trawl rationalization program and direct Council staff to develop mechanisms for Council consideration. Analysis of various mechanisms should proceed only for CFAs and final adoption of that mechanism and or any limits for CFAs will take place at the June Council 2009 meeting. In the analysis the Council staff should take into consideration how the CFA definition might assist in preventing "excessive control". The intent of this motion is to have all of the provisions governing CFAs implemented along with all of the other provisions of the trawl rationalization program and at the same time.

Moved by: Marija Vojkovich

Seconded by: Kathy Fosmark

Amdmnt#1: Change the wording to say "to consider allowing CFAs" in the first sentence.

Moved by: Michele Culver

Seconded by: Dale Myer

Amendment #1 to Motion 28 passed unanimously.

Main Motion 28 as amended passed unanimously.

Motion 29: Adopt as a final measure, whiting catcher vessel (CV) ownership limits in the mother ship (MS) sector of 20% and a usage limit in the MS sector of 30%.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Motion 29 passed. Ms. Vojkovich voted no. Mr. Myer recused.

Motion 30: Set a period of 3 years for permit holders to divest themselves of quota share that exceeds accumulation limits, and that divestiture can take place in any of the first 3 years following implementation of the program.

Moved by: Kathy Fosmark

Seconded by: Marija Vojkovich

Amdmnt#1: Add the language that says “QP associated with QS that are in excess of accumulation limits cannot be used or transferred”.

Moved by: Rod Moore

Seconded by: Phil Anderson

Amendment #1 to Motion 30 passed unanimously.

Amdmnt#2: Have the Council take Dr. Hanson’s advice and defer the action on this motion until after the GAC has had time to deal with it and bring to the June meeting (table the motion).

Moved by: Frank Warrens

Seconded by: Steve Williams

Amendment #2 to Motion 30 passed. Mr. Moore, Ms. Vojkovich, Mr. Wolford, and Ms. Fosmark voted no.

Motion 31: Apply control limits to QS and vessel use limits to QP. This had been recommended by both the GMT and GAC.

Moved by: Dave Hanson

Seconded by: Rod Moore

Motion 31 passed unanimously.

Motion 32: Fix the weighting schemes of trawl allocations of the 2010 OYs for the aggregate limit.

Moved by: Dave Hanson

Seconded by: Dan Wolford

Motion 32 passed unanimously.

Motion 33: Recommend staff include in an FMP amendment the major elements in Agenda Item D.6.a, Attachment 2 and the three advisory body reports, Agenda Items D.6.b, Supplemental SSC Report, Supplemental STT Report, and Supplemental SAS Report, and in addition, address the issue of the conservation alert requirement to completely close fisheries impacting the stock by including a *de minimis* fishery provision. The process should follow the moderate schedule in Attachment 2 with a target completion date of November 2010.

Moved by: Phil Anderson

Seconded by: Mark Cedergreen

Motion 33 passed unanimously.

Motions 34 through 36 were made utilizing the Document “Agenda Item D.7.b, Supplemental STT Report, March 12, 2009.”

Motion 34: Adopt options for the area north of Cape Falcon as listed for the recreational and non-Indian commercial salmon fisheries in D.7.b, Supplemental STT Report.

Moved by: Phil Anderson

Seconded by: Mark Cedergreen

Motion 34 passed unanimously.

- Motion 35:** Adopt options for public review as displayed in Agenda Item D.7.b, Supplemental STT Report for the recreational and non-Indian commercial ocean salmon fisheries in the area between Cape Falcon and the Oregon/California border with the following changes:
- Page 4, Cape Falcon to Oregon/California Border commercial fishery, Option I: delete the GSI fishery.
 - Pages 10 and 11, Cape Falcon to Humbug Mt. and Humbug Mt. to Oregon/California Border recreational fishery, Option I, first bullet: change the opening date from June 20 to July 1.
 - Page 11, Humbug Mt. to Oregon/California Border recreational fishery, Options I, II, and III: eliminate the 2010 fishery opening on March 15.
 - Page 13, C.6: delete the second sentence, which limits Oregon State water fisheries to Chinook only.

Moved by: Steve Williams

Seconded by: Frank Warrens

Motion 35 passed. Ms. Vojkovich, Ms. Fosmark and Mr. Wolford voted no.

- Motion 36:** Adopt options for the area between the OR/CA border and the U.S./Mexico border as listed for both commercial and recreational fisheries.

Moved by: Marija Vojkovich

Seconded by: Kathy Fosmark

Motion 36 passed unanimously.

- Motion 37:** Adopt the tribal options as shown in Agenda Item D.7.b, Supplemental STT Report.

Moved by: Dave Sones

Seconded by: Phil Anderson

Motion 37 passed unanimously.

- Motion 38:** Have the Council forward a letter to the California Fish and Game Commission (CFGF) stating the Council is against them allowing an in-river salmon fishery in the Sacramento River.

Moved by: Dan Wolford

Seconded by: Mark Cedergreen

Motion 38 passed unanimously.

- Motion 39:** Move that the Council approve converting the Open Access Fishery to Federal Permit Management using the Council PPA with the addition of sablefish and lingcod endorsements using the following criteria:

- The current owner of a vessel is eligible for a B permit if that vessel(s) was (were) used to make one or more directed B species open access fishery landings totaling
 - Ø 100 pounds from federal and/or state waters off the Washington, Oregon or California coasts during the period April 9, 1998-September 13, 2006 (window period) and that at least one directed fishery landing was made during January 1 2004-September 13, 2006;
- A lingcod endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 100 pounds of lingcod in any one year during the window period;
- A sablefish endorsement will be affixed to a B permit if a vessel qualifies for a B permit and landed ≥ 500 pounds of sablefish in any one year during the window period;

- Allow both a lingcod and a sablefish endorsement to be affixed to a B permit if the vessel qualifies for both endorsements;
- Affix species endorsements permanently to and for sole use with the original B permit and allow directed fishing for the endorsed species in addition to other B species groundfish;
- The endorsement provision is intended to preclude non-endorsed vessels from directly fishing for (targeting) endorsed species, but allow B permitted vessels without endorsements to land incidental amounts of the endorsed species under cumulative landing limits identified during the normal specifications process;
- Vessels that apply for and receive B permits, including any associated species endorsements, would be allowed to take and land B species groundfish using open access gear in amounts specified in Federal groundfish regulations;
- Vessels that do not receive a B permit and that do not possess a Limited Entry (A) permit will be allowed to take and land B species groundfish incidental to fishing for non-groundfish species in amounts specified in Federal groundfish regulations;
- Permits and associated species endorsements are transferable between vessels, including transfer during the first year;
- Allow A and B permits to be used alternately on the same vessel in the same year, but not in the same cumulative limit period. A declaration process is required as part of the A and B provision;
- Establish a process for initial issuance appeals;
- Remove C permit program provisions and provide a mechanism to account for and manage incidental catch of groundfish in these fisheries.

Moved by: Rod Moore
Motion 39 not voted on.

Seconded by: Frank Warrens

Motion 40: Substitute that the Council adopt, with one exception, Alternative 2 (the vessel registration alternative on page 35 of Agenda Item G.5.a, Attachment 3) which establishes an annual federal license requirement for vessel owners that intend to participate in the open access groundfish fishery. The one exception would be in the last sentence of the paragraph under Alternative 2 which should read: “However, a vessel owner may apply for an open access license for the following year at any time during the year.”

Moved by: Dan Wolford

Seconded by: Kathy Fosmark

Motion 40 passed on a roll call vote. Mr. Moore, Mr. Warrens, Mr. Lockhart, Mr. Williams, and Mr. Ortmann voted no. Mr. Jerry Mallet abstained. 5 no, 7 yes, 1 abstention.

Motion 41: Reconsider the final vote on Motion 27 pertaining to overfished species.

Moved by: Steve Williams
Motion 41 passed unanimously.

Seconded by: Frank Warrens

Motion 42: Amend Motion 27 by stating that the vessel limits and control limits of the main motion for overfished rockfish be viewed as preliminary amounts and that the GMT do an analysis of these amounts relative to how they could affect prosecuting an efficient viable groundfish trawl fishery; report back in June the effects of these amounts along with recommendations it may have for other amounts. For purposes of the Council action, the GMT should focus

its priority in looking at vessel usage limits as they did in their recommendation to us earlier this week understanding that control limits and ownership limits are more of a policy decision.

Moved by: Michele Culver

Seconded by: Mark Cedergreen

Motion 42 passed unanimously.

The Main Motion 27, as amended by Motion 42, passed. Mr. Moore voted no.

Motion 43: Have RecFIN committees and appropriate state GMT staff, meet to assess and narrow down the discussion of the risks associated with the “unidentified group of rockfish” so the Council can determine the priorities and further direction on what should take place; and identify priority needs in which revised data might be applied (situation, refine risks, what areas to focus attention on), report back to Council in September, then determine what it might take and how long it might take and when the data might be able to be used in Council management.

Moved by: Marija Vojkovich

Seconded by: Kathy Fosmark

Amdmnt#1: Have the report come back to us in June.

Moved by: Rod Moore

Seconded by: Frank Warrens

Amendment #1 to Motion 43 failed (6 yes, 7 no). Mr. Wolford, Ms. Vojkovich, Mr. Ortmann, Mr. Mallet, Mr. Cedergreen, Ms. Fosmark, and Chairman Hansen voted no.

Motion 44: Adopt the Terms of Reference for review of proposed changes to groundfish EFH as shown in Agenda Item G.8.b, EFHRC Report.

Moved by: Mr. Frank Warrens

Seconded by: Mr. Rod Moore

Motion 44 passed unanimously.

Motion 45: Appoint Mr. Greg Krutzikowsky to replace Ms. Cyreis Schmitt on the CPSMT.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 45 passed unanimously.

Motion 46: Appoint Mr. Shems Jud to the Conservation position on the GAP (formerly held by Dr. Stephen Barrager).

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 46 passed unanimously.

Motion 47: Appoint Dr. Kevin Piner to replace Dr. Suzanne Kohin on the HMSMT.

Moved by: Frank Lockhart

Seconded by: Kathy Fosmark

Motion 47 passed unanimously.

Motion 48: Appoint Dr. Thomas Helser to replace Mr. Dell Simmons on the MEW.

Moved by: Frank Lockhart
Motion 48 passed unanimously.

Seconded by: Kathy Fosmark

Motion 49: Appoint Mr. Thomas Libby to replace Ms. Heather Mann as the processor representative on the GAP.

Moved by: Dale Myer
Motion 49 passed unanimously.

Seconded by: Rod Moore

Motion 50: Appoint Mr. Larry Giese to replace Rhett Weber as the Washington Charter Boat representative on the GAP.

Moved by: Mark Cedergreen
Motion 50 passed unanimously.

Seconded by: Rod Moore

Motion 51: Appoint Mr. Andrew Bornstein as the non-voting Processor representative on the GAC.

Moved by: Rod Moore
Motion 51 passed unanimously.

Seconded by: Dale Myer

Motion 52: Appoint Mr. Joe Schumacker to the EFHRC. Ms. Culver seconded the motion.

Moved by: David Sones
Motion 52 passed unanimously.

Seconded by: Michele Culver

Motion 53: Approve the March 2008 and November 2008 Council meeting minutes with changes as discussed.

Moved by: Rod Moore
Motion 53 passed unanimously.

Seconded by: Frank Warrens

FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

This agenda item is intended to refine general planning for future Council meetings, especially in regard to the details of the Proposed Agenda for the September 2009 Council Meeting. The following attachments are intended to help the Council in this process:

1. An abbreviated display of potential agenda items for a full year is provided with the initial briefing book distribution in Attachment 1.
2. A draft Proposed September Council Meeting Agenda in Attachment 2.
3. A display of workload elements between the June and September Council meetings in an additional supplemental attachment distributed at the meeting.

The Executive Director will assist the Council in reviewing the items listed above and discuss any other matters relevant to Council meeting agendas and workload. After considering supplemental material provided at the Council meeting, and any reports and comments from advisory bodies and public, the Council will provide guidance for future agenda development and workload priorities. The Council may also identify priorities for advisory body consideration at the September 2009 Council meeting.

Council Action:

- 1. Review pertinent information and provide guidance on potential agenda topics for future Council meetings.**
- 2. Provide more detailed guidance on a Proposed Agenda for the September Council meeting.**
- 3. Review workload elements and identify priorities for advisory body considerations at the next Council meeting.**

Reference Materials:

1. Agenda Item G.5.a, Attachment 1: Draft Preliminary “Year at a Glance Summary” of Council Meeting Agenda Topics and Council Floor Time Estimate.
2. Agenda Item G.5.a, Attachment 2: Draft Preliminary Proposed Council Meeting Agenda, September 10-17, 2009, Foster City, California.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Management Entities and Advisory Bodies
- c. Public Comment
- d. Council Discussion and Guidance of Future Council Meeting Agenda and Workload Planning

Don McIsaac

PFCMC
05/21/09

Pacific Council Workload Planning: *Year at a Glance Summary*

(Number of agenda items, if greater than one, shown within parentheses, placeholder matters shaded)

	<u>September 2009</u> (Foster City)	<u>November 2009</u> (Costa Mesa)	<u>March 2010</u> (Sacramento)	<u>April 2010</u> (Portland)	<u>June 2010</u> (Foster City)
CPS	Follow-up on Sard. Alloc.	Sardine Asmnt & Mgmt Meas. Follow-up on Sard. Alloc. ACL Amd.-Initial Drft	Follow-up on Sard. Alloc. ACL Amd.-Pub Rev Drf		Mackerel HG & Meas. ACL Amd.-Adopt Final
Groundfish	NMFS Report Inseason Mgmt (2) Approve Stock Assmnts Unidentified Rockfish Rpt Off-Year Science Imprv A-20--Reg Deeming A-22 Reconsideration Offshore Aquacult. Pres ACL Amd.-Pub Rev Drf	NMFS Report Inseason Mgmt (2) Approve Stock Assmnts: Mop-up if needed 2011-12 Biennial Mgmt: Prelim Specs & Measures EFH Changes: Prelim Adopt A-20--Final Reg Deeming A-22 Consider New PPA. Final EFPs ACL Amd.-Adopt Final	NMFS Report Inseason Mgmt (2) Stk Assmnt Pln--2013-14 & TOR for Pub Rev A-20 Update on Impl Pacific Whiting Specs	NMFS Report Inseason Mgmt (2) 2011-12 Biennial Mgmt: 1) Final ABCs & OYs 2) Mgmt Meas.-Pub Rev A-22: Final Action	NMFS Report Inseason Mgmt (2) Stk Assmnt Pln--2013-14 & TOR--Adopt Final 2011-12 Biennial Mgmt: Adopt Final Prelim EFPs
HMS	NMFS Report	NMFS Report Albacore Mgmt Issue Paper Input to WCPFC Amd. 2--High Seas SLL ACL Amd.-Initial Draft		NMFS Report Internat'l RFMO Matters ACL Amd.-Pub Rev Draft	NMFS Report Changes to Routine Mgmt 2011-12 Input to WCPFC N. Com ACL Amd.-Adopt Final
Salmon	2009 Methodology Rev. Initiate EFH Review ACL Amd.-Initial Drft	2010 Preseas'n Mgmt Schd 2009 Methodology Rev.--Final Mitchell Act EIS Comments	2010 Season Setting (6) Cons. Obj. Report	2010 Season Setting (3) 2010 Methodology Rev. EFH Review Prog. Rpt ACLs--Adopt for Pub Rev	
Other	Habitat Com. Pacific Halibut (3) MBNMS MPA Doc Rev MPA National Registry Marine Res. Pub Op. Poll Marine Debris Present'ion SWFSC-Env Var in Abun Est State Enforcement Rpt Routine Admin (8)	Habitat Comm. Pacific Halibut (2) OCNMS Mgmt Plan Update Ecosystem FMP-Funds Dep. Routine Admin (8)	Habitat Issues Pacific Halibut (2) USCG Ann. Rpt. Routine Admin (6)	Habitat Issues Halibut-Incidntl Regs Ecosystem FMP-Funds Dep. Routine Admin (7)	Habitat Issues Routine Admin (8)
Apx. Council Floor Time	6+ days	6+ days	5.5 days	6 days	6 days

PRELIMINARY PROPOSED COUNCIL MEETING AGENDA, SEPTEMBER 10-17, 2009, FOSTER CITY, CALIFORNIA

Thu, Sep 10	Sat, Sep 12	Sun, Sep 13	Mon, Sep 14	Tue, Sep 15	Wed, Sep 16	Thu, Sep 17
	CLOSED SESSION 8:00 AM <hr/> OPEN SESSION 9:00 AM 1-4. Open & Approve Agenda (30 min) <hr/> OPEN COMMENT 1. Comments on Non-Agenda Items (45 min) <hr/> HIGHLY MIGRATORY 1. NMFS Report (1 hr) <hr/> SALMON 1. A-16 (ACLs): Initial Draft Development (3 hr) 2. 2009 Methodology Review: Select Final Review Priorities (1 hr) 3. Initiation of Salmon EFH Review (45 min)	PACIFIC HALIBUT 1. Proposed Changes to 2010 Regulations: Adopt for Public Review (45 min) 2. Review Halibut Bycatch Estimate for IPHC (1 hr) 3. Review Halibut Catch Apportionment for 2010 (1 hr) <hr/> MARINE PROT. AREAS 1. Marine Resources Public Opinion Poll (30 min) 2. MBNMS MPA Draft Document for Council Review (2 hr 30 min) 3. MPA National Registry (1 hr 15 min) 4. Marine Debris Presentation (1 hr)	HABITAT 1. Current Issues (45 min) <hr/> COASTAL PELAGIC SPECIES 1. Review Sardine Allocation in FMP A-11: Consider Need for Changes (3 hr) <hr/> GROUNDFISH 1. NMFS Report (1 hr) 2. Off-Year Science Improvements: Plan & Prioritize for 2010 (1 hr 30 min) 3. Report on Catch of Unidentified Rockfish Species in the Rec Fishery (1 hr 45 min)	ADMINISTRATIVE 1. Legislative Matters (30 min) <hr/> GROUNDFISH 4. Stock Assmnts for 2011-2012, Part II: Final Approval for bocaccio, widow, lingcod, cabezon, yelloweye, & greenstriped (3 hr 30 min) 5. Inseason Adjustments (2 hr) <hr/> ENFORCEMENT 1. State Activity Report—OR? (1 hr) <hr/> GROUNDFISH 6. Offshore Aquaculture Presentation (1 hr)	GROUNDFISH 7. A-20 (Trawl Rationalization): Regulatory Review & Deeming (4 hr) 8. A-22 (Open Access Limited Entry): Reconsider Final Council Action (4 hr)	GROUNDFISH 9. Final Inseason Adjustments (2 hr) 10. A-23 (ACLs): Adopt for Public Review (3 hr) <hr/> ADMINISTRATIVE 3. Fiscal Matters (15 min) 4. Approve Council Minutes (15 min) 5. Membership Appointments (1 hr) 6. Future Meeting Agenda & Workload Planning (30 min)
Fri, Sep 11 8:00 am HMSAS 8:00 am HMSMT 8:00 am STT 8:00 am SSC 8:30 am HC 1:00 pm BC 1:00 pm MEW 3:30 pm LC 5:00 pm ChB						
	8 hr	8 hr	8 hr	8 hr	8 hr	7 hr
	8:00 am GAP 8:00 am GMT 8:00 am MEW 8:00 am STT 8:00 am SSC 4:30 pm EC	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SSC	8:00 am EC 8:00 am GAP 8:00 am GMT	8:00 am EC 8:00 am GAP 8:00 am GMT	8:00 am EC 8:00 am GAP 8:00 am GMT	

Council-sponsored evening sessions: *Saturday Evening Presentation by the SWFSC (7 pm): Using Environmental Variables in Abundance Predictions*
Chair's Reception on Sunday at 6:00 pm

Total Council Floor Time = 47 hr plus 2 hr of evening presentation

5/28/2009 8:58 AM

Agenda Item G.5.a
 Attachment 2
 June 2009

Pacific Council Workload Planning: *Year at a Glance Summary*

(Number of agenda items, if greater than one, shown within parentheses, placeholder matters shaded)

	September 2009 (Foster City)	November 2009 (Costa Mesa)	March 2010 (Sacramento)	April 2010 (Portland)	June 2010 (Foster City)
CPS	Follow-up on Sard. Alloc.	Sardine Asmnt & Mgmt Meas. Sardine Alloc--yes or no if yes, set Schedule ACL Amd.-Initial Drft	ACL Amd.-Pub Rev Drf		Mackerel HG & Meas. ACL Amd.-Adopt Final
Groundfish	NMFS Report Inseason Mgmt (2) Approve Stock Assmnts Unidentified Rockfish Rpt Off-Year Science Imprv Offshore Aquacult. Pres A-20--Reg Deeming &/or T&M Program A-22 Reconsideration ACL Amd.-Review Alt	NMFS Report Inseason Mgmt (2) Approve Stock Assmnts: Mop-up if needed 2011-12 Biennial Mgmt: Prelim Specs & Measures A-20--Final Reg Deeming Final EFPs ACL Amd.-Adopt Final	NMFS Report Inseason Mgmt (2) Stk Assmnt Pln--2013-14 & TOR for Pub Rev A-20 Update on Impl Pacific Whiting Specs	NMFS Report Inseason Mgmt (2) 2011-12 Biennial Mgmt: 1) Final ABCs & OYs 2) Mgmt Meas.-Pub Rev A-22: Final Action	NMFS Report Inseason Mgmt (2) Stk Assmnt Pln--2013-14 & TOR--Adopt Final 2011-12 Biennial Mgmt: Adopt Final Prelim EFPs
HMS	NMFS Report	NMFS Report Albacore Mgmt Issue Paper Input to WCPFC Swordfish Issue Paper ACL Amd.-Initial Draft		NMFS Report Internat'l RFMO Matters ACL Amd.-Pub Rev Draft	NMFS Report Changes to Routine Mgmt 2011-12 Input to WCPFC N. Com ACL Amd.-Adopt Final
Salmon	SAC BIOP & SRFC failure 2009 Methodology Rev. Initiate EFH Review ACL Amd.-Initial Drft	2010 Preseas'n Mgmt Schd 2009 Methodology Rev.--Final Mitchell Act EIS Comments	2010 Season Setting (6) Cons. Obj. Report	2010 Season Setting (3) 2010 Methodology Rev. EFH Review Prog. Rpt ACLs--Adopt for Pub Rev	
Other	Habitat Com. Pacific Halibut (2) MBNMS MPA Doc Rev MPA National Registry Marine Res. Pub Op. Poll Marine Debris Present'ion SWFSC-Env Var in Abun Est Ocean Acidification State Enforcement Rpt Routine Admin (8)	Habitat Comm. Pacific Halibut (2) OCNMS Mgmt Plan Update Ecosystem FMP-Funds Dep. Routine Admin (8)	Habitat Issues Pacific Halibut (2) USCG Ann. Rpt. Routine Admin (6)	Habitat Issues Halibut-Incidntl Regs Ecosystem FMP-Funds Dep. Routine Admin (7)	Habitat Issues Routine Admin (8)
Apx. Council Floor Time	6+ days	6+ days	5.5 days	6 days	6 days

COUNCIL MEETING AGENDA WORKSHEET, SEPTEMBER 10-17, 2009, FOSTER CITY, CALIFORNIA

Thu, Sep 10	Sat, Sep 12	Sun, Sep 13	Mon, Sep 14	Tue, Sep 15	Wed, Sep 16	Thu, Sep 17
	CLOSED SESSION 10:00 AM <hr/> OPEN SESSION 11:00 AM 1-4. Open & Approve Agenda (30 min) <hr/> OPEN COMMENT 1. Comments on Non-Agenda Items (45 min) <hr/> SALMON 1. A-16 (ACLs): Initial Draft (2 hr 45 min) 2. 2009 Methodology Review: Select Final Review Priorities (1 hr) 3. Initiation of Salmon EFH Review (45 min)	SALMON 3. SAC-San Joaquin ESA BiOP & SRFC Failure (1 hr 30 min) <hr/> PACIFIC HALIBUT 1. Proposed Changes to 2010 Regulations: Adopt for Public Review (1 hr) 2. Review Halibut Bycatch Estimate for IPHC (1 hr) 3. Review Halibut Catch Apportionment for 2010 (1 hr) <hr/> MARINE PROT. AREAS 1. Marine Resources Public Opinion Poll (30 min) 2. MBNMS MPA Draft Document for Council Review (2 hr 30 min) 3. MPA National Registry (1 hr 15 min)	HABITAT 1. Current Issues (45 min) 2. Federal Marine Debris Clean-up Program (1 hr) 3. Ocean Acidification & Sea Level Rise (1 hr 30 min) <hr/> COASTAL PELAGIC SPECIES 1. Review Sardine Allocation in FMP A-11: Consider Need for Changes (3 hr) <hr/> GROUNDFISH 1. NMFS Report (1 hr) 2. Off-Year Science Improvements: Plan & Prioritize for 2010 (1 hr 30 min) 3. Report on Catch of Unidentified Rockfish Species in the Rec Fishery (1 hr 45 min)	GROUNDFISH 4. Stock Assmnts for 2011-2012, Part II: Final Approval for petrale, bocaccio, widow, lingcod, cabezon, yelloweye, & greenstriped (4 hr) 5. Inseason Adjustments (2 hr) 6. Offshore Aquaculture Presentation (1 hr) <hr/> ENFORCEMENT 1. State Activity Report—OR (1 hr)	GROUNDFISH 7. A-20 (Trawl Rationalization): Regulatory Review, Halibut Sampling Protocols, & Regulations; & Deeming (5 hr) 8. A-22 (Open Access Limited Entry): Reconsider Final Council Action (4 hr) 8. A-23 (ACLs): Adopt for Public Review (2 hr) <hr/> HIGHLY MIGRATORY 1. NMFS Report (1 hr)	GROUNDFISH 10. Final Inseason Adjustments (2 hr) <hr/> ADMINISTRATIVE 1. Legislative Matters (30 min) 2. Fiscal Matters (15 min) 3. Approve Council Minutes (15 min) 4. Membership Appointments (30 min) 5. Future Meeting Agenda & Workload Planning (30 min)
Fri, Sep 11 8:00 am SAS 8:00 am STT 8:00 am SSC 1:00 pm BC 3:30 pm LC						
	6 hr	7 hr 45 min	7 hr 30 min	8 hr	8 hr	4 hr
	8:00 am ChB 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am SSC 4:30 pm EC	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SSC 8:30 am HC	8:00 am EC 8:00 am GAP 8:00 am GMT	8:00 am EC 8:00 am GAP 8:00 am GMT	8:00 am EC 8:00 am GAP 8:00 am GMT	

Council-sponsored evening sessions: *Saturday Evening Presentation by the SWFSC (7 pm): Using Environmental Variables in Abundance Predictions*

Chair's Reception on Sunday at 6:00 pm

Total Council Floor Time = 41 hr15 min plus 1 hr30 min of evening presentation

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL REPORT ON
FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

The Coastal Pelagic Species Advisory Subpanel (CPSAS) recommends postponing the review of long-term Pacific sardine allocation framework that is currently scheduled for the September 2009 Council meeting. The CPSAS is concerned about workload issues considering the upcoming survey and assessment work for Pacific sardine between now and the November 2009 Council meeting. Further, the CPSAS believes that results from the 2009 aerial survey and the results of the 2009 full assessment of Pacific sardine could be informative in the review of the current Pacific sardine allocation framework. The CPSAS recommends rescheduling allocation review at the November 2009 Council meeting when survey and assessment results are known.

PFMC
06/18/09

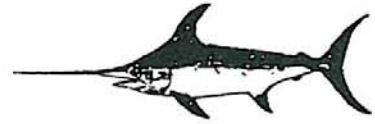
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RECEIVED

MAY 26 2009

PFMC



May 18, 2009

Donald McIsaac,
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

Dear Dr. McIsaac,

I am saddened by the Council's recent decision not to pursue an HMS FMP plan amendment to establish a high-seas, limited-entry pelagic longline fishery. Once again, my humble attempt to help establish a west coast fishery option in line with nationally and internationally accepted fishery management goals has run afoul of Washington and California state policy interests.

You must be embarrassed by such provincial manipulation of national interests. I know I would be. I have repeatedly seen both Washington and California ignore HMS Advisory Subpanel, Management Team, and even Science and Statistical Committee recommendations when it comes to pelagic longline issues. Unfortunately, the general lack of HMS expertise among remaining Council members allows Washington and California to get away with disguising their intentions. If Washington and California truly had concerns about latent effort transference to the high-seas longline fishery, their Management Team representatives would have worked it out during the formulation of the action alternatives. No. This was not an oversight. Washington meant to kill this action, and California was complicit. But why?

I assume that Washington and California politics aligns with some of the environmental lobby. Ironically, as has been scientifically determined, the environmental lobby's efforts to protect sea turtles and other marine life by opposing this use of longline gear, actually increases such impacts by substituting regulated U.S. fishing for unregulated foreign fishing. Washington and California's actions promote increased marine life destruction in the name of protecting it. What can be done?

Since 1993, I have invested enormous amounts of time and money supporting the Pacific Council's development and implementation of the HMS FMP. All for nothing. I have come to the sad realization that Washington and California's status and influence on Council decision making is aimed at driving me out of business. They have created prejudice where none is due. I have little choice but to cut my losses and try to align my fishing activities with a Council that takes the U.S. HMS fishing industry seriously.

I do not blame you. I believe you do your best.

Respectfully,

A handwritten signature in cursive script, appearing to read "Pete Dupuy". The signature is fluid and stylized, with a large initial "P" and a long, sweeping underline.

Pete Dupuy

cc: Rod McInnis
Jane Lubchenco