

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke  
Executive Director



DATE: September 18, 1990

SUBJECT: Moratorium

**ACTION REQUIRED**

Receive Fishery Planning Committee report and results of scoping meetings. Provide further direction on content, analyses, and schedule of proposed moratorium.

**BACKGROUND**

In August the Council approved a control date announcement and sent it out for publication in the Federal Register. At the time, it was assumed that the notice would be published sometime in mid to late August and the control date would become effective ten days later, around early September. The announcement was published on September 5. Also, the printer changed the effective date from ten days after publication to the following Monday, September 17. The date was changed back to September 15 by a correction notice published on September 13. The published control date notice is included as item C-3(a).

The publication of the control date notice was the first step in a three-step approach to development of a moratorium amendment for each of the Council's fishery management plans and the halibut fishery. The second step is to develop the specific configuration of a moratorium and alternatives for purposes of analyses and review. At the request of the Council, the National Marine Fisheries Service has initiated a NEPA scoping process whereby the public has the opportunity to provide the Secretary and Council with issues or concerns that they wish to see addressed in the moratorium environmental impact analysis. The scoping notice was published in the Federal Register on August 24 and public comments are invited until the end of this meeting. A copy of the scoping notice is provided as item C-3(b). Two scoping meetings were held: in Seattle on August 23; and in Kodiak on September 5. Public participation was high at both meetings and several issues of primary concern to the industry were identified. They are summarized in item C-3(c), a staff discussion paper that needs your review.

The Fishery Planning Committee discussed the moratorium on August 24 (item C-3(d)), and noted that the current work schedule for moratorium analysis needs to be reexamined and changed as appropriate given other Council priorities and projects. The schedule approved by the FPC last May is item C-3(e). It calls for finalizing moratorium options at this meeting.

Obviously the Council needs more time for design work. Using a committee, the Council probably could design a relatively simple moratorium, applied equally to all industry sectors, by December or January. If staff were assigned the priority, analysis could begin in February and likely be completed by June. However, if the moratorium is applied differentially to industry sectors, and that application depends on the final inshore-offshore decision, the moratorium design could not be completed until after the Council's final decision in June 1991 or possibly even after the Secretary of Commerce's final decision in November. We need to thoroughly consider these issues as we construct the schedule for development of the moratorium.

University of Florida, Florida  
Department of Natural Resources,  
NMFS, and USFWS.

**DATES:** Comments on the draft Recovery plans must be received on or before October 20, 1990.

**ADDRESSES:** Comments should be addressed to Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD 20910. Copies of the Draft Loggerhead and Green recovery plans are available upon request from Charles Oravetz, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, or Charles Karnella, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 8256, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Charles Oravetz at NMFS, 813/893-3366, or Earl Possart at USFWS, 804/781-2500.

**SUPPLEMENTARY INFORMATION:** The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that the agencies responsible for listed species develop and implement recovery plans for the conservation and survival of threatened and endangered species, unless it is determined that such plans will not promote the conservation of the species. Accordingly, NMFS and USFWS appointed a Loggerhead/Green Turtle Recovery Team to assist in the development of Draft Loggerhead and Green Sea Turtle Recovery Plans. The Recovery Plans discuss the natural history, current status of the populations, and the known and potential human impacts on the species. Actions that would promote the recovery of the loggerhead and green sea turtles are identified and discussed in the draft plans. The Recovery Plans will be used to direct U.S. activities to promote the recovery of these endangered and threatened sea turtles.

Dated: August 22, 1990.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 90-20754 Filed 9-4-90; 8:45 am]

BILLING CODE 5010-22-M

[Docket No. 900826-0226]

Groundfish and Crab Fisheries of the Bering Sea and Aleutian Islands Area, Groundfish Fisheries of the Gulf of Alaska, and Pacific Halibut Fisheries off the State of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of intent to develop measures to limit access to the

groundfish, crab, and halibut fisheries off Alaska, and notice of control date for entry into the fisheries.

**SUMMARY:** The North Pacific Fishery Management Council (Council) intends to develop for recommendation to the Secretary of Commerce (Secretary) a management regime for the groundfish, crab, and halibut fisheries currently under the Council's authority that limits the number of vessels participating in those fisheries. This notice announces that any fishing vessel entering these fisheries after September 17, 1990, will not be assured of future access to those fisheries if a moratorium on new entry into those fisheries is developed and implemented.

Due consideration, however, will be given to those vessels under construction, reconstruction, or under contract for construction, reconstruction or purchase as of September 17, 1990, for the purpose of participating in the identified fisheries, provided that those vessels have harvested or processed fish in the identified fisheries by January 15, 1992. Due consideration also will be given to those vessels that were under written option or contract for purchase, or written contract for construction or reconstruction, prior to September 17, 1990, that was cancelled due to the previously proposed January 19, 1990 control date, provided that those vessels are under written contract for construction, reconstruction or purchase as of January 1, 1991, for the purpose of participating in the identified fisheries, and provided those vessels have harvested or processed fish in the identified fisheries by January 15, 1992.

This action is necessary to alert the public of the Council's fishery management intentions and possible constraints on future access to public fishery resources. The intended effect of this announcement is to discourage new entry into the identified fisheries while the Council continues discussions on whether and how access to these fisheries should be controlled.

**FOR FURTHER INFORMATION CONTACT:** Steven K. Davis, Deputy Director, North Pacific Fishery Management Council, telephone: 907-271-2808, or Jay J. C. Ginter, Fishery Management Biologist, Alaska Region, NMFS, telephone: 907-568-7229.

**SUPPLEMENTARY INFORMATION:** The commercial harvest of groundfish in the U.S. exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands area is governed by Federal regulations at 50 CFR 611-62 and 611.63, and 50 CFR parts 672 and 675, which implement the Fishery

Management Plan (FMP) for the Gulf of Alaska Groundfish Fishery and the FMP for the Bering Sea/Aleutian Islands Groundfish, respectively. The commercial harvest of King and Tanner crabs in the Bering Sea and Aleutian Islands area is governed by State of Alaska regulations at title 16, chapters 34 and 35, and the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands. The harvest of Pacific halibut in all waters off Alaska by U.S. fishermen is governed by Federal regulations at 50 CFR part 301, which implement rules developed by the International Pacific Halibut Commission (IPHC) and the Council.

The groundfish and crab FMPs and their accompanying environmental impact statements (EISs) were prepared by the Council and approved by the Secretary under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Council also has authority under the Northern Pacific Halibut Act of 1992 to develop regulations, governing the catch of Pacific halibut in U.S. waters, which are in addition to, but not in conflict with, regulations developed by the IPHC. This includes authority to allocate halibut fishing opportunities among U.S. fishermen should such allocation be necessary.

#### The Problem

Domestic harvesting and processing capacity in the groundfish, crab, and halibut fisheries off Alaska currently exceeds the amount necessary to harvest the annual total allowable catch of most species of groundfish, halibut, and crabs under Council authority. Further, the Council has determined that the continued entry of fishing effort into these fisheries will only add to harvesting and processing capacity, and that continued entry exacerbates current fishery management difficulties or causes new problems.

Fishery managers have found that excess capacity may lead to allocation conflicts, gear conflicts, excessive by-catch of non-target species, high grading or discard of lower valued but potentially useful fish products, poor handling of catch, insufficient attention to safety, and economic instability from boom-and-bust harvest cycles. In recent years, the Council has noted some or all of these problems in every fishery under its authority.

Although the Council continues to develop open access regulations in an attempt to address these problems, the Council also is considering a change in the open-access nature of fisheries as a

more comprehensive solution. At this time, the Council has not determined the best way to control or restrict access to commercial fishery resources in the long term. However, the Council has tentatively determined that a moratorium on new entry into the fisheries may be necessary for an interim period to curtail the increase in fishing capacity and permit the Council time to develop and assess the potential effects of alternative long-term solutions to the identified management problems. The Council is aware that such a moratorium will not resolve the fundamental problem of excess capacity in the fisheries. Instead, the purpose of the moratorium, if approved, would be to prevent continued growth in fishing capacity, while the Council assesses alternative management measures including, but not limited to, limited- and open-access measures to address the overcapacity problem and to achieve the optimum yield from the fisheries. As currently contemplated by the Council, this moratorium would apply for a period of 4 years from its effective date, or less, if rescinded. Nothing in this notice or any potential moratorium on entry would prevent the development, approval, and implementation of limited access measures for sablefish, halibut, or other fisheries under the Council's authority.

The Council intends, in making this announcement, to discourage speculative entry into the groundfish, crab, and halibut fisheries off Alaska while potential access-control management regimes are discussed by the Council, analyzed, and developed. As the Council discusses a moratorium on entry or other access control management regime, some fishermen who do not currently fish in these fisheries, and never have done so, may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings from these fisheries. Such a record generally is considered indicative of economic dependency on the fishery. On this basis the fishermen may claim access to a fishery that otherwise would be limited to traditional participants. New entrants may have to buy fishing rights from an existing participant. Such future entry costs may inspire speculative entry, which could cause a rapid increase in fishing effort in fisheries already fully or overdeveloped with harvesting capacity when controlled-access management begins to be considered. The original problems prompting consideration of limited access then become exacerbated.

To help distinguish *bona fide*, established fishermen from the speculative entrants to a fishery, a management authority may set a control date before discussion and planning of controlled-access management begin. Fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery on grounds of previous participation. Other qualifying criteria may also be required for future access.

This notice announces that any fishing vessel entering the groundfish, crab, or halibut fisheries off Alaska that currently are under the authority of the Council after September 17, 1990, will not be assured of future access to those fisheries if a moratorium in those fisheries is developed and implemented.

Due consideration, however, will be given to those vessels under construction, reconstruction, or under contract for construction, reconstruction or purchase as of September 17, 1990, for the purpose of participating in the subject fisheries, provided that those vessels have harvested or processed fish in the identified fisheries by January 15, 1992. Due consideration also will be given to those vessels that were under written option or contract for purchase, or written contract for construction or reconstruction, prior to September 17, 1990, that was cancelled due to the previously proposed January 19, 1990 control date, provided that those vessels are under written contract for construction, reconstruction or purchase as of January 1, 1991, for the purpose of participating in the identified fisheries, and provided those vessels have harvested or processed fish in the identified fisheries by January 15, 1992.

This action is not intended to supersede any action that the Council may take to limit access to the sablefish and halibut fisheries off Alaska prior to the development of a moratorium. This action does not commit the council or NMFS to develop any particular management regime or any specific criteria for determining future access to these fisheries. If a limited-access system is implemented, fishermen are not guaranteed future participation in these fisheries regardless of their date of entry or their intensity of participation before or after the control date. The Council may choose a different control date or it may choose a limited-access regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Council may choose also to take no further action to control access to the fishery. However,

any action taken by the Council to control access to these fishery resources will be taken pursuant to the requirements for fishery management plan development established under the Magnuson Act and other applicable law.

Dated: August 30, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 90-20850 Filed 9-4-90; 8:45 am]

BILLING CODE 3510-22-M

### Marine Mammals

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**ACTION:** Permit modifications: Theater of the Sea, Permit Nos. 69 and 326 Dolphin Research Center, Permit No. 514 Dolphins Plus, Inc., Permit Nos. 292 and 577 Hyatt Regency Waikoloa Resort, Permit No. 625.

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Special Conditions on Swim-with-the-Dolphin (SWTD) Programs that apply to public display Permits Nos. 69 and 326 issued to Theater of the Sea (P92 and P92B), Islamorada, Florida; Permit No. 514 issued to Dolphin Research Center (P53B), Marathon, Florida; Permit Nos. 292 and 577 issued to Dolphins Plus, Inc. (P234 and P234A), Key Largo, Florida; and Permit No. 625 issued to the Hyatt Regency Waikoloa Resort (P407), Waikoloa, Hawaii, are modified by deleting Special Condition D.6(e) and substituting the following:

#### D.6. Program Requirements

(e) Supervision of Swim Sessions: All SWTD activities in which a member of the public participates in an in-water encounter with dolphins must be directly supervised by at least two (2) members of the Permit Holder's training staff. At least one member of the Permit Holder's staff must monitor the activities from poolside out of the water during each swim session. The other staff member shall monitor the activities during each swim session from in the water or from poolside.

Documents concerning the above modifications and permits, and other information regarding swim-with-the-dolphin programs, are available for inspection by appointment in the Office of Protected Resources, National Marine Fisheries Service, Room 7324, 1335 E. West Highway, Silver Spring, Maryland, 20910 (301/427-2289).

Forest Service), it is likely that the projects could not be implemented this field season. This would result in a monetary loss for the proposed Breckenridge Insect Salvage Sale.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals any decision relating to the harvest and restoration following drought-induced timber mortality in the Lucas Creek watershed, Greenhorn Ranger District, Sequoia National Forest. The environmental document under preparation will address the effects of the proposed action on the environment, will identify any required mitigation measures, will document public involvement, and will address the issues raised by the public.

**EFFECTIVE DATE:** This decision will be effective August 24, 1990.

**FOR FURTHER INFORMATION CONTACT:** Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA-Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705-2648, or James A. Crates, Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257, (209) 764-1500.

**ADDITIONAL INFORMATION:** The environmental analysis for this proposal will be documented in the Breckenridge Insect Salvage environmental documents. In June and July of 1990, pursuant to 40 CFR 1501.7, scoping was conducted by the Greenhorn District Ranger to determine the issues to be addressed in the environmental analysis. Additionally, letters were mailed to over 100 local residents, representatives of various environmental groups, and the timber industry, to provide information on the projects and to generate public issues and concerns. The Forest is expected to complete the environmental documentation by August 30, 1990. The environmental document and related maps will be available for public review at the Greenhorn Ranger Station, 15761 Highway 178, Bakersfield, CA 93386, and at the Sequoia National Forest Supervisor's Office.

The catastrophic damage is presently occurring on over 3,200 acres of National Forest System Lands on the Lucas Creek watershed. Within this area, approximately 750 acres, with an associated 0.5 MMBF, is presently being analyzed for salvage because the percentages of dead and dying timber is highest in these areas. The value to the Forest Service of the salvage volume is estimated at \$35,600. This figure does not include the many jobs and

thousands of dollars in benefits that are realized in related service, supply, and construction industries. Kern County will share 25% of the selling value for any timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be necessary for watershed protection, erosion prevention and fuels reduction.

The proposal is not expected to adversely affect snag-dependent wildlife species and there will be no harvest from this sale within any SOHA. No Wild and Scenic rivers, wetlands, wilderness areas, or threatened or endangered species are within the area of the proposed project.

Dated: August 17, 1990.

David M. Jay,

Deputy Regional Forester.

[FR Doc. 90-19981 Filed 8-23-90; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Groundfish and Crab Fisheries of the Bering Sea and Aleutian Islands Area, Groundfish Fisheries of the Gulf of Alaska, and Pacific Halibut Fisheries off the State of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of intent to prepare a supplemental environmental impact statement (SEIS), and request for scoping comments.

**SUMMARY:** NOAA announces its intention to prepare, in cooperation with the North Pacific Fishery Management Council (Council), a SEIS to assess the potential effects on the human environment of an interim moratorium on new entry into the groundfish, crab, and halibut fisheries off Alaska that currently are under the management authority of the Council. This moratorium would be based on recommendations by the Council to the Secretary of Commerce (Secretary) to amend the fishery management plans (FMPs) for groundfish and crab and the regulations governing the U.S. fishery for Pacific halibut. If such amendments to the FMPs and regulations are approved by the Secretary, implementation of the moratorium is expected no sooner than January 1992. In addition, NOAA announces a public scoping process for determining the scope of issues to be addressed and for identifying the significant issues related to limiting access to a public fishery resource. The intended effect of this notice is to alert

the interested public to the commencement of a scoping process and to provide for public participation. This action is necessary to comply with Federal environmental documentation requirements.

**DATES:** Scoping comments are invited until September 28, 1990, when the scoping process will end at the conclusion of the September Council meeting. The Council's Fishery Planning Committee will meet during this period (see "scoping process" below for dates, times and locations of meetings) to discuss the problem and suggested alternative solutions. Interested persons may comment during those meetings on the scope of issues to be addressed in the SEIS. Other scoping meetings will be held as specified below (see "scoping process").

**ADDRESSES:** Send scoping comments to Steven Pennoyer, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668. Information on time and location also may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Steve K. Davis, Deputy Director, North Pacific Fishery Management Council, 907-271-2809, or Jay J. C. Ginter, Fishery Management Biologist, Alaska Region, NMFS, 907-588-7229.

**SUPPLEMENTARY INFORMATION:** The commercial harvest of groundfish in the U.S. exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands area is governed by Federal regulations at 50 CFR 611.92 and 611.93, and 50 CFR parts 672 and 675, which implement the Gulf of Alaska groundfish FMP and the Bering Sea/Aleutian Islands groundfish FMP, respectively. The commercial harvest of king and Tanner crabs in the Bering Sea and Aleutian Islands area is governed by State of Alaska regulations at title 16, chapters 34 and 35, which implement the Bering Sea/Aleutian Islands crab FMP. The harvest of Pacific halibut in all waters off Alaska by U.S. fishermen is governed by Federal regulations at 50 CFR part 301, which implement rules developed by the International Pacific Halibut Commission (IPHC).

The groundfish and crab FMPs and their accompanying environmental impact statements (EISs) were prepared by the Council and approved by the Secretary under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Council also has authority under the Northern Pacific Halibut Act of 1962 to develop regulations governing the catch

of Pacific halibut in U.S. waters that are in addition to, but not in conflict with, regulations developed by the IPHC. This includes authority to allocate halibut fishing opportunity among U.S. fishermen should such allocation be necessary.

Under the National Environmental Policy Act of 1969 (NEPA) and NOAA policy, a fishery management regulatory action which significantly affects the human environment requires the preparation of an EIS or SEIS. This notice of intent to prepare an SEIS complies with NEPA implementing regulations at 40 CFR 1508.22. In addition, this notice announces a scoping process pursuant to 40 CFR 1501.7 and 1508.25.

### The Problem

Domestic harvesting and processing capacity in the groundfish, crab, and halibut fisheries off Alaska currently exceeds the amount necessary to harvest the annual total allowable catch of most species of groundfish, halibut, and crabs under Council authority. Further, the Council has determined that the continued entry of fishing effort into these fisheries will only add to harvesting and processing capacity and that continued entry exacerbates current fishery management difficulties or cause new problems.

Fishery managers have found that excess capacity may lead to allocation conflicts, gear conflicts, excessive bycatch of nontarget species, high grading or discard of lower valued but potentially useful fish products, poor handling of catch, insufficient attention to safety, and economic instability from boom-and-bust harvest cycles. In recent years, the Council has noted some or all of these problems in every fishery under its authority.

Although the Council continues to develop open-access regulations in an attempt to address these problems, the Council also is considering a change in the open-access nature of fisheries as a more comprehensive solution. At this time, the Council has not determined the best way to control or restrict access to commercial fishery resources in the long term. However, the Council has tentatively determined that a moratorium on new entry into the fisheries may be necessary for an interim period to curtail the increase in fishing capacity and permit the Council time to develop and assess the potential effects of alternative long-term solutions to the identified management problems. The Council is aware that such a moratorium will not resolve the fundamental problem of excess capacity in the fisheries. Instead, the purpose of

the moratorium, if approved, would be to prevent continued growth in fishing capacity, while the Council assesses alternative limited-access and open-access management measures to address the overcapacity problem, and to achieve the optimum yield from the fisheries.

The public is notified that the NMFS, in cooperation with the Council, intends to prepare a SEIS on the potential effects of amending the two groundfish FMPs, the crab FMP, and the halibut fishery regulations to implement such a moratorium on entry into the specified fisheries and other reasonable alternatives, including the no action alternative.

### Proposed and Possible Alternative Actions

The proposed action is to amend the FMPs and the Pacific halibut fishery regulations. These amendments would provide the Secretary authority to limit, for a specified period from the effective date of the authority, future commercial fishing opportunities for species under the purview by these FMPs and to regulate fishing vessels that qualify under, as yet unspecified, entry criteria. As currently contemplated by the Council, this limitation would apply for a period of 4 years from its effective date.

For purposes of this limitation, the term "fishing vessel" has the same meaning as defined in the Magnuson Act; that is,

... any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (A) fishing, or (B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Some exceptions to the limitation on entry into the specified fisheries may be provided for, as yet, undefined reasons. For example, these may include:

- (a) Small vessels under a certain length;
- (b) A replacement vessel of similar harvesting and/or processing capacity to one that is lost at sea or totally destroyed;
- (c) Conversion of a vessel that qualifies under the moratorium for safety purposes or to more fully use harvested fish; and
- (d) Any vessel participating in any program designed to foster development of disadvantaged communities.

Alternatives to this action include, but are not limited to:

- (1) Status quo or no change in the FMPs and regulations;

(2) Alternative forms of moratoria on entry; or

(3) Other forms of limited access management such as license limitation or individual fishing quotas, in conjunction with or in lieu of a moratorium on new entry.

### Scoping Process

All persons affected by or otherwise interested in a decision by the Council and the Secretary to amend the groundfish and crab FMPs and the Pacific halibut regulations to provide for an interim moratorium on entry into these fisheries are invited to participate in determining the scope of significant issues to be analyzed in the SEIS. Participation includes submission of written comments to the above address or attendance at public scoping meetings.

Scoping consists of identifying the range of actions, alternatives, and impacts to be considered in the SEIS. Actions include those which may be closely related, cumulative, or similar. Alternatives include the no-action alternative, other reasonable courses of action, and mitigation measures. Impacts may be direct, indirect, or cumulative. The scoping process also will identify and eliminate from detailed study issues that are not significant or issues that have been covered in prior environmental reviews.

This scoping process begins with publication of this notice and will end on September 28, 1990, at the conclusion of the September Council meeting. Public scoping meetings are also scheduled as follows:

- August 23, 1990, at 10 a.m., in the NMFS Alaska Fisheries Science Center, Building 4, Room 2079, 7600 Sand Point Way, Seattle, Washington; and
- September 5, 1990, at 10 a.m., in Fishermen's Hall, Kodiak, Alaska.

### SEIS Preparation and Decision Making Schedule

The Council has adopted a tentative schedule for FMP amendment and SEIS preparation, review, and approval. Under this schedule, analysis, and drafting of the SEIS would occur during the 6-month period beginning October 1990 through March 1991. The draft SEIS would be initially reviewed by the Council at its meeting of April 22–26, 1991. The Council would decide at this meeting whether more work on the draft SEIS was necessary or if it was acceptable for public review. If approved for public review, a notice of its availability would be filed with the Federal Register and a 45-day NEPA

public review period would occur from May 10, 1991, through June 24, 1991. At its meeting of June 24-28, 1991, the Council would decide whether to recommend the moratorium amendments to the Secretary. Oral and written comments may be submitted to the Council at its June meeting prior to its decision. If the Council's decision is affirmative, the SEIS would be submitted, with the amendment recommendation and other rule-making documents to the Secretary for review and approval or disapproval.

Under the Magnus Act, Secretarial review is completed and an approval or disapproval decision is made within 95 days from the date of receipt of the Council's amendment recommendation. The Secretarial review process includes concurrent public comment periods of 60 and 45 days on the amendment and proposed rule, respectively. If approved by the Secretary under this schedule, a final rule implementing the moratorium on entry into the fisheries would be effected in January 1991.

Dated: August 20, 1990.

**Richard H. Schaefer,**

*Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 90-19964 Filed 8-23-90; 8:45 am]

BILLING CODE 3510-22-M

#### Patent and Trademark Office

##### Trademark Affairs Public Advisory Committee; Meeting

**AGENCY:** Patent and Trademark Office  
Commerce

**ACTION:** Notice.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the open meeting of the Public Advisory Committee for Trademark Affairs.

**DATES:** The Public Advisory Committee for Trademark Affairs will meet from 10 a.m. until 4 p.m. on September 25, 1990, and from 9:30 a.m. until 12 p.m. on September 28, 1990.

**PLACE:** U.S. Patent and Trademark Office, 2121 Crystal Drive, Crystal Park 2, room 912, Arlington, Virginia.

**STATUS:** The meeting will be open to public observation; seating will be available for the public on a first-come-first-served basis. Members of the public will be permitted to make oral comments of three (3) minutes each. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed. Copies

of the minutes will be available upon request.

**MATTERS TO BE CONSIDERED:** The agenda for the first day of the meeting is as follows:

- (1) Finance
- (2) Automation
- (3) Strategic Planning
- (4) Current Trademark Office Practice Issues

The agenda for the second day of the meeting is as follows:

- (1) The Federal Advisory Committee Act
- (2) Ethics and Conflicts of Interest

**CONTACT PERSON FOR MORE INFORMATION:** For further information, contact Lynne Beresford, Office of the Assistant Commissioner for Trademarks, Room CPK2-910, Patent and Trademark Office, Washington, DC 20231. Telephone: (703) 557-7464.

**Harry F. Manbeck, Jr.,**

*Assistant Secretary and Commissioner of Patents and Trademarks.*

[FR Doc. 90-20005 Filed 8-23-90; 8:45 am]

BILLING CODE 3510-16-M

#### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

##### Procurement List 1990 Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Additions to Procurement List.

**SUMMARY:** This action adds to Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or severely handicapped.

**EFFECTIVE DATE:** September 24, 1990.

**ADDRESSES:** Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On June 8, 22, 29 and July 9, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 23465, 25689, 26738 and 28083) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent

contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1990:

##### Commodities

Table, Folding Legs, Field, 7105-00-269-9275, (50 percent of Government's Requirement)

Envelope, Case, Map & Photograph, 8460-01-113-7576

Box, Wood, Nailed, 8515-00-M00-0020, (Requirements of Pine Bluff Arsenal, Arkansas only)

##### Services

Mess Attendant Service, Ellsworth Air Force Base, South Dakota  
Operation of Base Information Transfer Center, Maxwell Air Force Base and Gunter Air Force Base, Alabama

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

**E.R. Alley, Jr.,**

*Deputy Executive Director.*

[FR Doc. 90-19986 Filed 8-23-90; 8:45 am]

BILLING CODE 6820-33-M

##### Procurement List 1990 Proposed Additions

**AGENCY:** Committee for Purchase from the Blind and Other Severely Handicapped.

**ACTION:** Proposed Additions to Procurement List.

**SUMMARY:** The Committee has received proposals to add to Procurement List 1990 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** September 24, 1990.

REPORT FROM FISHERY PLANNING COMMITTEE - DATED AUGUST 24, 1990

III. MORATORIUM

Steve Davis reviewed the status of the Council's moratorium notice and a draft discussion paper, prepared with Jay Ginter, which highlights moratorium issues and decisions requiring Council attention prior to analysis. A final copy of the discussion paper will be provided to the Council at its September meeting. Mr. Davis and Mr. Alverson also reviewed the comments gathered at the August 23 scoping meeting. Most of the issues mentioned by the public for evaluation in the analysis were already highlighted in the staff discussion paper (e.g. transferability between fisheries, replacement of lost vessels, vessel conversion, etc.). New issues included current activities by the U.S. trade representative which some fear could lead to partial repeal of the Anti-Reflagging Act, resulting in significant number of foreign vessels moving to Alaskan fisheries. Another issue is the potential impact on Pacific coast fisheries resulting from a inshore/offshore decision off Alaska. These and other issues raised during the scoping session period will be examined in the moratorium analysis.

Mr. Davis reviewed the moratorium work schedule approved by the FPC at its May 25 meeting. The schedule shows that the Council could take final action on moratorium amendments as early as the June 1991 meeting. However, the work schedule was originally prepared on the assumption that the Council would develop and publish a notice of intent in July 1990, conduct scoping sessions by August, and be prepared to finalize moratorium options by its September 1990 meeting. Since the Council didn't complete its notice until August, and with the scoping period ending on September 28, the Council will not be able to finalize its moratorium options until its December or January meetings. With this delay, it may be difficult to complete a public review package by April.

The work schedule also assumes that adequate support staff is available. The FPC was informed of several personnel changes and other budgetary constraints which could affect this work schedule. The FPC and Council will be kept fully informed on the staffing situation.



DISCUSSION PAPER

**Moratorium Issues and Options for Council Consideration**

Prepared by

Steve Davis  
North Pacific Fishery Management Council  
and  
Jay Ginter  
National Marine Fisheries Service

September, 1990

**Introduction**

The North Pacific Fishery Management Council (Council) has embarked on a three-step approach to establishing a moratorium on entry into the fisheries under its authority. The first step was to publish a notice of the Council's intent to consider a moratorium, and specify a control date after which new entrants will not be assured future access to the fisheries if a moratorium is ultimately approved and implemented. This step was completed by the Council at its August 7-9, 1990 meeting at which the control date and exceptions for vessels "in the pipeline" at the time of the control date were defined. These definitions are being published by notice in the Federal Register.

The second step, which begins with review of this discussion paper, is to develop the specific configuration of a moratorium and alternatives for purposes of analysis and public review. In its simplest form, a moratorium may be a prohibition on the entry of vessels that were not in the fishery at the time of the control date or when the moratorium was implemented. Alternatively, a moratorium may be made more complex with exceptions to the basic entry prohibition. A range of alternatives, including the no action or status quo alternative, must be identified and assessed for their potential biological, economic and social effects. This analysis cannot begin until the Council gives guidance to its Plan Teams and staff on which alternatives should be considered. This discussion paper identifies some of the issues that may frame the ultimate design of the moratorium. Other issues may be identified during the public scoping process and Council discussions.

Finally, during the third step, the Council will consider public comments on the alternatives and their potential effects, and approve or disapprove a moratorium amendment for each of its fishery management plans. If approved, the moratorium amendments would be sent to the Secretary of Commerce (Secretary) for review, approval, and implementation.

**Moratorium Issues**

1. Legal considerations.

A moratorium is a form of limited access management. Section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) provides authority to limit access to a fishery ". . . to achieve optimum yield if, in developing such a system, the Council and the Secretary take into account:

- A. present participation in the fishery,
- B. historical fishing practices in, and dependence on, the fishery,
- C. the economics of the fishery,
- D. the capability of fishing vessels used in the fishery to engage in other fisheries,
- E. the cultural and social framework relevant to the fishery, and
- F. any other relevant considerations."

A threshold question is whether a moratorium or other form of limited access is necessary to achieve optimum yield (OY). If yes, then the Council should consider amending the definitions of OY in the groundfish and crab FMPs. The halibut fishery regulations are not implemented under authority of the Magnuson Act and so do not have an OY definition.

## 2. Who is in and who is out.

Establishing the qualifying criteria for allocation of fishing privileges (i.e., entry) under the moratorium may be the most difficult task. Although the Magnuson Act requires only that "present participation...and dependence on the fishery" be taken into account, any system that does not rely on a liberal definition of these terms is likely to be opposed by the affected fishermen. Practically, present participation in, and dependence on, a fishery is best demonstrated through landings records.

If these data are used for this purpose, then how far back in time and to what extent should past participation be considered present participation? Should vessels that have been used to harvest small amounts of fish this year have the same privilege of access to the resource in the future as vessels that landed large amounts of fish several years ago? Should entry under a moratorium depend on a specified minimum volume of fish landed, or should it depend on a minimum frequency of landing? For example, should vessels which haven't participated in a fishery for a decade (for the last 5 years, 2 years) be allowed entry? Should vessels that have harvested less than 10,000 tons (1,000 tons; 100 tons) be allowed entry?

If qualification criteria are permissive, then vessels that have participated in the fishery to a minor extent would be allowed entry into the fisheries under the moratorium. They become more competitive and increase their capital investment and capacity to the detriment of the fishery as a whole. On the other hand, restrictive qualification criteria that attempt to "weed out" non-performing or uncompetitive vessels will require some arguably arbitrary decisions to be made about which vessels should be allowed to participate in the moratorium and why.

A related issue is how far forward in time would-be participants should be allowed to prove that they qualify as "existing" vessels in the fisheries. The notice of the control date speaks to this issue by suggesting that vessels must have landed or processed catch in a Council-managed fishery by September 15, 1990 (the control date). Vessels in the "pipeline" that are under construction or in the process of being purchased on the control date will be given "due consideration" as existing vessels if they prove their participation by landing or processing fish by January 15, 1992. This future date, however, is currently non-binding on the Council in deciding the best entry qualifications. The Council may choose, based on analysis of alternatives, another date for some reason. How far forward in time and to what extent should future participation be considered present participation?

Another issue concerns individuals who are participating in the federal Capital Construction Fund program. Many fishermen, some of whom may or may not own an "existing" or "pipeline" vessel, have been putting funds aside for the future acquisition of a vessel. How will the moratorium affect these individuals and the use of these funds? During the scoping meeting in Kodiak, it was apparent that probably 90% of the fishermen in attendance were participating in the CCF program. Several

of these fishermen stated that their time-horizon for use of the funds and vessel planning was after the Council's control date and proposed January 1992 cut-off date.

Regardless of how these issues are resolved, for analytical purposes, the Council should determine how many vessels qualify as "existing" and "pipeline" vessels under different qualifying criteria. What size classes are involved and how are they used? How many "pipeline vessels" are actually in a state of construction, reconstruction, or purchase, and how many "pipeline vessels" exist only on paper in the form of contracts? The answers to these questions depend on the qualifying criteria established by the Council.

3. Appeals process.

Regardless of how fair and well justified the qualification criteria for entry under a moratorium may be, some fishermen are likely to feel disenfranchised by a limited access program. An appeals board may be an efficient means of adjudicating complaints by vessel owners about moratorium rules and applications. If so, an appeals process should be adequately described so that administrative costs of operating it can be estimated. Whether an NMFS Appeals Board is necessary is uncertain, however, the membership, structure, and longevity of such a board will affect cost estimates.

4. Exemptions.

Certain exemptions from the constraints on access to a fishery under a moratorium may be desirable. Exemptions may apply to certain vessels, areas, species, or times of the year. For example, a moratorium applied to all current (as of August 20, 1990) Federal groundfish permit holders would limit access to the groundfish resources to 2,051 vessels. This total number of permitted vessels is distributed among the following arbitrary size classes as:

under 40 feet length	593
40 feet - 59 feet	833
60 feet - 99 feet	333
100 feet - 149 feet	124
150 feet - 199 feet	107
200 feet or longer	61

The number of vessels under 40 feet in length comprise nearly 30 percent of the total, but the fishing capacity or potential fishing effort in this size class may be insignificant to the total fishing capacity in the groundfish fishery. In another example, the Council may choose not to limit access to the arrowtooth flounder fishery or fisheries for the "other species" of groundfish.

In the notice of intent to consider a moratorium, the Council has made it clear that their consideration will include all fisheries under their jurisdiction, except salmon. Several Council members have noted that the moratorium amendments may actually limit the scope to particular fisheries, gear-types, or subsets of the harvesting and processing fleet. A narrow application of a moratorium may allow the development of fisheries on species of fish that are currently under-developed (example flatfish). A moratorium limited to apply only to the catcher/processor and harvesting fleet would similarly allow continued growth in the mothership processing fleet. Both of these examples suggest that there are varying benefits and costs to a narrow or broad application of a moratorium.

Assessing alternative exemptions to a moratorium would be useful in determining whether, and, if so, which exemptions should be made. In making this decision, the benefits of exempting a specific

group of vessels or fishermen from the constraints of a moratorium should be weighed against the costs of potential growth in that sector.

5. Transferability between fisheries.

Should a fishing vessel that is qualified to participate in any fishery under the contemplated moratorium be automatically qualified to participate in all other fisheries under the moratorium? For example, should a vessel that meets entry qualifications in the Bering Sea crab fishery be allowed to participate in the Bering Sea or Gulf groundfish fisheries even if it has no prior history in the groundfish fishery? A corollary issue relates to gear type or area. For example, should all 1,353 vessels that have designated only longline gear on their Federal groundfish permits be allowed to join the 217 vessels that are exclusively trawl gear operators under the moratorium? Should any or all of the 1,058 vessels permitted to operate only in the Gulf of Alaska groundfish fishery be allowed to transfer to the Bering Sea groundfish fishery?

At issue is whether any transferability provision undermines the intent of the moratorium to "freeze" the existing fleet in its current configuration. For purposes of analysis, such a freeze would fix the "status quo" for the duration of the moratorium as the Council develops and evaluates solutions to the over-capacity, bycatch, and other management problems it faces. However, allowing transferability of qualifying vessels between fisheries would give fishermen the flexibility to make business decisions as they do under the current open access system, moving from one fishery to another as harvest opportunities or market conditions indicate.

6. Conversion or replacement of lost or destroyed vessels.

Allowing new and improved vessels to replace those that are given entry privileges under a moratorium would allow fishing capacity to grow and defeat the purpose of the moratorium. On the other hand, it may not be fair to prevent a fishermen from reconstructing his qualified vessel to improve its stability and safety or to re-enter the fishery after a catastrophic loss of his vessel. At issue is determining specific constraints and conditions for vessels to be upgraded or replaced under a moratorium.

If reconstruction or replacement of qualified vessels is to be allowed, should the converted or replaced vessel have substantially the same fishing capacity as the previous vessel; if so, how is fishing capacity defined? Must vessels be lost or destroyed during the moratorium to qualify under this provision? Can vessels be lost prior to the control date and still qualify for entry into the fisheries? Allowing replacement of vessels lost prior to the control date would increase the fleet. However, the replaced vessels may have qualified for participation in the moratorium under the Council's pipeline definition regardless of the loss. In the event that rebuilt or replaced vessels did not qualify for re-entry under the moratorium, those owners could buy a qualified vessel from another owner or enter a fishery not limited to new entry.

Vessel rebuilding or replacement should be limited by some capacity restrictions to curtail growth of fishing effort, the objective of the moratorium. Limiting the length of the replacement vessel, however, does not necessarily limit its displacement, hold capacity, horsepower, processing capacity, etc., all of which could be upgraded to increase its harvesting/processing capacity. More constraining limitations could cause some attrition from the fisheries and, at the extreme, a decrease in fishing capacity, while less constraining limitations could allow an increase in fishing capacity.

7. Continuous participation.

If attrition is desirable during the moratorium to counteract increases in fishing capacity, then continuous participation in fisheries under a moratorium may be required. For example, entry into a fishery one year may be predicated on participation in it the previous year, or at least one year of the previous two (or three). This condition could be applied for initial entry under the moratorium and for privileges to continue fishing under the moratorium. The advantage of such a requirement is that it would serve to achieve the objective of the moratorium, i.e. prevent growth in fishing capacity. The principal disadvantage is that it may not be good for fishermen who have good reason not to participate in the fishery limited by a moratorium in any one year.

8. Applicable vessels.

Does the moratorium apply to just harvesting, processing, and/or catcher/processing and support vessels? The Magnuson Act defines "fishing vessel" to mean any vessel, boat, ship, or other craft which is used for, equipped to be used for, or a type which is normally used for: fishing; or aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, refrigeration, transportation, or processing. At issue is the extent to which processing and support or tender vessels or transport ships affect fishing capacity. Currently, 66 support vessels have Federal permits to operate as "fishing vessels" in the groundfish fisheries.

9. Duration of the moratorium.

Although the Council has specified in its moratorium notice that it is considering a term of four years, the Council may want to consider alternative terms or alternative ways of assuring that the moratorium will sunset when so prescribed. Without emphatic demise of a moratorium, the Council may not have the will to approve an alternative (open or limited access) program. Once established, a moratorium effectively prevents competition from outside the fishery. Access to the fishery resource is no longer open to anyone, but limited to those who qualify for entry. After the qualified participants become comfortable with the new entry controls under the moratorium, they may have little incentive to take the next step to cure the over-capacity problem. Regardless of any specified sunset date for a moratorium, the (politically) easiest course may be simple re-implementation of the moratorium.

One way to prevent this occurrence is to specify, in generic terms at least, the kind of management program that is to follow the moratorium on a certain date. Rather than waiting to see what develops, in this approach, the Council would subscribe to a particular course of action as an integrated part of the moratorium. Subsequent decisions may alter that decision, but it would serve as definite recognition of the moratorium as a temporary solution and a guide to continued development of controlled or open access alternatives. Another alternative would be to design the moratorium with no or few exceptions. For example, no replacement or conversion exceptions, no transfer exceptions would be allowed, and minimum tonnages would have to be landed annually or fishermen would lose their entry privileges. The restrictiveness of such a moratorium, if approved, would probably assure that a more flexible limited access or open access program would be proposed and implemented by the prescribe moratorium sunset date.

## **Conclusion**

**Other issues may be raised during the public scoping process and during the analysis of alternatives. Discussion and refinement of these issues should provide analysts with the necessary list of constraints and conditions from which an assessment can be made of the potential effects of a moratorium. From this assessment and public comment the Council should be provided the necessary tools to make policy decisions on this important resource allocation issue.**

Moratorium Amendment Work Schedule  
as revised by the Fishery Planning Committee  
May 25, 1990

1990

August 23	FPC holds NEPA scoping session (Seattle)
August 24	FPC reviews moratorium discussion paper
September 5	Council holds a NEPA scoping session (Kodiak)
Sept. 25-29	Council reviews discussion paper and finalizes options for moratorium; directs staff to prepare amendment package

1991

April 23-26	Council approves moratorium package for public review
June 25-28	Council considers approval of moratorium amendments

1992

January 1	Implement moratorium for four years
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**NOTE:** Fishery Planning Committee meetings will be scheduled as necessary.

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SEP 28 1990

Rt. 1, Box 1087  
Ketchikan, Alaska 99901  
907-225-6520

September 24, 1990

North Pacific Fishery  
Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

Dear Council:

In your recent August meeting, the Council agreed on a new control date which, as I understand, was September 15th. What this means is that any "vessel" entering the ground fish, crab or halibut fisheries will not be assured a future if a moratorium is implemented.

I personally agree with a moratorium and strongly feel there is a need for such an action. Where my concern is, how does a person replace his vessel under your existing rules. Let me explain my situation.

I have owned and operated a Southeast seiner for the past four years. Three of those years I have fished black cod and halibut which have become a substantial part of my livelihood and income. On July 24th, my boat struck a rock and was later declared a total loss by my insurance company.

Now, I have some serious questions concerning this that the Council has yet to address. They are as follows:

1. Can I replace my boat?
2. Can I replace it with a vessel not previously in the fishery?
3. Can I purchase a larger vessel?
4. My vessel was auctioned by the insurance company. How is the fishing right affected? Does it go with the vessel or myself?

In all fairness, I hope the Council would protect the interest of people like myself and others who fall into a gray area under the current policy of the Council.

Since the loss of my boat, I have been looking for a new vessel and have recently signed an agreement to purchase a vessel that has not fished the North Pacific. I could not wait for the Council to clarify these gray areas and establish solid ground rules. I did not replace my boat with a vessel that had already fished in the



North Pacific Fishery Management Council  
September 24, 1990  
Page Two

fisheries because the market is so high on those boats I could not afford one. I feel a person in the fishery who has lost a vessel should be able to replace that vessel with another as long as the size of the vessel is reasonably close to the one being replaced, i.e., 20-25 percent increase in length.

You should not be forced to purchase a vessel currently in the fishery. If a vessel is lost, taken out of the fishery, the right of the boat to participate in the fishery should go with the owner of the boat. If the boat is sold, I feel the right should go with the boat.

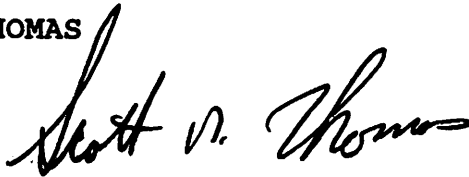
In conclusion, I hope when or if this moratorium is implemented, the Council carefully selects it's wording to protect people in my situation or at least set up provisions now so at a later time some type of board of council can weigh these individual cases.

A black and white, in or out, yes or no policy will not work. Due consideration should be given where consideration is due. The Council needs to set up some kind of policy now that will protect this.

Thank you for your time and consideration in reviewing this information. I would appreciate it if a copy of this letter was sent to each Council member and added to the record.

Sincerely yours,

SCOTT D. THOMAS

A handwritten signature in cursive script that reads "Scott D. Thomas". The signature is written in dark ink and is positioned below the typed name.