

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



ESTIMATED TIME 4 HOURS (all D-2 items)
--

DATE: January 29, 1998

SUBJECT: Maximum Retainable Bycatch (MRB) Standards and IR/IU Implementation Issues

**ACTION REQUIRED**

Discuss and provide direction on IR/IU monitoring and implementation committee.

**BACKGROUND**

MRBs

We have grouped these closely related issues under the same agenda item. When the Council approved the IR/IU program for the GOA last June, they also considered the issue of directed fishing standards (or MRBs) requiring discarding, or partial discarding, of subject species when those fisheries go to bycatch or PSC status during the fishing season. NMFS was requested to evaluate the MRBs for pollock and Pacific cod and adjust them as necessary to more closely reflect 'natural' bycatch rates, and minimize unnecessary bycatch and discard of those species. The issue of MRB adjustment has also been discussed by the Council on a more general level, in the context of minimizing unnecessary bycatch of all non-target species. Adjustments have been made in selected fisheries, but no comprehensive analysis of MRBs has been initiated yet. Some experience under the IR/IU program will be necessary before a meaningful analysis can proceed, at least for those species covered under IR/IU. NMFS management staff may have additional information for the Council on the MRB issue.

A second request was made of NMFS last June, and that was to assess whether their mandatory program will be able to detect whether the IR/IU program is causing fishermen to be more selective in their harvest practices. Examining this issue will likely involve comparison of bycatch rates under IR/IU to bycatch rates in previous years. This may provide insights to assist in adjustment of the MRBs for those species.

NMFS will report on these two issues at this meeting.

IR/IU Monitoring and Implementation Committee

When the Council discussed a new IR/IU monitoring committee, it was more specifically focused on the issues of monitoring progress of the program, as opposed to addressing implementation details as was done by the Council's original IR/IU Committee chaired by Joe Kyle. Since the IR/IU program has come on line, however, several implementation issues have been raised (see Item D-2(e) Supplemental). Industry comments are under Item D-2(e)(1). It appears that any IR/IU Committee might benefit the Council by addressing both monitoring and implementation issues, whether that committee consists of the original members or new appointments. Some of the original members have expressed a desire to continue their involvement, and Item D-2(e)(2) contains additional nominations.



3. IR/IU GOT YOUR UPDATES ITS REALLY DIFFICULT TO GRASP ALL THIS OR AT LEAST THE REASONING IN IT ALL AFTER CLOSE TO 30 YEARS OF BEING BLASTED BY QUALITY CONTROL, MARKET PRESENTATION, SANITATION, 15 YEARS OF ADEC TELLING TO PUT COVERS ON AND BUG SAPPERS IN THE FACTORIES TO STOP FLIES ALL THE SUDDEN WE ARE SUPPOSED TO INVITE LOW LIFE BOTTOM SCROUNGING PEST ABOARD AND FISH THAT THE CATS AND RATS IN CHINA WOULD TURN THEIR NOSES UP AT I GUESS WE GOT TO DO IT KIND OF TAKES THE PRIDE OUT OF WORKING ON PUTTING UP QUALITY PRODUCT FOR FOOD CONSUMPTION.

The specter raised here is not merely that of making unsanitary and unmarketable "product" from infested fish, but contamination of food-grade cod and processing machinery.

When we asked to be able to continue our traditional practice of shaking infested fish, NMFS responded that this was not possible because there could be no enforcement - they claimed observers couldn't tell if we were shaking diseased fish, or simply fish we didn't want to retain. We wish to respectfully disagree with the NMFS position. It is very obvious if a fish is infested with sand fleas or is seriously diseased. The fish come to the roller one at a time, and may be observed at close quarters. They look "repulsive." No rocket science is needed to identify junk fish. If an observer so requests, such fish can be brought aboard for sampling - but we want to get them back overboard quickly.

A requirement that diseased and infested fish be brought aboard and turned into a marketable product would seem to fly in the face of the letter and spirit of HACCP and the FAO Code of Responsible Fishing. This is particularly true where processing machinery and food-grade product may be contaminated.

We are hopeful that you will recognize that we have a serious problem, and that there is an easy and readily enforceable solution. We would like to be able to shake obviously infested and diseased longline-caught fish before they come aboard, and to discard any such fish that do come aboard.

I note for the record that sand fleas are a problem for longliners, not for trawlers. Pollock bycatch is particularly problematic because pollock are not as strong as cod and die more quickly - for that reason they are more likely to be infested with sand fleas. Under IR/IU as it is now interpreted, we must keep these infested fish. This is another example of a rule developed for trawlers that doesn't work when applied to longliners.

Thank you for your attention.

Sincerely,



Thorn Smith

**ProFish****RECEIVED**

JAN 20 1998

N.P.F.M.C.

January 19, 1998

VIA FAX  
282-4684

Mr. Thorn Smith  
North Pacific Longliner Association  
4209 21st Ave. West, Suite 300  
Seattle, WA 98199

RE: Sand Flea infested fish

Dear Thorn:

I agree with your letter of January 19th that the longliners have a problem with sand flea infested fish vis-à-vis IR/U and HAACP. What is the solution? I think that it is very important that you come up with alternatives that the council can consider. If you leave it up to the council, you and I know what you will get - - - - (unprintable verbiage).

We both know that as we gain more experience with IR/U, it is going to require modifications in a number of areas if it is going to be reasonably workable. Maybe sand flea and parasite infested fish, i.e. degraded fish that is unfit for human consumption, will be the first change to consider.

I can see why NMFS could not allow you to "shake" such fish at the roller - - - enforceability. It would be impossible to cite someone for shaking a good fish at the roller as there would be no way to ascertain if the fish was good or infested. Therefore, I think that the solution will have to be some way of exempting infested fish once they come on board so they can be accounted for and examined by an observer, if necessary; but not enter the processing operation - - - much the same way as crushed fish should be handled on a trawler. Obviously, these fish are unprocessable and unmarketable, and thus should be disposed of in an expedient manner.

Would it be possible to have a bin of some sort at the roller into which these fish could be placed (or shaken) by the rollerman as they are encountered during the haulback? Maybe this bin could be connected to a scupper so that once it was full, the quantity of fish (and percent cod) could be noted and the infested fish easily disposed of back into the sea. I would think that such a procedure should have minimal impact on the operation, keep the infested fish out of the factory, allow them to be accounted for, and most importantly keep the NOAA lawyers happy. (You should be able to relate to the latter justification!!)



My suggestion is strictly that --- a suggestion. I am sure that you and your folks can come up with a more elegant solution. In any event we need to consider some practical alternatives, such as was done with the short-tailed albatross calamity. You are in the best position to orchestrate some workable alternatives.

I look forward to discussing this matter further with you to find a workable solution.

Yours sincerely,

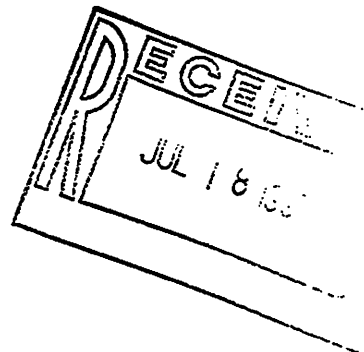


Walter T. Pereyra  
President

cc: Dennis Austin  
Dave Fluharty  
Steve Pennoyer  
North Pacific Fishery Management Council

**GROUNDFISH FORUM, INC.**4215 21st Avenue W. Suite #201  
Seattle, WA 98199  
(206) 301-9504 FAX (206) 301-9508

Mr. Richard B. Lauber  
Chairman  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252



July 18, 1997

RE: nomination for the IR/IU monitoring committee

Dear Chairman Lauber:

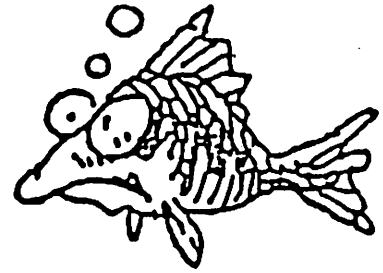
The Council's June newsletter states that the Council is seeking nominations for a committee to monitor the implementation of the IR/IU program and review the success of the program to create incentives for avoidance of non-target species. As you know, the Groundfish Forum has recently attempted to set up an experiment to modify flatfish gear to avoid unwanted catches of pollock and cod in response to the upcoming requirement for full retention of pollock and cod. We have also started to develop ideas for avoidance of small flatfish. Because Groundfish Forum has a large stake in the implementation of IR/IU and efforts to avoid unwanted groundfish catches, I would like to serve on the Council's committee to monitor the success of the IR/IU program.

Thanks in advance for considering my nomination.

Sincerely,

John R. Gauvin  
Director

**North  
Pacific  
Longline  
Association**



**Agenda D-2 (e)**

**February 5, 1998**

**Mr. Richard B. Lauber, Chariman  
North Pacific Fishery Management Council  
605 West 4th Avenue  
Anchorage, AK**

**RE: Discarding Infested Fish**

**Dear Rick:**

Staff at NMFS has asked me to provide some language to take care of our infested fish problem under IR/IU. Here is some suggested regulatory language:

**679.27 Improved Retention/Improved Utilization Program**

(a) \* \* \*

(b) \* \* \*

(c) Mimimum retention requirements

(1) \* \* \*

(2) \* \* \*

(3) **Longline-caught fish that are visibly diseased or infested with sand fleas may be released before coming aboard or returned immediately to the sea.**

Attached please find the IR/IU regulations with this provision inserted.

Thank you for your attention.

Sincerely,

A handwritten signature in cursive script that reads "Thorn".

Thorn Smith

Dated: November 26, 1997.  
 David L. Evans,  
 Deputy Assistant Administrator for Fisheries,  
 National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

**PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 et seq, 1801 et seq., and 3631 et seq.

2. In § 679.2, the definitions of "IR/IU" and "IR/IU species" are added in alphabetical order, paragraph (1) in the definition of "Fishing trip" is revised and the definition and heading of "Round weight or round-weight equivalent" are revised to read as follows:

**§ 679.2 Definitions.**

*Fishing trip* means: (1) With respect to groundfish directed fishing closures or the IR/IU program, an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed in an area until:

- (i) The effective date of a notification prohibiting directed fishing in the same area under § 679.20 or § 679.21;
- (ii) The offload or transfer of all fish or fish product from that vessel;
- (iii) The vessel enters or leaves an area where a different directed fishing prohibition applies; or
- (iv) The end of a weekly reporting period, whichever comes first.

*IR/IU* means the improved retention/improved utilization program set out at § 679.27.

*IR/IU species* means any groundfish species that is regulated by a retention or utilization requirement set out at § 679.27.

*Round-weight equivalent* means the weight of groundfish calculated by dividing the weight of the primary product made from that groundfish by the PRR for that primary product as listed in Table 3 of this part, or, if not listed, the weight of groundfish calculated by dividing the weight of a primary product by the standard PRR as determined using the best available evidence on a case-by-case basis.

3. In § 679.5, paragraphs (c)(3)(II)(C) and (e)(2)(II)(F) are added to read as follows:

**§ 679.5 Recordkeeping and reporting.**

(c) \*\*\*  
 (3) \*\*\*  
 (II) \*\*\*  
 (C) The round-weight catch of pollock and Pacific cod.

(e) \*\*\*  
 (2) \*\*\*  
 (II) \*\*\*  
 (F) The receipt round weight of pollock and Pacific cod.

4. In § 679.20, paragraph (g)(5)(II) is revised to read as follows:

**§ 679.20 General Limitations.**

(g) \*\*\*

(5) \* \* \*

(II) *No discard of processed product.* Any pollock product that has been processed may not be discarded at sea unless such discarding is necessary to meet other requirements of this part.

5. Section 679.27 is added to subpart B to read as follows:

**§ 679.27 Improved Retention/Improved Utilization Program.**

(a) *Applicability.* The owner or operator of a vessel that is required to obtain a Federal fisheries or processor permit under § 679.4 must comply with the IR/IU program set out in this section while fishing for groundfish in the BSAI, fishing for groundfish in waters of the State of Alaska that are shoreward of the BSAI, or when processing groundfish harvested in the BSAI.

(b) *IR/IU species.* The following species are defined as "IR/IU species" for the purposes of this section:

- (1) Pollock.
- (2) Pacific cod.
- (3) Beginning January 1, 2003, rock sole.
- (4) Beginning January 1, 2003, yellowfin sole.

(c) *Minimum retention requirements—(1) Definition of retain on board.* Notwithstanding the definition at 50 CFR 600.10, for the purpose of this section, to retain on board means to be in possession of on board a vessel.

(2) The following table displays minimum retention requirements by vessel category and directed fishing status:

If you own or operate a	And	You must retain on board until lawful transfe
(i) Catcher vessel .....	(A) Directed fishing for an IR/IU species is open .....	all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited	all fish of that species brought on board the vessel up to the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited .....	no fish of that species.
(ii) Catcher/ processor .....	(A) Directed fishing for an IR/IU species is open .....	a primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited	a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited .....	no fish or product of that species.
(iii) Mothership .....	(A) Directed fishing for an IR/IU species is open .....	a primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited	a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited .....	no fish or product of that species.

(3) Longline-caught fish that are visibly diseased or infested with sand fleas may be released before coming aboard or returned immediately to the sea.





UNITED STATES DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 National Marine Fisheries Service  
 P.O. Box 21668  
 Juneau, Alaska 99802-1668

AGENDA D-2(d)  
 FEBRUARY 1998  
 Supplemental

January 30, 1998

RECEIVED

JAN 30 1998

N.P.F.M.C

Mr. Richard B. Lauber  
 Chairman, North Pacific  
 Fishery Management Council  
 605 West 4th Avenue  
 Anchorage, Alaska 99501-2252

Dear Rick,

The North Pacific Fishery Management Council has requested that NMFS provide information on whether maximum retainable bycatch (MRB) percentages could be adjusted to reduce regulatory discards. This issue is scheduled for discussion next week during the Council's February meeting. We hope this letter will provide the Council some useful information.

MRBs are intended to slow the harvest rates of species closed to directed fishing while allowing for the retention of bycatch amounts of these species taken in other directed fisheries. During a fishing trip, the MRB amount of a species closed to directed fishing is established as a percentage of the amount of the retained species open to directed fishing. The MRB percentage for most species is 20 percent, but some MRBs are as high as 35 percent and some are as low as 1 percent. Vessel operators are prohibited from retaining amounts of a species closed to directed fishing that exceed the MRB amount.

Directed fishing closures may occur for a number of reasons, the most common being that the directed fishing allowance for the species has been reached or the fishery for the species is closed because of prohibited species bycatch restrictions. If the total allowable catch (TAC) for a species is reached, the species becomes prohibited and may not be retained. NMFS attempts to manage the annual harvest amount of each species so that the catch in a directed fishery plus bycatch amounts in other fisheries do not exceed TAC. One management tool used by NMFS to accomplish this objective is the reliance on MRB percentages to estimate future bycatch amounts of a species once the directed fishery is closed.

MRBs for most species were not established as a measure of the natural or intrinsic bycatch rate. In fact, the quantification of an "intrinsic bycatch rate" often is difficult given that the rate can vary by area, season, fishery, and individual vessel. Instead, MRBs generally have been set at fairly generous levels that limit the potential for regulatory discards while still meeting management needs to slow down the harvest rate of a



species and avoiding the over harvest of a TAC. To the extent practicable consistent with these objectives, NMFS has discouraged numerous adjustments or differences among established MRBs to reduce confusion and enhance compliance, monitoring and enforcement of MRB restrictions.

If the MRB percentage for a species is established at a level higher than a vessel's bycatch rate, the vessel is allowed to adjust its fishing operation to increase the retained amount of the bycatch species up to the MRB level. This activity often is called "topping off" and can be a preferred harvest strategy to achieve optimum yield relative to potentially unmanageable harvest rates that can be experienced in short paced and intensive directed fisheries. Conversely, "topping off" activity can pose significant management problems if the resultant harvest rates are higher than anticipated for either the bycatch species or for the basis species against which MRBs are calculated. Undesirable or unanticipated high harvest rates of a species can result in the overharvest of the TAC, increased regulatory discard amounts under the resultant prohibited species status, and even overfishing concerns. During the past year, the Council has made several downward adjustments to MRBs to reduce incentives to "top off" on high valued bycatch species such as shortraker/rougheye rockfish in the Aleutian Islands subarea and sablefish in the Gulf of Alaska trawl fisheries. These adjustments can continue to be made as management needs require.

In other cases, upward adjustments of certain MRB percentages may be considered to reduce regulatory discards if the established MRB percentage is lower than the bycatch rate generally experienced in a fishery. This situation may become more prevalent with the implementation of the Council's increased retention and utilization (IR/IU) program for pollock, Pacific cod and specified flatfish species. For example, the MRB percentage for pollock and cod is set at 20 percent although individual vessels can experience bycatch rates that approach 50 percent in some fisheries. If either the pollock or Pacific cod fishery is closed to directed fishing, a vessel is required to retain these species up to the 20 percent MRB level. Amounts of bycaught pollock or Pacific cod in excess of this amount must be discarded.

Many vessels have undertaken gear modifications or other operational changes to successfully reduce their bycatch rates of IR/IU species. This response and the mandatory retention provision for IR/IU species will reduce overall discard amounts in the groundfish fisheries. Nonetheless, the Council could elect to further reduce discard amounts by regulating additional incentives to avoid catch of the IR/IU species, or by increasing MRB amounts of the IR/IU species. Although increases in MRB percentages for IR/IU species could increase the amount of these species retained when the species is closed to directed fishing,

this action also could create incentives for "topping off" activity and simply reallocate IR/IU species away from directed fisheries to a "topping off" fishery. The ramifications of these adjustments would need to be fully considered by the Council.

In summary, MRBs generally are successful as management tools to slow down harvest rates of a species while minimizing regulatory discards. Downward adjusts to MRBs can continue to be considered on a case by case basis to respond to undesirably high catch rates associated with "topping off" behavior of high valued bycatch species. Upward adjustments of other MRB percentages may be one option to reduce regulatory discards in other fisheries, particularly those that experience high catch rates of IR/IU species. We recommend that the Council refer regulatory discard issues related to the IR/IU program to an IR/IU implementation committee to address.

Sincerely,



Steven Pennoyer  
Administrator, Alaska Region



UNITED STATES DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 National Marine Fisheries Service  
 P.O. Box 21668  
 Juneau, Alaska 99802-1668

AGENDA D-2(e)  
 FEBRUARY 1998  
 Supplemental

January 30, 1998

**RECEIVED**

JAN 30 1998

**N.P.F.M.C**

Mr. Richard B. Lauber  
 Chairman, North Pacific  
 Fishery Management Council  
 605 West 4th Avenue  
 Anchorage, Alaska 99501-2252

Dear Rick,

We have recently promulgated regulations to implement an improved retention/improved utilization (IR/IU) program for the groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA). The final rules became effective January 3, 1998 in the BSAI and January 12, 1998 in the GOA. Since then, we have been working closely with industry to implement this new program as effectively as possible. Now that fishing has begun in many sectors of the fleet, we are beginning to receive first hand reports on how the program is working, including indications that certain aspects of the program may be unclear, inconsistent, or difficult to comply with. For example:

- Existing stand down requirements for the offshore pollock fishery in the BSAI require that any vessel used to fish for groundfish during the week prior to the January 26 and September 1 pollock openings are prohibited from engaging in directed fishing for pollock until February 5 and September 8, respectively. As a consequence, vessels not targeting on pollock may be forced to discard a percentage of their pollock catch during these periods even though pollock is open to directed fishing.
- The utilization requirements are unclear with respect to IR/IU species deployed as bait on fixed gear vessels, or IR/IU species consumed on board vessels as food. We believe the intent of the Council would be to allow these activities to occur. However the regulations should be clarified to specify how fish utilized in this manner count towards meeting a vessel's 15 percent minimum utilization requirement given that neither activity will produce retained products.
- In limited instances, sampling by observers to remove otoliths, tissue samples, or stomach samples may render some fish unsuitable for processing. The regulations



should be clarified to indicate whether these fish may be discarded or must be retained by the vessel anyway.

- Representatives for the freezer longline fleet are reporting heavy predation of pollock by sand fleas in some areas, and have suggested that requiring retention of fish carcasses that have been subject to heavy predation by sand fleas or other predators such as marine mammals is unreasonable.

When the Council approved Amendment 49 for the BSAI in September 1996, it expressed the intent to convene an IR/IU implementation committee to examine these sorts of issues, and to provide recommendations to the Council and NMFS for any changes or adjustments that may be necessary to improve the effectiveness of the IR/IU program. I recommend that the Council appoint such a committee to meet in February or March of this year so that we may begin to address some of the issues related to the implementation of the IR/IU program.

Sincerely,



Steven Pennoyer  
Administrator, Alaska Region