

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke
Executive Director



DATE: January 8, 1992

SUBJECT: Moratorium

ACTION REQUIRED

- (a) Receive status report from analytical team.
- (b) Finalize moratorium workplan, elements, and schedule.
- (c) Consider establishing an industry moratorium implementation team.
- (d) Receive report on Capital Construction Fund and conditional fisheries .

BACKGROUND

In December the Council established proposed alternatives, a work plan, and schedule for the moratorium. The elements and options of each alternative are compared in item C-5(a); they derive in large part from recommendations of the AP last April. Item C-5(b) is the full work plan and schedule which calls for public review after the April meeting and a final decision in June. If approved by the Secretary, the moratorium could be in place for 1993.

It's a tight schedule, but achievable if the Council takes the time to focus the alternatives for analysis by the interagency team. If we are not sufficiently definitive now, or elements are changed or added in April, there is a good chance the moratorium analysis will be thrown off schedule. Based on their own discussions and with the SSC and AP, the team will be prepared to identify various issues needing clarification. The alternatives you establish at this meeting will provide the bounds for the analysis due in mid to late March for review before the April meeting.

The analysis will focus on how the proposed vessel moratorium will limit speculative growth in vessel capacity during the next few years while the Council is considering possible limited entry schemes. The analysis will include an EA under NEPA, as well as a regulatory analysis of the economic and social impacts. Analyzing the moratorium elements and options will require the development of an extensive data base, and the first priority of the analysis has been to assess the availability and scope of existing information. Following completion of the data base necessary to characterize operations and performance of the fleet, the analytical team anticipates that relative measures of vessel capacity can be estimated.

The third step will examine the relationship between excess capacity and recognized problems in the fisheries. In the fourth step the impacts of the individual moratorium elements and options will be evaluated, leading to an assessment of the effectiveness of the alternatives under consideration. The analysis also will examine variables influencing the entry of new vessels into the fleet to assess likely changes in future capacity in the absence of a moratorium (the status quo alternative).

Measuring overall industry or vessel capacity in the Alaska EEZ fisheries is not the objective of the study, but relative indications of actual and potential capacity will be required to evaluate the effectiveness of specific elements in the proposed alternatives. The team plans to use reported operating characteristics of the fleet--vessel numbers, length, gear type, fishery--along with measures of catch capacity to develop basic indices of vessel capacity under different scenarios. Industry has been asked to describe capacity measures and provide guidance for the analytical team (Item C-5(c)). Their responses are provided under this tab.

During the analysis, certain judgements or assumptions may be required to answer questions posed by the proposal. The Council may wish to consider the designation of an industry implementation work group to act in an advisory capacity similar to that established for the halibut and sablefish IFQ management plan. Such advisory input also may prove timely given that the moratorium analytical team will not have the benefit of another Council meeting between now and completion of the analysis.

For purposes of general information and comparison, Item C-5(d) is the proposed rule including a moratorium to the FMP for reef fish by the Gulf of Mexico Fishery Management Council.

Capital Construction Fund. Options available to vessel owners concerning the use of Capital Construction Funds (CCF) for construction, refurbishing, or purchasing vessels are likely to be significantly restricted by a vessel moratorium, and could lead to unanticipated tax liabilities for vessel owners. The designation of applicable fisheries as conditional provides a means of utilizing CCF funds in certain approved alternative projects. While the Council does not have the authority to designate fisheries as conditional for purposes of CCF, such a recommendation can be made to the Secretary.

MORATORIUM ELEMENTS AND ALTERNATIVES

ELEMENTS	ALTERNATIVE 2 Strict Moratorium	ALTERNATIVE 3 Liberal Moratorium
1. Qualifying Period	Must have made landing at least once between Jan. 1, 1980 and the control date	Must have made landing at least once between Jan. 1, 1976 and the control date
2. Length of Moratorium	Until Council rescinds or replaces; not to exceed 4 years, but Council may extend for 2 years if limited access program is imminent	Until Council rescinds or replaces, not to exceed 4 years from date of implementation.
3. Crossovers During Moratorium	Council may use regulatory amendment to limit participation in specific fisheries to those with history of participation prior to moratorium	No restrictions
4. Replacement or Reconstruction of Vessels During the Moratorium	Can replace with vessel of similar capacity but replaced vessel must leave the fishery. Reconstruction allowed to upgrade safety, stability, or processing equipment, but not to increase fishing capacity	May replace or increase capacity of vessels by 20% in LOA and/or width once during moratorium. Reconstruction allowed to upgrade safety, stability, or processing equipment, and increase catch carrying capacity by not more than: a) 20% for >125'; b) 30% for 80-125'; and 40% for vessels 80' and less.
5. Replacement of Vessels Lost or Destroyed During the Moratorium	Can be replaced with vessels of similar capacity. Replaced vessels can not be salvaged and come back into fishery	Can be replaced with vessels of increased capacity limited to, for example, 20 percent more in LOA and/or width
6. Replacement of Vessels Lost or Destroyed Before the Moratorium	Vessels lost since Jan. 1, 1990 can be replaced with vessels of similar capacity	Vessels lost since June 15, 1989 can be replaced with vessels of similar capacity
7. Small Vessel Exemption	No exemptions	Less than 60' or alternatively 40' LOA
8. Disadvantaged Communities	No exemptions	Exempt, as defined by Council

Moratorium Elements and Alternatives (continued)

ELEMENTS	ALTERNATIVE 2 Strict Moratorium	ALTERNATIVE 3 Liberal Moratorium
9. Minimum Qualifying Poundage	No minimum qualifying poundage, just a legal landing in any qualifying year	
10. Applicable Sectors of the Industry	Moratorium will be applied equally to catcher vessels, catcher/processor vessels, and mothership/processor vessels	
11. Appeals	The appeals procedure will consist of an adjudication board of government persons and non-voting industry representatives	

MORATORIUM WORK PLAN

I. BACKGROUND

In 1990, the North Pacific Fishery Management Council (Council) initiated a three step approach for establishing a moratorium on entry into all fisheries under its authority, except salmon. 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 based on that control date.

This step was completed by the Council at its August 7-9, 1990 meeting. Notices were published in the Federal Register in September 1990, wherein the Council informed the public of its intent to develop measures to limit access to the groundfish, crab, and halibut fisheries off Alaska, and to establish a control date of September 15, 1990 for entry into the fisheries. Vessels that entered the fisheries after September 15, 1990 are not assured of future access to the fisheries if a moratorium is imposed. However, "due consideration" will be given to vessels that harvest or process fish before January 15, 1992, if either:

1. they were under construction, reconstruction, or under contract for construction, reconstruction or purchase as of September 15, 1990, for purposes of participating in the fisheries; or
2. they were under written option or contract for purchase, or written contract for construction or reconstruction before September 15, 1990, but that option or contract was canceled because of the previously proposed January 19, 1990 control date, provided these vessels were placed again under written contract for such activities by January 1, 1991.

At their September 1991 meeting, the Council extended the January 15, 1992 deadline for trawl operations to 20 days after the trawl groundfish seasons begin in the Gulf of Alaska, and Bering Sea and Aleutian Islands for 1992. This extension was in recognition of the Council's request for emergency action by NMFS to delay the trawl season opener to January 20 in 1992.

The second step is to develop the specific configuration of a moratorium and alternatives for purposes of analysis and public review. As a part of this process, the Fishery Planning Committee (FPC) held National Environmental Protection Act (NEPA) scoping sessions in Seattle (August 23, 1990), and Kodiak (September 5, 1990). A moratorium discussion paper ("Moratorium Issues and Options for Council Consideration") prepared by NMFS and NPFMC staff was presented and discussed during the FPC meeting August 24, 1990 in Seattle. At their September 1991 meeting, the Council adopted for analysis the recommendations made by the Advisory Panel in April 1991 concerning the elements and options to be analyzed in the proposed moratorium. From this set of recommendations an amendment proposal, set of alternatives, analysis, and conclusions are being prepared by the analytical team. The moratorium project is to be given the highest priority and an implementation plan is due back to the Council in April 1992.

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 for review, approval, and implementation. Action on the moratorium is to be followed by the development of a comprehensive fishery management program during 1992 and 1993 that could be implemented by January 1995.

II. SITUATION

The groundfish, crab, and halibut fisheries under the jurisdiction of the Council have evolved to their current status largely under conditions of open access to all domestic fishing and processing interests. Granted lenient entry conditions, preferential access to American firms, a variety of capital investment sources, and a perception of significant economic opportunities, the Alaska groundfish industry has witnessed dynamic growth of domestic fishing and processing since its tentative beginnings in the early 1980s. The rapid rate of domestic expansion in the Alaska groundfish industry has been accompanied by a proportional decline of the foreign fleets who once fished these waters, and later operated as at-sea processors in transitional "joint ventures" with the developing U.S. catcher fleet. The era of foreign presence in the EEZ fisheries off Alaska ended in 1990; in 1991 virtually all of the total allowable catch (TAC) for the combined Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI) fishery management areas was harvested and processed domestically.

The displacement of foreign fleets has been accomplished through the intensive capitalization of a new or reconfigured American groundfish fleet operating in the Alaska EEZ. The rapid capitalization has been in response to perceived economic opportunities. Up until the late 1980s, the "first-come, first-served" dictates of these fisheries created a great rush to catch and process the resources in the most expedient manner, with little regard for the consequences of parallel actions by others following the same course.

By the end of the decade, however, the signs of increasing capitalization among the newly "Americanized" Alaska groundfish fleet were becoming more apparent. Various conflicts among gear groups, fisheries, and ultimately inshore and offshore segments of the industry signaled that the catching and processing capacity of the domestic industry had met, or was fast approaching the availability of fishery resources in this region. Moreover, even though there were ample signs that the industry was approaching full capacity, the backlog of capital expansion plans fueled in the mid-1980s continued to add still more harvest and processing capability to the fleet in the early 1990s. Existing fishermen and processors find that rebuilding and expansion of their vessels may be warranted in order to take advantage of current technology, or to keep pace with new entrants, further adding to capacity. Still other entrepreneurs, believing that the end of open access fisheries in the North Pacific is approaching, may bring still more capacity on line in a speculative venture to "establish rights" before new entry is restricted.

III. PROBLEM

The consequences of such rapid capitalization and growth in this industry now saddle fishermen and processors alike with the prospect of an expanding race for fish and intensifying competition. The Council must deal increasingly with complex management issues such as roe stripping, bycatch, shortened seasons, and preemption, leading to numerous allocation dilemmas. Domestic harvesting and processing capacity in the groundfish, crab, and halibut fisheries off Alaska is perceived to exceed the amount necessary to efficiently harvest the annual total allowable catch of most species of groundfish, halibut, and crabs under Council jurisdiction. Further, the Council has determined that continued entry of fishing effort into these fisheries will add to harvesting and processing capacity, and that open access conditions aggravate current fishery management difficulties.

The Council and fishery managers believe that excess capacity leads to allocation conflicts, excessive bycatch of non-target species, high grading or discard of lower valued but potentially useful fish products, poor handling of catch, insufficient attention to safety, economic instability, and reduced earnings by affected catcher and processor firms. In recent years, the Council has experienced these problems in most of the fisheries under its authority.

Under conditions of continued open access, it is anticipated that the industry and management problems will continue to build, threatening the ability of the Council to achieve optimum yield in the affected fisheries, from economic, biological and social perspectives. Thus, the Council is faced with a two-fold problem: 1) stemming the flow of additional, unneeded capital investment into the North Pacific EEZ fisheries; and 2) addressing the existent and emerging problems resulting from an overcapitalized fishing industry.

V. OBJECTIVE

The Council is considering a change in the open-access nature of the industry as part of a comprehensive long term solution to many of the problems confronting the fisheries. In response to problems associated with overcapitalization and excess industry capacity, the Council is appraising a management regime for the groundfish, crab, and halibut fisheries currently under the Council's authority that restricts new entrants into the fishery. This proposed 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 impacts of alternative long term solutions to several management problems.

The Council is aware that a moratorium on new entrants will not resolve the fundamental problems associated with excess capacity in the fisheries. Instead, the objective of the moratorium would be to control continued growth in fishing capacity while the Council assesses alternative management proposals including, but not confined to, limited and open access measures to address the overcapacity problem, and to achieve the optimum yield from the fisheries. The Council intended, in establishing the control date for entry into the fisheries, to discourage speculative entry into the groundfish, crab, and halibut fisheries off Alaska while potential access control management regimes are developed and analyzed by the Council.

VI. ALTERNATIVES

The fundamental consideration faced by the Council is whether the imposition of moratorium on new entry into the fisheries is necessary and if such action will be effective in curtailing the increase in capacity by the fishing industry. Thus, the first step is to carefully define the nature of the moratorium under consideration. Based on the two scoping sessions, the Moratorium Discussion Paper, FPC review, and industry input, the Council's Advisory Panel outlined a set of key elements and options to be considered in the analysis of the proposed moratorium. These key elements for consideration are summarized as follows: 1) the qualifying period, as defined by the earliest and latest dates during the time a vessel must have made landings; 2) exemptions for small vessels; 3) exemptions for disadvantaged communities; 4) exemptions for lost or destroyed vessels; 5) the duration of the moratorium; 6) fishery crossovers during the moratorium; 7) replacement or reconstruction of vessels during the moratorium; and 8) an appeals procedure. Under several of these elements, the AP has identified different options to be evaluated. The impact of these recommended elements and options will require analytical investigation in order to evaluate their individual and combined impact on the objectives of the proposed moratorium amendment.

In order to structure the AP's recommended moratorium elements and options into discrete choices suitable for analysis, it is suggested that two alternative specifications of a moratorium be established. Generally, these would reflect: 1) relatively "strict" rules governing new entry or reconstruction; and 2) relatively "liberal" guidelines. An intermediate or "moderate" set of rules might also be specified. The guidelines proposed by the AP would be fashioned around these two alternatives as follows.

Alternative 1: No action is taken through a moratorium to control the growth in fishing capacity.

The first alternative represents the status quo, an option the Council legally must consider. This alternative also serves as the base or reference against which directed action to limit capacity--as proposed in Alternatives 2 and 3--can be assessed. Given the dynamic nature of the fisheries under the Council's authority, it is likely that other regulatory and management actions will be undertaken that impact fishing effort, capacity or the associated problems prompting the proposed moratorium amendment. Thus, the "status quo" may well change in the near future independent of directed action towards a moratorium. For example, the Council's consideration of sablefish and halibut fixed gear management plans may lead to regulatory changes that directly or indirectly influence entry into these fisheries.

Alternative 2: Strict Moratorium

The moratorium under Alternative 2 would include the most limiting options for entry or inclusion into the fisheries, intended to provide a strict limit on capacity, including the following.

1. **Qualifying date:** Must have made landings at least once between January 1, 1980 and the applicable 9/15/90, 1/15/92, or 2/9/92 control date as defined by the Council.
2. **Exemption for Small Vessels:** No exemptions for smaller vessels, the moratorium covers all vessel lengths.
3. **Exemption for Disadvantaged Communities:** No exemptions.
4. **Exemption for Vessels Lost or Destroyed Before the Moratorium:** Vessels lost since 1/1/90 can be replaced with vessels of similar capacity.
5. **Length of Moratorium:** Until Council rescinds or replaces, not to exceed 4 years from implementation, but Council may extend for 2 years if a follow-on limited access program is imminent.
6. **Fisheries Crossovers During Moratorium:** Any vessel that qualifies to fish may fish in any fishery, but Council would be able to use a regulatory amendment to limit participation in specific fisheries to those who participated in the fishery before the moratorium was imposed.
7. **Replacement of Vessels Lost or Destroyed During the Moratorium:** Can be replaced with similar capacity.
8. **Replacement or Reconstruction of Vessels During the Moratorium:** Can be replaced with similar capacity but replaced vessel must leave fishery. May reconstruct vessel to upgrade processing equipment and stability, but not increase fishing capacity through changes in LOA, width, or horsepower, or other suitable index of fishing capacity.

Additional criteria identified by the AP but uniformly applicable to Alternatives 2 and 3 include three more elements:

9. No minimum qualifying poundage, just a legal landing in any qualifying year.
10. The moratorium will be applied equally to all sectors of the industry, including

catcher/processors, catchers, and mothership processors.

11. The appeals procedure will consist of an adjudication board of government persons and nonvoting industry representatives.

Alternative 3: Liberal Moratorium

Alternative 3 represents a combination of the liberal options proposed under the AP's recommended elements for a moratorium. That is, the qualifying period is longer, exemptions are greater, and replacement/reconstruction provisions are more lenient.

1. Qualifying date: Must have made landings at least once between January 1, 1976 and the applicable 9/15/90, 1/15/92, or 2/9/92 control date as defined by the Council.
2. Exemption for Small Vessels: Exempt small vessels less than 60' [alternatively, 40'] LOA in GOA and/or BSAI
3. Exemption for Disadvantaged Communities: Exempt disadvantaged communities and affiliated vessels, as defined by the Council.
4. Exemption for Vessels Lost or Destroyed Before the Moratorium: Vessels lost since 6/15/89 can be replaced with vessels of similar capacity.
5. Length of Moratorium: Until Council rescinds or replaces, not to exceed 4 years from implementation.
6. Fisheries Crossovers During Moratorium: Any vessel that qualifies to fish may fish in any fishery (groundfish, crab, or halibut).
7. Replacement of Vessels Lost or Destroyed During the Moratorium: Can be replaced with increased capacity limited to, for example, 20 percent more in LOA and/or width.
8. Replacement or Reconstruction of Vessels During the Moratorium: May increase capacity of vessel by 20% in LOA and/or width once during moratorium years. May reconstruct vessel once during the moratorium to upgrade processing equipment and stability, but not increase catch carrying capacity by more than: (a) 20% for vessels 125' and greater, (b) 30% for vessels between 80'-125', (c) 40% for vessels 80' and less.

Items 9, 10, and 11 listed under Alternative 2 apply equally to Alternative 3.

Other Alternatives

The Council has expressed its intent to consider a moratorium as an interim step towards developing a long-term comprehensive management regime for all of the fisheries under its authority. Still in the early planning stages, the proposed comprehensive plan is intended to resolve the interrelated allocation dilemmas related to open access conditions, as discussed in the Problem section, above. Accordingly, the alternatives considered under the proposed Moratorium Alternative are only interim or partial solutions to the emerging problem areas. Other regulatory or management alternatives such as traditional tools (trip limits, gear restrictions, operational areas, etc.), or limited entry schemes (individual quotas, license limitations, etc.) will be considered in the development of the comprehensive plan. Such alternatives are

not, however, regarded as appropriate measures in reaching the near-term objective of curtailing speculative increases in fishing capacity. Nonetheless, the Council may interpret NEPA and Magnuson Act regulations to require that other alternatives be assessed as reasonable alternatives to a moratorium, such as traditional management tools or other forms of limited access.

V. SCOPE

A moratorium is considered to be 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 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."

Other considerations in developing access control programs include the distribution of economic and social benefits, transferability of fishing privileges, enforcement and monitoring costs, and simplicity of the program which can enhance public understanding and compliance.

Magnuson Act (Section 3(21)) further defines ". . . The term 'optimum' with respect to the yield from a fishery, means the amount of fish--(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and (B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor." This broad interpretation of optimum yield (OY) may be somewhat different than that reflected in the respective GOA and BSAI FMPs. As a result, the Council may wish to consider amending the definitions of OY in the groundfish and crab FMPs to provide an unambiguous definition consistent with the Magnuson Act. The halibut fishery regulations are not implemented under authority of the Magnuson Act, and so do not have an OY definition. However, the extensive analysis of the proposed halibut limited entry amendment provides reference criteria for examining this issue.

A threshold question concerning the scope of the analysis is whether a moratorium is necessary to achieve OY. More specific definitions of the economic, social, and ecological dimensions of OY in the groundfish and crab fisheries may be required as a part of this determination. While empirical measures of capacity utilization can be developed based on vessel statistics, conclusive measures of the social and economic dimensions of OY, and their relationship to capacity, may prove difficult in the short time schedule available for analysis.

Combining the Magnuson Act criteria for limiting access with the interpretation of OY creates an analytical framework that must address economic, social, and ecological (biological) aspects which encompasses both efficiency and equity considerations. In the absence of a singular quantifiable standard that expresses the above criteria, the scope of the analysis is expected to cover several interrelated indicators of fishery capacity and capitalization, expressed in terms of the economic, social, and biological dimensions relating to the proposed actions. This is expected to produce a variety of indicators which, when qualitatively aggregated, will produce a basis for reasonable judgements about the effectiveness of the proposed alternatives in resolving the problems identified. In addition, requirements of the regulatory

impact review (RIR) and Executive Order 12291 direct specific economic assessments of expected effects, benefit/cost analysis, and net benefits to the nation. Such measures are likely to rely upon the qualitative summary of various indicators, rather than definitive quantitative conclusions.

It is not expected that the moratorium--by itself--will achieve the OY criteria as expressed above. The moratorium is proposed as an interim measure to prevent further unnecessary capitalization creating superfluous capacity while the Council develops and implements a comprehensive management plan that can better achieve OY. However, the regulatory procedural requirements are no different for a moratorium than they would be for any other management plan with potentially significant effects. The NMFS has indicated that an environmental assessment (EA) will be sufficient to support a moratorium proposal in that the impacts are anticipated to be largely economic in nature. Linking the moratorium proposal--in purpose--to the longer term comprehensive management plan provides a more convincing scope for resolution of the problems identified. There is, however, a difference in the conceptual approach suggested for the moratorium, compared to most IFQ systems. The moratorium is based on vessel accountability, whereas an IFQ system is based on the vessel owner. Thus, formally joining the moratorium and comprehensive plan will require additional design, pending further Council direction on the strategic elements of the comprehensive plan.

VI. PROCEDURE

The analysis of the moratorium proposal is dependent upon: A) the nature of the investigation, primarily the ability to quantify or express the relationship between fishing capacity and the economic, social, and biological dimensions of optimum yield; B) the availability of data to establish measures of historical, current, and future participation or capacity in the fisheries; C) the analytical team available to contribute to the study ; and D) the time frame available to complete the analysis. Each of these component parts is reviewed briefly.

A. Analytical Components of the Study

1. The first step in the analytical examination of the proposed alternatives calls for a detailed examination of the present and historical participation in the Alaska EEZ fisheries. Such analysis is expected to produce comparative measures of participation, capacity, utilization, and catch that can be traced over time in order to assess trends in entry, exit, and capacity utilization. This information should establish the variability of capacity across different dimensions of the industry such as by vessel size, gear type, fishery, and so forth. A major thrust of this effort is the identification of appropriate economic, social, and biological indicators of open entry and/or overcapacity.

2. The second step is the analytical determination of overcapacity or overcapitalization. Although widely accepted as fact, analytically defensible indicators of overcapacity must be developed in order to assess the extent of the causal impacts on the optimal yield of the fishery. A preliminary assessment of the data and previous studies indicates that there is not a simple, consistent empirical measure of fishing capacity or capitalization that can be uniformly applied to all segments of the industry. Thus, it may be necessary to develop a standard, or series of indicators--such as the change, or rate of change in activity--that can be used to establish the extent of overcapacity in the fishery. The dynamic complexity of the affected industry and vessels poses significant challenges in developing realistic estimates of potential or optimal capacity. Conceptual models based on technical efficiency and/or financial feasibility may provide useful measures in characterizing capacity. Mathematical optimization, simulation, and financial break-even models have been applied to such questions with varying degrees of success. Such measures, if feasible, might be used as a basis for estimating the economic cost, or inefficiency associated with the suspected current overcapitalization in the industry.

3. Third, the suspected adverse economic, social, and biological impacts of overcapacity ultimately must be tied to observable variables within the fishery which can be traced to the causal influence of open access. The hypothesis in this case is that a moratorium may be warranted on the grounds that continued open access clearly leads to observable adverse consequences on optimum yield. In the absence of strictly causal evidence, some observable correlation or compelling relationship between the adverse impacts and open access will likely be required to accept this hypothesis.

4. If the direct relationship between open access, overcapacity, and adverse impacts on OY is confirmed, the fourth step is to determine whether or not the imposition of the proposed moratorium is warranted to either correct or limit the identified problems. Given the Council's objective of reducing speculative entry into the fishery during the period when limited entry management is being considered, some projection of future entry might be developed in order to assess expected conditions with and without a moratorium. Alternatively, it may be sufficient to analyze whether or not current capacity is excessive, detracting from achievement of OY, in which case any further increase in capacity is detrimental to the fishery.

5. The last step in the analysis will be to evaluate the relative merits of the strict and lenient alternative moratorium proposals, relative to the status quo, in achieving the Council's objectives, given the assessment of overcapacity conditions and the relationship to attaining OY. This will include a summary comparison of economic, social, and biological impacts identified in the analysis. Both qualitative and quantitative results are anticipated in this regard, given the analytical considerations called for in regulatory procedures.

B. Data Requirements

The analysis as outlined above will require an extensive examination of past and present fishing and processing activity in the affected industry. Preliminary assessment of information requirements indicates that basic data relating to annual landings, vessel characteristics (gear type, size, power, capacity, etc), fishery, effort, processing volume, and entry/exit statistics will be required for individual vessels during the period 1976 through the present. Information from these data bases is needed to estimate total potential capacity of all qualifying vessels, in addition to actual or observed capacity of the active fleet at a given point in time. While it is acknowledged that much of this information has been recorded, the data resides piecemeal in several different data bases, including vessel registration files, fish tickets, limited entry permit files, intent to process files, and so forth. The component data bases must be identified, compiled and summarized in order to obtain and evaluate the particular series of interest in the analysis.

Indicators of future entry or expansion plans with and without a moratorium will likely prove difficult data to obtain. Examination of Capital Construction Fund deposits, estimates of vessels under construction or under contract in the "pipeline", and the projection of potential vessels outside the region could provide insight into such projections.

In addition to the capacity utilization information requirements noted above, it will be necessary to collect data regarding associated economic, social, and biological variables linked to the capacity issue. The impact of open access conditions on social issues in the affected fisheries might be apparent from an examination of employment, economic activity, community stability, and similar variables over time. Biological dimensions of OY--such as waste, discard, and bycatch--will be evaluated in terms of the correlation of such impacts with open entry or capacity utilization. Related economic data, such as vessel costs, returns, prices, investment, and employment may be required to judge optimum economic yield and the economics of the fishery.

The evaluation of specific data relationships, such as vessel numbers by size, over time, can be expressed

through relatively simple transformation of records, and illustrated in tabular or graphic form. It might prove useful, however, to estimate more complex, dynamic capacity relationships through the estimation of statistical relationships such as least squares regression techniques, or simulation models of the fishery.

C. Analytical Team

The primary examination of the proposed amendment will require the full time attention of a data analyst and an economist over the next five months, as well as the part time input from professionals with expertise in the fields of biology, statistical modeling, sociology/community development, and industrial engineering/naval architecture. The capability exists from staff analysts within affiliated agencies (NPFMC, NMFS, ADF&G, CFEC, and others) to perform most of the rudimentary data analysis called for in this project. Certain features, however, such as developing a mathematical or simulation model, estimating social impacts, or the accurate characterization of vessel capacity measures may call for outside assistance. Depending upon staff availability in the above agencies, the analysis may require the use of contractors or other resources, particularly under a tight time schedule. The concentrated staffing suggested for this team reflects the relatively short time period available for the analysis, as discussed below.

D. Schedule

The target date for completion of the moratorium analysis and implementation plan established by the Council is April 1992. Working backwards from that date, the following schedule has been established by the Council for completion of the study, review, and potential implementation in January 1993.

<u>Date</u>	<u>Action/Progress</u>
December 1991	Council meeting: Finalize Moratorium Problem Statement/Work Plan
December 1991	Identify analytical team, individual assignments
December 1991	Begin data gathering; inventory sources of information
January 1992	Preliminary results of data assessment; analyze measures of capacity
January 1992	Formulate model for evaluating capacity utilization
January 1992	Council Meeting: Progress report
February 1992	Preliminary results on degree of capacity utilization/capitalization
February 1992	Estimate linkage between capacity utilization and OY
February 1992	Model impacts of proposed alternatives
February 1992	Estimate entry/expansion with and without moratorium
March 1992	Preliminary assessment of proposed alternatives
March 1992	Preliminary draft of EA/RIR
March 1992	In-house review; supplemental analysis as required
April 1992	Preparation of draft EA for Council review
April 1992	Council Meeting: Present Moratorium EA; Identify Preferred Alternative
May 1992	Draft Moratorium EA released for Public review
June 1992	Council Meeting: Consider adoption of Moratorium Amendment
July 1992	Moratorium Amendment EA forwarded to Secretary
January 1993	Implementation of Moratorium

VIII. REFERENCES

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Questions & Concerns Regarding the Moratorium Alternatives

Discussion Issues for January 1992 Council, AP, and SSC Meetings

1. There are several elements in the proposed moratorium that hinge upon the interpretation of key terms. Council clarification or discussion of intent regarding the following issues may provide more focus for the analysis, as well as help the industry understand the proposed actions:
 - a. **qualified landing.** Does this include groundfish landings in state waters, or just the EEZ? As currently interpreted, there is not a minimum landing requirement in terms of tonnage; also, the scope is EEZ-wide, rather than FMP-specific.
 - b. **qualifying dates.** The starting qualifying dates (in 1976 & 1980) are explicit, although an even more restrictive date (starting in 1982, or 1984) may be worth considering. It is unclear, however, when the moratorium is intended to begin. Will this be the control date or extensions published in the FR, or is there another date yet to be specified. Fishermen have raised numerous "what-if" questions concerning the fine-tuned interpretation of the control date language that may need to be resolved.
 - c. **disadvantaged communities.** A possible exemption for disadvantaged communities and affiliated vessels refers to a Council determination of applicable communities.
 - d. **fishery crossovers.** How detailed a criteria is necessary to assess this option? One interpretation restricts crossovers only among very broad groupings (halibut, groundfish, and crab), while another would apply to specific fisheries within the groundfish and crab categories, (i.e., P. cod, pollock, rockfish, bairdi, etc). Would crossovers apply to mothership processors as well?
 - e. **capacity measures.** Various options in the elements under consideration make reference to capacity, allowable increases in capacity, or allowable vessel reconfiguration. The precision implied in these options may not be attainable in the analysis. It is questionable whether or not a universally acceptable measure or index of capacity exists, or can be developed in the timeframe allotted for the analysis. General measures, such as length or tonnage serve as proxies, at best, but do provide an easily understood standard. Alternatively, an industry review board might be established in the implementation phase to provide the more difficult judgement calls relating to capacity questions. Specific guidelines relating to allowable reconfiguration required for vessel safety need to be identified.
2. How will the proposed moratorium be affected by the halibut and sablefish IFQ programs? An explicit exemption of halibut and sablefish vessels at this time creates the potential for significant increases in aggregate catch capacity of remaining open access fisheries.

3. How will non-EEZ fisheries be affected by the moratorium. Salmon fishermen, in particular, will be directly impacted by a moratorium on halibut and groundfish vessels, to the extent these salmon fishermen participate in multiple fisheries.
4. What action is necessary regarding the Capital Construction Fund. Many fishermen have dedicated CCF accounts that will be affected by a moratorium.
5. Given the stated Council objective regarding the moratorium, the crux of the analysis is how entry and capacity will be affected in the next few years by the proposed alternatives. The proposed moratorium is not designed to solve the overcapacity problem. Presumably, the stricter the moratorium, the more effective the action. Are the exceptions really necessary?
6. The data necessary to quantitatively analyze various features of the proposal is contained in several different files. The preliminary examination of these data sets indicates that there are inconsistencies, errors, and gaps in this information that may require significant cross-checking and verification prior to use in the analysis. The greater the dependency on extracting past vessel performance (especially back 5 or ten years) on the data the longer the analysis is likely to take, and the more vulnerable to delays and possible set backs.
7. How rigorously does the moratorium analysis have to be linked to the Comprehensive Rationalization Plan?
8. What information does the regulatory analysis and/or the Council require in terms of a cost/benefit analysis, or estimation of net national benefits? The analysis may have to rely heavily upon the institutional record in certain key areas (problems associated with overcapitalization), and qualitative judgements that will restrict conclusions to relatively theoretical/qualitative judgements.
9. Is the EA going to be developed separately from the Magnuson Act regulatory analysis (RIR/IFRA)? How much discussion and analysis is anticipated for the respective biological, economic, and social analyses?

North Pacific Fishery Management Council

Richard B. Lauber, Chairman
Clarence G. Pautzke, Executive Director

605 West 4th Avenue
Anchorage, Alaska 99501



Mailing Address: P.O. Box 103136
Anchorage, Alaska 99510

Telephone: (907) 271-2809
FAX: (907) 271-2817

December 23, 1991

SENT TO LIST
ON BACK OF LETTER

Dear

As you are aware, the North Pacific Fishery Management Council is considering a moratorium on the entry of additional vessels into the groundfish, crab, and halibut fisheries under its authority. During the December 1991 Council meeting a tentative work plan was adopted, based on a set of recommended elements and options developed by the Advisory Panel. The ambitious schedule calls for the moratorium analysis to be presented to the Council at their April 1992 meeting, followed by final action in June.

A recurring theme in the management issues brought before the Council's in recent years relates to the excess capacity, or overcapitalization of the fleet, relative to available resources. The Council is aware that a moratorium on new entrants will not resolve the fundamental problems associated with excess capacity in the fisheries. Instead, the objective of the moratorium would be to control continued growth in fishing capacity while the Council assesses alternative management proposals to resolve such problems.

As a part of the moratorium analysis, we believe that timely industry input on certain issues would provide us valuable insights. We are soliciting your judgements on two very important elements of the analysis: 1) the relevant measure or measures of capacity that govern the operation of fishing and processing vessels, (i.e. vessel length, GRT, horsepower, etc); and 2) how to best characterize the level of capacity utilization across the various gear groups, areas, and fisheries involved. In other words, how can we effectively gauge or measure past and present capacity utilization of the fleet, and what are the impacts of excess capacity on the industry?

The accompanying materials are intended to provide you a review of the moratorium issue, and the plan of action under consideration by the Council. You will find that the determination of capacity figures prominently in several of the options being considered in this proposal. Thank you in advance for your assistance. Please return your comments to the Council office no later than January 6, 1992, in order than we might include your input in materials presented to the Council at the January meeting.

While I'm writing to you, I also want to call your attention to the newsletter item on page 8 entitled, "What Does Delaying the Pollock "B" Season Mean to You?" I would like to receive your comments, by January 10, on the major issues concerned with delaying the pollock non-roe season in the Bering Sea/Aleutian Islands and the ramifications such a delay might have on your operations. The Council will be considering at their January meeting whether to proceed with a plan amendment on the season delay, and the scope of issues to be analyzed.

Thank you for your help on both of these major issues--the moratorium and the season delay and the scope of issues to be analyzed.

Sincerely,


Clarence Pautzke
Executive Director

enclosures

Same Letter sent to:

Ms Leslie Hughes, Executive Director
North Pacific Fishing Vessel Owners Assn.
1800 W. Emerson, Suite 101
Fishermen's Terminal
Seattle, WA 98119

H.A. Larkins, Executive Director
American Factory Trawlers Assn.
4039 21st Ave. W., #400
Seattle, WA 98199

Kate Graham, Executive Director
American High Seas Fisheries Assn.
3040 W. Commodore Way
Seattle, WA 98199

Steve Hughes, Executive Director
Midwater Trawlers Cooperative
4055 21st Avenue West
Seattle, WA 98199

Robert D. Alverson, Executive Director
Fishing Vessel Owners Assn.
Building C-3, Room 232
Fishermen's Terminal
Seattle, WA 98119

Konrad S. Uri
The Highliners Assn.
P.O. Box 99216
Seattle, WA 98199

Linda Kozak
Kodiak Longline Vessel Owners Assn.
P.O. Box 135
Kodiak, AK 99615

Chris Blackburn
Alaska Groundfish Data Bank
P.O. Box 2298
Kodiak, AK 99615

Doug Dixon
MARCO
2300 W. Commodore Way
Seattle, WA 98199

Thorn Smith
North Pacific Freezer Longliners
720 W. Blaine St.
Seattle, WA 98119

Arni Thomson
Alaska Crab Coalition
3901 Leary Way (Bldg) N.W., Ste 6
Seattle, WA 98107

John Iani
Pacific Seafood Processors Assn.
4019 21st Ave. West
Seattle, WA 98199

Al Burch
Alaska Dragners Assn.
P.O. Box 991
Kodiak, AK 99615

Jeff Stephan
United Fishermen's Marketing Assn.
P.O. Box 1035
Kodiak, AK 99615

Alaska Groundfish Data Bank

TO: CLARENCE PAUTZKE, EXECUTIVE DIRECTOR
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

RE: MORATORIUM COMMENTS

DATE: JAN. 6, 1992

SENT BY FAX:



COMMENTS ON PROPOSED MORATORIUM

In response to the specific questions contained in the NPFMC's letter of December 23, 1991. My comments relate only to trawl catcher vessels delivering to shorebased operations.

1. HOW IS CAPACITY BEST MEASURED?

Trawl Catcher Vessels: Maximum vessel capacity is the carrying capacity divided by the allowable trip length. Because shorebased trawl catcher vessels have a time limit to return to port after the first fish is put aboard, this method gives fairly accurate estimate of maximum catcher vessel capacity per day.

A survey of the fleet, I believe, would be necessary to get a reasonable assessment of carrying capacity. I don't know if any set of measurements can be used indirectly to determine carrying capacity.

Shorebased Processing Plant Capacity: This is perhaps more critical than catcher boat capacity. It can be assumed that shoreplants will boat-up to meet their capacity needs. When the fleet capacity is less than the plant capacity, vessels owners usually increase their vessels' capacity or purchase additional vessels to fill the available markets.

However, in assessing shorebased capacity past and present, the assessment should include past production of not only groundfish, but shrimp and crab.

It is possible that freezing capacity (not cold storage holding capacity) is the best assessment of plant capacity.

2. EFFECTS OF EXCESS CAPACITY

Excess capacity per se is not the only problem, as the council document states in section V. OBJECTIVE. This fact must be kept in mind in order to clearly assess what a moratorium will and will not accomplish.

As AGDB members see it the problems are:

1. Planning beyond a day at a time has become impossible. Vessels cannot plan their seasons; plants cannot estimate their share of quotas and arrange boxes, shipping schedules, etc.

REASON: At any time the factory trawl fleet can move into the Gulf and wipe out a quota. The first time this happened was 1989. At that time there were still joint ventures operating in the Bering Sea and there was not excess U.S. catching capacity. It's rather like having a subdivision next to a rock quarry and never knowing when the quarry operations are going to blast out a piece of the subdivision.

2. The differential quotas between the Gulf and the Bering Sea have resulted in two fleets -- one a high capacity fleet built for the Bering Sea quotas and fishing conditions and one a smaller capacity fleet built for the smaller Gulf quotas and near shore operations. For pollock the Bering Sea fleet's capacity is enough to take most of the Gulf quotas in 10 days.

This is like sharing a freeway with Patton's Army. As was shown in Oct. 1991's Gulf pollock fishery where the amount of effort created a virtually unmanageable fishery. If this trend continues, the Gulf of Alaska fisheries will end up permanently closed simply because they are unmanageable in the face of the Bering Sea effort.

3. GULF OF ALASKA AND BERING SEA ANALYSES MUST BE SEPARATE

For the reasons state above, any analyses must be done separately for the Gulf and the Bering Sea.

4. WE DO SUPPORT A MORATORIUM

The chaos in the Bering Sea is definitely driving the Gulf of Alaska fisheries. While a moratorium will not solve this problem, it will keep the problem from exceleating while real solutions are found.

Also, if the Coast Guard is directed to enforce the Anti-Reflagging Act, the over-capitalization problem in the Bering Sea will be reduced. Failure to have a moratorium in place would be to invite a replay of the massive entry of new vessels.

4. ALTERNATIVES

Under the Alternative 2: Strict Moratorium, Exemption for Disadvantaged Communities, we feel a suboption to exempt disadvantaged communities should be included. We basically prefer the strict moratorium option, but feel that if an exemption for disadvantaged communities is not analyzed, this alternative may have legal problems being considered.

5. COMMENT ON ANALYSES

We have concerns that the moratorium analyses, like the inshore/offshore analysis and IFQ analysis, may become bogged down in models and fail to address the questions asked by industry and the Council.

* We suggest a committee of industry and council members be formed to meet early and regularly with the analysts for the sole purposes of asking "what will this or that analysis, model or statistical method actually tell us?" and helping to formulate the questions which we all hope the analyses will answer.

Sincerely,


Chris Blackburn, Director
Alaska Groundfish Data Bank

AMERICAN FACTORY TRAWLER ASSOCIATION



January 6, 1992

Dr. Clarence Pautzke
Executive Director
North Pacific Fisheries Management Council
P.O. Box 103136
Anchorage, AK 99501

Dear Clarence:

This letter is in response to your December 23 request for comments on "capacity." Fishing capacity is very much like fishing effort; -- can't really tell you what it is, but I'll know it when I see it.

In the context of a moratorium, capacity should be viewed vis-a-vis ability to catch; afterall, that is what a moratorium would be trying to control. However, saying that and quantifying it are two different things.

Ability to catch can be/is controlled by such vessel-intrinsic factors as horsepower, hold capacity (cube or tons, for both catcher boats and factory trawlers), and freezing capacity (in the case of factory trawlers). Vessel length, gross or displacement tonnage, and horsepower, while bearing somewhat on catching ability, are not necessarily good measures of that ability.

Controls on capacity must not prevent a vessel from enhancing safety at sea, becoming more fuel efficient, meeting vessel classification standards, or more effectively utilizing its catch (e.g., addition of a meal plant).

If, at first blush, I had to be definitive, I would come down on daily freezing capacity for factory trawlers and raw fish carrying capacity for catcher boats. Those are two parameters that are measurable and that most certainly do limit catch over time. There may be multi-parameter formulae that would provide more precise (although probably no more accurate) measures of "fishing capacity," but I would urge the Council to seek the simplest practical method even at the cost of a bit of slop. If we can hold the true fleet capacity within 10 or 15 percent of that of Day 1 of the Moratorium, we will have done good.

Sincerely yours,

H.A. Larkins
Executive Director



ALASKA CRAB COALITION

3901 Leary Way (Bldg.) N.W., Suite #6 • Seattle, WA 98107 • (206) 547-7560 • FAX (206) 547-0130

January 6, 1992

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

Dear Mr. Pautzke,

This letter provides the preliminary comments of the Alaska Crab Coalition ("ACC"), in response to your letter dated December 23, 1991. The ACC expects to provide more detailed comments in testimony before the Council.

The ACC commends the Council for its decision to accelerate action on a proposed moratorium on the entry of additional vessels into the groundfish, crab, and halibut fisheries off the coast of Alaska. The ACC believes that the prompt adoption and implementation of a meaningful moratorium will contribute greatly to the conservation and management of the affected fisheries on an interim basis, pending the adoption of long-term measures.

The ACC bases its support for an effective moratorium on the fact that overcapacity in the fisheries leads to excessive bycatch of non-target species, wasteful high grading and discards of lower valued but useful fish products, poor handling of catch, insufficient attention to safety, as well as to economic instability and reduced earnings among the affected harvesting and processing companies. The ACC believes that further increases in capacity in the overcapitalized fisheries would make it more difficult for the Council and the Department of Commerce to achieve the greatest overall benefit to the Nation, as defined in the Magnuson Fisheries Conservation and Management Act. Accordingly, the adoption and implementation of a well-crafted moratorium would serve the purpose of achieving optimum yield in the affected fisheries.

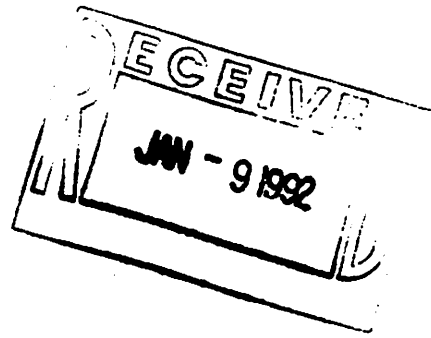
The ACC will consider carefully the various, specific issues presented by the moratorium analysis. At this time, we would only comment that we recognize two problems to be of particular importance in terms of addressing overcapitalization. They are crossovers of vessels from one fishery to another and increasing vessel capacity. These problems must be addressed decisively, if a moratorium is to be effective in ameliorating the adverse effects of increased overcapacity.

Again, the ACC commends the Council for moving ahead with the moratorium analysis. We look forward to contributing further to this vitally important process.

Sincerely,



Arni Thomson
Executive Director



January 6, 1992

Dr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Dr. Pautzke:

The American High Seas Fisheries Association is very pleased that the Council is taking steps to implement a moratorium on the entry of new vessels into the groundfish, halibut, and crab fisheries. We see this as an essential first step toward the goal of establishing an ITQ program, which we believe will resolve many of the problems associated with excess capacity in the fisheries.

The AHSFA Board of Directors discussed the proposed alternatives and appreciate this opportunity to make comments.

You asked about the relevant measure of capacity that governs the operation of fishing vessels. We see that as being the cubic measure of hold capacity; not only is this the most easily enforceable area, but also it is the key to determining the ability of a vessel to catch increasing quantities of fish. For this reason we strongly urge the Council to allow no changes to a vessel's hull (LOA and beam) that will increase hold capacity.

We agree wholeheartedly that the top priority of the moratorium is to control fishing capacity and there are two main steps to take to achieve this: (1) allow no new propellers in the ocean and (2) allow no changes to existing hulls that will increase hold capacity. Among the criteria listed in Alternatives 2 and 3, #8 specifically addresses the second point. We prefer the wording in Alternative 2, although we don't think prohibiting changes to horsepower can be enforced.

We think it's important that the criteria listed in Alternative 2 be included in the options sent out for public comment. Each exemption to the strict moratorium alternative will generate extensive debate, and we believe this debate should be centered around the real solution of ITQ's. As fishermen we are reluctant to close off our options, but we believe the rapid implementation of a moratorium, followed by ITQ's, is essential to the continued health of the industry. Attempts to create exemptions will diminish the quality of the final product while using up valuable time.

Dr. Clarence Pautzke
January 6, 1992
Page Two

Understanding that you're at the stage of choosing the options that will go out for public comment, we have the following observations on specific criteria.

We have always understood this program as applying to catcher vessels, which of course include catcher/processors. In #10, however, it says the moratorium also applies to mothership processors, which doesn't make sense. There's no authority under the Magnuson Act to regulate processors; additionally, if floating processors are to be included, then all processors should be included. It makes more sense to us to remove the mothership processors from the moratorium.

Please consider the cumulative effect of the various exemptions. For instance, if the liberal version of criteria #2, #6, and #8 are linked, a 58' limit seiner that wasn't previously involved in any of these fisheries, or that qualified because of longlining or crabbing, could become an 81' trawler, thus increasing fishing capacity substantially and defeating the purpose of the moratorium. If hull changes are allowed under #8 then crossovers will be a serious problem. If you wish to include the lenient version of #2 we prefer a 40' LOA limit.

It is not clear to us why #3 is included. Disadvantaged communities will of course have the option, as we all will, of buying a boat already included in the moratorium.

As for the length of the moratorium, we actually don't like either of the options. We would prefer a two-year moratorium because we want the ITQ program in place as soon as possible, since we see that as the real solution to the problem. Of the two alternatives now listed, #5 under Alternative 3 seems better to us, believing that the possibility of a two-year extension (Alternative 2) would lessen the impetus to establish an ITQ program. Four years will be more than adequate: the sablefish and halibut ITQ programs, though bitterly contested, were established in that amount of time, and it shouldn't take as long to set up these other programs.

We understand there has been some discussion about requiring continuous participation in a fishery to qualify. If this subject resurfaces we'd like you to keep in mind that it is a common practice for fishermen to participate in more than one fishery from time to time. Fishing is a chancy way to earn a living, and efforts to branch out should be acknowledged as legitimate fishing operations, even if they weren't continuous.

Dr. Clarence Pautzke
January 6, 1992
Page Three

In summary, we urge the Council to avoid discussion of exemptions; everyone involved in the fisheries would like some sort of exemption and once the door is open it will be hard to close it. The result will be a great deal of time spent with little good to show for it. The more exemptions are allowed, the more the purpose of the moratorium will be defeated. It is imperative to the stability of the industry that a simple, straightforward moratorium be established quickly. The key to an effective moratorium, we believe, is to prohibit changes in length and width that will allow an increase in hold capacity. Any options that permit hull changes should insist that the cubic measure of the hold remain unchanged.

Thank you for the opportunity to comment on this very important issue.

Sincerely,

Kate Graham (v/w)

Kate Graham
Executive Director

KG/vlw

NORTH PACIFIC LONGLINE ASSOCIATION

720 West Blaine St.

Seattle, WA 98119

(206) 283-7700

- VIA FAX -

January 3, 1991

Mr. Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
P.O. Box 101306
Anchorage, AK 99510

RE: Vessel Capacity, Moratorium

Dear Clarence:

Recently I recieved a letter from you regarding measures of capacity and capacity utilization among fishing and processing vessels. This is a difficult subject, as you are aware.

Measures of length, registered tonnage, horsepower, etc., are not good indicators of capacity. Where catcher boats are concerned, hold capacity is probably the limiting factor which as a practical matter determines "capacity" - though taken alone this measure is imperfect, since some vessels are able to fill and empty their holds rapidly in at-sea delivery operations, while those delivering shoreside must make longer runs and thus can make fewer deliveries. Where at-sea processors and catcher-processors are concerned, freezing capacity usually determines "capacity" to process and store fish. When conditions are right, a catcher-processor can catch more than it can process - thus catching capacity is not the key.

Where capacity utilization is concerned, freezer-longliners to date have utilized 100% of their capacity. They have not been shut down in the BS/AI because of achievement of TAC or because of bycatch. Excess longline capacity has not caused problems in our fleet. This may not always be the case, and we support the moratorium concept. As you are aware we have also expressed the view that because of the variety of conservation and economic advantages enjoyed by fixed gear, freezer-longliners should not be shut down because TAC has been achieved by other gear groups or because of bycatch considerations.

I wish I could be more helpful in answering your questions. Capacity and utilization are eluseiv subjects.

I look forward to seeing you in Portland.

Sincerely,



Thorn Smith
Executive Director

The result of this intensive inter-agency consultation has been the execution of a Memorandum of Understanding (MOU) between EPA, NRC and the affected Agreement States. The MOU was published on October 25, 1991 at 56 FR 55434. The purpose of the MOU is to ensure that owners and operators of existing uranium mill tailings piles licensed by NRC or an affected Agreement State, or owners and operators of piles that will in the future become non-operational, effect final site closure—emplacement of an earthen cover to permanently limit radon emissions to a flux of no more than 20 pCi/m²-s—as expeditiously as practicable considering technological feasibility. This should occur at all current disposal sites by the end of 1997, or within seven years of when the existing operating and standby sites enter disposal status. This objective comports with Congress' concern over timing as reflected in CAA section 112(i)(3), as amended.

EPA has tentatively concluded that with appropriate modifications to the general UMTRCA regulations to ensure specific, enforceable closure deadlines and monitoring requirements, and with the performance by NRC and the affected Agreement States of their other commitments contained in the MOU, the RC's regulatory program for non-operational uranium mill tailings piles would protect public health with an ample margin of safety.

In a related action published elsewhere in today's FR, and also in accordance with the MOU and with this amendment to UMTRCA 40 CFR part 192, EPA is today also proposing to rescind its Subpart T CAA NESHAP as it applies to non-operational uranium mill tailings disposal sites that are licensed by NRC or an affected Agreement State. This proposal does not concern Subpart T sites that are under the control of the Department of Energy (DOE). These sites are proceeding to closure according to a separate schedule.

In another related action also published elsewhere in today's Federal Register, EPA is issuing a final stay of subpart T pending the rescission rulemaking. The stay was proposed on October 25, 1991 (56 FR 55432). All three actions—this ANPR to modify EPA's general subpart D UMTRCA regulations, the proposal to rescind the subpart T NESHAP, and the final stay of subpart T pending these rulemakings—are contemplated by the MOU recently entered into by EPA, NRC, and the affected Agreement States. The MOU, which is published at the end of the

proposed rescission of subpart T (as it was for the proposed stay (see 56 FR at 55434)), delineates a course of action designed to achieve the result that the regulatory programs administered by NRC and its affected Agreement States will control radionuclide emissions to ambient air so that public health is protected with an ample margin of safety.

C. Future Rulemaking to Amend 40 CFR Part 192, Subpart D

As envisioned by the MOU and announced by this ANPR, the modifications EPA intends to make through rulemaking to its general UMTRCA regulations for non-operational uranium mill tailings disposal sites at 40 CFR Part 192, (subpart D) are meant to fill a specific regulatory gap that currently exists in subpart D. While subpart D, as currently written, does require eventual compliance with the 20 pCi/m²-s flux standard, it does not mandate that such occur by a specific date. Rather, as promulgated by EPA under subpart D and implemented by NRC (pursuant to its regulations at 10 CFR part 40, appendix A), a title II site licensed by NRC, or an affected Agreement State, could indefinitely continue to emit radon at levels which present risks higher than those allowed under the CAA for emission of hazardous air pollutants. It was this possibility which compelled EPA to promulgate subpart T under CAA section 112. If, however, this gap is filled by appropriate revisions to subpart D to mandate compliance with the 20 pCi/m²-s flux standard in a timely manner, and these changes are implemented by NRC and its regulatory program, EPA may then have the basis for rescinding subpart T pursuant to CAA section 112(d)(9), thereby avoiding unnecessarily duplicative and burdensome regulation.

With these purposes in mind, the specific modifications to subpart D currently being contemplated by EPA would lead to each non-operational uranium mill tailings disposal site receiving (either voluntarily or by administrative order) an amended license from NRC or an affected Agreement State that incorporates an enforceable reclamation plan designed to ensure compliance with the 20 pCi/m²-s flux standard as expeditiously as practicable considering technological feasibility. EPA also intends to propose modifications to include appropriate monitoring provisions designed to verify that the flux standard is achieved and ensure that compliance will be ongoing. Once these anticipated proposals are promulgated by EPA and implemented

by NRC, subpart D should comprehensively address the hazards associated with the process of disposing of uranium mill tailings in a manner that adequately protects public health. EPA believes since it has the authority for the anticipated modifications to subpart D, these actions are consistent with what Congress envisioned when it enacted UMTRCA. EPA's current plan is to propose modifications of subpart D at 40 CFR 192.31(k), 192.31(l), and 192.32(a). These actions also fulfill the intent of Congress of section 112(d)(9) of the Clean Air Act, as amended in 1990, to avoid duplication of effort between government agencies.

D. Request for Comments

EPA is soliciting public comments on today's advanced notice of proposed rulemaking. Send comments to the Docket listed above on or before February 22, 1992. EPA is especially interested in receiving information related to current radon emissions and installed radon emission control methods currently in use, and what generally applicable timing requirements EPA should impose to achieve compliance as expeditiously as practicable considering technological feasibility.

List of Subjects in 40 CFR Part 192

Air pollution control, Radiation protection, Hazardous materials, Uranium, Environmental protection, Hazardous constituents, Groundwater protection, Radon, Radium, and Thorium.

Dated: December 19, 1991.

William K. Reilly,
Administrator.

[FR Doc. 91-30834 Filed 12-30-91; 8:45 am]
BILLING CODE 6200-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 911221-1321]

RIN 0648-AE25

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 4 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This proposed rule would: (1)

Add almaco jack and banded rudderfish to the management unit; (2) specify that scamp would be counted against the shallow-water grouper quota until that quota is reached, after which scamp would be counted against the deep-water grouper quota; (3) establish a moratorium for a maximum of 3 years on additional commercial permits in the fishery, with allowances for permit transfers and sales of permitted vessels, while a more comprehensive limited access system is developed; (4) commencing with commercial permits for 1993, allow the earned income requirement to be met in either of the 2 years preceding the permit application; (5) revise the definitions of "Charter vessel" and "Headboat"; (6) clarify what constitutes having trawl gear or a longline on board a fishing vessel; and (7) make other minor changes for consistency and clarity. In addition, Amendment 4 would modify the timing and requirements of the framework procedure for implementing or changing certain management measures. The intended effects of Amendment 4 and this rule are to protect the reef fish stocks, some species of which are overfished, to ensure the continued economic viability of the reef fish fishery, to provide the Gulf of Mexico Fishery Management Council (Council) with necessary flexibility in the rebuilding program for reef fish, and to conform the regulations with current usage.

DATES: Written comments must be received on or before February 10, 1992.

ADDRESSES: Comments on the proposed rule should be sent to Robert A. Sadler, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of Amendment 4, which includes a regulatory impact review/environmental assessment (RIR/EA), and the minority report, should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-883-3722.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP, prepared by the Council, and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*

Amendment 4 to the FMP would: (1) Modify the framework procedure for establishing or modifying certain management measures to provide for receipt of NMFS stock and

socioeconomic assessments prior to August each year, and to require the Regional Director to notify the Council within 15 days of receipt of the Council's proposal under the framework procedure, if he decides not to accept it; (2) add almaco jack and banded rudderfish to the reef fish management unit; (3) retain scamp in the shallow-water grouper category until the quota is met and the shallow-water grouper fishery is closed, after which, scamp landings would be counted under the deep-water grouper quota for the remainder of the fishing year; (4) establish a moratorium, for a maximum of 3 years, on the acceptance of new applications for commercial vessel permits, with allowances for certain permit transfers and sales of permitted vessels (and retirement of permits not renewed); and (5) commencing with commercial permits for 1993, allow the earned income requirement to be met in either of the 2 years preceding the permit application.

A minority report was submitted on Amendment 4 that objects to the 3-year moratorium on the issuance of commercial vessel permits and development of a more comprehensive limited access system. A response to that minority report will be included in the preamble to the final rule on Amendment 4. The availability of Amendment 4 and the minority report was announced in the Federal Register on November 28, 1991 (56 FR 59922).

Changes to the Framework Procedure

The current framework procedure for implementing or modifying certain management measures provides for receipt by the Council from NMFS of stock and socioeconomic assessment information in April of each year. Landings data for the previous fishing year, which form a significant component of the assessment information, are typically not available by April. Consequently, data approximately 2 years old must be relied upon for adjusting management measures. Amendment 4 proposes that stock and socioeconomic assessments be provided prior to August, thus allowing the assessments to include more timely landings data.

Amendment 4 proposes to require the Regional Director, Southeast Region, NMFS (Regional Director), to notify the Council within 15 days of receipt of the Council's recommended changes under the framework procedure when he decides not to publish as a proposed rule, or otherwise holds in abeyance, the recommended changes. Notification to the Council would include the reasons for NMFS's concerns, suggested changes

to the proposed management measures, and the Regional Director's intended action. The notification would specify: (1) The applicable law with which the recommended changes are inconsistent; (2) the nature of such inconsistencies; and (3) recommendations to conform the recommended changes with applicable law. This action would ensure timely additional guidance to the Council regarding framework adjustments that the Regional Director initially determines to be inconsistent with applicable law. This requirement is similar to that required by the Magnuson Act for disapproval of amendments to a fishery management plan.

It is expected that these changes to the framework procedures would provide a more stable condition for Council determinations on specific management issues and may reduce management costs.

Additions to the Management Unit

The addition of almaco jack and banded rudderfish to the management unit would have little or no immediate impact on the fishery or impact on the resource, but will allow management measures to be implemented on these species by framework procedure, if required, when stock assessment information becomes available. The anticipated impacts of such future action would be analyzed and discussed at that time.

Scamp

Amendment 4 proposes to allow scamp to be harvested throughout the year until both the shallow-water grouper and deep-water grouper quotas are met. Scamp would be counted under the shallow-water grouper quota until that quota is reached and, thereafter, under the deep-water grouper quota. Scamp are currently classified as a shallow-water species of grouper but are caught in both shallow-water and deep-water fishing operations. When the shallow-water grouper fishery is closed, the continued catch of scamp in deep-water fishing operations results in waste of the resource because they are usually dead from embolism when brought up from deeper water. The proposed action will reduce such waste. Because scamp are an incidental, minor component of the grouper fishery that cannot be targeted, it is not likely that catches will significantly affect the timing of a closure of either component of the grouper fishery or that an illegal shallow-water fishery for scamp will develop after closure of the shallow-water grouper fishery.

Permit Moratorium

Amendment 4 proposes to cap the number of participants in the commercial reef fish fishery for a maximum of 3 years, pending Council development and consideration of a more comprehensive limited access program. The reef fish fishery has over 1,700 permitted vessels competing for a limited reef fish population. The gear used is not highly selective, and single-species fishery closures are hampered by the multi-species nature of the catch. Accordingly, several of the major species, already overfished, have continued to decline in abundance despite the comprehensive management regime. The fishing capacity in the fishery is considered to be excessive compared to the available resource. The proposed moratorium is a first step towards solving these problems by stabilizing fishing effort.

The moratorium would be effective on the effective date of the final rule that implements Amendment 4. Thereafter, with two exceptions, no applications for new vessel permits would be accepted, and a permit holder would have to maintain permit eligibility, i.e., demonstrate that more than 50 percent of his or her earned income was derived from commercial, charter, or headboat fishing, in order to renew a permit. A permit that is not renewed, or is revoked, would not be reissued. During the moratorium, only those vessels that were permitted in 1991, or vessels for which the applicant qualifies on the basis of earned income in 1991 and applies before the effective date of the moratorium, would be permitted in the fishery. Two exceptions to the moratorium on new permits, in cases of vessel transference, are described below.

As one exception, an owner would be allowed to substitute another vessel owned by him for one currently permitted. Such substitution would alleviate problems caused by loss of vessels through sinking or permanent structural damage.

As the second exception, a permitted vessel would be entitled to a permit upon its sale. Transfer of a permit upon sale would alleviate possible reduction of a vessel's value to a potential buyer who does not meet the earned income requirement. If the purchaser does not meet the earned income requirement for the vessel permit, he or she would have to meet that requirement during a calendar year not later than the first calendar year after the purchase. This temporary exemption from the earned income requirement could not be used by a purchaser when the seller has not

met the earned income requirement. Limiting the temporary exemption from the earned income requirement would prevent speculative gains by a person who has no intention of entering the fishery.

The proposed moratorium is expected to enhance stability while both the fishing industry and the management agencies collect the necessary information for a more comprehensive limited access system for the fishery. Stability in the fishery, the collection of necessary information, and, ultimately, a comprehensive limited access system are expected to result in positive benefits.

Earned Income Requirement

Under the current earned income requirement for a vessel permit, an applicant must demonstrate that more than 50 percent of his or her earned income was derived from commercial, charter, or headboat fishing during the calendar year preceding the application. The current income requirement has no hardship allowance, i.e., it does not recognize that sickness of the owner/operator, prolonged vessel repairs, or other temporary problems could preclude a person from meeting the income requirement for a single year. To address this problem, Amendment 4 proposes that, commencing with vessel permits for 1993, the earned income requirement may be met during either of the 2 years preceding the permit renewal. Implementation of this change is expected to have a positive economic impact on participants in the fishery.

Additional information on these proposed changes is contained in Amendment 4.

Additional Changes Proposed by NMFS

This rule would modify the definitions of "Charter vessel" and "Headboat" to conform them to current usage, and would correct inconsistent language regarding when the bag limits apply to charter vessels and headboats.

Among other things, the reef fish regulations specify that the bag and possession limits for certain reef fish apply to a person who fishes from a vessel: (1) With trawl gear on board; or (2) with a longline on board, when such vessel is fishing or has fished on its present trip in the specified longline restricted area (50 CFR 641.24(a)(2) (ii) and (iii)). This rule would add specifications of what constitutes having trawl gear or a longline on board a fishing vessel. Removal of all trawl doors or nets would constitute removal of trawl gear. Removal of the longline hauler, the longline cable, or all gangions would constitute removal of a

longline. NMFS expects that removal from a vessel of all gangions would be the least cumbersome and most frequently used means to remove a longline. NMFS believes the specified gear removals are the least burdensome of the practicable methods of rendering a trawl or a longline inoperable. Other methods could be readily changed while at sea and, thus, would pose significant difficulties for enforcement.

Finally, a new section would be added to describe the types of management measures that could be established or modified by means of the framework procedure specified in the FMP, as amended. The procedure, with Amendment 4's proposed changes, is summarized below to provide the public appropriate information.

The framework procedure for establishing an annual total allowable catch (TAC) and adjusting management measures provides for the Southeast Science and Research Director, NMFS, to prepare or update the stock assessment for each species or stock complex annually. The Council is required to appoint a scientific stock assessment panel to review the information and prepare a report specifying a range of acceptable biological catch (ABC) for each stock or stock complex in need of catch restrictions for attaining or maintaining optimum yield. The panel should include in the report a risk analysis, economic and social impacts, and recommendations for management measures to attain the ABC. The Council, after holding a public hearing(s) and reviewing comments on the report, is required to specify a TAC from within or below the range of ABC or a series of TACs to attain the selected level of ABC by 1994.

The Council must subdivide the TACs into commercial and recreational allocations. The Council then provides the Regional Director its recommendations for TACs for each species or species group, proposed regulations revising quotas and management measures necessary to attain each TAC, the Council's rationale, and analyses of impacts (EA and RIR) of the proposed regulations. A proposed rule containing the recommended TACs, quotas, and harvest restrictions is published in the Federal Register for public comment up to 30 days. If the Regional Director does not agree with the recommendation, the Regional Director must notify the Council, within 15 days, of his reasons for disagreement and recommendations for conforming the Council's proposed measures with the requirements of applicable law. If

the Regional Director concludes after review of public comment that the proposed regulations are consistent with the FMP objectives and other applicable law, he implements them by final rule published in the *Federal Register*. The FMP, as amended, may be consulted for additional detail on this procedure. The framework procedure was instituted by Amendment 1, modified by Amendment 3, and would be further modified by Amendment 4. The types of management measures that may be established or modified by this procedure are set forth in § 641.23 of this proposed rulemaking.

Classification

At this time, the Secretary has not determined that Amendment 4, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator for Fisheries, NOAA, has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a regulatory impact review (RIR) as part of Amendment 4, which concludes that this rule, if adopted, would have net positive benefits. A summary of the regulatory impacts of individual management measures was included above in the discussion of each measure. Additional analysis and discussion is contained in the RIR.

In addition, the RIR concludes that this rule, if adopted, would not have a significant economic impact on a substantial number of participants in the reef fish fishery, most of whom are small business entities. Accordingly, the

General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis was not prepared.

The Council prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. The EA, which is contained in Amendment 4, may be obtained at the address listed above, and comments on it are requested.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, and Mississippi. Texas does not participate in the coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 24, 1991.

Samuel W. McKeon,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 641.2, the definitions for *Charter vessel* and *Headboat* are revised, and in the definition for *Reef fish*, in paragraph (a) under "Jacks—Carangidae Family", two new species are added after "Lesser amberjack" to read as follows:

§ 641.2 Definitions.

Charter vessel means a vessel less than 100 gross tons (90.8 metric tons) that meets the requirements of the Coast

Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year. A charter vessel with a permit issued under § 641.4 is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Headboat means a vessel that holds a valid Certificate of Inspection issued by the Coast Guard to carry passengers for hire. A headboat with a permit issued under § 641.4 is considered to be operating as a headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Reef fish

(a)

Jacks—Carangidae Family

Almaco jack, *Seriola rivoliana*
Banded rudderfish, *Seriola zonata*

3. In § 641.4, paragraphs (a)(2), (b)(2)(xi), and the first sentence of paragraph (g) are revised, and a new paragraph (l) is added to read as follows:

§ 641.4 Permits and fees.

(a)

(2) A qualifying owner or operator of a charter vessel or headboat may obtain a permit. However, a charter vessel or headboat must adhere to the bag limits when operating as a charter vessel or headboat.

(b)

(2)

(xi) A sworn statement by the applicant certifying that more than 50 percent of his or her earned income was derived from commercial, charter, or headboat fishing during the calendar year preceding the application, except that, for renewal of permits for 1993 and ensuing years, the earned income requirement may be met in either of the two calendar years preceding the application;

(g) *Transfer*. Except as provided for under paragraph (l) of this section, a permit issued under this section is not transferable or assignable.

(l) *Moratorium on permits*. The provisions of this paragraph (l) are effective for 3 years commencing on the effective date of this rule.

(1) An application for a vessel permit under this section that is postmarked or hand-delivered after the effective date of this rule will not be accepted, except for an application for renewal of an existing vessel permit or as provided in paragraphs (1), (2) and (3) of this section.

(2) An owner of a permitted vessel may transfer the vessel permit to another vessel owned by him or her by returning the existing permit with an application for a vessel permit for the replacement vessel.

(3) A person purchasing a vessel with a permit issued under this section may obtain a permit for that vessel, and renew the permit for that vessel for the first calendar year after the purchase, without meeting the earned income requirement of paragraph (b)(2)(xi) of this section, provided that the seller met the earned income requirement. However, to renew the vessel permit for the second calendar year after the purchase, the new owner must meet that earned income requirement not later than the first calendar year after the purchase takes place.

(4) A permit that is not renewed or is revoked will not be reissued.

4. In § 641.24, paragraph (a)(2)(iv) is revised and new paragraphs (a)(4) and (a)(5) are added to read as follows:

§ 641.24 Bag and possession limits.

(a) * * *

(2) * * *

(iv) That is operating as a charter vessel or headboat; or

(4) For the purpose of paragraph (a)(2)(ii) of this section, a vessel is considered to have trawl gear on board when trawl doors and a net are on board. Removal from the vessel of all trawl doors or all nets constitutes removal of trawl gear.

(5) For the purpose of paragraph (a)(2)(iii) of this section, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter and length suitable for use in the longline fishery, and gangions are on board. Removal of any one of these three elements, in its entirety, constitutes removal of a longline.

5. In § 641.25, paragraphs (b) and (c) are revised to read as follows:

§ 641.25 Commercial quotas.

(b) Deep-water groupers, i.e., yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, speckled hind, and, after the commercial

quota for shallow-water grouper is reached, scamp, combined—1.8 million pounds.

(c) Shallow-water groupers, i.e., all other groupers, including scamp before the commercial quota for shallow-water groupers is reached, but excluding jewfish, combined—9.2 million pounds.

§ 641.28 [Redesignated as § 641.29]

6. Section 641.28 is redesignated as § 641.29 and a new § 641.28 is added to read as follows:

§ 641.28 Adjustment of Management Measures.

In accordance with the procedures and limitations of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, the Regional Director may establish or modify for species or species groups in the reef fish fishery the following: Target dates for rebuilding overfished species, total allowable catch, bag limits, size limits, vessel trip limits, closed seasons or areas, gear restrictions, and quotas.

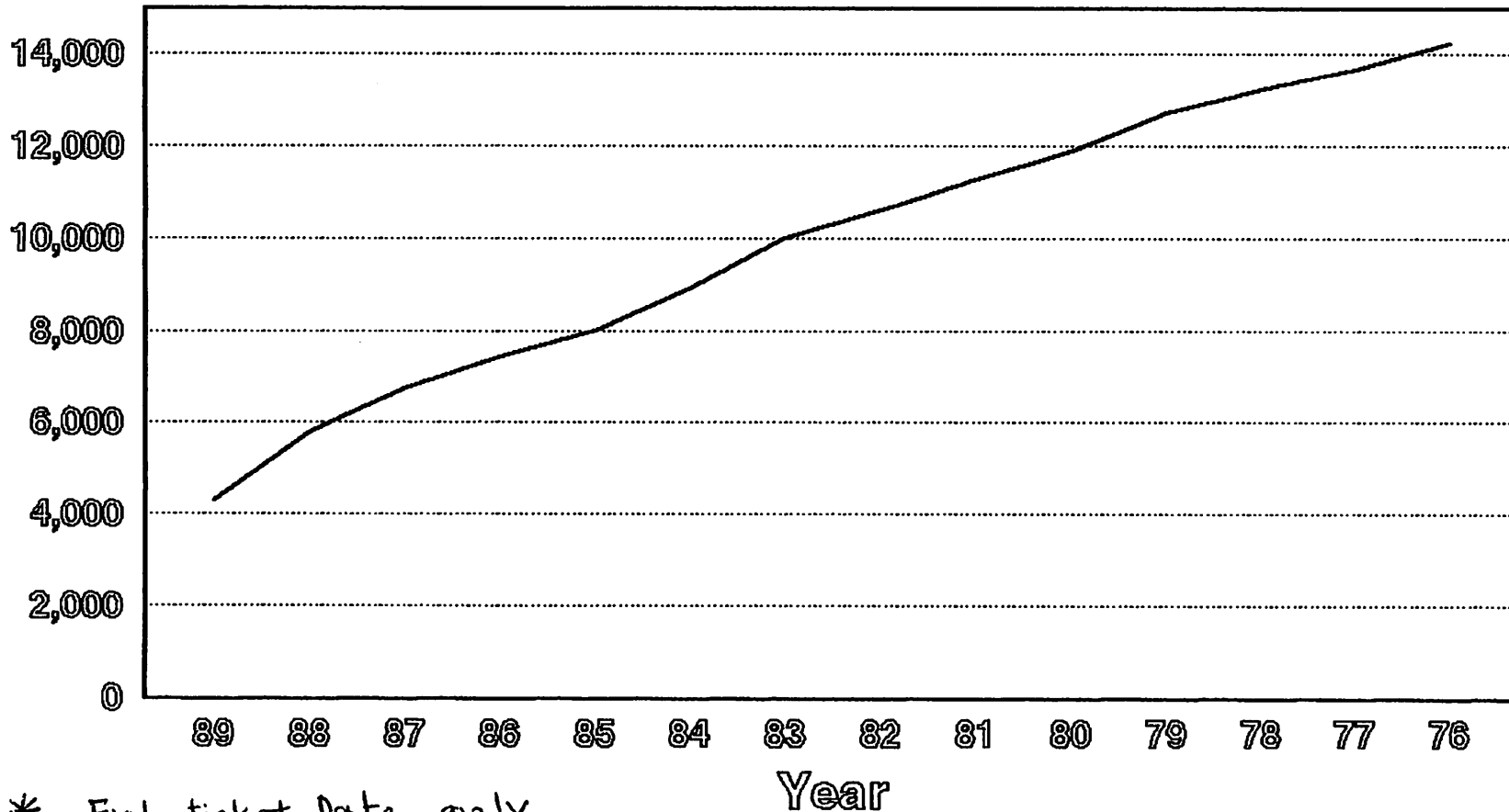
DRAFT

Moratorium Vessels^{*}

Number of Vessels By Its Last Year of Participation

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Vessels



* Fish ticket data only.
Does not include JV boats
which did not also deliver
to domestic processors.

1/16/89