

passed on 1/28/77

NPFC/AP #1

1 no
10 yes

1/27/77

Recommended changes to the Interim Regulations:

The Scientific and Statistical Committee suggests that the following changes to the Interim Regulations be considered:

Section 601.23(e)2 We suggest the last sentence should be written to read "legal counsel on a continuing basis may be obtained from the Regional Office of the NOAA office of General Counsel." Legal and other experts and consultants may be utilized as the Council deems appropriate consistent with budgetary limitations.

Section 601.23(f)2 We suggest the elimination of the words "except for hotel receipts."

Section 602.2(b)1 We believe the definition of overfishing should be eliminated from the interim regulations. It seems to be in conflict with the law, which does not define overfishing. The definition in the interim regulations would prohibit a rational management of a multi-species or multi-stock fishery. It would mandate that each unit be maintained at, or above, the stock size which would produce MSY.

Section 602.2(e)1(II) The last sentence should be reworded to read "The opportunity of new participants to enter into a fishery should be protected wherever feasible and in a manner which prevents excessive fishing effort." The present language may be construed to require unlimited participation by new entrants into a fishery. The Act in paragraph 303 clearly contemplates that a limitation on fishing effort through limitations on access to the fishery be one of the tools employed by the Regional Councils. This ability to enter can be

protected through provisions for transferability of licenses and by provisions for new entrants into fisheries which are undercapitalized, while at the same time controlling the total amount of fishing effort.

Section 602.3(b)6(11) The last sentence should be removed. The Act clearly reflects the Congressional intent that limited entry and limited access programs be a discretionary tool of each Council. Limited entry is not intended to be utilized only when all other tools have failed to achieve management objectives. The regulations as written removes a portion of the Council's flexibility in an area in which Congress granted a wide range of flexibility.

Recommended Amendment changes Section 602.2(d)(2)

The new language proposed should be inserted in place of the section which beings "Where a stock's range extends into a neighboring country's contiguous zone..." and ends with the phrase "...international joint management regime."

The Fishery Management Councils shall have principal responsibility for the management planning of transboundary and boundary stocks. When the framework for this management can only be established by international agreement, the Secretary of State, in cooperation with the Secretary of Commerce, shall support approved Fishery Management Plans in its negotiations for the United States. The procedures for negotiations shall be:

1. The negotiating position and strategy shall be established in consultation by the Council(s) concerned, the Secretary of Commerce, and the Secretary of State.
2. The Council(s) concerned shall recommend two or more members of the Council(s) to be members of the Government negotiating team, and the Council(s) may also recommend other Council members as advisors to the delegation; and
3. The results of these negotiations shall be reviewed by the Council(s) concerned before any resulting agreement is submitted to Congress. The concerned Council(s) shall prepare management plans for the species or stocks the international agreement covers. These management plans shall be developed, reviewed, and have regulations promulgated to implement them using the procedures pursuant to the Fishery Conservation and Management Act.

If the international agreement which is the result of the first negotiations provides for a consultative body or commission to work out, on an annual or on-going basis, the annual total allowable catches (TAC's) and other management provisions for transboundary stocks, two or more of the United States members of this body shall be members of the concerned Council(s). The Council(s) shall designate these members and may appoint other Council members to serve as advisors to that body. The decisions or recommendations of this body shall be incorporated in the management plans and/or regulations that the concerned Council(s) develop, or, as appropriate, in the regulations which the Secretary of Commerce promulgates.

Recommend (602.24(b)(4) be deleted.

(Explanation~requires Council to meet in plenary session at least once a quarter.)