MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: April 14, 1992

SUBJECT: Moratorium on the Entry of New Vessels

ACTION REQUIRED

a. Receive staff summary of draft analysis and NOAA-GC report on Capital Construction Fund and application of moratorium to state waters.

b. Receive reports of industry moratorium committee, AP and SSC.

c. Consider approving analysis and proposed moratorium for public review.

BACKGROUND

Last January the Council refined the proposed moratorium elements and options as shown in item C-3(a) and instructed staff to proceed with preparation of the appropriate environmental and regulatory analyses. These were completed by an interagency team consisting of Council, Region, and Center staff, and were distributed to the Council, AP and SSC on April 8, 1992. A summary of the analysis in under item C-3(b).

The staff will summarize the elements of the moratorium and the analysis and then NOAA-GC is prepared to report, as requested in January, on the applicability of the Capital Construction Fund (CCF) to the proposed moratorium, and the extent to which the moratorium would apply to State waters (item C-3(c)). Concerning the CCF, the main question is whether the existence of CCF funds constitutes a legal contract to "construct, reconstruct or purchase" a vessel as required under the September 15, 1990 Federal Register notice announcing the control dates.

Next will be reports from the industry moratorium committee, the AP and SSC. In January the Council voted to establish the committee and Chairman Lauber appointed the following members: John Crowley, Doug Dixon, David Green, Vern Hall, Kevin Kaldestad, LCDR Glen Sicks, and Stan Simonson. The committee met in Seattle on April 15 and a copy of their report will be available at meeting time.

The Council needs to consider approving the moratorium package for public review. The public review period will be in May and early June, and then during the week of June 22, the Council is scheduled to consider final approval for submission of the moratorium to Secretarial review. If approved, the moratorium would be implemented beginning January 1993.

COMPREHENSIVE RATIONALIZATION PROGRAM

Background, Discussion Issues, and Tentative Work Plan

I. BACKGROUND

A. Problem. During the past decade the groundfish, crab, and halibut fisheries under the authority of the North Pacific Fishery Management Council (Council) have come under increasing pressure from domestic harvesting and processing components of the fishing industry. While overall total allowable catch (TAC) of the combined species within the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands (BSAI) is closely monitored and regulated, the competitive "race for fish" among the different elements of the industry has intensified. One consequence has been an increase in the number of contentious allocation issues confronting the Council. These concerns, such as inshore-offshore TAC apportionments, bycatch management, roe stripping, early season closures, or the arbitrary allocation of a fishery among gear groups, are thought to result from excess fishing and processing capacity relative to the availability of fishery resources.

An important theme connecting these issues is the open access conditions that have been an integral part of domestic fishery management in the EEZ off Alaska. Prior Council policy has maintained open access conditions with limiting TACs. Now, domestic fishing and processing activity in the Alaska EEZ has grown to the point where excess capacity and the associated race for fish is threatening the ability of the Council to achieve the balanced economic, social, and environmental dimensions of optimum yield from the fisheries under its authority.

B. Concern over open access and excess capacity. The various groundfish, crab, and halibut fisheries in the region have evolved along different developmental paths over time, but concern over open access and excess capacity has been a recurring theme dating back to the early 1980s. While allocation conflicts over pollock surfaced in 1989, the Council first attempted to limit entry into the halibut fishery off Alaska with a moratorium in 1983. This initial action was prompted by a combination of concerns over depressed halibut stocks, inefficient harvesting, low incomes, and poor marketing to consumers. The halibut moratorium was ultimately turned down by the Secretary of Commerce (Secretary) on the basis that "...the moratorium would have interfered with some fundamental social and economic freedoms, especially those that relate to fishing traditions off Alaska...", and that it "...failed to solve economic problems of the industry and created economic inefficiencies." Underlying this determination was the fact that the Council did not have specific management objectives to be achieved by the moratorium.

In September 1987, the Council again focused on their concerns regarding open access by adopting a statement of commitment as follows:

> Expansion of the domestic fleet harvesting fish within the EEZ off Alaska has made compliance with the MFCMA's National Standards and achievement of the Council's comprehensive goals more difficult under current management regimes. The Council therefore is committed to pursue alternate management methods that will support the Comprehensive Goals adopted by the Council and achieve more productive and rational effort and harvest levels in the groundfish fishery.

At that time, the Council identified three initial steps towards this commitment: 1) develop strategies for license limitation or ITQs in the sablefish longline fishery; 2) develop a management strategy for groundfish fisheries of the GOA and BSAI by 1990, including an assessment of alternative management techniques; and 3) consider effort management in the halibut and crab fisheries.

Comprehensive planning efforts continued with the formation of the Future of Groundfish (FOG) committee. At the January 1989 meeting, the Council began consideration of limited access for all fisheries under its jurisdiction. Allocation conflicts between inshore and offshore components of the Alaska groundfish industry during 1989 drew attention to the overcapitalization and excess effort being expended in the pollock fishery. In 1989 and again in 1990, the Council considered a moratorium on new entry into the fishery as a means of limiting further aggravation of several problems rooted in the rapid expansion of fishing and processing capacity which had occurred during the latter half of the 1980s. Concurrently, the Council developed limited access programs, and approached final action in late 1991 on specific limited entry management plans for the fixed gear halibut and sablefish fisheries. These limited entry proposals are based on individual quota (IQ) allocations of the available stocks that would effectively end the traditional open access characteristics of these two fisheries.

C. Moratorium. Following the concerns dating back to the early 1980s, the Council initiated a three step approach in 1990 for establishing a general moratorium on entry into the fisheries under its authority. The first step was to publish a notice of the Council's intent to consider a moratorium, and specify a control date after which new entrants will not be assured future access to the fisheries if a moratorium is ultimately approved and implemented. This control date was established as September 15, 1990. Due consideration for vessels already under contract or construction ("in the pipeline") was also made, resulting in an extension of the deadline for vessels meeting certain criteria. The second step--begun in September 1991--consists of the specification and analysis of the proposed moratorium. The final action would be implementing the moratorium--perhaps in 1993--assuming Council and Secretarial approval. The intent of the proposed moratorium is to limit or restrict the entry of new vessels into the fisheries under Council jurisdiction to the extent that vessels seeking to enter the affected fisheries after the control date would be denied open access.

The Council is aware that a moratorium on new entrants will not resolve--by itself--the fundamental problems associated with excess capacity in the fisheries. Accordingly, 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. The 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 effects of alternative long term solution to several management problems. The Council intends, by 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.

D. Comprehensive Rationalization Plan. The proposed moratorium on new entry is designed to be an interim measure to prevent the aggravation of existing problems while the Council develops a long term remedy. Thus, the challenge facing the Council is to develop the appropriate comprehensive solution. Following a planning effort tracing back to at least 1987, in June 1991 the Council undertook for consideration the development of a plan to rationalize the GOA and BSAI groundfish and crab fisheries. This action was included as a component of the proposed Amendment 18/23 Inshore-Offshore motion. At that time, several general possibilities were identified for consideration, including:

1. Individual Transferable Quotas (ITQs)
2. License Limitation
3. Auction
4. Traditional Management Tools (seven specific suggestions)
5. Continuation of Inshore/Offshore Allocation

6. Community Development Quotas
7. No Action

The Council also solicited ideas and recommendations from the industry and general public that might supplement the above seven items, although no such comments have been received.

Subsequent deliberation by the Council during the September 1991 meeting focused on narrowing the breadth of alternatives. Explicitly, the Council would like to consider the comprehensive use of Individual Fishing Quotas (IFQs) as the primary management scheme for resolving the allocation problems in the fisheries under its authority. In order to ensure a balanced evaluation of the management alternatives available, a preliminary assessment of all feasible alternatives--including those enumerated above--might be undertaken first, followed by a thorough analysis of the IFQ alternative and selected options. This presumes that the preliminary assessment would confirm the Council's judgements that IFQs represent the greatest potential to resolve the interrelated problems involving open access and allocation disputes.

Conceptually, an IFQ-based comprehensive rationalization plan might utilize much of the same logic and justification established in the Sablefish and Halibut Fixed Gear Management Plans currently under consideration by the Council. Numerous complications exist, however, in extrapolating from these two fisheries to the fishery resource base as a whole. Issues such as bycatch, preemption, allocation criteria, user fees, or enforcement have yet to be resolved. That is, a comprehensive plan will involve more than simply duplicating the halibut and sablefish IFQ management plans.

A quick overview of the planning, analytical, and implementation process confirms that the proposed comprehensive plan will be a major undertaking, both from an operational as well as policy perspective. The Council will need to first: 1) assess the extent of current and emerging problems; 2) clarify relevant objectives; and 3) develop a comprehensive plan to meet these challenges, including the relevant alternatives to be considered. Then, 4) an analysis of the alternatives can be designed and undertaken, including the formulation of specific strategies on issues such as bycatch, allocation criteria, species-specific programs, and monitoring/enforcement. The analytical scope of the proposed plan will likely entail the consideration of significant institutional changes in the management and operation of the affected fisheries. Lastly, assuming such a scheme can be identified and justified, 5) the implementation phase will present special problems, at least in its initial stages. A graduated phase-in of the plan may be appropriate in some instances where significant readjustments are anticipated for the affected industry. Various program elements that are unclear or uncertain initially may need a more flexible implementation and management framework that can better adapt to changes in the fleet and industry over time. Generally, any change of significant magnitude will likely require some time for fine tuning as the industry and fishery managers adjust to the new regime.

Framed in these dimensions, it appears that the development and implementation of a comprehensive plan of the scope suggested will require a 2 to 4 year effort, possibly in sequential phases, requiring the collective support and input from the affected industry, as well as the Council and fishery managers. The tentative timeline established by the Council for the comprehensive rationalization plan calls for completion and implementation by January 1995.

II. TENTATIVE WORK PLAN

The framework for a comprehensive rationalization plan as outlined above serves as the basis for the preliminary specification of a work plan to accomplish this task. Four basic elements of a work plan are discussed: 1) Planning and Development; 2) Analysis; 3) Implementation; and 4) Resource Requirements.

A. Planning and Development. The first and a continuing phase of the comprehensive plan is one of planning and development of the proposed action. This can be separated into two parts: a) establishing the strategic or broad guidelines, and b) developing the tactical or issue-specific plan. The strategic planning is one of the most critical phases in the overall undertaking. This is analogous to the "management by objectives" approach common in organizational planning. Using this approach, the strategic development of the plan must: 1) address the status of the current situation in the fishery, industry, and Council (where are we?); 2) clarify the Council's objectives (where do we want to go?); and 3) identify the plans capable of achieving these objectives (how do we get there?).

The public record covering Council actions during the past decade provides ample documentation of the problematic concerns regarding the status of the fisheries under the Council's authority; the essence of these issues is spelled out in the background discussion section, above. As an example, in 1989 the Council identified a list of specific problem areas in the initial investigation of sablefish management alternatives, summarized as follows:

1. allocation conflicts
2. gear conflicts
3. deadloss
4. bycatch loss
5. excess harvesting capacity
6. product wholesomeness
7. safety
8. economic stability
9. rural community development
10. enforcement
11. administration
12. fishermen's fees
13. fleet operating costs

The identification of the problem has been an ongoing part of the Council process, and does not need to be started from scratch. This is not to conclude that the problem statement has been completed; the interrelated problems confronting the Council present a complex dilemma in terms of cause and effect. One fisherman's solution can easily be another person's problem. Moreover, the manifestation of these problems changes and develops over time. In order to direct the comprehensive planning effort, a concise summarization of existing and emerging problems is needed, cast in terms of the status of the fishery, and the likely trade-offs involved.

The second step in the strategic planning process is the development of the Council's goals and objectives. To some extent, these are contained in the published goals of the Council and the accompanying FMPs, as well as the specific language of the Magnuson Act. Because these goals are often broad, encompassing statements it would be helpful if the Council provides some clarification and prioritization, in order to avoid ambiguous or vague interpretation. For example, the potential apportionment of IFQs is likely to raise the threshold economic question faced by the Council concerning the importance of efficiency versus equity in allocation decisions. Initial guidance from the Council on such fundamental objectives is crucial in directing the ensuing analysis.

The third strategic input--the plan itself--requires the guiding perspective of the Council, and appropriate regulatory interpretations, although the specific details of the plan may be more productively formulated in conjunction with qualified fishery managers. The record of the Council provides direction in this regard; limited entry and IFQs have been identified as potential management alternatives. A distinction can be made, however, between identifying possible alternatives, and determining how those alternatives

might work, in application. Given the scope and magnitude of the prospective undertaking, the strategic planning process would benefit from the development of basic plans, or strategies, rather than just the identification of alternative policy tools. For example, the comprehensive plan might be patterned after the New Zealand Quota Management System, or the Pacific Council's proposed license limitation program, or even "fine tuning" of the Council's existing management plan. As a part of the initial examination of sablefish management alternatives, the Council enumerated 23 specific concerns associated with alternative management strategies. The policy development challenge of the proposed undertaking lies in crafting the scope and elements of the comprehensive plan, as well as the identification of appropriate management tools.

At some point, development of the overall strategic plan must address specific operational issues. This marks the transition to tactical or operational planning. The parameters and guidelines established by the Council direct this work, though the Council itself may not be actively involved in all phases. The tactical planning must come to grips with the focal issues such as: bycatch, monitoring, enforcement, allocation, overcapacity, preemption, community development, social impacts, efficiency, equity, program costs, consumer impacts, conservation, and national interests. To the extent these and other considerations represent the issues to be resolved, they must be addressed in the formulation of specific plans.

An important objective of this stage in the planning process is narrowing down the range of alternatives to a manageable level. As noted earlier, this might be accomplished in a two-stage process. The first step is a preliminary assessment of all practical tools and alternatives that might be fashioned together into discrete alternative plans. This assessment would include a careful examination of the underlying rationale, features, pros and cons, expectations, historical performance, and applicability to the objectives of the comprehensive plan. In some instances, existing applications and analyses of specific alternatives already exist, and can be used to support this process. For example, the National Marine Fisheries Service (NMFS) has recently sponsored a project to design an individual quota scheme for the North Pacific fisheries. The results of this investigation are expected to provide useful guidance and information for the comprehensive plan.

Depending upon the conclusion drawn at the initial review stage, the one or two most promising alternatives, perhaps with some options, would be selected and recommended for thorough development and analysis. Thus, certain strategic determinations regarding scope, criteria, expectations, and applications would be made relatively early in the development process, focusing latter effort on the development of the eventual plan, itself.

In order to facilitate a policy that is adaptable to the requirements of different fisheries, it has been suggested that the comprehensive plan provide an omnibus structure for a limited entry system that can evolve over time. Thus, a general moratorium may be a discrete element of the omnibus plan implemented early in the process. Bringing individual fisheries under a quota management system may progress over time, as would a phased implementation of the bycatch, enforcement and operational features of the comprehensive plan. This omnibus approach might also reduce the procedural steps called for under NEPA, relative to the requirements applicable to a series of separate fishery management actions.

B. Analysis. The broad purpose of the analysis is to establish the scope and appropriate criteria for evaluation, gather and develop the necessary information, and ultimately measure and evaluate the effectiveness of the alternatives in meeting the Council's objectives. The analysis needs to be guided by the underlying problem and Council objectives, to ensure that the proper data, questions, models, and measures are oriented towards the same purpose.

Certain questions relevant to the investigation arise from existing regulatory mandates (Executive Order 1229, the Magnuson Act, NEPA, etc) or stated Council goals. It seems clear that economic, social, and

environmental (biological) concerns need to be addressed relative to the status quo and prescribed alternatives such as an IFQ system. A review of numerous reports and scientific investigations relating to effort limitation in fishery management indicates that system design and implementation are also important in realizing a successful management strategy. The analysis will likely include consideration or measures of variables such as:

1. economic efficiency
2. equity among components of the industry
3. employment and income effects
4. consumer impacts
5. net benefits to the nation
6. biological impacts on the stocks and related environment
7. costs of implementation/administration
8. community impacts
9. economic and social stability
10. conservation and productive use of the resource
11. competitive behavior within the industry
12. monitoring and enforcement requirements
13. ease of operation/managerial requirements

In terms of analytical procedures, there are features of the comprehensive plan that will likely require specific attention, based on the nature of the fisheries. Several problematic issues can be identified that might influence the overall analytical design. First, the development of the groundfish, crab, and halibut fisheries has evolved over a dynamic, unpredictable path such that future projections are difficult, even under the status quo. Projecting industry actions and performance under a significantly changed regulatory environment will be even more conjectural. A consistent procedure for evaluating future developments would be useful for examining the impact of selected alternatives. Some type of industry simulation or dynamic adjustment model may be necessary to analyze these questions.

Secondly, a significant change in fishery access conditions, coupled with the use of IFQs, raises direct questions concerning potential efficiency gains, and the allocation (equity) impacts on various parties involved. The value that accrues to quota shares under limited access is of particular interest in this regard. It may be appropriate to measure economic and social impacts arising from such alternatives in the context of net national benefits, or economic welfare analysis. Quantitative models of these variables might be tested, but will likely prove challenging given the complexities involved. It is also anticipated that the consumer impacts of an IFQ system could be significant, in which case an examination of consumer demand for the affected seafood products would be appropriate, including--perhaps--an examination of international trade impacts.

A third analytical challenge relates to the multispecies nature of the fishery. Such examination might focus on the basic premise of TAC setting as a function of fish population dynamics. The bycatch management dilemma confronting the Council illustrates the complexity of multispecies interactions. A quota management system may entail significant changes in the economic and biological incentives influencing incidental catch, or fishing effort in general. Alternative bycatch management policies will likely require particular attention in the development and analysis of the comprehensive plan, from both biological and economic perspectives.

Given the emphasis placed on social and community impacts in allocative decisions, the analysis will be charged with tracing certain consequences of proposed plans through to relevant social considerations. Economic input-output models may be used to assess distribution questions, but additional analysis of sociological issues may be necessary to evaluate the impacts on the individuals and communities involved.

Depending upon the scope and alternatives identified by the Council, the analysis may examine fundamental issues of system design such as the feasibility and design of resource rentals for IFQs, or the use of an auction system for allocation. While such topics may be premature at this stage, this illustrates the sensitivity of the analysis to the perceived scope of the problem. The overall structure of the analysis will require the adaptive development of measures and procedures as the comprehensive plan is assembled.

The various components of the analysis will rely heavily upon the availability of information regarding these issues. As a starting point, time series vessel-specific operation and catch data are required to trace participation in the individual and collective fisheries since the mid 1980s. The basic biological record of the affected fisheries, and the multispecies interactions also is essential. Market supply and demand information, covering price and product quantity data likely will be required. A fourth category of necessary data covers the pattern of social and economic activity related to the affected fisheries. While much of the fundamental fishery biology, participation and catch data is thought to be available from existing sources, the market demand and sociological data bases require an assessment to determine the possible need for data gathering or empirical survey.

C. Implementation

Even the best efforts in development and analysis of a comprehensive rationalization plan are incomplete without an effective means of implementing the plan. Experience with quota management programs in other fisheries around the world, as well as the halibut and sablefish IFQ proposals currently before the Council, demonstrates that the implementation process is crucial to meeting overall management objectives. As illustrated in the New Zealand quota management program, an integrated monitoring, enforcement, and operational design has been instrumental in the industry acceptance of and success with ITQs.

While a detailed implementation plan may be inappropriate during the formative planning stages, it is important to consider the implementation requirements that might be associated with alternative management schemes. Such considerations include: 1) information gathering and monitoring requirements; 2) enforcement; 3) public and private program costs; 4) simplicity/reliability; 5) sequence and timing of implementation; 6) provisions for future program adjustments; 7) industry and public education requirements; and 8) compatibility with existing management policies. Coordinating the various implementation considerations early in the planning and analysis process will enhance the comprehensive nature of the plan, and help avoid the piecemeal addition of "last minute" measures. In this regard, the implementation plan should be rooted in the Council's underlying management objectives, rather than as separate regulatory considerations.

D. Near Term Action

The foregoing discussion of the planning and analytical components of the proposed comprehensive rationalization plan is intended to provide perspective to the task at hand, without creating unnecessary limits on what may be undertaken and accomplished. In order for the proposed Council initiative to move forward, more focused effort can be directed towards certain components of the work plan. These efforts include: 1) Strategic planning and direction by the Council; 2) formation of an analytical team; 3) preliminary examination of alternatives; and 4) assessment of data and analytical model needs.

As developed previously, the strategic planning provided by the Council is necessary to efficiently direct the comprehensive plan development and analysis. The Fishery Planning Committee (FPC) may elect to provide this guidance, perhaps in conjunction with industry scoping sessions, and input from the Advisory Panel (AP). Given that the Council is considering an IFQ plan for halibut and sablefish, along with bycatch and--possibly--moratorium amendments, it is important to link these elements together in a broad

comprehensive plan that is consistent with the perceived problems and management objectives.

Depending upon the scope of the comprehensive plan adopted by the Council, an omnibus limited entry system might be developed short of directed plans for each individual fishery. A generic framework for limited entry/quota management might be approved and implemented by mid 1993, followed by IFQ systems for individual fisheries as appropriate. Such a plan has been developed by NMFS, and submitted in report form to the Council during the September 1991 meeting.

The formation of an analytical team is necessary both to develop the necessary dimensions of a comprehensive plan, as well as conduct the analysis and develop an implementation plan. The analytical team can be formed around the economic, social, and biological disciplines involved. In addition, the team may want to orient itself around planning, analytical, and management/implementation phases. The analytical team needs to work closely with the Scientific and Statistical Committee (SSC), particularly in the early phases of analytical design and objectives.

The initial examination and development of alternatives will require the joint efforts of the Council, committees, industry, and analytical team. The identification of reasonable alternatives could serve as an important near term goal in the work plan. A standardized format for describing and summarizing potential management alternatives could be developed to serve as the basis for selecting the most promising alternative(s) for rigorous development and analysis.

The analytical team also must complete a review of available data, research findings, and analytical models applicable to development of the comprehensive plan. This assessment can serve as the base for projecting necessary data gathering, research, outside expertise, and realistic time schedule and resource requirements for the analysis.

MORATORIUM ELEMENTS AND OPTIONS

(Revised 1/27/92)

During the January 1992 meeting, the Council endeavored to narrow the objective statement, simplify certain elements of the analysis, and clarify the options to be addressed under each element. The resulting moratorium proposal does not consist of an independent alternative or alternatives. Rather, several elements and options from the original AP recommendations are being analyzed in order to provide the Council with information on the component parts that comprise a moratorium, and how they impact attainment of the desired objective in the Alaska fishery. The specific objective of the moratorium is as follows:

In an effort to help achieve Optimum Yield (OY), the objective of the proposed moratorium is to freeze the number of vessels in the groundfish, crab, and halibut fisheries under the Council's jurisdiction, with appropriate restrictions on allowable changes to those vessels which are permitted in these fisheries.

The moratorium proposal consists of the following 12 numbered elements, the lettered provisions under each element are options to be considered under that element.

1. Qualifying Period

a. January 1, 1976 through the applicable control date
b. January 1, 1980 through the applicable control date
c. January 1, 1988 through the applicable control date

These three options define alternative periods of eligibility that would qualify vessels under the moratorium. The applicable control date is that defined in the September 5, 1990 *Federal Register* notice, as modified by the Council (i.e., September 15, 1990, with extensions to January 15, 1992 and February 9, 1992). For purposes of analysis, any vessel making a landing by the extension date will be assumed as a valid, eligible entrant, although it is recognized that this will likely overstate the bona fide qualifiers under the extension criteria. The problems and issues raised in implementing the control date language will be noted in the analysis.

2. Length of Moratorium

a. Until Council rescinds or replaces; not to exceed 3 years from date of implementation, but Council may extend for 2 years if a permanent limited access program is imminent
b. Until Council rescinds or replaces; not to exceed 4 years from date of implementation, but Council may extend for 2 years if a permanent limited access program is imminent
c. Until Council rescinds or replaces; not to exceed 4 years from date of implementation

3. Crossovers During Moratorium

a. No restrictions are specified regarding the ability of a vessel to cross over from one fishery to another (groundfish, crab, or halibut) during the moratorium, regardless of past participation.

4. **Replacement or Reconstruction of Vessels During the Moratorium**

   a. A vessel may be replaced with a vessel of similar capacity, but the replaced vessel must leave the fishery. Reconstruction of vessels is allowed to upgrade safety, stability, or processing equipment, but not to increase fishing capacity. The intent of the Council is to freeze the number of vessels participating in the designated groundfish, crab, and halibut fisheries, and to allow for no increase in the capacity of existing vessels. The analysis will examine the alternative procedures for measuring and managing vessel capacity, and how appropriate restrictions might be implemented.

5. **Replacement of Vessels Lost or Destroyed During the Moratorium**

   a. Can be replaced with vessels of similar capacity. Replaced vessels cannot be salvaged and come back into the fishery.

6. **Replacement of Vessels Lost or Destroyed Before the Moratorium**

   a. Vessels lost since January 1, 1990 can be replaced with vessels of similar capacity. Replaced vessels cannot be salvaged and come back into the fishery
   b. Vessels lost since June 15, 1989 can be replaced with vessels of similar capacity. Replaced vessels cannot be salvaged and come back into the fishery

7. **Small Vessel Exemption**

   a. No specific provision are made that would exempt categorically small vessels from the moratorium. The analysis will assess the impacts of a moratorium on small vessel operators and their fishing activities.

8. **Disadvantaged Communities**

   a. There will be no exemption for disadvantaged communities from the vessel moratorium
   b. Disadvantaged communities, as defined by the Council, will be exempt from the vessel moratorium. For purposes of analysis, the Council considers disadvantaged communities to include those communities qualifying for community development quota (CDQ) under the Council's proposed Inshore/Offshore Amendment and/or Individual Fishing Quota (IFQ) Amendment. The moratorium would not apply to vessels fishing these CDQ's.

9. **Minimum Qualifying Poundage**

   a. No minimum qualifying poundage, all that is required is a legal landing or processing from one of the applicable groundfish, crab, or halibut fisheries in any qualifying year.

10. **Applicable Sectors of the Industry**

   a. The moratorium will be applied to the harvesting sector only, including catcher vessels and catcher/processor vessels in the designated groundfish, crab, and halibut fisheries
   b. The moratorium will be applied to catcher vessels, catcher/processor vessels, and mothership/processing vessels in the designated groundfish, crab, and halibut fisheries

11. **Appeals**

a. The appeals procedure will consist of an adjudication board of government persons and non-voting industry representatives

12. **Halibut and Sablefish Fixed Gear Vessels**

a. There will be no exemption for halibut and sablefish fixed gear vessels
b. Halibut and sablefish fixed gear operators that would come under the provisions of the proposed IFQ Amendment will be exempted from the vessel moratorium as it affects halibut and sablefish operations

Additional Issues Bearing on the Moratorium Analysis

a. An industry/technical committee will be designated by the Council Chairman and NMFS Regional Director to assist the analytical team and provide guidance on a implementation plan for the moratorium proposal.

b. NOAA General Counsel will investigate the legal status of vessels operating inside Alaska territorial waters, and how they would be impacted under the proposed moratorium

c. NOAA General Counsel will investigate the role of Capital Construction Fund (CCF) accounts maintained by vessel owners, their status as contractual obligations, and how they may be impacted by the proposed moratorium.

SECTIONAL SUMMARY OF DRAFT MORATORIUM ANALYSIS[1]

Environmental Assessment (Section 2.0)

1. Regardless of the alternative chosen, the management process and ability to manage within the total allowable catches of each species and achieve OY are likely to remain unchanged. Catch levels will continue to be based on the best scientific information and will be managed based on quota and relevant bycatch considerations.

2. Fishery management problems inherent to a highly capitalized, fast paced fishery for a finite resource will continue under either open access or the moratorium. These include a quickening pace of the fisheries, shortened seasons, increased discards, gear entanglement, increased bycatch, and the potential for quota overruns.

3. To the degree that a moratorium inhibits fleet size and fishing capacity, or at least restricts further expansion, the less will be the problems associated with excess fishing capacity and the race for fish. The more liberal the moratorium, the more aggravated will be the problems inherent in the presently crowded, fast-paced fisheries.

4. There will be no significant differences in the fleet's interactions with marine mammals or sea birds, or physical environment.

5. The environmental assessment concludes that neither the status quo nor any of the alternatives would significantly affect the quality of the human environment, and the preparation of an environmental impact statement is not required.

6. None of the alternatives is inconsistent with provisions of the Coastal Zone Management Act.

Current Fleet Profile (Section 3.1.2.1)

1. Roughly 29,500 vessels made commercial landings in Alaska since 1976. About 15,000 harvested in a moratorium-affected fishery. Only 4,000 to 5,000 vessels participate in moratorium fisheries in any one year. Roughly half the fleet has participated for five or less years.

2. A record number of vessels, 4,992, participated in moratorium-affected fisheries in 1991: 88% landed halibut, 45% landed groundfish, and 6.5% landed crab; 25% landed halibut and groundfish; 1.5% landed halibut, crab and groundfish.

3. Size in 1991: 43% of the vessels were 35 ft or less, 85% were 60 ft or less, and 7.5 % were over 90 ft.

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[1]This summary has been prepared for Council discussion purposes based on the preliminary draft analysis prepared April 6, 1992. Changes in the analysis may be directed by the Council during their April 22-26, 1992 meeting that could result in subsequent changes to this summary.

4. Residence in 1991: 82% of the fleet was from Alaska, 14% from Washington, and 4% from other states, mainly Oregon and California. Over 90% of vessels under 35 ft are from Alaska; but less than 10% of the larger vessels over 90 ft are Alaskan.

5. Gear type in 1991: Roughly 250 (5%) of the vessels were trawlers (including 60 large catcher-processors), 300 (6%) were crabbers, and the remaining 89% were longliners, including about 50 freezer longliners.

6. Capacity in 1991: the 7.5% of the fleet over 90 ft. harvested about 88% of the combined groundfish, crab and halibut tonnage. Catching capacity cannot be quantified easily, but analysis of highline vessels shows that the potential capacity of the fleet may exceed 5 times the actual catch in 1991. Break even analysis and performance of vessels at the 70 to 75 percentile level indicate that the fleet has the capability to harvest from 20 to 40 percent more than the current catch, even under existing seasons and regulations.

Economics of the Fishery (Section 3.1.2.3)

1. Gross exvessel value of the moratorium fisheries in 1991 was about $750 million: $450 million for groundfish, $210 million for crab, and $90 million for halibut. Of these fisheries, only some flatfish fisheries, and possibly Pacific cod fisheries, are not yet fully capitalized.

2. Open access generally favors ventures with a fast payback, flexibility, and diversity of action. Open access encourages an unnecessarily large fleet, and reduces the potential economic efficiency of the industry and net returns to individual operators. As total returns are distributed over more vessels, average individual returns decrease, exposing owners to greater financial risk.

3. Problems of excess capacity and overcapitalization cannot be easily overcome by shifting unneeded vessels to other fisheries, because there is more than adequate capacity throughout the Alaskan, U.S. and world fishing industry.

4. Various investment incentives including financial assistance or subsidies have been used by vessel owners or investors to offset construction and financing costs associated with boat building. The Capital Construction Fund, Fisheries Obligation Guarantee Program, and subsidies offered by foreign shipyards have contributed to capitalization of the fleet, particularly in the late 1980s.

Social and Cultural Framework (Section 3.1.2.5)

1. About 85% of the participating vessels listed Alaska as the residence of the owner: 38% come from Southeast, 30% from Gulf Coast communities, 10% from Anchorage/Matsu area, 7% from Bristol Bay and Aleutians, and 1% from Northern communities. Many of these communities are highly dependent on commercial fisheries and there are few other employment opportunities.

2. Washington is the residence of 11% of the vessels, mainly the larger vessels. Pacific Northwest coastal communities such as Seattle and Newport have important economic links to Alaska fisheries and most of the corporate organizations representing Alaska commercial fisheries are based in Seattle.

Consequences of Continued Open Access (Section 3.1.3)

1. Over the past 15 years, vessels have entered, exited, and continued in these fisheries in response to a variety of economic, financial and personal reasons. Higher crab and halibut prices, and increased availability of groundfish contribute prominently to fishermen's decisions to enter those fisheries. Higher salmon prices or increased job prospects outside the fisheries will cause fishermen to leave the halibut, crab, and groundfish fisheries. Council consideration of a halibut moratorium in 1983 caused a significant, temporary increase in participation in that fishery.

2. 1991 may be a situation similar to 1983. There were about 5,000 vessels, nearly 1,000 more than can be explained by economic variables alone. This may be a result of the Council's current consideration of a moratorium and limited entry.

3. Historically, many vessels fish for only one year. Between 500 and 1,000 vessels, mainly smaller ones, exit annually. However, participation rates may change as industry reacts to Council consideration of the moratorium and limited entry.

4. Annual entry of new vessels over the past five years has averaged 864 boats. Based on status quo economic variables and policy consideration, about 725 new vessels are projected to enter for 1993. Most new entrants in 1993 would be smaller vessels based on the existing distribution of vessels by size, but around 6 percent (43 vessels) could be 90 feet and over.

5. Based on limited observations of past behavior in 1983 and 1989-91, vessel participation, capacity, and capitalization are expected to increase during the period when limited access is being discussed, likely offsetting any reduction in fleet size attributable to purely economic variables.

6. The status quo perpetuates the adverse impacts of overcapitalization by fostering increased fishing effort. This will lead to shorter seasons, higher waste, bycatch and discard, and general declines in net returns from the fisheries. This development will be accelerated if there is any increase in the number of large capacity vessels such as factory processors or large shorebased boats as a response to Council consideration of a moratorium or future limited entry.

7. Industry needs to provide information about potential new entrants to the fishery with or without a moratorium. If the moratorium is not passed, will vessel financiers continue to provide funding for more vessels in anticipation of the next effort at developing a moratorium? Or will funds remain hard to find, leading to net attrition from the fishery?

Moratorium Effects on Vessel Numbers (Section 3.2.1.1)

1. Though only 4,992 vessels participated in 1991, the moratorium would make eligible the following numbers of vessels which increase with length of qualifying period:

	Control Date	
	Sept 1990	Jan/Feb 1992
1991 fleet size: 4,992 vessels		
M1: 1976- control date	14,925	15,756
M2: 1980- control date	12,691	13,554
M3: 1988- control date	6,909	8,055

2. Much of the gain related to qualifying period is in the small vessel categories. For example, going from 1988 back to 1976 would allow about 7,400 more vessels under 60 ft , but only 88 more vessels over 90 ft. The longest qualifying period, as expected, would be the most liberal in terms of qualifying more vessels, but least effective in restricting the size and further growth of capacity. Designating a single year such a 1991 as the qualifying period would result in the smallest fleet, but might inequitably eliminate many vessels that are legitimately part of the active fleet.

3. About 831 to 1,146 boats fall in the "due consideration" category by having participated after September 15, 1990, but before the early 1992 control dates. Allowing those vessels in under the moratorium will increase the fleet but reduce time and effort expended in litigation, appeals, and possible enforcement. However, any extension of the control date cutoff past early 1992 to, for example, when the Council takes final action in June 1992, might allow perhaps 1,000 more vessels in that simply were responding to Council action on the moratorium. Such an extension also would probably be viewed as inequitable by those who based decisions on the published control date.

Length of Moratorium (Section 3.2.1.2)

1. Either of the moratorium periods, 3 or 4 years, with possible extensions for 2 more years, would allow the Council time to develop and implement a more permanent management program.

2. During the moratorium, qualified vessels may take on added worth and their owners may then not want the moratorium to end.

3. Continued congestion in the fisheries will not be solved by the moratorium, and thus there may be pressure from within industry to move more quickly to the next stage of a more permanent management regime.

4. Another influence on the length of the moratorium may be the ability of crewmen and others to buy into the fishery given the higher costs of vessels under a moratorium.

Crossovers During Moratorium (Section 3.2.1.3)

1. Of the total of 8,055 to 15,756 vessels that would be qualified under one of the moratorium period options, 47 to 58% fished only halibut, 9-10% fished only groundfish, and 2-3% fished only crab. In contrast, only about 1% of the fleet has fished in all three fisheries.

2. Allowing crossovers could aggravate fisheries that are already oversubscribed. Crossover would allow 9,208 halibut and 368 crab moratorium-qualified vessels to enter the groundfish fishery for the first time. It would allow 209 large groundfish vessels (over 90 ft) to enter the crab fisheries for the first time.

Replacement or Reconstruction During the Moratorium (Section 3.2.1.4)

1. The proposed moratorium allows vessels to be replaced with a vessel of similar capacity, but the replaced vessel must leave the fishery. Reconstruction of vessels is allowed to improve safety and stability, or add processing equipment, but not to increase fishing capacity.

2. Implementing such provisions will require workable, observable, definitions of capacity. Industry will need to help in defining capacity. For example, if a vessel is upgraded for safety or stability, and this upgrade consequently increases the amount of product it can carry or increases the number of trips it can make safely in a year, is this an increase in capacity?

3. One index of capacity is a physical character of the vessel such as hold volume. A disadvantage of using this approach is that many of the vessel data files do not have information on the physical carrying capacity of the vessel, though most files do contain data on horsepower and length. A second disadvantage is that the hold can be filled several times depending on the fisheries, trip length, repair schedule and other variables. All-in-all, it would be very difficult to develop a reliable measure of capacity based on available information on physical attributes of a vessel, though more detailed information obviously would be available to a review panel hearing appeals on vessel replacement or reconstruction.

4. A second index of capacity is the observed catch performance of various vessels and vessel types as recorded on fish tickets. Though catch data are much more readily and broadly available for the fleet than physical data, they may not be a reliable proxy for potential capacity because boats rarely fish up to their full capacity because of management restraints and participation in other fisheries.

5. A third index of capacity was used in the analysis which is based on the annual landings from 1989 for six vessel length categories: 1-35 ft, 36-60 ft, 61-90 ft, 91-125 ft, 126-190 ft, and 191 ft and longer. A subset of vessels was selected which (1) had some groundfish landings, and (2) landed more than 50% of their catch as groundfish or halibut. From this group, the poundage selected to represent each length class was the amount of landings at the 70th percentile -- i.e. the amount of landings which was higher that the worst 70% of the vessels and lower than the top 30% of vessels in the class.

6. Using this third index, the potential capacity of the fleet, in terms of how much it could catch in a fishing season the same length as in 1989, is presented below for the 1991 base year and for the moratorium options:

	Estimated Capacity
1991 fleet:	3.1 million metric tons
M1: 1976- control date	4.3 million metric tons
M2: 1980- control date	4.0 million metric tons
M3: 1988- control date	3.7 million metric tons

7. About 380 vessels have been lost or destroyed from 1981 to 1989. Of these, 96 to 294 vessels would have qualified to be replaced during the moratorium, depending on the qualifying period (M1 - M3) used. However, the Council is proposing that only those vessels lost or destroyed after either June 15, 1989 (34 vessels), or January 1, 1990 (22 vessels) be allowed replacement in the fisheries during the moratorium. These 22-34 vessels could be replaced with similar capacity.

Small Vessel Exemption (Section 3.2.1.7)

1. Though most vessels are under 61 feet, their catching capacity is relatively low. However, this will vary by gear type. For example, small trawlers under 61 ft comprise 18% of the trawl fleet, but less than 2% of the landings. In contrast, longliners under 61 ft comprise 89% of the groundfish/halibut fleet, and take nearly 56% of the longline landings. The 49% of longliners less than 36 ft account for less than 8% of the longline landings. Thus, an exemption of vessels under 61 ft has much different trawl and longline impacts, while exempting vessels less than 36 feet is relatively unimportant to overall capacity in either gear group.

2. About 4,300 vessels less than 61 ft participated in the 1991 fisheries, but 7,204 to 14,614 vessels in that size range would qualify under the various moratorium qualifying periods. Another 15,000 vessels under 61 feet have fished for some non-moratorium species off Alaska since 1976, and if given a small boat exemption, might become active in the fisheries depending on their suitability and on opportunity elsewhere. Thus a 61 ft exemption would free up potentially 30,000 vessels other Alaskan to participate in the fisheries and to increase their individual capacities and performance. Additional pressures for fleet buildup could come from the Pacific Coast if the salmon fisheries are closed down.

3. Left unchecked, boats that are much smaller than 61 ft could upgrade their vessels to the limit as happened with "capital stuffing" in the salmon seine fisheries. Though it is unlikely within the moratorium period, if all the longliners under 35 ft were converted to highly capitalized 60 footers, the capacity of the group under 61 ft could increase by a factor of 30 to 40.

4. For trawlers, more than 30 vessels in the 60 ft class fished groundfish in 1989, and for 22, groundfish accounted for more than half of their total poundage. That group averaged nearly 900,000 lbs of groundfish per vessel. Nevertheless, a 60 ft exemption in the trawl fishery would have a negligible impact relative to the rest of the trawl fleet which is dominated by large trawlers and factory trawlers which contributed about 99% of the gear-group's landings.

5. An exemption for vessels up to 35 ft in length would have no appreciable impact on the overall capacity of either the longline or trawl fleets, though allowing more boats on the grounds could cause crowding in certain areas that are more available to the small boat fleet, especially during inclement weather. Exempting boats less than 35 ft would decrease the amount of effort needed to monitor the fisheries.

Disadvantaged Communities (Section 3.2.1.8)

1. The primary purpose of the moratorium is to limit the size of the fishing fleet and to begin to address the problem of overcapitalization. Providing exemptions, and thus opportunity for disadvantaged communities to add fishing capacity runs counter to the primary purpose.

2. Under a CDQ program, some communities may want to use small boats less than 61 ft to harvest special quotas. Any of the moratorium options will provide a ready surplus of qualified boats beyond those that now participate in the fisheries, and because they are so numerous, there is little likelihood of there being a price premium for these qualified vessels.

3. There would be less of a surplus of moratorium qualified vessels in the larger size categories such as greater than 91 ft which have much greater capacity to harvest fish. These boats would probably be at a price premium. However, if communities are allowed to bring in large, non-

qualifying vessels under some sort of exemption, their added capacity would run counter to the primary purpose of the moratorium and aggravate an already overcapitalized situation.

Applicable Sectors of Industry (Section 3.2.1.9)

1. A key difference between options is whether or not to exempt mothership processors from the moratorium and allow that fleet sector to grow. Between 39 and 47 motherships would qualify under the moratorium.

2. Increased mothership processing increases the catching capacity of the fleet by shortening the delivery times of harvesters and increasing their available fishing time. Increased mothership processing does not, however, increase the harvesting fleet size.

3. If exempted, additional mothership processing capacity may enter the fishery and accelerate harvesting rates in an already fast-paced fishery. This could be further aggravated by non-qualified catcher-processors converting to mothership status and entering the fishery.

4. However, it is doubtful that even if the moratorium were applied to motherships that it would preclude further growth in that sector since there are a number of moratorium-qualified catcher processors that could become mothership operations.

Sablefish and Halibut IFQs (Section 3.2.1.11)

1. A major difference between the IFQ system and moratorium is that the former applies to vessel owners and the moratorium to vessels, regardless of owner.

2. If vessels used in IFQ fisheries must be moratorium qualified, this could slow the transition of the IFQ fleet to one best suited for that type of fishery.

3. Exempting IFQ vessels also could create problems. Special bycatch allowances would have to be made to assure that non-moratorium vessels would not automatically have to discard all non-IFQ species. In addition, a regulation would be needed prohibiting non-moratorium qualified vessels from targeting on non-IFQ species. Allowing IFQ vessel owners to fish unrestricted in non-IFQ fisheries would give IFQ owners unlimited access to fisheries, contrary to the intent of the moratorium.

4. Exempting IFQ boats could lead to that fleet being replaced by newer vessels, thus freeing up the current moratorium-qualified vessels to participate more in other fully subscribed fisheries.

Additional Considerations (Section 3.2.1.12)

1. Industry needs to provide guidance on how to gauge changes in vessel configuration and capacity. This pertains directly to proposed moratorium elements concerning reconstruction and replacement of vessels during the moratorium. Changes in gear also need to be considered. For example, can a vessel switch back and forth between longline and trawl? Can processing capacity be added? Can a processing vessel add harvesting gear?

2. What constitutes a contractual arrangement as it relates to the various control dates? Are CCF accounts valid contracts? What about changes in ownership while a vessel was still under construction?

3. Which fisheries are covered by the moratorium? Only halibut appears to be covered in State waters because of the international commission. EEZ fisheries must be covered by an FMP.

4. The appeals procedure will be directly impacted by the complexity of the moratorium ultimately adopted. Costs of administering the appeals board could become significant.

Effectiveness of a Vessel Moratorium (Section 3.2.2.)

1. Though the moratorium will prohibit new vessels from entering the fisheries, estimated capacity of any of these moratorium fleets exceeds that of the vessels now participating as well as the harvest potential represented by the optimum yield.

2. The moratorium will not resolve the existing over-capitalization problem, although it should prevent the problem from getting worse. Linking the moratorium to comprehensive changes in the way fisheries are managed is required to begin resolving the overcapitalization problem.

Conclusions (Section 4.0)

1. The moratorium will reduce, if not stop, the entry of additional vessels into the fishery, but will not resolve existing overcapitalization problems.

2. Achievement of TACs will not be affected by the moratorium. The flow of products and total revenues through the marketing network is not expected to change, nor is the regional distribution of vessel ownership.

3. Associated industries and communities that depend upon fishery product flows are not expected to be affected by the moratorium, with the exception of ship building and affiliated industries.

4. There are no changes anticipated in crew size and wages, but those that have planned to purchase or build a vessel and enter the fisheries will have their alternatives limited to qualified vessels.

5. It is estimated that 1.5 -3 times the number of vessels that participated in 1991 will be available in the pool of moratorium-qualifying boats. Certain vessels of a desired configuration may command a premium on the resale market.

6. Some vessels and their owners who are restricted by the moratorium will need to develop fishing opportunities elsewhere. Opportunities in West Coast fisheries may diminish over time as limited access is implemented, and it is inevitable that some vessel owners of non-qualifying vessels will incur losses on their investments.

7. Each of the moratorium options will qualify more vessels to fish than are now operating in the fisheries, and there is a considerable difference in the numbers of vessels that would be allowed

under the various qualifying periods. Because there is a great potential for increasing the harvesting capacity in the existing fleet, and in any fleet after the imposition of a moratorium, the total harvest capacity will continue to exceed the total TAC available. The total capacity of the qualifying fleet would range from 200% of current TACs for M1, to 185% for M2, to 170% for M3.

8. Proposed exemptions to the moratorium offer limited benefits, but risks the overall effectiveness of the moratorium by allowing preferential open access for some components of the fleet. There should be sufficient qualified vessels under any of the options to meet a modest increase in demand for vessels.

9. Allowing exemptions for small vessels, while not greatly increasing capacity, will contribute to the crowding and excess effort that underlie the management problem confronting the Council.

10. Ultimately, the effectiveness of a moratorium will depend upon subsequent management action taken by the Council to remedy the existing overcapitalization of the fleet.

11. The status quo may lead to a decline in the total participation, and a reduced rate of entrance by new vessels over the next year, however the status quo is likely to be accompanied by ongoing capitalization of effort. Factors likely to encourage further capitalization under the status quo include Council consideration of limited entry schemes, and the status of Council-managed fisheries as the major remaining open access fishery on the West coast.

12. The moratorium is not expected to have significant impacts on the consumers of affected seafood products. It does not impact the TAC available to the market, nor the product form and price to consumers.

13. The moratorium is expected to prevent a further deterioration of producer net returns caused by inefficient overcapitalization of the fleet. The individual fishermen will not experience an increase in net returns, so much as be afforded some protection against further declines.

14. The moratorium is not expected to have a significant impact on small business entities.

North Pacific Fishery Management Council
MORATORIUM COMMITTEE

April 15, 1992
NMFS Northwest and Alaska Fisheries Center
Seattle, WA

MINUTES

The meeting convened at 9 am, with six of the seven committee members present: LCDR Glen Sicks, Doug Dixon, John Crowley, David Green, Kevin Kaldestad, and Stan Simonson. Vern Hall was unable to attend, but provided input to Council staff earlier in the week. Also in attendance were several members of the analytical team, including Council staff members Jim Cornelius and Marcus Hartley, along with Jay Ginter from NMFS-AKR, and Jim Hastie representing NMFS-NWAFC.

The purpose of the meeting was to review the draft moratorium EA/RIR prepared for the Council, and to consider several issues identified in the analysis that might affect implementation of the proposed amendment. An important concern impacting both the analysis and possible future implementation is the criteria used to define vessel capacity, and restrictions placed upon vessel owners to change the capacity of their boats under the moratorium. The proposed moratorium elements and options make repeated reference to allowable changes in capacity, emphasizing the basic intent that replacement or reconstruction of vessels be restricted to changes of "similar capacity." In this context, the committee focused attention on the issue of harvesting and processing capacity, and related issues concerning the implementation of the proposed amendment.

1. Standards for Allowable Changes in Vessel Capacity

The Committee discussed the relative merits of several alternative capacity measures, such as gross and net tonnage, horsepower, hold capacity, crew size, and vessel dimensions. Given the variations that exist in the fleet across fisheries, gear types, and vessel design, there is ambiguity in the interpretation and measurement of vessel capacity. Vessel owners determined to increase capacity will likely find ways around any constraint. The committee concluded that there is no singular measure available that accurately and equitably reflects the catch or processing potential of all vessels within the fleet for purposes of limiting increases in capacity. The consensus of the committee held that simplicity and equity in implementation of capacity-related restrictions in the moratorium proposal favored a limitation on increases in vessel length, combined with a cap on the overall fleet size. **Thus, allowable changes to existing vessels, and the determination of "similar capacity" in allowable reconstruction and replacement should be based on vessel length.**

The committee recognized that length restrictions alone may still allow for increases in capacity and further capitalization of the fleet. These concerns are balanced by the practicality of regulating capacity, the objectives and relatively short duration of the moratorium, and allowances for individual discretion in vessel modifications and operations. The length restriction will slow major modifications of existing vessels, but does not penalize past performance or restrict individual ingenuity to improve vessel efficiency.

Applying a vessel length restriction on allowable reconstruction or replacement raised several concerns over implementation including: 1) what is the appropriate measure of vessel length? 2) can several small vessels be replaced with a large boat? and 3) what are the allowable tolerances in changes applicable to the vessel length standard?

Appropriate Measures of Vessel Length. All vessels have either a registered length (46 CFR 69.53) or a specific length in other official registration documents. This length defines that vessel in records which are not subject to interpretation or creation specifically for the moratorium. At least two measures are common in the fleet, length overall (LOA), and registered length. The difference between these two measures can be significant. Pending further investigation and discussion, it was suggested that LOA be applied to smaller or undocumented vessels, and registered length be applied to larger vessels 80 ft and over, consistent with existing regulatory standards. The main concern over appropriate length standards is that vessel owners be neither penalized nor rewarded in determining allowable changes based on differences between LOA and registered length.

Replacing Several Small Vessels with a Single Larger Boat. This provision has some merit in terms of reducing the overall number of vessels in the fleet, but also creates the potential for significant increases in capacity. Replacing ten 30 ft skiffs with a single 300 ft catcher-processor may reduce the fleet by nine boats, but the harvest capacity and capitalization of the large vessel is likely to be many times greater than the combined capacity of the small boats. Even small changes in length permit geometric volumetric growth of a vessel. As a possible guideline for such replacements, it was suggested that an cap of, for example, 125 percent in length of the original smallest vessel be applied as an upper limit to the size of any subsequent replacement vessel, regardless of the number of small vessels taken out of service.

Allowable Tolerances in Replacement Length. There are at least two schools of through represented by the committee. The majority viewed the replacement criteria as a zero tolerance standard. A replacement vessel could not exceed the length of the original vessel. The minority position held that replacement through rebuilding might prove financially impractical for some types of vessels, and that purchasing an existing boat may require some leeway in matching up available vessels based on length. The question over allowable tolerances has been made more complex by changes over time in the options under consideration by the Council. Early versions of the proposed moratorium included the consideration of a 20 percent increase in allowable capacity, and some vessel owners elected to act on this possibility.

2. Implementation of Control Date Eligibility Criteria

The cutoff date for moratorium eligibility has been based on the September 15, 1990 control date notification. The notification includes the provision for "due consideration" of certain vessels, providing that such vessels made landings prior to January/February 1992 cut-off date extensions. The contractual requirements necessary to qualify under these extensions may prove to be difficult to interpret and enforce. Moreover, vessel owners faced with unavoidable decisions about vessel purchase, construction, or reconstruction in the 18-month interval since announcement of the control date may have made changes that now threaten their eligibility status under the proposed moratorium.

Given these concerns over enforceability and equitability of the qualifying criteria, the committee suggested that the Council also consider as an option a more concise cutoff date standard, or a "grandfathering" provision in implementing the moratorium. Two possibilities were discussed in this regard: 1) eligibility would be extended up to the date of adoption by the Council (presumably during the June 1992 Council meeting); or 2) eligibility would be extended up to the last extension of the control date (February 9, 1992), regardless of prior contractual arrangements. In either case, the necessary eligibility criteria would consist of a qualifying landing prior to the cutoff date. This modification in the designated qualification period would simplify the implementation process, but at a recognized trade-off of including some vessels that might not have been eligible under the original control date language.

3. Applicable Sectors of the Industry

The committee discussed the merits of extending the vessel moratorium to processing vessels, in the context of appropriate capacity measures, but concluded such a moratorium on at-sea processors would be ineffective, and possibly counter productive. An increase in at-sea processing may increase the harvest capacity of catcher vessels, but the moratorium on harvest vessels prevents further growth in the catcher fleet. Thus, the rate of harvest might increase, but not the number of harvesters. Moreover, so long as shore-based processing is not restrained, a moratorium on at-sea processors appears inequitable. As a related issue, the committee noted the importance of adopting definitions of processing that are consistent with existing federal regulations.

4. Other Business

The committee briefly discussed each of the moratorium elements and options contained in the draft EA/RIR document, noting issues and concerns over potential implementation. Further action on specific elements was postponed given the role of the committee, and the open-ended nature of the alternatives before the Council at this time. Those committee members attending the April Council meeting in Anchorage will meet Tuesday morning (7:00 am, April 21, 1992) to review progress and finalize a report to the Council.

COMPARISON OF TONNAGE SYSTEMS AND DEFINITIONS OF LENGTH

The following is a brief explanation of the International Tonnage Convention (ITC) and U. S. Regulatory systems of admeasurement, together with a short list of the differing descriptions of length that can be used to describe a vessel:

ITC - International (1969) Regulations (USCG 46CFR69 Subpart B)

These regulations apply to :

1) all new construction 79 feet length overall or longer or
2) existing vessels 79 feet LOA or longer, which have undergone major modifications to their structure (as defined by USCG, paragraph 69.11a).

ITC gross tonnage: based on total molded volume (hull, appendages, and superstructure) multiplied by a coefficient based on that volume.

ITC net tonnage: based on the molded cargo space volume (cargo holds and hatches) multiplied by a coefficient as above, with a further correction for depth/draft ratio and/or passengers.

U.S. Regulatory ("Pre-69") Rules (USCG 46CFR69 Subpart C)

These regulations apply to:

1) all new construction under 79 feet LOA,
2) all existing vessels (unless previously admeasured under Subpart B), or
3) all vessels admeasured under Subpart B for registry, which need to meet a tonnage parameter for regulatory application (such as inspection, manning or SOLAS).

Regulatory gross tonnage: based on the sum of all enclosed spaces on the vessel less those which may be "exempted" from measurement (such as light & air, companions, machinery space on/above the upper deck).

COMPARISON OF TONNAGE SYSTEMS AND DEFINITIONS OF LENGTH (continued)

In addition to the exemption of certain spaces from gross tonnage, there are additional methods which may be used to reduce gross tonnage in order to meet regulatory requirements. Examples of these are:

1. Tonnage openings - Use of a proper tonnage opening scheme permits the exemption of partial to complete tiers of superstructure as "open space".

2. Deep framing - Properly applied, use of deep frames can reduce the transverse area within an underdeck to zero, for up to ½ the intervals of the tonnage length.

3. Water ballast - In general, the exemption for ballast is limited to 30 percent of the gross tonnage. In specific cases the client may request the Coast Guard to rescind this limit.

Regulatory net tonnage: once the gross tonnage is calculated, certain specific spaces such as those designated for use by the crew, radio, and propelling power are "deducted" from the gross to arrive at the calculated net tonnage.

Unlike the ITC system, net tonnage is not a function of the actual cargo carrying space on the vessel. Rather, it is a subtractive process based on the calculated gross tonnage.

There is the potential for an inordinate differential between the tonnages calculated for the same vessel under these two different systems. One example of this was the calculation of both types of tonnages for a passenger barge. For this vessel the ITC gross tonnage was approximately 965, but the regulatory gross tonnage was under 100, qualifying it as a subchapter "T" (ie., uninspected) vessel. This reduction was possible by the combination of a number of tonnage schemes mentioned above: deep framing of the hull, tonnage openings to exempt the first tier of superstructure, and the exemption of tiers 2-4 as passenger space. In this case, the ITC gross tonnage was a more accurate representation of the true size of the vessel.

COMPARISON OF TONNAGE SYSTEMS AND DEFINITIONS OF LENGTH (continued)

Definitions of Length

1. LOA - Length overall. Measured between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments. (ie., bowsprits, anchors, anchor rollers, stern rollers and bumpkins). NOTE: ADFG has been known to include stern rollers.

2. LPP - Length between perpendiculars. Measured from the intersection of the stem and stern with the design waterline (summer load line) or to the aft side of the rudder post or axis of the rudder stock for vessels with an overhanging stern.

3. DWL - Design waterline length. Actual length of the hull measured at the design waterline.

4. Length for classification purposes (ie., DnV, ABS). Measured on the summer load line, from the fore side of the stem to the after side of the rudder post or where there is no rudder post, to the axis of the rudder stock and is not to be less than 96% and need not be greater than 97% of the length on the summer load line.

5. Tonnage length - measured along the centerline of the tonnage deck, from the inboard face of the forward ordinary frame to the inboard face of the transom frame.

6. Registered length - (for ITC tonnage and 1966 International Load Line Convention). Two different measurements are taken, with the greater length being assigned:

   a) 96% of the molded length taken at 85% of the least molded depth.

   b) Actual length measured at 85% of the least molded depth, from the foreside of the stem to the axis of the rudder stock.

7. Registered length (Panama Canal, Suez Canal and Non-ITC tonnage). Length measured on the tonnage deck, from the fore end of lap of outer plating of steel to the forward side of the rudder stock.

For additional information, please contact Phil Essex at Det norske Veritas Classification, New Jersey, tel. (201) 488-0112, fax (201) 488-1778 or Doug Dixon at Det norske Veritas Classification, Seattle, tel. (206) 861-7977, fax (206) 861-0423.

JMC
Jensen Maritime Consultants Inc. NAVAL ARCHITECTS MARINE ENGINEERS

April 17, 1992

Dr. Jim Cornelius
North Pacific Fishery
Management Council
605 West Fourth Avenue
Anchorage, Alaska 99510

Dear Jim:

I thought it would be worth while to document factors leading to my conclusion that vessel length is a superior criteria for application in judging vessel "capacities". In arriving at this conclusion, there have been two major influences. One, shear speculation of the possible terms and definitions which could be applied and found defective by imaginative minds; two, observation of the consequences of the loosely worded Fishing Vessel Safety Regulations recently released by the U.S. Coast Guard. I see a clear objective that what ever criteria is adopted, it must be as follows:

* Absolutely Definitive - the terms must be crystal clear and without need of interpretation.

* Meaningful - the criteria must have meaning without regard to a particular fishery.

I gamed several individual factors and ratios, including: length, length/power, length/hold volume, hold volume, gear/equipment restrictions. Essentially, only one rule could avoid some increase in capacity as a lost or retired vessel is replaced: "New vessels must be exact duplicates of lost or retired vessels". Aside from being completely unenforceable, it is ridiculous. Length alone satisfied both a need for clear definition and meaningfulness, as follows:

* Each and every vessel has either a registered length (46 CFR 69.53) or a specific length in other official registration documents. This uniquely defines that vessel in records

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which are not subject to interpretation or creation specifically for the moratorium.

* Relative to modification or replacement, so long as the moratorium official length is not exceeded, the owner can modify a vessel as "he sees fit." For existing vessels, rearrangement or increased beam can enhance safety and/or offer a means for nominal increase of hold volume or deck load capacity. Also, machinery or equipment can be modified without need of interpretation. The length restriction imposes a natural, practical limit to increasing vessel harvest capacity. For replacement vessels within the confine of a given length, beam and depth parameters offer an opportunity to enhance volumetric parameters and a owner has full opportunity to power and equip a vessel to achieve optimum performance.

* The length restriction is meaningful within each particular fishery for present vessels. Continuation at the same length does not create artificial temptation to change fisheries.

* The simplicity of the restriction should reduce appeal proceedings to a very low level.

While I see length as the best parameter for control during a moratorium on vessel entry, it is not a good control for graduated increase in vessel capacity. Small changes in length permit geometric volumetric growth of a vessel.

There is little doubt that a length restriction will slow major modifications of existing vessels. The length restriction, however, does not penalize past high performance operations or restrict individual ingenuity to further optimize existing vessel utilization.

It will be interresting to see how this next meeting turns out!

Sincerely,

JENSEN MARITIME CONSULTANTS, INC.

David L. Green, P.E.
President

DLG:cmb

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AGENDA C-3(c)
APRIL 1992

March 27, 1992

MEMORANDUM FOR: Lisa Lindeman

FROM: Jonathan Pollard

SUBJECT: Moratorium

Jim Cornelius asked whether the Council and the Secretary can extend a moratorium to cover State waters, and whether the Council can include crab and halibut fisheries in the moratorium.

Pacific Halibut Fishery:

A moratorium on entry into the Pacific halibut fishery is authorized under the Northern Pacific Halibut Act of 1982 ("the Halibut Act"). 16 U.S.C. §§ 773-773k. Section 5(c) of the Halibut Act states in part that

> [t]he Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the [International Pacific Halibut] Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited access criteria set forth in [16 U.S.C. § 1853(b)(6)].

16 U.S.C. § 773c(c). The North Pacific Council may develop moratorium or other limited access regulations governing Convention waters off Alaska. Section 2(d) of the Halibut Act defines Convention waters as

> the maritime areas off the west coast of the United States and Canada described in article I of the [Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea].

16 U.S.C. § 773(d). Article I of the Convention states that

> the "maritime area" in which a Party exercises exclusive fisheries jurisdiction includes without distinction areas within and seaward of the territorial sea or internal waters of that Party.

Consequently, the North Pacific Council's moratorium could apply to all waters within the territorial boundaries of the State of Alaska and also within the EEZ off Alaska.

Groundfish and Crab Fisheries:

I think you are correct that the Council and the Secretary may develop and implement a moratorium or other limited access system in these fisheries only if the fisheries are managed under an FMP. Section 303(b)(6) of the Magnuson Act states in part that

> [a]ny fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may establish a system for limiting access to the fishery . . . .

16 U.S.C. § 1853(b)(6) (emphasis added). FMPs exist for the groundfish fisheries off Alaska and for most crab fisheries in the Bering Sea and Aleutian Islands management area; no FMP for the crab fisheries of the Gulf of Alaska currently exists.

As for the FMP fisheries, I think the Council and the Secretary may extend its moratorium into the territorial sea of the State only if State regulatory authority is formally preempted under the Magnuson Act.[1]

The Magnuson Act provides for preemption as follows:

> If the Secretary finds, after notice and an opportunity for a hearing . . . that --
>
> (A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the exclusive economic zone and beyond such zone; and

[1] The applicability of Federal regulations in State waters absent a formal Magnuson Act preemption proceeding depends in large part upon the degree to which the Federal regulations diminishes the jurisdiction or authority of the State. This issue is described in the attached letters written by Jay Johnson and Robert McManus.

> (B) any State has taken action, or omitted to take any action, the result of which will substantially and adversely affect the carrying out of such fishery management plan;
>
> the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

16 U.S.C. § 1856(b).

Two factual findings must be made in order to justify preemption: (1) the fishing must be in a fishery covered by an FMP, and must take place predominately in the EEZ and beyond; and (2) the State must take action, or omit to take action, the results of which will substantially and adversely affect the carrying out of the FMP.[2]

Preemption under the Magnuson Act is what I like to call "a big deal," with major political ramifications. It would be <u>much</u> better if the State could be convinced to extend the Federal moratorium into State waters in a manner that would not adversely affect the carrying out of the moratorium amendments, thereby obviating the need (and authority) to preempt.

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[2] I have attached an excellent memorandum by John Pedrick analyzing preemption of the redfish fishery within the Gulf of Mexico.

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22 April 1992

Richard B. Lauber, Chairman
North Pacific Fisheries Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Mr. Lauber,

We, at MARCO, have had many inquiries over the last several months regarding lengthening, sponsoning, shelter decking and repowering of existing fishing vessels to increase the vessel capacity and performance, mostly crabber/trawlers. Most owners are delaying such modifications until they know whether or not the modifications will be allowed under the terms of the proposed moratorium.

All such modifications have a positive effect on the safety of the vessels concerned. Lengthening, sponsoning and shelter decking all add reserve buoyancy, which improves stability. All three make the vessels generally better sea boats. This is another way of saying that they are easier on the crew, reducing fatigue and, therefore, reducing the frequency of accidents.

Shelter decking puts the deck crew farther above the water, keeping them dryer and, again, reducing accident potential. Adding a shelter deck increases reserve buoyancy relatively more than any other modification discussed here.

Repowering makes the vessel better able to handle head seas and provides reserve power for greater reliability and greater ability to power out of dangerous situations. We have all heard stories of crab boats which would have been lost due to flooding in the lazarette had the boat not been able to power ahead, lifting the stern dynamically until the space was pumped out.

Most crabber/trawlers built in the 70's and 80's do not meet the new US Coast Guard stability rules. As long as they are not modified in size, they will never need to because of "grandfathering" provisions. The best way to get these vessels into compliance with these rules is to allow them to be modified in length and/or depth and/or beam. If they are so modified, they must, from that time on, comply with the new rules.

I think all would agree that compliant vessels are safer, stability wise, than non-compliant vessels, even with an increase in carrying capacity. But in order for owners to feel an incentive to bring their vessels into compliance, it must be worth their while, economically, to do so.

Our experience, gained through conversations with owners of vessels considering such modifications, has shown that hold capacity must be increased by about fifty percent in order to, over time, pay back the cost of the lengthening and/or sponsoning. Such an increase is usually within USCG guidelines. The maximum increase in capacity would be limited by the USCG rules in any case, for a given increase in hull size.

The new Coast Guard stability regulations were written in reaction to incidents which resulted in loss of life at sea. Basically, the rules are good, but they do nothing for crew members of non-compliant boats.

Allowing existing vessels to be increased in size, with an increase in hold volume (which is reasonable from a safety standpoint and also allows the modification to be economically justified) is a way to increase the general level of safety for fishing vessel crews in the North Pacific.

Very truly yours,

Robert T. McMahon
Vice President

RTMLLAUB

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: April 16, 1992

SUBJECT: Comprehensive Rationalization Program

ACTION REQUIRED

(a) Initiate planning process to identify scope of issues.
(b) Develop work plan, methodology, and schedule.
(c) Presentation on groundfish IFQs.

BACKGROUND

In June 1991 the Council initiated development of a plan to rationalize the GOA and BSAI groundfish and crab fisheries, as part of proposed Amendment 18/23 on inshore/offshore allocation. Planning effort towards the comprehensive management goal dates back to the Future of Groundfish Committee and related Council actions taken in 1987.

Last September the Council focused on the breadth of alternatives that should be considered in a long-term management plan, and stated their intent to use Individual Fishing Quotas (IFQs) as the primary management scheme for resolving allocation problems in the fisheries under its authority. In order to ensure a balanced evaluation of the management alternatives available, a preliminary assessment of all feasible alternatives--including both traditional tools and limited entry--might be undertaken first, followed by a thorough analysis of the IFQ alternative and selected options. This presumes that the preliminary assessment would confirm the Council's judgements that IFQs represent the greatest potential to resolve the interrelated problems involving open access and allocation disputes.

The staff has prepared a background paper and tentative work plan for the comprehensive rationalization program, focusing on the problem, objectives, scope, and components of the proposed analysis (item C-6(a)). A near-term planning effort by the Council may be necessary to establish a focused problem statement and policy objectives to guide the overall effort, and ensure that timely progress is made on this project.

In the April 8 mailing I sent you a copy of the paper by Dan Huppert, Lee Anderson, and Russell Harding on IFQs as they might pertain to the groundfish fisheries. This research was supported by NMFS. Dr. Huppert is available to summarize the report on Wednesday.