

EXECUTIVE DIRECTOR'S REPORT

IPHC Commissioners Welcomed to Council Meeting

The Commissioners and Executive Director of the International Pacific Halibut Commission will meet with the Council on Monday morning, January 16, to discuss long term management alternatives for the halibut fisheries and other topics of mutual interest. The Commission's Executive Director is Dr. Donald McCaughran and the three Canadian Commissioners are:

Dennis Brock (Chair)	DFO, Ottawa, Ontario
Linda Alexander	Parksville, British Columbia
Gary Williamson	Surrey, British Columbia

The three U.S. Commissioners are:

Jim Brooks (Vice Chair)	NMFS, Juneau, Alaska
Senator Dick Eliason	Sitka, Alaska
Dr. George Wade	Seattle, Washington

Council and Commission members will dine together at lunch today. The Commission will hold its annual meeting next week, January 24-27, in Vancouver, British Columbia. The schedule for their meetings is under item B-1(a).

Denby Lloyd Departs for Governor's Office

Denby Lloyd, our staff scientist for Bering Sea and Aleutian groundfish, salmon and halibut, will be departing the staff following this Council meeting. He will be in the Governor's Office in Juneau as his Special Assistant dealing with fisheries, the environment, and natural resources. He is taking Rod Swope's place who has moved into the Deputy Commissioner's slot at the Department of Natural Resources. The Governor's getting a very good man. We will certainly miss his unflappable, tireless contribution to the Council decision process. I wish him well in his new position.

Security Clearances

Coast Guard representatives will be here on Tuesday at 9 a.m. to fingerprint those members of the Council, staff, AP and SSC needing security clearances or updates.

Council Chairman's Meeting

The next Council Chairmen's meeting will be January 27-28 in Charleston, South Carolina. The main purpose of the meeting is to finalize positions on proposed amendments to the Magnuson Act which we will take up under agenda item C-3 tomorrow at noon. An agenda for the Chairmen's meeting is under B-1(b). John Peterson, John Winther and I will be attending.

Marine Mammal Act Implementation

Dr. Steve Zimmerman, Chief, Office of Marine Mammals and Endangered Species at NMFS Region in Juneau, will be with us this afternoon to give a brief overview on how the recent amendments to the Marine Mammal Protection Act will be implemented in 1989 and beyond. A meeting with industry is scheduled in the Hilton Hotel this Friday for a similar presentation. An agenda for that meeting and a classification listing for all Pacific fisheries are under B-1(c).

On the International Front

Fisheries Ambassador Ed Wolfe will be with us today and at our executive session. He will chair the first meeting of the North Pacific and Bering Sea Fisheries Advisory Body to discuss U.S.-U.S.S.R. relations at 7:00 p.m. tonight. B-1(d) has the following items:

1. An announcement of that meeting and the Advisory Body membership.
2. State Department telegram on illegal salmon being sold in Taiwan.
3. A report on U.S.-Japan-Canada consultations on the Japanese mothership and landbased salmon fisheries.
4. The President's Proclamation extending the U.S. Territorial Sea to 12 nautical miles.

I also have limited copies of a draft memorandum on straddling stocks written by Edward Miles and William Burke at the Institute of Marine Studies in Seattle. I'll pass the study out at the Council meeting to Council members and those that are interested.

Proposed Rule to Revise National Standard Guidelines 1 and 2

NMFS has published new guidelines for National Standards 1 and 2 dealing with optimum yield and scientific information [B-1(e)]. The language has been reviewed several times this past year by the Council SSCs and it looks as though NMFS has accepted most of our suggestions. Our comments are due by February 28. I've passed it to the SSC for their review.

Technical Data Meeting Scheduled for Wednesday

A technical team of agency representatives will meet shortly after the Council adjourns on Wednesday to start trying to get a handle on domestic observer needs. This effort results directly from the Council's instructions in December to move forward in laying out an observer program. The technical team will summarize the current programs and evaluate how to go about setting up a credible observer effort. Additional materials will be under agenda item C-7.

COMMISSIONERS:

LINDA ALEXANDER
PARKSVILLE, B.C.
DENNIS N. BROCK
OTTAWA, ONT.
RICHARD ELIASON
SITKA, AK
ROBERT W. MC VEY
JUNEAU, AK
GEORGE A. WADE
SEATTLE, WA
GARY T. WILLIAMSON
SURREY, B.C.

AGENDA B-1(a) DIRECTOR
DONALD A. MC CAUGHAN

INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA
AND THE UNITED STATES OF AMERICA

P.O. BOX 95009
SEATTLE, WA 98145-2009

TELEPHONE
(206) 634-1838

FAX:
(206) 632-2983

IPHC ANNUAL MEETING

The Sixty-Fifth Annual Meeting of the International Pacific Halibut Commission will be held in Vancouver, British Columbia, Tuesday January 24 through Friday January 27, 1989. The sessions will be held at the Hotel Le Meridien, 845 Burrard Street, Vancouver, British Columbia.

Schedule

Monday, January 23 from 9:00 a.m. to 5:00 p.m. fishermen and vessel owners will meet as a Conference Board to discuss procedures for accreditation and representation on the Conference Board.

Tuesday, January 24 from 8:30 a.m. to 12:00 noon fishermen and vessel owners will meet as a Conference Board and the Commission will meet in private session. From 1:30 p.m. to 5:30 p.m. the Commission will meet with fishermen, vessel owners, processors, and all other interested parties. At this session the scientific staff will present the results of recent research, summarize results of the 1988 halibut season, and present its regulatory proposals for the 1989 halibut season.

Wednesday, January 25 from 8:30 a.m. to 5:00 p.m. the Commission will meet privately in an administrative session. Fishermen and vessel owners will meet as a Conference Board developing recommendations for the 1989 fishery.

Thursday, January 26 from 8:30 a.m. to 12:00 noon the Commission will meet privately in an administrative session. From 1:30 p.m. to 5:00 p.m. the Commission will meet with the Conference Board and Processors.

Friday, January 27 from 8:30 a.m. to 12:00 noon the Commission will meet with the Advisory Group. The Commission will make decisions regarding the 1989 fishery at this session.

The Commission will distribute a brief summary of its stock assessment information and staff recommendations to fisheries organizations and agencies by mid-December 1988. Fishery organizations and agencies are requested to submit their recommendations for regulatory measures to the Commission by December 15, 1988. A summary of all recommendations, including those of the Commission's scientific staff, will be distributed in early January 1989.

Special room rates of \$88.00 (Canadian) single or double are available for persons identified as attending this meeting. Request with first night deposit must be made as soon as possible. Write: Le Meridien, 845 Burrard Street, Vancouver, B.C. V6Z 2K6. Telephone: (604) 682-5511.

Dr. Donald A. McCaughan, Director
December 2, 1988
Encls.

TENTATIVE AGENDA

**COUNCIL CHAIRMEN'S MEETING
THE OMNI HOTEL AT CHARLESTON PLACE
130 MARKET STREET, CHARLESTON, SOUTH CAROLINA
TELEPHONE (803) 722-4900
JANUARY 27-28, 1989**

Friday, January 27, 1989

9:00 A.M. - 9:15 A.M.

Welcome and Introductions - Elaine Knight

9:15 A.M. - 12:00 NOON

MFCMA Amendments Overview - Bob Mahood

Tuna Exemption {Sec. 102} - David Borden

1. Presentation of Dr. Orbach's Overview Paper
2. Presentation of Draft Position Paper
3. Discussion
4. Develop Council Chairmen's Position

12:00 NOON - 1:30 P.M.

Lunch.

1:30 P.M. - 4:00 P.M.

MFCMA Amendments Continued

Obligatory Council Seats {Sec. 302 (a)} - Wayne Swingle

Regulatory Amendments {Sec. 304 (a)(1)} - Wayne Swingle

Establishment of Fees {Sec. 304 (d)} - Clarence Pautzke

Joint Voting Procedure {Sec. 304 (f)(1)} - Bob Mahood

Foreign Fishing {Sec. 201(d)} - John Bryson

Other Changes Recommended by NEFMC to Sections 2, 301, 302, 303, 304, 308, 310 and 311 - David Borden

4:00 P.M. - 5:00 P.M.

NOAA Fisheries Proposed MFCMA Amendments - Jim Brennan

5:00 P.M. - 5:30 P.M.

Proposed Congressional MFCMA Amendments

Saturday, January 28, 1989

8:30 A.M. - 10:30 A.M.

MFCMA Reauthorization Issues - Bob Mahood

1. Discuss Washington Liaison and Coordination of Interactions with Congress
2. Council and NMFS Funding
3. Other

10:30 A.M. - 12:00 NOON

Other Council Issues

1. Paperwork Reduction Act - Bob Mahood
2. Law Enforcement - David Borden

12:00 NOON - 1:30 P.M.

Lunch

1:30 P.M. - 2:30 P.M.

Other Council Issues cont.

3. Status of Proposed 600 - 605 Regulations/Guidelines - Bob Martin
4. 1989/90 Budgets - Councils and NMFS

2:30 P.M. - 4:30 P.M.

NOAA Fisheries Issues - Jim Brennan

1. Coastal Oceans Initiative
2. The EEZ Revenue Raising Act
3. Interjurisdictional Fisheries
4. Marine Mammal Protection Act
5. NOAA Research Vessel Retirement
6. Fisheries Inspection

4:30 P.M. - 5:30 P.M.

Other Business

Schedule and Agenda for Next Meeting

Adjourn

ALASKA FISHERIES
AND THE
MARINE MAMMAL PROTECTION ACT
AMENDMENT OF 1988

Anchorage, Alaska
Friday, January 20, 1989
Anchorage Hilton Ballroom
9:00 AM - 4:00 PM

A new amendment to the Marine Mammal Protection Act, signed into law by the President on November 23, 1988, significantly changes the rights and responsibilities of fishermen regarding incidental take of marine mammals.

The purpose of this day-long session will be:

1. To inform the Alaska commercial fishing industry of the key provisions of this new law:
 - fishery category designations
 - seal lion/fur seal quotas
 - observer program requirements
 - registration & reporting requirements
 - penalties for non-compliance
2. To give the fishing industry an opportunity to provide input to government agencies concerned with implementing the new Marine Mammal Protection Act.

For more information, contact:

Rick Steiner
University of Alaska
Marine Advisory Program
Box 830
Cordova, AK 99574
Phone: (907) 424-3446

This is the industry's chance to be heard. We strongly encourage your participation.

Co-sponsored by:

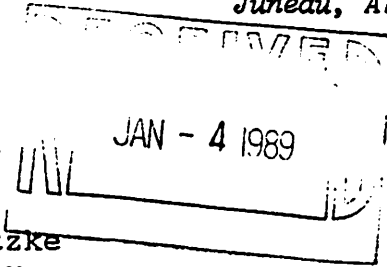
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service

P.O. Box 21688
 Juneau, Alaska 99802-1688



INITIALS	ROUTE TO	LOCATION
	Secy/Dir.	
	Asst. Dir.	
	Exec. Sec.	
	Staff Asst. 1	
	Staff Asst. 2	
	Staff Asst. 3	
	Economist	
	Sec. Mgr.	
	Sec./Typist	

December 30, 1988

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

Dear Clarence:

Enclosed is the most recent draft of our proposed list of U. S. Commercial Fisheries as required by the recently signed amendments to the Marine Mammal Protection Act. In preparing this draft we have used input received from the Council as well as from the State of Alaska and the Alaska Regional Office of the Fish and Wildlife Service.

We would greatly appreciate your views on this list, especially with regard to whether we have correctly identified the universe of fisheries, and whether we have correctly categorized the fisheries. Any input received before January 6, 1989 will, as much as possible, be used in compiling the proposed list which we are planning to publish in the Federal Register on January 23. Input received after January 6, 1989, will be used in compiling our final list which will be published in the Federal Register on March 23, 1989.

As you and I recently discussed, I am hoping to meet with the Council on January 16th in Anchorage. At that time I will try to appraise the council of the major requirements of the MMPA amendments.

Thanks for your help in this matter.

Sincerely,


 Steven T. Zimmerman Ph.D.
 Chief, Office of Marine Mammals and Endangered Species



December 29, 1988

Page 1

1 Table 1 - Category 1

2 U.S. Commercial Fisheries in the Pacific Ocean
3

4	Fishery	Estimated	Species
5		Number of	Involved
6		Vessels	
7			
8	<u>GILLNET FISHERIES</u>		
9	<u>SALMON GILLNETS</u>		
10	Prince William Sound	525	2, 6, 13, 14, 15
11	drift gillnet		
12	Prince William Sound	17	2, 6, 13, 15
13	set gillnet		
14	Alaska Peninsula	164	2, 6, 15, 30
15	drift gillnet		
16	Columbia River, Willipa	883	2, 3, 6, 30
17	Bay, Grays Harbor		
18	gillnet		
19	WA Marine set gillnet	20	6, 15, 30
20	in Areas 4, 4A, and 4B		
21	<u>GILLNETS OTHER FINFISH</u>		
22	Thresher shark/swordfish	309	2, 3, 6, 11, 14,
23	drift net WA, OR, CA		15, 16, 17, 18,
24			22, 23, 29, 30,
25			32, 33
26	California halibut and	788	2, 6, 13, 15
27	angel shark		
28			16, 30
29	<u>LONG LINE/SET LINE FISHERIES</u>		
30	Prince William Sound black	25	25, 28
31	cod		
32	Southern Bering Sea black	66	25
33	cod		
34	<u>TRAWL FISHERIES</u>		
35	Bering Sea/Gulf of Alaska	313	1, 2, 5, 6, 7, 8
36	groundfish		9, 10, 11, 13,
37			14, 15, 25, 32

December 29, 1988

Page 2

38

39 Category 1 - continued
40

41 42 43 44	Fishery	Estimated Number of Vessels	Species Involved
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45 PURSE SEINE FISHERIES

46 47 48	South Unimak (False Pass and Unimak Pass) salmon purse seine	102	1,2,13
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December 29, 1988

Page 3

49 Table 2 - Category 2
 50 U.S. Commercial Fisheries in the Pacific Ocean
 51

52	Fishery	Estimated	Species
53		Number of	Involved
54		Vessels	
55			
56	<u>GILLNET FISHERIES</u>		
57	<u>SALMON GILLNETS</u>		
58	Southeast Alaska	460	2,6,13,14,
59	drift gillnet		15,25,30,31
60	Yakutat set gillnet	154	2,6,13,14,30
61			
62	Cook Inlet set and	1,213	2,6,13,15,26
63	drift gillnet		
64	Kodiak set gillnet	174	2,6,13,15
65	Alaska Peninsula	100	2,6,30
66	set gillnet		
67	Bristol Bay set and	2,692	2,6,26,30
68	drift gillnet		
69	Puget Sound, straits	1,188	1,2,3,6,14,
70	gillnet		15,25
71			
72	Washington	?	2,3,6
73	coastal river gillnet		
74	<u>GILLNETS OTHER FINFISH</u>		
75	AK gillnets		
76	other finfish	6	unknown
77	CA gillnets for	144	3,6,13,27,30
78	white sea bass		
79	yellow tail		
80	soupin shark		
81	white croaker		
82	bonito/flying fish		
83	<u>TROLL FISHERIES</u>		
84	AK salmon	1,607	1,2,28,31
85	WA, OR, CA salmon	4,727	2,3,6

December 29, 1988

Page 4

86 Category 2 - continued
87

88 89 90 91	Fishery	Estimated Number of Vessels	Species Involved
92 93 94	<u>ROUND HAUL (seine and lampara), BEACH SEINE, AND THROW NET FISHERIES</u>		
95 96	AK salmon beach or purse seine	1,199	2,13,15
97	CA herring purse seine	43	3,6
98 99	CA anchovy, mackerel, tuna purse seine	330	3,27
100	CA sardine purse seine	345	3,27
101	CA squid purse seine	40	3,22,23,27
102	<u>LONG LINE/SET LINE FISHERIES</u>		
103	AK groundfish	1,607	2,31
104	HI Ahi flagline	18	21,24
105	<u>TRAWL FISHERIES</u>		
106 107 108	WA, OR, CA Ocean Pacific Whiting	60	1,2,3,6,14 17,27
109 110	<u>POT, RING NET, AND TRAP FISHERIES</u>		
111	AK Metlakatla fish trap	4	2,6
112	<u>HANDLING AND JIG FISHERIES</u>		
113	HI deepsea handline	646	20,21
114	HI ikashibi	132	20
115	HI paluahi	36	20,21
116	<u>DIP NET FISHERIES</u>		
117	CA squid	10	2,23

December 29, 1988

Page 5

118 Category 2 - continued
119

120 Fishery	Estimated	Species
121	Number of	Involved
122	Vessels	
123		

124 DIVE, HAND/MECHANICAL
125 COLLECTION FISHERIES

126 OR sea urchin 92 3

127 AQUACULTURE, RANCH PONDS
128

129 OR salmon net pens 14 4,6

130 salmon ranch 2,3,6

December 29, 1988

Page 6

131 Table 3 - Category 3

132 U.S. Commercial Fisheries in the Pacific Ocean

133

134	Fishery	Estimated	Species
135		Number of	Involved
136		Vessels	
137			
138	<u>GILLNET FISHERIES</u>		
139	<u>SALMON GILLNETS</u>		
140	Northern Bering Sea	1,808	15
141	gillnets		
142	<u>GILLNETS OTHER FINFISH</u>		
143	AK, WA, OR, CA	2,068	2,6
144	gillnets for		
145	herring, smelt, shad,		
146	sturgeon, bottom		
147	fish, mullet,		
148	perch, rockfish		
149	HI gillnet	96	None Documented
150	HI lobster net	2	"
151	HI crab net	4	"
152	<u>TROLL FISHERIES</u>		
153	Other troll fisheries	1,344	6
154	AK North Pacific halibut		
155	AK bottom fish		
156	WA, OR, CA Albacore,		
157	groundfish, bottom fish		
158	CA halibut		
159	HI trolling rod and reel	1,085	None Documented
160	<u>ROUND HAUL (seine and</u>		
161	<u>lampara), BEACH SEINE, AND</u>		
162	<u>THROW NET FISHERIES</u>		
163			
164	WA salmon purse seine	343	6,14
165	WA salmon beach seine		
166	WA salmon reef net	50	6

December 29, 1988

Page 7

167 Category 3 - continued
168

169 170 171 172	Fishery	Estimated Number of Vessels	Species Involved
173 174	AK herring beach or purse seine	550	None Documented
175	WA, OR herring purse seine	34	3,6
176	AK other finfish	9	
177	WA bottomfish beach seine	77	3,4,6,17
178	WA, OR smelt purse seine		
179	OR squid lampara	13	None Documented
180	HI purse seine	21	"
181			
182	HI opelu net	5	"
183	HI throw net, cast net	24	"
184	HI akule net, bag net	1	"
185	HI net unclassified	30	"
186	<u>LONG LINE/SET LINE FISHERIES</u>		
187			
188	AK, WA, OR halibut	7,400	2,4,25,28
189 190	WA, OR, CA groundfish, bottomfish	365	3,4,6,17
191	CA shark/bonito	10	3
192	HI Kaka line, setline	2	None Documented
193	HI shark liver	1	"
194	<u>TRAWL FISHERIES</u>		
195	AK, WA, OR, CA shrimp	243	"
196	WA, OR, CA groundfish	585	2,3,6,17,33
197	CA California halibut	25	3
198 199	WA Puget Sound Pacific Whiting	12	3

December 29, 1988

Page 8

200 Category 3 - continued

201	Fishery	Estimated Number of Vessels	Species Involved
206	OR squid	26	None Documented
207	CA sea cucumber	6	"
208	AK Food/bait herring	2	"
209	<u>POT, RING NET, AND TRAP</u>		
210	<u>FISHERIES</u>		
211	AK shellfish pot fishery	1,533	13
212	AK finfish pot fishery	226	None Documented
213	WA, OR, CA sablefish	176	4,6
214	WA, OR, CA dungeness crab	969	4,6,30,32
215	WA, OR non-crab shell fish	182	None Documented
216	CA lobster, prawns, shrimp	608	"
217	rock crab, fish		
218	OR, CA hagfish	7	"
219	HI crab trap	21	"
220			
221	HI fish trap	3	"
222	HI lobster	41	"
223	HI shrimp trap	6	"
224	HI other trap	7	"
225	<u>HANDLINE AND JIG FISHERIES</u>		
226	AK North Pacific Halibut	69	"
227	AK other finfish	33	"
228	WA groundfish, bottomfish	646	4,6
229	HI aku boat pole and line	37	None Documented
230	HI inshore handline	97	20

December 29, 1988

Page 9

231 Category 3 - continued

232

233

234

235

236

237

Fishery	Estimated Number of Vessels	Species Involved
<u>DIP NET FISHERIES</u>		

238	WA, OR smelt, herring	84	None Documented
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239 HARPOON FISHERY

240	CA swordfish	228	"
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241 POUND FISHERIES

242	AK Prince William Sound		"
243	herring on kelp	81	"

244	AK Southeast herring		
245	food/bait	1	"

246 DREDGE FISHERY

47	Coastwide scallop	100	"
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248 DIVE, HAND/MECHANICAL249 COLLECTION FISHERIES

250	AK abalone	23	"
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251	AK dungeness crab	3	"
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252	AK herring spawn on kelp	172	"
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253	AK urchin and other	19	"
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254	fish/shellfish		
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255	AK clam hand shovel	64	"
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256	AK clam mechanical/	3	"
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257	hydraulic fisheries		
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258	WA Geoduk	37	4
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259	WA other clams	377	6
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260	CA abalone	129	None Documented
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261	CA sea urchin	800	"
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262	HI knife (opihī)	7	"
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December 29, 1988

Page 10

263 Category 3 - continued
264

265 266 267 268	Fishery	Estimated Number of Vessels	Species Involved
269	HI squidding, spear	76	"
270	HI lobster diving	24	"
271	HI coral diving	8	"
272	HI handpick	93	"
273	HI coral other	2	"
274	HI aquarium	87	"
275	<u>AQUACULTURE, RANCH, PONDS</u>		
276	WA Oyster farm	185	"
277	WA, CA kelp		"
278	HI fish pond	22	"
279	<u>COMMERCIAL PASSENGER FISHING</u>		
280	<u>VESSEL (CHARTER BOAT)</u>		
281	<u>FISHERIES</u>		
282	WA, OR salmon	498	3,6
283	WA non-salmon	34	3,6
284	CA all species	500	3,6
285	<u>OTHER</u>		
286	HI	22	None Documented
287			
288	Guam all fisheries		"
289	Commonwealth of the		"
290	Northern Mariana Islands all fisheries		"
291	American Samoa all fisheries		"

December 29, 1988

Page 14

397 Species Codes for Marine Mammal Reported to Have Taken in
 398 Commercial Fisheries off of Alaska, Washington, Oregon,
 399 California, Hawaii, and Eastern U.S.

400 Species

401	<u>codes</u>	<u>Common Name</u>	<u>Scientific Name</u>
402	1.	Northern fur seal	<u>Callorhinus ursinus</u>
403	2.	Northern sea lion	<u>Eumatopias jubatus</u>
404	3.	California sea lion	<u>Zalophus californianus</u>
405	4.	Unidentified sea lion	
406	5.	Walrus	<u>Odobenus rosmarus</u>
407	6.	Harbor seal	<u>Phoca vitulina</u>
408	7.	Spotted seal	<u>Phoca largq</u>
409	8.	Ringed seal	<u>Phoca hispida</u>
410	9.	Ribbon seal	<u>Phoca fasciata</u>
411	10.	Bearded seal	<u>Erignathus barbatus</u>
412	11.	Northern elephant seal	<u>Mirounga angustirostris</u>
413	12.	Hawaiian monk seal	<u>Monachus schauinslandi</u>
414	13.	Sea otter	<u>Enhydra lutris</u>
415	14.	Dall's porpoise	<u>Phocoenoides dalli</u>
416	15.	Harbor porpoise	<u>Phocoena phocoena</u>
417	16.	Common dolphin	<u>Delphinus delphis</u>
418	17.	Pacific whitesided dolphin	<u>Lagenorhynchus obliquidens</u>
19	18.	Northern right whale dolphin	<u>Lissodelphis borealis</u>
20	19.	Striped dolphin	<u>Stenella coeruleoalba</u>
421	20.	Bottlenose dolphin	<u>Tursiops truncatus</u>
422	21.	Rough toothed dolphin	<u>Steno bredanensis</u>
423	22.	Risso's dolphin	<u>Grampus griseus</u>
424	23.	Pilot whale	<u>Globicephala macrorhynchus</u>
425	24.	False killer whale	<u>Pseudorca crassidens</u>
426	25.	Killer whale	<u>Orcinus orca</u>
427	26.	Beluga whale	<u>Delphinapterus leucas</u>
428	27.	Unidentified small cetacean	
429	28.	Sperm whale	<u>Physeter catodon</u>
430	29.	Beaked whales	<u>Ziphiidea</u>
431	30.	Gray whale	<u>Eschrichtius robustus</u>
432	31.	Humpback whale	<u>Megaptera novaeangliae</u>
433	32.	Minke whale	<u>Balaenoptera acutorostrata</u>
434	33.	Unidentified large cetacean	
435	34.	Atlantic whitesided dolphin	<u>Lagenorhynchus acutus</u>
436	35.	Gray seal	<u>Halichoerus grypus</u>
437	36.	Spotted dolphin	<u>Stenella plagiodon</u>
438	37.	Saddleback dolphin	<u>Delphinus delphis</u>



United States Department of State

*Assistant Secretary of State for Oceans and
International Environmental and Scientific Affairs*

Washington, D.C. 20520

January 9, 1989

Mr. Rick Lauber, Executive Director
Pacific Seafood Processors Association
Post Office Box 1625
Juneau, Alaska 99802

Dear Mr. Lauber:

On December 13, pursuant to Section 5 of the implementing legislation for the U.S.-Soviet Comprehensive Fisheries Agreement (Public Law 100-629, November 7, 1988), Governor Cowper provided to the Secretary of State a list of ten nominees from the State of Alaska for the North Pacific and Bering Sea Fisheries Advisory Body.

The Secretary has delegated to me the authority for appointing the five members of the Advisory Body from the list of ten nominees submitted by Governor Cowper. Pursuant to this authorization and in light of your extensive knowledge of the fisheries of the North Pacific and Bering Sea, by this letter I appoint you a member of the Advisory Body. Please provide me with a letter of acceptance and a completed security clearance form (enclosed) as soon as possible.

We plan to hold the first meeting of the Advisory Body, which will be chaired by Ambassador Ed Wolfe, at the Sheraton Hotel in Anchorage, Alaska, at 7:00 p.m. on Monday, January 16, 1989. As you are aware, the legislation provides that members of the Advisory Body shall receive no pay by reason of their service on this committee.

I hope you will be able to attend our first meeting as we begin preparations for the first US/USSR Intergovernmental Consultative Committee Meeting scheduled for February 6-7, 1989, in Washington, D.C.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frederick M. Bernthal".

Frederick M. Bernthal

Enclosure:

As stated.

01/08/03 10:00 202 017 0170 0207 AREA 2000

Letters of Invitation - North Pacific and Bering Sea
Fisheries Advisory Body

Alaska

Mr. Henry Mitchell, Executive Director
Bering Sea Fishermen's Association

Mr. Alvin Burch
Alaska Draggers' Association

Ms. Kate Graham, Executive Director
United Fishermen of Alaska

Mr. Earl E. Krygier, Executive Director
Alaska Trawlers Association
ollers

Mr. Rick Lauber, Executive Director
Pacific Seafood Processors Association

Washington

Mr. Terry Baker
Arctic Alaska Fisheries Corporation

Mr. Hugh Reilly
Westward Trawlers

Mr. John Gilbert
Wards Cove Packing Company

Mr. Kevin Kaldestad
Kaldestad Fisheries

Mr. Robert Morgan
Oceantrawl, Inc.

Legislators

Senator John Binkley, State of Alaska

Representative Sam Cotten, State of Alaska

UNCLASSIFIED
Department of State

INCOMING
TELEGRAM

PAGE 01 AIT TA 00054 050739Z

0953

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0953

ACTION QES-09

RECURRENCE OF ILLEGAL FISHING OF SALMON ON THE HIGH SEAS.

INFO LOG-00 ADS-00 EB-00 COME-00 L-03 AMAD-01 EAP-00
AIT-02 /815 W

WE WOULD APPRECIATE IT IF YOU WOULD BRING THIS MATTER TO THE ATTENTION OF THE APPROPRIATE AUTHORITIES. WE LOOK FORWARD TO YOUR COOPERATION IN RESOLVING THE PROBLEM OF ILLEGAL SALMON HARVESTING.

-----020003 050742Z /24 38

P 090734Z JAN 89
FM AIT TAIPEI
TO AIT WASHDC PRIORITY

SINCERELY,
SIGNED
JOAN M. PLAISTED
ACTING DEPUTY DIRECTOR
DEAN

UNCLAS TAIPEI 00054

AIT/W PASS STATE AND USDOC

STATE FOR QES/OFA FOR LARRY SNEAD

USDOC FOR OIF FOR HENRY BEASLEY

E.O. 12356: N/A
TAGS: EFIS, TV
SUBJECT: AIT LETTER TO CCNAA REGARDING SALMON

*American Institute in Taiwan
(our U.S. Representative)*

REF: 88 TAIPEI 8116

*Coordinating Council on North America
Affairs
(Taiwan Representation in Wash DC.)*

1. PARAGRAPH THREE CONTAINS THE TEXT OF A LETTER AIT SENT TO CCNAA ON DECEMBER 30, 1988 CALLING CCNAA'S ATTENTION TO AN ADVERTISEMENT THAT APPEARED IN THE PRESS FOR ROUND SALMON. AIT WROTE THE LETTER AFTER A WELL-KNOWN AMERICAN IMPORTER OF FISH BROUGHT THE ADVERTISEMENT TO OUR ATTENTION AND RAISED THE LIKELIHOOD THAT THE SALMON HAD BEEN CAUGHT ILLEGALLY.

2. AIT WOULD APPRECIATE DEPARTMENT'S CONFIRMATION OF DATES FOR UPCOMING FISHERIES TALKS (REFTEL, PARA 3).

3. BEGIN TEXT OF AIT LETTER TO CCNAA:

DEAR MR. WANG:

I WOULD LIKE TO CALL YOUR ATTENTION TO AN ADVERTISEMENT THAT APPEARED ON THE FRONT PAGE OF THE DECEMBER 22 ISSUE OF THE ENGLISH-LANGUAGE CHINA POST. ACCORDING TO THE ADVERTISEMENT, A RETAIL SUPERMARKET WAS OFFERING "FRESH FROZEN WHOLE SALMON IN ROUND" FROM NTD170 PER KG. SOURCES FAMILIAR WITH THE MARKET FOR SALMON IN TAIWAN HAVE TOLD AIT THAT IT IS MOST UNUSUAL TO SELL "ROUND" SALMON; (I.E. WHOLE SALMON COMPLETE WITH VISCERA). BONAFIDE EXPORTERS FROM SALMON PRODUCING COUNTRIES (EG. SCOTLAND, NORWAY, AND THE U.S.) DO NOT SHIP SALMON IN THE ROUND. MARKETING OF THIS HIGH-VALUE FISH IN THE ROUND SUGGESTS THAT IT WAS FROZEN IMMEDIATELY AFTER CATCHING AND QUICKLY BROUGHT TO MARKET IN ORDER TO ESCAPE DETECTION.

WE ALSO UNDERSTAND THAT THE FOB COST OF SALMON PER POUND RANGES FROM USD2.50 TO USDS.50, DEPENDING ON QUALITY AND SPECIES. WE ARE TOLD THAT THE COST OF SALMON DELIVERED TO THE IMPORTER (CIF, INCLUDING HARBOR TAXES, DUTY, ETC.) WOULD APPROXIMATE NTD240 PER KILOGRAM AT A MINIMUM. THUS, WE FIND THE ADVERTISED RETAIL COST OF NTD170 UNREALISTICALLY LOW

THESE FACTS SUGGEST THAT THE SALMON ADVERTISED MAY HAVE BEEN CAUGHT ILLEGALLY.

IN A LETTER TO MR. DAVID LAUK DATED NOVEMBER 21, 1988, CCNAA'S WASHINGTON REPRESENTATIVE, MR. DING MOU-SHIN, OUTLINED STEPS YOUR AUTHORITIES HAVE TAKEN IN AN ATTEMPT TO RESOLVE THE PROBLEM OF ILLEGAL FISHING. DESPITE THOSE MEASURES, IT IS CLEAR THAT ADDITIONAL STRONG AND EFFECTIVE STEPS ARE NECESSARY TO PREVENT THE CONTINUED

ACTION	ROUTE TO	INITIAL
	Exec. Dir.	
	Deputy Dir.	
	Admin. Off.	
	Exec. Sec.	
	Staff Asst. 1	
	Staff Asst. 2	
	Staff Asst. 3	
	Economist	
	Sec./skn.	
	Sec./Typist	

*U.S. representative in
Wash. who is in
charge of
Taiwan Affairs.*



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Silver Spring, Maryland 20910

DEC 23 1988

DEC 19 1988

ROUTE TO	INITIAL
Exec. Dir.	
Deputy Dir.	DEC 22 1988
Admin. Off.	
Exec. Sec.	WA AW
Asst. Dir.	BJ JC
Asst. Dir.	NJ
	RACE
	REFM
	ABL
	NPFMC

MEMORANDUM FOR: James W. Brennan
Assistant Administrator for Fisheries
sgd/Henry R. Beasley

FROM: Henry R. Beasley
Director, Office of International Affairs

SUBJECT: U.S.-Japan-Canada Consultations Regarding the
Proposed Conversion of the Mothership Salmon
Fishery to Landbased-type Operations--
INFORMATION MEMORANDUM

SUMMARY

Representatives from Japan, Canada, and the United States met in Washington, D.C., December 12-14 to consult on issues associated with a Japanese proposal to convert the mothership salmon fishery to landbased-type operations. The U.S. delegation was led by Ambassador Edward Wolfe, Department of State (DOS), and included NOAA Fisheries, U.S. Coast Guard and other DOS representatives, as well as State of Alaska representatives. The Japanese delegation was led by Councillor Kazuo Shima of the Fisheries Agency of Japan, while the Canadian delegation was led by Dr. John Davis, Department of Fisheries and Oceans. The three sides reviewed their respective positions, were unable to reach agreement, and decided to meet again in early 1989 to continue their discussions.

BACKGROUND

At the 35th Annual Meeting of the INPFC, held in November 1988, the three national sections (Japan, Canada, and the United States) considered a wide range of issues including the operations of the Japanese mothership salmon fishery under the Annex to the INPFC treaty, the Japanese high seas squid driftnet fishery, and the illegal harvest of salmon by non-INPFC member countries.

The primary issue considered was the prohibition on Japanese mothership salmon fishing operations in the U.S. EEZ as a result of the Kokechik decision. The Japanese expressed concern over the implications of this matter for the continued viability of the Commission and urged U.S. action to remedy the situation. In the meantime, Japan proposed that Canada and the United States agree to expand the areas in which the traditional mothership

cc: F/CU(2) F/IA F/IAL GCF GCEL F/EN F/AKR F/NWR F/AKC
F/IAL:GeoHerrfurth:427-2276:mdb:12/15/88



salmon fishery operates and also to allow this fishery to convert to landbased-type operations for economic reasons. Canada and Japan issued a joint statement expressing grave concern over the inability of the United States to provide for the operation of the Japanese mothership fishery in the U.S. EEZ (attachment 1). This joint statement also urged the United States to take all necessary remedial actions at the earliest possible time before the beginning of the 1989 fishing season.

Canada joined the United States in not accepting the Japanese proposal to expand salmon driftnet fishing areas, but agreed in principle with the Japanese proposal to convert its mothership fishery to a landbased-type operation. The U.S. Section to the INPFC, however, offered a counterproposal which included conditions relating to fishing operations and areas, inspection, data collection, and an adequate scientific monitoring and enforcement program for the Japanese squid driftnet fishery (attachment 2). Japan's preliminary comments on the counterproposal detailed difficulties in accepting the conditions included therein. The Japanese made a strong request that the United States reconsider its position regarding Japan's original proposal. The INPFC parties agreed to meet again to continue consultations on the issue.

DECEMBER 12-13 TRILATERAL CONSULTATIONS

The three sides met December 12-14 in Washington, D.C., to review further comments made by Japan (attachment 3) and Canada to the U.S. counterproposal. This meeting also provided an opportunity for the United States and Japan to clarify their respective positions. The United States and Canada emphasized the need for adequate monitoring of Japan's high seas squid driftnet fleet's activities, noting that this would be in the best interest of all concerned parties. The Japanese side noted that it shared U.S. and Canadian concerns about possible unauthorized directed high seas salmon activities by third parties. Japan restated its willingness to have U.S. observers participate in a pilot observer program on Japanese squid vessels, if Japan's salmon fishermen regained access under INPFC auspices to the U.S. EEZ. The Japanese side emphasized, however, that the mothership conversion issue should be addressed without linkage to other issues. The U.S. side maintained that the issues associated with both salmon and squid driftnet fisheries need to be dealt with simultaneously to facilitate reaching agreements in a timely manner.

The three sides have tentatively agreed to meet again in British Columbia, Canada, sometime in early 1989.

Japanese Mothership Salmon Fishery

Canada-Japan Joint Statement

November 4, 1988

Japan proposed and Canada supported the following statement:

Canada and Japan,

NOTING that the Commission has greatly contributed to the rational management and conservation of the North American origin salmon in the North Pacific Ocean since 1952,

RECOGNIZING the necessity to maintain and further promote collaborative relations between the Contracting Parties under the INPFC regime,

CONSIDERING that the inability of the United States to allow operation of the Japanese salmon fishery within the U.S. 200-mile zone has created a serious crisis of the INPFC which could threaten its existence,

EXPRESS their grave concern over the inability of the United States, notwithstanding the provisions of the Annex of the Convention, to provide for the operation of the Japanese mothership fishery in the U.S. 200-mile zone,

URGE the United States to take all the necessary remedial actions at the earliest possible time before the beginning of the 1989 fishing season.

Attachment 2

U.S. Response to Japanese Proposal to Convert the
Mothership Fishery to a Landbased-type Fishery
Operation Outside the U.S. EEZ.

The United States would be willing to consider the conversion of the mothership fishery operations to a landbased type of operation if the following conditions are met:

1. The following conditions must be implemented in a non-traditional landbased fishery:
 - a. The catcher boats currently attached to the motherships will be conducting salmon fishing operations without motherships in a manner similar to that of the traditional landbased fishery. The number of vessels in this converted fishery will be no more than 86. Fishing operations will be limited to areas 4 and 2a where fishing will begin on June 1 and continue for up through July 15. All current INPFC fishing area and fishing effort regulations will apply to the converted fishing operations.
 - b. Catcher boats must fish as an organized unit fleet with a fleet commander designating fishing positions for each of the catcher boats. One catcher boat per each fleet will be designated as the commander vessel which the fleet commander will be on board.
 - c. Such data as location of operation, catch, fishing effort, etc., will be reported to the designated commander vessel.
 - d. No operations for supply or transfer of fish will be permitted on the sea for this fishery.
 - e. The following steps must be taken to ensure catch validation and that no offloading at sea occurs from the landbased catcher boats.
 - i) A U.S. inspector must be on board each Fisheries Agency of Japan (FAJ) inspection vessel to monitor the salmon catches and fish holds and inspect logbooks on a systematic basis.
 - ii) Fish holds must be sealed by the Inspectors when the quota is met or the hold is full; the seal must be inspected at the landing port by FAJ inspectors. U.S. inspectors will be given access to observe inspections by the FAJ.

iii) Twelve U.S. observers will be randomly placed on board catcher boats during the entire fishing season.

f. Biological samples from non-traditional landbased fishing operations must be taken at levels achieved in 1987 for the traditional mothership fishery operations.

g. Japanese catcher boats in the non-traditional landbased fishery will be required to carry satellite communication devices which will allow the continuous monitoring of location of each vessel. Failure to have an operating unit on board will require the vessel to return to port.

h. Catch and fishing effort data for the fishery will be reported by 1 degree by 1 degree statistical block and 10-day period and species in numbers of fish and weight in kilograms. Biological samples and catch-effort data will be made available to the United States in a timely manner but no later than within six months from termination of the fishery.

i. Japan will pay all costs of the additional monitoring necessitated by the proposed conversion including the cost of U.S. inspectors, observers, and the analysis of data and administration of the program.

2. Biological samples must be taken by the FAJ from traditional landbased fishing operations at the same sampling intensity as achieved in the sampling of the non-traditional landbased driftnet fleets. The United States will provide to the FAJ via correspondence a detailed plan for achieving desired sampling levels which will be completed by U.S. and FAJ scientists at the March research coordinating meeting.

3. Cooperative research consistent with Article X of the Convention and the Memoranda of Research will be continued on salmonids and marine mammals.

4. A comprehensive squid monitoring program consisting of 10 Japanese and 6 U.S. observers must be in place. This agreement must address adequate monitoring and enforcement of the activities of the Japanese fleets. Provisions for satellite monitoring of the location of individual vessels on a daily basis must be included.

December 1988

JAPANESE COMMENT ON THE ITEMIZED CONDITIONS PROPOSED BY THE U.S.
REGARDING THE CONVERSION OF THE MOTHERSHIP FISHERY TO LANDBASED
TYPE FISHERY OPERATION

1.a. The number of catcher boats operating in the converted fishery will be no more than 86, provided that the fishing quota remains at the same level as this year at approximately 6,400 tons. The number of the catcher boats can be adjusted when a significant increase or decrease occurs in the fishing quota in the future.

According to the U.S. comment, the converted landbased fishing operations will be limited to Areas 2a and 4: in response to the Japanese question whether or not the converted landbased fishery would be permitted in Area 3, the U.S. side commented that mothership operation would be indispensable for adequate research and monitoring of the catches. As already commented by Japan in writing at the informal trilateral talk which was held last month in conjunction with the 35th INPFC Annual meeting, such condition will demand the fishermen to convert their operations from mothership type to landbased operations or vice versa during fishing season, which is virtually impossible. In addition, the companies which have managed the motherships have determined not to send motherships in the next season and thereafter because of unprofitability created by recent development related to this fishery. Such stand taken by the U.S. side is not acceptable to Japan, as it virtually means nothing but the denial of the operation of the converted landbased fishery in Area 3. Japan intends to secure, even after the conversion of the mothership to the landbased operations, the research and monitoring of the fishery at the same precision as those conducted up to the present time by the mothership fishery within the U.S. 200 mile zone.

As for the U.S. proposal of the limiting of the fishing season up to July 15 on Areas 2a and 4, Japan sees no reason to newly set the end limit in conjunction with the conversion of the mothership fishery to the landbased operation. No end limit is provided for in the current Annex to the INPFC for Areas 2a and 4. Therefore, such end limit is not acceptable.

Japan does not object to the application to the converted landbased fishery of the same fishing area and regulation of the fishing effort as those applied to the current mothership operations. In case the operations within the U.S. 200 nautical mile zone should not be allowed, Japan expects to operate its non-traditional landbased fishery based on the regulations to be established for the alternative fishing grounds, which Japan is requesting.

b. No objection

c. No objection

d. At the meeting held in Seattle in October, Japan proposed that no supply and catch transfer would be made on the sea for the converted fishery. However, after detailed considerations, it has been clarified that supply of fuel and other goods will be necessary, while transfer of fish will not be made on the sea. In this case, the fuel, for instance, will be supplied on the sea using fuel-tankers, Japan is prepared to inform in advance the patrol boats of the contracting governments, through the Japanese patrol boats of the expected time, date and the position of such supply operations.

e.

i) Up to the present time, neither the boarding of the U.S. inspectors on the Japanese patrol boats nor the exchange of enforcement officers among the U.S., Canada, and Japan has been made not only at the high seas, but also within the U.S. 200 mile zone with respect to the mothership fishery. The proposed system interpreted that the U.S. side intends to exercise enforcement authority through the U.S. inspector on board the Japanese patrol boats, which is a radical departure from the current framework, and is not acceptable. However, the scheme of exchange of observers with respect to the traditional land based fishery is provided for in the Memorandum of Understanding on Enforcement signed by Canada, U.S. and Japan. Japan considers that the application of this exchange system is acceptable to the converted landbased fishery.

ii) Sealing of fish holds will be unnecessary, because when the quota is attained or fish holds are full the fleet with all its vessels is to be ordered to return to a designated port; en route to the port it has to report its position every day to Japanese patrol boats and the catch is weighed under inspection by Japanese enforcement officers at the landing port.

iii) The mothership fishery during operations within the U.S. 200 mile zone has accepted U.S. observers on board the motherships and catcher boats up to the present time. In addition, according to the letter of a representative of the industry in 1984, each fleet operating in the Bering High Seas had accepted two U.S. observers on board the catcher boats per fleet on an industry's voluntary basis from 1984. However, the Japanese proposal of voluntary measures to be applied to the operations on the Bering High Seas including the acceptance of U.S. observers, which was made at the Japan-U.S. negotiations on the salmon fishery issue held eight times from 1985 to 1985 were rejected by the U.S. In April 1986, the Annex to the Convention was amended, which necessitated a phase-out of the Japanese mothership salmon fishery from the Bering High Seas by 1994, thus leaving no reason to allow U.S. observers on board in the Bering High Seas. Therefore, there has been no U.S. observers on board since 1986. Japan does not see any reason for introduction of U.S. (or Canadian) observer's boarding system on the high seas along with the conversion of the mothership fishery to land based operations. Japan intends to place Japanese observers on the converted landbased fishing vessels to conduct scientific research including monitoring.

Furthermore, Japan is prepared to accept the U.S. observers on board during operation within the U.S. 200 mile zone with the upper limit of the number of observers on the basis of statistically significant number with reference to the past practices, as shown in Japan's proposal presented at the Seattle meeting in October of this year.

f. No objection to the U.S. comment regarding collecting biological samples from the converted landbased operations: Japan intends to collect biological samples by the Japanese observers on board the catcher boats in the high seas at the same level as in 1987. In the case of fishery within the U.S. 200 mile zone, Japan considers that such sample collection is possible by both Japanese and U.S. observers.

g. Japan will require every catcher boat to install the MNSS and to maintain the record in the converted fishery. In case of any mechanical failure of MNSS, Japan considers that it is possible to confirm the location of the vessel, on which the MNSS is out of order, by patrol vessel or the commander vessel through radio communication. To mandate the vessel to return to the port when the MNSS breaks down will overburden the fishermen and is not acceptable.

h. Same statistics as formulated by the current mothership fishery will be made by the converted landbased fishery. However, such statistics will be submitted within six months to INPFC as stipulated in the 1986 MOU on research and not directly to the United States. Biological samples will be made available to the U.S. or/and Canada after necessary analyses have been completed by Japan, as in the current practices. Japan finds it difficult to accept proposed six month limit to be newly imposed for the submission of the biological samples.

i. As stated in the foregoing items e.i) and iii), Japan is unable to accept the U.S. or Canadian inspectors on board the Japanese patrol boats or U.S. or Canadian observers on board the Japanese catcher boats in the high seas with respect to the salmon fishery. On the other hand, para 1 (d) of the Annex to the Convention provides that Japanese salmon fishing vessels operating within the U.S. 200 mile zone may be required by the Government of the United States to bear the expenses incurred in the boarding of the U.S. observers. Therefore, the Japanese side will pay for the cost of such boarding of observers on board according to this provision. However, costs of analysis of data and administration of the program in excess of this provision can not be paid.

2. With respect to the research by the traditional landbased fishery, the three contracting nations at the most recent Annual Meeting of INPFC have just agreed to make recommendation based on the discussion at the salmon sub-committee of the standing committee on Biology and Research. Therefore, the research with respect to the traditional landbased fishery should be undertaken on the basis of this recommendation. Japan is unable to see any reason for any additional requirement of the research in excess of the foregoing recommendation along with the conversion of the mothership type operations. Japan has no objection to the proposed detailed discussion on the foregoing recommendation by the salmon

subcommittee to be held at the Ad-hoc Salmon Research Coordinating Meeting in March.

3. It is difficult to accurately appreciate the meaning of the comment by the U.S. under this item. Nevertheless, Japan intends to continue on the research in line with the spirit of the Convention.

4. As already stated for a number of times, the matter of squid driftnet fishery is entirely independent from the conversion of the mothership fishery to the land-based operations. To link these two would be incongruous with the views expressed so far by the United States that it is important to resolve each separate problem one by one in order to improve the fisheries relations between the two nations, since many of the fisheries problems that exist between Japan and the United States are independent from one another.

The very rationale by the United States for placing the U.S. observers on board the Japanese squid driftnet fishing vessels operating in the high seas was to monitor the impact the squid fishery on the marine mammal population intercepted by the Japanese mothership fishery as reference to the issuance of the permit of the marine mammal incidental take to the Japanese mothership operation within the U.S. 200 mile zone. With regard to the conversion from the mothership fishery to the landbased fishery at this time, it is obvious that such monitoring on the squid driftnet fishery has no relevance to the "conversion" of the fishery. Japan firmly believes that implementation of the joint research on squid driftnet fishery is absolutely contingent on the assured operation of Japanese salmon fishery within the U.S. 200 mile zone.

Please note that the foregoing comments presented at the scientific meeting held in Seattle in October of this year include some amendments to the original proposal.

THE WHITE HOUSE

Office of the Press Secretary
(Los Angeles, California)

For Immediate Release

December 28, 1988

TERRITORIAL SEA OF THE
UNITED STATES OF AMERICA

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

International law recognizes that coastal nations may exercise sovereignty and jurisdiction over their territorial seas.

The territorial sea of the United States is a maritime zone extending beyond the land territory and internal waters of the United States over which the United States exercises sovereignty and jurisdiction, a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil.

Extension of the territorial sea by the United States to the limits permitted by international law will advance the national security and other significant interests of the United States.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution of the United States of America, and in accordance with international law, do hereby proclaim the extension of the territorial sea of the United States of America, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

In accordance with international law, as reflected in the applicable provisions of the 1982 United Nations Convention on the Law of the Sea, within the territorial sea of the United States, the ships of all countries enjoy the right of innocent passage and the ships and aircraft of all countries enjoy the right of transit passage through international straits.

Nothing in the proclamation:

(a) extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom; or

(b) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of December, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

RONALD REAGAN



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 Washington, D.C. 20235

CE

DEC 20 1988

DEC 15 1988

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

MEMORANDUM FOR: Chairmen, Regional Fishery Management Councils
 FROM: F - James W. Brennan
 SUBJECT: Proposed Rule to Revise 50-CFR 602,
 National Standard Guidelines 1 and 2

As promised, I am sending you an advance copy of the revision of the proposed conservation standard--which has been cleared by OMB for publication in the FEDERAL REGISTER--together with an explanation of the changes we did and did not make as a result of our meeting in Homer in July. This gives you, as our drafting advisers, a small jump-start on the public comment period, since we will not publish until the last week in December. We will let you know the exact date of publication, and send you the published text as soon as possible thereafter.

First, I want to thank you, your members, your advisory group members, and your staff for working so closely with us and with such good nature. Your suggestions have been extremely helpful, and we have appreciated the cooperative attitude that has permeated the effort.

The 602 preamble, as proposed, is general and descriptive because it is addressed to the general public, not heretofore broadly involved in the development of these guidelines. However, in specific response to the individual and collective Council comments, we offer the following explanations, focusing on those points where we are not in agreement or where the change or rationale may not be immediately clear.

1. 602.11 National Standard 1--Optimum Yield

(c)(1) Overfishing. We have not only deleted "or economic value", but "maximum biological yield", substituting "MSY" in the first sentence. The two phrases were introduced as a result of public comment and the Council/NMFS workshops in 1982-83 because NOAA agreed that both were inseparable in evaluating the stock level within which a Council might wish to operate. However, we are now persuaded that the term "MSY" avoids ambiguity and the need to define either term, and more accurately reflects the emphasis of the current revision on the relative abundance of living resource populations in response to fishing.



(c)(5) Conditions of concern. We took out any reference to "conditions of concern" as a term of art in the text of the guideline itself, but the preamble acknowledges the workshop discussion and leaves to Council discretion whether to identify the indicators of existing or impending overfishing. It still may be appropriate to define the phrase in the Appendix when the final guidelines are issued.

(c)(8) Implementation. Councils have expressed concern about the possibility of a last minute review logjam if all FMPs are to be amended within 18 months. We have changed the language to make the process clearer, but haven't solved the problem. We are specifically soliciting comments on this section in the hope that some pragmatic suggestions will be made and that we can work towards a workable system during the comment period. Perhaps alternative implementation proposals could be discussed at the Council Chairmen's meeting in Charleston?

(g)(3) OY as a target. The paragraph addressing "reserves" has been moved out of the "OY and foreign fishing" section to enable the release of an established reserve to both domestic and foreign fishermen as circumstances warrant.

2. 602.12 National Standard 2--Scientific Information

(e)(1)(i) Secretarial responsibility for the SAFE report. There has been near general agreement on the utility of the SAFE report; the disagreement lies in the degree of flexibility in content, method, and timing. We did not include the Council proposed language that binds the Secretary to providing the data and to completing the report unless a Council elects to do so. NOAA believes that to tie these responsibilities exclusively to the Secretary could be viewed as limiting the flexibility of each Council, in association with the respective regions and States, from agreeing on an appropriate distribution of tasks to complete the report. While it is the Secretary's responsibility to assure that such a report or similar document is prepared, reviewed, and changed as necessary, it appears to us that to restrict the gathering of data or preparation of the report to the Secretary belies the essential team effort required to identify the data needs, acquire and analyze the data, and produce the report. You may also recall that, as we discussed in July, the listing of the contents of the SAFE report are simply guideline examples of the kinds of information the Council needs to do its job.

(e)(2) Recommendation of threshold level or definition of overfishing. This item was not included as a part of the SAFE document. NOAA believes that the more appropriate place to specify the threshold or overfishing definition is

in the FMP or its amendment--as the product of a Council policy decision based on the alternatives provided in 602.11(c)(1)-(3). This decision is a Council's prerogative and includes policy considerations that are outside the scope of Secretarial sole responsibility. The SAFE document is intended as a status report on the condition of each fishery; as part of that evaluation it would be appropriate to compare the condition of the fishery to the threshold as defined in the FMP or its amendments--not the other way around. The FMP and amendment process provides adequate opportunity for NMFS and other Council scientific advisers to evaluate the projected effects of harvest level recommendations against the FMP overfishing definition.

(e)(3) Processing employees. We included the number of processing employees as a new item (vii) rather than include it in item (vi).

Please call Dick Schaefer or Daphne White at (301) 427-2334 if you have any questions. Again, thanks for your invaluable assistance.

Attachment
cc: ODS, RDs, SDs

marsh wandering (vagrant) shrew (*Sorex vagrans halicoetes*). This petition was dated April 15, 1988, and was received by the Service on April 18, 1988. Materials attached to the petition, excerpted from a contract report completed for the California Department of Fish and Game, indicated that these shrews have been severely impacted by conversion or degradation of habitats resulting from wetland modification for urban or agricultural purposes, water diversion, and/or introduction of exotic animal species. Information available from Service-funded status surveys for the Catalina shrew, salt marsh wandering shrew, and Suisun shrew, substantiates this claim. Recent sightings of two Buena Vista lake shrews confirm that the subspecies is still extant. The rarity of these animals, however, has restricted the ability of investigators to gather information relating to current distribution and population trends. The Service found that substantial information was presented in the petition and the petitioned action may be warranted for these four taxa. In the case of positive findings, the Service is required to initiate status reviews of the involved species. However, status reviews of the shrews covered by the subject petition already are in progress, as these taxa were included as category 2 species in the Service's Review of Vertebrate Wildlife that was published in the Federal Register of September 18, 1985 (50 FR 37958-37967).

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the status of these species, particularly the Suisun song sparrow.

Author

This notice was prepared by Dr. Kathleen E. Franzreb, Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1823, Sacramento, California 95825 (916/978-4866 or FTS 460-4866).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 100-478, 102 Stat. 2306; Pub. L. 100-653, 102 Stat. 3825 (16 U.S.C. 1531 et seq.); Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: December 22, 1988.

Becky Norton Dunlop,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-30100 Filed 12-29-88; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 602

[Docket No. 81011-8211]

Guidelines for Fishery Management Plans

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to revise the national standard guidelines for fishery conservation and management issued in February 1983 under section 301(b) of the Magnuson Fishery Conservation and Management Act (the Magnuson Act). The national standards represent statutory criteria and principles with which all fishery management plans (FMPs) must be judged consistent by the Secretary of Commerce (Secretary). The Magnuson Act requires the Secretary to issue guidelines based on the national standards to assist in the development and review of FMPs, their amendments, and regulations. Pub. L. 97-453 amended section 301(b) to make the national standard guidelines advisory only. The guidelines are intended to improve the quality of FMPs by providing comprehensive guidance for Regional Fishery Management Councils (Councils) to use in developing FMPs and amendments, and to produce a more uniform understanding of the Secretary's basis for FMP review and implementation. These proposed rules revise the guidelines for national standards 1 and 2 only.

DATE: Comments must be received by February 28, 1989.

ADDRESSES: Send comments on these proposed guidelines to: Richard H. Schaefer, Office of Fisheries Conservation and Management,

National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, telephone 301-427-2334.

SUPPLEMENTARY INFORMATION: Revision of the national standard guidelines was precipitated, in part by recommendations of the NOAA Fishery Management Study (the Study), commissioned by the Under Secretary of Commerce for Oceans and Atmosphere, and undertaken to assess and improve the Magnuson Act fishery management system. In June 1988, this Study recommended that NOAA assume the responsibility for determining the biologically acceptable catch (ABC) for each managed fishery. By ABC the Study meant the total allowable removals from the resource which would maintain a healthy and productive resource into the future. As used in this context, the ABC would be the maximum possible quota for the species or species complex in the fishery. It should be noted that this is different from the manner in which the term ABC is used in proposed paragraph 602.11(e). The Study's intent was that stocks be maintained at some level above that which protects the minimum spawning stock from recruitment overfishing. The Study sought a "conservation standard" such that stocks are not continually driven to, or maintained at, the threshold of overfishing.

In April 1987, NOAA distributed for Council/National Marine Fisheries Service (NMFS) pre-publication review and comment a draft revision of the uniform standards governing the organization, practices, and procedures of the Councils and the guidelines for FMPs. That draft revision included a section providing that a maximum fishing mortality (MFM) be established which would maintain the current spawning stock size with consideration of the variabilities in spawning stock estimates, and that ABC be specified so as not to exceed MFM. Again, ABC was to be used as a maximum annual quota for the fishery. Council and NMFS comments concerning the MFM proposal made it clear that this proposal was not universally applicable for a variety of reasons.

Accordingly, in August 1987, NOAA convened a technical workshop of NMFS fishery scientists and managers, and academic scientists recommended by the Councils, to address the Study's recommendations for a conservation standard and the comments on the April draft. In October 1987, in order to allow

time for a thorough examination of the issues raised by the workshop, the decision was made to separate the revisions concerning the conservation standard from those addressing the organization and administrative questions. In the spring of 1988, a series of Council/NMFS regional workshops was held to discuss the feasibility of the conservation standard concept, using as a basis for discussion the proposed revision of national standard guidelines 1 and 2 produced by the August 1987 technical workshop. Following the workshops, the guidelines were further revised, and served as the basis for discussion at a Council Chairmen's meeting in July 1988.

The proposed guideline revision that follows is responsive to the workshop series and the Council Chairmen's meeting, and sets forth a series of definitions and procedures, which together, are intended to provide the conservation standard.

Comments at the workshops centered primarily on the need for flexibility with regard to: (a) The mandatory nature of any definition of overfishing; (b) the difficulty or impossibility of applying any rigid or universal definition to a large number of diverse species; (c) the fact that the ABC concept is not used by all Councils; (d) the bureaucratic chaos that might result from the proposed Secretarial exemption process; and (e) the burden imposed by the proposed Stock Assessment and Fishery Evaluation (SAFE) requirement.

Concern was also expressed at the workshops that identification of thresholds might serve to establish targets for harvest rather than provide for conservation of the resources. Several Councils stated a need to: (a) Identify measurable "conditions of concern" for each stock, with monitoring and review procedures; (b) allow for conservative approaches when there is uncertainty because of lack of data; and (c) retain ability to take appropriate restrictive management actions at stock levels above the threshold.

Comments at the Council Chairmen's meeting focused primarily on: (a) The division of responsibility between the Councils and NMFS regarding providing data for, and preparing, The SAFE report; (b) including in the SAFE report a recommendation for a threshold level or other definition of overfishing; (c) establishing an OY "reserve", releasable to domestic and foreign fishermen as necessary, to solve operational problems and allow for uncertainties in stock estimates; and (d) several needed editorial clarifications.

Section 602.11 proposes an overall overfishing concept within which each

Council must define a specific, measurable definition of overfishing for each stock or stock complex covered by an FMP. That concept is based on the premise that irreversible damage to a resource's ability to recover in a reasonable period of time is unacceptable, and to allow fishing on a stock at a level that severely compromises that stock's future productivity is counter to the goals of the Magnuson Act. As used in this revision, ABC is not meant as a quota for the fishery, but rather, may be used as a step in deriving OY from MSY. (See § 602.11(e).) In this context, the ABC is set by a Council, not NOAA. Since ABC is not necessarily applicable to all fisheries, Councils may establish an ABC level, but are not required to do so. Councils are provided with the flexibility needed to develop a definition of overfishing appropriate to the individual stock or species characteristics, and general criteria are set for them as a basis for Secretarial review. Comments are particularly solicited on the provision made for phasing-in implementation of the guidelines.

NOAA believes that, although it is difficult to define precisely the level at which overfishing jeopardizes recovery of a stock, there are indicators of existing or impending overfishing that should be heeded. If these conditions exist, the best scientific advice may conclude that immediate remedial action should be taken. Councils are encouraged, but not required, to identify these conditions.

As management regimes become more comprehensive, the interrelationships of fishing pressures on target and non-target (both major and minor) species need to be addressed more directly. NOAA believes that in determining allowable fishing levels Councils should consider all sources of mortality on a stock, including both targeted and non-targeted fishing mortality, and levels of compliance. Because all removals from the stock, whether landed or unlanded, will affect spawning stock biomass levels now or in the near future, the Councils should attempt to obtain estimates of all sources of mortality and consider the estimates in adjusting directed fishing levels. Total fishing mortality on a stock should be managed such that overfishing does not occur.

In selected situations, a Council may determine that overfishing of a minor component species of a multi-species fishery is warranted based on net benefits expected for the fishery as a whole. Although fishing any stock to the extent that it requires protection under the Endangered Species Act should

never be allowed to occur, some very limited overfishing may be acceptable if it is identified, and sufficiently analyzed and justified. However, in all cases, alternatives should be considered that would prevent such overfishing.

Section 602.12(e) proposes that a periodic SAFE document or set of documents be prepared or aggregated whereby Councils can obtain an objective periodic overview of the status of stocks and fisheries under management. Several Councils currently produce such fishery reviews annually, which generally provide the kinds of information called for in the SAFE report. The SAFE report would be expected to provide a summary of the best biological, social, and economic information available to a Council when needed: (a) To determine annual harvest levels or optimum yields (OYs) for species in each fishery management unit (FMU), and (b) to evaluate the effectiveness of its management in preventing overfishing as defined by the Council.

The SAFE report would thus provide a useful tracking tool for assessing the relative achievement of FMP objectives. It would establish a time-series data base indicating the relative health of stocks and the industry dependent on them. Including social and economic information in the same document or set of documents with biological information does not diminish the integrity of either type of information. By providing the best scientific information available for each type of data required in the determination of OY, subject to Council and outside peer review, the SAFE report is designed to improve the ability of Councils to derive OY or any specified harvest level as the Magnuson Act prescribes.

While the Secretary would have the responsibility for assuring that the SAFE report is produced, it is not intended to be exclusively authorized by NOAA. The SAFE report could be produced by any combination of talent from Council, academic, government, or other sources. The SAFE reports would not be required to be revised annually, except as there have been new developments or significant changes in a fishery. Although the contents of SAFE reports would not be mandatory, certain basic descriptive data on the stocks and industry should be included.

Classification

The guidelines indicate how NOAA interprets the fishery management principles in the national standards of the Magnuson Act. They describe a range of acceptable management

measures that could be adopted by the councils, approved by the Secretary, and subsequently translated into regulations. The impact upon the public occurs through specific management measures contained within specific FMPs; until a specific FMP is developed, there is no basis for evaluating the consequences of these guidelines.

These amendments to the national standard guidelines do not themselves affect the human environment. Thus, NOAA has determined that no environmental impact statement (EIS) or environmental assessment (EA) is required. FMPs and FMP amendments developed as a result of these guidelines will require EISs or EAs.

Because these guidelines will not have any direct regulatory impact upon the public, the Under Secretary of Commerce for Oceans and Atmosphere has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The proposed rule will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; and it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. A regulatory impact review (RIR) was not prepared.

This proposed rule has been submitted to the Director, Office of Management and Budget, pursuant to E.O. 12291.

Because the proposed guidelines will have no direct regulatory impact on the public, the General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis (RFA) was not prepared. Any economic impacts on small entities will be addressed through RFAs for individual FMPs.

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act.

Because the proposed guidelines will have no direct regulatory impact upon the public, NOAA has determined that this proposed rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

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

Dated: December 22, 1988.

James W. Brennan,
Assistant Administrator For Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR 602 is proposed to be amended as follows:

PART 602—GUIDELINES FOR FISHERY MANAGEMENT PLANS

1. The authority citation for Part 602 continues to read as follows:

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

2. Section 602.11 is revised, § 602.12(a) is republished, and § 602.12(e) is added to read as follows:

§ 602.11 National Standard 1—Optimum Yield.

(a) *Standard 1.* Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(b) *General.* The determination of OY is a decisional mechanism for resolving the Act's multiple purposes and policies, for implementing an FMP's objectives, and for balancing the various interests that comprise the national welfare. OY is based on MSY, or on MSY as it may be adjusted under paragraph (d)(3) of this section. The most important limitation on the specification of OY is that the choice of OY—and the conservation and management measures proposed to achieve it—must prevent overfishing.

(c) *Overfishing.* (1) Overfishing is a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY on a continuing basis. Each FMP must specify, to the maximum extent possible, an objective and measurable definition of overfishing for each stock or stock complex covered by that FMP, and provide an analysis of how the definition was determined and how it relates to reproductive potential.

(2) The definition of overfishing for a stock or stock complex may be developed or expressed in terms of a minimum level of spawning biomass ("threshold"); maximum level or rate of fishing mortality; or formula, model, or other measurable standard designed to ensure the maintenance of the stock's productive capacity. Overfishing must be defined in a way to enable the Council and the Secretary to monitor and evaluate the condition of the stock or stock complex relative to the definition.

(i) If data indicate that an overfished condition exists, a program must be established for rebuilding the stock over

a period of time specified by the Councils which is acceptable to the Secretary.

(ii) Councils should identify what actions or combination of actions will be undertaken if it is determined that a stock or stock complex is approaching an overfished condition.

(iii) If overfishing is defined in terms of a threshold biomass level, the Council must ensure that targeted fishing effort does not cause spawning biomass to fall or remain below that threshold.

(iv) If overfishing is defined in terms of a maximum fishing mortality rate, the Councils must ensure that targeted fishing effort on that stock does not cause the maximum rate to be exceeded.

(3) Overfishing definitions must be based on the best scientific information available. Councils should build into the definition appropriate consideration of risk, taking into account uncertainties in estimating domestic harvest, stock conditions, or the effects of environmental factors (see section 602.16). In cases where scientific data are severely limited, the Councils' informed judgment must be used, and effort should be directed to identifying and gathering the needed data (see sections 602.12 and 605.14 of this chapter).

(4) Secretarial approval or disapproval will be based on consideration of whether the proposal:

(i) Has sufficient scientific merit;
(ii) Is likely to result in effective Council action to prevent the stock from closely approaching or reaching an overfished status;

(iii) Provides a basis for objective measurement of the status of the stock against the definition; and

(iv) Is operationally feasible.

(5) Changes in environment/habitat conditions can produce the appearance of overfishing. Significant adverse alterations in the environment increase the possibility that fishing effort will contribute to a stock collapse. Care should be taken to identify the cause of any downward trends in spawning stock sizes or average annual recruitment. Whether these trends are caused by environmental changes or by fishing effort, the only direct control provided for by the Act is to reduce fishing mortality. Unless the Council asserts, as supported by appropriate evidence, that reduced fishing effort would not alleviate the problem, the FMP must include measures to reduce fishing mortality regardless of the cause of the low population level. If man-made environmental changes are contributing to the downward trends, in addition to controlling effort Councils should

recommend restoration of habitat and other ameliorative programs, to the extent possible.

(6) An FMP must prevent overfishing, except in certain limited situations. For example, harvesting the major component of a mixed fishery at its optimum level may result in the overfishing of a minor (smaller or less valuable) stock component in the fishery management unit. A Council may decide to permit this type of overfishing if it is demonstrated by analysis (paragraph (f)(5) of this section) that it will result in net benefits to the fishery as a whole, and if the Council's action will not cause any stock component to require protection under the Endangered Species Act.

(7) Fishing can produce a variety of effects on local and areawide abundance, availability, size, and age composition of a stock. Some of these effects have been called "growth", "localized", or "pulse" overfishing; however, these effects are not necessarily "overfishing" under the national standard 1 definition, which focuses on recruitment and long-term reproductive capacity. A Council may recommend conservation and management measures to prevent or permit these effects, depending on the objectives of a particular FMP, and the specific definition of overfishing established for the stock or stock complex under management. (See Appendix A to Subpart B of this part, which offers cautionary, explanatory material.)

(8) Implementation. (i) All new FMPs and the first amendment for existing FMPs submitted after [insert date six months after the effective date of these guidelines] should include a proposed definition of overfishing for the stock or stock complex managed under the affected FMP.

(ii) An amendment proposing an overfishing definition for each FMP not containing such a definition should be submitted before [insert date 18 months after the effective date of these guidelines].

(d) *MSY*. (1) *MSY* is an estimate of the largest average annual catch or yield that can be taken over a significant period of time from each stock under prevailing ecological and environmental conditions.

(2) *MSY* may be presented as a range of values. One *MSY* may be specified for a related group of species in a mixed-species fishery. Since *MSY* is a long-term average, it need not be specified annually, but must be based on the best scientific information available.

(3) *MSY* may be only the starting point in providing a realistic biological

description of allowable fishery removals. *MSY* may need to be adjusted because of environmental factors, stock peculiarities, or other biological variables, prior to the determination of *OY*. An example of such an adjustment is determination of *ABC*.

(e) *ABC*. (1) *ABC* is a preliminary description of the acceptable harvest (or range of harvests) for a given stock or stock complex. Its derivation focuses on the status and dynamics of the stock, environmental conditions, other ecological factors, and prevailing technological characteristics of the fishery.

(2) When *ABC* is used, its specification constitutes the first step in deriving *OY* from *MSY*. Unless the best scientific information available indicates otherwise (see section 602.12), *ABC* should be no higher than the product of the stock's natural mortality rate and the biomass of the exploitable stock. If a threshold has been specified for the stock, *ABC* must equal zero when the stock is at or below that threshold (see paragraph (c)(2) of this section). *ABC* may be expressed in numeric and/or non-numeric terms.

(f) *OY*. (1) *Definition*. The term "optimum" with respect to the yield from a fishery, means the amount of fish which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and which is prescribed as such on the basis of the maximum sustainable yield from each fishery, as modified by any relevant economic, social, or ecological factors (section 3(18)(b) of the Act).

(2) *Values in determination*. In determining the greatest benefit to the Nation, two values that should be weighed are food production and recreational opportunities (section 3(18)(a) of the Act). They should receive serious attention as measures of benefit when considering the economic, ecological, or social factors used in modifying *MSY* to obtain *OY*.

(i) "Food production" encompasses the goals of providing seafood to consumers at reasonable prices, maintaining an economically viable fishery, and utilizing the capacity of U.S. fishery resources to meet nutritional needs.

(ii) "Recreational opportunities" includes recognition of the importance of the quality of the recreational fishing experience, and of the contribution of recreational fishing to the national, regional, and local economies and food supplies.

(3) *Factors relevant to OY*. The Act's definition of *OY* identifies three categories of factors to be used in

modifying *MSY* to arrive at *OY*: economic, social, and ecological (section 3(18)(b)). Not every factor will be relevant in every fishery; for instance, there may be no Indian treaty rights. For some fisheries, insufficient information may be available with respect to some factors to provide a basis for corresponding modifications to *MSY*.

(i) *Economic factors*. Examples are promotion of domestic fishing, development of unutilized or underutilized fisheries, satisfaction of consumer and recreational needs, and encouragement of domestic and export markets for U.S.-harvested fish. Some other factors that may be considered are the value of industrial fisheries, the level of capitalization, operating costs of vessels, alternate employment opportunities, and economies of coastal areas.

(ii) *Social factors*. Examples are enjoyment gained from recreational fishing, avoidance of gear conflicts and resulting disputes, preservation of a way of life for fishermen and their families, and dependence of local communities on a fishery. Among other factors that may be considered are the cultural place of subsistence fishing, obligations under Indian treaties, and world-wide nutritional needs.

(iii) *Ecological factors*. Examples are the vulnerability of incidental or unregulated species in a mixed-species fishery, predator-prey or competitive interactions, and dependence of marine mammals and birds or endangered species on a stock of fish. Equally important are environmental conditions that stress marine organisms, such as natural and man-made changes in wetlands or nursery grounds, and effects of pollutants on habitat and stocks.

(4) *Specification*. (1) The "amount of fish" that constitutes the *OY* need not be expressed in terms of numbers or weight of fish. The economic, social, or ecological modifications to *MSY* may be expressed by describing fish having common characteristics, the harvest of which provides the greatest overall benefit to the Nation. For instance, *OY* may be expressed as a formula that converts periodic stock assessments into quotas or guideline harvest levels for recreational, commercial, and other-fishing. *OY* may be defined in terms of an annual harvest of fish or shellfish having a minimum weight, length, or other measurement. *OY* may also be expressed as an amount of fish taken only in certain areas, or in certain seasons, or with particular gear, or by specified amount of fishing effort. In the case of a mixed-species fishery, the incidental species *OY* may be a function

of the directed catch, or absorbed into an OY for related species.

(ii) If a numerical OY is chosen, a range or average may be specified.

(iii) In a fishery where there is a significant discard component, the OY may either include or exclude discards, consistent with the other yield determinations.

(iv) The OY specification can be converted into an annual numerical estimate to establish any TALFF and to analyze impacts of the management regime. There should be a mechanism in a multiyear plan for periodic reassessment of the OY specification, so that it is responsive to changing circumstances in the fishery. (See § 602.12(e).)

(v) The determination of OY requires a specification of MSY. However, where sufficient scientific data as to the biological characteristics of the stock do not exist, or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, or where frequent large-scale fluctuations in stock size make this concept of limited value, the OY should be based not on a fabricated MSY but on the best scientific information available.

(5) *Analysis.* An FMP must contain an analysis of how its OY specification was determined (section 303(a)(3) of the Act). It should relate the explanation of overfishing in paragraph (c) of this section to conditions in the particular fishery, and explain how its choice of OY and conservation and management measures will prevent overfishing in that fishery. If overfishing is permitted under paragraph (c)(6) of this section, the analysis must contain a justification in terms of overall benefits and an assessment of the risk of the species or stock component reaching a "threatened" or "endangered" status. A Council must identify those economic, social, and ecological factors relevant to management of a particular fishery, then evaluate them to arrive at the modification (if any) of MSY. The choice of a particular OY must be carefully defined and documented to show that the OY selected will produce the greatest benefit to the Nation.

(g) *OY as a target.* (1) The specification of OY in an FMP is not automatically a quota or ceiling, although quotas may be derived from the OY where appropriate. OY is a target or goal; an FMP must contain conservation and management measures, and provisions for information collection, that are designed to achieve OY. These measures should allow for practical and effective implementation and enforcement of the

management regime, so that the harvest is allowed to reach but not to exceed OY by a substantial amount. The Secretary has an obligation to implement and enforce the FMP so that OY is achieved. If management measures prove unenforceable—or too restrictive or not rigorous enough to realize OY—they should be modified; an alternative is to reexamine the adequacy of the OY specification.

(2) Exceeding OY does not necessarily constitute overfishing, although they might coincide. Even if no overfishing resulted, continual harvest at a level about a fixed-value OY would violate national standard 1 because OY was exceeded (not achieved) on a continuing basis.

(3) Part of the OY may be held as a reserve to allow for uncertainties in estimates of stock size and of DAH or to solve operational problems in achieving (but not exceeding) OY. If an OY reserve is established, an adequate mechanism should be included in the FMP to permit timely release of the reserve to domestic or foreign fishermen, if necessary.

(h) *OY and foreign fishing.* Section 201(d) of the Act provides that fishing by foreign nations is limited to that portion of the OY that will not be harvested by vessels of the United States.

(1) *DAH.* Councils must consider the capacity of, and the extent to which, U.S. vessels will harvest the OY on an annual basis. Estimating the amount that U.S. fishing vessels will actually harvest is required to determine the surplus.

(2) *DAP.* Each FMP must identify the capacity of U.S. processors. It must also identify the amount of DAP, which is the sum of two estimates:

(i) The amount of U.S. harvest that domestic processors will process. This estimate may be based on historical performance and on surveys of the expressed intention of manufacturers to process, supported by evidence of contracts, plant expansion, or other relevant information; and

(ii) The amount of fish that will be harvested, but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).

(3) *JVP.* When DAH exceeds DAP, the surplus is available for JVP. JVP is a part of DAH.

§ 602.12 National Standard 2—Scientific Information.

(a) *Standard 2.* Conservation and management measures shall be based upon the best scientific information available.

(e) *Stock Assessment and Fishery Evaluation (SAFE) Report.* (1) The SAFE report is a document or set of documents that provides Councils with a summary of the most recent biological condition of species in the fishery management unit (FMU), and the social and economic condition of the recreational and commercial fishing industries and the fish processing industries. It summarizes, on a periodic basis, the best available scientific information concerning the past, present, and possible future condition of the stocks and fisheries being managed under Federal regulation.

(i) The Secretary has the responsibility to assure that a SAFE report or similar document is prepared, reviewed annually, and changed as necessary for each FMP. The Secretary or Councils may utilize any combination of talent from Council, State, university, or other sources (but at a minimum must include Council and NMFS representatives) to acquire and analyze data and produce the SAFE report.

(ii) The SAFE report provides information to the Councils for determining annual harvest levels from each stock, documenting significant trends or changes in the resource and fishery over time, and assessing the relative success of existing State and Federal fishery management programs. In addition, the SAFE report may be used to update or expand previous environmental and regulatory impact documents, and ecosystem and habitat descriptions.

(iii) Each SAFE report must be scientifically based, cite data sources and interpretations.

(2) Each SAFE report should contain information on which to base harvest specifications, such as:

(i) Estimates of total biomass and/or spawning biomass for each stock in the FMU;

(ii) Estimates of the annual surplus production (ASP) and MSY for each stock in the FMU;

(iii) Description of the estimated biomass, ASP, and MSY in previous years relative to those estimates for the current or next year;

(iv) Description of the model or assumptions on which these estimates are based and a discussion of the reliability of each estimate;

(v) If a stock is below the level which will produce MSY, estimated time necessary to allow the stock to rebuild to MSY, threshold or other specified level under various harvest levels and prevailing environmental conditions; and

(vi) Significant changes (if any) in the habitat or ecosystem since it was last described in the FMP, an amendment to the FMP, or previous SAFE report.

(3) Each SAFE report should contain information on which to assess the condition of the recreational and commercial fishing industries and fish processing industries, such as:

(i) Estimate of the amount of fish harvested from each stock in the FMU, by gear type and area, in the most recent three years and in the year immediately prior to implementation of the FMP governing fisheries for (or in) the FMU. If applicable, the amount of fish harvested in the same time period by wholly domestic, joint venture and foreign fisheries;

(ii) The approximate exvessel value of the harvested fish described in paragraph (e)(3)(i) of this section;

(iii) Amounts and estimated value of each type of processed products derived from the harvested fish described in paragraph (e)(3)(i) of this section;

(iv) Estimates of the numbers of commercial vessels, by gear type and in terms of individual vessels, involved in each fishery for (or in) the FMU;

(v) Estimates of the number of commercial fishermen employed in each fishery for (or in) the FMU;

(vi) The numbers of processing plants, floating and shore based, individual and by product type, involved in processing the harvested fish described in paragraph (e)(3)(i) of this section;

(vii) Estimates of the number of individuals employed in the processing plants described in paragraph (e)(3)(vi) of this section.

(viii) Estimates of the amount of fish harvested by recreational fishermen from the FMU;

(ix) Estimates of the numbers of recreational fishermen who harvested fish from the FMU;

(x) Estimates of the number of charter vessels and party boats involved in the recreational fishery; and

(xi) The estimated value of the recreational fishery for (or in) the FMU.

(4) Each SAFE report may contain additional economic, social, and ecological information pertinent to the success of management or the achievement of objectives of each FMP, such as:

(i) Enforcement actions taken and penalties assessed and collected over the most recent three years under an implemented FMP;

(ii) Significant changes (if any) in State regulations pertinent to the FMU and their known or anticipated effects on stocks in the FMU;

(iii) Significant changes (if any) in related fisheries which may affect the fishing effort for (or in) the FMU; and

(iv) Potential conservation and management problems, their possible causes and solutions.

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

MEMORANDUM FOR THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

FROM: Steven T. Zimmerman

SUBJECT: Implementation of the Marine Mammal Protection
Act Amendments of 1988

Late this year Congress passed significant amendments to the Marine Mammal Protection Act, addressing the incidental taking of marine mammals by commercial fishermen. President Reagan signed these into law on November 23. Because these amendments will affect many of Alaska's fishermen, NOAA-Fisheries is trying to meet with as many fishing groups as possible to inform them of what the new amendments require. Thus, we held a public meeting in Seattle on December 16 and a similar meeting on the east coast on December 19. In Alaska we will be meeting with the Board of Fisheries on January 9 and with the North Pacific Fisheries Management Council on January 16. We are also hoping to hold a one-day public meeting in Anchorage during mid-January.

Purpose of the Amendments. The purpose of the amendments is to set up a five year period for studying the effects of interactions between marine mammals and commercial fisheries. During this period, incidental takes of marine mammals by commercial fisheries will be allowed, and information will be collected that can be used in attempting to devise a long-term solution to the conflicts between commercial fishermen and marine mammals. The new long-term system is scheduled to be in place on October 1, 1993.

Categories. Every fishery will be placed into one of three categories, depending on how often interactions between marine mammals and commercial fishing take place. Category 1 fisheries are those where incidental takes are "frequent;" Category 2 where they are "occasional;" and Category 3 where they are remote. NOAA must determine which fisheries fit into each category. By law, this process must be completed by March 23, 1989.

Exemptions. Every commercial fishing vessel that is working in a Category 1 or Category 2 fishery must apply for and receive a certificate of exemption prior to July 21, 1989. Without the exemption, fishing in a Category 1 or Category 2 fishery will be unlawful. The exemption will include a card, decal or some other physical evidence that it has been granted. NOAA must devise and implement the exemption system in time so that commercial fishermen will have them by July 21, 1989. Fishermen in Category 3 fisheries do not have to apply for an exemption, but do have some reporting requirements to meet. The exemption will not apply to California sea otters, nor to lethal takes of Steller



sea lions, cetaceans, or stocks such as northern fur seals that have been designated as depleted. NOAA will charge a fee to cover the administrative cost of issuing an exemption.

Observers. Under the law, observers are mandatory for Category 1 vessels; optional at the choice of fisherman in Category 2 or Category 3 fisheries. Not all Category 1 vessels will carry observers at all times, but NOAA must attempt to place observers such that not less than 20 percent nor more than 35 percent of the fishing operations are monitored. There are some exceptions, to this requirement. For example, an alternative observer program may be established for fisheries in which the vessels are too small to take on another person. The law limits the liability of a fisherman for injury to an observer, so long as the observer does not perform services for the vessel.

Reporting. Fishermen working in Category 1 or Category 2 fisheries are required to regularly compile information on incidental takings, and submit it to NOAA. Fishermen working in Category 3 fisheries must report lethal takes annually. NOAA must devise ways to enhance the quality of this information, verify its accuracy, and also educate fishermen regarding the information that must be submitted. NOAA must design and implement an information management system that will be operational when the exemption system goes into effect on July 21, 1989. Information supplied in these reports, as well as observer data, are confidential.

Mitigating Measures. If NOAA finds that the incidental taking of marine mammals in commercial fishing operations is having an immediate and significant adverse impact on marine mammal populations, or that specific quotas for Steller sea lions (1350 animals) or Northern fur seals (50 animals) will be reached, the Secretary of Commerce can institute mitigating measures by emergency regulation. If he finds that the negative impact is not immediate but will take place over a longer period of time, he can refer the matter to a Regional Fishery Management Council or a State and recommend mitigating measures.

Interim Enforcement Policy. The exemption system will become effective on July 21, 1989. Until that time, NOAA has announced an enforcement policy to govern the interim period. Under this policy, NOAA will not prosecute: 1.) unintentional takings; 2.) intentional takings that do not seriously injure or kill marine mammals, if necessary to protect gear, catch or a person; or 3.) intentional takings that seriously injure or kill marine mammals if necessary to protect a person. No intentional killing or injuring of marine mammals to protect catch or gear is permitted under this interim enforcement policy.



UNITED STATES DEPARTMENT OF COMMERCE
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P.O. Box 21668

Juneau, Alaska 99802-1668

January 13, 1989

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

Dear Clarence:

At the December meeting Bob Alverson noted that a recent press article indicated that the quantity of sablefish imported by Japan exceeded the sablefish quota set by the Council by 25 percent. He asked that we look into that situation and report to the Council. Normally we would include our finding in the NMFS report, however as the normal staff reports will not be on the agenda, please include this topic in the Executive Directors report.

Japan Customs statistics indicate that 25,769,945 kg were imported from the United States in calendar year 1987. If we assume that was H&G product it would be equivalent to 39,646 mt of round fish. The west coast DAP quota for 1987 was 40,483 mt and the reported catch was 47,036 mt, 16 percent over quota. The Alaska DAP quota was 28,483 mt and the reported catch was 34,001 mt, 19 percent over quota. The import quantity was 39 percent over the Alaska DAP quota.

In 1988, the Alaska DAP quota was 36,869 mt and reported catch was 37,700 mt, 2 percent under the quota. Japanese Customs statistics indicate that 25,353,613 kg of sablefish were imported from the United States thru October, 1988. That import quantity would be equal to 39,006 mt of round sablefish, 3 percent over the Alaska DAP quota.

The press article indicated that Japan had imported 25 percent more sablefish than the quota set for U.S. fishermen in Alaska. There are several problems with that conclusion. The quantity of fish imported during a calendar year does not necessarily come from fish harvested that year. Often fish are held in cold storage until the following year before marketed. The Japanese import statistics do not indicate the specific origin of the fish, only the country. The sablefish could have come from Washington, Oregon, or Alaska. Perhaps even British Columbia.



The west coast sablefish fisheries managers have all experienced difficulty in keeping harvests at or below quota levels. Harvests have normally exceeded quotas in all areas of the west coast. There is more legal fish on the market than the quota amount. We do not want to infer that there is not some illegal fishing occurring, only that a simple comparison of various statistical reports can be misleading.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Craig Hammond".

J. Craig Hammond
Special Agent in Charge