

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: June 3, 1994

SUBJECT: Comprehensive Rationalization Planning (CRP)

ESTIMATED TIME

4 HOURS

ACTION REQUIRED

- (a) Review current CRP alternatives and analytical workplan.
- (b) Comment on Moratorium Proposed Rule.
- (c) Begin to develop inshore/offshore/CDQ alternatives.

BACKGROUND

- (a) Review License Limitation 'Elements and Options'

Item C-3(a)(1) contains the alternatives, elements, and options currently in the overall Groundfish License Limitation Alternative. These are the same as shown in the Council's April newsletter, except for various clarifications that are footnoted and explained at the end of the document. Also included here is the current suite of elements and options for the Crab License Limitation Alternative and for the IFQ Alternatives to date. The Council developed these over the last several meetings. The primary addition in April was the State of Alaska's 'Integrated Fisheries Rationalization Program', which altered the both the License Limitation and IFQ programs. Based on Council direction from April, analytical work on IFQs will not begin until after completion of the License Limitation analysis and the inshore/offshore/CDQ rollover analyses.

At the April meeting staff provided the Council with a draft analysis of the License Limitation alternatives developed through January of this year. That analysis will be further developed and will incorporate the additional alternatives added in April. Item C-3(a)(2) contains a more detailed description of (1) approaches to be used to incorporate the additional alternatives in the analysis, (2) how the alternatives will appear in the analysis under each approach, (3) clarifications needed relevant to the additional alternatives proposed by the State of Alaska, (4) suggestions for consolidation of elements and options, (5) preliminary data runs for the new License Limitation alternatives added in April, and (6) plans for completion of the License Limitation analysis this summer. Staff will present these details to the Council.

Regarding full utilization/harvest priority, Alaska Fisheries Science Center staff are developing a planning document and preliminary analysis for our September meeting. A public review draft analysis will not be available until January 1995 at the earliest, but even if the Council doesn't make a final decision on this issue until next spring, a full utilization/harvest priority program still could be implemented by 1997, which is the first year a license program could be implemented if approved by

the Council and Secretary. The original intent of the State of Alaska's integrated proposal in April was to bundle the license system with the full utilization program. This is still achievable, but the two analyses will be on different schedules.

(b) Moratorium on Groundfish and Crab Fisheries

Several milestones have been reached in the review process for the moratorium. To date these are as follows:

- (1) Officially transmitted to the NMFS Regional Director April 28, 1994
- (2) Notice of Availability For the Proposed Rule Filed May 1, 1994
- (3) The Secretarial Review process begins (Day 0) May 3, 1994
- (4) Proposed Rule filed with Federal Register May 31, 1994
- (5) Publication of Proposed Rule June 3, 1994

Future milestones of interest will be:

- (1) End of Public Comment Period July 15, 1994
- (2) Last Date for Secretarial Decision (Day 95) August 5, 1994

Item C-3(b) is a copy of the Proposed Rule.

(c) Develop Alternatives for Possible Rollover of Inshore-Offshore/Pollock CDQs

In April the Council directed the staff to begin work on the analysis of the "rollover" of the Inshore/Offshore allocation upon completion of the analysis for License Limitation, which may occur as early as the end of August. The current inshore/offshore amendment, and the pollock CDQ program, are scheduled to expire at the end of 1995. Since the Council will not be meeting again until October, it may be prudent to develop specific alternatives for analysis at this time, at least to give staff something to start with. At the simplest level, we could go forward with an analysis which assumes that the alternatives to be considered are: (1) no rollover of inshore/offshore, and (2) continuation of the current program, as is. The Council may choose this as the starting point. However, at least one other alternative has been surfaced, within the State of Alaska's GLS proposal, which would represent a significant expansion of the existing program to all target species and areas. The associated analytical requirements also would be significantly expanded. The primary elements of the existing inshore/offshore amendment are attached as Item C-3(c).

A Final Observation

I think that it needs to be made very clear to everyone in the Council decision process that the tasks identified above are very complicated and time consuming, and the final analytical products will be hotly debated. This June meeting is the final stop for adding, deleting, or revising license limitation elements and options if an initial review is desired in September. If we get to September, and the program is revised, thus requiring additional analysis, analysis and timing for the inshore/offshore/CDQ rollover will be delayed, risking a hiatus in that program come January 1, 1996. Even a simple rollover of the current program percentages for pollock and cod will be a large undertaking for January or April.

NATURE OF LICENSES

Note: Shaded options were added at the April 1994 Council meeting, mainly from the State of Alaska's "Integrated Fisheries Rationalization Program" proposal.

A groundfish license system would not apply to longline sablefish, halibut, or demersal shelf rockfish.

Alternatives include:

Option A: A single groundfish license applying to all species/areas.

Option B: Licenses for each species.

Option C: General license with endorsements for each species/area..

Suboption A: separable endorsements.

Suboption B: non-separable endorsements

Option D: Groundfish license(s) would be issued for each management area. Areas are defined as:

- 1) Bering Sea
- 2) Aleutian Islands
- 3) Western Gulf
- 4) Central Gulf
- 5) Eastern Gulf

Suboption: Combine Bering Sea and Aleutian Islands into a single area

Each area license will also be designated by vessel size and industry sector (catcher vessels/catcher processors) with accompanying species endorsements as follows:

1) Separate groundfish license designations for catcher and catcher processor operations. License designations are to be based on activity in the period January 1, 1990 through June 24, 1992.¹ If more than one operation type was used during this period, the vessel owner must choose one operation designation.

2) Separable endorsements by area for the following list of target species (consistent with the proposed IFQ program). Species endorsements awarded based upon qualifying participation (for each species) as described below under CRITERIA FOR ELIGIBILITY.²

BSAI	GOA
pollock	pollock
Pacific cod	Pacific cod
Atka mackerel	deep water flats
yellowfin sole	shallow water flats
other flatfish	Atka mackerel
rockfish	
squid (fixed gear only)	
rocksole	
turbot	

LICENSE SYSTEM FOR GROUND FISH - JUNE 1994

3) Licenses for catcher vessels will be issued by the following size categories: <60', 60' to 125', and 125' and greater. Suboptions for base date for length determination are:

Suboption A: Vessel length will be categorized based upon the vessel length as of June 24, 1992, pursuant to the conditions of the moratorium.

Suboption B: Vessel length at the date of final Council action.

4) Licenses will be designated inshore or offshore based on 1993 activity.

In addition to the options above, the Council is considering the following suboptions:

Suboption A: Separate licenses for catcher and catcher/processor operations.

Suboption B: Licenses for three catcher vessel size categories <60', 60' to 125', and >125'.

Suboption C: Licenses would be designated inshore or offshore based on 1993 activity.

Additionally, the Council is considering the following option, which is related to the IFQ alternatives described separately:

Licenses for BSAI Pacific cod fixed gear fishery only; would apply to 45% (or historical split) of the TAC set aside for fixed gear.

WHO WILL RECEIVE LICENSES

Alternatives include:

Option A: Current vessel owner is defined as date of final Council action and must be a U.S. citizen pursuant to Title 46.

Option B: GLS license will be awarded to qualifying vessel owners who must be a U.S. citizen (citizenship for corporations, partnerships, and associations to be defined by Title 46, Sec. 802 (the Shipping Act of 1916), i.e., 75% U.S. ownership/control) and is the owner of record at the date of final Council action.

Option C: Those with between 50% and 75% U.S. ownership would be grandfathered for purposes of initial allocation.

Suboption A: Vessel owners at the time of landings.

Suboption B: Permit holders.

These two suboptions are only relevant if license is not attached to vessel.

Additionally, the Council is considering the two-tier skipper license program. (Under this option, at least one skipper license holder must be on board the vessel when fishing.)

LICENSE SYSTEM FOR GROUND FISH - JUNE 1994

CRITERIA FOR ELIGIBILITY

Alternatives include issuing a license to any vessel (or person) who made landings between:

- Option A:** January 1, 1978 and December 31, 1993.
- Option B:** January 1, 1990 and December 31, 1993.
- Option C:** Vessel must have fished in the three-year period before June 24, 1992 and/or the three-year period before the date of final Council action. If a vessel is lost during this period, owner at time of loss is still eligible.

In addition to the options above, the Council is considering the following:

- Suboption:** Must have made at least 2 landings (per area/species combination) or made total groundfish landings of 5,000, 10,000, or 20,000 pounds (3 options) in any one year. (In addition to #1 or #2 above).

Option D: Licenses will be issued to any qualifying vessel owner for each vessel that fished in each year of the three-year period before June 24, 1992 (January 1, 1990 - June 24, 1992) and the year before the date of final Council action. For fixed gear Pacific cod only, the vessel must have fished in the year prior to June 24, 1992. If a vessel is lost during this period, the owner at the time of loss is still eligible. Options for analysis of additional landings requirements include:

Suboption A: A minimum of one to four landings per area/target species combination during the qualifying periods above.

Suboption B: A minimum of one to four landings per area/target species combination in the year prior to final Council action.

TRANSFERABILITY AND OWNERSHIP

Alternatives include:

- Option A:** Licenses could be transferred (sold or leased) only to "Persons" (as defined by Title 46), i.e., U.S. citizens or U.S.-owned corporations.
- Option B:** Vessels must be transferred with license.
- Option C:** License may be transferred without vessel (can apply to "new" vessel).
 - Suboption A:** Non-transferable across size categories identified above (Nature of Licenses).
 - Suboption B:** Licenses may be combined in a manner similar to that described in the Pacific whiting fishery.

LICENSE SYSTEM FOR GROUNDFISH - JUNE 1994

Option D: Licenses are non-transferable across vessel size, mode of operation, inshore/offshore and area. Species endorsements are separable and transferable within an area. Licenses may only be transferred (sold) to U.S. citizens as defined.⁵

Suboption A: by 50% U.S. ownership.

Suboption B: by 75% U.S. ownership.⁶

Each qualified vessel owner may not hold or otherwise control more than 5, 10, or 15 area licenses in total. The initial allocation of groundfish licenses, based on historical participation, may exceed this number, however, the vessel owner would be prohibited from acquiring any control or interest whatsoever⁷ in additional licenses until their aggregate holdings are below the limit.

No more than 6 GLS area licenses may be used on any vessel. Options for analysis range from 1 to 5 area licenses per vessel.⁸

Suboption A: License may only be transferred with the vessel. If a vessel is lost or upgraded, it may be replaced with a vessel of equivalent size and fishing capacity pursuant to the conditions of the moratorium.

Suboption B: License may be transferred without the vessel. License may only be transferred to a new/replacement vessel of equivalent size and fishing capacity pursuant to the conditions of the moratorium.

Methods for effective license caps will also be examined

BUYBACK/RETIREMENT PROGRAM (OPTIONAL)

An industry funded buyback program, using funds collected through a fee assessment of exvessel of groundfish, run by NMFS/RAM, will be initiated to govern all transfers of licenses. This program will have first right of refusal on licenses to be sold. All licenses purchased by the program may be permanently retired to adjust participation levels.

COMMUNITY DEVELOPMENT QUOTAS

Option A: No CDQ allocations.

Option B: CDQ set-asides of up to 15% (range of 0% to 15%) of any or all groundfish TACs, but only for BSAI communities meeting current CDQ eligibility requirements, patterned after current pollock CDQ program, with no sunset provisions.

Option C: Would grant CDQs in the form of additional, non-transferable licenses (3%, 7.5%, 10% and 15% of initial licenses).

LICENSE SYSTEM FOR GROUND FISH - JUNE 1994

GENERAL PROVISIONS

In addition, the analysis will include examination of the following general provisions:

- 1) Licenses represent a use privilege; however, the Council could alter or rescind the program without compensation. In particular, the groundfish license program may be converted to an IFQ program without compensation.
- 2) Penalties must be severe for failure to comply with any of the conditions finally adopted under a Full Utilization/Bycatch Control Program and/or for violations of area restrictions (to be analyzed separately). Licenses may be suspended or revoked for multiple violations.
- 3) Develop and implement a Mandatory Skipper Reporting System. Holders of groundfish licenses would be required to report the skippers' name, address, and dates of service to NMFS. The intent of this option is to build a database for consideration of skipper options under a subsequent IFQ program.
- 4) Analyze the impacts of various rem. collection levels and mechanisms. The analysis should include consideration of State and Federal taxes and fees imposed on industry. Management enforcement, and other costs borne by State and Federal government in support of industry should also be considered.
- 5) An analysis of enforcement and program implementation costs.
- 6) Analyze current foreign ownership patterns and potential foreign control of licenses to the extent possible.
- 7) A full utilization/bycatch control provision is included in the State of Alaska's GLS proposal which was adopted by the Council in April 1994. This is being analyzed on a separate track from the license limitation analysis, along with other potential bycatch control alternatives. The GLS proposal calls for full retention and full utilization of all target species for which a TAC exists except PSCs with a minimum food grade requirement (Options are 50%, 70%, and 90% for human consumption processing). It is intended that full utilization provisions would be implemented simultaneously with the license programs, though they are now on different schedules for analysis and consideration by the Council. Total catch measurement/monitoring and total PSC enumeration also are envisioned under the license program.⁹

Note: A general provision regarding inshore/offshore allocations will be considered on a separate schedule with the potential extension of the current inshore/offshore CDQ program.

LICENSE SYSTEM FOR BSAI KING AND TANNER CRAB FISHERIES - JUNE 1994

Shaded areas represent additions from the April 1994 meeting.

NATURE OF LICENSES

Alternatives include:

- Option A:** A single crab license applying to all species/areas.
- Option B:** A separate license for each species.
- Option C:** Separate licenses (permits) for each species and each existing crab management area.
- Option D:** A general license with endorsements.

The following two suboptions (to be applied to the above) are being considered:

- Suboption A:** Separate licenses for catcher and catcher/processor operations.
- Suboption B:** Licenses for three catcher vessel size categories <60', 60' to 125', and >125'.
(These can be matched with pot limits.)
- Suboption C:** Licenses are defined by fishing activity occurring prior to June 24, 1992.

WHO WILL RECEIVE LICENSES

Current vessel owners as of Council final action. ("Persons" are defined as in Title 46.)

Option A: Current vessel owner is defined as date of final Council action and must be a U.S. citizen pursuant to Title 46.

Option B: GLS license will be awarded to qualifying vessel owners who must be a U.S. citizen (citizenship for corporations, partnerships, and associations to be defined by Title 46, 802 (the Shipping Act of 1916), i.e. 75% U.S. ownership/control) and is the owner of record at the date of final Council action.¹⁰

Option C: Those with between 50% and 75% U.S. ownership would be 'grandfathered' for purposes of initial allocation.¹¹

Suboption: Permit holders: Each permit holder not receiving a permit, could receive a fractional share of a license. Only full shares may be fished, and these must be utilized on a "moratorium qualified vessel."

Additionally, the Council is considering the two-tier skipper license program. (Under this option, at least one skipper license holder must be onboard the vessel when fishing.)

LICENSE SYSTEM FOR BSAI KING AND TANNER CRAB FISHERIES - JUNE 1994

CRITERIA FOR ELIGIBILITY

A vessel must have made landings between:

Option A: January 1, 1978 and December 31, 1993.

Option B: June 28, 1980 and June 27, 1983 to qualify for the Dutch Harbor red king crab fishery;

June 28, 1985 and June 27, 1988 to qualify for the Pribilof king crab fishery; and

June 28, 1989 and June 27, 1992 to qualify for all other king and Tanner crab fisheries. (These dates correspond to the existing fall/winter crab seasons in the BSAI. The latter dates include the 1989/90, 1990/91 and 1991/92 registration years.)

Additional landing requirements include:

- 1) One landing during the qualifying period in each fishery is required to qualify for a red or blue king crab license for each fishery; and
- 2) Three landings during the qualifying period in each fishery are required to qualify for a brown king crab, *C. opilio* (snow crab), or *C. bairdi* (Tanner crab) license for each fishery.

TRANSFERABILITY AND OWNERSHIP

Alternatives include:

Option A: Licenses could be sold only to U.S. citizens as defined:

Suboption A: by 50% U.S. ownership
Suboption B: by 75% U.S. ownership ¹²

Option B: Vessels must be transferred with license.

Suboption: Replacement/upgrades will be restricted as per the language in the moratorium regulations.

LICENSE SYSTEM FOR BSAI KING AND TANNER CRAB FISHERIES - JUNE 1994

Option C: License may be transferred without vessel (can apply to "new" vessel).

- Suboptions:**
- (a) Non-transferable across size categories identified above.
 - (b) Transferable across size categories.
 - (c) Species/area licenses will be non-transferable.
 - (d) Transfers of vessel license may occur only within the classification of the vessel (Catcher vessel v. Catcher processors). Catcher vessel licenses may be traded to catcher vessels, catcher processor licenses to catcher-processors, catcher processor licenses to catcher vessels (as a catcher vessel only), but not catcher vessel licenses to catcher processors for catching and processing.
 - (e) Replacements/upgrades will be restricted as per the language in the moratorium regulations.

POT CAPS

Alternatives include:

Option A: No caps on the total number of pots.

Option B: Caps are established on the total number of pots.

An Individual Transferable Pot (ITP) quota is initiated, such that the number of pots equates to the existing pot limit relative to the number of vessels with licenses for each fishery. An ITP would allow stacking of pots to occur, where a person owning multiple vessels could combine pots and vessels as they wished. Effort reduction could occur in each fishery, if necessary, by reducing some percentage of the number of individual pots over time until an optimal fishery pot cap is obtained.

BUYBACK PROGRAM (OPTIONAL)

An industry funded buyback program, using funds collected through a fee assessment of ex-vessel of crab, run by NMFS/RAM, will be initiated to govern all transfers of licenses. This program will have first right of refusal on licenses to be sold. All licenses purchased by the program may be permanently retired to adjust participation levels.

LICENSE SYSTEM FOR BSAI KING AND TANNER CRAB FISHERIES - JUNE 1994

COMMUNITY DEVELOPMENT QUOTAS

- Option A:** No allocations to CDQs.
- Option B:** Initially allocate 3%, 7.5%, 10% or 15% of the GHF by species and CDQs: may apply to any or all crab species, but only for BSAI communities meeting current CDQ eligibility requirements, patterned after current pollock CDQ program, with no sunset provisions.
- Option C:** Would grant CDQs in the form of additional, non-transferable licenses (3%, 7.5%, 10% and 15% of initial licenses).

GENERAL PROVISIONS

No superexclusive registration areas will be developed beyond that in place of the Norton Sound.

FOOTNOTES FOR ELEMENTS AND OPTIONS

1. This reflects clarification, from the april meeting, that this refers to calendar years and does not include the latter half of 1989.
2. This is changed from what was contained in the April newsletter to more correctly reflect the actual wording of the proposal as adopted by the Council.
3. The alternative which would require 75% U.S. ownership was inadvertently omitted from the April newsletter. An additional alternative, also omitted, was to grandfather those persons with between 50% and 75%, for purposes of initial allocation of licenses.
4. Review of the record shows that the differential qualification period (from the GLS proposal) for fixed gear Pacific cod was not intended as a suboption, but as an integral part of the overall qualification criteria for the GLS proposal.
5. This change was made to reflect the fact that species endorsements were meant to be separable, within area designations.
6. The options regarding U.S. ownership requirements are clarified.
7. The word 'whatsoever' is included (per the actual language adopted by the Council) due to its definitive nature.
8. The use limits on GLS area licenses were inadvertently omitted from the earlier draft.
9. The provisions from the GLS proposal regarding full utilization have been added back to the list of elements and options in order to convey the intent of the State of Alaska's GLS proposal. This alternative is being analyzed on a separate, parallel track and will not be explicitly included in the License Limitation document.
10. Same changes for crab as were made for groundfish regarding the U.S. ownership requirements.
11. Same as number 10 above.
12. Same as number 10 above.

IFQs - GROUND FISH AND CRAB - JUNE 1994

Shaded areas represent additions from the April 1994 meeting.

SPECIES FOR INCLUSION

Option A: All species under Council jurisdiction, including PSCs, excluding demersal shelf rockfish.

Option B: Under Option A, a percentage (either 45% or historical split) of BSAI Pacific cod would be set aside for a fixed gear License Limitation program.

~~**Option C:** All species under Council jurisdiction, including PSCs, excluding demersal shelf rockfish and crab.~~

AREAS

IFQs for all species and PSCs will be awarded based on current management areas.

~~**Option A:** OS/IFQs for all species and PSC allocations will be awarded based on GLS area licenses.~~

CRITERIA FOR INITIAL QS QUALIFICATION

Option A: Initial QS will be awarded to vessel owners as of the date of final Council action, based on the catch history of their vessel(s). In addition, the Council is considering the following:

Suboption: For GOA fixed gear fisheries, allocate initial QS to owner at time of landing.

~~**Option B:** Initial QS will be awarded to vessel owners holding a valid GLS license. Initial QS/IFQ allocations will be based upon GLS categories. This proposed IFQ system is based on, and will replace, the GLS license system. OS/IFQ will only be awarded to GLS license holders. OS/IFQ will be allocated and designated according to GLS categories for areas, species, catcher/catcher-processor, vessel sizes, and inshore/offshore.~~

The Council also is considering the following recent participation requirement for QS qualification:

Vessel must have fished in three-year period before June 24, 1992 and/or 3-year period before date of final Council action. If vessel is lost during this period, owner at time of loss is still eligible.

COMMUNITY DEVELOPMENT QUOTA (CDQ) CONSIDERATIONS

In addition to allocating QS to current vessel owners, the Council may make initial allocations to CDQs as shown below:

Option A: No allocations to CDQs.

Option B: Initially allocate 3%, 7.5%, 10%, or 15% (options range up to 15%) as CDQs; may apply to any or all groundfish/crab species, but only for BSAI communities meeting current CDQ eligibility requirements, patterned after current pollock CDQ program, with no sunset provisions.

SKIPPER CONSIDERATIONS

The Council is also considering the following options for including skippers in the IFQ program.

Option A: No allocations to skippers.

Option B: Initially allocate 3%, 5%, or 10% (options range up to 10%) to 'bona fide' skippers (based on landings attributable to each skipper, or based on time spent in a given fishery).

Suboption A: For the purposes of initial allocations, a 'bonafide skipper' is any skipper who ran a vessel and landed groundfish or crab in a relevant fishery.

Suboption B: QS allocated under Option B shall form a separate QS pool. Subsequent transfers of QS in this pool shall be restricted to 'bona fide skippers.' For the purposes of subsequent transfers, a 'bona fide skipper' is any individual who received an initial skipper pool QS allocation or any individual who meets an industry approved 'professionalization qualification scheme.' (The intent is to provide for an entry-level access mechanism and to promote safety through professionalization. The qualifications cannot be overly restricting so as to create a closed class.)

Suboption C: For the purposes of initial allocations, a 'bonafide skipper' is any skipper who ran a vessel and landed groundfish in a relevant fishery, as identified by the mandatory skipper reporting provision of the GLS system.

PROCESSOR CONSIDERATIONS

The following options are being considered relevant to processors:

Option A: Assign separate processor QS (2-pie system). See separate description for elements of this program.

IFQs - GROUND FISH AND CRAB - JUNE 1994

- Option B:** Require a minimum percentage of harvest IFQs to be delivered shoreside (% will be based on last two years' average for each species for BSAI & GOA separately).
- Option C:** Direct allocation of harvesting QS to catcher boats, catcher-processors and shorebased processors (1-pie system).

Note: The analysis will include the impacts of providing no protection to onshore processors.

Option D: Assign separate processor QS (2-pie system). See separate description for elements of this program. Require a minimum percentage of PS to be utilized inshore (% to be based on 1993-94 average).

Option E: Require a minimum percentage of harvest IFQs to be delivered inshore (% will be based on 1993-94 average for each species for BSAI & GOA separately).

Option F: All harvests based on QS/IFQ designated as "inshore" must be delivered inshore. This shall represent the minimum level of inshore deliveries.

Option G: Direct allocation of harvesting QS to catcher boats, catcher-processors and shorebased processors (1-pie system). Require a minimum percentage QS/IFQ harvest to be delivered inshore (% to be based on 1993-94 average by species for BSAI and GOA separately).

Note: The analysis will consider the impacts of no QS allocations to any person engaged in processing. This portion of the analysis should distinguish between industry sectors.

INITIAL QS CALCULATIONS

The following primary options are being considered for calculating QS of qualified recipients (all options will be analyzed on the basis of retained (when available) and reported catch):

- Option A:** QS based on catch of vessel from 1976 to either June 24, 1992 or date of final Council action (pre-1984 JV catch assigned based on average by fishery, by year, for vessels which participated).

For Option A, the following suboptions are being considered for weighting factors:

- Suboption A:** No weighting by sector.
- Suboption B:** Weight DAP 3.5:1 JV.
- Suboption C:** Weight DAP 2:1 JV.
- Suboption D:** For JV before 1986 and for DAP before 1989, weight at 2:1.

- Option B:** QS based on catch of vessel from date of full DAP (by species) to either June 24, 1992 or date of final Council action.

IFQs - GROUND FISH AND CRAB - JUNE 1994

Option C: QS based on catch of vessel from 1993 only.

Option D: Analyze QS based on catch for 1990-91-92.

- Option E:**
- (1) To qualify, vessel must have fished in 1991, 1992, or 1993.
 - (2) Owner chooses best year from 1991, 1992, or 1993 as base for QS calculation (BSAI and GOA separately.)
 - (3) QS credit then weighted based on length of involvement of vessel in each fishery since 1983. Base QS would be multiplied by length of involvement to determine total QS credit.

Suboption: The length of the involvement period multiplier may be further modified for the BSAI longline cod fishery to account for the relatively recent opening of that fishery. (Using 1983 as the base, each year in the fishery may be multiplied by 1.0, 1.5, or 2.0.)

OPTION F: A formula utilizes a blend of historical catch and recent participation combined with a range of weights for DAP and JVP participation. The formula under consideration is as follows:

Percentage Quota Share = W1 (Recent) + W2 (weighted DAP/JVP), where

W1 and W2 = percentage weights summing to 100%

Recent = catch in 1991 - 1992

Weighted DAP/JVP = 1982-92 catch with

option a) 1:1 DAP:JVP Ratio

option b) 2:1 DAP:JVP Ratio

option c) 3:5:1 DAP:JVP Ratio

GLS ALTERNATIVES FOR QS CALCULATION

Initial QS awarded to each qualifying recipient based on GLS area licenses held. QS/IFQ designated according to GLS categories.

Option A: Analyze QS based on catch for 1990-91-92.

Suboption: For GOA fixed gear fisheries, allocate initial QS to owner at time of landings.

Option B: (1) Base for QS calculation (by area by species) determined by:

Suboption A: Owner chooses best year from 1991, 1992, or 1993 as base QS.

Suboption B: Owner's average catch from 1991, 1992, & 1993 to serve as base QS.

Suboption C: Owner chooses best year under GLS system to serve as base QS.

IFQs - GROUND FISH AND CRAB - JUNE 1994

Suboption D: Owner's average catch from all years under GLS system serves as base QS.

Suboption E: Owner's catch under GLS system in year prior to implementation of IFQ system serves as base QS.

(2) QS credit then weighted based on length of involvement of vessel in each fishery since 1983. Base QS would be multiplied by length of involvement to determine total QS credit.

Suboption A: The length of the involvement period multiplier may be further modified for the BSAI longline cod fishery to account for the relatively recent opening of that fishery. (Using 1983 as the base, each year in the fishery may be multiplied by 1.0, 1.5, or 2.0.)

Suboption B: For GOA fixed gear fisheries use length of involvement of owner, not vessel.

In addition to the options shown above, the Council is considering the following possible alternatives which are specific to Pacific cod in the BSAI. If either of the options below is chosen, the calculation alternatives shown above would still apply for the remaining fisheries.

Option A: Allocate Pacific cod QS at 45% for fixed gear recipients/55% for trawl gear.

Option B: Allocate Pacific cod QS by gear types based on historical split. We will examine: (1) back to 1976, (2) back to date of full DAP for Pacific cod, and (3) 1993 only to determine historical split.

Unless otherwise directed, same initial QS calculation options apply to divide QS among participants in each sector.

TARGET/BYCATCH CALCULATIONS

For the QS calculation alternatives described above, the following species will be considered target species:

<u>BSAI</u>	<u>GOA</u>
pollock	pollock
Pacific cod	Pacific cod
Atka mackerel	deepwater flats
yellowfin sole	shallow water flats
other flatfish	Atka mackerel
rockfish	rockfish
squid (fixed gear only)	
rocksole	
turbot	

IFQs - GROUND FISH AND CRAB - JUNE 1994

Whichever option is chosen, QS amounts for each species will be calculated based on catch, then adjusted based on average bycatch rates (or industry-derived bycatch rates) to achieve initial 'bundles' of target/bycatch species and PSC species. The Council has discussed the issue of basing QS calculations on retained, as opposed to reported, catch. As noted earlier, options will be analyzed on the basis of retained, when available, and reported catch.

TARGET/BY-CATCH CALCULATIONS (As revised per GLS proposal)

For the QS calculation alternatives described above, the following species will be considered target species (conforms to GLS target species list):

<u>BSAI</u>	<u>GOA</u>
pollock	pollock
Pacific cod	Pacific cod
Atka mackerel	deepwater flats
yellowfin sole	shallow water flats
other flatfish	Atka mackerel
rockfish	
squid (fixed gear only)	
rocksole	
turbot	

Target species QS will be based on retained catch.

PSC bycatch allotments will be bundled directly to target species QS. PSC bycatch allotments for each PSC species will be calculated by applying average PSC bycatch rates to retained target species IFQ (adjusted as necessary to stay within PSC caps).

PSC bycatch allotments are not transferable except when bundled with target species QS/IFQ. Partial bundles are transferable only on a pro rata basis of target QS/IFQ to PSC bycatch allotment. The Council will annually determine PSC bycatch rates, caps, and allotments.

The full utilization provisions of the GLS system apply: Full retention and utilization of all target species for which a TAC exists (except PSCs), total catch measurement and monitoring, and total PSC enumeration but not retention unless provided for by other management/regulatory programs.

HARVEST PRIORITY IFQ MULTIPLIER

The harvest priority multiplier will provide an individual incentive/reward structure for PSC bycatch reduction. IFQ allocations for each target species fishery will be adjusted by an index that reflects individual bycatch mortality rates (the "harvest priority multiplier").

** The Council has previously decided to designate this fishery a target fishery. Given the extreme discard wastage associated with this fishery, the State of Alaska again notes its opposition to this designation.

IFQs - GROUND FISH AND CRAB - JUNE 1994

A) Harvest Priority Multiplier Calculations

Target species/gear type IFQ allocations in each area will be annually adjusted by a harvest priority multiplier as follows:

$$IFQ_{ix} = [Q_{ix} / TO_x] \times TAC_x \times H_{ix}$$

where: IFQ_{ix} = individual i's pounds of IFQ for target species X
 Q_{ix} = individual i's holdings of quota shares for target species X
 TO_x = total quota shares for target species X
 TAC_x = TAC for target species X
 H_{ix} = individual i's harvest priority multiplier for target species X

where: $H_{ix} = B_{px} / B_{ix}$ if H_{ix} is not specified directly (see option C below)
 B_{px} = PSC bycatch mortality rate performance standard for participants in the target fishery for species X
 B_{ix} = individual i's PSC bycatch mortality rate in the target fishery for species X

Options for analysis for defining the PSC bycatch rate performance standard (B_{px}) and/or the harvest priority multiplier (H_{ix}) are:

Option A: For a given year, the lowest PSC bycatch rate recorded among all participants in the target fishery for species X would be the performance standard (B_{px}).

Option B: For a given year, the PSC bycatch rate exceeded by a specified percentage of all participants in the target fishery for species X would be the performance standard (B_{px}). Under this option, participants with individual bycatch rates below the performance standard would be assigned a harvest priority multiplier of 1 (i.e., $H_{ix} = 1$). All other participants would be assigned a harvest priority multiplier according to the formula specified above (i.e., $H_{ix} = B_{px} / B_{ix}$). Options for analysis are:

Suboption A: The performance standard (B_{px}) would be set equivalent to the PSC bycatch rate exceeded by 75% of the participants in the target fishery for species X (i.e., top 25% get a multiplier of 1).

Suboption B: The performance standard (B_{px}) would be set equivalent to the PSC bycatch rate exceeded by 50% of the participants in the target fishery for species X.

Option C: For a given year, rank all participants according to PSC bycatch rates (from lowest to highest) recorded for the previous year then divide participants into quartiles based on this ranking. Directly assign specific harvest priority multipliers to each quartile. Options for analysis are:

Suboption A: Participants in the first, second, third, and fourth quartiles would be assigned harvest priority multipliers of 1, 0.9, 0.8, and 0.7 respectively.

IFQs - GROUND FISH AND CRAB - JUNE 1994

Suboption B: Participants in the first, second, third, and fourth quartiles would be assigned harvest priority multipliers of 1, 0.9, 0.8, and 0.6 respectively.

B) Harvest Priority Multiplier Conditions

1) TAC shall not be exceeded.

2) Under situations where an unclaimed portion of the TAC results from application of the harvest priority multiplier, the following are options for analysis:

Option A: Redistribute unclaimed portion of the TAC to fishers with individual PSC bycatch rates below the performance standard. Redistribution to be in relative proportion to the extent that recipients have fished "cleaner" than the performance standard, and shall be apportioned on a pro rata basis such that TAC is not exceeded.

Option B: Use the unclaimed TAC as an auction pool, with participation in the auction being restricted to only those fishers with individual PSC bycatch rates below the performance standard.

3) During the first implementation year, individual bycatch rates will be determined by averaging performance in target fisheries under the GLS system. For all subsequent years, bycatch rates will be determined by performance in the previous year (i.e., the year prior to the annual IFQ allocation). The Council may annually adjust specification of the performance standard and/or the harvest priority multiplier as part of the TAC specification process.

4) Transfers of OS/IFQ shall carry the previous year's harvest priority multiplier for the first year of use under new ownership/control.

TRANSFERABILITY PROVISIONS

Any or all of the following options may apply:

Option A: No restrictions.

Option B: Two year restriction on sales only (could lease).

Option C: For groundfish only, non-transferable between fixed and mobile gear categories.

Option D: For crab fisheries only, non-transferable across catcher vs. catcher/processor categories.

Option E: IFQs will not be tied to a particular gear type after initial issuance.

NOTE: Normal legal gear regulations will still apply, i.e., unless the Council changes its regulations, trawl gear could not be used to harvest crab.

IFQs - GROUND FISH AND CRAB - JUNE 1994

Option F: Restriction on QS transfers between inshore and offshore sectors. Range (of duration) for analysis to include 5 years, 10 years, and no transfers. This applies to both groundfish and crab.

Option G: QS/IFQ not transferable across GLS categories.

Option H: QS/IFQ may only be transferred within GLS categories or from GLS catcher-processor to catcher vessel categories and from larger to smaller GLS catcher vessel size categories.

With regard to PSC QS/IFQ, 3 options are being considered:

Option A: PSC QS/IFQ are tied to initial bundles and are not transferable.

Option B: PSC QS/IFQ are tied to initial bundles and must be transferred with bundles.

Option C: PSC QS/IFQ are transferable separately from the initial bundles.

USE/OWNERSHIP PROVISIONS

The following options are being considered relative to accounting under the IFQ program. These options will affect an operator's ability to match IFQs to catch, and also relate to the ability to manage the program effectively within the overall TACs.

Option A: Must control IFQs to cover expected catch before fishing.

Option B: Overage program as with sablefish and halibut program.

Option C: QS/IFQ use is conditional upon: Full retention and utilization of all target species for which a TAC exists (except PSCs), total catch measurement and monitoring, and total PSC enumeration but not retention unless provided for by other management/regulatory programs. Non-compliance with any or all of these conditions may be grounds for suspension of IFQ and revocation of QS for multiple instances of non-compliance.

The following use/ownership provisions may also be considered by the Council:

Option A: Require a percentage of harvest IFQs to be delivered shoreside (% will be based on last 2 years' average for each species). This option was also included under 'PROCESSOR CONSIDERATIONS'.

Option B: Ownership caps would be set at .1%, 1%, 5%, 10%, or any number in that range and would apply to the BSAI and GOA separately. Same caps would apply to the skippers' quota share pool. Skippers' shares keep their identity after initial distribution. Initial allocants would be grandfathered.

ENFORCEMENT AND MONITORING REQUIREMENTS

An enforcement and monitoring plan must be developed by NMFS and approved by the Council as part of the IFQ system. Such a plan should clearly describe mechanisms for measuring and monitoring quota harvest and bycatch on an individual vessel basis (constraints imposed by current confidentiality

requirements should be addressed). The plan should also clearly describe provisions for designating ports of landing and specific mechanisms to prevent leakage, including measures to monitor at-sea transshipments and provisions to measure and record harvests on an individual vessel basis prior to transporting product into waters outside the jurisdiction of the U.S. The plan should include a review of enforcement and monitoring experience in other U.S. IFQ programs. A review of the accuracy of previous enforcement cost estimates should be included.

GENERAL PROVISIONS

- * Allocations represent a use privilege; however, the Council could alter or rescind the program without compensation.
- * Council should pursue some level of administrative fee extraction to fund program, if Magnuson Act is amended.
- * The U.S. ownership definitions used in the Halibut/Sablefish IFQ regulations should be used in analyzing both the initial issuance and the subsequent transfer of QS/IFQs. Would examine the implications of foreign ownership including an analysis of the Pacific Council's foreign ownership provisions.
- * An analysis of the impact of various fee collection levels and mechanisms is required. This analysis will differentiate between administrative fees and rents.
- * The U.S. citizenship/controlling interest definitions used in Title 46 §802 should be used in analyzing both the initial issuance and the subsequent transfer of QS/IFQs. This analysis should examine the implications of foreign ownership including an analysis of the Pacific Council's foreign ownership provisions. This analysis should also address ownership or control of QS/IFQ by lien holders and/or lending institutions.
- * An analysis of the impact of various rent collection levels and mechanisms is required. This analysis should include consideration of state and federal taxes and fees imposed on industry as well as management, enforcement and other costs borne by state and federal governments in support of industry.
- * An analysis of the feasibility and implementation of IFQ management with in-season TAC adjustments is required.
- * An analysis of constraints on management and implementation of IFQ systems posed by present confidentiality requirements is required.
- * A report on results from the halibut/sablefish IFQ post-implementation monitoring program (mandated under the GLS system) is required as part of the overall analysis.
- * An analysis of the extent to which current confidentiality requirements impede Council compliance with MFCMA requirements for review of allocation scenarios is required. The mandate that assignments of fishing privileges shall be "fair and equitable to all such fishermen . . . and carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges" is particularly pertinent to this requirement.

Details on the License Limitation Analysis

I. Approaches to Incorporating The State of Alaska GLS Proposal As Amended by the Council.

At the April Meeting the State of Alaska proposed a Groundfish License System (GLS) which was subsequently modified by the Council and eventually added to the Council's suite of groundfish license limitation alternatives. Minor changes were also made to the Bering Sea King and Tanner Crab License alternatives at the April meeting. Two approaches may be taken to weave the GLS alternatives into the draft analysis as completed to date: 1) Subdivide and meld the State's proposal into the system of components and elements as was done for the original suite of Council alternatives, or 2) Examine the State's proposal as a stand-alone alternative.

If the first approach were taken then the list of Components and Alternative Elements would be expanded. The advantage of this approach is that it allows the Council to mix and match elements of the State of Alaska proposal with other elements as they see fit. In developing their preferred alternative the Council could choose on element from each component set affecting the initial assignment of licenses. Perhaps the biggest drawback to using this approach is that the number of potential groundfish license alternatives increases dramatically. This is because: 1) The ADFG proposal introduces a different list of target species than was used by the Council staff in the draft analysis. 2) The ADFG proposal introduces the concept of differential qualification standards for general licenses and endorsements. 3) The ADFG proposal introduces at least two additional qualification periods. With the expanded list of elements and options, the total number of groundfish alternatives increases to over 100,000.

II. The Structure of the Alternatives As Depicted in the Draft Analysis.

The groundfish and crab license alternatives as laid out in Item C-3(a), has caused some confusion for the public, the staff, and possibly for members of the Council itself. In light of this, a substitute format for the purposes of the analysis of the suite of alternatives from the January Council meeting was used in the April draft analysis. This format (hereafter referred as the "analysis format" or "format") is shown on pages 136-7 for groundfish and page 152 for crab of the draft analysis. The intent of the analysis format is to reflect in a standardized arrangement those motions adopted by the Council which for example are show in Item C-3(a) and which the Council has used as its guiding document. This same format is intended to be used in the forthcoming analysis. The reasoning behind the use of the analysis format is that it explicitly allows for the demonstration of the effects of any element relative to other elements. It also allows the Council to develop a preferred alternative by picking and choosing among various elements with the assurance that the preferred alternative will be within the scope of the analysis. The staff believes the substitute format captures the breadth of possible interpretations and the range of possible alternative elements, and this will be the format on which the analysis will be based. Therefore, it may be prudent for the Council to review the analysis format as shown below to be sure the options and elements reflect their desires.

It also needs to be clear that only those items which are viewed as choices facing the Council are included in this format. Analytical directions incorporated into the various motions, for example the direction to analyze the management and enforcement costs, are not included because the Council will not face a decision 'choice' on this issue. Be assured, however, that management and enforcement costs will be studied.

The analytical format of the Council's amended suite of Groundfish License options is shown below. The elements and options have been separated into two separate sets of component parts. The first set of components deals with those elements affecting the initial assignment of licenses, the second deals with those elements affecting the ownership, use and transfer of licenses. The following components are defined for initial assignment of licenses: Nature of Licenses, License Recipients, License Designations, Qualifying Periods, Landings Requirements for General License Qualification, and Landings Requirements for Endorsement Qualification. These components are shown in bold text with the alternative elements listed below. Components and elements added at the April meeting are shown in shaded text. In developing its preferred alternative for the initial assignment of groundfish licenses the Council will need to choose one element from each component set. The numbering scheme shown to the right of each element will allow alternative and combinations of alternatives to be easily identified. This numbering scheme was explained and used in the April draft analysis, and will be used in subsequent analyses.

**COMPONENTS AND ALTERNATIVE ELEMENTS AFFECTING THE INITIAL ASSIGNMENT OF GROUND FISH LICENSES: ANALYSIS
FORMAT**

	NUMBERING SCHEME
Nature of Licenses	
Single license for all species and areas	100000
Licenses for FMP areas (e.g. GOA and BSAI)	200000
Licenses for FMP sub-areas (e.g. EG, CG, WG, BS, AI)	300000
Licenses for the following areas, EG, CG, WG, BSAI	400000
Licenses for species (Pollock, P.Cod, Flatfish, Rockfish, Other)	500000
Licenses for species identified by ADFG	600000
Licenses for species and FMP areas (e.g. GOA and BSAI)	700000
Licenses for species and FMP sub-areas (e.g. EG, CG, WG, BS, AI)	800000
Licenses for species identified by ADFG and FMP areas (e.g. GOA and BSAI)	900000
Licenses for species identified by ADFG and FMP sub-areas (e.g. EG, CG, WG, BS, AI)	1000000
Licenses for species identified by ADFG and (e.g. EG, CG, WG, BSAI)	1100000
License Recipients	
Current owners	10000
Current owners with at least 75% U.S. ownership	20000
Current owners and owners at the time of landing	30000
Current owners and owners at time of landing (75% U.S. ownership req'd)	40000
Current owners and permit holders	50000
Current owners (75% U.S. ownership req'd) and permit holders	60000
Current owners, owners at the time of landing, and permit holders	70000
Current owners, owners at time of landing (75% U.S. ownership req'd for both), and permit holders	80000
License Designations	
No designations	1000
Catcher vessels & Catcher/processors	2000
Vessel length	3000
Inshore & Offshore	4000
Catcher vessels & Catcher/processors and vessel length	5000
Catcher vessels & Catcher/processors and Inshore & Offshore	6000
Inshore & Offshore and vessel length	7000
Catcher vessels & Catcher/processors, Inshore & Offshore, and vessel length	8000

Qualifying Periods

Jan. 1, 1978 - Dec. 31, 1993	100
Jun. 28, 1989 - Jun. 27, 1992	200
Jun. 28, 1989 - date of final action	300
Jan. 1, 1990 - Dec. 31, 1993	400
The three years prior to the date of final action	500
Jun. 28, 1989 - Jun. 27, 1992 & the three years prior to the date of final action	600
Each of the three calendar years from 1/1/90 - 6/27/92 & the 365 days prior to final action	700
Each of the three calendar years from 1/1/90 - 6/27/92 & the 365 days prior to final action, except for fixed gear P. cod use 6/23/91 - 6/27/92 rather than 6/28/89 - 6/27/92	800

Landings Requirements For General License Qualification

One Landing	10
Two landings	20
5,000 pounds	30
10,000 pounds	40
20,000 pounds	50

Landings Requirements for Endorsement Qualification

One landing in qualifying period	1
Two landings in qualifying period	2
Three landings in qualifying period	3
Four landings in qualifying period	4
One landing in year prior to council action	5
Two landings in year prior to council action	6
Three landings in year prior to council action	7
Four landings in year prior to council action	8
5,000 pounds in qualifying period	9
10,000 pounds in qualifying period	A
20,000 pounds in qualifying period	B

In addition to options affecting the assignment of licenses, the Council has included options affecting the transferability, ownership, and use of licenses. These are independent from the initial assignment of licenses. Options for the following components are included: **Who May Purchase Licenses**, **Vessel/License Linkages**, **Vessel Replacement and Upgrades**, **License Ownership Caps**, **Vessel License Use Caps**, **Vessel Designation Limits**, **Buyback/Retirement Program**, **Community Development Quotas**, **Community Development Licenses**, **Other Provisions**. Components set headings are shown in bold text with alternative elements listed below. **Shaded text** denotes options which were added at the April meeting. In developing its preferred alternative the Council will need to choose one element from each component set, with the exception of "Other Provisions", for which the Council may choose none, one, or any number of the options listed. The numbering scheme used above is not employed for these components, at this time, because of the independent nature of the components.

COMPONENTS AND ALTERNATIVE ELEMENTS AFFECTING THE OWNERSHIP, USE AND TRANSFER OF LICENSES.

Who May Purchase Licenses

1. Licenses could be transferred only to "persons" defined under Title 46.
2. Licenses could be transferred only to "persons" with 75% or more U.S. ownership.
3. Licenses could be transferred to "persons" with 75% or more U.S. ownership, with "grandfather" rights for license recipients with 75% or less U.S. ownership.

Vessel/License Linkages

1. Vessel must be transferred with license
2. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than that to which the license was initially was issued.

Options Regarding the Separability of Species and/or Area Designations

1. Species and/or Area designations are not separable, and shall remain as a single with those initial designations.
2. Species and/or Area designations shall be treated as separable licenses and may be transferred as such.
3. Species and/or Area designations shall be regarded as separable endorsements which require the owner to also own a general license before use or purchase.

Vessel Replacement and Upgrades

1. No restrictions on vessels replacement or upgrades except that the vessel must meet the "Use Restrictions" defined by the initial allocation.
2. Vessel may not be replaced or upgraded.
3. Vessel may be replaced or upgraded within relevant vessel length & catcher vessel/catcher processor categories.
4. Vessel may be replaced but only with of vessel of the same length overall and fishing capacity.
5. Vessel may be replaced but only with of vessel of the same length overall and fishing/processing capacity.
6. Vessel may be replaced or upgraded within the bounds of the 20% Rule as defined under the Moratorium. Proposed Rule.

License Ownership Caps

1. No limit on the number of licenses or endorsements which may be owned by a "person".
2. No more than 5 area licenses per person with grandfather provisions.
3. No more than 10 area licenses per person with grandfather provisions.
4. No more than 15 area licenses per person with grandfather provisions.
5. No more than 5 species/area endorsements per person with grandfather provisions.
6. No more than 10 species/area endorsements per person with grandfather provisions.
7. No more than 15 species/area endorsements per person with grandfather provisions.

Vessel License Use Caps

1. No limit on the number of licenses (or endorsements) which may be used on a vessel.
2. No more than 1 area license (endorsement) may be used on a vessel in a given year.
3. No more than 2 area licenses (endorsements) may be used on a vessel in a given year.
4. No more than 3 area licenses (endorsements) may be used on a vessel in a given year.
5. No more than 4 area licenses (endorsements) may be used on a vessel in a given year.
6. No more than 5 area licenses (endorsements) may be used on a vessel in a given year.

Vessel Designation Limits

1. A vessel which qualifies for multiple designations (i.e. both as a CV and as a CP or as both inshore and offshore) under the use restriction component will be able to participate under any designation for which it qualifies.
2. A vessel which qualifies for multiple designation under the use restriction component must choose one of the designation for use.

Buyback/Retirement Program

1. No buyback/retirement program.
2. Fractional license system. (Fractional licenses may be issued to vessel owners at the time of landing and/or permit holders.)
3. Industry Funded Buyback Program with right of first refusal on all transfers of licenses.

Community Development Quotas.

1. No CDQ allocations
2. 3% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.
3. 7.5% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.
4. 10% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.
5. 15% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.

Community Development Licenses.

1. No Community Development Licenses.
2. Grant an additional 3% non-transferable licenses to CDQs communities.
3. Grant an additional 7.5% non-transferable licenses to CDQs communities.
4. Grant an additional 10% non-transferable licenses to CDQs communities.
5. Grant an additional 15% non-transferable licenses to CDQs communities.

Other Provisions (Choose any or none of the following)

1. Licenses represent a use privilege. The Council may convert the license program to an IFQ program or otherwise alter or rescind the program without compensation to license holders.
2. Severe penalties may be invoked for failure to comply with conditions of the license.
3. Licenses may be suspended or revoked for multiple violations.
4. Implement a Skipper Reporting System which requires groundfish license holders to reports skipper names, address, and service records to NMFS.
5. Develop and implement mechanisms to collect management, enforcement costs and/or rents from the industry, including taxes and fees on the industry.

As noted in the first part of this item, there are two possible approaches to examining the GLS as proposed by the State of Alaska. The first approach is depicted in the suite of initial assignment components above. The second approach would be to examine the GLS as a set of stand-alone alternatives separate from those approved by the Council for the draft analysis. This implies that there would be no mixing or matching of elements from the original 5,760 Council alternatives and the "GLS" options. This would limit the Council's flexibility when contemplating the GLS because variations are not likely to be within the scope of the analysis. In this case, the analysis of license alternatives would feature two distinct sets of initial assignment components and alternative elements: The first set would be essentially identical to those shown on pages 136-7 of the April draft analysis. The second set would be the list shown below, which results in an additional 256 possible combinations.

**COMPONENTS AND ALTERNATIVE ELEMENTS AFFECTING THE INITIAL ASSIGNMENT LICENSES UNDER THE GLS: ANALYSIS
FORMAT**

	NUMBERING SCHEME
Nature of Licenses	
Licenses for species identified by ADFG and FMP sub-areas (e.g. EG, CG, WG, BS, AI)	100000
Licenses for species identified by ADFG and (e.g. EG CG, WG, BSAI)	200000
License Recipients	
Current owners with at least 75% U.S. ownership	10000
License Designations	
No designations	1000
Catcher vessels & Catcher/processors	2000
Vessel length	3000
Inshore & Offshore	4000
Catcher vessels & Catcher/processors and vessel length	5000
Catcher vessels & Catcher/processors and Inshore & Offshore	6000
Inshore & Offshore and vessel length	7000
Catcher vessels & Catcher/processors, Inshore & Offshore, and vessel length	8000
Qualifying Periods	
Each of the three calendar years from 1/1/90 - 6/27/92 & the 365 days prior to final action	100
Each of the three calendar years from 1/1/90 - 6/27/92 & the 365 days prior to final action, except for fixed gear P. cod use 6/23/91 - 6/27/92 rather than 6/28/89 - 6/27/92	200
Landings Requirements For General License Qualification	
One Landing	10
Landings Requirements for Endorsement Qualification.	
One landing in qualifying period	1
Two landings in qualifying period	2
Three landings in qualifying period	3
Four landings in qualifying period	4
One landing in year prior to council action	5
Two landings in year prior to council action	6
Three landings in year prior to council action	7
Four landings in year prior to council action	8

BSAI King and Tanner Crab License Alternative: Analysis Format

At the April meeting changes and additions were made to the Crab license alternative as well. Relative to groundfish the changes are few in number. The substitute format for the components and alternative elements affecting the initial assignment of BSAI King and Tanner Crab licenses are shown below. If the Council chooses to develop a preferred alternative, one element from each component set (component headings are shown in bold text) must be chosen. Elements added at the April meeting are shown as shaded text.

**COMPONENTS AND ALTERNATIVE ELEMENTS AFFECTING INITIAL ASSIGNMENTS OF CRAB LICENSES:
ANALYSIS FORMAT**

	NUMBERING SCHEME
Nature of Licenses	
Single license for all species and areas	10000
Licenses for species(e.g. <i>C. opilio</i> , <i>C. bairdi</i> , Red, Blue and Brown King Crab).	20000
Licenses for each species/area combination	30000
Single license for all species and areas except Norton Sound Super-exclusive Area	40000
Licenses for species(e.g. <i>C. opilio</i> , <i>C. bairdi</i> , Red, Blue and Brown King Crab) except N.S.	50000
Licenses for each species/area combination except N.S.	60000
 License Recipients	
Current owners	1000
Current owners with at least 75% U.S. ownership	2000
Current owners and permit holders	3000
Current owners (with 75% U.S. ownership req'd) and permit holders	4000
 License Designations	
No designations	100
Catcher vessels & Catcher/processors (defined by most recent activity)	200
Vessel length (defined by most recent activity)	300
Catcher vessels & Catcher/processors and vessel length (defined by most recent activity)	400
Catcher vessels & Catcher/processors (defined by activity prior to 6/27/92)	500
Vessel length (defined by activity prior to 6/27/92)	600
Catcher vessels & Catcher/processors and vessel length (defined by activity prior to 6/27/92)	700
 Qualifying Periods	
Jan. 1, 1978 - Dec. 31, 1993	10
6/28/89 - 6/27/92 (6/29/80 - 6/25/83 for D.H. Red & 6/29/85 - 6/25/1988 for Prib. Blue)	20
 Landings Requirements (For both General Licenses and Endorsements)	
No minimum	1
1 landing for Red & Blue King, 3 landings for Brown King, <i>C. opilio</i> , & <i>C. bairdi</i>	2

In addition to the elements affecting the initial assignment of licenses, alternative exist which affect the ownership, use and transfer of licenses once they have been issued. These are shown below. In developing their preferred alternative the Council would choose one element from each component set (component headings are shown in bold text.)

COMPONENTS AND ALTERNATIVE ELEMENTS AFFECTING OWNERSHIP, USE AND TRANSFER OF CRAB LICENSES.

Who May Purchase Licenses

1. Licenses could be transferred only to "persons" defined under Title 46.
2. Licenses could be transferred only to "persons" with 75% or more U.S. ownership.
3. Licenses could be transferred to "persons" with 75% or more U.S. ownership, with grandfather rights for license recipients with 75% or less U.S. ownership.
4. Licenses are non-transferable.

Vessel/License Linkages

1. Vessel must be transferred with license.
2. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than that to which the license was initially was issued.

Options Regarding the Separability of Species and/or Area Designations

1. Species and/or Area designations are not separable, and shall remain grouped as in the initial allocation.
2. Species or Area designations shall be treated separable licenses and may be transferred as such.
3. Species or Area designations shall be regarded as separable endorsements which require the owner to also own a more general license before use or purchase.

Vessel Replacement and Upgrades

1. No restrictions on vessels replacement or upgrades except that the vessel must meet the "Use Restrictions" defined by the initial allocation.
2. Vessel may not be replaced or upgraded.
3. Vessel may be replaced or upgraded within relevant vessel length & catcher vessel/catcher processor categories.
4. Vessel may be replaced or upgraded within the bounds of the 20% Rule as defined under the Moratorium. Proposed Rule.

Buyback/Retirement Program

1. No buyback/retirement program.
2. Fractional license system. (Fractional licenses may be issued to permit holders.)
3. Industry Funded Buyback Program with right of first refusal on all transfers of licenses.

Community Development Quotas.

1. No CDQ allocations.
2. Set aside 3% of crab fisheries with GHs for CDQs patterned after current program w/o sunset provision.
3. Set aside 7.5% of crab fisheries w/GHs for CDQs patterned after current program w/o sunset provision.
4. Set aside 10% of crab fisheries w/GHs for CDQs patterned after current program w/o sunset provision.
5. Set aside 15% of crab fisheries w/GHs for CDQs patterned after current program w/o sunset provision.

Community Development Licenses.

1. No Community Development Licenses.
2. Grant an additional 3% non-transferable licenses to CDQs communities.
3. Grant an additional 7.5% non-transferable licenses to CDQs communities.
4. Grant an additional 10% non-transferable licenses to CDQs communities.
5. Grant an additional 15% non-transferable licenses to CDQs communities.

Other Provisions (Choose any or none of the following)

1. Licenses represent a use privilege. The Council may convert the license program to an IFQ program or otherwise alter or rescind the program without compensation to license holders.
2. Severe penalties may be invoked for failure to comply with conditions of the license.
3. Licenses may be suspended or revoked for multiple violations.
4. Implement a Skipper Reporting System which requires groundfish license holders to report skipper names, address, and service records to NMFS.
5. Develop and implement mechanisms to collect management, enforcement costs and/or rents from the industry, including taxes and fees on the industry.
6. No Future Super-exclusive Area will be proposed.

Individual Transferable Pot Quota System

In addition to the components above, an Individual Transferable Pot Quota (ITPQ) System Alternative has been proposed. Under this option the components affecting the initial assignment of crab licenses will remain unchanged. However once it is decided which persons qualify for which vessel size and processing designations, licenses would be linked to a limited number of pots. Pots could be transferred to meet individual vessel requirements. Many of the component sets regarding the use and transferability of licenses may not apply under a ITPQ system. However, if a pot ITP is adopted, the Council will need to discuss specifics such as transferability restrictions.

III. Points of Clarification for Additions and Changes From the April Meeting

There are several points regarding the additions and changes from the April meeting which may need clarification before the analysis is to proceed. These are listed below.

1. The qualifying period in the motion for the GLS specifies that: "landings must have been made in each year in the three year period prior to June 24, 1992 and the year before the date of the final Council action". Later this was clarified to mean each of the calendar years within the qualifying period, and specifically it was stated the calendar would be 1990, 1991, and 1992. The staff interpreted that the motion, with the clarification regarding calendar years, results in the following qualification requirement: *A legal groundfish landing must have been made in each of the following time periods: 1) 1/1/90-12/31/90, 2) 1/1/91-12/31/91, 3) 1/1/92-6/27/92, and 4) the 365 day period prior to the Council's final action.* Is this the intent of the Council?
2. Does the GLS envision general area licenses with separable species endorsements? Or does the GLS envision separable species-area licenses? The former implies that a fisher would need a general area license before being allowed to own a species endorsement for that area. The latter implies that species-area licenses are linked and that a fisher would have only to own a specific species-area license. The latter also implies that the potential maximum number of vessels in the fishery equals the number of species-area endorsements, while under the former interpretation the potential maximum number of vessels equals the number of general area licenses. It should be noted that there is a considerable difference in the potential capacity resulting from these two alternatives. The assumption is that the proposal intends general area licenses with separable species endorsements.
3. Under the GLS proposal licenses will be issued only for selected species under the management of the Council. How are landings of species not included in the list of targets to be treated in terms of qualification requirements. For example will a landing of arrowtooth flounder in the Bering Sea count as a landing toward the qualification for a Bering Sea area license? (We are assuming that it would count, noting that no species endorsement would be issued for arrowtooth).
4. Is it possible to receive an license for an area but not receive any species endorsements. For example, a fisher landed only rockfish in the Central Gulf in each of the four calendar years during the qualifying period. Since rockfish is not a designated species in the GOA under the GLS, the fisher would not be qualified for any species endorsements, but may be qualified for an area license. It is assumed that an area license would be required before a purchase of a species endorsement could be approved the R.D.
5. Should "a landing" of any given species be taken to mean "a landing while targeting the given species?" Or should "a landing" be taken to mean simply that; "a landing". Our understanding is that a landing counts, whether or not it was the target species for that landing.

6. The Council included an exception in the qualification requirements for fixed gear Pacific cod. Specifically this reads as follows: *For fixed gear Pacific cod only, the vessel must have fished in the year prior to June 24, 1992.*
 - a. Does the language "in the year prior to June 24, 1992" with respect to the fixed gear Pacific cod qualifying period mean: 1) "in the 365 days prior to June 24, 1992", or 2) "in the calendar year prior to June 24, 1992"? If the meaning is "calendar year", does this make the fixed gear P. cod qualifying period 1/1/92-6/27/92, or 1/1/91-12/31/91?
 - b. It is assumed that owners who qualify under this provision will receive a general area license with a P. cod endorsement. This endorsement will be no different than a Pacific cod endorsement earned by a trawl vessel under longer qualifying requirements, i.e. once issued there is no requirement that a specific gear be used while fishing under this endorsement. Further, no other species endorsements for this area will be awarded to the owner of the fixed gear vessel unless the vessel also met the regular qualifying requirements. Is this the intent of the Council?
7. The Council may wish to revisit the options regarding ownership, transferability, and Title 46 language. Our understanding of the Council's intent was that there are two basic options regarding initial allocations:
 - a. Issue licenses to persons as defined by Title 46.
 - b. Issue licenses to persons as defined by Title 46 with the additional requirement of 75% U.S. ownership (as per Shipping Act of 1916 language).

These requirements were also applied to the transferability of licenses. Our understanding of the Council's intent is that the following three alternatives are included. These options, in combination with the two above, capture any "grandfathering" provisions the Council may have intended to include:

- a. Licenses could be transferred only to "persons" defined under Title 46.
- b. Licenses could be transferred only to "persons" with 75% or more U.S. ownership.
- c. Licenses could be transferred only to "persons" with 75% or more U.S. ownership, unless they received "grandfather" rights in the initial allocation.

IV. Consolidation of Elements and Options.

The staff suggests that the Council could examine the lists of options in the analysis formats and eliminate those for which they do not wish further analysis, noting that any options dropped at this time, would still be considered within the range of alternatives, however it would be likely that further analysis would have to be undertaken if the dropped element was part of a preferred alternative. Dropping elements at this time will have the effect of streamlining the final EA/RIR, allowing the document to focus on viable options. Eliminating options at this time is justified because the Council and the public have had time to review the alternatives and potential impacts in the April 18, 1994 draft document. The following text outlines several areas where the number of options and elements could be reduced. Note that the effects of dropping options as discussed below assumes that the list of options under consideration is that shown on pages 1-2 of this memo.

1. Dropping elements under "Nature of Licenses" will reduce the total number of alternatives by approximately 9.09% (1 + 11) for each element dropped. The Council could at this time choose to drop certain species and area combinations.
 - a. Choose a single list of included target species. The GLS added a different set of species/fisheries than was considered in the draft analysis. Choosing a single list of species will reduce the number

of elements in this component by four, reducing the total number of options by approximately 36%. Note that the list of fisheries proposed in the draft analysis allowed all vessels to pursue the same targets as in the status quo, while the GLS eliminates certain target fisheries.

- b. Eliminate one or more of the area delineations. (The GLS added an additional grouping of areas.) Since each area delineation currently appears three times in the list above, the total number of possible combinations could be reduced by 27%. It should be noted that area licenses (without species endorsements) were inferred by the staff and subsequently added to the list of elements.
2. Dropping elements from the list of potential "License Recipients" will reduce the number of total alternatives by approximately 25% for each option dropped.
3. Dropping elements or specific combinations of elements from "Use Restrictions" component will reduce the overall number of combinations by 12.5% (1 + 8). Note that some of these combinations were added by staff in an effort toward completeness.
4. Dropping "Qualification Period" elements from further analysis will reduce the total alternative by 12.5% for each element dropped. Note that options 30, 40, 50, and 60 were inferred by the staff as possible interpretations of the Council's Option C under Criteria for Eligibility. The Council could clarify their intent on this option and thereby eliminate several elements.
5. The Council may wish to drop one or more of the "Minimum Landings" for qualification elements. For each element dropped the number of potential combinations is reduced by 20%.
6. The State of Alaska's GLS proposal introduces the concept of differential qualifying standards for general licenses and endorsements. This has the effect of increasing the number of potential alternative 83% (over the original 5,760) for each additional endorsement standard. For example, assume there had been two species endorsement qualifying options (distinct from the area qualifying requirements) under the suite of alternatives contained in the draft analysis. The number of potential options would have increased to 10,560. There are 11 potential endorsement standards which have been inferred by the Council staff. If there had been no other additions to the list of alternatives then number of potential combination would have been 52,800. The Council could at this time choose to eliminate any of the 11 elements, reducing the number of combinations by 7.6% for each element dropped.

V. Preliminary Data Runs for the GLS.

Preliminary data runs for one of the possible combinations of elements from the GLS added to the suite of options in April are shown in Tables 1 and 2. Specifically the tables below show the number of vessels which would qualify if a legal groundfish landing was made in each of the following time periods: 1) 1/1/90-12/31/90, 2) 1/1/91-12/31/91, 3) 1/1/92-6/27/92, except that fixed gear vessels with a single landing of P. Cod in an area during the period 6/23/91-6/28/92 will qualify for a P. Cod license in that area. These tables are preliminary, and have been constructed to allow a comparison with alternatives already in the Council's suite of alternatives. Therefore, the species endorsements reflect those used in the draft analysis (pollock, Pacific cod, flatfish, rockfish, and other species for all areas) and we have not included the inshore/offshore designations. Additionally, the qualifying period for the GLS alternatives required participation in the year prior to final Council action. (In this case we assume year means 365 days.) These preliminary runs do not include this requirement. Because of these adaptations (species, designations, and qualifying period), the numbers in Tables 1 and 2 overestimate the actual number of qualifiers, particularly in the Gulf flatfish and rockfish fisheries, and for flatfish and other species in the BSAI. Actual runs of the newly added alternatives will be

based on the species listed in the GLS, with the most recent data available, and will be included in the analysis when it is completed later this year (if the Council wishes to maintain this list of species). Table 1 describes the licenses which would be issued by species and area, and Table 2 shows the residence by Borough/County of the owners of qualifying vessels.

Tables 3 and 4, included for comparison, show the number of qualifiers by species and area, and the residence by Borough/County of owners of qualifying vessels under the license alternative shown on page 103 of the April draft analysis. To qualify under those particular alternatives a single landing for a given species/area must have been made between 6/28/89 and 6/27/92. We have also included Tables 5 and 6 which report the number of vessels which made landings by the same species and areas for 1992, and where those vessel owners lived by Borough/County.

TABLE 1

Licenses Issued Based on the State of Alaska's GLS Proposal (Note: Species Groups are Not Those Selected by the State)															
Area	Species	Alaska						Other						Total	
		Catcher Vessel Length		Catcher Processor	Catcher Vessel Length		Catcher Processor	Catcher Vessel Length		Catcher Processor	Catcher Vessel Length		Catcher Processor	ALL	
		< 60'	>= 125'		< 60'	>= 125'		< 60'	>= 125'		< 60'	>= 125'			
Total Vessels		971	119	3	20	136	142	16	116	1,107	261	19	136	1,523	
Aleutian Islands	Flatfish		1		7	2	7		29	2	8		36	48	
	Other Species				7		2		32				39	41	
	Pacific Cod	18	10		14	15	19	2	68	33	29	2	82	146	
	Pollock				6		3		29		3		35	38	
	Rockfish		1		7	2	7		31	2	8		38	48	
Bering Sea	Flatfish	2	13	1	13	6	64	10	75	8	77	11	88	184	
	Other Species		10	1	13		56	8	76		66	9	89	164	
	Pacific Cod	77	45	2	17	32	115	16	110	109	160	18	127	414	
	Pollock	1	11	1	12		62	10	74	1	73	11	86	171	
	Rockfish	2	11	1	13	6	54	8	71	8	65	9	84	166	
Central Gulf	Flatfish	13	27		1	1	11	2	13	14	38	2	14	68	
	Other Species	8	15		3	2	5		15	10	20		18	48	
	Pacific Cod	402	82		10	50	46	2	34	452	138	2	44	636	
	Pollock	36	28		1	3	19	1	12	39	47	1	13	100	
	Rockfish	97	45		3	32	26		16	129	71		19	219	
Eastern Gulf	Flatfish	6				1	1			7	1			8	
	Other Species	24	1							24	1			25	
	Pacific Cod	536	19		2	58	13		3	594	32		5	631	
	Pollock	11				2				13				13	
Western Gulf	Rockfish	240	9			34	11		1	274	20		1	295	
	Flatfish	1	1		5		12	6	17	1	13	6	22	42	
	Other Species	1			6		6	4	17	1	6	4	23	34	
	Pacific Cod	101	16	1	12	12	31	7	49	113	47	8	61	229	
	Pollock	6			5	5	12	6	14	6	12	6	19	49	
	Rockfish	9	3		6	3	18	3	17	12	21	3	23	59	
Total Licenses		1,582	355	7	157	258	582	82	786	1,840	937	89	843	3,809	

TABLE 2

Location of Current Vessel Owners Residence for Those Fishers Receiving Licenses Under The State of Alaska's GLS Proposal						
OWNERS STATE	REGION	Catcher Vessels			Catcher	ALL
		< 60'	60'-125'	>=125'	Processors	
ALASKA	ALEUTIAN ISLANDS	4	2	.	.	6
	ALEUTIANS EAST	64	3	.	.	67
	ANCHORAGE	27	6	.	2	35
	FAIRBANKS NORTH STAR	6	.	.	.	6
	HAINES	18	.	.	.	18
	JUNEAU	44	1	.	.	45
	KENAI PENINSULA	197	22	1	12	232
	KETCHIKAN GATEWAY	26	.	.	.	26
	KODIAK ISLAND	124	50	.	1	175
	LAKE AND PENINSULA	10	.	.	.	10
	MATANUSKA-SUSITNA	12	2	.	.	14
	OTHER	86	10	1	1	98
	PRINCE OF WHALES-OUTER KETCHIKAN	38	2	.	.	40
	SITKA	91	7	.	2	100
	SKAGWAY-YAKUTAT-ANGOON	84	.	.	.	84
	VALDEZ CORDOVA	42	11	1	.	54
	WRANGELL-PETERSBURG	107	3	.	2	112
Alaska Sub-Total		980	119	3	20	1,122
OREGON	CLATSOP	4	4	.	1	9
	LINCOLN	1	17	.	.	18
	MARION	19	.	.	.	19
	OTHER	5	3	.	.	8
Oregon Sub-Total		29	24		1	54
WASHINGTON	JEFFERSON	4	.	.	.	4
	KING	30	71	11	94	206
	KITITAS	3	.	.	.	3
	KITSAP	4	2	.	.	6
	OTHER	14	15	1	11	41
	SKAGIT	9	5	2	.	16
	SNOHOMISH	11	14	1	6	32
	WHATCOM	5	5	1	2	13
Washington Sub-Total		80	112	16	113	321
OTHER		18	6	.	2	26
Total		1,107	261	19	136	1,523

TABLE 3

A License for Specific Fisheries and FMP sub-Areas Issued to Current Vessel Owners														
With Use Restrictions on Catch and Processing and Vessel Length. Must Have Made a Landing														
Between June 28, 1989 and June 27, 1992 (GC61521)														
Area	Species	Alaska				Other				Total				
		Catcher Vessel Length			Catcher	Catcher Vessel Length			Catcher	Catcher Vessel Length			Catcher	ALL
		< 60'	60'-125'	>=125'	Processor	< 60'	60'-125'	>=125'	Processor	< 60'	60'-125'	>=125'	Processor	
Total Vessels		2,014	169	4	25	348	206	29	133	2,362	375	33	158	2,928
Aleutian Islands	Flatfish	7	11		12	12	31	4	82	19	42	4	94	159
	Other Species		5		13		17	3	92		22	3	105	130
	Pacific Cod	19	14		14	18	43	7	94	37	57	7	108	209
	Pollock		2		8		32	10	67		34	10	75	119
	Rockfish	9	15		13	15	41	3	86	24	56	3	99	182
Bering Sea	Flatfish	22	43	1	17	22	97	17	112	44	140	18	129	331
	Other Species	9	26	1	18	4	74	13	116	13	100	14	134	261
	Pacific Cod	119	64	2	19	46	150	27	120	165	214	29	139	547
	Pollock	16	28	1	17	6	86	17	102	22	114	18	119	273
	Rockfish	40	31	1	16	23	85	12	98	63	116	13	114	306
Central Gulf	Flatfish	24	33		8	2	42	4	47	26	75	4	55	160
	Other Species	24	19		16	2	13		63	26	32		79	137
	Pacific Cod	618	125	2	14	86	105	9	61	704	230	11	75	1,020
	Pollock	96	37		9	11	60	5	46	107	97	5	55	264
	Rockfish	425	84		15	100	82	1	60	525	166	1	75	767
Eastern Gulf	Flatfish	22	3		1	5	3	1	10	27	6	1	11	45
	Other Species	45	2		3	4	1		18	49	3		21	73
	Pacific Cod	991	28		2	120	17		7	1111	45		9	1,165
	Pollock	19	2		1	5			9	24	2		10	36
	Rockfish	902	42		5	205	45		17	1107	87		22	1,216
Western Gulf	Flatfish	8	6		12	3	39	13	71	11	45	13	83	152
	Other Species	1	3		14	1	25	8	85	2	28	8	99	137
	Pacific Cod	145	34	2	14	23	79	16	81	168	113	18	95	394
	Pollock	14	9		10	6	43	13	61	20	52	13	71	156
	Rockfish	62	21		14	38	52	4	80	100	73	4	94	271
Total Licenses		3,637	687	10	285	757	1,262	187	1,685	4,394	1,949	197	1,970	8,510

TABLE 4

Location of Current Owners Residence for Those Fishers Receiving Licenses						
Based on Landings Between June 28, 1989 and June 27, 1992						
OWNERS STATE	REGION	Catcher Vessel			Catcher	ALL
		< 60'	60'-125'	>=125'	Processor	
ALASKA	ALEUTIAN ISLANDS	17	2	.	.	19
	ALEUTIANS EAST	98	6	.	.	104
	ANCHORAGE	78	8	.	2	88
	BETHEL	4	.	.	.	4
	FAIRBANKS-NORTH STAR	11	.	.	.	11
	HAINES	35	.	.	.	35
	JUNEAU	114	2	.	.	116
	KENAI PENINSULA	338	30	1	11	380
	KETCHIKAN GATEWAY	111	3	.	.	114
	KODIAK ISLAND	231	70	1	6	308
	LAKE AND PENINSULA	32	.	.	.	32
	MATANUSKA-SUSITNA	26	2	.	.	28
	OTHER	19	6	1	.	26
	PRINCE OF WALES OUTER KETCHIKAN	124	3	.	.	127
	SITKA	228	8	.	4	240
	SKAGWAY-YAKUTAT-ANGOON	182	1	.	.	183
	VALDEZ CORDOVA	99	19	1	.	119
	WRANGELL-PETERSBURG	267	9	.	2	278
Alaska Sub-Total		2,014	169	4	25	2,212
OREGON	CLATSOP	11	7	.	1	19
	LINCOLN	5	25	1	.	31
	MARION	26	1	.	.	27
	OTHER	12	1	.	.	13
Oregon Sub-Total		54	34	1	1	90
WASHINGTON	CLALLAM	8	2	.	.	10
	CLARK	2	.	.	.	2
	COWLITZ	6	1	.	.	7
	GRAYS HARBOR	4	1	.	.	5
	ISLAND	4	1	.	3	8
	JEFFERSON	12	2	.	.	14
	KENT	2	1	2	.	5
	KING	80	112	20	114	326
	KITSAP	12	2	.	.	14
	OTHER	23	5	.	2	30
	PACIFIC	5	1	.	.	6
	PIERCE	9	3	.	.	12
	SAN JUAN	10	.	.	.	10
	SKAGIT	28	6	2	.	36
	SNOHOMISH	29	18	1	7	55
	THURSTON	3	.	.	1	4
	WHATCOM	22	8	1	2	33
Washington Sub-Total		259	163	26	129	577
OTHER		35	9	2	3	49
TOTAL		2,362	375	33	158	2,928

TABLE 5

A Single License for all Species and Areas Issued to Current Vessel Owners														
With Use Restrictions on Catch and Processing and Vessel Length.														
Must Have Made a Landing in 1992														
Area	Species	Alaska				Other				Total				ALL
		Catcher Vessel Length			Catcher Processor	Catcher Vessel Length			Catcher Processor	Catcher Vessel Length			Catcher Processor	
		< 60'	60'-125'	>=125'		< 60'	60'-125'	>=125'		< 60'	60'-125'	>=125'		
Total Vessels		1,202	136	4	24	201	169	24	119	1,403	305	28	143	1,879
Aleutian Islands	Flatfish	1	3		9	4	13	4	55	5	16	4	64	89
	Other Species		1		11		4	3	71		5	3	82	90
	Pacific Cod	3	3		11	1	13	6	70	4	16	6	81	107
	Pollock				8		14	8	51		14	8	59	61
Bering Sea	Rockfish	1	4		11	5	16	2	60	6	20	2	71	99
	Flatfish	11	19	1	17	7	68	16	94	18	87	17	111	233
	Other Species	6	17	1	18	1	53	10	99	7	70	11	117	205
	Pacific Cod	50	32	2	18	12	107	23	104	62	139	25	122	348
	Pollock	8	21	1	17	1	68	16	88	9	89	17	105	220
Central Gulf	Rockfish	23	13		10	9	47	8	64	32	60	8	74	174
	Flatfish	15	25		4		22	1	19	15	47	1	23	86
	Other Species	13	7		13		9		32	13	16		45	74
	Pacific Cod	408	93	1	8	48	60	2	23	456	153	3	31	643
	Pollock	59	30		5	10	41	2	16	69	71	2	21	163
Eastern Gulf	Rockfish	288	53		10	65	54		30	353	107		40	500
	Flatfish	9				2				11				11
	Other Species	13				1				14				14
	Pacific Cod	512	18			54	11		1	566	29		1	596
	Pollock	7								7				7
Western Gulf	Rockfish	465	27			115	30		2	580	57		2	639
	Flatfish	6	5		10	2	23	8	37	8	28	8	47	91
	Other Species		3		12		16	5	48		19	5	60	84
	Pacific Cod	82	14	2	11	13	41	6	46	95	55	8	57	215
	Pollock	11	8		9	4	33	11	35	15	41	11	44	111
Total Licenses	Rockfish	36	13		11	25	34	3	39	61	47	3	50	161
		2,027	409	8	223	379	777	134	1,084	2,406	1,186	142	1,307	5,041

TABLE 6

Location of Current Vessel Owners Residence for Those Fishers Receiving Licenses Based on 1992 Landings						
OWNERS STATE	REGION	Catcher Vessels			Catcher	ALL
		< 60'	60'-125'	>=125'	Processors	
ALASKA	ALEUTIAN ISLANDS	6	2	.	.	8
	ALEUTIANS EAST	75	4	.	.	79
	ANCHORAGE	40	8	.	2	50
	HAINES	21	.	.	.	21
	JUNEAU	60	2	.	.	62
	KENAI PENINSULA	232	24	1	12	269
	KETCHIKAN GATEWAY	40	1	.	.	41
	KODIAK ISLAND	156	55	1	5	217
	LAKE AND PENINSULA	12	.	.	.	12
	MATANUSKA-SUSITNA	13	2	.	.	15
	OTHER	19	5	1	2	27
	PRINCE OF WHALES-OUTER KETCHIKAN	49	2	.	.	51
	SITKA	148	8	.	1	157
	SKAGWAY-YAKUTAT-ANGOON	108	.	.	.	108
	VALDEZ CORDOVA	60	17	1	.	78
	WRANGELL-PETERSBURG	163	6	.	2	171
Alaska Sub-Total		1,202	136	4	24	1,366
OREGON	CLATSOP	7	7	.	1	15
	LINCOLN	1	22	1	.	24
	MARION	21	1	.	.	22
	OTHER	6	5	.	.	11
Oregon Sub-Total		35	35	1	1	72
WASHINGTON	JEFFERSON	10	2	.	.	12
	KING	47	77	16	96	236
	KITSAP	6	2	.	.	8
	OTHER	29	13	2	2	46
	SKAGIT	19	5	2	.	26
	SNOHOMISH	15	15	1	7	38
	WHATCOM	9	6	1	2	18
Washington Sub-Total		135	120	22	107	384
OTHER		31	14	1	11	57
Total		1,403	305	28	143	1,879

VI. Plans For the Completion of the Analysis of License Limitation.

Regardless of the approach taken to examine the GLS, further analysis on the license limitation alternatives will be undertaken. Principally, the work will focus on a more complete description of the demographics of potential license recipients. Our game plan for finishing the analysis for both groundfish and crab will be as follows:

1. Complete the descriptive tables for additional selected alternatives. Because of the huge number of possible license alternatives, results from each of the possible combinations of alternative elements will not be included. We will instead focus on additional alternatives which capture the range of possibilities. Among these will be indicative GLS alternatives and indicative alternatives from the original list of components. In particular, the additional tables will show the number of potential recipients under each qualifying period for each landings standard.
2. Develop and present measures of licensed capacity for selected combinations of elements. One possible measure of capacity would be the one used in the analysis of the moratorium. This measure estimated the catch of vessels at the 70th percentile in each vessel class and applied that catch to the number of vessels in each class. Another possible measure of capacity we believe merits exploration will be estimated for the fisheries by species and area over the qualifying period as follows:

$$C = \frac{\text{The Sum of the Average Annual Catch by Licensed Vessels}}{\text{Average Annual Catch of All Vessels}}$$

The ramifications of this measure of capacity will be discussed in detail in the analysis. Our *a priori* assumption is that if the number, *C*, is greater than one, then licensed capacity is greater than the capacity utilized on average over the qualifying period, i.e., the license program will not reduce the fleet and therefore will have limited impacts. If *C* is less than one, then it can be argued that licensed capacity will be less, at least initially, than the overall capacity during the qualifying period. The closer *C* is to one the less the overall impacts of the license program. In these cases where potential changes to the overall fishery are small, such as when licensed capacity is greater than or quite close to current capacity, there does not appear to be a need to use the models developed for use in the groundfish IFQ analysis. In other words, if there are no effects that can be predicted with the models there is no point in their use.

If *C* is significantly less than one then the impacts of the license program will be greater. For example, if *C* is equal to 0.5 then it is likely that fishing seasons will lengthen, possibly changing fishing patterns throughout the fleet. In cases where *C* is significantly less than one, changes in fishing patterns may need to be predicted and the potential impacts of these additional changes examined. It is possible that changes in fishing patterns can be predicted without the use of the LP model. This will depend on the magnitude of the reduction in capacity. It is likely that fishing pattern changes under even the most restrictive combinations in the Council's original suite of alternatives would be predictable without the aid of the LP model. This is because impacts would be felt in only a few of the species/area fisheries. Preliminary results of the GLS alternative however show very significant reductions in the fleet in almost all species and area combinations, and elimination of certain target fisheries. Under the GLS alternatives it is unlikely that reasonable predictions of changes in fishing patterns could occur without the aid of the more sophisticated LP model.

Once changes in fishing patterns are predicted, the implications for communities, and on other fishers and processors may be evaluated. If no changes in fishing patterns are anticipated then community and processor impacts are likely to be small. If significant changes in fishing patterns are found then evaluating these impacts will likely require the aid of models developed for this purpose; specifically the EBM and FEAM. Regardless of the size of the impacts, additional information on recipients, non-

recipients, communities and processors under various alternatives will be developed and presented as described in points 3-7 below.

It should be noted that the models mentioned above are dependent on cost and operational data. It has been anticipated that this data would be collected in the development of the Vessel and Processor Profiles. However, it does not appear that this information will be available in time for use in the license analysis. In the absence of new information, cost and operational data developed and used in the Inshore-Offshore analysis will be modified for use in the current models.

3. Develop detailed demographic information about license recipients under various qualification periods under minimum (one landing) and maximum landings (20,000 lbs) requirements. The demographic descriptions will include discussions of current vessel owners, owners at the time of landing, and permit holders. Tables will show the landings by vessel class, home-port, residence, and processing community.
4. Develop and describe measures of dependency on groundfish and crab species of recipient and non-recipient vessel owners. These measure of dependency will be especially pertinent for those alternatives which cut back on the number of vessels licensed. e.g. a 20,000 lb minimum or the GLS. Dependency tables based on borough/county of residence will compare recipients and non-recipient participants in licensed fisheries, and will be estimated as follows:

$$\frac{\textit{Total Ex-vessel Value of Licensed Species}}{\textit{Total Ex-vessel Value of All Species}}$$

5. over the qualifying period. Additionally, the groundfish and crab catch histories of non-qualifying participants will be examined and links to the sablefish and halibut IFQ fisheries and to the demersal shelf rockfish fishery will be discussed.
6. The dependency of processing ports on catch by both qualifying vessels and non-qualifying vessels will be estimated in two ways;
 - 1) $\frac{\textit{Total Ex-processor Value of Licensed Species}}{\textit{Total Ex-processor Value of All Species}}$ and,
 - 2) $\frac{\textit{Ex-processor Value of Licensed Species Delivered by Licensed Vessels}}{\textit{Total Ex-processor Value of Licensed Species}}$

over each qualifying period. At-sea processing will be included through the home-port of the processing vessel. The first measure of dependency will show how much the port has depended on the processing of species included in the license program during the qualifying period. The second will compare the processing of catch delivered by qualifying vessels to the catch delivered by both qualified and non-qualified vessels.

7. The effects of eliminating traditional target fisheries (rockfish in the GOA) and/or effects of reducing capacity below levels necessary to harvest TACs (Flatfish and pollock in the GOA) will be examined, at the harvesting and processing levels, particularly with respect to the ability of the licensed fleet to harvest the "optimal yield." Consistency with Magnusen Act and the National Standards 'criteria for limited entry' will also be examined for each major alternative.

8. **Incorporate community information from the SIA as necessary and available.**
9. **Incorporate management and enforcement cost estimates currently under development by NMFS.**

**The Inshore/Offshore Preferred Alternative for the GOA and BSAI
as Approved by the Council in June 1991**

Note: The Secretary of Commerce (SOC) partially approved these amendments (18/23) on March 4, 1992. The SOC rejected the BSAI allocations for 1993-1995.

**A Comprehensive Fishery Rationalization Program for the Groundfish and Crab Resources of the
Gulf of Alaska and the Bering Sea and Aleutian Islands:**

- 1. Moratorium.** The Council reiterates its intention to develop and implement as expeditiously as possible a moratorium, including implementation by emergency action at the soonest possible date.
- 2. Definitions, Rules, and Allocation.** Relative to definitions, rules and allocations for inshore and offshore components of the Gulf of Alaska (GOA) pollock and Pacific cod fisheries and the Bering Sea and Aleutian Islands (BSAI) pollock fisheries:

A. Definitions

The following definitions shall apply:

Offshore: The term "offshore" includes all catcher/processors not included in the inshore processing category and all motherships and floating processing vessels which process groundfish [pollock in the BSAI or pollock and/or Pacific cod in the GOA] at any time during the calendar year in the Exclusive Economic Zone.

Inshore: The term "inshore" includes all shorebased processing plants, all trawl catcher/processors and fixed gear catcher/processors whose product is the equivalent of less than 18 metric tons round weight per day, and are less than 125 feet in length, and all motherships and floating processing vessels, which process pollock in the BSAI or pollock and/or Pacific cod in the GOA at any time during the calendar year in the territorial sea of Alaska.

Trawl Catcher/Processor: The term "trawl catcher/processor" includes any trawl vessel which has the capability to both harvest and process its catch, regardless of whether the vessel engages in both activities or not.

Mothership/Floating Processing Vessel: The term "mothership" or "floating processing vessel" includes any vessel which engages in the processing of groundfish, but which does not exercise the physical capability to harvest groundfish.

Harvesting Vessel: The term "harvesting vessel" includes any vessel which has the capability to harvest, but does not exercise the capability to process, its catch on a calendar year basis.

Groundfish: The term "groundfish" means pollock and/or Pacific cod in the GOA and pollock in the BSAI.

B. Rules

The following rules shall apply to both the Gulf of Alaska, and the Bering Sea and Aleutian Islands:

1. Each year, prior to the commencement of groundfish processing operations, each mothership, floating processing vessel, and catcher-processor vessel will declare whether it will operate in the inshore or offshore component of the industry. A mothership or floating processing vessel may not participate in both, and once processing operations have commenced, may not switch for the remainder of the calendar year. For the purpose of this rule, the Gulf of Alaska, the Bering Sea and the Aleutian Islands are viewed as one area, and groundfish applies to all of the species combined which have been allocated to one component or the other.
2. A mothership or floating processing vessel which participates in the inshore component of the industry shall be limited to conducting processing operations on pollock and Pacific cod, respectively, to one location inside the territorial sea, but shall be allowed to process other species at locations of their choice.
3. If during the course of the fishing year it becomes apparent that a component will not process the entire amount, the amount which will not be processed shall be released to the other components for that year. This shall have no impact upon the allocation formula.
4. Harvesting vessels can choose to deliver their catch to either or both markets (e.g. inshore and offshore processors); however, once an allocation of the total allowable catch (TAC) has been reached, the applicable processing operations will be closed for the remainder of the year unless a surplus reapportionment is made.
5. Allocations between the inshore and offshore components of the industry shall not impact the United States obligations under the General Agreement on Tariffs and Trade.
6. Processing of reasonable amounts of bycatch shall be allowed.
7. The Secretary of Commerce would be authorized to suspend the definitions of catcher/processor and shoreside to allow for full implementation of the Community Development Quota program as outlined in the main motion.

C. Allocations

The following allocations shall apply:

a. Gulf of Alaska

Pollock: One hundred percent of the pollock TAC is allocated to harvesting vessels which deliver their catch to the inshore component. Trawl catcher/processors will be able to take pollock incidentally as bycatch.

Pacific cod: Ninety percent of the TAC is allocated to harvesting vessels which deliver to the inshore component and to inshore catcher/processors; the remaining ten percent is allocated to offshore catcher/processors and harvesting vessels which deliver to the offshore component. The percentage allocations are made subarea by subarea.

b. Bering Sea/Aleutian Islands

Pollock: The Bering Sea/Aleutian Islands pollock TAC shall be allocated as follows:

A phase-in period for the BSAI with an allocation of the pollock TAC in the BSAI as follows:

	<u>Inshore</u>	<u>Offshore</u>
Year 1	35%	65%
Year 2	40%	60%
Year 3	45%	55%

Bering Sea Harvesting Vessel Operational Area: For pollock harvesting and processing activities, a harvesting vessel operational area shall be defined as inside 168° through 163° West longitude, and 56° North latitude south to the Aleutian Islands. Any pollock taken in this area in the directed pollock fishery must be taken by harvesting vessels only, with the exception that 65% of the at-sea "A" season pollock allocation available to the offshore segment may be taken by the offshore segment in the operational area.

3. Western Alaska Community Quota. For a Western Alaska Community Quota, the Council instructs the NMFS Regional Director to hold 50% of the BSAI pollock reserve as identified in the BSAI Groundfish Fishery Management Plan (FMP) until the end of the third quarter annually. This held reserve shall be released to communities on the Bering Sea Coast who submit a plan, approved by the Governor of Alaska, for the wise and appropriate use of the released reserve. Any of the held reserve not released by the end of the third quarter shall be released according to the inshore and offshore formula established in the BSAI FMP. Criteria for Community Development Plans shall be submitted to the Secretary of Commerce for approval as recommended by the State of Alaska after review by the NPFMC.

The Western Alaska Community Quota program will be structured such that the Governor of Alaska is authorized to recommend to the Secretary that a Bering Sea Rim community be designated as an eligible fishing community to receive a portion of the reserve. To be eligible a community must meet the specified criteria and have developed a fisheries development plan approved by the Governor of the requesting State. The Governor shall develop such recommendations in consultation with the NPFMC. The Governor shall forward any such recommendations to the Secretary, following consultation with the NPFMC. Upon receipt of such recommendations, the Secretary may designate a community as an eligible fishing community and, under the plan, may release appropriate portions of the reserve.

4. Other Alternatives to be Considered. Commencing immediately, the Council instructs its staff and the GOA and BSAI plan teams, with the assistance of the Alaska Fisheries Science Center, the Alaska Regional Office of the National Marine Fisheries Service, the Scientific and Statistical Committee and Advisory Panel, to undertake the development of alternatives for the Council to consider to rationalize the GOA and BSAI groundfish and crab fisheries under the respective FMPs. The following alternatives shall be included but not limited to:

1. ITQs
2. License Limitation
3. Auction
4. Traditional Management Tools
 - a. Trip Limits
 - b. Area Registration
 - c. Quarterly; Semi Annual or Tri-annual allocations

- d. Gear Quotas (hook and line, pots etc.)
- e. Time and area closures
- f. Seasons
- g. Daylight only fishing
5. Continuation of inshore/offshore allocation
6. Implementation of Community Development Quotas
7. No Action

The Executive Director of the Council, on behalf of the Council, shall immediately solicit from the Council family and other interested parties ideas in addition to those identified above for rationalization of these fisheries. This request should ask for ideas to be submitted by September 30, 1991.

5. **Duration.** If by December 31, 1995, the Secretary of Commerce has not approved the FMP amendments developed under item IV above, the inshore/offshore and Western Alaska Community Development Quotas shall cease to be a part of the FMPs and the fisheries shall revert to the Olympic System.

Elements of the Revised Inshore/Offshore Allocation Plan for the BSAI
(as approved by the Council in August 1992)

Note: The SOC, on November 23, 1993, partially approved this revised amendment, disapproving that part of the recommended inshore allocation that exceeded 35% for 1994 and 1995. These changes shown in shaded text.

The Council's preferred alternative constitutes a revision and resubmission of Amendment 18 to the BSAI FMP and has the following elements:

1. The BSAI pollock TAC will be allocated as follows:

<u>Year</u>	<u>Inshore</u>	<u>Offshore</u>
1993	35.0%	65.0%
1994	37.5%	62.5%
1994	35.0%	65.0%
1995	37.5%	62.5%
1995	35.0%	65.0%

These percentage allocations apply to the TAC after subtracting 7.5 percent of the TAC for the Western Alaska Community Development Quota program, previously approved by the Secretary for 1992-1995.

2. A Catcher Vessel Operational Area is defined for pollock harvesting and processing during the pollock "B" season (starting on June 1 unless changed), encompassing the area between 168 and 163 degrees W. longitude, and 56 degrees N. latitude south to the Aleutian Islands. The following operational rules apply to the CVOA:
 - a. Shore-based catcher vessels delivering pollock from a directed fishery to inshore plants or inshore motherships may operate in the CVOA if an inshore allocation remains unharvested.
 - b. Offshore motherships and their associated catcher vessels also may operate in the CVOA if an offshore-allocation remains unharvested.
 - c. Offshore catcher-processors cannot target on pollock in the CVOA during the "B" season.
 - d. Access to the CVOA is unrestricted during the pollock "A" season.
3. If during the fishing year it becomes apparent that either the inshore or offshore sector cannot fully harvest its allocation, the excess shall be released to the other component, without affecting the allocation formula in future periods.
4. The definitions and operating rules approved in the original Amendment 18 remain applicable during 1993-1995, except as revised above.

Agenda C-3
June 1994
Supplemental

FRANK H. MURKOWSKI
ALASKA

COMMITTEES:

VETERANS AFFAIRS, RANKING MEMBER
ENERGY AND NATURAL RESOURCES
FOREIGN RELATIONS
INDIAN AFFAIRS

United States Senate

WASHINGTON, DC 20510
(202) 224-6885

222 WEST 7TH
ANCHORAGE, AK
(907) 21

101 12TH AVENUE, BOX 7
FAIRBANKS, AK 99701-8278
(907) 418-0233

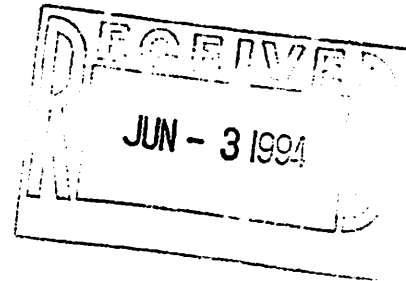
P.O. BOX 21847
JUNEAU, AK 99802-1847
(907) 586-7400

130 TRADING BAY ROAD, SUITE 380
KENAI, AK 99511-7710
(907) 283-5808

109 MAIN STREET
KETCHIKAN, AK 99801-8489
(907) 228-8880

June 3, 1994

Rolland A. Schmitten, Assistant Administrator
National Marine Fisheries Service
14555 SSMC 3
1315 East West Highway
Silver Spring, MD 20910



Dear Rollie:

Even conservative estimates agree that bycatch and discard are serious problems in the fisheries of the United States. I am confident Congress will address this issue in reauthorizing the Magnuson Fisheries Conservation and Management Act, and as you know, I introduced legislation on this matter last year.

In the meantime, the North Pacific Fishery Management Council is considering ways to reduce bycatch and waste in Alaska fisheries. As these proposals go through analysis, I hope National Marine Fisheries Service personnel will review them rigorously, but expeditiously. This would necessarily include reduction incentives such as the "harvest priority" suggestion made by the Alaska Marine Fisheries Conservation Council, and in different form by the State of Alaska.

Incentive programs may be of significant help, so long as they are accompanied by adequate monitoring and enforcement for both participating and non-participating vessels, and are not biased toward particular fisheries or gear types. At the very least, the concept is worthy of thorough analysis, and the results could be useful in any Congressional debate.

Sincerely,


Frank H. Murkowski
United States Senator

cc: Rick Lauber, Chairman, NPFMC
Steven Pennoyer, Alaska Region Director, NMFS
Scott Highleyman, Executive Director, AMCC

GERRY E. STUDDS, MASSACHUSETTS, CHAIRMAN

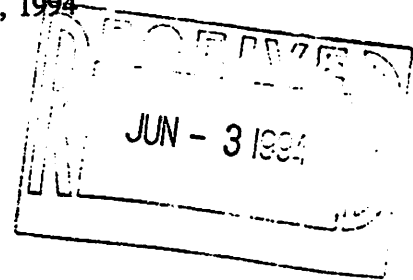
WILLIAM J. HUGHES, NEW JERSEY
EARL HUTTO, FLORIDA
W. J. (BILLY) TAUZIN, LOUISIANA
WILLIAM O. LIPINSKI, ILLINOIS
WLOMON P. ORTIZ, TEXAS
THOMAS J. MANTON, NEW YORK
EN B. PICKETT, VIRGINIA
ORGE J. HOCHBRUECKNER, NEW YORK
FRANK PALLONE, JR., NEW JERSEY
GREG LAUGHLIN, TEXAS
JOLENE UNSOELD, WASHINGTON
GENE TAYLOR, MISSISSIPPI
JACK REED, RHODE ISLAND
H. MARTIN LANCASTER, NORTH CAROLINA
THOMAS H. ANDREWS, MAINE
ELIZABETH FURSE, OREGON
LYNN SCHENK, CALIFORNIA
GENE GREEN, TEXAS
ALCEE L. HASTINGS, FLORIDA
DAN HAMBURG, CALIFORNIA
BLANCHE M. LAMBERT, ARKANSAS
ANNA G. ESHOO, CALIFORNIA
THOMAS J. BARLOW, III, KENTUCKY
BART STUPAK, MICHIGAN
BENNIE G. THOMPSON, MISSISSIPPI
MARIA CANTWELL, WASHINGTON
PETER DEUTSCH, FLORIDA
GARY L. ACKERMAN, NEW YORK

JACK FIELDS, TEXAS
DON YOUNG, ALASKA
HERBERT H. BATEMAN, VIRGINIA
JIM SAXTON, NEW JERSEY
HOWARD COBLE, NORTH CAROLINA
CURT WELDON, PENNSYLVANIA
JAMES M. INHOFE, OKLAHOMA
ARTHUR RAVENEL, JR., SOUTH CAROLINA
WAYNE T. GILCHREST, MARYLAND
RANDY "DUKE" CUNNINGHAM, CALIFORNIA
JACK KINGSTON, GEORGIA
TILLIE K. FOWLER, FLORIDA
MICHAEL N. CASTLE, DELAWARE
PETER T. KING, NEW YORK
LINCOLN DIAZ-BALART, FLORIDA
RICHARD W. POMBO, CALIFORNIA
HELEN DELICH BENTLEY, MARYLAND
CHARLES H. TAYLOR, NORTH CAROLINA
PETER G. TORKILDSEN, MASSACHUSETTS

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

MINORITY STAFF DIRECTOR
HARRY F. BURROUGHS
MINORITY CHIEF COUNSEL
CYNTHIA M. WILKINSON

May 27, 1994



Mr. Rollie Schmitten
Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
1335 East-West Highway
Silver Spring, MD 20910

Dear Mr. Schmitten:

I am aware that the National Marine Fisheries Service (NMFS) shares my concern about the need to avoid waste and bycatch in our Nation's fisheries. That concern is reflected in the amendments to the Magnuson Fishery Conservation and Management Act which have been proposed by the Administration.

During the March, 1994, meeting of the North Pacific Fishery Management Council, the Council directed the NMFS regional office to conduct an analysis on a proposal which would reduce bycatch by providing incentives to avoid non-target species. The Council intended that the analysis be completed in time for Council consideration at its October meeting.

I am writing to urge that you ensure sufficient resources are made available to the NMFS Alaska Region Office to complete the analysis on time. In my view, it is much better to avoid bycatch than it is to penalize those who waste fish. Fish that are not caught can live to be harvested another day. Fish that are caught and thrown over the side are wasted forever. We need to find ways to avoid excessive bycatch rather than simply imposing punishment after it occurs.

Again, I hope you will do everything possible to provide resources to the Alaska Region to ensure a full and timely analysis of the bycatch avoidance proposal. I look forward to working with you in the future on this and other issues.

Sincerely,

Don Young
Don Young
Ranking Republican Member
Subcommittee on Fisheries
Management

DY:rms

cc: Mr. Richard Lauber
Mr. Steve Pennoyer

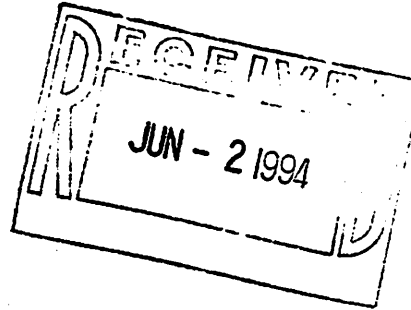


ALASKA OCEAN SEAFOOD

LIMITED PARTNERSHIP

June 2, 1994

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
PO Box 103136
Anchorage, AK 99510



Re: Agenda Item C-3(c) / Comprehensive Rationalization Plan / CDQ Alternatives

Dear Mr. Lauber:

Alaska Ocean Seafood Limited Partnership files these comments in opposition to Community Development Quotas (CDQ's). The Alaska Ocean partnership owns the vessel ALASKA OCEAN, which is the largest and one of the most modern surimi trawlers in the U.S. fisheries.

I am general manager of the partnership and principal captain of the ALASKA OCEAN. I have been involved in the Alaska crab and groundfish fisheries for some 25 years, and have owned and operated vessels engaged in the pollock fisheries since 1982. My partners and I committed to the ALASKA OCEAN project in 1987; following intensive design and shipyard work, the ALASKA OCEAN entered the BSAI pollock fishery in 1990.

Alaska Ocean has opposed the pollock CDQ program since its inception, continues to oppose it, and strongly urges the Council not to extend the program beyond its existing 1995 sunset date. We believe that implementation of CDQ's exceeds the Council's authority under the Magnuson Act. Moreover, even if such programs were authorized by the Act, they would still violate the requirements of that Act and of other laws.

I. THE COUNCIL LACKS AUTHORITY TO ESTABLISH CDO'S.

It is our understanding that the Council (and the National Marine Fisheries Service) can do only those things that it is authorized to do, that is, only those things that are authorized by the Magnuson Fishery Management and Conservation Act. We have searched in vain for any authorization in that Act for CDQ's.

- A. CDQ's are not a conservation and management measure. By its very title and terms, the Magnuson Act is concerned with and authorizes only such actions as involve the conservation and management of a fishery resource. It is clear from the legislative

Mr. Richard B. Lauber
June 2, 1994
Page 2

history of the Act that the terms "conservation" and "management" are synonymous and interchangeable.¹ Thus, a "management" action must also be a "conservation" action. But CDQ's have absolutely nothing to do with conservation, and none of the documents analyzing CDQ's or promulgating CDQ regulations even pretend that they are conservation-related. CDQ's are no more than an economic allocation. For this reason, we believe that CDQ's are not authorized by the Magnuson Act.

B. CDQ's are an allocation between inappropriate parties. The Magnuson Act authorizes allocations only to fishermen. By definition, the recipients of CDQ allocations are not fishermen; the whole purpose of the CDQ program is to allow residents of CDQ communities to become fishermen. Alaska Ocean Seafood believes that, because the CDQ program makes allocations to non-fishermen, the program is not authorized by the Magnuson Act.

C. CDQ's use socio-economic factors improperly. The Magnuson Act requires the Council to (1) determine the maximum sustainable yield for a fishery; (2) use social and economic factors to increase or decrease the maximum sustainable yield calculation to determine optimum yield; and (3) establish a total allowable catch based on the optimum yield minus a reserve. The only time in this process that socio-economic factors are allowed to play a role is at step (2) - determining optimum yield.

CDQ's however, use the socio-economic factors of the CDQ communities at a different place in the process. These factors are not used to adjust sustainable yield to determine optimum yield, but instead are used in CDQ's at the end of step (3) to allocate a portion of the TAC reserve. This use of socio-economic factors is not contemplated by nor authorized by the Magnuson Act.

D. CDQ's are outside the scope of the Act's limited entry authority. The Magnuson Act does authorize the Council to establish limited entry schemes; CDQ's are arguably such a scheme. However, those schemes are authorized only if they are designed to achieve optimum yield. As discussed above, CDQ's have no effect on the calculation or achievement of optimum yield, but are merely used to allocate a portion of the TAC. Therefore, the limited entry authority in the Magnuson Act likewise provides no authority for the CDQ program.

¹ See "A Legislative History of the Fishery Conservation and Management Act", 94th Cong. 2d Sess. p.675 (Commerce Comm. Report) (Oct. 1976) (cited hereafter as "Legislative History").

Mr. Richard B. Lauber

June 2, 1994

Page 3

II. EVEN IF THE MAGNUSON ACT AUTHORIZED CDQ'S, THE CDQ PROGRAM IS INCONSISTENT WITH THAT ACT AND WITH OTHER LAWS.

It is our understanding that fishery plans and amendments have to be consistent with the Magnuson Act, especially the National Standards, and with other relevant laws. Alaska Ocean believes that CDQ's actually violate many of the National Standards and the Alaska Constitution.

A. The National Standards.

- (1) National Standard 1 requires conservation and management measures to achieve optimum yield. As discussed earlier, CDQ's are not used for that purpose but instead improperly use socio-economic factors to allocate a portion of the TAC.
- (2) National Standard 2 requires that conservation and management measures be based on the best scientific information available. As the CDQ communities have never participated in this fishery, Alaska Ocean is at a loss as to what scientific information could possibly support an analysis or justification for CDQ's.
- (3) National Standard 4 addresses allocation of fishing privileges among U.S. fishermen; prohibits allocations that discriminate between residents of different states; and requires allocations to be fair and equitable, to promote conservation, and to avoid acquisition of excessive shares. Alaska Ocean firmly believes that CDQ's are contrary to each and every one of these requirements.
 - As a threshold matter, CDQ's are inconsistent with this Standard because they allocate fishing privileges between fishermen and non-fishermen, rather than between fishermen and other fishermen.
 - CDQ's clearly discriminate between residents of different states. CDQ's give to Alaska residents only the right to charge rent for a national resource. Non-Alaskans are expressly excluded from enjoying this right. In promulgating the existing CDQ regulations, NMFS attempted to dismiss this concern, by arguing that some Alaskans are also excluded from the program. If this argument were valid, the Council and NMFS could allocate the entirety of all fishery resources off the coast of Alaska to Alaskans only and avoid National

Mr. Richard B. Lauber
 June 2, 1994
 Page 4

Standard 4 simply by excluding one Alaskan from the allocation. Clearly, this is not what the drafters of the Magnuson Act had in mind.

- Contrary to National Standard 4, CDQ's are not fair and equitable. CDQ's deprive existing fishermen and their employees of access to the resource while providing access to individuals who have not and do not now avail themselves of the resource. In addition, the groundfish CDQ is really no more than a tax used to provide economic benefits to the CDQ communities. But the tax is not imposed fairly and equitably; it is imposed on only one segment of the industry rather than on all segments.
- CDQ's are in no way calculated to promote conservation and actually have absolutely no relationship to conservation.
- CDQ's violate National Standard 4 because they result in - indeed promote - the acquisition of excessive shares. What could be more clearly excessive than an allocation to someone who cannot use it?

- (4) National Standard 5 prohibits conservation and management measures that have economic allocation as their sole purpose. The meaning of this prohibition was made abundantly clear by Senator Stevens of Alaska, who introduced this language as an amendment to the bill that would become the Magnuson Act:

"[W]hat we seek, in this bill is a conservation goal, not an economic goal."²

"The intent of this amendment is to make certain that those management and conservation measures shall not be for the sole purpose of economic allocation of the fishery resources.

"We have no intention to permit the regional council to have economic authority over fishery resources. They are to have conservation and environmental authority, but not economic."³

² Legislative History at p. 373 (Senate Debate of H.R. 200) (remarks of Senator Stevens).

³ Id. at p. 345 (emphasis added).

Mr. Richard B. Lauber
June 2, 1994
Page 5

Alaska Ocean feels that CDQ's fly in the face of this clear directive. Nor are we persuaded by the contrary arguments that NMFS made when it promulgated the CDQ regulations. NMFS argued that the CDQ program is not solely an economic allocation because it will provide other social benefits. First, it is clear from Senator Stevens' remarks that "other benefits" needed to support an economic allocation must be conservation or environmental, not social, in nature. Even if "other social benefits" would do the trick, the benefits to which NMFS cited - improved economic stability, reduced unemployment, family stability, etc. - are part and parcel of and solely the result of the economic benefits that form the basis and purpose of the CDQ program. Alaska Ocean believes, quite simply, that CDQ's are all about economic consequences and nothing else. ⁴

- (5) National Standard 7 requires conservation and management measures to avoid unnecessary duplication and minimize cost. CDQ's violate this Standard, regardless of whether they work as intended. In theory CDQ's should work to encourage CDQ communities to develop their own harvesting and processing capabilities. If this happens, the capabilities developed by the CDQ communities would be duplicative of capacity currently existing in an industry that is already over-capitalized. In reality, however, most CDQ communities have not developed their own capability but have sold or leased their quotas to existing fishermen. Therefore, rather than minimize costs, the program has actually increased costs to those who lease CDQ allocations and to those who purchase their products.

B. Section 303(b) (6) of the Magnuson Act.

As discussed earlier, the Magnuson Act authorizes the Council to devise limited entry schemes, but subjects those schemes to a high level of scrutiny. Access to a fishery may be limited only to achieve optimum yield (as already noted, CDQ's fail this test), and must take specified factors into account. Alaska Ocean believes that CDQ's actually flatly ignore each and every one of these factors:

- (1) Present participation in the fishery. CDQ's actually penalize present participants in the fishery in favor of those who have never participated in it.

⁴ "It would not make sense to conclude that a statute may not discriminate between residents of two areas to aid the residents of the more disadvantaged area, but that such a statute could discriminate between residents of two areas in order to aid the communities in the more disadvantaged area. The communities are merely the collective sum of the residents." Alaska v. Enserch Alaska Const. Inc., 787 P.2d 624, 634 (Alaska 1989).

Mr. Richard B. Lauber
June 2, 1994
Page 6

- (2) Historic fishing practices in, and dependence on, the fishery. CDQ's ignore the fact that CDQ communities have no historical commercial practices in the fishery and are not now and never have been dependent on it. At the same time CDQ's penalize participants like Alaska Ocean who are involved in and dependent upon the fishery.
- (3) The economics of the fishery. It is clear from the legislative history of the Act that this provision was intended to require the Council to consider the "value of existing investments in vessels and gear ...⁵ The CDQ program simply ignores this factor with respect to those presently involved in the fishery. CDQ's instead give allocations to those who have no existing investment in vessels or gear, do so in order to foster economic goals unrelated to the fishery, and allow those with no investment in the fishery to exact rent from those who have made investments.⁶
- (4) The capability of vessels in the fishery to engage in other fisheries. CDQ's do not and cannot consider the adaptability of CDQ vessels to other uses because there are no CDQ vessels. On the other hand, the CDQ program overlooks the limited ability of many existing vessels such as the ALASKA OCEAN to migrate to other fisheries.⁷
- (5) The cultural and social framework relevant to the fishery. CDQ's overlook the fact that CDQ communities are not and have never been part of the social and cultural framework of the fishery; this oversight comes at the expense of those, like Alaska Ocean, who are present participants in the fishery and constitute its cultural and social framework.

⁵ See, e.g., Legislative History at p. 182 (House & Senate versions of H.R. 200).

⁶ One commentator noted, with respect to the CDQ regulations, that CDQ's have "received only the most cursory cost-benefit analysis." 57 Fed. Reg. 54940 (Nov. 23, 1992). Alaska Ocean agrees with that observation.

⁷ See, e.g., Draft Supplemental Environmental Impact Statement, etc. re Amendment 18/23 (Sept. 19, 1991) at p. 3-123 ("The ability of the offshore fleet to shift to other species is limited somewhat by the existing configuration of the fleet. That is, a large specialized vessel such as the surimi factory trawler is unlikely to make a smooth or financially viable shift to a diversified, low volume fishery ...").

Mr. Richard B. Lauber
 June 2, 1994
 Page 7

C. The Alaska Constitution.

The State of Alaska is heavily involved in the establishment and implementation of the CDQ program. Alaska Ocean believes that, because the CDQ program discriminates among residents of Alaska, the participation of the Alaska government violates Article 1, § 1 of the Alaska Constitution. Article 1, § 1 provides in relevant part:

[A]ll persons are equal and entitled to equal rights, opportunities and protection under the law.

Numerous Alaska Supreme Court cases have held that economic allocations that discriminate among Alaska residents violate this provision.⁸ Alaska Ocean believes that Alaska's participation in the CDQ program is likewise constitutionally infirm.

III. IF CDO'S CONTINUE, DESPITE THEIR MANY LEGAL INFIRMITIES, FAIRNESS AND EQUITTY REQUIRE THAT THE PROGRAM BE MODIFIED.

Alaska Ocean, earlier in these comments, articulated its belief that the CDQ program constitutes a tax that is unfairly levied on only one segment of the industry. In addition, Alaska Ocean feels that CDQ's inequitably afford to CDQ vessels access to more than one allocation.

Specifically, as CDQ's are presently structured, CDQ vessels may fish the CDQ allocation throughout the season and if permitted by regulation, may even do so between seasons and then are allowed to fish in the open-access fishery whenever seasons are open.

⁸ See, e.g., Alaska v. Enserch Alaska Const. Inc., 787 P. 2d 624 (Alaska 1989); Deubeleiss v. Commercial Fisheries Entry Comm'n, 689 P. 2d 487 (1984); Alaska v. Ostrosky, 667 P. 2d 1184 (1983); Commercial Fisheries Entry Comm'n v. Apokedak, 606 P.2d 1255 (1980); see supra note 4. Under the CDQ program, the State of Alaska effectively is allocating a national resource in a manner that discriminates among Alaskans on the basis of residence. The Alaska Supreme Court has indicated that the State of Alaska could not constitutionally make such an allocation with respect to state resources. See, e.g., McDowell v. Alaska, 785 P.2d 1 (Alaska 1989); Owsichek v. Alaska, 763 P.2d 488 (Alaska 1988); Lynden Transport, Inc. v. Alaska, 532 P.2d 700 (Alaska 1975); cf. Hebert v. Alaska, 803 P.2d 863 (Alaska 1990). Amazingly, under the CDQ program, the State of Alaska is allowed to make such discriminatory allocations with respect to resources that it does not even own.

Mr. Richard B. Lauber

June 2, 1994

Page 8

The net result is that a CDQ vessel can participate in the olympic system so long as the TAC for the target fishery lasts, and then may fish the CDQ quota at its leisure. This effectively gives CDQ vessels access to a greater portion of the resource - over a longer period of time - than other vessels. Besides being unfair and inequitable, this result exacerbates the existing overcapitalization in the open-access segment of the fishery.

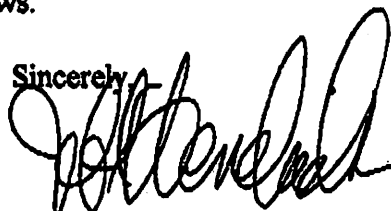
Alaska Ocean strongly urges the Council, if it continues the CDQ program, to prohibit those who harvest the CDQ allocation from participating in the open-access fisheries. The CDQ allocation was part and parcel of the inshore-offshore Amendment. Participants in that allocation generally must elect the specific allocation which they will access. The same policy reasons which prompted that requirement are equally applicable to CDQ allocations.

In addition, requiring vessels to commit to harvesting CDQ allocations only would in all likelihood deter existing fishermen from piecemeal leasing of CDQ allocations and thus prompt CDQ communities to use the allocations themselves, consistently with the supposed purpose of the CDQ program.

In summary, Alaska Ocean believes that CDQ's should not be continued because they are not authorized by the Magnuson Act and are contrary to that Act and other laws. Alaska Ocean therefore requests that the Council not extend CDQ's beyond the 1995 sunset date. If, however, the Council chooses to ignore the infirmities of CDQ's and extend them, Alaska Ocean urges the Council to prohibit CDQ participants from accessing any other allocation.

Thank you for your consideration of our views.

Sincerely,

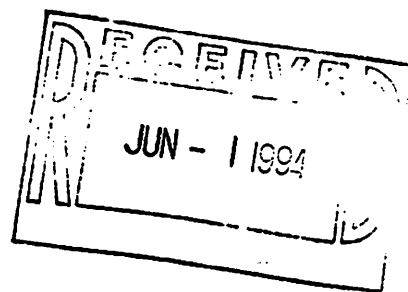


Jeff Hendricks
General Manager

HANSON FISHERIES
Rt. 2 Box 253A
Ray mond Wa.98577

May 24, 1994

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



Dear Mr. Lauber,

As a Captain and a member of S.E.A. who has been employed in the trawl business for the past twenty five years , I am concerned by the lack of recognition of Captains in the current Rationalization plan. I would like to urge the council to continue to analyze the proposals of S.E.A. until this matter has been resolved . It would be a mistake to not include the actual fisherman in this project . Although it is true that the vessel owners have invested the capital to develop the fishery I have to believe that our contribution to the fishery development and catch history is equally substantial.

S.E.A. has been working to streamline its proposal with the intentions of not slowing the process or " muddying " the waters. I feel we have been successful . The complaints that we have heard from the vessel owners is that if the Captains get a piece of the pie that everyone will want a piece and there won't be enough to go around . I don't believe that this is a real scenario. We all know that the shoreplant allocation will go to the catcher boats, it would be very unlikely that the shoreplants would be given the opportunity to price fix the resource. As far as on board processors are concerned , it states very clearly in the Magnuson Act that the resource is for the American fisherman.

I feel that the Captains have helped to create the catch history which will be used to determine the allocations , we should not be denied the privilege of participation in the allocation. The Captains have been 100% responsible for the safety of the vessel and the crew, and the profitability of the season, any failure will be ultimately his responsibility. The Captain has been responsible to purchase fishery permits required for the fishery, and spent a considerable amount of time to obtain USCG licences . Our commitment to the fishery has been well documented by our historical catch history, which we believe is our own personal property. An investor who ,in many cases, has never been to sea has no more right to this than we do. Although we have often been well paid for our investment , the

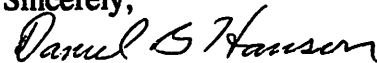
vessel owners have also often enjoyed sizable rewards. On the other hand we have all endured in the hardships of poor seasons and unprofitable trips.

The crab and groundfish allocations in the Bering Sea are unique of past allocations as the others have been granted to the owners, who were also the operators. In actuality the operators were rewarded allocations. In our Bering Sea fleet 70% of the fleet is Captained by non-owners, probably 100% in the factory trawler fleet. An allocation that would exclude the Captains would also be unique. It would exclude any true fisherman from the plan. This would in turn hinder the responsibility towards maintaining clean fishing practices and long range sight of the resource. Inclusion of the Captain in the industry itself would give incentive to manage our resource in a positive manner.

I personally believe that an I.F.Q. plan is the only way in which we can save our resources in the Bering Sea. I don't want to be responsible for complicating the issue so as to defeat it in the process, and I certainly don't wish to cause poor feelings between my employer and myself. It is my belief that our situation can be worked out without causing either party undue grief. Many of the vessel owners have been unable to put themselves in our shoes to see that excluding the Captains could cause us all considerable hardship. It is the conclusion of many that the Captains are out to get something for nothing, I sincerely feel that this is not the case. We are merely trying to maintain a similar lifestyle to which we and our families are used to. Also I don't see that S.E.A. is as large of a problem as the vessel owners make it out to be. We are asking for a very small percentage for our efforts and there really isn't any other legitimate group involved.

I would like to thank the Council for giving their consideration and attention to these matters. And again I urge you to please continue to analyze the proposals of S.E.A. for any future decisions concerning the Comprehensive Rationalization Plan.

Sincerely,



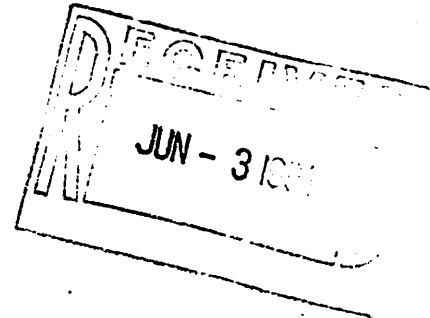
Daniel B. Hanson

Master F/T Arctic Storm

U.S.C.G. No. 582603

June 3, 1994

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510



RE: Harvest Priority Proposal

Dear Mr. Lauber:

As representatives of the preponderance of North Pacific groundfish and crab harvest, we wish to express our frustration with the Council's apparent willingness to include for analysis under Comprehensive Rationalization the Alaska Marine Conservation Council's "Harvest Priority" proposal. Harvest Priority is not a real solution to the bycatch and discard problem. The Harvest Priority proposal is a modified "penalty box" approach applied to fishery regulation. It is nothing more than a variation on the vessel incentive program (VIP) currently in place in the Bering Sea. The VIP has been in effect for three years and as yet has not resulted in a single penalty for PSC bycatch. The basic idea of Harvest Priority is to penalize the production of companies which fail to reach a bycatch reduction or utilization standard. This regulatory approach has been widely abandoned in environmental regulation because it creates weak incentives to modify behavior.

Harvest Priority is not a market-driven allocation system. There are no rights of exclusion or similar mechanism that allows fishing rights to flow to firms with the highest-valued use for them. The common property nature of fishing under Harvest Priority would continue to produce a race for fish. As long as fishermen have to compete to catch fish before the TAC is met, a whole range of potential fishing strategies and technical innovations to reduce bycatch and discard become infeasible because they catch and process fish too slowly.

The Harvest Priority proposal calls for members of the industry to come forward with proposals for standards of bycatch and discard reduction. As such, Harvest Priority will amount to little more than a veil behind which allocation games are played. Each proposal will have built-in assumptions about bycatch/discard in terms of gear used, processing mode, product form, definition of "bycatch", definition of a target fishery, and definition of "utilization". Unfortunately, the underlying goal of industry-derived proposals will be more to gain a competitive advantage than to make real inroads into bycatch and discard reduction. Even under the best of circumstances, the demands on

managers to possess technical information to act as judges of proposals would be unprecedented and unrealistic.

It is hard to see how Harvest Priority would operate with lower administrative and enforcement costs than ITQs. The necessity of at-sea verification of bycatch and discard rates on a trip by trip basis will result in the need for more observer hours than are presently required. If the stakes involved are as high as being excluded from 50 percent of the TAC, incentives to cheat will be enormous. Verification requirements will be daunting because the information collected will have to pass the test of scientific and legal challenges. Every company excluded from the "reward" season will have unprecedented incentives to litigate. In addition, the willingness of the fishing industry to pay for an additional observer assessment is questionable given that Harvest Priority is essentially a punitive system, as opposed to ITQs which would be more likely to bring economic stability to the fishing industry.

The root economic problem facing the fishing industry in the North Pacific is overcapitalization. The Harvest Priority plan is by no stretch of the imagination a viable solution to this economic problem. The authors of the Harvest Priority proposal have stated that the system will, in fact, reduce overcapitalization. This is supposed to result from eliminating industry participants that cannot meet the bycatch standards as higher and higher levels of reduction are set. Under Harvest Priority, however, there would still be the lack of defined harvest rights and even if half the fleet were eliminated by not meeting the Harvest Priority bycatch standard, companies still in the fishery would seek ways to compete more effectively for interim profits. This would undoubtedly mean adding additional harvest capacity to compete for the fish that would have been caught by firms that were forced from the fishery.

The bottom line with Harvest Priority is that overcapitalization would continue to plague the fishing industry. Reductions in bycatch and waste would be suboptimal because the race for fish would limit adoption of gears and practices that fish more cleanly and result in less discard. Thus, mediocre reductions in bycatch and discard will come at a great economic cost to the industry and the nation. Is anyone better off if we force some companies into bankruptcy while the remaining ones initiate another round of capitalization to garner interim profits created in the wake of business failures?

As representatives of a very large percentage of the entire North Pacific harvest sector, we strongly suggest that the Council, in the near term, focus its efforts on solutions that are practical and do not impose needless economic costs on a fishery that is attempting to remain competitive in the global seafood industry. In the longer run, the Council should concentrate on bycatch and utilization solutions

(such as ITQs or other measures) that solve the race for the fish problem and allow greater advances in bycatch and discard reduction to occur in a rational and economically efficient manner.

Sincerely,

Chris Blackburn

Chris Blackburn
Alaska Groundfish Data Bank

Brent Payne/Steve Hughes

Brent Payne/Steve Hughes
United Catcher Boats

Joe Blum

Joe Blum
American Factory Trawler Assoc.

Arni Thomson

Arni Thomson
Alaska Crab Coalition

Beth Stewart

Beth Stewart
Aleutians East Borough

Alvin Burch

ALASKA DRAGGERS ASSN

John Bruce

John Bruce
Deep Sea Fisherman's Union

Eric Olsen
FVOA, President

Margaret Hall

Margaret Hall
IFFFO

Eric Olsen

cc: Pennoyer

12612. The Department has certified that this proposed rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

Paperwork Reduction Act

No new information collection requirement(s) are contained in this proposed rule for which OMB approval under 44 U.S.C. 3501 is necessary.

List of Subjects in 50 CFR Part 15

Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, part 15 of Chapter I of title 50 of the Code of Federal Regulations is proposed to be revised as follows:

PART 15—[AMENDED]

1. The authority citation for part 15 continues to read as follows:

Authority: 16 U.S.C. 4901-4916.

2. Section 15.11 of subpart B is proposed to be amended by revising paragraphs (b) and (c) to read as follows:

§ 15.11 Prohibitions.

(b) It is unlawful to import into the United States any exotic bird species listed in the Appendices to the Convention that is not included in the approved list of species, pursuant to subpart D of this part, except that this paragraph (b) does not apply to any exotic bird that was bred in a foreign breeding facility listed as qualifying pursuant to subpart E of this part.

(c) It is unlawful to import into the United States any exotic bird species not listed in the Appendices to the Convention that is listed in the prohibited species list, pursuant to subpart F of this part.

Dated: May 23, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

IFR Doc. 94-13556 (16-2-94; 8:45 am)

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 671, 672, 675, and 676

[Docket No. 940556-4156; I.D. 0504948]

RIN 0648-AE62

Limited Access Management of Federal Fisheries In and Off of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would implement a moratorium for a temporary period on the entry of new vessels into the groundfish, crab, and halibut fisheries contained in proposed Amendment 23 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (BSAI), proposed Amendment 28 to the FMP for Groundfish of the Gulf of Alaska (GOA), proposed Amendment 4 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area, and a proposed regulatory amendment affecting the Pacific halibut fishery in the waters in and off of Alaska. The moratorium is designed as a temporary measure that is necessary to curtail increases in fishing capacity and provide industry stability while the North Pacific Fishery Management Council (Council) and the Secretary of Commerce (Secretary) prepare, review, and, if approved, implement a comprehensive management plan for these fisheries. This action is intended to promote the objectives of the Council to promote conservation and management of groundfish, crab, and halibut resources, and to further the objectives of the Northern Pacific Halibut Act of 1982 (Halibut Act) and the Magnuson Fishery Conservation and Management Act (Magnuson Act).

DATES: Comments must be received at the following address by July 15, 1994.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of proposed Amendments 23 and 28 to the BSAI and GOA groundfish FMPs, Amendment 4 to the Bering Sea and Aleutian Islands Area king and Tanner crab FMP, and the Environmental

Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the moratorium may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: David C. Ham, Fishery Management Biologist, Alaska Region, NMFS at 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Domestic groundfish fisheries in the exclusive economic zone (EEZ) of the GOA and the BSAI are managed by the Secretary under the GOA and BSAI FMPs. The commercial harvest of king and Tanner crabs is managed under the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area. These FMPs were prepared by the Council under the Magnuson Act. The FMP for the GOA groundfish fisheries is implemented by regulations at 50 CFR parts 672 and 676, and the FMP for the BSAI groundfish fisheries is implemented by regulations at 50 CFR parts 675 and 676. The FMP for the king and Tanner crab fisheries in the BSAI is implemented by regulations at 50 CFR part 671 and by Alaska Administrative Code regulations at title 5, chapters 34 and 35. For crab, BSAI means the Bering Sea and Aleutian Islands area as defined at § 671.2, and is a slightly different area than the BSAI management area as defined for groundfish at § 675.2. General regulations that also pertain to the U.S. groundfish and crab fisheries are set out at 50 CFR part 620.

The Council does not have a FMP for halibut. The domestic fishery for halibut in and off of Alaska is managed by the International Pacific Halibut Commission (IPHC) as provided by the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention), signed at Washington, DC, March 29, 1979, and the Halibut Act. The Convention and the Halibut Act authorize the respective Regional Fishery Management Councils established by the Magnuson Act to develop regulations that are in addition to, but not in conflict with, regulations adopted by the IPHC affecting the U.S. halibut fishery. Under this authority, the Council may develop for approval by the Secretary limited access policies for the Pacific halibut fishery in Convention waters in and off of Alaska. "Convention waters" means the maritime areas off the west coast of the United States and Canada as described

in Article I of the Convention (see 16 U.S.C. 773(d)). The Council acted under this authority in recommending its proposed moratorium for the halibut fishery. Regulations governing the harvesting of Pacific halibut are set out at 50 CFR parts 301 and 676.

In 1987, amid growing indications of excess harvesting capacity in the North Pacific groundfish fisheries, the Council adopted a "statement of commitment" to pursue alternative management measures that would achieve optimum yield through more rational fishing effort than exists with the current open access system. The Council identified ways to fulfill this commitment that included the development of an alternative management strategy for groundfish fisheries and the consideration of effort management in the crab and halibut fisheries.

Fishery management planning work continued in 1987 with the formation of the Future of Groundfish (FOG) Committee. The FOG Committee undertook a comprehensive examination of the groundfish, crab, and halibut fisheries off of Alaska. It concluded that problems of excess harvesting capacity and allocation conflicts would worsen under a continued open access system. The committee recommended a limited access management approach for these three fisheries.

In 1989 and 1990, the Council considered methods for implementing a moratorium that would limit access of new vessels into the groundfish, crab, and halibut fisheries. At its meeting in August 1990, the Council recommended that NMFS publish a notice in the Federal Register to: a. Inform the public of the Council's intention to develop measures to limit access; and b. announce a control date after which owners of vessels that had not previously participated would not be assured future access to these fisheries if a limited access system were implemented using that control date. The control date notice was published on September 5, 1990 (55 FR 36302), corrected on September 13, 1990 (55 FR 37729), and announced September 15, 1990, as the control date.

The control date notice stated that "due consideration" would be given to vessels that were under construction or under contract for purchase or construction and that had harvested or processed groundfish, crab, or halibut by January 15, 1992. In response to the delay of the 1992 trawl groundfish season from January 1, 1992, until January 20, 1992, the Council decided at its September 1991 meeting to change

the final "due consideration" date to February 9, 1992.

The control date notice indicated that the Council was examining a change in the current open-access nature of the groundfish, crab, and halibut fisheries as part of a long-term solution to chronic conservation and management problems. The Council is continuing its study of long-term solutions to problems in these fisheries in its comprehensive management plan.

The moratorium is not expected to resolve the problem of excess capacity. However, the Council considers it necessary as an interim management measure to curtail increases in fishing capacity and provide temporary industry stability. While the moratorium is in effect, the Council can prepare and the Secretary can review and, if approved, implement a comprehensive management plan. The Council also determined that the moratorium would aid in the achievement of optimum yield by freezing the number of vessels allowed to participate in these fisheries and limiting increases in fishing capacity, both of which would increase economic benefits to fishermen and reduce the risk of overfishing.

Vessel Moratorium Program

The following section provides a summary of the provisions included in the motion, clarifications, and the Council's rationale for selecting those provisions. The subsequent section, "Implementation of the Moratorium," explains how the moratorium would be implemented if approved by the Secretary and includes changes proposed by NMFS to supplement the Council's proposed moratorium. The Council adopted a moratorium by approving a motion at its June 1992 meeting, with clarification in August 1992 and January 1993.

Section 304(a)(1)(D) of the Magnuson Act, as amended, requires the Secretary to publish regulations proposed by a Council within 15 days of receipt of the FMP amendments and regulations. At this time, the Secretary has not determined that the FMP amendments these regulations would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making final determinations, will take into account the data, views, and comments received during the comment period.

Provisions Contained in the Council's Motions

1. Moratorium Fisheries

The proposed moratorium fisheries would be: a. All groundfish fisheries managed under the GOA FMP; b. all groundfish fisheries managed under the BSAI FMP; c. all crab fisheries managed under the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI; and d. the commercial Pacific halibut fishery conducted in the waters in and off of the State of Alaska (State).

2. Affected Sectors of the Industry

The moratorium would apply only to catcher vessels and catcher-processor vessels participating in one or more of the moratorium fisheries. The Council designed the moratorium to stem the growth in harvesting capacity. It determined that restricting motherships, tendering vessels, and other support vessels would not accomplish this goal.

3. Qualifying Period

A vessel could be used to participate in any of the moratorium fisheries during the moratorium, if a reported landing in one of the moratorium fisheries was made from that vessel between January 1, 1980, and February 9, 1992. Such a vessel would be called a "qualifying vessel."

The Council determined that a date earlier than January 1, 1980, would have increased the size of the fleet eligible to participate during the moratorium period and placed a greater weight on past participation. A date later than January 1, 1980, would have restricted the size of the fleet eligible to participate during the moratorium period only to current or very recent participants.

The Council selected February 9, 1992, as the ending date for the qualifying period instead of the announced control date of September 15, 1990, with its "due consideration" requirements. Determining which vessels should be allowed to participate during the moratorium under "due consideration" would have required extensive review of documents submitted by the vessel owners and investigation as to whether the documents proved that vessels were qualifying vessels under the "due consideration" criteria. The Council deemed the submission and review of documents as too burdensome and expensive to implement. By selecting February 9, 1992, the Council included all vessels that were under "due consideration" without having to make any findings concerning construction or vessels under contract.

The qualifying period adopted by the Council would allow approximately 13,500 vessels to be eligible to participate in the moratorium fisheries during the moratorium. Substantially fewer vessels participate in any one year. In 1991, only about 4,500 vessels participated in the moratorium fisheries. NMFS particularly requests public comment on the effect of this qualifying period on the objectives of the moratorium.

4. Minimum Qualifying Poundage

The Council did not require landing of a specific minimum poundage from a moratorium fishery. A qualifying vessel would be one that made a reported landing from a moratorium fishery during the qualifying period. The Council reasoned that basing moratorium eligibility on landing a minimum amount from a moratorium fishery would become allocative among different segments of the industry and should be addressed in the comprehensive management plan.

5. Duration of Moratorium

The moratorium would be in effect for no longer than 3 years from the date of implementation. The proposed FMP amendment language states that the Council may extend the moratorium for up to 2 years if a permanent limited access program is imminent. This provides flexibility in the duration of the moratorium if progress is made on a permanent limited access program, but does not unnecessarily prolong the moratorium in the absence of further progress on the underlying overcapitalization problem. If no further action is taken concerning a limited access program during the moratorium, the moratorium would expire, because its justification would no longer be valid.

6. Crossovers

The Council determined that a qualifying vessel would be allowed to participate in all moratorium fisheries during the moratorium, even if the vessel had a reported landing from only one moratorium fishery. The Council reasoned that restrictions on the ability to crossover into other moratorium fisheries would constrain a fisherman's flexibility during the moratorium and would be allocative among different sectors of the industry. The Council determined that crossover restrictions would be addressed under the comprehensive management plan.

Crossovers during the moratorium could result in the entry of groundfish and halibut vessels into the crab fisheries, halibut vessels into the

groundfish fisheries, and crab pot vessels into the groundfish fisheries. NMFS particularly requests public comment on crossovers, because crossover ability could have the potential to increase the harvesting capacity in the groundfish and crab fisheries, thwarting the goals of the moratorium.

7. Transfer of Moratorium Qualification

"Moratorium qualification" is proposed for all qualifying vessels. Moratorium qualification could be transferred if two requirements were satisfied. First, the vessel transferring moratorium qualification would no longer be eligible to participate in any of the moratorium fisheries for the remainder of the moratorium unless that vessel subsequently received transferred moratorium qualification from another vessel. Second, if moratorium qualification were transferred to another vessel, a vessel length restriction would apply to the receiving vessel. The latter restriction, known as the "20 percent rule", would restrict vessels that are equal to, or less than, 125 ft (38.1 m) length overall (LOA) from increasing LOA by more than 20 percent, or 125 ft (38.1 m), whichever is less. Vessels over 125 ft (38.1 m) LOA would not be allowed to increase LOA during the moratorium. The LOA of a vessel, as defined at §§ 672.2 and 675.2, means the horizontal distance, rounded to the nearest foot (.33 m) between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments. For example, the owner of a vessel that is 100 ft (30.5 m) LOA could transfer that vessel's moratorium qualification to a vessel that is 120 ft (36.6 m) LOA or less. The 100-ft (30.5 m) LOA vessel would not be able to participate in any of the moratorium fisheries for the duration of the moratorium because it does not have moratorium qualification. The 100-ft (30.5 m) vessel would be able to participate if it received transferred moratorium qualification from a vessel that was 83 ft (25.3 m) LOA or longer.

The Council did not select a date before which the transfer of moratorium qualification would not be allowed. Recognizing that a market in moratorium qualification had developed, the Council determined that moratorium qualification would rest with the qualifying vessel unless otherwise specified by legal agreement. The Council also determined that the transfer of moratorium qualification would not result in a transfer of the vessel's catch history.

8. Replacement of Vessel

Until the moratorium expires, the owner of a vessel with moratorium qualification would be able to replace that vessel with a vessel that does not have moratorium qualification as long as two requirements were satisfied. First, the replaced vessel would no longer be eligible to participate in any of the moratorium fisheries for the remainder of the moratorium, unless that vessel subsequently received transferred moratorium qualification from another vessel. Second, any increase in LOA through vessel replacement, sequential vessel replacements, or combined replacement and reconstruction would be limited by the 20 percent rule. The Council deemed the vessel replacement provision as necessary to facilitate the normal and on-going vessel replacement activities undertaken by vessel owners in response to financial, economic, and efficiency incentives.

9. Reconstruction of Vessel

A qualifying vessel that is reconstructed would have to comply with certain restrictions in LOA to remain eligible to participate in any of the moratorium fisheries. The proposed restrictions are: a. If vessel reconstruction were completed before June 24, 1992, any increase in LOA resulting from that reconstruction would be unrestricted; additional reconstruction would be allowed after June 24, 1992, subject to the 20 percent rule. b. If reconstruction were started before June 24, 1992, but not completed by that date, any increase in LOA resulting from that reconstruction would be unrestricted, but no more increases in LOA would be allowed during the moratorium. c. If reconstruction were started on or after June 24, 1992, any increase in LOA resulting from that reconstruction would be subject to the 20 percent rule.

The Council determined that it was important to allow increases in vessel LOA through reconstruction to provide for enhanced safety and stability, or to allow for the installation of processing equipment. However, the Council determined that reconstruction should not allow unlimited increases in LOA or the objectives of the moratorium would be compromised. The Council chose to limit LOA as a measure of fishing capacity, because it believed LOA was unambiguous, easily determined, and difficult to circumvent. To account equitably for actions already taken by vessel owners, restrictions on increases in LOA would be applicable only to changes that occurred after June 24.

1992, which was the day the Council adopted the 20 percent rule and the public became aware of this Council action through the June 24th Council meeting.

10. Replacement of Lost or Destroyed Vessel

Any qualifying vessel that is lost or destroyed during the moratorium could be replaced by a non-qualifying vessel. Any qualifying vessel that was lost or destroyed on or after January 1, 1989, until the date of moratorium implementation could be replaced with a non-qualifying vessel. However, the replacement vessel would be required to make a landing from a moratorium fishery within 2 years of the moratorium implementation date. A qualifying vessel lost or destroyed before January 1, 1989, could not be replaced. A vessel that replaced a lost or destroyed vessel would be subject to the 20 percent rule, and the replaced vessel would become a non-qualifying vessel unless that vessel subsequently received transferred moratorium qualification.

The Council included this provision to make allowance for a vessel lost or destroyed before and during the moratorium. The January 1, 1989, date was selected because the Council determined that an owner of a vessel lost or destroyed prior to 1989 is likely to have received insurance claims, and already obtained a replacement vessel.

11. Salvage of Lost or Destroyed Vessel

A qualifying vessel that was lost or destroyed on or after January 1, 1989, may be salvaged and remain a qualifying vessel. The Council chose this date because the owner of a vessel lost or destroyed prior to 1989 is likely to have received insurance claims, and already have obtained a replacement vessel.

However, the Council created an exception for a qualifying vessel that was lost or destroyed before January 1, 1989. It could be salvaged and remain moratorium eligible if: a. The salvage operations began by June 24, 1992; and b. the salvaged vessel makes a landing from a moratorium fishery within 2 years of the date of implementation of the moratorium.

The provision to allow the salvage of a vessel before January 1, 1989, was added at the Council's August 1992 meeting based on public testimony received at that meeting. The Council chose June 24, 1992, because that was the date the Council approved the motion on the moratorium. The Council required such a salvaged vessel to make a landing within 2 years of the moratorium implementation date to

ensure that the vessel was participating in a moratorium fishery.

12. Exemptions to the Moratorium

The Council included three exemptions to the moratorium. First, a vessel that participates in moratorium fisheries in the GOA that does not exceed 26 ft (7.9 m) LOA, and a vessel that participates in moratorium fisheries in the BSAI that does not exceed 32 ft (9.8 m) LOA would be exempt, providing such vessel lengths are not increased beyond these LOA limits. The Council provided these exemptions because, according to the EA/RIR/IRFA, vessels less than 36 ft (11 m) LOA in the BSAI and GOA were responsible for less than 1 percent of the moratorium fisheries landings and comprised approximately 65 percent of the fleet of qualified vessels in 1991. Eliminating the smaller vessels from the moratorium would lessen the burden on small vessel owners, while not compromising the goals of the moratorium. The limit was set at 26 ft (7.9 m) LOA or less in the GOA because vessels of this size represent the typical skiff fleet. In the BSAI, 32 ft (9.8 m) LOA represents the historical length restriction imposed on vessels participating in the Bristol Bay drift gillnet salmon fishery.

Second, a newly constructed vessel that was constructed pursuant to an approved Community Development Plan (CDP) under provisions of 50 CFR parts 675 and 676 would be exempted if: a. It were constructed solely for the purpose of furthering the goals of a CDP; b. it were a specialized vessel designed and equipped to meet the needs of a community or group of communities that have specific and unique operating requirements; and c. it were 125 ft (38.1 m) LOA or less. Such a vessel could participate in Community Development Quota (CDQ) and non-CDQ fisheries during the moratorium subject to other regulatory provisions. Such a vessel would lose its exempt status and would be restricted from participating in any of the moratorium fisheries, if it were transferred to a non-CDQ entity during the moratorium, unless the vessel subsequently received transferred moratorium qualification.

Third, a halibut or sablefish fixed gear vessel operating under the provisions of the Individual Fishery Quota (IFQ) program would be exempted from the vessel moratorium, as it affects directed halibut and sablefish operations. The Secretary approved the IFQ program for the halibut and sablefish fixed gear fishery on January 29, 1993 (58 FR 59375, November 9, 1993). A non-qualifying vessel that is harvesting IFQ halibut or sablefish would not be able to

participate in any other directed moratorium fishery, but would be permitted to retain moratorium species other than halibut and sablefish in amounts up to 20 percent of the amount of halibut and sablefish on board.

13. Appeals

The Council's preferred alternative provides for an administrative appeal of an initial denial of a vessel permit or license. The intent of the Council, in recommending the opportunity for an administrative appeal, was to allow for an administrative solution to contested eligibility without the expense of a court proceeding. The Council determined that most appeals under the moratorium would be resolved through the examination of records. In the event that review of an appeal would require more than a review of the records and application of the regulations and would benefit from industry expertise, the Council recommended establishment of an adjudication or appeals board to review the appeals.

Implementation of the Moratorium

If approved by the Secretary, the moratorium would be effective for 3 years from its implementation date, as recommended by the Council. If approved, NMFS intends to implement the moratorium on January 1, 1995, through December 31, 1997.

Permit Requirements

Under the moratorium, NMFS is proposing that only a vessel that is issued a permit would be able to participate in the moratorium fisheries. Currently, an owner of a vessel harvesting halibut in the waters in and off of Alaska must obtain a vessel license from the IPHC, a groundfish harvesting, processing or support vessel in Federal waters off of Alaska must obtain a vessel permit from NMFS, and a king or Tanner crab harvesting, processing, or support vessel in Federal and State waters must obtain a vessel permit from the State.

Under the moratorium, a vessel owner would continue to apply to the IPHC for a halibut vessel license, and to NMFS for a groundfish vessel permit. Since the State does not have authority to impose a moratorium on vessels, NMFS also would require a crab harvesting, processing, or support vessel participating in the crab fisheries in the Federal waters of the BSAI to obtain a Federal vessel permit. The State would continue to require a State vessel permit to participate in crab fisheries in State waters, and the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI would continue to defer much of

the management of the fishery to the State.

The owner of a support vessel that intends to participate in the moratorium fisheries from January 1, 1995, through December 31, 1997, would have to apply for and receive a permit, but would not be subject to the moratorium eligibility requirements.

Permits and licenses issued under the moratorium would remain harvesting privileges and the Secretary would have the authority to amend or revoke the moratorium and any harvesting privileges thereunder, if required for conservation of the resources.

Eligibility Requirements

As previously discussed, a vessel would be eligible to receive a permit or license if it has moratorium qualification and if its LOA does not exceed the applicable length restrictions. NMFS is proposing to implement the Council's length increase restrictions, or the 20 percent rule, by requiring the LOA of a vessel to be no greater than 1.2 times the "original qualifying length" of the qualifying vessel. This calculation results in a "maximum LOA" that the vessel may not exceed during the moratorium. The original qualifying length would be the registered length of a qualifying vessel that appears on the most recently submitted application prior to June 24, 1992, for U.S. Coast Guard Certificate of Documentation, or State documentation if the vessel is not required to have U.S. Coast Guard Documentation. For vessels with an original qualifying length of less than or equal to 104 ft (31.7 m), the maximum LOA would be 1.2 times the original qualifying length. For vessels with an original qualifying length greater than 104 ft (31.7 m) but less than or equal to 125 ft (38.1 m), the maximum LOA would be 125 ft (38.1 m). For vessels with an original qualifying length greater than 125 ft (38.1 m), the maximum LOA would be the original qualifying length. Vessels that satisfy both moratorium conditions would be "eligible vessels."

Vessel Reconstruction

Vessel reconstruction means an adjustment in the LOA of a qualifying vessel. NMFS proposes that the maximum LOA for a qualifying vessel that is 125 ft (38.1 m) LOA or less could be adjusted through reconstruction and the vessel would remain an eligible vessel under the following three conditions. First, if vessel reconstruction were completed on or before June 24, 1992, the LOA of the reconstructed vessel would become the new original qualifying length of the

vessel. The new original qualifying length then would be used to calculate maximum LOA as described above under "Eligibility Requirements." Second, if vessel reconstruction were started before June 24, 1992, but not finished by that date, the LOA of the reconstructed vessel would become the new maximum LOA for the vessel. No further increase in LOA would be permitted during the moratorium. Third, if vessel reconstruction were started on or after June 24, 1992, the maximum LOA would not be adjusted during the moratorium, and any increases in LOA as a result of reconstruction would have to be less than or equal to the maximum LOA for the vessel. Vessel reconstruction would begin and end with the start and completion of the physical modification of the vessel. The determination of any adjustment in maximum LOA for reconstructed vessels would have to be approved by NMFS and be based on documentation supplied to NMFS that verifies the beginning and ending dates of vessel reconstruction. NMFS proposes that acceptable documentation of the beginning and ending dates of reconstruction would be limited to a notarized affidavit signed by the vessel owner and the owner/manager of the shipyard that specifies the beginning and ending dates of the reconstruction. NMFS particularly requests comments from the public on this proposed method for documenting the beginning and ending dates of vessel reconstruction.

Transfer of Moratorium Qualification

Moratorium qualification would be transferable from a vessel to another vessel or person, or from a person to another person or vessel. Any transfer of moratorium qualification by a vessel would make that vessel ineligible. For the purposes of implementing the moratorium, vessel replacement would be considered a transferral of moratorium qualification. Additionally, to establish transfer of moratorium qualification by legal agreement, NMFS proposes that a written contract must exist that documents the transfer and includes certain information as proposed in § 676.3(b)(1)(i).

NMFS would determine the maximum LOA for each qualifying vessel prior to the implementation of the moratorium. When the moratorium qualification of a qualifying vessel is transferred to another vessel or person, the maximum LOA of the qualifying vessel also would be transferred to the vessel or person receiving the moratorium qualification. Maximum LOA would remain attached to a

specific moratorium qualification regardless of how many times that moratorium qualification was transferred. If moratorium qualification is transferred to a smaller vessel, that smaller vessel would retain the maximum LOA of the qualifying vessel.

Definition of Vessel Length

The Council intended that the limitations on increases in vessel length be based on the LOA of the vessel. The current LOA of a vessel can be measured as it is defined in §§ 672.2 and 675.2, but complete records of the historical LOA of vessels during the qualifying period are not available for calculating the maximum LOA as proposed by NMFS. Various methods for measuring vessel length were used on vessel permit and license forms during the qualifying period by NMFS, the State, IPHC, and the U.S. Coast Guard (USCG). For example, several different methods of measuring "registered length" were used, and an undefined vessel "length" was used in addition to LOA. NMFS proposes, for purposes of the moratorium, that historical LOA equal the registered length listed on the most recently submitted application prior to June 24, 1992, for U.S. Coast Guard Certificate of Documentation to provide a single source of data for most original qualifying vessels. A vessel under 32 ft (9.8 m) LOA that does not have USCG documentation may use vessel length as specified in State registration.

A difficulty with the NMFS proposal is that the USCG registered length is sometimes less than actual LOA. This may cause a problem for a vessel that already has increased its length using actual historical LOA according to the Council's recommendations, resulting in an increase that exceeds the maximum LOA. Consequently, the vessel would be an ineligible vessel. Also, a vessel that has not yet increased its length according to the Council's 20 percent limit would not be able to increase its length as much as would be allowed if historical LOA were used instead of historical registered length. NMFS particularly requests comment from the public on this subject.

Replacement or Salvage of a Lost or Destroyed Vessel

If a vessel owner submits an application to NMFS for the replacement or salvage of a lost or destroyed vessel, NMFS proposes to determine whether a vessel is lost or destroyed by consulting the U.S. Coast Guard Report of Marine Casualty, form 2692. If NMFS determines that a vessel is lost or destroyed, a vessel owner

would then be required to submit documentation that satisfies the Council's requirements for eligibility of a replacement or salvaged vessel. These proposed information requirements are specified in § 676.3(b)(3)(iii).

Permit Issuance Procedure

For purposes of the moratorium, NMFS would prepare a database that contains each vessel that made a qualifying landing during the qualifying period. The database also would include information concerning ownership and vessel length derived from permit and license data. The database would be used by NMFS for determining eligible vessels. NMFS proposes the following vessel permit and license issuance procedure.

Groundfish

A vessel owner that intends to harvest groundfish in the GOA and BSAI from January 1, 1995, through December 31, 1997, would have to submit to the Director of the Alaska Region, NMFS (Regional Director), a written application for a groundfish vessel permit. An applicant would be issued a permit if: a. The vessel owner submitted a completed vessel permit application; b. the vessel made a qualifying landing during the qualifying period or submitted a completed moratorium qualification transfer application with the vessel permit application; and c. the LOA of the vessel did not exceed the maximum LOA for that vessel. If the vessel reconstruction provisions at § 676.3(b)(2) apply, a vessel owner also should submit a completed vessel reconstruction application with the vessel permit application. All permits issued by NMFS would list the maximum LOA applicable for that vessel and for any vessel to which the moratorium qualification is transferred.

If a vessel owner applies to NMFS for a groundfish vessel permit, and NMFS determines that the vessel is an ineligible vessel, the vessel owner would be notified in writing by NMFS that a vessel permit would not be issued. The applicant could appeal the initial decision within 45 days of issuance of the written notification according to the appeal procedures described below. Although each GOA and BSAI groundfish vessel would have to apply for and obtain a vessel permit from NMFS, only catcher vessels and catcher/processor vessels would be required to be eligible vessels.

Crab

A vessel owner that intends to fish for king and Tanner crab in the Federal waters of the BSAI from January 1, 1995,

through December 31, 1997, would have to submit to the Regional Director a written application for a Federal crab vessel permit in addition to any permit required by the State. The application and issuance procedure, and the appeals procedure for crab vessel permits would be the same as for groundfish. Although all vessels operating in crab fisheries in the BSAI would have to apply for and obtain a vessel permit from NMFS, only catcher vessels and catcher/processor vessels would be required to be eligible vessels.

Halibut

A vessel owner that intends to harvest halibut from January 1, 1995, through December 31, 1997, in the waters in and off Alaska would have to apply for a vessel license from the IPHC. Upon receipt of a written vessel license application, the IPHC would compare the information submitted by the applicant with the NMFS database of eligible vessels. An unrestricted vessel license would be issued if: a. The vessel owner were to submit a completed vessel license application to the IPHC; b. the vessel made a qualifying landing during the qualifying period; and c. the LOA of the vessel did not exceed the maximum LOA. Each unrestricted vessel license issued by the IPHC would list the maximum LOA applicable for the vessel and for any vessel to which the moratorium qualification is transferred.

If a vessel owner applies to the IPHC for a halibut vessel license but the information on the application does not correspond to the information in the NMFS database, the IPHC would issue a restricted vessel license, applicable only for IPHC management areas 2A or 2B which are in and off British Columbia, Canada, and the States of California, Oregon, and Washington. At this point, the vessel owner would have the option of submitting additional written information regarding eligibility to NMFS within 45 days of issuance of the restricted vessel license. NMFS would review the additional information and issue a written decision as to whether an unrestricted halibut license would be issued. If NMFS initially determines that the vessel is eligible, NMFS would amend the database and inform the IPHC that the vessel is eligible and an unrestricted vessel license could be issued to the vessel owner. If NMFS initially determines that a restricted halibut license would be issued, the applicant may appeal the decision to the Regional Director within 45 days of issuance of the written notification from NMFS

according to the appeal procedures described below.

Although vessels operating in the halibut fisheries in the waters in and off of Alaska would have to apply for and obtain a vessel license from the IPHC, only catcher vessels and catcher/processor vessels would be required to be eligible vessels.

Vessels Used in the IFQ Sablefish and Halibut Fixed Gear Fisheries

A vessel operating under the provisions of the halibut and sablefish fixed gear IFQ program would be exempted from the vessel moratorium as it affects directed halibut and sablefish operations. To implement this exemption, an owner of a vessel used in the IFQ sablefish and halibut fixed gear fisheries from January 1, 1995, through December 31, 1997, would have to submit to the Regional Director a written application for a groundfish and crab vessel permit. A vessel permit would be issued if the vessel owner submits a completed application to NMFS as required by §§ 671.4, 672.4, or § 675.4. The type of permit issued would be based on the eligibility of the vessel under the moratorium.

An eligible vessel used in the IFQ sablefish and halibut fixed gear fisheries would be issued an unrestricted groundfish and crab vessel permit. A vessel that is issued an unrestricted groundfish and crab vessel permit may retain amounts of other moratorium species subject to applicable directed fishing standards.

An ineligible vessel used in the IFQ sablefish and halibut fixed gear fisheries would be issued a restricted groundfish and crab vessel permit. A vessel that is issued a restricted groundfish and crab vessel permit would not be able to retain an aggregate amount of moratorium species other than sablefish and halibut in round weight equivalents in excess of 20 percent of the aggregate amount of sablefish and halibut in round weight equivalents on board.

Letter of Authorization

If a vessel owner submits a complete application for a vessel permit or license, and NMFS preliminarily determines that a vessel is an ineligible vessel, NMFS would send a Letter of Authorization to a vessel owner authorizing a vessel to harvest moratorium species. A Letter of Authorization would allow a vessel owner who applies for a moratorium vessel permit or license to continue operating his vessel until NMFS makes a decision regarding its moratorium qualification.

NMFS would send a Letter of Authorization to the vessel owner within 30 days of receipt of the application, if NMFS has not issued a written initial decision to the vessel owner regarding his vessel's qualification. This Letter of Authorization would be in effect until superseded or rescinded by the Regional Director.

If a vessel owner files a notice of appeal with the Regional Director, NMFS would send a Letter of Authorization to the vessel owner within 30 days of the filing of the appeal with NMFS, pending issuance of a written final decision to the vessel owner on the appeal. This Letter of Authorization would expire 30 days after the Regional Director issues a written final decision on the appeal.

Appeals Procedure

NMFS proposes the following appeals procedure to implement the Council's appeal provisions. A vessel owner may appeal the initial denial of a groundfish and crab vessel permit, the issuance of a restricted halibut vessel license, or the issuance of a restricted groundfish and crab vessel permit to the Regional Director within 45 days of issuance of written notice from NMFS or the IPHC. The Regional Director would decide the appeal on a review of the records submitted, and issue a written decision on the appeal. If the Regional Director were to determine that in deciding the appeal, his decision would benefit from industry input, the Regional Director would forward the appeal to the Appeals Board. NMFS proposes that the Appeals Board would be a committee of the Council comprised of three appointed Council Advisory Panel members. The Appeals Board would meet publicly to discuss the appeal. After receiving the Appeals Board's recommendation from the Council, the Regional Director would consider the recommendation and issue a written decision on the appeal. The Regional Director's decision would constitute the final agency action upon which the applicant would be able to file suit in U.S. District Court.

Notice of a proposed rule that would govern appeals of determinations made for the IFQ program was published on February 9, 1994 (59 FR 5979). Public comment is particularly requested on using the same appeals procedure for the IFQ and moratorium programs.

Classification

The Assistant Administrator for Fisheries, NOAA, determined that this proposed rule, if adopted, could have a significant economic impact on a

substantial number of small entities. Based on the EA/RIR/IRFA for the moratorium, total participation in the moratorium fisheries for a given year is influenced by the annual rate of entrance and exit of vessels. Although new entrants averaged nearly 900 vessels annually over the period from 1977 through 1991, total participation increased only 180 vessels per year, on average, because 500 to 1,000 vessels exited the fisheries annually.

Vessel participation data for 1992 have become available since this analysis was performed. The source of these data are the State of Alaska fish ticket, NMFS groundfish vessel permit, weekly production report, and catch estimate databases.

In 1991, 2,227 vessels fished in Alaska Federal groundfish fisheries, and in 1992, 2,341 vessels fished, for an increase in 1992 of 114 vessels.

Approximately half (46 vessels) of this increase is due to vessels less than 60 ft (18.3 m) LOA. Such vessels normally do not make a significant contribution to the overall landings of groundfish. In addition, vessels less than 26 ft (7.9 m) LOA in the GOA and those less than 32 ft (9.8 m) LOA in the BSAI area would be exempt from the moratorium. After subtracting such small vessels and considering only those newly permitted vessels that made recorded groundfish landings in 1992, only about 27 vessels apparently entered the groundfish fishery in 1992 for the first time, and would not be eligible to fish under the moratorium. With respect to halibut, about 156 "new" vessels made landings for the first time in 1992 (some of these had groundfish and crab landings records also). With respect to BSAI crab, eight "new" vessels made landings for the first time in 1992. Therefore, a total of about 191 vessels apparently entered the groundfish, halibut, and crab fisheries for the first time in 1992 and may not be eligible for a license if the moratorium is approved and implemented as proposed.

The number of "new" vessels that entered these fisheries in 1993 and 1994 is unknown because individual vessel catch data are still preliminary. Assuming that roughly the same number of "new" vessels entered these fisheries in 1993 and 1994 as entered in 1992 probably is unrealistic. The Council's moratorium decision occurred midway through 1992. Most fishermen decide whether to enter a fishery at the beginning of the year. Public knowledge of the Council's action after June 1992 probably had a negative effect on a decision to enter a "new" vessel in 1993 or 1994. According to the NMFS vessel permit database, about 447 Federal

groundfish vessel permits were issued between February 9, 1992, and March 21, 1994, that had never before obtained a groundfish vessel permit. However, the majority of these "new" vessel permits likely were issued to halibut longline vessels, which would be exempt from the moratorium when the halibut IFQ program is fully implemented in 1995. In addition, some unknown number of these "new" groundfish vessel permits were never used to actually harvest and land groundfish, and others were issued to small vessels that would be exempt from the moratorium. For the reasons described above, the number is likely more than 35, but less than 100, based on the available data and knowledge of the fisheries. A copy of the EA/RIR/IRFA may be obtained (see ADDRESSES).

This rule involves collection-of-information requirements subject to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) that have been submitted to the Office of Management and Budget for approval. Public reporting burden for each year of this collection is estimated to average 0.5 hours per response for completing each of the six information collection requests, except for the crab permit application, which is .33 burden hours per response. The six information collection requests and the estimated number of annual responses are: 1. Crab vessel permit applications, 400; 2. applications for transfer of moratorium qualification, 715; 3. applications for vessel reconstruction, 143; 4. transfer of a lost or destroyed vessel's moratorium qualification, 36; 5. salvage of lost or destroyed vessels, 36; and 6. applications for appeal, 358. These reporting burdens include the time for reviewing the instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

This proposed rule is exempt from prepublication review for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 671, 672, 675, and 676

Fisheries, Recordkeeping and reporting requirements.

Dated: May 27, 1994.

Charles Karnella,
Acting Program Management Officer,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 671, 672, 675, and 676 are proposed to be amended to read as follows:

PART 671—KING AND TANNER CRAB FISHERIES OF THE BERING SEA AND ALEUTIAN ISLANDS

1. The authority citation for 50 CFR part 671 continues to read as follows:

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

2. Section 671.2 is amended by adding the definitions for "King crab" and "Tanner crab" as follows:

§ 671.2 Definitions.

* * * * *

King crab means red king crab, *Paralithodes camtschatica*; blue king crab, *P. platypus*; or brown (or golden) king crab, *Lithodes aequispina*.

* * * * *

Tanner crab means *Chionoecetes bairdi*; or snow crab, *C. opilio*.

3. Subpart A is amended by adding § 671.3 to read as follows:

§ 671.3 Relation to other laws.

(a) *Foreign fishing.* Regulations governing foreign fishing for groundfish in the Gulf of Alaska are set forth at 50 CFR 611.92. Regulations governing foreign fishing for groundfish in the Bering Sea and Aleutian Islands Management Area are set forth at 50 CFR 611.93.

(b) *King and Tanner crab.* Regulations governing the conservation and management of king and Tanner crab are also found in Alaska Administrative Code regulations at Title 5, Chapters 34 and 35.

(c) *Halibut fishing.* Regulations governing the conservation and management of Pacific halibut are set forth at 50 CFR parts 301 and 676.

(d) *Domestic fishing for groundfish.* Regulations governing the conservation and management of groundfish in the EEZ of the Gulf of Alaska and in the Bering Sea and Aleutian Islands Management Area are set forth at 50 CFR parts 620, 672, 675, and 676.

(e) *Limited access.* Regulations governing access to commercial fishery resources are set forth at 50 CFR part 676.

(f) *Marine mammals.* Regulations governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals are set forth at 50 CFR 216.24 and part 229.

4. Subpart A is amended by adding § 671.4 to read as follows:

§ 671.4 Permits.

This section is effective [DATE 30 DAYS FROM DATE OF PUBLICATION OF FINAL RULE IN THE Federal Register], through December 31, 1997, unless otherwise specified.

(a) *General.*—(1) Effective from January 1, 1995, through December 31, 1997. No vessel of the United States may fish for king or Tanner crab in the Bering Sea and Aleutian Islands Area without first obtaining a permit issued under this part. Such permits shall be issued without charge.

(2) *Issuance of Permits for 1995, 1996, and 1997.* Permits issued under this section shall be issued in accordance with the moratorium provisions at 50 CFR 676.3.

(b) *Application.* A vessel owner may obtain a vessel permit required under paragraph (a) of this section by submitting a written application to the Regional Director containing the following information:

- (1) The vessel owner's name, mailing address, and telephone number;
- (2) The name of the vessel;
- (3) The vessel's U.S. Coast Guard documentation number or State registration number;
- (4) The home port of the vessel;
- (5) The type of fishing gear to be used;
- (6) The length and net tonnage of the vessel;
- (7) The hull color of the vessel;
- (8) The names of all operators and/or lessees of the vessel;
- (9) Whether the vessel is to be used in crab harvesting, in which case the type of fishing gear to be used must be specified; or for processing or support operations, including the receipt of crab from U.S. vessels at sea; and
- (10) The signature of the applicant.

(c) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, and subpart A of 50 CFR part 676, upon receipt of a properly completed application, the Regional Director will issue a permit to the vessel. An application that includes the above information will be deemed complete.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application shall be considered abandoned.

(d) *Notification of change.* A vessel owner that has applied for and received a permit under this section must give written notification of any change in the information provided under paragraph (b) of this section to the Regional

Director within 30 days of the date of that change.

(e) *Duration.* A permit will continue in full force and effect through December 31 of the year for which it was issued, or until it is revoked, suspended, or modified under part 621 (Civil Procedures) or subpart A of part 676.

(f) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit that has been intentionally altered, erased, or mutilated shall be invalid.

(g) *Transfer.* Permits issued under this part are not transferable or assignable. A permit shall be valid only for the vessel for which it is issued.

(h) *Inspection.* Any permit issued under this part must be carried aboard the vessel whenever the vessel is fishing for crab. The permit shall be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

PART 672—GROUND FISH OF THE GULF OF ALASKA

5. The authority citation for 50 CFR part 672 continues to read as follows:

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

6. Section 672.3(f) is added to read as follows:

§ 672.3 Relation to other laws.

* * * * *

(f) *Crab fishing.* This paragraph (f) is effective from [date 30 days from date of publication of final rule in the Federal Register], through December 31, 1997. Regulations governing the conservation and management of king and Tanner crab in the Bering Sea and Aleutian Islands Area are set forth at 50 CFR parts 671 and 676.

7. Section 672.4(a) is revised to read as follows:

§ 672.4 Permits.

(a) *General.* (1) No vessel of the United States may fish for groundfish in the Gulf of Alaska without first obtaining a permit issued under this part. Such permits shall be issued without charge.

(2) *Issuance of Permits for 1995, 1996, and 1997.* This paragraph (a)(2) is effective from [date 30 days after date of publication of final rule in the Federal Register], through December 31, 1997. Permits issued under this section for the 1995, 1996, and 1997 fishing years shall

issued in accordance with the moratorium provisions at 50 CFR 676.3.

PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA

8. The authority citation for 50 CFR part 675 continues to read as follows:

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

9. Section 675.3(f) is added to read as follows:

675.3 Relation to other laws.

(f) *Crab fishing.* This paragraph (f) is effective from [date 30 days from date of publication of final rule in the Federal Register], through December 31, 1997. Regulations governing the conservation and management of king and Tanner crab in the Bering Sea and Aleutian Islands Area are set forth at 50 CFR parts 671 and 676.

10. Section 675.4(a) is revised to read as follows:

675.4 Permits.

(a) *General.* (1) No vessel of the United States may fish for groundfish in the Bering Sea and Aleutian Islands management area without first obtaining a permit issued under this part. Such permit shall be issued without charge.

(2) *Issuance of Permits During 1995, 1996, and 1997.* This paragraph (a)(2) is effective from [date 30 days after date of publication of final rule in the Federal Register], through December 31, 1997. Permits issued under this section for the 1995, 1996, and 1997 fishing years shall be issued in accordance with the moratorium provisions at 50 CFR 676.3.

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

11. The authority citation for part 676 continues to read as follows:

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

12. Subpart A is amended by adding § 676.1 through 676.7 to read as follows:

Subpart A—Moratorium on Entry

676.1 Purpose and scope.

676.2 Definitions.

676.3 Issuance of vessel permits.

676.4 Exemptions.

676.5 Permit issuance procedure.

676.6 Appeals.

676.7 Prohibitions.

Purpose and scope.

This section is effective from [date 30 days after date of publication of the final

rule in the Federal Register], through December 31, 1997.

(a) Subpart A of this part implements the moratorium program developed by the North Pacific Fishery Management Council and approved by the Secretary of Commerce.

(b) Regulations in subpart A govern:

(1) The issuance of Federal vessel permits for regulating participation in the commercial fisheries for groundfish in that portion of the Gulf of Alaska and Bering Sea and Aleutian Islands management area over which the United States exercises exclusive fishery management authority;

(2) The issuance of Federal vessel permits for regulating participation in the commercial fisheries for king or Tanner crab in that portion of the Bering Sea and Aleutian Islands area over which the United States exercises exclusive fishery management authority; and

(3) The issuance of International Pacific Halibut Commission vessel licenses for regulating participation in the commercial fisheries for Pacific halibut in Convention waters as described in 50 CFR part 301 that are in and off the State of Alaska.

§ 676.2 Definitions.

This section is effective from [date 30 days after date of publication of the final rule in the Federal Register], through December 31, 1997. In addition to the definitions in the Magnuson Act and in 50 CFR parts 301, 620, 671, 672, and 675, the terms in subpart A of 50 CFR part 676 have the following meanings:

Appeals Board means a North Pacific Fishery Management Council adjudication board comprised of three North Pacific Fishery Management Council Advisory Panel members appointed by the North Pacific Fishery Management Council.

Eligible vessel means a vessel that has moratorium qualification and has an LOA that is less than or equal to the maximum LOA.

Harvest or harvesting means any activity, other than scientific research conducted by a scientific research vessel, that involves the catching or taking of fish, the attempted catching or taking of fish, or any other activity that can reasonably be expected to result in the catching or taking of fish.

Legal landing means any amount of a moratorium species that was harvested and landed in compliance with State and Federal regulations in existence at the time of the landing.

Letter of authorization means a letter from NMFS to a vessel owner authorizing a vessel to make a legal landing of any moratorium species

during the moratorium pending an initial written decision by NMFS on a vessel permit or license application or pending a final written decision by the Regional Director on an appeal.

LOA means length overall as defined at §§ 672.2 and 675.2.

Lost or destroyed vessel means a vessel that has been sunk at sea or been destroyed by fire or other type of physical damage and is listed on the U.S. Coast Guard Report of Marine Casualty, form 2692.

Maximum LOA means a length overall assigned by NMFS for each original qualifying vessel that represents the greatest LOA to which a vessel may increase and continue to participate in the moratorium fisheries during the moratorium. For a vessel with an original qualifying length less than or equal to 104 feet (31.7 meters), the maximum LOA is 1.2 times the original qualifying length. For a vessel with an original qualifying length greater than 104 feet (31.7 meters) and equal to or less than 125 feet (38.1 meters), the maximum LOA is 125 feet (38.1 meters). For a vessel with an original qualifying length greater than 125 feet (38.1 meters), the maximum LOA is the original qualifying length.

Moratorium qualification means the privilege of a vessel to fish for moratorium species during the moratorium if the vessel made a qualifying landing. Moratorium qualification may be transferred to another vessel or person.

Moratorium species means Pacific halibut harvested from Convention waters as described in 50 CFR part 301 that are in and off the State of Alaska; groundfish species harvested from the Gulf of Alaska management area as specified in accordance with 50 CFR 672.20(c)(1); groundfish species harvested from the Bering Sea and Aleutian Islands management area as specified in accordance with 50 CFR 675.20(a)(7); and king or Tanner crab harvested from the Bering Sea and Aleutian Islands area.

Original qualifying length means the registered length of an original qualifying vessel that appears on the most recently submitted application for U.S. Coast Guard Certificate of Documentation prior to June 24, 1992, or State of Alaska documentation if the vessel is not required to and does not have a U.S. Coast Guard Certificate of Documentation.

Original qualifying vessel means a U.S. vessel that made a qualifying landing.

Person means any individual who is a citizen of the United States or any corporation, partnership, association, or

other entity (or their successor in interest), whether or not organized or existing under the laws of any state, that is a United States citizen.

Qualifying landing means the legal landing of any amount of a moratorium species during the qualifying period.

Qualifying period means the period of time from January 1, 1980, through February 9, 1992.

Vessel reconstruction means an adjustment in the LOA of a vessel. Vessel reconstruction begins and ends with the start and completion of the physical modification of the vessel.

§ 676.3 Issuance of vessel permits.

This section is effective from [date 30 days from date of publication of final rule in the Federal Register], through December 31, 1997.

(a) *Applicability.* Except for the exemptions to the vessel moratorium listed in § 676.4, the moratorium applies to all catcher vessels and catcher/processor vessels that apply for the following permits or licenses:

(1) To commercially harvest king or Tanner crab in the Bering Sea and Aleutian Islands area under 50 CFR 671.4;

(2) To harvest groundfish of the Gulf of Alaska management area under 50 CFR 672.4;

(3) To harvest groundfish of the Bering Sea and Aleutian Islands management area under 50 CFR 675.4; and

(4) To commercially harvest Pacific halibut from Convention waters that are in and off the State of Alaska under 50 CFR part 301.

(b) *Eligibility criteria.* In order for a vessel to receive a vessel permit or license during the moratorium, the vessel must have made a qualifying landing, and the maximum LOA for the vessel must be greater than or equal to the LOA of the vessel.

(1) *Transfer of moratorium qualification.* Moratorium qualification may be transferred from a vessel to another vessel or to a person, or from a person to another person or to a vessel. The maximum LOA for the vessel must be transferred with the moratorium qualification. The transfer of moratorium qualification will be authorized under the following conditions:

(i) The owner of the moratorium qualification must submit a written application to NMFS for the transfer of moratorium qualification that must include a copy of a written contract that contains the following information:

- (A) Names and addresses of all persons taking part in the transfer;
- (B) Vessel names, U.S. Coast Guard identification numbers of any vessels

taking part in the transfer, and the LOA of all vessels taking part in the transfer;

(C) A statement describing the transfer of the moratorium qualification; and

(D) Signatures and dates when signed by all persons taking part in the transfer.

(ii) The vessel transferring moratorium qualification must surrender to NMFS all valid permits or licenses to harvest moratorium species and the vessel must not harvest any moratorium species for the remainder of the moratorium unless the vessel subsequently receives moratorium qualification from another vessel;

(iii) NMFS must give written approval to a vessel owner of any transfer of the moratorium qualification prior to receipt by the vessel of moratorium qualification and any harvesting of moratorium species.

(iv) NMFS must give written approval to a person that has received the transfer of moratorium qualification before the transfer will be authorized.

(2) *Adjustment to maximum LOA through reconstruction.* The maximum LOA for a vessel may be adjusted through vessel reconstruction under the following conditions:

(i) If vessel reconstruction was completed before June 24, 1992, the LOA of the reconstructed vessel will be the new original qualifying length for the vessel, from which a new maximum LOA will be calculated for the reconstructed vessel.

(ii) If vessel reconstruction began before June 24, 1992, but was not completed by that date, the LOA resulting from the reconstruction is the new maximum LOA and no further adjustment in maximum LOA is permitted for the duration of the moratorium.

(iii) If vessel reconstruction was started on or after June 24, 1992, the maximum LOA may not be adjusted.

(iv) Maximum LOA for vessels over 125 feet (38.1 meters) LOA cannot be increased through reconstruction.

(v) NMFS must give written approval to the vessel owner of an adjustment in the maximum LOA due to vessel reconstruction. A vessel owner must receive written approval and a permit or license with the new maximum LOA prior to harvesting any moratorium species. In order to adjust the maximum LOA for a vessel, the vessel owner must submit to NMFS an application for adjustment of the maximum LOA that includes the following information:

- (A) Name and address of vessel owner(s);
- (B) Vessel name and U.S. Coast Guard vessel identification number;
- (C) Written contracts or written agreements with the boatyard or

shipyard concerning the vessel reconstruction;

(D) An affidavit signed by the vessel owner(s) and the owner/manager of the company performing the vessel reconstruction that states the beginning and ending dates of reconstruction; and

(E) An affidavit signed by the vessel owner that lists the new LOA of the vessel.

(3) *Lost or destroyed vessel.* A lost or destroyed vessel may transfer its moratorium qualification or be salvaged under the following conditions:

(i) *Transfer of the Moratorium Qualification of a Lost or Destroyed Vessel.* (A) An eligible vessel that is lost or destroyed between January 1, 1995, through December 31, 1997, may transfer its moratorium qualification to another vessel or person as specified in paragraph (b)(1) of this section.

(B) An eligible vessel that was lost or destroyed on or after January 1, 1989, through December 31, 1994, may transfer its moratorium qualification to another vessel or person as specified in paragraph (b)(1) of this section, but the vessel receiving the transferred moratorium qualification must make a legal landing of a moratorium species by December 31, 1996, to remain an eligible vessel.

(C) An eligible vessel that was lost or destroyed before January 1, 1989, cannot transfer its moratorium qualification to another vessel or person.

(ii) *Salvage of a lost or destroyed vessel.* (A) An eligible vessel that was lost or destroyed on or after January 1, 1989, may be salvaged and remain an eligible vessel.

(B) An eligible vessel that was lost or destroyed before January 1, 1989, may be salvaged and remain an eligible vessel only if salvage operations began on or before June 24, 1992, and the vessel makes a legal landing of a moratorium species by December 31, 1996.

(iii) *Application.* A vessel owner must submit an application to NMFS for transfer of moratorium qualification from a lost or destroyed vessel and for the salvage of a lost or destroyed vessel. NMFS must give written approval before any such transfer of moratorium qualification or salvage prior to harvesting moratorium species.

(A) The application for the transfer of moratorium qualification from a vessel that was lost or destroyed from January 1, 1995, through December 31, 1997, must include a copy of the U.S. Coast Guard form 2692, Report of Marine Casualty, and a completed application for the transfer of moratorium qualification as specified in paragraph (b)(1) of this section.

(B) The application for the transfer of moratorium qualification from a vessel that was lost or destroyed during the period January 1, 1989, through December 31, 1994, must include a copy of the U.S. Coast Guard form 2692, Report of Marine Casualty, and a completed application for the transfer of moratorium qualification as specified in paragraph (b)(1) of this section. The vessel owner must show an Alaska State fish ticket to NMFS proving that a landing of a moratorium species was made by December 31, 1996, for the vessel to remain eligible.

(C) The application for the salvage of a vessel lost or destroyed on or after January 1, 1989, must include a copy of the U.S. Coast Guard form 2692, Report of Marine Casualty.

(D) The application for the salvage of a vessel lost or destroyed before January 1, 1989, must include a copy of the U.S. Coast Guard form 2692, Report of Marine Casualty. The vessel owner must show an Alaska State fish ticket to NMFS proving that a landing of a moratorium species was made by December 31, 1996, for the vessel to remain eligible.

§ 676.4 Exemptions.

Effective from January 1, 1995, through December 31, 1997, the following vessels are not subject to the moratorium and may continue to fish during the moratorium in accordance with parts 301, 671, 672, and 675.

(a) A vessel other than a catcher vessel or catcher-processor vessel.

(b) A catcher vessel or catcher/processor vessel that harvests a moratorium species in the Gulf of Alaska and does not exceed 26 feet (7.9 meters) LOA.

(c) A catcher vessel or catcher/processor vessel that harvests a moratorium species in the Bering Sea and Aleutian Islands management area and does not exceed 32 feet (9.8 meters) LOA.

(d) A catcher vessel or catcher/processor vessel that meets all the following criteria:

(1) The vessel is a new vessel that is constructed for and used by a Community Development Plan, approved by the Secretary as part of the Community Development Quota programs under §§ 675.27 and 676.24;

(2) The vessel is designed and equipped to meet specific needs that are described in the Community Development Plan; and

(3) The vessel does not exceed 125 feet (38.1 meters) LOA.

(e) An ineligible catcher vessel or catcher/processor vessel that is engaged in the IFQ sablefish and halibut fixed

gear fisheries in accordance with regulations at subpart B of 50 CFR part 676 that retains an aggregate amount of moratorium species other than sablefish and halibut in round weight equivalents less than 20 percent of the aggregate amount of sablefish and halibut in round weight equivalents on board.

§ 676.5 Permit issuance procedure.

This section is effective from [Date 30 days from date of publication of final rule in the Federal Register], through December 31, 1997.

(a) *Groundfish permits.* (1) A vessel owner that intends to harvest Gulf of Alaska or Bering Sea and Aleutian Islands management area groundfish from January 1, 1995, through December 31, 1997, must apply for and be issued a moratorium vessel permit from NMFS. An application for a vessel permit can be obtained from NOAA/NMFS, Alaska Enforcement Division, P.O. Box 21767, Juneau, Alaska 99802-1767. A vessel permit will be issued if:

(i) The vessel owner submits a complete vessel permit application to NMFS as required by §§ 672.4 and 675.4;

(ii) The vessel has made a qualifying landing or submits a complete moratorium qualification transfer application with the vessel permit application; and

(iii) The LOA of the vessel, which is specified on the permit application, does not exceed the maximum LOA for that vessel. If the vessel reconstruction provisions at § 676.3(b)(2) apply, a vessel owner also should submit a complete vessel reconstruction application with the vessel permit application. All permits issued by NMFS will list the maximum LOA applicable for that vessel and for any vessel to which the moratorium qualification is transferred.

(2) If NMFS determines that the vessel is not an eligible vessel, the vessel owner will be notified in writing by NMFS that a vessel permit will not be issued and the reasons therefor. If NMFS denies an application for a vessel permit, the applicant may appeal the initial decision within 45 days of issuance of the denial in accordance with the appeal procedures set forth at § 676.6.

(b) *Crab permits.* (1) A vessel owner that intends to harvest king and Tanner crab fisheries in Federal waters of the Bering Sea and Aleutian Islands Area from January 1, 1995, through December 31, 1997, must apply for and be issued a crab moratorium vessel permit from NMFS. An application for a vessel permit can be obtained from NOAA/NMFS, Alaska Enforcement Division,

P.O. Box 21767, Juneau, Alaska 99802-1767. A vessel permit will be issued if:

(i) The vessel owner submits a complete vessel permit application to NMFS as required by § 671.4;

(ii) The vessel has made a qualifying landing or submits a complete moratorium qualification transfer application with the vessel permit application; and

(iii) The LOA of the vessel that is specified on the permit application does not exceed the maximum LOA for that vessel. If the vessel reconstruction provisions at § 676.3(b)(2) apply, a vessel owner also should submit a complete vessel reconstruction application with the vessel permit application. A permit issued by NMFS will list the maximum LOA for that vessel and for any vessel to which the moratorium qualification is transferred.

(2) If NMFS determines that the vessel is not an eligible vessel, the vessel owner will be notified in writing by NMFS that a vessel permit will not be issued and the reasons therefor. If NMFS denies an application for a vessel permit, the applicant may appeal the initial decision within 45 days of issuance of the denial in accordance with the appeals section at § 676.6.

(c) *Halibut Licenses.* (1) A vessel owner that intends to harvest halibut in waters in and off the State of Alaska from January 1, 1995, through December 31, 1997, must apply for and be issued an unrestricted vessel license from the International Pacific Halibut Commission. An unrestricted vessel license will be issued if:

(i) The vessel owner submits a complete vessel license application to the International Pacific Halibut Commission as required by part 301;

(ii) The vessel has made a qualifying landing; and

(iii) The LOA of the vessel specified on the license application does not exceed the maximum LOA. An unrestricted vessel license issued by the International Pacific Halibut Commission will list the maximum LOA for that vessel and for any vessel to which the moratorium qualification is transferred.

(2) If the IPHC determines that the vessel does not satisfy the requirements of (c)(1) of this section, the vessel owner will be issued a restricted vessel license applicable only for International Pacific Halibut Commission management area 2A or 2B. If the applicant is issued a restricted vessel license, the applicant may submit additional information to NMFS within 45 days of issuance of the restricted license. NMFS will review the additional information submitted and notify the vessel owner in writing

whether an unrestricted vessel license will be issued. If NMFS determines that an unrestricted vessel license should be issued, NMFS will instruct the IPHC to issue an unrestricted vessel license to the vessel owner. If NMFS determines that an unrestricted vessel license should not be issued, and the reasons therefor, the vessel owner may appeal the initial decision within 45 days of issuance of the denial in accordance with the appeal procedures set forth at § 676.6.

(d) *Vessel used in the IFQ sablefish and halibut fixed gear fisheries.* An owner of a vessel used in the IFQ sablefish and halibut fixed gear fisheries from January 1, 1995, through December 31, 1997, must apply for a groundfish and crab vessel permit. A vessel permit will be issued if the vessel owner submits a complete application to NMFS as required by §§ 671.4, 672.4, or 675.4. The type of permit issued will be based upon the eligibility of the vessel under the moratorium as follows:

(1) *Eligible vessel.* A vessel used in the IFQ sablefish and halibut fixed gear fisheries that is an eligible vessel under the moratorium will be issued an unrestricted groundfish and crab vessel permit. A vessel that is issued an unrestricted groundfish and crab vessel permit may retain amounts of moratorium species other than sablefish and halibut subject to applicable directed fishing standards.

(2) *Ineligible vessel.* A vessel used in the IFQ sablefish and halibut fixed gear fisheries that is an ineligible vessel under the moratorium will be issued a restricted groundfish and crab vessel permit. A vessel that is issued a restricted groundfish and crab vessel permit must not retain an aggregate amount of moratorium species other than sablefish and halibut in round weight equivalents greater than 20 percent of the aggregate amount sablefish and halibut in round weight equivalents on board.

(e) *Letter of authorization*—(1) *Vessel permit or license application.* If a vessel owner submits a complete application for a vessel permit or license as specified in §§ 671.4, 672.4 and 675.4, and 50 CFR part 301, NMFS will send a letter of authorization to the vessel owner if NMFS has not issued a written initial decision to the vessel owner on the permit or license application within 30 days of receipt of the application by NMFS. The letter of authorization will expire 75 days after NMFS issues an initial written decision to the vessel owner on the permit or license application.

(2) *Filing notice of appeal.* If a vessel owner files a notice of appeal with the

Regional Director as specified in § 676.6, NMFS will send a letter of authorization to the vessel owner if NMFS has not issued a written final decision to the vessel owner on the appeal within 30 days of the filing of the notice of appeal with NMFS. The letter of authorization will expire 30 days after the Regional Director issues a written final decision on the appeal.

§ 676.6 Appeals.

This section is effective from [date 30 days after date of publication of final rule in the Federal Register], through December 31, 1997. A vessel owner may file a notice of appeal with the Regional Director within 45 days of the issuance of an initial decision by NMFS that a groundfish and crab vessel permit will not be issued, a restricted halibut license will be issued, or that a restricted groundfish and crab vessel permit will be issued. The notice of appeal must be accompanied by a statement in support of the position of the owner, along with all supporting data and information. The Regional Director will review the records used to make the initial decision and the information submitted with the appeal.

(a) If, during his review, the Regional Director determines that a decision can be made based on a review of the records submitted, the Regional Director will issue a written decision that will be the final administrative decision of the U.S. Department of Commerce.

(b) If, during his review, the Regional Director determines that his decision would benefit from industry expertise beyond that available from a review of the records, then the Regional Director will forward the appeal to the Appeals Board for a recommendation. Subject to Federal and State of Alaska confidentiality regulations, the Appeals Board will review the records used to make the initial decision and the information submitted with the appeal at a public meeting and make a recommendation on the appeal. After receiving the Appeals Board's recommendation from the Council, the Regional Director will consider the recommendation and issue a written decision on the appeal based on his findings and state the reasons for his decision. The decision of the Regional Director is the final administrative decision of the U.S. Department of Commerce.

§ 676.7 Prohibitions.

Effective from January 1, 1995, through December 31, 1997, it is unlawful for a person to:

(a) Submit false or inaccurate information on a vessel permit application;

(b) Harvest a moratorium species with a vessel that has a LOA greater than the maximum LOA for the vessel;

(c) Harvest a moratorium species with a vessel that has received an unauthorized transfer of moratorium qualification;

(d) Fish for sablefish or halibut with IFQ from a vessel with a restricted groundfish and crab vessel permit and retain an aggregate amount of moratorium species other than sablefish and halibut in round weight equivalents greater than 20 percent of the aggregate amount sablefish and halibut in round weight equivalents on board; and

(e) Violate any other provision of subpart A of 50 CFR part 676.

[FR Doc. 94-13469 Filed 5-31-94; 9:18 am]
BILLING CODE 3510-22-P

50 CFR Chapter II.

[Docket No. 940558-4158; I.D. 052394B]

West Coast Salmon Fisheries; Disaster Relief

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) has declared that a natural fishery resource disaster exists in the ocean salmon fisheries off the coasts of Washington, Oregon, and California, due to extremely low stock abundances of chinook and coho salmon. To alleviate economic hardship, NMFS intends to make grants available to eligible industry participants. NMFS is requesting written comments, in particular from the fishing industry, Indian tribes, and state fisheries agencies, regarding appropriate limitations, terms, and conditions it should use in providing the proposed assistance to persons engaged in commercial fisheries for uninsured losses resulting from the salmon fisheries resource disaster.

DATES: Comments must be received by August 2, 1994.

ADDRESSES: Comments should be sent to Bruce Morehead, Office of Trade and Industry Services, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Bruce Morehead, 301/713-2358.



ALASKA OCEAN SEAFOOD

LIMITED PARTNERSHIP

June 6, 1994

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
PO Box 103136
Anchorage, AK 99510

Re: Agenda item C-3(c) / Comprehensive Rationalization Plan / Inshore-Offshore (CVOA)

Dear Mr. Lauber:

Alaska Ocean Seafood Limited Partnership files these comments in opposition to the CVOA. The Alaska Ocean partnership owns the vessel ALASKA OCEAN, which is the largest and one of the most modern surimi trawlers in the U.S. fisheries.

I am general manager of the partnership and principal captain of the ALASKA OCEAN. I have been involved in the Alaska crab and groundfish fisheries for some 25 years, and have owned and operated vessels engaged in the pollock fisheries since 1982. My partners and I committed to the ALASKA OCEAN project in 1987; following intensive design and shipyard work, the ALASKA OCEAN entered the BSAI pollock fishery in 1990.

Alaska Ocean has opposed the CVOA since the concept was first proposed, continues to oppose it, and strongly urges the Council not to continue the CVOA beyond its existing 1995 sunset date. Having listened to the testimony and Council discussions of the CVOA, and having reviewed the documents promulgating the CVOA, we remain at a loss as to what possible justification there could be for establishing this area.

Implementation of the CVOA has had the effect of excluding the ALASKA OCEAN from an area that was once the source of a substantial amount of her catch. The supposed rationale for this is a perceived potential for factory trawlers to preempt coastal communities (*i.e.*, shoreside processors) from access to the fishery resources in the area. The supposed justification for excluding factory trawlers from access to the resource is an assumption that factory trawlers can simply migrate to other fishing areas. Alaska Ocean believes that these perceptions and assumptions are erroneous and that a program based upon them violates the purpose of the Magnuson Act and the National Standards of that Act.

Mr. Richard Lauber
June 6, 1994
Page 2

To understand Alaska Ocean's position of the CVOA, it is first necessary to understand the realities, rather than the assumptions, of the CVOA program. The Secretary of Commerce noted in his final approval of the CVOA that "[t]ime was insufficient to access the true [alternative] opportunity cost to the at-sea sector ..." Lacking that assessment, the Council simply adopted a plan based on the assumption of a cost-free migration to fishery resources located north and west of the CVOA. In actuality, this migration has proved to be anything but cost-free.

Among the costs to the ALASKA OCEAN are:

- Loss of access to a substantial portion of her traditional resource.
- The need to transit the CVOA to access her permitted fishing grounds, a transit which incurs all standard vessel operating costs and generates absolutely no revenue.
- Loss of production from time by more than doubling the transit time to offload and re-supply in Dutch Harbor.
- A decrease in efficiency with respect to recovery ratio, speed of production, and quality and nature of product resulting from the need to fish to the far northwest of the CVOA where fish stocks have proved to be smaller in size than in the CVOA.
- Increase in crab and longline gear conflicts in the areas where the ALASKA OCEAN must fish.
- Decreased flexibility to adjust operations to accommodate concerns about bycatch and other concerns of a similar nature.

Alaska Ocean cannot accept the notion that these effects are in anyway offset by a presumption that a possible effect on onshore facilities might be avoided. Nor do we believe that such effects are permissible under the Magnuson Act.

I. THE CVOA IS CONTRARY TO THE PURPOSES OF THE MAGNUSON ACT.

By its very title and terms, the Magnuson Act is aimed at conservation of fishery resources. The CVOA has absolutely nothing to do with conservation and neither the Council nor the Secretary have ever even bothered to argue that it does. On the contrary, the CVOA was established without analysis of the nature and migratory patterns of the stock in the area, especially vis-a-vis the relationship of that stock and stocks occurring in non-CVOA areas. One result of this lack of attention to conservation has already been noted - factory trawlers are being forced to harvest stocks that are smaller in size than those occurring in the CVOA.

II. THE CVOA VIOLATES THE NATIONAL STANDARDS OF THE MAGNUSON ACT.

- A. National Standard 1. This Standard requires conservation and management measures to achieve optimum yield from each fishery. As described above, the CVOA actually diminishes yield by reducing, for a major segment of the industry, the value of the product resulting from its fishing efforts.
- B. National Standard 2. This Standard requires that conservation and management measures be based on the "best scientific information available." But the CVOA program was implemented on the basis of virtually no scientific analysis of the stocks at all. Indeed, the only scientific data readily available on the record is the Secretary's observation that harvesting methods are identical for catcher vessels and factory trawlers - an observation which obviously provides absolutely no basis for distinguishing between the two groups.
- C. National Standard 3. Standard 3 requires that fish stocks be managed throughout their range. A program in which there was no analysis of the migratory patterns of the involved stock can scarcely be viewed as conforming to this Standard.
- D. National Standard 4. This Standard, which deals with allocation of fishing privileges among U.S. fishermen, requires such allocations to be fair and equitable to all fishermen; to be reasonably calculated to promote conservation; and to avoid acquisition of excessive shares. Alaska Ocean believes that the CVOA fails under this Standard for several reasons.
- (1) The CVOA is neither fair nor equitable. It places a significant portion of the groundfish resource outside the reach of a large segment of the industry, at significant cost to that industry, and does so to prevent effects that might otherwise happen.

It is interesting to note that, on at least two prior occasions, the Secretary has rejected Council proposals to exclude foreign fishermen from certain fishing areas. Yet, without basis or justification, the Secretary acceded to the CVOA, which excludes U.S. fishermen. Under the Magnuson Act Standards, allocations among U.S. fishermen are subject to a much higher degree of scrutiny, scrutiny which the CVOA does not pass.

- (2) The CVOA is also unfair because it discriminates among segments of the industry on a basis that is over-inclusive. Specifically, the CVOA is built on the assumption that factory trawlers have wide-ranging mobility while catchers serving inshore processors do not. This is an unverified assumption

Mr. Richard Lauber

June 6, 1994

Page 4

which results in according CVOA privileges to some catcher vessels that are every bit as mobile as factory trawlers. In addition, because the final adoption of the CVOA allows large mother ships into the area, large mobile catcher vessels that traditionally have supplied those ships can also access the CVOA.

- (3) As discussed above, the CVOA is not reasonably calculated to promote conservation; in fact, it is not calculated to achieve conservation at all.
- (4) The CVOA is actually designed to create rather than avoid excessive shares, because it takes from one segment of the industry a resource that the segment has been using, and awards it to another segment that has not been using it.

E. National Standard 5. National Standard 5 requires conservation and management measures to promote efficiency and prohibits measures that have economic allocation as their sole purpose. We have already described the inefficiencies imposed on the ALASKA OCEAN by reason of the CVOA. It only remains to be said that the CVOA is patently an economic allocation and nothing but an economic allocation. In promulgating the CVOA regulations, the Secretary candidly admitted:

Although the supplemental analysis for this amendment projects future losses for the offshore fleet and gains for the inshore sector, the 35/65 allocation coupled with the CVOA is justified based on the resulting stability and prevention of potential preemption on behalf of the inshore sector and the likelihood of benefits that would accrue to Alaska coastal communities.

(Emphasis added.)

In other words, the CVOA gives an allocation of resources to the inshore sector at the expense of the factory trawler fleet in an effort to realize hoped-for economic benefits for Alaska coastal communities. (Ironically, the program then potentially diminishes even those benefits by granting CVOA access to catcher boats and their large, mobile mother ships, vessels that have no necessary connection to Alaska coastal communities.)

F. National Standard 6. This Standard effectively requires the Council to recognize and account for the fact that fishermen fish where the fish are. The CVOA program blatantly ignores this requirement by ousting the factory trawler fleet from one of its traditional and most productive fishing areas and forcing it to relocate, at considerable cost, to other fishing grounds.

Mr. Richard Lauber
June 6, 1994
Page 5

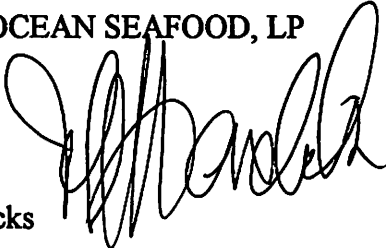
- G. National Standard 7. Standard 7 requires conservation and management measures to minimize costs and avoid unnecessary duplication. The CVOA is an unnecessary management measure that does not promote conservation and is aimed solely at achieving hoped-for economic benefits for some Alaskan communities. As such, it is a prime example of a management measure that increases rather than decreases costs and that, accordingly, violates this Standard. The CVOA further violates this Standard because it encourages inshore facilities to develop more processing capacity to realize on the CVOA allocation, capacity that already exists in the offshore fleet.

For all of the above reasons, Alaska Ocean urges the Council to discontinue the CVOA on its 1995 sunset date, if not sooner.

We appreciate your consideration of our views.

Sincerely,

ALASKA OCEAN SEAFOOD, LP



Jeff Hendricks
General Manager

Current selection: (keyword="death" and (date>"01/01/93")) and (date>"01/01/93")

REC VNAME DATE LENGTH PLACE INCNARR POBLOST

3	BILLIKIN	08/01/93	116	45NM ST PAUL ISL	MOB:RECOVERED VICTIM 10MIN IN H2O.DIED HYPOTHERMIA	1
1	MASSACARE BAY	16/01/93	86	ALITAK BAY,KODIAK	SANK:VSL AGRND,TOM,MAYDAY,EPIRB.3/4DEAD,S.SUIT HOOD NOT USED	3
4	LADY OF GOOD VOYAGE	09/03/93	86	NW UNIMAK ISL	DEATH: ENTIRE CREW MISSING. FOUND SLICK AND LIFERAFT	4
0	SUNRISE	26/05/93	41	STRAWBERRY CHL	DEATH:WAVE WASHED 2 POB O/B.1 MISSING.CGHELO PU LPIM,BUT DIED	2
19	SONIA	30/07/93	38	CAPE CROSS	DEATH: ABANDONED VSL. 1 POB MISSING PRESUMED DROWNED.	1
22	PRESTON BROOKS	07/08/93	90	BARREN ISLANDS	SANK: VSL T.O.W. DEATH, O/O DIED DUE COLD WATER IMMERSION	1
24	SEA VENTURE	09/08/93	104	ST PAUL	DEATH: CREWMEMBER DIED OF SEVERE INJURY. BROKEN BACK & LUNG.	1
51	NETTIE H	17/09/93	58	ST. PAUL	SANK: VSL MISSING PRESUME SANK. W/O TRACE. 5 POB MISSING.	5

Current selection: (keyword="sank" or (sank="Y") and (date>"01/01/93")) or (sank="Y")

REC VNAME DATE LENGTH PLACE INCNARR POBLOST

1	MASSACARE BAY	16/01/93	86	ALITAK BAY,KODIAK	SANK:VSL AGRND,TOM,MAYDAY,EPIRB.3/4DEAD,S.SUIT HOOD NOT USED	3
2	ALASKAN PRIDE	07/02/93	120	NW UNIMAK ISL	SANK:VSL RADIOED,TOM,PWR LOSS,ENG,RM FLOODED.USD SSUTS & L/R	0
4	LADY OF GOOD VOYAGE	09/03/93	86	NW UNIMAK ISL	DEATH: ENTIRE CREW MISSING. FOUND SLICK AND LIFERAFT	4
5	RESPONSE	13/05/93	130	CP CHINIAK,KODIAK	SANK:VSL AFIRE,SANK. CG HELO EVAC.	0
18	UNKNOWN	24/05/93	28	EGG ISLAND CHANNEL	SANK: CAPSIZED IN SURF CAUSE UNK. NO SURVSUIT. RESCUED BY CG	0
9	FENWICK	10/06/93	57	40NM S.HOMER	SANK:VSL TOM. 7 POB PU BY CG.FISHING IN 10JUN HALIBUT OPENER	0
7	SARATOGA	11/06/93	51	NR. YAKUTAT	SANK:VSL TOM. F/V RECOVERED 5 PIM.FISHING IN HALIBUT OPENER	0
8	GLADIS M	12/06/93	33	COOK INLET	SANK:VSL TOM. 4 POB PU BY F/V. FISHING IN 10JUN HALIBUT OPENR	0
10	FLYIN LION	24/06/93	30	EGEGIK RIVER	SANK:CAUSE UNK:3POB REC	0
11	DIMETRI M	01/07/93	34	EMERALD COVE AK	SANK:UNABLE TO DE-WATER VSL AND SANK 1 NM OFF COAST. O/O CALL	0
13	FRANCIS LEE	22/07/93	107	TWO HEADED ISL	SANK: VSL HOLED ON ROCK. TOM. 4 POB RECOVERED. VSL SUNK BY CG	0
14	WESTWIND	27/07/93	152	ORCA BAY	SANK: T.O.W. 4 POB RESCUED IN SURV ST. EPIRB ACTIVATED. HELD	0
2	SUNRISE	03/08/93	40	HOOK POINT	SANK: FIRE BURNED VSL TO WATERLINE AND SANK. O/O RESCUED	0
21	BARCONI	07/08/93	44	FLAT ISLAND	SANK: FIRE TOTAL LOSS. 3 POB PICKED UP BY P/C LUCKY J.	0
22	PRESTON BROOKS	07/08/93	90	BARREN ISLANDS	SANK: VSL T.O.W. DEATH, O/O DIED DUE COLD WATER IMMERSION	1
23	NANA NICOLE	08/08/93	30	COLD BAY	SANK: VSL STRUCK LOG AND SANK. ONLY POB RECOVERED SAFELY	0
25	CAROL MAY	09/08/93	34	HAINES	SANK: FIRE TOTAL LOSS. O/O REACHED BEACH IN SURVSUIT SAFELY.	0
26	LILI ARLENE	30/08/93	37	CHIGNIK BAY	SANK: FIRE TOTAL LOSS. 3 POB PICKED UP BY ANOTHER F/V.	0
46	LISA DENISE	06/09/93	31	NAKED ISLAND	SANK:FIRE TOTAL LOSS. ONLY POB USED SKIFF TO GET ASHORE	0
27	MIDAS	07/09/93	106	GRAND ISLAND	SANK: CAPSIZED. 3 POB PICKED IN LIFERAFT FM F/V ZENITH.	0
48	MINOTAUR	09/09/93	32	PRINCE WILLIAM S	SANK: T.O.W. VSL SANK. F/V DR. JACK P/U 2 CREW.	0
50	MERRIE COLLEEN	11/09/93	58	NICHOLIS ISLAND	SANK: FIRE TOTAL LOSS. BURNED TO WATERLINE. SKIFF P/U ALL POB	0
51	NETTIE H	17/09/93	58	ST. PAUL	SANK: VSL MISSING PRESUME SANK. W/O TRACE. 5 POB MISSING.	5
59	KROLIK	23/09/93	28	HUMPY COVE	SANK: T.O.W. AND SANK. ONLY POB ENTERED LIFERAFT PU ON SHORE	0

DAY/MONTH/YR

pg.3

DAY/MONTH/YR

pg.3

pg.4

pg.5

page

urrent selection: (KEYWORD1="DEATH")

ent selection: (KEYWORD1="DEATH")

REC	VNAME	DATE	PLACE	VLENGTH	INCNARR	VTTYPE
19	ST MATTHEW	22/02/94	BERING SEA	171	DEATH: VSL CAPSIZED. 1 POB DIED OF HYPOTHERMIA. 7 RESCUED	TENDER

urrent selection: (KEYWORD1="SANK") OR (SANK="Y")

REC	VNAME	DATE	PLACE	VLENGTH	INCNARR	VTTYPE
7	BELAIR	01/02/94	ST GEORGE ISLAND -	91	SANK: VSL RAN AGROUND, BROKE UP IN SURF, 6 POB HOISTED W/HELO	CRABBER
10	LADY SELKET	06/02/94	BERING SEA -	87	SANK: VSL T.O.W. & CAPSIZED. ALL 5 POB RECOVERED BY A F/V	CRABBER
12	EAGLE	09/02/94	CAPE CHINIAR	72	SANK: VSL T.O.W. 4 POB RECOVERED W/HELO. ATTEMPTED TO GROUND	TRAWLER
14	ALL HANDS	13/02/94	POINT RETREAT	36	SANK: ICING/SHARP TURN IN HEAVY WINDS & CAPSIZED. 2 POB SAVED	CRABBER
15	ANGELA MARIE	15/02/94	LISIANKI INLET	49	SANK: VSL T.O.W. 5 POB ABANDONED VSL RESCUED BY CG HELO	CRABBER
16	WESTERLY	15/02/94	GLACIER BAY	65	SANK: LOAD OF CRAB POTS SHIFTED & VSL SANK. F/V RESCUED 3 POB	CRABBER
19	ST MATTHEW	22/02/94	BERING SEA -	171	DEATH: VSL CAPSIZED. 1 POB DIED OF HYPOTHERMIA. 7 RESCUED	TENDER
20	CHEVAK	22/02/94	REEF PT ST PAUL -	117	SANK: VSL GROUNDED ON ROCKS. 7 POB RECOVERED BY TUG	CRABBER
21	KING AND WINGE	23/02/94	BERING SEA	97	SANK: VSL T.O.W. UNABLE TO STOP FLOODING. 4 POB RECOVERED	CRABBER

urrent selection: (KEYWORD1="INJURY")

EC	VNAME	DATE	PLACE	VLENGTH	INCNARR	VTTYPE
1	FOUR DAUGHTERS	18/01/94	BERING SEA	84	INJURY: CRWMBR LEG BROKE BETWEEN CRAB POT AND LAUNCHER	CRABBER
	CORNELIA MARIE	21/01/94	BERING SEA	93	INJURY: CRWMBR FELL THRU HATCH BROKE LEG AND RIBS	CRABBER
	SJOVIND	22/01/94	BERING SEA	164	INJURY: CRWMBR SUSTAINED EYE INJURY WITH LOSS OF SIGHT	CRABBER
4	GALLANT GIRL	22/01/94	KILILUDA BAY	56	INJURY: CRWMBR FOOT INJURED IN BAIT CHOPPER	CRABBER
5	FIERCE CONTENDER	26/01/94	BERING SEA	156	INJURY: CRWMBR BROKE RIGHT FEMUR BY FALLING CRAB POT	CRABBER
6	GOLDEN ALASKA	28/01/94	BERING SEA	280	INJURY: CRWMBR AMPUTATED FINGER IN A PULLEY.	TRAWLER
8	OLYMPIC	01/02/94	BERING SEA	168	INJURY: CRWMBR INJURED EYE WITH CROWBAR.	FACTOR
9	DELTA SUNRISE	04/02/94	80 MILES NW KODIAK	50	INJURY: CRWMBR CAUGHT ARM IN HYDRAULIC GEAR. NO BROKEN BONES	TRAWLER
11	NORTHERN EAGLE	09/02/94	BERING SEA	310	INJURY: CRWMBR AMPUTATED 3 FINGERS AND PORTION OF HAND.	TRAWLER
13	RESOLUTE	12/02/94	SEGUAM ISLAND	221	INJURY: CRWMBR STRUCK IN FACE BY TRAWL WIRE. SWOLLEN FACE	CRABBER
17	ATLANTICO	18/02/94	BERING SEA	89	INJURY: CRWMBR STRUCK BY CRAB POT NO SPECIFIC INJURIES RPTD	CRABBER
18	BOUNTY HUNTER	18/02/94	BERING SEA	114	INJURY: CRWMBR EYE INJURY. FOREIGN OBJECT IN CORNEA OF R EYE	CRABBER

OBSERVATIONS AT 3-HOUR INTERVALS

SEP 1993 25713
ST. PAUL ISLAND, AK

HOUR L. S. T.	SKY COVER (TENTHS)			VISI-BILITY		TEMPERATURE				WIND		SKY COVER (TENTHS)			VISI-BILITY		TEMPERATURE				WIND											
	CEILING IN HUNDREDS OF FEET	WHOLE MILES	16THS MILE	WEATHER	AIR OF	MET BULB OF	DEW POINT OF	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)	CEILING IN HUNDREDS OF FEET	WHOLE MILES	16THS MILE	WEATHER	AIR OF	MET BULB OF	DEW POINT OF	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)	CEILING IN HUNDREDS OF FEET	WHOLE MILES	16THS MILE	WEATHER	AIR OF	MET BULB OF	DEW POINT OF	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)		
SEP 1st																																
03	10	3	1	B	F	50	49	48	96	21	6	10	44	7		49	48	47	93	21	10	3	UNL	7			42	41	40	93	22	7
06	10	2	2	B	F	49	49	48	96	19	6	10	30	7		49	48	47	93	19	6	8	210	1	F	37	37	36	96	00	0	
09	10	1	0	B	F	50	50	49	96	22	9	10	25	7		49	48	47	93	19	6	10	9	7	F	49	49	48	96	10	5	
12	10	3	4	B	F	52	51	50	93	23	12	10	18	7		51	50	48	90	18	9	10	7	3	F	51	51	50	96	10	7	
15	10	4	6	B	F	53	51	49	86	22	14	10	18	7		52	50	48	86	19	9	10	3	4	F	52	51	49	90	06	10	
18	10	3	1	B	F	51	50	49	93	21	17	10	14	7	RW	52	50	47	83	20	9	10	2	1	RF	51	50	49	93	03	11	
21	9	20	7	B	RW	50	49	47	90	23	15	10	12	7		50	48	46	86	22	7	10	2	3	RF	50	50	49	96	05	8	
24	4	UNL	7	B	RW	48	47	45	89	23	11	8	14	7		48	46	44	86	21	8	10	2	0	B	50	49	48	93	12	6	
SEP 2nd																																
SEP 3rd																																
SEP 4th																																
SEP 5th																																
SEP 6th																																
SEP 7th																																
SEP 8th																																
SEP 9th																																
SEP 10th																																
SEP 11th																																
SEP 12th																																
SEP 13th																																
SEP 14th																																
SEP 15th																																
SEP 16th																																
SEP 17th																																
SEP 18th																																

MAXIMUM SHORT DURATION PRECIPITATION

TIME PERIOD (MINUTES)	5	10	15	20	30	45	60	80	100	120	150	180
PRECIPITATION (INCHES)	0.05	0.07	0.10	0.12	0.16	0.23	0.30	0.37	0.43	0.51	0.62	0.71
ENDED: DATE	27	27	27	29	29	29	29	29	29	29	29	29
ENDED: TIME	1652	1652	1652	0312	0330	0339	0359	0401	0409	0354	0357	0413

THE PRECIPITATION AMOUNTS FOR THE INDICATED TIME INTERVALS MAY OCCUR AT ANY TIME DURING THE MONTH. THE TIME INDICATED IS THE ENDING TIME OF THE INTERVAL. DATE AND TIME ARE NOT ENTERED FOR TRACE AMOUNTS.

OBSERVATIONS AT 3-HOUR INTERVALS
 AUG 1993 ST PAUL ISLAND, AK 25713

HOUR L 5 T	VISI-BILITY		TEMPERATURE		WIND		SKY COVER (TENTHS)		CEILING IN HUNDREDS OF FEET		WHOLE MILES		16THS MILE		WEATHER		AIR of		TEMPERATURE		WIND		SPEED (KNOTS)		REL HUMIDITY %		WIND DIRECTION								
	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR	WIND	DIR							
AUG 1st																																			
03:10	0	0	8	LF	51	51	50	49	96	24	6	10	4	0	8	LF	51	51	50	49	96	24	9	10	2	1	2	F	50	50	49	96	20	11	
06:10	0	0	8	LF	48	48	47	46	96	26	7	10	1	1	RF	48	48	47	46	96	26	7	10	1	1	RF	50	50	49	96	22	14			
09:10	2	0	8	LF	49	49	48	47	96	18	2	9	11	6	LF	50	50	49	48	96	18	2	9	11	6	LF	50	50	49	96	22	13			
12:10	1	0	8	LF	56	54	53	51	90	21	8	10	5	7	R	51	50	49	48	93	24	6	10	8	6	F	55	53	51	87	26	16			
15:10	3	0	8	LF	56	53	51	49	83	20	11	10	7	7	R	51	50	49	48	93	24	10	10	8	7	F	54	52	50	87	26	12			
18:10	1	1	1	LF	55	54	53	51	93	23	8	10	4	5	R	50	49	48	47	93	17	7	10	8	7	L	54	52	50	86	28	11			
21:10	1	0	12	LF	54	53	52	51	93	23	8	10	2	4	R	50	49	48	47	93	17	7	10	4	5	L	51	50	49	93	28	8			
24:10	1	1	1	LF	52	52	51	50	95	22	9	10	2	4	R	50	50	49	48	93	13	11	10	14	7	L	51	50	48	90	16	4			
AUG 4th																																			
03:10	12	7	1	LF	50	49	47	46	90	19	4	10	6	0	2	LF	50	49	48	47	93	13	8	10	1	0	8	LF	50	50	49	96	19	11	
06:10	5	4	1	LF	49	48	47	46	93	13	5	10	1	1	RF	50	49	48	47	93	13	9	10	1	0	8	LF	50	50	49	96	20	12		
09:10	3	6	1	LF	49	48	47	46	93	10	8	10	1	0	8	LF	50	49	48	47	93	17	12	10	2	1	0	8	LF	51	51	50	96	22	13
12:10	1	0	12	LF	50	50	49	48	96	10	10	10	1	0	1	F	52	51	50	49	93	19	12	10	3	4	F	55	53	52	80	22	14		
15:10	0	0	4	RF	51	50	49	48	93	10	11	10	1	0	12	LF	52	51	50	49	93	19	12	10	3	4	F	55	53	52	80	22	14		
18:10	7	3	1	RF	51	50	49	48	93	13	13	10	1	1	RF	51	51	50	49	96	19	12	10	3	1	4	F	54	53	52	93	22	14		
21:10	2	2	1	RF	51	50	49	48	93	12	12	10	2	0	6	F	50	50	49	48	96	18	11	10	1	0	4	F	51	51	50	93	22	14	
24:10	1	1	1	RF	50	49	48	47	93	13	12	10	2	1	LF	50	50	49	48	96	17	10	10	2	0	12	LF	51	51	50	96	23	11		
AUG 6th																																			
03:10	12	7	1	LF	50	49	47	46	90	19	4	10	6	0	2	LF	50	49	48	47	93	13	8	10	1	0	8	LF	50	50	49	96	19	11	
06:10	5	4	1	LF	49	48	47	46	93	13	5	10	1	1	RF	50	49	48	47	93	13	9	10	1	0	8	LF	50	50	49	96	20	12		
09:10	3	6	1	LF	49	48	47	46	93	10	8	10	1	0	8	LF	50	49	48	47	93	17	12	10	2	1	0	8	LF	51	51	50	96	22	13
12:10	1	0	12	LF	50	50	49	48	96	10	10	10	1	0	1	F	52	51	50	49	93	19	12	10	3	4	F	55	53	52	80	22	14		
15:10	0	0	4	RF	51	50	49	48	93	10	11	10	1	0	12	LF	52	51	50	49	93	19	12	10	3	4	F	55	53	52	80	22	14		
18:10	7	3	1	RF	51	50	49	48	93	13	13	10	1	1	RF	51	51	50	49	96	19	12	10	3	1	4	F	54	53	52	93	22	14		
21:10	2	2	1	RF	51	50	49	48	93	12	12	10	2	0	6	F	50	50	49	48	96	18	11	10	1	0	4	F	51	51	50	93	22	14	
24:10	1	1	1	RF	50	49	48	47	93	13	12	10	2	1	LF	50	50	49	48	96	17	10	10	2	0	12	LF	51	51	50	96	23	11		
AUG 9th																																			
03:10	1	0	12	LF	51	51	50	49	96	22	9	10	3	6	F	52	51	50	49	93	20	5	10	3	0	2	LF	49	49	48	96	19	7		
06:10	3	6	1	LF	51	51	50	49	96	23	8	10	3	7	F	51	51	50	49	96	23	5	10	1	0	8	LF	47	47	46	96	00	0		
09:10	24	6	1	LF	53	52	51	50	93	21	9	10	1	0	2	F	53	53	52	50	96	20	10	2	0	2	F	50	50	49	96	06	9		
12:10	2	5	1	LF	55	53	52	50	86	19	11	10	1	0	1	F	54	52	50	49	86	19	11	10	1	0	12	RF	54	54	53	96	06	10	
15:10	3	3	1	LF	55	53	52	50	90	19	11	10	1	0	1	F	51	50	49	48	93	20	11	10	0	0	4	F	54	54	53	96	06	10	
18:10	1	0	8	LF	52	51	50	49	93	18	5	10	1	0	2	LF	49	49	48	47	93	22	8	10	0	0	4	F	52	52	51	96	06	9	
21:10	2	5	1	LF	52	51	50	49	93	18	5	10	1	0	2	LF	49	49	48	47	93	22	8	10	0	0	4	F	52	52	51	96	06	9	
24:10	4	6	1	LF	50	50	49	48	96	20	5	9	8	1	F	48	47	46	45	93	18	5	10	3	0	4	RF	52	52	51	96	08	8		
AUG 12th																																			
03:10	1	0	8	RF	52	51	50	49	96	25	11	10	23	7	LF	51	51	50	49	96	25	11	10	23	7	LF	50	49	48	93	24	11			
06:10	3	2	1	LF	51	51	50	49	96	23	5	10	1	0	8	LF	51	51	50	49	96	23	5	10	1	0	8	LF	51	47	43	74	26	12	
09:10	2	0	4	LF	52	52	51	50	96	24	7	10	3	5	LF	51	51	50	49	96	24	15	10	18	20	LF	52	49	45	77	23	11			
12:10	1	0	1	LF	53	53	52	50	86	19	11	10	2	0	2	F	54	51	49	48	83	25	16	10	11	20	LF	53	50	47	80	24	13		
15:10	3	6	1	LF	57	54	52	50	84	14	5	10	5	7	F	57	54	51	49	81	24	16	10	35	20	LF	55	51	48	77	24	13			
18:10	1	1	1	LF	55	53	52	50	90	14	6	10	7	4	F	53	51	50	49	90	25	15	10	28	7	LF	53	50	47	80	26	10			
21:10	0	0	2	LF	52	52	51	50	96	20	6	10	9	7	F	52	50	48	47	96	25	15	10	19	7	LF	51	49	47	86	19	5			
24:10	2	0	8	LF	51	51	50	49	96	25	7	10	17	7	F	51	50	48	47	90	25	15	10	23	7	LF	48	47	45	89	10	5			
AUG 15th																																			
03:10	23	7	1	RF	47	46	45	44	93	05	5	10	14	3	RF	50	49	48	47	93	33	17	7	41	7	LF	47	41	34	61	35	20			
06:10	100	7	1	RF	50	48	46	45	86	06	12	10	15	5	F	50	49	48	47	90	34	23	8	41	7	LF	44	42	39	83	30	10			
09:10	23	7	1	RF	51	49	46	45	83	04	17	10	18	7	F	51	49	46	45	83	32	20	5	UNL	7	LF	47	43	39	74	29	14			
12:10	85	5	1	RF	51	50	48	47	90	03																									

OBSERVATIONS AT 3-HOUR INTERVALS

JAN 1994
ST PAUL ISLAND, AK 25713

HOUR U.S.T.	VISIBILITY		WEATHER	TEMPERATURE			WIND			SKY COVER (TENTHS)	VISIBILITY		WEATHER	TEMPERATURE			WIND			SKY COVER (TENTHS)	VISIBILITY		WEATHER	TEMPERATURE			WIND						
	WHOLE MILES	16THS MILE		AIR OF	WET BULB OF	DEW POINT OF	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)		CEILING IN HUNDREDS OF FEET	WHOLE MILES		16THS MILE	AIR OF	WET BULB OF	DEW POINT OF	REL HUMIDITY %	DIRECTION		SPEED (KNOTS)	CEILING IN HUNDREDS OF FEET		WHOLE MILES	16THS MILE	AIR OF	WET BULB OF	DEW POINT OF	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)		
JAN 1st																																	
03	10	20	7	SM	30	28	25	82	35	20	10	20	22	7	7	29	26	20	69	01	10	10	23	7	7	33	30	25	75	12	9		
06	10	15	7	SM	30	28	25	82	35	18	10	10	17	7	7	29	26	21	75	03	8	10	29	7	7	33	30	25	73	11	10		
09	10	23	7	SM	31	29	26	82	34	16	10	10	17	7	7	29	27	23	78	03	6	10	29	7	7	34	31	26	79	12	10		
12	10	20	7	SM	30	28	24	78	35	17	10	10	17	15	15	31	29	24	82	14	7	10	29	7	7	35	33	33	89	12	12		
15	10	18	7	SM	30	28	24	78	35	15	10	10	18	7	7	31	29	25	79	11	8	10	15	7	7	35	34	34	92	12	14		
18	10	21	7	SM	30	27	22	62	34	15	10	10	18	7	7	31	29	25	79	11	13	10	7	7	35	34	33	92	13	11			
21	10	21	7	SM	30	27	21	62	34	12	10	10	18	7	7	31	29	24	75	12	12	10	7	7	36	35	34	93	13	11			
24	10	19	7	SM	30	27	20	66	36	11	10	10	23	5	5	32	30	25	75	14	10	10	18	7	5	36	35	34	93	13	11		
JAN 4th																																	
03	10	50	7	SM	34	31	27	76	26	21	3	UNL	7	7	27	25	21	78	36	10	10	41	7	7	38	36	33	82	14	13			
06	10	130	7	SM	33	30	25	85	25	18	10	15	10	15	10	27	25	21	78	05	8	10	75	4	4	37	35	32	82	14	13		
09	10	33	7	SM	33	30	25	79	07	13	10	10	15	10	10	27	25	21	78	05	10	10	75	7	7	37	35	32	86	13	13		
12	10	55	3	SM	32	31	28	83	26	22	6	100	7	7	28	27	24	85	10	13	10	UNL	15	15	37	32	32	86	13	11			
15	10	6	1	S	33	32	31	92	31	14	9	90	85	7	7	33	33	31	28	82	12	14	10	150	10	10	38	36	33	82	12	13	
18	10	15	1	S	33	31	28	83	32	14	9	90	85	7	7	33	33	31	28	73	14	16	10	UNL	10	10	36	34	31	82	12	15	
21	10	15	3	SM	32	30	27	82	31	12	10	35	10	10	35	37	35	31	79	14	14	15	10	120	5	UNL	35	32	28	76	09	15	
24	10	45	7	SM	27	25	22	81	34	10	10	55	7	7	37	35	32	82	14	14	15	UNL	7	7	33	31	27	79	07	16			
JAN 7th																																	
03	UNL	UNL	7	SM	32	30	27	82	07	15	10	25	7	7	24	21	15	69	06	10	10	30	7	7	20	18	12	71	04	15			
06	9	16	7	SM	31	29	25	79	07	13	7	10	25	7	7	24	20	14	68	06	9	10	29	7	7	19	17	11	71	05	17		
09	7	15	7	SM	31	29	25	79	06	15	10	35	15	15	23	20	15	74	03	22	10	20	7	7	SM	18	16	9	68	05	15		
12	10	UNL	7	SM	30	27	22	72	06	15	10	35	15	15	24	21	13	63	04	9	10	32	7	7	SM	18	16	8	65	06	17		
15	10	200	15	S	29	26	18	64	06	16	10	30	10	10	SM	24	21	13	63	05	12	10	30	7	7	SM	18	16	8	65	08	13	
18	10	UNL	15	S	27	23	13	56	06	12	10	30	10	10	SM	23	20	13	65	06	12	10	27	15	15	SM	18	16	9	68	05	15	
21	7	200	7	SM	25	22	22	60	06	14	10	28	10	10	SM	22	19	13	51	05	14	10	27	15	15	SM	18	16	9	68	05	15	
24	10	150	7	SM	25	22	22	60	06	11	10	37	10	10	SM	21	19	13	51	05	14	10	28	10	10	SM	18	16	9	68	06	16	
JAN 10th																																	
03	10	23	6	SM	18	16	10	71	05	19	10	10	15	7	7	21	20	16	81	03	17	10	17	5	5	19	17	11	71	06	12		
06	10	24	4	SM	18	16	9	68	05	17	10	15	7	7	22	20	16	78	03	22	10	13	6	6	SM	19	17	11	71	06	12		
09	10	17	7	SM	19	17	13	77	05	17	10	15	7	7	22	20	15	74	04	24	10	20	6	6	SM	19	17	13	77	05	12		
12	10	21	3	S	19	17	12	74	05	17	8	17	7	7	22	20	15	74	02	27	10	22	7	7	SM	19	17	13	77	06	12		
15	10	17	5	S	20	18	14	78	05	17	9	18	7	7	22	20	16	78	02	25	9	22	7	7	SM	20	18	13	74	06	18		
18	10	17	10	S	19	17	12	74	03	17	10	15	10	10	21	19	15	78	01	21	10	20	7	7	SM	20	18	13	74	05	19		
21	10	15	10	SM	19	18	11	68	02	18	10	15	10	10	21	19	15	78	01	27	10	23	7	7	SM	20	16	4	50	36	18		
24	10	17	10	SM	21	19	14	74	04	19	10	15	10	10	21	19	18	11	68	36	22	10	21	7	7	SM	20	18	13	74	36	19	
JAN 13th																																	
03	10	16	7	SM	20	18	12	71	36	20	10	18	18	6	6	19	17	12	74	36	26	10	13	6	6	SM	22	21	18	85	36	16	
06	10	18	7	SM	20	18	13	74	36	24	10	20	18	7	7	19	17	11	71	36	25	10	13	7	7	SM	22	21	18	85	36	16	
09	10	17	7	SM	20	18	13	74	36	20	10	19	15	5	5	19	17	11	71	36	23	10	15	7	7	SM	22	21	17	81	01	16	
12	9	17	7	SM	19	17	13	77	35	22	10	15	15	7	7	20	19	15	81	35	23	10	17	7	7	SM	22	21	17	81	01	18	
15	8	20	5	SM	20	18	12	71	35	22	10	15	5	5	SM	21	19	15	78	01	22	10	17	7	7	SM	22	20	15	74	02	16	
18	10	21	7	SM	19	17	12	74	36	25	10	20	15	5	5	SM	21	20	16	81	36	19	10	17	7	7	SM	21	19	15	78	01	17
21	10	20	7	SM	19	16	8	59	36	23	10	18	6	6	SM	21	19	14	74	36	19	10	17	7	7	SM	20	17	9	62	02	19	
24	10	21	7	SM	19	17	12	74	36	25	10	13	7	7	SM	22	21	17	81	36	18	10	19	7	7	SM	20	18	13	74	02	19	
JAN 16th																																	
03	9	19	7	SM	18	16	12	74	02	17	10	19	19	7	7	SM	16	14	9	74	01	8	10	13	6	6	SM	21	18	83	32	4	
06	10	17	5	SM	18	16	12	77	36	15	10	25	19	7	7	SM	16	14	9	74	35	5	10	120	7	7	SM	13	12	9	84	35	5
09	10	23	7	SM	18	16	10	71	01	18	10	22	7	7	SM	18	16	11	74	31	7	9	120	7	7	SM	24	21	17	66	13	8	
12	8	26	10	SM	18	16	11	74	36	17	10	29	7	7	SM	18	16	12	77	23	5	10	37	7	7	SM	27	24	14	66	14	7	
15	10	21	10	SM	20	18	11	68	01	15	10	28	2	2	SM	20	18	14	78	00	0	10	47	7	7	SM	29	25	18	64	20	5	
18	10	24	5	SM	18	16	11	74	34	12	10	30	7	7	SM	21	18	10	62	00	0	9	43	7	7	SM	27	26	12	77	00	0	
21	10	24	4	SM	18	15	6	59	36	11	10	29	7	7	SM	19	16	9	65	00	0	10	31	7	7	SM	27	26	23	85	36	8	
24	10	24	5	SM	18	15	10	71	33	13	10	29	7	7	SM	19	17	12	74	00	0	10	30	7	7	SM	29	27	23	78	06	12	
JAN 17th																																	
03	10	16	7	SM	19	17	12	74	36	25	10	13	6	6	SM	16	14	9	74	01	8	10	13	6	6	SM	21	18	83	32	4		
06	10	17	7	SM	19	17	11	71	36	25	10	13	7	7	SM	16	14	9	74	35	5	10	120	7	7	SM	13	12	9	84	35	5	
09	10	23	7	SM	18	16	10	71	01	18	10	22	7	7	SM	18	16	11	74	31	7	9	120	7	7								

OBSERVATIONS AT 3-HOUR INTERVALS

JAN 1994
ST. PAUL ISLAND, AK 25713

HOUR	L. S. T.	SKY COVER (TENTHS)	CEILING IN HUNDREDS OF FEET	VISI-BILITY		WEATHER	TEMPERATURE				WIND		SKY COVER (TENTHS)	CEILING IN HUNDREDS OF FEET	VISI-BILITY		WEATHER	TEMPERATURE				WIND		SKY COVER (TENTHS)	CEILING IN HUNDREDS OF FEET	VISI-BILITY		WEATHER	TEMPERATURE				WIND																																																		
				WHOLE MILES	16THS MILE		AIR of	WET BULB of	DEW POINT of	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)			WHOLE MILES	16THS MILE		AIR of	WET BULB of	DEW POINT of	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)			WHOLE MILES	16THS MILE		AIR of	WET BULB of	DEW POINT of	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)																																																	
JAN 19th																												JAN 20th																												JAN 21st																											
03	10	28	7				25	23	19	78	05	9	10	12	4				30	29	26	85	08	22	4	UNL	7				35	30	22	59	23	28																																															
06	8	120	7				24	23	20	85	06	12	10	15	3			SBS	30	29	27	89	07	27	10	45	7		RW	36	32	26	67	19	20																																																
09	9	24	7				24	22	18	78	07	9	10	5	4			33	32	31	92	08	23	10	60	7			35	32	28	76	19	19																																																	
12	10	21	7				26	24	19	75	07	13	10	7	5			36	35	34	93	11	15	7	60	7			34	30	22	62	21	21																																																	
15	10	20	7				27	25	20	75	08	14	10	4	2			36	35	34	93	12	15	7	60	3		SW	31	29	26	82	19	22																																																	
18	10	20	7				27	24	19	72	10	15	10	4	3			37	36	35	93	11	23	8	40	5		SW	33	31	28	82	20	25																																																	
21	10	19	7				28	26	21	75	09	13	10	4	4			37	36	35	92	21	23	5	UNL	7			33	30	25	73	22	24																																																	
24	10	28	3			SW	29	27	23	78	10	18	10	4	5			36	33	28	73	22	28	5	UNL	7		SW	30	28	25	82	22	21																																																	
JAN 22nd																												JAN 23rd																												JAN 24th																											
03	10	35	7			SW	31	29	26	82	22	26	10	32	7			32	28	21	64	15	8	10	2	1		LF	34	34	33	96	05	14																																																	
06	10	43	6			SWBS	30	27	22	72	23	28	10	40	7			32	29	23	69	10	14	10	9	6		SF	33	32	31	92	04	24																																																	
09	10	27	4			SWBS	33	30	26	76	24	23	10	37	3			32	31	29	89	07	23	10	15	1		SBS	30	29	28	92	03	26																																																	
12	10	13	4			SW	33	31	28	82	25	30	10	8	1			33	32	31	92	08	25	10	3	0		SBS	27	26	25	92	02	30																																																	
15	10	34	3			SW	33	32	30	89	26	23	10	6	1			33	33	32	96	08	25	10	15	2		BS	26	25	24	92	01	28																																																	
18	3	UNL	7				32	30	25	75	26	22	10	5	2			34	33	32	92	08	22	10	15	5		BS	25	24	22	88	36	24																																																	
21	10	28	7				33	30	24	70	25	14	10	3	3			34	33	32	92	06	14	10	12	6		BS	23	22	19	85	35	21																																																	
24	10	36	7				32	29	23	69	23	10	10	3	2			34	34	33	96	06	13	10	10	6		BS	22	21	20	92	36	19																																																	
JAN 25th																												JAN 26th																												JAN 27th																											
03	10	12	7				22	21	18	85	36	19	10	15	7			19	18	14	81	02	15	10	8	7		SW	28	27	26	92	03	16																																																	
06	10	13	7				22	21	18	85	36	17	10	15	7			20	19	15	81	02	17	10	9	7		SW	27	26	23	85	03	15																																																	
09	10	15	7				22	21	17	81	01	14	10	7	5			21	20	19	92	03	17	10	11	7		SW	27	26	24	89	02	13																																																	
12	10	18	7				21	19	15	78	35	13	10	7	4			22	21	19	88	03	18	10	8	7		SW	28	27	26	92	03	13																																																	
15	9	19	7				21	19	14	74	35	17	10	6	6			24	23	20	85	03	15	10	7	5		SW	30	29	27	89	04	12																																																	
18	8	17	7				21	19	15	78	01	15	10	8	6			26	25	24	92	04	19	10	7	6		SW	30	29	27	89	08	8																																																	
21	10	18	7				20	18	12	71	02	16	10	11	6			28	27	24	85	03	16	10	8	7			31	30	28	89	10	9																																																	
24	10	17	6			SW	19	17	13	77	01	15	10	10	6			28	27	25	89	04	18	10	9	7			33	32	30	89	12	12																																																	
JAN 28th																												JAN 29th																												JAN 30th																											
03	8	25	7				34	33	31	89	11	9	10	7	7			35	34	33	92	07	14	10	27	4		RWF	35	34	33	92	05	17																																																	
06	10	19	7				34	33	32	92	13	11	10	7	7			34	33	31	89	06	16	10	5	4		RF	36	36	35	96	08	18																																																	
09	7	70	7				34	33	31	89	12	11	10	9	5			34	33	31	89	06	15	10	7	6		F	37	36	35	93	09	19																																																	
12	1	UNL	7				36	34	31	82	12	12	10	6	15			33	32	30	89	06	16	10	8	6		F	38	37	36	93	10	17																																																	
15	10	29	7				36	34	32	85	10	13	10	3	4			32	31	30	92	06	14	10	4	2		F	38	37	36	93	13	22																																																	
18	10	120	10				36	34	32	85	08	16	10	3	3			34	33	32	92	07	14	10	16	5		LF	37	36	35	93	14	17																																																	
21	10	22	7				35	34	32	89	08	17	10	8	5			35	34	33	92	08	15	10	7	0		LF	37	36	35	93	12	15																																																	
24	10	7	6			R	35	34	33	92	08	16	10	4	4			34	34	33	96	06	16	10	7	3		RLF	36	36	35	96	09	11																																																	
JAN 31st																																																																																			
03	10	10	1			LF	36	36	35	96	09	10	10																																																																						
06	10	9	1			LF	36	36	35	96	12	13	10																																																																						
09	10	7	3			F	35	35	35	100	14	10	10																																																																						
12	10	6	0			B	35	35	35	100	14	10	10																																																																						
15	7	UNL	7				37	36	35	93	12	14	10																																																																						
18	10	20	7				38	36	34	86	11	15	10																																																																						
21	10	15	7			RW	37	36	35	93	09	19	10																																																																						
24	10	15	7			RW	37	36	35	93	09	25	10																																																																						

SUMMARY BY HOURS

HOUR	L. S. T.	SKY COVER (TENTHS)	STATION PRESSURE (INCHES)	AVERAGES				RESULTANT WIND		
				TEMPERATURE			REL HUMIDITY %	WIND SPEED (MPH)	DIRECTION	SPEED (MPH)
				AIR TEMP of	WET BULB of	DEW POINT of				
03	9	29.660	27	25	21	79	17.7	03	9.0	
06	10	29.655	27	25	21	80	18.4	04	10.1	
09	10	29.650	27	25	22	80	17.9	04	9.6	
12	9	29.660	27	26	22	80	19.0	04	9.6	
15	10	29.650	28	26	23	80	18.4	05	9.3	
18	10	29.650	28	26	22	79	18.4	05	8.9	
21	10	29.650	28	26	21	75	17.6	04	8.2	
24	10	29.650	27	26	22	79	18.4	04	8.2	

WEATHER CODES

- * TORNADO
- T THUNDERSTORM
- Q SQUALL
- R RAIN
- RW RAIN SHOWERS
- ZR FREEZING RAIN
- L DRIZZLE
- ZL FREEZING DRIZZLE
- S SNOW
- SW SNOW SHOWERS
- SG SNOW GRAINS
- SP SNOW PELLETS
- IC ICE CRYSTALS
- IP ICE PELLETS
- IPW ICE PELLET SHOWERS
- A HAIL
- F FOG
- IF ICE FOG
- GF GROUND FOG
- BD BLOWING DUST
- BN BLOWING SAND
- BS BLOWING SNOW
- BY BLOWING SPRAY
- K SMOKE
- H HAZE
- D DUST

CEILING: UNL INDICATES UNLIMITED
 WIND DIRECTION: DIRECTIONS ARE THOSE FROM WHICH THE WIND BLOWS, INDICATED
 IN TENS OF DEGREES FROM TRUE NORTH: I. E., 09 FOR EAST, 18 FOR SOUTH
 27 FOR WEST. AN ENTRY OF 00 INDICATES CALM.
 SPEED: THE OBSERVED AVERAGE ONE-MINUTE VALUE, EXPRESSED IN KNOTS
 (MPH=KNOTS X 1.15).

OBSERVATIONS AT 3-HOUR INTERVALS

FEB 1994
ST. PAUL ISLAND, AK 25713

HOUR L.S.T.	SKY COVER (TENTHS)		VISI-BILITY		WEATHER	TEMPERATURE				WIND		SKY COVER (TENTHS)	VISI-BILITY		WEATHER	TEMPERATURE				WIND												
	CEILING IN HUNDREDS OF FEET	WHOLE MILES	16THS MILE	AIR of		WET BULB of	DEW POINT of	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)	CEILING IN HUNDREDS OF FEET		WHOLE MILES	16THS MILE		AIR of	WET BULB of	DEW POINT of	REL HUMIDITY %	DIRECTION	SPEED (KNOTS)											
FEB 19th																																
03	10	3	1	4	RF	34	34	33	96	12	10	10	21	4	F	37	36	35	93	13	10	10	35	4	F	35	35	34	96	11	11	
06	10	3	2		RF	34	34	33	96	09	13	3	UNL	7		36	35	34	93	14	8	10	7	2			34	33	32	92	09	14
09	10	4	2		F	34	34	33	96	10	14	1	UNL	3	F	35	35	34	96	15	8	10	9	6	F		34	33	31	89	09	12
12	10	4	6		LF	35	35	34	96	11	13	2	UNL	3	F	37	36	35	93	16	9	10	12	7			32	31	28	85	07	18
15	10	3	3		LF	36	35	34	93	10	13	7	UNL	4	F	40	39	37	89	12	12	8	18	7			30	27	22	72	08	15
18	10	3	2		LF	35	35	34	96	11	21	10	14	4	F	38	36	34	86	13	12	7	15	7			26	24	18	72	05	18
21	10	3	2		F	35	35	34	96	11	23	2	UNL	5	F	36	35	34	93	13	13	9	15	7			21	19	14	74	05	19
24	10	6	2		RF	36	36	35	96	12	19	9	37	2	F	35	34	33	92	13	10	10	13	7			20	18	12	71	05	20
FEB 20th																																
FEB 21st																																
FEB 22nd																																
FEB 23rd																																
FEB 24th																																
FEB 25th																																
FEB 26th																																
FEB 27th																																
FEB 28th																																

WEATHER CODES

- * TORNADO
- T THUNDERSTORM
- Q SQUALL
- R RAIN
- RW RAIN SHOWERS
- ZR FREEZING RAIN
- L DRIZZLE
- ZL FREEZING DRIZZLE
- S SNOW
- SW SNOW SHOWERS
- SG SNOW GRAINS
- SP SNOW PELLETS
- IC ICE CRYSTALS
- IP ICE PELLETS
- IPW ICE PELLET SHOWERS
- A HAIL
- F FOG
- IF ICE FOG
- GF GROUND FOG
- BD BLOWING DUST
- BN BLOWING SAND
- BS BLOWING SNOW
- BY BLOWING SPRAY
- K SMOKE
- H HAZE
- D DUST

CEILING: UNL INDICATES UNLIMITED
 WIND DIRECTION: DIRECTIONS ARE THOSE FROM WHICH THE WIND BLOWS, INDICATED
 IN TENS OF DEGREES FROM TRUE NORTH: I.E., 09 FOR EAST, 18 FOR SOUTH
 27 FOR WEST. AN ENTRY OF 00 INDICATES CALM.
 SPEED: THE OBSERVED AVERAGE ONE-MINUTE VALUE, EXPRESSED IN KNOTS
 (MPH=KNOTS X 1.15).

SUMMARY BY HOURS

HOUR L.S.T.	SKY COVER (TENTHS)	STATION PRESSURE (INCHES)	AVERAGES				RESULTANT WIND		
			TEMPERATURE			REL HUMIDITY %	WIND SPEED (MPH)	DIRECTION	SPEED (MPH)
			AIR TEMP of	WET BULB of	DEW POINT of				
03	9	29.815	30	28	25	83	19.1	08	9.4
06	9	29.805	30	28	25	82	18.3	08	6.9
09	8	29.810	29	28	25	83	18.3	08	7.1
12	8	29.840	30	29	25	80	20.1	07	7.0
15	8	29.840	32	30	25	78	20.0	07	6.7
18	9	29.830	31	29	25	79	19.7	07	8.0
21	9	29.830	29	27	23	80	20.0	06	9.8
24	10	29.840	29	27	23	80	20.0	07	8.7



T. Smith C-3
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

MAY 02 1994

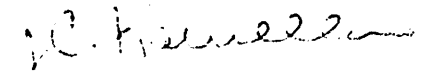
Mr. Thorn Smith
North Pacific Longline Association
4209 21st West
Seattle, Washington 98199

Dear Mr. Smith:

Some time ago you wrote to the National Marine Fisheries Service requesting a copy of the report resulting from a survey taken by our Regional Office in Gloucester, Massachusetts. The subject of the survey was the Surf Clam/Quahog Individual Transferable Quota system under the Magnuson Act. At that time, the report in all of its different parts was considered confidential, and as a result, we were unable to release it.

We have recently determined that the report--with the exception of the list of interviewees--can be released. Accordingly, I have enclosed a copy for your use.

Sincerely,


Rolland A. Schmitten

Enclosure

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



ROBERT C. BYRD, WEST VIRGINIA, CHAIRMAN

DANIEL K. INOUE, HAWAII
ERNEST F. HOLLINGS, SOUTH CAROLINA
J. BENNETT JOHNSTON, LOUISIANA
PATRICK J. LEAHY, VERMONT
JIM SASSER, TENNESSEE
DENNIS D'CONCINI, ARIZONA
DALE BUMPERS, ARKANSAS
FRANK R. LAUTENBERG, NEW JERSEY
TOM HARKIN, IOWA
BARBARA A. MIKULSKI, MARYLAND
HARRY REID, NEVADA
J. ROBERT KERREY, NEBRASKA
HERB KOHL, WISCONSIN
PATTY MURRAY, WASHINGTON
DIANNE FEINSTEIN, CALIFORNIA

MARK O. HATFIELD, OREGON
TED STEVENS, ALASKA
THAD COCHRAN, MISSISSIPPI
ALFONSE M. D'AMATO, NEW YORK
ARLEN SPECTER, PENNSYLVANIA
PETE V. DOMENICI, NEW MEXICO
DON NICKLES, OKLAHOMA
PHIL GRAMM, TEXAS
CHRISTOPHER S. BOND, MISSOURI
SLADE GORTON, WASHINGTON
MITCH MCCONNELL, KENTUCKY
CONNIE MACK, FLORIDA
CONRAD BURNS, MONTANA

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

JAMES H. ENGLISH, STAFF DIRECTOR
J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

May 10, 1994

Thorn Smith
Executive Director
North Pacific Longline Association
4209 21st Avenue West, Suite 300
Seattle, Washington 98199

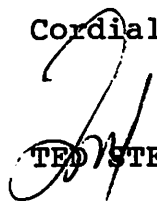
Dear Thorn:

Enclosed is a copy of a letter from the National Marine Fisheries Service (NMFS) in response to my inquiry on your behalf concerning a Freedom of Information Act request to obtain material pertaining to the property right created by the Atlantic surf clam individual fishing quota (IFQ) system.

I am glad to see that the material you requested is being made available. I am sharing this information with Mike Symanski.

With best wishes,

Cordially,


TED STEVENS

East Coast Fisheries Federation, Inc.

NEWSLETTER

MAY 1994

ROLLIE SCHMITTEN HAS TAKEN AN ENORMOUS STEP IN RESTORING A MORE HONEST AND OPEN NMFS BY RELEASING THE SECRET SURF CLAM REPORT. Copies are available at the office, and it's interesting reading. In short, the ITQ system is a ugly joke in almost every way. Enforcement is poor, boats and plants collude to hide landings, hundreds of jobs are gone, the resource is in the hands of two or three companies, nobody knows who "owns" the resource. Worst of all, vessels and lives have been placed in jeopardy because the ITQ holder now has such power over the fisherman.

THERE ARE MORE QUESTIONS RAISED THAN ANSWERED in the report. The biggest one is whether an ITQ system can ever be free of those problems, given the usual catch-up game that government plays with industry, especially the wise guys. See the Atlantic City Press.

BUT THE REPORT IS A TWO-EDGED SWORD, because it can definitely be used to demonstrate that there are huge costs associated with regulating an ITQ system. Count on Administration testimony during Magnuson Reauthorization to that effect, asking for user fees. Here's hoping that our elected representatives realize that if money goes from the industry to Silver Spring, it costs jobs, plain and simple.

Borden fires 79 in Lower Operations slashed while buyer sought

By RICHARD DEGENER
Staff Writer

LOWER TOWNSHIP — Borden Inc. is firing 79 employees at the company's Ocean Drive clam-processing plant, cutting operations in half while continuing to look for a buyer.

The job terminations, including 76 hourly workers and three salaried management workers, were announced to employees Monday, company spokesman Jeanne Washko Fox confirmed Tuesday.

The company, Fox said, is eliminating one of two shifts and getting rid of the clam-shucking operation.

"Officially we gave them 60 days notice but we'll provide severance," Fox said. "They will get money in a lump sum and won't have to work the 60 days."

One worker said employee lists were put on the board and workers were told if their name was highlighted with a yellow marker they were fired.

He said it was "pretty emotional" as workers scanned the list for their name.

The firings confirmed the very worst fears employees had lived with since Borden — a company with worldwide sales of \$5.51 billion in 1993 — announced in January it was divesting itself of its seafood businesses.

That decision followed a 1993 companywide net loss of \$593

■
'It's very depressing, very depressing. There's very little optimism here. Some are really upset about it but some are glad it's over.'

Borden employee

Borden: 79 are fired, operations cut in Lower Twp.

(Continued from Page A1)

million.

Borden decided to divest itself of about 20 percent of its operations and get back to its core businesses including pasta making, production of wall coverings, and dairy operations.

Morale low

Borden officials had said in January that employees at the clam plant would not be immediately affected and buyers would be sought who recognized their best interests.

One worker who was not fired, and who asked not to be identified, said employees had spent the last two months working harder than ever in hopes of attracting a buyer and keeping the plant running.

The latest news has left morale at a low point, he said.

"It's very depressing, very depressing. There's very little optimism here," he said. "Some are really upset about it but some are glad it's over. They were tired of living on the edge with all the rumors and innuendo that's been going around."

Fox said one of two shifts was entirely eliminated but the other shift will continue to process canned clams, chowders and clam juice for the retail market.

The company announced it has sold its operation for commercial-sized cans of clams and clam juice to Eastern Shore Seafood Products of Mappsville, Va.

The shucking operation was also eliminated; 63 of the employees, all union workers, fired were involved with this operation.

The company will now buy shucked clams from outside sources.

An additional 13 workers were in maintenance and quality control. Ironically, these workers had just voted last Friday to unionize.

The company said the workers had to be terminated because of the company's decision to sell off the operation for producing the 51-ounce cans of clams and clam

juice sold commercially.

"The shucking operation and second shift in the cannery are being discontinued because the scale of clam shucking and processing necessary for economic production is no longer attainable due to the recent divestment of the foodservice-size canned clams and clam juice and the corresponding loss of volume," stated a company press release.

Myers family has rights

Borden wouldn't release the sales price but said Eastern Shore Seafood Products essentially bought the right to use Borden brand names including Snows, Doxee, American Original, Bluc Surf, and Salty Sea, Fox said.

Eastern Shore Seafood Products is owned by the Myers family, which has docks in Atlantic City and Barnegat Light.

The Myers own a dock on Maryland Avenue in Atlantic City. Three boats there — Arthur M., Mary M., and Richard — bring clams ashore to be trucked to Mappsville, Va. for processing.

Arthur "Dick" Myers was convicted in March 1992 and sentenced to 10 years in prison for his part in a drug-smuggling operation.

He allegedly permitted smugglers in 1982 to use his docks in Cape Charles, Va. and his clam boat, Mary Jane, to import tens of thousands of pounds of marijuana from South America.

Myers has also been in the news for receiving large fines for violating federal laws governing the harvest of ocean clams.

He also was in the news for winning more than \$9 million in federal loans for his businesses in spite of his violations of clamming laws and the drug-smuggling case.

Myers could not be reached for comment Tuesday. But his son, Eastern Shore Seafood Products President Rick Myers, said his father is appealing the drug smuggling conviction.

"It's still in the courts. It's still under appeal," Rick Myers said, adding that his father is still involved in the business but is "trying to retire."

Fox said the company's overall goal is to sell the plant as an ongoing business. The plant recently underwent a \$60 million renovation and is employed up to 250 people, one of Cape May County's top 10 employers.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910
THE DIRECTOR

APR 18 1994

MEMORANDUM FOR THE RECORD:

FROM: Rolland A. Schmitt *RAS*

SUBJECT: Review of the Effectiveness of Our Administrative and
Enforcement Obligations Under the Surf Clam/Quahog ITQ
Plan

This is to certify that the attached subject document (except for page 12 which lists the names of the individuals interviewed) is no longer considered CONFIDENTIAL or CLOSE HOLD. With the exception of page 12 (omitted from the attached copy), it can now be distributed to any interested persons.

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

February 25, 1992

CONFIDENTIAL

CLOSE HOLD

MEMORANDUM FOR: Richard Roe
Jon Rittgers
Ed MacLeod
FROM: Ed MacLeod, Chairman Surf Clam/Quahog
Review Committee
SUBJECT: Review of the Effectiveness of Our
Administrative and Enforcement Obligations
Under the Surf Clam/Quahog ITQ Plan

In addition to the comments and recommendations made in the attached individual reports, I personally would like to emphasize the following in executive summary:

1. It is apparent that each fishery has its own peculiarities and that each fishery that is being considered for an ITQ must have the amendment or plan suited to that particular fishery. This is a Council responsibility.
2. Although there may be a split in those harvesters that favor an ITQ system and those that oppose it, there is unanimity in their real fears of a monopolistic control of the fishery in the relatively near future. Monitoring should be provided by the Councils.
3. Based on observances and conversations held last week in the field, I would suggest that a full review be conducted relating to the economic and social impact that has resulted through the acceptance of an ITQ amendment to the surf clam/quahog plan. It is an issue that will surface in all future discussions in the proposals for an ITQ amendment. A proposal similar to that proposed by Dr. Wang (attached) will prepare the Regional Office/Center for the debate.
4. This field trip has reenforced my belief that the right to charge resource rents should accompany an ITQ amendment. The cost of administration and enforcement has to be increased considerably. Without enforcement



there cannot be proper management of any marine resource. The wholesale value exceed \$75 million. I realize it will require a legislative act to provide us with the authority to collect resource rents.

5. My participation in conversations concerning the stock status of surf clams and quahogs has been limited. I have always been under the impression that the stocks have been, and are in excellent shape. However, in my recent field trip to Maryland and New Jersey several fishermen commented that quahogs are playing out in southern New Jersey and that operations would soon shift to the northern New Jersey/New York bight area.
6. It became apparent during our conversations that there is a by-catch but it is treated as "shack". It is recommended that the Council revisit the issue.
7. Data requested in an application for a permit must be reviewed and revised. There is a real need to know the identity of major stockholders. This issue is being addressed currently.
8. Another material should be used for the cage tags in order to avoid the breakage problem. The Committee has discussed several options, and feels that a tag made out of Tyvek, a flexible plastic material as thin as paper, yet exceedingly strong, with the code numbers imprinted upon it twice in such way that one strip can be peeled off and placed directly in the vessel logbook, and the second strip removed later at the processing plant and placed in the processors logbooks would be ideal. The tag itself would be attached to the cages in a manner similar to the new luggage tags in use at major airports now, with self-adhering panels.
9. We recommend that enforcement agents step up visits to the processing plants to check on cage tags as the most effective method of policing the fishery. Visible periodic visits to the waterfront should be increased, also.
10. We recommend that an analysis be conducted on the current practices of quota transfers.
11. We recommend that statistical reports be

prepared from the computer database in a timely fashion, either monthly or quarterly, including, but not limited to analyses of landings and transfers of quota.

12. Many weaknesses were identified in the current logbooks. We recommend a small committee be formed to evaluate complaints and suggestions, and to develop improved logbooks for both vessels and for processors.
13. Required call ins for vessel departures and call ins will be met by substantial opposition.
14. NOAA Counsel should notify the Council of NMFS procedures to be followed if allocations are seized.
15. Many complained that fishermen who used the federal/state line illegally to their advantage were rewarded in distribution of quota. Although there has been a decrease in that activity, it is still taking place.

Attached you will find reports from the following individuals:

Exhibit 1: Bob Ross's summary on the interviews he conducted with the processor segment of the surf clam/quahog industry in the Mid Atlantic Region.

Exhibit 2: Ken Beal's summary on the interviews conducted by Ed MacLeod and him with boat owners, dock operators, captains and crew members in the surf clam/quahog fishery in Maryland and New Jersey.

Exhibit 3: Joel MacDonald's overview of the existing surf clam/quahog ITQ plan for a Counsel's perspective.

With reference to Joel's suggestion in his last paragraph, the Fishery Management Operations Division is prepared to assign the task suggested to an individual. However, the Division has to be advised as to the information that should be provided, the frequency of issue, and to whom the reports should be submitted.

Exhibit 4: John McCarthy has presented an overview of the existing surf clam/quahog ITQ plan from a Law Enforcement Special Agent's perspective. With reference to John's comments on page 2 in the paragraph entitled Intelligence Base, the Fishery Management Operations Division is prepared to cooperate and communicate as requested. However, Law Enforcement must be specific as to the data it requires, and the frequency of the reporting that it requests. A meeting between John or his designees and senior staff of the Fishery Management Operations Division can resolve this element.

Exhibit 5: Combined comments from Myles Raizin, Policy Analyst, and Hannah Goodale, Resource Management Specialist, who are the NER staff personnel who have the responsibilities of monitoring the surf clam/quahog ITQ plan.

The ownership issues that they raise should be addressed by NOAA Counsel. The data issue can be resolved by periodic meetings between the responsible parties in the Regional Office and the Northeast Science Center.

Exhibit 6: Dr. Stanley Wang's general comments on the ITQ plan from an economists perspective as well as a brief outline on this proposal for an economic review.

This report is in its final form. Members of the committee have reviewed the draft package that was submitted. Any substantial additions, deletions, or revisions were discussed and attended to in accordance with a majority concurrence. Minority opinions were discussed and proponents were notified that their comments would be included if they so desired.

Finally, members of the committee were notified that this report is to be treated as an "eyes only," "inhouse" report. It is not for public distribution or discussion without the consent of the Regional Director.

I, also, would like to extend my sincere gratitude to the active members of the committee for giving me the utmost cooperation in fulfilling the request of the Regional Director in a timely manner while fulfilling their other job responsibilities.

We are most grateful to the Port Agents who did a commendable job in lining up the schedule and interviews. We assured those harvesters interviewed that no names would be mentioned in filing our reports. We can state emphatically that they talked openly, and periodically vented their anger. It was difficult, if not impossible to keep the conversation confined strictly to the tagging system and enforcement as you can see from our reports.

Submitted on behalf of the Review Committee:

By Edward J. MacLeod
Edward J. MacLeod, Chairman

SUMMARY: SURF CLAM ITQ IMPLEMENTATION-PROCESSOR EVALUATION.

by

Bob Ross, F/NEO Fisheries Analysis Division

Amendment #8 to the Surf Clam/Ocean Quahog Fishery Management Plan (FMP) included the first implementation of an Individual Transferable Quota (ITQ) system under the Magnuson Act. The ITQ can be fished, sold, bought, leased, given or held by the designated allocation holder. The following report is an attempt to represent issues from the viewpoint of processors actively involved in the surf clam FMP.

- >>MONOPOLY ISSUES: Real concern that one major firm will acquire a controlling percentage of the allocations (GCNE).
 - >Can there be a limit placed on ownership of allocations?
 - >Use It or Lose It: Concerns that allocations are being acquired beyond levels needed to meet market demand (hoarding).
 - >Ownership Disclosure: Require an accounting of major Dealer or Processor shareholders as part of annual Permit renewal.

- >>PROCESSOR LOGS: Most processors did not have problems with logs.
 - >For accountability, procedures should be established to require designated company officials signoff on logbooks/transfers.

- >>TAGS: Most processors did not have problems with tag breakage.
 - >Tag breakage was reported at 2-5%.
 - >Procedures should be established to provide clear guidance on tag storage and disposal. (GCNE and F/EN3).

- >>FOREIGN OWNERSHIP: Some processors are worried about a well financed effort to gain control of allocations.
 - >Ownership Disclosure: Require an accounting of major Dealer or Processor shareholders as part of Annual Permit Renewal.

- >>VESSEL CALL-IN: Most processors objected to pre-departure call-in requirements for greater inventory control and safety reasons.
 - >Alternatives suggested landing only during designated times and calling in prior to landing/unloading.

- >>MINIMUM SIZE REGULATION: Most processors felt the end-user market demanded larger clams and with unlimited fishing time, vessels can target beds with larger clams and larger yields, so the minimum size is no longer an issue.

- >>REDISTRIBUTION OF SEIZED ALLOCATIONS: Allocations can be seized by government agencies for MFCMA violations or non-fisheries related seizures like bankruptcies or drug related activities where allocations were ill-gotten gains from laundered monies.
 - >Processors would like to know the NMFS procedures if allocations are seized.

Finally, in views of the current enthusiasm toward limited entry programs including ITQ management systems, this general review chaired by Mr. Edward MacLeod coupled with the Wang study could shed light on design and implementation of any ITQ management systems.

DETAIL REVIEW: SURF CLAM ITO IMPLEMENTATION PROCESSOR EVALUATION.

MONOPOLY CONCERNS:

The number one concern from processors, large and small, was "control" of a majority of the clam allocation by one major processor. The issue of control verses ownership is important here. Many vessel owners do not own enough allocation to profitably run their business without acquiring (leasing/renting) more from allocation holders with excess. Processors with allocations can rent/lease their allocation in exchange for exclusive rights to all landings by a given vessel owner - in effect the vessel becomes a company controlled vessel. To ensure consistent supply, processors without allocations have to use other incentives to encourage exclusive rights to all landings. These incentives add to the cost of the raw material and include; pay more per bushel at the time of purchase, pay a premium per bushel at the end of the year, offer vessel services (fuel, dockage, gear storage etc.), or offer business loans (vessel mortgage, line of credit, etc.).

Most processors felt the industry was close to control by one processor already. Large blocks of allocations may reportedly be available in 1992, enough to influence supplies of raw materials. Opinions on ways to prevent a monopoly varied, and suggestions included; holding the industry to where it is now, setting a cap of 25-50% maximum ownership by one party, and creating a non-quota Research and Development allocation in deep offshore waters. The consensus was that by the time any controls were implemented, it would be too late to prevent a takeover if one were planned. At any rate, the industry is heading rapidly towards consolidation of control of the clam allocations into a few large controlling owners.

-Initially it appears that allocation acquisitions are primarily to control resource, not a direct attempt to raise prices. The emphasis here is to limit competitors supplies, since most processors rely on independent vessels for at least a part of their raw material supply.

-Supply pressures appear to have set up a two-tier system of pricing: market price if the allocation is vessel owned and purchased by a processor without any allocation, and market price minus the lease/rental fee for allocation that is leased to the boat by a processor with a surplus allocation.

-Independent processors are concerned about a lack of access to resource as independent vessel owners are bought out by large national or multinational corporations with larger financial

assets.

-vessel owners without allocations are turning into company boats to meet payments.

ALLOCATION - USE IT OR LOSE IT:

-The majority of the processors feel strongly that the allocations holders should be required to fish or otherwise use their resource allocation.

-If the allocation is not fully used, the allocation holder should provide NMFS with justification for non-use.

-Obvious efforts to "hold" allocation, with the intention of reducing competitors' supplies, could require: the re-evaluation of un-used resource allocation, loss of unused allocation, etc.

-Processors want some appeal mechanism to ensure that allocations which were not used for justifiable reasons are not revoked. The allocation may not be harvested for market reasons, i.e. if consumer sales are off or if inventories are high. If a vessel owner has vessel repairs, or other unforeseen problems, he should not lose allocations.

VIOLATIONS/ILLEGAL ACTIVITIES:

No processors indicated any enforcement irregularities in their own plant, but often they were willing to provide potential scenarios of violations by other processors. With landing restrictions removed, vessels are literally unloading around the clock, and monitoring of the unloading and tagging operations at the vessel level are more difficult. Processors felt that violations were common but had decreased from earlier times when effort limitations were in place and potential allocation numbers were being established.

NON-TAGGED CAGES:

-The most likely location for using non-tagged cages would be in areas where the processor has a dock and processing plant at the same location.

-Processors have mentioned situations where 2 tags were found on cages, and some tags on cages during my visit appeared old as if they may have been recycled for more than one load.

-One individual mentioned a practice of only tagging the last 4 cages in a tractor-trailer truck capable of holding 14-16 cages/load to pass in-transit spot checks of loaded trucks by enforcement agents.

NON-REPORTED LANDINGS:

-Several processors had current NMFS FOIA data on the clam industry and questioned the NMFS records. Not all vessels known by processors to be fishing in a given time frame were identified as fishing on the NMFS records, which indicated not all tags were being reported.

INSHORE VS OFFSHORE HARVESTS:

This practice involves the use of state issued clam tags to harvest clams found in waters under federal jurisdiction (offshore). Due to various quality and meat yield factors, inshore clams are worth less than offshore clams.

-Fishing offshore and tagging with inshore (state) tags was felt to be a common practice, especially since many processors reported overall meat yields are down and most processors felt supplies will run out before the end of the year.

-Proposed requirements for vessels to report before departure were universally rejected by the processors. In addition to the safety concerns, the impact of 24-48 hour notice before departure would seriously impact the processors ability to manage their raw material supplies.

-There were no objections by processors to call in requirements prior to vessels landing clams, including reporting harvest locations as part of the reporting requirements.

NON-UNIFORM CAGE SIZES:

Under Amendment #8, one tag corresponds to a "standard" 32 bushel wire cage. It was mentioned that in practice cage sizes have reportedly been increased deliberately to increase yield. In this case collusion between the vessel and plant is needed.

TAG REQUIREMENTS:

Most processors have a daily login sheet by the unloading area of the plant which is filled out as/after the cages are unloaded. At the end of the day/week, the data is compiled and entered onto the federal logbooks. Several processors have the tag numbers entered onto PC's, often as part of an inventory or meat yield analysis process.

-The mechanics of the federal tagging requirements (the processor logbook) were not viewed as a major problem for most processors. Issuing and keeping tag numbers in a numerical series is identified as an ongoing effort in discussions with vessels. Tags in numeric series help speed up the data entry process if using a PC or when filling out the processor logbooks.

-Most processors did not feel tag breakage was a major problem for them. Processors felt they averaged about 2-5% breakage (2-5 tags per 100 cages received) on incoming cages. Most reported the missing tags could be located if necessary (on the dock, on the bed of the truck, in the plant) but most didn't go to great lengths to locate so few tags.

-Some suggestions were voiced to improve/eliminate the tags, including;

>> Replace the current tags with stronger tags made of nylon or metal which are harder to break

>> use re-enforced fiber paper tags such as those used by the airlines on luggage with peel off allocation numbers to stick on the vessel log and processor log to ease record keeping requirements. If the fiber paper tags can be written on, other information could also be included.

>> a hand held credit card/scanner system which would store a given number of allocations and electronically reduce the allocation as cages are landed or sold or transferred to another allocation holder.

>> use an Honor System similar to that used in January 1992 when no tags were available to allocation holders.

>> The idea of serial numbers on cages was mentioned but rejected since most processors rely on several vessels for supplies, cages are often not returned to the same vessel. It would be difficult to ensure a cage would be returned to the correct allocation holder.

-TAG STORAGE IS A PROBLEM. Almost all processors are unclear as to how long they should keep their used tags. Often the tags are taped together as they come off the truck or vessel, or they are taped together at the end of each day and then boxed. With some processors going through 400-500 cages a day there can be a large volume of tags in storage. Record keeping and inventory controls over the used tags was routinely poor, and it would be difficult to normally locate a given tag within a reasonable time frame.

-Processors have been told conflicting information related to holding tags. Information has varied between enforcement agents, NMFS statistics agents, and different NMFS regional office personnel.

PROCESSOR LOGBOOKS:

-Processor logbooks are not a significant problem for most medium and large processors with adequate clerical staff. Small processors with minimal staff or generally poor record keeping

procedures voiced complaints over the time and effort it took to complete the logs. Small processors often receive supplies from several sources which also increases reporting requirements since many different vessels may be involved and tags were often not in numerical series.

-Medium and large firms generally felt one more person was hired to maintain the logbook reporting requirements (part to full time depending on the volume of clams processed).

-Responsibility and accountability for correctly completing the logbooks should be more clearly defined. In many cases it is the clerical help that completes and signs the logs often with minimal verification of the details by upper management. To encourage accountability there should be some procedure to identify a designated number of company officials (in upper management) with signoff authority for the logbooks.

ALLOCATIONS:

The vast majority of the processors had problems with the way the resource was initially allocated, whether they actually received any allocation or not.

-A routine comment stated that "the vessels with the most violations received the most allocations". There was a general feeling that landings were inflated for the logbooks, vessels violated the fishing time provisions of the FMP, and inactive vessels were reported as fishing to maintain the vessel permit.

-Several processors felt that the Mid-Atlantic Fisheries Management Council acted too quickly and did not listen to the Industry Advisory group recommendations before Amendment #8. Most agreed the plan development process had been going on far too long, and felt that initially the industry was not working effectively within the FMP process. By the time Amendment #8 was passed, many felt the industry was working more effectively together as a group, but recommendations were ignored. Interest is keen and there is strong support for the creation of a new Industry Advisory Panel.

-Several processors felt the addition of Ocean Quahogs in the Surf Clam ITQ allocations process was a mistake based on poor statistical data. There were complaints that processors were not kept adequately informed as the FMP developed and changes, like the addition of quahogs, were not fully discussed.

-Processors questioned existing procedures if allocations were to be held by government agencies under various circumstances.

Two examples mentioned were:

>If a vessel were to be found in violation of the MFCMA and the allocation was reduced or forfeited by NMFS, how would the

allocation be redistributed?

>If the allocation holder lost his allocation to a government agency (as ill-gotten gains) for drug violations, how would the allocation be redistributed?

-Processor concerns about potential shortages of supply as allocations are consolidated into fewer owners. This is discussed under Monopoly Concerns above.

-Processor concerns about allocations owners who do not actively fish or allow their allocations to be fished. This is discussed under Allocation - Use it or Lose it above.

ENFORCEMENT OF AMENDMENT #8:

Most processors noted a drop in the frequency of plant site visits by NMFS Law Enforcement officers since Amendment #8 has been in effect. Prior to Amendment #8, processors indicated weekly visits were routine, while most processors indicated that visits occur once every 2-3 months now.

-Enforcement agents have checked all aspects of the plan pertaining to processor compliance with Amendment #8 including;

- >> stopping company owned trucks in-transit to verify all accessible cages are tagged,
- >> watching trucks unload at the plant receiving dock with tagged cages,
- >> verifying tag numbers are properly assigned to the owner of record,
- >> verifying that a specific days plant receipts are in order and agree with vessel records for the same day, and
- >> checking storage procedures for the used tags.

-There was a consensus opinion that smaller processors were more concerned with enforcement issues, while the larger processors felt they have more adequate internal controls in place, less financial incentive to violate current regulations and more to lose if violations are identified.

REGULATIONS:

CLAM MINIMUM SIZE ISSUE:

-Most processors felt the minimum size requirement is not needed mainly because market forces require larger clams anyway. Vessels are frequently paid on meat yield and smaller clams provide less of the valuable foot meat, are more time consuming to shuck and process, and can have negative quality characteristics. With the fishing effort restrictions removed, vessels can afford the time to locate beds of larger clams and thereby increase yields and ex-

vessel revenues.

VESSEL CALL-IN PROPOSALS:

-Proposed requirements for vessels to report before departure were universally rejected by the processors. In addition to the safety concerns, the impact of 24-48 hour notice before departure would seriously impact the processors ability to manage their raw material supplies.

BETTER PROCESSOR INVENTORY CONTROLS:

-Processors felt Amendment #8 allows them to better control inventory to match market demand. Prior to Amendment #8, processors had to pack when vessels had their fishing day and hold finished inventory in the plant. Now processors can plan out supplies and work with allocation holders to schedule fishing effort when needed. This reduces the amount of capital that has to be tied up in finished product inventory, and allows for other cost savings by scheduling for such things as down time for employee vacations, equipment maintenance, plant improvements, etc. without worrying about a vessel which has to fish 6 hours within a three week period.

EXPERIMENTAL MAHOGANY CLAM ISSUE:

Most Mid-Atlantic processors felt the clam had little impact on them and the end product was targeted for a different end-users market. There was little outward concern over the issue, unless the inclusion of the Gulf of Maine resource impacted existing allocation holders.

FOREIGN OWNERSHIP CONCERNS:

Several processors voiced concern over foreign ownership of the allocations. With the transferability of the allocation, a wealthy foreign party could acquire a controlling interest of the industry. Since segments of the industry are currently experiencing financial difficulties, if a large conglomerate or wealthy investor groups' long range goals outweighed short term losses, large blocks of allocations could be acquired. Since dealer/processor permits are issued annually, disclosure of ownership requirements may be useful as part of the application renewal process.

-Processors felt more concern over possible foreign ownership than over a possible monopoly by a U.S. corporation. Nationalism was an issue with a feeling that this is a U.S. resource and only U.S. citizens should own it.

RAW MATERIAL PRICES SINCE AMENDMENT #8:

SURF CLAM PRICES:

-Surf clam prices have remained fairly stable since Amendment #8 was approved. There are various payment mechanisms involved in

establishing market price for surf clams. Meat yield is a key factor with expected yields for offshore (EEZ) clams averaging 12-14 pounds/bushel while inshore clams average 9-10 pounds/bushel. Tied in with yield is the fishing location where the clams were harvested, and whether the beds are densely packed which in effect reduces individual clam size and lowers yields.

-Several processors commented that yields are down this year and they felt the allocation would be fully harvested by the end of the year.

-Tied in with reduced yields, most processors expected clam prices to rise by year-end as allocations were exhausted and processors used up remaining carryover inventories.

EX-VESSEL SURF CLAM PRICES:

-Ex-vessel market prices for surf clams vary by processor but currently (2/92) range from \$8.00-8.50 per bushel for offshore clams and \$6.50-7.00 per bushel for inshore clams. Some processors have contracts with allocation holders which includes a per bushel year-end bonus if all clams are sold exclusively to the one processor for the entire year. These price incentives can be up to \$0.25 per bushel.

SALE OF SURF CLAM ALLOCATIONS:

-Surf clam allocations have reportedly gone from initial values of \$13.00 - 15.00 per bushel in late 1990, to \$18.00 in 1991 and are now reportedly selling at \$20.00 per bushel. Processors expect to see the sale of several blocks of allocations in 1992 as the industry continues to consolidate and cash-flow problems force sales of allocations by over-capitalized allocation holders.

LEASE OF SURF CLAM ALLOCATIONS:

Surf clam allocations are currently being leased to vessel owners for \$3.00-4.25 per bushel, with most leases running \$4.00 per bushel.

-There has reportedly been manipulation of the leasing of clam allocations to reduce the ex-vessel price paid to the boat (known as the boat share) by the vessel owner or use "creative accounting" techniques to improve corporate profits for tax purposes. i.e. the owner receives \$8.00 per bushel from the processor, but only pays the vessel on \$4.00 per bushel because the owner is deducting the cost of leasing the allocation from the processor. The vessel owner may actually own the allocation but claim it as a lease to the boat or more likely, he may transfer a like share to the processor to create a paper lease trail for tax purposes. Depending on use of general accounting practices for income tax determination, the money used to "lease" an allocation may be taxed differently from the vessel "owned" allocation. (see vessel section of this committees report for more details on the leasing

issue)

OCEAN QUAHOG PRICES:

In contrast with the surf clam, ocean quahog prices have risen significantly since Amendment #8 was approved. As with surf clams, there are several factors which establish the market price. Meat yield is a significant factor in determining the price and yields are dropping. The industry reportedly averaged a standard 8-10 pounds per bushel, but as productive beds are overworked, yields are running 7-8 pounds per bushel now. Location of harvest is an important factor in pricing quahogs. The quality of the meat, amount of sand, size of quahog, amount of trash, etc. vary depending on where the vessels are fishing. Quahogs have continued to gain market share both as an acceptable substitute for some surf clam products, and for use in a wide range of new quahog end products. Health concerns about raw shellfish have also reportedly improved the market for cooked clam products.

EX-VESSEL OCEAN QUAHOG PRICES:

Ocean quahog prices have risen significantly since Amendment #8 was approved. In late 1989 average quahog prices were \$3.00 - 3.15 per bushel. After Amendment #8, prices rose quickly to average \$3.35 to \$3.50 per bushel, and even with processor resistance, prices continued to strengthen and increased again in 1991 to an average of \$3.75 per bushel. With declining yields, prices are now running \$3.75-4.00 per bushel for quahogs harvested from preferred locations. These are average prices and do not include trucking to the processor. Quahogs caught off Ocean City, MD average \$4.00 per bushel, quahogs caught off Atlantic City, NJ average \$3.75 per bushel, and quahogs caught off Long Island, NY and Virginia average \$3.50 per bushel.

SALE OF OCEAN QUAHOG ALLOCATIONS:

Ocean quahog allocations are reportedly selling for \$4.00-6.00 per bushel, with most averaging \$5.00 per bushel.

LEASE OF OCEAN QUAHOG ALLOCATIONS:

Ocean quahog allocations are currently being leased for \$0.25-0.50 per bushel, with most averaging \$0.40-0.50 per bushel. There has reportedly been some manipulation of the lease of quahog allocations - see "Lease of Surf Clam Allocations" discussed above.

IMPACT OF IMPORTS:

Most processors felt that imports would have little impact on domestic supplies in the near term, even if supplies continue to tighten. Processors did not feel there was a good substitute for the surf clam, and none indicated any effort to explore non-U.S. substitutes at this time. Processors did identify potential

foreign substitutes for ocean quahogs (Iceland and Norway were mentioned), but again there had been no reported effort to contact foreign suppliers.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

Surf Clam/Ocean Quahog ITQ Evaluation
Based on Interviews with Captains, Owners and Crews

By

Kenneth L. Beal

Interviews with NMFS Port Agents and surf clam and ocean quahog fishermen, skippers and vessel owners were conducted in fishing ports in Maryland and New Jersey on February 10-13, 1992. The primary points which we focused on were the acceptability of the cage tags currently in use and the perception of whether enforcement has changed as a result of Amendment 8 to the Surf Clam & Ocean Quahog Fishery Management Plan. Most of the people interviewed offered additional comments on other aspects of Amendment 8, although these comments were not solicited. For purposes of reporting all observations, I will first address the key issues, followed by general comments.

CAGE TAGS

Plastic tags, each with a consecutive number, are issued to the holder of the individual transferable quota, and may be kept aboard the vessel, at home or elsewhere in a safe place. Tag numbers are recorded in the vessel logbooks and in the processor logbooks. The theft of tags is not a major concern, as the tag numbers would have to be recorded in the logbooks, and the thief would be easily identified. However, when quotas are transferred, this information is not reported to NMFS, so NMFS Port Agents are not aware when boats are fishing on a purchased or leased quota.

Tags are attached to the 32-bushel cages when the cages are unloaded from the vessel. Previously, tags were attached aboard the vessel, and this practice was both unsafe and resulted in greater tag breakage. Breakage of the plastic tags is generally caused when two cages rub together. Since the cages are fairly rigid steel frames with wire mesh, the tags are sheered off, normally breaking just behind the locking mechanism. When a cage without a tag arrives at the processing plant, the plant notifies the vessel owner and a search for the broken tag begins. Tags are usually found in the truck, on the wharf, and elsewhere in route.

Reducing tag breakage may be possible by using metal tags, similar to those in use by the State of New Jersey, or using



another material such as a more flexible plastic. It has been suggested that a thin, tough, flexible plastic, as used in Federal Express mailing bags could be used. We have not investigated the cost of these various options.

Failure to use tags does not appear to be a problem with the independent vessel owners, as their catch is normally trucked to the plant, and the likelihood of an enforcement agent being present at the plant is greater than seeing the agent at the wharf. On the other hand, the potential for landing untagged cages is greater if company vessels are landing at company processing plants. It should be noted though, that we are not aware of any such illegal actions, and in fact we were assured by some captains that they would not expect a plant to engage in this practice.

Overall acceptance of the tagging requirement is good. The record-keeping adds another layer to the workload, but the documentation of the catches is quite accurate. The NMFS Port Agent in charge of surf clam and ocean quahog statistics feels that the discrepancies between vessel logbooks, processor logbooks and weighout data is only about 3% annually. It would be desirable, though, to analyze landings statistics on a regular basis. Perhaps a short report could be prepared monthly or quarterly based on the computer data.

ENFORCEMENT

In all instances, captains, crew and owners reported that law enforcement officers are seen less frequently since Amendment 8 was approved. This is understandable since the primary tool for enforcement now is the cage tag. Furthermore, since the tagged cages are destined for a processing plant, a law enforcement agent could be more efficient by visiting the plants, rather than the wharfs. Agents must still check vessels for the presence of the fishing permit and other regulations, but they do not have to police the fishing hours and days. The primary reason for a recent visit by one enforcement agent was to explain new regulations. We routinely heard comments from the industry that the law enforcement agents were fair and did a good job. One skipper mentioned that he has seen agents at the wharf at midnight and even at 2:00 and 3:00 a.m. We did not hear any criticisms of the agents or how they enforce the regulations.

Certain individuals alleged that New Jersey vessels will fish for a portion of their catch in the EEZ, and also fish inside the state's waters, then claim all the clams came from state waters. This practice would "save" their federal quota until needed. Those complaining of this practice also allege that an informant broadcasts on the ship-to-shore radios when the U.S. Coast Guard helicopter takes off for a fisheries patrol, and boats working in the EEZ then dash into the state waters. However, others stated equally emphatically that this practice is not done. It should

be noted that New Jersey has a quota on the harvest of surf clams within their waters, too. Furthermore, processing plants control whether they want inshore or offshore clams, based on the yield.

OTHER COMMENTS ON AMENDMENT 8

Overall, there is a split in opinion whether Amendment 8 is a success. Some feel that giving a public resource to a select few is wrong. Many boats did not receive a quota equal to their fishing record and tough decisions had to be made whether to continue in the fishery or not. Another complaint involved vessels which intentionally violated the previous regulations, fishing before or after hours, or on wrong days, for instance. Whether or not these violations were detected, the landings were added to the vessel's record, and the ITQ for the vessel was automatically inflated by these illegal landings. In effect, the outlaws were rewarded for their dishonesty.

Some boat owners have had to lease or purchase quotas from others. Purchase prices for surf clam quotas is about \$20/bushel, while purchase price for ocean quahogs is about \$5/bushel. While this approach is possible if financing is available, small operators without adequate funding have often sold out. Some processing plants have been concentrating quotas, and some family fishing companies have begun an aggressive approach to buy quotas, too. Partnerships have been formed with several vessel owners, mainly to concentrate the amount of quota. Another approach taken by many operators is to concentrate quotas onto fewer vessels, and sell or convert the excess vessels to other fisheries. One operator reduced effort by putting the quotas from 17 boats onto 3, and a family operation with 9 boats has concentrated quotas onto 3 boats. At another dock, only 5 boats are fishing out of 18. Unfortunately, many of the older boats from which the quotas have been taken are unfit to be converted to other fisheries. One owner said he has given a vessel away, and another said one of his was now an artificial reef. Overall, an estimate has been made that about 75 boats are fishing out of 175 permitted in the fishery.

The impact on fishing vessel crews has been significant in many ports. As a result of the concentration of quotas onto fewer vessels, many men were laid off and have been unable to get another berth on a clam vessel. Some were able to fish in other fisheries, and some have shore-side jobs; but still others are unemployed.

The dockside value of surf clams and ocean quahogs has not changed appreciably. Clams are now selling for \$8.00/bushel (same price as pre-Amendment 8), and quahogs for \$3.85 (up slightly from \$3.50). However, the crew shares at settlement have not improved as a result of Amendment 8. Since many of the vessels currently fishing have purchased quotas, the cost of the

extra quota is added to other operating costs, and crew share is reduced accordingly. The normal practice is for operators to assign a value of \$4.00/bushel to the leased quota, and this is subtracted from the dockside price of \$8.00/bushel. Obviously, crew share is less, and one owner of several vessels estimated a crewman earns about \$20,000 less per year now. Some boats have cut crew size from 5 to 3. Most crews are working harder, and earning less.

Under the previous provisions of the FMP, with severely restricted fishing hours and days (6 hours every 3 weeks), boats had to go fishing in bad weather or lose their day. It was hoped that Amendment 8 would eliminate this danger, but unfortunately this has not happened. Processing plants now tell captains when they want a load of clams. Their demands are based on markets, and weather is not a consideration. So boats are often forced to go fishing in bad weather, or lose the connection with that processor. Two vessels which sank in late 1991 (the John Marvin and the Valerie E) were caught in a rapidly-building storm. The crew from the Valerie E were lost, but the crew from the John Marvin were rescued by the Coast Guard. Many people mentioned these sinkings as an indication of no change in the safety factor.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

RECOMMENDATIONS

By

Kenneth L. Beal

CAGE TAGS: Another material should be used for the cage tags in order to avoid the breakage problem. The Committee has discussed several options, and feels that a tag made out of Tyvek, a flexible plastic material as thin as paper, yet exceedingly strong, with the code numbers imprinted upon it twice in such a way that one strip can be peeled off and placed directly into the vessel logbook, and the second strip removed later at the processing plant and placed in the processors logbook would be ideal. The tag itself would be attached to the cages in a manner similar to the new luggage tags in use at major airports now, with self-adhering panels.

ENFORCEMENT: We recommend that enforcement agents step up visits to the processing plants to check on cage tags as the most effective method of policing the fishery.

TRANSFERABILITY OF QUOTAS: We recommend that an analysis be conducted on the current practices of quota transfers, and the potential for monopolistic concentrations of quotas.

IMPROVED DATA REPORTING: We recommend that statistical reports be prepared from the computer database in a timely fashion, either monthly or quarterly, including, but not limited to analyses of landings and transfers of quota.

REVISIONS TO LOGBOOKS: Many weaknesses were identified in the current logbooks. We recommend a small committee be formed to evaluate complaints and suggestions, and to develop improved logbooks for both vessels and for processors.



EXHIBIT 3



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF GENERAL COUNSEL
One Blackburn Drive
Gloucester, Massachusetts 01930
Tel. (508) 281-9211
FTS. 837-9211

CONFIDENTIAL

February 14, 1992

SUBJECT: Individual Transferable Quota (ITQ) Management System

By

Joel G. MacDonald, Regional Counsel

We recently embarked on a project to check the integrity of our management of the ITQ system implemented under Amendment 8 to the Fishery Management Plan for the Ocean Quahog and Surf Clam Fishery. All of us are of the opinion that an accurate tracking of ITQ harvests and transfers is imperative if the annual quotas for these species are not to be exceeded.

You asked me if there are any legal deficiencies in the ITQ management system that might be remedied through a change to existing procedures, the regulations and/or Amendment 8. The short answer is no. The Seawatch International v. Mosbacher and the Pearson v. Mosbacher lawsuits argued that there were numerous legal deficiencies that warranted a judicial finding that Amendment 8 was arbitrary and capricious and not otherwise in accordance with law. The Court's finding in our favor dispelled the notion that there are any legal deficiencies in Amendment 8.

There is an issue that still remains to be addressed. In the preamble to the final rule implementing Amendment 8, we advised the public that we will monitor periodically the amount of ITQ owned by each person. If it appears that one individual has an "excessive" [whatever that means] amount of ITQ, we will advise the Department of Justice (DOJ).

Some of the attorneys in GCF met with Department of Justice Anti-trust Division attorneys to discuss the implications of allocations, particularly the inshore/offshore allocation system under consideration. The surf clam and ocean quahog ITQ system also was discussed. The DOJ attorneys were unsure of whether the surf clam and ocean quahog market was a "market" within the meaning of the Sherman Anti-Trust Act. They are looking into the question. Conceivably, if the Sherman Anti-Trust Act does not apply to control of the surf clam and ocean quahog market, the issue of excessive ITQs is moot.



Regardless of the outcome of the DOJ inquiry, we should do a periodic report as to the amount of ITQ owned by each allocation holder. I am sure that the report will be of interest to the Mid-Atlantic Council. This report is best done in conjunction with the issuance of revised allocation percentages and cage tags towards the end of each year. Whether we need a report on a more frequent basis is open to question since the ITQs do not appear to change hands on a permanent basis very frequently.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

EXHIBIT 4

February 19, 1992

SUBJECT: SURF CLAM/QUAHOG ITQ REVIEW

By

F/EN3 John J. McCarthy

The following is updated and condensed from a report filed by F/EN3 with our Washington Headquarters in December, 1991. All material is the result of direct input from field law enforcement personnel in the mid-Atlantic area who routinely work with this fishery. Any and all references to open or ongoing investigations and/or specific individuals or companies associated therewith have been deleted from the original version of this report. For the same reasons, certain date, location, or other identifiers have been deliberately protected within certain remaining material. Hereinafter, references to the surf clam/ocean quahog fishery at issue will be abbreviated as SCO.

Overview: One of the (many) obstacles to effective enforcement in this fishery is the obvious additional enforcement burden the ITQ system imposes in the exact geographic area where the Northeast Area is currently most seriously understaffed - New York, New Jersey and the Delmarva Peninsula (Delaware, Maryland, Virginia). In the six states between the Rhode Island/Connecticut border and the Virginia/North Carolina border, F/EN3 has a grand total of five field law enforcement personnel (four Special Agents and one (new) Fishery Enforcement Officer). Most of the SCO fishery is contained within this same geographic area. The other Fishery Management Plans in effect in the Northeast (and their attendant regulations) and various other laws under our jurisdiction, both civil and criminal, have not disappeared from our responsibility by mere adoption of the ITQ system for the surf clam fishery. Approximately 75 vessels are involved in the SCO fishery. It would be disingenuous to represent that there are enforcement "tactics" in active effect in this fishery, due to its numerous informational and regulatory shortcomings, understaffing notwithstanding. Specific details on these points follow. Suffice it to say that, at present, enforcement personnel can do little more with the current system than examine and compare logbook reports and entries against observed offloadings, when and where those offloadings can be observed or otherwise documented (i.e., via informants).



Enforcement personnel also examine federal permits and check "cages" (the 32 bushel medium of offloading in this fishery) for proper tagging whenever possible. We need not elaborate on the sorry state of affairs regarding the suitability, security (or more recently, even availability) of the tags themselves.

USCG helicopter overflights are regularly used between October and May, the period during which inshore waters (0-3 miles) are open for surf clam harvest in the state of New Jersey. These overflights serve to minimize the claims of federally permitted vessels alleging harvest from state waters (not subject to federal quota) when the harvest actually occurred in federal waters, thereby resulting (unless proven otherwise) in under-reported federal quota figures.

Processing Sector/Shipping: With the exception of tagging requirements, the transportation of surf clams is only minutely applicable to existing pertinent regulations for this fishery (see 50 CFR, part 652); carriers do not share the same regulatory responsibilities of the vessels and processors. Processors are periodically checked (see item 1) to ensure that product received is properly tagged and recorded and that empty cages with tags affixed are not simply used over again without proper reporting.

Intelligence base: Information documenting enforcement efforts is maintained by Law Enforcement, for internal (F/EN3) use only. The Northeast Region's Management Division (F/NER) has provided little information to Law Enforcement personnel regarding allocated quotas, the issuance of tag numbers to vessels, transfers of individual vessel quotas to other entities, status of individual vessel quotas during the year, or any other pertinent, information. In the absence of this information, the limited prospects for successful enforcement efforts are evident. Internal (F/EN3) reports and occasional informant contact from disgruntled competitors constitute the totality of F/EN3's information/data base.

Enforcement emphasis: There is not an ongoing enforcement emphasis within the Surf Clam fishery's ITQ system, given the inadequacy of existing regulations, absence of necessary operating information and/or sufficient enforcement personnel resources to use it. Violations have nonetheless been documented and filed. It is also vitally necessary and relevant to point out that only as recently as December 2, 1991 (Federal Register, 12/02/91, pages 61182-61184) was an offloading notification requirement added to the pertinent regulations (50 CFR, part 652.9(a) to facilitate enforcement, in spite of repeated F/EN3 identification of this necessary measure as a critical enforcement component since before the inception of Amendment 8 (October, 1990 effective date). In short, this

particular enforcement component of the regulations went into place over a year later than the initial regulations. Almost immediately thereafter, the notification requirement was eliminated entirely. The negative impact of this action upon enforceability was immediate and obvious. The state of New Jersey has also recently expressed NJ support of a notification system. Enforceability shortcomings aside, F/EN3 has numerous other (more enforceable) regulatory responsibilities, coupled with personnel resources averaging less than one enforcement representative per state in the mid-Atlantic area.

In *****, F/EN3 became aware of ***** collusion among a vessel, trucking firm and processor. The possible (potentially criminal) conspiracy was apparently designed to harvest, transport and process surf clams without completing required documents or tagging the clams at issue. This practice would obviously "extend" the vessels quota since untagged cages would not be recorded. Further comment on an open investigation would not be appropriate in the context of this particular correspondence. The point here is merely to address inadequacies in the current system without compromising open investigations.

Foreign investors: Special Agents have obtained and examined corporate papers and articles of organization for ***** significant processors in the mid-Atlantic area. One ***** corporation has (3) Japanese names among its corporate directors, representing (2) different Japanese companies, but F/EN3 does not presume filed corporate papers to be conclusively indicative of the presence or absence of foreign investors in any instance. Another corporation was known to have been sold to a multi-national corporation with roots in ***** and *****, but the latter corporation subsequently resold its ownership interests to a wholly owned (on paper at least) U.S. company.

Fleet operation: There are approximately 75 active vessels in the mid-Atlantic area. Some processors either own, operate or lease company owned vessels for the harvest of surf clams/ocean quahogs. Other processors do not have company owned vessels and purchase clams from independently owned vessels. Contrary to the wishes of some captains in the fleet, processors in fact dictate the size, amounts, price and timing of harvest by each vessel.

It is important and relevant to acknowledge the fact that the SCO fishery is decidedly unique in the Northeast, with or without ITQ. It would be presumptuous, indeed naive, to attempt to somehow "extrapolate" the suitability and/or enforceability of an ITQ system to other regulated fisheries in the Northeast. For example, there is a finite (and limited) market for surf clam products and a finite (and limited) array of dealers/processors even able to physically offload and/or process this product.

These facts and circumstances are not the case in any other fishery in the Northeast (lobsters, scallops, groundfish, tuna, swordfish, etc.). In addition, dealers and processors literally control the SCO fishery, irrespective of ITQ; there is no option for the fishermen to "take their business elsewhere"; an option universally available in any and all of the other previously identified regulated fisheries in the Northeast. The geographic range of the SCO fishery operations is finite and distinctive within the Northeast, unlike most of the other identified fisheries. Finally, SCO vessels are unique hydraulic dredge rigs, ill suited to multi-fishery conversion and use. Vessels in other fisheries (scallops, groundfish for example) can readily convert their gear and harvest, thereby substantively complicating any potential ITQ monitoring process for enforcement personnel. In short, few, if any, generalized or comparative conclusions could be reasonably drawn from an examination of the ITQ system in the decidedly unique Surf Clam/Ocean Quahog fishery; application to other Northeast fisheries would indeed be very much an "apples and oranges" comparison without validity. Given the sudden, if unsubstantiated, appearance of (and interest in) ITQ as some sort of potential universal panacea in fisheries management, this point must be made and clearly understood. This is not New Zealand, nor do we share or practice that country's unquestioned and unrestricted government control of the industry.

Effectiveness: An ITQ system (and any other regulatory regime) must seriously take into account realistic enforceability before implementation, preferably by way of direct consultation with those on whom actual enforcement responsibilities will fall. The surf clam fishery ITQ process at issue in the Northeast has (to date) failed to do so, as outlined in foregoing parts of this document. There is currently, little effectiveness, efficiency or accountability in the present ITQ "management" program of this fishery. F/EN3 has endeavored to point out in the Northeast that adequate enforcement of any law or regulation requires that sufficient personnel resources and practicable regulatory language be identified from the very beginning planning stages, in order to provide for a realistic prospect for successful/enforceable implementation. In the particular SCO fishery at issue here, cooperation in routinely providing real time quota data and other relevant information is obviously another necessary component to compliance success. For the record, F/EN3 remains completely willing to provide experienced field personnel to participate in the regulatory process, asking only that any such requests be processed through this office in Gloucester.

To date, F/EN3 experience with ITQ in the SCO fishery can be briefly summarized as another lesson in "the politics of fish."

We look forward to extensive future improvements; specific recommendations to repair the inadequacies of the current regime follow. Since we have identified a number of specific problems herein, we also propose a number of equally specific solutions:

1. Defined offloading times or "windows" (as currently exist in the sea scallop fishery) in addition to reestablishment of recently deleted notification requirements. Such an additional measure would facilitate efficient enforcement, without any hardship or particular inconvenience to those impacted.
2. Addition of a prohibition against "false statements to an authorized officer". Such prohibitions are specifically addressed and included in other federal fishery regulations, but are conspicuously absent from existing SCO regulations.
3. Refinement of the definition of "landing" in the SCO regulations in order to specifically require that logbooks be completed before return of the vessel to port for offloading. Due to the 32 bushel cage units generally used in this fishery, vessels know exactly the quantities in their possession long before returning to the dock to offload. This requirement would be an innocuous and reasonable addition which would help discourage "forgetful" reporting, "spontaneous", reporting, non-reporting, or other related fraudulent activity currently occasionally observed.
4. Addition of carriers/transporters to those required to complete and maintain accurate logs and records of product handled. Such an addition would create another level of "cross check" documentation which could facilitate enforcement, increase accountability and, presumably, provide a further disincentive to "forgetful" (or entirely inaccurate) reporting. Non-compliance could enhance exposure to criminal prosecution for conspiracy; presumably a possibility imposing its own deterrent effect on would be violators.
5. Last, but certainly not least, would be the routine inclusion of informed, experienced, knowledgeable law enforcement personnel in the development of regulations only they will be required to enforce and only they have to deal with in the field after the paper process of Federal Register entry. It is counter-productive for this process to occur without the knowledge, experience and input of the people with routine, first-hand contact with the various components of the fishery. The process should not continue to occur without the benefit of knowledgeable law enforcement input if there is to be any realistic prospect(s) for any degree of success. A good start in the particular SCO fishery at issue would be routinely providing F/EN3 with the

necessary information and details specifically itemized in section (3) preceding, without which no effective or credible enforcement effort can be launched. Without further belaboring the point, we need additional personnel in order to effectively implement enforcement efforts in the first place.

It is with regret that F/EN21 reports on the sorry state of affairs in the SCO fishery's current ITQ system from a law enforcement standpoint. It is currently an ineffective system from a law enforcement point of view. Additionally, it is a system from which the limited F/EN3 personnel resources have, to date, been "left out of the loop."

CLAM/QUAHOG ITQ ADMINISTRATION
HANNAH GOODALE AND MYLES RAIZIN
FEBRUARY 18, 1992

OWNERSHIP ISSUES

GC/NE has suggested that it may be necessary to monitor ITQ ownership because of anti-trust concerns. We believe that the current administrative system cannot be used to reliably determine ITQ ownership because many of the allocations are held in vessel or corporate names. Working with the allocations reveals some ownership patterns, e.g., Warren and Merna Alexander own allocations as Alexander & Pearson, Palex Inc., and Southern Clam Co. However, other than sharing a common mailing address, our records do not show this. We can examine our database for duplicate mailing addresses, but there are several allocations which are managed by seafood dealers so the address would falsely indicate common ownership. This may pose a problem in producing any summary of legal ownership (unless a unique name is a separate owner for legal purposes).

The inability to identify owners poses a greater problem as far as allocation transfers are concerned. Permanent and temporary transfers of allocation are processed upon receipt of a form which is to be signed by both parties to the transfer. However, we have no way to verify whether or not an individual is authorized to submit a transfer. There is no way to know what signature should be associated with an allocation, particularly if it is held in a corporate or vessel name. Since these transfers deal with a valuable commodity we need a way to identify legal owners or authorized agents, otherwise it is only a matter of time until we encounter a circumstance where a transfer is submitted by an unauthorized person and processed.

Contributing to our concern is the fact that the permits themselves are distributed as public information so anyone can receive the information required needed to complete a transfer request. The only suggestions we have are either to require a signature card like that kept by banks or to require the transfer form to be notarized or both.

There has been some debate about whether or not there is a need for tags to be used to track the allocations, and this potential problem is a good reason to keep the tag requirement. Our concern about the possibility of fraudulent transfers would be much more serious if the tags did not exist. As long as we require tags to be used, a false transfer is prevented from becoming actual theft of an asset because it is not usable without the tags to go with it.

DATA USE

We wish to reiterate the need for close cooperation with the Northeast Science Center concerning data collected under the mandatory report requirement for the ITQ system. Because there are two users of the data, the Center and FMO, we must work closely to see that the data satisfies the needs of both users, and that modifications made to the system by either party are coordinated.

TEMPORARY TRANSFERS

We have noticed that several allocation holders have been leasing their quota to their own vessels. While this practice may aid enforcement in tracking tags, there may be tax issues involved. We suppose that it is legal if the vessels are registered as separate entities, however, it may be worthwhile to investigate its implications regarding tax laws.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

EXHIBIT 6

February 19, 1992

Surf Clam/Ocean Quahog ITQ Program Evaluation

Stanley Wang, Ph.D
Supervisory Economist

It is a common knowledge that fishery management systems generally impose constraints on fishery operations and alter producers' strategies in exploiting the fishery resource. The US Atlantic surf clam and ocean quahog fisheries are the first US fisheries which have been managed under a vessel ITQ management system. Prior to 1990, these fisheries were managed with overall quotas and a vessel moratorium program coupled with a set of area closures and trip regulations and gear restrictions. This was a very complex management system for maintaining a year-long fishery and meeting various social and economic objectives. This complex management system had evolved over time and was in place for a period slightly longer than 10 years. During this period, various arguments and counter-arguments were forwarded with an intent to change or maintain this complex system. Finally, the system was replaced with a vessel ITQ system in 1990.

AS the first US fisheries to be under an ITQ management system, the US Atlantic surf clam and ocean quahog fisheries are unique for studying industry behaviors under different management regimes. Our preliminary analysis of the behaviors has revealed some interesting findings. In the Northeast Regional Office, Dr. Stanley Wang has been charged to evaluate the industry performance under different management systems. While his study has been under way, it is to emphasize the evaluation of the industry (harvesting and processing sectorial) behaviors and strategies under the complex management system prior to 1990 and the ITQ system after 1990. Several criteria will be adopted in his analyses and include industry concentration, market share control, pricing, price spreads, fishing patterns, fishery productivity, capitalization, labor employment (fishing crew and related industries), and optimal combination of input (capital and labor). Economic theory of firms and industrial organization as well as statistic theory will be vigorously applied. Relevant statistical tests will be also conducted in the study. Some concerns, arguments and counter-arguments during the development of the ITQ system will be selected for detailed examination and evaluation.



T Smith

PACIFIC COAST WATCH

Full-page fish politics

By Brad Matsen
Pacific Editor

A sensational full-page ad that ran in *The New York Times* on April 12 cost in the neighborhood of \$35,000 and was paid for by a newcomer on the fisheries advocacy scene, "Fish Forever." The group says it is "a national nonprofit organization uniting commercial fishers, conservationists and others concerned about the mismanagement of America's fragile marine environment and the sustainability of both our fisheries and the communities that depend on them."

The ad was a broadside aimed at the North Pacific factory trawler fleet, claiming, in part, that "since the U.S. declared a 200-mile fishing zone off our coasts in 1977, fishing has become just another short-sighted, ruthless corporate game." To save America's last great fishery off Alaska — it concludes after four columns of text, photographs and headlines — "we must (1) stop factory trawlers from being rewarded for waste with ITQs (perpetual shares in the fishery), and (2) keep profiteers from 'managing' oceans that belong to our kids right into the ground."

The indefensible waste by the industrial fleets was the most devastating accusation in the ad copy. Bering Sea factory trawlers catch and discard a staggering half a billion pounds of juvenile, prohibited and unwanted fish each year and kill 20 million crabs on the bottom. Fish Forever extended its powerful indictment to Gulf of Mexico shrimpers whose bycatch rate is an incredible 800% to 1,000% of landed tonnage.

Behind the text, rhetoric and hysteria in the ad, though, lurked the shadow of the oldest, nastiest domestic brawl in the fishing business — allocation. The day it ran, just about everybody on the waterfront hit the phones trying to figure out who really paid for the ad. Everybody wanted to know, too, just what the payoff was for somebody who laid out that kind of cash to drag the domestic disputes of the fishing industry out onto the nation's front lawn.

Turns out a fisherman who owns a pot and longline fleet paid the bill, and nobody was really surprised. The less fish the factory trawlers get in an ITQ program, the more fish will go to longliners and potboats. So what's new? Plenty.

Buried between the lines of what appears to be a perfectly factionalized allocation dispute is a concept that has thus far eluded almost all fishery management rationale. Until now, we have been operating under the polite fiction that all gear types are equal before the fisheries councils — the theory being that a dead fish is a dead fish no matter what you kill it with, and the councils should not participate in engineering the composition of the fleets.

Now, however, with the support of the millions of consumers who have seen Fish Forever's ad, fisheries managers might be bold enough to favor more selective gear over less selective gear in their decisions. Allocation based on selectivity and low bycatch and waste, no matter which fishermen win or lose, is a vote for the fish. And that's good.

Joe Blum et al C-3

June 10, 1994

The attached proposal represents an integrated, two phase approach to the rationalization of the groundfish and crab fisheries under the Council's jurisdiction.

Phase I involves implementation of a modified moratorium on further entry into the subject fisheries. The purpose of the moratorium, which would be in effect from January 1, 1995 (or sooner, depending on the Secretary's implementation schedule) until no later than January 1, 1997, would be to freeze the size of the groundfish and crab fleets at levels that existed on the control date (June 24, 1992); and to preserve the status quo in those fisheries while the Council develops an individual transferable quota (ITQ) system that would be implemented as Phase II of this proposal. This proposal envisions the ITQ program in place and operating on January 1, 1997 or earlier.

The modifications to the moratorium would be accomplished via the public comments submitted by the Council during the Secretarial review period, currently underway, and would include:

- (1) a reduction in the number of vessels eligible to re-enter the fishery who are not current participants;
- (2) a reduction in the opportunity for vessels to "cross-over" into the crab and/or groundfish fishery if they do not have catch history in the fishery during the moratorium eligibility period.

The details of this two phase rationalization program are set out in the accompanying pages.

Council staff would be expected to utilize the period of the moratorium to complete analysis of the various ITQ options set forth in the following pages; and to present that analysis to the Council family for review and final Council action in time for implementation no later than January 1, 1997.

INTEGRATED FISHERIES RATIONALIZATION PROGRAM

PHASE I: MORATORIUM PROVISIONS

I. CERTIFICATE.

Each qualifying vessel (as defined below), upon application by its current owner, shall be issued a certificate which identifies the vessel as follows:

1) As involved in one or more of the management areas:

- a) Bering Sea/Aleutian Islands
- b) Western Gulf
- c) Central Gulf
- d) Eastern Gulf

2) By size

3) As catcher, catcher-processor or mothership (designate one) based on activity during 3-year period prior to June 24, 1992. The vessel shall also be identified, by its 1993 activity as inshore or offshore.

4. As involved in harvesting one or more of the following target species by designated area as follows (each designation of area/target species shall be further identified as pre- and/or post-June 24, 1992):

BSAI

pollock
Pacific cod
Atka mackeral
yellowfin sole
other flats
rockfish
squid (fixed gear)
rocksole
turbot

GOA

pollock
Pacific cod
deepwater flats
shallow water flats
Atka mackeral
rockfish

CRAB

Use ADF&G Crab Management Registration Areas

BSAI

Bristol bay red king crab
Pribilof Islands and St.
Mathew Island blue king
crab

Area T

Area Q

Dutch Harbor red king crab	Area O
Dutch Harbor brown king crab	Area O
Adak red king crab	Area R
<u>BSAI</u>	
Adak brown king crab	Area R
Norton Sound red king crab	Area Q
Bering Sea bairdi	
Bering Sea opilio	

Underutilized Species *

* Species which are not currently target species

Squid	BSAI
Other Species	BSAI, Western Gulf, Central Gulf, Eastern Gulf
Arrowtooth Flounder	BSAI, Western Gulf, Central Gulf, Eastern Gulf

Qualifying Vessel. In order to qualify, a vessel must have made a reported landing in at least one of the moratorium fisheries during the period January 1, 1980 through June 24, 1992 and at least one reported landing between June 25, 1992 and December 31, 1994. Subject to other restrictions stated below, a replacement vessel may qualify if the vessel lost or destroyed made a reported landing during the year prior to June 24, 1992.

Term of Moratorium. 3 years, unless sooner rescinded or replaced by the Council/Secretary of Commerce. After 3 years, it may be extended by the Council/Secretary of Commerce if a permanent limited access program is imminent.

Crossovers During Moratorium. No restrictions are intended by this moratorium; provided, any new area/target species must be reported on a form provided by NMFS prior to the fishing taking place; and provided, further, that such new area/target species may receive no consideration in a permanent limited access program.

No vessel crossover, between groundfish and crab, either way, will be permitted unless the vessel has catch history established during moratorium qualifying period as identified above.

No vessel crossover between IFQ sablefish and/or halibut holders and groundfish and crab will be permitted unless the IFQ sablefish and/or halibut vessel has catch history established during the groundfish/crab moratorium qualifying period as identified above.

Reconstruction During Moratorium. The moratorium is not intended to restrict the fishing privileges of a vessel due to reconstruction which was physically underway before June 24, 1992. If a

reconstruction commences on or after June 21, 1992, any increase in length, due to the reconstruction, shall not exceed 20% of the vessel's original length overall (LOA) or 125 feet, whichever is less. Reconstruction of vessels over 125 feet LOA must not increase the length of the vessel. Reconstruction commencing on or after June 24, 1992 may be done only once during the moratorium.

Replacement of Vessels During the Moratorium. During the moratorium, qualifying vessels can be replaced with non-qualifying vessels so long as the replaced vessel leaves the fishery. Though multiple or sequential replacements are allowed, vessel length can only be increased subject to the 20% Rule. In the case of existing qualified vessels over 125 feet LOA, the replacement vessel cannot exceed the length of the original vessel. In the event of a combined replacement/reconstruction, increase in LOA may not exceed the 20% Rule.

Replacement of Vessels Lost or Destroyed On or After January 1, 1989, but Before (insert the effective data of the moratorium). Vessels lost or destroyed on or after January 1, 1989, may be replaced provided the following conditions are met. (1) The LOA of the replacement vessel does not exceed the 20% Rule. (2) The replacement vessel must make a landing in a moratorium fishery prior to (insert a date two years after the effective data of the moratorium) to remain a qualified vessel. The replaced vessel would no longer be a moratorium qualified vessel.

Replacement of Vessels Lost or Destroyed After (insert the effective date of the moratorium). Vessels lost or destroyed after (insert the effective date of the moratorium) may be replaced subject the 20% Rule and the replaced vessel would no longer be a moratorium qualified vessel.

Salvage of Vessels Lost or Destroyed On or After January 1, 1989. A moratorium qualified vessel lost or destroyed between January 1, 1989 and the end of the moratorium may be salvaged and will be considered a moratorium qualified vessel, as long as it has not already been replaced, as per item 5 above.

Salvage of Vessels Lost or Destroyed Before January 1, 1989. A moratorium qualified vessel lost or destroyed before January 1, 1989, may not be replaced. The lost or destroyed vessel may be salvaged and become moratorium qualified if it meets the following two conditions: (1) Salvage operations must have been ongoing as of June 24, 1992. (2) The salvaged vessel must make a landing in a moratorium fishery prior to (insert a date two years after the effective date of the moratorium).

Small Vessel Exemptions. Vessels 32 ft or less LOA would be exempted from the moratorium in the BSAI.

Disadvantaged Communities. New vessels constructed after implementation of CDQ programs, pursuant to an approved CDQ project, will be exempt from the moratorium. In order to qualify for such exemption the vessel must: (1) be constructed solely for the purpose of furthering the goals of a community CDQ project, and (2) be a specialized vessel designed and equipped to meet the needs of a community or group of communities that have specific and unique operating requirements. Such exemptions would be limited to vessels 125 ft LOA and under. These vessels may fish in both CDQ and non-CDQ fisheries. Vessels built pursuant to a CDQ project under this exemption that are transferred to a non-CDQ entity during the life of the moratorium may not be considered eligible under the moratorium.

Halibut and Sablefish Fixed Gear Vessels. Halibut and sablefish fixed gear vessels operating under the provisions of the proposed IFQ Amendment will be exempted from the vessel moratorium as it affects directed halibut and sablefish operations. Such an exemption becomes effective at the time of implementation of the IFQ program. Non-qualifying vessels entering the halibut and sablefish fisheries under this exemption may not participate in any other directed fisheries under the Council's authority. If the total retained catch of species other than halibut and sablefish exceeds 20% of the total weight of sablefish and halibut on board, then the vessel must be a moratorium-qualified vessel.

Transfer of Moratorium Rights. It shall be assumed that any transfer of vessel ownership includes a transfer of moratorium fishing rights. Moratorium rights may be transferred without a transfer of ownership of the original qualifying vessel or any subsequently qualified vessel. The recipient of such transfers of rights will bear the burden of proof for moratorium qualification. Transfers of moratorium rights may not be used to circumvent the 20% Rule.

Appeals. Persons who own vessels which are found to be ineligible under the moratorium may appeal this finding to the Regional Director, Alaska Region, NMFS. In making his determination with regard to the appeal, the Regional Director may consult with an Appeals Board consisting of representatives of the fishing industry.

IFQs - GROUND FISH AND CRAB

PHASE II: ITO SYSTEM

SPECIES FOR INCLUSION

Option A: All species under Council jurisdiction, including PSCs.

Option B: Under Option A, a percentage (either 45% or historical split) of BSAI Pacific cod would be set aside for a fixed gear License Limitation program.

Option C: All species under Council jurisdiction, including PSC, excluding demersal shelf rockfish.

AREAS

IFQs for all species and PSCs will be awarded based on current management areas.

CRITERIA FOR INITIAL QS QUALIFICATION

Initial QS will be awarded to vessel owners as of the date of final Council action, based on the catch history of their vessel(s). In addition, the Council is considering the following:

Suboption: For GOA fixed gear fisheries, allocate initial QS to owner at time of landing.

The Council also is considering the following recent participation requirement for QS qualification:

Option A: Vessel must have made a recorded landing in any year of the three-year period before June 24, 1992 **and in any year of the** 3-year period before date of final Council action. If vessel is lost during this period, owner at time of loss is still eligible.

Option B: Must be a moratorium qualified vessel.

COMMUNITY DEVELOPMENT QUOTA (CDQ) CONSIDERATIONS

In addition to allocating QS to current vessel owners, the Council may make initial allocations to CDQs as shown below:

Option A: No allocations to CDQs.

IFQs - GROUND FISH AND CRAB

Option B: Initially allocate 3%, 7.5%, 10%, or 15% (options range up to 15%) as CDQs; may apply to any or all groundfish/crab species, but only for BSAI communities meeting current CDQ eligibility requirements, patterned after current pollock CDQ program, with no sunset provisions.

Option C: CDQs may be converted to ITQs.

SKIPPER CONSIDERATIONS

The Council is also considering the following options for including skippers in the IFQ program.

Option A: No allocations to skippers.

Option B: Initially allocate 3%, 5%, or 10% (options range up to 10%) to 'bona fide' skippers (based on landings attributable to each skipper, or based on time spent in a given fishery).

Suboption A: For the purposes of initial allocations, a 'bonafide skipper' is any skipper who ran a vessel and landed groundfish or crab in a relevant fishery.

Suboption B: QS allocated under Option B shall form a separate QS pool. Subsequent transfers of QS in this pool shall be restricted to 'bona fide skippers.' For the purposes of subsequent transfers, a 'bona fide skipper' is any individual who received an initial skipper pool QS allocation or any individual who meets an industry approved 'professionalization qualification scheme.' (The intent is to provide for an entry-level access mechanism and to promote safety through professionalization. The qualifications cannot be overly restricting so as to create a closed class.)

PROCESSOR CONSIDERATIONS

The following options are being considered relevant to processors:

Option A: Assign separate processor QS (2-pie system). See separate description for elements of this program.

Option B: Require a minimum percentage of harvest IFQs to be delivered shoreside (% will be based on last two years' average for each species for BSAI & GOA separately).

Option C: Direct allocation of harvesting QS to catcher boats, catcher-processors and shorebased processors (1-pie

IFQs - GROUND FISH AND CRAB

system).

Note: The analysis will include the impacts of providing no protection to onshore processors.

IFQs - GROUND FISH AND CRAB

INITIAL QS CALCULATION

The following primary options are being considered for calculating QS of qualified recipients (all options will be analyzed on the basis of retained (when available) and reported catch):

Option A: QS based on catch of vessel from 1982 to either June 24, 1992 or date of final Council action (pre-1984 JV catch assigned based on average by fishery, by year, for vessels which participated).

For Option A, the following suboptions are being considered for weighting factors:

Suboption A: No weighting by sector.

Suboption B: Weight DAP 3.5:1 JV.

Suboption C: Weight DAP 2:1 JV.

Option B: QS based on catch of vessel from date of full DAP (by species) to either June 24, 1992 or date of final Council action.

Option C: QS based on catch of vessel from 1993 only.

Option D: Analyze QS based on catch for 1991-92-93.

Suboption A: Analyze QS for GOA pollock and P. cod based on catch for 1991-92-93 and for BSAI P. cod for 1991-92-93.

Option E: Use a formula that blends credit for catch history and recent participation, such as:

$$\%QS = W_1 (\text{Recent year(s)}) + W_2 (\text{weighted DAP} + \text{JVP})$$

In addition to the options shown above, the Council is considering the following possible alternatives which are specific to Pacific cod in the BSAI. If either of the options below is chosen, the calculation alternatives shown above would still apply for the remaining fisheries.

Option A: Allocate Pacific cod QS at 45% for fixed gear recipients/55% for trawl gear.

Option B: Allocate Pacific cod QS by gear types based on historical split. We will examine: (1) back to 1982, (2) back to date of full DAP for Pacific cod, and (3) 1993 only to determine historical split.

Unless otherwise directed, same initial QS calculation options apply to divide QS among participants in each sector.

*Dropped
Some options
vs 1991-92-93*

AF-7A

IFQs - GROUND FISH AND CRAB

Whichever option is chosen, QS amounts for each species will be calculated based on catch, then adjusted based on average bycatch rates (or industry-derived bycatch rates) to achieve initial 'bundles' of target/bycatch species and PSC species. The Council has discussed the issue of basing QS calculations on retained, as opposed to reported, catch. As noted earlier, options will be analyzed on the basis of retained, when available, and reported catch.

TARGET/BYCATCH CALCULATIONS

For the QS calculation alternatives described above, the following species will be considered target species:

<u>BSAI</u>	<u>GOA</u>
pollock	pollock
Pacific cod	Pacific cod
Atka mackerel	deepwater flats
yellowfin sole	shallow water flats
other flatfish	Atka mackerel
rockfish	rockfish
squid (fixed gear only)	Rex sole
rocksole	Flathead sole
turbot	

Crab

BSAI

Bristol Bay red king crab	Area T
Pribilof Islands and St.	
Mathews Island blue king crab	Area Q
Dutch Harbor red king crab	Area O
Dutch Harbor brown king crab	Area O
Adak red king crab	Area R
Adak brown king crab	Area R
Norton Sound red king crab	Area Q
Bering Sea bairdi	
Bering Sea opilio	

Undeveloped and Underutilized *

* Species which are not currently target fisheries

IFQs - GROUND FISH AND CRAB

BSAI

Squid (except fixed gear)

All FMP Areas

Other species
Arrowtooth flounder

Option A: A vessel receiving ITQs in a Council FMP Area will also receive ITQs for each underutilized species in the FMP Area. The ITQ expressed as a percentage will be calculated as the tonnage of the vessel's total initial groundfish ITQs for the utilized species divided by the total tonnage for utilized species ITQs at the time of initial allocation.

Should a species be broken out of the Other species category as a separate TAC species, a vessel holding other species ITQs will receive an ITQ for the new species TAC equal to the vessels ITQ for Other species expressed as a percentage.

Option B: Undeveloped and underutilized species will be available for open access.

TRANSFERABILITY PROVISIONS

Any or all of the following options may apply:

Option A: No restrictions.

Option B: Two year restriction on sales only (could lease).

Option C: For crab fisheries only, non-transferable across catcher vs. catcher/processor categories.

Option D: Restriction on QS transfers between inshore and offshore sectors. Range (of duration) for analysis to include 5 years, 10 years, and no transfers. This applies to both groundfish and crab.

With regard to PSC QS/IFQ, 3 options are being considered:

Option A: PSC QS/IFQ are tied to initial bundles and are not transferable.

Option B: PSC QS/IFQ are tied to initial bundles and must be transferred with bundles.

Option C: PSC QS/IFQ are transferable separately from the initial bundles.

IFQs - GROUND FISH AND CRAB

USE/OWNERSHIP PROVISIONS

The following options are being considered relative to accounting under the IFQ program. These options will affect an operator's ability to match IFQs to catch, and also relate to the ability to manage the program effectively within the overall TACs.

Option A: Must control IFQs to cover expected catch before fishing.

Option B: Overage program as with sablefish and halibut program.

The following use/ownership provisions may also be considered by the Council:

Option A: Use United States anti-trust laws to govern ownership

Option B: Ownership caps would be set at .1%, 1%, 5%, 10%, 30% or any number in that range and would apply to the BSAI and GOA separately. Same caps would apply to the skippers' quota share pool. Skippers' shares keep their identity after initial distribution. Initial allocants would be grandfathered.

Flexibility Provision Designed to Accommodate Large Ecosystem Changes **

** Gulf of Alaska

Option A:

Definitions

Threshold - average TAC, by target species, calculated over the years 1984 -1993

Reduced TAC - TAC, by target species, equals 50% of threshold

Expanded TAC - TAC, by target species, equals 150% of threshold

Expanded ITQ Pool - TAC, by target species, tonnage above the expanded TAC

All Species Except C/W Gulf Pollock

Holders of ITQ for a target species whose TAC becomes less than the "reduced TAC" are eligible to request that all or a portion of that ITQ be converted to an ITQ for a species, if any, in which an expanded ITQ Pool exists. The converted ITQ is limited to an equivalent percentage of the tonnage available in the expanded ITQ Pool.

Converted ITQs are non-transferable and must be applied for annually. Any tonnage in a species expanded ITQ Pool not used for

IFQs - GROUND FISH AND CRAB

conversions will be issued to the holders of transferable ITQs for that species on an annual basis.

Central/Western Gulf Pollock

Initial ITQs for Central/Western Gulf pollock will be based on years 1991-92-93. To be eligible a vessel must have made pollock deliveries in at least two fishing periods, in at least one of the three years 1991-92-93.

Transferable "Expanded TAC Pool" ITQs for central/western Gulf pollock will be issued to all vessels based on catch history for the years 1982-1990. The pollock expanded TAC Pool ITQs apply only to the tonnage, if any, available in the expanded ITQ pool for central/western Gulf pollock.

Option B: No provision for ecosystem changes.

GENERAL PROVISIONS

- * Allocations represent a use privilege; however, the Council could alter or rescind the program without compensation.
- * Council should pursue some level of administrative fee extraction to fund program, if Magnuson Act is amended.
- * Ownership

Option A: The U.S. ownership definitions used in the Halibut/Sablefish IFQ regulations should be used in analyzing both the initial issuance and the subsequent transfer of QS/IFQs.

Option B: Examine the implications of foreign ownership including an analysis of the Pacific Council's foreign ownership provisions.

Option C: Examine the implications of status quo ownership, documentation and grandfather provisions of existing law.

Option D: Analyze the State of Alaska's 75% U.S. ownership provision from their GLS proposal.

Option E: Analyze a provision for 75% U.S. ownership at the time of future quota share transfers.

- * Analysis of the impact of various fee collection levels and mechanisms is required. This analysis will differentiate between administrative fees and rents. The total administrative and research plan fee level shall not exceed 4% of the unprocessed, ex-vessel value of the resource harvested.

IFQs - GROUND FISH AND CRAB

* Any consideration of economic rent collection should recognize the impacts of all administrative and research plan assessments as well as the tax implications of ITQ share transfers.

PROCESSOR QUOTAS - GROUND FISH AND CRAB

SPECIES FOR INCLUSION

Option A: All species for which IFQs are issued, except longline sablefish, halibut, demersal shelf rockfish, and PSCs.

AREAS

Processor shares/individual processor quotas (PS/IPQs) are not area specific.

CRITERIA FOR INITIAL PS QUALIFICATION

Initial PS will be awarded to current processor (shorebased or at sea) owners as of the date of final Council action, based on the processing history of their processor(s). In addition the Council is requiring that a processor must have processed groundfish/crab in the three-year period before December 31, 1993 and/or the three-year period before the date of final Council action. If processor is lost during this period, owner at time of loss is still eligible.

Option A: PS designated by inshore and offshore sectors.

Option B: PS is not designated by inshore/offshore sectors.

In addition, the Council is considering the following suboption:

Suboption: For all GOA fixed gear fisheries, allocate to processors at the time of processing.

COMMUNITY DEVELOPMENT QUOTA (CDQ) CONSIDERATIONS

In addition to allocating PS to current processor owners, the Council may make initial allocations to CDQs as shown below:

Option A: No allocations to CDQs.

Option B: Initially allocate 3%, 7.5%, 10%, or 15% (options range up to 15%) as CDQs; may apply to any or all groundfish/crab species, but only for communities meeting CDQ eligibility requirements patterned after the current BSAI pollock CDQ program, with no sunset provision.

PROCESSOR QUOTAS - GROUND FISH AND CRAB

INITIAL PS CALCULATION

The following primary options are being considered for calculating PS of qualified recipients. Whichever option is chosen, PS amounts for each species will be calculated based on fish tickets and weekly processor reports, then adjusted based on average bycatch rates to achieve initial 'bundles' of target/bycatch.

- Option A: PS based on activity by processor from 1984 to either December 31, 1993 or date of final Council action.
- Option B: PS based on activity by processor from date of full DAP (by species) to either December 31, 1993 or date of final Council action.
- Option C: PS based on activity by processor from January 1993 to date of final Council action.
- Option D: Based on retained catch rather than reported catch, where data available.

TRANSFERABILITY PROVISIONS

Any or all of the following options may apply:

- Option A: No restrictions.
- Option B: Two year restriction on sales only (could lease).
- Option C: Non-transferable between fixed and mobile processors.
- Option D: Transferability between inshore and offshore processors to be limited such that inshore processing is not less than the current inshore proportion of total processing ("current proportion" to be based on last two years' average processing activity by species, for BSAI and GOA separately).

PROCESSOR QUOTAS - GROUND FISH AND CRAB

USE/OWNERSHIP PROVISIONS

Option A: Must control IPQs to cover expected processing before activity.

Option B: Overage program as with sablefish and halibut program.

The following use/ownership provisions may also be considered by the Council:

Option A: Use United States anti-trust laws to govern ownership.

Option B: Ownership caps would be set at 0.1%, 1%, 5%, 10%, 30%, or any number in that range and would apply to the BSAI and Gulf separately.

GENERAL PROVISIONS

* Allocations represent a use privilege; however, the Council could alter or rescind the program without compensation.

* Council should pursue some level of administrative fee extraction to fund program, if Magnuson Act is amended.

* Ownership

Option A: The U.S. ownership definitions used in the Halibut/Sablefish IFQ regulations should be used in analyzing both the initial issuance and the subsequent transfer of PS/IPQs.

Option B: Would examine the implications of foreign ownership including an analysis of the Pacific Council's foreign ownership provisions.

Option C: Examine the status quo ownership.

Option D: Analyze the 75% U.S. ownership provision in the State of Alaska's GLS proposal as it applies to processors.

Option E. Analyze the 75% U.S. ownership provision at the time of transfer of QS.

* An analysis of the impact of various fee collection levels and mechanisms is required. This analysis will differentiate between administrative fees and rents. The total administrative and research plan fee level shall not exceed 4% of the unprocessed value of the resource harvested.

* Any consideration of economic rent collection should recognize the impacts of all administrative and research plan assessments as well as the tax implications of IPQ share transfers.

TO: NPFMC

Vessels that complied with the moratorium rules as adopted by the Council should not now be disqualified by the technical writing of the regulations in the Federal Register.

The under signed request that the Council advise the Regional Director to amend the definition of "original qualifying length" to be equal to LOA as of June 24, 1992 in accordance with the original council intent.

1. Fred Yeh Vice President MTC (midwater trawlers)
WOP
2. Alvin Burch AQA
3. Joseph J. Tesha GENERAL COUNSEL TRIDENT
4. David Dadeha ALASKA GROUND FISH BANK
DATE
5. Mark Kandelman Kodiak Fish Co.
6. Beth Stewart Aleutians East Borough
7. John J. Gunn UNITED CATCAPER BOATS (55)
8. Jelly J. Dept UFMA
9. Wanda M. M... NPLA
10. Brian Ray WCP
11. Paul Peyton Alaska Seafood Investment Management Co
12. Randy M... Emerald Resource Management, Inc.
13. John Hewlett GOLDEN AGE FISHERIES
14. Janice Gunn PSPA
15. Dee Deay Royal Seafoods, Inc
16. Mike Atterberry ALASKA OCEAN SEAFOOD (3)
17. Joseph Blum American Factory Trawler Association
18. Wes Tanning Alaska Crab Coalition

Faint, illegible handwritten text at the top of the page, possibly including a header or introductory lines.

Second section of faint, illegible handwritten text, appearing as several lines of a letter or document.

Third section of faint, illegible handwritten text, continuing the main body of the document.

Final section of faint, illegible handwritten text at the bottom of the page, possibly including a signature or closing.

INCONSISTENCY IN PROPOSED RULE FOR MORATORIUM

The proposed rule defines an "eligible vessel" as one that has an LOA that is less than or equal to the "maximum LOA."

"Maximum LOA" is defined as a function of the "original qualifying length."

"Original qualifying length" is defined as registered length of an original qualifying vessel that appears on the application for documentation submitted to the USCG prior to June 24, 1992.

Problem:

Eligibility is based on the actual LOA of the vessel at time of application but is measured against an inconsistent standard of registered length on June 24, 1992.

Registered length is not in and of itself even a consistent standard. There is one set of rules for determining registered length based on whether the vessel is 79 ft. LOA or greater and another set of rules for vessels under 79 ft. LOA. Also the rules are different depending on the last date the vessel was measured pursuant to USCG admeasurement regulations. Example: a vessel 76 ft. LOA admeasured recently would have a registered length of also 76 ft. However, the same vessel if it was admeasured 10 years ago would have a registered length of approximately 66 ft. Vessels over 79 ft. of length in most cases will have a registered length of 15 to 20% less than LOA.

As a result of these inconsistencies in the proposed rule most vessels that were reconstructed during the past two years that involved an increase in length would be disqualified from further participation in the fisheries even though they followed the council adopted moratorium to the letter. The council published a document called "True North" to help the public conform to the law during the interim between the council adopting the moratorium and the time in which the moratorium would be published in the Federal Register. Vessel owners that used "True North" as a guide this past two years while re-constructing their vessel to increase stability and to modernize their equipment would not receive a moratorium permit under the proposed rule.

In addition many vessels that have not been reconstructed would also be disqualified including almost all vessels over 125 ft., because their maximum LOA is limited to their registered length.

Solution:

Amend definition of "original qualifying length" to equal LOA as of June 24, 1992 in accordance with original council intent. Require applicant to establish LOA as of June 24, 1992 by sworn affidavit and verified by a copy of the vessel survey issued prior to that date. If LOA is not accurately reflected in a survey issued prior to June 24 1992, verification shall be by affidavit of a marine surveyor, copy of the original construction plans for the vessel, affidavit of a Naval architect or such other verification as may be required by the Regional Director.



ALASKA OCEAN SEAFOOD

LIMITED PARTNERSHIP

June 7, 1994

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
PO Box 103136
Anchorage, AK 99510

Re: Agenda Item C-3 (a) (b) / Comprehensive Rationalization Program / Alternatives and Proposed Moratorium Regulations

Dear Mr. Lauber:

These comments are filed on behalf of Alaska Ocean Seafood Limited Partnership as well as Auriga and Aurora General Partnership, to make the Council aware of our views concerning the proposed moratorium regulations as well as the appropriate relationship between the moratorium and a license limitation program. I am a partner in and general manager of these companies, which own and operate the ALASKA OCEAN, a modern surimi factory trawler; and the AURIGA and AURORA, two modern refrigerated sea water trawlers that deliver catches to shoreside processing facilities.

My partners and I supported the Council's decision to impose the moratorium. We believe, however, that certain provisions of the proposed regulations are inconsistent with the moratorium's goals and are unacceptable. In addition, we feel that the permit system contemplated by the proposed regulations, if properly implemented, would allow the Council to bypass consideration of a license limitation program and to proceed directly to consideration and implementation of an ITQ program.

I. BACKGROUND

On June 24, 1992, the Council voted to implement a vessel moratorium, pursuant to which new vessels were prohibited from entering the affected fisheries after February 9, 1992. At the same time, the Council established a "control date" of June 24, 1992, and alerted the industry that catch histories after that date might not be included in determining allocations of TAC under future CRP programs. The Council described the moratorium's goals as follows:

Mr. Richard Lauber
June 7, 1994
Page 2

- (1) to freeze the size and harvesting capacity of the North Pacific fleet;
- (2) To prevent further speculative increases in capacity; and
- (3) To give industry and fishing managers a starting point from which to design a CRP for the North Pacific Fisheries.

In short, the moratorium is directed at the problem of overcapitalization in the industry. Toward that end, the Council both prohibited the entry of new vessels into the industry, and restricted reconstruction that increases the capacity of harvester vessels.

II. THE PROPOSED QUALIFICATION PERIOD IS CONTRARY TO THE MORATORIUM'S GOALS AND THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

A. Inconsistency with Moratorium Goals.

Under the proposed regulations, a vessel would qualify under the moratorium if it did no more than make one token landing in the groundfish, crab, or halibut fishery any time between January 1, 1980 and February 9, 1992. A better approach would be to qualify only those vessels that made documented harvests during any of the three (3) years immediately preceding June 24, 1992. This would go a long way toward insuring that only those who are presently involved in the affected fisheries are allowed to continue that involvement. In contrast, if implemented, the proposed rule, if adopted, would have several undesirable and unwarranted effects.

First, because the proposal reaches back to capture vessels that harvested in any on of the affected fisheries at any time since January 1, 1980, it will undoubtedly capture a number of vessels that are no longer involved in any of the affected fisheries. This will allow vessels that are not now part of the fleet to "re-enter" it, thus contributing to rather than curtailing overcapitalization. Even if these same vessels do not return, the transferability and lost vessel replacement provisions of the proposed regulations will allow owners of qualified inactive or lost vessels to sell moratorium eligibility to vessels that do not otherwise qualify under the moratorium.

Secondly, the proposed regulations do not impose any minimum poundage for qualification. This will permit qualification on the basis of one token landing, even though the vessel does not and never has otherwise participated in the affected fisheries. Again, this result contributes to rather than curtails overcapitalization.

B. Inconsistency with the Magnuson Fishery conservation and Management Act (the Act).

In addition to the fact that the proposed qualification period actually fosters what the moratorium is designed to prevent, it also is contrary to the mandates of the Act, especially the National Standards and Section 303 (b) (6).

1. National Standards

(a) National Standard 1 requires that management and conservation measures be aimed at obtaining optimum yield. "The council ... determined that the moratorium would aid in the achievement of optimum yield by freezing the number of vessels allowed to participate in these fisheries ..." 59 Fed. Reg. 28828 (June 3, 1994). As noted above, however, the qualifying period would serve to encourage the addition of vessels to the fleet; hence, the proposed qualifying period is contrary to both National Standard 1 and the Council's own perception of the moratorium's intended effect.

(b) National Standard 4 requires conservation and management plans that allocate fishing privileges among U.S. fishermen to be fair and equitable, to be reasonably calculated to promote conservation, and to avoid acquisition of excessive shares.

- The proposed qualification period would be neither fair nor equitable. It would qualify vessels that are no longer in the affected fisheries and vessels whose past participation in those fisheries has been merely token, and allow those vessels to compete with those who are fully and actively participating in the affected fisheries at the present time.
- The proposed qualification period is not calculated to promote conservation. The Council, throughout its five-year consideration of the moratorium, has consistently reiterated the conservation problems that are caused by overcapitalization. Because this qualifying period would increase overcapitalization, it would serve only to exacerbate those problems.
- The proposed qualification period would result in the acquisition of excessive shares by qualifying vessels no longer in the fisheries and vessels that participated on a token basis.

(c) National Standard 5 requires conservation and management measures to promote efficiency in the utilization of fishery resources. The comments with respect to National Standards 1 and 4 are germane here as well.

(d) National Standard 6 requires conservation and management measures to avoid unnecessary duplication. This Standard is scarcely met by a proposal that would encourage overcapitalization.

2. Section 303 (b) (6).

This Section permits establishment of a limited entry system such as the moratorium, but only if its purposes are to achieve optimum yield and only if certain factors are considered. It has already been noted that the qualification period runs counter to the goal of obtaining optimum yield. In addition, it ignores the relevant factors specified in this Section, especially those that relate to present participation and investment in the fisheries.

It is particularly significant that, in submitting the proposed regulations of the Secretary, the Council reasoned that use of a later qualifying date "would have restricted the size of the fleet eligible to participate during the moratorium period only to current or very recent participants." 59 Fed. Reg. 28828 (June 3, 1994). In other words, the Council acknowledged that the proposal will qualify vessels that are no longer in the fisheries, and that it is effectively ignoring the mandates of Section 303 (b) (6).

III. THE CROSSOVER PROVISIONS ARE CONTRARY TO THE MORATORIUM'S GOALS.

Under the proposed regulations, a qualifying vessel may freely move from the crab fishery to the groundfish fishery to the halibut fishery, ad infinitum, even if the vessel no longer participates in any of those fisheries and even if its past participation was in only one of those fisheries. Similarly, moratorium qualifications can be transferred from a vessel that engaged in one of the fisheries to a vessel that will engage in another of the fisheries.

The result of this proposal will be somewhat akin to the movement of air when one squeezes a balloon - overcapitalization will simply shift back and forth from one fishery to another. This is especially true with respect to halibut vessels that did not receive ITQ's or received ITQ's that are perceived to be inadequate.

Mr. Richard Lauber

June 7, 1994

Page 5

As a result, the proposal, rather than curtail overcapitalization, will cause overcapitalization to increase in one or more of the affected fisheries while decreasing in another. This certainly appears to defeat the moratorium's goal of providing the Council with a "snapshot" of the industry.

IV. THE CDQ EXEMPTION IS CONTRARY TO THE GOALS OF THE MORATORIUM AND TO THE ACT.

The proposed regulations would exempt CDQ vessels from the moratorium and thus would allow CDQ-qualified communities to continue to add capacity to the existing fleet. Thus, the proposal will simply encourage construction of more vessels that can harvest the CDQ, or the open-access allocation, or both.

This is obviously contrary to the moratorium's goal of curtailing overcapitalization. That goal would be far better served if CDQ communities were limited to acquiring vessels from the existing, moratorium-qualified fleet, and if those who harvest CDQ's were precluded from harvesting any other allocation. In that case, overcapitalization in the open-access segment of the industry would actually be reduced.

In addition to conflicting with the moratorium's goals, the CDQ exemption and the entire CDQ program are contrary to the Act. This point is more fully discussed in Alaska Ocean's comments on CDQ's, filed with respect to Agenda Item C-3(c). A copy of those comments are contained in your meeting books.

V. THE PROPOSED PERMIT SYSTEM, WITH MINOR MODIFICATIONS, WOULD ALLOW THE COUNCIL TO BYPASS CONSIDERATION OF A LICENSE LIMITATION PROGRAM.

The proposed regulation posits a permit system pursuant to which the affected fisheries could be accessed only by vessels holding federal permits. Permits would not be issued to vessels not qualified or exempted from the moratorium and the permits would be delineated by vessel size. It is our position that the permits should also be delineated by fishery - crab, halibut or groundfish, and that transfers of permits from one fishery to another should not be allowed.

So modified, the permit system would serve to formalize qualification under the moratorium and would allow the Council to move directly toward implementing an ITQ program, rather than taking the intervening step of a license limitation program. We believe that a license limitation program such as that proposed by the State of Alaska improperly and unnecessarily attempts to resolve all CRP issues in the context of what is intended to be no more than an interim measure.

Mr. Richard Lauber
June 7, 1994
Page 6

For example, the State of Alaska program would:

- (1) Issue licenses only to owners of vessels that fished in each of the three years prior to June 24, 1992. This would exclude some vessels that qualify under the moratorium, even as limited by our qualifying period proposal, and would add complicating issues such as exceptions for various reasons that may have caused a failure to fish during a given year.
- (2) Examine the possibility of imposing heightened citizenship requirements on the recipients and transferees of licenses. This, again, would exclude vessels that qualified under the moratorium, raises very serious legal questions about the Council's authority to impose such requirements, and would impose on the Council authority and responsibility for making citizenship determinations, a function for which it is neither chartered nor qualified.
- (3) Consist of licenses that could delineate on the basis of five (5) different management areas; twelve (12) different species; catcher and catcher/processor designations; inshore/offshore designations; and various categories based on vessel length. The task of analyzing and evaluating the myriad permutations potentially available under this proposal will be daunting, to say the least. If CRP is to be truly rational, however, such analysis and evaluation must occur - but within the larger context of an ITQ program, not in the context of what is intended to be no more than an interim measure.

Thank you for your consideration of our views.

Sincerely,



Jeff Hendricks, for
ALASKA OCEAN SEAFOOD L.P. and
AURIGA AND AURORA G.P.



KLAWOCK COOPERATIVE ASSOCIATION

**P. O. Box 112
Klawock, Alaska 99925
(907) 755-2265**

"Site of the First Salmon Cannery Built in Alaska"

June 10, 1994

Council Members
North Pacific Fisheries Management Council
605 West Fourth Avenue
Anchorage, Alaska 99501

Re: Comprehensive Rationalization Plan
Groundfish and Shellfish

Members of the Council:

I am the President of the Native Village of Klawock, which is located on Prince of Wales Island in Southeast Alaska, organized under the name, "Klawock Cooperative Association." Klawock is both a village under the Alaska Native Claims Settlement Act and a tribal organization under the Indian Reorganization Act.

The community of Klawock requests that the Gulf of Alaska, and communities similarly situated to Klawock located within that region, be included in any future individual fishing quota system and community development quota program for groundfish and shellfish.

Klawock is slowly being "squeezed out" of the fisheries located in the waters outside our community. We have fished these waters historically before any commercial development took place. We have continued to fish, both commercially and for subsistence purposes, after commercial efforts began. While limited access is a sound management effort, members of our community will continue to receive an ever-diminishing allocation for these species. The Council could help remedy this by allowing Klawock, and similarly situated communities in the Gulf of Alaska, to participate in any IFQ and CDQ programs for groundfish and shellfish management plans.

Council Members

June 10, 1994

Page 2

We respectfully request and strongly urge the Council to include communities in the Gulf of Alaska similar to Klawock, as well as the tribal community of Metlakatla, in future limited access management plans.

We have included economic and statistical information regarding Klawock. Please let me know if there is any additional information we can provide to assist the Council in its deliberations.

Sincerely,

A handwritten signature in cursive script that reads "Roseann Demmert". The signature is written in black ink and is positioned to the right of the typed name.

Roseann Demmert