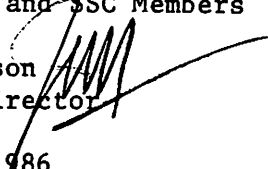


MEMORANDUM

TO: Council, AP and SSC Members

FROM: Jim H. Branson 
Executive Director

DATE: January 8, 1986

SUBJECT: Management of Fully-utilized Species

ACTION REQUIRED

Review NMFS request to prepare a regulatory amendment for the Gulf of Alaska and Bering Sea/Aleutian Islands FMPs to address the issue of area closure when a single species OY is reached and provide recommendations to Regional Director.

BACKGROUND

In March 1985 the NMFS Central Office informed the Council that Gulf of Alaska regulations did not allow further groundfish fishing when an OY for any single species was reached in an area. At that time we were rapidly approaching the Eastern Area sablefish OY and once attained it would have prevented the fall rockfish fishery from being prosecuted. The Council advised the NMFS Regional Director to manage domestic fisheries to provide a buffer between the amount harvested by domestic fishermen and the OY. However, given the legal questions of closing the fishery below OY, the Regional Office examined other alternatives. Their interim solution, precipitated by the Alaska I incident in July 1985, was to publish an emergency rule that allowed groundfish fishing to continue by treating the closed species as a prohibited species. This emergency rule expired on December 31, 1985.

This year it's likely that OYs or TACs will be harvested in both the Gulf of Alaska and the Bering Sea/Aleutian Islands before the end of the year. Existing regulations will require area closures unless modified by emergency rule or amendment. The attached letter from Bob McVey recommends that the Council approve a regulatory amendment for both groundfish plans that would designate a species as prohibited when its OY/TAC is reached [item C-8(a)]. The Regional Director would have the flexibility to close or limit fisheries targeting on other species to prevent overfishing of the prohibited species.

These regulatory amendments fulfill the Central Office's request to address this issue. The Regional Office has nearly completed the regulatory amendment for the Gulf of Alaska and wants to submit it to the Secretary in the next few weeks. A regulatory amendment for the Bering Sea FMP could be in place by June. NMFS requests that the Council concur with at least the regulatory amendment for the Gulf of Alaska at this meeting so it could be implemented before the sablefish OY is taken. Final concurrence on the Bering Sea regulatory amendment could be put off until March if need be, but NMFS's preference is for a Council decision at this meeting. Authorization of regulatory amendments at this time is appropriate given that they are not bound by the Council's plan amendment cycle.



AGENDA C-8(a)
JANUARY 1986

**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service
P.O. Box 1668
Juneau, Alaska 99802

December 10, 1985

Jim Branson, Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, AK 99510

Dear Jim:

We would like to bring to the attention of the Council the need for greater inseason management flexibility in the Bering Sea and Aleutian Islands Management Area. This need is highlighted by the closure this September of the Bering Sea subarea to all fishing in waters deeper than 200 fathoms. The closure to all fishing by both foreign and U.S. vessels was required because the FMP's implementing regulations at 50 CFR § 675.20(a) (7) do not allow domestic fishing to be constrained until the combined foreign and domestic catch for a species reaches to total allowable catch (TAC); Further the regulations do not allow any fishing for other groundfish species to continue once the TAC for one species has been taken, unless the take of that species can be eliminated by area or gear restriction. In the case of sablefish in the Bering Sea, this meant that the domestic fishery was able to continue fishing after the sablefish DAP was achieved until the JVP and TALFF were taken also. The end result, as you know, was closure of the Bering Sea subarea in waters deeper than 200 fathoms. The sablefish fishery allowed us to define an area closure in terms of depth. By this means we were able to allow other fisheries such as pollock, Pacific cod and flounders to continue in depths less than 200 fathoms.

We would not have been so fortunate if the species for which the TAC was reached had been, for example, Pacific ocean perch. In that case we might have been required to close the entire area to all fishing, or at a minimum all bottom trawling. This would have severely disrupted not only the foreign and joint venture fisheries, but the developing domestic trawl fleet as well.

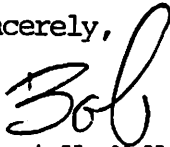
We expect this situation to occur again for one or more species during the second half of 1986. Therefore it is imperative that NMFS and the Council immediately address the issue of inseason management actions which are triggered by the achievement of established harvest levels for both 1986 and beyond. With the Council's concurrence, we would prepare a Regulatory Amendment to establish greater management flexibility in both the Gulf of Alaska and the Bering Sea/Aleutians Area to be effective in early 1986.



The Regulatory Amendment we propose makes permanent the regulatory language we promulgated as an emergency rule following the Alaska 1 case. Briefly, this gives the NMFS Regional Director the authority to close directed fishing for a single species upon achievement of OY or TAC. Following closure of the directed fishery, that species becomes a prohibited species in all target fisheries for other species. The Regional Director would have the flexibility, however, to close or limit fisheries targeting on other species to prevent overfishing of the prohibited species. For example, the Regional Director could close an area to all bottom trawling if the anticipated amount of prohibited species catch would result in overfishing. This proposal would not apply in the case where a JVP or TALFF fishery reached its quota. In that case, existing regulations would require closure.

We recognize the Regulatory Amendment we propose may not be the type of comprehensive controls the Council would adopt for subsequent years. We intend the proposed Regulatory Amendment to be only a short-term measure until the Council can address the issue in both FMPs. We strongly recommend the Council address the aforementioned issue during the upcoming groundfish amendment cycle.

Sincerely,



Robert W. McVey
Director, Alaska Region

Enclosure