

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



DATE: June 14, 1989

SUBJECT: Legislative Update

**ACTION REQUIRED**

None; informational only. Receive status report on current legislation and Magnuson Act Reauthorization.

**BACKGROUND**

Current Legislation

Dave Hanson has prepared the summary under item C-1(a) of fisheries legislation introduced to date in the 101st Congress. He is prepared to provide any additional details.

On April 15, 1989 an amendment to the Fur Seal Act (H.R. 2105) was introduced by Congressman Young which would provide continued access to certain fisheries in the Bering Sea. A copy of the bill is included in your notebooks as item C-1(b). The legislation proposes that the Secretary of Commerce allocate 10% of the applicable Bering Sea TAC to the Pribilof Islands should the Council and Secretary approve a limited access program.

Another bill of interest is the Territorial Sea Extension Act (H.R. 1405) that is intended to maintain present existing state rights over the 3-mile coastal zone following the Presidential Proclamation of the 12-mile territorial sea. A report on a hearing held by the Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee is provided as item C-1(c).

Magnuson Act Reauthorization

The current authorization period of the MFCMA expires on September 30, 1989. Both the Senate and the House held hearings on the Act in May at which Chairman Peterson testified. Hearings in the Pacific northwest and in Alaska have been scheduled for the following dates and locations:

August 8	Seattle	Subject: MFCMA and Fisheries
August 10	Cordova	Subject: Oil Spill
August 11	Anchorage	Subject: MFCMA and Fisheries

No federal legislation providing MFCMA amendments has been introduced to date. However, legislation has been introduced to authorize appropriations to carry out the MFCMA through fiscal year 1992. The bill (H.R. 2061) has been forwarded to the Merchant Marine and Fisheries committee for review. The bill currently shows \$75 million, \$76 million, and \$77 million being authorized for fiscal years 1990, 1991, and 1992, respectively.

On May 8 the Secretary of Commerce submitted a draft bill to Congress on proposed amendments to the MFCMA. A copy of the sectional analysis of their suggested amendments and a copy of the draft bill are provided in your notebooks as items C-1(d) and C-1(e). Of the fourteen amendments recommended by the

Council chairman, only six are included in the Commerce Department draft bill. The Chairmen's amendments not included are:

1. Amend Act to add a number (7) under Section 2(b) PURPOSES:  
(7) To eliminate the interception of United States anadromous salmon and steelhead species in waters beyond the EEZ in order to effectively protect and enhance the conservation needs of and social and economic benefits derived from United States origin salmon and steelhead.
2. Amend Section 102 to include tuna in the Act.
3. Amend Section 302(j), PROCEDURAL MATTERS, so that fishery management plans and amendments are no longer subject to the National Environmental Policy Act.
4. Amend Section 302(j), PROCEDURAL MATTERS, to provide that vessel logbooks and processor/dealer reports required by fishery management plans and amendments be exempted from the Paperwork Reduction Act.
5. Add language to the Act that clarifies Council requirements relative to closed meetings and announcement of such meetings via newspapers.
6. Amend Section 304, ACTION BY THE SECRETARY, to specify a timeframe for Secretarial action after Council submission of regulatory amendments.
7. Amend Section 303 concerning the discretionary provisions of FMPs to allow the Councils to establish fees for implementation and maintenance of observer, other data gathering systems, and limited access systems. The Commerce Department draft does eliminate the limitation that fees not exceed administrative costs. However, under the draft any fees collected would go to the general treasury and would not be dedicated to the region and purpose for which they were collected.
8. Amend the Act where appropriate to require that upon written request by a Council the Secretary provide within thirty days a written legal opinion as to whether a measure or regulation under discussion or consideration by the Council is consistent with the Act and other applicable law and regulations.
9. Amend the Act where appropriate that Congress add language that will further strengthen the Act with regard to habitat protection.

#### State of Alaska Legislation and Resolutions

An important change to State law relating to confidentiality of certain fishery reports and records successfully passed this year's session. House and Senate Bill #76 authorizes the release of State-collected fishery data to the council staff as required for plan amendment analyses. The law eliminates a past source of frustration and will enable staff to prepare more thorough analytical documents.

A joint resolution was also adopted which requests reauthorization of the MFCMA and provides several recommended amendments addressing high seas salmon interceptions, high seas enforcement, geographic make-up of Council members, and requests the development of a mechanism for allocating community quotas to small rural communities. A copy of the resolution is provided as item C-1(f).

A SUMMARY OF LEGISLATION WILL BE PLACED IN YOUR  
SUPPLEMENTAL FOLDERS

101st CONGRESS

1st SESSION

H.R. 2105

(Original signature of Member)

Insert  
title  
here

A bill to amend the Fur Seal Act to provide continued  
access to certain fisheries in the Bering Sea

IN THE HOUSE OF REPRESENTATIVES

April 25, 1989

Insert  
sponsor's  
name

Mr. Young of Alaska

# A BILL

- 1 *Be it enacted by the Senate and House of Representatives of the United*
- 2 *States of America in Congress assembled,*

SEC. 1. This Act may be cited as the "Fur Seal Act Amendments of 1989."

SEC. 2. The Congress finds that --

(1) the Fur Seal Act Amendments of 1983 provided for a continuation of commercial fur sealing, then the dominant employment base on the Pribilof Islands of Alaska, but directed the Federal government to take steps to create an alternative economic base on the Islands;

(2) this Congressionally-directed partnership among entities to create a fishery-based economy on the Pribilof Islands is a unique commitment;

(3) in reliance on that Congressional decision, the State of Alaska and municipal and Native private entities on the Pribilof Islands have invested, since 1983, tens of millions of dollars in boat harbors and infrastructure to participate in and service the Bering Sea fishing fleet and to base vessels at those harbors;

(4) funding delays as well as natural disasters have delayed completion of harbors on both Islands;

(5) Congress terminated the commercial fur seal harvest in 1985, thereby imposing enormous financial and social burdens on the residents of the Pribilof Islands;

(6) access to the Bering Sea fisheries by Pribilof residents is threatened by limited entry proposals pending before the North Pacific Fishery Management Council.

SEC. 3. The Act of October 14, 1983 (P.L. 98-129), known as the Fur Seal Act Amendments of 1983, is amended by addition of a new section:

"Sec. 212.(a) In order to further promote the development of a stable, self sufficient, enduring, and diversified economy not dependent on sealing, the Pribilof Islands shall be afforded, pursuant to the circumstances described herein, a share of the Bering Sea fishery.

(b) If under the terms of 16 U.S.C. 1801 et seq., the Secretary receives from the North Pacific Fishery Management Council a fishery management plan or amendment to a plan, that would establish a limited entry or access program related to the groundfish fishery of the Bering Sea, and such program takes effect, notwithstanding any other provision of law the Secretary shall immediately provide an annual allocation of 10% of the total allowable catch of that fishery, as such term is defined in the applicable fishery management plan, to the Pribilof Islands, in accordance with subparagraph (c). Such allocation shall continue for as long as the limited entry or access program remains in effect.

(c) There shall be established in accordance with State law a Pribilof Aleut Fisheries Development Association, hereinafter referred to as the Association, for the purpose of accepting and managing the allocation. The Association shall be formed by agreement among the Alaska Native village corporations and the Indian Reorganization Act entities for the Islands. Only upon determination by the Secretary that the Association has been established shall the allocation be effective.

(d) The allocation may be transferred or assigned, in whole or in part, by the Association to citizens of the United States who are not members of the Association, during the first five years that the allocation is made. Thereafter, any portion of the allocation that is not used by the Association during any calendar year shall be assigned by the North Pacific Fishery Management Council pursuant to the applicable fishery management plan.

(e) Grant of this allocation shall not affect existing and future participation by residents of the Pribilof Islands or the Association in other fisheries."

HEARING REPORT  
March 21, 1989

SUBJECT: Territorial Sea Bill (H.R. 1405)

COMMITTEE: Oceanography Subcommittee House Merchant Marine  
and Fisheries Committee

WITNESSES:

Panel I

Bryan Hoyle, Director, Office of Oceans Law and  
Policy, U.S. State Department

Rear Admiral Joseph Vorbach, Chief Counsel, U.S.  
Coast Guard

Michael Poling, Deputy Assistant Secretary for  
Land and Minerals Management, U.S. Department of  
the Interior

Timothy Keeney, General Counsel, NOAA

Panel II

Peter Douglas, Executive Director, California  
Coastal Commission

Ernie Carl, Department of Natural Resources and  
Coastal Development, North Carolina

Chris Schaefer, Department of Natural Resources,  
State of Michigan, testifying for Coastal States  
Organization

Suzanne Ludicello, Associate Director for  
Fisheries and Environment, Alaska Governor's  
Office

Panel III

Paul Kelly, Vice President, Rowan Companies, Inc.,  
National Ocean Industries Association, American  
Petroleum Institute

Jim Gilmore, Alaska Factory Trawlers (and other  
Alaska fisheries groups)

Bill Myhre, Preston, Thorgrimson, Ellis and Holman

Panel IV

Rear Admiral Bruce Harlow (RET), former Law of the  
Sea Negotiator

Robert Knecht, Senior Lecturer in Environmental  
Studies and Political Science, University of  
California at Santa Barbara, former NOAA

Assistant Administrator for Coastal Zone  
Management

John Catena, Executive Director, Oceanic Society

MEMBERS PRESENT: Dennis Hertel (D-MI); Joseph Brennan (D-ME);  
Nita Lowey (D-NY); Frank Pallone (D-NJ);  
Norman Shumway (R-CA); H. James Saxton  
(R-NJ); Patricia Saiki (R-HI) Wally Herger  
(R-CA); and Porter Goss (R-FL)



#### SUMMARY OF CONGRESSIONAL STATEMENTS

Chairman Hertel opened by expressing his concern on the effects of the Presidential Proclamation of the 12-mile territorial sea on other legislation and related issues. Mr. Shumway said that introduction of the territorial sea bill, H.R. 1405, was intended to maintain present existing states rights over the 3-mile coastal zone. Mr. Herger expressed support for the Presidential Proclamation and Bill 1405.

#### SUMMARY OF PANEL I WITNESS STATEMENTS

Mr. Hoyle said the Presidential Proclamation was in keeping with international maritime law and State Department is checking the status of the contiguous zone from 12 to 24 miles. Also the State Department is studying the extended zone to see if it is in agreement with the Geneva Agreement. The Justice Department is checking U.S. legal issues concerning the territorial sea.

Mr. Vorbach expressed concern on the effect the territorial sea would have on: 1) regulatory authority for anchorage and traffic safety zones; 2) shipping laws to extend the enforced safety regulations to 12 miles; 3) safety and security of U.S. harbors.

Mr. Poling stated that the existing regulations should be maintained.

Mr. Keeney gave a brief overview of NOAA regulatory programs and stated that further research into the affects of the extended territorial sea on regulations is needed. NOAA charts will indicate the new territorial sea limit as the charts are reprinted.

#### PANEL I QUESTIONS

Chairman Hertel asked if each panel member supported the Shumway Bill. Mr. Keeney said the administration has not determined a policy on this issue. Mr. Poling stated that numerous domestic statutes are affected. Mr. Vorbach wanted the Committee to insure that a definition of the territorial sea be stated as 12 miles and that no other statutes are affected. Mr. Hoyle said each issue should be treated on a case by case basis. Mr. Hertel then asked if criminal jurisdiction is enforceable in the new territorial sea. The general answer was that there are no gaps under the existing laws. Mr. Hertel then asked if there are gaps in existing regulations due to the extended territorial sea. Mr. Poling said he would respond in writing. Mr. Shumway asked if enactment of the bill would preempt a case by case review of the extension. Mr. Hoyle responded that it would be a good idea for legislation and it would prevent legal challenges. Mr. Vorbach seconded the statement by Mr. Hoyle and said the Coast Guard has over 170 pieces of legislation to review.

Mr. Shumway asked if establishment of an Ocean Policy Panel would be a good idea. Mr. Hoyle said it would be a duplication of effort, with no congressional oversight, and therefore, it would not be a good idea.

Mr. Saxon asked if any other significant statutes would be affected by the extension and would the agencies favor any changes in the legislation. Mr. Poling said he would respond in writing. Mr. Keeney expressed the thought that, after thorough review, fisheries enforcement legislation may require changes. Mr. Pallone said the states coastal zone management plans should be extended, and asked if that was possible. Mr. Keeney replied that it would require changes in legislation.

#### SUMMARY OF PANEL II WITNESS STATEMENTS

Mr. Douglas said the proclamation does not extend any provisions of existing regulations except that it does extend the Coastal Zone Management Act consistency provisions from 3 to 12 miles. California believes that federal law cannot be changed by presidential proclamation; therefore, Congress intended the provisions of the Coastal Zone Management Act to extend the Act to include the new territorial sea--12 miles. This will 1) eliminate arguments and litigations; 2) allow review of all permits and regulations in the territorial sea; and 3) strengthens state's control over their adjacent coastal waters. Also, this will not change the review process required by the CZMA. Mr. Douglas said he could not support Bill 1405.

Mr. Carl expressed the desire to work in partnership with federal agencies on issues brought about by the territorial sea extension. These issues are ocean pollution, air space control, marine fisheries (Magnuson Act reauthorization) and CZMA.

Mr. Schaefer also stated that there should be a partnership with state and federal governments. He stated that extension of the territorial sea requires congressional action. As stated by Mr. Douglas he also believes CZMA is now extended to 12 miles. As examples of this, Mr. Schaefer said dredge material and ocean pollution are not limited inside three miles. The Northwest Ordinance of 1887 provided for states' rights beyond the 3 mile limit. Additionally, Michigan has regulatory authority up to 72 miles from the shore line in Lake Superior. Mr. Schaefer then said that these examples of extended state rights should also be applied to the extended territorial sea. Therefore, Mr. Schaefer stated that he did not support H.R. 1405.

Mr. Ludicello said that Alaska has over \$6 billion in fisheries resources within the U.S. Exclusive Economic Zone. He said the state has managed those resources well and spends over ten times the amount the federal government spends on fisheries resources. Additionally, he stated that Alaska manages 9 off-shore mineral mining permits, 200 off-shore prospecting permits and has a better record than the federal government in oil and gas leasing permits. Mr. Ludicello agreed with Mr. Schaefer and does not support H.R. 1405.

## PANEL II QUESTIONS

Mr. Shumway said that the California position was in error and that no state has jurisdiction over lands from 3 to 12 miles. California does not have permitting authority, thus it has no consistency arguments under CZMA. He then said that the intent of the presidential proclamation was to improve national security and not to give states the opportunity to control the extended territorial sea. Mr. Douglas said that California is different than the other states and states have the right to review under the provisions of the CZMA. Mr. Pallone asked the reasons why it makes a difference for states to regulate or pass on permits. Mr. Douglas cited several examples.

## SUMMARY OF PANNEL III STATEMENTS

Mr. Kelly said that the federal and state governments have balanced authorities and responsibilities. He stated that national interests must override the state interests and that a Joint Congressional Resolution to settle the extended territorial sea issue is necessary. If the Congress will not settle the issue, he said litigation would. Mr. Kelly disagreed with California and supported H.R. 1405.

Mr. Gilmore stated that if the states rights were extended to 12 miles under the territorial sea, fishing and other interests would have higher expenses and a more complex regulation system than at present. He said that states should control only the 3 mile zone as they have in the past.

Mr. Myhre expressed his concern with the uncertainty and the questions raised by the Proclamation. He stated that there are over 218 sections, over 170 laws and at least 1,000 applications in Coastwise law and statutes which "reach to the outside edge of the territorial sea". If all the provisions of the 3 mile territorial sea were enforced in the 12 mile territorial sea, fishing vessels built overseas couldn't operate inside of 12 miles under Coastwise law areas. In addition, there are over 1,000 other cases like the fishing vessel issue; he supported H.R. 1405.

## PANEL III QUESTIONS

Mr. Pallone asked why states shouldn't have CZM control in the extended territorial sea. Mr. Gilmore stated that it splits the fisheries areas up and would cost the fishermen more to fish under two sets of regulations. Mr. Shumway wondered why the loopholes in the extension caused problems. Mr. Gilmore said that the ambiguity causes confusion over which regulations to follow.

#### SUMMARY OF PANEL IV STATEMENTS

Mr. Harlow said the Proclamation leaves the area between 3 and 12 miles in limbo because all U.S. laws apply but there is no intent in the use of the existing laws. Questions are 1) preexisting congressional intent, 2) present congressional intent, 3) Federal verses state rights in the enlarged zone. He stated that there is a huge body of laws and regulations which cover the territorial sea and he doesn't want H.R. 1405 to limit application of any U.S. laws.

Mr. Knecht said there are many issues raised by the Proclamation. He recommended that H.R. 1405 not be passed until all legal issues are considered.

Mr. Catena said H.R. 1405 doesn't solve all the problems and the ocean policy requirements and existing laws should be considered.

#### PANEL IV QUESTIONS

Mr. Hertel asked if the coastal zone is better managed by the federal government or the by the states. Mr. Knecht said that cooperation is required for effective management.

STATEMENT OF PURPOSE AND NEED  
AND  
SECTIONAL ANALYSIS

The Magnuson Fishery Conservation and Management Act (MFCMA) establishes United States jurisdiction over certain marine fishery resources and prescribes the exercise of that jurisdiction. The authorization for appropriations for carrying out the provisions of the Act will expire on September 30, 1989. The purpose of the draft bill is to reauthorize appropriations for fiscal years 1990, 1991 and 1992 and to make the following amendments to the Act.

Section 1 would amend section 201 of the MFCMA to delete the alternative system for calculating the total allowable level of foreign fishing (TALFF) established under Pub. L. No. 96-561 to promote the domestic fishing industry. The alternate TALFF is determined in accordance with a complex formula. The provision for alternate TALFF has been used only once; Regional Fishery Management Councils (Councils) use optimum yield specifications to accomplish the same purpose. The amendment would restore the subsection to its original language defining TALFF.

Section 2(a) would amend section 204(b) of the MFCMA to except from review by the Councils applications for foreign fishing permits for vessels used for supply or transportation. Each foreign nation that has entered a Governing International Fishing

Agreement with the United States must apply each year for permits for all fishing vessels operated under its flag that want to engage in any fishing in the U.S. Exclusive Economic Zone (EEZ) or for anadromous fish or Continental Shelf fishery resources beyond the zone. Currently, the MFCMA requires that the Secretary of State, when satisfied that a permit application complies with the requirements in the Act, publish the application in the Federal Register and transmit it to the Secretary of Commerce, the Secretary of the Department in which the Coast Guard is operating and the appropriate Regional Fishery Management Councils. The Councils are given forty-five days to review applications for foreign fishing permits. Their review of permit applications solely relating to supply or transportation activities is unnecessary since vessels used for storage or transshipment generally are contracted on an opportunity basis. Section 2 would delete Council review of permit applications relating to supply or transportation vessels.

Sections 2(b) through (e) would amend section 204(b)(10) of the MFCMA to require that the owner or operator of any foreign fishing vessel for which a permit is issued would pay reasonable fees, as determined by the Secretary, and that amounts collected would be deposited in the general fund of the U.S. Treasury. Currently, fees are determined on the basis of a complex statistical formula. In determining the formula, the Secretary considers the cost of carrying out the provisions of the Act with

respect to foreign fishing, including the cost of fishery conservation and management, fisheries research, administration and enforcement. The formula was reasonable when allocations provided significant fishing opportunities; however, the fees based on the formula now may exceed the ex-vessel values of the fish and decrease the efforts of the United States to develop the remaining underutilized fisheries.

Section 3 would amend section 302(d) of the MFCMA to allow staff members of the Regional Fishery Management Councils to be reimbursed for actual expenses incurred in the performance of their duties. Currently, the Act provides that voting members of each Council and certain nonvoting members and certain members of advisory groups shall be reimbursed for actual expenses incurred in the performance of their duties; however, it does not provide for staff members' reimbursement for actual expenses.

Section 3 would amend the Act to eliminate the inequitable distinction.

Section 4 would amend section 303 of the MFCMA to remove all data regarding foreign directed fishing and fish received at sea from the confidentiality provisions of section 303(d). Under section 303(d), the Secretary is required to protect, as confidential, data submitted in connection with a Fishery Management Plan (FMP) or preliminary fishery management plan. Confidential data may be released or made public only in

aggregate or summary form so the person submitting the information cannot be identified; however, the information cannot be released by the National Oceanic and Atmospheric Administration (NOAA) even in aggregate form if the person could be identified. Due to the confidentiality restrictions, in some cases the Councils and public have not had access to data needed to develop FMPs or to review permit applications because there are so few participants in some fisheries. Section 4 would amend the Act to exclude data regarding joint ventures and foreign catch from the confidentiality requirement.

Section 5 would amend section 304 of the MFCMA to allow the collection of domestic fees unrelated to the administrative costs incurred in issuing permits. In recent years, certain important innovative management programs (for example, a limited entry system) have not been implemented due to a lack of flexibility in the assessment of domestic fees. The collection of fees for services and activities provided by the Federal government benefit American marine fishermen but now are assessed to all taxpayers nationwide. Users who benefit from marine fish resources should pay for management and compliance monitoring programs to conserve those resources. While the funds collected under the amended section would not be directly available to NOAA fishery programs, the potential increase in fees would help defray the costs of vital fishery management programs now paid by the general taxpayers. Other Federal programs, such as the



ederal timber programs, have successfully managed flexible fee structures such as that proposed.

Section 6 would amend section 306 of the MFCMA to require the Governor of a state to consult with the appropriate fishery management council prior to granting permission for a foreign vessel to engage in fish processing in the internal waters of the state. It also would require that the foreign application specify the species requested to be processed and that the consultation between the Governor and the fishery management council address the capacity for and utilization of the species by all domestic processors utilizing fish taken in that fishery, the portion of the domestic annual harvest of the species that may be made available to the vessel by the Governor, and reporting and logkeeping requirements to be undertaken by the vessel.

Section 7 would amend section 307 of the MFCMA to make any act of assault on an observer a criminal offense. Currently, the MFCMA prohibits any person on a fishing vessel from assaulting, resisting, opposing, impeding, intimidating, or interfering with an officer of the United States authorized to enforce the MFCMA and imposes criminal sanctions for the actions. No prohibitions and criminal sanctions, however, explicitly address assaults on observers. Recently, several observers have been assaulted. The draft bill would make it explicit that any person committing such

an act against an observer on board a fishing vessel would be guilty of a criminal offense.

Section 8 would amend section 308 of the MFCMA to increase the limit on a civil penalty for a violation of the Act from \$25,000 to \$100,000. For most cases under the MFCMA, a \$25,000 penalty plus the other available sanctions, such as forfeiture of fish and/or vessel and suspension of permits, serve as disincentives to violations. In some cases, however, existing sanctions are inadequate. A higher penalty would assist NOAA in enforcement. For example, eight foreign trawlers were detected poaching in the Bering Sea EEZ in the winter of 1987. Since the Coast Guard was not on the scene when the poachers were sighted from a private plane, the vessels were able to flee U.S. jurisdiction before they could be seized. The permit sanctions imposed against the companies were not effective because none of their vessels had a U.S. permit and may not have expected ever to receive one. In such a case, a penalty of only \$25,000, given the slight possibility of detection, is not a significant deterrent.

In addition, in many cases, both foreign and domestic, the illegal gains exceed the \$25,000 penalty that currently may be imposed for a violation. The amendment to raise the penalty to \$100,000 would provide NOAA a more effective enforcement mechanism, particularly where seizure or permit sanction is not a viable option. NOAA would ensure through its customary penalty

schedules that assessments over \$25,000 would be reserved for the most serious violations.

Section 9 would amend section 309 of the MFCMA to provide that a person is guilty of a criminal offense if he assaults an observer.

Section 10 would amend section 311 of the MFCMA to provide for payment of any claim that may arise as a result of the disposal of perishable property seized by enforcement officers. The MFCMA provides for seizure and forfeiture of illegal fish. When prohibited species, or small amounts of fish with little or no commercial value, are seized, finding and paying for storage space pending forfeiture proceedings has become an increasing problem. Customs law provides for summary disposition of perishable property valued at less than \$1000 where the cost of storage is disproportionate to its value. Although this provision of Customs law is incorporated by reference by section 310(c) of the MFCMA, NOAA has been reluctant to apply it since the MFCMA does not contain a provision, as does Customs law, authorizing compensation to an individual in the event no violation is found or the seizure is deemed otherwise inappropriate. The proposed amendment would authorize payment of any such claim from the forfeiture fund established under section 311(e) of the Act.

A second amendment to section 311(e) would specifically allow for reimbursement from the forfeiture fund for functions performed by State (or Federal) agencies under cooperative enforcement agreements. The Department of Commerce, the Department of Transportation, and individual States are parties to agreements that authorize the States to enforce the MFCMA. Under the agreements, no reimbursement to the States is authorized except the loan of property acquired through purchase, forfeiture, or surplus. While proceeds of seized property subject to judicial forfeiture are deposited into the Department of Justice Asset Forfeiture Fund established by the Comprehensive Crime Control Act, it is not at all certain that the States can succeed in obtaining reimbursement from the Justice Department fund for costs incurred in seizing and holding property under the MFCMA. In addition, many seizures made under the MFCMA are not subject to the Justice Department fund because they are handled administratively rather than through the judicial system. The Department believes this amendment would induce increased participation on the part of States under cooperative enforcement agreements.

Section 11 would amend section 406 of the MFCMA to reauthorize appropriations for carrying out the Act at a level of \$55,930,000 for fiscal year 1990 and such sums as may be necessary for fiscal years 1991 and 1992.



THE SECRETARY OF COMMERCE  
Washington, D.C. 20230

MAY 08 1989

AGENDA C-1(e)  
JUNE 1989

Honorable James C. Wright  
Speaker of the House  
of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed are six copies of a draft bill --

"To amend the Magnuson Fishery Conservation and Management Act, as amended, to authorize appropriations for fiscal years 1990, 1991 and 1992 and for other purposes,"

together with a statement of purpose and need.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this legislative proposal to the Congress.

Sincerely,

Robert A. Mosbacher

Enclosures

A BILL

To amend the Magnuson Fishery Conservation and Management Act, as amended, to authorize appropriations for fiscal years 1990, 1991 and 1992 and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. secs. 1801-1882), is further amended as follows:

SEC. 1. Section 201 of the Act (16 U.S.C. 1821) is amended by revising subsection (d) to read as follows:

"(d) Total Allowable Level of Foreign Fishing.-- The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act."

SEC. 2. Section 204(b) of the Act (16 U.S.C. 1824(b)) is amended --

(a) by inserting in paragraph 4(C) immediately after the word "application" the phrase ", other than an application relating to transferring, transporting, supplying, or storing,";

(b) by striking out paragraph (10)(A) and inserting in lieu thereof the following new subparagraph (A):

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.";

(c) by striking out paragraphs (10)(B), (C), (D) and (E) in their entirety;

(d) by redesignating paragraph (10)(F) as paragraph (10)(B); and

(e) by amending paragraph (B), as so redesignated, to read as follows:

"(B) The amounts collected by the Secretary under this paragraph shall be deposited in the General Fund of the United States Treasury."

SEC. 3. Section 302(d) of the Act (16 U.S.C. 1852(d)) is amended by inserting the phrase "and Council staff members" immediately after the phrase "other nonvoting members" where it appears in the second sentence.

SEC. 4. Section 303(a) of the Act (16 U.S.C. 1853(a)) is amended --

(a) by redesignating paragraphs (6) and (7) as (7) and (8), respectively; and

(b) by adding the following new paragraph (6):

"(6) specify the pertinent data that shall be submitted to the Secretary with respect to foreign fishing, including, but not limited to, foreign catch by species, in numbers of fish or weight thereof, areas in which fishing was engaged, and quantities of United States harvested fish received at sea."

SEC. 5. Section 304 of the Act (16 U.S.C. 1854) is amended by striking out the last sentence of subsection (d) in its entirety.

SEC. 6. Section 306(c) of the Act (16 U.S.C. 1856(c)) is amended --

(a) by adding at the end of paragraph (1)(B) the following new sentence:

"An application to engage in processing within the internal waters of a State must specify the species to be processed."; and

(b) by inserting immediately after the phrase "paragraph (1)(B)" where it appears in paragraph (2) the following:

"(1) unless he consults with the appropriate Regional Fishery Management Council established under section 302 of this Act with respect to the fishery. Such consultation shall address:



"(a) the capacity for and utilization of the species by all domestic processors utilizing fish taken in the fishery;

"(b) the portion of the domestic annual harvest of the species which may be made available to the vessel by the Governor; and

"(c) reporting and logkeeping requirements to be undertaken by the foreign vessel;  
and (2)".

SEC. 7. Section 307(1) of the Act (16 U.S.C. 1857(1)) is amended --

(a) by striking out the word "or" at the end of subparagraph (H);

(b) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof "; or"; and

(c) by adding at the end thereof the following new subparagraph (J):

"(J) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer (including any supplementary observer) on board a vessel pursuant to this Act."

SEC. 8. Section 308(a) of the Act (16 U.S.C. 1858(a)) is amended by striking out "\$25,000" in the second sentence where it appears and inserting in lieu thereof "\$100,000".

SEC. 9. Section 309(a)(1) of the Act (16 U.S.C. 1859(a)(1)) is amended to read as follows:

"(1) section 307(1)(D), (E), (F), (H), (I), or (J) of this title; or".

SEC. 10. Section 311(e) of the Act (16 U.S.C. 1861(e)) is amended --

- (a) by striking out the word "and" at the end of subparagraph (1);
- (b) by striking out the period at the end of subparagraph (2) and inserting in lieu thereof " ; ";
- (c) by adding immediately after paragraph (2) the following new paragraphs:

"(3) claims of parties in interest to property disposed of under 19 U.S.C. 1612(b), as made applicable by section 310(c) to seizures under this Act, in the amounts determined by the Secretary as applicable to such claims at the time of seizure; and

"(4) reimbursement to any Federal or State agency, at the discretion of the Secretary, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a) of this section.".

SEC. 11. Section 406 of the Act (16 U.S.C. 1882) is amended by adding at the end thereof the following new subsection:

"(16) \$55,930,000 for fiscal year 1990, and such sums as may be necessary for fiscal years 1991 and 1992."

Offered: 4/4/89  
Referred: Rules

Original sponsors: Binkley, Jones,  
Sturgulawski, et al.

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE JOINT RESOLUTION NO. 33 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Relating to reauthorization of the  
6 Magnuson Fishery Conservation and Man-  
7 agement Act by Congress.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS the Magnuson Fishery Conservation and Management Act of 1976  
10 is due for reauthorization by the Congress by September 30, 1989; and

11 WHEREAS the Magnuson Fishery Conservation and Management Act is the  
12 most significant federal fisheries legislation in the history of our coun-  
13 try; and

14 WHEREAS with the enactment of the Magnuson Fishery Conservation and  
15 Management Act the United States became the world leader in firmly estab-  
16 lishing a sound foundation for rational marine fisheries management; and

17 WHEREAS while the Magnuson Fishery Conservation and Management Act  
18 states that the United States has jurisdiction over American anadromous  
19 species, such as salmon and steelhead, on the high seas beyond the United  
20 States Exclusive Economic Zone, the federal government claims some ambigu-  
21 ity exists on asserting that jurisdiction for the purpose of stopping  
22 illegal harvests of salmon and steelhead on the high seas; and

23 WHEREAS Alaska, Washington, and Oregon are losing hundreds of millions  
24 of dollars annually due to the illegal harvest of North American salmon and  
25 steelhead on the high seas, which substantially affects the American econo-  
26 my and the United States' balance of trade;

27 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
28 the Congress to reauthorize the Magnuson Fishery Conservation and Manage-  
29 ment Act this year and to add the following amendments as a minimum:

1 (1) a reemphasis that the Governing International Fisheries  
2 Agreements with foreign fishing nations require boarding of all foreign  
3 vessels on the high seas as part of the United States' extended jurisdic-  
4 tion over anadromous species and mandate that the boarding and the seizure  
5 of evidence of violations of the agreements be nondiscretionary;

6 (2) establishment of salmon protection zones beyond the United  
7 States and Soviet Exclusive Economic Zones and creation of a rebuttable  
8 presumption that salmon discovered on board vessels within the salmon  
9 protection zones are salmon of North American or Soviet origin;

10 (3) a prohibition on the sale, purchase, transport, or further  
11 marketing of anadromous fish not harvested within fisheries authorized  
12 under international treaty or within the Exclusive Economic Zone of the  
13 nation of origin of the anadromous fish;

14 (4) establishment of a country of origin certification program,  
15 whereby all salmon legally caught in the United States are identified,  
16 labeled, and documented as salmon of the United States; and a request that  
17 all other nations of origin establish similar programs;

18 (5) a Congressional declaration calling for ending high seas  
19 gillnet fishing beyond the Exclusive Economic Zones of all nations by 1992  
20 and directing the U.S. Secretary of State to develop by 1992 a new interna-  
21 tional fisheries organization consisting of all the salmon-producing  
22 nations in the world;

23 (6) extension of state jurisdiction from 3 miles to 12 miles for  
24 the purpose of managing living marine resources and in order to make the  
25 seaward boundaries of all states' waters consistent;

26 (7) expand the sanctions under the Pelly amendment to include  
27 any product imported into the United States from any violating nation;

28 (8) a requirement that transponders, transmitters, or other type  
29 of satellite communications device appropriate to provide instantaneous

1 locational information be required on board all foreign vessels fishing  
2 within identified salmon zones;

3 (9) a requirement that federal intelligence agencies provide  
4 available information to the U.S. Coast Guard on the location of foreign  
5 fishing vessels without jeopardizing national security interests;

6 (10) a clarification that regional fishery management councils do  
7 have the authority to establish mandatory, 100 percent coverage, observer  
8 programs for domestic groundfish fishing vessels, and that these are to be  
9 paid for by industry user fees;

10 (11) a declaration that the current geographic balance of the  
11 membership of the North Pacific Fishery Management Council is appropriate;

12 (12) a mechanism for a community development quota of groundfish  
13 to be used for fisheries development in small rural communities of Alaska.

14 COPIES of this resolution shall be sent to the Honorable George Bush,  
15 President of the United States; the Honorable Dan Quayle, Vice-President of  
16 the United States and President of the U.S. Senate; the Honorable James A.  
17 Baker, III, U. S. Secretary of State; the Honorable Edward E. Wolf, Amba-  
18 sador for Fisheries and the Ocean, U. S. Department of State; the Honorable  
19 Robert A. Mosbacher, U. S. Secretary of Commerce; William E. Evans, Admin-  
20 istrator, National Oceanic and Atmospheric Administration, U.S. Department  
21 of Commerce; the Honorable George J. Mitchell, U. S. Senate Majority Lead-  
22 er; the Honorable Jim Wright, Speaker of the U. S. House of Representa-  
23 tives; the Honorable George Deukmejian, Governor of the State of Califor-  
24 nia; the Honorable Leo T. McCarthy, President of the Senate of the State of  
25 California; the Honorable Willie Lewis Brown, Jr., Speaker of the Assembly  
26 of the State of California; the Honorable Cecil D. Andrus, Governor of the  
27 State of Idaho; the Honorable C.L. Otter, President of the Senate of the  
28 State of Idaho; the Honorable Tom Boyd, Speaker of the House of Representa-  
29 tives of the State of Idaho; the Honorable Neil Goldschmidt, Governor of

1 the State of Oregon; the Honorable John Kitzhaber, President of the Senate  
2 of the State of Oregon; the Honorable Vera Katz, Speaker of the House of  
3 Representatives of the State of Oregon; the Honorable Booth Gardner, Govern-  
4 nor of the State of Washington; the Honorable Joel Pritchard, President of  
5 the Senate of the State of Washington; the Honorable Joseph E. King, Speak-  
6 er of the House of Representative of the State of Washington; and to the  
7 Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and  
8 the Honorable Don Young, U.S. Representative, members of the Alaska delega-  
9 tion in Congress.

10

MEMBER STATES

ALASKA  
CALIFORNIA  
IDAHO  
OREGON  
WASHINGTON

PACIFIC MARINE FISHERIES COMMISSION

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PHONE (503) 294-7025

PMFC/CBFWH

AGENDA C-1 *Steve*  
SUPPLEMENTAL  
EXECUTIVE DIRECTOR  
GUY N. THORNBURGH  
TREASURER  
G. L. FISHER

MEMORANDUM

DATE: June 19, 1989  
TO: North Pacific Fishery Management Council  
FROM: Pacific Marine Fisheries Commission  
SUBJECT: Legislative Update

1. **Appropriations** - There has been no markup yet by the House Appropriations Subcommittee on Commerce, Justice and State. Indications are that action should occur near the end of June, prior to the Fourth of July recess.

The Pacific Fisheries Coalition has made quite an effort at persuading Congress to adequately fund the NOAA Fisheries program. Seven critical funding items identified by the Coalition are annotated in the attachment. It's not too late to remind your delegation and the committee that funding is essential for proper management!

- II. **Users Fees** - The administration has yet to introduce a bill for this session, although one is expected. Rumor is the approach will be identical to the one introduced late last session by Upton.
- III. **Seafood Inspection** - Studds and Young introduced H.R. 2511 to direct the President to develop a comprehensive seafood safety program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States.

The bill would:

- require the President to establish a mandatory seafood safety inspection system within one year;
- apply to all fish and shellfish products sold in interstate commerce;



- - require the establishment of standards for ensuring sanitary conditions in the harvesting, handling, processing and packaging of fish;
- - require standards for measuring the maximum acceptable level of contaminants in fish; and
- - improve the collection of data related to seafood safety.

The bill tracks closely the position the National Fisheries Institute adopted at their April 1989 annual meeting: It applies to foreign, as well as domestic products; it employs the HACCP (Hazard Analysis Critical Control Point) methodology being formulated by the NMFS Model Seafood Surveillance Project; it addresses labeling; and it is funded by government.

The only issue not addressed by the bill is the agency responsible for the program. Three agencies are interested - - Department of Agriculture; Food and Drug Administration; and NOAA.

**IV. Magnuson Act - H.R. 2061 (Studds) reauthorizes the Magnuson Act, with no amendments.**

The Administration has finally prepared a package of eleven amendments (which is in the briefing book).

Only two of the Administration's amendments replicate the amendments prepared by the Council Chairmen (recall that the chairmen developed a list of amendments at the January 27, 1989 meeting in Charleston):

- ① Council staff would be reimbursed for actual expenses incurred in the performance of their duties and
- ② The alternative system for calculating TALFF would be deleted (Section 201 (d)).

The Administration's amendments fail to address the Council Chairmen's concerns for :

- ① Eliminating high seas interception of anadromous fish
- ② Including all highly migratory species (tuna)
- ③ Retaining obligatory council seats
- ④ Exempting FMPs from NEPA
- ⑤ Clarifying closed meetings requirements
- ⑥ Expediting the Secretary's processing of Council approved regulator amendments
- ⑦ Establishing mandatory deadlines on written legal opinions from NOAA - GC
- ⑧ Strengthening the Act in regards to habitat

The Administration's proposals address foreign and domestic fees differently than the Council chairmen's. In regard to foreign fees the Administration proposes to charge a "reasonable" fee to be deposited in the general fund. The Chairmen, however, propose to raise the fees to more closely approximate the actual cost of having them in our EEZ and the fees should be dedicated to fisheries research, enforcement and data gathering. In regards to domestic fees, the Administration proposes to open the door on user fees whereas the Chairmen propose discretionary provisions of FMPs to allow the Councils to establish fees for observers, data gathering, and limited access programs.

**Other proposals by the Administration include:**

- ① **Elimination of Council review of foreign fishing applications for vessels used for supply or transportation**
- ② **Removal of all data regarding foreign directed fishing and fish received at sea from confidentiality provisions**
- ③ **Consultation by a governor with a council prior to granting a foreign vessel permission to process fish in international waters**
- ④ **Making any act of assault on an observer a criminal offense**
- ⑤ **Increasing the limit on a civil penalty from \$25,000 to \$100,000**
- ⑥ **Providing for payment of claims that arise as a result of the disposal of perishable property seized by enforcement officers**
- ⑦ **Reimbursement from the forfeiture fund for functions performed by state agencies under cooperative enforcement agreements**

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## PACIFIC MARINE FISHERIES COMMISSION

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PORTLAND, OREGON 97201 5346  
PHONE (503) 294 7025

EXECUTIVE DIRECTOR  
GUY N. THORNBURN  
TREASURER  
G. L. FISHER

May 16, 1989

Mr. Dale R. Evans  
National Marine Fisheries Service  
Alaska Region  
Chief, Fishery Management Division  
P.O. Box 1668  
Juneau, AK 99802

Dear Dale:

As an extension of last year's project to improve management of the Southeast Alaska demersal rockfish longline fishery, the Pacific Marine Fisheries Commission (PMFC) this year is working with concerned fishermen and processors to seek an industry consensus concerning a share quota system for that fishery. As first step, we are convening a workshop of representatives from major Southeast Alaska ports of landing, in Juneau, beginning Friday afternoon and concluding about noon on Saturday, June 16 - 17.

Because this issue has relevance to continued interests of the National Marine Fisheries Service, particularly with respect to NPFMC consensus, we cordially invite you to send a representative to that workshop as an observer. We will provide you further background information on the meeting in early June. The following materials from our letter of invitation to fisherman participants provides some added background.

In 1988, two workshops made up of commercial fishermen and processors engaged in Southeast Alaska's rockfish fishery met in Juneau with Barry Bracken and other staff members of the Alaska Department of Fish and Game (ADFG) and the Commercial Fisheries Entry Commission (CFEC) to consider measures for improving management of that fishery. Those workshop deliberations resulted in proposals for reduced harvest guidelines, a split fishing season, weekly landing limits, mandatory logbooks, and management of the fishery in five regulatory areas. In January of this year, Alaska's Board of Fisheries approved those workshop recommendations for implementation in the 1989 season.

Workshop participants recognized that while these regulations were important immediate steps toward improving management of the Southeast Alaska demersal rockfish fishery, they would not by themselves assure meeting primary objectives of assuring a continuous supply of high-quality product for the market throughout most of the year, and at the same time harvesting stocks within biological constraints that would assure their long-term sustained productivity. Participants therefore recommended evaluating effort management through control of access to the fishery, particularly through some form of share quota program. For a number of reasons, this avenue of fishery management could not be followed to completion in 1988.

In accordance with this workshop interest in share-quota access controls, the Pacific Marine Fisheries Commission (PMFC) has committed an extension of the funding that was provided for last year's workshops to carry forward into 1989, again in conjunction with staff members from CFEC and ADFG.

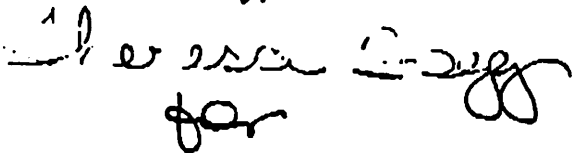
The first step in the 1989 process will be another Juneau meeting of rockfish fishermen and processors representing major Southeast Alaska ports of rockfish landings, to consider specifically the options and alternatives which must be evaluated for implementation of an individual share quota system for access management in the Southeast Alaska demersal rockfish fishery.

Given success in producing a workable set of alternatives for wider industry consideration, a series of port-by-port workshops will be scheduled for later in the year to inform local fishermen concerning these options, to gather ideas and further information from them, and to learn if a broad consensus can be reached concerning an acceptable program for managing access and controlling effort in that fishery. If such a consensus can be established, the next step will be initiation of whatever administrative and legislative measures may be required for implementation.

In the event that the press of other meetings and activities makes representation from your office impossible, I'll be glad to provide a review of the meeting for your information.

Very best personal regards,

Yours sincerely,



John P. Harville  
Consultant, External Affairs  
Pacific Marine Fisheries Commission  
Metro Center, Suite 170  
2000 S.W. First Avenue  
Portland, Oregon 97201-5348

Phone: Office: (503) 326-7025

Home: (503) 246-0966

F I N D I N G S:

June 1, 1989

SOUTHEAST ALASKA DEMERSAL SHELF ROCKFISH LONGLINE FISHERY

1. Demersal shelf rockfish stocks on readily available Southeast Alaska fishing grounds have declined significantly in some locations over the period of recent fishery growth, 1982-88.
2. Directed fishing pressure on these Southeast Alaska demersal shelf rockfish stocks has increased significantly over that same period--1982-88.
3. Increases in the number of vessels in this directed fishery have severely increased fishing pressure, and consequent depletion of demersal rockfish stocks.
4. It is generally recognized that the management restrictions imposed for 1988-89 will not by themselves prevent continued depletion of stocks, or assure sustained harvest throughout most of the year; further, without more effective controls on access to the fishery to manage total effort, demersal shelf rockfish may be reduced to "bycatch only" status in the near future.
5. In accordance with recommendations from the fishing industry concerned and in order to slow down the overharvest of stocks and spread out fishing time over the year, the Alaska Board of Fisheries has imposed substantial restrictions on the fishery for 1989 (reduced harvest guidelines, split fishing seasons, weekly trip limits, mandatory logbooks, management in five regulatory areas).
6. Experiences in Alaska and elsewhere demonstrate that license limitation as a strategy for access management and control of effort may place a cap on new entries, but will not of itself reduce total effort levels, in view of fisherman capacity for continuing increases in fishing efficiency.
7. For all of the reasons above, the 1988 fishing industry working group on Southeast Alaska demersal rockfish management recommended further exploration for some form of individual share quota system for controlling access to that fishery. Such a system shows greatest promise for limiting access to the fishery and thereby controlling total effort, by providing a strategy capable of reducing that effort over time in response to market-driven factors, rather than through governmental regulatory actions.

(see attached appendix for documentation of these findings.)

**WHAT DO YOU CONSIDER TO BE THE MAJOR PROBLEMS OF THE DEMERSAL ROCKFISH FISHERY?**

the Alaska Board of Fisheries in 1989 approved revised regulations for the long-line demersal rockfish fishery, including reduced harvest guidelines, a split fishing season, weekly landing limits, and management in five regulatory areas. Concerns remain that without some control on access to the fishery, these regulations will not adequately reduce pressure on targeted fish stocks, and rockfish might be relegated to non-targeted "bycatch only" status.

Please give us your personal assessment of current problems in the demersal rockfish fishery. Listed below are some of the problem areas that have been noted in the past. Give your opinion of their relative importance, using the code numbers below in the blanks provided.

- 1 if you consider it a problem of major importance;
- 2 if you consider it of lesser (secondary) importance;
- 3 if you consider it of little importance;
- 4 if you disagree totally that this is a problem.

- a. Is potential for overharvest of stocks a serious concern? \_\_\_\_\_
- b. Is inability to provide fresh rockfish to the market throughout the year a serious concern? \_\_\_\_\_
- c. Are shortened and split fishing seasons a serious problem? \_\_\_\_\_
- d. Does the competitive race for fish create safety problems, and/or lead to excessive gear losses? \_\_\_\_\_
- e. Do processing bottlenecks occur too often? \_\_\_\_\_
- f. May product quality suffer, with resultant price losses, in the race for fish under present open access? \_\_\_\_\_
- g. Do potentially shorter seasons and the race for fish significantly reduce opportunity for fishermen to choose their best fishing strategy (time, area, etc.) for operations? \_\_\_\_\_
- h. Is "highgrading" and wastage of small fish presently a significant problem in the rockfish fishery? \_\_\_\_\_
- i. Are there other problems to be considered? (describe briefly) \_\_\_\_\_

Please check the most appropriate blocks below to indicate your areas of interest in the demersal rockfish fishery.

vessel owner \_\_\_\_\_ owner-skipper \_\_\_\_\_ skipper \_\_\_\_\_ crew member \_\_\_\_\_

processor \_\_\_\_\_ products: rockfish \_\_\_\_\_ sablefish \_\_\_\_\_ halibut \_\_\_\_\_

salmon \_\_\_\_\_ other \_\_\_\_\_

**WHAT SHOULD BE THE MANAGEMENT GOALS FOR THE DEMERSAL ROCKFISH FISHERY WITH LIMITED ACCESS ADDED TO TRADITIONAL MANAGEMENT METHODS?**

What do you consider to be the important goals for managing the demersal rockfish fishery, with access control as an additional management tool? Give your view of the importance of each, using numbers and letters below.

- 1 if you consider it a goal of major importance;
- 2 if you consider it of lesser (secondary) importance;
- 3 if you consider it of little importance;
- D if you disagree totally that this is an appropriate management goal or objective for the rockfish fishery.

- a. Establish annual harvest guidelines within known biological constraints, by management area, for Southeast Alaska. \_\_\_\_\_
- b. Minimize waste through use of appropriate gear and seasons to minimize capture and discard of unwanted rockfish. \_\_\_\_\_
- c. Assure continuous supply of high quality rockfish product to consumers throughout most of the year. \_\_\_\_\_
- d. Maintain an economically viable fishery by increasing the economic efficiency of the fishing process--decreased costs and increased net returns to fishermen and processors. \_\_\_\_\_
- e. in support of (d), restrain fishing effort by:
  - 1) reducing total amount of effort over the season \_\_\_\_\_
  - 2) reducing amount of effort per unit of time (for example, in first few days of the season) \_\_\_\_\_
  - 3) reducing total number of boats in the fleet \_\_\_\_\_
- f. Enhance fisherman earnings and working conditions by:
  - 1) stabilizing regulations over time--minimizing changes in management goals and regulations \_\_\_\_\_
  - 2) designing regulatory strategies that:
    - \* are minimal--least regulation necessary \_\_\_\_\_
    - \* enhance operational safety (minimize pressures to operate in bad weather, without rest, etc.) \_\_\_\_\_
    - \* encourage individual freedom of choice in fishing strategy--to develop new methods or gear, to choose gear, time and place to fish, etc. \_\_\_\_\_
  - 3) fostering a secure tenure in the fishery for fishermen committed to that fishery \_\_\_\_\_
  - 4) minimizing fisherman conflicts (gear, space, etc.) \_\_\_\_\_
- g. Minimize negative impacts of access controls on fishermen not qualifying for access to the rockfish fishery. \_\_\_\_\_

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**PACIFIC MARINE FISHERIES COMMISSION**

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AGENDA D-2  
SUPPLEMENTAL  
EXECUTIVE DIRECTOR  
GUY N. THORNBURGH  
TREASURER  
G. L. FISHER

**MEMORANDUM**

**DATE:** June 18, 1989

**TO:** Guy N. Thornburgh, Executive Director  
Pacific Marine Fisheries Commission, and  
David L. Hanson, PMFC Alternate to the  
North Pacific Fishery Management Council

**FROM:** John P. Harville, Coordinator, Southeast Alaska Demersal  
Shelf Rockfish Longline Fishery Project

**SUBJECT:** Critical Data Base Inadequacies for Managing the Resources

During the deliberations at our Southeast Alaska demersal shelf rockfish workshop June 16-17 in Juneau, Alaska, participants expressed extreme frustration at the futility of trying to rationalize effort and harvest in the rockfish longline fishery under conditions wherein only part of the total fishery impact on stocks of concern is being monitored. The existing State of Alaska fish ticket system, along with mandatory logbooks required of longline fishermen, plus active State port sampling programs, provide reliable data on longline harvests. However, no parallel program provides stock impact data from domestic trawl operations fishing on the same stocks in the Eastern Gulf of Alaska. Agency stock assessments and the allowable harvest guidelines derived from them therefore must be based presently on data input that is not only incomplete, but with deficiencies of unknown magnitude.

Our workshop group, representing processors and longline fishermen from six Southeast Alaska ports of landing, therefore unanimously requests that to fill that presently serious fishery information gap, effective observer coverage be implemented at once on all domestic trawl operations in the Eastern Gulf of Alaska, with particular priority for waters east of 140 degrees W. Longitude, and certainly east of 137 degrees W. Longitude. In these areas of known demersal shelf rockfish concentrations, effective observer coverage is a necessity for determining trawl fishery impacts on these valuable stocks. It should be noted that the longline fleet has repeatedly indicated its willingness to carry observers in vessels having adequate space.



I urge your strongest possible support for this essential action during the North Pacific Fishery Management Council deliberations this coming week. Clearly we need reliable data concerning total fishery removals by all gear types from these slow-growing and highly vulnerable stocks as basis for rational long-term conservation and wise use of these valuable resources. We also most urgently need this supportive action by the North Pacific Fishery Management Council to underpin cooperative Federal-State management of these interjurisdictional resources. Certainly it is unrealistic to ask our longline fishermen to reduce their fishing effort and to operate within progressively more restrictive harvest limits and regulations, so long as we continue to have totally unmonitored impacts by other American fishing operations on the stocks they presently fully utilize.