

PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

December 1, 1976

Mr. Robert W. Schoning  
Director  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
Washington, D.C. 20235

Dear Director Schoning:

The Pacific Regional Fishery Management Council met in San Francisco on November 22-23 and considered, among other items, the interim regulations proposed for implementing the Fishery and Conservation Management Act of 1976.

The Council expressed strong concern over the wording of Section 602.2(d)(2) which takes the position that the Secretary will be responsible for developing a joint management regime (for transboundary stocks) with neighboring countries. Fishery Councils would only be consulted by the Secretary in preparation of plans used in negotiations.

The position of the Pacific Council is that Congress intended for Councils to have as a primary responsibility management planning of the fishery resources off the U.S. coast, including those stocks that are harvested off other countries' coasts.

Attached is a recommended rewording of the proposed language published in the interim regulations. This new language recognizes that the prerogatives for international negotiations are, by law, the responsibility of the Departments of State and Commerce, but it also emphasizes the management planning initiative delegated to the Regional Councils by Congress through Public Law 94-265.

We urge your serious consideration of the revised language.

Sincerely,



*for*  
John W. McKean, Chairman  
Pacific Regional Fishery Management Council

cc: Honorable Robert L. Leggett  
Honorable Gerry E. Studts  
Honorable Edwin B. Forsythe  
Regional Council Chairmen

RECOMMENDATION OF THE PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

REGARDING TRANSBOUNDARY STOCKS

The Pacific Fishery Management Council recommends amendment of the Interim Regulations for Fishery Management and Conservation as published by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, in the Federal Register for Wednesday, September 15, 1976. The portion to be amended is in Section 602.2 (d) (2) concerning jurisdiction under National Standard 3, and with particular reference to management initiatives with respect to transboundary stocks which range into a neighboring country's contiguous zone.

The new language proposed below should be inserted in place of the section which begins "Where a stocks' range extends into a neighboring country's contiguous zone..." and ends with the paragraph "... international joint management regime."

The Fishery Management Councils shall have principal responsibility for the management planning of transboundary and boundary stocks. When the framework for this management can only be established by international agreement, the Secretary of State, in cooperation with the Secretary of Commerce, shall support the management plans of the Council in its negotiations for the United States. The procedures for negotiations shall be:

1. The negotiating position and strategy shall be established in consultation by the Council(s) concerned, the Secretary of Commerce, and the Secretary of State;
2. The Council(s) concerned shall recommend two or more members of the Council(s) to be members of the government negotiating team, and the Council(s) may also recommend other Council members as advisors to the delegation; and
3. The results of these negotiations shall be reviewed by the Council(s) concerned before any resulting agreement is submitted to Congress. The concerned Council(s) shall prepare management plans for the species or stocks the agreement covers. These management plans shall be developed, reviewed and have regulations promulgated to implement them using the procedures pursuant to the Fishery Conservation and Management Act.

If the agreement which is the result of the first negotiations provides for a consultative body or commission to work out, on an annual or on-going basis, the annual total allowable catches (TACs) and other management provisions for transboundary stocks, two or more of the United States members of this body shall be members of the concerned Council(s). The Council(s) shall designate these members and may appoint other Council members to serve as advisors to that body. The decisions or recommendations of this body shall be incorporated in the management plans and/or regulations that the concerned Council(s) develop, or, as appropriate, in the regulations which the Secretary of Commerce promulgates.