



AGENDA ITEM 15
MAY 1978

DEPARTMENT OF STATE

Washington, D.C. 20520

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Mr. Branson

May 9, 1978

Mr. Terry L. Leitzell
Assistant Administrator
for Fisheries
National Marine Fisheries Service
NOAA - Department of Commerce
Washington, D.C. 20235

Dear Terry:

This is in reference to the enclosed correspondence on draft guidelines for approval/disapproval of foreign fishing vessel permit applications recently considered, at the request of NMFS, at the April 19-21 meeting of the Caribbean Regional Fishery Management Council in San Juan, and which I understand have been sent to all Councils for comment.

Although we have not been contacted for our views on your draft, the development of guidelines under which the United States shall approve or deny foreign fishing permit applications is a matter of legitimate and substantive concern to the Department of State, and we wish to take this opportunity to provide you and the Regional Councils with our comments.

The draft guidelines note the instructions for completion of the Application for Vessel Permits, advise foreign nations to submit request by letter for fisheries not covered by a PMP or FMP and state that applications which do not conform to these instructions will be disapproved. I am concerned that these instructions may have the effect of discouraging foreign nations from applying for permits to fish for fishery resources, particularly underutilized resources, which may not now be covered by a PMP or FMP. We note that there is no requirement in the FCMA for the development of a management plan on the basis of an informal foreign request by letter,

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and we question whether the Department of Commerce is prepared to develop a PMP on this basis, particularly for latent resources which may have a low priority for utilization by domestic fishermen.

As you know, application by a foreign nation to fish is one means of triggering those provisions of the FCMA designed to provide for fishing in accordance with management plans for each fishery off our coast. It is the position of the Department of State that under the FCMA a foreign country which has entered into a GIFA with the United States may formally apply for a permit to engage in any fishery subject to U.S. exclusive fishery management authority. If a country applies for a permit for a fishery which is not covered by a management plan, the Secretary of Commerce is required, under the FCMA, to prepare a PMP. Only through the development of management plans for all fisheries off the U.S. coast, as required under the FCMA, can the United States, in our view, meet a basic objective of the FCMA which is to prevent overfishing of a particular stock while achieving, on a continuing basis, the optimum yield from each fishery.

Since directed foreign fisheries for traditional stocks off the U.S. coast in the Northwest Atlantic have either been eliminated or sharply reduced in the past two years, it will be increasingly important in the future for foreign countries desiring to fish off our coast to direct their efforts to fisheries which are presently underexploited by U.S. fishermen. Foreign utilization of latent resources is a legitimate interest of both foreign and U.S. fishing interests since our domestic policy is premised upon achieving optimum utilization of the stocks. Consequently, we feel it is important for foreign countries to better understand the provisions of the FCMA relating to applications to fish and to submit applications for desired fisheries off the United States coast. We intend to so inform all countries which have entered into GIFAs with the United States.

We have several additional comments concerning the section of the draft guidelines dealing with sanctions for violations of U.S. regulations. We understand from

the NMFS representative at the recent Caribbean Council meeting that the proposed guidelines are designed to establish a basis for applying the sanction of disapproval of a permit application to countries rather than individual vessels. The State Department strongly opposes this approach, for which no basis is established in the FCMA and which could result in the elimination of a foreign country's entire fishery off the U.S. coast as a result of one or more violations by an individual vessel. The imposition of such a blanket sanction, if applied by a foreign nation against the U.S. could have a very serious impact on our distant water fisheries. If such guidelines were followed, we could expect foreign countries to cite our action in expelling entire foreign fleets as a justification for curtailing the activities of the U.S. fleet off their coasts. Thus, we believe that any position taken by the United States involving such a complex issue should be carefully reviewed in the context of U.S. fishing interests off foreign coasts. Clearly, the United States should not expect more favorable treatment off the coasts of other countries than we are willing to accept off our coast.

I appreciate this opportunity to state our position and trust our comments will be helpful.

Sincerely,

JS/

James A. Storer
Director
Office of Fisheries Affairs

Enclosure:

As stated.

OES/OFA/FA:LLSnead:smd

Clearances: L/OES:MEHoinkes
OES/OFA/FA:GNelson

cc:All Regional Councils



F35/WPA

NATIONAL MARINE
FISHERIES SERVICE
St. Petersburg, Florida
RECEIVED

MAR 30 1978

APR 3 1978

ROUTING

TO: Regional Directors, NMFS

FROM: Terry L. Leitzel *Fred H. Neibohm*
Acting Assistant Administrator
for Fisheries

SUBJECT: Guidelines for Approval/Disapproval of Permit Applications

FSE
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" 7

We propose to establish NOAA guidelines regarding approving or disapproving applications for foreign fishing vessel permits on a case-by-case basis. Such guidelines are intended as an aid to Fishery Management Councils in reviewing individual applications.

Attached is a draft of guidelines which are being provisionally employed for 1978 applications. I request your comments on these guidelines. In addition, request you obtain the views of the Fishery Management Council(s) within your Regions regarding the criteria and additional considerations which should be addressed.

We request your response by June 1, 1978. When comments have been received, evaluated and resolved, if necessary, we will establish final guidelines for internal use which may be published in the Federal Register.

Attachment

cc: F, F3(2), F31, F35, F4, GCF



FSE

APPROVAL/DISAPPROVAL OF APPLICATIONS
FOR
1978 PERMITS

<u>Proposed Reason for Disapproval</u>	<u>Action</u>
Species not covered by PMP/FMP ^{1/}	Disapproval
No allocation to nation ^{2/}	Disapproval ^{3/}
Limit number of vessels	Not sufficient basis for disapproval
Violation by vessel in 1977:	
Citation	Not sufficient basis for disapproval
Report of Violation:	
One incident ^{4/}	Not sufficient basis for disapproval
Two or more incidents	May be basis for disapproval depending on FMC recommendations and evaluation of severity of violations
Seizure	Probable disapproval depending on FMC recommendations and evaluation of circumstances
Non-payment of assessed fine	Disapproval, but only after such fine is overdue
Joint Venture	May be basis for disapproval or conditional approval, depending on FMC recommendations and NOAA evaluation based on the criteria contained in the interim joint venture policy

1/ The instructions for completion of the Application for Vessel Permits advise foreign nations to submit requests by letter for fisheries not covered by a PMP or FMP. Applications received despite those instructions will receive the action indicated.

2/ Applications may be resubmitted if an allocation is subsequently made by the Department of State.

3/ An exception is made for fisheries such as Atlantic Billfishes and Sharks in which an allocation is not required in order to engage in the fishery.

4/ An "incident" relates to the boarding or other means of notifying the master of the vessel that a violation has occurred. Thus, an "incident" may involve more than one Report of Violation or more than one count on a Report of Violation. The principal concern is recidivism after notification.

North Pacific Fishery Management Council

Agenda Item 16, May 1978

Harold E. Lokken, Chairman
Jim H. Branson, Executive Director

Mailing Address: P.O. Box 3136DT
Anchorage, Alaska 99510

Suite 32, 333 West 4th Avenue
Post Office Mall Building



Telephone: (907) 274-4563
FTS 265-5435

April 5, 1978

Ms. Sara S. Hemphill
Alaska Fisheries Development Corporation
Box 969
Cordova, AK 99574

Dear Sara,

Thank you for your letter of March 23rd inviting me to sit as an ex-officio member of the Board of your Corporation.

I believe it proper to put your invitation before the North Pacific Fishery Management Council before accepting since I, or any other representative of the Council, sitting as an ex-officio member of the Board of the Alaska Fisheries Development Corporation would be considered to represent Council viewpoints and policies. I'm sure the Council will want to discuss the interrelationships of the two groups before making a commitment. As you are aware, the North Pacific Council is vitally interested in the groundfish development off Alaska and has already been active in that field even though it is somewhat outside their mandated role under the FCMA. I am sure they will be interested in a continued close working relationship with organizations active in the development field, particularly your Corporation.

The Council will not meet again until May 25th and 26th. I will put this matter on the agenda for that meeting. In the meantime, if you have a meeting or meetings of the Board of Directors, I would like to attend as an observer. This will not only serve to keep me abreast of ongoing developments, but will enable me to answer the questions we can expect from the Council as they discuss your invitation.

Thank you again for your invitation to sit as an ex-officio Board member, I would like to discuss this subject with you prior to the next Council meeting, and would appreciate being kept apprised of your current activities.

Sincerely,

Jim H. Branson
Executive Director

COPY

Alaska Fisheries Development Corporation (Information)

BOX 969
CORDOVA, ALASKA 99574
(907) 424-3116

March 23, 1978

James Branson
Executive Director
NPRFMC
P. O. Box 3136 DT
Anchorage, Alaska 99510

Dear Mr. Branson:

As you are well aware, the Alaska Fisheries Development Corporation (Corporation) has just recently been formed in order to coordinate industry directed research for the development of fisheries resources off the Alaska coast. Another primary purpose of the Corporation is to provide both the government and the public with a single entity to which they can turn with questions and for recommendations regarding the status and requirements of the Alaska fishing industry.

Membership of the corporation will be open to all organizations that represent Alaska fishermen and to all processors holding an Alaska processor license. Associate and supporting memberships are open to any interested person or organization.

The board of directors will be elected annually at a meeting of delegates from the member organizations. Ten directors will be chosen to represent the five coastal regions of the State in a manner that will provide for equitable representation of both fishermen and processors. In addition to these ten elected directors, three ex-officio directors will sit with the board: one representing the State from the Governor's office, one representing the North Pacific Regional Fishery Management Council, and the third, representing the National Marine Fisheries Service. The corporation feels that it is very important for it to have the advice and comments which it anticipates will be forthcoming from three such interested, concerned and informed board members.

On behalf of the board of directors of the Alaska Fisheries Development Corporation I would like to invite you to sit as the ex-officio member of the board who will be representing NPFMC. It is, as a result of the unanimous vote of the board of directors, that I extend this invitation to you; we will be most happy and honored to receive your acceptance.


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AFDC
March 23, 1978

If you have any questions, don't hesitate to call.

Very truly yours,

Alaska Fisheries Development Corporation

A handwritten signature in dark ink, appearing to read "Sara S. Hemphill". The signature is written in a cursive style with a large initial 'S'.

By Sara S. Hemphill
Member, Board of Directors

SSH/pjg