

SJR

52

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Version: SJR 52
(S) Publish Date: 3-2-92

Revision Date: 2/28/92 Department Affected: None
 Title: Inshore-offshore fisheries allocation plan BRU: _____
 Component: _____
 Sponsor: Sen. Fred Zharoff
 Requestor: Senate Resources Committee COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

This resolution is directed to the federal government and does not require a state appropriation.

Prepared By: Terry Otness TO Phone: 465-4907
 Division: Senate Resources Committee Date: 2/28/92
 Approved by Commissioner: Senator Lloyd Jones Chairman, Senate Resources Committee
 Agency: _____ Date: 2/28/92



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:


P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Representative Cliff Davidson
Chairman
House Resources Committee

FROM: Senator Fred F. Zharoff 

DATE: March 2, 1992

RE: Senate Joint Resolution No. 52 - "Supporting the inshore-offshore fisheries allocation plans proposed by the North Pacific Fishery Management Council."

RESOLUTION SUMMARY: SJR 52 requests the Secretary of the U.S. Department of Commerce to approve the inshore-offshore fisheries allocation plan that was passed by the North Pacific Fishery Management Council in June, 1991.

The resolution describes the detrimental impacts the factory trawler fleet has had on Alaska. It summarizes the benefits to the state from the development of the inshore harvesting and processing industry.

FISCAL IMPACT: Zero fiscal note prepared by the Senate Resources Committee. SJR 52 is directed toward the federal government and requires no state appropriations.

PREVIOUS ACTION: Passed the Senate 17-0 on March 2. Hearing held in Senate Resources on Feb. 28. Moved out of committee with four "do pass" recommendations.

BACKGROUND INFORMATION: After years of study and debate, the North Pacific Fishery Management Council -- in June, 1991 -- recommended to the Secretary of Commerce that a plan be adopted that would allocate specific percentages of the fishery resources of the Gulf of Alaska and the Bering Sea to the inshore processing sector and to the offshore processing sector. A decision on this plan is expected this week.

The purpose of the plan is to settle the fisheries allocation question between the inshore and offshore (factory trawlers) components of the industry. Through their wasteful fishing practices and overbuilt processing capacity, the factory trawlers have created tremendous problems for the managers of the North Pacific fishery resource, including overfishing and potential resource depletion. In some cases, shore based

plants -- which pay Alaska taxes and support local economies -- were forced to shut down when the factory trawler fleet took all the available quota.

The factory trawler fleet strongly opposes the council's proposed plan and has launched an all out lobbying campaign in Washington, D.C. to convince the Secretary of Commerce to reject it.

ATTACHED BACKUP INFORMATION:

1. Fiscal note.
2. NPFMC Newsletter (July, 1991) containing description of council action and the proposed plan.
3. Letter from fourteen U.S. Senators to the Secretary of Commerce in support of the plan, Feb. 27, 1992.
4. Anchorage Times editorial in support of the inshore allocation, Feb. 20, 1992.
5. Anchorage Daily News article about efforts to have the plan rejected, Feb. 27, 1992.
6. Anchorage Times article about the fight in Washington, D.C. over the allocation plan, Feb. 22, 1992.
7. Anchorage Daily News article about conflicting opinions in Washington, D.C. over the allocation plan, Feb. 14, 1992.
8. Kodiak Daily Mirror article about destructive factory trawler fishing practices in Russian territorial waters, Jan. 23, 1992.

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STATE OF ALASKA
1992 LEGISLATIVE SESSION

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MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

This resolution is directed to the federal government and does not require a state appropriation.

Prepared By: Terry Orness ^{TO} Phone: 465-490
 Division: Senate Resources Committee Date: 2/28/92
 Approved by Commissioner: Senator Lloyd Jones ^{LO} Chairman, Senate Resources Committee
 Agency: _____ Date: 2/28/92

North Pacific Fishery Management Council

Richard B. Lauber, Chairman
Clarence G. Pautzke, Executive Director

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NEWSLETTER

Council Recesses June Meeting until August

The North Pacific Fishery Management Council met in Anchorage June 24-29, 1991, but could not complete its agenda. Their decisions, mainly on the inshore-offshore issue, are reported in this newsletter, but most other agenda items remain to be decided when the Council reconvenes in August in Juneau, Alaska. They will meet at the Baranof Hotel, beginning at 10 a.m., Tuesday, August 13, and run through August 15 or possibly August 16, depending on how fast the meeting progresses.

Attached is an agenda for the August extension of the June meeting. Please note that public testimony has been completed and is closed on the following agenda items:

- C-1 Sablefish Management
- C-2 Inshore-Offshore
- D-1(b) Groundfish Amendment 17/22
- D-2(b) Bycatch Amendment Proposals

The last item, bycatch amendment proposals, will be the subject of a special open teleconference of the Council on Wednesday, July 3, at 1 p.m., Alaska Daylight Time. Anyone interested in the results of that teleconference should contact the Council office to receive a complete list of the bycatch proposals to be analyzed during 1991.

Concerning agenda item C-3, North Pacific Fisheries Research Plan, the deadline for written comments was June 14. Oral testimony (and simple transcripts of the testimony) will be taken at the August extension of the June meeting.

Inshore-Offshore Preferred Alternative Approved

After two years of analysis and consideration of the inshore-offshore issue, the Council has given final approval for Secretarial Review to the proposed groundfish amendment attached to this newsletter. The preferred alternative provides for allocations of Bering Sea and Aleutian Islands pollock between inshore and offshore components to be phased in over three years, beginning in 1992. A special operational area for harvesting vessels will be established south of 56° North latitude between 168° and 163° West longitude, though the offshore fleet will be allowed to harvest some of the roe fishery allotment there. The preferred alternative also provides for a special program to help Western Alaska communities. Gulf of Alaska pollock are allocated to the inshore component except for bycatch amounts, and Gulf of Alaska Pacific cod is allocated ninety percent to the inshore sector. The Council intends to develop and implement a moratorium, perhaps including emergency action, as soon as possible.

All that remains for the Council to consider for inshore-offshore are the proposed regulations that will implement the preferred alternative. Hopefully these will be available for Council review at the

August extension of the June meeting. As noted above, public comment is closed on this issue, but there will be further opportunity for public review during Secretarial Review, which is anticipated to commence in early September.

Sablefish and Halibut Management

The Council completed public testimony on the alternative sablefish individual fishing quota proposals but delayed final approval until the August extension of the June meeting. After the final decision is made, the Council's preferred alternative will be merged with that on halibut and forwarded for Secretarial Review sometime this fall. If IFQs are approved, they could be implemented by late 1993 or early 1994.

The Council approved draft halibut IFQ alternatives for public review. The amendment package will commence a 45-day public review around July 19. A final Council decision is scheduled for September 23-27, 1991. The proposed alternatives and options are attached to this newsletter.

Council Seeks Proposals for Rationalizing Groundfish and Crab Fisheries

The Council finds itself dealing more and more with problems that result from the enormous fishing capacity that has developed off Alaska. These include gear preemptions, bycatch problems, inshore-offshore issues, marine mammal - fisheries interactions, and many other contentious allocative issues that are aggravated by the fast-paced, high capacity nature of the fisheries. Therefore, as part of its deliberation on the inshore-offshore issue, the Council instructed staff to develop alternatives for the Council to consider to rationalize the groundfish and crab fisheries under its jurisdiction. The alternatives now include:

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

However, the Council seeks additional proposals from all interested parties, including its Scientific and Statistical Committee and Advisory Panel. These should be received at the Council office by September 30, 1991, so they may be incorporated into a comprehensive proposal package for Council review this coming December. Preliminary discussions of this initiative also will be on the agenda for the September Council meeting.

July Bycatch Committee Meeting Cancelled

The Bycatch Committee will not meet on July 25 as previously announced. Instead, the Committee will schedule a teleconference to discuss salmon bycatch information and a salmon bycatch amendment. The date of the teleconference will be made available to the public as soon as it has been set.

**COUNCIL'S PREFERRED ALTERNATIVE
AGENDA ITEM C-2: INSHORE/OFFSHORE**
(Original motion introduced June 26, 1991; passed as amended June 28, 1991)

Motion for a Comprehensive Fishery Rationalization Program for the groundfish and crab resources in the Gulf of Alaska and the Bering Sea and Aleutian Islands:

I. 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.

II. 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:

Groundfish: The term "groundfish" means pollock and/or Pacific cod in the Gulf of Alaska and pollock in the Bering Sea/Aleutian Islands.

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 at any time during the calendar year in the Exclusive Economic Zone (from 3 to 200 nautical miles from the Baseline).

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 groundfish at any time during the calendar year within 3 nautical miles of the Baseline.

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.

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 within 3 nautical miles of the Baseline, 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 Section III.

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.

III. **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 North Pacific Fishery Management Council (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.

IV. 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.

V. 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.

United States Senate

WASHINGTON, DC 20510

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February 27, 1992

The Honorable Rockwell Schriber
Acting Secretary of Commerce
U.S. Department of Commerce
Washington, D.C. 20230

Dear Mr. Secretary,

We are writing in regard to a pair of fishery management plans which propose the allocation of pollock and Pacific whiting between sectors of the commercial fishing industry. These allocations were proposed by the North Pacific Fishery Management Council and the Pacific Fishery Management Council, respectively. These are two of the eight regional councils created by the Magnuson Fishery Conservation and Management Act (Magnuson Act) to craft management programs for their regional fisheries. The pollock allocation is currently awaiting Secretarial approval, while the whiting plan has been preliminarily rejected by the National Marine Fisheries Service (NMFS).

The purpose of this letter is to express our support for both allocations, and to raise questions about the manner in which NMFS is interpreting the Magnuson Act.

The Magnuson Act calls for fishery management plans which result in the greatest economic and social benefit to the nation. In both these cases, the Councils have chosen strategies which will result in a more efficient utilization of a publically owned resource. Both the quantity and total dollar value of fishery products available to consumers will increase. This increased food production will, in turn, provide greater employment, increased social stability, and a net increase in trade revenues.

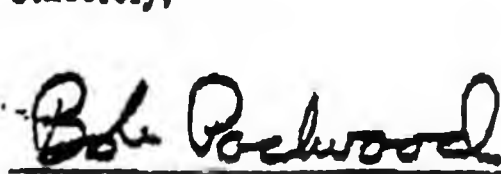
Since these are the major goals of the Magnuson Act, we do not understand the apparent opposition of the agency to the proposals. We can only conclude that there is a policy dispute between the Councils and the hierarchy of NMFS. However, we must point out that Congress created the Councils as policy making bodies based upon the idea that it is better to have local citizens propose management strategies for their regions than to have this role performed in Washington, D.C. The Secretary, in reviewing Council proposals, must make sure they acted reasonably and in accordance with federal law. However, as the Secretary has noted in the past, it is not the intent of the Act for the agency to substitute its policy judgment for that of the Councils.

Honorable Rockwell Schnabel
February 27, 1992
Page 2

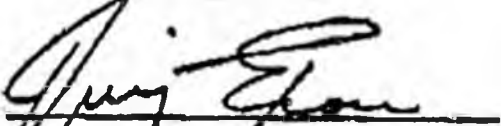
We ask you, as the person ultimately responsible for plan approval, to ask NMFS to reconsider its rejection of the Pacific whiting plan and to keep Congressional intent in mind as both plans are reviewed.

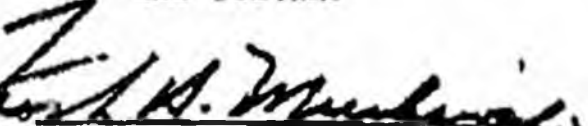
Thank you for your consideration of this matter.

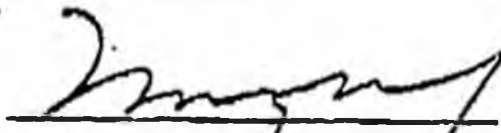
Sincerely,

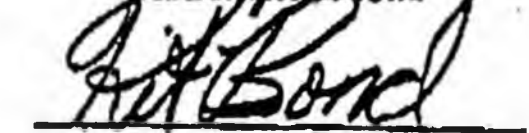

BOB PACKWOOD

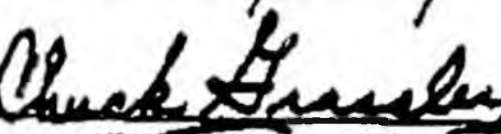

TED STEVENS

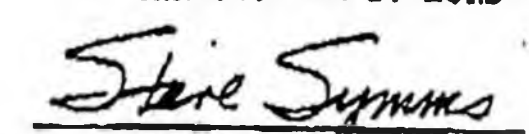

JIM EXON

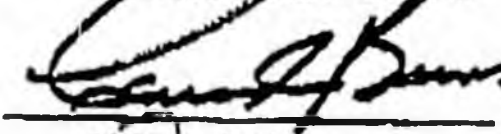

FRANK MURKOWSKI

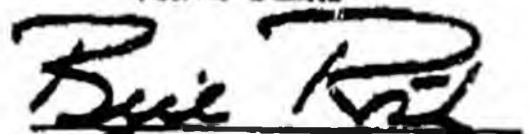

MARK O. HATFIELD

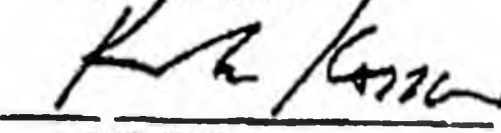

CHRISTOPHER S. BOND

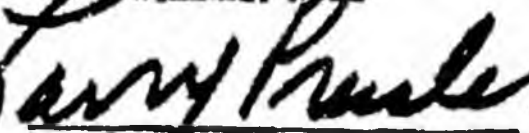

CHARLES GRASSLEY

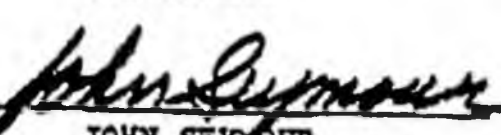

STEVE SYMMS



CONRAD BURNS


WILLIAM ROTH


BOB KASTEN


LARRY PRESSLER


JOHN SEYMOUR


LARRY CRAIG

The Anchorage Times

"Putting Alaska first"

BILL J. ALLEN *Publisher* GENE AREHART *President*
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FISH WAR INTENSIFIES

Trawlers show clout

ALTHOUGH MANY Alaskans may not realize it, our state is at war — a fish war in which Alaska fishermen who supply pollock to onshore processors are on one side, and the giant fleet of Seattle-based factory trawlers are lined up on the other. Unfortunately for our state, the other guys appear to be winning.

When lawyers at the Department of Justice weighed in the other day with an independent opinion on how Alaska's pollock should be allocated, it illustrated just how powerful the U.S. factory trawler lobby has become.

In their opinion, the federal attorneys argued against dividing Alaska's pollock resources between fishermen who supply the onshore processors and the offshore trawlers. They recommended instead an auction of the resource — all of Alaska's fish going to the highest bidder, which undoubtedly would mean the trawlers get all of it.

BECAUSE THE opinion was volunteered — no one had asked for it — and because the arguments it presented, wording and all, were very similar to the position advocated by the trawlers association, it could have been written by the trawlers themselves. In any event, it contained flaws in its reasoning.

Principal among those flaws is the contention that the allocation of U.S. resources should go to the most "efficient" operations, and whoever is willing to pay the most for those resources, therefore, must be the most efficient.

Obviously overlooked by the Justice Department lawyers is the fact that the reason trawlers make so much profit is because they are notoriously inefficient when it comes to full utilization of fish resources. The trawl fleet operations account for an enormous amount of fish waste — almost 30 percent of everything caught is discarded. The food is wasted in order to increase profit margins.

ALASKA'S INSHORE fishery, on the other hand, maximizes productivity from the fishery and therefore is the most efficient. Alaska's shore-based fishery also provides employment and economic benefits to numerous local communities, one of the objectives in federal guidelines for allocating fish resources.

Those were among the reasons why the North Pacific Fishery Management Council recommended last fall the allocation of up to half of the available pollock for annual harvest to the inshore fishery. But NPFMC's recommendation is still awaiting approval by the secretary of Commerce.

Former Commerce Secretary Robert Mosbacher was well briefed on the issue, and Alaskans were optimistic he would side in favor of the NPFMC recommendation. However, he has since moved on and a new secretary, Barbara Franklin, is awaiting confirmation by the Senate. Where she will come down on the issue, no one knows.

But it's apparent that the trawlers lobby will be doing everything possible to sway her opinion its way.

Official wants to reject plans for fish catch

Inspector general criticizes council's work on pollock

By BRIGID SCHULTE
and HAL BERNTON
Daily News reporters

WASHINGTON — The Commerce Department's inspector general says two proposals to guarantee pollock to Alaska's shore-based plants are based on incomplete and faulty studies, and should be rejected.

Inspector General Frank DeGeorge released the report Wednesday, one week before the department is scheduled to make a final decision on the allocation proposals. The proposals were approved last summer by the federal North Pacific Fishery Management Council. They have triggered one of the nastiest fish fights of the past decade, pitting Alaska politicians and shore operators against largely Seattle-based factory trawler companies that process fish

at sea. They are fighting for shares of a North Pacific pollock catch worth more than \$1 billion a year.

Factory trawler operators are hoping the inspector general's report will doom the allocation proposals.

"No self-respecting administration official would dare put their reputation on the line for this thing," said Stuart Looney, president of the factory trawler company Royal Seafoods Inc.

Meanwhile, Alaska politicians are trying to downplay the findings as they lobby the Bush Administration to support the shore plants.

"The audit revealed no violations of laws or regulations in the way the council process was conducted," Murkowski and Young said

Please see Back Page,
POLLOCK

POLLOCK: Official wants proposals rejected

Continued from Page A-1
a statement Wednesday. The council followed both the letter and intent of the law.

The proposals were approved by the fishery council last summer in a 9-2 vote. The council is a group of fishing industry, federal and state officials who help craft federal fishery policy, and the Commerce Department normally approves council actions.

One proposal would guarantee most of the Gulf of Alaska pollock to boats serving Kodiak and other shore-based plants. The other proposal would guarantee at least 45 percent of the much larger Bering Sea pollock catch to boats serving shore plants.

The fish are now caught

on a first come, first-served basis, and factory trawlers have charged the proposals are an unfair attempt to rig the harvest in favor of their competitors.

The inspector general's report did not attempt to judge the merits of the proposal. Instead, it looked at the economic, social and environmental studies on which the council is required to base decisions. The report's findings include:

- The council failed to prepare a cost-benefit analysis of how the proposal would affect the fishing industry.

- The council failed to document how the allocation proposal would help solve the problem of an oversized fleet with too many boats chasing after the pollock.

- The council failed to

- The council failed to address the full social impact of jobs being shifted from the factory trawler fleet to the shore-based processors.

Rick Lauber, the council chairman, said the council closely followed the legal advice of attorneys from the National Marine Fisheries Service. Those attorneys said the studies meet all legal requirements, and specifically said the council did not have to do a cost-benefit analysis.

"Now, they're saying we should have done something we thought wasn't necessary," Lauber said. "The

whole thing is so unfair." Both shore plant and factory trawler supporters are now pressing forward with a final week of lobbying to tip the scales in their favor. And both sides are vowing to sue for the decision against them.

"The record is unimpeachable for this action, so, given the violations of the law that have occurred, it would in all likelihood be a foregone conclusion," said Gilmore, a lobbyist for the American Factory Trawler Association.

Dennis Phelan, lobby director for the Pacific Seafood Processors Association, said plan meetings all legal standards. If the Commerce Department decides to "impose some new standard," Phelan said, that's illegal. "We'll have no choice but to sue."

ANCHORAGE TIMES
SATURDAY, February 22, 1992

Bottom-fish feud spills over onto Capitol Hill

By IMRE NEMETH

TIMES BUSINESS WRITER

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"I've never seen anything like it," said Margaret Hayes, chief fisheries attorney for the Commerce Department. "This is more (lobbying) than I've seen before on any other fisheries proposal."

The proposal calls for a 55 percent share of

the harvest for factory trawlers, which process surimi and fillets at sea, and 45 percent for catcher vessels that deliver to shore-based plants in Dutch Harbor, Kodiak, Akutan and St. Paul.

A decision is expected March 5 by either yet-to-be-confirmed Commerce Secretary Barbara Franklin or the current acting secretary.

"It's a tough, tough battle," said Bill Woolf, spokesman for Sen. Frank Murkowski, R-Alaska, in Washington, D.C. "We frankly consider the allocation vital for Alaska. (Otherwise), people are going to be put out of work."

Both sides in the debate believe their economic survival hinges on the decision.

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See Fish, back page

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Fish

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Association, said the proposal would cost his industry millions of dollars and give unfair control of the surimi market to large Japanese-owned processors in Dutch Harbor.

"Is the U.S. government, by policy, proposing to grant resource and market control to the Japanese?" he said. "We're talking about tampering with people's lives, and for what? So that Nippon Suisan, Taiyo and Trident could have guaranteed economic success."

Nippon Suisan and Taiyo, both Japanese companies, own Dutch Harbor plants, while U.S.-owned Trident Seafoods Inc. has a plant in Akutan.

Onshore interests were wary of guessing the outcome, but John Jani, president of the Pacific Seafood Processors Association, said his forces have a 50-50 chance of winning.

"I think we've gotten to the point where we've proven our case," he said. "Now it's a policy decision. This is the biggest fish issue to hit the state since the Magnuson Act. If it doesn't pass, the shore plants will be out of luck."

The state's congressional delegation is trying to arrange a meeting with White House officials next week to push the proposed allocation, said Rod Moore, an aide to Rep. Don Young, R-Alaska.

The factory trawl industry, which now harvests 80 percent of Bering Sea pollock, has been locked in political competition

with shore-based interests since the allocation proposal passed the North Pacific Fishery Management Council in June by a 9-2 vote.

Jim Cornelius, a council economist, described the current state of events as a "Super Bowl attrition" with no clear front-runner.

"I've seen controversy in the past, but not one that reached such a polarization," he said.

The proposal initially spawned more than 500 pages of economic and biological review by the Alaska office of the National Marine Fisheries Service and another 500 pages of public testimony. Both sides since have added further comment for the record and two full-scale governmental investigations also are under way.

The Commerce Department has probed allegations of conflict of interest among 11 members of the North Pacific council. A draft report based on the investigation has been issued to the National Oceanic & Atmospheric Administration following extensive study throughout Alaska. NOAA oversees the fisheries service and the council.

Wayne Weaver, a spokesman in Commerce's Inspector General's office, declined to say what was in the report, nor would he say when it would be made public.

The Washington, D.C., office of the fisheries service also has started analyzing the inshore-offshore proposal to supplement nearly 1,100 public comments and its Alaska offices's economic analysis, said Dick Schaefer, director of the service's Office of Fish Conservation and Management. A 90-day public comment

period ended earlier this month.

The fisheries service analysis of the entire issue remains "several weeks" from completion, but must be submitted prior to the March 5 deadline, Schaefer said.

The agency last month rejected a similar onshore-offshore allocation proposal dividing Pacific whiting off Oregon's coast. Balls said the move is indicative of the agency's feelings toward allocations between different user groups, but officials say the agency has voiced no opinion on the Alaska proposal.

The Department of Justice's Antitrust Division also has entered the fray, submitting a review that advocates rejection of the proposal.

"Neither the current allocation system nor the proposed amendment are consistent with the efficiency goals of National Standard," the opinion said.

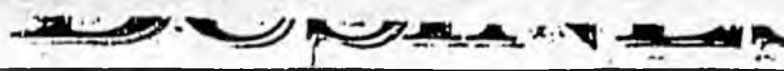
The National Standard, as defined by the Magnuson Act, says fishery management should promote efficiency in the utilization of the resource.

The Antitrust Division favored a controversial individual quota system passed by the North Pacific council in December. The council is to review the quota in April.

Moore, of Young's office, downplayed the Justice review, deriding it as "just an opinion of a bunch of lawyers."

Hayes at the Commerce Department said the Justice opinion was the first one she could recall on a fisheries issue. She said the Antitrust Division's review is without real clout, since the Natural Resource Division at Justice would defend her agency in the event of legal challenges to any allocation.

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2/14/92

Fish plan alive

Trawlers' actions irk Commerce

By DONNA PARKER
Special to the Daily News

A recent U.S. Justice Department opinion against a proposal to divide Alaska's rich bottom fishery between offshore processing ships and boats serving onshore plants was unsolicited, inaccurate and misused by those who hope the plan will be nixed, a top federal Department of Commerce official said.

Margaret Hayes, assistant general counsel on fisheries for the Commerce Department, said the legal comments circulated by the American Factory Trawler Association is being misrepresented as a Justice Department decision.

The comments were written by four attorneys from the Antitrust Division who urged the proposed allocation plan be rejected because it does not meet the requirements of federal law.

The allocation plan has torn apart the bottom fishing industry. Most of the offshore ships that fish off Alaska are based in Seattle or elsewhere outside the state. The onshore plants are located mainly in Kodiak and Dutch Harbor.

The onshore plants want a guarantee the huge ships that catch and process fish can't take all the fish near their plants; they say the guarantee is vital to the economic survival of Alaska

C6 Anchorage Daily News Friday, February 14, 1992

FLEET: Attorneys' letter irks Commerce counsel

Continued from Page C-1

coastal communities. The offshore group argues the plan is inefficient and penalizes them for their investment in at-sea processing.

The Commerce Department, which is to decide by March 5 on the allocation plan, did not request the comments, she said. And the Antitrust Division would not defend whatever decision is made, she said.

She was perturbed that the legal comments were being touted by the trawler association — which represents the offshore fleet — as representing a Justice Department decision.

"This document from Justice is not a decision. It is merely a comment on a set of proposed regulations that we asked the whole world to comment on," Hayes said.

The comments would not carry much weight within the Commerce Department, she said.

"We certainly would respect the opinion of the Antitrust Division in areas where they have expertise. But, I don't think they have any particular expertise on the national standards of the Magnuson Act," she said of the federal law that governs fishing off the U.S. coast.

The Justice Department lawyers did not return calls asking for comment.

Bruce Buis, spokesman for the trawlers association, said the group's lobbyists had solicited the Justice Department lawyers in hopes of securing a legal opinion that could overturn the proposed allocation plan.

"Yes, we contacted them. We talked to them and asked them to look into this. And we provided them with information explaining our point of view of the issue," Buis said.

"We've approached anybody that we think might help have this overturned."

The trawlers association circulated the Justice Department comments to the press last week with a cover letter interpreting the 10-page document.

The letter claimed the Justice Department had concluded the allocation plan wasn't consistent with the Magnuson Act's efficiency requirements and "puts the government in a bind if Commerce approves" the plan.

"This document from Justice is not a decision. It is merely a comment on a set of proposed regulations . . ."

— Margaret Hayes

"The reason is," wrote Buis in the cover letter, "that if the allocation is challenged in court — as it would be — the Department of Justice would have to defend the Department of Commerce. And Justice has already said that the proposed allocation doesn't satisfy the law."

That caused proclamations that the onshore/offshore proposal was all but dead. However, Hayes said that is far from true. The legal comments were inaccurate readings of the Magnuson Act, she said, and if the decision is challenged in court, the Lands and Natural Resource Division of the Justice Department would defend the government.

John Iani, director of the Pacific Seafood Processors Association, which represents on-shore plants, blasted the trawlers association.

"This is another case where the factory trawlers have ginned-up erroneous information," he said. The allocation proposal would guarantee shore-based fleets 45 percent of the huge pollock catch in the Bering Sea and all of the pollock catch in the Gulf of Alaska.

Last spring, the trawlers association was behind an ad campaign that asked fishermen to oppose the proposal because it would allocate most of the pollock to a monopoly of foreign-controlled processing plants and cause fishermen to get less for their fish. The ad campaign used a box number in Alaska but never identified the group as members of the at-sea processing sector.

The on-shore/offshore separate allocation proposal was passed in a 9-2 vote by the North Pacific Fishery Management Council last June.

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KODIAK, ALASKA

16 PAGES

50 CENTS

American fishermen are landing millions of pounds of halibut caught in Russian waters

By MARK BUCKLEY
Staff Writer

An American-flagged fleet of factory trawlers and longliners has been operating in Russian territorial waters since August or September of last year. They're returning to North American ports, primarily Dutch Harbor, with millions of pounds of halibut and other groundfish.

Had some of those fish been caught in the U.S., they would have been illegal to keep.

Some of those fish landed may be of American stock.

Because of a loophole in federal regulation, no one in the U.S. knows how many boats are in this fishery. Additionally, no one knows exact tonnage or species composition of the fish being landed here.

"The situation is legal," said Bob Trumble, Senior Biologist with the International Pacific Halibut Commission (IPHC), the organization that manages Pacific halibut in U.S. and Canadian waters.

Because the boats landing Russian-origin fish in U.S. ports are American flagged processors, they are not technically "importing" the fish. The processors can legally sell the fish as "product of the U.S.A."

Because the fish were caught legally in Russian waters, no U.S. laws were broken. This is true even though the fish may have been caught, kept or landed in ways that are illegal in America.

"The vessel owners have an arrangement with the Russians for American boats to fish inside the Russian 200-mile limit," Trumble said. "The U.S. vessels pay a fee per pound and get to keep and process the fish at sea.

The boats are both trawlers and longliners. Some of the boats are from the U.S., some are from other places. Just recently, for example, a significant quantity of fish was landed in British Columbia," Trumble added.

"There are no reporting requirements," said Trumble. "Therefore, there is no official record of the quantity of fish coming in."

"The Russians allow trawlers who are targeting pollock and cod to keep a percentage of their halibut bycatch," said Shari Gross of the Halibut Association of North America (HANA). "In American waters, it's illegal to catch halibut with a net or keep halibut when you're longlining for other species, like blackcod. Bycatch halibut here have to be returned to the sea."

"In American and Canadian waters, the minimum legal size for halibut is 32 inches," Gross said, "but the Russians have no minimum legal size limit."

"It will be an enforcement nightmare when those sublegal fish start showing up in the U.S. markets. Who can prove those fish actually came from Russia? There's the potential they could've been caught illegally in U.S. waters and then passed off as Russian fish," Gross said.

Another question regarding the Russian fishery is the mixing of Russian and American stocks of halibut.

"There is the potential that North American halibut stocks will be affected by the Russian fishery," said the IPHC's Trumble. "There was some tagging in Russian waters a few years ago and we got some tags back in the U.S. sector. We ex-

pect some interchange, but don't have any idea what the proportion of the interchange might be."

Trumble forecasts U.S. participation in the Russian fishery is likely to increase. "I would guess there were probably less than 20 boats there in 1991. We do project an increase in landings for 1992, but, again, we have no official record," he said.

HANA's Gross felt she could be a little more specific about landings. "We're estimating landings of 4 to 10 million pounds of halibut in 1991," Gross said. "We're expecting an enormous increase in volume for

1992 as the Russians sell more of their fish for hard currency.

"How will that increase in volume affect prices paid to the shorebased U.S. and Canadian halibut fishermen?" Gross asked.

According to industry monitors, the situation in the former Soviet Union today is chaotic. "For all we know, the Russians don't know what's going on out there," Gross said. "These deals that have been cut may or may not be with the knowledge of the central government."

A factory trawler representative defended his company's actions.

"We did have Russian observers on our boats," said Steve Finley, director of government affairs for Emerald Seafoods in Seattle.

"We were operating three factory trawlers in Russian waters and had 2 to 3 observers on our boats at all times. They were Russian officials of some sort, but things are really confusing over there right now and I can't say who exactly employed them."

"We were really happy with how it all worked out," said Finley. "We plan to go back."

See Halibut, Page 2

Halibut— Fish come from Russia

Continued from Page 1
again. Right now our boats are fishing in the American zone, but our company president is working on the next contract with the Russians."

Finley said the American boats were required to keep bycatch.

"The contract required us to keep all bycatch. However, we had a bycatch limit as well as an overall quota. I'm not at liberty to say, though, what that bycatch limit was. When either the bycatch limit or the quota was reached, we would be out of the fishery for the rest of the year."

Finley said a total of 8 factory trawlers and several longliners operated in the Russian zone.

"We had three factory trawlers and there were (a total of) five others from both American Seafoods and Ocean Trawl."

"Arctic Alaska Seafoods converted some factory trawlers into longliners and I'd guess there were 8 or 9 longliners there, though some of them were catcher-ships delivering to motherships."

Asked if Emerald Seafoods ships were delivering halibut that would be of sublegal size if caught in the U.S., Finley said,

"Yeah, we're delivering 'sublegal' halibut; but our contract requires us to keep them. You know, there is no U.S. law that says we're prohibited from selling those fish in this country. They were legally caught in the Russian zone."

Finley said his company voluntarily reports deliveries of large and small halibut to the National Marine Fisheries Service.

"We're calling NMFS, telling them when we enter and plan to exit U.S. waters and what our po-

sition and course heading are," he said. "That way Coast Guard planes can overfly our boats to prove they're not fishing illegally inside the U.S. zone."

"When we deliver in the U.S., we report to NMFS the amount of fish we're delivering. We voluntarily tell them the amount of 'large market' and 'small market' halibut we're bringing in."

When asked if all the other companies engaged in the fishery were reporting their catches and activities in U.S. waters as well, Finley answered, "I don't know; I don't think so."

Shari Gross of HANA wants mandatory reporting, and more.

"We're going to work with NMFS and IPHC to identify the loophole and close it," said

Gross. "We brought this situation to the attention of the North Pacific Fishery Management Council at the recent Portland meeting. The council asked for a report from the NMFS staff."

"Our first goals are to close the reporting loophole and to get U.S. observer coverage on these boats."

HANA may have a difficult time putting controls on American boats in the Russian fishery, though.

IPHC's Trumble said, "I don't know if they're involved in taking any marine mammals such as dolphins or endangered species like sea lions or sea turtles. Unless that can be shown, it's hard to put import restrictions on the fishery."

Dealing government-to-government with the Russians will not be easy, either.

"The Russians aren't signatories to any treaties that cover this situation," Trumble said.