

COUNCIL OPERATING PROCEDURE

Foreign Fishing Permit Review Procedure

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Approved by Council: 07/15/82 and 09/19/85
Revised: 11/19/87, 04/05/89, 04/06/95, **03/11/05**

PURPOSE

To establish, in accordance with Section 204(b) of the Magnuson-Stevens Fishery Conservation and Magnuson Act, a procedure for reviewing foreign fishing permit applications and providing comments and recommendations to the U.S. Secretary of Commerce regarding approval/disapproval of the requests and any special conditions or restrictions for the permits. The fisheries managed by the Council are, in general, fully utilized by domestic fishers and processors, or precluded from further harvest by necessary management constraints. However, certain limited cases may arise that allow for consideration of requests for foreign fishing permits that meet or do not impact Council management intent.

FOREIGN FISHING PERMIT REVIEW PROCEDURE

The Council has 45 days from time of receipt from the U.S. Secretary of Commerce to provide its comments and recommendations on a foreign fishing permit application. The Council review procedure will vary as provided below, depending on the timing and type of operation requested.

When possible to meet the comment deadline, the Council will review permit applications for foreign vessels to operate in joint ventures (JVs) and directed fisheries at the first Council meeting after the applications are received by the Council. Applications are expected to be complete and to have been published in the *Federal Register* preceding this Council meeting.

If deemed to be expedient by virtue of the fact the application is either noncontroversial or it is not possible to review the permit application at a Council meeting within the comment deadline, the Council Chair may appoint an ad hoc committee to review and provide recommendations on permit applications. These recommendations may be forwarded to the U.S. Secretary of Commerce following the "Quick Response" procedures in COP 1. In addition, the executive director may act upon the following types of applications without consulting with Council members.

1. Permit applications for vessels which would not be involved in fishing or processing *per se*; e.g., transport, supply, and fuel vessels.
2. Replacement or new vessels for operations (species or countries) which have already been approved by the Council. The executive director shall take into account any pending legal action against vessels in the foreign fleet when considering an application for a replacement vessel.

PERMIT REVIEW CRITERIA

Applications will be reviewed and recommended for approval or denial based upon the merits of the proposed operation compared to previously approved or denied applications and the availability of resources.

Priority will be granted to operations involving foreign processing vessels and U.S. harvesters. Preference will be given to those nations which demonstrate a willingness to involve U.S. industry in all phases of the operation and which give strongest support to the development of the domestic industry for underutilized species. No directed fishing will be authorized without at least an equal JV operation.

The Council will use the criteria in Table 1 on a provisional basis to evaluate joint operation requests relative to each other and make its recommendations to the National Marine Fisheries Service. These criteria will become especially important when biologically available surplus is insufficient to meet all demands. In such cases, approval or disapproval will depend on Council's ranking of all joint operations.

Tonnages by species requested on foreign permit applications for JVs are to be firm targets.

Table 1. Provisional criteria for the review of JV requests.⁶

- Potential net economic benefits and contributions of JVs to the nation as a whole
 - Compatibility of joint operation with other U.S. fisheries and incidental species (i.e., gear conflicts, ground preemption, environmental degradation, bycatch of highly valued species totally utilized by U.S. industry, etc.)
 - Destination and final marketing of products and competition with U.S. products
 - Purchase of finished or semi-finished U.S. product, especially underutilized species
 - Efforts to lower or remove trade barriers
 - Foreign participation in fisheries research off Washington, Oregon, and California
 - Reporting of fishery and market information beyond that required by law
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⁶ No priorities meant or implied.