

MINUTES

Regional Fishery Management Council Chairmen's Meeting  
June 22-24, 1981  
Homer, Alaska

Regional fishery management council chairmen, vice-chairmen, executive directors, and NOAA/NMFS legal and administrative staff met at the Elks Hall in Homer, Alaska from June 22 through June 24, 1981. The meeting was chaired by Clement V. Tillion, Chairman of the North Pacific Fishery Management Council. The following persons attended the meeting:

New England Fishery Management Council

Robert A. Jones, Chairman  
Jacob J. Dykstra, Vice-Chairman  
Douglas G. Marshall, Executive Director

Mid-Atlantic Fishery Management Council

David H. Hart, Chairman  
Elliot J. Goldman, Vice-Chairman  
John C. Bryson, Executive Director

South Atlantic Fishery Management Council

Margaret (Peggy) Stamey, Chairwoman  
O. B. Lee, Vice-Chairman  
David Gould, Executive Director

Gulf of Mexico Fishery Management Council

Bobby G. O'Barr, Chairman  
Nicholas A. Mavar, Jr., Vice-Chairman  
Wayne E. Swingle, Executive Director

Caribbean Fishery Management Council

Hector Vega-Morera, Chairman  
Samuel E. Espinoza, Vice-Chairman  
Omar Munoz-Roure, Executive Director

Pacific Fishery Management Council

E. Charles Fullerton, Chairman  
Herman J. McDevitt, Vice-Chairman  
Lorry Nakatsu, Executive Director

Western Pacific Fishery Management Council

Wadsworth Yee, Chairman  
Paul Callaghan, Vice-Chairman  
Svein Fougner, Executive Director  
Kitty Simonds, Assistant to the Executive Director

North Pacific Fishery Management Council

Clement V. Tillion, Chairman  
Harold E. Lokken, Vice-Chairman  
Donald Bevan, Council Member  
Charles P. Meacham, Council Member  
Ronald O. Skoog, Council Member  
Jim H. Branson, Executive Director  
Clarence G. Pautzke, Deputy Director  
Judy A. Willoughby, Administrative Officer  
Peggy A. McCalment, Executive Secretary

Department of State

Theodore Kronmiller, Designate for Deputy Assistant Secretary for  
Oceans and Fisheries Affairs

NOAA/NMFS

Jay S. Johnson, Assistant General Counsel for Fisheries, NOAA  
William G. Gordon, Director, Office of Resource Conservation and  
Management, NMFS  
Alan W. Ford, Southwest Regional Director, NMFS  
Harold B. Allen, Southeast Regional Director, NMFS  
Allen E. Peterson, Northeast Regional Director, NMFS  
Herbert Larkins, Northwest Regional Director, NMFS  
Robert W. McVey, Alaska Regional Director, NMFS  
James Brooks, Deputy Director, Alaska Region, NMFS  
William Aron, Director, Northwest and Alaska Fisheries Center  
Joseph P. Clem, Office of Resource Conservation and Management,  
NMFS  
Roland A. Finch, Office of Resource Conservation and Management,  
NMFS  
Patrick Travers, NOAA General Counsel, Alaska Region

Observers

Ryozo Kaminokado, Office of the Consulate of Japan, Anchorage  
Mitsuyoshi Murakami, Japan Fisheries Agency, Tokyo, Japan  
Guy Thornburgh, Alaska Department of Fish and Game  
Howard Pollock, Former U.S. Congressman

GREETINGS AND INTRODUCTIONS

The meeting was called to order by Chairman Clem Tillion at  
9:15 a.m. on Monday, June 22. Chairman Tillion read a letter  
from Terry Leitzell informing the Councils of his resignation as  
Assistant Administrator for Fisheries. *It was the consensus of*

*the assembly that the North Pacific Council should write a letter to Mr. Leitzell on behalf of attendees at the Chairmen's meeting to thank him for his work with the Councils during his tenure as Assistant Administrator. A copy of Mr. Leitzell's letter is made a part of these Minutes as Appendix I.*

Mr. Branson introduced observers in the audience, Mitsuyoshi Murakami of Japan Fisheries Agency in Tokyo, Ryozo Kaminokado with the office of the Consulate of Japan, Anchorage, and Guy Thornburgh of the Alaska Department of Fish and Game.

#### APPROVAL OF AGENDA

Jim Branson said that the executive directors recommended priority consideration for agenda items Economic Measures and FCMA Amendments, and asked for concurrence to proceed in that order. *E. Charles Fullerton moved that the agenda be approved as recommended by the executive directors; seconded by O. B. Lee. There being no objection, it was so ordered.*

#### ADMINISTRATION POLICIES AND BUDGET RESTRICTIONS

##### Economy Measures

Bill Gordon briefed attendees on proposed budget restrictions resulting from the new administration's effort to balance the budget and reduce taxes. He said the Department of Commerce is developing criteria to institute management by objective. This action may include a review of the council system and council activities.

The 1982 NMFS budget will be \$17 million less than in 1981 and staff will be reduced by 100 persons nationwide. In 1983 the budget will be further reduced as necessary to reach the President's long-term goals and additional personnel reductions (estimated at approximately 2%) may be required.

Jim Branson asked Bill Gordon to explain more specifically how budget cuts will affect NMFS and the councils, particularly relating to management. Mr. Gordon responded that NMFS looks upon management as its top priority; nevertheless, of the total cuts proposed (funds and personnel), between 65% and 70% were taken from management-related activities, i.e., research and support services. He hopes to see a change in this trend so that research, data requirements, and enforcement can be adequately maintained to support council activities. Mr. Gordon warned the group that the council system may be under close scrutiny since approximately 80% of the fisheries budget is for council operations. He stressed the fact that the new administration is not familiar with the regional fishery management council concept. Mr. Gordon feels, however, that as the administration becomes more knowledgeable in this area, council funding will be continued.

Mr. Gordon suggested that until the 1982 budget is clear, programmatic funding requests should be kept to a minimum. He urged the councils to use prudence in submitting 1982 budget requests and suggested that if high priority research needs exist, they should be presented early for inclusion in NMFS planning.

Surplus FY 81 funds may become available this summer which can be used for carry-over research projects. Any RFP's anticipated should be finalized so they will be ready for circulation if these funds actually become available.

Jay Johnson said that the general counsel's office is being re-organized and will no longer be directly accountable to the NOAA's assistant administrator. This may have some impact on the councils.

### Fisheries Development

The American Fisheries Promotion Act provides for 100% observer coverage. Bill Gordon said that NMFS estimates between 250 and 350 additional employees will be required to implement full observer coverage on foreign fishing vessels. The number of observers required makes funding a serious problem, particularly in light of the new administration's policy to reduce or, at least, limit federal employment. It has not been determined whether observers will be hired as full-time federal employees or contracted through NMFS. To pay the costs of the expanded observer program, foreign governments will be billed quarterly against letters of credit. This will assure that adequate funds are available at all times to maintain the program. The \$9 million requested for the start-up phase is currently pending in the Department of Commerce; a decision is expected soon.

Mr. Gordon reviewed alternatives available to NMFS for structuring foreign fishing fees to most adequately cover the costs of administering the FCMA and AFPA. A written copy of his presentation is made a part of these Minutes as Appendix II.

Mr. Gordon reported problems receiving authorization from Congress for the Fisheries Loan Fund. Congress does not want to release funds designated for loans during a period of austerity.

A decision on \$7.5 million in Saltonstall-Kennedy funds is expected by late July or early August, after DOC review. Mr. Gordon said this approval may be delayed due to the centralization of contracts and grants administration.

A report on Fish 'n Chips Policy prepared by Mr. Gordon is included for information as Appendix III to the Minutes.

## C. DISCUSSION OF MORE EFFICIENT WAYS OF DOING BUSINESS

### FCMA Amendments

Douglas Marshall led the discussion on FCMA amendments and provided a reference document, Appendix IV to these Minutes,

containing amendments proposed by the eight councils. For clarity in the Minutes, reference to individual sections of the Act is made by section and page number of Appendix IV and amendments approved as stated in Appendix IV are not re-stated in the Minutes; specific changes in wording are printed as approved in the text of the Minutes.

*Amendments determined by the assembly to deserve highest priority are:*

*Section 304(a). Establishes a time limit of 60 days within which a draft fishery management plan or amendment must be officially approved or rejected, in whole or in part, by the Secretary; provides for prompt notification by the Secretary if rejection is anticipated and an explanation of the grounds upon which rejection is based; resumption of the 60-day review period for the revised document at the point which rejection notification was given; and promulgation of regulations by default if the Secretary's notice of intent to reject a plan, amendment, or any part thereof is not given by the end of the 60-day review period.*

*Section 302(h). Establishes council authority to determine the need for conservation and management of a fishery within its geographical area of authority and to conduct public hearings and determine locations for such hearings as the Council shall deem necessary and appropriate.*

*Section 305(a). Requires prompt publication of notice of availability and implementing regulations at the end of the review period for a Secretarially-or-Council-prepared plan or amendment and establishes an implementation date for such plan, amendment, and/or regulations not later than 30 days after the date of publication.*

*Section 301(a)(1). Encourages full utilization of optimum yield from each fishery by U. S. harvesters.*

Actions on individual sections of the Act are explained in detail below.

Page 7, Section 201(a)(1); Page 21, Section 204(d)

The proposed amendments would allow foreign recreational fishing at the option of the state involved, and in the FCZ under the Council's authority without requiring a GIFA.

Two approaches to this amendment were discussed in detail: (1) requiring foreign recreational vessels to pay a fee for a state recreational license; (2) limiting foreign recreational fishing to tournaments. Many attendees felt that foreign recreational fishing should not be addressed in the Act, leaving the decision to the states involved for their waters and to the appropriate Council for the FCZ.

*E. Charles Fullerton moved that the prohibition on foreign recreational fishing be removed from the text of the Act and left to the states and Councils involved; seconded by Lorry Nakatsu. There being no objection, it was so ordered.*

Page 22, Section 301(a)(1)

The proposed amendment involves a change in language to encourage full utilization of optimum yield from each fishery by U.S. harvesters within the confines of conservation and management.

Discussion centered on the necessity to meet the needs of the U.S. industry first. Mr. Bryson said that in his area the domestic fishery is struggling to break into a previously totally foreign fishery. Mr. Dykstra pointed out that it is possible for a foreign nation to manipulate the market so that U.S. fishermen are able to harvest less and surplus OY remains for the foreign fishery. O. B. Lee suggested that the National Standards should be left as they are.

Jay Johnson reminded the group that international law requires that surplus OY be allocated to the foreign fishery.

*David Hart moved that the proposed change be sent to the Merchant Marine and Fisheries Committee for consideration; seconded by Ron Skoog. Upon roll call vote, the motion carried with abstention by the South Atlantic Council.*

Page 23, Section 301(b)

The proposed amendment would insure that Secretarial guidelines for the development of fishery management plans were strictly guidelines, not law.

Bobby O'Barr spoke against the proposed amendment.

*Herman McDevitt moved approval of the concept of the amendment; seconded by Peggy Stamey. Upon roll call vote, the motion passed with abstention by the Gulf Council.*

Page 24, Sections 302(a)(6) and (8)

The proposed amendment to Section 302(a)(6) would increase the voting membership of the Pacific Council from 13 to 14 by adding one voting member from Alaska. Section 302(8) would add the Northern Mariana Islands to the Western Pacific Council's area of authority and increase its voting membership from 11 to 13 and its Secretarially-appointed positions from seven to eight.

Mr. Yee explained the Western Pacific Council's reasons for including the Northern Marianas. Bill Gordon agreed that the addition would be good.

Mr. Fullerton asked to hold the amendment to Pacific Council membership in abeyance because the subject has not been considered by the Pacific Council.

*Wadsworth Yee moved adoption of the amendment to Section 302(8) in concept; seconded by Svein Fougner. There being no objection, it was so ordered.*

*Citing the joint interests and need for reciprocity between the Pacific and North Pacific Councils, Ron Skoog moved adoption of the amendment to Section 302(6)(a) to give Alaska a Pacific Council voting membership. The motion was later withdrawn.*

Page 25, Section 302(c)(2) and 302(d)

The proposed amendment would delete Section 302(c)(2), which designates specific non-voting members. Comments in Appendix IV on Section 302(d) urge retention of compensation for council members to maintain the best possible council composition.

*No specific decision was made on Section 302(c)(2). It was the consensus of the group that the matter of compensation should not be pushed by the group at this time, but could be addressed on an individual basis.*

Page 26, Sections 302(h)(1)

The proposed amendment would give councils the authority to determine the need for fishery management plans. The group agreed in principle that councils, rather than the Secretary, should be charged with this responsibility.

*Mr. Fullerton moved acceptance of the proposed amendment; seconded by Mr. Lee. There being no objection, it was so ordered.*

Page 26, Section 302(h)(3)

The proposed amendment would give councils authority to hold hearings at times and in locations deemed necessary, not necessarily within a council's geographical area of authority.

Jay Johnson explained that the North Pacific Council is really the only council affected by this amendment, since much of the fleet is based in Seattle. Heretofore the North Pacific Council was prohibited from holding hearings, other than EIS hearings, outside Alaska.

*Mr. Fullerton moved acceptance of the proposed amendment; seconded by Ron Skoog. There being no objection, it was so ordered.*

Page 27, Section 302(i)

The proposed amendment establishes councils' ability to comment or make recommendations concerning any activity by any person or group or by any State or Federal agency that directly or indirectly impacts upon any fishery resource for which that council is responsible and requires an answer from any Federal agency queried within 45 days.

Discussion on the proposed amendment yielded further revisions to the wording proposed in Appendix IV. The general feeling of the group was that this amendment was not as important as other issues to be considered, but did allow the councils opportunity to comment on issues directly affecting resources for which they are responsible.

*Jacob Dykstra moved acceptance of the following wording:*

302(i) DISCRETIONARY FUNCTIONS. *Each council may, in connection with its other functions and responsibilities, comment on or make recommendations concerning any activity by any person or group or by any State or Federal agency that directly or indirectly impacts upon any fishery resource for which the council has responsibility. Within 45 days of receiving such comment or recommendations the head of any Federal agency shall respond to the Council fully and in detail, stating how such comment or recommendation will be addressed.*

*The motion was seconded by David Hart. There being no objection, it was so ordered.*

Page 27, Section 302(j)

The proposed amendment exempts councils from the Federal Advisory Committee Act and outlines various procedures for council operations. Dick Marshall noted that the proposed amendment was uncontested at the Chicago meeting.

Discussion which followed stressed the need for each council to adopt methods which work for its particular needs.

Mr. Yee said that he wrote to Vice President Bush suggesting that it is the responsibility of the council to assure that adequate notice of meetings, hearings, etc., is effected in the council's area of concern, and requested that the requirement of Federal Register notification be dropped.

Further discussion pointed out the need for Federal Register publication of plans, amendments, regulations, etc., for purposes of recordkeeping, but agreed that meeting notices could receive just as wide circulation through other media. Some felt Federal Register notification necessary, however, and wanted to spell out a definite number of days for Federal Register notice publication [Section 302(j)(3)].

*The agreed-upon text of this section remains as in Appendix IV, with the exception of subsections (3) and (4), which were changed to read as follows:*

- (3) *Timely notice of each meeting of a council shall be published in the Federal Register except that councils may meet without such notice in the event that the chairman and the vice-chairman determine that an emergency exists. If such a*



*determination is made, public notice shall be given by appropriate publication in the newspapers having the widest circulation in the major ports of the council's region and/or by such other means as will result in wide publicity.*

- (4) Interested persons shall be permitted to file statements with the council, the scientific and statistical committee, or any advisory panel of the council.*

Page 28, Section 303(a)(4)(D)

The proposed amendment would require that fishery management plans include the factors which have impeded full utilization of optimum yield by the U.S. industry and make suggestions to reduce or eliminate these obstacles.

The amendment, proposed by the Western Pacific Council, was designed to put specific fishery development information into the plan itself. Mr. Marshall suggested that perhaps the amendment may be more appropriate under "Discretionary Provisions" rather than as a requirement. Bill Gordon said there may be less problem with the amendment if inclusion of development information were optional, particularly for instances when data is not available.

*Hector Vega-Morera moved that the concept be adopted for inclusion under "Discretionary Provisions"; seconded by Paul Callaghan. There being no objection, it was so ordered.*

Page 28, Section 303(c)

The proposed amendment would allow the Secretary to enter into cooperative agreements with individual states and the Coast Guard to administer state permitting requirements under their system of boat or vessel registration and allow any fees collected to accrue to the state involved or the U.S. Coast Guard. There were no objections to the proposed amendment at the Chicago meeting.

*Peggy Stamey moved adoption of the proposed amendment; seconded by Wayne Swingle. There being no objection, it was so ordered.*

Page 28, Re-numbered Section 303(d)

The proposed amendment requires that proposed regulations for any Council-developed fishery management plan or amendment shall accompany the plan or amendment throughout the review process.

Chairman Tillion suggested clarification of the proposed amendment stating that the plan or amendment and accompanying regulations must be considered as a single unit.

Jay Johnson added that submission of proposed regulations with the plan or amendment will do more to alleviate time problems with the review process than anything in the Act. If councils would give the legal staff proposed regulations to review, the legal staff would not have to interpret what the council wants.

Don Bevan suggested that when final language for the amendment is written, it should be noted that we are working toward framework fishery management plans. A council cannot be locked into a specific set of regulations when working under the concept of framework plans.

Considerable discussion followed on the various reasons why regulations should or should not be submitted for review with a plan or amendment. *Because the group was at impasse, action on the proposed amendment was dropped.*

Page 29, Re-numbered Section 303(e)

The proposed amendment would require that the Secretary of Commerce release data upon request to councils or council staff when such data is required for preparation of a fishery management plan or amendment unless, however, such release of data were prohibited by an existing state-federal agreement.

Nicholas Mavar opposed the amendment; he felt it would breach what little data-gathering relationship now exists between industry and government.

Bill Gordon said that the opportunity for data access is currently based upon the need to know. NMFS wants more states to become involved in data gathering and does not want to breach existing state cooperative agreements.

*Robert Jones moved adoption of the proposed amendment as follows:*

- (e) CONFIDENTIALITY OF STATISTICS. *Any statistics submitted to the Councils by any person with a written request that such statistics be regarded as confidential and any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) or any other data gathering program related to fishery management shall not be disclosed, except when required by court order. Each council shall establish its own procedures to preserve such confidentiality with respect to such confidential data submitted to it. Such procedures shall be designed to establish (i) the need of any council employee for access to such statistics; (ii) that no conflict of interest will result from the disclosure of such statistics to such employee; and (iii) that data submitted by any state shall be subject to safeguards that are consistent with that state's own regulations. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of statistics submitted to him pursuant to fishery management plans, except that on request the Secretary must disclose such statistics to the staff of the council or councils responsible for, or having a demonstrable interest in, the plan pursuant to which they were obtained or any plan to which they are relevant, except when such disclosure is prohibited by existing state-federal data agreements. The Secretary or any Council may release or*

*make public any statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.*

*The motion was seconded by Mr. Fullerton. Upon roll call vote, the motion passed with the Gulf Council in objection.*

Page 29, Section 304(a)

The proposed amendment provides a definite schedule for review and implementation of plans or amendments; requires the Secretary to notify the council as soon as possible if he intends to reject the plan or amendment and explain the grounds upon which rejection is based; provides for interruptibility and resumption of the 60-day review period for revisions to a rejected plan or amendment; limits the scope of the Secretary's review of a revised plan or amendment; and provides for promulgation of regulations by default if the Secretary's notice of intent to reject a plan, amendment, or any part thereof is not given by the end of the 60-day review period.

Bill Gordon noted that the term "draft fishery management plan" throughout this section should be "fishery management plan". Don Bevan noted that where the draft says "Secretary" it should say "Regional Director" in order to accurately express the desire of the councils to put more of the review process into the hands of the region.

Svein Fougner outlined the four basic principles he felt the group was trying to achieve in this section as follows:

1. *The Regional Director will actually review, approve, and implement a plan or amendment under the oversight of the Secretary of Commerce.*
2. *The review process must be confined to a time schedule.*
3. *Provisions must be made available for rapid response by the Regional Director in emergencies.*
4. *The Secretary's decision must be based on the National Standards and other applicable law rather than on interpretations of law.*

Most of the group agreed that this approach, though not stating specific language, emphasizes the need to delegate more review and implementation authority to the region. Bob Jones stated, however, that this approach will not do enough, and suggested that specific language be submitted. He did agree in concept, but felt the statement was too general.

*Wadsworth Yee moved acceptance of the four basic principles for review and implementation as guidelines for revision to Section 304 of the Act; seconded by Peggy Stamey. Hearing no objection, it was so ordered.*

It was the consensus of the assembly that amendments to Section 304 are the top priority of the councils.

O.B. Lee moved that the North Pacific Council draft a letter on behalf of the council chairmen's meeting recommending that more authority for review and implementation of fishery management plans and amendments be delegated to region, and requested that copies of the letter be sent to each council for forwarding to their Congressional delegations; seconded by Peggy Stamey. There being no objection, it was so ordered.

The agreed-upon text of Section 304(a) is as follows:

(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.

- (1) Any fishery management plan or amendment to such plan which is prepared by any council shall be reviewed and either approved or rejected within a period of 60 days after its receipt by the Secretary. The Secretary shall review and notify the council in writing as promptly as possible if it is his intention to reject such plan or amendment on the grounds that it is inconsistent with the requirements of the national standards, section 303(a) of this Act, or any other applicable law. Such notice shall specify with particularity (i) the applicable law or laws with which such plan or amendment is inconsistent and (ii) the nature of such inconsistency. Such notice shall also set forth in detail the recommendation of the Secretary concerning the action required to be taken by the council to conform such plan or amendment to the requirements of such applicable law.
- (2) The 60-day review period shall be deemed to be interrupted as of the date of the Secretary's notice of his intention to reject such plan or amendment until such Council shall have resubmitted such plan or amendment to the Secretary. The tolling of the 60-day review period shall resume on the date the revised plan or amendment is received by the Secretary.
- (3) A fishery management plan or amendment to such plan shall be presumed to be consistent with Section 303(a) of this Act and all other applicable laws, but not with the national standards, except as specified in such notice of intent to reject.
- (4) After the Secretary receives a fishery management plan, or any amendment to such plan, revised by a council in response to the Secretary's notice of intention to reject the original of such plan or amendment and within the overall period of 60 days, the Secretary shall review such revised plan or amendment. The Secretary's review of any revised plan or amendment shall be limited to determining (i) whether such plan

or amendment as revised by such council in response to the Secretary's notice is responsive to the recommendations by the Secretary in such notice and (ii) whether such plan or amendment as revised is consistent with the national standards.

- (5) In the event that the Secretary shall determine that any revised fishery management plan or amendment to any such plan is not responsive to the Secretary's recommendations contained in a notice of intent or is not consistent with the national standards, the Secretary shall notify such council in writing of his intent to reject such revised plan or amendment. Such second notice of intent to reject shall specify with respect to the revisions made by the council the deficiencies in such revisions and with respect to any inconsistency with the national standards the exact nature of such inconsistency, and such notice shall set forth in detail the action required to be undertaken by the council to cure such deficiencies or such inconsistency.
- (6) Within 45 days after any council which receives a second notice of intent from the Secretary, such council shall resubmit such fishery management plan or amendment to the Secretary revised in accordance with the recommendations contained in such notice, or shall notify the Secretary of its intention to redraft such plan or amendment. Upon submission for approval by the Secretary any such plan or such amendment redrafted pursuant to this subsection shall be deemed to be a plan or amendment submitted under subsection (1) of this section.
- (7) In the event that the Secretary shall: (i) fail to notify a council of his intent to reject a fishery management plan or amendment to such a plan within 60 days of the date of receipt of such plan, or (ii) fail to notify a council of his intent to reject a revised fishery management plan or revised amendment to any such plan within the remaining portion of the 60-day review period, such plan or amendment shall become effective and the Secretary shall promulgate the regulations which accompany such plan.

Page 30, Re-numbered Section 304(b)

The proposed amendment clarifies the circumstances under which the Secretary may prepare a fishery management plan or amendment and requires any council requesting a Secretariially-prepared plan for a resource under mutual jurisdiction to notify the other council or councils of its intent to request a Secretariially-prepared plan.

*Discussions of the group yielded the consensus that the proposed amendment to re-numbered Section 304(b) be stricken.*

Page 30-a, Re-numbered Section 304(c)

The proposed amendment expands the Secretary's ability to establish fees which exceed administrative costs pursuant to Section 303(b)(6).

*The group agreed with the concept of the proposed amendment.*

Page 30-a, Section 304(f)

The proposed amendment would require the industry to submit data to the Secretary determined by a council to be necessary for the determination of need for a plan, or for preparation of a PMP or FMP for that fishery.

*Bobby O'Barr moved rewording of the amendment as follows:*

*304 (f) ADDITIONAL DATA REQUIREMENTS. Upon the request of a Council the Secretary may by regulation require persons engaged in the fishery to submit to the Secretary data that would be pertinent to a fishery under Section 303(a)(5) and which the Council determines are necessary and appropriate for determining the need for a plan or for the preparation of a preliminary fishery management plan or preparation of a fishery management plan for the fishery.*

*The motion was seconded by Doug Marshall. There being no objection, it was so ordered.*

Page 30-b, Section 305

The proposed amendment would require prompt publication of notice of availability and implementing regulations at the end of the review period for a Secretarially-or-Council-prepared plan or amendment and establishes the effective date for such plan, amendment, and/or regulations as the date of publication.

Discussion followed which stressed the need for a time limit, but wording flexible enough for action in emergency situations.

Don Bevan drafted principles for a three-tiered system for implementation as follows:

- 1. Apply Fougner's Principles for re-numbered Section 304(b) to implementing regulations--must guarantee that regulations go along with plans.*
- 2. Add to plan development the requirement that the Secretary has 30 days after plan approval to approve the regulations submitted or they will go into effect by default.*

3. *Make sure that in-season adjustments required within the framework of a plan do not require review.*

John Bryson agreed that these principles will give direction to the Merchant Marine and Fisheries Committee so appropriate legislation can be drafted.

*Peggy Stamey moved acceptance of Bevan's principles; seconded by Harold Lokken. There being no objection, it was so ordered.*

Page 31, Re-numbered Section 305(c)

The proposed amendment gives councils the responsibility to identify need for emergency actions and request action of the Secretary.

Discussion of the proposal centered on the requirement for unanimous agreement by a council that an emergency exists and on the period of time during which emergency regulations remain in effect.

*Mr. Fullerton moved approval of the amendment as follows:*

305(c) EMERGENCY ACTIONS. *If any council finds that an emergency involving any fishery exists, it may*

*(1) for any fishery for which there is a fishery management plan*

*(A) request the Secretary to promulgate emergency regulations to implement any fishery management plan if such emergency so requires; or*

*(B) request the Secretary to promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency;*

*And, if the Secretary concurs that such emergency exists, he may comply with the council's request. Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection shall be published in the Federal Register together with the reasons therefor; and shall remain in effect until the Secretary of such council shall determine that such emergency no longer exists. From time to time and at least once in each 90-day period following the declaration of an emergency under this section, the Secretary and such council shall review all the circumstances leading to such declaration in order to determine whether such emergency continues to exist; or*

(2) for any fishery for which no fishery management plan has been prepared or is being prepared and which is engaged in predominantly within the fishery conservation zone, by 2/3 vote of the voting council members, authorize the Secretary to promulgate emergency regulations. Such regulations shall remain in effect for a period of 90 days and may at the discretion of the Secretary be extended for an additional 90 days.

The motion was seconded by Harold Lokken. There being no objection, it was so ordered.

Page 32, Section 306(c)

The proposed amendment allows council-state plans for shared fisheries. The Caribbean Council proposed the amendment to give territories the same rights as states to enter into such agreements.

Jay Johnson suggested re-wording the Section as follows:

306(c) COUNCIL-STATE PLANS FOR SHARED FISHERIES. Nothing under (a) and (b) above shall be construed as negating the authority to a fishery management council and its constituent state, if acting in concurrence and unanimous agreement, to develop fishery management plans for fisheries within and beyond state boundaries. However, such an action by a council and its states shall not be interpreted as a commitment by the individual states to adopt the management regime and regulations that could be recommended by the fishery management plan.

Mr. Fullerton moved acceptance of the proposed amendment as stated above; seconded by O.B. Lee. There being no objection, it was so ordered.

Page 33, Section 307(2)(A)

Ron Skoog briefed the assembly on problems encountered by the state of Alaska involving state's authority to allow foreign processors to operate in state internal waters. As now written, Section 307(2)(A) prohibits foreign vessels from fishing within the boundaries of any state. Mr. Skoog suggested amending this section to read:

"(A) within the boundaries of any state except as may be permitted by that state;"

Discussion which followed centered on Senator Stevens' draft legislation for this purpose. Chairman Tillion suggested that the safest and most effective course may be a letter of support for the concept of Senator Stevens' legislation and the suggestion that it be expanded to cover more years than 1981 and all states.



*David Hart moved that a letter be written on behalf of the assembly endorsing the concept and suggesting that it encompass more years than 1981 and all states; seconded by Peggy Stamey.*

Ron Skoog pointed out the major problem with the bill is its requirement for concurrence of the Secretary of Commerce for states to allow foreign processing in state waters. O. B. Lee said that many states would object to any federal intervention into state matters.

Bob McVey explained that the Secretary's concurrence was included in the bill expressly for the purpose of obtaining a "quick fix" for 1981. He said that states would have a chance to come up with a more workable plan later.

Elliot Goldman suggested substituting approval of the appropriate council for the approval of the Secretary of Commerce.

*Because the group was at impasse, the motion was withdrawn.*

Page 35, Section 311(a)

This section requires semi-annual reports on the degree and extent of known and estimated compliance with provisions of the MFCMA. Paul Callaghan suggested the following wording be added at the end of this section to provide specificity for content of the report:

*Said report shall include, but not be limited to, an assessment of the following:*

- (1) the degree and extent of violations of the provisions of this Act by foreign and domestic fishing vessels and enforcement action taken in each instance of reported violation;*
- (2) estimates of the overall effectiveness of the enforcement activities of the provisions of this Act as applied to the foreign and domestic fishing fleet;*
- (3) identification of factors which enhanced or impeded enforcement activities under the Act;*
- (4) recommendations to reduce or eliminate any impediments to effective enforcement which may exist;*
- (5) evaluation of current and estimation of future adequacy of personnel, equipment, and facilities at the disposal of the Secretaries to enforce the provisions of the Act; and*
- (6) description of the utilization of the personnel, equipment, services, and facilities of other federal agencies as authorized by the Act.*

Mr. Fullerton moved adoption of the proposed addition to Section 311; seconded by Wadsworth Yee. There being no objection, it was so ordered.

#### Framework Fishery Management Plans

All the councils have experienced frustration with plan review and implementation, particularly with single-year plans requiring annual amendments. The regulatory lag results in management of some fisheries on two-year old or older data with regulations implemented by emergency order. Discussions yielded a firm stand on the part of councils that more review and implementation authority should be delegated to the region.

Upon recommendation of Roland Finch, the group agreed that a small workgroup composed of council and Central and Regional Office NMFS personnel be formulated to develop working guidelines for development of a three-tiered framework fishery management plan. The workgroup would then apply these guidelines to one of the councils' existing FMP's, develop a framework plan, and take it through the system to final implementation. Lorry Nakatsu of the Pacific Council and John Bryson of the Mid-Atlantic Council were chosen as council representatives on the workgroup.

#### COUNCIL OPERATIONS AND MISCELLANEOUS PROBLEM AREAS

##### FCZ Boundaries: Enclaves

In certain areas of council jurisdiction, particularly in the Gulf Council and North Pacific Council areas, some areas defined as FCZ are actually surrounded by state internal waters. The U.S. Department of Justice maintains the position that management authority for marine fisheries resources in these enclaves rests with the federal government rather than the states. Jay Johnson suggested a legislative remedy by redefining "fishery management unit" to exclude enclaves.

#### STATE DEPARTMENT BRIEFING ON FISHERIES MATTERS

On Wednesday, June 24, Ted Kronmiller briefed the assembly on various fisheries matters including allocation procedures, GIFA negotiations, fish 'n chips policy, and the EEC's proposed floor price on imported salmon.

Mr. Kronmiller said the Departments' of State and Commerce allocation procedure is too flexible, gives too much weight to foreign influence and too little input to the U.S. industry. He said he would like to see a more structured approach in future allocation determinations.

Mr. Kronmiller favors the use of allocation reductions to foreign nations which commit multiple, serious violations of fishing regulations in the FCZ and said the State Department plans to use this method of reprimand on a case-by-case basis.

Negotiations for Portugal's GIFA have been completed and allocations should be forthcoming.

Mr. Kronmiller discussed the State Department's views on the European Economic Community's proposed floor price on imported Pacific salmon. The State Department has already informed the EEC nations that implementation of the surcharge will hinder their allocations and create political problems in Congress.

#### OTHER BUSINESS

##### Location and Time of Next Chairmen's Meeting

The New England Council offered to host the next Chairmen's meeting in late May or early June, 1982. *The invitation was unanimously accepted by the group.*

##### Adjournment

There being no further business to come before the assembly, the meeting adjourned at noon, June 24, 1981.