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FORM CD-14 (2-76) Prescr. by DAO 214-2	U.S. DEPT. OF COMM.	DATE
TRANSMITTAL SLIP		8/3/81
TO:	<i>Judy / Reggy</i>	REF. NO. OR ROOM, BLDG. NPRMC
FROM:	<i>Joe C</i>	REF. NO. OR ROOM, BLDG. NMTS
ACTION		
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PER OUR CONVERSATION	
<input type="checkbox"/> NOTE AND RETURN TO ME	<input checked="" type="checkbox"/> PER YOUR REQUEST	
<input type="checkbox"/> RETURN WITH MORE DETAILS	<input type="checkbox"/> FOR YOUR APPROVAL	
<input type="checkbox"/> NOTE AND SEE ME ABOUT THIS	<input type="checkbox"/> FOR YOUR INFORMATION	
<input type="checkbox"/> PLEASE ANSWER	<input type="checkbox"/> FOR YOUR COMMENTS	
<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE	<input type="checkbox"/> SIGNATURE	
<input type="checkbox"/> TAKE APPROPRIATE ACTION	<input type="checkbox"/> INVESTIGATE AND REPORT	

COMMENTS:

*Attached are our few
comments on your meeting
summary - you did a
good job*

Joe

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. *The Department's budget is projected to decline by 2% per year for the next 5 years.*

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.

and beyond

*council costs
no more
emphasize*

the Department is trying to cut advisory committee costs and

Department's total advisory committee costs.

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

empy → 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,

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)

7
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

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.

- Present language better.*
- (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.

NMFS supports regulations submitted by Councils, but agreed they would be submitted. See p. 8 ref. to p. 28 of Council of

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 Secretariably-prepared plan for a resource under mutual jurisdiction to notify the other council or councils of its intent to request a Secretariably-prepared plan.

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, *also to remove the limiting qualification in present Act of "fishery" resources.*

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