

EXECUTIVE DIRECTOR'S REPORT

It has been only two weeks since we met with the Board of Fisheries in Kodiak. No one has had time to go anywhere, so this report will consist mostly of a preview of coming events.

Fish Expo Activities

There are several Council or Council-associated events scheduled for the period right around the Fish Expo.

Oct 1 & 14 Add'l overnight hearings for state, industry, leftovers

October 22-23. An Alaska Groundfish Trawlers Conference, Northwest and Alaska Fisheries Center. This is co-sponsored by the Council, ADF&G, AFDF, and NMFS. The agenda is attached as B-1(a).

October 24. Council public hearing beginning at 9:30 a.m. at the University Towers in Seattle on groundfish and king crab.

October 26-27. 50th Anniversary Celebration of the Northwest and Alaska Fisheries Center at the Montlake Lab. Agenda is included as B-1(b).

October 26-27. Fishery Energy Conservation Conference, sponsored by the Society of Naval Architects and Marine Engineers, at Park Hilton Hotel, Seattle.

October 28-31. Fish Expo at the Seattle Center. Several of the Council people are participants in the seminars that are sponsored by the Expo.

November 2. Public hearing on salmon and Gulf groundfish plan beginning at 9 a.m. at the Centennial Building in Sitka. We need a chairman and a list of those who expect to attend that public hearing at this meeting. If you are going to the Expo, you can stop on your way back in Sitka for only an additional \$10.

Congressional Oversight Hearings on MFCMA

Council member Bevan went to Washington on the 21st to testify before the House Subcommittee on Fisheries, Wildlife Conservation and the Environment on September 24. Copies of the statement sent to the Subcommittee on the 18th are included as agenda item B-1(c). He expects to return to Seattle on the 25th.

Visit by Republic of Korea Delegation

Mr. Chae, president of Korean Marine Industrial Development Corporation, and Mr. Lee, of the same organization, visited the office on the 17th with Mr. Kim, Fisheries Attache at the Korean Embassy in Washington. They were on their way to Kodiak to investigate the latest violation apprehended by the Coast Guard. Mr. Chae was very concerned about their reputation for adherence to U.S. regulations. He did not want to talk about future joint venture operations.

European Community Salmon Reference Price

At the recommendation of several of the Council group, I sent a night letter to Ted Kronmiller on the 18th, reiterating the Council's support for their efforts toward exclusion of Pacific salmon from the proposed EEC salmon reference price. The EC Fisheries Council is meeting on the 28th to continue discussion, as noted in the letter from Ambassador Kronmiller of August 4 sent to you in the last Council mailing.

Travel Claims

Fiscal year 81 ends on September 30. Please get your travel claims for this meeting in as soon as possible so we can close out the books.

The new grant provisions, which I signed last week, state that all Council travel will be held to the limit of current Federal per diem rates. We, as I understand it, can continue to reimburse for actual expenses, but the amount may not exceed whatever the local per diem rate happens to be. That is \$72 for Anchorage, and varies from city to city. That will take effect in October.

When we returned the signed grant to Washington, we sent a cover letter protesting their ruling on this matter and it will probably be covered again in the Finance Committee Report.

Workshop on National Standards

May I remind you again that beginning at 9 a.m. Saturday morning in the Council conference room there will be a workshop on the new guidelines for the National Standards. Three delegates from the Central Office of NMFS are here to observe the Council meeting and to conduct that workshop. Council staff and Council family members are invited to participate. The meeting will be open to the public, although public participation will probably not be sought.

ALASKA GROUND FISH TRAWLER CONFERENCE
October 22-23, 1981
Northwest and Alaska Fisheries Center, Room 369
Seattle, Washington

Thursday, October 22

9:00 am Opening Remarks

Welcome to NWAFC - Dr. Bill Aron, Director, NWAFC
Overview of two day conference - Mark Miller, ADF&G

9:15 am Opening Address

Clem Tillion, Chairman, North Pacific Fishery Management Council

TOPIC: Groundfish Fishery Management Off Alaska and the Domestic
Trawler Fleet.

10:00 am Captain Barry Fisher, F/V EXCALIBUR II

TOPIC: Joint Venture Operations Off Alaska.

10:45 am Break

11:00 am Phil Rigby and Fritz Funk, ADF&G

TOPIC: Alaska Trawl Logbooks and Observer Programs. How They Work
and How They Can Help the Alaskan Trawlerman.

12:00 Lunch Break - Open

1:30 pm Dr. Rob Wolitira, Director, NMFS, Kodiak Laboratory

TOPIC: History of NMFS Trawl Surveys of the Bering Sea and How They
Can Help Domestic Trawlers.

2:15 pm Dr. Don McCaughran, Director, International Pacific Halibut Commission

TOPIC: Halibut Resource In The Bering Sea and How To Avoid Harvesting
Them In Domestic Trawls

3:00 PM Break

3:15 pm Jeff Polvolny - North Pacific Fishery Management Council

TOPIC: How The Fishery Management System Works and How Fishermen
Can Get Involved.

4:00 pm Day's Summary

Friday, October 23

- 9:00 am Opening Address
Dr. D.L. Alverson, Natural Resources Consultants
TOPIC: Pollock Resource of the Bering Sea
- 9:45 am Captain Conrad Uri, F/V Arctic Trawler, TransPacific Seafoods
TOPIC: Independent Trawler Operations Off Alaska - Economics and Future Potentials.
- 10:00 am Break
- 10:15 am Terry Elwell, Trident Seafoods
TOPIC: Marketing of Alaskan Fishery Products.
- 11:00 am Dr. Sam Bledsoe, NORFISH, University of Washington
TOPIC: Economics of Fisheries Off Alaska through NEPAC Computer Graphics.
- 11:45 am Lunch Break - Conference Participants Are Encouraged to Attend NWAFC 50th Anniversary Activities on the Center Campus Grounds.
- 1:30 pm Dennis Lodge, Sea Grant Guest Lecturer, Clapsop Community College
TOPIC: Gear Technology and How It Can Be Used To Increase Trawl Catch.
- 2:30 pm Open Forum
- 3:30 pm Closing Address - Mark Miller, ADF&G
TOPIC: Industry and Management - Where We Are and Where We Go From Here.
- 4:00 pm End of Conference

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NORTHWEST & ALASKA FISHERIES CENTER
FIFTY YEARS OF COOPERATION AND COMMITMENT

ACTION	ROUTE TO	INITIAL
	Exec. Dir.	3
cc	Deputy Dir.	4
	Admin. Off.	
	Exec. Sec.	
	Staff Asst. 1	
	Staff Asst. 2	
	Staff Asst. 3	SD
	Board of	
	Advisory	
	Sec./Typist	

The National Oceanic and Atmospheric Administration takes pleasure in announcing the Fiftieth Anniversary Celebration of the Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard East, Seattle, Washington.

The celebration will include Open House exhibits and displays at the Center on October 23-24 representing the fisheries and marine mammal research of the Center, and its fifty-year partnership with the Northwest and Alaska fisheries community.

Beginning October 26, the Center will host a two-day Symposium of four half-day sessions, each describing significant Center programs and research, and predicting the immediate needs and future direction of research and cooperative efforts in the Northwest and Alaska. A preliminary Agenda of the Symposium is enclosed.

The final event of the Anniversary Celebration will be a banquet, Tuesday evening, October 27, at the Washington Plaza Hotel, with an anticipated attendance of over 350, a distinguished keynote speaker, and a special homage to Center "oldtimers" and friends.

Two other noteworthy fisheries events will be held in Seattle during the same week: A Society of Naval Architects and Marine Engineers (SNAME) conference on Fishery Energy Conservation on October 26-27, and Fish Expo hosted at the Seattle Center from October 28-31. The combination of all three events will make the last week in October Seattle's "FISH WEEK."

For additional information, please contact Anniversary Coordinator, Robin Tuttle Waxman, at (206)442-4760.

NORTHWEST & ALASKA FISHERIES CENTER
FIFTY YEARS OF COOPERATION AND COMMITMENT

October 26, 1981

8:30 a.m.

"The Effects of Environmental Stress on Fisheries Use and Enjoyment".

Historical
Overview:

Dr. Donald C. Malins,
Director, Environmental Conservation Division, NWAFC.

Dr. Wesley J. Ebel, Jr.,
Director, Coastal Zone & Estuarine Studies Division,
NWAFC.

Future:

Dr. John S. Gottschalk,
Consultant (Former Director, U. S. Bureau of Sport
Fisheries & Wildlife).

12:00 Noon

Lunch (On the Montlake grounds, catered with the assistance of the Halibut Fishermen's Wives Association).

1:30 p.m.

"Fisheries Utilization and Development".

Historical
Overview:

Mr. John A. Dassow,
Deputy Director, Utilization Research Division, NWAFC.

Future:

Dr. James A. Crutchfield,
Professor of Economics, Graduate School of Public
Affairs and Institute for Marine Studies, University
of Washington.

Industry
Panel

Mr. Walt Yonker (Moderator):
Executive Vice-President, Pacific Seafood Processors
Association. Panel members to be announced.

October 27, 1981

8:30 a.m.

"Exploratory Fishing and Gear Research".

Historical
Overview:

Dr. Dayton L. Alverson,
Natural Resources Consultants. (Former Director, NWAFC).

Future:

Dr. Steinar Olsen,
Director, Fisheries Technology Institute, Bergen, Norway.

12:00 Noon

Lunch (Seattle Yacht Club).

1:30 p.m.

"Fisheries Resource Management".

Historical
Overview:

Mr. Clinton E. Atkinson,
Fisheries Consultant and Advisor (Former Director, NWAFC).

Future:

Dr. Peter Larkin,
Dean, Faculty of Graduate Studies and Professor,
Institute of Animal Resource Ecology, University of
British Columbia, Vancouver, B. C. Canada

7:00 p.m.

Banquet (Washington Plaza Hotel).

North Pacific Fishery Management Council

Clement V. Tillion, Chairman
Jim H. Branson, Executive Director

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



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September 18, 1981

Honorable John B. Breaux
Honorable Edwin B. Forsythe
House Subcommittee on Fisheries, Wildlife
Conservation and the Environment
House Annex #2, Room H2-540
3rd and D Streets, N.W.
Washington, D.C. 20515

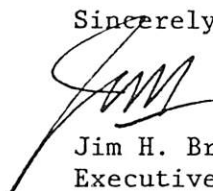
Attn: Bill McKenzie

Dear Congressmen Breaux and Forsythe:

I am forwarding 50 copies of a statement that will be presented by Dr. Donald Bevan at the oversight hearings by the Subcommittee for Fisheries, Wildlife Conservation and the Environment on September 24. Dr. Bevan will be the only witness testifying for the North Pacific Fishery Management Council at those hearings.

I am forwarding more than the required 25 copies in hopes that you will be able to give some of the extra copies to members of the other regional management councils who might ask for them prior to the hearings. Since the common council position will be addressed by only one of the council representatives in verbal testimony, it would be useful if they had hard copies of all of the council testimony prior to their verbal presentation. Because of the time required in the postal system nowadays, we have been unable to accomplish this by mail prior to the hearings.

Sincerely,



Jim H. Branson
Executive Director

enclosures

North Pacific Fishery Management Council

Clement V. Tillion, Chairman
Jim H. Branson, Executive Director

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STATEMENT OF DR. DONALD E. BEVAN
MEMBER, NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
BEFORE THE HOUSE SUBCOMMITTEE FOR FISHERIES AND
WILDLIFE CONSERVATION AND THE ENVIRONMENT

September 24, 1981

Thank you, Mr. Chairman, for this opportunity to testify on the need for amendments to the Magnuson Fishery Conservation and Management Act of 1976.

The Act has helped the U.S. fishing industry off Alaska, stimulating growth in the previously largely unutilized groundfish fishery and increasing the U.S. catch of Tanner crab to the point where the last foreign fishery on crab was phased out this year. The American catch of groundfish off Alaska, although still small in relation to the foreign catch in the same area, has increased from 7,000 tons in 1979 to 30,000 tons in 1980 and should be well over 100,000 tons this year. We expect to see that growth pattern continue. The MFCMA has been reasonably effective as a conservation measure, but fishery management manages not only fish but also fishermen, and the Act has not always provided effective management.

We can find little to fault with the philosophy of management in the Act. The problem has come from bureaucratic lethargy and the multitude of other legislative and executive mandates that have been applied to the MFCMA management process. Fisheries and the resources on which they are dependent are in a constant state of change and adjustment. To be effective, management must be responsible, flexible and timely. Not all fisheries can be managed on a formula basis, nor do all of them lend themselves to management measures that remain unchanged year after year. This is particularly true of developing fisheries, as many are off Alaska. We have found that it has taken over 450 days to get relatively straight-forward amendments to a fishery management plan (FMP) implemented after they have gone to the Secretary of Commerce for review. That does not include the time the Council has spent developing, drafting, and discussing, through public review, the FMP or amendment. I can cite numerous instances in the North Pacific where regulations opening or closing seasons have not taken effect until well after the seasons were completely over. The same thing is true of regulations which establish catch limits. If it weren't that the State of Alaska's regulations have been generally complementary to those proposed by the Council and that the domestic fishing industry has been willing to follow those regulations in the FCZ, the situation would be truly chaotic.

Our Council believes that the highest priority for amendments is to establish definite time limits for the review and implementation of FMP's and regulations. Those time limits should also apply to other applicable legislation and executive orders if they are to continue to apply to the MFCMA process. Time limits should apply not only to the review and implementation

of FMP's and amendments, but to proposed and final rulemaking. Three stages of rulemaking are involved in the management process: the amendment or implementation of a plan, which might be done in a few months; annual changes in OY and other normal seasonal adjustments, which might require 30 days; and field authority delegated to the Regional Director to open and close seasons (under reasonable guidelines) for a variety of reasons, not necessary directly related to the resource. To be effective, in-season changes must be possible within a period of days.

We believe the second greatest need is for regionalization of the management process. We can see no reason why most review and approval cannot be done in the regional offices of the National Marine Fisheries Service. Review in the Central Office should be held to a minimum and, if it were, the whole process would be greatly strengthened and accelerated. More authority must be delegated to the regional directors to allow them management authority at the direction of, and in cooperation with, the regional councils.

We have studied the amendment proposals being drafted by the Subcommittee staff and believe they will greatly improve the process. Some are perhaps of not as much concern to the North Pacific Council as they are to some of the other regional councils, but none appear to pose any problem to our operation. I would like to comment on the proposals in your letter of September 11, then follow with a restatement of the changes the Regional Councils have been discussing for several months. Their deliberations culminated with combined recommendations at the Council Chairmen's meeting in Homer, Alaska in June of this year. For purposes of the record I would like to reiterate those recommended changes. They differ somewhat from those sent to you from the North Pacific Council on July 16, 1981 since they now incorporate the final comments from all of the regional councils. These detailed suggestions were drafted long before we had an opportunity to look at the Subcommittee language. They are not meant to replace that language, but only to indicate the approach the councils believed should be used.

1. We note with relief that the Subcommittee proposes to remove the regional councils from the purview of the Federal Advisory Committee Act (FACA), understanding that procedures must be established to insure adequate public notice and full public knowledge of council meetings and operations. The procedure established will, we are sure, be speedier and less cumbersome than those required by FACA. I am somewhat concerned that some of the other legislation which greatly affects management plan development is not being addressed. Particularly I refer to the National Environmental Protection Act (NEPA) that can be an anchor on the progress of a management plan, simply because it is reviewed by so many people that it slows the whole process. We believe that an environmental impact statement probably could have been written for the Act when it was originally passed. At the very most, an environmental impact statement for a specific area which would include all of the fisheries and resources in that area should be adequate. The process of developing EIS's for four or five fisheries in the same area, all of which overlap and are closely related in one form or another, is redundant, time-consuming, and expensive.

2. We believe the Council is authorized to do research and collect data to determine if a plan is necessary. We have developed data to determine if an FMP is necessary, through Council contracted research in some instances. It is a very necessary early step in Plan development and sometimes a key factor

in determining if an FMP should be delayed or completed at all. We believe the Act permits that activity at present; however, if others feel that needs to be clarified, we are fully in favor. Regulations to mandate data collection from fishermen or the industry is another matter and one we have not needed (in advance of a Plan) so far. I can envision times when it may be important and we are supportive of language that would make that possible.

3. Clarification of the need to prepare a Fishery Management Plan is needed. Resources that are not being exploited, or expected to be exploited in the near future, do not need to be covered by FMP's. Fisheries that are already managed in conformity with the MFCMA by some other agency should be looked at very carefully before we start the expensive and duplicative process of developing an FMP and management by the Department of Commerce.

4. The language of this amendment will be critical. Secretarial authority to develop an FMP on the request of a Council should be limited to the resources in that Council's area only, as an example.

5. We support the inclusion of the Northern Marianas in the Western Pacific Council's voting membership and extending their authority over the FCA adjacent to all territories in the Western Pacific over which the U.S. has jurisdiction. Insofar as national jurisdiction permits it seems only sensible to manage those waters as a whole.

6. The North Pacific Council needs to hold hearings outside of its geographical area of authority. Much of the Alaskan fishing industry, both catching and processing, is based in the Puget Sound area. If they are to have adequate input into the process, we need to hold hearings there.

7. Seizing money, not fish, is much more effective. We fully support this proposal.

8. Non-GIFA countries should be allowed to participate in recreational fishing, not necessarily just at tournaments, in the FCZ under regulations promulgated by the Secretary of Commerce at the recommendation of the Council and in state waters under state regulations. This has been a problem in Alaska with Canadian recreational boats. We don't want to stop it; we do want to maintain reciprocal privileges for our citizens and theirs, but not restricted to fishing tournaments.

9. Should cut down paper, can only be commended.

10. Optimum yield needs to be clarified. The proposed amendment of National Standard 1 will help.

11. We concur; guidelines are necessary and desirable, but they should not be so binding that they stifle changes and innovative approaches to the management process.

12. We agree that the factors impeding full utilization of a particular fishery by the United States should be stated in a management plan, as should those measures which will be useful to eliminate those obstacles. But we do not believe the Act must be amended. We believe it is permitted under the present language.

13. Secretarial authority to enter into cooperative agreements with states and the Coast Guard to administer permitting requirements established pursuant to the MFCMA will be very useful. We should be able to take advantage of existing permit systems, considerably reducing expense and duplication in the process. Fees should accrue to the agency doing the work.

14. Confidentiality of data is extremely critical if we are to continue to receive accurate information from industry. Adequate procedures are necessary to establish the need for access and to prevent any conflict of interest. The language of this amendment will be critical.

15. This is the heart of the needed amendments to the Act. We must have a specified period of time for action by the Secretary on any fishery management plan or amendment. If no action has been taken at that time, the plan or amendment should take effect. Secretarial review should be confined to the consistency of the plan or amendment with the National Standards and other applicable law. The Central Office second-guessing that has occurred on every management measure and provision of a plan submitted for review is unnecessary and extremely time-consuming.

16. Many limited access systems may be dependent on fees charged at levels exceeding administrative costs. If we are to have any freedom of choice in developing such systems, this is a necessary amendment to the Act.

17. With proposal 15, this becomes one of the critical amendments being considered by the Subcommittee at this time. The time period between publication of a plan as Proposed Rulemaking and the publication of Final Regulations must be specified and reduced to the minimum time possible.

18. In-season adjustments within an approved fishery management plan are critical to the management of many fisheries. The Council, working with the National Marine Fisheries Service Regional Director, needs the authority to make those adjustments if management is to be responsive to the fishery and to the resource.

19. Elimination of the Secretary's annual report eliminates marginally useful paperwork; we support this measure.

20. Again, timely elimination of marginally useful paperwork.

21. I can see no problem with the elimination of the provision for imprisonment for offenses other than those related to interference with an officer in the course of his duties.

22. This amendment has not been considered by the North Pacific Council. I cannot envision an instance when existing law or custom would not serve to remove a Council member for good cause.

23. The proposed change in Section 302(b) requiring Council appointments be announced 45 days before the date their term begins does not appear desirable. Lame duck Council members are in a somewhat embarrassing position and perhaps could not be expected to be as effective as they would be if the announcements were made by at least the date of expiration of their term.

SUGGESTED MFCMA AMENDMENTS

September, 1981

- * Endorsed by all eight Regional Councils. Sections not asterisked had one or more councils abstaining or opposing but were supported by a majority of those present.

Sections 201(a)(1) and 204(d) *

Although no specific language was suggested, participants at the Chairmen's meeting agreed that foreign recreational fishing should be left to the states involved within territorial waters and permitted under Secretary of Commerce regulations developed in conjunction with the Council for the FCZ for all countries, with or without GIFA's.

Section 301(a)(1)

Conservation and management measures shall prevent overfishing while allowing, on a continuing basis, the full utilization of optimum yield from each fishery by United States harvesters.

Section 301(b)

GUIDELINES. The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans. Such guidelines shall not have the effect of law.

Section 302(a)(8) *

WESTERN PACIFIC COUNCIL. The Western Pacific Fishery Management Council shall consist of the State of Hawaii, American Samoa, and Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

Section 302(h)(1) *

FUNCTIONS. Each council shall, in accordance with the provisions of this Act

- (1) prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority which the Council shall determine requires conservation and management through a fishery management plan and, from time to time, such amendments to each such plan as are necessary;

Section 302(h)(3) *

- (3) conduct public hearings, at such times and locations as the Council shall deem necessary and appropriate, in order to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act.

Section 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.

Section 302(j) *

PROCEDURES. The primary function of the councils is to develop fishery management policy for their respective regions. The councils are not advisory committees and the provisions of the Federal Advisory Committee Act (5 USC App. I) shall not apply to the councils or the scientific and statistical committees established under section 302(g)(1), or any advisory panel established under section 302(g)(2). In order to assure public participation in its activities, each council shall adopt the following procedures:

- (1) Each council shall establish its own procedures with respect to the purposes, duties and composition of its subcommittees, scientific and statistical committee and its advisory panels.
- (2) Each council meeting and each meeting of any scientific and statistical committee and each advisory panel shall be open to the public, except as provided in subsection (7).
- (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.
- (5) Subject to section 552(b) of Title 5 and guidelines concerning the confidentiality of data prescribed by the Secretary or by the councils under section 303(d), the administrative record, including minutes of meetings, records, or other documents which were made

available to or prepared for or by each council, shall be available for public inspection and copying at a single location in the offices of the council.

- (6) Minutes of each meeting of a council shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the council.
- (7) Subsections (2), (4), (5), and (6) of this section shall not apply to any portion of a meeting of the council, scientific and statistical committee or advisory panel that is closed to the public in accordance with this subsection. A council may close all or any portion of a meeting to the public upon 15 days notice to the Secretary. Such notice shall be in writing and shall set forth the time and place of the meeting and the reason for closure. A meeting may be closed to the public for reasons of foreign policy, or for discussion of personnel matters, privileged or confidential information, or other matters listed in section 552(b) of Title 5 United States Code.

Sections 303(b)(7) and (8) *

- (7) state the factors (if any) which have impeded full utilization of the optimum yield by fishing vessels of the United States and measures which would be useful to eliminate or reduce the obstacles to full domestic utilization of the optimum yield;
- (8) [No change in text, re-numbered from (7)]

Section 303(c) *

COOPERATIVE PERMIT AGREEMENTS. The Secretary may enter into cooperative agreements with individual states and the U.S. Coast Guard to administer any permitting requirements established pursuant to section 303(b)(1) under their system of boat or vessel registration. Under such agreement, the fees collected for such permits shall accrue to the involved states or the U.S. Coast Guard.

Re-numbered Section 303(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.

Re-written Section 304(a) *

ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.

- (1) Any fishery management plan or amendment or draft of such plan or amendment 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.

Existing Section 304(b)

Delete in entirety.

Re-numbered Section 304(c) *

ESTABLISHMENT OF FEES. The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). Such level shall not exceed the administrative costs incurred by the Secretary in issuing such permits, except that fees at levels exceeding administrative costs may be established pursuant to section 303(b)(6).

Section 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.

Section 305 *

The following principles were developed as guidelines for redrafting Section 305:

1. Regulations must accompany fishery management plans or amendments submitted for Secretarial review.
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.

Existing Sections 305(b) and (c)

Delete in entirety.

Existing Section 305(d)

Re-number as 305(b).

Re-numbered Section 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 present, 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.

Section 306(c) *

COUNCIL-STATE PLANS FOR SHARED FISHERIES. Nothing under (a) and (b) above shall be construed as negating the authority of 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.

Section 311(a) *

RESPONSIBILITY. The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semi-annually to each committee of the Congress listed in section 203(b) and to the councils on the degree and extent of known and estimated compliance with the provisions of this Act.

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.

I'd like to comment on three of the additional issues you wish to discuss at these hearings. FCZ enclaves in state waters are a problem in Alaska. There are numerous places in the Alexander Archipelago where the FCZ is completely surrounded by state waters. While they have not been a problem to date, the potential is always there. We believe that those enclaves, when they are completely surrounded by state waters and are and have been managed by the states for fishery purposes, should continue under state jurisdiction as regards fishery resources only. That approach will greatly simplify fishery management plans and the task of the Secretary of Commerce in regulating fisheries in the FCZ.

Allowing foreign processing vessels to operate within internal state waters should be controlled by the state in question with the concurrence of the Secretary of Commerce, as proposed in Representative Young's bill of June 9, 1981. This could be a very serious problem in Alaska and is not necessarily confined to that state. Other areas and other fisheries could be vulnerable to direct competition between foreign processors and U.S. processors competing for the same raw product.

Our Council believes that Council members should continue to be compensated as now provided for in the Act. We ask a great deal of time and expertise from Council members, many of whom could be making far more at other pursuits. The issue of travel expenses is not major. Holding expense reimbursement to the Federal per diem level for a given area sometimes creates hardships when Council members or other persons traveling at Council expense cannot qualify for the reductions normally given Federal employees, but this is not an issue that we consider worth pursuing when there are so many truly critical things that need to be done to make the system work.

The North Pacific Fishery Management Council has not discussed the question of adding jurisdiction over tuna though tuna landings are now made in the Council area. My personal view is that such an action is contrary to our expressed position of the Law of the Sea and other international agreements affecting tuna. I believe it would be detrimental to the interests of our U.S. distant water tuna fisherman.

On behalf of myself and the other members of the North Pacific Fishery Management Council, I want to again thank you and tell you how much we appreciate the help and cooperation of the members of this Subcommittee. We are convinced that the MFCMA is an extremely valuable and landmark piece of legislation. We are seeing development in the American fishing industry that could not have happened without the Act. It has done a great deal to stabilize resources and can do a great deal more to provide access for American fishermen to those resources. We think the Congress designed a workable council management system, but we must improve the administrative process so it can work in a timely, responsive manner as Congress intended.

STATUS OF FISHERY MANAGEMENT PLANS

1. Salmon FMP

Proposals for the 1982 fishery were called for in July 1981. So far there has been little response and the proposal period should be left open until the January 1982 Council meeting. This will also allow incorporation of any plan changes caused by the current court activities involving Columbia River Indians.

2. Herring FMP

The FMP began Secretarial Review on July 9 but should be pulled back for overhaul of the AIC formula. Council instructions will be requested at this meeting.

3. King Crab FMP

Final Council consideration is scheduled for Draft #11 of the Bering Sea/Aleutian Islands King Crab Fishery Management Plan. If adopted, the plan and supporting documents will be sent to the Secretary of Commerce for review.

4. Tanner Crab FMP

No actions are requested of the Council at this meeting.

Amendment #7, setting new OY's, was published as a Notice of Proposed Rulemaking on September 3. After a comment period, the amendment should be implemented in early December. Amendment #6, making minor technical changes to the FMP, is under DOC review prior to publishing a Notice of Final Rulemaking. Implementation of #6 is projected for mid-November.

5. Gulf of Alaska Groundfish FMP

At this meeting, the Council will be asked to give direction on future revisions of the FMP. There may also be a proposed change in sablefish OY for Council review.

Amendment #10, curtailing foreign trawling in the Eastern Regulatory Area, began Secretarial Review on April 20, 1981. We have heard no further word on it, but rumor has the amendment being implemented by late December.

Amendment #9, implementing the Lechner Line around Kodiak, was published as a Notice of Proposed Rulemaking on July 9 and is now under review by OMB and Commerce. The schedule now calls for a waiver of the 30-day APA cooling period and implementation by October 2.

Part 5 to Amendment #8 has been unofficially disapproved. This section of the amendment would have given the NMFS Regional Director authority to make emergency closures to resolve gear conflicts.

6. Bering Sea/Aleutian Islands Groundfish FMP

The Council will give final consideration at this meeting to Amendment #3 on reducing prohibited species catch.

Amendments 2, 1a and 1 are all under Secretarial Review and not much is known about their status other than that they will probably be implemented several weeks after the FMP is implemented.

The FMP and accompanying final documents were submitted to Washington, D.C. on September 4, 1981. The FMP is scheduled to be implemented on January 1, 1982.