EXECUTIVE DIRECTOR'S REPORT

This will be a short report. I managed to get most of the current material to you in the Council mailing that you received last week.

Addition to Minutes of September Meeting

I would like to add the following material to the minutes of the September meeting sent to you last week and due for approval at this meeting.

The following paragraph should be added under agenda item D-4, Tanner Crab FMP, page 18:

> "Richard Goldsmith, executive director of the North Pacific Fishing Vessel Owners Association, testified in favor of the proposal to eliminate all existing Federal pot limits; favored maintaining the 72-hour provision for on-the-grounds storage prior to season opening in the Bering Sea management area; opposed the prohibition on side-entry pots in the Yakutat district; and suggested that before the Council changes ABC/OY figures, the methodology be set out in detail and incorporated into the Plan. He said there is no data to substantiate the proposed season dates in the amendment package and asked upon what data the determinations were based."

Under D-5, Gulf of Alaska Groundfish FMP, in the sixth paragraph on page 22, delete the words "anything more than" so the sentence will read as follows:

> "He [Richard Goldsmith] felt that a ban on pot gear could set a dangerous precedent for future exclusion of other gear types."

1983 Fee Schedule

As I noted in the Council mailing, we have received a request from NOAA for comments on alternative procedures for collecting foreign fishing fees under Section 204(b)(10) of the Magnuson Act. The procedures on which comments are invited are (1) sealed competitive bidding for allocations, and (2) offering discounted fees in return for participation in joint ventures, technology transfer, reducing tariff and non-tariff trade barriers, scientific research, or other contributions to full utilization of Optimum Yield by Americans. The Council should comment on these issues, but it would be impossible to do so by the December 13 deadline in the request. However, there does not appear to be a crushing rush to comment since the method of collecting fees for 1983 has already been determined. It remains essentially as it has been in past years, with an adjustment of last year's fees to cover anticipated 1983 costs. However, species identified as "significant by-catch" will be assessed the full U.S. ex-vessel price, in conformance with NOAA policy to reduce the foreign by-catch of species for which there is a significant U.S. market. There are no species in that category off Alaska at this time.

We also have the Regulatory Impact Review for the method of collecting fees in 1983 and are in the process of preparing staff comments on it. This document probably will not require the Council's attention.

I'd recommend that we ask for an extension on the comment period on alternative procedures, probably four months, and appoint a small workgroup to develop recommendations for the Council.

Teleconference Procedures

We have the details on how to hold and pay for a teleconference using the State network. See attachment B-1(a). You will need this information when we consider the hearing schedule for the halibut moratorium.

Council Workgroups

The composition of Council workgroups needs to be updated. Attachment B-1(b) shows the current workgroup composition with the names of those who have left the Council family crossed off. I would like to recommend that the Council, SSC, AP, and supporting staff people indicate whether or not they would like to be on a specific workgroup, or who they think should be on the workgroup, give that information to the staff, and then the Council can, as soon as possible after this meeting, reconstitute those workgroups from that list. I don't think we should do it at this meeting because we will not know the new composition of the AP and SSC until we are almost finished.

Seattle Crab Hearing

The King Crab FMP and the Joint Statement of Principles between the Board and Council call for a public hearing in Seattle on proposals made to the Board for the forthcoming king crab season. Those proposals are usually ready by mid-February; decisions are made by the Board at the late March meeting. I'd recommend we hold a hearing sometime around March 10-15 and I would like to confirm those dates while we meet with the Board at this meeting.

Exclusive Economic Zone

Bills have been introduced in both the House and the Senate to create an Exclusive Economic Zone for the United States extending to 200 miles offshore. A copy of the Bill, a summary of it from Marine Fisheries News, and a copy of the President's statement on the subject are included as item B-1(c).

Law of the Sea Treaty

At the last meeting you directed me to draft a Council position on the LOST. Several suggestions have been made on how to approach this subject. I would like to suggest we consider a composite draft on Thursday -- giving various members time to work one up in the meantime.

Status of FMPs

Item B-1(d) is a current status report on fishery management plans and amendments.

Material Available

I would like to remind you again that the Pease report (Canadian) and the report to industry on the status of crab populations in the Bering Sea are both available to the Council family at the office.

TELECONFERENCE HEARINGS

1. Schedule 2 (preferably 3) weeks in advance.

2. Not available January 10-14, 1983.

3. Must schedule between 8 a.m. and 6 p.m. local times in both sites, Monday-Friday (no weekends).

4. Service charge includes room, set up, and moderator at all on-net sites.

5. Preemptible by legislature with 24 hr. notice.

Service Charge

(a) Kodiak, Homer, Sand Point: $25/hr.

(b) Anchorage, Juneau: free from 8 a.m. - 4:30 p.m.;
$25/hr. from 4:30 - 6 p.m.

*(c) Seattle - Normal long distance charges based on station-to-station, operator assisted:

8 a.m. - 5 p.m.	Monday-Friday:	$34.20/hr.
5 p.m. - 11 p.m.	Sunday-Friday:	$24.00/hr.

*Note: In Seattle, the Council needs to provide room, moderator, and speaker phone (call N.W. Bell Telephone to rent one).

Information: LTN-Juneau: 465-3836
Anchorage: 278-3668 (Candy Muse)

Plan	PDT	PMT	Council	SSC	AP
GOA Groundfish		Jeff Povolny (NPFMC) Phil Rigby (ADF&G) Phil Chitwood (NMFS) Steve Hoag (IPHC) Gary Stauffer (NWAFC) ~~**Jim Balsiger (NMFS)~~ ~~Mark Miller (ADF&G)~~	Harville Skoog ~~Meacham~~	**Marasco ~~Miles~~ Hreha Aron Burns Lechner	Alverson Burch ~~Otness~~ Phillips ~~Stephan~~ ~~Uri~~ Goldsmith
BS/A Groundfish		Jeff Povolny (NPFMC) Phil Rigby (ADF&G) Phil Chitwood (NMFS) Steve Hoag (IPHC) Loh-Lee Low (NMFS) ~~Mark Miller (ADF&G)~~	Harville Skoog ~~Meacham~~	*Burns Marasco ~~Miles~~ Hreha Aron Lechner	Alverson Burch Cotter Goldsmith ~~Stephan~~ ~~Uri~~
Herring		Jim Glock (NPFMC) Fred Gaffney (ADF&G) Dick Marshall (NMFS) Vidar Wespestad (NWAFC) Steve Fried (ADF&G)	Campbell Harville Skoog	*Millikan Burgner Langdon Clark	Lewis
King Crab	Fred Gaffney (ADF&G) Jerry McCrary (ADF&G) Guy Powell (ADF&G) Jerry Reeves (NWAFC) Dave Somerton (NWAFC) Bob Otto (NMFS) Ray Baglin (NMFS) Marty Eaton (ADF&G)	Steve Davis (NPFMC)	Harville McVey Skoog ~~Mace~~ ~~Campbell~~	*Marasco Lechner Burgner	Cotter Goldsmith Lewis ~~Stephan~~ Alverson

*Chairman
**Scientific Support Leader

30B/I

Plan	PDT	PMT	Council	SSC	AP
Tanner Crab	Jerry Reeves (NWAFC) Bob Otto (NMFS) Marty Eaton (ADF&G) Dave Somerton (NMFS) Ray Baglin (NMFS) Fred Gaffney (ADF&G)	Steve Davis (NPFMC) Fred Gaffney (ADF&G) Ray Baglin (NMFS) **Jerry Reeves (NMFS)	~~Eaton~~ Schmitten Skoog Tillion	Rosenberg *Lechner Burgner	~~Stephan~~ Kurtz Goldsmith Alverson
Troll Salmon	Bill Robinson (NMFS) Paul Larson (ADF&G) Al Davis (ADF&G) Jack Helle (NMFS) Al Didier (ADF&G) Mike Fraidenburg (WDF) Bob Garrison (ODF&W) Dave Cantillon (ADF&G) Mel Seibel (ADF&G) Chip McConnaha (CRITFC) Ken Pitre (DF&O) ~~George Utermohle (ADF&G)~~	Jim Glock (NPFMC) Al Didier (ADF&G) Bill Robinson (NMFS) Mike Fraidenburg (WDF) **Mel Seibel (ADF&G) ~~George Utermohle (ADF&G)~~	Lokken Harville Skoog Schmitten ~~Meacham~~	*Burgner Rosenberg Millikan Langdon Clark	~~Otness~~ Boddy O'Hara Jordan ~~Schnaper~~
Inter-Council Salmon	Bill Robinson (NMFS) ~~George Utermohle (ADF&G)~~ Jim Glock (NPFMC)		~~Bevan~~ Skoog Demmert		~~Otness~~ Boddy Cotter Jordan O'Hara ~~Schnaper~~

*Chairman
**Scientific Support Leader

30B/I

Workgroup	Council	SSC	AP	Others
Foreign Permit Review	*McVey ~~Eaton~~ Budd Specking Campbell ~~Busick~~		Kurtz	Hammond Travers ~~Naab~~
Incidental Species Policy	~~Bevan~~ Skoog McVey Collinsworth		~~Stephan~~	~~Smith~~ Budd
AP Nominating	*Specking Tillion Lokken Campbell ~~Eaton~~			
Finance	*Campbell Specking McVey Lokken Knapp Skoog Harville ~~Bevan~~	Rosenberg	~~Stephan~~ Lauber Alverson	
Inter-Council Salmon Coordination	~~Bevan~~ *Skoog Demmert			Donaldson ~~Martinis~~ McDevitt

*Chairman

30B/G

Workgroup	Council	SSC	AP	Others
Board/Council Coordination	Bevan Didonato Skoog Tillion		~~Stephan~~	
Policy and Planning	Bevan Campbell Eaton Harville Lokken McVey Skoog Tillion	~~Miles~~ Rosenberg		
FCMA Amendments	Mace Lokken Bevan Tillion Campbell Harville Eaton Skoog	Rosenberg	Lauber ~~Stephan~~	
Limited Entry Workshop	Tillion ~~Collinsworth~~ ~~Brooks~~ Lokken McVey	Marasco ~~Miles~~ Langdon	~~Stephan~~ Lauber Alverson ~~Otness~~ ~~Boddy~~ Baker Phillips	~~Thornburgh~~ ~~Smith~~ Stanley/Travers Miller Myre Mathisen ~~Koenecke~~ Haines Lee Schelle

*Chairman

30B/G

Workgroup	Council	SSC	AP	Others
Limited Entry Workshop (cont.)				Pautzke Branson McCaughran Crutchfield Stokes Ausman Slater G. Jenson
Limited Entry Steering	Tillion Lokken		Alverson Baker	Travers Stewart Schelle Slater McCaughran
Socioeconomic Data Needs		~~Miles~~ Marasco Langdon		
U.S./Canada Consultation	Lokken Specking ~~Bevan~~ Skoog (alternate)			
Joint-Venture Data			Burch ~~Uri~~	Fisher Thornburgh Francis
Joint-Venture Closure Criteria	~~Bevan~~ Campbell ~~Eaton~~ Harville Lokken Tillion Specking		Alverson Lauber ~~Stephan~~	

*Chairman

30B/G

Workgroup	Council	SSC	AP	Others
Ad Hoc Crab Pot Storage			~~Uri~~ *Goldsmith Burch Alverson	Petersen Hjelle Fisher
Logbook Program Workgroup		Millikan Lechner Marasco		
PMT/PDT Policy	McVey Skoog	Rosenberg Aron	Alverson	Branson
Ad Hoc BSA Incidental Species		Burgner Marasco		Povolny Loh-lee Low Balsiger Major Bakkala ~~French~~ Meacham, Jr. Reeves Terry Wespestad Rigby Hoag
Troll Salmon Limited Entry	Tillion Collinsworth McVey Mace			Williams Travers Furgeson ~~Utermohle~~ Glock
Halibut Limited Entry	Tillion Collinsworth ~~Bevan~~ Lokken	Langdon ~~Miles~~ Marasco		~~Crutchfield~~ ~~Richardson~~

*Chairman

30B/G

Workgroup	Council	SSC	AP	Others
Contract 81-5 (Stock Origins of Chinook Salmon)		Millikan Langdon Clark		
Crab Observer Program Committee	Harville ~~Devan~~	*Rosenberg Lechner	Goldsmith	Otto Reeves Gaffney Davis Branson

*Chairman

AGENDA B-1(c)
DECEMBER 1982

97th CONGRESS
2nd SESSION

H.R. _____

(Original signature of Member)

Insert title here

"A bill to establish an exclusive economic zone adjacent to the territorial sea of the United States, to assert national rights therein, and for other purposes."

IN THE HOUSE OF REPRESENTATIVES

_____, 19____

Insert sponsor's names here

MR. BREAUX (for himself, and Mr. Forsythe) introduced the following bill which was referred to the Committee on _____.

A BILL

1 *Be it enacted by the Senate and House of Representatives of the United*
2 *States of America in Congress assembled,*

GPO 81—92436-1rp

SECTION 1. SHORT TITLE.

This Act may be cited as the "Exclusive Economic Zone Establishment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS. The Congress finds that:

(1) It is in the national interest to promote and facilitate the wise development and use of ocean resources;

(2) Recent state practice and codification efforts widely recognized as reflective of customary international law encompass certain coastal state rights over the natural resources of the ocean, whether living or non-living, out to 200 nautical miles from coastal state baselines;

(3) Such coastal state rights over such natural resources are exercised in a manner that preserves the high seas rights of other states;

(4) Recent efforts to codify international law with respect to ocean uses have concluded and have not adequately addressed all of the objectives and interests of maritime and coastal states; and

(5) The United States has previously enacted interim laws related to the conservation, management, development and use of the natural resources of the ocean with a view to the successful conclusion of such recent codification efforts.

(b) PURPOSES. It is therefore declared to be the purposes of the Congress in this Act:

(1) To create an Exclusive Economic Zone which will

clarify the rights and jurisdiction of the United States and the rights and freedoms of other states within such Zone;

(2) To set forth the policy of the United States regarding the development and use of the natural resources of the oceans beyond such Zone; and

(3) To conform previously enacted interim law with such policy.

TITLE I--ESTABLISHMENT OF, AND RIGHTS ASSERTED REGARDING, THE EXCLUSIVE ECONOMIC ZONE

SEC. 101. ESTABLISHMENT OF ZONE.

There is established a zone contiguous to the territorial sea of the United States to be known as the exclusive economic zone. The inner boundary of the exclusive economic zone is a line continuous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

SEC. 102. UNITED STATES RIGHTS WITHIN THE EXCLUSIVE ECONOMIC ZONE.

The United States asserts, and will maintain, exclusive sovereign rights to the living resources (other than highly migratory species of fish) and non-living resources of (1) the seabed and subsoil of the exclusive economic zone; and (2) the superjacent waters of such seabed.

SEC. 103. RECOGNITION OF INTERNATIONAL FREEDOMS OF THE SEAS.

1 The United States recognizes, and shall maintain the
2 sovereign exclusive rights asserted by it under section 102
3 in a manner consistent with, the internationally-recognized
4 freedoms of the high seas pertaining to navigation,
5 overflight, and the laying and maintenance of submarine
6 cables and pipelines.
7 SEC. 104. MARINE RESEARCH WITHIN ZONE.
8 (a) Disclaimer of Control of Scientific Research.--
9 Except as provided in this section, by the enactment of this
10 Act, the United States does not thereby assert the right to
11 control the conduct of marine scientific research in the
12 exclusive economic zone.
13 (b) Right to Conduct Marine Scientific Research.--Any
14 United States citizen and any citizen of a foreign nation
15 which is designated as a reciprocating state pursuant to
16 subsection (d) of this section may conduct marine scientific
17 research within the exclusive economic zone after the
18 submission of plans for such research under subsection (c)
19 of this section, unless the Secretary of State determines
20 that the conduct of marine scientific research as set forth
21 in such plans would adversely affect national security or
22 the national defense.
23 (c) Submission of Plans.--Each person who wants to
24 conduct marine scientific research in the exclusive economic
25 zone shall submit plans of such research to the Secretary of

1 State, in such form and containing such information, as the
2 Secretary deems necessary for purposes of making the
3 determination under subsection (b).
4 (d) Reciprocating State.--For purposes of this section,
5 the Secretary of State shall designate any foreign nation as
6 a reciprocating state if the Secretary finds that such
7 foreign nation recognizes the right to conduct marine
8 scientific research in a manner comparable to that provided
9 in this section.
10 (e) Definitions.--For purposes of this section, the term
11 ''United States citizen'' has the same meaning such term has
12 in section 4(15) of the Deep Seabed Mineral Resources Act
13 (94 Stat. 556).
14 SEC. 105. REPORT OF LAWS AFFECTED BY ESTABLISHMENT OF
15 EXCLUSIVE ECONOMIC ZONE.
16 (a) Report by Agencies to the President.--The head of
17 each Federal department, agency, or instrumentality
18 administering a law or program which is affected by the
19 establishment of the exclusive economic zone under section
20 101 shall submit a report to the President of all such laws
21 and programs within the jurisdiction of such department,
22 agency, or instrumentality along with recommendations for
23 changes needed in such laws and programs in order to conform
24 to the establishment of the exclusive economic zone. Such
25 reports shall be submitted to the President not later than

1 18 months after the date of enactment of this Act.

2 (b) Submission of Report to Congress.--Not later than
3 two years after the date of enactment of this Act, the
4 President shall compile the reports submitted under
5 subsection (a) and submit to the Congress a single report
6 thereon along with any additional recommendations of the
7 President relating to changes in existing laws and programs
8 required by the establishment of the exclusive economic
9 zone.

10 TITLE II--EXPLORATION FOR, AND EXPLOITATION OF, MINERAL
11 RESOURCES OF THE EXCLUSIVE ECONOMIC ZONE, OUTER CONTINENTAL
12 SHELF, AND DEEP SEABED

13 SEC. 201. AMENDMENTS RELATING TO THE OUTER CONTINENTAL
14 SHELF.

15 (a) Definition of Outer Continental Shelf.--Section 2(a)
16 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))
17 is amended to read as follows:

18 ''(a) The term 'outer Continental Shelf' means all
19 submerged lands lying seaward and outside of the area of
20 lands beneath navigable waters as defined in section 2(a) of
21 the Submerged Lands Act (43 U.S.C. 1301(a); 67 Stat. 29), to
22 a distance of 200 nautical miles from the baseline from
23 which the width of the territorial sea is measured, or to
24 the foot of the continental slope, whichever distance is
25 greater.''.

1 (b) Foot of the Continental Slope.--Section 2 of the
2 Outer Continental Shelf Lands Act is amended by adding at
3 the end thereof the following new subsection:
4 ``(r) The term 'foot of the continental slope' means the
5 lowest point in the most seaward major course of downward
6 inclination in the generally descending profile of the
7 continental slope, beyond which the gradient either flattens
8 very gently to merge eventually with the abyssal plain, or
9 reverses to form the other side of an oceanic trench.''.
10 SEC. 202. AMENDMENTS RELATING TO THE DEEP SEABED.
11 (a) Change in Title of Act.--(1) Section 1 of the Deep
12 Seabed Hard Mineral Resources Act is amended to read as
13 follows:
14 ``SECTION 1. SHORT TITLE.
15 ``This Act may be cited as the 'Deep Seabed Mineral
16 Resources Act'.''.
17 (2) Any reference to the Deep Seabed Hard Mineral
18 Resources Act shall be deemed to refer to the Deep Seabed
19 Mineral Resources Act.
20 (b) Amendments to Deep Seabed Mineral Resources
21 Act.--The Deep Seabed Mineral Resources Act is amended as
22 follows:
23 (1) The Act is amended by striking out ``hard
24 mineral resource'' each place it appears and inserting
25 in lieu thereof ``mineral resource'', by striking out

1 ``hard mineral resources'' each place it appears and
2 inserting in lieu thereof ``mineral resources'', and by
3 striking out ``hard minerals'' each place it appears and
4 inserting in lieu thereof ``minerals''.
5 (2) Paragraph (4) of section 2(a) is amended to read
6 as follows:
7 ``(4) there is an alternate source of supply, which
8 is significant in relation to national needs, of certain
9 minerals existing on or under the deep seabed;''.
10 (3) Section 2(a) is amended by striking out
11 paragraphs (7), (8), (9), (10), (15), and (16), and by
12 renumbering paragraphs (11), (12), (13), and (14) (and
13 all references thereto) as paragraphs (7), (8), (9), and
14 (10), respectively.
15 (4) Paragraph (9) of section 2(a) (as renumbered by
16 paragraph (3) of this subsection) is amended by striking
17 out ``pending a Law of the Sea Treaty, and''.
18 (5) Paragraph (10) of section 2(a) (as renumbered by
19 paragraph (3) of this section) is amended to read as
20 follows:
21 ``(10) pending an agreement among states on an
22 orderly and environmentally sound program for the
23 recovery of the mineral resources of the deep seabed,
24 the protection of the marine environment from the
25 potential effects of exploration or recovery of such

1 mineral resources depends upon the enactment of suitable
2 national legislation.''.
3 (6) Paragraph (1) of section 2(b) is amended to read
4 as follows:
5 ''(1) to encourage the successful conclusion of an
6 international agreement that will assure the development
7 of the mineral resources of the deep seabed for the
8 benefit of mankind and that will assure, among other
9 things, nondiscriminatory access to such resources for
10 all nations;''.
11 (7) Section 2(b) is amended by striking out
12 paragraphs (2) and (3) and by renumbering paragraphs (4)
13 and (5) (and all references thereto) as paragraphs (2)
14 and (3), respectively.
15 (8) Paragraph (1) of section 3(b) is amended to read
16 as follows:
17 ''(1) The Secretary of State is encouraged to negotiate
18 a comprehensive international agreement which, among other
19 things, provides assured and nondiscriminatory access to the
20 mineral resources of the deep seabed for all nations,
21 assures the development of such mineral resources for the
22 benefit of mankind, and provides for the establishment of
23 requirements for the protection of the quality of the marine
24 environment.''.
25 (9) Paragraph (2) of section 3(b) is amended by

striking out ``a Treaty'' and inserting in lieu thereof ``an agreement''.

(10) Section 4(2) is amended to read as follows:

``(2) 'Continental Shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a); 67 Stat. 29), to a distance of 200 nautical miles from the baseline from which the width of the territorial sea is measured, or to the foot of the continental slope, whichever distance is greater;''.

(11) Section 4 is amended by renumbering paragraphs (6) through (14) as paragraphs (7) through (15), respectively, and by inserting after paragraph (5) the following new paragraph:

``(6) 'foot of the continental slope' means the lowest point in the most seaward major course of downward inclination in the generally descending profile of the continental slope, beyond which the gradient either flattens very gently to merge eventually with the abyssal plain, or reverses to form the other side of an oceanic trench;''.

(12) Paragraph (7) of section 4 (as renumbered by paragraph (11) of this subsection) is amended to read as follows:

1 ``(7) 'mineral resource' includes oil, gas, sulphur,
2 geopressured-geothermal and associated resources, and
3 all other minerals which are authorized by an Act of
4 Congress to be produced from 'public lands' as defined
5 in section 103 of the Federal Land Policy and Management
6 Act of 1976;''.
7 (13) Paragraph (8) of section 4 (as renumbered by
8 paragraph (11) of this subsection) is amended by
9 striking out ``concluded through negotiations at the
10 Third United Nations Conference on the Law of the Sea,''
11 and by striking out ``an international'' and inserting
12 in lieu thereof ``a''.
13 (14) Section 102(c)(1)(D) is amended by striking out
14 ``1988'' and inserting in lieu thereof ``1995''.
15 (15) Section 118(a)(1) is amended by inserting
16 ``generally'' after ``manner''.
17 (16) Section 310 is amended by striking out
18 ``September 30, 1981, and September 30, 1982'' and
19 inserting in lieu thereof ``on or before September 30,
20 1987''.
21 (c) Amendments to Tax and Trust Fund Provisions.--
22 (1) Section 401 of the Deep Seabed Hard Mineral Removal Tax
23 Act of 1979 is amended to read as follows:
24 ``SEC. 401. SHORT TITLE.
25 ``This title may be cited as the ``Deep Seabed Mineral

1 Removal Tax Act of 1979.''.

2 (2) Any reference to the Deep Seabed Hard Mineral

3 Removal Tax Act of 1979 shall be deemed to refer to the Deep

4 Seabed Mineral Removal Tax Act of 1979.

5 (3) Subsection (b) of section 4496 of the Internal

6 Revenue Code of 1954 is amended to read as follows:

7 ''(b) Mineral Resource.--For purposes of this

8 subchapter, the term 'mineral resource' includes oil, gas,

9 sulphur, geopressured-geothermal and associated resources,

10 and all other minerals which are authorized by an Act of

11 Congress to be produced from 'public lands' as defined in

12 section 103 of the Federal Land Policy and Management Act of

13 1976.''.

14 (4) Section 4496 of the Internal Revenue Code of 1954 is

15 amended by striking out subsection (d) and inserting in lieu

16 thereof the following:

17 ''(d) Continental Shelf.--For purposes of this

18 subchapter, the term 'Continental Shelf' means all submerged

19 lands lying seaward and outside of the area of lands beneath

20 navigable waters as defined in section 2(a) of the Submerged

21 Lands Act (43 U.S.C. 1301(a); 67 Stat. 29), to a distance of

22 200 nautical miles from the baseline from which the width of

23 the territorial sea is measured, or to the foot of the

24 continental slope, whichever distance is greater.

25 ''(e) Foot of the Continental Slope.--For purposes of

1 this subchapter, the term 'foot of the continental slope'
2 means the lowest point in the most seaward major course of
3 downward inclination in the generally descending profile of
4 the continental slope, beyond which the gradient either
5 flattens very gently to merge eventually with the abyssal
6 plain, or reverses to form the other side of an oceanic
7 trench.''.

8 (5) Section 4497(b) of the Internal Revenue Code of 1954
9 is amended to read as follows:

10 ''(b) Commercial Recoverability.--The Secretary may by
11 regulation prescribe for each metal or mineral quantities or
12 percentages below which the metal or mineral shall be
13 treated as not commercially recoverable.''.

14 (6) Section 4498 of the Internal Revenue Code of 1954 is
15 repealed.

16 (7) Subchapter F of chapter 36 of the Internal Revenue
17 Code of 1954 is amended by striking out ''hard mineral
18 resource'' each place it appears and inserting in lieu
19 thereof ''mineral resource'' and by striking out ''Hard'' in
20 the table of subchapters for such subchapter.

21 (8) The table of subchapters for subchapter F of chapter
22 36 of the Internal Revenue Code of 1954 is amended by
23 striking out the item relating to section 4498.

24 (9) Section 403 of the Deep Seabed Mineral Removal Tax
25 Act of 1979 is amended by striking out subsections (d), (e),

1 and (f) and inserting in lieu thereof the following:

2 ''(d) Expenditures From Trust Fund.--Amounts in the

3 Trust Fund shall be available, as provided by appropriations

4 Acts, for any purpose authorized by section 109 or 114 of

5 this Act. Nothing in this subsection shall be deemed to

6 authorize any program or other activity not otherwise

7 authorized by law.''.

8 SEC. 203. MEMORANDUM OF UNDERSTANDING.

9 Not later than one year after the date of enactment of

10 this Act, the Secretary of the Interior and the Secretary of

11 Commerce shall issue a memorandum of understanding setting

12 forth the manner in which activities on the outer

13 Continental Shelf (as defined in the Outer Continental Shelf

14 Lands Act) and the deep seabed (as defined in the Deep

15 Seabed Mineral Resources Act) will be regulated in those

16 cases in which the logical mining unit for which an

17 application is made for a license or permit under title I of

18 the Deep Seabed Mineral Resources Act is located both on the

19 outer Continental Shelf and on the deep seabed.

20 TITLE III--FISHERY CONSERVATION AND MANAGEMENT

21 SEC. 301. AMENDMENTS RELATING TO FISHERY CONSERVATION AND

22 MANAGEMENT.

23 The Act entitled ''An Act to provide for the

24 conservation and management of the fisheries, and for other

25 purposes'', approved April 13, 1976 (16 U.S.C. 1801 et seq.)

is amended as follows:

(1) Section 2(b)(1) is amended by striking out subparagraph (A) and inserting in lieu thereof the following: ``(A) an exclusive economic zone within which the United States maintains exclusive and sovereign rights over all fish, except highly migratory species, and''.

(2) Section 2(b)(4) is amended by inserting after ``optimum yield from each fishery'' the following: ``by the United States fishing industry''.

(3) Section 2(c) is amended by striking out paragraph (1), by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively, and by amending paragraph (4) (as so redesignated) to read as follows:

``(4) to support and encourage active efforts by the United States to negotiate widely accepted international agreements that provide for effective conservation and management of fishery resources, including highly migratory species.''.

(4) Section 3 is amended by striking out paragraph (3) and inserting in lieu thereof the following:

``(3) The term 'Continental Shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section

1 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a); 67
2 Stat. 29), to a distance of 200 nautical miles from the
3 baseline from which the width of the territorial sea is
4 measured, or to the foot of the continental slope,
5 whichever distance is greater;''.
6 (5) Section 3 is amended by striking out paragraph
7 (8); by redesignating paragraphs (6) and (7) as
8 paragraphs (7) and (8), respectively; and by inserting
9 immediately after paragraph (5) the following new
10 paragraph:
11 ''(6) The term 'exclusive economic zone' means the
12 exclusive economic zone established by section 101 of
13 the Exclusive Economic Zone Establishment Act.''.
14 (6) Section 101, and the entry relating to that
15 section in the table of contents, are repealed.
16 (7) Section 102 is amended to read as follows:
17 ''SEC. 102. EXCLUSIVE FISHERY MANAGEMENT AUTHORITY.
18 ''(a) In the Exclusive Economic Zone.--The United States
19 shall exercise sovereign rights and exclusive fishery
20 management authority, in the manner provided for in this
21 Act, over all fish within the exclusive economic zone.
22 ''(b) Migratory Species and Resources Beyond the
23 Zone.--The United States shall exercise exclusive fishery
24 management authority, in the manner provided for in this
25 Act, over the following:

1 ``(1) All anadromous species throughout the
2 migratory range of each such species beyond the
3 exclusive economic zone; except that such management
4 authority shall not extend to such species during the
5 time they are found within any foreign nation's
6 territorial sea or exclusive economic zone (or the
7 equivalent), to the extent that such sea or zone is
8 recognized by the United States.
9 ``(2) All Continental Shelf fishery resources beyond
10 the exclusive economic zone.''.
11 (8) Section 103 is amended to read as follows:
12 ``SEC. 103. HIGHLY MIGRATORY SPECIES.
13 ``The sovereign and exclusive rights of the United
14 States with regard to the management of fishery resources,
15 as set forth in section 102 of this Act, shall not include,
16 nor be construed to extend to, highly migratory species of
17 fish.''.
18 (9) Section 201(d)(4) is amended by striking out
19 ``shall allocate'' and insert in lieu thereof ``may
20 allocate''.
21 (10) Section 301(a)(1) is amended by inserting after
22 ``fishery'' the following: ``by the United States
23 fishing industry''.
24 (11) The Act (including the table of contents) is
25 further amended by striking out ``fishery conservation

1 zone'' each place it appears therein and inserting in

2 lieu thereof ''exclusive economic zone''.

Nautilus
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Washington, DC-20004

Editors: John R. Botzum

Marine Fish Management

Volume 8, Number 9, September 1982

THE REAGAN ADMINISTRATION BEGAN SERIOUS CONSIDERATION OF A U.S. EEZ, and the two major fisheries figures in the U.S. Congress introduced legislation proposing a 200-mile exclusive economic zone. Following the dumping of the U.N. Law of the Sea Treaty by President Ronald Reagan, the EEZ is obviously an idea whose time has come. A cabinet-level working group has met several times to draft a "Reagan Proclamation" declaring the zone, and there is the possibility that the administration will go public with its proposal by early December when Rep. John Breaux (D-LA) plans hearings before his fisheries subcommittee of the House Merchant Marine & Fisheries Committee.

Breaux and Sen. Ted Stevens (R-AK) introduced identical legislation on 30Sep. The bill, H.R.7225, was drafted by Breaux, and Stevens simply introduced the same measure in the Senate. Of significance are the proposals in the Breaux bill which go beyond the concept of an EEZ to further strengthen U.S. control over the fisheries within its zone.

"The U.S. asserts, and will maintain, exclusive sovereign rights to the living resources (other than highly migratory species of fish) and non-living resources of (1) the seabed and subsoil of the EEZ; and (2) the superjacent waters of such seabed." That's the language of the declaration of U.S. rights within the zone in H.R.7225.

Then Breaux goes on to propose amending the FCMA to conform with the EEZ concept -- and more. Thus Sect. 2(b)(4) of the Fishery Conservation & Management Act is amended by inserting after "optimum yield from each fishery" the language "by the U.S. fishing industry"; while Sect.2(c) is amended by striking paragraph (1) and amending the redesignated paragraph (4) to read: "to support and encourage active efforts by the U.S. to negotiate widely accepted international agreements that provide for effective conservation and management of fishery resources, including highly migratory species."

(cont. on next page)

Then Sect.3 of the FCMA is amended by striking paragraph (3) and inserting "the term 'continental shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in Sect.2(a) of the Submerged Lands Act...to a distance of 200 nautical miles from the baseline from which the width of the territorial sea is measured, or to the foot of the continental slope, whichever distance is greater."

The Breaux bill does go into some detail on the migratory species. Sect.102 of FCMA is amended to provide EEZ authority as follows: "(a) In the EEZ -- The U.S. shall exercise sovereign rights and exclusive fishery management authority, in the manner provided for in this act, over all fish within the EEZ; (b) Migratory species and resources beyond the zone -- The U.S. shall exercise exclusive fishery management authority, in the manner provided for in this act, over the following: (1) All anadromous species throughout the migratory range of each such species beyond the EEZ; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or EEZ (or the equivalent) to the extent that such sea or zone is recognized by the U.S.; (2) All continental shelf fishery resources beyond the EEZ."

Limitations on U.S. sovereignty over fishery resources is spelled out in amendments to Sect.103 of FCMA as follows: "The sovereign and exclusive rights of the U.S. with regard to the management of fishery resources, as set forth in Sect. 102 of this act, shall not include, nor be construed to extend to, highly migratory species of fish."

Further amendments are made to FCMA as follows: Sect.201(d)(4) is amended by striking out "shall allocate" and inserting "may allocate"; Sect.301(a)(1) is amended by inserting after "fishery" the following phrase: "by the U.S. fishing industry"; and finally the FCMA itself, including the table of contents, is amended by striking out "fishery conservation zone" wherever it appears and substituting "EEZ."

Speaking to the American Oceanic Organization in Washington DC on 30Sep, Breaux summed up the bill: "The U.S. would assert sovereign rights for the purpose of exploring and exploiting, conserving and managing, the natural resources, whether living (except for highly migratory species of tuna) or non-living, of the seabed and subsoil and superadjacent waters." As to the amendments he proposes to FCMA, they would simply "further clarify our position that fishery resources within the U.S. 200-mile zone are to be utilized first and foremost for the benefit of the U.S. fishing industry." Breaux added: "Surplus fish are not to be granted to foreign nations as a matter of right, and we must ensure that we obtain full benefits from foreign participation in the harvest of U.S. fishery resources."

The Breaux bill parallels the work the Reagan Administration is doing to firm up U.S. ocean policy following the dumping of the LOS treaty. "We have attempted to set a course, and make a statement" is the way Breaux characterized his proposal. He declared he is "ready to work" with the President. He called on the ocean community to stop

"picking the bones" of the U.N. Conference on the Law of the Sea. The continuing efforts of some, including individuals within government, to reverse the U.S. position on the treaty, is, said Breaux, preventing the U.S. from "thinking about where we should go from here."

A "Reagan Proclamation" is now being developed to declare the EEZ of the U.S. Draft language often matches that of Breaux's bill. Thus, the proclamation states: "To clarify the rights and jurisdiction of the U.S. and of the rights and freedoms of other states in an EEZ, the government of the U.S. declares its sovereign rights therein for the purpose of exploring and exploiting, conserving and managing, the natural resources, whether living (except for highly migratory species of tuna) or non-living, of the seabed and subsoil and the superadjacent high seas waters."

Salmon is mentioned specifically in the draft proclamation in the sentence which follows: "Without prejudice to its right to exercise seabed and subsoil resource jurisdiction on the continental shelf beyond 200 nautical miles, and jurisdiction over salmon of U.S. origin beyond 200 nautical miles (except within other recognized 200-nautical -mile zones), the EEZ shall extend 200 nautical miles from the baselines from which the breadth of the territorial sea is measured..." Puerto Rico, the Northern Marianas, and the Trust Territory of the Pacific Islands are specifically included in the EEZ draft proclamation.

It should be noted that the work on the EEZ proclamation is being handled within the Reagan Administration by many of the same people involved in the preparation of a memo from Interior Secretary James Watt which calls for "a detailed analysis of domestic actions affecting the development of ocean resources..." The memo was prepared by Watt in his capacity as the head of the President's Cabinet Council on Natural Resources & Environment. Thus the EEZ proclamation will be accompanied, MFM newsletter has learned, by an executive order from the President giving the Interior Dept. jurisdiction over the EEZ subsoil and seabed resources.

The Watt memo expresses an interest in fish specifically -- making some people wonder just what the secretary may have in mind. The "detailed analysis" will be aimed at areas "critical to the long range national interest...including fisheries, marine oil and gas, marine hard minerals, and related marine research and environmental issues," the August memo goes on. Watt ordered a cabinet-level working group to prepare "detailed informational background and consider recommendations to the President to be implemented, to ensure access to and economical development of, these resources..."

Among the possible legislative and/or executive actions envisioned by Watt is the creation of an EEZ, including the "establishment of sovereign rights by the U.S. over fishery resources..." The status quo would be maintained for tuna by Watt, "including rejection of coastal state claims of jurisdiction over highly migratory stocks of fish"; while salmon would be controlled through the "establishment of sovereign rights by the U.S. both within and beyond 200 miles."

The attention to "sovereign rights" in fisheries matters bothers some observers of the Reagan Administration very much. James P. Walsh, a Washington DC attorney representing the American Tunaboat Assn., and the former deputy administrator of the Natl. Oceanic & Atmospheric Administration, as well as being one of the authors of FCMA while an aide to Senator Magnuson, wrote Watt that "the establishment of sovereign rights over fishery resources...creates misgivings for my clients even though we know of your intent to reject any claim to jurisdiction or rights over highly migratory tuna sought by U.S. tuna fishermen." He went on to explain why the tuna people feel so "strongly":

"The term 'sovereign rights' is not found in the Magnuson Fishery Conservation & Management Act...which asserts exclusive fishery management authority over all fish, except highly migratory species of tuna, within 200 miles and over anadromous (salmon) species of fish beyond. This authority includes the right to reserve to U.S. fishermen the entire annual yield from any fish stock subject to U.S. jurisdiction. In short, complete economic control over our coastal and anadromous fisheries already exists in U.S. law and policy, and it is difficult to conceive of what further rights or authority are conferred by establishing 'sovereign rights'.

On the other hand," Walsh writes Watt, "the concept of 'sovereign rights' and its use has been championed by several lesser developed coastal countries during the Third UNCLOS as the concept best describing their claims to all fishery resources, including tuna, within the 200-mile EEZ proposed by the draft convention on the law of the sea. To our knowledge the U.S. has never espoused use of this concept because it is conceptually inconsistent with the legal nature of the EEZ which is not a territorial sea wherein full 'sovereignty' comes into play. The term is used in the draft convention, specifically Article 56, and its presence there has been interpreted by some legal scholars as 'tipping the balance of power over tuna resources in favor of the coastal nation'."

Walsh concludes: "Consequently, we can see no value, but considerable harm to our interests, in explicitly embracing a concept which is not found in U.S. law, but is used in the draft LOS convention rejected by this administration. An assertion of sovereign rights over fishery resources will surely be viewed as tacit approval of the draft convention's text on fishery resources. We recommend that your council not 'establish sovereign rights' but simply reaffirm exclusive economic authority already claimed by the U.S. under the Magnuson Act and recognized by other nations."

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A NACOA MEMBER HAS RESPONDED TO MFM'S CRITIQUE OF ITS RECENT FISHERIES study. MFM newsletter had complained (in its August edition) that some of the recommendations made by the Natl. Advisory Committee on Oceans & Atmosphere were not completely realistic. Sharron Stewart countered: "I assure you the recommendation is seriously made concerning congressional confirmation that the councils are the principal authorities in formulating management strategies...Our recommendation for greater

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Ocean Science News

Editor: John R. Botzum

FIRST NEWSLETTER OF WORLD OCEAN AFFAIRS, INCLUDING DIVING & SUBMERSIBLE NEWS

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THE "REAGAN PROCLAMATION" OF A U.S. EXCLUSIVE ECONOMIC ZONE IS ALMOST ready for the President's signature. OSN has obtained a draft of the document, which reads:

"By the President of the United States of America

A PROCLAMATION

Whereas the Government of the United States of America desires to facilitate wise development and use of the ocean resources under its jurisdiction; and

Whereas recent State practice and codification efforts widely recognized as reflective of customary international law encompass certain coastal State rights over natural resources out to 200 nautical miles while preserving the high seas rights of other States; and

Whereas the Government of the United States seeks to supplement its domestic laws and regulations already in place for ocean areas or activities under its national jurisdiction;

NOW, THEREFORE, I, RONALD W. REAGAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources appertaining to our nation by virtue of this declaration of an Exclusive Economic Zone of the United States.

To clarify the rights and jurisdiction of the United States and of the rights and freedoms of other States in an Exclusive Economic Zone, the Government of the United States declares its sovereign rights therein for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living (except for highly migratory species of tuna) or non-living, of the sea-bed and subsoil and the superjacent high seas waters. Without prejudice to its right to exercise seabed and subsoil resource jurisdiction on the Continental Shelf beyond 200 nautical miles, and jurisdiction over salmon of U.S. origin beyond 200 nautical miles, (except within other recognized 200-nautical-mile zones) the Exclusive Economic Zone shall extend 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, including, for their benefit, United States overseas possessions and territories, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. In instances where this Exclusive Economic Zone conflicts with legitimate maritime claims of others, appropriate measures for delimitation will be taken. In this Exclusive Economic Zone, all States shall enjoy high seas freedoms such as navigation and overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea. The United States shall govern living and non-living resources in the Exclusive Economic Zone in accordance with applicable domestic laws or by Executive Orders where no domestic law has heretofore been applicable.

Nothing in this Proclamation alters the juridical status of the waters of the Exclusive Economic Zone as High Seas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed."

AN EXECUTIVE ORDER GIVING JURISDICTION OF THE EEZ TO THE U.S. INTERIOR DEP will be issued at the same time that the "Reagan Proclamation" is signed. That order is confined to the "resources of the subsoil and seabed...beneath the high seas." It reads:

"EXECUTIVE ORDER

Reserving and Placing Certain Resources of the Exclusive Economic Zone under the Jurisdiction and Control of the Secretary of the Interior.

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that the natural resources of the subsoil and seabed of the Exclusive Economic Zone beneath the high seas beyond the Outer Continental Shelf declared this day by proclamation to appertain to the United States and to be subject to its jurisdiction and control, be and they are hereby reserved, set aside and placed under the jurisdiction and control of the Secretary of the Interior for administrative purposes, pending the enactment of legislation in regard thereto."

THE OFFICIAL WHITE HOUSE ANNOUNCEMENT OF THE "PROCLAMATION" WILL MAKE the point that the U.S. has extended its "sovereign rights...over the natural resources of a 200-mile EEZ." That document will read, if present plans are carried through:

"The President issued a proclamation on_____, 1982 extending the sovereign rights of the United States over the natural resources of a 200-mile Exclusive Economic Zone.

The policy proclaimed follows similar actions already taken by the great majority of coastal States throughout the world and is compatible with recent codification efforts.

The United States' assertion is limited to resource jurisdiction and control and in no respect derogates from the traditional high seas freedoms such as navigation and overflight, laying of submarine cables and pipelines and other internationally lawful uses of the sea.

The proclamation is intended to clarify the United States' position internationally and does not amend domestic law or regulations already applicable. However, in the case of non-living resource jurisdiction over the seabed and sub-soil beyond the Outer Continental Shelf and out to 200 nautical miles, the President has issued an Executive Order for administrative purposes until legislative action is taken. This Executive Order became advisable when continuing advances in technology were combined with the discovery of potentially valuable non-living resources in this area. The President saw no reason to delay orderly planning for the development of these resources pending more detailed legislative enactments as such resources could reduce the dependency of the United States on foreign sources of strategic minerals.

The Proclamation places approximately six million square nautical miles of ocean resources' area under the exclusive economic control of the United States. Of this area, about two and one-half million square nautical miles are located off the Continental United States while three and one-half million square nautical miles are encompassed in the 200-mile zones around Hawaii, United States overseas possessions and territories, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and, in trust for its peoples, the Trust Territory of the Pacific Islands. The Proclamation affirms the resource jurisdiction and control of the United States over an area nearly twice the size of the land masses of the United States. This is the largest ocean resource area under the national jurisdiction of any country in the world. In future years, the potential benefits from the development of the natural resources in this huge ocean space are incalculable."

"RECIPROCAL COORDINATION OF SEABED MINING PROGRAMS: Accomplishments and Prospects" is the topic for the 7Oct82 Center for Oceans Law and Policy forum in Room 2168, Gold Room, Rayburn House Office Bldg., Washington DC, 4:45 p.m. For reservations call Cindy Marston, (703) 451-1730.

STATUS OF FISHERY MANAGEMENT PLANS

1. Salmon FMP

The Council will vote on the natural chinook stock management policy tentatively approved in September. The PDT will discuss their report on the status of natural chinook stocks and general management alternatives for 1983. The main discussion of 1983 management will occur at the joint Council and Board of Fisheries meeting in early January in Juneau.

2. Herring FMP

The Council will consider final approval of the revised Herring Plan for resubmission to the Secretary of Commerce for review. These revisions resulted from Council actions in July concerning the definition and determination of OY and the adjustment of ABC. In September the Council voted to send the revised plan out to public review. The public comment period began on October 6, 1982 and a public hearing was held in Bethel on November 10.

3. King Crab FMP

No action is required on king crab at this meeting. Secretarial review began June 10 and has been extended pending receipt of supporting documents and the final drafting of regulations. These should be completed by late December.

4. Tanner Crab FMP

The Council will consider a new Amendment 9 that will increase the Regional Director's flexibility in setting seasons. Given initial approval, the amendment will go out to public review and final Council action will occur in January. Housekeeping Amendment 8 which was approved in September is being prepared to go to Secretarial review. It will be sent to Washington in the next few weeks.

Amendment 7 which established new *C. bairdi* OYs and set *C. opilio* OY equal to DAH (i.e. TALFF = 0) was published as a proposed rule on September 3, 1981. Proposed regulations have recently cleared NMFS Central Office but no date has been given for final publication.

5. Gulf of Alaska Groundfish FMP

The Council needs to clarify the issue of the exclusion of pot gear east of 140°W for sablefish. This issue has been separated from the rest of Amendment 11 which was approved by the Council in July and is now being reviewed in the NMFS Regional office in Juneau. Other Council considerations planned for this meeting include a progress report on increasing the plan's flexibility, recommendations for sablefish equilibrium yield in 1983 and DAHs for all species for 1983, and a team request for guidance on addressing prohibited species by-catch problems in the Gulf.

6. Bering Sea/Aleutian Islands Groundfish FMP

At this meeting the Council will consider DAH recommendations for 1983.

Amendment 7 modifying restrictions on foreign longliners in the Winter Halibut Savings Area was approved by the Council in September 1982. The Council staff and NMFS Regional Office are preparing the amendment and supporting documentation for Secretarial review.

Amendment 6 establishing a U.S. Fishery Development Zone north of Unimak Pass was approved by the Council in September 1982 and will be sent to Secretarial review after final preparation of the amendment and supporting documents.

Amendment 5 decreasing the prohibited species catch of chinook salmon to 45,500 salmon for 1982 began Secretarial review on June 1, 1982. The review period should have ended on July 30, but no word has been received yet.

Amendment 4 revising fishery apportionments for various species or groups began Secretarial review on February 22, 1982 and should have finished review on April 18. Word was just received that the portion of the amendment granting the Regional Director field order authority to adjust time-area closures for conservation and management reasons has been disapproved. The Council staff will submit revised language in the near future. The rest of Amendment 4 has not been approved yet.

Amendment 3 establishing prohibited species catch limitations for crabs, salmon, and halibut is currently under preparation to be sent to Secretarial review by early December.

Amendment 1 on managing groundfish as a complex was sent to Secretarial review on November 29, 1982.

15.

federal register

Friday
November 12, 1982

Part VII

Department of Commerce

National Oceanic and Atmospheric Administration

Foreign Fishing; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 2019-213]

50 CFR Part 611

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes the 1983 poundage fee schedule for foreign vessels fishing in the fishery conservation zone. Under this fee schedule, foreign vessels will pay for 30 percent of the FY 1982 Magnuson Act costs, and foreign fleets will be encouraged to reduce their bycatch. Comments are also requested on offering discounted fees and conducting competitive bidding for allocations during 1983. This action is needed to comply with section 204(b)(10) of the Magnuson Act.

DATE: Comments must be received on or before December 13, 1982.

ADDRESS: Send comments to: Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Copies of the regulatory impact review (RIR) and a detailed breakdown of NMFS costs are available at this address.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, 202-634-7432.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of fees for fishing during 1983 by foreign vessels in the U.S. fishery conservation zone (FCZ). The new schedule will result in collections of approximately $43-45 million. This amount is determined as described below. As in previous years, no fee will be collected by the Federal government for U.S.-caught fish received at sea by foreign flag processing vessels (joint ventures).

Total Cost of Administering the Act

Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) states, in part, "The fees . . . shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act . . . during [FY 1982] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during [1981] bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1981]".

Cost to the Federal government of carrying out the provisions of the Magnuson Act were calculated for FY 1982 using the same methods used to develop the 1982 fee schedule (see 46 FR 55729, November 12, 1981). All National Marine Fisheries Service (NMFS) units submitted documentation of the planned use of their funding allocations. The documents are "operations plans", which include a narrative description of activities and the amount budgeted for labor, travel, contracts, etc. The operations plans were analysed to identify the costs of performing functions under the Magnuson Act, without regard to legislative authorization for certain activities predating the Magnuson Act. NOAA's policy is to calculate the full costs—not incremental costs—both direct and indirect, for performance of services for others (NOAA Budget Handbook, Chapter 2, Section 3). Documentation of NMFS' determination of Magnuson Act costs is available at the above address. The documentation specifies, by unit, the amount of each operations plan considered to contribute to the total cost of carrying out the provisions of the Magnuson Act. Using this process, the total FY 1982 NMFS cost was $62,245,700.

There is no increase in NOAA costs from FY 1981. The "Sea Grant" costs are those funds appropriated for support of university-conducted programs meeting specific fisheries management needs under the Magnuson Act. (See Table 1).

TABLE 1.—FISCAL YEAR 1982 MAGNUSON ACT COSTS

[Thousands of dollars]

	Total
NMFS:	
Alaska Region	$2,641.6
Northeast Center	11,576.0
Northeast Region	3,183.3
Northwest Center	10,338.0
Northwest Region	2,182.2
Southeast Center	8,999.5
Southeast Region	2,878.0
Southwest Center	5,485.2
Southwest Region	1,604.9
Washington Office	13,157.0
Total	[1]62,245.7
NOAA:	
National Ocean Survey—fleet operations	146
National Ocean Survey—ship operations	2,838
Sea Grant	493
Procurement and Personnel	490
Environmental Data Services	245
Total	4,210

[1] Observer program is not included.

The U.S. Department of State estimates its FY 1982 costs at $280,000. The U.S. Coast Guard estimates its FY 1982 costs at $78.1 million (including $11.16 million for shoreside base support, which was not included when calculating FY 1981 costs). Therefore, total FY 1982 Magnuson Act cost was $144,835,700.

The ratio of foreign to total catch during 1981 was calculated as described at 47 FR 625 for the 1981 fee schedule. The calculations are presented in Table 2.

TABLE 2.—ESTIMATE OF RATIO OF FOREIGN CATCH TO TOTAL CATCH, 1981

[Including internal waters]

	Metric tons
Total U.S. reported catch [1]	2,925,981
Exclusions:	
International waters (exc. tunas)	17,265
Tunas	222,207
Freshwater (inc. G. Lakes alewives)	56,043
Total	(295,516)
Adjusted U.S. commercial catch in territorial waters and fishery conservation zone (FCZ)	2,630,466
Add correction for mollusks [2]	787,920
Add recreational catch [3]	185,068
Total U.S. catch, territorial waters and FCZ	3,603,452
Add total foreign catch, FCZ less Canadian catch [4]	1,567,015
Grand total catch, territorial waters and FCZ (P.L. 94-265 as amended) (less Canadian catch)	5,170,[illegible]

Ratio of foreign catch to total is 30.3 percent

[1] This figure and all following figures for U.S. commercial catch from pages 8-11, "Fisheries of the United States, 1981." Calculated in pounds and converted to metric—figures may not add to total.

[2] Addition of mollusk shells. U.S. statistics for internal use include only edible portions of mollusks, but international standard is whole animal. Conversion factor varies for each species; they are available upon request.

[3] From page 14, "Fisheries of the United States, 1981." Includes catch types A and B1, assumes that Pacific catch is 15% of the total. Only 1979 figures are available.

[4] From pages 26, 29 "Fisheries of the United States, 1981." Conversion factor of 8.3 is used to convert scallop meats into live weight.

Applying the ratio of 0.303 to $144,833,700, the minimum 1983 target is $43,885,220. From this is subtracted the $87,400 which is projected to be collected through 1983 permit application fees. After rounding, the target is $43.8 million.

The 1983 Fee Collection Target

Section 204(b)(10) of the Magnuson Act prescribes that the fees imposed shall collect at least the share of the costs, as calculated above.

Because the United States wants to reserve for U.S. fishermen the significant species comprising the foreign bycatch, and because foreign fishermen are able to exert some controls over the extent of their bycatch, the fees for significant bycatch species (i.e., those bycatch species not grouped in "other species" categories) will be assessed at 100

percent of the U.S. exvessel price. This should encourage foreign fleets to minimize their bycatch; consequently, the fees for directed species have been calculated so that the collection target will be fully attained from fees paid for directed species.

The prices used to establish the 1983 fees for significant bycatch species are presented in Table 3. If a species in an area could be the subject of either a directed or a bycatch fishery, it is considered a directed fishery, and assessed the lower fee in that fishing area. For example, sablefish caught as a bycatch in the pollock fishery will be assessed the same relatively low price as sablefish caught in the directed longline fishery. This approach relieves enforcement officers from determining whether or not a species was the subject of a directed fishery.

TABLE 3. BASE U.S. EXVESSEL PRICES FOR SIGNIFICANT BYCATCH SPECIES

Species	U.S. exvessel price (dollars per metric ton)
1. Butterfish	[1] $749
2. River herring	[1] 177
3. Flounders (Pacific)	[2] 573
4. Jack mackerel	[2] 198
5. Sablefish (Pacific)	[3] 573
6. Rockfish	661

[1] From pages 8–11 of *Fisheries of the United States, 1981.*
[2] 1982 price to date.
[3] 1982 weighted average of prices during recent months. Sablefish in Alaska are considered a directed fishery.

Setting the Poundage Fees

On November 12, 1981, NOAA published five criteria to evaluate poundage fee schedules (46 FR 55731). These criteria, in order of priority, are: (1) Be consistent with the Magnuson Act, Governing International Fishery Agreements, and other applicable law; (2) achieve recovery of Magnuson Act costs; (3) be easy to administer; (4) be flexible enough to consider the economics of different fisheries; and (5) minimize disruption of traditional fishing practices, existing markets and consumer demand.

The reference level used to prepare the 1983 schedule for target species and insignificant bycatch species in the 1982 fees; this is the same procedure as was used last year, when the 1981 fees were used as a reference level for the 1982 schedule. However, NOAA made two general exceptions.

(A) In 1982, no fees were established for royal red shrimp and Western Pacific precious coral. In 1981 (the last year that fees were based on U.S. prices), the fees were 7 percent of U.S. prices. Therefore, the proposed 1983 fees are seven percent of the 1982 U.S. price and 1981 Taiwan price, respectively. These are the most recent prices available.

(B) To encourage joint venture possibilities for Atlantic hakes and Pacific whiting, the fees for these species are not increased.

The remaining fees for directed and insignificant bycatch species are multiplied by 1.33. This figure equals: The fee collection target of $43.8 million minus the revenues expected from groups A and B, above, divided by the revenues expected from directed species caught during 1983 at the 1982 price.

The proposed fees are presented in Table 1 at the end of this document. NOAA believes that the proposed schedule meets all of the criteria.

Request for Additional Comments

NOAA wishes to consider alternative procedures for collecting foreign fishing fees under section 204(b)(10) of the Magnuson Act. The goal of these procedures is to increase the benefits to the United States. Many commentors on previous fee schedules have suggested competitive bidding for allocations or offering discounted fees. NOAA now requests additional comments on the issues of sealed competitive bidding for allocations, and offering discounted fees in return for participation in joint ventures, technology transfer, reducing tariff and non-tariff trade barriers, scientific research, or other contributions to full utilization of the optimum yield by United States fishermen. If the information developed through this request supports more detailed consideration of these alternatives, NOAA will analyze the advantages and disadvantages of discounts and/or sealed competitive bidding. NOAA will publish a notice of its findings at their conclusion. If a decision is made to implement either alternative, the findings will be included as a part of a proposed rulemaking.

NOAA seeks public input on the following questions:

(1) What are the advantages or disadvantages to the United States of a system of discounted fees in return for benefits?

(2) What are quantifiable advantages or disadvantages of a competitive bidding system as an alternative means of implementing the foreign fishing allocation provisions of the Magnuson Act for selected species? Which species would be most advantageous or disadvantageous?

Other Matters

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the proposed fee schedule complies with the requirements of section 2 of E.O. 12291. Therefore, the General Counsel for the Department of Commerce has certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule was selected in part because it meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. Since this fee schedule will not prevent the harvesting of the total allowable level of foreign fishing (TALFF), and the environmental impact of harvesting the TALFF is described for each fishery management plan, no further environmental assessment is necessary.

This proposed rule has no information collection provisions, for purposes of the Paperwork reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects of 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: November 9, 1982.

Roland F. Smith,

Acting Assistant Administrator, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons in the preamble, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for Part 611 is:

Authority: 16 U.S.C. 1801 *et seq.*; 22 U.S.C. 1980.

2. The title of § 611.22 and Table I of § 611.22 are revised to read as follows:

§ 611.22 Fee schedule for foreign fishing.

* * * * *

TABLE 1. SPECIES AND POUNDAGE FEE

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fee
1. Butterfish	$749
2. Hake, red	15
3. Hake, silver	18
4. Herring, river	177
5. Mackerel, Atlantic	53
6. Other finfish (Atlantic)	105
7. Sharks (Atlantic)	67
8. Squid, Illex	31
9. Squid, Loligo	114
10. Shrimp, royal red	463
11. Atka mackerel	17
12. Cod, Pacific	60
13. Flatfish (Alaska)	23
14. Flounders (Pacific)	573
15. Jack mackerel	198
16. Pacific ocean perch	97
17. Other groundfish (Alaska)	20
18. Other fish (Pacific)	48
19. Pollock, Alaska	31
20. Sablefish (Alaska)	145
21. Sablefish (Pacific)	573
22. Rockfish	661
23. Snails	41
24. Squid (Pacific)	23
25. Whiting, Pacific	10
26. Western Pacific corals (per kilogram)	70
27. Seamount groundfish	31
28. Dolphinfish (mahi mahi)	114
29. Wahoo	17
30. Sharks (Pacific)	19
31. Swordfish (Pacific)	355
32. Striped marlin (Pacific)	570
33. Other Pacific billfish	229

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