

November 24, 1976

Memo to all Council Members

The attached discussion material on Sec. 306 (a) of PL 94-265 was prepared by LCDR Jim Ellis for the Council's consideration.

Because regulations governing a fishery must be the same both inside and outside of State waters, the recommendations the Council sends to the Secretary with the management plans now being developed by the Council should be the same as those currently used by the State for the same fisheries. It appears that we can adopt State regulations by reference almost in toto. This applies to things like time area closures, registration requirements, size limits, etc. The problem occurs primarily in the area of licensing where it probably will not be possible to adopt State regulations, as such, for a Federal licensing system.

Council guidance and recommendations will be necessary on licensing to guide the working groups on formulating regulations and on the advisability and method of seeking a legislative change in the Act to resolve the problem.

FEDERAL/STATE REGULATION OF DOMESTIC FISHERIES UNDER FCMA

1. SITUATION: Section 306(a) of the FCMA provides:

IN GENERAL. - Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries. No State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State.

This provision establishes the authority of the State of Alaska to regulate fishing outside of its boundaries, i.e., outside of the territorial waters. They may not regulate fishing activities in any manner for vessels fishing outside of the State's boundaries "unless such vessel is registered under the laws of the State." Thus, the division of authority between the State and Federal governments to regulate domestic fishing outside of State waters is dependent on the definition of "registered under the laws of the State." At present the State of Alaska regulates all domestic fishing vessels that at any time enter State waters to fish, sell fish, or otherwise conduct any fishing activity. This encompasses every domestic vessel that presently fishes off the coast of Alaska with the possible exception of one or two self-contained fishing/processing vessels with long range capability.

2. PROBLEM: The term "registered under the laws of the State" may present a significant problem to effective regulation and management of

the shell fisheries off the coast of Alaska, depending upon how it is defined. The following is an analysis of two proposed definitions presently being considered by NOAA.

a. The term can be defined to mean registered to fish under the laws of the State. If defined in this manner, the State of Alaska could continue to regulate all vessels that it presently regulates. This would provide the simplest, most effective regulatory, management and enforcement scheme in that virtually all domestic fishing off Alaska would be under a single regulatory system. It also makes practical sense, in that, it has been agreed that effective shell fish management requires an identical regulatory and management scheme throughout the entire 200 mile FCZ. It appears, however, that there are significant problems with this definition from the political standpoint. Our best information is that Section 306 was a last minute addition to the Act worked out by Senator Stevens and Senator Magnuson to eliminate perceived discriminatory treatment of non-Alaska fishermen fishing off the coast of Alaska. There are also further conceptual legal problems with defining the term in this manner.

b. An alternative definition would be to tie registry to some home port or official state vessel registration law. In either case, a substantial number of vessels fishing outside of State waters would no longer be subject to regulation by the State. This means that effective regulation

outside of State waters would require a Federal regulatory scheme and an associated Federal permit or licensing system. This would give rise to several problems. The Federal government presently has no mechanism or resources for administering such a licensing system. Effective dockside enforcement would depend on establishing whether a violation occurred inside or outside of State waters in order to determine whether to prosecute in State or Federal court. This system would require extremely close coordination between the State and Federal governments to maintain parallel regulations.

3. CONCLUSION: Defining the term "registered under the laws of the State" as set forth in paragraph 2a provides the simplest, most effective combined regulatory and enforcement scheme. It provides a single licensing and regulatory system that can be enforced by both State and Federal Enforcement officials. However, this definition may not be acceptable in other regions because they involve multiple state jurisdictions. For this and other reasons, it appears that this definition will not be adopted. Any other definition along the lines set forth in paragraph 2b requires the implementation of a very cumbersome dual regulatory system. Such a system can be worked out and put in effect, but it may be difficult to do so by 1 March 1977.

4. RECOMMENDATION: A two pronged approach is recommended. First, approach the Alaska and Washington Congressional delegations to apprise them of the problem and discuss the possibility of legislative change to resolve the problem. Second, proceed to develop a Federal licensing and regulatory scheme parallel to the State's, and explore the possibility of having the State administer the Federal licensing program on a contract or grant basis perhaps with all costs to be covered by the State retaining the licensing fees for any Federal permits that they issue.

LICENSING

(PL94-265)

Sec. 306

"Registered under the laws of the State" means registered to fish

↓
Alaska retains control of all but 1 or 2 vessels

↓
No further action

↓
Fed. lic. to handle few vessels capable of conducting all ops outside of State waters

"Registered under the laws of the State" means port of registry or home port?

↙
Many boats not covered (apply U.S. Customs & numbering systems)

↘
No boats covered (No State law applies)

↘
Some type of Federal licensing required

↓
Sec. 303 (b)(1) may require a permit & fees to be paid for any vessel fishing in FCZ.
(Sec. 304 (b)(d) sets level of fees at admin. costs)

↙
Decide to require separate license for FCZ

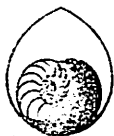
- ↓
1. Vessel only-- or also gear & individual?
 2. New license or endorsement on State license. Both may be possible or necessary.

↘
Decide not to license--no further action

- ↓
Results
1. Lose data base
 2. No record of fishing for possible future limited entry.
 3. Possible loss of current data for quota closure, etc.

Questions: 1. Is licensing necessary for area registration?

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Marine Fish

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Management

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MEXICAN SHRIMP AGREEMENT HAS YET TO BE SIGNED BY LAME DUCK PRESIDENT FORD, but apparently he still plans to sign it. The agreement "has gone through the White House staffing procedure," a Natl. Security Council source told MFM. The White House tactic was to avoid the issue until after the election, but there can be no political motivation for not signing it now, observers agree. Rep. E (Kika) de la Garza's (D-TX) office has a letter from the State Dept. indicating State's belief that Ford would sign. State has said that it won the best bargain it could from the Mexicans, who initially were going to throw the U.S. shrimpers out of Mexican waters immediately. Instead, the phase out of U.S. fishermen will last three years or so.

ALASKA'S LIMITED-ENTRY FISHERY ACT WAS "SUSTAINED BY A VERY LARGE MARGIN" in a referendum vote on the 2Nov ballot, a source in the governor's office said. The proposition to repeal the program limiting entry into the state's salmon fishery was defeated 24,510 to 13,248. Opposition to the repeal included the United Fishermen of Alaska, whose executive secretary, in a pre-election article, urged fishermen to vote against the proposition.

The Alaska law calls for stabilization of the salmon fishery at the 1972 level, but does not limit participants to state residents. About 7,200 permits have been issued. The most controversial element of the program was the requirement that new entry be allowed. Various methods of doing so were considered, including a lottery and apprenticeship—both rejected by the fishermen. The method adopted, calling for transfers of permits, was patterned after the Canadian limited-entry system. Under this system, the trend in Alaska seems to be toward an increasingly resident fishery, with twice as many permits being transferred to residents than to non-residents.

DIFFERENCES BETWEEN THE U.S. AND CANADA ON SETTING MARITIME BOUNDARIES under a new 200-mile fisheries zone were detailed this month as the two nations prepare for implementation of extended jurisdictions. Canada's announcement of its proposed geographical coordinates delineating its new zone came on 1Nov, the required 60 days prior to implementation on 1Jan77. The U.S. State Dept. responded quickly with a 4Nov *Federal Register* notice of its version of the maritime boundaries between the U.S. and Canada, noting that the two nations "have not agreed on maritime boundaries and the U.S. does not accept all of the coordinates published by Canada. . . ." Both announcements noted that the limits set

INSIDE THIS ISSUE: Gulf sport fishermen file suit to stop Shell from dumping sludge in a major game fish area (p. 2). . . .URI to establish a Center for the Study of Ocean Management Issues in the 200-mile zone (p. 3). . . .IATTC members agree in record time for management program for '77 tuna season (p. 3). . . .Western Pacific Regional Fishery Management Council is the first to hire an executive director (p. 4). . . .BLM admits exploration for oil and gas on Georges Bank will mean some interference with commercial fisheries (p. 5). . . .U.S. Section of ICCAT advisory committee meets (p. 6). . . .New England Council plans to hire staff by the end of the month; sets priorities on PMPs (p. 7). . . .Councils seek billfish catch cut (p. 8).

forth are intended to be "without prejudice" to ongoing negotiations between adjacent states. In the case of Canada, this also includes discussions with France regarding the islands of St. Pierre and Miquelon and with Denmark regarding Greenland.

The State Dept. notice takes issue with all four joint boundaries as interpreted by Canada. These include the Gulf of Maine, the Strait of Juan de Fuca, the Dixon Entrance (between Alaska and British Columbia) and the Beaufort Sea. Each of the four boundary areas has its own peculiarities and its own living and non-living resource issues, observed a State Dept. official, terming this "one of the more complex negotiations we have to face." Adding to the complications is the fact that the U.S. 200-mile zone does not take effect until 1Mar, two months after Canada's implementation. In addition to the boundary negotiations, which have been underway for some time, parallel fisheries negotiations between the U.S. and Canada began 1Sep, with a second round beginning in Ottawa on 15Nov. At the same time, efforts are being made to develop mutually acceptable interim fisheries arrangements.

The successful outcome of fisheries negotiations will aid in agreement on boundary questions, at least in the minds of Canadians. In addressing this issue at a 9Nov meeting of the Canadian-American Relations Conference in Toronto, J.H. Warren, Canadian Ambassador to the U.S., noted that the goal is to reach "both interim and longer term fisheries arrangements that will accommodate the interests of our respective fishermen. . . . These negotiations will not be easy. Important hydrocarbon as well as fishing reserves are at stake. But a determined effort will be made to reach agreement. The Canadian view is that if mutually satisfactory cooperative arrangements can be arrived at in these areas, then the delimitation of our seaward boundaries could prove more tractable."

A GROUP OF GULF COAST FISHERMEN HAVE FILED SUIT TO STOP OCEAN DUMPING of industrial sludge by Shell Chemical Co. Inc. at a dump site in a major game fish area off Galveston TX. The suit, pending in U.S. District Court in Houston, seeks to enjoin the Environmental Protection Agency's permit to the chemical company to dump up to 375 million lbs. of wastes into the Gulf of Mexico. The company began dumping sludge before enactment of the Marine Protection, Research & Sanctuaries Act of 1972, and has since been issued permits by EPA under the law; the most recent, issued in February, expires 31Aug77. EPA has set no deadline for Shell to develop alternative disposal methods, Gulf Coast Fishermen's Environmental Protection Fund counsel Clem K. Best Jr. said. Under the terms of the ocean dumping act, all such disposals must be halted by the end of 1981.

Shell's dump site, about 115 to 120 miles offshore, is in a "very productive fishing area," Best said. He recently watched a dumping operation there and observed numerous flying fish which landed in the sludge as it was dumped. Approximately four to six million lbs. of the wastes are dumped weekly, he said, and fishermen have observed discolored water as far as 30 to 40 miles from the dump site. "Shell and EPA don't know which areas are affected" by the dumping, Best said, nor do they know the effects on marine life. Emphasizing his disagreement with an EPA official who, Best said, referred to the dumping area as a "desert," Best maintains the area is a "monstrous marine fishery."

Among the charges brought against EPA by the commercial and sport fishermen's group is that the agency failed to prepare an environmental impact statement on the Shell dumping operation. Best said he is arguing that the agency was required to do so under the Natl. Environmental Policy Act. But EPA disputes that argument, and Best noted the law is vague on the matter. The fishermen also charge that EPA failed to "run appropriate tests" to determine the effects of the dumping on marine life. The agency used an estuarine species as its test organism, Best said, but "as far as I know" from discussions with marine biologists, no assessments of impacts on the "vastly more fragile" larval shrimp were conducted.

Both EPA and Shell have filed motions to dismiss the suit. The court has taken no action on the motions, but Best said he "hasn't pressed for a ruling" in order to give the court time to review the extensive briefs filed. He expects a decision on the defendants' motion for dismissal in two weeks.

A PUERTO RICAN TUNA PROCESSING FACILITY OWNED BY DEL MONTE FOODS has been cited for violation of federal water pollution standards by dumping 2.6 million gallons per day of tuna processing wastes into Mayaguez Bay. As a result, the Environmental Protection Agency has placed the Del Monte de Puerto Rico facility on a list requiring federal agencies to withhold all contracts, grants and loans. The determination, which applies only to the Mayaguez plant, was reached following a hearing before EPA's Director of Federal Activities Rebecca Hanmer.

UNIV. OF RHODE ISLAND WILL SET UP A "CENTER FOR RESEARCH AND TRAINING in the management of marine resources within the U.S. 200-mile zone." The new institution will replace the Law of the Sea Institute, which has moved to the Univ. of Hawaii. The idea is to provide a focus for solving the jurisdictional conflicts that are certain to arise between individual U.S. states and the federal government as a result of the zone. The formal name of the operation will be "Center for the Study of Ocean Management Issues." The center will identify and discuss problems of ocean management; train professionals to solve the problems; educate the individual whose livelihood depends on marine resources; and act as a mechanism for enhancing interdisciplinary research, communication and education on ocean management issues. Short workshops, seminars, and short-termed specialized research projects will be typical examples of the center's mode of operation. The overall approach is designed for the middle manager in government or industry. An annual conference on ocean management will be held. Some familiar URI names will be involved with the center's operation: John Knauss, Saul Salla, Neils Rorholm, Lewis Alexander, and Virgil Norton. Coordinator will be Virginia Tippie, who is also with the URI Coastal Resources Center.

WORD FROM TOKYO THAT THE JAPANESE WILL NOT RECOGNIZE THE U.S. 200-MILE ZONE is not regarded as particularly new information, State Dept. sources indicate. Current talks are scheduled to end the middle of the month, and additional negotiating sessions are expected to be required before the U.S. and Japan can come to any agreement on the continuation of Japanese traditional fishing in U.S. waters. The Fishery Conservation & Management Act recognizes traditional fishing patterns off U.S. shores by foreign nations, but the foreigner must sign a governing international fishery agreement with the U.S. before it can apply for fishing rights.

AGREEMENT BY IATTC MEMBERS ON A MANAGEMENT PROGRAM for the 1977 tuna fishing season was reached, "in an unprecedented three and one-half days," at the commission's annual meeting in Managua, Nicaragua, 11-14 Oct. While the program approved by the Inter-American Tropical Tuna Commission (IATTC) is essentially the same as the 1976 management scheme for the CYRA (Commission Yellowfin Regulatory Area), U.S. participants were greatly encouraged by the cooperative attitude of the members—and the recognition by the commission of the international nature of one of the U.S.'s most difficult problems, the tuna/porpoise issue.

An encouraging report on the 1976 fishing season, presented by the IATTC's Director of Investigations James Joseph, may have contributed to the positive atmosphere. While the 1976 yellowfin catch through May accumulated at about the same rate as the two previous years, the mid-June drop-off experienced in 1974/75 did not occur this year, Joseph reported, and the catch continued to accumulate at about the same rate as previous months. The final yellowfin catch for 1976 could reach 200,000 tons, he estimated. The skipjack catch for the first half of 1976 accumulated at an even faster rate than in the two previous years, he reported, and the 1976 catch could equal the 1975 figure of 130,000 tons. This would be the first time the commission has ever recorded high skipjack rates two years in a row. In addition, the indices of abundance for yellowfin continue to be fairly stable and the age distribution of the fish has stabilized, the report continued. This could mean that the possibility of greatly reduced catches during 1975/76, as a result of the large catches of age-1 fish in 1973/74, is no longer a matter of concern. On the basis of his data, Joseph recommended to the commission that the 1977 season be opened with a 160,000-ton quota, with authorization

for two 25,000-ton increments if conditions are good. Joseph also repeated his recommendation of previous years that the commission eliminate the "last free trip," whereby vessels may begin one more trip into the CYRA within 30 days after the season is closed, since this makes it very difficult for him to estimate closure date for the fishing season.

Both of these recommendations were ignored by the commission, which agreed to retain the 175,000-ton opening quota of recent years, with authorization to increase the quota by increments up to a level of 210,000 tons. Again, the commission voted to retain the "last free trip." Modifications were also made in the closed-season allocation, generally limited to vessels of 400 tons or less carrying capacity, in order to accommodate the developing fisheries of Panama, Nicaragua and Costa Rica. The special closed-season allocation for Mexican vessels, set at 13,000 tons in 1976, will be continued at the same level in 1977 since Mexico requested no increase.

In reference to Mexico's new 200-mile economic zone, that nation is now ready to authorize the continued fishing by vessels which have previously taken tuna in those waters, officials said. Nations whose vessels intend to fish in that area should seek certificates, at a fee of \$20 per vessel, a step that the U.S. is now preparing to take. Mexico also reiterated the need to meet early next year to consider a new agreement on tropical tuna, and suggested that such a meeting might be held at the United Nations. While the U.S. and others stressed the need to include in such a meeting all nations which have an interest in the resource, it was also emphasized by Costa Rica that any new arrangement should acknowledge the rights of coastal states over coastal resources.

Agreement was also reached by the commission on a policy regarding the tuna/porpoise issue; that is, to maintain tuna production at near current levels and, at the same time, to maintain stocks of porpoise at or above levels that would insure their survival into perpetuity. The commission then instructed Joseph to undertake a comprehensive technical review of all existing information on the problem and to prepare a detailed proposal for commission porpoise research. While supporting involvement in efforts to find a solution to the tuna/porpoise problem, the commission noted, however, that it would be impossible to totally prohibit the incidental take of porpoise in connection with tuna purse-seining and that, given the state of technology, any attempts to phase out purse seining at present would not be acceptable.

WESTERN PACIFIC COUNCIL HAS HIRED AN EXECUTIVE DIRECTOR and is moving to acquire office space in downtown Honolulu HI by 1Dec. At its 19Oct meeting in Honolulu, the council appointed Wilvan G. Van Campen executive director, to begin work 8Nov. Van Campen was the Natl. Marine Fisheries Service (NMFS) coordinator for the Pacific Tuna Development Foundation, a U.S. commissioner on the Inter-American Tropical Tuna Commission (he resigned to take the council job), and a former State Dept. officer. At the same time, the council elected as chairman Hawaii state senator Wadsworth Y. H. Yee, president of the Grand Pacific Life Insurance Co.; vice chairmen are Peter E. Reid, manager of GHC Reid & Co. Inc. (Pago Pago, American Samoa), and Paul J. Bordallo, president of Marianas Boats & Motors Inc. (Agana, Guam). Until December, at least, the council's address is: Western Pacific Fishery Management Council, NMFS Southwest Center, Honolulu Laboratories, P.O. Box 3830, Honolulu HI 96812; (808) 946-2181.

Expansion of their territory and adequate Coast Guard surveillance of the area were very much on council members' minds at the meeting, MFM newsletter is told. A resolution expressing the council's concerns over the exclusion of several major fishing areas from the western Pacific region was passed. Noting that the areas in question could be included under the definition of "state" in the Fishery Conservation & Management Act (under Title I), but had been left out of the established "region" (under Title III), the council urged that the act ". . . should be amended to include the fishery conservation zones seaward of these possessions and territories within the authority of the Western Pacific Fishery Management Council: Wake, Howland, Baker, Jarvis, Johnston, Palmyra and Midway Islands, and Kingman Reef (just north of Palmyra Island). In a separate resolution, the council asked the Coast Guard Commandant to survey the

resources—such as airplanes, ships, and manpower—available to the 14th USCG District for ocean surveillance in light of the area to be covered, and advise the council of what could be done to improve the situation.

Other areas of concern to the WesPac Council were the terms of governing international fishery agreements now being negotiated by the U.S., and, especially, the question of management of billfish stocks. "Incidental" catches of billfish by foreign tuna long-liners are a sore point with western Pacific regional fishermen (MFM, Sep). Noting that the draft preliminary management plan/environmental impact statement (PMP/EIS) for Pacific billfishes is "still being massaged in Washington," a council spokesman observed, "that's considered the leading problem in this region."

A public hearing on PMP/EISs for the seamount trawl and precious corals fisheries has been scheduled by NMFS for 18 Nov in the State Capitol Building, Honolulu. This is not a council activity, the spokesman noted, but such hearings in the future may be held by the council. Comments on the draft fishery management documents should be submitted by 14 Dec to: Regional Director, Southwest Region, NMFS, 300 South Ferry St., Terminal Island CA 90731. The next council meeting is scheduled for 15 Dec in Honolulu.

BETTER USE FOR FISH AND FISH WASTES IS THE AIM OF SEVERAL PROJECTS at the Univ. of Georgia, which recently received a \$582,000 Sea Grant from the Natl. Oceanic & Atmospheric Administration. The Georgia Institute of Technology and Skidaway Institute of Oceanography are also involved in the grant, which is backed by \$497,000 in non-federal matching funds. The research concerns large amounts of unsalable (they cost only five to 10 cents per lb.) trash fish, caught incidentally by shrimp fishermen in Georgia and for which the fishermen have no ice storage space. Researchers are trying to find a way to grind the fish with corn and molasses, add a harmless bacterium, *Lactobillus*, to prevent spoilage and use the fish meal for swine feed.

"SOME INTERFERENCE WITH COMMERCIAL FISHERIES IS . . . ANTICIPATED," from the proposed leasing of about 1.2 million acres of outer continental shelf lands in the Georges Bank area, the Bureau of Land Management (BLM) reports. In the recently-released draft environmental impact statement (EIS) on the sale—tentatively set for the spring of 1977, but likely to be pushed back several months because of other slippages in the Interior Dept. leasing schedule—BLM describes in some detail the fisheries resources of the area and concludes that deletion of 36 of the 206 tracts proposed for sale "might be considered" to reduce the impact on the commercial bottom fisheries.

A public hearing on the draft will be held 7-10 Dec in Providence RI, Interior announced (*Federal Register*, 12 Oct). Those who wish to testify should contact the manager, New York OCS Office, BLM, Six World Trade Center, Suite 600-D, New York NY 10048 by 24 Nov. Written comments on the statement should be submitted by 24 Dec to the New York office. Copies of the statement are available from either the New York office or from the Office of Public Affairs, BLM (130), Washington DC 20240, and are available for inspection at libraries throughout the affected states.

Interference of platforms and pipelines with fishing vessels and gear are the most likely impact of the exploration for and development of oil and gas resources offshore, the draft EIS concludes. During exploration, the BLM estimates, as much as 2,064 acres could be removed from commercial fishing because of the space requirements of drilling rigs, production platforms and buffer zones. "Most of the potential spacial interference that could be caused by OCS development would appear to be with the trawling of yellowtail flounder grounds," BLM states, and "as much as 50 percent of the dredging grounds for scallops would appear to be potentially affected by the installation of rigs or platforms within leased tracts." But even this impact "is expected to be minimal," BLM continues. The "extremely small amount of bottom removed compared to that remaining would have no discernable effect upon bottom fishing on Georges Bank, although some inconvenience may be caused to the commercial fishermen." In terms of catch, the

statement reports a Woods Hole Oceanographic Institution study concluded the industry could cause a hypothetical reduction of 0.06%.

Potential offshore oil spills are not expected to have "significant effect on total offshore commercial fish population." The "greatest potential damage" would be to the nearshore fishery, particularly to shellfish in Narragansett Bay, the Cape Cod area, and along the coasts of Rhode Island and Long Island. Studies cited by BLM show finfish seem to avoid areas contaminated by spills; shellfish "cannot actively avoid exposure." The marketability of fish and shellfish would be reduced if any tainting occurs. Concentrations of crude oil as low as 0.01 parts per million are reported to cause tainting in oysters, and although shellfish depurate, that process may take two weeks to several months, according to the draft statement. The short-term effect of a nearshore spill on sport fishing "could be serious," BLM states, particularly if the spill were from a tanker near the New York metropolitan area, where recreational fishermen number in the millions.

Potential conflicts for port services are unlikely in most of the North Atlantic fishing ports which BLM says "could be utilized to service OCS activities." New Bedford MA, Boston, Davisville RI and Portsmouth NH are capable of servicing the industry without infringing on the commercial fishermen. Other ports, such as Gloucester MA, Point Judith RI and Newport RI, have adequate facilities for fishermen or a shortage of dock space and "service vessels are considered incompatible." Economic impacts are most likely to occur in the Maine State counties of Washington, Hancock, Knox and Lincoln, where more than 20% of the total employment is related to the fishing industry. The extent of economic damage would depend on the severity of a spill, but BLM predicts "at least a year would be required to allow the fishery of the affected area to recover." Also susceptible to economic damage from offshore leasing is Washington County RI which would suffer if reproduction of winter flounder in Narragansett Bay were impaired by a spill there.

THE PLUSES AND MINUSES TO MARINERS SWITCHING FROM THE LORAN-A navigation system to the Loran-C system will be studied by Oregon State Univ., through a \$91,800 grant from the U.S. Coast Guard.

GIANT BLUEFIN TUNA DATA IS GREATLY LACKING. THAT WAS THE GENERAL CONSENSUS at the recent meeting of the advisory committee to the U.S. Section of the Intl. Commission for the Conservation of Atlantic Tunas (ICCAT). Nevertheless, the Atlantic bluefin tuna was the major topic of discussion at the 27 Oct, Washington DC meeting, the first time the group had met since the 16-member advisory body was chosen. ICCAT is meeting in Madrid 17-23 Nov.

Among the presentations was one by James Tyler of Natl. Marine Fisheries Service's Southeast Fisheries Center, who gave a general overview of the lab's research and repeated, when put on the spot by committee members, that his biological data was mostly hypothetical since he had little hard data. A NMFS spokesman said that in the review of bluefin analysis, to determine the estimated population abundance in the Atlantic tuna fishery, highlights of the research discussion appeared to be: the population of age 1-5 bluefin is projected in the 1980s to be only 30% of that in the 1960s; the projected populations of medium and large bluefin show a downward trend except in the movement of the large '73 year class; there is no clear relationship between the fecundity and recruitment of bluefin; the projected fecundity in the bluefin population in the 1980s is very low relative to previous years and thus the probability of recruitment failure in the next 10 years is much greater than in the past; the highest yield per recruit would be if fish are taken between eight and nine years; and based on population estimates from analysis, mortality rates in 1976 in the large U.S. bluefin fishery were 3.5 times the mortality levels of recent years.

Committee members wanted to know how important all these research findings really were. Al Felando, American Tunaboat Assn., asked Wesley Parks, Southeast Fisheries Center, "With so many hypotheses underlying your assumptions, how valuable is it to project the future?" Another member asked

Parks if he agreed that much data necessary for projections is just not available, and the scientist had to agree. Felando noted: "The commission agreed that the limit on fishing intensity will continue until 10 August 78, but what are we recommending on? We don't know what the hell is going on in the Atlantic for bluefin so we can't do anything about the recommendations. . . Let's get more bluefin data," he argued.

Gordon Broadhead, elected chairman of the U.S. advisory committee during the meeting, said: "We introduced bluefin regulations and forced them down the throats of the rest of ICCAT. We have no policy yet of where the hell we're going or what our goals are." Carmen J. Blondin, U.S. commissioner and NMFS executive, agreed that more data is needed. "We are limited in our recommendations," he said. "We need more data and we've got to demand more information from other countries." Another committee member said it is difficult to tell fishermen there are imperfections in our data and "you have to wait two years before we come up with something. That is not a satisfactory answer," he said. Finally, David Fyrberg, Tri-Coastal Seafoods Cooperative, Newburyport MA, told the committee that he objected to this analysis representing the U.S. at the ICCAT meeting because of all the guesses and hypotheses that are going along with it. "How many fish are really out there?" Fyrberg asked. "The basic status of the stock is the question." Committee members Fyrberg, Frank Mather, Woods Hole Oceanographic Institution, and Anthony Nizetich, Starkist, Terminal Island CA, will attend the Madrid meeting.

"THE COUNCIL SHOULD GET A STAFF ABOARD AND GET DOWN TO BUSINESS." That's the feeling of the acting executive director of the New England Regional Fishery Management Council, Don Birkholz, Natl. Marine Fisheries Service, Gloucester MA. "They're still getting to know each other," he added. House-keeping items still seem to take up most of the council's time and the 8-10 Nov meeting was the third session the council has had since its first organizational meeting back in September.

Two actions the council took at the last meeting were to approve a site for the council headquarters and a modified budget for FY77, 78 and 79. The council will locate in Lynnfield MA, north of Boston at the junction of Routes 128 and 1. The budgets approved were modified from those proposed at the 26-28 Oct meeting. For FY77, the council approved a \$471,000 budget, the same as that proposed in October; but the council added \$90,000 for both FY78 and FY79. The FY78 budget is for \$810,000 and FY79 is for \$862,000. Birkholz said the additional funds are necessary for three more staff persons who will be chosen for temporary assignments as needed. By the 22-23 Nov meetings, the council hopes to include all future plans in the budget's narrative and conclude discussion on the subject.

Discussion at the October and November meetings concerned the position of executive director. At the October sessions, the hope was that the top five candidates could be interviewed by the time of the next scheduled meeting; at the early November session, members discussed the 38 applicants and decided to have the screening committee rank them; and then hopefully the council will be ready to choose the best candidate by the end of November. With that deadline in mind, the executive director would take over the duties by 1 Jan.

Priorities for developing preliminary management plans (PMPs) were drawn up at the last meetings, to be "firmed up" further at the next sessions. The first four priorities are definite: haddock; yellowtail flounder, with two plans needed — one north of 69° latitude and one for south of 69°; herring; cod; other flounder; pollock; northern shrimp; red and silver hake; mackerel; sea scallops; two species of squid; and American lobster. Birkholz said that if the PMPs go through on these plans, there will be no surpluses, so the concern is with domestic management.

At the October meetings, the council unanimously decided there should be no directed fishery by foreign fleets on mackerel. Vaughn Anthony, scientist at Woods Hole Oceanographic Institution, reviewed the PMP for mackerel at that time and talked about the seriously low level of the stock. He said the recommended total allowable catch (TAC) of 55,000 could cause a further decline in the stock and it would certainly not rebuild at that level. A "straightforward" review of the remaining plans was finished at the November meetings. Public hearings are set to obtain comments and views on the PMPs and the schedule

looks like this: 22Nov, Atlantic City NJ; 23Nov, Hampton VA; 29Nov, Brunswick ME; 30Nov, Boston MA; and 2Dec, Long Island NY.

An informal agreement of the council in October concerned freedom of information questions. The council agreed that public meetings of the council are fair game for the public and the news media and closed sessions should remain secret, but Chairman Henry Lyman recommended that minority opinions given in open sessions should not leave the room—a recommendation that some felt would be difficult, if not impossible to make stick. Birkholz noted that council members have the right to say what they want to say, in session or outside of meetings, but the feeling of council members seems to be that a unified position is best for the council, that minority opinions “could hurt future operations of the council.” Birkholz granted that containing such opinions is “sort of difficult to control.”

In other housekeeping matters discussed at the October sessions, the council decided to hire, as permanent staffers, the executive director, an administrative assistant, two secretaries, one biologist, one economist, one statistical clerk and as many other employees as are needed to develop and implement management plans and environmental impact statements; solicit names of top people in the fields of biology, economy and sociology in order to choose eight members for the scientific and statistical committee; send a letter to NMFS Director Robert Schoning and request that NMFS give the “highest priority” to implementing the observer program and in financing it out of the NMFS budget; set aside time later for drawing up guidelines for management plans, identifying important issues and setting priorities, investigating the interdependence of various stocks in addition to the management of individual species, setting up a work plan for the future (which would include investigation of possible foreign investment in the domestic fishing industry and the council’s role in the legislative process), and addressing permits and fee schedules.

Next sessions will be in conjunction with the Intl. Commission for Northwest Atlantic Fisheries (ICNAF) meeting, 22Nov in Boston. The council will meet in the afternoon of that day and all day on 23Nov. Expected topics of discussion once again include the budget, the executive director, putting together the PMPs and the Polish governing international fishery agreement.

THE ATLANTIC BILLFISH PRELIMINARY MANAGEMENT PLAN IS VERY MUCH UP IN THE AIR since its withdrawal from circulation by NMFS headquarters. Natl. Marine Fisheries Service sources indicate that they are now recalculating the maximum sustainable yield for marlin, sailfish and swordfish, and that for the moment the subject is “quasi-classified.” The original PMP issued in draft form in September was modified to allow for a buffer zone of 100 miles around the continental U.S., and one of 50 miles around Puerto Rico and the Virgin Islands, but that document was withdrawn after complaints by the State Dept., MFM is told. The question concerns U.S. participation in the Intl. Commission for the Conservation of Atlantic Tunas (see story on page 6), and whether or not the U.S. is in a position to get the foreign tuna longliners to stay out of the billfish spawning grounds. If the U.S. could get ICCAT members to agree to something like that, then State would like to see the regional councils (Gulf, South Atlantic and Caribbean) ease off their hard-nosed position on keeping the tuna fleets far off the U.S. coasts.

THE OCTOBER MEETING OF THE CARIBBEAN COUNCIL FOCUSED ON THE UPCOMING 29Nov affair in St. Croix VI, where members hope to decide on such matters as the budget (termed a “major issue” by Ernest Premetz of NMFS); filling the executive director’s slot (the council has 35 candidates); and whether to comment on the interim regulations proposed by NMFS under which the councils will operate. The council has sent a letter to the State Dept. asking for a definition of the rights of U.S. fishermen in areas potentially subject to the jurisdiction of a foreign nation. A second question is whether the U.S. can extend its contiguous fisheries zone beyond the median line if the other country hasn’t yet extended its jurisdiction to the line.

PROPOSED REGULATION CHANGES TO COMMERCIAL SHELLFISH REGULATIONS

KING CRAB

5 AAC 34.005. STATISTICAL AREAS ESTABLISHED.

(b) (2) an adjacent seaward biological influence zone, comprised of all the waters within the statistical area which are not part of the registration area.

PROPOSED CHANGE: Delete this section. It is unnecessary as the fisheries conservation zone outer boundaries will encompass all areas in which commercial king crab fishing can be pursued.

5 AAC 34.030. LANDING AND INSPECTION REQUIREMENTS.

(b) Within 36 hours prior to fishing, any vessel registered for a nonexclusive registration area must have its holds or live tanks inspected by a Department of Public Safety or a Department of Fish and Game employee or a designee of either department, at inspection points specified in this chapter. There shall be no king crab on board. Successful completion of the inspection shall validate the registration for the area.

PROPOSED CHANGE: Change time limit from 36 to 24 hours as this will standardize time of tank inspection for non-exclusive areas and exclusive areas.

5 AAC 34.030. LANDING AND INSPECTION REQUIREMENTS.

(j) Inspections shall not be commenced prior to 36 hours before the opening of any nonexclusive registration area, or prior to 24 hours before the opening of any exclusive registration area.

PROPOSED CHANGE: Change time limit from 36 to 24 hours for non-exclusive zones as this will standardize the time limit for tank inspections.

5 AAC 34.050. GEAR FOR KING CRAB.

(c) During the closed season for king crab in any given king crab registration area, king crab pots shall either be removed from the water or stored, with all bait and bait containers removed, in 25 fathoms of water or less, unless otherwise specified in this chapter. Pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depths greater than the maximum permissible depth for 72 hours prior to the opening of the king crab season, and for 72 hours after the season closure where the pots are fished.

PROPOSED CHANGE: During the closed season for king crab in any given king crab registration area king crab pots shall be removed from the water.

JUSTIFICATION: The owner/operator does not have control over the gear if left unattended in the water and therefore can not prevent the gear from being fished illegally by another vessel. The only means of determining if the gear is fishing or legally stored is to pull the pots from the water to inspect them. In addition this will insure that there is no fishing prior to or after the closure of an area.

5 AAC 34.060. SIZE LIMIT FOR KING CRAB.

(a) No male king crab may be taken or possessed that are less than seven inches in width of shell, unless otherwise provided in this chapter.

PROPOSED CHANGE: No male king crab may be taken or possessed that are less than 5 3/4 inches in length of shell unless otherwise provided in this chapter, but that all measurements shall be the length of the shell.

(b) Width measurement of king crab shall be the straightline distance across the carapace at a right angle to a line midway between the eyes to the midpoint of the posterior portion of the carapace and shall include the spines.

PROPOSED CHANGE: Measurement of the length of the shell shall be measured from the eye notch to the rear center of the carapace.

JUSTIFICATION: To standardize the measurement of king crab in all areas. It is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.

5 AAC 34.075. LIMITATIONS ON TAKING FOR SUBSISTENCE PURPOSES.

(b) All king crab pots used for subsistence fishing and left in salt water unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open.

PROPOSED CHANGE: No subsistence crab pots or ring nets may be stored in salt water.

JUSTIFICATION: This would prevent king crab gear from being in salt water prior to or after the closure of commercial king crab seasons.

(c) Registered king crab vessels may not be used to take king crab for subsistence purposes for a period beginning 14 days prior to the opening and ending 14 days after the closure of the season for the registration area or areas for which the vessel is registered.

PROPOSED CHANGE: No registered king crab vessel or registered king crab gear may be used to take subsistence king crab.

JUSTIFICATION: This would prevent commercial king crab gear from being in the salt water prior to or after a king crab season.

5 AAC 34.125. LAWFUL GEAR.

(c) During the open season for red and blue king crab, not more than 60 king and tanner crab pots in the aggregate may be used in the waters north and east of a line from Point Manby to Ocean Cape.

PROPOSED CHANGE: Delete paragraph (c).

(d) During the open season for red and blue king crab, not more than 60 king and tanner crab pots in the aggregate may be used in the following waters:

PROPOSED CHANGE: Delete sub-paragraphs (1) and (2).

JUSTIFICATION: A pot limit is unenforceable due to the size of an area and the gear involved in a king crab or tanner crab fishery. Enforcement would require that all the gear be located, identified, and inspected with a very limited time frame.

5 AAC 34.145. SUBSISTENCE FISHING.

(2) only male king crab $6\frac{1}{2}$ inches or larger in width of shell may be taken or possessed.

PROPOSED CHANGE: Only male king crab $5\frac{5}{16}$ inches or larger in length of shell may be taken or possessed.

JUSTIFICATION: To standardize the measurement of king crab in all areas it is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.

5 AAC 34.225. LAWFUL GEAR.

(c) During any king crab season an aggregate of not more than 60 king crab pots may be fished from any registered king crab vessel.

PROPOSED CHANGE: Delete

JUSTIFICATION: A pot limit is unenforceable due to the size of an area and gear involved in a king crab or tanner crab fishery. Enforcement would require that all the gear be located, identified, and inspected within a very limited time frame.

5 AAC 34.400. DESCRIPTION OF STATISTICAL AREA. Statistical area K has as its northern boundary a line extending east from Cape Douglas and its western boundary a line extending south from Cape Kumlik, and as its seaward boundary the 300 fathom depth contour.

PROPOSED CHANGE: Statistical area K has as its northern boundary a line extending east from Cape Douglas at 58 52' north and as its western boundary a line extending south from Cape Kumlik, and as its seaward boundary the outer limit of the fisheries conservation zone.

JUSTIFICATION: The boundary change conforms to the southern boundary of area H and encompasses the entire fisheries conservation zone in this district.

5 AAC 34.425. LAWFUL GEAR.

(e) During any king crab season an aggregate of not more than 75 king and tanner pots may be fished from any registered king crab vessel.

PROPOSED CHANGE: Delete

JUSTIFICATION: A pot limit is unenforceable due to the size of an area and the amount of gear involved in a king or tanner crab fishery. Enforcement would require that all the gear be located, identified, and inspected within a very limited time frame.

5 AAC 34.510. FISHING SEASONS. King crab may be taken as follows:

(1) From 6:00 a.m., September 1 until closed by emergency order, king crab seven inches or greater in width of shell may be taken or possessed:

(2) From 6:00 a.m., December 1 until closed by emergency order, king crab eight inches or greater in width of shell may be taken or possessed.

JUSTIFICATION: A pot limit is unenforceable due to the size of an area and amount of gear involved in a king or tanner crab fishery. Enforcement would require that all the gear is located, identified, and inspected within a very limited time frame.

5 AAC 34.620. SIZE LIMITS. (a) No male king crab may be taken or possessed that are less than 6 ½ inches in width of shell.

(b) King crab eight inches or greater in width of shell may be taken as provided in sec. 610 (2) of this chapter.

PROPOSED CHANGE: (a) No male king crab may be taken or possessed that are less than 5 5/16 inches in length of shell.

(b) King crab 6 ½ inches or greater in length of shell may be taken as provided in sec. 610 (2) of this chapter.

JUSTIFICATION: To standardize the measurement of king crab in all areas. It is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.

5 AAC 34.625. LAWFUL GEAR

(d) During the closed season for king crab, king crab pots may be stored:

(1) by removal from the water or storage in 25 fathoms of water or less;

(2) in Hot Springs Bay on Akutan Island inside of a line from Ridge Point to 54° 12' 40" N. lat., 165° 52' W. long.;

(3) in Kalekta Bay on Unalaska Island inside a line from Erskine Point to Cape Kalekta

(e) King crab pots when stored in the water shall have all doors secured fully open and all bait and bait containers removed.

PROPOSED CHANGE: Delete these sections.

JUSTIFICATION: The owner/operator does not have control over the gear left unattended in water and therefore can not prevent the gear from being fished illegally by another vessel. The only means of determining if the gear is fishing or legally stored is to pull the pots from the water and inspect it. In addition this will insure that there is no fishing prior to or after the closure of an area.

JUSTIFICATION: A pot limit is unenforceable due to the size of an area and amount of gear involved in a king or tanner crab fishery. Enforcement would require that all the gear is located, identified, and inspected within a very limited time frame.

5 AAC 34.620. SIZE LIMITS. (a) No male king crab may be taken or possessed that are less than $6\frac{1}{2}$ inches in width of shell.

(b) King crab eight inches or greater in width of shell may be taken as provided in sec. 610 (2) of this chapter.

PROPOSED CHANGE: (a) No male king crab may be taken or possessed that are less than $5\frac{5}{16}$ inches in length of shell.

(b) King crab $6\frac{1}{2}$ inches or greater in length of shell may be taken as provided in sec. 610 (2) of this chapter.

JUSTIFICATION: To standardize the measurement of king crab in all areas. It is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.

5 AAC 34.625. LAWFUL GEAR

(d) During the closed season for king crab, king crab pots may be stored:

(1) by removal from the water or storage in 25 fathoms of water or less;

(2) in Hot Springs Bay on Akutan Island inside of a line from Ridge Point to $54^{\circ}12'40''$ N. lat., $165^{\circ}52'$ W. long.;

(3) in Kalekta Bay on Unalaska Island inside a line from Erskine Point to Cape Kalekta

(e) King crab pots when stored in the water shall have all doors secured fully open and all bait and bait containers removed.

PROPOSED CHANGE: Delete these sections.

JUSTIFICATION: The owner/operator does not have control over the gear left unattended in water and therefore can not prevent the gear from being fished illegally by another vessel. The only means of determining if the gear is fishing or legally stored is to pull the pots from the water and inspect it. In addition this will insure that there is no fishing prior to or after the closure of an area.

5 AAC 34.720. SIZE LIMITS. No male king crab may be taken or possessed that are less than 6 ½ inches in width of shell.

PROPOSED CHANGE: No male king crab may be taken or possessed that are less than 5 5/16 inches in length of shell.

JUSTIFICATION: To standardize the measurement of king crab in all areas. It is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.

5 AAC 34.725. LAWFUL GEAR

(d) During the closed season for king crab, king crab pots may be stored in 30 fathoms of water or less, or by removal from the water.

(e) King crab pots when stored in the water shall have all doors secured fully open and all bait and bait containers removed.

PROPOSED CHANGE: Delete

JUSTIFICATION: The owner/operator does not have control over the gear if left unattended in the water and therefore can not prevent the gear being fished illegally by another vessel. The only means of determining if the gear is fishing or legally stored is to pull the pots from the water to inspect it. In addition, this will insure that there is no fishing prior to or after the closure of an area.

5 AAC 34.820. SIZE LIMITS. King crab 6½ inches or greater in width of shell may be taken or possessed.

PROPOSED CHANGE: Male king crab 5 5/16 inches or greater in length of shell may be taken or possessed.

JUSTIFICATION: To standardize the measurement of king crab in all areas. It is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.

5 AAC 34.825. LAWFUL GEAR.

(d) During the closed season, king crab pots may be stored in 30 fathoms of water or less, or by removal from the water.

(e) King crab pots when stored in water shall have all doors secured fully open and all bait and bait containers removed.

PROPOSED CHANGE: Delete

JUSTIFICATION: The owner/operator does not have control over gear left unattended in the water and therefore can not prevent the gear from being fished illegally by another vessel. The only means of determining if the gear is fishing or legally stored, is to pull the pots from the water and inspect them. In addition, this will insure that there is no fishing prior to or after the closure of an area.

5 AAC 34.920. SIZE LIMITS. (a) King crab 6 ½ inches or greater in width of shell may be taken or possessed.

PROPOSED CHANGE: Male king crab 5 5/16 inches or greater in length of shell may be taken or possessed.

JUSTIFICATION: To standardize the measurement of king crab in all areas. It is easier to obtain a straight line measurement from the eye notch to the center of the rear of the carapace. This measurement will conform to statistical data.