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fishery management council, on a timely basis, may determine and certify to the Secretary of State and the Secretary the annual fishing level for that fishery for such harvesting season after the 1980 harvesting season.

(4) If with respect to any harvesting season for any United States fishery for which the total allowable level of foreign fishing is determined under paragraph (2)(B), the Secretary, in consultation with the Secretary of State, approves the determination by any appropriate fishery management council that any portion of the optimum yield for that harvesting season will not be harvested by vessels of the United States, the Secretary of State, in accordance with subsection (e), shall allocate such portion for use during that harvesting season by foreign fishing vessels; except that if--

(A) the making available of such portion (or any part thereof) during that harvesting season is determined to be detrimental to the development of the United States fishing industry; and

(B) such portion or part will be available for harvest in the immediately succeeding harvesting season, as determined on the basis of the best available scientific information;

then such portion or part may be allocated for use by foreign fishing vessels in such succeeding harvesting season. The determinations required to be made under subparagraphs (A) and (B) of the preceding sentence shall be made by the Secretary in consultation with the Secretary of State and on the basis of any recommendation of any appropriate fishery management council.

Amended by 97-453.

(e) ALLOCATION OF ALLOWABLE LEVEL.--(1)(A) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

Amended by 96-61.

(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

Amended by 96-561.

(C) The Secretary of State shall initially release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis

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on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.

(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made--

(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and

(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity he considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

(E) The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on--

(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of United States fish or fishery products;

(ii) whether, and to what extent, such nation is cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

(iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts

with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

(vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

(viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(2)(A) For the purposes of this paragraph--

(i) The term "certification" means a certification made by the Secretary that nationals of a foreign country, directly or indirectly, are conducting fishing operations or engaging in trade or taking which diminishes the effectiveness of the International Convention for the Regulation of Whaling. A certification under this section shall also be deemed a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

(ii) The term "remedial period" means the 365-day period beginning on the date on which a certification is issued with respect to a foreign country.

(B) If the Secretary issues a certification with respect to any foreign country, then each allocation under paragraph (1) that--

(i) is in effect for that foreign country on the date of issuance; or

(ii) is not in effect on such date but would, without regard to this paragraph, be made to the foreign country within the remedial period; shall be reduced by the Secretary of State, in consultation with the Secretary, by not less than 50 percent.

(C) The following apply for purposes of administering subparagraph (B) with respect to any foreign country:

(i) If on the date of certification, the foreign country has harvested a portion, but not all, of the quantity of fish specified under any allocation, the reduction under subparagraph (B) for that allocation shall be

applied with respect to the quantity not harvested as of such date.

(ii) If the Secretary notified the Secretary of State that it is not likely that the certification of the foreign country will be terminated under section 8(d) of the Fishermen's Protective Act of 1967 before the close of the period for which an allocation is applicable or before the close of the remedial period (whichever close first occurs) the Secretary of State, in consultation with the Secretary, shall reallocate any portion of any reduction made under subparagraph (B) among one or more foreign countries for which no certification is in effect.

(iii) If the certification is terminated under such section 8(d) during the remedial period, the Secretary of State shall return to the foreign country that portion of any allocation reduced under subparagraph (B) that was not reallocated under clause (ii); unless the harvesting of the fish covered by the allocation is otherwise prohibited under this Act.

(iv) The Secretary may refund or credit, by reason of reduction of any allocation under this paragraph, any fee paid under section 204.

(D) If the certification of a foreign country is not terminated under section 9(d) of the Fishermen's Protective Act of 1967 before the close of the last day of the remedial period, the Secretary of State--

(i) with respect to any allocation made to that country and in effect (as reduced under subparagraph (B)) on such last day, shall rescind, effective on and after the day after such last day, any harvested portion of such allocation; and

(ii) may not thereafter make any allocation to that country under paragraph (1) until the certification is terminated.

(f) FOREIGN ALLOCATION REPORT.--The Secretary of the Treasury, in cooperation with the Secretary and the Secretary of State, shall prepare and submit a report to the Congress and the President, not later than July 1 of each year, setting forth--

Amended by 95-354.

(1) a list of species of all allocations made to foreign nations pursuant to subsection (e) and all permits issued pursuant to section 204(b)(6)(B); and

(2) all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.

(g) RECIPROCIETY.--Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(h) PRELIMINARY FISHERY MANAGEMENT PLANS.--The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan--

Amended by 95-354.

(1) shall contain a preliminary description of the fishery and a preliminary determination as to--

(A) the optimum yield from such fishery;

(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

(C) the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303(a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which--

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b)(2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations

implementing the applicable fishery management plan are promulgated pursuant to section 305.

(i) FULL OBSERVER COVERAGE PROGRAM.--

(1) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the fishery conservation zone.

Amended by 96-561.

(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that--

(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the fishery conservation zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being complied with;

(B) with respect to any foreign fishing vessel while it is engaged in fishing within the fishery conservation zone--

- (i) the time during which the vessel engages in such fishing will be of such short duration that the placing of a United States observer aboard the vessel would be impractical, or
- (ii) the facilities of the vessel for the quartering of a United States observer, or for the carrying out of observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or

(C) for reasons beyond the control of the Secretary, an observer is not available.

(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate.

(4) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980,

the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supplementary observer program:

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(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to in paragraph (3);

(B) establish standards of conduct for certified observers equivalent to those applicable to Federal personnel;

(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

(D) monitor the performance of observers to ensure that it meets the purposes of this Act.

(j) RECREATIONAL FISHING.--Notwithstanding any other provision of this title, foreign fishing vessels which are not operated for profit may engage in recreational fishing within the fishery conservation zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or his designee) shall impose as being necessary or appropriate to insure that the fishing activity

Amended by 97-453.

of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 305. The Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection.

SEC. 202. INTERNATIONAL FISHERY AGREEMENTS

16 USC 1822.

(a) NEGOTIATIONS.--The Secretary of State--

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201(c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements--

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species, and

(5) may enter into such other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) TREATY RENEGOTIATIONS.--The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) INTERNATIONAL FISHERY AGREEMENTS.--No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will

constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area--

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976; by the United States unless it is in accordance with the provisions of section 201(c).

(d) BOUNDARY NEGOTIATIONS.--The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) NONRECOGNITION.--It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation--

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

SEC. 203. CONGRESSIONAL OVERSIGHT OF GOVERNING  
INTERNATIONAL FISHERY AGREEMENTS

16 USC 1823.

(a) IN GENERAL.--No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) REFERRAL TO COMMITTEES.--Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

## (c) COMPUTATION OF 60-DAY PERIOD.--For purposes of subsection (a)--

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

## (d) CONGRESSIONAL PROCEDURES.--

## (1) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.--

The provisions of this section are enacted by the Congress--

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.--For purposes of this subsection, the term "fishery agreement resolution" refers to a joint resolution of either House of Congress--

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.--Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

## (4) FLOOR CONSIDERATION IN THE HOUSE.--

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not

more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE--

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

SEC. 204. PERMITS FOR FOREIGN FISHING

16 USC 1824.

(a) IN GENERAL.--After February 28, 1977, no foreign fishing vessel shall engage in fishing within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.--

(1) ELIGIBILITY.--Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

(2) FORMS.--The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) CONTENTS.--Any application made under this subsection shall specify--

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, hold capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

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(C) each fishery in which each such vessel wishes to fish;

(D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;

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(E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States; and

(F) the ocean area in which, and the season or period during which, such fishing will be conducted; and shall include any other pertinent information and

material which the Secretary may require.

(4) TRANSMITTAL FOR ACTION.--Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3). The Secretary of State shall promptly transmit--

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy or a summary of the application to the appropriate council, upon its request.

(5) ACTION BY COUNCIL.--After receiving a copy or summary of an application under paragraph (4)(C), the Council may prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) APPROVAL--

(A) After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve, subject to subparagraph (B), the application, if he determines that the fishing described in the application will meet the requirements of this Act.

(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested

fish from the fishery concerned.

(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.

(7) ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.--

The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c)(1), (2), and (3).

(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.

(F) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) NOTICE OF APPROVAL.--The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to--

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating;

(C) any Council which has authority over any fishery specified in such application; and

(D) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

(9) DISAPPROVAL OF APPLICATIONS.--If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefor. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) FEES.--Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. The fees imposed under this paragraph 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 (including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excluding costs for observers covered by surcharges under section 201(i)(4)) during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year 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 such preceding year. The amount collected by the Secretary under this paragraph shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts

Amended by 96-561.

Sec. 232 (a) of 96-561 omitted; applied only to permits issued for 1981.

(11) ISSUANCE OF PERMITS.--If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(12) SANCTIONS.--If any foreign fishing vessel for which

a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall--

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) REGISTRATION PERMITS.--The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

#### SEC. 205. IMPORT PROHIBITIONS

16 USC 1825.

(a) DETERMINATIONS BY SECRETARY OF STATE.--If the Secretary of State determines that--

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more

restrictive than those established under sections 201(c) and (d) and 204(b)(7) and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation--

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) PROHIBITIONS.--Upon receipt of any certification from the Secretary of State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States--

(1) of all fish and fish products from the fishery involved, if any; and

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.

(c) REMOVAL OF PROHIBITION.--If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) DEFINITIONS.--As used in this section--

(1) The term "fish" includes any highly migratory species.

(2) The term "fish products" means any article which is produced from or composed of (in whole or in part) any fish.

## TITLE III--NATIONAL FISHERY MANAGEMENT PROGRAM

SEC. 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION  
AND MANAGEMENT

16 USC 1851.

(a) IN GENERAL.--Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

Amended by 97-453.

## SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS

16 USC 1852.

(a) ESTABLISHMENT.--There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

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(1) NEW ENGLAND COUNCIL.--The New England Fishery Management Council shall consist of the the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut

and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(2) MID-ATLANTIC COUNCIL.--The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The Mid-Atlantic Council shall have 19 voting members, including 12 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(3) SOUTH ATLANTIC COUNCIL.--The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(4) CARIBBEAN COUNCIL.--The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States. The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(5) GULF COUNCIL.--The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States. The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(6) PACIFIC COUNCIL.--The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(7) NORTH PACIFIC COUNCIL.--The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in

accordance with subsection (b)(2) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(8) WESTERN PACIFIC COUNCIL.--The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

Each Council shall reflect the expertise and interest of several constituent States in the ocean area over which such Council is granted authority.

(b) VOTING MEMBERS.--(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

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(B) The Regional Director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary in accordance with subsection (b)(2).

(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned.

(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge or experience required by subparagraph (A). If the Secretary

determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.

(3) Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for the term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.

(4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(5) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

(c) NONVOTING MEMBERS.--(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The Executive Director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional non-voting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) COMPENSATION AND EXPENSES.--The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any non-voting member described in subsection (c)(1)(C), and the non-voting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other non-voting members may be reimbursed for actual expenses.

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(e) TRANSACTION OF BUSINESS.--

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet in the geographical area concerned at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement.

(f) STAFF AND ADMINISTRATION.--

(1) Each Council may appoint, and assign duties to, an Executive Director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such

Amended by 97-453.

uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection (1)(2). Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay--

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND PANELS.--

(1) Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each Council shall establish such other advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(h) FUNCTIONS--Each Council shall, in accordance with the provisions of this Act--

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

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(C), and any fishery management plan or amendment transmitted to it under section 304(c)(2);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term "geographical area concerned" may include an area under the authority of

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another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority; and

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(6) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

(1) PROCEDURAL MATTERS.--(1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils or to the scientific and statistical committees or advisory panels of the Councils.

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(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a Council:

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity. Timely notice of each regular meeting shall also be published in the Federal Register.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings.

(E) Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.

(F) Subject to the procedures established by the Council under paragraph (4), and the guidelines

prescribed by the Secretary under section 303(d), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council.

(3)(A) Each Council, scientific and statistical committee, and advisory panel--

(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested;

and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place of the meeting. Subparagraphs (D) and (F) shall not apply to any meeting or portion thereof that is so closed.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS

16 USC 1853.

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, and any other applicable law;

(2) contain a description of the fishery, including, but

not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3);

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States; and

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

(4) prohibit, limit, condition, or require the use of

specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a system for limiting access to the fishery in order to achieve optimum yield, if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery, and

(F) any other relevant considerations;

(7) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region; and

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(8) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) PROPOSED REGULATIONS.--The proposed regulations which the Council deems necessary or appropriate for purposes of carrying out a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 304 and 305.

Amended by 97-453.

(d) CONFIDENTIALITY OF STATISTICS.--Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

(e) DATA COLLECTION PROGRAMS.--If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for the purposes of--

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(1) determining whether a fishery management plan is needed for a fishery; or

(2) preparing a fishery management plan;

the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, he shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after he receives that request.

SEC. 304. ACTION BY THE SECRETARY

16 USC 1854.

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

(1) After the Secretary receives a fishery management plan, or amendment to a plan, which was prepared by a Council (the date of receipt of which is hereafter in this section referred to as the "receipt date"), the Secretary shall--

(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law;

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(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the receipt date; and

(C) by the 30th day after the receipt date--

(1) make such changes in the proposed regulations submitted for the plan or amendment under section 303(c) as may be necessary for the implementation of the plan, and

(1) publish such proposed regulations, including any changes made thereto under clause (1), in the Federal Register together with an explanation of those changes which are substantive.

(2) In undertaking the review required under paragraph (1)(A), the Secretary shall--

(A) take into account the data, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

[NOTE: The amendment made by subsection (a) shall apply with respect to fishery management plans and amendments thereto that are initially submitted to the Secretary of Commerce on or after the date of the enactment of this Act [97-453] for action under section 304.]

(1) A plan or amendment shall take effect and be implemented in accordance with section 305(c) if--

(A) the Secretary does not notify the Council in writing of his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or

(B) at any time subsequent to the 75th day after the receipt date and before such 95th day, the Secretary notifies the Council in writing that he does not intend to disapprove, or partially disapprove, the plan or amendment.

Amended by 97-453.

(2) If after review under subsection (a) the Secretary determines that the plan or amendment is not consistent with the criteria set forth in paragraph (1)(A) of that subsection, the Secretary shall notify the Council in writing of his disapproval or partial disapproval of the plan or amendment. Such notice shall specify--

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

(3)(A) If the Secretary disapproves, or partially disapproves, a proposed plan or amendment under paragraph (2), the Council may submit a revised plan or amendment, accompanied by appropriately revised proposed regulations, to the Secretary.

(B) After the Secretary receives a revised plan or amendment under subparagraph (A) or (C)(ii), the Secretary shall immediately--

(i) commence a review of the plan or amendment to determine whether it complies with the criteria set forth in subsection (a)(1)(A);

(ii) publish in the Federal Register a notice stating that the revised plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 30-day period beginning on the date (hereinafter in this

paragraph referred to as the "revised receipt date") the plan or amendment was submitted to the Secretary under subparagraph (A) or (C)(1); and

(iii) review the revised proposed regulations, if any, submitted by the Council and make such changes to them as may be necessary for the implementation of the plan, and thereafter publish such revised proposed regulations (as so changed) in the Federal Register together with an explanation of each of such changes that is substantive.

(C)(1) Before the close of the 60th day after the revised receipt date, the Secretary, after taking into account any data, views, or comments received under subparagraph (B)(1), shall complete the review required under subparagraph (B)(1) and determine whether the plan or amendment complies with the criteria set forth in subsection (a)(1)(A). If the Secretary determines that a plan or amendment is not in compliance with such criteria, he shall immediately notify the Council of his disapproval of the plan or amendment.

(1) After notifying a Council of disapproval under clause (1), the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised plan or amendment, together with appropriately revised proposed regulations, for review and determination under this paragraph.

(D) A revised plan or amendment shall take effect and be implemented in accordance with section 305(c) if the Secretary does not notify the Council, in writing, by the close of the 60th day after the revised receipt date of his disapproval of the plan or amendment.

(c) PREPARATION BY THE SECRETARY.--

(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if--

(A) The appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management; or

(B) The Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment, as the case may be.

In preparing any such plan or amendment, the Secretary

Amended by 97-453.

shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea. The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph.

(2)(A) Whenever, under paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately--

(i) submit such plan or amendment, and proposed regulations to implement such plan or amendment, to the appropriate Council for consideration and comment;

(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the date the plan or amendment was submitted under clause (i); and

(iii) by the 30th day after the date of submission under clause (i), submit for publication in the Federal Register the proposed regulations to implement the plan or amendment.

(B) The appropriate council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 75-day period referred to in subparagraph (A)(ii). After the close of such 75-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may implement such plan or amendment under section 305(c).

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan prepared by him, a provision establishing a limited access system described in section 303(b)(6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(d) ESTABLISHMENT OF FEES.--The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.

Amended by 97-453.

(e) FISHERIES RESEARCH.--The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such programs shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management, including but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetlands and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(f) MISCELLANEOUS DUTIES.--(1, If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may--

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Councils concerned.

(2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

#### SEC. 305. IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

16 USC 1855.

(a) [REPEALED]

Amended by 97-453.

(b) [REPEALED]

Amended by 97-453.

(c) IMPLEMENTATION.--The Secretary shall promulgate each regulation that is necessary to carry out a plan or amendment--

Amended by 97-453.

(1) within 110 days after the plan or amendment was received by him for action under section 304(a), if such plan or amendment takes effect under section 304(b)(1);

(2) within 75 days after a revised plan or amendment was received by him under section 304(b), if such plan or amendment takes effect under paragraph (3)(D) of such section; or

(3) within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 304(c).

(d) JUDICIAL REVIEW.--Regulations promulgated by the Secretary under this Act shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706(2)(A), (B), (C), or (D), of such title.

## (e) EMERGENCY ACTIONS.--

(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery-- Amended by 97-453.

(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the members who are voting members, requests the taking of such actions; and

(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

(3) Any emergency regulation which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection--

(A) shall be published in the Federal Register together with the reasons therefor;

(B) shall remain in effect for not more than 90 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council, be promulgated for one additional period of not more than 90 days; and

(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

## (f) [REPEALED]

Amended by 97-453.

(g) RESPONSIBILITY OF THE SECRETARY.--The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

(h) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.-- Amended by 97-453.  
 The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order 12291, dated February 17, 1981, shall be complied with within the time limitations specified in subsection (c) or section 304(a) and (b) as they apply to the functions of the Secretary under such provisions.

SEC. 306. STATE JURISDICTION

16 USC 1856.

(a) 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. For purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend (1) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party and (2) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich. 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. Amended by 97-453.

(b) EXCEPTION.--(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that--

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the fishery conservation zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over

such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

(c) EXCEPTION REGARDING FOREIGN FISH PROCESSING IN INTERNAL WATERS.--(1) A foreign fishing vessel may engage in fish processing within the internal waters of a State if, and only if--

Amended by 97-191.

(A) the vessel is qualified for purposes of this paragraph pursuant to paragraph (4)(C); and

(B) the owner or operator of the vessel applies to the Governor of the State for, and (subject to paragraph (2)) is granted, permission for the vessel to engage in such processing.

(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)(B) if he determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.

(3) Nothing in this subsection may be construed as relieving a foreign fishing vessel from the duty to comply with all applicable Federal and State laws while operating within the internal waters of a State incident to permission obtained under paragraph (1)(B).

(4) For purposes of this subsection--

(A) The term "fish processing" includes, in addition to processing, the performance of any other activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, or transportation.

(B) The phrase "internal waters of a State" means all waters within the boundaries of a State except those seaward of the baseline from which the territorial sea is measured.

(C) A foreign fishing vessel shall be treated as qualified for purposes of paragraph (1) if the foreign nation under which it is flagged will be a party to (i) a governing international fishery agreement or (ii) a treaty described in section 201(b) of this Act (16 U.S.C. 1821(b)) during the time the vessel will engage in the fish processing for which permission is sought under paragraph (1)(B).

#### SEC. 307. PROHIBITED ACTS

It is unlawful--

(1) for any person--

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

16 USC 1857.

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C); or

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

Amended by 95-354.

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage--

(A) in fishing within the boundaries of any State;

(B) in fishing within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204(b) or (c);

(C) except as permitted under section 306(c), in fish processing (as defined in paragraph (4)(A) of such section) within the internal waters of a State (as defined in paragraph (4)(B) of such section); and

Amended by 97-191.

(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer directly or indirectly, or attempt to so transfer any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the fishery conservation zone, unless the foreign fishing vessel has been issued a permit under section 204 which authorizes the receipt by such vessel of United States harvested fish of the species concerned.

Amended by 95-354.

## SEC. 308. CIVIL PENALTIES

16 USC 1858.

(a) ASSESSMENT OF PENALTY.--Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.--Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.--If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY SECRETARY.--The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(e) SUBPENAS.--For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths.

Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. Amended by 97-453.

### SEC. 309. CRIMINAL OFFENSES

16 USC 1859.

(a) OFFENSES.--A person is guilty of an offense if he commits any act prohibited by--

- (1) section 307(1)(D), (E), (F), or (H); or
- (2) section 307(2).

(b) PUNISHMENT.--Any offense described in subsection (a)(1) is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 311), or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) is punishable by a fine of not more than \$100,000. Amended by 97-453.

(c) JURISDICTION.--There is Federal jurisdiction over any offense described in this section.

[NOTE: The amendment made by subsection (a) [deleting imprisonment for any offense described in section 309(a)(2)] applies with respect to offenses committed under section 309 on or after the date of the enactment of this Act [97-453].]

### SEC. 310. CIVIL FORFEITURES

(a) IN GENERAL.--Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311(c) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish (or the fair market value thereof) shall, be forfeited. Amended by 97-453.

to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF COURTS.--Any district court of the United States which has jurisdiction under section 311(d) shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.--If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to--

- (1) the disposition of forfeited property,
- (2) the proceeds from the sale of forfeited property,
- (3) the remission or mitigation of forfeitures, and
- (4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

(d) PROCEDURE.--(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311(d) shall--

- (A) stay the execution of such process; or
- (B) discharge any fish seized pursuant to such process; upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.--For purposes of this section,

it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

SEC. 311. ENFORCEMENT

16 USC 1861.

(a) RESPONSIBILITY.--The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties.

Amended by 97-453.

(b) POWERS OF AUTHORIZED OFFICERS.--

(1) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may--

Amended by 97-453.

(A) with or without a warrant or other process--

(i) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 307;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act;

(iii) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act;

(iv) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(v) seize any other evidence related to any violation of any provision of this Act;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has

reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the fishery conservation zone, the Secretary of the department in which the Coast Guard is operating.

(c) ISSUANCE OF CITATIONS.--If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) JURISDICTION OF COURTS.--The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time--

- (1) enter restraining orders or prohibitions;
- (2) issue warrants, process in rem, or other process;
- (3) prescribe and accept satisfactory bonds or other security; and
- (4) take such other actions as are in the interest of justice.

(e) DEFINITIONS.--For purposes of this section--

(1) The term "provisions of this Act" includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term "violation of any provision of this Act" includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or

agreement referred to in paragraph (1).

SEC. 312. EFFECTIVE DATE OF CERTAIN PROVISIONS

Sections 307, 308, 309, 310, and 311 shall take effect March 1, 1977.

TITLE IV--MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON LAW OF THE SEA TREATY

16 USC 1881.

If the United States ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

SEC. 402. REPEALS

(a) The Act of October 14, 1966 (16 U.S.C. 1091-1094), is repealed as of March 1, 1977.

(b) The Act of May 20, 1964 (16 U.S.C. 1081-1086), is repealed as of March 1, 1977.

SEC. 403. FISHERMEN'S PROTECTIVE ACT AMENDMENTS

(a) AMENDMENTS.--Title of August 27, 1954 (22 U.S.C. 1972), is amended--

(1) by amending section 2 thereof to read as follows:

"Sec. 2. If--

"(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions--

"(A) are unrelated to fishery conservation and management,

"(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

"(C) are greater or more onerous than the conditions

and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

"(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority; and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary--

"(i) for the protection of such vessel and for the health and welfare of its crew;

"(ii) to secure the release of such vessel and its crew; and

"(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act."; and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence: "For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee."

(b) EFFECTIVE DATE.--The amendment made by subsection(a)(1) shall take effect March 1, 1977. The amendment made by subsection (a)(2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

#### SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT

(a) AMENDMENT.--Section 3(15)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)(B)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966," and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary 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."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall take effect March 1, 1977.

## SEC. 405. ATLANTIC TUNAS CONVENTION ACT AMENDMENT

(a) AMENDMENT.--Section 2(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(4)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)," and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary 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."

(b) EFFECTIVE DATE.--The amendment made by subsection (a) shall take effect March 1, 1977.

## SEC. 406. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums: 16 USC 1882.

(1) \$5,000,000 for the fiscal year ending June 30, 1976.

(2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.

(3) \$25,000,000 for the fiscal year ending September 30, 1977.

(4) \$30,000,000 for the fiscal year ending September 30, 1978.

(5) \$30,000,000 for the fiscal year ending September 30, 1979. Amended by 95-354.

(6) \$33,000,000 for the fiscal year ending September 30, 1980. Amended by 96-61.

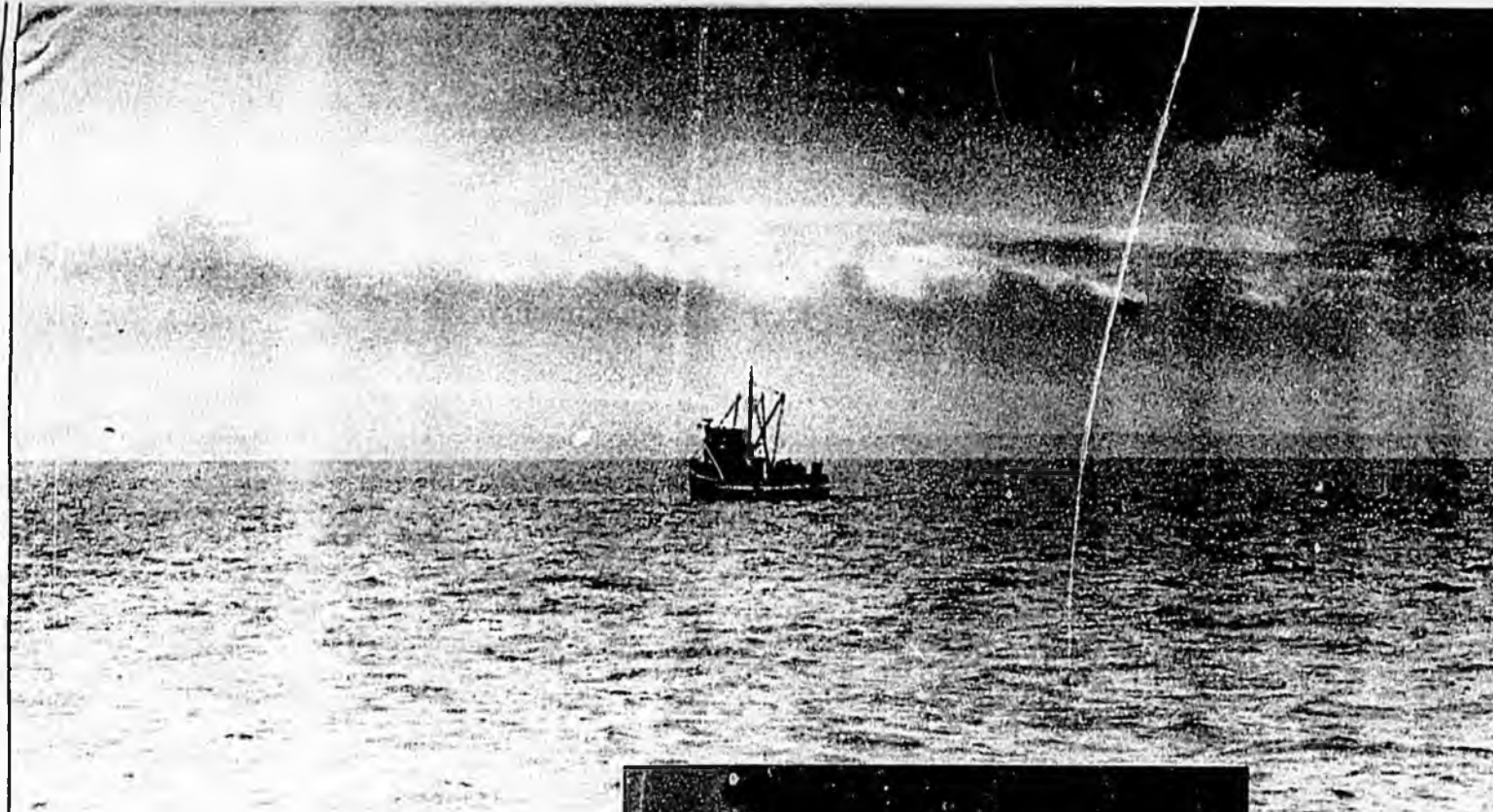
(7) \$40,000,000 for the fiscal year ending September 30, 1981.

(8) \$47,000,000 for the fiscal year ending September 30, 1982.

(9) \$59,000,000 for the fiscal year ending September 30, 1983. Amended by 97-453.

(10) \$64,000,000 for the fiscal year ending September 30, 1984.

(11) \$69,000,000 for the fiscal year ending September 30, 1985.



Anch Times 3-24-85

# Fine-tuning the 200-mile limit act



The Magnuson Fishery Conservation and Management Act of 1976 extended boundaries of American fishing. It is again up before Congress for discussion and renewal.

by Chris Swaney  
Times Business Writer

**I**t started as a simple management plan to give the United States more say over fishery resources in the area 200 miles off its shore.

The Magnuson Fishery Conservation and Management Act of 1976 was designed to extend U.S. control of its resources beyond the six-mile limit. It also was designed to give the domestic fishing industry a much-needed boost while regulating foreign catch.

That it has done. In Alaska, for example, American fishermen are tipping the scales with total groundfish catches of 610,000 metric tons in 1984.

This year's projected catch is between 830,000 and 850,000 metric tons. Six years ago, the American groundfish catch was only 7,500 metric tons.

Because American fishermen are guaranteed first shot at schools of fish off the U.S. coast (with the exception of highly migratory species such as tuna), the size of U.S. catches is growing.

On Tuesday, Congress begins hearings on whether to

reauthorize the act. There's no doubt that the 200-mile limit will remain the law of the land but several government and industry fishery officials say they want some changes made.

Among complaints: The act doesn't have enough teeth in it; its regulations are confusing; it allows U.S. fishery resources to be used as a bargaining chip in international trading games.

So when reauthorization hearings on the Magnuson Act begin Tuesday before members of the U.S. House Subcommittee on Fisheries and Wildlife Conservation and the Environment, a cadre of industry representatives and local political leaders are expected to flock to Washington, D.C. to testify.

The process is not expected to be a replay of the shootout at the OK Corral, but the House draft bill offers some changes worthy of note.

One of them would change the status of the fishery conservation zone into an Exclusive Economic Zone (EEZ). The EEZ designation confirms U.S. sovereign rights and control over the living and non-living natural resources of the seabed and subsoil beyond the territorial sea but within

200 nautical miles of the coast.

The concept of the EEZ contained in President Reagan's recent Oceans Policy and is consistent with existing international law. More than 50 countries have proclaimed some form of EEZ.

Other proposed changes to the act include tightening the so-called "fish and chips" policy and fine-tuning the Secretary of Commerce's fast-review process of fishery management plans. The "fish and chips" policy uses fish as a tool for extra trade concessions from other countries.

Ron Miller, special adviser to the North Pacific Fishery Management Council — one of eight regional councils created by the act to implement the law — said that the policy would allow the return of state to enter long-term purchase agreements. Under those agreements, countries catching fish in U.S. waters would be forced to buy U.S.-caught or U.S.-processed fish products.

"In essence, we would be trading fish for fish rather than fish for Toyotas," Miller said.

See 200-mile, page



Ron Miller, above, a special adviser to the North Pacific Fishery Management Council, and Jim Branson, right, the group's executive director, have several recommendations on the Magnuson Act for Congress to consider.



# 200-mile limit act

Continued from page C-1

Revision of the fast-track process would speed up the amount of time during which the Department of Commerce would have to review proposed fishery management plans. Under the proposed revision, the Secretary of Commerce will be able to immediately approve or amend a plan without having to wait for the required 75-day review and public comment period.

In addition to speeding up fishery management procedures, the draft bill asks for more detailed disclosure of confidential statistics from council members.

Executive Director Jim Branson said council will reserve judgment on the disclosure until it is fully explained. "We just don't know how extensive it will be," Branson said.

Despite proposed changes in the Magnuson Act, most council members and industry representatives are recommending additional amendments.

Both Branson and Chairman Jim Campbell said the council will recommend that the Secretary of State take into consideration, when allocating the total allowable level of foreign fishing, whether a nation is harvesting migratory fish of U.S. origin on the high seas outside the EEZ.

This particular recommendation also supported by the Bering Sea Fishermen's Association is partially based on a report prepared by the Fisheries Research Institute of the University of Washington. The report indicated that 200,000 to 700,000 Alaska chinook salmon were harvested annually between 1978 and 1983 by Japanese mother-ships and land-based gillnet fish-

eries operating both within and beyond the EEZ. The high-seas harvest generally consists of small immature fish which limits the number of returning adult fish to U.S. fisheries.

Council members also will urge the House subcommittee to allow for direct allocations to specific joint venture operations, Branson said. "We'll be able to manage the resource more effectively if we have more control," he added.

Joint venture catches increased to 581,168 metric tons in 1984 compared with 350,901 metric tons in 1983. Joint ventures accounted for 30 percent of the total groundfish catch off Alaska in 1984, according to council records.

Other industry groups such as the United Fishermen of Alaska want management changes in federal waters off Alaska.

UFA lobbyist Deming Cowles in Washington, D.C. said Alaskan fishermen want the state to be able to manage fisheries in federal intrusion areas in Southeast and Cook Inlet. Both the state Department of Fish and Game and Rep. Don Young, the ranking Republican member of the Merchant Marine and Fisheries committee, support the management changes.

"I think all parties must realize that reauthorization is not going to come overnight," Young said. "We're going to have to take time and look at all the recommendations."

Many of those recommendations were submitted in letter form in February by Commissioner Don W. Collinsworth of the state Department of Fish and Game to the representative's Washington, D.C. office.

# City of Sand Point

P.O. Box 177  
Sand Point, Alaska 99661  
(907) 383-2696

RESOLUTION NO. 85-20

A RESOLUTION OF THE CITY COUNCIL OF SAND POINT SUPPORTING AMERICANIZATION OF FISHING.

WHEREAS, reauthorization of the Fisheries Conservation Management Act is being considered by Congress; and

WHEREAS, the only intent of the FCMA was for americanization of the U.S. fisheries; and

WHEREAS, in Alaska, the majority of bottomfish is caught and/or processed by foreign nations; and

WHEREAS, coastal communities in Alaska are presently being excluded in the most part from any benefits associated with the huge bottomfish resource off of Alaska, and presently these communities are in economical hardships; and

WHEREAS, coastal communities could immensely benefit from phase-out of foreign fishing and processing; and

WHEREAS, the goal of the U.S. fishing industry, the communities of Alaska, and the people of the U.S. should be to catch, process, and market American fish with American equipment, by American people, in American communities.

NOW THEREFORE BE IT RESOLVED that the Sand Point City Council supports phase-out of directed foreign fishing by 1988 and a cap on existing levels of foreign fishing.

AND BE IT FURTHER RESOLVED that the Sand Point City Council supports replacement of foreign processing with American processing by 1990.

PASSED AND ADOPTED by a duly constituted quorum of the Sand Point City Council this 15 day of April, 1985.

Jack M. Foster, Sr.  
MAYOR

ATTEST:

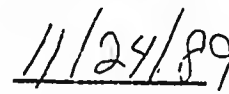
Debbie K. Austin  
CITY CLERK



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

SJR

27

Original sponsors: Sackett, Sturgulawski  
and Zharoff

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE JOINT RESOLUTION NO. 27 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the interception of Alaska  
6 salmon on the high seas.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS Alaska's salmon represents one of the state's most important  
9 renewable resources; and

10 WHEREAS more than 40,000 people are employed in commercial fish pro-  
11 cessing and harvesting jobs in the state during the salmon season, and  
12 thousands of other people in the transportation and service industries in  
13 the state benefit from this economic activity; and

14 WHEREAS the Alaska commercial salmon industry contributes millions of  
15 dollars annually to state and local government treasuries through taxes,  
16 assessments and fees, and salmon fishing and processing represent the  
17 economic backbone of many coastal communities in the state; and

18 WHEREAS salmon is a mainstay in the diets of state residents who  
19 harvest the great fish by rod and reel, net, and fishwheel for personal and  
20 family consumption; and

21 WHEREAS recreational fishing for salmon is an experience enjoyed by  
22 most state residents each year; and

23 WHEREAS more than 1,000,000 salmon originating in the state are esti-  
24 mated to have been harvested on the high seas by Japanese fishing fleets  
25 during 1983; and

26 WHEREAS these high seas interceptions deprived Alaska of commercial  
27 fishing opportunities valued at more than \$19,000,000 to fishermen, and  
28 more than \$36,000,000 to seafood processors; and

29 WHEREAS this lost opportunity cost the state treasury roughly \$500,000

1 to \$800,000 in lost fisheries business tax revenue alone; and

2 WHEREAS the interception figures include 106,000 chinook salmon from  
3 South Central Alaska stocks, more than the combined catches of recreation-  
4 al, commercial and subsistence fishermen in Cook Inlet in 1983; and

5 WHEREAS Japanese fishermen catch billions of pounds of fish and shell-  
6 fish in the state's 200-mile fishery conservation zone each year;

7 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
8 the U.S. Department of State to vigorously pursue negotiations that will  
9 lead to complete elimination of high seas interceptions of salmon of Alaska  
10 origin; and be it

11 FURTHER RESOLVED that the Alaska State Legislature respectfully  
12 requests U.S. Congress to adopt amendments to the Magnuson Fishery Conser-  
13 vation and Management Act preventing nations that intercept Alaska-bound  
14 salmon on the high seas from receiving allocations to harvest groundfish in  
15 the United States' 200-mile fishery conservation zone.

16 COPIES of this resolution shall be sent to the Honorable Ronald  
17 Reagan, President of the United States; the Honorable George Schultz,  
18 Secretary of State; the Honorable Robert Dole, U.S. Senate Majority Leader;  
19 the Honorable Thomas P. O'Neill, Jr., Speaker of the U.S. House of Repre-  
20 sentatives; and to the Honorable Ted Stevens and the Honorable Frank  
21 Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative,  
22 members of the Alaska delegation in Congress; to Mr. William Gordon, assis-  
23 tant administrator for fisheries, National Marine Fisheries Service; and to  
24 Mr. James Campbell, chairman, North Pacific Fishery Management Council.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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POUCH Y - STATE CAPITOL  
BUREAU, ALASKA 99511  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

SENATE RESOURCES COMMITTEE, 5/9/85, 3:00

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUCH V  
JUNEAU, ALASKA. 99811  
(907) 465-4907

## Senate Committee on Resources

MEMORANDUM

May 9, 1985

TO: All Members  
Senate Resources Committee

FROM: Staff *7H*  
Senate Resources Committee

RE: SJR 27 Relating to the interception of Alaska salmon on the high seas.

SJR 27 requests the U.S. Department of State to immediately begin negotiations that will lead to the elimination of high seas interceptions of salmon of Alaska origin.

The Department of Fish and Game estimated that the total salmon loss to Alaska by high seas interception is nearly 22 million pounds with an ex-vessel value of \$19 million and a wholesale value of more than \$36 million. Lost revenue to the Alaska Fisheries Business Tax has been estimated between \$100,000 and \$800,000 annually.

A similar resolution, HJR 43, has been introduced in the House.

This packet includes:

1. Research request 85-321, Salmon Interception by Foreign Fleets
2. Memo from Rep. Goll with letters of support
3. Statistics on foreign salmon catches



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

April 25, 1985

MEMORANDUM

TO: Representative Peter Goll

FROM: Katherine Hazard *KH*  
Legislative Analyst

RE: Salmon Interception by Foreign Fleets  
Research Request 85-321

You requested information about the economic value of Alaska-bound salmon intercepted by the foreign fishing fleets. You asked specifically for: 1) the estimated ex-vessel value of the intercepted fish based upon the average weight and price per pound of commercially caught salmon; 2) the estimated wholesale value of the intercepted fish; 3) the estimated revenue which would accrue to the State of Alaska through the Fisheries Business Tax if these fish were processed in Alaska; and 4) the area of origin and number, by species, of salmon intercepted by the foreign fishing fleets.

Steve Pennoyer and Charles Meacham Jr., of the Department of Fish and Game, provided information for these estimates. They are preparing a table of their calculations which will be forthcoming.

SUMMARY

Estimates of the economic loss to Alaska from interception of Alaska-bound salmon by Japanese mothership and landbased driftnet fisheries are:

Ex-vessel value .....	\$ 16.1 million
First wholesale value .....	\$ 30.5 million
Fisheries Business Tax Loss ....	\$643,000

The ex-vessel values for all salmon sold to processors in 1983 was \$320.6 million. The first wholesale value for salmon in the state in 1983 was \$726.4 million. Thus the estimated loss from interception of salmon is approximately 5 percent of the ex-vessel value, and approximately 4 percent of the first wholesale value.

INTRODUCTION

The calculations of estimated losses are based solely on Japanese mothership and landbased driftnet fisheries interceptions. Estimates of the number of Alaska-originating salmon intercepted by the foreign fishing fleets are incomplete because much of the information is still unknown. The greatest number of salmon are caught by the Japanese mothership (MS) and Japanese landbased driftnet (LB) fisheries. It is for these two fisheries that the most data are available. There are two other fisheries of relevance; the Taiwanese fishery and the foreign and joint-venture trawlers.

Very little is known about the number of salmon caught by the Taiwanese fishery. There is no information on the species composition or origin of these fish. Foreign and joint-venture trawlers caught an estimated 19,700 chinook, 36,400 chum and 400 other salmon during 1983. Mr. Meacham said that although there are no data on the origin of these fish, probably all of them are Alaska-bound.<sup>1</sup> Nothing is known of the size or age composition of these fish, so for several reasons, there is not currently a reliable means of calculating how many of these fish could, if not intercepted, be caught by Alaska fisheries.

According to Mr. Meacham,<sup>2</sup> estimates of salmon catches in 1983 for the North Pacific foreign fleets were:

Japanese mothership .....	9.4 million	> 25.2 million
Japanese landbased .....	15.8 million	
Taiwan .....	3.5 to 4 million	
Foreign and Joint- Venture Trawlers .....	56,500	

---

<sup>1</sup>An outline entitled "High Seas Salmon Interception Fisheries", included in the packet of information submitted to us with your research request, had incorrect figures listed for intercepted salmon. The outline had no source listed. Steve Pennoyer, of the Department of Fish and Game, said that 16,000,000 is the number of salmon caught by the Japanese landbased fisheries, and 8-9,000,000 is the number of salmon caught by the Japanese mothership fisheries. These are not the number of intercepted fish. He did not know the origin of the data for the Taiwanese and Other fisheries.

<sup>2</sup>Charles Meachum, Alaska Department of Fish and Game in Anchorage: Telephone number, (907) 267-2112.

## JAPANESE MOTHERSHIP AND LANDBASED DRIFTNET FISHERIES

### Number Caught

Estimates of the number of salmon caught by Japanese mothership and landbased driftnet fisheries fleets are listed in Table 1. These catch data are reported in the International North Pacific Fisheries Commission documents.

### Number Intercepted

Estimates of the number of salmon intercepted are also shown in Table 1. The interception figures for sockeye are based on the mean percentage intercepted of the total catches for the years from 1978 to 1981, in which studies were done. These percentages were applied to the 1983 sockeye catch to derive an interception estimate. Estimates for chinook are based on studies done from 1982-84 by the Fisheries Research Institute on contract to Fish and Game.<sup>3</sup>

Mr. Meacham provided estimates of the number of chums intercepted by the MS fisheries, but there are no estimates of chum intercepted by the LB fisheries. However, Dr. Harris said that essentially none of the chum caught by the LB fisheries are of North American origin.

Although total catch figures are available from the International North Pacific Fisheries Commission documents, there are no estimates of the number of pinks intercepted. Mr. Meacham and Dr. Harris both said that an insignificant amount of the pink salmon caught by the Japanese fleets are of North American origin.

Dr. Colin Harris of the Fisheries Research Institute at the University of Washington, would not make estimates of the number of cohos intercepted.<sup>4</sup> He said that significant numbers are taken by the mothership fishery, but he did not know of a reliable way to estimate the numbers. Mr. Meacham provided rough estimates of cohos intercepted.

---

<sup>3</sup>Rogers, Donald E. et al. 1984, "Origins of Chinook Salmon in the Area of the Japanese Mothership Salmon Fishery", FRI-UW-8408, Final Report to the Alaska Department of Fish and Game, Contract No. 84-0152, Fisheries Research Institute School of Fisheries, University of Washington, Seattle, Washington.

<sup>4</sup>Dr. Colin Harris, Fisheries Research Institute, University of Washington, (206) 543-7281.

Dr. Harris also stated that most of the cohos intercepted by the LB fleet are of western origin. He said, however, that many of the Bristol Bay cohos are unexploited anyway, so that it would be hard to say that cohos intercepted by the Japanese fleet yield an economic loss to Alaska. For this reason cohos are excluded from the values reported in the summary on page one of this memorandum.

#### Area of Origin

Studies by the Fisheries Research Institute provide estimates of the area of origin for chinook salmon caught by mothership and landbased driftnet fisheries. In 1983, an estimated 200,000 Alaska-bound chinook salmon were intercepted by the Japanese MS and LB fisheries. Of these an estimated 75,000 (37%) were from western Alaska stocks, 106,000 (53%) from central Alaska and 19,000 (9.5%) were of Southeast Alaska or British Columbian stocks.<sup>5</sup>

According to Dr. Harris, the great majority of the 427,000 sockeye, 44,000 chum and the cohos intercepted by the Japanese fleets are of western or central Alaska origin.

#### Estimated Loss of Salmon to Alaska Due to Interception

An estimated 1,099,000 salmon of Alaska origin are intercepted by Japanese mothership and landbased fisheries. To calculate the pounds of salmon available inshore if these salmon had not been intercepted, the natural mortality, drop-out rate and growth rate must be applied to the numbers intercepted. Together these factors comprise the yield loss multiplier.<sup>6</sup>

Natural Mortality: Not all of the fish caught on the high seas would have survived to return to Alaska waters, particularly since many of the fish intercepted are immature and would have several years on the high seas before returning to their origin.

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<sup>5</sup>The Bristol Bay area is in the Central Region, as classified in the Alaska 1983 Catch and Production Commercial Fisheries Statistics, Statistical Leaflet No. 36.

<sup>6</sup>These factors and the formula are described by Richard J. Major in greater detail in the International North Pacific Fisheries Commission Document 2558.

Drop-out Rate: The drop-out rate accounts for fish which are caught in the Japanese fisheries nets, but drop-out as the nets are hauled in. These salmon die as part of the fishery, but are not included in the catch figures. For the drop-out rate, a multiplier of between 1.33 and 2.00 is used by Fish and Game.

Growth Rate: Many salmon caught on the high seas are immature. The growth rate accounts for the estimated increase in size between the time the salmon are caught on the high seas and the time they would have been caught if allowed to progress to inshore waters.

The formula used by Fish and Game is:

interception number x mean wt. on high seas for each species x yield loss multiplier = total lbs. available inshore.

This formula yields the estimated total pounds of salmon that would be available inshore. These figures are presented in Table 2. Because, as indicated by Dr. Harris, interception of cohos may have no economic effect on the Alaskan fishery, two sets of calculations were made: one without intercepted cohos and one including intercepted cohos.

There is an estimated loss of 10.14 million lbs. of chinook salmon. Assuming that 90 percent of these are of western or central origin, 9.12 million lbs. of the intercepted chinook were from this region. In 1983 the commercial catch of chinook in central and western Alaska was 11.06 million lbs.

There is an estimated loss of 5.85 million lbs. of sockeye; 296.11 million lbs. were landed by the commercial fleet in central and western Alaska in 1983. For chum, an estimated .72 million lbs. were intercepted by the Japanese fleet; 68.49 million lbs. were landed by the commercial fishery in western and central Alaska.

#### Ex-vessel Value

The ex-vessel value was calculated by multiplying the estimated number of pounds of each species by the statewide average price in 1983.<sup>7</sup>

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<sup>7</sup>Alaska 1983 Catch and Production Commercial Fisheries Statistics, Statistical Leaflet No. 36, December 1984, Alaska Department of Fish and Game.

Representative Goll  
April 25, 1985  
Page 6

### Wholesale Value

The wholesale value was calculated by multiplying the ex-vessel value by 1.9. The prices to fishermen and the wholesale values vary from year to year. In 1983, the wholesale value for all salmon was 2.26 times greater than the ex-vessel value. Prices to fishermen were low in 1983, and the ratio was higher than usual. Between 1978 and 1983 the ratio has varied from 1.88 to 2.26.

### Fisheries Business Tax

The Fisheries Business Tax on salmon ranges from 2 percent to 5 percent of the ex-vessel value, depending upon how the fish are processed. It is not possible to estimate how fish currently intercepted by foreign fleets would be processed if allowed to progress to Alaska waters. Based on the estimates of ex-vessel values, revenue from the Fisheries Business Tax would range from \$482,452 to \$804,086.

In 1983, revenue from the Fisheries Business Tax was \$20,516,686. In 1984 revenue from the Fisheries Business Tax was \$18,979,226. The mean estimated value of lost revenue is 3.3 percent of the mean revenue from 1983 and 1984.

\* \* \* \* \*

Time constraints for completion of this memorandum precluded more detailed analysis and literature review. Statistics for 1984 are not currently compiled, but could be obtained through further research effort. Please let us know if you have further questions or would like a more detailed analysis.

KH

Attachments

Table 1. Total Catches and Interception of Salmon by Japanese Fleets in Thousands of Fish -- 1983

Species	Japanese Mothership Only		Japanese Landbased Only		Japanese MS and LB		% of Total Catch Intercepted
	Intercepted	Total	Intercepted	Total	Intercepted	Total	
sockeye	336	1,655	91	828	427	2,483	17.2
chinook	67	87	133	178	200	265	75.5
chum	44	3,081	0	2,395	44	5,476	0.8
pink	0	4,324	0	11,308	0	15,632	0.0
coho	74	297	354	1,122	428	1,419	30.2
total	521	9,444	578	15,831	1,099	25,275	4.3

Source: Department of Fish and Game.

Prepared by the House Research Agency, April 1985

Table 2

## Estimated Value of Salmon Intercepted by Japanese Mothership and Landbased Driftnet Fisheries

	Salmon Loss in Pounds			Mean Price Per Pound	Ex-vessel Value	Wholesale Value
	MS	LB	Total			
Sockeye	4,680,000	1,172,000	5,852,000	.70	\$ 4,096,000	\$ 7,782,400
Chinook	3,001,000	7,134,000	10,135,000	1.16	11,756,600	22,337,540
Chum	716,000	NA	716,000	.60	229,120	435,328
Coho	1,162,000	3,907,000	5,069,000	.60	3,041,000	5,777,900
Subtotal (w/out cohos)	8,397,000	8,306,000	16,703,000		\$16,081,720	\$30,555,268
Total (w/ cohos)	<u>9,559,000</u>	<u>12,213,000</u>	<u>21,772,000</u>		<u>\$19,122,720</u>	<u>\$36,333,168</u>

Source: Department of Fish and Game.

Prepared by the House Research Agency, April 1985



STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

May 8, 1985

TO: All Legislators  
FROM: Representative Peter Goll *P. Goll*  
SUBJECT: High Seas Interceptions of Alaska Salmon

Attached are three letters of support for House Joint Resolution 43, which requests the federal government to take quick action to halt the interception of Alaska salmon on the high seas by Japanese gillnet fleets. The widespread support for this effort is reflected in the letters from the state's two largest sportfishing associations and Alaska's largest group representing commercial fishermen.

Renegotiation of the treaty with Japan affecting the high seas fisheries is currently under consideration in Washington, D.C. Quick passage of this resolution will help trigger a decision.

I respectfully request your support of this resolution in the waning days of the session.



# Alaska Sportfishing Association

3605 Arctic Blvd., Suite 800 • Anchorage, Alaska 99503

TO: All Alaska Legislators      DATE: May 7, 1985

SUBJECT: HJR 43

The Kenai River Sportfishing Association urges your support of HJR 43 which calls for a halt to the High Seas interception of Alaska Salmon by Japanese fishing fleets.

The most recent figures estimate that the Japanese mothership and the landbased salmon gill net fleets intercepted one million, ninety-nine thousand Alaska bound salmon in 1983. These interceptions include 106,000 King Salmon from South Central Alaska spots; more than the combined sport, commercial, and subsistence catches in Cook Inlet that year. An end to these destructive fisheries would greatly enhance recreational sportfishing opportunities in Cook Inlet.

We urge immediate passage of this important resolution.

*Hunter Fisher*



# KENAI RIVER SPORTFISHING ASSOCIATION

3301 "C" Street Suite 202

Anchorage, Alaska 99503

Phone (907) 276-1451



May 7, 1985

Kenai River Sportfishing Association urges your support of HJR #43 which calls for a halt to the high seas interception of Alaska salmon by Japanese fishing fleet. The most recent figures estimate that the Japanese mother ship and the land based salmon gill net fleet intercepted 1,990,000 Alaska bound salmon in 1983. These interceptions include 106,000 King Salmon from southcentral Alaska spots more than the combined Sport, Commercial and Subsistence catches in Cook Inlet that year.

An end to these destructive fisheries would greatly enhance recreational sportfishing opportunities in Cook Inlet. We urge immediate passage of this important resolution.

by Bob Gerdon, Jr.

acting President of Kenai River Sportfishing Association



# UNITED FISHERMEN OF ALASKA

---

319 Seward Street, Suite #10  
Juneau, Alaska 99801-1188  
(907) 586-2820

Cass M. Parsons  
Executive Director

May 8, 1985

Honorable Peter Goll  
House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Representative Goll:

The United Fishermen of Alaska (UFA) wish to inform you of our position and recommendations regarding the interception of Alaskan salmon on the high seas. The UFA is the largest association of commercial fishermen in the United States, and represents fishermen throughout Alaska. The UFA are strongly opposed to any foreign interception of Alaskan salmon, since interception decreases the ability of our hardworking members to earn a living.

Of course, it is not just the fishermen who are hurt by the loss of Alaska bound salmon. The over 40,000 people employed in the seafood industry, and the many thousands of other people employed in the transportation and service industries which support the commercial fishing harvest, are all negatively impacted. This needless loss of Alaskan salmon also translates into a loss of revenues to the State and local governments.

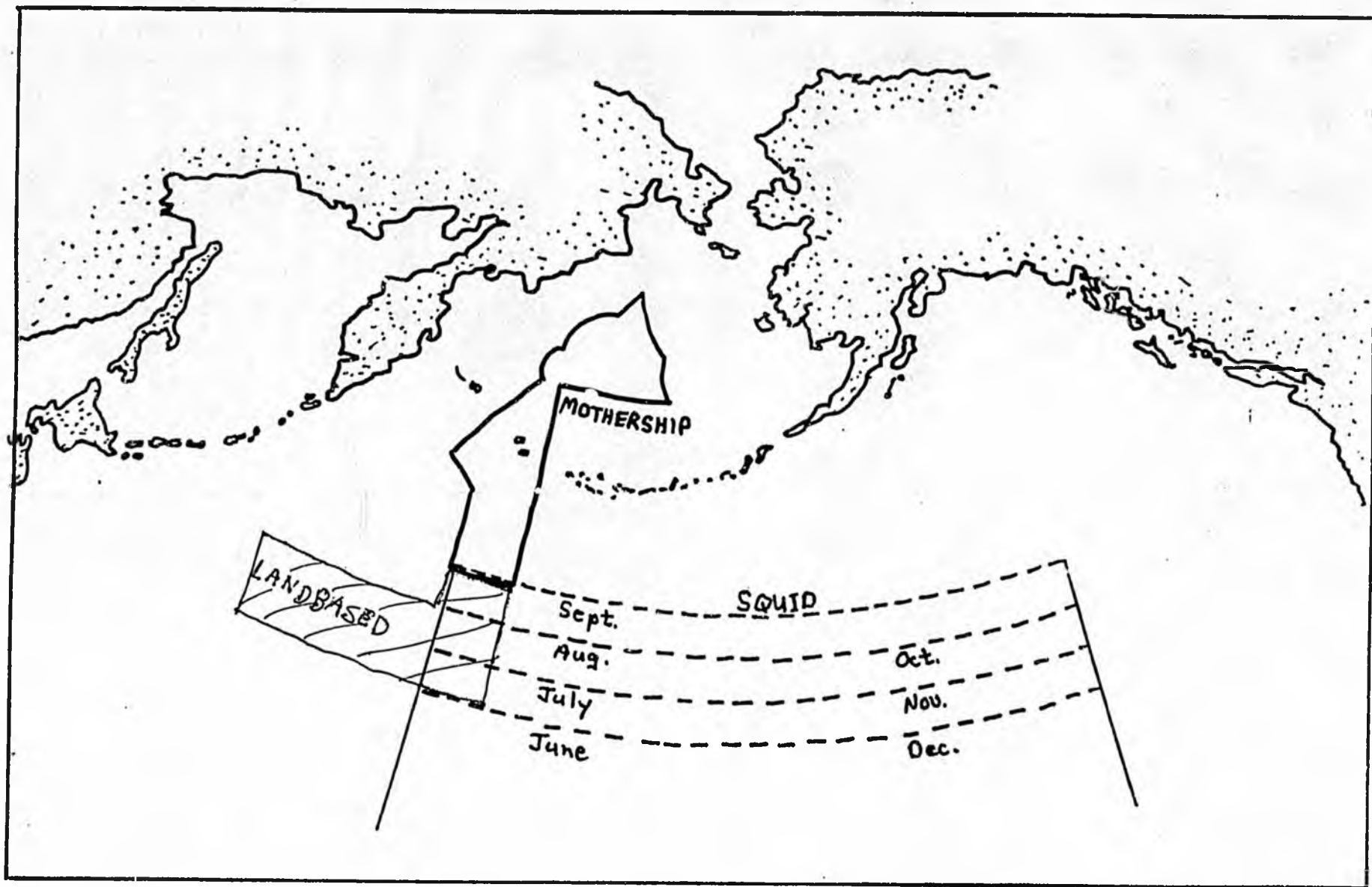
Just one example of interception is the 106,000 king salmon which have been denied to commercial, recreational, and subsistence users in Southcentral Alaska. The UFA would like to know what, if any, benefit the State of Alaska enjoys in exchange for this subsidization of the foreign fleet?

The UFA supports HJR 43 because the complete elimination of high seas interception is long overdue. For this reason, we recommend that the State of Alaska request the U.S. State Department to immediately begin negotiations which will bring an end to high seas interception.

Sincerely,

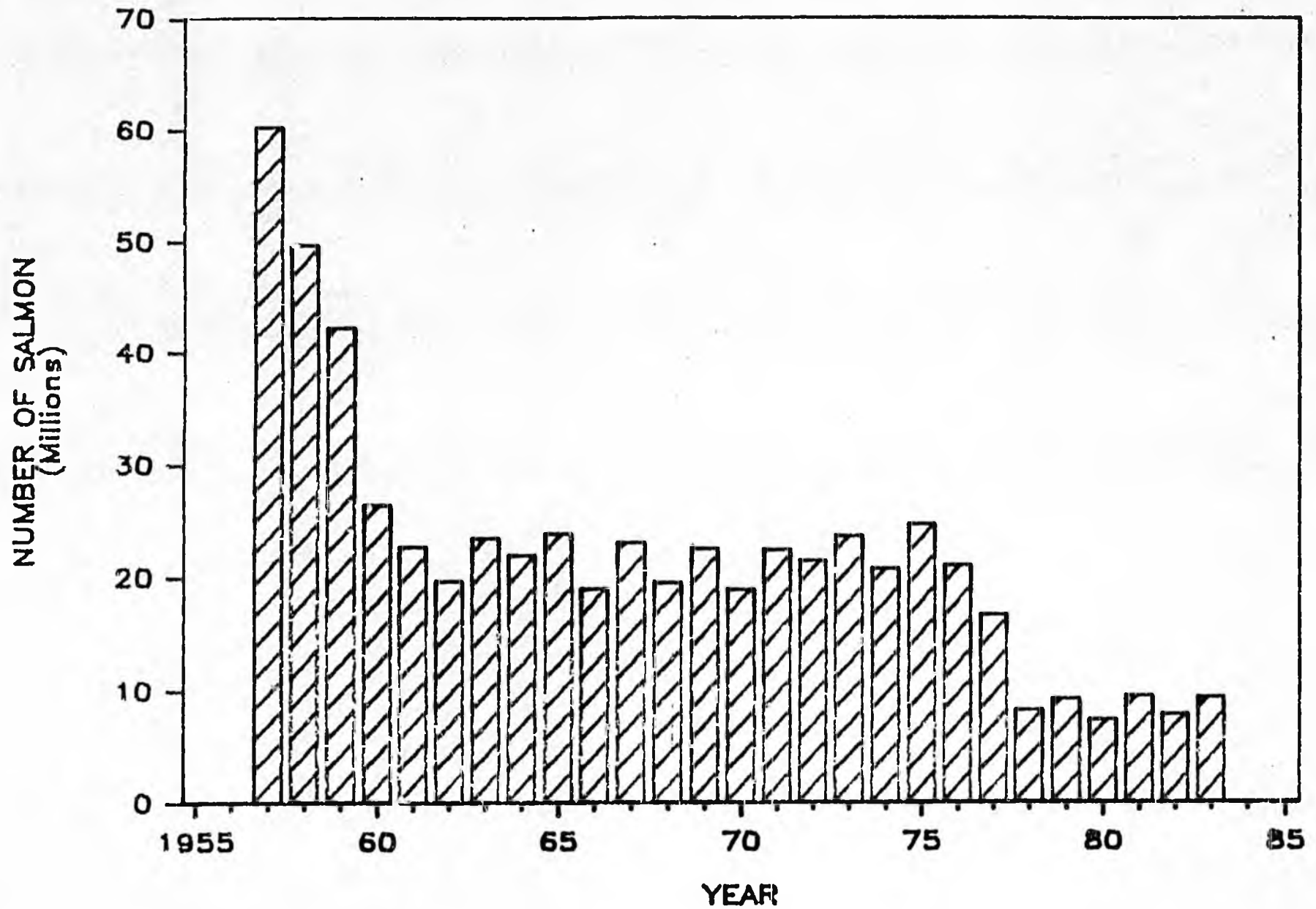
*Cass M. Parsons*

Cass M. Parsons  
UFA Executive Director

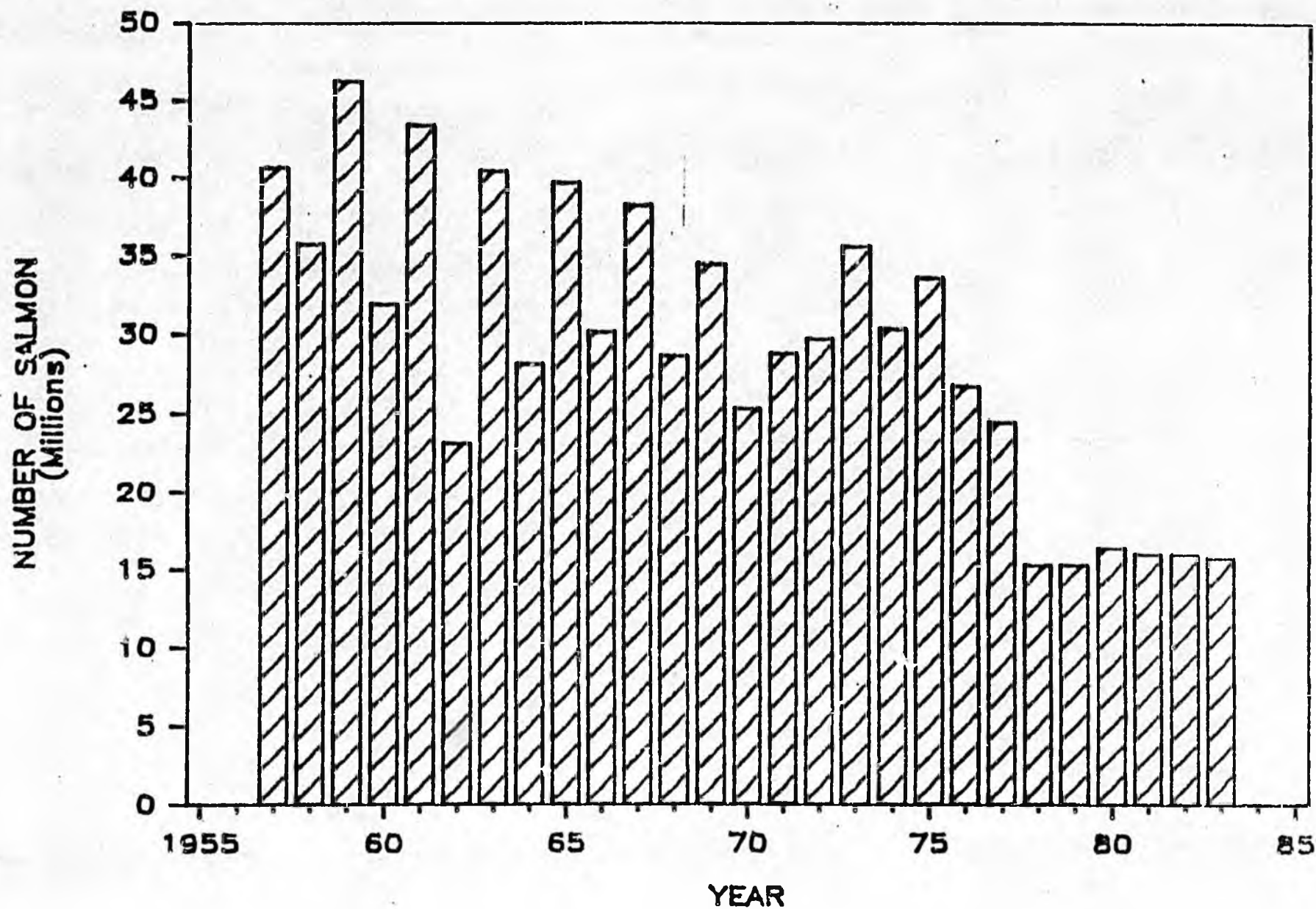


	SQUID GILLNET	SALMON LANDBASED GILLNET	SALMON MOTHERSHIP GILLNET
VESSELS	534	209	172
MESH SIZE	4 1/2 INCH	4 1/2 INCH	4 1/2 INCH
MILES NET (APPROX.)	10,000	3,000	1,500
SEASON	JUNE-DEC.	MAY-JULY	JUNE-JULY
CATCH (1981)	82,000 TONS SQUID	16 MILLION SALMON	10 MILLION SALMON

# HIGHSEAS MOTHERSHIP SALMON CATCH

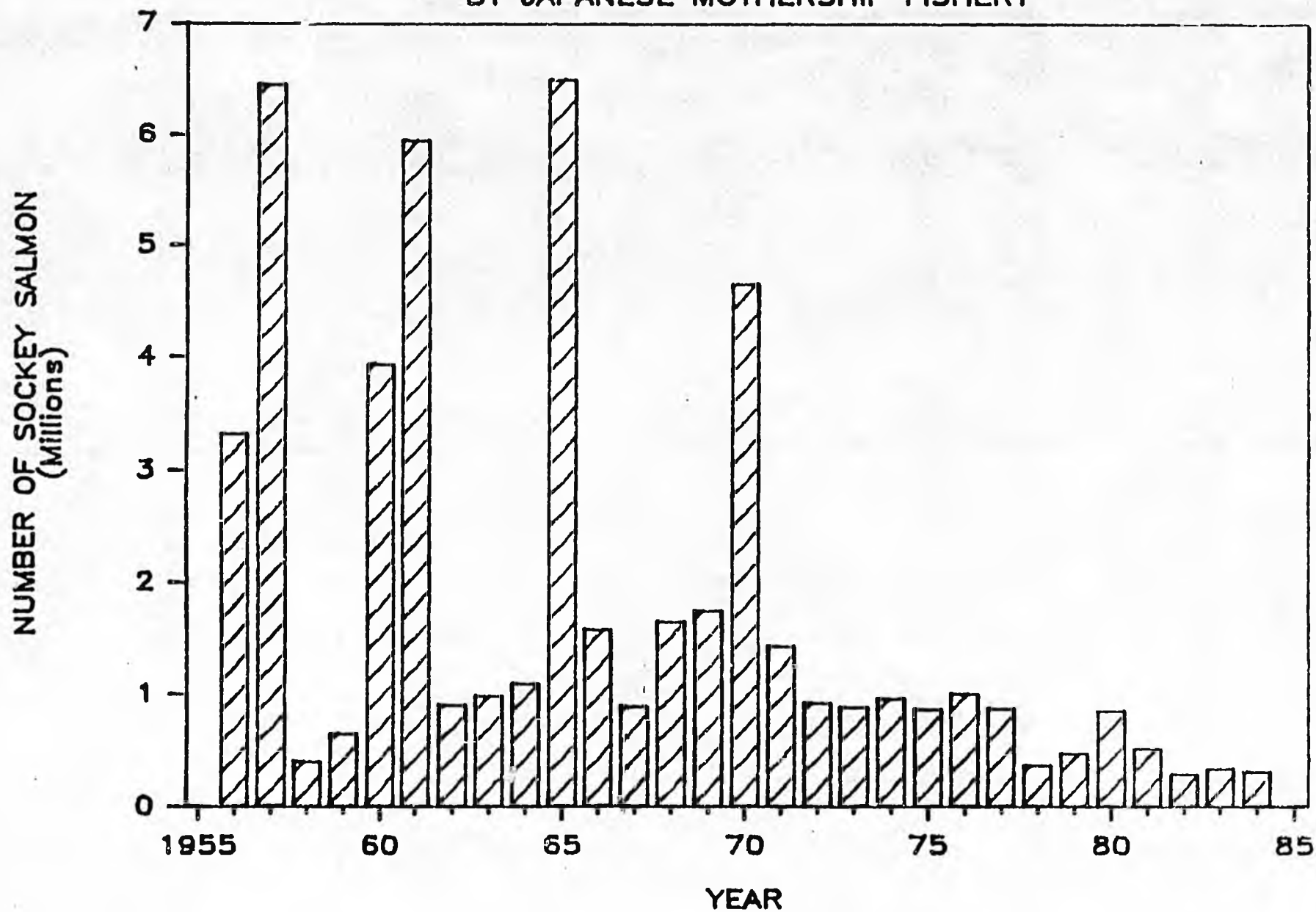


# HIGHSEAS "LANDBASED" SALMON CATCH

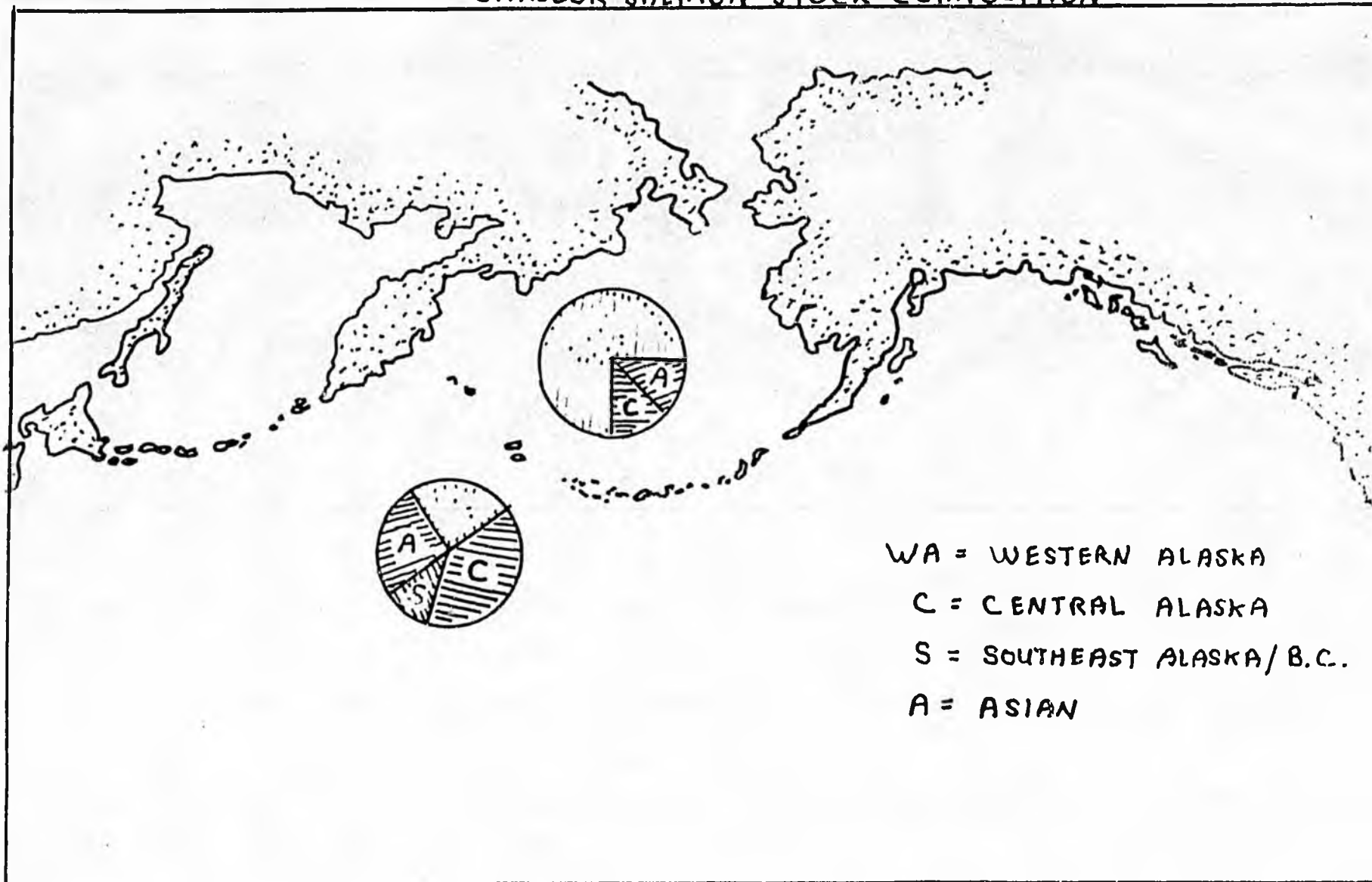


# SOCKEYE SALMON INTERCEPTIONS

BY JAPANESE MOTHERSHIP FISHERY



# CHINOOK SALMON STOCK COMPOSITION



# CENTRAL ALASKA CHINOOK INTERCEPTIONS

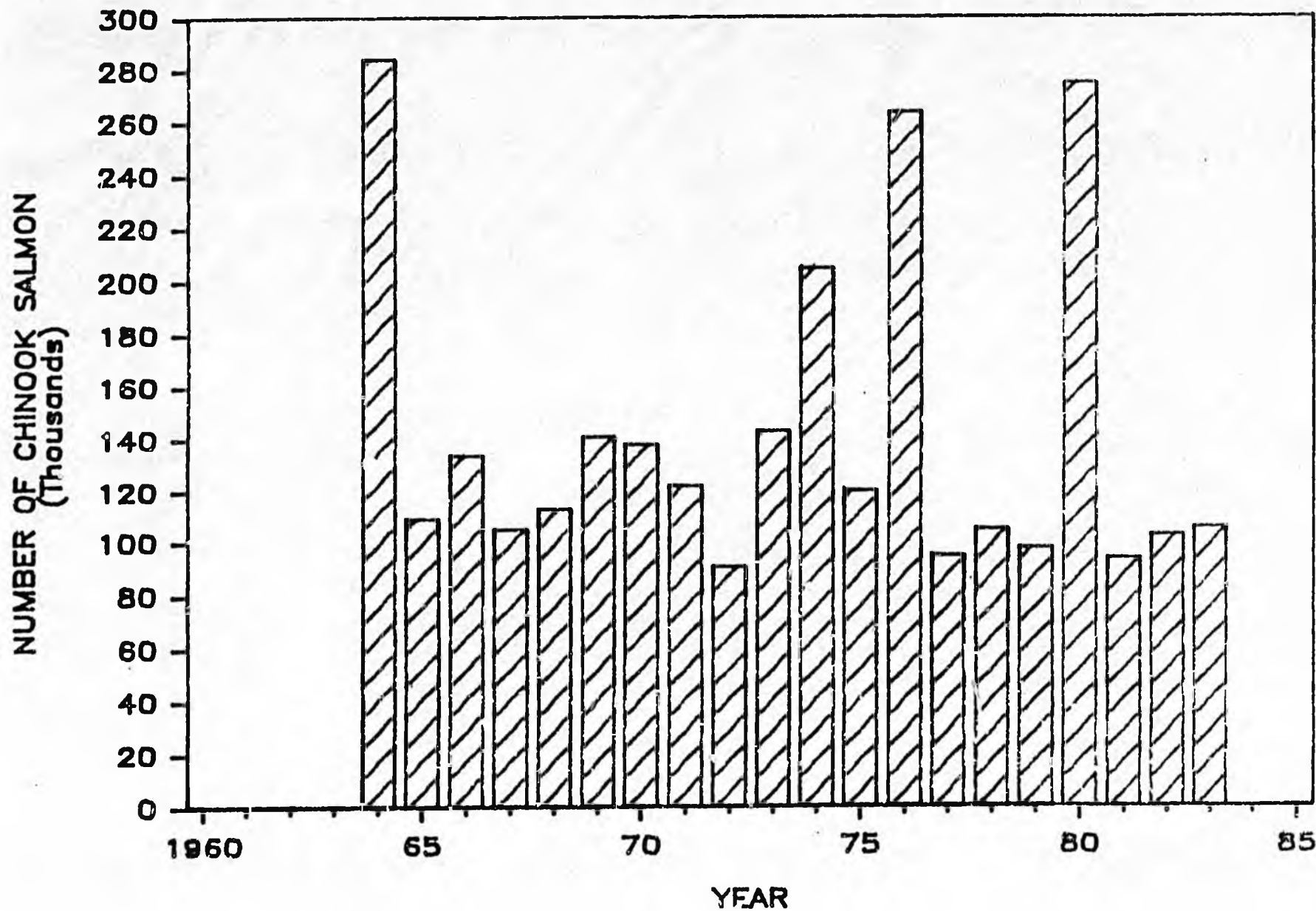


Table . Salmon catch (in thousands) by the Japanese mothership (MS and landbased driftnet (LB) fisheries, 1957-1983.

Year	Sockeye		Chinook		Chum		Pink		Coho		Total	
	MS	LB	MS	LB	MS	LB	MS	LB	MS	LB	MS	LB
1957	20,000	494	31	33	11,908	4,081	27,881	35,551	442	526	60,358	40,685
1958	12,026	888	46	45	18,787	9,155	15,546	24,833	3,393	785	49,798	35,706
1959	9,125	832	68	42	12,859	9,045	18,856	35,129	1,113	1,178	42,331	46,226
1960	12,879	1,601	180	113	10,517	8,684	1,885	20,129	912	1,346	26,423	31,873
1961	12,998	1,173	31	79	6,128	6,104	3,263	34,559	284	1,454	22,704	43,369
1962	10,590	154	122	124	6,372	7,577	1,139	14,021	1,532	1,289	19,755	23,165
1963	8,903	18	87	102	5,858	7,538	6,732	31,255	1,895	1,492	23,475	40,405
1964	7,097	108	410	195	8,641	8,956	2,281	17,247	3,535	1,624	21,964	28,130
1965	12,038	159	185	93	6,036	8,330	4,429	13,142	1,177	1,913	23,865	39,637
1966	7,254	703	208	112	8,562	11,848	2,553	17,032	469	1,458	19,046	37,153
1967	8,087	2,566	128	110	6,837	11,078	7,781	23,051	226	1,329	23,059	38,134
1968	6,373	2,769	362	88	8,107	8,457	3,823	15,899	898	1,421	19,563	28,634
1969	5,935	2,495	554	83	7,721	4,908	5,972	23,610	1,306	3,328	22,488	34,424
1970	6,944	2,966	437	101	9,638	6,585	1,726	13,403	180	2,259	18,925	25,314
1971	3,554	3,026	206	134	9,968	6,250	8,202	16,977	454	2,373	22,384	28,760
1972	3,184	3,711	261	103	13,373	8,598	3,795	14,839	614	2,421	21,421	29,672
1973	2,613	3,308	119	162	7,857	7,614	12,018	20,650	989	3,794	23,596	35,528
1974	2,282	3,155	361	186	9,283	12,179	7,756	11,242	1,085	3,559	20,767	30,321
1975	2,171	2,969	162	135	7,767	11,480	14,654	15,347	356	3,550	24,710	33,481
1976	2,266	3,291	283	201	10,436	10,646	7,207	10,879	828	2,751	21,020	26,690
1977	1,508	1,289	93	146	5,996	6,230	9,100	15,041	79	1,722	16,778	24,428
1978	1,882	1,292	105	210	3,802	3,488	1,853	7,846	609	2,512	8,251	15,349
1979	2,186	756	126	161	3,277	2,661	3,405	11,190	281	1,199	9,275	15,349
1980	2,412	787	704	160	3,098	2,697	561	11,612	656	1,205	7,431	16,461
1981	2,224	859	88	190	2,539	2,509	4,094	11,292	615	1,209	9,560	16,059
1982	1,738	723	107	165	3,217	2,930	1,654	11,035	1,183	1,201	7,899	16,054
1983 1/	1,655	828	87	178	3,081	2,395	4,324	11,308	297	1,122	9,445	15,831

Table 21. Coastal catches and estimated high seas (MS + LBDN = mothership + landbased driftnet) catches of chinook salmon, 1964-83 (in thousands of fish).

Year	Coastal (commercial)				High seas (MS + LBDN)			
	Asia	Alaska			Asia	West	Cent	SEBC
		West	Cent	SE				
1964	160	260	22	357	101	219	285	13
65	107	263	31	287	47	126	109	5
66	93	208	24	308	54	130	134	8
67	91	284	26	301	39	93	105	6
68	83	259	20	332	77	262	113	7
69	122	288	38	314	108	384	141	9
70	141	291	33	322	98	340	138	9
71	183	283	45	334	57	159	122	7
72	197	224	42	287	61	209	91	7
73	210	177	30	344	45	87	143	8
74	172	180	29	347	90	244	205	10
75	223	126	28	301	40	128	120	11
76	196	242	49	242	58	159	264	5
77	310	296	40	310	55	86	95	1
Means	163	242	33	313	66	188	148	8
78	314	350	55	389	69	99	105	42
79	279	410	41	374	74	114	98	0
80	126	320	29	320	96	438	275	55
81	157	503	47	267	86	85	94	13
82	178	503	83	286	65	86	103	18
83	219	481	101	288	65	75	106	19
Means	212	428	59	321	76	149	130	24

Amendments to HJR 43

delete existing language on page 1, lines 23-27, replace with the following language:

WHEREAS more than 1 million salmon originating in the state are estimated to have been harvested on the high seas by Japanese fishing fleets during 1983; and

WHEREAS high seas interceptions deprived Alaska of commercial fishing opportunities valued at more than \$19 million to fishermen, and more than \$36 million to seafood processors; and

WHEREAS this lost opportunity cost the state treasury roughly \$500,000 to \$800,000 in lost fisheries business tax revenue alone; and