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RED TAG

March 4, 1976

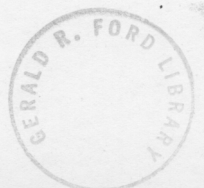
MEMORANDUM FOR: MAX L. FRIEDERSDORF
THRU: VERN LOEN
FROM: CHARLES LEPPERT, JR.
SUBJECT: Proposed Conference Text of H. R. 200
(200 mile limit bill)

Attached is the proposed conference text of H. R. 200, the 200 mile limit bill, as it will be proposed to the Conferees at a meeting of the Conference Committee next week.

I am informed that this proposed text will be sent to the Executive Departments and Agencies concerned for comment. This proposed text along with the Department and Agency comments are to be before the conferees next week.

Attachment

cc: Don Ogilvie - OMB



PROPOSED CONFERENCE TEXT OF H.R. 200

MARCH 4, 1976

1 That this Act may be cited as the

2 **SEC. 2. CONGRESSIONAL FINDINGS, POLICY, AND PUR-**
3 **POSES.**

4 (a) **FINDINGS.**—The Congress finds and declares the
5 following:

6 (1) The coastal species of fish which inhabit the
7 waters off the coasts of the United States, the highly
8 migratory species of the high seas, the species which
9 dwell on or in the Continental Shelf, and the anadro-
10 mous species which spawn in United States rivers or
11 estuaries, constitute a valuable and renewable natural
12 resource. This resource contributes to the food supply
13 and economy of the Nation as well as to health and
14 recreation.

15 (2) As a consequence of increased fishing pressure
16 and because of the absence of adequate fishing manage-



1 ment practices and controls, (A) certain stocks of such
2 fish have been overfished to the point where their
3 survival is threatened, and (B) other such stocks have
4 been so substantially reduced in number that they could
5 become similarly threatened.

6 (3) Commercial and recreational fishing constitutes
7 a major source of employment and contributes signifi-
8 cantly to the economy of the Nation. Many coastal areas
9 are dependent upon the fishing industry as the founda-
10 tion of the local economy. The depletion of fishery re-
11 sources at an ever-increasing rate over the past decade
12 threatens the social and economic fabric of those coastal
13 regions where fishing and related activities are the prin-
14 cipal source of employment.

15 (4) United States fishermen, confronted by massive
16 foreign fishing fleets in coastal waters of the United
17 States, have suffered interference with their fishing ef-
18 forts and destruction of their gear.

19 (5) International agreements have not been effect-
20 tive in halting the depletion of valuable coastal and
21 anadromous species caused by such overfishing; and
22 even to the extent that international agreements may
23 ultimately prove to be effective, there is danger that
24 irreversible depletion of such species will take place



1 before such agreements can be negotiated, signed, rati-
2 fied, and implemented.

3 (6) Fishery resources are finite but renewable. If
4 placed under sound management before overfishing has
5 caused irreversible effects, the fisheries can be restored
6 and maintained so as to provide optimum yields.

7 (7) A national program for management and con-
8 servation of the fishery resources subject to the jurisdic-
9 tion of the United States is necessary to prevent over-
10 fishing, to rebuild overfished stocks, to insure conserva-
11 tion, and to realize the full potential of the Nation's fish-
12 ery resources.

13 (8) Developing international law, as proposed in
14 the informal single negotiating text recently prepared at
15 the Third United Nations Conference on the Law of the
16 Sea, proposes primary coastal state management and
17 preference over coastal species in an economic zone
18 extending to 200 miles beyond the baseline of the
19 territorial sea, and primary host state management and
20 preference over anadromous species.

21 (9) Management of fisheries as common property
22 resources has led to the use of excessive amounts of
23 capital and labor in many fisheries. As a result, the
24 profits earned by individual fishermen are low, potential



1 economic benefits to the Nation are lost, and the fish-
2 eries are depressed industries.

3 (10) A national program for the development of
4 United States fisheries for underutilized or unutilized
5 stocks of fish off the coasts of the United States, in-
6 cluding bottom-fish off Alaska, is necessary to assure
7 that our citizens benefit from the employment, food sup-
8 ply, and revenue which could be generated thereby.

9 (b) PURPOSES.—It is therefore declared to be the pur-
10 pose of the Congress in this Act—

11 (1) to take immediate action to conserve and man-
12 age the fisheries resources found off the coasts of the
13 United States and the anadromous and Continental Shelf
14 fisheries resources of the United States in the high seas
15 by establishing a fishery conservation zone within
16 which the United States will assume exclusive manage-
17 ment responsibility and authority over all fisheries
18 resources, except highly migratory species, and by
19 declaring fisheries management responsibility and au-
20 thority beyond such zone with respect to anadromous
21 species and Continental Shelf fisheries resources;

22 (2) to support and encourage international meas-
23 ures for the conservation and management of highly
24 migratory species on the basis of regulations consistent



1 with the terms of any applicable international fisheries
2 agreement;

3 (3) to promote the commercial and recreational
4 fishing industries of the United States in order to maxi-
5 mize under sound conservation and management princi-
6 ples the production of food from the sea and the recrea-
7 tional opportunities of the American people;

8 (4) to establish management programs which will
9 achieve and maintain an optimum yield from fisheries
10 resources under circumstances which will enable the
11 States, the fishing industry, consumer and environ-
12 mental organizations, and other interested persons to
13 participate in or advise on the establishment of manage-
14 ment plans and regulations, and in the development of
15 such programs in regard to stocks of fish, to consider
16 the social and economic needs of the coastal States along
17 which such stocks abound; and

18 (5) to encourage the development of a domestic
19 capability to harvest and process fishery resources which
20 are currently underutilized or not utilized by United
21 States fishermen, particularly the bottom fishery of the
22 North Pacific and Bering Sea and other bottom fishery
23 potential off our coasts.



1 (c) POLICY.—It is further declared to be the policy of
2 the Congress in this Act—

3 (1) to maintain without change the existing terri-
4 torial or other ocean jurisdiction of the United States
5 for all purposes other than the management and con-
6 servation of fishery resources, as provided in this Act;

7 (2) to authorize no impediment to, or interference
8 with, recognized legitimate uses of the high seas, other
9 than that necessary for the management and conser-
10 vation of fishery resources, as provided in this Act;

11 (3) to assure that the national fishery management
12 program (A) utilizes, and is based upon, the best scien-
13 tific information available; (B) involves, and is respon-
14 sive to the needs of, interested and affected citizens;
15 (C) promotes efficiency; (D) optimizes the use of
16 existing State, Federal, and academic capabilities in
17 carrying out research, administration, management, and
18 enforcement; and (E) is workable and effective;

19 (4) to permit foreign fishing within the fishery con-
20 servation zone established under this Act (A) con-
21 sistent with the conservation requirements for the various
22 stocks of fish, (B) based upon the excess stocks of fish
23 not being fully utilized by United States commercial or
24 recreational fishermen; and (C) after taking into
25 account the efforts of United States fishermen to develop



1 new and expanded fisheries, and the fact that certain
2 stocks of fish which United States fishermen have been
3 heavily dependent are now seriously depleted largely
4 as a result of foreign fishing; and

5 (5) to support and encourage continued active
6 United States efforts to obtain an internationally accept-
7 able treaty at the Third United Nations Conference on
8 the Law of the Sea, and particularly to seek effective
9 conservation of living ocean resources.

10 **SEC. 3. DEFINITIONS.**

11 As used in this Act, unless the context otherwise
12 requires—

13 (1) The term “anadromous species” means those
14 species of fish which spawn in fresh or estuarine waters
15 of the United States and which migrate to ocean
16 waters.

17 (2) The term “coastal species” means all species of
18 fish other than any species referred to in paragraphs
19 (1), (4), and (13) of this section.

20 (3) The terms “conservation” and “management”
21 refer to all of the rules, regulations, conditions, methods,
22 and other measures (A) which are required to rebuild
23 and maintain, and useful in rebuilding and maintaining
24 fishery resources and the marine environment; and (B)
25 which are designed to assure that—



1 (i) a supply of food, and other products, and
 2 recreational benefits, may be taken or obtained there-
 3 from on a continuing basis;

4 (ii) irreversible or long-term adverse effects on
 5 fishery resources or on the marine ecosystem as a
 6 whole are avoided; and

7 (iii) there will be a multiplicity of options
 8 available with respect to future use of these
 9 resources.

10 (4) The term "Continental Shelf fishery resources"
 11 means living organisms of sedentary species which, at
 12 the harvestable stage, are either (A) immobile on or un-
 13 der the seabed, or (B) unable to move except in constant
 14 physical contact with the seabed or subsoil of the Con-
 15 tinental Shelf which appertains to the United States;
 16 including, but not limited to, the following species:

17 COLEENTERATA

- 18 Bamboo Coral—*Acarella* spp.;
- 19 Black Coral—*Antipathes* spp.;
- 20 Gold Coral—*Callogorgia* spp.;
- 21 Precious Red Coral—*Corallium* spp.;
- 22 Bamboo Coral—*Keratoisis* spp.; and
- 23 Gold Coral—*Parazoanthus* spp.

24 CRUSTACEA

- 25 Tanner Crab—*Chionectes tameri*;
- 26 Tanner Crab—*Chionocetes opilio*;



- 1 Tanner Crab—*Chionoecetes angulatus*;
- 2 Tanner Crab—*Chionoecetes bairdi*;
- 3 King Crab—*Paralithodes camtschatica*;
- 4 King Crab—*Paralithodes platypus*;
- 5 King Crab—*Paralithodes brevipes*;
- 6 Lobster—*Homarus americanus*;
- 7 Dungeness Crab—*Cancer magister*;
- 8 California King Crab—*Paralithodes californiensis*;
- 9 California King Crab—*Paralithodes rathbuni*;
- 10 Golden King Crab—*Lithodes aequispinus*;
- 11 Northern Stone Crab—*Lithodes maia*;
- 12 Stone Crab—*Menippe mercenaria*; and
- 13 Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

- 15 Red Abalone—*Haliotis rufescens*;
- 16 Pink Abalone—*Haliotis corrugata*;
- 17 Japanese Abalone—*Haliotis kamtschatkana*;
- 18 Queen Conch—*Strombus gigas*;
- 19 Surf Clam—*Spisula solidissima*; and
- 20 Ocean Quahog—*Artica islandica*.

SPONGES

- 22 Glove Sponge—*Hippiospongia canaliculata*;
- 23 Sheepswool Sponge—*Hippiospongia lachne*;
- 24 Grass Sponge—*Spongia graminea*; and
- 25 Yellow sponge—*Spongia barbera*.



1 The Secretary, in consultation with the Secretary of
2 State, may add to the foregoing list the name of any
3 other species of living organism which he determines to
4 be such a resource, upon publication of a notice to such
5 effect in the Federal Register, and such species shall
6 thereafter be considered to be included in the term.

7 (5) The term "Council" means any Regional
8 Fishery Management Council established under section
9 122 of this Act.

10 (6) The term "fishery conservation zone" means
11 the fishery conservation zone established by section 101
12 of this Act.

13 (7) The term "fish" means finfish, mollusks, crusta-
14 ceans, and all other forms of marine animal and plant
15 life other than marine mammals and birds.

16 (8) The term "fishery" means—

17 (A) one or more stocks of fish which can be
18 managed as a unit for purposes of management and
19 conservation and which are identified on the basis of
20 geographic, scientific, technical, recreational, and
21 economic characteristics; and

22 (B) the business, organized activity, or act
23 of fishing for such stocks.

24 (9) The term "fishing" means the catching, tak-



1 ing, harvesting, or attempted catching, taking, or har-
2 vesting, or any action which can reasonably be expected
3 to result in the catching, taking, or harvesting, of fish
4 for any purpose other than scientific research, and any
5 activity at sea in support thereof.

6 (10) The term "fishing vessel" means any vessel,
7 boat, ship, or other craft which is used for, equipped
8 to be used for, or of a type which is normally used for—

9 (A) fishing; or

10 (B) aiding or assisting one or more vessels
11 at sea in the performance of any activity relating
12 to fishing, including, but not limited to, supply,
13 storage, refrigeration, transportation, or processing;
14 except any scientific research vessel.

15 (11) The term "foreign fishing" means fishing
16 by a vessel other than a vessel of the United States.

17 (12) The term "high seas" means all waters be-
18 yond the territorial sea of the United States or of any
19 other nation as recognized by the United States.

20 (13) The term "highly migratory species" means
21 species of tuna which, in the course of their life cycle,
22 spawn and migrate in waters of the ocean.

23 (14) The term "international fisheries agreement"
24 means any bilateral or multilateral treaty, convention,



1 or agreement which relates to fishing and to which the
2 United States is a party.

3 (15) The term "Marine Fisheries Commission"
4 includes the Atlantic States Marine Fisheries Commis-
5 sion, the Gulf States Marine Fisheries Commission,
6 and the Pacific Marine Fisheries Commission established
7 by interstate compact.

8 (16) The term "national standards" means the na-
9 tional standards for fishery management and conserva-
10 tion set forth in section 121 of this Act.

11 (17) The term "optimum", with respect to the
12 yield from a fishery, means the amount of fish—

13 (A) which, if produced, will provide the great-
14 est benefit to the Nation; and

15 (B) which is prescribed as such on the basis
16 of the maximum sustainable yield from such fishery
17 as modified by any relevant economic, social, or
18 ecological factor.

19 (18) The term "person" means any individual,
20 corporation, partnership, or association (whether or not
21 such individual is a citizen or national of the United
22 States, or such entity is organized or existing under the



1 laws of any State), and any government or entity
2 thereof.

3 (19) The term "Secretary" means the Secretary of
4 Commerce, or his delegate.

5 (20) The term "State" means each of the several
6 States, the District of Columbia, the Commonwealth of
7 Puerto Rico, American Samoa, the Virgin Islands,
8 Guam, the Trust Territory of the Pacific Islands, and
9 any other territory or possession over which the United
10 States has jurisdiction.

11 (21) The term "stock of fish" means a species, sub-
12 species, geographical grouping, or other category of
13 fish capable of management as a unit.

14 (22) The term "United States" when used in a
15 geographical context, means all the States thereof.

16 (23) The term "vessel of the United States" means
17 any boat, ship, contrivance, or other craft, however pro-
18 pelled or moved, which is—

19 (A) designed, used, or capable of being used
20 for navigation on or under water; and

21 (B) documented under the laws of the United
22 States or registered under the laws of any State.



1 **TITLE I—FISHERY MANAGEMENT**
2 **AUTHORITY OF THE UNITED**
3 **STATES**

4 **CHAPTER 1—UNITED STATES JURISDICTION**

5 **SEC. 101. FISHERY CONSERVATION ZONE.**

6 There is established a zone contiguous to the territorial
7 sea of the United States to be known as the fishery conserva-
8 tion zone. The inner boundary of the fishery conservation
9 zone is a line formed by the seaward boundaries of the
10 coastal States, and the outer boundary of such zone is a
11 line drawn in such a manner that each point on it is 200
12 nautical miles from the baseline by which the territorial
13 sea is measured.

14 **SEC. 102. UNITED STATES JURISDICTION WITH RESPECT**
15 **TO SPECIES OF FISH.**

16 Except as provided in section 103, the United States
17 shall exercise within the fishery conservation zone exclusive
18 fishery management authority, in the manner provided for in
19 this title, over all coastal species within such zone; and, in
20 addition, shall exercise the following management authority,
21 in the manner provided for in this title, with respect to the
22 following species:

23 (1) **ANADROMOUS SPECIES.**—The United States
24 shall exercise, throughout the migratory range of each
25 applicable species, exclusive fishery management author-



1 ity over anadromous species; except that such manage-
2 ment authority shall not extend to such species during
3 the time they are found within the territorial sea or the
4 fishery conservation zone (or the equivalent thereof)
5 of any other nation, as recognized by the United States.

6 (2) CONTINENTAL SHELF FISHERY RESOURCES.—

7 The United States shall exercise exclusive fishery man-
8 agement authority over Continental Shelf fishery re-
9 sources to the depth at which such resources can be
10 exploited.

11 **SEC. 103. HIGHLY MIGRATORY SPECIES.**

12 The exclusive fishery management authority of the
13 United States shall not include, nor be construed to extend to,
14 highly migratory species of fish. Such species shall be man-
15 aged solely pursuant to international fishery agreements
16 established for such purpose.

17 **SEC. 104. EFFECTIVE DATE.**

18 This chapter shall take effect _____, 1977.

19 **CHAPTER 2—FOREIGN FISHING AND IN-**
20 **TERNATIONAL FISHERIES AGREEMENTS**

21 **SEC. 111. FOREIGN FISHING.**

22 (a) IN GENERAL.—Foreign fishing within the fishery
23 conservation zone, or for anadromous species or Continental
24 Shelf fishery resources, may be authorized in accordance
25 with the provisions of this Act.



1 (b) ALLOWABLE LEVEL.—(1) The allowable level of
2 total foreign fishing, if any, with respect to any fishery or
3 stock of fish subject to the management authority of the
4 United States, shall be set on the basis of that portion of the
5 allowable catch of such fishery or stock of fish which cannot
6 or will not be harvested by vessels of the United States as
7 determined by the appropriate Council in a fishery manage-
8 ment plan. [Annual allowed foreign fishing and annual
9 fishing by vessels of the United States combined shall not,
10 for any fishery or stock of fish, exceed the optimum yield
11 thereof.]

12 (2) ALLOCATIONS.—The Secretary of State, in consul-
13 tation with the Secretary, shall determine the allocation
14 among foreign nations of the allowable level of total foreign
15 fishing which is permitted with respect to any fishery or
16 stock of fish subject to the fishery management authority of
17 the United States. In making any such determination, the
18 Secretary of State and the Secretary shall consider whether,
19 and to what extent, the vessels of such nations have tradi-
20 tionally fished in such fishery or for such stock, whether
21 such nations have made substantial and cooperative efforts
22 in research and identification of stocks, and whether such
23 nations have cooperated in enforcement and with respect to
24 the conservation of the resources.

25 [(3) As used in this subsection, the term “allowable



1 catch” means the amount which can be taken from any fish-
2 ery or stock of fish, including the surplus which may be
3 taken by foreign fishing vessels, without exceeding the ap-
4 plicable optimum yield.]

5 (c) RECIPROCITY.—Foreign fishing shall not be author-
6 ized for the vessels of any foreign nation unless such nation
7 satisfies the Secretary and the Secretary of State that it
8 extends substantially the same fishing privileges to vessels
9 of the United States, with respect to an equivalent fishery
10 or stock of fish within its fishery conservation zone, or its
11 equivalent, or with respect to such nation’s anadromous
12 species or Continental Shelf fishery resources, if any.

13 **SEC. 112. INTERNATIONAL FISHERIES AGREEMENTS.**

14 (a) NEGOTIATIONS.—(1) The Secretary of State, in
15 cooperation with the Secretary, shall initiate and conduct
16 negotiations with any nation—

17 (A) the vessels of which, prior to the date of en-
18 actment of this Act, engaged in fishing within the fish-
19 ery conservation zone or for anadromous species or Con-
20 tinenta Shelf fishery resources ;

21 (B) which indicates its wish for vessels under its
22 flag to engage in any fishing ;

23 (C) in whose fishery conservation zone or its equiv-
24 alent vessels of the United States are engaged, or wish to
25 be engaged, in fishing ;



1 (D) with respect to anadromous species spawned in
2 such nation's rivers or estuaries or Continental Shelf
3 fishery resources as to which such nation asserts man-
4 agement authority and for which vessels of the United
5 States fish, or wish to fish;

6 (E) with respect to anadromous species; or

7 (F) for the management and conservation of highly
8 migratory species.

9 (2) The purpose of the negotiations referred to in para-
10 graph (1) shall be to conclude international fisheries agree-
11 ments to effectuate the purposes, policy, and provisions of this
12 Act. Such agreements may include, but need not be limited
13 to, agreements to provide for the management and conser-
14 vation of—

15 (A) coastal species which are found both in the
16 fishery conservation zone and in an adjacent or opposite
17 nation's equivalent of such zone;

18 (B) anadromous species which are found, during
19 the course of their migration, in ocean areas subject to
20 the fishery management authority of more than one na-
21 tion, or which intermingle on the high seas with anad-
22 romous species originating in the rivers or estuaries
23 of other nations;

24 (C) coastal species or Continental Shelf fishery
25 resources which are found in areas subject to the fishery



1 management authority of any nation, through measures
2 which allow vessels of the United States to harvest an
3 appropriate portion of such species in accordance with
4 traditional fishing by vessels of the United States.

5 (b) TREATY, RENEGOTIATION.—The Secretary of State,
6 in cooperation with the Secretary, shall initiate, promptly
7 after the date of enactment of this Act, the renegotiation of
8 any treaty (within the meaning of section 2 of article II of
9 the Constitution) which pertains to fishing in waters within
10 the fishery conservation zone or to fishing for anadromous
11 species or Continental Shelf fishery resources, and which the
12 Secretary determines to be inconsistent with the purposes,
13 policies, and provisions of this Act, in order to conform such
14 treaty to such purposes, policies, and provisions.

15 [() SPECIAL TREATMENT REGARDING CONTINENTAL
16 SHELF FISHERY RESOURCES.—No international fishery
17 agreement (other than an agreement which is a treaty
18 within the meaning of section 2 of article II of the Constitu-
19 tion) which will permit foreign fishing for any Continental
20 Shelf fishery resource may be negotiated pursuant to this sec-
21 tion unless not less than [two-thirds] of the voting members
22 of the Council which has authority with respect to that
23 resource approve of such foreign fishing.]

24 (c) EXISTING EXECUTIVE FISHERY AGREEMENTS.—
25 (1) No international fishery agreement (other than an agree-



1 ment which is a treaty within the meaning of section 2 of
2 article II of the Constitution) which is in effect on July 30,
3 1976, and which pertains to fishing in waters within the
4 fishery conservation zone or to fishing for anadromous species
5 or Continental Shelf fishery resources shall be renewed or
6 extended except in accordance with the provisions of this
7 Act.

8 (d) **NEW EXECUTIVE FISHERY AGREEMENTS.**—Each
9 international fishery agreement (other than an agreement
10 which is a treaty within the meaning of section 2 of article
11 II of the Constitution), and any amendment thereto, which
12 is entered into after the date of the enactment of this Act
13 shall conform to the purposes, policies, and provisions of
14 this Act.

15 **SEC. 113. CONGRESSIONAL OVERSIGHT OF CERTAIN IN-**
16 **TERNATIONAL FISHERIES AGREEMENTS.**

17 (a) **TAKING EFFECT OF EXECUTIVE FISHERIES**
18 **AGREEMENTS.**—Any international fishery agreement (other
19 than an agreement which is a treaty within the meaning of
20 section 2 of article II of the Constitution) to which sub-
21 section (c) or (d) of section 112 applies, and any amend-
22 ment thereto, shall not enter into force and effect with
23 respect to the United States before the close of the first 60
24 calendar days of continuous session of the Congress after the
25 date on which the President transmits to the House of Rep-



1 representatives and to the Senate a document setting forth the
2 text of the agreement (or amendment thereto) and his
3 reasons therefor. A copy of the document shall be delivered to
4 each House of Congress on the same day and shall be
5 delivered to the Clerk of the House of Representatives if the
6 House is not in session and to the Secretary of the Senate if
7 the Senate is not in session.

8 (b) REFERRAL TO COMMITTEES.—Any document de-
9 scribed in subsection (a) shall be immediately referred in
10 the House to the Committee on Merchant Marine and
11 Fisheries and in the Senate to the Committee on Commerce.

12 (c) COMPUTATION OF 60-DAY PERIOD.—For pur-
13 poses of subsection (a) —

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

16 (2) the days on which either House is not in
17 session because of an adjournment of more than 3 days
18 to a day certain are excluded in the computation of the
19 60-day period.

20 (d) CONGRESSIONAL PROCEDURES WITH RESPECT TO
21 CERTAIN LEGISLATION REGARDING SUCH INTERNATIONAL
22 FISHERIES AGREEMENTS.—

23 (1) RULES OF THE HOUSE OF REPRESENTATIVES
24 AND SENATE.—This section is enacted by the Congress—

25 (A) as an exercise of the rulemaking power



1 of the House of Representatives and the Senate, re-
 2 spectively, and as such they are deemed a part of
 3 the rules of each House, respectively, but applicable
 4 only with respect to the procedure to be followed
 5 in that House in the case of fishery agreement reso-
 6 lution described in paragraph (2) of this subsection,
 7 and they supercede other rules only to the extent
 8 that they are inconsistent therewith; and

9 (B) with full recognition of the Congressional
 10 right of either House to change the rules (so far
 11 as relating to the procedure of that House) at any
 12 time, and in the same manner and to the same ex-
 13 tent as in the case of any other rule of that House.

14 (2) DEFINITION.—For purposes of this subsection,
 15 a “fishery agreement resolution” refers to a joint resolu-
 16 tion of either House of Congress—

17 (A) the effect of which is to prohibit the enter-
 18 ing into force and effect of an international fishery
 19 agreement the text of which is transmitted to Con-
 20 gress pursuant to subsection (a) ; and

21 (B) which is reported from the Committee on
 22 Merchant Marine and Fisheries in the House or the
 23 Committee on Commerce in the Senate not later
 24 than days after the date on which the document



1 described in subsection (a) relating to that agree-
2 ment is transmitted to Congress.

3 (3) PLACEMENT ON CALENDAR.—Any fisher
4 agreement resolution shall immediately be placed on the
5 appropriate calendar.

6 (4) FLOOR CONSIDERATION IN THE HOUSE.—

7 (A) A motion in the House of Representatives
8 to proceed to the consideration of any fishery agree-
9 ment resolution shall be highly privileged and not
10 debatable. An amendment to the motion shall not
11 be in order, nor shall it be in order to move to re-
12 consider the vote by which the motion is agreed to
13 or disagreed to.

14 (B) Debate in the House of Representatives on
15 any fishery agreement resolution shall be limited to
16 not more than 20 hours, which shall be divided
17 equally between those favoring and those opposing
18 the bill or resolution. A motion further to limit de-
19 bate shall not be debatable. It shall not be in order
20 to move to recommit any fishery agreement resolu-
21 tion or to move to reconsider the vote by which any
22 fishery agreement resolution is agreed to or dis-
23 agreed to.

24 (C) Motions to postpone, made in the House of
25 Representatives with respect to the consideration of



1 any fishery agreement resolution, and motions to
2 proceed to the consideration of other business, shall
3 be decided without debate.

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

9 (E) Except to the extent specifically provided
10 in the preceding provisions of this subsection, con-
11 sideration of any fishery agreement resolution shall
12 be governed by the Rules of the House of Repre-
13 sentatives applicable to other bills and resolutions
14 in similar circumstances.

15 (5) FLOOR CONSIDERATION IN THE SENATE.—

16 (A) A motion in the Senate to proceed to the
17 consideration of any fishery agreement resolution
18 shall be privileged and not debatable. An amend-
19 ment to the motion shall not be in order, nor shall
20 it be in order to move to reconsider the vote by
21 which the motion is agreed to or disagreed to.

22 (B) Debate in the Senate on any fishery
23 agreement resolution, and all debatable motions and
24 appeals in connection therewith, shall be limited to
25 not more than 20 hours. The time shall be equally



1 divided between, and controlled by, the majority
2 leader and the minority leader or their designees.

3 (C) Debate in the Senate on any debatable
4 motion or appeal in connection with any fishery
5 agreement resolution shall be limited to not more
6 than 1 hour, to be equally divided between and con-
7 trolled by, the mover and the manager of the resolu-
8 tion, except that in the event the manager of the
9 resolution is in favor of any such motion or appeal,
10 the time in opposition thereto, shall be controlled by
11 the minority leader or his designee. Such leaders,
12 or either of them, may, from time under their con-
13 trol on the passage of any fishery agreement resolu-
14 tion, allot additional time to any Senator during the
15 consideration of any debatable motion or appeal.

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

19 (e) BOUNDARY AGREEMENTS.—The Secretary of State
20 shall initiate and conduct negotiations with adjacent or op-
21 posite foreign nations to establish the boundaries of the fish-
22 ery conservation zone of the United States in relation to any
23 such nation.

24 (f) NONRECOGNITION.—It is the sense of the Congress
25 that the United States Government shall not recognize the



1 claim of any foreign nation to a fishery conservation zone, or
2 its equivalent, beyond 12 nautical miles from the baseline
3 from which the territorial sea is measured, if such nation—

4 (1) fails to consider and take into account tradi-
5 tional fishing activity of vessels of the United States, if
6 any, within such zone;

7 (2) fails to consider and take into account tradi-
8 tional fishing activity of vessels of the United States with
9 respect to anadromous species or Continental Shelf fish-
10 ery resources as to which such nation asserts manage-
11 ment authority;

12 (3) fails to recognize and accept that highly migra-
13 tory species are to be managed by applicable interna-
14 tional fishery agreements, whether or not such nation
15 is a party to any such agreement; or

16 (4) imposes on fishing vessels of the United States
17 conditions which are unrelated to fishery management
18 and conservation.

19 **SEC. 114. PERMITS REQUIRED OF FOREIGN VESSELS.**

20 (a) **IN GENERAL.**—No vessel of any foreign nation
21 shall engage in fishing within the fishery conservation zone
22 or in fishing seaward of such zone for any anadromous
23 species or Continental Shelf species, unless such vessel has
24 on board a valid permit issued by the Secretary in accord-
25 ance with the provisions of this Act.



1 (b) PERMIT APPLICATIONS.—

2 (1) ELIGIBILITY FOR APPLICATIONS.—Any for-
3 eign nation with which the United States has entered
4 into an applicable international fishery agreement con-
5 cluded pursuant to this Act may apply to the Secretary
6 of State for a permit referred to in subsection (a) on
7 behalf of one or more vessels registered under its flag.

8 (2) APPLICATION AND PERMIT FORMS.—The
9 Secretary, in consultation with the Secretary of State
10 and the Secretary of the department in which the Coast
11 Guard is operating, shall prescribe the form for applica-
12 tions made pursuant to this subsection and for permits
13 issued under any such application.

14 (3) INFORMATION IN APPLICATIONS.—The Sec-
15 retary of State shall not accept any application made
16 under this subsection unless the application specifies—

17 (A) the name and official number of each
18 fishing vessel for which a permit is sought;

19 (B) the tonnage, capacity, speed, processing
20 equipment, gear, and such other characteristics of
21 each vessel as the Secretary may require;

22 (C) the species of fish for which the vessel
23 or vessels will fish;

24 (D) the amount of fish or tonnage of catch
25 contemplated;



1 (E) the ocean area in which, and the season or
2 period during which, such fishing will be conducted;
3 and

4 (F) such other pertinent information as the
5 Secretary may require.

6 (4) TRANSMISSION OF APPLICATION FOR AC-
7 TION.—Upon receipt of any application the Secretary
8 of State shall—

9 (A) promptly transmit such application, to-
10 gether with his comments and recommendations
11 thereon, to the Secretary, and

12 (B) transmit a copy of the application to the
13 Secretary of the department in which the Coast
14 Guard is operating.

15 (c) APPROVAL OF APPLICATION AND ESTABLISH-
16 MENT OF CONDITIONS.—Upon receipt of any application,
17 and after consultation with the Secretary of the department
18 in which the Coast Guard is operating with respect to en-
19 forcement, and after taking into consideration the determina-
20 tions, views, and recommendations of the Secretary of State,
21 the Secretary, if he determines that the fishing activity pro-
22 posed in the application is consistent with the provisions of
23 this Act, shall approve the application and shall establish
24 such conditions that are consistent with the provisions of this



1 Act which shall apply to fishing by the vessels of the for-
2 eign nation concerned, including—

3 (1) any adjustment deemed necessary by the
4 Secretary in the number of foreign fishing vessels for
5 which permits may be issued for any fishery or stock
6 of fish;

7 (2) all requirements imposed by the applicable
8 fishery management plan;

9 (3) the condition that no permit issued to any vessel
10 may be used by any other vessel;

11 (4) enforcement conditions, including but not lim-
12 ited to—

13 (A) procedures which will apply with respect
14 to the boarding and inspection of the vessels, in-
15 cluding the requirement that the permit issued to any
16 vessel pursuant to this section must be prominently
17 displayed in the wheelhouse of the vessel and must
18 be promptly shown to any officer authorized to
19 enforce the provisions of this Act at the time of his
20 boarding.

21 (B) requirements for on-board observers and
22 reimbursement to the United States for the costs of
23 such observers,

24 (C) requirements that the needs have trans-
25 ponders or such other appropriate position-fixing



1 equipment as the Secretary of the department in
2 which the Coast Guard is operating determines to
3 be appropriate,

4 (D) prepayment of any license fees imposed
5 under subsection (d), and

6 (E) specification of agents within the United
7 States who are authorized to receive legal process
8 issued with respect to the owner or operator of
9 any such vessel.

10 (5) requirements relating to the reimbursement for
11 fishing gear damage to vessels of the United States
12 caused by the foreign vessels; and

13 (6) any other condition which the Secretary deems
14 necessary and appropriate.

15 (d) FEES.—The Secretary shall establish a schedule of
16 reasonable fees which shall be paid to the Secretary by any
17 vessel of a foreign nation authorized to fish pursuant to
18 this section. In determining the level of such fees, the Secre-
19 tary may take into account the cost of management, research,
20 administration, enforcement, and other relevant factors.

21 (e) ISSUANCE OF PERMITS.—If a foreign nation informs
22 the Secretary of State of its acceptance of the conditions
23 established by the Secretary under subsection (c) with
24 respect to an application made by that nation, the Secretary



1 shall issue, through the Secretary of State, permits for the
2 appropriate vessels of that nation.

3 (f) SUSPENSION OR REVOCATION OF PERMITS.—

4 (1) REPEATED VIOLATIONS.—If the Secretary
5 finds that any fishing vessel to which a permit is issued
6 pursuant to this section has been repeatedly used in the
7 commission of acts prohibited by section 201 or for
8 which civil penalties are assessed pursuant to section
9 ———, the Secretary may suspend the permit for such
10 period of time as he deems appropriate, or may revoke
11 the permit,

12 (2) FAILURE TO PAY ASSESSMENT.—In any case
13 in which any fishing vessel to which a permit is issued
14 pursuant to this section—

15 (A) is used in the commission of any act pro-
16 hibited by section 201 and is not seized pursuant
17 thereto; and

18 (B) a civil penalty is assessed pursuant to
19 section ———,

20 the Secretary shall, if such civil penalty is not paid within
21 a reasonable period of time after the date of the assess-
22 ment, suspend the permit until such time as the penalty
23 is paid.

24 (f) IMPORT PROHIBITION.—(1) If after a reasonable



1 period of time the Secretary of State is unable to achieve an
2 agreement affording vessels of the United States an appro-
3 priate portion of fish stocks found in areas subject to the
4 fishery management jurisdiction of any foreign nation, in
5 accordance with traditional fishing practices of such vessels
6 and under conditions equal to those established under section
7 112 of this Act, and determines that such nation—

8 (A) has refused to commence negotiations;

9 (B) has failed to negotiate in good faith; or

10 (C) is not complying with its obligations under any
11 existing agreement concerning fishing by United States
12 vessels for fish stocks subject to such nation's fishery
13 management jurisdiction,

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

16 (2) If any United States vessel, while fishing in
17 waters beyond twelve nautical miles from the baseline from
18 which a foreign nation's territorial sea is measured, is seized
19 by such nation—

20 (A) as a consequence of a claim of jurisdiction
21 which is not recognized by the United States; or

22 (B) such seizure is in violation of an existing
23 international agreement or is not permitted by an agree-
24 ment between the United States and such nation;



1 the Secretary of State may certify such action to the Secretary
2 of the Treasury.

3 (3) Upon receipt of any such certification from the
4 Secretary of State under paragraph (1) or (2) of this sub-
5 section, the Secretary of the Treasury shall immediately
6 take such action as may be necessary and appropriate to pro-
7 hibit the importation into the customs territory of the United
8 States—

9 (A) of all fish or fish products from the fishery
10 involved, and

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

16 (4) Any import prohibition imposed under this sub-
17 section shall remain in effect (A) until an agreement is
18 achieved, (B) until such nation complies with its obligations
19 under such existing agreement, or (C) until the seized vessel
20 and its catch are released, as the case may be.

21 (5) For the purposes of this section, the term “fish” or
22 “fish products” means any fish, or any article which is the
23 product of or which is composed in whole or part of such
24 fish, caught by vessels other than vessels of the United States.



1 CHAPTER 3—NATIONAL FISHERY MANAGEMENT
2 PROGRAM

3 SEC. 121. NATIONAL STANDARDS FOR FISHERY MANAGE-
4 MENT AND CONSERVATION.

5 (a) IN GENERAL.—Any fishery management plan and
6 any regulation promulgated pursuant to this title, shall con-
7 form to the following national standards for fishery manage-
8 ment and conservation:

9 (1) Management and conservation measures shall
10 prevent overfishing and assure on a continuing basis,
11 the optimum yield for each fishery and the full utiliza-
12 tion of fishery resources.

13 (2) Management and conservation measures shall
14 be based upon the best scientific information available.

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

19 (4) Management and conservation measures shall
20 not discriminate between residents of different States. If
21 it becomes necessary to allocate or assign fishing privi-
22 leges among various United States fishermen, such allo-
23 cation shall be (A) fair and equitable to all such fisher-
24 men; (B) reasonably calculated to promote conserva-
25 tion; and (C) carried out in such manner that no par-



1 ticular individual, corporation, or other entity acquires
2 an excessive share of such privileges.

3 (5) Management and conservation measures shall,
4 where appropriate, promote efficiency in the utilization
5 of fishery resources, except that any such measures shall
6 not have economic allocation as its sole purpose.

7 (6) Management and conservation measures shall
8 allow for unpredicted variations in fishery resources and
9 their environment and for contingencies and possible
10 delays in application.

11 (7) Management and conservation measures shall,
12 where appropriate, minimize research, administration,
13 and enforcement costs and shall avoid unnecessary
14 duplication.

15 (b) GUIDELINES.—The Secretary shall establish guide-
16 lines, based on the national standards, to assist the Councils
17 in developing fishery management plans and in developing
18 proposed regulations to implement such plans.

19 **SEC. 122. REGIONAL FISHERY MANAGEMENT COUNCILS.**

20 (a) ESTABLISHMENT.—There shall be established, with-
21 in 90 days after the date of enactment of this Act, eight Re-
22 gional Fishery Management Councils, as follows:

23 (1) The New England Fishery Management Coun-
24 cil (hereafter in this chapter referred to as the “New
25 England Council”). The New England Council, which



1 shall consist of the States of Maine, New Hampshire,
2 Massachusetts, Rhode Island, and Connecticut, shall
3 have authority over the fisheries in the Atlantic Ocean
4 seaward of such States.

5 (2) The Mid-Atlantic Fishery Management Council
6 (hereafter in this chapter referred to as the "Mid-
7 Atlantic Council"). The Mid-Atlantic Council, which
8 shall consist of the States of New York, New Jersey,
9 Delaware, Pennsylvania, Maryland, and Virginia, shall
10 have authority over the fisheries in the Atlantic Ocean
11 seaward of such States.

12 (3) The South Atlantic Fishery Management Coun-
13 cil (hereafter in this chapter referred to as the "South
14 Atlantic Council"). The South Atlantic Council, which
15 shall consist of the States of North Carolina, South Caro-
16 lina, Georgia, and Florida, shall have authority over the
17 fisheries in the Atlantic Ocean seaward of such States.

18 (4) The Caribbean Fishery Management Council
19 (hereafter in this chapter referred to as the "Caribbean
20 Council"). The Caribbean Council, which shall consist
21 of the Virgin Islands and the Commonwealth of Puerto
22 Rico, shall have authority over the fisheries in the Carib-
23 bean Sea and Atlantic Ocean seaward of such States.

24 (5) The Gulf of Mexico Fishery Management
25 Council (hereafter in this chapter referred to as the "Gulf



1 Council"). The Gulf Council, which shall consist of the
2 States of Texas, Louisiana, Mississippi, Alabama, and
3 Florida, shall have authority over the fisheries in the
4 Gulf of Mexico seaward of such States.

5 (6) The Pacific Fishery Management Council
6 (hereafter in this chapter referred to as the "Pacific
7 Council"). The Pacific Council, which shall consist of
8 the States of California, Oregon, Washington, and Idaho
9 shall have authority over the fisheries in the Pacific
10 Ocean seaward of California, Oregon, and Washington.

11 (7) The North Pacific Fishery Management Coun-
12 cil (hereafter in this chapter referred to as the "North
13 Pacific Council"). The North Pacific Council, which
14 shall consist of the States of Alaska, Washington, and
15 Oregon, shall have authority over the fisheries in the
16 Arctic Ocean, Bering Sea, and Pacific Ocean seaward
17 of Alaska.

18 (8) The Western Pacific Fishery Management
19 Council (hereinafter in this chapter referred to as the
20 "Western Pacific Council"). The Western Pacific Coun-
21 cil, which shall consist of the States of Hawaii, Ameri-
22 can Samoa, Guam, and the Trust Territory of the Pacific
23 Islands, shall have authority over the fisheries in the
24 Pacific Ocean seaward of such States.

25 (b) MEMBERSHIP OF COUNCIL.—



1 (1) NUMBER OF VOTING MEMBERS.—Each Coun-
2 cil shall reflect the expertise and interest of the several
3 constituent States in the ocean area over which such
4 Council is granted authority. The voting membership of
5 each Council shall consist of the senior executive officer
6 of each constituent State who is responsible for manag-
7 ing marine fisheries resources, and the following addi-
8 tional members:

9 (A) Except in the case of the North Pacific
10 Council, such additional members, appointed by the
11 Secretary from a list of names of qualified individ-
12 uals, 5 of which shall be submitted by the chief
13 executive officer of each constituent State, as
14 follows:

- 15 (i) 10 on the New England Council;
16 (ii) 13 on the Mid-Atlantic Council;
17 (iii) 9 on the South Atlantic Council;
18 (iv) 5 on the Caribbean Council;
19 (v) 10 on the Gulf Council;
20 (vi) 9 on the Pacific Council; and
21 (vii) 9 on the Western Pacific Council.

22 (B) In the case of the North Pacific Council,
23 the Secretary shall appoint 4 additional members
24 from a list of 8 names of qualified individuals sub-
25 mitted by the Governor of Alaska and 2 additional



1 members from a list of 4 names of qualified indi-
2 viduals submitted by the Governor of Washington.

3 In appointing members of each Council, the Secretary
4 shall insure that each constituent State is represented
5 by at least one qualified individual from that State. As
6 used in this paragraph, the term "qualified individual"
7 means an individual who is knowledgeable or experi-
8 enced with regard to the management, conservation, or
9 recreational or commercial harvest of fishery resources.

10 (2) NUMBER OF NONVOTING MEMBERS.—The non-
11 voting membership of each Council shall consist of—

12 (A) the regional director of the National
13 Marine Fisheries Service for the geographical area
14 concerned;

15 (B) the regional director or area director
16 of the United States Fish and Wildlife Service for
17 the geographical area concerned;

18 (C) the commander of the Coast Guard dis-
19 trict for the geographical area concerned, or in any
20 case in which two Coast Guard districts are within
21 such geographical area, the commander designated
22 by the Commandant of the Coast Guard;

23 (D) the executive director of the Marine Fish-
24 eries Commission for the geographical area con-
25 cerned; and



1 (E) one representative of the Department of
2 State designated by the Secretary of State.

3 In addition, the Pacific Council shall have one non-
4 voting member who shall be appointed by, and serve at
5 the pleasure of, the Governor of Alaska.

6 (3) TIME LIMITATIONS ON SELECTION AND AP-
7 POINTMENT OF CERTAIN INITIAL MEMBERS OF COUN-
8 CILS.—With respect to the initial membership of the
9 Councils established under this section—

10 (A) not later than 45 days after the date of the
11 enactment of this Act, the chief executive officer of
12 each constituent State shall select and transmit to
13 the Secretary the names of those qualified individuals
14 which he is entitled to submit under paragraph (1)
15 (A) or (B) of this subsection; and

16 (B) not later than 90 days after such date of
17 enactment—

18 (i) the chief executive officer of each con-
19 stituent State shall notify the Secretary of the
20 senior executive officer responsible for managing
21 marine fisheries resources of the State, and

22 (ii) the Secretary shall appoint the voting
23 members of all Councils from the lists of quali-
24 fied individuals transmitted to him.

25 (4) TERMS.—



1 (A) Except as provided in subparagraph (B)
2 of this paragraph, any member appointed pursuant
3 to paragraph (1) (A) or (B) shall be appointed
4 for a term of 3 years.

5 (B) Of the members first appointed to each
6 Council pursuant to paragraph (1) (A) or (B), the
7 Secretary, at the time of appointment, shall des-
8 ignate one-third thereof to serve for terms of 1 year,
9 one-third thereof to serve for terms of 2 years, and
10 one-third thereof to serve for terms of 3 years; except
11 that in the case of the following Councils, the follow-
12 ing number of members shall serve for terms of 3
13 years:

14 (i) The New England Council and the
15 Gulf Council, 4 years.

16 (ii) The Mid-Atlantic Council, 5 years.

17 (iii) The Carribean Council, 3 years.

18 (5) VACANCIES.—Any vacancy in the member-
19 ship of any Council shall be filled in the manner in which
20 the original appointment was made.

21 (c) PAY AND TRAVEL EXPENSES.—The voting mem-
22 bers of each Council, who are not employed by the Federal
23 Government or any State or local government, shall receive
24 compensation at the daily rate for GS-18 of the General
25 Schedule when engaged in the actual performance of duties



1 for such Council, and all members, whether or not entitled to
2 vote, shall be reimbursed for actual expenses incurred in the
3 performance of such duties.

4 (d) TRANSACTION OF BUSINESS.—

5 (1) QUORUM.—A majority of the voting members
6 of any Council shall constitute a quorum, but a lesser
7 number may hold hearings.

8 (2) CHAIRMEN.—A Chairman for each Council
9 shall be elected by the voting members of each Council
10 from among the voting members.

11 (3) MEETINGS.—Each Council shall meet at the
12 call of the Chairman or a majority of its members, but
13 shall meet at least 1 day during each calendar quarter.

14 (e) STAFF AND ADMINISTRATION.—

15 (1) COUNCIL STAFF.—Each Council may appoint,
16 and assign duties to, an executive director and such other
17 full- and part-time administrative employees as are
18 necessary to the performance of its business. Each Coun-
19 cil shall appoint persons to committees established under
20 subsection (f) of this section.

21 (2) DETAIL OF FEDERAL PERSONNEL.—Upon the
22 request of any Council, and after consultation with the
23 Secretary, the head of any Federal agency is authorized
24 to detail to that Council, on a reimbursable basis, any of



1 the personnel of such agency to the Council to assist in
2 carrying out its functions under this Act.

3 (3) SUPPORT SERVICES.—The Secretary shall
4 provide to each Council such administrative support
5 services as are necessary for the effective functioning of
6 the Council.

7 (4) ORGANIZATION, PRACTICES, AND PROCE-
8 DURES.—Each Council shall determine its organization,
9 and prescribe its practices and procedures for carrying
10 out its function under this Act, in accordance with such
11 uniform standards as shall be prescribed by the Secre-
12 tary. Each Council shall publish and make available to
13 the public a statement of its organization, procedure, and
14 practices.

15 (f) COMMITTEES APPOINTED BY COUNCIL.—(1) Each
16 Council shall establish, maintain, and appoint the members
17 of, a scientific and statistical committee to assist it in the
18 development, collection, and evaluation of such statistical,
19 biological, economic, social, and other scientific information
20 as is relevant to management plans or recommended regu-
21 lations.

22 (2) Each Council may establish advisory panels to
23 assist the Council in carrying out its functions under this
24 Act.



1 (g) FUNCTIONS.—

2 (1) IN GENERAL.—Each Council shall—

3 (A) develop fishery management plans pursu-
4 ant to section 12, and amendments thereto, for adop-
5 tion by the Secretary, and take such other actions
6 with respect to fishery management plans as may be
7 required by such section;

8 (B) conduct public hearings, at appropriate
9 times and in appropriate locations in the geo-
10 graphical area concerned, so as to allow all in-
11 terested persons an opportunity to be heard in the
12 development of fishery management plans and
13 amendments thereto;

14 (C) solicit, by means of public hearings to the
15 extent practicable, and evaluate on a continuing
16 basis comments and recommendations from all in-
17 terested persons in the geographical area concerned
18 with respect to the administration and implementa-
19 tion of the provisions of this Act;

20 (D) carry out such other functions as are neces-
21 sary and appropriate for the effective management
22 and conservation of fishery resources within its geo-
23 graphic area of authority;

24 (E) submit to the Secretary, within 30 days
25 after the close of each calendar quarter, a report set-



1 ting forth the results of the Council's activities under
2 this Act during such quarter; and

3 (F) report to the Secretary on such other rele-
4 vant matters as are requested.

5 (2) STATEMENT OF DISAGREEMENT.—If any mat-
6 ter submitted to the Secretary pursuant to subparagraph
7 (A), (E), or (F) of paragraph (1) did not receive the
8 unanimous vote of the Council, the members of the
9 Council in disagreement may submit to the Secretary a
10 statement setting forth the reasons for their disagreement.

11 **SEC. 123. PREPARATION OF FISHERY MANAGEMENT**
12 **PLANS BY COUNCILS.**

13 (a) PLANS PREPARED ON INITIATIVE OF COUNCIL OR
14 AT REQUEST OF SECRETARY.—With respect to any fishery
15 for any species of fish over which the United States exercises
16 exclusive management authority under section 102—

17 (1) any Council may [shall] at any time prepare
18 a fishery management plan; and

19 (2) the Secretary may at any time request any
20 Council to prepare a fishery management plan; except
21 that in any case in which the Secretary of State notifies
22 the Secretary that any foreign nation has indicated a
23 wish to engage in fishing for a species for which no
24 fishery management plan has been developed or imple-



1 mented under this chapter, the Secretary shall immedi-
2 ately request the appropriate Council to prepare a plan.
3 In any case in which a fishery extends beyond the geographic
4 area of authority of any one Council, the Secretary shall
5 require that any fishery management plan for that fishery
6 be jointly prepared by the Councils concerned.

7 (b) GEOGRAPHICAL APPLICATION OF PLANS.—Any
8 fishery management plan prepared pursuant to this section
9 for any fishery shall apply with respect to the waters of the
10 fishery conservation zone that are within the geographic area
11 of authority (as set forth in section 122) of the Council or
12 Councils preparing the plan (and seaward of such zone in
13 the case of anadromous species and Continental Shelf fishery
14 resources).

15 (c) SCOPE OF MANAGEMENT PLANS.—Any fishery
16 management plan which is prepared by any Council shall—

17 (1) contain the conservation and management
18 measures which the Council deems appropriate with
19 respect to the conservation and management of the fish-
20 ery concerned;

21 (2) contain a description of the fishery, including,
22 but not limited to, the number of vessels involved, the
23 type of gear used, the species of fish involved and their
24 location, the costs likely to be incurred in management,
25 the potential revenue from the fishery, the recreational



1 interests in the fishery, and the nature and extent of
2 foreign fishing and Indian treaty fishing rights, if any;

3 (3) specify (i) the capacity and desire of vessels
4 of the United States to harvest on an annual basis the
5 optimum yield from the fishery, and (ii) the surplus in
6 the fishery which can be made available for foreign
7 fishing on an annual basis without risk of overfishing;

8 (4) specify such conditions and limitations govern-
9 ing fishing by any vessel documented under the laws of
10 the United States or registered under the laws of any
11 State, or by any other vessel, which the Council be-
12 lieves should be implemented to carry out the measures
13 referred to in subparagraph (A) within the territorial
14 sea of the United States, the fishery conservation zone,
15 and, in the case of any anadromous species or Continen-
16 tal Shelf species, in waters seaward of such zone; and

17 (5) contain any other relevant and appropriate
18 information, data, and evaluations.

19 (d) RELATIONSHIP TO STATE FISHERIES MANAGE-
20 MENT PLANS.—(1) To the extent practicable and con-
21 sistent with the national standards, each Council shall in-
22 corporate, in its fishery management plans and recommended
23 regulations, the relevant fishery management measures of
24 the coastal State or States nearest to the fishery involved.

25 (2) To the extent practicable, fishery management reg-



1 ulations shall be put into effect in a manner which does not
2 disrupt the regular fishing season for any fishery.

3 (e) INFORMATION WITH RESPECT TO RELEVANT
4 INTERNATIONAL OBLIGATIONS.—The Secretary shall pro-
5 vide to any Council which is preparing a fishery management
6 plan such information as may be appropriate with respect
7 to those international fisheries agreements and any other
8 pertinent information relating to foreign fishing which apply,
9 or may apply, within the fishery conservation zone and in
10 waters seaward of such zone with respect to the fishery cov-
11 ered by the plan.

12 (e) SPECIFIC PLAN REQUIREMENTS.—Any fishery
13 management plan prepared by any Council may—

14 (1) designate zones where, and designate periods
15 when, fishing shall be limited, or shall not be permitted,
16 or shall be permitted only by specified vessels or with
17 specified gear;

18 (2) establish a system under which access to the
19 fishery shall be limited in order to achieve optimum
20 sustainable yield on a basis which may recognize, among
21 other considerations, present participation in the fishery
22 or fisheries, historical fishing practices and dependence
23 on the fishery, value of existing investments in vessels
24 and gear, capability of existing vessels to engage in other
25 fisheries, history of compliance with fisheries regulations



1 imposed pursuant to this Act, and the cultural and social
2 framework in which the fishery is conducted;

3 (3) establish limitations on the catch of fish based
4 on area, species, size, number, weight, sex, incidental
5 catch, total biomass, and other factors necessary to
6 carry out the policy and purposes of this Act, including
7 the size or number or nature of the vessels or gear used
8 in such catch;

9 (4) prohibit, limit, condition, or require the use of
10 specified types of fishing gear, vessels, or equipment for
11 such vessels, including devices which may be required
12 solely or partially to facilitate enforcement of the pro-
13 visions of this Act;

14 (5) require a license or permit to be issued by the
15 Secretary as a condition to engaging in any fishery or
16 other activity regulated pursuant to this Act;

17 (6) require the submission to the Secretary of
18 pertinent statistics, including but not limited to infor-
19 mation regarding type of fishing gear used, catch by
20 species in numbers of fish or weight thereof, areas in
21 which fishing was engaged in, time of fishing, and
22 number of hauls; and

23 (7) prescribe such other limitations or require-
24 ments as the Council deems necessary and appropriate
25 to carry out the purposes of this Act.



1 (f) CONFIDENTIALITY OF STATISTICS.—Statistics
2 which are required to be submitted to the Secretary by
3 persons pursuant to subsection (c) (6) shall be confidential
4 (except when required under court order) and the Secre-
5 tary shall by regulation prescribe such procedures as may
6 be necessary to preserve such confidentiality. Such statistics
7 may be released or made public in any aggregate or sum-
8 mary form which does not directly or indirectly disclose the
9 identity or business of such persons.

10 (g) PROPOSED REGULATIONS.—Each Council shall
11 prepare such proposed regulations as it deems necessary
12 and appropriate to carry out any fishery management plan
13 prepared by it and the Secretary shall take such regulations
14 into account when developing regulations to be promulgated
15 pursuant to section —

16 **SEC. 124. REVIEW, ADOPTION, OR OTHER ACTION BY SEC-**
17 **RETARY REGARDING FISHERY MANAGEMENT**
18 **PLANS.**

19 (a) ACTION BY SECRETARY AFTER RECEIPT OF
20 PLAN.—Upon receipt of any fishery management plan
21 prepared by any Council, the Secretary, within 60 days
22 after the date on which the plan is received, shall—

23 (1) review the plan as provided for in subsection
24 (c) ;



1 (2) notify in writing the Council of his approval,
2 partial approval, or disapproval of the plan; and

3 (3) in the case of partial approval or disapproval
4 of the plan, include with such notification his objections
5 thereto and the reasons therefor, and request the Council
6 to amend the plan within 45 days.

7 (b) AMENDED PLAN.—Within 30 days after receiving
8 an amended fishery management plan requested by him pur-
9 suant to subsection (a) (3), the Secretary shall notify in
10 writing the Council of his approval or disapproval and, in
11 the case of disapproval, his reasons therefor.

12 (c) REVIEW OF PLANS.—The Secretary shall review
13 any fishery management plan submitted to him by any Coun-
14 cil to determine whether the plan is consistent with the na-
15 tional standards and with the provisions and requirements of
16 this Act and any other applicable law. In carrying out such
17 review, the Secretary shall—

18 (1) if the plan will apply to foreign fishing, con-
19 sult with the Secretary of State; and

20 (2) if the plan involves methods and procedures
21 for enforcement at sea, consult with the Secretary of the
22 department in which the Coast Guard is operating.

23 (d) PREPARATION OF PLANS BY SECRETARY.—If any
24 Council which is requested by the Secretary to prepare a



1 fishery management plan fails to do so within such reason-
2 able time as shall be specified by the Secretary, or if the
3 Secretary disapproves an amended plan under subsection
4 (b) and he determines that such a plan is needed, then the
5 Secretary shall prepare a fishery management plan for the
6 fishery concerned; but no such plan may establish a limited
7 access system under section 123 (e) (2) unless such system
8 has been approved by a majority of the voting membership
9 of the Council involved who are present and voting. The
10 fishery management plan requirements set forth in section
11 123 (e) apply with respect to any plan prepared by the
12 Secretary.

13 **SEC. 125. AMENDMENTS TO FISHERY MANAGEMENT**
14 **PLANS.**

15 All provisions of this chapter relating to the development,
16 submission, review, and implementation of fishery manage-
17 ment plans shall apply with respect to any amendment to
18 any such plan after the plan is implemented pursuant to sec-
19 tion 127, regardless whether such amendment is initiated by
20 a Council or the Secretary requests a Council to develop it.

21 **SEC. 126. LICENSE FEES FOR UNITED STATES FISHER-**
22 **MEN.**

23 **[To be added]**



1 SEC. 127. IMPLEMENTATION OF FISHERY MANAGEMENT

2 PLANS.

3 (a) IN GENERAL.—After the Secretary has approved
4 any fishery management plan prepared by any Council or
5 prepared by him, the Secretary shall, as soon as practicable
6 thereafter publish in the Federal Register the plan and all
7 regulations which he proposes to promulgate in order to
8 implement the plan. Interested persons shall be afforded a
9 period of not less than 45 days after such publication within
10 which to submit written data, views, or comments on the
11 proposed regulations. Except as provided in subsection (b),
12 the Secretary may, after the expiration of such period and
13 after consideration of all relevant matters presented, promul-
14 gate the regulations with such modifications, if any, as he
15 deems appropriate.

16 (b) OBJECTIONS TO PROPOSED REGULATIONS.—On
17 or before the last day of a period fixed for the submission of
18 written data, views, or comments under subsection (a), any
19 citizen (which for purposes of this section means any indi-
20 vidual, corporation, partnership, or other legal entity domi-
21 ciled in any State) who, or any State which, may be
22 adversely affected by the plan or the proposed regulations
23 may file with the Secretary written objections to specific



1 provisions of the plan or the proposed regulations, stating the
2 grounds therefor, and may request a public hearing on such
3 objections. If the Secretary determines that the citizen filing
4 objections may be substantially and adversely affected and
5 such citizen has requested a hearing, or if a State requests a
6 hearing, the Secretary shall not promulgate the regulations
7 except as provided for by subsection (c).

8 (c) HEARINGS AFTER OBJECTIONS.—As soon as prac-
9 ticable after the period of filing objections has expired, if the
10 Secretary determines that any citizen of the United States
11 filing objections may be adversely affected and such citizen
12 has requested a hearing, or if a State requests a hearing, the
13 Secretary shall publish in the Federal Register a notice speci-
14 fying the time and place at which a public hearing shall be
15 held, the provisions of the proposed regulations to which such
16 objections have been filed, and such other provisions as he
17 may designate for consideration. The Secretary thereafter
18 shall hold a public hearing in accordance with section 553 of
19 title 5, United States Code, for the purpose of receiving infor-
20 mation relevant to the matters identified in the notice of hear-
21 ing. If two or more citizens of the United States or States
22 request hearings within the prescribed period and the Secre-
23 tary deems such hearing appropriate, the Secretary may con-
24 solidate such hearings in the interest of time and economy.
25 At the hearing any interested citizen or State may be heard.



1 As soon as practicable after the completion of the hearing,
2 the Secretary shall act upon such objections, make his deter-
3 minations public (including a statement of his reasons there-
4 for), and promulgate the regulations with such modifications,
5 if any, as he deems appropriate.

6 (d) REVISION OF REGULATIONS.—The Secretary may
7 from time to time revise any regulation promulgated pur-
8 suant to this section in accordance with the procedures pre-
9 scribed in subsections (a) through (c).

10 (e) EMERGENCY REGULATIONS.—Notwithstanding
11 subsections (a), (b), and (c), the Secretary may waive, if
12 the Council concerned consents, by the affirmative vote of not
13 less than two-thirds of the membership of the Council, to such
14 waiver, the requirements for notice and public hearing set
15 forth in such subsections with respect to any regulation im-
16 plementing any fishery management plan if he finds (and
17 incorporates the finding and a brief statement of the reasons
18 therefor in the publication of the regulation) that, due
19 to an emergency situation arising with respect to the fishery
20 concerned, notice and hearing thereon are impracticable, un-
21 necessary, or contrary to the public interest. Written objec-
22 tions to such procedure may be submitted within 30 days
23 after the effective date of any such emergency regulation. If
24 any such written objection is so received, the Secretary shall,
25 not later than 40 days after such effective date, initiate the



1 procedures set forth in subsection (a), (b), and (c). Any
2 emergency regulation promulgated pursuant to this subsec-
3 tion shall remain in effect for one year after the date on
4 which the Secretary publishes notice of proposed rulemak-
5 ing required by subsection (a), unless the Secretary termi-
6 nates such regulation by notice in the Federal Register at any
7 earlier date.

8 **SEC. 128. STATE JURISDICTION.**

9 (a) **IN GENERAL.**—Except as provided in subsection
10 (b), nothing in this Act shall be construed as extending or
11 diminishing the jurisdiction of any State seaward of the
12 coastline of the United States.

13 (b) **ASSERTION OF FEDERAL JURISDICTION IN CER-**
14 **TAIN INSTANCES.**—

15 (1) **FINDINGS.**—The Congress finds that anadro-
16 mous species, certain coastal species, and certain Con-
17 tinental Shelf species move, during their life cycles,
18 within waters over which more than one State has juris-
19 diction, and move from such waters to waters that are
20 not within the jurisdiction of any State. The Congress
21 further finds that, although the purpose of this Act is not
22 to affect State jurisdiction over fish principally within
23 waters under State jurisdiction, there may be instances
24 where Federal regulation within such waters of any
25 anadromous species, coastal species, or Continental Shelf



1 species may be necessary in order to insure the effective-
2 ness of a management plan implemented under this Act
3 for a fishery.

4 (2) FINDINGS AND ACTION BY SECRETARY.—If
5 the Secretary finds, after notice and opportunity for
6 agency hearing, that—

7 (A) any fishery management plan imple-
8 mented pursuant to this Act applies to any anadro-
9 mous species, coastal species, or any Continental
10 Shelf species which are to any extent, or are at any
11 time, under the jurisdiction of any State; and

12 (B) such State has taken any action, or omitted
13 to take any action, the result of which will sub-
14 stantially and adversely affect the carrying out of
15 the management plan which applies to a fishery,
16 the Secretary shall promptly notify the Council of which
17 such State is a constituent member of such finding and
18 of his intention to declare that such fishery within waters,
19 other than internal waters, under jurisdiction of the
20 State shall be subject to regulation by him pursuant to
21 the management plan.

22 (c) PRIOR COUNCIL APPROVAL OF ASSERTION OF
23 FEDERAL JURISDICTION.—Upon receipt of any notification
24 referred to in subsection (b) from the Secretary, the Coun-
25 cil shall immediately convene to consider the matter. If the



1 Council, by the affirmative vote of two-thirds or more of
2 the voting members present and voting, approves the action
3 proposed to be taken by the Secretary, he shall, as soon as
4 practicable thereafter, assume responsibility for the regula-
5 tion, pursuant to the management plan, of the fishery within
6 the waters (other than internal waters) under the jurisdic-
7 tion of the State concerned.

8 (d) RESUMPTION OF STATE REGULATION.—If the
9 Secretary, pursuant to subsection (b), assumes responsibility
10 for the regulation of any fishery within waters under the
11 jurisdiction of any State, the State may at any time there-
12 after apply to the Secretary for reinstatement of State regu-
13 lation of such fishery. If the Secretary finds, after notice and
14 opportunity for agency hearing, that the reasons for which
15 regulation of the fishery by him was assumed no longer pre-
16 vail, the Secretary shall promptly declare such fishery to be
17 subject to regulation by the State within that State's waters
18 pursuant to the fishery management plan.

19 **TITLE II—PROHIBITED ACTS, PEN-** 20 **ALTIES AND ENFORCEMENT**

21 **SEC. 201. PROHIBITED ACTS.**

22 (a) IN GENERAL.—It is unlawful for any person—

23 (1) to violate any provision of this Act or any
24 regulation promulgated under this Act to carry out any



1 fishery management plan implemented pursuant to this
2 Act;

3 (2) to violate any condition or restriction of any
4 permit issued pursuant to this Act or to use a vessel to
5 engage in fishing during any period in which such permit
6 is suspended;

7 (3) violate any provision of any international fish-
8 ery agreement to which the United States is a party
9 and which is negotiated pursuant to this Act, to the ex-
10 tent that such agreement applies to, or covers fishing
11 within, the fishery conservation zone;

12 (4) to refuse to permit any authorized representa-
13 tive of the Secretary, or of the Secretary of the Depart-
14 ment in which the Coast Guard is operating, to board
15 any fishing vessel under the control of such person if the
16 purpose of the requested boarding is to carry out any
17 inspection relating to the enforcement of this Act, any
18 regulation referred to in paragraph (1), or any condi-
19 tion or restriction referred to in paragraph (2);

20 (5) to forcibly assault, resist, oppose, impede, in-
21 timidate, or interfere with any authorized representative
22 of the Secretary, or of the Secretary of the Department
23 in which the Coast Guard is operating, who is engaged



1 in any reasonable inspection of a kind referred to in
2 paragraph (3); or

3 (6) to ship, transport, purchase, offer for sale, im-
4 port, export, or have in custody, possession, or control
5 any fish taken in violation of this Act, any regulation
6 referred to in paragraph (1), or any condition or re-
7 striction referred to in paragraph (2).

8 (b) ADDITIONAL PROHIBITED ACTS IN THE CASE OF
9 FOREIGN FISHERMEN.—It is unlawful for any vessel, except
10 a vessel of the United States, or for any master or other
11 person in charge of such a vessel, to engage in fishing—

12 (1) within the territorial waters of the United
13 States;

14 (2) within the fishery conservation zone unless such
15 fishing is authorized under a permit issued pursuant to
16 section 112; and

17 (3) beyond the fishery conservation zone for any
18 anadromous species or Continental Shelf fishery resource
19 for which a fishery management plan has been imple-
20 mented under chapter 3 of this Act unless such fishing
21 is authorized under a permit issued pursuant to section
22 112.

23 (c) REBUTTABLE PRESUMPTION.—For the purposes
24 of this section, it shall be a rebuttable presumption that all
25 fish found on board a vessel seized in connection with an act



1 prohibited under this section were taken or retained in viola-
2 tion of this Act.

3 **SEC. 202. CIVIL PENALTIES.**

4 (a) **ASSESSMENT OF PENALTY.**—Any person who is
5 found by the Secretary, after notice and an opportunity for a
6 hearing in accordance with section 554 of title 5, United
7 States Code, to have committed an act prohibited by sub-
8 section (a) (1), (2), (3), or (6) of section 201 shall be
9 liable to the United States for a civil penalty. The amount of
10 the civil penalty shall not exceed \$25,000 for each violation.
11 Each day of a continuing violation shall constitute a separate
12 offense. The amount of such civil penalty shall be assessed
13 by the Secretary, or his designee, by written notice. In deter-
14 mining the amount of such penalty, the Secretary shall take
15 into account the nature, circumstances, extent, and gravity of
16 the prohibited acts committed and, with respect to the vio-
17 lator, the degree of culpability, any history of prior offenses,
18 ability to pay, and such other matters as justice may require.

19 (b) **REVIEW OF CIVIL PENALTY.**—Any person against
20 whom a civil penalty is assessed under subsection (a) may
21 obtain review thereof in the appropriate court of the United
22 States by filing a notice of appeal in such court within 30
23 days from the date of such order and by simultaneously
24 sending a copy of such notice by certified mail to the Secre-
25 tary. The Secretary shall promptly file in such court a certi-



1 fied copy of the record upon which such violation was found
2 or such penalty imposed, as provided in section 2112 of title
3 28, United States Code. The findings of the Secretary shall
4 be set aside if found to be unsupported by substantial evi-
5 dence as provided by section 706 (2) of title 5, United
6 States Code.

7 (c) ACTION UPON FAILURE TO PAY ASSESSMENT.—

8 If any person fails to pay an assessment of a civil penalty
9 after it has become a final and unappealable order, or after
10 the appropriate court has entered final judgment in favor of
11 the Secretary, the Secretary shall refer the matter to the
12 Attorney General, who shall recover the amount assessed in
13 any appropriate district court of the United States. In such
14 action, the validity and appropriateness of the final order
15 imposing the civil penalty shall not be subject to review.

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

20 SEC. 203. CRIMINAL PENALTIES.

21 Any person who commits any act prohibited by subsec-
22 tion (a) (4) or (5) or (b) of section 201 shall be fined
23 not more than \$50,000; except that if such person uses a
24 deadly or dangerous weapon in the commission of any such



1 act, such person shall be fined not more than \$100,000, or
2 imprisoned for not more than 10 years, or both.

3 **SEC. 204. FORFEITURE.**

4 (a) APPLICATION FOR FORFEITURE.—Any district
5 court of the United States shall have jurisdiction, upon ap-
6 plication by the Attorney General, to order forfeited to the
7 United States any fishing vessel, catch, cargo, fishing gear,
8 or the monetary value thereof as determined by the court,
9 used, intended for use, or acquired in the commission by any
10 person of any act prohibited by section 201. In any such pro-
11 ceeding, such court may at any time enter such restraining
12 orders or prohibitions or take such other actions as are in the
13 interest of justice, including the acceptance of satisfactory
14 performance bonds in connection with any property subject
15 to forfeiture.

16 (b) SEIZURE.—If a judgment is entered under this sec-
17 tion for the United States, the Attorney General is author-
18 ized to seize all property or other interest declared forfeited
19 upon such terms and conditions as are in the interest of
20 justice. All provisions of law with respect to violations of
21 the customs laws relating to the disposition of forfeited prop-
22 erty, the proceeds from the sale of such property, the remis-
23 sion or mitigation of forfeitures and the compromise of
24 claims and the award of compensation to informants with



1 respect to forfeitures, shall apply to forfeitures incurred,
2 or alleged to have been incurred, under this section, insofar
3 as applicable and not inconsistent with the provisions of this
4 section. Such duties as are imposed upon the collector of
5 customs or any other person with respect to seizure, for-
6 feiture, or disposition of property under the customs laws
7 shall be performed with respect to property used, intended
8 for use, or acquired in the commission of any act prohibited
9 by section 201 by such officers or other persons as may be
10 designated for that purpose by the Secretary.

11 **SEC. 205. ENFORCEMENT.**

12 (a) **IN GENERAL.**—Any provisions of this Act, and any
13 regulation and permit issued thereunder shall be enforced
14 by the Secretary, and the Secretary of the Department in
15 which the Coast Guard is operating. In carrying out such
16 enforcement, the Secretary and the Secretary of the Depart-
17 ment in which the Coast Guard is operating may utilize by
18 agreement, with or without reimbursement, the personnel,
19 services, and facilities—

20 (1) of any other Federal agency; or

21 (2) of any State agency, but only for purposes of
22 enforcement with respect to (A) any vessel in the
23 fishery conservation zone, or (B) any vessel docu-
24 mented under the laws of the United States or otherwise



1 registered under the laws of any State, wherever any
2 such vessel may be found.

3 (b) AUTHORITY.—

4 (1) For purposes of this subsection, any reference
5 to a violation of the provisions of this Act includes any
6 violation of any regulation or permit issued pursuant to
7 this Act.

8 (2) Any individual who is authorized to enforce
9 the provisions of this Act under subsection (a) may—

10 (A) with or without a warrant or other
11 process—

12 (i) arrest any person committing in his
13 presence or view a violation of any provision of
14 this Act;

15 (ii) board and search or inspect any ves-
16 sel which is a vessel of the United States, or any
17 other fishery vessel subject to the jurisdiction of
18 the United States, within the fishery conserva-
19 tion zone or upon the high seas seaward of such
20 zone, and, if as a result of such search or inspec-
21 tion he has reasonable cause to believe that such
22 vessel or any person on board is in violation of
23 any provision of this Act, arrest such person;

24 (iii) seize any fishing vessel (together with



1 its tackle, apparel, furniture, appurtenances,
2 cargo and stores) used or employed in, or with
3 respect to which it reasonably appears that such
4 vessel was used or employed in, the violation
5 of any provision of this Act,

6 (iv) seize any fish, wherever found, taken
7 or retained in violation of any provision of this
8 Act, and

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

11 (B) execute any warrant or any other process
12 issued by any officer or court of competent jurisdic-
13 tion.

14 Any fishing vessel, together with its tackle, apparel, furni-
15 ture, appurtenances, cargo and stores, or fish, seized pursuant
16 to clause (iii) or (iv) of subparagraph (A) of this para-
17 graph may be disposed of pursuant to an order of a court of
18 competent jurisdiction, or, if perishable, in such manner as
19 may be prescribed by the Secretary by regulation.

20 (c) ISSUANCE OF WARNINGS.—In any case in which
21 any officer authorized to enforce the provisions of this Act
22 finds that a fishing vessel to which a permit has been issued
23 under this Act has been operated in such a manner as to
24 constitute a violation of any condition of the permit, but that
25 such violation is, in his judgment, a minor infraction, the



1 officer may, in lieu of citing the master of such vessel for
2 violation of section (201q) (2), issue the master a warning.
3 Any warning issued pursuant to this subsection shall be noted
4 in writing on the permit.

5 (c) JURISDICTION OF COURTS.—The judges of the
6 United States district courts shall have exclusive jurisdiction
7 over all cases arising under this Act, and any regulation
8 and permit issued thereunder and may issue all warrants
9 or other processes as may be necessary. In the case of Guam,
10 actions may be brought in the District Court of the United
11 the district court of Guam, and in the case of the Virgin
12 Islands such actions may be brought in the district court
13 of the Virgin Islands. In the case of American Samoa, such
14 actions may be brought in the District Court of the United
15 States for the District of Hawaii and such court shall have
16 jurisdiction of such actions.

17 (c) PROCEDURE.—Notwithstanding the provisions of
18 section 2464 of title 28, United States Code, when a warrant
19 of arrest or other process in rem is issued in any cause under
20 this section, the marshal or other officer shall stay the execu-
21 tion of such process, or discharge any fish seized if the
22 process has been levied, on receiving from the respondent
23 or claimant of the fish a bond or other surety satisfactory to
24 the court, conditioned to deliver the fish seized, if condemned,
25 without impairment in value or, in the discretion of the



1 court, to pay its equivalent value in money or otherwise
2 to answer the decree of the court in such case. Such bond
3 or other surety shall be returned to the court and judgment
4 thereon against both the principal and sureties may be re-
5 covered in the event of any breach of the conditions thereof
6 as determined by the court. In the discretion of the accused,
7 and subject to the direction of the court, the fish may be
8 sold for not less than its reasonable market value and the
9 proceeds of such sale placed in the registry of the court pend-
10 ing judgment in the case.

11 **TITLE III—EFFECTIVE DATE AND** 12 **MISCELLANEOUS PROVISIONS**

13 **SEC. 301. EFFECTIVE DATE.**

14 Except as provided in sections 104, 302, 303, and 304,
15 the provisions of this Act shall take effect on its date of
16 enactment, but the provisions of this Act with respect to
17 fishing within the fishery conservation zone and for anadro-
18 mous species shall not be effective for enforcement as to
19 violations before _____, 1977.

20 **SEC. 302. REPEALS.**

21 (a) The Act of October 14, 1966 (16 U.S.C. 1091-
22 1094), is repealed as of _____, 1977.

23 (b) The Act of May 20, 1964 (16 U.S.C. 1081-1086),
24 as amended by the Act of July 26, 1968 (82 Stat. 445), is
25 repealed as of _____, 1977.



1 **SEC. 303. FISHERMEN'S PROTECTIVE ACT AMENDMENTS.**2 **[to be added]**3 **SEC. 304. MARINE MAMMAL PROTECTION ACT AMEND-**
4 **MENT.**

5 (a) **AMENDMENT.**—Section 3 (15) (B) of the Marine
6 Mammal Protection Act of 1972 (86 Stat. 1029; 16 U.S.C.
7 1362 (15) (B)) is amended by striking out “the fisheries
8 zone established pursuant to the Act of October 14, 1966.”
9 and inserting in lieu thereof “the waters included within a
10 zone, contiguous to the territorial sea of the United States,
11 of which the inner boundary is a line formed by the seaward
12 boundaries of the coastal States, and the outer boundary
13 is a line drawn in such a manner that each point on it is 200
14 nautical miles from the baseline by which the territorial
15 sea is measured.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 subsection (a) shall take effect _____, 1977.

18 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

19 For purposes of carrying out this Act, there are au-
20 thorized to be appropriated to the Secretary not to exceed
21 the following sums:

22 (1) \$5,000,000 for the fiscal year ending June 30,
23 1976.

24 (2) \$5,000,000 for the transitional fiscal quarter
25 ending September 30, 1976.



- 1 (3) \$25,000,000 for the fiscal year ending Sep-
- 2 tember 30, 1977.
- 3 (4) \$30,000,000 for the fiscal year ending Sep-
- 4 tember 30, 1978.

○



PROPOSED CONFERENCE TEXT OF H.R. 2000

MARCH 12, 1976

FILE
SENT TO
MFR Jim
091524622
3-12-76

- 1 That this Act, with the following table of contents, may be
2 cited as the "_____".

TABLE OF CONTENTS

- Sec. 2. Congressional findings, purposes, and policy.
Sec. 3. Definitions.

TITLE I—FISHERY MANAGEMENT AUTHORITY
OF THE UNITED STATES

- Sec. 101. Fishery conservation zone.
Sec. 102. Exclusive fishery management authority.
Sec. 103. Highly migratory species.
Sec. 104. Effective date.

TITLE II—FOREIGN FISHING AND INTERNATIONAL
FISHERY AGREEMENTS

- Sec. 201. Foreign fishing.
Sec. 202. International fishery agreements.
Sec. 203. Congressional oversight of governing international fishery
agreements.
Sec. 204. Permits for foreign fishing.
Sec. 205. Import prohibitions.

TITLE III—NATIONAL FISHERY MANAGEMENT
PROGRAM

- Sec. 301. National standards for fishery management and conservation.
Sec. 302. Regional fishery management councils.
Sec. 303. Contents of fishery management plans.
Sec. 304. Preparation of fishery management plans by councils.
Sec. 305. Action by the Secretary on fishery management plans.
Sec. 306. Implementation of fishery management plans.
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Sec. 308. Fisheries research.
Sec. 309. State jurisdiction.
Sec. 310. Prohibited acts.
Sec. 311. Civil penalties.
Sec. 312. Criminal penalties.
Sec. 313. Civil forfeiture.
Sec. 314. Enforcement.
Sec. 315. Effective date of certain provisions.



Hold tel CL talks to

No letter

MEMORANDUM
OF CALL

No message

TO:

~~Charlie~~ **NETA** → **Over**

YOU WERE CALLED BY—

YOU WERE VISITED BY—

Paul Schlegel

OF (Organization)

Cong. Rinaldo

PLEASE CALL →

PHONE NO. CODE/EXT. 225-5361

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE

John Carlson made a statement a few weeks ago that the President would be sending a letter to Congress with a January ¹⁹⁷⁷ effective date for 200-mile fishing limit.

Do you know when this letter will be sent? = (OVER)

RECEIVED BY

DATE

TIME

nd

3/10

3:30

STANDARD FORM 63

REVISED AUGUST 1967

GSA FPMR (41 CFR) 101-11.6

GPO : 1969-O-48-16-80341-1 382-389

63-108

Done 3/16/76

3864 Done Ogilvie

Charlie - Thought I could
get answer but Ogilvie says
Marty & I are handling
this exclusively.

NO LETTER BEING
SENT CONFERENCES MEET
THIS A.M. - ADMIN. HAS
ADVISED CONFERENCES THAT
MARTY'S DATE IS WHAT
WE WANT.

THE WHITE HOUSE
WASHINGTON

Charlie

Lex Snay called from State Dept. with following message -

"The Conference Report will go to floor fairly soon in an ordinary course of events unless the White House takes some action to request the Committee not to go to the floor until after the conference in New York is concluded. "

Neta

3/17/76

Neta



N077

UW
URGENT-
200-MILE LIMIT
BY HARRISON HUMPHRIES

WASHINGTON (AP) -- SENATE AND HOUSE CONFEREES AGREED TODAY ON LEGISLATION TO ESTABLISH A 200-MILE LIMIT FOR U.S. FISHERY JURISDICTION, EFFECTIVE MARCH 1, 1977.

THE COMPROMISE BILL WOULD EFFECTIVELY BAN FOREIGN FISHING OF SOME 14 SPECIES OF COMMERCIAL FISH EXCEPT UPON DETERMINATION BY EIGHT REGIONAL COUNCILS THAT A SURPLUS EXISTS BEYOND THE CAPACITY OF THE U.S. FISHING FLEET.

REP. LEONOR K. SULLIVAN, D-MO., CHAIRMAN OF THE HOUSE-SENATE CONFERENCE COMMITTEE, SAID THE WHITE HOUSE ADVISED HER THAT PRESIDENT FORD WOULD SIGN THE BILL WITH THE MARCH 1, 1977, ENFORCEMENT DATE.

THE BILL IS DESIGNED TO PROTECT THE LIVELIHOOD OF AMERICAN FISHERMEN FROM CONTINUED OVERFISHING, LARGELY BY FOREIGN VESSELS, BEYOND THE EXISTING 12-MILE U.S. FISHING ZONE ESTABLISHED IN 1966.

THE BILL DOES NOT CHANGE THE PRESENT U.S. THREE-MILE TERRITORIAL LIMIT.

THE FORD ADMINISTRATION HAD OBJECTED TO THE JULY 1, 1976, EFFECTIVE DATE ADOPTED BY THE HOUSE IN PASSING THE BILL LAST OCTOBER.

THE ADMINISTRATION ASKED FOR MORE TIME FOR NEGOTIATION OF AN INTERNATIONAL LAW-OF-THE-SEA TREATY BY THE 144-NATION UNITED NATIONS CONFERENCE, WHICH IS HOLDING ITS THIRD SESSION IN NEW YORK THIS WEEK.

THE SENATE HAD ADOPTED A JULY 1, 1977, EFFECTIVE DATE IN PASSING THE BILL JAN. 28.

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UNDER TERMS OF THE COMPROMISE BILL, THE UNILATERAL DECLARATION OF THE 200-MILE FISHING LIMIT WOULD EXPIRE UPON ADOPTION OF A MULTINATION LAW-OF-THE-SEA TREATY.

THE COMPROMISE BILL GOES FIRST TO THE SENATE, POSSIBLY NEXT WEEK, AND THEN TO THE HOUSE FOR FINAL PASSAGE.

ALTHOUGH ENFORCEMENT OF THE LAW WOULD BE DELAYED UNTIL NEXT YEAR, THE BILL WOULD BECOME EFFECTIVE IMMEDIATELY FOR THE PURPOSE OF ESTABLISHING EIGHT REGIONAL COUNCILS TO DEVELOP FISHERY MANAGEMENT PLANS. AFTER NEXT MARCH 1, ALL DOMESTIC AND FOREIGN FISHING VESSELS WOULD BE REQUIRED TO OBTAIN PERMITS.

FOREIGN FISHING PERMITS WOULD BE DENIED, EXCEPT WHERE PERMITTED UNDER EXISTING TREATIES, UNLESS SURPLUS FISH STOCKS EXIST BEYOND THE ABILITY OR DESIRE OF U.S. FISHERMEN TO CATCH WITHIN SET CONSERVATION LIMITS.

HIGHLY MIGRATORY FISH, SUCH AS TUNA, WOULD BE EXEMPT FROM U.S. MANAGEMENT CONTROL.

THE BILL ASSERTS U.S. JURISDICTION BEYOND 200 MILES OFFSHORE FOR SPECIES OF ANADROMOUS FISH, SUCH AS SALMON, SPAWNED IN U.S. WATERS.

FISH SPECIES CURRENTLY REGARDED AS IN DANGER OF DEPLETION FROM OVERFISHING INCLUDE THE YELLOWFIN SOLE, ALASKA POLLOCK, PACIFIC OCEAN PERCH, PACIFIC HALIBUT, ATLANTIC HALIBUT, BERING SEA HERRING, BERING SEA SHRIMP, HADDOCK, YELLOWTAIL FLOUNDER, CALIFORNIA SARDINE, PACIFIC MACKEREL, ATLANTIC SEA SCALLOP, NORTHWEST ATLANTIC SHRIMP, AND ATLANTIC BLUEFIN TUNA.

03-17-76 14:02EST

APRIL 13, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am today signing a bill which provides a comprehensive domestic and international program for the conservation and management of our fisheries.

The extension of our jurisdiction to 200 miles will enable us to protect and conserve the valuable fisheries off our coasts. It is indeed unfortunate that the slow pace of the negotiations of the United Nations Law of the Sea Conference has mandated our course of action here today. However, the foreign overfishing off our coasts cannot be allowed to continue without resolution.

The need for a timely and successful Law of the Sea Conference is even more pressing today than ever before. I have directed our negotiators to make every effort, consistent with our basic interests, to conclude the substantive negotiations this year. The bill I sign today is generally consistent with the consensus emerging at the Conference. It is increasingly apparent that a failure to reach substantive agreement this year will move the world community inevitably toward disorder respecting competing use of the oceans. In the absence of a timely treaty, no nation can be assured that its paramount interest in the oceans will be protected.

Some specific aspects of this legislation require comment. I supported this legislation on the condition that the effective date of the legislation would be delayed so that the Law of the Sea Conference could complete its work and to permit sufficient time for a proper transition.

The tasks of continuing our negotiating efforts at the Law of the Sea Conference and at the same time establishing new fishery plans, issuing hundreds of new fishing permits and negotiating specific fishery agreements with foreign governments will require substantial resources in excess of those presently allocated to international fisheries affairs. The Departments of State, Commerce, and Transportation must do their best to implement the Act fully. Since available resources are finite, however, it is possible that full implementation may take more time than is provided in the Act.

I am concerned about our ability to fulfill the tasks in the time and manner provided in the Act. I am particularly anxious that no action be taken which would compromise our commitment to protect the freedom of navigation and the welfare of our distant water fisheries. Surely we would not wish to see the United States engaged in international disputes because of an absence of needed flexibility.

Additionally, I am concerned about four specific problem areas which are raised by this legislation:

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First, absent affirmative action, the subject bill could raise serious impediments for the United States in meeting its obligations under existing treaty and agreement obligations;

Second, the bill contemplates unilateral enforcement of a prohibition on foreign fishing for native anadromous species, such as salmon, seaward of the 200-mile zone. Enforcement of such a provision, absent bilateral or multilateral agreement, would be contrary to the sound precepts of international jurisprudence;

Third, the enforcement provisions of H.R. 200 dealing with the seizure of unauthorized fishing vessels, lack adequate assurances of reciprocity in keeping with the tenets of international law; and

Fourth, the measure purports to encroach upon the exclusive province of the Executive relative to matters under international negotiations.

Although these matters are of major importance, I am hopeful they can be resolved by responsible administrative action and, if necessary, by curative legislation. Accordingly, I am instructing the Secretary of State to lead Administration efforts toward their effective resolution.

GERALD R. FORD

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