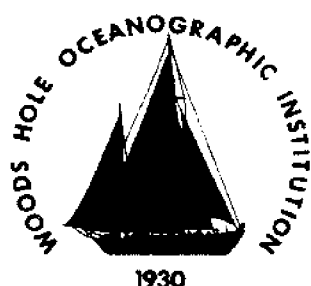


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THE 'PUBLIC FACE' OF THE NEW ENGLAND
REGIONAL FISHERY COUNCIL: YEAR 1

by

M. Estellie Smith

April 1978

TECHNICAL REPORT

Prepared with funds from the Pew Memorial Trust and by the Department of Commerce, NOAA Office of Sea Grant under Grant #04-7-158-44104, and the Marine Policy and Ocean Management Program of the Woods Hole Oceanographic Institution; and by sabbatical funding from the State University of New York.

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Approved for Distribution



Dr. Robert W. Morse
Associate Director and Dean of
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ABSTRACT

The first year of the New England Regional Fisheries Management Council has been marked by its experimental aura. Neither the Council nor the various sectors (representatives of the Federal and State agencies, members of the fishing industry, the public at large) were clear as to exactly what they were to do and how they were to do it--except in the broadest, most flexible (ambiguous?) terms. This created certain operational difficulties, and confusion for those whose livelihood was affected by the Council's operation. This latter group, particularly the fishermen, knew little of what went on, save in terms of the 'public face' of the Council--i.e., that portion of the Council's performance which occurred during the monthly meetings which were open to the public and which, supposedly, received public input at that time.

This study defines that public face, deliberately avoiding the presentation of any data which was not accessible to the average audience participant, in an attempt to present some of the behavior which all participants demonstrated, and which generated responses and reactions on the part of the other sectors. It uses standard anthropological techniques of data gathering and analysis to show the degree to which impression management on the part of all the actors operated in a systematic fashion to produce action, reaction, and counter-action. Particularly emphasized is the communication aspects.

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Introduction - On March 1, 1977, the United States Government affected extension of their jurisdiction over coastal waters 197 miles beyond the then-current territorial area. The purpose was to protect that ecozone and the resources therein.¹ This was accomplished through legislation entitled the Fisheries Conservation and Management Act of 1976 (FCMA), designed to create a Fishery Conservation Zone (FCZ) which would be managed through the creation of Regional Fisheries Management Councils (RFMC) and other administrative suprastructure. It must be emphasized that, although the area is designated an Exclusive Economic Zone in international legal terms, and although it is often referred to as the 'U.S. Territorial Zone,' the Act does not apply to economic resources other than the fisheries--at least at present. The area is not a part of our territorial waters as the term is defined by international jurisprudes. The distinction is important since it is related to the government's fundamental stance that the Act is designed not only to protect national economic interests but the food resources of the world commonweal. Thus, the position is

This research has been supported with funds from the Pew Memorial Trust and by the Department of Commerce, NOAA Office of Sea Grant under Grant #04-7-158-44104, and the Marine Policy and Ocean Management Program of the Woods Hole Oceanographic Institution; and by sabbatical funding from the State University of New York.

explicit that the U.S. will, when feasible, manage the fisheries in this FCZ in terms of international equity based on historical precedent, international law and treaties, and human need. Its congressional proponents stressed this in the legislative debates and thus laid the groundwork for the Act to be seen not as a move to appropriate and pre-empt an historically common resource of mankind for the sake of national greed so much as to conserve for all and protect from a few, man's future access to those resources (see A legislative history of the FCMA of 1976: 3,39,40,318,330,362-72 393-401,440-45, 540-45, 550, 577, 620-22, 625, 852-4, 890, 898-99, 909, 925, 933, 963-4). This primacy of the need for immediate conservation measures--as opposed to the secondary consideration of immediate economic benefits--has, as we shall see, proved a stumbling block in the implementation of management plans.

This analysis focuses on the dynamics of the current formative period, the beginning of which was signalled by the formation of the Regional Fisheries Management Councils, as mandated by the Act. It will concern itself with delineating the transactions of the New England Council especially, as that Council conducts its affairs in an interface with the public in the open arena of the monthly meetings and periodic Hearings. The dynamics of these encounters, as they affect the production of management plans for the fisheries in the region will be set forth in the hope that others

will be able to understand better the complexities of the process. Primarily, I will attempt to show that the differing positions which are held by those engaged in formulating management details and principles tend to turn hoped-for results into unforeseen consequences.

Assumed here is that two technological components underlie the diversity of interests. On the one hand, we have artifactual industrial hardware, the purpose of which is to expand and increase the capacity of the involved sector(s) to control exploitation of ecozone resources. The most obvious hardware is, of course, that of the industry itself--vessels, gear, equipment, processing and packaging machinery, etc. Not so obvious, but equally important is the hardware of the administrative and scientific sectors--computers, data banks, information retrieval equipment, and the like.

On the other hand, the mentifactual conceptual 'software' is designed so as to assist in expanding the capacity of the involved sector(s) to conserve ecozone resources. 'Software' here will be defined as the concepts and/or conceptual and human organizational systems which are specifically-designed tools used to implement an explosive technology. In point here are such scientific tools as the concepts of Maximum Sustainable Yield (MSY) and Optimum Yield (OY), various statistical formulas (e.g., chi-square analysis), adequate sampling procedures, computer programs, systems analysis

and similar tools of technicians as well as professional personnel, but also organizational and associational entities such as government bureaucracies, the RFM Councils, and special interest groups like the Massachusetts In-shore Draggerman's Association.

The position that technology includes not only material tools (artifacts) but also conceptual and organizational constructs (mentifacts) departs from the dominant traditions of the social sciences which favor a sharp distinction between the two (see, e.g., Andersen and Wadel 1972:156). Very recent literature, however, especially that emanating from those who have a special concern for technology, its workings and broad socio-cultural impact, is beginning to favor such a stance. Wenk, for example, points out:

When we combine the purely technical or hardware ingredient of technology with the softer ware and when we examine the full arena of social and environmental impacts, we uncover an exceedingly subtle but potent attribute of technologies: they have the capacity to produce two types of consequences.

The first-order results are intended, usually narrow and explicit. But the second-order consequences are intangible, indeterminant, and often unsuspected (1977: 10, emphases added).

There are two justifications for this treatment: First, it has certain analytical strengths and is productive, i.e., it generates new insights. Second, there is a substantial body of data supporting its legitimacy on ethnoscientific grounds; e.g., the only place in the 105-page report issued by the Committee on Merchant Marine and Fisheries in the Legislative History of the MFCA of 1976 (pp. 1051-1156) in which the word 'tool' is used is in the section on Definitions which states:

The underlying management concept of this Act is embodied in the term 'optimum sustainable yield.' This concept is the cornerstone of the Congressional Findings and Statements of Policy and Purpose set forth in Section 2 of the Act....

Optimum sustainable yield is a refinement of, and takes as a point of departure, the traditional fisheries biology concept of maximum sustainable yield (MSY). MSY is simply a tool by which the level of harvest of a given stock can be determined....

The measurement of MSY as a scientific tool has been refined dramatically in the past decade....On the other hand, a responsible body of opinion supported the proposition that the Committee should not give statutory recognition to MSY since it was felt that the concept had been discredited

as an effective management tool....The Committee believes that the failure of ICNAF has not discredited MSY as a management tool but rather points up clearly the fact that MSY is only a tool... (A legislative History...1976:1098-99, emphases added).

And two more examples drawn from my field data:

'Organizations like MIDA and CCCFC [the Massachusetts In-shore Draggerman's Association and the Cape Cod Commercial Fishermen's Coalition] are the tools that the fishermen will have to use if they're going to survive' (September, 1977): 'The Council is simply a tool of NMFS [the National Marine Fisheries Service] and Kreps [Secretary of Commerce Juanita Kreps]' (December, 1977). Thus, to use standard anthropological terminology, it is clear that, in the cognitive view of the folk (whether they be congressional representatives, scientific advisors, or fishermen and processors), a componential analysis of technological ethnoscience stresses two main elements, machinery and equipment but also concepts and human organizational systems (see Smith, 1977 a, b, c, for other statements utilizing this perspective of technology in a maritime setting).

Data for the paper has been gathered from three sources: field work in several New England ports since 1971; attendance at the general sessions and public Hearings held by the New England Regional Fishery Management Council (June, 1977 to present); and use

of archival and governmental documents as well as industry periodicals, especially the National Fisherman and Fishing News International, and assorted statistical reports by NOAA and NMFS.

Historical background. A brief introduction to the historical events of the hardware technology explosion which has so devastated the world's fishing stocks is in order here; it provides the raison d'etre of the Act and the Councils. It is difficult to grasp the full extent of this aspect of the technological revolution but a few examples may serve to illustrate it:

- the world's first major commercial net factory was built in 1883 (FNI 16(9):12);
- otter trawls first appeared in New England in 1905 and were not widely adopted until after World War I;
- industrial fishing with integrated fleets centered around factory ships became common only in the late 1950s;
- it has been little more than a decade since the majority of new commercial fishing vessels have had gear and equipment costs in excess of hull costs.

The rise and fall of fisheries has been accelerated in accord with the expanding exploitive capacity of the industry; fishing communities, generally rural, and still considered among the

most conservative and slow to change, are increasingly faced with a boom-town rise and decline, similar to that which accompanied with growth of the anchovy industry in Peruvian coastal communities. Typical of the process is a description of the Atlantic City fishing industry:

A commercial fishery was first established in Atlantic City in 1911. In the early years it was a seasonal operation, harvesting local fish, packing them, and then distributing them to nearby eastern markets in spring, summer, and fall. Vessels of the day were powered by sail and oar. This type of fishery continued until the advent of motorized vessels, which increased the range over which the fishermen could operate.

In the 1920s the motorized vessel in combination with the otter trawl increased the efficiency of the fleet to a degree previously undreamed of. Fishermen were able to follow fish on their offshore migration and could fish the wintering ground at the edge of the continental shelf.... Between 1955 and 1965....packing the catches and catering to the needs of the fleet were five fish docks and three marine supply dealers. Box factories were born, ice houses expanded existing facilities, and trucking companies developed refrigerated trailer units. Docking facilities expanded their refrigerated holding facilities, fillet houses

were established to better serve the expanded markets in the industry.

....The cod, haddock and mackerel completely disappeared as a result of overfishing....As a result of the decline in the industry, personnel sought other fields of employment.

Consequently, the undermanned vessels deteriorated physically, and the owner-operators sold them in other areas, and in some cases lost them at [U.S.] Marshall's sales.

In the subsequent years no new capital has been invested in fishing vessels in Atlantic City. As a result there are now only 8 offshore fishing vessels and 10 skiffs operating out of this port. Personnel are difficult to obtain. Because of the loss of income, the docks have deteriorated and are in need of major repairs and improvement.

Statement by Mr. Harry McGarrigel, Owner of Harry McGarrigel & Sons Fishery, Atlantic City in the Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment, of the Committee on Merchant Marine and Fisheries, H.R. Serial No. 93-37, (cited hereafter as Serial No. 93-37) 1974:247-48.

It is significant that man's growing technological ability to exploit the stocks was a subject of concern as early as 1893 when

a Select Committee of the House of Commons noted that catches and sizes of fish were diminishing in the North Sea fisheries because, '...appliances for catching them have of recent years been greatly increased in size and efficiency and the fishing grounds have been largely extended in area...' (quoted by Engholm 1961:40). It was this same concern which led the Swedish Government to invite various countries to a conference in Stockholm in 1899 and this in turn led to the formation of the International Council for the Exploration of the Sea in 1902. This was the first of many such organizations concerned with the problem of stock maintenance in the face of the industry's increased technological ability to exploit the resources of the sea. The conclusions were always the same: Expanded research and resultant improved technology--by private as well as governmental sponsors--were leading to a potentially dangerous situation in depleted stocks.

In describing the evolutionary pattern, a former Fisheries Secretary for England and Wales commented as follows:

The first sign would be the same as that which was already beginning to attract notice in the report of 1893... namely, that the fishing effort required for a given catch would increase....Fishermen would find that by carrying on with the old methods, their catch per boat was taking more time to get and even so, might be declining. The more

progressive would search for new and better methods to increase their efficiency, and so their catching power. For a time these more progressive men would do well. They would be securing for themselves a larger share of the available cake. The others would find their catches steadily getting worse, and they would be forced either to take all kinds and sizes of fish--the small and uneconomic as well as the larger and remunerative--or themselves have to adopt more modern fishing methods. But as more and more fishermen turned over to more and more efficient fishing methods, total fishing power would increase in relation to the same or probably depleted fish stocks, and the vicious circle would start to turn once more (Engholm 1961:42).

Thus, we have had repeated warnings concerning the problems which arise when increased technological exploitive skills make man capable of increasing productivity. But, as Aldous Huxley has stated in a warning sounded at the Conference on the technological order in 1962: 'Evidently we have to have a great many tremendous kicks in the pants before we can learn anything' (cited by Florman, 1976:40).

Despite such danger flags, the post-World War I era saw a tremendous expansion of the industry to exploit the stocks that had managed to rebuild during the low catch period of the war years.

But, by the beginning of World War II, the stocks had again declined to significantly marginal CPUE levels--though, again, a crisis was averted by a different crisis, World War II, which like its predecessor, curtailed fishing and allowed the stocks to recover.

The years following the end of the war witnessed an intensified repetition of the earlier drama, and on a wider geographic scale. History did repeat itself, and the same exponential growth in fishing effort, due to the same formulae of technological expansion, the same search for new grounds and marketable uses of underutilized species, within the same framework of fleet and vessel size increase, took place once more. Governments played a far more significant role in encouraging this expansion than they had in the earlier phase. All nations, whether combatants or not, were faced with the need to deal with shattered, stifled, or war-based economies. Not a few benefited from the ready availability of capital through foreign aid programs promulgated by both national and international agencies. The more prosperous Euroamerican countries were anxious to rebuild their own internal industrial and employment structure by providing equipment and machinery to other nations. The governments of many countries began to look to the fisheries as a source of national income as well as needed protein.

Further, the end of colonialism and the emergence of Third World countries, some newly independent and all anxious to break

free of foreign economic domination, led these nations to look to the development of the fisheries as a necessary step--before those resources were depleted by foreign fleets capable of taking in a single day what their own small, primitive, artisanal fisheries could not land in a year. Protein needs, a desire to build an export base so as to achieve a more favorably inclined balance of payments, and the implications which both of these held for the internal economy and political stability of the ruling government--all contributed to the growing thrust of certain countries into the world fisheries science.

The first inkling of what was to come occurred less than a decade after the war. Britain developed the first factory ship at the Salvesen Yards in Leith, Scotland. The Fairtry I served as an innovative spark and prototype vessel; in a few years other countries, particularly those of Eastern Europe and Japan, not only copied but rapidly improved the design--as well as expanding the vessels' exploitive capacities by building on the 19th century concept of an integrated fleet, complete with logistical support vessels. Rationalized, centralized fleets, in vast armadas of sometimes over 100 units, began to roam the seas and these distant water fleets, complete with catch vessels, processing ships, supply, repair, refueling and hospital units (and even spotter aircraft when appropriate) became usual, familiar sights in the hitherto local fishing grounds of other nations. The tragedy of the commons

(Hardin 1968:1243-48) was unfolding.

By the early 1970s, world catch, till then taking significant annual leaps, began to decline, reflecting the inroads made on the resources. In an attempt to control effort, Mexico had extended her jurisdiction as early as 1945, and several other Latin American countries had followed her lead. Other countries began to move in similar directions and this led to the Law of the Sea negotiations--which some say were given their initial impetus by the have-nations desiring to maintain de facto control of ocean resources, in whatever capacity (transport, strategic, mining, fishing). Despite the negotiations not a year passed that some nation did not declare and/or increasingly enforce extension of their territorial waters or resource and economic control of contiguous zones, particularly the continental shelf areas.

Perhaps over-confident that some 25% of the world's known stocks lie in North American waters, the United States and Canada resisted such unilateral declarations, publically pinning their hopes that the LOS conferences could culminate in an internationally sanctioned conservation and regulatory scheme. However, by 1972 approximately 3000 foreign vessels representing 23 flags were cited off the New England coast alone (mostly in the Georges Bank area near Cape Cod) in a one-year period. This wholesale decimation of the stocks, particularly on the Grand Banks and Georges Bank, finally led, first, Canada and then the U.S., to move independently.

It had taken less than a decade for the new technology to

massively deplete the world's seafood. The technique of pulse fishing especially wreaked havoc on the stocks, as well as having a domino effect on the entire biomass. Three additional factors probably played an important role in forcing the U.S. government to move unilaterally in 1974-5, after years of ignoring U.S industry pleas--and despite continued strong resistance to such a move by the State Department, the military, and certain sectors of the fishing industry itself.

First, criticism of ICNAF management attempts grew intense; second, LOS negotiations gave rise to increasing concern by private corporate interests regarding the future of offshore mineral deposits; third (and related to the second factor), the oil companies began sub rosa but massive lobbying effort for such a declaration in order to facilitate their own plans for oil drilling on the continental shelf areas.

Public hearings, conducted by a Congressional subcommittee, were held in various key locales around the country throughout 1974 (see Serial No. 93-37 for a transcript of ten such meetings). The final congressional debates began in 1975 and culminated in the FCMA of 1976.

The Act was based on recognition of multiple national and international interests in a multiple-use zone, and the management scenario was designed accordingly. Regional fishery management councils especially reflect that multiplicity of interests and incorporate the concept of the interplay of actors representing

special interests against a backdrop of economic, political, social, and cultural values, within a technological infrastructure setting.

It may be noted here that the deceptive unity demonstrated by those various sectors during the pre-Act Hearings was taken as indication that these groups--NMFS, fishermen of various types, conservationists, shore-side industry representatives, law enforcement and scientific personnel--linked by a common concern for conservation of the stocks and protection of the U.S. fisheries, could work together effectively. Given that, and an underlying theme of the democratic ethos, it was deemed necessary to incorporate all sectors in the decision-making processes which would operate management plans. What was ignored was the fact that it is a common phenomenon that diverse interests band together when faced with a common enemy or the desire to achieve a common goal, but return to sectorial conflict when the one aim has been accomplished.

The simplistic view, especially of the industry, that all would be well if only extended jurisdiction would remove foreign fishing from traditional U.S. grounds, bears a striking resemblance to reports on Cargo cults--nativistic, millenarian movements based on the belief that there will arrive great ships (in this case, our own) loaded with cargo (fish) and bringing happy and prosperous times, after the foreigners are expelled.

Green (1976:67) defines them, in part, like this:

Cargo cults, like other revitalization movements, develop in situations where there is extreme material ...inequality between societies in contact. Cargo cults attempt to explain and erase the differences in material wealth between natives and Europeans.

Just so, it was widely believed that inequalities in wealth, resulting from the differences between the antiquated, wooden vessels of the Americans in relation to the high technology ships and gear of the foreigners, would be erased if only 'the natives' could regain control and sovereignty over their own territory once again. Once rid of the foreigners, our own fleet would again control the fishing and one would see a growth in catch, prosperity, and general well-being.

But the Catch-22 (no pun is intended) which would face the actors lie in the situation that the industry saw expansion of the fishing effort as the solution to their problems, while administrators and scientists were concentrating on the need to retrench and conserve existing resources; one group was thus concerned with exploitation and growth in the fisheries, and the other was aiming for preservation of the stocks. One side saw expulsion of the foreigners as the way to gain greater access to the resource; the other side saw that same end as a necessary precondition for gaining regulatory control over the fishing effort.

When the Hallelujah Day arrived, one group anticipated halcyon days of expansion, and the other saw an indefinite period of 'bite-the-bullet' contraction.

Because anticipated results were in opposition, neither the industry people, on the one hand, nor the administrative and scientific personnel on the other, could fully appreciate the consequences of achieving their goal of gaining jurisdiction over the major portion of the continental shelf and its resources. The Act itself, designed with deliberate open-endedness so as to achieve flexibility is, rather, a source of dissonance and frustration as a consequence of its ambiguity. This is particularly true of Section III of the Act which deals with the Fishery Conservation and Management Plan, as it is designed and implemented by the Councils, the Department of Commerce officials, and scientists as well as technicians et al, in cooperation with industry people specifically and the public generally. (Appendix I is a resume of this Act, and shows in square brackets and by italics those parts which have elicited informant comment, criticism, and interpretation--as well as a sampling of some of those remarks.)

This introduction has attempted to lay a framework for the presentation of the structure and process of the Council for the New England region, as that Council is evolving due to internal and external vectors essentially derived from technologically-

based cognitive models. The presentation of data and analysis which follows is, by necessity, crude; in addition to the limitations of space, there are the far more significant boundaries imposed by my own limited access to the workings of the Council and other agencies involved--and, most importantly, because the entire program is less than a year old at this time* and is a fast-changing scene with participants still feeling their way into the situation. Finally, it has been outlined with a broad brush because, although limited to observation of one Regional Council, and therefore containing biases peculiar to that set of data, there is an attempt to blur specifics in order to present material with relevance beyond the confines of New England.

General organizational structure of the Councils. The FCMA explicitly gives latitude to each regional Council to work out actual organizational details (though certain procedures and structures are fixed), especially in the degree of qualitative emphasis which each Council chooses to place on the input of the various structural components. Guidelines for the Councils' operations are furnished by the Secretary of Commerce, via an Operations Manual provided by NMFS. In addition, the need for the Councils to conform to National Standards and the provisions of the Federal Advisory Committee Act (Public Law 92-463), narrows the latitude which specific Councils have, particularly in what shall be defined here as the Formal (conceptual principles) and Technical (specific operational

*February, 1978.

procedures) aspects (see Smith, 1969, for an expanded statement and analysis of the Formal, Technical and Informal aspects of Governing systems).

In general the structure is as shown in Figure 1; the production of a management plan is outlined in Figure 2; further details of the Technical and Formal aspects, as deemed relevant to this analysis, may be seen in Appendix I. Suffice it to say here that the Formal and Technical objectives of the Council are summed up in the following excerpt from the 'Joint explanatory statement of the Committee of Conference' (pp.35-58) appended to Public Law 94-265:

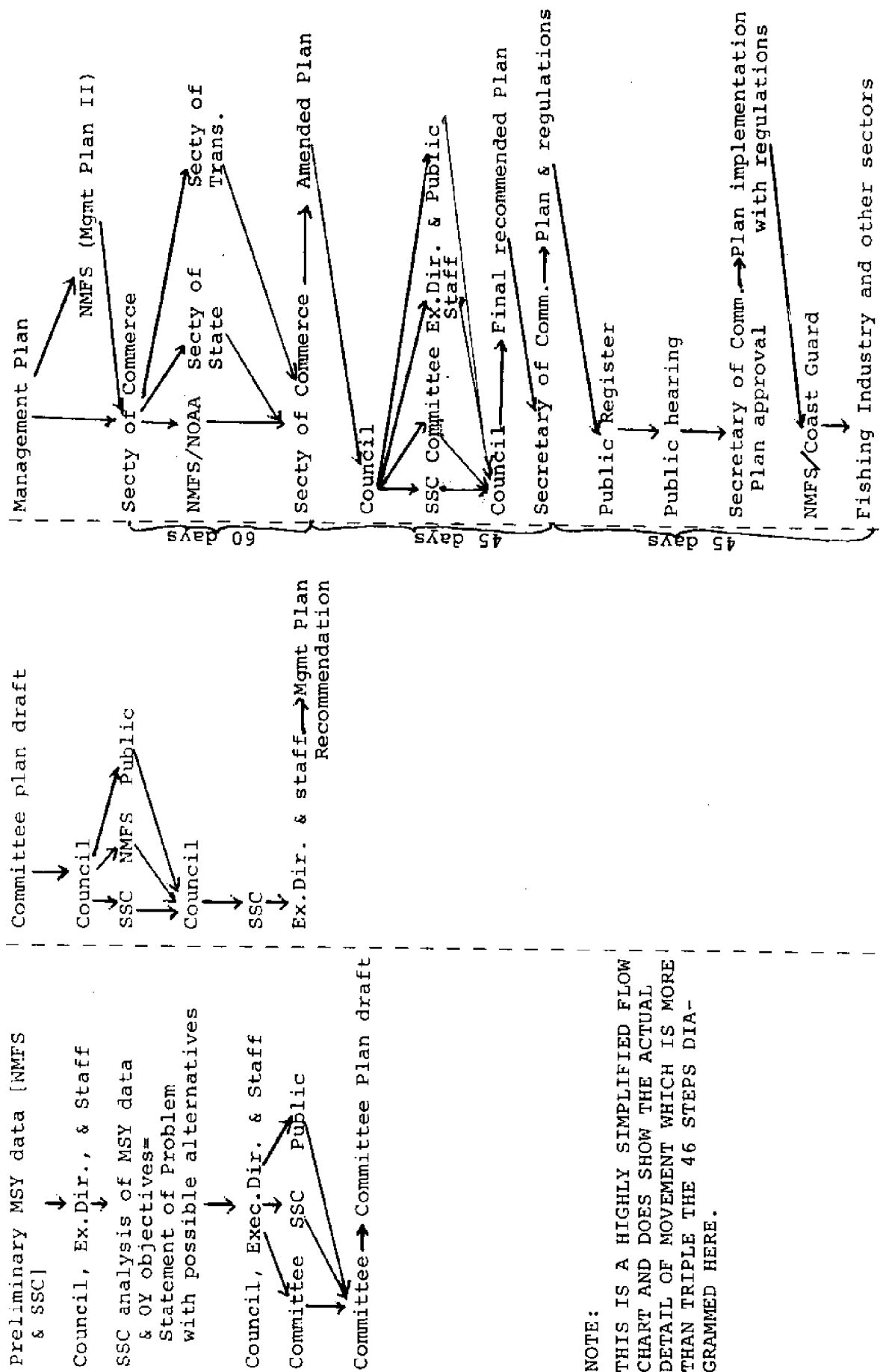
Each Regional Fishery Management Council is authorized and directed, inter alia, to develop fishery management plans and amendments to such plans; to submit periodic and other reports to the Secretary of Commerce; to continually review and revise assessments as to optimum yield and allowable foreign fishing; and to conduct other necessary and appropriate activities, with respect to the management and conservation of the fisheries over which it has authority.

Each Council shall conduct public hearings with respect to the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of this legislation. Each Council is directed to establish scientific and statistical committees and necessary

Figure I: Technical aspects of the Council

<u>Members</u>		<u>Staff</u>	<u>Committees and Panels</u>
A. Voting:		A. Executive Director	A. Scientific and Statistical Committee (which must be chartered in the same manner as the RFMC --see Sec. 9(c) P.L. 92-463).
1. The principal State official (or his designee) responsible for marine fishery management in each constituent state of the FMC region.*		B. Staff assistants to Director	B. Advisory panels (see above charter provision)
2. The regional Director of NMFS (who is also the Designated Federal Official responsible for insuring operational conformity to the Act and for appointing a second official who will be responsible for administrative details of that conformity).*		--As appointed and assigned duties by the Council and/or the Executive Director. Staff may be full- or part-time.	
3. A designated number of individuals** who have knowledge or experience with regard to the fishery resources of the FMC region.			
B. Non-voting:***			
1. The regional or area director of the U.S. Fish and Wildlife Service (or designee).			
2. The commander of the Coast Guard district for the FMC region (or designee).			
3. The executive director of the Marine Fisheries Commission for the FMC region (or designee).			
4. A Department of State representative (or designee).			
			<p>*There are 8 regions in total. The number of states within each region varies.</p> <p>**E.g., 11 for the New England Council and 12, 8, 4, 11, 8, 7, 7, for the Mid-Atlantic, South Atlantic, Caribbean, Gulf, Pacific, North Pacific and Western Pacific Councils respectively. Total voting members for each of the above 8 councils respectively. Total voting members for each of the above 8 councils respectively are 17, 19, 13, 7, 17, 13, 11, 7.</p> <p>***The Pacific Council has 1 additional non-voting member appointed by and serving at the pleasure of the Governor of Alaska.</p>

Figure 2: Council Planning



NOTE:

THIS IS A HIGHLY SIMPLIFIED FLOW CHART AND DOES SHOW THE ACTUAL DETAIL OF MOVEMENT WHICH IS MORE THAN TRIPLE THE 46 STEPS DIAGRAMMED HERE.

advisory panels to assist in the development or amendment of any fishery management plan. Each advisory panel shall be composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of, the applicable fishery or group of fisheries. The regional Councils and their committees and panels should receive maximum public input. The provisions of the Federal Advisory Committee Act apply, and therefore meetings must be open to the public, with few exceptions... (pp.49-50).

Thus, the Council is charged to:

1. Be aware and cognizant of the existence, significance, and present/future implications of raw data (e.g., NMFS landing and market figures) and other relevant reports/analyses--whether such materials deal with biological, economic, social, or political factors--on a local, state, regional, national, or international basis;
2. develop fisheries management plans and amendments (henceforth in this paper shortened simply as 'plans') through the use of such materials available--the Council also being authorized to initiate, design, accumulate, and analyze additional materials through the use of Council staff, other Federal agencies, committees, panels, contract consultants, and public input;

3. formulate such plans: (a) in terms of OY when possible or MSY when necessary (though, if the latter, the plan must satisfy environmental impact requirements in the Environmental Impact Statement (EIS) which accompanies the plan); and (b) so that the immediate needs and long-range objectives of biological, social, economic, and political concerns are consonant with each other;
4. satisfy as completely as possible the total range of affected persons, the biomass, and existing statutes, regulations, treaties, etc.;
5. take special care that the biological basis of the stocks is conserved and the socioeconomic viability of the fishing industry et al is enhanced;
6. 'conduct any other necessary and appropriate activities';
7. accomplish its work as expeditiously and economically as possible but with a maximum of public and scientific input.

Such work is to be done within a total systematic network of the following components:

1. Federal and State agencies/sectors--
the Department of Commerce (NOAA/NMFS especially), the Department of State, the Department which directs the Coast Guard law enforcement activities; the Department of Interior (e.g., Bureau of Indian Affairs); the Environmental Protection Agency; Congressional members and committees (e.g., the Senate Committee on Commerce, Science

and Transportation which is in charge of drafting legislation on ocean policy and fisheries resource management); the judicial system; State marine fisheries agencies, other RFMCs, etc.;

2. scientific, technical, and professional sectors--
pure and applied physical and social science (as well as the scientists); professionals and technicians attached to the industry government, research, and academic centers, lawyers and jurisprudes, engineers, regional planners, market analysts, statistitions, or other disinterested purveyors of knowledge as well as committed spokesmen for special interests, etc.;
3. the fishing industry and related shore-based sectors--
lobstermen, gillnetters, longliners, trawlermen, seiners; fixed gear, in-shore, off-shore, distant-or foreign-water fleets; seasonal/year-round and full-/part-time fishermen, small, medium, large boat owners; mixed and single species fisheries; owner-captains, 'ten-percenters,' crew; buyers, processors, packers, wholesalers, retailers; fishery or fishery-focused firms that are may be vertically integrated, conglomerates, investment-oriented (e.g., Gloucester banks), or involved in international trade and import/export; fishermen's cooperatives, cannery workers, labor unions, common-interest groups (e.g., fishermen's

wives and seafood buyer's associations); transportation industry representatives, bait buyers, longshoremen; suppliers of ice, fuel, repair services; boat, gear, and equipment manufacturers; ship chandlers, etc.;

4. the recreational sector--

party and head boat operators; sports fishermen and anglers; marina operators, hotel and restaurant owners, Chambers of Commerce representatives, shoreline development interests, and all those who look to fishing and the fishing town or seaside milieu to attract the tourist dollar, etc.;

5. environmental and species conservationists;

6. national economic protectionists and expansionists;

7. alternative marine environment utilizers--

oil, mineral, shipping, sand and gravel mining, flood and shoreline control engineering, landscaping, off-shore waste disposal interests, etc.;

8. consumers--

retail shoppers, institutional seafood wholesalers--and 'The Public' generally, in whatever guise that amorphous entity presents itself.²

In sum, 'to the extent practicable,' the diversely-constituted Councils are charged to produce 'a complete description for each fishery within its jurisdiction, from which can be generated an

all-encompassing plan in which 'the political processes that drive the administrative entities do not erode the quality of scientific advice' (initial draft, NMFS Operational Manual for RFMCs, 6/11/76:iii); while producing a plan design, '[tempered] with real-world knowledge of what is acceptable to society' (ibid:III-16); but which meets every need, satisfies every requirement of as many sectors as necessary--in minimal time and at minimal cost: One can only conclude that the even-partial capacity to accomplish these objectives is facilitated by the Council's collective ability to walk on water! (And it is clearly to the advantage of those in the Department, at whatever level, to place the responsibility for producing such plans on the regional councils.)

Process in the general public meetings and Hearings. Up to this point the emphasis has been on the Formal conceptual framework and the Technical organizational structure. Because this is a formative period in which the implicit conceptual and organizational foci are only beginning to emerge, and because the technical structure has deliberately been left flexible, it is difficult to present a rigorous analysis. Not only is sheer quantitative data lacking because of the brief life span of the Council thus far, but despite theoretically open access to all deliberations (except a few) no one person could attend all the meetings, observe all staff activities, meet with all the people, in all the places, all the time. What is amenable to analysis, however, is the public face

which has been presented thus far at the public monthly meetings of the Council. Further, it is important to deal with this public face since it is the part of the Council's performance which plays a large role in establishing the identity of that body for non-members and their interactive behavior with it. This is true particularly for the fishermen because (a) the industry as a whole is the special concern of the Act, and (b) as the Council's current voting membership is constituted, it is heavily weighted with representatives of shoreside industries (buyers, processors, cannery owners, etc.). Informal as well as business ties among this group allow for a dissemination of information among this group even when they are not members, providing data on and rationales for publically-vague activities.

Fishermen, however, have limited access to such knowledge and must base their perceptions and analyses--and the strategies devised on the basis of that cognition--primarily or even solely on what they see or have reported to them as occurring in those public meetings. Thus, the public behavior of the Council has an attitude-formation potential for fishermen--the primary clients of the Council at present--far beyond that which seems to be recognized by the Council, the government, scientists, and other sectors of the industry. This is why the main concern of this paper is the limning out of the FCMA as that Act is managed in this one sphere.

The Council receives public input in a variety of ways. First,

as it is constituted by design of the Act, which specifies that the Council shall be made up of individuals from various societal sectors, the Council is, itself, a source of public input 'Part-time' members--for whom Council participation is secondary to their primary work activities--are, presumably, intended to bring to the functioning of the Council the loyalties and attitudes, the assumptions and goals, which they have developed as participating members of that primary work focus.

Second, both NMFS and the Council are required to conduct public Hearings on proposed management plans and these Hearings are a valuable source of public input.

Case Study of a Hearing Process - When the groundfish plan for the New England region was being prepared, a series of well-publicized meetings were held around the New England region. Announcements were made through various media and the public was invited to attend. Scientists explained the manner in which stocks were calculated and the ways through which the projected MSYs were derived. Charts, graphs, statistical concepts and the like were used to demonstrate to the audience the validity of the data base and rationale for the design plan features. The audience then engaged in a dialogue (often quite pointed!) with those individuals who were 'at the front'--in more ways than one--representing NMFS and the Council. As is the case at the general public meetings, the audience at these Hearings, mostly commercial and recreational

fishermen, probed, debated, and responded with catch and market figures of their own which, like the scientific statements (though at a different level), varied widely in degree of sophistication and relevancy.

A central concern of the fishermen was whether the groundfish plan initially proposed by the Council was, in fact, the most reasonable solution. They questioned, among other things, the accuracy of the MSY calculations from NMFS which formed the basis for the OY quota plan produced by the Groundfish Oversight Committee of the Council on the basis of data provided by NMFS personnel, scientists, et al. Ad hoc committees from fishermen's associations on Cape Cod and Gloucester prepared counter-proposals which, these fishermen's groups argued, were more practicable, realistic, and sensitive to the needs of the industry.

The Council provided for the audience copies of the plans and related relevant material (e.g., newspaper articles, graphs, tables of catch statistics) which were photocopied and circulated among those in attendance. Various features of the discussion led the individual chairing the Hearings to ask for an expression of the majority will through a public 'vote,' the results of which he would report back to the Council so as to give them a sense of which plan was most and least favored. This input would, the audience was told, help the Council to further refine the proposed plan prior to submission to the Secretary.

Although Hearings were scheduled from 7:00-10:00 P.M. to facilitate public attendance (and all continued much later than the planned cut-off time), it was clearly impossible for many working fishermen to attend. Thus, it was critical that those forced to be absent be represented by officials of such associations as the Cape Ann (Gloucester) Chamber of Commerce, Cape Cod Commercial Fishermen's Coalition (CCCFC) and Massachusetts In-Shore Draggerman's Association (MIDA) if the purpose of the Hearings was to be accomplished. Still, individual fishermen did cancel trips to attend, despite the fact that this resulted in an economic loss to boat owners and crews. The motel/restaurant meeting rooms were filled to capacity or even overflowing as 100 or more people jammed in at each Hearing; some individuals such as the President of the CCCFC or Dan Arnold of MIDA attended more than one such meeting in order to have maximum input to the Council and a wider forum from which to speak to other fishermen. Council and NMFS/NOAA staff added this travel and evening work to their extended job schedules, just as the fishing industry personnel did--though, again, the fishermen had the added burden of lost revenues. Though there was no public circulation of minutes from these Hearings, newspaper coverage informed the public at large of discussion highlights.

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The third and most genuinely 'public' input is accomplished through the mechanism of the periodically scheduled, general Council

meetings. The Act states that such meetings may be determined, in time and format, by the Council or any voting member thereof but must be held, at least, quarterly. The New England's Council's pattern has been to meet approximately every four weeks; e.g., the 1978 schedule already releases shows meetings scheduled for January 18-19, February 8-9, March 1-2, March 22-23, April 19-20, May 17-18, June 7-8 and 28-29, and so on, through December. Meetings are advertised in the Federal Register at appropriate times, and mailings to those on a regular mailing list give prior notice of time, place, and agenda. One's name is placed on the mailing list by a phone or mailed request, or by signing the register list of attendees when participating in the meeting itself. Meetings have usually been held in a public meeting room at the Holiday Inn in Peabody, Massachusetts, the town where the Council office is located.

Past meetings have been patterned to take place on Wednesday and Thursday: The first day begins at 10:00 A.M. and ends at about 5:30 P.M., with breaks for lunch and afternoon coffee; the second day follows approximately the same schedule except that it begins at 9:00 A.M. and includes a morning as well as afternoon break; scheduled commencement times not uncommonly slip 15-20 minutes behind, e.g., a 10-minute break lasts 25 minutes because Council members are scattered and do not return because they're engaged in some other activity. Occasionally, there have been first and/or second day evening sessions running from about

7:00-9:00 P.M. (see Appendix IIa, b, c, d).

Council members sit at a U-shaped table facing the audience; some seats are fixed and constant, but much of the seating arrangement shows regularity only because of the personal spatial needs of the individuals. A major complaint during this initial period has been the audience's inability to hear due to the poor acoustics and inadequate Public Address system. The Council staff has recognized the problem and each meeting has been marked by attempts to improve the situation. So, for example, the original microphone equipment of the Council was designed simply to facilitate the taping of Council proceedings; an improvised and jerry-built system which plugged the recorder into a PA system had many flaws and even now inhibits clear transmission of the proceedings for many--especially those beyond the fifth or sixth row of the audience who are additionally hampered by audience discussion around them. There are microphones around the Council table (one for every three or four members), and one in front of the audience for their use. The number of Council microphones, however, is inadequate; in addition to purely mechanical problems members will often obscure transmission by speaking away from the microphone, deliberately leaning away, speaking too softly, or placing their hands over the mikes so as to limit the range of their remarks and (whether deliberately or not) conveying to the audience that they wish to keep the comments inaudible to the public.

At the March 1-2 meeting, general complaints concerning an inability to hear were addressed from the audience to one member in particular. Later, that member, in responding to an individual who had been one of the complainants, began his reply with, 'Why don't you clean the dirt out of your ears?'-- which many in the audience angrily commented to others was offensive, uncalled for, and out of place.

Other ways in which effective dialogue is diminished result from members walking around the table to talk to another member, or moving into the audience to huddle with an aide, staff member, or attending expert, in private conversation. As might be expected, these 'openly covert' discussions are accompanied by the kinetics of gestures and facial expressions (such as grins, frowns, nods, raised eyebrows and 'other-directed' glances) which transmit messages to the audience and are freely interpreted as to their sense--and the interpretation is often negative.

There are also certain procedural inadequacies in the current Council patterns which serve to inhibit Council/public dialogue; e.g., each member of the audience is required to identify himself before addressing the Council, but those on the Council are not always identified nor are they required to do so. Thus, even regular audience participants, let alone first-time attendees, are not always sure who is speaking, what the speaker's background is, or to whom they (the audience) should specify their comments are addressed. This

identification problem is compounded by the fact that (a) nameplates of Council members are not visible to most in the audience, and (b) not all designees of regular members have nameplates. This might seem a trivial point but improper identification, or one based on some hastily chosen identifying aspect of the member, can cause confusion and, worse, laughter--the latter embarrassing some speakers to the point that they lose the thrust of the comment or question they wish to raise.

Another difficulty arises from time limitations: Obviously, the Council members must be allowed to explore an issue to the extent they believe necessary; comments from the floor are not permitted (except as they may be solicited by the Council as a point of information) until there are no more questions or comments from those on the Council. This not only limits time for the audience portion (in one situation they were allowed only about ten minutes vs. the more than three hours consumed by the Council), but occasionally prohibits public input completely.

On one such proposal recently, no discussion, questions or comments were allowed the audience prior to the vote. When the audience, surprised by the sudden decision to call the question without the expected public input, began to call objections to this action from the floor, the chairman responded that the Council was required to follow Robert's Rules of Order which stated that, once the question had been called and seconded, a vote must immediately be taken. A casual observer might have felt that this was

a relatively minor displacement of the Act's intentions but the audience became incensed with the action--and a little background information will indicate why.

The Council had announced in the earlier morning session that it had only just received word from Washington (11:45 A.M.) that the Secretary and her staff were to decide on a particular fishery management plan that very afternoon. For various reasons, the appropriate committee had not yet forwarded a recommended plan to the Secretary. As a result, and perceiving the need to have some input into the Secretary's plans, the group had to convene during the luncheon period to hastily formulate a series of recommendations. These were to be submitted for general Council discussion, modified if necessary, and received in Washington no later than 3:30 that day if they were to be included as considerations in the formation of the Secretary's plan.

Despite the Council's public indication that they have been caught unawares by the announcement from Washington and responded as effectively as they could, many in the audience later claimed that they had come to this particular meeting because they had heard rumors that this issue was liable to be a point of crisis, so, presumably, the Council should have been similarly prepared. There was also a high degree of cynicism because of a rumor that William Gordon, Northeast Regional Director of NMFS, when asked (just prior to the morning announcement) concerning the possibility

of such an issue arising, had skirted the question and replied to a reporter that he had no knowledge of any particular problems concerning that agenda item.

The elimination of audience input, though justified by a few on grounds of necessary expediency, aroused intense feelings among the audience, who gave vent to such statements as:

1. The Council is always reacting, never initiating;
2. the most important work is always done in an eleventh hour crisis environment;
3. if the fishermen figures it was coming, what the hell's wrong with the Council and its staff? They're saying they're either dumber than we are or we're getting the usual double-talk;
4. Agh! What's the use? We got screwed again!;
5. I'll tell you, when I get back and tell the rest of the guys what was pulled here today, we're gonna have 200 fishermen down here from Maine for the next meeting!;
6. what the hell, this is the last time I come; I might as well stop wasting my time;
7. it figures--you can always tell something's in the wind when you see 'Wiley Willie' [William Gordon] start to move around.

Members of the Council heard some of these comments during the

coffee break which immediately followed the vote and responded defensively to what they considered unfair and unjustified charges 'We've been honest and fair with you on this,' said one member. But the audience felt they had been stifled and cheated; the Council members believed they had been placed in an untenable position--but had done their best; and both thought the behavior of the other group unreasonable. The Informal political dimensions of the governing situation resulted in dissonance, conflict, and another brick being laid in the rising wall of misunderstanding due to differing expectations.

In sum, the mechanics of deliberations are both inadvertently and deliberately modified and subverted, thus providing the basis for distrust, inadequate review, and implementation subversion by the industry. First, whether haste is induced by last-minute recognition of need, inadequate foreknowledge of the plans of the Secretary and her staff, or even (as once occurred) such trivial circumstances as a motel-imposed deadline on the use of the meeting room ('We have to decide on this proposal in the next six minutes because that's when the hotel says it's going to throw us out'), it is clear that a primary problem at this point in the Council's maturation, especially vis-a-vis the public, arises from difficulties in the communication flow at all levels and involves the consequences of insufficient information as well as unintended and/or ambiguously interpretable over-information.

Second, the publically observed dramas of a private caucus, particularly by Council members, should be avoided as much as possible; it will continue to be (and probably increasingly so) a source of much suspicion when meeting participants see it occur at crucial points in management plan debates.

Third, humor, a part of most deliberations and certainly a part of these, while an admittedly essential part of most debates, should be used with care. Though usually serving as tension-relaxing and group reintegrating mechanisms, such displays can be interpreted negatively--as ridicule, lack of appropriate seriousness and concern, expressive of disdain for others, or cynicism. The audience has shown itself to be particularly sensitive to transmission of this kind of 'information' by the Council--and Council members themselves have not shown themselves to be immune to jibes from the public or the news media.

Composition of the Council - Moving to a look at the Council members per se we see, as one might expect, that their performance on the Council varies considerably. Some three or four are dominant in all discussions; another three to five are active in debates whenever one or two particular areas are under discussion; some only enter the dialogue when called upon; and at least one rarely participates, often letting whole sessions pass without contributing at all. Further, since Council participation is 'only'

an activity secondary to their primary subsistence occupation, some are required to forego attendance in order to attend to other duties; thus, members have differing patterns of attendance and thus varying degrees of input on decisions.

Some rarely leave the table or talk with other members; others are in constant movement during the sessions--walking around to talk to this or that Council member, moving into the audience or outside hall to discuss something, leaving to make phone calls, and the like. Occasionally, such movements remind one of theater-savvy actors who know how to upstage another performer, attracting and distracting the audience at critical times.

Members also bring differing attitudes to the conduct of Council affairs. There are those who believe it is their prescribed role and/or public responsibility to represent the interests of a special group or point of view; others also accept this position for discussion purposes but abstain from voting on those issues in which they believe a conflict of interest ethically requires they refrain from influencing the outcome; and still others have stated that, although they have special interests and knowledge which allow them to bring certain points to general attention, they believe themselves duty-bound to take a disinterested, objective stance which elevates the common good over that of the few for whom they have a special concern.

A number work for compromise; a few stick to unalterable principles. Occasionally some are flippant, usually most are serious, one or two can be rude and, at times, a few become angrily intransigent. At one end of the spectrum there are those who do a lot of homework and thoughtful preparation for agenda topics--and at the other end are those who appear to be considering matters under discussion for the first time. Some members are rapier sharp--going to the heart of the matter, asking pointed questions, raising subtle but critical issues, and grasping complex ramifications; but here, too, one finds a continuum. Finally, there are members who seek out information--from the public, the industry representatives, scientists, and the like--while other members appear to use only those materials which come to them from the staff or elsewhere, unsought and possibly even unwanted.

The Council is not simply a collectivity of individuals even at this formative stage. Each meeting shows networks within the group operating. Some of these networks are the result of committee work together since the formation of the Council, but others stem from earlier friendships and associational memberships. Others form because of common perspectives or shared interests; and at least one optative network seems to have emerged because of a common concern by its members about the apparent domination of Council activity by Federal agencies.

It is far too early to tell which such groups are, in fact, only short-term cliques and which are stable, extending even beyond the members' Council service or terms of office. Such networks, cliques, or what have you, are discouraged by the Act which designated one-, two-, or three-year terms of office to the initial set of voting members so as to maintain continuity but also, theoretically, assuring a new slate at the beginning of every fourth year. In reality, however, what will probably happen is that some members will be elected to another three-year term. Further, some former members will undoubtedly retain more than a casual influence on and connection with individual members and/or the Council as a whole.

Important here is that the voting and non-voting Federal and State officials, and the Executive Director of the Council, have the capacity to exercise a disproportionate (and undoubtedly intended) degree of authority and power. So long as such persons hold the designated bureaucratic position they remain permanent members of the Council, capable of constructing influence and power bases.

It can be noted here that there is a surprising unanimity concerning the excellence with which the current Executive Director performs his job; even those who find the Council a cause for dismay have qualified hostile remarks with praise for the 'objective,'

'self-effacing,' and 'informed' performance which consistently marks the work of Spencer Appollonio. As one fisherman put it, 'Even when I'm yelling at him, I'm not really yelling at him. He's probably the only guy in the whole set-up, from Washington down, who looks out for the other guy instead of his own tail when push comes to shove.' A number of informants have expressed pleasure that there is continuity and stability in Director Appollonio's presence.

Several other members have earned the praise of the audience. One, expected to be provincial in his knowledge and narrow in his interests, has frequently been cited as being 'surprisingly good on the Council,' 'fair,' and 'doing a damn good job.' Since the remarks often come from members of the audience who have had marked differences of opinion with said Council member, this would seem to indicate the ability of the public to make reasonably objective evaluations of a member's performance.

Another word is needed concerning the 'permanent' members; These State and Federal personnel, as a result of their position in the bureaucracy, usually have aides and other support personnel available to them. Such supportive persons are not infrequently in the audience and are called upon to provide necessary information during Council discussions. This is useful, for the audience as well as the Council, since such expertise can eliminate unnecessary quibbling, introduce new considerations, and

generally help in the decisions which must be made. But it can also function negatively simply because some members have such assistance in scoring or obscuring a point. Such staff can make it possible for the official to get off the hook and, more significantly, also permit him to participate in an exchange of views without personally having to have the specific, relevant data at his fingertips. Other council members, and the audience, who lack such a substantive 'data bank' to call upon can be overwhelmed or have their arguments whittled to seeming trivia, fantasy, ignorance, or 'paranoia' by such experts 'who have the figures to prove it' (not to mention the jargon). At least a few of the members have shown a marked decline in participation following an exchange in which they were unable to substantiate their point with the same degree of 'scientific rigor.' It was after one such exchange that I heard one member say to another, 'I felt foolish. I knew I was right but I didn't have the figures. I guess if I don't come here armed with enough information there's no sense in pushing anything.'

In theory, of course, all Council members can call on the staff to provide necessary information but here is where we get into the matter of committee-type stylistics, bureaucratic experience, and the confidence of public participation, gained from long-term exposure to this participatory demand; all of these play an important role in assisting a member to 'think on his feet.' For some members

this is the first time they have served in such a capacity and they are still learning how to play the game.

Committee participation is an important part of Council membership, though here again some members do their job better than others. Membership on a number of committees is no criterion of excellence; narrowness of choice in filling slots seems to play as much a part as any measure of potential performance and capability. There are fifteen standing committees (with one having four sub-committees) and thirteen permanent ('oversight') committees, two of which are ad hoc. The committees are made up of Council members or the designees of such members to the Council: Two members are on fifteen committees each; four serve on ten or eleven each; six serve on between six and nine committees each; and the remaining members serve on zero to five committees. The average number of committee memberships is seven but, obviously, the range of variation is so wide that such a figure says nothing. Further, what is really significant is on which committees one serves--some being relatively insignificant and requiring only minimal service, while others, such as the groundfish oversight committee, being central to the New England Management scheme and requiring almost constant attention (see Appendix IIIa and IIIb for a listing of members and committee assignments as of January, 1978).

Although the Act is broad enough to include a wide range of

activities (and members of the industry are especially interested in seeing the Council begin to work in the area of positive assistance--subsidies, boat purchase loans, etc.--rather than 'negative regulatory functions'), the main concern of the Council to date has been the production of management plans. It is this, of course, which has been so disappointing to the industry which sees itself, to quote one representative, 'as having to bear the brunt of the rebuilding, and of being regulated out of business to help the rebuilding--while the foreigners get off scot free.'

An important element of the FCMA was the emphasis on public input when considering the social, political, and economic implications of the plans. The theory of this has been considerably altered in practice. In the first place, since OY is to be determined by including sociocultural implications in initial calculations, the follow-up Environmental Impact Statements (EIS) are sometimes viewed as simply replicas of considerations already taken into account when designing the proposed plan. Thus, some Councils simply abstract relevant material from within the body of the plan, summarize, and append the data as brief two-or three-page outlines. The other extreme has appeared also however; some EIS are several thousand pages in length and become too cumbersome for anyone to seriously consider.

Second, in the concern for public input, especially as that requires a lengthy Hearing process and a complicated series of writings, review, recalculation, rewriting, etc., those statements may have the consequence of serving to restrict innovation; for example, at

one meeting the remark was made, 'That will require a whole new EIS--and hearings--and we don't have time for that if we want to get a plan accepted by the deadline, or unless you want to face the possibility of emergency regulations during the interim.' The comment was based on the fact that altering a plan from one already submitted requires a new EIS, an accompanying lengthy series of public Hearings, and still another series of routings through various parts of the bureaucratic structure. So, rather than go through all of this 'red tape,' attempts are sometimes made to have revisions conform closely enough to earlier plans that a new EIS will not have to be prepared. This kind of pressure has obvious consequences in the evolutionary development of fisheries management. (For another variant of this same problem, see Moore, 1977:36a.)

The Public - Turning now to the other major group of participants in the public meetings--the audience--we see, first, that membership is far more diverse (e.g., a wider age span, the participation of women); second, affective participation is more limited, though most if not all in this group follow keenly every phrase of the activities going on at the front of the room. However, such intensity is probably related to the fact that we are dealing with a highly selective sample of the public by mere virtue of their attendance.

Observers - Surprising to me (though considering my own presence I should have expected it) are the numerous 'observers' who

are present at each session, at times constituting a majority of the audience. In the early months, such individuals said little, remained aloof, and presented an anonymous identity. Most began attending because of specific, problem-oriented, business, scholarly, technical, administrative, or professional fact-finding motivations. Objectivity was (and still is to some extent) the theme; as when watching a play, one may be amused, puzzled, annoyed, intrigued--but not involved or committed. At the beginning this aura of objectivity was aided by being a stranger. Students working on papers and projects, consultants (or would-be ones hoping to use gained knowledge to project employment), physical and social scientists, professional and technical persons attached to some on-going project such as the Coastal Zone Management programs or port studies, came to observe, knowing few if any, and making copious notes which were jammed into the briefcases which often identified them from other members of the audience.

As the meetings have gone on in time, however, those who regularly attend have tended to lose their objectivity, such as it may have been, consciously or unconsciously. They have entered or been drawn into one or more of the networks which have formed in the audience and on the Council. Some observers have voluntarily joined certain sub-groups; others have been co-opted by the fishermen, the processors, the commercial interests, or other observer sets, the co-option occurring when some question, or some remark 'explains'

their presence at the meetings and gives notice that they can be used in some way by a sub-group. Thus, for example, a professional formerly employed by the Federal government in Washington (and currently on a postdoctoral research project) has been recently employed as a part-time consultant for the Council; a biologist working on a CZM program has donated her time to a fisherman's association to help them assemble and present, in appropriate stylistics, relevant data for an alternative management plan. Sometimes, such people are used on an ad hoc basis, contributing comments and strategy suggestions over luncheon, at the coffee break in the hall, or in the bar following the meetings; sometimes they become regular links, as in the case of the Provincetown librarian who is now funded by her Town Council to attend and report back on the meetings. However they become involved, what is interesting is the degree to which such individuals have become active participants rather than passive observers; and what is significant for this analysis is that members of this group are performing the same 'data bank' service--albeit more weakly at the present--that the staff and aides of Council members perform for their chiefs.

The News Media - Related to the observer group yet constituting a distinct and peripheral part of the Act's intended 'public,' are the news media representatives. Though there are usually only three or four such people they have a significance far outweighing

their numerical standing, for it is through their eyes that most of the non-attending public (and even some of those present) receive information and form attitudes about the actions and aims of the Council, the industry, government, and sciences (see Appendix IV).

Newspaper reporters do a much more thorough and accurate job than TV personnel; the latter tend to cover the meetings only intermittently (usually when one of the Council's news releases has indicated that some notable will be in attendance) and then only for, say, an hour or so--with the resultant public film coverage often being no more than a minute or two in viewing length. Newspaper personnel, however, often stay for the entire two-day session, observe and ask questions based on background knowledge gained by repetitive attendance. At least two of the regular writers have special expertise in coverage of fisheries news, as well as a broad range of information about their reading constituency which allows them to focus on and analyze the proceedings from a popular perspective. Yet they, like the other observers, form opinions, have biases, and skew their emphases and omissions for various reasons. Thus, the picture which the public receives and upon which its opinions and actions are predicated, is influenced to a large extent by what the news media chooses to present. And in addition to these conscious or unconscious slants there are such factors as the broader concern of the editor as to how much coverage, what budget costs, and

reporter allocation the agency should give; where and when the article or film footage appears; and even such attention-getting devices as what type-face will be used for the headline--all of which influence the public's awareness of, and significance-assignment, to the news item.

Perhaps the greatest strength that the atomistic and often factionalized fishing industry possesses lies in the ability of the news media to formulate and concentrate opinion and action in the community at large, as well as increasing the sensitivity or even vulnerability of the Council, the government, and scientists to the public impact of their actions.

Individual fishermen - The most obvious audience sector is that made up of those linked directly to the industry. This segment may be divided into two major groups, those who harvest the product (the fishermen) and those concerned with the results of that harvesting (the wives and daughters of fishermen, representatives of fishermen/vessel owners associations, and spokesmen for shore-based industries).

Individual fishermen representing only themselves are few in number and rarely attend consistently. This under-representation stems from such factors as: (a) the economic difficulties which arise when one must give up fishing time; (b) the historically-grounded cynicism which most fishermen have concerning the extent to which they are heeded by government or scientists; (c) the high

level of frustration felt when faced with what is perceived as the 'constant blocking' of attempts to communicate with and influence the Council. It is increasingly obvious to most fishermen that individual voices carry little weight. The number of fishermen's and vessel owners' associations which have been formed in recent months--and particularly in the way such groups are increasingly transcending local fleet, port, or fishery parameters--gives evidence for the extent to which fishermen are beginning to recognize that the greater the number for whom one speaks the more weighting is given that utterance by the listeners.

A common pattern has been that those who began coming as individuals have now become spokesmen for a group, or even organized such a group themselves, serving both as speaker for and reporter to their membership.

A very real problem for the fishermen is best analyzed from a sociolinguistic perspective. There has been a tradition in New England of the Town Hall meeting and one might expect representatives of this tradition to be verbally facile in a public forum. However, in the age-old fashion of such shore activities being structured to fit the work/time patterns of shore people, fishermen have not played as active a part in such arenas as might be predicted. Indeed, fishermen often vocalize distrust of such proceedings--or, rather, distrust of their ability to make any

significant impact on such deliberations. Even those whose families have lived in a particular community for generations will often use a phrase such as, 'Those town people don't give a damn for what the fishermen want.'

As a consequence of this historically based participatory pattern, many fishermen who are vitally concerned with the workings of the Council do not attend, attend but keep silent during the meetings or, even when attending and attempting to enter into the public dialogue, find it difficult and even painful to express their position. In the difficult public role not a few are conscious of their deficiencies as speakers; they are sensitive about perceived dialect stylistics, aware of vocabulary differences or insufficiencies both in sending and receiving messages, awkward at being required to move to front center of the audience and speaking into a microphone in front of large numbers of strangers. They are often unskilled in verbal exchanges and debates, especially when the ground rules favor the format used by administrators and scientists. And, it must be pointed out, some Council members have been less than fair in their dealings with the fishermen, sometimes seizing upon some personal aspect of the speaker's presentation to diminish the substance of the comment through a subtle or not-so-subtle ad hominem response.

Fishermen's Womenfolk - The women in fishermen's families are also active participants, particularly those from Gloucester

who have sent at least two members (and usually more) from the Fishermen's Wives Association to every Council meeting. The role of such women is important because many fishermen explicitly relinquish their own participatory role to the females of their family on the grounds that this allows the men to continue to pursue the business of making a living. Other precedence for this allocation has appeared in recent years, especially as the increased government paperwork has led many fishermen to utilize the services of the family females as bookkeeper, payroll clerk, secretary, etc. Additionally, the introduction of the CB radio has further allowed the women to participate in and be aware of events surrounding the lives of the fishermen when they are at sea. This vicarious experiencing has given women a greater empathy for, as well as involvement and stake in, the act of fishing itself. Thus, particularly in the last decade or so, women have been much more involved in the actual daily business of fishing than in earlier times when men tended to keep such transactions private and their womenfolk isolated from all except the economic result of the process.

Women make few public statements on the floor, however, tending to conduct their business in the forum of their local communities, through petitions and delegations to congressional representatives, through letter writing or other representations

to the news media, and most importantly, through preparation of materials which fishermen's associations can use in their attempts to get backing from various sources of influence. For example, an economic impact study owed a great deal of its success to the participation of the Gloucester fishermen's wives who collaborated on the gathering, assemblage, and collating of data for the report.

Though tending to make few public statements on Council meetings the women are having a great to say off the floor as a result of their audience role. What they see and hear at the meetings is reported back to the fishermen with whom they have contact and appears to have a substantial influence on the actions which fishermen take as a result of this information. The obviously subjective reports can affect, for example, future fishing strategies--as when a wife reports on the flounder situation and possible impending closures as she interpreted the direction of Council discussion; or it may determine what stance the fisherman will take at the next meeting of the association to which he belongs. In sum, though keeping a low profile, the fishermen's womenfolk are a force with which to be reckoned and must be considered an important part of the Council's public.

Shore-based Industries - Representatives of shore-based industry associations are themselves a lesson in the conservation of resources. Unlike the fishermen who participate on a generalized

basis, industry representatives focus on and speak marily to those management problems which deal with their special concern. As one said to me, "You've got to keep the punch where it matters; talk too much and they stop listening.' And this seems to be the strategy followed by most such agents. (Recreational boating interests, for example, address the Council only when the topic at issue affects party and head boat fishing patterns directly.) They come to the meetings well-prepared with reports and statistics (though at this stage no one is ever well-prepared enough!); such materials are undoubtedly a spin-off of the records and staff which such associations or (more likely) the individual businesses themselves maintain.

There is also a greater commonality of communicative stylistics between this group and Council members than between the fishermen and the Council. Processors, cannery operators, Chambers of Commerce representatives and the like are used to the board meeting format, meetings with government officials, and conversations with technicians and professional people of various training. They are more effective in this mode of interaction.

Unlike the fishermen who tend to emphasize the technological hardware of management plans--favoring, for example, gear regulation of mesh size as a way of managing the catch--the shore industries, in common with the Council, administrators, and

scientists, lean in the direction of software management plans-- stressing systems analyses, market stimulation/depression designs, and other managerial types of fisheries regulation. Here, again, one portion of the audience finds it easier to 'talk to,' and talk to the point of) the Council's emphases. This also has the negative effect of making the fishermen's communications seem even more irrelevant by comparison; following a rather heated and broad-ranging series of comments by several fishermen I heard one such industry representative despairingly say, 'They [the fishermen] just don't understand! We don't even talk the same language!'

Because there is a weighting in representation among the eleven elected Council voting members, with the skewing towards members drawn from the shore-based industries, industry representatives in the audience have more effective communication with the Council. These industries also have closer associational links with the Council than those represented by membership on the Council alone; industry colleagues meet in the course of other daily business activities and during informal social contacts, or they meet with other people who are intermediate links and transmit information back and forth with the network. There is nothing illegal nor even vaguely unethical about this; Council business is open to the public; discussion within the trade on the workings of the Council is normal and expectable. But some people have greater access to information of the 'straws-in-the-wind' variety and thus have a better

feel for where things are going and what may be about to happen.

How much, over the long haul, this additional knowledge and additional input will really affect the outlines of management plans and the decisions surrounding those plans-- which, after all, are ultimately determined in Washington-- is unclear. Equally uncertain is the extent to which the shore industries will be able to deal successfully with the increasingly restrictive quotas. Though alternating between gloom and optimism, most business representatives currently seem to hold the attitude that some accommodations, whatever the conditions of the stocks, will have to be made to 'keep things going.' The industry presentations on the Council floor, therefore, are presented in a communicative framework of reasonableness, common goals of rational economic design, and, more covertly, indications that the industry has a few cards of its own to play if the Council 'gets too independent.' If my interpretation of this pattern is correct there should, for example, be no total closure of the 1978 herring fishery, despite what has been called the dangerously low stock levels; it is more likely that the persuasive powers of Maine packers, especially when they remind the Council of the impact of unemployment in the factories that closure would bring, will prohibit such a recommendation. Rather, the Council can be expected to ask for

quotas only slightly less than catches of earlier years-- though they may have to do some fancy footwork of the still-utilized ICNAF areas the allocations assigned to each.

Fishermen's Associations - There is far greater diversity of style among the representatives of the fishermen's associations than among those of the industry. The individual styles of orientation towards the Council's purposes, the way each interacts with Council members, and the particular presentation methodologies, are sharply distinctive. Their attitudes towards the fishermen are often widely different, one from the other. One member of such an association has, on several occasions privately indicated that he believes fishermen incapable of the kind of sophisticated, objective, dispassionate understanding which must be brought to the problems of the region if the New England industry is to survive; for him, the major task of his association is to act in loco parentis for the fishermen. This is a rare extreme, however, and other representatives vary between serving only as speakers for their members, to being active providers of alternative programs--a kind of minority voice in council decision-making.

Practically all of the agents from fishermen's associations have gained in assurance and skill over the past months; at least two such individuals initially commented in rather belligerent, emotionally-colored, advocacy terms, but have gradually shifted to

a more open style marked by a lean prose and substantive data. That this alone, however, is not enough to give one entry to the Council is indicated by the fact that two other individuals, outstanding for their reasonable but determined attempts to represent the fishermen on the basis of data-oriented arguments, have failed in attempts to get appointed to the Council. Informants differ as whether nomination was "blocked by the Council", "rejected by the Secretary after recommendation by the Council",* or was made "impossible due to technical restrictions in membership." There is consensus, however, that both men would be 'dangerous threats to the current domination of management programming by Commerce/NMFS.'

As the Council continues its work it will be interesting to see what counteractive changes will be wrought on such associations and the individuals who emerge as dominant personalities in them. Indications are that there will be a growth in the number, inclusiveness, interlocking and cooperative nature, and membership of such groups--and that they will take an increasingly flexible line with the Councils, preferring non-public negotiation and discussion on the really significant problems in hammering out proposed management plans, while reserving the public forum for position statements. The monthly meetings, in other words, will be used more to broadcast to the public (and one's membership), and bring some public pressure on the Council, rather than as the

*"Actually the Council takes no position on its own composition."

Personal communication, S. Appollonio.

forum for actual negotiation.

One last comment about the public's role in these meetings: It is interesting that two groups are notable for their absence. I have not heard anyone identify himself as 'a consumer'; nor have I encountered any representative of the shoreside laborers, e.g., longshoremen, cannery workers.

The consumer groups, so prominent in other such public meetings, appear totally unconcerned with the deliberations which are occurring here, e.g., there have been no voices raised as to possible effects of landing limitations or stock declines on retail fish prices. Similarly, pleas from the fishery factory workers concerning the potentially devastating unemployment which lack of supplies would create are also missing. The latter lacuna seems even more unusual than the lack of consumer input since Labor has a long history of active involvement on matters which concern workers and, e.g., in a relatively narrow employment base such as Maine has, cannery jobs play a significant part in the over-all economic picture.

To summarize the problems of public input, the following difficulties seem to be applicable whatever sector--fishermen, spokesmen, or distaff--is involved.

1. Many reject not only the validity of certain fundamental propositions of current fisheries management needs, scientific knowledge pertaining thereto, and the internally-

controlled hierarchies of administrative systems. Time which could be better spent is thus utilized in what appears to be quixotic attempts to alter positions and patterns which are entrenched and/or fundamentally unalterable;

2. they frequently present arguments so all-inclusive and sweeping that they lack focus;
3. their arguments not uncommonly have no substantive basis;
4. they fail to recognize the extent to which the industry itself has altered old attitudes, values, work, and associational patterns relating to traditional fishing life in order to accommodate the vastly different exploitive patterns of 20th century fishing patterns. They argue for the anciently-rooted freedom to be an entrepreneurial maximizer at a time when any real value of personal skill, laboriously obtained through limited apprenticeship openings (which worked to inhibit new entries) has already been replaced with a reliance on tools of the trade available to the highest bidder, outsider or not;
5. they defeat themselves by letting differences divide them-- e.g., floor arguments in which in-shore/off-shore) fisherman/processor, or commercial/recreational advocates engage

in charge and counter-charge--validating the statements and positions of, say, bureaucrats and scientists who make the same charges when arguing the need for external regulation;

6. they, like the Council, allow themselves to be forced to assume positions where they are reacting to a pre-determined crisis scenario designed by others, rather taking than a self-determined, initiatory programmatic stance;
7. they lack sufficient knowledge of parliamentary procedure to control any of the managerial aspects of the proceedings;
8. they lack a stable supply of resources (human and monetary), information, and regional, even national, coordinating back-up services.

Conclusion - As repeatedly stressed, the Council is going through a formative period, and the industry is being subjected to rapid change, both imposed and self-generated. Because of this the structure and process of the Council and its participating sectors--the functioning (operation) and function (purpose)--are in a state of constant reformulation, adaptation, and solidification. However, it is in this formative stage that the components and processes are especially clear and amenable to observation. Who can do what, where, when, and how are under constant examination by the participants themselves and therefore are more explicit and capable of review by an observer. Features which will later become more

'understood' and habitual (and thus more covert) are now the subject of open debate and discussion. These conditions make it an ideal time to observe the interface among the various sectors which are integral to the micro- and macro-levels of all segments. Mutual needs, areas of common goodwill, and consensual goals, as well as points of friction, conflict and real or potential cleavage are revealed in overt Formal statements, in explicit examination of Technical structure and organizational format, and in the Informal give-and-take process that goes on in the caucuses and confrontations away from the public forum of the meeting.

Fundamental to this analysis has been the position that technology, as hardware and software, generates both the problem and the solution. Each sector tends to view the technology of the other sectors as the source of difficulties: Boats, gear, and equipment multiply, leading to over-exploitation, often because the investment costs force fishermen into an ever upward-spiraling fishing effort; economic concepts of rationalization lead businesses to manipulate buying and pricing patterns; computers and systems analyses technology are used by technicians in various spheres to see these tools as providing optimal production solutions, though they deal with a narrow range of human variables; conceptual models and canonical principles of methodology lead scientists to have an unscientific faith in their findings; and accretive bureaucratic/regulatory growth is seen by government to

be the best tool for man's control of his future, despite its flaws.

Within each sector, obviously, these same 'evils' are seen as the appropriate technology, and the productive effort increases. Thus Congress designed an Act which manufactured a Council that produces plans, so as to manage the fishing effort. We therefore have created a tool that gives us an instrument to produce tools in order to control the use of technology!

I have also stressed that a fact of human existence appears to be that strategies designed to produce intended results inevitably lead to unforeseen consequences. So, for example, support of the extended jurisdiction formula which was based on recognition of the stock decline led to an acceptance of the position that the resources of the sea are no longer a common resource; rather they are to be closed, first to foreigners, and then to anyone designated as a predator dangerous to the biological survival of the stocks; we have shifted from believing that the multiplex use of the ocean is available to all who have the capacity to exploit--and are free to indiscriminately maximize that exploitive capacity. Although the sea and its elements are no longer a common resource, however, they are still within the common domain, i.e., diverse users with competing objectives have lost the right but retain the privilege of access. Under this new commonwealth perspective the Federal government of the United States sees itself mandated to hold the

resources in trust for all; to restrain any, so as to insure for everyone, the most equitable distribution of the resources. A fisherman translated the consequence of this position as, 'Face it. As soon as that 200-mile limit went into effect the Feds owned the fish.' (See Appendix V for a slightly tongue-in-cheek extension of this tendency by humans to formulate premises from which are derived Laws.)

Clearly, even within the narrow temporal and spatial limits of this study, more research is needed (how familiar that phrase!), especially if the management plan is to succeed in attaining its complex goals.³ A major problem, however, is that all of the actors know just enough to try to achieve grandiose results with primitive tools (e.g., OY aims through the current OY design); as is so often the case, rising aspirations have preceded the materialistic capacity to achieve the desired ends. Multistranded management planning and implementation is complicated in and of itself, but is further convoluted when different sectors of industry, administration, science, and the society at large differ as to the proper and appropriate functioning and function of management. And it all becomes more complex when one adds such dimensions as long-term goals versus short-term needs, the ways in which attempts to satisfy short-term requirements may alter long-range planning, the means we have to achieve either set of purposes, and the fact that present actions and unknown variables alter the calculated future

upon which strategies and decisions are based, thus making the future essentially undeterminable. This is why the results of decisions (often implemented as 'answers to problems') not uncommonly become transformed into consequences; why solutions themselves usually seem to create new problems.

It is partially for these reasons that, at this point, this paper offers no solutions--or even quasi-solutions framed in the manner of alternatives. This abrogation of responsibility will disappoint some (and relieve others). It is not because I believe that programmatic problem-solving is best left in the hands of those in the industry and/or government who are structurally in the position of working out such answers; such decision-makers are no better or worse than we scientists who have a somewhat broader and (theoretically) more objective view of the situation (possible because, as one fisherman pointed out at a recent Council meeting, 'The damn scientists get paid no matter what they do, or whether they're right or wrong'). But we are often deficient in the knowledge of practical problems of implementation and necessary trade-offs in the realm of Realpolitik. Industry and government, on the other hand, may be better equipped to deal with problems of realistic funding, personnel needs, and required compromises, but often lack the ability to divest themselves of special interest parochialism.

This report is best seen as a volunteered and non-official White Paper, a throw-away document which will serve its purpose

if it acts as a catalyst for discussion and further exploration, and as a base for further research. If the caveats presented here are received, they may at least serve to brace one for tomorrow's problems which will arise because of today's solutions.

Footnotes.

¹

It should be noted that we actually only extended our conservation zone 188 miles since, at time of the Act's implementation the U.S. already exercised economic control over a total of 12 miles beyond the shore.

²

This is only a partial listing of the various sectors which were represented in the 889-page volume of the House Hearings on extended jurisdiction, Serial #93-37.

³

One beginning point should be an examination of the primary dimensions of the Act and its agents of implementation. Appendix VI outlines one possible research design for determining at least some of the cognitive and mechanical parameters of fisheries management.

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Appendix I

Summary of Public Law 94-265, paraphrased, annotated and with deletions 94th Congress, H.R. 200, April 13, 1976
GPO, Doc. #69-716 Fishery Conservation & Management Act, 1976

Table of Contents

Sec.2 Findings, purposes, and policy.

Findings: Fish are a valuable resource which contribute to the food supply, economy, and health of the Nation and provide recreational opportunities. As a consequence of increased fishing pressure and the inadequacy of conservation and amangement practices and controls certain stocks are threatened with extinction and other stocks are so reduced they could become similarly threatened. Foreign fishing has contributed to the damage done to commercial and recreational fishing which contributes significantly to the Nation's economy. International agreements have been ineffective. If placed under sound management the fisheries can be conserved and maintained so as to provide OYs on a continuing basis.

Purposes: This act is designed to establish an FCZ within the US will assume exclusive fishery management authority over all fish except highly migratory species, and exclusive fishery management authority beyond such zone over anadromous species and Continental shelf resources. The Act is also designed to support and encourage the implementation and enforcement of international fishery agreements which deal with highly migratory species; to promote domestic commercial and recreational fishing under sound conservation and management principles; provide for the preparation and implementation of plans which will achieve and maintain, on a continuing basis, the OY for each fishery; the establishment of Regional Fishery Management Councils to prepare, monitor, and revise such plans as will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, taking into account the social and economic needs of the States; and to encourage the development of currently underutilized fisheries.

Policy: The policy of Congress in this Act is to: maintain without change existing territorial or other ocean jurisdiction of the U.S. for all purposes other than the conservation and management of fishery resources; authorize no impediment to or interference with recognized legitimate uses of the high seas, excpet as necessary for the conservation and management of fishery resources; permits foreign fishing consistent with the provisions of this act;

supports and encourages continued active U.S. efforts to obtain an internationally acceptable treaty, at the Third UN Conference on the LOS, which provides for effective conservation and management of fishery resources. The policy is also to assure that the national fishery conservation and management program utilizes and is based upon the best scientific information available; involves, and is responsive to the needs of interested and affected States and citizens; promotes efficiency; draws on Federal, State and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective.

Sec. 3 Definitions

Defines terms such as: 'anadromous species,' 'conservation and management,' 'Continental Shelf,' 'Continental Shelf resources,' 'Council,' 'fish,' 'fishery,' 'fishery conservation zone,' 'fishery resource,' 'fishing,' 'fishing vessel,' 'foreign fishing,' 'high seas,' 'highly migratory species,' 'international fishery agreement,' 'Marine Fisheries Commission,' 'national standards,' 'optimum (with respect to the yield from a fishery),' 'person,' 'Secretary,' 'State,' 'stock of fish,' 'treaty,' 'United States (when used in a geographic context),' 'vessel of the United States.'

Title I--Fishery Management Authority of the U.S.

Sec. 101. Fishery conservation zone.

Physically defined.

Sec. 102. Exclusive fishery management authority.

Defines the resources over which authority will be exercised.

Sec. 103. Highly migratory species.

Specifies authority will not extend over highly migratory species.

Sec. 104. Effective date.

March 1, 1977.

Title II--Foreign fishing and international fishery agreements.

Sec. 201. Foreign fishing

In general.

Existing international fishery agreements.

Governing international fishery agreements.

Total allowable level of foreign fishing.

Allocation of allowable level.

Reciprocity.

Preliminary fishery management plans.

Sec. 202. International fishery agreements.

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Treaty renegotiation.

International fishery agreements

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Sec. 203. Congressional oversight of governing international fishery agreements.

In general.

Referral to committees.

Computation of 60-day period.

Congressional procedures.

Sec. 204. Permits for foreign fishing.

In general.

Applications and permits under governing international fishery agreements.

Registration permits.

Sec. 205. Import prohibitions

Determinations by Secretary of State.

Prohibitions.

Removal of prohibition.

Definitions.

Title III--National Fishery Management Program.

Sec. 301. National standards for fishery conservation and management.

In general. Any fishery management plan prepared and any regulation promulgated to implement such a plan shall be consistent with the following national standards for fishery conservation and management: Conservation and management measures, based on the best scientific information available, shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. To the extent practicable, individual stocks shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination. Measures shall not discriminate between residents of different States. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources except that no such measure shall have economic allocation as its sole purpose [emphasis added; some plans of regional councils have been rejected on this basis]. Measures shall take into account and allow for variations among, and contingencies in fisheries, fishery resources, and catches.

Guidelines. The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans [emphasis added; some council members and public participants have indicated they believe the guidelines are so prescriptive and the Secretary's view of her authority so supraordinate that she directs rather than assists the development of management plans].

Sec. 302. Regional fishery management councils.

Establishment. Eight regional fishery management councils are defined and established. The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members [membership varies according to designated council], 11 of whom are appointed by the

Secretary.

Voting members. These are: The principal State official with marine fishery management for each state [=5]; the regional director of the NMFS [=1]; members appointed by the Secretary from a list provided by the Governor of each constituent State which nominates no less than 3 individuals for each position, such individuals to be knowledgeable or experienced with regard to the management, conservation, or recreational and commercial harvest of the fishery resources of the geographical area concerned. Provision is made for only 1/3 of the council's voting members to have their terms expire in any given year and term of office is 3 years after the initial period.

Nonvoting members. This will include the regional director of the US Fish and wildlife Service; the District Commander of the Coast Guard; the executive director of the Marine Fisheries Commission for the geographical area concerned; a representative of the Dept. of State. As with voting members, all State and Federal officials or representatives may appoint designees.

Compensation and expenses.

Transaction of business. A majority of voting members shall constitute a quorum, but one or more such members designated by the council may hold hearings. All decision of any council shall be by majority vote of the voting members present and voting [emphasis added; votes have been taken by calling individual members on the phone--which may not be legal; abstentions can effect 'majority' statistics].

Staff and administration. Each council may appoint and assign duties to an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions. The council may request, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such council any of the personnel of such agency to assist the council. The Secretary shall provide such administrative and technical support services as are necessary [by whose determination?] in the performance of its functions [emphases added]. The Secretary and the Secretary of State shall furnish each council with relevant [as defined by whom?] information concerning foreign fishing and international fishery agreements [but not negotiations in process]. Each council shall determine its organization and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. Each council shall publish and make available to the public a statement of its organization, practices, and procedures. The Secretary shall pay compensation, expenses, reimbursements, and such other costs as the Secretary determines are necessary to the performance of the functions of the councils [emphases added].

Committees and panels. Each council shall establish and maintain and appoint the members of a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant [defined how and by whom?] to such council's development and amendment of any fishery management plan.

Functions. Each council shall prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority and from time to time such amendments to each such plan as are necessary [emphases added; the council submits plans to the Secretary, while the Secretary transmits plans to the council. Who, how, and when determines when plan amendments are necessary?]. The council prepares comments [only] on any application for foreign fishing transmitted to it, on revised council plans returned to the Council by the Secretary, and on any plan or amendment initiated and transmitted to the council by the Secretary [emphases added; the Secretary may object to the Council's plans and amendments but the Council may only comment on plans and amendments transmitted by the Secretary]. The council shall conduct appropriately timed and located public hearings so as to allow all interested persons an opportunity to be heard in the development of plans and amendments. The council shall submit, by February 1 of each year, an annual report, as well as such periodic reports as the council deems appropriate and any other relevant reports which may be requested by the Secretary. The council shall review on a continuing basis and revise as appropriate the assessments and specifications made of MSY and OY [and calculations of how much of the OY US vessels will catch and what portion of the OY may be made available for foreign fishing]. The council shall conduct any other activities which are required by or provided for in this act, or which are necessary and appropriate to the foregoing functions.

Sec. 303. Contents of fishery management plans.

Required provisions. Any fishery management plan which is prepared by any council or by the Secretary shall contain the conservation and management measures applicable to foreign fishing and fishing by vessels of the U.S. which are necessary and appropriate for the conservation and management of the fishery, described in this section or in the section dealing with discretionary provisions, or both, and be consistent with the national standards, the other provisions of this Act, and any other applicable law. The plan shall contain a description of the fishery including but not limited to the number of vessels involved, and type and quantity of fishing gear used, the species of fish involved and their location, the cost [as defined how and for whom?] likely to be incurred in management, actual and potential revenues from the fishery [for the local economy?

the Federal government? the fisherman at the dock? the marketing sector of the industry?], any recreational interests in the fishery, and the nature and extent of foreign fishing[using what data base?]and Indian treaty fishing rights, if any[emphases added; 'vessels' are defined as 5 gross tons and thus requiring documentation by the Coast Guard. But it has been estimated that as much as 1/3 of the U.S. catch is taken by recreational fishermen, anglers, and those who fish using vessels 5 g.t. Further, few statistics are available on catches of party and head bosts. Finally, the degree of specificity intended regarding type and quantity of fishing gear and the location of fish is brings up a number of questions on a priori assumptions of sciencing as well as sampling procedures]. The plan shall also assess and specify the present and probable future condition of the MSY and OY from the fishery and include a summary of the information utilized in making such specification. Plans must also assess and specify: the capacity and extent to which U.S. fishing vessels, on an annual basis, will harvest the OY and the portion which will not be harvested by U.S. vessels and can be made available for foreign fishing. The plans shall specify the pertinent data which shall be submitted to the secretary including but not limited to information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing[by season, vessel trip time, days actually fished? The definition of 'fishing' in Section 3 includes 'any...activity which can reasonably be expected to result in the catching, taking, or harvesting of fish' which would include time spent at the dock repairing the vessel and gear, as well as time spent attending council meetings, attending fishermen's colloquims, boat shows, and the like], and number of hauls[emphases added].

Subsec.303(a)(5)]

Discretionary provisions. Any fishery management plan prepared by the council or Secretary may require a permit to be obtained from and fees to be paid to the secretary with respect to any vessel of the U.S. fishing or wishing to fish in the FCZ or for Continental Shelf fishery resources beyond such zone; designate places and times of prohibited or limiting fishing, or fishing permitted only by specified types of fishing vessels or with specified types and quantities of gear; establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors) which are necessary and appropriate for the conservation and management of the fishery; prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act[read carefully, this subsection contains a number of ambiguities, the most

striking of which is the last phrase emphasized since, aside from its syntactic peculiarity, the word 'device' has a number of meanings which cloud the issue. Webster's New World Dictionary defines 'device as: 1. a plan or scheme; 2. an underhanded trick; 3. a mechanical contrivance. Are 'devices,' however defined, e.g., required of or prohibited to fishermen, law enforcement agents, etc.?]. The plans may also establish a system for limiting access to the fishery in order to achieve OY if, in developing such a system the council and the Secretary take into account [but not be restricted by] present participation in the fishery, historical fishing practices in and dependence on the fishery, the economics of the fishery, the capability of fishing vessels used in the fishery to engage in other fisheries [referring only to the technological switch-over capacity or technology plus economic capacity of vessel owner to afford such a shift? See next two items.], the cultural and social framework relevant [as defined how and by whom?] to the fishery, and any other relevant considerations [emphases added].

Proposed regulations. Any council may prepare any proposed regulations which it deems necessary and appropriate to carry out any fishery management plan or any amendment to such plan [council members and the public generally are unclear as to what is a 'regulation' as it is legally differentiated from certain features contained within management plans per se]. Such proposed regulations shall be submitted to the Secretary together with such plan or amendment for action by the Secretary pursuant to other sections of the Act.

Confidentiality of statistics. Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality except that the Secretary may release or make public any such statistics which, by being in aggregate or summary form, do not directly or indirectly disclose the identity or business of any person who submits such statistics [emphases added; some members of the industry have expressed concern that the Secretary but not the council or any other agency are so inhibited].

Section 304. Action by the Secretary.

Action by the Secretary after receipt of plan. Within 60 days of receipt of a plan or amendment the Secretary must have reviewed the plan or amendment, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea, to determine if the plan or amendment is consistent with the national standards, other provisions of this Act, and any other applicable law, and must notify the council in writing of his approval, disapproval, or partial

disapproval, including a statement and explanation of the Secretary's objections and the reasons therefore, suggestions for improvement, a request to resubmit the plan or amendment as so modified to the Secretary within 45 days after the date on which the council receives such notification[emphases added; implied here is that the council may follow the Secretary's suggestions for improvement but, if not resubmitted in a form consonant with those suggestions and modifications the Secretary may simply shelf the plan or amendment and procede to implement the plan of the Secretary. Note also that the Secretary with a single decision-making base and unlimited resources has 60 days to respond whereas the council, a non-homogeneous group whose members are scattered and have other occupational duties, has 45 days].

Review by the Secretary. See above.

Preparation by the Secretary. The Secretary may prepare a fishery management plan or amendment if the council fails to develop and submit to the Secretary after a reasonable period of time a plan for such fishery or amendment to such plan if[the Secretary deems that] such a fishery requires conservation and management or if the Secretary disapproves or partially disapproves any such plan or amendment and the council fails to change such plan or amendment in accordance with the notification of the Secretary's suggestions for improvement and request for changes and modification which satisfy those objections[emphases added; it is assumed that the Secretary's objections are valid and any rejection of the Secretary's position or modification in the second rewriting of the plan or amendment which does not satisfy the Secretary his own plan and transmit it to the council]. The council has 45 days after date of receipt to recommend changes in the plan or amendment forwarded by the Secretary but[regardless of such recommendations, their content and whether the council rejects in part or whole, or even fails to respond]the Secretary may, after the expiration of such a 45-day period implement the plan or amendment transmitted by the council pursuant to the appropriate mechanisms for implementation as outlined in Section 305 [emphases added]. [Not withstanding the authority given above to implement a plan or amendment irrespective of the council's objectives and reasoning] the Secretary may not include in any fishery management plan or amendment to such plan prepared by him, a provision establishing limited access unless such is first approved by a majority of the voting members, present and voting, of each council [emphases added; this subsection seems clear indication that the Secretary has wide management-design powers which are restrained only to the extent that they are consistent with the national standards, the other provisions of the Act, and any other application law, and deal with a system of limited access].

Establishment of fees by the Secretary.

Fisheries research which may be initiated by the Secretary.

Miscellaneous duties.

Section 305. Implementation of fishery management plans.

In General. After the Secretary approves any plan or amendment or himself prepares a plan or amendment, the plan or amendments shall be published in the Federal Register together with any regulations which the Secretary proposes to promulgate to implement such a plan or amendment. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations [emphases added].

Hearing. The Secretary may schedule a hearing. If such a hearing is scheduled the Secretary may, pending its outcome, postpone the effective date of the regulations proposed to implement a plan or amendment or take such other action as he deems appropriate to preserve the rights or status of any person.

Implementation. The Secretary shall promulgate regulations to implement any fishery management plan or amendment after consideration [though not necessarily incorporating] all relevant matters presented during the 45-day period following publication in the Public Register and produced in any hearing and if the Secretary finds that the plan or amendment is consistent with the national standards, the other provisions of this act and any other applicable law. To the extent practicable [how and by whom is the extent of practicality determined?] such regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery [emphases added].

Judicial review. Regulations promulgated by the Secretary [but not the plan or amendment] shall be subject to judicial review if a petition for such review is filed within 30 days after the date on which the regulations are promulgated.

Emergency actions. If the Secretary finds [using what criteria?] that an emergency involving any fishery resources exists he may promulgate emergency regulations without regard for the provisions set forth in the General and Implementation subsections of Section 305 above to implement any fishery management plan if such emergency so requires or promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency [emphases added; the extent to be defined how and by whom?]. Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect [thus, emergency regulations may be incorporated as part of a plan but non-emergency regulations must be separate from a plan or amendment]. Any emergency regulation promulgated under this subsection shall be published in the Federal Register together with the reasons therefore and shall remain in effect for not more than 45 days after date of publication though it may be extended for one additional period

of not more than 45 days and terminated earlier by the Secretary [emphases added].

Annual report by the Secretary to Congress and the President no later than March 1 of each year.

Responsibility of the Secretary. The Secretary shall have general responsibility for carrying out any fishery management plan or amendment approved or prepared by him and may promulgate such regulations as may be necessary to discharge such responsibility or to carry out any other provision of this Act [emphases added.]

Section 306. State jurisdiction

In General. The States may regulate any vessel within its boundaries and nothing except as follows shall be construed as extending or diminishing the jurisdiction or authority of any state within its boundaries.

Exception. If the Secretary finds, after notice and an opportunity for a hearing that fishing in a fishery which is covered by a plan implemented under this Act is engaged in predominantly within the FCZ and beyond such zone [facing which way?] and if any State has taken action or omitted to take action, the results of which will substantially and adversely affect the carrying out of such a management plan, the Secretary shall promptly notify such State and the appropriate council of such finding and his intention to regulate the applicable fishery within the boundaries of such State pursuant to such management plan and regulations promulgated to implement such plan. If such occurs the State may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail [as determined by the Secretary] he shall promptly terminate such regulation.

Section 307. Prohibited Acts.

Section 308. Civil penalties.

Section 309. Criminal offenses.

Section 310. Civil forfeitures.

Section 311. Enforcement.

Powers of authorized officers. Any officer who is authorized to enforce the provisions of this Act may with or without a warrant arrest any person if he has reasonable cause to believe that such person has committed an act prohibited by Section 307; board, and search or inspect any fishing vessel which is subject to the provisions of this Act [a transient in a hotel room or an individual in a mobile home has greater constitutional protection than the captain of a vessel] .

Issuance of citations.

Jurisdiction of courts.

Definition of 'provisions of this Act,' 'violation of any provisions of this Act.'

Section 312. Effective date of certain provisions. Sections 307-311 shall take effect March 1, 1977

Title IV--Miscellaneous provisions.

Section 401. Effect on LOS Treaty

Section 402. Repeals

Section 403. Fishermen's protective Act amendments.

Section 404. Marine mammal protection Act amendment.

Section 405. Atlantic tunas convention Act amendment.

Section 406. Authorization of appropriations.

It may be noted that the original Senate version of this Act included in the bill a provision for establishing a 5-member, President-appointed 'Fishery Management Review Board' to determine appeals from regulations promulgated by the Secretary. The final conference act eliminated this in favor of judicial review (see Section 305).

Appendix 11a

New England Regional Fishery Management Council

Peabody Office Building
One Newbury Street
Peabody, Massachusetts 01960

617-535-5450

FTS 8-223-3822

You are welcomed to a regular meeting of the New England Regional Fishery Management Council. This Council has been established under the Fishery Conservation and Management Act of 1976 (Public Law 94-265) and all meetings are open to the public unless particular confidential matters, such as the hiring of personnel, are to be considered.

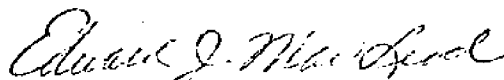
A limited number of copies of the agenda to be considered at this meeting are available from the recording secretary. Your input concerning these agenda items is helpful to Council members in making decisions.

In order to have the meeting move forward in orderly fashion, it is requested that you follow these procedures:

1. Please sign the attendance sheet with your name, address and affiliation.
2. After Council members have commented on any item on the agenda, the Chairman will call for comments from the public. All such comments should be addressed through the Chairman.
3. If you wish to speak, please raise your hand and, when called upon by the Chairman, please rise, state your name and affiliation, then make your comments.

Every effort will be made to allow all those who wish to speak to do so. However, the Chairman reserves the right to limit discussion when time runs short. Therefore please keep your remarks brief and to the point. Repetition of points previously made and long debates are not encouraged.

Written comments on any of the agenda items considered at this meeting will be accepted for ten days after the meeting adjourns. Letters should be sent to the above address.



Edward J. MacLeod, Chairman
New England Regional Fishery
Management Council

Appendix I Ib
NEW ENGLAND REGIONAL FISHERY MANAGEMENT COUNCIL
HOLIDAY INN, PEABODY, MASSACHUSETTS
MARCH 1-2, 1978

A G E N D A

March 1

10:00 A.M.	Introductions, announcements, correspondence.
10:30	Herring Management Plan; O/S Committee recommendations -- Mr. Gordon.
11:00	Herring Management Plan -- Council discussion.
12:00 - 1:30 P.M.	Lunch
1:30	Herring discussion continued.
3:00	Herring management; Council recommendations.

March 2

9:00 A.M.	Report of Groundfish O/S Committee -- Mr. Norris.
10:30	Georges Bank legal action; lease sales delay and fisheries management implications -- Mr. Foy, Conservation Law Foundation.
12:00 - 1:30 P.M.	Lunch
1:30	Gear Conflict Committee Report -- LCDR Nunes.
2:00	Regulatory Measures Committee Report -- Mr. Gordon.
2:30	Observer Program Committee Report -- Mr. Dykstra.
2:45	Foreign fishing report -- LCDR Nunes.
3:00	Foreign purchase of fish from U.S. vessels (Fed. Reg. Notice Feb. 8, 1978, p. 5398)* -- Council recommendations
4:00	Additional legal advice to Council; Council attorney on retainer at regular meetings.
4:30	Approval of Minutes, other business.

The above agenda items are not necessarily taken in the order in which they appear; they are also subject to change.

*This notice distributed to Council on 2/15/78.

Appendix IIc

NEW ENGLAND REGIONAL FISHERY MANAGEMENT COUNCIL

HOLIDAY INN, PEABODY, MASSACHUSETTS
FEBRUARY 14-15, 1978

SUMMARY MINUTES

1. Groundfish Oversight Committee deliberated and reported recommendations to the full Council.
2. Council amended the Groundfish Management Plan in the following manner:
 - a. Optimum Yields were voted as follows:
 - Haddock - 8,000 MT, by-catch only
 - Cod - Gulf of Maine - 8,500 MT plus Canadian allotment (6,000 MT commercial, 2,500 recreational)
 - Cod - Georges Bank and South - 22,000 MT, plus the Canadian allocation. (All commercial, recreational harvest considered insignificant.
 - Yellowtail Flounder (E 69°) - 4,400 MT.
 - Yellowtail Flounder (W 69°) - 3,700 MT by-catch only.
 - b. Quotas will be established on a quarterly basis. Methods of allocating by vessel class or trip limit may be determined at a later time.
3. Council approved three fishing applications from Japan and two from Mexico.
4. Council voted to endorse Coast Guard comments on the billfish-shark regulations. Considers them unenforceable. Also, submitted own comments.

New England Regional Fishery Management Council

NEWS

Peabody Office Building
One Newbury Street
Peabody, MA 01960
(617) 535-5450

For Immediate Release

December 22, 1977

The New England Regional Fishery Management Council announces a series of Public Hearings on the 1978 groundfish (cod, haddock, yellowtail flounder) management plan. The hearings will be held to receive public comment on the proposed regulation of the fisheries for cod, haddock and yellowtail flounder, in the Fishery Conservation Zone established under the 200 mile Act.

The hearings will be held from 7:30 p.m. to 9:30 p.m. at the following locations and dates:

January 30, 1978:	Holiday Inn U.S. Route 1 and Route 3 Ellsworth, Maine
January 31, 1978:	Dutch Inn Great Island Road Galilee, Rhode Island
February 1, 1978:	Holiday Inn Hathaway Road New Bedford, Massachusetts
February 2, 1978:	Holiday Inn Route 132 Hyannis, Massachusetts
February 3, 1978:	Holiday Inn Cooks Corner Brunswick, Maine
February 6, 1978:	Gloucester House Restaurant Seven Seas Wharf Gloucester, Massachusetts

NEWS RELEASE

-2-

December 22, 1977

The proposed plan will include the same regulations as in 1977 for licensing, mesh sizes, closed areas and minimum sizes for cod, haddock and yellowtail flounder, and quarterly quotas and landings restrictions for yellowtail flounder. It will amend the requirements for vessel identification, and it will set quarterly quotas for cod and haddock. Other modifications to the 1977 plan which may be considered by the Council at its regular meeting on January 18-19 will be presented for consideration of the public at the Public Hearings.

For further information, contact Mr. Spencer Apollonio, Executive Director, New England Regional Fishery Management Council, Peabody Office Building, 1 Newbury Street, Peabody, MA 01960; (617) 535-5450.

Appendix II Ia

D I R E C T O R Y

NEW ENGLAND REGIONAL FISHERY MANAGEMENT COUNCIL

DECEMBER 1977

VOTING MEMBERSHIP

DESIGNATED STATE AND FEDERAL REPRESENTATIVES

MEMBER

Vinai O. Look, Commissioner
Department of Marine Resources
State House
Augusta, ME 04330
Tel: 207-289-2291

Frank Clarke, Chairman
Fish and Game Commission
199 Pine Knoll Terrace
Lisbon, NH 03585
Tel: (603) 838-6351

Allen E. Peterson, Jr., Director
Department of Fisheries, Wildlife
and Recreational Vehicles
Division of Marine Fisheries
100 Cambridge Street
Boston, MA 02202
Tel: 617-727-3193

William W. Harsch, Director
Department of Natural Resources
83 Park Street
Providence, RI 02903
Tel: 401-277-2771

Theodore B. Bampton
Deputy Commissioner
Preservation and Conservation
Department of Environmental
Protection
State Office Building
Hartford, CT 06115
Tel: 203-566-4522

William G. Gordon
Regional Director
National Marine Fisheries Service
Fed. Bldg., 14 Elm Street
Gloucester, MA 01930
Tel: 617-231-3600

DESIGNEE

Robert L. Dow
Marine Fisheries Advisor
Department of Marine Resources
State House
Augusta, ME 04330

Edward W. Spurr
Supervisor of Fisheries Research
Division of Inland & Marine
Fisheries
N.H. Fish and Game Department
34 Bridge Street
Concord, NH 03301
Tel: (603) 271-2501

Philip G. Coates, Ass't Director
Department of Fisheries, Wildlife
and Recreational Vehicles
Division of Marine Fisheries
100 Cambridge Street
Boston, MA 02202
Tel: 617-727-3193

John M. Cronan
Department of Natural Resources
83 Park Street
Providence, RI 02903
Tel: 401-277-2784

Robert Jones
Department of Environmental
Protection, Marine Region
P.O. Box 89
Waterford, CT 06385
Tel: 203-443-0166

Robert Hanks
National Marine Fisheries Service
Fed. Bldg., 14 Elm Street
Gloucester, MA 01930
Tel: 617-281-3600

APPOINTED DELEGATORY MEMBERS

Edward J. MacLeod
3 Bouterice Road
Beverly, MA 01915
Tel: 617-927-2522

Charles B. Stinson, President
Stinson Canning Company
Prospect Harbor, ME 04669
Tel: 207-963-7331

Jacob J. Dykstra, President
Pt. Judith Fishermen's Cooperative
Association
P.O. Box 730
Pt. Judith, RI 02882
Tel: 401-783-3368

Herbert R. Drake
130 Harbor Road
Rye Harbor, NH 03870
Tel: 603-964-5345

Onar G. Allvord
44 Smith Street
Groton, CT 06340
Tel: 203-445-2007

APPOINTED AT LARGE MEMBERS

Henry Lyman, Publisher
Salt Water Sportsman
10 High Street
Boston, MA 02110
Tel: 617-426-4074

Thomas A. Norris, Vice President
Old Colony Trawling Corporation
Boston Fisheries Association
253 Northern Ave., Rm. 205
Boston, MA 02210
Tel: 617-542-4688

John Burt, Secretary Treasurer
New Bedford Fishermen's Union
62 North Water Street
New Bedford, MA 02740
Tel: 617-994-9601

Robert Lowry
Richmond Townhouse Road
Carolina, RI 02812
Tel: 401-364-9959

Francis J. O'Hara
15 Mountain Street
Camden, ME 04843
Tel: (207) 594-4444

Ronald W. Green
P.O. Box 528
Rockland, ME 04841
Work Tel: 207-594-5561

NON-VOTING MEMBERS

Harry Bishop
Assistant Regional Director
U.S. Fish & Wildlife Service
1 Gateway Ctr, Suite 700
Newton Corner, MA 02158
Tel: 617-965-5100

Irwin M. Alperin
Executive Director
Atlantic States Marine Fisheries
Commission
1717 Mass. Ave., NW - Suite 703
Washington, DC 20036
Tel: 202-387-5330

Vice Adm. William F. Rea, III
Commander (Aol)
USCG Atlantic Area
Governors Island
New York, NY 10004
Tel: 212-264-0644

Larry Snead, Chief
International Negotiations Division
Office of Deputy Ass't Secretary for
Oceans & Fisheries Affairs (OES/OFA/FA)
Department of State, Rm. 3214
Washington, DC 20520
Tel: 202-632-2009

Appendix IIIb

NEW ENGLAND REGIONAL FISHERY MANAGEMENT COUNCIL

Roster of Committees and of Committee Members

<u>Standing Committees:</u>	<u>Members:</u>	<u>Derived From:</u>
Executive Committee	MacLeod, Norris, Burt, Dykstra, Lyman,	9/8/77
Finance Committee	MacLeod, Norris, Burt	9/8/77
FMP Development Priorities	Burt, Look, Peterson, Gordon, O'Hara	3/9/77
Gear Conflict	Peterson, Stinson, Dykstra, Nunes, MacLeod, Drake	9/8/77
Science and Statistics	10 members	2/1/77
Industry Advisory Panel	120 members	3/10/77
Observer Program Review	Dykstra, Gordon, Norris, Nunes	4/13/77
Post-ICNAF Negotiations	Dykstra, Norris, Look, Stinson	4/13/77
Regulatory Measures	Bampton, Cronan, Drake, Dykstra, Gordon, Look, Lowry, Nunes, Peterson, Spurr, Stinson	10/10/77
Statistical Areas	Burt, Dykstra, Stinson, Mid-Atlantic Rep.	8/3/77
Foreign Fishing Regulations	Dykstra, MacLeod, Norris, Nunes, (Solomon) <u>1</u>	5/23/77
Analyses of Foreign Fishing in FCZ	Burt, Peterson, Cronan, Dykstra	2/2/77
Information needs; recreational fishery	Lyman, Norris, Allvord, Alperin, Jones	1/26/77
Advisory Panel Candidate Review	Norris, Drake, Lowry	10/26/77

Standing Committees:

Committee:

Derived From:

Foreign Fishing Permits:

a. Romania, Taiwan Mexico, China, Cuba	Burt, Bampton, Cronan, Nunes	10/10/77
b. Poland, USSR	Norris, Peterson, Drake, O'Hara	10/10/77
c. Italy, Spain, S. Korea, Japan	Dykstra, Allvord, Clarke, Lowry	10/10/77
d. Bulgaria, FRG, GDR, Ireland, France	Look, Stinson, Lyman, MacLeod	10/10/77

Permanent Committees:

Sea-herring Oversight	Dykstra, Gordon, Look, MacLeod, Stinson, Green, Peterson	5/23/77
Sea-scallop Oversight	Peterson, Burt, Dykstra, Gordon, Look	5/24/77
Surf Clam/ Ocean Quahog Oversight	Peterson, Look, Nunes, Alperin, Cronan	9/28/77
Groundfish Oversight	Burt, Peterson, Dykstra, Norris, O'Hara, Drake, Gordon	9/8/77
Whiting Oversight	Gordon, MacLeod, Peterson, Stinson, Jones, Look	9/8/77
Ocean Perch Oversight	Look, O'Hara, Spurr, Stinson	10/10/77
Pollock Oversight	Burt, Drake, MacLeod, Norris, Peterson	10/10/77
Pelagic Longline Oversight	Cronan, Allvord, Lyman, Peterson, Alperin	9/8/77
Squid Oversight	Burt, Dykstra, Jones, Lowry	10/10/77
Mackerel Oversight	Norris, O'Hara, Peterson, Stinson, Freeman	10/10/77
Red Crab Oversight	Allvord, Cronan, Dykstra, Jones, Lowry	10/10/77

Standing Committees:

Members:

Derived From:

Ad hoc Committees:

Optimum Yield Committee

Lyman, Spurr, Peterson,
Cronan, Jones, Look

12/3/77

S & S Review Committee

Coates, Cronan, Dykstra,
Lyman, Stinson .

2/15/78

- 1/ Name in parenthesis has expressed desire to serve on the associated committee, in accord with our memo of September 22, 1977.

Revised February 16, 1978

pp

The Fishin' Pole

By Ed Nowak

Thoughts on quotas and line

If you have been able to get through the snow, this has been a very productive winter for smelt fishermen and my favorite smelt fishing coach, Phil Hopfe, of Needham, Ma insists it will get better. His theory for the abundance is based on the scarcity of predators; stripers, codfish, mackerel, and even bluefish up here in outer limits of their range, which has allowed them to multiply.

From the prices at your local supermarket, it would seem supply has not yet met demand. Speaking of fish prices, have you been shopping at the fish counters lately? If the stock market reflected such an increase, we would be bullish again! Who would have thought a few years ago that fish would cost more than good steak?



Not just the pros like this guy, but those of us who catch them one at a time, can expect more catch regulation.

Speaking of steak reminds me to warn you who fish, are learning to fish or hope to do so — you all have a stake in discussions and planning going on to restrict your catch of salt water ground fish. Ground fish are those that feed off bottom, like: codfish, haddock, and flounder. Also restrictions are contemplated on catches of striped bass. Bluefin tuna are already legislated.

I spoke with Allen Peterson, Director of Marine Fisheries, and State of Massachusetts representative on the New England Regional Fishery Management Council. His creed for administering his office is: "A Rational and

Reasonable Use of a Resource," which means he will make proposals for regulating fishing methods and quantities that he believes make sense for commercial, charter, party boat, and also recreational fisherman (that's us). Allen feels it is necessary to restrict professional fish landings and it is rational that recreational fishermen be regulated also. He believes it is unreasonable to limit the weekend amateur fisherman to four (4) codfish as had been suggested by a member of the Council; however some boundaries, he says, should be imposed.

Consider this; the council has seventeen members, composed of various fishing interests from the New England states, only two members: Hal Lyman, Editor and Publisher of the *Salt Water Sportsman* and Omar G. Allovrd from Connecticut plus five state fisheries and game people speak for the recreational fisherman.

Quotas and limits are based on the best guesses (they call them estimates) of scientists and marine biologists. These guesses are made on available catch record from fish landings and commercial records

which are admittedly inaccurate; however, on these "best available figures," it was decided the commercial catch of codfish in New England was 20,000 metric tons.

There are practically no records for recreational fishermen catches, so our regulators estimate the recreational fishing landings, which I understand, means party boats, charter boats, and yours, boats and mine—to have caught 10,000 metric tons of codfish—half as much as the pros; gill netters, trawlers, and longliners. Based on this kind of hypothesis these people would take away our 'GUSTO'—take away our 'FISH'!! See how

much more than steak is at stake?

While recommendations are not finalized, I understand there will definitely be catch restrictions on charter and party boats this year. They will also be required to keep logs of their catches. Small private boats will not be regulated until the following year. A minimum size limit of sixteen inches for Cod and Haddock is now in effect.

From:
New England Off-shore:
The local Boating Monthly
March 1978: 26.

Scientists' Work Seen Necessary If Fish Management Is To Succeed

By Brooks Townes
Assistant Editor

"How can those scientists tell us there aren't any fish when we've been catching them like crazy? We know there are fish out there because we've been catching them. They take their (R/V) Albatross out there and tow all over the ocean — except where any fisherman can tell you the fish are — and then they come back with quotas. You can't even pay for the fuel with what they say you can catch."

That kind of griping by fishermen has been going on a long time — ever since marine biologists began looking at fish populations and advising the National Marine Fisheries Service (NMFS) on how much pressure the fish stocks can take.

Recently the griping turned to shouting during hearings held by the New England Regional Fishery Management Council to help in determining fish quotas.

Late last November, U.S. Congressman David Emery met with the Maine Fishermen's Cooperative Assn. to hear members' comments on the government's handling of fisheries management under the 200-mile limit. First on the members' minds was stock assessment, which they said was based on "spotty research," adding that the feds "totally ignore catch figures provided by commercial fishermen."

"We're not catching juvenile fish and the Dept. of Commerce repeatedly tells us we are," one fisherman said. "This is the kind of thing we're up against."

Nearly everywhere fishermen complain that catch figures aren't considered — or not considered enough — by those who estimate fish populations.

In a meeting recently between the New England management council, fishermen and NMFS Director Robert Schoening,

called to clear the air over a variety of issues (see story on p. 16-A). Jake Dykstra, president of the Pt. Judith Fishermen's Co-op, said that the men fishing Georges Bank are reporting the presence of far more haddock and cod than they have seen in many years.

In the first nine months of 1977, haddock catches jumped 50% and the cod take was up 33%, according to government statistics. Meanwhile, biologists from the NMFS's Northeast Fisheries Center in Woods Hole, Mass., insist that the stocks are endangered.

The fishermen's gripes have been heard a lot and have been often reported in the press, but somehow we've heard little in defense of the scientists except what sounds like jibberish brought up in meetings.

During that air-clearing meeting held at the management council's headquarters in Peabody, Mass., Schoening admitted that the biological data available for every fishery is inadequate, that cod, for instance, is but one of many species the scientists are concerned with, that budget and personnel are limited.

Fishermen frequently have offered to take scientists along on trips to observe the catches or whatever, but, said John Burt, president of the New Bedford Fishermen's Union, the biologists always decline.

Even though the Albatross, the Northeast Fisheries Center's research vessel, was broken down at the time, Dr. Robert Edwards, the center's director, said the scientists would find little of value in fishermen's haul-backs. Under

(Continued on Page 28-A)

(Continued from Page 3-A)

further pressure from fishermen. However, Schoening promised he would have biologists go out on several New England fishboats.

That put Dr. Edwards in something of a spot.

"I said I would try to do that," he said in a phone conversation just before our deadline. "Some of our people have already gone out and someone is going out next week."

"I'm sure you realize that I appreciate what's going on," he added, likening the fishermen's pressure to a kangaroo court.

"Scientists do know more than what fishermen give us credit for, but our guys have a problem explaining things to the public — it's a problem common to all scientists."

Indeed, in any field of science it's rare to find someone like astronomer Dr. Carl Sagan or Dr. Arthur C. Clarke of movie "2001" fame who is able to explain well his specialty to us common folk.

"I've been pounding on our people to try to do a better job of communicating to fishermen just what we're doing," Dr. Edwards continued, but he still felt that, while some usable data could be gained by biologists joining fishermen on trips, its greatest value would simply be public relations.

"When a biologist goes with the fishermen he goes where the fishermen knows the fish are most abundant. That's like going to Times Square in New York at a time of peak traffic and taking a census, then dividing all of New York State by the area of Times Square and multiplying that by the number of people you counted to get the population of the whole state."

"It doesn't work."

Fisheries scientists do take into their calculations the catch figures fishermen report, but one example of putting too much emphasis on that occurred on the West Coast when scientists relied on data based mainly on sardine seiners' landings. Just before the crash of the sardine fishery, catches were extremely high — then, nothing.

Subsequent surveys of egg populations showed just how depleted the sardine stocks were. Had the stock assessment been carried out more scientifically in the first place, sardines, which swim in schools so tight they can be virtually sucked from the sea, might still support a healthy fishery where now there are only anchovies.

Dr. Edwards is as quick as any scientist to admit marine biologists know far less than they would like to, and like other scientists, they are always looking for ways to improve their data base.

One of the ways they're doing that — and with the help of commercial fishermen — is a project that will include 140 tows, inshore and offshore, behind commercial boats before it is completed.

The project was started in mid-December after an agreement was signed between NMFS and Scituate, Mass., dayboat skippers Dan Arnold and Frank Mirarehi.

What they are doing is testing the effectiveness of mesh size regulations: seeing what and how much escapes through 4¾" and larger-sized meshes.

Each boat, with two or three researchers aboard, makes four tows a day; in the first tow, both vessels fish with the 4¾" mesh codends. The second tow is with the same codend but with a second bag of 2" mesh stitched on over it with enough space for collecting whatever gets through the bigger mesh of the original bag. Subsequent tows for each boat are the same routine but with larger-mesh codends.

Whether the project truly nets the scientists valuable data — or simply better public relations — for what they cost, is not clear but one more man who is pleased by the project and endorses Dr. Edwards' reasoning is New England Management Council Executive Director Spencer Apollonio, a scientist himself.

"I've urged the council not to abandon the scientific community — and there's been a lot of pressure to do so. But we (the management council) are like a boat at anchor off a lee shore in a strong wind and the biologists are our anchor. Without them, there could be no fishery management."

Appendix V

The premises which underlie the behavior of those identified as administrators, scientists, and fishing industry personnel have generated the following 'laws,' offered here with apologies to C. Northcote Parkinson and others. I justify their inclusion on the grounds that if one does not keep a sense of the human comedy one is left often with only a sense of despair.

Premise I (Administrators)

The capacity to rationalize through objective regulatory procedures is infinite.

1. Work expands in proportion to the budget allotted to perform it.
2. Your motives for helping someone will be understood as having been done for exactly the reason of personal gain you had in mind.
3. The intended degree of administrative objectivity will be in inverse relation to the amount of bureaucratic ineptitude.
4. The quantity of legislation intended to produce societal equity will correlate positively with instances of personal injustice.

Premise II (social and physical scientists, including technicians and professionals)

Nothing is unknowable, only unknown, and that which we know is capable of alteration.

1. You can solve some of the questions all of the time and all of the questions some of the time and that is sufficient.
2. (a) If anything is unknown the answer should appear in your conclusion;
(b) if anything is unknowable its principles should be part of your assumptions.
3. The utilization of a conceptual model is positively correlated with its ambiguity.
4. (a) Under controlled conditions (grant-funded research, employment by government or industry) there will be a direct relation between the degree of hypotheses verification and continued support by the funding source.
(b) Under non-controlled conditions (see(a) above) entropy increases.

Premise III (fishing industry personnel)

Exploitive tools must be constantly refined because the universe of the fisheries is highly unpredictable.

1. If anything can go wrong on a trip it will.
2. (a) The greater the degree of scientific certainty the less human beings count;
(b) The greater the extent of government involvement, the more improvements will make things worse.
3. If things get better the IRS will know.
4. (a) The larger or smaller the catch by others, the smaller the amount of fish still left to be caught;
(b) The larger or smaller the catch by Ego, the greater the amount of fish still left to be caught.

Appendix VI

Operational program design (OPD)

- I. 1. Define interest sectors to be involved in OPD (e.g., fixed gear, in-shore, off-shore fishermen; corporate boat owners, investment sector, NMFS personnel, processors, recreational, consumers, research technicians, regulatory personnel....). Categorize as having aims and needs primarily centered in the a) technical, b) political/bureaucratic/regulatory, c) economic, d) social sphere.
2. Have each interest sector define Aims Assessment, listing goals in priority ranking.
3. Have each interest sector define Need Assessment, outlining what resources (e.g., data, personnel, time, funds, equipment, facilities, training...) are now available to achieve aims.
4. Categorize aims and needs as primarily centered in the a) technical, b) political/bureaucratic/regulatory, c) economic, d) social sphere.
5. Specify: How, where, when (=why) the specific aims and needs are important to each sector, the industry, society as a whole; What alternations in present system will be required to achieve or implement aims and needs within each sector, the industry, social as a whole; What results and what consequences implementation and achievement of specific aims and needs may be foreseen to have for each sector, the industry, society as a whole.
6. Reorder priority ranking in terms of which are now most feasible aims in terms of current resources.
7. Assess in rank order the perceived aims and needs of other sectors.
8. Define each sector's responsibility to other sectors, the industry society as a whole (sectors B,C,D...as perceived by A; Sectors A, C,D...as perceived by B; etc.)
9. Collate segment designs and consensually distinguish
 - a) long and short term aims;
 - b) general and specific sector/industry/social aims;
 - c) areas of agreement, complementarity, or conflict in aims and needs, as well as access to present and future resources.
- II. 1. Assign managerial responsibility and authority for design of aim implementation program to appropriate sector. Define time table.
2. Assign communications coordinator/disseminator.
3. Have periodic public meetings of sector representatives.

September 1977

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