

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



ESTIMATED TIME 1 HOUR
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DATE: January 29, 1997

SUBJECT: Council Statement of Organization, Practices, and Procedures (SOPP)

**ACTION REQUIRED**

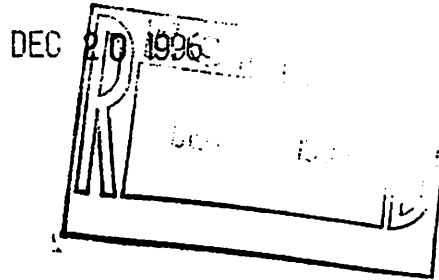
Approve revisions to Council operating procedures in response to Magnuson-Stevens Act amendments.

**BACKGROUND**

NMFS has prompted the Council to review and update its SOPPs to conform with several new Magnuson-Stevens Act requirements, mainly dealing with procedural matters. The suggested areas for revision are listed in item C-7(a), a letter from NMFS. Item C-7(b) is a copy of our SOPPs with proposed additions (*italics*) and deletions (~~overstrikes~~). I also have revised several sections to reflect the new Council Operations and Administration Handbook, approved on July 1, 1996, by the Secretary of Commerce. I will walk you through the changes and then, with your approval, will forward the revised SOPPs to NMFS for approval and publication in the Federal Register.



Mr. Richard B. Lauber  
Chairman, North Pacific Fishery  
Management Council  
605 West 4th Avenue, Room 306  
Anchorage, Alaska 99501-2252



Dear Mr. <sup>Rich</sup> Lauber:

The Sustainable Fisheries Act (SFA) amended and added a number of provisions to the Magnuson-Stevens Act that relate to Council operations and membership. These provisions became effective when President Clinton signed the SFA on October 11, 1996. Although no regulatory action is required, amendment of each Council's Statement of Organization, Practices and Procedures (SOPP) would be appropriate in the near future. Our review finds that the following provisions of the SFA should be incorporated into your SOPP:

- (a) Roll call vote [Sec. 107(d); p. 33]
- (b) Agenda for meetings [Sec. 107(h)(4); p. 35]
- (c) Background information to be provided by persons appearing before or submitting information to Councils [Sec. 107(h)(5); p. 35]
- (d) Minutes of meetings [Sec. 107(h)(6); p. 35-36]
- (e) Recusal of Council members [Sec. 107(i)(8); pp. 38-39]
- (f) N.C. membership on Mid-Atlantic Council [Sec. 107(a)(4); p. 29]
- (g) Indian Tribal membership on Pacific Council [Sec. 107(a)(5); pp. 29-32]

Although you have many tasks to deal with in the coming year, I believe it is important that your SOPPs be amended within a reasonable timeframe. We would like to combine the changes for all Council SOPPs into one Federal Register notice, if possible. Therefore, I request that amendments to the SOPPs be transmitted to my office by April 1, 1997. As in the past, we are available to work with you and your staffs to effect the changes. Please contact Ed Pastula (301-713-2337) with proposed changes or questions.

Sincerely,

Gary

Gary C. Matlock, Ph.D.  
Director, Office of  
Sustainable Fisheries



**REVIEW DRAFT  
FOR CHANGES TO**

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES**

Previously Revised  
October 5, 1994

North Pacific Fishery Management Council  
605 W. 4th Avenue, #306  
Anchorage, Alaska 99501

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration North Pacific Fishery Management Council Statement of Organization, Practices, and Procedures

The North Pacific Fishery Management Council (*the Council*), created by Section 302(a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (the Act), hereby publishes a revised Statement of Organization, Practices, and Procedures (SOPP), as required by Section 302(f)(6) of the Act. This revision of the SOPP, originally published on March 1, 1977, was adopted by the Council at a public meeting on ~~October 5, 1994~~ February \_\_, 1997. This SOPP incorporates by reference several more specific policies that have been adopted by the Council regarding plan team operations, Advisory Panel operations, annual management cycles, etc. These policies are provided to each member of the Council, its Scientific and Statistical Committee, and its Advisory Panel.

Copies of the SOPP and individual policies may be obtained by writing the Executive Director, North Pacific Fishery Management Council, Room 306, 605 West Fourth Avenue, Anchorage, Alaska 99501; telephone (907) 271-2809.

#### 1. COUNCIL JURISDICTION AND FUNCTIONS

The Council's geographic area of authority includes the Exclusive Economic Zone (EEZ) of the Arctic Ocean, Bering and Chukchi Seas, and Pacific Ocean seaward of Alaska. The states of Alaska, Washington, and Oregon are represented on the Council. The Council will:

- A. Prepare and submit to the Secretary of Commerce (Secretary) or his delegate a fishery management plan with respect to each fishery requiring conservation and management within the Council's geographic area of authority and such plan amendments as are necessary.
- B. Review and comment on applications for foreign fishing transmitted to the Council under a governing international fishery agreement by the Secretary of State under the terms of the Act.
- C. Prepare comments on any fishery management plan or amendments prepared by the Secretary which are transmitted to the Council under Section 304(c)(4) of the Act.
- D. Conduct public hearings at appropriate times and locations in the Council's membership area, to allow interested persons an opportunity to be heard in the development of fishery management plans and amendments and with respect to the administration and implementation of the provisions of the Act. When conducting a hearing outside Alaska, the Council will first consult with the Council in that area.
- E. Submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary.
- F. Review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to:
  - (1) the present and probable future condition of the fishery;
  - (2) the maximum sustainable yield from the fishery;

- (3) the optimum yield from the fishery;
  - (4) the capacity and the extent to which fishing vessels of the United States will harvest the optimum yield on an annual basis;
  - (5) the portion of such optimum yield on an annual basis which will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.
  - (6) Oversee preparation of the proposed regulations deemed necessary to implement any fishery management plan or amendment which the Council prepares. Those regulations shall be submitted to the Secretary together with the plan or amendment, for action by the Secretary pursuant to Sections 303(c), 304 and 305(c) of the Act.
- G. Comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction. *The Council may comment on and make recommendations concerning State or Federal actions that may affect habitat of other species under its authority.*
- H. Conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters, including the allocation of fishery resources to other nations within its area of authority.

## 2. COUNCIL ORGANIZATION

The Council has eleven voting members and four non-voting members. The eleven voting members include the Commissioner of the Alaska Department of Fish and Game, Director of the Washington Department of Fisheries, Director of the Oregon Department of Fish and Wildlife, the Alaska Regional Director of NOAA Fisheries, five members appointed by the Secretary from the State of Alaska, and two members appointed by the Secretary from the State of Washington.

The four non-voting members include the Alaska Regional Director of the U.S. Fish and Wildlife Service, the Commander of the Seventeenth Coast Guard District, the Executive Director of the Pacific States Marine Fisheries Commission, and a representative of the U.S. Department of State.

*Each member appointed to a Council must take the following oath of office:*

*I, \_\_\_\_\_, a voting member of the Regional Fishery Management Council appointed by the Secretary of Commerce, promise to act as a trustee and steward of our Nation's fishery resources. I will uphold all standards and provisions of the Magnuson-Stevens Fishery Conservation and Management Act; conduct myself at all times according to rules and guidance prescribed by the Secretary; responsibly weigh all information bearing on issues being acted upon by the Council; and vote on such issues with objectivity and fairness. This oath is freely given without mental reservation or purpose of evasion.*

A. Officers and Terms of Office

A Chairman and Vice Chairman are elected from the voting members of the Council by a majority vote of the voting members present and voting. Both serve for one year and may succeed themselves. They are elected at the first regular Council meeting held after August 11 (election meeting) and their terms of office expire at the next meeting after August 11 of the subsequent year. If the Council terms of either or both of the officers end before a regular election meeting, the Council shall appoint at the next regular Council meeting interim officers to serve until the next election meeting.

The Chairman, or in his absence the Vice Chairman, of the Council has authority to convene and adjourn meetings and public hearings and designate members of the Council, Scientific and Statistical Committee, and Advisory Panel to attend meetings and public hearings. He will control meetings and hearings by recognizing speakers, establishing the order of business, and designating members of the Council and its advisory bodies as members of committees and working groups. The Chairman certifies the minutes of the meeting as complete and accurate before they are available for general distribution.

B. Designees

The Act authorizes only the principal State officials, the Regional Directors, and the non-voting members to designate individuals to attend Council meetings in their absence. The Chair of the Council must be notified in writing, in advance of any meeting at which a designee will initially represent the Council member, of the name, address, and position of the individual designated. A designee may not name another designee. However, such officials may submit to the Chair, in advance, a list of several individuals who may act as designee, provided the list clearly specifies who would serve if more than one designee attends. Reimbursement of travel expenses to any meeting is limited to either the member or one designee.

C. Advisory Groups

The Council has established two formal advisory groups: a Scientific and Statistical Committee and an Advisory Panel.

(1) Scientific and Statistical Committee

The Scientific and Statistical Committee (SSC) is composed of experts in biology, statistics, economics, sociology, and other relevant disciplines from the federal, state, and private scientific communities and other appropriate sources.

(a) Objectives and Duties. As requested by the Council, through the Council Chairman or the Executive Director, the SSC shall:

(i) Provide expert scientific and technical advice to the Council on the development of fishery management policy, fishery management plans and amendments, their goals and objectives, proposed regulations, and criteria for judging plan effectiveness.

(ii) Assist in the identification, development, collection, and evaluation of statistical, biological, economics, social and other scientific information deemed relevant to the Council's fishery management planning, particularly with regard to determining the best scientific data available as required by National Standard 2.

(iii) Advise the Council on preparing comments on any relevant fishery management plan or amendment prepared by the Secretary or Secretary's delegate pursuant to Section 304(c) of the Act.

(iv) Submit to the Council reports deemed appropriate by the Committee or requested by the Council.

(v) Perform other appropriate duties as may be required by the Council to carry out its functions under the Act.

(b) Members and Chairman. The SSC has ~~12~~ 13 members, all of whom shall be appointed by, and serve at the pleasure of, the Council. They shall be appointed for one year, and may be reappointed. Vacancies may be filled for the remaining unexpired term. The SSC Chairman and Vice Chairman shall be nominated by the Committee from among its members and confirmed by the Council for one-year terms. Agency representatives on the Committee may have an alternate as provided for in the Council's Policy on Scientific and Statistical Committee Alternates.

(c) Administrative Provisions. The committee shall meet as a whole, or in part, at the request of the Chairman of the Committee, with the approval of the Chairman of the Council, as often as necessary to fulfill the Committee's responsibilities, taking into consideration time and budget constraints. It is estimated that the Committee will meet at least five times a year, just before the scheduled Council meetings. The Executive Director of the Council shall provide such staff and other support as the Council considers necessary for Committee activities, within budgetary limitations.

SSC members shall serve without compensation, but may be paid their actual travel expenses in performing their duties in accordance with applicable law and Council travel policy. SSC members shall attend regular Council meetings and hearings as required by the chairman of the Council. Security clearances for SSC members shall be requested as necessary.

(2) Advisory Panel

The Advisory Panel (AP), which constitutes the fishing industry advisory committee (FIAC) as required in the Act, shall meet as a whole, or in part, at the request of the chairman of the AP with the approval of the Council Chairman, as often as necessary to fulfill the AP's responsibilities, taking into consideration time and budget constraints. It is estimated that the AP will meet at least five times a year just before the scheduled Council meetings.

(a) Objectives and Duties. The AP advises the Council on a continuing basis on the assessments and specifications and measures contained in each of the Council's fishery management plans, especially the capacity and extent to which the fishing vessels of the United States will harvest the resources, the socioeconomic effects of the fishery plans, and potential conflicts between user groups of a given fishery resource or other impacted fisheries. The AP members shall attend Council meetings, public hearings, and work sessions at the request of the Council Chairman to advise on particular fisheries, with particular reference to the socioeconomic implications of managing those fisheries and current trends and development in the fisheries. The AP shall perform such other necessary and appropriate advisory duties as may be required by the Council to carry out its functions under the Act.



(b) Members and Chairman. The Advisory Panel shall be appointed for one year by, and serve at the pleasure of, the Council. The Council will attempt to appoint as broad a spectrum of interests as is possible, including the various fisheries around Alaska, commercial, sport, and subsistence, catching, processing, sales, consumerism, environmental, and general interest, emphasizing fair representation of all fishing interests. Persons wishing to serve on the Advisory Panel may submit their names with a short resume through the Executive Director. A list of nominees will be kept in the Council headquarters., The Council Chairman shall have authority to fill interim vacancies on the AP from the list of nominees subject to confirmation by the Council at the next regular meeting. The Chairman and Vice Chairman of the AP shall be nominated by a majority of AP members and confirmed by the Council. The size of the AP, qualifications for members, and the nomination and selection process are summarized in the Council's policy on Advisory Panel Structure and Operations.

(c) Administrative Provisions. The AP Chairman or designee will report to the Council. The Executive Director of the Council shall, upon request of the Chairman of the AP, provide such staff and other support as the Council considers necessary for AP activities, within budgetary limitations. Members of the AP shall serve without compensation, but may be paid their actual travel expenses in performing their duties in accordance with applicable law and Council travel policy. Security clearances for AP members shall be requested as necessary.

#### D. Working Groups

The Council appoints plan teams for each of the major fisheries under its management. Members of each team are selected from those agencies and organizations having a role in the research and/or management of fisheries. The team should be small enough to work efficiently and effectively but sufficiently large to provide the diverse experience and knowledge needed to cover all aspects of a particular fishery. At a minimum, teams shall be composed of one member from agencies having responsibility for management of the fishery resources under the jurisdiction of the Council. Nominations of these individuals are at the discretion of the agencies. Other individuals may be nominated by members of the Council, SSC or AP. Appointments to the team will be made by the Council with recommendations from the SSC.

The teams shall:

- (1) prepare and/or review plans, amendments and supporting documents (EISs, RIRs, etc.) for the Council, SSC and AP;
- (2) aggregate and evaluate public/industry proposals and comments;
- (3) summarize and evaluate data related to the biological, economic and social conditions of the fishery;
- (4) conduct and evaluate analyses pertaining to management of the fisheries;
- (5) evaluate the effectiveness of management measures in achieving the plan's objectives; and
- (6) recommend when and how management measures need to be changed.

These and other provisions concerning the teams are included in the Council's Policy on Plan Team Composition, Tasking and Operations.

The Council also may use ad hoc groups that include industry representatives to address resource user conflicts or other issues.

E. Committees

The Council may appoint standing and ad hoc committees from among the voting and non-voting members as it deems necessary for the conduct of Council business.

### 3. COUNCIL MEETINGS AND HEARINGS

The Council will meet at the call of the Chair or upon request of a majority of the voting members. In fulfilling the Council's responsibilities and functions, the Council members may meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information, or make decisions regarding material before them. To provide for review and decision by the Secretary, recommendations of each of these groups must be documented and available. The documentation must include, at a minimum, a statement of the problem, recommendations for corrective action, likely impact on the affected resource, and likely impact on affected user groups. Emergency meetings shall be held at the call of the Chairman or equivalent presiding officer.

The following guidelines apply with respect to the conduct of business at meetings and hearings of the Council and its Scientific and Statistical Committee and Advisory Panel:

A. Notice

Timely notice of each regular meeting, hearing, and each emergency meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity. Timely notice of each regular meeting and hearing shall also be published in the **FEDERAL REGISTER**. *The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c) of the Act, in which case public notice shall be given immediately.*

B. Conduct of Meetings

Each regular meeting and each emergency meeting shall be open to the public. Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings, within reasonable limits established by the Chair. *All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.*

(1) A majority of the voting members constitute a quorum. All decisions of the Council shall be by majority vote of the voting members present and voting. The use of a proxy is not permitted except as allowed for under Section 2B. An abstention does not affect the unanimity of a vote. *At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.*

(2) A vote is required for Council approval or amendment of a fishery management plan (including any proposed regulations), a Council finding that an emergency exists involving any fishery, or Council comments to the Secretary on fishery management plans developed by the Secretary. *A final vote may not be taken until the motion before the Council is recorded in written form visible to each Council member present and the public. The written motion, as voted on, must be preserved as part of the record or minutes of the meeting. For a vote on a Council finding that an emergency exists in a fishery, the exact number of votes (for, against, and abstaining) must be preserved as part of the record of the meeting.*

(3) If any voting member disagrees with respect to any matter which is transmitted to the Secretary by the Council, such member may submit a statement to the Secretary, setting forth the reasons for such disagreement. Such statements will accompany the full package submitted to the Secretary by the Council on the matter in question.

(4) (a) On the final vote on any matter to be transmitted to the Secretary by a Council, the regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, when rendering a negative vote, shall submit to the Council within 10 working days after adjournment of the Council meeting, a statement explaining the reason(s) for the vote, which shall be made available to the public upon request and remain on file with the Council.

(5) Parliamentary procedure will be used in the conduct of the meetings. Agreement among Council members can be reached by consensus and non-voting members are expected to take part in all discussions and indicate their opinions on all specific issues. Those matters pertaining to the approval or disapproval of a fishery management plan or amendment, including proposed regulations, or comments for the Secretary on foreign fishing applications, or Secretariially-prepared management plans, require a vote.

(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

### C. Record

(1) ~~Minutes of each meeting and hearing shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.~~ *Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall verify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.*

(2) Subject to the confidentiality procedures established by the Council on January 28, 1986, and the guidelines prescribed by the Secretary pursuant to Section 303(d) 402(b) of the Act, the administrative record and minutes of each meeting and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council, *or the Secretary, as appropriate.*

D. Closed Meetings

The Council, Scientific and Statistical Committee, and Advisory Panel shall close any meeting, or portion thereof, that concerns matters or information that ~~bear a national security classification~~ *pertain to international fisheries negotiations*, employment matters, or briefings on litigation in which the Council is interested. If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. For closed meetings, a general list of topics discussed and people present will be maintained as a record of that meeting. This does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.

E. Frequency and Duration

The Council normally meets five times each year. Each meeting generally lasts from three to five days and begins on Tuesday or Wednesday of the meeting week. The Council's SSC and AP generally meet from one to two days before the Council.

F. Location

The Council shall meet at appropriate times and places in any of the constituent States of the Council. Hearings in Oregon or Washington may only be held after first consulting with the Pacific Fishery Management Council regarding the conduct of such hearings. One or more Council members designated by the Council Chairman may hold hearings.

G. Council Members Compensation

Those voting members of the Council who are not employed by the Federal Government or any State or local government shall receive compensation at the daily rate for ~~GS-16 (Step 1)~~ *GS-15 (Step 7)* of the General Schedule. Such compensation shall be limited to attendance at formal meetings of the Council, meetings of standing committees, or any other meeting approved in advance by the Chairman. Such compensation may be paid on a full day's basis whether in excess of eight hours a day or less than eight hours a day. "Homework" time in preparation for any meeting is not compensable nor is travel time to or from such meetings.

The Council Chairman must submit to the Regional Office annually a report of Council member compensation authorized. This report shall identify, for each member, amount paid, dates, and location and purpose of meetings attended. At the discretion of the Council Chairman, Council members may be required to complete a meeting request form if they wish to be compensated for activities other than regular Council meetings.

4. EMPLOYMENT PRACTICES

A. Staffing

The Council staff includes an Executive Director, Deputy Director and other full and part-time employees as determined necessary to the performance of Council functions consistent with budgetary limitations. The Executive Director is responsible to the Council, and the staff is responsible to the Executive Director.

B. Experts and Consultants

As long as funding is available in its budget, the Council may contract with experts and consultants as needed to provide technical assistance not available from NOAA. This includes legal assistance clarifying issues, but the Council must contact NOAA General Counsel before seeking outside legal advice. Such legal assistance may not provide services on a continuing basis.

C. Detail of Government Employees

The Council may request the detail of other government employees to assist the Council in the performance of its functions.

D. Personnel Actions

All staff employees serve at the pleasure of the Council. The Executive Director may be dismissed by the Council and other staff employees may be dismissed by the Executive Director acting for the Council. Dismissals may be made for misconduct, unsatisfactory performance, and/or lack of funds, with reasonable notice to the employee.

No employee of the Council may be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or political party in any national, state, county, or municipal election, or on account of his or her political affiliation.

E. Salary and Wages

In setting rates of pay for Council staff, the principle of equal pay for equal work must be followed. Salary ranges for any new position will be set by the NOAA Personnel Section. COLA and equalization pay will be added to each employee's base pay at the level set by the Office of Personnel Management. No staff level will be above GS-15.

Employees will be entitled to promotions and associated pay raises solely on the basis of merit and performance. The Executive Director, acting for the Council, shall conduct performance reviews at least once a year with each Council employee and will approve promotions and raises based on the employee's performance, length of service, or special accomplishments. Pay raises and annual evaluations for the Executive Director will be accomplished through a review process involving the Chairman and selected members of the Council. Career development, including formal training, will be supported by the Council, subject to budgetary limitations, when directly beneficial to both the employee and the Council.

In conducting official Council business, Council members and staff generally have the same protection from individual tort liability as Federal employees on official actions, and are protected by the Federal workmen's compensation statute, by the minimum wage/maximum hour provisions of the Fair Labor Standards Act (FLSA), and by the rights of access and confidentiality provisions of the Privacy Act (PA).

Council staff are eligible also for unemployment compensation in the same manner as Federal employees.

F. Recruitment

The Council is an equal opportunity employer in full compliance with federal requirements for non-discrimination. Council staff positions are filled solely on the basis of merit, fitness, competence, and qualification. Vacancy announcements will be circulated as widely as possible.

G. Leave

Employees of the Council shall be granted paid leave for holidays, vacations or exigencies, sickness, and civic duties (jury, military reserve obligations) as determined by the Council. These are explained in the Council's personnel rules. A copy of these rules are given to each new employee.

(1) Annual Leave

Full-time Council employees may accrue annual leave at rates not to exceed those for federal employees. Part-time employees accrue leave at the same rate, per hours worked. If the Council so desires, it may credit prior federal, state or local government service for the purpose of determining leave accrual of individual employees. Application of such a policy must be uniform and public.

Employees may carry over up to 240 hours (30 days) unused annual leave from one year to the next. Amounts remaining above 240 hours will be forfeited. Under certain conditions, forfeited annual leave may be restored if it was properly scheduled for use and circumstances beyond the employee's control caused the forfeiture. Approval for this restoration must be obtained from the Council Chair or his/her designee, who will refer to the NOAA Personnel Regulations and other source documents for guidance. Lump sum reimbursements not to exceed 240 hours carryover plus current year earnings of unused leave are authorized upon employee separation.

(2) Sick Leave

Full-time Council employees may accrue sick leave at the rate of two hours per week (13 days per year). Part-time employees may accrue at a percentage of the hours worked compared to 40 hours. Unused sick leave credit may be accumulated without limit. Lump sum payments to the employee upon separation are not authorized. However, at retirement or in the event of death of the employee, a deposit may be made to the employee's retirement fund ~~in the form of an annuity~~ for unused sick leave up to 100 days at the current salary rate of the individual, subject to budgetary limitations. *For those Council staff hired on or after July 1, 1996, at retirement, no compensation will be received and no deposit will be made to the employee's retirement fund for unused sick leave, or to their estates upon their death.*

In meritorious cases, the Council may advance up to one year's earnings of sick or annual leave when it is reasonably expected that the advanced leave will be repaid by the employee. This must be approved by the Council chair or designee (designation must be in writing).

H. Employee Benefits

The Council shall provide its employees group health insurance, life insurance, and retirement plan under the State of Alaska Public Employee System. Total employee benefits may not exceed 20 26 percent (exclusive of FICA) of employee's gross salary (which includes COLA and equalization pay) without NOAA approval.

I. Travel Reimbursement

- (1) The per diem and actual subsistence rates contained in the NOAA Travel Handbook apply.
- (2) Actual expenses include transportation by air coach, rail-coach, bus, or privately owned vehicle (automobile or private plane reimbursed on a per-mile basis) room and meals within a reasonable limit established by the NOAA Travel Handbook and incidental expenses such as taxi fares, parking, and telephone calls on official business.
- (3) Coach air transportation must be utilized when available. Travel via first class air must be justified on the reimbursement voucher and approved by the Council Chair or his/her authorized representative. Privately owned vehicles (POVs) may be authorized when other modes of transportation are either unavailable or inconvenient. When a POV is authorized for the convenience of the traveler, the reimbursement costs must not exceed the costs of coach air fare. Accommodations equivalent to other-than-first-class should be utilized in the unlikely event that water vessel transportation is required. When substantial savings can be realized by utilizing rail travel, this mode of transportation should be considered when available and adequate.
- (4) Non-Federal Travelers. Non-federal members of the Council and members of advisory groups and Council staff will be reimbursed for actual expenses incurred in the performance of Council duties. They are not bound by the separate per diem limits for meals and lodging as set forth in the GSA Rules. They are subject, however, to the total reimbursement limits established by the NOAA Travel Handbook for actual expenses, and they must itemize their actual expenses up to the specified limit each day. Lodging and airline receipts are required. The rates are included in the GSA Rules. Federal employees serving in the above capacities are subject to the reimbursement rules of their agencies.
- (5) NOAA Personnel. Payment for travel by NOAA personnel is not authorized.
- (6) Domestic invitational travel for non-Council personnel may be approved by the Council Chairman, or his/her authorized representative.

J. Foreign Travel

- (1) Foreign travel must be approved, in advance, by the Assistant Administrator for Fisheries or designee and by the Grants Officer. Requests for foreign travel approval should be submitted, in writing, at least 15-30 days in advance to the Assistant Administrator, through the NMFS Office of Management and Budget and the Regional Program Officer and then via the Regional Director, to the NOAA Grants Officer. Routine across-the-border travel to Mexico and Canada is exempt.
- (2) The Council Chairman or his/her authorized representative may approve routine across-the-border travel to Canada or Mexico for Council members and employees within specified Federal rates.
- (3) Foreign invitational travel for non-Council personnel must be approved as described in paragraph (1) of this section. The per diem limits or actual expense requirements described above also are applicable to non-Council personnel traveling at Council expense. Payment for NOAA federal personnel from Council funds is not authorized.

## 5. STANDARDS OF CONDUCT

The Council and its staff shall maintain high standards of ethical conduct. These standards include the following principles:

A. No employee of the Council shall use his or her official authority to act in the name of the Council for the purpose of influencing the result of an election to or a nomination for any public elective office.

B. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining a Council decision or for any person, any appointive office, place or employment under the Council.

C. No employee of the Council or member of the Plan Teams shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties. Council members with a direct or indirect financial interest shall ensure that it does not conflict with the fair and impartial conduct of his or her Council duties.

D. The Act requires that Council nominees, voting members appointed to the Council by the Secretary, and Executive Directors disclose any financial interest of the reporting individual in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery under the jurisdiction of the individual's Council or of any such financial interest of the reporting individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on NOAA Form 88-195, "Statement of Financial Interests for Use by Voting Members, Nominees and Executive Directors of Regional Fishery Management Councils," or such other form as the Secretary, or designee, may prescribe. The report must be filed by nominees for Secretarial appointment before the date of appointment as prescribed by the Secretary. Voting members appointed by the Secretary and Executive Directors must file the report with the Council office before taking office. Individuals must update the form at any time a reportable financial interest is acquired or the financial interests are otherwise substantially changed. The information required to be submitted will be kept on file and made available for public inspection at reasonable hours at the Council offices. A copy of the form may be obtained from the appropriate Regional Office.

E. *All Council members appointed under Section 302(b)(2) must strictly adhere to Section 302(j)(7) and Secretarial regulations pertaining to recusal during any vote taken by the Council. To knowingly vote on a Council decision in violation of Section 302(j)(7) is a prohibited act as defined in Section 307(1)(O).*

## 6. FINANCIAL MANAGEMENT

Office of Management and Budget Circulars No. A-110 and A-122, and 15 CFR Part 296, provide uniform administrative requirements applicable to the Council, including standards for financial management, financial reporting, property management, and procurement. The Council will operate in full compliance with these standards.

### A. Cooperative Agreements and Contracts

The Council receives funds through cooperative agreements for two basic types of expenditures: administrative (operations) funds to cover general operating expenses such as salaries, office space, utilities, travel, State liaison activities, etc., and programmatic (or contract) funds primarily designed to fund contracts generated by the Council for development of FMPs (including amendments) or FMP-oriented information.



(1) Administrative. The funding for the administrative and technical support of Council operations is included in the budget of the Department of Commerce and, through the Department, in the budgets of NOAA and NMFS. The Council must submit a formal application (Standard Form 424, Federal Assistance short Form) to the appropriate Regional Director. This application includes a Budget Data Form, a Program Narrative Statement supporting the application, a Statement of General Assurances, and a Budget Summary Worksheet for three fiscal/calendar years.

A Cash Receipts and Disbursement Journal with a monthly Summary of Accounts is required as a minimum bookkeeping system for the administrative budget. In addition, a Statement of Income and Expenses for the Council must be prepared monthly for the Council membership. Each cash disbursement must be approved by the Council Executive Director or Deputy Director. All checks require signatures from two of the following people: Council Executive Director, the Administrative Officer Deputy Director, or another person designated by the Council, *except for the Finance Officer who is responsible for bookkeeping and accounting.*

A Letter of Credit will be established for each cooperative agreement. Drawdowns from the Treasury will be made in accordance with the Department of the Treasury Circular 1075, "Withdrawal of Cash from the Treasury for Advances Under Federal Grants and Other Programs" (31 CFR Part 205).

(2) Programmatic. The Council has adopted a Policy on Identification, Submission, and Review of Proposals for Programmatic Research. The Council may enter into cooperative agreements with Federal agencies, State, and private institutions on matters of mutual interest which further the objectives of the Magnuson Act. Approval from the Secretary of Commerce must be obtained and each agreement must specify the nature and extent of Council participation. The Councils are not authorized to accept gifts or contributions directly. All such donations must be directed to the NOAA Administrator in accordance with applicable NOAA regulations.

Requests for programmatic funding may be submitted at the same time as the Council's administrative budget, or at other times as required by the Assistant Administrator. Documentation should include a cover letter explaining the need for the project, how it contributes to an FMP (proposed, developing or existing), and how it meets criteria outlined in this section.

(3) Contracts. Negotiated and advertised contracts will be administered under the same principles of equality and integrity outlined under the section "Employment Practices" and will generally follow the specifications normally characteristic of contracts with public entities (e.g., public announcement, emphasis on competition, change orders, etc.). Efforts must be made to inform minority firms of planned Council procurements.

## B. Procurement

All procurements will *must* comply with the ~~Council's Procurement Procedures which were approved by the NOAA Grants Office in 1977~~ terms and conditions of the award and OMB Circulars A-110 and A-122. Draft contracts or solicitations relating to the development or monitoring of FMPs must be submitted to the Regional Director. ~~Proposed sole-source procurements over \$5,000 and purchases or leases of automated data processing (ADP) equipment must~~ Proposed sole-source procurements less than \$100,000 must be submitted to the Regional Director prior to award. Proposed sole-source contracts over ~~\$10,000~~ \$100,000 must be approved in writing by the Regional Director and the Grants Officer. Final copies of all contracts awarded will be filed with the appropriate Grants Officer.

~~Competition will be held for all commercial purchases over \$5,000 unless the unique nature of the procurement, unforeseen time constraints, and/or substantiated overall savings (administrative plus contractual) clearly dictate otherwise.~~

~~The purchase or lease of ADP equipment by Councils and its subcontractors requires prior approval by the Regional Director. Such approval will be made only after a cost-benefit analysis (system life cost, lease vs. purchase, compatibility, etc.) by the Council demonstrates the economy of the proposed action.~~

*The purchase of all equipment, not previously approved in the award, costing in excess of \$5,000 per unit and having a useful life of more than 1 year, requires the approval of the Regional Program Officer and the Grants Officer. Such approval will be made only after a cost-benefit analysis (system life cost, lease vs. purchase, compatibility, etc.) by the Council demonstrates the economy of the proposed action.*

Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Typical suspense systems will be maintained for any partial and undelivered procurements. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council staff office.

#### C. Property Management

An accountability system of all non-expendable items of personal property will be maintained by means of an inventory system. An annual inventory report will be submitted to the NOAA Grants Officer. Theft will be reported promptly to the appropriate authorities. Procedures for ensuring adequate control and protection are as follows:

- (1) All non-expendable items will be inventoried.
- (2) Council property will be marked clearly with identifying numbers.
- (3) Sensitive equipment such as cameras will remain secured.
- (4) Disposal of surplus will be performed in accordance with grant provisions.
- (5) A listing of personnel with access to Council property will be maintained in the Council Office.

#### D. Real Property

The leasing, renting, and acquisition of real property and space will be effected in a manner consistent with customary practices related to contracts with public entities. Real property files will be maintained on all transactions, including litigation, connected therewith.

#### E. Accounting System

The finance and budget control system will be a direct responsibility of the Administrative Officer, who will maintain full cognizance of, and compliance with, all Department of Commerce requirements, pursuant to the Act, Treasury Department (IRS) regulations as well as any applicable local requirements (state, municipal, etc.).

- (1) Financial control will be effected by means of a basic document-oriented accrual accounting system, which will include provisions for at least the following: direct labor (salary); indirect labor (employer contributions for FICA, life and health insurance, retirement, and unemployment taxes), travel expenses (transportation and subsistence), transportation of things, rent and utilities, taxes (non-employment), printing, communications, supplies, equipment, contracts, and any appropriate contra-accounts (contract accruals, etc.).
- (2) A general ledger, supported by appropriate journals, will be maintained on all obligations and expenses, including appropriate accruals, and will be used to prepare periodic reports for review by the Executive Director, the Council, or Department of Commerce representatives. As a minimum, a complete financial status report should be completed on a monthly basis. The financial management

system will be coordinated with the budget management system so that current and projected fund usage can be determined at any time.

(3) A separate payroll register, indicating all applicable expenses and accruals, will be maintained on each member of the Council and the Council staff.

F. Audits

Audits will be performed biannually by DOC Office of Inspector General or an independent public accountant. NOAA personnel will be invited as appropriate to participate in the audit exit conference.

G. Financial Reporting

Reports will be submitted as required by OMB Circular A-110 to summarize total expenditures and federal funds unexpended, and the status of the Federal cash received. All financial reports will be kept until audited or approved for disposal by the appropriate Department of Commerce representative.

## 7. RECORDKEEPING

A. Administrative Records for FMPs

(1) The Council and NMFS Headquarters, Regions and Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments. In the event of litigation, compilation of an administrative record for a court case will be under the direction of the NOAA General Counsel.

(2) Categories of documents which generally constitute an administrative record include the following:

- (a) Council meeting agendas;
- (b) Minutes of Council meetings;
- (c) Plan Team reports, if any;
- (d) SSC reports;
- (e) AP reports;
- (f) Hearing reports;
- (g) Council reports/recommendations;
- (h) Correspondence relating to the FMP;
- (i) Scoping comments;
- (j) Work plan, if any;
- (k) Discussion papers, if any;
- (l) NEPA documents;
- (m) Regulatory analyses;
- (n) PRA justification;
- (o) Proposed regulations;
- (p) Final regulations;
- (q) Emergency regulations; and
- (r) Notices of meetings (Council, SSC, AP, Team).

B. Disposition of Records

- (1) The goal of an effective disposition program is annually to destroy at least enough unneeded records to equal the volume of records created, while preserving records having long-term or enduring value because of administrative, legal, scientific, or historical importance.
- (2) The Council must consult with NOAA before destroying Council records. Financial records (including time and attendance records) are handled according to the stipulations of OMB Circular A-110. The Council must send records associated with FMPs to the appropriate Region for disposition.
- (3) All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they cannot take original or file copies of records with them; to do so violates Federal law.

C. Permanent Records

The designation of a file as "permanent" means that the records are appropriate for offer to the National Archives when 20 years old, unless otherwise specified. Destruction of permanent records is not authorized. The following are examples of permanent files:

- (1) EIS files: Documents relating to EISs or environmental assessments. Cut-off at end of calendar year when created. Permanent retention; no approved disposition at this time.
- (2) Annual report files: Input for the DOC Annual Reports and related correspondence. Cut-off at end of calendar year when created; permanent.
- (3) Meeting files: Including agendas, minutes, reports, studies and related correspondence. Cut-off at end of calendar year; permanent.

D. Privacy Act Records

The Council will maintain in its office, under appropriate safeguards in accordance with the Privacy Act (PA), personnel files on employees, experts and consultants under contract, and advisory group members. Maintenance, protection, handling of requests for information, and disclosure and disposition of PA records will be accomplished as provided for in ~~Section 605.27(d) of the Secretary's Guidelines for Council Operations and Administration published as a final rule on January 17, 1989~~; *the Secretary's Council Operations and Administration Handbook (Handbook)*, effective July 1, 1996.

E. Freedom of Information Act (FOIA)

All FOIA requests must be submitted in writing. The envelope and letter should be clearly marked "Freedom of Information request." It will be time and date stamped. The Council will respond in a timely manner and will recover allowable costs as provided for in ~~Section 605.27(c) of the Secretary's guidelines~~; *the Handbook*.

F. Confidentiality of Statistics

The Council has established appropriate procedures applicable to it and to its committees and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of the State concerning the confidentiality of such statistics. The specific provisions are in the Council's policy on the Confidentiality of Statistics in the Council's reference book.