

II.B. PROCEDURES AND DOCUMENTATION

The Council has six fishery management plans (four on-line), but annual fisheries management decision-making can be characterized by four basic schedules. These are summarized below and in the table on page 3 to describe how we currently do business.

Groundfish Management. Both the GOA and BSA groundfish plans require annual decisions on catch quotas and their apportionment to domestic and foreign fisheries. Catch quotas are frameworked in the BSA plan and do not require amendments as long as the total OY remains within the prescribed bounds. The GOA requires formal amendment to change quotas. Both plans have framework methods for annually apportioning the quota to domestic and foreign fisheries without going through the formal amendment process. A synopsis of the annual groundfish cycle is given on page 4. Outside of these routine decisions on quotas and apportionments, proposed changes to the plan and regulations have come in at all times of the year and there has never been a cut-off date. The Board of Fisheries usually has addressed groundfish in December, though the trawl closure to protect crab surfaced at our March meeting as part of the shellfish proposals.

Crab Management. The Board of Fisheries has the lead in crab management and this past March the Council and Board met in what could be considered a very efficient meeting. Both bodies had the same proposal package, staff reports and public testimony. Any Tanner crab amendments made necessary by Board action in March probably would come up for initial Council review in May and final approval in July. Similarly, any follow-up action on king crab would be scheduled for May.

Salmon Management. The Board traditionally has addressed Southeast salmon troll fisheries regulations in January in Juneau. This year the Council and Board expect to meet jointly in December in Sitka to consider the troll fishery. However, should an amendment be necessary, initial review would be in March and final review in May. This could be moved up should the Council decide to meet in January. Recently the Council has focused its attention only on the chinook harvest and season, both of which, within limits, are frameworked in the plan.

Herring Management. The Board usually addresses herring issues in December. The Council's role in herring management is uncertain now, but the plan calls for three determinations:

- Before January 1: Council determines AIC/PSC.
- Before July 1: NMFS has to estimate ABC for Council review.
- Before October 1: Council recommends final ABC.

It is my understanding that before July the NMFS ABC would be based on the State's biomass survey from the spring fishery and not require much Council review. However, the Council's final ABC recommendation that might lead to an offshore fishery would have to be on the September agenda. In December, along with groundfish matters, the Council would set herring AIC/PSC.

With these current annual management cycles in mind, the following two sections provide for discussion on how the Council may improve its procedures for gathering and processing proposals, and documenting its decisions. The basic aim here is to build a solid foundation on which to fashion fair and responsive annual decision cycles for each of the fisheries.

Annual Fishery Management Cycles

	Groundfish	Crab	Salmon	Herring
JAN			Board and Council meet on troll salmon	
MAR		Board and Council meet on crab	Initial review if amendment required	
MAY		Tanner crab-initial review; king crab-follow up	Final Review if amendment required	
JULY	Preliminary stock assessment document	Tanner crab-final review		
SEPT	Council proposes TAC, OY, DAP, JVP			Council sets final ABC and winter fishery, if any
DEC	Final Council action on TAC, OY, DAP, JVP			Board sets regulations Council sets AIC/PSC

North Pacific Fishery Management Council  
Annual Groundfish Schedule

- December Final Council decision on TACs, OYs, DAPs and JVPs. TALFF, if any, is the result of the above decisions.
- October/  
November NMFS and industry analysis of current fishing year. Year-end projections and projections for the coming year must be in Council offices at the end of the first week of November.
- September Council proposals on TACs, OYs, DAPs and JVPs. A proposal package must result from this meeting and be mailed to the public two weeks after the meeting.
- July Report to Council by PMTs on preliminary stock status for coming year, current stock status, and progress at fisheries. Public and agencies should submit proposals for coming year at this time. PMT and Council staff should review proposals and prepare recommendations for September meeting.
- May Groundfish PMT meetings to address major concerns/projects which result from previous year's analyses and fisheries.

1. Proposals: Gathering and Processing

Two major complaints frequently heard about the way we do business are that specific fisheries are recurrent on the Council agendas, and that some proposals for action by the Council are not well conceived or documented. The first problem leads to interested persons having to attend many meetings at their own expense and never being sure whether their issue will be resolved. The second problem, poor proposals, can lead to poor Council decisions if we don't thoroughly analyze them prior to the final decision.

The procedures for receiving and processing proposals can be structured and scheduled to resolve both problems but some guidelines will be necessary for them to succeed.

Proposal Submission

The Council receives proposals for changes to the FMPs various ways. Often it's by letter from industry or in testimony at meetings. Sometimes a Council member submits a proposal he would like to have on the agenda. The AP and SSC have also generated proposals in the past, often times they are a hybrid of alternatives presented for their consideration. Finally, we receive the proposal packages that result from the Board of Fisheries process.

Proposal submission for crab and salmon has been annualized somewhat through the Board process. However, for groundfish management, outside of setting quotas and apportionments, action items have turned up on the agenda at all times of the year. With the required initial and final Council reviews, groundfish can be an action item at almost every meeting.

A remedy for this problem may be in changing the way the Council accepts proposals.

The following questions may help guide the discussion:

1. Should there be a cut-off date on proposals for a specific fishery?
2. Should the cut-off date apply equally to proposals from the public, Council members, Council advisory bodies?
3. How should we deal with problems or proposals requiring an exceptionally rapid response? What can be done between Council meetings?

Screening Proposals

The September 13, 1983 letter from industry and the February 10, 1984 letter from Alverson both indicated concern with the poor quality of proposals submitted to the Council for action. They point out that many requests do not adequately define the problem or provide supporting information, do not explain how the suggested change will improve the situation, and do not analyze the consequences to impacted user groups.

Proposals received by the Council have varied in quality, from one-liners to those that are well thought-out and documented, and they are often brought to the Council's attention before any substantial review has occurred. To minimize wasted time by the Council on poorly conceived, incomplete or irrelevant proposals, Council staff has done some preliminary screening in the past. This has ranged from deleting proposals from the Board package that did not directly apply to the FCZ or to a fishery of direct interest to the Council, to contacting the author of a proposal for further clarification of its objectives and how the proposal would remedy the problem.

Does the Council want its proposals screened, and if so, by whom, and on what basis?

The following might be used as criteria for screening proposals:

1. Is the objective clearly evident and stated?
2. Is a preferred solution offered?
3. Is supporting documentation presented to explain the problem and need?
4. Does it affect the FCZ?
5. Is it consistent with the National Standards and FMP goals and objectives?
6. Will it trigger an amendment, regulatory adjustment, simple administrative action, etc.
7. Is it legal according to other applicable law?

#### Initial Council Review

Typically, any proposals received are first given to the Council, SSC, and AP before being released to the public. The Council then directs the staff and teams whether to go any further with analyzing the proposed change. This initial review has saved us some heartburn on the public misinterpreting Council intentions, but does add time to the process. In contrast, the Board of Fisheries sends its proposal package directly to the public before any initial review.

We may want to consider making our process more similar to the Board's.

Does the Council want to review all proposals before going public, or can proposals be batched and sent immediately out to the public as is done by the Board?

Sending proposals immediately to the public could save time and generate public input before the Council first discusses the proposed change at a meeting and gives further direction to the teams. If you do opt for this procedure, preliminary screening probably will be necessary to cull out proposals that have little chance of getting through the system.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
PROPOSAL  
FOR  
GROUNDFISH MANAGEMENT

Your Name:

Affiliation:

Area that would be affected by the proposal (FCZ, State waters, both):

State the action you would like the Council to take:

What is the objective of the proposed action; what do you wish to see accomplished?

What problem(s) are addressed by your proposal?

Do you have information which supports your assessment of the problem, i.e. personal observations, agency reports, scientific studies? Please give details.

How many people are affected by the problem and how would they benefit, or not benefit, from your proposal? Are other fisheries affected?

Do you think that there are other ways to accomplish your stated objective? Please discuss them.

How urgent is this problem? When must the Council have a solution in place?

### Issues Requiring a Rapid Response

At this meeting, the Council is considering procedures for accepting and evaluating proposals for regulation changes in the fisheries it manages. It is evident that not every situation which will come before the Council will fit neatly into an annual management cycle. We can expect (with certainty) that situations will arise which require action more immediately than can be afforded through an annual management cycle. The Council should develop criteria for defining "rapid response" items, and methods for handling them, if established procedures are not sufficiently timely.

Rapid response situations which might be expected to occur can run the range from resource crises, where continued fishing might jeopardize a stock, to situations where regulations become outdated because of changes in the fishery, and threaten to inflict economic harm on the industry. The Council can better evaluate future problems and proposals by considering ways of handling such crises now. A few examples of such situations may be helpful in focusing the discussion.

A resource crisis is probably the easiest to deal with using current procedures. Through emergency procedures specified in the Magnuson Act, it is possible to greatly shorten the amount of time needed to pass regulations. Section 304(e) of the Magnuson Act permits enactment of emergency regulations for up to 180 days if either the Secretary of Commerce or the Council finds that an emergency exists.

Situations involving potential economic harm to the fishing industry, where there is no resource crisis, are considerably less clear cut. This is the area which the Council should consider carefully, if it wishes to establish annual management cycles for the FMPs. We must have a method of responding to proposals or problems during periods outside the annual management cycle. Otherwise, the Council will find itself quickly back in the position of managing each FMP at each meeting.

One example of a situation involving economic harm to the industry was the discovery last November that the rapidly emerging trawl fisheries for groundfish in the Central and Western Gulf were threatened by closures because their incidental take of halibut would soon exceed limits established in 1978. The limits were intended to protect halibut stocks by triggering a closure of the Western and Central Gulf to trawling when domestic halibut bycatches reached 29 mt and 52 mt, respectively, during the period of December 1 - June 1. When they were put in place, the halibut fishery was in a state of serious decline and there were no groundfish fisheries to speak of in the Gulf. Thus, the limits were not binding on anyone at that time. Since then, of course, there have been considerable changes, both in the halibut resource and the groundfish fishery. The halibut resource is no longer threatened; by all indicators biomass is increasing everywhere. Also, the domestic groundfish fishery has increased to many times what it was in 1978. Given that it will never be possible to reduce incidental catch of prohibited species to zero, the increasing levels of groundfish catch translated to

higher risks that the halibut bycatch limit would constrain the growth of the groundfish fishery. The bycatch limits for halibut seemed even more restrictive in light of the fact that halibut biomass has increased over the last few years. Thus, everyone was agreed that an emergency existed with respect to the groundfish fishery, and the Council's unanimous vote at the December meeting to increase the halibut bycatch limits for the Central and Western Gulf compelled the Secretary of Commerce to promulgate emergency regulations to that effect.

A second example is worth noting. At its December meeting the Council heard American joint venture fishermen argue that their sablefish catches were being unfairly restricted. A clause in the joint venture permits stipulated that the process vessel could accept no more than 1½% sablefish of the total catch by weight. Even though the American fishermen were not targeting on sablefish they occasionally caught more sablefish than that. The restriction required the processing vessels to sort and dump excess sablefish, a time-consuming and expensive process. Furthermore, the fishermen argued, they were being deprived of additional revenue because the sablefish had a market value, ranging from 10 to 25 cents a pound. The sablefish restriction was costing them money. (It would have been possible for the trawlers to catch as much sablefish as possible and deliver to American processors, but the logistics of doing this were apparently not cost effective). All of this was illegal, they argued, because of the existence of a foreign directed fishery for sablefish. That is, it was contrary to the intent and the letter of the Magnuson Act for the American fishermen delivering to joint ventures to be restricted, when there was a TALFF.

Is this an emergency situation? If the Council were currently operating on an annual cycle for groundfish management, this question would have to be answered. If the answer were yes, the Council could initiate an evaluation of the proposal made by the trawlermen, which was to remove the restriction. If the answer were no, the Council would have to tell the trawlermen to come back in September 1984 (or whenever the annual cycle for groundfish would begin). The Council's actual action was an implicit yes, because the issue was scheduled for action at the February meeting; no action was taken, and the issue will surface again on the May agenda. Thus, parties interested in the proposal will incur the expense of at least three trips to attend Council meetings.

We can expect this sort of situation will arise regularly. However, if the Council schedules groundfish management on an annual cycle it would be necessary in some cases to tell American fishermen to bring their proposal for regulation change to the Council eight months later. Alternatively, if this situation met the criteria the Council established for emergency action, the Council could consider the proposal at the time it was presented, irrespective of the management cycle for groundfish. In any case, a set of criteria for defining an emergency situation needs to be developed or we will be perpetually in a bind on scheduling action.