

April 26, 1984

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
Policy on Plan Team Composition, Tasking, and Operations

each The North Pacific Fishery Management Council shall appoint a Plan Team for major fishery for which a fishery management plan either is being developed or has been implemented.

Composition. Members of each team will be selected from those ^{*organization*} ~~agencies and~~ universities 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 is at the discretion of the agencies. Other individuals may be nominated by either members of the Council, SSC or AP. Appointment to the team will be made by the Council with recommendations from the SSC.

Tasking. The team shall:

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

Proposed management actions will usually be presented to the Council in the form of alternative approaches. The team will either: (a) recommend a preferred alternative, or (b) state that it has no preferred alternative, or

(c) state that it was unable to reach a consensus on a preferred alternative. Such preferences should be made on technical grounds or pragmatic management considerations. Policy decisions are the responsibility of the Council.

Operations. Given the team composition and tasking described above, each team will be allowed to organize internally as appropriate to carry out the team's responsibility in an effective and efficient manner. This may for instance require appointment of a small subgroup to actively monitor the fishery or concentrate on specific writing assignments. Team members should choose a team leader, on an annually rotating basis, to oversee the functions of the team.

II.C. TASK ASSIGNMENTS AND INTERAGENCY RELATIONSHIPS

Plan Teams

The composition and role of the plan teams have evolved over the eight years of the Council. Initially large plan development teams were established to compile background material for the plans and construct a management system appropriate to the FCZ. These teams had representation from all agencies involved, in some cases as many as 4 to 5 individuals from a single agency. This, of course, meant a large commitment in agency time and personnel.

As much of the spade work for the plans was completed, the teams were used in the maintenance of the plans. The SSC suggested in September 1980 that small plan maintenance teams should be established primarily for coordinating the FMP process once the plan has been implemented. The team was to be smaller and consist primarily of NMFS and ADF&G resource managers and extended jurisdiction related staffs. They would coordinate fishery and resource status updates, reviews of management objectives, appraise progress toward those objectives, evaluate proposals, etc. A policy statement on PMTs is under item C.1(a).

As we tried to implement this policy in 1981, it was never clear how to isolate the PMT's role from the PDT's. Small tasks could easily be managed by the PMTs but more often than not, the expertise of the larger PDT was required.

The Council again addressed the team issue in July 1982 and adopted the Policy on Plan Team Composition, Tasking, and Operations that is under item C.1(b). This policy melds the PMT and PDT into one team with up to six members. Membership is the choice of the agency. The teams have the ability to call on other agency scientists if this augmentation is required by the task. The teams are also encouraged to appoint a small subgroup to actively monitor the fishery or concentrate on specific writing assignments. The teams are tasked with recommending a preferred alternative, state there was none, or indicate if an agreement could not be reached.

Despite the change in policy, the team structures really have not changed much. The PDT-PMT terminology is still used and for the crab and salmon plan, both teams are still listed in your Council reference books [see item C.1(c)].

1. Does the Council wish to reaffirm the policy on teams under C.1(b)?
2. Should all alternative solutions to a specific management problem be passed through the team for review? Are there permissible exceptions?
3. If the Team is to be used as the first level of scientific and management analysis and structuring of alternatives, should membership qualifications be reviewed by the SSC?

4. According to the policy under C-1(b), agencies assign team members. Should this be revised to have agencies nominate team members, and final approval, based on qualifications, left to the SSC as is now done in the Pacific Council and was the rule when this Council was first established?

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directly v SSC*

Council Staff

The role of the Council staff has evolved as new requirements have been levied on the amendment process by other applicable law, primarily E.O. 12291, and the Regulatory Flexibility Act (RFA). In the past, staff members assigned to the plans have not only contributed to plan team analyses, but have done the lion's share of completing the supporting documents required to submit an amendment for Secretarial review. As noted earlier, until 1983 most of the documentation for a Council decision was done after the final Council action on an amendment.

Recently, stricter adherence to the requirements of E.O. 12291 and the RFA for economic impact analyses [see items C.1(d) and (e)] and the need to have the analyses available before the Council takes final action have placed an added workload on the staff in the two months between the time the Council takes initial and final action on a proposal. This has sometimes left little chance for any extensive peer or SSC review of the analyses.

While Council staff will continue to be active participants on the teams and Council workgroups as assigned, and continue their analytical support in documenting Council decisions, the work on these primary decision documents could be spread more evenly among the agencies. This would make greater expertise available and provide the basis for better Council decisions. Spreading the workload may also make analyses available more quickly and allow for more extensive review before the Council has to act.

Interagency Cooperation

There is a wealth of scientific expertise available in the agencies and academia associated with this Council that could be brought to bear on any particular problem the Council has to solve. Though biological analyses have been our mainstay in the past, socio-economic information is of increasing importance as the fisheries off Alaska become dominated by U.S. industry. Problems between user groups, allocation and gear conflicts, rather than stock assessment and quota determination, will require much of our attention.

We need to examine ways to improve cooperation among ADF&G, NMFS Region and Center, and Council staff to achieve the best analytical products.

1. Are some staffs better tasked with short- vs long-term studies?
2. What about biological vs economic studies?
3. How do we ensure appropriate peer review?

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
POLICY FOR PLAN MAINTENANCE AND MANAGEMENT

"Actual plan maintenance and management will be accomplished through the agencies, Council advisory bodies, the Council, and Board of Fisheries with input from the affected public. A Plan Maintenance Team (PMT) will be formed primarily to identify individuals responsible for coordinating the needed input to the Council at the appropriate times. One member will be designated as leader to provide a primary contact.

The PMT will accept responsibility for coordinating the FMP process once the Plan has been implemented. This Team will be smaller and consist primarily of NMFS and ADF&G resource managers and extended jurisdiction related staffs.

The PMT will, for example, coordinate the following tasks: fishery and resource status updates; reviews of management objectives; appraisals of management regimes' effectiveness in achieving the objectives; FMP amendments; introduction of agency-proposed management changes with rationales and potential impacts; evaluation of proposals introduced by the public; screening of proposals and documents for relevance to appropriate bodies; and so on.

The PMT is a coordinating body which cannot be expected to actually perform all of the tasks associated with FMP maintenance. The PMT will be dependent on agencies' commitments of resources to accomplish their tasks, often on a case-by-case basis."

July 26, 1982

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
Policy on Plan Team Composition, Tasking, and Operations

The North Pacific Fishery Management Council shall appoint a Plan Team for each major fishery for which a fishery management plan either is being developed or has been implemented.

Composition. Each team will be comprised primarily of representatives of those agencies having major roles in the research and management of the fishery. 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. For tasks outside the team's ability or manpower, the team members should serve as primary contacts with their agencies to draw on agency resources as required and deemed appropriate. Selection of individuals to serve on the teams is the discretion of the participating agency. Suggested agency representation on the current six major plan teams is as follows:

	<u>Salmon</u>	<u>Herring</u>	<u>Groundfish</u>		<u>Crab</u>	
			<u>BSAI</u>	<u>GOA</u>	<u>King</u>	<u>Tanner</u>
NPFMC	x	x	x	x	x	x
NMFS/RO	x	x	x	x	x	x
NMFS/FC		x	x	x	x	x
ADFG	x	x	x	x	x	x
IPHC			x	x		
WDF	x					
ODFW	x					
CRITFC	x					

Tasking. The Plan Team for each major fishery under Council purview shall have primary oversight responsibility for the processes of fishery management plan development and amendment. More specifically, the team shall:

- (a) prepare plans and amendments and coordinate preparation of supporting documents (EISs, RIRs, etc.) for Council, SSC, AP and public review;

- (b) aggregate and evaluate public/industry proposals and comments;
- (c) summarize and evaluate the best data available related to the biological and socioeconomic implications of the plan or amendment;
- (d) monitor the fishery and evaluate the status of the stocks;
- (e) evaluate the effectiveness of management measures in achieving the plan's objectives; and
- (f) recommend when and how management measures need to be changed.

Proposed plan amendments will usually be presented to the Council in the form of alternative approaches. The team will either: (a) recommend a preferred alternative, or (b) state that it has no preferred alternative, or (c) state that it was unable to reach a consensus on a preferred alternative. Such preferences should be made on technical grounds or pragmatic management considerations. Policy decisions are the responsibility of the Council.

Operations. Given the team composition and tasking described above, each team will be allowed to organize internally as appropriate to carry out the team's responsibility in an effective, efficient manner. This may for instance require appointment of a small subgroup to actively monitor the fishery or concentrate on specific writing assignments. Team members should choose a team leader, possibly on an annually rotating basis, to oversee the functions of the team.

Each team will recommend an annual schedule for amending their plan from calling for proposals to final consideration by the Council prior to initiating Secretarial review. These annual schedules should accommodate as well as possible the needs of the fishery, task loads of the involved agencies, and operations and meetings of the Council.

Plan	PDT	PMT	Council	SSC	AP
GOA Groundfish		Steve Davis (NPFMC) Phil Rigby (ADF&G) Ron Berg (NMFS) Steve Hoag (IPHC) Gary Stauffer (NWAFC)	Harville Collinsworth	*Marasco Hreha Aron Burns Lechner Bevan	Alverson Burch Phillips
BS/A Groundfish		Jeff Povolny (NPFMC) Phil Rigby (ADF&G) Sue Salveson (NMFS) Steve Hoag (IPHC) Loh-Lee Low (NMFS)	Harville Nelson Collinsworth	*Burns Marasco Hreha Aron Lechner Bevan	Alverson Burch Cotter
Herring		Jim Glock (NPFMC) Al Didier (ADF&G) Dick Marshall (NMFS) Vidar Wespestad (NWAFC) Steve Fried (ADF&G)	Campbell Harville Nelson Collinsworth	*Millikan Burgner Langdon Clark	Lewis
King Crab	Fred Gaffney (ADF&G) Jerry McCrary (ADF&G) Guy Powell (ADF&G) Jerry Reeves (NWAFC) Dave Somerton (NWAFC) Bob Otto (NMFS) Ray Baglin (NMFS) Marty Eaton (ADF&G)	Steve Davis (NPFMC)	Harville McVey Collinsworth	*Marasco Lechner Burgner Bevan	Alverson Cotter Lewis

*Chairman

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Plan	PDT	PMT	Council	SSC	AP
Tanner Crab	Jerry Reeves (NWAFC) Bob Otto (NMFS) Marty Eaton (ADF&G) Dave Somerton (NMFS) Ray Baglin (NMFS) Fred Gaffney (ADF&G)	Steve Davis (NPFMC) Fred Gaffney (ADF&G) Ray Baglin (NMFS) *Jerry Reeves (NMFS)	Collinsworth	Rosenberg *Lechner Burgner	Alverson Kurtz
Troll Salmon	Bill Robinson (NMFS) Paul Larson (ADF&G) Al Davis (ADF&G) Jack Helle (NMFS) Al Didier (ADF&G) Mike Fraidenburg (WDF) Bob Garrison (ODF&W) Dave Cantillon (ADF&G) Mel Seibel (ADF&G) Phil Roger (CRITFC) Ken Pitre (DF&O)	Jim Glock (NPFMC) Al Didier (ADF&G) Bill Robinson (NMFS) Mike Fraidenburg (WDF) *Mel Seibel (ADF&G)	Lokken Harville Collinsworth	*Burgner Rosenberg Millikan Langdon Clark	Boddy O'Hara Jordan

*Chairman

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Executive Order 12291
(Effective February 17, 1981)

This Executive Order applies to the issuance of new rules, the review of existing rules, and the development of legislative proposals concerning regulations. Its purpose is to reduce regulatory burden, increase agency accountability, provide presidential oversight, minimize duplication and conflict of regulations, and ensure well-reasoned regulations.

Oversight. All rules must be reviewed by OMB.

Requirements. In developing regulations, the Council must ensure that:

1. regulatory objectives and priorities are established with the aim of maximizing net benefits to the United States, taking into account the condition of particular industries, state and local governments, and consumers affected by the rule;
2. rules are developed with a cost/benefit approach when possible;
3. the chosen regulatory approach or alternative is the one with the least net cost to society, if practicable; and
4. regulatory action is not undertaken unless the potential benefits outweigh the potential costs to society.

Procedure.

1. The Council must analyze whether a proposed rule will be major or not. A rule will be "major" if it causes:
 - a. an annual effect on the economy of \$100 million or more;
 - b. a major increase in costs or price to involved entities; and/or
 - c. a significant adverse effect on competition, employment, productivity, etc.

Only domestic impacts, not foreign, need be considered.

2. The vehicle for this analysis of major impacts is the Regulatory Impact Review (RIR). If the rule is not major, the RIR will suffice. Since NOAA is using a literal interpretation of the criteria for "major", it is anticipated that most fishery management plan amendments will not be major.
3. If a rule is "major", then a full blown Regulatory Impact Analysis (RIA) is required.
4. All rules, major or not, must be reviewed by OMB. This review takes:
 - a. 10 days for a non-major proposed or final rule,
 - b. 60 days for a major proposed rule, and
 - c. 30 days for a major final rule.

5. The RIR, which may be combined with the initial regulatory flexibility analysis (see Regulatory Flexibility Act below), is sent with the proposed rule to OMB for review. The RIR must contain:
- a. Statement of problem--describe and substantiate its nature. Is there sufficient information to understand what the problems are that need to be solved? Are the objectives discussed?
 - b. Alternative approaches--is the no action alternative included?
 - c. Analysis of impacts of each alternative--are the economic and social consequences of the regulatory or policy change analyzed? Is there sufficient information to determine if the rule is a "major" action? In addition, is there sufficient information to determine whether the benefits outweigh the costs?
 - (1) Benefits--is there an analysis of incremental benefits (quantifiable and unquantifiable)? Does it indicate who will receive the benefits and when?
 - (2) Costs--is there an analysis of incremental costs (quantifiable and unquantifiable) including economic and compliance costs? Does it indicate who will incur the costs and when?
 - (3) Net benefits--is there enough information to determine whether the benefits outweigh the costs, that the approach selected maximized net benefits, and if not, why not?
 - d. Rationale for choice of proposed regulatory action--does the analysis present the reasons for selecting the preferred alternative, including how monetized benefits/costs, distributional effects, and unquantifiable considerations influenced the decision? If the preferred alternative does not maximize net benefits, reasons should be presented.

All of the Council's recent amendments to its FMPs have required just the RIR and the determination that the proposed rule was non-major.

Regulatory Flexibility Act
(Effective January 1, 1981)

The Regulatory Flexibility Act establishes the principle that where Federal regulation is necessary, the regulation should be tailored to the regulated entity's size and capacity to bear the regulatory burden.

Oversight. Chief Counsel for Advocacy of the Small Business Administration.

Requirements.

1. In developing regulations, the Council must ensure that there is equal treatment with due regard to the difference in the capacities of the regulated to bear the direct and indirect costs of regulations.
2. For each proposed rule, the Council must prepare and make available for public comment, an Initial Regulatory Flexibility Analysis (IRFA) to be published with the proposed rule in the Federal Register, if the rule is likely to have a significant economic impact on a substantial number of small entities.
 - a. In general, a "substantial" number of small entities is 15 or more.
 - b. "Significant" economic impact is harder to define. Congress provided no particular test but preferred a case-by-case approach.

Procedure.

1. An Initial Regulatory Flexibility Analysis (RFA) is used to analyze whether a rule will have a "significant" economic impact. The IRFA can be combined with the RIR required under E.O. 12291, and "significant" and "major" effects can be analyzed together.
2. When the IRFA is combined with the RIR, the analysis must include the following additional information:
 - a. Description and estimate of the number of small entities and total number of entities in a particular effected sector, and total number of small entities affected;
 - b. Analysis of economic impact on small entities, including direct and indirect compliance costs, and of completing paperwork or record-keeping requirements; effect on the competitive position of small entities, on the small entity's cash flow and liquidity, and ability of the small entity to remain in the market.

The rationale for choosing the proposed regulatory action should include the reasons for selecting the preferred alternative, and a discussion of how the selected alternative minimizes the economic burden on small entities.

3. The determination of significance is preliminarily made by the NMFS Region but has to be approved by higher levels at the Department of Commerce. If an agency head certifies a rule as non-significant, this certification is published in the Federal Register with the proposed or final rule.
4. The combined IRFA is sent with the amendment package to Secretarial review and is passed for review to the Small Business Administration. The process ends if the Department of Commerce certifies to SBA that the proposed rule will have no significant effect on a substantial number of small entities.

In general, analyses for recent amendments to the Council's plans have led to a determination that the rule will not have significant impact on a substantial number of small entities.

The legislation appears to be nonbinding in that a significant rule can still be put into affect without fear of override by SBA. However, for significant rules, if a final RFA is not published within 180 days of the publication date of the rule, it lapses and has no affect. All significant rules are subject to review within 10 years of their final rule publication.

Though the act expressly denies any separate review of an Agency's certification about whether the act applies or not to a rule, there is some judicial review possible to encourage agency compliance. The final RFA becomes part of the whole administrative record should a judicial review be held.

There can be no intermediate review or review during promulgation, but the court can review the final RFA, and if it is incomplete or sloppy, can strike down the rule. Thus a regulation can be invalidated solely on the basis of a poor Regulatory Flexibility Analysis.

Committee	Council	SSC	AP	Others**
Advisory Panel Nominating	*Hemphill Mace Petersen Specking			
Board/Council Coordinating	*Campbell Collinsworth Didonato Specking	Bevan		
Finance	Collinsworth Harville Lokken McVey Specking *Winther	Bevan Rosenberg	Alverson Barker Lauber	
Halibut	Campbell Collinsworth Lokken McVey Stephan Winther	Marasco	Alverson Fisher Lauber Stewart	Cullenberg Folley Gronholdt Holm Kekoni Lee Lundsten Mathisen Phillips Pletnikoff Williams

*Chairman

**Agency staff will attend as necessary.

Committee	Council	SSC	AP	Others**
Incidental Species	Harville Hemphill Petersen Stephan Winther	Burgner Marasco	Burch Fisher Phillips	
Inter-Council Salmon Coordinating	Collinsworth Harville McVey	Bevan		Donaldson
Net-Mark, Interception and Entanglement	Collinsworth *Harville Stephan	Burgner		
Permit Review	Lucas Petersen *Specking Winther		Kurtz	
Policy and Planning	*Campbell Collinsworth Didonato Harville Lokken McVey Nelson Stephan	Aron Bevan Rosenberg	Alverson	

*Chairman

**Agency staff will attend as necessary.

NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT
(Magnuson Fishery Conservation and Management Act: Section 301a)

Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to the Magnuson Act must be consistent with the following national standards for fishery conservation and management:

- (1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.
- (2) Conservation and management measures shall be based upon the best scientific information available.
- (3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
- (4) Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote conservation; and (c) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
- (5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measures shall have economic allocation as its sole purpose.
- (6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
- (7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.