

Overview of the Regulatory Process used by the NPFMC – draft 1/28/14

The procedure for changing Federal fishing regulations follows a standardized process, set forth by a combination of laws, regulations, operational guidelines, policies, as well as adjustments and adaptations developed by the Council to increase efficiency, provide public participation, and produce quality outcomes. As shown in the adjacent flow chart, there are several key steps in the process, as described below. All documents are posted on the website in advance of the meeting, and public comment is taken by the Council and advisory bodies before any decisions are made.

Proposal for Change. Concerns and proposals for change are brought to the Councils attention by the public through the industry advisory panel or other committee, or directly to the Council via written or verbal public comment during the ‘Staff Tasking’ agenda item at each Council meeting.

Discussion Paper. A discussion paper is frequently prepared by staff as a first step to flesh out the scope of the problem identified, and discuss issues that may be of concern in the development of alternatives. For very complex issues, several discussion papers may be necessary to explore the full scope of an issue before reasonable alternatives can be developed. For relatively simple changes, where the problem and alternatives are self-evident, a discussion paper may not be necessary, and the issue can go straight to analysis, even without developing an official problem statement and range of alternatives. The AP (and other committees if appropriate) provides recommendations to the Council at this stage regarding if the issue should proceed further in the process, if an expanded discussion paper is needed, or if the issue is ready for analysis (and recommend alternatives to be evaluated).

Initial Review of Analysis. Normally, the Council adopts a problem statement (or thoroughly described the problem) and identifies alternatives to be considered, and then staff prepares a draft analysis that integrates analytical requirements of applicable laws and executive orders. The analysis is released for review about 2 weeks (or more) before the meeting. The analysis is reviewed by the SSC for scientific merit, and by the AP to make recommendations regarding any missing information and the suite of alternatives and options evaluated. If the SSC has deemed the analysis inadequate and not ready for public review, or if the Council determines that additional alternatives or other substantial changes to the analysis are required, another initial review may be scheduled before the issue is scheduled for final action. If the analysis is to be released, the Council may designate a preliminary preferred alternative to focus comments on their indicated course of action.

Final Review of Analysis. After initial review, staff revises the analysis based on SSC, AP, and Council comments, and the analysis is posted on the Council website about 3 to 4 weeks before the meeting. The AP makes a recommendation to the Council regarding a preferred alternative. The Council makes a final decision by roll call vote on the motion.

Proposed Rule. The NMFS region prepares draft regulations based on Council action, and once cleared by the region and OMB, a proposed rule is published in the Federal Register. The public is provided time to comment on the proposed rule.

Final Rule. NMFS region staff summarizes comments, and may make adjustments to the rule based on these comments. The response to comments, the revised final rule, and final approval decision is published in the Federal Register.

'Normal' regulatory process used by the NPFMC and NMFS Alaska region.

