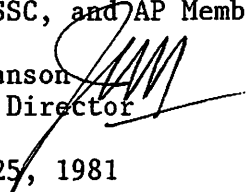


M E M O R A N D U M

TO: Council, SSC, and AP Members
FROM: Jim H. Branson 
Executive Director
DATE: November 25, 1981
SUBJECT: Revisions to SOPPs

ACTION REQUIRED

Review sections of the SOPPs on General Rules of Procedure and Conduct of Plan Development Team meetings in light of Central Office suggestions; decide whether or not to amend these sections.

BACKGROUND

On August 19, 1981 the Council's SOPPs, approved at the July Council meeting, were sent to the Central Office - NMFS for publication in the Federal Register. In his letter of October 15, Robert Crowell, Deputy Executive Director of NMFS, suggested changes he believes are necessary before the SOPPs can be published in the Federal Register, [D-2(a)]. Copies of the subject sections of the SOPPs are included as D-2(b).

Pat Travers will brief the Council on the applicability of Crowell's comments and offer advice to the Council.

PM

DEC/I

GOVERNMENT IN THE SUNSHINE ACT OF 1976

TEXT OF ACT

Public Law 409
5 U.S.C. §§552b and Amendments to §§551, 552, 553,
556, 557

Note: Section 552 of Title 5 of the United States Code is the Freedom of Information Act, and Section 552a of Title 5 is the Privacy Act, and Appendix I of Title 5 is the Federal Advisory Committee Act.

An act to provide that meetings of government agencies shall be open to the public, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this act may be cited as the "Government in the Sunshine Act".

DECLARATION OF POLICY

SEC 2. It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decision-making processes of the Federal Government. It is the purpose of this Act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

OPEN MEETINGS

Definitions

SEC 3. (a) Title 5, United States Code, is amended by adding after section 552a the following new section:

§552b. - Open Meetings

(a) For purposes of this section—

(1) the term "agency" means any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) the term "meeting" means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

(3) the term "member" means an individual who belongs to a collegial body heading an agency.

(b) Members shall not jointly conduct or dispose of agency business other

than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(1) disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action,

except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

Recorded Voting

(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1)) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is

MINUTES

Detailed minutes will be taken for all Council meetings. Council meetings will also be tape recorded. The Council will distribute as soon as possible after adjournment a newsletter summarizing Council meeting actions. Meeting minutes, tape recordings, summaries of Advisory Panel and Scientific and Statistical Committee meetings, and written material distributed at the meetings will be available for study at the Council headquarters.

GENERAL RULES OF PROCEDURE

Generally, 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.

Closed sessions of the Council will be held only when the Council is discussing personnel matters not properly conducted in public or discussing matters of a confidential nature requiring a formal security clearance.

1. A majority of the voting members of the Council shall constitute a quorum for Council meetings, but one or more voting members designated by the Council Chairman may hold hearings.
2. When there is a vote, the majority of the voting members present and voting shall rule. The use of proxy is not permitted.
3. The Council shall conduct all meetings within Alaska, except meetings with other Councils when inter-Council resources are concerned. Hearings may be held in any of the member states.
4. Members of the Council who dissent on any issue to be submitted to the Secretary are permitted to submit a statement of their reasons for dissent to the Secretary.

Conduct of Plan Development Team Meetings.

The Executive Director, on the advice and recommendation of the Plan Development Team leader, may schedule Team meetings as closed sessions to be attended only by members of the Team, or as open sessions which any interested person may attend. At the discretion of the Chairman, the PDT may allow testimony or invite participation by attendees at open meetings.

It is expected that closed sessions will only be necessary in the first stages of plan or amendment preparation; and that as soon as practical thereafter open sessions will be held in participation with the appropriate plan subgroups from the Council, Advisory Panel, and SSC to discuss the rationale and need for the Team proposals, the data base from which they are derived, and the expected results of those proposals. Those open sessions will also serve as a forum for the aforementioned subgroups, interested user groups, and public to recommend possible alternatives to the proposals and submit additional data and recommendations to the PDT.

Open Plan Development Team meetings will be advertised through the Council's mailing list and, where appropriate, in the local news media.

PLAN MAINTENANCE AND MANAGEMENT TEAMS

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 will be smaller and consist primarily of NMFS, Council and State scientists.

The PMT will, for example, coordinate the following tasks: fishery and resource status updates; review of management objectives; appraisals of management regimes' effectiveness in achieving the objectives; FMP amendments;

North Pacific Fishery Management Council

Clement V. Tillion, Chairman
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MINUTES PERMIT REVIEW COMMITTEE December 7, 1981

The Permit Review Committee meeting was called to order at 7:16 p.m. on Monday, December 7, 1981, with Chairman Bart Eaton presiding. Attendees were:

Don Bevan	Keith Specking	Bob McVey
Ron Naab	Phil Chitwood	Joe Kurtz
Jim Campbell	RADM Richard Knapp	CDR Pete Busick
John Harville	Pat Travers	Chris Dawson
Jim Branson	Clarence Pautzke	Peggy McCalment

Polish Permit

The Committee considered the permit application of the Polish vessel ANDROMEDA, charged in 1981 with a 27% underlogging of pollock.

Jim Campbell moved that the Committee recommend that no permit be granted until the case is settled and, if the vessel is found guilty of the charges, that the Polish allocation be reduced by the average annual expected catch for a vessel of that type; seconded by Keith Specking. The motion carried unanimously.

Soviet Permit - MRC Joint Venture

The Committee reviewed the Soviet permit application for the mothership SULAK to work in the Marine Resources Company 1982 joint venture. MRC's allocation requests totaled 38,000 mt in the Bering Sea and 20,000 mt in the Gulf of Alaska, primarily pollock, Pacific cod, and Atka mackerel. It was noted that the Bering Sea allocation request included 5,000 metric tons of Pacific herring.

Don Bevan moved that the Permit Review Committee recommend approval of the permit, with the availability of Pacific herring, dependent on the provisions of the Herring FMP or a similarly implemented PMP. Any surplus would not be available until the fall of 1982. The motion was seconded by Pete Busick. Upon call for the question, the motion carried unanimously.

West German Permits

The Committee reviewed the West German request for permits for the FRIEDRICH BUSSE and REGULUS for both joint venture and independent fisheries. Nordstern requested 10,000 mt for joint venture operations in the Bering Sea and 4,500 mt for a joint venture in the Gulf. They also requested direct allocations of 22,000 mt in the Bering Sea and 5,000 mt in the Gulf. The Permit Review Committee chose to handle the joint venture and directed fishery separately.

The FRIEDRICH BUSSE was charged with three violations in 1981 with combined penalties of \$237,500, all cases pending.

Pete Busick moved that the Committee recommend approval of only the joint venture permits for the FRIEDRICH BUSSE and REGULUS; seconded by Keith Specking. The motion carried unanimously.

Keith Specking then moved that the Committee recommend that no directed fishery permit be granted until the pending cases are settled and, if the FRIEDRICH BUSSE is found guilty of the charges, that West Germany's allocation be reduced by the average annual catch for that type of vessel; seconded by Jim Campbell. The motion was unanimously adopted.

Korean Joint Venture Applications

The State Department representative delivered applications for 27 Korean vessels expecting to participate in joint venture operations. None of the vessels had violation records and all but three have already received direct fishing permits.

Jim Campbell moved that the Committee recommend approval of the 27 Korean joint venture applications; seconded by Pete Busick. The motion was unanimously adopted.

The Committee did not act on the Korean request that up to 20% of the joint venture allocation be granted for directed fishing when U.S. catchers could not provide sufficient amounts of fish in areas which would normally be closed to foreign fishing. This action can only be addressed by a plan amendment.

Soviet Tanker Permit

The Committee reviewed a 1981 permit request from the Soviet tanker RAUMA to bunker Polish vessels operating off Alaska.

Pete Busick moved that the 1981 permit for the RAUMA be approved; seconded by Bob McVey. The motion was unanimously approved.

The Committee also recommended that the Council give the Executive Director authority to approve permits for foreign tankers wishing to support vessels of other nations.

West German Fisheries

The Committee reviewed the West German request for permits for the FRIBERICH BUNSEN and REGGULUS for both joint venture and independent fisheries. Norddeutsche requested 10,000 mt for joint venture operations in the Bering Sea and 7,200 mt for a joint venture in the Gulf. They also requested direct allocations of 11,000 mt in the Bering Sea and 7,000 mt in the Gulf. The Permit Review Committee chose to handle the joint venture and directed fishery separately.

The FRIBERICH BUNSEN was charged with three violations in 1981 with combined penalties of \$237,500, all cases pending.

Pete Bruck moved that the Committee recommend approval of only the joint venture permits for the FRIBERICH BUNSEN and REGGULUS, recorded by Keith Spocking. The motion carried unanimously.

Keith Spocking then moved that the Committee recommend that no directed fishery permit be granted until the pending cases are settled and, if the FRIBERICH BUNSEN is found guilty of the charges, that West Germany's allocation be reduced by the average annual catch for that type of vessel, recorded by Jim Campbell. The motion was unanimously adopted.

Korean Joint Venture Applications

The State Department representative delivered applications for 27 Korean vessels expecting to participate in joint venture operations. None of the vessels had violation records and all but three have already received direct fishing permits.

Jim Campbell moved that the Committee recommend approval of the 27 Korean joint venture applications, recorded by Pete Bruck. The motion was unanimously adopted.

The Committee did not act on the Korean request that up to 20% of the joint venture allocation be granted for directed fishing when U.S. captains could not provide sufficient amounts of fish in areas which would normally be closed to foreign fishing. This action can only be addressed by a plan amendment.

Soviet Tanker Permit

The Committee reviewed a 1981 permit request from the Soviet tanker RAUNA to bunker Polish vessels operating off Alaska.

Pete Bruck moved that the 1981 permit for the RAUNA be approved, recorded by Bob Covey. The motion was unanimously approved.

The Committee also recommended that the Council give the Executive Director authority to approve permits for foreign tankers wishing to support vessels of other nations.

St. George Tanaq/Taiwanese Request

St. George Tanaq asked the Council to endorse an allocation to Taiwan in the same amount as their 1981 allocation so the Pribilof-Highly SeaProducts operation could be continued. Taiwan's 1981 allocation was 19,607 mt, of which only 3,625 mt were taken.

Jim Campbell moved that the Committee recommend that the Council endorse the Taiwanese allocation request, but make it clear that we expect significantly more of the allocation to be utilized in order for a similarly large allocation to be recommended again; seconded by Keith Specking. The motion was adopted unanimously.

Council Policy

The Permit Review Committee recommended that the Council develop a policy stating what is expected as a minimum level of utilization for joint venture allocations requested.