

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke
Executive Director

DATE: September 19, 1991

SUBJECT: Council Voting Procedures

ACTION REQUIRED

Consider revising Council voting procedures on allocative decisions.

BACKGROUND

In June the Council was requested to consider at the September meeting, revising its voting procedures on allocative decisions to require a two-thirds majority, which would require that eight voting members be on the prevailing side for a motion or amendment to pass.

A copy of the sections of the Council's Statement of Organization, Practices, and Procedures germane to voting is under item C-7(a). These closely follow Section 605.24(a)(3)(iii) of the Secretary's guidelines and regulations (item C-7(b)).

- (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**.

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.

(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. *

(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.

(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) 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 Secretarially-prepared management plans, require a vote.

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.

(2) Subject to the confidentiality procedures established by the Council on January 28, 1986 (Section 1(i) in the NPFMC Reference Book), and the guidelines prescribed by the Secretary pursuant to Section 303(d) 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.

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, employment matters, or briefing on litigation in which the Council is interested. If any meeting or portion is closed, the Council, committee or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including 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.

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 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, except that hearings in Oregon or Washington may only be held after first consulting with the Pacific Fishery

expert scientific and technical advice to the Council on the development of fishery management objectives and strategies, the scientific information supporting preparation of FMPs, the appropriateness of the ABC and OY levels, the adequacy of the regulatory analysis, and the effectiveness of FMPs once in operation. In providing this advice, the SSC assists the Council in identifying the need for research and data collection and the scientific resources available, and in establishing criteria for framework actions. Membership must be multidisciplinary, and should include biological and social scientists from the Federal and State governments, and private scientific community who are knowledgeable about the fisheries to be managed.

(2) *Advisory Panel (AP).* The AP provides pragmatic advice from individuals most affected by, or interested in, Council matters of fishery management. A balanced representation should be maintained of those who are either actually engaged in harvesting, processing, marketing, or consuming fish, or knowledgeable and interested in the conservation and management of the fisheries within the Council's jurisdiction. With respect to each FMP or amendment under consideration by the Council, the AP should provide advice concerning the recommended OY, the management measures and allocations under consideration, the supporting documentation to any regulatory action, management objectives, and any other subject, as required by the Council.

(e) *Working groups.* Fishery management planning and development of FMPs may be performed by various types of working groups, under the direction of the Council. For example, the Council may establish a Plan Team to assess the need for management, assemble information, conduct and evaluate analyses, evaluate public industry proposals and comments, and estimate the costs of plan development, implementation, and monitoring. In addition, Councils may use *ad hoc* groups to address resource user conflicts or other issues.

(f) *Committees.* The Council may appoint standing and *ad hoc* committees from among the voting and nonvoting members as it deems necessary for the conduct of Council business.

§ 605.24 Council meetings and hearings.

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.

(a) *Meetings—(1) General.* The Councils meet in plenary session at the call of the Chair or upon request of a majority of the voting members. Advisory groups may meet with the approval of the Chair. Emergency meetings may be held at the call of the Chair or equivalent presiding officer.

(2) *Notice.* With respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a Council, timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, must 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 must also be published in the Federal Register.

(3) *Conduct of meetings.* (i) All meetings of the Council advisory and working groups must be open, unless closed in accordance with paragraph (a)(5) of this section. Interested persons will be permitted to present oral or written statements regarding the matters on the agenda at regular meetings of the Council, within reasonable limits established by the Chair. 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.

(ii) A majority of the voting members of any Council constitutes a quorum for Council meetings, but one or more such members designated by the Council may hold hearings.

(iii) Decisions of any Council are by majority vote of the voting members present and voting (except for proposed removal of Council members, see § 601.36). Voting by proxy is not permitted except as allowed under § 605.23(b). An abstention does not affect the unanimity of a vote.

(iv) Voting members of the Council who disagree with the majority on any

issue to be submitted to the Secretary, including principal State officials raising federalism issues, may submit a written statement of their reasons for dissent. If any Council member elects to file a minority report, it should be submitted at the same time as that of the majority.

(4) *Record.* (i) Minutes of each meeting must be kept and must contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.

(ii) Subject to the procedures established by the Council under § 601.27, and the regulations prescribed by the Secretary under Part 603 relating to confidentiality, the administrative record (including minutes required under paragraph (a)(4)(i) of this section) of each meeting, and records or other documents which were made available to or prepared for or by the Council, SSC, or APs incident to the meeting, must be available for public inspection and copying at a single location in the offices of the Council.

(5) *Closed meetings.* (i) Each Council, SSC, and AP:

(A) Must close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

(B) May close any meeting, or portion thereof, that concerns matters or information that pertains to unclassified national security matters, employment matters, or briefings on litigation in which the Council is interested.

(ii) Closed meetings must be announced in the news media.

(6) *Frequency.* Each Council must meet in plenary session at least once every six months. Council advisory groups may meet as frequently as necessary, with the approval of the Council Chair.

(7) *Location.* (i) Each Council must conduct all meetings within its geographical area of concern, but may hold joint meetings within any of their constituent states for the purpose of discussing issues of mutual concern. In the particular case of Council meetings of the North Pacific Council, "geographical area of concern" means within the State of Alaska. When two or more Councils have been designated by the Secretary to prepare an FMP jointly, Councils so designated may meet jointly within any of their constituent States for the purpose of developing or amending such an FMP.

(ii) The Council meeting place should have a capacity large enough to accommodate the anticipated public attendance and be accessible to those interested in attending, including