

## 2. Decision Documents

Of all the comments on the Council's procedural inadequacies, certainly the most have focused on the adequacy, availability, and review of the information on which the Council bases its final decision on a proposed amendment. Lee Alverson (2/10/84) stressed that better documentation and review of the facts should precede Council decisions. In its handling of the Fishery Development Zone proposal, the Council was called on the carpet by NMFS-DC and industry for not having its analytical documents available to the public or the Council when the final decision was made. There was extensive criticism at our March meeting with the Board on the lack of any analysis of the proposed trawl closure to save crab. These are just a few examples of the concerns we have heard over documentation procedures.

Prior to last year, Council actions were usually analyzed after the fact in order to comply with the requirements of other applicable law: E.O. 12291, the Regulatory Flexibility Act, the Paperwork Reduction Act, and N.E.P.A. After our experience with the FDZ amendment, we've attempted to do as extensive analysis as possible before the Council takes final action. For example, an analysis of pot limits and exclusive registration areas was done before the Council took action on Tanner crab Amendment 10. For groundfish, the effects of removing foreign effort on sablefish in the Gulf and the needs of U.S. industry were analysed before the Council set final DAP and TALFF last December.

Problems with documentation still remain. First, there have been questions over what documents should actually be reviewed by the Council before a final decision is made. According to NMFS, a structurally complete package, ready for Secretarial review, must include the following:

1. Final FMP/Amendment
2. Proposed regulations and preamble
3. Notice of Availability of FMP/Amendment
4. Final Environmental Impact Statement or Environmental Assessment
5. Draft Regulatory Impact Review combined with Initial Regulatory Flexibility Analysis
6. Request for information collection (SF-83I and justification)
7. Coastal Zone Management consistency determination
8. Endangered Species Act Section 7 biological evaluation

In the past the Council usually had only the wording of the proposed amendment with a team analysis. Recently, they have also reviewed the RIR, EA, and implementing regulations.

A second problem has been the review of these documents. Analyses are frequently being worked on up to the time of the Council meeting. Thus, there has been little time for thorough review by the Council, SSC or AP and sometimes not by the plan teams or other peer groups. The material must then be digested during Council week and decisions made. The public usually has had little time to review the documents either.

It's difficult to pinpoint the exact reasons that supporting materials have not been more timely. Sometimes new information comes in at the last minute. Sometimes there are not enough people to work on the analyses. Part of it may be a lack of a traditional annual cycle for Council fisheries management. This has resulted in the various staffs marching to different drummers: ADF&G staff is geared toward the Board cycle, NMFS Center groundfish staff has been geared to the annual INPFC meetings.

A third problem relates to recommending a preferred course of action to the Council. The staff has been asked in the past to make recommendations. There has been criticism from industry and the Council family on that procedure. There is fear that it might color our objectivity and recommendations may lack adequate peer review.

The above concerns all suggest that the Council needs to carefully review its procedures for documenting fisheries management decisions. Improving this part of the decision process may be one of the most important products of this meeting. The following questions provide guidance for this review:

- a. What materials should be available to the Council to make a more informed final decision - FMP amendment language, proposed regulation, economic analysis, environmental analysis, legal opinion?
- b. Should these documents be in final form, or just preliminary as long as nothing substantial is changed after the Council's decision is made?
- c. Should there be a deadline for new information to be included in the analyses?
- d. What if the Board receives analyses during the meeting?
- e. How much lead time is needed for review by Council Plan Team, SSC, AP and public?
- f. What sort of peer review should there be?
- g. What are roles of SSC, AP, workgroups and plan teams in the review process?
- h. Does the Council want a recommended alternative? On what items? From whom? What is adequate review?