

PROPOSED AMENDMENT TO COUNCIL OPERATING PROCEDURE 1
GENERAL COUNCIL MEETING OPERATIONS

Option 4

(In Response to Council Action during Agenda Item C.2)

* * *

Fishery Regulation Deeming Process
[Procedure for Implementing MSA Section 303(c)]

In taking final action on Pacific Fishery Management Council (Council) recommendations to adopt a fishery management plan (FMP) or FMP amendment, or to revise regulations implementing an FMP, the Council is deeming that regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In so doing, the Council implicitly requests the appropriate National Marine Fisheries Service (NMFS) Region complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, after NMFS has prepared the regulatory language, the Council authorizes the Executive Director to review the regulations to verify that they are consistent with the Council action before submitting them, along with his determination, to the Secretary on behalf of the Council.

The Executive Director is authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in his determination, the proposed regulations are not consistent with the Council action.

* * *

Note: In determining the consistency of the regulations, the normal practice has been for Council staff, team members, and affected state or tribal agency personnel to work with NMFS in assuring the consistency of the regulations with the Council action. The proposed formal deeming process should not change this practice and will assist the Executive Director in making his determination. In cases where the consistency is in question, the Executive Director is expected to work with NMFS to resolve the issues. Returning the regulations to the Council would be a last resort when questions cannot be resolved without involving the whole Council.

PFMC
09/11/08