

COUNCIL STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES AND COUNCIL
OPERATING PROCEDURES DOCUMENTS

Situation:

Objective 7 in *Objectives for the Executive Director February 2001 – January 2002* stated:

Improve internal office efficiencies and customer service to Council clientele. Review, update, and revise as necessary the **Council Operating Procedures** and **Standard Operating Practices and Procedures** documents.

Attachment 1 is a revised *Council Statement of Operating Practices and Procedures* (SOPP) draft document. Revisions are based on:

- (1) Recent action by the Department of Commerce (DOC) (66 FR 57885, November 19, 2001) issuing a final rule changing certain regulations in Title 50 CFR Part 600 (Magnuson-Stevens Act provisions for Regional Fishery Management Councils);
- (2) A review of all Council SOPPs for legal sufficiency by attorneys in the Employment Labor Law, General Law, and Ethics divisions in the Office of the Assistant General Counsel for Administration, the Federal Assistance Law Division for the Department of Commerce, and NOAA General Counsel for Fisheries;
- (3) Stratification of procedures between the *SOPP, Council Operating Procedures, and Personnel Rules for the Pacific Fishery Management Council* documents on the basis of necessity for the SOPP purpose, and incorporation of Council voted changes since July 1999; and
- (4) Improvements in document organization and language clarity.

None of the revised language is intended to represent policy changes from the previous SOPP, other than those required by (1) and (2) above and those altered by Council vote since the adoption of the previous SOPP. The revisions to the previous SOPP are too comprehensive to illustrate by strike-out and font alterations. Changes of note are listed in Attachment 2. The previous SOPP is also attached for comparative purposes (Attachment 3).

1. Recent Regulation Changes

The recently issued final rule with revisions to Title 50 CFR Part 600 “represents an update of regulations governing Regional Councils to codify important provisions of the withdrawn Council Operations and Administration Handbook and other policy changes” (Attachment 4). One such policy change was requested by the Pacific Council: a revised definition of designees to principle state officials, to allow such designees to be other than current full time employees of the respective state fishery management agency. The draft rule was discussed between representation of the eight Regional Councils and NMFS at the past two annual Council Chairmen’s meetings.

2. Legal Review for Sufficiency

The Council SOPP adopted June 25, 1999 was submitted for Department of Commerce review and approval together with SOPPs for the other seven Regional Fishery Management Councils. The results of the review were provided to the Councils at the Interim Chairmen’s meeting in Washington DC February 20-21, 2002. Attachment 5 is a memo containing the results of the review for legal sufficiency, with pages specific to comments on other Council SOPPs omitted. Handwritten edits represent final changes made after October 11, 2000 by the NOAA General Council Office.

3. Stratification

Stratification of procedures between the SOPP and other Council procedures documents was done to maximize flexibility of Council decision-making on matters of lesser procedural importance and to minimize the necessity of DOC Secretarial approval for minor changes to the Council SOPP. The content of an SOPP represents binding procedures the Council is obliged to adhere to absent federal approval to do otherwise¹. In addition to this SOPP document, the Pacific Council has other operational documents describing lesser procedures the Council has adopted or changed by majority vote or delegation to the Council Executive Director. These documents include the *Council Operating Procedures*, *Personnel Rules for the Pacific Fishery Management Council*, and *Council Staff Operating Procedures*. By stratifying procedures for the SOPP to include only major elements, such as those required by the Magnuson-Stevens Act and Title 50 CFR Part 600 Regulations, the SOPP can stand unchanged by votes of the Council to change lesser procedures.

Recent changes to the Habitat Steering Group (HSG) provide one example of the benefits of such stratification. The existing SOPP describes the HSG as consisting of a steering group and northern regional subpanels and southern regional subpanels, with members serving two-year terms. However, the Council has since voted to eliminate the northern and southern regional subpanels as functioning bodies and extended the membership term on the HSG from two to three years. By listing these lesser procedures in the current SOPP document, the changes adopted by the Council in September of 2000 technically need to be approved by the Secretary of Commerce to be fully effectuated. Had the HSG simply been described in the SOPP as one of the Council advisory bodies, and the membership, subpanel arrangements, term appointments, and other details been listed in the *Council Operating Procedures*, the Council would have the flexibility to effectuate such changes without the necessity of DOC approval by simply voting to change the *Council Operating Procedures*.

Revisions and consolidations in the *Council Operating Procedures*, *Personnel Rules for the Pacific Fishery Management Council*, and *Council Staff Operating Procedures* are tracked to be forthcoming at some point in the future, and will include elements dropped from inclusion in this recommended revision to the SOPP document.

4. Miscellaneous Document Improvements

The revised draft contains several changes from the prior draft for the purpose of improving readability. Organizational changes included several categorical relocations such as moving the Travel Reimbursement and Foreign Travel segments from the Employment Practices Section to the Financial Management Section and moving the Teams and Committee segments to the Council Organization section. There were also several opportunities to improve language clarity, punctuation, and grammar.

The next steps in the process of finalizing a new SOPP include adoption of a document by the Council and submission for federal approval.

Council Action: Council Action to consider and adopt revisions to the *STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES* document

¹Title 50 CFR, Part 600, subpart B, section 600.115 states, "(b)Amendments to current SOPPs must be consistent with the guidelines of this section, the terms and conditions of the cooperative agreement, the statutory requirements of the Magnuson-Stevens Act, and other applicable law. Upon approval of a Council's SOPP by the Secretary, a Notice of Availability will be published in the *Federal Register*, including an address where the public may write to request copies."

Reference Materials:

1. March 2002 Draft Pacific Fishery Management Council Statement of Organization, Practices, and Procedures (Exhibit I.3, Supplemental Attachment 1).
2. Listing of Notable Changes between the March 2002 Draft and the Current Pacific Fishery Management Council Statement of Organization, Practices, and Procedures (Exhibit I.3, Supplemental Attachment 2).
3. Statement of Organization, Practices, and Procedures, Pacific Fishery Management Council, June 25, 1999 (Exhibit I.3, Attachment 3).
4. 66 FR 57885, November 19, 2001, Magnuson-Stevens Act Provisions; Update of Regulations Governing Council Operations (Exhibit I.3, Attachment 4).
5. Department of Commerce Memorandum from Stacia D. Le Blanc to Margaret Hayes dated October 11, 2000 regarding Fishery Management Council SOPPs (Exhibit I.3, Attachment 5).

Agenda Order

- a. Agendum Overview
- b. **Council Action:** Consider and Adopt Revisions

Don McIsaac

PFMC
02/20/02

