

GROUND FISH ADVISORY SUBPANEL STATEMENT ON
COUNCIL OPERATING PROCEDURES DOCUMENT
[As submitted at the November 2004 Council meeting]

The Groundfish Advisory Subpanel (GAP) has several modifications to propose to the draft Council Operating Procedures (COP) identified as Agendum B.3.a - Attachment 1.

The copy of the COP available to the GAP contained several grammatical errors which appear to result from cutting and pasting the draft. The GAP assumes the final document will be thoroughly edited.

In COP 1, Page 1 under "Public Participation," delete "As a matter of practice." Under Section 302(I) of the Magnuson Stevens Fishery Conservation and Management Act (MSFCMA), Councils and their advisory bodies are specifically exempted from the provisions of the Federal Advisory Committee Act with the proviso that the Councils follow certain guidelines, including providing public participation. This is a matter of law, not a matter of practice, and the COP should reflect the law.

In COP 1, Page 7 under "Structure of Agenda", the GAP proposes that an additional bullet point be added which reads "Provide time for advisory subpanels to complete their work." The GAP has frequently noted that the Council agenda structure often provides limited opportunity for the GAP and the Groundfish Management Team (GMT) to conduct their meetings in large enough blocks of time free from interruptions caused by Council action being scheduled or mass informational meetings being held during the time available for the subpanels to conclude their work.

In COP 2, Page 2, under "Termination of Members," the GAP urges that the fourth condition - "engage in disreputable or criminal behavior" - be deleted. First, this condition is completely arbitrary and provides no standards on how to judge conduct. Second, it is discriminatory as it applies only to subpanels and not to other advisory or technical bodies. If the Council desires, members of the GAP would be pleased to provide eyewitness accounts of behavior by members of other bodies to whom this language does not apply which would be considered disreputable by the average citizen. Third, depending on how criminal behavior is defined, a subpanel member who committed a fisheries violation and paid his or her fine would be subject to termination, while a member of a technical body who committed a crime would not suffer the same sanction. In fact, if the standard of criminal behavior is the commission of any sort of fisheries violation, a large percentage of the GAP would be subject to immediate termination.

Advisory body members are chosen based on their knowledge, experience, ability to represent a constituency, and willingness to serve. These are the standards by which they should be judged.

In COP 2, Page 2, under “Replacement of Members,” the GAP suggests adding language to the first paragraph which specifies that announcements for nominees include an estimate of the amount of time that will be required of candidates. The GAP is now meeting five times each year, and GAP members are assigned to other Council committees and to Stock Assessment Review (STAR) Panels. Potential nominees should be aware of the time commitment they are making.

In COP 2, Page 2, under “Alternates,” the GAP suggests that the ability to send an alternate be changed to twice per year. As noted above, the GAP now meets five times each year, and our understanding is that the number of meetings of other advisory subpanels may also be increasing.

Many advisory body members are independent businessmen, and the vagaries of weather and fishing seasons sometimes preclude their full participation. While the GAP expects its members to be active and involved, we should also be conscious of the needs of members to conduct their operations.

In COP 2, Page 3, under “Meetings,” the GAP suggests language be added which would give the Council discretion to provide a small honorarium to advisory body members who are asked to participate in Council committee meetings where similar honorariums are provided to outside consultants or other attendees. This would not include normal advisory subpanel meetings or STAR Panel meetings. Again as previously noted, GAP members are asked to participate in various committees beyond the expected advisory subpanels. For example, the meetings held by NMFS to determine bottom habitat characteristics in order to produce the Essential Fish Habitat Environmental Impact Statement relied on participation by fishermen who were knowledgeable about particular areas. While these meetings did not involve paying outside consultants or their services, others in which GAP members have participated did so. It would seem reasonable for fishermen to be compensated for their expertise just as consultants are.

In COP 2, Page 5, under “Reports to Council,” the GAP suggests adding “or designee” after “The Subpanel Chair” in the second paragraph. This not only reflects normal procedure, but also makes the reporting requirements of subpanels consistent with other advisory and technical bodies.

In COP 5, Page 3, under “Public Participation at Meetings,” the GAP suggests the wording be clarified to ensure public comment is allowed. As currently written, it appears the public only has an opportunity to comment prior to the start of the meeting. This does not reflect the actual practice of the Enforcement Consultants meetings in which GAP members have participated and would seem to be contrary to the requirements for public participation found in the MSFCMA.

Finally, the GAP wishes to thank the Council for making coffee available to the GAP at its meetings.

PFMC
02/18/05