

EXAMPLE AMENDMENT TO COUNCIL OPERATING PROCEDURE 1
GENERAL COUNCIL MEETING OPERATIONS

Option 3

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Process for Approving Regulations Implementing or Modifying a Fishery Management Plan
[Procedure for Implementation of MSA Section 303(c)]

When the Council takes final action on recommendations implementing or modifying a fishery management plan (FMP), the Council's action will include a motion specifying its process to approve ("deem") that the implementing regulations flowing from the action are necessary or appropriate. Generally, the Council motion will take one of two forms as provided below:

- 1) To meet the requirements of section 303(c) of the MSA, the Council requests National Marine Fisheries Service (NMFS) provide the draft proposed regulations for formal Council review prior to final submission to the Secretary and no later than _____ [specify deadline] to ensure they are consistent (necessary or appropriate) with the Council's final recommendations.

Or

- 2) To meet the requirements of section 303(c) of the MSA, the Council authorizes the Council Chairman or Executive Director to review the draft proposed regulations provided by NMFS prior to final submission to the Secretary and no later than _____ [specify deadline] to ensure that the proposed regulations are consistent (necessary or appropriate) with the Council's final recommendations.

Under #1, above, the full Council would approve the proposed draft regulations under a scheduled agenda item at the next Council meeting following receipt of the draft regulations.

Under #2, above, the Chairman or Executive Director would be authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations were not consistent with the Council action.

Under either #1 or #2 above: (1) a letter would be transmitted to NMFS to provide a record of the results of the "deeming process"; and (2) any draft regulations that are not 303(c) regulations would be proposed by NMFS under its authority at section 305(d).

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Note: Option 3 combines elements of both Options 1 and 2, as noted in the situation summary for this agenda item. If the Council Adopts Option 1, the COP language would conform to that shown in #1; if Option 2 were selected, the COP would be modified per the language in #2. The

North Pacific Fishery Management Council now utilizes a process like Option 2 in its proceedings.

The specification of a deadline for submission of the proposed regulations for Council deeming is intended to address timely implementation of the recommendations while ensuring adequate time for NMFS to prepare, and the Council to review and approve the draft regulations.

PFMC
8/18/08