

OREGON DEPARTMENT OF FISH AND WILDLIFE REPORT ON DRAFT
COUNCIL OPERATING PROCEDURE 22

ODFW reviewed Agenda Item C.4 Attachment 1, Draft COP 22, and offers the following revisions for consideration. These changes are intended to be minor and for the purpose of clarification. Proposed deletions (strikeout) and insertions (underline) are shown in the draft COP below, followed by rationale and restatement of the affected text as revised:

DRAFT COUNCIL OPERATING PROCEDURE 22 – ESSENTIAL FISH
HABITAT REVIEW PROCESS

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PURPOSE

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4 To guide the Council’s review and modification of essential fish habitat (EFH) provisions in
5 fishery management plans (FMPs), including identification and description of EFH, fishing and
6 non-fishing impacts, recommended conservation measures, habitat areas of particular concern
7 (HAPC), and other provisions of EFH.

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OBJECTIVES

- 10 1. To ensure that the EFH provisions in the Council’s FMPs are consistent with the best
11 scientific information available.
- 12 2. To ensure a transparent and efficient science-based process for review of new information,
13 and consideration of any potential changes to EFH provisions.

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EFH PERIODIC REVIEW PROCESS

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17 No more than five years after completing a review and any modifications of an FMP’s EFH
18 provisions, the Council should initiate a new review. The Council may conduct a review of some
19 EFH elements, such as HAPCs, in the interim period; however, changes to HAPCs or other EFH
20 elements in between full EFH review will only be contemplated in unusual cases in which notable
21 harm might result by inaction. The review should include the evaluation of published and
22 unpublished scientific literature and reports, information from interested parties, and previously
23 unavailable or inaccessible data. The Council will identify the appropriate Council and/or National
24 Marine Fisheries Service staff lead(s) to coordinate the review, working with subject area experts,
25 Council Advisory Bodies, and others to complete a review consistent with Federal regulatory
26 guidance at 50 CFR 600, Subpart J.

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28 In determining the scope and schedule of the review, the Council should consider
29 recommendations from prior reviews, clearly identify the purpose and measureable objectives for
30 the review, and as well as measureable habitat conservation objectives for any amendments to EFH.
31 The Council should also consider recommendations from prior reviews, and solicit input from its
32 Advisory Bodies and the public.

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34 As appropriate, the review may occur ~~be scoped~~ in two phases with a separate scoping process and
35 objectives for each phase. In the first phase the project lead(s) and subject matter experts (i.e.,
36 Federal/state agencies, tribes, academia) will conduct a thorough review of the best available
37 scientific information ~~on the relevant to~~ EFH provisions ~~contained for species~~ in a particular FMP.
38 Based on this review, and considering input from its advisory bodies and the public, the Council
39 may embark on a second phase in which changes to EFH provisions for that FMP, as well as
40 commensurate minimization measures, are considered for Council adoption.

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42 Prior to initiating a review, the Council should adopt a process and schedule for both the review
43 phase, and if necessary, the second phase in which changes to EFH provisions are considered. The
44 process and schedule will contain details such as key participants and steps relevant to the subject
45 FMP.

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47 PFMC
48 08/20/19

Rationale for the proposed revisions:

- Lines 28-31: Re-ordering to put identification of scope and objectives first, to emphasize the importance of this step; and moving “measurable” to apply directly to the habitat conservation objectives, rather than the review objectives. The revised paragraph would read:

In determining the scope and schedule of the review, the Council should clearly identify the purpose and objectives for the review, as well as measureable habitat conservation objectives for any amendments to EFH. The Council should also consider recommendations from prior reviews, and solicit input from its Advisory Bodies and the public.

- Lines 34-35: Clarifying that scope and objectives may be determined separately for each phase (rather than once for the overall EFH review), which we believe was the intent of the original language, “...the review may be scoped in two phases”. This would allow the Council to develop a scope and objectives appropriately tailored to the each phase, and to consider results of the scientific information review when establishing the scope and objectives for potential changes to EFH. The revised sentence would be:

As appropriate, the review may occur in two phases, with a separate scoping process and objectives for each phase.

- Line 37: Rephrasing to avoid narrow interpretation that only information on current EFH provisions will be reviewed. The review should include information potentially relevant to new EFH descriptions, minimization measures, or other provisions. The revised sentence would read:

In the first phase the project lead(s) and subject matter experts (i.e., Federal/state agencies, tribes, academia) will conduct a thorough review of the best available scientific information relevant to EFH provisions for species in a particular FMP.