

# **COUNCIL OPERATING PROCEDURE**

## **Advisory Subpanels**

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Approved by Council: 07/20/83

Revised: 11/17/89, 11/13/90, 04/06/95, 04/17/96, 10/25/96, 09/12/97, 09/18/98, 09/15/00, 11/01/02, 03/11/05, 09/14/06, 11/07/08, 09/17/09, 04/15/10, 06/17/10, 09/16/10, 11/09/10, 11/07/12, 11/08/18, **04/16/19**

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### **PURPOSE**

To establish procedures for advisory subpanels which have been established under the authority of Section 302(g)(2) of the Magnuson-Stevens Act.

### **OBJECTIVES AND DUTIES**

When requested by the Council Chair or Executive Director, the advisory subpanels shall:

1. Offer advice to the Council on the assessments, specifications, and management measures pertaining to each fishery management plan (FMP) with particular regard to: a) the capacity and the extent to which the U.S. commercial and recreational fisheries will harvest the resources managed under their respective FMPs, b) the effect of such management measures on local economies and social structures, c) potential conflicts among groups using a specific fishery resource, or d) enforcement problems peculiar to each fishery with emphasis on the expected need for enforcement resources.
2. Offer advice to the Council on: a) FMPs, FMP amendments, and regulatory amendments during preparation of such FMPs or amendments by the Council, b) FMPs prepared by the U.S. Secretary of Commerce and transmitted to the Council for review, and c) the effectiveness of the FMPs, amendments, regulations, and other measures which have been implemented.
3. Attend public hearings on FMPs or amendments.
4. Attend Council meetings at the request of the Council Chair or Executive Director to advise the Council on specific fisheries, with particular reference to the socioeconomic implications of managing those fisheries.
5. Keep the Council advised of current trends and developments in fishery matters.
6. Identify specific legal or enforcement questions on proposals and request response through the Executive Director from the appropriate parties. (Note: The Council staff will attempt to anticipate the need for enforcement and legal advice and arrange for the Enforcement Consultants and/or National Oceanic and Atmospheric Administration general counsel to attend subpanel meetings.)

7. Perform such other necessary and appropriate duties as may be required by the Council to carry out its functions under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Sustainable Fisheries Act, and other applicable law.

## COMPOSITION

1. Subpanels shall consist of not more than 21 members (unless additional members are deemed necessary by the Council), each concerned with carrying out the objectives and duties of the subpanel.
2. The Council may establish or abolish subpanels as it deems necessary to perform the Council's duties as specified under the Magnuson-Stevens Act and other applicable law.

## MEMBERSHIP

### Terms

All members shall be appointed by the Council for three-year terms commencing January 1 and expiring December 31 three years thereafter and may be reappointed at the pleasure of the Council. Vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

### Termination of Members

A subpanel member will be replaced at the Council's discretion if the member: 1) transfers employment or moves to a different location; 2) is absent from two meetings in any 12-month period; 3) appears unable to fulfill their obligations as a subpanel member; 4) their area of expertise is no longer required; 5) violates the *Rules of Conduct for Employees and Advisors and Contractors of Regional Fishery Management Councils, U. S. Department of Commerce*; or 6) The Council Chair, in consultation with the Executive Director, determines that an Advisory Panel member should be removed for just cause (e.g., violation of marine resource regulation, felony conviction, investigated reports of sexual harassment, etc.; these examples are not all-inclusive.). This also includes removal of an advisory panel member who repeatedly fails to adhere to proper decorum and to show respect for other panel members, or the panel itself, as evidenced by rude and disruptive behavior and/or an unwillingness to refrain from abusive treatment or harassment of other members and/or Council staff assigned to assist the advisory panel in carrying out its business of providing recommendations to committees and the Council. Reports of such behavior should be made to the Executive Director or Council Chair so that the incidents(s) can be properly investigated.

### Replacement of Members

Upon receipt of a letter of resignation, completion of three-year terms, or following Council action to remove a member, the Executive Director shall advertise for qualified nominees. Announcements will be distributed widely and be specific about the duties, responsibilities, and approximate time commitment involved.

Nominations must be accompanied by adequate information on the amount and kinds of experience which qualify the nominee for the particular position. Nominations should be received on or before a deadline published by the Council.

The Council Chair is authorized to appoint replacement members on an interim basis to avoid a lack of representation for any of the advisory sectors at an advisory body meeting. In so far as possible, the Council Chair will consult with the Council prior to such interim appointments

#### Alternates

A subpanel member should attend all meetings, but may request an alternate with appropriate expertise for the position if unable to attend a meeting. Members may request an alternate for a subpanel meeting no more than twice per calendar year under the following terms. All requests for alternates require prior approval of the Executive Director. The Executive Director must be notified in advance in writing with the name of and contact information for the proposed alternate at least 30 days prior to the first day of the advisory body meeting, or the first day of the Council meeting held in conjunction with the advisory body meeting. The alternate will be reimbursed for travel expenses per the Council travel rules. Exceptions to these terms may be made at the discretion of the Executive Director for highly unusual occurrences.

#### Officers

The Chair and Vice Chair of each subpanel shall be elected by majority vote of subpanel members present and voting. Such officers shall be confirmed by the Council Chair and shall serve one-year terms. There is no limit as to the number of terms that individuals may serve as officers. The presiding officer has the responsibility and authority to ensure that meetings are conducted in an orderly and business-like manner.

#### Subcommittees

The subpanels may establish such subcommittees as they deem necessary to facilitate their duties.

#### Public-at-large Position

For those Subpanels with a position for “Public-at-large,” the person selected for such a position should meet the following criteria:

1. Person has interest in and is knowledgeable about the fishery which is the subject of the subpanel’s deliberations.
2. Person is not an appointed, elected, or paid representative of a recreational, commercial, or environmental organization.
3. Priority consideration will be given to individuals who represent port districts, coastal community businesses, seafood safety experts, or individuals who have expertise not

otherwise represented on the committee and would provide a valuable contribution to the advisory group.

4. Individual will not be considered solely on the basis of their participation in the sport or commercial fishery (including processing) or environmental activities.

## MEETINGS

The subpanels shall meet at the request of the Council Chair or Executive Director, as often as necessary to fulfill their responsibilities. The Council will reimburse travel costs for non-Federal advisory body members while on official Council travel as per the *Council Travel Rules* document.

### Public Participation

The public will be permitted to comment on items relative to the agenda, but may be limited if deemed necessary by the Subpanel Chair. Written statements also may be submitted prior to and during the meeting. The public may be permitted to interject comments during the meeting at the discretion of the Subpanel Chair. Members of the public may be asked to leave the meeting at the Subpanel Chair's discretion if their conduct is impeding the orderly progress of the meeting.

The granting of permission for the public to tape all or any part of the meeting is at the discretion of the Subpanel Chair and such permission must be obtained in advance.

Upon request, copies of this operating procedure will be distributed to the public attending subpanel meetings.

### Public Notification of Meetings

Timely public notice of each subpanel meeting, including the time, place, and agenda topics for the meeting, shall be widely distributed via facsimile machine, electronically (e-mail and Council website), and/or U.S. Postal Service to individuals on mailing lists maintained by the Council and to local media. The notice also may be announced by such other means as will result in wide publicity. For purposes of this notice, the term "timely" will be defined as two weeks prior to the actual meeting.

Timely notice of each regular meeting, emergency meeting, and hearing also shall be published in the *Federal Register*. Council staff shall prepare this notice in coordination with the appropriate National Marine Fisheries Service (NMFS) regional office. In this context, the term "timely" shall denote submission (at least 23 calendar days prior to the meeting) of the notice to NMFS for publication in the *Federal Register*.

## MINUTES

As workload permits, Council staff shall attend and draft summary minutes of each subpanel meeting.

## STAFF RESPONSIBILITIES

Council staff has responsibility for guiding, assisting, and coordinating activities of Advisory Subpanels including ensuring that Council policy, schedules, guidelines, and direction are followed; preparing agendas and *Federal Register* notices; attending meetings; conducting supportive analyses of complex technical and policy matters; presenting briefings to these Subpanels on necessary matters; supporting preparation of committee reports, minutes, or recommendations for presentation to the Council; and facilitating discussion among committee members to achieve consensus and maintain decorum. Council staff also facilitates communication and coordination among the various Council advisory bodies to resolve issues and promote consistency.

## REPORTS TO COUNCIL

Subpanels shall report to the Council as directed by the Council Chair or Executive Director.

Reports will describe both areas of consensus and differences. If necessary, majority and minority reports may be drafted to present the divergent views of the subpanel. The Subpanel Chair will present both majority and minority reports to the Council.

Draft reports or statements prepared and discussed at these meetings will be available to the public in final form after submission to the Council. They will not be distributed to the public during the meeting unless authorized by the Subpanel Chair.

## NEW MEMBER ORIENTATION

Council staff will hold orientation sessions for new members, if necessary.

## GROUND FISH PERMIT REVIEW

When requested by the Council Chair or Executive Director, the Groundfish Advisory Subpanel (GAP) has the responsibility to review and comment on the groundfish limited entry permit system, in accordance with Amendment 6.

Note: Responsibility for making reports to the Council on the progress of the groundfish license limitation program and need for adjustments was assigned to the GAP at the April, 1996 Council Meeting. If a subcommittee of the GAP is appointed to carry out this responsibility, membership on the subcommittee will be determined by the Council Chair in consultation with the GAP Chair.

### Objectives and Duties

1. Review appeals related to issuance of permits and gear endorsements, make recommendations through the Council to the regional director as to whether the appeal should be granted, and explain how the recommendation is consistent with the implementing regulations.

4. Make recommendations to the Council on whether non-Federal/non-state limited entry systems should be certified as being consistent with the goals and objectives of the limited entry program established by Amendment 6 to the groundfish FMP, as described in Section 14.3.1.4 of that amendment.

#### Meetings

1. The GAP-comprised review board shall meet at the request of the Council Chair or Executive Director as often as necessary to fulfill their responsibilities.
2. Notice of these meetings shall be published in the *Federal Register*, distributed to the news media, and via other means to ensure wide distribution.

#### Public Participation

##### Testimony on Appeals

The GAP-comprised review board shall receive testimony from appellants and members of the public on appeals under consideration. Testimony by the appellants shall be submitted to the limited entry office of NMFS in written form at least four weeks prior to the meeting.

Appellant written testimony will be made available to all interested persons in a timely manner prior to the meeting. At the meeting, the appellant may provide an oral summary of written testimony and additional oral testimony in response to questions by members of the GAP-comprised review board and public comment. Public comment shall be in written form and be provided to the NMFS Northwest Region limited entry office at least ten days in advance of the meeting. Members of the public may present oral summaries of written testimony. Time for oral testimony by both the appellant and the public may be limited by the Council Chair.

##### Testimony on Other Issues Considered by the Review Board

The GAP-comprised review board shall receive comments from members of the public on issues under consideration not related to appeals at a time specified on the agenda. Time for such testimony may be limited by the Council Chair.

#### Reports to the Council

The GAP-comprised review board shall report to the Council as directed by the Council Chair or Executive Director. Reports to the Council will be written and will describe both areas of consensus and differences. Both majority and minority positions will be presented.

#### Council's Role

The Council will consider GAP-comprised review board reports on appeals and forward recommendations to the NMFS West Coast Regional Administrator. This function is delegated to

the Council Chair when prompt action is required for timely rulings by the NMFS Regional Administrator. All testimony to the Council on permit appeals will be in written form.

REPRESENTATION ON SUBPANELS <sup>1/</sup>

| Subpanel and Total Number of Members | Affiliation or Representation   |
|--------------------------------------|---|
| Coastal Pelagic<br>(10)              | <ul style="list-style-type: none"> <li>3 California Commercial Fisheries</li> <li>1 Oregon Commercial Fisheries</li> <li>1 Washington Commercial Fisheries</li> <li>3 Processors (California, Washington, or Oregon)</li> <li>1 California Charter/Sport Fisheries</li> <li>1 Conservation Group</li> </ul>   |
| Ecosystem<br>(9)                     | <ul style="list-style-type: none"> <li>3 California at-large</li> <li>3 Oregon at-large</li> <li>3 Washington at large</li> </ul>   |
| Groundfish<br>(21)                   | <ul style="list-style-type: none"> <li>3 Fixed Gear Fisheries (at-large)</li> <li>1 Bottom Trawl Fisheries</li> <li>1 Mid-Water Trawl Fisheries</li> <li>2 At-Large Trawl Fisheries</li> <li>1 Open Access Fisheries north of Cape Mendocino</li> <li>1 Open Access Fisheries south of Cape Mendocino</li> <li>2 Processors (at-large)</li> <li>1 At-Sea Processor</li> <li>1 Washington Charter Boat Operator</li> <li>1 Oregon Charter Boat Operator</li> <br/> <li>1 California north of Pt. Conception Charter Boat Operator</li> <li>1 California south of Pt. Conception Charter Boat Operator</li> <li>3 Sport Fisheries (at-large)</li> <li>1 Tribal Fisheries</li> <li>1 Conservation Group</li> </ul> |
| Highly Migratory Species<br>(13)     | <ul style="list-style-type: none"> <li>1 Commercial Troll Fisheries</li> <li>1 Commercial Purse Seine Fisheries</li> <li>1 Commercial Gillnet Fisheries</li> <li>2 Commercial At-Large</li> <li>1 Processor north of Cape Mendocino</li> </ul>  |

REPRESENTATION ON SUBPANELS <sup>1/</sup>

| Subpanel and Total Number of Members  | Affiliation or Representation       |
|---------------------------------------|-------------------------------------|
| Salmon<br>(16)                        | 1 Processor south of Cape Mendocino |
|                                       | 1 Northern Charter Boat Operator    |
|                                       | 1 Southern Charter Boat Operator    |
|                                       | 1 Private Sport Fisheries           |
|                                       | 1 Conservation Group                |
|                                       | 1 Public At-Large                   |
|                                       | 1 At-Large                          |
|                                       | 1 Washington Troll Fisheries        |
|                                       | 1 Oregon Troll Fisheries            |
|                                       | 1 California Troll Fisheries        |
|                                       | 1 Gillnet Fisheries                 |
|                                       | 1 Processor                         |
|                                       | 1 Washington Charter Boat Operator  |
|                                       | 1 Oregon Charter Boat Operator      |
|                                       | 1 California Charter Boat Operator  |
|                                       | 1 Washington Sport Fisheries        |
| 1 Oregon Sport Fisheries              |                                     |
| 1 Idaho Sport Fisheries               |                                     |
| 2 California Sport Fisheries          |                                     |
| 1 Tribal Fisheries (Washington Coast) |                                     |
| 1 Tribal Representative (California)  |                                     |
| 1 Conservation Group                  |                                     |

<sup>1/</sup> These subpanels have been established under the authority of Section 302(g)(2) of the Magnuson-Stevens Act.