

RESPONSE TO FINAL RULE FOR REGIONAL COUNCIL OPERATIONS AND 2010
ADVISORY BODY STIPEND PROGRAM

In late September, National Marine Fisheries Service (NMFS) published a final rule on certain Regional Council operations and administrative matters implementing regulatory changes resulting from the 2007 Magnuson-Stevens Act reauthorization (75 FR 59143, September 27, 2010 and copied in Closed Session A.1.a, Attachment 5). Because the Council's Statement of Organization Practices and Procedures (SOPP) is based, in large part, on the operational and administrative regulations, the new and revised regulations in the final rule will require amendment of our SOPP to maintain consistency. In addition, unless certain Council actions are taken, the new regulations in this final rule could prevent the Council from implementing an advisory body stipend program that includes more than Scientific and Statistical Committee (SSC) members. This issue and proposed Council actions are outlined below.

The regulatory changes that staff believe may affect our Council operations or require amendments of our SOPP and Council Operating Procedures (COP) are:

- New definition of "advisory panel" (AP) and its relation to eligibility for stipend payments
- New provision for the Tribal Council Member to have a designee
- Revised requirements for public notice of meetings, including meeting agendas and closed meetings
- Description of Council budgeting, funding, and accounting requirements
- New description of SSC duties
- New requirements for disposition of records

Staff recommends the Council consider the following actions to address the issues raised by the final rule and to implement a stipend payment program for calendar year (CY) 2010.

Proposed Council Actions

Definition of "Advisory Panel" and Stipend Payments

In 2009, the Council approved obligation of those funds authorized for stipend payment (\$73,375) to be distributed equally on a per meeting-day basis to members of the SSC and the Council's other permanent advisory bodies who were not management or enforcement entity employees or contractors.

The new operational regulations state that:

"Stipends are available, subject to the availability of appropriations, to members of committees formally designated as SSCs under Sec. 301(g)(1)(a) or APs under Sec. 302(g)(2) of the Magnuson-Stevens Act who are not employed by the Federal Government or a state marine fisheries agency. For purposes of this section, a state marine fisheries agency includes any state or tribal agency that has

conservation, management, or enforcement responsibility for any marine fishery resource.”

If the Council wishes to implement the same stipend program as was done in 2009, staff recommends consideration of taking the following action and suggested motion.

- Suggested charge to be given by the Council Chairman upon consensus of the Council:

“Let the minutes show that in my capacity as Council Chairman, and with the consensus of the Council, I (Mark Cedergreen) charge the Council advisory bodies listed below as being formed, selected, and formally designated as Magnuson-Stevens Act Section 302(g)(2) advisory panels:

Coastal Pelagic Species Advisory Subpanel
Ecosystem Advisory Subpanel
Groundfish Allocation Committee, nonvoting members
Groundfish Advisory Subpanel
Groundfish Essential Fish Habitat Committee
Habitat Committee
Highly Migratory Species Advisory Subpanel
Salmon Advisory Subpanel
Coastal Pelagic STAR Panels
Groundfish STAR Panels”

- Suggested Possible Motion:

“I move that, consistent with the charge of the Council Chairman, staff amend the Council COP and SOPP to identify those advisory bodies which are formed, selected, and formally designated as Magnuson-Stevens Act Section 302(g)(2) advisory panels. Further, the amendment also identify that upon establishment of additional advisory bodies in the future, the Council will identify those which are established as Section 302(g)(2) advisory panels in the COP.”

Remaining Operational Issues

To address the remaining changes in the final rule and needed amendments to the Council’s SOPP, staff recommends the following motion:

- I move that staff review the full content of the September 27 final rule and amend the SOPP as appropriate to be consistent with the new and revised regulations.

PFMC
11/08/10