

COUNCIL OPERATING PROCEDURE

General Council Meeting Operations

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Approved by Council: 04/06/95

Revised: 03/07/97, 06/25/99, 04/03/00, 12/15/03, 03/11/05, 11/09/07; **09/12/08**

PURPOSE

To establish general procedures for the Council meetings and administrative matters.

MEETINGS

The Council shall, generally, meet five times per calendar year. At the call of the Council Chair or upon request of a majority of its voting members, emergency meetings may be held. Upon receiving a request for an emergency meeting from any Council member or upon the Chair's own instigation, the Council Chair shall instruct the staff to conduct a telephone poll of available voting Council members. If a quorum agrees, the Chair shall call such a meeting.

Public Participation

Council meetings are held for the purpose of conducting official Council business. However, the public will be provided an opportunity to address the Council at its meetings and submit information relevant to matters under consideration. To further encourage public participation, the Council, when practicable, shall establish a period at each meeting during which the public shall be granted an opportunity to address the Council on matters of concern to them. These discussions need not necessarily be related to items on the current meeting agenda. The following procedures shall be observed.

Written

The public shall be permitted to file written statements with the Council at any time before or after a meeting. This submission of written statements by the public is a statutory right which cannot be administratively hampered by arbitrary conditions of length, format, numbers of copies, typography, etc. All written information submitted to the Council by an interested person shall include a statement of the source and date of such information and a brief description of the background and interests of the person in the subject of the written statement. To ensure adequate review and timely action, the following procedure will be followed:

1. Written comments regarding matters on the Council agenda received at the Council office no later than two weeks prior to the beginning of the Council meeting, or no later than a specially published deadline, will be placed in the Council members' briefing books distributed prior to the meeting. If appropriate, these comments will be summarized by staff at the Council meeting.
2. Written comments submitted after the above deadline and by a published deadline during the week prior to the Council meeting will be distributed at the meeting as supplemental briefing material.

3. Written comments received after the deadline specified in number 2, above, will not be copied or distributed by the Council staff. In these instances, individuals are encouraged to attend the Council meeting and present their testimony orally and in writing. Written comments submitted in person at the meeting will be made part of the Council's record. For such late comments, individuals should make their own photocopies for distribution. At least 40 copies are necessary, each with the Agenda Item Number written in the upper right corner of the front page of the document. The public should be aware that the Council does not have time to thoroughly review extensive written comments submitted at the meeting. The Council's advisory entities may not have a chance to review such comment at all. The Council will not pay collect charges for comments transmitted to the meeting hotel by facsimile machine.
4. When multiple copies of the same or similar written public comment is received, Council staff will provide one copy of the material with a notation indicating the total number of copies received. This procedure will be used for written material received in advance of the Council meeting, per numbers 1 and 2 above.

Oral

Interested persons will be allowed to present oral statements or to participate in the discussion subject to such reasonable rules or procedures as may be established by the Council. Time limits on oral comments may be prescribed. Every effort should be made to set aside a portion of every meeting for public participation. Any oral statement shall include a brief description of the background and interests of the person in the subject of the oral statement. The following procedures will be followed:

1. The Council will publish in the *Federal Register* and Council meeting notices the public comment opportunities for each agenda item, as appropriate, and provide a time for public comment on items not on the agenda of the Council meeting.
2. Registration cards will be provided at the entrance of the meeting room for individuals wishing to address the Council. The following information shall be included, (1) name, (2) address, (3) affiliation, and (4) agenda item/subject of testimony. After public comment begins on each agenda item, additional cards will not be accepted for that agenda item.
3. At his or her discretion, the Council Chair may establish a sequence for calling on individuals, according to topics to be discussed. Generally, verbal testimony is limited to five minutes for individuals and ten minutes for groups or individuals representing organizations.
4. Depending upon time and Council wishes, the Council Chair may ask for comments from the public on subjects of interest to the Council after all comments have been made by individuals from the comment registration cards.

5. When there are numerous public comments, the Chair may decide to use an alternative approach to expedite the comment process. The following procedure may be used when there are two opposing factions:
 - The Chair requests, in advance of the public comment period, that each side choose a panel to present the arguments.
 - Each panel makes its presentation.
6. If new information from a state or federal agency or from a Council advisory entity is accepted by the Council, the Chair shall insure that the Council gives comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation or management measures (pursuant to the Magnuson-Stevens Fishery Conservation and Management Act).
7. Council members shall be allowed to ask questions of individuals addressing the Council.

Electronic Mail (E-mail)

The Council will treat e-mail comments in the same regard as written comments. The public shall be permitted to file e-mail statements with the Council at any time before or after a meeting, subject to the requirements in the following paragraph. A format describing e-mail necessities and acceptance procedures will be posted on the Council website and notice of same will be placed in the Council Newsletter. Copies of qualifying e-mail will be treated the same as written public comment (described above) and subject to the same deadlines for distribution. All e-mail received designating testimony relevant to a particular Council meeting will be made part of the official meeting record.

All e-mail information submitted to the Council for purposes of comment on a Council meeting agenda item shall include the name of the person submitting the statement, a brief description of the representation or interest of the person submitting the statement, an e-mail address at which the person can be contacted, the subject or meeting agenda item the comment pertains to, and when relevant information is submitted, a statement of the source and date of such information. Attachments to e-mail may not be accepted as part of the e-mail comment.

To facilitate timely review by Council members, the following procedure will be followed:

1. Qualified e-mail comments regarding matters on a Council public meeting agenda received at the Council office no later than two weeks prior to the beginning of the Council meeting, or no later than a published notification deadline, will be printed and placed in the Council members briefing books distributed prior to the meeting. If multiple identical comments are received, only one representative copy will be included in the briefing books with the total number of such comments received noted on the copy. If appropriate, these comments will be summarized by staff at the Council meeting.

2. Qualified e-mail submitted after the above deadline and by a published deadline during the week prior to the Council meeting will be distributed at the meeting as supplemental briefing material. If multiple identical comments are received, only one representative copy will be included in the supplemental briefing material with the total number of such comments received noted on the copy. If appropriate, these comments will also be summarized by staff at the Council meeting.
3. Qualified e-mails received after the deadline specified in number 2, above, will not be copied or distributed by the Council staff. In these instances, individuals are encouraged to attend the Council meeting and present their testimony orally and in writing.

Public Notification of Meetings

News Releases

Timely public notice of each regular meeting and each emergency 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 in the major fishing ports of Washington, Oregon, and California (and in other regional areas having a direct interest in the affected fishery, e.g., Idaho). 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. However, the Council recognizes that due to the expediency of some Council actions and/or other reasons deemed valid, such two-week advance notice may not always be possible.

Federal Register Notices

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 of the notice to NMFS (at least 23 calendar days prior to the meeting) for publication in the *Federal Register*.

The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c) of the Magnuson-Stevens Act, in which case public notice shall be given immediately.

Voting Procedures

Robert's Rules of Order will be strictly enforced. Makers of motions must first be recognized by the Chair, and if an action is to be reconsidered, the motion for reconsideration must be made by an individual who originally cast a vote for the prevailing side.

Motions

The maker of a motion must clearly and concisely state and explain the motion. After discussion and a call for the question, the motion must be restated clearly and concisely by the Chair before the vote is taken. Motions must be recorded in written form visible to each Council member present and the public if the action 1) requires approval or amendment of a fishery management plan (including any proposed regulations), 2) requests an amendment to regulations implementing a plan, or 3) is a recommendation for responding to an emergency. The written motion, as voted on, must be preserved as part of the record or minutes of the meeting, and include the exact vote of the Council members.

In the case of a telephonic vote, the Chair or the maker of the motion must clearly read the motion aloud immediately prior to the vote, such that everyone on the call understands the wording of the motion up for vote. The motion would then become part of the written record of the call/vote, which would also include the exact vote of the Council members.

Votes

At the request of any voting member of the Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate record of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote. All other votes shall be by verbal indication. Council members/designees who are not in attendance may not vote by telephone.

A voting member of the Council may not vote on any Council matter that would have a significant and predictable effect on a financial interest of that Council member. A designated official (NOAA General Counsel) will determine whether a Council decision would have a significant and predictable effect on a financial interest of a member. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

For a vote on a Council finding that an emergency exists in a fishery, the exact number of votes (for, against, and abstaining) must be preserved as part of the record of the meeting.

Measures to Improve Meetings

Report Presentation

- Council staff, advisory body representatives, invitational speakers, and Council members should shorten all oral reports to the extent possible. For lengthy written reports, provide brief executive summaries highlighting major points.
- Provide written reports on items that are only informational and do not require Council action.

- Advisory subpanel reports should describe areas of consensus and differences. Individual subpanel members shall not provide public testimony as part of the subpanel presentation.
- In general, lengthy detailed presentations will be provided during joint advisory body meetings (e.g., Scientific and Statistical Committee, Groundfish Management Team, Groundfish Advisory Subpanel joint meetings to review stock assessment information) rather than during the Council session. Council members should endeavor to attend these advisory body meetings.

SSC Reviews for Scientific Merit

- The SSC requires good documentation and ample review time in order to provide the best possible advice to the Council. Agencies and review document authors should be responsible for ensuring materials submitted to the SSC are technically sound, comprehensive, clearly documented, and identified by author. If there is any uncertainty on the part of authors regarding SSC expectations, authors should clarify assignments and expectations of deliverables with the meeting Chair. In order that there be adequate time for careful review, documents and materials destined for review by the SSC or any of its subcommittees must be received at the Council office at least two weeks prior to the meeting at which they will be discussed and reviewed, unless otherwise approved by the Executive Director. The Council will then provide copies to appropriate SSC members at least five working days prior to the meeting. If this deadline cannot be met, it is the responsibility of the author to contact the meeting Chair prior to the two-week deadline, so appropriate arrangements, rescheduling, and cancellations can be made in a timely and cost-effective manner. This deadline applies to all official SSC activities and meetings.

Public Comments

- The Council Chair will limit the length of oral testimony to five minutes per individual and ten minutes per group or individual representing a group. At the discretion of the Chair, less time may be allotted. If less time is to be provided, the Chair shall announce this prior to the start of public testimony on an agenda item.
- The Council Chair will urge members of the public to not repeat comments provided by a previous public commenter.
- Council member debate and record development should be avoided during the public testimony period. Questions should be for clarification only.

Structure of Agenda

- As appropriate, the Council Chair will advise Council members of time limits for each agenda item. Time limits will not be rigidly enforced, but they may serve as a guide or reminder to focus discussion and be concise.
- Avoid placing too many weighty issues near the end of the meeting. Intersperse major items throughout the agenda to the extent possible.

- Review work load and next meeting agenda at or near the end of each meeting. Establish priorities for activities. Priorities should be publicized.
- Provide time for advisory subpanels to complete their work.

Council Discussion and Debate

- Debate should be complete and not be arbitrarily limited, but it should be focused on the motion. (Robert's Rules limit members to two speeches per topic and ten minutes per speech).

MINUTES

A detailed meeting record of each Council meeting, including summary minutes, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. At a subsequent meeting, the Council will review and adopt the meeting minutes. A copy of the official meeting record shall be submitted to NMFS. The chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The meeting record shall be made available to any court of competent jurisdiction.

STAFF RESPONSIBILITIES

In addition to drafting meeting minutes, the staff will prepare brief, pre-Council meeting issue summaries, identifying issues and options for each agenda action item. These summaries are provided in the briefing books.

NEW MEMBER ORIENTATION

New Council members will be provided with a one-day to two-day briefing session with appropriate Council members, staff, and advisory Chairs (Scientific and Statistical Committee, advisory subpanels, and plan development/management Teams) prior to their first Council meeting. During this session, both mechanics of operation and management issues and techniques will be addressed. In addition, new members will attend the Council Chair's briefing for the first two Council meetings.

COUNCIL CHAIR'S BRIEFING

The Council Chair's briefing is for the purpose of briefing the Council Chair and not a forum for debate or discussion of the issues.

QUICK RESPONSE PROCEDURE

This procedure addresses Council comments to other entities on actions proposed by those entities. It does not include fishery management action items that are the responsibility of the Council and must be approved by the Council at a regular or emergency meeting.

For new policy matters that will be implemented or have a comment deadline prior to the next Council meeting, the Council Chair is authorized to send a letter on behalf of the Council using the following procedure:

Staff will distribute a summary of the issue and a proposed response to all Council members. If the Council Chair receives a response from at least one voting member from each state, staff may send an official Council comment letter taking into account the responses received from members. Consensus is not required.

OFFICERS

The Chair and two Vice Chairs of the Council shall be elected by majority vote of Council members present and voting. Generally, elections are held during the June Council meeting. Officers shall serve one-year terms, which commence August 11 and end August 10 of the following year. Appointments may be renewed for a second one-year term by majority Council vote at the next June meeting. Each officer may not serve more than two consecutive one-year terms, in his/her respective office.

FISHERY REGULATION DEEMING PROCESS [Procedure for Implementing MSA Section 303(c)]

In taking final action on Pacific Fishery Management Council (Council) recommendations to adopt a fishery management plan (FMP) or FMP amendment, or to revise regulations implementing an FMP, the Council is deeming that regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In so doing, the Council implicitly requests the appropriate National Marine Fisheries Service (NMFS) Region complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, after NMFS has prepared the regulatory language, the Council authorizes the Executive Director to review the regulations to verify that they are consistent with the Council action before submitting them, along with his determination, to the Secretary on behalf of the Council.

The Executive Director is authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in his determination, the proposed regulations are not consistent with the Council action.¹

¹ In cases where the consistency is in question, the Executive Director is expected to work with NMFS to resolve the issues. Returning the regulations to the Council would be a last resort when questions cannot be resolved without involving the whole Council.