

STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

of the
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL



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North Pacific Fishery Management Council

Statement of Organization, Practices, and Procedures

The North Pacific Fishery Management Council (Council), created by Section 302(a)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (the Act), hereby publishes a revised Statement of Organization, Practices, and Procedures (SOPP), as required by Section 302(f)(6) of the Act. The SOPPs were originally published on March 1, 1977, and revisions have been adopted by the Council over time. This revised SOPP, which was adopted by the Council at a public meeting in June, 2007, includes changes pursuant to requirements of the recently reauthorized Magnuson-Stevens Act, and other revisions regarding Advisory Panel operations, administrative provisions, and other practices governing Council operations. This SOPP shall become effectively immediately, noting that additional changes may forthcoming, pending additional guidance from NOAA on Magnuson-Stevens Act provisions.

These SOPPs are provided to each member of the Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP). Copies of the SOPP may be obtained by writing the Executive Director, North Pacific Fishery Management Council, Room 306, 605 West Fourth Avenue, Anchorage, Alaska 99501; telephone (907) 271-2809.

1.0 Council Jurisdiction and Functions

The Council's geographic area of authority includes the Exclusive Economic Zone (EEZ) of the Arctic Ocean and Pacific Ocean seaward of Alaska, including the Bering Sea, Aleutian Islands, and Gulf of Alaska. The states of Alaska, Washington, and Oregon are represented on the Council. The Council will:

- A. Prepare and submit to the Secretary of Commerce (Secretary) or his delegate a fishery management plan (FMP) with respect to each fishery requiring conservation and management within the Council's geographic area of authority and such plan amendments as are necessary.
- B. Review and comment on applications for foreign fishing transmitted to the Council under a governing international fishery agreement by the Secretary of State under the terms of the Act.
- C. Prepare comments on any FMP or amendments prepared by the Secretary which are transmitted to the Council under Section 304(c)(4) of the Act.
- D. Conduct public hearings at appropriate times and locations in the Council's membership area, to allow interested persons an opportunity to be heard in the development of FMPs and amendments and with respect to the administration and implementation of the provisions of the Act. When conducting a hearing outside Alaska, the Council will first consult with the Council in that area.
- E. Submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary.
- F. Review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each FMP for each fishery within its geographical area.
- G. Comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any state or federal agency that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction. The Council may comment on and make recommendations concerning state or federal actions that may affect habitat of other species under its authority.

- H. Develop annual catch limits for each of its managed fisheries that may not exceed the maximum acceptable biological catch level recommendations of its Scientific and Statistical Committee (SSC).
- I. Develop, in conjunction with the SSC, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall establish priorities for 5-year periods; be updated as necessary; and be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service (NMFS) for their consideration in developing research priorities and budgets for the region of the Council.
- J. Prepare regulations for the halibut fisheries, consistent with provisions of the Northern Pacific Halibut Act of 1982. The Act provides that, for the halibut fishery off Alaska, the Council may develop regulations, including limited access regulations, to govern the fishery, provided that the Council's actions are not in conflict with regulations adopted by the International Pacific Halibut Commission.
- K. Conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters, including the allocation of fishery resources to other nations within its area of authority.

2.0 Council Organization

The Council has eleven voting members and four non-voting members. The eleven voting members include the Commissioner of the Alaska Department of Fish and Game, Director of the Washington Department of Fish and Wildlife, Director of the Oregon Department of Fish and Wildlife, the Alaska Regional Administrator of NOAA Fisheries, five members appointed by the Secretary from the State of Alaska, and two members appointed by the Secretary from the State of Washington.

The four non-voting members include the Alaska Regional Director of the U.S. Fish and Wildlife Service, the Commander of the Seventeenth Coast Guard District, the Executive Director of the Pacific States Marine Fisheries Commission, and a representative of the U.S. Department of State.

Each voting member appointed to a Council must take the following oath of office:

I, _____, a voting member of the Regional Fishery Management Council appointed by the Secretary of Commerce, promise to act as a trustee and steward of our Nation's fishery resources. I will uphold all standards and provisions of the Magnuson-Stevens Fishery Conservation and Management Act; conduct myself at all times according to rules and guidance prescribed by the Secretary; responsibly weigh all information bearing on issues being acted upon by the Council; and vote on such issues with objectivity and fairness. This oath is freely given without mental reservation or purpose of evasion.

2.1 Officers and Terms of Office

A chair and vice-chair are elected from the voting members of the Council by a majority vote of the voting members present and voting. Both serve for one year and may succeed themselves. They are elected at the first regular Council meeting held after August 11 (election meeting) and their terms of office expire at the

next meeting after August 11 of the subsequent year. If the Council terms of either or both of the officers end before a regular election meeting, the Council shall appoint at the next regular Council meeting interim officers to serve until the next election meeting.

The Council Chair, or in his or her absence the Vice Chair, has authority to convene and adjourn meetings and public hearings and designate members of the Council, SSC, and AP to attend meetings and public hearings. The Chair will control meetings and hearings by recognizing speakers and establishing the order of business.

2.2 Designees

The Act authorizes only the principal state officials, the Regional Administrators, and the non-voting members to designate individuals to attend Council meetings in their absence. The Chair of the Council must be notified in writing, in advance of any meeting at which a designee will initially represent the Council member, of the name, address, and position of the individual designated. A designee may not name another designee. However, such officials may submit to the Chair, in advance, a list of several individuals who may act as designee, provided the list clearly specifies who would serve if more than one designee attends. A designee may be elected as Chair or Vice-Chair of the Council, and as Vice-Chair would serve as Chair in the absence of the elected Chair; however, a designee for an elected Chair cannot serve as Chair. Reimbursement of travel expenses to any meeting is limited to either the member or one designee.

2.2.1 Principal state officials and their designees

Only a full-time state employee of the state agency responsible for marine and/or anadromous fisheries shall be appointed by a constituent state Governor as the principal state official for purposes of section 302(b) of the Act.

A principal state official may name his/her designee(s) to act on his/her behalf at Council meetings. Individuals designated to serve as designees of a principal state official on a Council, pursuant to section 302(b)(1)(A) of the Act, must be a resident of the state and be knowledgeable and experienced, by reason of his or her occupational or other experience, scientific expertise, or training, in the fishery resources of the geographic area of concern to the Council.

New or revised appointments by state Governors of principal state officials and new or revised designations by principal state officials of their designees(s) must be delivered in writing to the appropriate NMFS Regional Administrator and the Council chair at least 48 hours before the individual may vote on any issue before the Council. A designee may not name another designee. Written appointment of the principal state official must indicate his or her employment status, how the official is employed by the state fisheries agency, and whether the official's full salary is paid by the state. Written designation(s) by the principal state official must indicate how the designee is knowledgeable and experienced in fishery resources of the geographic area of concern to the Council, the County in which the designee resides, and whether the designee's salary is paid by the state.

2.3 Advisory Groups

The Council has established two formal advisory groups: a Scientific and Statistical Committee (SSC) and a Fishing Industry Advisory Panel (i.e., the Advisory Panel, or AP), as mandated in Section 302 (g) of the Act. The Council also maintains Plan Teams for each fishery management plan, and appoints standing and ad hoc committees necessary to advise the Council on particular conservation and management issues.

2.3.1 Scientific and Statistical Committee

The Council shall establish, maintain, and appoint the members of a SSC to assist it in the development, collection, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The SSC shall provide the Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

Members appointed by the Council to the SSC shall be federal employees, state employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience. Independent experts on the SSC and cannot be employed by an interest group or advocacy group. Each member of the SSC shall be treated as an affected individual for purposes of disclosure and financial interest and recusal provisions for SSC members as specified in the Act. Financial interest disclosures for SSC members will be reviewed annually by the Council prior to appointment, and when updated by an SSC member reporting any substantial changes in financial interest. Financial interest disclosures will be kept on file by the Secretary.

The SSC will provide the peer review process for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554—Appendix C; 114 Stat. 2763A-153).

The SSC is composed of experts in biology, statistics, economics, sociology, and other relevant disciplines from the federal, state, and private scientific communities and other appropriate sources.

A. Objectives and Duties

As requested by the Council, through the Council Chair or the Executive Director, the SSC shall:

- 1) Provide expert scientific and technical advice to the Council on the development of fishery management policy, fishery management plans and amendments, their goals and objectives, proposed regulations, and criteria for judging plan effectiveness.
- 2) Assist in the identification, development, collection, and evaluation of statistical, biological, economics, social and other scientific information deemed relevant to the Council's fishery management planning, particularly with regard to determining the best scientific data available as required by National Standard 2.
- 3) Advise the Council on preparing comments on any relevant fishery management plan or amendment prepared by the Secretary or Secretary's delegate pursuant to Section 304(c) of the Act.
- 4) Submit to the Council reports deemed appropriate by the Committee or requested by the Council.
- 5) Perform other appropriate duties as may be required by the Council to carry out its functions under the Act.
- 6) Serve as the Council's peer review body for influential scientific information pursuant to requirements of the Information Quality Act (Section 515 of Public Law 106-554) and NOAA information quality guidelines.

B. Members and Chair

The SSC members shall be appointed by, and serve at the pleasure of, the Council. They shall be appointed for one year, and may be reappointed. Vacancies may be filled for the remaining unexpired term. The SSC Chair and Vice Chair shall be nominated by the Committee from among its members and confirmed by the Council for one-year terms.

Each statutory agency designated as a member of the North Pacific Fishery Management Council by the Act may have a member on the Scientific and Statistical Committee. That member may have an alternate, although it is expected that the primary member from an agency will attend meetings of the Scientific and Statistical Committee in person whenever possible. The statutory agency may nominate the alternate for their primary member, notifying the chair of the SSC by letter of that selection. Alternates will be appointed for the same period as the primary member (i.e., one year).

Other Scientific and Statistical Committee members may have an alternate on a case-by-case basis (to be approved by the Council Chair or Executive Director in advance of the next meeting) when the member would be unable to participate for an extended period of time. It is expected that those alternates would be experts in the same field as the member and familiar with the work of the SSC and the Council.

The key requirement in appointing members or alternates is for the Council to maintain the highest level of objective scientific and technical expertise. Members should be able to make unbiased and objective scientific recommendations to the Council. Additionally, SSC members shall maintain high standards of ethical conduct, as detailed in Section 6.

C. Administrative Provisions

The SSC shall meet as a whole, or in part, at the request of the Chair of the SSC, with the approval of the Chair of the Council, as often as necessary to fulfill the SSC's responsibilities, taking into consideration time and budget constraints. It is estimated that the SSC will meet at least five times a year, just before the scheduled Council meetings. The SSC shall hold its meetings in conjunction with meetings of the Council, to the extent practicable. The Executive Director of the Council shall provide such staff and other support as the Council considers necessary for SSC activities, within budgetary limitations.

The agenda for each SSC meeting shall be developed by the SSC Chair in consultation with the Deputy Director or Executive Director. SSC meetings will follow established protocols. Following staff reports, the public will have an opportunity to testify on scientific aspects of an issue prior to SSC deliberations. SSC members shall disclose any potential conflicts regarding a particular topic prior to any discussion of that issue. SSC decisions will be reached by consensus, whenever possible; however if a decision is required and consensus cannot be reached, the opinion of the majority will prevail.

Minutes of the meeting shall reflect the discussion and deliberations that were made during the SSC meeting. The SSC Chair, or designee, will be responsible for reporting the SSC's recommendations to the Council.

SSC members shall serve without compensation, but will be paid their actual travel expenses in performing their duties in accordance with applicable law and Council travel policy. Subject to the availability of appropriations, a stipend may be paid to members of the scientific and statistical committees who are not employed by the federal government or a state marine fisheries agency.

2.3.2 Advisory Panel

The North Pacific Fishery Management Council appoints an Advisory Panel (AP) of recognized experts from the fishing industry and several related fields, and represents a variety of gear types, industry and related

interests as well as a spread of geographic regions of Alaska and the Pacific Northwest having major interest in the fisheries off Alaska.

The Council relies on the AP for comprehensive industry advice on how various fishery management alternatives will affect the industry and local economies, on potential conflicts between user groups of a given fishery resource or area, and on the extent to which the United States will utilize resources managed by the Council's fishery management plans.

A. *Size*

The AP will consist of 20 members. However, the Council will not necessarily keep all seats filled. This arrangement should allow sufficient flexibility in funding so the Council can invite as necessary other individuals with particular expertise to work with the AP on an ad hoc basis.

B. *Qualifications*

The Council will give highest priority to the following considerations when selecting AP members:

- 1) Of paramount importance is the demonstrated ability of the candidate to be objective and to consider all aspects of an issue.
- 2) The AP members should be of top quality and caliber and be committed to full and active participation for each meeting during their term.
- 3) The candidate should be considered because of the experience he/she brings to the Council rather than his/her political clout or connection.
- 4) The candidate should be an active, involved member of his/her community and business to ensure the best and most pertinent input into the Council and likewise be responsible and diligent in reporting Council decisions and concerns back to his/her community/business.
- 5) The AP membership should represent a broad geographic spread both for Alaska and the Pacific Northwest. Representation for the three states should be in the same proportions as those of the voting membership of the Council. However, recognizing that issues and priorities will change, the Council cautions that no seat is reserved for a particular area.
- 6) The AP membership should represent a variety of interests within the fishing industry and others with interests in maintaining and managing Council fisheries. While it is hoped that major gear types from the harvesting sector will be broadly represented, as with geographic representation, no particular seat is guaranteed to a gear type or fishery.

Note: It is expected that as the issues and concerns of the Council change and evolve so, too, will the profile of the membership of the AP.

C. *Terms*

AP members will serve for three-year terms beginning with the first meeting each calendar year. All members will be appointed by and serve at the pleasure of the Council and may be reappointed to two subsequent consecutive terms. Appointments will be staggered to provide for the appointment of 1/3 of the membership of the AP each year. Persons wishing to serve on the Advisory Panel may submit their names with a short resume to the Executive Director who will keep for the calendar year a list of candidates at the Council headquarters. Resumes and requests to serve will not be retained after the annual appointment process. The Council may use this list of candidates in choosing AP members to fill full-year terms or interim vacancies, but may also solicit individuals not on the list if a particular combination of experience and expertise is

deemed desirable. AP members serve at the pleasure of the Council and can be removed by a majority vote of the Council prior to the completion of a full 3-year term. Cause for removal may include, but is not limited to, change in affiliation or status or poor attendance. The Council Chair is authorized to fill interim vacancies on the AP subject to confirmation by the Council at the next regular meeting. Interim appointments are for the remaining unexpired term of the vacancy.

Members of the AP serve without compensation. They may be paid their actual expenses for travel and per diem incurred in the performance of their duties during the days in which the panel is in session. The chair, vice-chair, or the AP member designated to report to the Council may be paid expenses for additional days when necessary and approved by the Council chair. Security clearances for AP members are requested as necessary.

AP members travel reimbursement shall be limited to attendance at formal meetings of the AP, or to the Chair, Vice-Chair, or designee while officially representing the AP with the advance approval by the Executive Director. AP members shall follow the same general travel rules set forth for Council employees. In extenuating circumstances, which must necessarily be related to their fishing or processing activities and with advance notice, the Council chair may authorize travel reimbursement to and from locales other than a AP member's normal home location.

D. Operations

The Chair and Vice-Chair of the AP are nominated for one-year terms by the Panel from among its members and are confirmed by the Council.

The AP meets as a whole, or in part, at the request of the Chair of the AP with approval of the Council Chair, as often as necessary to fulfill the Panel's responsibilities, taking into consideration time and budget constraints. AP members are expected to attend all meetings and participate fully at these meetings including voting on each issue. Poor attendance will be cause for a member being removed. Generally, acceptable absences will be the result of or involve personal emergencies or unavoidable conflicts related to the member's area of expertise.

The AP will set up such workgroups as the Chair of the AP and the Council deem necessary to carry out the Panel's duties. Additional members outside the AP may be added to these workgroups as deemed appropriate by the Council Chair.

The Executive Director, in consultation with the Council Chair, shall assign the agenda topics for the Advisory Panel to discuss at its meetings. These topics will not normally include all items on the Council's agenda, but the AP may consider any topic or issue it deems important to bring to the Council's attention, time permitting and with the concurrence of the Council Chair or Executive Director. The AP members should be given sufficient advance notice of these topics to allow adequate preparation before the meeting.

The AP is expected to conduct meetings in a timely fashion with the objective of presenting AP recommendations to the Council consistent with the Council's order of business. Generally, the panel should utilize Council procedures limiting the time allowed for public testimony and questions by AP members. Should the meeting run behind schedule, the AP Chair will consult with the Deputy Director, Executive Director, or Council Chair to determine priority issues for the AP to address in the time remaining.

The AP Chair or designee will be responsible for reporting the AP's recommendations (AP minutes) to the Council. The AP minutes shall include a record of passed motions and close call votes (even if the motion failed). This report shall include the results of votes taken, including minority reports which are signed by at least 25% of the members voting at the time of the vote and submitted in writing. All minority reports consistent with the above standard shall be included in the written AP report to the Council, but not read into the record during the oral report to the Council.

The Executive Director of the Council shall, upon request of the Chair of the AP, provide such staff and other support as the Council considers necessary for AP activities, within budgetary limitations.

2.3.3 Plan Teams

The Council appoints plan teams for each of the major fishery management plans (FMPs). Members of each team are selected from those agencies and organizations having a role in the research and/or management of fisheries. The team should be small enough to work efficiently and effectively but sufficiently large to provide the diverse experience and knowledge needed to cover all aspects of a particular fishery. At a minimum, teams shall be composed of one member from agencies having responsibility for management of the fishery resources under the jurisdiction of the Council. Nominations of these individuals are at the discretion of the agencies. Other individuals may be nominated by members of the Plan Team, Council, SSC or AP. Appointments to the team will be made by the Council with recommendations from the SSC.

Members of the Plan Teams serve without compensation. Non-federal employees may be paid their actual expenses for travel and per diem incurred in the performance of their duties during the days in which the Plan Team is in session. The Plan Team chair, vice-chair, or Plan Team member designated to report to the Council may be paid expenses when necessary and approved by the Executive Director.

The Plan Teams shall review stock assessment information and assist in the preparation of the annual Stock Assessment and Fishery Evaluation (SAFE) documents including formulation of recommendations on annual Acceptable Biological Catch (ABC) levels for groundfish, crab, and scallop species under jurisdiction of the Council. The Teams may also prepare and/or review plans, amendments and supporting analytical documents for the Council, SSC and AP; aggregate and evaluate public/industry proposals and comments; summarize and evaluate data related to the biological, economic and social conditions of the fishery; conduct and evaluate analyses pertaining to management of the fisheries; evaluate the effectiveness of management measures in achieving the plan's objectives; and recommend when and how management measures need to be changed.

These and other provisions concerning the teams are included in each Plan Team's Terms of Reference, which are approved by the Council. The current Terms of Reference for the Groundfish, Crab, and Scallop Plan Teams are attached as Appendix 1, Appendix 2, and Appendix 3, respectively.

2.3.4 Council Committees

The Council may appoint standing and ad hoc committees from among the voting and non-voting members as it deems necessary for the conduct of Council business. The Council Chair may also appoint standing or ad hoc Committees that include industry representatives or other participants to address specific management issues or programs. Compensation and travel expenses for non-Council participants on such Committees will not be provided by the Council.

Notices of Council committee meetings shall comply with the notice requirements specified in Section 3.1. Public comment at committee meetings will be at the discretion of the Council Chair or Executive Director.

3.0 Council Meetings and Hearings

The Council will meet at the call of the Chair or upon request of a majority of the voting members, subject to the general policy outlined in Section 3.5. In fulfilling the Council's responsibilities and functions, the Council members may meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information, or make decisions regarding material before them. Emergency meetings

shall be held at the call of the Chair or equivalent presiding officer. The following guidelines apply with respect to the conduct of business at meetings and hearings of the Council and its SSC and AP:

3.1 Agenda and Notice

The agenda for each Council meeting is drafted by the Executive Director in consultation with the Council Chair. All Council members will have an opportunity to review and comment on a draft agenda before it is released to the public.

Timely notice of each regular meeting, hearing, and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published 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 such notice must be given at least 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c) of the Act, in which case public notice shall be given immediately.

Drafts of all regular public meeting notices must be transmitted to the NMFS Headquarters Office (Federal Register) at least 23 calendar days before the first day of the regular meeting. Councils must ensure that all public meetings are accessible to persons with disabilities, and that the public can make timely requests for language interpreters or other auxiliary aids at public meetings. Drafts of emergency public notices must be transmitted to the NMFS Washington Office; recommended at least 5 working days prior to the first day of the emergency meeting. Although notices of, and agendas for, emergency meetings are not required to be published in the Federal Register, notices of emergency meetings must be promptly announced through the appropriate news media. Requests for disability-related accommodations should be processed in accordance with Department Administrative Order DA 215-10.

3.2 Conduct of Meetings

Each regular meeting and each emergency meeting shall be open to the public. Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings, within reasonable limits established by the Chair. Current Council policy on oral testimony limits individuals to three minutes, and organizations to six minutes, per agenda item. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement. During Council meetings the area adjacent to and behind the Council seating area will be restricted to only Council members and Council/agency staff. The exchange of electronic communication (using laptops, cell phones, or other devices) in the meeting room by Council members is prohibited when the Council is in session.

(1) A majority of the voting members of any Council constitute a quorum for Council meetings, but one or more such members designated by the Council may hold hearings. Decisions of any Council are by majority vote of the voting members present and voting (except for a vote to propose removal of a Council member, see 50 CFR 600.230 and except where Roberts Rule of Order require a 2/3 majority vote). Voting by proxy is permitted only pursuant to 50 CFR 600.205 (b). An abstention does not affect the unanimity of a vote. At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records 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.

(2) A roll call vote is required for Council approval or amendment of a fishery management plan (including any proposed regulations), a Council finding that an emergency exists involving any fishery, or Council comments to the Secretary on fishery management plans developed by the Secretary. A final vote may not be taken until the motion before the Council is recorded in written form visible to each Council member present and the public. The written motion, as voted on, must be preserved as part of the record or minutes of the meeting. 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.

(3) Voting members of the Council who disagree with the majority on any issue to be submitted to the Secretary, including principal state officials raising federalism issues, may submit a written statement of their reasons for dissent. If any Council member elects to file such a statement, it should be submitted to the Secretary at the same time the majority report is submitted.

(4) Parliamentary procedure will be used in the conduct of the meetings. Agreement among Council members can be reached by consensus and non-voting members are expected to take part in all discussions and indicate their opinions on all specific issues. Those matters pertaining to the approval or disapproval of a fishery management plan or amendment, including proposed regulations, or comments for the Secretary on foreign fishing applications, or Secretarially-prepared management plans, require a vote.

(5) At any time when a Council determines it appropriate to consider new information from a state or federal agency or from a Council advisory body, the Council shall provide opportunity for public comment before the Council takes final action on conservation and management measures.

(6) The Council shall adhere to “Mace’s Rules” to improve the efficiency of Council meetings. During agency reports at the beginning of each meeting, each Council member shall be limited to two questions per report. During public testimony for a given issue, each Council member will be limited to two questions per testifier. The Chair is granted the authority as necessary to improve the quality of Council debate and enhance the overall efficiency of Council meetings in general.

3.3 Record

Detailed minutes of each meeting of the Council, 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. The Council Chair shall verify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

Subject to the confidentiality procedures established by the Council on January 28, 1986, and the guidelines prescribed by the Secretary pursuant to Section 402(b) of the Act, the administrative record and minutes of each meeting and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council, or the Secretary, as appropriate.

3.4 Closed Meetings

If any meeting or portion is closed, the Council shall provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website posting alone are not sufficient, including in that notification the time and place of the meeting. Notification is not required regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.

- (1) A Council, SSC, or AP shall close any meeting, or portion thereof, that concerns information bearing on a national security classification.
- (2) A Council, SSC, or AP may close any meeting, or portion thereof, that concerns matters or information pertaining to national security, employment matters, or briefings on litigation in which the Council is interested.
- (3) A Council, SSC, or AP may close any meeting, or portion thereof, that concerns internal administrative matters other than employment. Examples of other internal administrative matters include candidates for appointment to AP, SSC, and other subsidiary bodies and public decorum or medical conditions of members of a Council or its subsidiary bodies. In deciding whether to close a portion of a meeting to discuss internal administrative matters, a Council or subsidiary body should consider not only the privacy interests of individuals whose conduct or qualifications may be discussed, but also the interest of the public in being informed of Council operations and actions.
- (4) Without the notice required above, a Council, SSC, or AP may briefly close a portion of a meeting to discuss employment or other internal administrative matters. The closed portion of a meeting that is closed without notice may not exceed 2 hours. Before closing a meeting or portion thereof, a Council or subsidiary body should consult with the NOAA General Counsel Office to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings described above. Actions that affect the public, although based on discussions in closed meetings, must be taken in public. For example, appointments to an AP must be made in the public part of the meeting; however, a decision to take disciplinary action against a Council employee need not be announced to the public.

3.5 Frequency and Duration

The Council normally meets five times each year. Each meeting generally lasts from six to seven days and begins on Wednesday of the meeting week. The Council's SSC and AP generally meet concurrently with the Council, starting two days prior to the Council. The specific timing of each meeting shall be coordinated by the Executive Director in consultation with the Chair.

3.6 Location

The Council shall meet at appropriate times and places in any of the constituent states of the Council. Council meetings typically will be held in Alaska, with the exception that one meeting each year will be held in the constituent state of Washington or Oregon, at a ratio of two meetings in Washington for every one in Oregon. Specific meeting locations within each state will be coordinated by the Executive Director in consultation with the Chair.

3.7 Council Member Compensation

Those voting members of the Council who are not employed by the Federal Government or any state or local government shall receive compensation at the daily rate for GS-15 (Step 7) of the General Schedule. Such compensation shall be limited to attendance at formal meetings of the Council (actual meeting days), meetings of standing or ad hoc committees on which the Council member is a designated member, or to the Chair, Vice-Chair, or designee while officially representing the Council or conducting official business of the Council outside of such meetings. Such compensation may be paid on a full day's basis whether in excess of eight hours a day or less than eight hours a day. "Homework" time in preparation for any meeting, or attendance of any meeting other than specified above, is not compensable nor is travel time to or from such meetings.

The Council Chair must submit to the Regional Office annually a report of Council member compensation authorized. This report shall identify, for each member, amount paid, dates, and location and purpose of meetings attended.

3.8 Council Member Travel

Council members travel reimbursement shall be limited to attendance at formal meetings of the Council, Council member training, meetings of standing or ad hoc committees on which the Council member is a designated member, or to the Chair, Vice-Chair, or designee while officially representing the Council or conducting official business of the Council outside of such meetings. Council members shall follow the same general travel rules set forth for Council employees. In extenuating circumstances, which must necessarily be related to their fishing or processing activities and with advance notice, the Council Chair may authorize travel reimbursement to and from locales other than a Council member's normal home location.

3.9 Council Member Training

Council members shall, within one year after the date on which they were appointed, complete a training course that meets the requirements of the Act.

4.0 Employment Practices

This section describes the major employment practices for Council employees. Additional details are explained in the Council's personnel rules. Copies of these rules are given to each new employee.

4.1 Staffing

The Council staff includes an Executive Director, a Deputy Director, and other full and part-time employees as determined necessary to the performance of Council functions consistent within budgetary limitations. The Executive Director is responsible to the Council, and the staff is responsible to the Executive Director.

4.2 Experts and Consultants

As long as funding is available in its budget, the Council may contract with experts and consultants as needed to provide technical assistance not available from NOAA. This includes legal assistance, though a Council must notify the NOAA Office of General Counsel before seeking outside legal advice, which may be for technical assistance not available from NOAA. If the Council is seeking legal services in connection with an employment practices question, the Council must first notify the Department of Commerce's Office of the Assistant General Counsel for Administration, Employment and Labor Law Division. A Council may not contract for the provision of legal services on a continuing basis.

4.3 Detail of Government Employees

The Council may request the detail of other government employees to assist the Council in the performance of its functions.

4.4 Personnel Actions

All staff employees serve at the pleasure of the Council. The Executive Director may be dismissed by a two-thirds (2/3) majority vote of the voting Council members (i.e., 8 of the 11 voting members), and other staff employees may be dismissed by the Executive Director acting for the Council. Dismissals may be made for misconduct, unsatisfactory performance, and/or lack of funds, with reasonable notice to the employee.

No employee of the Council may be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or political party in any national, state, county, or municipal election, or on account of his or her political affiliation.

4.5 Salary and Wages

In setting rates of pay for Council staff, the principle of equal pay for equal work is followed. The annual pay rates for Council staff positions are consistent with the pay rates established for General Schedule federal employees as set forth in 5 USC 5332, and/or the Alternative Personnel Management System for the U.S. Department of Commerce (62 FR 67434), including cost of living (COLA) differentials and the 6% supervisory pay allowance. The NPFMC is using the discretion allowed for in the regulations to adjust pay rates and pay increases based on COLA differentials in Alaska, consistent with the federal payscale, including adjustments necessary to achieve equivalency with federal counterparts. COLA adjustments in pay rates and pay increases are being provided for staff members. No pay adjustment based on geographic location exceeds the equivalent COLA and locality pay adjustments available to federal employees in the same geographic area. Salary increases funded in lieu of life and medical/dental policies are not permitted.

Employees will be entitled to promotions and associated pay raises solely on the basis of merit and performance. The Executive Director, acting for the Council, shall conduct performance reviews at least biennially with each Council employee and will approve promotions and raises based on the employee's performance, length of service, or special accomplishments. Pay raises and performance evaluations for the Executive Director will be accomplished through a review process, at least biennially, involving the Council's Executive Committee. Career development, including formal training, will be supported by the Council, subject to budgetary limitations, when directly beneficial to both the employee and the Council.

A cash award may be provided to employees as an exceptional performance award in recognition of one or more particularly meritorious accomplishments, at the discretion of the Council Chair (for awards to the Executive Director) and the Executive Director (for awards to other staff). The total amount of an award will not exceed those allowable under current U.S. Department of Commerce guidelines.

In conducting official Council business, Council members and staff generally have the same protection from individual tort liability as federal employees on official actions, and are protected by the federal workmen's compensation statute, by the minimum wage/maximum hour provisions of the Fair Labor Standards Act (FLSA), and by the rights of access and confidentiality provisions of the Privacy Act (PA). Council staff are eligible also for unemployment compensation in the same manner as federal employees. Overtime payments shall be made in accordance with the provisions of the Fair Labor Standards Act (FLSA) 29 USC 201 et. seq.

4.6 Recruitment

Council staff positions must be filled solely on the basis of merit, fitness for duty, competence, and qualifications. The Council is an Equal Employment Opportunity Employer. All employment actions will be free from discrimination based on race, religion, color, national origin, sex, age, disability, sexual orientation, status as a parent, and reprisal.

Except for complaints alleging sexual orientation and a status as a parent, complaints by employees alleging that they may have been discriminated against on the bases listed above, should be processed in accordance with 29 CFR 1614. Employees must contact and EEO Counselor at NOAA's Office of Civil Rights within 45 days of the date of the alleged discrimination.¹ Employees alleging discrimination on the basis of sexual orientation will have their complaints processed in accordance with DAO 215-11. Employees must contact an EEO Counselor at NOAA's Office of Civil Rights within 45 days of the date of the alleged discrimination.

4.7 General Harassment Policy

The Council has a zero-tolerance policy for harassment on the basis of race, religion, color national origin, sex, age, sexual orientation, disability and reprisal. Any employee who believes he or she has been harassed should report the harassment to a supervisor or manager. The supervisor or manager should then follow the steps set forth in Department Administrative Order, DAO 202-955. Any complaints of harassment on the basis of sexual orientation should be handled in accordance with DAO 215-11. The provisions of these DAOs are entirely separate from EEO complaint process, and must be followed whether or not an employee has files an EEO complaint. The Council's Harassment Policy extends beyond staff and includes members of the Council with regard to interactions with staff, and includes conduct of Council members, staff members, and public during the course of official Council meetings, advisory body meetings, or committee meetings.

4.8 Leave

Employees of the Council shall be granted paid leave for holidays, vacations or exigencies, sickness, and civic duties (jury, military reserve obligations) as determined by the Council, and pregnancy, parental, and family leave consistent with the Family and Medical Leave Act of 1993. The accrual and use of leave is explained in the Council's personnel rules. Copies of these rules are given to each new employee.

4.8.1 Annual Leave

Full-time Council employees shall accrue annual leave at rates not to exceed those for federal employees. Part-time employees accrue leave at the same rate, per hours worked. If the Council so desires, it may credit prior federal, state or local government service for the purpose of determining leave accrual of individual employees. Application of such a policy must be uniform and public.

Employees may carry over up to 240 hours (30 days) unused annual leave from one year to the next. Amounts remaining above 240 hours will be forfeited. Under certain conditions, forfeited annual leave may be restored if it was properly scheduled for use and circumstances beyond the employee's control caused the forfeiture. Approval for this restoration must be obtained from the Council Executive Director or Council Chair, who will refer to the NOAA Personnel Regulations and other source documents for guidance. Lump sum reimbursements not to exceed 240 hours carryover plus current year earnings of unused leave are authorized upon employee separation. Each Council may pay for unused annual leave upon separation, retirement, or death of an employee.

¹According to a Legal Opinion dated March 14, 1995, from the U.S. Department of Justice, Office of Legal Counsel, the Fisheries Management Council "...are covered by the anti-discrimination provisions of Title VII of the Civil Rights Act of 1964 insofar as they apply to employment in the federal government.....". As such, their discrimination complaints are processed in accordance with 29 C.F.R. § 1614.

4.8.2 Sick Leave

Full-time Council employees shall accrue sick leave at the rate of two hours per week (13 days per year). Part-time employees may accrue at a percentage of the hours worked compared to 40 hours. Unused sick leave credit may be accumulated without limit. Lump sum payments to the employee upon separation are not authorized. However, distributions of accumulated funds for unused sick leave may be made to the employee upon his or her retirement (defined by PERs retirement rules), or to his or her estate upon his or her death, for up to 100 days of unused sick leave, at the employees current salary rate, subject to budgetary limitations.

One account shall be maintained to pay for unused sick or annual leave as authorized, and will be funded from the Council's annual operating allowances. Funds may be deposited into this account at the end of the budget period if unobligated balances remain. Interest earned on this account will be maintained in the account, along with the principal, for the purpose of payment of unused annual and sick leave only. This account, including interest, may be carried over from year to year. Budgeting for accrued leave will be identified in the "Other" object class categories section of the SF-424A.

In meritorious cases, the Council may advance up to one year's earnings of sick or annual leave when it is reasonably expected that the advanced leave will be repaid by the employee. This must be approved by the Executive Director (designation must be in writing).

4.9 Employee Benefits

The Council shall provide its employees and their legal dependents health insurance coverage and limited life insurance and accidental death and dismemberment coverage through the State of Alaska (Aetna) program. Retirement benefits are realized through Council participation in, and mandatory employee contributions to, the State of Alaska Public Employee System (PERS). Employee participation in a 403(b) plan is optional and at the employees expense. Moving expenses for new employees are authorized, up to limits specified in federal guidelines, subject to budgetary limitations.

5.0 Travel Rules

This section provides rules in addition to the travel rules specified previously for Council, AP, SSC and Plan Team members.

5.1 Limits and Reimbursement

Council members, employees, and members of the AP, SSC and Plan Teams who are not federal employees will be reimbursed for actual travel expenses while on official Council business, including transportation, room, meals, and incidental travel expenses (such as taxi fares, parking, and Council business telephone calls) within reasonable limits, but generally should not exceed the limits established by the federal government. Domestic invitational travel for non-Council personnel may be approved by the Council Chair or Executive Director. Payment for travel by NOAA personnel is not authorized.

Non-federal members of the Council and members of advisory groups and Council staff will be reimbursed for actual expenses incurred in the performance of Council duties. They are not bound by the separate per diem limits for meals and lodging as set forth in the GSA Rules. They are subject, however, to the total reimbursement limits established by the Federal Government for actual expenses, and they must itemize their actual expenses up to the specified limit each day. Lodging and airline receipts are required. The rates are included in the GSA Rules. Federal employees serving in the above capacities are subject to the reimbursement rules of their agencies.

Coach air transportation must be utilized when available, and economy fares are encouraged. Purchased travel via first class air may be authorized in extenuating circumstances subject to pre-approval by the Council Chair or Executive Director. Privately owned vehicles (POVs) may be authorized when other modes of transportation are either unavailable or inconvenient. When a POV is authorized for the convenience of the traveler, the reimbursement costs must not exceed the costs of coach air fare. Accommodations equivalent to other-than-first-class should be utilized in the unlikely event that water vessel transportation is required. When substantial savings can be realized by utilizing rail travel, this mode of transportation should be considered when available and adequate.

5.2 Foreign Travel

- (1) Foreign travel is authorized as described within the NOAA grant, when approved by the Executive Director, as necessary to conduct Council business.
- (2) The Council Chair or his/her authorized representative may approve routine across-the-border travel to Canada for Council members and employees within specified federal rates.
- (3) Foreign invitational travel for non-Council personnel must be approved as described in paragraph (1) of this section. The per diem limits or actual expense requirements described above also are applicable to non-Council personnel traveling at Council expense. Payment for federal personnel from Council funds is not authorized.

6.0 Standards of Conduct

The Council, SSC, and staff shall maintain high standards of ethical conduct. These standards include the following principles:

- A. No employee of the Council, SSC member, or Council member, shall use his or her official authority to act in the name of the Council for the purpose of influencing the result of an election to or a nomination for any public elective office.
- B. No SSC member, Council member, or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining a Council decision or for any person, any appointive office, place or employment under the Council.
- C. No employee of the Council, SSC member, or member of the Plan Teams shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties. Council members with a direct or indirect financial interest shall ensure that it does not conflict with the fair and impartial conduct of his or her Council duties.
- D. The Act and federal regulations at 50 CFR 600.235 require that Council nominees, voting members appointed to the Council by the Secretary, and Executive Directors disclose any financial interest of the reporting individual in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery under the jurisdiction of the individual's Council or of any such financial interest of the reporting individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on NOAA Form 88-195, "Statement of Financial Interests for Use by Voting Members, Nominees and Executive Directors of Regional Fishery Management Councils," or such other form as the Secretary, or designee, may

prescribe. The report must be filed by nominees for Secretarial appointment before the date of appointment as prescribed by the Secretary. Voting members appointed by the Secretary and Executive Directors must file the report with the Council office before taking office. Individuals must update the form at any time a reportable financial interest is acquired or the financial interests are otherwise substantially changed.

- E. All Council members appointed under Section 302(b)(2) must strictly adhere to Section 302(j)(7) regarding disclosure of financial interest and recusal, and Secretarial regulations at 50 CFR 600 regarding rules of conduct and financial disclosure, during any vote taken by the Council. Financial interest disclosures shall be made on forms, which shall be kept on file by the Council and made available on the Internet and for public inspection at the Council office during reasonable hours.

7.0 Financial Management

Each Council's grant activities are governed by OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), OMB Circular A-122 (Cost Principles for Non-Profit Organizations), 15 CFR Part 29b (Audit Requirements for Institutions of Higher Education and other Nonprofit Organizations) which provide uniform administrative requirements applicable to the Council, including standards for financial management, financial reporting, property management, and procurement. The Council will operate in full compliance with these standards and the terms and conditions of the cooperative agreement. (See 5 CFR 1310.3 for availability of OMB Circulars.)

The Council is exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).² As such, the Council is liable for taxes under the Federal Insurance Contributions Act (social security taxes), but not liable for the tax imposed under the Federal Unemployment Tax Act.

7.1 Cooperative Agreements and Contracts

The Council receives funds through cooperative agreements for two basic types of expenditures: administrative (operations) funds to cover general operating expenses such as salaries, office space, utilities, travel, state liaison activities, meeting expenses, etc., and programmatic funds primarily designed to fund contracts generated by the Council for development and amendment of FMPs or FMP-oriented information. Councils may not independently enter into agreements, including grants, contracts, or cooperative agreements, whereby they will receive funds for services rendered. All such agreements must be approved and entered into by NOAA on behalf of the Councils. Councils are not authorized to accept gifts or contributions directly. All such donations must be directed to the NMFS Regional Administrator in accordance with applicable Department of Commerce regulations.

7.1.1 Administrative

The funding for the administrative and technical support of Council operations is included in the budget of the Department of Commerce and, through the Department, in the budgets of NOAA and NMFS. The Council applies for and receives such funding through the appropriate processes of the NOAA Grants Management Division.

² This determination was made by the Department of Treasury, IRS, in a letter dated June 4, 2002.

A Cash Receipts and Disbursement Journal with a monthly Summary of Accounts is required as a minimum bookkeeping system for the administrative budget. Each cash disbursement must be approved by the Council Executive Director or Deputy Director. All checks require signatures from two of the following people: Council Executive Director, Deputy Director, or Administrative Officer.

7.1.2 Programmatic

The Council may enter into cooperative agreements with federal agencies, state, and private institutions on matters of mutual interest which further the objectives of the Act.

7.2 Procurement and Contracts

Negotiated and advertised contracts will generally follow the specifications normally characteristic of contracts with public entities (e.g., public announcement, emphasis on competition, change orders, etc.) and will be consistent with the terms of the cooperative agreement.

All procurements must comply with the terms and conditions of the award and OMB Circulars A-110 and A-122. The purchase of all equipment, not previously approved in the award, costing in excess of \$5,000 per unit and having a useful life of more than 1 year, requires the approval of the Regional Program Officer and the Grants Officer. Such approval will be made only after a cost-benefit analysis (system life cost, lease vs. purchase, compatibility, etc.) by the Council demonstrates the economy of the proposed action.

Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council staff office.

7.3 Property Management

An accountability system of all non-expendable items of personal property, with a current market value of greater than \$1,000, will be maintained by means of an inventory system. An annual inventory report will be submitted to the NOAA Grants Officer. Theft will be reported promptly to the appropriate authorities. All non-expendable items over \$1,000 in current market value, will be inventoried. Disposal of surplus will be performed in accordance with grant provisions. Any item no longer functional may be discarded in any manner deemed appropriate by the Executive Director or Administrative Officer.

7.4 Real Property

The leasing, renting, and acquisition of real property and space will be effected in a manner consistent with customary practices related to contracts with public entities. Real property files will be maintained on all transactions, including litigation, connected therewith.

7.5 Accounting System

(1) The finance and budget control system will be a direct responsibility of the Administrative Officer, who will maintain full cognizance of, and compliance with, all Department of Commerce requirements, pursuant to the Act, Treasury Department (IRS) regulations as well as any applicable local requirements (state, municipal, etc.).

(2) Financial control will be effected by means of a basic document-oriented accrual accounting system, which will include provisions for at least the following: direct labor (salary); indirect labor (employer contributions for FICA, life and health insurance, retirement, and unemployment taxes), travel expenses (transportation and subsistence), transportation of things, rent and utilities, taxes (non-employment), printing, communications, supplies, equipment, contracts, and any appropriate contra-accounts (contract accruals, etc.).

(3) A general ledger, supported by appropriate journals, will be maintained on all obligations and expenses, including appropriate accruals, and will be used to prepare periodic reports for review by the Executive Director, the Council, or Department of Commerce representatives. As a minimum, a complete financial status report should be completed on a monthly basis. The financial management system will be coordinated with the budget management system so that current and projected fund usage can be determined at any time.

(4) A separate payroll register, indicating all applicable expenses and accruals, will be maintained on each member of the Council and the Council staff.

7.6 Audits

Audits will be performed biennially (once every 2 years) by DOC Office of Inspector General or an independent public accountant. NOAA personnel will be invited as appropriate to participate in the audit exit conference.

7.7 Financial Reporting

Reports will be submitted as required by OMB Circular A-110 to summarize total expenditures and federal funds unexpended, and the status of the federal cash received. All financial reports will be kept until audited or approved for disposal by the appropriate Department of Commerce representative.

8.0 Recordkeeping

8.1 Administrative Records for FMPs

(1) The Council and NMFS Headquarters, Regions and Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments. In the event of litigation, compilation of an administrative record for a court case will be under the direction of the NOAA General Counsel.

(2) Categories of documents which generally constitute an administrative record include the following:

- (a) Council meeting agendas;
- (b) Minutes of Council meetings;
- (c) Plan Team reports, if any;
- (d) SSC reports;
- (e) AP reports;
- (f) Hearing reports;
- (g) Council reports/recommendations;
- (h) Correspondence relating to the FMP;
- (I) Scoping comments;
- (j) Work plan, if any;
- (k) Discussion papers, if any;

- (l) NEPA documents;
- (m) Regulatory analyses;
- (n) PRA justification;
- (o) Proposed regulations;
- (p) Final regulations;
- (q) Emergency regulations; and
- (r) Notices of meetings (Council, SSC, AP, Team).

8.2 Disposition of Records

- (1) The goal of an effective disposition program is annually to destroy at least enough unneeded records to equal the volume of records created, while preserving records having long-term or enduring value because of administrative, legal, scientific, or historical importance.
- (2) The Council must consult with NOAA before destroying Council records. Financial records (including time and attendance records) are handled according to the stipulations of OMB Circular A-110. The Council must send records associated with FMPs to the appropriate Region for disposition.
- (3) All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they cannot take original or file copies of records with them; to do so violates federal law.

8.3 Permanent Records

The designation of a file as “permanent” means that the records are appropriate for offer to the National Archives when 20 years old, unless otherwise specified. Destruction of permanent records is not authorized. The following are examples of permanent files:

- (1) EIS files: Documents relating to Environmental Impact Statements (EIS) or environmental assessments. Cut-off at end of calendar year when created. Permanent retention; no approved disposition at this time.
- (2) Annual report files: Input for the DOC Annual Reports and related correspondence. Cut-off at end of calendar year when created; permanent.
- (3) Meeting files: Including agendas, minutes, reports, studies and related correspondence. Cut-off at end of calendar year; permanent.

8.4 Privacy Act Records

The Council will maintain in its office, under appropriate safeguards in accordance with the Privacy Act (PA), personnel files on employees, experts and consultants under contract, and advisory group members. Maintenance, protection, handling of requests for information, and disclosure and disposition of PA records will be accomplished as provided for in the Secretarial guidelines and regulations.

8.5 Freedom of Information Act (FOIA)

FOIA requests received by a Council should be coordinated promptly with the appropriate NMFS Regional Office. The Region will forward the request to the NMFS FOIA Official to secure a FOIA number and log into the FOIA system. The Council does not recover costs - payments collected under the FOIA are transferred to the U.S. Treasury. All responsive documents must be reviewed for disclosure on a page-by-

page basis, and that originals must be retained in the originating office, while copies must be maintained in accordance with DOC policy. The Region will also obtain clearance from the NOAA General Counsel's Office concerning initial determination for denial of requested information. FOIA requests will be controlled and documented in the Region. The requests should be forwarded to the NMFS FOIA Officer who will prepare the Form CD-244, "FOIA Request and [[Page 57888]] Action Record," with the official FOIA number and due date. In the event the Region determines that the requested information is exempt from disclosure, in full or in part, under the FOIA, the denial letter prepared for the Assistant Administrator's signature, along with the "Foreseeable Harm" Memo and list of documents to be withheld, must be cleared through the NMFS FOIA Officer. Upon completion, a copy of the signed CD-244 and cover letter transmitting the information should be provided to the NMFS FOIA Officer and the NOAA FOIA Officer.

8.6 Confidentiality of Statistics

In accordance with Section 302(i)(4) of the Act, as described below, the Council has established policies and procedures applicable to ensure that statistics submitted to the Council by federal or state authorities or voluntarily by private persons remain confidential. All policies and procedures concerning the confidentiality of such statistics must be consistent with relevant federal or state law.

Confidential data will not be disclosed except to authorized users (Council staff or authorized contractors) in accordance with the applicable federal or state rules and policies governing use of the data. All users having access to confidential data shall be informed that the data are confidential and be required to sign a statement of non-disclosure agreeing to all applicable rules governing their handling of the data (including the use, disclosure, maintenance, and return of the data), which shall be kept on file at the Council office. When there is a potential for, or possible appearance of, conflict of interest, access will not be permitted.

To ensure security of confidential data, Council staff employees are required to comply with NOAA Management Directives regarding the policies and procedures governing the use of NOAA computing resources. Briefly, individuals must be accountable for their assigned IDs, passwords, and equipment (e.g., laptops and accessories). Employees should use extra caution when holding confidential data on devices that are transported outside of the Council office. Employees are required to immediately notify the Deputy Director or Executive Director any incidents including unauthorized use of computers, lost, stolen, or missing hardware such as laptops or removable memory devices.

Appendix 1. Terms of Reference for the Groundfish Plan Teams.

Plan Teams for the Groundfish Fisheries
of the Bering Sea/Aleutian Islands and Gulf of Alaska

TERMS OF REFERENCE

(November 2003)

1. **Establishment.** The North Pacific Fishery Management Council (Council) shall establish Plan Teams for the groundfish fisheries of the Bering Sea/Aleutian Islands (BS/AI) and Gulf of Alaska (GOA). The Plan Teams will provide the Council with advice in the areas of regulatory management, natural and social science, mathematics, and statistics as they relate to the groundfish fisheries of the BS/AI and GOA.
2. **Membership.** Plan Team members will be appointed from government agencies and academic institutions having expertise relating to the groundfish fisheries of the BS/AI and GOA. Normally, each Plan Team will include at least one member from the Council staff, the regional office of the National Marine Fisheries Service (NMFS), NMFS' Alaska Fishery Science Center, the Alaska Department of Fish & Game, the Washington Department of Fisheries, the International Pacific Halibut Commission, the University of Alaska, the University of Washington, and other institutions and universities. With the consent of the sponsoring agency or institution, nominations may be made by the Council, the Scientific and Statistical Committee (SSC), the Advisory Panel (AP), or the Plan Teams themselves. All nominations will be subject to approval by the SSC, with the Council retaining final appointment authority. Appointments should reflect the Plan Teams' responsibility to provide advice in the areas of regulatory management, natural and social science, mathematics, and statistics.
3. **Organization.** Each Plan Team will be directed by a chairperson or co-chairs, and may divide some of its responsibilities among work groups organized according to subject matter. A work group may include members from more than one Plan Team. Each work group will be directed by a work group leader.
 - (a) **Rules of order.** In general, rules of order will be informal. Plan Team decisions will be reached by consensus, whenever possible. If a decision is required and consensus cannot be reached, the opinion of the majority will prevail. In representing either Plan Team publicly, the spokesperson will take care to relate Plan Team opinions accurately, noting points of concern where consensus cannot be reached.
 - (b) **Meetings.** Plan Team meetings will be held prior to Council's September and December meetings. The Plan Team chairpersons may call other meetings as necessary. The two Plan Teams may meet either separately or jointly. A draft agenda will be prepared in advance of each meeting by the Council staff in consultation with the respective chairperson or chairpersons, and may be revised by the Plan Team(s) during the meeting. Each agenda will include an opportunity for comments from the general public. Minutes of each meeting will be prepared by the Council staff, distributed to Plan Team members, and revised as necessary at or before the subsequent Plan Team meeting.
 - (c) **Selection of officers.** Officers (Plan Team chairpersons and work group leaders) will be selected at the meeting preceding the September Council meeting or as vacancies arise. The Plan Team chairpersons will be selected for two-year terms. Work group leaders will be selected for one-year terms. There will be no limit on the number of consecutive terms that officers may serve.
4. **Functions.** The Plan Teams' primary function is to provide the Council with the best available scientific information, including scientifically based recommendations regarding appropriate measures for the conservation and management of the BS/AI and GOA groundfish fisheries.
 - (a) **SAFE report.** The Plan Teams compile SAFE reports for the BS/AI and GOA groundfish fisheries

on an annual basis. The SAFE reports provide the Council with a summary of the most recent biological condition of the groundfish stocks and the social and economic condition of the fishing and processing industries. The SAFE reports summarize the best available scientific information concerning the past, present, and possible future condition of the groundfish stocks and fisheries, along with ecosystem considerations/concerns. This includes recommendation of acceptable biological catch and, where appropriate, total allowable catch levels. All recommendations must be designed to prevent overfishing while achieving optimum yield (National Standard 1). All recommendations must also be scientifically based (National Standard 2), drawing upon the Plan Teams' expertise in the areas of regulatory management, natural and social science, mathematics, and statistics. Finally, uncertainty must be taken in account wherever possible (National Standard 6).

- (b) **Plan amendments.** The Plan Teams may also play a role in the development and evaluation of amendments to the BS/AI and GOA groundfish fishery management plans.
- (i) The Plan Teams may evaluate amendment proposals and forward their recommendations to the Plan Amendment Advisory Group, on which the Plan Team chairpersons serve.
 - (ii) In addition, the Plan Teams may develop their own amendment proposals.
 - (iii) Once an amendment proposal has been accepted for consideration by the Council, an analytical team may be assembled by the responsible agencies. Every analytical team should include at least one member from one or both Plan Teams, drawn from the appropriate working group(s), whenever possible.
 - (iv) Once an amendment analysis has been completed, it may be reviewed by the Plan Teams. The Plan Teams' comments, if any, are then forwarded to the SSC, AP, and Council.

Appendix 2. Terms of Reference for the BSAI Crab Plan Team.

Plan Team for the King and Tanner Crab Fisheries
of the Bering Sea/Aleutian Islands

TERMS OF REFERENCE

(May 2005)

1. Establishment. The North Pacific Fishery Management Council (Council) shall establish a Plan Team for the king and Tanner crab fisheries of the Bering Sea/Aleutian Islands (BS/AI) area. The Plan Team will provide the Council with advice in the areas of regulatory management, natural and social science, mathematics, and statistics as they relate to the king and Tanner crab fisheries of the BS/AI area.
2. Membership. Plan Team members will be appointed from government agencies, academic institutions, and organizations having expertise relating to the crab fisheries of the BS/AI. Normally, the Plan Team will consist of at least one member from the Council staff, the National Marine Fisheries Service (NMFS), the Alaska Department of Fish & Game, the University of Alaska, and other universities and institutions. Alternate members may be assigned to participate in case a member cannot attend a meeting. With the consent of the sponsoring agency or institution, nominations may be made by the Council, the Scientific and Statistical Committee (SSC), the Advisory Panel (AP), or the Plan Team. All nominations will be subject to approval by the SSC, with the Council retaining final appointment authority. Appointments should reflect the Plan Teams' responsibility to evaluate and make recommendations on management, biological, economic and social conditions of the fisheries.
3. Organization. The Plan Team will be directed by a chairperson, and may divide some of its responsibilities among work groups organized according to subject matter. A work group may also include members from the BS/AI groundfish Plan Team. Each work group will be directed by a work group leader.
 - (a) Rules of order. In general, rules of order will be informal. Plan Team decisions will be reached by consensus, whenever possible. If a decision is required and consensus cannot be reached, the opinion of the majority will prevail. In representing the Plan Team publicly, the spokesperson will take care to relate Plan Team opinions accurately, noting points of concern where consensus cannot be reached.
 - (b) Meetings. A minimum of two Plan Team meetings will be held annually in so far as practicable to discuss guideline harvest levels, status and management of the BSAI crab stocks. The timing and scope of meetings, in so far as practicable, will be as follows; a spring meeting will be held with the intention of reviewing the previous year's fishery catch data, the methodology for stock assessment modeling, preliminary stock assessment and any additional issues pertinent to the summer research schedule. A following summer/fall meeting will be held with the intention to discuss the status of stocks. This meeting would be intended to occur prior to the TAC determinations by the state. The fall meeting shall be held at a time that ensures availability of TAC specifications for the allocation of crab resources under crab rationalization. It is understood that this status of stocks meeting does not preclude additional Inter-agency meetings prior to TAC setting. The Plan Team chairperson may call other meetings as necessary. The Crab Plan Team may meet separately or jointly with the BSAI Groundfish Plan Team to discuss areas of joint concern. A draft agenda will be prepared in advance of each meeting by the Council staff in consultation with the chairperson, and may be revised by the Plan Team during the meeting. Minutes of each meeting will be prepared by the Council staff, distributed to Plan Team members, and revised as necessary at or before the subsequent Plan Team meeting. The Chairperson (or designee) will report the Team's finding to the Council.
 - (c) Selection of officers. Officers (Plan Team Chair, Vice Chair and workgroup leaders) will be selected at the meeting preceding the annual Plan Team meeting or as vacancies arise. The Plan Team

Chairperson and Vice Chair will be selected at the annual meeting for two-year terms. It is the intent of the Team that after two years the Vice Chair will succeed as Chair and the following election will be for the position of Vice Chair. This process will continue on a two-year cycle. Work group leaders will be selected for one-year terms. There will be no limit on the number of consecutive terms that officers may serve.

4. Functions. The Plan Teams' primary function is to provide the Council with the best available scientific information, including scientifically based recommendations regarding appropriate measures for the conservation and management of the BS/AI king and Tanner crab fisheries. All recommendations must be designed to prevent overfishing while achieving optimum yield (National Standard 1). All recommendations must also be scientifically based (National Standard 2), drawing upon the Plan Teams' expertise in the areas of regulatory management, natural and social science, mathematics, and statistics. Finally, uncertainty must be taken into account wherever possible (National Standard 6).
 - (a) SAFE report. The Plan Team compiles a SAFE report for the BS/AI king and Tanner crab fisheries on an annual basis. The SAFE report provides the Council with a summary of the most recent biological condition of the crab stocks and the social and economic condition of the fishing and processing industries. The SAFE report summarizes the best available scientific information concerning the past, present, and possible future condition of the crab stocks and fisheries, along with ecosystem concerns.
 - (b) Plan amendments. The Plan Team may also play a role in the development and evaluation of amendments to the BS/AI king and Tanner crab fishery management plan, as well as evaluate amendments to the groundfish fishery management plan that may affect the conservation and management of BS/AI crab resources.
 - (i) The Plan Team may evaluate amendment proposals and forward their recommendations to the Council.
 - (ii) In addition, the Plan Team may develop their own amendment proposals.
 - (iii) Once an amendment proposal has been accepted for consideration by the Council, an analytical team may be assembled by the responsible agencies. Every analytical team should include at least one member from the Plan Team, drawn from the appropriate working group(s), whenever possible.
 - (iv) Once an amendment analysis has been completed, it may be reviewed by the Plan Team. The Plan Team's comments, if any, are then forwarded to the SSC, AP, and Council.
 - (c) Peer Review. The plan team deliberations shall constitute part of the peer review process specified by current OMB policies provided that members directly involved in the production of a scientific product will recuse themselves from the review.

Appendix 3. Terms of Reference for the Alaska Scallop Plan Team.

Plan Team for the Alaska Scallop Fisheries
TERMS OF REFERENCE
(March 2005)

1. **Establishment.** The North Pacific Fishery Management Council (Council) shall establish a Plan Team for the Alaska scallop fisheries and this. The Plan Team will informprovide the Council regarding issues with advice in the areas of regulatory management, natural and social science, mathematics, and statistics as they that relate to the scallop fisheries off Alaska.
2. **Membership.** Plan Team members will be appointed from government agencies, academic institutions, and organizations having expertise relating to the scallop fisheries. Normally, the Plan Team will consist of at least one member from the Council staff, the National Marine Fisheries Service (NMFS), the Alaska Department of Fish & Game, and other universities and institutions as appropriate. Alternate members may be assigned to participate in case a member cannot attend a meeting. With the consent of the sponsoring agency or institution, nominations may be made by the Council, the Scientific and Statistical Committee (SSC), the Advisory Panel (AP), or the Plan Team. All nominations will be subject to approval by the SSC, with the Council retaining final appointment authority. Appointments should reflect the Plan Teams' responsibility to evaluate and make recommendations on management, biological, economic and social conditions of the fisheries.
3. **Organization.** The Plan Team will be directed by a chairperson, and may divide some of its responsibilities among work groups organized according to subject matter. A work group may also include members from the groundfish or crab Plan Team or members with other expertise as necessary. Each work group will be directed by a work group leader.
 - (a) **Rules of order.** In general, rules of order will be informal. Plan Team decisions will be reached by consensus, whenever possible. If a decision is required and consensus cannot be reached, the opinion of the majority will prevail. In representing the Plan Team publicly, the spokesperson, (meaning the chairperson or the chairperson's designee) will take care to relate Plan Team opinions accurately, noting points of concern where consensus cannot be reached.
 - (b) **Meetings.** The Plan Team will meet annually. An annual Plan Team meeting will be held to discuss guideline harvest levels, status and management of the scallop stocks. The Plan Team chairperson may call other meetings as necessary. The Plan Team may meet separately or jointly with the BSAI Crab or Groundfish Plan Teams to discuss areas of joint concern. A draft agenda will be prepared in advance of each meeting by the Council staff in consultation with the chairperson, and may be revised by the Plan Team during the meeting. Minutes of each meeting will be prepared by the Council staff or designee, distributed to Plan Team members, and revised as necessary at or before the subsequent Plan Team meeting. The Chairperson (or designee) will report the Team's findings to the Council.
 - (c) **Selection of officers.** Officers (Plan Team chairperson and work group leaders) will be selected for two year terms at the annual Plan Team meeting preceding the annual Plan Team meeting or as vacancies arise. The Plan Team chairperson will be selected at the annual meeting for a one year term. Work group leaders will be selected for one-year terms. There will be no limit on the number of consecutive terms that officers may serve.
 - (d) **Public participation.** Public participation is encouraged but may be limited due to time or other constraints and participation will be generally informal and at the discretion of the chairperson.

4. **Functions.** The Plan Teams' primary function is to provide the Council with the best available scientific information, including scientifically based recommendations regarding appropriate measures for the conservation and management of the Alaska scallop fisheries and compliance with the FMP, the Magnuson Stevens Act and all applicable federal laws. All recommendations must be designed to prevent overfishing while achieving optimum yield (National Standard 1). All recommendations must also be scientifically based (National Standard 2), drawing upon the Plan Teams' expertise in the areas of regulatory management, natural and social science, mathematics, and statistics. Finally, uncertainty must be taken into account wherever possible (National Standard 6).

(a) **SAFE report.** The Plan Team compiles a SAFE report for the Alaska scallop fisheries on an annual basis. The SAFE report provides the Council with a summary of the most recent biological condition of the stocks and the social and economic condition of the fishing and processing industries. The SAFE report summarizes the best available scientific information concerning the past, present, and possible future condition of the scallop stocks and fisheries, along with ecosystem concerns.

(b) **Plan amendments.** The Plan Team may also play a role in the development and evaluation of amendments to the fishery management plan, as well as evaluate amendments to other management plans that may affect the conservation and management of scallop resources.

(i) The Plan Team may evaluate amendment proposals and forward their recommendations to the Council.

(ii) In addition, the Plan Team may develop their own amendment proposals.

(iii) Once an amendment proposal has been accepted for consideration by the Council, an analytical team may be assembled by the responsible agencies. Every analytical team should include at least one member from the Plan Team, drawn from the appropriate working group(s), whenever possible.

(iv) Once an amendment analysis has been completed, it may be reviewed by the Plan Team. The Plan Team's comments, if any, are then forwarded to the SSC, AP, and Council.