

## Appendix A

### AMENDATORY LANGUAGE FOR AMENDMENT 17 – MULTI-YEAR MANAGEMENT

This document presents draft amendatory language that would revise the FMP to allow multi-year management. Plain text shows status quo language. Bolded text shows where the FMP would be amended to allow a biennial specifications and management measures process under the preferred alternatives for each issue (Process Alternative 3 and OY Duration Alternative 1). Some ~~strikeout~~ text is shown as editing text that is not relevant to any of the alternatives. There are numerous places in the FMP where the words “annual,” “year,” or “yearly” are used in descriptive paragraphs mentioning the Council’s annual specifications and management measures process without affecting that process. To better focus attention on the FMP processes that would be affected by Amendment 17, these descriptive paragraphs have not been provided here. The Council has given its staff permission to make minor edits to account for the change in process from a one-year management period to a two-year management period.

#### 2.2 Operational Definition of Terms

Acceptable Biological Catch (ABC) is a biologically based estimate of the amount of fish that may be harvested from the fishery each year without jeopardizing the resource. It is a seasonally determined catch that may differ from MSY for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. The ABC may be modified to incorporate biological safety factors and risk assessment due to uncertainty. Lacking other biological justification, the ABC is defined as the MSY exploitation rate multiplied by the exploitable biomass for the relevant time period.

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Biennial fishing period is defined as a 24-month period beginning January 1 and ending December 31.

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#### 5.0 SPECIFICATION AND APPORTIONMENT OF HARVEST LEVELS

The ability to establish and adjust harvest levels is the first major tool at the Council's disposal to exercise its resource stewardship responsibilities. Each ~~fishing year~~ **biennial fishing period**, the Council will assess the biological, social, and economic condition of the Pacific coast groundfish fishery and update maximum sustainable yield (MSY) estimates or proxies for specific stocks (management units) where new information on the population dynamics is available. The Council will make this information available to the public in the form of the *Stock Assessment and Fishery Evaluation (SAFE)* document described in Section 5.1. Based upon the best scientific information available, the Council will evaluate the current level of fishing relative to the MSY level for stocks where sufficient data are available. Estimates of the acceptable biological catch (ABC) for major stocks will be developed, and the Council will identify those species or species groups which it proposes to be managed by the establishment of numerical harvest levels (optimum yields [OYs], harvest guidelines [HG], or quotas). For those stocks judged to be below their overfished/rebuilding threshold, the Council will develop a stock rebuilding management strategy.

The process for specification of numerical harvest levels includes the estimation of ABC, the establishment of OYs for various stocks, calculation of specified allocations between harvest sectors, and the apportionment of numerical specifications to domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and the reserve. The specification of

numerical harvest levels described in this chapter is the process of designating and adjusting overall numerical limits for a stock either throughout the entire fishery management area or throughout specified subareas. The process normally occurs ~~annually~~ **biennially** between ~~September and November~~ **November and June**, but can occur, under specified circumstances at other times of the fishing year. The Council will identify those OYs which should be designated for allocation between limited entry and open access sectors of the commercial industry. Other numerical limits which allocate the resource or which apply to one segment of the fishery and not another are imposed through the socioeconomic framework process described in Chapter 6 rather than the specification process.

The National Marine Fisheries Service (NMFS) Regional Administrator will review the Council's recommendations, supporting rationale, public comments, and other relevant information; and, if it is approved, will undertake the appropriate method of implementation. Rejection of a recommendation will be explained in writing.

The procedures specified in this chapter do not affect the authority of the U.S. Secretary of Commerce (Secretary) to take emergency regulatory action as provided for in Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) if an emergency exists involving any groundfish resource or to take such other regulatory action as may be necessary to discharge the Secretary's responsibilities under Section 305(d) of the Magnuson-Stevens Act.

The ~~annual~~ **specifications and management measures** process, in general terms, occurs as follows:

1. The Council will determine the MSY or MSY proxy and ABC for each major stock. Typically, the MSY proxy will be in terms of a fishing mortality rate ( $F_{x\%}$ ) and ABC will be the  $F_{x\%}$  applied to the current biomass estimate.
2. Every species will either have its own designated OY or be included in a multispecies OY. Species which are included in a multispecies OY may also have individual OYs, have individual HGs, or be included in a HG for a subgroup of the multispecies OY. Stocks without quantitative or qualitative assessment information may be included in a numerical or non-numerical OY.
3. To determine the OY for each stock, the Council will determine the best estimate of current abundance and its relation to its precautionary and overfished thresholds. If the abundance is above the precautionary threshold, OY will be equal to or less than ABC. If abundance falls below the precautionary threshold, OY will be reduced according to the harvest control rule for that stock. If abundance falls below the overfished/rebuilding threshold, OY will be set according to the interim rebuilding rule until the Council develops a formal rebuilding plan for that species.
4. **\*\*Editorial changes for this paragraph would be addressed under Amendment 16 (overfished species rebuilding) to the FMP\*\*** For any stock the Secretary has declared overfished or approaching the overfished condition, or for any stock the Council determines is in need of rebuilding, the Council will develop a rebuilding plan and submit it in the same manner as recommendations of the annual management process. Once approved, a rebuilding plan will remain in effect for the specified duration or until the Council recommends and the Secretary approves revision.
5. The Council may reserve and deduct a portion of the ABC of any stock to provide for compensation for vessels conducting scientific research authorized by NMFS. Prior to the research activities, the Council will authorize amounts to be made available to a research reserve. However, the deduction from the ABC will be made in the year after the "compensation fishing"; the amounts deducted from the ABC will reflect the actual catch during compensation fishing activities.
6. The Council will identify stocks which are likely to be fully harvested (i.e., the ABC, OY, or HG

achieved) in the absence of specific management measures and for which allocation between limited entry and open access sectors of the fishery is appropriate.

7. The groundfish resource is fully utilized by U.S. fishing vessels and seafood processors. The Council may entertain applications for foreign or joint venture fishing or processing at any time, but fishing opportunities may be established only through amendment to this FMP. This section supercedes other provisions of this FMP relating to foreign and joint venture fishing.

This chapter describes the steps in this process.

### 5.1 SAFE Document

**\*\*Annual SAFE documents are required under NOAA guidelines implementing National Standard 2 of the Magnuson-Stevens Act (base conservation and management measures on the best available scientific information.) Under Amendment 16 to the FMP, the Council will consider revising the SAFE document production schedule (stock assessments available before final decision on specifications and management measures, evaluation of the fishery available after end of fishing year).**

**Amendment 17 adopts a biennial management process. Under a biennial management process, some elements of the SAFE document may not be necessary in years when the Council is not preparing specifications and management measures. For example, elements 2, 5, 6, 7, and 11 could be eliminated from “off year” SAFE documents without violating the National Standards guidelines or hampering the Council’s ability to conduct inseason management.\*\***

For the purpose of providing the best available scientific information to the Council for evaluating the status of the fisheries relative to the MSY and overfishing definition, developing ABCs, determining the need for individual species or species group management, setting and adjusting numerical harvest levels, assessing social and economic conditions in the fishery, and updating the appendices of this fishery management plan (FMP); a SAFE document is prepared annually. Not all species and species groups can be reevaluated every year due to limited state and federal resources. However, the SAFE document will in general contain the following information:

1. A report on the current status of Washington, Oregon, and California groundfish resources by major species or species group.
2. Specify and update estimates of harvest control rule parameters for those species or species groups for which information is available.
3. Estimates of MSY and ABC for major species or species groups.
4. Catch statistics (landings and value) for commercial, recreational, and charter sectors.
5. Recommendations of species or species groups for individual management by OYs.
6. A brief history of the harvesting sector of the fishery, including recreational sectors.
7. A brief history of regional groundfish management.
8. A summary of the most recent economic information available, including number of vessels and economic characteristics by gear type.
9. Other relevant biological, social, economic, ecological, and essential fish habitat information which

may be useful to the Council.

10. A description of any rebuilding plans currently in effect, a summary of the information relevant to the rebuilding plans, and any management measures proposed or currently in effect to achieve the rebuilding plan goals and objectives.
11. A list of annual specifications and management measures that have been designated as routine under processes described in the FMP at Section 6.2.

**Under a biennial specifications and management measures process, elements 2, 5, 6, 7, and 11 would not need to be included in a SAFE document in years when the Council is not setting specifications and management measures for an upcoming biennial fishing period.** The preliminary SAFE document is normally completed late in the year, generally late October, when the most current stock assessment and fisheries performance information is available and prior to the meeting at which the Council approves its final management recommendations for the upcoming year. The Council will make the preliminary SAFE document available to the public by such means as mailing lists or newsletters and will provide copies upon request. A final SAFE may be prepared after the Council has made its final recommendations for the upcoming year and will include the final recommendations, including summaries of proposed and pre-existing rebuilding plans. The final SAFE document, if prepared, will also be made available upon request.

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#### 5.4 Authorization and Accounting for Fish Taken as Compensation for Authorized Scientific Research Activities.

At a Council meeting, NMFS will advise the Council of upcoming resource surveys that would be conducted using private vessels with groundfish as whole or partial compensation. For each proposal, NMFS will identify the maximum number of vessels expected or needed to conduct the survey, an estimate of the species and amounts of compensation fish likely to be needed to compensate vessels for conducting the survey, when the fish would be taken, and when the fish would be deducted from the ABC in determining the OY/harvest guideline. NMFS will initiate a competitive solicitation to select vessels to conduct resource surveys. NMFS will consult with the Council regarding the amounts and types of groundfish species to be used to support the surveys. If the Council approves NMFS' proposal, NMFS may proceed with awarding the contracts, taking into account any modifications requested by the Council. If the Council does not approve the proposal to use fish as compensation to pay for resource surveys, NMFS will not use fish as compensation.

Because the species and amounts of fish used as compensation will not be determined until the contract is awarded, it may not be possible to deduct the amount of compensation fish from the ABC or harvest guideline in the year that the fish are caught. Therefore, the compensation fish will be deducted from the ABC the **year or biennial fishing period** after the fish are harvested. During the ~~annual~~ **annual specifications and management measures** process, NMFS will announce the total amount of fish caught during the **year or biennial fishing period** as compensation for conducting a resource survey, which then will be deducted from the following year's ABCs in setting the OYs.

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#### 5.6 ~~Annual~~ **Biennial** Implementation Procedures for Specifications and Apportionments (previously section 5.8)

~~Annually~~ **Biennially**, the Council will develop recommendations for the specification of ABCs, OYs, any HGs or quotas, ~~and apportionments to DAH, DAP, JVP, and TALFF and the reserve over the span of two~~

**three** Council meetings. In addition during this process, the Council may recommend establishment of HGs and quotas for species or species groups within an OY. **Depending on stock assessment availability and fishery management interactions with Canada, the Council may also develop recommendations for the specification of the Pacific whiting ABC/OY and quotas in a separate, annual process.**

The Council will develop preliminary recommendations at the first of ~~two~~ **three** meetings (usually in ~~August or September~~ **in November**), based upon the best stock assessment information available to the Council at the time and consideration of public comment. After the first meeting, the Council will provide a summary of its preliminary recommendations and their basis to the public through its mailing list as well as providing copies of the information at the Council office and to the public upon request. The Council will notify the public of its intent to develop final recommendations at its ~~second~~ **third** meeting (usually ~~October or November~~ **in June**), and solicit public comment both before and at its second meeting.

At its second **and/or third** meeting, the Council will again consider the best available stock assessment information which should be contained in the recently completed SAFE report and consider public testimony before adopting final recommendations to the Secretary. Following the ~~second~~ **third** meeting, the Council will submit its recommendations along with the rationale and supporting information to the Secretary for review and implementation.

Upon receipt of the Council's recommendations supporting rationale and information, the Secretary will review the submission, and, if it is sufficient for public review, ~~publish a notice in the *Federal Register* making the Council's recommendations effective January 1 of the upcoming fishing year~~ **publish a proposed rule in the *Federal Register*, making the Council's recommendations available for public comment and agency review. Following the public comment period on the proposed rule, the Secretary will review the proposed rule, taking into account any comments or additional information received, and will publish a final rule in the *Federal Register*, possibly modified from the proposed rule in accordance with the Secretary's consideration of the proposed rule.**

In the event that the Secretary disapproves one or more of the Council's recommendations, he may implement those portions approved and notify the Council in writing of the disapproved portions along with the reasons for disapproval. The Council may either provide additional rationale or information to support its original recommendation, if required, or may submit alternative recommendations with supporting rationale. In the absence of an approved recommendation at the beginning of the ~~fishing year~~ **biennial fishing period**, the current specifications in effect at the end of the previous ~~fishing year~~ **biennial fishing period** will remain in effect until modified, superseded, or rescinded.

5.7 Inseason Procedures for Establishing or Adjusting Specifications and Apportionments  
(previously 5.9)

5.7.1 Inseason Adjustments to ABCs, OYs, HGs, and Quotas

**Under the biennial specifications and management measures process, stock assessments for most species will become available every other year, prior to the November Council meeting that begins the three-meeting process for setting specifications and management measures. The November Council meeting that begins that three-meeting process will be the November of the first fishing year in a biennial fishing period. If the Council determines that any of the ABCs or OYs set in the prior management process are not adequately conservative to meet rebuilding plan goals for an overfished species, harvest specifications for that overfished species and/or for co-occurring species may be revised for the second fishing year of the then current biennial management period.** Occasionally, new stock assessment information may become available inseason that supports a determination that an ABC no longer accurately describes the status of a particular species or species group. However, adjustments will only be made during the annual specifications process and a revised ABC announced at the beginning of the next fishing year.

The only exception is in the case where the ABC announced at the beginning of the fishing year **Beyond this process, ABCs, OYs, HGs, and quotas may only be modified in cases where a harvest specification announced at the beginning of the fishing period** is found to have resulted from incorrect data or from computational errors. If the Council finds that such an error has occurred, it may recommend the Secretary publish a notice in the *Federal Register* revising the **ABC incorrect harvest specification** at the earliest possible date.

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\* \* \*5.7.2 would be eliminated and 5.7.3 would be renumbered as 5.7.2\* \* \*

## 6.0 MANAGEMENT MEASURES

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### 6.2 General Procedures for Establishing and Adjusting Management Measures

Management measures are normally imposed, adjusted, or removed at the beginning of the ~~fishing year~~ **biennial fishing period**, but may, if the Council determines it necessary, be imposed, adjusted, or removed at any time during the ~~year period~~. Management measures may be imposed for resource conservation, social or economic reasons consistent with the criteria, procedures, goals, and objectives set forth in the FMP.

Because the potential actions which may be taken under the two frameworks established by the FMP cover a wide range analyses of biological, social, and economic impacts will be considered at the time a particular change is proposed. As a result, the time required to take action under either framework will vary depending on the nature of the action, its impacts on the fishing industry, resource, environment, and review of these impacts by interested parties. Satisfaction of the legal requirements of other applicable law (e.g., the Administrative Procedure Act, Regulatory Flexibility Act, **relevant Executive Orders 12291**, etc.) for actions taken under this framework requires analysis and public comment before measures may be implemented by the Secretary.

Four different categories of management actions are authorized by this FMP, each of which requires a slightly different process. Management measures may be established, adjusted, or removed using any of the four procedures. The four basic categories of management actions are as follows:

A. Automatic Actions - Automatic management actions may be initiated by the NMFS Regional

Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts previously must have been taken into account. Examples include fishery, season, or gear type closures when a quota has been projected to have been attained. The Secretary will publish a single "notice" in the *Federal Register* making the action effective.

B. "Notice" Actions Requiring at Least One Council Meeting and One *Federal Register* Notice - These include all management actions other than "automatic" actions that are either nondiscretionary or for which the scope of probable impacts has been previously analyzed.

These actions are intended to have temporary effect, and the expectation is that they will need frequent adjustment. They may be recommended at a single Council meeting (~~usually November~~), although the Council will provide as much advance information to the public as possible concerning the issues it will be considering at its decision meeting. The primary examples are those **inseason** management actions defined as "routine" according to the criteria in Section 6.2.1. These include trip landing and frequency limits and size limits for all commercial gear types and closed seasons for any groundfish species in cases where protection of an overfished or depleted stock is required, and bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements for all recreational fisheries. Previous analysis must have been specific as to species and gear type before a management measure can be defined as "routine" and acted upon at a single Council meeting. If the recommendations are approved, the Secretary will waive for good cause the requirement for prior notice and comment in the *Federal Register* and will publish a single "notice" in the *Federal Register* making the action effective. This category of actions presumes the Secretary will find that **the need for swift implementation and the** extensive notice and opportunity for comment on these types of measures along with the scope of their impacts already provided by the Council will serve as good cause to waive the need for additional prior notice and comment in the *Federal Register*.

C. ~~Abbreviated Rulemaking Actions Normally Requiring at Least Two Council Meetings and One *Federal Register* "Rule" or "Notice"~~ C. Management Measures Rulemaking Actions Developed Through the Three Council Meeting Biennial Specifications Process and Two *Federal Register* Rules - These include (1) management measures developed through the biennial specifications process, (2) management actions being classified as "routine", or (3) trip limits that vary by gear type, closed seasons or areas, and in the recreational fishery, bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements the first time these measures are used or ~~(3) management measures that are intended to have permanent effect and are discretionary, and for which the impacts have not been previously analyzed (moved to Section D, below)~~. Examples include changes to or imposition of gear regulations, or imposition of landings limits, frequency limits, or limits that are differential by gear type, or closed areas or seasons for the first time on any species or species group, or gear type. The Council will develop and analyze the proposed management actions over the span of at least two Council meetings (~~usually September and November~~) (**usually April and June**) and provide the public advance notice and opportunity to comment on both the proposals and the analysis prior to and during the Council process at the second Council meeting. ~~If the Regional Administrator approves the Council's recommendation, the Secretary will waive for good cause the requirement for prior notice and comment in the *Federal Register* and publish a "final rule" or "notice" in the *Federal Register* which will remain in effect until amended.~~ If a management measure is designated as "routine" under this procedure, specific adjustments of that measure can subsequently be announced in the *Federal Register* by "notice" as described in the previous paragraphs. ~~Nothing in this section prevents the Secretary from exercising the right not to waive the opportunity for prior notice and comment in the *Federal Register*, if appropriate, but presumes the Council process will adequately satisfy that requirement.~~ **The Secretary will publish a "proposed rule" in the *Federal Register* with an appropriate period for public comment followed by publication of a "final rule" in the *Federal Register*.**

It should be noted the ~~two~~ **three** Council meeting process refers to two decision meetings. The first meeting to develop proposed **harvest specifications** management measures and their alternatives, the second meeting to **finish drafting harvest specifications and to develop the management measures**

**and the third meeting to make final recommendations to the Secretary on the complete harvest specifications and management measures biennial management package.** For the Council to have adequate information to identify proposed management measures for public comment at the first meeting, the identification of issues and the development of proposals normally must begin at a prior Council meeting, ~~usually the June Council meeting.~~

D. Full Rulemaking Actions Normally Requiring at Least Two Council Meetings and Two *Federal Register* Rules (Regulatory Amendment) - These include any proposed management measure that is highly controversial or any measure which directly allocates the resource. **These also include management measures that are intended to have permanent effect and are discretionary, and for which the impacts have not been previously analyzed. (moved from Section C, above)** The Council normally will follow the two meeting procedure described for the ~~abbreviated~~ **specifications and management measures** rulemaking category. For the Council to have adequate information to identify proposed management measures for public comment at the first meeting, the identification of issues and the development of proposals normally must begin at a prior Council meeting. The Secretary will **normally** publish a "proposed rule" in the *Federal Register* with an appropriate period for public comment followed by publication of a "final rule" in the *Federal Register*.

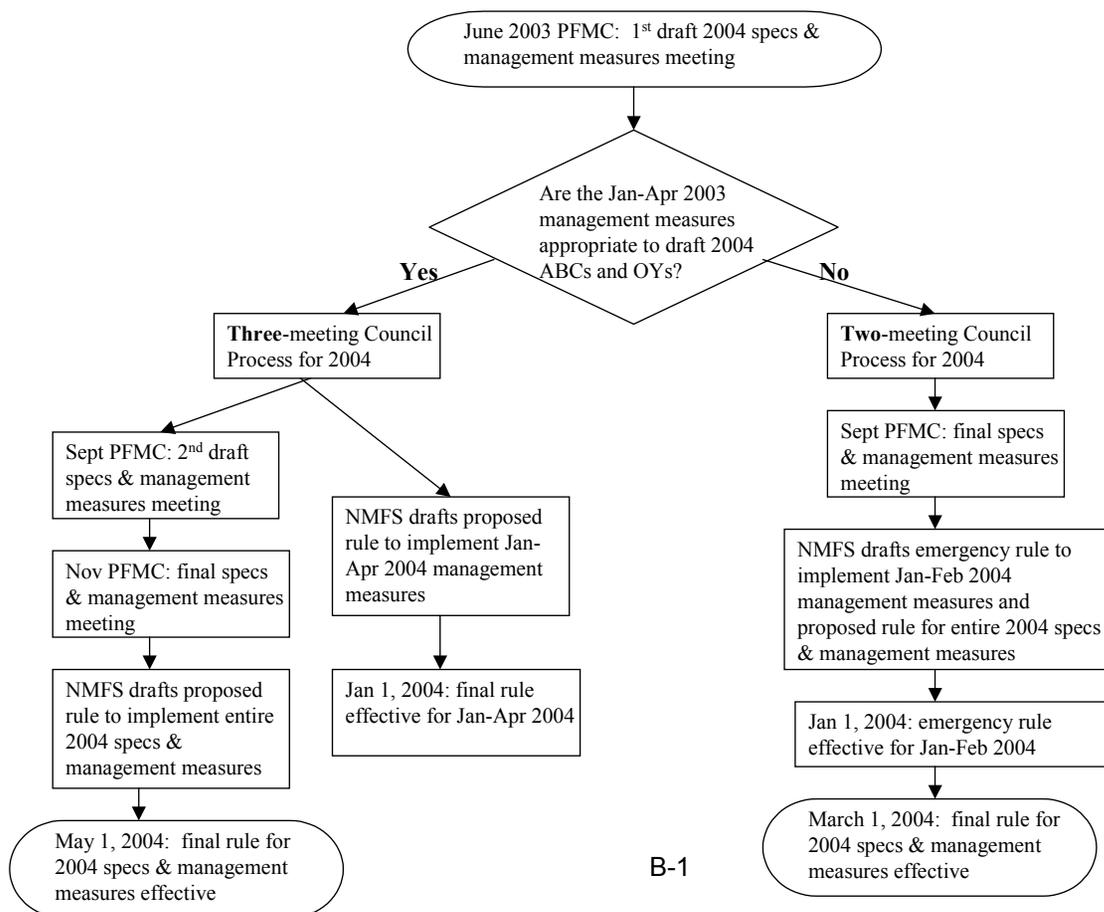
Management measures recommended to address a resource conservation issue must be based upon the establishment of a "point of concern" and consistent with the specific procedures and criteria listed in Section 6.2.2.

Management measures recommended to address social or economic issues must be consistent with the specific procedures and criteria described in Section 6.2.3.

Appendix B

TRANSITION TO MULTI-YEAR MANAGEMENT UNDER PROCESS ALTERNATIVE 3 (COUNCIL PREFERRED)

In order to transition from the current annual management process with two Council meetings for specifications and management measures development to a biennial process with three Council meetings, the Council will be integrating the development processes for the 2004 specifications and management measures and for the 2005-2006 specifications and management measures. The first Council meeting for developing the 2004 specifications and management measures will be in June 2003. At that meeting, the Council will determine whether the January-April 2003 management measures are adequate to meet the management and conservation goals for the draft 2004 ABCs/OYS for January-April 2004. The following flowchart shows how Council and NMFS processes would proceed under the two-meeting and three-meeting processes for 2004 specifications and management measures. Regardless of which process is used for 2004, the Council process for the 2005-2006 specifications and management measures would begin in November 2004.



**TRANSITION TO BIENNIAL MANAGEMENT PROCESS UNDER ALTERNATIVE 3 (WITH TWO-MEETING '04 TRANSITION)**

	Jan '03	April '03	June '03	Sept '03	Nov '03	Jan '04	Mar/Apr 04	June '04	Sept '04	Nov '04	Jan '05
Stock Assessments	Assessments and STAR for '04 due <b>5/03</b>					"Off" year for stock assessments. Advanced model development and stock assessment model refinement year.				"On" year begins	
	Assessments and STAR for '05-'06 due <b>10/03</b>										
Council Process			Proposed '04 Specs	Final '04 Specs	Proposed '05-'06 ABC/OY		Proposed '05-'06 manage measures	Final '05-'06 Specs & manage measures	First "off" year for Council begins 9/04 and ends 11/05. In 11/05, proposed ABC/OY for '07-'08		
NMFS Regulatory Process	Public review and NOAA implementation of Amendment 17				'04 Specs via emergency for Jan-Feb or carry-over if '03 conservative enough			NMFS sends '05-'06 out for public review via proposed rule and implements via final rule by 01/05			
					'04 Specs proposed rule, public review; final rule due 3/04						

**TRANSITION TO BIENNIAL MANAGEMENT PROCESS UNDER ALTERNATIVE 3 (WITH THREE-MEETING '04 TRANSITION)**

	Jan '03	April '03	June '03	Sept '03	Nov '03	Jan '04	Mar/Apr 04	June '04	Sept '04	Nov '04	Jan '05
Stock Assessments	Assessments and STAR for '04 due <b>5/03</b>					"Off" year for stock assessments. Advanced model development and stock assessment model refinement year.				"On" year begins	
	Assessments and STAR for '05-'06 due <b>10/03</b>										
Council Process			Proposed '04 Specs	Proposed '04 manage measures	Final '04 Specs Proposed '05-'06 ABC/OY		Proposed '05-'06 manage measures	Final '05-'06 Specs & manage measures	First "off" year for Council begins 9/04 and ends 11/05. In 11/05, proposed ABC/OY for '07-'08		
NMFS Regulatory Process	Public review and NOAA implementation of Amendment 17				'04 Specs via emergency for Jan- <b>Apr</b> or carry-over if '03 conservative enough			NMFS sends '05-'06 out for public review via proposed rule and implements via final rule by 01/05			
					'04 Specs proposed rule, public review; final rule due 3/04						

