



Policy/Process for Council Review of EFP Applications for Forage Amendment EC Species

Council Meeting

October 4, 2023

Meeting Objectives

- Review draft policy/process.
 - Staff recommendation incorporating EOP AP and Committee recommendations
- Consider if revisions are needed.
- Approve policy/process.



Policy Goal

- Establish a standard process for Council review of EFP applications for Forage Amendment ecosystem component (EC) species.
- Communicate the Council's priorities for EC species to prospective EFP applicants.
- EFPs are for short term exemptions.
- Use of an EFP does not guarantee the Council will allow longer term directed fishing effort.

EFP Definition

- A permit that exempts a vessel from certain specified federal fishing regs.
- EFPs may be used for data collection, exploratory fishing, market research, product development, and other reasons.
- EFPs for Forage Amendment EC species are issued by GARFO.
- Typically issued for 1 year, but can be renewed.
 - Multiple years of data collection generally preferable from a scientific perspective.

Forage Amendment Requirements

- Forage Amendment Goal:
 - Prohibit the development of new and expansion of existing directed commercial fisheries for unmanaged forage species until the Council has had an adequate opportunity to assess the scientific information relating to any new or expanded directed fisheries and consider potential impacts to existing fisheries, fishing communities, and the marine ecosystem.
- EFPs must be consistent with this goal.

Forage Amendment Requirements

- 1,700 lb commercial possession limit in Mid-Atlantic federal waters for all EC species combined.
- EFP required as a first step towards considering allowing landings beyond 1,700 pounds.
- Fed. regs at 50 CFR 648.12:
 - Exemptions to the Forage Amendment requirements may be granted “for the conduct of experimental fishing beneficial to the management of the resources or fishery...”
 - Including “exemptions for experimental fishing contributing to the development of new or expansion of existing fisheries for Mid-Atlantic forage species.”

Forage Amendment Requirements

- Change from the Forage Amendment:
 - The Council and GARFO will work together to review applications concurrently
 - Forage Amendment called for Council review prior to GARFO review



Peter Meyer

Required Contents of EFP Applications

1. Date of the application.
2. Applicant's name, address, phone number.
3. Statement of the purposes and goals of the exempted fishery for which an EFP is needed, including justification for issuance of the EFP.
 - 3.1 Ultimate fishery management goals (e.g., longer term management as stock in FMP) should also be described.*

Required Contents of EFP Applications

4. Time and location of fishing activity, and the type, size, and amount of gear to be used.
5. For each vessel to be covered by the EFP:
 - 5.1. A copy of the USCG documentation, state license, or registration of each vessel, or the information contained on the appropriate document.
 - 5.2 Name, address, and phone number of the owner and master.



Required Contents of EFP Applications

6. Species expected to be caught under the EFP, including the amount expected to be landed and discarded, including targeted and incidental, managed and unmanaged species.*
7. Expected impacts of all landings and discards on fisheries, fishing communities, EFH, marine mammals, threatened and endangered species, and the marine ecosystem.*
8. Justification for the specific catch levels requested.
 - 8.1. Given limited available data and lack of stock assessments for EC species, consider incremental increases above recent landings to mitigate concerns about potential impacts of large increases in landings.*

Required Contents of EFP Applications

9. Procedures for monitoring all catch, including incidental catch and discards. Applicants may wish to consider mechanisms for observer coverage.*

10. Applicants are encouraged to collect info that can assist with future mgmt and stock assessments of EC species (e.g., length, weight, age, sex, maturity). Provide details for planned biological sampling programs.*

11. Applicants are encouraged to consider gear modifications and fishing strategies to reduce bycatch.*

Required Contents of EFP Applications

12. A brief description of the qualifications of the applicant and project partners.*
13. The signature of the applicant.
14. Other information as necessary to ensure compliance with all applicable laws, regulations, and executive orders.
15. Other information if requested by the Council or GARFO.

Required Contents of EFP Applications

- EFPs must comply with all applicable laws, regulations, and executive orders (e.g., MSA, NEPA, ESA, others).
- This may require additional analysis (e.g., NEPA EA, an EFH consultation, and/or an ESA consultation).
- Fishing activities that are similar to existing managed federal waters fisheries (e.g., same gear types, seasons, areas fished) generally require less additional analysis than fishing activities that differ from existing fisheries.
- Applicants should consult with the Council and GARFO to determine what additional analyses may be required.
 - These analyses can be time consuming.
 - GARFO and Council staff can provide only limited support given workload constraints.

Process

Step 1: Submit application to the Council and GARFO

- Submit one year prior to the desired start of exempted fishing activities.



Process

Step 2: Council and GARFO review

SSC review

- Council will decide if the application should be reviewed by the SSC.
 - It is expected that most applications will be reviewed by the SSC.
- Council leadership will approve SSC TORs tailored to each EFP, expected to focus on the adequacy of the proposed sampling methodology to:
 - allow for a determination of if the stated purposes and goals of the EFP have been met,
 - accurately estimate landings and discards of all caught species, and
 - provide information that may be useful to future stock assessments and management.

Process

Step 2: Council and GARFO review

EOP Committee and EOP AP review

1. Is the application complete?
2. Are the proposed catch levels sufficiently justified?
3. Is the proposed data collection methodology sufficient to accurately estimate landings and discards by species for all target and incidental species?
4. Will the information collected allow for a determination of if the stated purposes and goals of the EFP have been met?

Process

Step 2: Council and GARFO review

EOP Committee and EOP AP review

5. Will the information collected support an assessment of the impacts of all catch on existing fisheries, fishing communities, marine mammals, threatened and endangered species, EFH, and the marine ecosystem?
6. Can the info collected assist with future mgmt. and stock assessments of EC species or other species?
7. Have the applicants determined if any additional analysis is needed to comply with applicable laws?

Process

Step 2: Council and GARFO review

EOP Committee and EOP AP review

8. If the application requests renewal of a previously issued EFP, has the extension for an additional year been justified?

9. Is the proposal consistent with the goal of the Forage Amendment and the goals and objectives of the Council's FMPs?

10. Do the applicants and associated project partners have a history of relevant work to suggest they can successfully complete the proposed project?

Process

Step 2: Council and GARFO review

Full Council review

- Council may provide additional feedback to the EFP applicants and/or provide comments during the Federal Register comment period.
- Unless requested by Council leadership, applications that are revised after review do not require additional review to confirm the adequacy of the revisions.

Process

Step 3: Federal Register notice and GARFO consideration for approval

- Federal Register notice
 - Briefly describe the proposal
 - Announce a 15 - 45 day public comment period
- Council requests that GARFO wait until after SSC, EOP Committee, and EOP AP reviews are complete before taking this step.

Process

Step 3: Federal Register notice and GARFO consideration for approval

- GARFO may attach terms and conditions to the EFP, including but not limited to:
 - Total harvest limits
 - Trip limits
 - Gear restrictions
 - Observers, VMS, or other electronic monitoring
 - Data reporting requirements
 - Provisions for public release of data

Process

Step 3: Federal Register notice and GARFO consideration for approval

- EFPs may be denied for a number of reasons
 - Concerns about detrimental impacts to managed species, protected species, or EFH according to the best scientific information available
 - Economic allocation as the sole purpose of the EFP
 - Inconsistency of the EFP with FMP objectives & applicable laws
 - Failure to provide an adequate justification for the EFP
 - Enforcement concerns

Process

Step 4: Use of the EFP

- Permit holder agrees to abide by all terms and conditions set forth in the permit, and all restrictions and relevant regulations.
- The EFP must be presented for inspection upon request of any authorized officer. Any fish, or parts thereof, retained pursuant to the EFP must be accompanied, during any ex-vessel activities, by a copy of the EFP.

Process

Step 5: Reports

- Must submit a report to the Council and GARFO no later than 6 months after concluding the EFP activities.
 - Total landings and discards by species.
 - Conclusions relative to the stated goals of the EFP.
 - Any conclusions regarding impacts on existing fisheries, fishing communities, marine mammals, threatened and endangered species, EFH, and the marine ecosystem.

Process

Step 5: Reports

- The Council and GARFO may determine additional requirements for these reports and may also require interim progress reports.
- Any publications resulting from EFP activity should be shared with the Council and GARFO.

Additional EOP AP and Committee discussion

For future Council discussion, not for inclusion in this policy/process document:

- Further clarify the next steps after use of an EFP for Council consideration of management of emerging or expanding fisheries.

Questions/Discussion

- Objective: Approve policy/process



Table 1: Taxa designated as ecosystem components by the Council through the Unmanaged Forage Omnibus Amendment. The federal regulations at [50 CFR 648.2](#) (definition for “Mid-Atlantic forage species) further enumerate this list to the species level.

Anchovies (Family Engraulidae)

Argentines (Family Argentinidae)

Greeneyes (Family Chlorophthalmidae)

Halfbeaks (Family Hemiramphidae)

Herrings, sardines (Family Clupeidae)

Lanternfish (Family Myctophidae)

Pearlsides (Family Sternoptychidae)

Sand lances (Family Ammodytidae)

Silversides (Family Atherinopsidae)

Cusk-eels (Order Ophidiiformes)

Atlantic saury (*Scomberesox saurus*)

Pelagic mollusks except sharptail shortfin squid (*Illex oxygonius*)

Copepods, Krill, Amphipods & other species under 1 inch as adults