



Mid-Atlantic Fishery Management Council

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P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: December 1, 2023
To: Council
From: Chris Moore, Executive Director
Subject: Executive Director's Report

The following materials are enclosed for review during the Executive Director's Report at the December 2023 Council Meeting:

1. 2025 Council Meeting Schedule
2. MAFMC Fishery Management Process Analysis Update
3. East Coast Climate Coordination Group Meeting Agenda (11/7/23)
4. NRCC Fall Meeting Action Items
5. Massachusetts DMF Letter to ASMFC Re: Port Sampling
6. NTAP Working Group Meeting Minutes (11/16/23)
7. Council Coordination Committee October 2023 Meeting Summary
8. NOAA Fisheries Letter to the Councils: IRA Funding (10/25/23)
9. New York Bight Developer's Digest
10. Staff Memo: NOAA Fisheries 304(f) Procedural Directive
11. MAFMC to NMFS: Comments on 304(f) Procedural Directive (11/17/23)



2025 Council Meeting Schedule

(As of November 13, 2023)

February 11-12, 2025	<i>(Virtual meeting)</i>
April 8 – 10, 2025	
June 10 – 12, 2025* (Last meeting for outgoing members)	
August 11 – 14, 2025* (New members sworn in on first day)	
October 7 – 9, 2025	
December 8 – 11, 2025	

Efficiencies Analysis of the Mid-Atlantic Fishery Management Process December 2023

OBJECTIVE

Climate change is driving fishery management organizations to focus on ensuring adaptability and efficiency in the regulatory development process. Despite uncertainty surrounding the impacts of a changing climate, managers will need to be efficient in response to unpredicted and unprecedented shifts in fishery stocks, new environmental analyses, and stakeholder requests for regulatory changes. In support of this, the Mid-Atlantic Fishery Management Council (MAFMC) is looking for ways to improve its mission delivery, internal processes, and stakeholder engagement. To that end, MAFMC has partnered with The Parnin Group to review and identify potential ways to improve the process of developing federal fisheries management regulations, particularly regarding responsiveness to climate change and fisheries-related challenges. Our Team will focus on identifying opportunities for improving the efficiency and adaptability of these processes, from early consideration of fishery management issues, incorporating new information, up to the proposed and final rulemaking stages, such that management responses to changing conditions can be completed in an expedient manner. Ultimately, we will prepare a final report that documents the current fishery management process, highlights areas within programs, policies, and practices that contribute to bottlenecks or inefficiencies during development of an action and provide recommendations to potentially improve the process.

METHOD OF TECHNICAL ANALYSIS

For this review, we will leverage comprehensive data collection and analysis techniques, including individual and group interviews. As a result, our recommendations will be practical, sustainable, and adaptable. There are three phases to the project:

Discover - Gain an understanding of the current picture by examining policies, processes, and practices. Establish a system of collaboration and feedback when collecting information and preparing insights.

Assess - Identify key drivers of inefficiencies and improvements from data and information collected in prior phase. Link key drivers to specific challenges and identify trends to paint a total picture of the organization and its processes.

Recommend - Collaborate with key stakeholders to identify potential solutions and/or actions to improve current systems. Develop a detailed implementation roadmap, success metrics, and goals for our recommendations, including ways to monitor progress.

TIMELINE AND FINAL REPORT

MAFMC staff developed an Oversight Team that includes MAFMC staff and National Oceanic and Atmospheric Administration (NOAA) Fisheries staff to help guide our work and provide feedback on progress. A timeline with milestones to complete this project is below.

- 1) Discover (NOV-FEB)
 - i) Background research and process document reviews
 - ii) Focus Group interviews with MAFMC Stakeholders
 - iii) Individual interviews with MAFMC Stakeholders
- 2) Assess (FEB-APR)
 - i) Process and gap analysis
 - ii) Interview themes and findings review
 - iii) Preliminary findings report and MAFMC Oversight Team feedback
 - iv) Provide Preliminary Findings report for April 2024 Council meeting
- 3) Recommend (MAY-JUL)
 - i) Draft Report and Recommendations
 - ii) MAFMC Oversight Team feedback
 - iii) Final Report and Recommendations for MAFMC (July 31, 2024)
 - iv) Provide Final Report Presentation at August 2024 Council meeting

OUR EXPERIENCE

[The Parnin Group](#) assembled a team of experts with relevant experience to lead and assist in this endeavor. Along with our partner [Lynker](#) Corporation we bring comprehensive experience in fisheries management, environmental science, policy development and regulatory compliance. The Parnin Group provides business, management, and technology consulting services to leaders in government, non-profit and private sectors, helping them to address complex issues and create efficiencies in their organizations. Lynker has provided a wide array of services to the NOAA since 2007 including project management, fisheries program support and improvement, regulatory writing/guidance as well as fishery data compilation and analyses. In addition to our direct experience, our team has extensive knowledge of federal laws and regulations, including the Magnuson-Stevens Act, National Environmental Policy Act, Administrative Procedures Act, Endangered Species Act, Marine Mammal Protection Act and relevant Executive Orders. We understand the regulatory development process and the unique role Regional Fishery Management Councils play to support partnerships between their respective NOAA regional offices, science centers, fishing industry and other stakeholders to create and amend regulations.

EAST COAST CLIMATE COORDINATION GROUP

2023 FALL MEETING AGENDA

Beauport Hotel, 55 Commercial Street, Gloucester MA and [Webinar](#)

Tuesday, November 7, 2023

Robert E. Beal – Executive Director, ASMFC	Cate O’Keefe, Ph.D. – Executive Director, NEFMC
John Carmichael – Executive Director, SAFMC	Clay E. Porch, Ph.D. – Science and Research Director, SEFSC
Jon Hare, Ph.D. - Science and Research Director, NEFSC	Michael Pentony – Regional Administrator, GARFO
Christopher Moore, Ph.D. – Executive Director, MAFMC	Andrew Strelcheck – Regional Administrator, SERO

1:00 p.m. – 1:10 p.m.

1. Welcome, Introductions, Announcements

1:10 p.m. – 2:00 p.m.

2. Review process up to this point

- Description of [Action Menu](#)
- Develop clear distinction between Coordination Group and Core Team
 - [Proposed East Coast Climate Core Team: Role and Operations](#)

2:00 p.m. – 2:45 p.m.

3. Develop Organizational Structure of the process

- Charter development
 - [Draft Charter Outline](#)
- Process logistics
 - Who should chair?
 - Frequency of meetings (in-person or virtual)

2:45 p.m. – 3:00 p.m. BREAK

3:00 p.m. – 5:00 p.m.

4. Discuss Potential Actions and IRA Funding Opportunity

- Potential Council priority actions for 2024
 - [Core Team Recommendations for 2024 Coordinated Priorities from Scenario Planning](#)
 - [Potential Action Menu](#)
- Office of Sustainable Fisheries [Inflation Reduction Act](#) funding proposal process

Color code key:
ASMFC MAFMC
NEFMC NEFSC
GARFO NRCC

NRCC Fall 2023 Meeting: Action Items

November 8-9, 2023

Gloucester, MA

1. Identifying and Evaluating Survey Challenges for MSE
Lead: **MAFMC**, **NEFMC**
Appointees needed: N/A
Next step(s): MAFMC, NEFMC, and ASMFC will reach out to Mike Pentony and Jon Hare with questions on how the agency would use the outcomes of this project. This will help inform proposals for IRA funding.
Due date(s): As soon as possible. Initial IRA proposals are due by the end of December.
2. Email Outreach for Greater Atlantic Region Reporting Requirements
Lead: **GARFO**
Appointees needed: N/A
Next step(s): GARFO will look into drafting an email to permit holders that summarizes reporting requirements in the region.
Due date(s): End of January 2024.
3. Did Not Fish Reports
Lead: **GARFO**
Appointees needed: N/A
Next step(s): GARFO will report to the NRCC on what led to the removal of Did not Fish Reports, what has changed since then, what the value would be of reinstating the reports, and the potential burden to the industry, agency, and Councils.
Due date(s): Spring 2024 NRCC meeting
4. Blueline Tilefish Research Track Assessment Issue
Lead: **NEFSC**, **SEFSC**
Appointees needed: N/A
Next step(s): NEFSC staff will confer with GARFO and MAFMC on management expectations and then will meet with SEFSC to come up with an understanding/proposal of how to address the blueline tilefish assessment issue. The cobia assessment may be an example. The NEFSC will report back to NRCC.
Due date(s): Spring 2024 NRCC meeting
5. Research Track Process and Timeline
Lead: **NEFSC**
Appointees needed: N/A
Next step(s): NEFSC will document the research track process, including the assessment working group and the schedule to meet 2028 RT objectives.
Due date(s): Spring 2024 NRCC meeting
6. Convene Research Track Steering Committee

Lead: NEFSC
Appointees needed: N/A
Next Step(s): Convene meeting
Due Date: Early 2024

6. Operating Agreements

Lead: **MAFMC**, **NEFMC**, **NEFSC**, **GARFO**
Appointees needed: N/A
Next step(s): Follow up on updating operating agreements at the Fall 2024 meeting. This will allow time for the MAFMC to complete their program review and to have more clarity on the new NEPA guidelines.
Due date(s): Fall 2024 Meeting

7. Port Sampling Data

Lead: **NEFSC**
Appointees needed: N/A
Next step(s): NEFSC will follow up with a breakdown summary of port sampling by species (mid-Atlantic vs. New England. vs. Commission species).
Due date(s): ASAP in 2023

8. Port Sampling Program Evaluation

Lead: **NEFSC**, **GARFO**, **ASMFC**, **MAFMC**
Appointees needed: N/A
Next step(s): NEFSC, GARFO, MAFMC, and ASMFC will convene a half-day meeting to conduct evaluation of port sampling program. Outcomes will be reported back to NRCC to review.
Due date(s): Convene meeting in January 2024. Report to NRCC at Spring 2024 NRCC meeting

9. Request update on MRIP transition team for May 2024 NRCC meeting.

Lead: NEFSC, GARFO
Appointees needed: N/A
Next steps: Electronic mail to Evan Howell in OST.
Due dates: ASAP

Spring 2024 Meeting (ASMFC host) –
Location – TBD
Date: May 29-30



The Commonwealth of Massachusetts

Division of Marine Fisheries

(617) 626-1520 | www.mass.gov/marinefisheries



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November 29, 2023

Mr. Robert Beal
Executive Director
Atlantic Marine Fisheries Commission
1050 N. Highland St Suite 200 A-N
Arlington, VA 22201

Dear Bob,

Below is a short description detailing the Division's initiative to fill data gaps created by the declining performance of NOAA fisheries biological port sampling program. We are only in our first sampling quarter and samplers are getting up to speed and relationships with fish dealers are still being made. I expect as we gain more experience and develop the partnership with NEFSC and GARFO things will continue to advance. NOAA Fisheries staff seem to be very pleased with what we have already accomplished and excited to work together in the future.

- **Why MA Division of Marine Fisheries got involved**

Recently through the NEFSC stock assessment process for several northeast and mid-Atlantic federally managed species, it became apparent there was a lack of essential biological samples that are required to support a comprehensive stock assessment. Most notably, due to static funding of the federal biological port sampling program, and the increase in contractor and administration costs, the amount of commercial fishery dependent samples being collected shore-side have reached critically low levels.

Recognizing this paucity of information, MA DMF reallocated NOAA Interjurisdictional (IJ) Funds to our fisheries-dependent sampling team, the Fisheries Research and Monitoring (FRM) project, with the purpose to increase port and sea sampling and provide fishery-related data to inform management and support stock assessments. The funds are now being used to pay for two full-time state employed biologists and associated port and sea sampling expenses. The MA DMF also reprioritized existing FRM personnel duties to coordinate the new sampling initiative.

- **How the state-run port sampling project functions**

It was important to FRM staff that sampling data was going to be collected and stored correctly so that it was useful to end users and be incorporated into federal stock assessments. By working closely with the GARFO Port Biological Sampling Program, and NOAA's Population Dynamics Branch and Science Center

IT Division, a system was developed with not only the intention for MA DMF to contribute biological port sampling data, but for any state with a port sampling project.

Sampling requests are now assigned to MA DMF quarterly by the Population Dynamics Branch scientists via the GARFO Port Biological Sampling Program. This provides targets for FRM staff by species and market category and a “shopping list” for samplers when in the field. All data is collected following federal port sampling protocols and entered into tablets using NOAA’s proprietary software, BLISS. After QA/QC is performed by FRM staff, data is uploaded and housed in the federal port sampling database in state tables that were specifically created by NEFSC IT Division. Biological samples are placed in envelopes provided by NOAA, cataloged using bar codes, and delivered to appropriate labs for ageing.

Access to the federal Vessel Monitoring System (VMS) was obtained to assist FRM staff coordinate vessel offload intercepts and target biological samples from specific statistical areas. Although originally designed for enforcement purposes, it allows project staff to monitor a vessel’s past and real-time location and is essential for an efficient and comprehensive port sampling program. Additionally, FRM were granted access to specific federal fisheries landings datasets and the port sampling data web interface to carry out duties.

Each month, FRM staff attend a Northeast Biosampling eData Collection webinar which is led by NOAA NEFSC IT Division and Population Dynamics staff. This meeting, which includes project leaders using BLISS in the field, as well as NEFSC end-users, allows participants to discuss and troubleshoot software, hardware, and logistical issues. This meeting also allows for project leaders to share strategies for increasing sampling efficiency and brainstorming for enhancing future partnerships.

- **Hurdles to overcome**

Initially, the largest hurdle for MADMF to overcome was having enough staff to do the work. Reallocating NOAA IJ funds allowed for the hiring of samplers, but having project oversight and a dedicated coordinator was equally as important. Having knowledge about the commercial fisheries that land in MA state ports and having connections with vessel owners, captains and shoreside dealers was another hurdle. Luckily, FRM staff have a sound professional rapport with the commercial fishing industry, which allowed the project to be quickly established. This is an advantage of using state biologists over third-party contractors, knowledge, connections, and less turnover in staff.

Collecting port samples for GARFO and NEFSC requires electronic equipment, including tablets, electronic measuring boards, and digital balances. This is a costly setup expenditure when starting a new program. Luckily, the FRM has been investing in electronic technology over the last several years and have the knowledge of how to use and program them. The majority of the FRM owned equipment was compatible with the federal port sampling system and could be used, saving thousands of dollars.

Possibly the largest hurdle when establishing a new state-run port sampling program is outside the state’s control; its support from NEFSC and GARFO. The FRM project has strived to work as independently as possible, but staff requires support from our federal partners weekly. Questions regarding sampling protocols and targets, or IT-related issues with equipment and software initially need to be addressed often, and promptly. If a new model for collecting port samples that includes the state assistance is to be created, inclusion and a commitment of support from the federal partners need to be confirmed. These programs cannot be conducted without their help and oversight.

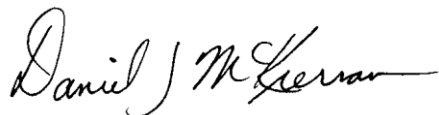
- **Potential for expansion**

The MA DMF port sampling project is based out of Gloucester, MA, which is strategically well located as it is a major port for landing commercially caught finfish. It is also near Boston Harbor, another major port. New Bedford is the third major port in MA and is not currently being port sampled by FRM staff for this project. Logistically it is unfeasible for Gloucester-based samplers to cover this port due to the distance and the unpredictable and irregular schedule that commercial fishing boats maintain. Increasing staff to include an additional New Bedford-based biologist and one part-time sampler would allow FRM to expand and comprehensively sample all MA landings. It would also create the potential for MA DMF to cover ports in neighboring smaller states, NH and RI, if they did not have the ability to dedicate staff to their own port sampling project.

The expansion of state-run port sampling projects in the northeast and mid-Atlantic would significantly increase the amount of biological information available for assessments by not only directly contributing but allowing for the redistribution of federal port sampling effort to under sampled statistical strata. State port samplers also have the advantage of being able to collect additional information that federal contractors do not. Currently, because FRM have the equipment and added flexibility, samplers are collecting individual weights of several key groundfish species in attempt to develop commercial fishery length weight conversions. These relationships are central to all stock assessments, but currently only exist for fish captured during the spring and fall trawl surveys. Being able to calculate catch at age weights from fish obtained in the commercial fishery year-round could significantly enhance stock assessment accuracy.

Let me know if you have any questions.

Sincerely



Daniel J. McKiernan, Director

CC: Joseph Cimino, ASMFC Chair

Dr. Jonathan Hare, NEFSC

Dr. Christoher Moore, MAFMC Executive Director

Dr. Cate O'Keefe, NEFMC Executive Director

**Northeast Trawl Advisory Panel
Working Group Meeting**

Thursday, November 16, 2023

9:00 AM - 12:00 PM

Attendees: Andy Jones (NEFSC), Anna Mercer (NEFSC), Daniel Salerno (NTAP Co-Chair), Jessica Blaylock (NEFSC), Jim Gartland (MAFMC scientist), Jon Hare (NEFSC), Kathryn Ford (NEFSC), Nathan Keith (NEFSC), Peter Chase (NEFSC), Bobby Ruhle (ASMFC representative), Terry Alexander (MAFMC Stakeholder), Vito Giacalone (NEFMC Stakeholder), Tim Miller (NEFSC), Alex Dunn (NEFSC), Katie Burchard (NEFSC), Hannah Hart (MAFMC staff), Dave Goethel (NEFMC stakeholder), Sam Novello (NEFMC stakeholder), Jameson Gregg (Virginia Institute of Marine Science), Gareth Lawson (Conservation Law Foundation), Jerry Leeman (New England Fishermen Stewardship Association)

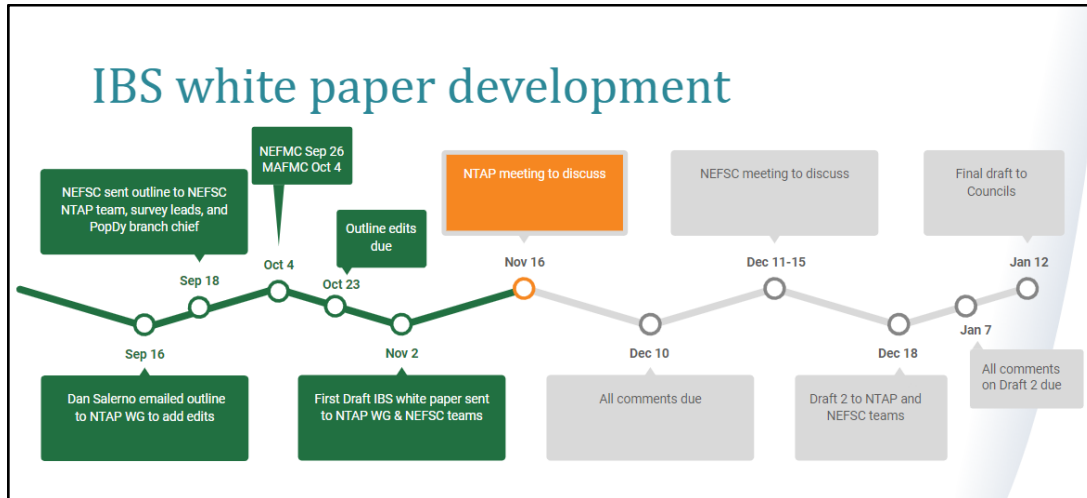
Purpose: Discuss the Industry-Based Survey white paper for a parallel, separate survey to the Bigelow survey and identify the approach to sampling, focusing on logistics.

Meeting minutes:

9:00-9:30 a.m. Welcome, Recap

- Dr. Hare and Mr. Salerno provided introductions:
 - The Northeast Fishery Science Center (NEFSC) recognizes the value of industry-based surveys and the value of cooperative/collaborative research and working with industry.
 - A complementary survey is still going to be a new survey, should be industry and scientist working together; requires trust & transparency.
 - Funding has not been identified:
 - Having a good solid plan proceeds the funding.
 - Once we put together a well thought out, solid collaborative plan we can seek the funding needed thereafter.
 - Jim Gartland: NEAMAP was built this way. Planned out two years prior to survey being funded.
- Dr. Ford went through a slide deck describing the timeline and actions of the working group, the connection of today's discussion to the Bigelow Contingency Plan and the councils' motions made at the September New England Fishery Management Council (NEFMC) and October Mid-Atlantic Fishery Management Council (MAFMC) meetings.
- Council Motions: Both the NEFMC and MAFMC, as well as the Atlantic States Marine Fisheries Commission (ASMFC) requested the NEFSC to develop a white paper to be submitted to both councils and the Commission by January 12, 2024, outlining an industry-based survey that is complementary to the spring and autumn Bottom Trawl Survey.
- The parallel industry-based survey is Bigelow Contingency Plan Option #4.
 - Still working on Pisces and NEFSC vessel options (Options #1 and #2).
- Meeting Goals:
 - Discuss the industry-based survey white paper for a parallel, separate survey to the Bigelow survey.
 - Identify the approach to sampling, focusing on logistics.
 - Other items: Update on progress for other contingency options.

- Timeline:



- Draft industry-based survey white paper:
 - Emailed to NTAP Working group on November 2, 2023. Working document in a google doc.
 - Advised to use suggesting mode (Google doc), track changes (Word), or make a list of changes working group members want to see.
 - Email or call Kathryn to get the Word version, a printed version, or discuss suggestions/edits.
 - Kathryn.Ford@noaa.gov
 - Kathryn's Phone#: 774-279-3695

9:30-11:30 a.m. Industry Based Survey (Dan Salerno & Kathryn Ford)

The presentation was broken into 3 major sections: background/program management, logistics, and gear. These were discussed in turn.

A. Background & program management

- Basic description of the proposed industry-based survey.
 - A multispecies trawl survey using industry boat(s).
 - Does not introduce survey redesign elements or calibration (keep it simple to start).
 - Same geographic range, seasons, strata, and station allocation as NEFSC survey.
 - Starting point is same gear as NEFSC survey.
 - Reduced biological sampling of catch.
 - Not calibrated to Bigelow, parallel separate survey from NEFSC survey.
 - Third-party operated as starting point BUT other options described in the draft & slide presented with those various options.

Discussion/Questions:

- It takes a long time to design a survey. Do we have time after the paper is submitted to dig in and tweak things? A: Yes. This gets us to a collaborative simple approach drafted together, including key recommendations for considering this option. **White paper should frame what the survey would look like and identify the important questions that would need to be answered.**

- As explained by the co-chair: the timeline of January 12 reflects enough time so the council receive the white paper and can distribute it before each council's first meeting in 2024 for discussion.
 - The more fleshed out the better.
 - What can we do that replicates as much of what is done on Bigelow knowing we are on an industry vessel that doesn't have the same capabilities?
- One person indicated that NEAMAP style program management is preferred at this point.
- The Chair of the Pacific Council offered to consult with us. We don't have to reinvent an industry-based survey, there are already examples. Some aspects of the west coast groundfish surveys that we should explore include:
 - They use less staff on board.
 - Well trained fishery observers process the catch.
 - Don't collect as much data as collected on the Bigelow.
 - Focused on size and age of population.
 - What do we do with the fish? Land? Or put back will affect the duration of time we can stay at sea.
- The inshore Cod industry-based survey in Maine is another good example of an industry-based survey that was used in the cod assessment.

B. Logistics

There were several major questions related to operational logistics and gear that were discussed in turn.

- Major questions/needs:
 - Logistics
 - i. 24-hour sampling vs. 12-hour sampling - what is the best approach?
 - ii. Vessel space, crew size, science crew size - how many people will fit? How do we adjust science to meet that cap?
 - What is the necessary science/samples needed- key elements needed to be collected.
 - How many people can we fit on the vessel?
 - Bring catch back to shore to be processed?
 - iii. What is needed in terms of geographic divisions? Can one boat cover whole extent, do we divide it into regions?
 - iv. What is the maximum depth possible? (the NEFSC extent is 200 fm/1,200 feet)
 - v. Will dockage be needed?
 - Gear
 - i. Proposal is to use same gear - are there details that should be discussed here (auto trawl or no, doors/sweep)

24 vs 12-hour sampling & crew sizes, discussion/questions:

There was a lengthy discussion about the value of nighttime sampling, other gear types, and logistical issues. Key recommendations were raised by multiple members: break the area into multiple regions and sample with different gear types in each region and increase the tow length to improve capture of larger, faster fish. The point was made that the further this survey gets from Bigelow standards, the less likely it can be a contingency for the Bigelow.

- NEAMAP has a 5-person science crew and samples daytime only. They know they don't capture horseshoe crabs well. North of SNE nighttime sampling becomes more important.

- Can do day/night sampling with a 12-hour day (noon-midnight, for example).
- Vessel crew can help with catch sorting and sampling.
- Hard to get to crew for 24-hour fishing.
- Survey region should be divided geographically - vessels sampling distinct regions at least south of Cape and north of Cape.
- Can we operationally correct for catchability? Is nighttime sampling/catch important?
 - Conversation ensued - consensus was that Gulf of Maine would have distinct differences between day and night catches (cod, haddock, pollock), so need to sample both; south of Cape maybe not as important. A geographical break in the survey might make sense; could consider different gear and sampling day.
 - A squid assessment does a diurnal calibration, don't think other finfish assessments do that. Sampling day/night keeps the survey consistent over time.
- Use multiple vessels that are operating over 12-hour days.
 - This is an important decision and drives costs. Should be determined with stock assessment scientists. (Another member felt NTAP should make the decision.)
- Consider increasing the tow length.
- Need methods that can be standardized over time and improve over time.
- One person recommended breaking up the area into more regions - 3 to 5 based on ecosystem considerations. Each region has its own survey design to focus on the species in the ecoregion.
- If we create a new survey without having solid ties to current survey protocols, the data will have to be stand alone and cannot be incorporated with any current time series. Any new survey data would not be able to be augmented during the Bigelow refit.

Geographic regions, discussion/questions:

The discussion favored multiple regions with multiple boats to cover the survey area. Existing survey allowances with Canada will likely be extendable to this survey.

Other costs, discussion/questions:

- Major costs are personnel and vessels. Everything else includes one-time costs and/or miscellaneous items that do not add up to much.
- One-time costs include nets and a set of doors per net. 3-meter doors are at least 30K per net.
- Would be difficult for industry to keep and maintain the gear in the off-season but storage options exist (typically outside).
- Don't forget the costs with maintaining electronic data entry systems.
 - Brief discussion of returning to paper - this was not supported by the group because there is so much value to real-time auditing (eliminating any mistakes as they occur), the time and error-prone nature of transcription, and the significantly quicker turnaround of digital data.
- Need to compare the effect of daylight only sampling on the budget.
- Mensuration systems are common; vessels likely already have the capacity to measure gear performance. Net mensuration systems can be portable using a towed hydrophone but towed hydrophone inferior to mounted. It's best to have these systems managed by the program and not individual vessels.
- 2 or 3 of the larger boats in the Mid Atlantic have auto trawl.
- Mapping the bottom to look for obstructions is important. Vessel would need an adequate mapping system on board.

- Discussion about water quality sampling and how to best accommodate it. Need at least temperature. Bongo tows were taken off the table to keep this survey more flexible; but this information is important.
- Need a list of what are the different components of sampling done on the Bigelow now. Put in order of what is most important for the NEFSC Population Dynamics Branch. Figure out where the cut-off is. Analytical and empirical assessments.
 - Weights and numbers regardless. Age structure critical for some assessments. Primary data collected. Maybe some maturity data is necessary.
 - Assess where we need to supplement versus redundant sampling.
 - How much of each species, lengths, individual weights and age are important data elements. [Include a table in the draft plan showing the minimum data requirements needed.](#)
 - Location, date, time, depth, net geometry, vessel speed over ground, heading, winch data and environmental data. [Mapping the bottom beforehand is not currently addressed in the white paper and should be added.](#)
- We cannot just use port sampling program and observer program data because they are from fishery dependent FDD sources vs fishery independent FID sources. Need data from both sources to account for different gear selectivity in using age structure data from both data sources.
- Weight/lengths are a must but may be able to scale back the sample density on hard parts for the initial implementation period unless a change of size at age is detected.
- Any new sampling program needs to have a tangible link between the Bigelow and inshore surveys. Possible for strata to overlap between current surveys before the Bigelow goes offline? Wouldn't that give you a data bridge to current time series as well as serve as an audit system for any new data sources?

C. Gear

- Starting point is NEFSC Bottom Trawl Survey gear:
 - 4-seam, 3-bridle box-net with rockhopper gear
 - Poly-Ice oval doors
 - Auto trawl
 - Same wire and vessel beam, draft, power each survey
 - What has to be reconsidered in an industry-based survey?

Gear, discussion/questions:

- Wire size and length were discussed in depth. Most industry vessels use $\frac{7}{8}$ " wire. It's not common for vessels to fish to 200 fm; the ability exists in the fleet but isn't typical. That requires ~700 fm wire which is on the high side.
 - Look at 160 fm as the maximum depth and see what is lost.
- There are boats in the fleet that can handle the depth, 24-hour sampling, and the larger science crew sizes, but they're expensive.
- Consider a regional component to gear. The ground gear itself could be a regional component.
- Some discussion on the value of standardizing gear - differing opinions about need to standardize all gear components, differing opinions about ability and success of integrating time series with different spatial and temporal extents. Confirm with the west coast how they standardize.

11:30-11:45 a.m. Gloria Michelle replacement & Pisces updates (Nathan Keith)

- Bigelow midlife September 2027 for a complete year.
- Pisces will fill in for 1.5 year. Fall of FY29.
- Realistically won't need Bigelow until Spring of FY2029.
- Bigelow goes into dry dock Fall of 2025 and have Pisces ready to conduct the 2026 Spring survey (March).
- Giving a two-year lag.
- Will provide a timeline and data points.

Discussion/Questions:

- Q: Would this detract from what the Pisces normally does? A: All work they typically do can go on other vessels
- Q: Is there enough time to get Pisces set up? A: The Pisces is currently in dry dock and we hope to address these winch issues- testing wire strength- updating auto trawl asap. Getting ready to go in fall of 2025 as a backup. Staffing has also been an identified issue that is being worked on.

11:45 a.m.-12:00 p.m. Summary and next steps (Kathryn Ford)

- Summary of key points:
 - Day/night sampling. For now, assume a 12-hour window using multiple vessels over a day/night period. Compare costs to that of a 24 hour sampling option.
 - Develop list of minimum biological sampling needed.
 - Will plan on 200 fm depth, but will recommend that we should examine how many stations we would lose over that 160 fathom depth.
 - Integrating surveys could be added as a recommendation.
- Specs for scallop survey have come out and are available. Next steps include issuing vessel specs.
- Next Steps:
 - December 10, 2023 - All comments to draft white paper due.
 - Week of Dec 11, 2023 - NEFSC meeting to discuss assessment and survey groups.
 - December 18, 2023 – Second white paper draft will be sent to the full NTAP, NEFSC teams, and west coast reviewers.
 - January 7, 2024 - All comments on second draft of the white paper are due.
 - January 12, 2024 - Final draft will be sent to the councils.

MEETING REPORT
COUNCIL COORDINATION COMMITTEE

October 11-13, 2023

Arlington, Virginia

The Council Coordination Committee (CCC) met October 11-13, 2023, in Arlington, Virginia. The meeting was chaired and hosted by the Gulf of Mexico Fishery Management Council. The following is a summary of presentations, discussions, and outcomes from the meeting. Briefing materials and presentations are available at <https://www.fisheries.noaa.gov/event/2023-october-council-coordination-committee-meeting>

October 11, 2023

NOAA Fisheries Updates & Priorities – Ms. Janet Coit / Ms. Kelly Denit

Ms. Kelly Denit provided a summary of the Advance Notice of Proposed Rulemaking (ANPR) to potentially update National Standards (NS) 4,8, and 9. The purpose of the ANPR was to evaluate if updates to the Guidelines for National Standards 4, 8, and 9 are necessary to improve federal fisheries management. Public engagement opportunities were held to gather input regarding the current guidelines and areas that might benefit from reconsideration or revision. Two major challenges were highlighted: climate-related impacts on fisheries and promoting equity and environmental justice (EEJ). Feedback indicated that changes to the National Standard Guidelines were unnecessary; however, some feedback supported changes to NS4 and NS9. Notably, there was opposition to changing the definition of fishing communities and concern was expressed about the effects of trawling. The National Oceanic and Atmospheric Administration (NOAA) Fisheries will continue reviewing the comments to determine if changes are appropriate and, if necessary, will draft a proposed rule for publication in spring 2024. This process would include further opportunities for comment and Council engagement, with an update planned for the May 2024 CCC meeting.

Ms. Janet Coit provided some opening remarks and welcomed new Council members. She discussed some significant personnel updates, such as Emily Menashes being appointed as the new Deputy Assistant Administrator for Operations at NOAA Fisheries and Dr. Charles Littnan taking the role of Science and Research Director for NOAA's Pacific Islands Fisheries Science Center. She also provided an update on recent events, including participation in National Fishing & Boating Week, the Western Pacific Council Meeting in American Samoa, Klamath River related discussions in California and Oregon, visits to Alaska Offices in Juneau and Anchorage, collaboration with Belugas Count! to commemorate the Endangered Species Act (ESA) 50th Anniversary, and involvement in Capitol Hill Oceans Week. She described plans to allocate approximately \$3 million among the eight Councils for climate-related fisheries management. Ms. Coit also touched upon the Inflation Reduction Act (IRA) Climate and Ecosystem Fisheries Initiative, the climate crisis, east coast scenario planning for climate change, offshore wind development, EEJ Strategy, Recreational Policy, and the National Seafood Strategy. She concluded her remarks noting that October is National Seafood Month.

Budget and 2024 Outlook – Mr. Brian Pawlak

Mr. Brian Pawlak gave a presentation on the NOAA Fisheries Budget and the outlook for 2024. He discussed the timeline, Council funding, FY24 status, and budget supplementals. Detailed Council and Commission funding was covered, which illustrated 2022 and 2023 enacted funding alongside the FY 2024 Presidential Budget and Senate Mark. The Presidential Budget requests a slight increase in funding for Councils in 2024 while the Senate flat-funds Regional Councils.

As part of the 2024 Fiscal Year, the National Marine Fisheries Service (NMFS) is transitioning to a new financial management system. The Business Applications Solution (BAS) conversion has required a blackout period that will range from October 1 through October 25. Use of the financial systems need to be at a minimal level during the transition period. The Grants Enterprise Management System (GEMS), which will be a system used by grantees (including Councils) is scheduled to go live in October. In order to facilitate continued Council operations during this time, Council financial representatives were authorized to drawdown funds to cover the month of October. Mr. Pawlak indicated that NOAA is planning to operate under a continuing resolution for the rest of the year.

A brief overview of the IRA funding was given. This overview discussed the plan for the remainder of FY2023 and the plan for 2024 through 2026. Most of the discussion surrounding IRA funding was deferred to the second day of the CCC meeting.

Mr. Pawlak covered the Congressional Appropriations Process, which indicated the Senate Commerce, Justice, Science and related Agencies (CJS) appropriations bill has passed, while a House CJS bill has not passed. The top-line message under the Senate Mark is that, while there are some increases in discretionary funding, these increases do not cover inflationary adjustments. The increases that are provided for in the Senate Mark cover several programmatic areas (Protected Resources, Fisheries Science and Management, Habitat Conservation). While a House Mark has not been passed, an early view of discussions within the House indicate that some aspects of funding within a House Mark would be substantially less in 2024 compared to FY23. In response to the uncertainty regarding future funding, NMFS is making plans to operate in a flat budget environment in 2024.

He provided a summary of supplemental funding to NOAA of approximately \$1.2 billion provided by NOAA as part of the IRA. This funding is dedicated to specific efforts, including \$20M for Councils' IRA funding. Thus far, funding has helped to advance habitat restoration efforts around the country and additional funding opportunities for habitat restoration are being provided.

NOAA Fisheries Science Update – Dr. Cisco Werner / Dr. Evan Howell

Dr. Cisco Warner and Dr. Evan Howell provided the NMFS science update. Topics included surveys, IRA funding, addressing “midlife repair periods” for vessels, and Marine Recreational Information Program (MRIP). In FY23, 70% of planned surveys were completed. The 2024 target is 1,500 survey days-at-sea across the 15 ‘white vessels.’ The intent of the IRA funding supported Climate, Ecosystem and Fisheries initiative is to build an end-to-end operational ocean

modeling and decision support system to help Councils plan for increasingly complex decision making. To support climate preparedness, NMFS has established a goal to provide climate related information and advice to all 6 NMFS regions by 2025/26. Data modernization efforts continue, along with a need to mitigate losses of at-sea survey capabilities. Many of NOAA's white vessels were launched between 2003-2012 and are reaching the end of their expected 20-year initial service period. Conducting "midlife repairs" on these vessels will cost approximately \$85 million per vessel and take 12-24 months per vessel. Schedule adjustments to vessels will be made to ensure coverage of planned surveys in the region where a vessel is offline during repairs.

The CCC is concerned with the impacts of budget cuts and inflation on the agency's ability to maintain basic survey and fisheries monitoring activities. All regions are experiencing reductions in basic scientific activities tied to increasing expenses and declining or stagnant budgets. Members of the CCC made several comments reiterating the importance of maintaining basic data collection capabilities, such as surveys and life history evaluations. Such activities are critical to addressing a changing climate and cannot be sacrificed for new technologies. It is also critical to manage vessel maintenance to prevent loss of survey capability. This should include making greater use of industry vessels. The agency agreed with the importance of basic foundational information and noted that conducting projections based on conditions that no longer exist will not strengthen decision making.

An improvement study will begin in 2024 to further evaluate the potential for bias recently acknowledged in the MRIP Fishery Effort Survey (FES). Communication and coordination will continue with Councils to identify actions that can be taken while the survey is conducted. Work will also continue on expanding Federal-State partnerships for recreational data collection.

There was discussion on plans for keeping stakeholders informed about the process for addressing the potential MRIP survey bias and the impact of biased estimates on management actions. Councils are struggling to answer stakeholder concerns. NMFS responded that communication plans should be developed cooperatively with Councils and Regions, and the MRIP program is available to assist.

Clarification was requested on a process for providing feedback on IRA Climate Ready Fisheries spend plans. No formal process is in place. Councils were advised to provide feedback through regional pathways.

Legislative Outlook – Mr. David Whaley

Dave Whaley provided an update on legislative activities and committees involved in fisheries management legislation. There are two draft Magnuson-Stevens bill updates in preparation. Other topics of interest that may be addressed in future legislation include aquaculture, offshore wind, endangered whales, establishing NOAA as an independent agency, and changing endangered species responsibilities.

A continuing resolution was passed to fund the federal government through November 17, and the Speaker of the House was voted out. The House is unable to act on legislation until a new

speaker is selected. Only 4 of 12 appropriation bills have been passed by the house. Delays could make it challenging to complete the remaining appropriation bills by the Nov 17 deadline, potentially again threatening a shut down. There is also an automatic 1% cut in the budget if a continuing resolution is in effect on December 31.

There was discussion on recent hearings related to monuments and wind energy. Next steps resulting from these hearings are not clear at this time. The CCC continues to support addressing fisheries protection through the Magnuson-Stevens Act.

October 12, 2023

NOAA Fisheries Policy regarding Governance (MSA304(f)) – Ms. Kelly Denit

Ms. Kelly Denit provided an update on recent activities related to the draft NMFS procedural directive titled “Guidance on Council Authority for Preparing Fishery Management Plans for Stocks that May Extend across the Geographic Areas of more than one Council, pursuant to MSA §304(f).” The draft procedural directive, which has also been referred to as the Climate Governance Policy, was first presented to the CCC in May 2023. In the intervening months, NMFS held one public webinar and gave a presentation to the New England Council at their September 2023 meeting. NMFS is accepting comments until November 17, 2023, with a goal of finalizing and implementing the procedural directive in Summer 2024.

Dr. Chris Moore (MAFMC) noted that the CCC recently submitted a [joint comment letter](#) outlining a number of concerns about the draft policy. He stated that the MAFMC is currently developing a separate letter which will incorporate [comments](#) from the Mid-Atlantic Council’s Scientific and Statistical Committee. Dr. Moore provided an overview of the Mid-Atlantic Council’s primary concerns with the policy. He then provided an overview of the CCC concerns outlined in the recent letter. The CCC agrees with the need for transparency and forward-thinking in our collective efforts to address climate-related governance issues. However, as described in the joint CCC letter, the draft “climate governance policy” developed by NOAA Fisheries has a number of serious flaws that need to be addressed before any guidance is finalized and implemented. The CCC then approved a motion recommending that NOAA Fisheries engage the Councils and CCC on development of a revised version of the policy directive to effectively address cross-jurisdictional fisheries governance issues.

Motion: Recommend that NOAA Fisheries engage the Councils and CCC to develop a revised version of the policy directive to effectively address cross-jurisdictional fisheries governance issues.

Inflation Reduction Act (IRA) Climate-Ready Fisheries Council Funding Priorities and Process – Ms. Kelly Denit

Ms. Kelly Denit (NOAA Fisheries) provided an update on plans for distributing the \$20M of Climate-Ready Fisheries IRA funds to the Councils. NMFS has made some modifications to the proposed process in response to Council concerns, but also must adhere to certain requirements for execution of the funds. The first \$3M will be distributed equally among the Councils. The Councils will apply for these funds through an initial “umbrella” grant, which will provide a

mechanism through which additional funds can be added to the grants at a later point to distribute the remaining \$17M.

These additional funds will be distributed to the Councils based on NMFS review of project proposals from each Council. Ms. Denit provided an overview of the project proposal template for submission of Council proposals. NMFS will review project proposals and make funding determinations after considering alignment with stated IRA funding priorities, geographic distribution of funding, and cross-Council collaboration.

The timeline of this process remains uncertain, but Councils will soon be asked to respond to a Request for Applications (RFA) to apply for the initial umbrella funds. It is anticipated that the initial funding will be available to the Councils in early 2024. Project proposals for additional funding will be due at the end of January 2024, with distribution of funds expected in the spring. The project proposal process is expected to repeat in FY2025, if needed, to allow for submission of additional proposals that Councils may not be able to develop in the limited time frame. All funds must be obligated by the end of FY2026.

The Regional Management Councils (RMC) directors requested modifications to the *Template for Council RFA Proposals in FY24*. Track changes were provided to Ms. Denit from RMC directors and she will aim to incorporate those within the requested two-week timeframe.

CCC Subcommittee Updates

Climate Workgroup – Mr. Ryan Rindone

Mr. Ryan Rindone (GMFMC staff) presented a handout compiled by the CCC's Climate Change Workgroup (CCWG) to solicit feedback on draft questions for review and input across all SSCs and Councils. The CCWG's purpose is to develop a common understanding and voice among the Councils on current capacity, future needs, and fishery management designs that can respond to climate change, while assisting the regional Councils in coordinating with NOAA on a response to the Ocean Climate Action Plan, and specifically climate-ready fisheries. The CCWG's first step is to provide an overview and common understanding of climate capacity and needs across all Councils, and asked for feedback on the proposed survey questions listed in the handout.

Mr. Bill Tweit (NPFMC) was concerned about the CCWG's timeframe for operations, which was laid out by the CCC before the timelines associated with IRA funding were known. He thought the CCC should delay the CCWG timeframe, to allow the Councils to work towards their individual IRA funding proposals for their respective climate goals. Mr. Tweit recommended giving the Council Executive Directors, collectively, the discretion to determine what the timelines should be for the individual CCWG tasks, and on the timing of information exchange and collaboration. Executive Directors Dr. Cate O'Keefe (NEFMC), Dr. Chris Moore (MAFMC), and Dr. Carrie Simmons (GMFMC) all agreed. Dr. Simmons also asked about science needs to support adaptation, and about moving forward with the proposed survey specific to regional Councils' science needs in relation to anticipated IRA Climate Resilience Funding. She asked Dr. Cisco Werner (NOAA Headquarters) whether pulling this section of the

survey out and moving forward with it separately would be useful for helping the Councils in submitting proposals for IRA Climate Resilience funding and better inform NOAA Fisheries regional uses for the Data Acquisition and Management pot of IRA funding. Dr. Werner replied that he thought addressing science needs to support climate adaptation was appropriate, and stated that the agency is expecting the data collection to occur within about a two-year time period. He said that the associated follow-up work would be expected to be completed within 5 years. Ms. Kelly Denit added that the Councils should be engaging with their respective regional offices on their IRA proposals, to better understand what support could be provided to the Councils to address their goals and needs. With respect to science needs to support adaptation, the agency would benefit from feedback from the Councils, and not just on what data the Councils have had available in the past, but also what will be needed in the future.

Endangered Species Act – Magnuson-Stevens Act (ESA – MSA) – Sam Rauch

Mr. Sam Rauch, NMFS, reported on the takeaways from the regional meetings with Sustainable Fisheries, Protected Resources, and Council staff, and response to key CCC ESA Working Group's redline edits to the ESA Policy Directive (PD) 01-117 to integrate ESA Section 7 with MSA. NMFS Headquarters worked with the regional offices and Councils to get a clear picture of how the Policy Directive is working in practice within each region and to share lessons learned. Mr. Rauch reported that through these regional meetings, the Councils highlighted the importance of early coordination, which is happening in all regions, but at varying levels, and there is greater interest across the board for greater involvement. There is a workload issue in every region, and there is a need to balance commitment between early coordination and workload. There is also interest in setting clear expectations of how Councils will engage with NMFS. Mr. Rauch noted that the Policy Directive does set out a strong statement that NOAA intends to engage with the Councils, and NMFS believes the Councils are a partner in the consultation process and would like to involve the Councils, but there are limits. Some regions have used liaisons to improve coordination and develop work products. Development of integration agreements has improved coordination and set expectations on engagement in some regions.

Mr. Rauch described the CCC's redline edits and noted that NMFS has been considering the edits in the context of the regional meetings. NMFS did not have a draft policy to share at this meeting, and is trying to take their time and be iterative. Regarding the CCC redline edits on working in close coordination throughout the Council process to address impacts, rather than relying on after-the-fact reasonable prudent measures (RPM) and reasonable and prudent alternatives (RPA) resulting from consultations, Mr. Rauch acknowledged that the Councils take a proactive approach in avoiding impacts and that it can be disruptive when NMFS finds late in the Section 7 consultation process that more needs to be done. NMFS wants to work with the Councils on those actions ahead of time that might avoid the need for a more prescriptive process at the end of the consultations.

In response to the CCC redline edits on early coordination for developing RPMs and associated Terms and Conditions (T&C), Mr. Rauch stated there should never be an RPM or T&C that requires Council action because RPMs can only be a minor change (i.e., cannot alter the basic design, location, scope, duration or timing of the action). Mr. Rauch acknowledged that NMFS

in the past has included RPMs that required the Councils to change the management of the fishery, and NMFS is proposing to remove this CCC redline edit pertaining to the RPMs and instead make it clear in the PD that anything that would require the Council to act will not be more than a minor change. If NMFS finds jeopardy during the consultation process, meaning that the status quo management is having such a significant impact that the status quo needs to change, NMFS should be working with the Council on those management changes as part of the RPA development. However, consultation timelines may not allow for the time it takes for the Council to undertake an FMP amendment at that time, in which case NMFS may take Secretarial action to temporarily fill the gap. NMFS intends to spell out in the PD how they would like to incorporate Councils in those processes, and where NMFS may not be able to do so due to timing constraints.

Regarding CCC redline edits on sharing of drafts, Mr. Rauch clarified that NMFS can share the full draft BiOp if it has been internally cleared for public release, but sharing sections without the full draft would be limited to clarifying the proposed action or to discuss whether draft RPAs are feasible to do through an FMP amendment and the timing of the amendment. Mr. Rauch also stated that NMFS is interested in coordinating timeframes, but NMFS would not be able to have an integrated timeline with the Council process when consultations are non-discretionary or mandatory (e.g., if ITS is exceeded and triggers consultation; court ordered timelines). Mr. Rauch also noted that it will be difficult for NMFS to include a dispute resolution process, and NMFS also cannot accept the redline edits that would require the consulting agency to communicate with the Council if the Council has requested involvement, as NMFS may not always be able to do so.

NMFS will take the input to date and will be making changes to the PD to include these concepts, and clearly articulate how coordination works in the scenario in which consultation is triggered external to the Council process. Changes will also address training opportunities for both NMFS and the Council. The PD changes will also include edits to the glossary, emphasize importance of pre-consultation assistance to avoid jeopardy determinations, and clarify what can and cannot be shared. NMFS is working on the revisions, and intends to meet with the CCC ESA Working Group directly, and bring back a robust draft policy at the spring 2024 CCC meeting. Mr. Rauch indicated they intend to have the draft before the CCC meeting to allow for review. NMFS is also in the process of revising Section 7 programmatic regulations with the US Fish and Wildlife Service, and plans to present that to the CCC once finalized. NMFS will also consider development of the regional integration agreements where they currently do not exist to identify key points of contact.

Integration Policy Update and CCC ESA-MSA Workgroup – Kitty Simonds

Ms. Kitty Simonds, Executive Director WPFMC, provided an update from the CCC ESA Working Group formed at the May 2022 CCC meeting and tasked to consider potential changes to the ESA Policy Directive addressing issues identified by the CCC through the May 2021 and January 2022 meetings. Ms. Simonds recapped the CCC's characterization of the redline changes to the Policy Directive, and emphasized importance of early Council involvement and coordination to ensure development of practical and effective measures through a transparent stakeholder-based process that takes MSA National Standards into account. Since the May 2023

CCC meeting, the remaining four Councils had their regional meetings. The regional meetings continued to highlight the importance of working through the Council process to address ESA issues and the importance of early coordination on Section 7 consultations, as these have been at the root of the challenges Councils have experienced in recent consultations. Overall, the Working Group did not see any new significant issues identified through the regional meetings, and reiterates the importance of addressing the CCC redline changes.

The Working Group reconvened on October 6, 2023, to review Mr. Rauch's presentation, which was made available two days prior. Without a companion document, the Working Group found it difficult to evaluate whether NMFS' proposed changes were consistent with the intent of the CCC's redline version. The Working Group was also disappointed that a timeline on next steps was not made available in advance. The Working Group suggested that the CCC work with NMFS to develop a clear timeline for next steps. The Working Group also requested a meeting with NMFS Headquarters staff to discuss the draft changes to the Policy Directive prior to NMFS completing the revisions with regions and General Counsel. The Working Group additionally suggested that any Section 7 consultation training should occur after changes to the Policy Directive are approved so that the near-term priority is to agree on the changes.

Mr. Rauch reiterated that the goal is to review the draft Policy Directive at the May 2024 CCC meeting, and NMFS does want to meet with the Working Group at this stage. Tanya Dobrzynski, NMFS' New Chief of the Endangered Species Interagency Cooperation Division, will work closely on the Policy Directive revision.

Motion: The CCC requests that NMFS meet with the Working Group as soon as possible to discuss the current draft change to the policy directive prior to NMFS completing the revisions with regions and General Counsel. The CCC further requests that NMFS work with the Working Group to develop a draft revised policy directive for CCC's endorsement at the May 2024 meeting.

Motion carried without opposition.

CCC Subcommittee Updates (cont.)

Habitat Workgroup – Dr. Lisa Hollensead

Dr. Lisa Hollensead (GMFMC), the Habitat Workgroup chair, provided an update to the CCC about logistics and session objectives for an in-person meeting scheduled for January 17-18, 2024, in La Jolla, California. The two-day meeting will include discussions on topics broadly related to climate change effects on habitat management: habitat science available, climate challenges in essential fish habitat designations and consultations, and habitat/climate scenario planning. Several workgroup members have volunteered to lead, organize, and report out on the specific meeting session topics. The Habitat Working Group reached a consensus on the agenda outline at its September meeting and will finalize the meeting agenda during their November meeting.

Communications Workgroup – Ms. Emily Muehlstein

Ms. Emily Muehlstein (GMFMC staff) presented an in-person meeting proposal for the Council Communications Group in 2024. During the May 2023 CCC meeting, the CCC directed the Communications Group to plan an in-person meeting and seek approval of proposed discussion items during this meeting. Ms. Muehlstein reviewed a list of potential meeting topics that reflects both the Communications' Group suggestions and CCC recommendations from the May 2023 CCC meeting. Planning for the 50th Anniversary of Regional Fisheries Management Councils, development of CCC hosting guidance materials, professional development for group members, and handling CMOD and archiving Fishery Forum materials were all presented as potential meeting topics.

The CCC supports hosting an in-person meeting of its Communications Group and prioritized planning the Regional Fishery Management Council 50th Anniversary celebrations and creation of guidance materials for hosting the CCC. The CCC also supported the group's desire to engage in professional development and suggested that the Councils could split the cost of doing so. The CCC suggested that the group consider adding an agenda item on how to improve EEJ engagement across Council communications efforts.

Council Members Ongoing Development (CMOD) – Mr. David Witherell / Mr. Bill Tweit

The CCC **approved** the steering committee's proposal for the next Council Member Ongoing Development (CMOD) workshop. The theme will be "Adapting Council risk policies through operational changes to harvest control rules" that links directly with the operationalization of outcomes from SCS8 to be held in 2024. In addition to advancing the theme, CMOD would include a skills training session on "Effective communication of complex fishery management actions from Council members to stakeholders." Regarding workshop financing, there will be shared costs of about \$115,000 to cover the meeting venue, facilitator contract, and invited non-federal presenters. NMFS has already committed to providing half (\$57,500) of the funding, with the remaining costs shared equally among the 8 Councils. In addition, each Council and NMFS will fund travel for their own participants (4 per Council, 10 NMFS).

The NPFMC staff will provide administrative and logistic support for CMOD. The CCC indicated that the proposed meeting venue of Vancouver, Washington would be acceptable, as this location is right by the Portland, Oregon airport. Possible dates for CMOD were offered up for consideration: April 21-25, 2025, or April 28 - May 2, 2025.

EEJ Workgroup – Mr. Miguel Rolon

The CCC decided to activate the EEJ Subcommittee and start the coordination for a national workshop on EEJ to be held in 2025 or 2026. The EEJ Workgroup will look at the regional strategy plans from each NMFS Region that should all be completed by the first quarter of 2024, among other documents to prepare are a list of topics, agencies, and groups that should be invited to the workshop, as well as identification of sources of funds, among others. CFMC will be responsible for hosting the first and follow up meetings as soon as possible to begin work.

The topic of the EDF National Workshop that is being planned for Spring 2024 was presented. Members of all Councils are encouraged to participate to acquire knowledge on topics and best practices that could be used for actions at the Council and regional levels, as well as assisting in the preparation of the CCC EEJ National Workshop.

Process for Establishing Fishing Regulations in Sanctuaries – Mr. John Armor

Mr. John Armor (National Marine Sanctuaries) gave a presentation on “Fishing Regulations in National Marine Sanctuaries.” The core portion of the presentation addressed the process for developing fishing regulations, including existing regulatory language and a flow-diagram outlining how Council decisions regarding fishing regulations within Sanctuary waters would be considered by NOAA. The 2008 guidance (Appendix A) indicating how Regional Fishery Management Councils (RFMC) input should be received by NOAA was addressed, and Mr. Armor indicated that this guidance needs to be updated.

Questions arose regarding the timeline and process for Sanctuary and RFMC interaction when a Sanctuary designation is being considered. Mr. Armor indicated that input from the RFMCs is welcome and that the Sanctuaries are open and appreciative of ideas and suggestions for improving the process. Further discussion considered the specific role that Councils could play in helping to update the guidance and flowchart describing how fishing regulations within Sanctuaries should be developed. Mr. Armor and the Councils agreed that Councils should be afforded an opportunity to weigh in directly as guidance is updated. To ensure Council input is made into the revised guidance and flowchart, Mr. Armor will work with the Council Executive Directors to gather Council input.

Additional conversation covered the impression of some RFMCs that timelines for Sanctuary development and fishing regulations have been compressed compared to past practice. Other questions centered around the number of touch points for Sanctuary and Council interaction. It was suggested that there be more than one opportunity for Sanctuary/Council consultation. The first step in a consultation with the Council should occur during the early stages of Sanctuary designation where Councils could consider whether additional fishing regulations appear necessary to help meet Sanctuary objectives, and a second stage should occur if NMFS determines fishing regulations are necessary.

Representatives of the Western Pacific Council spoke of their history of fisheries, especially in American Samoa, and the importance of fisheries to local economies, culture, and the well-being of people. Significant concern exists surrounding a potential new Sanctuary around American Samoa and the effects it will have on the fishing economy—the economic backbone of American Samoa.

CCC Subcommittee Updates (*cont.*)

Area-Based Management – Ms. Michelle Bachman

Ms. Michelle Bachman (NEFMC) a subcommittee member, provided an update for the Area-Based Management Subcommittee. Following the May 2023 CCC meeting, the subcommittee

worked with GMFMC staff and CCC members to prepare a [press release](#) sharing the subcommittee's report. A core group of subcommittee members worked over the summer to finalize a manuscript for submission to a peer-reviewed journal. All co-authors were invited to revise the text. Submission to *Marine Fisheries Review* is planned for October pending final checks on the detailed conservation area tables in the paper.

The NEFMC, working on behalf of the subcommittee, executed a contract extension with Pacific States Marine Fisheries Commission to develop an Arc GIS online experience builder application, as recommended by the CCC. A draft application has been prepared by PSMFC staff and shared with the subcommittee for review. Ms. Bachman shared a demonstration of the application, including: 1) a homepage with project overview and basic methods, 2) a national results summary, 3) an interactive web map, 4) tabs that provide an area management overview for each region, and 5) a collection of links and resources for further information. The content for the application is adapted from the report and manuscript. The application will be disseminated widely, when complete, near the end of October 2023.

The CCC thanked the Area-Based Management subcommittee, specifically Ms. Michelle Bachman of the NEFMC and Ms. Jessica Coakley of the MAFMC.

8th Scientific Coordination Subcommittee Meeting – Cate O’Keefe

Dr. Cate O’Keefe, Executive Director of the New England Council, provided an update on the plans for the 8th Scientific Coordination Subcommittee meeting on behalf of Dr. Lisa Kerr, Chair of the NEFMC SSC and SCS Steering Committee. The meeting is scheduled to take place at the Seaport Hotel in the historic Seaport District of Boston, Massachusetts on August 26-28, 2024. The meeting theme is “Applying ABC control rules in a changing environment” with several sub-themes under development by the subcommittee, including: 1) what can be learned from previously applied management responses, 2) use of social science to understanding how fishing communities can adapt to dynamic conditions, 3) use of alternative indicators, and 4) identification of directional change in productivity and distribution to inform stock status determination criteria. The workshop structure is in development to include keynote speakers, “round robin” sessions, case studies, breakout sessions, and a plenary synthesis. The NEFMC, working on behalf of the subcommittee, is developing a budget to include travel expenses for up to four attendees from each region in addition to NOAA Fisheries staff and additional Council members.

Following the May 2023 CCC meeting, the subcommittee identified approaches to address the CCC’s recommendation to share workshop conclusions more broadly and make SCS recommendations more actionable. The subcommittee proposed efforts in advance of the workshop to increase engagement of regional SSCs by seeking input beyond the subcommittee representatives, assign attendees with preparatory work to familiarize topics and support plenary discussion, and plan time for regional discussion of final outcomes at SSC and Council meetings. Additionally, they recommended allotting time for synthesis during the meeting so that post-workshop follow-up can occur in a timelier manner. The subcommittee expects that regional SSCs and Councils will make efforts to proactively present results and conclusions and encourage continued discussions for applications of workshop recommendations.

The CCC encouraged Council members from all regions to attend the meeting, possibly in a passive role to allow in-depth discussion by the SCS. They also suggested coordination with NOAA Fisheries and leveraging NOAA's public outreach abilities to disseminate workshop outcomes.

October 13, 2023

Overview of the Fiscal Responsibility Act, (P.L. 118-5) and CEQs Proposed NEPA Regulations - Katie Renshaw / Sam Rauch

Ms. Katie Renshaw (NOAA NEPA Coordinator) discussed recent and proposed regulatory revisions to the National Environmental Policy Act (NEPA). Phase 1 NEPA revisions were made in 2022 which resulted in minor modifications to existing regulations. CEQ has been working on Phase 2 revisions with a proposed rule published July 31, 2023. The proposed rule included statutory revisions of the Fiscal Responsibility Act (FRA) of 2023 that included amendments to NEPA. FRA changed the threshold determination to determine if NEPA applies to a specific action. The FRA also included maximum time limits for Environmental Assessments (EA) (1 year from agency determination of EA being prepared to FONSI, and 2 years for an EIS ending with the ROD). The time limits can be extended by the lead agency, on a project-by-project basis. Page limits were also set by the FRA (75 pages for an EA, 150 pages for EIS unless complex then 300 pages; not including appendices). There is no process to allow for waivers. Both the FRA and proposed regulations revised how categorical exclusions can be used.

The proposed rule includes revisions to public comment and requirements for mitigated Finding of No Significant Impact (FONSI) in EAs. For Environmental Impact Statements (EIS), revisions may require agencies to integrate climate change and environmental justice, which must be considered. Other new requirements include new or modified provisions for alternatives, the limitations on use of incomplete or unavailable information, and best available science requirements. Other EIS requirements include requiring the lead agency to identify an environmentally preferable alternative, identification numbers for EAs and EISs, website information, and other changes and requirements. There are also new provisions for programmatic environmental documents, including a requirement that agencies ensure the programmatic document is still valid if older than 5 years. Other proposed changes were discussed. Agencies will have 12 months from the effective date to propose updates to their NEPA procedures.

Mr. Sam Rauch provided a discussion of how the agency will approach making these changes. NEPA has been integrated into the Council process to provide full information to the Council and public. This integration of the Magnuson-Stevens Act (MSA) and NEPA makes the public engagement process and information process streamlined. Unfortunately, it will be difficult if not impossible to continue to use integrated documents due to the timelines. Almost every action a Council initiates takes longer than a year to complete so it is difficult to align timelines with the new requirements. NOAA Fisheries may need to separate the Council MSA and NEPA process, but that is clearly not ideal. Mainly, the CCC needs to grapple with "When does the NEPA

process start?” Integrated NEPA and MSA amendments have worked well for the Councils, but the CCC will likely need to unwind the existing procedures to separate out the NEPA portion. NEPA and Council public comment are two different processes. Furthermore, NMFS will need to revise terminology and methodology for discussing climate change and environmental justice. The NEPA document is the Secretary of Commerce (SOC) document, which may need to start AFTER the Council process. One possible work-around is to develop a “NEPA-like” document for use in the Council process that would have a different name. Mr. Rauch suggested that the agency work with Councils on rethinking this, perhaps using a NEPA CCC subgroup to work through these issues.

The CCC discussed several issues, including who gets to determine extension of the deadline (Answer: the agency). Note that the agency has to report annually to Congress and the House Natural Resource Committee on every determination. Thus, there may be some reluctance to allow extensions. However, Ms. Renshaw thought that so long as there is a good rationale, then the reporting requirement may not inhibit approval of an extension. There was also discussion about the use of Programmatic Supplementary Environmental Impact Statements (PSEIS), which Mr. Rauch noted can be very useful, but the deadlines still apply to these types of planning and programmatic documents.

Motion: To form a CCC-NEPA working group.

Motion carried without opposition.

This working group will work closely with the agency in developing revised procedures. Composition of the workgroup would depend on resources and interest from the different Councils, noting that there doesn’t need to be representation from each Council. The expectation is that the workgroup will report back in May 2024.

Wrap Up and Other Business

No other business was brought before the Committee. Mr. Kevin Anson reviewed the Actions and Outcomes from each day of the meeting. Motions were provided in the presentation. No feedback was offered on the wrap-up.

The CCC discussed that next meetings will be held May 21-24, 2024 in San Juan, Puerto Rico and October 16-17, 2024 in Washington, D.C.

Appendix A.

This appendix was provided by Mr. Armor after the meeting concluded.

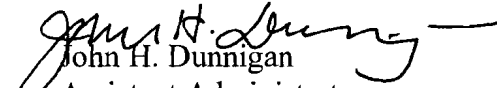


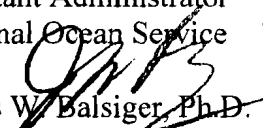
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

JUL 30 2008

MEMORANDUM FOR: Regional Fishery Management Council Chairs
National Marine Sanctuary Advisory Council Chairs

FROM:


John H. Dunnigan
Assistant Administrator
National Ocean Service


James W. Balsiger, Ph.D.
Acting Assistant Administrator
National Marine Fisheries Service

As you know, past NOAA actions have highlighted the opportunity for improved coordination and collaboration concerning the promulgation of fishing regulations in our Nation's marine sanctuaries. The National Marine Sanctuaries Act (NMSA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA) are both important pieces of marine resource legislation administered by NOAA.

The attached flowchart graphically traces NMSA and MSA regulatory actions from initial concept to promulgation to clarify the role of Regional Fishery Management Councils, Sanctuary Advisory Councils, Treaty Tribes, National Marine Fisheries Service (NMFS) and the National Marine Sanctuary Program (NMSP) in this process.

As you may recall, this document was presented to you for comment on January 6, 2006. Since then, a working group of NOAA staff from NMSP and NMFS as well as attorneys from the General Counsel for Fisheries and the General Counsel for the Ocean Service, both from headquarters and the field, met to address your comments. Each comment was considered and a consensus was reached regarding the appropriate action to take. Subsequently, changes were made to the document and the final Flowchart updated version was agreed upon by NMFS and NMSP and is enclosed with this package.

Thank you very much for your continued participation in the conservation and management of our Nation's marine resources. We look forward to continuing to work with you to ensure the health of the ocean and coastal ecosystems for the benefit of future generations.



**NOAA'S REGULATION OF FISHING IN NATIONAL MARINE
SANCTUARIES**

JULY, 2008

This document describes how NOAA will administer the regulation of fishing in National Marine Sanctuaries as mandated by the National Marine Sanctuaries Act and the Magnuson-Stevens Fishery Conservation and Management Act. The regulatory processes under each authority are described in flowcharts followed by detailed text with emphasis on new efforts at integration indicated by italics.

Executive Summary

This document details how NOAA will administer the regulation of fishing in National Marine Sanctuaries as mandated by the National Marine Sanctuaries Act (NMSA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The regulatory processes under each act are described in flowcharts followed by detailed text with emphasis on new efforts at integration, collaboration and communication.

Parties involved in the processes:

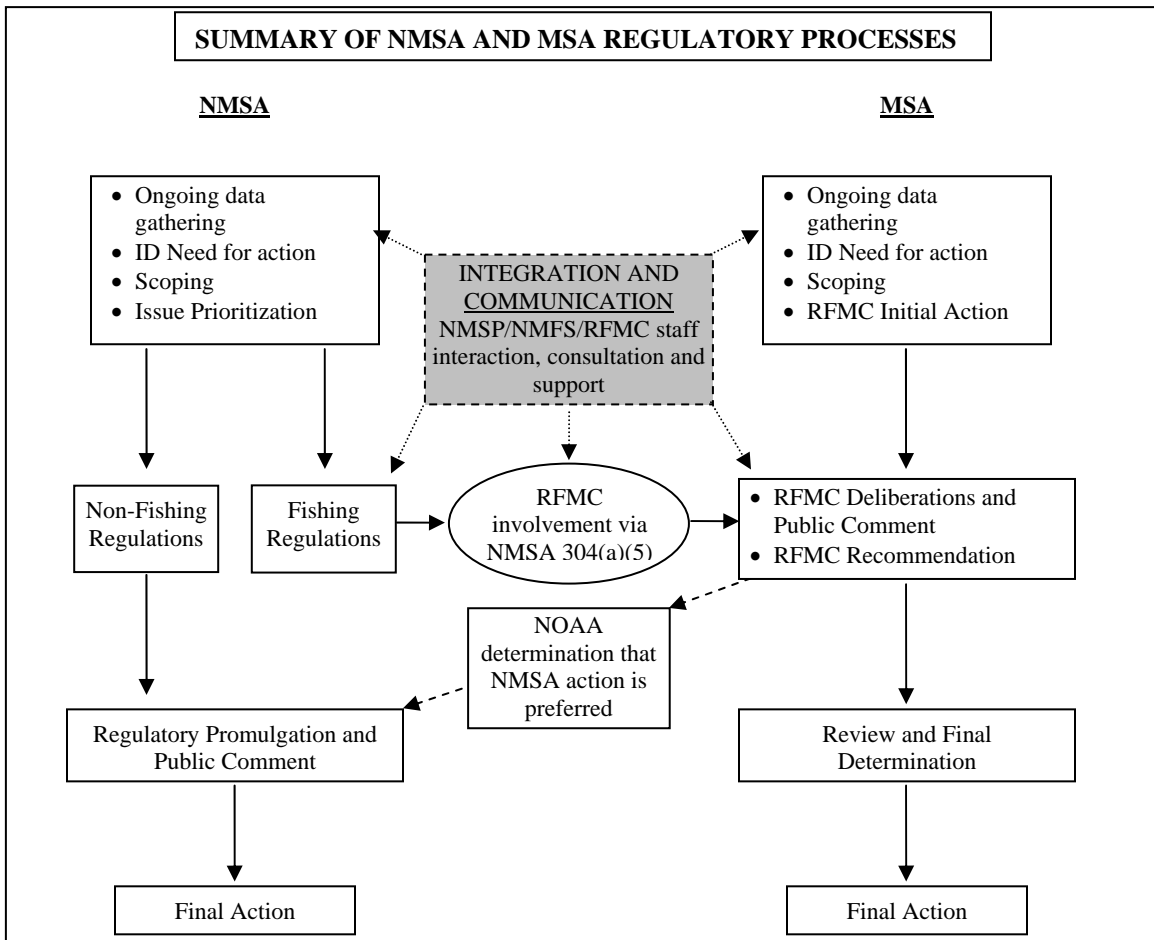
Primary Statutory Participants: NOAA National Marine Sanctuary Program (NMSP)
 Sanctuary Advisory Councils
 NOAA National Marine Fisheries Service (NMFS)
 Regional Fishery Management Councils (RFMC)

Government to

Government consultations: Federally recognized Indian Tribes

Public input/consultations:

States
 Other Federal Agencies
 Interested parties



Major Sections:

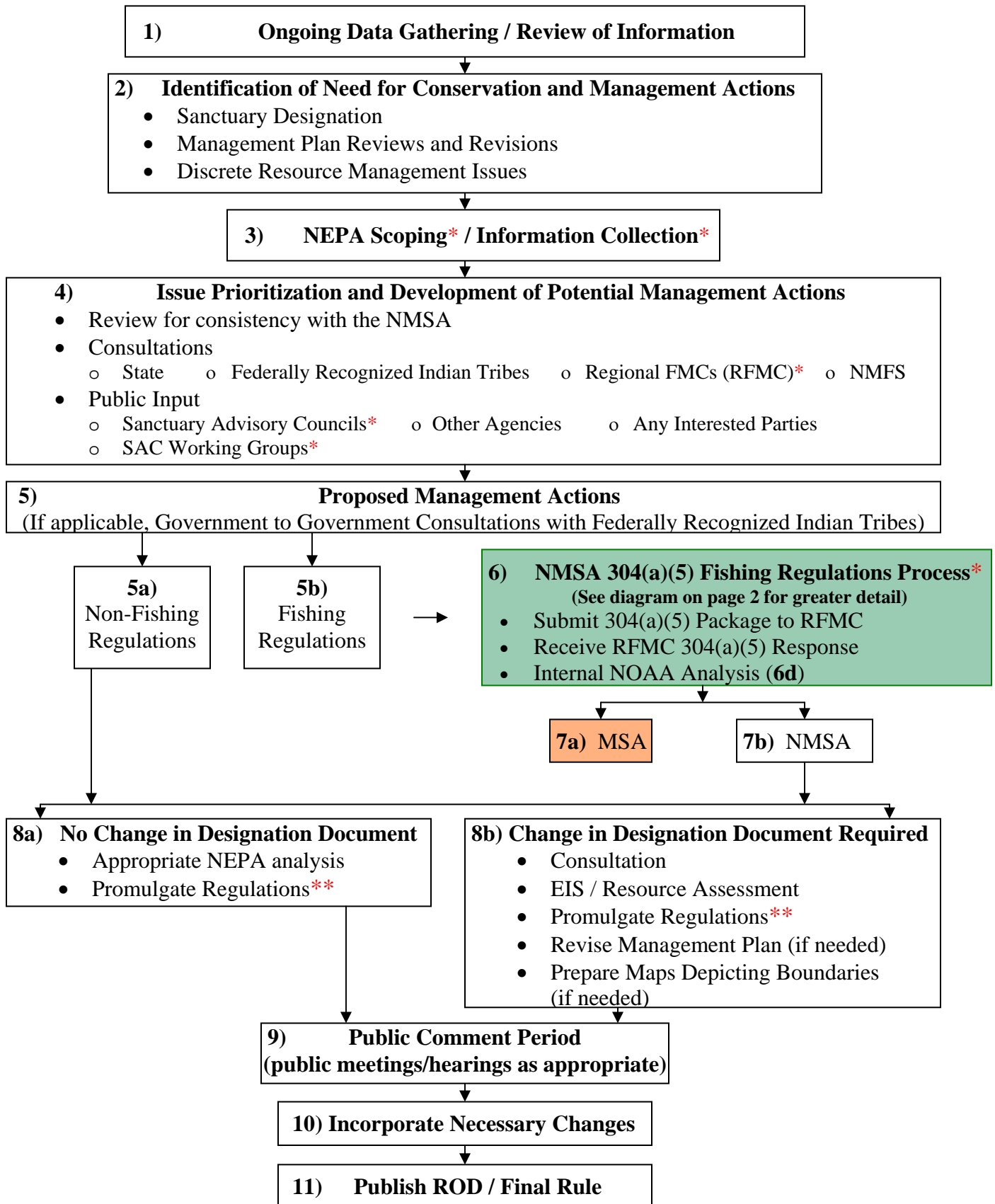
1. pp. 1-8. Flowchart and text describing the National Marine Sanctuaries Act regulatory process for addressing issues in National Marine Sanctuaries, with emphasis on the process for addressing fishing issues from initial concept through implementation.
2. pp. 9-13. Flowchart and text describing the Magnuson-Stevens Act Regulatory process. The flowchart and text traces a fishery management action under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) from initial concept through implementation.

Integration and Communication:

Overall, this document describes the efforts to improve coordination and communication among NMFS, NMSP and RFMCs. The document highlights opportunities for increased coordination, most of which are described below.

1. Frontloading - The first step in each flowchart is entitled, "Ongoing Data Gathering / Review of Information." This describes the concept of communicating in an ongoing fashion between NMFS, NMSP and RFMCs with respect to issues that may arise in a National Marine Sanctuary regarding fishing or issues that may arise before a Regional Fishery Management Council that may affect NMSP resources or sites.
2. Scoping - The third step in each flowchart includes this phase. NMSP will expressly notify and include personnel from NMFS and RFMCs in developing Goals and Objectives for NMSP action where fishing issues exist. RFMCs will expressly notify and include personnel from NMSP in Fishery Management Action Teams, which develop Action plans for fishing issues.
3. Action Development - NMFS/RFMC staff will invite NMSP staff to attend and participate at standing or specially appointed committee meetings regarding potential fishery management considerations that may affect sanctuary resources. Sanctuary Advisory Councils, which are established under the National Marine Sanctuaries Act, often include NMFS or RFMC members.
4. RFMC actions regarding NMSP fishing issues - NMSP staff will ensure that adequate information is provided to the RFMC and will work to coordinate and clarify issues during the RFMC process as needed. Subsequently, NMFS staff will ensure that NMSP staff have received draft analyses for potential management actions that may affect sanctuary resources. The NMSP will also be given an opportunity to review any such documents for those RFMC actions developed to fulfill sanctuary goals and objectives.

National Marine Sanctuaries Act Regulatory Process

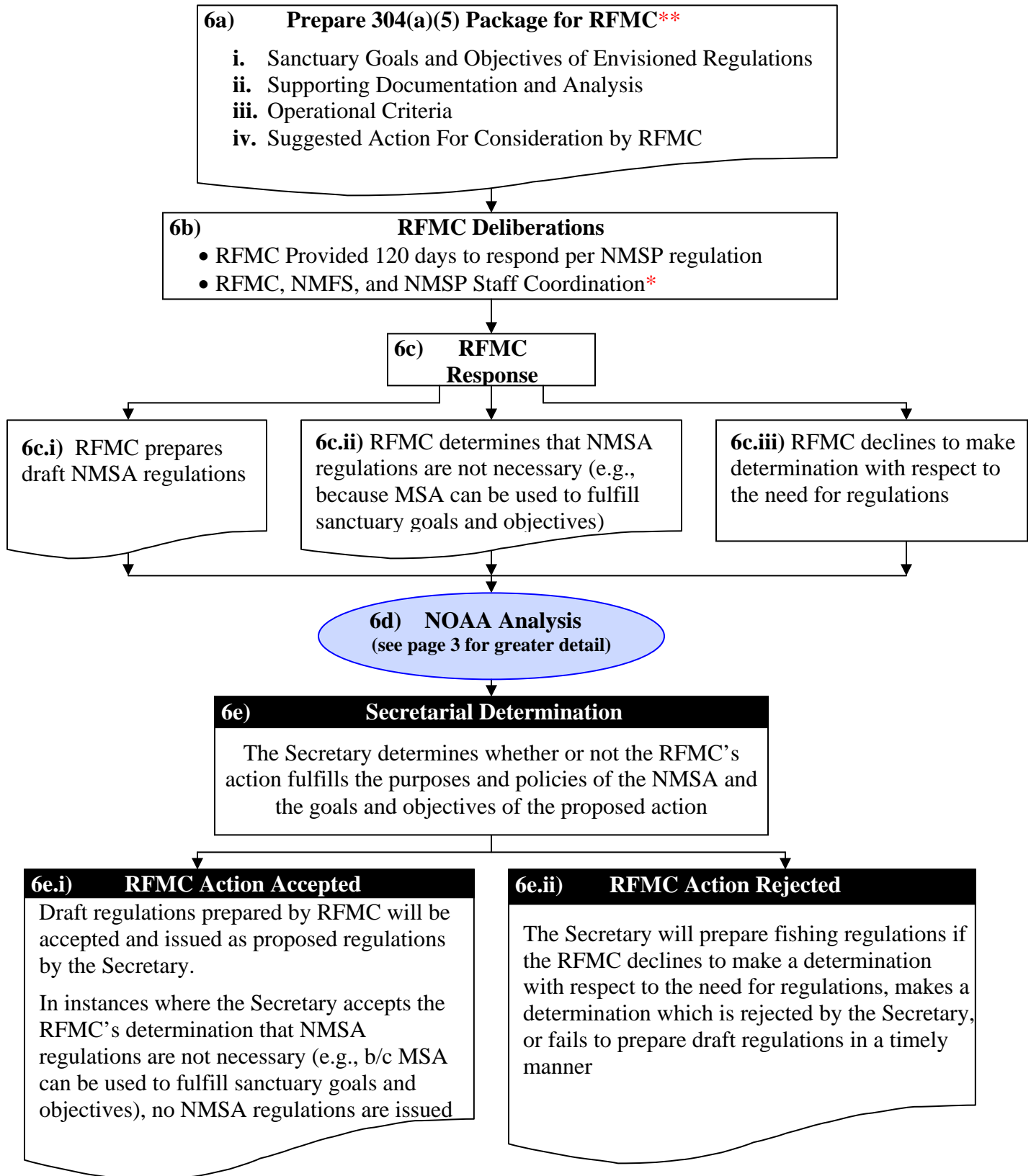


*These highlighted items represent specific steps in the process by which NOAA will actively engage the appropriate RFMC. Please see accompanying text for more detail.

**During final development of draft fishing regulations, staff of the NMSP, NMFS and RFMCs coordinate as appropriate to ensure that any resulting regulation fulfills sanctuary goals and objectives.

6) NMSA §304(a)(5) Fishing Regulations Process

(Expansion of Box 6 on page 1. When this process is complete return to 7a, 7b, or both – p.1)

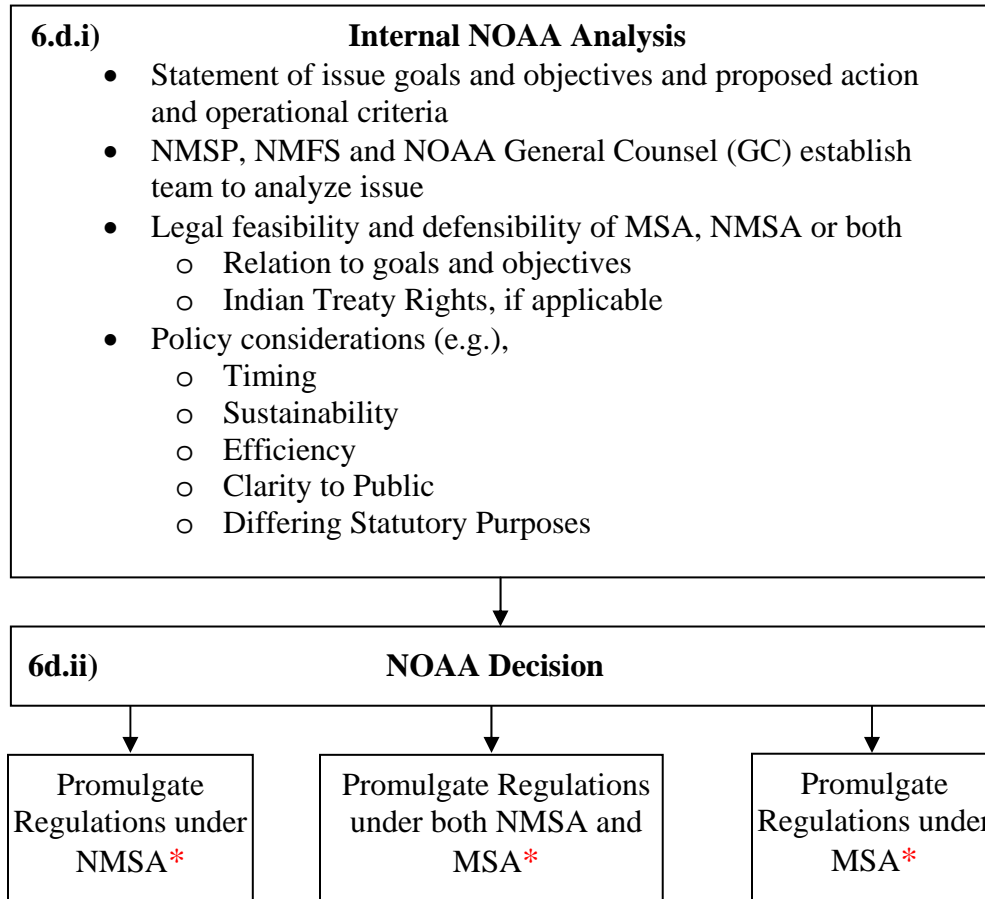


* This highlighted item is a step in the process by which NOAA will actively engage the RFMC. Please see accompanying text for more detail.

** These materials are developed from the Scoping and Issue Prioritization steps in the process.

6d) NOAA Analysis

(Expansion of Box 6d on page 2. When complete, return to 6e – p.2)



* During promulgation of regulations resulting from the NMSA 304(a)(5) process, staff of the NMSP, NMFS and RFMCs will coordinate as appropriate to ensure the resulting regulation fulfills its intended goals and objectives, regardless of the statute(s) under which it is promulgated. NOAA will ensure that any proposed regulations are consistent with Indian treaty fishing rights.

The flowchart graphically traces a National Marine Sanctuaries Act (NMSA) as well as Magnuson-Stevens Fishery Conservation and Management Act (MSA) action from initial concept through implementation. The following text bullets correspond to the numbered boxes on the flowchart and are intended to more fully explain the contents of the boxes and identify the points of consultation for three players (NOAA National Marine Sanctuary Program (NMSP), NOAA National Marine Fisheries Service (NMFS), Regional Fishery Management Councils (RFMCs)) at the different stages in the generic process of developing fishing regulations, and decision criteria used in moving from one step to the next in the decision making process.

National Marine Sanctuaries Act Regulatory Process

- 1) **Ongoing Data Gathering / Review of Information.** *The NMSP collects information on an ongoing basis with regard to resource protection, resource use, issues of concern, etc. In an effort to increase “frontloading” with regard to issues involving, fishing, the NMSP will seek out opportunities to engage the appropriate RFMC(s), NMFS Science Centers, NMFS Regional Offices, and other experts in ongoing data gathering and review of information in order to efficiently and effectively further adaptive management approaches through the application of state of the art science and policy.*
- 2) **Identification of Need for Conservation and Management Actions.** This represents the initial concept or idea stage of what may eventually develop into a proposed federal action. Three typical categories of actions are most often taken by NMSP: a proposed sanctuary designation, a sanctuary management plan review and revision, or a regulatory proposal that is developed in response to a discrete Sanctuary resource issue. An Environmental Impact Statement under the National Environmental Policy Act (NEPA) is required when a major federal action significantly affecting the human environment is taken under the NMSA, or when a change in a term of designation for the sanctuary is proposed.
- 3) **NEPA Scoping / Information Collection.** A scoping process is undertaken which includes community outreach, public meetings, and literature review. Scoping provides a framework for identifying environmental issues and coordinating with interested parties. *NMFS, the appropriate RFMC(s) established under the MSA and Federally Recognized Indian Tribes are identified among the interested parties and will be expressly notified at this step because of their role under the NMSA and fisheries expertise. Obtaining best available information, that is both high quality and composed of transparent data and methodology, is a primary goal in this stage of the process. It is here that early goal and objective consideration begins. NMFS and RFMC input in this process are critical to the successful development of final Goals and Objectives in the following step.*
- 4) **Issue Prioritization and Development of Potential Management Actions.** A Sanctuary Advisory Council (SAC) is charged by NOAA under the NMSA to advise throughout the process. Representatives from NMFS and the appropriate RFMCs are invited to be members of SACs or SAC Working Groups. *SACs are appointed to represent multiple stakeholders and provide advice and recommendations to NMSP management. NOAA in turn makes final determinations. The SAC prioritizes issues that may be addressed by the NMSP. The SAC may also form issue specific working groups to assist the SAC. For instance, if there are fishing issues associated with designation or management of a Sanctuary, a fisheries working group could be formed. Such working group could consist of representatives from NMFS (e.g., regional office and /or science center staff), the RFMCs, other agencies, Federally Recognized Indian Tribes, State marine resource management*

departments, the fishing industry, non-governmental environmental groups, and subject-matter experts and other interested parties. SAC working groups may be charged to develop potential management actions and recommendations to the SAC. The SAC in turn provides NMSP with recommendations. As a result of activities related to NMSP or SAC issue prioritization, an RFMC may pursue actions under the MSA. Refer to the Magnuson-Stevens Act Regulatory Process diagram for further description of the ensuing process. NMSP draft goals and objectives are developed at this step for internal NOAA review, which includes another opportunity for NMFS comment.

- 5) NMSP Proposed Management Actions.** The recommendations provided by the SAC and interested Indian tribes are considered by the NMSP in its development of draft goals and objectives. The draft goals and objectives are ultimately reviewed within NOAA and become an agency statement of proposed goals and objectives for that sanctuary (“goals and objectives”). Because the draft goals and objectives become a statement of NOAA goals and objectives for that sanctuary, NOAA will conduct government to government consultation with any potentially affected federally recognized Indian tribe(s). These goals and objectives are the benchmark by which a RFMC recommendation under NMSA §304(a)(5) is assessed. Management recommendations normally come about through a SAC deliberative process as described in 4) above. The potential regulatory actions for a given sanctuary are divided into non-fishing and fishing actions (**5a** and **5b**) by the NMSP prior to proceeding to the next step

6) NMSA §304(a)(5) Regulatory Process

6) Section 304(a)(5) of the NMSA requires that the appropriate RFMC(s) be given the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone of a sanctuary’s boundaries. When such regulations appear desirable, NOAA develops and presents a 304(a)(5) package to the appropriate RFMC(s). All of the materials provided to the RFMC(s) as part of the §304(a)(5) package are intended to help the RFMC make a determination of what would best fulfill the sanctuary goals and objectives. The entire package is reviewed and approved by NOAA and provided to the RFMC.

- a. Prepare 304(a)(5) Package for RFMCs.** NOAA develops a §304(a)(5) package (package) and provides it to the appropriate RFMC(s). These materials are developed from the Scoping and Issue Prioritization steps in the process. Copies are made publicly available and given concurrently to the appropriate NMFS regional office(s). The package usually consists of, but is not limited to:
- i. Sanctuary specific goals and objectives.** (Refer to boxes 3,4 and 5 for the process a sanctuary goes through to develop goals and objectives.)
 - ii. Supporting documentation and analyses** come from a variety of sources including: literature and reports authored by the NOAA Science Centers or interagency and university scientists, notes and reports of the working group and SAC, data and/or analyses obtained via contract from consultants, NMSP assembled socio-economic and biological information, along with NMSP prepared GIS maps and relevant supporting information. *NOAA will ensure that adequate environmental and socioeconomic information is provided to the RFMC to inform them of the consequences of the “requested action”.*
 - iii. Site-specific operational criteria** are developed and approved by NOAA (NMSP and NMFS staff) to better define the goals and objectives.

- iv. Suggested action(s) for consideration by RFMC** is the recommended actions developed throughout the process of **NEPA Scoping / Information Collection (3)** and Issue Prioritization and Development of Potential Management Actions **(4)**.
- b. RFMC Deliberations.** The RFMC is provided 120 days to respond to the 304(a)(5) package (15 CFR 922.22(b)). Extensions to this 120-day time limit may be, and often are, requested and granted to accommodate RFMC agendas and workloads. *During the 120-day period staff of RFMC, NMFS (e.g., regional office and /or science center staff) and NMSP may coordinate as necessary to clarify issues, address questions and provide preliminary feedback.*
- c. RFMC Response.** The RFMC may take any of three actions at this point. The RFMCs will make their determination by following their standard operating procedures and certain MSA procedural requirements. The RFMC could:
- i)** Prepare draft NMSA regulations. If the RFMC determines that regulations should be promulgated under the NMSA, the RFMC may prepare draft NMSA regulations and submit them to the NMSP. If the RFMC determines that regulations should be promulgated under the NMSA and the RFMC chooses not to provide draft regulations, then NOAA will draft the regulations. In either case, the RFMC may conduct such analyses as it considers helpful to making its determination. While the RFMC is not required to comply with all the MSA requirements for developing or amending an FMP (e.g., public notice and comment), it must rely on the MSA national standards as guidance to the extent that the standards are consistent and compatible with the goals and objectives of the proposed sanctuary designation or action. NOAA will develop the required NEPA and other analyses for the NMSA action.
 - ii)** Determine that NMSA regulations are not necessary (e.g., the RFMC could recommend that sanctuary goals and objectives be fulfilled by the MSA or could recommend that no action be taken). *If the RFMC determines that sanctuary goals and objectives could be fulfilled under MSA, an explanation of the specific regulatory mechanisms, FMP changes, legal basis, and projected timeline should accompany its recommendation.*
 - iii)** Decline to make a determination with respect to the need for regulations
- d. NOAA Internal Analysis.** NOAA determines, through the following internal process, whether or not the RFMC's proposed action would fulfill sanctuary goals and objectives.
- i. Analysis.** The internal NOAA analysis consists of NOAA NMSP, NMFS and GC staff examining the RFMC submission and determining whether the submission fulfills the sanctuary goals and objectives. As necessary, this team will analyze the feasibility and legal defensibility of the RFMC's proposed action. The team will also identify any relevant policy considerations (e.g., timeliness, sustainability, efficiency, clarity to the public, monitoring and research needs, and ease of enforcement) of the RFMC's proposed regulation(s).
 - ii. NOAA Decision.** After the team considers all aspects of the analysis, it makes a recommendation regarding acceptance / rejection of the RFMC proposal. If unable to reach consensus, or if the recommendation is to reject a RFMC

proposal, the team would elevate the issue to the Assistant Administrators (AAs) of the National Ocean Service and NMFS for a decision, and to the Administrator of NOAA as appropriate.

- e. **Secretarial Determination**¹. Once the NOAA decision has been made regarding a RFMC submission, the §304(a)(5) process is concluded.
 - i. **RFMC Action Accepted.** If NOAA determines that draft NMSA regulations prepared by the RFMC fulfill the sanctuary goals and objectives and the purposes and policies of the NMSA, the regulations will be issued as proposed regulations for public comment. If the RFMC determines that NMSA fishing regulations are not necessary because sanctuary goals and objectives can be fulfilled by the MSA, and the Secretary accepts that recommendation, no NMSA regulations are proposed and regulations are pursued through the MSA regulatory process, if appropriate (see accompanying diagram and text).
 - ii. **RFMC Action Rejected.** If NOAA determines that a RFMC submission fails to fulfill the goals and objectives of the sanctuary and the purposes and policies of the NMSA, then NOAA will prepare proposed fishing regulations for the sanctuary. NOAA will communicate the decision to the RFMC and coordinate as appropriate with the RFMC on the development of the fishing regulations.

7a) Magnuson-Stevens Act Regulatory Process. If the NOAA analysis of fishing actions (**6d**) determines the appropriate course of action is to pursue the proposed action fully or partially under the MSA, then the appropriate regulations are pursued under the MSA process.

7b) NMSA Regulatory Process. If the NOAA analysis of fishing actions (**6d**) determines the appropriate course of action is to pursue the proposed action fully or partially under the NMSA, then the appropriate regulations and supporting documentation (e.g., NEPA, APA, Reg. Flex) are prepared by the NMSP, including any change to a sanctuary designation document (per NMSA paragraph 8).

8) Sanctuary Designation Document. A designation document is prepared as part of a sanctuary's designation process. The terms of designation are defined by the NMSA as: 1) the geographic area of a sanctuary; 2) the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and 3) the types of activities that will be subject to regulation to protect those characteristics. A sanctuary can only prohibit or restrict an activity listed in its designation document. A sanctuary designation document can, however, be amended if a discrete resource management issue arises or during the routine sanctuary management plan review processes outlined in the NMSA.

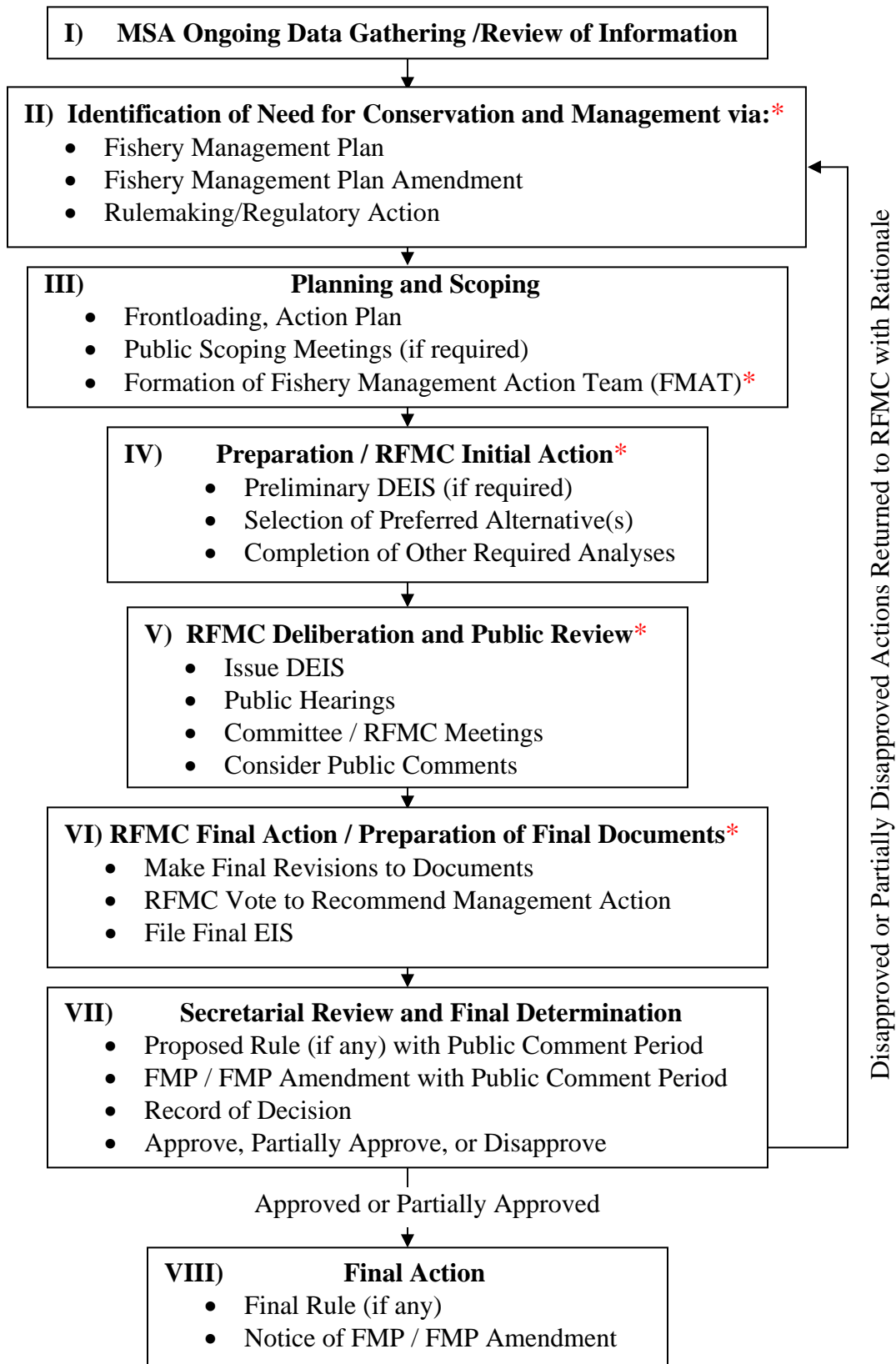
- a. **No Change Required in Designation Document.** If proposed regulations do not necessitate a change to the sanctuary's designation document, then the NMSP proceeds to promulgate regulations accompanied by the appropriate level NEPA analysis. *During final development of draft fishing regulations, staff of the NMSP, NMFS and RFMCs coordinate as appropriate to ensure that any resulting regulation fulfills sanctuary goals and objectives.*
- b. **Change Required in Designation Document.** Designation documents are changed following the applicable procedures for designation of a sanctuary (sections 303 and 304 of the NMSA). Some steps (e.g., consultation, draft EIS preparation) can be

¹ The Secretary's authority under the MSA and NMSA has been delegated to NOAA.

initiated as part of earlier actions under 4) Issue Prioritization and Development of Potential Management Actions. To issue a regulation prohibiting or restricting a fishing activity in a sanctuary for which a designation document does not have fishing as one of the activities subject to regulation, the sanctuary's designation document must be amended to include fishing as an activity subject to regulation. *During final development of draft fishing regulations, staff of the NMSP, NMFS and RFMCs coordinate as appropriate to ensure that any resulting regulation fulfills sanctuary goals and objectives.*

- 9) Public Comment Period.** Publish the proposed rule, Notice of Availability of a draft environmental impact statement or environmental analysis, and amended sanctuary designation document (if one is being amended) in the *Federal Register* to start the public comment periods (minimum 45 days DEIS; proposed rules generally have a 60-day review period). Hold public meetings or hearings as appropriate and collect public comments.
- 10) Incorporate Necessary Changes.** Consider the public comments and revise regulations and analyses as appropriate.
- 11) Publish Final Rule.** Issue the Record of Decision (ROD) and the final rule. If a final EIS was prepared, the ROD and final rule are issued after the required 30-day wait period from publication of the Notice of Availability of a final EIS. If there is a change to the designation document, the change becomes effective after a period of 45 days of continuous session of Congress (NMSA §304(a)(6)). During this final 45-day review period the Governor (when state waters are included) has the opportunity to certify to NOAA that the change to the terms of designation is unacceptable, in which case the unacceptable change to the term of designation shall not take effect in that part of the sanctuary that is within the boundary of that State.

Magnuson Stevens Act Regulatory Process



*These highlighted items are steps in the process by which RFMC and NMFS will actively engage NOS. Please see accompanying text for more detail.

Magnuson Stevens Act Regulatory Process

MSA Process for the Magnuson-Stevens Fishery Conservation and Management Act. This flowchart traces a fishery management action under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) from initial concept through implementation. The following descriptions correspond to the numbered boxes on the flowchart and are intended to more fully explain the contents of the boxes and identify the points of consultation for three players (NOAA National Marine Sanctuary Program (NMSP), NMFS, and RFMCs) at the different stages in the generic process of developing fishery-related regulations.

As part of internal NMFS efforts to manage expectations and outcomes, the agency has developed draft Operational Guidelines^{2,3} that emphasize the importance of early involvement of interested parties and identification of issues (“frontloading”). The draft Operational Guidelines identify key phases and steps that apply to all MSA fishery management actions whether the action is a rule, an FMP or an FMP Amendment, and whether it will be supported by an Environmental Assessment (EA), Categorical Exclusion (CE), or Environmental Impact Statement (EIS). The flowchart depicts a summary of these key steps.

The time it takes a proposed fishery management action to be developed varies depending on the complexity of the proposal, resources available to conduct the analyses and draft the documents, and a multitude of other contingencies. Staff resources to prepare FMP/rulemaking activities are pooled between RFMC and NMFS to variable degrees across the six NMFS regions and eight RFMCs.

We note that an RFMC recommendation proceeding from the NMSA 304(a)(5) process would not necessarily follow the steps outlined for full-blown MSA-based rulemaking.

I) Ongoing Data Gathering / Review of Information: The MSA requires that RFMCs conduct regular public meetings, and submit periodic reports, and submit recommended management action⁴ for any fishery under their jurisdiction that requires conservation and management.

Typical routes of initiating FMP/rulemaking by a RFMC include:

- a) NMFS submits information pertinent to Federal fisheries to the appropriate RFMCs.
- b) Constituents, fishing industry representatives, agency staff, RFMC members, and/or non-governmental organization representatives write or testify to the RFMC of their concern and may request a particular action.
- c) Some actions get on a RFMC agenda due to acts of Congress, which may require specific actions within statutory time frames. NMFS has an intermediate role between the Executive

² Draft Operational Guidelines: For Development and Implementation of Fishery Management Actions. August 23, 2005. http://www.nmfs.noaa.gov/sfa/domes_fish/OperationalGuidelines/DraftOGs_082405.pdf

³ NMFS has requested the Councils implement the Guidelines on a test basis. NOAA will review and consider revising this document as appropriate based on further decisions about implementation of the Guidelines and on other applicable procedures.

⁴ The term “fishery management actions” should be interpreted broadly to include a wide range of activities taken pursuant to the MSA, including proposed and final rulemakings, FMPs with no implementing regulations, and other substantive actions by the agency that promulgate or are expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, and advance notices of proposed rulemaking.

Branch and the RFMC, and is ultimately responsible for deadlines and actions required by the Secretary of Commerce as a result of legislation.

In an effort to increase “frontloading” with regard to issues involving sanctuary resources NMFS will seek out opportunities to engage the appropriate NMSP staff. The NMSP may provide information about potential relevant fishery management considerations that may affect sanctuary resources. Early identification of such issues will permit RFMCs to begin assessing potential management actions for fisheries.

II) Identification of Need for Conservation and Management. This is the point at which a RFMC determines that there may be a need to recommend action and may begin assessing the need for fishery management measures. *NMFS staff and NMSP staff will coordinate on a continuing basis regarding potential management actions that may affect sanctuary resources or the need to regulate fishing within Sanctuaries.*

At this stage ideas are developed for a response to an identified fisheries conservation or management need. The types of major Federal actions typically undertaken by RFMCs include: A new fishery management plan (FMP); an Amendment to an already approved FMP; and regulatory actions developed in response to a discrete marine conservation or management issue. FMPs and FMP Amendments must be consistent with the MSA national standards and other applicable laws, several of which require analysis of alternatives. Although it infrequently begins sooner, in most cases the National Environmental Policy Act (NEPA) process starts here.

III) Planning and Scoping.

The draft Operational Guidelines recommend the development of an “Action Plan” which describes objectives, resources, alternatives and applicable laws, prior to commencement of drafting the initial NEPA document. These Guidelines rely heavily on the concept of frontloading, which means the early involvement of all interested parties to address and resolve issues. The draft Operational Guidelines also recommend formation of a fishery management action team (FMAT) as a project management activity intended to identify and task those necessary to work on a particular action from the beginning. The FMAT will generally include representatives of the RFMC and NMFS, as well as other NOAA components and federal agencies, as necessary. *Draft Operational Guidelines will include “flags” to remind RFMCs that personnel from the NMSP will be invited to participate on FMATs regarding potential fishery management considerations that may affect sanctuary resources. Those regions not using FMATs should also involve the NMSP in early issue identification.*

Through deliberations of the FMAT, NOAA General Counsel, and agency NEPA advisors, determinations are made as to the appropriate MSA type of action (FMP or regulatory) and level of NEPA analysis (CE, EA, or EIS), or whether supplements or amendments to existing NEPA analyses are appropriate for compliance and any action necessary to comply with section 304(d) of the NMSA. *Section 304(d) of the NMSA requires federal agencies to consult on any federal action that is likely to destroy, cause the loss of, or injure any sanctuary resources. (Stellwagen Bank National Marine Sanctuary has a special standard, and consultation is required when a federal action “may affect” a sanctuary resource.)*

IV) Preparation / RFMC Initial Action. This step includes actions taken by preparers and the RFMC to complete preparation of the Draft NEPA analysis and all other required analyses.

Regulatory language, analyses and information collection requirements may be examined and preliminary estimates made of the costs and benefits of regulations depending on the nature of the proposed action and associated Federal permits, licenses, or other entitlements, and their respective accompanying analyses that will be required prior to implementation. RFMC standing committees or specially appointed committees may be asked by the RFMC to prepare components of actions for RFMC consideration. All meetings are advertised and open to the public, and public comments are taken each time an aspect of the proposed action appears on the agenda of the respective RFMC or one of its committees. *NMFS/RFMC staff will invite NMSP staff to attend and participate at standing or specially appointed committee meetings regarding potential fishery management considerations that may affect sanctuary resources.*

Preliminary Draft EIS: If schedules permit and the RFMC chooses, it may include a summary action, such as “Approve DEIS for Public Review” on the agenda. That would necessitate preparation and presentation of a preliminary DEIS to the RFMC (and public, because every action is open to the public).

Selection of Preferred Alternative: Because early identification of a preferred alternative facilitates compliance with the substantive requirements and procedural timelines of the MSA, ESA, and APA and other applicable law, the Draft Operational Guidelines encourage identification of the preferred alternative at the DEIS stage, though this is not always possible. *If consultation on a potential management action is required under §304(d) of the NMSA, it will be initiated at this stage, if it has not already been initiated.*

V) RFMC Deliberation and Public Review. Completed draft analyses are circulated for public review. *NMFS staff will ensure that NMSP staff have received draft analyses for potential management actions that may affect sanctuary resources. The NMSP would also be given an opportunity to review any such documents for those MSA actions developed from the NMSA 304(a)(5) regulatory process to fulfill sanctuary goals and objectives.* RFMC meetings or hearings are held to facilitate understanding of the documents, collect public comment and have RFMC deliberations. If deemed necessary, the NMSP shall provide NMFS with reasonable alternatives that will protect sanctuary resources. After public review and comment, the analysis documents are revised as necessary and provided to the RFMC.

VI) RFMC Final Action / Preparation of Final Documents. The RFMC holds a vote on the proposed action at a public meeting. After the RFMC votes to submit an action to the Secretary, RFMC and NMFS staff prepare the action document and any accompanying draft regulation and analyses for submission to the Secretary. It is anticipated that some work on the necessary supporting documentation will continue after the RFMC’s vote. However, if NOAA or the Council determines that the supporting analyses have been substantively changed at this point, the model in the Draft Operational Guidelines would call for reconsideration by the RFMC. All parts of a final EIS (FEIS) analysis must be completed and assembled prior to NMFS filing the FEIS with the EPA, who in turn publishes a Notice of Availability (NOA) of the FEIS in the *Federal Register*.

The MSA also requires that NMFS initiate formal public review of the RFMC’s proposed measures by publishing in the *Federal Register* the NOA of an FMP or FMP Amendment and/or the proposed rule to implement the RFMC’s recommendation. The NOA of an FEIS is different from a NOA of an FMP or FMP Amendment and is published in a different part of the *Federal Register*.

VII) Secretarial Review and Final Determination. The MSA limits the time for Secretarial review and decision on new FMPs and FMP Amendments to ninety days. NMFS must publish the NOA of the FMP or FMP Amendment immediately (within 5 days) of the transmittal date for a 60-day public comment period. The transmittal date is established by the NMFS Regional Administrator when all of the necessary documentation is determined to be complete.

The NMSP would be given an opportunity to review any such documents for those MSA actions developed from the NMSA 304(a)(5) regulatory process to fulfill sanctuary goals and objectives

Within 30 days of the close of the comment period, the agency must approve, partially approve, or disapprove the RFMC's recommendation. A Record of Decision is issued at this time. The determination to approve, partially approve, or disapprove is made by reference to the MSA's National Standards, other provisions of the MSA and other applicable law.

Approved: If a FMP or FMP Amendment is found to comply with the ten National Standards, contain all the required FMP components, and otherwise comply with all applicable laws and E.O.s, it is approved and the process is complete but for final publication of the regulations.

Disapproved or Partially Approved: If an FMP or FMP Amendment does not comply with the ten National Standards, contain all the required FMP components, and otherwise comply with all applicable law, it is disapproved. The NMFS Regional Administrator must specify in writing to the RFMC the inconsistencies of the FMP or FMP Amendment with the MSA and/or other applicable laws, the nature of inconsistencies, and recommendations for actions to make the FMP or FMP Amendment conform to applicable laws. If the RFMC is not notified within 30 days of the end of the comment period on the FMP or FMP Amendment of the approval, disapproval, or partial approval, such FMP or FMP Amendment shall take effect as if approved. If an FMP or FMP Amendment is disapproved or partially approved, the RFMC may resubmit a revised FMP or FMP Amendment and revised proposed rule, where applicable.

VIII) Final Action. For approved actions or partially approved actions a notice of availability of the final FMP or FMP amendment is issued and final regulation (if any) is published.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

October 25, 2023

Dear Council Executive Director,

The Inflation Reduction Act (IRA; P.L.: 117-169) is a historic, federal government-wide investment that furthers NOAA's efforts to build a Climate-Ready Nation. The IRA provides \$3.3 billion for NOAA to build on its commitment to help Americans – including tribes and vulnerable populations – prepare, adapt, and build resilience to weather and climate events; improve supercomputing capacity and research on weather, oceans, and climate; strengthen NOAA's hurricane hunter aircraft and fleet; and replace aging NOAA facilities. More specifically, funds have been identified to continue to build dynamic fisheries management systems that incorporate climate and ecosystem data to support management decisions and improve resilience of communities that depend on our nation's fisheries in the face of a changing climate.

BACKGROUND AND PROCESS

Initial Funding

The Regional Fishery Management Councils are critical partners in the development and implementation of conservation and management measures for our nation's marine fisheries. NOAA Fisheries has identified \$20M of IRA funds for the Regional Fishery Management Councils to develop and advance climate-related fisheries management and implementation efforts. An initial breakout of \$3M (of the full \$20M) will be divided equally amongst the eight Regional Fishery Management Councils. This comprises the initial year 1 release for the new individual Fishery Management Council awards (\$375,000 for each Council).

NOAA Fisheries will provide you with these funds, after we receive, review, and approve a grant application. Your grant application must reflect the appropriate use of funds and considerations. Proposals **must** be focused on fishery management and governance topics, and not data and science needs. Funds may be expended for the purpose of contributing to the following goals:

- Implementation of fishery management measures or processes necessary to improve climate resiliency and responsiveness to climate impacts; and
- Development and advancement of climate-related fisheries management planning and implementation efforts, including those in support of underserved communities.

Future Funding

This initial application should, in addition to the \$375,000 identified for year 1, include potential future funding expectations (obligations after initial allocation), according to the table below. This is not a guarantee of future funds, but a placeholder in order to facilitate adding funds to the grant in out-years. The descriptions needed for these future funding amounts can be general, as long as they align with the goals stated above. We recognize you do not yet know the specifics of all the projects you will request funding for, nor which will ultimately be funded. For these future releases of funding, the Office of Sustainable Fisheries will solicit proposals, based on the priorities described below, to support Council-identified top climate-related management projects. The Regional



Offices and other subject matter experts will have a role in reviewing and evaluating project proposals prior to selection and identifying future funding to be provided to each Council. Projects selected for future funding will have funds added to the initial grant awards as partial releases (similar to current Council administrative awards). Funding will be executed to the Regional Fishery Management Councils via IRA-specific awards managed through the NOAA Fisheries Office of Management and Budget. We provided more details on this proposal process at the October Council Coordination Committee (CCC). Multi-year proposals can be submitted, so long as the project outlines how and when the outcomes will be achieved.

Regional Fishery Management Council	Initial obligation in FY24	Maximum Total Application amount (FY24-FY26)
New England RFMC	\$375,000	\$3,500,000
Mid-Atlantic RFMC	\$375,000	\$3,500,000
South Atlantic RFMC	\$375,000	\$3,500,000
Caribbean RFMC	\$375,000	\$3,500,000
Gulf of Mexico RFMC	\$375,000	\$3,500,000
Pacific RFMC	\$375,000	\$3,500,000
North Pacific RFMC	\$375,000	\$3,500,000
Western Pacific RFMC	\$375,000	\$3,500,000

Priorities

Priorities will focus on implementation of management actions to advance climate-ready fisheries. Projects will advance:

- Operationalizing fish climate vulnerability assessments or other scientific products (e.g., ecosystem status reports, Integrated Ecosystem Assessments, etc.);
- Operationalizing recommendations from climate scenario planning efforts;
- Developing and implementing management changes or processes that address climate vulnerability or improve climate resiliency of fisheries (e.g., potential revisions to harvest control rules to account for changes in ecosystems related to climate change), including those that are important to underserved communities;
- Developing and implementing measures or processes that increase responsiveness of allocations or other management measures to climate impacts (e.g., “frameworking” or establishing predetermined thresholds when management changes occur);
- Developing and advancing climate-related fisheries management planning (e.g., conducting climate scenario planning) and implementation efforts, including those in support of underserved communities.
- IRA funds can be used to hire new staff/contractors. IRA funds cannot be used to pay for current staff time unless their time is shifted (from existing administrative awards) to work on an IRA-funded project and is fully accounted for.

REQUIRED APPLICATION CONTENTS

Initial year 1 funding of \$375K. In addition to required forms identified via www.grants.gov, overall application objectives must contribute to:

- Implementation of fishery management measures or processes necessary to improve climate resiliency and responsiveness to climate impacts; and
- Development and advancement of climate-related fisheries management planning and implementation efforts, including those in support of underserved communities.

Subsequent funding/projects. Proposals for FY24-FY26 should be submitted after the initial award, per the proposal guidance document described above that was distributed for the October CCC, and should give high priority consideration to:

- Actions that leverage existing tools
- Actions that will be completed within 3 years
- Cross-council projects and initiatives (where relevant)
- Related actions grouped under one comprehensive proposal (rather than single activities)

Additional requirements include:

- Actions must be completely implemented or in the final phases of approval by 2027.
- Actions must be able to be sustained after implementation with no additional post-IRA funds.

As soon as possible, please have a member of your staff begin the grant application process via the Grants.gov website. If you have any questions on the award process, contact Derek Orner from NOAA Fisheries' Office of Management and Budget, Financial Assistance Division. You may contact him at (410) 570-2268 and derek.ornor@noaa.gov. We anticipate receiving your application through www.grants.gov as soon as possible, but no later than December 31, 2023. We look forward to working with you to expedite the awarding of funds to advance and implement climate ready fisheries management.

Sincerely,



Kelly Denit
Director
Office of Sustainable Fisheries

Cc: Dan Namur, Derek Orner, Michael Hassett

DEVELOPER'S DIGEST

Opportunities for Fishermen and Mariners in Offshore Wind Development Activities

In this issue, we discuss emerging opportunities for fishermen and other mariners to actively participate in offshore wind development activities and/or research partnerships. Fishermen and mariners who are available to participate in offshore wind development (OSW) activities, either presently or at a later time, are encouraged to complete this form:

[Offshore Wind Participation Interest Form for Fishermen and Mariners](https://forms.gle/dXw2eSfDCwy2CXlp9) (https://forms.gle/dXw2eSfDCwy2CXlp9)

With the expansion of OSW in the Atlantic, the need for experienced vessels, captains, and crew in dynamic offshore conditions is rising. This demand may create opportunities for commercial fishermen, anglers, and other mariners to supplement their income by utilizing their offshore skills and vessels for assisting with OSW development activities, especially during inactive periods (i.e. off-season, quota limitations).

The suitability of roles for mariners depends on both their personal interests and unique qualifications that align with specific positions. Please note that qualification standards for different roles may vary across developers. The following chart lists several support services desired from experienced mariners and the development stages for which they may be needed (*D* = *Development*; *C* = *Construction*; *O* = *Operations*):

Vessel Usage Opportunities:

services offered by utilizing or leasing vessels for OSW-related activities

Scout Vessels: work alongside or ahead of OSW vessels to ensure planned route is clear of fishing gear; coordinate with other ocean users to minimize potential conflicts (D, C)

Guard & Safety Vessels: monitor safety perimeters around OSW maintenance and construction sites; coordinate with other ocean users to minimize potential conflicts with ongoing operations (C,O)

Cooperative Research Support Vessels: assist in conducting marine research activities, such as fisheries monitoring surveys (D, C, O)

Miscellaneous Support Vessels: assistance in various support roles, such as equipment transport, maintenance and repair support, and towing/salvage services (C, O)

Offshore Opportunities:

services working directly onboard OSW project vessels

Offshore Fisheries Liaison Representatives (OFLRs): serve as a conduit for information exchange between the Fisheries Liaisons (FLs), Fisheries Representatives (FRs), and fisheries users; communicate with fishing vessels encountered on-site (D, C)

Offshore HSE Specialists: implement safety, security, and environmental protocols to safeguard personnel, assets, mitigate risks, and ensure compliance with regulations (D, C, O)

Protected Species Observers (PSOs): receive training and certification to monitor and document the presence and behavior of endangered or threatened wildlife onboard offshore wind vessels (D, C, O)

Onshore Opportunities:

land-based services and roles to enhance communication between developers and fishing communities

Fisheries Representatives (FRs): represent a particular fishery, organization, gear type, port, region, state, or sector(s); responsible for communicating concerns, issues, and other input to the FL; represent their respective fishing communities as defined points of contact (D, C, O)

If you are interested in participating in current or future development activities and/or research partnerships, please fill out the following form:

[Interest Form for Fishermen and Mariners](https://forms.gle/dXw2eSfDCwy2CXlp9)

The positions highlighted in this newsletter are not comprehensive, and additional roles may become available during later stages of development. Project assistance needs are likely to vary according to individual project timelines. Please note that all positions are temporary and vary based on specific responsibilities. Certain periods may involve more intense work activity than others, and these roles are designed to complement, rather than replace, primary fishing roles.

Fishermen possess deep-rooted experience and a nuanced understanding of local fishing practices, communities, and the marine environment. As such, fishermen can contribute insights that are essential for avoiding and minimizing disruption to fishing operations and marine ecosystems. Simultaneously, these positions can help create a more sustainable financial base by offering supplemental income opportunities that can weather the unpredictable fluctuations of the fishing market.

About the New York Bight Developer's Digest

This digest is produced periodically by the American Clean Power (ACP) New York Bight Fisheries Work Group to provide the fishing industry and interested stakeholders a snapshot of current and expected activities across BOEM's New York Bight lease areas: [Empire Wind](#) (0512), [Bluepoint Wind](#) (0537), [Attentive Energy](#) (0538), [Community Offshore Wind](#) (0539), [Atlantic Shores Offshore Wind](#) (0541), [Leading Light Wind](#) (0542), and [Vineyard Mid-Atlantic](#) (0544).

Lease locations and Fisheries Liaison contact information is listed on the following page. The goal of the Work Group is to advance engagement and collaboration with fishery participants and other ocean users through increased coordination among lessees in the New York Bight.



Thank you!

Please feel free to reach out to the Fisheries Liaisons below with any questions or suggestions regarding this and future New York Bight Offshore Wind Updates. If you have any questions or would like to contribute to our next issue, please contact us at BKrevor@cleanpower.org. For more information on outreach in the New York Bight, please see the following links to each project's Fisheries Communications Plan.

[Empire Wind Fisheries Communications Plan](#)

[Bluepoint Wind Fisheries Communications Plan](#)

[Attentive Energy Fisheries Communications Plan](#)

[Community Offshore Wind Fisheries Communications Plan](#)

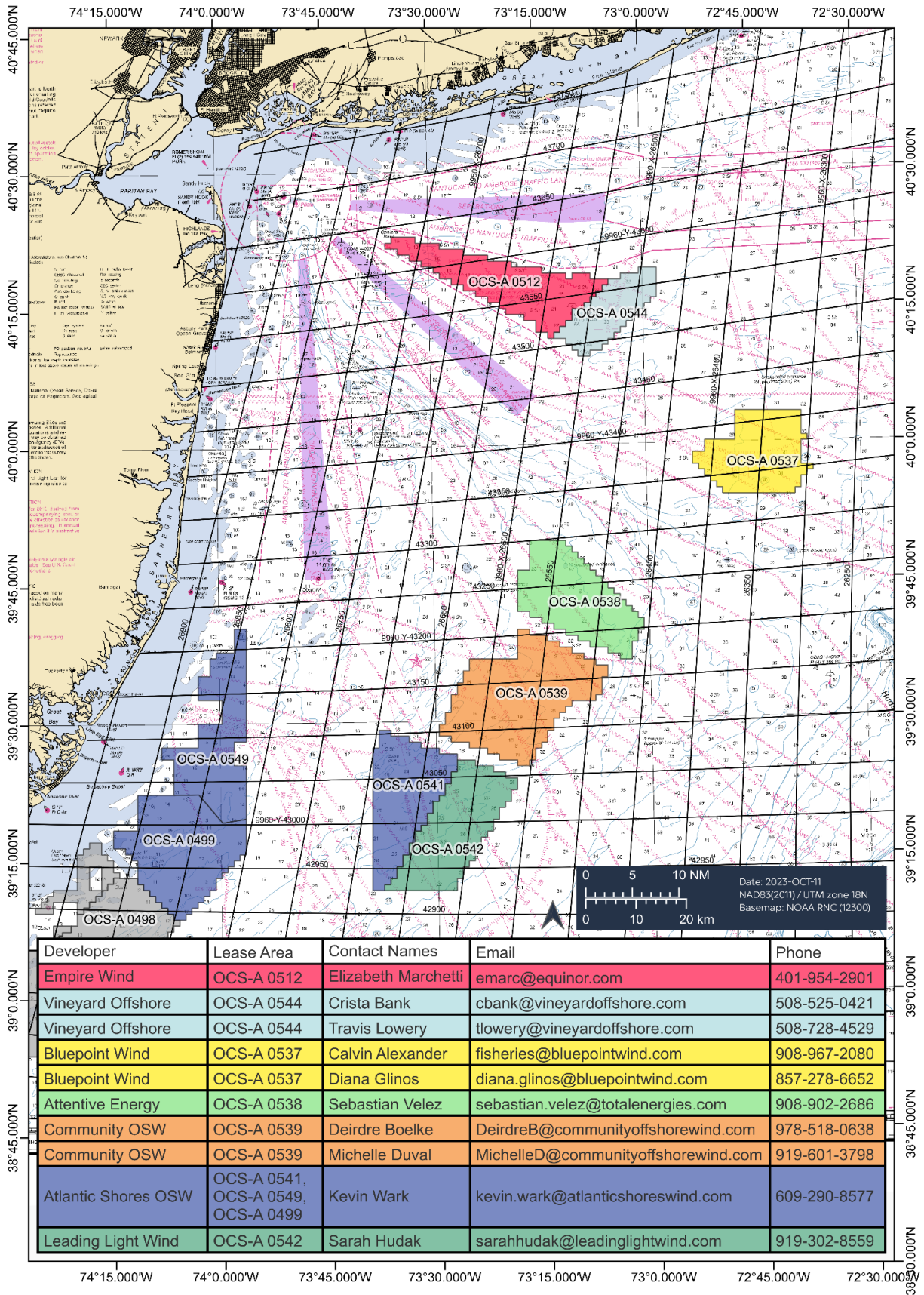
[Atlantic Shores Offshore Wind Fisheries Communications Plan](#)

[Leading Light Wind Fisheries Communications Plan](#)

[Vineyard Mid-Atlantic Fisheries Communications Plan](#)

New York Bight Offshore Wind Leases and Fisheries Liaisons

December 2023



Developer	Lease Area	Contact Names	Email	Phone
Empire Wind	OCS-A 0512	Elizabeth Marchetti	emarc@equinor.com	401-954-2901
Vineyard Offshore	OCS-A 0544	Crista Bank	cbank@vineyardoffshore.com	508-525-0421
Vineyard Offshore	OCS-A 0544	Travis Lowery	tlowery@vineyardoffshore.com	508-728-4529
Bluepoint Wind	OCS-A 0537	Calvin Alexander	fisheries@bluepointwind.com	908-967-2080
Bluepoint Wind	OCS-A 0537	Diana Glinos	diana.glinos@bluepointwind.com	857-278-6652
Attentive Energy	OCS-A 0538	Sebastian Velez	sebastian.velez@totalenergies.com	908-902-2686
Community OSW	OCS-A 0539	Deirdre Boelke	DeirdreB@communityoffshorewind.com	978-518-0638
Community OSW	OCS-A 0539	Michelle Duval	MichelleD@communityoffshorewind.com	919-601-3798
Atlantic Shores OSW	OCS-A 0541, OCS-A 0549, OCS-A 0499	Kevin Wark	kevin.wark@atlanticshoreswind.com	609-290-8577
Leading Light Wind	OCS-A 0542	Sarah Hudak	sarahhudak@leadinglightwind.com	919-302-8559



Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: December 1, 2023
To: Chris Moore, Executive Director
From: Mary Sabo
Subject: Comments on NOAA Fisheries 304(f) Procedural Directive

In May 2023, NOAA Fisheries released a draft procedural directive titled “Guidance on Council Authority for Preparing Fishery Management Plans for Stocks that May Extend across the Geographic Areas of more than one Council, pursuant to MSA §304(f)” (also referred to as the “Climate Governance Policy”). The draft procedural directive proposes guidance on when and how the Secretary will review and assign management authority over fisheries found across more than one Council jurisdiction. Given the Mid-Atlantic Council’s shared regional boundaries with two other East coast Councils, as well as the number of Mid-Atlantic stocks that extend beyond the Council region boundaries, this procedural directive has the potential to directly impact a number of Mid-Atlantic Council fishery management plans.

The Mid-Atlantic Council submitted comments on the draft procedural directive to NOAA Fisheries on November 17, 2023. The Council’s letter notes a number of serious concerns with the draft procedural directive and recommends that the agency engage the Councils on the development of a revised process. The Council’s letter is enclosed behind this memo and is also available on the Council’s website at the following link:

- [MAFMC Comments on the Draft Climate Governance Procedural Directive](#)

Other Council Comment Letters

The Council Coordination Committee (CCC), which consists of leadership from the eight regional fishery management councils, submitted comments on the draft procedural directive. The CCC’s letter, available at the link below, highlights many of the same issues identified in the Mid-Atlantic Council’s letter.

- [CCC Comments on the Draft Climate Governance Procedural Directive](#)

Several other regional fishery management councils submitted comments on the draft procedural directive to NOAA Fisheries. These letters are available at the links below.

- [NEFMC Comments on the Draft Climate Governance Procedural Directive](#)
- [SAFMC Comments on the Draft Climate Governance Procedural Directive](#)
- [WPFMC Comments on the Draft Climate Governance Procedural Directive](#)

Public Comments

At the August 2023 Council Meeting, the Council discussed concerns about the agency's lack of public outreach regarding the draft procedural directive. The Council agreed at that meeting to conduct supplemental outreach to ensure that all interested individuals are aware of the draft procedural directive and have an opportunity to provide comments.

The Council hosted a public webinar on October 16 to collect public input on the procedural directive. A summary of comments received during the webinar is available here:

- [Summary of October 16 Council Webinar](#)

The Council also received the following written comments, which were combined and submitted to NOAA Fisheries on November 17, 2023:

- [Seafreeze Ltd.](#)
- [SeaWatch International](#)
- [Lund's Fisheries](#)

Additional background information and related documents can be found at <https://www.mafmc.org/actions/nmfs-climate-governance-policy>.



Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

P. Weston Townsend, Chairman | Michael P. Luisi, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

November 17, 2023

Ms. Janet Coit
Assistant Administrator, NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Dear Ms. Coit:

The Mid-Atlantic Fishery Management Council (Mid-Atlantic Council or MAFMC) writes to express our strong concerns about NOAA Fisheries' Draft Procedural Directive (Procedural Directive) regarding the use of Magnuson-Stevens Act (MSA) §304(f) authority for fisheries that extend across the geographic areas of more than one Regional Fishery Management Council (Council). While the Secretarial authority to designate Council responsibility for managed species already exists within the MSA, the Procedural Directive would impose a new process by which NOAA Fisheries could reassign Council management authority for fisheries managed under existing Fishery Management Plans (FMP). As discussed below, we believe the Procedural Directive has serious flaws and should not be implemented in its current form. Instead, we recommend that NOAA Fisheries engage the Councils in the development of a revised process to address these issues in a more appropriate, collaborative, and evidence-based manner. This letter complements the comments previously submitted by the Council Coordination Committee (CCC) on behalf of the eight Councils.¹ Additional comments from the Mid-Atlantic Council's Scientific and Statistical Committee (SSC) are provided as an attachment.

Summary

As one of only two Councils that share both a northern and southern boundary with another Council, the Mid-Atlantic Council is well versed in the management and governance challenges and complications presented by cross-jurisdictional fisheries and shifting stocks. Although the MAFMC appreciates the agency's efforts to develop a process to continue addressing these challenges, the approach detailed in the Procedural Directive is fundamentally misguided. The following is a brief overview of our primary concerns:

1. **The Procedural Directive does not articulate a clear purpose or provide an evidence-based description of the problem.** The MSA provides the Councils with significant flexibility and a variety of tools to manage fisheries across jurisdictional boundaries. The Councils, particularly the three East Coast Councils, have successfully managed stocks across jurisdictional boundaries since the inception of the Council system in 1976 and have continued to adapt their management approaches to address new challenges and changing conditions. NOAA Fisheries has indicated that the Procedural Directive was developed "in anticipation of an increasing number of fish stocks shifting in geographic distribution, new fisheries emerging, and other demographic shifts in fisheries." However, the document does not provide meaningful evidence or reference any

¹ https://www.fisherycouncils.org/s/2023-10-06_CCC-Comments-on-NMFS-304f-Procedural-Directive.pdf

supporting analysis to demonstrate shortcomings in existing management approaches for cross-jurisdictional fisheries. The overall lack of a problem statement and specific objectives makes it impossible to determine the appropriateness of the proposed process.

2. **Contrary to the agency’s stated goal of establishing a more transparent and orderly approach for fishery management, the Procedural Directive proposes a confusing and unnecessarily complicated process.** The document appears to have been developed hastily and with insufficient attention to the complexities of evaluating and responding to changing stock distributions. The proposed process is convoluted and difficult to follow, providing overly specific guidance in some areas while failing to provide any meaningful guidance on some of the most complex aspects of the process. Rather than adding clarity and predictability regarding the use of §304(f), the Procedural Directive introduces additional areas for subjectivity and potential disputes over conflicting interpretations. A national-level directive should be thoroughly reviewed and tested to ensure that any guidance can be applied in a consistent and predictable manner across all regions, fishery management plans, and stocks.
3. **The proposed criteria, metrics, and time frames are overly prescriptive, lack justification, and are inappropriate for evaluating changes in catch location and/or stock distribution.** The Procedural Directive proposes several metrics and thresholds for triggering a review and considering modifications to Council authority. These evaluations rely heavily on commercial landings revenue and recreational fishing effort estimates, both of which are problematic metrics for evaluating shifts in stock distribution or fishing effort. In addition, the suggested time frames for evaluation of these metrics are too short to accurately assess long-term changes. The guidance includes no supporting information or analysis to justify the selection of the proposed metrics and thresholds, nor does it explain how they should be weighed against other considerations identified in the document. The draft also does not acknowledge the complexities of evaluating changes in stock distribution or provide any guidance on what constitutes a “documented shift in distribution.” We are deeply concerned that the use of arbitrary and untested metrics and thresholds, combined with an ill-defined process for evaluating changes in stock distribution, will lead to frequent, unnecessary reviews and unwarranted changes in management responsibility.
4. **Reassignment of management authority would be extremely disruptive and should be exercised as a last resort rather than a first course of action for addressing governance issues.** Transferring management responsibility between Councils or transitioning to joint management would be a complex process with significant impacts on the affected Councils, SSCs, NOAA Fisheries Regional Offices and Science Centers, and stakeholders. The Procedural Directive fails to provide any meaningful guidance on how these impacts will be measured against potential benefits when considering a change in Council management authority. The document also does not include any consideration of less disruptive options for addressing governance challenges that could be considered before pursuing changes under §304(f).
5. **The Procedural Directive does not provide adequate opportunities for Council involvement or public input.** We are extremely concerned that the proposed process only includes one guaranteed opportunity for the relevant Councils to provide input (with one possible additional opportunity at the discretion of NOAA Fisheries). The Councils should have a defined and significant role in all steps of the process given their institutional knowledge and experience. We also note that the proposed time frames are too short to allow for meaningful input from, and

dialogue with, the Councils. We are also concerned that the proposed process described in the Procedural Directive does not include any dedicated opportunities for input from other management partners and the public. Transparency and public participation have been fundamental to successful fisheries management under the MSA, and these attributes should not be abandoned as proposed in the current Procedural Directive.

Overarching Recommendations

Given these concerns, we urge the agency to collaborate with the Councils to develop an alternative process and a revised procedural directive. We strongly recommend that the revised process and guidance incorporate the following principles:

- Any procedural directive regarding the use of MSA §304(f) should be based on a policy directive which defines the agency's overarching policy and establishes clear objectives.
- Reviews of geographic scope and Council authority should only be initiated at the request of a Council or through a formal stakeholder petition process established by NOAA Fisheries.
- Any consideration of changes in management authority should be tied to clear and documented governance issues that have well-established connections to changes in species distribution.
- Guidance should be designed to minimize the frequency of reviews and changes in management authority. When a governance issue has been identified, the responsible Council(s) should be given an adequate opportunity to address the issue *before* changes under MSA §304(f) are considered.
- The guidance should provide reasonable flexibility to account for variations among fisheries and regions. If any specific criteria or thresholds are included in the guidance, they should be scientifically sound, technically robust, and have a well-supported connection to the objectives for evaluation.
- Decisions made pursuant to §304(f) should be supported by a record that documents the rationale for the determination and provides a detailed explanation of the factors considered in the review.
- Guidance regarding the use of §304(f) should establish a robust, collaborative, and transparent process with central roles for both the Councils and NOAA Fisheries. Specifically, the process should:
 - Be conducted by an expert working group composed of individuals with relevant science, management, and policy expertise
 - Provide flexibility to determine appropriate indicators, criteria, thresholds, and data sources for a particular fishery
 - Include a comprehensive review of the available scientific information, methodologies, fishery specific characteristics, and regional knowledge
 - Require levels of analysis, documentation, and public input that are at least on par with the requirements for an FMP amendment
 - Describe and utilize the best available scientific information regarding the fisheries and ecosystems under consideration
 - Characterize and account for uncertainty in the data sources used
 - Assess whether changes in a fishery represent persistent long-term shifts (as opposed to short-term changes or interannual variability)
 - Evaluate costs and impacts of any proposed change in Council management authority relative to the anticipated benefits
 - Provide ample opportunities for public comment

Detailed Comments on the Draft Procedural Directive

1. The Procedural Directive does not articulate a clear purpose or provide an evidence-based description of the problem.

General Comments

NOAA Fisheries has indicated that the Procedural Directive was developed “in anticipation of an increasing number of fish stocks shifting in geographic distribution, new fisheries emerging, and other demographic shifts in fisheries.” While the Mid-Atlantic Council acknowledges the need to prepare for changing conditions, including possible changes to our governance systems, the Procedural Directive does not provide meaningful evidence, or reference any supporting analysis, to demonstrate shortcomings in existing management approaches for cross-jurisdictional fisheries.

The MSA provides significant flexibility and a variety of tools to facilitate management of fisheries across jurisdictional boundaries, and the Councils have been successfully managing stocks across jurisdictional boundaries since the inception of the Council system in 1976. Cross jurisdictional coordination has always been a particularly important aspect of fisheries management in the Greater Atlantic region. Southern New England states have a substantial interest in some fisheries managed by the Mid-Atlantic Council, and conversely, the Mid-Atlantic states have a substantial interest in a number of fisheries managed by the New England Council. The Mid-Atlantic and New England Councils manage two fisheries under joint FMPs and cooperate on the management of several other fisheries that overlap the geographic areas of both Councils. The Mid-Atlantic also jointly manages several FMPs with the Atlantic States Marine Fisheries Commission (ASMFC), whose membership includes representatives from all East coast states. In addition to formal coordination via joint management plans, the Mid-Atlantic and several other Councils utilize cross-Council liaisons to facilitate sharing of information and perspectives across regions. The Mid-Atlantic Council frequently holds public hearings outside of the Mid-Atlantic region to ensure that all relevant stakeholders have opportunities to comment on Council actions. The Mid-Atlantic Council, in coordination with other East coast management organizations, has recently been exploring possible changes to Committee membership and enhanced use of liaisons to further enhance coordination across regions.

Against this backdrop of relatively successful cross-jurisdictional coordination, NOAA Fisheries has failed to explain what problem the Procedural Directive is intended to address or how the guidance would benefit fisheries or stakeholders. It is also not clear to what extent the guidance is intended specifically to address climate-related changes. Although the agency has frequently referred to the Procedural Directive as a “Climate Governance Policy,” the word “climate” does not appear anywhere in the document.

MSA National Standard 6 already requires FMPs to be flexible enough to account for variations and contingencies in fisheries, including climatic conditions. According to the National Standard Guidelines at §600.335(d), unpredictable events, including climatic conditions, “are best handled by establishing a flexible management regime that contains a range of management options through which it is possible to act quickly without amending the FMP or even its regulations.” We believe resources would be better put toward continued development of more flexible management programs to increase the Councils’ adaptive capacity to respond to climate change and governance challenges, rather than creating an additional process to consider much more rigid structural changes.

Another area of concern relates to the use of a procedural directive as the vehicle for this guidance. Typically, a *policy directive* that outlines the underlying science and/or management issue would be developed and approved first, followed by a *procedural directive* that outlines the process to address the

policy. However, this Procedural Directive contains no reference to a corresponding policy directive. Optimally, the specific objectives defined in a policy directive would be used to define the appropriate metrics by which the need for management intervention would be identified. In this case, the absence of specific objectives makes it impossible to meaningfully interpret and assess the appropriateness of the proposed process.

Recommendations

The Procedural Directive should include a description of its purpose and objectives, and it should clearly define the problem using relevant data and/or examples. This description should explain any connection to an existing policy directive, if applicable, and if such a policy directive does not exist, one should be developed. Consideration of changes in management authority should be tied to clear and documented governance issues that have well-established connections to changes in species distribution. The Procedural Directive should establish guidelines to assess whether a governance problem truly exists with individual species or FMPs that may come under review.

2. The Procedural Directive proposes a confusing and unnecessarily complicated process.

General Comments

A national-level directive should be carefully designed and tested to ensure that any guidance can be applied in a consistent and predictable manner across all regions, FMPs, and stocks. This Procedural Directive appears to have been developed hastily, with insufficient attention to the complexities of the Council process and associated governance issues. Rather than adding clarity and predictability regarding the use of §304(f), the Procedural Directive introduces additional areas for interpretive questions and subjectivity. We are concerned that this will invite disputes over conflicting interpretations of the guidance. We agree with the statement in the CCC comment letter that the proposed guidance “could be used to justify vastly different outcomes depending on the data used, making it very difficult to see how the [Procedural Directive] would accomplish its goal of establishing ‘a more transparent, orderly, and responsive approach for fishery management.’”

In general, we find the proposed process to be convoluted and difficult to follow. For example, the relationships between Steps 1, 2, and 3 appear muddled, with many of the same sources of information considered in each step. As drafted, the relationship between the outcomes under Step 2 and determinations under Step 3 is confusing. Similarly, the relationship between the sub-components of some of the steps are unclear, such as for Step 1 where the sources of data to be considered (Step 1c) seem broader than the criteria that would be evaluated to indicate need for a review (Step 1b).

We also note that there is considerable ambiguity in the language used throughout the document. For example, variations of the phrase “including but not limited to” are used at several points when introducing lists of potential criteria, indicators, and sources of data that *may* be used. We question the value of including those lists at all if they are meant to be non-limiting and when no further guidance is provided on how the specific criteria, indicators, or data sources will be selected or prioritized. Similarly, a statement like “Determining the geographic location of a fishery involves consideration of legal, policy, and scientific issues and includes a certain amount of flexibility” adds little clarity to the document when no further insight is offered with respect to the legal, policy, or scientific issues that should be considered. Below we identify several specific questions and areas of ambiguity that require further clarification.

Initial Determinations

Clarification is needed on the assertion that “for most currently managed fisheries, initial determinations of geographic scope and designations of Council authority for preparing fishery plans have already been completed.” Is this referring to the initial determinations made during development of each original FMP, or has NOAA Fisheries recently conducted this type of review for “most” managed fisheries? In either case, it is not clear for which fisheries this review would not have been completed and why.

Multispecies FMPs

The Procedural Directive does not specify whether the review process is intended to apply to individual species or entire FMPs. This is an important distinction, as some species are managed together under a single FMP due to similarities in fishing operations and/or life history characteristics. Four of the Mid-Atlantic Council’s FMPs include more than one species, with varying degrees of similarity among the species included in the FMP. There are challenges associated with each approach (application at the species or FMP level) that need to be further explored and clarified within the Procedural Directive, as there are important implications for aspects of the process such as data evaluation and, complexity of management transition. If the guidance is intended to be applied at the FMP level, additional guidance would be needed on how to consider divergent trends in the metrics for different species within a multispecies FMP.

New Fisheries

While most of our comments focus on the implications of this Procedural Directive for fisheries managed under existing FMPs, the guidance is also intended to apply to new (previously unmanaged) fisheries. We note that the management, data, and fishery challenges are very different for new fisheries compared to those associated with existing FMPs, and a one-size-fits-all approach may not be appropriate. Commingling these processes is confusing, particularly considering that the Councils have typically been responsible for developing proposals to initiate management of a new species. The National Standard general guidelines state that “In developing FMPs, the Councils have the initial authority to ascertain factual circumstances, to establish management objectives, and to propose management measures that will achieve the objectives” (50 CFR 600.305). However, the proposed process for reviewing the geographic scope of a new fishery, which begins at Step 2, suggests that a portion of this responsibility would shift to NOAA Fisheries. Further clarification is needed if this is not the agency’s intent. While we question the need for this guidance to address new fisheries, we believe the document would benefit from a more detailed explanation regarding how the proposed process would align with the existing process for establishing management of new fisheries.

Transition Process

Some elements of the proposed transition process (Step 4) are of concern, including the provision that during the minimum 2-year phase in period, “existing FMP and regulations should remain in place.” It is unclear if this refers to all FMP elements and regulations, including routine specifications of annual management measures. Transition to revised management authority will be a complex process and may take much longer than two years. It is unrealistic to expect all regulations to remain unchanged over this time frame while still meeting the objectives of the FMP and “remain[ing] compliant with the MSA and other applicable law.” The description of the transition period also does not address the East Coast Scenario Planning Summit recommendation to use joint management as a transition mechanism where possible and appropriate.² Step 4 states that NOAA Fisheries and the Councils should provide for a

² East Coast Climate Change Scenario Planning Summit Report, https://www.mafmc.org/s/ECSP-Summit-Report_April-2023.pdf

“transition plan that addresses permitting and allocation issues.” It is not clear what is meant by this, especially given that the guidance also states that the existing FMP and regulations should remain in place until superseded by the new responsible Council(s).

Recommendations

As we noted in the introduction, our central recommendation is that NOAA Fisheries engage the Councils on development of a more appropriate, collaborative, and evidence-based approach for addressing management of stocks that extend across more than one Council jurisdiction. We recommend that the process be redesigned as a robust, collaborative endeavor consisting of a joint effort between the relevant Councils, NOAA Fisheries, and other management partners and stakeholders. A revised process should be thoroughly tested with a wide range of example cases to improve the draft process and guidelines. While we recognize that the authority for determining Council management responsibility ultimately lies with the Secretary of Commerce, we believe that the success of any potential reviews or transitions of management authority hinge on the degree of collaboration and transparency of the process, both of which are lacking in the current Procedural Directive. Listed below are several recommendations that relate to specific aspects of the process as described in the Procedural Directive.

Step 1: The Council strongly believes that reviews of geographic scope and Council management authority should only be conducted on an as-needed basis when there is a clearly defined governance problem. We recommend establishing a formal process through which a review could be requested by the relevant Council(s) or their stakeholders. We envision a process similar to the one used for National Marine Sanctuary nominations. Guidelines could be established for these groups to submit petitions for review by NOAA Fisheries, including requiring a preliminary description of any documented changes in the geographic scope of a fishery as well as a clear demonstration of an ongoing governance problem. Councils and their stakeholders are well positioned to track and identify changes in their managed fisheries, including resulting representation and governance concerns.

Steps 2-3: For fisheries where NOAA Fisheries determines that a review is needed, we recommend combining steps 2-3 into a single process for evaluating changes in the geographic scope of the fishery and determining the appropriate Council authority. Both components of such an evaluation should be conducted by an expert working group, including science and policy experts who can facilitate thorough consideration of the best available scientific information, methodologies, fishery specific characteristics, and regional knowledge of the relevant fisheries. This evaluation process could result in a recommendation to the Secretary of Commerce supported by levels of analysis, documentation, and public input that are at least on par with the requirements for an FMP amendment. Peer review processes should be conducted where necessary. The process should provide a clear role for the relevant Councils, the ASMFC (or individual state management partners where appropriate), and other fishery stakeholders.

Step 4: While we recognize that guidance on transitioning management authority will likely be needed, in our view it is not necessary to include this as a step in this proposed process, which should be focused primarily on reaching a decision about management responsibility. We recommend separating guidance on management authority transitions into a separate Procedural Directive to allow for additional development of the proposed transition process.

New Fisheries: We recommend narrowing the scope of the Procedural Directive to apply only to fisheries under existing Council FMPs. If NOAA Fisheries maintains its position that §304(f) guidance is needed for new, previously unmanaged fisheries, we recommend addressing this through a separate

procedural directive which fully explains how the proposed process will intersect with the existing Council-led process for initiating management of a new species.

3. The proposed criteria, metrics, and thresholds are overly prescriptive, lack justification, and are inappropriate for evaluating changes in catch location and/or stock distribution.

General Comments

Criteria, metrics, and thresholds for the determination of management authority should be carefully selected to reflect the underlying policy objectives of this type of guidance, which, as noted in Section 1, are not clearly explained in the current draft. Although the purported intent of this guidance is to address shifts in the geographic scope of fisheries, several of the proposed metrics are not reliable indicators of stock distribution or fishing effort. We are concerned that the use of these inappropriate metrics and arbitrary thresholds is likely to result in frequent reviews, even where no governance problems are evident. This would divert agency and Council resources away from other critical projects, including actions or initiatives to increase the climate resilience of managed fisheries. In the extreme, inappropriate metrics could result in unnecessary and costly reassignment of management authority.

Commercial Revenue and Recreational Effort as Metrics

The Procedural Directive proposes to use commercial revenue and recreational effort as possible metrics for determining if a review is needed and designating the appropriate Council management authority. The guidance does not prohibit the use of other metrics or data sources; however, the emphasis on commercial revenue and recreational effort seems to signal the agency's belief that these metrics are appropriate proxies for stock distribution and/or location of fishing effort. We strongly disagree. While commercial and recreational landings and effort are worthy of consideration as part of a comprehensive review of multiple data sources, we do not believe they are appropriate for use as stand-alone or even primary indicators of a fishery's geographic scope.

When evaluating commercial landings or revenue data, it is important to consider differences between the location of *landing* and the location of *catch*. NOAA Fisheries states on its own commercial landings query page "Landings data do not indicate the physical location of harvest but the location at which the landings either first crossed the dock or were reported from."³ This distinction does not seem to have been thoughtfully incorporated into the draft Procedural Directive beyond noting that reviews should account for "any regulatory requirements that may be affecting where fish are landed as opposed to where they are caught." However, it is not clear how this would be done, calling into question whether commercial revenue is the appropriate metric if the intent is to assess catch location. There are many confounding factors influencing where commercial landings occur, including variable local market conditions, availability of shoreside infrastructure, and management factors such as rotational management programs and allocations. In our view, this makes commercial landings revenue an inappropriate metric for assessing long term trends in catch location or species availability.

To illustrate our concerns with using commercial revenue to evaluate the geographic scope of a fishery, consider the following example: According to NOAA Fisheries commercial landings data, 76% of total revenue from the longfin squid fishery was attributed to New England states in 2022 (Figure 1a). Under the "presumptions pertaining to designations" listed under Step 3, this data could be used to support a decision to reassign management authority to the New England Council. However, based on catch

³ NOAA Fisheries Office of Science and Technology, Commercial Landings Query, Metadata and Caveats <https://www.fisheries.noaa.gov/foss/f?p=215:240:5888370331505>

statistical area data (primarily from Vessel Trip Reports (VTRs)), the majority of longfin squid revenue was generated from harvest that occurred in the Mid-Atlantic Council’s jurisdiction (Figure 1b; Figure 2). Over half of landings revenue was attributed to statistical areas fully within the Mid-Atlantic Council’s jurisdiction, and an additional 41% was from statistical areas 537, 539, and 611, which straddle the New England and Mid-Atlantic boundary (note that these statistical areas are considered to be part of the Mid-Atlantic Ecological Production Unit, as defined by the NOAA Fisheries Northeast Fisheries Science Center). Only 8% of revenue came from statistical areas fully within the New England Council’s jurisdiction. In this example, using commercial revenue based on the landings location would create an inaccurate and incomplete understanding of the fishery’s true geographic scope.

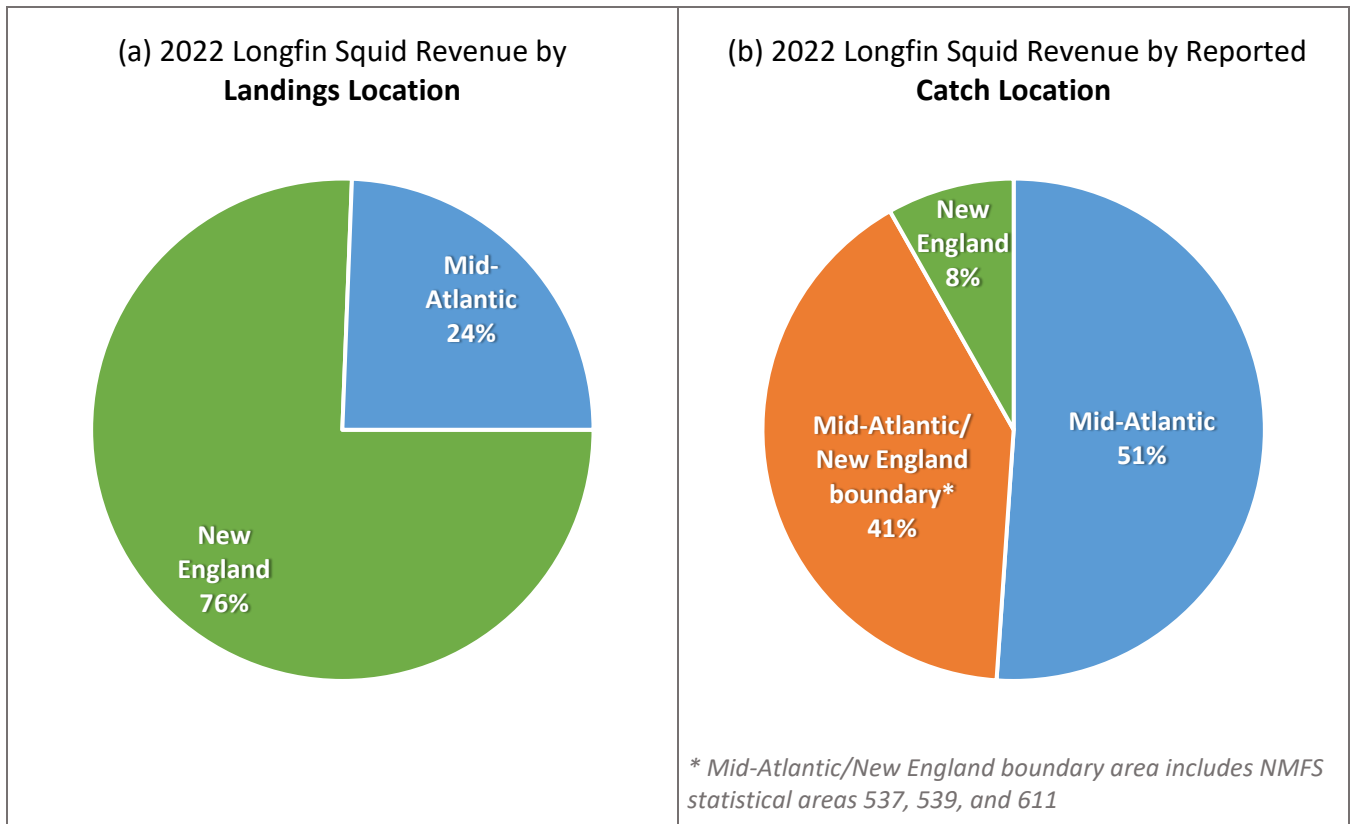


Figure 1: (a) Percentage of longfin squid revenue from each Council region in 2022 based on the location at which the landings either first crossed the dock or were reported from. Source: NOAA Fisheries Annual Landings Statistics. (b) Percentage of longfin squid revenue from each Council region in 2022, based on statistical area of reported catch. The orange segment represents revenue from statistical areas that straddle the jurisdictional boundary between the Mid-Atlantic and New England Councils (537, 539, and 611). Source: NMFS Catch Accounting and Monitoring System (CAMS) data as of October 2023.

2022 Longfin Squid Revenue by Statistical Area

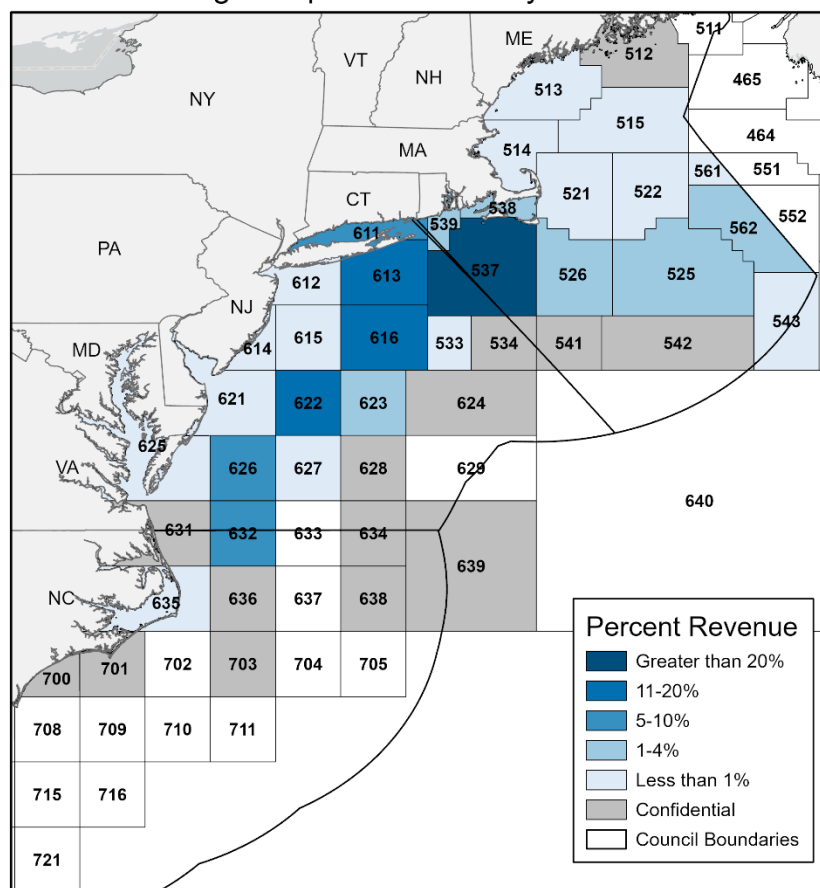


Figure 2: 2022 longfin squid revenue by NMFS statistical area. Source: NMFS Catch Accounting and Monitoring System (CAMS) data as of October 2023.

We have similar concerns about the use of recreational effort as a primary indicator or metric for identifying shifts in the geographic scope of a fishery. Recreational catch and effort estimates may have high uncertainty (i.e., high PSEs), and the precision of these estimates generally decreases as they are broken down into smaller spatial units. Recreational effort for a given species is influenced by many factors other than the geographic distribution of the stock, including regulations, regional trends in weather, economic factors, availability of other target species, coastal population and tourism trends, and access to shoreside fishing sites or marinas. In addition, spatial information as to where catch occurred is limited and typically extremely coarse (e.g., state waters or federal waters). Collectively, these factors make it very challenging to draw meaningful conclusions about the geographic scope of a fishery from recreational effort data.

It is also important to note that the MRIP fishing effort survey and catch estimation methodologies have undergone a number of significant changes in recent years, resulting in substantial revisions to the time series of estimates. Recently, a pilot study indicated that there may be a need to once again revise the effort survey design and estimates. The impacts of such large changes in effort estimates are not uniform across all states and regions, which could create complications for comparing recreational effort by region. The instability in recreational effort methodologies and estimates make it extremely challenging and highly uncertain to use recreational effort as a metric to assess changes in the geographic scope of a

fishery. The calibrations currently needed to align historical recreational data collected under different methodologies with current methodologies also create additional uncertainties in interpreting long-term trends that span the different eras of recreational data collection methods.

Thresholds

In Step 1, the guidance proposes that a 15% shift in either commercial revenue or recreational effort may indicate a need for a review. Depending on the fishery and the years evaluated, a 15% change in these metrics could be well within the range of typical variability, and, as such, is too low a threshold for identifying significant and persistent changes in the location of a fishery. In Step 3, the guidance uses the relative proportions of commercial revenue or recreational effort across Council jurisdictions as the basis for several “presumptions pertaining to designations.” The thresholds described in both steps are presented with no explanation or analysis to justify their selection and thus appear arbitrary.

Time Frames

The suggested time frames for review (e.g., two sets of 3-year averages) seem too short to capture meaningful long-term shifts in stock distribution and fishing effort. This is particularly true when multiple short time frames are compared with little or no separation in time between the two periods. These comparisons are much more likely to capture shorter-term changes that may be unrelated to climate change including natural variability, temporary changes in fishing effort, changes in stock dispersal, changes in fishing regulations, etc.

Selecting an appropriate time frame should also take into consideration other factors such as major changes in data availability or quality, or stock-specific population and effort dynamics that may inform the validity of evaluation results. This is another area where the advice from a broad group of science and policy experts would be critical to establishing an appropriate evaluation time frame specific to a given fishery.

Documented Shift in Stock Distribution

In addition to the commercial and recreational metrics described above, the Procedural Directive lists “documented shift in stock distribution” as a potential review trigger. However, the guidance does not further define this criterion, nor does it acknowledge the complexities of evaluating such distribution changes. As noted by our Council’s SSC, this is a very complex issue, and different conclusions may be reached with different data sources or methods. The data sources identified in the Procedural Directive can be highly variable, uncertain, and may show conflicting interpretations of stock distributional change. A clearly specified and operational definition of what characterizes a change in stock distribution, using guidance from scientific literature, is needed to develop the appropriate criteria and metrics to evaluate these potential changes. Additionally, guidance on standardization of methodologies and prioritization of data sources would be helpful. Given the significant consequences associated with changing management authority, it is concerning that the document does not provide any useful guidance on this complex and challenging aspect of the proposed process.

Certain Council Actions

The Procedural Directive includes “Certain Council actions, such as allocation revisions or changes to permit requirements that have cross-jurisdictional implications” as a proposed trigger that may indicate a need for review. If the agency’s intent is to establish criteria for identifying fisheries that may be experiencing geographic shift, as is indicated in Step 1(a)(i), it is not clear why Council actions would be included in this list. Many Council actions have “cross-jurisdictional implications,” particularly on the East Coast, and these actions must demonstrate compliance with the MSA, including the National

Standard 3 requirement to manage stocks as units throughout their ranges, the National Standard 4 requirement to make fair and equitable allocations, and the National Standard 8 requirement to provide for the sustained participation of all fishing communities. In cases where the agency determines that a Council action warrants a review of a fishery's geographic scope, it is not clear how that review process would intersect with the Council's amendment development process. Would the review commence after the Council has taken final action or at the point when the Council initiates development of an amendment? Initiating a review after a Council has taken final action may create unwarranted controversy for completed actions that have been developed through the Council's rigorous public process, which includes extensive analysis and documentation of compliance with all relevant federal laws. Conversely, if the review process begins when the Council initiates development of an amendment, it could slow the process or even disincentivize a Council from initiating or continuing development of an action.

Unclear Considerations and Criteria

There are several considerations listed in the Procedural Directive that are not clear in their connection to the corresponding step, or even defined. For example, in Step 2, it is not clear how management goals/objectives and management efficiency are relevant to identifying the geographic scope of a fishery. Similarly, in Step 3, it is not clear how some of the general considerations would be evaluated and considered (e.g., efficiency/responsiveness/adaptability of management, locations of "future" processing facilities). While the "need for cross-jurisdictional coordination" could be appropriate to consider, it is not clear what is meant by "e.g., potential for effort shifts if management measures are different under multiple FMPs." Another consideration is "existing permits," but it is not specified whether that includes permit activity or just the existence of permits and their theoretical capacity.

The combined list of metrics and additional considerations in each step is broad, and there is no explanation of how each element should be evaluated or weighted relative to the others. There is also no guidance on how divergent indicators would be reconciled (e.g., recreational fishery appears to be shifting whereas commercial does not).

"Presumptions Pertaining to Designation" and General Considerations

Step 3 describes both "presumptions pertaining to designations" and general considerations that may be used in a determination of appropriate Council authority. The details within each category, and the intended relationship between them, are confusing and concerning. Because the presumptions pertaining to designations are specific and prescriptive (based only on commercial revenue, recreational effort, and/or stock distribution data), it is unclear to what extent the general considerations are meant to factor into a designation decision. A transition of management authority is a major, disruptive change and should not be undertaken based on metrics that do not adequately describe the dynamics of a changing fishery.

Recommendations

As described in our recommendations under Section 2, an expert working group should determine the appropriate data sources and methodologies to use for characterizing changes in both location of fishing effort and in stock distribution. This approach would allow for a more robust evaluation of each fishery's unique trends and characteristics, including identification of the best available data and methodologies for that fishery and any species- or region-specific factors influencing observed trends. Reviews should consider multiple factors including, but not limited to, stock distribution, fishing locations, shoreside infrastructure, fishing communities, and unique fishery characteristics. At a

minimum, the guidance should clarify that evaluations of this nature should meet the standards of the best scientific information available and include a peer review component.

Considering this proposal and the Mid-Atlantic Council's concerns related to the specific criteria and thresholds in the current draft, we recommend removing any specific parameters for evaluation (e.g., specific time frames and percentage thresholds) from the Procedural Directive. The Procedural Directive could instead provide broad, general guidance (e.g., use of multi-year averages to smooth out inter-annual variability) on what could be considered during that review/evaluation process. If NOAA Fisheries determines that any specific criteria or metrics should be included in the Procedural Directive and used in any evaluation and determination, they should be technically robust and have well-supported connections to clearly defined objectives for evaluation.

4. Reassignment of management authority would be extremely disruptive and should be exercised as a last resort rather than a first course of action for addressing governance issues.

General Comments

Transitioning management responsibility from one Council to another, or transitioning to joint management, will be a disruptive and resource intensive process. Institutional knowledge and experience are not easily transferred, and time and resources dedicated to the transition would leave less for development of management actions, conducting stakeholder outreach, or addressing other issues such as habitat and protected resources. Disruption to the management system is also contrary to the views expressed by commercial and recreational fishermen who have often highlighted the need for consistency and stability in management. The Procedural Directive fails to acknowledge these impacts or provide any meaningful guidance on how they will be evaluated and weighed against the potential benefits when considering potential changes in Council management authority.

Science Implications

As noted by the Mid-Atlantic Council's SSC, changing management authority will also have significant implications for data and sampling infrastructure, stock assessment responsibilities, and Science Center workloads. While the Northeast and Southeast Fisheries Science Centers have begun to identify areas of increased coordination in data sharing and survey modifications to account for changing stock distributions, transitioning to a new governance structure will exacerbate the issues associated with these coordination demands. New data streams and survey protocols may need to be developed, including catch accounting and quota monitoring systems, and modifications will likely be needed to the stock assessment and peer review process to account for regional differences in data, timing needs, and assessment and peer review capacity. To support these changes, a significant investment in resources will be needed. However, the Procedural Directive appears to minimize these costs and implications and only suggests mitigating "disruptions to the degree practicable." In addition, for those stocks where NOAA Fisheries changes management authority to a multiple Council/multiple FMP designation, the ability for SSCs and Councils to appropriately specify catch limits within different Council jurisdictions will be challenging given that most stock assessments in the region are not spatially explicit and do not provide spatially explicit fishing mortality or biomass estimates.

Joint Management Considerations

Step 3 indicates that there would be a presumption of joint management or separate Council FMPs if 40-75% of a fishery's landings revenue or recreational effort occurs in another Council's jurisdiction. This seems likely to increase the number of jointly managed species. As noted in the CCC comment letter, joint management with multiple bodies is challenging and can increase workloads exponentially. For a

fishery like bluefish, which could hypothetically involve all three East coast Councils plus the ASMFC, the management process could become quite slow and cumbersome. How would this align with the National Standard 6 guidelines, which state that management regimes “must be flexible enough to allow timely response to resource, industry, and other national and regional needs,” or the National Standard 7 requirement to minimize cost and avoid unnecessary duplication? NOAA Fisheries acknowledged these very issues in its recent disapproval of the Council’s recommendation to add black sea bass allocations to the Mid-Atlantic Council FMP, stating that “Duplicating these allocations in the Federal FMP and regulations would make the management of this stock less adaptable to future changes in the distribution of both the resource and the fisheries that rely on it because future changes to the allocations would require a Council action in addition to the Commission [ASMFC] action.”⁴ It is troubling that the Procedural Directive does not acknowledge the additional costs, challenges, or complexities associated with joint management.

Recommendations

A revised Procedural Directive should emphasize that management transition should only take place either with the support of all relevant management parties, or as a last resort after other approaches have failed to resolve governance conflicts resulting from changes in stock distribution. Although major changes in management responsibility may be warranted in some circumstances, we believe less disruptive approaches should always be pursued first. At a minimum, we recommend that any guidance pertaining to the application of §304(f) should aim to build on the outcomes of relevant Council-led initiatives such as the East Coast Climate Change Scenario Planning Initiative. The scenario planning process identified and prioritized a number of potential actions that could be taken to address cross-jurisdictional governance issues, such as reviewing and potentially revising committee and advisory panel membership, enhancing the role of committees in decision making, improving the efficiency of joint management arrangements, and increasing coordination across NOAA offices and regions. NOAA Fisheries should first invest resources into helping those actions succeed instead of taking a prescriptive approach to the application of MSA §304(f) as a solution.

We also recommend that the document include a more detailed description of the costs and disruptions that may result from modifying management responsibility. The revised guidance should also require an analysis of the anticipated costs and benefits associated with a potential reassignment of management authority, including consideration of potential impacts on the staff and budget resources of the relevant organizations as well as their management partnerships. Consideration should be given to the National Standard 7 requirement to minimize costs and avoid unnecessary duplication.

5. The Procedural Directive does not provide adequate opportunities for Council involvement or public input.

General Comments

The proposed process includes very limited opportunities for involvement or comment by the relevant Councils. In Step 2 (determination of geographic scope), the document states that NOAA Fisheries “may choose to give the relevant Council(s) a specified period of time of up to 6 months from the date of notification in which to recommend how the fishery/ies should be identified.” We are concerned by this wording, which suggests that consultation with the Councils is not required and that the actual time frame could be much shorter than six months. In Step 3, the document states that NOAA Fisheries “will consult with the relevant Councils, and provide 6 months (unless a different schedule is necessary to

⁴ <https://www.mafmc.org/s/20230802-Pentony-to-Luisi-re-BSB-A23-0648-BL45-Decision.pdf>

comply with MSA requirements), in which to recommend a designation.” This proposed time frame is much too short to allow for input from, and dialogue with, the Councils, and it would not allow for adequate time for meaningful collection and consideration of feedback from Council stakeholders. We also note that clarification is needed regarding the types of circumstances that would require a “different schedule” to comply with MSA requirements. It is not clear why that would be necessary, particularly if any transition in management authority has a phase-in period.

Among the long list of considerations for determining designation of Council responsibility, information or comments from the Councils are not listed. This raises the question of how (if at all) Council comments will be factored into the decision-making process.

It does not appear that NOAA Fisheries intends to provide any dedicated opportunities for the public to provide input on potential changes in management, and it is unclear whether and to what extent any of the process would be documented and made available to the public (e.g., would National Environmental Policy Act requirements apply?). There is also no mention of how or where the ASMFC and state partner input would be considered for those stocks managed under joint FMPs. The ASMFC and state partners play a critical role in the joint management process and their fisheries and stakeholders will be significantly impacted by any governance change. Transparency and public participation are fundamental aspects of the fisheries management process under the MSA, and stakeholders should be given meaningful opportunities to provide comments whenever major changes are being considered.

Recommendations

The Councils should have a defined and significant role in all steps of the process given their institutional knowledge and experience. Other management partners and stakeholders should also be included in a much more meaningful and deliberative way to ensure their guidance and input are provided throughout. We believe these concerns could be addressed by adopting our recommendation to overhaul the process as outlined in Sections #2 and #3 above. This collaborative, evidence-based approach should follow a similar process currently used for FMP development, providing the opportunity for all management partners to identify governance issues, support and guide the evaluation process, and provide direction on potential outcomes. It would also provide a clearly specified and transparent process for public engagement.

Conclusion

For the reasons described above, we believe the Procedural Directive needs significant revisions, and we urge NOAA Fisheries to work closely with the Councils on the development of a revised process. Please contact me if you have any questions. Thank you for your consideration of our comments.

Sincerely,



Christopher M. Moore, Ph.D.
Executive Director, Mid-Atlantic Fishery Management Council

Cc: M. Macpherson, S. Rauch, K. Denit, W. Townsend, M. Luisi



Mid-Atlantic Fishery Management Council Scientific and Statistical Committee Meeting

July 12, 2023

Terms of Reference

In May 2023, the NMFS released the draft Fisheries Climate Governance Policy. This policy is intended to provide guidance on Council authority for stocks that may extend across the geographic area of more than one Council, pursuant to §304(f) of the Magnuson Stevens Act (MSA). The Mid-Atlantic Council intends to submit comments to NMFS and has requested that the SSC review and comment on the draft policy. Upon review of the draft policy, the SSC will provide a written report that addresses the following:

- 1) *Comment on the overall proposed process to review the geographic scope and/or Council authority as described in the draft Fisheries Climate Governance Policy developed by the NMFS.*

(Note: Given the overlap and interconnection between the draft policy and different Terms of Reference, similar comments/responses may be found under multiple Terms of Reference)

- The SSC recognizes that stocks and fisheries are shifting as a result of climate change and other drivers, and that this may result in an increasing disconnect between the location of fisheries and the Council(s) with their primary jurisdiction. The draft Fisheries Climate Governance Policy is an attempt to proactively define an adaptive procedure to address the likely consequences of such shifts. The SSC broadly agrees with the need for transparency and forward thinking in addressing the challenges that might be posed by shifting stocks.
- The objectives of this policy should be more clearly and specifically defined. Councils have successfully managed stocks with overlapping boundaries and have taken numerous management actions to address the impacts of climate change without the need for changes to the current NMFS process or designating a new lead Council authority. What is the specific problem the draft policy is trying to address? What are the anticipated benefits and what are the expected costs associated with a change in lead Council designation? How would these costs and benefits be measured and evaluated relative to National Standard 7?
 - NOAA Directives do not have the force and effect of law and are not meant to bind the public. Given this discretion, what is the purpose/utility of such guidance if it is not binding?
 - Optimally, the specific objectives of a policy would be used to define the appropriate metrics by which the need for management intervention would be identified. The lack

- of objectives in this proposed policy makes interpreting and assessing the appropriateness of the proposed indicators and thresholds impossible.
- Major changes to management, like changing the primary Council, should be a last resort after other potential options have been deemed insufficient.
 - The implications of this policy are potentially large for many different stakeholders. A meaningful stakeholder comment process will be important. These stakeholders should include the interstate fisheries commissions (e.g., ASMFC). Changes in Council management could be more disruptive for jointly managed fisheries.
 - Range shifts are not monotonic - they shift in multiple directions over time. How will this policy address species that shift northward for a few years and then back to their earlier distribution? Will the management structure revert as well?
 - Many components of the decision points are not operationally defined. Thus, they will not lead to predictable and scientifically defensible decisions. This limits the benefit of transparency that is one of the stated goals of this directive.
 - The policy does not provide clear operational definitions of the criteria used to evaluate potential fishery/jurisdiction changes. For example, apparent shifts in stock distribution differ depending on factors such as which survey(s) is used to define the distribution of fish, and how boundary lines are drawn in federal waters (see Palacios-Abrantes et al. 2023, <https://doi.org/10.1371/journal.pone.0279025>). Thus, identifying a specific percentage of fish inside or outside the region is problematic.
 - Similarly, other aspects of the decision points are defined very specifically (e.g., a 15% threshold) with no evaluation presented to justify these choices or their implications. The descriptions about calculating averages over time are vague, with only examples that describe a three-year moving average.
 - Only four Councils have contiguous boundaries: New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico. A national directive would then seem to apply only to the east and Gulf coasts.
 - Many Fishery Management Plans (FMPs) are intended for more than one species. The directive does not clarify how the process would apply to multiple species under a single FMP. It seems this would require even more work to possibly move one or more species out of the group covered by the FMP.
 - There is also no process specified for independent scientific peer review of these determinations/designations. This may lead to many transitory disturbances in the fishery. The absence of a well-defined scientific review process could lead to poorly justified and expensive changes to the *status quo* without compelling scientific evidence.
 - Processes other than climate change may cause the proposed metrics to change. For example, offshore wind farms could change available habitat or areas that can be fished. Management (e.g., changes to state or sector allocations, changes to closed areas) could also cause metrics to change.
 - How would this process interact with other NMFS guidance related to management under climate change, including National Standard 3 and the [agency-wide EBFM policy](#) and [EBFM Road Map](#)? This should be clarified. Are the procedures outlined here intended to help implement these policies? If so, how?

2) *Provide feedback on the application and potential implications of the proposed review criteria, metrics, and data sources described in Section III, Step 1 (Review Considerations), Step 2 (Geographic Scope of Fishery), and Step 3 (Council Designation). For Steps 1 to 3 consider appropriateness of the criteria and metrics, their feasibility of application, and the ability of current data streams to support decision making. Propose alternative criteria, metrics, and data sources where appropriate.*

- Some consideration should be given to the purported permanence of the change in these factors. Much of this document relies on the principle that such changes are irreversible and are caused by climate change instead of other factors like management.
- The bases (i.e., “criteria indicators”) for change may not be the same ones that were used to establish jurisdictions originally. Scallops and Monkfish might be good case studies. Blueline Tilefish would be another.
- Documenting a change in a stock’s distribution will not be easy to define. The variable definitions used in the literature will need to be tightened considerably before such changes can be used for decision making.
 - Methodologies will need to be sufficiently standardized to define relevant threshold criteria and how the uncertainty should be estimated. The document does not prioritize data sources or indicators used in defining or documenting a shift in stock distribution. Some hierarchy or prioritization of data sources/indicators would improve operational use and reduce instances of conflicting interpretations of distributional change. Data sources and criteria used to make decisions may be prioritized based on data quality and to avoid potential social-economic consequences of the decision, but details are lacking.
 - What is the basis for a 15% shift as a trigger of interest? What constitutes a “documented” shift in stock distribution? What statistical criteria would apply? How will interannual shifts in distributions be separated from longer-term and more permanent trends? This needs more technical specificity and is probably more suited for longer-term research.
 - A first step would be a review of historical changes in these metrics. Concepts from statistical control theory would be useful to distinguish signal from noise.
 - Criteria will often conflict (some indicating change, others no change or change in other directions). This can even be true within a single indicator (e.g., spring vs. fall trawl survey). How will divergent indicators be reconciled (e.g., recreational fishery appears to be shifting whereas commercial does not)?
 - The period for this shift (i.e., shift of greater than 15% in the proportion of a fishery’s landings revenue) is not specified. For small or non-target fisheries, spikes in catches or revenue might be fairly common. Moreover, alternative economic metrics should be considered - for example, net revenue might be more appropriate than landings revenue. Identifying the appropriate metric will depend on exactly what is intended to be captured (e.g., economic impacts vs welfare, etc.).

- Data sources have inherently different levels of quality and uncertainty. For example, defining such a metric from the MRIP data will be difficult (i.e., shift of greater than 15% in the proportion of a fishery’s recreational fishing effort: does the 15% refer to the point estimate?) because the MRIP estimates are often highly uncertain at small spatial scales (e.g., states). Therefore, determining changes in stock distributions may require greater precision than MRIP is currently able to provide at the state level.
- The problems in determining the fraction of catch in an area becomes especially critical as catches are restricted because it takes a smaller amount of fish or effort to make a big change percentage-wise.
- The SSC supports using multi-year information to mitigate against outliers; however, the ambiguity of geographic boundaries will impede any specific application of this recommendation.
 - Presumptive multi-year metrics - what happens to stocks with 25-40% change in landings revenue?
- The criteria currently seem to conflate footprint of the biological stock and footprint of the fishery. According to MSA (§3(13)), the definition of a “fishery” has two components: “(13) The term "fishery" means— (A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; **and** [emphasis added] (B) any fishing for such stocks.” Thus, is it accurate to assume that distribution of both components must change significantly?
- How would a significant change in stock distribution be determined? What is the time period over which that change is observed? Three years, as proposed, is likely too short to differentiate a range shift from interannual variability, and is less than a generation for many managed species.
 - As well, any multi-year average should be longer than the timetable for evaluation and implementation of governance changes (12 months for Council feedback on geographic scope and designations and a two-year transition evaluation, after which an updated three-year average could trigger reinitiation of the process). The latter includes a tradeoff between the risk of frequently changing management authority (too short a time period) vs risk of insensitivity to trends in changing distribution (too long a time period). These periods may also differ depending on individual stock and effort dynamics – distributions of some stocks and associated effort may be inherently more variable over time.
 - Changes may emerge through a suite of drivers: climate change, ocean acidification, wind energy areas (potentially affecting distribution of both stocks and effort). We currently do not have adequate infrastructure to monitor changes in stock distributions as wind energy areas expand.
- The draft policy ignores the data uncertainty in the “Sources of Data” section and therefore makes the proposed policy risk-prone, not risk-averse - i.e., how will uncertainty be evaluated and accounted for in the decision process?

3) *Comment on any social and economic implications and considerations the draft policy could have on Mid-Atlantic fisheries and communities.*

- The changes in management contemplated in this policy could be extremely disruptive for fishing because of different practices followed by each Council. These potential changes could introduce management uncertainty that influences capitalized values of quota, permits/licenses (and associated vessels), and/or long-term business planning. For example, the Councils use different approaches to set OFLs, ABCs, and ACLs. The potential to change which Council is in charge of management may create substantial uncertainty in future management.
- Six months to evaluate candidate changes in Council leads does not allow for multiple Council meetings, coordination with states and Interstate Commissions, and full public participation, no less proper compliance with NEPA and other applicable laws. There appears to be no opportunity in the process to get input on the potential implications from stakeholders on the potential change in management.
- The draft policy has a blind spot in its underlying assumptions and subsequent policy analyses regarding social and economic behaviors, relying on currently inadequate data collection programs. Scientific approaches largely do not exist to monitor and predict changes in markets, entry and exit, changes in home port, profitability, scalability, and business and financial health and flexibility. So the consequences of changes in lead Council, and under whose jurisdiction a user would actually fall under, are uncertain based solely on readily available information like permit address.
- The draft policy may create perverse incentives, including: (1) a disincentive for collaboration among Councils; (2) a response in which a proliferation of defined stocks occurs, increasing management complexity and costs (i.e., multiple FMPs across Councils for the same species); (3) relatively minor changes in real or reported landing locations to cause/prevent a jurisdiction shift. Ambiguities in definitions, delineations, and timelines identified above could also increase the number of court challenges.
- The policy should recognize that there is a difference between a fishing business and a fishing vessel. A business could have vessels fishing from multiple ports, but a headquarters at a specific location. It seems that the current draft directive should anticipate and address this type of integrated business in its design.
- As defined under step 4, a freeze on modifications to allocation or permits during the phase-in period could have serious consequences for business planning, which would be exacerbated by possible court challenges.

4) *Comment on the potential science and stock assessment implications of this policy (including development and timing of scientific advice to inform the management process).*

- Data responsibilities and workload consideration across Science Centers will be particularly important to understand because changing the Council in charge of the FMP may change the Science Center that provides advice.
 - Who conducts the standardized analysis of distribution shifts is yet to be determined.
 - How will the distribution shift analyses be conducted? Will one or multiple independent committees conduct the distribution shift analyses to meet the needs of steps 1 and 2? If so, how will the committees be formed? The data and the probable

methods/approaches used are likely the same, although the objectives of steps 1 and 2 are different.

- How will data be shared across regions, Science Centers, Councils, and other agencies? Sometimes different data are collected in different regions.
 - Will a change in Council be associated with a change in the NMFS Science Center responsible for assessment and, if so, how will resources be shifted to accommodate this change?
 - Will data and sampling infrastructure be improved and standardized across regions? If resources can be made available for this, it would be highly beneficial to science and assessment across all regions.
 - A transition to a new Council governance structure will likely require development of new data streams and/or integration of existing streams within and between NOAA Fisheries Regional Offices and Science Centers. This will require new resources, but the policy only advises mitigation “to the degree practicable.”
 - Many current data collection programs are region-specific, so recognizing shifts is complicated by differences among collection programs.
 - Current assessment science teams and stock assessment peer review processes are region-specific (e.g., SARC/SAW vs SEDAR) and may require modification under new Council management.
 - Data collection protocols designed for larger scale assessments may not support smaller management areas separated across Councils.
 - Increasing spatial resolution in assessments may require additional resources for both development and review of assessments.
 - Management Strategy Evaluation (MSE) is increasingly being used to guide development of approaches for setting ABCs. However, current MSEs don’t consider potential changes in management procedures associated with changing the Council (e.g., changing the OFL to ABC policy). Thus, guidance derived from MSEs may no longer be relevant once jurisdiction changes.
 - Transition would also erode the substantial institutional knowledge that resides within each Council and Science Center staff, which would be difficult to replicate in the transition period defined.
- 5) *Provide guidance and/or recommendations for Council consideration and possible inclusion in the Council's comments on the draft policy.*
- A Policy Directive that outlines the underlying science and/or management issue should have been developed and approved before making a Procedural Directive (i.e., the Climate Governance Policy). Then a procedural directive follows that would outline the process to address the policy. The current draft policy contains no information on the foundation as to what this policy is based on, and no science was presented to demonstrate issues exist. Particularly important is a review of how Councils have been responding to stocks shifting their distributions to date.
 - A policy directive should clarify what the primary concern regarding representation might be. In the current situation, all stakeholders have an opportunity to comment irrespective of council jurisdiction. If the primary concern is the absence of a voting

- member on the Council, modification of council membership might be simpler than spawning multiple FMPs.
- The policy directive should also include a review of previous Council efforts to manage stocks with shifting ranges. While challenges remain, these efforts appear to be effective without the need for many of the approaches described in the procedural directive.
 - It is unclear how this directive intersects with the [East Coast Scenario Planning](#) process and [possible outcomes](#).
 - It would be helpful to have a list of species and associated Councils with management authority that might be driving the need for this directive.
- Fishery Designation options 1-3 – some information on the current status of designation of stocks in categories 2 and 3 would be helpful. Spiny Dogfish and Monkfish fall in Designation 2. Golden Tilefish and Blueline Tilefish are in Designation 3.
 - All of these Fishery Designation options imply either *status quo* or expansion of management council involvement. What about contraction of jointly managed stocks to only being managed by a single Council? For example, might scallops be transferred from New England to the Mid-Atlantic?
 - Designation 3 (multiple councils, multiple FMPs) will require stock assessments that would likely occur at smaller spatial scales than is currently done. In general, there has not been sufficient advancement in the science and, as important, the data to support such estimates.
 - Who supports the research to develop improved techniques and approaches to support this policy?
 - The section of the policy that describes transitioning to revised council authority (step 4) specifies no permitting or allocation decisions by the lead council should be taken during the transition period. This implies a freeze on management actions, which could be problematic for species experiencing overfishing or other aspects of management.
 - Perhaps an "ombudsman" seat on the Council could address specific concerns of a state without a seat at the table. For example, a RI ombudsman could be part of the Mid-Atlantic process for squid issues. This might be more efficient than completely changing management authority.
 - The amount of change that would need to happen to trigger a change in management should be extremely large. Otherwise, there is the risk of the stock flickering back and forth over the threshold. Major changes to FMPs with changes in Councils would likely be very disruptive to stakeholders and management partners.
 - NOAA should test these rules through different case studies on a wide range of species (e.g., life history, management history) to see how their rules might be applied and understand when a change in management is truly needed. These case studies should envelop the entire process: define the problem and objectives, identify metrics to support objectives, and test any proposed approaches. The formation of a national working group, similar to those formed to review National Standard guidance, to provide technical advice on best practices should be considered to evaluate and determine significant changes in stock and fishing distribution, with worked examples when possible. Care should be taken in this process to avoid giving the impression to stakeholders that these case-study tests represent policies that are likely to be implemented. Rather these should only be paper exercises to make sure potential rules appear to work as intended.

- The base period and the time period used for comparison should be considered based on the species' life history, the uncertainty of the population dynamics, and the specific ecosystem characteristics (warming trend versus oscillation).
- There is no consideration or discussion of costs (besides mentioning the word) associated with these changes in responsibilities. How will NMFS address the modification of Council budgets to reflect the additional burdens, in particular on science, management and administration?
- There is another set of issues that is left undescribed. The draft directive policy fails to acknowledge the close intersection and integration of MSFCMA management with state partnerships in science and management that need to be considered in evaluating lead Council changes. For example, if a lead Council shift occurs that moves responsibilities to a new Region and Science Center, existing Cooperative Agreements, Research Set Asides, etc., with states for state data collection, research, and enforcement of FMPs and JEAs may have to be renegotiated under a potentially new management and administrative regime - is a two-year transition sufficient and will the state partners be willing participants? It will be hard to say because the policy is not being shared with them in advance for review, which is a major oversight and may strain relationships with key management and science partners. Greater public input on policy with a focus on other management partners (i.e., regional fisheries commissions) is recommended.

Attachment 1

MAFMC Scientific and Statistical Committee

July 12, 2023

Meeting Attendance via Webinar

Name

Affiliation

SSC members in attendance:

Tom Miller	University of Maryland – CBL
Ed Houde	University of Maryland – CBL (emeritus)
John Boreman	NOAA Fisheries (retired)
Jorge Holzer	University of Maryland
Yan Jiao	Virginia Tech University
Sarah Gaichas	NOAA Fisheries NEFSC
Wendy Gabriel	NOAA Fisheries (retired)
Mike Wilberg (Vice-Chairman)	University of Maryland – CBL
Cynthia Jones	Old Dominion University
Gavin Fay	U. Massachusetts Dartmouth
Alexei Sharov	Maryland Dept. of Natural Resources
Geret DePiper	NOAA Fisheries NEFSC
Andrew Scheld	Virginia Institute of Marine Sciences
Mark Holliday	NOAA Fisheries (retired)
Rob Latour	Virginia Institute of Marine Science
Olaf Jensen	University of Wisconsin-Madison

Others in attendance:

M. Sabo	K. Dancy
G. DiDomenico	C. Moore
H. Hart	J. Fletcher
M. Lapp	B. Muffley
J. Beaty	B. Brady
A. Bianchi	J. Hornstein
M. Seeley	M. Duval