ESA Working Group Overview

Protected Resources Committee

September 19, 2013

South Atlantic Fishery Management Council

This overview was provided by staff at the Western Pacific Regional Fishery Management Council and was presented at the Western Pacific Council meeting in June 2013.

Background

- Established in response to CCC recommendation to form joint working group between CCC, MAFAC, and NMFS

- Purpose of WG to identify potential options for improving process used for ESA Section 7 consultations on fishery management actions

Working Group Membership

Councils:

Edwin Ebisui (WPFMC; alternate Jim Lynch)

Dan Wolford (PFMC)

Cora Campbell (NPFMC)

Corky Perret (GMFMC; alternate Kevin Anson)

MAFAC: Julie Morris (WG chair; New College of Florida), Columbus Brown (Retired USFWS), Paul Clampitt (Fisherman), Pamela Yochem (Hubbs-Sea World Research Institute)

NMFS: Gina Shultz (OPR), David Bernhart (SERO), Marian McPherson (OSF)

Working Group Progress

Oct 24, 2012:	Webinar on ESA during MAFAC meeting. 3 case studies presented (HI LL, GoM reef fish, Lower Columbia River salmon)
Dec 2012:	Survey circulated to WG members to identify high priority issues
Jan 22, 2013:	WG Teleconference
Feb 14, 2013:	WG Teleconference
Feb 20-21, 2013:	Update to the CCC
Mar 27, 2013:	WG Teleconference
May 6, 2013:	In-person meeting in Washington, D.C.
May 10, 2013:	6-month report to CCC and MAFAC
July 10, 2013:	WG Teleconference
Aug 19, 2013:	WG Teleconference

FMCs Priority Issues

- Council involvement in Section 7 consultations regardless of trigger (new management action, new information, litigation settlements negotiated by NOAA GC)
- Transparency of Section 7 consultations
- Better guidance from NMFS on Council actions (what is the jeopardy threshold?)
- Insufficient scientific data on protected species

6-month Report: Options Matrix (Att 4)

Appendix 1. ESA Working Group Draft Matrix
Options for Improving Communication with Councils during ESA Section 7 Review

Goal: Improve communications among SF, PR, and councils during ESA section 7 consultations

Note: The working group agrees that the best long-term solution needs to incorporate early coordination of MSA, NEPA, and ESA activities. This matrix is focused only on the ESA components.

Technique	What it does	Timing	Pros	Cons	Additional Considerations
Council Involvement Prior to initiation of formal consultation					
1. Early Involvement: Interdisciplinary Plan Team ESA 7(a)(1), (2)	Early communication and coordination. Representatives from SF, PR, and Council work together on a team drafting documents in support of developing recommendations	Ongoing participation of Councils from initiation of action through submission of FMPs and implementing regulations for Secretarial review.	Early exchange of information	Extra work in terms of providing information on potential impacts as alternatives develop and are modified. Unless combined with other options (5-9 below), this option on its own would not provide the Councils' desired review of draft biological opinions.	

6-month Report: Highlights

Options for early involvement of Councils in Section 7 consultations

1. Interdisciplinary Plan Teams for FMP/FEP actions
2. Technical Assistance (not formalized)
3. Technical Assistance (formalized)
4. NMFS Protected Resources liaison to each FMP/FEP action

6-month Report: Highlights

Options for involvement of Councils in formal consultations

5. Councils as “Action Agency” or “co-lead/cooperating agency” along with SF
6. Councils as “Applicants”
7. Councils as “Non-federal representative”
8. Sharing of draft Biological Opinion with Council regardless of Council status

6-month Report: Highlights

Option for involving Councils throughout the consultation process (details in development)

9. Overarching MOU approach
    - Memorandum, policy guidance, or MOU to establish authorities under which Councils can be involved in ESA consultations
    - For each consultation, Council may request in writing involvement in the consultation process

6-month Report: Other Topics Pending Option Development

- Council involvement when consultation triggered by litigation (including Council's role in settlement negotiations)

- Better guidance from NMFS on Council actions (what is the jeopardy threshold?)

- Insufficient scientific data on protected species (Discussion ongoing to develop data quality rating)

Next Steps

- Continue refining options

- Final recommendations to be delivered by October 2013