



Report to the South Atlantic Council June 14, 2018
Prepared by Charlie Phillips, Mark Brown, and Gregg Waugh

The Council Coordination Committee (CCC) met May 22-24, 2018 in Sitka, Alaska. Charlie Phillips (SAFMC Chair), Mark Brown (SAFMC Vice-Chair), and Gregg Waugh (SAFMC Executive Director) represented the South Atlantic Council. Dr. Roy Crabtree and Dr. Jack McGovern representing the NMFS SERO were present. The agenda, meeting materials, and follow-up items can be found at: <http://www.fisherycouncils.org/ccc-meetings/may-2018>

Major topics are discussed below. For some topics, the CCC approved a letter and those are attached. For some topics, the opportunity to comment is still open and those are attached; Council members will need to provide comments so that the SAFMC can respond.

Budget Update/ 5-yr grants (Brian Pawlak)

The government was still operating under a continuing resolution during the interim CCC meeting, so it was not clear what the final budgets for 2018 would be, including the amount and schedule for release of grant funding to the councils. In May, we will receive an update on 2018 funds and status of 2019 and 2020 budget planning. Joint Enforcement funding in the 2019 budget has raised concerns by Councils and may be discussed.

Outcome: Chris Oliver worked with NMFS/NOAA to identify \$1M in additional funds to provide to the Councils to be split according to the Councils' allocation formula. The South Atlantic Council will receive \$107,500 additional funds. This money should be available in 2018 and 2019 and can be used for regulatory reform, aquaculture, or any other Council needs. The reduction in law enforcement funding was rejected for 2018. FY2021 budget is the next budget the Councils can have input into. NOAA Grants Management Division indicated the Councils can get partial funding for the 1st year of a multi-year award. The FY18 enacted funding included an increase in the Regional Councils and Fisheries Commission budget line and the Senate mark language specified that any increase above the FY17 enacted amounts shall be distributed only among the Interstate Marine Fisheries Commissions and International Fisheries Commission.

Bycatch Update (Sam Rauch)

In December 2016, NMFS released a final National Bycatch Reduction Strategy which lays out objectives and actions to help us more effectively reduce bycatch with existing resources and under current statutory requirements. The Strategy did not create any new requirements but was meant to guide and coordinate our existing and future bycatch work and programs. The next step will be to develop implementation plans that build upon and to continue to support high quality work to reduce bycatch. NMFS is seeking council input as they begin development of these plans and their implementation.

Outcome: NMFS is updating documents and the Council will comment when released.

Electronic Monitoring Policy Directive (Brett Alger/Councils)

NMFS is preparing a draft policy directive on EM technology, definitions, and cost sharing. The Council will be expected to comment on the draft. In February, Councils had questions regarding: relative funding responsibilities, standards on coverage, inequities for data processing costs between EM and human observers, assumption that all future EM will be paid by fishermen, data security, and the Council's role in reviewing technological improvements. Councils need to communicate preferences on these issues.

Outcome: The draft procedural directive is included as **Attachment 1**: "This Procedural Directive establishes a framework for allocating costs for electronic monitoring (EM) programs in federally managed U.S. fisheries between NOAA Fisheries and the fishing industry, and a timeline for implementing the framework. Currently, all appropriated funds designated for implementing systems to

monitor the landings of fishing vessels at sea are fully subscribed. As a result, any new monitoring system must either be funded through discretionary spending appropriations or be substantially funded through nonappropriated funds, such as industry funding. Even in situations where federally appropriated funds may cover the initial startup of a monitoring program, such a program must be designed to either cease or be adjusted should those funds expire or there must be a transition plan to require the cost be covered by non-appropriated funds upon expiration of federal funding.”

The Council should provide direction to staff on comments.

Data Modernization Update (Dorothy Lowman)

A report on data innovations for US fisheries was released in 2017 by a fishing data innovation taskforce (a group of fishing industry and NGO representatives). The report provides recommendations on how to modernize and streamline fishery information systems. What is the priority of NMFS and the Councils to do this, and are there any initiatives to address this, for example increasing observer data efficiency? There may be opportunities for public/private partnerships, but it is not clear how the money could get integrated into the process.

Outcome: Chris Oliver supports data modernization and the need to get more efficient. SAFMC noted extreme needs in southeast where one center has 3 councils, HMS, and ICCAT, and the limiting factor to having more assessments is allocating data processing time. MAFMC expressed support for a unique trip identifier and the SAFMC, NEFMC and GMFMC agreed. The CCC approved sending a letter to Chris Oliver supporting establishment of a unique trip identifier and continued investment for data modernization (**Attachment 2**).

Development of EM in the North Pacific (Diana Evans)

Development of EM in the North Pacific has been a successful collaboration among fisherman, the Council, and NMFS. Diana Evans will provide a presentation on the origins of EM in the North Pacific, the steps taken to get EM data fully integrated into observer data collection system, and lessons learned.

Outcome: Vessels are larger than most in the SAFMC; they do have a number that are smaller than 40 feet.

Demonstration of EM (at dock outside) by Alaska Longline Fisherman (Stephan Rhoads)

The push to implement EM instead of human at-sea observers came from the small boat fixed gear fishermen, and fishermen in Sitka led the way in gear testing. We are planning on having a longline vessel come alongside the dock just outside of the meeting hall. A short presentation on how the longline gear is set and retrieved from the vessel and how EM works on the vessel. Small groups of people may be invited to board the vessel to see a demonstration of the equipment and how it is used.

Outcome: We toured a vessel that was about 60 feet in length. System is working well.

Legislative Update and CCC comments (Gregg Waugh, Dave Whaley)

On March 8, the NPFMC received a written request from Congressman Don Young's fishery staff, Martha Newell, for CCC comments on H.R. 200 as amended by the House Committee on Natural Resources in December. A CCC letter has been drafted for consideration. The Legislative workgroup will review this letter and potentially offer some text on new issues not previously addressed in the CCC working paper. In addition, councils may wish to review changes in draft legislation that have occurred since the February meeting (e.g., S. 1520), and other draft legislation (Marine Aquaculture Act).

Outcome: The CCC approved sending a letter to Congressman Young (**Attachment 3**) and approved consensus statements for four new topics to be added to the CCC Working Paper (**Attachment 4**). Dave Whaley updated the group on items of interest to the Councils (e.g., pending legislation, potential changes to Congress, etc. (see the briefing materials for the activity report for details).

Recusal Policy- Review and comment on PR (Adam Issenberg)

NMFS is finalizing a proposed rule that addresses recusal issues including partial shares attribution and the close causal link language with respect to benefits from council actions, hopefully providing solid clarification with regard to “*A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual...*”. A discussion paper will be presented.

Outcome: Adam distributed a discussion paper (contact Gregg if you want a copy). They are working to finalize a proposed rule that should be published in late summer or early fall. NOAA GC is willing to present at a Council meeting once proposed rule is available. **The Council should provide direction to staff on whether you want a presentation.**

EBFM Regional Implementation plans (Sam Rauch)

Based on the 2016 EBFM policy and roadmap, implementation plans have been developed for individual regions. The purpose of the plans is to coordinate science and management priorities, build collaborative relationships, describe engagement strategies, specify EBFM priority milestones over the next 5 years, and provide a method to document progress in implementing EBFM. The CCC will get a briefing on these draft plans at this meeting, and NMFS will be ready for full council and public comment over the summer.

Outcome: The goal is to finalize the implementation plans by the end of the year; when regional plans are available, they will be looking for Council input. In response to a question, Sam said while it is not the purpose of the document, the implementation plans could help support the need for continuing to fund existing fishing independent surveys.

Exempted Fishing Permits – Use and review in Alaska Region (Glenn Merrill/Councils)

Exempted fishing permits have been flagged as a possible ‘problem’ to be fixed in MSA reauthorization, including new analytical requirements and limits on duration. In the North Pacific, the collaborative process involving the applicant, science center, regional office, and council provides a workable model for timely approval of a scientifically sound projects with appropriate consultation and review by the Council. The process and several EFP projects will be highlighted to illustrate how this issue is addressed.

Outcome: Process is working well on the west coast and looking to see what happens with the new State EFPs in the Gulf.

BSIA Update (NMFS)

At the February CCC meeting, NMFS provided a presentation and a draft white paper that describes a framework for determining that stock status determinations and harvest specifications are based on the best scientific information available (BSIA). NMFS has requested Council comments before the CCC meeting in May, with final comments due by July 1. At this CCC meeting, NMFS will provide an update on BSIA and plans to finalize the framework. Any update on NS1 subgroup formation to develop technical guidance?

Outcome: A draft letter is included as **Attachment 5**. **The Council needs to provide comments by July 1, 2018.**

NMFS Policy Directives & Prioritization (Jennifer Lukens, Chuck Tracy)

Over the past 10 years, NMFS has issued nearly 50 policy directives that create added work for the councils. Councils cannot be expected to effectively address the cumulative requirements of these policy directives in the near term, so some discussion of the priorities may be needed. Prioritization would help the Councils know which priorities are more important to address and deserve increased attention (all PDs cannot all be equally important).

Outcome: There was extensive discussion about this topic. All Councils indicated that the workload is significant. The SAFMC requested NMFS develop a spreadsheet with deadlines and deliverables. NMFS is working on this.

Allocation Reviews – Status & Expectations (David Witherell, Allen Risenhoover)

In July 2016, NMFS issued a Fisheries Allocation Policy Directive 01-119 (further revised on 2/17), and two associated Procedural Directives. Collectively, these directives are intended to provide guidance to the Councils on reviewing fisheries allocations and describe a mechanism to ensure fisheries allocations are periodically evaluated. The Fishery Allocation Policy requires the Councils to establish review triggers, provide an initial analytical review of each allocation, and if indicated, analyze the allocation for possible revisions. Categories of triggers that can be used by a council to initiate an allocation review: public interest, time, or indicators. The councils were required to identify one or more triggers for each fishery with an allocation that meets the definition contained in the revised policy directive by August 2019 (or as soon as practicable). Councils will report progress to date on determining triggers and reviewing allocations. NMFS can provide guidance as to the required granularity of the reviews. The NPFMC has established triggers and review timelines for each of its allocations meeting the definition, and the NPFMC has completed its first allocation review. A report on the process and lessons learned will be provided and this experience may be useful for other councils.

Outcome: The SAFMC suggested that changes to MRIP data have served as a trigger and a Regulatory Amendment was used to implement changes in the snapper grouper fishery; the SAFMC will be working on 4 species (red grouper, blueline tilefish, black sea bass, and vermilion snapper) to develop a method for reallocation that may delay work on a trigger. NMFS indicated there is no penalty for not meeting the deadline. NMFS is looking for input from the Council and that could be in the form of a motion indicating the policy and then a letter to NMFS. The NPFMC has used historical catch data for allocations.

Research Priorities (Cisco Werner, Tom Nies)

Each council treats the requirement to develop research priorities differently. For some councils, establishing research priorities is an important action, whereas for some councils, it doesn't merit high importance. Further, each council uses a different process to develop the priorities, uses different categories of priorities, use a different schedule, and have different products and outcomes. A comparison of the different process and outcomes of the Councils will be provided.

The Councils submit these priorities to the Secretary and the NMFS science centers for their consideration in developing research priorities and budgets for the region of the council. However, it is not clear what NMFS does with the research priorities that the Councils submit. NMFS will provide a report on NMFS research priorities, Science Center funding, and how Council research priorities are used.

Outcome: The CCC approved sending a letter to Chris Oliver (**Attachment 6**).

Aquaculture (Sam Rauch, Carrie Simmons)

Aquaculture is a new major priority for NOAA. Councils can be part of it by supporting coastal communities, developing aquaculture FMPs, or providing data for appropriate siting of aquaculture farms. New legislation is in the works to be introduced by Senator Wicker that would authorize \$350 million over 5 years to create a NOAA Office of Aquaculture with divisions in each region, authorizing issuing of permits outside of MSA and having the Councils serve only as consultant role. At this meeting, NMFS will provide a policy update on aquaculture, Carrie Simmons will make a presentation on the development of an aquaculture FMP in the Gulf, and the Legislative Workgroup will provide recommendations on the aquaculture bill.

Outcome: NMFS' intent is to provide a one-stop shop for permits. In the Gulf, with an Aquaculture FMP, NMFS would coordinate with other Federal agencies and NMFS. For other Council areas, without an FMP, NMFS would coordinate with other Federal agencies and serve as the NEPA lead. \$4-\$5M is available this year; the Commissions are doing several demonstration projects and NMFS Science Centers are rebuilding their aquaculture programs. Sea Grant gets about \$10M per year for aquaculture and S-K is another source of aquaculture funding. NMFS is exploring the question of whether aquaculture can occur in Federal waters. Without affirmative action allowing aquaculture, there is confusion. NMFS will look at

Council regulations and determine if the Council wanted to prohibit aquaculture in Federal waters. NMFS will explore a National Rule to allow aquaculture in Federal waters. NMFS has made \$1M available to the Councils and this money could be used for aquaculture FMP development. Also, the Centers received \$5M so they can help with analyses.

Development of an Aquaculture FMP in the Gulf was time-consuming and the FMP was approved. Food and Water Watch is the lead plaintiff in a lawsuit along with several other NGOs.

The SAFMC sent a letter to NMFS requesting \$442,004 over 3 years to develop an Aquaculture FMP (**Attachment 7**). NMFS cannot provide any additional funds at this time above the \$1M provided to the Councils; the SAFMC share is \$107,500. Senator Wicker's aquaculture bill is still being drafted; if requested the SAFMC would comment and could request funding be provided to each of the Councils that wish to develop an Aquaculture FMP. **The Council should provide guidance to staff on how to proceed concerning development of an Aquaculture FMP.**

International Affairs/Seafood Inspection (Sam Rauch)

There is interest by at least one Council in receiving information about inspection standards and information about what standards domestic products would need to meet to be exported. Updates on IUU and Trusted Trader will be provided. Additionally, NMFS should provide RFMO updates, and updates on commission appointment process (e.g., North Pacific Fisheries Commission). There is also interest in discussion of increasing U.S. tuna quotas and reducing the trade deficit.

Outcome: Informational. Sam reviewed the opportunity to weigh-in on a new direction for WECAFC. Deirdre Warner-Kramer will be giving the SAFMC a presentation on Friday during full Council (see **TAB 15, Attachment 9** in the SAFMC BB).

Regulatory Reform progress reports (Alan Risenhoover/Councils)

NOAA Fisheries has developed a process and guidance to implement the regulatory reform Executive Orders (13771 and 13777). Need to determine whether revision or elimination is necessary. In most regions, Council staff is working with regional staff to review regulations and present recommendations to the Council for review (with public comment). The councils need to get the list of de-regulatory regulations to NMFS due July 1. At this meeting, we will discuss regional progress on this issue.

Outcome: The Councils are on schedule to provide their recommendations by July 1st. The SAFMC will finalize their recommendations at the June 2018 Council meeting. The SAFMC asked about how regulations would be removed and NMFS responded that we should work with our Southeast Regional Office to determine how we address changes.

Recreational Fisheries Overview (Russ Dunn)

A Recreational Fishing Summit was held at the end of March. This Summit was specifically designed to identify complementary and collaborative actions that the angling and management communities can work on together. Russ Dunn will present the results of the summit. Participants at the summit were concerned that social and economic data on the charter and recreational fisheries needed for allocation reviews were lacking, and NMFS made a commitment to get this information and analyses. Has any progress been made? In February, the Councils commented on the need to messaging on MRIP information when it gets released this summer.

Outcome: Informational; a final report from the summit should be available mid-June.

Citizen Science (Mark Brown)

The South Atlantic Council is implementing a Citizen Science Program and will update the CCC on progress to date. Details about the pilot project will be shared.

Outcome: Mark did a super job presenting and Amber did a super job putting the materials together. There was a lot of interest in our process and what we have learned. The PFMC Chair, Dan Hull, congratulated us on moving forward and having a pilot project in the works. Marcos Hanke, CFMC Vice-Chair, said this is a new process and a much better way to collect data from the recreational sector.

NEFMC Program Review (Tom Nies)

The NEFMC recently completed an independent program review to: (1) assess past performance; (2) gather feedback on strengths and weaknesses of the Council process and operations; and (3) identify potential areas for improvements. The review was conducted by an independent six-member panel of fishery managers and scientists from other regions, and included input from stakeholders. The NEFMC will provide a summary of the process in response to requests from several Councils.

Outcome: Informational. The final report is available from the NEFMC's website; this process cost them about \$200,000: http://s3.amazonaws.com/nefmc.org/Final_ProgramReview_Report_050318.pdf

NOAA Fisheries Website Transition (Rebecca Ferro)

Phase 1 of NOAA Fisheries' web transformation -- www.fisheries.noaa.gov -- launched November 2017 with a dramatic new look and feel. The new site is modernized to keep up with changing technology; menus, organization and navigation improved; and effort made to ensure content is compelling and written in plain language. Rebecca Ferro will highlight NOAA's communication strategy in relation to the web changes, outline what's ahead, and how all this can affect the fishery management councils.

Outcome: Informational; they have a 4-year contract at a cost of \$1.2M in year 1 and then declining in each subsequent year.

CCC Workgroup Reports

Under this agenda item, we will receive reports from each of the CCC committees/workgroups, and take action as needed.

Habitat Committee	Diana Evans
Communications Group	Maria Shawback
Scientific Coordination Subcommittee	Chuck Tracy

Outcome: The Communications Group gave a report and the final report is still being developed; Kim Iverson and Cameron Rhodes participated via webinar and both represent the SAFMC on the Communications Group. Best practices were identified and some recommendations provided. Each Council will determine how best to incorporate this advice.

The Habitat Committee gave a report and asked for direction on how this group functions. The CCC supported the group working on a proposal as follows: Building on next step opportunities raised at the EFH Summit, identify a key focus area to work on for the next 1-2 years to bring together habitat scientists and managers at the Councils and NMFS. Such a topic could be the foundation of an in-person workshop of habitat-related Council and NMFS staff (and others), and a workshop report. The CCC-HWG has discussed two different objectives that may be relevant to pursue:

- Improving the integration of habitat science into stock assessment
- Making EFH designations effective for non-fishing impacts consultations

The CCC directed the Habitat Committee to focus on non-fishing impacts.

The Scientific Coordination Subcommittee reported that the final report from the recent Joint SSC meeting is still being prepared given the workload of Council staff.

CCC TOR and Meeting Schedules (Witherell/Nies)

The CCC TOR was revised last year to define the standing CCC committees and work groups. Several members have suggested that the TOR be revised relative to 1) the chairmanship of the different groups, and 2) the timing of CCC meetings. There is currently no guidance on chairmanship of the committees other than the SCS, and without this guidance the habitat committee and communications group are operating under the assumption that chairmanship rotates annually with the CCC host council. The CCC may wish to incorporate guidance in the TOR.

Regarding timing of CCC meetings, the interim meeting was originally scheduled early in the year to allow discussions on budgets, but in recent years, budgets have not been passed by then. Some CCC members have expressed concern that the late February – mid-May cycle puts the meetings too close together. We might want to explore different dates that would allow for a more even temporal split and thus provide more time for progress on issues raised at the first meeting of the year. Lately it seems we don't learn much about the budget in February – would we be better served holding this first meeting in March, April, or even May? A 2020 calendar with meeting dates for all councils and ASMFC will be distributed and be useful for discussions about establishing timing for the WPFMC hosted CCC meeting in 2020 and future years. Note that Gregg Waugh has already set the dates for the SAFMC hosted meeting in 2019 (May 13-16 in Charleston SC).

Lastly, the Councils may wish to determine a standard process to select a representative of the Councils to be part of the U.S. delegation to meeting of the Committee of Fisheries at FAO, which occurs every 2 years (?). The status quo (a representative is chosen by vote of the EDs; alternating between East and West coast representatives) is not optimal, and other alternatives may be preferable.

Outcome: The CCC provided the following guidance:

1. Chairs of the Workgroups rotate (e.g., the Habitat Committee Chair is a staff person from the hosting Council each year).
2. Legislative Work Group – Gregg Waugh will continue as Chair through December 31, 2018. Dave Witherell was appointed Vice-Chair and will become Chair beginning January 1, 2019.
3. Multiple Vice-Chairs – some Councils have multiple Vice-Chairs. The CCC agreed that the TOR could be changed to allow multiple Vice-Chairs with the understanding that only 1 Vice-Chair from each Council is at the table at any one time.
4. Timing of CCC meetings – the CCC discussed the schedule and a way to separate the February and May meetings. The Executive Directors are to initiate discussion on this issue and report at the next CCC meeting with the understanding that the status quo would remain in place for 2019 (2 in-person meetings in February and May). The CCC will hold a conference call sometime in the Fall of 2018.
5. Council representatives for FAO meeting – this occurs every 2 years; Rick Robins (MAFMC) attended in 2016 and Bill Tweit (NPFMC) attended in 2018. The CCC agreed by consensus to rotate attendance using the standard Council rotation. If a Council does not want to attend, they can pass and the next Council could attend.

Other Business and Next Meeting

1. Council Balance – there was some discussion about having adequate representation for commercial and recreational sectors as voting members on each Council. NMFS outlined the appointment process and noted that an annual apportionment report is released in late February each year.
2. February 2019 CCC meeting – hosted by NMFS in DC area.
3. May 13-16, 2019 CCC meeting – hosted by the SAFMC at the Francis Marion, Charleston, SC. May 13th travel day with meetings May 14th beginning at 1:30 pm through May 16th at noon. Travel home on May 16th. The goal will be to have briefing materials posted 2 weeks prior to the meeting.

**NATIONAL MARINE FISHERIES SERVICE
PROCEDURAL DIRECTIVE ON COST ALLOCATION
IN ELECTRONIC MONITORING PROGRAMS FOR
FEDERALLY MANAGED U.S. FISHERIES**

Purpose

This Procedural Directive establishes a framework for allocating costs for electronic monitoring (EM)¹ programs in federally managed U.S. fisheries between NOAA Fisheries and the fishing industry, and a timeline for implementing the framework.² Currently, all appropriated funds designated for implementing systems to monitor the landings of fishing vessels at sea are fully subscribed. As a result, any new monitoring system must either be funded through discretionary spending appropriations or be substantially funded through non-appropriated funds, such as industry funding.³ Even in situations where federally appropriated funds may cover the initial startup of a monitoring program, such a program must be designed to either cease or be adjusted should those funds expire or there must be a transition plan to require the cost be covered by non-appropriated funds upon expiration of federal funding.

Introduction

The demands for more precise, timely, and comprehensive fishery-dependent data continue to rise every year. As a result, the complexity and cost of fishery-dependent monitoring has increased over time. Constraining budgets and increasing demands for data are driving the need to evaluate and improve existing fishery-dependent data collection programs, in particular with respect to cost-effectiveness, economies of scale, and sharing of electronic technology solutions across regions.

Against this backdrop, NOAA Fisheries issued the Policy Directive on Electronic Technologies and Fishery Dependent Data Collection (Policy Directive) in 2013.⁴ The Policy Directive encourages the agency to consider electronic technologies in implementing new and/or improving existing fishery-dependent data collection programs to achieve the most cost-effective and sustainable monitoring approach that ensures alignment of management goals, data needs, funding sources, and regulations.

¹ For a definition of electronic monitoring and other terms used in this document, please see the Glossary of Terms in [Appendix A](#) of this document.

² This policy does not apply to EM programs in federally managed U.S. fisheries where the program is mandated or administered by an authority other than NOAA Fisheries.

³ Industry participants may partner with non-governmental organizations or other entities to secure funding for its portion of costs.

⁴ Please see the NOAA Fisheries Office of Science and Technology's website on Electronic Monitoring and Reporting: <https://www.st.nmfs.noaa.gov/advanced-technology/electronic-monitoring/index>.

The Policy Directive also outlines a number of considerations for fisheries managers when developing electronic technology-based data collection programs, including:

No electronic technology-based fishery-dependent data collection program will be approved by NOAA if its provisions create an unfunded or unsustainable cost of implementation or operation contrary to applicable law or regulation. Funding of fishery dependent data collection programs is expected to consider the entire range of funding authorities available under federal law, including those that allow collection of funds from industry. Where cost-sharing of monitoring costs between the agency and industry is deemed appropriate and approved under applicable law and regulation, NOAA Fisheries will work with Councils and stakeholders to develop transition plans from present to future funding arrangements.

In order to effectively implement the Policy Directive, this procedural directive is being issued to explain the categories of costs associated with EM programs and describe how such program costs should be allocated between NOAA Fisheries and industry participants. NOAA Fisheries will use this procedural directive as a framework to evaluate EM implementation. Further, Regional Fishery Management Councils (Councils)⁵ are expected to use the cost allocation framework set forth in this directive when creating new EM programs and evaluating existing EM programs. NOAA Fisheries believes that allocating costs as described in this directive is consistent with applicable law and will provide a transparent and consistent framework for discussing and identifying the agency's and industry's respective cost responsibilities in new and existing EM programs. Further, NOAA Fisheries expects that the framework described in this document will allow for the implementation or maintenance of EM programs that could not otherwise be initiated or maintained solely with federal appropriations.

As described in the Policy Directive, fishery-dependent data collection programs often include a combination of data collection methods in addition to EM, such as electronic reporting, on-board observers, and dockside monitoring. It may be appropriate to create cost allocation frameworks for these additional methods in the future; however, this procedural directive only applies to EM. Further, this procedural directive does not apply to small-scale pilot projects or programs using exempted fishing permits where NOAA Fisheries and industry participants are working collaboratively to test the viability of EM approaches for specific purposes and in limited circumstances.

Cost Responsibilities

⁵ In the context of this procedural directive, "Council" includes NOAA Fisheries for the purposes of preparing Fishery Management Plans or amendments for Atlantic highly migratory species. See 16 U.S.C. § 304(g).

As noted in the Policy Directive, cost allocation for EM programs must be consistent with all applicable appropriations law, the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and other Federal requirements. Typically, NOAA Fisheries' programs and activities are financed by funds appropriated by Congress. In addition to providing the necessary funds, a congressional appropriation establishes a maximum authorized program level, meaning that an agency cannot, absent specific statutory authorization, operate beyond the level that can be funded by its appropriations.⁶

NOAA Fisheries has identified two categories of costs associated with EM programs: sampling costs and administrative costs (described in the cost categories section). For all EM programs, NOAA Fisheries will be responsible for the administrative costs, including the costs of setting standards for such programs, monitoring program performance, and providing administrative support to address science, enforcement, and management needs, except where the MSA specifically authorizes the collection of fees for these costs. For EM programs that are initiated by a Council, for example, to provide greater operational flexibility to industry participants or an exemption from otherwise applicable requirements, industry will be responsible for the sampling costs of such programs. If NOAA Fisheries determines that EM is necessary and appropriate to meet legal obligations (*e.g.*, requirements of the Endangered Species Act), as a policy matter, NOAA Fisheries would also fund the sampling costs of such programs, unless the MSA specifically provides otherwise, as long as it has sufficient appropriated funds to do so.

NOAA Fisheries expects it will fund the EM program costs for which it is responsible through annual appropriations, and that industry will be directly responsible for paying for the sampling costs of EM programs in the circumstances described above. However, NOAA Fisheries is specifically authorized by the MSA to collect fees for certain costs associated with data collection in Limited Access Privilege Programs (LAPPs)⁷. In such fisheries, NOAA Fisheries may collect fees from industry to pay for administrative costs, sampling costs, or both, as consistent with statutory and regulatory requirements. In those cases, NOAA Fisheries would

⁶ See 72 Comp. Gen. 164, 165 (1993). An agency may not circumvent these limitations by augmenting its appropriations from sources outside the government, unless Congress has so authorized the agency. Although there is no statute that specifically prohibits augmentation, the concept has a statutory basis: 31 U.S.C. § 3302(b), the "miscellaneous receipts" statute; 31 U.S.C. § 1301(a), which restricts the use of appropriated funds to their intended purpose; and 18 U.S.C. § 209, which prohibits the payment of, contribution to, or supplementation of the salary of a government officer or employee as compensation for his or her official duties from any source other than the government of the United States.

⁷ 16 U.S.C. § 1853a(e). The MSA requires that, when establishing a LAPP, a Council must provide for a program of fees paid by LAPP privilege holders that will cover the costs of management, data collection and analysis, and enforcement programs directly related to and in support of the LAPP. NOAA Fisheries may collect fees to recover the actual costs directly related to the management, data collection, and enforcement of a LAPP (*i.e.*, those costs that would not have been incurred but for the LAPP). *Id.* § 1854(d)(2). The fees are capped at three percent of the ex-vessel value of fish harvested. *Id.*

not collect fees for costs that industry has paid for directly. NOAA Fisheries is also authorized to assess fees in certain North Pacific fisheries for the purpose of stationing observers and EM systems aboard fishing vessels or at fish processors.⁸ While NOAA Fisheries could pay for sampling or other directly incurred EM costs, unlike the LAPP fee authority, the North Pacific fees could not be used to pay for certain administrative costs.

Councils should be aware that NOAA Fisheries cannot guarantee the availability of appropriated funds for EM program administrative costs. If NOAA Fisheries at any point determines that it no longer has sufficient authorized appropriated funds to cover the administrative costs of a program, NOAA Fisheries will not approve a new program (if it has yet to be approved) or would adjust or end an existing program (if it has already been approved). In either case, a Council and NOAA Fisheries will need to consider what, if any, action might be needed to ensure that its fishery management plans are consistent with the MSA or other legal obligations.

For EM programs where costs are allocated between NOAA Fisheries and industry, NOAA Fisheries expects Councils to categorize costs associated with EM programs into sampling costs and administrative costs (described below), and to allocate responsibility for paying these costs consistent with the framework explained in this procedural directive. Councils should coordinate early with NOAA Fisheries when developing a cost allocation or fee collection arrangement for any EM program to ensure consistency with all applicable laws and regulations.

Cost Categories

NOAA Fisheries has identified the following costs commonly associated with EM programs, based on the pre-implementation and implementation of ongoing EM programs throughout the country.

Sampling costs may include, among others:

- **Equipment purchases, leases, and installation**, including, but not limited to, the cameras, hard drive, video screen, and other materials needed to outfit the vessel to comply with the requirements of the EM program.

⁸ 16 U.S.C. § 1862(a). The MSA contains a North Pacific-specific observer provision that allow the North Pacific Fishery Management Council to prepare a fisheries research plan for any fishery in the Council's jurisdiction (with the exception of salmon), which requires observers to be stationed on fishing vessels, and establish a system of fees to pay for the cost of implementing the plan. The North Pacific Fishery Management Council has prepared a fisheries research plan pursuant to this authority, and NOAA Fisheries recently issued a final rule integrating proposed a rule to amend the plan to integrate EM into the North Pacific Observer Program (82 FR 1485336991).

- **Equipment maintenance and upkeep**, including, but not limited to, regular software and system upgrades, ensuring that cameras are clean and free of debris, replacing cameras as needed, and periodically checking the system to ensure operation.
- **Training for captain and crew** (as appropriate) to use, troubleshoot, and maintain EM equipment and systems while at sea.
- **Development of vessel monitoring plans (VMPs)**, including identification of camera placement, catch handling protocols, and other requirements to facilitate third party video review.
- **Data transmittal**, *i.e.*, transmitting data collected through the EM system, including raw footage and metadata, to the appropriate review entity (or entities), whether by physical transfer of hard drives or sending data electronically.
- **Video processing and storage**,⁹ including initial review and summary of EM video¹⁰ and storage of raw video footage or photos and associated metadata.
- **Service provider fees and overhead**, including any fees or overhead the service provider charges as part of its EM system service contract with industry.

Administrative costs may include, among others:

- **Program administration support** to address science, enforcement, and management needs, including staff time and equipment to review VMPs, troubleshoot system issues that arise; facilitate communication between industry participants and EM service providers, as needed; and manage vessel selection processes, as needed.
- **Certification of EM service providers**, including staff time to review EM provider contracts and output reports to ensure data quality standards are met.
- **EM program performance monitoring**, including auditing service provider reviewers, reviewing video to determine optimal sampling rates, and analyzing data to ensure quality and effective program performance.
- **Data analysis and storage of Federal records**, including analysis of data that are submitted to NOAA Fisheries and storage of that data consistent with Federal record retention requirements.

Cost Category	Cost Responsibility Options
Sampling costs	<ul style="list-style-type: none"> • Industry;

⁹ Review of EM video footage by a third party is considered a sampling cost; reviewing the video and summarizing the data is similar to the function of an at-sea monitor collecting commercial fisheries data on the vessel at-sea.

¹⁰ In addition to this procedural directive on cost allocation, NOAA Fisheries will be developing a procedural directive on EM data storage for EM video held by a third party, contracted by the fishing industry. The policy will consider the costs and benefits of storing video for various lengths of time, as well as the management, scientific, and enforcement needs of any EM program. NOAA Fisheries will also consider different types of data storage to reduce costs to industry.

	<ul style="list-style-type: none"> • NOAA Fisheries using fees collected from industry (if applicable and consistent with statutory and regulatory requirements); • NOAA Fisheries for specific programs where agency has determined that EM is necessary to comply with legal obligations
Administrative costs	<ul style="list-style-type: none"> • NOAA Fisheries; • NOAA Fisheries using fees collected from industry (if applicable and consistent with statutory and regulatory requirements);

Implementation Timelines

NOAA Fisheries generally expects that both new and existing EM programs will include cost allocation provisions consistent with this procedural directive within two years of its approval. In programs in which industry is responsible for certain costs, but NOAA Fisheries has historically been paying those costs, the costs should transition to industry over time. Depending on the availability of appropriated funds, NOAA Fisheries may cover sampling costs in the initial stages of implementing a program. However, in such cases, transition plans should be developed to transition those costs to industry over time (not to exceed 3 years). The pace of the transition to industry funding will be specific to each fishery and will be determined by NOAA Fisheries and the Regional Fishery Management Councils, taking into account the status of the fisheries and the amount of funding appropriated to NOAA Fisheries for fishery monitoring programs.

Therefore, the provisions of new and existing EM programs should include:

- 1) A list of the costs associated with the EM program, categorized and allocated between NOAA Fisheries and industry participants in a manner consistent with this document.
- 2) Either a statement that the program is discretionary based on available appropriations or a mechanism to ensure third party funding of the appropriate costs.
- 3) In the event that the federal government provides limited startup funds for a monitoring program; a plan to transition to industry funding of the cost categories that are allocated to industry. The transition plan should include a timetable for the transition, including step-wise transitions to industry funding per year, where appropriate.

Measuring Effectiveness

Updates on the status of cost allocation provisions and cost allocation transition plans will be included in the metrics within updates on Regional Electronic Technology Implementation Plans to the Regulatory and Science Boards. NOAA Fisheries will track the number of EM

programs that include cost allocation strategies and cost allocation transition provisions as a metric of overall program efficacy.

Appendix A. Glossary of Terms

Electronic Monitoring (EM) – The use of technologies – such as vessel monitoring systems or video cameras – to passively monitor fishing operations through observing or tracking. Video monitoring is often referred to as EM.

Electronic Reporting (ER) – The use of technologies – such as smart phones, computers and tablets – to record, transmit, receive, and store fishery data.

Electronic Technology(ies) – Any electronic tool used to support catch monitoring efforts both on shore and at sea, including electronic reporting (e.g., e-logbooks, tablets, and other input devices) and electronic monitoring (Vessel Monitoring Systems, electronic cameras, and sensors on-board fishing vessels).

Fishery-dependent Data Collection Program - Data collected in association with commercial, recreational or subsistence/customary fish harvesting or subsequent processing activities or operations, as opposed to data collected via means independent of fishing operations, such as from research vessel survey cruises or remote sensing devices.

June 5, 2018

CFMC

Miguel Rolon
Executive Director
Carlos Farchette
Chair

GMFMC

Dr. Carrie Simmons
Executive Director
Leann Bosarge
Chair

MAFMC

Dr. Christopher Moore
Executive Director
Mike Luisi
Chair

NEFMC

Thomas Nies
Executive Director
Dr. John Quinn
Chair

NPFMC

David Witherell
Executive Director
Dan Hull
Chair

PFMC

Chuck Tracy
Executive Director
Phil Anderson
Chair

SAFMC

Gregg Waugh
Executive Director
Charles Phillips
Chair

WPFMC

Kitty Simonds
Executive Director
Edwin Ebisui
Chair

Mr. Chris Oliver
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3282
Via email: CHRIS.OLIVER@NOAA.GOV

Dear Mr. Oliver:

At the Council Coordination Committee meeting in May in Sitka, Alaska, we reviewed a report from the Fishing Data Innovation Taskforce entitled "Improving Net Gains: Data-Driven Innovation for America's Fishing Future." Ms. Dorothy Lowman and Ms. Kate Wing, both members of the Taskforce, gave a presentation on the report's findings. The CCC supports the intent of the report, to highlight and find solutions to improve data collection and management, and recommends NMFS invest in measures to address this important issue. Not only will such an investment support management of our Nation's fishery resources but will bring benefits to the U.S. industry dependent on these resources.

The Councils are responsible for developing data-driven management plans that meet complex conservation, economic and social objectives. The Council process also involves strong industry and public engagement in identifying the most critical management needs. In many ways, we are uniquely positioned to bring our expertise and external input to defining the data problems and choosing what to prioritize. The CCC members see a wide array of data collection and management challenges in our work around the U.S., such as the ability to compare data sets or use applications and technological systems that are interoperable across regions. For example, there was discussion at the meeting about developing a unique trip identifier or other approaches to efficiently integrate observer data, logbook data, and landings data.

We think investing in data modernization – improving the way NMFS and its partners collect, collate, analyze, store and provide access to data – is important to our ability to effectively manage fisheries. Data modernization initiatives can also work to minimize, streamline and avoid duplicative reporting requirements for fishermen. We encourage NOAA to invest not only in fixing short-term data problems but also in long-term processes and infrastructure that will ultimately expand our capacity to manage fisheries in an efficient and sustainable manner.

The Councils want to stay involved in the conversations around this work, including discussions to develop public-private partnerships and adopt internal programs, like the FIS grants, to support modernization efforts at the regions and states. We look forward to hearing reports in the future regarding how NMFS is making progress on data modernization efforts.

Sincerely,



Dan Hull
NPFMC Chairman, on behalf of the Council Coordination Committee

cc: Regional Fishery Management Councils and Fishing Data Innovation Task Force

June 8, 2018

Caribbean
Miguel Rolon
Executive Director
Carlos Farchette
Chair

The Honorable Don Young
Congressman for All Alaska
2314 Rayburn House Office Building
Washington, D.C. 20515

Gulf of Mexico
Dr. Carrie Simmons
Executive Director
Leann Bosarge
Chair

Dear Congressman Young,

Mid Atlantic
Dr. Christopher Moore
Executive Director
Mike Luisi
Chair

Thank you for your request (email to CCC Chairman Dan Hull from Martha Newell dated 3/8/2018) for the views of the Council Coordination Committee (CCC) on H.R. 200, the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, as it was amended and ordered to be reported by the House Committee on Natural Resources on December 13, 2017.

New England
Thomas Nies
Executive Director
Dr. John Quinn
Chair

As you are aware, the Nation's eight Regional Fishery Management Councils (Councils) are charged under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) with managing, conserving, and utilizing fishery resources throughout the entire Exclusive Economic Zone of the United States. In implementing this charge, the Councils are required to take into account the effects of management actions on United States fishermen and fishing communities.

North Pacific
David Witherell
Executive Director
Dan Hull
Chair

Under the requirements of the MSA, the Councils protect essential fish habitat, minimize bycatch, and comply with protections for species listed under the Endangered Species Act, marine mammals, and seabirds within the U.S. Exclusive Economic Zone (EEZ). Through implementation of the MSA, the United States is the global leader in the successful conservation and management of fishery resources and associated ecosystems in a proactive, sustainable manner. The Councils use a public process, in a transparent and inclusive manner, and rely on the best scientific information available as required by the MSA.

Pacific
Chuck Tracy
Executive Director
Phil Anderson
Chair

As a result, we not only meet conservation objectives but also ensure sustainable seafood for U.S. consumers, promote the economies of coastal communities, and maintain the social-cultural fabric of our Nation's recreational, commercial, and subsistence fishing communities.

South Atlantic
Gregg Waugh
Executive Director
Charles Phillips
Chair

The Council Coordination Committee—which consists of the senior leaders of these Councils—has developed a working paper to describe consensus positions and the range of Regional Fishery Management Council perspectives on key issues being considered as part of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) reauthorization process. This working paper can be found at: <http://www.fisherycouncils.org/msa-reauthorization/>

Western Pacific
Kitty Simonds
Executive Director
Edwin Ebisui
Chair

Your request asked the CCC for their comments on H.R. 200, as amended by the House Committee on Natural Resources. The comments below are specific to that legislation and reflect, where possible, consensus positions of the CCC.

Section 103 – Amendments to Definitions. *This section would add a number of new definitions to the Act including a definition of “depleted” and would modify the existing definitions (34) of*

“overfishing” and “overfished” to clarify that the definition for the term “overfishing” means “a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce maximum sustainable yield on a continuing basis.” This section would also replace the term “overfished” with the term “depleted” throughout the Act and would require the Secretary when issuing the annual report on the status of fisheries note if a stock was “depleted” as a result of something other than fishing.

The CCC believes that an alternative term could be useful for describing fisheries that are depleted as a result of non-fishing factors, unknown reasons, or a combination of fishing and other factors. The current MSY-based definition can be problematic when applied to data-limited fisheries or mixed-stock complexes. Furthermore, the term “overfished” can unfairly implicate fishermen for depleted conditions resulting from pollution, coastal development, offshore activities, natural ecosystem fluctuations, and other factors. Not all of the Councils agree that “depleted” is an appropriate term to replace “overfished” with. Some have noted that “depleted” has specific meanings in a number of other statutes, including the Endangered Species Act and the Marine Mammal Protection Act, and that care should be taken to avoid conflict or ambiguity if a change in terminology is implemented.

Section 202 – Process for Allocation Review for South Atlantic and Gulf of Mexico Mixed-Use Fisheries. *This section would have the National Academy of Sciences (NAS) conduct a study of the mixed-use fisheries of the South Atlantic and Gulf of Mexico to provide guidance to each of the applicable Councils (South Atlantic and Gulf of Mexico) on criteria that could be used for allocating fishing privileges, and other provisions. This section would require the applicable Councils (South Atlantic and Gulf of Mexico Councils) to perform – within 2 years – a review of allocations among the commercial and recreational sectors in all mixed-use fisheries within their jurisdiction and perform a similar review every 5 years thereafter. This section would require the Councils, in conducting the reviews, to consider in each allocation decision the conservation and socioeconomic benefits to the commercial fishing sector and the recreational fishing sector.*

This section only applies to the South Atlantic and Gulf of Mexico Councils and this represents a consensus of these two affected Councils. The South Atlantic Fishery Management Council, one of the two Councils required to take action under this provision, recently commented to Senator Graham on a similar provision in S. 1520, the Modernizing Recreational Fisheries Management Act of 2017. “The South Atlantic Council does not believe a National Academy of Sciences study of allocations is necessary because we have adequate guidance/procedures and it would be an unnecessary expenditure of limited National Marine Fisheries Service (NMFS) funding (estimated cost is about \$1M). The CCC worked with NMFS to define a process for looking at triggers that could be used to reevaluate allocations, and the CCC approved the criteria for initiating fishery allocation reviews at their May 2016 meeting. The recommendation from the CCC was that all Councils establish, within three years or as soon as practicable, the triggers that they are going to be using for allocation review.

The South Atlantic Council will be working on this during 2018. The South Atlantic Council does not feel a legislated timeframe for review of allocations is necessary. The triggers identified will determine when a review is needed, and the Council concluded this was sufficient.”

Section 203 – Alternative Fishery Management Measures. *This section would allow Councils to use alternative fishery management measures in a recreational fishery or for the recreational component of a mixed-use fishery including the use of extraction rates, fishing mortality targets, and harvest control rules in developing fishery management plans, plan amendments, or proposed regulations.*

Some Councils are currently using alternative fishery management measures for recreational fisheries (e.g., no in-season recreational closures, use multiple years of recreational catch to compare to the recreational ACL, etc.). However, some Councils feel specifying certain measures in statute would facilitate their application and reduce the risk that FMP amendments could be disapproved. The CCC believes that if alternative fishery management measures are used, the recreational fisheries should, and will, still be subject to the use of ACLs and associated accountability measures.

Section 204 – Modifications to the Annual Catch Limit Requirement. *The language in the amended bill would allow a Council, after notifying the Secretary, to maintain the current annual catch limit for a stock of fish until a peer-reviewed stock survey and stock assessment are conducted and the results are considered by the Council and its SSC for fisheries for which: the total allowable catch limit is 25 percent or more below the overfishing limit; a peer-reviewed stock survey and stock assessment have not been performed during the preceding 5 years; and the stock is not subject to overfishing.*

The CCC believes that further consideration of exemptions or alternatives to the existing ACL requirements for data-limited species could improve the Councils’ ability to provide stability in setting harvest limits. The ad hoc methods sometimes used to establish ACLs for data-limited species often result in quotas that are less predictable, resulting in a loss of stability and yield in some of our most important fisheries. Collecting the necessary data is critical to moving from such ad hoc methods to more traditional assessment methods. While ACLs and AMs have been effective management tools for many fisheries, they may not be the best tools for managing incidental or small-scale, data-limited fisheries. In these situations, Councils should have discretion to determine alternative control mechanisms such as ecosystem-based fishery management approaches for data-limited stocks.

If an assessment has not been conducted during the preceding 5 years, it will be difficult to determine whether overfishing is occurring or not. Here is an example of where this could work: If overfishing is defined as exceeding the OFL, as allowed by the NSGs, then this determination can be made by comparing catch to an OFL. That assumes an OFL is defined, which may not be the case if an assessment has not ever been conducted. The proposed language does not require that catches be less than the

ACL or ABC. It would be possible for catches to be above the ABC (perhaps even above the OFL, depending how overfishing is defined in the FMP), and yet the provisions of this section could be invoked. Additional language should be added to clarify that any catch would need to be less than the OFL. Here is an example of where this would not work: If overfishing is defined as exceeding FMSY, then overfishing will be unknown and this provision cannot be invoked. Or – since NMFS defaults to the last determination when overfishing cannot be determined, this may mean this cannot be invoked if overfishing was occurring before the most recent five-year period.

Section 205 – Limitation on Future Catch Share Programs. *This section would define the term “catch share” and create a pilot program for four Councils - the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils - which would prohibit those Councils from submitting or implementing any new catch share program unless the final program has been approved in a referendum by a majority of the permit holders eligible to participate in the fishery. This section would clarify that for multispecies permits in the Gulf of Mexico, any permit holder with landings within the last five years from within the sector being considered for the catch share program and who is still active in the fishery shall be eligible to participate in the referendum. This section would allow the Secretary, at the request of the New England Council, to include crew members who derive a significant portion of their livelihood from fishing to participate in a referendum for any fishery within that Council’s jurisdiction. This section would also require that prior to the referendum, the Secretary must provide all eligible permit holders with a copy of the proposed program, an estimate of the costs of the program (including the costs to participants), an estimate of the amount of fish or percentage of the quota each permit holder would be allocated, and information on the schedule, procedures and eligibility criteria for the referendum.*

The CCC believes that Councils should maintain the maximum flexibility possible to develop effective management tools, including catch share programs. Adding excessive requirements for conducting a referendum is likely to increase the administrative burden for the Councils and may reduce the Councils’ ability to implement the appropriate management program for their fisheries that could include modification of existing catch share measures or new catch share measures.

Catch shares are a management tool that should be available to the Councils, but the design, timing, and development should be left to individual Councils if they choose to use this tool for a specific fishery.

Section 208 – Recreational Fishing Data. *The provision in the amended H.R. 200 would require the Secretary establish partnerships with States to develop best practices for implementation of State recreational fisheries programs to improve the timeliness and quality of recreational data, and to develop guidance, in cooperation with the States, that detail best practices for administering State programs.*

Section 208 specifically amends MSA Section 401(g), with respect to paragraph 2. Under paragraph 2, the Secretary can exempt from the federal registration

program fishermen from a given State, but only if the Secretary determines the State registration and data collection program is suitable for use in conservation and management. The way we interpret the wording, the draft legislation requires the Secretary develop guidance (in cooperation with the States) that details best practices for State programs, so that the information from State programs can be determined to meet the threshold for use in conservation and management of recreational fisheries, and thus allow the state to be exempted from the federal registration program. If the States work with NMFS to meet the best practices, then the resulting data should be useful for meeting the Councils' needs.

The CCC also interprets the intent of Section 208 is to encourage States to work on approaches that supplement MRIP to improve timeliness and accuracy of recreational catch estimates. The CCC believes MRIP was not designed to provide data for in-season annual catch limit (ACL) management. The current MRIP methodology cannot be modified nor can sufficient funding be provided such that in-season ACL management will work using MRIP. The CCC believes alternative methods (e.g., state electronic logbook programs, federal for-hire electronic logbook programs, and electronic logbook programs for private recreational anglers) should be fully implemented where they are available and developed, then evaluated where they do not yet exist but could address identified needs. Once evaluated, MRIP should work to quickly certify these alternative methods for use in monitoring recreational catches. The wording in Section 208 would encourage States to work on approaches that supplement MRIP to improve timeliness and accuracy of recreational catch estimates.

There does not appear to be a plan for the systematic collection of the necessary biological data from recreational fisheries for use in stock assessments (size, age, and reproductive data) in many Gulf and East Coast Regions. Stock assessment data would be greatly improved, as would the assessment results, if NMFS would immediately prepare a written plan for each region and coordinate across regions to address species as they move from one region to another due to changes in the environment. The CCC believes additional funding is required for successful implementation of such a data collection program.

The CCC believes more timely and accurate catch estimates are more likely to be accepted by the recreational community if they are providing the data through logbook programs, which will go a long way to improve stock assessments, improve voluntary compliance, and improve accountability within the recreational fishing community.

Section 301 – Healthy Fisheries Through Better Science. *This section would add a definition of “stock assessment” to the Act and would require the Secretary to develop and publish in the Federal Register a plan to conduct stock assessments for all stocks of fish under a fishery management plan and use the same schedule as is already required for the strategic plan. The plan must establish a schedule for updating stock assessments – for each stock of fish for which a stock assessment has already been conducted - that is reasonable based on the biology and*

characteristics of the stock. Subject to the availability of appropriations, these new stock assessments or update of the most recent stock assessment must be completed every five years or within a time period specified and justified by the Secretary.

The CCC believes that stock assessments provide the fundamental information necessary to successfully manage sustainable fisheries. As such, the CCC believes that it would be beneficial for the MSA to include a requirement for the Secretary to develop a comprehensive plan and schedule to address stock assessment needs on a national basis. The CCC strongly believes assessment priorities should be based on priorities identified by the Councils who work cooperatively with NMFS to develop priorities. Increasing stock assessment frequencies and improving stock assessment methods to reduce the uncertainty in setting harvest limits and achieving management objectives will also improve the ability of Councils to establish scientifically-based ACLs, including for those fisheries that are currently considered data limited.

In addition, the CCC believes that baseline funding for sustainable management such as at-sea surveys of fish populations are the “bread and butter” of sustainable management that is the hallmark of U.S. fisheries under the MSA. Reducing stock assessment funds will reduce harvests by U.S. fishermen, which will increase imports of foreign seafood. Increasing stock assessment funding is the best investment an administration can make in U.S. fisheries.

The CCC notes that the language requires stock assessments for all stocks of fish under a fishery management plan and would require the Secretary to complete initial stock assessments of all unassessed stocks (NOAA Fisheries reports on the status of 474 stocks and stock complexes; of the 474, 157 have an unknown overfishing status and 239 have an unknown overfished status) within 3 years. While the provision does allow the Secretary some flexibility in meeting these requirements, this provision could require significant new financial resources or require changes to existing stock assessment schedules which could impact future fishery management decisions by Councils.

Section 302 – Transparency and Public Process. *This section would require that each Council, to the extent practicable, provide a Webcast, an audio recording, or a live broadcast of each Council meeting and for the Council Coordination Committee meetings. In addition, the bill would require audio, video, searchable audio or written transcript for each Council and SSC meeting on the Council’s website not more than 30 days after the conclusion of the meeting.*

The CCC believes that a transparent public process is critical to maintaining public trust, so that decisions of the Council and the SSC are clearly documented. This need can be met in a variety of ways, such as by webcasting meetings, audio recording of meetings, or detailed minutes of meeting discussions. However, budget problems are very real, and written transcripts are costly. Video recordings of large meetings may not add substantive content, as they will not capture presentations and motions, which are the most critical visual aspects of meetings. Streaming video may also degrade the quality

of webcast audio. While the technology for webcasts is rapidly evolving, live broadcasts generally require strong Internet connections to be effective. In the context of Council meetings, which are often held in remote locations near fishing ports, the Councils have little ability to predict or control the quality and cost of the Internet connection. Consequently, requiring the use of webcasts “to the extent practicable” will allow Councils to achieve greater transparency within budget and operational constraints.

The CCC notes that “to the extent practicable” is only listed in section (G)(i). The Councils’ work would be clarified if this language was also added to section (G)(ii).

In addition, this section would require that each fishery management plan, plan amendment, or proposed regulation contain a fishery impact statement to assess, specify, and analyze the likely effects and impacts of the proposed action on the quality of the human environment.

Fishery management involves fairly rapid cycles of adaptive management in which information about changing conditions is addressed through adjustments to the management program and regulations. The necessity for National Environmental Policy Act (NEPA) analysis of these actions results in requirements that duplicate those in the Magnuson-Stevens Act (MSA) and other applicable law, including additional comment periods that delay implementation of these actions, which were developed through the open and transparent MSA process. Ensuring NEPA compliance for marine fishery management actions has been costly and time-consuming for Council and NMFS staff and has limited the Councils’ abilities to pursue other regulatory activities. An expanded FIS is duplicative to the analytical requirements of NEPA and the regulatory impact reviews that we already do. In addition, the CCC notes that there have been instances where compliance with NEPA has hindered adequate compliance with MSA in terms of providing comprehensive analysis to Councils prior to their taking final action due to the difficulty and time required to complete NEPA analyses. Although the 2007 MSA reauthorization attempted to align the requirements of the two laws more closely through the addition of Section 304(i), the CCC does not believe what has been called for in the Act has been accomplished.

The intent of this provision appears to require Councils to include all relevant requirements of the National Environmental Policy Act of 1969 into the Council’s review of fishery conservation and management actions under the MSA.

Previous versions of this legislation included the phrase “Actions taken in accordance with this section are deemed to fulfill the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all related implementing regulations.” Without this phrase, the provision appears to require significant new work for the Councils without any benefit in streamlining the current process. It is unclear whether this omission was intentional or a drafting error.

Section 303 – Flexibility in Rebuilding Fish Stocks. *This section would remove the term “possible” and replace it with “practicable” in the requirement in section 304 of the Act that a rebuilding period “be as short as possible”. This section would remove the language requiring a*

10-year time frame for rebuilding overfished/depleted fisheries and replace it with a requirement that the rebuilding timeframe be the time it would take for the fishery to rebuild without any fishing occurring plus one mean generation time except in the case that: the biology of the stock, other environmental conditions, or other listed exemptions. This section would allow a fishery management plan for any fishery that is considered overfished/depleted to use alternative rebuilding strategies including harvest control rules and fishing mortality rate targets. This section would allow a Council to terminate any rebuilding plan for a fishery that was initially determined to be overfished/depleted and then found not to be overfished/depleted within two years or within 90 days after the completion of the next stock assessment. Finally, current law allows the Secretary to implement emergency interim measures for fisheries in which overfishing is taking place.

In general, the CCC believes that the addition of measures that would increase flexibility with respect to stock rebuilding for certain types of fisheries would improve the ability of Councils to achieve management objectives. We acknowledge that rebuilding often comes with necessary and unavoidable social and economic consequences, but we believe that targeted changes to the law, such as replacing the 10-year timeframe for rebuilding with the $T_{min}+1$ mean generation formula, would enable the development of rebuilding plans that more effectively address the biological imperative to rebuild overfished stocks while mitigating the social and economic impacts. While the Councils support targeted changes, there is no consensus on specific changes. Any exceptions to rebuilding requirements should be limited in scope and carefully defined. Ideally, such exceptions would be codified in the MSA and/or through guidance regarding applicable circumstances in National Standard guidelines.

The CCC does not believe that a simple word change from “possible” to “practicable” will solve commonly perceived limits to flexibility in specifying time periods for rebuilding programs, a flexibility we believe currently exists within Magnuson intent to account for important social and economic impacts to communities when reducing catches in a rational stock rebuilding plan. The CCC believes that the intent of the existing standard for rebuilding should be clarified to guide that in determining the ‘short as possible’ time period for rebuilding, Councils should consider the conservation risk to the stock, uncertainties in scientific information, and the needs of fishing communities. Careful analysis of these factors must be conducted and documented, so that selection of timeframe targets will result in a high probability of rebuilding while mitigating adverse social and economic impacts and promoting sustained participation of fishing communities throughout the rebuilding process. In these decisions, considerations for short-term social and economic impacts should not come at a disproportionate cost to the long-term conservation needs of the stocks or long-term social, economic, and ecological gains.

Section 304 – Exempted Fishing Permits. *This section would require the Secretary, prior to an exempted fishing permit to be approved or issued, to: direct a joint peer review of the EFP application by the appropriate regional fisheries science center and State marine fisheries*

commission; certify that the Council or federal agency has determined that the fishing activity to be conducted under the EFP will not negatively impact any conservation or management objectives in existing FMPs; certify the Council or federal agency has determined that the social and economic impacts and loss of fishing opportunities on all participants in each sector of the fishery will be minimal; certify the Council or federal agency has determined that the information collected under the EFP will have a positive and direct impact on conservation and management; and certify that the Council or federal agency has determined the Governor of each coastal state potentially impacted by the EFP has been consulted on the fishing activity to be conducted under the EFP. This section would prohibit any EFP that establishes a limited access system or establishes a catch share program.

The CCC believes that exempted fishing permits (EFPs) are an extremely important and useful mechanism to conduct scientific research or experimental management approaches. For example, EFPs have been used in different regions of the U.S. to conduct surveys, test monitoring devices under field conditions, investigate invasive species, and develop fishing gear that reduces bycatch and reduces impacts on habitat and protected species. These studies are frequently done by the fishing community at no cost to the public and have provided enormous benefits to the conservation and management of marine resources and habitats.

The CCC believes that the existing regulations already provide a good framework for developing regional processes for issuing and reviewing EFPs. The EFP applications undergo a regional scientific review and are evaluated through a public process by the respective regional Councils. The public and affected states have opportunities to comment to NMFS and the Councils during this process. Any new requirements for the EFP process, such as additional social and economic analysis or further consultation with the state governors, would greatly reduce the ability to get EFPs developed and approved in a timely manner.

In addition, the CCC believes that multi-year EFPs provide the necessary flexibility to scientifically test gear across different years and seasons. New regulations that limit EFPs to a 12-month period will restrict the type and quality of research that can be done, thus limiting the usefulness of the data collected.

Section 307 – Ensuring Consistent Management for Fisheries Throughout Their Range. *This section would clarify that the Magnuson-Stevens Fishery Conservation and Management Act would be the controlling fishery management authority in the case of any conflict within a national marine sanctuary or an area designated under the Antiquities Act of 1906. In addition, this section would require that if any restrictions on the management of fish in the exclusive economic zone are required to implement a recovery plan under the Endangered Species Act, the restrictions would be implemented under the authorities, processes, and timelines of the Magnuson-Stevens Fishery Conservation and Management Act.*

The CCC believes that all federal fishery regulations should be promulgated under the Council or Secretarial process established under MSA section 302 to ensure rational

management of our fishery resources throughout their range. Under the MSA, the Councils are charged with managing, conserving, and utilizing the Nation's fishery resources as well as protecting essential fishery habitat, minimizing bycatch, and protecting listed species within the United States Exclusive Economic Zone. This is done through a transparent public process that requires decisions to be based on the best scientific information available. This time-tested approach has made U.S. fisheries management highly successful and admired throughout the world.

If changes to Council-managed fisheries (for example changes to the level, timing, method, allowable gear, or areas for harvesting management unit species) are required under other statutory authorities such as the Antiquities Act of 1906, the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, or the National Marine Sanctuaries Act of 1972 (NMSA), such restrictions or modifications to those fisheries should be debated and developed under the existing MSA process, unless a Council cedes this responsibility to another process. In addition, all actions by the Councils are currently subject to review by the Secretary of Commerce to determine consistency with MSA and all other applicable laws. This current review ensures that Council actions – including those that could be made as a result of requirements of other statutes – will continue to be consistent with all relevant laws. Making modifications to fisheries through the MSA process would ensure a transparent, public, and science-based process. When fishery restrictions are put in place through other statutes, the fishing industry and stakeholders are often not consulted, analyses of impacts to fishery-dependent communities are not considered, and regulations are either duplicative, unenforceable, or contradictory.

Examples are as follows:

Measures to implement the MMPA False Killer Whale Take Reduction Plan modified gear requirements and fishing areas for a fishery that is otherwise sustainably-managed under the MSA. Modification of the longline exclusion zone originally established under the Western Pacific Council process was done through MSA section 305(d) (pertaining to responsibility of the Secretary), circumventing the process established under MSA section 302.

The establishment of Marine National Monuments mandated fishery management regulations through Executive Order without the chance for public discussion and transparency in the process. The resulting regulations, therefore, are required by the Council to be completed but does not allow for a science-based process or consultation with stakeholders that are important to the Council process and MSA.

The legislation also contains a number of region or fishery-specific provisions which the CCC has not taken a position. For specific comments on those provisions, we suggest contacting the appropriate Council for their views.

Finally, the CCC believes that the following general tenets should be considered relative to any change in the MSA, in order for the Councils to fulfill their responsibilities:

- Avoid across the board mandates intended to address a problem in one region that could negatively affect other regions. Modifications to the Act should be national in scope with reasonable flexibility to address region-specific issues to ensure that all regions are operating within the same conservation and management policy framework. Modifications to the Act that are specific to one region or one Council should be carefully considered so that they do not undermine this national policy framework or the operations of other regions and Councils.
- Legislation should allow for flexibility in achieving conservation objectives, but be specific enough to avoid lengthy, complex implementing regulations or “guidelines”.
- Legislation should be in the form of intended outcomes, rather than prescriptive management or scientific parameters.
- Legislation should avoid unrealistic/expensive analytical mandates relative to implementing fishery management actions.
- Legislation should avoid constraints that limit the flexibility of Councils and NMFS to respond to changing climates and shifting ecosystems.
- Avoid unfunded mandates, and/or ensure that Councils and NMFS have the resources to respond to provisions of legislation.
- Preservation and enhancement of stock assessments and surveys should be among the highest priorities when considering any changes to the Act.

Thank you for the opportunity to provide comments on this important legislation.

Sincerely,



Dan Hull, Chair
North Pacific Fishery Management Council




Edwin Ebisui, Jr., Chair
Western Pacific Fishery Management
Council



Phil Anderson, Chair
Pacific Fishery Management Council



Carlos Farchette, Chair
Caribbean Fishery Management Council



Mike Luisi, Chair
Mid-Atlantic Fishery Management Council



John Quinn, Chair
New England Fishery Management Council



Leann Bosarge, Chair
Gulf of Mexico Fishery Management
Council



Charlie Phillips, Chair
South Atlantic Fishery Management Council

PROPOSED ADDITIONS TO CCC WORKING PAPER: PREPARED FOR REVIEW AT CCC MAY 2018 MEETING

Existing Topics/Positions: WPFMC has a revised position on Topic 10. Topic 10 is shown below with the new wording for the WPFMC. Just as a reminder, the Regional Perspectives are left up to each individual Council. Given the CCC will be reviewing changes to the Working Paper, if other Councils also have positions they want to modify and/or add, please raise them as soon as possible.

Topic 10:

OTHER FEDERAL STATUTES

Background

Changes have been proposed to the MSA to ensure consistent fisheries management under certain federal laws. The proposals specifically address consistency with the National Marine Sanctuaries Act, Antiquities Act and actions necessary to implement recovery plans under the Endangered Species Act. Federal fishing regulations may also be promulgated under other federal laws such as the Marine Mammal Protection Act and through means under the MSA that circumvents the transparent and public Council process. Additionally, restrictions on fisheries may also be deemed necessary to implement requirements under the Endangered Species Act beyond species recovery plans, such as implementing Reasonable and Prudent Alternatives resulting from Section 7 consultation Biological Opinions.

Consensus Position

The CCC developed the following consensus position:

“The CCC believes that all federal fishery regulations should be promulgated under the Council or Secretarial process established under MSA section 302 to ensure rational management of our fishery resources throughout their range. Under the MSA, the Councils are charged with managing, conserving, and utilizing the Nation’s fishery resources as well as protecting essential fishery habitat, minimizing bycatch, and protecting listed species within the United States Exclusive Economic Zone. This is done through a transparent public process that requires decisions to be based on the best scientific information available. This time-tested approach has made U.S. fisheries management highly successful and admired throughout the world.

If changes to Council-managed fisheries (for example changes to the level, timing, method, allowable gear, or areas for harvesting management unit species) are required under other statutory authorities such as the Antiquities Act of 1906, the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, or the National Marine Sanctuaries Act of 1972 (NMSA), such restrictions or modifications to those fisheries should be debated and developed under the existing MSA process, unless a Council cedes this responsibility to another process. In addition, all actions by the Councils are currently subject to review by the Secretary of Commerce to determine consistency with MSA and all other applicable laws. This current review ensures that Council actions – including those that could be made as a result of requirements of other statutes – will continue to be consistent with all relevant laws. Making modifications to fisheries through the MSA process would ensure a transparent, public, and science-based process. When fishery restrictions are put in place through other statutes, the fishing industry and stakeholders are often not consulted, analyses of impacts to fishery-dependent communities are not considered, and regulations are either duplicative, unenforceable, or contradictory.”

Regional Perspectives

NEW ENGLAND:

Management measures were adopted through the Antiquities Act that affect fishing in a recently adopted National Marine Monument.

SOUTH ATLANTIC:

In the past, the Council has experienced delays in amendment development when a reasonable management alternative was identified by Protected Resources staff after the public hearing process. More recently, the Council has worked closely with the NMFS and NOAA GC to identify any alternatives that should be considered early in the process. We prepare consolidated documents that meet both MSA and ESA requirements. At times the Southeast Protected Resources interpretation of potential impacts to species has been much more restrictive than other region's determinations. This has caused significant delays and additional analyses with little to no data (e.g., black sea bass pot fishery). A clear independent and transparent peer review process for Protected Resource assessments, analyses, and determinations would be extremely beneficial to the Councils, the affected fishermen, and the public.

The Council recently completed a regulatory amendment allowing harvest of black sea bass with pot gear for the 32 permitted fishermen, with a maximum number of 35 pots per permitted fisherman, a requirement to tend the pots, and a requirement to bring the pots back to shore at the end of a trip. The way ESA/MMPA was applied resulted in a delay in development, review, and implementation. This resulted in fishermen unnecessarily losing income from the 2-month delay in the start of the season.

GULF OF MEXICO:

The Council has encountered at least two potential conflicts with other statutes. With regard to the National Marine Sanctuaries Act, the Council would like to have final say on fishery regulations to ensure such regulations comply with Magnuson Act requirements. With regard to the Endangered Species Act, the Council would like to be involved in development of biological opinions and management recommendations that affect fisheries managed under the Magnuson Act to ensure such recommendations are reasonable and effective.

PACIFIC:

The Regional Fishery Management Council (RFMC) process was created by the MSA in 1976 to provide transparent, public, regional management of fisheries resources. All meetings of the Pacific Council and its advisory bodies are open to the public, and all materials used to make management decisions are publicly available and posted to our website. In addition, the Pacific Council process adheres to the provisions of the National Environmental Policy Act, the Marine Mammal Protection Act, the Endangered Species Act, the Federal Advisory Committee Act, and other applicable laws. In June 2016, the RFMC's Council Coordination Committee unanimously adopted a resolution recommending that fishery management actions in the U.S. Exclusive Economic Zone should continue to be developed, analyzed, and implemented via the RFMC process, rather than being addressed by authorities such as the Antiquities Act of 1906.

The Pacific Council's transparent system provides all stakeholders an opportunity to express their opinions, share their knowledge, and be involved in the fishery management process, thereby improving Pacific Council decision-making and natural resource management. The Pacific Council believes that informed decision-making should involve an open process where impacts to the natural and human environment are disclosed and diverse viewpoints can be considered.

WESTERN PACIFIC:

In addition to the ESA and the Antiquities Act identified in Section 5 of H.R. 200, the Council believes that it is important to recognize the MMPA as one of the statutes that can also affect existing fisheries management plans. Measures to implement the MMPA False Killer Whale Take Reduction Plan modified gear requirements and fishing areas for a fishery that is otherwise sustainably-managed under the MSA. Modification of the longline exclusion zone, originally established under the Council process, was done through MSA section 305(d) (pertaining to responsibility of the Secretary), circumventing the process established under MSA section 302. The Council believes that developing federal fishery regulations to meet requirements of other federal statutes such as MMPA and ESA under the MSA section 302 process will ensure greater consistency and transparency in fisheries management as well as full consideration of impacts to fishing communities. Therefore, the MMPA should be included in Section 5 along with the ESA and Antiquities Act.

New Topics/Positions: The following new topics are proposed for inclusion in the CCC Working Paper. Individual Councils are encouraged to provide their Regional Perspectives and the CCC will be asked to review, modify as appropriate, and approve the Consensus Statements.

Topic 16:

COOPERATIVE RESEARCH

Background

Draft legislation would require that within 1 year after enactment, and after consultation with the Councils, the Secretary of Commerce shall publish a plan for implementing and conducting the identified research. The plan shall identify and describe critical regional fishery management and research needs, possible projects that may address those needs, and estimated costs for such projects. The plan shall be revised and updated every 5 years, and update plans shall include a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects. Proposed changes would also add: (a) the use of fishing vessels or acoustic or other marine technology, (b) expanding the use of electronic catch reporting programs and technology, and (c) improving monitoring and observer coverage through the expanded use of electronic monitoring devices.

Consensus Position

The CCC developed the following consensus position:

“While some regions already have effective cooperative research programs, the CCC believes that an explicit national plan for conducting and implementing cooperative research could benefit both science and the management. Such a plan would promote buy-in for management actions. One example of a potential cooperative research application would be development of electronic reporting programs. However, because there are differences in regional needs, such plans should not be mandatory.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

Requiring a written plan for implementing and conducting research to meet the Councils' management needs would greatly improve the South Atlantic Council's ability to manage South Atlantic fisheries. Specifying an update every 5 years with a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects would inject accountability and improve the chances needed research would be conducted. The South Atlantic Council believes using fishing vessels or acoustic or other marine technology, expanding the use of electronic catch reporting programs and technology, and improving monitoring and observer coverage through the expanded use of electronic monitoring devices would be very helpful. The South Atlantic Council required federally-permitted snapper grouper commercial and for-hire vessels use video monitoring if selected since 2008 (Snapper Grouper Amendment 15B); however, to date, none have been selected. The South Atlantic Council has worked with partners to develop applications for charter vessel reporting and private recreational permitting/reporting application. The South Atlantic Council believes the move to electronic data collection/monitoring is necessary to meet our increasing data needs.

GULF OF MEXICO:

A plan to conduct cooperative research would be a benefit to the Councils. A cooperative research plan update every 5 years seems to be an appropriate schedule. Priority to development and expansion of electronic reporting systems is a critical need to meet current and future management demands relative to harvest monitoring systems.

CARIBBEAN:

Drafting

NORTH PACIFIC:

The North Pacific Council believes that an explicit plan for cooperative research will benefit both the industry and the management process in more effectively managing our fisheries. In the current budget climate, with reduced stock assessment surveys already being planned by NMFS, such cooperative research will be even more critical. We also note that prioritization of the expanded use of electronic monitoring (EM) is consistent with efforts already well underway in the North Pacific and identifying this priority may provide the Council with additional information for management and monitoring of the fisheries.

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Fishery Management Council develops and monitors its Five-Year Research Priorities as required by MSA§302(h) along with Cooperative Research Priorities. The Western Pacific Council submits this document annually to the NMFS Pacific Islands Fisheries Science Center for their consideration when developing their Annual Guidance Memorandum. NMFS should be required to

track their accomplishments against the council's management research needs and report back to the council. There is no process or plan in place for the council to be notified – if, when, if not- on the status of the council's 5-year research priorities. A process or plan would assure accountability and transparency on the part of both the NMFS and the Council.

Topic 17:

COOPERATIVE DATA COLLECTION

Background

Draft legislation (e.g., H.R. 200 as amended, Section 207) would require that not later than 1 year after enactment, the Secretary shall develop, in consultation with the scientific and statistical committees of the Councils and the Marine Fishery Commissions, and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources into fisheries management decisions. The Secretary shall take into consideration and, to the extent feasible, implement the recommendation of the National Academy of Sciences in the report entitled “Review of the Marine Recreational Information Program (2017), including (1) prioritizing the evaluation of electronic data collection, including smartphone applications, electronic diaries for prospective data collection, and an internet website option for panel members or for the public; (2) evaluating whether the design of the MRIP program for the purposes of stock assessments and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits; and (3) if the MRIP program is incompatible with the needs of in-season management of annual catch limits, determining an alternative method for in-season management.

Consensus Position

The CCC developed the following consensus position:

“There has been some discussion of establishing guidelines to facilitate incorporation of data from non-governmental sources in fishery management decisions. There are existing legal requirements that govern data collection and quality (e.g., Data Quality Act) that dictate what NMFS is required to use for stock assessments. Data from fishermen, the states, and universities are already considered and evaluated for inclusion in stock assessments, as appropriate for the methodology and use of the data collected. These data sources are reviewed by the assessment analysts and through the peer review process that usually includes the Councils’ scientific and statistical committees. The CCC believes prescriptive requirements for use of any data source are not appropriate. The implementing guidelines for when such information should be utilized will be critical to its veracity and usefulness to assessment authors and managers.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

The South Atlantic Council is concerned that some of the proposed legislative provisions would be extremely time-consuming and burdensome for both the Scientific and Statistical Committee (SSC) and staff and appear to duplicate existing avenues of review for information from non-governmental sources. For example, the existing Southeast Data, Assessment, and Review (SEDAR) process already allows for any entity – governmental or otherwise – to submit data via working papers for review

during the data and assessment workshop components of the process. Likewise, scientific analyses and conclusions produced by non-governmental entities that have already undergone an external peer-review process (e.g., independent scientific journals) are routinely used during the SEDAR assessments. The Council's SSC has also established a process for conduct of third party (e.g., academics, private consultants) stock assessments, and regularly reviews scientific information for use in management that has been collected by academic scientists independently or in cooperation with fishermen. However, the Council believes that data used in management decisions should be collected in accordance with standards appropriate to the type of information collected and its intended use, and that are designed to minimize associated uncertainty.

GULF OF MEXICO:

Agrees with the CCC consensus statement and SAFMC analysis provided above.

CARIBBEAN:

Drafting

NORTH PACIFIC:

The North Pacific Council notes that although cooperative data collection can be very valuable to our management process and scientific understanding (e.g., the expanded Bering Sea crab surveys done by industry several years ago), the studies and results need to have adequate peer review. The concern isn't specifically with other non-government data sources per se, it is the notion that they won't be adequately peer reviewed or vetted to fulfill Best Scientific Information Available (BSIA) requirements of MSA and hold up to public and legal review. The Council had suggested that in developing the report, the Secretary also identify a process for ensuring adequate scientific peer review of the data and analysis. Basing management decisions on poorly designed studies and questionable information can be highly detrimental to the conservation of our stocks and management of the fisheries.

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Fishery Management Council is concerned that this proposed provision would impose additional unnecessary burdens on the Scientific and Statistical Committee (SSC) and staff. The SSC and staff will be forced to act as gate keepers of information received by anyone, any agency, and any organization. Peer review processes are in place. These processes include assuring that all necessary and relevant information are included in reviews of stock assessments developed for management action by the councils.

The Western Pacific Council utilizes the Western Pacific Stock Assessment Review (WPSAR) process for incorporating data into, as well as approving, stock assessments. The WPSAR process includes the Council, NMFS PIRO, and NMFS PIFSC and provides an existing avenue for reviewing and incorporating useful data into stock assessments. This process should form the basis of facilitating incorporation of additional data, when and if available.

This provision requires the development of a report that facilitates greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources into fisheries management decision. In the Western Pacific region, data from the State and Territories are the only source of fishery dependent data used in stock assessments that feed into fisheries management. These data and survey information and assessments are all documented in the

region's Annual Stock Assessment and Fisheries Evaluation report. Requiring the development of another report of similar nature would be duplicative.

Electronic data collection will need greater support/funding since the inherent biases in this type of system (i.e., zero catch, lack of validation, etc.) will need to be accounted for. MRIP in the Western Pacific only exists for the State of Hawaii and is not useful for stock assessment, reference point, or in-season management.

Topic 18:

MIXED-USE FISHERIES LAPP MORATORIUM

Background

Draft legislation (e.g., H.R. 200 as amended, Section 206) would require that not later than 1 year after enactment, the Secretary of Commerce shall seek to enter into an agreement under which the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine shall study the use of limited access privilege programs in mixed-use fisheries (mixed-use means a Federal fishery in which two or more of the following occur: (A) recreational fishing, (B) charter fishing, and (C) commercial fishing.). Proposed language would also establish a moratorium on the submission and approval of a limited access privilege program for a mixed-use fishery until the date that the report is submitted except if such program was part of a pending fishery management plan or plan amendment before the date of enactment of this legislation. A program under this exception shall be reviewed and revised as necessary to be consistent with the recommendations of the report. None of the proposed changes would affect limited access privilege programs approved by the Secretary of Commerce before enactment of this legislation.

Consensus Position

The CCC developed the following consensus position:

"The CCC believes that Councils should maintain the maximum flexibility possible to develop effective management tools, including limited access privilege programs. Temporary moratorium is likely to increase the administrative burden for some Councils and may reduce the Councils' ability to implement the appropriate management program for their fisheries that could include modification of existing LAPP measures or new LAPP measures.

Limited access privilege programs are a management tool that should be available to the Councils, but the design, timing, and development should be left to individual Councils if they choose to use this tool for a specific fishery."

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

The South Atlantic Council has one long-standing IFQ program in the region (wreckfish) that was established in 1992. [Note: LAPPs and IFQs are all types of catch share programs.] Since that time, the Council has considered the use of catch shares in the snapper grouper mixed-use fishery (2007-2008) and the golden crab fishery (100% commercial) (2012) but did not move forward with programs for either fishery. The topic of catch shares has lately been controversial in the South Atlantic and the Council is not currently considering additional catch share programs. The South Atlantic Council is concerned about the potential impact on existing data collection/research programs if NMFS funds have to be diverted to fund a National Academy of Sciences study of LAPP programs in mixed-use fisheries.

GULF OF MEXICO:

Agrees with the CCC consensus position stated above. The congressional mandate to implement annual catch limits has made limited access privilege programs (LAPPs) an essential management tool in certain circumstances. LAPPs have proven to be an effective tool for preventing overfishing and to improve the economic efficiency of the commercial fisheries sector. Exploratory studies in the Gulf of Mexico have also documented potential benefits for the for-hire charter and headboat components of the recreational sector. It should be noted that, like the rest of our management tools, LAPPs are not necessary in every fisheries context.

CARIBBEAN:

Drafting

NORTH PACIFIC:

The North Pacific Council notes that NAS studies incur costs to the agency (typically ~\$1 million) that in turn, affect the Councils by reducing funding for NMFS scientific and management support. Additionally, prescribing a national moratorium on LAPPs limits the ability of Councils to use proven management tools based on regional needs and determinations, to fulfill their conservation and management responsibilities.

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Council does not currently use Limited Access Privilege Programs (LAPPs). However, the term “mixed-use fishery” needs to be better defined to ensure that should the Western Pacific Council choose to use LAPPs in the future, it isn’t constricted by a term specifically written for other areas. The legislation should also ensure that should the study not be completed in one year, the moratorium would be lifted.

Topic 19:

AQUACULTURE

Background

Aquaculture is being promoted as a way to reduce the seafood import/export deficit. The Magnuson-Stevens Act (MSA) treats aquaculture as fishing based on a legal opinion by NOAA General Counsel that landings or possession of fish in the exclusive economic zone from commercial marine aquaculture production of species managed under fishery management plans constitutes “fishing” as defined in the MSFCMA [Sec. 3(16)]. Fishing includes activities and operations related to the taking, catching, or harvesting of fish.

In 1994, the South Atlantic and Gulf of Mexico Councils established a live rock aquaculture permitting system for state and federal waters off the coast of Florida under Amendment 2 to the Coral FMP. Live rock is defined as living marine organisms or an assemblage thereof attached to a hard, calcareous substrate, including dead coral or rock. Live rock is used in the marine aquarium trade. This permitting system allows deposition and harvest of material for purposes of live rock aquaculture while maximizing protection of bottom habitat, EFH, and HAPC in federal waters of the South Atlantic Council.

The Gulf of Mexico Council approved an Aquaculture FMP in January 2009. There is a lawsuit underway challenging provision of the FMP.

Consensus Position

The CCC developed the following consensus position:

“The CCC believes that the Councils’ existing authority under the Magnuson-Stevens Act allows them to develop fishery management plans to regulate aquaculture in their respective exclusive economic zone (EEZ) waters to address major topics like permitting process and duration, approval of systems and siting, species that may be cultured, and record keeping and reporting. The Gulf Council has an existing fishery management plan and other Councils have programs and/or policies addressing aquaculture in the EEZ. Individual Councils are in the process of determining whether they will develop a fishery management plan and do not feel a consultation role alone would adequately address Council concerns.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

The South Atlantic Council recognizes that there are several types of environmental risks associated with marine aquaculture. Federal, state, and local regulatory agencies should evaluate these risks as they develop and implement permitting and monitoring processes for the aquaculture industry. The Council specifically recognizes the following potential interactions between marine aquaculture and essential fish habitat (EFH):

1. *Escapement*

2. *Disease in aquaculture*
3. *Use of drugs, biologics, and other chemicals*
4. *Water quality impacts*
5. *Benthic sediment and community impacts*

The South Atlantic Council supports the establishment and enforcement of the following general requirements for marine aquaculture projects authorized under the Magnuson-Steven Fishery Conservation Act (MSA) or other federal authorities, to clarify and augment the general policies already adopted in the Habitat Plan and Comprehensive Habitat Amendment (SAFMC 1998a; SAFMC 1998b):

1. *Marine aquaculture activities in federal waters of the South Atlantic require thorough public review and effective regulation under MSA and other applicable federal statutes.*
2. *Aquaculture permits should be for at least a 10-year duration (or the maximum allowed if the applicable law or regulation sets a maximum less than 10 years) with annual reporting requirements (activity reports). Permits of 10 years or more should undergo a 5-year comprehensive operational review with the option for revocation at any time in the event there is no prolonged activity or there are documented adverse impacts that pose a substantial threat to marine resources. SAFMC Marine Aquaculture Policy June 2014*
3. *Only drugs, biologics, and other chemicals approved for aquaculture by the FDA, EPA, or USDA should be used, in compliance with applicable laws and regulations (see Appendix for current list of approvals).*
4. *Only native (populations) species should be used for aquaculture in federal waters of the South Atlantic.*
5. *Genetically modified organisms should only be used for aquaculture in federal waters of the South Atlantic, pending FDA and/or other Federal approval, following a rigorous and documented biological assessment which concludes there is no reasonable possibility for genetic exchange with natural organisms or other irreversible form of ecological impact. Further, aquaculture of genetically modified organisms should be prohibited in federal waters of the South Atlantic when there exists a reasonable opportunity for escapement and dispersal into waters of any state in which their culture and/or commerce are prohibited by state rule or policy.*
6. *Given the critical nature of proper siting, the permitting agency should require the applicant to provide all information necessary to thoroughly evaluate the suitability of potential aquaculture sites. If sufficient information is not provided in the time allotted by existing application review processes, the permitting agency should either deny the permit or hold the permit in abeyance until the required information is available.*
7. *Environmental monitoring plans for projects authorized under MSA should be developed by the applicant/permit holder and approved by NOAA Fisheries with input from the Council.*
8. *Fishery management plans for aquaculture should require permittees to have adequate funds (e.g., assurance bond) committed to ensure removal of organisms and decommissioning of facilities that are abandoned, obsolete, or storm-damaged or have had their permit revoked. The plans should also require that the amount of these funds be determined by NOAA Fisheries with input from the Council and that the funds be held in trust.*

9. When issuing permits for aquaculture in federal waters, NOAA Fisheries should specify conditions of use and outline the process to repeal permits in order to prevent negative impacts to EFH. NOAA should take the appropriate steps to modify or revoke permits using its authority if permit conditions are not being met.

GULF OF MEXICO:

The Gulf of Mexico is the only Council to have an implemented plan for aquaculture and echoes many of the sentiments expressed by the South Atlantic, above. Many of the items addressed in the Wicker Aquaculture bill are already included in the GMFMC's fishery management plan (FMP) for aquaculture and by extension are in the final rule establishing the Gulf Aquaculture Permit. There are major differences in the climate and needs of each region; thus, an overarching federal management body (as outlined in Section 4(c)) would lack the regionalized expertise necessary to fully evaluate concerns of each region. Regionalized subcommittees addressing aquaculture would be more appropriate, as should a formalized consultation process with regional management councils.

In Section 2 (b) (4) of the bill, the purpose identifies rationale regarding support for existing jobs, including "watermen, processors, and other traditional fishing industry partners" that would be consistent with incorporating aquaculture-specific language into the MSA. Additionally, it is not clearly delineated if existing management plans, such as the GMFMC's Aquaculture FMP, would supersede this bill. The bill needs to clearly identify if existing management plans for aquaculture by regional councils would cease to be how aquaculture is managed.

Section 5. Administration Section 5(a) and 5(b) of the bill have many elements that have already been addressed and codified based in the GMFMC's Aquaculture FMP. Section 5(e) does not specifically address how veterinary health will be addressed. The GMFMC agrees with the SAFMC that only drugs, biologics, and other chemicals approved for aquaculture by the FDA, EPA, or USDA should be used, in compliance with applicable laws and regulations (as has been identified in the GMFMC Aquaculture plan). Aquaculture facilities are not "closed loop" facilities, and administration of drugs, biologics, and other chemicals can have resounding effects on surrounding marine communities.

Most permitting issues addressed in the bill have already been clearly defined in the Gulf in the GMFMC's Aquaculture FMP and Gulf Aquaculture Permit. The GMFMC is especially concerned with Section 6(b)(2)(B & C) and does not support culture of non-native species. The term "naturalized" is not defined and could be interpreted to include species that are not native to a region but have invaded. Propagation of these invasive species could have major unintended consequences on the surrounding marine environment. Additionally, sterility is not a guaranteed state, and non-native stocks should never be cultured. The GMFMC recommends the culture of only native, non-genetically modified, non-transgenic species with progeny cultured from wild caught brood stock. Lastly, the GMFMC Aquaculture FMP and Gulf Aquaculture Permit strictly prohibit culture of shrimp and corals. Each regional fishery management council should determine which species should not be cultured if appropriate rationale is provided.

Permitting procedures in Section 6(c) are already addressed in the final rule establishing the Gulf Aquaculture Permit. Additionally, through the FMP, permit procedures can be modified (through a plan amendment) should the necessity arise; this bill would require an act of Congress to modify permitting procedures. In the current process, before a permit is approved, the Regional Administrator of NMFS should consult with the GMFMC on a permit, allowing for the GMFMC to

provide comments prior to approval. The process outlined in Section 6 does not require a consultation with the regional council which should be rectified.

Permit duration should not exceed 10 years, with the ability to renew in 5-year increments; a 25-year increment is much too long. Additionally, three years to remove all equipment is too lenient as aquaculture facilities can continue to have biofouling, act as vectors for invasive species and disease, and hinder fishing and marine traffic in the vicinity of the facility, among others. A facility should be completely decommissioned within one year of permit expiration.

There should be financial guarantees associated with escapement events to discourage repeat offenses and encourage best practices in the face of catastrophic weather events. It is likely that these event will occur and will require federal agency involvement to mitigate.

One tradeoff for removing aquaculture authority from the MSA would be the elimination of the need for MSY or OY measures. However, establishing an MSY for all cultured species (with the ability to increase or decrease this cap) allows managers to assess whether the practice of aquaculture in a region is having cascading effects on the surrounding environment, thus modifying this measure as appropriate. By not having such a measure on production poundage, there could be unintended consequences for wild stocks from overutilization of marine resources dedicated to aquaculture.

Section 7 indicates that there are two different types of aquaculture permits, those from Section 6, and those under the MSA. Permitting requirements may not be consistent between the two which could create confusion and inconsistencies in application. This should be addressed.

Also, all aspects of Section 8 in the bill are outlined in the Gulf Aquaculture Permit and GMFMC's Aquaculture FMP.

In Section 10 (b)(3), more explicit language is needed regarding intent. It is recommended that only the culture of native, non-genetically engineered, non-transgenic species be used for research, and that this be explicitly outlined in the bill.

CARIBBEAN:

Drafting

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Council recognizes that aquaculture is a rapidly developing industry and that aquaculture presents both potential benefits and potential negative impacts to the environment and society. The Western Pacific Council has had an aquaculture policy in place since 2007 that includes guidelines on cultured species; habitat; research, location, design, and operation; water quality; health management and disease control; indigenous people's rights and access; permitting and reporting; enforcement; protected species; and social and economic considerations. The Western Pacific Council is also working with NMFS on developing a programmatic Environmental Impact Statement (EIS) for aquaculture and in the process of amending its Fishery Ecosystem Plans to include an aquaculture management framework that includes permitting and reporting. The Western Pacific Council recognizes the push for aquaculture and is working to ensure that aquaculture is treated as a fishery in the Western Pacific and minimizes or eliminates impacts on other fisheries and the environment.



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

4055 Faber Place Drive, Suite 201, North Charleston SC 29405

Call: (843) 571-4366 | Toll-Free: (866) SAFMC-10 | Fax: (843) 769-4520 | Connect: www.safmc.net

Charlie Phillips, Chair | Mark Brown, Vice Chair

Gregg T. Waugh, Executive Director

June X, 2018

LN# XXXXX

Dear.....

The South Atlantic Council appreciates this opportunity to comment on the proposed guidance addressing Best Scientific Information Available (BSIA). We have encountered issues in the past regarding the roles of our SSC and NOAA Fisheries in determining BSIA and hope that the guidelines will prevent such confusion in the future. The general framework for addressing BSIA, as proposed in the January 2018 BSIA white paper presented to the CCC, is largely consistent with our operations. We offer the following specific suggestions and recommendations on that document.

- We support having a NOAA Fisheries representative at SSC meetings where peer reviewed assessments are discussed (4.b.ii.). We find this useful even beyond assessment reviews, and based on our request, the SEFSC sends a designated representative to all of our SSC meetings to serve as a liaison. In our experience, this has helped reduce confusion and disagreement between the SSC and the agency.
- Clarification should be provided as to what constitutes “significant ambiguity or disagreement” (4.b.iv.). It is not clear if this envisions disagreement between the SSC and the peer review or the agency, or how ambiguity explicitly differs from scientific uncertainty.
- NOAA Fisheries should provide a publicly available, written report addressing how it resolved ambiguities and disagreement to finalize the assessment report, just as the SSC is expected to do in identifying its concerns (additional concerns on this final step are raised in the next bullet). In other words, NOAA Fisheries should be under the same obligation to document its concerns and proposed solution as the SSC is under to document its concerns and disagreement.
- This same section indicates that NOAA Fisheries will consult with and consider the SSC recommendations prior to finalizing the assessment results. This could be read to imply that assessments reviewed by the SSC are not final. However, as this is inconsistent with 4.b.i, and inconsistent with the SEDAR assessment process in the Southeast, it seems more likely that this section is only intended to address the resolution of SSC disagreement as raised in 4.b.iii. If this is the case, combining iii and iv may help reduce confusion.
- We suggest that NOAA Fisheries’ resolution of the disagreement (in writing as suggested above), and proposed final assessment results, be discussed during an SSC meeting to ensure that the agency and the SSC do in fact agree on a common interpretation of uncertain science. Given that requirements for SSC meetings are stated in the MSA, this

will provide a clearly defined process for NOAA Fisheries to achieve the stated SSC consultation. Such open deliberation will be particularly important if the agency or SSC cite, in their respective reports, any additional information that may have become available following the peer review. While this may add additional time to the process, our experience with past disagreements of this type suggest that the extra time spent on the front end is well spent.

- NOAA Fisheries should provide a BSIA memo to the Council addressing every determination. In the third sentence of 4.c., we suggest replacing “may be provided” with “will be provided to the affected Councils”
- A specific time should be provided in lieu of “as soon as possible” in 4.c.ii. Based on the process described previously, at this point the assessment has been peer reviewed (4.a.), reviewed by the agency so it may alert the SSC to any concerns (4.b.ii), the assessment has been reviewed by the SSC (4.a.9ii), any disagreement between the agency and SSC are resolved, BSIA is determined (4.a.iii and iv), and the results are entered in the SIS (4.c). Assessments and their review are a slow and deliberative process, and moving through these steps in our Region will take several months. Therefore, it seems reasonable to request that the agency provide the final status determination within 60 days of the BSIA determination, or notify the Council at that point of extenuating circumstances that will delay the determination.
- NOAA Fisheries should provide official notification of all status determinations – not just findings of overfished or overfishing (4.c.iv). Such notifications should also address stocks determined to not be making adequate rebuilding progress. A significant loophole is created by the lack of a definitive deadline for the agency to decide status and the lack of an obligation to report status if the agency does not make a finding of overfishing or overfished. This could leave Council’s ‘in the dark’ on the agencies status determination and justification.
- The phrase “harvest specifications” in (5) should be replaced with fishing level recommendations for greater consistency with the MSA language. Additionally, catch is more accurate than harvest, given the obligation to manage both landings and discard.
- The general process of assessment development and review, as described in steps 1-4, largely reflects the benchmark assessment approach used by SEDAR in the Southeast. There is one important exception in that step 3 (assessment revision) does not occur. It may suffice to add a caveat that this step does not occur in all regions.
- There is some lack of clarity as to how this process applies to assessment updates. (Note that, due to the wide variation in assessment terminology, “update” here is simply used to refer to any advancement of an assessment terminal year, using a previously developed and approved assessment framework or model.) In our Region, the SSC provides peer review for assessment updates, so step 4.a does not apply. This creates some mismatch with most of the proposed actions in 4b. This should be resolved clearly, as determining BSIA and status is just as critical for update assessments as it is for benchmarks – in fact, potentially more so in the future given the SAIP suggestion to move to a research track and operational assessment framework in which the peer reviewed model is not intended

to provide the current management advice. Therefore, we suggest that the approach and steps described in 4a and 4b be reconsidered to address assessment updates.

Thank you for this opportunity to comment. Please contact Council staff John Carmichael if you have any questions.

June 5, 2018

Caribbean

Miguel Rolon
Executive Director
Carlos Farchette
Chair

Gulf of Mexico

Dr. Carrie Simmons
Executive Director
Leann Bosarge
Chair

Mid Atlantic

Dr. Christopher Moore
Executive Director
Mike Luisi
Chair

New England

Thomas Nies
Executive Director
Dr. John Quinn
Chair

North Pacific

David Witherell
Executive Director
Dan Hull
Chair

Pacific

Chuck Tracy
Executive Director
Phil Anderson
Chair

South Atlantic

Gregg Waugh
Executive Director
Charles Phillips
Chair

Western Pacific

Kitty Simonds
Executive Director
Edwin Ebisui
Chair

Mr. Chris Oliver
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
Via email: CHRIS.OLIVER@NOAA.GOV

Dear Mr. Oliver,

At its recent meeting, the Council Coordination Committee (CCC) made several requests regarding the use of research priorities developed by the councils pursuant to the Magnuson-Stevens Act (MSA). Under MSA Section 302 (h), each Council shall develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fishery interactions, habitats, and other areas of research that are necessary for management purposes that shall – establish priorities for 5-year periods; be updated as necessary; and be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council.

The CCC recommends that Council research priorities be fully-integrated into research planning by NOAA Fisheries. In regions where this does not occur, Regional Offices, Science Centers, and Councils should improve this coordination.

The CCC also recommends that the review of applications to national-level grant programs administered by NOAA Fisheries should consider whether the proposal addresses a specific Council research priority. RFPs should encourage applicants to review Council's R&D needs documents for relevant topics and objectives for research proposals.

The CCC further requests that NOAA Fisheries clarify how the Council's five-year research priority reports are used. NOAA Fisheries is asked to provide an update on these recommendations at the next CCC meeting.

Thank you, and I look forward to continued communication on this important issue.

Sincerely,



Dan Hull
NPFMC Chairman, on behalf of the Council Coordination Committee

cc: Regional Fishery Management Councils



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Charlie Phillips, Chair | Captain Mark Brown, Vice Chair

Gregg T. Waugh, Executive Director

April 10, 2018

LN# 201827

Alan Risenhoover, Director
Office of Sustainable Fisheries
National Marine Fisheries Service
1315 East-West Highway, 14th Floor
Silver Spring, MD 20910

Dear Alan:

The information on aquaculture presented at the February CCC meeting was very interesting and indicates that the Administration is very serious about moving forward to expand and integrate aquaculture into the fisheries business community. The Councils are uniquely situated to develop the process and procedures for aquaculture in Federal waters in an open and transparent manner. The Council has identified EFH, EFH-HAPCs, Coral HAPCs, MPAs, SMZs, Spawning SMZs, and Allowable Fishing Zones to protect important resources while allowing fishing. Where aquaculture ventures choose to operate can have serious impacts to fishing operations and habitat.

With that in mind, the South Atlantic Council is interested in developing an Aquaculture Fishery Management Plan (FMP) for our area of jurisdiction. As you know well, our current resources in terms of funding and staffing preclude this effort. Recognizing that funding is available for aquaculture and that NMFS is currently considering aquaculture-related needs, we wanted to provide you with our request for funding to hire a temporary staff person for 3 years to work with the Council, States, and NMFS to develop an Aquaculture FMP for Federal waters.

The budget shown below outlines the costs for salary, benefits, equipment, office, overhead, and the following activities:

1. Scoping – in person; 3 scoping meetings in NC, 2 in SC (1 in Charleston), 2 in GA, and 3 in FL; cost in year 1
2. AP Input – use existing species and Habitat APs at their regular meetings but add ½ day to agenda for aquaculture; cost in years 1, 2 and 3
3. Public Hearings – in person; 3 public hearings in NC, 2 in SC (1 in Charleston), 2 in GA, and 3 in FL; cost in year 3
4. Staff attendance at AP, SSC, and Council meetings; years 1-3
5. Other travel – 6 trips (3 day/2 nights) in years 1-3; figure half flying to DC and half driving in our region

Please feel free to contact Gregg Waugh of the Council staff if there are any other questions or if you need any additional information.

Still digging,



Charlie Phillips, Chair
South Atlantic Fishery Management Council

cc: Council Members and Staff
Jack McGovern and Rick DeVactor
Monica Smit-Brunello

PROPOSED BUDGET TO DEVELOP SAFMC AQUACULTURE FMP:

<u>Year 1</u>		<u>Year 2</u>		<u>Year 3</u>	
Salary	\$75,000	Salary	\$77,250	Salary	\$79,567
Benefits*	\$26,100	Benefits*	\$27,200	Benefits*	\$28,000
Travel**	\$15,586	Travel**	\$12,561	Travel**	\$18,703
Supplies	\$4,000	Supplies	\$250	Supplies	\$250
Meeting		Meeting		Meeting	
Room	\$1,800	Room	\$0	Room	\$2,070
Overhead	<u>\$24,497</u>	Overhead	<u>\$23,452</u>	Overhead	<u>\$25,718</u>
Total	\$146,983	Total	\$140,713	Total	\$154,308
Grand Total					\$442,004

*Retirement, FICA, Health, Leave Acct., Life, LTC, STD, LTD
based on single insurances and leave accrual at year-3 values

**AP, SSC, Council, PH, Other