

## Executive Director's Report

### Dayton Lee Alverson

As most of you know by now, one of the giants in the world of fisheries science and management passed away last month. Lee Alverson was a past Director of the Northwest and Alaska Fisheries Science Center, was instrumental in the passage of the Magnuson-Stevens Act, founded Natural Resource Consultants, and has published over 150 scientific papers (see Item B-1(a) for more details on his career). I wish to extend warmest condolences to Bob and the rest of the family.

### AFA/Amendment 80 vessel replacement

The recently approved Coast Guard and Maritime Transportation Act of 2012, section 307 of HR 2838, attempted to provide a statutory prohibition on the use of AFA vessels as replacements for Amendment 80 vessels (Item B-1(b)). While there is considerable debate over the specific wording of that legislation, and whether it in fact accomplishes the intended effect without unintended effects, it is clear from the Congressional record (Item B-1(c)), and the colloquy among Senators Begich, Murkowski, and Cantwell, that this was the intent of Congress. Item B-1(d) is a letter from NMFS describing their take on the legislation. It appears that full clarification of the effects of this legislation will require a legal opinion from the Maritime Administration of the Department of Transportation (MARAD). I can write a letter to MARAD requesting their legal opinion, and that could perhaps inform any future Council direction on this issue. In the meantime, barring Council direction otherwise, I would not assign any staff resources to pursue the previously tasked regulatory amendment which would appear to be in conflict with the Congressional intent of the legislation.

### Marine Fishery Allocation Issues – NMFS contracted report published

Item B-1(e) is a copy of a report released last week, by George Lapointe under contract to NMFS. Several of you, and myself and others from the North Pacific, were interviewed during the development of this report. This project appears to have stemmed from a desire by NMFS to review (and possibly develop guidance to reconsider) past allocation programs, particularly as they relate to allocations between commercial and recreational sectors. The conclusions are fairly generic, and I do not yet know what NMFS anticipates as the next step in this review process, though I anticipate further discussion of this issue at our upcoming, interim Council Coordination Committee (CCC) meeting February 20-21 in Washington, D.C. A national stakeholder Webinar will take place on February 14 – details are in the attachment.

### Inspector General report on regulatory processes in fisheries management

Last week another report was released, this one from the Department of Commerce Inspector General's office, regarding the controls and processes used by NOAA and the Regional Fishery Management Councils (Item B-1(f)). This report stemmed from a request in 2011 by Congressmen Barney Frank and John Tierney, and appears to be the first in a series of report from the IG. In summary, they found that NOAA/NMFS has complied with MSA requirements and has taken action to improve implementation of the MSA, but identified three areas for improvement: (1) needed improvements with the financial disclosure of FMC members; (2) NMFS has not fully implemented several regulatory streamlining remedies; and, (3) rules packages and administrative records supporting fisheries management actions are not maintained uniformly at NMFS Regional offices. One specific recommendation from the report is to develop and implement regional operating agreements (ROAs) between each region and the relevant

Council. As I have noted in the past few ED reports, I am already working with NMFS region staff to identify and implement best practices for our regulatory process (including planning, preparation of analyses, review processes, rulemaking, and implementation) and including a potential ROA. I will keep you apprised as that further develops. Regarding compilation of the Administrative Record, that is a constantly ongoing process of improvement involving both the Council and NMFS region, partly due to responding to litigation, and I believe that we are in relatively good shape here in the Alaska region in that regard.

#### Draft Enforcement Priorities released

One more report was released last week – NOAA's Office of Law Enforcement DRAFT Division Enforcement Priorities for 2013. The document is included under the B-4 agenda item. The document outlines enforcement priorities by region (see pages 4-5 for the Alaska Region), and is open for a 60-day public comment period. Our Enforcement Committee did not convene at this meeting, but if the Council wishes for their input on this document we can figure out a way to make that happen between now and the end of the comment period. Acting Special Agent in Charge for the Alaska Region, Matt Brown, may have additional comments for the Council under the B-4 agenda item.

#### Ecosystem Committee report

The Council's Ecosystem Committee met this week and their agenda is attached as (ItemB-1(g)). In addition to providing input on some of the items on the Council's agenda, the Committee also received a briefing from NMFS on proposed Norton Sound mining operations, and EFH implications for red king crab. As you may recall, NMFS asked for Council input on this issue in the December EFH consultation report, and the Council tasked the Committee to consider this issue at their next meeting. The Committee also continued its general discussion of whether there are ecosystem-based management approaches in use elsewhere that are appropriate to consider in the North Pacific, as previously agreed by the Council. Given the issues on the Committee's agenda, which are related to issues under the Council's B reports, it would be appropriate to receive their report at this time.

#### MONF3 reminder

Just a reminder to folks regarding the upcoming Managing our Nation's Fisheries 3 (MONF3) conference in Washington, D.C. May 7-9. I forwarded registration and logistics information to our Council members, AP, and SSC a few weeks ago, so hopefully everyone who intends to attend the conference has the information they need. Please visit the website at [www.managingfisheries.org](http://www.managingfisheries.org) for program details. Another general reminder is that due to the nature of the conference, unsolicited papers will not be accepted; however, there will be a poster session and an area for displays. To submit a poster or display proposal please see the links on the website. Submissions are due by February 15! For more information contact Kerry Griffin at 866-806-7204.

#### Stock Structure/Spatial Management Workshop

In December 2012, the Council indicated its intent to hold a public workshop to discuss management and policy implications that result from identification of stock structure when setting annual groundfish harvest specifications. The purpose of the workshop is to discuss the management implications of subarea (i.e., spatial) management on stakeholders, regulators, and managers. The goal of the workshop would include, but would not be limited to, discussion of management, enforcement, and implementation issues that should be addressed if overfishing limits, annual catch limits or total annual catches (TACs) are recommended by subarea. Management tools for subarea allocations could include those that 1) industry could voluntarily implement, 2) NMFS already has authority to employ, and/or 3) the Council could consider for action.

Members of the SSC and Groundfish Plan Teams recommended a one-day (in person and webinar) workshop at the Alaska Fishery Science Center in Seattle on April 16, 2013 (T). Council Member John Henderschedt has volunteered to open the meeting and identify the purpose and goals of the workshop. Staff presentations in the morning would summarize 1) past recommendations from the Stock Structure Working Group, Plan Teams, and SSC on spatial management and the status of applying the stock structure worksheet to groundfish stocks, 2) a management strategy evaluation of BSAI Pacific cod; and 3) current tactical options for management of sub-region groundfish harvest specifications. Industry presentations and/or public comment would complete the morning session. The afternoon would be open for a general discussion, which could include: 1) alternative tactical measures, 2) environmental cues for bycatch avoidance, 3) industry bycatch monitoring, and 4) NMFS Regional Office fishery alerts of high catch rates or approaching a TAC limit. Council staff would prepare a report of the workshop including any recommendations on next steps by workshop participants for Council consideration at its June 2013 meeting. This timeline would allow a reconstituted Stock Structure Working Group to directly incorporate Council recommendations into the template prior to review by the Plan Teams, SSC, and Council when adopting proposed specifications in fall 2013.

#### AOOS Board seeks new members

The Alaska Ocean Observing System (AOOS) is seeking to expand its Board, and is particularly interested in new members representing industry sectors (Item B-1(h)). Executive Director Molly McCammon has expressed a specific interest in getting Council representation on the Board. While the notice states a deadline of February 1, Molly has granted an extension of this deadline in the event the Council wishes to nominate a representative to the Board.

#### CCC meeting February 20-21

Just an informational item – Item B-1(i) is the agenda for the upcoming interim Council Coordination Committee (CCC) meeting with NOAA leadership. Myself, Chairman Olson, Vice-Chairman Henderschedt, and David Witherell will be in attendance representing the NPFMC.

#### Events this week

On Tuesday evening, February 5, Greenpeace will host a public presentation on their latest research work in the Canyon areas of the Bering Sea. That will be in the Mayfair Room from 5:30 pm to approximately 6:30 pm.

On Wednesday evening, February 6, Midwater Trawlers Cooperative (and a host other industry sponsors) will host a reception for the Council family from 5:30 pm to 7:30 pm in the London Grill (downstairs). Thanks to all of the sponsors for their hospitality! Item B-1(j) is a flyer for the event, including the list of sponsors

# The Seattle Times

Winner of Nine Pulitzer Prizes

## Obituaries

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### Obituary: Dayton Lee Alverson, marine biologist, dies at 88

Lee Alverson was a trailblazing biologist who helped explore and protect North Pacific fisheries.

By Hal Bernton

Seattle Times reporter



Shortly after the 1989 Exxon Valdez oil spill in Alaska, a company representative called marine biologist Lee Alverson and proposed to hire his consulting firm to help assess damage in the aftermath of a disaster that dumped some 11 million gallons of crude into Prince William Sound.

It was a lucrative offer that likely could result in multimillion-dollar billing fees.

He turned it down

“That’s one thing that showed me the integrity of my father,” recalls his daughter, Susan Alverson Wilson. “He said he loved the fishermen and wanted to represent them.”

Dayton Lee Alverson, a longtime resident of Normandy Park, died Saturday at the age of 88, deep into a remarkable career as a trailblazing scientist who helped explore, launch and protect the North Pacific fisheries pursued by Seattle-based fleets.

Dr. Alverson was born Oct. 7, 1924, in San Diego, Calif., and grew up in a Navy family that followed his father on a series of assignments that included a year on Tatoosh Island in Washington, and several years in Hilo, Hawaii. There, Dr. Alverson, in what he later described as one of the best times of his life, paddled a small outrigger canoe in search of parrot fish, puffers and other sea life.

Dr. Alverson also joined the Navy, and, in 1944 he deployed behind enemy lines in China as a radio operator.

He moved to Seattle in 1947 to study fisheries at the University of Washington, and he later became an affiliate professor with the School of Marine and Environmental Affairs.

As a federal biologist based in Seattle, Dr. Alverson published research intended to alert the U.S.

fishing industry to vast potential seafood harvests. But as he headed off to international fishing conferences, he realized that his writing also had helped draw a surge of Soviet and Asian factory fleets to fish off U.S. coasts.

"That didn't make me feel very good, and I quickly realized that we didn't have any management and we didn't have any control," Dr. Alverson said in a 2008 interview with The Seattle Times.

In the mid-1970s, Dr. Alverson emerged as an outspoken proponent of extending the U.S. fishing boundaries to 200 miles, an idea that rankled some State Department officials who feared the diplomatic repercussions.

But Dr. Alverson, who served as director of what was then the Northwest and Alaska Fishery Science Center, didn't back down. He worked closely with Sen. Warren Magnuson, D-Wash., and Sen. Ted Stevens, R-Alaska, to pass the landmark 1976 federal fishery law that created a 200-mile zone and began a new era of managing U.S. seafood resources.

"I was in and out of those Senate offices for almost two years, and I can't count the number of times I saw Lee Alverson," said Tom Casey, a Seattle fishery consultant.

In 1980, after leaving the federal fishery service, Dr. Alverson co-founded Natural Resources Consultants. He helped in a successful lobbying effort to obtain federal loan guarantees that were a key to financing a new generation of U.S. factory trawlers that took over from foreign fleets.

"He is somewhat responsible for the billion-dollar seafood industry we have in Washington and Alaska these days," said Jeffrey June, a partner at Natural Resources Consultants.

Over the years, the firm's client list expanded to include the military, the World Bank, environmental groups and communication companies.

Dr. Alverson published more than 150 papers and in 2008 produced an autobiography, "Race to The Sea." In recent years, though slowed by a stroke, he continued to tackle fishery issues. At the time of his death, he was working on an article titled "Exploitation of Ocean Living Resources in the 20th Century."

"His mind was sharp as a tack. It's just his body that gave out on him," June said.

Dr. Alverson is survived by his wife of 67 years, Ruby Alverson; his daughter, Susan Alverson Wilson, of Federal Way; and son, Robert Alverson, of Bothell.

He is also survived by four grandchildren and two great-grandchildren.

A funeral service is scheduled for 10 a.m. Saturday at John Knox Presbyterian Church, 109 S.W. Normandy Road in Seattle.

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H. R. 2838

One Hundred Twelfth Congress  
of the  
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,  
the third day of January, two thousand and twelve*

An Act

To authorize appropriations for the Coast Guard for fiscal years 2013 through 2014, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Coast Guard and Maritime Transportation Act of 2012”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.  
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD

Sec. 201. Interference with Coast Guard transmissions.  
Sec. 202. Coast Guard authority to operate and maintain Coast Guard assets.  
Sec. 203. Limitation on expenditures.  
Sec. 204. Academy pay, allowances, and emoluments.  
Sec. 205. Policy on sexual harassment and sexual violence.  
Sec. 206. Appointments of permanent commissioned officers.  
Sec. 207. Selection boards; oath of members.  
Sec. 208. Special selection boards; correction of errors.  
Sec. 209. Prohibition of certain involuntary administrative separations.  
Sec. 210. Major acquisitions.  
Sec. 211. Advance procurement funding.  
Sec. 212. Minor construction.  
Sec. 213. Capital investment plan and annual list of projects to Congress.  
Sec. 214. Aircraft accident investigations.  
Sec. 215. Coast Guard Auxiliary enrollment eligibility.  
Sec. 216. Repeals.  
Sec. 217. Technical corrections to title 14.  
Sec. 218. Acquisition workforce expedited hiring authority.  
Sec. 219. Renewal of temporary early retirement authority.  
Sec. 220. Response Boat-Medium procurement.  
Sec. 221. National Security Cutters.  
Sec. 222. Coast Guard polar icebreakers.

TITLE III—SHIPPING AND NAVIGATION

Sec. 301. Identification of actions to enable qualified United States flag capacity to meet national defense requirements.  
Sec. 302. Limitation of liability for non-Federal vessel traffic service operators.  
Sec. 303. Survival craft.  
Sec. 304. Classification societies.  
Sec. 305. Dockside examinations.  
Sec. 306. Authority to extend the duration of medical certificates.  
Sec. 307. Clarification of restrictions on American Fisheries Act vessels.  
Sec. 308. Investigations by Secretary.  
Sec. 309. Penalties.

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- Sec. 310. United States Committee on the Marine Transportation System.
- Sec. 311. Technical correction to title 46.
- Sec. 312. Deepwater ports.

**TITLE IV—MARITIME ADMINISTRATION AUTHORIZATION**

- Sec. 401. Short title.
- Sec. 402. Authorization of appropriations for national security aspects of the merchant marine for fiscal year 2013.
- Sec. 403. Maritime environmental and technical assistance.
- Sec. 404. Property for instructional purposes.
- Sec. 405. Short sea transportation.
- Sec. 406. Limitation of National Defense Reserve Fleet vessels to those over 1,500 gross tons.
- Sec. 407. Transfer of vessels to the National Defense Reserve Fleet.
- Sec. 408. Clarification of heading.
- Sec. 409. Mission of the Maritime Administration.
- Sec. 410. Amendments relating to the National Defense Reserve Fleet.
- Sec. 411. Requirement for barge design.
- Sec. 412. Container-on-barge transportation.
- Sec. 413. Department of Defense national strategic ports study and Comptroller General studies and reports on strategic ports.
- Sec. 414. Maritime workforce study.
- Sec. 415. Maritime Administration vessel recycling contract award practices.

**TITLE V—PIRACY**

- Sec. 501. Short title.
- Sec. 502. Training for use of force against piracy.
- Sec. 503. Security of Government-impelled cargo.
- Sec. 504. Actions taken to protect foreign-flagged vessels from piracy.

**TITLE VI—MARINE DEBRIS**

- Sec. 601. Short title.
- Sec. 602. Short title amendment; references.
- Sec. 603. Purpose.
- Sec. 604. NOAA Marine Debris Program.
- Sec. 605. Repeal of obsolete provisions.
- Sec. 606. Coordination.
- Sec. 607. Confidentiality of submitted information.
- Sec. 608. Definitions.
- Sec. 609. Severe marine debris event determination.

**TITLE VII—MISCELLANEOUS**

- Sec. 701. Distant water tuna fleet.
- Sec. 702. Technical corrections.
- Sec. 703. Extension of moratorium.
- Sec. 704. Notice of arrival.
- Sec. 705. Waivers.
- Sec. 706. National Response Center notification requirements.
- Sec. 707. Vessel determinations.
- Sec. 708. Mille Lacs Lake, Minnesota.
- Sec. 709. Transportation Worker Identification Credential process reform.
- Sec. 710. Investment amount.
- Sec. 711. Integrated cross-border maritime law enforcement operations between the United States and Canada.
- Sec. 712. Bridge permits.
- Sec. 713. Tonnage of Aquosco Acadian.
- Sec. 714. Navigability determination.
- Sec. 715. Coast Guard housing.
- Sec. 716. Assessment of needs for additional Coast Guard presence in high-latitude regions.
- Sec. 717. Potential Place of Refuge.
- Sec. 718. Merchant mariner medical evaluation program.
- Sec. 719. Determinations.
- Sec. 720. Impediments to the United States-flag registry.
- Sec. 721. Arctic deepwater seaport.
- Sec. 722. Risk assessment of transporting Canadian oil sands.

**TITLE I—AUTHORIZATION**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are authorized to be appropriated for each of fiscal years 2013 and 2014 for necessary expenses of the Coast Guard as follows:

(d) **CONFORMING AMENDMENTS.**—Chapter 51 of title 46, United States Code, is amended—

(1) in section 5102(b)(3), by striking “July 1, 2012.” and inserting “July 1, 2013.”; and

(2) in section 5103(c)—

(A) by striking “July 1, 2012,” each place it appears and inserting “July 1, 2013.”; and

(B) by striking “substantial change to the dimension of or type of the vessel” and inserting “major conversion”.

**SEC. 308. AUTHORITY TO EXTEND THE DURATION OF MEDICAL CERTIFICATES.**

(a) **IN GENERAL.**—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“§ 7508. Authority to extend the duration of medical certificates

“(a) **GRANTING OF EXTENSIONS.**—Notwithstanding any other provision of law, the Secretary may extend for not more than one year a medical certificate issued to an individual holding a license, merchant mariner’s document, or certificate of registry issued under chapter 71 or 73 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for medical certificates or is in response to a national emergency or natural disaster.

“(b) **MANNER OF EXTENSION.**—An extension under this section may be granted to individual seamen or a specifically identified group of seamen.”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“7508. Authority to extend the duration of medical certificates.”.

**SEC. 307. CLARIFICATION OF RESTRICTIONS ON AMERICAN FISHERIES ACT VESSELS.**

Section 12113(d)(2) of title 46, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking “that the regional” and inserting the following: “that—

“(i) the regional”;

(B) by striking the semicolon and inserting “; and”;

and

(C) by adding at the end the following:

“(ii) in the case of a vessel listed in paragraphs (1) through (20) of section 208(e) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-625 et seq.), the vessel is neither participating in nor eligible to participate in the non-AFA trawl catcher processor subsector (as that term is defined under section 219(a)(7) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2887));”;

(2) by amending subparagraph (C) to read as follows:

“(C) the vessel—

“(i) is either a rebuilt vessel or replacement vessel under section 208(g) of the American Fisheries Act

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(title II of division C of Public Law 105-277; 112 Stat. 2681-627);

"(ii) is eligible for a fishery endorsement under this section; and

"(iii) in the case of a vessel listed in paragraphs (1) through (20) of section 208(e) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-625 et seq.), is neither participating in nor eligible to participate in the non-AFA trawl catcher processor subsector (as that term is defined under section 219(a)(7) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2887); or".

**SEC. 308. INVESTIGATIONS BY SECRETARY.**

(a) **IN GENERAL.**—Chapter 121 of title 46, United States Code, is amended by inserting after section 12139 the following:

**"§ 12140. Investigations by Secretary**

"(a) **IN GENERAL.**—The Secretary may conduct investigations and inspections regarding compliance with this chapter and regulations prescribed under this chapter.

"(b) **AUTHORITY TO OBTAIN EVIDENCE.**—

"(1) **IN GENERAL.**—For the purposes of any investigation conducted under this section, the Secretary may issue a subpoena to require the attendance of a witness or the production of documents or other evidence relevant to the matter under investigation if—

"(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General as to whether the subpoena—

"(i) is reasonable; and

"(ii) will interfere with a criminal investigation; and

"(B) the Attorney General—

"(i) determines that the subpoena is reasonable and will not interfere with a criminal investigation; or

"(ii) fails to make a determination with respect to the subpoena before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A) with respect to the subpoena.

"(2) **ENFORCEMENT.**—In the case of a refusal to obey a subpoena issued to any person under this section, the Secretary may invoke the aid of the appropriate district court of the United States to compel compliance."

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12139 the following:

"12140. Investigations by Secretary."

**SEC. 309. PENALTIES.**

Section 12151(a) of title 46, United States Code, is amended—

(1) by striking "A person that violates" and inserting the following:

"(1) **CIVIL PENALTIES.**—Except as provided in paragraph (2), a person that violates";

COAST GUARD AUTHORIZATION ACT OF 2012 -- (Senate - December 12, 2012)

AGENDA B-1(c)  
FEBRUARY 2011

[Page: S7972]

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Mr. BEGICH. Madam President, I now lay before the Senate a message from the House with respect to H.R. 2838.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the House of Representatives (H.R. 2838) entitled "An Act to authorize appropriations for the Coast Guard for fiscal years 2012 through 2015, and for other purposes.", do pass with amendments.

AMERICAN FISHERIES ACT VESSELS

Mr. BEGICH. Madam President, I rise to engage in a colloquy with my colleague from the State of Alaska, Ms. **MURKOWSKI**, and my colleague from the State of Washington, Ms. **CANTWELL**, regarding a provision in H.R. 2838, the Coast Guard and Maritime Transportation Act of 2012, that deals with two great fisheries of the Bering Sea. The American Fisheries Act--AFA--regulates one of the single greatest fishery resources in the world: Alaska Pollock. This fishery produces over 2 billion pounds of product in most years and is sustainably harvested, thanks to standards set under the Magnuson-Stevens Fishery Conservation and Management Act. Amendment 80 to the Bering Sea Groundfish Fishery Management Plan regulates fishing for other species of groundfish like Pacific cod, Atka mackerel and yellowfin sole and while smaller than the AFA fishery, it still ranks among the major fisheries of the world.

Ms. **MURKOWSKI**. Madam President, I agree these are two great fisheries and economic drivers of our thriving seafood industry. I have a question about Section 307 of H.R. 2838, which I understand is intended to clarify longstanding restrictions that have applied with respect to certain vessels under the American Fisheries Act. I know that Senator **CANTWELL** and the senior Senator from Washington, Mrs. **MURRAY**, have worked with Senator **BEGICH** and others to develop this language for inclusion in the final version of the Coast Guard bill as received from the other body last week, and I think it is important for us to make clear what it is intended to do. I am told that this provision is designed to maintain and reinforce the separation that exists between these two fisheries, and nothing more. Currently, none of these 20 AFA vessels participate in the Amendment 80 fishery, and under Amendment 97 to the Bering Sea Fishery Management Plan they are expressly prohibited from doing so. Is it true that Section 307 maintains this separation?

Ms. **CANTWELL**. Madam President, I appreciate Senator **MURKOWSKI** raising this issue, as I know it is of great importance to both our States, and I am happy to discuss the intent and effect of the provision to which she is referring. Senator **MURRAY** and I have worked closely with Senator **BEGICH**, with the Commerce Committee, and with our colleagues in the other body to develop this language for

inclusion in the Coast Guard bill. Section 307 of H.R. 2838 does, as Senator **MURKOWSKI** states, clarify longstanding restrictions that apply to certain vessels under the American Fisheries Act. The intent of this language is to maintain the status quo between two separate and distinct fisheries: one regulated under the American Fisheries Act and the other by Amendment 80 to the Bering Sea Fishery Management Plan. There has always been a careful balance struck between these two sectors, and we need to maintain that balance in order to protect the investments and job opportunities they provide. This language is in no way intended to upset that balance, but rather to insure that the status quo of separate and mutually exclusive sectors remains in place while affording the Amendment 80 fleet the opportunity to replace their older vessels with new ones and to encourage the economic investments that would follow.

Mr. BEGICH Madam President, as chairman of the Commerce Subcommittee on Oceans, Atmosphere, Fisheries and the Coast Guard, I concur with my colleagues that this is an important provision, and I want to reiterate that it is only designed to maintain and reinforce the separation between these two fisheries, and nothing more. As NOAA informed our offices via email this week: "There is currently a regulatory prohibition on AFA vessels from being used as replacement vessels in the Amendment 80 fleet. The concerns addressed in the assistance address what would occur if that regulatory prohibition were to be removed. Subject to judicial interpretation, any change to the status quo would need to be made through the Council's and NOAA Fisheries' rulemaking process and is unlikely to occur in the near future."

I thank my colleagues.

#### SURVIVAL CRAFT

Mr. HARKIN. Madam President, as my colleagues know, I was the lead Senate author of the Americans with Disabilities Act the ADA. The ADA stands for a simple proposition--that disability is a natural part of the human experience and that all people with disabilities have a right to make choices and participate fully in all aspects of society. Thanks to the ADA, our country has become a more welcoming place not just for people with a variety of disabilities but for everyone.

In that context, I want to raise an issue in H.R. 2838, the Coast Guard and Maritime Transportation Act of 2012. Under current law, there is a provision that requires that no survival craft allow a person to be submerged in water. H.R. 2838 requires a study and report on this requirement to be completed within 6 months. While I have no objection to the Coast Guard doing another report on the issue, I want to be sure that this study will appropriately take into account the specific needs of people with a diverse variety of disabilities who may need to utilize these survival craft. For example, my expectation is that the study would not recommend that all individuals be required to hold on to the outside of the survival craft or other items, since an individual with a significant disability may not be able to do so, as a result of their disability. In addition, it is important that not only the means of egress, but also the avenues for evacuation and rescue should be accessible for people with disabilities.

I would also want to be sure that the study will be completed within the 6

**Subject:** Release of Marine Fisheries Allocation Report  
**From:** Russell Dunn - NOAA Federal <russell.dunn@noaa.gov>  
**Date:** 1/30/2013 8:05 AM  
**To:** undisclosed-recipients;;  
**BCC:** chris.oliver@noaa.gov

NOAA Fisheries has released the first-ever compilation and discussion of fisheries allocation issues which summarizes input received from a broad spectrum of stakeholders. The report is a direct outcome of commitments made by NOAA during the National Saltwater Recreational Fisheries Summit to address stakeholder concerns regarding allocation.

The report is posted on-line at: [Marine Fishery Allocation Issues](#).

The agency will host a national webinar on the report for stakeholders interested in learning more about the report and its findings from the author, George Lapointe.

Log-in information for the webinar is below.

National Stakeholder Webinar to Discuss the Marine Fishery Allocation Issues Report

Thursday, February 14, 2013 @ 3-4pm EST

To view webinar materials, [you must register here](#).

Dial-in information:

Domestic: [1-888-790-3158](#), pass code is FISH

International: [1-312-470-7358](#), pass code is FISH

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Russell Dunn  
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# MARINE FISHERY ALLOCATION ISSUES

Findings, discussion, and options

Prepared for the National Marine Fisheries Service  
By George Lapointe  
December 2012



GEORGE LAPOINTE CONSULTING LLC

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MARINE FISHERIES AND OCEAN ENVIRONMENTAL POLICY

## **Fisheries Allocation Project Report**

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### **LIST OF ACRONYMS USED IN REPORT**

<b>ACE</b>	<b>Annual Catch Entitlement</b>
<b>ACL</b>	<b>Annual Catch Limit</b>
<b>AM</b>	<b>Accountability Measure</b>
<b>CCA</b>	<b>Coastal Conservation Organization</b>
<b>FMP</b>	<b>Fishery Management Plan</b>
<b>GMFMC</b>	<b>Gulf of Mexico Fishery Management Council</b>
<b>HMS</b>	<b>Highly Migratory Species</b>
<b>IFQ</b>	<b>Individual Fishery Quota</b>
<b>IQ</b>	<b>Individual Quota</b>
<b>ITQ</b>	<b>Individual Transferable Quota</b>
<b>LAPP</b>	<b>Limited Access Privilege Program</b>
<b>MAFAC</b>	<b>Marine Fisheries Advisory Committee</b>
<b>MAFMC</b>	<b>Mid-Atlantic Fishery Management Council</b>
<b>MSA</b>	<b>Magnuson Stevens Fishery Conservation and Management Act</b>
<b>MRFSS</b>	<b>Marine Recreational Fishing Statistics Survey</b>
<b>MRIP</b>	<b>Marine Recreational Fishing Information Program</b>
<b>NEFMC</b>	<b>New England Fishery Management Council</b>
<b>NMFS</b>	<b>National Marine Fisheries Service</b>
<b>NPFMC</b>	<b>North Pacific Fishery Management Council</b>
<b>NOAA</b>	<b>National Oceanic and Atmospheric Administration</b>
<b>NS</b>	<b>National Standard</b>
<b>PFMC</b>	<b>Pacific Fishery Management Council</b>
<b>RFMO</b>	<b>Regional Fishery Management Organization</b>
<b>SAFMC</b>	<b>South Atlantic Fishery Management Council</b>
<b>TAC</b>	<b>Total Allowable Catch</b>
<b>WPAC</b>	<b>Western Pacific</b>
<b>WPFMC</b>	<b>Western Pacific Fishery Management Council</b>

## Fisheries Allocation Project Report

### INTRODUCTION

Allocation of fishery resources is an integral part of fishery management. Through this process, the privilege to access certain fisheries or amounts of available fish are granted to individuals or groups based on a set of criteria established in a fishery management plan. Direct fisheries allocation is defined as a deliberate distribution of opportunity to participate in a fishery among identifiable, discrete user groups or individuals. Management decisions may also result in indirect fisheries allocation through unintended impacts to users' access to fish resources.

Allocation of fishery resources is one of the most difficult parts of fishery management for many reasons, including changes from traditional views of access to fisheries and the granting of limited or selective access to fisheries. Allocation decisions result in different stakeholder perceptions about the relative fairness of the process and their outcome; because allocation decisions result in access to available fish being divided proportionally among different individuals or groups, the resultant proportions are often perceived as being unfair. Allocation decisions also have real, significant economic implications for participants, including those stakeholders who are excluded from a fishery by allocation determinations. The effective period or perceived permanence of allocation decisions is also a contentious issue. This is because allocation decisions are often perceived as being very difficult to change by stakeholders who desire real exploration of alternative management outcomes. In contrast, stakeholders who seek business and planning stability want management decisions that are not constantly undergoing examination or change.

The Office of Sustainable Fisheries of the National Marine Fisheries Service (NMFS) undertook the Fisheries Allocation Project to broadly examine fishery allocation issues. The attention to allocation came from a number of directions. First, fishery management is an evolving process from the biological and social science perspectives. Although allocation has always been part of fishery management, the federal fishery management process has historically emphasized controlling fishing mortality and rebuilding fish stocks. Implementation of the 2007 amendments to the Magnuson Stevens Fishery Conservation and Management Act (MSA), which mandated Annual Catch Limits and Accountability Measures in all fisheries, shifted the focus of federal fishery management from overfishing to other issues, including allocation. Therefore, it is no surprise that stakeholders asked Regional Fishery Management Councils (Councils) and NMFS to examine new allocation issues or revisit past fishery management decisions. Second, the National Marine Fisheries Service is looking at all regulations for regulatory staleness, i.e. to determine whether they are still needed or need updating. From this perspective, the examination of allocation issues assists determining whether past allocation decisions are "stale" from a regulatory perspective. Last, the National Oceanic and Atmospheric Administration (NOAA) committed to review allocation process and goals as part of the 2010 Recreational Saltwater Fisheries Action Agenda.

For this project, allocation is broadly defined as including any process that apportions access to fishery resources or a portion of available fish catch to recreational, commercial, catch share systems, ecosystem function or other categories.

### METHODOLOGY

The project was conducted through a nationwide series of discussions with stakeholders in marine fisheries management. Stakeholders with whom conversations were held represented a variety of sectors, including regional fishery management councils; federal, state, and tribal fishery agencies; commercial fishing; recreational fishing; environmental advocacy; and academia. Project participants were asked a set of questions (Appendix 1) regarding their perceptions of allocation issues in their regions or based on their expertise. Most discussions were conducted by telephone; a few were done in person or through email. Some people contacted either did not respond to requests for their time or were unable to schedule

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time to talk. Project participants were initially chosen from the list of Council Chairs, Vice Chairs, and Executive Directors and Regional Administrators of the National Marine Fisheries Service. This list was expanded based on the conversations with project participants for other people in their area or area of expertise with the goal of reaching people with a broad range of views on allocation.

Interview answers are qualitative and are aimed at exploring ideas and perceptions about allocation issues. Participant answers to project questions were transcribed, compiled, and grouped based on similarity of responses. Responses to project questions are contained in Appendices 2-10. In the appendices, numbers in parentheses behind individual statements indicate multiple answers that were very similar.

### RESULTS

As mentioned above, project contacts were chosen to obtain a broad spectrum of views on allocation from a geographic, interest, or affiliation perspective. Of the 157 people contacted for the project, 114 discussions took place. The distribution of conversations by region is shown below in Table 1. Table 1 also shows the number of interviews by jurisdiction (state, territory or jurisdiction, e.g. NMFS region) because the number of jurisdictions per Regional Fishery Management Council area varies considerably.

**TABLE 1: NUMBER OF CONVERSATIONS BY REGION**

Regional Affiliation	Number of Conversations	Number of conversations by state, territory, or jurisdiction
Western Pacific	3	0.7
North Pacific	11	3.7
Pacific	24	6.0
Caribbean	3	1.5
Gulf of Mexico	9	1.8
South Atlantic	20	5.0
Mid Atlantic	23	3.3
New England	21	4.2
No Regional Affiliation	17	N/A

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The organization or interest affiliation of project participants is contained in Table 2. Participants with more than one affiliation are listed in multiple categories; e.g. a state agency director who is also a regional council member, or a regional council member who is also a recreational stakeholder, would each occur in two categories.

**TABLE 2: CONVERSATIONS BY ORGANIZATION OR INTEREST GROUP**

Organization / Interest Affiliation	Number of Conversations
Regional Fishery Management Council	56
National Marine Fisheries Service	17
State Marine Fishery Agency	25
Tribal Representative	3
MAFAC	4
Other Management	4
Commercial Fishing	26
Recreational Fishing	15
Advocacy	11
Highly Migratory Species	7

Responses to individual questions are contained in Appendices 2 to 10 organized by general categories. Within the general categories, individual responses are listed to allow readers to see the variety of responses and to draw their own conclusions about responses given.

### DISCUSSION

An overall impression from the conversations is the thought and passion the majority of stakeholders demonstrated in discussing allocation. Despite their widely varied backgrounds and perspectives, most of these stakeholders have clearly given much thought to fishery allocation issues. These stakeholders are impacted by allocation decisions as fishermen, communities, and businesses, as council, federal, tribal or state representatives, or as advocates for commercial and recreational fishing industry members, environmentalists, or other interests. Many respondents replied in a manner that reflected their personal allocation experiences as compared to a broad examination of allocation issues, i.e. allocation is a localized, experience-based issue for them.

Question 1 asked whether people thought that the Councils and NMFS were not interested in allocation issues. Complete responses to Question 1 are contained in Appendix 2.

The majority of respondents believe that the Councils and NMFS do have an interest in allocation issues. However, a significant number of people believe that the Councils and NMFS do have a lack of interest in forthrightly addressing allocation issues. The bulk of these responses came from recreational or environmental advocacy stakeholders. Additionally, most were not from Councils or management agencies. However, a few of the responses that Councils and NMFS lack interest in addressing allocation issues did come from inside Councils or management agencies.

- ♦ *There's an interest in allocation because there has to be*
- ♦ *Allocation is the heart of management*
- ♦ *Councils appropriately address allocation issues*
- ♦ *Won't do unless there's a gun pointed at their heads*

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A comparison of some of the responses to this question illustrates the disparate views of engagement in allocation issues among the many interests in marine fisheries management and the difficulties faced by managers in trying to arrive at logical allocation solutions that everyone agrees to. For example, four responses to this question are listed in the adjacent box.

- ♦ *There are no good solutions to allocation issues*
- ♦ *We get wrapped around the axle on allocation issues*
- ♦ *Allocation is a freakin' nightmare*
- ♦ *Allocation requires the will to do the hard part of fisheries management*

People within the fisheries management system, i.e. Councils, NMFS, or state agencies, generally believe that they are addressing allocation issues but many are dissatisfied with the results of allocation deliberations and decisions. This dissatisfaction is the result of many issues, including inadequate tools to make quantitative allocation decisions, the perception that both allocation decisions and managers will be criticized regardless of the decision made, lack of a vision of how allocation "success" is defined, differing views of what a fair allocation decision looks like, unwillingness to revisit past allocation decisions because of the difficulty of addressing the issue, and the feeling that allocation issues are never resolved.

When interviewees were asked why allocation issues have or have not been addressed, many respondents identified the difficulty and stress in addressing allocation. Many responses fell into the "no good deed will go unpunished" category, i.e. managers will be criticized and personally attacked for making allocation decisions. There is also a concern about the workload burden for councils and other managers in addressing allocation issues, particularly in light of other fishery management plan elements required by law. Some respondents believed that managers' lack of training or ability is a key factor in the management system not addressing allocation issues; in particular, these respondents felt that the biological training or emphasis among managers hinders their ability to find allocation solutions, and that training in the social sciences provides skills better suited to allocation discussions. A number of respondents commented that there aren't sufficient tools available to them for making allocation decisions.

- ♦ *Lack of tools to revisit allocations in a new way*
- ♦ *Managers don't know where to start*
- ♦ *No systematic framework to address allocation*
- ♦ *Not a lack of interest, a lack of ability*
- ♦ *Most participants ... are poorly trained for allocation discussions*

Responses to Question 1 related to Councils and NMFS show a diversity of views on the roles and responsibilities of Councils and NMFS for allocation processes and outcomes. These responses show the varied perspectives about where leadership on allocation discussions should reside, with some believing NMFS should lead the discussions and others believing that the Councils should be in the lead on allocation discussions. These divergent views suggest that NMFS and Councils need to clarify their respective roles and responsibilities at the beginning of allocation discussions, including discussions with stakeholders. This could help Council members and associated stakeholders in the future to minimize confusion regarding the respective roles of NMFS and the Councils, a confusion that can increase the tension and mistrust about how allocation is addressed.

- ♦ *NMFS is interested in the issue*
- ♦ *NMFS is not interested but the Council is interested*
- ♦ *[Allocation] discussion" must be lead by Councils*
- ♦ *NMFS must address allocation head on*

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Question 2 asked respondents what allocation issues they believe need addressing; a complete list of responses are contained in Appendix 3. Many of the responses can be put in the following broad categories: accumulation limits; crew share; community issues; new entrants; fleet diversity; recreational / commercial issues; data needs; ecosystem responses; changing conditions; and review of existing allocation decisions and processes. The number and breadth of responses demonstrate that there are many outstanding allocation issues that participants in the fishery management system believe warrant attention in the fishery management process.

- *No allocation issues need addressing*
- *How often to revisit allocations*
- *Allow markets to drive allocations*
- *The Councils are rusted shut; they ostensibly revisit allocations but don't really consider re-examination*
- *MSA doesn't allow reallocation*
- *Need to look at community ...*
- *Improve transparency of process*

Question 3 asked whether stock size and/or annual catch limits (ACLs) provide an opportunity to address long standing allocation issues (or issues that may have arisen recently but are still unresolved). Complete responses to Question 3 are contained in Appendix 4. More respondents answered affirmatively than negatively to this question. Many of those who responded affirmatively stated that more fish overall lessens the pain of allocation discussions and provides the opportunity to address issues missed in previous allocation discussions. However, at least one respondent commented that additional fish won't help with allocation issues because of the inherent difficulty of addressing allocation regardless of stock level.

- *To allow fairness, issues missed in initial allocations*
- *Technically, yes. Enough impetus to do something, no*
- *The concept lessens the pain of allocation shifts*
- *Counters the perception of permanence*
- *Provide new opportunities*
- *New fish provides the opportunity to reallocate*
- *A tremendous potential opportunity*

A significant number of people responded that stock size increases do not provide an opportunity for addressing unresolved allocation issues. Some of these responses indicated that this is not a stand-alone issue and that allocation is not linked to stock size. One person responded that allocation should be done once and then the fishery economic system will take care of future changes in fish available because of either increasing or decreasing stock conditions.

- *Not a standalone issue*
- *Won't work with ITQ systems*
- *Don't use stock size to fix political problems*
- *Allocate once then let the fishery economic system take care of it*
- *Problematic basis for reallocating*
- *If it's okay with increase, what to do with decreasing stock size?*

Some West Coast respondents, from agencies and the fishing industry alike, suggested that this was more of an East Coast issue rather than one of national scope. Additionally, a number of respondents involved in fisheries with low stock abundance or poor data responded that, while the concept of changing allocation with increased stock size has merit, they were faced with significant restrictions in their fisheries, a condition that did not lend itself to discussions of how to allocate future catch increases.

Question 4 asked whether the cumulative changes in policies, stock condition, etc. have changed the status quo sufficiently to trigger an examination of allocation policy. The essence of the question is whether a comprehensive look at allocation issues and policies is warranted or whether policies and actions related to allocation are best left to an ad hoc evolution in policy and practices over time. Complete responses to Question 4 are found in Appendix 5. Respondents tended toward strong responses to this question with many people believing that a comprehensive or "big picture" look at allocation would be timely and necessary. At the same time, many believe that a

- *Need a vision before making policy changes*
- *What is the set of national policies to trigger change?*

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comprehensive examination of allocation is not needed and, in fact, comes with significant risks to the fishery management process.

A number of reasons were given by respondents who favored a comprehensive examination of allocation issues. These included comments that changes over time in human population, seafood demand, recreational fishing, and intended allocative consequences of past management decisions are sufficient reason to undertake this effort. Some respondents believe that a vision for the nation's fisheries is needed and should be part of a comprehensive review. Others favored a comprehensive approach because they believe changes such as the NOAA Catch Share Policy needs review in the context of broader marine fisheries policy. Others thought that a comprehensive review of allocation issues is an integral part of adapting to ongoing changes in fisheries and the nation. Some mentioned a desire to look at what is "fair and equitable" as required in National Standard Four.

- ♦ *Embrace the arguments and move ahead*
- ♦ *Policies need to be re-examined, more guidance is needed to look at what's coming in the future*
- ♦ *There hasn't been a big picture look; it's necessary*

At the same time, other respondents gave many reasons supporting the belief that a comprehensive examination of allocation policy is not needed. Some believed that current plans and policies have not been in place long enough to warrant a comprehensive review and that a "lessons learned" analysis is needed before engaging in a review. One commenter stated that councils are competent to make good, regionally-oriented decisions with the implication that a national review isn't warranted. A number of respondents stated that a comprehensive review comes with a significant risk of a top-down, uniform approach that will harm fishermen and states; they were leery of broad national policies. One person suggested that reauthorization of the MSA would be the right venue if a comprehensive review of allocation policies is conducted.

- ♦ *Don't review issues too soon after they're put in place*
- ♦ *Pandora's box quality to this issue*
- ♦ *Reauthorization of MSA would allow a big picture look*
- ♦ *Favor iterative approach, national look won't help*
- ♦ *Each Council / region is different; don't use a 'one size fits all' approach*

Question 5 asked whether reviews of allocation issues had occurred and whether reviews carried out were timely and sufficient. Complete responses to Question 5 are contained in Appendix 6.

Some respondents stated that reviews have been done in a complete, regular, and timely manner, i.e. there have been sufficient reviews of past allocation decisions. This group responded that periodic reviews had been done, that they'd been sufficient, and that reviews were incorporated into the normal decision-making process. A couple of responses indicated that reviews were incorporated with changes in management or when changes were made to allocation programs. One respondent expressed the concern that formal review of allocations would be a major undertaking.

- ♦ *Incorporated in normal decision making*
- ♦ *Reviews have been informal but sufficient*
- ♦ *Have had long, exhaustive reviews, timeliness is good*
- ♦ *Have tried and spent the right amount of time on allocation reviews*
- ♦ *Reviews take place every year with the spec setting process*

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However, a greater number of respondents expressed the concern that reviews had not been conducted or that reviews were insufficient or inconsistent. The majority of comments in this category suggested that reviews have been done inconsistently and infrequently, with some comments suggesting that there was much discussion but not a full review of allocation decisions.

- ♦ *Reviews have been infrequent, inconsistent*
- ♦ *Generally, reviews have not taken place*
- ♦ *[There's been] no time when allocations are reviewed*

A number of responses suggested that reviews were useful but that reviews should not be conducted too frequently. Some respondents voiced the concern that reviews not take place too frequently with one respondent stating "longer is better with catch share programs". These concerns came in part from the idea that allocation and management measures need time to work and, without this time, information would not be available to accurately assess the effect of the allocation process relative to other components of a particular fishery management system. Some respondents also mentioned reviews and allocation discussions that took place too frequently weakened the stability needed for business planning. Concerns about the time needed to conduct reviews were also expressed by a number of people because of the workload and time constraints imposed by other ongoing Council and NMFS activities.

All Councils were contacted after the preliminary discussions to further explore the timing and manner in which allocation reviews were conducted. All Councils that have had allocation provisions in their fishery management plans for a number of years have conducted reviews of allocation systems and/or decisions. Two issues emerged from these conversations. First, these reviews have not been done in a regular, consistent manner which makes it harder for stakeholders to understand the review itself and the process by which reviews are conducted. Second, there may not have been an explicit notice about the reviews which could make it hard for stakeholders to know that the reviews had been planned or were conducted.

Question 6 asked respondents for different types of allocations; complete responses are listed in Appendix 7. This list illustrates the breadth of allocation issues that are important to people around the nation and the need to be aware during the management process of all types of allocation issues that stakeholders are considering. The wide range of allocation categories mentioned by respondents and the different interpretations of a single allocation type, e.g. spatial allocation, suggests that the allocation category being considered in Council or NMFS management discussions needs to be clearly defined and then reinforced as different people, organizations, and meetings consider a particular allocation issue.

Question 7 asked whether there was a need for some sort of allocation guidance from NMFS and, if so, what format the guidance should take. Complete answers to Question 7 are contained in Appendix 8. A nearly equal number of respondents responded positively as responded negatively to this question.

Some people who responded that allocation guidance was not needed argued that there was currently enough guidance in place to properly consider allocation issues. Some stated that this included the guidance contained in the National Standards and NOAA Catch Share Policy. Others believed that national guidance is not helpful because of its complexity. Others do not trust NMFS to produce guidance useful to their fisheries or regions because they believe NMFS is making

- ♦ *Stay out of allocation, it is very sensitive business*
- ♦ *National guidance is not intelligible or useful*
- ♦ *There is enough guidance in place*
- ♦ *Beware of one size fits all, Councils need flexibility to gain buy-in"*
- ♦ *The National Standards are sufficient*
- ♦ *Haven't found federal guidance very useful*
- ♦ *Concerned about decisions being made at the political level*
- ♦ *Keep federal government out of business*
- ♦ *NMFS should mind their own business*
- ♦ *Suspicious of letting NMFS address human issues*

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decisions at a political level and that the agency favors a uniform, "one size fits all" approach. A number of people from the Pacific region commented that NMFS is biased toward East Coast Issues. A number of respondents stated that the Councils are the right level for allocation decisions and that Councils are best suited to address allocation issues because they have a good reputation with fishermen and because the Councils have better "on the ground" knowledge about what is going on in the fisheries under their jurisdictions.

Of those that responded that additional allocation guidance would be useful, many respondents raised the idea of a manual or guidance document for Councils and other management bodies to refer to when considering allocation. Responses on what the elements of the guidance manual should be were more varied. A common response was the idea of a checklist of things to consider when developing allocation systems. Ideas for inclusion in the checklist included new entrants, communities, a timeline for review of allocation decisions, accumulation limits, crew issues, the types of information and analyses needed for regulatory impact analysis, and how to use social and economic data.

- *Overall guidance would be helpful*
- *Guidance to allow allocation based on value of fishery*
- *NMFS should be upfront about allocation options*
- *Use in a general sense, fleshing out ideas in a guideline, checklist format*
- *Guidance with a small 'g'*
- *Criteria needed for logical [allocation] choices*
- *Don't need Federal Register guidance. Rather, help with guidance and principles*
- *Need for some guidance, policy statement beyond National Standard 4*

Another idea mentioned by respondents who favored guidance, as well as some who didn't favor allocation guidance was to develop a compilation of types of allocation systems from the US and other countries, an evaluation on the effectiveness of the various systems, and the tools available for development, implementation, and review of these systems. Independent of this project, staff of NMFS Office of Sustainable Fisheries has drafted a document that reviews laws, guidance, technical memorandums, and case studies about US fisheries allocation systems and decisions (Morrison and Scott, in prep). Some general comments suggested that guidance should come with a small "g", i.e. that it should be guiding principles not mandates.

Question 8 asked respondents what NMFS can do to help with allocation beyond the guidance discussed in Question 7. Complete responses to Question 8 are found in Appendix 9. Many respondents favored additional biological data, particularly on data-poor species, because the lack of data is viewed as an impediment to allocation discussions as well as overall fisheries management. The lack of data is an allocation issues because it creates increased uncertainty in assessment results, which subsequently leads to precautionary management, lower catch limits, and more difficult allocation discussions and decisions. Many respondents said that more and better socio-economic data are needed to support allocation decisions. One respondent stated socio-economic data were not useful because of confidentiality restrictions limiting the accessibility and use of data important to allocation discussions.

- *More data for data poor species needed for allocation*
- *More timely data for management*
- *Need better recreational landings data [for allocation]*
- *Improved data base on catch history*
- *Scientific data needed to allocate well*

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A number of respondents mentioned the need for adequate funding for biological and social science research to support Council management. Funding to allow Councils to address allocation issues more comprehensively was also mentioned. There were a number of comments that called for additional work to be done on economic valuation of fisheries and economic models needed for allocation analysis.

### *Funding needs mentioned for:*

- ♦ *Biological data collection*
- ♦ *Socioeconomic issues and data*
- ♦ *Council operations so that socioeconomic issues can be addressed*
- ♦ *Gather data about supply chain*
- ♦ *Funding that doesn't take away from other programs*

There were many responses on the role that NMFS should take in allocation discussions and deliberations. A few suggested that the best role for NMFS was to "stay out of the way" or that NMFS tends to be overbearing. Many more comments suggested specific actions for NMFS to take in allocation discussions. A number of respondents believed that NMFS should remain neutral while asking the tough questions and raising the tough issues regarding allocation. Many respondents believed that NMFS should facilitate the understanding and discussion of allocation issues. There were also suggestions about more outreach on allocation issues through workshops and making information available to participants in the Council process.

- ♦ *NMFS should be more involved, take a facilitator role*
- ♦ *Be supportive of Councils*
- ♦ *Stay out of the way*
- ♦ *Keep a low profile, keep it academic*
- ♦ *Make sure the management process is honest*
- ♦ *Try to lay the groundwork for the discussion before 'ripping the Band-Aid off'*
- ♦ *NMFS must be involved in allocation but is slow to get started; need to get ahead of issues and 'spin game'*
- ♦ *Be more proactive where stocks straddle state / federal boundary*
- ♦ *Get over attitude of 'winners and losers' and get back to MSA*

Question 9 asked respondents about cautions they may have regarding allocation issues based on their experiences. All responses to question 9 are contained in Appendix 10. There were cautions mentioned about the development and structure of allocation systems. This included the basis for allocation, essential elements, impacts of allocations, and allocation system review.

A number of respondents expressed caution about making changes to allocations. This included the need for a sound basis for making changes to allocation, not continually reallocating, and not forcing re-addressing allocation issues where they're working.

- ♦ *Don't screw up years of work, success to date*
- ♦ *Be mindful of business stability*
- ♦ *Allocations should not be permanent*
- ♦ *People will say anything to get more fish*
- ♦ *If anything, we're too cautious*

There were many suggestions about issues such as length of allocation, permanency, adapting to long term changes, individual transferable quota (ITQ) managed fisheries, enforcement, etc. that are contained in Appendix 10. Although these categories were not mentioned by many respondents, they demonstrate the breadth of issues of concern and the need for the management system to pay attention to these issues.

- ♦ *Don't force change with allocation in ITQ fisheries*
- ♦ *ITQ allocations are 'one off' events*

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A number of respondents expressed concerns that allocation discussions were being used, by either recreational or commercial stakeholders, to improve an interest's perceived positions in allocation debates relative to the competing interest. Both perspectives were concerned about what they perceived as unfair treatment in past decisions.

- ♦ *Constrain commercial and recreational sides equally*
- ♦ *Beware of dominance of commercial sector*
- ♦ *Beware of allocation being used to get rid of commercial fishing*

Responses concerning cautions about people involved in the management system serve to remind management professionals about the sensitive nature of allocation and decisions, the concern for undue political influence on allocation, and perceptions about the fairness of the management system in making allocation decisions. These responses demonstrate the need for ongoing, transparent, and clear discussions about allocation systems and issues.

- ♦ *How to consider the views of people who aren't in positions of influence*
- ♦ *People will say anything to get more fish*
- ♦ *Impact of few, vocal, influential people on the political process*
- ♦ *Managers only hear from the winners*

### OPTIONS FOR NEXT STEPS

Allocation of fishery resources is fundamentally a judgment call on the part of managers about how managed resources are divided among stakeholders; in essence, allocation decisions weigh many factors to arrive at a decision that are determined by managers to be in the best interest of the fishery and public. These judgment calls by managers are guided by laws and regulations designed to make the allocation process as fair and open as possible, as determined by agency or legal review. Granting of access to stakeholders through allocation processes results in widely varying conclusions about the fairness of the allocation among those impacted by specific allocation decisions and by stakeholders interested in fisheries management, and their respective views about what they believe is an equitable allocation outcome. The perceptions about the fairness of allocation decisions or systems are not static; they vary based on changes in fish abundance, economics, and information available to stakeholders at a particular point in time. Consequently, it is not surprising that allocation outcomes elicit such visceral reactions among stakeholders in the fishery management process. The responses to project questions demonstrate the often conflicting and overlapping views about problems with allocation systems and what might be done to correct the both underlying policies and specific allocation issues.

Despite all of these difficulties, the issue of allocation is omnipresent in fisheries management; it is the "elephant in the room" that most participants acknowledge as critically important to their interests but either is not discussed or is discussed unsatisfactorily, for many of the reasons stated in project responses. Virtually everyone involved in fishery management is unsatisfied with some aspects of allocation discussions and decisions, but they clearly have differing reasons for their dissatisfaction. For example, those who want greater access to a fishery believe that National Standard 4 language, stating that the allocation of access to fisheries or quota should be fair and equitable, dictates that there should be concrete, timely action taken by fishery managers to allow users greater access to the fishery in question. Conversely, many of those who have sufficient access to fisheries or quota believe that the processes used to establish allocations were done in a fair, equitable, and public manner, and that those who want another outcome are simply seeking a re-allocation of fishery access based on criteria that have not been implemented through the particular fishery management process.

Many of these stakeholders use the fishery management process to promote their respective positions about what they believe "fair and equitable" means. This can mean maintenance of status quo allocation provisions, a shift from commercial to recreational fisheries, a shift from small boats to big boats or big

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boats to small boats, a shift of allocation among states or regions, or some other perceived measures of fairness and equity. It also appears that many of these stakeholders will continue to view allocation systems as unbalanced or unfair unless the outcomes are close to the positions they seek. The desired outcome could be more fish allocated to recreational interests for economic or demographic reasons, a greater protection of commercial allocations for traditional or community maintenance, allocation to a particular gear type because of efficiency or bycatch minimization, or a specific allocation for some component of ecosystem function. The result of these differing perceptions of success means that the gain of one interest will likely mean a loss for some other interest with dissatisfaction with the outcome being felt by some interest groups. For fishery managers, it means allocation decisions will almost certainly be criticized as unfair, regardless of the process used to design and implement the allocation system.

The varied responses to project questions suggest that future discussions and actions regarding allocation could take a number of directions to address targeted allocation issues or to address narrow, and perhaps more solvable, issues of interest to a particular Regional Fishery Management Council, region or stakeholder group. However, a piecemeal approach will not address the underlying issues that resulted in perceptions of unfairness or lack of attention to particular allocation issues in the first place. Some options for addressing some of the allocation issues raised in this report includes the following issues which are individually discussed in greater detail below. The list below is not intended to be exclusive; readers of the report and participants in fisheries management will likely find other options equally worth considering in addressing difficult, often long-standing, allocation issues.

- Stakeholder engagement
- Increased biological and social science research
- More formalized review of allocation decisions
- Compilation of allocation decisions
- Guidance on issues to consider in allocation deliberations
- Revision of National Standard 4

### Stakeholder engagement on allocation

Examining responses to project questions shows that allocation is an extremely difficult issue, or suite of issues, with little consensus or common vision on how to better address problems with allocation. This strongly suggests that continuing and basic engagement with fishery management stakeholders could help to address allocation issues in a way that allows stakeholders to better understand, and be more accepting of, the results of allocation decisions. This engagement could be used to clarify the roles of parties in fisheries management, most notably the Councils and NMFS, and to define, or reinforce, terms and concepts used in allocation deliberations. Project responses also suggest that fishery management leaders and stakeholders need to engage in specific, targeted discussions about allocation. The discussions should address key issues or points for which there are different opinions on current conditions, or where to go in the future with allocation discussions. Examples of issues that could be considered include in engaging stakeholders include:

- 1) The role of NMFS in allocation discussions and decisions
- 2) The role of the Regional Fishery Management Councils in allocation discussions and decisions
- 3) The idea that a fair and open allocation process does not mean that there will be consensus on the outcome.
- 4) Guidance on allocation issues to consider during management discussions
- 5) A compilation of allocation systems and decisions
- 6) Review of allocation decisions

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- 7) The appropriate length of time for particular allocations to remain in place
- 8) Impacts of changing human demographics on allocation
- 9) Impacts of climate change on allocation

This may seem like a simple solution to the incredibly broad and complex issue of fishery allocation. However, a deliberate, well-conceived discussion and outreach process could help fishery stakeholders understand the fundamental components of fair, sound allocation deliberations, and could help fishery managers better explain the basis for allocation decisions. These discussions should engage stakeholders on allocation issues on a continuing basis, importantly including Councils in this outreach.

Widely divergent views of the respective roles of the Councils and NMFS were expressed by respondents. In addition, different stakeholders are approaching allocation issues from very different starting places and are using language in allocation discussions for which there isn't a common vocabulary. For these reasons, it is understandable that allocation discussions and decisions are difficult for most stakeholders in fishery management. Ongoing outreach could help overcome these differences so that stakeholders understand the allocation options available and the role of different parties in the management process, especially NMFS and the Councils. The recommended outreach could be done in a stepwise manner beginning with NMFS and the Regional Fishery Management Councils, Council stakeholders, organized groups and meetings, and the general public.

Outreach could be done in a variety of targeted venues to broaden the base of stakeholders being reached and to reach out to new audiences. Outreach directly to the Councils is a logical early step in this process. However, outreach should not be limited to the Councils as many stakeholders who are not regular followers of Council and NMFS activity may have a strong interest in how fish are allocated through the management process. Examples of groups to approach with outreach efforts include:

- Regional Fishery Management Commissions
- Recreational Fishing Organizations
- Commercial Fishing Organizations
- Industry Trade Shows

Stakeholder outreach and engagement could also be done through regional workshops where project results are presented followed by requests for input from audience members. This type of meeting would provide outreach outside Council or organized stakeholder discussions, providing a discussion forum outside meetings or groups that may be seen as unwelcoming or intimidating to people who may not be regular participants in the type of organizations listed above. Stakeholder outreach can also be done through targeted articles in print media and blogs that address marine fisheries issues.

### Increased biological and social science research

Many respondents mentioned that allocation discussions and decisions are hampered by inadequate information on the biology of managed species or stocks, and by the social science data of the people, industry, and areas impacted by fishery allocation systems. The allocation of data poor species was mentioned by many respondents as being particularly difficult because the information needed to assess and manage the species is sparse or non-existent, let alone how to divide available fish through an allocation process. Similarly, economic and social science data allow managers to better understand the human components of fisheries. This better understanding provides a more objective basis for developing and implementing allocation systems.

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The recommendation on biological and social sciences is to continue or increase the amount of research being done for fisheries under management. Increasing understanding of fisheries makes management decisions, including allocation, easier by reducing uncertainty underlying the tough decisions that are made with respect to allocation specifically and fishery management generally. Building capacity in social sciences should take place at NMFS and the Councils as both need the ability to better integrate this information and analysis in FMPs and management actions.

### Review of allocation decisions

The review of allocation provisions of fisheries management plans yielded a range of responses from no change is needed to the perception that allocation decisions are not reviewed at all by the Councils or NMFS. Many respondents also felt that reviews that did occur were infrequent and inconsistent. A number of issues emerge from the responses. First, how often reviews have taken occurred in the Councils. Second, is the thoroughness of allocation reviews that have taken place. Third, the language that is used by management system stakeholders influences perceptions about the permanence or tenure of allocation decisions.

One important component is the time period for reviewing allocation decisions. A number of respondents indicated that the issue of reviewing allocations comes up often in Council meetings with those desiring changes wanting reviews to be done often and quickly and those not desiring changes believing that allocation decisions are currently reviewed too frequently to allow enough time to pass to judge whether management measures are effective or ineffective. Additionally, respondents expressed concern about the lack of business planning stability that results from too frequent discussion or re-examination of past allocation decisions. Respondents mentioned both the ability to plan their businesses and the ability to secure financing as important parts of business stability. A number of respondents also mentioned the impacts of too frequent allocation or re-allocation discussions on Council member and staff workloads, expressing the concern that time spent on allocation takes away from consideration of other issues. In contrast, uncertainty about the time period for allocation reviews and concern that allocations take on a semblance of permanency are equally concerning to many stakeholders in the fishery management community. One respondent stated reviews “don’t take place often enough to serve the broader voices in the community.” Another stated “allocations shouldn’t be permanent.” This group believes that the current system makes it very difficult or impossible to change allocations once they are established.

Changing human demographics in coastal regions and climate change are additional reasons to conduct regularly scheduled reviews of allocation systems. The impacts of population growth were mentioned by a number of respondents for an increase in demand for recreational fishing and increased attention to allocation issues by recreational fishing stakeholders. Climate change will also cause fish abundance and distribution to change over time. Adapting fisheries management programs to climate driven changes will be a major issue in the future. An established review period will provide a known opportunity for consideration of these difficult but significant issues.

Another consideration with respect to review of current allocations is the issue of regulatory staleness. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires that regulations be reviewed to make sure that they are still needed and whether the regulations are still fulfilling the need for which they are implemented. A respondent stated that the “staleness issue is valid but how long before reviews”, i.e. what review period is needed to address this concern.

NMFS and the Councils could consider including a specified review period in fishery management plan allocation systems to address these problems. An explicit review period would provide:

- planning stability for fishing businesses, lenders, the Councils, and NMFS;

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- a known period for addressing outstanding or emerging allocation issues
- a set period to evaluate staleness under the Regulatory Flexibility Act
- a response to concerns about changing human demographics and ecological changes

An issue that is important to discussion of allocation is how long should an allocation system reasonably be expected to last, i.e. the length of time an allocation decision can be expected to remain in place. On one hand, the need for planning and business stability is clear. A business or fishermen needs to be able to plan for the future with the allocations associated with fishing permits. However, does this mean that the need for business and planning stability goes on indefinitely? If that is the case, the permit and quota take on a degree of permanence that is clearly not intended in the MSFCMA (except for exemptions for American Fisheries Act fisheries and IFQ plans approved prior to January 1995).

From a policy perspective, it seems that the more time that passes without discussion or resolution of what tenure or length of time is associated with allocations, the more that stakeholder's perceptions about length of tenure are reinforced. Further, as time passes without discussion or actions to change allocations, the likelihood that allocations will change diminishes.

### Compilation of allocation systems and decisions

Many respondents suggested that discussions about allocation would be helped by a compilation of allocation systems and decisions (management and court decisions) to have as a reference when considering allocation process and decisions that they are engaged in. NMFS staff addressed many of the issues regarding allocation systems and decisions in the US<sup>1</sup>.

The valuable information in this publication could be made more useful to stakeholders by making a shorter, more reader friendly version available for fishery management stakeholders. A summary document with types of allocation systems available, the use by the Councils, and allocation issues to consider would help people understand the issues being discussed and decisions made regarding allocation.

### Guidance on issues to consider in allocation

A number of respondents believed that it would be useful to have a guidance document or checklist of issues to be considered when developing and implementing an allocation system.

This suggestion comes from the concern that issues are not considered fully because they are overlooked in the pressures to complete management actions, the difficulty in discussing some of these issues, and the idea that trying to add new issues after the fact is incredibly difficult. The type of issues that might be considered under this concept includes accumulation limits, crew share, communities, and new entrants.

The checklist concept would allow the Councils, or NMFS in the case of highly migratory species, to consider which of the issues to include for development, consideration, and decision in a transparent manner. For example, in a given management action, are the issues of community and new entrants included in the management discussions or are they left out? This could help manage expectations of those who did not get their desired outcome from an allocation decisions that their issues of concern would be addressed in a substantive way at some later date. This idea would create more work and debate in the early phase of a management action but could save time in the long term as well as giving a clear response to all stakeholders about that components of an allocation system are included, or not, in a management action.

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<sup>1</sup> Morrison, W. and T. Scott. 2012. Review of Laws, Guidance, Technical Memorandums and Case Studies Related to Fisheries Allocation Decisions. NMFS In Prep.

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### National Standard 4 discussion

A number of respondents suggested that National Standard 4 guidance needs to be revised, specifically with improved language to clarify what is meant by being "fair and equitable." The determination of fairness and equity is a value judgment based on available information and the record of development and decision making for a particular action. In the context of allocation, this has largely been done using some variant of historical landings or economic value to allocate resources to different components of a fishery. Using either landings or economic value in management actions results in long, difficult discussions about what period of time or combination of economic factors results in the most fair and equitable system. The NMFS Office of Science and Technology is preparing a document discussing technical methods for considering history or economics in fishery allocation. However, this document does not provide *new* methods to allocate fishery resources.

Revision of National Standards is difficult and often controversial. A change to one of the National Standards should be based on a compelling need and a clear sense that there is sufficient information to justify the change. In the case of National Standard 4, there do not appear to be new tools or information to initiate a change at this time. Another factor to consider is the concern that National Standard guidelines become mandatory rather than simple guidance, causing an increase in mandatory elements of FMPs; with a consequence of reducing the Council's ability to exercise their judgment on the best provisions to manage fisheries sustainably and regionally. For these reasons, a revision of National Standard 4 is not recommended at this time.

### CONCLUSIONS

Allocation issues pervade fishery management discussions and decisions in the US, and likely elsewhere. Almost all fishery management decisions, direct and indirect, have allocative effects and stakeholders in fishery management are attuned to these impacts. Perceptions about the fairness of individual and cumulative allocation decisions can drive stakeholder's perspectives about the fairness of the overall fishery management system.

As mentioned in a number of project discussions, fishery managers have a difficult time explaining the process, rationale, and outcomes of allocation decisions because. At best, it's very hard to explain to a group or individual why a decision was made in a way that they do not agree with. In more difficult allocation discussions, it is nearly impossible to achieve an outcome that is not perceived as very unfair by some stakeholders.

Also evident from this project is that most managers and stakeholders favor an allocation process that is more efficient and understandable than currently done. Many suggestions were made about improvements to the management process to make allocation decisions more clearly understood, fairer, and based more on quantitative factors and less on qualitative factors which are often perceived as biased and arbitrary.

Clearly, there is difficult work to be done on allocation in the Nation's fishery management system. A logical conclusion from this type of perception is that fishery managers at the state, regional, and national levels need to focus more time and resources to allocation discussions and decisions. This should begin in the initial stages of a fishery management action and should include clear, direct language about the allocation definitions and decisions to be made, who is responsible for the decisions, and how stakeholders can engage in the process.

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Similar to most difficult policy issue, progress lies in hard work, additional attention to the issue, and frank discussion among stakeholders. This project has identified some courses of action for decision makers to consider. Other options will likely be identified by decision makers and stakeholders as future discussions about how to best address fishery allocation is discussed in states, at Council meetings, and at National venues. This project is clearly an initial step in this important discussion.

## **Fisheries Allocation Project Report**

### **APPENDIX 1: QUESTIONS USED IN ALLOCATION PROJECT**

- 1) Some stakeholders have suggested that NMFS and the Councils have a lack of interest in addressing allocation issues. Do you agree with this perception?
  - a. Do you think that there are reasons that allocation issues might not be (or have been) addressed? If so, what are those reasons?
- 2) What are the allocation issues in your region, council, or area of expertise that need addressing?
- 3) Do stock size / ACL increases provide an opportunity to address long standing allocation issues? If so, what are these opportunities and how do you think should this be done?
- 4) Does the combination of hard catch limits, draft National Catch Share Policy, and/or stock growth change the status quo sufficiently to warrant or justify a reexamination of national allocation policies and allocation decisions in your region or area of expertise?
- 5) How often have allocation issues been reviewed and/or changes made to fishery allocations in your region or area of expertise? If a review has taken place, do you think that this review has been sufficient in terms of timing and completeness of review?
- 6) A list of types of allocation types is being developed (listed in Appendix 1) Are there other allocation issues in your region or area of expertise that should be added to this list?
- 7) Based on your experience, is there a need for some sort of allocation guidance from NMFS? If so, what format would be the most helpful?
- 8) If no guidance is needed, what can NMFS do to help the allocation process in your region or area of expertise?
- 9) Are there cautions about the allocation issues in your region or area of expertise that we should be aware of?
- 10) Are there other allocation issues that you would like to mention that are not contained in this list of questions?
- 11) Can you suggest other people in your office, region, or area of expertise that should be interviewed in the first phase of this project? The second phase, if it goes forward, will include a broader public outreach component.

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### APPENDIX 2: RESPONSES TO QUESTION 1

*QUESTION 1 - SOME STAKEHOLDERS HAVE SUGGESTED THAT NMFS AND THE COUNCILS HAVE A LACK OF INTEREST IN ADDRESSING ALLOCATION ISSUES. DO YOU AGREE WITH THIS PERCEPTION? DO YOU THINK THAT THERE ARE REASONS THAT ALLOCATION ISSUES MIGHT NOT BE (OR HAVE BEEN) ADDRESSED? IF SO, WHAT ARE THE REASONS?*

Responses to the general question are listed directly below.

Agree – 19

Partially Agree - 16

Disagree – 69

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

1. **Direct discussion of allocation is stressful, difficult (24)**
  - a. [Allocation is a] Complex issue
  - b. Industry divided on allocation issue
  - c. Fear of engagement [on difficult issues]
  - d. Council members don't want to confront industry representatives
  - e. Councils have attitude that this hurts because it's a difficult issue but it's their responsibility to address this difficult issue
  - f. Requires the will to do the hard part of fishery management
  - g. [Managers] not interested in raising a stink about allocation
  - h. [Managers] avoid allocation, addressing only squeaky wheels
  - i. Won't do [tough work like allocation] unless there's a gun pointed at their heads
  - j. When Councils have discretion, they are very reluctant to take on allocation issues
  - k. Think about biology and politics; not willing to dive in
  - l. Allocation is a tough policy call, always have some stakeholders who don't like the results
  - m. No good solutions to allocation decisions
  - n. Afraid of complexity, it's a can of worms
  - o. Different perceptions about what a fair allocation is
  - p. Majority rules, "have" / "have not" mentality [affects progress on allocation]
  - q. Not completely disinterested, selectively choose winners and losers, managers don't try to find balance
  - r. Concern about personal reputations on part of managers
  - s. Making allocation decisions is always "kicking the dog"
  - t. When considering whether getting started on allocation, people are concerned about losing access – so why start [the discussion]?
  - u. Very political, people want to keep their jobs [so they don't address difficult issues]
  - v. Allocation is a freakin' nightmare
  - w. Inertia reigns, the system won't change values unless pushed [to change]
  - x. [Allocation is a] very contentious issue
  - y. Have to get into a fight [to address allocation issues]
    - i. Should address sooner than later
    - ii. Gets ugly real quick
    - iii. Results in personal and professional attacks
  - z. Allocation is approached with trepidation [by managers]

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- i. Strong, lopsided political economy
- ii. Leads to an "all out war"
- aa. We get wrapped around the axle on allocation issues
- bb. Many are interested [in allocation issues] but there's little agreement on an outcome
- cc. It's a hard issue, particularly if you want to change allocations
- dd. Messy, brings out politics (9)
  - i. Lack of political will [on the part of managers]
  - ii. Lack of will to address objections and resistance by council members
- ee. Politically difficult because of perception of loss or gain (11)
  - i. No easy way to find the right mix
  - ii. Winners don't want allocation discussions, losers want discussions
  - iii. Tug of war between haves and have nots
  - iv. Losers don't like results, lack of response to their entreaties leads to perception of no interest
  - v. Narrow scope of allocation discussions results only in tweaks to historical allocations

### 2. Councils have addressed, and are addressing, allocation (10)

- a. There's an interest [in allocation] because there has to be
- b. Councils take on [allocation] when necessary
- c. Allocation has been done with much public process, many years of discussion
- d. Councils have data to allocate well
- e. Allocation issues are front and center but you can't anticipate all outcomes
- f. Councils appropriately manage allocation issues
- g. Councils have been allocating but it's been indirect
- h. Inaction is as deliberate as action on allocation issues
- i. Councils fairly well rooted on ground, addressing allocation issues
- j. Allocation has been addressed but we could be looking at a wider array of issues
- k. [Allocation] has been addressed but in wrong way
- l. Allocation is the heart of management

### 3. Perceptions of NMFS, Councils

- a. NMFS is interested in the issue
- b. NMFS has done a competent job of involving parties
- c. NMFS is not interested but Council interested. In SAFMC, there was an allocation committee but NMFS backed away
- d. NOAA leadership very much in favor of addressing issue
- e. People think that the Council is stacked by special or narrow interests
- f. NMFS must address allocation head on; obligated by National Standards 4 and 5
- g. Must be led by Councils, state government
- h. NMFS does a competent job of involving impacted parties
- i. Some inertia is the past by NMFS, GMFMC [on allocation issues]
- j. Council system used to work; now under influences and is privatizing a public resource
- k. NMFS takes the easy way out [on allocation issues]
- l. NMFS and councils have an interest but it's second on the list behind stock rebuilding
- m. Agency has overstepped its bounds with the NOAA Catch Share Policy
- n. Allocation is all that Councils do but don't think that NMFS is engaged
- o. The degree to which allocation is addressed depends on the species and Council involved
- p. Extreme interest in allocation but not much direction from NMFS

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- q. Councils and NMFS sidestepping the allocation issue; user groups are afraid to give something up
- r. Insufficient guidance [to address allocation adequately]
  - i. No guidance from NOAA on how to define community, entity, state
- s. Lack of interest in allocation by commercial catch or ecosystem allocation
- t. Lack of interest because of apathy on part of public from the council perspective

### 4. Insufficient tools for allocation

- a. The lack of interest because there is a lack of tools to revisit allocations in a new way (3)
- b. No strong alternative economic model [to improve ability to make allocation decisions]
- c. Managers don't know where to start [on allocation issues] and how to move forward with anything that will work [better than the current methods of making allocation decisions]
- d. Lack of data constrains ability to give a portion of the resource to people
- e. Within agencies, people don't feel like they know how to tackle allocation
- f. It is a very difficult to address allocation broadly without clear objectives
- g. No systematic framework [to address allocation] in terms of
  - i. Timelines
  - ii. Analyses needed
  - iii. Development process
- h. No coordination with National Standards [on allocation decisions]
- i. The allocation process is hindered by the predominance of biological training among participants [in the management process]
- j. Not a lack of interest, rather a lack of ability
  - i. There has to be an equal basis among the parties
- k. Most participants are technically trained and poorly trained for allocation discussions; they lack the interpersonal skills to thrash through the issues
- l. People are scared of new forms of governance

### 5. Perceptions of history of allocation, management system

- a. A group of interests dominate the council, picked allocation years that were good for them
- b. The first exercise in allocation was an exercise in greed but the other side of the coin is sustainability and economic viability
- c. [The management] system is stacked against recreational interests
- d. People have a tendency to want more, regardless of allocation decisions
- e. Parties unwilling to think beyond their local issues, e.g. "my boats" selectively choose winners and losers, managers don't try to find balance
- f. MSA called for fair and equitable allocations but ended up with big, corporate style interests [dominating the process]
- g. The elimination of fishermen has been egregious [with past allocation decisions]
- h. The current system doesn't protect communities and small interests
- i. Allocation issues are driven by recreational interests
- j. [Allocation is] Imbedded in history of fisheries
- k. Much self interest a stake; [there is a tendency for participants to] protect "their" share
- l. Everyone has a piece of the fishery staked out
- m. Councils haven't responded at times on specific issues, e.g. community fishing banks
- n. Not seen as fair because it appears that the system benefits a small group of people
- o. NMFS and some council members are too interested in allocation by giving the resources to a limited group of people

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- p. Allocation sanctions a closed class of players
- q. [Allocation discussions are an] exercise in greed
- r. [Allocation discussion cause a] workload issue, [the discussion] takes away from conservation and other issues (8)
  - i. Because of other required work, Councils have chosen to ignore allocation

### 6. Comments specific to a region, council, or fishery

- a. Some areas (Pacific, Alaska, Mid-Atlantic, South Atlantic, Gulf of Mexico) willing to discuss allocation (5)
  - i. NPFMC – close relationship between Council and industry
- b. MAFMC not hot to work on allocation
- c. SAFMC, GMFMC much more interested
  - i. Much recreational pressure
  - ii. Has bled over into catch shares
- d. HMS always considering allocation (2)
  - i. easier because of no [direct involvement by] Councils

### 7. General Comments

- a. Readdressing [allocation] issue opens old wounds, don't want the conflict of reopening past allocation fights (10)
  - i. It is problematic to revisit past allocations in an equitable way
- b. All [management] decisions have allocative effects
- c. With ITQs and IFQs, allocation needs to be a one-time event
- d. Don't have data to allocate many species
- e. Concern about business planning stability for permit holders (2)
- f. Perception that allocations are set in stone, permanence (2)
  - i. Notion of locking things up forever is mind boggling
- g. [Managers are] concerned about of being sued (2)
- h. [Managers have] dealt with allocation through spatial management
- i. Attention to allocation is growing
- j. Social sciences have played 2<sup>nd</sup> fiddle, this has made [allocation] decisions harder
- k. Need a simpler process to implement changes [in allocations]
- l. The management system relies on old data and is unwilling to change
- m. Councils get to the first order of business, i.e. conservation, the rest is discretionary
- n. Before ACL's, Councils weren't willing to look at allocation
- o. Now that we have quota management, allocation will come quickly
- p. Requires a vision of what kind of fisheries that we want to have in the future
- q. No one answer, sometimes allocation is avoided [by managers], other times they charge in
- r. Problems caused by allocations have cascaded into other fisheries
- s. Future allocations will be much harder
- t. We either give care about socio-economics or we don't; [we need to] be honest with ourselves
- u. Pre-ACLs, Councils were cognizant of allocations but didn't do specific allocations
- v. Post-ACLs – very interested in allocation (because they have to be) but there is little interest in doing anything other than historical shares

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### APPENDIX 3: RESPONSES TO QUESTION 2

#### *QUESTION 2 – WHAT ARE THE ALLOCATION ISSUES IN YOUR REGION OR AREA OF EXPERTISE THAT NEED ADDRESSING?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. Review of existing allocations

- a. How often to revisit allocations
- b. How to decide to reallocate or review earlier decisions
- c. Allocation issues should be reviewed regularly. If this isn't being done, you're not doing your job
- d. Reallocation with individual species, FMPs  
Need to have reallocation discussions; "Haves" don't want discussion and "have nots" do want it
- e. Any fishery that does a permanent allocation needs to be changed [concerned about perception of permanence of allocations]
- f. Need modification [provisions] built into plans; consider sunset provisions
- g. Much economic value with reallocation
- h. Consider shifting allocation in fisheries with multiple gear types to maximize economic return [from a fishery]
- i. Not supportive of redistribution of allocation
  - i. Market will take care after initial allocation
  - ii. MSA doesn't allow reallocation
- j. How to change allocations already in place
- k. Ways of making adjustments to current allocations
- l. New entrant access [to fisheries] without huge investment [for permit or quota]
- m. Permanence of allocation
- n. Every mixed sector fishery should be reviewed every five years
- o. On catch shares
  - i. Not permanent
  - ii. Need specific reallocation clauses in catch share systems
- p. Address individual allocations if you're changing the allocation system

#### 2. NFMS / Council process responses

- a. The biggest concern is that the Councils are rusted shut; they ostensibly revisit allocations but don't really consider re-examination
- b. How to integrate allocation issues between / among Councils
- c. NMFS has to let go of the tendency for a "one size fits all" approach

#### 3. Allocation process responses

- a. Better range of alternatives on how to allocate (8)
  - i. e.g. historical catch as compared to recreational economic value
  - ii. look at future trends, conditions
- b. Intersector allocations

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- c. Need for trailing amendments to fix problems
- d. Allocations between groups within the commercial and recreational sectors
  - i. e.g. for hire and private recreational
  - ii. fixed gear, mobile gear
- e. how to get more categories into allocation system
- f. Fisheries under catch share programs that don't have catch share constraints on all part of the fishery, e.g. recreational catch, have the potential for unconstrained components to get out of hand
- g. Both commercial and recreational portions of a fishery need to be constrained in quota limited fisheries
- h. Reallocation of unused quota within season
- i. Open access fishing vs. limited access within an FMP
- j. Allocation discussions will be slowed by ecosystem based fishery management discussions, implementation
- k. Create a system that allows markets to drive allocations
  - i. Take away the system that we're currently using
  - ii. Build in thresholds, minimum or maximum percentages (to constrain as needed, e.g. accumulation limits)

### 4. Crew shares Responses

- a. Crew share inclusion in allocation program
- b. Crew share

### 5. Accumulation cap Responses

- a. Excessive shares / consolidation at owner / vessel level (4)
- b. Share caps

### 6. Community Responses

- a. Attention to community impacts of allocation decisions
- b. How to address small boat and community issues [in allocation discussions]
- c. Allocation at community level
- d. How to keep communities sustainable [when implementing allocation systems] (2)
- e. How to anchor some share of allocations in communities
- f. Community maintenance / survival; no ways for communities to compete in process
- g. Direct attention to value of maintaining coastal communities
- h. Need recognition of jobs, communities, recreational access and consumption
- i. Pay attention to communities and small boats; efficiency not good for the environment
- j. Need to look at community at local, state, and national level

### 7. New Entrant Responses

- a. How to address disenfranchised stakeholders, e.g. permit holders without landings
- b. How to address new entrants [in allocation systems]
- c. With ACL increases, need to figure out ways for opportunities for
  - i. New entrants
  - ii. Re-entrants
- d. Opportunities for
  - i. New entrants

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- ii. Small scale fishermen when allocation is based on history
- e. How to increase access to fishery in allocation systems
- f. New entrants must be addressed in this privatization process
- g. ability to own and lease quota without being active in the fishery
- h. lack of entry level opportunities

### 8. Fleet diversity, vision responses

- a. Lack of vision on desired future outcomes [hinders comprehensive solutions in allocation systems]
- b. What do you want fisheries to look like in the future?
- c. [Managers] should shape fisheries based on a vision of the future

### 9. Regional, geographic responses

- a. Allocations that benefit one part of a region more than others
- b. Trying to allocation by state or region equitably given differences in seasonal availability
- c. Geographic / seasonal disadvantages of allocation systems, indirect impacts of allocation decisions
- d. Impacts of latitudinal distribution of allocation decisions, access to fishery in different states

### 10. Interfishery responses

- a. Need to start looking at allocation impacts between / among fisheries, e.g. bycatch impacts, bycatch allocations to keep people under ACL's
- b. Cross fishery allocation issues; cumulatively how do we allow people to make a day's pay
- c. FMPs colliding because of no common currency [among plans on allocation systems]
- d. Allocation systems causing increased pressure on other fisheries

### 11. Ecosystem, Ecological Responses

- a. Bycatch species in fisheries with allocation
- b. Bycatch limits, prohibited species caps
- c. Endangered Species Act allocations, i.e. allocations for endangered species
- d. Need a hard allocation for ecosystem allocation

### 12. Changing conditions responses

- a. Allocation decisions in terms of changing ocean, climate conditions
- b. Conditions change and the management system needs to adjust to manage for the greatest benefit to the Nation. It doesn't make sense to allocate based on history and expect the fishery to stay the same as it was before
  - i. Human demographics
  - ii. Ecosystem
  - iii. Climate change
- c. Changes in perspectives over time

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### 13. Recreational / Commercial Responses

- a. Coming to grips with a vision of balance of recreational and commercial interests
- b. Need a national policy to reallocate between commercial and recreational sectors
- c. Open access in recreational fisheries; growth without limits
- d. Static allocations not good for recreational sector
- e. Components of recreational fishery that don't want to pay attention to total allowable catch; we must count all fish
- f. Independent (private?) anglers right to fish as constrained by management under catch share programs
- g. Recreational fishery allocations under catch share programs
- h. Portions of recreational fishery that don't pay attention to total catch
- i. Predominance of recreational interests in South Atlantic; need to address their issues
- j. Consider potential for intra-recreational split, i.e. Separation of party/charter from private recreational
- k. The impact of the shift from MRFSS to MRIP shift on allocations
- l. Recreational sector continues to call for new allocations using recreational economics as an argument
- m. Recreational fishery issues outside recreational / commercial split, e.g. controlling fishery within ACLs
- n. Insufficient restrictions on recreational fisheries in ACL / quota managed fisheries
- o. Many recreational species do not look like they're appropriately allocated, needs a hard look
- p. Allocation must be done hand in hand with recreational fisheries

### 14. International Allocation Issues

- a. International allocations between the US and Canada
- b. Competing in world markets
- c. The impacts of domestic allocation decisions in the context of international fishery agreements (2)

### 15. MSA, National Standard issues

- a. Need longer rebuilding timeframes to allow economic survival
- b. MSA doesn't allow reallocation
- c. Reexamine National Standard 4 because I don't think that we are giving fair and equitable more than lip service
- d. MSA needs to be changed to better address allocation issues

### 16. State Issues

- a. Pressure among states
- b. Inconsistent state management decisions

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### 17. Data / science issues

- a. Poor economic data [from which to make allocation decisions]
- b. data to objectively optimize allocations
- c. Accuracy of data based on landings
- d. Lack of effort data in recreational fisheries [hinders allocation discussions]
- e. Lack of data [hinders allocation discussions]
- f. Poor biological data on many species [hinders allocation discussions]
- g. Legitimate economic valuation studies [needed for better allocation discussions and decisions]
- h. Need agreed upon data base on landings
- i. Data confidentiality – good for statistics but ties hands of analysts and managers understanding of catch share allocation results and impacts
- j. [Better} data needed for allocation
- k. Validation of log books
- l. Get better science to determine the real status of the stocks before allocating
- m. Data poor management [hinders allocation discussions]

### 18. Regional / Fishery Specific Issues

- a. Allocation formula in Amendment 16 (Northeast Multispecies FMP)
- b. Emerging pelagic fishery (WPAC) subject to RMFO limits
- c. WPAC – allocation of bottom fish, need handle on recreational catch
- d. Commitment to move forward on allocation issues, e.g. scup and summer flounder
- e. Halibut bycatch in sablefish fishery
- f. Advent of limited entry in West Coast groundfish fishery
- g. Allocation between common pool and sectors (NEFMC, groundfish)
- h. Trawl IQ allocation; big players could invest in councils, regulatory process to their advantage
- i. New England groundfish allocations need to be revisited, didn't understand all impacts
- j. PFMC Trawl IQ – amount allocated to trawlers was too high
- k. Regional impacts of quota, allocations, e.g. north / south split on tuna
- l. Mid-Atlantic states have favored for hire fishery over private rec.
- m. West coast overfished species with low TAC – how to manage Bycatch
- n. crew in crab rationalization program (Alaska)
- o. Dominance of CCA in South and Gulf is unbalances [allocation discussions]
- p. MAFMC – mention of specific species issues, e.g. black sea bass, mackerel, scup
- q. Manner in which NMFS approaches international salmon treaty
  - i. Underlying tendency to allow tensions between user groups
- r. Need to manage for flexibility
- s. SAFMC – black sea bass management under ACLs, AMs
- t. GMFMC – red snapper commercial / recreational allocation

### 19. Tribal Issues

- a. Treaty / Non-treaty allocation – nothing ever stays the same
- b. Allocation issues between tribes, normally negotiated
- c. Pressure to increase non-tribal allocations which subsequently impacts tribal fishing
- d. Full use of surplus fish in rivers
- e. Council actions impact tribal / nontribal balance, e.g. Alaska catch of Columbia River salmon

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### 20. HMS

- a. Haven't addressed allocation in sharks
- b. Commercial shark quota – conflict between state and federal management actions – Louisiana didn't close state waters
- c. HMS – allow catch up to quota
- d. HMS
  - i. Monitoring sufficient to keep within limits
  - ii. Incidental commercial catch

### 21. General Comments

- a. No [allocation issues] need to be addressed
- b. With nascent catch share policies, reallocation destabilizes fisheries
- c. Look at how the management system has constrained history of what people could catch (indirect allocative effects)
- d. Need to better frame the public debate about allocation policy issues
- e. How to frame judgment calls [in allocation decisions] in a way that does not appear arbitrary and capricious
- f. How to figure out what the best use of fishery resources is
- g. Decisions based on judgment are very difficult
- h. Allocation is critical to socio-economic objectives
- i. Increases can't all go to current participants
- j. What types of allocation are fair? (2)
- k. How to set up an allocation system, e.g. ITQ; nobody will say "this is how it's done"
- l. Determining people's perspectives on what is fair and equitable
- m. Impacts of management measures on history causing a big indirect allocative effect
- n. Don't treat allocation issues willy-nilly
- o. How to address past fishing performance
- p. There's too many ad hoc policy and management approaches [in allocation discussions]
- q. Need central guidance and policy on how to proceed [with allocation]
- r. Diminish political leveraging
- s. Criteria and process to be used in allocation issues
- t. Improvement of stakeholder engagement process
- u. Improve transparency of [management] process [to assist with allocation discussions]
- v. Make sure that the system is flexible enough to change
- w. Much emphasis of allocation on economics, need better emphasis on social components
- x. People always want more fish
- y. Allocations pit people against each other
- z. Quota systems all have allocative components
- aa. What sectors need to be involved in allocations
- bb. Councils have structured tensions that are frustrating
- cc. Need to re-adjust catch histories because of impacts of past regulations
- dd. Inshore / offshore separation zones
- ee. Allocation between gear types
- ff. Set goals to improve conservation, socioeconomics
- gg. Initial allocations – who is eligible to receive allocation
- hh. Trading rules
- ii. Length of tenure
- jj. Forces need to create history

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- i. Don't see a need to allocate
  - ii. So many other challenges
- kk. Applicability of allocation to small scale fisheries
- ll. Balance of equity / stability in ITQ systems
- mm. Need less discussion of allocation to provide for business planning stability
- nn. Greed; the perception that people say "my allocation is more important than yours" is impacting the management system
- oo. Using projections will be controversial
- pp. Don't allow harvest until recovery, NMFS should have a policy so that councils don't vote on issue
- qq. Spatial planning and allocation – everybody needs to give a little bit
- rr. Public interest [is being lost with catch share and allocation implementation. The result is that] you can't say that we're not prioritizing
  - i. Huge failure of public policy as it's been carried out
  - ii. Balance with business stability
- ss. [The management] focus on conservation [rather than] not allocation
- tt. Haven't done a good job of ecosystems & conservation, not allocation
- uu. Get at waste [in fisheries] first; [then address allocation]
- vv. Use marketable fish
- ww. Need more emphasis on social and economic components of allocation
- xx. Effects of multispecies management
- yy. Complex but better than piecemeal
- zz. Subsistence / personal use and subsistence fisheries need to be accounted for in allocation systems

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### APPENDIX 4: RESPONSES TO QUESTION 3

*QUESTION 3 – DO STOCK SIZE / ACL INCREASES PROVIDE AN OPPORTUNITY TO ADDRESS LONG STANDING ALLOCATION ISSUES? IF SO, WHAT ARE THESE OPPORTUNITIES AND HOW SHOULD THIS BE DONE?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. Yes (44)

- a. to allow fairness, issues missed in initial allocations
  - i. Opportunity for change
  - ii. Use to reduce scientific uncertainty through research allocation
  - iii. Redistribution of quota with significant increases in ACL
- b. More fish and less pressure among groups to fight makes it easier to shift fish without loss of catch (3)
- c. Use for small operators, new entrants
- d. Best way to initiate [change] in people's minds
- e. Am frustrated that we can't do this
- f. C can use to look at all allocations
  - i. e.g. spiny dogfish and southern states
  - ii. put in provision for 3 year review
- g. The concept lessens the pain of allocation shifts
- h. Makes allocation discussions easier
- i. Yes, gets people excited about the possibility, probably isn't the driving force in allocation discussions
- j. Stock size increases allows consideration of other allocations / policy discussions, provide councils with an incentive to look at allocation
- k. Increasing ACLs provide the best way to affect change in allocations without cutting the catch of current participants
- l. Probably, additional ACL could be allocated to achieve some social goals
- m. Would allow addressing some opportunities but will not provide everything
- n. Allows allocation to new participants, historical participants
- o. Portion of increase to other than current participants
- p. Take long term look; need to change
- q. Use rebuilt stocks to address new ACE to be used differently for inequities
- r. New fish provides opportunity to reallocate
- s. Counters perception of permanence
- t. ACL increases raise the allocation issue, make it easier to discuss
- u. Species with small allocations, increases can apply to these
- v. ACL increases allow the opportunity to review past decisions on allocation (2)
- w. Increased stock size could be used to reallocate
- x. If [discussions don't occur] when stocks are up, it will never happen
- y. Can we carve out allocation for communities, new entrants, crew
- z.
- aa. As stocks recover, easier to get into allocation process; results in less losers
- bb. On glaring issues with defining and refining allocation process
- cc. Provides an opportunity to allocate to broader group

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- dd. Yes, if nothing is done, fisheries will lose allocation by attrition, indirect allocative impacts
- ee. Reasonable to assume it's worth trying
- ff. Yes, gives chance to look at allocation
  - i. Shares move more freely
  - ii. Addresses issue of permanence
  - iii. Award to all players
  - iv. Use some of increase for market based approaches
- gg. Would allow for adaptive management
  - i. Communities
  - ii. Small boats
- hh. Yes, means of addressing small boat issue
- ii. To take advantage of shifting economic benefits
- jj. Could use to change from historical share
- kk. Need to consider reallocation as more people shift to the coast and want access to fish resources
- ll. There is an opportunity because allocation doesn't have to remain a fixed percentage forever
  - i. Yes, because you'll reach a diminishing return for new additions with higher stock levels
- mm. We need more flexibility in how we think about allocation
- nn. Yes, we need a more comprehensive way of looking at socioeconomics and judgment calls
- oo. Provide new opportunities; apply to those who've taken the biggest hits
- pp. Use a small percentage of the increase for different purposes
- qq. [Provides] a tremendous potential opportunity
- rr. ACL increases should be used to address the shortcomings of the system
  - i. New entrants
  - ii. communities
- ss. Yes, if allocation is an issue
- tt. Yes, it would make changes in allocation easier, e.g. reallocation, new entrants
- uu. Allocation review should be part of every FMP review

### 2. No (12)

- a. No, not linked to allocation
- b. Not a stand-alone issue
- c. [This idea] won't work with ITQ systems (3)
- d. Allocation to communities is social engineering as compared to fisheries management
- e. Reluctant to use because the arguments [about allocation] are already done
- f. Problematic basis for reallocation; stock growth should reward those who have made sacrifices
- g. Don't use stock size to fix political problems
- h. Allocation percentages don't change
- i. Don't think that additional fish will help with allocation issues (2)
- j. No, allocate once then let the fishery economic system take care of it
- k. No set asides, e.g. community, new entrants, needed in allocation systems
- l. My gut feeling is that allocation issues aren't significantly impacted by stock size
  - i. It's a fight regardless of stock expansion or contraction

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### 3. Possibly or don't know

- a. Not sure
- b. Case by case issue
- c. Possibility, overcome problems with economic data
- d. Mixed feeling about question
- e. Depends on whether the underlying allocation is fair
- f. Potentially, could be as divisive as original allocation discussion and consideration
- g. Maybe, depends on what happens in fishery in the mean time, fisheries coming back do provide an opportunity
- h. Possibly, a place for discussions
- i. It depends on the allocation issue

### 4. Process responses

- a. There should be an a priori rule that allocations go to permit holders
- b. Catch shares programs should explicitly discuss how to handle increases and decreases

### 5. Regional or fishery specific responses

- a. East Coast issue
- b. Not applicable to Western Pacific
- c. More of an East Coast issue but it's easier to allocate with more fish

### 6. General comments

- a. If it's okay on increase, what to do with decreasing stock size?
  - i. Last in / first out?
  - ii. All in / decrease proportionally?
- b. Reward the fisheries components that have borne the brunt of rebuilding
- c. Look at catch, not just landings
  - i. Don't reward poor performance on bycatch
- d. May promote decision to arbitrarily reallocate
- e. One side or the other looks for rationale for greater share of allocation
- f. Regularly scheduled reviews are the best opportunity for progress
- g. Need good catch numbers before applying this idea (2)
- h. There is no a priori rule that allocations go all to permit holders (2)
- i. Many councils have set percentages based on history; think that this is fair
- j. If we can hold the line on reasoned allocations and management measures, the public will benefit
- k. Increased ACLs doesn't necessarily change the fight
  - i. Concerned about guidelines changing with stock assessment
  - ii. Increased quotas could provide some flexibility
- l. Depends on size of ACL increase; if large enough it would make the discussion easier
- m. Don't want to wear people out [with allocation discussions] to the point that they give up
- n. Shouldn't reallocate in near term, allow some time for allocation system to stabilize
- o. Potentially, worried about this concept because quotas are used as collateral on bank loans [and the discussion could have significant business implications]
- p. Depends on what side of the allocation fence that you're on
- q. Recreational interests want allocation, wouldn't agree to this concept
- r. As stocks increase, people who've sacrificed should benefit

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- i. New participants shouldn't reap benefits
- s. Consider temporary transfers of unused quota
- t. Haven't taken opportunity to discuss this idea; it's too early in the quota management process to change
- u. Too narrow an approach, examination of allocation should be broader than this
- v. Use to put part of increase in pool, bid out to allow market to dictate outcome
- w. Operate fishery under market conditions
- x. Depends on whether the underlying allocation is fair
- y. If the allocation is based on a percentage, this could be a problem
- z. May help marginally but allocation is still very difficult
- aa. Question how it could be done with the current council structure and membership
- bb. Mixed feelings, significant increases give the flexibility to address allocation issues but very tough to do – hasn't worked in summer flounder
- cc. How would you do it fairly and equitably?
- dd. This idea should be promoted but will it happen?
- ee. More fish doesn't solve problems without wise management
- ff. Need a proper process for allocation. Don't do if the process isn't ironed out.
  - i. Need to decide on goal first
  - ii. With goal in place, stock growth would be a way to get it done
- gg. The question is at what point can initial allocations be changed
- hh. This is an easier concept with single species fisheries as compared with multispecies fisheries
  - ii. You could but haven't seen it happen
- jj. We have allowed people to legitimize the expectation of last allocations [,i.e. permanence]
- kk. The recreational / commercial issue has been addressed piecemeal
- ll. Could be done but would be tough
- mm. Parties with bigger allocations don't want to give something up
- nn. Possible but not easy, may be constrained by limiting species in groundfish complex, i.e. choke stocks

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### APPENDIX 5: RESPONSES TO QUESTION 4

*QUESTION 4 – DO THE COMINATION OF HARD CATCH LIMITS, THE NATIONAL CATCH SHARE POLICY, AND STOCK GROWTH CHANGE THE STATUS QUO SUFFICIENTLY TO ALLOW OR REQUIRE A REEXAMINATION OF ALLOCATION POLICY AND ALLOCATION DECISIONS IN YOUR REGION OR AREA OF EXPERTISE?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. A review should be considered (39)

- a. These changes make it easier to have discussion [on broad allocation policy]
- b. Heightening interest by recreational stakeholders [supports a re-examination of allocation policies]
- c. Yes, the current system allows a small group of people to believe that they have a permanent windfall
- d. Look at MSA to see what's important to consider with respect to catch shares, allocation [as part of allocation]
- e. The goals haven't changed but the tools have
- f. A good idea including how management and science has affected allocations
- g. Yes, with respect to some resources
- h. Don't know about big picture look but the move toward catch shares will force some allocation discussions
- i. Embrace the arguments and move ahead
- j. A big picture look is required because of changing circumstances [in fisheries and the environment]
- k. Policies need to be reexamined, more guidance is needed [on allocation]
- l. There is good justification for taking a closer look
- m. Need to be able to react to changes more quickly
- n. To recognize that this is an ongoing process with change over time, Unintended consequences, e.g. consolidation, new entrants, communities, and privileges vs. rights
- o. National Standard 4 (fair and equitable) and management seem to be in conflict
- p. Are catch shares getting at overcapitalization? Small boats are losing out, is this fair and equitable?
- q. Need to look at allocation because of sum total of changes but not hard catch limits
- r. Yes, who are we granting the resource to?
  - i. Fair and equitable?
  - ii. How do we protect communities?
  - iii. How do we get the most value from the fishery?
- s. industry is changing, [management should] respond to demographic changes
- t. Immediate need to know –
  - i. Who's catching what?
  - ii. Minimize Bycatch
  - iii. Control fishing
- u. To look at what's coming in the future
- v. How big a fishery, e.g. commercial and recreational, do you want to have
- w. Specific to the NOAA Catch Share Policy

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- x. Many changes suggest that a big picture look should be done but I don't have any specific recommendations
- y. Long term changes, e.g. growth in recreational fishing, need to be factored in over time
- z. Should be willing to take relook at issues related to the big picture
- aa. Yes, because organized constituencies are knowledgeable and engaged after ACLs, AMs, and 20 years of allocation
- bb. Without question
- cc. Need a vision of the future condition of the fishery to plan how we will get there
- dd. If the fishery management environment has changed, this would promote an opportunity to re-examine
- ee. Don't want to lose opportunity
- ff. There hasn't been a big picture look; it's necessary (3)
- gg. Determine how management / allocation will be effective years down the road
- hh. Must bear in mind how we got to where we are, particularly with respect to default allocations
- ii. Would like to see some rethinking of national policies as a new project as opposed to assuming that it isn't broken
- jj. Need to re-examine allocation policy issues, NOAA Catch Share Policy represents the status quo
- kk. Need big picture look and a moratorium on catch shares
- ll. Yes, to address small boat, recreational issues, how to change allocations
- mm. It's a national issue that needs addressing regionally
- nn. Public policy dictates taking a tough look, not satisfied with where we're going
- oo. It must be done now; it didn't matter before imposition of hard catch limits
- pp. Should do a big picture charge because of the reluctance to do it fishery by fishery
- qq. Catch shares feels like ownership, people perceptually believe it, a review is needed
- rr. Changes in population, seafood demand, recreational fishing demand we take a look
- ss. Current [political] trends don't allow type of review to occur which is unfortunate
- tt. Iterative approach would be a series of band aids
- uu. This is a foundational issue; national allocation policies should be reviewed
  - i. Change over time
  - ii. New things are hard to accept
  - iii. There is no status quo in the context of fisheries
- vv. There are many assumptions that have been made that merit review
  - i. Indirect allocative effects of regulations
  - ii. Assumption of allocation as quota
- ww. Include what has worked, not worked in past; ideas and histories from other regions
- xx. National review of optimal guidance; if not mandatory it will be
- yy. We should continually look at programs to determine if we've gone the right way
  - i. Review validity of safeguards
  - ii. There are many little problems, the sum total suggests a re-look
- eee. Emphasize the best use of the resource, use social scientists more

### 2. A review should not be considered (29)

- a. Each council / region is different, don't use "one size fits all" approach (4)
  - i. Leery of broad national policies
- b. Don't think that there's a need for a big picture look
- c. Don't review issues, e.g. National Catch Shares Policy, too soon after putting them in place

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- d. A national look is worrisome because of a “over broad” scale application, i.e. not enough regional focus
- e. Not enough time into allocation / catch share policies to make changes; there hasn’t been a lessons learned analysis yet
- f. Need iterative adjustments as compared to big changes
- g. Don’t take on nationally, this would likely screw it up!
- h. Councils are competent to make good, regionally oriented decisions
- i. Give enough guidance, let the Councils do the rest
- j. There’s not enough new issues to justify [a big picture review], use iterative changes
- k. Need iterative changes, have a thoughtful middle ground with NOAA Catch Share Policy and regional adaptation
- l. Concerned that national policy will be driven by big, one size fits all approach
  - i. States, fishermen will lose out
- m. Don’t need further development of national policy, current policies currently afford enough flexibility
- n. Favor iterative approach, national look won’t help
- o. We have the framework to address what is needed
- p. Leery that government wants to do more because of the opportunity for the effort to be misguided is too great
- q. Pandora’s Box quality to issue; examination at national scale would have a very small chance of gain
- r. Don’t see the need to take a national look
- s. Reauthorization of MSA would allow a big picture look at allocation

### 3. Process responses

- a. What is the set of national policies to trigger a change?
- b. Don’t review issues in too short a timeframe after implementing
- c. Can do theoretically but it’s difficult to see what would trigger the review process
- d. Need a vision before making policy changes
- e. There have been many changes, need to determine what is the goal of national policy

### 4. Region or fishery specific responses

- a. Pacific/ North Pacific issue – no, things with halibut are working alright
- b. New England groundfish – Not a LAPP, don’t need a review every 5 years as required in MSA
- c. HMS – constantly going back to look at allocation

### 5. General comments

- i. Allocation discussions should be based on broader basis; social, economic information is the most critical thing to consider
- b. Recreational Summit confounded this issue
- c. Need a national allocation policy if events justify a “big picture” look
- d. Goals haven’t changed but management tools have
- e. Is there a national allocation policy?
- f. Do events justify elaborating a national policy? If so, what principles are needed for the discussion?
- g. Can be done theoretically
- h. Hard to see what would trigger the review process

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- i. There's probably not enough attention because nobody is squawking about the issue
- j. It is encouraging that NOAA is going ahead with the NOAA Catch Share Policy and hard catch limits
- k. Council reform [is needed to make big picture policy changes]
- l. Each region needs to drill down to judge the appropriateness of their past decisions
- m. There has been progress; keep going with rebuilding
- n. Use marine protected areas to help
- o. Don't use one size fits all
- p. [A big picture look should be done by Congress; allocation policies are addressed by the Congress except for grazing & fisheries –
- q. The NOAA Catch Share Policy has been put in place in the forefront with likely irreversible, profound impacts
- r. Unless the Councils figure out how to allocate fairly, look to NMFS and Congress for direction
- s. Look at all sectors before putting catch share system into place
- t. Need to address regional implementation problems
- u. With respect to NOAA Catch Share Policy, industry has to pay because of catch shares
  - i. Abrogation of responsibility
  - ii. After the fact allocation
- v. Older allocation issues, e.g. recreational / commercial quotas, were established under different circumstances
- w. In the real world, it is unlikely that the fortitude exists to address comprehensively or to follow through
- x. More of a regional issue
- y. Need to work on fair and equitable in National Standard 4
- z. IFQs have increased bycatch
- aa. Hard TACs, not catch shares, is the way to protect the resource

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### APPENDIX 6: RESPONSES TO QUESTION 5

*QUESTION 5 – HOW OFTEN HAVE ALLOCATION ISSUES BEEN REVIEWED IN YOUR REGION OR AREA OF EXPERTISE? IF A REVIEW HAS TAKEN PLACE, DO YOU THINK IT HAS BEEN SUFFICIENT IN TERMS OF TIMING AND COMPLETENESS OF REVIEW?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. Sufficient Reviews (15)

- a. Sufficient in timing, completeness
- b. Incorporated in normal decision making (2)
- c. When adjustments have been made to allocation programs, the review process is satisfactory
- d. Have tried and spent the right amount of time on allocation reviews
- e. Overall okay, mentioned specifics in some fisheries
- f. Review with management changes, e.g. NOAA Catch Share Policy
- g. Generally okay but look at other fisheries before reviewing
- h. In most cases, allocation decisions are reviewed annually
- i. Reviews have happened at council level
  - i. Most allocations haven't changed since they were put in place but reviews have been good
- j. Reviews have been informal but sufficient
  - i. A formal review would be a major undertaking for Councils
- k. There have been many looks at allocation in the past
- l. Have had long, exhaustive reviews, timeliness is good
- m. Yes, periodic reviews are done. Some stakeholders want more frequent reviews, e.g. less than 5 years
- n. Reviews take place every year with spec setting process (3)

#### 2. No reviews (10)

- a. Not yet, allocation systems haven't been in place long enough to warrant review
- b. Generally, reviews have not taken place
- c. No time when allocations are reviewed

#### 3. Inconsistent or insufficient reviews (39)

- a. Reviews have been done on an ad hoc basis with no specific timeline
- b. Reviews have been infrequent, inconsistent (13)
- c. Specification setting process is not usually a review of allocations
- d. Completeness of review
  - i. Hasn't been a review of allocation decisions
  - ii. Discussed but hard to [the discussion] get off the table
  - iii. Frequent discussions but rare changes
  - iv. [Reviews have] never been sufficiently done
  - v. Have had complete reviews
- e. Some review of allocation decisions

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- f. Have looked at specific species allocation but not broadly
- g. Lacking control dates, options [for review]
- h. Mixed review, some reviews have been done well, others done poorly
- i. Reviews have not been done very often
- j. The review framework is adequate in terms of frequency; time and funding constraints don't allow a detailed examination
- k. [Reviews have been done] infrequently
- l. No standard review, it's been a mish mash
- m. Reviews haven't been in depth, they have been cursory; in part because there haven't been many allocations until recently
- n. Reviews are often piecemeal
- o. Reviews have not been done well
  - i. Policy on the fly
  - ii. Have subjected Councils to political pressures
- p. Needs to be more thorough review and evaluation of allocation decisions
- q. Need to address on a timely basis
- r. Haven't really reviewed allocation decisions (2)
- s. Talked about a lot, not reviewed much
- t. No substantive reviews; council doesn't want to address
- u. Need useful reviews with an eye on reallocation
- v. Many allocations haven't been reviewed
- w. Haven't done good reviews
- x. Much discussion but not a full review(2)
- y. Don't take place frequently enough to serve the broader voices in the community
- z. No systematic review
- aa. Not often, have been some examples of sufficient review
- bb. Probably not in terms of critical thinking

### 4. Allocation review suggestions

- a. Guidelines for every 5 years, or fixed review period (4)
- b. Longer is better with review of catch share programs
- c. Need sideboards to review
  - i. Accumulation limits
  - ii. Timing of review is critical
- d. Need a policy on how to review allocations
- e. Make review period 10 years, allocations and management measures need time to work
- f. The Regulatory Flexibility Act should be able to address allocation review if done correctly
  - i. Less burdensome alternatives
  - ii. Hard to tell small from large entity in fisheries
- g. Could be improved with respect for timeliness

### 5. Comments about specific Council or FMP performance

- a. On west coast, PFMC yes, NPFMC no because of different cultures / approaches [within the regions]
- b. NEFMC
  - i. Scallop reviews have worked well
  - ii. Groundfish tougher because of poor socioeconomic data
- c. Not applicable to WPFMC because we haven't had allocations in place

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- d. South Atlantic – have had reviews but timing has been a problem
- e. PFMC – salmon reviews are done annually or biannually
- f. HMS – reviews are sufficient but perhaps too often
- g. SAFMC – had wholesale discussion and allocation committee but it was stopped before getting too far
- h. MAFMC – mostly not in our region
- i. HMS – much review, good frequency
- j. NEFMC - with rush into sectors; wait until we have sector performance reports before reviewing
- k. Scup study in Mid-Atlantics is an attempt to do something different
- l. HMS – reviews with every rulemaking (2)
- m. PFMC – review allocations and they can change, review every two years
- n. GMFMC –allocation issues haven't been reviewed enough
- o. NPFMC – has done reviews every 3-5 years
- p. Tuna - allocation is fair, timely, extensive
- q. NEFMC - Relatively little history of direct allocation but little change except for groundfish
- r. NPFMC – allocations have been reviewed, substantial changes have been made
- s. HMS – has been okay
- t. NPFMC has had thorough reviews but side issues don't come to the surface

### 6. General comments

- a. “Revising baselines too often”, need to let them rest
- b. Driven by last MSA amendments (3)
- c. Increasing pressure to review
- d. Staleness issue is valid but what's the right period for review?
- e. Don't know about frequency of reviews (2)
- f. Councils just starting to look at issue [of allocation review]
- g. Need assessment of socioeconomics to allow adequate review
- h. Multiple attempts [at allocation review] have been thwarted by a small number of people
- i. Reviews have not been done because of full analysis, reasoned decision Rather, they have been driven by personalities and intellectual intimidation
- j. It is difficult to revisit old decisions
- k. Don't think that this is a sufficient reason for NMFS to look at allocation
- l. Reviews only with limited access
  - i. Qualifying years
  - ii. Occasionally some additions, e.g. Category H in monkfish
- m. Haven't had enough time to let policies work before reviewing
- n. Just getting into allocations, MSA called for five year reviews
- o. Concerned about rubber stamping; need in-depth reviews that ask tough questions
- p. At the federal level, [review of allocations is] always a point of discussion
- q. Sometimes NOAA gets too wrapped up on dates / schedules; use common sense [regarding review of allocation]
- r. There is resistance to reviewing allocations
- s. Needs to be an ongoing allocation review and trend monitoring
- t. Don't know [about allocation reviews sufficiently to answer]
- u. To my knowledge, allocation reviews have not been done
- v. Annual spec setting process is not an allocation review
- w. Some reviews [have taken place] but when you have catch shares, discussion is largely among quota holders

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- i. Losers and outsiders not considered
- x. Should have reviews [of allocation]
  - i. How to make reviews fair?
  - ii. Difficult because reviews are done by those who set up the allocation
- y. Reviewing allocations has a chilling effect on the economics of the fishery
- z. Not sure how often [reviews have taken place], completeness [of any review will be] limited by data
- aa. On official review [of allocations]; councils are reluctant to revisit past decisions
- bb. People don't want to discuss too deeply because of investments made, permits bought and sold
- cc. Haven't been explicit review decisions reviews that have occurred are hind casts
- dd. Need review panels as compared to revisiting issue by people who made the decision
- ee. [Allocation] reviews have had too long a time period
- ff. Allocations need to be reviewed; don't know what time period [for review] is best

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### APPENDIX 7: RESPONSES TO QUESTION 6

#### *LIST OF ALLOCATION TYPES MENTIONED BY RESPONDENTS*

- Adaptive Management / Contingency
  - Reserve allocation
  - In season adjustment
  - Unforeseen circumstances
  
- Between/across sectors / user groups
  - Harvesters
  - Processors
  - Crew
  - Communities
  - Cooperatives
  
- Bycatch
  - Nontarget species
  - Prohibited species
  - Small incidental catch
  
- Commercial
  - Sectors
  - Gear type
  
- Economic Development
  - Shore side processors
  - New entrants
  - Communities
  
- Ecosystem / Conservation
  - Forage - allocation reserved for a species value as forage in the ecosystem
  - Protected species - allocation reserved for forage by protected species
  - Precautionary buffer- allocation set aside as a precautionary buffer because of scientific uncertainty or ecosystem changes
  
- For Hire – allocation for party / charter or head boats
  
- Gear types
  
- International
  - US / Canada
  - Treaty managed fisheries
  - Multinational
  
- Non-extractive – allocation set aside for non-use
  
- Personal Use – allocation for personal use by people in a geographic area, e.g. Alaska

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- Recreational
  - Hook and line
  - Dive
- Research – allocation to allow research or to provide funding for research
- Spatial / Geographic
  - Regional (>1 council) – allocations with impacts across Council boundaries
  - Cross Fed/State boundaries – allocations for federal and state water components of a fishery
  - State by state – allocations systems with state by state breakdown of total allocation
  - Across broad area, e.g. Northern and Southern (Pacific or Atlantic) or East and West (Gulf of Mexico) portions of fishery
  - communities, ports, fishing areas, etc
- Subsistence – allocation for subsistence use usually in remote areas, e.g. Alaska
- TALFF (Foreign fishermen in US waters)
- Temporal
  - Season
  - Quarterly
  - Winter / summer
  - Fixed time period
- Tribal
  - Treaty Tribal
  - Non-treaty tribal

Allocations can also be divided by type of action<sup>B</sup>:

- Direct (*deliberate allocation decision*)
- Indirect (*non-deliberate decision that impacts allocations*)
- Formal (*decision from an amendment or fishery management plan*)
- Informal (*flexible or temporary*)
- Prioritized, e.g. primary to tribes, secondary to personal use, remainder to other users

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### APPENDIX 8: RESPONSES TO QUESTION 7

*QUESTION 7 – BASED ON YOUR EXPERIENCE, IS THERE A NEED FOR SOME SORT OF ALLOCATION GUIDANCE FROM NMFS? IF SO, WHAT FORMAT WOULD BE MOST HELPFUL?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. No (23)

- a. [NMFS should] mind their own business
- b. Stay out of allocation; [it is a] very sensitive business
- c. National guidance is not intelligible or useful
- d. National Standard 4 and National Standard 5 (efficiency) is tricky for states
- e. There is enough guidance in place (3)
- f. Don't need anything from NMFS, they have no clue about the real world issues from constituents
- g. NMFS not good at giving guidance, the less that they're involved the better
- h. Keep federal government out of business
- i. Given experience with NMFS guidelines, they are too complicated and convoluted
- j. Beware of one size fits all; councils need flexibility to gain buy-in of measures from outside Council
- k. Step up and give an overview of NMFS successes and failures
- l. Why should I expect guidance when NMFS has messed up sectors and ITQs
- m. National Standards are [currently] sufficient
- n. Don't need guidance beyond National Standards, NOAA Catch Share Policy
- o. Keep discussions at council level
- p. Councils are our real life line; they have a good reputation with fishermen
- q. Haven't found federal guidance very useful
- r. Don't trust NMFS to do allocative guidance
  - i. [The agency] responds to funding [and is subject to] undue influence
  - ii. Allocations should go to communities
- s. Am concerned about decisions being made at political level
- t. The process has been fair and transparent
- u. The federal government has already gone too far with the NOAA Catch Policy
  - i. Attitude of privatize and it's okay
  - ii. Forced on councils with funding and priorities
- v. Leery of big government, NMFS review doesn't help
- w. MSA lays out the issues, options – don't need more
- x. Suspicious of letting NMFS address human issues
- y. Not from NMFS, allocation should be done by an independent team
- z. NMFS will not take guidance from the industry or Congress
- aa. NOAA Catch Share Policy is broad, thorough

#### 2. Guidance would be useful, consider a manual or guide for allocation measures (24)

- a. [Develop a] catch share implementation manual, perhaps a check box approach on various issues to consider
- b. Need more policies that require councils to address specific issues (3)

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- c. Overall umbrella allocation guidance [would be helpful]
- d. Some guidance on legal issues related to consideration of LAPPs
- e. List of criteria on what constitutes a community
- f. Reallocation policy needed
- g. Guidance should be broader than prior participation in the fishery
- h. Guidance to allow allocation based on value [of a particular allocation system] to the nation
- i. Answer question of public 's access to public resource as constrained in catch share fisheries
- j. Consider overt statement to provide incentives to
  - i. Optimize revenues
  - ii. Have fishery pay for greater share of management, science costs
- k. There should be some parameters set around allocation
- l. Reviews of policy never hurt. However, NMFS can get wrapped around the axle resulting in a cumbersome, difficult to use product
- m. NMFS guidance on engaging parties for reallocation when a sector doesn't use its full share
- n. Guidance is always helpful; shouldn't be prescriptive
  - i. Look at other areas
  - ii. Road map
  - iii. Defensibility
- o. Put together a compilation of strategies that have been attempted elsewhere
- p. Specific guidance needed – types of analyses needed for impact assessment
- q. NMFS to be up front about allocation options; how to consider and implement
- r. Have to develop timely, understandable guidelines that incorporate broad, community benefits
- s. How do allocation decisions apply to all the National Standards
  - i. Essential Fish Habitat tie in [to allocation]
  - ii. Timely review
- t. Encouragement to get away from past landings [as basis for allocations]
- u. How to use social, economic considerations without time and funding
- v. Making sure that FMPs have clear articulation of the greatest benefit to the nation, objectives in FMP
- w. Ensuring that allocation is revisited, include trigger for review
  - i. Timeline to revisit all allocations (3)
  - ii. ACL increases
- x. Stock assessments [to use in setting allocations]
- y. New allocation ideas
- z. Could use in general sense, fleshing out ideas in a guideline, checklist format
- aa. Framing principles and a checklist of things to consider
- bb. Am surprised that there aren't guidelines. There should be
- cc. For considering and thinking of all components, e.g. communities, new entrants
- dd. Pay attention to multispecies impacts on different fisheries, i.e. across FMP or fishery impacts
- ee. Management by stovepipe is confounding [the bigger picture]; need guidance to standardize across fisheries
- ff. NMFS can play a useful role in clarifying relevant allocation issues
- gg. Need guidelines that are enforceable; then NMFS is more apt to follow MSA
- hh. Would be a good experience in how NMFS provides guidance
  - i. Must come from bottom up
  - ii. Bycatch, discards

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1. Have allocative impacts, inadequate definition
- ii. Need for some guidance, policy statement beyond National Standard 4
  - i. Detail about what needs to be included on history, etc
- jj. Guidance and directions, not orders
- kk. Don't need federal register guidance, rather help with guidance and principles
  - i. Legal ramifications of do's and don'ts
  - ii. Guidance to councils regarding corrections to imbalances of past allocations
  - iii. How to get a different outcome
- ll. Any guidance would be good
- mm. NMFS has spent much time on overfishing, now concentrating on allocation
  - i. Criteria needed for logical choices
- nn. Set triggers for environmental, relative participation changes to review allocations
- oo. Need a framework and process that is transparent, uses standard methods and triggers, and doesn't hide behind process
  - i. 2 step process
    1. Framework, preliminary discussions
    2. In depth discussions, decisions
- pp. Guidance with
  - i. Design principles
  - ii. Avoid standards, hard guidance
  - iii. Flexibility needed
  - iv. Allow innovation, things not on list now are okay to consider
- qq. NMFS needs allocation guidance
  - i. How to be fair
  - ii. Enfranchised stakeholders will use to "keep their place"
  - iii. Local control, devolution are not the answer
  - iv. Maybe Congress needs to get involved
- rr. Guidance on :
  - i. How to allocate
  - ii. How to use past catch history
  - iii. Geographic segregation of stock assessment info
- ss. How crews share up in IFQs
- tt. Guidance would be useful; don't dictate allocation or steer result
- uu. Standards or principles as guidance
- vv. Lessons learned,, management attempts from different areas
- ww. Retrospective analyses on allocations would be very helpful
  - i. Living documents
  - ii. Running review
    1. Consequences, intended and unintended
- xx. Broad guidance would be useful
- yy. Guidelines for revisiting allocations
- zz. Guidance – series of questions, frequently asked questions
- aaa. Process guidance
  - i. Examples of types of data and reliability
    1. Examples from other regions
  - ii. Relative change (growth, receding) of different sectors
- bbb. Some standard structure for applying allocation
  - i. E.g. off the top percentage for particular issue
  - ii. Review period
- ccc. Guidance is lacking, each Council is left to itself
  - i. Standardized methods

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1. Strengthen LAPP language
    - ii. Guidance for analytical documents
    - ddd. More allocation guidance [is needed]
    - eee. Need national allocation guidelines
3. **Unsure about need for additional guidance**
  - a. Not convinced that there is a need but may consider
    - i. Allocation to processors and fishermen
    - ii. IFQ in tilefish – operated without guidance
    - iii. Role of fishing associations, coastal communities
4. **National Standard responses**
  - a. Need National Standard specifically for allocation, catch shares
  - b. National Standard 8 is vague, what is required when allocation issues are considered
  - c. Need tweaking of National Standard 4
  - d. When agency weighs in, need to justify position through NS guidelines
  - e. National Standard 8 is vague – what is required and why?
  - f. National Standard 4 and National Standard 5 (efficiency) is tricky for states
  - g. National Standard 8 guidance on communities
  - h. More specific guidance on National Standards
  - i. Analyzing fair and equitable in National Standard 4
  - j. National Standards are dismissive of states
5. **General guidance responses**
  - a. Don't restrict regions; use regionally tailored approaches (3)
  - b. Beware of headquarter centric approaches, East Coast bias
  - c. Guidance documents are bland, not very helpful
  - d. Specific guidance with mandates, formulae not helpful
  - e. Resist tendency for national, one size fits all approach
  - f. Information so the public has some idea of what to expect from LAPPs
  - g. Guidance needs to be easy to understand, past guidance unclear
  - h. Need to ensure that allocation is based on FMP objectives
  - i. Keep NMFS neutral, tell people what the law is
  - j. Want to know where NMFS stands on the allocation issue, what is their stance?
  - k. Councils should be part of the discussion
  - l. NMFS guidance causes angst when being considered, then treated as laws
  - m. Regions need time to work on allocation issues
  - n. Need leadership from NMFS
  - o. NMFS needs to do a better job with councils to get more knowledgeable people
  - p. Allocation is a fundamental, non-science issue
  - q. Guidance should be within the council, should be a workshop or whitepaper run by the CCC
  - r. Don't need mandates, use guiding principles
  - s. Can't trust NMFS to be concerned about small boats and communities
  - t. Provide a forum for regions to learn from each other
  - u. Guidance with small "g"
  - v. Maintain regional flexibility
  - w. Need to recognize unique, regional differences

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- x. Need to do something to get councils moving; without a requirement it won't get done
- y. May be best done in next MSA reauthorization, but if Congress does nothing, NMFS should provide guidance
  - i. Leave non-government organizations out of it, they don't have a stake in the fishery
  - ii. States do a better job
- z. Does NMFS have the capability to do this? Is it a priority?
  - i. Should include analysis of allocation in spatial / economic context
- aa. Don't understand the role of guidance

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### APPENDIX 9: RESPONSES TO QUESTION 8

#### *QUESTION 8 – IF NO GUIDANCE IS NEEDED, WHAT CAN NMFS DO TO HELP WITH THE ALLOCATION PROCESS IN YOUR REGION OR AREA OF EXPERTISE?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. Data / Research Responses

- a. Socioeconomic data to support allocation decisions (14)
- b. Socio-economic analyses need to be done [before allocating]
- c. Biological data for data poor species needed for basic management and allocation discussions
- d. Need better recreational landings data [for allocation]
- e. More timely data for management
- f. Allocations have to be based on data; often we don't have the expertise to gather biological, socioeconomic information
- g. Socioeconomic, human dimensions research [is critical to allocation discussions and decisions]
- h. Better guidance on priorities to focus data collection and research
- i. More data for data poor species
- j. Sound, representative science as compared to best available data
- k. Provide data summaries
- l. Catch analysis on all stocks, including stock, fisheries, within fisheries, and individual catch histories
- m. Timely stock assessments [needed for allocation and management]
- n. Involve experienced fishermen through cooperative research
- o. Better biological, social science data
- p. Improved data base on catch history
- q. Social science, economic data not very useful because of confidentiality
- r. Provide scientific data needed to allocate well

#### 2. Economic valuation responses

- a. Need additional methods of calculating the value of a fishery
- b. Economic evaluation of fisheries, show winners and losers
- c. Economic value development
- d. Information and advice on methods for
  - i. Economic models for allocation analysis
  - ii. Consumer demand for commercial and recreational fishery
- e. Economic data on recreational fishing to include tackle shops, etc. to get a better idea of the value of the fishery
- f. Guidance on economic analysis
- g. How to use market based approaches

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### 3. Funding Responses

- a. Socioeconomic issues and data
- b. Biological data (some regions)
- c. Council operations so socioeconomic issues can be addressed
- d. Block grant funding to allow allocation work but maintain NMFS neutrality
- e. Provide funding that doesn't take away from other programs
- f. Invest in NMFS and Councils
- g. More resources to gather data on supply chain
- h. Funding to states to allow them to better engage in allocation discussions

### 4. Outreach / Technical Assistance Responses

- a. Catch share education
- b. Technical, outreach support
- c. More outreach [needed on allocation]
- d. Workshops on allocation
- e. Need outreach to explain policies and fishery management to people

### 5. Monitoring / Observer Responses

- a. Electronic logbooks for commercial sector at point of sale
- b. Timely, accurate reporting of recreational catch
- c. Real time monitoring for quota managed species
- d. Need better harvest estimates
- e. Improved observer program
- f. Adjust observer program
  - i. Smaller percentage coverage
  - ii. Economics of program

### 6. NMFS role responses

- a. NMFS should be more involved, play a facilitator, moderator role (6)
  - i. Ask tough questions, make tough comments(2)
  - ii. More timely analysis of options in FMPs to "keep things moving"
  - iii. Provide facilitation to get people in room, chatting about what works and what doesn't work
  - iv.
- b. Guidance or cookbook on how to address allocation, accumulation limits, periodic review (2)
- c. Information on allocation issues across councils
- d. Facilitation, moderation of allocation process
- e. Be supportive of councils
- f. Have NOAA General Counsel, reviewers participate throughout process
- g. [NMFS should] stay out of the way
- h. NMFS should play a support role to the Councils rather than pressing issues
- i. How to consider communities, including a definition
- j. How to capture new markets
- k. Craft allocation programs in proportional not absolute terms
- l. Maybe use referendums to gauge people's acceptance
- m. Play a low profile, make it academic

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- n. Don't push too hard, e.g. NOAA leadership gives appearance of pushing catch shares aggressively
- o. With multiple permit ownership, how to judge impacts of allocations [in terms of accumulation limits
- p. Councils have struggled with current and past historical participation
- q. Informal process of engaging parties in allocation discussions
- r. Better way to manage expectations
- s. NOAA General Counsel – help on how to better build consensus
- t. NMFS needs to discuss better participatory processes, social scientists can help
- u. Better integration between NMFS and Councils on allocation issues
- v. NMFS has to defy Councils, assert authority
- w. Get over attitude of “winners and losers” and get back to MSA
  - i. Optimum yield
  - ii. Vibrant fishing communities
  - iii. Fair and equitable
- x. NMFS is too overbearing at times, need Council committees on allocation
- y. Try to lay groundwork for discussion with councils before “ripping the band aid” off the issue
- z. Reaffirm National Standard 4 language – what does it really say
- aa. More development of National Standard guidelines
- bb. Helping with communication, NMFS currently dismal with public and industry outreach
- cc. Provide information needed to make decisions, don't pick sides (2)
- dd. Need staff people who are familiar with fish, allocation
- ee. NMFS must be involved in allocation but is slow to get started, need to get ahead of issues and “spin game”
- ff. Enforce current management provisions
- gg. Make sure that the management process is honest
- hh. NMFS should provide assistance to allocation discussions
- ii. Promote message that we need to talk about allocation
- jj. Do a better job of listening and understanding where various groups are coming from
- kk. Become more familiar with various allocation forms
- ll. Cumulative impacts of allocation system
- mm. Lack of transparency in marketplace [is something NMFS should address]
- nn. NMFS needs to be involved in the process in a coordinator role – bring types of allocation schemes around to different councils including history, cataloging of what's been done elsewhere (2)
- oo. Case histories on how allocations have been made
- pp. Promote programs like Fish Watch [to help the public make choices about what fish to buy; will help fishing industry]
- qq. Actively support the information gathering process
- rr. Broad stakeholder workshop
- ss. Bridging gap between ecosystem scientists / scientists making management recommendations
- tt. How to maintain healthy ecosystems with commercial fishing
- uu. Mobilize socio-economic community to give us standard practices
- vv. Need program development for social scientists
- ww. NMFS should stop acting like they're in a client based relationship with industry, councils; the real constituency is the public
- xx. Greater outreach for participants in the Council process

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- yy. NMFS on Endangered Species Act impacts with respect to tribal trust responsibilities and allocation
- zz. Use science better, more private grants, more reviews, more independent research
- aaa. Need active NMFS participation
- bbb. Bring to bear the scientific perspective
  - i. Politics plays too big a role
  - ii. Be careful, don't go too fast
  - iii. Hard to back up and redo
  - iv. Too stupidly cumbersome
  - v. Try not to bend to the lure of quick decisions
- ggg. Listen to Councils more because local people are in a good place to give advice

### 7. State / federal issues

- a. Work out better state fishery rules and responsibilities, variation among Councils
- b. State water fisheries – are they a loophole in allocations?
- c. NMFS needs to be more proactive where stocks straddle state / federal boundaries

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### APPENDIX 10: RESPONSES TO QUESTION 9

*QUESTION 9 – ARE THERE CAUTIONS ABOUT THE ALLOCATION IN YOUR REGION OR AREA OF EXPERTISE THAT WE SHOULD BE AWARE OF?*

Note - numbers in parentheses after a response indicate the number of similar responses. Responses without parentheses indicate unique responses.

Note – text in brackets, [], added to assist in understanding responses

#### 1. Development and structure of allocation system responses

- a. Need vision – look ahead at how the fishery should look in the future (2)
- b. Need to be comprehensive, can't leave out components at outset and expect allocation programs to work
- c. When a transition is made from open access, make decisions, live with it, can't go back to old ways
- d. When you change currency, e.g. days-at-sea to ACE, there will be unforeseen fallout
- e. Migration in quota away from small vessels, communities; coastal communities are withering (3)
- f. Be very clear about criteria and process for allocation
- g. Be mindful of business stability
- h. Councils should be more cautious about feedback loops for reviewing allocations, should be part of upfront allocation decision.
- i. Need more emphasis on distributional issues taking into account economics, community importance, cultural values
- j. With history, chose qualification years carefully
- k. Politics should drive the allocation decisions / fights
- l. Make sure allocations are done correctly and fairly
- m. Consider impacts of management complexity on allocation systems
- n. Look at regional implications; how harvest in one area can impact another area
- o. Allocation and guidance have been too complex and arbitrary
- p. New issues shouldn't be [added to allocation discussions] after the fact
- q. Don't delay working on allocation discussions
- r. Work toward consensus on allocation issues
- s. Need real accumulation limits (3)
- t. Need safeguards for fears before discussions even start
- u. Need guidance framework to protect important issues from the start
- v. Allocation shifts by omission, e.g. halibut
- w. Need to understand the consequences of allocation as much as you can
- x. Use market mechanisms; better than top down approaches
- y. Need credibility to make changes fairly, ask questions fairly
- z. Need to teach the different skills people need in an allocation system
- aa. People don't want to buy in (figuratively) before they know how an allocation proposal will impact them directly
- bb. Don't make it too complex

#### 2. Changes to allocation responses

- a. Need sound basis for making changes to allocations
- b. Tread lightly when proposing changes

## **Fisheries Allocation Project Report**

- c. Don't screw up years of work, success to date
- d. Don't force re-addressing of allocation issues where they're working
- e. Don't continually reallocate
- f. Caution about anything that would disrupt long standing allocations
- g. Hard to back up and redo allocations
  - i. Process too stupidly cumbersome
  - ii. Try not to be wed to the lure of quick decisions

### **3. Length of allocation period / permanency responses**

- a. Allocations should not be permanent, need to counter this perception, need periodic reviews (4)
- b. If councils do more with allocation, build in sunset provisions to counter perception of permanence
- c. Issue of permanence needs guidance from General Counsel

### **4. Long term change responses**

- a. Don't ignore changing demographics, growth of recreational industry
- b. Allow allocations to evolve, e.g. changing demographics

### **5. ITQ fishery responses**

- a. Don't force change with allocations in ITQ fisheries; Very disruptive economically; ITQ allocations are "one off" events
- b. With IQ process, hard to maintain balanced viewpoint

### **6. Workload responses**

- a. Periodic allocation reviews will take away from current work plan (3)
- b. Allocation issues can take much time, conflict with statutory deadlines
- c. Pay attention to managing expectations with respect to Council priority setting
- d. Think about time needed to allocate as we become more sophisticated in our allocation approaches
  - i. Time needed, Costs for Monitoring, enforcement

### **7. Enforcement responses**

- a. Beware of paper enforcement [unenforceable management measures], monitoring [time and costs for allocation systems]
- b. NMFS enforcement
- c. Make sure systems are enforceable

### **8. Regional focus responses**

- a. Appreciate regional differences, keep allocation as a regional issue (2)
- b. Headquarters must listen to regions, let Councils do allocation (3)

## **Fisheries Allocation Project Report**

### **9. Fishery / Regional diversity responses**

- a. Pay attention to diversity in fisheries
- b. Need to understand history of fishery, local dynamics when engaging in allocation discussions (2)

### **10. Data / Information responses**

- a. Need a better process for Research Set Aside, current system is confusing and unfair
- b. Data can't reach back to accurately report past catch
- c. Need better economic data on value of recreational fishery. A more accurate reflection would add considerably to regional values
- d. Confidentiality masks real impacts to consider allocation reviews, management changes
- e. Need data informed decision making
- f. Use funding for science before concentrating on allocation

### **11. Interjurisdictional responses**

- a. State actions need to be more compatible with federal management
- b. Impacts of state government actions on council / NMFS progress
- c. Work toward improved communication between NMFS, states

### **12. Ecosystem responses**

- a. Risk of over allocating without considering trophic levels, i.e. ecosystem allocation
- b. Impacts of ecosystem based management on allocation, e.g. geographic allocation
- c. Attention to ecosystem resilience

### **13. Recreational / Commercial Cautions**

- a. Increasing pressure to reallocate from recreational sector
  - i. With open access, it has proven very difficult to stay within ACLs
- b. Constrain commercial and recreational side equally
- c. Beware of taking sides on recreational / commercial debates
- d. We aren't tracking allocations to recreational fisheries, needed for quota management
- e. Recognize value of recreational fisheries but don't shut out commercial fisheries
- f. Beware of allocation being used to get rid of commercial fishing
- g. NMFS must make it clear to recreational anglers that they can have a significant impact on resources
- h. Allowing one user group to increase because of past overages doesn't benefit those who follow the rules
- i. Keep in broader context, overall commercial impact and allocation with overall recreational impact and allocation
- j. Beware of the dominance of the commercial sector in allocation

### **14. Council / NMFS issues**

- a. Beware of national, one size fits all approach (4)
- b. Don't seek conformity, uniformity
- c. Don't have NMFS cram things down our throats (2)

## Fisheries Allocation Project Report

- d. Need more cooperation with Councils
- e. Don't use a "DC centric" approach, i.e. Washington oriented
- f. NOAA ought to back off; damage already done, e.g. NOAA Catch Share Policy
- g. Determine what NMFS role is
- h. NMFS is supposed to be a referee on tough issues
- i. Provide unbiased data and transparent process
- j. Be cautious about how NMFS engages on allocation issues

### 15. People involved in management system

- a. When dealing with allocations, industry lobbyists and money give an advantage over others
- b. Many people are supportive of catch shares but are reluctant to support because of fear of retribution
- c. Impact of few, vocal, influential people on the political process [must be recognized and addressed]
- d. Be careful with the perception of getting around the rules, e.g. sectors and LAPP requirements (NEFMC issue)
- e. Quota – anybody can own, impacts on fishing communities – restrict to people active in the fishery
- f. Managers only hear from the winners [of past allocation discussions and decisions]
- g. People outside councils don't understand impacts [of allocation decisions]
- h. Council makeup is biased
- i. Have to be very careful that constituents don't feel disenfranchised by the process
- j. There is so much politics around allocation; some groups have the most political pull
- k. Recognize that the discussions are not a level playing field
- l. Processor share makes it worse because of accumulation of power
- m. Current system profits big operators, small operators get squeezed out
- n. How to consider views / needs of people who aren't in positions of influence
- o. Need broader interest; Councils need to realize that they're managing a global or national resource
- p. People will say anything to get more fish

### 16. HMS – difficulties caused by impacts of quota allocation on geographic areas

- a. North - South in Atlantic
- b. East - West in Gulf of Mexico

### 17. General Comments

- a. Need to overcome historic antagonism in allocation discussions
- b. Don't get everybody riled up
- c. Don't jump into allocation unless serious because of raised hopes, fears, expectations
- d. Beware of further animosity with fishing community
- e. Do we have to allocate every last fish? Comments of NOAA General Counsel suggests the answer is yes
- f. Beware of issue creep with allocation issues
- g. Be sensitive to allocations because of perception issues
- h. Concerns about monopolies, anti-trust
- i. Beware of backlash by losers
- j. Beware of politics but don't ignore it

## Fisheries Allocation Project Report

- k. Call a spade a spade, pay attention to allocative impacts of all decisions
- l. Beware of the tendency to hang on to "old ways"
- m. [The management system] must have the allocation debate but it will be a food fight
- n. Be willing to move into the process in a deliberate way, recognize that push back will be enormous
- o. There are no perfect decisions [regarding fisheries allocation]
- p. Cautions – learn from successes and mistakes of past; learn from what you didn't expect
- q. Be careful; don't go too fast
- r. Don't get too specific with guidelines; it will tie the hands of managers
- s. No cautions beyond general angst [about allocation issue]
- t. Tricky issue
  - i. Economic impacts
  - ii. How to weigh based on MSA
  - iii. Problems with interpretation
- u. Beware of
  - i. Firebrands
  - ii. Individuals with agendas
  - iii. Whinnage (sp?) by minority views
  - iv. Public backlash
  - v. Lawsuits
- v. If anything, we're too cautious [in addressing allocation issues]



# NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

## NOAA Needs to Continue Streamlining the Rulemaking Process and Improve Transparency and Consistency in Fisheries Management

FINAL REPORT NO. OIG-13-011-A

JANUARY 16, 2013

U.S. Department of Commerce  
Office of Inspector General  
Office of Audit and Evaluation

**FOR PUBLIC RELEASE**

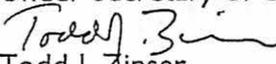




UNITED STATES DEPARTMENT OF COMMERCE  
The Inspector General  
Washington, D.C. 20230

January 16, 2013

**MEMORANDUM FOR:** Dr. Jane Lubchenco  
Under Secretary of Commerce for Oceans and Atmosphere

**FROM:**   
Todd J. Zinser

**SUBJECT:** *NOAA Needs to Continue Streamlining the Rulemaking Process and Improve Transparency and Consistency in Fisheries Management*  
Final Report No. OIG-13-011-A

Attached is our final report on the controls and processes used by NOAA's Fishery Management Councils (FMCs) for fishery rulemaking. We are conducting this review in phases and expect to generate reports incrementally. In this first phase, we evaluated the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking process prescribed under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

We found that while NOAA's National Marine Fisheries Service (NMFS) has complied with the MSA requirements we reviewed and has taken action to improve implementation of the MSA, (1) its required financial disclosures for FMC members who vote do little to increase transparency and lack effective review, (2) NMFS has not fully implemented several regulatory streamlining remedies, and (3) rules packages and administrative records supporting fishery management actions are not maintained uniformly at NMFS regional offices.

On December 18, 2012, we received NOAA's response to our report, which accepted all of our recommendations. Where appropriate, we have modified our final report based on this response. The formal NOAA response is included as appendix E. The final report will be posted on OIG's website pursuant to section 8L of the Inspector General Act of 1978, as amended.

In accordance with Department Administrative Order 213-5, please provide us with your action plan within 60 days of the date of this memorandum. We extend our thanks to NOAA for the courtesies shown our staff during our fieldwork. If you have any questions about this report, please contact Ann C. Eilers at (202) 482-2754 or Andrew Katsaros at (202) 482-7859.

Attachment





# Report In Brief

JANUARY 16, 2013

## Background

The legislation that directs how NOAA manages the nation's fisheries and the principal law that governs the fishery rulemaking process is the Magnuson-Stevens Fishery Conservation and Management Act (MSA). A primary goal of the MSA is to end and prevent overfishing through the use of annual catch limits and accountability measures. Eight regional Fishery Management Councils (FMCs), established by the MSA, work with NOAA and the public to prepare and maintain fishery management plans for fisheries under their authority. Fishery management plans are intended to preserve and repair fisheries while minimizing adverse effects on dependent communities through a formal process that incorporates scientific data, the knowledge of council members and advisory bodies, and public input.

## Why We Did This Review

On August 17, 2011, Congressmen Barney Frank and John F. Tierney asked OIG to review controls and processes used by NOAA's FMCs to develop rules for the commercial fishing industry—known as fishery rulemaking. The request was prompted by concerns that NOAA's National Marine Fisheries Service (NMFS) had abandoned its core missions of "development of the commercial fishing industry" and "increasing industry participation." We are conducting this review of rulemaking in several phases and plan to generate additional reports. In this first phase, we evaluated the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking process prescribed under the MSA. Subsequent products will look further into NOAA and the FMCs and the rules they develop.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### NOAA Needs to Continue Streamlining the Rulemaking Process and Improve Transparency and Consistency in Fishery Management

OIG-13-011-A

## WHAT WE FOUND

*FMC voting members' financial disclosures do little to increase transparency and lack effective review. We reviewed 72 publicly available disclosure statement forms for current voting council members and noted more than 20 instances where required information was missing.*

*NMFS has not fully implemented regulatory streamlining remedies. In 2003, NMFS developed a Regulatory Streamlining Project (RSP) in response to criticisms of the fishery management process from Congress and its constituents (such as fishers). Although NMFS received \$2.5 million in its FY 2005 appropriation for the RSP, it has still not been fully implemented.*

*Maintenance of rules packages and administrative records needs to be consistent. Record-keeping and file organization are not uniform across NMFS regional offices, which make it difficult for NMFS headquarters to provide oversight.*

## WHAT WE RECOMMEND

We recommend that the Assistant Administrator for NOAA Fisheries:

1. strengthen policy guidance on financial disclosure by FMC voting members, with emphasis on how NOAA intends to handle specific consequences for conflicts or potential conflicts it identifies;
2. strengthen processes for formal reviews of financial interest disclosures, considering the time period that the disclosure covers, how financial interest amounts relate to voting restrictions, and when affiliations with outside organizations should be reported;
3. strengthen criteria for identifying conflicts of interest and processes to follow up on any conflicts that are identified;
4. finalize draft Operational Guidelines and provide them to NMFS regional offices;
5. finalize regional operating agreements between NMFS regional offices and FMCs; and
6. develop uniform procedures for the collection, management, and maintenance of documents supporting decisions and administrative records associated with fishery regulations.

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## Introduction

On August 17, 2011, Congressmen Barney Frank and John F. Tierney asked OIG to review controls and processes used by NOAA's Fishery Management Councils (FMCs) to develop rules for the commercial fishing industry—known as fishery rulemaking. The request was prompted by concerns that NOAA's National Marine Fisheries Service (NMFS) had abandoned its core missions of "development of the commercial fishing industry" and "increasing industry participation."<sup>1</sup> FMCs are funded through cooperative agreements with NMFS. See figure 1 for an overview on fishery rulemaking.

We are conducting this review of rulemaking in several phases, and we expect to generate additional reports. In this first phase, we evaluated the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking process prescribed under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).<sup>2</sup> Appendix A includes the objectives, scope, and methodology of this phase of the review.

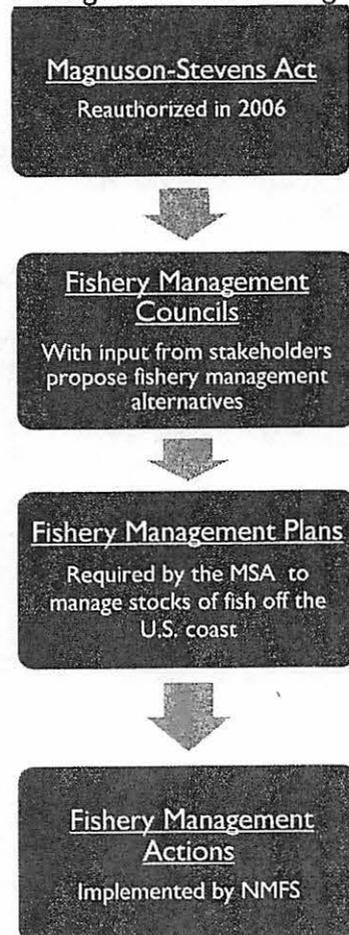
We found that while NMFS has complied with the MSA requirements we reviewed and has taken actions to improve implementation of the MSA, (1) its required financial disclosures for FMC members who vote do little to increase transparency and lack effective review, (2) NMFS has not fully implemented regulatory streamlining remedies, and (3) rules packages and administrative records supporting fishery management actions are not maintained uniformly at NMFS regional offices.

Subsequent products related to our review of fishery management will look further into NOAA and the FMCs and the rules they develop.

### MSA and Subsequent Reauthorization

The legislation that directs how NOAA manages the nation's fisheries<sup>3</sup>—and the principal law that governs the fishery rulemaking process—is the MSA. Since it was first enacted in 1976, Congress has amended the MSA several times, and as a result, fisheries management has undergone significant changes in goals and priorities. The requirement to rebuild overfished

Figure 1. Fishery Management Rulemaking



Source: OIG

<sup>1</sup> August 17, 2011, letter from Congressmen Barney Frank and John F. Tierney to Department of Commerce Inspector General.

<sup>2</sup> 16 U.S.C. § 1801 et seq.

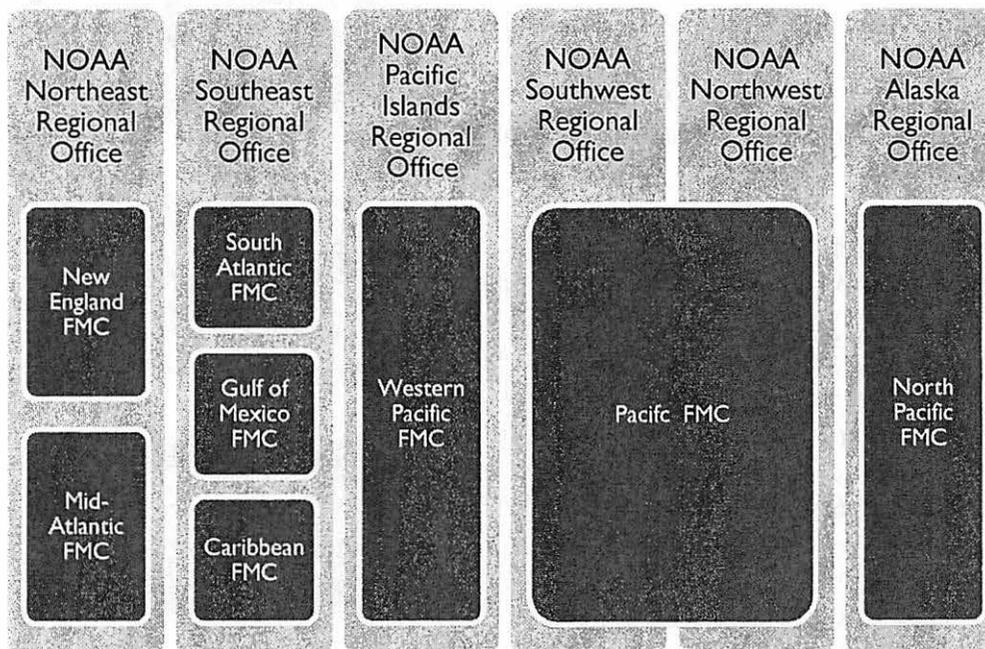
<sup>3</sup> A fishery refers to the activities involved in catching a species of fish (or shellfish) or a group of species that share the same habitat.

fisheries within 10 years, subject to certain exceptions, was added to the MSA in 1996. When the MSA was last reauthorized in 2007,<sup>4</sup> its rebuilding provisions were amended to require an immediate end to overfishing. In addition, new requirements for annual catch limits and accountability measures to address overfishing were added. Appendix B summarizes the goals of the MSA reauthorization and NOAA's implementation of the changes.

## Fishery Management Councils

As shown in figure 2, eight regional FMCs established by the MSA and funded through cooperative agreements with NMFS, work with NOAA and the public to prepare and maintain fishery management plans for fisheries under their authority. In fiscal year 2012, base programmatic funding allocated to the eight FMCs totaled \$28 million.

Figure 2. NOAA Regional Offices and Associated FMCs



Source: OIG

FMCs develop fishery management plans and management measures for the fisheries in statutorily prescribed areas within the exclusive economic zone (EEZ).<sup>5</sup> They are also responsible for developing operating procedures for committee and advisory group meetings and for developing fishery management plan amendments. NMFS approves, disapproves, or partially approves FMC-developed plans and amendments and implements approved measures.

There are 114 voting members on the eight FMCs, of which 72 were appointed by the Commerce Secretary based on nominations from state governors. Other voting council

<sup>4</sup> Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, Pub. L. No. 109-479 (2007).

<sup>5</sup> An EEZ generally extends from 3–200 nautical miles offshore. Coastal states are responsible for managing fisheries within state waters, which extend out to 3 nautical miles for most states but 9 nautical miles for Florida and Texas.

members include representatives from the constituent states and NMFS regional administrators.

Each FMC has an executive director who reports to the council chair or to the head of a council executive committee. While council members include nonfederal, federal, and state officials,<sup>6</sup> FMC staffs are nonfederal employees. Staff size ranges from 9 (at the Caribbean FMC) to 19 (at the Gulf of Mexico FMC). Council staff members provide information for management decisions, inform the public about council activities, coordinate meetings, create fishery management documents, and assist council advisory groups.

## Fishery Management Plans

The regulation of U.S. fisheries is based on fishery management plans (FMPs or plans). An FMP is a set of management objectives, and strategies for achieving these objectives within a specific fishery. The FMCs make decisions within the framework outlined in each plan while NMFS uses the plans to issue federal regulations.

FMPs are intended to preserve and repair fisheries while minimizing adverse effects on dependent communities through a formal process that incorporates scientific data, the knowledge of council members and advisory bodies, and public input. Once a plan or amendment is developed by the FMC, it is submitted to the Commerce Secretary<sup>7</sup> who approves, partially approves, or disapproves the plan. Currently, the eight regional FMCs and NMFS manage 46 FMPs.

## National Standards

The MSA requires that FMPs are developed and amended using the best scientific information available<sup>8</sup> and within the boundaries of the MSA's 10 national standards, which are listed in table 1.<sup>9</sup> The national standards are statutory principles that must be followed when developing, amending, and implementing FMPs. The public has an opportunity to comment on FMPs as part of the regulation-setting process designed to encourage public involvement and promote transparency. Appendix C summarizes FMP development (and amendment) and regulatory processes.

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<sup>6</sup> Council members are from federal and state governments, commercial and recreational fisheries, academia, the conservation community, and Indian tribal governments. Members are appointed to obligatory (state-specific) or at-large (region-specific) seats.

<sup>7</sup> The authority for certain actions—such as review of the FMP/amendment, supporting documentation, publication of proposed regulations, and issuance of the final rule—has been delegated from the Commerce Secretary to NOAA officials.

<sup>8</sup> NMFS's National Standard Guidelines state that "scientific information includes, but is not limited to, information of a biological, ecological, economic, or social nature. Successful fishery management depends, in part, on the timely availability, quality, and quantity of scientific information, as well as on the thorough analysis of this information, and the extent to which the information is applied. If there are conflicting facts or opinions relevant to a particular point, a Council may choose among them, but should justify the choice." 50 C.F.R. § 600.315(b)(1).

<sup>9</sup> NOAA regulations summarize the Commerce Secretary's interpretations of the national standards, which are guidelines intended to aid the councils in formulating FMPs. 50 C.F.R. §§ 600.305–.355.

Table I. National Standards of the MSA<sup>a</sup>

Conservation and management measures shall:	
1	Prevent overfishing while achieving optimum yield.
2	Be based upon the best scientific information available.
3	Manage individual stocks as a unit throughout their range, to the extent practicable; interrelated stocks shall be managed as a unit or in close coordination.
4	Not discriminate between residents of different states; any allocation of privileges must be fair and equitable.
5	Where practicable, consider efficiency, except that no such measures shall have economic allocation as its sole purpose.
6	Take into account and allow for variations among and contingencies in fisheries, fishery resources and catches.
7	Minimize costs and avoid duplications, where practicable.
8	Take into account the importance of fishery resources to fishing communities to provide for the sustained participation of, and minimize adverse impacts to, such communities (consistent with conservation requirements).
9	Minimize bycatch <sup>b</sup> or mortality from bycatch.
10	Promote safety of human life at sea.

Source: NMFS

<sup>a</sup>Listed here are summaries of the National Standards set forth in section 301(a) of the MSA. Additional information and the Commerce Secretary's guidance on the National Standards are set forth in 50 C.F.R. 600.305 et seq.

<sup>b</sup>The term *bycatch* means fish that are harvested in a fishery, but not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

## Types of Fishery Management Actions

Table 2 shows fishing regulations and related announcements that NMFS has adopted since 2009 under the MSA rulemaking process. Types of fishery management actions include proposed rules, final rules, in-season actions that implement previously published regulations, emergency rules, and notices to the public of various actions affecting the fisheries. Appendix D describes the different types of fishery management actions.

Table 2. Summary of NOAA Fishing Regulations Under the Magnuson-Stevens Fishery Conservation and Management Act

Type of Fishery Management Action	2011	2010	2009
Proposed rules	75	50	60
Final rules	86	61	62
In-season actions	155	161	162
Emergency rules and interim measures	7	15	3
Notices	82	55	44

Source: OIG with statistics provided by NMFS Office of Sustainable Fisheries

Note: Regulations may take more than 1 year to complete; thus, the numbers in the table only illustrate general levels of regulatory action from year to year.

# Findings and Recommendations

## I. FMC Voting Members' Financial Disclosures Do Little to Increase Transparency and Lack Effective Review

To meet the financial disclosure requirements stated in the MSA,<sup>10</sup> NOAA asks that the voting council members and council member nominees disclose financial interests on a Statement of Financial Interests form.<sup>11</sup> The MSA does not require FMC staff to submit financial disclosure forms.

We reviewed 72 publicly available disclosure statement forms for current voting council members and noted more than 20 instances where required information was missing (see table 3).<sup>12</sup> The omissions indicate ineffective review, and thus, information disclosed may be inaccurate or incomplete.

Table 3. Information Missing from Statements of Financial Interests

Missing Required Information	Instances Noted
Degree of ownership (e.g., percentage)	3
Start date of financial interest	5
Address of organization	6
Fisheries of interest	2
Relationship to interest (e.g., marketing, guide, or charter)	2
Acknowledgment of no financial interests to disclose	4
Total	22

Source: OIG

Instructions on NOAA's Statement of Financial Interests are, at times, ambiguous. For example, in one area, the instructions explain that conflicts of interests between council-related actions and activities must be reported; another area instructs that if there are "no financial interests to disclose," simply check the appropriate box and fill out the last page (which only requires general information and a signature). This type of instruction allows each council member to judge what information to disclose and how to disclose it. When council members interpret the instructions differently, the standard is blurred, which may lead to inconsistent reporting.

On the Statement of Financial Interests, NOAA instructs that the amount of financial interest is not required to be disclosed. However, without this information, NOAA, individual FMCs, and the public are unable to properly determine if the reported financial interests exceed the

<sup>10</sup> The MSA states that "Each affected individual must disclose any financial interest held by— (A) that individual; (B) the spouse, minor child, or partner of that individual; and (C) any organization (other than the council) in which that individual is serving as an officer, director, trustee, partner, or employee; in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity." 16 U.S.C. § 1852(j)(2).

<sup>11</sup> NOAA Form 88-195 (Sept. 1993).

<sup>12</sup> In 9 instances, the "nothing to disclose" box was checked, but information was disclosed.

thresholds and whether the council member should be excluded from voting on issues that conflict with financial interests.

Each council member subject to the MSA financial disclosure requirements is responsible for ensuring information on the form is complete and accurate. According to NMFS officials, the NMFS Office of Sustainable Fisheries reviews the disclosures but does not independently verify the information.

We also found that instruction provided to FMC executive staffs on how to review for or report potential red flags on disclosure forms in their jurisdiction is limited and informal. In one instance, we spoke with an executive director who suspected misreporting by a council member yet felt there was no available recourse or means to discover whether a misreporting had actually occurred. Review by council leadership can be a valuable tool if review methods and escalation procedures are in place. However, the general perception of executive staffs seems to be that, aside from meeting the requirements of the MSA, very little value comes from completion of these forms.

To increase the transparency provided by financial interest disclosures and assist voting FMC members in avoiding conflicts between official council duties and private financial interests or affiliations, the Assistant Administrator for NOAA Fisheries should strengthen financial disclosure requirements and procedures.

### *Recommendations*

We recommend that the Assistant Administrator for NOAA Fisheries strengthen:

1. policy guidance on financial disclosure by FMC voting members, with emphasis on how NOAA intends to handle specific consequences for conflicts or potential conflicts it identifies;
2. processes for formal reviews of financial interest disclosures, considering the time period that the disclosure covers, how financial interest amounts relate to voting restrictions, and when affiliations with outside organizations should be reported; and
3. criteria for identifying conflicts of interest and processes to follow up on any conflicts that are identified.

## II. NMFS Has Not Fully Implemented Regulatory Streamlining Remedies

In 2003, based on direction from Congress and as a result of regulatory challenges and court cases that NOAA faced related to fishery management, NMFS developed a Regulatory Streamlining Project (RSP). The RSP responds to criticisms of the fishery management process from Congressional members, their constituents (such as fishers), and other knowledgeable individuals. Criticisms include a lack of clarity in responsibilities among NMFS regional offices, science centers, and the FMCs and disconnected processes between NMFS and the FMCs. Table 4 summarizes the progress NMFS has made in implementing changes described in the RSP.

Table 4. Changes NMFS Proposed in the RSP and Status of Implementation

Proposed Changes	Implemented	Partially Implemented	Unimplemented
Front-loading the NEPA process	X		
Revising the Operational Guidelines for the Fishery Management Process			X
Establishing a national training program	X		
Hiring environmental policy coordinators	X		
Improving the administrative process		X	
Improving the fishery management process		X	
Addressing science issues		X	
Workforce organization/prioritization		X	

Source: OIG and Regulatory Streamlining Report to Congress<sup>13</sup>

Note: NEPA = National Environmental Policy Act.<sup>14</sup>

NMFS described the RSP as proposals that are the result of years of activities, which led to a larger effort to improve fishery management. As NMFS developed and began implementing its RSP, it also cautioned that more staff and funding would be needed to fully implement it. NMFS received \$2.5 million in its FY 2005 appropriation for the RSP. As of 2012, the RSP has not been fully implemented.

One of the many components of the RSP was revision of the Operational Guidelines for the Fishery Management Process. The guidelines identify past problems in developing FMPs and managing fisheries, such as delays and inefficiencies, and explain how NOAA and the Councils will work together to integrate the many statutory requirements that apply to the development of fishery management actions. The current Operational Guidelines, dated August 2005, remain in draft form. Although the guidelines are available to NMFS employees through their Regulatory Services intranet page, the guidance has not been finalized, and several NMFS employees we interviewed were unaware of or only vaguely aware of the guidelines. Additionally, elements of the draft guidelines that could help to improve fishery management processes have not been fully implemented. One example is the regional operating agreement between each NMFS regional office and its FMCs. The purpose of the agreement is to provide a clear understanding of roles, responsibilities, and obligations between FMCs and NMFS regional offices. As of summer 2012, only one of the eight councils had a regional operating agreement with its NMFS regional office.

When questioned about why the guidelines were not finalized, NMFS officials explained that National Environmental Policy Act (NEPA) requirements, reauthorization of the MSA, and demands on Office of General Counsel staff affected the review and approval process for the Operational Guidelines and regional operating agreements. In 2005, NMFS officials indicated

<sup>13</sup> NMFS submitted the "Report to Congress on the Regulatory Streamlining Project" on December 16, 2002, with a stated goal to improve the efficiency and effectiveness of NMFS operations and increase compliance with all procedural requirements.

<sup>14</sup> National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. § 4321 et seq.

that the delay in formal issuance of the guidelines had not significantly affected progress in implementing regulatory process improvements.<sup>15</sup>

Without the guidelines, expectations that should be clearly defined and communicated early on—such as responsibility between NMFS and the FMCs for preparation of documents supporting fishery management decisions and designation of which reports need to be produced by which entity and with what frequency (e.g., Stock Assessment and Fishery Evaluation reports<sup>16</sup> and fishery performance reports)—may not be stated and understood. There is greater opportunity for miscommunication and frustration in an already complex and time-consuming process, especially when staff changes at NMFS and FMCs can lead to practices that differ from those followed previously.

NMFS officials explained to us that they have not finalized the agreements because all of the regions have established individual coordination systems;<sup>17</sup> however, communicating and documenting processes and expectations should give NOAA a better opportunity to identify necessary tasks and ensure they are appropriately assigned and completed.

### *Recommendations*

We recommend that the Assistant Administrator for NOAA Fisheries:

1. finalize draft Operational Guidelines and provide them to NMFS regional offices and
2. finalize regional operating agreements between NMFS regional offices and FMCs.

### **III. Maintenance of Rules Packages and Administrative Records Needs to Be Consistent**

The role of the NMFS Sustainable Fisheries Division is to collaborate with and advise FMCs in their respective jurisdictions by contributing to the development and implementation of FMPs and other actions. The Sustainable Fisheries Division in the NMFS regional offices maintains the official written records supporting regulations implementing FMPs within their geographical area of responsibility.

However, record-keeping processes and file organization are not uniform across NMFS regional offices. Of the four regional offices we visited, one has a records officer, whereas the others rely on various staff familiar with the particular regulation to store and maintain the supporting

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<sup>15</sup> National Academy of Public Administration, "Improving Fisheries Management: Actions Taken In Response to the Academy's 2002 Report." Report for Congress and the NMFS, February 2005.

<sup>16</sup> The Stock Assessment and Fishery Evaluation reports provide to FMCs the most recent biological condition of stock and the marine ecosystems in the fishery management unit and the social and economic condition of the recreational and commercial fishing interests, fishing communities, and fish processing industries. 50 C.F.R. § 600.315(e)(1). The reports periodically summarize the best available scientific information concerning the past, present, and possible future condition of the stock, marine ecosystems, and fisheries being managed under federal regulation. The information may be used to update or expand previous environmental and regulatory impact documents and ecosystem and habitat descriptions.

<sup>17</sup> According to NMFS officials, region-FMC pairs have systems for assigning and tracking tasks and responsibilities. The systems are documented in varying formats, including flowcharts, and are often informal.

documentation. Normally, the information is stored centrally and in a combination of manual and electronic or digital formats, including scanned images. The large volume of inconsistently maintained documents made our review more complicated. This lack of standardization would also make it difficult for NMFS headquarters to provide effective oversight. For example, standardization would allow headquarters the opportunity to ensure regional offices sufficiently maintained the necessary documentation for each rule in the event of a Freedom of Information Act request or a lawsuit. Uniform procedures for managing documentation supporting fishery regulations are needed to help ensure that the documentation supporting regulations is complete and accessible. For the fishery management actions we examined, we noted that NMFS regional offices either submitted proposed rules to the science center<sup>18</sup> for review or certified in decision memos that the action was consistent with national standard 2, requiring the use of the best scientific information available. Table 5 in appendix A contains the final rules we reviewed and the date when each was published in the *Federal Register*.

### *Recommendation*

We recommend that the Assistant Administrator for NOAA Fisheries:

- I. develop uniform procedures for the collection, management, and maintenance of documents supporting decisions and administrative records associated with fishery regulations.

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<sup>18</sup> NMFS science centers generate scientific information and analyses in support of fishery conservation and management. The centers plan, develop and manage NMFS' scientific research programs related to fisheries.

# Summary of Agency Response and OIG Comments

On December 18, 2012, we received NOAA's comments on our draft report, which we include as appendix E of this report. NOAA did not dispute our findings. Also, NOAA accepted all recommendations and had no comments, concerns, or suggestions regarding them. NOAA provided clarifications and additional technical information related to implementation of the MSA. We considered NOAA's suggestions in preparing this final report and made several of the suggested changes.

# Appendix A: Objectives, Scope, and Methodology

We initiated this review of controls and processes used by NOAA and the FMCs as related to developing rules for the commercial fishing industry, pursuant to a joint request made by Massachusetts Congressmen Barney Frank and John Tierney on August 17, 2011.

This is our first report on FMCs and rulemaking. Our review will be conducted in phases and will result in possible additional products produced at several intervals. In this phase of the review, our objectives were to evaluate the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking process prescribed under the MSA:

- We identified fishery management rules developed by NOAA during the period 2007–2011 as a result of the MSA.
- We examined rules packages and administrative records for a selection of fishery regulations in four of the six NMFS regions, comparing the process that was followed with what was described in the laws and regulations. Table 5 lists the fishery management actions we reviewed.
- We collected publicly available information on standard rulemaking practices, including practices deployed elsewhere within the Department of Commerce.
- We compared the rulemaking process employed by NOAA with the prescribed Administrative Procedure Act<sup>19</sup> process.
- We compiled standard information from the eight regional FMCs, visited three council offices (New England, Gulf of Mexico, and Pacific FMCs), and interviewed council members and staff (including administrative officers, fishery biologists, economists, and an anthropologist).
- We interviewed the eight FMC executive directors.

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<sup>19</sup> The Administrative Procedure Act, 5 U.S.C. § 551 et seq., was passed in 1946 to clarify the process of making regulations and to allow greater accessibility and participation by the public in the rulemaking process.

Table 5. Summary of Fishery Management Actions Reviewed

NMFS Region	Regulatory ID	Description	Date the Final Rule Was Published in the Federal Register
Northeast	0648-AW72	Implements Amendment 16 to the Northeast Multispecies FMP	4/9/2010
	0648-BA23	Implements the Omnibus Annual Catch Limits/Accountability Measures Amendment	9/29/2011
	0648-AY29	Implements measures in Framework Adjustment 44 to the Northeast Multispecies FMP	4/9/2010
	0648-AW87	Secretarial interim action implementing measures to reduce fishing mortality and maintain stock rebuilding at the Northeast Multispecies Fishery	4/13/2009
Southeast	0648-AV14	Revises allowable bycatch reduction devices for the Gulf of Mexico Shrimp Fishery	11/18/2008
	0648-AY55	Implements amendments to the Queen Conch and Reef Fish FMPs of Puerto Rico and the U.S. Virgin Islands (fisheries of the Caribbean, Gulf of Mexico, and South Atlantic)	12/30/2011
	0648-BA54	Regulatory Amendment to the FMP for the reef fish resources of the Gulf of Mexico (GOM) to implement a 2011 total allowable catch for GOM red snapper	4/29/2011
	0648-AY11	Amendments to the Snapper-Grouper FMP	12/30/2010
Southwest	0648-AW50	Initiates collection of a permit fee for vessel owners participating in commercial and charter recreational fishing for highly migratory species	7/28/2009
	0648-BA49	Revises vessel identification requirements for fishing vessels with west coast highly migratory species permits	11/29/2011
	0648-AU26	Implements Amendment 12 to the Coastal Pelagic Species FMP, prohibiting harvest of all species of krill off the West Coast (i.e., California, Washington, and Oregon)	7/13/2009
Northwest	0648-AY68	Implements Amendments 20 and 21 to the Pacific Coast Groundfish FMP (Trawl Rationalization Program)	10/1/2010

Source: OIG

We conducted this evaluation from January 2012 to July 2012, under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated August 31, 2006, as amended. We conducted the evaluation in accordance with the Quality Standards for Inspection and Evaluation, January 2011, issued by the Council of the Inspectors General on Integrity and Efficiency.

## Appendix B: Goals of MSA Reauthorization and NOAA Implementation Priorities

The MSA is the predominant legislation for U.S. conservation and management of fisheries. Over the years in an attempt to improve implementation of the requirements of the MSA and to promote more effective decision making and fishery management, Congress revised the MSA. Table 6 outlines the goals of the most recent revisions to the act and NOAA's priorities for implementing them.

Table 6. Overview of the Goals of the Reauthorized MSA

Goals of MSA Reauthorization	NOAA Implementation Priorities
<ul style="list-style-type: none"> <li>✓ More stringent requirements to end and prevent overfishing</li> <li>✓ Expansion of management tools</li> <li>✓ Increased use of science</li> <li>✓ Improved international cooperation</li> </ul>	<ul style="list-style-type: none"> <li>✓ Develop and expand annual catch limits</li> <li>✓ Improve data on recreational fishing</li> <li>✓ Address bycatch, illegal, unreported, and unregulated fishing</li> <li>✓ Streamline MSA and National Environmental Policy Act requirements</li> </ul>

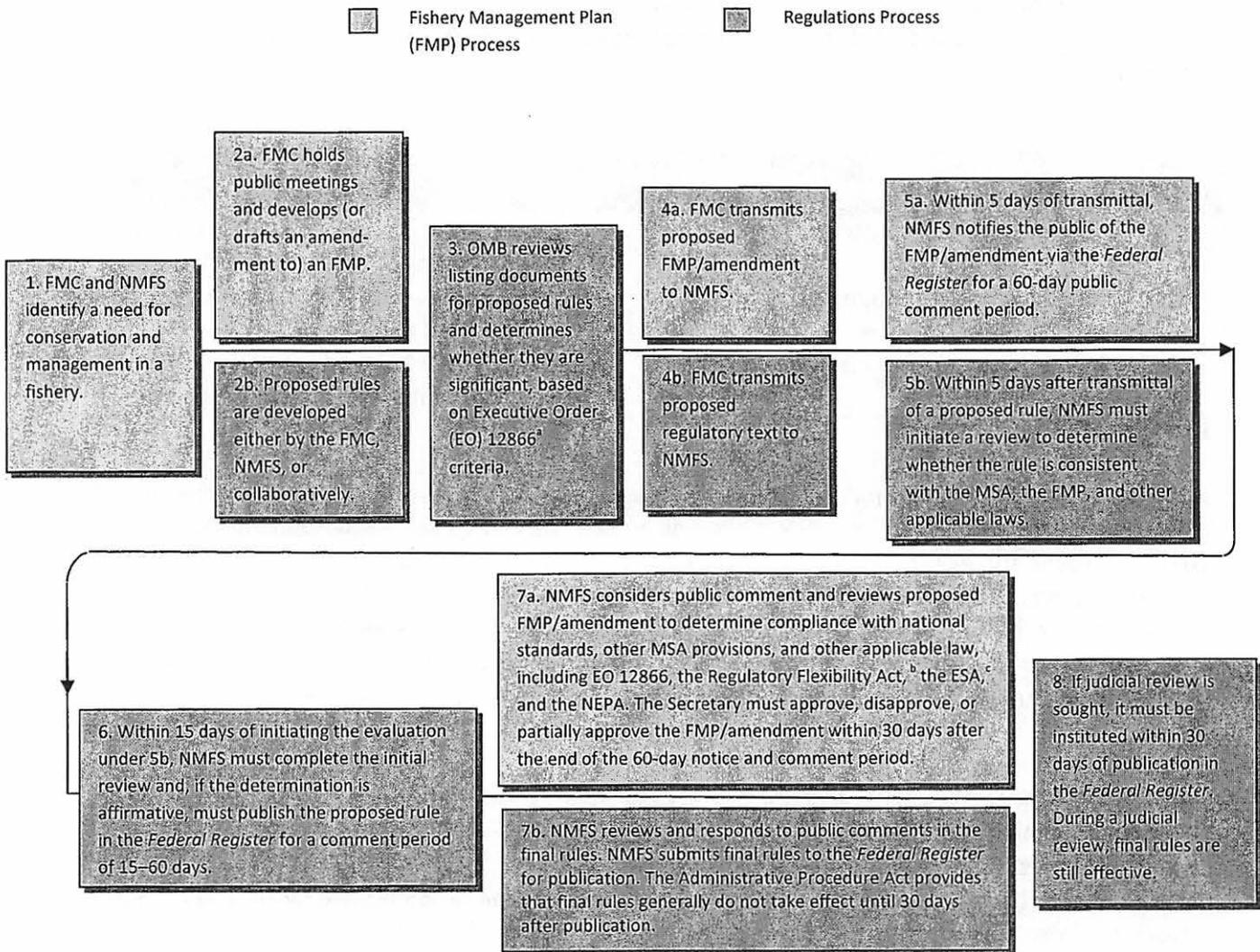
Source: NMFS

A primary goal of the reauthorized MSA was to end and prevent overfishing through the use of annual catch limits and accountability measures, which were required to be implemented by 2010 for stocks subject to overfishing and by 2011 for all others (with the exception of those limited by annual life cycles or international agreements). FMCs use various tools—including annual catch limits and limited access privilege programs (LAPPs), as well as general catch limits, trip limits, seasons, gear restrictions, and bag limits—to prevent overfishing. LAPPs involve transferable permits, which specify the amount of catch that may be harvested during a given time period.

To effectively meet MSA goals and use new management tools, FMC decisions must be based on timely, reliable scientific information. This creates a need for FMCs to have close relationships with their science centers. The MSA requires that FMCs develop 5-year research plans outlining their anticipated needs and priorities. One area of scientific data that has historically been a challenge to gather is recreational fisheries. Therefore, NOAA has made improvement of recreational fishery data a priority.

The requirements of both MSA and NEPA have a substantial effect on the enactment process of fishery management rules. The details of these requirements and effects are substantial and are outside the scope of this report. Note, however, that the acts have overlapping, as well as individual, requirements and time frame restrictions. Careful planning by both NMFS and the FMCs is needed to ensure that every requirement is met in the prescribed time frame.

# Appendix C: Simplified Diagram of the Process for Developing (and Amending) FMPs and Implementing Regulations Under the MSA



Source: OIG with input from NMFS Office of Sustainable Fisheries

<sup>a</sup>Exec. Order No. 12866, 58 Fed. Reg. 51,735 (Oct. 4, 1993).

<sup>b</sup>Regulatory Flexibility Act, 5 U.S.C. § 601 et seq.<sup>20</sup>

<sup>c</sup>Endangered Species Act, 16 U.S.C. § 1531 et seq.

<sup>20</sup> The Regulatory Flexibility Act requires federal agencies to consider the effects of their regulatory actions on small businesses and other small entities and to minimize any undue disproportionate burden. The chief counsel for advocacy of the U.S. Small Business Administration is charged with monitoring federal agencies' compliance with the act and with submitting an annual report to Congress.

## Appendix D: Fishery Management Actions

**Proposed rules** – Announcements of agencies' plans to manage fishing activities and implement objectives stated in FMPs that give interested persons an opportunity to submit comments to improve the final regulation.

**Final rules** – Regulations that have gone through the rulemaking process, are approved by the Commerce Secretary, and have final legal effect. The codified text is published in the *Code of Federal Regulations*.

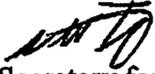
**In-season actions** – Regulatory actions taken pursuant to, or implementing, regulations that have been published in the *Federal Register*. Examples include closing or reopening a fishery and transferring quota. (These do not make changes to the *Code of Federal Regulations*.)

**Emergency rules and interim measures** – Regulations issued in response to events or problems that require immediate action, such as a public health emergency or oil spill. Emergency rules are limited to 180 days and can be extended for an additional 180 days if public comment has been taken.

**Notices** – Non-rulemaking documents, which do not have regulatory effect, used to inform and involve the public. Examples include notices of availability (of FMPs and FMP amendments), notices of permit issuances and applications, notices of stock status determinations, notices of intent to prepare National Environmental Policy Act documents, and corrections.

## Appendix E: Agency Response

MEMORANDUM FOR: Ann C. Eilers  
Principal Assistant Inspector General for Audit and Evaluation

FROM: David W. Titley, PhD  12/18  
NOAA Deputy Under Secretary for Operations

SUBJECT: *NOAA Needs to Continue Streamlining the Rulemaking Process  
and Improve Transparency and Consistency in Fisheries  
Management*  
Draft OIG Audit Report

Thank you for the opportunity to comment on the Office of the Inspector General's draft audit report evaluating the controls and processes used by NOAA's Fishery Management Councils for fishery rulemaking. Our specific comments on the report's findings and recommendations are attached.

Attachment

**Department of Commerce  
National Oceanic and Atmospheric Administration  
Comments on the Draft OIG Report Entitled  
"NOAA Needs to Continue Streamlining the Rulemaking Process and Improve  
Transparency and Consistency in Fisheries Management"**

**General Comments**

In general, NOAA Fisheries feels the information and feedback contained in the draft report are both accurate and constructive, and we look forward to the development of an action plan to address the recommendations. Outlined below are comments NOAA believes will further enhance and improve the accuracy and clarity of the final report.

Your cover memo notes your appreciation for the assistance from NOAA staff during the review. NOAA would also like to extend our appreciation to your staff for their effort to understand fully the complexity of the regulatory process and their dedication to completing this comprehensive review.

**Recommended Changes for Factual/Technical Information**

*Page 1, paragraph 3.*

Some of the requirements mentioned are not specifically required by the MSA. For clarity, NOAA offers the following amendment to the first sentence so it is revised to read: "... complied with certain MSA requirements and taken additional actions to improve implementation, (1) its required financial disclosures ...."

*Page 1, Footnote 2.*

The reference should be to 16 U.S.C. 1801, *et seq.*, not "6 U.S.C."

*Page 1, Footnote 3.*

This footnote defines "fishery" more narrowly than the MSA. Based on MSA definitions of "fishery" and "stock of fish" at 16 U.S.C. §§ 1802(13) and (42), we offer the following language to better conform with these definitions: "A fishery refers to fishing for a species, subspecies or other grouping of fish (which includes shellfish) that can be treated as a unit for conservation and management purposes and identified based on geographical, scientific, technical, recreational, and economic characteristics."

*Page 1, last sentence, continuing on to page 2.*

Note that MSA section 304(e) sets forth rebuilding requirements and section 303(a)(15) sets forth requirements for annual catch limits and accountability measures. 16 U.S.C. §§ 1854(e) and 1853(a)(15). For clarity about the timeline of changes to these MSA provisions, we offer the following language (starting changes with the second sentence of the paragraph):

"Since it was first enacted in 1976, Congress has amended the MSA several times and as a result fisheries management has undergone significant changes in goal and priorities. The requirement to rebuild overfished fisheries within 10 years, subject to certain exceptions, was added to the MSA in 1996. When the MSA was last reauthorized in

2007,<sup>1</sup> its rebuilding provisions were amended to require ending overfishing 'immediately.' In addition, new requirements for annual catch limits and accountability measures to address overfishing were added."

*Page 2, third paragraph, line 2*

In lieu of the words, "within their exclusive economic zone (EEZ)," we offer the following language to be more accurate: "within statutorily-prescribed areas within the exclusive economic zone (EEZ)." See 16 U.S.C. § 1852(a)(1) (describing geographical areas of responsibility for each regional fishery management council).

*Page 2, Footnote 5.*

For federal fisheries management purposes under the MSA, note that the inner boundary of the EEZ is the seaward boundary of each of the coastal States. 16 U.S.C. § 1802(11). Most states' seaward boundary is 3 nm offshore. In a few cases, the boundary is 9 nm offshore. Also, please note that the MSA allows for State regulation of its fishing vessels outside the boundaries of the State in certain circumstances, 16 U.S.C. § 1856(a)(3), and provides a process for Federal management within state waters in certain limited circumstances, 16 U.S.C. § 1856(b). To be more accurate, we offer the following revision to Footnote 5 to read as follows: "The EEZ generally extends from 3-200 nautical miles offshore. Coastal states are responsible for managing fisheries within state waters, which extend out to 3 nautical miles for most states but 9 nautical miles for Florida and Texas."

*Page 2, third paragraph, 4<sup>th</sup> line.*

Please note that NMFS does not always "approve" an FMC's recommendation. NMFS must approve, disapprove or partially approve a fishery management plan or amendment based on whether the action is consistent with applicable law. 16 U.S.C. § 1854(a)(3). To be more accurate, we offer the following language instead: "NMFS approves, disapproves or partially approves Council-developed plans and amendments and implements approved measures."

*Page 2, last sentence.*

To more accurately reflect the representation on the Councils (16 U.S.C. § 1852(b)(1)), we offer the following language to replace that sentence: "Other voting council members include representatives from the constituent states and NMFS regional administrators."

*Page 3, First paragraph, second and fourth sentences.*

Whether an FMC employee is treated as an employee of the Executive Branch is a complex issue, and requires an analysis of the particular law (statute, regulation, executive order) at issue. For example, FMC staff are not considered federal "employees" under 5 U.S.C. § 2105; Title 5 of the U.S. Code sets forth general provisions regarding Government Organization and Employees. However, they have been considered "special government employees" for purposes of criminal conflict-of-interest statutes set forth at 18 U.S.C. § 207. To be more accurate, we offer the following language to replace the independent clause of the second sentence: "the status of FMC staffs as Executive Branch employees depends on the particular statute or other law at issue." We further offer the suggestion of deleting the word "member" from the fourth sentence so as to avoid confusion from the current reference to "Council staff members."

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<sup>1</sup> Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, Pub. L. No. 109-479 (2007). [Note: This is in current draft report as footnote 4].

*Page 3, First paragraph, 5<sup>th</sup> line.*

We note that rulemaking is an activity conducted by NMFS to implement an approved-FMC recommendation. We suggest distinguishing the FMC's role in providing for public input during the development of fishery management recommendations (*see* 16 U.S.C. § 1852(h)(3) (public hearings by Council during development of plans and amendments) from NMFS's provision of public participation opportunities during rulemaking (*see* 16 U.S.C. § 1854(b) (rulemaking action by Secretary)). In order to draw that distinction, we offer the following language to replace the words "rulemaking process": "development of management recommendations."

*Page 3, paragraph 3, first sentence.*

The description of FMPs should specifically state the conservation requirements of the MSA. *See e.g.* 16 U.S.C. §§ 1851(a) (specifying that national standards for FMPs include preventing overfishing and minimizing bycatch and bycatch mortality), 1853(a)(15) (requiring FMPs to have annual catch limits such that overfishing does not occur) and 1854(e) (requiring rebuilding overfished fisheries). To be a more complete statement, we offer the following rewording to the first part of this sentence: "FMPs are intended to rebuild overfished fisheries, end overfishing and achieve other conservation and management goals while minimizing adverse effects on..."

*Page 3, paragraph 3, second sentence.*

As explained above in comments for *Page 2, third paragraph, 4<sup>th</sup> line*, note that the Secretary's approval, disapproval or partial approval is based on whether an FMP or amendment is consistent with applicable law.

*Page 3, 4th paragraph, third sentence.*

We note that the public has opportunities to comment on FMPs both through the council process during development of the FMP, and during the agency review and rulemaking stages through formal notice and comment. We offer the following to replace that sentence in order to identify all opportunities for public input: "As part of the statutory MSA process, designed to encourage public participation and promote transparency, the public has an opportunity to comment on FMPs both during their development at the council level, and then through NMFS's formal public review process, and subsequent formal rulemaking process for implementing regulations."

*Page 3, Footnote 9.*

Please note that National Standard Guidelines are "advisory guidelines (which shall not have the force and effect of law)." 16 U.S.C. § 1851(b). To more accurately reflect the status of the Guidelines, we offer the following: replace the word "regulations" with the word "guidelines."

*Page 4, note (a).*

Pursuant to Section 301(b) of the MSA, the Secretary publishes the National Standard guidelines providing the Secretary's interpretation of the Standards. Table 1 summarizes the National Standards themselves as set forth in MSA section 301(a). To be more complete, we offer the following to replace the language in note (a): "Listed here are summaries of the National Standards as set forth in section 301(a) of the MSA. Additional information and the Secretary's guidance on the National Standards is set forth in 50 CFR 600.305 et seq."

*Page 4, note (b).*

We note that, under the MSA, "bycatch" is defined with reference to "fish," and "fish" is defined not to include marine mammals and birds. 16 U.S.C. §§ 1802(2), (12). To draw that distinction, we offer the following language: "The term "bycatch" means fish which are harvested in a

fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program. "Fish" do not include marine mammals or birds."

*Page 4, Table 1.*

We offer the following clarifications to track better the text of the MSA National Standards at 16 U.S.C. § 1851(a)(1), (4), (5), (9) and (10):

NS 1 -- add underlined text: "...while achieving, on a continuing basis, optimum yield"

NS 4 -- revise as follows and to add underlined text: "...different states, Any allocation...fair and equitable; reasonably calculated to promote conservation; and carried out to avoid excessive shares"

NS 5 -- revise to say "consider" efficiency instead of "promote" efficiency. This language was statutorily revised in 1996.

NS 9 -- revise to add underlined text: "To extent practicable, minimize bycatch and mortality from bycatch"

NS 10 -- add "to the extent practicable" at the end.

*Page 4, Table 2.*

NOAA suggests that a note be added associated with the table reminding the reader that regulations may take a year or more to complete. Thus comparing the number of regulations from year-to-year may be difficult and not reflect increases or decreases in regulations. We offer the following language to provide that clarification: "Note: Regulations may take more than one year to complete; thus, the numbers in the table only illustrate general levels of regulatory action from year-to-year."

*Page 5, Table 3*

We request clarity on what information was missing from the "Acknowledgement of no financial interests to disclose." If someone did disclose information on the form, then it would be appropriate for the acknowledgement to be left blank.

*Page 7, Table 4*

We suggest that "Revising the Operational Guidelines for the Fishery Management Process" be considered partially implemented, rather than unimplemented. While the 2005 revisions to the operational guidelines remain in Draft, aspects of those guidelines are being used, such as frontloading and interdisciplinary plan teams.

*Page 7, second paragraph.*

We offer the following language to replace the second paragraph to clarify the relationship between the RSP and the Operational Guidelines and the current status and function of the Operational Guidelines: "The RSP identified past problems, such as delays and inefficiencies, in developing FMPs and managing fisheries. One of the many actions included in the RSP was revision of the Operational Guidelines for the Fishery Management Process. The Operational Guidelines are an internal NMFS document that explains how NOAA and the Councils will work together to integrate the many statutory requirements that apply to the development of fishery management actions. The guidelines currently in effect were last updated in 1997. NMFS developed draft revised Operational Guidelines in 2005 and they remain in draft form. Although the 2005 draft is available to NMFS employees through their Regulatory Services Intranet page, the guidance has not been finalized, and several NMFS employees we interviewed were unaware or only vaguely aware of the 2005 draft. While some elements of the 2005 draft are being

applied, such as the use of interdisciplinary plan teams and frontloading, additional elements of the draft guidelines that could help to improve fishery management processes have not been fully implemented. One example is the regional operating agreement between each NMFS regional office and its FMC. The purpose of the agreement is to provide a clear understanding of roles, responsibilities, and obligations between FMCs and NMFS regional offices. As of summer 2012, only one of the eight councils had a regional operating agreement with its NMFS regional office.”

*Page 7, third paragraph*

This paragraph does not fully reflect NMFS’s explanation of why the 2005 draft Operational Guidelines were not finalized. We offer the following language to replace the third paragraph to clarify the reasons for why the 2005 draft Operational Guidelines were not finalized: “When questioned about why the guidelines were not finalized, NMFS officials explained that reauthorization of the MSA, which included a requirement for NMFS to revise and update its procedures for complying with the National Environmental Policy Act (NEPA), affected the application of the 2005 draft Operational Guidelines, which also addressed the application of NEPA to fishery management actions. In addition, early efforts to implement provisions in the 2005 draft on a test basis revealed that some features placed unworkable demands on the Office of General Counsel staff and created undesirable redundancies. In 2005, NMFS officials indicated that the delay in formal issuance of the guidelines had not significantly affected progress in implementing regulatory process improvements.”

*Page 9, first paragraph*

As written, this paragraph appears to assume that NMFS compiles discrete administrative records as each fishery management action is being developed. Although documents and other materials related to fishery management actions are retained consistent with requirements under the Federal Records Act, given the large volume of actions taken NMFS only compiles administrative records in those instances where litigation challenging a regulation is filed or, sometimes, where litigation is expected. Further, it is not feasible to have a uniform practice for compiling an administrative record. In some cases, NMFS may take joint action with another agency that utilizes a different approach to assembling administrative records, or controlling legal precedent or other litigation considerations may dictate a different approach.

*Page 12, first paragraph after the table, first and second sentences.*

As written, the first and second sentences confuse the actions required generally to end and prevent overfishing (16 U.S.C. § 1853(a)(15) (annual catch limits)) with those required when a stock is declared overfished (16 U.S.C. § 1854(e) (overfished fisheries)). To clarify these sentences, we offer the following language to replace the first and second sentences of this paragraph: “A primary goal of the reauthorized MSA was to end and prevent overfishing through the use of annual catch limits and accountability measures, which were required to be implemented by 2010 for stocks subject to overfishing and by 2011 for all others.”

*Page 12, first paragraph after the table, line 4.*

Councils use many management tools to address overfishing. See 16 U.S.C. §§ 1853(a)(15) (requiring annual catch limits), 1853a (providing that Council *may* develop a LAPP) and 1853(b) (providing other discretionary provisions, such as gear restrictions and time and area closures, that Council *may* use in FMPs or amendments). To be more complete, we offer the the following additional language. After “FMCs use”, insert “various tools including”, and after

“(LAPPs)”, insert “as well as general catch limits, trip limits, seasons, gear restrictions, and bag limits,”.

*Page 13, box 3.*

Section 3(f) of Executive Order 12866 sets forth 4 criteria for determining whether an action is “significant.” See next comment for text of the criteria. Economic impact is not the only test. To be accurate, we offer as a suggestion striking the word “economically” from this box.

*Page 13, footnote a.*

If more information about the determination of “significance,” is desired, we offer the following language after the citation to accomplish that objective: “A regulatory action is significant under the EO if it is likely to result in a rule that may: 1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; 2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; 3. Materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or 4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the EO. See E.O. 12866 § 3(f).”

*Page 13, box 8.*

To track the MSA's judicial review provision, specifically 16 U.S.C. § 1855(f)(1)-(2), we offer the following in lieu of the current language in the box: “If judicial review is sought, a complaint must be filed within 30 days after a final rule is promulgated or an action taken under regulations is published in the *Federal Register*. A final rule or action remains in effect pending resolution of the case.”

*Page 13, footnote 20, lines 1 and 2.*

To be more accurate, we offer the following language to replace the first sentence: “The Regulatory Flexibility Act requires federal agencies to conduct analyses for regulatory actions that may have a significant economic impact on a substantial number of small entities, including consideration of significant alternatives that minimize any such impact and meet the objectives of applicable statutes. See 5 U.S.C. §§ 603, 604 and 605(b).” Note that sections 603 and 604 set forth requirements for initial and final regulatory flexibility analyses. Section 605(b) provides that those analyses are not required for a proposed or final rule if an agency certifies that it will not “have a significant economic impact on a substantial number of small entities.”

### Editorial Comments

The statement in the cover memo and on page 1 that NMFS has complied with “certain” MSA requirements contains a negative inference that may understate NOAA's compliance.

### NOAA Response to OIG Recommendations

All of the OIG Recommendations in this draft report pertain to and can be implemented by NOAA Fisheries. NOAA Fisheries accepts all of the recommendations and has no comments, concerns or suggestions regarding these recommendations. We will develop a detailed action plan to implement each recommendation upon the report being finalized.

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## **Ecosystem Committee DRAFT Agenda** *updated 1/25/2013*

Tuesday, February 5, 2013 8:30am – 12:30pm  
Benson Hotel, Portland, OR

To listen to committee meeting via webex, go to: <https://npfmc.webex.com/>

### **1. Bristol Bay Red King Crab discussion paper**

- Review updated discussion paper and provide recommendations to the Council, as appropriate

*Discussion paper will be available on Council website the week before the meeting.*

### **2. AI risk assessment briefing**

*Report available at:*

[http://www.aleutiansriskassessment.com/documents/110826AIRA\\_SummaryReportvFINALr.pdf](http://www.aleutiansriskassessment.com/documents/110826AIRA_SummaryReportvFINALr.pdf)

### **3. Deep Sea Corals**

- Briefing on National Strategic Plan

*Report available at: [http://coris.noaa.gov/activities/deepsea\\_coral/](http://coris.noaa.gov/activities/deepsea_coral/)*

- Update on first year of Alaska Coral and Sponge Initiative research (2012-2015 research plan)

*Briefing available on Council homepage at: <http://www.alaskafisheries.noaa.gov/npfmc/>*

- Update on ESA listing petition

*Petition and NMFS' response available at:*

<http://www.alaskafisheries.noaa.gov/protectedresources/coral/default.htm>

### **4. Norton Sound mining operations and EFH implications for red king crab**

- Briefing from NMFS habitat division, recommendations to the Council as appropriate

### **5. Discussion about ecosystem-based management planning**

- Preparation for and follow up to Managing our Nation's Fisheries conference

*Briefing paper available at: <http://www.cvent.com/events/managing-our-nation-s-fisheries-3/custom-17-94ddf325198f4501996ccc62aa396aa2.aspx>*

- Report on Ecosystem SAFE and ecosystem modeling efforts (S. Zador)

*Ecosystem SAFE available at:*

<http://www.afsc.noaa.gov/REFM/Docs/2012/ecosystem.pdf>

- Briefing on NOAA Ecosystem Science and Management Working Group study on ecosystem-based fishery management best practices within NMFS (D Fluharty)



## AOOS Board Seeks New Members

The Alaska Ocean Observing System (AOOS) seeks to expand its Board, which is currently comprised of 16 members representing state and federal resource agencies and research institutions. The Board is particularly interested in adding new members representing industry (e.g., commercial fishing, oil and gas, etc.), Alaska Native organization and NGO (non-governmental organization) sectors.

AOOS is a part of a national observing network with the mission of addressing needs for ocean information, gathering data on key coastal and ocean variables, and disseminating that data through a centralized data clearinghouse.

**Who is eligible:** Alaska Native communities and tribal governments, research organizations, academic institutions, private entities, non-governmental organizations, Federal agencies, regional federal science and management organizations, and state and local agencies, committed to the vision, mission, goals and objectives of AOOS. Members are party to the AOOS Memorandum of Agreement.

**Responsibilities:** The AOOS board meets in person twice annually to foster cooperation among the parties, share findings with other participatory agencies, establish priorities for the system, and evaluate plans and progress in implementing those priorities.

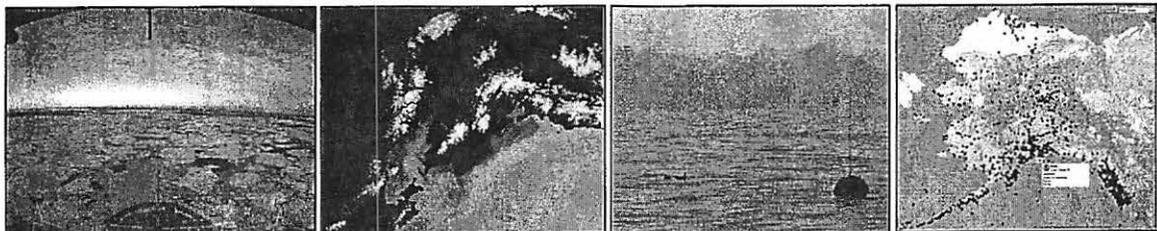
**More info on AOOS:** [www.aos.org](http://www.aos.org)

**Current Board members and governing documents:** <http://www.aos.org/aos-governance/>

If interested, please email [mccammon@aos.org](mailto:mccammon@aos.org) with the following information:

- A paragraph about why your organization would like to become an AOOS member and serve on the AOOS board
- Resume of potential board member

Nominations are due by February 1. The AOOS Board will review all applicants and produce a slate of candidates to be voted on during the next meeting, anticipated for late February/March.



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## AOOS Governance

### Board and Executive Committee

The AOOS Board is composed of the heads of federal and state agencies, academic and research institutions, and private entities (or their designees) that are party to the Memorandum of Agreement. The Board provides policy guidance, ensures sustained support by the Parties, and approves implementing documents. All attempts will be made to make decisions by consensus; however, in the event of a vote, decisions shall be by majority vote of those members present.

Board Officers	<ul style="list-style-type: none"> <li>■ Chair: Ed Page</li> <li>■ Vice-chair: Ed Fogels</li> <li>■ Secretary: Glenn Sheehan</li> <li>■ Treasurer: Amy Holman</li> </ul>
State agency representatives	<ul style="list-style-type: none"> <li>■ AK DEC: Larry Hartig</li> <li>■ AK DF&amp;G: Cora Campbell (Chris Siddon)</li> <li>■ AK DNR: Ed Fogels</li> </ul>
Federal agency representatives	<ul style="list-style-type: none"> <li>■ NOAA: Amy Holman</li> <li>■ USCG: Paul Gill</li> <li>■ USGS: Leslie Holland-Bartels</li> <li>■ BOEMRE: James Kendall</li> </ul>
State/federal representatives	<ul style="list-style-type: none"> <li>■ AK Sea Grant Program: David Christie</li> </ul>
Research entities	<ul style="list-style-type: none"> <li>■ UAF SFOS: Mike Castellini</li> <li>■ NPRB: Cynthia Suchman</li> <li>■ BASC: Richard Glenn (Glenn Sheehan)</li> <li>■ PWSSC/OSRI: Katrina Hoffman</li> <li>■ NOAA AFSC: Doug DeMaster</li> <li>■ US Arctic Research Commission: Cheryl Rosa</li> <li>■ AK SeaLife Center: Tara Jones</li> </ul>
Nonprofit-NGO representative	<ul style="list-style-type: none"> <li>■ Marine Exchange of AK: Ed Page</li> </ul>

### Governance Documents

- Memorandum of Agreement – approved by founding members on Nov 2009
- AOOS Operating Procedures – adopted Sept 2011
- AOOS Conflict of Interest policy – adopted May 2010

# COUNCIL COORDINATION COMMITTEE MEETING

Sheraton Hotel - Silver Spring, MD 20910

Cypress Ballroom

February 20-21, 2013

## Agenda

Wednesday, February 20, 2013

<u>Time</u>	<u>Discussion Item</u>	<u>Presenter(s)</u>
9:00 – 9:20	Welcome/Introductions	Dan Wolford Sam Rauch
9:20 – 9:30	Report on Kona meeting actions and issues	Kitty Simmonds
9:30 – 10:30	Council reports on status of implementing Magnuson-Stevens Act (MSA) provisions and other current activities of interest (10 min/Council) <ul style="list-style-type: none"><li>• Top three priorities</li><li>• New species status designations, rebuilding plans, or management approaches</li><li>• Problems/concerns/other issues</li></ul>	Chairmen/EDs
10:30 – 10:45	Break	
10:45 – 11:15	Council reports continued	Chairmen/EDs
11:15 – 12:15	Management and Budget update <ul style="list-style-type: none"><li>• FY2013: Status, Council funding</li><li>• FY2014: Update</li><li>• Longer term discussion</li><li>• National Appeals Office</li></ul>	Gary Reisner
12:15 – 1:45	Lunch on your own	
1:45 – 2:30	Councils/Marine Fisheries Advisory Committee Endangered Species Act Working Group Update	Julie Morris (teleconference)
2:30 – 3:30	National Standard 1 update	Galen Tromble
3:30 – 3:45	Break	
3:45 – 4:30	NOAA/NOAA Fisheries Policy on National Environmental Protection Act (NEPA)	Steve Leathery
4:30 – 5:30	Fisheries allocation	Sam Rauch
5:30	Adjourn for the day	

**Thursday, February 21, 2013**

<b><u>Time</u></b>	<b><u>Discussion Item</u></b>	<b><u>Presenter(s)</u></b>
9:00 - 9:45	Update on Inspector General Report on MSA Rulemaking	Emily Menashes
9:45 - 10:15	National science programs review	Richard Merrick
10:15 - 10:30	Break	
10:30-11:30	Electronic monitoring of fisheries	Mark Holliday
11:30 - 12:00	Fisheries litigation update	Adam Issenberg
12:00 - 1:30	Lunch on your own	
1:30 - 2:30	Council records retention, Freedom of Information Act (FOIA), and meeting guidance	Sam Rauch
2:30- 3:15	MSA Reauthorization	All
3:15 - 3:30	Break	
3:30 - 4:15	Managing Our Nations Fisheries (MONF) III Conference <ul style="list-style-type: none"><li>• Conference structure review, including speakers</li><li>• CCC consideration of (MONF) III results</li><li>• Questions</li></ul>	Don McIsaac
4:15 - 4:30	Recognition of service to fisheries <ul style="list-style-type: none"><li>• Paul Howard</li><li>• Steve Bortone</li><li>• Gloria Thompson</li></ul>	Dan Wolford/Sam Rauch
4:30 - 5:00	Other business, updates, and next Annual Council Coordination Committee Meeting	Dan Wolford
5:00	Adjourn meeting	

*Midwater Trawlers Cooperative*  
*welcomes*

**the North Pacific Council  
& Council Family to Oregon!**

This reception is generously co-sponsored by:

Bay Islander Fisheries  
Bering Sea Crabbers Association  
Curry Marine  
Englund Marine Supply  
F/V Arctic Lady  
F/V Trailblazer  
Fairweather Fisheries Inc  
Fishing Vessel Owners Association  
Foulweather Trawl  
Freezer Longline Coalition

Kevin Hill Marine  
Oregon Coast Bank  
Oregon Dungeness Crab Commission  
Oregon Trawl Commission  
Pacific Seafood Group  
Pacific Seafood Processors Association  
Roy Hyder  
Trident Seafoods  
United Catcher Boats  
Yaquina Boat Equipment

February 6th • 5:30-7:30 PM • London Grill • Benson Hotel