



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

MEMORANDUM

DATE: April 26, 2017
TO: Tom Nies
FROM: Council Coordination Committee
SUBJECT: **Work Groups/Subcommittees**

1. At the February 2017 CCC meeting, some members expressed concern about the proliferation of CCC work groups. These work groups place additional demands on staff time, particularly when they decide to meet. Their organization is unclear, leading to questions about how tasks are determined. As a result, there is a lack of understanding about the demands placed on members of these groups. The CCC may want to clarify the status of various bodies associated with the CCC and agree on general procedures for supervising their activities.
2. Work groups and subcommittees are authorized by the CCC terms of reference (see attachment 1). According to the TORs, they are established to address particular issues; the implication is they are tasked by the CCC. Membership is not restricted to the CCC: staff, other Council members, and NMFS employees can be assigned. Work group or subcommittee recommendations are reviewed and approved by the CCC before being authorized as a CCC perspective.
3. The TORs only identify one permanent work group, the Scientific Coordination Subcommittee (SCS), which plans workshops or meetings to discuss scientific issues of national importance. While not identified in the TORs, there are three additional groups or subcommittees that are long-standing and generally fit the TOR definition of, or have been identified as, a work group.
 - a. **Legislative Work Group:** This group consists of CCC members and prepares positions on legislation for consideration by the full CCC. It is most active when Magnuson-Steven Act reauthorization is pending.
 - b. **Council Communications Group (CCG):** This group consists of outreach or public affairs specialists from each Council. The CCG is responsible for the Regional Fishery Management Council web page, frequently interacts informally through email or conference calls, and holds meetings about every two years to discuss common issues and develop CCC public affairs strategies. The CCC reviews recommendations before implementation.

- c. Habitat Work Group: The CCC created this group in May 2014, when it was referred to as an “informal working group.” It consists of habitat specialists from each Council as well as NMFS habitat personnel. Conference calls are held several times a year to share information and coordinate activities. This group organized an Essential Fish Habitat Summit in 2016 (after approval by the CCC) that was funded by NMFS. While referred to as a work group, it is not clear that they are routinely tasked by the CCC.

4. In addition to work groups/subcommittees, there are less formal interactions between Council staff. The main purpose of these groups is to share information and ideas on common fisheries management challenges, rather than respond to specific CCC tasking.

- a. The social scientists from the Councils share information and ideas through an informal network referred to as the Social Scientists in Regional Fisheries Management. Conference calls are held 3-4 times a year. One meeting was held in 2015.
- b. Similarly, the Council administrative officers routinely interact with each other to share information through emails and conference calls. They met twice in recent years at CCC meetings (June 2015 and February 2017).
- c. At this CCC meeting, senior staff from each Council met to discuss management and document preparation issues. This is the first time they met as a group, though a few senior staff routinely attend CCC meetings.

5. At the February 2017 CCC meeting, the following concerns were mentioned with work groups and other interactions between Councils.

- a. Work groups and informal staff collaborations seem to form without specific approval by the CCC. Once formed, it is difficult for Council staff to decline to participate.
- b. There isn't a clear process for determining when work groups will meet.
- c. There is a lack of CCC input into work group/staff collaboration agendas.
- d. There is a lack of coordination between meetings of Council staff/work groups and CCC meeting preparations.
- e. There are infrequent reports to the CCC on the accomplishments of work groups and other interactions.

6. The CCC may want to consider agreeing to the following guidelines.

- a. Work groups or subcommittees will only be formed as described in the CCC TORs. The CCC must specifically authorize work groups or subcommittees and they respond to tasking by the CCC. There are four standing work groups: the Legislative Work Group, the Council Communications Group, the Scientific Coordination Committee, and the Habitat Work Group. The CCC or Executive Directors must approve any proposed meetings. The Council chairing the CCC is

responsible for coordinating CCC approval of work group meetings. A report will be provided to the CCC when the meeting is complete.

- b. Less formal staff collaboration between Councils is encouraged. Participation by individual Councils is voluntary and subject to demands on staff time. Executive Directors must approve meetings of these informal collaborations in advance before detailed planning begins. The Council chairing the CCC will coordinate approval of proposed meetings. A report will be provided to the CCC after any meetings.
7. If the CCC thinks it is necessary that this decision be documented, attachment (2) proposes minor changes to the CCC TORs.

Attachments: (1) Council Coordination Group Terms of Reference dated May 15, 2014
(2) Draft changes to Council Coordination Group Terms of Reference

Terms of Reference for the Council Coordination Committee

(May 15, 2014)

1. Establishment. Under Section 302(l) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Councils may establish a Council Coordination Committee (CCC). The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Councils, or other Council members or staff, in order to discuss issue of relevance to all Councils, including issues related to the implementation of the Act. Neither NOAA Fisheries (NMFS), NOAA General Counsel, nor any other Federal entity is a formal member of the CCC, and, therefore, the procedures described in this Terms of Reference apply regardless of whether federal personnel are present. Under the MSA Section 302(i), CCC meetings are held to the same procedural standards as any Council meeting.

2. Membership. The CCC consists of three members from each of the regional Councils: the Chair, a Vice-chair, and the Executive Director, or their respective proxies. Councils with more than one Vice-chair will need to determine who participates on the CCC for a given meeting. Only Council staff or Council members may serve as proxies. Work groups or subcommittees may be established to address particular issues, and include members from the CCC, other Council members, Council staff, members of Council-established advisory bodies and NMFS staff with expertise as necessary. CCC Working Group and Subcommittee recommendations or reports shall be reviewed and approved by the CCC before being authorized as a CCC perspective.

(a) Scientific Coordination Subcommittee (SCS). The SCS will consist of the Chairs from each of the Regional Council Scientific and Statistical Committees (SSCs), or their respective proxies. The function of the SCS is to plan and conduct meetings or workshops to discuss scientific issues of national importance based on terms of reference or topics provided by the CCC. The SCS will be chaired by the SSC Chair (or designee) on an *ad hoc*, rotational basis, as determined by the CCC. Approval for national meetings or workshops of the SSCs will occur at CCC meetings (see 3(b) below).

3. Organization. The CCC will be directed by the Chair and Vice-chair of the Council that is hosting the annual CCC meeting during that calendar year (January 1 through December 31). Councils with more than one Vice-chair will need to determine who will be the CCC Vice-chair in the year when they host the CCC meeting.

(a) Rules of Order. Roberts Rules of Order will be used to conduct business when a decision or recommendation of the CCC is needed. The CCC will operate by consensus whenever possible. Any member of the CCC can make a motion, but each Council will be limited to one vote, made by the chair of each Council (or vice-chair/proxy). Motions approved by the CCC reflect the opinions of the collective CCC, but are not binding on any individual Council. However, these decisions can be made on behalf of all of the regional Councils on a case by case basis, depending on the issue or vote at hand. The responsibility to follow-through on CCC actions, and to represent the CCC in general, falls upon the host Council for that particular calendar year.

Attachment 1

(b) **Meetings.** The CCC will normally meet twice per year. Generally, an interim meeting is held early in the calendar year to discuss budgets and other pressing matters and is hosted by NMFS in Washington, D.C. The primary, annual CCC meeting is hosted, on a revolving basis, by one of the Councils, normally in later spring or early summer. The CCC Chair for that calendar year may call other meetings as necessary. NMFS, in consultation with the CCC Chair, may schedule periodic conference calls with the CCC to discuss issues of immediate concern.

Emergency meetings shall be held at the call of the CCC chair. The CCC shall strive to announce meetings two years in advance.

(c) **Agenda.** For the primary, annual meeting, a draft agenda will be prepared in advance by the host Council and will be distributed to the other Councils and NMFS for review and comment. In the case of the interim meeting, NMFS will develop a draft agenda for review and comment by the Councils. Timely notice of the interim and annual meetings, including the agenda, will be provided, and such notice will be published in the Federal Register.

(d) **Availability of Documents.** The CCC will make documents relevant to the CCC meeting available to the public as follows:

i) When possible, all presentations and handouts will be posted to the NMFS or CCC website before the agenda item is discussed and updated as necessary following the meeting.

ii) Presentations and handouts that are not posted to the NMFS or CCC website in advance of the meeting, should, if possible, be made available in hard copy for the public at the meeting.

iii) For ease of public access and ensuring compliance with IT requirements, the NMFS or CCC website will be the official repository of CCC meeting documents.

iv) Agenda, presentations, handouts, and associated documents will be maintained on the NMFS or CCC website for at least 5 years.

(e) **Meeting Minutes.** MSA Section 302(i) requires detailed minutes of each meeting, except for any closed session, to be kept and made available to the public. The host of the meeting will provide the detailed minutes to include a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed within a reasonable period of time following the meeting. If desired, the host may choose to provide a transcript of the meeting in lieu of detailed minutes. CCC meeting agendas, materials, and meeting minutes or transcripts will be available on the NMFS or CCC website.

(f) **Public Participation.** CCC meetings will be open to the public and public comment will be permitted at the discretion of the Chair. Public comment will be accepted at the beginning of the meeting, not to exceed 30 minutes. Written comments will be encouraged on agenda items, and if received will be placed in the briefing materials.

(g) **Closed Sessions.** The CCC may hold closed sessions for limited purposes, with or without a Federal presence, as consistent with MSA Section 302(i)(3) and codified at 50 CFR 600.135(c). In summary, the CCC should follow the guidance listed below when closing sessions to the public:

i) CCC sessions may be closed to discuss those items specified in MSA Section 302(i)(3) and 50 CFR 600.135(c), i.e., national security, employment, litigation and internal administrative matters.

ii) Discussion of issues and associated actions that do not qualify to be closed (i.e., that affect the public) must be made in public.

iii) A closed meeting must be noticed as part of an agenda of the main meeting, except for brief closures allowed under MSA Section 302(i)(3)(B).

iv) Before closing a meeting or portion thereof, the CCC should consult with NOAA General Counsel to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings.

4. Functions. In accordance with MSA Section 302 (i), the CCC is exempt from the requirements of the Federal Advisory Committee Act (FACA). As such, the CCC's can provide recommendations from leadership of the eight regional fishery management Councils to the Federal Government (usually to the Secretary of Commerce through NMFS). The CCC has adopted the following statement with regards to making recommendations:

“The CCC is established in the MSA to discuss issues of relevance to all Councils, including issues related to the implementation of this Act. Although all Councils adhere to the same MSA and national standards, the eight regional Councils often have differing regional priorities, needs, experiences, attitudes, relationships, and philosophies regarding fisheries management. It is important that NMFS and the public are aware of these differences. In addressing requests by NMFS, the CCC should consider whether the regional input from a Council is more appropriate than a collective response from the CCC. The development of a CCC response or position does not foreclose individual Councils from developing responses or positions that may differ from the CCC. The CCC respects the importance of regional perspectives, and will not diminish their importance.”

Terms of Reference for the Council Coordination Committee (DRAFT May 18, 2017)

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Emergency meetings shall be held at the call of the CCC chair. The CCC shall strive to announce meetings two years in advance.

The CCC chair will coordinate approval for meetings of CCC work groups, subcommittees, or other informal staff collaborative efforts.

(c) **Agenda.** For the primary, annual meeting, a draft agenda will be prepared in advance by the

Attachment 2

host Council and will be distributed to the other Councils and NMFS for review and comment. In the case of the interim meeting, NMFS will develop a draft agenda for review and comment by the Councils. Timely notice of the interim and annual meetings, including the agenda, will be provided, and such notice will be published in the Federal Register.

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Counsel to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings.

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Comment [TN1]: This section was relocated from the "membership" section. Paragraph (2).

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