

1 **National Webinar on the Advanced Notice of Proposed Rulemaking**  
2 **for Potentially Updating Guidelines for National Standard 4, 8**  
3 **and 9**

4 June 12, 2023

5  
6 ***Participants***

7 National Marine Fisheries Service Headquarters

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9 Ms. Kelly Denit, Director Office of Sustainable Fisheries

10 Ms. Kate Naughten, Office of Communications

11 Mr. Sam Rauch, Deputy Assistant for Regulatory Programs

12 Mr. Michael Ruccio, Office of Sustainable Fisheries

13 Dr. Wendy Morrison, Office of Sustainable Fisheries

14 Dr. Tara Scott, Office of Sustainable Fisheries

15 Mr. Matt VanKleunen, Office of Sustainable Fisheries

16  
17 **General Public**

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19  
20 **Welcome and Introductions**

21  
22 **Kate Naughten:** I think we'll give it another minute and then get  
23 started. Okay with you, Wendy? Okay, good morning. Good afternoon.  
24 Everybody I think we're going to get started. Welcome to our webinar.  
25 Glad you're here today. I'm Kate Naughten, Director of Communications  
26 for NOAA Fisheries and this is our national level webinar on the  
27 advanced notice of proposed rulemaking for National standard 4, 8 and  
28 9 guidelines. So thank you for your participation today. We're here to  
29 receive public comments today on this ANPR. Just a couple of notes  
30 here, due to the limited duration of the call, we're going to limit  
31 folks initial comments to about 3 minutes, and if there's time, then  
32 you can add back in. I'm going to call on people after you raise your  
33 hand. So, please look at the bottom of your screen and scroll around.  
34 Find the icons, and if you would like to make a comment, please raise  
35 your hand. We will ask you to unmute and then you can give your  
36 comment. We also encourage people who are attending today to submit  
37 written comments via the methods on the final slide you will see in  
38 the slideshow. We will not be taking comments today via the chat  
39 feature. I just want to make that clear. Okay before we get started,  
40 we are recording this webinar. We are going to post it online so I  
41 need to read you a disclaimer and it is just a brief statement.  
42 Regarding your privacy as an opt-in participant of this meeting. So,  
43 here we go. Pursuant to the Privacy Act of 1974 agencies are required  
44 to tell people (1) what our authority is for collecting personally  
45 identifiable information or from them; (2) the purpose of this  
46 collection; and (3) how we are using and sharing that; and (4) whether  
47 or not the person can refuse to provide the personally identifiable  
48 information and what, if any, is the consequence of refusing to  
49 provide the personally identifiable information. In order to collect  
50 personally identifiable information in a system of records, even if  
51 accompanied by a privacy act statement, we also have to notify you of

1 this collection, which we are doing with this statement. We are  
2 sharing this because we want you as participants in this webinar and  
3 public commenters to not provide personally identifiable information,  
4 business identifiable information or controlled unclassified  
5 information during today's session. Today's audio is being recorded by  
6 the telecommunication company for the purposes of creating a  
7 transcript, so speakers and public comments made today,  
8 including chat comments read aloud, may be made publicly  
9 available. If you are not comfortable with this, then we'd ask you to  
10 sign off and then just submit your comment in writing.

11  
12 Okay. That part's over, I'm going to introduce our speakers today and  
13 then we're going to get started. We're going to have introductory  
14 remarks from Janet who's our assistant administrator for NOAA  
15 Fisheries, Sam Rauch our deputy assistant administrator for regulatory  
16 programs. Then the presentation by Wendy Morrison. She's with the  
17 Office of Sustainable Fisheries. And then available for questions once  
18 we get to that part, we have Kelly Denit who's our director of the  
19 Office of Sustainable Fisheries, Tara Scott and Mike Ruccio all in the  
20 Office of Sustainable Fisheries. And that's the end of my intro.  
21 Thanks again for participating and I'm handing it over to Janet.

22  
23 **Opening Remarks from NOAA Fisheries leadership**

24  
25 **Janet Coit:** Thank you Kate. On May 15<sup>th</sup>, NOAA Fisheries published an  
26 Advance Notice of Proposed Rulemaking to seek public comment on  
27 potential future adjustments the agency may make to the implementing  
28 guidelines for national standards 4, 8, or 9 of the Magnuson-Stevens  
29 Fisheries Conservation and Management Act. Several of our ongoing  
30 fishery management challenges, such as dealing with climate change and  
31 equity and environmental justice suggests that there might be a need  
32 to revisit our guidelines to ensure that they remain current. Climate  
33 change and environmental justice are both critically important issues  
34 for this administration. Climate change is already impacting our  
35 marine resources by affecting the location and the productivity of  
36 fish stocks and of the fishing industry's interactions with bycatch,  
37 protective species and other ocean users. These changes can cause  
38 social, economic and other impacts on fisheries and fishing dependent  
39 communities. NOAA Fisheries understands the importance of adapting  
40 fisheries management to address current and anticipated needs and  
41 conditions, including the dynamic stock conditions and the changing  
42 ocean conditions. NOAA Fisheries is also committed to advancing equity  
43 and environmental justice that includes equal treatment opportunities  
44 and environmental benefits for all people and fishing communities. Our  
45 work impacts the economic opportunity, health treaty rights and trust  
46 responsibilities of many communities, including those that are  
47 historically underserved. We recognize that government programs and  
48 policies can and must advance environmental justice and equitable  
49 distribution of services. Revising the National standard guidelines  
50 may be one potential way to embed equity and environmental justice

1 into our day to day efforts. And now to Sam Rauch the deputy here at  
2 NOAA Fisheries.

3  
4 **Sam Rauch:** All right, thank you and as Janet indicated since the  
5 National Standards, 4, 8 and 9 guidelines were last revised a number  
6 of fishery management issues, including those related to climate ready  
7 fisheries, and equity and environmental justice suggests the need to  
8 revisit the guidelines to ensure they remain appropriate for current  
9 US fisheries management. The intent of the ANPR, and this webinar is  
10 to provide the public with background on some of the specific issues  
11 under consideration, seek input, and to provide a general opportunity  
12 for comment. NOAA Fisheries invites public comment on the ANPR through  
13 September 12<sup>th</sup>, 2023 and along with this information webinar, we are  
14 also engaging federally recognized tribes and offering presentations  
15 to all 8 Regional Fishery Management Councils. The advanced notice of  
16 proposed rulemaking is a way for NOAA Fisheries to request input on  
17 whether changes to National Standard Guidelines are needed. It does  
18 not require NOAA officials to make the changes. Officials could  
19 consider the feedback received and determine that no changes are  
20 needed at this time. If we do decide to move forward with changes to  
21 the guidelines, we will draft a proposed rule and provide additional  
22 opportunities for public input at that time. Such rulemaking, if  
23 warranted, would likely begin in 2024, and be widely announced to  
24 inform all interested parties, tribes and management partners. Today,  
25 we're going to have a brief presentation that provides some background  
26 on these national standards and the issues and questions we are  
27 considering. It will open up the webinar for questions or comments. So  
28 please be mindful that we are recording this presentation and we'll  
29 post it to our website. Therefore, do not provide any information you  
30 do not want to have shared widely. With that, I'll turn it back over  
31 to you, Kate to introduce the presentation.

32  
33 **Kate Naughten:** Thank you Sam. Appreciate that. Thank you Janet. Now,  
34 we're going to go over to Wendy for the overview of the presentation.  
35 Go ahead, Wendy.

### 36 37 **Presentation**

38  
39 **Wendy Morrison:** All right, can everybody hear me? Got the thumbs up.  
40 Okay, we're going to walk you through some of the issues and some  
41 background. And it's not advancing. Sorry for a few technical issues,  
42 as I figure out how to make this slide advance. Any suggestions  
43 anyone? Oh, it wasn't working before, now it is, awesome. There we go.  
44 So, a little brief agenda for us is here. We had our introduction.  
45 Then I will give this brief presentation on the ANPR, background, and  
46 questions we have. Then we will have a few minutes where you can ask  
47 questions on the process. So, how we're going to move forward with the  
48 ANPR as well as maybe questions about today's webinar and then we're  
49 hoping the most of the time goes towards public comments. We'll start  
50 you off at a limit of three minutes as we've mentioned. And then if  
51 there's more time you can come back on. So, the objective of the ANPR

1 is to determine if updates to the guidelines for the National  
2 standards, and the National standards we're talking about here are 4 8  
3 and 9- if these updates are needed to improve federal fisheries  
4 management. The goal overall is to solicit public input on the current  
5 guidelines, what are the areas and issues that may benefit from  
6 further consideration and revisions. This is kind of like a scoping.  
7 We're coming out to you to ask what issues do you see, and asking for  
8 input on the issues that we have identified.

9  
10 So a little bit of background on the National standards, so the  
11 Magnuson Stevens Fisheries Conservation and management act is the main  
12 law for federal fisheries management in the US. Within this law are  
13 10 national standards that must be met for every fishery management  
14 plan and associated fishing regulation. The MSA requires that the  
15 Secretary of Commerce establish advisory guidelines that explain how  
16 we will interpret and implement the National standards. These are the  
17 guidelines that we're talking about here. So, as we mentioned, we are  
18 currently considering revising the guidelines for 3 of the National  
19 standards, and these are (you can see the short hand on the slide)-  
20 national standard 4 deals with fishery allocations. Some of the text  
21 from the national standard are that allocations should be fair and  
22 equitable, promote conservation, and not result in excessive shares.  
23 The second one is national standard 8, which considers impacts to  
24 communities. Some of the language from the national standard is to  
25 provide for sustained participation, and minimize adverse economic  
26 impacts to the extent practicable. The 3rd one is national standard 9,  
27 which deals with minimizing bycatch and bycatch mortality to the  
28 extent practicable.

29  
30 Okay, so, for this advance notice of proposed rulemaking most of the  
31 issues we identified fell into two main bins, which is climate related  
32 impacts on fisheries and promoting equity and environmental justice in  
33 fisheries. And so what I'm going to do is walk through each of the  
34 National standards, and the interaction between climate and EEJ for  
35 each of them. Some background on climate and fisheries. Changing ocean  
36 conditions are affecting the location and productivity of fish stocks  
37 and fishing industries interactions with them. As Janet mentioned at  
38 the beginning. These changes can cause social economic and other  
39 impacts on fisheries and fishing dependent communities. NOAA Fisheries  
40 understands the importance of updating fisheries management to address  
41 these changes, including dynamic stock conditions and changing ocean  
42 conditions. For environmental equity and environmental justice. We  
43 know that this is a priority of the administration. And so we are  
44 committed to advancing equity and environmental justice- and this is  
45 the same thing. Janet already read apologies. I will keep moving.

46  
47 So I'm going to jump in first, with the issues, the interactions  
48 between climate and the National Standard 8 and National Standard 9  
49 guidelines. So, as you've heard twice, now, environmental changes are  
50 affecting and will continue to affect stock distributions, abundances  
51 and creating challenges for the communities that depend on these  
52 resources. So what we are requesting comments on, or options for

1 updating the guidelines to National Standard 8 to better account for  
2 these changes and improve the ability of communities to adapt to the  
3 changing conditions. We are also requesting comments on options for  
4 updating the guidelines to National Standard 9 to better account for  
5 and adapt to changes in interactions between fisheries and bycatch or  
6 protected resources due to environmental changes.

7  
8 Okay, so the questions we have regarding national standard, 4  
9 guidelines are similar for climate and equity, and environmental  
10 justice. So I have combined them on one slide. Most allocations  
11 established by councils and NOAA Fisheries are highly complex and are  
12 supported by extensive analyses. Determinations of many, but not all  
13 of the existing allocations have relied heavily on documented catch or  
14 landings during specific time-periods. Considering documented catch  
15 in the development of allocations is important because it helps  
16 participants maintain access to resources that they have been  
17 dependent on. However, it is also important to consider the needs of  
18 other users such as fishermen who would like to enter a fishery, or  
19 fishermen who have been displaced from other fisheries, and then,  
20 finally, or existing fishermen who are now catching a species in their  
21 historical fishing grounds. So, if a species has moved in. NOAA  
22 Fisheries is considering whether updates to the national standard 4  
23 guidelines would help encourage allocation decisions that balance the  
24 needs of these different user groups when creating and updating  
25 allocations, and including the stocks that are shifting, and or have  
26 shifted their distributions. In terms of climate and EEJ, we're  
27 requesting input on approaches to improve consideration of underserved  
28 communities, historical users, previously excluded entrants and new  
29 entrants in these allocation decisions. We're also asked for feedback  
30 on revisions to the guidelines are needed to reinforce the 2016  
31 allocation policy that NOAA Fisheries put out that requires periodic  
32 reviews of allocations. And then finally, we're asking for input on  
33 the types of documentation, analyses, and alternative approaches that  
34 could be considered when making such allocation decisions.

35  
36 Okay, so moving on. National Standard 8 guidelines and the interaction  
37 with equity and environmental justice. I'm going to have a couple of  
38 slides on this one. There's quite a few topics to cover here. So,  
39 first of all, there is a definition of fishing community in our  
40 national standard 8 guidelines. So we have a couple questions  
41 regarding that definition. If we need to update that definition. So  
42 the first one is, should this definition of fishing communities be  
43 updated to remove the requirement that fishing community members must  
44 reside in a specific location? The current language has that emphasis  
45 on residing in a specific location. If we remove that requirement, it  
46 could allow for fishing communities based on fishing characteristics,  
47 other than just location. For example, there could be a group of  
48 charter fishermen that target Atlantic cod that are spread throughout  
49 the Northeast that could be considered a community even though they're  
50 not located in the same location.

51

1 The second question we have on the definition of efficient community  
2 within the National Standard 8 guidelines is to look at the shift in  
3 balance between dependence and engagement. As stocks decrease in  
4 abundance or shift distributions, communities will likely need to  
5 adapt. This might suggest the need to move away from focusing  
6 management on communities that are historically dependent on a  
7 fishery. In fact, in many ways, decreasing a community's dependence on  
8 a few particular stocks or fisheries, by diversifying the fisheries  
9 that can be accessed, could increase the community's overall  
10 resilience. Thus, shifting the focus from dependence on a fishing  
11 fishery or stock towards focusing on engagement, and fishing in  
12 general, is being considered. Shifting the focus of the definition of  
13 fishing communities towards engagement could build up the community's  
14 economic resilience and help preserve those communities as fishing  
15 communities into the future.

16  
17 And then outside of that definition, but still within National  
18 Standard 8 guidelines, and within equity and environmental justice  
19 questions. We are requesting input on how to appropriately balance the  
20 requirements under National Standard 8, for sustained participation of  
21 fishing communities and the need to improve consideration of: the  
22 underserved communities currently or historically engaged with the  
23 fisheries; previously excluded entrants; new entrants; and communities  
24 with high levels of social or climate vulnerability. We also welcome  
25 input on the appropriate measures of social and climate vulnerability  
26 for fishing communities.

27  
28 All right, moving on to National Standard 9 guidelines with equity and  
29 environmental justice. Conflict between fisheries, and gears is common  
30 in fisheries management via the overlap and geographic areas fished or  
31 in the species caught. Relevant to National Standard 9 is the  
32 situation where bycatch of one fishery has negative impacts on another  
33 fishery, usually via restricting limit to total fishing mortality on  
34 the shared stock. The issue can be further complicated when one or  
35 more fisheries in conflict are important for the underserved  
36 communities. NOAA Fisheries welcomes input on how the national  
37 standard 9 guidelines could be modified to minimize bycatch in a  
38 manner that is equitable across different fisheries and gear types.  
39 NOAA Fisheries also welcomes comments on ways to better balance the  
40 needs of bycatch and target fisheries in a manner that is equitable  
41 across the fisheries and gear types, especially when one or more  
42 fisheries are important for underserved communities.

43  
44 All right, and then we have two challenges that are outside those  
45 general categories of climate and equity and environmental justice,  
46 and they are listed here. So, the first one is the practicability  
47 standard. National standard 9 itself requires bycatch and bycatch  
48 mortality to be minimized to the extent practicable. We would like to  
49 assert that the discussion of practicability within the existing  
50 National Standard 9 guidelines appropriately balances the complexities  
51 of federal fisheries management. However, we would welcome input on  
52 how the National Standard 9 guidelines could be modified to further

1 decrease bycatch or bycatch mortality of stocks. We also welcome input  
2 on other ways to improve the guidelines. For example, we welcome input  
3 on whether we should consider adding provisions to address bycatch on  
4 an ecosystem level, rather than on a single species metric;  
5 implementing provisions for alternative performance based standards;  
6 and increasing provisions to document bycatch avoidance. And then the  
7 other topic on this slide is reducing waste. We note that some fishery  
8 management plans include management measures that prohibit retention  
9 of certain fish species or sizes to ensure fishermen are dis-  
10 incentivized from incidentally catching these fish. When these  
11 regulatory discards are required, they can sometimes lead to waste.  
12 NOAA Fisheries seeks input on revisions to the national standard  
13 guidelines that could incentivize reduction of waste, including the  
14 use of innovations that decrease bycatch, bycatch mortality, or  
15 increase use while dis-incentivizing catch of overfished or low  
16 productivity stocks.

17  
18 All right, and so Sam mentioned this timeline in the very beginning.  
19 We published the ANPR on May 15th. Kelly Denit gave a presentation to  
20 the Council Coordination Committee on May 23rd. We are offering  
21 presentations to each Council for their meetings that occur between  
22 June and August. We have this one national level webinar, and we will  
23 be offering two tribal webinars in June and July and then the public  
24 comment period closes on September 12th. If warranted, we will begin  
25 drafting a proposed rule in the fall of 2023.

26  
27 All right, and here are the two ways to submit comments written  
28 comments online, or I would happy to be happy to receive your mail. So  
29 that's it. All right back over to you, Kate.

30

### 31 **Public Questions and Comments Session**

32

33 **Kate Naughten:** Thanks, Wendy. I'm not going to say anything about  
34 that photo you chose there. Okay. Great. All right. So folks, we had  
35 more people join the call. I just want to review that this call is  
36 being recorded. And so just to keep that in mind for whatever reason  
37 you'd like to, and let's go to our directions here, we are going to  
38 take comments on process 1st, if possible here. If you have a  
39 question on the process for this ANPR, if you could please raise your  
40 hand in your icon bar, and I will call on you. We'll unmute you and  
41 have you ask your question. Go ahead. Anybody who's open who has a  
42 question on process? Questions on process. We were just going to  
43 tackle those first if anybody had one. Well, you did a great job,  
44 Wendy Sam and Janet. I don't see any process questions. And for those  
45 who just joined us a little bit late, we are collecting verbal  
46 comments today. We also encouraging you to send in written comments.  
47 That's why Wendy still has the slide up. And we will not be taking  
48 comments in the chat today. So, if you have a comment for us please  
49 raise your hand, and we will call on you. Not seeing any hands if  
50 anybody is raising their hand I am not seeing hands. This is the  
51 public comment period if you would like me to take you off of mute

1 please let me know. I am going to refresh to see if anybody has a  
2 comment they'd like to make today. Please raise your hand in the  
3 symbols box, and we can take your comment that way.

4  
5 **Matt VanKleunen:** And I'll just add that control shift R on your  
6 keyboard is a shortcut that can also be used to raise hands.

7  
8 **Kate Naughten:** Great. Thank you Matt! Control shift R or the hand  
9 icon. Matt, I see that a few of these folks are on the phone only. I'm  
10 wondering if there's a way to open up I don't think so, on the  
11 webinar. Anybody has a public comment, please use the Control shift R  
12 or the hands icon- will open up your line.

13  
14 **Matt VanKleunen:** Star 3 may work for phone attendees to raise their  
15 hand. I'm not totally sure.

16  
17 **Kate Naughten:** Okay, that sounds like a good start. Anybody want to  
18 star 3? Again, we're collecting public comments today. On this  
19 webinar, if you'd like to make one, please raise your hand, or come  
20 off of mute if you're on the phone. Wendy, will this presentation be  
21 available on the website at some point, the slides that you just went  
22 through?

23  
24 **Wendy Morrison:** Yes, we are definitely going to post a recording of  
25 this webinar, but I can also post just the slides if that is  
26 preferred.

27  
28 **Kate Naughten:** Awesome. Perfect. I think that sounds good. We'll do  
29 both. The lines are open for comments folks if you'd like to make any.  
30 Looking for the hand icon or somebody to come off mute if you are  
31 phone only. Give it another few minutes and see if there are any  
32 comments. We have all the experts here today, so a good day for  
33 questions and comments. Okay, wait about another minute and then I  
34 think we're going to call it a day. In case we have any late breaking  
35 thoughts here. Okay, seeing none, I am going to call this webinar  
36 good. And please folks who were on the phone who joined us, thank you  
37 again. We really do appreciate you calling to listen in. Please send  
38 in your comments based on this instruction on the slide. These will  
39 also be available online along with the recording. We did have  
40 introductory remarks from Janet and Sam Rauch today. So if you'd like  
41 to hear those, they'll be in the audio/ video recording. All right  
42 thanks again, take care.

43  
44 **Wendy Morrison:** Thank you.