



October 6, 2023

Ms. Janet Coit
Assistant Administrator, NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Dear Ms. Coit:

The Council Coordination Committee (CCC) appreciates the opportunity to comment on the NOAA Fisheries draft procedural directive (PD) titled “Guidance on Council Authority for Preparing Fishery Management Plans for Stocks that May Extend across the Geographic Areas of more than one Council, pursuant to MSA §304(f).” As you recall, the CCC reviewed the PD during our May 2023 meeting in Key West, Florida. At that time, CCC members expressed initial reactions and concerns about both the content of the PD and the process by which it was developed, and it was agreed that those concerns would be conveyed in a joint letter. The CCC represents the shared interests of the U.S. Regional Fishery Management Councils (Councils). As such, this letter will focus on consensus positions shared by all eight Councils and will not address all aspects of the PD. Several Councils are also planning to submit individual comment letters containing more detailed regional perspectives.

General Comments

The CCC broadly agrees with the need for transparency and forward-thinking in our collective efforts to address climate-related governance issues. However, in its current form the PD seems likely to create more confusion than clarity. The proposed process is missing many key details required to understand how it would be implemented. For example, it is not clear how the various data sources would be prioritized, who would decide which sources to use, how the analyses would be conducted, how uncertainty would be addressed, how conflicting indicators would be reconciled, how the “Additional Considerations” would be incorporated, and whether any peer review would occur to ensure that the reviews are scientifically sound. It is also not clear how (if at all) the proposed process would account for non-climate factors, such as offshore wind energy infrastructure, spatial management measures, or other drivers that could cause short-term changes in stock distribution.¹ As it is currently written, the PD could be used to justify vastly different outcomes depending on the data used, making it very difficult to see how the PD would accomplish its goal of establishing “a more transparent, orderly, and responsive approach for fishery management.”

¹ Recent research conducted by Rutgers University scientists in collaboration with the Mid-Atlantic Council indicates that non-climate factors (e.g., fishing pressure and larval dispersal) have a substantial influence on short-term stock distribution changes. (<https://www.lenfestocan.org/en/research-projects/predicting-near-term-fisheries-shifts-under-climate-change>)

Caribbean Executive Director: Miguel Rolón Chair: Carlos Farchette	Gulf of Mexico Executive Director: Dr. Carrie Simmons Chair: Kevin Anson	South Atlantic Executive Director: John Carmichael Chair: Dr. Carolyn Belcher	Mid Atlantic Executive Director: Dr. Christopher Moore Chair: P. Weston Townsend
New England Executive Director: Dr. Cate O’Keefe Chair: Eric Reid	North Pacific Executive Director: David Witherell Chair: Angel Drobnica	Pacific Executive Director: Merrick Burden Chair: Brad Pettinger	Western Pacific Executive Director: Kitty Simonds Chair: William Sword

The CCC believes the proposed process should provide for a more explicit consideration of the costs, challenges, and timeframes associated with the various designation options. Transferring management responsibility between Councils or transitioning to joint management would be a complex process with potentially significant impacts on the affected Councils, Scientific and Statistical Committees (SSCs), and NOAA Fisheries Regional Offices and Science Centers. Such changes could cause significant disruptions in Council operations, duplication of effort, Science Center/Regional Office workload bottlenecks, and losses of institutional knowledge among the staff, Council and SSC members, and others who have acquired specialized knowledge about the management or biology of a stock through many years of involvement with the fishery. Furthermore, changes in management responsibilities could require the development of new data streams and/or integration of existing data streams between regions, potentially creating workload issues and other challenges for Regional Offices and Science Centers. These impacts should be carefully evaluated and weighed against the potential benefits when considering a change in Council management authority.

It is also important to consider how fishery participants and other stakeholders would be affected by governance changes. One of the greatest strengths of the regional council system is that it encourages a collaborative, “bottom up” process where fishermen and other stakeholders provide input on how to manage U.S. fisheries. Over many years, the Councils have established relationships and built trust with those stakeholders. While changing fishery conditions should prompt the Councils to consider expanding and strengthening stakeholder bases and relationships where possible, transfers of management responsibility could undermine these relationships and potentially lead to stakeholder disengagement from the management process.

Data Concerns

The PD appears to minimize the complexities and challenges of evaluating changes in stock distribution and fishing effort. We are concerned that the proposed process could create demands for data and analyses that in many cases could not be supported. Many Councils lack robust baseline data on stock distribution and fishing effort that would be needed to quantitatively assess substantial long-term changes in the geographic scope of a fishery. According to a report by the United States Government Accountability Office (GAO), “limited data and modeling information on the impacts of climate change on fisheries is a challenge to enhancing the climate resilience of fisheries.”² The report noted that this limitation “restricts the ability to measure future changes against current conditions, such as detecting the impacts of climate change on fish stocks or predicting how species will behave under changing conditions, and making management decisions in response.” Furthermore, many current data collection programs are region-specific, which could make it difficult to recognize shifts across regions. For example, differences in Northeast and Southeast data collection programs would create challenges for evaluating stocks that cross between the Mid-Atlantic and South Atlantic Councils’ jurisdictions. In addition, the CCC is concerned that the increasing demands for data, analysis, and staff time to support the proposed process will divert resources needed to support core surveys and stock assessments.

Proposed Metrics and Triggers

Step 1(b) lists several metrics that could be used to trigger a review of a fishery’s geographic scope. These include a 15% shift in the proportion of landings revenue that accrues to another Council’s jurisdiction or a 15% shift in recreational effort that occurs in another Council’s jurisdiction. The CCC would like to understand how these metrics and thresholds were selected, as they don’t seem like particularly reliable indicators to assess substantial and sustained changes to a fishery’s actual geographic distribution. Commercial landings by state or region are often driven by infrastructure, market factors, and management

² Government Accountability Office (2022). *Federal Fisheries Management: Opportunities Exist to Enhance Climate Resilience*. <https://www.gao.gov/assets/gao-22-105132.pdf>

factors (e.g., state-by-state allocations, rotational management) and may not reflect the geographic distribution of a stock. Similarly, a 15% change in recreational effort is not always indicative of a change in distribution. Quantifying shifts in recreational effort may require greater precision than MRIP is currently able to provide at the state level, as MRIP estimates are often highly uncertain at small spatial scales (e.g., states). The CCC is interested to know if the agency has done any testing with real world examples to evaluate the appropriateness and robustness of these metrics.

Joint Management Challenges

Step 3 indicates that there would be a presumption of joint management or separate Council FMPs if 40-75% of a fishery's landings revenue or recreational effort occurs in another Council's jurisdiction. Joint management by multiple organizations is challenging and could increase the workload exponentially. For a fishery like bluefish, which could hypothetically involve all three East coast Councils plus the Atlantic States Marine Fisheries Commission, the management process would become quite slow and cumbersome. How would this align with the National Standard 6 guidelines, which state that management regimes "must be flexible enough to allow timely response to resource, industry, and other national and regional needs," or the National Standard 7 requirement to minimize cost and avoid unnecessary duplication? We are concerned that mandating joint management arrangements without a clear need would have the unintended effect of making the management of those fisheries less responsive to climate change.

Existing Governance Approaches and Council Initiatives

Although major changes in management responsibility may be warranted in some circumstances, the CCC believes such changes should only be considered when there is a well-defined governance problem that the Councils have been unable to resolve with a less disruptive approach. The Magnuson-Stevens Act already provides the Councils with significant flexibility and a variety of tools to facilitate management of fisheries across jurisdictional boundaries. A 2021 NOAA Technical Memorandum provided an overview of the various governance approaches being employed by the Councils and NOAA Fisheries to manage cross-jurisdictional fisheries. The report concluded that "trans-boundary fisheries are not new and NMFS and the eight Councils have a strong record of managing such fisheries sustainably using existing authorities despite the scientific and governance complexities."³

The CCC believes any guidance pertaining to the application of 304(f) should build on the outcomes of relevant Council-led initiatives such as the East Coast Climate Change Scenario Planning Initiative. That process identified and prioritized a number of potential actions that could be taken to address cross-jurisdictional governance issues, such as reviewing and potentially revising committee and advisory panel membership, enhancing the role of committees in decision making, improving the efficiency of joint management arrangements, and increasing coordination across NOAA offices and regions. Similar initiatives have been undertaken in other regions. For example, the Pacific Council is exploring the longer-term effects of climate change on its managed species through its Climate and Communities Initiative, and the North Pacific Council has formed a Climate Change Taskforce to evaluate the vulnerability of key species and fisheries to climate change in the North Pacific and strengthen resilience in regional fisheries management. The Councils and NOAA Fisheries have invested significant resources into the development of those initiatives, and the outcomes of these efforts should be given time for implementation and evaluation of their effectiveness.

³ Morrison, Wendy E. 2021. Governance Case Studies on Marine Fisheries that Cross Jurisdictional Boundaries in the United States. NOAA Technical Memorandum NMFS-OSF-10. <https://repository.library.noaa.gov/view/noaa/32347>

Process Concerns

From a process perspective, we are disappointed that the Councils were not consulted in a more meaningful way during the development of this PD. The unilateral process used by NOAA Fisheries to develop the PD is a missed opportunity to work collaboratively with the Councils to address climate-related governance challenges. Attempting to address an issue of such potential significance through a procedural directive, developed with little to no input from the Councils, is not representative of a healthy partnership. We are also disappointed in the lack of public involvement in both the development of the PD and in the process it proposes. Transparency and public participation are fundamental aspects of the fisheries management process under the MSA, and stakeholders should be given meaningful opportunities to provide comments whenever major changes are being considered.

Conclusion

Although we recognize the agency's desire to demonstrate progress toward addressing this administration's climate goals, we strongly encourage you to engage the Councils and CCC on development of a revised approach for addressing governance issues for cross-jurisdictional fisheries. The CCC's newly formed Climate Change Work Group could provide a productive forum for future collaboration on this topic. We look forward to continuing this discussion at our October CCC meeting.

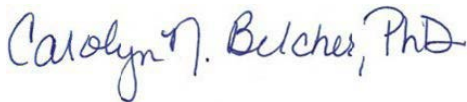
Sincerely,



P. Weston Townsend, Chair
Mid-Atlantic Fishery Management Council



Eric Reid, Chair
New England Fishery Management Council



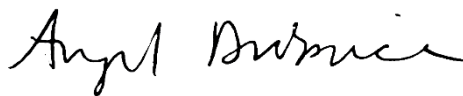
Dr. Carolyn Belcher, Chair
South Atlantic Fishery Management Council



Kevin Anson, Chair
Gulf of Mexico Fishery Management Council



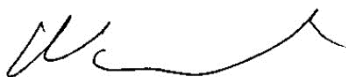
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