### New Council Member Training | October 2024 | Online

## **Council Process and Organization**

### **Learning Objectives**

 Describe the Council responsibilities under MSA

 Identify similarities and differences among Council processes

 Understand how your Council is organized to support FMP development



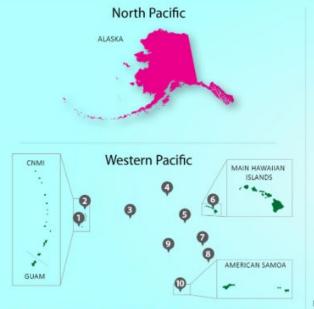
Magnuson-Stevens Fishery Conservation and Management Act



U.S. DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration National Marine Fisheries Service

### The Councils

Develop and amend fishery management plans for approval/implementation by the National Marine Fisheries Service (NMFS) on behalf of the Secretary of Commerce



Guam; 2. Commonwealth of the Northern Mariana Islands (CNMI);
 Wake Island; 4. Midway Atoll; 5. Johnston Island; 6. Hawaiian Islands;
 Palmyra Atoll and Kingman Reef; 8. Jarvis Island; 9. Baker and Howland Islands; 10. American Samoa.



· Florida has representatives on the South Atlantic and Gulf of Mexico Fishery Management Councils.

### The Councils | FMPs

### **Spiny Lobster**



### Example: SAFMC Plans

### Dolphin/Wahoo



### Golden Crab



### Shrimp



### Coastal Migratory Pelagics



#### Sargassum



#### Snapper/Grouper



## Coral



Habitat



#### **Ecosystem-Based**



## **US Fisheries Management**

- Inland Waters
  - Department of the Interior (US F&WS)
- State waters (up to 3 mi)
  - Fishery Commissions
  - State Natural Resource Agencies
- Marine Federal waters (>3mi200 mi)
  - Department of Commerce (NOAA Fisheries/Councils)



### **US Fisheries Aquaculture Management**

- Fisheries Aquaculture is managed by:
  - NOAA Fisheries
  - Environmental Protection Agency (EPA)
  - Food and Drug Administration (FDA)
  - U.S. Coast Guard (USCG)
  - Army Corps of Engineers (ACE)



## **Other Council Responsibilities**

- Prepare comments on applications for foreign fishing transmitted to it
- Conduct public hearings as appropriate
- Submit to Secretary requested reports or those deemed necessary by Council
- Revise specifications with respect to OY
- Develop research priorities w/ Council's SSC

### **Council Membership**

- Voting members
  - Federal designee- (NOAA Fisheries Regional Administrator)
  - State designees marine fishery management official
  - Appointed by Secretary of Commerce

- Non-voting members
  - USFWS Regional Director
  - USCG Regional Commander
  - Executive Director of Marine Fisheries Commissions
  - US Department of State representative

### Others at the Table



- Non-voting participants vary by Council
  - Other Council's Liaison
  - NOAA General Counsel
  - Fisheries Science Center
  - NOAA Law Enforcement
  - SSC Chair

## **Voting Members**

- NPFMC- 11 members
  - 4 officials
  - 7 appointed
- WPFMC-13 members
  - 5 officials
  - 8 appointed
- PFMC- 14 members
  - 5 officials
  - 9 appointed
- GMFMC-17 members
  - 6 officials
  - 11 appointed

- CFMC-7 members
  - 3 officials
  - 4 appointed
- SAFMC- 13 members
  - 5 officials
  - 8 appointed
- MAFMC-21 members
  - 8 officials
  - 13 appointed
- NEFMC- 18 members
  - 6 officials
  - 12 appointed

## Conduits for Public Input

- Fishing Community (fishermen, processors, group reps.)
- State Fisheries Officials (represent stakeholder interests in states)
- Others (scientists, ENGOs, public/seafood consumers)









### **Council Structure | Members**



- Council Members
  - Chair/Vice-Chair
  - Executive committee
  - Committee Structure (Species, FMP, Topic, etc.)

### Council Structure | Staff and Other Groups

- Council Staff
  - Executive Director
  - Technical staff
  - Administrative staff
  - Plan Development, Action, and Monitoring Teams

- Advisory Groups
  - Advisory Panels
  - Scientific and Statistical Committee
  - Other groups?

### Council Structure | Plan Teams

- Comprised of Council Staff, NOAA Fisheries Staff, sometimes others
- Different names: Plan Development Teams, Fishery
  Management Action Teams, Monitoring Teams
- Folks doing lots of technical work and writingdescribed in regional operating agreements



## Scientific and Statistical Committees

- Ongoing scientific advice,
- Acceptable biological catch (ABCs),
- Preventing overfishing,
- Maximum sustainable yield (MSY),
- Rebuilding, socioeconomic., etc.
- For stock assessments, regions have other peer review process:
  - SAW/SARC
  - SEDAR
  - STAR

### **Council Structure | Advisory Panels**





• Industry advisory panel

Organized very differently across Council's

 Means to facilitate stakeholder input into FMPs and other actions



## Public Meetings | Public Process

### Federal Advisory Committee Act (FACA)

 Councils, their Committees and Advisors are exempt from FACA

- The FACA applies whenever an agency:
  - seeks consensus advice,
  - from a group that includes at least one person who is not a regular Federal employee, and,
  - obtains input for its own operations or activities.

Council Structure Handouts: Created in 2014

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## Development of Fishery Management Plans (FMPs)

### Learning Objectives

- Understand the provisions required in FMPs, and what is discretionary
- Describe tools used by the Council and NOAA Fisheries to make changes to management measures
- Explain how the Councils and NOAA
   Fisheries cooperate to support staff work and develop actions
- Identify other useful planning and process tools

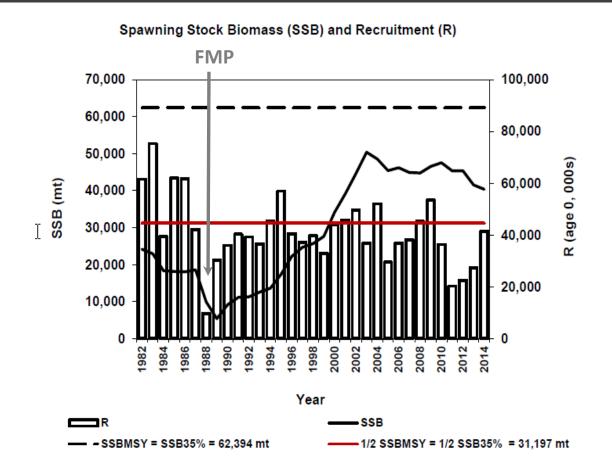


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### Why Develop an FMP?



### **FMP-based Council Products**

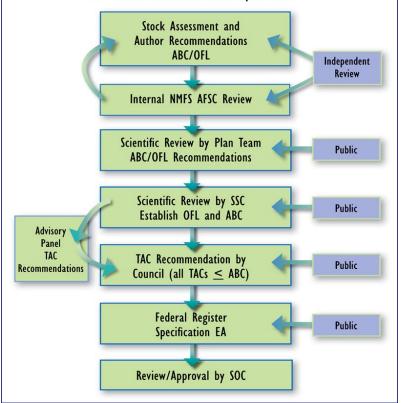
• FMP and Amendments to the FMP new or novel measures proposed for a fishery

 Frameworks to the FMP- already contemplated in the FMP (not novel); tweak to existing measures.

 Specifications (aka "specs.") sets/adjusts existing fishing measures for the upcoming fishing year(s)

### Specifications

Scientific Review Process for North Pacific Stock Assessments and Catch Specifications





## Provisions in FMPs | Required

- 1. Prevent overfishing; rebuild; protect, restore, promote long-term health and stability.
- 2. Description of the fishery.
- 3. Specify maximum sustainable yield (MSY) and optimum yield (OY).
- 4. Specify capacity to harvest and process OY.
- 5. Specify the data to be submitted to the Secretary.
- 6. Temporary adjustments to address unsafe ocean conditions.
- 7. Essential Fish Habitat: identify; minimize impacts from fishing.
- 8. Specify scientific data needed to implement plan.
- 9. Fishery impact statement.
- 10 Objective and measurable criteria.
- 11. Bycatch: Standardized reporting methodology & measures to minimize.
- 12 Assess number, types, & mortality of fish caught and released recreationally; minimize mortality.
- 13 Describe sectors (commercial, recreational, & charter); quantify landings trends by sector.
- 14 Allocate restrictions/benefits fairly & equitably.
- 15. Establish a mechanism for setting ACLs & AMs

## **Provisions in FMPs | Required**

(1) Prevent overfishing; rebuild;protect, restore, promotelong-term health and stability.(10) Overfishing Definitions

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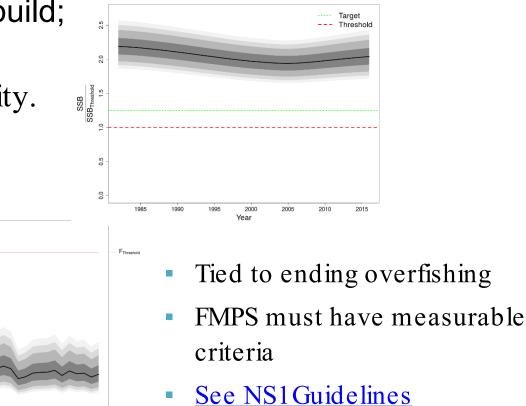
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1985

Year

F F<sub>Threshold</sub> 0.6



2015

## (7) Essential Fish Habitat

- Identify and describe
- Minimize adverse impacts
- Fishing and non-fishing impacts
- EFH Consultations



### **Provisions in FMPs | Required**

(11) Reporting methodology and measures to minimize

Bycatch is "fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic and regulatory discards," but not marine mammals, seabirds, or fish released alive under a recreational catch-and-release fishery management program"



# Case law: Required components must be explicitly written into the FMP.

### Provisions in FMPs | Discretionary

- 1. Require permits and fees.
- 2. Designate zones and times where fishing restrictions apply.
- 3. Establish restrictions on catch, sale, and transshipment.
- 4. Include gear requirements.
- 5. Incorporate state measures.
- 6. Establish a limited access system.
- 7. Require processors to submit data.
- 8. Require observer coverage.
- 9. Assess and specify the effect of the FMP on anadromous fish.
- 10 Include harvest incentives for reduced bycatch.
- 11. Reserve a portion of the allowable biological catch for use in research.
- 12 Conserve target and non-target species habitat.
- 13 Prescribe other measures, requirements, or conditions and restrictions necessary and appropriate for the conservation and management of the fishery.

Again, MSA and National Standards Guidelines, are online and searchable

https://www.fisheries.noaa.gov/topic/ laws-policies#magnuson-stevens-act

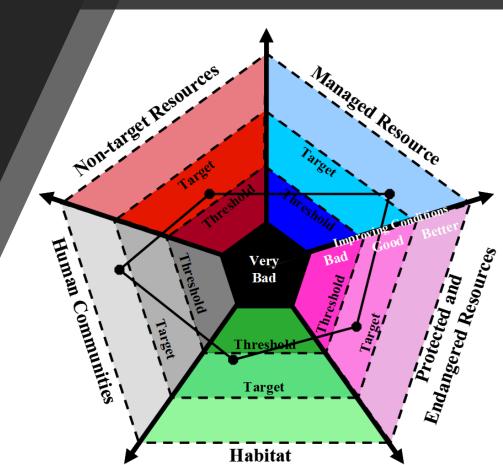


### **Broad Steps to Develop Action**

- Identify Issue(s) and type of action
- Develop options for solutions
- Analyze them/get public input
- Council considers and recommends action
- Submitted to NMFS to implement and enforce

Environmental Impacts Decision Document evaluate tradeoffs in Valued Ecosystem Components:

- Inform Council
- NOAA Fisheries
   Regional Administrator
- Public



### Level of Document Analysis

- 3 levels of analysis under NEPA:
  - Categorical Exclusion (CE-) administrative types of actions; no environmental impacts
  - Environmental Assessment impacts to VECS expected/analyzed, but not significant
  - Environmental Impacts Statement significant impacts expected/analyzed
- Supplemental Information Report (SIR) relatively new approach that points back to previous analysis (EA, EIS)

### And there are Other Applicable Laws (OALs)

ESA	"No jeopardy" record-based determination Timing: consultation = 135 days			
RFA	Consider Economic Impacts and alternatives Certification: record-based determination			
EO 12866	Alternatives, Cost-benefit analysis			
APA	Record shows compliance with all law; Notice and Comment; 30-day delay			
Others	CZMA, MMPA, PRA, treaty rights, etc.			



- Biological data
- Fishery dependent data
- Economic

## Collect Data to Support Analysis

Social



## **Example | Amendment Development**

### **Amendment Development Process**

• Secretarial Review of FMPs subject to strict timelines

• 95 days for FMPs and Amendments



• 3 outcomes: approve, disapprove, partially approve

 Criteria for approval: Consistency with the law, National Standards, FMP Components, OALs

### **Example** | Amendment Development

Council; NEFSC: Northeast Fisheries Science Center; NMFS: National Marine Fisheries Service; NOA: Notice of Availability; SSC: Science and Statistical Committee

### MAFMC Example: As pdfs in materials

#### **MAFMC FMP and Major FMP Amendment Timeline** Typical Framework Action Timeline<sup>1</sup> FMAT Creation (1-2 months) Council staff sends letters to NOAA Fisheries FMAT Creation (1-2 months) A (NEFSC, GARFO) and other agencies as needed a. FMATs are created as needed for more complex A (ASMEC and NMES HO) Scoping Document (1.5-3 months) or joint framework actions · Experts are assigned to FMAT by agencies b. Council staff sends letters to NOAA Fisheries в · Council staff draft document and (NEFSC, GARFO) and other agencies as needed conduct review with FMAT (ASMFC and NMFS HQ) Scoping Hearings (1-2 months) c. Experts are assigned to FMAT by agencies · Council staff conducts hearings C PUBLIC INPUT General public provides input Impact Analysis and Alternatives Scoping Hearing Summary (1 month) on scope of proposed action B (6-18 months) D · Council staff summarize public input a. Council staff and/or the FMAT draft action **\* COUNCIL MEETING** objectives **Establish Scope of Action** b. Develop preliminary analysis to inform Council **\*COUNCIL MEETING** (1-3 months) E consideration of alternatives COUNCL FEEDMACK . Council establishes scope of topics Framework Meeting 1 Impact Analysis and Alternatives for action a. Council adopts range of alternatives C F (6-18 months) PUBLICINPU COUNCIL FEEDBACK for further analysis · Council, AP, FMAT, and SSC, Species, INTERNAL DEVELOPMENT DEIS Review (1-2 months) or Functional Committees PUBLIC INPUT GAREO and NEESC conduct. G NMFS (DEIS review & preliminary approval) INTERNAL review of DEIS Refine alternatives and analyze DEVELOPMENT DEIS Editing (1-2 months) D impacts (2-8 months) Ĥ · Council and NMFS staff **\* COUNCIL MEETING** a. Council staff and/or the FMAT refines INTERNAL edit DEIS DEVELOPHEN alternatives as needed based on Council **DEIS and Alternatives** feedback: conducts impacts analysis Approval (1-2 months) **\*COUNCIL MEETING** b. Input sought from AP and/or species or COUNCIL FEEDBACK · Council selects preferred alternatives functional committees as needed Framework Meeting 2<sup>2</sup> and DEIS for public hearings Finalize DEIS and Public Hearing c. Development of draft framework decision a. Council votes to submit recommendation document (often a draft EA) Document (2-3 months) E PUBLIC INPUT **J** to NMFS (Final Action) COUNCIL FEEDBACK · Council staff and FMAT creates public hearing :41 Public Hearing document and DEIS Council staff submits DEIS to NMFS and Comments (3 months) ĸ PUBLIC INPUT PUBLIC INPU NOA and notice of public ľ Public Hearing Summary (1 month) EA submission, review, and edits hearings published Ľ INTERNAL · Council staff conducts hearings · Council staff summarize public input F (2-8 months) DEVELOPHE a. Council staff finalizes EA for submission Comment Review and b. NMES review of EA DEIS Amendments (3-6 months) Council staff revise and submit final FA to NMES (M) **\* COUNCIL MEETING** Review public input and comments · Potentially revise Alternatives and DEIS **Final Action** Rulemaking (4-7 months) COUNCIL FEEDBACH N · Council votes to submit a. NMFS conducts rulemaking process, G DUBLIC MART recommendations to NMES including public comment on regulations **DEIS Final Review and Edits** PUBLICINPUT b. Implement regulations ACRONYMS - AP: Advisory Panel; ASMFC: Atlantic States Marine Fisheries (2-4 months) 0 Commission: EA: Environmental Assessment: FMAT: Fishery Management Action earn; GARFO: Greater Atlantic Regional Fisheries Office; MAFMC/Council: Mid INTERNA · Council and NMFS staff perfects DEIS Atlantic Fishery Management Council: NEESC: Northeast Fisheries Science Center: DEVELOPMENT Rulemaking (4-7 months) MFS: National Marine Fisheries Servi Submit final EIS to NMFS P · NMFS conducts rulemaking process, ACRONYMS - AP: Advisory Panel; ASMFC: Atlantic States Marine Fisheries Commis including public comment on regulations DEIS: Draft Environmental Impact Statement; EIS: Environmental Impact Statement; FMAT: Fishery Management Action Team; FMP: Fishery Management Plan; GARFO: Greater Atlantic Regional Fisheries Office; MAFMC/Council: Mid-Atlantic Fishery Management Implement regulations

<sup>1</sup>Typically a Council framework action does not include public hearings or a comment period. The Council may hold public hearings or a comment period per the ASMFC process if the framework action is part of a joint MAFMC-ASMFC action.

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\* More complex frameworks may take more than 2 Council meetings to reach final action.

## Example | Timeline Analysis (Parnin Group, 2024 for MAFMC)

#### Table 4. MAFMC action timeline analysis details (for 10 actions).

STAGE⁵	AMENDMENT MEDIAN TIME	AMENDMENT TIME RANGE	FRAMEWORK MEDIAN TIME	FRAMEWORK TIME RANGE
<ol> <li>Initial (Scoping, Alternative development)</li> </ol>	24 months	5-32 months	12 months	10-12 months
2. Engagement and Review	5 months	4-7 months	4 months	4 months
3. Council Transmittal	10 months	3-32 months	9 months	6-13 months
4. NOAA final rule development	3 months	2-5 months	2.5 months	1-4 months
5. Time from Council's final action to NOAA final rule	14 months	5-35 months	11.5 months	9-15 months
Total time taken	41.5 months	18-64 months	24.5 months	23-25 months

### **Amendment Development Process**

• Why so many steps?

• Creates an administrative record and record of decision

 If sued, federal agency decisions for new or revised rules, are generally reviewed usingonly the information contained in the administrative record as assembled by the decision-making agency

### **Other Useful Process Tools**

- Statement of Organization Practices and Procedures (SOPPs)
- Regional Operating Agreements and Operational Guidelines<sub>(see</sub>

https://www.fisheries.noaa.gov/national/partners/operational - guidelines

Council Strategic Planning Tools

More details: <u>http://www.fisheriesforum.org/our -work/forums/2018-forum/2018-forum-materials/</u>



## Questions?

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