



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



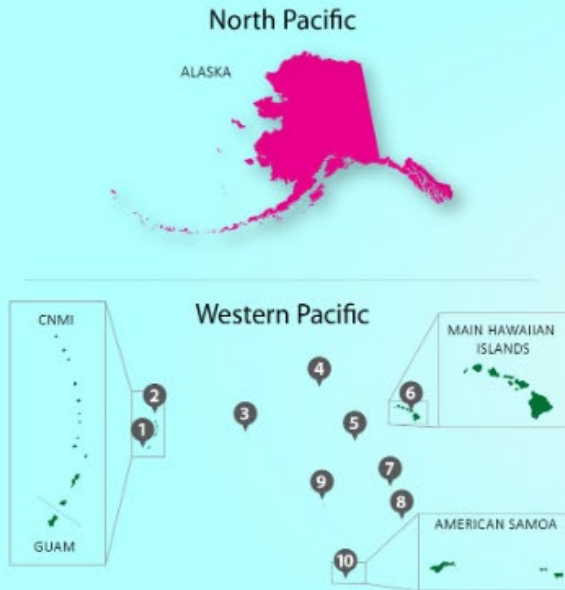
Magnuson-Stevens Fishery Conservation and Management Act



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



1. Guam; 2. Commonwealth of the Northern Mariana Islands (CNMI); 3. Wake Island; 4. Midway Atoll; 5. Johnston Island; 6. Hawaiian Islands; 7. Palmyra Atoll and Kingman Reef; 8. Jarvis Island; 9. Baker and Howland Islands; 10. American Samoa.



NOTES:

- **Washington** and **Oregon** have representatives on both the Pacific and North Pacific Fishery Management Councils.
- **North Carolina** has representatives on both the South Atlantic and Mid-Atlantic Councils. The jurisdictional boundaries for managed species are generally at the North Carolina/Virginia border, with a few exceptions.
- **Florida** has representatives on the South Atlantic and Gulf of Mexico Fishery Management Councils.

The Councils | **FMPs**

Spiny Lobster



Dolphin/Wahoo



Coastal Migratory Pelagics



Golden Crab



Sargassum



Coral



Shrimp



Snapper/Grouper



Habitat



Ecosystem-Based



Example: SAFMC Plans

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
- PFMFC– 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 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?

- 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 writing—described 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



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

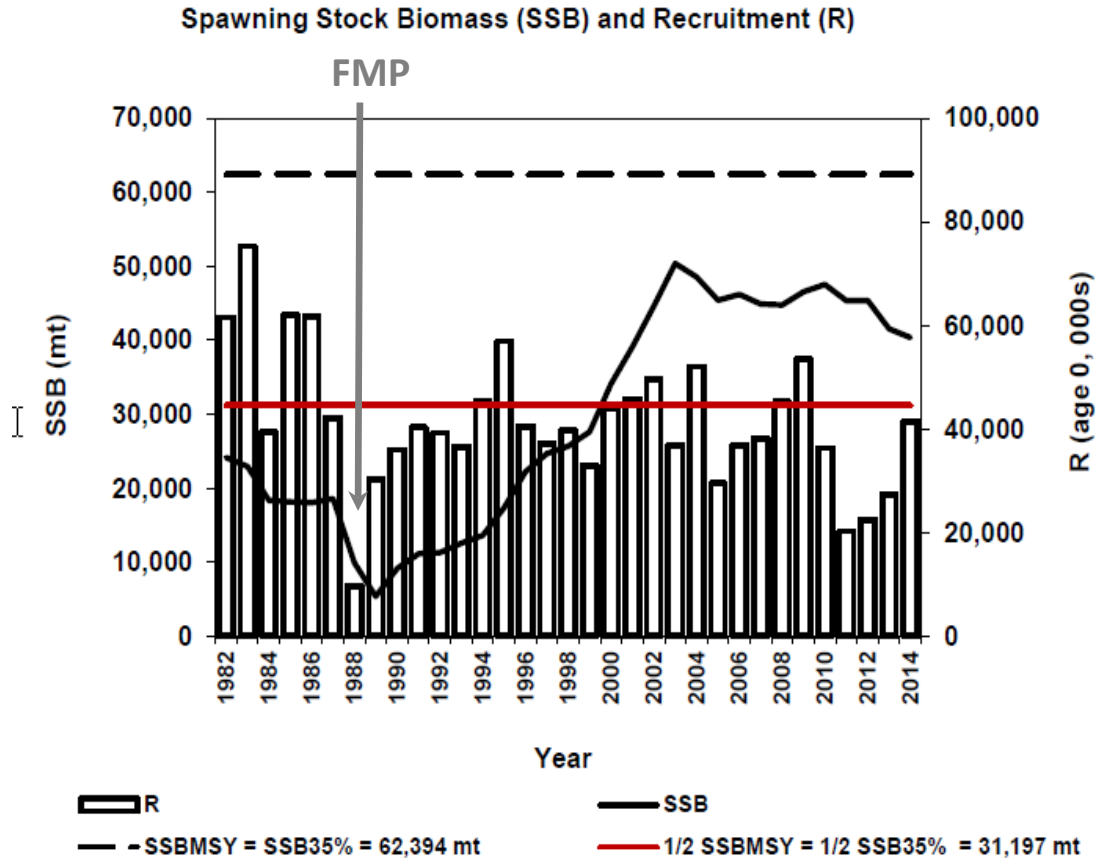


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Why Develop an FMP?

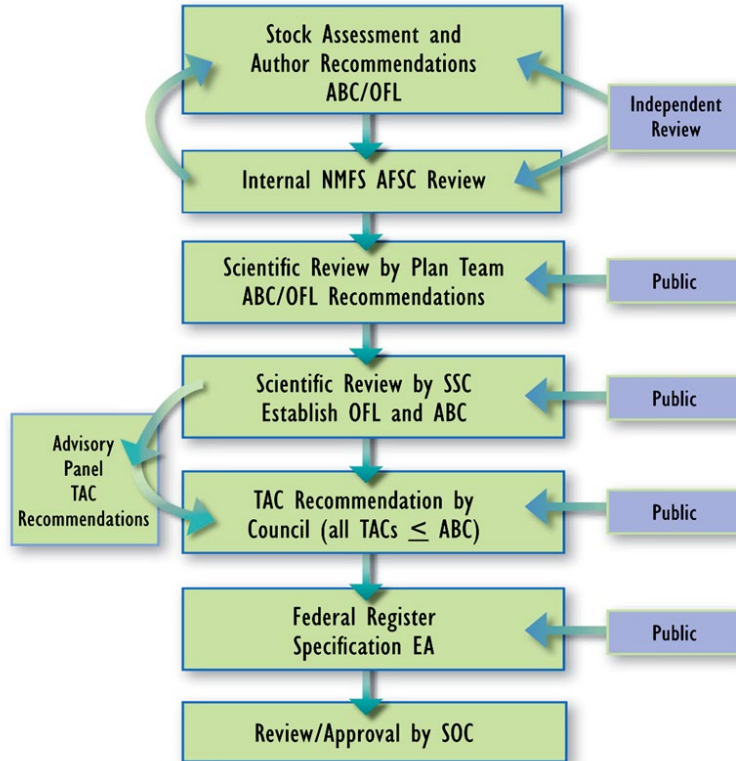


FMP-based Council Products

- 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



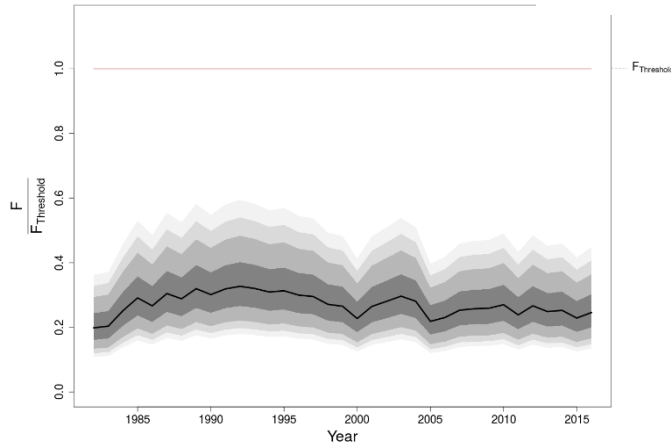
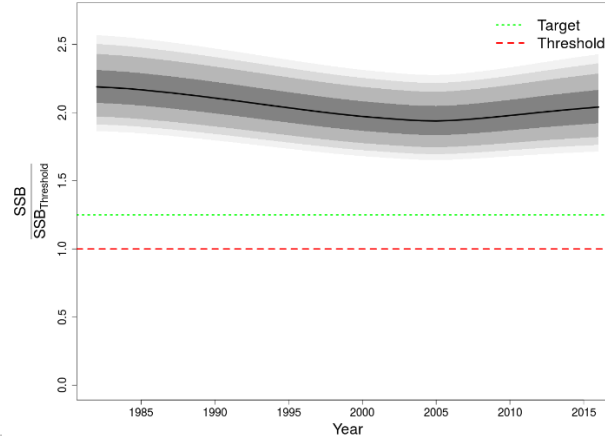
Provisions in FMPs | Required

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, promote long-term health and stability.

(10) Overfishing Definitions



- Tied to ending overfishing
- FMPS must have measurable criteria
- [See NS1 Guidelines](#)

(7) Essential Fish Habitat

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



<http://www.chesapeakebay.net>

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

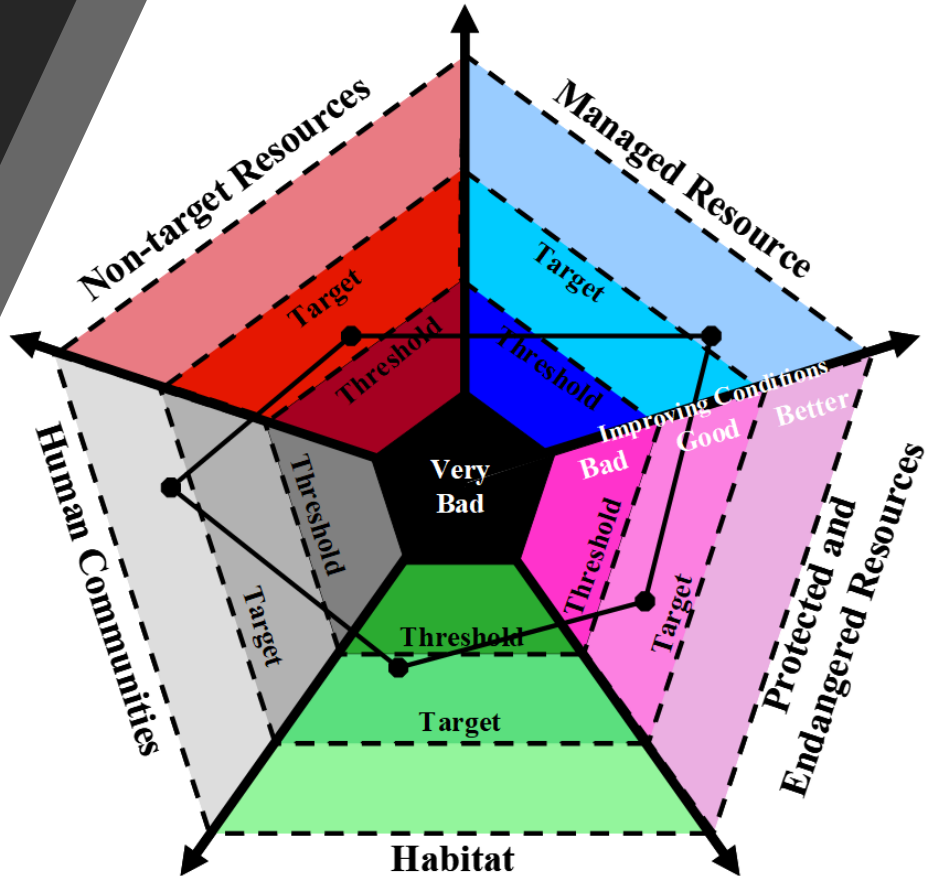


Broad Steps to Develop Action

- 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
- Social

**Collect Data to
Support Analysis**



Example | Amendment Development

Amendment Development Process

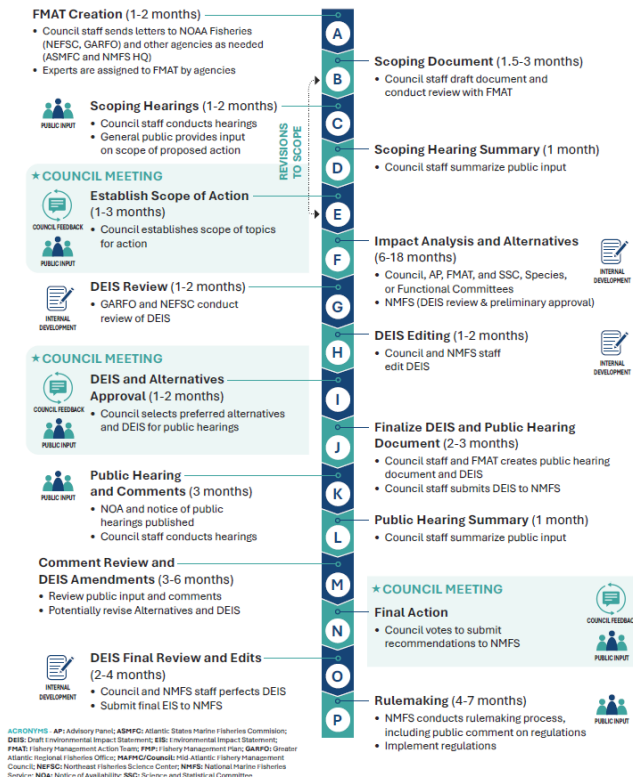
- Secretarial Review of FMPs subject to strict timelines
- 95 days for FMPs and Amendments
- 3 outcomes: approve, disapprove, partially approve
- Criteria for approval: Consistency with the law, National Standards, FMP Components, OALs



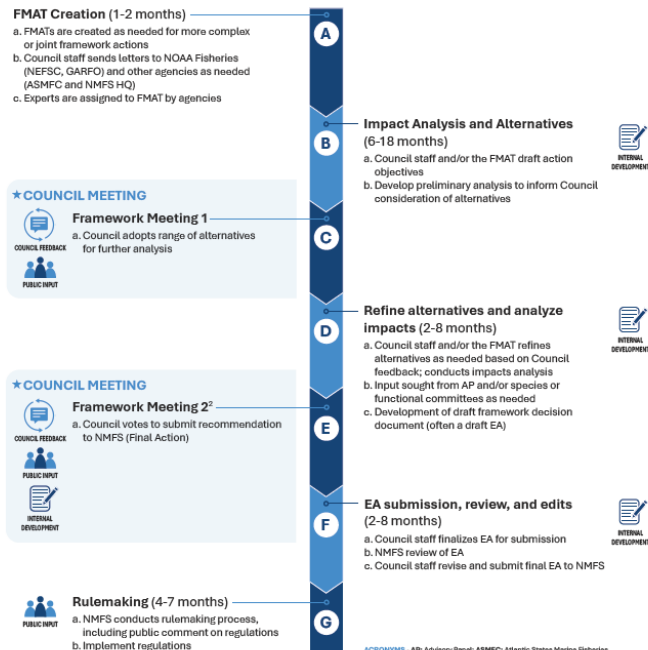
Example | Amendment Development

MAFMC Example: As pdfs in materials

MAFMC FMP and Major FMP Amendment Timeline



Typical Framework Action Timeline¹



¹Typically 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.

²More 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).

STAGE ⁵	AMENDMENT MEDIAN TIME	AMENDMENT TIME RANGE	FRAMEWORK MEDIAN TIME	FRAMEWORK TIME RANGE
1. Initial (Scoping, Alternative development)	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 using only 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(see <https://www.fisheries.noaa.gov/national/partners/operational-guidelines>)
- Council Strategic Planning Tools

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



Questions?

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