



OG/ROA
PFMC Presentation
May 2016

OPERATIONAL GUIDELINES AND REGIONAL OPERATING AGREEMENTS

Council Coordination Committee
St. Thomas, USVI
May 26, 2016



Operational Guidelines

- New Guidelines Released September 2015
- General in Nature Rather than Prescriptive
 - Goals and Objectives
 - Guiding Principles
 - Regional Operating Agreements
 - Appendices



Goals

- Promote and continually improve the quality of fishery management decisions and documentation
- Promote a timely, effective, and transparent public process for development and implementation of fishery management measures pursuant to the MSA.



Objectives

- Simplify and speed the flow of work
 - Promote efforts to streamline compliance with regulatory requirements, including working to ensure that relevant information and comment is provided early in the process and that unnecessary delays are eliminated.



Objectives

- Simplify and speed the flow of work
- Increase transparency
 - Promote transparency and effectiveness of the decision making process by clearly explaining the Council and regulatory process, promoting the public's accessibility to the process, fostering effective and constructive public input, and providing mechanisms for people to track the progress of different actions.



Objectives

- Simplify and speed the flow of work
- Increase transparency
- Achieve appropriate standardization
 - Apply standardized practices where appropriate, while still recognizing regional variability, including continuing to seek ways to standardize compliance with other applicable laws



Guiding Principles

- NMFS and the Councils are Partners
- Roles and Responsibilities
- Frontloading
- Fishery Management Decisions Must be Supported by the Record
- Coordination between NMFS Regions and Headquarters
- Clear and Concise Information and Analytical Products - **New**
- Promoting Meaningful Public Participation



Guiding Principles

- Roles and Responsibilities
 - NMFS and the Councils should describe specific roles and responsibilities through operating agreements
 - Each Council/Region pair may develop its own system for working cooperatively to achieve the fishery management mission
 - [and document such processes in a Regional Operating Agreement]
 - There may be variation in how tasks are assigned and completed for each pair.



Regional Operating Agreements

- Documentation of how the guiding principles are applied is specified in Regional Operating Agreements (ROAs) developed with each Council.
 - Except the principle on coordination between regions and HQ
- ROAs should maximize frontloading during each phase of the fishery management process.



ROA Scope and Use

- The ROAs are “living documents” that describe
 - Planning tools
 - Processes
 - Products
 - Roles and responsibilities
- Not intended to limit devising alternative processes on an ad hoc basis
- Signed by the Councils and the NMFS Regional Offices.
 - Individual ROAs may include other agency signatories



ROA Updates

- Within 1 year of the effective date September 30, 2015, each Council/Region pair must review its ROA to ensure that it addresses the guiding principles.
- ROAs should be reviewed at least every 3-5 years thereafter.
- ROAs should be available to Council members, staff, and the public.
- The ROAs should be updated, as necessary and by approval of all signed parties to the ROA
 - Necessities include improved best practices, changing management needs and conditions, or new statutory requirements.



Appendix 2 - ROA Recommended Content

- General Overview/Background
- Roles and Responsibilities
- Description of Action Plans or Phases for FMP and Rule Development



Fishery Management Process Phases

- Scoping
 - Identify Issues
 - Assignments to Project Team (IPT, FMAT, or similar)
- Document Development
 - Draft EIS/EA, analytical documents, etc.
- Public Review and Council Action to Recommend a Measure
- Post Council Action to Recommend a Measure
 - Preparation for Transmittal - tying up loose ends like Other Applicable Laws
 - Secretarial Review and Implementation
- Ongoing Management
 - additional regulatory activity, monitoring, need identification, and response - feeds back into phase 1



Other Applicable Laws

- Compliance with OALs most effective if NMFS and the Councils coordinate closely.
 - The ROAs should explain how these relationships work for each Council/Region pair.
- **Appendix 2 has good Summaries:**
 - Description of Key Laws and Executive Orders
 - Description of Rulemaking Authorities and Processes
- OAL compliance necessary for transmittal and Secretarial review



Administrative Record - Appendix 3

- Agency Requirements for litigation
- Rationally explain the agency's [and Council's] decisions.
- Contain documents necessary to show a complete history of the decision making process.
- Include relevant information and data to support/oppose the decision.
- Explain how differing points of view were considered why the Council/Agency chose their preferred course of action.
- Demonstrate that substantive and procedural requirements of the MSA, OAL, and EO were followed.



Administrative Record Efficiencies

- Suggestions and Examples
 - Document Templates
 - Frameworking
 - Consolidated FMPs
 - NEPA
 - Programmatic
 - Tiering

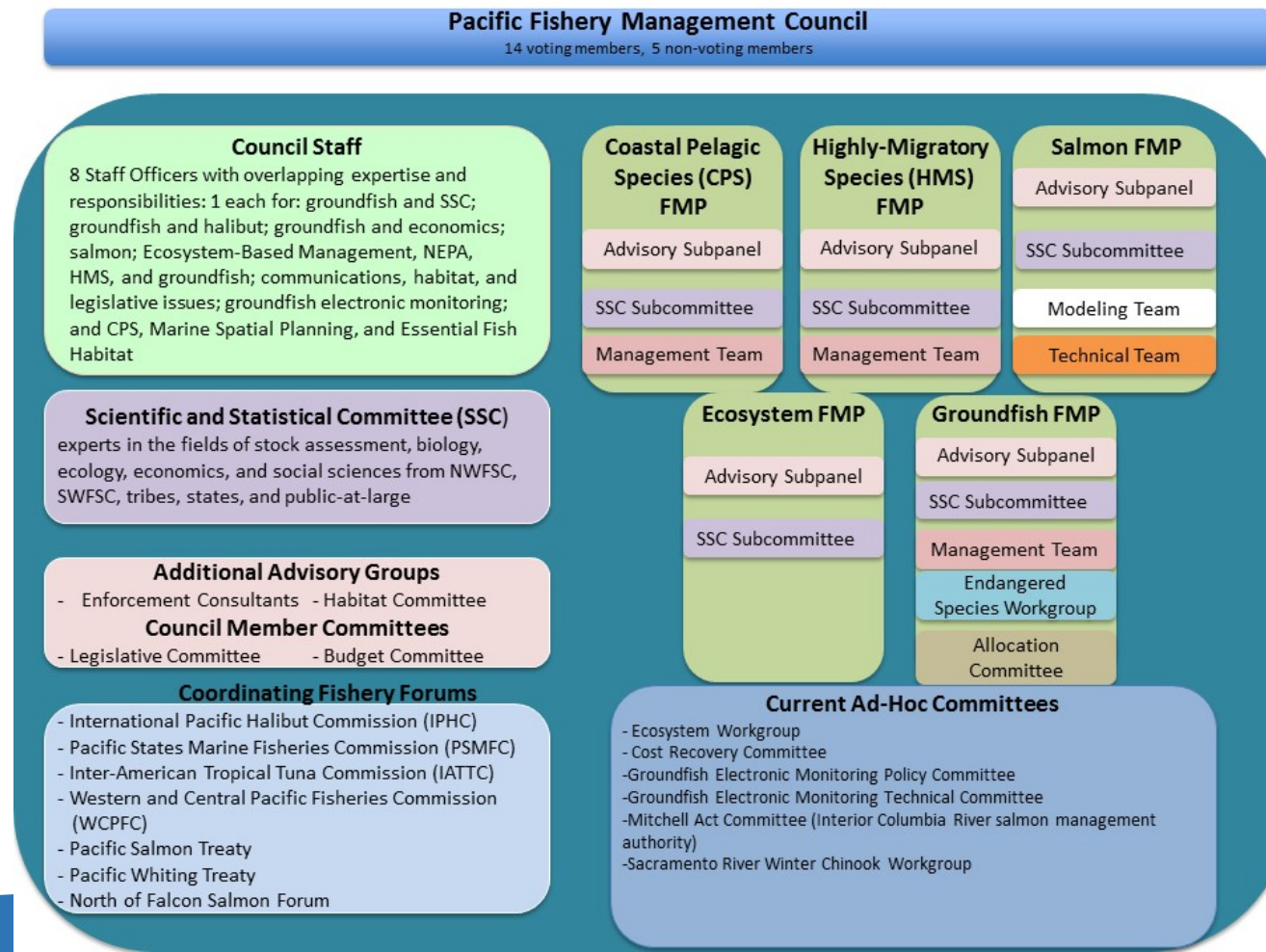
Other Content - Appendix 4

- Process
- Products
- Roles and Responsibilities
 - Council Staff
 - Coordinate and Review work of IPT
 - Ensure review by Council staff in key responsibilities
 - Ensure final document reflects Council discussion, administrative record, addresses public comments

Document	Description	Lead Drafter	Reviewers/Contributors
Preliminary-Final FMP/Amendment and Analysis	Preliminary Final FMP Amendment with required analyses (e.g., NEPA, MSA, RFA/EO 12866, etc.)	IPT	Council Staff SERO SEFSC GCSE
ESA Consultation Document (Optional)	Final Biological Assessment	IPT	SERO SEFSC
EFH Consultation Document (Optional)	Memo from the HC ARA to the SF ARA confirming preliminary assessment and response to Council action on EFH conservation recommendations (if appropriate)	SERO	SERO SEFSC GCSE

Other Content - Appendix 4

- Diagrams Showing Council, Staff, and Advisory Body Structure





Other Content - Appendix 4

- Links to ROAs, other relevant resources
 - [Regional Operating Agreements](#)
 - Comparative Matrix of Council Processes
 - ESA Memoranda of Understanding
 - [NEPA Policy Directive](#)
 - Regional Fishery Management Council SOPP
 - [Regional Fishery Management Council Websites](#)
 - Tracking Actions through the Process
 - Transmittal Policy Directive
 - [Marine Mammal Take Reduction Program](#)



Summary

- Guidelines are general, not prescriptive (like 2005 draft)
- Primary requirements are:
 - Review existing ROA in 2016
 - Subsequent reviews every 3-5 years
- Regional flexibility
- Recommended contents of ROA
- References for OAL and EO
- Suggestions for efficiency in ROA and Administrative Record