



Development of Comments on NMFS Fisheries Climate Governance Policy

**Draft Guidance on Application of MSA
Section 304(f)**

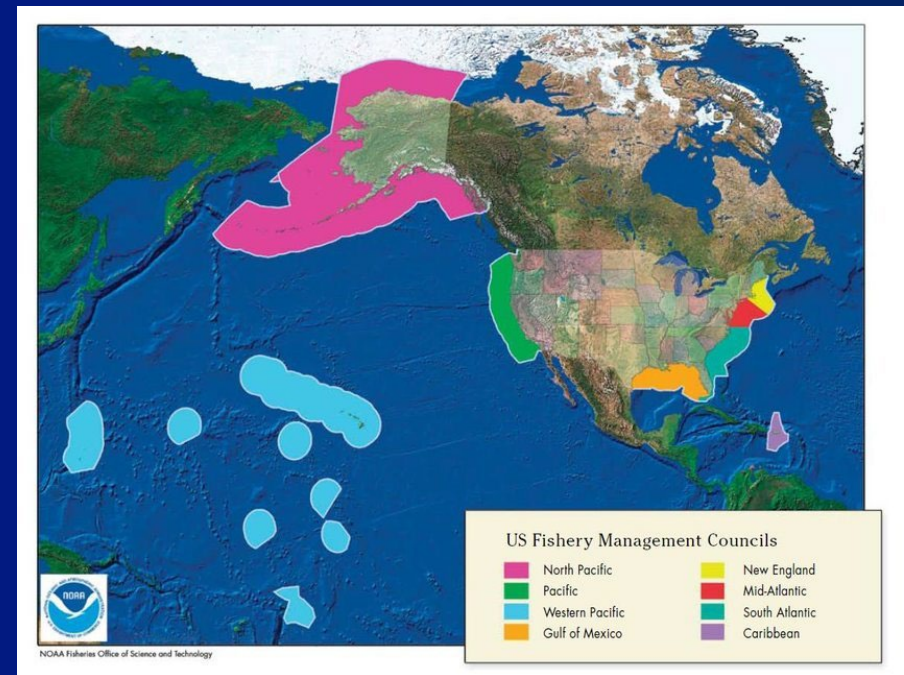
SSC

July 12, 2023

MSA §304(f)

For fisheries that extend beyond the “geographical area of authority of any one Council,”

- (1) the Secretary may —
 - (A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or
 - (B) may require that the plan and amendment be prepared jointly by the Councils concerned.



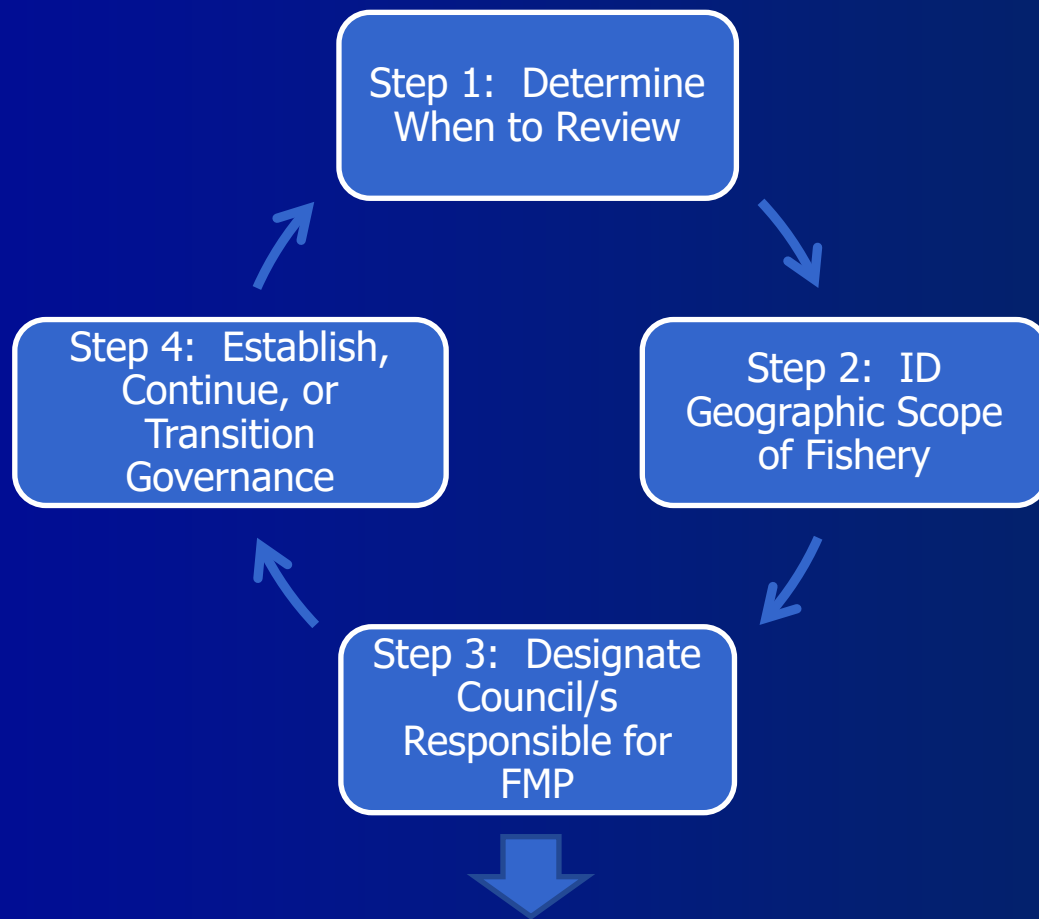
Purpose of NMFS Draft Guidance

- Anticipating “an increasing number of fish stocks shifting in geographic distribution, new fisheries emerging, and other demographic shifts in fisheries”
- Guidance on determining:
 - The geographic scope of fisheries
 - Which Council(s) will be responsible for new and/or existing FMPs for fisheries extending or moving beyond the geographical area of any one Council

Timeline for Development of Comments

May 15	NMFS distributes draft policy to Councils
May 23	Overview at CCC meeting; initial CCC comments
June 8	Brief discussion during Exec. Director's report at June Council meeting
July 12	SSC webinar meeting
August 9	Council reviews draft guidance, SSC, and staff comments; develops comments
Sept/Oct	Staff refine comment letter and submit
Oct 11-13	CCC meeting; development of joint Council comments
November 17	Deadline for submission of Council comments

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority



Designation 1 – 1 Council, 1 FMP

Designation 2 – Multiple Councils, 1 FMP

Designation 3 – Multiple Councils, Multiple FMPs

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 1: Consider Whether to Review Geographic Scope and/or Council Authority

- NMFS will conduct a review:
 - If specified criteria are met (see draft policy)
 - Indicators of “significant changes in the **location of stocks or fishing effort**” (e.g., >15% shift in landings revenue or rec. effort by region; documented shift in stock distribution)
 - Certain Council actions with “cross-jurisdictional implications” (e.g., allocation changes)
 - Upon request from a Council

Proposed Data Sources for Step 1 (Initial Review) and Step 2 (Determination of Geographic Scope)

- Stock Assessments.
- Fishery independent surveys.
- Fishery dependent data.
 - Landings.
 - Observer Information.
 - Logbooks.
 - Vessel Monitoring System (VMS) data.
- Recreational fisheries catch and effort estimates.
- NOAA's Distribution Mapping and Analysis Portal (DisMap)
- Traditional and Ecological Knowledge.
- Stakeholder-provided Information.
- Ecosystem Status Reports or similar products.

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 2: Determine the Geographic Scope of a Fishery

- Consider both:
 - Location of fish species, sub-species, and stocks
 - Location of fishing effort
- Using data sources on previous slide
- Additional considerations:
 - Management goals/objectives of existing FMPs
 - Need for conservation/management
 - Management efficiency
 - Biological considerations
 - Infrastructure (vessels, dealers, ports, etc.)
- Time: NMFS may give relevant Council(s) up to 6 months from notification to recommend geographic scope

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 2: Determine the Geographic Scope of a Fishery

■ Determination at conclusion of Step 2:

Outcome 1

- There is one fishery in one Council's area of authority. That Council is responsible for that fishery under MSA § 302(a).

Outcome 2

- There are separate fisheries in multiple Council areas of authority. Each Council is responsible for the fishery/ies under its area of authority under MSA § 302(a).

Outcome 3

- There is one fishery that extends into areas of authority for more than one Council. NOAA Fisheries may designate a Council or Councils to be responsible for developing the FMP. If this is the outcome, proceed to Step 3

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 3: Designation of a Council or Councils under 304(f)

Designation 1

- One Council, One FMP. The Secretary designates one Council to manage the fishery throughout its range.

Designation 2

- Multiple Councils, One FMP. The Secretary designates multiple Councils to jointly manage the fishery throughout its range within a single FMP. This may include designating one Council as the "lead."

Designation 3

- Multiple Councils, Multiple FMPs. The Secretary designates multiple Councils to manage the fishery via multiple FMPs.

Time: NMFS will consult with relevant Councils and provide 6 months to recommend a designation

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 3: Designation of a Council or Councils under 304(f)

General considerations (condensed):

- Geographic range of the fishery or management units
- Number and distribution of species, sub-species, and/or stocks
- Need for conservation and management
- Efficiency/responsiveness/adaptability of management
- Representation, access, and participation of stakeholders
- Location of fishing effort/activities
- Location of landings
- Location of current and potential future processing facilities
- Existing permits
- Community impacts
- Relationships with other managed species.
- Need for cross-jurisdictional coordination
- Objectives of existing FMPs, and effectiveness in achieving them
- Optimum yield, NS 3, and other National Standards
- Ability to maintain fishing mortality targets and limits across the fishery's range
- Cost
- Existence of data collection programs
- Comparative effectiveness of existing examples of single vs joint Council management in other fisheries
- International management considerations
- Other relevant factors

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 3: Designation of a Council or Councils under 304(f)

Presumptions pertaining to designations:

- If **more than 75% of a fishery's landings revenue accrues to, or recreational fishing effort occurs in**, another Council's jurisdiction, there is a presumption that NOAA Fisheries will assign/reassign management authority to the other Council;
- If **between 40% and 75% of a fishery's landings revenue accrues to, or recreational fishing effort occurs in**, another Council's jurisdiction, there is a presumption that NOAA Fisheries will either assign joint management authority to the two Councils or assign multiple Councils to develop multiple FMPs.
- [If data from **non-fishery dependent sources indicate [15 - 75 % distribution changes]**, then [NMFS is seeking input on how to establish a presumption here].

Proposed Process for Determining the Geographic Scope of a Fishery and Council Authority

Step 4: Transitioning to Revised Council Authority

- At least 2-year phase in period for transition of authority
- Existing FMP and regulations should remain in place under superseded by responsible Council(s)
- Important that fishery remains compliant with MSA
- Presumption that no modifications to allocations or permitting take place during transition phase
- Provide for adequate knowledge/staffing transfer
- Address data collection, storage, and access issues

Initial Staff Thoughts: General

- Organization of policy is confusing and difficult to follow
- Very prescriptive – policy should map out general principles; difficult to provide specifics that would be reasonable across all regions/species
- Treats reassignment of management authority as a first/only response to shifting distributions. Staff believes less disruptive options should be pursued first.

Initial Staff Thoughts: General

- Very limited distinction between new/emerging fisheries and fisheries under existing FMPs
- Lack of clarity about whether policy intended to apply to single species or FMP groups
- As written, could have major implications for MAFMC management authority and staff time/resources; could be disruptive to management process

Initial Staff Thoughts: Step 1

Step 1: Consider Whether to Review Geographic Scope and/or Council Authority

- Concern about frequent reviews/use of staff resources
- Reviews should occur only at request of a Council and when there is a clearly defined management problem
- Specific criteria:
 - Concerns with relying too heavily on revenue and recreational effort
 - Thresholds seem arbitrary; example time frames too focused on short-term changes
 - Lack of clarity in intent behind criteria: regional economic impacts? Location of species? Location of fishing effort? A combination?

Initial Staff Thoughts: Step 2

Step 2: Determine the Geographic Scope of a Fishery

- Determining “location of a fishery” mentions location of fish species and fishing effort, but not shoreside impacts/fishing communities
 - In contrast to focus on revenue elsewhere in the document
- Unclear how some of the “additional considerations” (e.g., management efficiency) are connected to determining the geographic scope of fishery

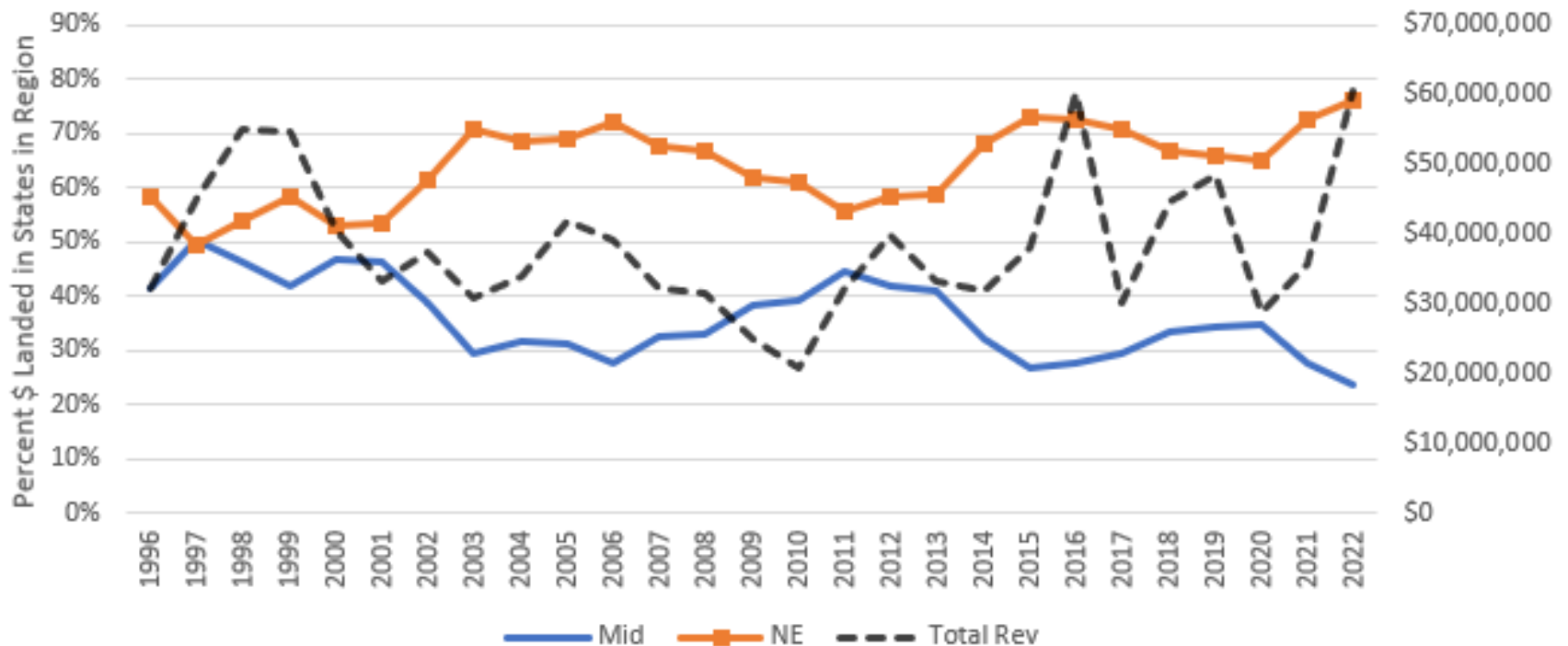
Initial Staff Thoughts: Step 3

Step 3: Designation of a Council or Councils under MSA 304(f)

- Lists many designation considerations, but “presumptions pertaining to designations” are based only on simple revenue changes or undefined distribution change metrics
- Revenue presumptions appear arbitrary and do not address complexity of underlying governance concerns

Initial Staff Thoughts: Step 3

Longfin Squid Regional Revenue Splits and Total Revenue (2022 dollars)



Initial Staff Thoughts: Step 4

Step 4: Transitioning to Revised Council Authority

- No mention of temporary joint management as a transition mechanism (ECSP summit recommendation)
- Transition (and development of transition plan) likely to be very time and resource intensive – for Councils, Regional Offices, Science Centers, SSCs, etc.
- Maintaining existing FMP/regulations through transition period may create difficulties in complying with MSA requirements

Terms of Reference

- 1) Comment on the overall proposed process to review the geographic scope and/or Council authority as described in the draft Fisheries Climate Governance Policy developed by the NMFS.
- 2) Provide feedback on the application and potential implications of the proposed review criteria, metrics, and data sources described in Section III, Step 1 (Review Considerations), Step 2 (Geographic Scope of Fishery), and Step 3 (Council Designation). For Steps 1 to 3 consider appropriateness of the criteria and metrics, their feasibility of application, and the ability of current data streams to support decision making. Propose alternative criteria, metrics, and data sources where appropriate.
- 3) Comment on any social and economic implications and considerations the draft policy could have on Mid-Atlantic fisheries and communities.
- 4) Comment on the potential science and stock assessment implications of this policy (including development and timing of scientific advice to inform the management process).
- 5) Provide guidance and/or recommendations for Council consideration and possible inclusion in the Council's comments on the draft policy.