



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
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Seattle, Washington 98115

On September 4, Ms. Heather Mann raised *via* e-mail a series of questions that NMFS believes captured the concerns of many about NMFS' approach and capabilities relative to electronic monitoring EFP and regulatory initiatives. NMFS appreciates the questions and the opportunity to provide its responses to the Council.

**How can the Council take final action on a package that is supposed to be informed by EFPs that haven't been implemented yet?**

*The Council has been weighing for some time the merits of both EFPs and a regulatory approach to electronic monitoring. NMFS has no issue with the notion that the Council may have been initially uncertain about whether sufficient information existed to pursue regulations, but that its confidence in the approach could grow over time to a point at which a regulatory approach was viewed as appropriate. At the same time (and without commenting on whether NMFS agrees), NMFS is comfortable with the potential that the Council could recommend regulations but also want to "test" its decisions against alternatives investigated in EFPs.*

**If final action is taken, where does the workload fall to complete the regulations? Is this with Council staff or NMFS staff or a combination of both?**

*NMFS anticipates its partnership with the Council will be fully utilized to complete the related tasks.*

**Will work on the regulatory EM package compete with the resources being used to implement the EFP?**

*NMFS is confident the Council, industry and the interested public is fully aware of the fact that its resources are finite. NMFS also acknowledges that frustrations are widespread about NMFS raising workload as an obstacle to desired outcomes. Within that context, NMFS has presented a workload plan that includes all workload through or in the "pipeline" which includes 15 rulemaking federal register publications that have occurred to-date in 2014, progress on at least 15 other actions heading toward rulemaking (See Agenda Item J.1.b (NMFS Report 1), four EM EFPs by 2015, one (and perhaps two) EM regulatory packages by 2016, and the pursuit of two important items within the "omnibus." NMFS welcomes a robust discussion with the Council on whether this workload plan should be adjusted, but assumes the Council appreciates that insertion of a different priority into the workload plan will come at the expense of one currently included.*



**Does the regulatory track then displace the EFP track? And if yes, can the regs be in place for the start of the 2015 whiting season?**

*As mentioned above, the workload plan currently includes both EFPs in 2015 and regulations in 2016. While abandoning one or more of the EFPs would free up some resources within the workload plan, NMFS does not believe at this point that additional resources could advance regulations to 2015. NMFS believes that the resolution of policy, financial and operational issues together with required timeframes within the regulatory process makes 2016 the appropriate target date for regulations.*

**If the regs don't supersede the EFP process will the Sept. PFMC meeting final action need to be revisited again in two years after the EFPs have been in place after new information becomes available? Is making the effort now and following the Council meeting on the regulatory side a waste of time, money and resources?**

*The short answer is "perhaps." The Council may or may not decide to adjust the regulations based on what is learned from EFPs. NMFS would point out, however, that this is always the case with EFPs, regardless of whether the underlying regulation is new or old. The fact that these EFPs relate to a potential and new regulation does not trouble NMFS.*

**Could these resources be better spent working on trawl trailing amendments that are desperately needed?**

*As mentioned above, NMFS has outlined its workload plan that includes EFPs, regulations and several items within the so-called "omnibus" and NMFS welcomes a robust discussion with the Council about whether adjustments within the resources available are appropriate.*

**Who is paying for all of this? And where is the money coming from - is this cost recovery dollars or new money or reprogrammed money? What is the industry's responsibility?**

*NMFS has had internal discussions about costs and sources of funds – none of which sheds much light on answers in the coming fiscal year. It is likely that NMFS will begin the fiscal year on a "continuing resolution" and be uncertain of its appropriations for some time. That likelihood is the primary obstacle to clarity on the federal government's role in funding related activities.*

*NMFS recently has convened a national, internal workgroup to vet questions of national consistency related to electronic monitoring, including questions related to funding and confidentiality of data. Steve Freese of the West Coast Region participates in this new group.*

## Illustrative Schedules Draft 9/14

### EFPS

	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15
<b>NEPA</b>	Review Docs	Scoping	Analysis		ROD FONSI											
<b>Halibut</b>	IPHC Consult	IPHC Review	IPHC Industry PSMC Discussions		IPHC Letter											
<b>Performance Standards</b>		NMFS Develop	IPHC Industry PSMC OLE Discussions													
<b>IFQ/MSCV Accounting</b>		Concepts for PRA	NMFS OLE PSMFC IND Discussions		Computer Program Database			Beta Test								
<b>PRA</b>	PRA Consult	Submit Package	FR Notice	Public Comment		OMB Clearance										
<b>NMFS Approval</b>				<b>Final Decision FR Notice*</b>		<b>Draft Terms &amp; Conditions Consult w IND</b>		<b>Issue EFPS</b>								

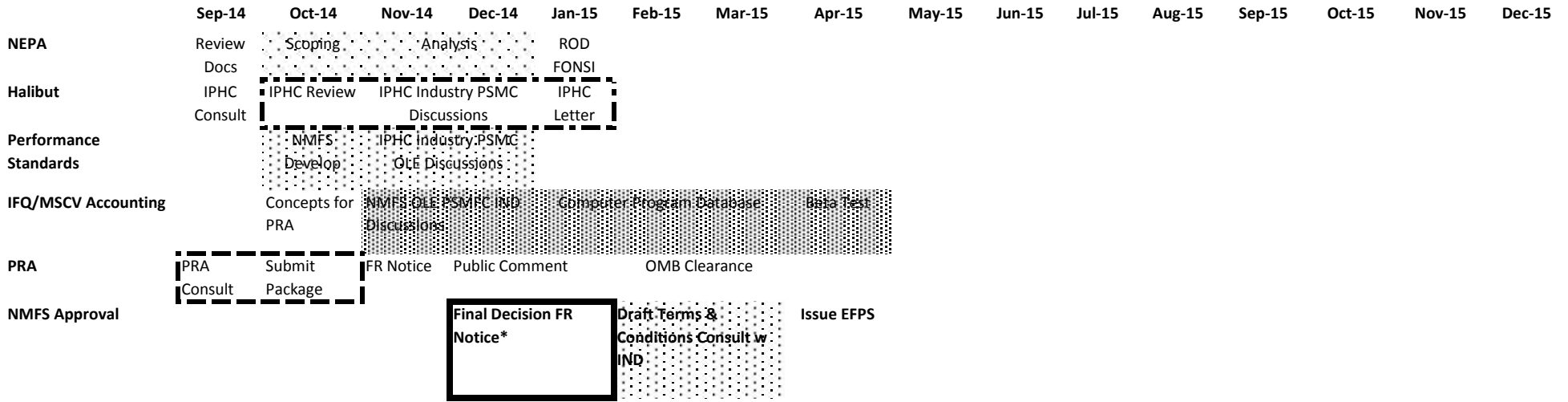
### Regulations

<b>Council</b>	FPAs	Transmit to NMFS			Deeming											
<b>NEPA</b>		Scoping	Develop NEPA Document		NEPA Review							ROD FONSI				
<b>Halibut</b>		IPHC Consult	IPHC Review	IPHC Industry PSMC PFMC staff Discussions								IPHC Letter				
<b>Standards &amp; Admin Processes</b>			Scoping	Development-IND PSMFC OLE PFMC Staff											Admin Processes Initiated	
<b>PRA</b>						Develop Package	Submit Package									
<b>RIR/RFA</b>							Develop Analysis RIR IRFA					FRFA	Compliance Guides & Outreach			
<b>IFQ/MSCV Accounting</b>										Scope	Programming Database		Beta Testing			
<b>Rule Making</b>							<b>Draft*</b>	<b>Legal and HQs Review</b>	<b>Publish Proposed Rule</b>	<b>Public Comment</b>	<b>Respond to Comments</b>		<b>Legal and HQs Review</b>	<b>Publish Final Rule</b>	<b>Effective</b>	

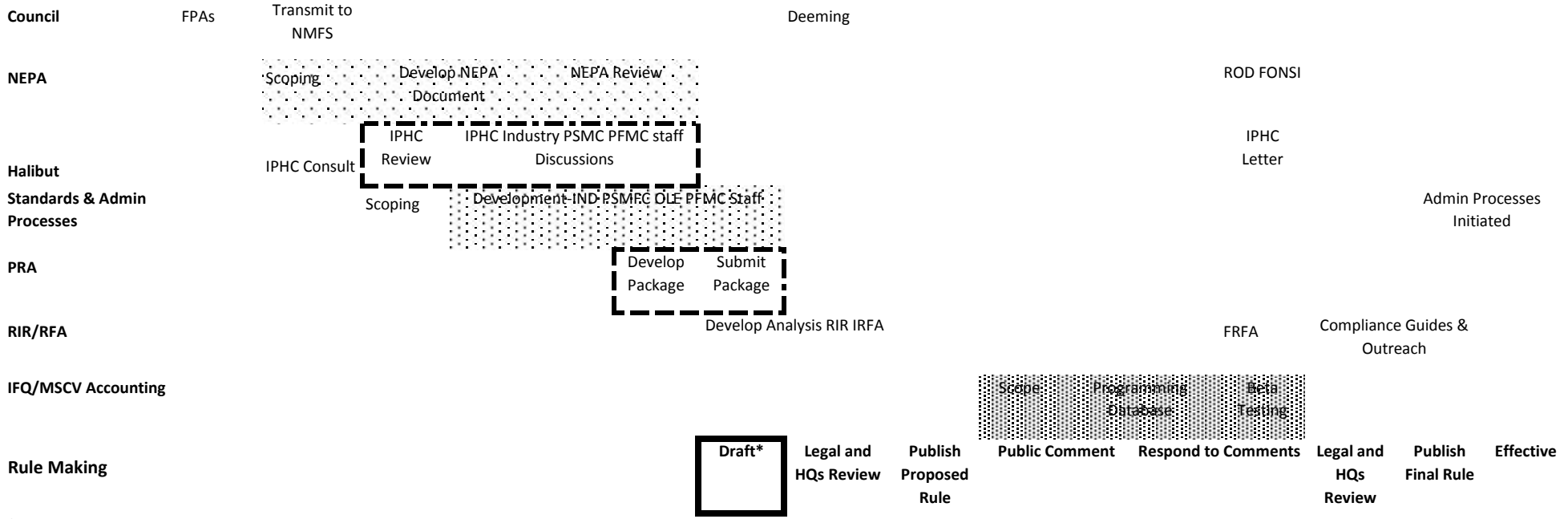
\* Includes addressing MSA, EFH, ESA, and MMPA

# Illustrative Schedules Draft 9/14

## EFPS



## Regulations



\* Includes addressing MSA, EFH, ESA, and MMPA

**Broad Project Tasks and Estimated Workload  
For the Addition<sup>1</sup> of Electronic Monitoring  
EFPs *and* Regulations<sup>2</sup>**

Tasks	<u>Rough</u> FTE Estimates
Regulation Development/Modification	1 @ NMFS
Regulatory Process Support (NEPA/Economics/Legal Review)	1 @ NMFS
EM Permit Qualification	.5 @ NMFS
Logistics Support-IVMP/issue reconciliation/travel	1 @ PSMFC
Logbook Program/compliance and data reconciliation	0.5 @ PSMFC
Programming support (logbook and vessel accounting)	1 @ PSMFC
Video Review <sup>3</sup>	2 @ PSMFC <sup>4</sup>
Data Analysis/Statistician	1 @ PSMFC
Data Management and Storage	0.5 @ PSMFC
Council Staff	1 @ PFMC
<b>Total FTE's</b>	<b>9.5</b>
<b>FTEs @ \$100,000</b>	<b>\$1,050,000</b>

<sup>1</sup> As currently envisioned, the EM program reduces slightly (de-briefers), but does not replace, existing data gathering and analysis infrastructure within NMFS. It largely is *in addition* to existing responsibilities.

<sup>2</sup> Does not include Science or Enforcement Costs.

<sup>3</sup> If video review was to be conducted by a third party, these 2 FTEs would be replaced by 0.5 FTE for a Video Auditor.

<sup>4</sup> There is uncertainty about whether two video reviewers are sufficient to provide catch data to the fleet within two weeks, the current objective.