

REGULATORY STREAMLINING BRIEFING

Since 2001 National Marine Fisheries Service (NMFS) has been developing new operational guidelines (OGs) for the development and implementation of fishery management actions. A completed draft of these OGs was released on August 26 under a cover memo from Assistant Administrator, Dr. Bill Hogarth, which asked councils to implement them on a test basis (Attachment 1). NMFS personnel have been invited to the November Council meeting to present a briefing and answer questions the Council may have on this matter.

Key features of the OGs include:

- The development of a regional operating agreement (ROA) between a NMFS regional office and the respective council intended to tailor the principles set forth in the OGs to the circumstances of a particular council/regional office.
- The identification of critical feedback points (CFPs) in the decision-making process, at which point the Regional Administrator would transmit an Advisory Statement to the Council determining whether process and documentation is sufficient to that point.
- The development of an Action Plan at the start of any fishery management decision-making process describing procedural and regulatory requirements, initial determination of the type of documentation, staffing requirements and obligations, and the timeline.
- The formation of a Fishery Management Action Team (FMAT) composed of NMFS and Council staff that will shepherd the action through the process in terms of development and review of the necessary documentation.
- A Regional Administrator Decision Memorandum at the end of the Council process, which certifies the adequacy of the analyses in support of Council decision-making and initiates Secretarial review.

The OGs lay out a general set of procedures, which are grouped in four phases encompassing up to 16 separate steps. The Council would be involved in the first three phases with up to nine steps. These procedures are intended to speed Secretarial review and approval, integrate regulatory mandates under the umbrella of the Magnuson-Stevens Act and the National Environmental Policy Act, and reduce litigation risk.

Assistant Administrator, Dr. Hogarth has asked, in the case of the Pacific Council, to develop an ROA with each of the corresponding NMFS regional offices and on a test basis to apply the OGs to new actions being developed. The Council may wish to discuss the OGs with NMFS, provide direction to Council staff on development of ROAs, and identify one or more future actions for which the OGs may be used on a test basis.

Council Task:

Discuss applicability of operational guidelines; initiation of Regional Operating Agreement(s); identify new action(s) for application of draft Operational Guidelines, if appropriate.

Reference Materials:

1. Agenda Item B.4.a, Attachment 1: Draft Operational Guidelines for Development and Implementation of Fishery Management Actions.

Agenda Order:

- a. Agenda Item Overview
- b. NMFS Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. Council Discussion

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