

NMFS Report: Progress report on project to clarify confidentiality of certain state and PacFIN data.

**Prepared by NMFS West Coast Regional Office
PFMC Meeting, March 9-14, 2018**

Introduction

As we described at the Council's November 2017 meeting, NMFS and NOAA General Counsel (GC) have received several requests to clarify the confidentiality of certain data that are submitted to the states or the Pacific States Marine Fisheries Commission (PSMFC) and, specifically, whether the confidentiality provisions under section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) apply to this data. The answer to this question would govern the procedures that NMFS, PacFIN, and the states, would use for the protection or release of that data in responding to data requests.

Progress Report

NMFS and NOAA GC evaluated the confidentiality provisions of the MSA and determined that at least a portion of the fishery data submitted to states or PSMFC would be subject to these confidentiality provisions. Whether or not specific data is subject to MSA confidentiality provisions may rely on whether or not the data is being used to meet a requirement of the MSA. NMFS and NOAA GC have begun meeting with each state, PSMFC, and the Northwest Indian Fisheries Commission, to better understand what fishery information is submitted to PacFIN and NMFS and for what purpose. We anticipate these discussions will help all parties identify what regulatory or policy changes are needed, if any, to how state and tribal data are shared and used on the west coast.

An updated schedule for this project is as follows.

1. Completion of NMFS and NOAA GC analysis (December 2017)
2. Discuss findings with PSMFC, the states, and tribes (February-March 2018)
3. Update the Council on findings (March and April 2018 Council meetings)
4. Compile inventory of affected data (Spring 2018)
5. Determine whether changes to Federal regulations are needed based on the data affected (Spring 2018)
6. Complete Council action and rulemaking to make changes to Federal regulations, if needed
7. Develop joint, uniform procedures for protection and release of this data