

## EXISTING COUNCIL ACTIVITIES RESPONSIVE TO EEJ CONCERNS (DRAFT)

The Pacific Fishery Management Council (Council) asked its staff to develop a list of things the Council already does that relate to equity and environmental justice (EEJ) concerns. While the [National Marine Fisheries Service \(NMFS\) EEJ strategy \(draft\)](#) is not intended to be simply a rebranding of existing activities, an important starting point is an assessment of EEJ related activities that are already in place. From this starting point, their adequacy can be evaluated and opportunities for improvement identified.

Traditionally, environmental justice has been conceived as a concern related to the distribution of harmful impacts among different communities. However, the NMFS' definition (originally developed by the Environmental Protection Agency) includes the concept of "equal opportunity." NMFS interprets equal opportunity to include the distribution of benefits that result from policy actions. In general, EEJ considerations are focused on underserved communities. According to the NMFS draft, the EEJ strategy is intended to be incorporated into agency considerations affecting all stakeholders.

This description of the Council EEJ related activities is organized around the six short-term objectives NMFS included in its draft national strategy. The NMFS draft objectives are in service of its three long-term goals. The first goal deals with identifying underserved communities, ensuring they are treated equitably, and have an opportunity for meaningful involvement. The second pertains to equitable delivery of services. And the third relates to incorporating EEJ into the NMFS work related to its mandate and mission. The six short-term objectives cover: internal operations; mandate and mission related policies; research; outreach and engagement; distribution of benefits; and inclusive governance. In the following, for each of the objectives a bit more detail is provided about what NMFS includes under each topic and then a discussion is provided identifying Council activities that address EEJ considerations.

### **Internal Operations (Empowering Environment)**

The NMFS objective entitle "Empowering Environment" includes both ensuring that staff has the training, capacity, and resources needed to take EEJ considerations into account in executing their day-to-day operations and that the composition of the staff itself reflects the diversity of the communities that are served.

The [Council's October 13 letter](#) to NMFS on its draft strategy indicates that developing more capacity to address EEJ needs will require additional resources and training. New Council members receive training that now includes EEJ consideration. Thus far, such training has not been provided for Council staff or other members of the Council family. The Council Coordinating Committee (CCC) Equity and Environmental Justice Workgroup has been discussing the possibility of convening an EEJ workshop and one objective for such a workshop could be to provide training to staff and Council members.

With respect to ensuring that the Council staff reflects the diversity of the community served, the Council follows non-discriminatory hiring practices as specified in its personnel rules:

## **2.1 Equal Opportunity**

The Council is an Equal Opportunity Employer. Council staff positions are filled solely on the basis of merit, fitness for duty, competence, and qualifications. Employment actions are free from discrimination based on race, religion, color, national origin, sex, age, disability, reprisal, sexual orientation, status as a parent, or on any additional basis protected by applicable federal or state law.”

### **Incorporate EEJ in Mandated and Mission Related Policies**

The NMFS draft strategic plan noted that some laws do not provide much room for EEJ considerations (e.g., Endangered Species Act listings) while others rely heavily on social considerations (e.g., the assessment of impacts from changing climate). The NMFS draft policy suggests that, where the opportunities are present, policies be reviewed and revised or developed with awareness of EEJ considerations.

Council actions are strongly guided by the Magnusen-Stevens Act (MSA), which includes a number of policies relevant to EEJ considerations. Requirements and opportunities for considering EEJ factors that are provided in the MSA were recently documented in an EEJ Workgroup report to the CCC ([Equity and Environmental Justice in Fisheries Management, A Brief Overview, starting on page 7](#)). For examples, the MSA provides specific roles for tribal participants (Section 302(b)(5)(A)), requires the consideration of the importance of the resource to fishing communities (National Standard 8), and even includes economic and social factors among those that can be considered in the definition of a stock management unit (National Standard 3 Guidelines).

As specific examples of the application of the MSA requirements and guidance, Council policies often take into consideration community fishing dependence, resilience, and vulnerability (e.g., [groundfish rebuilding plans](#) and [the trawl catch share program review](#)); and the [Fishery Ecosystem Plan](#) vision for the California Current Ecosystem is

“...a thriving and resilient California Current Ecosystem that continues to provide benefits to current and future generations and supports livelihoods, fishing opportunities, and cultural practices that contribute to the wellbeing of fishing communities and the nation.”

### **Research and Monitoring**

The NMFS draft policy identifies several aspects of research and monitoring relevant to EEJ. First is the need for research dedicated to identifying and understanding underserved communities. Second is the prioritization of research addressing the concerns of underserved communities (e.g., including EEJ considerations where a choice might have to be made between monitoring and managing stocks or habitat important to small local fishers as compared to those important to larger more industrial fisheries). Third is the engagement of underserved communities in co-development and production of the needed research. And finally, is reduction of bias in social research.

The Council research and data needs currently identify the need for more information on crew members and individual participants (as compared to the development of information on vessels

and processing operations, i.e., a physical asset focus). This information might be useful in identification of underserved communities. Staff has tentatively asked advisory bodies to take into account EEJ considerations in the next update of the Council research and data needs.

### **Outreach and Engagement**

The draft EEJ strategic plan outreach and engagement objective emphasizes two-way information sharing, building relationships, and efforts that are “highly customized, consistent, long-term, and flexible.”

Much of the Council facilitated outreach and relationship building occurs at its meetings. At Council meetings, there are opportunities for members of the public to approach and dialogue with Council members and advisors (including panels, teams, workgroups, and committees) during breaks, at the receptions, and in the various committee meetings that occur in conjunction with the Council meetings. Advisory body meetings held outside of Council meeting times also provide opportunity for interacting with advisors. Field hearings provide further opportunities for informal interactions with Council members (who generally preside at the hearings) and other advisors that are often present. At the same time, for those new to the process, approaching Council and advisory body members may be somewhat intimidating. Online hearings may provide more convenient opportunity for some, but the communications are more one way in nature (hearing presentations and commenting in response to them) rather than interactive/dialogical. To varying degrees, Council and advisory body members also reach out and interact with constituents between Council meetings.

### **Distribution of Benefits**

The NMFS policy on distribution of benefits considers fishery allocations (direct and indirect) and also the distribution of such things as disaster assistance and grant opportunities for research, habitat restoration, etc. Benefits can also include accessible data tools that communities themselves might use in decision making.

The Council influences fishery allocations in a number of forms, including, for example, direct and indirect allocations to sectors and individual allocations in the form of permits. In making its recommendations, it is guided by provisions of the MSA, other applicable law, and court rulings, many of which require or allow for the consideration of EEJ. Council analytical documents take into account impacts to various communities, including tribal and coastal communities, as identifiable and relevant to a particular consideration. [Council Operating Procedure 27](#) provides triggers for the review of all direct allocations. These reviews are intended to provide an opportunity to revisit allocation policies—potentially including consideration of EEJ issues during those evaluations.

## Inclusive Governance

Inclusive governance relates to opportunities for broad and diverse participation, including through direct representation on committees and public comment. Engaging in co-operative management with underserved communities also addresses EEJ concerns.

In general, the Council's dedication to providing ensuring a professional and harassment free environment creates a more welcoming setting for engagement with people from diverse backgrounds and communities. At its March 2023 meeting, the Council tasked staff to work with interested Council members to summarize and expand upon the additional ideas brought forward to foster a healthy, productive, and professional environment at Council-related meetings.

Advisors—There are a number of advisory bodies that advise the Council. The solicitation for nominations to these advisory bodies states:

The Council is committed to the principle of diversity and is interested in receiving nominations from a broad spectrum of people. Eligibility or selection for these positions will not be based on race, color, national origin, handicap, age, religion, or sexual orientation.”

Open Process— The Council conducts an open process and abides by the Administrative Procedures Act in providing advance public notice of its meetings. The Regional Operating Agreement (ROA) between NMFS and the Pacific Council states that

The Pacific Council is responsible for conducting a properly noticed, open process in an accessible public forum that encourages public input throughout all developmental stages and at the time of final decision-making, in accordance with the Pacific Council's Statement of Organization, Practices, and Procedures (SOPP) and Council Operating Procedure (COP). This includes the preparation of advance briefing materials with notice of decision-making specifics scheduled for each Pacific Council meeting, together with informational material and public comment received in advance of publication deadlines.

Accessibility—

- 508 Compliant Website: The Council complies with the Rehabilitation Act requirement that Federal agencies make their electronic and information technology accessible to people with disabilities.
- For all meetings sign language interpretation or other auxiliary aids can be made available for those who request it at least 10 days in advance of the meeting.

Additional Outreach—Occasionally, the Council conducts more extensive outreach for particularly important policy decisions (e.g., trawl catch shares), including

- Bilingual fliers (English/Spanish)
- Solicitation of Sea Grant assistance in dispersing information widely in ports.