



UNITED STATES DEPARTMENT OF COMMERCE
Office of the Assistant Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

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SEP 25 2002

Mr. Rhey Solomon
NEPA Task Force
PO Box 221150
Salt Lake City, UT 84122

Dear Mr. Solomon;

Thank you for the opportunity to comment on the Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) Task Force's Federal Register notice, as published July 9, 2002. The National Oceanic and Atmospheric Administration (NOAA) submits both comments on the nature and scope of the Task Force activities and several case profiles. These profiles represent several National Marine Fisheries Service (NMFS) actions as case studies in NEPA implementation following the Task Force's study areas.

For reference, NOAA is comprised of five line offices; National Marine Fisheries Service (NMFS), National Ocean Service (NOS), National Weather Service, National Environmental Satellite, Data and Information Service, and NOAA Research. Of the five line offices, NMFS and NOS are responsible for the majority of NOAA's major federal actions involving NEPA review and documentation. NMFS' regulatory responsibilities are in association with rulemaking under the Magnuson-Stevens Fishery Conservation and Management Act; the Marine Mammal Protection Act; the Endangered Species Act; and the Atlantic Coastal Fisheries Management Act. The National Ocean Service has responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act; Oil Pollution Act; Coastal Zone Management Act; and the Marine Protection, Research and Sanctuaries Act. In addition to actions relevant to the above laws and mandates, NOAA's NEPA implementation includes routine address of construction, research and facilities management activities.

Efforts such as NMFS' Regulatory Streamlining Project are under way to improve our efficiency, effectiveness and to strengthen compliance with all NOAA's procedural requirements. Emphasis is being placed on the NEPA process as an umbrella for consolidating assessments of regulatory impacts as well as environmental effects, as well as involving the public in the decisionmaking process. It is intended that through improved NEPA practices, NOAA will make its regulatory decisions in an efficient and modernized manner.

The Task Force's efforts parallel and complement our own efforts to streamline our rulemaking processes and to improve our analyses largely through the vehicle of improved NEPA compliance. The results of the Task Force efforts should provide significant benefits to NOAA in making available current best practice examples of NEPA compliance across the Federal government and in recommending changes in CEQ guidance that would improve and modernize NEPA analyses and documentation and foster improved collaboration among all levels of government and the public. We look forward to the results of your efforts.



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Should you have questions or wish to discuss any of the provided case studies in greater detail, my staff can be reached at (202) 482-5181.

Sincerely,



James P. Burgess III
NEPA Coordinator

Enclosures:

- NMFS response to Federal Register notice
- NMFS case profiles
- NOS response to Federal Register notice

**National Marine Fisheries Service Comments on the CEQ NEPA Task Force's
Federal Register Notice, as Published July 9, 2002 (67 FR 45510)**

These comments and other information provided are grouped according to the Task Force's Study Areas A through F.

Background

NMFS NEPA activities fall within two broad categories: Those that deal with agency compliance with NEPA regarding NMFS, Regional Fishery Management Council (Council), and permit applicant proposals; and those that involve NMFS' coordination and review of NEPA documents from other Federal agencies. Under the first category (agency compliance), primary NEPA compliance actions are (a) those generated by NMFS programs, such as fishery management plans (FMPs) generated for Atlantic highly migratory species, implementation of ESA recovery actions, scientific and incidental take permits under the ESA for NMFS researchers and staff, Take Reduction Plan regulations under the MMPA, habitat restoration plans and activities, and construction activities, (b) Council-generated proposals, including FMPs, FMP amendments, and implementing regulations, under the Magnuson-Stevens Act that require NMFS' approval and implementation, (c) fishery management actions under the Atlantic Coastal Fisheries Cooperative Management Act, and (d) applications from non-NMFS parties to conduct activities requiring NMFS approval and authorization.

While the Magnuson-Stevens Act requires the assessment of the impacts of proposed fishery management measures on specific fishery components (e.g., impacts on fishing communities or on the harvesting sector), the scope of NEPA analysis is broader – it must include a discussion of the impacts of the fishery as a whole on the human environment. Consideration of indirect and cumulative impacts must also be taken into account under NEPA. In particular, the NEPA analysis must include the cumulative impacts of connected management measures, such as those implemented under FMPs other than the primary subject of analysis, MMPA actions, and ESA actions.

NMFS is ultimately responsible for ensuring compliance of FMPs and their implementing regulations with NEPA. However, because the Councils have a unique role under the Magnuson-Stevens Act in considering alternative means of

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addressing fishery management issues and proposing a preferred regulatory solution, the Councils have a considerable responsibility for carrying out the NEPA process for their FMPs, amendments, and related actions. This is to ensure better environmental review and opportunity for public participation and comment during the developmental stages of a Council proposal. The Councils are expected to provide the public and Council members with the appropriate assessment of the environmental impacts of a proposed action and its reasonable alternatives prior to final Council action.

The second broad category of NMFS NEPA activities, the coordination and review of NEPA documents from other Federal agencies, provides NMFS the means to exert a positive influence on other Federal agency plans and projects, to ensure full consideration of the potential impacts of these actions on living marine resources under NMFS' management authority, and to foster the protection of and mitigation of impact on these resources. Through these activities, NMFS has the opportunity for the following actions: Call attention to inadequate or missing data; specify studies or types of information that would provide answers to technical questions; recommend modifications of proposed actions and/or new alternatives that should improve environmental quality and avoid or minimize adverse environmental impacts on living marine resources; discuss environmental interrelationships between the proposed action and NMFS trust resources that should be included in an EIS or EA; and recommend appropriate monitoring of environmental impacts on marine resources for a proposed project and suggest to the sponsoring agency effective ways of establishing and operating monitoring systems.

Task Force Study Area A: Technology, Information Management, and Information Security

Information Technology and Rulemaking

The application of information technology (IT) can greatly enhance the rulemaking processes. Proper administrative records should be maintained for each rulemaking, with many of these documents publicly available as part of the docket supporting that rulemaking. NMFS and the Councils make full use of the Internet and web sites to make proposed and final rules and rule-related documents (e.g., EISs or EAs, regulatory impact reviews, and regulatory flexibility analyses) available at different stages of development to the public for review and comment. NMFS has recently completed a pilot project, "e-Comments," wherein public input

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was invited on a proposed rule and its supporting documents, including an environmental assessment, via a web site. The public comments for this rulemaking were posted on the web site and, thus, were available for general public viewing. NMFS may consider expanding the use of e-Comments for future rulemakings, and, thus, provide the public not only with online access to all agency NEPA documents, but also with the opportunity to comment on them at appropriate developmental stages through online methods.

Also, in keeping with the President's Management Council's e-Government initiative, NMFS has begun the planning and agency cultural change necessary to consider broader use of "online rulemaking" (e-Rulemaking). As deployed by other agencies, e-Rulemaking involves a publicly available, online docket that contains all publicly available documents supporting each rulemaking, including all NEPA documents. E-Rulemaking has the potential to facilitate public input on NEPA documents and to increase the transparency of the agency's decision making process. Other agencies using these information technologies have already seen such benefits for their rulemaking, regarding both the quality and quantity of information from stakeholders and even from the general public. Improved public awareness of potential environmental impacts and better informed comments on NEPA documents are corollary benefits to e-Rulemaking.

Distribution/Availability of NEPA Documents to the Public; Notification of Comment Periods

As with other agencies, NMFS formally announces the availability of draft and final EISs for public comment through Federal Register notices. NMFS also notifies the public of available NEPA documents (EISs and EAs) and associated comment periods through a wide variety of traditional methods (agency news releases that are distributed via the U.S. mail and agency web sites; electronic faxes; postings on appropriate Council web sites; and newsletters, both mailed and posted online). NMFS also announces the availability of EISs and EAs for public comment in conjunction with its proposed and final rules, as published in the Federal Register. While NMFS and the Councils routinely make NEPA documents available for public comment on their web sites. NMFS anticipates that taking public comment via online means would expand stakeholder involvement and improve quality of NEPA documents (see earlier discussion of e-Comments). NMFS is currently considering the use of Internet "list-serves" to notify interested stakeholders of NEPA documents available for review and comment. Stakeholders

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would be able to register online to receive notification that particular rule-related documents, including NEPA documents, are publicly available for review and comment. The e-mail notification to registered parties would specify means of obtaining the subject documents and the dates regarding the formal public comment period.

NMFS NEPA activities involve the distribution for public comment of a variety of NEPA documents. Some are quite large and involve significant printing and mailing costs to produce and distribute them. Several Councils are making NEPA documents available on CD-ROM, which greatly reduces such printing and mailing costs. It is expected that additional Councils will follow suit.

Best Practice Case: Programmatic Supplemental Environmental Impact Statement for Alaska Groundfish Fisheries -- Methodology for Analyzing and Responding to Public Comments in Fisheries Management

NMFS released a Draft Supplemental Environmental Impact Statement for Alaska Groundfish Fisheries (Draft PSEIS) for public comment in January 2001. This PSEIS provided the first comprehensive environmental review of the Alaska groundfish fisheries and their management by the North Pacific Fishery Management Council and NMFS after more than twenty years of amendments to the Fishery Management Plans for the Gulf of Alaska and Bering Sea groundfish fisheries. Given its significance as a precedent setting analysis of broad management options for these fisheries, the Draft PSEIS was subjected to extensive public review, and generated more than 21,000 public comments.

Under NEPA, all substantive public comment received on draft EISs during the 45-day public comment period must be summarized and responded to in the final EIS. The unprecedented number of public comments on the Draft PSEIS required a new approach. A data base methodology was created for cataloging, summarizing and responding to public comments in the Final PSEIS. An extensive coding process was utilized to review and sort comments, and a database was developed to synthesize, enumerate, and respond to all comments received on the Draft PSEIS. A Comment Analysis Report (CAR), which is publicly available, was developed to provide a concise, yet comprehensive, presentation of substantive public comments received on the Draft PSEIS to the public and fishery managers. This approach to comment analysis and response can serve as a template for other high profile EIS projects. A copy of the CAR is attached for consideration as a new type of

document that agencies might provide routinely in conjunction with their NEPA processes. In this particular case, the CAR was used by NMFS in deciding to prepare a revised Draft PSEIS that includes a wider range of fishery management policies for the Gulf of Alaska and Bering Sea groundfish fisheries. A paper on the use of the comments database was presented at the 2002 Annual Meeting of the American Fisheries Society.

Task Force Study Area B: Federal and Inter-governmental Collaboration

Discussion

As discussed previously, the majority of NMFS actions regarding NEPA compliance involve the preparation of appropriate NEPA documents for regulatory actions authorized under the Magnuson-Stevens Act. Most of these regulatory actions originate with the eight Councils. The Councils have the responsibility under the Magnuson-Stevens Act for proposing fishery management measures for fishery resources in the EEZ through FMPs, FMP amendments, other related regulatory actions (e.g., actions pursuant to FMP framework procedures), and implementing regulations. The Councils also prepare, with NMFS' assistance, the appropriate NEPA analyses for each of their proposals. In so doing, the member States of each Council participate in various ways, throughout the NEPA process, in the development of NEPA documents that are submitted by the Council to NMFS for agency approval/adoption and appropriate disposition (e.g., filing with EPA if an EIS). As Council members, the States fulfill many of the specific roles listed for "cooperating agencies" in section 1501.6 (cooperating agencies) of 40 CFR Parts 1500-1508. The States' involvement includes the following actions: Participation in the NEPA process at the earliest possible time; participation in the scoping process; assuming responsibility, upon the Council's or NMFS' request, for developing specific information and for preparing or contributing to designated parts of environmental analyses; and making State staff available to participate in the Council's and NMFS' NEPA-related actions. It is noted that as a matter of general practice, NMFS does not currently formally designate the States as "cooperating agencies" nor have formal agreements with them as indicated under the procedures and requirements of sections 1506.6 and 1508.5 of the CEQ regulations.

Regarding the matter of "cooperating agency" status, public perception has been a

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key issue for NMFS. In several rulemaking instances where other Federal agencies had cooperating agency status in conducting the environmental analysis and in preparing NEPA documents, the public had misinterpreted this to indicate that NMFS was abrogating certain responsibilities as the regulating agency. This situation suggests that NMFS needs to explain better to the public what roles and responsibilities cooperating agencies have under NEPA and that all executive branch agencies are encouraged to use cooperating agencies in their NEPA activities.

Regarding barriers that preclude or hinder effective collaboration with other agencies, often a potential cooperating agency is reluctant to participate because it sees no real benefit or minimal benefit accompanied by a drain of resources needed for higher priority tasks. In its NEPA regulations, CEQ might consider placing greater emphasis on, or even requiring, the use of collaborative agreements that establish joint-lead or cooperating agency status.

NMFS is implementing measures through a regulatory streamlining program (RSP) that are intended to make rulemaking activities more effective and efficient. One of the RSP objectives is to improve our collaborative efforts with other Federal agencies, States, local governments, Tribal organizations, and all stakeholders in our rulemakings. In part, this is to ensure that all significant resource and management issues, including environmental impacts, are identified and resolved as early in the rulemaking process as possible. NMFS has chosen to address these objectives through improved NEPA compliance. NMFS intends to accomplish this by "front-loading" its NEPA process through more active participation of all stakeholders and strengthened collaboration with other agencies and State and local fishery management authorities early in the planning process for an action. One of the major benefits of NEPA is the requirement for agencies to collaborate early in the process. An effective collaboration is one where agencies see the outcome of the EIS as a benefit to both and where agencies seek to solve problems together.

Best Practice Cases

Two best practice cases are presented below. The first case involves collaborative efforts among several mid-Atlantic coastal states, the U.S. Fish and Wildlife Service, and NMFS in preparing an EA regarding the establishment of a sanctuary for horseshoe crabs off the mouth of Delaware Bay. The second case illustrates how NMFS met its essential fish habitat (EFH) consultation requirements under the

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Magnuson-Stevens Act by coordinating with other Federal agencies in a manner allowing the other agencies to use their existing environmental review procedures when consulting with NMFS. This approach was set forth in agency regulations on compliance with the EFH provisions of the Magnuson-Stevens Act (50 CFR Subpart J (Essential Fish Habitat) and Subpart K (EFH Coordination, Consultation, and Recommendations)).

Best Practice Case 1: Environmental Assessment for the Establishment of a Horseshoe Crab Sanctuary off the Mouth of the Delaware Bay

Project: Creation of a Horseshoe Crab Sanctuary off the mouth of the Delaware Bay; Environmental Assessment for Atlantic Coastal Fisheries Cooperative Management Act Regulations for a Closed Area to Fishing for Horseshoe Crabs in the Exclusive Economic Zone

Category: B – Federal and Inter-governmental Collaboration

Agency: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

Practice: Collaboration with coastal states in developing the environmental analysis (EA) for action to establish the horseshoe crab sanctuary and participating in the NEPA process.

Agency Contact: Anne Lange, Office of Sustainable Fisheries, National Marine Fisheries Service. Telephone: 301-713-2337. E-mail address: Anne.Lange@noaa.gov.

Dates: EA FONSI signed by the Assistant Administrator for Fisheries, NOAA, December 20, 2000. Final regulations issued February 5, 2001 (66 FR 8906).

Background: Based on a request from the Atlantic States Marine Fisheries Commission (ASMFC), under authority of the Atlantic Coastal Fisheries Cooperative Management Act, NMFS worked with State partners to establish a horseshoe crab sanctuary off the mouth of the Delaware Bay. The intent of this sanctuary was to protect a portion of the horseshoe crab population from the impacts of fishing. The horseshoe crab fishery provides crabs for bait for eel and whelk fisheries and for biomedical purposes. Horseshoe crabs also provide a valuable ecological role as their eggs are an important food source for migratory

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birds as they move north to nesting areas in the spring.

Historically, horseshoe crabs were managed by individual States until 1998 when the ASMFC adopted an Interstate Fishery Management Plan for Horseshoe Crabs (ISFMP for Horseshoe Crabs) in response to concerns of possible localized declines in the Atlantic Coast horseshoe crab stock. The ASFMC approved and implemented Addendum 1 to the ISFMP for horseshoe crab in February 2000. Its intent is to protect and maintain the horseshoe crab spawning stock at levels that can sustain fisheries and that will provide an abundance of crab eggs as a food source for migratory shorebirds. An important part of the horseshoe crab's ecological role is providing an abundance of eggs as an important food source for migratory shorebirds at a critical time and place during their spring migration to northern nesting grounds. In addition to the several management measures that the ISFMP directs the Atlantic coastal states to implement in their waters, Addendum 1 requests that NMFS establish an offshore sanctuary in Federal waters within a 30-nautical mile radius off the mouth of the Delaware Bay.

The ASMFC requested that NMFS establish a crab sanctuary in the U.S. EEZ off the mouth of the Delaware Bay. After considering this request, NMFS determined that the proposed closed area is a risk-averse conservation measure that is designed to protect the horseshoe crab resource in the Delaware Bay area, would minimize the risk to the horseshoe crab resource from overfishing, and is based on the best available scientific information. Also, NMFS concluded that the closed area, in conjunction with current State laws, including the States' implementation of their commercial quotas under Addendum 1, is a necessary part of a comprehensive management program controlling fishing effort on horseshoe crabs in nearshore areas and in the U.S. EEZ off the Delaware Bay. Addendum 1 and its implementing measures were intended to protect horseshoe crabs by reducing fishing effort on both male and female crabs when they are concentrated in the closed sanctuary area and by reducing State crab harvesting quotas.

Project Description: In 2000, NMFS met with the State marine fisheries directors of Maryland, Delaware, and New Jersey to determine how best to establish the sanctuary off Delaware Bay. In developing regulations to implement the sanctuary, NMFS initiated preparation of an environmental assessment (EA). NMFS obtained most of the data used in the biological and economic analyses of the likely impacts of the sanctuary from the States. Fishery independent data on horseshoe crabs was collected during the NMFS Northeast Fisheries Science Center annual

trawl survey. The States provided data from numerous State surveys and studies and from industry records. NMFS also worked closely with the U.S. Fish and Wildlife Service in assessing the probable environmental impacts of proposed and alternative measures. NMFS published proposed regulations to establish the sanctuary on October 16, 2000 (65 FR 61135). Final regulations were issued February 5, 2001 (66 FR 8906). The final rule prohibits fishing for horseshoe crabs in the U.S. EEZ area encompassing a 30-nm radius seaward from the mouth of the Delaware Bay (closed area); prohibits possessing horseshoe crabs on vessels with trawls or dredges within the closed area; and requires that horseshoe crabs caught in closed area incidental to other fishing operations be returned to the water. Based on the EA, the Assistant Administrator for Fisheries, NOAA, concluded that the subject regulatory action will not have a significant effect on the human environment; the FONSI statement was signed December 12, 2000.

Value as a Practice:

- **Results:** This effort resulted in better constituent, industry, and State buy-in than if NMFS developed measures on its own, especially since the source of the majority of the data needed to evaluate the environmental impacts came from the states.
- **Challenges overcome:** Getting the States to work with their fishing industries; developing a regulatory approach that protected the horseshoe crab, but allowed for other fisheries to continue within the sanctuary area closed to fishing for horseshoe crabs.
- **Challenges remaining:** Developing additional field sampling programs to determine better the status of the horseshoe crab resource and the impacts of the sanctuary on crab stock status and on the fishing industry. Meeting these challenges will necessarily entail close collaboration with key States in all aspects of the resource monitoring program and in assessing the effects of the sanctuary.
- **Source of information/references:** The ASMFC, the ISFMP for Horseshoe Crab, Delaware Department of Fish and Wildlife, New Jersey Fish, Game and Wildlife, Maryland Department of Natural Resources, and U. S. Fish and Wildlife Service.
- **Recommendation as a best practice:** NMFS selected this project because it

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demonstrates full and timely collaboration among two Federal agencies and a number of State agencies involved with the management of living marine resources. All involved parties collaborated in preparing the EA. NMFS considers this action a good example under CEQ Task Force Study Area B.

Best Practice Case 2: Magnuson-Stevens Act Requirements Regarding Essential Fish Habitat (EFH); NMFS EFH Regulations and Collaborative EFH Consulting Requirements for Other Federal Agencies

PROJECT: Implementing the Magnuson Stevens Fishery Conservation and Management Act mandate for Federal agencies to consult with NMFS regarding any action that may adversely affect "essential fish habitat" (EFH)

CATEGORY: B – Federal and Inter-governmental Collaboration

PRACTICE: To streamline EFH consultation procedures by combining with other Federal agencies' existing NEPA practices, such as preparing environmental documents

AGENCY: All Federal agencies, with focus on the Army Corps of Engineers and the Environmental Protection Agency

INVOLVED PARTIES: Many private sector groups through their interest in both the NMFS regulations to implement the EFH mandate and how those regulations are applied to thousands of individual Federal actions each year

AGENCY CONTACT: Korie Johnson, Acting EFH Team Leader, Office of Habitat Conservation, NMFS, 301/713-2325, korie.johnson@noaa.gov or Tom Bigford, Chief, Habitat Protection Division, NMFS, 301/713-2325, thomas.bigford@noaa.gov

DATES: Began: 1996 Ended: ongoing

Context/Background: Under the Sustainable Fisheries Act of 1996, Congress mandated NMFS to designate EFH for more than 700 commercial and recreational fish species covered by the Magnuson-Stevens Act. Once EFH was designated, Congress mandated that Federal agencies "consult" with NOAA to ensure that the best available scientific information on EFH was considered in any funding,

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permitting, or licensing decisions that may adversely affect EFH. In 2002, NMFS issued final EFH regulations, in part to establish procedures to streamline that EFH consultation process for maximum efficiency and effectiveness, with the objective of meeting Congressional intent without adding unnecessary administrative burdens to other agencies' existing funding, permitting, and licensing procedures. (See Final Regulations for EFH at 67 FR 2343; January 17, 2002; specifically, see 50 CFR section 600.920 (Federal agency consultation with the Secretary)).

Project Description: This project has been underway since 1996, with initial implementation in 1998 when EFH was first designated for fisheries managed under the Magnuson-Stevens Act. As encouraged in the EFH regulations, NMFS has worked closely with other Federal agencies to combine EFH consulting procedures with their existing procedures. As a result of those discussions, NMFS has signed formal agreements with regional and headquarters offices of Federal agencies to reaffirm how NEPA can be used as a primary tool to streamline EFH consultations and improve decisions that may affect EFH. Those agreements or "findings" document how NEPA is being used to achieve the intent of EFH requirements under the Magnuson-Stevens Act.

Internet Site:

<http://www.nmfs.noaa.gov/habitat/habitatprotection/essentialfishhabitat.htm>

Value as a Practice:

Results: This practice has enabled NMFS and other Federal agencies to comply with the Magnuson-Stevens Act without developing a new administrative process that could have duplicated existing processes and added significant delays to Federal decisions. The process strengthens environmental reviews by adding important information on fish habitat, as required by the Magnuson-Stevens Act, while maintaining all of the NEPA-required opportunities for public participation and comment. The result is a streamlined process that saves time, money, and effort. This new EFH consultation process has been extremely well received by other agencies, principally the Army Corps of Engineers, whose programs generate the vast majority of Federal actions that prompt EFH consultations. There have been none of the "horror stories" or "train wrecks" predicted by some opponents who envisioned rampant delays as Congress and NMFS attempted to increase

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the relative importance of fish habitat information in the balancing tests performed by Federal decision-making agencies.

Challenges overcome: The initial impediment was one of scale. NMFS needed to negotiate “findings” with regional and headquarters offices of key Federal agencies whose actions may adversely affect EFH. Out of a total of 48 findings negotiated between 1998 and April 2002, 25 rely on an agency’s NEPA compliance procedures as a primary tool to streamline the EFH consultation process. That scale remains valid since NEPA procedures remain many agencies’ tool of choice for EFH consultation actions. Another impediment was information exchange. NMFS’ EFH designation process resulted in assembling the best set of scientific data and information ever collected on marine fish and their habitat needs. That information is now used by agencies as they analyze whether their actions may adversely affect EFH. NMFS continues to work on a web-based GIS system that will enable agencies and others to gain direct access to that information, thereby further improving the consultation process.

Challenges remaining: The GIS products described in the preceding paragraph remain a challenge, but progress is being made in their development. In most U.S. waters, GIS products enable agencies and others to access maps, text, and tables depicting EFH by life stage and species. As might be expected for this enormous list of species, there are data gaps that make specific EFH designations difficult and EFH consultations more qualitative. NMFS has greatly increased its research on life history needs of those species whose EFH designations need to be strengthened with more complete information. NMFS is also expanding its research and partnerships with other agencies to understand the effects of various human actions on EFH, thereby assisting efforts to understand the environmental consequences of Federal actions related to fishing and non-fishing activities. And, finally, NMFS continues to work with other agencies to ensure that their NEPA documents include a full range of alternatives and conservation recommendations to minimize impacts to EFH.

Source of information/references: See website indicated under “Internet Site” above.

Validation: This project was validated based on its track record. Several

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years of implementation have shown that NEPA and EFH procedures can be merged, that the public and Federal agencies can benefit, and that the result is a more robust NEPA analysis that helps to improve decision making with respect to the marine environment.

Recommendation as a best practice: This best practice case was recommended by Tom Bigford, Chief, Division of Habitat Protection, Office of Habitat Conservation, NMFS, based on years of effort by the NMFS EFH Team and its partners in other Federal agencies. The case was also suggested by Ramona Schreiber, Office of Strategic Planning, NOAA, and Davis Hays, Office of Sustainable Fisheries, NMFS.

Task Force Study Area C: Programmatic Analysis and Tiering

Discussion

A programmatic EIS (PEIS) is a comprehensive document in which the agency considers a number of related actions or projects being decided within one program. As such, a PEIS looks to the environmental consequences of a program as a whole (e.g., the fishery management program for Alaska groundfish). One of its purposes is to assess the impacts of connected and cumulative actions under one programmatic umbrella in order to determine significant impacts to the environment. In it, the analysis of environmental impacts is tied to a specific program and the individual and cumulative effects of each project individually, and all projects together, are analyzed in a way that allows senior level decision makers to consider the environmental implications of the subject program. Of course, such a document, once prepared, should provide administrative efficiencies through the use of tiering for follow-on NEPA documents that are focused more narrowly on specific actions within the program and on issues not already evaluated in the PEIS. It is through the use of PEISs and subsequent tiering that agencies can save both time and money in evaluating the environmental impacts of specific and subsequent actions.

The concept of a "programmatic" analysis appears to be a relatively new one, beginning about 1990, some 20 years after implementation of NEPA in 1970. Under NEPA, Federal agencies are required to prepare an EA or an EIS when significant Federal actions are being considered. The programmatic analysis grew out of a need to address agency actions and related issues at a very large scale,

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encompassing broad categories of actions and policies, and the need to consider broad cumulative effects of a program's actions.

NMFS has only recently begun to use the concept of PEISs in assessing the environmental impacts of actions concerning the management of marine fisheries, marine mammals, and protected species. NMFS is currently using PEISs to update and assess long-standing fisheries management programs. Specifically, NMFS is developing PEISs for Alaska groundfish fisheries, West Coast groundfish fisheries, and West Coast salmon fisheries. Completion of the final PEISs for these fisheries will not occur until next year or later.

In part, these PEISs represent NMFS' response to litigation results. However, they also reflect NMFS' intent to update assessments of the environmental impacts of these major fisheries and their management programs in a manner that considers an expanded array of management alternatives and policies. Also, NMFS intends that these PEISs will provide a basis for cost and time efficiencies in assessing the impacts of subsequent specific fishery management actions in these fisheries. It remains to be determined if the use of these PEISs and subsequent tiering for specific program actions and their environmental analyses will bring these anticipated long-term cost savings and efficiencies. Regarding the development of these PEISs, NMFS is endeavoring to increase the participation of stakeholders in identifying and evaluating alternative management actions and policies, especially early in the NEPA scoping process.

Although the CEQ regulations provide a framework for the overall EIS process, much discretion is left to the agency for actually formulating the structure and scope of a PEIS. A review of PEISs as prepared by several agencies reveals that few such analyses are alike. In fact, depending on the agency, its mission, and the scope of the PEIS, they can be very different, even within an agency. As a result, there does not appear to exist a single, exemplary model of a PEIS. The scoping process for a PEIS can be cumbersome and confusing given how broadly defined and structurally limitless they are described in currently available guidance. It would be helpful if CEQ would develop and distribute guidance on the preparation of PEISs.

NOAA General Counsel prepared recent guidance for NMFS on preparing programmatic environmental impact statements (memorandum of December 11, 2001, from Craig R. O'Connor, Acting General Counsel, NOAA, to William T. Hogarth, Assistant Administrator for Fisheries, NOAA). We recommend that this memorandum be provided to the CEQ Task Force as an example of the type of

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guidance that CEQ could prepare for government-wide application in preparing programmatic EISs.

Finally, NMFS has used programmatic environmental assessments (programmatic EAs) on occasion to address a broad category of actions that are ultimately determined not to have significant impact on the human environment. The programmatic EA would allow an agency to do a broad environmental analysis that possibly could, in the future, serve as a basis for categorical exclusions for specific actions that fall under the program area covered in the programmatic EA. The CEQ Task Force should consider providing guidance on the use of such EAs.

Best Practice Case: Programmatic Supplemental Environmental Impact Statement for Alaska Groundfish Fisheries (PSEIS)

Much of NMFS' NEPA experience under the Magnuson-Stevens Fishery Conservation and Management Act has historically focused on the preparation and implementation of FMPs, FMP amendments, and related actions. In the late-1970s and early-1980s, when many of the FMPs were first prepared, an EIS was used to evaluate each FMP. Each FMP could have been labeled a "program" and its EIS considered a programmatic EIS if the concept of programmatic EISs was better understood and utilized at that time. Every subsequent FMP amendment required either an EA or supplemental EIS as part of its supporting documentation. It is now the common understanding of NEPA practitioners that a PEIS has a shelf-life of about 5-10 years, after which sufficient changes have likely occurred in the physical/biological/economic environment or in the regulatory environment to warrant an updated agency review. In the case of FMPs, this involves a review and updating of the NEPA environmental analysis for the FMP's management measures as well as for fishing in the managed fishery. The updated environmental analysis should take into account the full history of the FMP, including all of its amendments and other related regulatory actions (such as framework actions), should assess cumulative impacts of regulatory and fishery changes over time, and should perform the analysis in the context of current agency management policies.

Beginning in the early 1990's, the Alaska Region recognized that such a comprehensive, FMP-level environmental review was necessary to ensure NOAA's continued compliance with NEPA for the Alaska groundfish fisheries as managed under the FMPs for the Bering Sea/Aleutian Islands Groundfish Fisheries and for the Gulf of Alaska Groundfish Fisheries. In 1996, the Alaska Region prepared a

Supplemental EIS that focused on the groundfish FMPs, primarily regarding the process of setting quotas and the authorization of commercial fishing under those quotas. At that time, NMFS was taken to court over concerns that the agency was not doing enough to protect the endangered Steller sea lion and to promote its recovery, as required under the Endangered Species Act (ESA). Plaintiffs in this lawsuit added NEPA compliance failings to their arguments and stated that the 1996 SEIS was too narrow in scope and should have evaluated the entire FMPs and their amendments and not have focused solely on the quota-setting component of the FMPs.

In late 1999, the U.S. District Court of Washington ruled in favor of the plaintiff's NEPA claims and ordered the agency to prepare a programmatic EIS that evaluated the FMPs as a whole. The Court also ordered NMFS to begin the NEPA process within six weeks of its order. NMFS had little time to define the appropriate scope of the document, develop alternatives, and discuss eventual outcomes. Complicating the project further was the fact that the ongoing litigation required a strict protocol to be followed by agency staff, NOAA General Counsel, Department of Justice, the North Pacific Fishery Management Council, and public stakeholders. Such a protocol prevented a full sharing of ideas among interested parties.

NMFS placed a high priority on preparing a Draft PSEIS for the Alaska Groundfish Fisheries (DPSEIS) and it was released for public comment in January 2001. Comprising eight volumes and approximately 3200 pages, it represents the most comprehensive NEPA assessment ever undertaken by NMFS – a review of the largest and most valuable fishery in the United States, its history of management, and a large number of current management and resource issues raised by the public. The complexity of the Gulf of Alaska and Bering Sea marine ecosystems, the uncertainties of the effects of the groundfish fisheries on the environment, and the complex management regime has required developing new and creative ways for describing and assessing environmental impacts.

The release of the DPSEIS for public comment generated approximately 22,000 comment letters mailed or sent by facsimile (through the Internet). These comments were assessed using specially designed information technology tools (see best practice case under Study Area A). One result of this assessment of public input was an agency decision to restructure the alternatives and reorganize the document. A revised DPSEIS will be released in summer of 2003.

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While still a work in progress, this project has, and is, setting new NMFS standards for NEPA compliance. This PSEIS is noteworthy for the following reasons: It is the first programmatic PEIS prepared by NMFS; it is the first PSEIS that examines past, current and potential management of commercial fisheries in terms of both management policies and management actions; and it is the first NMFS PEIS that presents alternatives as management frameworks to accommodate the dynamic nature of the resource, the uncertainties associated with the effects of fishing, and the ever changing needs of the fishing industry. This PSEIS introduced the concept of "conditionally significant" determinations that provide the decision maker and public stakeholders with greater insight as to the environmental consequences of a management alternative when scientific information is minimal or even non-existent. As mentioned above, the January 2001 DPSEIS generated some 22,000 comment letters, an unprecedented number of public comment for a specific NMFS/Council action. To evaluate this magnitude of comments, NMFS' Alaska Region developed a relational database for the purpose of comment tracking, synthesis, and response. This DPSEIS represents the state of the art in cumulative effects assessment methodology, as recently recognized by the International Association of Impact Assessment.

Task Force Questions under Study Area C

1. What types of issues best lend themselves to programmatic review, and how can they best be addressed in a programmatic analysis to avoid duplication in subsequent tiered analyses?

CEQ has defined three types of EISs: "Legislative," "programmatic," and "action or project-specific." Each corresponds to the scope or focus and level of specificity of the proposed action, and, hence, of the environmental analysis. CEQ defines these terms in a manner that provides a sense of simplicity. However, real-world applications raise numerous interpretations and conflicting signals that make such simple definitions problematic. NMFS and the Councils have typically prepared project-specific EISs that are focused on a single FMP, FMP amendment, regulatory amendment, or permitting action. Such project-specific EISs have usually provided considerable detail on and analysis of very-focused alternative management measures addressing specific fishery issues. For the most part, this approach has been satisfactory so far as both agency and public needs. However, environmental organizations and other public stakeholders have recently called for PEISs for managed fisheries that are much broader in scope than the typical EIS

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prepared in the past.

A PEIS is one that is prepared for a broad Federal action. CEQ has suggested that a Federal agency may evaluate a "broad Federal action" as a proposal that is based on common geographic locations, similarity of impacts, or by stages of development. It is intended to provide a general overview of the affected environment and the environmental consequences of the Federal action. The benefits of such PEISs is to allow tiering of follow-on NEPA analyses that need not present the program overview, but rather focus only on the specific action-specific proposal at hand and its potential environmental effects. By summarizing the information contained in the PEIS and referring the public to that document, the preparers of an action-specific EIS need only concentrate on the issues associated with the proposed action.

In the case of the Alaska groundfish fisheries, NMFS attempted, in 1996, to update each of the original EISs prepared for the two FMPs for Alaska groundfish by describing the environmental changes that occurred during the period 1978-1995 and by evaluating the environmental consequences of the process used by the Council and NMFS for evaluating the status of the groundfish stocks and setting conservative harvest quotas. The U.S. District Court, Western District of Washington ruled in *Greenpeace v. NMFS* that such an analysis was too narrow in scope and that it should be broader. The Court aided the agency by defining the scope of the PSEIS as being the two FMPs as a whole and their amendments (more than 120 combined). The PSEIS currently under development is, by design, intended to comply fully with the Court's decision as well as to meet NOAA's own NEPA guidelines.

The case of the PSEIS for the Alaska groundfish fisheries suggests that the appropriate scope of a PEIS for actions under the Magnuson-Steven Act is the FMP for a given fishery. Most FMPs are geographically-based and address fishery resource and management issues that are relevant to all management unit species. A PEIS can be prepared for several FMPs together where they share a common resource or are comprised of the same target species (e.g. the Bering Sea/Aleutians Islands Groundfish FMP and the Gulf of Alaska Groundfish FMP).

Alternatively, under the Magnuson-Stevens Act, PEISs could be prepared for large ocean areas, such as the Western Pacific, Mid-Atlantic, or Gulf of Mexico. Since the "affected environment" information contained in a PEIS for a large ocean area

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would be germane to all FMPs prepared for specific fishery resources or fisheries in this area, such a broad environmental review is arguably an appropriate and alternative approach for preparing PEISs to address Magnuson-Stevens Act fishery management programs. Such broader PEISs would provide general level information regarding the affected environment, including an "ecosystem" approach, where possible, regarding the physical and biological characteristics of the area. These PEISs also would provide the public with the necessary background information concerning the governing legislation and its objectives and limitations, the agency's mission and general policies, and the institutional structure (e.g., Council-NMFS system) that would overlay all the FMPs for the subject area. Defining the scope of a PEIS in this manner would reduce the number of programmatic documents to one for each ocean region, rather than one for each FMP or for several FMPs. Considering that PEISs have shelf lives of 5-10 years, this approach, involving a fewer number of PEISs, might offer efficiencies in the use of staff and budget resources allocated to updating environmental analyses.

In conclusion, we have mentioned the scope of two alternative approaches of applying the PEIS concept to marine fisheries management under the Magnuson-Stevens Act. The one that calls for a PEIS for one or several FMPs appears driven by recent litigation results and the interpretation of NEPA requirements by the courts for the specific fisheries involved. This approach may prove to be a long-term model for the agency. However, it may not prove as effective or efficient as one involving PEISs prepared for the fisheries and their regulatory regimes within broad ocean areas. If the CEQ Task Force recommends that CEQ issue further guidance on the appropriate scope for PEISs, such guidance might assist NMFS in deciding which of the above approaches would be best under the Magnuson-Stevens Act.

Task Force Study Area D: Adaptive Management/Monitoring and Evaluation Plans

Discussion

NMFS has had modest experience with the use of adaptive management measures and associated NEPA analyses in managing natural resource under its management authority. In particular, NMFS has worked with the U.S. Fish and Wildlife Service in recent years to incorporate adaptive management measures in habitat management plans for several timber reserves in northern California. NMFS'

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involvement has centered on applications it has received for Federal incidental take permits for several species it manages (e.g., coho salmon). Because of our limited experience in applying the adaptive management approach and in performing NEPA analyses for such cases, NMFS would welcome further information and guidance from CEQ on how to incorporate adaptive management (e.g., use of performance-based environmental parameters or outcomes and monitoring to ensure that they are achieved) into NEPA analyses.

**Best Practice Case: Pacific Lumber Company Habitat Conservation Plan
Application of Adaptive Management**

Project: EIS for the Pacific Lumber Company Habitat Conservation Plan

Category: D – Adaptive Management/Monitoring and Evaluation Plans

Agency: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Practice: Adaptive environmental management involving monitoring and evaluation plans.

Agency Contact: Joe Blum, Southwest Region, NMFS. Telephone: 916-930-3621.
E-mail: Joe.Blum@noaa.gov.

Project Description: On March 1, 1999 Pacific Lumber Company (PALCO) received Incidental Take Permits from the U.S. Fish and Wildlife Service (FWS) and NMFS under section 10 of the Endangered Species Act of 1973 and from the California Department of Fish and Game, under the California Endangered Species Act. These permits were preceded by the agencies accepting PALCO's Habitat Conservation Plan (HCP). In order for the agencies to grant the permits, over two years of intense technical discussions and permit negotiations took place.

The PALCO HCP relies very heavily on watershed analysis, monitoring and adaptive management. The PALCO HCP was developed in a relatively short period of time (about two years) and with a minimum of hard data with which to

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work. The company and the agencies were concerned that the lack of hard data would be problematic. The company's concern was that it would be under very restrictive conservation measures for 50 years. The agencies were concerned that they would be putting the listed species and their habitat at risk if a one-time analysis approach was chosen. The parties involved decided that the best approach was to adopt conservative interim rules for timber operations, require application of watershed analysis and monitoring, and then to employ adaptive management.

In addition to adaptive management as a "product" of watershed analysis, the HCP permits adaptive management as a "product" of monitoring and/or implementation experience. To date, the latter monitoring/implementation process has been used approximately six times and the watershed analysis approach once. The HCP directs the company to complete watershed analysis on all 16 watersheds within the first five years and to review them in the ensuing five years.

The adaptive management approach for the HCP, relying on the experiences of the FWS and NMFS through implementing the HCP's provisions, has resulted in changes ranging in length from a single season (e.g., winter operations) to "permanent changes" in definitions, prescriptions and methodologies for calculating cumulative impacts.

The adaptive management process has been initiated by the company in all instances. The HCP outlines the process to be followed with the final action being acceptance by all three agencies before the change becomes "law." To date the process has been very interactive with technical teams appointed to work through the company's proposals and to make recommendations to the respective policy leads on HCP implementation.

The FWS and NMFS jointly prepared a DEIS and FEIS for this action (over 18,000 public comments were received during the public comment period). The agencies published a Federal Register notice of the availability of the FEIS on January 22, 1999 (64 FR 3483). The FEIS assessed the environmental impacts of the HCP, including the selected final adaptive management measures. Detailed resource monitoring plans were developed and included in the final HCP to assist NMFS, FWS, and California Department of Fish and Game in evaluating the effectiveness of the HCP's conservation and management measures and PALCO's compliance with the terms and conditions of the HCP.

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Task Force Study Area F: Additional Areas for Consideration

1. **Cumulative Effects.** In January 1996, CEQ published a report entitled "Considering Cumulative Effects under the National Environmental Policy Act." Since then, numerous court cases have challenged NEPA documents on the adequacy of the cumulative effects analysis (CEA) contained in NEPA documents. This area of NEPA practice appears to be evolving and has proven to be a "weak link" in some agencies' defense of the adequacy of their EAs and EISs. It would be beneficial if the Task Force's report included a review of recent court decisions on this matter and summarized the current opinions on the appropriate scope, methodology, and level of detail required for a CEA.

2. **Incompatible Timelines and Decision Points of Other Statutes (ESA).** It is not totally clear whether timelines for specific actions and decisions under the Endangered Species Act can be integrated satisfactorily with the timelines for actions and decisions under NEPA. NMFS recommends that CEQ undertake a comprehensive review of this matter so as to identify the particular problems and recommended solutions for use by agencies. There are likely other natural resource management statutes that pose problems for integrating NEPA timelines and decision points. If requested, NMFS can provide more information about this issue based on its experience under the ESA and the Magnuson-Stevens Act.

3. **Breadth and Depth of Environmental Analyses under NEPA.** NMFS Regional staff have indicated difficulty in reconciling how to achieve targeted, straightforward, and short environmental analyses (whether for an EA or an EIS) in the face of recent court decisions that place emphasis on use of a greater number of action alternatives and on more in-depth analyses of environmental impacts. Many agencies are currently responding to public, political, and legal pressures to increase NEPA document scope, provide greater detail, and consider a wider range of reasonable alternatives for addressing the need for Federal action. CEQ might consider if it is possible to provide further guidance on how best to achieve a "best compromise solution" when determining the scope and level of detail for an environmental analysis.

4. **Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies.** Under section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554), the Office and Management and Budget issued final government-

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wide guidelines on February 22, 2002 (67 FR 8452) that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by Federal agencies. By October 1 of this year, agencies must issue their own implementing guidelines that include administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency. The requirements of Public Law 106-554 and the OMB and individual agency guidelines will bear directly on the information quality standards that apply to information used in the preparation of NEPA documents and disseminated to the public. While this matter may not fall directly under the Task Force's Study Area A (Technology, Information Management, and Information Security), the Task Force might consider reviewing the implications of these new government-wide information quality standards under NEPA. Most Federal agencies would likely welcome any guidance from CEQ on how agencies can best apply the new information quality standards and the process for public requests for information correction to the NEPA process.

Attachments

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**National Ocean Service Comments on the
National Environmental Policy Act Task Force
Federal Register Notice/Vol. 67, No 131**

A. Technology, Information Management, and Information Sharing

A.2. What are the barriers or challenges faced in using information technologies in the NEPA process? What factors should be considered in assessing and validating the quality of the information?

With respect to factors to consider in assessing and validating the quality of information in data and background studies for preparing National Environmental Policy Act (NEPA) analyses, the largest concern should be on ensuring a minimum standard of quality of data/scientific information for all NEPA documents. One of the basic problems is the lack of evenness among the studies used to support the findings, including biases, outdated information, or misuse of data to support incorrect conclusions. It would be helpful, for instance, to have a centralized database of studies, including the most up-to-date information available and other Environmental Impact Statements (EIS) or Environmental Assessments (EA) that have been completed on particular projects.

B. Federal and Inter-governmental Collaboration

B.1. What are the characteristics of an effective joint-lead or cooperating agency relationship/process? Provide example(s) and describe the issues resolved and benefits gained, as well as unresolved issues and obstacles.

Characteristics of an effective joint-lead or cooperating agency relationship/process include: (1) equal respect and consideration for each agency's opinions and concerns; (2) transparent and full communication; (3) appropriate discussion of and decision-making on policies at the appropriate levels (e.g., sub-committee, policy committee, executive committee); and, (4) early involvement of all parties.

B.2. What barriers or challenges preclude or hinder the ability to enter into effective collaborative agreements that establish joint-lead or cooperating agency status?

Barriers and challenges include: (1) preimposed "needs" and "preferred alternatives" by the co-lead agencies that make the NEPA process appear to be a pretense; (2) invitation to a process that has already started, e.g., important decisions have already been made; (3) intra-agency conflicts regarding an agency's mission(s); and (4) an agency's conflict with the purpose of the NEPA action.

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C. Programmatic Analysis and Tiering

C.2. What barriers or challenges preclude or hinder the ability to enter into effective collaborative agreements that establish joint-lead or cooperating agency status?

NEPA is not clear on the authority and requirements to invite State agencies to be cooperating agencies on NEPA processes that might involve both Federal and State jurisdiction. Providing this type of guidance would be helpful.

D. Adaptive Management/Monitoring and Evaluation Plans

The National Ocean Service (NOS) would like to see the NEPA Task Force address intentional and experimental releases for the purpose of testing old and new response technologies, and specifically, whether there are ways to streamline the permit process in order to conduct field trials and experimental releases. For example, oil spill response could be greatly enhanced if it was easier to conduct field trials to test newer, as well as older, technologies. The benefits of conducting an experimental release or discharge may well demonstrate that the cleanup technologies and levels of treatment being tested are more cost-effective and protective of the resources.

The NEPA Task Force should consider the Integrated Coastal Management (ICM) process described in the 1993 National Research Council (NRC) book, Wastewater Management for Coastal Urban Areas. The ICM process as outlined by the NRC (1993) includes factors, such as geographic scale, to be considered under a NEPA Adaptive Management approach.

The NEPA and ICM processes call for targeted monitoring as an integral part of an adaptive management process. Marine resource monitoring should not merely be an "add on" if resources permit, but a critical link back to determining if projects and programs are solving problems.

Monitoring data that exists, such as NOS' National Mussel Watch program (which identifies pollutants that are local, regional, and national problems) is often underutilized. Programs like National Mussel Watch are valuable informational resources, yet often other agencies and the public are unaware of these information sources or misuse them, such as using only a few years of an extensive time series of data.

F. Additional Areas for Consideration- Effective Methods for Soliciting Public Comment

The working culture of NOS's National Marine Sanctuary Program (NMSP) is to maximize public participation in most of its major decisions, which are mainly regulatory and/or managerial in nature and almost always involve some form of NEPA analysis. The NMSP focuses on and excels in three major types of public involvement and outreach: (1) use of community-based advisory groups (Sanctuary Advisory Councils); (2) use of round-table forums at scoping and other public meetings; and (3) use of communication technology.

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In the case of advisory groups, the NMSP has eleven operational Sanctuary Advisory Councils encompassing over 200 community and governmental representatives, plus additional individuals serving on working groups formed under each Council for various purposes. The Councils provide an important link to communities and allow the flow of communication from staff to constituents and vice versa. The Councils also hold extensive user, technical, and other specialized knowledge sources to which the Sanctuary has access. The Councils therefore help the NMSP achieve some of the chief requirements of NEPA:

- Disseminate and collect information
- Identify, prioritize, and characterize issues
- Develop and consider alternatives; and
- Review documents.

The use of a round-table format has greatly enhanced the use of public meetings to obtain information from members of the public. Typically, the participants at a meeting are divided into groups of ten to twelve at separate tables, each with its own facilitator and note-taker. The role of the facilitator is to help guide the discussion to keep it focused on the intended purpose of the meeting, respond to factual questions, and ensure that each person at the table has a chance to participate. The note-taker captures the comments of each individual, although people are encouraged to submit comments on their own to ensure all of their concerns are relayed. Each meeting opens with an introduction or overview of the purpose of that meeting, then each group works separately. The public meeting usually ends with a brief summary of the issues or comments raised at each table. This format has resulted in wider participation by individuals; more focused and higher quality comments than at traditional public meetings; and the correction of misinformation by allowing participants to interact with a knowledgeable facilitator. In many cases, the NMSP has been told by participants in this process that it was the first time they'd felt that the Federal government had really listened to them.

Finally, NOS's NMSP makes extensive use of communication technology in order to both disseminate and receive information during NEPA-related processes. For major actions like a management plan review or Sanctuary designation process, a website is created that provides extensive information such as background and management documents (as pdf's), press and outreach material, meeting schedules, milestone schedules, and summaries of comments (usually within a few days of a meeting). The NMSP, unlike some other Federal agencies, also accepts comments both by fax and online, in addition to regular mail. Providing the opportunity for members of the public to comment online has exponentially increased the number of comments that the NMSP receives. NMSP is pleased with the greater public response and has been looking at various innovative ways to manage the increased number of comments, including the development of a computer program that allows the sorting of form letters and differentiation of those that might have been personalized.

These methods and tools have allowed NOS's National Marine Sanctuary Program to engage the public in the decision-making processes on an exceptional level, provided high-quality information, and approved the Program's ability to protect the resources under its stewardship.

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NOS encourages the NEPA Task Force to incorporated these methods into NEPA procedures and share them with other Federal agencies to the maximum extent possible.



"Ramona Schreiber"
<Ramona.Schreiber@
noaa.gov>

To: ceq_nepa@fs.fed.us
cc:
Subject: NOAA Comments Faxed

09/27/02 01:41 PM

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CAET,

I faxed in NOAA's comments yesterday. A few changes were made after sending, to the attachment titled NMFS' comments and case studies. I will fax in the replacement pages over the weekend when I can get to a fax machine. Please replace that section with this material.

Sorry for the inconvenience!
Ramona Schreiber
202-456-2749

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NOAA OFFICE OF STRATEGIC PLANNING

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FAX COVER SHEET

TO: CEQ NEPA Task Force
801-517-1021 fax

FROM: NOAA Office of Strategic Planning

SUBJECT:

Per my e-mail, this replaces the fax transmittal of 9/26/02, submitting NOAA's response to the Task Force's Federal Register notice, including comment and case profiles.

Please contact Ramona Schreiber with any questions (202-456-2749).