



**NOAA  
FISHERIES**

# **OFFICE OF SUSTAINABLE FISHERIES UPDATES**

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***Council Coordination Committee***

**May 23, 2023  
Key West, Florida**

# MSA Data Confidentiality

**Update:** NMFS will publish a proposed rule in early summer with the goal of issuing a final rule in summer 2024. After the rulemaking is complete, NMFS will develop additional guidance to address priorities that compliment the regulations. We expect the second phase to take several years and include opportunities for providing feedback on draft guidance.

## Issues Addressed in the Rulemaking:

- Clarify how confidentiality applies to data collected in support of a catch share program (i.e., definitions for the 'limited access program' exception and 'determination');
- Defining the 'submitter' of data (e.g., clarifying who is responsible for reporting data to NMFS);
- Written authorization exception (e.g., applying a process for the submitter to release confidential data)
- Managing data voluntarily submitted to NMFS (e.g., provided as part of a research project but not required);
- Applying confidentiality to third-parties (e.g., data sent by the fishing industry to technology providers);

## Issues Addressed after the Rulemaking:

- Replace NOAA Administrative Order 216-100 (regarding the handling of confidential information);
- Procedures for releasing information in aggregate or summary form;
- Streamline access to confidential information by Councils, Commissions, States, contractors, and other partners
- Streamline the processes for how a current vessel permit holder can request and access fisheries data and other information

# WTO Agreement on Fisheries Subsidies

- In May 2022, the Members of the World Trade Organization (WTO) finalized the Agreement.
- It prohibits subsidies that support IUU fishing, fishing on overfished stocks, and unregulated high seas fishing.
- The United States adhered to the Agreement in April 2023.
- No significant impacts to NOAA programs are expected.

# Objective and Goal for this Advance Notice of Proposed Rulemaking (ANPR)



**Objective:** Determine if updates to the Guidelines for National Standards 4, 8, and 9 are needed to improve federal fisheries management.

**Goal:** Solicit public input on the current guidelines: areas/issues that may benefit from further consideration and/or revisions, as appropriate.

# Background

## MSA National Standards:

- NS 4 – **allocations** shall: be fair and equitable; promote conservation; not result in excessive shares.
- NS 8 – consider impacts to **communities**; provide for sustained participation; minimize adverse economic impacts to the extent practicable.
- NS 9 – minimize **bycatch**, and bycatch mortality, to the extent practicable.



# ANPR Focuses on 2 Current Challenges

- Climate-Related Impacts on Fisheries
- Promoting Equity and Environmental Justice in Fisheries



# NS4 (Allocation) Guidelines: Climate Issues

We request specific input on:

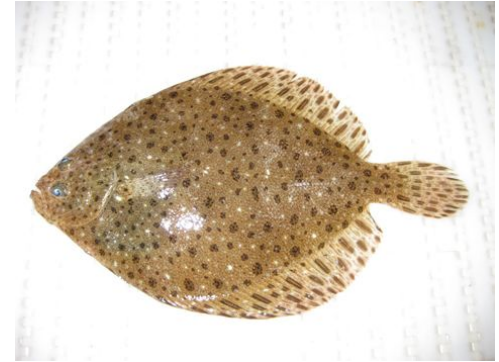
- Approaches for balancing access for:
  - historical users,
  - marginalized individuals who may have been inequitably excluded historically, and
  - new users
- If revisions are needed to reinforce the NMFS Allocation Policy
- Types of documentation, analyses, or alternative approaches that could be considered.



# NS8 (Communities) & NS9 (Bycatch) Guidelines: Climate Issues

We request specific input on:

- NS8 - updating the guidelines to improve the ability of communities to adapt to changing conditions.
- NS9 - updating the guidelines to better account for changing distributions of target stocks, bycatch, and protected resources.





# NS4 (Allocation) Guidelines: Equity and Environmental Justice

We request specific input on:

- Approaches to improve consideration of
  - underserved/underrepresented communities
  - previously excluded entrants
  - new entrants
- Types of documentation and analyses that could help ensure allocations are fair and equitable



# NS8 (Community) Guidelines: Equity and Environmental Justice

We request specific input on:

- If the definition of “fishing community” within the guidelines should be updated:
  - to allow communities that are not place based (i.e., fishery participants are not required to live in same geographic location)



# NS8 (Community) Guidelines: Equity and Environmental Justice Continued...

We request specific input on:

- If the definition of “fishing community” within the guidelines should be updated:
  - to shift balance between dependence and engagement



# NS8 (Community) Guidelines: Equity & Environmental Justice Continued...

We request specific input on:

- How to appropriately balance requirements for “sustained participation” of fishing communities with the need to improve consideration of:
  - underserved/underrepresented communities
  - previously excluded entrants
  - new entrants
  - communities with high levels of social or climate vulnerabilities



# NS9 (Bycatch) Guidelines: Equity and Environmental Justice

We request specific input on how/whether to:

- Modify guidelines to minimize bycatch in a manner that is equitable across different fisheries and gear types
- Better balance needs of bycatch and target fisheries in a manner that is equitable across different fisheries and gear types, especially when one or more fisheries are important for underserved populations.



# Other Challenges Mentioned in ANPR

NMFS is also requesting comments on:

- Options for minimizing bycatch under the NS9 practicability standard
- Revisions to the guidelines that would incentivize reducing waste



# Timeline:

## ANPR

- Published May 15, 2023
- Presentation to CCC May 23, 2023
- Presentations offered to each Council June-August 2023
- Two Tribal and One National Level Webinar June-July 2023
- Public comment period closes September 12, 2023



**If warranted, NMFS will begin drafting a proposed rule in Fall of 2023**

# QUESTIONS OR COMMENTS?

