



Caribbean

Miguel Rolon
Executive Director
Marcos Hanke
Chair



Gulf of Mexico

Dr. Carrie Simmons
Executive Director
Dr. Thomas Frazer
Chair



Mid Atlantic

Dr. Christopher Moore
Executive Director
Mike Luisi
Chair



New England

Thomas Nies
Executive Director
Dr. John Quinn
Chair



North Pacific

David Witherell
Executive Director
Simon Kinneen
Chair



Pacific

Chuck Tracy
Executive Director
Marc Gorelnik
Chair



South Atlantic

John Carmichael
Executive Director
Melvin Bell
Chair



Western Pacific

Kitty Simonds
Executive Director
Taotasi Archie Soliai
Chair

July 29, 2021

Mr. Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA Fisheries Directorate
1315 East-West Highway, 14th Floor
Silver Spring, MD 20910

Dear Sam:

The Council Coordination Committee (CCC) at its May 2021 meeting, discussed the implementation status of Policy Directive 01-117 on the Integration of Endangered Species Act (ESA) Section 7 with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) Processes (ESA Policy Directive).

For most of the Councils that have used the ESA Policy Directive, lack of communication and coordination on ESA consultations from National Marine Fisheries Service (NMFS) remains the primary issue, and Councils are typically not provided advanced review of Reasonable and Prudent Measures (RPMs) or Reasonable and Prudent Alternatives (RPAs) to provide input on their development before a draft or final Biological Opinion (BiOp) is available to the public. The ESA Policy Directive included a number of discretionary provisions for NMFS, which have effectively limited the Councils' involvement in the consultations, contrary to the intent of the Policy Directive. Although not necessarily aligned with the Policy Directive provisions, the Pacific Fishery Management Council (Pacific Council) has had a more cooperative response from NMFS, with the West Coast Regional Office typically initiating the request for Council's assistance, and utilizing the Council process to develop measures to address ESA issues in advance of or concurrent with ongoing consultations.

Based on these experiences, the CCC requested strengthening the relationship between NMFS and Councils on Endangered Species Act consultations for fisheries by:

- Updating the ESA Policy Directive to improve the process and timing for Council involvement in ESA consultations;
- Requiring more direct communication from Protected Resources Division to the Councils early in the process to ensure effective and meaningful Council involvement;
- Providing draft BiOps and draft RPMs/RPAs to Council staff for input in advance of these drafts being made available to the public; and
- Developing a process for NMFS to work with the Council on ESA issues through the normal Council process rather than through RPMs and RPAs resulting from consultations.

The CCC also requests NMFS coordinate with Council staff from each region for the interagency working group on ESA consultations for fisheries.

The CCC would like to work with you and your staff to identify the best way forward to strengthen our relationship and update the ESA Policy Directive. The Western Pacific Council will be the lead Council on this matter. Please provide a point of contact from your office so we may initiate this effort.

Sincerely,



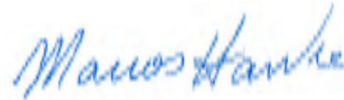
Pacific Fishery Management Council



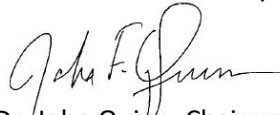
Mike Luisi, Chair
Mid-Atlantic Fishery Management Council



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Dr. Thomas Frazer, Chair
Gulf of Mexico Fishery Management Council

cc: Regional Fishery Management Council Executive Directors