

Report of the Council Coordination Committee's Subcommittee on the National Environmental Policy Act

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1.0 Introduction

On July 16, 2020, the Council on Environmental Quality (CEQ) published a final rule (85 FR 43304) revising regulations implementing the National Environmental Policy Act (NEPA) with an effective date of September 14, 2020. The final rule (hereafter, the CEQ regulations) modified NEPA implementing regulations (at 50 CFR 1500 through 1508; hereafter the chapter number is omitted from citations) including agency NEPA compliance procedures (part 1507). The regulations require all Federal agencies revise their procedures to comply with these revised regulations within 12 months of the effective date (i.e., September 14, 2021). In response, the National Oceanic and Atmospheric Administration (NOAA) and the constituent National Marine Fisheries Service (NMFS) have issued interim guidance on its NEPA procedures pertaining to time and page limits, contents of analysis, and other aspects of the CEQ regulations.¹

In this report the Council Coordination Committee's (CCC) NEPA Subcommittee discusses and makes recommendations in relation to a workshop that NMFS proposed conducting to facilitate NMFS-specific procedures for NEPA compliance. The CCC has been particularly interested in a determination that procedures and related documentation required pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA) can substitute for the requirements of NEPA and its implementing regulations. This reflects a history of engagement with NMFS by the CCC with respect to the statutory construction of environmental review procedures. Therefore, this "functional equivalence" doctrine is given particular emphasis in our report.

2.0 Functional Equivalence and Substitute Procedures and Documents

While the revised CEQ regulations contain various changes affecting the process and documentation of fishery management council (FMC) actions under the MSA, the CCC is particularly interested in the applicability of the functional equivalence doctrine as described at 1501.1(a) stating that when "assessing whether NEPA applies or is otherwise fulfilled" agencies should determine "(6) [w]hether the proposed action is an action for which another statute's requirements serve the function of agency compliance with the Act." (reiterated at 1507.3(d)(6) as a component of agency NEPA procedures).

¹ Four guidance memos have been issued by NOAA and NMFS. An interim guidance memo was issued by the NOAA NEPA Coordinator on September 14, 2020, which was subsequently revised and updated in a December 8, 2020 memo. This guidance has been supplemented by a March 8, 2021, memo issued by the Acting NMFS NEPA Coordinator. The NOAA NEPA Coordinator also issued a November 23, 2020, guidance memo on NEPA functional equivalence and substitute procedures and documents.

On November 23, 2020, the NOAA NEPA Coordinator issued guidance on NEPA functional equivalence and substitute procedures and documents. The guidance describes two alternatives to avoid duplicating analyses or processes under a separate legal mandate.

Functional equivalence is a threshold determination that NEPA does not apply if the action may be reviewed under an alternate statutory scheme with requirements comparable to NEPA. The NOAA NEPA Coordinator determined the functional equivalence determination and related procedures must be included in agency NEPA procedures. These functional equivalence procedures would be subject to review and coordination with CEQ as part of the general review requirement for agency NEPA procedures. As such, the NOAA NEPA coordinator found that case-by-case determinations are inappropriate.

The CEQ regulations also give greater impetus for agencies to integrate review under controlling statutes in combined documents. Agencies may identify **substitute procedures or documents** prepared under other statutes that satisfy some or all of the requirements in CEQ regulations.² Unlike functional equivalence, NEPA remains applicable. Like functional equivalence, these alternative procedures must be specified in agency NEPA procedures except in limited circumstances.

The CCC is mainly interested in the applicability of functional equivalence to FMC MSA actions but would be prepared to explore the development of substitute procedures for circumstances where the doctrine of functional equivalence does not apply.

CEQ relied on historic case law to codify the doctrine of functional equivalence. As noted in the guidance memo, “Courts have fashioned a narrow ‘functional equivalence’ exemption from NEPA when environmental evaluation and public participation procedures provided in agency regulatory legislation are equivalent to those provided by NEPA.” The basis of such an exemption relies on procedures and documents that substantially comply with or are substantially equivalent with section 102(2)(C) of NEPA, which requires preparation of a “detailed statement” addressing five components.³ A statutory and regulatory program need not duplicate the substance and procedures of NEPA (and pursuant CEQ regulations), but based on this case law the guidance memo describes five features that must be found in a particular statutory and regulatory program:

- i. primarily involves management, conservation, permitting or authorization related to environmental resources (natural and cultural);
- ii. requires consideration of the core NEPA issues: effects of the proposal on the human environment, potential adverse effects, possible alternatives, the relationship between long-term and short-term uses and goals and any irreversible commitment of resources;

² There is general authority for major federal actions at 1507.3(c)(5) and specific guidance for regulatory proposals at 1506.9 with some slight differences on application described in the NOAA NEPA Coordinator memo.

³ These are (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

- iii. provides for meaningful public participation in the decision making process;
- iv. ensures documentation of the foregoing consideration in a record presented to and evaluated by the decision maker before a final decision on the proposed action is made; and,
- v. requires documentation of the reasons for the final decision.

3.0 Alignment of the MSA and NEPA

The MSA is unquestionably one of the most successful conservation laws in the world because of FMCs’ unique deliberative process. Under the MSA, U.S. fisheries management is a transparent and robust process of science, management, innovation, and collaboration with the fishing industry and other stakeholder groups. The Councils were intended to be more than simply ‘advisory bodies’ to NMFS. Their role as the drivers and developers of federal fishery management policy, as administered through fishery management plans, was delegated to the Councils by Congress under the MSA. Fishery management involves rapid cycles of adaptive management in which information about changing conditions is addressed through adjustments to the management program. To be effective, the Council decides when to initiate consideration of an issue, what alternatives are to be considered, when an analysis is complete, and ultimately the action to be forwarded for review and approval to the Secretary of Commerce. Congress specifically delegated these responsibilities to the Council to ensure that federal fisheries management was done using a regionally scaled, publicly accessible, adaptive, and deliberative process that directly incorporated stakeholder driven solutions to complex and dynamic fisheries management problems using the best scientific information available.

The MSA was amended in 2007 with explicit direction for the Secretary of Commerce to “revise and update agency procedures for compliance with [NEPA].” The CCC found the 2013 Policy Directive from NMFS developed to address this task was not consistent with congressional intent and noted that, “Although the 2007 MSA reauthorization attempted to align the requirements of the two laws more closely through the addition of Section 304(i), the CCC does not believe what has been called for in the Act has been accomplished.” After several failed attempts by NMFS and the Councils to develop a new process in tandem, NMFS eventually published its NEPA Policy Directive in 2013, which the agency claimed satisfied the Congressional mandate. The Councils continue to disagree with NMFS’s claim that the 2013 procedures match the intent of Congress in Section 304(i) to integrate MSA and NEPA analyses in consultation with the Councils. (A detailed summary of the history of related NEPA discussions between the CCC and NMFS can be found in Attachment 2.)

4.0 Workshop Preparation

As part of its engagement with NOAA/NMFS in the review and revision of the agency NEPA procedures for MSA fishery management actions, NMFS recommended conducting a workshop to further the development of the agency’s procedures including findings of functional equivalence for the MSA and/or other controlling statutes as outlined above. The workshop could be also a forum to propose revisions to the CEQ regulations for consideration in any subsequent consultations. The workshop participants were to be primarily NEPA practitioners (Council NEPA leads, NMFS regional NEPA coordinators, NOAA GC, etc.). To facilitate CCC

participation, the CCC NEPA Subcommittee was formed to help plan the workshop, to recommend workshop topics and questions to be addressed, to participate in the workshop, and to make recommendations to the CCC based on the results of the workshop.

In addressing the doctrine of functional equivalence and developing related agency procedures, the workshop would further the intent of CEQ regulations to “ensure that Federal agencies conduct environmental reviews in a coordinated, consistent, predictable and timely manner, and to reduce unnecessary burdens and delays” (1501(b)), especially by avoiding the duplication of procedures and documents mandated by other statutes. This would allow for effective fisheries management to be pursued in a manner that is both consistent with Congressional intent that the MSA is the driver of Federal fisheries policy in the US, while improving the efficiency of the environmental review process as intended under NEPA.

With the change of administration and resulting review of the CEQ regulations, plans for review and revision of NOAA/NMFS NEPA procedures have been delayed, and the workshop has yet to be confirmed or scheduled. However, the functional equivalence aspect of the rule has potential applicability regardless of the status of the CEQ regulations based on MSA §304(i), and the fact that the doctrine derives from historical case law.⁴ Furthermore, NMFS has previously expressed interest in considering procedures to make the implementation process for FMC MSA actions more efficient. Therefore, the Subcommittee has pursued its charge and offers the following perspectives on both functional equivalence issues and other aspects of the CEQ regulations so that they may be considered regardless of the fate of those regulations.

4.1 Functional Equivalence

The Subcommittee seeks to collaborate with NMFS at the proposed workshop (when and if it occurs) to develop a model for applying the functional equivalence doctrine to FMC MSA actions that would be described in agency NEPA procedures. This would promote the objectives at 1500.1(b) quoted above. In applying functional equivalence, the Subcommittee also wants to ensure that the unique role of the FMCs as decision makers on regional fishery management issues – within the confines of applicable law and subject to final approval by the Secretary of Commerce (under the authority of the MSA) – is not usurped by the requirement to comply with NEPA.

To prepare for the workshop, the Subcommittee has begun developing a framework to explore how functional equivalence would work under the MSA. Attachment 1 represents this initial effort by identifying provisions in the MSA that address the five criteria for a finding of functional equivalence outlined above. We would like NMFS staff to review this initial rationale for a functional equivalence finding in advance of the workshop and provide feedback to the Subcommittee for its further development. We are also interested in developing a comparable rationale for substitute procedures. At the workshop, participants can review, discuss, and adjust the functional equivalence rationale and discuss how the finding(s) can be incorporated into NMFS NEPA procedures with specific guidelines on the process for and documentation of FMC

⁴ §304(i) directs the Secretary (through NOAA/NMFS) to develop NEPA procedures that conform to the timelines for fishery management plans and amendments specified in the MSA and integrate applicable environmental analytical procedures with those required for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to the MSA.

actions so that the “requirements serve the function of agency compliance with [NEPA].” The workshop should also address the development of alternative procedures and documents under a “substitution determination,” if warranted.

The Subcommittee asks that workshop participants commit to the objective of leaving the meeting with a good faith, workable functional equivalence rationale and related procedures agreed to by both Council and NMFS participants, understanding that there will be additional review needed by both the agency and Councils/CCC following the workshop and consultation with CEQ as required at 1507.3(b)(2).

We would also ask NMFS to be prepared to discuss whether functional equivalence procedures would need to be implemented through regulations or through a NOAA/NMFS Administrative Order.

Finally, the subcommittee identified the following questions related to functional equivalence that we would like to explore further with the organizers in advance of the workshop:

- How has functional equivalence been implemented for other statutes that offer models for Councils/NMFS to consider? By considering these other agency findings and procedures, workshop participants can continue to develop the rationale and related procedures for FMCs and NMFS to apply functional equivalence.
- Recognizing that functional equivalence cannot be applied on a case-by-case basis, would it apply universally to all FMC actions pursuant to the MSA, or could the determination be applied to specific classes of actions? For example, could it differentially apply to rulemaking actions (e.g., periodic harvest specification) versus fishery management plan amendments that implement comprehensive program changes?
- Considering the lengthy definition of “major federal action” at 1508.1(q), as a threshold matter of NEPA applicability, how would that applicability question intersect with applicability pursuant to the functional equivalence doctrine?
- How would requirements under other applicable law, such as ESA Section 7 consultations and the Administrative Procedure Act, intersect with functional equivalence procedures?
- Recognizing that NOAA/NMFS NEPA procedures must be developed in consultation with CEQ, released for public review and comment, and ultimately approved by CEQ for conformance with NEPA and the CEQ regulations (1507.3(b)), how will this consultation process play out as agency procedures are developed? Will the CCC/Councils have an ongoing opportunity to engage in the process, especially if proposals change due to consultation?

4.2 Other Topics to Address in Revised NMFS NEPA Procedures

Identification of the functional equivalence doctrine and the mandate to codify alternative procedures comprise a small, although important, part of the revised CEQ regulations. The Subcommittee presents this non-exhaustive list of topics it recommends for more detailed discussion at the workshop to support development of clear and useful guidelines in NMFS NEPA procedures:

- The threshold for major federal action for the applicability of NEPA in relation to the scope of actions taken pursuant to the MSA (similar to, but broader than its relation to the functional equivalence applicability threshold as highlighted above).
- Application of revised criteria for determining significance, which replace context and intensity with affected environment (setting and geographic extent of proposed action) and degree of effects (see the March 3, 2021, NMFS NEPA Coordinator guidance memo, page 2).
- Alignment of “reasonable alternatives to the proposed action” (1502.14(a)) and the limitation to “a reasonable number” (1502.14(f)) in relation to the scope of actions taken pursuant to the MSA. Clarification on what constitutes a reasonable alternative as defined at 1508.1(z) (e.g., the interpretation of “technically and economically feasible”).
- The approach to impact analysis and its relation to the description of the affected environment and moving away from the categorization of effects as direct, indirect, or cumulative to “reasonably foreseeable” and having “a reasonably close causal relationship to the proposed action,” consistent with the proposed revised definition of effects addressed in 1508.1(g) (see discussion in the final rule preamble at 85 FR 43331).
- Development of additional guidance on time limits for environmental assessments and environmental impact statements (1501.10), page limits for these documents (1505.5(f), 1502.7), and estimating the costs of preparing an environmental impact statement (1502.11(g)).

Attachment 3 includes specific questions about some of the CEQ regulations that require more clarification, and should be addressed in the proposed workshop and/or future agency guidance related to the new CEQ regulations.

5.0 Recommendations

The Subcommittee makes the following recommendations for CCC consideration:

- Urge NMFS to hold the proposed workshop with the aim of producing revised NEPA procedures that improve transparency, allow greater flexibility, and result in more concise documents that are easier for stakeholders and managers to understand and use for decision making. Revised procedures should reduce the time between Council final action and its implementation, reduce complexity of processes and products, and reduce duplication of analyses required under different mandates.
- Urge NMFS to clarify how and whether its NEPA procedures will be updated, particularly in relation to the impending September 14, 2021, deadline imposed by the CEQ regulations.
- Plan for training Council staffs on the application of NEPA under the 2020 CEQ regulations and agency procedures.
- If no workshop is held, the CCC requests NMFS continue the dialogue with the CCC on the application of the functional equivalence doctrine (in relation to MSA §304(i) and recognizing the doctrine’s basis in case law) or, failing that, the development of alternative procedures and documents.

Attachment 1: Provisions of the MSA supporting a finding of functional equivalence

The five criteria specified in the November 23, 2020, NOAA NEPA Coordinator's guidance on functional equivalence (p. 8) are addressed below with provisions from the MSA demonstrating it serves the function of agency compliance with NEPA.

Primarily involves management, conservation, permitting or authorization related to environmental resources (natural and cultural)

- Congress declares “A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation’s fishery resources.” (§2(a)(6))
- Multiple provisions related to permitting and authorization of fishery-related activities.

Requires consideration of the core NEPA issues: effects of the proposal on the human environment, potential adverse effects, possible alternatives, the relationship between long-term and short-term uses and goals and any irreversible commitment of resources

- Any fishery management plan prepared, and any regulation promulgated to implement any such plan must be consistent with 10 national standards addressing environmental and socioeconomic issues and scientific integrity. (§301(a))
- Explanatory guidelines for the national standards at 50 CFR 600 subpart D

Provides for meaningful public participation in the decision making process

- FMCs include appointed members who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned (§302(b)(2))
- FMCs ensure cross-jurisdictional coordination through membership of state officials and representatives and relevant federal agencies (and in the case of the Pacific Council, Indian Tribes) (§302(b), §302(c); composition of individual FMCs at §302(a)(1))
- FMCs advised by panels including scientific and statistical committee and fishing industry advisory committee(s) (§302(g))
- FMCs conduct public hearings (§302(h)(3))
- All meetings open to the public unless closed for specific reasons; timely notice of meetings, opportunity for public comment (§302(i))

Ensures documentation of the foregoing consideration in a record presented to and evaluated by the decision maker before a final decision on the proposed action is made

- Provisions for the contents of fishery management plans covering a broad array of environmental and socioeconomic aspects of managed resources with requirements to specify conservation actions; preparation of a fishery impact statement for any fishery management plan or plan amendment (§303(a))

- Additional discretionary provisions covering a variety of contingencies (§303(b))
- FMCs may propose regulations necessary and appropriate to implement fishery management plans and plan amendments (§303(c))
- Fishery management plans subject to review by the Secretary of Commerce to ensure consistency with the MSA and all other applicable law (§304(a))
- Secretary of Commerce evaluates regulations proposed by FMCs for consistency with the MSA and all other applicable law (§304(b))

Requires documentation of the reasons for the final decision

- Secretary of Commerce renders decision to approve, disapprove, or partially approve fishery management plans and plan amendments with rationale for the decision (§304(a)(3))
- Secretary of Commerce notifies FMC of negative determination (§304(b)(1)(B)); consults with FMC on any revisions made to the proposed regulations, publishing an explanation in the Federal Register (§304(b)(3))

Attachment 2 MSA/NEPA Environmental Review Process Timeline

2006-2009 - MSA is reauthorized and includes Section 304(i) which mandates that NOAA revise NEPA compliance procedures, in consultation with FMCs and CEQ. A CCC Subcommittee develops a conceptual approach and draft guidelines that are not accepted by NMFS; NMFS staff develop a proposed rule on new environmental review procedures for MSA actions that require FMCs to complete NEPA documentation up front. The RFMCs and others are not supportive, and the proposed rule is withdrawn in December 2008 with the advent of the new administration. In January 2009 NMFS announces its intention to revise the existing NEPA compliance procedures (NOA 2016-6), and on a separate track, to consider revisions to the MSA Section 304(i) environmental review process.

2013-2014 - NMFS internally develops a policy directive (30-132) claiming it satisfies MSA section 304(i) direction to streamline MSA and NEPA analyses, and that subsequent back and forth with the CCC satisfies consultation with the Councils. The CCC forms a CCC NEPA Working Group which highlights Council problems with current NEPA compliance protocols, particularly implementation delays of Council actions, duplication of public comment periods, and the negative opportunity cost on other regulatory activities; and proposing an alternative approach. Policy directive publishes in the June 2014 Federal Register; the Councils disagree that new procedures match the intent of Congress in Section 304(i).

2014-2015 - CCC NEPA Working Group works on NEPA White paper, reviews NMFS' revised NEPA procedures, and defers NEPA discussions until progress is made on MSA Reauthorization. NEPA working group task is subsumed into a newly-formed Legislative Committee.

2015-2017 - Legislative Committee develops and periodically updates an all-Council position paper on topics relevant to MSA Reauthorization, including a section on NEPA highlighting that the CCC does not believe that the changes called for in the 2007 MSA Reauthorization Act have been accomplished.

2016-2017 - NMFS publishes NOAA Administrative Order 216-6A revising agency's NEPA procedures, and companion manual with specific policies.

2017-2020 - Executive Order 13807 (2017) directs CEQ to ensure that agencies apply NEPA in a manner that reduces unnecessary burdens and delays. Final rule (2020) institutes various changes including that compliance with the environmental review requirements of other statutes or Executive Orders can serve as the functional equivalent of NEPA compliance.

September 2020 - CCC reconstitutes NEPA subcommittee to work with the agency on the implementation of the 2020 CEQ revisions, including the functional equivalence determination. NMFS commits to host workshop with Regional Fishery Management Councils and discuss workshop outcomes with the CCC prior to developing proposed revisions and implementation guidance for the 2020 NEPA regulations.

Attachment 3: CCC NEPA Subcommittee questions on NMFS' interim implementation of the 2020 CEQ NEPA revisions

The issues raised in this attachment were developed in the context of issues to be explored and questions to be answered in the workshop proposed to help review and revise the new CEQ NEPA regulations and agency guidance for its implementation. Regardless of the workshop status, the CCC NEPA Subcommittee recommends NMFS consider these issues and provide clarification to the Councils on their applications and implications to MSA actions.

What is a major federal action?

The 2020 CEQ regulations state that major federal actions do not include "Activities or decisions that are non-discretionary and made in accordance with the agency's statutory authority" (1502.4(q)(1)(ii)). Many of the fishery management actions developed through the Council process are mandated by the Magnuson-Stevens Act (MSA); applying the CEQ definition of major federal action would appear to mean that an EIS would not be required for these activities. Further, the new CEQ regulations state that a categorical exclusion is appropriate for actions that "normally do not have a significant effect on the human environment, and therefore do not require either an EIS or an EA."

- Could routine harvest specification actions fall into this category?
- If so, under what circumstances would they or would they not?
 - For example, if all previously analyzed conservation objectives were being met, or if new conservation objectives were being established as part of the action.

Determination of Significance

The 2020 CEQ NEPA regulations replace the terms "context" and "intensity", with two broad criteria for evaluating significance at 1501.3(b). In its March 3, 2021 interim guidance memo, NMFS has provided generally applicable criteria for actions that are subject to NEPA. However, it is not clear how NEPA practitioners should use and present these criteria in practice. Many of these topics are addressed in other sections of an EIS/EA such as compliance with other applicable laws; it is not clear how these recommended criteria should be used in practice within a typical EA prepared by the Council.

- How should Councils modify how the affected environment and impact sections are presented and organized to follow these criteria?
- What is specifically meant by "connected actions" related to determining significance?

Reasonable alternatives

It is not clear what 'technically and economically feasible' means as a basis for a reasonable range of alternatives. It is not clear what "can realistically be implemented" means (from interim guidance).

- We request that NMFS bring examples of alternatives that would not be considered technically or economically feasible to the workshop to further clarify.

- We request that NMFS provide additional guidance or criteria that could be used to determine if alternatives can be realistically implemented, and provide examples related to MSA actions.

Effects/cumulative effects

The 2020 CEQ regulations include a new definition of “effect” and seek to focus agencies on consideration of effects that “are reasonably foreseeable and have a reasonably close causal relationship to the proposed action” (1508.1(g)). NMFS’ interim guidance attempts to clarify how Councils should approach these new definitions and provides criteria for evaluating “significance” of effects. However, the guidelines need more clarification.

- The interim guidance has numerous bullets for the recommended criteria; what would that look like in practice?
- It could be useful if NMFS would develop a template for evaluating significance that could be reviewed and discussed at the workshop.

It is unclear how cumulative effects are supposed to be addressed. The final rule focuses on changes that have a “reasonably close causal relationship to the proposed action or alternatives”, but the NMFS Interim Guidance states that our documents are still required to evaluate the “reasonably foreseeable effects from other actions that have a close causal relationship with the effects of the proposed action on ecosystem components.” As drafted, the interim guidance seems to suggest that any future action that causes changes to the relevant environment should be addressed, whether or not it is caused (i.e., has a close causal relationship) by the current action. Unless the future action is caused by the alternative under consideration, it does not seem consistent with the new regulations to require it be included in the analysis.

The Interim Guidance suggests moving the discussion of cumulative effects to the Affected Environment, recommending that this section should include "an analysis of past and present activities that have influenced the condition of each resource likely to be affected by the proposed action." But section 1502.15 of the final rule states that, “The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration,... it shall be no longer than is necessary to understand the effects of the alternatives...” and that "... Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement."

- It would be helpful if NMFS could provide examples of how this has been done effectively.
- Is a template available?

EIS/EA timeline and page limits

- What counts towards the page limits - can it be limited to just the EA component, and not include RIR/ other MSA analyses?

- Interim rule defines a page as 500 words with no graphs/maps/tables/appendices. If that persists, can the regulation rather define pages as a total word limit instead, which would be more transparent and avoid the appearance of being out of compliance?
- Other agencies have simply shifted content to appendices, etc. to meet page requirements. Instead of making EA/EISs more accessible, readable, and succinct for the public, this would likely just result in making the document more difficult for the reader as they need to flip back and forth within the document.
- Can we still produce single analytical packages (consolidated or integrated documents) that address multiple requirements, or do we now need to have the EA as a separate document to meet page limits?
- When does the 1-year (EA)/2-year (EIS) clock start in relation to the Council's action to develop management actions?
 - Can NMFS bring a strawman timeline to the workshop showing how a typical EA or EIS Council process meshes with the NMFS markers (from the interim guidance) for the new CEQ timing requirements?
- Are consolidated or integrated documents subject to the NEPA lime lines?

Without other changes to the NEPA process (such as functional equivalence), it is very unlikely that the Council process can accommodate the shorter time limits given each Council's existing review process and meeting schedule.

- Would a functionally equivalent process also be governed by these page limits?

EIS cost estimates

Estimating the cost of preparing an EIS is a new requirement that requires more guidance to clarify what types of costs should be included.

- Can NMFS bring an example of an EIS cost estimate to the workshop for review, including a list of the types of costs they think should be included for Councils?