NPFMC Comments on the Draft Operational Guidelines

Overall: The Operational Guidelines (OGs) provide standardized guidance for the preparation, review, and implementation of FMPs and amendments through the Council and NMFS. As drafted, the OGs appear to meet the objectives the regional councils have been seeking (a concise handbook of the process and links to requirements and resources) without being unduly restrictive in regional approaches to management. We think our Council would be very supportive of the draft OGs overall, as the draft is very well done and informative.

Specific Issues: There are a few minor issues in the draft that may raise some concerns for Councils, and these concerns are detailed below.

Guiding Principles

Decisions must be supported by facts and analysis in the record.
In concept, this should occur. However, we raise this concern because it could be interpreted to mean that the Council could be restricted to choosing only the environmentally preferred alternative, or the alternative that provides the most net benefits to the nation. Further, we can imagine a contentious policy or allocation issue where the Council and NMFS had a difference of opinion on the policy, and the impasse that would occur due to fighting over the documentation and interpretation of what are the 'facts'.

Coordination between NMFS regions and headquarters.
The draft OG specify that the regions must ensure that HQ has the opportunity to provide input to fishery management decisions at the earliest stages of development, and the Councils should plan timelines accordingly. We think this is an internal NMFS step, and we are a little concerned that this could be used by NMFS to delay decision-making by the Council if they didn't agree with the policy direction the Council was going on a particular issue (the halibut charter IFQs come to mind). This requirement could potentially be used as a pocket veto.

Regional Operating Agreements

Review OGs within 1 year and every 3 years thereafter
The draft OG require the Council/Region to review their ROA within 1 year to ensure it addresses the OG guiding principles, and every 3 years thereafter. Do we really need another set of deadlines? We would rather it just stated that the ROA needed to be reviewed periodically, without being specific. Also, the footer about SOPP says they are available on request. We would just note that the 2010 policy directive requires the Councils to also post the SOPP of the web.

Appendix 2

Roles and responsibilities
The roles and responsibilities of the Council and Region are described. Yet there is nothing about the role of NMS headquarters? What exactly is the role of headquarters? The only hint of

the HQ role in the OG is in the guiding principles on coordination where “NMFS HQ…will advise the regional offices of any national policy concerns.”

Petition for rulemaking
The OG notes that any person my petition NMFS to issue, amend, or repeal a rule, and that guidance if available from the office of sustainable fisheries. We think this section needs more detail, such as the criteria for NMFS taking action on a petition.

Consolidated FMPs
This section should include some detail about the usefulness of a consolidated FMP. It seems very strange to us that most other councils do not update their FMPs with new amendment language. Perhaps the OGs could provide some encouragement for the Councils and Regions to keep the FMPs up-to-date.