

BACK GROUND DOCUMENT: Final Model Fishery Management Council Policy on Addressing Allegations of Harassment of Process Participants Other Than Council Employees

SECTION 1. PURPOSE.

The purpose of this policy is to protect Regional Fishery Management Council (Council) process participants and provide guidance on taking action related to incidents or allegations of harassment **experienced by Council process participants. The Council will not tolerate harassment or retaliation against those who report harassment.** Preventing harassment¹ is everyone's responsibility and individuals who experience or observe harassment are strongly encouraged to come forward to ensure a safe working environment for everyone involved in the Council process. Council members, including chairs and vice chairs, hold positions of trust and responsibility and it is incumbent upon them, together with the Council Executive Directors, to make every reasonable effort to establish an environment free of harassment and to implement this policy fully. This policy provides a framework for procedures to encourage Council process participants to come forward with harassment allegations without fear of retaliation and outlines a process for reporting and reviewing allegations of harassment and taking action as appropriate.

SECTION 2. BACKGROUND.

The Council process involves a complex and dynamic relationship among federal and state employees, Council professional staff, appointed Council members, and members of the public. These individuals frequently meet and interact at various worksites and temporary meeting locations for extended meetings amid challenging issues, which can sometimes lead to interpersonal conflict. The Council process should operate in an atmosphere of respect, collaboration, openness, safety, and equality and every individual who participates in the Council process should be treated with dignity and respect and should be free from abusive conduct and harassment.

SECTION 3. SCOPE.

The reporting and response provisions described in this policy apply to "Council Process Participants." In this document, that term includes all persons who participate in the Council process in any setting, with the exception of individuals employed by the Council, who are covered under a separate policy. Council Process Participants include all individuals present under the context of Council business regardless of location, whether in a Council office, at a Council meeting, or at offsite meetings, hearings and events sponsored by a Council. For

¹ For purposes of this policy covers a harassment includes unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). This policy does not cover allegations of incivility not based on a protected characteristic. However, this policy is not intended to limit in any way the Council's ability to address incivility, inappropriate behavior, or other issues in an appropriate manner for the context.

example, Council Process Participants may include Council members, Advisory Panel or Scientific and Statistical Committee members, external consultants, etc.

SECTION 4. PROCEDURES.

Reporting

Council Process Participants who observe, experience, or receive a report of harassment, including but not limited to sexual harassment or assault, should report the matter as soon as possible to an appropriate official. Swift reporting allows appropriate law enforcement authorities, the NOAA National Marine Fisheries Service (NMFS), or the Council, as appropriate, to take measures to ensure that offensive behavior stops, the harassee's needs are addressed, and action is taken against the offender.

Council Process Participants who observe or are subject to harassment by any Council member, Council employee, or other Council Process Participants may report incidents in a variety of ways, including but not limited to:

- The Council Executive Director or Deputy Director;
- The Council chair or vice-chair;
- Appropriate law enforcement authorities, as needed.

Council Response to Reports

Unless the particular circumstances require otherwise, any Council Member, Council employee, or NOAA employee who receives a report of harassment of a Council process participant should communicate the details of that report, in writing, to the Council Executive Director for appropriate action under this policy. In the event of a reported incident, a response team should be convened consisting of, as appropriate depending upon the context, the Council Executive Director, other designated Council points of contact, and the Council Chair. The response team will determine appropriate follow-up, including whether to engage the NMFS Regional Administrator in the response to the incident, based on the allegations raised and the parties involved.² The Council shall maintain a record of each allegation received under this policy, which shall be made available to NMFS upon request.

NMFS Role

The Councils are primarily responsible for addressing issues that arise within the Council environment. NMFS will, in consultation with NOAA and the Department of Commerce, provide such support and advice to the Councils as may be appropriate under the circumstances. Any Council that receives a report of harassment against or by a Council member **must** inform the NMFS Regional Administrator of the nature of the incident and any steps taken to address the incident.

² If the person alleged to have experienced harassment is a current federal employee, including but not limited to a NMFS employee, the NMFS Regional Administrator must be notified.

Related Processes

This policy does not apply to allegations of harassment experienced by employees of a Council. Instead, in the event an individual employed by the Council is alleged to have experienced harassment, the Council must follow the steps outlined in the *Model Fishery Management Council Policy on Addressing Allegations of Harassment of Council Employees*.

Individuals who are federal employees (including but not limited to NOAA employees) or employed by state agencies, academic institutions or other organizations should report any concerns and seek assistance or action through their supervisor and/or within their own organization, as appropriate, but are encouraged to also report incidents to a Council official described above so that prompt action can be taken by the Council, as needed.

Individuals who are employed by the Councils or the federal government, including but not limited to NOAA, also have the right to file an Equal Employment Opportunity (EEO) complaint with their employing federal agency's EEO office within 45 days of the matter alleged to be discriminatory.