

## **BOARD OF TRUSTEES**

**Jason Jarvis**  
Board President  
*South County Fishmongers*  
Westerly, RI

**Renee Flesch**  
Board Vice President  
*Managing Partner TFG*  
Gloucester, MA

**Nicola Williams**  
Board Treasurer  
*President, The Williams Agency*  
Cambridge, MA

**Lisa Fernandes**  
Board Clerk  
*Director of Marketing & Communications*  
*Institute for Nonprofit Practice*  
Cape Elizabeth, ME

**Ryan Horwath**  
*Pacific Cloud Seafood*  
Buffalo, NY & Sitka, AK

**Paul Bogart**  
*Executive Director*  
*Health Care Without Harm*  
Marlboro, VT

**Emy Rodriguez**  
*US Manager*  
*Plastic Solutions Fund*  
Montclair, NJ

**Niaz Dorry**  
*Coordinating Director, NAMA*  
Gloucester, MA

## **STAFF**

**Brett Tolley**  
*National Program Coordinator*

**Danielle Tolley**  
*Development Coordinator*

**Estefanía Narvaéz**  
*Digital Organizer*

**Feini Yin**  
*Media Coordinator*

**Jen Halstead**  
*Outreach Organizer*

**Jon Russell**  
*Food Justice Organizer*

**Maria Superti**  
*Operations Coordinator*

**Meghan Stratton**  
*Coordination Wizard*

**Niaz Dorry**  
*Coordinating Director*



September 12<sup>th</sup>, 2023

**Wendy Morrison**  
National Marine Fisheries Service  
1315 East-West Highway, Rm 13436  
Silver Spring, MD 20910

Dear Ms. Morrison,

The North American Marine Alliance (NAMA) is a grassroots, fishermen-led organization building a broad movement for healthy oceans and thriving fishing communities. Our values and mission are grounded in equity, justice, trust, and community empowerment as we seek to uplift independent fishing livelihoods and local-to-regional food systems. We strive to support economic dignity and opportunity for all fishery-dependent communities, especially those that have suffered a long history of racism, exclusion, and oppression.

We support the National Marine Fisheries Service's (NMFS) effort to reevaluate and revise its implementation guidelines for National Standards 4, 8, and 9 under the Magnuson-Stevens Act. While we believe direct improvements to these National Standards are needed via legislative reforms, along with other legislative changes to focus NMFS's work on equity and justice, we nonetheless welcome the opportunity to offer our comments on how implementation of National Standards 4, 8 and 9 can be strengthened for the benefit of fishing communities, independent harvesters, marginalized stakeholders, and community-based seafood systems. We strongly hope that NMFS will take the comments it receives from NAMA and similar grassroots organizations into account as it proposes regulatory changes to these Implementation Guidelines.

### **Implementation Guidelines for National Standard 4**

Implementation guidelines for National Standard 4 dictate that allocation of fishing privileges must be fair and equitable, must be reasonably calculated to promote conservation, and must avoid excessive shares. NAMA supports the intent of National Standard 4 and the objectives outlined in the implementation guidelines, but it is clear that NMFS's fishery management actions and those of the Regional Fishery Management Councils do not meaningfully comply with National Standard 4.

While Fishery Management Plans (FMPs) are required to analyze allocation schemes, including those that were rejected by the Council in its deliberations, we believe insufficient scrutiny is focused on allocations of fishing privileges over time as the fishery moves beyond its initial allocation. Consolidation of fishing privileges in the hands of a few powerful owners is a predictable - and often an explicitly stated desired - outcome for fisheries that have been "rationalized" under a Catch Share management scheme. To improve the implementation guidelines for National Standard 4, we encourage NMFS to add language requiring Councils to regularly assess the social, economic, and cultural impacts of an allocation scheme after it has been adopted and implemented. NMFS should also add language clarifying that Councils must analyze any FMP amendment, emergency action, or other action under deliberation affecting a fishery's allocations, as well as the FMP itself.



NMFS must also seriously strengthen this guideline's language around excessive shares. NMFS has allowed and at times even encouraged consolidation and individual control of excessive shares of fishing privileges to proliferate in multiple fisheries around the nation. The agency's lack of action to meaningfully enforce this specific aspect of National Standard 4 has allowed large corporations and individuals to exert control over fishermen through intimidation and financial pressure tactics. NMFS appears to take a narrow view of what constitutes an excessive share, ignoring clear instances where one actor or entity can control quota leasing markets by simply structuring their quota portfolio in a certain manner. We recommend adjusting this guideline's language around excessive shares to clarify that "excessive share" means ownership or *control* of fishing privileges.

Determination of what constitutes an excessive share is deferred to Councils, despite large corporate fishing interests and major quotaholders having an inordinate amount of power and influence in the Council process. In addition to clarifying that excessive share limitations apply to both ownership and control of quota, NMFS should also implement strict, definite guidelines for setting the percentage of quota ownership/control that constitutes an excessive share that can be used uniformly by all councils. Doing so will prevent Council members who represent the most powerful participants in a rationalized fishery from defining what constitutes an excessive share and facilitating further consolidation that harms independent harvesters. It is critical that NMFS update the implementation guidelines for National Standard 4 to ensure that those who might benefit from owning/controlling excessive shares be removed from the decision-making process for what constitutes an excessive share. Without improvements to the guidelines for National Standard 4, "excessive share" will continue to be defined by those with the deepest pockets and greatest access and power in the fishery.

#### Implementation Guidelines for National Standard 8

Implementation guidelines for National Standard 8 govern community protections, dictating that conservation and management measures must provide for the sustained participation of fishing-dependent communities and, to the extent practicable, minimize adverse economic impacts on such communities. Despite this, NMFS has endorsed and upheld policies that create economic harm to fishing communities and erode independent fishing livelihoods, primarily through Catch Share management frameworks that shift access to fishing quota away from independent fishermen in favor of large corporations with no roots in the community and a few dominant shareholders.

It appears with most Catch Share programs that neither NMFS nor the Councils collect, maintain, or make public any data to show demographic details regarding who owns and controls fishing quota. In light of NOAA's recent publication of its Equity and Environmental Justice Strategy, without knowing who owns and controls fish quota, it becomes impossible to evaluate any goals related to fairness and equity. This is especially true for communities that have seen independent fishermen's access to quota erode under Catch Share management. NMFS must update the implementation guidelines for NS 8 to require the collection and analysis of data regarding quota ownership, costs, leasing rates, and other important information that can describe the adverse impacts of Catch Shares on fishing communities and small fishing businesses. Without data to understand fishing communities' access to quota (or lack thereof), economic well-being, and participation in greater detail, it is impossible for NMFS or the Councils to truly determine whether fishery management actions such as rationalization are meeting the guidelines for this national standard and allowing for the sustained participation of fishing communities in their longstanding fisheries.



September 12<sup>th</sup>, 2023

### Implementation Guidelines for National Standard 9

Implementation guidelines for National Standard 9 direct Councils to minimize bycatch and bycatch mortality to the extent practicable, while considering factors like ecological impacts, economic impacts to bycatch users and those targeting the species in directed fisheries, and overall benefits to the nation. Throughout these guidelines, Councils are directed to ensure that conservation and management measures to minimize bycatch are “practicable,” but practicability is never clearly defined. This results in significant discretion granted to the Council in determining what constitutes “practicability,” and allows those with the most influence in the Council process to ultimately define practicability and determine what bycatch measures are acceptable under the existing guidelines for NS 9. NMFS must develop and incorporate a clear definition for practicability that ensures that bycatch measures are not merely developed around what is convenient or profitable for the largest corporations or quotaholders in a given fishery.

### Conclusion

Overall, we believe NMFS must be far more prescriptive and aggressive in its implementation guidelines for all the National Standards to ensure that Councils actually comply with the spirit and intent of the MSA. The significant amount of discretion given to the Councils has resulted in negative outcomes for the very fishing grounds they are to protect and fishing communities nationwide – as demonstrated in the Gulf of Mexico, where intimidation and threats from quotaholders have silenced fishermen speaking out against unfair quota leasing practices, or in New England where a single corporation, Blue Harvest, can impoverish working fishermen by leveraging their ability to control a significant portion of quota across multiple species and exploit that quota by pulse-fishing on species like haddock that result in significant stock decline.

As long as Councils – and their powerful, influential members – are granted immense discretion to set unjustifiable excessive shares and weak bycatch measures, determine who gets access to quota, and opine on whether fishing communities’ participation is being affected by Councils’ decision-making, the management framework governing our nation’s federal fisheries will continue to result in unjust, unequal, and untenable outcomes for underserved communities, small-scale seafood producers, and independent small-boat harvesters, as well as the marine ecosystems and the ocean commons trusted to the Councils and NMFS. We urge NMFS to strengthen the implementation guidelines for National Standards 4, 8, and 9 to ensure that these Standards are upheld and enforced for the benefit of fishing communities and the fisheries rather than the most powerful players in the fishing industry.

Thank you for reviewing our comments and considering our suggestions. We look forward to working with NMFS as the agency pursues more equitable, sustainable management for our nation’s fisheries.

Sincerely,

The North American Marine Alliance (NAMA)