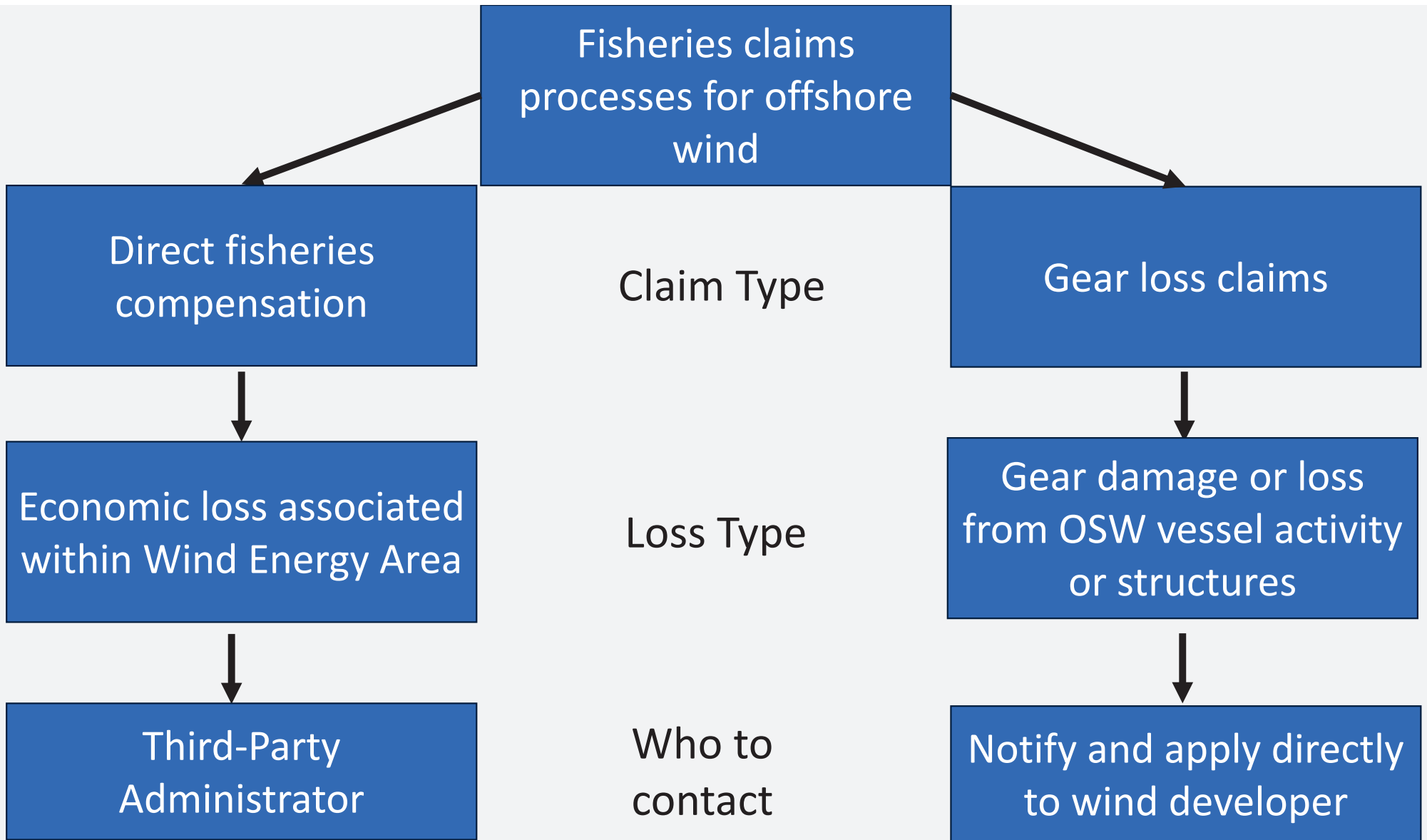


# Offshore Wind Gear Loss Claims Process

MA Fisheries Working Group Meeting  
December 2023



# Overview of Orsted's gear loss claim process

To have a claim reviewed and processed:

1. Notify Orsted within 14 days after the incident  
Contact Orsted America Corporate Fisheries Liaison: Rodney Avila  
([rodav@orsted.com](mailto:rodav@orsted.com))
2. Fill out the Gear Claim Application Form and submit the form with required documents to Orsted's Corporate Fisheries Liaison via email

[Gear Loss Claim Instructions](#)

[Gear Loss Claim Application](#)

3. Submit completed application within 30 days of the incident

# Orsted gear loss claims review continued



Within 30 days after claim submission a decision will be made in writing



Review process will consist of three reviewers:

A Fisheries Representative from the Applicant's home port  
Orsted's Corporate Fisheries Liaison  
A representative of Orsted Americas



A majority is needed among the reviewers to approve the claim



If claim approved, Applicant will be notified and will have a check issued within 5 business days of the expiration of the Notice of Appeal period

# Information required for gear loss claim

Vessel  
Registration/USGC  
documentation

Vessel home  
port, size, type

Gear type

Claim Amount

Statement of  
damage or loss

If receiving  
compensation for  
lost or damaged  
gear

- Witness names and address
- Location and date of incident
  - Reasoning why loss or damage
- If mobile gear (provide vessel speed, direction, activities before, during, and after incident)

- Itemized list of gear
- Proof of purchase
- Estimate of gear repair

**Gear loss claim Application**

Name \_\_\_\_\_ Address \_\_\_\_\_  
Phone number \_\_\_\_\_ Email \_\_\_\_\_  
Vessel name \_\_\_\_\_ Home port \_\_\_\_\_  
Gear type \_\_\_\_\_ State license # \_\_\_\_\_  
Federal permit # \_\_\_\_\_  
Vessel documentation number / registration number # \_\_\_\_\_  
Claim amount \_\_\_\_\_

Required elements of gear loss claim form

1. A full statement about the damage and/or loss. The statement must include:
  - Date the damage or loss was first discovered
  - If mobile gear, your vessel's direction, speed, and activities immediately before, during, and after the incident (including a full description of both the deployment of any fishing gear which is the subject of the claim and all attempts at retrieval of the gear)
  - Names and addresses of all witnesses to the incident
  - Specific location of incident in LORAN or LAT/LONG
  - If available, a description of the vessel, item, or obstruction which caused the incident and whether or not any surface markers were attached to or near the obstruction
  - Reasoning why the loss and/or damage is associated with Orsted Offshore North America activities
2. In order to receive compensation for lost or damaged gear, please provide the following:
  - An itemized and complete list of all lost and/or damaged fishing gear
  - Proof of purchase of all lost and/or damaged gear
  - An estimate from a gear repair or supply company to repair or replace lost or damaged gear
  - If you are repairing the gear by yourself, a detailed estimate identifying the repair cost
3. If claiming economic loss, please submit the following:
  - VTRs for the three fishing trips immediately before the trip during which the loss occurred or was discovered
  - VTR for the trip on which the loss occurred or was discovered
  - VTR for the trip immediately following the trip on which the loss occurred or was discovered
  - If mobile gear, a statement describing the amount of time each of the above trips took
  - If fixed gear, a statement on the number of gear units deployed on each trip
  - A statement of the amount of time lost from fishing because of the gear loss and/or damage and a full explanation of why this time period is reasonable
  - Documentation of the date replacement gear was ordered and received or the date gear repair began and ended

1 

# Information required for gear loss claim

Vessel  
Registration/USGC  
documentation

Vessel home  
port, size, type

Gear type

Claim Amount

Statement of  
damage or loss

If receiving  
compensation for  
lost or damaged  
gear

If claiming economic  
loss associated with  
gear loss



- Witness names and address
- Location and date of incident
  - Reasoning why loss or damage
- If mobile gear (provide vessel speed, direction, activities before, during, and after incident)

- Itemized list of gear
- Proof of purchase
- Estimate of gear repair

- VTRs for three fishing trips prior to loss
  - VTR for trip of loss
- If mobile gear, amount of time each trip
- If fixed, amount of gear units from each trip
- Date replacement gear was ordered

# Orsted Appeals Process for Gear Loss



# Orsted website and forms

Scroll to the bottom of Orsted's Information for Mariners webpage to find links labeled

[Gear Loss Claim Instructions](#)

[Gear Loss Claim Application](#)

[Notice of Appeal Application](#)

Orsted Marine Website link

<https://us.orsted.com/renewable-energy-solutions/offshore-wind/mariners>

## Fishing gear conflict prevention and claim procedure

(as of January 2021)

As good neighbors and fellow ocean users, Ørsted recognizes the possibility of offshore wind activity and commercial fishing gear encounters. We believe that with proper communication and training, there will be limited gear interactions, if any, in connection with the installation and operation of our offshore wind farms. In the event that there is a gear loss caused by or resulting from Ørsted's activities, we have provided a claim/damage procedure at the link below. The prevention procedures are by no means exhaustive and will continue to be modified and improved.

[Instructions for Gear Loss Claim](#)

[Gear Loss Claim Application](#)

[Notice of Appeal](#)



# Vineyard Wind Gear Loss Claims process

1. Fill out the Gear Claim Application Form ([vineyardwind.com/fisheries-documents](http://vineyardwind.com/fisheries-documents)) and submit the form with required documents to Fisheries Liaison from the lease area where the loss/damage occurred via email. Accompany application materials with photograph or video evidence if applicable and available.
2. Submit completed application within 30 days of the incident. Fisheries Liaisons and Fishing Representatives are available to assist with the application form

Company	Lease Areas	Contact Names	Email	Phone
Orsted	OCS-A 0486, OCS-A 0487, OCS-A 0500, OCS-A 0517	Rodney Avila	rodav@orsted.com	857-332-4479
Orsted	OCS-A 0486, OCS-A 0487, OCS-A 0500, OCS-A 0517	Clarie Hodson	claho@orsted.com	857-260-1007
Vineyard Wind	OCS-A 0501	Crista Bank	cbank@vineyardwind.com	508-525-0421
Vineyard Offshore	OCS-A 0522		cbank@vineyardoffshore.com	
Vineyard Wind	OCS-A 0501	Travis Lowery	tlowery@vineyardwind.com	508-728-4529
Vineyard Offshore	OCS-A 0522		tlowery@vineyardoffshore.com	
Avangrid	OCS-A 0534	Caela Howard	caela.howard@avangrid.com	860-575-3501
Avangrid	OCS-A 0534	John Harker	john.harker@avangrid.com	857-216-8611
Equinor	OCS-A 0520	Elizabeth Marchetti	emarc@equinor.com	401-954-2902
SouthCoast Wind	OCS-A 0521	Samuel Ascí	samuel.asci@southcoastwind.com	857-260-4116

# Vineyard Wind Gear Loss Claim review

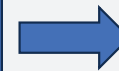
1. Fisherman who sustains a gear loss/damage that he/she believes was caused by a developer's activities (surveys, cable laying, and construction vessels).
2. Notify the appropriate Fisheries Liaison as soon and as safe as possible via cell, text or email.

## Claims Review

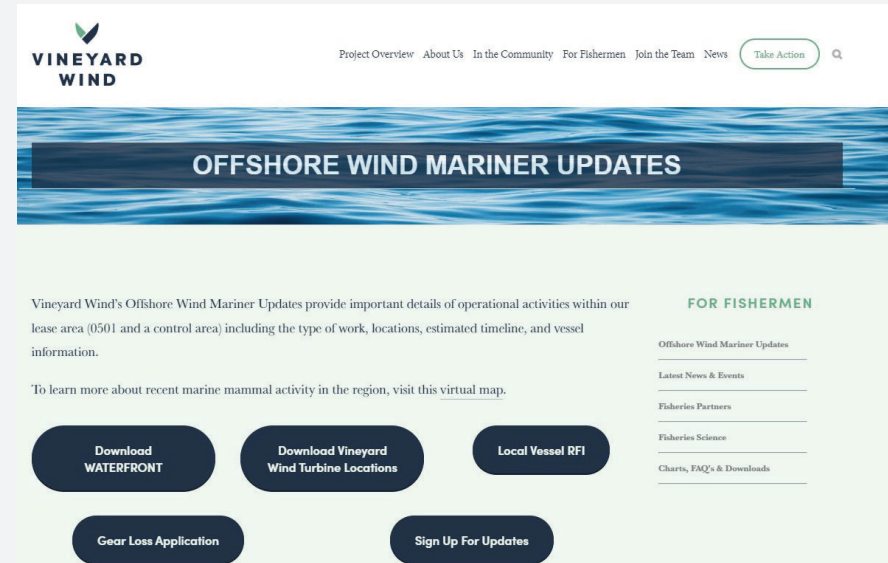
Step 1: After submitting claim application to Fisheries Liaison, claim will be reviewed and timeline will be established with AIS tracks of OSW vessels, and the ships daily log of communication



Step 2: A written explanation of Approval or Denial is provided to the Applicant within 30 days of receipt of claims application.



Step 3: If approved, check will be sent to Applicant. If denied, the Applicant can provide a written notice of appeal and may include a third-party review



# Vineyard Wind Website Page for Claims

## Gear Loss Claim Application



Applicant Name <b>Name</b>	Date Submitted <b>Date submitted</b>
Phone <b>Phone</b>	Email <b>Email</b>
Business Name <b>Business Name</b>	Address <b>Address</b>
Vessel Name <b>Vessel Name</b>	Home Port <b>Home port</b>
Vessel Documentation Number <b>Vessel Doc Number</b>	Federal Fishing Permit <b>Fed Fishing Permit</b>
State Landing Permit <b>State Landing Permit</b>	Gear Type <b>Gear Type</b>
Date and Time of Incident <b>Date/Time of Incident</b>	Weather Conditions (Optional) <b>Weather conditions</b>
Claim Amount <b>Claim Amount</b>	Location of Gear Loss (Lat/Long OR Loran) <b>Location of loss</b>
Description of Loss or Damage Sustained <b>Description of Loss or Damage Sustained</b>	Description of Incident Causing Damage/Loss <b>Description of Incident Causing Damage/Loss</b>

## Gear Loss Claim Application



Description of Incident Causing Damage/Loss: <b>Description of Incident Causing Damage/Loss</b>	Gear Description (e.g., Markings/polyballs, highflyers, etc.) <b>Description of Fishing Gear (markings, highflyers, etc.)</b>
Offshore Wind Vessel(s) in the Area <b>OSW vessels in area</b>	Last Time Gear was Set and Hauled: <b>Date of Last Haul/Set</b>
Was any of the Gear Retrieved? <b>Was any gear retrieved</b>	How Many Gillnets, Pots, Highflyers, Trawl, Doors, Ground Cables, Scissor Leggs, etc. are Lost/Damaged? <b>How many nets/pots/units of gear lost/damaged</b>
Attachments to include - Invoice for Replacement Gear or Gear Repair (if applicable) - Photo of chart plotter/tracks (if applicable) <b>FILL OUT THIS SECTION IF CLAIMING LOST FISHING TIME</b>	
Description of Normal Fishing Activity/Fishing Gear Configuration  <b>Description of Fishing Gear Configuration</b>	
Date of Replacement <b>Date of Replacement</b>	Date of Loss <b>Date of Loss</b>
Attachments to include - Proof of Fishing Landing History through VTR, Sales Slip, or Similar Type of Documentation	

How to download the Gear Loss Claims Form Application

Go to

[vineyardwind.com/fisheries-documents](https://vineyardwind.com/fisheries-documents)

Click on “Gear Loss Claims Form” towards end of page

If Claiming Lost Fishing Time documents required:

- Proof of landings history through VTR, Sale slip or similar documentation

# Update on direct compensation

## **Orsted**

- Joint RI/MA fisheries compensation website will be available in January 2024 from the third-party administrator for South Fork Wind
- Eligibility window is TBD
- Eligibility example application link [here](#)

## **Vineyard Wind**

- 45-day application period for direct compensation loss eligibility will begin in January 2024
  - website will be up and running in January 2024
  - If deficiencies in application, 15-days to complete upon notification
- Notification of payment amount within 30 days post approval of eligibility
- Two payment options: Expedited Claims or Full Individual Payment
- Eligibility criteria for direct compensation can be found [here](#)

# Developer eligibility for direct compensation

## **Orsted**

- state fishing permit
- MA homeport as documented in vessel registration or be a resident/business in MA
- demonstrate history of vessel operating in the SFW project area three years prior to eligibility and having direct economic loss
  - VTR or authorization of NMFS to release VTR data to the TAP
  - If no VTRs, then MA trip-level reporting data or authorization of DMF to release trip-level reporting data

## **Vineyard Wind**

- commercial vessel owners/operators (MA, RI, CT, NJ, and NY)
- valid 2023 commercial fishing permit with NOAA fisheries
- vessel registration showing ownership or lease agreement
- documented fishing activities within the WDA in at least three of seven years from 2016-2022
  - VTR, VMS, AIS, logbooks, chart plotter
- documented annual revenue for three years reported
  - IRS forms 1099, sales receipts, dealer slips, dealer compilation reports

# Establishing a Fisheries Fund Regional Administrator

MA FWG Update

December 2023



BACKGROUND

# Update Purpose

- To refresh the FWG on the origins, intent and current status of establishing a Regional Fund Administrator



# 11 States

(Signatories to Governor's Letter to President Biden, June 4, 2021)

1. Maine
2. New Hampshire
3. Massachusetts
4. Rhode Island
5. Connecticut
6. New York
7. New Jersey
8. Delaware
9. Maryland
10. Virginia
11. North Carolina

*Intent is to establish a fund that is not only accessible to fisheries porting from or landing in these states, but all affected fisheries along the Atlantic Seaboard*

*\*Have also sought advice from representatives of the fishing industry and BOEM, NOAA & ACP*

## States' Objective

- To establish a credible regional administrator for managing and distributing fisheries compensatory mitigation funds for offshore wind for the US eastern seaboard

# Background

- MA and RI and two OSW developers (Southfork and Vineyard Wind 1) have created funds to compensate commercial and for-hire recreational fishermen for losses during construction and operations of those OSW project as well as creating additional innovation and related funds.
- Other OSW developers in conversation now too (Revolution Wind, New England Wind, Dominion off of Virginia)
- BOEM has issued Records of Decisions (RODs) at the conclusion of the NEPA Process under their OCSLA authority that include compensatory mitigation
- BOEM has issued draft guidance for how to calculate compensatory mitigation for displacement from OSW projects (not yet finalized)
- BOEM has made clear that they have no current authority to direct monies to a regional or other particular fund

## Challenge

Thus, there is no current means to administer fisheries compensatory mitigation monies for offshore wind across projects in a more regional and consistent manner to be more equitable, efficient, and accessible for fishermen

# Why regional?

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Consistency across projects and developers

---

Fairness for fisheries across port of origin or port of landings

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Administrator with the same processes and procedures so that fishermen from different ports fishing in or near many projects can have a “one stop shop”

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Scale large enough for building expertise and efficiencies of scale

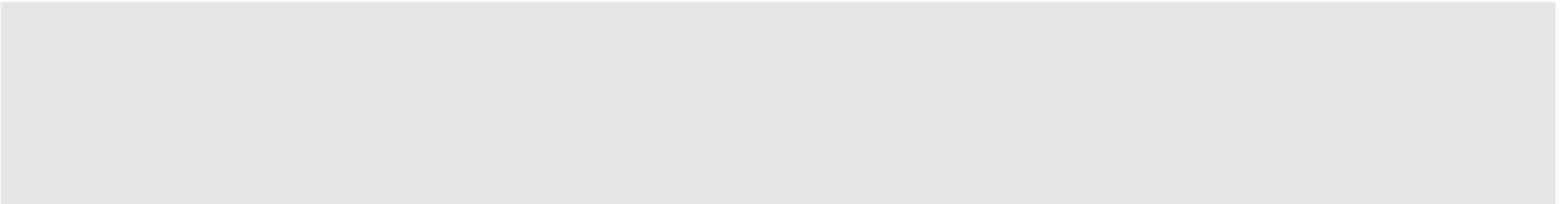
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States can gain efficiencies of scale, avoid duplication and re-creation, and ensure their fishermen have access to compensation regardless of the home port state

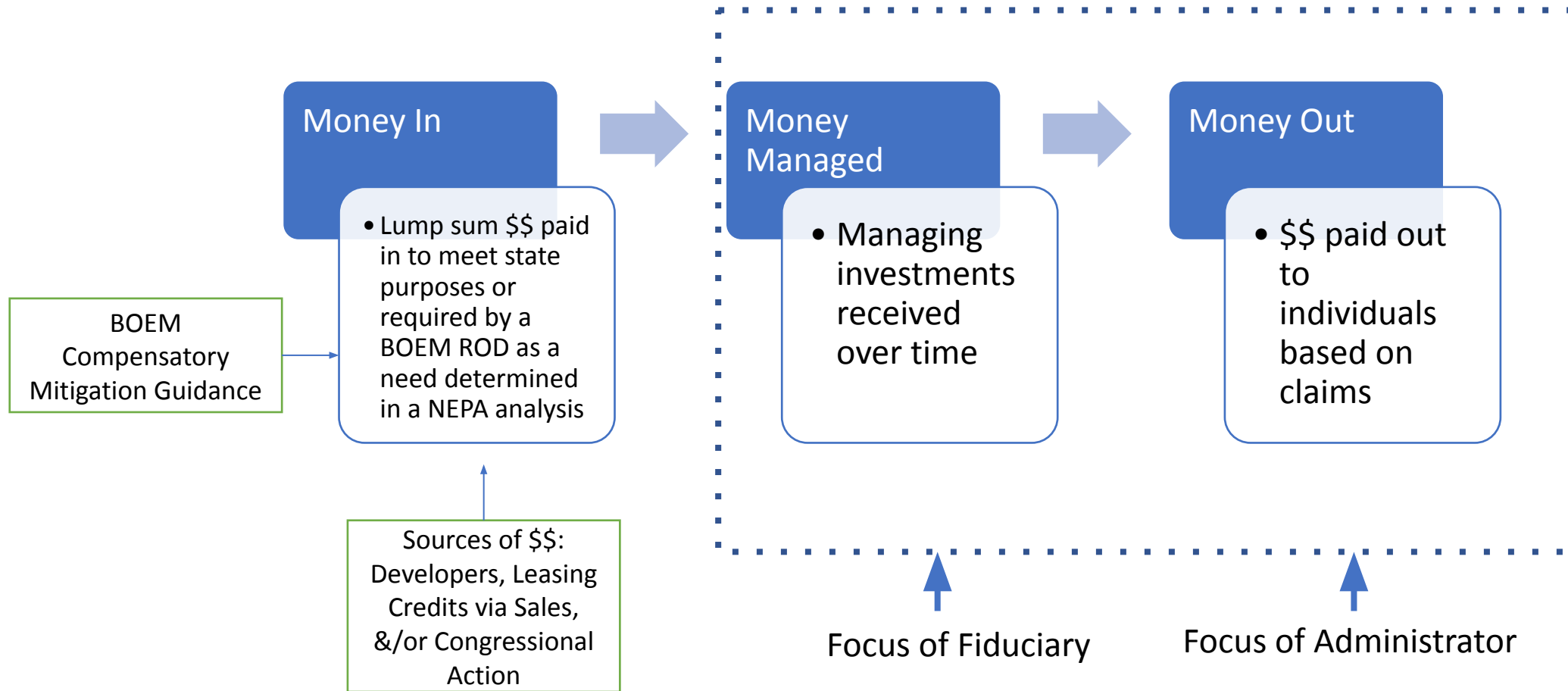
## Value Proposition

A Regional Fund and Regional Fund Administrator will provide fisheries an accessible, equitable, and consistent one-stop shop for filing and receiving claims for individual costs and losses imposed on fishing enterprises by one or more OSW projects regardless of the port of departure or return.

# FUND ADMINISTRATOR SCOPING



# Compensatory Mitigation & Role of Fund Administration

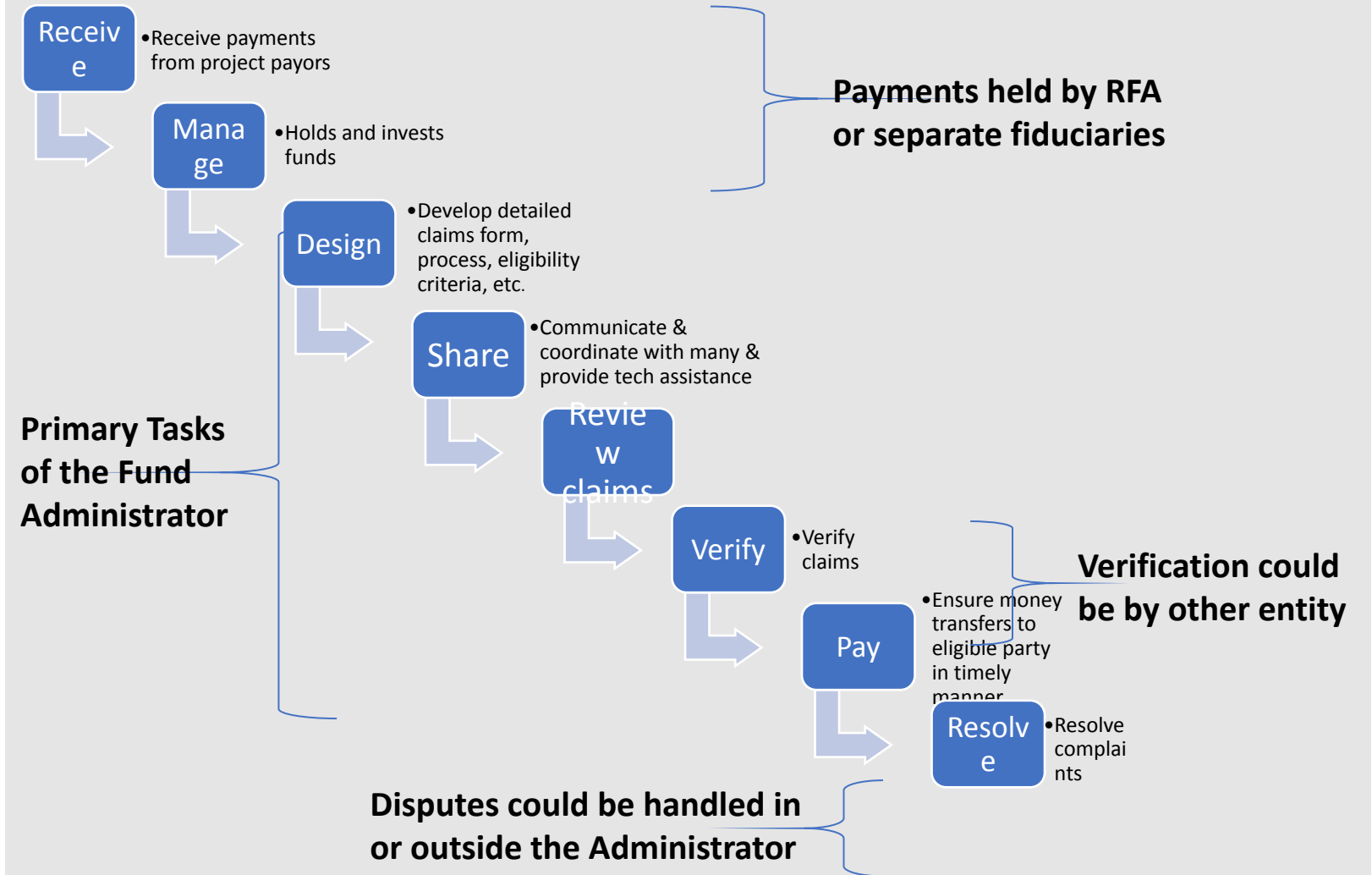




# Potential Key Qualities of an Administrator

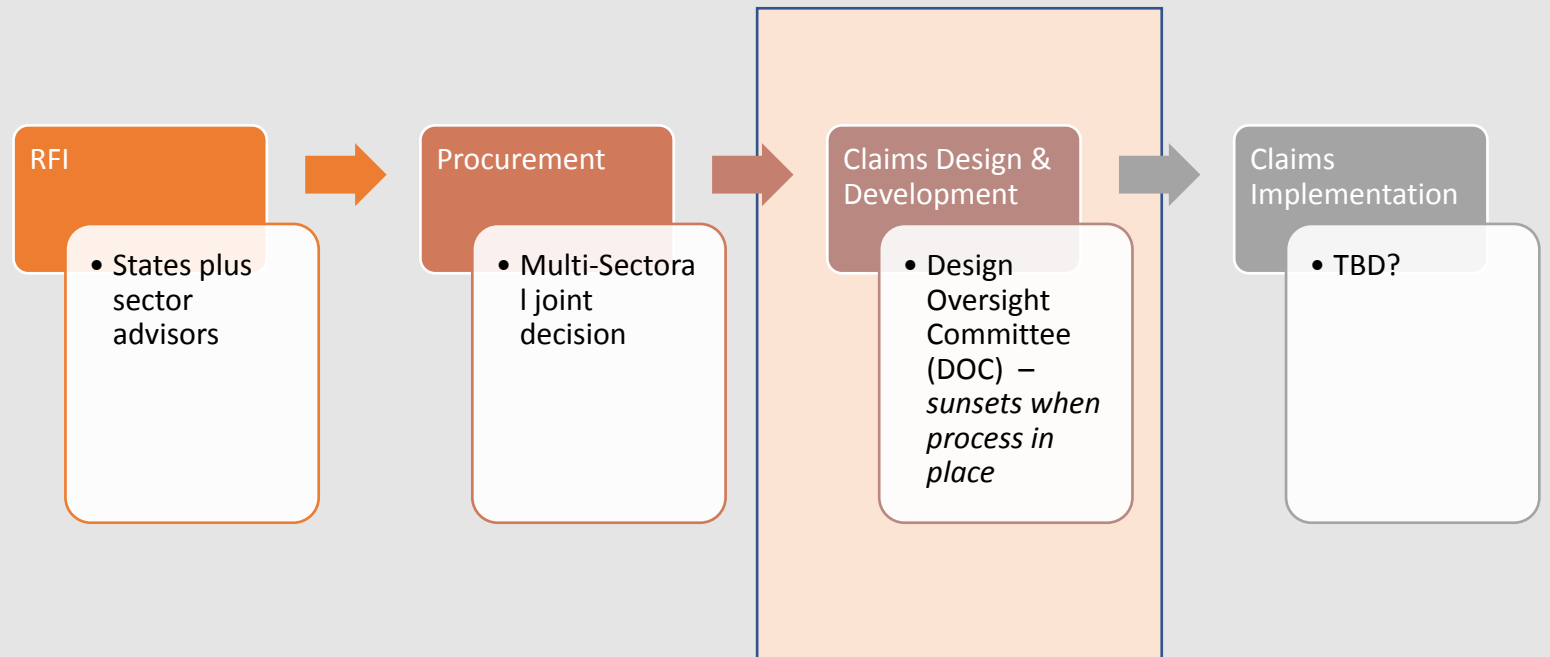
- Strong fiduciary control
- Legitimate in the eyes of stakeholders such as government agencies, the fishing industry, and OSW developers
- Free of bias and rigorous conflict of interest policies
- Demonstrated competency and efficiency in managing funds
- Sustainable for the foreseeable future
- Demonstrate timeliness and maximization of funds paid out
- Minimizes administrative costs and burdens
- Prevents waste, fraud, and abuse
- Holds extensive fishery industry experience, knowledge, and understanding
- Effective collaboration with stakeholders

# Potential Fund Administrator Tasks

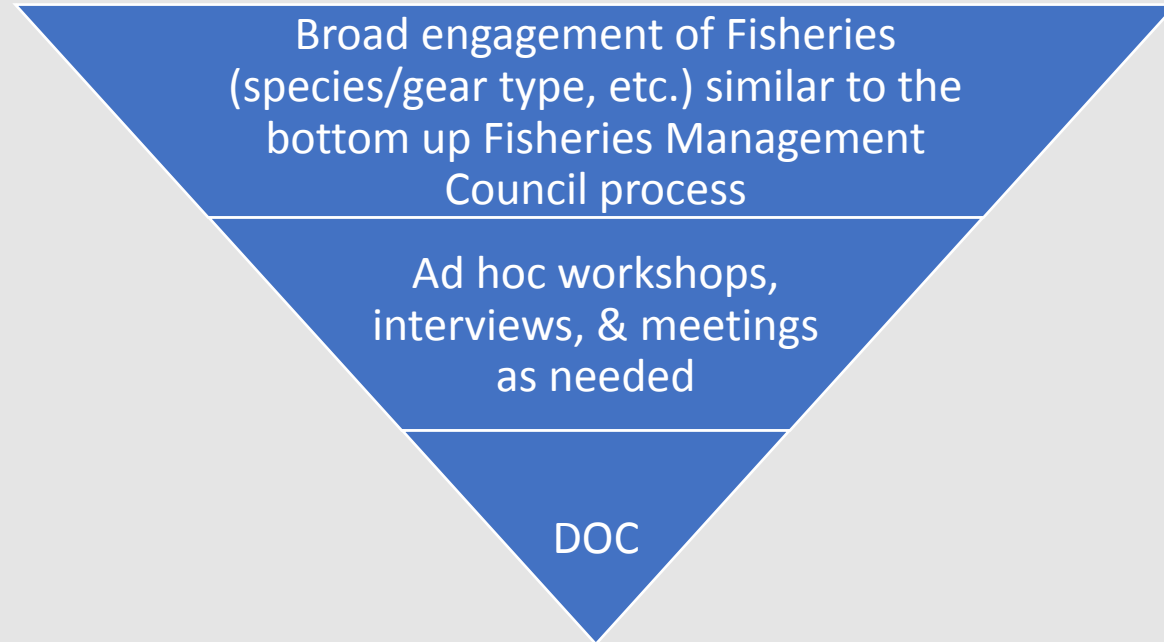


# RFA DESIGN & DEVELOPMENT

# Design & Development Phase



# From the Bottom-up D&D Approach



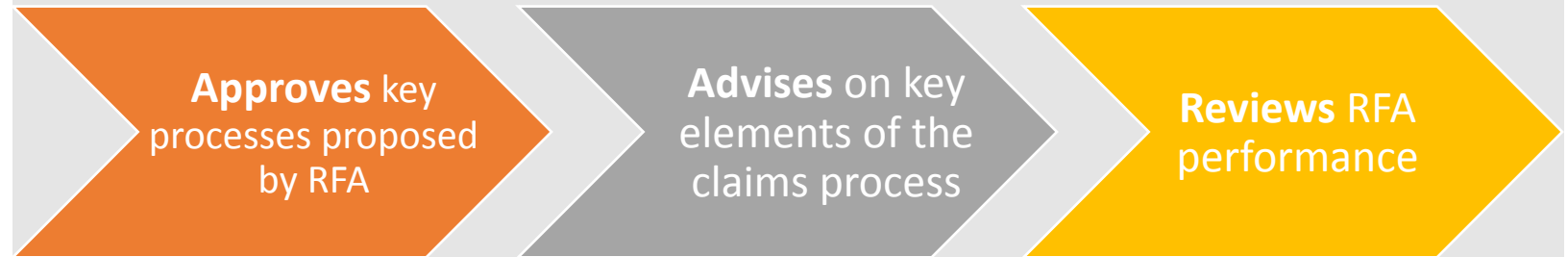
## Roles & Responsibilities

Entity	Role	Possible Actors
Regional Fund Administrator	Lead in developing the claims process; engaging with fishermen for a robust engagement process; working with and engaging with the DOC	TBD
Design Oversight Committee	Guides the overall work and engagement plan; advises the RFA; reviews the RFA performance concurrent with contracting agents	TBD
DOC Steering Committee	Prepares agendas for DOC; works with RFA to informally discuss issues and problem solve	One member from each of three sectors
DOC Members	Participate actively in all DOC meetings; stay in touch with their networks and stakeholders; help ensure the RFA is successful	Fishing; States; OSW sectors with federal agency liaisons
RFA Fiscal Agent (s)	Hold the money and contracts for funding the RFA during the design and development phase; ensuring the RFA meets its scope of work; does not direct the substance of the RFA's work but ensures the quality of its process and products	NYSERDA; SIOW
Facilitation/ Coordination Team	Facilitates the DOC; internal state coordination among 11 states; ad hoc meetings and events as needed	TBD

# Key DOC Elements to Advise On

- Eligibility
- Evidence of Impacts and Burden of Proof
- Compensable Costs and Losses
- Multipliers and processor compensation
- Data Sources and verification
- Simple, verifiable, efficient claims process
- Other?

# DOC Tasks & Authorities

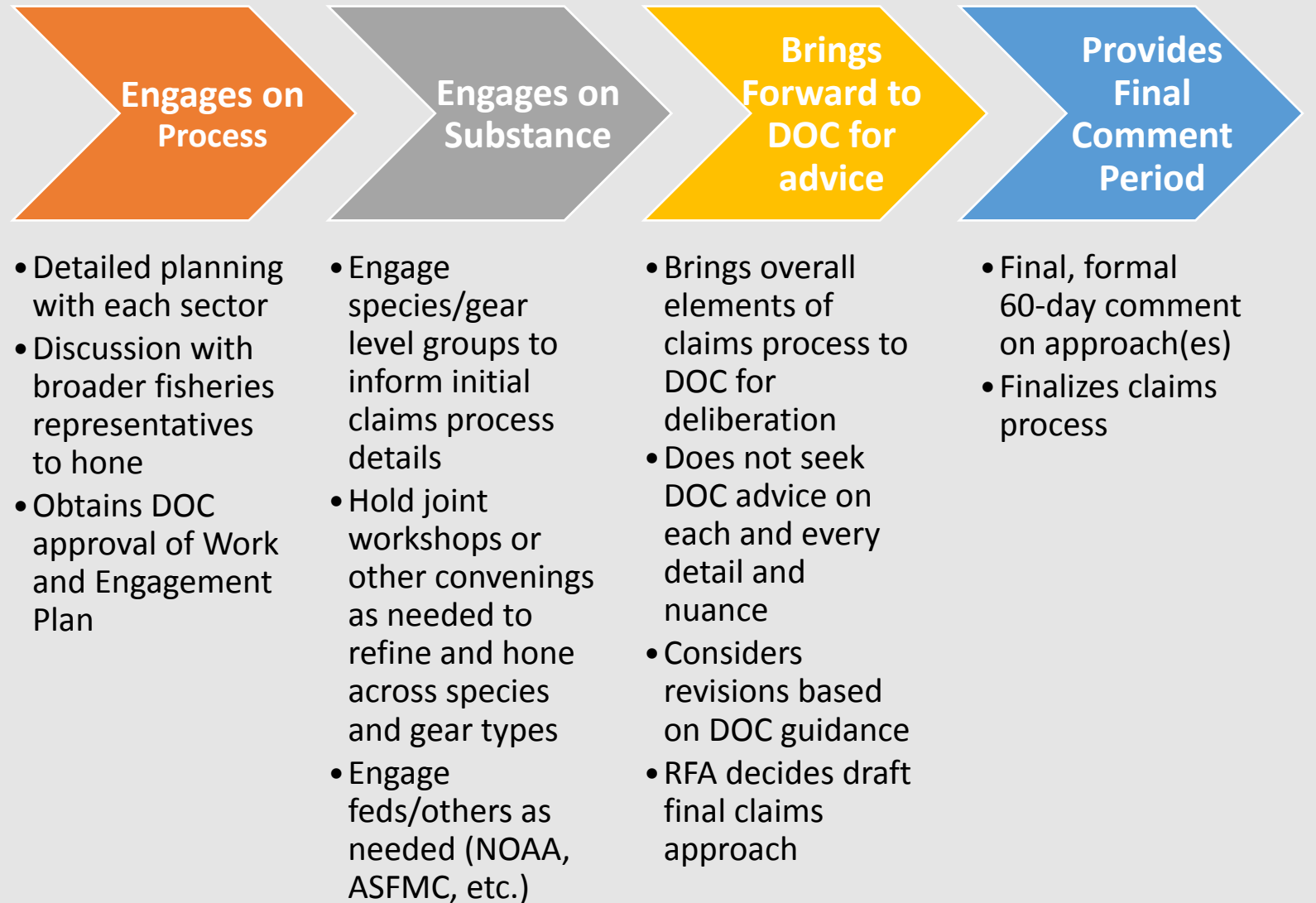


- Work Plan & Refined Scope
- Stakeholder Engagement Plan

- Advises on the key elements of the draft final claims process built from the robust fisheries engagement process
- DOC seeks to ensure overall a legitimate claims process and RFA that can effectively implement
- There is no formal appeals process to the RFA decisions BUT developers and states retain their individual rights regarding their agreements (states) and monies (developers)



# RFA Stakeholder Engagement



# DOC Composition

- A. 3 States**
  - By region (NE, Mid, Southern Mid)
  - Across CZM, fisheries, energy offices
- B. 3 Developers with One or More Leases**
  - By region (NE, Mid, Southern Mid)
  - Some other criteria?
- C. 6 Fishermen (complex industries, beneficiaries, legitimacy, etc.)**
  - 2 per region
  - By gear type of fishery (scallops, clams, lobster/fixed gear, groundfish/mixed trawl, HMS & other, trade association) – type of operator, diversity of industry, not just gear (processors)?
  - Some other criteria
- D. *Ex-Officio Members***
  - NMFS
  - ASFMC (or ACCSP)
  - BOEM
  - FMCs (?)
- E. *Liaison***
  - RFA Procurement State (role in RFA performance only, not an ex-officio, and if state is in this role, cannot also be a DOC member above)

# DOC Selection

## **Each caucus selects its own DOC members**

- ACP coordinates OSW members
- SLOW coordinates States
- RODA coordinates a nomination process to select commercial fishing sector members

## **RECREATION FOR-HIRE FISHING**

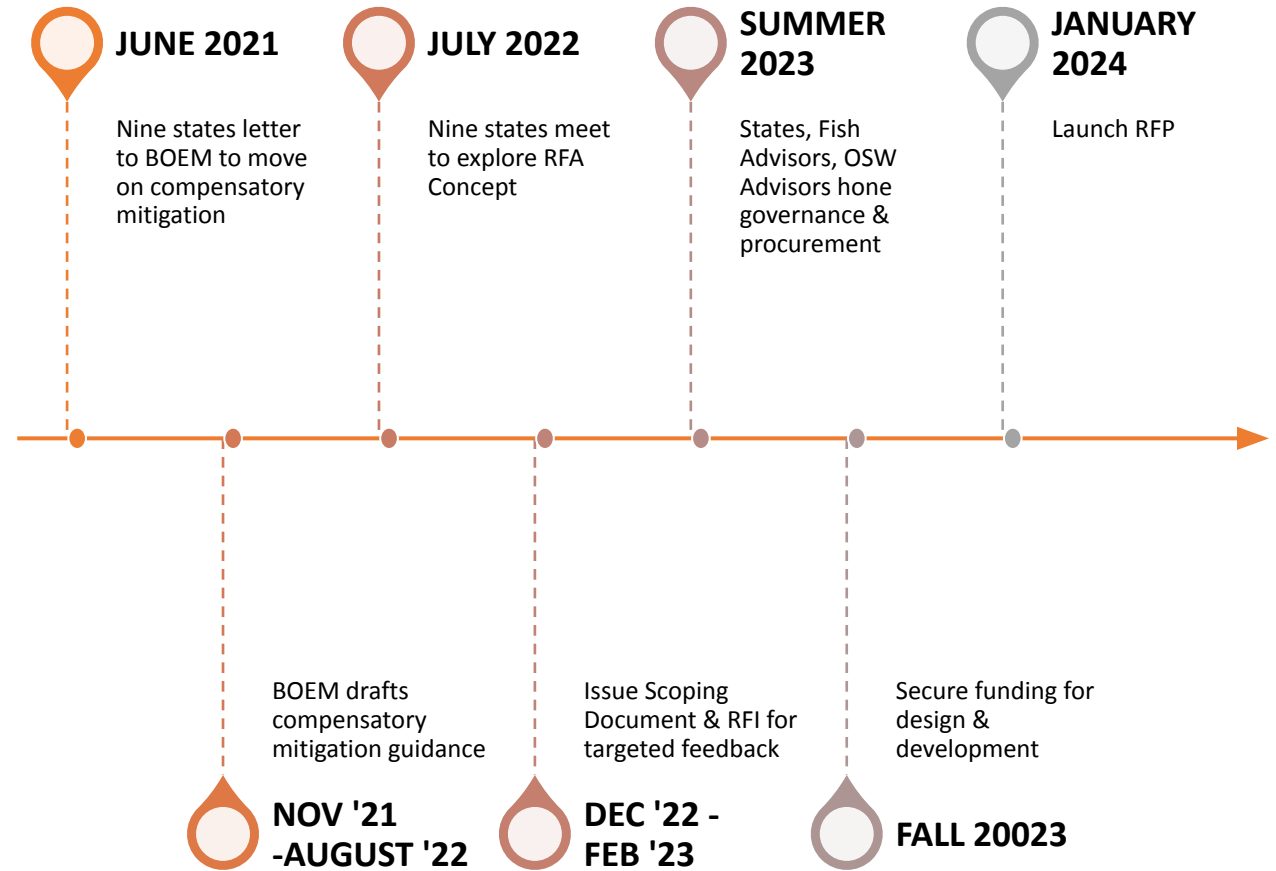
Because recreational fishing is likely 10% or less of total estimated lost revenues and costs AND any commensurate representation would cause them to be outvoted at most turns, options are:

## **ROBUST WORKING GROUP WITH LIAISON TO DOC OR “REC-DOC” FOR REC FISHING**

**RFP Proposers must Propose Approach**

# TIMELINE & NEXT STEPS

# Timeline



## Next Steps

- Issue Request for Proposals (January 2024)
- Procure RFA for Design and Development (Spring 2024)
- Undertake Regional Fund Design and Development (Summer 2024)

Questions



Questions?