

**Joint Oversight Committee
for the Standardized Bycatch Reporting Methodology (SBRM) Omnibus Amendment
May 2, 2006
Virginia Beach, VA
8:30 AM – 1:00 PM**

Meeting Summary

Committee Members: Mr. Dana Rice (Chair), Ms. Sally McGee, Mr. Dave Simpson, Mr. Pete Jensen, Mr. Bob Pride, Mr. Jimmy Ruhle, and Mr. George Darcy

Council Staff: Mr. Jim Armstrong

NOAA/NMFS Staff: Mr. Michael Pentony (FMAT Chair), Mr. Michael Ruccio, Mr. Joel MacDonald

Others: Approximately 6 audience members.

The meeting opened with re-introduction of the Committee members, Council staff, and NOAA Fisheries Service staff. Mr. Pentony stated that the previous Committee meeting summary from the April 6, 2006, meeting in Mystic, CT, has been finalized. Prior to beginning to address items on the agenda, Mr. Pentony distributed several documents to the Committee to be discussed in conjunction with the agenda items.

Mr. Pentony stated that the Fishery Management Action Team (FMAT) met on April 20, 2002. He relayed that during this meeting, the FMAT had covered or discussed the following items: The current amendment work plan; an update on the Northeast Fishery Science Center (NEFSC) analysis (including the various matrices being produced); analysis of proposed exemption criteria; development of alternative standards; non-FMP ‘triggers’ for Council attention; data reporting consistency; observer data quality control/quality assurance measures; and peer review. Mr. Pentony relayed that the items discussed by the FMAT would be covered in detail over the course of the Committee meeting. The remainder of the Committee meeting was spent discussing items on the agenda.

Review of Current Progress on SBRM Omnibus Amendment

Mr. Pentony next summarized the current progress on the analyses being done in support of the SBRM Amendment. Ms. McGee had some specific questions regarding the possibility of limitations on observer coverage due to budgetary constraints and how this may affect the number of days needed to achieve target CVs. Specifically, her concern was that fisheries may not receive observer coverage if days are increased in one fishery to achieve the target CV. Mr. Pentony discussed the concepts of optimization and prioritization on an annual basis, noting that limitations on days didn’t inherently mean some fisheries would go unobserved. Rather, he explained, that decisions may have to occur to split the available days among fisheries that have

required levels of coverage (i.e., earmarked coverage levels) then using the remaining pool of days to assign coverage through identified priorities and use of the optimization tools.

Update on Consideration of Non-FMP Species

In their last meeting, the Committee adopted a consensus recommendation that the FMAT be directed to consider and evaluate whether it is possible to develop and analyze a trigger mechanism to more closely monitor non-FMP species and refer bycatch issues associated with these species to the appropriate Council.

In response, the FMAT held a lengthy discussion of this issue in their most recent meeting. Mr. Pentony said the FMAT thought this amendment was not an appropriate vehicle in which to develop this type of mechanism. He relayed the FMAT discussed that observers currently collect data on all species encountered, regardless of FMP status, and that the subsequent data are available for any state agency or the Atlantic States Marine Fishery Commission (Commission) to use during stock assessments. Mr. Pentony stated that if, during a stock assessment review being conducted by these groups, FMP bycatch interaction concerns were found, the FMAT thought it would be more appropriate for those groups to then bring the issue to the Council to address.

Mr. Pentony distributed information from the 2004 observer database that had been reviewed during the FMAT meeting to arrive at their recommendation not to develop specific triggers. These data showed 211 unique species were documented as being captured and discarded in that year. Mr. Pentony showed a breakdown of the data by Council, Commission, and non-FMP species, the results of which showed that FMP species cover 84.4% of the total weight of observed discards. Mr. Pentony relayed that the FMAT had considered these points as paramount in their reasoning for not choosing to develop a specific trigger mechanism: The data confirmed that observers were collecting data on all species encountered and the majority of species seen in NER fisheries were FMP species. Mr. Pentony relayed that the FMAT had concluded that by designing the SBRM around FMP species, that one would be very far along in seeing the whole picture of bycatch and that the means to address other non-FMP species is already in place, should concerns be raised by other groups.

Mr. Armstrong relayed that Mid-Atlantic Council specification packages for specific FMPs do include information on non-FMP species encountered as bycatch. Mr. Pentony stated that the amendment could be used to specify when and how often the cataloging of non-FMP bycatch information should be done, as in MAFMC specification documents.

Ms. McGee stated that it would be very useful to see the data within the handout expanded to represent total bycatch. Others on the Committee agreed that seeing the total picture of bycatch and having more full data (i.e., further information on number, weight, and size of animals) to review would be highly beneficial. Mr. Pentony relayed that the amendment would not be providing that information; the resources are simply not available for so doing as part of this action. Further, he relayed that this amendment is simply laying out the methodology. Mr. Pentony held that the expansion of such data is more appropriate to conduct as part of a stock assessment. Ms. McGee reiterated her concerns and stated that she wanted to make sure the

Committee didn't lose sight of the roughly 15% of bycatch observers had quantified in 1994 that were not FMP species.

Mr. Simpson raised a concern that observers might prioritize sampling with bias towards FMP species. Mr. Pentony suggested that Observer Program Staff could attend a future Committee meeting to address the details of sampling protocols and clarify if this is an issue.

Mr. Jensen stated that, if the data are available for so doing, it would be very help to differentiate the discard information being reviewed between regulatory and 'other' discards. Others on the Committee commented that this would be beneficial to see. Mr. Pentony said he would need to check with Observer Program or other Center staff, but that he thought observer data could be culled out in such a manner.

The Committee supported, by consensus, the concept of differentiating the discard information into categories based on regulatory and all other discards.

Update on Peer Review Considerations

Mr. Pentony relayed that the consensus of the FMAT was that a peer review of the entire SBRM Omnibus Amendment was not appropriate because the majority of the document contained only management-related information which is typically not reviewed. Mr. Pentony stated that the FMAT did agree that some of the analytical aspects of the amendment could be peer reviewed. The peer review may include a review of the mechanisms used to stratify fisheries, the analysis and decisions made on appropriate estimators (e.g., discard/kept ratio, etc.), and techniques used by staff at the Center to assemble the amendment's data for analysis. Mr. Pentony relayed that the FMAT discussed several options for what group might be appropriate for peer review before deciding that a subgroup of both Councils' Science and Statistical Committees (SSCs) would be well suited to conduct the review.

Mr. Pentony reported that he is working with the staff from both Councils to flesh out the details on which SSC members may conduct the review. He provided the rough timing for the peer review to be as follows: Science Center completes write up of analytical aspects for review – end of July; peer review meeting – 3rd week of August; peer review workup and report – end of August/early September. Mr. Pentony said this time frame would allow the FMAT and Committee a brief window to respond to recommendations from the peer review, as needed. The Committee stated no objections to the proposed peer review plan or schedule.

Timeline for Amendment Development

Mr. Pentony distributed a revised timeline for the amendment's development. He explained that the proposed revision to the development schedule would extend the analysis period by two months. Mr. Pentony said this time would allow for additional Committee meetings, peer review, more public hearings, and give the amendment a bit more time for due process. He said the original schedule was very aggressive and some issues have been identified along the development process, both by the FMAT and the Committee that are more complex than

originally thought. With this revised timeframe, Mr. Pentony said the amendment would be sent to the individual Councils for approval during their January and February 2007 meetings.

The Committee adopted, by consensus, the revised SBRM Omnibus Amendment timeline.

Proposed Criteria to Exempt Cells from SBRM Standards

Mr. Pentony set up this discussion by explaining the rationale behind excluding some matrix cells from the analysis. He relayed that some combinations of gears and species are either highly unlikely or infeasible; therefore, these combinations could be excluded from the analysis.

Mr. Pentony reported that during the FMAT meeting, Dr. Susan Wigley explained her quantitative approach to determining what cells could be excluded. Mr. Pentony summarized Dr. Wigley's methods: She utilized observer data from 1989-2004 and if a combination of gear and species yielded an occurrence of less than or equal to 2 percent of all hauls observed in that time period, the cell was excluded (grayed out). Next she used a more intuitive approach to reinstate a few cells that seemed to be missing or have potential for concern (e.g., capture of seals in mid-water trawl fisheries was originally excluded under the quantitative approach but was reinstated).

Mr. Pentony relayed that this was a first cut and that further revisions to the excluded (gray) cells was expected. Mr. Pentony stated that the intent was to be conservative on the side of keeping cells included within the matrix and, therefore, included in the analysis. He said the plan was to have the Plan Development Teams (PDTs), Monitoring Committees (MCs), and the to be formed co-Council Advisory Panel (Super AP) to review this document using their own criteria and specific knowledge of the fisheries develop a second cut.

The Committee had many questions regarding the methods used to create the first cut document and a lengthy discussion ensued. Some Committee members were concerned that selecting the 2% occurrence threshold was arbitrary. Others raised the possibility of producing matrices with varying levels of percent occurrence ranging from zero to as high as 5% should occur as part of the range of alternatives in the amendment. Mr. Simpson was concerned that at 2%, some very rare species of concern might not be included in the analysis. Mr. Pride questioned if the cells included or excluded could be periodically reviewed and updated. Many of the Committee members shared Mr. Pride's concerns that the exclusion criteria matrix be a working document, subject to periodic review and change after the SBRM Amendment's completion.

In response to these concerns, Mr. Pentony reiterated that this was a first cut and that the plan was to have this matrix reviewed by the PDTs, MCs, and Super AP. He stated that cells could be added (whitened) or deleted (grayed) over time if subsequent review, changes in CV, or if a particular species becomes of higher concern occurs. Mr. Pentony said he would raise the Committee's concerns to the FMAT at their next meeting.

Mr. MacDonald said that anytime a number is picked it is arbitrary, but that as long as the selection of that number is sufficiently explained including the implications of so doing, that the selection is not arbitrary and capricious. Mr. Weinberg stated that the selection of 2% may have been chosen because you don't want to design a program around very rare events. He concurred

with Mr. MacDonald that justification language was needed. He also stated that just because a cell was excluded (grayed), it didn't mean observers wouldn't continue to collect data on all species.

The Committee did not develop any specific action item or positions during this discussion. It is clear that the Committee has concerns with the manner in which exclusions have been derived as well as a desire to have the matrix reviewed periodically for updates. Further discussion during the June Committee meeting on this topic will be necessary following the review of the exclusion criteria matrix by the PDTs, MC's, and the Super AP.

Review of Alternatives for SBRM Standards

Mr. Pentony reviewed a document describing alternatives for SBRM standards. Mr. Pentony stated that the original expectation was that the analysis being conducted would produce CV levels to populate a matrix table and any changes subsequent changes to a particular CV would require a framework or amendment. He explained that as the SBRM Amendment has developed, the FMAT has realized that may not be the best approach, so the three alternatives represent the cell by cell CV and adjustment process options discussed by the FMAT to date. Mr. Pentony relayed that this is a work in progress and that further development at the FMAT level is expected. Also, that this was not the end list of alternatives. Mr. Pentony characterized the current document list as a starting point.

In summary, the alternatives currently under development are: 1) Cell by cell CVs (determined individually); 2) Across the board 30% CV for all cells with specific trigger criteria written into each FMP to require action pending the outcome of stock assessments or periodic reviews (e.g., if discards were found to be X% of total removals during a stock assessment, then an action would be required to bring the CV to a specified percentage--Y%); 3) 30% CV for all cells with process for review as part of stock assessment that defers to the Council for action/changes, as needed. Mr. Pentony relayed that each alternative had some issues. Namely, Alternative 1 may be difficult to do as information sufficient to establish a CV for each cell may not exist; Alternative 2 requires an automatic response action through a framework or amendment to reduce the CV (increase precision) when the criteria are met and takes all discretion away from the Council process. Mr. Pentony relayed that the FMAT stated that it may be difficult to foresee all possible future scenarios to design appropriate adjustment criteria in advance. Alternative 3 allows the Councils some flexibility to determine if adjustments to the CV are needed following a required review.

The Committee had a very lengthy discussion on this topic. Some of the discussion drifted away from the scope of the amendment and dealt with the possible management implications that may arise from the particular alternatives. It became clear during the discussion that the alternatives needed to be more fully developed by the FMAT to be brought back to the Committee for additional review. The Committee worked diligently to try and provide the FMAT, through Mr. Pentony, some direction for their future discussion on alternatives.

The Committee raised concerns over having a target CV of a specified percentage. Some Committee members inquired why 30% had been selected. Mr. Pentony relayed that this was the

standard established in NOAA Fisheries Service's national approach to SBRM document. Some Committee members were concerned that selecting the 30% CV may be viewed as arbitrary; other Committee members inquired if the Court specified what level of precision had to be attained. Mr. MacDonald relayed that the Court had not imposed a specific CV level, but that whatever level or levels were chosen would need sufficient explanation to justify their selection.

Ms. McGee stated concerns about the domino effect that establishing or raising CVs might have for observer coverage in other fisheries, particularly in light of limited observer funding and resources. Her concern was that to attain the CV in one fishery may require so many observer days, that other fisheries lose most or all of the days available. Mr. Pentony said it may come down to priorities and decision-making by the Councils; this amendment would not overcome resource limitations.

The Committee discussed that it may be acceptable, under certain circumstances, to have a high (imprecise) CV because of the specifics surrounding the performance measure. The Committee acknowledged that it may difficult to create all the necessary action points to cover all situations (as required in Alternative 2). Also, the Committee discussed what type of actions might be undertaken if a review showed that a particular fishery mode had risen above the established target. Mr. Armstrong stated his opposition to having adjustments to CVs require a framework or amendment (Alternative 2). He stated a preference for making adjustments through annual specifications.

The Committee continued discussion on the various ways that actions could be taken to react to a CV rising above the established target level. Mr. Simpson clarified that the action may be to simply undergo a review. He relayed two scenarios: That the review may yield that the bycatch is insignificant so taking no action could be a reasonable outcome; the review illustrated a bycatch concern, so measures are taken to increase the precision. Mr. Pentony agreed with his assessment adding that this is how the Alternative 3 would function. Though many Committee members expressed a preference for the discretion granted the Council's through Alternative 3, no consensus was expressed nor was a preferred alternative identified by the Committee.

Mr. Phil Kline of Oceana provided an alternate way of presenting the amendment layout that attempted to show the aspects that are a result of the amendment as well as the review mechanism for the performance criteria that is established. The Committee briefly discussed this layout.

The Committee adopted by consensus, support for alternatives and to move further discussion to June where alternatives will be reviewed in more detail, with the understanding that additions may be made to the existing alternatives or new alternatives may be introduced.

Data Reporting Consistency Issues

Mr. Pentony stated that the issue of consistent discard reporting criteria through VTRs and by observers was discussed at the most recent FMAT meeting. He relayed that the FMAT discussed if VTRs and observers should assign the viability of discards into categories such as live, dead,

or injured. Mr. Pentony said the FMAT agreed doing so would introduce too much error. The FMAT will include language in the amendment to reiterate the current discard reporting requirements and criteria. The Committee had very little discussion on this issue and agreed to the conclusion reached by the FMAT.

Identifying Outstanding Issues

Mr. Pentony took a bit of time to identify outstanding issues with the development of the amendment, issues the Committee will likely need to address, and rough timeframes involved with each. The following is a summary of those issues:

- **Observer Quality Assurance/Quality Control Measures.** Mr. Pentony provided the Committee with brief summary of the observer data flow from the Science Center as well as examples of observer worksheets. The Committee expressed an interest in having Dave Potter or another Observer Program Staff attend the June Committee meeting to discuss observer QA/QC as well as some of the other observer program-related issues that have come up during the amendment's development. Mr. Pentony will work with Center staff to try and accommodate the Committee's request.
- **Alternate Reporting Mechanisms/Monitoring Devices.** Mr. Pentony said the FMAT had not yet been able to address the pros and cons of alternate reporting mechanisms or reporting devices. He relayed that the FMAT will have this discussion at their next meeting and report back to the Committee in their June meeting. Ms. McGee thought this may be very important given the anticipated observer program limitations.
- **Recommendations for Additional Data Elements to be Collected in VTRs and by Observers.** Mr. Pentony explained that the amendment is an opportunity for the Councils to specify additional data elements they might like to implement. He suggested that the discussion be held during the June meeting and that if no one has additions to suggest, the item will go away. For background, Mr. Pentony provided the current VTR instructions and observer data collection worksheets.

Super Advisory Panel Meeting

Mr. Pentony reiterated that discussions are ongoing with the staff of both Councils to assemble the membership for this group and to finalize details for the meeting. To date, the NEFMC had provided a list of participants for the meeting and the MAFMC was expected to supply something similar in the near future. Mr. Pentony reiterated the two main agenda items for the Super AP: Identifying non-regulatory bycatch reduction measures that the industry have voluntarily adopted (to be included in an appendix in the amendment) and reviewing the exclusion criteria matrix. Mr. Pentony stated that the NEFMC will facilitate the meeting and he requested input for a central meeting location. Mr. Rhule suggested that Baltimore is fairly equidistant and typically has reasonable hotel and airfare rates. He suggested that Philadelphia be avoided as it is not cost effective. The Committee expressed a desire that the Super AP meeting be held before the next scheduled Committee meeting in June.

Future Meetings

Mr. Pentony proposed Committee meetings in conjunction with the following upcoming Council meetings:

- June 12, NEFMC in Newport, RI;
- July 31 or August 1, MAFMC in Philadelphia, PA; and
- September 25, NEFMC in Portsmouth, NH.

He relayed that the tentative schedule of work would be: Wrap up the discussion on alternatives for standards (exclusion criteria matrix) and discuss alternate reporting/monitoring mechanisms in June; first look at the analytical products, all the alternatives for standards, alternate reporting/monitoring mechanisms, and finalization of what is to be peer reviewed would all occur in July/August; public hearing draft with preferred alternatives for Councils in September. The Committee discussed how many public hearings may occur. Mr. Pentony relayed that it would be up to the Councils to decide how many meetings would be necessary. The Committee accepted this proposed meeting schedule, acknowledging that it may still be subject to change.

Ms. McGee requested that if at all possible, materials for future Committee meetings be sent to members in advance of the meeting. Her request was reiterated by some other Committee members. Mr. Pentony said he would do his best and that the time interval between the most recent FMAT and this Committee meeting made assembly and distribution of the materials impossible.

The meeting adjourned with all items on the agenda having been discussed.