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New England Fishery Management Council

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C.M. "Rip" Cunningham, Chairman | Paul J. Howard, Executive Director

MEMORANDUM

DATE: January 13, 2012
TO: Council
FROM: Paul J. Howard, Executive Director
SUBJECT: Summary of January 5, 2012

The Executive Committee (Excom) met on January 5, 2012 at the Sheraton Colonial Hotel in Wakefield, MA. Messrs. Cunningham, Odlin, Grout, Stockwell, Morris and Darcy and Ms. McGee participated in the meeting. Messrs. Howard, Kellogg, Goodreau and Nies and Mses. Roy and Bachman attended from the Council staff. Audience members included Gene Martin, Paul Rago and Bill Karp, Jackie Odell and Maggie Raymond. The committee discussed the following agenda items:

1. Discuss timelines and management actions: Mr. Howard suggested original timelines be posted on the Council website and that each change be reflected with an explanation of delays/updates all while keeping the original timeline. Mr. Kellogg reviewed the draft timelines and Mr. Stockwell stated a concern with the submission date of June 2013 for Groundfish Amendment 18. It was agreed that if the submission date is delayed it will be noted with an explanation on the timeline. Approving goals and objectives in April 2012 will be added to the Amendment 18 timeline. In addition to the timelines, it was agreed that a schedule would be developed for the new Ecosystem Cte chair to conduct several scoping hearings for the Council's vision and a NATCAP webinar in which the Chairman and ED participated was discussed and it was agreed to ask NATCAP to support our EBFM efforts as members of a newly developed PDT. Mr. Howard explained that new MRIP recreational data will be presented at the CCC meeting in January and that the Council will get an MRIP update from Gordon Colvin at the January Council meeting. Mr. Howard discussed several SSC timeline issues including the suggestion of a National SSC workshop, a workshop with the Council on risk assessment, and Cte and Council chairs to sit at the SSC table when appropriate. It was agreed that we do not have the resources to support both a National SSC workshop and a 2-day Council and SSC workshop on "risk". It was agreed that only the "risk" workshop would be supported. It was agreed that the Council chair will sit at the SSC table. Committee chairs will sit at the table when the SSC is setting ABC or doing other works associated with their species O/S committee.

2. Discuss Fisheries Forum a la Carte: Mr. Howard suggested the Council work with the Fisheries Forum for future workshops. Ms. McGee suggested they assist with the risk assessment workshop mentioned above. Mr. Darcy suggested asking that the MAFMC be involved in the workshop as well. All was agreed to by the Excom. ED will contact Fisheries Forum. *See Encl (1).*

3. *Discuss draft comments on NOAA Law Enforcement priorities:* Mr. Howard will speak with the Enforcement Chair, Frank Blount, on how best to proceed. It was agreed that an Enforcement Cte meeting should be held to prepare input for Council approval in April. *See Encl (2).*

4. *Discuss draft agenda for NROC spring workshop on how Council can take advantage of work NROC is doing on ecosystem based management:* Mr. Howard reviewed the NROC agenda for their March 2012 workshop. He advised the Excom that he has requested that all Council members, 3 SSC members, and our AP chairs be invited to the workshop. Mr. Howard has provided names to the workshop organizers to start the process of getting the word out on the workshop. The organizers do not have an exact date or location for the 2-day workshop as of this date. *See Encl (3).*

5. *Discuss better interaction between Committee and Advisory Panels:* Mr. Howard explained that there are inconsistencies in how the APs are used. He suggested the AP Chair sit at the table during committee meetings. The Excom agreed that it not be mandated that the AP must meet prior to the committee. In addition, the Excom agreed that each AP Chair would be seated at the table as a full voting member of the O/S committee. In the case of joint plans, the Vice Chair representing the MAFMC region would be assigned membership to the O/S committee. *See Encl (4).*

6. *Approve additional Habitat Advisory panel members:* The Committee reviewed the 2 nominees and approved both without objection.

7. *Presentation of the Nature Conservancy's Northwest Atlantic Marine Ecoregional Assessment by Jennifer Greene:* Ms. Jennifer Greene, a shellfish biologist with the Nature Conservancy, presented her work on the "Path from Ecological Data to Tools for Ocean Planning".

8. *Discuss GOM cod and SSC TORs for ABC determinations and review of assessment:* The committee reviewed the January 3 memo from the ED to the Excom and reviewed 4 options to identify the process the Council will follow. The Cte recommended the Council go ahead with Option 3d which reads, "In addition to gaining an understanding of the GOM cod assessment, the SSC reviews and forwards to the Council a range of catch levels that correspond to various management approaches. In January the Council uses that information to ask NMFS to take an emergency action to adopt an interim catch level and appropriate measures for FY 2012 that would be in place by May 1, 2012. If appropriate based on SSC advice from the January 25 meeting, the Council also plans a further review that will take place at some point in the future to develop an official SSC ABC recommendation for GOM cod. This could be as early as the review of the February assessment updates or perhaps a later date, but the expectation is this would take place in a relatively short time frame (no more than a year). This approach has the advantage of beginning a review of the assessment but delays final decisions until the policy issues are addressed. NOAA/NMFS will be much more comfortable taking an emergency action if there is a specific Council request that comes out of the January Council meeting, and this would give enough time to get catch levels in place by May 1, 2012. It also allows for more time to consider any assessment uncertainties identified at the January 25 SSC meeting."

Mr. Kellogg reviewed the Draft TORs memo for the January 25 SSC meeting. The Excom approved the draft TORs with minor changes. *See Encls (5 & 6).*

9. Discuss work plan to accomplish priorities before 2012: Mr. Howard reviewed staff/committee assignments and the ExCom agreed to task each Oversight Committee to look at monitoring and full retention of allocated species. The Chair discussed creating an Ecosystem Cte which will include the Chairs of the species committees and will be chaired by the Council Chair for the first year. *See Encls (7 & 8).*

10. Personnel issues: This discussion was closed to the public. The Excom discussed the ED's annual performance evaluation. Notice requirements for personnel resignations were also discussed.

From: John Henderschedt [<mailto:john.henderschedt@duke.edu>]

Sent: Tuesday, November 15, 2011 11:40 AM

To: John Henderschedt

Subject: Fisheries Forum a la Carte

FISHERIES Leadership & Sustainability FORUM

Dear Colleague,

In an effort to leverage the work and investment in the semi-annual forums in support of regional council efforts, the Fisheries Leadership & Sustainability Forum is pleased to announce "**Fisheries Forum a la Carte.**" The idea behind this new format is that by offering a "menu" of themes for which the Fisheries Forum has already identified topic experts, hosted presentations, and developed learning and discussion tools, we can share elements of the Forum that are timely and relevant to your council. A Fisheries Forum a la Carte presentation can be designed to fit your timing and content needs and can take the form of a short workshop, an evening presentation during a council meeting, or as part of a council or committee meeting agenda.

This new format will complement and not replace the Fisheries Forum's semi-annual multi-day workshops. Our goal is to serve as a resource and provide learning opportunities to aid Council members and staff in their role as fishery managers. If this approach proves effective, we will develop additional "menus" reflecting both past work and future projects. Our choice of coastal and marine spatial planning (CMSP) as a "first course" reflects our focus on the topic at our September 2011 West Coast Forum and the timeliness of the themes.

Please find below a "menu" of themes from that forum. For more detailed information (2011 West Cost Forum's agenda, summary of proceedings, videos and PDF versions of the presentations, and a report entitled "The Role of the Regional Fishery Management Councils in Multi-Sector Spatial Planning: Exploring existing tools and future opportunities"), please visit the Fisheries Forum [website](#). If you believe that one or more might be especially useful to your council, please contact [Meghan Jeans](#) or [John Henderschedt](#). We would be happy to discuss with you timing, format, and how a presentation might be tailored to address particular challenges in your region. Depending on the scope of the presentation, Fisheries Forum may be able to provide this support at little cost to your council.

Coastal and Marine Spatial Planning and the Role of Regional Fishery Management Councils in Multi-Sector Spatial Planning

- Management Tools to Support Multi-Sector Spatial Planning – Explore existing management tools and strategies that may offer regional fishery management councils an opportunity to provide input into spatial planning and permitting decisions for other ocean uses.
- Data Portals and Decision Support Tools – Gain familiarity with the current status of regional and national data portals and the potential use of decision support tools. Presentations can be focused on the relationship of these tools to stakeholders, analysts, decision-makers, or all three.
- Information & Data Needs for CMSP – Learn about the types of information and data that fisheries managers can provide to help inform spatial management and engage constructively in the multi-sector decision-making process. Consider what data needs might be particularly important to your region.
- Scientific Principles & Governance Framework for CMSP – Explore the characteristics, goals, and principles of CMSP from a scientific and governance perspective.

ENCLOSURE (1)

- Ecosystem & Policy Context for CMSP – Examine the big picture considerations that have led to a focus on CMSP as a tool for achieving ecosystem-based management.

We encourage you to consider whether one or more of these themes may be useful to your council as it works to engage in multi-sector ocean planning. Please feel free to contact us with any questions and/or requests. We look forward to future collaborations!

Very best regards,

John Henderschedt
Executive Director

Draft NOAA Enforcement Priorities

November 8, 2011

NOAA's Mission, Vision, Long-Term Goal, and Objectives

The mission of the National Oceanic and Atmospheric Administration (NOAA) is to understand and predict changes in climate, weather, oceans, and coasts; to share that knowledge and information with others; and to conserve and manage coastal and marine ecosystems and resources. Meeting this mission requires not only state-of-the art science and management programs, but also a fair, effective, and comprehensive compliance and enforcement programs. NOAA is establishing priorities to guide its enforcement programs in support of NOAA's Mission, Vision, Long Term Goals, and National Marine Fisheries Service objectives.

NOAA's enforcement programs operate primarily under the following provisions of the Next Generation Strategic Plan:

- NOAA's Mission: Science, Service, and Stewardship
To conserve and manage coastal and marine ecosystems and resources
- NOAA's Vision: Resilient Ecosystems, Communities, and Economies
Healthy ecosystems, communities, and economies that are resilient in the face of change.
- NOAA's Long Term Goal: Healthy Oceans
Marine fisheries, habitats, and biodiversity are sustained within healthy and productive ecosystems
- NOAA and Fisheries Objectives
*Recovered and healthy marine and coastal species
Sustainable fisheries and safe seafood for healthy populations and vibrant communities*

Background on the FY 2012 Priority-Setting Process

During the fall of 2010 the NOAA Fisheries Office of Law Enforcement and the NOAA Office of the General Counsel for Enforcement and Litigation solicited recommendations from the fishery management councils, interstate fishery commissions, interested stakeholders representing public, private, and non-governmental organizations, and other entities within NOAA Fisheries on setting annual priorities at the national and regional level.

This solicitation for recommendations developed following the summer of 2010 NOAA National Enforcement Summit that brought together more than 60 stakeholders from the commercial and

recreational fishing industries, non-governmental organizations, and state and federal enforcement officials to focus on how NOAA can better manage marine resources through fair, consistent, and transparent enforcement of natural resource laws.

NOAA was particularly interested in recommendations from all interested parties on how the agency can develop national and regional priorities that reflect:

- The potential effect and/or threat of non-compliance to the resource (high, medium, low);
- The status of the resource (e.g., endangered, threatened, depleted, overfished, overfishing occurring, etc.);
- Efforts to improve compliance;
- Opportunities for deterrence;
- Support for catch share programs;
- How enforcement allocates resources for requirements outside specific priorities;
- Best use of available resources

Summary of Stakeholder Recommendations Received

The recommendations received from stakeholders generally fell into the two broad categories:

- *Sustainable fisheries (Magnuson-Stevens Act and associated statutes)*
- *Protected resources and places (Endangered Species Act, Marine Mammal Protection Act, and National Marine Sanctuaries Act)*

Recommendations related to sustainable fisheries included:

- *Protecting overfished stocks and stocks where overfishing is occurring*
- *Improving economic vitality for fisheries community*
- *Leveling the playing field through compliance assistance and effective enforcement*
- *Expanding and enhancing partnerships with the international community*
- *Monitoring to facilitate compliance*
- *Designing and implementing improved enforcement services to address catch share programs*
- *Enforcing fishery closures in support of Annual Catch Limits*
- *Enforcing gear restrictions*
- *Supporting observer programs*
- *Enforcing catch and fishing effort reporting requirements*
- *Enforcing import restrictions/requirements*

Recommendations related to Protected Species and places included:

- *Improving compliance with use of turtle excluder device (TED) regulations throughout the Southeast United States*

- *Improving compliance with speed restrictions along the East Coast of the United States to protect endangered North Atlantic right whales*
- *Improving compliance with regulations designed to protect marine mammals and endangered species, habitat, and protected places, particularly the National Marine Sanctuaries through both expanded compliance assistance programs and expanded effective enforcement monitoring and action.*
- *Expanding and enhancing partnerships with the international community to protect marine mammals and endangered marine species.*

Draft NOAA Enforcement Priorities

NOAA is establishing enforcement priorities to meet NOAA's mission, guide its planning, and focus the use of its enforcement assets relative to marine resources. This planning will focus on federally regulated fisheries and protected species and places identified within NOAA's priorities. Enforcement priorities will focus the use of resources while providing the flexibility and capability to respond to other enforcement requirements as conditions and circumstances dictate. While NOAA will focus its enforcement efforts on the identified priority areas, to assure deterrence, it will continue to enforce all the laws for which it is responsible.

NOAA is identifying its proposed enforcement priorities through a consultative process within NOAA and with external stakeholders. Once established, absent unexpected circumstances, enforcement will dedicate resources to address performance targets affecting the identified priorities. The priority-setting process, including opportunities for public input, will be undertaken annually.

National Priorities

National Priority 1: Support Sustainable Fisheries and Safe Seafood

Domestic demand for safe seafood and recreation opportunities continue to grow. These demands will far exceed domestic supply from wild stocks. This places a premium on effective management of natural fish stocks. NOAA's legal responsibilities in this regard encompass management of more than 500 fish stocks or stock complexes under the Magnuson-Stevens Act. Implementing management strategies that rebuild and manage fish stocks, maintain access to fisheries, and improve opportunities for aquaculture can build and sustain economically robust coastal communities and contribute to long-term food security for the Nation. Management efforts, such as catch share programs, include monitoring to evaluate their impact on stock status, while improved socioeconomic data collection will allow managers to evaluate and improve the social sustainability of recreational and commercial fishery programs. Increasing compliance and ensuring enforcement of needed regulations is an important part of meeting NOAA's goal of sustainable fisheries. Equally, NOAA must strengthen the enforcement of fishery regulations concerning international imports and exports.

International trade in fishery products directly affects the economics of domestic fisheries through unregulated and unreported harvests, mislabeled product and can introduce unsafe product into U.S. markets. Illegal, unregulated and unreported fishing disadvantages the U.S. high seas fishing fleet and decimates migratory stocks important to U.S. markets and the commercial industry.

To meet the needs of the fishing industry and consumers, NOAA's enforcement programs will prioritize:

- Implementing effective compliance and enforcement plans to support catch share management
- Monitoring fishery product imports for compliance with domestic regulations and international treaty obligations.

While compliance and enforcement plans to support catch share management is a National priority, NOAA will continue to enforce traditional non-catch share management as well.

National Priority 2: Support Recovered and Healthy Marine and Coastal Species and Healthy Habitats

The wide range of human and natural impacts on marine, estuarine and diadromous (fish that migrate between marine and freshwater) species has led to listing of many of these species as threatened or endangered under the Endangered Species Act, with petitions to list additional species received every year. NOAA has statutory responsibility for such listed species as well as for most marine mammals under the Marine Mammal Protection Act. As human populations increase and the impacts of global climate change are realized, ensuring the recovery and long-term health of all these species is an important goal for the Nation. To ensure the sustainability and resilience of these species and the ecosystems that support them, NOAA, Federal, State, tribal and local agencies, non-governmental organizations, and industry require science-based policy guidance, economic incentive programs, and sound regulations and enforcement. NOAA is working in partnership with other Federal, State, local and tribal agencies, non-governmental organizations, and stakeholder groups to ensure that recovery and conservation plans are robust, useful and implemented. The international dimensions of this objective require participation in international species management for anadromous fish (fish that live in the ocean mostly and breed in fresh water), endangered species, and marine mammals.

Additionally, the conservation and protection of key marine and estuarine areas is important to sustaining marine resources. While an increasing range of uses will allow coastal communities to create diverse economies, care must be taken to ensure continued access to coastal areas, sustained ecosystems, maintained cultural heritage, and limited cumulative impacts. The National Marine Sanctuaries Act plays a pivotal role in protecting these areas. The 13 sanctuaries and four marine national monuments encompass more than 150,000 square miles of U.S. ocean and Great Lakes waters. Protected within these areas are important habitats like breeding and feeding grounds of whales, sea lions, sharks, and sea turtles; coral reefs; kelp forests; and historic shipwrecks.

To ensure the protection of protected species and places, NOAA's enforcement programs will prioritize the following:

- Enforcement services supporting National Marine Sanctuaries.
- Protection of marine mammal and endangered species through monitoring and enforcement actions in support of by-catch reduction regulations, gear restrictions, and closed areas.

Supporting Priorities

In support of the national priorities outlined above, and to benefit NOAA's resource-based mission goals, NOAA's enforcement programs will also support these two additional national priorities that cut across all regions and programs:

- Compliance assistance – As the commercial and recreational fishing industries have developed, and as fishery managers have worked to afford them the maximum opportunities, regulations have become more complicated. As a result, more effort is required to help the fishing industry understand and follow regulations that support the long-term sustainability of marine resources and the economic activity those resources support.
- Observers – Observer programs provide critical scientific data on fish stock status, bycatch, and fish harvest interactions with protected species. Observer programs require enforcement support to maintain safe work environments that support accurate, objective data collection and reporting.

Regional Priorities

Regional priorities vary with the specific resources, activities, and threats across the country. What may be a high priority in one region may not be a priority in another. For example, endangered salmon do not exist in all regions, so while they may be a priority in the Northwest and Southwest the protection of other species such as sea turtles, monk seals, or North Atlantic right whales may be priorities elsewhere. Equally, fish stocks, fishing gear, and management programs are not identical across the country. Thus, NOAA's enforcement programs must tailor their priorities appropriately. It is important to point out that NOAA will continue to seek to improve compliance with and enforce all marine statutes and regulations. Simply not listing a specific stock of fish or area as a priority below does not mean enforcement actions will not be taken – all regulations must be enforced. Additionally, circumstances – an oil spill, implementation of new regulations – may require that NOAA depart from these priorities to ensure marine resources are protected. In sum, the priorities below will help NOAA focus its enforcement assets on the areas that will most benefit the marine resources for which it is responsible.

Listed below are regional priorities in support of each national priority. Examples given under each priority are not meant to be exhaustive, rather only illustrative.

Regional Priorities Supporting Sustainable Fisheries and Safe Seafood

- Focus resources on overfished stocks and stocks experiencing overfishing. Examples of this priority include:
 - Northeast Region: The illegal harvest or sale of highly migratory species, such as bluefin tuna
 - Southeast Region: Monitoring the red snapper and grouper catch share programs
 - Northwest and Southwest Regions: Quota share deficits under the catch share program and noncompliance with trip and cumulative limits
- Expand contact with the regulated communities including compliance support, monitoring and inspections of regulated activity to identify problems, deter violations and detect violations requiring enforcement action. Examples include:
 - Alaska Region: Selling recreationally caught fish, such as halibut
 - Pacific Islands Region: Violations of international treaties or agreements regarding tuna fisheries
 - Northwest and Southwest Regions: Monitoring for restricted gear types in groundfish conservation areas
- Focus enforcement services to support commercial and recreational catch reporting in support of annual catch limit monitoring. Examples include:
 - Northeast Region: Noncompliance with trip and cumulative limits under catch share programs for Northeast Multi-species or other fisheries
 - Northwest Region: Mislabeling of seafood imports such as king crab
 - Southwest Region: Implementation and monitoring of the tuna tracking and verification program

Regional Priorities Supporting Recovered and Healthy Marine and Coastal Species and Healthy Habitats

- Expand compliance assistance, monitoring and enforcement actions to improve compliance with regulations to protect endangered species. Examples include:
 - Southeast Region: Turtle excluder device regulations in the South Atlantic and Gulf of Mexico
 - Northeast and Southeast Regions: Expand programs to gain compliance with speed restrictions in Northern right whale seasonal management areas
 - Northwest and Southwest Regions: Habitat protection and inadequate water flow and/or barriers to fish passage in streams that impact migration or spawning
- Expand enforcement services provided to support National Marine Sanctuaries. Examples include:
 - Northeast Region: Fixed gear (lobster traps, gillnets) violations within sanctuaries
 - Northwest, Southwest and Pacific Island Regions: Unlawful discharges or groundings of vessels within sanctuaries
 - Southeast Region: Protection of coral reefs within sanctuaries

- Expand compliance assistance to the whale watching/marine mammal viewing industry to reduce illegal vessel/person/marine mammal interactions. Examples include:
 - Alaska Region: Violations involving injury or potential injury to marine mammals, such as a vessel-whale collision
 - Northwest and Southwest Regions: Unlawful interactions with Orca whales and harassment or killing of sea lions
 - Pacific Islands Region: Harassment or killing of monk seals and illegal interaction with humpback whales

NROC/Northeast CMSP workshop: INTERNAL DRAFT Annotated Agenda

DRAFT Version 3

DRAFT AGENDA

Meeting Objectives

- Build a shared understanding of ocean planning in New England.
- Inform participants about progress made at the regional level (by NROC and other entities) and the national level (federal coordination required by the National Ocean Policy) that lays the groundwork for successful regional ocean planning.
- Provide meaningful engagement among participants and opportunities to provide input to NROC about its plans for ocean planning with the goal of creating a shared sense of ownership for both the process and substance of the planning effort.
- Generate and build on interest in, and commitment to, ongoing collaboration among regional stakeholders to increase momentum and support for ocean planning in the region going forward.

DAY 1

9:00 am	Registration opens
10:00 am	Welcoming remarks <i>NROC co-chairs</i>
10:10 am	Opening speaker <i>A regional leader (respected, neutral) will give a powerful picture of the region – tell the story of its resources, economies, communities – to lay the foundation for why ocean planning is needed and motivate participants to be engaged during the workshop AND as the process continues after the workshop.</i>
10:30 am	Agenda review <i>Laura Cantral, Meridian</i>
10:35 am	Panel: Northeast region's need for ocean planning and groundwork for making

ENCLOSURE (3)

	<p>it happen</p> <ul style="list-style-type: none"> • Common thread of all panelists: Principles of decision-making, based in science and with robust stakeholder engagement • A state representative would open the session by describing the need for ocean planning in the region. They will elaborate on the current status/problems, describe how ocean planning has been used to address these problems, and set the tone for general agreement that this approach is worth advancing in the region. They would highlight the economic benefits, efficiencies, and better decision making. They could also emphasize specific benefits that would resonate with particular interests, especially those that might be concerned about the process. • Another state/NROC representative would address the groundwork for regional ocean planning that has been underway for the last several years in the Northeast. They would express that this is a concept the region has been working toward for some time as individual states, through regional collaboration on specific topics, establishment of NROC, and that the EO at the federal level has further stimulated energy for making ocean planning happen now. They could explain how this is a next step from what is already happening. [Need to make it clear that regional ocean planning will build on/improve existing efforts, not start something new, and acknowledge all of things that have been done so far. Need to consider how and when to tackle some questions you already know will come up, such as whether the plan will extend into the watershed, relationship between NROC and the eventual RPB, etc.] • A federal representative would describe the principles of the National Ocean Policy as well as the basic process recommended to regions by the NOC. They will lay out what progress has been made at the NOC level in terms of better coordination under the NOP and how the regional aspect plays into that. They will address what opportunities there are for the region in moving forward under the NOC framework and specifically how work at the national level could help support regional efforts. [Would this panelist be a NROC fed? Or a NOC rep?] • A stakeholder who has worked with an existing spatial planning process in the region would offer their perspective on the process and its challenges and benefits. They will elaborate on specific, tangible benefits such as who has benefited from better decision making, who has felt more comfortable making investments, etc. This panelist will also illuminate opportunities for their sector in engaging in a regional approach. • Facilitated Q and A
11:45 pm	Charge to breakout groups

12:00 pm	Lunch - provided or on their own?
1:00 pm	<p>Breakout groups: Vision for the Northeast Ocean (and coast?)</p> <ul style="list-style-type: none"> • Participants will be in mixed but balanced groups (instead of grouped by state, sub-region, or sector) to foster a sense of "breaking down silos." This is intended to help participants develop a better understanding of what is important to people whose experience and perspectives participants may not encounter in their daily activities. • Each group will discuss their vision for use and conservation of the region's ocean and coastal space. Topics could include major drivers for the region, how they can be addressed through planning, scale and scope of planning effort, stakeholder engagement, etc. Each group will also be asked to describe how they think ocean planning can contribute to reaching that vision. [Explore with Grover how visioning effort was done in RI process] • Facilitators will help participants summarize and narrow the major ideas and bring to the subsequent plenary.
3:15 pm	Break
3:30 pm	<p>Panel: State/fed representatives address participant input</p> <ul style="list-style-type: none"> • State and federal NROC members, a tribal representative (?), and 1-2 stakeholders respond to ideas related to the vision and how ocean planning can help achieve that vision. Emphasis will be placed on cultivating a sense that the vision participants have developed will indeed be a guiding force for NROC going forward, that this was a critical step that will inform the process. • Facilitated Q and A
5:00 pm	Adjourn
6:00 pm	Evening reception (tentative)

DAY 2

8:30 am	Continental breakfast
9:00 am	<p>Welcome, review of day 1, review agenda for day 2</p> <p><i>Laura Cantral, Meridian</i></p>
9:15 am	<p>Details about NROC plans for moving forward (aka the work plan):</p> <ul style="list-style-type: none"> • NROC representatives will describe in greater detail the proposed process

	<p>that NROC is laying out in preparation for ocean planning in the region. Specifically they will provide an overview of the NROC work plan, including all of the outcomes, and describe what help they need from participants and how participants can be engaged going forward. <i>They will, as much as possible, tie back the work plan to what was heard about the vision for the region on Day 1. They will also say anything that needs to be said about an RPB and how they might fit in. Thinking this will be John Weber, with perhaps specific input on outcomes from other NROC members and possibly contractors. Need to ensure set a realistic expectation level for how participants can become engaged.</i></p> <ul style="list-style-type: none"> • Facilitated Q and A
10:30 am	Charge to breakout groups and break/transition time
10:45 am	<p>Breakout groups</p> <ul style="list-style-type: none"> • Participants will be in mixed and balanced group to react to the NROC work plan presentation and specifically how it fits with the vision developed on Day 1. <i>This could include discussion of synergies, gaps, and general concerns or questions.</i> • Facilitators will help the group summarize and prioritize the major insights and bring to the subsequent plenary.
11:30 am	<p>Plenary NROC to address participants input</p> <ul style="list-style-type: none"> • State and federal NROC members will respond to major reflections and questions identified during the breakouts. • Facilitated Q and A
12:15 pm	Charge to afternoon breakout groups
12:30 pm	Lunch - provided or on their own?
1:30 pm	<p>Breakout groups</p> <ul style="list-style-type: none"> • Each breakout group will be focused on one specific outcome/topic of the NROC work plan to delve more deeply into specific ideas and questions. Each group will spend time at the end of the session identifying ways they would like to become/stay engaged--both in terms of communication with them and in terms of contributions they or their sector/organization could make. • Facilitators or a group spokesperson will present the top 3-5 ideas that NROC should prioritize. • <i>Need to consider how to assign participants to groups or allow to self-select, and how</i>

	<i>to manage. Perhaps NROC members/champions/contractors who are topic experts will help facilitate the groups.</i>
3:15 pm	Break and transition to plenary
3:30 pm	Final plenary panel <ul style="list-style-type: none">• Panel of NROC members plus stakeholders/champions/partners that are already working on NROC activities will respond to ideas that have emerged from the breakouts.• Facilitated Q and A
4:30 pm	Opportunities for continued collaboration/engagement <i>John Weber – Bring it all back to the big picture and the interconnections/major themes. Highlight specific opportunities for participants to stay engaged in the process and continue to contribute after the workshop</i>
4:45 pm	Closing remarks <i>NROC Co-Chairs - thank participants and offer concluding remarks.</i>
5:00 pm	Adjourn

From: Alexander, Mark [<mailto:Mark.Alexander@ct.gov>]

Sent: Monday, December 12, 2011 5:09 PM

To: Paul Howard; Rip Cunningham

Cc: Phil Haring

Subject: RE: Question about TA for MF OS

Importance: Low

Paul, Rip

After consulting with the Monkfish Oversight Committee, as specified in the SOP, I have chosen to retain Maggie Raymond as chair of the Monkfish Advisory Panel. The consensus was that Maggie has done a fine job of chairing the AP, providing thorough, fair and balanced reports to the OSC.

Also, with regard to the email from Ted Platz (attached) and the request from the Mid-Atlantic FMC for additional representation on the Monkfish Committee, I have given some thought to a way to help satisfy Ted's concerns and foster equitable input from the Mid-Atlantic in the development of Amendment 6. Since Amendment 6 will involve catch share elements, transparency and significant industry input will be critical in a successful outcome.

On the Whiting Committee, we have held joint OSC / AP meetings, which I think have worked out very well, with the AP members present sitting at the table and providing very insightful and useful information during the committee discussion. However, I think that in that case, it has worked out very well because both the committee and the AP members attending are collectively a very small group (combined they are smaller than the Monkfish OSC). Having joint Monkfish meetings would probably be unwieldy and unproductive as a matter of standard practice.

As a compromise solution, what I would like to do is poll the AP for a Mid-Atlantic member (with the advice of the OSC) that would serve as vice-chair of the AP. When an AP meeting is held, it would be held the day before the oversight committee. This would make it easier (and would economize on travel) for me to attend the AP meeting and for the Chair / Vice Chair to attend the oversight committee. The idea would be to allow the AP Chair / Vice Chair to sit at the table of the OSC meeting to contribute to the discussion. Not every OSC meeting would have to be preceded with an AP meeting.

Having both a "Northern" and "Mid" AP representative would ensure that all perspectives are represented (and help deflect any criticisms, real or imagined, that might be directed toward a single AP representative). The Mid might also be encouraged to pick up the travel tab for the Mid representative, at least as far as attendance at the OSC meetings is concerned.

I seem to recall that the Scallop AP had co-chairs at some point, though I could be wrong. This could also be used instead of a Chair / Vice Chair. They could alternate running the AP meetings, perhaps based on location (Mid or NE). I don't think the scallop co-chairs were invited to the table at OSC meetings though.

Your comments, guidance, admonishments, etc. are appreciated.

Thanks.

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ENCLOSURE (4)

Karen Roy

From: Rip Cunningham
Sent: Saturday, October 08, 2011 9:14 AM
To: Mark Alexander; Paul Howard
Subject: FW: management approach

FYI-

----- Forwarded Message

From: Ted Platz <theoplatz@gmail.com>
Date: Fri, 07 Oct 2011 20:39:55 -0400
To: <ripcham@verizon.net>
Subject: management approach

Rip,

Sorry for the slow commentary following the last council meeting, but I am very busy with a major refit of one of my boats.

I thought the results of the council discussion on monkfish served as a perfect example of why we should start having advisers meet with committee members in a joint session. Monkfish committee members on the council were unsure of the problems and goals that needed to be addressed in the FMP, as well as being unclear as to the goals and objectives that might be addressed by a discussion of catch shares for management in this fishery. Advisers have been quite clear that they do not wish to engage in any discussion of catch shares until they know what their landings are vis a vis the total landings for each year of the fishery for which the service has reliable data.

Twice now the ball has been bounced back on this FMP because there is so little understanding and communication between the advisers and the committee members. At this point we have wasted considerable time and resources in a clearly failed effort to communicate. This is the reason why Tom Dempsey's motion seemed out of step with the rest of the committee and council. Tom served as an adviser prior to being nominated to the council. As a result of his time on the AP; he well knew that the advisers insisted on having data before having any sort of catch shares conversation.

For me, this served as a clear example of the superior management potential of a FMP that calls the advisers and committee members together jointly, as is the case with the skate FMP. Given that the slow movement of framework and amendment actions is an issue effecting timely and productive management; I think that such joint meetings would serve well in the effort to create a more responsive management process and model. I suspect that every FMP would benefit from this model, and the financial savings associated with this approach shouldn't hurt either.

Respectfully,

Ted Platz

----- End of Forwarded Message



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C. M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: January 3, 2012
TO: Executive Committee
FROM: Paul Howard, Executive Director
SUBJECT: GOM Cod

1. Following the GOM cod working group meeting in Portsmouth on December 9 and last Friday's, December 16, GOM cod working group conference call, I'm concerned about our planned response to the recent GOM cod assessment. Our ability to make decisions is hamstrung by all the unanswered policy questions yet to be answered by NMFS Silver Spring. I'm also concerned about what the Council wants our SSC to do (TORs) with the GOM cod assessment. Finally, it is not clear to me what the plan is for the Council meeting discussion about GOM cod, which could influence plans for the January 18 Groundfish Oversight Committee meeting. There is not a lot of time for the PDT to prepare the SSC to respond to the Council's TORs.
2. There is little we can do to speed NMFS's delineation of the legal and policy framework. The critical issue that needs to be answered is whether there can be a delay in ending overfishing. One issue raised in our last conference call does not seem as complicated as it was made out to be, and that relates to the use of our Science and Statistical Committee. The Council Operations Handbook clearly states that "The SSC is tasked with the development of Acceptable Biological Catch recommendations. In doing so, it shall avoid duplication of official peer reviews and consider the larger aspects of the 'spirit of the act' (e.g., ecosystem-based fishery management, socio-economic benefits and other relevant issues identified in the Magnuson-Stevens Reauthorization Act)" (emphasis added). Nevertheless, it would appear within the Council's prerogative to ask the SSC to consider whether information not reviewed at the SARC has implications for interpretation of the assessment, should it choose to do.
3. The Terms of Reference (TORs) for the SSC should be designed so that the Council receives the advice it needs at the appropriate time. In order to facilitate drafting the TORs it would be helpful to identify the likely process the Council will follow. I think there are four broad options.
 - a) The Council asks the SSC to develop an ABC recommendation at its January 25 meeting that is based on the Multispecies FMP default ABC control rules; votes on that

ENCLOSURE (5)

recommendation at the January Council meeting; and the ABC is implemented May 1, 2012.

- b) Regardless what the SSC does, the Council does not take any action at all for FY 2012, letting the current ABC remain in place, and makes future plans to review the assessment. I see this as unlikely but not completely out of the realm of possibility. At least some Council members will be reluctant to use an assessment they consider fatally flawed to set any catch levels.
- c) The Council postpones or delays the January 25 SSC meeting. At the January Council meeting the Council as a whole develops TORs for the SSC (or at least weighs in on the TORs suggested by the Executive Committee). The SSC meets at a future date to address the TORs – perhaps at the same time as the meeting to review the February assessment updates – and develops ABC recommendations for all stocks at the same time. A key advantage of this approach is that presumably many of the legal/policy issues would be addressed by the time the SSC meets. This would remove the policy uncertainty out of the SSC's decision and would focus the SSC's attention on the science issues. The problem with this approach is that it is unlikely that a new ABC for GOM cod could be implemented by May 1 (if necessary), even if NMFS takes emergency action based on the SSC's advice.
- d) The SSC meets on January 25 as planned. In addition to gaining an understanding of the GOM cod assessment, the SSC reviews and forwards to the Council a range of catch levels that correspond to various management approaches (without regard to whether those approaches are legal or not). In January the Council uses that information to ask NMFS to take an emergency action to adopt an interim catch level and appropriate measures for FY 2012 that would be in place by May 1, 2012. If appropriate based on SSC advice from the January 25 meeting the Council also plans a further review that will take place at some point in the future to develop an official SSC ABC recommendation for GOM cod. This could be as early as the review of the February assessment updates or perhaps a later date, but the expectation is this would take place in a relatively short time frame (no more than a year). This approach has the advantage of beginning a review of the assessment but delays final decisions until the policy issues are addressed.
NOAA/NMFS will be much more comfortable taking an emergency action if there is a specific Council request that comes out of the January Council meeting, and this would give enough time to get it in place by May 1, 2012. It also allows for more time to consider any assessment uncertainties identified at the January 25 SSC meeting.
Negatives are that it could delay needed action to end overfishing and that it may derail other planned Council, NEFSC, and SSC work.

4. My recommendation is that paragraph 3(d) is the approach we should plan to follow, recognizing that any number of factors could derail our best intentions. To that end, I have attached draft TORs for the January 25 SSC meeting. If this is the chosen approach it would be helpful if the Groundfish Committee considers whether the Council's request for emergency action should include additional management measures (e.g. changes to recreational fishery measures, commercial measure changes, etc.). We can discuss this at our Jan 5 Executive Committee meeting.



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C. M. "Rip" Cunningham, Jr. *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: January 11, 2012
TO: Science and Statistical Committee
FROM: Paul Howard, Director
SUBJECT: GOM Cod; January 25, 2012 SSC Meeting Terms of Reference

Meeting Terms of Reference (TORs)

1. Gulf of Maine cod was assessed at SARC 53 in December, 2011. While all the final assessment reports have not yet been published, the available information indicates that the perception of stock status has changed dramatically since GARM III. The stock is now overfished, overfishing continues to occur, and the Overfishing Level (OFL) for FY 2012 could be a fraction of recent catches. If this occurs it will cause major disruption to the fishery, having severe consequences for fishermen and their communities.
2. Because of the implications of these preliminary results the Council is planning to deviate from its normal process for setting Acceptable Biological Catches (ABCs) and Annual Catch Limits (ACLs) for this stock. (The Council and SSC also will have to develop ABCs for twelve other groundfish stocks after operational assessments are completed in February 2012). Rather than ask the SSC to recommend an ABC for FY 2012– 2014 at this meeting, the Council intends to follow a multi-step approach:
 - a) January 25: SSC meets to address the TORs (see paragraph 3 below)
 - b) February 1: Council meets, receives assessment report and SSC report, and considers requesting emergency action from NMFS to set interim catch levels and management measures. Based on the SSC report the Council identifies the scope of a future SSC meeting to set GOM cod ABCs for FY 2013 -2014.
 - c) TBD: The SSC meets in response to Council tasking and recommends ABCs for FY 2013 – 2014.
 - d) TBD: The Council establishes ABCs/ACLs for FY 2013 - 2014 and they are forwarded to NMFS for implementation.
3. Based on this planned approach, the SSC is directed to:
 - a) Review the GOM cod assessment and become familiar with its assumptions and results. This review is not intended to duplicate the peer review of SARC 53, nor is the SSC being asked to accept or reject this assessment. The intent of this review is to provide the opportunity for SSC members to become familiar with the assessment methodology and result.
 - b) Identify information that may influence interpretation of the assessment results. Specify whether the possible influence of these elements warrants a closer examination at a future SSC or other

ENCLOSURE (6)

meeting. Provide advice on the structure and timing of any future meeting the SSC believes is warranted. Examples of such information might include:

- 1) Fishery dependent CPUE;
 - 2) Natural mortality assumptions in light of evidence of predation mortality;
 - 3) Recreational catch estimates that may be revised;
 - 4) Assuming 100% mortality of hook caught and released fish (commercial and recreational);
 - 5) The assumed stock structure for cod off the Northeastern US and Atlantic Canada and recent information on stock structure;
 - 6) Uncertainty in survey calibration coefficients;
 - 7) The assumption of flat-topped survey selectivity;
 - 8) Report by Butterworth and Rademeyer, Jan. 2012 (information item 3a below) ; and
 - 9) Any other limitation deemed important.
- c) Review a range of catch levels for GOM cod provided by the Groundfish Plan Development Team (PDT) that are based on the following objectives. Approve catch assumptions used to develop these catches. Comment on the impacts of these catch levels on the stock (e.g. likelihood of stock collapse). These example catch levels may not meet legal or policy guidance.
- 1) $F=0$
 - 2) 75% of F_{MSY}
 - 3) F_{MSY}
 - 4) Constant catch that ends overfishing in 2, 3 or 4 years
 - 5) Catch that allows the current stock (e.g. 2010 or 2011, SSB or Jan-1 B) to grow ~10 percent annually from 2012 – 2014
 - 6) Catch that maintains current stock size (e.g. 2010 or 2011, SSB or Jan-1 B) through 2013
- d) Review PDT methods for estimating economic impacts of GOM cod catch levels.

Background Information

1. SAW 53 Documents (TOR 3a)
 - a. Gulf of Maine Atlantic cod (*Gadus morhua*) stock assessment updated through 2010 (November 11, 2011)
 - b. SARC 53 Summary Report (December 16, 2011)
 - c. SARC 53 Report from Center of Independent Experts by reviewer Ewen Bell (9 January 2012)
 - d. SARC 53 Report from Center of Independent Experts by reviewer Kenneth Patterson
 - e. SARC 53 Report from Center of Independent Experts by reviewer M. Kurtis Trzcinski
 - f. SAW 53 Working Paper 1. A review of factors affecting the survival of Gulf of Maine Atlantic cod (*Gadus morhua*) discarded at-sea; SARC 53 Gulf of Maine Atlantic Cod Data Working Group (Palmer et al., 2011).
 - g. Groundfish PDT working paper on changes in fishing effort in the Gulf of Maine and rough CPUE calculations - to be distributed

- h. Presentation on GOM Cod assessment: Mike Palmer - *to be distributed*
- 2. Documents related to PDT presentations (TOR 3c)
 - a. Groundfish PDT memo dated January 13, 2012: projected catch levels for various harvest strategies - *to be distributed*
 - b. Framework 47 Draft Economic Analysis
 - c. Presentation on catch levels: Tom Nies - *to be distributed*
 - d. Presentation on economic analyses: Chad Demarest - *to be distributed*
- 3. Correspondence / Other Information (TOR 3b)
 - a. "An Investigation of Differences Amongst SCAA and ASAP Assessment (including Reference Point) Estimates for Gulf of Maine Cod" by Doug S. Butterworth and Rebecca A. Rademeyer (January 2012)
 - b. Jan. 10, 2012 Letter from NEMFC to NEFSC re correspondence from David Goethel
 - c. NEFSC response to letter from NEFMC re correspondence from David Goethel - *to be distributed*
 - d. E-mail messages (2) and data from Ted Ligenza
 - e. Letter from Mark Stettner, Jan. 9, 2012
 - f. Spatial Ecology of Atlantic Cod in the Gulf of Maine, received from Jake Kritzer - *to be distributed*



Approved Management Priorities for 2012 (NOV 16, 2011)

Groundfish

1. Coordinate action on the Habitat Omnibus Amendment to include possible modifications of the Groundfish closed areas.
2. Prepare framework action to adjust sector rules based on lessons learned from Oct 2011 Sector Workshop, including determination of why OY is not being caught and the development of measures to attempt to achieve OY, and review 10 percent quota rollover provision in response to RA letter of June 20, 2011.
3. Prepare framework to respond to new assessment information for 9 stocks
4. Develop options to move unused ACE between scallop/groundfish fleets and between groundfish commercial and recreational fleets.
5. Continue Amendment 18 to consider fleet diversity and accumulation caps.

Monkfish

1. Continue Monkfish Amendment 6 for catch shares (sectors and IFQs).

Sea Scallops

1. Prepare FW 24 – to set specs for 2013 and 2014 and default measures for 2015. (*Oct 2012 completion*)
 - Automatic Measures: ABC/ACLs, DAS, access area allocations for LA and LAGC, NGOM TAC based on new survey results, research priorities for RSA program, RPMs for turtles
 - Other measures that could potentially be added:
 - 1) consider modification of GB access area opening dates, currently June 15 (would require joint action with GF);
 - 2) address sub-ACL of YT flounder (potentially divide sub-ACL between LA and LAGC and develop AMs for LAGC trawl fishery);
 - 3) leasing LAGC IFQ mid-year;
 - 4) performance review workshop (similar to lessons learned sector workshop) of LAGC IFQ program to date (not in FW 24 – after FW 24 submitted);

Herring

1. Continue Amendment 5 to include monitoring, mackerel, river herring bycatch, criteria for access to closed areas and protection of spawning aggregations. (*Mar 2012 completion*)
2. Prepare specs package for 2013-2015 based on new assessment.

Ecosystem Based Management

1. Prepare Ecosystem Based Fisheries Management Plan. Phase I to establish Goals and Objectives and establish ecosystem production units throughout GOM, GB and SNE. This action will hopefully have a Categorical Exclusion (CE) from NEPA. (*1 year*)

SBRM Amendment

1. Prepare new SBRM Amendment w/NMFS lead (response to lawsuit).

Whiting

1. Continue Whiting Amendment to set ACLs, AMs and Specs (2012-2014). (*Mar 2012 completion*)
2. Upon completion of item 1, prepare an amendment for limited entry to the whiting fishery.

Habitat

1. Continue Omnibus Habitat Amendment

RSC

1. Continue to steer research to support NEFMC plans.

SSC

1. Support SSC activities such as recommending ABC and making recommendations in the FMP development process.

Enforcement, Safety and VMS

1. Continue to support enforcement, safety and VMS issues.

		Current	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Groundfish	Habitat Omnibus Amendment/CAs Sector rules framework New assessment fw Move Ace between fleets Amendment 18	Tom Anne	Tom Tom/New	Tom Tom/New	Tom Tom/New	Tom Tom/New	Tom Tom/New	Tom Tom/New	Tom Tom/New	Tom Tom/New				
Monkfish	Amendment 6	Phil	Phil	Phil	Phil	Phil	Andy Talia							
Scallops	FW 24 specs/measures IFQ Analysis	Deirdre ? Demet	Deirdre ? Demet	Deirdre ? Demet	Deirdre ? Demet	Deirdre ? Demet	Deirdre ? Demet	Deirdre ? Demet	Deirdre ? Demet					
Herring	Amendment 5 2013- 2015 specs	Lori Talia	Lori											
EBFM	FMP Phase I, goals and objectives	Andy	Andy	Andy	Andy	Andy	Andy	Andy	Andy	Andy	Andy	Andy	Andy	Andy
SBRM	New amendment	Talia	Talia	Talia	Talia	Talia	Talia	Talia	Talia	Talia	Talia	Talia	Talia	Talia
Whiting	ACL, specs amendment Limited entry amendment	Andy	Andy	Andy	Andy	Andy	Phil							
Habitat	Omnibus Amendment	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle	Michelle
RSC	Support RSC	Phil	Phil	Phil	Phil	Phil	Phil	Phil	Phil	Phil	Phil	Phil	Phil	Phil
SSC	Support SSC	Chris	Chris	Chris	Chris	Chris	Chris	Chris	Chris	Chris	Chris	Chris	Chris	Chris
Enforcement Safety and VMS	Support	Lou	Lou	Lou	Lou	Lou	Lou	Lou	Lou	Lou	Lou	Lou	Lou	Lou
SIA	FMP Support		Startup	Startup	Groundfish Habitat	Groundfish Habitat	Groundfish Habitat Monkfish							

EXPOSURE (1)

NRCC Observer Funding Working Group Report

Revised October 26, 2010

Contributors

Jim Armstrong (Mid-Atlantic Fisheries Management Council)

Bob Beal (Atlantic States Marine Fisheries Commission)

Ryan Silva (National Marine Fisheries Service, Northeast Regional Office)

Lori Steele (New England Fisheries Management Council)

Amy VanAtten (National Marine Fisheries Service, Northeast Fisheries Science Center)

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I. Introduction

The Northeast Region has insufficient funds to meet all of its catch and bycatch monitoring needs. It is expected these needs will continue to increase and diversify, and that adequate appropriations will not be available to fully meet ongoing needs. In response to this issue, the Northeast Regional Coordinating Council (NRCC) established a working group comprised of a representative from each of the NRCC member organizations to evaluate funding methods that could potentially be used to supplement catch data collection programs in the Northeast Region. The findings of this group are summarized in this report.

Due to the diversity of catch data collection programs in the Northeast Region, the scope of this report is constrained to catch sampling efforts that are designed to quantify commercial catch, including shore-based sampling, at-sea catch sampling, at-sea observer data collection, and electronic monitoring. It does not include biological sampling that is conducted strictly for stock assessment purposes, recreational catch data collection, or activities focused on non-commercial fishing activities. This report does not assess all potential funding mechanisms, but focuses on those that the group deemed to have the greatest potential utility in this Region. It does not attempt to evaluate critical considerations when developing a catch monitoring program, such as data quality and observer safety needs. This report does not include a robust analysis specific to any given fishery management plan or fishing mode as defined by the Standardized Bycatch Reporting Methodology (SBRM), although there are some basic evaluations made to illustrate the potential use and or limitations of a given funding mechanism.

Consistent funding for ongoing catch data collection programs was identified as a critical need for any observer program. Observer programs are extremely operationally complex. Contractual agreements for service providers may take months to be approved and put in place. In addition, field coordination, observer training, and debriefings are very dynamic, and data processing programs are complex and labor intensive. Without consistent funding, classroom or building leases would not be constant, and the quality of training and hands on tools would be compromised. Without stable funding, observers would not have steady employment, and would not be able to maintain their full-time job as an observer. The industry suffers when experienced observers are lost and when new, inexperienced observers must be brought in. Editors, debriefers, and data entry staff also require a considerable amount of time and training to become efficient. With interruptions in funding, these positions would also be lost and then re-trained.

II. Federal Funding Models

Observer programs can be funded fully or partially by the Federal Government. The Government may hire at-sea observers directly as personnel (i.e., observers as NMFS staff), or submit payment to an observer service provider. Typically, observer program administrative and analytical costs are handled through appropriations, while at-sea observer funds may come directly from appropriations or another source, such as the fishing industry.

Funds for Federal models are dependent on congressional appropriations. Although appropriations are clearly not an alternative funding mechanism, the working group agreed that a review of Federal models

could potentially improve the efficacy of designated appropriations. The primary recipient of appropriations in the Northeast Region is the Northeast Fisheries Science Center's Northeast Fishery Observer Program (NEFOP). Appropriations are either directed to general program support, earmarked for the Northeast multispecies fishery, or are available on a competitive basis.

The basic challenge regarding Federal funding models is insufficient appropriations to implement or support the diverse data collection needs in the Region. In addition, the restrictive nature of funds earmarked for a specific fishery further inhibits the ability to optimize the use of available funds to address management and scientific needs. Although there are some funds available on a competitive basis, such as those awarded through the National Seabird Program, the limited nature and uncertainty surrounding those funds is not considered further in this report.

The group identified the following steps that could assist programs reliant on appropriations, to more effectively meet catch monitoring program needs:

1. Increase appropriations;
2. Reduce restrictions on how appropriations may be used; and
3. Refine program efficiencies and maximize cost/benefit ratios.

Although substantially increasing appropriations would clearly help achieve catch monitoring needs, the basic premise for establishing this group was that this is unlikely to happen. The 2nd and 3rd steps were identified as ways that could allow NEFOP to more effectively utilize available appropriations.

Reducing restrictions on appropriations would allow NEFOP to optimize the utility of such funds. Implementation of the SBRM Amendment formalized and brought greater transparency to the process for allocating observer sea days to designated fisheries. As part of the allocation process a prioritization "performance standard" is developed that identifies the number of sea days needed to achieve a 30% CV. This is an important step and particularly germane to the focus of this report. Ideally, funding would be available to achieve the 30% standard for all fleets, species, and regions. As envisioned by the SBRM Amendment, however, funding is often limited such that only a subset of sea days is available for a number of fleets. The Mid-Atlantic region typically falls short of needed sea days. As stated in the NRCC's 2010 Response to Comments:

"...the shortfall in the Mid-Atlantic region has been an on-going issue since the beginning of the sea sampling program in the late 1980's. Constraints associated with Congressional/Headquarters funding restrict its use to a particular region. These restrictions limit re-distribution of sea days between the Mid-Atlantic and New England regions. The concerns expressed in the comments are directly related to a lack of funding. Any revisions of funding are policy matters beyond the scope of the Agency. Unrestricted funds would support of all FMPs under the SBRM Omnibus Amendment. The roles and responsibilities of NRCC agencies to identify funding sources or admissible changes in funding allocations are important policy considerations."

In 2009, the performance standard corresponded to a total of 15,125 sea days while funding was available to achieve 6,161 sea days. In 2010, aggregate funding was greatly improved such that

compared to a 14,147 sea days standard, there was funding available for 13,950 days. The bulk of the increase, however, was dedicated to compliance monitoring for New England groundfish fleets (longline, otter trawl, and gillnet). Compared to the SBRM standard of 4,230 days, these fleets were allocated 9,000 days (Attachment A). The purpose of SBRM is to provide a precision basis for optimizing sea day allocation for bycatch estimation. Compliance monitoring of sector operations clearly falls outside of the SBRM design and purpose. Nevertheless from a bycatch estimation perspective it is interesting to note that the level of coverage for the trawl and gillnet groundfish fleets resulted in estimated CVs of 3.5% and 5.6%, respectively, compared to a CV for the small mesh Mid-Atlantic SMB fleet of 34.7%. Increased funds for groundfish sector compliance monitoring is not expected to increase the accuracy of bycatch estimation except, incidentally, in the groundfish fleets.

Improving program efficiency through a programmatic review could identify ways to optimize the utility of appropriations. An area that could create inefficiencies is specialized data collection programs, which may not maximize the opportunity to collect useful data. A programmatic review could also identify methods to improve general program cost-effectiveness.

III. Industry Funding Models

All industry-funded observer programs currently have some form of cost-sharing structure with the Government, whereby the Government assumes administrative and analytical costs, and the industry pays for data collection costs. Existing industry-funded programs include the North Pacific Groundfish Observer Program (NPGOP), At-Sea Hake Observer Program (A-SHOP), and Atlantic Sea Scallop Observer Program. Currently under NPGOP and A-SHOP, vessel owners submit payments directly to the observer provider for rendered services. The North Pacific Fishery Management Council is currently proposing to restructure the NPGOP and replace the existing observer service delivery model, in which industry contracts directly with observer providers. Under the restructured program, NMFS would contract directly with observer providers and determine when and where observers are deployed. Vessels and processors under the restructured observer program would pay either a fee based on a percentage of ex-vessel revenue (not to exceed 2%), or a daily observer fee, to fund the program.

Under the Atlantic Sea Scallop Observer Program, vessel owners submit payments directly to the provider, but are compensated with additional fishing opportunities to offset the cost of carrying the observer. In this report, industry-funded models are separated into two groups: (1) Indirect payment models, and (2) compensatory models.

A. General industry-funded program challenges

Industry-funded programs are not appropriate for all fisheries or groups of stakeholders. Low profit-margin fisheries may not be able to remain viable with the additional cost of paying for catch data collection. Factors such as fishing capacity and available fishing allocations will create variability in how able various elements of a fishery or group of stakeholders are to pay for catch data collection.

Industry-funded programs are often created in response to an explicit catch data collection program, such as yellowtail flounder bycatch in the scallop fishery. Such programs do not optimize data collection opportunity, and therefore may not be the most cost-effective data collection method.

Due to the cost-sharing structure, new industry-funded programs create a financial burden on NMFS. Although industry pays for at-sea data collection costs, there are substantial administrative and analytical expenses that must be covered by NMFS. As a result, NMFS may not have resources to adequately support new industry-funded programs.

B. Indirect Models

Under indirect models, the observer service provider or NMFS is paid through the transfer of funds from an account established exclusively for covering data collection costs. This account, which is comprised of funds that are generated from a group of common stakeholders, such as a fishery, fishery sector, or regional fishery management organization, would be managed by NMFS or a third party that is under the direction of NMFS or the stakeholder group. These funds are derived from a common source, such as the following:

- Sector fees or permit fees;
- landings tax; or
- set-aside auction proceeds.

Sector fees and permit fees: Under this model, all sector members or permit holders must submit a fee to participate in the fishery, which would be used to cover data collection costs.

Landings tax: Under this model, a percentage or fixed amount of a vessel's landings revenue is reserved to pay for data collection costs. This "tax" would apply to all vessels with a Federal Northeast permit, or could be limited to certain fisheries (e.g., by taxing landings of specific species). Additional factors affecting the tax could include permit category and vessel capacity.

Observer set-aside auction proceeds: Under this model, permit holders within a fishery would be allowed to bid on or purchase set-aside quota or days-at-sea (DAS). Quota recipients could be allowed to exceed effort controls by the amount of quota they received. Quota recipients could be authorized to exceed possession limits or harvest quota during quota closures, similar to the Mid-Atlantic Research Set-Aside program.

Indirect model challenges

The two primary challenges to implementing models that involve the collection of fees by the Government are: (1) Low profit-margin fisheries that may not be able to bear increased overhead; and (2) fee collection restrictions resulting from the Miscellaneous Receipts Act.

An economic assessment strategy would need to be developed to determine whether a given fishery or other group of common stakeholders could assume the cost of catch data collection. The scope of this report is limited to funding models applicable to the Northeast, and does not include such an assessment.

The Miscellaneous Receipts Act prevents Executive Branch agencies from bypassing the Congressional appropriations process by augmenting their budgets through other means. The following exceptions

that apply to the Northeast Region allow the collection of fees: Limited Access Privilege Program (LAPP) cost recovery fees, the Fisheries Conservation and Management Fund (FCMF) (Attachment A), and permit fees.

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), cost recovery fees cannot exceed 3% of the value of fish landed under a LAPP, and may only be used to cover incremental administrative costs established by the LAPP, and not existing program needs. However, if a LAPP establishes new at-sea observer requirements, cost recovery fees could be used towards these costs.

Section 208 of the Magnuson-Stevens Reauthorization Act stipulates that the Secretary of Commerce shall establish and maintain the FCMF. Available funds would be disbursed by the Secretary for the purpose of addressing objectives defined under this provision, one of which includes improvements to harvest data collections. Potential sources for this fund include quota set-asides, appropriations, or other public, private, or non-profit organizations. Consequently, this new fund may allow NMFS to collect funds under a quota set-aside, or from one of the other listed resources, for the purposes of improving or implementing catch data collection programs. Further consideration is needed to determine the utility, if any, of this fund with respect to generating funds. Limiting factors of the FCMF include its general applicability to observer funding models, and the provision that no region shall receive less than 5% of the fund in each allocation period.

Permit fees may only be collected to offset the administrative cost of the permit program, and therefore, have no current utility with respect to augmenting data collection costs.

There are several challenges associated with set-aside programs. Foremost, the set-aside resource must have sufficient value. There are substantial vessel costs and uncertainties associated with harvesting set-aside quota. The costs of administering a set-aside program and harvesting fish under the set-aside may preclude the ability to generate a significant amount of funds. Additionally, there must be effort controls that constrain the fishery, thereby providing access to an otherwise restricted resource. Constraints include possession limits, quota closures, and vessel effort allocations. If such constraints do not exist, there is no incentive for vessel owners to bid on set-aside quota (or DAS). Even if constraints exist, access to set aside quota must generate sufficient proceeds to cover the cost of harvesting the set-aside quota and the data collection costs.

Another primary challenge of set-asides is the uncertainty associated with many effort constraints, particularly quota closures. There is a financial risk of purchasing set-aside quota because if effort constraints do not occur, vessel owners may not regain the cost of purchasing set-aside quota.

Potential indirect model solutions

Currently, the ability to collect fees in support of catch data collection is very limited in the Northeast Region. However, there are a few applications that warrant further consideration.

Easing fee collection restrictions would be the most direct way to allow for the implementation of a robust indirect model. There are two apparent ways that NMFS could collect fees to support data

collection programs: (1) Revise the FCMF, or (2) support a specific provision within MSA that would allow for the collection of funds to be used in support of catch data collection programs. To have any utility, the FCMF would need to be revised, either through an amendment to MSA or possibly through a policy directive. To have utility, the requirement that at least 5% of the fund needs to be distributed to each region each year would need to be changed, and it would need to be established that funds could be used to fund catch data collection programs. Until these issues are resolved, the FCMF has little applicability in the Northeast Region. A longer term, but more direct solution, would be to create the authority through an amendment to MSA for the Northeast Region to collect funds for the purpose of implementing catch data collection programs. This provision already exists under the North Pacific Fishery Observer Fund, at §313(d) of MSA (Attachment B). Although this provision is specific to the North Pacific Council and the Alaska Region, a similar model could be developed for the Mid-Atlantic and New England Fishery Management Councils and the Northeast Region.

A Memorandum of Agreement (MOA) between NMFS and a state, and potentially an academic institution or other organization, has been used as a means for an organization to pay NMFS to execute a catch data collection program. An MOA between the Maine Department of Marine Resources (DMR) and NEFSC was signed April 22, 2010, in which DMR paid NEFSC to collect and process catch data from vessels participating in a small-mesh fishery. The MOA established a vehicle by which DMR could take advantage of the robust program infrastructure and expertise of NEFOP for their catch data collection program needs. It would be beneficial to establish what entities NMFS may enter into an MOA with.

Although the utility of LAPP cost recovery fees are relatively limited, such fees could be used to implement LAPP catch monitoring programs.

Grants and/or no cost-contracts could potentially be used to operate a set-aside auction. Under this scenario, NMFS would establish operational criteria of the auction and then solicit contract applications. The successful applicant would then conduct a set-aside auction, retain an administrative fee, and deposit the remaining funds in an escrow-like account, to be accessed conditionally by an observer service provider for rendered data collection services. It has not been determined whether such a scenario is legal.

A potentially simple solution to fee collection challenges would be to have industry collect fees independent of a government program. A group of stakeholders would anticipate the common cost of catch data collection and submit a fee as determined by the group. The funds would be collected and managed by the group. The government would simply identify the level of observer coverage that would be required. This approach would provide industry with the greatest flexibility in determining the most appropriate way to derive funds for catch data collection.

The surfclam/ocean quahog fishery provides an example of a voluntary, industry-funded data collection mechanism. By agreement, clam processors pay a “tax” of either \$0.03 (surfclams) or \$0.01 (ocean quahogs) per bushel to the National Fisheries Institute (NFI). The collected funds are then distributed via NFI’s Clam Subcommittee to various research projects to meet data collection needs. Prioritized data needs are communicated to the NFI subcommittee by the Northeast Fisheries Science Center’s

Invertebrate Subcommittee. Typically, the projects involve offshore sampling and provide spatial abundance data to be incorporated into stock assessments. Research projects supported by this industry “tax” have been conducted through Rutgers University and the Virginia Institute of Marine Sciences.

Conceivably, any coalition of processors, boat owners, or other industry groups could establish a data collection funding agreement. However, successful establishment of these partnerships is challenged by the degree to which they serve a common interest. As successful as the clam program has been, each year a small number of clam processors do not contribute to the funding pool. As the focus of data collection become less complimentary of fishery operations (i.e., observer coverage in fisheries with known bycatch problems), voluntary funding is likely to become more difficult. A mandatory tax, such as that implemented through FMPs for West Coast fisheries would likely provide a more dependable revenue source for observer coverage.

Moreover, while the surfclam/ocean quahog fishery has seen some success using this approach in partnership with the NFI, other fisheries in the Northeast Region may face additional challenges due to fleet dynamics and organization/structure within the fishing industry. Fisheries that utilize systems that exist independent of the government usually include fishing fleets that are well-organized, and well-established; in some cases, the industry already has an infrastructure through which fees can be collected and operations can be managed in a more “bottom up” manner. In other cases, incentives for the industry to organize or form partnerships for data collection are provided within the management framework. Some fisheries that utilize industry-funded catch monitoring/observer coverage do so through a network of harvesting cooperatives that facilitate the collection and management of resources. The cooperatives may exist for a variety of reasons, and the industry may already work with an independent company to collect, review, and disseminate catch data to the fleet for some sort of catch management and/or bycatch avoidance program. For the most part, this infrastructure is currently lacking in the Northeast Region, so collecting fees through an independent mechanism may prove to be more challenging and/or less efficient, at least until such infrastructure can be established.

C. Compensatory models

Under direct-payment models, often referred to as “pay-as-you-go”, the vessel owner is responsible for paying the observer service provider, or NMFS and assumes the data collection cost burden. The vessel owner may account for that cost as part of the business overhead, or may take the costs out of that particular trip’s share, thereby affecting the captain’s and crew’s payment for the trip. Vessel owners that are required to directly pay an observer service provider or NMFS for all or part of the data collection cost may be compensated for this expense. A vessel owner may receive either reduced fees and/or set-aside compensation for carrying an observer.

Reduced fees: A vessel owner is compensated for carrying an observer by reducing or eliminating fees or landing taxes. Such waivers are based on the vessel owner’s overall observer costs, the number of observed trips, or simply whether the vessel incurred any observer costs that year. Due to the complexity of such a model, this approach is likely to be less effective and more burdensome than other industry-funded models, and is not considered further in this paper.

Set-aside compensation: A vessel owner is compensated for carrying an observer by authorizing the observed vessel to exceed effort controls, as in the Atlantic Sea Scallop Observer Program. Such vessels may be authorized to fish longer than normally allowed, during closed seasons, or to retain catch they otherwise could not, whether retained as target or non-target catch. Revenue generated from this additional effort would provide compensation to offset the vessel owner's observer expenses.

Compensatory model challenges

There are several challenges associated with such set-aside programs. Foremost, the set-aside resource must have sufficient value to provide adequate compensation. Additionally, there must be effort controls that constrain the fishery, thereby providing access to an otherwise restricted resource. Constraints include possession limits, quota closures, and DAS allocations. Even if effort constraints exist, access to set-aside quota must generate sufficient proceeds to cover the cost of harvesting the set-aside quota and the data collection costs. Another challenge is the uncertainty associated with many effort constraints, particularly fishery closures. If a set-aside is reliant on a closure to generate value, and closures do not occur, or are limited in scope, the set-aside will not compensate vessel owners for data collection costs.

There is also the challenge of correlating compensation with the data collection costs, and ensuring set-aside quota is available for the entire fishing year, without leaving set-aside quota unharvested.

Some of the challenges identified above have recently become clear when trying to design a set-aside program to partially fund a catch monitoring program in the Atlantic herring fishery. A catch monitoring set-aside was considered but rejected by the New England Fishery Management Council during the development Amendment 5 to the Atlantic Herring FMP (still in progress). The herring fishery is a high-volume fishery, with a relatively low total value. Not all of the herring quotas are fully utilized. Set-asides have potential to be utilized only in management areas where the quota is fully utilized and the area closes. A catch monitoring set-aside, therefore, would be limited to only the management areas that close regularly, and could vary in amount from year to year, depending on the total quota and the percentage selected for the set-aside. Overall, it was determined that funds generated from a catch monitoring set-aside would be limited and uncertain, and may not be significant.

Compensatory model solutions

There is no clear solution to the challenges of a compensatory set-aside program. If a fishery has sufficient effort constraints and the resource has sufficient value a set-aside program may adequately compensate vessel owners for the cost of observer data collection. A thorough review on a case-by-case basis would be needed to determine the applicability of this approach to any given fishery.

IV. Third-Party Funding Models

An observer program may also be funded by a third party, such as a state management agency, environmental advocacy organization, international development agency, or international management

authority. Under such a scenario, the third party would pay for the collection of catch data, and possibly other program expenses, such as administrative and analytical costs.

Observer programs are very expensive to operate and consistent funding is critical. Consequently, the group feels it is unlikely that a non-government third party would be willing and able to implement a catch data collection program. It is possible that such a third party would contribute funds to help pay for a data collection program, and perhaps pay in-kind funds for observed trips. Because it is unlikely that a non-government entity would be willing and able to pay for a data collection program, and because there are many challenges that would result if such an entity did, the group did not feel it was necessary at this time to explore this model further. The remaining focus of this section is on third party bodies.

Given that there are a number of restrictions on the Federal Government's ability to collect fees from industry, it has been suggested that states may be in a position to collect fees from the industry to fund at-sea observers or port-side monitors. The states along the Atlantic Coast have a range of legal authorities relative to the collection of fees from the fishermen. The states were surveyed and had a number of themes that were consistent along the coast:

- States are experiencing large budget deficits, and revenue generated by the states is difficult to set aside long term for specific projects.
- Legislative action is often required to establish new fees collected from the industry.
- Legislative action is often time consuming and uncertain. Other options may be faster.
- New fees on industry may be politically difficult, given the number of "new" regulations being placed on the industry.
- State responses were tentative until a specific proposal was developed for consideration.
- Individual programs will likely vary by state, and will be difficult for industry to understand.
- Multi-state or regional programs may be a better approach, given the transient nature of vessels involved in many fisheries.

The collection of fees by individual states may result in a patchwork of observer funding programs. Any program involving the states will need to develop a standardized approach for collecting fees from fishermen that have permits in multiple states. In addition, it is important that catch data collection programs be coordinated as much as possible to maximize utility and reduce redundant or unnecessary expenses.

Due to the complications that states will likely have with collecting fees, another potential option would be for a third party, such as the ASMFC, to collect fees to support fishery monitoring. A program that used a third party to collect fees would have to be established through either state or Federal regulation. The third party would need to establish an MOA with NMFS as described above in order to pay NMFS for observer coverage.

V. Conclusion

This report responds to the request by the NRCC in 2008 that a working group be established to review funding methods that could potentially be used to supplement catch data collection programs in the Northeast Region. As noted in the introduction, this report does not include a robust analysis specific to any given fishery management plan or fishing mode as defined by the SBRM. Since the initial tasking, there have been several catch data collection program needs that have developed in the Region. The logical next steps would include how funding mechanisms identified in this report could potentially be applied to address these needs as well as other existing or developing needs.

Following is a synopsis of several potential ways to procure additional funds for catch data collection programs. There are also many challenges associated with all of these funding sources. This summary evaluates potential funding sources that are currently available, and sources that would require some change in regulation and/or policy to implement. This section only evaluates those mechanisms deemed by the working group to have the greatest potential utility.

The following models are currently available for implementation:

- Set-aside;
- State MOA; and
- LAPP cost recovery.

Although compensatory set-aside programs could be implemented currently, further consideration would need to be given to implementing an observer set-aside auction, as discussed in that section. Due to the limited ability of states to procure funds for catch data collection programs, it is unlikely state MOAs will be a comprehensive approach to procuring additional funds. However, MOAs are an important tool and the use of which could be expanded. As previously noted, LAPP cost recovery fees have limited utility, but should be considered in the development of LAPPs.

The following models could be implemented in the near-term, but would require substantive policy adjustments or program assessment:

- Appropriation flexibility;
- Cost effectiveness review; and
- FCMF flexibility.

Maximizing appropriation flexibility in the near term by removing fishery-specific restrictions could improve program efficiency. Additionally, performing a programmatic cost effectiveness review of catch data collection programs could also identify ways to improve program efficiency.

If the challenges cited for the FCMF are addressed it could be an effective tool for NMFS to collect funds from industry or other parties. Otherwise, MSA would need to be amended to resolve those challenges. Additionally, amending MSA to create a fund comparable to that of Fishery Observer Fund at §313(d) for the Northeast Region would be a relatively straight forward and effective step to improve the ability to procure catch data collection program funds.

VI. Attachments

- A. Proposed 2010 Observer Sea Day Allocation
- B. Fisheries Conservation and Management Fund
- C. North Pacific Fishery Observer Fund