



New England Fishery Management Council

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E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

MEETING SUMMARY

Observer Policy Committee

Radisson, Warwick, RI

December 17, 2015

The Observer Policy Committee met on December 17, 2015 in Warwick, RI to discuss the Industry Funded Monitoring Amendment.

MEETING ATTENDANCE: Terry Stockwell (Chairman), Peter Kendell, Paul Parker, Mary Beth Tooley, Dr. Wendy Gabriel, Peter Hughes, Gerry O'Neil, Rick Usher, Danielle Kane, Jeff Kaelin, Elizabeth Etrie, Pete Christopher (Bullard designee), and Doug Brander (13 of 14 Committee members present; Dr. Michael Sissenwine absent); Maria Jacob, Dr. Jamie Cournane (NEFMC Staff), Carrie Nordeen, Carly Bari (NMFS GARFO Staff), and Mitch MacDonald (NOAA General Counsel). In addition, one member of the public attended the meeting (GARFO staff).

KEY OUTCOMES:

- **Outcome 1:** The Observer Policy Committee recommended that the Council select Omnibus Alternative 2 (Standardized Structure for IFM Programs) and Omnibus Alternative 2.6 (Monitoring Set Aside) as their preliminary preferred alternative for the IFM Amendment.
- **Outcome 2:** The Observer Policy Committee recommended that the Council adopt guiding principles for Industry Funded Monitoring Programs. These guiding principles recognized the need to: (1) clearly define the purpose for additional monitoring, (2) ensure that additional monitoring is affordable, (3) support the application of modern technology to meet data collection needs when feasible, and (4) incentivize self-reporting.

AGENDA ITEM #1: GARFO PRESENTATION, DRAFT OMNIBUS INDUSTRY-FUNDED MONITORING AMENDMENT AND ENVIRONMENTAL ASSESSMENT (NORDEEN/BARI)

Ms. Nordeen presented information regarding the omnibus aspects of the IFM Amendment: standardized cost responsibilities; a process for FMP-specific IFM programs to be implemented via a future framework adjustment action; and standardized administrative requirements for IFM service providers (based on existing service provider requirements). In addition, Ms. Nordeen presented information on the alternatives under the prioritization process (Alternatives 2.1 - 2.5). The prioritization process alternatives would identify an approach to standardize the process for

prioritizing monitoring coverage for all IFM programs when there is a shortfall in Federal funding to support NMFS' administrative cost responsibilities in any given year. A monitoring set-aside provision was also added to the list of omnibus alternatives in September 2015 by the Council (Alternative 2.6) and information on this alternative was presented to the Committee.

Ms. Nordeen clarified that the service provider requirements would serve as the default for future IFM programs, which can be altered in the future under an FMP-specific action for industry-funded monitoring. Ms. Jacob offered to provide a list of service provider requirements that have been discussed in the past, to inform future FMP action on elements of the service provider requirements that can or cannot be altered through an IFM program in the future. Some of these elements are currently proposed for alterations under the herring and mackerel coverage target alternatives in the IFM Amendment.

Committee Discussion:

A comparison of monitoring types was presented by Ms. Nordeen. Mr. Kailen expressed concern regarding interchangeable use of the terms slippage and discard events within the comparison table. Ms. Jacob suggested that the PDT revise the comparison table, by replacing specific references to the herring fishery with more general terms that would apply to most FMPs, to be completed in time for the January Council meeting.

A clarification was made that the existing scallop and groundfish IFM programs would remain unchanged under the standardized prioritization process (Omnibus Alternatives 2.1 to 2.5).

Several Committee members expressed concern that the standardized cost responsibilities are broadly written, and may limit the agency's ability to support other non-administrative costs to support IFM programs when funding is available. Dr. Gabriel provided clarification that this action would not codify the industry's responsibilities. Rather, the cost responsibilities provisions establish those agency responsibilities that cannot be shifted onto the industry. If the agency has funds to cover its administrative cost responsibilities with additional funds remaining, they would be able to help cover some of the industry's cost responsibilities. In addition, industry costs could be covered by the agency through appropriations.

The Committee had general questions regarding the flexibility to alter particular aspects of the service provider requirements through a future FMP action. Ms. Etrie expressed support for the industry having the ability to perform vessel selection for IFM programs. Dr. Gabriel replied that this option can be performed by the industry for IFM programs after Standardized Bycatch Reporting Methodology (SBRM) coverage requirements are met, but cannot be performed by the industry for SBRM coverage requirements. Mr. O'Neil and Ms. Tooley expressed support for the redeployment of monitors/observers on the same vessel consecutively. Although this option can be altered in the future, and is being considered through the herring and mackerel Alternative 2 in the IFM Amendment, it is not currently listed as the default service provider requirements for future IFM programs.

Mr. Kendall stated that there is more accurate cost estimates for the electronic monitoring program used by the groundfish industry, with estimates from three service providers. Ms. Nordeen indicated that she would consider this information.

The Committee had general clarifying questions regarding the prioritization process. Mr. Christopher clarified that the prioritization process would apply to all IFM programs, and would be employed outside the IFM Omnibus Amendment. Dr. Cournane suggested that Ms. Nordeen and Ms. Bari provide a flowchart to aid in the decision-making of the prioritization process alternatives in time for the January Council meeting.

AGENDA ITEM #2: DEVELOP RECOMMENDATIONS FOR PRELIMINARY PREFERRED OMNIBUS ALTERNATIVES TO THE COUNCIL FOR THE PUBLIC COMMENT PERIOD

Ms. Jacob provided the Committee with a decision document to clarify the alternatives to be voted on, which includes: a choice between Alternative 1 (No Action) and Alternative 2 (Standardized Structure to the IFM Programs); a choice between Alternatives 2.1 through 2.5 (Prioritization Process Alternatives); and the option to choose Alternative 2.6 (Monitoring Set-Aside Provision).

Committee Discussion:

Ms. Etrie asked for clarification on the outcome of IFM programs if NMFS is unable to meet its administrative cost responsibilities in any given year due to budgetary constraints. Mr. Christopher responded that no IFM programs would function in any given year when NMFS is not able to meet its administrative cost responsibilities. Ms. Etrie suggested that this point should be clearly articulated in the document (i.e. Draft EA). Mr. MacDonald stated that the Council should consider purpose-driven coverage targets so that the Council's intent for each IFM program is clear, particularly when there is a Federal funding shortfall in a particular year. Mr. MacDonald also stated that the Council should consider whether the fishery would be able to operate in the absence of an IFM program in any given year.

Several Committee members expressed interest in Alternatives 2.2 (Council-led prioritization process) and 2.3 (Proportional Prioritization Process). Committee members expressed support for some flexibility in the prioritization process, as described under Alternative 2.1 (NMFS-led prioritization process) and Alternative 2.2. (Council-led prioritization process). Ms. Tooley expressed concern that the required rulemaking may be burdensome, but likely could be accomplished.

In response to Ms. Tooley's questions regarding the use of the monitoring set-aside provision, Ms. Bari clarified that there is wide discretion to alter the monitoring set-aside provision in any future FMP-specific IFM program. For example, an IFM program may consider provisions that permit additional fishing days and/or access to particular areas under the monitoring set-aside provision to help mitigate the impact to the fishing industry when additional monitoring costs are incurred.

Ms. Jacob provided a brief summary regarding the email provided by Dr. Sissenwine in relation to IFM Programs. Dr. Sissenwine's email (October 3, 2015) reiterated the importance of balancing the data needs for fishery management with the costs to implement IFM programs. Ms. Jacob explained that in order to inform future FMP actions considering the utility of an IFM program, the existing data collection programs should be sufficiently described in the Draft EA. Ms. Jacob stated that because future IFM programs may consider alterations to data collection methods to achieve cost reductions for a particular IFM program, the Draft EA should discuss any known limitations that may impair the ability to utilize the data in the stock assessment process.

Based on the Committee's discussions, the following motions were made:

- 1. Motion #1 (Tooley/Hughes):** The Observer Policy Committee recommends that the Council select Omnibus Alternative 2.6 (Monitoring Set Aside) as their preliminary preferred alternative for the Industry-Funded Monitoring Amendment.
Motion 1 carried 12/0/0.
- 2. Motion #2 (Tooley/Kaelin):** The Observer Policy Committee recommends that the Council select Omnibus Alternative 2 (Standardized Structure for IFM Programs) as their preliminary preferred alternative for the IFM Amendment.
Motion 2 carried 12/0/0.
- 3. Motion #3 (Tooley/Hughes):** The Observer Policy Committee recommends that the Council select Omnibus Alternative 2.3 (Proportional Prioritization Process) as their preliminary preferred alternative for the IFM Amendment. In addition, the Committee recommends that the Council make the prioritization process a framework-amenable option in the IFM Amendment.

Motion 3 withdrawn by the maker of the motion.

Rationale for Motion #3: The Committee raised the following concerns regarding the omnibus alternatives for the prioritization process: (1) Lack of Council discretion for Omnibus Alternatives 2.3 (Proportional Prioritization), 2.4 (Lowest Coverage Ratio-Based Prioritization), and 2.5 (Highest Coverage Ratio-Based Prioritization); (2) Committee members expressed support for some flexibility to alter the prioritization process through a future FMP; (3) Committee members expressed concern regarding the feasibility to complete a framework action to set up a prioritization process may be burdensome; and (4) NMFS' budgetary shortfalls may be unknown at the start of the fishing year (May 1 for most FMPs).

- 4. Motion #4a (Tooley/O'Neil):** The Observer Policy Committee recommends that the Council adopt the following guiding principles for Industry Funded Monitoring Programs implemented by GARFO:

Data collection programs for the estimation of fishery discards should:

- Be fit for purpose - The reason, or clear need, for data collection should be identified to ensure objective design criteria.
- Affordable - The cost of data collection programs should not diminish net benefits to the Nation, nor threaten the continued existence of our fisheries. However, essential data

collection is needed to assure conservation and sustainability, and is reason to seek less data intensive ways to assess and manage fisheries on the economic margins.

- Apply Modern Technology - Data collection should prioritize the utilization of modern technology to the extent possible to meet our data collections needs, while recognizing an affordable robust program is likely to need a mix of data collection by people and technology.

5. Motion 4b as friendly amended (Kaelin/Parker):

The Observer Policy Committee recommends that the Council adopt the following guiding principles for Industry-Funded Monitoring Programs implemented by GARFO:

Data collection programs for the estimation of fishery discards should:

- Be fit for purpose - The reason, or clear need, for data collection should be identified to ensure objective design criteria.
- Affordable - The cost of data collection programs should not diminish net benefits to the Nation, nor threaten the continued existence of our fisheries. However, essential data collection is needed to assure conservation and sustainability, and is reason to seek less data intensive ways to assess and manage fisheries on the economic margins.
- Apply Modern Technology - Data collection should prioritize the utilization of modern technology to the extent possible to meet our data collections needs, while recognizing an affordable robust program is likely to need a mix of data collection by people and technology.
- Incentivize reliable self-reporting.

Motion 4b carried 10/0/2

AGENDA ITEM #3: OTHER BUSINESS

Ms. Nordeen provided a brief verbal update regarding the PDT work on the herring and mackerel coverage target alternatives to improve the analysis in the Draft EA by revising the cost estimates for the electronic monitoring and portside sampling programs, and the revised return to owner estimates.

The Committee also discussed the timing for the herring and mackerel Committee discussions. Ms. Jacob informed the Committee that the PDT met via webinar on December 14, 2015 and discussed the feasibility of the January Joint Committee meeting date. Several PDT members expressed concern that additional analysis that could help inform the decision-making process for the herring and mackerel alternatives would not be complete for the January Committee meeting date. In addition, Dr. Cournane communicated that there were scheduling conflicts to overcome because other Council meetings are scheduled to take place during the days proposed for the Joint Committee meeting in January, including the Scientific and Statistical Committee meeting and the Whiting Committee meeting. Mr. Kaelin expressed support for a Joint Herring and Observer Committee meeting.

The Observer Policy Committee meeting adjourned at approximately 1:30 pm.