Omnibus Amendment to Address Industry-funded Monitoring Programs

PDT/FMAT Report
MAFMC Meeting
February 12, 2014
Legal Constraints

• Anti-Deficiency Act – prohibits augmenting or improperly shifting appropriations
• Criminal prohibition – prohibits supplementing employee salaries
• Miscellaneous Receipts Statute – requires funds be deposited in general Treasury
Problem Statement

1. Legal constraints prevent NMFS from sharing monitoring costs with the fishing industry.
2. Limited Federal funding for NMFS’s costs prevents NMFS from approving proposals for industry-funded monitoring programs it cannot guarantee funding to support.
3. Need to remedy disapprovals of Herring Am. 5 and Mackerel Am. 14.
   Need to enhance monitoring of herring, mackerel, river herring, shad, haddock, and other species.
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Omnibus Alt. Set 1: Cost Responsibility

- Alt. 1a No Action – no standard definition
- Alt. 1b – Standard definition of cost responsibility

<table>
<thead>
<tr>
<th>NMFS Costs</th>
<th>Industry Costs</th>
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<tbody>
<tr>
<td>Training and debriefing</td>
<td>Deployments and sampling</td>
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<tr>
<td>Certification</td>
<td>Equipment</td>
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<tr>
<td>Vessel selection</td>
<td>Provider overhead</td>
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<tr>
<td>Data processing</td>
<td>Vessel cancellations, no-shows</td>
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<td></td>
<td>All other costs</td>
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</table>

- Alt. 1c – Industry pays fee and travel cost for vessel cancellations and no-shows (needs more development)
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Omnibus Alt. Set 2: Prioritization Process

General Approach:

• Individual FMPs specify coverage *targets*.
• An annual prioritization process used to determine actual coverage rates for each FMP based on Federal funding.
• Flexibility allows NMFS to approve monitoring proposals without committing to spending funds not appropriated.
• Process must address both New England and Mid-Atlantic FMPs.
Alt. 2a: No Action

- NMFS determines the allocation of Federal funding to support industry-funded monitoring programs.
  - Proposals for new monitoring programs reviewed ad-hoc. Programs with more than incremental costs may be disapproved.
Alt.2b: NMFS-led Process

1. NMFS develops proposed allocation of resources across FMPs.
   a. If funding is sufficient, fully implement coverage targets for all FMPs.
   b. If funding is not sufficient, prioritize among FMPs using certain criteria.

2. At Spring NRCC meeting, NMFS and Councils discuss recommendation, make modifications

3. NMFS presents final coverage levels to Councils at a public meeting
Alt. 2c: Council-led Process

1. NMFS informs Councils of available Federal funding. If not sufficient to fully fund FMPs...
2. PDT/FMAT develops proposed allocation of resources across FMPs using certain criteria.
3. At Spring NRCC meeting, NMFS and Councils discuss recommendation, make modifications.
4. NMFS presents final coverage levels to Councils at a public meeting.
Alt. 2d: Proportional Prioritization

• If funding is sufficient, coverage fully funded for all FMPs.
• If not sufficient, amount of funding shortfall deducted from each FMP’s allocation, proportional to its share of funding need.
• If funding too small to produce useful information for a given FMP, that FMP’s share is re-allocated proportionally to other FMPs.
• NMFS determines allocation and presents to Councils at a public meeting.
Alt. 2d: Proportional Prioritization

Example: Total funding need = $10M
- FMP 1 needs $3M (30% of need)
- FMP 2 needs $5M (50% of need)
- FMP 3 needs $2M (20% of need)

Total available funding = $8M
Total shortfall = $10M - $8M = $2M
- FMP 1 gets $3M – (0.3*$2M) = $2.4M
- FMP 2 gets $5M – (0.5*$2M) = $4M
- FMP 3 gets $2M – (0.2*$2M) = $1.6M
Alt. 2e: Cost-based Prioritization

- If funding is sufficient, coverage fully funded for all FMPs.
- If not sufficient, sequentially eliminate FMP with highest funding need until available funding meets need.
- NMFS determines allocation and presents to Councils at a public meeting.
Alt. 2e: Cost-based Prioritization

Example: Total funding need = $10M

- FMP 1 needs $3M
- FMP 2 needs $5M
- FMP 3 needs $2M

Total available funding = $8M

- FMP 2 eliminated (most expensive)
- FMP 1 gets $3M
- FMP 3 gets $2M

Funds remaining = $3M
Alt. 2f: Coverage ratio-based Prioritization

- If funding is sufficient, coverage fully funded for all FMPs.
- If not sufficient, sequentially eliminate FMP with highest ratio of coverage days needed to meet target, to actual days absent (using VTR) in previous year.
  - Prioritizes most active fisheries.
- NMFS determines allocation and presents to Councils at a public meeting.
Alt. 2f: Coverage ratio-based Prioritization

Example: Total funding need = $10M

- FMP 1 needs $3M (ratio of 0.1)
- FMP 2 needs $5M (ratio of 0.08)
- FMP 3 needs $2M (ratio of 0.2)

Total available funding = $8M

- FMP 3 eliminated (highest ratio)
- FMP 1 gets $3M
- FMP 2 gets $5M

• SBRM Amendment would make industry-funded observer programs for SBRM frameworkable.

• Alt. 3a No Action – New industry-funded at-sea, dockside/portside, EM programs requires full amendment.

• Alt. 3b – Industry-funded monitoring programs frameworkable. Details of programs developed in future FMP actions.

• Would apply to scallops and groundfish.
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Mackerel Monitoring Alternative: M1

- No Action
- SBRM Coverage Levels
  - Applies to MWT and SMBT vessels
  - Waivers provided when observers are not available
Mackerel Monitoring Alternative: M2

• Based on Council’s preferred alternative in Amendment 14
• 100% coverage target on limited access MWT trawl, and T1 SMBT trips
• 50% coverage on T2 SMBT trips
• 25% coverage on T3 SMBT trips
• Waivers provided when observers are not available, whether due to insufficient NMFS funding or logistics
Mackerel Monitoring Alternative: M3

- Based on Council’s preferred alternative in Amendment 14
- 100% coverage on limited access MWT trawl, and T1 SMBT trips
- 50% coverage on T2 SMBT trips
- 25% coverage on T3 SMBT trips
- Waivers may or may not provided when observers are not available, whether due to insufficient NMFS funding or logistics
- Vessels may not fish without an observer
Mackerel Monitoring Alternative: M4

- Confidence interval coverage target
- Confidence interval around RH/S catch cap
- X% certainty that estimate of RH/S catch is within +/- Y% of actual catch
- Applies to limited access vessels using MWT and SMBT in MA and NE
- Waivers provided when observers not available, whether due to insufficient NMFS funding or logistics
Mackerel Monitoring Alternative: M5

- Confidence interval coverage requirement
- Confidence interval around RH/S catch cap
- X% certainty that estimate of RH/S catch is within +/- Y% of actual catch
- Applies to limited access vessels using MWT and SMBT in MA and NE
- Waivers may or may not be provided when observers are not available, whether due to insufficient NMFS funding or logistics
- Vessels may not fish unless adequate coverage exists for the limited access fleet
Mackerel Monitoring Alternative: M6

• Based on Council’s preferred alternative in Amendment 14
• Require re-evaluation of coverage target after 2 years
• Examine results of coverage target
• Consider if an adjustment to the coverage target is warranted
Other Mackerel Alternatives for Consideration

• X-year sunset provision on coverage targets.
• Standards for portside monitoring providers.
Areas of Additional Work

• Broaden and Standardize Terminology
• Prioritization Process:
  – Annual or periodic? CY or FY?
  – NRCC or joint Committee or joint Council meeting?
  – What criteria should be used to prioritize FMPs for funding?
  – Guidance for target coverage actions
  – Public involvement/Rulemaking?
• Minimum coverage to provide sufficient information
• Portside monitoring standards
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<tr>
<th>Action</th>
<th>Timeline, based on current Council meeting schedule</th>
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<tbody>
<tr>
<td>Councils initiate amendment</td>
<td>September/October 2013</td>
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<tr>
<td>First PDT/FMAT meeting</td>
<td>December 2013</td>
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<tr>
<td>Second PDT/FMAT meeting</td>
<td>January 2014</td>
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<tr>
<td><strong>Councils approve draft range of alternatives to be developed</strong></td>
<td>January/February 2014</td>
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<tr>
<td>PDT/FMAT/Councils develop alternatives, draft EA</td>
<td>January-April 2014</td>
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<td>Councils approve draft EA for public review</td>
<td>April 2014</td>
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<td>Councils take final action</td>
<td>June 2014</td>
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<td>EA finalized, proposed rule drafted</td>
<td>July 2014</td>
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<td>Proposed rule publishes with 30 day comment period</td>
<td>September 2014</td>
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<tr>
<td>Comment period ends, final rule drafted</td>
<td>October 2014</td>
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<td>Final rule publishes</td>
<td>November 2014</td>
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<td>Final rule effective</td>
<td>January 1, 2015</td>
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Questions for the Council

• Does the Council approve of the range of alternatives under development?
• Does the Council want a better mechanism for guiding the PDT/FMAT? (NEFMC started Observer Monitoring Committee...)
• Are there any other types of alternatives that the Council would like the PDT/FMAT to develop?
• Does the Council approve of the timeline for this action?