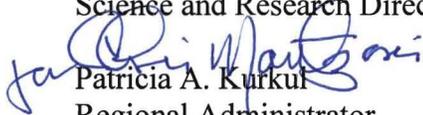




UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
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Gloucester, MA 01930-2276

APR 13 2010

MEMORANDUM FOR: Nancy B. Thompson, Ph.D.  
Science and Research Director

FROM:   
Patricia A. Kurkul  
Regional Administrator

SUBJECT: Comments on Proposed Standardized Bycatch Reporting  
Methodology (SBRM) Prioritization for 2010

Following the presentation by your staff of the proposed 2010 SBRM prioritization at the January and February meetings of the New England and Mid-Atlantic Fishery Management Councils, I requested that my staff review the prioritized observer coverage levels. As a result, we offer the following comments:

The SBRM Omnibus Amendment, implemented in 2008 and the action that imposed the requirement for this annual review of proposed prioritization for observer coverage levels, imposes a 30-percent coefficient of variation (CV) as a performance standard, not a goal or target. The SBRM Omnibus Amendment makes this distinction clear, emphasizing that the 30-percent CV is not simply a goal or target, but is the standard against which the performance of the SBRM will be evaluated. This distinction is important, as prior and on-going legal challenges regarding the adequacy of the SBRM have, in part, hinged on whether an SBRM can simply state a hoped for result, or whether the SBRM must impose a strict performance standard. Therefore, to ensure consistency between the SBRM Omnibus Amendment and the Center's SBRM-related reports, please ensure that the 30-percent CV is appropriately characterized as a performance standard throughout such documents.

We note that this year's report includes new information, specifically the column in Table 5 that identifies the "Available Coverage with Shortfall Applied Proportionally within Funding Constraints." While this is explained generally in the body of the report, we nonetheless have questions about how these coverage levels are generated. For example, in row 7, the SBRM recommended sea days are 2,192, but the coverage level in this funding constraints column is 4,906 sea days. Why would the coverage level be more than double the level necessary to achieve the SBRM performance standard of 30 percent? There are several other places in this column that provide similarly confusing allocations. This column, and its explanation in the report, is particularly confusing when taken in light of the actual proposed prioritized coverage in the next column. For example, the explanation that "funding constraints" limit the Center's ability to allocate



sea days to Mid-Atlantic fleets would explain why for some Mid-Atlantic fleets the funding constraints column allocations are less than the SBRM recommended sea days (e.g., row 5), but this explanation is belied by cases where the proposed prioritized coverage levels for other Mid-Atlantic fleets are substantially higher than expected (e.g., row 6). There is no explanation for why, in some cases, the reported funding constraints do limit available coverage, but in other cases they do not.

Similar to last year, more information needs to be provided to explain the basis for the proposed prioritization, particularly for fleets for which the proposed observer coverage levels differ substantially from the levels indicated by the “available coverage with shortfall applied proportionally” or the SBRM Amendment preferred alternative. In general, we do not find the “justification” provided in Table 5 to be very helpful. “Fish stock assessment support” is cited 20 times as the basis for the proposed prioritization, but this does not provide sufficient detail for us to consider and evaluate the tradeoffs involved with increasing coverage levels in some fleets while reducing them in others. For but one example, the same justification is identified for row 7, where the proposed prioritized coverage is barely one quarter of the SBRM recommended level, and for row 34, where the proposed coverage is more than 11 times greater than the SBRM level.

In particular, additional information is needed to explain the proposed coverage levels for: New England small-mesh otter trawl (lower than expected); Mid-Atlantic access area Limited Access General Category (LAGC) and limited access scallop dredge (higher than expected); Mid-Atlantic open area limited access scallop dredge (lower than expected); and New England open area limited access scallop dredge (higher than expected). Some other fleets for which the proposed allocation is much higher than the SBRM levels appear to be accounting for high coverage levels in the groundfish sectors (New England longline, New England large-mesh otter trawl, and New England large and x-large mesh gillnet), but it would be helpful if you could explain why some of the proposed allocations are so much higher (4,190 vs. 668 sea days for New England large-mesh trawl).

I am aware that our staffs have discussed the relationship between the SBRM coverage levels and the scallop fishery’s industry-funded observer program. My general understanding is that these discussions clarified that the SBRM coverage must be specified in light of the amount of observer compensation available, in order to avoid a situation that induces biased fishing practices. I think it would be beneficial to explain this in the SBRM prioritization report, and that this discussion may help clarify some of the coverage level questions noted above. I would also suggest that the final caveat in the report can be deleted. This bullet refers to our request for industry feedback on the initial scallop observer compensation rates, but we have received no significant comments.

I am aware of the comments provided by the Mid-Atlantic Fishery Management Council, in a letter dated March 3, 2010, and request that you give their concerns and questions serious consideration, as they raise many valid points about important Mid-Atlantic fisheries. I would note, however, that their concern specific to monitoring of the butterfish catch cap relates to activity after January 1, 2011, when the cap will be implemented.

I would like to add that the discussion that describes some of the implications of the proposed prioritization (on page 10 of the report), using the example of the Mid-Atlantic large-mesh otter trawl fleet relative to the expected CV for the small-mesh groundfish group is very helpful. This type of information should be included in future reports, and expanded where possible, to assist the Councils and public with gaining a better understanding of the tradeoffs involved with decisions about observer coverage allocations.

Thank you for considering our comments on this very important issue.