

DRAFT MEMORANDUM FOR MAFAC CONSIDERATION
AT JUNE 1, 2016 MEETING

June 2, 2016

MEMORANDUM FOR: Eileen Sobeck
Assistant Administrator for Fisheries

FROM: Julie Morris *Julie Morris*
Chair, Marine Fisheries Advisory Committee

SUBJECT: Marine Fisheries Advisory Committee Comments on the
Draft National Bycatch Reduction Strategy

The Marine Fisheries Advisory Committee (MAFAC) is submitting comments on the Draft National Bycatch Reduction Strategy. MAFAC is charged with making recommendations to NOAA and the Secretary of Commerce on the department's living marine resource responsibilities.

At our meeting in April 2016, the discussion of the Draft National Bycatch Reduction Strategy precipitated an intense discussion. Each member of MAFAC has experienced the friction between bycatch and harvest. Some members have had harvest constrained and other members noted bycatch species harmed. MAFAC's comments on the draft strategy are drawn from this broad range of experiences.

Our memorandum includes three sections: general comments; specific wording changes for several of the draft objectives; and short topical comments on improving bycatch data, balancing allowable harvest with bycatch reduction, encouraging innovation, clarifying definitions, reviewing closed areas periodically, and utilizing bycatch.

General Comments

In general, the proposed national bycatch reduction strategy objectives are well-stated and logically connected to the three key laws that govern bycatch - the Magnuson Stevens Act (MSA), the Endangered Species Act, and the Marine Mammal Protection Act. The strategy does a good job of incorporating the different approaches to bycatch that each of these laws require.

The draft strategy could be strengthened by adding a summary of the progress already made in reducing bycatch. Two or more specific stories highlighting innovative strategies and successful partnerships would enrich the context for the draft strategy.

Ideally, the draft bycatch strategy should be consistent with the recently adopted standardized bycatch methodology guidance, and a discussion of this consistency or inconsistency would be helpful.

Balance and flexibility are important when reducing bycatch in fisheries. Bycatch limits can limit directed harvest, affecting fishermen, processors and fishing communities. Some MAFAC members state that Annual Catch Limits should be the backstop standard for the allowable amount of bycatch. There are instances on the Pacific Coast in which IFQ fisheries have been restricted from harvesting the ACL of the target fish even when the bycatch ACL is below the allowable level. Gathering data and analyzing these cases would be helpful.

Our final general comment is that the draft strategy should emphasize that the national strategy is intended to help with setting priorities for science, grants, and the work of the Regional Fishery Management Councils and is not a mandate for new or different regulations.

Suggested wording changes for three objectives (wording changes underlined)

- Strengthen monitoring and data collection programs through cost-effective use of new and existing tools (e.g., observers, logbooks, study fleets, and electronic technologies) to collect bycatch data that inform agency, private sector, and NGO bycatch strategies priorities.
- Improve management measures and regulations so that they are designed to reduce bycatch, while strengthening understanding of the economic and social factors contributing to bycatch and the effectiveness of bycatch reduction measures. (Best Management Practices)
- Improve communication review and coordination within NOAA fisheries and increase partner and stakeholder awareness, understanding, and engagement through open, two-way communication.

Short Topical Comments

Bycatch data need to improve in many fisheries. Mortality estimates, data quality, and timeliness of data are all areas that should be improved. Improved bycatch estimates will yield better fisheries stock assessment models.

Periodic Review of closed areas for bycatch reduction is very important. Bycatch hot spots can shift with time and reviews will illuminate these shifts. For spatial management of bycatch to be most effective, closed areas should adjust to current hot spots. Previously closed areas can reopen to harvest when the likelihood of bycatch declines.

Balance and Flexibility are needed in searching for the right balance between reduced bycatch and allowable harvest. The National Standards in the MSA call for a balance between economic goals and “practicable” levels of bycatch reduction. Determining what level of bycatch reduction is practicable in a specific fishery can be difficult and contentious, however there may be aspects of practicability that can be defined and applied broadly.

At the outset, the draft strategy should acknowledge that it is impossible to fish without bycatch, and that there are very real economic impacts when bycatch limits also limit the ability to harvest target species. Some assert that MSA bycatch reduction was never

intended to limit optimum yield while others assert that maximum sustainable yield is reduced to optimum by relevant economic, social, and ecological factors - bycatch is one of the ecological factors included in optimum yield. At least one member stated that the use of best science and stock assessments should always be utilized as the primary reference point for guidance in this process.

Bycatch reduction strategies that close directed fisheries when the allowable bycatch has been harvested have led to a race for the fish in non-rationalized fisheries— trying to harvest as much as possible of the target fish before the bycatch limit closes the fishery. Rationalized programs with applicable and effective tools, (I.e. allowing individual or cooperative harvest timing and geographical fishing choices) such as fishery cooperation through Coops and well-designed IFQ programs, can keep bycatch levels low enough to allow the complete harvest of the allowable catch of the target stocks, while reducing bycatch. Guidelines and policy to reduce bycatch should be done collaboratively with Government and Industry, while adhering to the premise that one size does not fit all. Different regions, FMP's, and gear groups will have different requirements. However if this factor is taken into account prior to inception of bycatch reduction guidelines and policies the net result will be fisheries that achieve better attainment of target stocks and that realize a reduction of bycatch.

Innovation in bycatch reduction is broadly supported by MAFAC. Geography, timing, and technology can each be harnessed to reduce bycatch. Fishermen are natural innovators and great reductions in bycatch are possible in collaboration with both recreational and commercial anglers. It is important to foster a culture of continuous improvement and investigate how to mitigate risk to fishery participants. Government and non-government funding can encourage bycatch reduction innovation. Beyond funding, research permits to field-test innovations and research set-asides of a portion of the allowable harvest/bycatch can be provided in support of innovation. Even when a field test indicates a promising technique to reduce bycatch, it is often difficult to scale up a new technique across a fishery due to the cost of implementation and/or a lack of communication that the proposed technique has been field-tested in collaboration with industry for practicality as well as effectiveness in reducing bycatch.

A number of proven innovations can be encouraged and incentivized across fisheries. These examples were identified by MAFAC members:

- Cooperatives communicating across the fleet about areas to avoid.
- Rolling hot spots.
- Risk pools.
- Codes of conduct.
- Cooperative agreements to leave problematic areas.
- Catch shares for regulatory discards.
- Abundance based bycatch caps.
- Collaborative management.
- Potential biological removal (PBR) for mammals.

Including *definitions* of the various categories of bycatch would be helpful, along with the recognition that different strategies are needed for different types of bycatch. For example, there are economic discards, regulatory discards, bycatch of protected resources, managed bycatch, and unmanaged bycatch.

Utilization of bycatch needs a clear definition. Is utilized bycatch no longer bycatch? Bycatch reduction is a different goal than utilization of bycatch. There can be a moral hazard in utilizing bycatch if utilization encourages increased bycatch instead of reduced bycatch.

Thank you for your thoughtful review of these comments from MAFAC. We would appreciate receiving a report on the final National Bycatch Reduction Strategy when it is completed.