



MARINE MAMMAL COMMISSION

14 October 2016

Ms. Heather Sagar
Office of Policy
National Marine Fisheries Service
National Oceanic Atmospheric Administration
1315 East-West Hwy
Silver Spring, MD 20910

Dear Ms. Sagar:

The Marine Mammal Commission (the Commission) has reviewed the 17 August 2016 draft of the National Marine Fisheries Service's (NMFS) Ecosystem-based Fisheries Management (EBFM) Road Map, and offers the following comments.

As noted in our letter of 16 December 2015 commenting on the draft EBFM policy, the Commission believes that any policy, guidelines, or roadmap on EBFM should require full consideration of all fishery impacts on the ecosystem. The primary concerns of the Commission are bycatch of marine mammals in fishery operations and predator-prey interactions, both of which are clearly ecosystem-based aspects of the impacts of fishing. Other issues raised in our letter included: the multiple references to "tradeoffs" between fisheries and protected species in the draft policy; our suggestion that NMFS incorporate the OMB directive from October 2015 on ecosystem services; and the lack of detail in the draft policy on EBFM to enable scientists and managers to implement the policy. We appreciate that the draft Road Map addresses these issues and hope that the regional EBFM implementation plans required to be developed within 18 months will take note of these concerns, as reiterated in further detail below.

Bycatch and entanglement of marine mammals in fisheries: marine mammal bycatch (including entanglement in fishing gear that is in use, discarded, or lost) is the greatest immediate and direct threat to marine mammals worldwide, exceeding over an estimated 650,000 deaths per year worldwide. With the publication of the final rule implementing the fish and fish products import provisions of the Marine Mammal Protection Act (MMPA), the U.S. standards for reducing marine mammal bycatch became the standard for other countries to meet in order for the seafood of foreign fleets to gain access to the U.S. market. This makes it all the more important that U.S. fishery policy fully address bycatch. The Road Map could better address bycatch by:

- Ensuring that adequate observer coverage is included in the "national review of data collection programs" mentioned under Core Component #2a. When conducted at levels that allow statistically significant estimates of marine mammal bycatch, observer programs provide data that are critical to monitoring marine mammal bycatch and evaluating the effectiveness of mitigation measures.
- Including marine mammals and other protected species in the actions recommended as part of Core Component #3b "Evaluate risks for all of our managed species."

- Require an assessment of predator-prey interactions in managing fisheries, particularly for depleted marine mammal species, as part of the Management Strategy Evaluation and EBFM modeling capacity under Road Map Core Components #4a and #4b.
- By incorporating ecosystem considerations into management advice (Core Component #5), the completion of the National Bycatch Reduction Strategy becomes one of the components of “Integrated Advice...” The Commission looks forward to the incorporation of the final Bycatch Reduction Strategy into the other components of ecosystem consideration. In addition, the Commission supports the requirement to review long-term protected species recovery and rebuilding plans, and their incorporation into EBFM.

References to “tradeoffs” between fisheries and protected species in the draft policy: Guiding Principle # 4 is still entitled “Explore and address trade-offs within an ecosystem.” It is important for NMFS to remind decision makers that EBFM does not require a “balancing” for cases of endangered, threatened, or otherwise protected marine species. The section of the Road Map addressing these “trade-offs” does make note of the need to “tak[e] into account statutory mandates...” and to remain “... cognizant of the statutory obligations under the ... MMPA...” The MMPA requires, among other things, that NMFS take steps to ensure that marine mammal populations are recovered to and maintained at Optimal Sustainable Population levels.

Incorporation of the OMB directive of October 2015: As the Commission noted in its 16 December 2015 letter, the EBFM Policy and Road Map are excellent opportunities to document that NMFS is meeting the requirements of this Directive. Also, reference to the directive might enhance NMFS’s ability to ensure that resources are sufficient to meet requirements mandated by the Executive Branch of government, in addition to Congress.

Lack of detail in the draft policy on EBFM to enable scientists and managers to implement the policy: The Commission believes that the Road Map addresses, to a great extent, the issues underlying our comments on the draft EBFM. The Commission understands that the Road Map is not meant to be overly prescriptive (but rather a “menu of options”) and will be updated every five years. We believe that some of the elements in this Road Map could benefit from additional precision and direction and hope that NMFS will provide such guidance as it moves forward with implementation.

The Commission wishes to commend NMFS on the directive (page 9 of the draft Roadmap) to have each Financial Management Center (FMC) prepare a specific set of milestones and to prioritize these as part of the FMC’s regular strategic and annual planning exercises. It is also an important step to have each of NMFS’s regional offices prepare, within 18 months, a regional EBFM implementation plan with specific milestones, and to work with Councils and stakeholders in this coordination of ecosystem activities.

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We wish to thank NMFS for addressing many of our concerns in a conference call held prior to finalizing this letter. The Commission continues to believe that the NMFS EBFM Policy and Road Map open up potentially significant new opportunities for U.S. fishery management to improve the science and management associated with monitoring and mitigating fishery impacts on marine mammals in the U.S. fleet. We trust that these comments will help ensure that this opportunity is fully realized.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large initial "R".

Rebecca J. Lent, Ph.D.
Executive Director