Research Set-Aside Committee Meeting
October 11, 2011
Galloway, NJ
Agenda

Review staff evaluation of and recommendations for RSA Program (WG Conference call)

Develop Recommendations to the Council regarding changes to RSA Program to address scientific and administrative issues

Other Business

RSA Review Working Group Conference Call
September 20, 2011

Working Group: Preston Pate, Peter deFur, Pete Himchak, Ryan Silva, Steve Heins, John Boreman
Staff: R. Seagraves, K. Collins
Others: Maureen Davidson

Seagraves provided an overview of the RSA Program options presented in the option white paper and the NMFS RSA programmatic review conducted two years ago. One of the major problems identified in the NMFS review is the cumbersome nature of the grants process. The positive aspect of the grants program is that it is a competitive process. Staff will introduce some new ideas to improve the RSA Program. The grants issue is administratively burdensome and is causing some timing problems, but whatever we do, we want to make sure that the RSA program remains competitive.

Peter de Fur noted that enforcement is also a big problem. He likes the competitive nature of the grants program process, but he also likes the idea of streamlining the program.

Seagraves noted that staff review revealed that there are only 4 or 5 projects completed under the RSA program that were actually be used to inform management or the stock assessment process. The program is not working as effectively as it should/could. The question is why not? Previous analysis provided to the RSA Committee revealed that it appears that there has been good correspondence between the RSA Priorities lists developed by the Council and projects that were funded. So it appears that matching up the RSA priority list that is published every year with project funding is not the issue - they were in alignment. The next step was to evaluate if research funded under RSA was meeting acceptable scientific standards, and, if a study was not useable, was that for science related reasons (poor design) or poor execution of the study plan. Overall, staff concluded that the **Council needs to incorporate more rigorous scientific review of RSA funded projects and that the SSC needs to be more formally integrated into the process.** A number of the projects that failed to yield usable results were due to fact that the methodology was not followed according to the original proposal. Most of the time it looked like they failed to execute experimental design or made changes that were later found unacceptable by technical reviewers.

A more difficult challenge is dealing with the overall structure of the program. The NMFS Programmatic Review noted that at the inception of the RSA concept a determination was made by NOAA General Counsel that the new RSA programs coming on line had to be administered as grants programs. The grants program is an annual process, which precludes funding multi-year studies which creates a lot of inefficiencies.

The primary focus of staff review of the RSA Program is - are there other models we can pursue? Regardless of which alternative RSA model the Council chooses in the future, the program has to remain competitive, but we need to make it work for us.

RSA Program Options paper - 3 options (SEE ATTACHED)
1) Maintain current program with modifications.
2) MAFMC administers program.
3) Eliminate program.

Pete Himchak asked what exactly does "MAFMC administers program" mean? Would this include the auction? NMFS experimental permits? State permits?

Seagraves responded yes to all of the above with the exception that we would still need to work with the Regional Office and the states on permits. We would first need a legal opinion as to whether or not the Council (or third party) administration of the RSA program is legally permissible. During the NMFS RSA Programmatic Review a number of the reviewers were from the grants office and they generally agreed that the RSA Program would be more appropriately administered under contractual agreements as opposed to the current grants process.

Pete Himchak noted that NJ is on record as voting against the 3% RSA during last couple of specification actions by the Council. He wants it to be clearly understood that this was because of administrative and enforcement issues. They would support option 1 with modifications to address administrative and enforcement issues.

Ryan Silva asked regarding options 1 and 2 (1a and 1d regard what is going to be funded) Who is going to be doing the administration? Seems primary concern is that you are not getting what you want from the projects. NEAMAP seems to be the only one producing useable results. NEAMAP is a specified survey program. Whoever applies under that ties into what is going to be done. As long as an applicant executes the plan as proposed the Council would get useful results.

Seagraves noted that when the SSC discussed these same issues, Dr. Wilberg stated that one reason he has never pursued funding under the RSA program is the uncertainty of what he would end up getting in terms of funds. You don't know what monies are going to be generated for the projects from the sale of the fish you are granted.

Ryan Silva noted that regarding 1d - the RO is starting to draft 2013 solicitations.

John Boreman noted that if the Council decides to administer the program they would have to hire additional staff. The basis of funding would still be uncertain from year to year. The administration part of the RSA program could eat up a larger percentage of RSA funding than under the current model. When it is with NMFS it is going to be administered no matter what.

Seagraves noted that this was true, but the Council needs to weigh additional administrative costs against the anticipated benefits of getting better results from projects funded under RSA if the Council administers the program directly.

John Boreman noted that under the current grants model, scientists have lost the ability to work with fishermen. Now you either get a thumbs up or down for your proposal without discussions with fishermen. A Cooperative Research Program would enable that to occur.

Seagraves agreed and noted that the RSA program originated because fishermen were not happy with existing science and wanted to work cooperatively with the academic and assessment communities , but the NOAA determination that RSA be administered under the grants program effectively ended the cooperative research nature of the RSA program envisioned by the Council.

Recommendations for Scientific Issues

1. The WG supported the making the SSC Chair and Vice Chair members of RSA Committee.

2. WG agreed that the SSC should be involved with project reports. RSA proposals would be vetted through SSC and then go to RSA Committee. An ongoing issue for the RO is that progress reports come in late and are way behind. Staff is overworked and by time you see progress report it is too late. One proposal was that once a project is approved, have an SSC member monitor it and note when things start to go astray instead of waiting until the end and then realizing it went astray. There are management oversights.

It was noted that the Center has been looking at ways to get better reviews of progress reports.

WG Recommendation: ADD to #2: SSC be involved during process and execution stage.

3. WG endorsed Science recommendation 3. Utilize SSC subcommittee or working group to oversee Council research plan that would outline needs and plan of action to address those needs.

Recommendations for Administrative / Enforcement Issues

Discussion on Recommendation 1: This recommendation needs more justification. The idea here is to move to some sort other model such as a competitive research consortium or contractual arrangement to get the RSA program out from under grants. Have assessment lead, for example tilefish, take info and plug into assessment. They need to be involved in that issue. The grants process does not allow that to happen. **Suggest that Council write a letter stating that early on in the program there was judgment made that it has to be a grants process. Need legal opinion to see if that still holds.**

Ryan Silva stated that contracts are possible - there is no real legal basis that all of the RSA Program must be executed under grants. Typically a contract is for a product that is going to benefit NOAA. The Center has been interested in pursuing contracts but hasn't made the leap to do so. The Council should write a letter to the Service asking why they are not using contracts under RSA. If Council ends up running the program, they would still need a mechanism in place to have authority to make awards.

Seagraves noted that Council could utilize contract mechanisms on a project by project basis. Council staff proposes the creation of an RSA IFQ, set aside 3%, and then auction off all RSA. Fishermen or whoever gets it would get an RSA IFQ. The Council could then put the monies derived from auction of RSA ITQ into some type of a fund. Selling all of the RSA through an auction process is likely to the produce the greatest economic value from the RSA amounts specified.

Ryan Silva was not sure that the Council would have authority to auction off fish.

2. Enter into formal agreement to sell entire RSA through auction.

3. Funds generated from sale at auction would be deposited into an RSA Trust Fund for future projects.

Pate - How would this affect funding of NEAMAP?

Seagraves noted that the Council could fund only NEAMAP for a couple of years and then bank the rest of the money so we wouldn't lose continuity with NEAMAP. Another option is to take the balance of the available revenues and fund fishery dependent sampling. Lack of observer coverage and issues in the MRIP Program are fundamental problems which to date have not been resolved. Perhaps NEAMAP could be funded by another mechanism by the time RSA program modifications are implemented.

John Boreman stated that this could give lawyers in commerce some heartburn from collecting money for no outcome.

Seagraves noted that there is another option. The Magnuson Act contains provisions for a fund for research that you can deposit money into. Ryan Silva noted that 5% would be taken out of that fund and is to be given to each region.

3

Ryan Silva noted that some of the projects, while they are doing research, are harvesting set-aside quota. If all set-aside quota is sold through the auction, and if there is a need for more for a project, where would it come from?

General consensus was that the Council should continue to insure that NEAMAP remains funded.

4. Single vs. multiple year RSA specifications.

Council should consider multi-year specs and should be fixed amounts instead of percentages.

Seagraves noted that if Council sets an RSA fixed amount for multiple years, some mechanism must be in place that reacts to future ACL overages. If we find an ACL has been exceeded, would have to adjust somehow. Council may need to put in some sort of buffer amount for RSA quota actually allocated to auction program to allow for future overages.

Ryan Silva noted that fixed amount RSA specifications would allow you to plan more effectively from year to year.

Seagraves stated that the Council would provide percentages that would turn into a fixed amount. Whatever gets auctioned off, that would go to whatever program was in place (contractual or grants), then any unused RSA amount not sold at auction could feed back into the TAL for the fishery from which it originated.

5. Grant an RSA IFQ to be tracked like IFQ/ITQ programs monitored under FMPs. Only federally (commercial and/or party/charter) would be eligible to participate in RSA IFQ Program.

This needs to be addressed - problem is that party/charter would be subjected to same eligibility. Could have NGO group come in and bid on RSA fish and not utilize it. This option would require possession of a permit to be eligible for RSA IFQ quota.

Steve Heins suggested allowing federally and state permitted vessels. Many vessels in the Long Island sound fleet do not hold federal permits.

6. Allow party/charter vessels to participate in RSA IFQ Program contingent upon discretion of individual states. This would require state endorsement. If state doesn't get endorsement, wouldn't be able to participate.

Pete Himchak wanted to concentrate on number 5 and 6. Getting an answer out of his own Dept would be difficult. So NJ is stuck with the current program. Even if overhauled, we are still left with lack of continuous administration and oversight/enforcement. We have a fleet out there that we put terms and conditions on. There is no one monitoring these conditions.

Steve Heins noted that NY handles the lion's share of RSA permits and harvests. We don't pay for that individual; we just house them at our office. This one individual could possibly handle the mid-Atlantic region.

ADD #7 under A/E Recommendations: Create a monitoring system in other states and/or regions in the mid-Atlantic modeled after the NY example. Also consider having NY personnel supervise and track program for the entire Mid-Atlantic.

IMPORTANT ISSUES TO ADDRESS:
- Loss of the cooperative nature of RSA research under grants.
- Set aside IFQ to auction, but need fish available to be caught and killed during research trips.
- How to deal with party/charter sector.

- Add #7 - have individual track program in mid-Atlantic area.
- Provide estimate of cost of having Council staff administer the RSA program.

RSA Program Options

1. Maintain current RSA Program structure with modifications to address scientific and administrative/enforcement issues
        1a. maintain current mix of NEAMAP and cooperative research
        1b. fund NEAMAP only (i.e., RSA=NEAMAP)
        1c. fund NEAMAP and fishery dependent sampling
        1d. Write 2013 RSA RFP for NEAMAP research only and transition to option 2 in 2014

2. MAFMC administers RSA Program
        2a. Council administers program directly
        2b. Council contracts third party to administer RSA Program
                2b1. form Mid-Atlantic Research Consortium
                2b2. Sea Grant
                2b3. other third party entity

3. Eliminate RSA Program
        3a. set RSA=0
        3b.amend FMPs to eliminate RSA specifications

Recommendations for Scientific Issues
Staff recommends that the SSC be formally integrated into the RSA program as follows:

Science Recommendation 1: Make SSC Chair and Vice-Chair members of RSA Committee.

Science Recommendation 2: Develop protocol for technical review of RSA proposals and completed reports to be conducted by the SSC.

Science Recommendation 3: Create SSC Research Subcommittee to oversee development of MAFMC Research Plan which outlines the research/information needs along with a formal plan of action to address the needs identified based on prioritization developed jointly with RSA Committee.

Recommendations for Administrative/Enforcement Issues

Overview: Staff finding is that the administration of the RSA program as a Grants program compromises the RSA program's ability to meet its objectives. The principal problems are related to the annual grants cycle and the mismatch in timing of the grants cycle requirements and implementation of the RSA Program. The panel of grants experts assembled for the NMFS RSA Programmatic review unanimously agreed that the program would be more appropriately funded through contractual acquisition methods. Therefore, staff concluded that alternative models such as no cost contracts and/or third party administration of the RSA program should be considered by the Council..

A/E recommendation 1: Request legal opinion from NOAA Fisheries on the viability of the Council operating the RSA Program under no cost contractual agreements or similar mechanisms. Staff recommends that the current RSA program be moved from the current grants administration process to a contractual acquisition system.

Overview: Currently researchers request a certain amount of RSA quota by species and generate the funds to pay for their research either by entering into an agreement with a fisherman to catch the fish or by selling them through the NFI auction. The principal impediment to participation by many researchers in the current RSA program is the uncertainty about how many research dollars will be generated by a given request for RSA quota. Auctioning of the entire RSA quota is likely to produce the highest level of revenue from the RSA set-aside.

A/E Recommendation 2: The RSA Program should enter into a formal agreement with an outside entity to sell the entire RSA quota through an auction mechanism.

A/E Recommendation 3: Funds generated from sale at auction of RSA quota should be deposited in a RSA Trust fund or similar mechanism to fund future RSA projects. This may require a hiatus of funding for some or all projects for 2-3 years to build up enough revenue to transition to the new system.

Overview: One of the major problems with maintaining continuity of research projects within the RSA program is the current requirement to specify RSA amounts annually and as percentage of the TAL.

A/E Recommendation 4: The Council should move to a system of specifying RSA in a fixed amount for multiple years. This may require a buffer or similar mechanism to allow for overages, when they occur, in the fishery overall or in certain sectors. The buffer could be adjusted in future years depending on ACL/AM system performance.

A/E Recommendation 5: Successful bidders at auction would be granted an RSA IFQ that would be tracked in the same way that other IFQ/ITQ programs are monitored under current Council FMPs. Only federally permitted vessels (commercial and/or party/charter) would be eligible to participate in the RSA IFQ Program. All commercial vessels would be required to call into an IVR system 24 hours prior to departing on an RSA IFQ trip and sell the RSA amount taken to designated federal dealers. Party/charter vessels would be subject to the same IVR reporting requirements but additional reporting and monitoring/enforcement mechanisms may need to be developed for party/charter vessels.

A/E Recommendation 6: The allowance of party charter vessel participation in the RSA IFQ program should be left to the discretion of individual States. This could be accomplished by the requirement for state endorsement of the program through issuance of an equivalent state RSA IFQ permit. If states fail to issue such permits then party

charter vessels from those states would not be eligible to participate in the RSA IFQ Program.