Researching some fundamental problems


By David Frulla and Shaun Gehan

One of the hallmarks of the Obama presidency is a call for the proper role of science in regulatory decision-making. Many in the fishing industry would strongly agree and believe NMFS has pursued an overly precautionary agenda, ignoring clear signs of rebuilding stocks.

In contrast, environmental groups often assert that the agency does not go far enough. These debates are fostered by the often poor quality of the science. To be fair, counting the fish in the sea, and projecting management responses, is not easy. It cannot reasonably be debated that there is a need for more and better information.

NOAA's new head, Dr. Jane Lubchenco, a researcher herself, is at least facially well-aligned with the new president's focus on science-driven management. Improving the confidence in the system, however, may prove to be a daunting task.

For one, people looking at the same data can disagree about what it means or how it should be used in management. These disputes may be unavoidable. The best NMFS can do is produce information that is generally recognized as credible. That, however, has proven to be difficult.

For many fisheries there exists a general lack of necessary data — gaps which allow industry groups, agency personnel, and environmentalists to argue for their preferred policy outcomes. Congress addressed this problem in part in the Reauthorization Act of 2006 by directing NMFS to establish a regional cooperative research program.

The act requires NMFS to promote research to improve data collection and stock assessments, promote bycatch reduction and habitat identification and protection, and support other priorities identified by the regional councils.

Despite a congressional deadline of 180 days — which would have been the end of July 2007 — to create an "expedited, uniform, and regionally-based process to promote issuance… of experimental fishing permits," NMFS did not issue proposed guidelines until December 2007. NMFS' proposals were significantly flawed. Two years later, and more than a year since the comment period closed, no final guidelines have been issued.

This delay has caused cooperative research projects that could be improving fisheries management to remain mired in the current dysfunctional system. Scientific research permits for activities requiring waivers from the Marine Mammal Protection and Endangered Species Acts can take a year or longer to process. Counterproductive impediments to the use of fishing vessels as research platforms, even for projects that must be conducted under actual fishing conditions — such as testing gear to minimize bycatch — remain. This was one of the more egregious flaws in the draft guidelines.

An agency guided by science would be well advised to follow Congress' directive. Issuance of a final set of guidelines on cooperative research would be a good step, but only if NMFS constructively incorporates the myriad suggestions for improvements over its initial proposal.

While such guidance will help, cooperative research will only take root and assist in the management process if it is properly integrated into the fishery management process. All too often, the experience has been frustrating. For example, final regulations adopting the Ruhle trawl, an innovative and award-winning raised-footrope trawl named for its inventor, the late Capt. Phil Ruhle, to target haddock while avoiding cod, changed the net's specifications from the tested and proven design.

Non-experts at NMFS decided to "improve" the painstakingly engineered net — without testing — by requiring the replacement of floats with a kite to keep the top of the net open wider. This may have seemed like a good idea in Gloucester, Mass., or Silver Spring, Md., but the results have been demonstrably counterproductive. The NMFS-modified design is resulting in more bycatch than the one Ruhle and his colleagues spent years working on.

Other barriers to cooperative research exist, as well. A recent attack on the concept of cooperative research — and indeed all research — by the Pew Foundation-supported Lenfest Ocean Program and the Environmental Working Group as an illegitimate "subsidy" is not at all helpful or productive. In a significant turnabout from the early days of the Magnuson Act (when fishermen were sometimes able to make the case that a lack of information should forestall regulation), environmental groups are now able to argue quite successfully under the vague "precautionary principle" that the absence of scientific information requires more regulation.

No one has a greater stake in quality, balanced fisheries information than the fishing industry itself. Moreover, its forward-thinking participants have the knowledge and demonstrated commitment to help improve scientific information. But the government needs to listen and assist, not erect roadblocks. It remains to be seen how Lubchenco and the Obama administration will respond. NF

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