

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 030906D]

**Marine Fisheries Advisory Committee; Charter Renewal**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of renewed charter.

**SUMMARY:** Notice is hereby given of the two year renewed charter for the Marine Fisheries Advisory Committee (MAFAC), signed on February 3, 2006.

**FOR FURTHER INFORMATION CONTACT:** Laurel Bryant, MAFAC Executive Director; telephone: (301) 713-2379 x171.

**SUPPLEMENTARY INFORMATION:** As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of the renewed charter for MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1972, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This Committee advises and reviews the adequacy of living marine resource policies and programs to meet the needs of commercial and recreational fisheries, and environmental, state, consumer, academic, tribal, and other national interests. The Committee's charter must be renewed every two years from the date of the last renewal. The charter can be accessed on line at [www.nmfs.noaa.gov/ocs/mafac](http://www.nmfs.noaa.gov/ocs/mafac).

Dated: March 9, 2006.

**Gordon J. Helm,**

*Acting Director, Office of Constituent Services, National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Notice of Indirect Cost Rates for the Damage Assessment and Restoration Program for Fiscal Year 2004**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of indirect cost rates for the Damage Assessment and Restoration Program for Fiscal Year 2004.

**SUMMARY:** The National Oceanic and Atmospheric Administration's (NOAA's) Damage and Restoration Program (DARP) is announcing new indirect cost rates on the recovery of indirect costs for its component organizations involved in natural resource damage assessment and restoration activities for fiscal year (FY) 2004. The indirect cost rates for this fiscal year and dates of implementation are provided in this notice. More information on these rates and the DARP policy can be found at the DARP Web site at <http://www.darp.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Brian Julius at 301-713-3038, ext. 199, by fax at 301-713-4387, or e-mail at [Brian.Julius@noaa.gov](mailto:Brian.Julius@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The mission of the DARP is to restore natural resource injuries caused by releases of hazardous substances or oil under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 96012 *et seq.*), the Oil Pollution Act of 1990 (OPA) (33 U.S.C. 2701 *et seq.*), and support restoration of physical injuries to National Marine Sanctuary resources under the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*). The DARP consists of three component organizations: the Damage Assessment Center (DAC) within the National Ocean Service; the Restoration Center within the National Marine Fisheries Service; and the Office of the General Counsel for Natural Resources (GCNR). The DARP conducts Natural Resource Damage Assessments (NRDAs) as a basis for recovering damages from responsible parties, and uses the funds recovered to restore injured natural resources. During FY 2005, the DARP expanded to include a fourth component organization, the Coastal Protection and Restoration Division (CPRD) within the National Ocean Service. With this addition, DARP changed its name to the Damage Assessment, Remediation, and Restoration Program (DARRP). Since this notice announces the indirect cost rates for FY 2004, which is prior to DARP's expansion, the acronym "DARP" will be used throughout.

Consistent with Federal accounting requirements, the DARP is required to account for and report the full costs of its programs and activities. Further, the DARP is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA. Within the constraints of these legal provisions and their regulatory applications, the DARP has the discretion to develop

indirect cost rates for its component organizations and formulate policies on the recovery of indirect cost rates subject to its requirements.

**The DARP's Indirect Cost Effort**

In December 1998, the DARP hired the public accounting firm Rubino & McGeehin, Chartered (R&M) to: evaluate cost accounting system and allocation practices; recommend the appropriate indirect cost allocation methodology; and determine the indirect cost rates for the three organizations that comprise the DARP. A **Federal Register** notice on R&M's effort, their assessment of the DARP's cost accounting system and practice, and their determination regarding the most appropriate indirect cost methodology and rates for FYs 1993 through 1999 was published on December 7, 2000 (65 FR 76611). The notice and report by R&M can also be found on the DARP Web site at <http://www.darp.noaa.gov>.

R&M continued its assessment of DARP's indirect cost rate system and structure for FYs 2000 and 2001. A second Federal notice specifying the DARP indirect rates for FYs 2000 and 2001 was published on December 2, 2002 (67 FR 71537).

In October 2002, DARP hired the accounting firm of Cotton and Company LLP (Cotton) to review and certify DARP costs incurred on cases for purposes of cost recovery and to develop indirect rates for FY 2002 and subsequent years. As in the prior years, Cotton concluded that the cost accounting system and allocation practices of the DARP component organizations are consistent with Federal accounting requirements. Consistent with R&M's previous analyses, Cotton also determined that the most appropriate indirect allocation method continues to be the Direct Labor Cost Base for all three DARP component organizations. The Direct Labor Cost Base is computed by allocating total indirect cost over the use of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. Direct labor costs for contractors from the Oak Ridge Institute for Science and Education (ORISE) and I.M. Systems Group (IMSG) also were included in the direct labor base because Cotton determined that these costs have the same relationship to the indirect cost pool as NOAA direct labor costs. ORISE and IMSG provide on-site support to the DARP in the areas of injury assessment, natural resource economics, restoration planning and implementation, and policy analysis. A third Federal notice specifying the DARP indirect rates for FY 2002 was published on October 6, 2003 (68 FR

57672), and a fourth notice fore the FY 2003 indirect cost rates appeared on May 20, 2005 (70 FR 29280). Cotton's reports on these indirect rates can also be found on the DARP Web site at <http://www.darp.noaa.gov>.

Cotton reaffirmed that the Direct Labor Cost Base is the most appropriate indirect allocation method for the development of the FY 2004 indirect cost rates.

**The DARP's Indirect Cost Rates and Policies**

The DARP will apply the indirect cost rates fro FY 2004 as recommended by Cotton for each of the DARP component organizations as provided in the following table:

DARP component organization	FY 2004 indirect rate (percent)
Damage Assessment Center (DAC) .....	213.03
Restoration Center (RC) .....	181.46
General Counsel for Natural Resources (GCNR) .....	165.39

These rates are based on the Direct Labor Cost Base allocation methodology.

The FY 2004 rates will be applied to all damage assessment and restoration case costs incurred between October 1, 2003 and September 30, 2004. DARP will use the FY 2004 indirect cost rates for future fiscal years until subsequent year-specific rates can be developed.

For cases that have settled and for cost claims paid prior to the effective date of the fiscal year in question, the DARP will not re-open any resolved matters for the purpose of applying the revised rates in this policy for these fiscal years. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, costs will be recalculated using the revised rates in this policy for these fiscal years. Where a responsible party has agreed to pay costs using previous year's indirect rates, but has not yet made the payment because the settlement documents are not finalized, the costs will not be recalculated.

The DARP indirect cost rate polices and procedures published in the **Federal Register** on December 7, 2000 (65 FR 76611), on December 2, 2002 (67 FR 71537), October 6, 2003 (68 FR 57672), and May 20, 2005 (70 FR 29280) remain in effect except as updated by this notice.

Dated: March 9, 2006.  
**David M. Kennedy**,  
*Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.*  
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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 031006A]

**Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application submitted by the Mount Desert Oceanarium (MDO), Southwest Harbor, ME, contains all of the required information and warrants further consideration. The EFP would allow one fishing vessel to fish for, retain, and land small numbers of regulated fish species, and several unmanaged fish and invertebrate species, for the purpose of public display. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Fishery Management Plans (FMPs) for these species. However, further review and consultation may be necessary before a final determination is made to issue an EFP.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before March 30, 2006.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on MDO Specimen Collection, DA6-043." Comments may also be sent via fax to (978) 281-9135. Comments may also be

submitted via e-mail to the following address: [DA6-043@noaa.gov](mailto:DA6-043@noaa.gov). Include in the subject line of the e-mail "Comments on MDO Specimen Collection."

**FOR FURTHER INFORMATION CONTACT:** Douglas Potts, Fishery Management Specialist, 978-281-9341.

**SUPPLEMENTARY INFORMATION:** The MDO submitted an application for an EFP on February 9, 2006, to collect several species of fish and invertebrates for public display. The target species would include American plaice (dab), winter flounder (blackback), yellowtail flounder, witch flounder (grey sole), Atlantic halibut, monkfish, eel pouts, sculpins, sea raven, Atlantic cod, lumpfish, Atlantic wolffish, spiny dogfish, little skate, barndoor skate, and various species of the Phyla Arthropoda (excluding lobsters) and Echinodermata.

One chartered fishing vessel would use a shrimp otter trawl with 2-inch (5.08-cm) mesh to collect marine fish and invertebrates for a maximum of 4 days—2 days during the period May 16–28, 2006, and 2 days during the period June 23–30, 2006. The specimens would be cared for in chilled and aerated seawater while on board the fishing vessel and would be transferred live to tanks the day they are caught. The fish would be brought to shore, maintained in tanks for public display for a period of time not to exceed 5 months, and would be returned to the sea in October 2006.

Collection would be made within the Small Mesh Northern Shrimp Fishery Exemption Area, specifically within an area off the coast of Maine. Because the shrimp fishery will be closed at the time of the proposed collection, and this area lies within the Gulf of Maine Regulated Mesh Area, an exemption from the Northeast (NE) multispecies minimum mesh requirements of 6-inch (15.24-cm) diamond/6.5-inch (16.51-cm) square mesh at 50 CFR 648.80(a)(3) would be required.

The applicant would retain a maximum of six individuals per species, juveniles and adults combined, with the exception of Atlantic halibut. In addition to an exemption from the NE multispecies minium mesh requirements, the applicant would only be permitted to retain a total of one Atlantic halibut with a minimum length of 36 inches (91.44 cm). The applicant has requested the following exemptions from the NE Multispecies and Monkfish Fishery Management Plans: Effort control program requirements at §§ 648.82(a) and 648.92(a); minimum fish sizes at §§ 648.83(a)(1) and 648.93(a)(1); and monkfish possession