

New England Fishery Management Council

FINAL SUMMARY

Monkfish Oversight Committee and Advisory Panel

Joint Meeting

Radisson Hotel, Warwick, RI

April 3, 2012

Committee members: Alexander (chair), King (vice chair); NEFMC: Avila, Dempsey, Libby (absent) Odlin, Preble; MAFMC: Berg, Himchak, Nolan.

Staff: Haring (NEFMC) and Armstrong (MAFMC)

Advisory Panel: Raymond (Chair), Alexander, Caldwell (absent), Froelich, Hickman, Johnson (absent), Jordan, Julliard (absent), Margeson, McCann, D. Mears (absent), H. Mears (absent), Platz, Rainone (absent), Walker

The primary purpose of the meeting was to consider the recent listing of Atlantic sturgeon under the Endangered Species Act (ESA) and its implications for the monkfish fishery. NMFS Protected Resources staff was seeking input from the Committee and Advisory Panel on possible measures for consideration in the Biological Opinion (BO) that would reduce interaction of the fishery with sturgeon. The meeting was also a forum for updating the Committee on the Plan Development Team's (PDT) work on Amendment 6 alternatives.

NMFS staff gave a presentation on the listing of sturgeon and considerations for Northeast Region FMPs, including the monkfish FMP. Under the ESA, each federal action is considered separately in the preparation of BOs, and each FMP is considered a separate federal action. Under this approach, the bycatch of sturgeon must be attributed to each FMP, even if the fishing activity that resulted in a take was done under several FMPs (i.e., targeted several different species). The Northeast Fisheries Science Center analyzed observed sturgeon discards during 2006-2010 and attempted to model the association of those encounters with species groups within FMPS, based on the species landed during trips where sturgeon were observed. The model results, however, are highly uncertain, which has prompted the NMFS to explore an alternative approach to the BO which would in effect aggregate FMPs and address the problem more holistically, with take-reduction measures crossing all affected FMPs simultaneously. Whether this approach is feasible under the ESA, and also logistically in the Council process has not yet been determined, and, consequently, the BO(s) would not likely be released prior to the April 6th effectiveness date of the listing. Any observed sturgeon takes after the listing is effective and before the incidental take statement is published would be illegal and subject both the agency and the fisherman to liability.

Following the NMFS presentation, there was a lengthy question-and-answer session. Members of the public, as well as Committee and AP members asked and commented on all aspects of this issue, including the assessment of stock status, the attribution to FMPs, and the process and procedures for responding to the BO (including the aggregated approach). Many commenters expressed the view that the status review was based on incomplete and outdated information, and that sturgeon populations have been growing consistently since the closure of the directed fishery over a decade ago. Several called for an independent review of the

stock status information, and an updated stock assessment. NMFS staff indicated that the current listing is based on a compilation of all of the best available scientific information but that if new information becomes available, they could reinstate the consultation and, if warranted, downlist or delist sturgeon populations.

Following the question/comment session, the Mid-Atlantic staff briefed the Committee on the outcome of the MAFMC *ad hoc* Sturgeon Committee meeting on March 19th. That meeting did not result in any conclusive decisions or recommendations, primarily since participants needed time to review the available information and consider the implications of the aggregated approach. A representative of the Science Center provided a brief summary of the results of the second phase of a bycatch reduction experiment for sink gillnets, although the final report has not yet been approved and released. When the report is officially finalized, the Councils and NMFS may consider the tested gear as one of the methods for reducing interactions with sturgeon in sink gillnet fisheries.

The Committee then discussed the pros and cons of taking a single, “batched” approach or addressing the issue on an FMP-by-FMP basis under the following motion.

Motion

That the Committee recommends to the Councils that any action to address sturgeon be taken on an aggregate/batched, rather than individual FMP basis. (Preble/King)

Among the advantages are that it would likely be more efficient from a staff resource perspective, it would avoid the issues associated with the attribution analysis, and it would allow for application of avoidance measures on a gear-area-time basis and avoid the layering of several different regulations on a vessel fishing under several FMPs simultaneously. Conversely, the aggregated approach is unprecedented in both ESA and Magnuson-Stevens actions (being a joint action covering multiple FMPs), it may require more time considering the logistics of coordinating MAFMC, NEFMC, and possibly ASMFC activities, and it may impose unnecessary restrictions on vessels fishing under some FMPs where the incidence of takes is relatively low. In addition, some FMPs have actions already underway and could possibly include measures to address sturgeon, allowing for earlier implementation. NOAA General Counsel advised, however, that measures to address sturgeon could not be taken under a framework action, but would require an amendment because the analyses of measures that could be modified under a framework did not contemplate such actions would be taken to address endangered species, generally, or sturgeon specifically.

The maker of the motion clarified that this motion is not recommending the Councils take action, but that if they do, it be done collectively rather than within each FMP singly. Another member of the Committee suggested that this motion be delayed until more information is available, in terms of how the process would affect other Council actions, what the relative demands on staff and resources would be, etc.. Several Committee members agreed that the decision should be put off until the BOs are available. The AP chair questioned if the Councils have the authority to vote on an action that would affect FMPs outside of their respective jurisdictions (for example, if the squid/mackerel/butterfish plan were impacted by the joint action, could NEFMC members vote on it?).

Motion to substitute

To recommend the Councils delay action on sturgeon until review of the biological opinion(s) affecting species/fisheries managed by both Councils (Himchak/Berg)

After the Chair commented that the motion to substitute has the same effect as a motion to table the original motion, and further discussion concluded with a general consensus that it would be preferable to see what the BO states before deciding what action to take (batched vs. FMP by FMP), the makers of the motion and the motion to substitute withdrew their motions.

Motions withdrawn

The discussion then focused on ways to inform the development of the BO, specifically measures to be considered to reduce the interaction of the fisheries with sturgeon. One member suggested measures that would increase efficiency, as landings per unit effort, would result in reduced time that gear is in the water. Several people suggested that some measures could be adopted in a framework action, if their purpose was to increase efficiency, and those could be also shown to have a positive effect in reducing sturgeon interactions, as an impact not as a purpose. A member of the AP commented that gear modifications need to be done in a manner that considers the availability of new gear and also the financial impact on fishermen who have already made gear purchases for the upcoming year.

Several people felt there would be wide support for the resuscitation proposal since it had minimal impact on fishing operations and could have a significant impact on the mortality of incidentally caught sturgeon. Members also discussed, but did not agree on the effectiveness of “hot-spot” reporting programs, where fishermen would alert others to the presence of sturgeon concentrations when they are detected, so those areas could be avoided or closed.

Members agreed, generally, that no further action or discussion was needed until the BOs are released.

The PDT chair provided a brief update on the progress in developing Amendment 6 alternatives, as directed by the Committee at the last meeting. No specific items were presented.

Under “Other Business”, staff from the Gulf of Maine Research Institute presented their ideas for conducting outreach workshops to engage interested parties in the further development of Amendment 6. Committee members generally agreed that it might be beneficial to inform the public and get their informal input into the process, but that it was premature to begin scheduling any such programs, although there may be a role for these in the short term to address the sturgeon listing issue.