



## New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

### MEMORANDUM

**DATE:** May 29, 2020  
**TO:** Skate Committee  
**FROM:** Skate Plan Development Team  
**SUBJECT:** **Progress of Amendment 5 (limited access)**

In December 2019, the Council approved continuing work on Amendment 5 to the Skate Fishery Management Plan as a 2020 priority and tasked the Skate Committee to define a clear problem statement, goals, and objectives for this action.

As the Skate Committee is developing ideas, the PDT recommends considering that, in general:

- A goal is a desired result or outcome that would solve a problem. A goal is typically broad and long-term in scope.
- An objective is a specific, measurable action that would help achieve a goal.

In June 2019, the Council approved two objectives developed by the Skate Committee. During the March 26, 2020 Joint AP/Cte meeting, the AP members present identified problems that they felt limited access would help resolve (p. 7) and the Committee developed a problem statement and an additional objective (p. 2 below), which will be considered by the Council in June 2020. Neither the Skate Committee nor the Council has developed a goal(s) per se for Amendment 5. However, there is some language in the problem statement and objectives that articulates desired outcomes, which could potentially form the basis of a goal(s). The purpose of Amendment 5 would be clearer if the language that articulates the goals were made distinct from, rather than embedded within the problem statement and objectives.

After the March meeting, the Skate Committee Chairman asked the PDT to provide any additional technical input to support decision-making by the Council in June. Provided here is technical input on the problem statement and objectives developed thus far and on the problems identified by Advisory Panel members in March. This memo was developed in April and May 2020 over the course of a few PDT meetings. The PDT also provides much data on the skate fishery in the Draft Discussion Document to support decision-making, including new tables on permit activity, landings relative to Total Allowable Landings and revenue dependence.

## ***AMENDMENT 5 PROBLEM STATEMENT AND OBJECTIVES***

To support the Skate Committee in its tasking by the Council, the PDT has color-coded the current problem statement and objectives language to highlight the identified problems, desired results or outcomes (goals), and the specific actions (objectives) that would help achieve the outcomes. The intent is to help work towards clear articulation, having a goal(s) and Council-agreement on the problem(s), goal(s), and objectives(s) of this action.

**BLUE = problem**

**GREEN = goal**

**PURPLE = objective**

### ***Problem Statement:***

“There is considerable latent effort in both fisheries - a relatively small portion of vessels account for the majority of landings in most years, and the Council is concerned that **activation of latent permits could lead to shortened seasons, as well as increased catch of non-target species if racing to fish increases. This could cause unrestrained increases in fishing effort by new entrants to the fishery.** Therefore, **further restricting access** will help **to ensure access to the quota for participants that have participated on a regular basis and therefore have some degree of dependency.** **Additional effort could also increase daily landings, making it difficult to close the fishery in a timely fashion, which could negatively impact the skate resource.**” [Committee approved March 2020]

### ***Objectives:***

1. “Any management measure adopted in this limited access action **minimizes the impact on any other fisheries that have interactions with skates.**” [Council approved June 2019]
2. “To identify the various fishery components that use the skate resources and to **preserve, to the extent possible, through limited access ongoing participation the fishery consistent with how past utilization has occurred.**” [Council approved June 2019]
3. “Consider the **appropriate number of vessels in the directed and incidental skate wing and skate bait fisheries and design appropriate management measures for permitted vessels to avoid more frequent and disruptive fishery closures due to additional effort from vessels that have not substantively participated in the fishery in recent history.**” [Committee approved March 2020]

### ***For the skate fishery, what is meant by “latent effort” and “new entrants”?***

In the skate fishery, the distinction between latent effort and new entrants is a bit murky, as latency does not exist as typically defined. Generally, new entrants are defined as vessels that have never participated in a fishery before, and latent permits are existing permits that have never been used to harvest fish or have been used in the past but are currently inactive. Because the skate permit is open access (i.e., “**further**” should be deleted from the problem statement), one must be requested annually. Obtaining a skate permit is as simple as requesting one from the

GARFO permit office. In a sense, a new skate permit is obtained each year. Some vessels that request a skate permit annually do this in case they catch enough to have some incidental landings, which helps avoid discards. Another form of latency, particularly possible in the skate fishery, are vessels that had a skate permit and landings in the past, but do not have a current skate permit.

The problem statement indicates that “[activation of latent permits](#)” causes “[increases in fishing effort by new entrants to the fishery](#)” (though potentially, the antecedent for “[this](#)” could be “[shortened seasons](#)” or “[racing to fish](#)”). Rather than latency or new entrants, is the problem rather that vessels can obtain a skate permit and become active at any time? The Committee should clarify if the problem is with: 1) latent effort by un-used skate permits, 2) latent effort by historical participants who did not fish in recent years, 3) effort switched from other fisheries, now focused on skates, 4) brand new vessels entering, and/or 5) vessels that landed only incidental levels of skate. It would make the analysis clearer to have the different group types clearly lumped or split.

The PDT reviewed prior AP and Committee meeting motions and discussion points back through 2017 to see if there has been any clarity on whether the intent is to prevent new permits, the activation of existing permits that have or have not been active in the past, and/or constrain the fishery to those most active in the past. The only motions and consensus statements (compiled in the [March 11, 2020 PDT memo, Section 3.0](#)), specific to this issue are those that developed the problem statement and objectives. The conversation at several AP and Committee meetings touched on related issues. Here are several viewpoints and questions raised by individuals:

- Fishermen are concerned that newer entrants, combined with reduced landing limits, are constraining their operations (see [4/3/17 AP mtg.](#), [3/28/18 AP mtg.](#)).
- Why were incidental possession limits implemented recently? Was it because the quota was reduced to a level below what historical landings had been (see [3/28/18 AP mtg.](#))? Was there an unusually high number of participants in those years (see [3/28/18 AP](#), [4/25/19 Cte mtg.](#))?
- Market conditions (demand for skate, price of skate, price of monkfish or other species like herring) drive the interest in participating in the skate fishery and/or landing skate instead of discarding them (see [3/28/18 AP mtg.](#), [5/23/18 AP mtg.](#), [10/22/19 Cte mtg.](#)).
- The timeframe for what a new entrant is should be clarified. Is a vessel “new” if it entered after the control date (2009 for bait, 2014 for wing; see [4/23/19 AP mtg.](#))?
- The number of Groundfish Days-At-Sea available could impact the potential for activated latent effort or new entrants (see [4/25/19 Cte mtg.](#), [5/21/19 AP mtg.](#), [10/22/19 Cte mtg.](#)).
- Is industry wary of new entrants despite not reaching the Total Allowable Landing limits (TALs; [10/22/19 Cte mtg.](#))?

It seems that the intent of what would be constrained (new and/or existing skate permits) has yet to be clarified. However, there is a clear desire to be able to land the full seasonal possession limits and not trigger the incidental landings limit.

What are the “non-target species” referred to in the problem statement?

The problem statement says: “activation of latent permits could lead to ...increased catch of non-target species.” Are these non-skate catches on directed skate trips, or skate catches on trips targeting other species (e.g., groundfish, monkfish, scallops)?

Including a goal that is conservation-focused

The Skate Committee should help ensure that Amendment 5 is consistent with all the National Standards. Thus far, the focus of this action has been largely on social and economic factors. Although the goals and objectives of the Northeast Skate Complex FMP are designed to promote conservation, the biological intent of Amendment 5 should be made more explicit. National Standard 5 states that:

*“Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.”*

The problem statement drafted by the Committee hints at a conservation purpose: “Additional effort could also increase daily landings, making it difficult to close the fishery in a timely fashion, which could negatively impact the skate resource.” The PDT recommends adding a goal and objective like the following to help ensure National Standard 5 is addressed:

- Draft goal: “To promote conservation by encouraging a rational, more easily-managed use of the resource.”
- Draft objective: “To ensure the fishery remains within landing limits to minimize the risk of exceeding the ABC or causing overfishing.”

### ***WORK TOWARDS GOAL IDENTIFICATION***

To support work towards having a goal(s) for Amendment 5, below are the ideas from the existing problem statement and objectives, sorted by whether they articulate a problem, a desired outcome (goal), or the measures to take to achieve the outcome (objectives). The PDT is not attempting to opine on these ideas but offers this sorting to help the Committee and Council solidify the problem statement, goal(s), and objective(s) of this action and take the necessary steps to develop it. A few points to consider:

- Is the Committee, and ultimately the Council, supportive of re-sorting the existing problem statement and objectives to articulate goals of this action (example below)?
- The Council has not yet considered the problem statement and the concepts that are in Objective 3 above, that have moved to Goals 3 and 4 and the Objective below.
- Goals 2 and 3 below are somewhat duplicative and could be merged.
- Again:
  - What is meant by “latent effort” and “new entrants”?
  - What are the “non-target species” referred to in the problem statement?
  - Does the Committee approve of adding a biological/conservation goal for this action? Text would need to be developed, though the PDT offers the suggestions above.

#### ***Problem Statement (proposed reshuffling):***

“There is considerable latent effort in both fisheries - a relatively small portion of vessels account for the majority of landings in most years, and the Council is concerned that **activation of latent permits could lead to shortened seasons, as well as increased catch of non-target species if racing to fish increases. This could cause unrestrained increases in fishing effort by new entrants to the fishery. Additional effort could also increase daily landings, making it difficult to close the fishery in a timely fashion, which could negatively impact the skate resource.**”

#### ***Goals (proposed reshuffling):***

1. **To minimize impacts on any other fisheries that have interactions with skates.** [from current objective #1]
2. **To preserve, to the extent possible, ongoing participation the fishery consistent with how past utilization has occurred.** [from current objective #2]
3. **To ensure access to the quota for participants that have participated on a regular basis and therefore have some degree of dependency.** [from current problem statement]
4. **To avoid more frequent and disruptive fishery closures due to additional effort from vessels that have not substantively participated in the fishery in recent history.** [from current objective #3]

#### ***Objectives (proposed reshuffling):***

1. To consider alternatives that would create **a limited access** program [current objective #1] that **considers the appropriate number of vessels in the directed and incidental skate wing and skate bait fisheries.** [current objective #3]

**RELEVANT FISHERY DATA**

Data in the Discussion Document (Table 1) may assist the Committee in its work, some of which is new since the March 26, 2020 Joint AP/Committee meeting.

**Table 1. Key data in the Discussion Document that may help the Committee.**

Location	Data	Some Key Points
Section 5.6.1.1	<p>The number of skate permits issued and active in recent years, and by vessels landing bait only, non-bait only (wing), or both.</p> <p>Each year, the number entering the fishery for the first time, latent permits activated, and permits exiting the fishery for the last time.</p>	<ul style="list-style-type: none"> <li>• The number of Federal skate permits issued peaked in FY 2007 (2,686) and has declined by up to 3% annually ever since (2,028 in FY 2019).</li> <li>• The number of active skate permits has generally declined since FY 2003 (594) to 323 in FY 2019.</li> <li>• Each year since FY 2008, the number of skate permits exiting the fishery for the last time has been more than the number of new permits issued.</li> <li>• The number of new active permits has generally been &lt;10 annually since FY 2010, mostly landing non-bait.</li> <li>• FY 2016 and 2017, the years in which incidental limits were triggered, were not particularly unusual in terms of permits activity.</li> </ul>
Section 5.6.1.2	Recent history of skate wing and bait TALs and landings relative to TALs.	<ul style="list-style-type: none"> <li>• Since FY 2014, landings have averaged 89% of the Wing TAL and 86% of the Bait TAL.</li> <li>• In FY 2016 and 2017, when the incidental possession limits were triggered, the Wing and Bait TALs were 23% lower than FY 2014 and 2015. Landings were also lower.</li> </ul>
Section 5.6.1.6	Revenue dependence on skates for bait and skates for food.	<ul style="list-style-type: none"> <li>• In FY 2017, 20 vessels landed bait only and 4 had &gt;10% dependence from bait, averaging 45% or \$240K. 321 vessels landed non-bait only and 50 had &gt;10% dependence, averaging 32% or \$2.3M. 85 vessels landed skate for bait and food and, for the fishing year, 34 had &gt;10% dependence, averaging 31% or \$1.8M.</li> <li>• Data are similar for FY 2016.</li> </ul>

### ***PROBLEMS IDENTIFIED BY THE ADVISORY PANEL***

At the March 26, 2020 Joint Advisory Panel and Committee meeting, AP members were asked to provide input on whether Amendment 5 should continue, and if so, what is the key problem(s) it should address and how limited access might solve the problem(s). The AP did not have a quorum and members present were largely from the wing fishery. AP members discussed their continued interest in a limited access program specifically for the wing fishery and developed a consensus statement that included problems that members hoped limited access would help address (Table 2). It was noted that AP members from the bait fishery who could not attend the meeting have stated support at prior meetings for limited access for the bait fishery as well.

During the meeting, several Committee members appreciated the concerns of AP members but questioned whether creating a limited access permit was the best management tool to address the concerns. The Skate PDT has discussed the consensus statement of AP members present and developed brief technical input (Table 2) on whether each concern could be addressed through a revision to the Skate FMP, through creating a skate limited access permit program, if there are other tools would be appropriate instead of, or in addition to limited access, and whether the matter seems to be reflected in the Committee-drafted problem statement.

The PDT compared the problems identified by AP members to the Amendment 5 problem statement and objectives as drafted (Table 2, column 5). Of the seven problems listed in Table 2, numbers 1 and 5 - 7 do relate to the problem statement and/or objectives of Amendment 5, but numbers 2 - 4 on safety, travel distance to fishing grounds and landing all legal sized fish are less directly linked. AP members were concerned about regulatory discards that result from reaching the possession limit while tending gillnet gear (Table 2, item 1). For instance, if a vessel has ten gillnets but reaches the possession limit after tending only five, it can 1) tend the other five gillnets and discard all the skates, or 2) return to port and make another trip to tend the last five gillnets, by which time many of the skates may be unmarketable. Skates caught with gillnets are a large part of the monkfish fishery, but also part of the groundfish fishery. Thus, regulatory discards may increase discards and create lost economic opportunities in the skate, monkfish, and groundfish fisheries. AP members were concerned about new entrants (Table 2, item 5), which relates directly to the Committee concern about “unrestrained increases in fishing effort by new entrants to the fishery” (page 2, in blue). Likewise, AP members were concerned with increasing catch rates (Table 2, item 6), which applies to Committee Objective 3 (page 2, in green). The Committee is concerned that additional effort could cause the implementation of the incidental limit, and a de facto closure, and the AP members feel increasing skate prices could cause the increased effort. Finally, the language on increasing effort is shared between AP members (Table 2, item 7) and the problem statement and Objective 3. The AP specifically worries the stricter regulations in the other fisheries may cause this.

As the March 26 meeting did not have any AP members attend who represent the skate bait fishery, the PDT looked to prior AP meetings when other ideas or problems were discussed specific to the bait fishery. While there have been no bait-specific motions on problem statements (AP motions have largely focused on alternatives that require limited access), AP members from both fisheries have consistently voiced support for developing a limited access program. The directed skate bait fishery has a smaller number of vessels with higher dependence than the wing fishery (see fishery data in Discussion Document). Bait fishermen on the AP have been concerned about the potential for triggering incidental limits if more effort enters the

fishery. Some would also like to be able to land wings (i.e., mixed trips) when fishing under a Letter of Authorization, but this is less related to the open access nature of the skate permit.

**Table 2. Skate PDT input on concerns raised by Advisory Panel members present at its March 2020 meeting (no quorum).**

AP problem (no quorum)	Could it be resolved...			Does it align with the Committee-drafted problem statement and/or objective?
	... via the Skate FMP?	...via skate limited access?	...other tool instead of/also?	
1. High regulatory <b>discard</b> rates in the directed fishery from needing to leave gear (i.e., gillnets) in the water (if a possession limit is reached).	Yes. Could increase possession limits, limit the number of gillnets, require bringing nets home between trips.	Potentially	LA + individual quota (transferable or not)  LA + DAS allocations (transferable or not)	Yes, Objective 1 to minimize the impact on other fisheries that interact with skates, in this case, the monkfish gillnet fishery.
2. <b>Safety</b> concerns from needing to take a lot of trips.	Yes. Could increase possession limits.	Potentially		Not directly or explicitly.
3. Needing to fish <b>far from home</b> this time of year.	No. Not a Skate FMP requirement. Likely a groundfish reg. <sup>1</sup>	No	Time/area restrictions in other fisheries	Not directly or explicitly.
4. Needing to <b>land all the legal sized</b> fish caught.	No, unless the vessel is on a directed wing trip and planning to land barndoor, then cannot discard skates (wings already cut?). Likely a groundfish reg. <sup>2</sup>	No	Possession limits (revise existing)	Not directly or explicitly.
5. Unrestrained increases in fishing effort by <b>new entrants</b> to the fishery.	Yes, but incidental limit imposed earlier, proportional to the level of effort increase.	Yes. LA groups with different limits would blunt the effect of switching.	LA + individual quota (transferable or not)  LA + DAS allocations (transferable or not)	Yes, in Problem Statement.
6. <b>Catch rates</b> [i.e., how fast the ACL is achieved] could go up with increased prices.	Yes. Could reduce possession limits.	Potentially		Yes, Objective 3 about avoiding fishery closures.



AP problem (no quorum)	Could it be resolved...			Does it align with the Committee-drafted problem statement and/or objective?
	... via the Skate FMP?	...via skate limited access?	...other tool instead of/also?	
7. Increasingly strict regulations in other fisheries might cause these <b>fishermen to switch</b> over to fishing for skates which could trigger reduced skate trip limits and have other negative economic impacts on current participants.	Yes, but incidental limit imposed earlier, proportional to the level of effort increase.	Yes. LA groups with differential PL's would blunt the effect of switching.	LA + individual quota (transferable or not)  LA + DAS allocations (transferable or not)	Yes, Problem Statement and Objective 3 about increased effort.
<p><sup>1</sup> Skate vessels are not required to fish in exempted areas at any specific time of the year, but many end up doing so because of how many Multispecies A DAS they have left for the fishing year (vessels do not want to 'burn a day' for skates) or choose to for other business decisions. In the skate regulations, the only seasonal restriction is the <a href="#">Southern New England Skate Bait Trawl Exemption Area</a>, in July-October (need LOA, do not use Multispecies DAS, but cannot possess groundfish). As the AP members were wing fishermen, they were probably not referring to this.</p> <p><sup>2</sup> <a href="#">Groundfish sector vessels</a> may not discard any legal-sized allocated stock, unless otherwise exempted.</p>				