



## New England Fishery Management Council

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Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

## MEETING SUMMARY

### Skate Advisory Panel and Committee

Webinar

January 19, 2022

The Skate Committee and Advisory Panel (AP) met on January 19, 2022, at 9:00 AM via webinar to discuss: 1) Framework Adjustment 9 and 2) other business.

**MEETING ATTENDANCE:** Committee: Mr. Scott Olszewski (Committee Chair), Mr. Mark Alexander, Ms. Elizabeth Etrie, Mr. Dan Farnham, Dr. Jay Hermsen, Mr. John Pappalardo, and Ms. Kelly Whitmore; Advisory Panel: Mr. John Whiteside (AP Chair), Ms. Sonja Fordham, Ms. Andrea Incollingo, Mr. Jeff Kneebone, Mr. Greg Mataronas, Mr. Bill McCann, and Mr. Dan Nordstrom; Council staff: Ms. Jenny Couture, Dr. Rachel Feeney (Plan Development Team (PDT) Chair), Mr. Lou Goodreau, and Ms. Janice Plante; NMFS GARFO staff: Ms. Cynthia Ferrio; and NOAA General Counsel: Mr. Mitch McDonald. The Council Chair and three members of the public attended.

#### **KEY OUTCOMES:**

- On Framework Adjustment 9, the AP and the Committee recommended No Action as the preferred alternative.
- The Committee recommended a minor edit to the Skate Fishery Management Plan (FMP) objectives and recommended submitting Framework Adjustment 9 with updates to the FMP goals and objectives.

#### **AGENDA ITEM #1: INTRODUCTIONS, APPROVAL OF AGENDA, AND TIMELINE**

The Committee Chair introduced the AP and Committee, welcomed attendees, and sought approval of the agenda. There were no agenda changes. Staff reviewed the timeline for skate work, including Framework Adjustment 9 (FW9) and 2022 skate priorities.

#### **AGENDA ITEM #2: FRAMEWORK ADJUSTMENT 9**

Staff refreshed the AP and Committee on the updates to the Northeast Skate Complex FMP objectives, the problem statement and goals of Framework 9 and alternatives that would revise the characteristics of the federal skate permit. Staff also presented the impact analyses and data requested from the Committee during its last meeting to help the AP and the Committee better understand the potential impacts of changing the permit conditions of the open access skate permit.

#### **Discussion:**

An advisor asked how state landings are counted against the overall skate quota and if there is a difference in reporting across states. Staff noted that all landings are recorded the same in the federal system regardless of state and that if a vessel has any federal fishing permit at the time of landing (skate or no), the skate landings are monitored in-season against the Total Allowable Landings (TAL). All state

landings reported to the federal database are counted at the end of the year against the Annual Catch Limit. A Committee member confirmed that if a vessel drops a skate permit but has other active federal permits on the vessel that the vessel can fish for skate in state waters.

Another advisor asked if the skate landings harvested after April 1 but before the end of the fishing year are fishing on permits of the current fishing year or if the permits are for the next year. Staff clarified that it would be the current fishing year. The advisor also commented that the permit renewal process has changed over time. It used to take 4-6 weeks with paper applications but is just a day or two with electronic applications.

A Committee member asked if the PDT used Letter of Authorization (LOA) data as part of the permit data analysis to see if vessels with LOAs are the ones dropping their permits throughout the year. This work was not done given the focus of the alternatives is on the federal skate permit not a subset of skate permit holders.

An advisor asked if/how the permit history changes when someone reapplies for a federal skate permit. GARFO and Council staff stated that because skate permits are open access permits, the landings do not go into Confirmation of Permit History (CPH). Should the Council consider limited access in a future action, it would decide how the landings history of a vessel is handled. For example, the Council can bundle the landings history of each owner or the entire landings history of each vessel over multiple owners because the landings history is tied to the permit number, which does not change with a permit transfer.

#### **Public Comment:**

- **Patrick Duckworth, Skate gillnet fishermen, RI:** Asked if the state landings data include all landings or vessels landing <500 lb, if most of the landings were bait or wing, and if there were landings over the incidental possession limits. Staff noted that trip-level analysis was not done given the focus of the alternatives. The data include all landings, the majority of which are bait by vessels that did not have a federal skate permit but had one at another point in the year.

#### ***ADVISORY PANEL CONSENSUS STATEMENT***

The Skate AP agrees with the PDT recommendation to clarify the intent of Alternatives 2 and 3 as described in the draft Framework 9 document, allowing exceptions to the restriction on cancelling a federal skate permit for non-fishing related reasons.

**Discussion of the consensus statement:** An advisor disagreed with Alternative 2 (30-day application window, year-round federal skate permit requirement) given there are only a dozen vessels fishing in state waters and then acquiring a federal skate permit after the start of the fishing year. The advisor shared his experience working through ambiguous regulation language with Greater Atlantic Regional Fisheries Office's (GARFO) permit office last year and noted that unless the alternative language is crystal clear and very specific, the permit office will err on the side of caution, potentially taking a different interpretation of the alternative's intent.

A couple of advisors voiced support for Alternative 2 while another advisor asked if No Action and Alternative 3 (requiring retaining a federal skate permit for the duration of the fishing year once obtained at some point) would better track skate state landings. Staff clarified that the methods for tracking landings would not change in this action.

#### ***COMMITTEE CONSENSUS STATEMENT***

The Skate Committee agrees with the PDT recommendation to clarify the intent of Alternatives 2 and 3 as described in the draft Framework 9 document, allowing exceptions to the restriction on cancelling a federal skate permit for non-fishing related reasons. The paragraphs describing the intent should be revised to read:

- **THE** intent of Alternative 2 is to have vessels **ANNUALLY** commit to fishing either with or without a federal skate permit, and thus would restrict the cases in which a skate permit cancellation would be allowed. In cases of vessel replacement or placing the limited access permits from a vessel into Confirmation of Permit History (CPH), the fishing history and limited access permit eligibility from the old vessel gets transferred to the new vessel (or CPH). All active permits, including open access permits, on the old vessel are cancelled upon issuance of permits to the new vessel or placing the limited access permits into CPH. This is consistent with GARFO policies, as described in the Application for Vessel Replacement or Confirmation of Permit History. Alternative 2 would not change this policy for open access skate permits. There may be other cases such as permit sanctions or vessel sinkings where it may make sense to allow the skate permit to be cancelled. With the intent clear, the specific exceptions for cancellations can be an implementation detail for NOAA Fisheries.
- **THE** intent of Alternative 3 is to prevent skate fishing without a federal skate permit once the federal permit is obtained during the year, **AND THEREBY ENSURE THE LANDINGS ARE ACCOUNTED FOR AGAINST THE FEDERAL TAL. THIS** would **ALSO** restrict the cases in which a skate permit cancellation would be allowed. The same logistical exceptions described under Alternative 2 would apply to Alternative 3 as well.

**Discussion of the consensus statement:** A Committee member wanted to emphasize that the federal skate permit must be applied for annually.

The AP and Committee agreed with the above consensus statement.

**1. COMMITTEE MOTION: HERMSEN/**

The Skate Committee recommends to the Council Alternative 1 (No Action) as the preferred alternative for Framework 9.

The motion fails for lack of a second.

**2. AP MOTION: INCOLLINGO/MATARONAS**

The Skate AP recommends to the Committee Alternative 1 (No Action) as the preferred alternative for Framework 9.

*Rationale:* There are a limited number of vessels that participate in adding and dropping the federal skate permit. The impacts of restricting this would be low on the total landings and staying within the quota with uncertain benefits. Under Alternative 1, we will continue to fish well within our quota. We are at 32% of quota as of January 1 with very few vessels participating. There is no need to limit participation in the fishery. The AP is concerned about the complications of Alternatives 2 and 3, particularly with the cancellations. With permit renewals being electronic, the system is becoming more streamlined as is.

**Discussion of the motion:** One advisor could not support this motion because Alternative 2 would help prevent any overages and would improve data in the fishery.

**Public Comment:**

- **Patrick Duckworth, Skate gillnet fishermen, RI:** Explained that Alternative 2 would inhibit him from fishing in both state and federal waters over the course of a fishing year. This would create a lot of discards because he typically fishes in state waters at the beginning of the fishing year when skates are located closer to shore and then later picks up a federal skate permit to switch to fishing both monkfish and skate in federal waters. Without being able to pick up a

federal skate permit in the middle of the year, he would not be able to land skate while monkfish fishing in federal waters (increasing discards). He supported No Action given Alternative 2 would only impact a dozen vessels, including his.

	Yes	No	Abstain	Recuse
James Dopkin	absent			
Sonja Fordham		x		
Andrea Incollingo	x			
Jeff Kneebone			x	
Scott MacAllister	absent			
Gregory Mataronas	x			
William McCann	x			
Randall Morgan	absent			
Daniel Nordstrom	x			
Ted Platz	absent			
John Whiteside (Chair)				
<b>TOTAL VOTE</b>	<b>4</b>	<b>1</b>	<b>1</b>	

The motion carries 4/1/1.

### 3. COMMITTEE MOTION: HERMSEN/ALEXANDER

The Skate Committee recommends to the Council Alternative 1 (No Action) as the preferred alternative for Framework 9.

*Rationale:* The FY 2021 skate landings are very low relative to TAL. Alternatives that would restrict permits are not necessary at this time. It would be difficult for the GARFO permit office to determine the intent of a fisherman who is requesting a permit cancellation. The Committee agrees with the AP rationale.

**Discussion of the motion:** One Committee member said he was undecided and typically would not support a motion that allows a vessel to fish in both a federal and state fishery. He used the example of the loligo fishery where the federal fishery was shut down after the federal quota was reached but the state fishery was allowed to continue to operate. The skate fishery is different however because it is an open access fishery.

	Yes	No	Abstain	Recuse
Mark Alexander	x			
Elizabeth Etrie			x	
Daniel Farnham		x		
Jay Hermesen	x			
Scott Olszewski (Chair)				
John Pappalardo		x		
Dan Salerno	absent			
Kelly Whitmore	x			
<b>TOTAL VOTE</b>	<b>3</b>	<b>2</b>	<b>1</b>	

The motion carried 3/2/1.

### 4. COMMITTEE MOTION: HERMSEN/ETRIE

The Skate Committee recommends submitting Framework Adjustment 9 to NOAA Fisheries, which includes updates to the Northeast Skate Complex FMP objectives.

*Rationale:* Although the Committee does not support an action alternative, the FMP objectives need updating and were approved by the Council in June 2021.

**Discussion of the motion:** No discussion of the motion.

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Recuse</b>
Mark Alexander	x			
Elizabeth Etrie	x			
Daniel Farnham	x			
Jay Hermsen	x			
Scott Olszewski				
John Pappalardo		x		
Dan Salerno	absent			
Kelly Whitmore	x			
<b>TOTAL VOTE</b>	<b>5</b>	<b>1</b>	<b>0</b>	

The motion carries 5/1/0.

## **5. COMMITTEE MOTION: ALEXANDER/HERMSEN**

The Committee recommends inserting the word “skate” between the words “encourage research” in Objective 5. The resulting language would read:

“Promote and encourage **skate** research for critical biological, ecological, and fishery information based on the research needs identified and updated by the Council.”

*Rationale:* With the updates made, the word “skate” would be omitted from Objective 5. This clarifies that the objective remains focused on skate research.

**Discussion of the motion:** No discussion of the motion.

The Committee adopted the motion by consensus.

## **AGENDA ITEM #2: OTHER BUSINESS**

Staff noted there will likely be two AP and Committee meetings for the rest of the year: one in May to discuss progress on 2022 priorities and one before the September Council meeting to discuss 2023 Council management priorities and the FY 2021 annual monitoring report. No other business was discussed.

The Skate AP and Committee meeting adjourned at about 11:15 a.m.