

# New England Fishery Management Council Joint Skate Oversight Committee & Advisory Panel

Meeting Summary

January 15, 2014

The Skate Oversight Committee (Committee) and Skate Advisory Panel (AP) met in Portsmouth, NH. The Committee and AP discussed Framework 2 to the Northeast Skate Complex Fishery Management Plan. Committee members present were Mr. Peter Kendall (Chair), Mr. Tom Dempsey (Vice Chair), Mr. Mark Gibson, Mr. John Quinn, Dr. Michael Sissenwine and Mr. Michael Pentony. AP members present were Mr. Richard Canastra, Ms. Corinne Endres, Ms. Sonja Fordham, Ms. Andrea Incollingo, Mr. Brian Marder, Mr. Greg Mataronas, Mr. Dan Nordstrom, Mr. Ted Platz, Dr. James Sulikowski and Mr. David Wallace. They were supported by staff members Dr. Fiona Hogan (NEFMC) and Mr. Tobey Curtis (NMFS NERO).

Discussions were guided by a presentation of Skate Framework 2, Draft Framework Adjustment 2 dated January 9, 2014, Decision Document, and SSC report regarding Skate ABC and discard mortality rates dated December 2, 2013.

## **Framework Adjustment 2**

Staff provided an overview of the alternatives in Framework Adjustment 2 (FW2). The FW would set the Annual Catch Limit (ACL) for FY 2014 and FY 2015, set possession limits for the bait and wing fishery and revise the VTR and dealer reporting codes for the bait and wing fishery. The proposed ACL would be a reduction on the ACL set in the 2012-2013 specifications package, largely due to declines in the trawl survey indices for little and winter skates. This reduction is expected to address the overfishing determination for winter skate as it results in a reduced wing TAL. The ACL would also incorporate new discard mortality rate estimates for little, smooth, thorny and winter skates for trawl gear. Status quo trip limits for the bait and wing fisheries are likely to allow both fisheries to achieve their TAL, but a lower trip limit in the wing fishery would greatly reduce the likelihood of triggering an AM or the incidental trip limit. Revisions to the VTR and dealer reporting codes were designed to improve species specific reporting.

The Committee had some general questions on the alternatives included in the framework. A third alternative (of 5,000 lbs) for the wing possession limit was included and analyzed in the document in order to meet NEPA standards of having an adequate range of alternatives. Option 2 for the wing possession limit was described as being more conservative as it would greatly reduce the likelihood of the TAL being exceeded; however, it increased the potential for discarding to increase. If the Committee chose to select a different possession limit, not already analyzed in the document, it might delay final action and implementation to allow analysis to be completed. A third alternative was included for NEPA analysis for the ACLs but it was pointed out that it was not a feasible option for adoption as it exceeded the SSC approved ACL and did not incorporate the best available science. Based on preferred market size for the wing fishery, only skates that reach a larger maximum size are targeted for that fishery, i.e. barndoor, clearnose, thorny and winter skates. The Committee and AP did not have any strong initial objections to revising the reporting codes for this fishery accordingly. It was noted that overfishing is occurring on thorny and winter skates; thorny skate remains in an overfished condition.

Public comment included:

- John Whiteside, Sustainable Fisheries Association – As a follow up to the question and comment about alternative 3, I had passed around a letter that we had sent to the Council and distributed to Committee members today that we're proposing an option 4 as a reasonable alternative that we believe would allow us to reach the wing TAL but not exceed it, while keeping the two different timeframes as they are now. I just wanted to bring that up to the Committee members.

The Committee moved on to discuss each alternative in more detail.

**Motion:** The Committee recommends that for Section 4.1.1, the Council selects Option 2 as its Preferred Alternative (Mr. Dempsey/Dr. Sissenwine).

*Rationale:* The ABC contained in Option 2 was approved by the SSC.

There was some discussion on the differences between Options 2 and 3. Some AP members were in favor of the TALs in Option 3. However, the control rule is set in such a way that if the revised discard mortality rate estimates were included into Option 3 it would provide the same TALs as Option 2. The revised discard mort rate data affects the specifications in two ways - the calculation of the ABC and the percentage of ABC that is allocated to the TAL. An AP member strongly objected to not revising the gillnet discard mortality rate used in the ABC calculation to match that of the trawl gear discard rate. The argument was based on the studies, largely trawl gear based, used to estimate a 50% discard mortality rate for all gear types and all species in the Complex prior to new information. The SSC has examined the available information on discard mortality rates and concluded that 100% discard mortality in the fisheries was too high and set the rate at 50% until new information became available. At the November 15, 2013 meeting, the SSC approved an ABC that incorporated the revised discard mortality rates for 4 of the 7 species for trawl gear and stated that this should not apply to gillnet gear. A Committee member suggested pooling the discard mortality rates across the 4 species (with an approximate discard mortality rate of 30%) and applying that to trawl gear.

The motion **carried** on a show of hands (5/0/1).

The Committee and AP moved on to discuss wing possession limits. There was a lack of support for Option 3 as it was expected to trigger the incidental trip limit early in the fishing year and to exceed the TAL. The PDT examined recent landings; in the last complete fishing year the bait fishery landed 12 million lbs. and was on track to land the same amount in FY 2013. The new proposed bait TAL is just over 12 million pounds; provided landings remain constant this revised TAL would cover what the fishery has been landing resulting in reduced impact on the fishery. The wing fishery has been landing around 20 million lbs; the new TAL is 24 mil lbs. and if the landing rate remains consistent it is expected to land 85% of TAL. Once 85% of the TAL is landed an incidental wing possession limit of 500 lbs. is implemented to prevent a TAL overage.

**Motion:** The Committee recommends that for Section 4.2, the Council selects Option 1 as its Preferred Alternative (Mr. Dempsey/Mr. Gibson).

An AP member suggested a sliding trigger, or a reduction in the trigger to a lower percentage, be developed to allow the fishery to continue at the seasonal possession limit instead of triggering the incidental trip limit. A Committee member clarified that the 85% trigger is not an automatic trigger; if the fishery is not projected to exceed the TAL, e.g. if 85% of the TAL is achieved by mid-April, the incidental trip limit would not be automatically implemented. Another AP member considered the 25% management uncertainty and the 85% TAL trigger to be excessive and reducing the probability of

achieving optimum yield (OY); it was also suggested that these buffers were included by design to benefit certain parts of the industry. NERO staff noted that the skate fishery has never been shut down like the dogfish fishery; the skate wing fishery is allowed to continue under the incidental trip limit. A change to the incidental possession limit would provide some assurance to the industry. The incidental trip limit was approved by the Council in Amendment 3. A Committee member considered the existing trigger to be flexible enough and the Council could communicate with NMFS regarding its implementation; a 30% reduction in ACL with status quo trip limits was considered to be a favorable situation when compared to other fisheries.

Public comment included:

- John Whiteside – Proposed Option 4 was based on the presumption that Option 2 would be chosen for the ACL as recommended here and possibly adopted by the Council. If that were the case today and we had fishing rates or landings rates that were constant we have to use some constant, that we would get 57% right now rather than 43% of the wing TAL. Even if we keep that fishing effort constant there's no expectation that using today's landing rates and the possession limits of the 2,600 and 4,200 that we'll be anywhere near reaching OY in next year or the year after, which is why we were looking at increasing the possession limits as is written in that letter to 3,500 and 5,500 lbs. We're not hard and fast on the 3,500 and 5,500 lbs but they need to be increased because if we're at 57% using status quo we're leaving a lot of fish in the water and we're going to leave millions of pounds in this year; we're going to leave millions and millions in the next two years if the status quo is maintained.

The motion **carried** on a show of hands (5/0/1).

The Committee discussed the bait possession limit alternative. This alternative was included in the document because it was required in the regulations. The bait possession limit was not considered to be an issue and status quo was considered sufficient.

**Motion:** The Committee recommends that for Section 4.3, the Council selects Option 1 as its Preferred Alternative (Mr. Dempsey/Mr. Gibson).

The motion **carried** on a show of hands (5/0/1).

The Committee moved onto reporting codes. The original FMP explicitly listed unclassified as a reporting option to be included in the VTR and dealer codes; it requires a Council action to remove it.

**Motion:** The Committee recommends that for Section 4.4, the Council selects Option 2 as its Preferred Alternative (Mr. Dempsey/Mr. Gibson).

A Committee member had reservations about a FMP being so specific about the nature of reporting forms even if it was thought this would improve species specific landings and requiring individuals to report on species identification, which they might not know. NERO has been working on a revised identification guide that includes identifying species by whole skate and by wings. Based on market preferences and regulations, the wing fishery is largely winter skate and the bait fishery is largely little skate. This change would not alter port sampling levels. An AP member considered the removal of the unclassified code to be a significant improvement however, was uncomfortable with the proposed changes for the wing fishery codes as it removed wing species codes based on current market preferences, which may change in the future. NERO staff informed the Committee that the codes would remain in the system but would be greyed out and not available for reporting, i.e. they could be made available easily at any future date. An AP member was hesitant to modify the codes because species identification would be difficult

especially based on wings. NERO staff considered winter skate to be easily distinguished from the prohibited species, even based on wings. An AP member thought any extraneous codes would just increase the likelihood for mistakes in reporting especially when the crew was tired. The AP member thought that species identification would be easy in the gill net fishery as winter skate are very difficult to remove from a net and require being hit with a rubber mallet; barndoor and clearnose skate can easily slide out of the net. An AP member did not think this could be complied with on the dealer end; the boats would have to monitor the landings. A Committee member abstained on the vote because it proposed two different lists for the two fisheries and potential implementation issues. NERO staff informed the Committee that the Fisheries Data Services Division had already been consulted and would be able to implement this change when the FW was implemented. An AP member related this issue to that observed in the shark fishery with prohibited species being reported and it allows the Agency to have some idea of the occurrence of those prohibited species to better inform individual population sizes. It is possible that species currently distributed in the Mid-Atlantic region may move further north in the future and might require the other reporting codes, which was an argument in favor of keeping all reporting codes except for unclassified in the wing fishery. Landings skates whole was also suggested to improve identification of landings.

The motion **carried** on a show of hands (3/0/3).

The Committee and AP then discussed the possibility of a control date for the wing fishery; a control date for the bait fishery already exists. The Council has expressed interest in establishing limited access for the skate fishery but it was not prioritized for 2014.

**Motion:** that the Council request NMFS publish a control date for the skate wing fishery (Mr. Dempsey/Mr. Gibson)

*Rationale:* The intent was not to change Council priorities or initiate an amendment for limited access but to take the first step towards achieving that priority. The intent was to not revise the bait control date; there would be two separate control dates for the two fisheries. The intention was that this would cover all components of the skate fishery other than bait.

This would establish two separate control dates for skate permit holders; changing the bait skate control date was proposed, however, this was not generally supported by the Committee or AP. Concern was raised that this motion was too narrow and focused only on the wing fishery and not for uses of skate other than for the bait fishery. The maker of the motion was not sure the motion needed to be so specific.

The Council requests NMFS establishes a control date. The Agency writes an advance notice of rulemaking and the date it is published becomes the control date; the Agency never publishes a control date retroactively. The Council is not required to use that date but it is an available option. The traditional use of the date would be for establishing landings in FYs prior to the control date. There would be a qualification period but landings after it might not be considered as qualified landings. The Council can use landings after that date. It has generally been used to limit speculative entry into the fishery if limited entry is being established. A Committee member was concerned that the motion was establishing a control date for a specific use and not for a species and suggested a friendly amendment; the additional control date should also cover other uses for skate in addition to wings.

**Motion as friendly amendment:** that the Council request NMFS publish a control date for the skate fishery for uses other than bait (Mr. Dempsey/Mr. Gibson)

There was general support for the change to the motion so that species specific control dates wouldn't have to be established if a future use other than wing and bait for skate was developed. No Committee

members wanted to restrict future uses of skates especially if currently prohibited species rebuild. The Council Chair noted that this has been listed as a priority for several years but because of overall work load for staff has not been prioritized; it was hoped that this could be prioritized for 2015 if the to do list was shortened.

The motion **carried** on a show of hands (4/0/2).

## **Other Business**

### Overfishing status of winter and thorny skate

The PDT will be developing measures to address overfishing for thorny skate after completion of FW2. There is no specific timeline or statutory deadline but this was listed as a Council priority for 2014. FW2 is expected to address the overfishing determination of winter skate; the resulting reduced wing TAL is expected to reduce potential landings of winter skate in that fishery.

### Barndoor Skate

An AP member suggested developing a fishery for barndoor skate. The species has not yet reached its biomass target level but has shown some rebuilding and is increasingly encountered by fishing vessels. It was also thought that a market for barndoor could be easily developed. A Committee member informed the Committee that 12 boats discarded 1 million lbs of barndoor skate and would strongly support developing a fishery for that species. This would require Council action, which the Council has previously declined to undertake based on life history characteristics. The Committee was informed that the Agency would consider applications for EFP to land barndoor skates on a small scale. An EFP fishery would provide additional information to the Council. The TAL for the wing fishery is not species specific and would not change if barndoor landings were allowed. Economic benefits from landing barndoor skate may not be direct, however, it would increase the number of species of skate available for landings and could help the industry better achieve its TAL. NERO staff noted that barndoor skate is recovering however it is still much less abundant than little and winter skate. The PDT is concerned about landing barndoor skate as it is not a rebuilt species. An AP member questioned whether issues like this would arise under Ecosystem Based Fisheries Management (EBFM). The EBFM Committee has yet to be convened to discuss issues like this.

Public comment included:

- John Whiteside – I would agree with Mr. Canastra on this. As recently as last week, Seatrade International, Zeus Packing and Marder Trading were all saying there's a market for barndoor skate. Yes, we would find a place to sell barndoor and would be eager to have it.

A benchmark assessment for the skate complex has not been scheduled for the near future. A regional focus on management will be considered by the PDT after the completion of FW2.

### Discards

The Committee and AP had some clarifying questions regarding the dead discard estimates. The intention was not to assign dead discards to the wing or bait fishery (or assign a set percentage) but as all fisheries encounter skate, the established method removes dead discards from all fisheries at the ACT point. The ACT is calculated and then the fishery wide discards are deducted to get the TAL. This is not based on a model it is formulaic and is based on recent discards in all fisheries. The PDT meets annually to review and update the discard estimates. A Committee member considered the current methodology to be numerical correct.

The 25% management buffer is distinct to the dead discard estimate; when A3 was developed the Council chose to be proactive and established the management buffer to reduce the likelihood of exceeding the ABC. The overfishing level for skates is unknown and accordingly the ABC is equal to the ACL. The 25% buffer covers both scientific and management uncertainty. An AP member was opposed to seeing reductions to the TAL based on the buffer and discard rates and was opposed to the 25% buffer remaining in place forever. The Council could chose to reconsider the buffer. However, it was not clear whether the scientific uncertainty has improved since the implementation of Amendment 3.