



New England Fishery Management Council

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MEETING SUMMARY

Monkfish Joint Advisory Panel & Oversight Committee Meeting

Embassy Suites, Philadelphia, PA

August 25, 2014

The Monkfish Advisory Panel (AP) and Oversight Committee (Committee) met on August 25, 2014 in Philadelphia, PA to continue development of Amendment 6 (A6) – modifications to days-at-sea (DAS) program (including leasing) and catch shares (sectors and individual transferrable quota (ITQ) system).

MEETING ATTENDANCE: Dr. John Quinn (Chairman), Ms. Laurie Nolan (Vice Chair), Mr. Mark Alexander, Mr. Terry Alexander, Mr. Thomas Baum, Mr. Doug Christel, Mr. Jeff Kaelin, Mr. Dave Preble; Mr. Timothy Caldwell, Mr. Timothy Froelich, Mr. Eric Hansen, Mr. Richard LaRocca, Mr. Jan Margeson, Mr. William P. McCann, Mr. Randall Morgan, Mr. Ted Platz and Mr. Christopher Rainone; Dr. Fiona Hogan (NEFMC) and Mr. James Armstrong (MAFMC). In addition, approximately 5 members of the public attended.

DOCUMENTATION: Discussions were aided by: Monkfish Fishery Status Update Presentation, Draft Monkfish Fishery Management Plan A6 Alternatives Presentation, Draft DAS, Research Set-Aside and rejected alternatives for A6 dated August 12, 2014, Draft Sector Management and ITQ alternatives for A6 dated May 24, 2013, Memo from Phil Haring to Committee dated October 9, 2012, Memo from Phil Haring to Committee dated November 20, 2012, Committee meeting summary dated May 29, 2013, Froelich proposal, Platz/industry proposal, 2014 NEFMC Council priorities and a series of correspondence received by the Council.

KEY OUTCOMES:

- The Committee agreed to begin work on a framework in order to get all elements of A6 that could be completed in a framework in place for May 1, 2015.
- The Committee and AP considered latent effort to be a major concern for the fishery; further work on A6 including ITQs and latent effort was supported.

The Committee discussed future meeting locations; Providence appeared to be a suitable location for the majority of Committee and AP members. The Chair reminded the Committee that at joint meetings only Committee members can make and vote on motions.

AGENDA ITEM #1: AN OVERVIEW OF A6 AND GENERAL ISSUES

PRESENTATION: MONKFISH FISHERY STATUS UPDATE (MR. DOUGLAS CHRISTEL, GARFO)

GARFO staff provided an overview of the status of the monkfish fishery including the 2013 stock assessment update; 2013 emergency action; Framework 8, which was implemented on July 18, 2014, and development of A6, which began in 2010. The Committee should decide whether to continue work on A6, or revise other measures in the FMP. Outstanding questions regarding A6 were outlined in the memo from Phil Haring to the Committee dated October 9, 2012. Some of the measures would require an environmental impact statement (EIS), which could take up to a year to develop. The ITQ would require a referendum, which would add another year onto the implementation date. If the Committee chose to separate the management areas between the two management councils, a referendum would still likely be needed, although consultation with General Council would be needed to confirm that. A control date was established for the fishery and the Committee would have to decide whether, or how, to use this date; the Council is not bound by this date. Other measures the Committee could consider for action were also outlined.

DISCUSSION ON THE PRESENTATION

An AP member considered DAS usage to be an indicator of stock status – as usage declines so does the stock and vice versa. The data suggested there had been a decline in usage by approximately 5% over the last couple of years. The AP member didn't consider the fishery to be depleted, but was not seeing a broad range of fish sizes in the fishery.

Some Committee members were concerned that current issues in the New England Groundfish fishery might impact the monkfish fishery following the most recent assessment of Gulf of Maine (GOM) cod suggesting that further annual catch limit reductions may be needed for this stock. There was general support for continuing to pursue an ITQ system for the monkfish fishery. However, given how it would require a complex EIS, it was suggested that any measures that could be addressed in a framework action might help to streamline the action. This was echoed by AP members who provided suggestions on measures that were immediately needed for the fishery.

Latent effort was another major concern. Defining latent effort would be a complex issue for the Plan Development Team (PDT) and Committee to address. Monkfish limited access permits were issued in 1999 (the FMP was implemented November 8, 1999) and VTR reporting started in 1994. Qualifying landings history prior to 1994 would be extremely difficult given the limitations to the data but would be associated with strong caveats highlighting the limitations of the data. Further, it was noted that there were no incentives to use monkfish DAS in the Northern Fishery Management Area (NFMA) before 2007. Thus, if using DAS usage as a means to define active vessels, consideration of this limitation must be noted.

The change in gillnet size would allow fishermen to target other species such as dogfish while on a monkfish trip. The group discussed the regulations associated with monkfish mesh size, including monkfish regulations and overlap with applicable groundfish regulations.

AGENDA ITEM #2: DISCUSSION AND CONTINUED DEVELOPMENT OF RECOMMENDATIONS ON AMENDMENT 6

PRESENTATION: AMENDMENT 6 MONKFISH FMP (FIONA HOGAN)

The Committee used this presentation to go through each of the existing A6 measures developed to date. The AP and Committee sought to identify potential measures in A6 that could be addressed in a framework action. GARFO staff advised the AP and Committee what could possibly be implemented via framework based on existing regulations and previous guidance. However, he cautioned that final determination of which measures could be implemented via framework would be based on consultation with General Counsel. Likely framework measures included: Increasing Category F landing limit; eliminating of monkfish incidental landing limit while on a groundfish DAS; allowing monkfish option in the Southern Management Area (SMA); and revising monkfish RSA measures, mesh size for gillnets, and incidental landing limits for trawl vessels. GARFO staff indicated that the difference between a framework and amendment is an administrative one, and the read determinant to the timing of an action is the degree of analysis required. For example, an action supported by an EIS would take longer than a n action supported by an environmental assessment, regardless whether that action was a framework or an amendment. Any measures that the Committee chose to eliminate completely were also identified; any remaining measures were left for further development in A6.

1. Motion (Mr. Preble/Mr. T. Alexander):

Request the Council to initiate a FW action for monkfish.

Rationale – In order to complete a framework action, the Council would have to initiate one.

Motion # 1 CARRIED 7-0-1.

Measures that would eliminate the requirement for vessels with groundfish permits to also use a groundfish DAS when on a monkfish DAS would need to be addressed in an amendment. This alternative would exempt a vessel from using a groundfish DAS when declaring a monkfish DAS; this would also apply to sector vessels. Currently, sectors need to declare a groundfish DAS when declaring a monkfish DAS. This would be an administrative provision to help Category C and D vessels in the north by not requiring them to use a groundfish DAS to utilize a monkfish DAS. This would be a joint action because it involves the revision of existing groundfish regulations. Thus it requires approval by the Groundfish Committee, which might lengthen the timeline to implementation. Discussion of this alternative indicated that such a measures might only benefit a small number of vessels. This is because Framework 8 increased the incidental limits on Groundfish DAS to 600 lbs., which data indicated was the maximum amount landed on a trip by northern vessels without the use of a monkfish DAS.

2. Motion (Mr. T. Alexander/Mr. Kaelin):

Move Section 1.1.3 (Allow groundfish DAS to be declared at sea) and 1.1.4 (Increase monkfish-only DAS based on higher groundfish common pool DAS counting) to the next available monkfish framework action.

Public comment on the motion

- Greg DiDomenico, Garden State Seafood Association – Can we have a discussion on what exactly Section 1.1.4 will do? There are questions about the exact intent or if there's been some analysis about what will come from this.

GARFO staff explained that there is a difference in the rate at which a vessel could use a Groundfish DAS versus a monkfish DAS. Monkfish DAS are charged in real time. Again, this measure might only affect a small number of common pool vessels.

Motion # 2 CARRIED 7-0-0.

3. Motion (Ms. Nolan/Mr. T. Alexander):

Move section 1.2 (Modify DAS/trip limit allocation for Category F (offshore) vessels) to the next available monkfish FW action.

Motion # 3 CARRIED 7-0-0.

Section 1.3 (Modify the method for allocating DAS to active vessels to address latent effort) would require an amendment and, likely, also an EIS. The Committee agreed to keep this section in A6.

4. Motion (Mr. M. Alexander/Mr. Preble):

Move Section 1.4.1 (Northern Area Monkfish Trip Limit on a Groundfish DAS) to the next available monkfish FW action.

A vessel could fish in both management areas but would be subject to the lower possession in the SMA for that trip.

Public comment on the motion

- Greg DiDomenico – Have we reconciled the issue as to whether or not we can track where landings are coming from for vessels engaged in this fishery going between the two areas? If they're fishing in one area and bringing them back to another port, can we monitor where they caught them and not just where they landed them? You'd have to do some sort of analysis going backwards at least to the accuracy of whether or not it is precise.

Staff informed the Committee that identification of landings to a management area was based on VTRs, which required reporting by statistical area. The proper procedure is to complete one page for each statistical area that was fished in. However, the north/south boundary bisects a statistical area. A Committee member noted that the southern area had great concerns over this alternative but agreed to include it for analysis.

Motion # 4 CARRIED 7-0-0.

5. Motion (Ms. Nolan/Mr. Kaelin):

Eliminate Section 1.4.2 (Incidental limit for sector vessels not on a groundfish or monkfish DAS) from A6.

A Committee member was opposed to this. If a vessel was not fishing on a groundfish DAS then they were restricted to 5% of the total weight on board. This would increase the incidental limit for sectors vessels not on a groundfish DAS and would eliminate the administrative costs (i.e., the need to declare a groundfish DAS) that currently allow them to land the higher monkfish limit. This alternative was not area specific, which caused concern for members from the southern area because the incidental trip limit was higher than the incidental limit in the SMA and nearly equivalent to the directed limit in the SMA.

Public comment on the motion

- Greg DiDomenico – I don't mean to go back to hypotheticals especially in this particular issue but what is the sense from the guys in New England about an influx of effort due to DAS being necessarily available for purchase or lease and/or a large amount of effort going into the common pool from sectors if in fact a lot of people decide to get out. Is there any feeling from New Englanders that that is a problem? I'm only really thinking about the recent news of GOM cod that I think seems to maybe be a rewrite of history on this.

The increased trip limit went into effect in the last couple of years so the impact of that has not been available to analyze in the data yet. Fishing practices appeared to differ between the two management areas; fishing in the north moved based on where the fish were but in the south they planned in advance and directed effort to known areas. GARFO staff noted that the PDT has done some analysis on potential of effort shift between the two management areas based on historic data. While the potential exists, there has been no evidence of it occurring, not even in FY2013.

Motion # 5 CARRIED 5-1-1.

6. Motion (Mr. Preble/Ms. Nolan).

Eliminate Section 1.4.3 (Incidental limit for fixed gear vessels operating on a Groundfish DAS in the SMA) from A6.

Section 1.4.3 was considered to be a framework-able action, however, some AP members were opposed to putting another loophole into monkfish management because this increase in incidental limits could reduce allocated DAS for the directed fishery. Another AP member informed the Committee that in order to target skates you must use an A DAS; it is typically a clean fishery but occasionally they might catch 400-500 lbs of monkfish. It was considered a waste to throw these monkfish back and it was thought to be unlikely that vessels would come down from the north to target 300 lbs of monkfish in the south. Other AP members disagreed; this would change the directed Monkfish fishery. Vessels could claim to be targeting skates but would fish where the monkfish were. A Committee member considered converting discards to landings would not hurt the fishery since the TAC is being under harvested. Another proposed an intermediate level of incidental catch, e.g. 150 – 200 lbs as a compromise. Applying the incidental catch limit for all gear types was proposed. An AP member suggested addressing incidental limits after the latent effort issue had been resolved.

Public comment on the motion

- Kevin Wark, Barnegat Light – I was a long time AP member and been monkfishing a long time since the inception of the fishery. The problem with this is unfortunately it would create opportunity to have a different directed fishery. It would be smaller vessels that would do that. For years 300 lbs. was all we had in the directed fishery in the south. Some of this issue for gillnet boats is about gear in the water and if you create opportunities to put more gear out it exasperates problems for space. I don't think I know we're not harvesting our full allocation but I think moving forward we need to work on that in a different way and I'm just afraid because I'd hate to see a man not bring in the fish he's catching but I think this creates an opportunity to put more effort in the ocean and with different protected resource issues I don't think we want to do that. I think we should move forward cautiously with this fishery because with the groundfish in the shape it's in I think we're going to see some crazy ships that none of us are going to be aware of. The people are going to be looking to move around; they'll be displaced and will look for effort somewhere else. I support striking this motion.

A Committee member thought there was general support for including this in the next framework action and offered to make a motion to substitute. However, the Committee voted on the existing motion.

Motion # 6 CARRIED 5-1-1.

7. Motion (Mr. M. Alexander/Mr. T. Alexander):

That the next FW action include alternatives (Section 1.4.3) for incidental trip limits in SMA.

Motion # 7 FAILED 3-4-0.

Without guidance from NOAA General Counsel, it was unclear at the time of the meeting whether Section 1.5 (Southern Management Area at-sea monkfish DAS declaration) could be completed in a framework action. The Committee was in favor of including it in a framework action but if it was required in an amendment then it should remain in A6.

8. Motion (Mr. Kaelin/Mr. T. Alexander).

To keep Section 1.5 (Southern Management Area at-sea MF DAS declaration) in the next available FW or A6.

An AP member was in favor of this because it would reduce monkfish discards on directed skate trips.

Motion # 8 CARRIED 7-0-0.

Section 1.6 (Monkfish DAS Leasing) would require an amendment with an EIS. A Committee member suggested focusing A6 on developing the ITQ system because DAS leasing would be very complex. AP members clarified that they don't fully support ITQs in the southern area, but were not opposed to it because latent effort needed to be addressed. Again, latent effort was considered to be a major issue for the fishery since those "non-active" permits could potentially lease their DAS. The Committee wanted to see a full range of alternatives associated with DAS leasing and agreed to keep it in A6.

Section 2.0 on the Research Set-Aside program would also require an amendment because it would result in substantive changes to the program. The Committee debated eliminating this from A6 in order to have a broader discussion on RSA programs. AP members did not think the current system allowed for sufficient input by industry on what projects get funded. Many felt that some of the funded projects were not providing enough benefit for management. GARFO staff highlighted that previous RSA-funded research addressed scientific needs of the assessment, but that insufficient data had been gathered to date to improve the assessment. The benchmark assessment scheduled for 2016, could include RSA funded research to address the age, migratory, and growth deficiencies noted in the assessment. Committee members were in favor of leaving RSA changes in A6 so that it was a part of the discussion. The Committee could weigh in on research priorities within the Research Steering Committee and as part of Committee discussions.

9. Motion (Mr. Kaelin/Ms. Nolan).

To add to Section 1.0 Sectors that would apply sectors based on management area (i.e. Northern Management Area (NMA) only, SMA only, or both areas).

Sectors and ITQs measures were contained in a separate A6 document (document 5). This motion was intended to clarify alternatives to apply sectors in one or more management areas under Section 1 of the A6 Sector/ITQ document. The Committee did not have anything else to add to the sector and ITQ alternatives, but were generally in favor of them moving forward in A6.

Motion # 9 CARRIED 7-0-0.

The Committee and AP discussed items for potential inclusion in the next available framework action as proposed by industry.

10. Motion (Mr. Preble/Mr. T. Alexander):

To task the PDT to analyze a framework alternative allowing the use of a less than 10” mesh stand-up net on a monkfish only DAS.

Rationale – This would allow fishermen to use a smaller mesh to target other species such as dogfish on a monkfish DAS.

The Committee and AP did not want to provide the exact size of the smaller mesh because they wanted to have a range of options to target multiple species. Staff requested some limitations be put on the range because this constituted a large analysis for the PDT. However, the two regions might have different needs for mesh size, 6.5” might be more suitable in the northern groundfish fishery but in the Mid Atlantic they might fish for bait with 3.5” mesh. Staff recommended that the Committee be specific in the motion in terms of whether they meant broad stock areas or exemption areas because they could have different lines.

Public comment on the motion

- Greg DiDomenico – I’m going to try to read from the regulations to provide some solution. The CFRs provide an exemption to the minimum mesh size for vessels that have not been issued a Northeast multispecies permit. Can we work on that and refine that language or have some expression from the agency or from this Committee to make sure that is the intent of the regulation and therefore the exemption to the net restriction should be pretty clear.

The regulations (648 91(c)(1)(iii) – Gillnets while on a monkfish DAS) state that on a Monkfish DAS gillnets must be set at 10” mesh. The Committee intended that the PDT analyze this motion as an exemption to the referenced regulation.

Motion # 10 CARRIED 6-0-1.

11. Motion (Mr. Preble/Mr. M. Alexander):

To task the PDT to analyze an option to allow a vessel to switch from a monkfish DAS to a monkfish RSA DAS.

Rationale – This would allow vessels to increase efficiency.

This was considered to be problematic in terms of enforcement due to the different landing limits that apply under either type of monkfish DAS. It was suggested that this could be considered under the broader discussion of modifying the RSA program. AP members suggested that the change could be made via VMS with a minimum amount of time required, e.g. 6 hours, for notice given prior to landing. A Committee member considered this motion to be very similar to the discussion on incidental catch on trawls; increasing efficiency and reducing discards could also be achieved for the trawl fishery. Other Committee members disagreed by stating that incidental limits, in their opinion, could change allocations. An AP member noted this would only benefit vessels that participate in the RSA program.

Motion # 11 CARRIED 7-0-0.

12. Motion (Mr. Preble/Mr. Kaelin):

Task the PDT to evaluate the bycatch of turtles by vessels fishing with greater than 10” mesh, which are tied down, in statistical areas 537, 533, 534, 538 and 539 during July and August.

Rationale – Turtle bycatch is an issue that should be dealt with and it’s a problem in the summer time - July & August south of New England - and we should see some proposals to deal with it. Exact proposals will be dependent on PDT analysis as it is currently unknown what the areas should or should not be.

This would restrict fishing in these statistical areas when turtles are present in the area. AP members were seeing vessels continuing to fish because of higher skate prices despite interacting with turtles. This was seen as a preventative measure before there was a major problem. Staff was not aware of any concern with interactions with protected resources in these areas. There was some concern that this would be a lot of work without a letter stating there was a significant interaction problem. Some AP members considered there to be sufficient observer coverage, which would have identified this as a major problem.

Motion # 12 FAILED 3-3-1.

13. Motion (Mr. Kaelin/Ms. Nolan):

To task the PDT to analyze latent effort and develop an alternative in A6 under the current DAS management regime.

This was a major concern for the Committee and was considered to be top priority. Staff incorrectly advised that there was nothing directly addressing it currently in A6 prompting the motion to be made. A Committee member pointed out that Section 1.3 (Modify the method for allocating DAS to active vessels to address latent effort) already addresses latent effort. The PDT did an analysis on latent effort prior to scoping for A6. The DAS usage and landings patterns have not really changed since then, but a formal analysis would need to be completed to confirm that. Latent effort is largely from the scallop fishery. Scallop prices remain higher than monkfish, which maintains the incentive to focus on scallops.

A Committee member requested data on the qualifying time frame before latent effort was addressed. It was considered to be beneficial if people would know whether they qualified or not. GARFO staff noted that permit history was a challenge for evaluation by the public. If a permit had been sold, then the new owner would need to get permission from the previous owner to see the history. GARFO staff highlighted that NMFS is currently revising the guidelines on complying with the Magnuson-Stevens Act confidentiality requirements. A final rule is not out yet, but that may affect what data may be available to the public. Monkfish DAS usage were not always easily identifiable between the NMA and SMA, and there were no incentives to use monkfish DAS in the NMA until 2007. It would not be possible to go back to the prequalification time period to evaluate permit activity based on monkfish DAS use, but this might be possible using monkfish landings to determine latent effort. The PDT provided some options that could also be applied to latent effort as well as for sector/ITQ allocations such as 1, 3 or 5 years from initial qualification for permit.

Latent effort has never really been defined during the development of A6. There was concern that incidental catch might be considered latent effort. The goal of the FMP is to preserve the incidental fishery; any alternative for latent effort would have to be consistent with that goal. However, incidental catch is allocated prior to DAS allocations and, therefore, would still be provided for under the current FMP.

Motion # 13 was WITHDRAWN because it was already addressed in the document (in document 4 Section 1.3).

The northern fishery was considered to be a different fishery to that in the south and different time periods might be more appropriate to define latent effort in each area. There were no incentives to use monkfish DAS in the NMA before 2007 because there were no landing restrictions in that area until then. An AP member reminded the Committee of a previous analysis that used 1 DAS as a qualification period; if that was used then a large number of boats would be eliminated. GARFO staff highlighted that two different questions were being discussed – what criteria should be used and what time period. The Committee would need to define what “active” meant in the north if the time period extended to before DAS usage in 2007. The staff memo (document 6) highlighted some of these major issues that needed clarification on this before it could be developed further. There was a general consensus that incidental catch was not latent effort. There was some hope that if latent effort was eliminated, allocations for “active” vessels might increase.

Public comment included

- Anne Hawkins, Fishery Survival Fund – In terms of the timeline and how far back to go, as someone who lived through this with A16 on Groundfish. When you get into this sort of thing that is allocation-like whether you call it that or not it’s going to be the most contentious part of the document. You do want to have a full range of alternatives just to have your NEPA protection and everything. I think it’s better to ask the PDT to come up with what they think the different delineations should be and what makes sense. If you cut it too narrowly you’re going to get to the end of the road and have a really big problem justifying why you didn’t look at a wider range of alternatives.

An AP member suggested going with a poundage limit and not DAS because DAS usage did not imply active monkfish fishing.

14. Motion (Mr. T. Alexander/Ms. Nolan):

to task the PDT to analyze, for the northern management area only, defining “active” vessels as those landing of 3,000 lbs (tail weight) in any one year during the time period 5/1/99 to 4/30/07 and Section 1.2.3.1 (document 5) monkfish landing history years during 2000 – 2006 with a 3,000 lbs (tail weight) landing threshold in any one year.

Rationale – this motion would request an analysis that focuses on years prior to the implementation of trip limits in 2007.

Motion # 14 CARRIED 6-0-1.

14. Motion (Ms. Nolan/Mr. Preble):

to task the PDT to analyze, for the southern management area only, defining “active” vessels as those landing of 3,000 lbs (tail weight) in any one year during the time period 2007 to 2010 and 2000 – 2010.

Additional time periods were suggested, however, it was considered prudent to limit the level of analysis for the PDT to complete at this time and if modifications were deemed necessary they could be made in the future.

Motion # 14 CARRIED 6-0-1.

AGENDA ITEM #2: 2015 PRIORITIES

The Committee did consider latent effort to be the top priority for the PDT to work on. However, the Committee wanted the framework to progress and prioritized work on the next framework followed by continued work on A6, including latent effort.

The Committee and AP held a moment of silence to recognize the loss of monkfish staff member, Phil Haring.

The meeting adjourned at 3:30.