



Council Report

An update published by the New England Fishery Management Council – April 2009

The Council Report summarizes major issues voted on or discussed at each regularly scheduled meeting of the NEFMC. The Council met most recently on April 7-9, 2009 in Mystic, CT.

At its April meeting, the Council addressed management issues related to skates, sea scallops, herring, groundfish, interspecies and monkfish, and also received a report from its SSC.

NOAA Administrator Pays a Visit

Dr. Lubchenco Addresses the Council in Mystic

Attending the April Council meeting on short notice, NOAA's Administrator Dr. Jane Lubchenco explained the temporary rules that will govern the groundfish fishery for the next year, as the Council works to complete Amendment 16 to its Groundfish Fishery Management Plan. She termed the new interim rule one that will "build a solid bridge to a larger, long-term solution for managing the fishery through catch shares, which will help restore the ecosystem and the economic health of the fishing communities."

Dr. Lubchenco recognized the costs to the fishing industry during such a transition, and pledged to identify \$6 million dollars in agency funds that would support cooperative research efforts, assisting economically strapped fishermen while promoting innovative gear solutions, better fishing practices and enhanced data collection. She added that an additional \$10 million dollars would be dedicated to improved data reporting and fishery monitoring, infrastructure that is in need of an upgrade to support the sector management programs the Council is proposing in Amendment 16.

Skates

Amendment 3 Finalized

By a 15-1 vote, the Council approved Amendment 3 to the Fishery Management Plan for the Northeast Skate Complex. The Secretary of Commerce will receive, for final approval, a package which includes an annual catch limit framework with accountability measures to account for any excess catch, or overages, and prevent overfishing. Other measures include a three-season quota allocation, a 20,000 pound whole skate possession limit for what is chiefly a Southern New England skate bait fishery, and a 1,900 pound skate wing (4,313 pounds whole) possession limit for vessels that target skates for commercial seafood. For both fisheries, the Council approved triggers that would automatically reduce the possession limits to an incidental limit of 500 pounds of skate wings (1,135 pounds whole) once landings reach 80-90% of the amount allocated to each fishery. Use of a Multispecies Category B day-at-sea to target skates will be prohibited.

The new measures are intended to reduce landings and the total catch of skate, and promote increases in biomass to rebuild smooth and thorny skates, which are overfished. They also address the concern that winter skate could become overfished if high catches continue. Discards will be controlled through measures in other fishery management plans that allocate days-at-sea, which all vessels must use when targeting skates.

The amendment also would replace the existing baseline review process with a more comprehensive annual review, biennial Stock Assessment and Fishery Evaluation Report, and biennial specification process. During the annual review process, the Skate Plan Development Team will evaluate the most recent data available on skate stock status, fishing levels, landings, discards and new or pending regulations for other fisheries that may affect the catch of skates. The Council could, in the future, revise management measures in the skate or other plans as appropriate, based on the PDT's findings and recommendations.

The skate amendment is expected to be in place by January 2010. The Council recommended that the trip limits become effective when the amendment is implemented and the quotas and accountability measures take effect at the start of the fishing year on May 1, 2010.

Sea Scallops

Alternatives Added to Amendment 15/Framework 21 Moves Forward

The Council addressed a range of scallop-related issues at the April meeting. Its members approved the final range of alternatives to be analyzed in Amendment 15 to the Scallop Plan, initiated Framework Adjustment 21 and approved 2010 priorities for the scallop research set-aside (RSA) program.

The Council already approved a majority of the Amendment 15 alternatives at its February Council meeting, although several additional issues were addressed in Mystic. These included specifications for accountability measures (AMs), potential fishery spillover into other fisheries as a result of leasing scallop days-at-sea and/or access area trips and a limited access general category (LAGC) permit - splitting alternative. Members adopted several motions related to the AM alternatives for different components of the fishery, as well as several alternatives for a sub-annual catch of yellowtail flounder. Members also voted to omit alternatives that would limit fishing in other fisheries, but did leave in others that would allow a scallop vessel to transfer some or all quota to another LAGC vessel.

Framework 21 also was formally initiated. Scheduled to be implemented in March 2010, the action will include specifications for the 2010 scallop fishing year and comply with the first "reasonable and prudent measure" identified in the most recent Turtle Biological Opinion --- to limit scallop fishing effort in the Mid-Atlantic when turtles are expected to be present. Modifications to the observer program and adjustments to the access area program to reduce yellowtail flounder bycatch also may be addressed in Framework 21.

The Council reviewed the 2010 RSA priorities and supported elevating the bycatch and sea turtle research priorities as recommended by the Scallop Oversight Committee and Scallop Survey Advisory Panel. This year's RSA announcement is scheduled to be published in June 2009.

Herring

Higher Levels of Observer Coverage Called for on Herring Boats in Closed Area I

The Council received a brief update on the development of alternatives for inclusion in Amendment 4 to the Herring Fishery Management Plan, and, as scheduled, will review them in detail at the June 2009 Council meeting.

The more compelling discussion took place during the National Marine Fisheries Service Regional Administrator's consultation with the Council regarding the agency's review of observer data from herring vessels fishing in Groundfish Closed Area I.

The report, requested by the Council late last year, indicated that between 2004 and 2008, observed haddock bycatch in Closed Area I totaled less than one percent of the observed herring and mackerel catch from the area. Because some individual tows and trips exceeded the one percent threshold, general concerns were raised about haddock and other groundfish bycatch in all of the groundfish closed areas.

During the ensuing debate, the Council recommended to the Regional Administrator that letters of authorization to fish in Closed Area I include a requirement for 100% observer coverage and a prohibition on "slipped" codends to ensure that all fish would be pumped aboard the boat and sampled by an observer.

Groundfish

Council Responds to Judge Harrington

On April 7 the Council considered a document presented by NOAA General Counsel titled *Draft Consideration and Analysis of the Application of the Mixed-Stock Exception to Ending Overfishing and its Applicability to Framework 42 to the Northeast Multispecies Fishery Management Plan* and its attached addendum. The April discussion was a follow-up to the February 2009 Council meeting at which the agency presented the Council with an initial draft report on the applicability of the "mixed stock exception" to Framework 42 and asked then for Council concurrence with its conclusions.

As background, in the Commonwealth of Massachusetts and State of New Hampshire v. Carlos M. Gutierrez, the First District Court temporarily vacated the management measures contained in Framework 42. The court also ordered a review of the applicability of the mixed stock exception, a management option that was not employed by the Council in the development of the Framework 42 management measures.

A provision of the Magnuson Act and the National Standard 1 Guidelines for addressing overfishing and stock rebuilding, the exception allows, under specific conditions, the harvest of one stock at its optimal level, despite potentially overfishing another stock, when those stocks are part of the same fishery. In February, a majority of Council members disagreed with the conclusions in the NMFS report to the court, that the mixed stock exception cannot be applied to the Northeast multispecies fishery and asked NMFS to reconsider its position.

After discussion of the revised document and its addendum last week, the Council took a position similar to its February stance, to "disagree with the conclusions of the NMFS report, as ordered by Judge Edward J. Harrington." In its April response, the Council maintained "that NMFS has failed to perform the analyses for Council review; consequently, the Council is unable to provide the court with a review."

On Friday, April 10, Judge Harrington ruled that the Fisheries Service had complied with the court order to seriously consider the mixed stock exception, granted the agency's summary judgment and fully reinstated all of the provisions of Framework 42. All documents submitted by NMFS to court and court's rulings can be found at <http://www.nero.noaa.gov/sfd/sfdmulti.html#fw42>.

Interspecies

Committee Addresses Cross-cutting Fisheries Issues

The Interspecies Committee developed Council comments on priorities for the deployment of fisheries observers in the Northeast, provided recommendations on issues forwarded by the Scallop Committee and discussed the topics of combining FMPs as well as streamlining adjustments to FMPs. Its members recommended that the Scallop Committee not take specific action to address displaced fishing effort to other fisheries --- a potential result of consolidation in the scallop fishery. Based on public testimony and further discussion, members concluded the displacement would be minimal.

The committee also recommended that scallop general category permit holders should be allowed to transfer all or part of their scallop quota without invalidating other fishing permits. This recommendation would make it unnecessary for the Council to allow the splitting of permits in other fisheries. Finally, the committee chair announced that while the Interspecies Committee had useful discussions about combining FMPs and streamlining, it was appropriate to ask the Council to approve specific terms of reference prior to undertaking further work.

Monkfish

Amendment 5 on Track with ACLs and AMs

The Monkfish Committee updated the Council on the development of Amendment 5 to the Monkfish FMP based on its first meeting. The staff summarized the development of overfishing limits, annual catch limits and other management reference points, as well as the approaches being considered for accountability measures to prevent and react to catch reaching the annual limit. The committee also briefed the Council about its progress to develop specific management measures using the current system of days-at-sea and trip limits, in addition to catch share management strategies, specifically individual fishing quotas and sectors. The Council took no action at this meeting.

Scientific and Statistical Committee

Scallop, Monkfish and Habitat Issues Reviewed

The Scientific and Statistical Committee (SSC) met on March 17-18, 2009 and reviewed its advice to the Council on the topic below. Copies of the SSC's April reports can be found at http://www.nefmc.org/tech/new_ssc.html.

- Proposed methods for analyzing Scallop Amendment 15 social and economic impacts;
- Proposed methods for determining monkfish ABC and ACLs, as well as other management reference points to be included in Amendment 5 to the Monkfish Fishery Management Plan;
- The sufficiency of the Habitat Plan Development Team's Fishing Gear Seabed Impact (FiGSI) model as a basis for crafting and analyzing alternatives to be included in Essential Fish Habitat Omnibus Amendment 2; and
- Planning for a proposed Ecosystem-Based Fisheries Management Workshop.

Materials on the Web

Meeting materials and presentations related to the above issues and other agenda items are located on the Council's website www.nefmc.org. Audio files of the full meeting discussions are posted at <http://www.nefmc.org/actions/index.html>.

**Next Council Meeting – June 23-25, 2009
Holiday Inn by the Bay, Portland, ME**