

#2B

New England Fishery Management Council

DRAFT SUMMARY

Monkfish Oversight Committee Meeting
Holiday Inn, Mansfield, MA
June 3, 2009

Two committee members (Grout and Simns) were absent.

The purpose of the meeting was to finalize the recommendations to the Council for measures to be considered in Amendment 5 to the Monkfish Fishery Management Plan (FMP). This meeting is a continuation of the meeting held on May 27. The Monkfish Advisory Panel met the previous day, and presented their report and recommendations to the Committee.

The first item before the Committee was to identify options for the incidental catch of monkfish by vessels in a groundfish sector and not on a monkfish or groundfish day at sea (DAS). Without further action, the incidental limit that would apply under current monkfish regulations is 5% of the total weight of fish on board. The Committee had previously recommended an option for consideration that would allow Monkfish permit Category C and D permits in a groundfish sector be relieved of the requirement to use a groundfish DAS when on a monkfish DAS. If that provision is adopted, the incidental limit in question would apply when the vessel has used its allocation of monkfish DAS, or whenever it is fishing and not on a monkfish DAS.

Motion

To forward to the Councils a recommendation to develop an option with a monkfish catch share system that will allow monkfish vessels in a groundfish sector to be allocated monkfish annual catch entitlement (ACE) that they would use in lieu of monkfish DAS and trip limits, and to calculate the ACE based on the years 1996-2006. (Odlin/Avila)

Comment on the motion:

- One member of the committee questioned why this proposal uses a different time period for calculating the ACE than the monkfish catch share proposal already under consideration (1998-2008). The maker of the motion responded that the intent here is to have the longest time period for which there is data available.
- NMFS staff advised the Committee to not use time before the implementation of the FMP because the fishery was open access, and many vessels participating were not required to submit vessel trip reports.

Motion perfected by friendly amendment

To calculate the ACE based on the years 1999-2008

Comment on the perfected motion:

- There should be several time period options for consideration, since this could establish a precedent for future catch share programs for the entire fishery, not just vessels in groundfish sectors
- When the time comes, a future Council can pick whatever timeline it deems appropriate

Motion to amend

To include two other time period alternatives for the Southern Management Area (SMA), 2003-2008, and 2005-2008 (Nolan/Munden)

Comment on the motion to amend:

- The AP discussed different time periods for the SMA, in particular out of consideration for permit Category H vessels, as well as, for the fact that prior to 2003, gillnet and trawl vessels were operating under different trip limits, which was voided in court. The AP recommends adding an alternative of 2003-2008 for the SMA in the overall catch share proposal, but rejected the 2005-2008 alternative.
- Even though the trawlers had a higher trip limit before 2003, when the differential was eliminated, the directed trawl fishery ended because they could not fish profitably under the new, lower limit. The time period used should be the same for both areas, and as long as possible to smooth out the ups and downs of different rules.
- A member of the public asked if the Committee's intent was to just forward an alternative based on landings history, to which the maker of the main motion replied in the affirmative.

Motion to amend passed unanimously

The Chair of the AP commented that the advisors recommend removing the requirement that a vessel have a groundfish permit to join a groundfish sector, which would require that this amendment become a joint groundfish/monkfish amendment.

Main motion as amended passed unanimously

Continuing in the matter of the monkfish incidental catch limit on vessels not on a groundfish or monkfish DAS, one member of the Committee expressed concerns about limits that are based on a percentage of total weight of fish on board. He noted that if a vessel is on a trip and catches monkfish first, then it is obligated to seek out sufficient amount of other fish, or discard the monkfish. This is especially problematic if the vessel has to return to port before the normal end of the trip due to weather or other circumstances. In those cases, the vessel must then remove the fish from the hold and discard it..

Motion

To remove the 5% incidental limit when a vessel is not on a monkfish or groundfish DAS, and adopt a 500 lb. tail weight per day for the NMA for vessels in a groundfish sector if those vessels are not provided monkfish ACE (previous motion). (Odlin/Leary)

Comment on the motion:

- At over 1,600 lbs. whole weight per day, with no limit on the number of days a vessel can land that amount, this could create a directed fishery with significant catch potential relative to current catch, depending on the number of vessels involved. This amount is already greater than the directed fishery trip limit for some vessels who are under DAS.
- At 500 lbs. this is a directed fishery, and there should be a percentage of total catch component to keep it as an incidental catch limit

Motion passed unanimously

A member of the Committee, who is also a member of the Atlantic Large Whale Take Reduction Team (ALWTRT) proposed revisiting the Committee’s decision to not consider a reduction in the number of gillnets allowed. One of the primary goals of the ALWTRT is to reduce the number of vertical lines in the water. He also commented that managing protected species interactions is more effective when done through the Council process than through the Take Reduction Plan process.

Motion

To rescind the previous action to not consider a reduction in gillnets (Munden/Nolan)

Comment on the motion:

- Staff noted that the PDT has discussed, but not resolved whether the protected species impact of reducing the number of nets is greater than reducing the amount of time a larger number of nets is in the water
- The number of vertical lines is not a function of the number of nets being fished. Some gillnetters fish fewer nets per string, with a vertical line at each end, while others fish more per string with the same number of vertical lines. Some fishermen also have vertical lines along the string, not just at the ends. Therefore, limiting the number of nets will not necessarily have a corresponding reduction in the number of vertical lines.
- If you reduce the number of nets allowed, vessels will have to become more efficient and will fish with smaller strings of nets in the hotspots, which translates into more buoy lines
- Marine mammal interactions may be the biggest problem for gillnetters, but reducing the number of nets is not the solution. Offshore gillnetters cannot operate with a small number of nets.
- In Rhode Island and SE Massachusetts, much of the monkfishing takes place nearshore. These are tourist economies as well, but there are no whale watching businesses, as there are north of the Cape, because there are no whales nearshore.

Motion failed 3-3

The Committee next discussed the measures it had already agreed to recommend, but on which the AP had made recommendations warranting Committee reconsideration. The first item related to the Committee’s adoption of a proposal for waiving the groundfish DAS usage requirement when a vessel is on a monkfish DAS in the NMA for Category C and D vessels that are in

groundfish sectors. The AP recommended that this provision be considered for both areas, since vessels in groundfish sectors are not restricted to fishing only in the NMA.

Motion

To consider waiving the requirement for vessels in a groundfish sector on a monkfish DAS from having to also use a groundfish DAS in either management area (Odlin/Avila)

Comment on the motion:

- This proposal will need analysis for its overall effect. As the restrictions on some fleet components are relaxed, the other vessels may have to have tighter restrictions for a given catch target

Motion passed 5-1

The AP also recommended that the Committee consider increasing the incidental catch limit on scallop vessels with the intent of decreasing discards without increasing overall catch.

Motion

To recommend the Council consider increasing scallop incidental catch by 100 lbs. or 200 lbs. with the intent of reducing discards (Odlin/Leary)

Comment on the motion:

- Reducing discards will contribute to reducing uncertainty in total catch
- The PDT should look at discards in scallop closed area trips and open area trips to determine the effect of these proposals on potential discard reductions

Motion passed unanimously

The Committee next discussed further development of the catch share proposal that it had reviewed and recommended at the March 31 meeting. The AP chair provided the Committee with its report on the previous day's discussion of the catch share proposals. The first element discussed by the Committee pertained to the qualification period that would be used for allocating ACE or ITQ shares.

Motion

To add an option for a qualification period of 2003-2008 for the SMA only (Nolan/Leary)

The maker of the motion pointed out that during the first years of the FMP, gillnet vessels operated under a different, and more restrictive trip limit than the trawl vessels. This restriction unfairly disadvantages the gillnet vessels when the allocations are based on catch history during that period.

Motion passed unanimously

The AP recommended removing the limits on transfers of ITQ shares between vessel length and horsepower classes and permit categories.

Motion

To remove from the strawman proposal the limit on transfer between vessel size class and gear type categories (Nolan/Avila)

Comment on the motion:

- This motion will require removal of the objective stated at the top of the catch share strawman proposal of maintaining “the existing structure of the fleet (pyramid structure of large-medium-small vessels; open access and limited access)
- The Committee should consider the implication of this; a well capitalized individual or organization, such as an LNG terminal, a non-governmental organization, or owner of a large number of vessels, could fund the purchase of the permits of small vessels and transfer the catch shares to a fewer number of large vessels for various reasons

Motion passed unanimously

Motion

To remove the universal exemption in the strawman proposal on the current cap on the number of gillnets for vessels in monkfish sectors (Odlin/Leary)

Comment on the motion:

- The strawman has a universal exemption from the gillnet net restrictions, but the AP does not want it to be an automatic exemption, rather it should be considered on a case-by-case basis.

Motion passed unanimously

The AP chair commented that the strawman proposal is silent on the subject of monitoring. The AP agrees that there should be adequate monitoring, but did not agree on the level. One Committee member was concerned about the mechanism for recovering costs of monitoring, whether it be paid by the dealer at the point of sale, or by the fishermen, and what the consequences are for non-payment. The details of the cost recovery program need to be explicitly stated, especially with regard to cost recovery under ITQs.

Motion

To include in the strawman proposal a cost recovery section requiring fees be paid by shareholders with options for quarterly and yearly payment (Nolan/Munden)

Motion perfected by friendly amendment

To include a third option, with the fee being collected at the point of sale by the dealer, who then transmits the funds to NMFS

Comment on the motion:

- If the dealer collects the fee but does not transmit those funds to NMFS, the shareholder is still going to be held responsible

Motion passed unanimously

The AP recommended removing the permit category H qualification criteria in the strawman proposal and replacing it with a different period out of consideration of the fact that they did not get limited access permits until 2005 under Amendment 2.

Motion

To remove from the strawman proposal application of the qualification period for category H permits (Nolan/Munden, **motion passed unanimously**)

Motion

To allow category H vessels to qualify with history during 2005-2008 (Nolan/Avila)

Comment on the motion:

- This would require some calculation, since these vessels would be qualifying with a different time period history than other vessels. Depending on which qualification period is adopted for the other vessels, starting in 1999 or 2003, the average landings during 2005-2008 would be used to “artificially” inflate the total landings during 1999-2004 or 2003-2004, for the purpose of calculating all vessel shares as a percentage of the total.

Motion to amend

To adopt the AP recommendations, using the average landings in pounds per vessel with the two options recommended in the AP report, (use average landings 2005-2008, applied to 1999-2004 or 2003-2004), (Odlin/Avila, **motion to amend passed unanimously**)

Motion as amended passed unanimously

The AP questioned whether, under a catch share program, the area restriction for category H vessels would still be necessary. Their allowable catch would be based on a portion of the SMA stock regardless of whether they are restricted in area or not. While most of those vessels would likely not travel very far north of the current line, removing the restriction would enable those vessels to move their gear away from any potential sea turtle interactions.

Motion

To consider removing the area restriction that applies to category H vessels under a catch share program (Munden/Avila, **motion passed unanimously**)

The AP recommends that permit category C and D vessels with multispecies permits be allowed to join groundfish sectors for the purpose of using monkfish ACE in 2011 and beyond. The AP chair noted that the alternative to this would be to allow vessels to form monkfish sectors.

Motion

To recommend considering allowing category C and D vessels with multispecies permits to join groundfish sectors for the purpose of using monkfish ACE in 2011 and beyond (Odlin/Leary)

Comment on the motion:

- This proposal will create an inequity in the future. Participating boats will already have an allocation, but if the management system goes to ITQs, and a different allocation scheme, these vessels must be considered along with all other vessels on the same criteria.
- In response, commenters noted that future Councils are not bound by any allocation scheme developed now, and that the program can always be modified.
- Another commenter noted that even with the two current groundfish sectors, the allocation schemes are being re-evaluated in Amendment 16.

Motion passed 5-1

The AP recommended the Committee consider proposing that Amendment 5 be considered a joint groundfish/monkfish amendment so that all monkfish permit holders, not just those with multispecies permits, could join groundfish sectors.

Motion

To recommend the Council designate Amendment 5 as a joint amendment to the Multispecies FMP and to allow all limited access monkfish permit holders to join an existing groundfish sector for the purpose of utilizing monkfish ACE in the 2011 fishing year and beyond (Leary/Odlin)

Comment on the motion:

- This would allow all of the scallopers with monkfish permits to join the groundfish sectors. C and D vessels with multispecies permits would already be allowed under the previous motion. Is that the Committee's intent?
- This should be the only groundfish action allowed in the joint amendment

Motion perfected by friendly amendment

To recommend the Council designate Amendment 5 as a joint amendment to the Multispecies FMP only to allow monkfish permit category A, B and H vessels to join an existing groundfish sector for the purpose of utilizing monkfish ACE in the 2011 fishing year and beyond

Motion as amended passed unanimously

The AP had raised some issues under "other business" that it brought to the Committee for consideration. The first issue was a question why, in the SMA, the incidental landing limit is

different for trawl and non-trawl vessels. The AP also requested that the Committee consider allowing trip gillnet vessels to operate with the same incidental limits as trawl vessels.

Motion

To recommend including as a option that trip gillnet vessels in the SMA on a groundfish, but not a monkfish DAS have the same incidental limit as trawl vessels on a groundfish, but not a monkfish DAS. (Odlin/Leary)

Comment on the motion:

- NMFS staff advised that this proposal would complicate the enforcement of the plan, and that the Councils will need to provide a clear justification why day gillnet vessels would be treated differently from trip gillnet vessels
- The purpose of this is to reduce discards on trip gillnet vessels
- Day gillnet vessels out of the Cape also fish in the SMA on a groundfish A DAS, and should have the higher limit to reduce discards.
- One commenter asked whether there is a known discard problem under the current limits.

Motion passed unanimously

The AP also asked for the rationale for NMFS' prohibition on landing monkfish heads not attached to the tails. NMFS staff responded that there is no set head-to-whole conversion factor in the regulations. One Committee member suggested that if there is a market for the heads, vessels should be allowed to land them, provided it does not create a discard, or highgrading problem.

Motion

To recommend that the Councils consider an option to allow vessels to land monkfish heads, provided there is an appropriate head-to-tail ratio (Odlin/Leary, **motion passed unanimously**)

One Committee member raised the question of whether leased quota can be re-leased. Another member responded that it should be allowed, otherwise there will be a large number of small transactions to reduce the risks associated with leasing a large amount, which, due to unforeseen circumstances may not get used, and, therefore, lost without allowing it to be re-leased. Furthermore, this commenter believes there should not be a cap on the amount of quota that can be leased.

The next matter taken up by the Committee dealt with the ITQ referendum voting procedure and weighting of votes. Commenters noted that the law requires consideration of crew in a referendum, but leaves it up to the Council to set the specific provisions. The strawman proposal to provide a downweighted vote for captains is intended to address that requirement. Commenters noted that vessel owners have substantial financial investment in the vessels that should be given higher weighting in any referendum vote. The strawman weighting of permit category A and C permits, compared to B, D, and H permits is reflective of the original permit qualification criteria.

Members discussed what specific criteria would qualify a captain for eligibility. One commenter noted that in the Gulf region, captains had to self-certify their qualification for the referendum, but were only given a short period of time in which to do it.

Consensus

To request that the Council submit a request to NMFS to provide all assistance possible to implement an ITQ referendum as soon as possible.

NMFS staff commented that they will assist the Council, but that the criteria for voting and all other aspects of the ITQ plan that will be voted on must be developed and approved by the Councils. With regards to captains' qualification criteria, NMFS staff noted that the guidelines provide standards on the level of dependence as a significant portion of income from fishing.

Motion

To remove from the strawman proposal, Option #2 (landings criteria) under the vote weighting process (Nolan/Odlin, **motion passed 5-1**)

Motion

To add two options for vote weighting in the ITQ referendum: permit categories AC – 4, BDH- 2, Captains 0.1 and the second option with Captains vote weighted 0.01 (Nolan/Avila)

Motion perfected by friendly amendment

In order to qualify, a captain must generate a minimum of 70% of his/her annual income and a minimum of \$25,000 from commercial fishing, in each of the last five years as the captain of a permit category A, B, C, D, or H vessel.

Comment on the motion:

- NMFS staff cautioned that these criteria will be difficult to certify

Motion as amended passed unanimously

A Committee member then raised the question of considering state waters landings in qualifying for ITQ shares. Secondly, non-federal permit holders' state waters landings will need to be considered in defining the amount of fish available for allocation under the ITQ program. Whatever program is adopted, the commenter noted, it should be based on the same time period as the vessel allocation system. No further action was taken on this matter.