

## New England Fishery Management Council

# 2

### SUMMARY

Monkfish Oversight Committee Meeting  
Radisson Hotel, Warwick, RI  
May 27, 2009

The purpose of the meeting was to continue development of recommendations to the Councils for measures to be considered in Amendment 5 to the Monkfish Fishery Management Plan (FMP). The staff presented a report on the Plan Development Team's (PDT) recommendations and alternatives for setting Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Accountability Measures (AMs), and other management reference points to bring the FMP into compliance with the reauthorized Magnuson-Stevens Act (MSRA), as well as its comment and recommendation on specification of management measures proposed during the scoping process.

The first set of discussion items pertained to recommendations for control rules for specifying the Overfishing Limit (OFL) and Maximum Sustainable Yield (MSY). The PDT has presented these options and the associated values to the Scientific and Statistical Committee (SSC) for review. The staff noted that in adopting these as control rules, the specific values associated with the reference points would be re-calculated when a new assessment is completed. The control rules are:

$$\text{OFL} = F_{\text{threshold}} \times B_{\text{current}}$$

$$\text{MSY} = F_{\text{threshold}} \times B_{\text{target}}$$

Where the biomass variables are based on exploitable biomass.

Based on the results of the 2007 Data Poor Stocks Working Group (DPWG) assessment, the current values of these reference points are:

	OFL (mt)	MSY (mt)
<b>North</b>	22,729	17,053
<b>South</b>	28,263	25,487

### Motion

To recommend the Councils include the proposed MSY and OFL control rules in the Amendment 5 DEIS (Nolan/Grout, **motion passed unanimously**)

The second items considered by the Committee were the SSC's recommendation for setting ABC and ACL. The SSC will present its recommendation for ABC directly to the NEFMC for adoption into the amendment. ABC is a reference point that is set in consideration of the scientific uncertainty in the estimate of OFL and other scientific uncertainty. The SSC concluded that the assessment method used by the DPWG for monkfish does not provide sufficient estimates of uncertainty, and, therefore, it is recommending an interim ABC until such time as those estimates can be calculated. The interim ABC the SSC will be recommending is calculated as the product of current exploitable biomass (2006) and the average exploitation rate during the recent period of stable or rising biomass which is 1999-2006

for the northern stock component, and 2000-2006 for the southern component. The PDT recommended, and the SSC concurred that ACL be equal to ABC. Based on the SSCs recommendation, the values associated with ABC and ACL are 17,485 (North) and 13,326 (South).

### **Motion**

To support the SSC's recommendation for ABC, and to recommend setting ACL equal to ABC (Grout/Nolan, **motion passed 7-1**)

The member who opposed this motion commented that he was uncomfortable with such a large buffer between the OFL and the Annual Catch Target (ACT, which will be discussed later) given the status of the stock as "rebuilt and overfishing not occurring". The ACT is intended to account for management uncertainty and prevent catch from exceeding the ACL.

The next management reference point the Committee discussed was Optimum Yield (OY), which is defined in the MSRA as "MSY reduced by relevant economic, social and ecological factors." One member supported setting OY at the highest possible level, equal to ABC. Staff noted that based on the values of ABC and MSY recommended by the Committee, the northern component ABC exceeds MSY, and, therefore, this proposal would need some qualification to be compliant with the MSRA definition. A member of the industry commented that the maximum number of fish is a narrow interpretation of optimum yield. He noted that in the southern area, when catch allowances were increased and landings jumped, the price collapsed and fishermen made less money for more fish. He said such economic considerations are relevant in the setting of OY. The Committee initially agreed to defer further discussion of OY until the next meeting, but later decided that it is something that could be developed over the summer since it does not affect any management actions that need to be analyzed in the DEIS.

The Committee then proceeded to discuss the options for AMs. At first, the Committee considered the PDT-developed options for Annual Catch Targets (ACTs) as proactive AMs to prevent catch from exceeding the ACL, in consideration of management uncertainty. Some members initially commented that the PDT options resulted in what seemed to be unnecessarily large buffers between ACTs and ACLs, considering that the stocks are rebuilt and overfishing is not occurring. The staff suggested that another approach would be to first develop the reactive AMs, which would take effect if the ACL is exceeded, and then consider the proactive AMs. Knowing the consequences of exceeding the ACL, staff suggested, might help Committee members consider how close to the limit the target should be set. Members agreed with this approach, and proceeded to discuss possible reactive AM options.

The PDT observed in its report that in the case of monkfish, which is widely caught incidental to other fishing activities which are outside the direct control of the Monkfish FMP, the fishery that may have caused an ACL overage may not necessarily be the fishery that is held accountable. Without directly allocating portions of the ACL to all individual directed and incidental fisheries, it would be difficult to identify which fishery is responsible for the overage. Furthermore, it would be problematic to impose restrictions on many of the fisheries with incidental monkfish catch, especially when the value of their directed catch far exceeds the value of the incidental monkfish catch and, in some cases, even the value of the directed monkfish fishery. The most notable example of such a situation is in the scallop dredge fishery. The staff also reminded the Committee that due to the widespread incidental monkfish catch in other fisheries, the FMP has always been designed such that the directed fishery is allocated the

residual portion of the TAC, after subtracting the expected incidental catch portion. The FMP recognizes that such incidental catch occurs, and minimizes bycatch by applying appropriate incidental catch landing limits on all fisheries, but it does not impose other restrictions on those fisheries in an attempt to reduce their incidental monkfish catch.

The Committee then took some public comment on what types of reactive AMs might be appropriate. One member of the public cautioned the committee about using in-season AMs because if fishermen fear that such measures might take effect, they would fish harder before the additional restrictions are imposed, increasing the likelihood that the ACL would be reached. Another problem with relying on in-season AMs is the dependence on robust, real-time catch monitoring across all fisheries that catch monkfish. Even though substantial funds have been directed toward developing such monitoring systems, they are not yet in place, and, one commenter noted, most of those funds are specific to monitoring groundfish catch. A staff member from the Regional Office suggested that the more the plan has in-season measures to prevent the ACL from being exceeded, the smaller the buffer to the ACT can be. If there are only ACTs and reactive, post-season AMs, then the buffer between ACL and ACT needs to be larger.

### **Motion**

If the ACL in a management area is exceeded in a given year, the overage would be deducted on a pound-for-pound basis from the ACT, and adjustments made to management measures would be developed during the year immediately following the year in which the overage occurred, for implementation in the next fishing year. (Grout/Nolan)

Comment on the motion:

- Regional Office staff advised the Committee that the agency needs to be able to automatically make the adjustments in the event the Council cannot, or does not. General Counsel suggested that the authority provided to the RO could be done as a formula without requiring rulemaking.
- That this motion will place the burden of any ACL overage on the directed fishery, regardless of whether the overage was caused by the directed fishery or the incidental fishery.
- The Committee should identify the allocation of ACL to each incidental fishery sector so it can develop appropriate incidental catch reduction strategies.
- That the choice is between shutting the industry down now, or taking a chance at shutting it down later.
- There should be annual stock assessments because if the ACL overage is due to an undetected spike in recruitment rather than any change in fishing activity, then there could be an overage that does not require an immediate reaction.

The maker of the motion restated that the proposal is for a backstop reactive accountability measure that provides the context for discussing proactive AMs and ACTs.

### **Motion passed 5-3**

### **Motion**

If the ACL is exceeded, the ACT is to be reduced in the second fishing year following the year in which the overage occurred. In the event the Councils do not take appropriate action, the Regional Administrator will use a formulaic approach that will be developed by the PDT,

similar to that used in Framework 2, to adjust DAS and trip limits, and will implement those adjustments by Notice Action published in the Federal Register no later than January 1 for subsequent fishing year starting May 1. (Grout/Nolan)

One commenter suggested that under this approach, the incidental fisheries will be building an increasing catch history while the directed fishery is being further restricted. This will create a problem in the future when catch history is used to allocate catch shares.

#### **Motion passed 4-2-1**

The Committee then proceeded to consider options for proactive AMS, ACTs. One member of the Committee expressed concern that the options put forward by the PDT were too conservative, given the results of the last assessment, and the overall distance between the OFL and the ACT. He noted that catch would have to be two or three times the ACT before even being close to the OFL. He said that the Committee needs to find a way to make a timely adjustment to the Act if the next assessment reaffirms the previous one, and the not have to wait an entire year for the rulemaking process.

#### **Motion**

To accept the proactive AMs for the Southern Management Area put forward by the PDT (Nolan/Avila)

Comment on the motion:

- Is it reasonable to consider and ACT that would result in a reduction in DAS and/or trip limits? There should be an option to consider an ACT that would allow for an increase in effort, at least for analysis and public comment.
- Regional Office staff noted that the option of 5,100 mt (the current TAC) which would result in a reduction in DAS would be considered the no action alternative, and would be an alternative under NEPA. Council staff suggested that the higher ACT option, which would allow current DAS and trip limits to remain as they currently are, might actually be the no action alternative, since the measures affecting individual vessels would be unchanged. The two staffs agreed that this matter needs to be discussed by the PDT and RO NEPA staff.
- There should be an option to increase allowable catch by 60-70% in addition to the 40% increase that does not allow for any additional DAS.

#### **Motion perfected by friendly amendment**

To include an option to increase the Southern Area ACT by 50%

Additional comment on the motion:

- The Committee could consider a higher increase in the DEIS, and adopt a lower number, but cannot adopt a higher number than what is taken to public hearings
- General Counsel stated that the Committee will need to explain its intent with bracketing the options, that it is to provide a possible range of ACTs, but that the final number could be somewhere in between.

### **Motion perfected by friendly amendment**

To revise the previous amendment to add a 75% increase in the Act from the current TAC

### **Amended motion passed unanimously**

#### **Motion**

To accept the PDT options for ACTs for the Northern Management Area, and to include an option for a 100% increase over the current TAC. (Odlin/Leary, **motion passed unanimously**)

The next item before the Committee was the proposal to allow vessels to land an overage of the trip limit, but to require them, in that case, to call-in or declare via the VMS before crossing the demarcation line, of their intent to land an overage, and to have their DAS allocation reduced accordingly. This is called a “time-for-fish” proposal. The initial proposal was to allow as much as two days’ overage, but the PDT recommended limiting the allowance to one day’s overage, which would enable the DAS clock to automatically deduct the appropriate increment, rather than relying on dockside enforcement to determine whether the deduction should be for one or two additional DAS. The PDT had offered three options for how much time would be deducted for a one-day overage: 48 hours (2x24), 30 hours (2x15, the minimum charged gillnet vessels), or 24 hours plus one minute (how many vessels currently operate, either by waiting to cross the demarcation line or by calling in early before starting the trip if not using a VMS).

#### **Motion**

To bring to the Council the three PDT options for time-for-fish , with a one-day overage limit, and the ability to use either VMS or call-in. (Grout/Nolan)

Comment on the motion:

- Fishermen tailor the number of nets they use to fit the trip limit. If you allow double landings, boats will fish more nets, then when the fish begin to run, more will be landed, and the price will drop. More fish, less money, and there will be more gear in the water, which may impact protected species.
- The committee should not make fishermen discard fish, or sit outside the line, in the event they catch more than the trip limit allows.
- Now, fishermen who are not required to use a VMS (Permit Category A and C) use the phone and all in ahead of leaving, so they can land two days’ limit in 24 hours and a minute. Meanwhile, a vessel that is required to use a VMS must either steam around, or be charged either 30 hours or 48 hours under the options being proposed.

### **Motion passed unanimously**

On the subject of Research Set Aside (RSA) DAS, one member questioned the impact of the usage patterns on the southern area TAC overage. In other words, the RSA DAS pool is created out of a deduction from each vessel’s DAS allocation, but there are no restrictions on where those DAS could be used. If a substantial portion of the DAS are used in the southern area, it is possible that those DAS could be causing the overages seen in recent years. The PDT may be able to shed some light on this question while analyzing DAS usage patterns in the DEIS.

The main issue regarding RAS DAS, was raised during the scoping process, namely, that vessels do not always have the opportunity to use their compensation DAS before they expire at the end of the fishing year, usually due to the fact that the RSA grants are not awarded until several months into the fishing year. The PDT developed two options to address this issue, allowing a carryover for one year of unused RSA DAS, either for use anytime during the year, or during the first three months of the fishing year.

### **Motion**

To forward the two PDT options for RSA DAS carryover to the Councils for consideration in Amendment 5. (Nolan/Alexander, **motion passed unanimously**)

A member of the Committee then asserted that the discussion up to now has highlighted the impact of incidental catch on the fishery, both discarded and landed incidental catch. In response, the Committee agreed to request additional data from the PDT.

### **Consensus**

The PDT should provide the Committee with data on the distribution of catch, including discards, by 3 groups of vessels: catch on directed (DAS) trips, incidental catch by permit category C and D vessels by gear (dredge, trawl, gillnet, other), and incidental catch by category E vessels.

A member of the Regional Office staff raised the matter of making adjustments to the RSA program. Currently, any changes to the program must be done by full plan amendment. This has caused delays in making needed adjustments, such as the proposed carryover. A solution is to include adjustments to the RSA program in the list of actions that can be taken through the framework adjustment process.

### **Motion**

To recommend the Councils consider allowing changes to the RSA program to be done in the framework adjustment process. (Odlin/Nolan)

Comments mostly focused on problems with the current RSA program. RO staff pointed out that there is a programmatic review of all cooperative research programs nationwide, which may offer some solutions to those problems.

### **Motion passed unanimously**

The next item before the Committee was raised during scoping by a member of the industry who has both a monkfish permit and a groundfish permit. He fishes primarily for monkfish and exclusively in the southern area. He had commented that because of the way DAS are counted, he loses what groundfish DAS he has (while targeting monkfish on a monkfish DAS) at the start of the fishing year but what groundfish fishing opportunity he has does not arise until the late fall. He had suggested allowing vessels to decide when to declare a monkfish-only DAS, and when to declare a combination monkfish-groundfish DAS.

### **Motion**

In the case where a vessel has more monkfish DAS allocated than groundfish DAS, the Committee proposes an option that would allow such vessels (category C and D permits, with multispecies permits) when to use their monkfish-only DAS, and when to use the combination monkfish-groundfish DAS. (Odlin/Alexander, **motion passed unanimously**)

The Committee then considered a proposal to increase the minimum fish size from 17” to 21”. One member initially opposed it out of concern that it would increase discards, and made a motion to remove it from consideration, but no one seconded the motion. Another member observed that the proposal had come from several industry members during scoping, and it should be included in the DEIS.

**Motion**

To recommend the Councils include an increase in the minimum fish size to 21” in the DEIS (Nolan/Munden)

Comment on the motion:

- Increasing the minimum size for all fisheries will only result in greater discards, especially since the fish are mature at the current minimum size
- As one of the industry members who initially proposed this measure, I now cannot support it out of concern for increased discards in most incidental fisheries and some directed fisheries.

**Motion withdrawn**

**Motion**

To remove from consideration the proposal to increase the minimum fish size (Nolan/Odlin, **motion passed unanimously**)

The Committee discussed a proposal made during scoping to increase the minimum mesh size to 12 inches. One member observed that to do so without scientific data on the selectivity is a problem, and results in increased inefficiency. He said that if fishermen want to catch larger fish because of market considerations, they are free to use mesh larger than the minimum size. Another commenter suggested that the increase should be considered by management area.

**Motion**

To require a minimum of 12’ mesh in gillnets in the southern area (Nolan/Munden, **motion failed unanimously**)

The next proposal before the Committee was to reduce the allowable number of gillnets to 75 or 80 nets.

**Motion**

To remove from further consideration, the proposal to reduce the number of allowable gillnets (Odlin/Nolan)

Comment on the motion:

- Fishermen already tailor the number of nets they fish to their expected catch under the trip limits. Reducing the number of nets they can fish at all times, means that the nets will be in the water longer when the fish are not running.
- On industry member faxed in comments in support of the reduction, and those were read into the record. He said it would reduce discards and minimize marine mammal interactions
- Two commenters noted that if you are fishing more nets under a catch share system, you can be more efficient, and catch your quota in fewer days, with less marine mammal risk

**Motion passed unanimously**

Finally, the Committee returned to the subject of optimum yield (OY) which had discussed earlier in the day. Members agreed that since specification of OY, in and of itself, does not have an impact on fishing activities or the human environment, it is not necessary for the Council to vote to include it, or not in the suite of measures to be analyzed in the DEIS.

The meeting adjourned at 5:00.