

New England Fishery Management Council
Recreational Advisory Panel
Meeting Summary
October 3, 2012



The Recreational Advisory Panel (RAP) met in Peabody, MA to hear an overview of Framework Adjustment 48 and the description of the model used to develop recreational measures, to discuss measure development for FY 2013 and beyond, recent commercial fishing activity in SA 514, possible future modifications to closed areas and 2013 Council priorities. RAP members present were Mr. Barry Gibson (Chair), Mr. Rick Bellavance, Mr. Tom DePersia, Ms. Emilie Litsinger, Capt. Patrick Paquette, Mr. Mike Sosik, Jr., Mr. Jonathan Sterritt, Mr. Don Swanson, and Mr. Kevin Twombly. They were supported by staff members Mr. Tom Nies and Fiona Hogan (NEFMC) and NEFSC staff Scott Steinback and Min-Yang Lee.

Discussions were guided by a draft of Framework (FW) 48 management measures dated October 2, 2012, a draft of the options and alternatives to minimize the effects of fishing on EFH, a summary of commercial fishing activity in SA 514, the preliminary Council priorities for 2013 and a series of correspondence received by the New England Fishery Management Council.

Overview of Framework Adjustment 48

Staff provided an overview of FW 48 that includes specifications for FY2013 – 2015, mitigation measures and revised accountability measures (AMs). Further detail was provided on opening the closed areas within this action using the strategy of allowing sectors to request exemptions to the closed areas within their sector operations plans. Access would not be allowed into designated habitat areas; an amendment and EIS would be required for that. FW 48 would contain a primarily qualitative analysis of the impacts of opening the closed areas; the Environmental Assessments (EAs) in the sector operations plans would be more comprehensive. The Council is scheduled to vote on FW 48 at the November Council meeting; public comment period would be in January and the FW could be implemented by May 1, 2013. One RAP member expressed concern over the level of analysis contained in the sector EAs and if cumulative effects would be considered. Staff explained that NMFS will evaluate each request and consider the cumulative effects, if for example, twenty sectors have requested access to a closed area at the same time.

A number of RAP members were concerned about the impacts of opening the closed areas to commercial fishing effort on the recreational industry. Availability of cod was low in spring and summer and effort was concentrated in the proposed area to be opened in the western Gulf of Maine (WGOM). Concern was expressed over the need for recreational boats to go further offshore in order to have a successful trip because of safety and the current high price of fuel. Larger commercial boats are better equipped to go further offshore. The area to be opened was thought to be a transition area for cod as they come out of the deep water making them vulnerable to heavy fishing pressure and potentially affecting the number of cod in the ecosystem. Habitat was also a concern; the habitat had been allowed to grow back potentially attracting more fish. Stellwagen bank was suggested as an example of the effect sector vessels can have on the cod population in an inshore area.

Some of the public comment included:

- Tim Tower: I'm against opening up the closed areas but not for the same reasons. As far as recreational access goes, it doesn't bother me but these areas have been left alone so long they've become what they once were: hake and flounder spawning areas. Closed Area II is a big cod area. This is what we should do when the fishery was healthy not in a crisis situation. Sectors are under a firm TAC but that TAC hasn't been nearly low enough and it's encouraged pulsed fishing. The WGOM area now has specific spawning areas and the hake then move up to the edge areas and will be wiped out. We'll be left with the same situation where they'll want more access. What they should be thinking about is closing more areas and limiting recreational access in more areas. Bag limits and slot limits and that kind of stuff. But in my tagging work that I did for 20 years, a lot of the cod were caught inside the cap in the spawning areas by whaleback. After they had that huge pulse fishing on the cod on Stellwagen, we've seen a huge loss of cod. It's rare to get a cod over 10lbs; if I do I put it on my website. We can't encourage this kind of thing. The TAC should be lowered enough to discourage commercial fishing or low enough to allow them to come back. They've allowed them to get 50,000 lbs of cod out of an area by 50 boats. That was our spawning stock. So why do the same things in the closed areas? In a different time I'd say fine but not now.
- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): I'm not an advocate of opening any of the closed areas and dead set against the opening of the WGOM area. You're destroying the livelihood of the recreational boats and you're allowing the big boats to compete with the little boats. Stellwagen destroyed the fishery. Opening these areas is a Band-Aid approach and it's a way to give some more money to the larger operators. You're not distributing the wealth for all; you're supporting consolidation. A year from now we'll be saying there's no refuge for the cod. I think it's a bad idea opening up the other zones as well. If that's what they have to fall back on to keep their boats from being repossessed but it's a bad strategy. This is cutting our nose off to spite our face. The effort put into conserving the WGOM area will be destroyed in no time. We'll be looking at a decade or more of conservation work and the fish will be gone and nothing will be achieved.

Motion: The RAP supports status quo of the WGOM closed area due to potential negative impacts on the groundfish resources, habitat and gear conflicts. (Mr. DePersia/Mr. Twombly).

Some of the public comment included:

- Tim Tower: I'm against this approach. It makes it seem like it's a recreational approach so we should keep it closed. The whole premise is that we're trying to bring the cod back. If we just keep the WGOM closed we should rescind what the council said. Fippines is a huge cod area. As for Closed Area II, where did our huge haddock year classes come from? Closed Areas I & II of course. I'm so against just saying WGOM. Right now the WGOM pollock are feeding Platt's bank. Now you can make a living out there. Right now some of the fish from Cashes are going in there. Without all of these areas closed we

won't see any rebuilding. We're going to see some rebuild on pollock. What's the incentive to go out fishing if there's nothing to catch?

One RAP member was concerned about the general state of stocks throughout the region and wanted to address the poor setting of the ACLs as it seemed like they were harvesting all the fish yet not reaching the quota. The motion specifically addresses the WGOM area because it was extremely important to the recreational industry.

The motion **carried** on a show of hands (7/0/1).

Motion: The RAP supports the status quo of all groundfish closed areas due to current condition of groundfish resources. (Mr. Paquette/Mr. Sterrit)

Rationale: It doesn't make sense to open areas in the middle of a disaster when we can't catch our quota now. Clearly we have a resource issue. We're in collapse for WGOM cod and GB cod is worse. It's insane to consider opening more areas to go out and wipe out what's left of them. I completely believe this is political in nature and is all about getting the scallopers more YTF quota. I think we're going to lose some groundfish stocks while trying to preserve the scallop fishery.

Some of the public comment included:

- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): If you look at the overall picture we're trying to rebuild the stocks. We don't want to open things up when we're trying to rebuild them. I know it's been said 15 times. It doesn't seem to make sense to open these areas.
- Captain Satch McMann (Wells, ME): I want to stress that the cod stocks are bad and every year they've come down even more. This year is worse. I was opposed going from 24" to 19" minimum size. Just opening up any of the closed areas could collapse the fishery.

The RAP discussed the implications of not allowing the larger vessels to have access to the offshore closed areas. The areas were closed for a long time but the fishery is still struggling. Supporting access to those areas would give larger vessels a place to go if they were excluded from inshore areas especially in a time with low stock sizes. One RAP member thought Georges Bank (GB) cod was already wiped out and rebuilding would be impossible if closed areas were opened; the Council should work on rebuilding cod or haddock stocks and not set quotas too high for too many boats.

The motion **carried** on a show of hands (6/1/1).

The RAP discussed the disaster relief money and wanted to ensure that the for hire fleet was not left out of its distribution.

Motion: The RAP requests that the for hire groundfish fleet be included in any disaster relief program. (Mr. Paquette).

The chair ruled the motion **out of order**.

The Council cannot get involved in the financial distribution of money. It is considered lobbying and is prohibited by law.

Some of the public comment included:

- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): On October 16 Congressman Keating has a meeting and one of the agenda items is exploration of distribution of the disaster funding.

Description of model used to develop recreational measures

NEFSC staff described the bioeconomic model of the recreational GOM cod and haddock fishery that was used to develop the current regulations of the 19" size limit and 9 fish bag limit. The model was reviewed in September 2012 by members of the New England and Mid Atlantic SSCs in Woods Hole, MA; a report of that review is available. The model was designed to answer a number of questions:

1. How do changes in management measures affect recreational anglers in terms of size limits/possessions limits?
2. What combination of these can achieve conservation objectives?
3. How do these changes affect stock size?

There are 2 components of this model: economic and biological. The data for the economic sub-model came from a survey done in 2009 that was an add on to the MRFSS survey from ME-NJ. Anglers were asked in the field if they would like to participate. They used the Dillman surveying approach that all researchers used that has an enhanced response rate. If we didn't hear back from people they sent reminder postcards and another copy of the survey. The response rate was approximately 35%, which was as expected. Anglers were asked to consider hypothetical fishing trips and to choose the one that they prefer. They varied the trip features, including length & cost. They tried to include historic regulations and potential future ones. They were able to estimate what the anglers thought the value of the fishing trip was. Cod kept had a higher value than haddock kept. Anglers are getting some value from releasing cod and haddock but not nearly as much as keeping them.

The model had no consideration of biological stock structures. There was no explicit link between changes in regulations and expected catch in the behavioral model; the results are not explicitly linked to changes in numbers of trips per season (i.e. effort shifts). The goal was to simulate an entire year of fishing effort based on the behavioral model. They used behavioral parameters to learn how people form an expectation of what they will catch. Historical encounter rates and stock structures were used; some length-based targeting of fish was known to occur. Data from 2007 – 2009 were used to look at the distribution of cod and haddock. Some trips didn't encounter either, resulting in lots of zeroes. The fish caught did not have the same length distribution of the stock indicating there is targeting by anglers. The numbers at age was combined with the age-length data from the NEFSC surveys to get the numbers at length structure.

The analysis did not distinguish between the many types of recreational boats because there were insufficient data for each group so data had to be pooled; the 3 year time period was also selected to ensure sufficient data were available. A RAP member questioned the 100% mortality assumption that was used for cod. That assumption was used in the last assessment; a lower mortality rate may be approved in the benchmark assessment in December and the model can be updated. The RAP members said they always expect to catch their limit when they go out on a trip and suggested that instead of asking in the survey if they would choose a different activity other than fishing if they had low expectations for the trip, the question should include fishing on other fish, e.g. stripers.

Some of the public comment included:

- Captain Satch McMann (Wells, ME): If this survey showed you'd get the best economic benefit if you put it at 19" and 7 fish bag limit, is there a way to detect if it will deplete the stock?

NEFSC staff explained that the model can be expanded to look at interactions between cod and haddock, i.e. if changes for haddock affect how many cod were caught. Other future work will include determining the impact on stock size of recreational measures but is dependent on the projections from the assessment. The model can take up to a week to run depending on the number of measures being analyzed. The 2012 numbers are not available yet so no model runs can be done to see if it matches up with industry perception of the current stock status.

Measure development for FY 2013 and beyond

Staff provided the RAP with the expected timeline for GOM cod benchmark assessment and the availability of an ACL in January for the fishery. As a result, the RAP had to discuss management measures based on a range of ACLs that is thought to contain the eventual ACL. Staff suggested comparing the catches from FY 2012 and FY 2011, from NERO accounting tables for recreational catches for GOM cod and haddock for A+ B1 (the B2 is currently unavailable for FY 2012), to generate any ideas for measures for 2013. In the case of GOM cod, the recreational vessels caught about 57.3% of its cod ACL and about 84.3% of GOM haddock. Preliminary data suggest FY2012 catch is considerably lower than the previous year.

The RAP expressed extreme frustration at having to make decisions on management measures without any data. Without a known ACL for cod, it was extremely difficult to determine to what extent effort would have to be reduced or how to achieve that reduction. If the cod numbers continue to be low status quo could be an option, however, if the ACL is set at the lower end of the range and no measures are put in place for FY2013 resulting in an overage there is the risk of an AM being triggered.

Staff suggested a strategy that was proposed during Amendment 16 development that would allow the Regional Administrator (RA) to adopt management measures to enable the recreational fishery to achieve, or not exceed, sub-ACLs that are assigned. Such measures can be implemented after consultation with the Council and would be implemented consistent with the

Administrative Procedures Act (APA). The RAP could develop the potential measures and have them approved in FW 48. The current bag limit and minimum sizes were implemented under an Interim Rule and are set to expire on May 1, 2013, which concerned some members who rely on 19" minimum size cod for a successful trip. Members were hesitant to select a specific bag limit or minimum size without an ACL because certain reductions may make trips no longer viable. Discard mortality rates would be different for each species; the working group for the cod benchmark assessment is currently using 30%.

The RAP debated which measures had the greatest impact on trip viability for potential customers. Customers were thought to be more concerned with bag limits than minimum sizes of fish or season restrictions.

The RAP discussed having differential measures for the party/charter boats and private anglers where the party charter boats may have a higher bag limit combined with a higher minimum size than a private vessel; the goal being to achieve the conservation equivalent that's equal for both groups while still allowing them to operate. One RAP member was concerned this could lead to the creation of sub-ACLs for each of the groups and informed the RAP of a survey that asked the public, at trade shows, if they would support such a strategy; over 90% of the public said no. The RAP chair explained that the purpose of this strategy would be to indicate to the RA that that RAP is amenable to this strategy and to provide the RA with an outline of the RAP's preferred hierarchy of measures. Another RAP member suggested that if this goes forward, vessels should be allowed to declare into one of the two groups to prevent vessels taking advantage of a set of regulations when it suited them better.

Some of the public comment included:

- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): It seems that part of the problem with the cod fishery is real time monitoring if we keep the cod regulations exactly as they are now. When you achieve maybe it's 80% of our ACL then there could be a regulation change put in place that gets backed off to maybe 5 fish /day and if you hit 90% you go to 2fish/day. NEFMC put forward management tools that you can do. Vessel monitoring and if that's not enough if they put some tools in place and once they're met we're done fishing. This gets rid of the split and we won't be leaving any bag limit on the table. If we go with the 5 bag limit and in October we've met 50% of the ACL, then we've missed out on fish. We need real time monitoring. It seems to me that if we don't have what we need we should be proposing that NMFS put in place what we do need. You can switch to stripers, sharks, etc. A 9 fish bag limit is the minimum for people to travel for. I hope it initiates some conversation among you.

Motion: The RAP recommends the Council and RA use their authority to develop separate management measures for the for-hire fleet and private anglers, if necessary to keep the for-hire fleet economically viable. (Mr. Bellavance/Mr. DePersia).

Some concern was expressed that this was removing control of management measure development from the RAP but considering the limited time available to develop measures after

the ACL is known, this motion had some support. If this was approved the public could provide comment during the comment period for FW 48.

Some of the public comment included:

- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): If I was on the Council I'd read that and say what do you gentlemen specifically have in mind? There's no value in that statement until you come to the level of detail. They'll always use their authority to develop measures. They want more detail. You're trying to give them authority they already have. I'm not opposed to what's there but I think it's intuitive. I think they're going to ask what are you proposing here and after you put this forward, where do the details come from? If you do come up with new ones then I predict you cross this out and put up measures for recreational and for hire boats.

The motion **carried** on a show of hands (5/3/0).

Motion: If the federally permitted charter/party boats and private boats are fishing under separate regulations that the charter/party boats can also not fish under the private boat regulations. (Mr. Sterrit/Mr. Swanson)

Rationale: For-hire boat must fish under those regulations for the season and should not be allowed to fish under the private recreational regulations for that season.

The motion was designed to prevent corruption if the groups were split but could cause problems if state waters try to have complimentary measures too. The rules would be assigned to a permit and the vessel would have to follow those rules.

Some of the public comment included:

- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): The problem is you're not quite sure what you're asking for yet. The devil's in the details. In pushing for the boats to be separated you're voting on something in concept really early and I'm not sure if that's going to hurt or help.

The motion **failed** on a show of hands (1/2/5).

The RAP agreed that the management measures should be prioritized to indicate to the RA which are more important and used first for each species, although a few individuals were hesitant in case all measures were applied at once and the low possibility for another RAP meeting once the ACL was known.

Motion: If additional effort controls are necessary to reduce cod catches, consideration should be given, in order, to increase minimum size limits, adjust seasons and change bag limits. (Mr. DePersia/Mr. Sterrit).

The RAP grappled with this without any firm numbers. A back of the envelope calculation was done to provide some rough estimate of what reduction might be necessary compared to preliminary FY 2012 numbers and the haddock ACL.

Some of the public comment included:

- Steven James, president of Boston Big Game Fishing Club (Marshfield, MA): Using the term restrictions, you might want to incorporate effort control. It might be more consistent. Make adjustments in-season instead. Does NEFMC have the capacity to do in-season adjustments or is beginning of the year is what we live with?

Staff explained that in-season adjustments are done in the commercial fishery but it is difficult to alert the entire recreational fleet to any in-season changes.

The motion **carried** on a show of hands (7/0/1).

Motion: If additional effort controls are necessary to reduce haddock catches, consideration should be given, in order, to increase minimum size limits, change bag limits, and adjust seasons. (Mr. Paquette/Mr. Bellavance)

The same approach was suggested for haddock but the fishery and current regulations differ between cod and haddock; there are currently no bag limits for haddock. A longer season might be preferred for haddock. Considering these differences the RAP discussed altering the prioritization of measures for haddock.

Motion to amend: If additional effort controls are necessary to reduce haddock catches, consideration should be given, in order, to increase minimum size limits and change bag limits. (Mr. Swanson).

The motion to amend **failed** for a lack of a second.

The RAP was hesitant to remove one of the 3 potential tools from the list. The option to allow fishermen to maximize a multispecies trip, by allowing less haddock when you can catch more cod or vice versa, was discussed.

Motion to amend: to add that haddock bag limit should be higher when cod cannot be landed (Mr. Twombly/Mr. DePersia).

The motion to amend **failed** on a show of hands (2/2/4).

The main motion **carried** on a show of hands (5/1/2).

Recent commercial fishing activity in SA 514

Staff gave a presentation on recent commercial fishing effort in SA 514 that contrasted three separate time periods: pre-trip limits (1996 – 1997), pre-sectors (2008- 2009) and post-sectors

(2010-2012). Total groundfish landings were lower in the 2000s than in the late 1990s. The data indicate that for smaller vessels (less than 50 ft) total landings of groundfish has decreased in this area after sector implementation on May 1, 2010. Vessels larger than 50 ft show a slight increase in landings during the same time period but this increased level was similar to landings observed in 1996 – 1997. It is very difficult to isolate the sole cause for this as it is confounded by population dynamics and fish behavior. The increase in the number of trips landing cod could reflect more of a response to fish behavior, e.g. aggregation, than to removal of trip limits. Sectors may have influenced short term fishing behavior but when examined across a longer time frame, they do not appear to have had a significant effect on fishing in SA 514.

The RAP were very interested in these data as it appeared to agree with their anecdotal evidence of increased effort by large boats in the area. They were concerned the continued effort by commercial vessels would prevent the rebuilding of the GOM cod stock and thought the Council should take action. The Groundfish Committee Chair informed the RAP that this topic and presentation were not on the Committee's agenda because of FW 48 but thought it would be addressed under Amendment 18.

Motion: The RAP believes that the shift of large vessel effort into Stellwagen bank impedes rebuilding of GOM cod and recommends the council address this issue in the revised GOM cod rebuilding plan or next available action. (Mr. Paquette/Mr. Sterrit).

Rationale: It's a way to get at this issue that may be tied to the survival of the inshore for hire fleet on the table.

The motion **carried** on a show of hands (8-0-0).

Possible future modifications to closed areas

Staff provided an overview of the Omnibus Habitat Amendment. The Omnibus Habitat Amendment was broken up into two phases. Phase 2 will consider modifying groundfish closed areas (year round and seasonal). The Habitat Committee is nearly finished identifying areas needed for groundfish management; this is on the Groundfish Committee agenda for their October 11, 2012 meeting. Currently they are assessing whether they're needed for mortality. This will go to the Council for a vote in January 2013.

There are a few options available; one is to remove existing areas and adopt new habitat management areas (mobile bottom tending gear restricted). This could result in great changes in certain areas, e.g. the Great South Channel and WGOM closed area. Another option is to restrict mobile bottom tending gear. Another option would be to create possible areas with gear restrictions like length on the foot rope.

The Closed Area Technical Team (CATT) has recently begun work developing groundfish alternatives; no alternatives for this amendment have been developed yet. The Groundfish Committee will discuss goals for use of areas in groundfish management at the October 11, 2012 meeting. These alternatives will be developed rapidly in order to be voted on at the January 2013 Council meeting. The measures developed in FW 48 may be superseded by those in the Omnibus

Amendment depending on what alternatives are developed for FW 48; there is the possibility the alternatives will be the same for both actions.

Tentative 2013 Council Priorities

Staff provided a quick overview of the 2013 Council priorities. The Council reviewed the priorities at the November 2012 meeting and suggested a few items to be considered for addition to the list. The Executive Committee will review it and finalize a list for a vote at the November 2012 Council meeting. Given current staffing levels, there's no guarantee that all seven priorities can be done for groundfish.

Other Business

A RAP member wanted to begin the conversation on setting ACLs too high; the GOM cod ACL was thought to be set nowhere anywhere near realistically. The practice of always selecting the higher ACL possible and counting on large year classes was deemed very risky. Without making an effort to rebuild there was concern that fishing might not be possible in 5 years' time. The difficulty comes in balancing rebuilding with a viable business. The RAP member thought there were too many people trying to live off too few fish. Some fishermen are calling for fishing to be shut down and he expects the public to do the same shortly. The Council Chair noted that this discussion is already being held at the Council level based on staff presentations stating that even though we selected an ACL based on the projection, we fished to less than that number and after the assessment learn that we were still overfishing.