



New England Fishery Management Council

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MEMORANDUM

DATE: February 5, 2009
TO: Skate Oversight Committee
FROM: Skate Plan Development Team (PDT)
SUBJECT: Summary of skate PDT consensus on accountability measure (AM) and annual catch limit (ACL) monitoring options

The Skate PDT met with several Northeast Regional Office staff to evaluate and discuss new proposals for a Target TAC accountability measures and a method to monitor skate landings without a VMS/IVR trip declaration. Participating in this discussion were several people from the Fisheries Statistics Office, the Office of Law Enforcement, and the Skate PDT. The following items represent the consensus of the participants during the meeting.

ACL and TAL Monitoring

Due to VMS system design and technical limitations, the consensus was that it would be better to monitor skate fishery Total Allowable Landings (TALs) using existing codes in the SAFIS dealer reporting system. Market codes for skates indicate the species and product form as landed (i.e. wings or whole) and disposition codes indicate the intended use and market (i.e. food or bait). By considering these combined data as currently reported, the skate landings can be appropriately classified and counted against the wing or bait fishery TALs. These reports should be sufficiently accurate to allow the Regional Administrator to invoke AMs at the appropriate time. The reliability of the reporting of these codes could be further enhanced through NMFS outreach and education.

The recommended monitoring program (see attached draft) is expected to allow accurate and timely monitoring of skate fishery landings. It would avoid technical and VMS program limitations, eliminating the extra cost associated with making trip declarations through the VMS or IVR programs¹. The proposed alternatives in Amendment 3 have the potential for doubling the number of DAS activity codes, as an overlay of other trip types [e.g. multispecies (A and B regular), monkfish, scallop, access area, and SAP]. Reliance on existing reporting requirements rather than a new trip declaration to classify landings

¹ For clarification, Draft Amendment 3 alternatives were written so that vessels with VMS equipment would be required to declare their intent through a DAS activity code to fish for wing or bait skates and land more than 500 lbs. whole weight equivalent. Vessels in the skate fishery without VMS equipment could make a skate trip declaration through the IVR system.

and aid enforcement of skate closed areas could minimize reporting burdens while reducing costs to NMFS.

To enhance the ability of NMFS to monitor the ACLs and prevent vessels from avoiding the regulatory limits when one or the other skate fishery closes, the consensus was that Amendment 3 should include the following constraints:

- If the bait fishery closes when the landings reach the TAL trigger, then the skate possession limit should automatically decline to the skate wing fishery possession limit if the wing fishery is still open, or to the incidental skate possession limit if the wing fishery is closed.
- If the wing fishery closes when the landings reach the TAL trigger, then the skate possession limit for vessels without a Skate Bait Letter of Authorization would decline to the skate incidental limit, i.e. 500 lbs. whole weight equivalent.

In addition, the PDT discussed the following constraints on the wing fishery that would prevent fishermen from making short day trips to land 500 lbs of skate wings (for example, if the price rises) and targeting large skates, landing them in whole form to supply the wing market (processing the skates onshore). The Skate PDT does not recommend consideration of these measures at this time, because they would encourage discarding of incidental skate catches and because the TAL is based on a target that is 75% of the ACL. As such, allowing some wing landings from incidental catch is consistent with the ACL framework.

- If the wing fishery closes when the landings reach the TAL trigger, then the existing maximum size limit (23 inches total length) for the bait fishery should apply to ALL skate landings for the remainder of the fishing year.
- If the wing fishery closes when the landings reach the TAL trigger, the regulations should require ALL skate landings to be in whole form for the remainder of the fishing year.

If the Council chooses a final alternative that includes time/area skate closures (Alternatives 1A, 1B, 2, and 4) a mechanism to determine what type of skate fishing is being conducted is required, however. In addition to a VMS trip declaration to monitor the skate closures, there are three possibilities to enhance at-sea enforcement which may be less costly and burdensome.

In one approach, any vessel that expects to exceed the incidental skate possession limit (500 lbs. live weight) must have a Letter of Authorization that specifies whether the vessel intends to target and land skates for a specified minimum period of time. Vessels holding the Letter of Authorization would be unable to fish for any species in the skate closed areas, but may transit the areas with gear properly stowed.

In another approach, a Letter of Authorization would be required for any skate-permitted vessel fishing in the skate closed areas. Vessels holding these Letters of Authorization would be prohibited from possessing more than the incidental skate limit on all trips for a specified minimum period of time, regardless of area fished. Only vessels holding permits to land skates and that anticipate fishing for other species in the skate closed areas would need this type of Letter of Authorization, however. Vessels holding skate permits but without this type of Letter of Authorization may transit the closed areas with gear properly stowed.

A third approach would rely on at-sea enforcement of the skate regulations. Any skate-permitted vessel fishing in a skate closed area would be prohibited from possessing more than 500 lbs. of skates live weight. Although it might be less efficient and difficult to enforce because NMFS Law Enforcement could not flag certain vessels fishing in the area (by identifying fishing by vessels with a skate permit, with or without a Skate Letters of Authorization), it is how many existing closed areas are enforced anyway.

If the VMS/IVR trip declaration remains in the final alternative to allow monitoring of fishery landings and enforcement of skate closed areas, the consensus was that the amendment should prohibit trips participating in special access (SAP), scallop access area, and research set-aside programs from possessing more than the incidental skate possession limit. This restriction would have two benefits. First, it would greatly reduce the number of additional VMS activity codes required to monitor skates. Second, it could also reduce the incentive to target skates in programs meant to target other species. The Data Poor Assessment Workshop observed that for whatever reason the skate discard/kept ratios were higher (as much as three times normal) in access program trips, particularly on eastern Georges Bank.

Accountability measure options for Target TAC alternative

During the Amendment 3 comment period, NMFS indicated that the Target TAC alternative (Section 5.1.1.3 on page 5-42 of Draft Amendment 3) was unapprovable as written, because it lacked an automatic adjustment mechanism that would act as a required accountability measure. The Regional Office did not see the framework adjustment process as being sufficient to meet this ACL requirement.

A new proposal was evaluated and discussed by the Skate PDT. The new proposal would be monitor catch in the same way that was described in the draft amendment, but overages in landings (i.e. landings exceeding the TAL) and/or catch (landings and discards exceeding the ACL) would cause an appropriate automatic adjustment to be implemented by the Regional Administrator based on landings reports and catch estimates. The new proposal would require an annual estimate of total discards, to determine if the ACL had been exceeded.

The PDT felt that a 25% ACL/ACT trigger is a reasonable starting value to account for scientific and management uncertainty. Setting the TAL trigger at something less than 100% is needed to account for landings caused by incidental catch while vessels target other species and to account for increases in discards caused by a temporary prohibition on skate landings (or reduction in the skate possession limit). The PDT felt that a 90% TAL trigger is a reasonable starting value.

As proposed, an overage in a fishery TAL would cause a reduction in that fishery's TAL trigger (a percentage of the TAL) to begin in the next year, based on the amount of the previous overage(s). If that TAL overage, or an increase in discards, also causes an overage of the ACL, the 25% buffer between the ACL and the ACT would increase to account for the management uncertainty thereby reducing the likelihood of an overage in subsequent years. The PDT discussed using a continuous function, such as reducing the TAL trigger on a one for one percentage basis from overages in a previous year. For example, a 7.5% overage in a previous year would cause the TAL trigger to decline from 90% to 82.5% of the TAL. This would avoid discontinuities in the formula embedded in "Table X" where small differences in landings could cause a 5% decline in the TAL trigger.

The PDT agreed that the new proposal to increase the ACT/ACL buffer and/or the TAL trigger was more consistent with the National Standard 1 guidelines and recommended that the Council consider this AM measure in the Target TAC alternative. The PDT also recommended that language should be added to allow the Council to raise either the ACT or TAL trigger by framework action, if either discards or landings controls become more certain (through better estimates or more reliable reporting and fishery

controls). For example, if the ACL has not been exceeded and the catch has approximated the ACT, then the Council may consider reducing the ACL/ACT buffer by framework action.

The PDT also recommended more thorough evaluation of whether the ACT needed adjustment when the ACL overage was due primarily to an overage in a TAL. In this case, it may be sufficient to adjust only the TAL trigger to account for uncertainty in controlling landings. The PDT recommended development of both AM options for Council consideration in the amendment.

The PDT also discussed the catch monitoring needed for the Hard TAC alternative (Section 5.1.1.2 on page 5-41 of Draft Amendment 3). While landings monitoring would be the same as that for the Target TAC alternative, it will be very difficult to monitor discards for all fisheries that catch skates. Monitoring discards for an access program with enhanced sea sampling is one thing; real time monitoring of skate discards in several large fisheries at once is quite another issue and may not be possible in real time to monitor an ACL without significant cost.