



Council Report

An update published by the New England Fishery Management Council – February 2012

The Council Report summarizes major issues voted on or discussed at each regularly scheduled meeting of the NEFMC. Its 18 members met most recently on January 31-February 2, 2012 in Portsmouth, NH.

At its February meeting, the Council addressed issues related to sea scallop, groundfish, monkfish, and small mesh fisheries management, as well as cooperative research and enforcement. It also discussed actions related to the Touchstone Report, *Review of the New England Fishery Management Process*, prepared by Mr. Preston Pate and the SRA Consulting Group.

Additionally, a number of presentations were received on the following topics:

- A review of the white paper titled Fishery Management Plan Performance Evaluation Plan prepared in response to the Touchstone Report;
- A Bureau of Energy Management update about projects and proposals in New England;
- Briefings about improvements to the catch estimates provided through NOAA's Marine Recreational Information Program; and
- A solicitation for comments from NOAA's Highly Migratory Species Division concerning its intent to prepare an Environmental Impact Statement and Fishery Management Plan Amendment that would consider catch share management for the Atlantic shark fisheries.

Sea Scallops

Emergency Action Requested Because the sea scallop biomass in the Delmarva Access Area, as defined in the Scallop Fishery Management Plan, has decreased much more quickly than originally anticipated, the fishing industry raised concerns at the Council's January meeting about continued fishing there in 2012.

In response, the Council approved a motion asking NOAA Fisheries to implement an emergency action for the upcoming fishing year beginning on March 1. The Council proposed the agency close Delmarva and move the split trips that were initially allocated there to Closed Area I on Georges Bank.

The NEFMC's request was based on several issues: 1) Effort in 2012 in the area would likely harm the resource in Delmarva, particularly given that new recruitment was observed in all three 2011 surveys --- the SMAST video survey in May, the federal dredge survey in June and the Virginia Institute of Marine Science dredge

survey in October; 2) There are potentially uneven economic hardships on vessels since only half of the fleet will be allocated a trip in this area; and 3) Since catch rates are expected to be lower with increased area swept compared to typical access area trips, there is potential for increased impacts on the ecosystem, most notably sea turtles which are known to overlap the scallop fishery in that area.

Framework 24 Initiated The Council also initiated Scallop Framework 24 which included the original list of proposed alternatives that have been discussed for several months: fishery specifications, potential modification to the seasonal restrictions within the Georges Bank access areas, yellowtail flounder accountability measures (AMs) for the limited access general category (LAGC) trawl fishery; and the option for those vessels to lease mid-year.

The Council passed a related motion that

included two suggestions provided by the Scallop Plan Development Team: include LAGC open area trips under the observer set-aside program, and consider a shift in the timing of the yellowtail flounder AM from the year after exceeding the sub-annual catch limit (sub-ACL) to the second year after an ACL overage occurs.

Other Issues The Council also asked that NOAA Fisheries Service identify potential ways to improve the review and quality of observer data by adding a feedback loop to include scallop vessel captains. This step would allow for a review of important bycatch information at the end of a trip. The Council also requested that any solution identified apply to all fisheries.

The Council further requested that the Northeast Fisheries Science Center provide a presentation to the Council later in 2012 detailing plans for the federal scallop survey and the integration of data collected using a relatively new towed underwater camera (Habcam).

Finally, the Council briefly discussed but did not act on the potential March 1, 2012 closure of the Southern New England Mid-Atlantic Yellowtail Accountability Measure area. The area could close to the limited access scallop fleet because of a projected overage of the 2011 yellowtail bycatch sub-ACL. Reopening might occur once Framework Adjustment 47 to the Groundfish Plan is implemented if the scallop overage is not higher than 150 percent and if the total yellowtail ACL is not exceeded. It was unclear at the Council meeting when that determination would be made and if a separate action would be needed to reopen the areas under the Scallop Plan. Further discussion is likely to occur at the April Council meeting in Mystic, CT.

Groundfish

Gulf of Maine Cod The stock took front and center in widely circulated press reports following the second day of the Council meeting and after presentations about the most

recent stock assessment and another from the Scientific and Statistical Committee (SSC).

The official assessment report concluded the stock was overfished and overfishing was occurring in 2010, revealing a dramatic change in the perception of the stock's status since the last assessment in 2008.

Reporting on its own meeting held on January 25th, the SSC identified several issues about the assessment that warrant further investigation. At a future date, the committee will provide a work plan to the Council to address those issues. The Council expects to receive this information at its April meeting and will work with the appropriate organizations to follow up on those plans.

In other Gulf of Maine cod news, NOAA Fisheries recently advised the Council that rebuilding progress for this stock is inadequate. This notification triggers a legal provision that requires the Council to revise the cod rebuilding plan within two years, although NOAA Fisheries can implement an interim action to reduce (not end) overfishing in fishing year 2012.

After 2012, the Council is required to end overfishing on the stock beginning in May 2013, and also must adopt the new rebuilding plan by then. Meanwhile at the meeting members discussed recommending specific measures for the interim action by NOAA Fisheries.

After considerable debate, three recommendations to NOAA Fisheries were adopted:

- A fishing year 2012 catch level of between 6,700 metric tons and 7,500 metric tons;
- Recreational measures sufficient to limit recreational catches to the sub-ACL for the adopted catch. Measures such as reducing the minimum size for Gulf of Maine cod and bag limits were suggested;
- Changes to the groundfish closed areas - open the Nantucket Lightship Closed Area year round; open Closed Area I from May 1 to February 15; open Closed Area II south of

41 50' N from May 1 through February 15 to vessels using selective fishing gear, open the Western Gulf of Maine Closed Area, except for a specifically defined area of Jeffrey's Ledge off MA and NH; and open Cashes Ledge year round, except for defined areas around Ammen Rock in the Gulf of Maine.

These recommendations have been forwarded to NOAA Fisheries for consideration. As is always the case with an interim action, the agency is not under any obligation to adopt the Council's proposals.

While there has been much discussion that the proposed catches for 2012 will have large impacts on both the commercial and recreational fisheries, conditions in the fishery could worsen when the Council ends overfishing in 2013. The catch reductions could be much more severe --- possibly below 2,500-3,000 metric tons total. The situation with Gulf of Maine cod will likely become clearer during the coming months.

Other Groundfish Issues Under other groundfish business, the Council received a report on a NOAA-funded experiment, Project REDNET. That work is focusing on testing the feasibility of using mesh less than 6.5 inches to target redfish. After receiving the report, the Council approved a motion that NOAA Fisheries expedite approval of a sector exemption request that would facilitate targeting redfish in the Gulf of Maine.

A motion was approved reiterating the Council's commitment to completing an analysis of possible changes to the groundfish mortality closed areas.

The Council received a brief update on the recently completed Amendment 18 scoping hearings. It did not discuss the sector framework under development or proposed fishing year 2012 sector exemptions due to a lack of time.

Small Mesh Multispecies

Draft Amendment 19 Approved for Public Hearings

The Council approved Draft Amendment 19 to the Groundfish Plan for purposes of holding public hearings to solicit input from stakeholders and interested parties. The amendment proposes new management measures to regulate the small mesh multispecies fishery. Vessels in the fishery operate from New Jersey to Maine and target silver hake, offshore hake, and red hake using 2-3 inch mesh trawls.

Previously, the small mesh fishery had been regulated using special exemption areas that are open part of the year to minimize groundfish bycatch, as well as silver hake possession limits.

Although catches have remained below sustainable levels, held in check by low prices, possession limits, and limited opportunities to fish, Amendment 19 proposes new annual catch limits (ACLs), accountability measures (AMs), and a three-year specification process to prevent catches from exceeding sustainable levels and reduce the risk of overfishing.

More details about the amendment will be provided on the Council's web page, (<http://www.nefmc.org/mesh/index.html>), including when and where the public hearings are scheduled, likely in March. After the hearings, the Council is scheduled to approve final measures at its April 2012 meeting in Mystic, CT.

Cooperative Research

More About Catches Taken during Scientific Research Operations

In June 2011, following a NOAA Fisheries report on scientific research catch, the Council became greatly concerned about the lack of control and accountability for fish catches made by scientific research vessels, including their ability to sell the catch.

The Magnuson-Stevens Act explicitly exempts scientific research from the definition of fishing, and, consequently, does not provide NOAA or the Council with the authority to regulate or monitor any catch on research vessels.

The Council formally communicated its concerns about this issue in a June 29, 2011 letter to Eric Schwaab, then Assistant Administrator for Fisheries. At the November 30th meeting of the Research Steering Committee, NOAA Fisheries Regional Office staff provided an update on the agency's findings and ongoing efforts to resolve the matter.

At its January 2012 meeting the Council followed up by further agreeing, via formal motion, to ask the agency to clarify its interpretation of the Magnuson Act --- that NOAA Fisheries cannot require either the vessel or the research institution to report its catch.

Monkfish

NEFMC Forwards Control Rule Request to NOAA Because of the ongoing development of catch shares in the monkfish fishery, the Council has requested that NMFS publish a notification of a monkfish fishery control date in the *Federal Register* as soon as possible. The control date could apply but may not be restricted to limits on the accumulation, excessive control or ownership of fishing privileges, qualifying landings history and referendum qualification.

A control date is a point of reference intended to discourage speculative activity in the fishery in anticipation of the adoption of certain management measures that are based on historical levels of fishery participation. They also are intended to protect the interests and investments of historical participants.

The notice also would state that activity after the date may be treated differently from activity prior to the date. The Council unanimously approved the motion with one abstention. Prior to submitting the request to NOAA, the Mid-

Atlantic Council also must approve the control rule since the Monkfish Plan is developed jointly by the two Councils.

Enforcement

Towing Wire Issue Referred to Groundfish Committee The Council approved a motion to request that its Groundfish Committee review Section 648.23 (b) of the *Code of Federal Regulations* definition of "not available for immediate use" as it relates to a requirement that towing wires be detached from the net doors on fishing vessels, a rule intended to promote compliance.

The Groundfish Committee will be asked to determine if the regulations are necessary given the many safety concerns about the practice, to support their removal and consider a rewording for on-reel stowage that embodies the concept that "the net is on the reel and its surface is covered with an approved material."

Materials on the Web

More January Council Meeting Information Materials related to the above issues and PowerPoint presentations that accompanied the reports received by the Council are located at www.nefmc.org.

Audio files of the full meeting discussions as well as the meeting motions are posted at <http://www.nefmc.org/actions/index.html>.

Next Council Meeting

April 24-26, 2012 at the Hilton Hotel in Mystic, CT.