



## New England Fishery Management Council

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Eric Reid, *Acting Chairman* | Thomas A. Nies, *Executive Director*

# MEETING SUMMARY

## Skate Committee

Webinar

September 16, 2021

The Skate Committee met on September 16, 2021, at 1:00 PM via webinar to discuss: 1) Fishing Year (FY) 2022-2023 specifications, 2) Amendment 5 to the Northeast Skate Complex Fishery Management Plan, 3) 2022 Council management priorities, and 4) other business.

**MEETING ATTENDANCE:** Ms. Elizabeth Etrie (Acting Chair), Mr. Rick Bellavance, Mr. Dan Farnham, Dr. Jay Hermsen, Mr. Scott Olszewski, Mr. John Pappalardo, Mr. Dan Salerno, and Ms. Kelly Whitmore; Acting-Council Chair Mr. Eric Reid and new Council member Mr. Mark Alexander; Ms. Jenny Couture, Dr. Rachel Feeney (Plan Development Team (PDT) Chair), Mr. Lou Goodreau, and Ms. Janice Plante (Council staff); Ms. Cynthia Ferrio (NMFS GARFO staff); Mr. Mitch McDonald (NOAA General Counsel); and Mr. John Whiteside (Skate Advisory Panel (AP) Chair). In addition, about 2 members of the public attended.

### **KEY OUTCOMES:**

- On specifications, recommended a final preferred alternative, increasing the Skate acceptable biological catch for FY 2022-2023.
- On Amendment 5, recommended removing the intermediate possession limit alternatives, refining an alternative regarding the federal skate permit, creating no other alternatives for this action, and converting this action to a framework adjustment to consider the range of alternatives.
- Recommended preliminary management priorities for 2022 regarding skates.

### **AGENDA ITEM #1: INTRODUCTIONS, APPROVAL OF AGENDA, AND TIMELINE AND OTHER UPDATES**

The Acting Chair opened the meeting by introducing the Committee, welcoming attendees, and seeking approval of the agenda. There were no agenda changes. Staff reviewed the near-term timeline for developing the FY 2022-2023 specifications and Amendment 5.

### **AGENDA ITEM #2: ADVISORY PANEL REPORT**

The Advisory Panel (AP) Chair briefed the Committee on the AP meeting that had occurred that morning. The Committee had no questions on the AP report. The Committee had an initial discussion on the Amendment 5 alternatives regarding the federal skate permit. It was noted that the 30-day application deadline for groundfish and scallops applies to limited access permits, which must be renewed 30 days prior to the fishing year, or they are lost. That discussion was deferred to later in the meeting.

**AGENDA ITEM #3: SKATE FY 2022-2023 SPECIFICATIONS**

Staff recapped progress on developing specifications. The Skate PDT developed a method for setting the acceptable biological catch (ABC), which was approved by the Scientific and Statistical Committee (SSC) in late July. The PDT also developed a draft supplemental information report with the impact analysis. The Council will likely take final action on these specifications in September.

**1. MOTION: PAPPALARDO/SALERNO**

The Skate Committee recommends to the Council Alternative 2 (37,236 mt) as the final preferred alternative for the Skate ABC for FY 2022-2023.

*Rationale:* The Committee supports the AP motion and agrees with its rationale: “The resource can handle the increase in ABC, so the fishery should be able to benefit. There has been diversification in demand for bait, so demand for skate bait is likely to increase. The higher ABC may offset any chance for premature closures.” In addition, the PDT and SSC were supportive. An increase in ABC would have low biological risk, and it would be good for the fishery. While not following the control rule exactly, this represents the best available science given the data gaps.

**Discussion on the Motion:** The Chair questioned whether a notice of inadequate progress regarding thorny skate is forthcoming from NOAA; that may affect specifications and priorities. The PDT Chair responded that a letter is not expected until the next stock assessment, scheduled for 2023. A Committee member asked if it was appropriate to update the long-term catch/biomass time series. Staff clarified that this metric is not always updated and adding 2017-2019 data is unlikely to shift the 50-year time series noticeably. It was updated in 2017 due to new discard mortality information. Another concern was the use of a 3-year average for discards, that NOAA has robust coverage on skate trips so why not use discards in-season. Staff clarified that real-time discard data has been poor and it is better to use averages of discard information that has been vetted, but this method could be reevaluated in future (that the discard adjustment be done in-season given robust observer coverage (see last agenda item)).

The Skate AP Chair noted some concern within the AP about use of the ideal ABC control rule, based on 3-year survey index averages, can be challenging given missing survey data. However, it was approved by the SSC as the best scientific information available. The AP Chair indicated that missing survey stations during the past several years are unfortunate, but the Council must be adaptive, and stations may be missed in the future. The AP Chair is confident that this concern will be addressed by new leadership in NOAA, with a Rear Admiral who stresses that the *R/V Bigelow* complete its mission on time and at all stations.

**MOTION #1 CARRIED 7-0-0.**

Rick Bellavance	Yes	Scott Olszewski	Yes
Libby Etrie (Acting Chair)	No vote	John Pappalardo	Yes
Dan Farnham	Yes	Dan Salerno	Yes
Jay Hermsen	Yes	Kelly Whitmore	Yes

**AGENDA ITEM #4: AMENDMENT 5**

Staff recapped the June Council meeting, where the Council approved the updated language for the Northeast Skate Complex FMP objectives, added alternatives related to an intermediate possession limit and the federal permit, and recommended that the current wing and bait fishery control dates be rescinded. The Committee was asked for input on clarifying alternatives and if there should be any other alternatives for this action. Staff also presented initial analyses of intermediate possession limit

alternatives using in-season quota monitoring data (QM) and Area Allocation (AA) data (the final year-end data used in stock assessments with trip-level data) and the results of PDT tasking to estimate the realized observer coverage rates for trips landing skate with the 'MNK' declaration code for the wing fishery and 'DOF' declaration code for the bait fishery. Observer coverage rates were provided for all declaration codes for FY 2016-2019 for NEFOP and At-Sea Monitoring (ASM) observer programs. Other types of measures that the Council scoped for in early 2020 but the Committee has not done work to date were presented.

**2. MOTION: PAPPALARDO/BELLAVANCE:**

The Skate Committee recommends to the Council that all the alternatives on intermediate possession limits (Action 1, Section 4.1) be moved to considered but rejected.

*Rationale:* The problem that intermediate possession limits would solve is unclear, and the PDT analysis shows that the fishery would be hindered. There is not a need to create inefficiency in the fishery. The incidental limits in place would continue to help keep landings within landing limits. Having an intermediate possession limit would create unnecessary administrative burden.

**Discussion on the Motion:** A Committee member asked if, since all federal fisheries are required to report using eVTR now, can eVTR data be analyzed and the results compared to the QM/AA-based analyses done by the PDT. GARFO staff clarified that there are important differences between the QM and AA data. The purpose of the QM data is to monitor/track federal landings against the federal TALs, and they do not include research or recreational or state landings. Quota monitoring against the TALs determines if the incidental limit is triggered against commercial federal landings, and not these other catch components. AA tables are needed to analyze trip level data, and to compare landings from both datasets, landings would need to be removed from the AA data that are attributed to research trips and from trips without federal fishing permits on day of landing. GARFO staff responded to another question, that using eVTR would not change in-season monitoring methods, as the vessel must have a federal permit on the day of landing to show up in the QM tables (all federal vessels must submit the eVTR).

A Committee member asked if the AP wants to postpone development of an IPL (intermediate possession limit) or keep with the status quo? The AP Chair clarified that the AP prefers No Action. Committee members noted that PDT analysis shows that the IPL would hamper the industry in both wing season 1 and bait seasons 2 and 3. A committee member suggested that it may be appropriate to slow the landings rate just at the end of the fishing year. A committee member hesitated at removing the IPL proposal and would prefer to give the Regional Administrator (RA) the discretion enact an IPL at the end of the year. Committee members were concerned that the alternatives may cut the fishery short more than they would prolong the fishery, the opposite effect of what was intended. There was some support for implementing the IPL at the end of the year, in the last season, with just incidental limit triggers in the other seasons. That would address concerns about the potential for increased fishing effort shutting down the fishery prematurely (with the incidental limit). With limited entry off the table, an IPL may be a fair alternative.

It was noted that the AP was looking for limited access to protect their fishery from potential closures and incidental triggers; the IPL idea was an alternative solution to their perceived problem, but today, the AP did not support IPLs. Committee members supported use of QM data for analyzing in-season measures like IPL, because that is what GARFO uses to monitor the fishery. However, there was support for how the PDT did the analysis presented.

**MOTION #2 CARRIED 5-1-1.**

Rick Bellavance	Yes	Scott Olszewski	Yes
Libby Etrie (Acting Chair)	No vote	John Pappalardo	Yes
Dan Farnham	Yes	Dan Salerno	No
Jay Hermsen	Abstain	Kelly Whitmore	yes

**3. MOTION: PAPPALARDO/FARNHAM:**

The Skate Committee recommends to the Council that in Action 2, Alternative 2 (Federal skate permit), change the deadline for applying for a federal skate permit from 45 days prior to the start of each fishing year to 30 days.

*Rationale:* This would be more consistent with other fishery permit application deadlines.

**Discussion on the Motion:** The Committee noted that, for limited access permits, 30 days is needed to process a permit renewal and, if not done by the conclusion of the (previous) fishing year, then the permit is lost. The Acting Chair asked if it is possible to specify regulations for acquiring a skate permit by a certain date. A committee member from NOAA said that there is no precedent of a date certain by which a permit may be renewed (Alternative 2), but this can be added to the skate regulations. This is new territory, because the skate permit is open access, and the alternative is trying to find a new way to define boundaries on open access permits. A grace period for adding a year-round skate permit may be necessary. General Counsel indicated that there is no legal reason that the Council could not put in such a provision, if it is well supported with a purpose, which is necessary and beneficial to the fishery.

A Committee member was concerned that in Rhode Island, skate fishermen switch between federal and state waters, by dropping their federal permits (and having a RI state permit). As these alternatives seem to limit fishermen’s flexibility, the problem to be solved needs to be clear. In RI, most fish for skate in state waters during summer. With this alternative, once a federal permit is acquired, then fishermen are bound to fish in (federal waters) for the rest of year, which inhibits flexibility and is concerning. Alternative 2 is a quasi-limited access permit. The fishermen need to know by April 1 if they are going skate fishing that fishing year. If the concern is about people jumping out of the federal fishery once the incidental limit is triggered and into state fishing, then Alternative 3 may better address that issue. That hurts someone who is new to fishing; they could not get a skate permit until the next fishing year. The Acting Chair replied that the problem statement is related to effort (switching from federal to state).

**Public Comment:**

- **Mark Alexander (incoming Council member).** The 30-day requirement at the end of the year deals with when you need a permit. If someone gets a federal skate permit before the fishing year starts, why have a day specified at all? Reword that a federal skate permit must be obtained prior to start of the fishing year and that person would have from January to get that permit, when permit office opens.

**MOTION #3 CARRIED 6-0-1.**

Rick Bellavance	Yes	Scott Olszewski	Yes
Libby Etrie (Acting Chair)	No vote	John Pappalardo	Yes
Dan Farnham	Yes	Dan Salerno	Yes
Jay Hermsen	Abstain	Kelly Whitmore	Yes

**4. MOTION: SALERNO/FARNHAM:**

The Skate Committee recommends to the Council not developing alternatives on at-sea monitoring in this action (Action 3, Section 4.3).

*Rationale:* From the data presented, there appears to be a high level of coverage in the skate wing and bait fisheries across plan codes. The fishery would have limited ability to pay for coverage at this time.

**Discussion on the Motion:** A new Committee member asked if, when the problem statement and goals were developed, there was no understanding of coverage, noting that observer coverage seems good now by today’s standards. Others recalled concerns about increasing effort impacting the biomass of the stock especially if there were additional entrants. The data gaps are mirrored with the same concerns in the groundfish fishery. If it concerns both skates and groundfish, then it may be appropriate to look at the ASM component. Staff noted that the skate fishery is index-based, additional data might help with future to avoid reliance on the survey index alone. Identifying skates at the species level has been a challenge. Committee members were surprised to see the coverage levels so high, especially on DOF bait trips and MNK wing trips, feeling like those are good coverage levels for getting accurate information on catch and discards from the fishery. There was also concern about how increased coverage would be paid for.

**MOTION #4 CARRIED 6-0-1.**

Rick Bellavance	Abstain	Scott Olszewski	Yes
Libby Etrie (Acting Chair)	No Vote	John Pappalardo	Yes
Dan Farnham	Yes	Dan Salerno	Yes
Jay Hermsen	Yes	Kelly Whitmore	Yes

**CONCENSUS STATEMENT:**

If intermediate possession limit alternatives remain in this action (contrary to the above Committee motion), the Regional Administrator should have discretion throughout the year on if the intermediate possession limit should be implemented for whatever season they would apply to.

The Committee agreed with the AP, that the RA should have more discretion on triggering an IPL than the RA currently has for the incidental possession limit.

**5. MOTION: HERMSEN/PAPPALARDO:**

The Skate Committee recommends to the Council initiating a framework adjustment action to consider the measures identified by the Committee and discontinue work on Amendment 5. The framework would clarify the Skate FMP objectives as developed in Amendment 5 and include the alternatives developed through Amendment 5 on the federal skate permit (Section 4.2 of Amendment 5 discussion document).

*Rationale:* Based on the AP and Committee’s recommendations to not consider intermediate possession limits or at sea monitoring alternatives, it is more appropriate to review what is in this action through a framework adjustment action than an amendment.

**Discussion on the Motion:** A committee member noted that the monkfish gillnet fishery is already using 12” inch mesh and suggested the PDT look at other gear modifications, such as selectivity studies examining skates and monkfish by mesh size. Switching mesh size is a big undertaking. Considering gear modifications needs a lot more data than who uses it and what their catch is. With respect to trawls, there are no gear modifications that would be useful without losing the species being targeted. Staff noted some

background work on gear research in the March 2021 PDT memo. At this point, modifying goals of the FMP and Section 4.2, year-round federal permit, are the only proposals in Amendment 5.

A Committee member recalled discussing a revisit of the ABC flowchart and potentially accounting for sources of catch in other ways. Staff noted that is not within what was scoped for in Amendment 5, but it could be done in a future action. Another Committee member suggesting increasing trip limits if the Council approves increasing the ABC.

**MOTION #5 CARRIED 7-0-0.**

Rick Bellavance	Yes	Scott Olszewski	Yes
Libby Etrie (Acting Chair)	No vote	John Pappalardo	Yes
Dan Farnham	Yes	Dan Salerno	Yes
Jay Hermsen	Yes	Kelly Whitmore	Yes

**AGENDA ITEM #5: 2022 COUNCIL MANAGEMENT PRIORITIES**

Staff presented progress to date on 2021 Council priorities regarding skate and the PDT recommendations for 2022 priorities.

**CONSENSUS STATEMENT:**

The Skate Committee recommends to the Council the following 2022 draft Council work priorities regarding skates:

- Finish Amendment 5
- 2022 Skate annual monitoring report
- An action to consider revising skate wing and bait possession limits, to be implemented for FY 2023 and beyond.
- An action to consider revising the skate ABC/ACL flow chart.

**Discussion on the consensus statement:** A Committee member asked if thorny skate can be referred to as “depleted” rather than “overfished”. Council staff and NOAA General Counsel advised that that is more of a NEFSC task, a scientific determination, rather than a potential Council action. On changing possession limits, staff noted that the Committee and Council already preferred status quo trip limits for FY 2022-2023 and asked if there is interest in revising possession limits for FY 2022, to initiate a framework in 2022 for implementation in FY 2023, or just consider revising possession limits during the 2024-2025 specification process. A Committee member clarified his interest in starting an action on possession limits in 2022 for FY 2023 implementation. Another Committee member was not supportive of all the ideas on the list but would not oppose the full list going forward as a draft.

**AGENDA ITEM #6: OTHER BUSINESS**

No other business.

The Skate Committee meeting adjourned at about 4:25 p.m.