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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200130-0040]

RIN 0648-BJ46

Fisheries of the Northeastern United States; Northeast Skate Complex; Framework Adjustment 8 and 2020-2021 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement measures recommended by the New England Fishery Management Council in Framework Adjustment 8 to the Northeast Skate Complex Fishery Management Plan. This action would specify skate catch limits for fishing years 2020 and 2021, and increase seasonal trip limits for both the wing and bait fisheries. This proposed action is necessary to establish skate specifications consistent with the most recent scientific information. The intent of this action is to establish appropriate catch limits for the skate fishery, while providing additional operational flexibility to fishery participants.

DATES: Comments must be received by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2019-0143, by either of the following methods:

Electronic submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2019-0143*,
2. Click the “Comment Now!” icon, complete the required fields, and
3. Enter or attach your comments.

- OR -

Mail: Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, Greater Atlantic Region, 55 Great Republic Drive, Gloucester, MA 01930-2276. Mark the outside of the envelope: “Comments on the Proposed Rule for Skate Framework Adjustment 8.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

New England Fishery Management Council staff prepared a draft environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives. The EA also provides an economic analysis, as well as an analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. Copies of the Framework Adjustment 8 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also accessible via the Internet at www.nefmc.org.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Management Specialist, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council manages a complex of seven skate species (barndoor, clearnose, little, rosette, smooth, thorny, and winter) off the New England and mid-Atlantic coasts through the Northeast Skate Complex Fishery Management Plan (FMP). The FMP was implemented in 2003. Skates are harvested and managed through two different targeted fisheries, one for food (the wing fishery) and one for use as bait in other fisheries (the bait fishery). The FMP requires that annual catch and possession limits for the skate fishery be reviewed and established through the specifications process for up to two fishing years at a time. The current specifications (revised February 15, 2019; 84 FR 4373) expire on April 30, 2020, and will remain effective in the event that a final rule for this action is delayed beyond that date.

In August 2019, the Council's Scientific and Statistical Committee (SSC) reviewed updated information on the status of the seven skate species and recommended an acceptable biological catch (ABC) of 32,715 mt for fishing years 2020 and 2021. This ABC incorporates updated data derived from the median catch/biomass exploitation ratio for the time series up to 2019 and the three-year average stratified mean biomass for skates, using the 2017-2019 spring New England Fisheries Science Center (NEFSC) survey data for little skate and the 2016-2018 fall NEFSC survey data for the other species.

At a meetings in late August and early September, the skate plan development team (PDT), advisory panel (AP), and Committee met to discuss and make recommendations on these specifications. The PDT and Committee agreed with the SSC recommendation for the ABC, and following Amendment 3 procedures, recommended that the annual catch limit (ACL) be set equal to the ABC. The PDT and Committee also recommended a moderate increase in the total allowable landings (TAL) for both the wing and bait fisheries, primarily due to recent data indicating fewer discards in the directed fisheries. The AP and Committee discussed ways to provide greater access to the skate resource to better utilize the increased quotas. Based on this discussion, the Committee recommended increasing seasonal possession limits for both the wing and bait fisheries. The Council took final action on this framework at the September 2019 meeting in Gloucester, MA.

Proposed Measures

This action proposes the Council’s recommendations for 2020 and 2021. This action would increase the ACL to 32,715 mt (up from 31,327 mt in 2019) and the overall TAL to 17,864 mt (an increase from 15,788 mt in 2019). This would result in an approximately 13-percent increase each in both the bait and wing fisheries’ TALs. The bait fishery TAL would be 5,984 mt, and the wing fishery TAL would be 11,879 mt. The fishing year for skates is from May 1 to April 30. However, the directed wing and bait fisheries are broken up into separate seasons to more closely manage harvest. According to regulations at 50 CFR 648.322, 66.5 percent of the skate TAL is allocated to wing fishery. Of the wing fishery TAL, 57 percent is allocated to Season 1 (May 1 - August 31), with the remainder allocated to Season 2 (September 1 - April 30). In the bait fishery, Season 1 (May 1 - July 31) is allocated 30.8 percent of the bait TAL, Season 2 (August 1 - October 31) receives 37.1 percent, and the remainder is allocated to Season 3 (November 1 - April 30). A summary of the proposed 2020-2021 skate fishery specifications is shown below in Table 1.

Table 1--Summary of Proposed 2020-2021 Skate Fishery Specifications Compared to Current 2019 Limits, in metric tons

	FY2019 (Current)	FY2020-21 (Proposed)
ABC/ACL	31,327	32,715
Annual Catch Target (ACT) (90%)	28,194	29,444
Overall TAL	15,788	17,864
Wing TAL (66.5% of Overall TAL)	10,499	11,879
Wing Season 1 TAL (57% of Wing TAL)	5,984	6,771

Wing Season 2 TAL (43% of Wing TAL)	4,515	5,108
Bait TAL (33.5% of Overall TAL)	5,289	5,984
Bait Season 1 TAL (30.8% of Bait TAL)	1,629	1,843
Bait Season 2 TAL (37.1% of Bait TAL)	1,962	2,220
Bait Season 3 TAL (32.1% of Bait TAL)	1,698	1,921

This proposed action would also increase seasonal possession limits in both the wing and bait fisheries to allow more flexibility in harvesting the additional quota. The wing fishery trip limit in Season 1 would be raised from 2,600 lb (1,179 kg) to 3,000 lb (1,361 kg), and the Season 2 trip limit would increase from 4,100 lb (1,860 kg) to 5,000 lb (2,268 kg). The barndoor skate possession limit within the wing fishery would also increase from 650 lb (295 kg) to 750 lb (340 kg) in Season 1, and from 1,025 lb (465 kg) to 1,250 lb (567 kg) in Season 2. In the bait fishery, the Season 3 trip limit would be raised from 12,000 lb (5,443 kg) to 25,000 lb (11,340 kg) to be consistent with the rest of the fishing year. The incidental possession limits of 500 lb (227 kg) in the wing fishery and 8,000 lb (3,629 kg) in the bait fishery would remain unchanged.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Northeast Skate Complex FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Council reviewed the proposed regulations for this action and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures. The action would impact vessels or affiliated groups that hold Federal skate permits and participate in skate fisheries. The Council's analysis of 2018 data, the most recent complete set of data available, and the commercial ownership affiliate database, indicated that the skate fishery had 364 vessels with federal permits that landed skates in 2018. Those 364 vessels were owned by a total of 331 business entities that could be directly affected by this action. Of the 331 affiliate groups that landed skate, 327 were classified as small businesses and 4 were large businesses.

The purpose of this action was previously outlined in the preamble to this proposed rule and is not repeated here. As proposed, this action would slightly increase the available catch limits in skate fishery for fishing years 2020-2021, as well as seasonal possession limits for both the wing and bait skate fisheries. This action is expected to result in increased revenues and economic benefits from the higher annual catch limits,

while providing additional operational flexibility and fishing opportunity through the increased trip limits. This action is not expected to have a significant economic impact on a substantial number of small entities. The effects on the regulated small entities in this analysis are expected to be positive. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce profits for any small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 30, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.322, revise paragraphs (b)(1)(i) and (ii), and paragraph (c)(3) to read as follows:

§ 648.322 Skate allocation, possession, and landing provisions.

* * * * *

(b) ***

(1) *Vessels fishing under an Atlantic sea scallop, NE multispecies, or monkfish*

DAS. (i) A vessel or operator of a vessel that has been issued a valid Federal skate permit under this part, and fishes under an Atlantic sea scallop, NE multispecies, or monkfish DAS as specified at §§648.53, 648.82, and 648.92, respectively, unless otherwise exempted under §648.80 or paragraph (c) of this section, may fish for, possess, and/or land up to the allowable trip limits specified as follows: Up to 3,000 lb (1,361 kg) of skate wings (6,810 lb (3,089 kg) whole weight) per trip in Season 1 (May 1 through August 31), and 5,000 lb (2,268 kg) of skate wings (11,350 lb (5,148 kg) whole weight) per trip in Season 2 (September 1 through April 30), or any prorated combination of the allowable landing forms defined at paragraph (b)(5) of this section.

(ii) When fishing under the possession limits specified in paragraph (b)(1)(i) of this section, a vessel is allowed to possess and land up to 750 lb (340 kg) of barndoor skate wings (1,702 lb (772 kg) whole weight) per trip in Season 1, and 1,250 lb (567 kg) of barndoor skate wings (2,837 lb (1,287 kg) whole weight) per trip in Season 2. The possession limits for barndoor skate wings are included within the overall possession limit (*i.e.*, total pounds of skate wings on board, including barndoor skate wings, are not

allowed to exceed 3,000 lb (1,361 kg) in Season 1 and 5,000 lb (2,268 kg) in Season 2). Vessels are prohibited from discarding any skate wings when in possession of barndoor skate wings. Barndoor skate wings and carcasses on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

(c) * * *

(3) The vessel owner or operator possesses or lands no more than 25,000 lb (11,340 kg) of whole skates per trip.

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