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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200408-0105]

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: Final rule.

SUMMARY: NMFS is implementing final measures recommended by the New England Fishery Management Council in Framework Adjustment 8 to the Northeast Skate Complex Fishery Management Plan. This action specifies skate catch limits for fishing years 2020 and 2021 and increases seasonal possession limits for both the wing and bait fisheries. This action is necessary to establish skate specifications consistent with the most recent scientific information and the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The intent of this action is to establish catch limits for the skate fishery, while providing operational flexibility to fishery participants.

DATES: Effective on May 1, 2020.

ADDRESSES: The New England Fishery Management Council prepared an environmental assessment (EA) for Northeast Skate Complex Framework Adjustment 8

that describes the action and other considered alternatives. The EA provides an analysis of the biological, economic, and social impacts of the preferred measures and other considered alternatives; a Regulatory Impact Review; and economic analysis. Copies of this framework adjustment, including the EA and other supporting documents for the action, are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are 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 skate) off the New England and mid-Atlantic coasts through the Northeast Skate Complex Fishery Management Plan (FMP). The thorny skate stock is 16 years into a 25-year rebuilding plan, and possession of the species remains prohibited until the stock is rebuilt. None of the six other skate stocks are overfished or subject to overfishing. Skates are harvested and managed within two targeted fisheries, one for food (the wing fishery) and one for bait used in other fisheries (the bait fishery). The FMP requires that the Council annually review and establish catch and possession limits for the skate fishery through the specifications process for up to two fishing years at a time. This action implements increased quotas and seasonal possession limits for both the wing and bait skate fisheries

in fishing years 2020 and 2021. The current specifications (84 FR 4373; February 15, 2019) end on April 30, 2020, and will roll over in the event this rule is delayed beyond that date.

The proposed rule for this action published in the **Federal Register** on February 5, 2020 (85 FR 6494), and comments were accepted through March 6, 2020. We received eight comments from the public, but no changes to the final rule are necessary as a result of those comments (see **Comments and Responses** for additional detail). Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Action

We approve Skate Framework 8 and the Council-recommended specifications as outlined in our proposed rule for this action (85 FR 6494). These 2020-2021 specifications have higher fishery catch limits than fishing year 2019, including a 4-percent increase in acceptable biological catch (ABC) to 32,715 metric tons (mt) and a 13-percent increase in the overall total allowable landings (TAL) to 17,864 mt. Each of the wing and bait fisheries' TALs will also increase 13 percent from 2019. The final bait fishery TAL will be 5,984 mt, and the wing fishery TAL will be 11,879 mt. These changes are primarily in response to recent decreases in dead discards and state landings.

The fishing year for skates is from May 1 to April 30. However, the directed wing and bait fisheries are managed in separate seasons to allow us to more closely manage harvest. The skate FMP regulations at 50 CFR 648.322 specify the allocation of skate TAL to each fishery (33.5 percent to bait and 66.5 percent to wing), and to each season of

the fishing year. In the wing fishery, 57 percent of the wing TAL is allocated to Season 1 (May 1 - August 31), and the rest to Season 2 (September 1 - April 30). In the bait fishery, 30.8 percent is allocated to Season 1 (May 1 - July 31), 37.1 percent is allocated to Season 2 (August 1 - October 31), and the remainder is given to Season 3 (November 1 - April 30). Table 1 shows the seasonal TALs for the wing and bait fisheries under this action.

Table 1 -- Seasonal TAL Allocations for the 2020-2021 Skate Wing and Bait Fisheries (In metric tons)

Wing Fishery	Season 1 (May 1 – August 31)	6,771
	Season 2 (September 1 – April 30)	5,108
Bait Fishery	Season 1 (May 1 – July 31)	1,843
	Season 2 (August 1 – October 31)	2,220
	Season 3 (November 1 – April 30)	1,921

This action also increases seasonal possession limits in both the wing and bait fisheries to allow more flexibility to harvest the additional quota. As described in the proposed rule, the bait fishery Season 3 possession limit will increase in order to maintain the 25,000-lb (11,340-kg) possession limit all year. The wing fishery Season 1 possession limit increases to 3,000 lb (1,361 kg), and the Season 2 possession limit increases to 5,000 lb (2,268 kg). The barndoor skate possession limit in the wing fishery would also increase to 750 lb (340 kg) in Season 1, and to 1,025 lb (465 kg) in Season 2. All other possession limits, including incidental possession limits of 500 lb (227 kg) in the wing fishery and 8,000 lb (3,629 kg) in the bait fishery, remain unchanged. Table 2 shows all of the possession limits for the skate fishery upon implementation of action.

Table 2 -- Skate Fishery Possession Limits for Fishing Years 2020 and 2021**

Trip Type	Season	Wing Weight	Whole Weight	Barndoor* Wing Weight	Barndoor* Whole Weight
Northeast (NE) Multispecies, Scallop, or Monkfish Day-At-Sea (DAS)	Season 1	3,000 lb, <i>1,361 kg</i>	6,810 lb, <i>3,089 kg</i>	750 lb, <i>340 kg</i>	1,703 lb, <i>772 kg</i>
	Season 2	5,000 lb, <i>2,268 kg</i>	11,350 lb, <i>5,148 kg</i>	1,250 lb, <i>465 kg</i>	2,838 lb, <i>1,287 kg</i>
NE Multispecies B DAS	All Year	220 lb, <i>100 kg</i>	500 lb, <i>227 kg</i>	0	0
Non-DAS	All Year	500 lb, <i>227 kg</i>	1,135 lb, <i>515 kg</i>	0	0
Skate Bait under Letter of Authorization	All Year	0	25,000 lb, <i>11,340 kg</i>	0	0

*Barndoor skate possession limits are within the overall skate possession limit for each trip, not in addition to it.

**Possession limits may be modified in-season in order to prevent catch from exceeding quotas.

The Council will review these specifications for 2021 to determine if any changes need to be made prior to the 2021 fishing year. NMFS will publish a notice prior to the May 1, 2021, start of the 2021 fishing year to confirm or announce any necessary changes.

Comments and Responses

The public comment period for the proposed rule ended on March 6, 2020, and eight comments were received from the public. Five commenters supported the action, noting the potential to decrease discards with increased possession limits, and the benefit of higher quotas to industry as long as the stocks remain healthy. NMFS agrees, and these are the primary reasons for increasing the quotas and limits in this action. One member of the public submitted two comments. One comment stated that he was a skate bait fisherman and did not want any changes to the fishery, and the second comment added that he would like a change to allow vessels to keep wings as bycatch on a bait trip, but

not the changes proposed by this action. NMFS understands the commenter's concern for change, but this action was developed to provide the highest expected benefit to both the wing and bait skate fisheries. This action does not address incidental or bycatch limits of other fisheries in the bait or wing fisheries, although the Council could consider this in a future framework action. This action increases the bait fishery Season 3 possession limit to 25,000 lb (11,340 kg), that season's limit prior to Framework Adjustment 4 in 2018 (83 FR 6133; February 13, 2018).

The final commenter claimed that this action was promoting overfishing and overexploitation of the skate resource at the expense of the other species that prey on skates. The commenter requested that the total take for skates be reduced to 10 mt. The commenter presented no rationale or evidence supporting these claims. This action is based on the best available science, including a 2019 stock assessment update and Northeast Fisheries Science Center trawl survey data through spring 2019. It was developed to prevent overfishing and maintain healthy skate stocks while allowing the fishery to achieve optimum yield. No changes were made to the proposed rule as a result of these comments.

Changes from the Proposed Rule

NMFS has not made any changes to the proposed regulatory text, and there are no substantive changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Administrator, Greater

Atlantic Region, has determined that this final rule is necessary and consistent with the Northeast Skate Complex FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council reviewed the Framework 8 regulations and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

This action relieves a restriction by increasing catch and possession limits in the skate fishery, and is therefore not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1). This final rule increases the annual TALs for both the skate wing and bait fisheries by 13 percent, and increases seasonal possession limits in both fisheries. These increases are intended to provide additional flexibility and economic opportunity for the skate fishing industry. The 2020 fishing year begins on May 1, 2020. If the 30-day delayed effectiveness period postpones the implementation of these measures beyond the May 1 start of the fishing year, the unnecessarily restrictive, lower 2019 catch limits will roll over into the beginning of 2020. This would be contrary to the public interest as it could create confusion and potential economic harm to the skate fisheries through lost opportunity under the lower catch limits at the beginning of the fishing year. Furthermore, this action does not require any additional time to come into compliance with this rule. Unlike actions that require an adjustment period, skate fishing vessels will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Therefore, NMFS also finds good cause not to delay this final rule's effectiveness, consistent with 5 U.S.C. 553(d)(3); and

to implement these measures on May 1, 2020 for the 2020 fishing year.

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

This final rule is considered an Executive Order 13771 deregulatory action. To determine the cost savings associated with this rule, the estimated revenue from the increased possession limits were compared to that of the No Action alternative (see ADDRESSES to locate the EA for more detailed information on the estimated revenue and alternatives). Based on a simulation using 2018 fishery data, this action is expected to increase skate wing fishery revenues by 4.65 percent (\$250,329), and skate bait fishery revenues by 6.6 percent (\$72,020), for a total net increase of \$322,349. This action also increases the TAL by 13 percent, reducing the likelihood that a quota trigger will be reached and reduce possession to the incidental limit in either the wing or bait fishery. This increases economic opportunity and flexibility, but is difficult to quantify. Therefore, the total estimated net cost savings is \$322,349 in 2018 dollars, and the annualized savings to perpetuity is \$0.29 million per year in 2016 dollars.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 8, 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 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 (c)(3) to read as follows:

§ 648.322 Skate allocation, possession, and landing provisions.

* * * * *

(b) * * *

(1) * * *

(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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