



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

**[Docket No. 240510-0135]**

**RIN 0648-BM96**

### **Fisheries of the Northeastern United States; Northeast Skate Complex; Framework Adjustment 12**

**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 12 to the Northeast Skate Complex Fishery Management Plan. This action would specify skate catch limits for fishing years 2024 and 2025, increase seasonal trip limits for the wing fishery, and remove species-specific restrictions for barndoor and smooth skate. 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:** The New England Fishery Management Council (Council) has prepared a draft environmental assessment (EA) for this action that describes the proposed measures in Framework 12 and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of Framework 12 to NMFS that includes the draft EA, a description of the Council's preferred alternatives,

the Council's rationale for selecting each alternative, and an Initial Regulatory Flexibility Analysis (IRFA). Copies of the draft of Framework 12, the draft EA, the IRFA, and information on the economic impacts of this proposed rulemaking are available upon request from Dr. Cate O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/skate-framework-12>.

You may submit comments on this document, identified by NOAA-NMFS-2024-0056, by either of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2024-0056 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

*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 <https://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).

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Policy Analyst, (978) 282-8456.

**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). 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 March 17, 2022; 87 FR 15146) expired on April 30, 2024, but through a rollover provision in the regulations will remain effective until the final rule for this action is implemented.

In the fall of 2023, the Northeast Skate Complex FMP underwent a level-3 management track assessment that re-estimated commercial fishery catch data, updated survey biomass indices, added recreational catch to total catch, and updated reference points. The assessment also included projections of total fishery catch of skates for 2024 and 2025. The Council took final action on this framework at the December 2023 meeting in Newport, RI.

### **Proposed Measures**

Framework 12 would set management measures and specifications for the skate fishery for the 2024–2025 fishing years. The measures proposed in this action would decrease the annual catch limit to 32,155 mt (from 37,236 mt in 2023) and the overall total allowable landings to 15,178 mt (from 21,142 mt in 2023). A comparison of the current 2023 and the proposed 2024–2025 specifications is summarized below in table 1. Specifications for fishing year 2025 are projected to be the same as those proposed for 2024. The proposed specifications would result in a 26-percent decrease in both the bait and wing fisheries' total allowable landings. Although a decrease, the proposed quotas remain higher than landings in the bait and wing fisheries for at least the last three years;

therefore, we do not expect the proposed quotas to be restrictive to the fishery or to result in reductions in overall revenue. The Council will review the projected 2025 specifications to determine if any changes need to be made prior to the 2025 fishing year. We will publish a notice prior to the 2025 fishing year to confirm these limits as projected or publish a proposed rule for any necessary changes.

**Table 1. Comparison of Current 2023 and Proposed 2024–2025 Skate Fishery Specifications, in metric tons.**

	<b>2023 (Current)</b>	<b>2024–25 (Proposed)</b>	<b>Percent Change</b>
<b>ABC/ACL</b>	37,236	32,155	-14
<b>ACT (90% of ACL)</b>	33,513	28,940	-14
<b>Overall Fishery TAL</b>	21,142	15,718	-26
<b>Wing TAL (66.5% of Overall TAL)</b>	14,059	10,453	-26
<b>Wing Season 1 TAL (57% of Wing TAL)</b>	8,014	5,958	-26
<b>Wing Season 2 TAL</b>	6,045	4,495	-26
<b>Bait TAL (33.5% of Overall TAL)</b>	7,082	5,266	-26
<b>Bait Season 1 TAL (30.8% of Bait TAL)</b>	2,181	1,622	-26
<b>Bait Season 2 TAL (37.1% of Bait TAL)</b>	2,627	1,954	-26
<b>Bait Season 3 TAL</b>	2,274	1,690	-26

This proposed action would also increase the seasonal skate wing possession limits when fishing on a day-at-sea (DAS) by 1,000 lb (453.6 kg) per trip. The wing fishery trip limit in Season 1 (May 1-August 31) would increase from 3,000 lb to 4,000 lb (1,360.8 kg to 1,814.4 kg), and the Season 2 (September 1-April 30) wing fishery trip limit would increase from 5,000 lb to 6,000 lb (2,268 kg to 2,721.6 kg). This action also proposes to increase incidental skate wing possession limits by 25 percent. For trips fishing on a Northeast multispecies B-DAS, the possession limit would increase from 220 lb to 275 lb (99.8 kg to 124.7 kg), and for trips not fishing on a DAS, the possession limit would increase from 500 lb to 625 lb (226.8 kg to 283.5 kg). The intent behind increased

possession limits is to reduce operational discards in the fishery and provide better economic flexibility and opportunity to vessels. Even with the reduction in annual quota, this trip limit increase is not expected to result in overages or increased effort because of the Regional Administrator's authority to reduce the possession limits to an incidental catch limit when 85 percent of the quota is projected to be landed.

In addition, this action proposes full re-integration of both barndoor and smooth skates into the skate complex by removing possession restrictions for either species. Both barndoor and smooth skates have been considered rebuilt for at least the last five years. Accordingly, the need to manage barndoor and smooth skates as individual stocks is no longer warranted. These two species will be managed as components of the skate complex, as initially intended when the FMP was developed.

Currently, vessels are prohibited from retaining smooth skates in the Gulf of Maine Regulated Mesh Area and are prohibited from retaining barndoor skates in certain circumstances. This action proposes to remove the limit specific to barndoor skate within the overall skate possession limits (*i.e.*, the 25-percent partial possession limit for trips landing skate wings on a DAS), and possession would be allowed on all trips in the skate fishery. This action also proposes to remove the smooth skate possession restriction on all trips landing skate in both the wing and bait skate fisheries.

### **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 fishing year 2022 data, the most recent complete set of data available, and the commercial ownership affiliate database indicated that the skate fishery had 244 vessels with Federal permits that landed skates in 2022. Those 244 vessels were owned by a total of 149 business entities that could be directly affected by this action. Of the 149 affiliate groups that landed skate, one entity was classified as a for-hire business, rather than a commercial business. In addition, one entity was classified as 'large' (rather than 'small') per SBA guidelines of having over \$11 million in annual fishing revenues in 2022. All 149 entities could be directly affected by this proposed action.

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 decrease the available catch limits in both the bait and wing skate fisheries for fishing years 2024–2025 and increase seasonal possession limits for the wing fishery. Although the proposed quotas would decrease from previous years, they remain higher than landings in both the wing and bait fisheries for at least the last four years; therefore, the reduction is not

expected to be restrictive to the fishery or result in reductions in revenue. This action is expected to result in slightly increased revenues and economic benefits on a per trip basis with the removal of species-specific restrictions for barndoor and smooth skates, higher possession limits in the wing fishery, and the conversion of operational discards to landings, while providing additional flexibility and fishing opportunity. 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: May 10, 2024.

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**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 § 648.14, revise paragraph (v)(2) to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(v) \* \* \*

(2) *All Federal permit holders.* It is unlawful for any owner or operator of a vessel holding a valid Federal permit to do any of the following:

(i) Retain, possess, or land thorny skates taken in or from the EEZ portion of the skate management unit specified at § 648.2.

(ii) [Reserved]

\* \* \* \* \*

3. In § 648.322, revise paragraphs (b)(1) through (4), and paragraph (g), to read as follows:

**§ 648.322 Skate allocation, possession, and landing provisions.**

\* \* \* \* \*

(b) *Skate wing possession and landing limits* — (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 4,000 lb (1,814 kg) of skate wings (9,080lb (4,119 kg) whole weight) per trip in Season 1 (May 1 through August 31), and 6,000 lb (2,722 kg) of skate wings (13,620 lb (6,178kg) 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) [Reserved]

(2) *NE multispecies Category B DAS*. A vessel fishing on a declared NE multispecies Category B DAS described under § 648.85(b), is limited to no more than 275 lb (125 kg) of skate wings (624 lb (283 kg) whole weight) per trip, or any prorated combination of the allowable landing forms defined at paragraph (b)(5) of this section. These vessels may not possess or land any prohibited skate species (see § 648.14(v)(2) and paragraph (g) of this section).

(3) *In-season adjustment of skate wing possession limits*. The Regional Administrator has the authority, through a notice in the **FEDERAL REGISTER** consistent with the Administrative Procedure Act, to reduce the skate wing possession limit to 500 lb (227 kg) of skate wings (1,135 lb (515 kg) whole weight) or any prorated combination of the allowable landing forms defined at paragraph (b)(5) of this section) for the remainder of the applicable quota season. The in-season adjustment of skate wing possession limits will be implemented under the following circumstances:

(i) When 85 percent of the Season 1 skate wing quota is projected to be landed between May 1 and August 17, the Regional Administrator shall reduce the skate wing possession limit to the incidental level described in paragraph (b)(3) of this section.

(ii) When 85 percent of the Season 1 skate wing quota is projected to be landed between August 18 and August 31, the Regional Administrator may reduce the skate wing possession limit to the incidental level described in paragraph (b)(3) of this section.

(iii) When 85 percent of the annual skate wing fishery TAL is projected to be landed in Season 2, the Regional Administrator may reduce the skate wing

possession limit to the incidental level described in paragraph (b)(3) of this section, unless such a reduction would be expected to prevent attainment of the annual TAL.

(4) *Incidental possession limit for vessels not under a DAS.* A vessel issued a Federal skate permit that is not fishing under an Atlantic sea scallop, NE multispecies, or monkfish DAS as specified at §§ 648.53, 648.82, and 648.92, respectively, or is a limited access multispecies vessel participating in an approved sector described under § 648.87 but not fishing on one of the DAS specified at § 648.53, § 648.82, or § 648.92, may retain up to 625 lb (283 kg) of skate wings or 1419 lb (644 kg) of whole skate, or any prorated combination of the allowable landing forms defined at paragraph (b)(5) of this section. These vessels may not possess or land any prohibited skate species (see § 648.14(v)(2) and paragraph (g) of this section).

\* \* \* \* \*

(g) *Prohibitions on possession of skates.* A vessel fishing in the EEZ portion of the Skate Management Unit may not retain, possess, or land thorny skates taken in or from the EEZ portion of the Skate Management Unit.

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