

DAS reductions, mesh increases), this action proposes to prohibit the possession of thorny skates and barndoor skates on all vessels fishing from, and all dealers who would purchase skates caught in, the EEZ portion of the Skate Management Unit. Although no longer considered to be in an overfished condition, the smooth skate resource is depleted and still well below its target biomass level. Therefore, in addition to the benefits that are likely to accrue to this species as a result of the NE multispecies regulations, this action proposes a prohibition on possession of smooth skates in the GOM RMA to conserve the smooth skate resource and promote the rebuilding of its biomass to target levels.

Annual Monitoring and Framework Adjustment Measures

The skate fishery would be monitored on at least an annual basis starting 1 year after the implementation of the FMP. The status of the resource and the fishery would be reviewed by the Council, its Skate Oversight Committee and Advisory Panel, and the Skate PDT. The Council would prepare a biennial Stock Assessment and Fishery Evaluation (SAFE) Report for the NE skate complex. If the Council determined that an adjustment to the measures is needed, it would implement either a framework adjustment or an amendment to the FMP.

The framework adjustment process would be similar to that used in other NE Region fisheries. This process would allow changes to measures below, as appropriate, to be made to the FMP or regulations in a timely manner, without going through the plan amendment process. The framework adjustment process may not be appropriate when it is determined that a proposed change would not be within the scope of the FMP, or the amendment process would be better suited to implement the proposed change. The framework process would provide a formal opportunity for public comment to supplement the customary public comment period provided by publishing a proposed rule. If changes to the management measures were contemplated in the FMP, and if sufficient opportunity for public comment on the framework action existed, NMFS could bypass the proposed rule stage and publish a final rule in the **Federal Register**, provided such rule complies with the requirements of the Administrative Procedure Act. The management measures and/or changes to them that could be implemented and adjusted through the framework process include

the following: (1) Skate permitting and reporting requirements; (2) overfishing definitions and related targets and thresholds; (3) prohibitions on possession and/or landing of individual skate species; (4) skate possession limits; (5) skate closed areas (and consideration of exempted gears and fisheries); (6) seasonal skate fishery restrictions and specifications; (7) target TACs for individual skate species; (8) hard TACs/quotas for skates, including species-specific quotas, fishery quotas, and/or bycatch quotas for non-directed fisheries; (9) establishing a mechanism for TAC set-asides to mitigate bycatch, conduct scientific research, or for other reasons; (10) onboard observer requirements; (11) gear modifications, requirements, restrictions, and/or prohibitions; (12) minimum and/or maximum sizes for skates; (13) adjustments to exemption area requirements, area coordinates, and/or management lines established by the FMP; (14) measures to address protected species issues, if necessary; (15) description and identification of EFH; (16) description and identification of habitat areas of particular concern; (17) measures to protect EFH; (18) adjustments and or/resetting of the "baseline" of management measures in other fisheries; (19) OY and/or MSY specifications; and (20) any other measures contained in the FMP.

Baseline Trigger and Review

The FMP identifies and characterizes a "baseline" of management measures in other fisheries that provide conservation benefits to skate species. The FMP also establishes a process for reviewing changes to the management measures included in this baseline, particularly changes that make the measures less restrictive. This approach allows adjustments to management measures in other fisheries while ensuring that skate rebuilding is not compromised. The proposed baseline measures and review process are described in detail in the FMP and Classification section of this rule.

The baseline review is intended to address potential significant impacts to skate mortality. Total skate mortality should be considered, including mortality resulting in increased directed fishing effort on skates and mortality resulting from the bycatch of skates. Therefore, this approach addresses National Standard 9, as considerations of bycatch and bycatch mortality are incorporated into the assessment of whether or not changes to the baseline measures will result in significant changes to skate mortality.

The lack of fishery-specific data precludes a quantitative assessment of the impacts of current baseline measures on skates and is likely to preclude such an assessment of the impacts of changes to these measures, at least in the near future. Over time, as data are collected through the FMP permit and reporting requirements, increased observer coverage, study fleets, and efforts to collect better information in other fisheries, the Skate PDT's ability to quantify the impacts of management measures on skates should improve greatly. However, qualitative assessments must suffice in the short-term, as quantitative assessments cannot be completed at this time.

Classification

At this time, NMFS has not determined that the FMP, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Council prepared an FEIS for the FMP; a notice of availability for the DEIS was published on August 30, 2002 (67 FR 55858). A copy of the FEIS may be obtained from the Council (*see ADDRESSES*). The Council has selected a set of preferred alternatives intended to mitigate, to the extent possible, all possible social and economic adverse effects while minimizing risks to the skate resources and their environment. Overall, the proposed action is expected to have significant positive effects on the skate resources relative to the no action alternative.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for the action, are contained in the preamble to this rule and in the SUMMARY. This rule does not duplicate, overlap, or conflict with any relevant Federal rules.

Quantitative information is limited for the NE skate fisheries because the detailed reporting requirements necessary to collect sufficient quantitative information do not currently exist. When possible, the quantitative impacts of the alternatives were considered, but in many instances it was only possible to describe potential impacts qualitatively. Because