

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 902****50 CFR Part 648**

[Docket No. 030519127-3190-02; I.D. 042403A]

RIN 0648-AO10

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Skate Complex (Skate) Fisheries; Skate Fishery Management Plan**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement approved measures contained in the Skate Fishery Management Plan (FMP). These regulations implement the following measures: A possession limit for skate wings; a bait-only exemption to the wing possession limit restrictions; a procedure for the development, revision, and/or review of management measures on an annual, biennial, and interannual basis, including a framework adjustment process; open access permitting requirements for fishing vessels, operators, and dealers; new species-level reporting requirements for skate vessels and dealers; new discard reporting requirements for Federal vessels; and prohibitions on possessing smooth skates in the Gulf of Maine (GOM) Regulated Mesh Area (RMA), and thorny skates and barndoor skates throughout the management unit. This final rule also implements other measures for administration and enforcement. The intended effect of this final rule is to implement permanent management measures for the Northeast (NE) skate fisheries pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMP and to prevent overfishing of skate resources. Also, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for these collections.

**DATES:** This rule is effective September 18, 2003.

**ADDRESSES:** Copies of the FMP, its Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA), and the Final Environmental Impact Statement (FEIS), as prepared by the New England Fishery Management Council (Council), are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery - Mill 2, Newburyport, MA 01950.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Bonnie Van Pelt, Fishery Policy Analyst, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** This final rule implements approved measures contained in the FMP, which was approved by NMFS on behalf of the Secretary of Commerce (Secretary) on July 28, 2003. A notice of availability for the FMP invited comments on the approvability of the FMP. The comment period ending date was June 30, 2003.

Details concerning the justification for and development of the FMP and the implementing regulations were provided in the preamble to the proposed rule (68 FR 33432, June 4, 2003) and are not repeated here.

**Status of Stock Complex**

There are no direct estimates of biomass available for the seven individual skate species in the complex, so biomass indices from the NMFS Northeast Fisheries Science Center (NEFSC) trawl surveys have been used to characterize stock size. More specifically, for each species in the complex, information on the weight of the catch per tow (kg/tow) from the most representative trawl survey series over the longest possible time span was assembled. The data in the selected series were then used to characterize the distribution of biomass over the examined time period. Finally, candidate reference points were selected from the distribution so as to provide proxies for biomass targets that have a high probability of correctly characterizing the stock level that produces maximum sustainable yield (MSY).

For the aggregate skate complex, the NEFSC spring survey index of biomass was relatively constant from 1968 to 1980, then increased significantly to

peak levels in the mid to late 1980s. The biomass of large-sized skates (barndoor, winter, and thorny) has declined steadily since the mid-1980s, while the recent increase in aggregate skate biomass has been attributed to an increase in little skates.

**Overfishing Definitions**

Overfishing definitions are provided for each of the seven skate species in the complex, in accordance with the national standards of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act (SFA) of 1996. Additional background information relating to difficulties in determining overfishing definitions for the skate stocks is contained in the proposed rule and is not repeated here.

**Winter and Thorny Skates**

Winter and thorny skates are considered to be in an overfished condition when the 3-year moving average of the autumn survey mean weight per tow is less than one-half of the 75th percentile of the mean weight per tow observed in the autumn trawl survey from the selected reference time series. Overfishing is considered to be occurring when the 3-year moving average of the autumn survey mean weight per tow declines by 20 percent or more, or when the autumn survey mean weight per tow declines for 3 consecutive years.

**Smooth and Clearnose Skates**

Smooth and clearnose skates are considered to be in an overfished condition when the 3-year moving average of the autumn survey mean weight per tow is less than one-half of the 75th percentile of the mean weight per tow observed in the autumn trawl survey from the selected reference time series. Overfishing is considered to be occurring when the 3-year moving average of the autumn survey mean weight per tow declines by 30 percent or more, or when the autumn survey mean weight per tow declines for 3 consecutive years.

**Barndoor Skate**

Barndoor skate is considered to be in an overfished condition when the 3-year moving average of the autumn survey mean weight per tow is less than one-half of the mean weight per tow observed in the autumn trawl survey from 1963-1966 (currently 0.81 kg/tow). Overfishing is considered to be occurring when the 3-year moving average of the autumn survey mean weight per tow declines by 30 percent or more, or when the autumn survey