

Trip Reports. Vessels holding Federal permits (regardless of the fishery) are required to report skate discards by size category only (i.e., large and small skates).

#### **Skate Wing Possession Restrictions**

The retention and landing of skate wings is limited to 10,000 lb (4,536 kg) per trip of less than or equal to 24 hours duration (and a limit of one trip per day) and 20,000 lb (9,072 kg) per trip exceeding 24 hours. The days-at-sea (DAS) call-in programs (groundfish, scallop, and monkfish) will be used to determine whether a vessel's trip is less than or greater than 24 hours.

By discouraging large-scale directed fishing for skate wings, the possession limit is expected to reduce overall fishing mortality on winter skates. However, the benefits of a wing possession limit include not only fishing mortality reductions for winter skate, but also long-term benefits to the wing species if the possession limit can discourage expansion of the fishery and/or an influx of new entrants into the fishery.

#### **Bait-only Letter of Authorization (LOA)**

This measure allows vessel owners and operators that fish for skates as bait, only, to be exempt from the wing possession limits, provided they obtain an LOA from the Regional Administrator. Vessel owners/operators that fish for a combination of bait and wings and vessels that do not obtain the LOA are subject to the wing possession limits.

#### **Skate Possession Prohibitions**

Barndoor and thorny skates are in an overfished condition, so, in addition to the benefits that are likely to accrue to these species as a result of the NE multispecies regulations (closed areas, DAS reductions, mesh increases), this action prohibits the possession of thorny skates and barndoor skates on all vessels fishing from, and all dealers who 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 prohibits the 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 will be monitored on at least an annual basis starting one year after the implementation of the FMP. The status of the resource and the fishery will be reviewed by the Council, its Skate Oversight Committee and Advisory Panel, and the Skate PDT. The Council will prepare a biennial Stock Assessment and Fishery Evaluation (SAFE) Report for the NE skate complex. If the Council determines that an adjustment to the measures is needed, it will implement either a framework adjustment or an amendment to the FMP.

The framework adjustment process is similar to that used in other NE Region fisheries. This process allows 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 provides opportunity for public comment to supplement the public comment period provided by publishing a proposed rule. If changes to the management measures were contemplated in the FMP, 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 existing measures less restrictive. This approach allows adjustments to management measures in other fisheries while ensuring that skate rebuilding is not compromised. The 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 will 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.

This final rule also revises the definitions of "Council," and "Fishing year," to reflect the approval of the FMP, and establishes new definitions for "NE skate complex (skates)," and "Skate Management Unit."