



New England Fishery Management Council

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MEMORANDUM

DATE: November 9, 2021
TO: Skate Committee
FROM: Skate Plan Development Team
SUBJECT: **2022 Draft Council work priorities regarding skates**

This memo provides input on the priorities for 2022 Council work regarding skates that were drafted by the Skate Committee at its meeting on September 16, 2021. This input was developed during a Skate Plan Development Team (PDT) meeting on October 4 and refined through subsequent correspondence. The draft priorities are as follows:

- Complete Framework Adjustment 9 (formerly known as Amendment 5)
- Complete the 2022 Annual Monitoring Report
- An action to consider revising skate wing and bait possession limits for implementation in FY2023
- An action to consider revising the acceptable biological catch/Annual Catch Limit flowchart to better account for known sources of catch

COMPLETE FRAMEWORK ADJUSTMENT 9

The PDT recommends seeing Framework Adjustment 9 through to completion. This action was initiated at the September 2021 Council meeting to continue considering a subset of items originally developed through Amendment 5, an action that was terminated at that meeting. Framework 9 includes potentially updating the objectives of the Northeast Skate Complex Fishery Management Plan (FMP) and considering measures related to the Federal skate permit. Final action on Framework 9 is expected at the February 2022 Council meeting. PDT resources would be needed through perhaps early summer 2022 to support the document submission, review, and potential implementation of this action.

COMPLETE 2022 ANNUAL MONITORING REPORT

The PDT recommends that the 2022 Annual Monitoring Report be prepared by the PDT and presented to the Council. Per the [skate fishery regulations](#), the Skate PDT must annually review the status of the species in the skate complex (including annual updates to the survey indices, fishery landings and discards, and a re-evaluation of stock status), determine if any accountability measures have been triggered, review any changes in other FMPs that could impact skates, and provide guidance to the Skate Committee and the Council on the need to adjust measures in the Skate FMP to better achieve the FMP objectives. During years in which skate specifications are being prepared (e.g., in 2021 for 2022-2023 specifications), this review and communication occurs through the process of preparing specifications. Thus, the “annual” monitoring report is prepared biennially, and is an appropriate PDT task for 2022. This task is expected to start when the spring 2022 bottom trawl survey is complete and finish with a report at the September 2022 Council meeting.

CONSIDER REVISING POSSESSION LIMITS

The PDT does not see a need to revisit possession limits until the fishing year (FY) 2024-2025 specifications are developed in 2023. The PDT notes that skate wing and bait possession limits have been revised a few times in the past (Table 1, Table 2), generally concurrent with the implementation of specifications. In the spring of 2021, the Skate Committee and Council, informed by members of the Skate Advisory Panel present at its May 13, 2021, meeting (no quorum), agreed unanimously that possession limits for FY 2022-2023 should remain unchanged from FY 2020-2021 levels. Thus, alternatives were not developed for the specifications action that the Council approved in September 2021. The rationale included:

- The ongoing pandemic has been causing uncertainty in the fishery and there was an interest in keeping possession limits stable as the fishery adjusts.
- Stability and consistency would help avoid confusion within the fishery.
- There is ongoing uncertainty in stock assessments (e.g., gaps in survey coverage) and the biological characteristics of the stock.
- Wing and bait landings have remained around 20 million live lb and 8-10 million live lb, respectively, over the past decade, despite changes in total allowable landings (TAL) and possession limits.
- Given that barndoor skate possession has been allowed for just a few years (since FY 2018), there needs to be more time to assess whether the current barndoor limits should be adjusted. Waiting until after the 2023 stock assessment may be more appropriate.
- The Committee was presented with an analysis of FY 2018 landings by trip and wanted to see FY 2019 results (FY 2018 is still the latest available data for the analysis).

Table 1. History of skate wing possession limit regulations.

Fishing Years	Action	Possession Limit	Barndoor Limit	Incidental Limit
2003 - 2009	Original FMP	10,000 lb/ <24 hours 20,000 lb/ >24 hours	0	None
FY 2010	Amendment 3, implemented Jul. 16, 2010	Same, then 5,000 lb as of Jul. 16	0	None, then as of Jul. 16: 500 lb (trigger = 80% of wing TAL is landed)
FY 2011	Framework 1, implemented May 17, 2011	Same, then: Season 1 = 2,600 lb Season 2 = 4,100 lb as of May 17	0	Same, then as of May 17: 500 lb (trigger = 85% of wing TAL is landed)
FY 2012 – 2017		Same	0	Same
FY 2018 - 2019	Framework 5, implemented Sept. 28, 2018	Same	None, then 25% of Wing TAL as of Sept 28: Season 1 = 650 lb Season 2 = 1,025 lb	Same
FY 2020 - 2021	Framework 8, implemented May 1, 2020	Season 1 = 3,000 lb Season 2 = 5,000 lb	Same (25%): Season 1 = 750 lb Season 2 = 1,250 lb	Same
FY 2022-2023	Specifications, pending approval	Same	Same	Same

Table 2. History of skate bait possession limits.

FY	Action	Possession Limit	Incidental Limit
FY 2003 – 2009	Original FMP	None	None
FY 2010 - 2011	Amendment 3, implemented Jul. 16, 2010	None, then as of Jul. 16: 25,000 lb	None, then as of Jul. 16: Season 1 = 5,902 lb Season 2 = 9,307 lb ¹ (trigger = 90% of bait TAL is landed) or 1,135 lb (trigger = 85% of wing TAL is landed) ²
FY 2012 - 2016		Same	Same
FY 2017	Framework 4, implemented Mar 15, 2018	Same, then as of Mar 15: Seasons 1 & 2 = 25,000 lb Season 3 = 12,000 lb	Same, then as of Mar. 15: 8,000 lb (Seasons 1 and 2 trigger = 90% of bait TAL is landed, Season 3 trigger = 80%)
FY 2018 - 2019		Same	Same
FY 2020 - 2021	Framework 8, implemented May 1, 2020	25,000 lb	Same
FY 2022 - 2023	Specifications, pending approval	Same	Same

¹These were only implemented for Seasons 1 and 2 to slow fishing early in the year. There was no incidental limit for bait Season 3. If 100% of the bait TAL was achieved, then the bait fishery would be essentially closed for the year, the Letters of Authorization (LOAs) would be inactivated/voided, and everyone would be defaulted back to the wing fishery (which essentially would just be a possession limit decrease to the whole weight of the wing fishery, 9,307 lb or 1,135 lb).

²The bait fishery was only held to the wing incidental limit if BOTH the bait AND wing triggers were reached. If only the wing fishery trigger was reached, the bait fishery would still operate at normal limits until it hits its 90% trigger.

CONSIDER REVISING ABC/ACL FLOW CHART

The PDT recommends accepting a revised version of this priority:

- From: “An action to consider revising the acceptable biological catch/Annual Catch Limit flowchart to better account for known sources of catch”
- To: “Tasking the PDT to consider improvements to the acceptable biological catch calculation, specifications formula, and year-end catch accounting to better account for known sources of catch”

Over the last few years, the PDT has identified several potential improvements to: a) the inclusion of catch data in the calculation of ABC, b) the specification setting formula (i.e., “flow chart,” Figure 1), c) in-season quota monitoring, d) what is considered state vs federal landings, and e) year-end catch accounting (Table 3). These issues have been communicated to the Committee a few times (e.g., [March 10, 2021, PDT memo](#)). The issues and potential approaches included below are not exhaustive but represent the types of issues that the PDT could work on should this priority be approved for 2022. Any changes could be in place for the setting of FY 2024-2025 specifications in 2023. The skate specification and accounting issues are rather complicated; this memo contains our best understanding of the issues, but

inaccuracies may remain. This work would hopefully clarify and simplify specification and accounting methods.

In the skate regulations ([50 CFR part 648 subpart O](#)), what is codified regarding the skate specifications formula is that: 1) the Annual Catch Limit (ACL) is set less than or equal to the ABC, 2) the Annual Catch Target (ACT) be 90% of the ACL due to the 10% ACL-ACT buffer, and 3) the percentages of the Federal TAL that are designated for the Wing and Bait TALs (Figure 1). Altering any of these steps in the formula would require Council action through at least a framework adjustment.

The issues that the PDT has been discussing are unlikely to require Council action. The skate regulations allow the PDT the flexibility to recommend adjustments to the catch data used to calculate the ABC, the methods for setting the deductions between the ACT and Federal TAL to account for changes in the fishery (e.g., recreational catch becoming more substantial) that could be implemented in the next specifications cycle. Any such adjustments would be part of what the Scientific and Statistical Committee would review during the specifications setting process. Regarding year-end ACL accounting (Table 3), methods are ultimately the responsibility of the Greater Atlantic Regional Fisheries Office (GARFO). However, the Skate PDT could develop recommendations.

Recreational catch

When methods were established for calculating the skate ABC and setting the specifications formula (through Amendment 3), recreational catch of skates was considered virtually non-existent. However, there is evidence that recreational catches are increasing, particularly from private anglers. Recreational fishermen are generally defined as both private anglers and party/charter vessels. Recreational catch data are reported via the Marine Recreational Information Program (MRIP). Party/charter catch is also reported via Vessel Trip Reports (VTR).

The issues with recreational catch that the PDT has been discussing are:

- *Catch data used to calculate ABC:* up through FY 2022-2023 specification setting, recreational catches have not been included (i.e., MRIP data, party/charter VTR data).
- *Specification setting formula:* there is no specific deduction for recreational catch, so it has fallen within the buffer.
- *Year-end ACL accounting:* the private angler MRIP data have been included in the calculation of total catch relative to the ACL. VTR data are excluded from year-end ACL accounting, so any party-charter catch of skates is excluded.

Recent recreational catch data show:

- Private angler catch (from MRIP data): In FY 2017-2020, private angler catch was 314-1,528 mt/year or 1.4 to 6% of total Northeast skate catch. In FY 2019, private angler catch was 32% (1,011 mt) of the buffer (3,133 mt). It was 9.6% (314 mt) of the buffer in FY 2020 (3,271 mt).
- In FY 2018-2020 party/charter landings were very small, just 95-189 lb/year, but discards were higher (1.9-4.1 mt).

Potential approaches include:

- Add recreational data to the skate ABC calculation. Note: the PDT is already planning to do so for the FY 2024-2025 specifications.
- Revise the ABC/ACL formula to include a deduction for recreational catch (private angler and party/charter), perhaps using the latest three-year average of actual catch as is done for dead discards and state landings.
- Recommend to GARFO that VTR data be included in ACL accounting and/or be sure the party charter data from MRIP are included.

Research catch

There is a small amount of skate catch from trips conducted under Experimental Fishing Permits (EFPs; i.e. “research catch”). Landings from research should not be sold and are not commercial landings.

The issues with research catch that the PDT has been discussing are:

- *Catch data used to calculate ABC:* research landings have been included (VTR and dealer data).
- *Specification setting formula:* there is no specific deduction for research catch, so it has fallen within the buffer.
- *Year-end ACL accounting:* research landings reported by dealers have been included in the calculation of total catch relative to the ACL, included within the “commercial landings” bin even though they are not commercial landings. Catch from research trips reported only via VTR are not currently included.
- *Estimated discards:* If research landings are reported to a dealer, discards are estimated the same as for other commercial landings. Estimated discards from research trips that report landings to dealers are included. Discards from research trips reported only via VTR are not currently included.

Recent research catch data show:

- In FY 2017-2019, the average research landings from dealer data were 38.9 mt/year, or about 1% of the buffer (3,133 mt in FY 2019).

Potential approaches include:

- Revise the ABC/ACL formula to include a deduction for research catch, perhaps using the latest three-year average of actual catch as is done for dead discards and state landings. However, research landings are usually very small and variable, so it may make sense to bundle research catch with another deduction in the flow chart or keep it within the buffer.
- Recommend to GARFO: 1) remove research landings from the commercial landings tally in year-end ACL accounting, perhaps into an “other sources of catch” tally; and 2) be sure all discards from research and landings reported via VTR are included in year-end ACL accounting.

Skate bait landings via vessel-to-vessel transfer

A portion of the skate bait fishery lands skate via vessel-to-vessel transfer, reported via VTRs.

The issues with vessel-to-vessel transfers that the PDT has been discussing are:

- *Catch data used to calculate ABC:* bait landings via vessel-to-vessel transfer have been included.
- *Specification setting formula:* bait landings via vessel-to-vessel transfer are within the Federal TAL. They are monitored in-season against the Bait TAL and used towards the in-season accountability measures (i.e., incidental possession limits).
- *Year-end ACL accounting:* VTR data are excluded, so skate landings (and discards) via vessel-to-vessel transfer are excluded and not used in determining if post-season accountability measures are necessary.

Recent vessel-to-vessel transfer data show:

- In FY 2019, landings via vessel-to-vessel transfer were 210 mt.

Potential approaches include:

- Recommend to GARFO that VTR data be included in ACL accounting and within the “commercial landings” bin, so landings via vessel-to-vessel transfers are included.

State catch

Each FMP managed by the NEFMC has a unique approach to defining and accounting for state catch ([March 10, 2021, memo](#)). Some are based more on permit characteristics; others are based more on whether trips are likely to have been in state waters. For the Skate FMP, landings by vessels that do not have a 6-digit federal permit number (# = 000000) are state landings. These vessels have never been assigned a federal permit number. Once a vessel obtains this number, its subsequent skate landings may be considered federal landings depending on the circumstances.

The issues with state catch that the PDT have been discussing are:

- *Catch data used to calculate ABC*: the specification setting formula, and the year-end ACL accounting all use the same definition of state landings, landings where permit = 000000.
- *State vs federal landings*: There are skate landings by vessels with a 6-digit (non-zero) federal permit number but no active federal fishing permit on the day of landing. These are likely to be landings from state waters.
 - *Catch data used to calculate ABC*: these landings have been included.
 - *Specification setting formula*: the landings are not in the state landings deduction (which is only permit = 000000) and are not monitored in-season against the Federal TAL, so have fallen within the buffer.
 - *Year-end ACL accounting*: these landings are included in the year-end calculation of catch relative to the ACL, in the “commercial landings” tally rather than the “state landings” tally, even though they are not federal landings (i.e., no federal fishing permit on the day of landing).
- *State vs federal landings*: There are skate landings by vessels with no federal skate permit but federal fishing permits for other fisheries. These landings are in the catch data used to calculate ABC, monitored in-season against the Federal TAL and in the “commercial landings” tally. They are considered federal landings because there was a federal fishing permit on the day of landing, but without a federal skate permit, these landings may have been from state fisheries.
- *Estimated discards*: It is unclear if and how state discards are accounted for.

Recent data show:

- In FY 2019, landings by vessels with a 6-digit (non-zero) federal permit number but no active federal fishing permit on the day of landing (Table 5, March 10, 2021 PDT memo) were 544 mt, or 17% of the buffer (3,133 mt).

Potential approaches include:

- Expand the “state landings” definition to include all landings by vessels without federal fishing permits on the day of landing. Revise the ABC/ACL formula to include a deduction for these landings, perhaps including it within the state landings deduction. Recommend that GARFO move these landings to the state landings tally in year-end ACL accounting.
- Keep the “state landings” definition as is (permit = 000000) for ABC calculation, specifications, and ACL accounting. Consider commercial landings to be everything else except MRIP angler data (includes CFDBS landings and VTR landings not in CFDBS, of all types). Use this definition of commercial landings for in-season monitoring.¹
- More clearly identify how state discards are accounted for.
- Consider if a more consistent approach to defining state fisheries across all FMPs would be helpful. This would certainly require a Council action that is outside the scope of the Skate Committee alone.

¹ This may not be possible. Only federal landing have been monitored against the Federal TAL.

Discards

The NEFSC and GARFO use different methods to calculate skate dead discards. The NEFSC calculates discards for assessment purposes on a calendar year basis using observer and At Sea Monitoring data. Dead discards are calculated by multiplying the discard mortality rate for each gear and species to the species discards by gear type. Because there are four gear types, a weighted average discard mortality for each species is calculated to determine the total discards and dead discards for the complex. GARFO calculates skate dead discards on a fishing year basis: landings of all species and skate discards on observed trips are extrapolated to all commercial landings of all species (weighted by area, gear, etc.) to calculate total skate discards. Then, a discard mortality rate is applied to the calculated total skate discards.

The issues with having these two methods that the PDT have been discussing are:

- *Catch data used to calculate ABC:* the NEFSC method has been used.
- *Specification setting formula:* the deduction from the ACT for estimated dead discards is calculated by the NEFSC by applying the most recent three-year average dead discard mortality rate (dead discards divided by total catch) to the ACT.
- *Year-end ACL accounting:* the GARFO method has been used.
- *Discard estimation:* it is difficult to compare actual discards with what had been specified for a given year when two methods are used.

Potential approaches include:

- Use the most recent complete fishing year's discard data (or three-fishing year average) from year-end ACL accounting as a discard estimate for the deduction in specifications. This would be consistent with the ACL accounting method, but not the method used to set the ABC. This would also be consistent with the state landings deduction, which is based on fishing year.
- Recommend to GARFO the use of the NEFSC method (that used for setting ABC) for year-end accounting.
- Continue using separate methods but work to ensure that both include all known sources of discards, based on NEFOP/ASM data, VTR (including commercial, party, charter, and research) data, and state discards. All dead discards result in mortality and affect the skate stocks.

Figure 1. Formula for skate specifications setting used since Amendment 3.

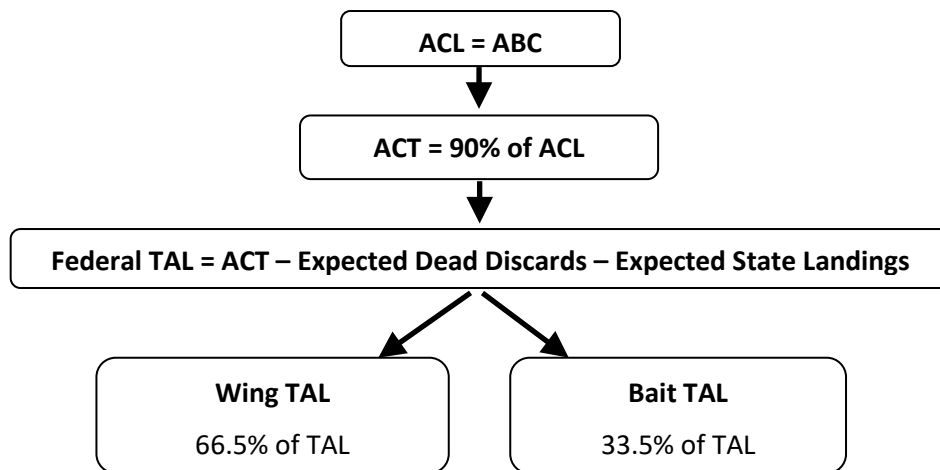


Table 3. Year-end Northeast skate complex annual catch limit (ACL) accounting, FY2017-2020.

Catch accounting element	Live lb	Metric tons	% of ACL
FY 2017 (ACL = 31,081 mt)			
Commercial landings	31,854,574	14,449	46.5%
State-permitted only vessel landings	1,752,206	795	2.6%
Estimated dead discards	18,790,080	8,523	27.4%
Recreational catch (MRIP landings and dead discards)	3,367,634	1,528	4.9%
Total Northeast skate catch	55,764,494	25,294	81.4%
FY 2018 (ACL = 31,327 mt)			
Commercial landings	32,155,182	14,585	46.9%
State-permitted only vessel landings	1,268,820	576	1.9%
Estimated dead discards	17,369,954	7,879	25.3%
Recreational catch (MRIP landings and dead discards)	2,398,508	1,088	3.5%
Total Northeast skate catch	53,192,464	24,128	77.6%
FY 2019 (ACL = 31,327 mt)			
Commercial landings	29,869,783	13,549	43.2%
State-permitted only vessel landings	383,529	174	0.6%
Estimated dead discards	13,144,115	5,962	19.0%
Recreational catch (MRIP landings and dead discards)	2,229,125	1,011	3.2%
Total Northeast skate catch	45,626,552	20,696	66.1%
FY 2020 (ACL = 32,715 mt)			
Commercial landings	29,457,636	13,362	40.8%
State-permitted only vessel landings	577,288	262	0.8%
Estimated dead discards	18,791,428	8,524	26.1%
Recreational catch (MRIP landings and dead discards)	692,135	314	1.0%
Total Northeast skate catch	49,518,487	22,461	68.7%
<p>“Commercial landings” = skate landings by vessels with a 6-digit permit number, by: 1) vessels with a federal fishing permit on the day of landing, 2) vessels with a federal fishing permit at any time of the year, and 3) vessels without a federal fishing permit that year but had one in the past.</p> <p>“State-permitted only vessel landings” = landings from vessels that never had a federal fishing permit (so the permit #=0) that were reported to the federal database</p> <p>“Estimated dead discards” = landings of all species and skate discards on observed trips extrapolated to all commercial landings of all species (weighted by area, gear, etc.) to calculate total skate discards. Then, a discard mortality rate is applied to the calculated total skate discards (discard estimation method differs from how discards are estimated during specifications setting, which uses the NEFSC method).</p> <p>“Recreational catch”= landings and dead discards from private anglers (MRIP data).</p> <p>Not included in the year-end ACL accounting: 1) landings reported via VTR (e.g., vessel-to-vessel skate transfers (e.g., 210 mt in FY 2019), party/charter landings (95-189 lb/year in FY 2018-2020)); 2) skate for personal use/home consumption (unknown, not reported to a federal dealer); 3) skate landings by state-only permitted vessels not reported to the federal database but reported by state dealers to the Atlantic Coastal Cooperative Statistics Program at varying frequencies, updated daily (likely minor, but possible).</p> <p>Source: Commercial fisheries dealer database and Northeast Fishery Observer Program database; FY 2020 data accessed June 30, 2021; MRIP reports accessed July 2, 2021.</p>			