

Omnibus Management Flexibility Amendment to New England Fishery Management Council Fishery Management Plans (FMP)

**Amendment 26 to the Northeast Multispecies FMP,
Amendment 22 to the Atlantic Sea Scallop FMP,
Amendment 9 to the Monkfish FMP,
Amendment 11 to the Atlantic Herring FMP,
Amendment 9 to the Northeast Skate Complex FMP, and
Amendment 7 to the Red Crab FMP**

FINAL SUBMISSION

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Prepared by the

New England Fishery Management Council

In consultation with the

National Marine Fisheries Service and

Mid-Atlantic Fishery Management Council



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**AMENDMENT 26 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN,
AMENDMENT 22 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN,
AMENDMENT 9 TO THE MONKFISH FISHERY MANAGEMENT PLAN,
AMENDMENT 11 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN,
AMENDMENT 9 TO THE NORTHEAST SKATE COMPLEX
FISHERY MANAGEMENT PLAN, AND
AMENDMENT 7 TO THE RED CRAB FISHERY MANAGEMENT PLAN**

Proposed Action: Propose changes to increase management flexibility and consistency.

Responsible Agencies: New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950

National Marine Fisheries Service
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Washington, D.C. 20235

For Further Information: Dr. Cate O’Keefe, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, Massachusetts 01950
Phone: (978) 465-0492

Abstract: The New England Fishery Management Council, in consultation with NOAA’s National Marine Fisheries Service and the Mid-Atlantic Fishery Management Council, has prepared an omnibus amendment to the Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Red Crab Fishery Management Plans. The amendment to the Northeast Multispecies Fishery Management Plan applies to large-mesh and small-mesh multispecies. The proposed action focuses on administrative process changes to increase management flexibility and consistency.

1.0 EXECUTIVE SUMMARY

The New England Fishery Management Council (NEMFC, Council) prepared an omnibus amendment to its Fishery Management Plans (FMP) to address the need for increased management flexibility and consistency considering changing regional resources and capacity to support scientific updates and regulatory processes. Collectively, the Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Red Crab FMPs specify management measures for 27 species off the New England and Mid-Atlantic coasts. The amendment to the Northeast Multispecies FMP applies to large-mesh (groundfish) and small-mesh (whiting) multispecies. The NEMFC consulted with the Mid-Atlantic Fishery Management Council (MAFMC) on the amendment to the Monkfish FMP, as the FMP is jointly managed by the NEMFC and MAFMC.

The proposed action includes administrative changes to specifications frequency, specifications setting process, in-season adjustment authority, and preparation of Council reports/reviews. In general, the proposed action would increase management flexibility and consistency across the FMPs. The synergistic effects of the proposed action include expanded tools to prevent fishery delays, improved planning of Council final actions throughout the year, ability to respond to new information in a timelier way, and improved allocation of Council resources. Further, the proposed action meets Executive Order 14276 *Restoring American Seafood Competitiveness* stated goals to *reduce burdens on domestic fishing; increase production; stabilize markets; improve access; enhance economic profitability; or prevent closures*.

This omnibus amendment is administrative in nature and complies with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the National Environmental Policy Act (NEPA), and other applicable laws and Executive Orders.

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2.2 ACRONYMS

ABC	Acceptable biological catch
ACL	Annual catch limit
ACT	Annual catch target
AM	Accountability measure
APA	Administrative Procedures Act
ASMFC	Atlantic States Marine Fisheries Commission (Commission)
BT	Boarder transfer
CFR	Code of Federal Regulations
CV	Coefficient of variation
CZMA	Coastal Zone Management Act
DAH	Domestic annual harvest
DAP	Domestic annual processing
DAS	Day(s)-at-sea
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
ESP	Ecosystem and Socioeconomic Profile
FMP	Fishery management plan
FW	Framework
FY	Fishing year
GARFO	Greater Atlantic Regional Fisheries Office
IQA	Information Quality Act
MAFMC	Mid-Atlantic Fishery Management Council
MMPA	Marine Mammal Protection Act
MPA	Marine protected area
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NEFMC	New England Fishery Management Council (Council)
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
OFL	Overfishing limit
OY	Optimum yield
PDT	Plan Development Team
PRA	Paperwork Reduction Act
RA	Regional Administrator
RFA	Regulatory Flexibility Act
RSA	Research set-aside
SAFE	Stock Assessment and Fishery Evaluation
SBNMS	Stellwagen Bank National Marine Sanctuary
SBRM	Standardized bycatch reporting methodology
SIR	Supplemental Information Report
SOE	State of the Ecosystem
SSC	Scientific and Statistical Committee
TAC	Total allowable catch
TAL	Total allowable landings
TC	Technical Committee
USAP	U.S. at-sea processing

3.0 BACKGROUND AND PURPOSE

3.1 BACKGROUND

Recent events, including new Executive Orders, changes in federal agency structure and staffing, and pauses in the regulatory advancement of management actions, have highlighted a potential need for the Council to consider increased flexibility and consistency in management and regulatory processes. Some specific examples of recent events include default measures in place for part of fishing year 2025 for Atlantic Sea Scallops, delays in implementation of Northeast Multispecies (Groundfish) and Atlantic Herring specifications, reductions in federal staff that support data collection and processing, stock assessments, ecosystems, policy, and the Council’s Plan Development Teams (PDT), and reductions in the number of management track stock assessments completed for 2025 and planned for 2026, including a pause in research track stock assessments. For reference, the Appendix includes a summary of current specifications in place by stock and timelines for recent management actions with specifications. Further in response to Executive Order 14276 *Restoring American Seafood Competitiveness*, the Council included this omnibus amendment in its work plan¹ sent to NOAA Fisheries.

3.2 PURPOSE AND NEED

To ensure that the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the objectives of the Council can be met more efficiently, an evaluation of current practices and consideration of adaptive approaches is warranted. The Council identified the need to increase management flexibility and consistency considering changing regional resources and capacity to support scientific updates and regulatory processes (Table 1).

Table 1. Need and purpose for the action.

Need	Purpose
To increase management flexibility and consistency.	To modify certain administrative measures across all the Council’s Fishery Management Plans.

¹ See letter, available at: <https://d23h0vhsm26o6d.cloudfront.net/250930-NEFMC-to-E.-Pineiro-Soler-re-Executive-Order-14276.pdf>

4.0 ALTERNATIVES UNDER CONSIDERATION

The NEFMC and the MAFMC considered the alternatives in this section. They did not consider any others because these provide a reasonable range of alternatives to address the purpose and need for action described in Section 3.2.

The NEFMC selected preferred alternatives and took final action on September 23, 2025. The MAFMC took final action on the monkfish aspects of the amendment on October 8, 2025, and confirmed the NEFMC’s preferred alternatives. The Councils’ preferred alternatives are identified in the following section. In general, the Councils recommended Alternative 2 in Actions 1-4, which increases management flexibility and consistency across the NEFMC’s FMPs aligning with the overall purpose and need of the action. The synergistic effects of the preferred alternatives include expanded tools to prevent fishery delays, improved planning of Council final actions throughout the year, ability to respond to new information in a timelier way, and improved allocation of Council resources. Further, the proposed action meets Executive Order 14276 *Restoring American Seafood Competitiveness* stated goals to *reduce burdens on domestic fishing; increase production; stabilize markets; improve access; enhance economic profitability; or prevent closures.*

4.1 ACTION 1 – SPECIFICATION FREQUENCY

There is a range of regulations across the Council’s Fishery Management Plans (FMPs) related to specification frequency (e.g., every two years for skates, every three years for small-mesh multispecies). These regulations have been a primary factor in prioritizing and scheduling scientific support for catch advice, mostly through stock assessment updates (see Table A1 in the Appendix for an overview of specifications). However, there has not been a formal analysis of the optimal specification frequency across the Council’s managed species. Under changing scientific support systems, including less frequent stock assessments and gaps in fishery-independent surveys, the Council considered increasing flexibility around specification frequency and bringing consistency across FMPs by providing flexibility for specification frequency up to a specified number of years.

4.1.1 Alternative 1 – No Action

Under No Action, the current regulations for specification frequency by FMP would remain (Table 2).

Table 2. Regulations for specification frequency by Fishery Management Plan.

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Northeast Multispecies (Groundfish)	“As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding [Jointly managed US/Canada stocks], the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section.”	50 CFR 648.90(a)(4)(i)

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Atlantic Sea Scallop	“The Council shall review these recommendations and, after considering public comments, shall recommend appropriate specifications for up to 2 years, as well as second or third-year default measures , to NMFS. NMFS shall approve, disapprove, or partially approve the specifications recommended by the Council and publish the approved specifications in the Federal Register in accordance with the APA.”	50 CFR 648.55(a)(3)
Monkfish	“The Councils or the PDT may develop options for setting ABC, ACL, and OFL for each monkfish stock, as necessary, as part of the annual review and adjustment process specified in paragraph (a) of this section, or as otherwise deemed necessary following the in-season adjustment process specified in paragraph (b) of this section. These options shall be submitted to the SSC for consideration. The Councils or the PDT may recommend to the SSC that ABC, ACL, and OFL are specified for each monkfish stock for multiple years as determined necessary to best align management with the stock assessment process for this fishery. ”	50 CFR 648.96(c)(1)
Atlantic Herring	“The Council shall review these recommendations and, after considering public comment, shall recommend appropriate 3-year specifications to NMFS. NMFS shall review the recommendations, consider any comments received from the Commission, and publish notification in the Federal Register proposing 3-year specifications. If the proposed specifications differ from those recommended by the Council, the reasons for any differences shall be clearly stated and the revised specifications must satisfy the criteria set forth in paragraph (b) of this section.”	50 CFR 648.200(c)
Northeast Skate Complex	“Based on the annual review described above and/or the Stock Assessment and Fishery Evaluation (SAFE) Report described in paragraph (b) of this section, recommendations for acceptable biological catch (ABC) from the Scientific and Statistical Committee, and any other relevant information, the Skate PDT shall recommend to the Skate Committee and Council the following annual specifications for harvest of skates: An annual catch limit (ACL) for the skate complex set less than or equal to ABC; an annual catch target (ACT) for the skate complex set less than or equal to 90 percent of the ACL; and total allowable landings (TAL) necessary to meet the objectives of the FMP in each fishing year (May 1-April 30), specified for a period of up to 2 fishing years. ”	50 CFR 648.320(a)(4)
Small-Mesh Multispecies	“The Council shall specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock in accordance with the following process.”	50 CFR 648.90(b)(1)

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Red Crab	“The PDT, after its review of the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded, as well as changes to the appropriate specifications.”	50 CFR 648.260(a)(4)
Spiny Dogfish*	“Periodicity. The spiny dogfish ACL may be established on an annual basis for up to 5 years at a time, dependent on whether the SSC provides single or multiple-year ABC recommendations.”	50 CFR 648.230(a)(1)

*Provided for context. No changes would be proposed to regulations.

Rationale: This would continue the FMP-by-FMP approach to determining specifications frequency, rather than by a holistic approach.

4.1.2 Alternative 2 – Specification Frequency (*Preferred Alternative*)

Under Alternative 2 for each of the Council’s managed FMPs, the process described for setting specifications would be revised to allow for specification frequency of up to five years. This alternative would allow the Council the flexibility to recommend specifications for one to up to five years across all its FMPs, consistent with the best available science. This is an administrative measure resulting in a change in regulations on the specifications process and frequency. This administrative measure does not result in a change in fishing location, timing, effort, authorized gear types, or harvest levels.

Rationale: This approach would allow for greater flexibility in planning stock assessments / data updates and subsequent management actions and a more consistent approach across the Council’s FMPs. The ability for the Council to consider setting specifications up to five years consistent with best available science across all its FMPs is responsive to the current situation with fisheries science (i.e., less frequent assessments and reliance on simpler data updates). Within a more flexible regulatory structure, target assessment frequency may be evaluated (Methot, 2015). This approach may eventually allow the Council to spread its specifications-related actions throughout the year, rather than making final recommendations on most specifications-related actions between September and December. No changes would be proposed to regulations in the Spiny Dogfish FMP.

4.2 ACTION 2 – SPECIFICATION SETTING PROCESS

Of the Council’s FMPs, the Northeast Multispecies and Monkfish FMPs do not have a specific specification setting process defined. Therefore, specifications actions in these FMPs are developed by a framework adjustment or amendment. Framework Adjustments (FW) to FMPs generally involve minor plan modifications and require review by the Council at a minimum of two meetings (one of which may be a committee meeting). Specifications actions are used to set harvest or catch limits for a specific period of time and are reviewed by the Council at a minimum of one Council meeting.

4.2.1 Alternative 1 – No Action

Under No Action, the Northeast Multispecies and Monkfish FMPs would continue to not have a specific specification setting process defined, and specifications actions would continue to be developed by

framework adjustment or amendment. Regulations for specifications setting processes are provided for all Council FMPs in Table 3.

Table 3. Regulations for specifications setting process by Fishery Management Plan.

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Northeast Multispecies (Groundfish)	<i>No specific specification setting process defined, and specifications only actions would continue to be developed by framework adjustment or amendment.</i>	
Atlantic Sea Scallop	<p>“(a) Specifications.</p> <p>(1) The Scallop Plan Development Team (PDT) shall meet at least every 2 years to assess the status of the scallop resource and to develop and recommend the following specifications for a period of up to 2 years, as well as second or third-year default measures, for consideration by the New England Fishery Management Council's Atlantic Sea Scallop Oversight Committee and Advisory Panel: OFL, overall ABC/ACL, sub-ACLs, sub-ACTs, DAS open area allocations, possession limits, modifications to rotational area management (e.g., schedule, rotational closures and openings, seasonal restrictions, modifications to boundaries, etc.), access area limited access poundage allocations and LAGC IFQ fleet-wide trip allocations, annual incidental catch target TAC, and NGOM TAL.</p> <p>(2) Based on the PDT recommendations and any public comments received, the Atlantic Sea Scallop Oversight Committee shall recommend appropriate specifications to the New England Fishery Management Council.”</p>	50 CFR 648.55(a)
Monkfish	<i>No specific specification setting process defined, and specifications only actions would continue to be developed by framework adjustment or amendment.</i>	

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Atlantic Herring	<p>“(a) The Atlantic Herring Plan Development Team (PDT) shall meet at least every 3 years, but no later than July of the year before new specifications are implemented, with the Atlantic States Marine Fisheries Commission's (Commission) Atlantic Herring Technical Committee (TC) to develop and recommend the following specifications for a period of 3 years for consideration by the New England Fishery Management Council's Atlantic Herring Oversight Committee: Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limit (ACL), Optimum yield (OY), domestic annual harvest (DAH), domestic annual processing (DAP), U.S. at-sea processing (USAP), border transfer (BT), the sub-ACL for each management area, including seasonal periods as specified at § 648.201(d) and modifications to sub-ACLs as specified at § 648.201(f), the amount to be set aside for the RSA (from 0 to 3 percent of the sub-ACL from any management area), and river herring and shad catch caps, as specified in § 648.201(a)(4). Recommended specifications shall be presented to the New England Fishery Management Council.”</p>	<p>50 CFR 648.200(a)</p>

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
<p>Small-Mesh Multispecies</p>	<p>(1) Three-year specifications process, annual review, and specifications package. The Council shall specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock in accordance with the following process.</p> <p>(i) At least every 3 years, based on the annual review, described below in paragraph (b)(3) of this section, and/or the specifications package, described in paragraph (b)(4) of this section, recommendations for ABC from the SSC, and any other relevant information, the Whiting PDT shall recommend to the Whiting Oversight Committee and Council specifications including the OFL, ABC, ACL, and TAL for each small-mesh multispecies stock for a period of at least 3 years. The Whiting PDT and the Council shall follow the process in paragraph (b)(2) of this section for setting these specifications.</p> <p>(ii) The Whiting PDT, after reviewing the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; as well as changes to the appropriate specifications.</p> <p>(iii) Taking into account the annual review and/or specifications package described in paragraphs (b)(2) and (b)(4), respectively, of this section, the advice of the SSC, and any other relevant information, the Whiting PDT may also recommend to the Whiting Oversight Committee and Council changes to stock status determination criteria and associated thresholds based on the best scientific information available, including information from peer-reviewed stock assessments of small-mesh multispecies. These adjustments may be included in the Council's specifications for the small-mesh multispecies fishery.</p>	<p>50 CFR 648.90(b)(1)</p>

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Red Crab	<p>“(4) The PDT, after its review of the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded, as well as changes to the appropriate specifications.</p> <p>(5) Taking into account the annual review and/or SAFE Report described in paragraph (b) of this section, the advice of the SSC, and any other relevant information, the Red Crab PDT may also recommend to the Red Crab Committee and Council changes to stock status determination criteria and associated thresholds based on the best scientific information available, including information from peer-reviewed stock assessments of red crab. These adjustments may be included in the Council's specifications for the red crab fishery.”</p>	<p>50 CFR 648.260(a)(4)</p> <p>50 CFR 648.260(a)(5)</p>

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Spiny Dogfish	<p>(a) <i>Commercial quota and other specification measures.</i> The Spiny Dogfish Monitoring Committee shall recommend to the Joint Spiny Dogfish Committee a TAL (i.e., annual coastwide commercial quota) and any other measures, including those in paragraphs (a)(1) through (8) of this section, that are necessary to ensure that the commercial ACL will not be exceeded in any fishing year (May 1-April 30), for a period of 1-5 fishing years. If research quota is specified as described in paragraph (f) of this section, the effective commercial quota will be those commercial landings available after the deduction for the research quota. The measures that may be recommended include, but are not limited to:</p> <ul style="list-style-type: none"> (1) Minimum or maximum fish sizes; (2) Seasons; (3) Mesh size restrictions; (4) Trip limits; (5) Research quota set from a range of 0 to 3 percent of the commercial quota; (6) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; (7) Other gear restrictions; and (8) Changes to AMs and ACT control rules. <p>(b) <i>Joint Spiny Dogfish Committee recommendation.</i> The Councils' Joint Spiny Dogfish Committee shall review the recommendations of the Spiny Dogfish Monitoring Committee. Based on these recommendations, requests for research quota, and any public comments, the Joint Spiny Dogfish Committee shall recommend to the Councils a TAL, and possibly other measures, including those specified in paragraphs (a)(1) through (8) of this section, necessary to ensure that the ACL specified in § 648.230 will not be exceeded in any fishing year (May 1-April 30), for a period of 1-5 fishing years.</p>	50 CFR 648.232

4.2.2 Alternative 2 – Specification Setting Process (*Preferred Alternative*)

Under Alternative 2, the Council would add a specification setting process to its two remaining FMPs without one in place: Northeast Multispecies and Monkfish FMPs. This alternative would enable the Council to set fishery specifications under a specification process and not require development of a framework adjustment action. In addition, this alternative would add status determination criteria to the list of measures for the Northeast Skate Complex that could be adjusted through the specifications setting process or by framework adjustment.

Alternative 2 would result in a more streamlined process for specifications (see Table A2 in the Appendix for an overview of timelines for recent actions with specifications).

Northeast Multispecies FMP - The specific list of measures that could be adjusted through the specification process include:

- OFLs, ABCs, sub-ACLs, sub-components
- United States/Canada total allowable catches (TAC)
- Status determination criteria
- Management uncertainty buffers
- Recreational measures – adjustments to bag limits, seasons, fish size
- Common pool trimester TAC distributions
- Creation of a new sector

Monkfish FMP - The specific list of measures that could be adjusted through the specification process include:

- OFLs, ABCs, ACLs, ACTs, and TALs
- Status determination criteria
- Any measures necessary to ensure that the specifications will not be exceeded, including but not limited to:
 - Accountability measures (AM),
 - Commercial DAS, minimum fish size, trip limits, seasons, blocks of time out of the fishery that a vessel must declare that it will not participate in the fishery, and landing ratios (e.g., liver-to-monkfish and tail-to-whole conversions)
 - Recreational possession limits, minimum fish size, and seasons
- Allocations and effort controls for the RSA program

Northeast Skate Complex FMP - Alternative 2 would add status determination criteria to the specific list of measures (Table 3) that could be adjusted through the specification setting process or by a framework adjustment.

This is an administrative measure resulting in a change in regulations to the specifications setting process for the Northeast Multispecies and Monkfish FMPs and the specifications setting process and framework adjustment for the Northeast Skate Complex FMP, consistent with the best available science. This administrative measure does not result in a change in fishing location, timing, effort, authorized gear types, or harvest levels.

Rationale: This approach would enable the Council to set fishery specifications under a specification process for Multispecies and Monkfish FMPs and expand the list of items for the Northeast Skate Complex FMP, consistent with the Council's other FMPs. Allowing a specification setting process in the two remaining Council FMPs without this flexibility, Northeast Multispecies and Monkfish FMPs, provides a more streamlined process for adoption of specification measures (e.g., catch limits, status determination criteria, and other measures to ensure catch limits are not exceeded).

4.3 ACTION 3 – IN-SEASON ADJUSTMENT AUTHORITY

The Atlantic Herring FMP provides for “in-season adjustments,” where the established specifications and sub-ACLs may be adjusted by NMFS to achieve conservation and management objectives². This process requires the NOAA Fisheries Regional Administrator (RA) to consult with the Council to allow changes during the fishing year. This provision has allowed managers the flexibility to respond in a timely manner to updated scientific and fishery information. The Council is considering applying this authority across all the Council’s FMPs.

4.3.1 Alternative 1 – No Action

Under No Action, the current regulations for in-season adjustment authority would continue to only apply to the Atlantic Herring FMP (Table 4).

Table 4. Regulations for in-season adjustment authority for the Atlantic Herring Fishery Management Plan.

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Atlantic Herring	“The specifications and sub-ACLs established pursuant to this section may be adjusted by NMFS to achieve conservation and management objectives, after consulting with the Council, during the fishing year in accordance with the Administrative Procedure Act (APA). Any adjustments must be consistent with the Atlantic Herring FMP objectives and other FMP provisions.”	50 CFR 648.200(e)

4.3.2 Alternative 2– In-Season Adjustment Authority (*Preferred Alternative*)

Under Alternative 2, the Council would add the provision for in-season adjustment authority, consistent with the process in the Atlantic Herring FMP, across all the Council’s FMPs.

The Council would then specify if in-season adjustments apply only to specifications (*Option A*) or also certain management measures (*Option B*). These would be adjusted by NMFS to achieve conservation and management objectives, after consulting with the Council, during the fishing year in accordance with the Administrative Procedure Act (APA). Any adjustments must be consistent with the respective FMPs objectives and other FMP provisions.

The Councils considered Option A or Option B, selecting Option B as the preferred option.

² The MAFMC’s Mackerel, Squid and Butterfish FMP includes in-season adjustments. The regulations state that “The specifications established pursuant to this section may be adjusted by the Regional Administrator, in consultation with the MAFMC, during the fishing year by publishing notification in the Federal Register.” [50 CFR 648.22\(e\)](#) The section includes specifications and measures to ensure specifications are not exceeded.

Option A - Allowance for adjustments to ACLs/sub-ACLs and other specifications.

Option B - Allowance for adjustments to specifications and measures identified under specifications actions by FMP (for these items see Action 2 – Specification Setting Process) (*Preferred Option*)

Option A would only allow for adjustments to specifications while Option B would allow for adjustments to specifications and management measures as identified in each FMP’s specification setting process.

The preferred option (Option B) expands the use of in-season adjustments to established specifications and sub-annual catch limits beyond only the Atlantic Herring FMP and would allow for adjustments to measures for all FMPs.

This is an administrative measure to allow RA authority to implement an in-season action and does not result in a change in fishing location, timing, effort, authorized gear types, or harvest levels. Any in-season action taken by this authority will require analysis as appropriate under the MSA and NEPA, and in accordance with the APA.

Rationale: This is an administrative measure that would result in a change in regulations to adopt in-season adjustment authority across all the Council’s FMPs for specifications and measures identified under specifications actions by FMP. No changes would be proposed to regulations in the Spiny Dogfish FMP. This process provides flexibility to respond in a timely manner to updated scientific and fishery information while still providing for robust analysis under existing law (e.g., MSA, NEPA, and APA) and Council input (i.e., Greater Atlantic Regional Fisheries Office (GARFO) consultation).

4.4 ACTION 4 – ANNUAL REVIEW/REPORT

Of the Council’s FMPs, the Monkfish, Northeast Skate Complex, and Small-Mesh Multispecies FMPs require an annual PDT review and in the case of Small-Mesh Multispecies also a report (Table 5). However, the annual reviews/reports can be duplicative with other products of the Council (e.g., Risk Policy matrices and specifications actions), and from NMFS (e.g., online Stock Assessment and Fishery Evaluation (SAFE) reports, data updates, State of the Ecosystem (SOE) reports, and Ecosystem and Socioeconomic Profiles (ESP)).

4.4.1 Alternative 1 – No Action

Under No Action, the Monkfish, Northeast Skate Complex, and Small-Mesh Multispecies FMPs would continue to require the preparation of an annual review/report as specified by regulations (Table 5).

Table 5. Regulations for annual reviews/reports by Fishery Management Plan.

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Monkfish	<p>(a) Annual review and adjustment process. The NEFMC and MAFMC, the Monkfish Plan Development Team (PDT), and the Monkfish Advisory Panel shall monitor the status of the monkfish fishery and resource.</p> <p>(2) Annual review. The PDT shall meet at least annually to conduct a review of the monkfish fishery in relation to the goals and objectives specified in the Monkfish FMP, including a review of catch relative to the annual catch targets (ACTs) for each management area. They shall review available data pertaining to discards and landings; DAS and other measures of fishing effort; stock status and fishing mortality rate information, if available; enforcement of and compliance with management measures; and any other relevant information. Based on this review, the PDT shall provide guidance to the NEFMC and MAFMC regarding the need to adjust management measures to better achieve the FMP's goals and objectives. After considering the PDT's guidance, the Council may submit to NMFS its recommendations for changes to management measures, as appropriate, through the annual framework adjustment process specified in paragraph (a)(3) of this section, the in-season framework adjustment process specified in paragraph (b) of this section, or through an amendment to the FMP.</p>	<p>50 CFR 648.96</p> <p>50 CFR 648.96(a)(2)</p>
Northeast Skate Complex	<p>(a) Annual review and specifications process. The Council, its Skate Plan Development Team (PDT), and its Skate Advisory Panel shall monitor the status of the fishery and the skate resources.</p> <p>(1) The Skate PDT shall meet at least annually to review the status of the species in the skate complex. At a minimum, this review shall include annual updates to survey indices, fishery landings and discards; a re-evaluation of stock status based on the updated survey indices and the FMP's overfishing definitions; and a determination of whether any of the accountability measures specified under § 648.323 were triggered. The review shall also include an analysis of changes to other FMPs (e.g., Northeast Multispecies, Monkfish, Atlantic Scallops, etc.) that may impact skate stocks, and describe the anticipated impacts of those changes on the skate fishery.</p> <p>...see also (2) through (7)</p>	<p>50 CFR 648.320(a)</p>

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Small-Mesh Multispecies	<p>(3) Annual Review.</p> <p>(i) Using a report provided by NMFS that includes trends in the fishery, changes in stock biomass, and total catch data, the Whiting PDT shall meet at least once annually to review the status of the stock and the fishery and the adequacy of the 3-year specifications. Based on such review, the PDT shall provide a report to the Council on any changes or new information about the small-mesh multispecies stocks and/or fishery, and it shall recommend whether the specifications for the upcoming year(s), established pursuant to paragraph (b)(1) of this section, need to be modified. At a minimum, this review should include a review of at least the following data, if available: Commercial catch data; discards; stock status (exploitation rate and survey biomass); sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of small-mesh multispecies; and any other relevant information.</p> <p>(ii) If new and/or additional information becomes available, the Whiting PDT shall consider it during this annual review. Based on this review, the Whiting PDT shall provide guidance to the Whiting Oversight Committee and the Council regarding the need to adjust measures for the small-mesh multispecies fishery to better achieve the FMP's objectives. After considering this guidance, the Council may submit to NMFS its recommendations for changes to management measures, as appropriate, through the specifications process described in this section, the process specified in paragraph (c) of this section, or through an amendment to the FMP.</p>	50 CFR 648.90(b)(3)

4.4.2 Alternative 2 – Remove the requirement to prepare an annual review/report (*Preferred Alternative*)

Under Alternative 2, the requirement would be removed to prepare an annual review in the Monkfish, Northeast Skate Complex, and Small-Mesh Multispecies FMPs and in the case of Small-Mesh Multispecies a report. This alternative would not prevent the Council from prioritizing the preparation of an annual review or monitoring or performance report for any of the Council’s FMPs through its priority setting process.

This is an administrative measure resulting in a change in regulations on the preparation of reviews/reports to the Council for certain FMPs. This administrative measure does not result in a change in fishing location, timing, effort, authorized gear types, or harvest levels.

Rationale: Under Alternative 2, the Council would have the flexibility to choose the timing and content of annual reviews/reports for all of the Council’s FMPs. This approach eliminates duplicative reporting.

4.5 ACTION 5 – LIST OF FRAMEWORK ADJUSTMENT ITEMS (*PREFERRED*)

All the Councils’ preferred actions 1-4 will be added to the list of framework adjustment items for the Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, Small-Mesh Multispecies, and Red Crab Fishery Management Plans.

This includes:

- Specification Frequency,
- Specification Setting Process,
- In-Season Adjustment Authority, and
- Annual Review/Report.

4.6 CONSIDERED BUT REJECTED ALTERNATIVES

It has been preliminarily determined that this action qualifies for a categorical exclusion from the need for further NEPA review, as it is primarily administrative in nature. The Council considered changes to the rollover or default provisions for the Northeast Multispecies and Atlantic Sea Scallop FMPs. However, these changes are less likely to qualify for a categorical exclusion from NEPA (i.e., would need some type of NEPA analysis). The Council may want to adjust these measures in the next available Northeast Multispecies and Atlantic Sea Scallop actions into order to analyze any changes alongside new specifications.

In addition, in FW 13 to the Monkfish FMP, the Councils’ preferred alternative for specifications included creation of default specifications. However, this provision did not get updated in the regulations. GARFO plans to address the correction when implementing monkfish specifications this year.

The following summarizes the alternatives considered but rejected.

4.6.1 Rollover or Default Provisions

The Council’s FMPs include different types of provisions that are in effect at the start of a fishing year in case new measures are not implemented. Some FMPs include a simple “rollover” of measures (e.g., no change in specifications until new specifications are approved and implemented, such as small-mesh multispecies), while others include “default” measures (e.g., precautionary measures are triggered until new measures are approved and implemented, such as scallops and groundfish). Under changing regulatory environments, including delays in document review and pauses in rulemaking, the Council considered increasing flexibility around rollover provisions and evaluating implementation timelines.

4.6.1.1 Alternative 1 – No Action

Under No Action, the current regulations for rollover or default provisions by FMP would remain (Table 6).

Table 6. Regulations for rollover or default provisions by Fishery Management Plan.

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
<p>Northeast Multispecies (Groundfish)</p>	<p>“Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the Federal Register for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 75 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on October 31, unless superseded by the final rule implementing the current year's specifications.”</p> <p>“If the default specifications exceed the Council's recommendations for any stock for the current year, the specifications for that stock shall be reduced to the Council's recommendation through notice consistent with the Administrative Procedure Act.”</p> <p>“These specifications shall be subdivided among the various sub-components of the fishery consistent with the ABC/ACL distribution adopted for the previous year's specifications.”</p>	<p>50 CFR 648.90(a)(3)(i)</p> <p>50 CFR 648.90(a)(3)(ii)</p> <p>50 CFR 648.90(a)(3)(iii)</p>
<p>Atlantic Sea Scallop</p>	<p>“The specifications action shall specify the measures necessary to address inconsistencies between specifications and default allocations for the period after April 1 but before the specifications action is implemented for that year. The default specifications, if implemented, shall remain in effect until they are revised through a subsequent specifications action.”</p>	<p>50 CFR 648.55(a)(7)</p>

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Monkfish	<p>"If the effective date of a final rule to implement the recommended measures falls after the start of the fishing year, fishing may continue under the existing regulations, but any DAS used by a vessel on or after the start of a fishing year shall be counted against any DAS allocation the vessel ultimately receives for that fishing year."</p> <p>NOTE: In Framework Adjustment 13, the Councils' preferred alternative for specifications included creation of default specifications. However, this provision did not get updated in the regulations. GARFO plans to address the correction when implementing specifications this year.</p> <p>"This alternative would create default specifications: these specifications would continue to be in place until a subsequent action replaces them."</p> <p>See pp. 16: https://d23h0vhsm26o6d.cloudfront.net/Monkfish-FW13-Environmental-Assessment_2023-07-11-165734_jfml.pdf</p>	50 CFR 648.96(a)(3)(iv)
Atlantic Herring	<p>"The previous year's specifications shall remain effective until they are revised through the specification process."</p>	50 CFR 648.200(d)
Northeast Skate Complex	<p>"If the final specifications are not published in the Federal Register for the start of the fishing year, the previous year's specifications shall remain in effect until superseded by the final rule implementing the current year's specifications, to ensure that there is no lapse in regulations while new specifications are completed."</p>	50 CFR 648.320(a)(7)
Small-Mesh Multispecies	<p>"If the final specifications are not published in the Federal Register for the start of the fishing year, the previous year's specifications will remain in effect until superseded by the final rule implementing the current year's specifications, to ensure that there is no lapse in regulations while new specifications are completed."</p>	50 CFR 648.90(b)(1)(iv)(D)
Red Crab	<p>"If the final specifications are not published in the Federal Register for the start of the fishing year, the previous year's specifications shall remain in effect until superseded by the final rule implementing the current year's specifications, to ensure that there is no lapse in regulations while new specifications are completed."</p>	50 CFR 648.260(a)(6)(iv)

Fishery Management Plan	Regulation Text (with emphasis added in bold)	Code of Federal Regulations Citation
Spiny Dogfish*	“If the annual specifications are not published in the Federal Register prior to the start of the fishing year, the previous year's annual specifications will remain in effect. The previous year's specifications will be replaced by the current year's specifications as of the effective date of the final rule implementing the current year's specifications. ”	50 CFR 648.232(c)(3)

**Provided for context. No changes would be proposed to regulations.*

Rationale: This would continue the FMP-by-FMP approach to determining rollover or default measures, rather than by a holistic approach. All FMPs, except for the Northeast Multispecies FMP, would continue to have rollover provisions in the event of a delay in specifications setting. Default measures for groundfish stocks and scallops would continue a more precautionary approach to specifications. However, to date, default specifications have been used under limited circumstances and ultimately replaced with incoming specifications.

4.6.1.2 Alternative 2 – Rollover Provisions

Under Alternative 2, all provisions for default specifications would be removed in the Northeast Multispecies and Atlantic Sea Scallop FMPs. The Northeast Multispecies FMP would be modified to allow for the rollover of the previous year’s specifications until replaced by new specifications consistent with the Council’s other FMPs.

Rationale: To date, default specifications have been used under limited circumstances and ultimately replaced with incoming specifications. This alternative would improve efficiency by allowing for existing specifications to remain in place until new ones are approved and implemented. The Northeast Multispecies and Atlantic Sea Scallop fisheries would be able to operate without delay at the start of their respective fishing years (May 1 and April 1).

5.0 APPLICABLE LAWS/EXECUTIVE ORDERS

5.1 MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

5.1.1 National Standards

Section 301 of the MSA requires regulations implementing any FMP or amendment to be consistent with ten national standards. This action contains no measures that affect the current operational regulations of the fisheries, rather this action modifies administrative measures of the Northeast Multispecies (large-mesh and small-mesh), Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Red Crab FMPs. As a result, each of the FMPs would continue to comply with all elements of the MSA following this action, including all ten National Standards. Table 7 provides a list of the most recent actions for the affected FMPs which summarize how the actions are consistent with the National Standards of the MSA.

Table 7. Most recent actions by FMP.

Fishery Management Plan (FMP)	Action	Summary of Consistency with MSA National Standards is available at:
Northeast Multispecies	Framework Adjustment 69	https://www.nefmc.org/management-plans/northeast-multispecies
Atlantic Sea Scallop	Framework Adjustment 39	https://www.nefmc.org/management-plans/scallops
Monkfish	Framework Adjustment 13	https://www.nefmc.org/management-plans/monkfish
Atlantic Herring	2025-2027 Specifications	https://www.nefmc.org/management-plans/herring
Northeast Skate Complex	Framework Adjustment 12	https://www.nefmc.org/management-plans/skates
Small-Mesh Multispecies	2024-2026 Specifications	https://www.nefmc.org/management-plans/small-mesh-multispecies
Red Crab	2024-2027 Specifications	https://www.nefmc.org/management-plans/red-crab

5.1.2 Other MSA Requirements

Section 303 (a) of the MSA contains required provisions for FMPs. The action is administrative in nature. As such, each of the Northeast Multispecies (large-mesh and small-mesh), Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Red Crab FMPs would continue to be consistent with the required provisions of the statute. Compliance with the MSA is outlined in previous FMP actions that are linked in Table 7.

5.2 NATIONAL ENVIRONMENTAL POLICY ACT

NEPA provides a mechanism for identifying and evaluating the full spectrum of environmental issues associated with federal actions and for considering a reasonable range of alternatives to avoid or minimize adverse environmental impacts. It has been preliminarily determined that this action qualifies for a categorical exclusion from the need for further NEPA review, as it is primarily administrative in nature.

5.2.1 Point of Contact

Questions concerning this document may be addressed to:

Dr. Cate O’Keefe, Executive Director,
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950 (978) 465-0492

5.2.2 Agencies Consulted

The following agencies, in alphabetical order, were consulted in preparing this document:

- Mid-Atlantic Fishery Management Council
- National Marine Fisheries Service, NOAA, Department of Commerce
- New England Fishery Management Council, including representatives from:
 - Connecticut Department of Energy and Environmental Protection
 - Maine Department of Marine Resources
 - Massachusetts Division of Marine Fisheries
 - New Hampshire Fish and Game
 - Rhode Island Department of Environmental Management
- United States Coast Guard, Department of Homeland Security

5.2.3 List of Preparers

The following personnel participated in preparing this document:

New England Fishery Management Council. Dr. Jamie Cournane, Dr. Cate O’Keefe, Jonathon Peros, Robin Frede, Jennifer Couture, Andrew Applegate, and Dr. Rachel Feeney.

National Marine Fisheries Service. Travis Ford, Sharon Benjamin, Scott Sakowski, Chad Demarest, Liz Sullivan, and Spencer Talmage.

Mid-Atlantic Fishery Management Council. Jason Didden.

5.2.4 Opportunity for Public Comment

This action was developed from April through October 2025, with five public meetings held (Table 8). Opportunity for public comment occurred at each of the meetings.

Table 8. Public meetings related to the Omnibus Management Flexibility Amendment.

Date	Meeting Type	Location
April 17, 2025	Council	Mystic, CT and webinar
June 24, 2025	Council	Freeport, ME and webinar
September 4, 2025	Executive Committee	Webinar
September 23, 2025	Council	Gloucester, MA and webinar
October 8, 2025	Mid-Atlantic Council	Philadelphia, PA and webinar

5.3 MARINE MAMMAL PROTECTION ACT (MMPA)

The proposed action is administrative in nature and is not expected to result in any direct or indirect impacts to MMPA protected species. As a result, this action would not affect marine mammals in any manner not considered in previous consultations on the fisheries. A final determination of consistency with the MMPA will be made by the agency when this action is approved.

5.4 ENDANGERED SPECIES ACT (ESA)

The proposed action would implement amendments to the Northeast Multispecies, Monkfish, Northeast Skate Complex, Red Crab, Atlantic Sea Scallop, and Atlantic Herring FMPs. The following summarizes the ESA section 7 consultations completed (or soon to be completed) on these fisheries, as well as an evaluation of the proposed action’s consistency with each consultations determination under the ESA.

ESA Section 7 Consultations

Northeast Multispecies, Monkfish, Northeast Skate Complex, and Red Crab FMPs

On May 27, 2021, NMFS completed formal consultation pursuant to section 7 of the ESA of 1973, as amended, and issued a biological opinion ([2021 Opinion](#)) on the authorization of eight FMPs, two interstate fishery management plans (ISFMP), and the implementation of the New England Fishery Management Council’s Omnibus Essential Fish Habitat (EFH) Amendment 2³. The 2021 Opinion considered the effects of the authorization of these FMPs, ISFMPs, and the implementation of the Omnibus EFH Amendment on ESA-listed species and designated critical habitat, and determined that those actions were not likely to jeopardize the continued existence of any ESA-listed species or destroy or adversely modify designated critical habitats of such species under NMFS jurisdiction. An Incidental Take Statement (ITS) was issued in the 2021 Opinion. The ITS includes reasonable and prudent measures and their implementing terms and conditions, which NMFS determined are necessary or appropriate to minimize impacts of the incidental take in the fisheries assessed in the 2021 Opinion.

On September 13, 2023, NMFS issued a 7(a)(2)/7(d) memorandum that reinitiated consultation on the 2021 Opinion. The Federal actions to be addressed in this reinitiation of consultation include the authorization of the Federal fisheries conducted under the aforementioned eight Federal FMPs². The reinitiated consultation will not include the American lobster and Jonah crab fisheries, which are

³ The eight Federal FMPs considered in the May 27, 2021, Biological Opinion include: (1) Atlantic Bluefish; (2) Atlantic Deep-sea Red Crab; (3) Mackerel, Squid, and Butterfish; (4) Monkfish; (5) Northeast Multispecies; (6) Northeast Skate Complex; (7) Spiny Dogfish; and (8) Summer Flounder, Scup, and Black Sea Bass. The two ISFMPs are American Lobster and Jonah Crab.

authorized under ISFMPs. On December 29, 2022, President Biden signed the Consolidated Appropriations Act (CAA), 2023, which included the following provision specific to NMFS' regulation of the American lobster and Jonah crab fishery to protect right whales, "Notwithstanding any other provision of law ... for the period beginning on the date of enactment of this Act and ending on December 31, 2028, the Final Rule ... shall be deemed sufficient to ensure that the continued Federal and State authorizations of the American lobster and Jonah crab fisheries are in full compliance with the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)." Given this, the American lobster and Jonah crab fisheries remain in compliance with the ESA through December 31, 2028.

On January 8, 2025, and amended on November 25, 2025, NMFS issued a memorandum titled, "Section 7(a)(2) and 7(d) Determinations for the Extended Reinitiation Period for Endangered Species Act Section 7 Consultation on Eight Fishery Management Plans." This reinitiation memorandum determined that the authorization of these fisheries during the extended reinitiation period would not violate section 7(d) of the ESA and would not be likely to jeopardize the continued existence of ESA-listed large whales, sea turtles, Atlantic sturgeon, Atlantic salmon, or giant manta rays, or adversely modify designated critical habitat.

Atlantic Herring FMP

NMFS considered the effects of the continued authorization of the herring fishery under the Atlantic Herring FMP on ESA-listed cetaceans, sea turtles, and fish, and designated critical habitat during an ESA section 7 consultation. An informal consultation was completed on February 9, 2010, that fully analyzed and considered the effects of the herring fishery on all ESA-listed species of sea turtles, cetaceans, and Atlantic salmon (Gulf of Maine distinct population segment) and designated critical habitat for listed species. This consultation concluded that the herring fishery is not likely to interact with any ESA-listed species, and is not likely to adversely affect ESA-listed species or designated critical habitat.

Since the completion of the 2010 informal consultation, multiple herring fishery management actions have been authorized, new ESA-listed species or critical habitat have been designated, and/or new information on ESA-listed species has been reported. As provided in 50 CFR 402.16, reinitiation of ESA section 7 consultation is required where discretionary control over the action has been retained or is authorized by law and if: (1) The amount or extent of incidental take is exceeded; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in the most recent consultation (informal or formal); or (4) a new species is listed or critical habitat designated that may be affected by the action.

To date, in accordance with § 402.16, NMFS has determined that reinitiation of consultation has not been warranted. Specifically:

- NMFS review of every herring fishery management action since 2010 has determined that none of the proposed herring fishery management actions have modified the fishery in a manner that will result in effects to listed species or critical habitat in a manner or to an extent not previously considered;
- Since 1989, the date of NMFS' earliest observer records for Federally managed fisheries, there has been no observed or documented interactions between gear used in the herring fishery (*i.e.*, primarily purse seine and mid-water trawl) and any ESA-listed species (Greater Atlantic Region Marine Animal Incident Database, unpublished data ; Northeast Fisheries Science Center (NEFSC) observer/sea sampling database, unpublished data; NMFS NEFSC marine mammal (baleen whale) serious injury and mortality [reports](#); [MMPA List of Fisheries](#) (LOF); [NMFS Marine Mammal Stock Assessment Reports for the Atlantic Region](#); [NMFS 2021](#)). Given this,

consistent with the 2010 consultation, NMFS has determined that no take is anticipated or exempted for this fishery;

- There is new information on North Atlantic right whale distribution and abundance; however, gear used in the herring fishery is not likely to interact with this species. As a result, NMFS determined effects to North Atlantic right whales are expected to remain similar to those previously considered for this fishery, and therefore, does not meet this trigger for reinitiation ([NMFS 2021](#)); and,
- Since 2010, NMFS has considered whether ESA section 7 consultation must be reinitiated as a result of the listing or designation of any new species or critical habitat. After review of the best available information, NMFS determined that none of the new listings or designated critical habitat would be affected by the herring fishery, and as such, reinitiation of consultation was not warranted.

Atlantic Sea Scallop

NMFS issued a Biological Opinion (Opinion) on June 17, 2021, that considered the effects of the NMFS' authorization of the Scallop Fishery Management Plan (FMP) on ESA-listed species and designated critical habitat. The Opinion concluded that the scallop fishery, as authorized under the scallop FMP: 1) may adversely affect, but is not likely to jeopardize the continued existence of the Northwest Atlantic Ocean distinct population segment (DPS) of loggerhead, leatherback, Kemp's ridley, and the North Atlantic DPS of green sea turtles, as well as the five listed DPSs of Atlantic sturgeon; and, 2) is not likely to adversely affect designated critical habitat for North Atlantic right whales or loggerhead (Northwest Atlantic Ocean DPS) sea turtles. The Opinion included an incidental take statement authorizing the take of specific numbers of ESA listed species of sea turtles and Atlantic sturgeon over a five-year period. Reasonable and prudent measures and terms and conditions were also issued with the incidental take statement to minimize impacts of any incidental take.

Overall Determination

As provided in section 1.0, the proposed action is administrative in nature and therefore, is not expected to result in any direct or indirect impacts to ESA-listed species or designated critical habitat. Based on this and the information provided above, it has been determined that the proposed action does not entail making any changes to the Northeast Multispecies, Monkfish, Northeast Skate Complex, Atlantic Herring and Atlantic Sea Scallop fisheries during the extended reinitiation period that would cause an increase in interactions with or effects to ESA-listed species or their designated critical habitat beyond those considered in NMFS':

1. May 27, 2021, Opinion and amended January 8, 2025, reinitiation memorandum on eight FMPS (including the Northeast Multispecies, Monkfish, Northeast Skate, and Red crab FMPS);
2. February 9, 2010 consultation on the Atlantic Herring FMP; and,
3. June 17, 2021, Opinion on the Atlantic Sea Scallop FMP.

Based on the above, as it pertains to the Northeast Multispecies, Monkfish, Northeast Skate Complex, Atlantic Herring and Atlantic Sea Scallop fisheries, the proposed action is consistent with the determinations made by NMFS in the respective fisheries Opinions, informal consultations, and/or reinitiation memorandums described above.

5.5 ADMINISTRATIVE PROCEDURE ACT (APA)

Sections 551-553 of the APA established procedural requirements applicable to informal rulemaking by federal agencies. The purpose is to ensure public access to the federal rulemaking process, and to give

public notice and opportunity for comment. The Council did not request relief from notice and comment rule making for this action and expects that NOAA Fisheries will publish proposed and final rule making for this action.

5.6 PAPERWORK REDUCTION ACT (PRA)

The purpose of the Paperwork Reduction Act (PRA) is to minimize paperwork burden for individuals, small businesses, nonprofit institutions, and other persons resulting from the collection of information by or for the Federal Government. It also ensures that the Government is not overly burdening the public with information requests. This action does not include any revisions to the current PRA collection requirements; therefore, no review under the PRA is necessary.

5.7 COASTAL ZONE MANAGEMENT ACT (CZMA)

Section 307 of the Coastal Zone Management Act (CZMA) is known as the federal consistency provision. Federal Consistency review requires that “federal actions, occurring inside or outside of a state's coastal zone, that have a reasonable potential to affect the coastal resources or uses of that state's coastal zone, to be consistent with that state's enforceable coastal policies, to the maximum extent practicable.” NOAA Fisheries has previously made determinations that each of the FMPs were consistent with each state’s coastal zone management plan and policies, and each coastal state concurred in these consistency determinations. Once the Council has submitted this action to NMFS, NMFS will request consistency reviews by CZM state agencies directly.

5.8 INFORMATION QUALITY ACT (IQA)

This document includes a description of the management issues and the reasons for selecting the proposed action. The proposed action makes administrative process changes to the Council’s FMPs to increase management flexibility and consistency. The proposed action is consistent with the MSA and all other existing applicable laws. Until a notice of action is prepared and published, this document is the principal means by which the information herein is publicly available. This document will be subject to public comment before final approval, as specified in Section 304 (a)(1)(B) of the MSA, and, therefore, may be improved based on comments received. This document is available in several formats, including printed publication, and online through the NEFMC’s web page (www.nefmc.org). The *Federal Register* notice that announces this action will be made available in printed publication, on the website for GARFO (<https://www.fisheries.noaa.gov/region/new-england-mid-atlantic>), and through the Regulations.gov website.

The Council review process involves public meetings at which affected stakeholders have opportunity to comment on the document. Review by staff at GARFO is conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with the applicable law.

Final approval of the action proposed in this document and clearance of any rules prepared to implement resulting regulations is conducted by staff at NOAA Fisheries Service Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget. In preparing this action, the Council must comply with the Magnuson-Stevens Fishery Conservation and Management Act, the Regulatory Flexibility Act, the Administrative Procedure Act, the Paperwork Reduction Act, the Coastal Zone Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Information Quality Act, and Executive Orders 12630 (Property Rights), 12866 (Regulatory Planning), 13132 (Federalism), and 13158 (Marine Protected Areas). The Council has determined that the proposed action is consistent with the National Standards of the MSA and all other applicable laws.

5.9 EXECUTIVE ORDER 13158 (MARINE PROTECTED AREAS)

EO 13158 on Marine Protected Areas (MPAs) requires each federal agency whose actions affect the natural or cultural resources that are protected by an MPA to identify such actions, and, to the extent permitted by law and to the maximum extent practicable, in taking such actions, avoid harm to the natural and cultural resources that are protected by an MPA. The EO directs federal agencies to refer to the MPAs identified in a list of MPAs that meet the definition of MPA for the purposes of the EO. The EO requires that the Departments of Commerce and the Interior jointly publish and maintain such a list of MPAs. A list of MPA sites has been developed and is available at: <http://marineprotectedareas.noaa.gov/nationalsystem/nationalsystemlist/>.

No further guidance related to this EO is available at this time.

In the Northeast U.S., the only MPAs are the Stellwagen Bank National Marine Sanctuary (SBNMS), the Tilefish Gear Restricted Areas in the canyons of Georges Bank, and the National Estuarine Research Reserves and other coastal sites.

This action is administrative in nature, will not directly affect resources within MPAs, and is thus exempt from review under Executive Order 13158.

5.10 EXECUTIVE ORDER 13132 (FEDERALISM)

EO 13132 on federalism established nine fundamental federalism principles for Federal agencies to follow when developing and implementing actions with federalism implications. However, no federalism issues or implications have been identified relative to the measures proposed in this action, thus preparation of an assessment under EO 13132 is unwarranted. The affected states have been closely involved in the development of the proposed action through their representation on the Councils. All affected states are represented as voting members of at least one Regional Fishery Management Council. No comments were received from any state officials relative to any federalism implications that may be associated with this action.

5.11 REGULATORY IMPACT ANALYSIS (E.O. 12866)

The purpose of Executive Order 12866 (E.O. 12866, 58 FR 51735, October 4, 1993) is to enhance planning and coordination with respect to new and existing regulations. This E.O. requires the Office of Management and Budget (OMB) to review regulatory programs that are considered to be “significant.” A significant action is any regulatory action that may:

1. Have an annual effect on the economy of \$100 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
4. Raise legal or policy issues for which centralized review would meaningfully further the President’s priorities or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider.

This action is administrative in nature and contains no measures that affect the current operational regulations of the fisheries. The implementing regulations under this proposed action modify administrative measures to increase management flexibility and consistency in the Northeast Multispecies (large-mesh and small-mesh), Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Red Crab FMPs. These measures include changes to specifications frequency, specifications setting process, in-season adjustment authority, and preparation of Council reports/reviews.

5.12 REGULATORY FLEXIBILITY ACT (RFA)

The purpose of the Regulatory Flexibility Analysis (RFA) is to reduce the impacts of burdensome regulations and record-keeping requirements on small businesses. To achieve this goal, the RFA requires government agencies to describe and analyze the effects of regulations and possible alternatives on small business entities. Analysis and review of this action under the RFA is not necessary, because this action is administrative in nature and contains no measures that affect the current operational regulations of the fisheries. The implementing regulations under this proposed action modify administrative measures to increase management flexibility and consistency in the Northeast Multispecies (large-mesh and small-mesh), Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Red Crab FMPs. These measures include changes to specifications frequency, specifications setting process, in-season adjustment authority, and preparation of Council reports/reviews.

6.0 REFERENCES

Methot, R. 2015. Prioritizing fish stock assessments. *NOAA Tech. Memo.* NMFS-F/SPO 152. Available at: <https://repository.library.noaa.gov/view/noaa/12874>.

7.0 APPENDIX

Table A1. Current specification years by Fishery Management Plan and stock in place or proposed by the Council and new specification years planned for Council final action in 2025.

Stock	Current	New
	Scallops	
Atlantic Sea Scallops	2025-2026	2026-2027
Northeast Multispecies		
<u>Large-Mesh</u>		
Gulf of Maine Cod	2025	
Georges Bank Cod	2025	
Eastern Gulf of Maine Cod		2026-2027
Western Gulf of Maine Cod		2026-2027
Georges Bank Cod		2026
Southern New England Cod		2026-2027
Georges Bank Haddock	2025	2026
Gulf of Maine Haddock	2025-2027	
Georges Bank Yellowtail Flounder	2025-2026	2026
Southern New England/Mid-Atlantic Yellowtail Flounder	2025	2026-2030
Cape Cod/Gulf of Maine Yellowtail Flounder	2025	2026-2030
American Plaice	2025-2027	
Witch Flounder	2025-2027	
Georges Bank Winter Flounder	2025	2026-2030
Gulf of Maine Winter Flounder	2025	2026-2030
Southern New England/Mid-Atlantic Winter Flounder	2025	2026-2030
Acadian Redfish	2025-2026	2026-2030
White Hake	2025	2026-2030
Pollock	2025-2027	
Northern Windowpane Flounder	2025-2026	
Southern Windowpane Flounder	2025-2026	
Ocean Pout	2025	2026-2030
Atlantic Halibut	2025-2027	
Atlantic Wolffish	2025	2026-2030
<u>Small-Mesh</u>		
Northern red hake	2025-2026	
Southern red hake	2025-2026	
Northern silver hake	2025-2026	
Southern whiting (Southern silver hake + Offshore hake)	2025-2026	
Monkfish		
Northern Monkfish	2025	2026-2028
Southern Monkfish	2025	2026-2028

Stock

	Current	New
<u>Skates</u>		
Skate Complex: Barndoor, Clearnose, Little, Rosette, Smooth, Thorny, and Winter	2025	2026-2028
<u>Herring</u>		
Atlantic herring	2025-2027	
<u>Crab</u>		
Red Crab	2025-2027	
<u>Dogfish</u>		
Spiny dogfish	2025	2026-2027

Table A2. Timeline for recent Council actions with specifications from Council(s) proposal to NMFS implementation.

Recent Actions	NEPA	Council(s) - Proposal						NMFS - Implementation					
		Initial Meeting(s)		Final Meeting(s)		Preliminary Submission	NMFS Review	Final Submission	Proposed Rule	Final Rule	Days post Final Action	FY Start	Days into FY
NE Mults. FW69	EA	6/26/2024			12/4/2024	1/7/2025	3/5/2025	3/11/2025	12/08/2025			5/1/2025	
Sea Scallop FW39*	EA	6/27/2024			12/5/2024	2/19/2025	3/24/2025	4/7/2025	3/15/2025	4/21/2025	137	4/1/2025	-20
Monkfish FW13	EA	4/7/2022	4/12/2022	1/25/2023	2/7/2023	3/9/2023	4/6/2023	4/24/2023	4/26/2023	8/11/2023	185	5/1/2023	-102
Atl. Herring Specs.	SIR	6/24/2024		9/26/2024	4/16/2025	10/8/2024	2/24/2025	5/6/2025	6/25/2025	12/11/2025	239	1/1/2025	-344
Skates FW12	EA	6/27/2023			12/6/2023	12/21/2023	5/6/2024	5/30/2024	5/23/2024	7/17/2024	224	5/1/2024	-77
SM Mults. Specs.	EA	9/25/2023			12/6/2023	1/19/2024	7/2/2024	7/31/2024	7/22/2024	8/29/2024	267	5/1/2024	-120
Red Crab Specs.	SIR				9/26/2023	10/11/2023	10/31/2023	11/2/2023	12/1/2023	2/8/2024	135	3/1/2024	22
Spiny Dogfish Specs.	SIR		10/9/2024	12/4/2024	12/10/2024	1/24/2025	2/14/2025	3/11/2025	3/26/2025	5/12/2025	153	5/1/2025	-11

NEFMC
MAFMC
*Decision Draft 12/20/2024
Pending