

Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, Small-Mesh Multispecies, and Red Crab Fishery Management Plans

Omnibus Management Flexibility Amendment

DRAFT

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Prepared by the
New England Fishery Management Council
In consultation with the
National Marine Fisheries Service



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**AMENDMENT??? TO THE NORTHEAST MULTISPECIES, ATLANTIC SEA SCALLOP,
MONKFISH, ATLANTIC HERRING, NORTHEAST SKATE COMPLEX, SMALL-MESH
MULTISPECIES, AND RED CRAB, FISHERY MANAGEMENT PLANS**

Proposed Action: Propose changes to increase management flexibility.

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, has prepared an amendment to the Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, Small-Mesh Multispecies, and Red Crab Fishery Management Plans. The proposed action focuses on administrative process changes to increase management flexibility.

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2.2 ACRONYMS

ABC	Acceptable Biological Catch
ACL	Annual Catch Limit
AM	Accountability Measure
APA	Administrative Procedures Act
ASMFC	Atlantic States Marine Fisheries Commission
CEQ	Council on Environmental Quality
DAS	Day(s)-at-sea
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FMP	Fishery management plan
FW	Framework
FY	Fishing year
GARFO	Greater Atlantic Regional Fisheries Office
MAFMC	Mid-Atlantic Fishery Management Council
MMPA	Marine Mammal Protection Act
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
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
SAFE	Stock Assessment and Fishery Evaluation
SSC	Scientific and Statistical Committee
TAL	Total allowable landings

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 New England Fishery Management Council (Council) to consider increased flexibility in management and regulatory processes. For reference, the Appendix includes a summary of current specifications in place by stock and timelines for recent management actions with specifications.

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, an evaluation of current practices and consideration of adaptive approaches is warranted. The Council identified the need to increase management flexibility 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.

4.0 ALTERNATIVES UNDER CONSIDERATION

The Council considered the alternatives in this section. It 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.

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 is considering 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)	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)
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)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
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)
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)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
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

Under Alternative 2, each of the Council’s managed FMPs would be modified 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. Apart from the specification frequency, other provisions under each FMP describing the process for setting specifications would remain unchanged under this alternative. 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. 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 to FMPs generally involve minor plan modifications and require review by the Council at a minimum of two meetings (of which one 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 process 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)	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	“(a) Specifications. (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. (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.”	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)	Code of Federal Regulations Citation
Atlantic Herring	“(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.”	50 CFR 648.200(a)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Northeast Skate Complex	“(4) 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. (5) Recommended measures. The Skate PDT shall also recommend management measures to the Skate Committee and Council to assure that the specifications are not exceeded. Recommended measures should include, but are not limited to: (i) Possession limits in each fishery; (ii) In-season possession limit triggers for the wing and/or bait fisheries; (iii) Required adjustments to in-season possession limit trigger percentages or the ACL-ACT buffer, based on the accountability measures specified at § 648.323; and (iv) 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.”	50 CFR 648.320(a)(4) 50 CFR 648.320(a)(5)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Small-Mesh Multispecies	(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. (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. (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. (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.	50 CFR 648.90(b)(1)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Red Crab	“(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. (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.”	50 CFR 648.260(a)(4) 50 CFR 648.260(a)(5)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Spiny Dogfish	(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: (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. (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.	50 CFR 648.232

4.2.2 Alternative 2 – Specification Setting Process

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 - This 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. 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.

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 objectives. 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.

Fishery Management Plan	Regulation Text (with emphasis added)	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

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 Council may select Option A or Option B.

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)

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.

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 resulting in a change in regulations to adopt in-season adjustment authority across all the Council’s FMPs. No changes would be proposed to regulations in the Spiny Dogfish FMP.

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)	Code of Federal Regulations Citation
Monkfish	(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. (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.	50 CFR 648.96 50 CFR 648.96(a)(2)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Northeast Skate Complex	(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. (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. ...see also (2) through (7)	50 CFR 648.320(a)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Small-Mesh Multispecies	(3) Annual Review. (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. (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.	50 CFR 648.90(b)(3)

4.4.2 Alternative 2 – Remove the requirement to prepare an annual review/report

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.

4.5 ACTION 5 – LIST OF FRAMEWORK ADJUSTMENT ITEMS

Any Council preferred actions 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.

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 Framework Adjustment 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)	Code of Federal Regulations Citation
Northeast Multispecies (Groundfish)	“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.” “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.” “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.”	50 CFR 648.90(a)(3)(i) 50 CFR 648.90(a)(3)(ii) 50 CFR 648.90(a)(3)(iii)
Atlantic Sea Scallop	“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.”	50 CFR 648.55(a)(7)

Fishery Management Plan	Regulation Text (with emphasis added)	Code of Federal Regulations Citation
Monkfish	"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." 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. "This alternative would create default specifications: these specifications would continue to be in place until a subsequent action replaces them." See pp. 16: https://d23h0vhsm26o6d.cloudfront.net/Monkfish-FW13-Environmental-Assessment_2023-07-11-165734_jfml.pdf	50 CFR 648.96(a)(3)(iv)
Atlantic Herring	"The previous year's specifications shall remain effective until they are revised through the specification process."	50 CFR 648.200(d)
Northeast Skate Complex	"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."	50 CFR 648.320(a)(7)
Small-Mesh Multispecies	"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."	50 CFR 648.90(b)(1)(iv)(D)
Red Crab	"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."	50 CFR 648.260(a)(6)(iv)

Fishery Management Plan	Regulation Text (with emphasis added)	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

5.1.2 Other MSA Requirements

5.2 NATIONAL ENVIRONMENTAL POLICY ACT

5.2.1 Point of Contact

5.2.2 Agencies Consulted

5.2.3 List of Preparers

5.2.4 Opportunity for Public Comment

5.3 MARINE MAMMAL PROTECTION ACT (MMPA)

5.4 ENDANGERED SPECIES ACT (ESA)

5.5 ADMINISTRATIVE PROCEDURE ACT (APA)

5.6 PAPERWORK REDUCTION ACT (PRA)

5.7 COASTAL ZONE MANAGEMENT ACT (CZMA)

5.8 INFORMATION QUALITY ACT (IQA)

5.9 EXECUTIVE ORDER 13158 (MARINE PROTECTED AREAS)

5.10 EXECUTIVE ORDER 13132 (FEDERALISM)

5.11 REGULATORY FLEXIBILITY ACT (RFA)

5.12 REGULATORY IMPACT ANALYSIS (EO 12866)

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		2026-2027
Southern New England Cod		2026-2027
Georges Bank Haddock	2025	2026-2027
Gulf of Maine Haddock	2025-2027	
Georges Bank Yellowtail Flounder	2025-2026	2026-2028
Southern New England/Mid-Atlantic Yellowtail Flounder	2025	2026-2028
Cape Cod/Gulf of Maine Yellowtail Flounder	2025	2026-2028
American Plaice	2025-2027	
Witch Flounder	2025-2027	
Georges Bank Winter Flounder	2025	2026-2028
Gulf of Maine Winter Flounder	2025	2026-2028
Southern New England/Mid-Atlantic Winter Flounder	2025	2026-2028
Acadian Redfish	2025-2026	2026-2028
White Hake	2025	2026-2028
Pollock	2025-2027	
Northern Windowpane Flounder	2025-2026	
Southern Windowpane Flounder	2025-2026	
Ocean Pout	2025	2026-2028
Atlantic Halibut	2025-2027	
Atlantic Wolffish	2025	2026-2028
<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	2026-2030
Southern Monkfish	2025	2026-2030

Stock

	Current	New
<u>Skates</u>		
Skate Complex: Barndoor, Clearnose, Little, Rosette, Smooth, Thorny, and Winter	2025	2026-2030
<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.

Council(s) - Proposal									NMFS - Implementation				
Recent Actions	NEPA	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				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			1/1/2025	
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				*Decision Draft							
		MAFMC				12/20/2024							

*Decision Draft
12/20/2024