

Supplemental Scoping Document
for
Amendment 5
to the
Northeast Skate Complex
Fishery Management Plan



Prepared by the
New England Fishery Management Council
December 7, 2020

Amendment 5 Supplemental Scoping Meeting Schedule

The New England Fishery Management Council (NEFMC) is conducting two scoping meetings via webinar, to solicit comments on Amendment 5 to the Northeast Skate Complex Fishery Management Plan (FMP).

| <u>Date and Time</u> | <u>Location</u> |
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| Via Webinar Thursday January 21, 2021 3:30 – 5:30 pm | Webinar Hearing Register to participate: https://attendee.gotowebinar.com/register/3036577748943629579 Call in info: (631) 992-3221 Access Code: 331-326-701 |
| Via Webinar Monday February 8, 2021 4 – 6 pm | Webinar Hearing Register to participate: https://attendee.gotowebinar.com/register/6858166806279145739 Call in info: (401) 655-0052 Access Code: 987-552-568 |

You may attend the above scoping meetings to provide oral comments, or you may submit written comments on the Amendment by:

- Fax: (978) 465-3116
- Email: comments@nefmc.org
- Mail at the address below.

Thomas A. Nies, Executive Director
 New England Fishery Management Council
 50 Water Street, Mill #2
 Newburyport, MA 01950

The comment deadline is 5:00 p.m. EST, Friday, February 12, 2021.

Please note on your correspondence: “Northeast Skate Complex Amendment 5 Scoping Comments.”

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| <i>Your comments are invited</i> | The Council may amend the Fishery Management Plan (FMP) for the Northeast Skate Complex under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. In accordance with the National Environmental Policy Act (NEPA), the Council is in the process of preparing an Environmental Impact Statement (EIS) for Amendment 5 to the Northeast Skate Complex FMP that will analyze the impacts of this amendment on the affected biological, physical, and human environments. |
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| | <p>This document announces a supplemental scoping period for Amendment 5. The Council seeks your ideas, concerns and other comments to identify management issues and develop alternatives for the wing and/or bait skate fishery. Following the supplemental scoping period, the Council, with continued public input, will develop a range of alternatives to address the problem statement and goals of this action, which could also be revised based on scoping comments.</p> |
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| <p><i>Why is the Council proposing to act?</i></p> | <p>The Council first conducted scoping for Amendment 5 in early 2017 to address concerns that increasingly strict regulations in other fisheries might cause fishermen to shift effort into the open access skate fishery. This could cause the fishery to use its quota quickly, trigger reduced skate possession limits, or have negative economic impacts on current participants. To prevent this, the Council has been considering implementing limited access for the skate fishery.</p> <p>In September 2020, the Council expanded the scope of Amendment 5 to consider other measures that may prevent the triggering of incidental skate possession limits, improve the precision and accuracy of fishery data, and better define skate fishery participants. Specifically, the Council approved the following problem statement:</p> <p>“There are two modes of the skate fishery, directed and non-directed fisheries. An incidental limit has been triggered five times since first implemented July 2010, and when it gets triggered, there are negative impacts on the directed skate fishery and on the other fisheries that incidentally harvest skate.</p> <p>“There is a need to improve the reliability and accountability of catch reporting in the skate fishery (and other fisheries that catch skate) to ensure there is precise and accurate representation of catch (landings and discards). Accurate catch data are necessary to ensure that catch limits are set at levels that prevent overfishing and to determine when catch limits are exceeded.</p> <p>“Current and potential access to the skate resource make it difficult to achieve long term sustainable management in the skate fishery. It is more difficult to prevent overfishing and predict outcomes of management when participants in a fishery cannot be defined.”</p> <p><i>NOTE:</i> The Council could revise the problem statement by, for example, making more linkage between the issues or identifying an overarching problem. The Council seeks comments on whether, how, and why the problem statement articulates current issues in the <u>wing and/or bait fishery</u> that should be addressed and/or if other issues should be considered.</p> |
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| <p><i>What are the goals of this action?</i></p> | <p>As approved by the Council in September 2020, the goals of Amendment 5 are to:</p> <ol style="list-style-type: none"> 1. Avoid tripping the skate incidental possession limit. 2. Improve skate data, leading to improved assessments (e.g., no longer be considered data-poor) and more precise and accurate understanding of the landings and discards in different segments of the fishery. 3. Minimize discards. 4. Better characterize the directed and non-directed fisheries. 5. Better understand the true potential for vessels to enter the fishery. 6. Minimize the impact on any other fisheries that have interactions with skates. 7. Preserve, to the extent possible, ongoing participation the fishery consistent with how past utilization has occurred. <p><i>NOTE:</i> These goals are the outcomes the Council identified to solve the issues identified in the problem statement. The Council could revise the goals and seeks comments on whether, how, and why the goals would address the problem statement and/or if other goals should be considered for the <u>wing and/or bait fishery</u>.</p> |
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| <p><i>What types of measures are being considered for this action?</i></p> | <p>Also approved in September 2020, the following types of measures are being considered for achieving the goals of this action:</p> <ol style="list-style-type: none"> 1. An intermediate trigger to slow the wing and/or bait fishery. 2. Limited access for the wing and/or bait fishery, with or without tiers for different qualification criteria for permit categories. 3. Creating different TALs for the wing fishery segments (e.g., directed and non-directed TALs). 4. Monitoring requirements for the wing and/or bait fishery beyond NEFOP/SBRM requirements. 5. Restrict switching between state and federal fishing for the wing and/or bait fishery. 6. Gear modifications that could reduce bycatch for the wing and/or bait fishery (e.g., 12" mesh gillnet size). 7. Make the Federal skate permit a year-round permit for the wing and/or bait fishery. 8. Additional reporting requirements for the wing and/or bait fishery (e.g., VMS declarations, daily catch reports). <p><i>NOTE:</i> The Council seeks comment on whether, how, and why these types of measures would achieve the goals identified and/or if others should be considered. Also, <u>the Council could develop measures that apply to just the wing fishery, just the bait fishery, or to both. The Council seeks comment on whether, how, and why these measures should apply to the wing and/or bait fishery.</u></p> |
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| <p><i>Background Information</i></p> | <p>The Northeast Skate Complex has seven species: barndoor skate, clearnose skate, little skate, rosette skate, smooth skate, thorny skate, and winter skate. The Northeast Fisheries Science Center trawl survey is used to assess the status of the seven skate species in the complex. Trawl survey abundance indices serve as a biomass proxy and stock status definitions are based on changes in these indices. Currently, only thorny skate is in an overfished condition and has a rebuilding plan, and overfishing is not occurring on any species.</p> <p>At present, there is only one type of Federal skate permit, an open-access permit (one of the few open access fisheries in New England). Anyone with a valid Federal fishing permit can obtain a Federal skate permit. Doing so allows the permitted vessel to catch skates in the EEZ and to land them as wings or bait. If fishing for skate wings with the intent to land over the 500 lb incidental limit, the vessel must also have a Federal limited access permit for either the Northeast multispecies, monkfish or scallop fishery, and must declare into and use a day-at-sea (DAS) of one of those fisheries (unless declaring out of fishery to fish in an exemption area or transiting from the NAFO Regulatory Area). To land bait using the higher bait possession limit, a vessel needs a skate permit and a Letter of Authorization for bait. Additional information on possession limits (current and historical) and the triggering of incidental limits in the skate wing and bait fisheries are included in the Amendment 5 Discussion Document (Section 5.6.1.3).</p> <p>The skate bait and wing components each have total allowable landings (TAL) divided into seasons and have distinct possession limits that have varied over time. The overall TAL is divided between the two fisheries – 33.5% is allocated to the bait fishery and 66.5% to the wing fishery. In fishing years 2020 and 2021, the bait fishery has three seasons, each with a 25,000 lb possession limit. The wing fishery has two seasons, with 3,000 lb and 5,000 lb possession limits.</p> <p>More information on skate management and the fishery is on the website of the Greater Atlantic Regional Office and in the Amendment 5 Discussion Document.</p> |
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| <p><i>Some issues to consider regarding limited access</i></p> | <p>During the original public scoping period in 2017, Amendment 5 was focused on considering implementing limited access for the skate fishery. Although the scope of this action has broadened, the Council invites additional comment on limited access and the expanded types of measures that may be considered for the skate <u>wing and/or bait fishery</u>.</p> <p>Control date. A control date for the bait fishery was established on July 30, 2009. A control date was set for the wing (non-bait) fishery on March 31, 2014. The purpose of the control date was to provide public notice after which future participation in the fishery might not be guaranteed for new entrants if a limited entry program is implemented. Although the Council may use the control date for this purpose, it is not obligated to use limited entry to manage the fishery or to use participation before the control date as the sole basis for</p> |
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qualification. The Council may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

Potential qualification criteria. In developing a limited access program, the Council may establish qualification criteria for skate fishing permits and possibly different qualification criteria or catch limits for the bait and/or wing components, considering how they operate differently. Qualification criteria may include factors such as, but not limited to, the years vessels have participated in the fishery, historical levels of landings, and dependence on the fishery. For example, it may be desirable to have different tiers that distinguish between vessels that target skate and vessels that land smaller quantities of skate. Having different categories of limited access vessels may treat vessels differently based on their individual fishing history. In any qualification program, the details of the qualifying criteria are critical, and usually controversial.

Questions to consider when commenting (specify if comment is applicable to *wing, bait, or both fisheries*):

- Should the Council consider and use limited access to manage capacity in both or one of the Northeast Skate Complex fisheries? Why or why not?
- If a limited access program is established, should qualifying criteria be based on the bait and/or wing (non-bait) control dates or some other dates? Should limited access be implemented in both skate fisheries?
- Should the Council consider more than one type of (or tiered) limited access permit, with allowed landings varying by permit type and/or landings history? For example, a vessel with a lower level of historical participation in the fishery could qualify for a restricted or tiered limited access permit but might be allowed to make fewer skate trips or have reduced possession limits.
- Should limited access permits be based on a level of landings during specific years? What years should be considered? What other factors in a vessel's history should be considered?
- If qualification criteria are established, how would limited entry change the present participation and historical fishing practices in either or both of the fisheries?
- What sources of data should be used to determine limited access qualification? Should the qualification criteria be based on landings from dealer reports, Vessel Trip Reports (VTRs), and/or Interactive Voice Response (IVR) Quota Monitoring Reports?

Potential limited access permit characteristics and conditions. Other FMPs that have considered and/or implemented limited access have also developed permit characteristics and conditions related to issues like encouraging new entrants, accumulation limits, and permit transfers, - restrictions on how permits may be used, when they may be activated, and/or how they may be transferred, leased, or consolidated. There are also regulations in other FMPs (e.g., using a monkfish, Northeast multispecies, or scallop DAS to land skate

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| | <p>wings above the incidental limit) that could have bearing on how and when skate permits may be fished.</p> <p><i>Questions to consider when commenting (specify if comment is applicable to <u>wing, bait, or both fisheries</u>):</i></p> <ul style="list-style-type: none"> • Should a mechanism exist to allow a limited number of new entrants in the wing and/or bait fishery if it is not achieving Optimum Yield due to insufficient fishing effort? If so, what factors should be considered? • Should Amendment 5 develop an accumulation limit for skate fishery permits (for the wing and/or bait fishery)? • Regulations for other management plans, including those governing Northeast multispecies fishing, allow for various types of temporary or permanent transfers of harvest allocations or permits. To be consistent with other regulations that may apply to a qualifying skate vessel, should skate limited access permits and/or harvest allocations be transferable for the wing and/or bait fishery (with the sale of the vessel, by lease, or some other means)? If so, what conditions should apply to such transfers? <p>Potential permit categories and associated measures. For the wing and/or bait fishery, there could be multiple categories of limited access permits with different qualification criteria. Potentially, an open-access permit could remain for vessels that do not qualify for limited access. Each permit category may have specific landing limits or other restrictions.</p> <p><i>Questions to consider when commenting (specify if comment is applicable to <u>wing, bait, or both fisheries</u>):</i></p> <ul style="list-style-type: none"> • If multi-tiered limited access permit categories are developed, should the amount of skate fishing activity allowed under each permit category be differentiated? • Should fishing limits (e.g. trips, possession limits, total landings, etc.) be consistent with a vessel’s qualification history for either/both the wing and bait fishery? If so, how? • If different limited access permits exist, should management areas also be established? If this is done, what conditions and limits should apply? • Presumably, vessels that do not qualify for limited access permits would be prohibited from portions of the skate fishery. Should such vessels be allowed to land skate (wing and/or bait), potentially under a low skate possession limit? |
| <p><i>Some issues to consider regarding other types of measures</i></p> | <p>In addition to limited access, the Council may consider measures such as creating an intermediate trigger for incidental limits, creating different landing limits for segments of the wing fishery, revising monitoring and reporting requirements, restricting switching between state and federal fishing for the</p> |

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| | <p>wing and/or bait fishery, modifying gear to reduce bycatch, and making the Federal skate permit a year-round permit for the wing and/or bait fishery.</p> <p><i>Questions to consider when commenting (specify if comment is applicable to <u>wing</u>, <u>bait</u>, or <u>both fisheries</u>):</i></p> <ul style="list-style-type: none"> • Some measures may distinguish directed and non-directed fishery components. How should these components be defined for the wing and/or bait fishery? • Would an intermediate possession limit successfully prevent the triggering of incidental possession limits and exceedance of TALs? • Would different TALs for the wing and/or bait fishery segments help prevent the triggering of incidental possession limits and exceedance of TALs? • How might monitoring and reporting requirements change to improve the precision and accuracy of the landings and discards in the skate fishery? How should monitoring and reporting changes impact or interact with the requirements of other fisheries caught in conjunction with skates? • How might making state and Federal fishing more distinct and/or making the Federal skate permit year-round help improve fishery data, catch accounting, and/or better understand the true potential for vessels to enter the fishery? • Which gear modifications should be considered to reduce discards? How should gear modifications impact or interact with the requirements of other fisheries caught in conjunction with skates? • What type of bycatch reductions should be focused on (e.g., juvenile skate, other species caught in conjunction with skate)? |
| <p><i>What actions have already been taken?</i></p> | <p>The wing fishery is largely an incidental fishery, although several vessels target skate in some localities. Vessels tend to catch skates when targeting other species like groundfish, monkfish, and scallops and land them as wings if the price is high enough. The bait fishery is more directed, and skate bait is primarily used in the lobster fishery.</p> <p>The first stock assessment for Northeast Skate Complex was in November 1999. The assessment indicated that four of the seven species of skates were in an overfished condition: winter, barndoor, thorny, and smooth. In addition, overfishing was thought to be occurring on winter skate. The FMP initially set limits on fishing related to the amount of groundfish, scallop, and monkfish DAS and measures in these and other FMPs to control the catch of skates.</p> <p>Amendment 3 became effective on July 16, 2010, implementing a new ACL management framework that capped catches at specific levels determined from survey biomass indices and median exploitation ratios and reduced the skate wing possession limit from 20,000 lb (45,400 lb whole weight) to 5,000 lb (11,350 lb whole weight) of skate wings, established a 20,000-lb whole skate bait limit</p> |

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| | <p>for vessels with skate bait letters of authorization, and allocated the skate bait quotas into three seasons proportionally to historic landings.</p> <p>Subsequent actions for skate have updated specifications, altered possession limits, revised discard mortality rate estimates, and modified the VTR and dealer reporting codes for the skate wing and bait fisheries. Since the original scoping for Amendment 5, there have been four framework adjustment actions (Frameworks 4-8) implemented to help avoid triggering incidental limits. Measures include making separate bait and wing incidental limits; lowering the uncertainty buffer to increase quota; and increasing trip limits.</p> |
| <p><i>How is Amendment 5 consistent with the goals and objectives of the Northeast Skate FMP?</i></p> | <p>The goal and objectives of the Northeast Skate Complex Fishery Management Plan are unchanged since the original FMP was adopted in 2003. Through the development of Amendment 5, the Skate Plan Development Team has brought it to the attention of the Skate Committee and Council that some of the FMP objectives are outdated. Amendment 5 should be consistent with and support the goal and objectives of the Skate FMP. However, there may be updates to the FMP objectives made through Amendment 5. Here are the FMP goal and objectives <i>[with notes]</i>:</p> <p>Skate FMP Goal: Consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws, to develop a Fishery Management Plan to research and manage the Northeast Skate Complex at long-term sustainable levels.</p> <p><u>Objective 1:</u> Collect information critical for substantially improving knowledge of skate fisheries by species and for monitoring: (a) the status of skate fisheries, resources, and related markets and (b) the effectiveness of skate management approaches.</p> <p><u>Objective 2:</u> Implement measures to: protect the two currently overfished species of skates (barndoor and thorny) and increase their biomass to target levels, reduce fishing mortality on winter skate, and prevent overfishing of the other species in the Northeast skate complex – this may be accomplished through management measures in other FMPs (groundfish, monkfish, scallops), skate-specific management measures, or a combination of both as necessary <i>[note: barndoor is now rebuilt and winter is a stable stock]</i>.</p> <p><u>Objective 3:</u> Develop a skate permit system, coordinate data collection with appropriate state agencies for vessels fishing for skates or catching skates as bycatch only in state waters, and work with the fishing industry to establish a catch reporting system consistent with industry capabilities, including the use of study fleets.</p> <p><u>Objective 4:</u> Minimize the bycatch and discard mortality rates for skates caught in both directed and non-directed fisheries through the promotion and encouragement of experimentation, conservation engineering, and gear development.</p> <p><u>Objective 5:</u> Promote and encourage research for critical biological, ecological, and fishery information based on the research needs</p> |

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| | <p>identified in the Skate SAFE Report and scoping document scoping for the original FMP, including the development and dissemination of a skate species identification guide [note: updating research priorities is now a separate process from SAFE report updates; the scoping document referred to is for the original FMP, from 2001].</p> <p><i>Objective 6:</i> Minimize, to the extent possible, the impacts of skate management approaches on fisheries for other species on which New England and Mid-Atlantic fishermen depend (for example, groundfish, monkfish, scallops, and fluke), recognizing the interconnected nature of skate and other fisheries in the Northeast Region.</p> <p><i>Objective 7:</i> To the extent possible, manage clearnose and rosette skates separately from the other five species in the skate complex, recognizing that these two species are distributed primarily in the Mid-Atlantic and South Atlantic regions [note: there are no measures in the FMP that accomplish this objective].</p> <p>Questions to consider when commenting:</p> <ul style="list-style-type: none"> • Should the Skate FMP goal and/or objectives be revised or updated? How? • What should the Council consider in ensuring that Amendment 5 is consistent with the FMP goal and objectives? |
| <p>What is the comment process?</p> | <p>The publication of this document and an announcement in the <i>Federal Register</i> of the expanded scope of Amendment 5 is an important step in the formal amendment process.</p> <p>The Council established this supplemental scoping period from January 11 – February 12, 2021 to provide the public an opportunity to identify issues and alternatives. After gathering information during this scoping period, the Council will determine the issues to be addressed and develop alternatives to be analyzed in a draft environmental impact statement (DEIS). The alternatives will be developed by the Council’s Skate Committee and Advisory Panel with additional public input. Once the DEIS is prepared, the Council will hold public hearings. After receiving public comment, the Council will recommend a preferred alternative to submit to the Secretary of Commerce for implementation.</p> |
| <p>Questions?</p> | <p>More information on Amendment 5 is available on the Council’s website: https://www.nefmc.org/library/amendment-5-3.</p> <p>You may also contact the Skate Plan Coordinator with any questions.</p> <p>Rachel Feeney, Skate Plan Coordinator 50 Water Street, Mill 2 Newburyport, MA 01950 (978) 465 – 0492 ext. 110 rfeeney@nefmc.org</p> |