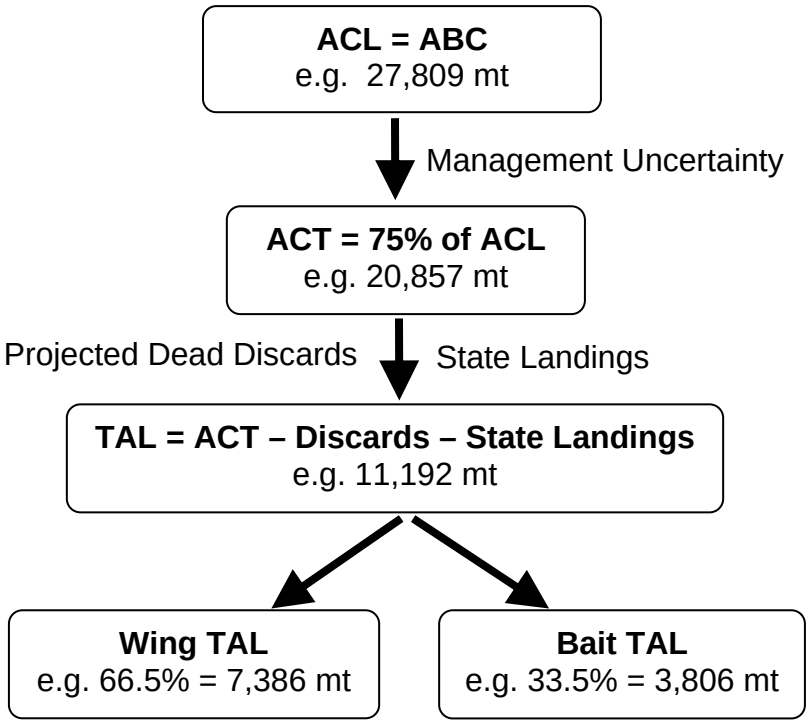
AMENDMENT 3 TO THE NORTHEAST SKATE COMPLEX FMP
Draft Text for Accountability Measures (AMs) in Target TAC Management Alternatives, and Monitoring and Enforcement of Skate Landings

5.1.1.3 Target TAC Management

The Annual Catch Limit (ACL) for the skate complex will be set equal to the Acceptable Biological Catch (ABC) recommended by the Council's Scientific and Statistical Committee (SSC). To account for management uncertainty in monitoring skate catch, the Annual Catch Target (ACT) will be initially set at 75% of the ACL. During the specifications process for the next two fishing years, the Skate PDT will project total skate discards based on estimates of the average total skate discards from the preceding 3 years, incorporating anticipated regulatory changes in other fisheries that discard skates, and subtract that amount from the ACT to generate total allowable landings (TAL). Estimated skate landings from state waters (approximately 3-4% of total landings) will then be subtracted from the TAL. The remaining Federal waters TAL will then be allocated to the wing and bait fisheries according to the ratio selected by the Council (refer to Table 6).



Accountability Measures

In-season possession limit triggers

When the wing fishery harvests 90% of its TAL, the RA would be given authority to reduce the wing possession limit to 220 lb wing wt. (500 lb whole wt.) for the remainder of the fishing year. When the bait fishery harvests 90% of its seasonal quota, the RA would be given authority to reduce the possession limit for the bait fishery to the whole-weight equivalent of the wing fishery limit for the rest of that quota period, assuming the wing fishery is also open. If the wing fishery is closed, the possession limit will be reduced to 500 lb whole wt. for the remainder of the quota period.

For example, if the bait fishery has a trip limit of 14,200 lb whole wt, and the wing fishery has a trip limit of 1,900 lb wing wt (4,313 lb whole wt), when the bait fishery harvests 90% of its TAL (or seasonal quota), its trip limit would be reduced to 4,313 lb whole wt for the remainder of the year (or season). This would effectively close the directed skate bait fishery, while still allowing some level of bait landings. It would also reduce the incentive for bait vessels to land whole skates, and have the landings applied to the wing TAL. Subsequently, when the wing fishery harvests 90% of its TAL, the possession limit for both fisheries would be reduced to the incidental level of 220 lb wing wt (500 lb whole wt.).

TAL Overages

If, at the end of a fishing year, it is calculated that the TAL was exceeded in either fishery, AMs could be invoked in one of the following ways (Council would select one method).

1. The in-season possession limit trigger level would be reduced by the percentage prescribed in **Table X**, in order to prevent reoccurrence of such an overage. For example, if the wing fishery TAL in 2010 is exceeded by 10%, the in-season trigger to reduce the possession limits to the incidental level would be reduced from 90% to 80% of the TAL for 2012-2013. Overages less than 5% would not result in any change to the trigger.

Table X. Prescribed in-season trigger reductions for TAL overages.

% Over TAL	New %TAL Trigger
0-4.9	90
5-9.9	85
10-14.9	80
15-19.9	75
20-24.9	70
25-29.9	65
30-34.9	60
35-39.9	55
40-44.9	50
45-49.9	45
50+	500 lb trip limit only

2. A straight one-for-one percent reduction in a TAL trigger for prior overages, reducing the likelihood that future landings would exceed the TAL. This increases the buffer between the TAL and the trigger to account for incidental landings in a skate fishery when the skate possession limit declines to the incidental limit. For example, an overage of 7.5% in a previous year would cause the TAL trigger for that fishery to decline from 90% to 82.5% of the TAL. Unlike option 1, this method avoids discontinuities that small differences in landings can cause large changes in the trigger.

3. The amount of the TAL overage would be deducted, pound-for-pound, from that fishery's TAL in the subsequent fishing year.

4. No AM for TAL overages. Sufficient AMs exist with the ACL and ACT, so TAL overages are not considered a risk for exceeding the ACL.

ACL Overages

Should it be determined, based on final landings and discard estimates for a given year, that the ACL for that year was exceeded, an automatic increase in the buffer between ACL and ACT, based on the percent overage, will be implemented in the next fishing year. The regulations would require the buffer to be appropriately set either through the Council's specifications process or rulemaking by NMFS, depending on the timing of the determination of the ACL overage.

If the Council is not developing specifications at the time the overage is determined (e.g., alternate year between specifications), NMFS will modify the buffer through a rulemaking, effective in the subsequent fishing year. If an ACL overage is determined after submission of the Council's biennial specifications document, but before publication of the final rule, NMFS will appropriately adjust the buffer in the final rule. After years where there are no ACL overages, the Council may adjust the ACL-ACT buffer to an optimal level in a framework action. NB: In the event of an ACL overage, NMFS would not modify the Council-approved ABC/ACL or discard estimates; only the percent buffer between the ACL and ACT.

For example, if in 2011, during the development of specifications for FYs 2012–2013, it is calculated that the 2010 ACL was exceeded by 5.7%, the ACT for 2012-2013 would be reduced from 75% to 69.3% of the ACL. Since the ACT is the value from which estimated discards are deducted to form the TAL, the TAL could also effectively be reduced, unless projected discards are lower and/or ABC/ACL is higher in the next year.

Table Y. Theoretical application of AMs for ACL and Wing TAL overages in 2010, assuming ABC/ACL remains unchanged.

	2010 Specifications	2010 Observed	% Overage	2012 Specifications
ABC/ACL	27,809 mt	29,400 mt	**5.7**	27,809 mt
ACT	20,857 mt (75%)			**19,272 mt (69.3%)**
Discards	9,313 mt	17,355 mt		11,255 mt (projected)
TAL	11,544 mt	12,045 mt		8,017 mt
Wing TAL	7,677 mt	8,445 mt	**10.0**	5,331 mt
Wing Trigger	90%			**80%**
Bait TAL	3,867 mt	3,600 mt	0.0	2,686 mt
Bait Trigger	90% each season quota			90% each season quota

5.1.3 Monitoring and Enforcement of Skate Landings

Any vessel possessing a valid Federal open access skate permit may possess skates up to the limits specified (see Section 5.1.5 for trip limit alternatives). Vessels fishing with non-exempt gears (e.g., bottom trawls, gillnets, dredges) to harvest skates must be fishing on a declared Multispecies, Monkfish, or Scallop DAS, unless the vessel is fishing in and complying with the requirements of the Mid-Atlantic Exemption Area (west of 72° 30' W longitude; 50 CFR 648.80(c)) or another skate exemption area specified in the Multispecies regulations (50 CFR 648.80(a) and (b)).

Under Hard TAC alternatives (1A, 3A, 4), reported landings of all skates (regardless of fishery) will be counted against the overall ACL (Section 5.1.1). Market and disposition codes already existing in Federal Dealer reports would be used to quantify skate landings. No VMS or IVR declarations or reporting would be required. Estimated dead discards, based on observer data, will be added to reported landings to monitor total catch relative to the ACL. This would require real-time monitoring of skate discards in all fisheries by observers. Possession of all skates would be prohibited when 90% of the ACL is reached (i.e. discards only for the remainder of the fishing year).

Under Target TAC alternatives (1B, 2, 3B), a projection of total dead discards would be subtracted from the ACT before the beginning of the fishing year (Section 5.1.1.3), so only reported skate landings would be monitored against the TAL. The TAL would be allocated between the wing and bait fisheries, and so reported landings must be assigned to one fishery or the other. Market and disposition codes already existing in Federal Dealer reports would be used to assign landings to each fishery. No VMS or IVR declarations or reporting would be required.

Prohibitions on the retention, possession, or landing of barndoor, thorny, and smooth skates remain in effect (50 CFR 648.322(c)).

5.1.4 Time/area management

If the Council chooses a final alternative that includes time/area skate closures (Alternatives 1A, 1B, 2, and 4) a mechanism to determine what type of skate fishing is being conducted would be beneficial. There are four possibilities for at-sea enforcement of these closed areas.

1. LOA for Directed Skate Vessels - Any vessel that expects to exceed the incidental skate possession limit (500 lbs. live weight) must have a Letter of Authorization that specifies whether the vessel intends to target and land skates for a specified minimum period of time (e.g. 30 days). Vessels holding the Letter of Authorization would be unable to fish for any species in the skate closed areas, but may transit the areas with gear properly stowed.

2. LOA for Vessels Fishing for Other Species in Closed Areas - A Letter of Authorization would be required for any skate-permitted vessel intending to fish for any species in the skate closed areas. Vessels holding these Letters of Authorization would be prohibited from possessing more than the incidental skate limit (500 lbs. whole wt) on all trips for a specified minimum period of time, regardless of area fished. Vessels holding skate permits, but without this type of Letter of Authorization, could possess up to the higher specified skate trip limits as long as they did not fish in the closed areas, but may transit the closed areas with gear properly stowed.

3. VMS - Vessels that intend to land more than the incidental level of skates would be required to make a declaration into the skate fishery through either VMS (if the vessel has a VMS due to requirements of other fisheries), through the IVR call-in system, or with a Letter of Authorization. Vessels declared into the skate fishery would be prohibited from fishing for any species in the skate closed areas. To minimize the number of new VMS codes necessary to implement this declaration, and improve the conservation objectives of the FMP, vessels declared into special access programs (SAPs), B DAS trips, scallop access area trips, and research set-aside programs would not be allowed to declare into the skate fishery and could only possess the incidental limit.

4. At-sea enforcement of the skate regulations. Any skate-permitted vessel fishing in a skate closed area would be prohibited from possessing more than 500 lbs. of skates live weight. Although it might be less efficient and difficult to enforce because NMFS Law Enforcement could not flag certain vessels fishing in the area (by identifying fishing by vessels with a skate permit, with or without a Skate Letters of Authorization), it is how many existing closed areas are enforced anyway.

5.1.5 Skate Possession Limits

Assuming the skate fishery ACLs/TALs have not been harvested, any vessel possessing a valid Federal open access skate permit may possess skates up to the Council-selected wing fishery trip limit or whole weight equivalent (Table 8), unless that vessel is fishing under a declared Multispecies B DAS trip, in which case the skate trip limit is 220 lbs. of wings (500 lbs. whole wt). If both the wing and bait fisheries have reached their TALs, the skate trip limit for all vessels will be 220 lbs. of wings (500 lbs. whole wt).

Table 8. **Skate trip limit options (lb) for vessels with Federal skate permits.**

	Skate Wing Trip Limits (lb)		Skate Bait Trip Limits (lb)*	
TAL Allocation	*2005-2007 basis*	*1995-2006 basis*	*2005-2007 basis*	*1995-2006 basis*
Landing Disposition	Wing wt (Whole wt)	Wing wt (Whole wt)	Whole wt	Whole wt
Alternatives 1A, 1B	4,800 (10,896)	3,800 (8,626)	6,800	12,100
Alternatives 2, 3A, 3B	2,500 (5,675)	1,900 (4,313)	8,200	14,200
Alternative 4	4,800 (10,896)	3,800 (8,626)	Seasonal Quota, no trip limit	

*Requires a Skate Bait Letter of Authorization (LOA)

Vessels that fish under the higher bait fishery possession limits must possess a valid Skate Bait LOA issued by the Regional Administrator. The LOA exempts the vessel from the lower skate wing possession limits, but requires that the vessel only land whole skates less than 23 inches total length, which must be sold for the bait market (50 CFR 648.322(b)). The LOA does not, however, exempt vessels from gear or DAS requirements of the Multispecies regulations. Skate bait vessels must therefore fish on a Multispecies, Monkfish, or Scallop DAS, unless they are fishing in the Mid-Atlantic Exemption Area or other specified skate exemption area, or using exempted gear.