

5.1 *Final Alternative*

The final alternative is derived from the proposed management alternatives described in Section **Error! Reference source not found.**, some parts modified based on public comment on the Draft Environmental Impact Statement (DEIS) and subsequent development of management alternatives based on that public comment. The final alternative includes an update to the survey-based overfishing definitions for all managed skates except barndoor skate, an annual catch limit (ACL) framework using ABCs based on the Data Poor Workshop (DPWS) catch time series (see <http://www.nefsc.noaa.gov/publications/crd/crd0902/> and Technical Document 16 in Appendix I), an ACL monitoring program that relies on existing data collected and reported by seafood dealers who buy skates from vessels, skate possession limits for vessels that land wings or whole skates for food, a three-season fleet quota and a skate bait possession limit for vessels that land whole skates to sell as bait, an incidental skate possession limit that would become effective whenever the wing fishery reaches a percentage of its TAL, and a process for annual review and bi-annual SAFE Report and specification process.

When debating the final alternative and considering the predicted effects, the Council decided to raise the incidental skate possession limit (Section 5.1.8) to reduce discards when either the wing or bait fishery approaches the TALs and the bait and/or wing fisheries close. As a precautionary measure to reduce the potential for total landings to exceed the TALs, the Council set the wing fishery TAL trigger at 80% and the bait fishery TAL trigger at 90%, since some skate landings would continue under the incidental skate possession limit for the remainder of the year or bait fishery season. A lower wing fishery TAL trigger is needed to account for the recommended incidental trip limit and the possibility that skate wing prices could rise, making day trips more lucrative.

Rationale: The public supported setting limits on landings and catch to prevent overfishing and rebuild skates that were overfished. Fishermen that target skates to supply the wing market supported Alternative 3B, an alternative that did not include time/area closures for vessels that target skates. Fishermen in the skate bait fishery strongly supported Alternative 4, with three seasonal quota periods. They felt that alternatives with lower skate possession limits would not be suitable for a market that demands landings of large quantities of skates to use as bait in the offshore lobster fishery. A three-season quota with a 20,000 pound whole weight possession limit, they felt, would be the least disruptive option and might cause shorter fishery closures.

This alternative also addresses NMFS concerns raised during the comment period. New estimates of landings and discards by species were developed during the DPWS, which had a bearing on the PDT analysis of the propensity of skates to increase biomass at various levels of observed catch. The DPWS also re-estimated discards using additional observer data which substantially increased the discard estimates for 2003-2007, accounting for a much higher share of the total catch. As a result, the Total Allowable Landings (TAL) in the ACL framework was corresponding lower to account for the additional expected discards. The Target TAC measure was revised to improve the application of accountability measures (AMs), which is expected to reduce the probability of future overages if they occur. The AMs include an adjustment to the TAL trigger that would reduce skate possession limits and close a skate fishery as landings approach the TALs and an increase in the buffer between the ACL and the catch target (ACT) to account for unexpected uncertainty. Finally, the monitoring of landings and assignment to skate fishery were modified, relying more on existing data collected from permitted seafood dealers and eliminating a requirement for vessels to make a skate trip type declaration at the start of the fishing trip.

5.1.1 **Overfishing Definition Biological Reference Point Update and Allowable Biological Catch (ABC)**

The “selected reference time series¹” (or biological reference point biomass targets and thresholds) for clearnose, rosette, smooth, thorny, and winter skates would be updated to include survey data through the 2007 autumn bottom trawl survey (see Table 1). The “selected reference time series” (or biological reference point biomass targets and thresholds) for little skate would be updated through the 2008 spring bottom trawl survey.

The threshold defining when a skate stock is classified as experiencing overfishing would not change. Except for the “selected reference time series”, the FMP language describing when a skate stock would be overfished or classified as experiencing overfishing would not change. The selected survey strata will also remain unchanged in this amendment and are consistent with the strata used in recent skate assessments. If one or more strata are unsampled during an annual survey, then the remaining surveyed stratum shall be used to compute the stratified mean weight per tow and make skate status determinations.

The Council may periodically change via a Framework Adjustment (Section 5.1.4.1) either the selected reference time series, the survey used for the determination, or the selected strata shown in the table below may be changed periodically, following review and approval of the Council’s Scientific and Statistical Committee. The updated reference points are listed in Table 2. Using the proposed updates, the biomass thresholds and targets declined for three species, increased for three species, and remained the same for barndoor skate.

Table 1. Status determination criteria specifications for skates in the management unit.

Species/stock	Bottom Trawl Survey	Selected reference time series²	Selected strata used for status determination and setting reference points
Winter	Autumn	1967-2007	1-30, 33-40, and 61-76
Little	Spring	1982-2008	1-30, 33-40, 61-76, and inshore strata 1-66
Barndoor³	Autumn	1963-1966	1-30 and 33-40
Thorny	Autumn	1963-2007	1-30 and 33-40
Smooth	Autumn	1963-2007	1-30 and 33-40
Clearnose	Autumn	1975-2007	61-76 and inshore strata 15-44
Rosette	Autumn	1967-2007	61-76

1 The selected time series reference varies for each skate stock due to variations in survey time series and geographic coverage of the survey.

2 The beginning of the selected reference time series was chosen in the Skate FMP based on changes in geographical range of the survey and the seasonal distribution of the species/stock.

3 Unchanged.

Table 2. Updated overfishing definition reference points for skates in the management unit.

SKATE SPECIES	TARGET BIOMASS B_{target} (kg/tow)	THRESHOLD BIOMASS $B_{threshold}$ (kg/tow)	TARGET FISHING MORTALITY F_{target}	THRESHOLD FISHING MORTALITY $F_{threshold}$
Winter	5.60	2.80	N/S	A decline of 20% or more in the three-year moving average of the autumn trawl survey, or a decline in the autumn survey mean weight per tow for three consecutive years
Little	7.03	3.51	N/S	A decline of 20% or more in the three-year moving average of the spring trawl survey, or a decline in the spring survey mean weight per tow for three consecutive years
Barndoor ⁴	1.62	0.81	N/S	A decline of 30% or more in the three-year moving average of the autumn trawl survey, or a decline in the autumn survey mean weight per tow for three consecutive years
Thorny	4.12	2.06	N/S	A decline of 20% or more in the three-year moving average of the autumn trawl survey, or a decline in the autumn survey mean weight per tow for three consecutive years
Smooth	0.29	0.14	N/S	A decline of 30% or more in the three-year moving average of the autumn trawl survey, or a decline in the autumn survey mean weight per tow for three consecutive years
Clearnose	0.77	0.38	N/S	A decline of 30% or more in the three-year moving average of the autumn trawl survey, or a decline in the autumn survey mean weight per tow for three consecutive years
Rosette	0.048	0.024	N/S	A decline of 60% or more in the three-year moving average of the autumn trawl survey, or a decline in the autumn survey mean weight per tow for three consecutive years

In addition, the rebuilding period for thorny skate will be defined as 25 years, which is calculated as 10 years plus one generation time (see Technical Document 6 in Appendix I). Although continuously overfished since FMP inception, the thorny skate rebuilding period had been undefined due to a lack of data supporting an estimate of rebuilding potential and generation time. The target for thorny skate rebuilding will therefore be 2028.

The ABC for skates is the median catch/biomass exploitation rate multiplied by the 2005-2007 average biomass, aggregated over the seven skate species in the management unit. This is 23,826 mt. The three year biomass moving average for this estimate will not be updated as new data are collected, until the calibration between the FSV Bigelow and FSV Albatross IV is peer reviewed and approved by the Council's SSC for application to updated ABC specifications.

⁴ Not updated.

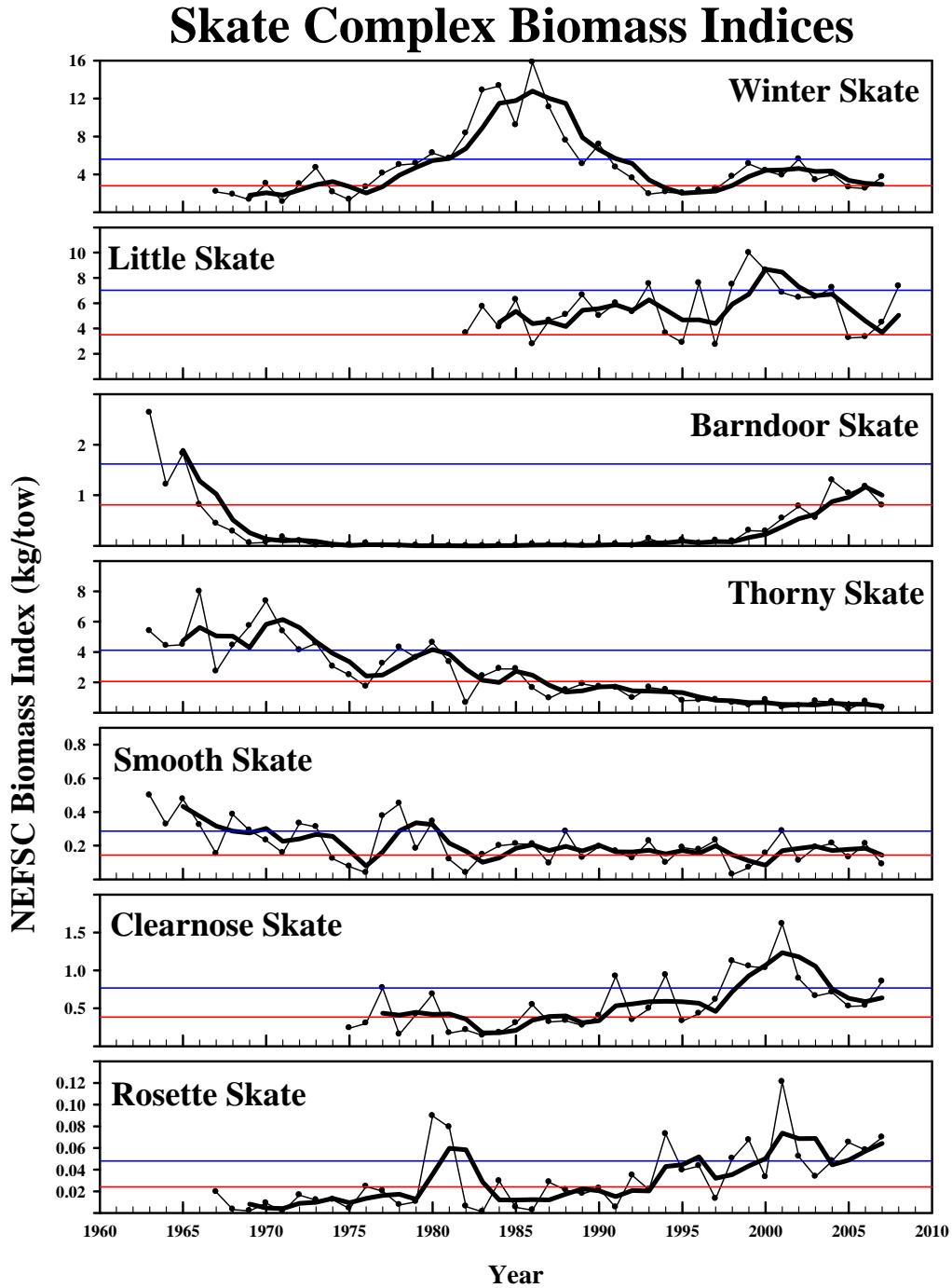
Rationale: During the development of the Skate FMP, the overfishing definition reference points were chosen from the 75th percentile of the observed survey time series through autumn 1997 (spring 1998 for little skate). The Data Poor Assessment Workshop considered the issue of updating the skate reference points since a considerable amount new data had accumulated since then. It was not obvious that fishing was the sole factor in determining stock biomass in the most recent decade. Furthermore the selected reference time series was chosen with the belief that sometime during the survey time series the skate stocks had passed through a level equivalent to B_{MSY} and that the 75th percentile of the time series was a reasonable proxy for that value. The DPWS had no reason to believe that the most recent decade of survey data shouldn't be part of that time series.

The Council's Science and Statistical Committee (SSC) reviewed the recommendations of the DPWS and concurred with this recommendation, but cautioned that this type of biomass reference point should not be updated on a routine basis without thorough consideration, but there was no reason to exclude the new data from the selected reference time series.

As a result of the update, the status of smooth and winter skate will change from being overfished, to not overfished, although the smooth and winter skate biomass is slightly above the new biomass threshold (see Figure 1). Thorny skate would continue to be overfished and was experiencing overfishing in 2007. The reference points for barndoor skate would remain unchanged and barndoor skate would remain in a rebuilding phase after being overfished, but not yet reaching the B_{MSY} target.

Using the catch time series approved by the DPWS, the SSC approved an aggregate skate ABC of 23,826 mt. As the basis for this catch limit, the SSC chose the median catch/biomass exploitation ratio of the time series because catches below this level had a much greater than average chance of allowing biomass to increase. The SSC thought that increasing skate biomass is a reasonable goal because in addition to thorny being overfished, several skate species are close to the minimum biomass threshold that defines when a stock is overfished. It would also help achieve MSY by allowing biomass to rise toward the biomass target, a proxy for B_{MSY} . Although the relationship was not statistically significant, catches higher than the catch/biomass median tended to result in declines in biomass and could increase the probability of overfishing.

Figure 1. Survey biomass (kg/tow) for skates in the management unit and its three year moving average (heavy line), compared to the updated minimum biomass threshold and target.

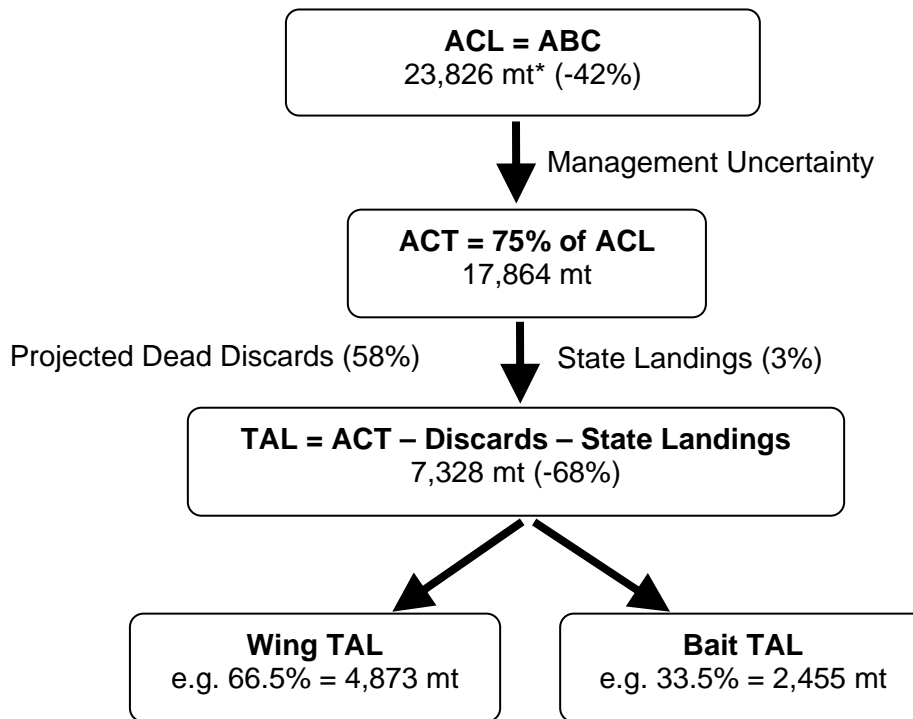


5.1.2 Target TAC Management

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), 23,826 mt. This

ACL will be applied for FY 2009-2011. Accounting 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 subsequent two fishing years (2012-2013), the Skate PDT will project total skate discards based on estimates of the average total skate discards from the preceding 3 years (2007-2009), 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 (currently about 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). This procedure will be followed in the specification process for subsequent two year periods.

Figure 2. Diagram of ACL framework for the Skate ABC.



5.1.3 Accountability Measures

5.1.3.1 In-season possession limit triggers

When the wing fishery harvests 80% of its TAL, the Regional Administrator would be given authority to reduce the wing possession limit to 500 lb wing wt. (1135 lb whole wt.) for the remainder of the fishing year. When the bait fishery harvests 90% of its seasonal quota, the Regional Administrator 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 1135 lb whole wt. for the remainder of the quota period.

For example, if the bait fishery has a trip limit of 20,000 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 80% of its TAL, the possession limit for both fisheries would be reduced to the incidental level of 500 lb wing wt (1135 lb whole wt.).

5.1.3.2 TAL Overages

If for either skate fishery, at the end of a fishing year, it is calculated that the TAL was exceeded by more than 5 percent, an automatic adjustment to that fishery's TAL trigger would occur for the next fishing year. 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% of the TAL.

Rationale: The Council chose this process over the alternatives to avoid big changes in the TAL trigger caused by small differences in landings. An overage of less than 5% would not be alarming and might be offset by reductions in skate discards. Above that amount, a smooth reduction in the trigger would occur, rather than in large even steps that could be caused by small differences in landings.

5.1.3.3 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 (i.e. two years after the overage occurred). 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.)

In the example shown in Table 3, 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% 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 3. Example 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	23,826 mt	25,184 mt	5.7	23,826 mt
ACT	17,864 mt (75%)			16,440 mt (69%)
Discards	10,536 mt	17,392 mt		10,536 mt
TAL	7,328 mt	7,792 mt		5,904 mt
Wing TAL	4,873 mt	5,263 mt	8.0	3,926 mt
Wing Trigger	80%			72%
Bait TAL	2,455 mt	2,529 mt	3.0	1,978 mt
Bait Trigger	90% each season quota			90% each season quota

5.1.4 Annual review, SAFE Report, and specification setting procedure

The process and requirements in this Section would replace the baseline review process described in Section 4.16.1 of the Skate FMP and in regulations at §648.320(c). The Skate FMP established seven baseline measures listed below, which have proven to be of limited value in estimating the effects of measures on skate catches and mortality, particularly for DAS restrictions whose metric has changed over time (due to measures such as minimum DAS charges, new DAS categories, special access programs, and rollovers). The baseline review procedure for every amendment and framework action in other plans has moreover proven to be very cumbersome.

In place of the skate baseline review process, the proposed process would allow for an annual review of recently implemented or developing alternatives in other plans, allowing the Council and opportunity to make accommodations or initiate a skate framework action to mitigate the effects on the skate fishery. Although the measures listed below would no longer comprise a baseline per se, they would still be important factors which the Skate PDT and the Council would consider in developing management advice.

- Multispecies closed areas (Section 4.16.1.1 of the Skate FMP)
- Multispecies DAS restrictions (Section 4.16.1.2 of the Skate FMP)
- Gillnet gear restrictions (Section 4.16.1.3 of the Skate FMP)
- Lobster restricted gear areas (Section 4.16.1.4 of the Skate FMP)
- Gear restrictions for small mesh fisheries (Section 4.16.1.5 of the Skate FMP)
- Monkfish DAS restrictions for monkfish-only permit holders (Section 4.16.1.6 of the Skate FMP)
- Scallop DAS restrictions (Section 4.16.1.7 of the Skate FMP)

Adjustments to the ACL and TAL values are expected through a specification process as skate biomass changes and is updated with new survey data (NB: the Council's SSC has recommended that the specifications NOT be updated until at least 2011, after the new trawl calibration analyses have been completed and peer reviewed) and as new estimates of the proportion of catch generated from dead discards becomes available. The initial TAL uses the latest three years of estimated discards to set the proportion of the catch target that can be allocated to landings. Therefore, future allocations of TAL should use the latest three years of discard and landing estimates to reduce uncertainty, while accounting for recent changes in fisheries that will affect total skate discards. The median catch/biomass values will not change, unless new estimates for landings and discards during 1989-2007 become available.

5.1.4.1 Annual Review

The Skate PDT will meet at least annually, prior to the June Council meeting, to evaluate the most recent data available on skate stock status, fishing mortality, landings, discards, changes to other FMPs that catch skates, and other available information. The term of reference for the PDT will be to monitor the effectiveness of the management plan and to develop options for framework adjustments and/or amendments such that the plan continues to meet the objectives. If not included as framework measures currently established by the Skate FMP and subsequent amendments and framework adjustments; new measures in Amendment 3 that may be adjusted by framework action include:

- ABCs
- ACLs and TACs,
- The ACT buffer (accounting for scientific and management uncertainty)
- TALs (accounting for changes in the discard rate and/or new information about skate discard mortality) and the TAL triggers (accounting for management uncertainty in discard and landings estimates)
- Skate wing and bait fishery possession limits, and
- Overfishing definition biological reference points (requiring approval of the Council's SSC)
 - Selected reference time series,
 - The selected strata, and/or
 - The selected survey used for status determination
- Other measures contained within the Skate FMP.

If the PDT feels that adjustments to the FMP are necessary to meet FMP objectives, it will make recommendations to the SSC, which will review the PDT's analyses, and subsequently advise the Council at its June meeting on potential adjustments to the Skate FMP. If the Council agrees that action is required, it will initiate framework action at the June meeting. Final framework documents must be approved by the Council during their fall meetings, and submitted for NMFS review by December 1, so that proposed and final rulemaking may be completed by the beginning of the fishing year (May 1). In addition to the existing measures that may be adjusted by framework action, the Council may also modify the bait skate quota seasons, catch monitoring procedures, the ACT buffer, and the TAL triggers via the Specification Process to be consistent with the revised TACs, TALs, and estimates of scientific and management uncertainty.

The Regional Administrator will publish the Councils' recommendation in the *Federal Register* as a proposed rule. The *Federal Register* notification of the proposed action will provide a public comment period in accordance with the Administrative Procedures Act. If the Regional Administrator concurs that the Councils' final recommendation meets the Skate FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the *Federal Register*.

5.1.4.2 Biennial SAFE Report and Specification of TACs and TALs

The Skate PDT shall prepare a Stock Assessment and Fishery Evaluation (SAFE) Report for skates every two years. The SAFE Report shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the NE skate complex and its associated fisheries. The SAFE report shall provide source data for any adjustments to the management measures that may be needed to continue to meet the goals and objectives of the FMP (see 50 CFR 648.320(b)).

Based on the results of the biennial skate SAFE Report, the PDT will use the available information to recommend new specifications (ACL, ACT, TALs, and skate possession limits) for the skate fishery, which will be implemented for the subsequent two fishing years. For example, the SAFE Report completed in 2008, as part of Amendment 3, will be used to establish the ACL and TALs for the skate fishery for FY 2009-2011 (May 1, 2009 through April 30, 2012). The next SAFE Report will be completed by June 2011, which will be used to establish specifications for FY 2012-2013, and so on.

If a regulatory action is not implemented to establish new ACLs for the skate fishery for a given year, either through the annual review procedure or the biennial specification process, the ACL, ACT, and TALs in effect during the previous year will remain in effect until new measures are implemented.

Rationale: Since so much of the conservation of skates depends on regulations that govern associated fisheries and discards are such a large portion of the total catch of skates, this process would allow for timely review, evaluation, and response to changes in the fishery and regulations that affect skate landings and discards. The annual review is a pro-active process that allows the PDT and Council to evaluate regulations that have been recently implemented, or are in the development or review process. It may result in recommendations that mitigate adverse impacts of measures under consideration (particularly for the Multispecies and Monkfish FMPs) or it may trigger a framework action to change the skate regulations. The biennial specification process would allow for changes in skate limits, responding to changes in skate biomass or other factors that influence whether the skate possession limits and other skate measures regulate landings and achieve the ACL.

5.1.5 Annual Catch Limit Monitoring

Any vessel possessing a valid Federal open access skate permit may possess skates up to the limits specified (see Section 5.1.6), until landings reach the skate fishery TAL trigger. 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 the Target TAC, a projection of total dead discards would be subtracted from the ACT before the beginning of the fishing year, 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. All skate landings reported on or after May 1, 2009 will count against the skate fishery TALs for FY2009.

Using the existing reporting information, all skate landings by vessels holding a valid Skate Bait Letter of Authorization will be charged against the bait fishery TAL. All skates landed as wings will be charged against the wing fishery TAL. All skates landed in whole form and coded by the dealer for sale as food will be charged against the wing fishery TAL and all skates landed in whole form and coded by the dealer for sale as bait will be charged against the bait fishery TAL.

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

5.1.6 Skate possession limits

Vessels with skate permits may possess and land skates up to the limit specified for each skate fishery. **Landings and possession of skates by vessels with a Skate Bait Letter of Authorization (LOA) will be limited to 20,000 lbs. of whole skates per trip** and all landings by vessels with a valid, active Skate Bait LOA will count against the skate bait fishery TAL.

Vessels with an LOA must land skates in whole form, may not retain skates over 23 in (58.42 cm) total length, and the skates must be marketed and sold for bait (see 50 CFR §648.322). 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 Category A DAS, a Monkfish DAS, or a Scallop DAS, unless the vessel is fishing in the Mid-Atlantic Exemption Area or other specified skate exemption area, or using exempted gear.

All other vessels holding a Federal skate permit (but without a Skate Bait Letter of Authorization) may land up to 1,900 lbs. of wings, or 4,313 lbs. of whole skates per trip (not to exceed these limits on multiple trips landed within a 24 hour period). Regardless of whether skates are landed dressed or whole, skate landings reported by the dealer as being marketed as wings or food will count against the wing fishery TAL. However, whole skate landings by vessels without a Skate Bait Letter of Authorization which the dealer markets and sells in its entirety for bait will count against the skate bait fishery TAL.

Skate possession limits apply to a trip, defined as when a vessel leaves port or (if the vessel uses VMS) crosses the VMS demarcation line to when a vessel returns to port or (if the vessel uses VMS) crosses shoreward of the VMS demarcation line. Possession limits apply to the total catch landed within a 24 or more hour trip, i.e. the aggregate skate landings for multiple trips by a single vessel may not exceed the applicable skate possession limit within a 24 hour period.

Unless the skate fishery TALs have been harvested, any vessel possessing a valid Federal open access skate permit may possess skates up to the skate fishery possession limit (Table 8), except for vessels that are fishing under a declared Multispecies B DAS trip, in which case the skate trip limit is 220 lbs. of wings (500 lbs. whole wt). When the bait fishery has reached the TAL trigger, the skate possession limit will be the wing fishery possession limit. If both the wing and bait fisheries have reached their TALs, the skate trip limit for all vessels will be 500 lbs. of wings (1135 lbs. whole wt), unless the vessel is fishing on a Multispecies Category B DAS.

Rationale: Skate possession limits were estimated to reduce the 2007 landings to the TAL for the skate wing and skate bait fisheries. The skate possession limits for all the alternatives were estimated to achieve one of the two TAL options individually for the skate wing and skate bait fisheries, after accounting for time/area skate fishing closures and for changes in discarding. Coupled with management measures in other fisheries that have a skate catch, the proposed possession limits in this final alternative are intended to achieve the specified TALs in the absence of skate time/area closures (Alternatives 1A, 1B, and 2).

The wing fishery possession limits are intended to reduce mortality on skates and be consistent with the skate wing TAL. The estimated reduction in mortality was calculated to reduce the 2007 landings to achieve the TAL and after accounting for increases in dead discards caused by trips that would continue fishing for other species and discard excess skates. Skate discards would decline on trips that target skates and return to port early due to the possession limit, assuming that vessels cannot take additional trips to compensate.

The draft amendment did not include possession limits for a quota-managed skate fishery (Alternative 4), but included whole skate possession limits for the wing fishery for other alternatives. Fishermen in the bait fishery overwhelmingly supported Alternative 4, because the low possession limits associated with the other alternatives would be disruptive to the skate bait market. With the bait fishery TALs that were in the draft amendment, fishermen and skate bait dealers felt that the fishery would last sufficiently long through the three seasons to avoid major disruptions in the supply of bait, and henceforth did not recommend any possession limits for the skate bait fishery. The updated TALs however are much lower because total discard estimates (for all fisheries) are higher. With the lower TAL, fishermen and skate bait dealers thought that derby fishing behavior may develop with a shortened fishing season and recommended setting a bait fishery possession limit near the maximum limit observed. During 2007, only five of 211 trips landed more than 20,000 lbs. of whole skates. This bait fishery possession limit is intended only to prevent vessels from landing abnormal amounts of skates if the fishery nears the TAL, not to reduce skate mortality from landings.

5.1.7 Skate bait fishery quota

A seasonal quota to regulate landings by the skate bait fishery will apply according to the schedule listed in Table 4. Vessels must hold a valid and active Skate Bait Letter of Authorization, issued according to §648.322(b) to fish under the quota. Skates must be landed in whole form, must be less than 23 inches (58.42 cm) total length, and must be marketed as bait. Any skate landings made by a vessel holding a valid and active Skate Bait Letter of Authorization will be counted against the skate bait quota, regardless of how the skates are actually marketed.

The annual limit for landings by vessels with federal skate permits, after accounting for landings from state vessels fishing in state waters, will be 2,455 mt (5.41 million lbs.) split into seasonal quotas as specified in the table below.

TAL trigger: If the landings reach 90% of the quota for each period, or 90% of the annual skate bait fishery TAL, the Regional Administrator will issue a notice to close the skate bait fishery until the next quota period begins. All skate bait landings that occur on and after May 1, 2009 will be counted against the annual skate bait fishery TAL for 2009 and may affect the allocations for the third quota period in FY2009. When the skate bait fishery is closed, Skate Bait Letters of Authorization automatically become null and void and the skate wing possession limit will apply to all vessels landing skates. If the wing fishery is also closed, however, the incidental skate possession limit will apply to all vessels landing skates.

Table 4. Seasonal allocation of the annual skate bait fishery TAL.

<u>Three seasonal quota periods; beginning on</u>	
a.	May 1 (30.8% of the skate bait fishery TAL, or 756.1 mt in 2009-2011)
b.	August 1 (37.1% of the skate bait fishery TAL, or 910.8 mt in 2009-2011)
c.	November 1 (the unharvested portion of the annual skate bait fishery TAL)

As an example, skate bait landings might have been 200 mt less than the quota during the May 1 to July 31 period, but the landings are projected to meet the August 1 to October 31 seasonal quota on September 20th. Before Sept. 20th, the Regional Administrator would issue a notice action closing the skate bait

fishery on Sept. 20th and simultaneously announcing a 200 mt increase of the quota for the next season beginning on November 1.

Rationale: Fishermen in the skate bait fishery sell their landings to lobster fishermen through on-shore dealers. Often, the market demands large landings of skates to supply vessels that make extended offshore trips for lobsters. Because of this unique market demand, skate bait fishermen claim that low skate possession limits would make it much more difficult to supply the lobster fishery with bait. It might require on-shore dealers to stockpile skate landings from several trips to supply a lobster vessel with bait, or lobster fishermen might seek other supplies for bait, because they cannot buy sufficient quantities for a lobster fishing trip.

Seasonal quotas would help maintain supply throughout the lobster fishing season (primarily April to November) when demand for bait is highest. Conversely an annual quota could cause prices to decline from excess supply during a short season and make bait unavailable for the lobster fishery when the landings have met the quota. Seasonal quotas would increase the monitoring costs, as well as increase business uncertainty due to more frequent quota adjustments. The annual quota is separated into seasonal allotments based on seasonal landings patterns during fishing years 1998 to 2006.

5.1.8 Incidental skate possession limit

When the wing fishery has reached the TAL trigger, vessels without Skate Bait LOAs may retain and land no more than 1135 lbs. of whole skate or 500 lbs. of skate wings. A vessel must have a Federal skate vessel permit to retain and land skates for commercial sale. Vessels on a Multispecies Category B DAS may not possess or land more than 1135 lbs. of whole skate or 500 lbs. of skate wings.

Rationale: As an incidental limit when skate fisheries close and for vessels not on a Multispecies Category A DAS, a scallop DAS, or a monkfish DAS, the Council has determined that 1135 lbs. of whole skate or 500 lbs. of skate wings is a reasonable and suitable amount to distinguish trips targeting skates from those targeting other species and having an incidental amount of skate landings.

The Council raised the incidental skate limit from the amount proposed in the draft amendment to reduce the discards associated with a low possession limit when the fishery reached the TAL. The added landings that would be expected, compared to a 500 lb. incidental skate wing limit, is offset by lower TAL triggers (Section 5.1.3.1) that would initiate action to reduce directed skate fishing as landings approach the TAL.

The lower possession limit for vessels fishing in the Multispecies B DAS program is intended to standardize the possession limit to be consistent with existing multispecies regulations for vessel fishing on a B DAS with trawls, and reduce the targeting of skates by gillnet vessels on a Multispecies B DAS. This lower skate possession limit was set for vessels on a Multispecies B DAS to discourage fishermen from modifying nets to target flatfish, many of which are classified as overfished, not merely to discourage multispecies vessels from using the B DAS to target skates.