measures adopted following their implementation as a final rule.

(3) The Regional Administrator may publish the recommended framework measures in the Federal Register. If the Council’s recommendation is first published as a proposed rule and the Regional Administrator concurs with the Council’s recommendation after receiving additional public comment, the measures shall then be published as a final rule in the Federal Register.

(4) If the Regional Administrator approves the Council’s recommendations, the Secretary may, for good cause found under the standard of the Administrative Procedure Act, waive the requirement for a proposed rule and opportunity for public comment in the Federal Register. The Secretary, in so doing, shall publish only the final rule. Submission of recommendations does not preclude the Secretary from deciding to provide additional opportunity for prior notice and comment in the Federal Register.

(5) The Regional Administrator may approve, disapprove, or partially approve the Council’s recommendation. If the Regional Administrator does not approve the Council’s specific recommendation, the Regional Administrator must notify the Council in writing of the reasons for the action prior to the first Council meeting following publication of such decision.

(b) Possible framework adjustment measures. Measures that may be changed or implemented through framework action, provided that any corresponding management adjustments can also be implemented through a framework adjustment, include:

1. Skate permitting and reporting;
2. Skate overfishing definitions and related targets and thresholds;
3. Prohibitions on possession and/or landing of individual skate species;
4. Skate possession limits;
5. Skate closed areas (and consideration of exempted gears and fisheries);
6. Seasonal skate fishery restrictions and specifications;
7. Target TACs for individual skate species;
8. Hard TACs/quotas for skates, including species-specific quotas, fishery quotas, and/or quotas for non-directed fisheries;
9. Establishment of a mechanism for TAC set-asides to conduct scientific research, or for other reasons;
10. Onboard observer requirements;
11. Gear modifications, requirements, restrictions, and/or prohibitions;
12. Minimum and/or maximum sizes for skates;
13. Adjustments to exemption area requirements, area coordinates, and/or management lines established by the FMP;
14. Measures to address protected species issues, if necessary;
15. Description and identification of EFH;
16. Description and identification of habitat areas of particular concern;
17. Measures to protect EFH;
18. OY and/or MSY specifications;
19. Changes to the accountability measures described at §648.323;
20. Changes to TAL allocation proportions to the skate wing and bait fisheries;
21. Changes to seasonal quotas in the skate bait or wing fisheries;
22. Reduction of the baseline 25–percent ACL-ACT buffer to less than 25 percent; and
23. Changes to catch monitoring procedures.

(c) Emergency action. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(c) of the Magnuson-Stevens Act.

[75 FR 34059, June 16, 2010]

§648.322 Skate allocation, possession, and landing provisions.

(a) Allocation of TAL. (1) A total of 66.5 percent of the annual skate complex TAL shall be allocated to the skate wing fishery. All skate products that are landed in wing form, for the skate wing market, or classified by Federal dealers as food as required under §648.7(a)(1)(i), shall count against the skate wing fishery TAL.

(2) A total of 33.5 percent of the annual TAL shall be allocated to the skate bait fishery. All skate products that are landed for the skate bait market, or classified by Federal dealers as bait as required under §648.7(a)(1)(i),
shall count against the skate bait fishery TAL. The annual skate bait fishery TAL shall be allocated in three seasonal quota periods as follows:

(i) Season 1—May 1 through July 31, 30.8 percent of the annual skate bait fishery TAL shall be allocated;
(ii) Season 2—August 1 through October 31, 37.1 percent of the annual skate bait fishery TAL shall be allocated; and
(iii) Season 3—November 1 through April 30, the remainder of the annual skate bait fishery TAL not landed in Seasons 1 or 2 shall be allocated.

(b) Skate wing possession and landing limits. A vessel or operator of a vessel that has been issued a valid Federal skate permit under this part, provided the vessel fishes under an Atlantic sea scallop, NE multispecies, or monkfish DAS as specified at §§648.53, 648.82, and 648.92, respectively, or is also a limited access multispecies vessel participating in an approved sector described under §648.87, unless otherwise exempted under §648.80 or paragraph (c) of this section, may fish for, possess, and/or land up to the allowable trip limits of skate wings (with appropriate whole weight equivalents) specified as follows:

(1) Up to 2,600 lb (1,179 kg) of skate wings (5,902 lb (2,677 kg) whole weight) per trip from May 1 through August 31, and 4,100 lb (1,860 kg) of skate wings (9,307 lb (4,222 kg) whole weight) per trip from September 1 through April 30, except for a vessel fishing on a declared NE multispecies Category B DAS described under §648.85(b), which is limited to no more than 220 lb (100 kg) of skate wings (500 lb (227 kg) whole weight) per trip (or any prorated combination of skate wings and whole skates based on the conversion factor for wing weight to whole weight of 2.27—for example, 100 lb (45.4 kg) of skate wings × 2.27 = 227 lb (103.1 kg) of whole skates).

(2) In-season adjustment of skate wing possession limits. When the Regional Administrator projects that 85 percent of the annual skate wing fishery TAL has been landed, the Regional Administrator shall, through a notice in the Federal Register consistent with the Administrative Procedure Act, reduce the skate wing trip limit to 500 lb (227 kg) of skate wings (1.135 lb (515 kg) whole weight, or any prorated combination of skate wings and whole skates based on the conversion factor for wing weight to whole weight of 2.27) for the remainder of the fishing year, unless such a reduction would be expected to prevent attainment of the annual TAL.

(3) Incidental possession limit for vessels not under a DAS. A vessel issued a Federal skate permit that is not fishing under an Atlantic sea scallop, NE multispecies, or monkfish DAS as specified at §§648.53, 648.82, and 648.92, respectively, or is a limited access multispecies vessel participating in an approved sector described under §648.87 but not fishing on one of the DAS specified at §§648.53, 648.82, or 648.92, may retain up to 500 lb (227 kg) of skate wings or 1,135 lb (515 kg) of whole skate, or any prorated combination of skate wings and whole skates based on the conversion factor for wing weight to whole weight of 2.27, per trip.

(4) Allowable forms of skate landings. Except for vessels fishing under a skate bait letter of authorization as specified at §648.322(c), a vessel may possess and/or land up to the allowable trip limits of skate wings (with appropriate whole weight equivalents) specified as follows:

(1) Up to 2,600 lb (1,179 kg) of skate wings (5,902 lb (2,677 kg) whole weight) per trip from May 1 through August 31, and 4,100 lb (1,860 kg) of skate wings (9,307 lb (4,222 kg) whole weight) per trip from September 1 through April 30, except for a vessel fishing on a declared NE multispecies Category B DAS described under §648.85(b), which is limited to no more than 220 lb (100 kg) of skate wings (500 lb (227 kg) whole weight) per trip (or any prorated combination of skate wings and whole skates based on the conversion factor for wing weight to whole weight of 2.27—for example, 100 lb (45.4 kg) of skate wings × 2.27 = 227 lb (103.1 kg) of whole skates).
§ 648.323  Accountability measures.

(a) TAL overages. If the skate wing fishery TAL or skate bait fishery TAL is determined to have been exceeded by more than 5 percent in any given year, based upon, but not limited to, available landings and discard information, the Regional Administrator shall reduce the in-season possession limit trigger for that fishery, as specified at § 648.322(b) and (d), in the next fishing year by 1 percent for each 1 percent of TAL overage, consistent with the Administrative Procedure Act.

(b) ACL overages. If the ACL is determined to have been exceeded in any given year, based upon, but not limited to, available landings and discard information, the percent buffer between ACL and ACT, initially specified at 25 percent, shall be increased by 1 percent for each 1-percent ACL overage in the second fishing year following the fishing year in which the ACL overage occurred, through either the specifications or framework adjustment process described under §§ 648.320 and 648.321.

(2) If the Council fails to initiate action to correct an ACL overage through the specifications or framework adjustment process, consistent with paragraph (b)(1) of this section, the Regional Administrator shall implement the required adjustment, as described under paragraph (b)(1) of this section, consistent with the Administrative Procedure Act.

[75 FR 34061, June 16, 2010]

FIGURE 1 TO PART 648