

areas defined at § 648.59(b) through (d) may harvest yellowtail flounder up to 9.8 percent of the applicable yellowtail flounder TAC. Scallop vessels participating in approved research under the process described in § 648.56, and fishing in the Access Areas specified in § 648.59(b) through (d), may harvest 0.2 percent of the applicable yellowtail flounder TAC. The amount of yellowtail flounder that may be harvested in each fishing year under this section shall be specified in a small entity compliance guide.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060320078-6078-01; I.D. 031506B]

RIN 0648-AU40

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Notice of a Control Date for the Purpose of Limiting Entry to the Charter and Party Fishery; Northeast (NE) Multispecies Fishery Management Plan (FMP)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the open access charter and party boat (charter/party) fishery in the NE multispecies fishery if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to limit the number of participants in this sector of the NE multispecies fishery. This sector of the fishery includes vessels with open access charter/party permits, as well as limited access NE multispecies permits, while not on a NE multispecies day-at-sea (DAS). This announcement is intended, in part, to promote awareness of potential eligibility criteria for future access so as to discourage speculative entry into the fishery while the New England Fishery Management Council (Council) considers whether and how

access to the charter/party fishery should be controlled.

DATES: The date of publication of this document, March 30, 2006, shall be known as the "control date" and may be used for establishing eligibility criteria for determining levels of future access to the charter/party fishery subject to Federal authority. Written comments must be received on or before 5 p.m., local time, May 1, 2006.

ADDRESSES: You may submit comments by any of the following methods:

- Written comments (paper, disk, or CD-ROM) should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments on Charter/Party Multispecies Control Date."
- Comments also may be sent via facsimile (fax) to (978) 465-3116.
- E-mail: MUL_Charter_Party_Control_Date@Noaa.gov. Include in the subject line the following "Comments on Charter/Party Multispecies Control Date." Federal e-Rulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Moira C. Kelly, Fishery Management Specialist, 978-281-9218; fax 978-281-9135; e-mail: moira.kelly@noaa.gov.

SUPPLEMENTARY INFORMATION: The recreational fishery historically has landed a significant percentage of the cod caught in the GOM. As a result of the overfished condition of both Georges Bank (GB) and Gulf of Maine (GOM) stocks of Atlantic cod (*Gadus morhua*), the Council has implemented measures to regulate recreational cod fishing since 1994. These measures include minimum fish sizes, limits on the number of hooks per line, and restrictions on the number of cod permitted to be landed (bag limits). More recently, Framework Adjustment 42 to the NE Multispecies Fishery Management Plan (FMP), which, if approved, is expected to be effective during the summer of 2006, would prohibit the possession of Atlantic cod in the recreational fishery from November 1 through March 31, and increase the minimum size for recreationally caught cod from 22 inches (55.88 cm) to 24 inches (60.96 cm). These measures would apply to both charter/party and private recreational vessels and would reduce fishing mortality on GOM cod by approximately 32 percent in order to help achieve the necessary fishing mortality reduction levels required by the FMP. A Secretarial proposed emergency rule was published on March 3, 2006 (71 FR 11060), that would implement these measures at the start of

the fishing year, May 1, 2006. In addition to cod, the following NE multispecies are also commonly caught by the charter/party industry: Pollock (*Pollachius virens*); haddock (*Melanogrammus aeglefinus*); and winter flounder (*Pleuronectes americanus*); and, to a lesser extent, white hake (*Urophycis tenuis*), and non-regulated species such as cusk (*Brosme brosme*) and wolffish (*Anarhichas lupus*).

In light of these new proposed restrictions and their impacts, members of the charter/party industry and the Council's Recreational Advisory Panel recommended that the Council restrict new entrants to the charter/party fishery to reduce the need for further restrictions on the recreational catch of cod and other groundfish.

Based on information developed by the Marine Recreational Fishery Statistical Survey (MRFSS) and the Council's Groundfish Plan Development Team, while the number of charter/party open access permits in 2005 (approximately 673) was 5 percent below that in 2002, the highest number of charter/party permits issued in 1 year, the number of charter/party trips landing GOM cod remained relatively constant from 1990 through 2001. However, despite the fact that the number of trips has remained constant, the recreational catch of GOM cod has declined since 1982. The percent decrease in the amount of GOM cod caught by the recreational fishery is similar to the percent change in GOM cod caught by the commercial fishery throughout much of the same time period.

The control date is intended to discourage speculative entry into the charter/party NE multispecies fishery while controlled access restrictions are considered by the Council. The control date will help to distinguish established participants from speculative entrants to the fishery. Although entering the fishery after the control date will not ensure fishing vessels of future access to the NE multispecies resource on the grounds of previous participation, additional and/or other qualifying criteria may be applied. The Council may choose different and variably weighted measures to qualify participants based on the type and length of participation in the charter/party NE multispecies fishery.

This notification establishes March 30, 2006 as the control date for potential use in determining historical or traditional participation in the NE multispecies charter/party fishery. Consideration of a control date does not commit the Council or NMFS to develop

any particular management system or criteria for participation in this fishery. The Council may choose a different control date, or may choose a management program that does not make use of such a date.

Fishers are not guaranteed future participation in the fishery, regardless of their entry dates or level of participation in this fishery before or after the control date. The Council may choose to give variably weighted consideration to fishers active in the fishery before and

after the control date. 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. Any action by the Council will be taken pursuant to the requirements for the development of FMP amendments established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their

participation in the NE multispecies charter/party fishery in Federal waters.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 24, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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