

Federal Register for publication notification of the opening dates of the shark fishery for each species/complex. Before making any decisions, NMFS would consider the following criteria and other relevant factors in establishing the opening dates:

(A) The available annual quotas for the current fishing season for the different species/complexes based on any over- and/or underharvests experienced during the previous commercial shark fishing seasons;

(B) Estimated season length based on available quota(s) and average weekly catch rates of different species/complexes in the Atlantic and Gulf of Mexico regions from the previous years;

(C) Length of the season for the different species/complexes in the previous years and whether fishermen were able to participate in the fishery in those years;

(D) Variations in seasonal distribution, abundance, or migratory patterns of the different species/complexes based on scientific and fishery information;

(E) Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species/complexes quotas;

(F) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; and/or,

(G) Effects of a delayed opening with regard to fishing opportunities in other fisheries.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 100830405-0405-02]

RIN 0648-BA09

#### Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Charter/Party Fishery Control Date

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

**ACTION:** Advance notice of proposed rulemaking (ANPR).

**SUMMARY:** NMFS and the New England Fishery Management Council (Council)

announce that they are seeking public comment on the reaffirmation of the current control date of March 30, 2006, in anticipation of developing a limited access program for the NE multispecies open access charter and party boat (charter/party) fishery. This component 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) or fishing under the sector management program. The Council has not made a determination that limiting the number of participants in this fishery is necessary, but reaffirming the current control date keeps the stakeholders informed of possible future consideration of the issue and promotes awareness of potential eligibility criteria for future access so as to discourage speculative entry into the fishery, while the Council considers whether and how access to the charter/party fishery should be controlled. By this notification, NMFS reaffirms, on behalf of the Council, that March 30, 2006, may be used as a "control date" to establish eligibility criteria for determining levels of future access to the fishery.

**DATES:** Written comments must be received by 5p.m., local time October 20, 2010.

**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- Multispecies Charter/Party Control Date."

Comments also may be sent via facsimile (fax) to (978) 465 3116.

Federal e-Rulemaking Portal: <http://www.regulations.gov>.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. *NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.*

#### FOR FURTHER INFORMATION CONTACT:

Travis Ford, Fishery Management Specialist, (978) 281-9233; fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** The charter/party industry targets the following species: Atlantic cod (*Gadus morhua*), pollock (*Pollachius virens*); haddock (*Melanogrammus aeglefinus*); and winter flounder (*Pleuronectes americanus*); and, to a lesser extent, white hake (*Urophycis tenuis*) and wolffish (*Anarhichas lupus*). In light of the restrictions imposed by Framework 42 to the FMP in 2006 and their impacts, members of the charter/party industry and the Council's Recreational Advisory Panel recommended at that time 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. The Council did not take action to restrict entrants but, instead, established a control date of March 30, 2006. A "control date" is a time certain that may be used to limit access to a future limited access fishery by vessel owners who enter the fishery after the control date, versus those that entered the fishery before the control date. One of the purposes of the control date is to discourage speculative entry into the fishery by vessels hoping to qualify under any new limited access program, thereby ramping up fishing effort during the period the limited access program is being developed. The control date also serves as notice to any new entrants into the fishery that their financial investment to participate in the fishery may be jeopardized if they do not qualify to fully participate in any new limited access program that is adopted.

With the implementation of Amendment 16, many participants in the recreational fishery have expressed concern that the number of party/charter operators will increase due to low allocation of some stocks to the commercial fishery. The Council has decided to reaffirm the original control date in order to discourage further speculative entry while it takes time to develop appropriate measures for the recreational fishery.

This notification reiterates that March 30, 2006, is 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.

**Classification**

This ANPR has been determined to be not significant for purposes of Executive Order 12866.

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

Dated: September 15, 2010.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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