

(d) \* \* \*

(1) \* \* \*

(vii) Black sea bass—5.

\* \* \* \* \*

■ 6. In § 622.44, paragraph (c)(5) is revised and paragraphs (c)(6) and (c)(7) are added to read as follows:

**§ 622.44 Commercial trip limits.**

\* \* \* \* \*

(c) \* \* \*

(5) *Greater amberjack*. Until the quota specified in § 622.42(e)(3) is reached—1,200 lb (544 kg). See § 622.43(a)(5) for limitations regarding greater amberjack after the quota is reached.

(6) *Vermilion snapper*. Until either quota specified in § 622.42(e)(4)(i) or (ii) is reached—1,500 lb (680 kg). See § 622.43(a)(5) for the limitations regarding vermilion snapper after either quota is reached.

(7) *Gag*. Until the quota specified in § 622.42(e)(7) is reached—1,000 lb (454 kg). See § 622.43(a)(5) for the limitations regarding gag after the quota is reached.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 100923469–1298–03]

RIN 0648–BA27

**Revisions to Framework Adjustment 45 to the Northeast Multispecies Fishery Management Plan and Sector Annual Catch Entitlements; Updated Annual Catch Limits for Sectors and the Common Pool for Fishing Year 2011**

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

**ACTION:** Temporary final rule; adjustment to specifications.

**SUMMARY:** Based on the final multispecies sector rosters submitted as of May 1, 2011, NMFS announces adjustments to the Northeast (NE) multispecies fishing year (FY) 2011 specification of annual catch limits (ACLs) for common pool vessels (common pool sub-ACLs), ACLs for sector vessels (sector sub-ACLs), and sector Annual Catch Entitlements (ACEs) for groundfish stocks managed under the NE Multispecies Fishery Management Plan (FMP). This revision

to FY 2011 catch levels is necessary to account for changes to the number of participants electing to fish in either sectors or the common pool fishery in FY 2011.

**DATES:** Effective June 14, 2011, through April 30, 2012.

**FOR FURTHER INFORMATION CONTACT:**

William Whitmore, Fishery Policy Analyst, (978) 281–9182.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act and Amendment 16 to the FMP (75 FR 18262; April 9, 2010), Framework Adjustment (FW) 44 to the FMP, which was published in the **Federal Register** on April 9, 2010 (75 FR 18356), specified catch levels for 20 NE groundfish stocks for FY 2010–2012. In addition, FW 45 (April 25, 2011; 76 FR 23042) modified the 2011 ACLs for five stocks (Georges Bank (GB) haddock, GB cod, GB yellowtail flounder, white hake, and pollock). FW 45 also specified catch levels for various components of the groundfish fishery, including sub-ACLs for the common pool and sectors. These sub-ACLs were based on the catch history of the vessels enrolled in sectors, as of December 1, 2010.

On April 25, 2011, NMFS published an interim final rule approving FY 2011 sector operations plans and allocating ACE to sectors for FY 2011 (76 FR 23076; “sector rule”). The sector rule included FY 2011 sector sub-ACL information also reflected in FW 45, where the sum of the ACEs for each sector equals the sector sub-ACL. Unlike FW 45, though, the sector ACEs in the sector rule were derived from February 1, 2011, sector rosters. To provide increased flexibility to the fishing industry, vessels initially enrolled in sectors for FY 2011 were allowed to drop out and join the common pool fishery through April 30, 2011.

Additional flexibility was also provided to allow NE multispecies permitted vessels purchased after the sector enrollment deadline of December 1, 2010, to enroll in a sector up through April 30, 2011. Because the sector ACEs, as well as the sector sub-ACLs (sum of ACEs for all sectors) and the common pool sub-ACL (groundfish sub-ACL minus sector sub-ACL), are based upon the specific membership of sectors, any changes in membership since FW 45 and the sector rule were implemented requires that NMFS revise the sector ACEs and sub-ACLs for the common pool and sectors. This rule adjusts the FY 2011 sector ACEs and sub-ACLs for the common pool and sectors based on the members of each sector roster as of May 1, 2011 (“final sector rosters”).

The preamble of the final rule implementing FW 45 informed the public that “NMFS intends to publish a rule in early May 2011 to modify these [common pool and sector] sub-ACLs and notify the public if these numbers change.” Through this temporary final rule, NMFS is revising FY 2011 ACEs for all approved sectors and for FY 2011 sub-ACLs for common pool and sector vessels, based on the final sector rosters. The final number of vessels electing to fish in sectors for FY 2011 is 829 (reduced by 7 vessels since the February 2011, rosters). All ACE and sub-ACL values for sectors assume that each NE multispecies vessel enrolled in a sector has a valid permit for FY 2011.

Additionally, this rule implements a revised definition of “unmarketable fish” for the purposes of a sector exemption first introduced in the interim final rule approving FY 2011 sector operations plans. NMFS requested comments on this definition (76 FR 23076), as well as comments on the final sector rosters. However, NMFS received no comments to the notice of final sector rosters, or to the definition of “unmarketable” fish, as included in the interim final rule. Therefore, the definition will remain as stated in the interim final rule.

Tables 1, 2, and 3 (below) explain the allocation of the FY 2011 ACE for each sector and stock, as a percentage and absolute amount (in metric tons and pounds), based on the final sector rosters. The regulations provide sectors two weeks following the completion of catch data reconciliation by NMFS to trade FY 2010 ACE in order to account for any overharvesting during that period. After the completion of two week trading window, accountability measures, specifically the reduction in FY 2011 ACE for sectors that exceeded their FY 2010 ACE, will be implemented. In addition, sectors that did not harvest their entire ACE of any particular stock are allowed to carry over up to 10 percent of their initial allocation to the next year. To discourage overfishing of the NE groundfish species, current regulations also require NMFS to reserve 20 percent of each sector’s FY 2011 ACE until FY 2010 landings data are reconciled. Once the reconciliation of FY 2010 sector catch is complete, the remaining 20 percent of ACE withheld from sectors will be allocated, and any sector that still exceeded its FY 2010 after reconciliation will have its share of the withheld ACE reduced accordingly. NMFS will publish a follow-up rule detailing any FY 2011 sector ACE reductions resulting from FY 2010 ACE

overages, or FY 2011 ACE increases from FY 2010 ACE carryover.

Table 4 compares the preliminary FY 2011 sub-ACLs for common pool and

sector vessels published in the final rule implementing FW 45, with the current

revised sub-ACLs based on the final sector rosters as of May 1, 2011.

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Table 1. FINAL PERCENTAGE (%) OF ACE EACH SECTOR WILL RECEIVE BY STOCK FOR FY 2011\*

Sector Name (Defined Below)	Moratorium Right Identifier (MRI) Count	Georges Bank (GB) Cod	Gulf of Maine (GOM) Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	Southern New England (SNE)/ Mid-Atlantic (MA) Yellowtail Flounder	Cape Cod (CC)/GOM Yellowtail Flounder	American plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	96	28.17	1.98	6.35	1.31	0.01	0.30	1.91	0.55	0.84	0.03	2.21	2.90	5.85	7.84
MPBS	8	0.11	0.42	0.01	0.08	0.00	0.00	0.31	0.64	0.34	0.00	0.87	0.02	0.18	0.22
NCCS	30	0.17	0.77	0.12	0.34	0.84	0.72	0.61	0.15	0.22	0.07	0.91	0.44	0.86	0.45
NEFS II	83	5.58	19.79	11.49	18.33	1.44	1.49	20.91	8.75	13.58	1.62	21.10	16.61	6.41	12.36
NEFS III	93	1.26	17.41	0.16	12.30	0.05	0.41	9.49	4.40	3.07	0.03	10.99	1.55	5.13	7.72
NEFS IV	41	4.26	7.31	5.34	6.02	2.16	2.26	4.90	9.09	8.37	0.69	4.71	6.56	7.71	5.57
NEFS V	32	2.01	0.11	3.92	0.32	6.47	23.40	1.06	1.45	1.73	1.99	0.32	0.29	0.22	0.31
NEFS VI	21	2.85	2.48	2.92	3.81	2.70	5.15	2.87	3.79	5.08	1.42	3.69	5.31	3.91	3.29
NEFS VII	20	4.40	0.43	3.79	0.56	9.05	3.72	2.68	3.39	3.08	11.37	0.87	0.65	0.75	0.69
NEFS VIII	20	6.42	0.50	5.84	0.21	11.34	5.65	6.67	1.73	2.61	16.14	3.37	0.43	0.50	0.61
NEFS IX	60	14.65	1.64	11.97	4.70	27.55	8.10	10.65	8.38	8.36	42.79	2.44	5.78	4.11	3.90
NEFS X	51	1.18	5.53	0.31	2.58	0.02	0.55	13.82	2.02	3.61	0.02	27.35	0.57	0.97	1.51
NEFS XI	46	0.40	12.53	0.04	2.50	0.00	0.02	2.18	1.49	1.54	0.00	2.02	0.96	2.44	6.58
NEFS XII	11	0.02	2.43	0.00	0.86	0.00	0.00	0.48	0.75	0.61	0.00	0.32	1.06	2.50	2.96
NEFS XIII	35	7.99	0.70	14.88	0.86	17.23	12.65	3.06	3.86	5.03	10.83	1.25	4.57	1.87	2.34
PCCGS	39	0.09	3.99	0.03	2.14	0.00	0.66	0.86	5.77	3.83	0.00	1.28	2.04	3.64	3.03
SHS 1	108	16.40	18.35	28.81	40.11	11.68	7.63	10.43	39.39	33.70	9.95	5.93	48.16	51.10	38.79
SHS 3	16	1.19	0.68	1.95	1.52	0.52	3.11	2.22	1.12	1.43	0.44	3.26	1.62	0.87	1.05
TSS	19	0.68	0.80	1.45	0.46	7.24	1.23	2.04	1.00	0.94	1.92	2.08	0.01	0.02	0.04
All Sectors Combined	829	97.83	97.85	99.39	99.02	98.29	77.06	97.17	97.73	97.97	99.31	95.00	99.52	99.04	99.25

-Georges Bank Cod Fixed Gear Sector (FGS), Maine Permit Bank Sector (MPBS), Northeast Coastal Communities Sector (NCCS), Northeast Fishery Sectors (NEFS), Port Clyde Community Groundfish Sector (PCCGS), Sustainable Harvest Sector (SHS), and Tri-State Sector (TSS)

\*All ACE values for sectors outlined in Table 1 assume that each sector MRI has a valid permit for FY 2011.

Table 2. FINAL ACE EACH SECTOR WOULD RECEIVE BY STOCK FOR FY 2011 (AS SPECIFIED IN THE FW 45

PREAMBLE (mt) \* †

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	56.34	1155.33	95.67	612.34	1346.65	10.29	0.14	1.58	18.00	17.15	10.34	0.55	3.49	218.78	173.99	1094.49
MPBS	0.22	4.60	20.12	0.81	1.79	0.60	0.00	0.00	2.88	19.86	4.21	0.09	1.38	1.86	5.50	30.65
NCCS	0.34	7.02	36.94	11.69	25.71	2.67	9.57	3.79	5.78	4.62	2.68	1.38	1.43	33.18	25.49	62.91
NEFS II	11.15	228.70	954.91	1107.44	2435.45	144.25	16.41	7.82	196.54	272.05	167.81	32.47	33.34	1252.63	190.70	1724.67
NEFS III	2.52	51.70	840.02	15.51	34.10	96.84	0.56	2.15	89.24	136.77	38.00	0.67	17.37	117.17	152.63	1076.51
NEFS IV	8.52	174.70	352.81	515.06	1132.71	47.34	24.66	11.84	46.05	282.65	103.51	13.94	7.45	494.94	229.24	776.97
NEFS V	4.02	82.39	5.18	378.12	831.55	2.55	73.88	122.63	9.94	45.21	21.33	39.89	0.51	21.82	6.62	43.00
NEFS VI	5.71	117.06	119.87	281.59	619.27	29.98	30.78	26.96	26.97	117.69	62.74	28.50	5.84	400.27	116.31	458.69
NEFS VII	8.79	180.28	20.77	365.35	803.46	4.42	103.33	19.50	25.22	105.47	38.12	228.18	1.38	48.68	22.42	96.61
NEFS VIII	12.84	263.19	23.90	563.17	1238.50	1.69	129.51	29.61	62.74	53.92	32.31	323.90	5.33	32.63	14.92	85.30
NEFS IX	29.30	600.89	79.23	1153.63	2537.02	36.97	314.58	42.46	100.14	260.55	103.35	858.82	3.85	435.61	122.12	543.51
NEFS X	2.37	48.60	266.83	30.11	66.21	20.33	0.20	2.87	129.91	62.72	44.64	0.31	43.21	42.79	28.90	210.83
NEFS XI	0.79	16.20	604.70	3.46	7.61	19.70	0.01	0.09	20.52	46.22	18.98	0.02	3.20	72.31	72.48	918.10
NEFS XII	0.03	0.63	117.15	0.25	0.56	6.76	0.01	0.01	4.55	23.29	7.51	0.05	0.50	79.88	74.23	413.03
NEFS XIII	15.99	327.85	33.81	1434.44	3154.57	6.75	196.77	66.29	28.75	119.96	62.14	217.40	1.98	344.42	55.58	326.63
PCCGS	0.18	3.62	192.30	3.05	6.70	16.88	0.04	3.45	8.07	179.31	47.36	0.04	2.03	153.50	108.21	422.51
SHS 1	32.81	672.71	885.62	2777.58	6108.36	315.70	133.43	39.97	98.05	1224.17	416.53	199.61	9.37	3631.40	1519.85	5411.83
SHS 3	2.38	48.85	32.60	187.90	413.23	11.95	5.89	16.32	20.90	34.72	17.66	8.82	5.15	122.46	25.79	146.42
TSS	1.35	27.69	38.68	139.55	306.89	3.65	82.73	6.44	19.17	31.17	11.63	38.56	3.29	0.40	0.55	5.36
All Sectors Combined	195.66	4012.01	4721.11	9581.04	21070.34	779.32	1122.49	403.77	913.40	3037.51	1210.85	1993.20	150.10	7504.75	2945.52	13848.01
Common Pool	4.34	88.99	103.89	58.96	129.66	7.68	19.51	120.23	26.60	70.49	25.15	13.80	7.90	36.25	28.48	103.99

\*All ACE values for sectors outlined in Table 2 assume that each sector MRI has a valid permit for FY 2011.

†These values do not include any potential ACE carryover from FY 2010 sector ACE underages or overages.

Table 3. FINAL ACE EACH SECTOR WOULD RECEIVE BY STOCK FOR FY 2011 (AS SPECIFIED IN THE FW 45

PREAMBLE (1,000 lb) \*†

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
FGS	124	2547	211	1350	2969	23	0	3	40	38	23	1	8	482	384	2413
MPBS	0	10	44	2	4	1	0	0	6	44	9	0	3	4	12	68
NCCS	1	15	81	26	57	6	21	8	13	10	6	3	3	73	56	139
NEFS II	25	504	2105	2441	5369	318	36	17	433	600	370	72	74	2762	420	3802
NEFS III	6	114	1852	34	75	213	1	5	197	302	84	1	38	258	336	2373
NEFS IV	19	385	778	1136	2497	104	54	26	102	623	228	31	16	1091	505	1713
NEFS V	9	182	11	834	1833	6	163	270	22	100	47	88	1	48	15	95
NEFS VI	13	258	264	621	1365	66	68	59	59	259	138	63	13	882	256	1011
NEFS VII	19	397	46	805	1771	10	228	43	56	233	84	503	3	107	49	213
NEFS VIII	28	580	53	1242	2730	4	286	65	138	119	71	714	12	72	33	188
NEFS IX	65	1325	175	2543	5593	82	694	94	221	574	228	1893	8	960	269	1198
NEFS X	5	107	588	66	146	45	0	6	286	138	98	1	95	94	64	465
NEFS XI	2	36	1333	8	17	43	0	0	45	102	42	0	7	159	160	2024
NEFS XII	0	1	258	1	1	15	0	0	10	51	17	0	1	176	164	911
NEFS XIII	35	723	75	3162	6955	15	434	146	63	264	137	479	4	759	123	720
PCCGS	0	8	424	7	15	37	0	8	18	395	104	0	4	338	239	931
SHS 1	72	1483	1952	6124	13467	696	294	88	216	2699	918	440	21	8006	3351	11931
SHS 3	5	108	72	414	911	26	13	36	46	77	39	19	11	270	57	323
TSS	3	61	85	308	677	8	182	14	42	69	26	85	7	1	1	12
All Sectors Combined	431	8845	10408	21123	46452	1718	2475	890	2014	6697	2669	4394	331	16545	6494	30530
Common Pool	10	196	229	130	286	17	43	265	59	155	55	30	17	80	63	229

\*All ACE values for sectors outlined in Table 3 assume that each sector MRI has a valid permit for FY 2011.

†These values do not include any potential ACE carryover from FY 2010 sector ACE underages or overages.

Table 4. FINAL TOTAL ACLs, SUB-ACLs, AND ACL-SUBCOMPONENTS FOR FY 2011 (mt)\*

	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder**	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Platce	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	Redfish	White Hake	Pollock
Total Groundfish Sub-ACL	4301	4825	30840	787	1142	524	940	3108	1236	2007	158	7541	2974	13952
Preliminary Common Pool Sub-ACL	99	126	129	12	12	115	31	78	25	13	9	58	35	138
Adjusted Common Pool Sub-ACL	93	104	189	8	20	120	27	70	25	14	8	36	28	104
% Change	-6.06%	-17.46%	46.51%	-36.98%	66.67%	4.35%	-14.08%	-10.26%	0.00%	7.98%	-12.10%	-37.93%	-20.00%	-24.64%
Preliminary Sector Sub-ACL	4202	4699	30711	775	779	409	909	3030	1211	1994	149	7483	2939	13814
Adjusted Sector Sub-ACL	4208	4721	30651	779	1122	404	913	3038	1211	1993	150	7505	2946	13848
% Change	0.14%	0.47%	-0.20%	0.57%	44.03%	-1.22%	0.48%	0.26%	0.00%	-0.05%	0.73%	0.29%	0.24%	0.25%

\*All sub-ACL values for sectors outlined in Table 4 assume that each sector MRI has a valid permit for FY 2011.  
 \*\*The large increase in the adjusted values of GB Yellowtail Flounder sub-ACL is due to the signing of the International Fisheries Agreement Clarification Act (2011).

Changes in the sub-ACLs for stocks in sectors range from a decrease of 1.22 percent of SNE/MA yellowtail flounder, to an increase of 0.73 percent of GOM winter flounder. Adjustments of the sub-ACLs for stocks in the common pool

range between a 37.93 percent decrease in GOM haddock, to a 46.51 percent increase in GB haddock. The changes in the common-pool ACLs are greater because the common-pool has a significantly lower sub-ACL for all stocks, so even small changes appear large when viewed as a percent increase or decrease. There is also a large increase in both the common pool and sector sub-ACLs for GB yellowtail flounder because of a change in the U.S./Canada resource sharing agreement

from the International Fisheries Agreement Clarification Act (2011) that dramatically increased the U.S. TAC of GB yellowtail flounder.

FW 45 specifies incidental catch TACs applicable to the NE multispecies Special Management Programs for FY 2011–2012, based on the ACLs, the FMP, and advice from the Council. Incidental catch TACs are specified for certain stocks of concern for common pool vessels fishing in the Special Management Programs, in order to limit

the amount of catch of stocks of concern that can be caught under such programs. Since these incidental catch TACs are also based on the sub-ACLs for the common pool, they have changed based on the revised sub-ACLs. The incidental catch TACs for most stocks were based upon the Council’s FW 44 Environmental Assessment (EA), while the incidental catch TACs for GB haddock, GB cod, GB yellowtail flounder, white hake, and pollock were based upon the Council’s FW 45 EA.

TABLE 5—INCIDENTAL CATCH TACs BY STOCK FOR FY 2011 (MT)

Stock	Percentage of sub-ACL	Final rule 2011 incidental catch TAC	Revised 2011 incidental catch TAC
GB cod	2	2	1.86
GOM cod	1	1.3	1.04
GB yellowtail flounder	2	0.3	0.4
CC/GOM yellowtail flounder	1	0.3	0.27
SNE/MA yellowtail flounder	1	1.1	1.2
American plaice	5	3.9	3.5
Witch flounder	5	1.2	1.25
SNE/MA winter flounder	1	7.3	7.3
GB winter flounder	2	0.3	0.28
White hake	2	0.7	0.56

TABLE 6—INCIDENTAL CATCH TACs FOR SPECIAL MANAGEMENT PROGRAMS BY STOCK FOR FY 2011 (MT)

Stock	Regular B DAS program		Closed area I hook gear haddock SAP		Eastern U.S./Canada haddock SAP	
	Final rule 2011	Revised 2011	Final rule 2011	Revised 2011	Final rule 2011	Revised 2011
GB cod	1.0	0.93	0.3	0.3	.7	0.63
GOM cod	1.3	1.04				
GB yellowtail flounder	0.15	0.2			.1	0.2
CC/GOM yellowtail flounder	0.30	0.27				
SNE/MA yellowtail flounder	1.1	1.2				
American plaice	3.9	3.5				
Witch flounder	1.2	1.25				
SNE/MA winter flounder	7.3	7.3				
GB winter flounder	0.1	0.14			.1	0.14
White hake	0.7	0.56				

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Orders 12866.

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because notice, comment, and a delayed effectiveness would be impractical and

contrary to the public interest. Vessel owners that enroll in sectors could drop out of sectors through April 30 (the day before the beginning of the fishing year and sector enrollment period), and because NMFS allowed NE multispecies permitted vessels purchased after the sector enrollment deadline of December 1, 2010, to enroll in a sector until April 30, 2011, it is necessary to adjust sector ACEs and ACLs for sectors and the common pool to account for membership changes. This action makes those adjustments to the sector and common pool ACEs and ACLs. NMFS discussed and requested public comments on the need to and procedure for adjusting the sector and common pool ACEs and ACLs in FW 45 and the sector rule. The public offered no

comments on these matters, and this rule simply implements the procedures previously set forth to adjust the ACEs and ACLs to account for changes in sector membership. Therefore, it is unnecessary at this point to provide a third opportunity to the public to comment on this adjustment. This issue was discussed in both the FY 2011 sector and FW 45 proposed and final rules.

Moreover, allowing public comment on these rules is contrary to the public interest. If the sector ACEs and sub-ACLs are not adjusted immediately, they will operate under incorrect specifications until the adjustments are implemented. The implications of delaying the date on which the specifications are corrected depends

upon the size of the ACE and sub-ACL, the size of the change in specification relative to the ACE and sub-ACL, and the rate of catch of the particular stock. If, for example, a sector were currently catching a particular stock for which they have a small ACE at a high rate, and that sector's ACE for that stock is adjusted downward in this rule, then a significant fraction of that sector's ultimate FY 2011 ACE could be harvested and the sector's fishing season shortened upon implementation of this rule. In the worst case scenario, excessive catch by sectors could lead to a sector catching more than its ACE for the applicable FY, and having to forego any additional fishing this year. Thus, delaying this rule's effectiveness and allowing for another round of public comment could cause negative economic impacts to the common pool and to the sectors.

Additionally, any delays for an additional public comment period or to the effectiveness of the rule would create uncertainty for the affected entities that would have negative economic implications, which are contrary to the public interest. Until the stock allocations are finally adjusted, the affected fishing entities will not know how many fish of a particular stock they can catch without going over their ultimate limits. Fishermen may make both short- and long-term business decisions based on the ACLs in a given sector or the common pool; thus, it is important to implement adjusted ACEs and sub-ACLs as soon as possible. Any delays in adjusting the ACLs and ACEs may cause the affected fishing entities to curtail, or speed up, their fishing activities during the interim period before the rule's effectiveness. Both of these reactions could negatively affect the fishery and the businesses and communities that depend on them; the former by delaying profits and potentially reducing harvests, the latter by increasing the potential for exceeding the ultimate fishing limits. Thus, a delay in this rule's effectiveness creates uncertainty in the fishing market that is contrary to the public's interest.

For these reasons, NMFS is waiving the public comment period and delay in effectiveness for this rule, pursuant to 5 U.S.C. 553(c) and (d).

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

Dated: June 9, 2011.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 100804324-1295-03]

RIN 0648-BA01

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures

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

**ACTION:** Interim final rule.

**SUMMARY:** NMFS issues this interim final rule to revise the sablefish cumulative limits for the limited entry fixed gear primary fishery for the remainder of the 2011 groundfish fishery. This action is necessary to allow the limited entry fixed gear fishery to achieve their fishery harvest guideline, while keeping total impacts of all fisheries within the 2011 sablefish annual catch limit (ACL).

**DATES:** Effective June 10, 2011. Comments must be received no later than July 15, 2011.

**ADDRESSES:** Background information and documents, including the environmental impact statement (EIS) for this action, are available from William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070; or by phone at 206-526-6150. Electronic copies of this final rule are also available at the NMFS Northwest Region Web site: <http://www.nwr.noaa.gov>.

You may submit comments, identified by 0648-BA01, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- **Fax:** 206-526-6736, Attn: Sarah Williams.
- **Mail:** 7600 Sand Point Way NE, Seattle, WA 98115.

**Instructions:** 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:

Gretchen A. Hanshew, 206-526-6147; (fax) 206-526-6736; [Gretchen.Hanshew@noaa.gov](mailto:Gretchen.Hanshew@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

On May 11, 2011, NMFS published a final rule to establish the 2011-2012 harvest specifications for most of the species in the groundfish fishery and management measures for that fishery off the coasts of Washington, Oregon, and California (76 FR 27508). That rule, in part, established the 2011 sablefish annual catch limit (ACL) for the area north of 36° N. lat. From the sablefish ACL, NMFS calculated the allocations, fishery harvest guidelines, and the sablefish cumulative limits for the limited entry fixed gear primary sablefish fishery. These values are specified in Federal regulations at 50 CFR 660, Subparts C, D and E. Sablefish cumulative limits for the limited entry fixed gear fishery are specified at 50 CFR 660.231(b)(3)(i), subpart E.

On May 18, 2011, NMFS was notified by the Executive Director of the Pacific Fishery Management Council (Council) that there was a mistake in the calculation of the 2011 and 2012 sablefish cumulative limits during the development of the 2011-2012 biennial specifications and management measures. The sablefish primary fishery cumulative limits contained in the November 3, 2010 proposed rule (75 FR 67810), and ultimately implemented through the May 11, 2011 final rule (76 FR 27508) are incorrect. Public comments were accepted during the development of the 2011-2012 groundfish harvest specifications and management measures, and no public comments were received regarding the cumulative limits in the primary sablefish fishery. The error subsequently identified in the Executive Director's letter overcompensated for discard mortality, and so the pool of fish that is used to calculate the sablefish primary fishery cumulative limits was too low; therefore, the cumulative limits were also too low. The Executive Director requested that NMFS correct the sablefish cumulative limits for the limited entry fixed gear primary fishery as quickly as possible because the 2011 primary fishery season opened on April 1 and some vessels are actively fishing on their cumulative limits.