

two hours by the following rates for the staff conducting the search:

- (i) \$7.00 per quarter hour for clerical staff;
- (ii) \$10.00 per quarter hour for professional staff; and
- (iii) \$14.00 per quarter hour for managerial personnel.

(3) *Only fees in excess of \$10.00 will be assessed.* This means that the total cost must be greater than \$10.00, either for the cost of the search (for time in excess of two hours), for the cost of duplication (for pages in excess of 100), or for both costs combined.

(j) *Searches for electronic records.* The Agency shall charge for actual direct cost of the search, including computer search time, runs, and the operator's salary. The fee for computer output shall be actual direct costs. For requesters in the "all other" category, when the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search (*i.e.*, the operator), the charge for the computer search will begin.

(k) *Aggregating requests.* When the Agency reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Agency shall aggregate any such requests and charge accordingly.

(l) The agency shall not assess any search fees (or in the case of an educational or noncommercial scientific institution, or a representative of the news media—duplication fees) under this paragraph (l) if the agency has failed to comply with any time limit under 5 U.S.C. 552(a)(6) and § 802.6(b)(1).

(1) If an agency has determined that unusual circumstances apply (as the term is defined in 5 U.S.C. 552(a)(6)(B)) and the agency provided a timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B), a failure described in 5 U.S.C. 552(a)(6)(B) is excused for an additional 10 days. If the agency fails to comply with the extended time limit, the agency may not assess any search fees (or in the case of a requester as described under this paragraph (l)(1), duplication fees).

(2) If an agency has determined that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, an agency may

charge search fees (or in the case of a requester described under paragraph (l)(1) of this section, duplication fees) if the agency has provided a timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B) and the agency has discussed with the requester via written mail, electronic mail, or telephone (or made not less than 3 good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

(3) If a court has determined that exceptional circumstances exist (as that term is defined in 5 U.S.C. 552(a)(6)(C)), a failure described in 5 U.S.C. 552(a)(6)(B) shall be excused for the length of time provided by the court order.

Dated: January 18, 2017.

Nancy M. Ware,

Director.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170207156-7225-01]

RIN 0648-XF219

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment of Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Annual Catch Limits

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

ACTION: Temporary rule; adjustment of annual catch limits.

SUMMARY: This action transfers unused quota of Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder from the Atlantic scallop fishery to the Northeast multispecies fishery for the remainder of the 2016 fishing year, which ends on April 30, 2017. This quota transfer is justified when the scallop fishery is not expected to catch its entire allocations of yellowtail flounder. The quota transfer is intended to provide additional fishing opportunities for groundfish vessels to

help achieve the optimum yield for these stocks while ensuring sufficient amounts of yellowtail flounder are available for the scallop fishery.

DATES: Effective March 13, 2017, through April 30, 2017.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, (978) 281-9116.

SUPPLEMENTARY INFORMATION: NMFS is required to estimate the total amount of yellowtail flounder catch from the scallop fishery on or around January 15 each year. If the scallop fishery is expected to catch less than 90 percent of its Georges Bank (GB) or Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder sub-ACL, the Regional Administrator (RA) has the authority to reduce the scallop fishery sub-annual catch limit (sub-ACL) for these stocks to the amount projected to be caught, and increase the groundfish fishery sub-ACL for these stocks up to the amount reduced from the scallop fishery. This adjustment is intended to help achieve optimum yield for these stocks, while not threatening an average of the ACLs for the stocks by the groundfish and scallop fisheries.

Based on the most current available data, we project that the scallop fishery will have unused quota in the 2016 fishing year. The scallop fishery is projected to catch approximately 2 mt of GB yellowtail flounder, or 5 percent of its 2016 fishing year sub-ACL, and approximately 17 mt of SNE/MA yellowtail flounder, or 53 percent of its 2016 fishing year sub-ACL. Because the scallop fishery is not expected to catch its entire allocation of GB and SNE/MA yellowtail flounder, this rule reduces the scallop sub-ACL for both stocks to the upper limit projected to be caught, and increases the groundfish sub-ACLs for these stocks by the same amount, effective March 13, 2017, through April 30, 2017. This transfer is based on the upper limit of expected yellowtail flounder catch by the scallop fishery, which is expected to minimize any risk of an ACL overage by the scallop fishery while still providing additional fishing opportunities for groundfish vessels.

Table 1 summarizes the revisions to the 2016 fishing year sub-ACLs, and Table 2 shows the revised allocations for the groundfish fishery as allocated between the sectors and common pool based on final sector membership for fishing year 2016.

TABLE 1—GEORGES BANK AND SOUTHERN NEW ENGLAND/MID-ATLANTIC YELLOWTAIL FLOUNDER SUB-ACLs

Stock	Fishery	Initial sub-ACL (mt)	Revised sub-ACL (mt)	Change (mt)	Percent change
GB Yellowtail Flounder	Groundfish	211	250.8	+39.8	+19
	Scallop	42	2.2	-39.8	-95
SNE/MA Yellowtail Flounder	Groundfish	189	204.2	+15.2	+8
	Scallop	32	16.8	-15.2	-48

TABLE 2—ALLOCATIONS FOR SECTORS AND THE COMMON POOL
[In pounds]

Sector name	GB yellowtail flounder		SNE/MA yellowtail flounder	
	Revised	Original	Revised	Original
Fixed Gear Sector/FGS	78	66	1,664	1,540
Maine Coast Community Sector	20	17	3,460	3,203
Maine Permit Bank	76	64	143	132
Northeast Coastal Communities Sector	4,620	3,887	3,238	2,997
North East Fishery Sector (NEFS) 1
NEFS 2	10,312	8,675	7,779	7,200
NEFS 3	248	209	300	277
NEFS 4	11,951	10,055	10,569	9,783
NEFS 5	7,443	6,262	104,801	97,000
NEFS 6	14,943	12,571	23,697	21,933
NEFS 7	18,865	15,872	11,114	10,287
NEFS 8	58,817	49,483	23,468	21,722
NEFS 9	139,287	117,183	39,219	36,300
NEFS 10	6	5	2,388	2,210
NEFS 11	8	7	79	73
NEFS 12	2	2	47	44
NEFS 13	190,714	160,449	94,545	87,507
New Hampshire Permit Bank	0	0	0	0
Sustainable Harvest Sector 1	6,702	5,639	2,691	2,491
Sustainable Harvest Sector 2	12,216	10,278	10,095	9,344
Sustainable Harvest Sector 3	68,558	57,678	33,573	31,074
Common Pool	8,053	6,775	77,312	71,558
Sector Total	544,866	458,400	372,871	345,116
Groundfish Total	552,919	465,175	450,184	416,674

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment for these adjustments because notice and comment would be impracticable and contrary to the public interest. NMFS is required to project GB and SNE/MA yellowtail flounder catch in the scallop fishery on or around January 15 of each year so that projected unused quota can be transferred to the groundfish fishery. The data did not

become available until February 8, 2017. There is insufficient time to allow for prior public notice and comment for the transfer of quota for these yellowtail flounder if the transfer is to be of benefit to the groundfish fishery. The Northeast multispecies fishing year ends on April 30, 2017. If NMFS allowed for the time necessary to provide for prior notice and comment, it would be unlikely that the transfer would occur in time to allow groundfish vessels to harvest the additional quota of these stocks before the end of the fishing year. As a result, groundfish fishermen would not receive additional allocation that is intended to offset their current negative economic circumstances due to the severe decreases in ACLs of several important groundfish stocks. Giving effect to this rule as soon as possible will help relieve fishermen from more restrictive ACLs for the yellowtail stocks and help achieve optimum yield in the fishery. For these same reasons, the NMFS Assistant Administrator also finds good cause pursuant to 5 U.S.C. 553(d)(3) to

waive the 30-day delay in effectiveness for this action. Further, there is no need to allow the industry additional time to adjust to this rule because it does not require any compliance or other action on the part of individual scallop or groundfish fishermen.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and one has not been prepared.

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

Dated: March 9, 2017.

Alan D. Risenhoover,
Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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