Approval of a New Regulatory Exemption for Sectors

Comment 1: NSC and NESSN supported the approval of the new gillnet exemption as proposed. NSC and NESSN also state that the Day gillnet fishery in the GOM will benefit from the opportunity to better target monkfish, and state that they expect impacts to the monkfish resource to be minimal.

Response: We have granted the exemption, as proposed.

Changes From the Proposed Rule

This final rule does not include allocations for NEFS 7 or NEFS 9, which were included in the proposed rule. There are no other changes from the proposed measures made in this final rule.

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 rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This action is exempt from the procedures of Executive Order (E.O.) 12866.

This rule does not contain policies with federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

Because this rule relieves several restrictions, the NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(d)(1) and (3) to waive the 30-day delay in effectiveness so that this final rule may become effective May 1, 2018. If this action is not implemented by the start of the 2018 fishing year on May 1, 2018, sectors would not have allocations, and sector vessels would be unable to fish. Sector vessels would be prohibited from fishing for groundfish until this rule was finalized. This would result in significant negative economic impacts.

Permit holders make decisions about sector enrollment based largely on allocations to permits that are based on overall available catch. The sector allocations in this rulemaking are based on catch limits set by Framework 57, which incorporates information from updated stock assessments for the 20 groundfish stocks. The development of Framework 57 was timed to rely on the best available science by incorporating the results of the assessments. This information was not finalized, however, until mid-December 2017. By regulation, rosters are required to be submitted by December 1, unless we instruct otherwise. This year, we instructed sectors to provide roster information to us by March 26, 2018, instead of December 1, 2017. This later date was necessary to provide permit holders the opportunity to use the Framework 57 catch limit information to make more fully informed decisions of where they would enroll for this fishing year. Accommodating this need for information required us to delay publishing the proposed and final rules for this action and was unavoidable.

Sector exemptions relieve restrictions that provide operational flexibility and efficiency that help avoid short-term adverse economic impacts on North east multispecies sector vessels. These exemptions provide vessels with flexibility in choosing when to fish, how long to fish, what species to target, and how much catch they may land on any given trip. This flexibility increases efficiency and reduces costs. A delay in implementing this action would forego the flexibility and economic efficiency that sector exemptions are intended to provide. Additionally, a delay in this action would delay approval of a new exemption to increase fishing opportunities for monkfish. For all of these reasons outlined above, good cause exists to waive the otherwise applicable requirement to delay implementation of this rule for a period of 30 days.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: April 26, 2018.

Samuel D. Rauch III,

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

[FR Doc. 2018–09150 Filed 4–30–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180201108–8393–02]

RIN 0648–BH55

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2018 Recreational Management Measures

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

ACTION: Final rule.

SUMMARY: This action adjusts recreational management measures for Georges Bank cod and maintains status quo measures for Gulf of Maine cod and haddock for the 2018 fishing year. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the Northeast Multispecies Fishery Management Plan. The intended effect of this action is to achieve, but not exceed, the recreational catch limits.

DATES: Effective May 1, 2018.

ADDRESSES: Analyses supporting this rulemaking include the environmental assessment (EA) for Framework Adjustment 57 to the Northeast Multispecies Fishery Management Plan that the New England Fishery Management Council prepared, and a supplemental EA to Framework Adjustment 57 that the Greater Atlantic Regional Fisheries Office and Northeast Fisheries Science Center prepared. Copies of these analyses are available from: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The supporting documents are also accessible via the internet at: *http://www.nefmc.org/management-plans/northeast-multispecies* or *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, phone: 978–281–9116; email: *Emily.Keiley@noaa.gov*.

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1. Gulf of Maine Recreational Management Measures for Fishing Year 2018

Background

The recreational fishery for Gulf of Maine (GOM) cod and haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). For both stocks, the FMP sets a sub-annual catch limit (sub-ACL) for the recreational fishery for each fishing year. These sub-ACLs are a portion of the overall catch limit and are based on a fixed percentage. The groundfish fishery opens on May 1 each year and runs through April 30 the following calendar year. The FMP also includes accountability measures (AM) to prevent the recreational sub-ACLs from being exceeded, or if an overage occurs, to correct its cause or mitigate its biological impact.

The proactive AM provision in the FMP authorizes the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. Framework Adjustment 57, a concurrent action, set the groundfish ACLs and sub-ACLs for the 2018 fishing year. For 2018, the recreational GOM haddock sub-ACL increases from 1,160 mt to 3,358 mt, and the recreational GOM cod sub-ACL increases from 157 to 220 mt.

Fishing Year 2018 Recreational GOM Measures

Recreational catch and effort data are estimated by the Marine Recreational Information Program (MRIP). A peer-reviewed bioeconomic model of expected fishing practices, developed by the Northeast Fisheries Science Center, was used to estimate 2018 recreational GOM cod and haddock mortality under various combinations of minimum sizes, possession limits, and closed seasons. Based on the bioeconomic model, status quo measures were expected to constrain the catch of GOM cod to the sub-ACL only if the Commonwealth of Massachusetts prohibited the possession of GOM cod by recreational anglers in state waters for the 2018 fishing year. In 2017, Massachusetts allowed private anglers to retain one cod (possession by the for-hire fleet was prohibited). In the event that Massachusetts did not prohibit cod possession in 2018, we proposed an additional, more conservative set of measures that were expected to keep cod catch below the sub-ACL. These measures included additional restrictions for GOM haddock to help ensure cod catch was below the sub-ACL. Table 1 summarizes the status quo measures and the two options we proposed for comment.

TABLE 1—SUMMARY OF THE STATUS QUO AND PROPOSED MEASURES

Proposed measures [1]	Fleet	Haddock possession limit	Minimum fish size (inches)	Closed season	Predicted haddock catch (mt)	Probability haddock catch below sub-ACL [3]	Predicted cod catch (mt)	Probability cod catch below sub-ACL [4]
2017 Status Quo	Private	12 fish per angler	17	3/1–4/14	920	100	226	19
	For-hire			9/17–10/31.				
2018 Measures [2]	Private	12 fish per angler	17	3/1–4/14	916	100	193	57
	For-hire			9/17–10/31.				
2018 Alternative Not Selected.	Private	12 fish per angler	17	3/1–4/14, 5/1–5/31, 9/17–10/31.	839	100	198	51
	For-hire	10 fish per angler		3/1–4/14, 9/17–10/31.				

[1] GOM cod possession, in Federal waters, is prohibited in all scenarios.
[2] This option is based on the Commonwealth of Massachusetts prohibiting GOM cod possession by recreational anglers.
[3] The 2018 GOM haddock sub-ACL is 3,358 mt.
[4] The model assumed a GOM cod sub-ACL of 200 mt, the actual GOM cod sub-ACL is 200 mt.

On March 26, 2018, the Commonwealth of Massachusetts notified us that it is prohibiting recreational anglers from retaining GOM cod beginning on May 1, 2018. Because Massachusetts is prohibiting cod possession, status quo Federal GOM cod and haddock recreational management measures are expected to keep catch within the recreational sub-ACLs, while providing the most access to the healthy haddock stock. Based on the bioeconomic model the probability of status quo measures, combined with Massachusetts's regulatory change, constraining cod catch to the sub-ACL is greater than 50 percent. As a result, this final rule maintains status quo recreational management measures for GOM cod and haddock for the 2018 fishing year. These measures are summarized in Table 2 below.

TABLE 2—GOM COD AND HADDOCK RECREATIONAL MANAGEMENT MEASURES FOR FISHING YEAR 2018

Stock	Per day possession limit	Minimum fish size	Season when possession is allowed
GOM Cod	Possession Prohibited Year-Round		
GOM Haddock	12 fish per angler	17 inches (43.2 cm)	May 1–September 16, November 1–February 28, and April 15–April 30.

2. Georges Bank Cod Recreational Management Measures for Fishing Year 2018

Background

Framework 57 to the Northeast Multispecies FMP authorizes the Regional Administrator to adjust the GB cod recreational management measures for fishing years 2018 and 2019. This action was precipitated by an increasing trend in recreational catch of GB cod in recent years, including unusually high recreational catch in 2016 that contributed to an overage of the total ACL and acceptable biological catch (ABC). Unlike GOM cod and haddock, there is no recreational sub-ACL for GB cod. Because the recreational fishery does not receive an allocation for GB cod, there are no AMs for recreational

vessels in the event the catch target or the overall ACL is exceeded. As a result, the commercial groundfish fishery is required to pay back the 2016 ACL overage.

The Council did not consider a recreational sub-ACL in Framework 57 because of a lack of time to fully consider the issue and develop appropriate long-term measures in the FMP. However, as part of Framework 57, the Council recommended a catch target for us to use when considering adjustments to GB cod measures for 2018 and 2019. The catch target is based on a 5-year (2012–2016) average of recreational catch (138 mt) (Table 3).

Using a 5-year average to determine the catch target mitigates some of the uncertainty and variability in MRIP data. MRIP provides information on a 2-month wave, calendar year basis. Preliminary data are released throughout the year, and final data is released in the spring of the following year. Calendar years 2012–2016 is the most recent 5-year period for which final recreational data are available. The Council expects that recreational measures designed to achieve a target based on this average will help prevent future overages of the ACL.

TABLE 3—GEORGES BANK COD RECREATIONAL CATCH, CALENDAR YEARS 2012–2016

GB cod catch (mt)	Calendar year				
	2012	2013	2014	2015	2016
Landings	56	6	88	124	369
Discards	1	1	2	15	30
Total Catch	57	7	90	139	399
Average	138				

We evaluate more recent catch in the GB cod fishery for determining what recreational measures may be necessary to achieve the catch target. For this purpose, we used data from fishing years 2015–2017, including preliminary 2017 data, which resulted in average catch of 196 mt. This more current and shorter time-period reflects more recent fishing practices. Using this 3-year average of more recent catch history provides a basis for developing measures that meaningfully address recent fishery trends and practices while reducing the chance of using overly restrictive or permissive measures that could result from relying on a single year's estimate.

Fishing Year 2018 Recreational GB Measures

Because the recreational measures currently in place for GB cod are not expected to constrain fishing year 2018 catch to the catch target, we are adjusting management measures for the 2018 fishing year, as recommended by the Council.

We consulted with the Council at its January 2018 meeting on potential changes to recreational GB cod measures. Due to the potential increase in cod encounters by recreational anglers, the poor stock condition, and that recreational measures currently in place for GB cod are not expected to constrain fishing year 2018 catch to the catch target, the Council recommended measures to limit the potential for extreme catch of cod to prevent future overages of the ACL.

To meet this goal, the Council recommended setting a possession limit for the for-hire fleet. Currently private anglers have a 10-fish possession limit, and for-hire vessels have no limit. The Council also proposed an increase in the minimum size limit from 22 up to 24 inches (55.88 up to 60.96 cm). The Council submitted a comment on the proposed rule clarifying that the recommended minimum size was 23 *or* 24 inches (58.42 cm or 60.96 cm).

Unlike for the GOM recreational fishery, there is no model available to evaluate the probability of catch amounts for the Georges Bank management changes. Because of the variability in MRIP data, and the lack of a model to simulate the potential effect of the proposed measures, it is difficult to determine the probability that measures may constrain harvest to the catch target. In such cases, we evaluate past practices and measures to develop limits that are gauged to achieve desired catch amounts.

The Council recommended the 10-fish limit as a way to minimize extreme catch events that could have an inordinate effect on exceeding the catch target if left unaddressed. In 2016, less than 1 percent of anglers landed more than 10 fish. The majority (approximately 70 percent in 2016) of anglers retained 1–3 cod. Although the 10-fish limit is not a limiting factor for most anglers, in 2016 approximately 7 percent of trips reported cod catch, per angler, of greater than 10 fish. The intent of the 10-fish possession limit is to eliminate those high catches of cod, and to dis-incentivize the targeting of cod beyond 10-fish per angler. The most recent assessment suggests that the GB cod stock biomass is increasing, likely resulting in increased catch rates in the recreational fishery and potentially more high catch incidences. Overall, however, the stock remains in poor condition.

The Council also recommended an increase to the minimum size up to 24 inches (60.96 cm) that is expected to reduce cod mortality relative to recent years. In 2016, approximately 40 percent of the cod landings were less than 24 inches (60.96 cm), and about 22 percent were less than 23 inches (58.42 cm). Because a proportion of released fish die, the mortality reduction is not equal to the amount of released fish. Currently we assume that 30 percent GB cod released by recreational anglers die.

Based on these mortality assumptions and catch data, a 2-inch (5.08-cm) increase to the minimum size would have been necessary to constrain harvest to the catch target based on the preliminary data available when the Council made its recommendation. This data included final fishing years 2015 and 2016 data, preliminary 2017 data, and projections to estimate harvest for the remainder of the fishing year. Based on the updated 2017 catch data, less reduction is necessary. As a result, we determined that increasing the minimum size by 1 inch (2.54 cm), to 23 inches (58.42 cm), is expected to achieve the necessary reduction in cod catch and minimize discards of undersized fish, while preserving recreational fishing opportunities to the extent practicable.

Effective May 1, 2018, the recreational bag limit of GB cod will be 10 fish for private and for-hire modes. The possession limit applies per day at sea. Multiday trips are allowed to retain the possession limit multiplied by the number of days of the trip. For example, if a for-hire vessel conducts a 2-day trip, anglers would be able to retain up to 20

cod per person (10 fish, per person, per day). The minimum size for GB cod will be increased to 23 inches (58.42 cm). These measures are summarized in Table 4, along with information on the current measures for comparison. We will reevaluate these measures, and make necessary adjustments for the 2019 fishing year.

TABLE 4—GEORGES BANK COD RECREATIONAL MANAGEMENT MEASURES FOR FISHING YEAR 2018 AND STATUS QUO (FISHING YEAR 2017) MEASURES

Alternatives	Fleet	Georges Bank Cod possession limit	Minimum fish size (inches)	Open season
Status Quo	Private	10	22	5/1–4/30
	For-hire	Unlimited.		
2018 Measures	Private	10	23	5/1–4/30
	For-hire.			

3. Regulatory Corrections

This rule makes two regulatory corrections under the authority of section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act, which allows the Secretary of Commerce to promulgate regulations necessary to ensure that the FMP is carried out in accordance with the Magnuson-Stevens Act. These administrative corrections are necessary and consistent with the FMP's goals and objectives.

In § 648.89(c), we added a table to summarize the recreational possession limits. This change is intended to simplify and improve clarity of the regulations.

In § 648.14(k)(16), we added the possession prohibitions for ocean pout and windowpane flounder by the recreational fishery. Possession of ocean pout and windowpane flounder is already prohibited; however, these prohibitions were omitted from the prohibitions section of the regulations. This correction is intended to improve consistency and clarity of the regulations.

4. Comments and Responses

We received 47 comments on the proposed rule. Two of the comments were not related to the proposed measures and are not discussed further. We received comments from the Council, the Stellwagen Bank Charter Boat Association (150 members), the National Party Boat Owners Alliance, the Recreational Fishing Alliance, the Connecticut Charter and Party Boat Association, the Rhode Island Party and Charter Boat Association (65 members), the Rhode Island Saltwater Anglers Association, and 39 members of the public. Twenty-two comments were on the proposed measures for GB cod, 32 comments addressed the proposed GOM measures, and some of these comments addressed both GOM and GB proposed measures. Only one individual supported the proposed GB cod measures, and a number of commenters supported a more conservative approach that would better align GB and GOM cod measures. The remaining comments supported status quo measures for GB cod. Two individuals and two organizations supported the proposed split of private and for-hire measures for GOM haddock. The remaining comments on GOM measures supported status quo Federal measures, or a liberalization of cod limits.

Gulf of Maine Management Measures

Comment 1: The Stellwagen Bank Charter Boat Association requested that we eliminate the closed season for GOM haddock from September 17 through October 31 based on the increase in the GOM haddock sub-ACL and a decrease in effort during this period. Alternatively, they suggested that we consider reducing the GOM haddock bag limit from 12 fish to 6 fish during this period to allow anglers to take home some haddock while fishing for non-groundfish species.

Response: Due to the co-occurrence of cod and haddock, the similarity in gear, and fishing techniques used to target them, it is difficult to simultaneously decrease cod catch, while increasing haddock catch. Using the bioeconomic model, we analyzed a wide variety of seasons and possession limits for haddock. The goal of the model is to maximize opportunities to target haddock while keeping cod catch within the sub-ACL. Based on the model results, we determined that both the spring and fall closures are necessary to constrain the catch of cod to the sub-ACL. Even when the haddock possession limit was decreased significantly, it did not allow for more open haddock seasons. Status quo measures will remain in place for the 2018 fishing year. This was the least constraining option possible for the GOM recreational fishery in the 2018 fishing year.

Comment 2: Six individuals commented on the increasing number of haddock and cod they are encountering while fishing recreationally in the GOM. Individuals also pointed to the increasing quotas for both GOM cod and haddock. When referring to GOM haddock, all of these comments questioned the rationale for proposing more restrictive management measures for a healthy and abundant stock.

Response: The 2017 assessment updates for GOM cod and haddock concluded that both haddock and cod populations in the GOM are increasing. GOM haddock biomass is well above the target level; however, GOM cod is still at low levels. As described in the response to *Comment 1,* cod and haddock are often caught together when recreationally fishing for groundfish in the GOM. Although the assumed discard mortality rate for GOM cod is only 15 percent, the mortality associated with cod bycatch in the directed GOM haddock fishery has resulted in cod catch greater than the recreational sub-ACL in 4 of the last 5 years. Preliminary 2017 data suggests that the 2017 sub-ACL for GOM cod would be exceeded by 55 percent despite a complete closure of the Federal cod fishery. The bioeconomic model projected 2018 cod catch greater than the cod sub-ACL in all scenarios where we modeled less restrictive haddock measures. Status quo measures for the 2018 fishing year are the least restrictive option for GOM recreational measures that allows the fishery to achieve, but not exceed, its sub-ACLs. This final rule maintains status quo measures.

We are supporting a variety of cooperative research to improve our understanding of recreational fisheries in order to increase fishing opportunities while we continue to rebuild the cod stock. Current examples include an evaluation of discard mortality, a cod bycatch avoidance program, and a study of different tackle and its impact on catch rates.

Comment 3: Ten individuals and the National Party Boat Owners Alliance supported status quo measures for the GOM haddock fishery.

Response: We agree, and this final rule maintains status quo measures for the 2018 fishing year. The proposed rule included an option that would have further restricted GOM haddock measures. The proposed changes were only necessary if the Commonwealth of Massachusetts continued to allow private anglers to retain one cod in 2018. Since the proposed rule for this action was published, Massachusetts decided to prohibit the retention of GOM cod by recreational anglers to complement Federal measures and maximize access to the abundant GOM haddock stock.

Comment 4: Two individuals, the Recreational Fishing Alliance, and the Rhode Island Party and Charter Boat Association supported the split-measures proposed for GOM haddock for private anglers and the for-hire fleet because these measures would have allowed the for-hire fleet to continue operating in May, which is an important month for the haddock fishery. These individuals and organizations only supported the split measures in the event that more restrictive measures were necessary. However, four commenters opposed the split-measures proposed for GOM haddock because private anglers do not catch as much cod as the for-hire component of the fishery.

Response: Because Massachusetts decided to prohibit the retention of GOM cod by recreational anglers, the more restrictive GOM haddock measures, including the split measures, are not necessary. Federal measures will remain status quo for the 2018 fishing year. These measures are the least restrictive of our options that will allow the most access to GOM haddock for all components of the recreational fishery in Federal waters. The month of May will remain open to haddock fishing for all anglers, at the current possession limit of 12-fish per person.

In 2016 and 2017, private recreational anglers accounted for 71 and 82 percent, respectively, of the total recreational cod catch in the Gulf of Maine. While the number of anglers on any one private boat is less than a party vessel, the number of private vessels targeting groundfish in the Gulf of Maine is significantly more than the number of for-hire vessels. The number of cod caught per angler on private vessels is also greater than when compared to party vessels. In 2017, the average number of cod caught on a private vessel was 5.9 fish per person, on party vessels the average number of cod caught was 1.6 per person.

These recent data suggest that the for-hire fleet has been able to avoid cod bycatch when fishing for haddock more effectively than private anglers. As a result, if more restrictive measures for GOM haddock were necessary in 2018, the Council recommended split measures for private anglers and the for-hire fleet. The Council intended the split measures to maximize fishing opportunities for haddock as much as possible for both components of the recreational fishery. Although the more restrictive, split measures are not necessary in 2018, consideration of different measures for private anglers and the for-hire fleet in the future may be appropriate and warranted.

Comment 5: Fifteen individuals commented on the disparity between proposing GOM cod and haddock recreational limits while the fishing year 2018 GOM cod and haddock commercial quotas are increasing.

Response: We recognize the perceived discrepancy because the Federal GOM recreational measures are not being liberalized and commercial quotas are increasing. However, we have to take into account the recreational fishery's recent past overages when considering what measures are warranted. Each year, we are required to set recreational management measures designed to achieve, but not exceed, the recreational sub-ACLs. Sometimes increasing sub-ACLs will allow us an opportunity to raise recreational limits or remove restrictions. Other times, particularly when a sub-ACL may still be at a low-level despite an increase, we cannot. This year is an example of when the GOM cod sub-ACL requires us to maintain recreational limits on both GOM cod and haddock to prevent an overage of the relatively lower recreational GOM cod sub-ACL.

Framework 57 sets the 2018 ACLs based on updated 2017 assessments. According to the 2017 stock assessments, the GOM cod and haddock stocks are increasing, although cod remains overfished and subject to a rebuilding plan. The assessments support increasing the overall ACL for both GOM cod and haddock in 2018, including both the recreational and commercial allocations. The increases for each stock differ substantially. For 2018, the haddock recreational sub-ACL increases by 290 percent, from 1,160 mt to 3,358 mt. The cod sub-ACL remains relatively low, however, and increases a much smaller amount from 157 to 220 mt. The recreational sub-ACLs are based on a fixed percentage of the total catch limit.

When considering potential measures for 2018, more liberal measures for GOM haddock were not likely to keep cod bycatch within the recreational sub-ACL, even when maintaining the prohibition on possession of GOM cod. Status quo measures were the least restrictive measures possible for 2018 that are expected to achieve the increased cod sub-ACL, with an approximately 57-percent chance of not exceeding the sub-ACL. In fishing year 2017, GOM cod catch (based on preliminary data) is estimated to be 226 mt, which is significantly more than the 2017 GOM cod sub-ACL, and slightly greater than the 2018 sub-ACL. While it is difficult to predict the performance of recreational measures, the bioeconomic model has underestimated recreational catch historically. Increasing the probability of maintaining catch under the sub-ACL provides more confidence that measures successfully keep catch within the sub-ACLs despite the inherent uncertainty in recreational data.

Comment 6: Four individuals pointed out the differences between the more liberal recreational management measures for GB cod as compared to more restrictive measures for GOM cod. The commenters stated that this difference in management measures was unfair to anglers in the Gulf of Maine.

Response: Currently, cod is managed as two distinct stocks, GOM and GB. The recreational management measures are designed to achieve, but not exceed, the catch limits for each stock. The 2018 acceptable biological catch (ABC) for GB cod is 1,591 mt, the 2018 GOM cod ABC is 703 mt. The different management measures for GOM and GB cod are based on the different catch history and catch limits. Catch of GOM cod, even when the possession limit has been zero, is significantly more than GB cod catch. In 2017, estimated catch of GB cod, in numbers, was 97,871 fish, and in the GOM estimated catch was 768,134 fish. There are also significantly more angler trips targeting cod and haddock in the GOM than GB. In 2017, approximately 151,000 angler trips were takin in the GOM compared to 62,000 in GB. Another significant factor in the distinction between management measures for GOM and GB cod is that the recreational GOM fishery is allocated GOM cod and is subject to AMs. The GB recreational cod fishery is not allocated quota, and is not subject to AMs in the event of a quota overage. The Council may revisit the allocation determinations in the future.

There is some uncertainty regarding the GOM and GB cod stock structure, degree of connectivity, and mixing.

Because of these uncertainties, and the potential management implications, the Council has planned a workshop to examine the stock structure of cod in the region. Until the stock structure and assessments are revisited, we are required to base management measures on the current stock determinations and corresponding catch limits, which is the best scientific information available. Future measures, and the relationship between GOM and GB cod management, may change depending on the outcome of the stock structure workshops.

Comment 7: Five individuals opposed the continued closure of the recreational GOM cod fishery, and instead suggested a range of possession limits from 1 to 5 cod. Commenters also recommended a variety of size limits and seasons.

Response: When compared to the 2017 catch, the 2018 sub-ACLs would allow for a 78-percent increase in haddock catch, but would require an 11-percent reduction in cod catch. Allowing the possession of one cod, even for a limited season, is projected to result in an overage of the 2018 recreational cod sub-ACL. Additionally, although recreational measures are set each year to prevent overages, the recreational fishery has exceeded their sub-ACL of cod in 4 of the last 5 years. The status quo measures maintained through this final rule are expected to constrain cod catch within the recreational sub-ACL, with a 57-percent chance of success. Based on all of the available data, these measures are the least restrictive for the 2018 fishing year that provide the maximum amount of fishing opportunities for other stocks, while keeping catch within the recreational sub-ACL.

The most recent assessment of GOM cod suggests that the stock is increasing, but remains at a low level. If this increasing trend continues, we expect additional stock rebuilding to provide increased opportunities for recreational and commercial fishermen in the future. Although the recreational sub-ACL for GOM cod is constant for the next 3 years, we will evaluate recreational measures again before the 2019 fishing year to make any necessary adjustments.

Comment 8: The Stellwagen Bank Charter Boat Association and one individual raised questions about the number of private angler trips estimated by MRIP. These commenters believe that the MRIP estimate is biased high resulting in an overestimation of catch. One individual opposed the GOM management measures based on his observation of a limited number of private vessels fishing recreationally in the GOM.

Response: Both the Recreational Advisory Panel (RAP) and the Council have discussed the number of angler trips estimated by MRIP. In 2017, the estimated number of angler trips in the GOM on private vessels was greater than 1.1 million. Of these trips, an estimated 108,000 were estimated to be targeting cod and haddock. The GOM is a large region, and while some areas may have a limited number of anglers, the overall amount of effort is high. At recent recreational meetings, and in its comment on the proposed rule for this action, the Stellwagen Bank Charter Boat Association estimated that the number of 2017 angler trips from MRIP would mean that there were 176 vessels fishing per day, every day from April 15 to September 15. This calculation assumes that no private anglers fish after the fall closure, or during closures in state waters, and that vessels have an average of 4 people on board, and it is not clear if these assumptions are reasonable. While there are some uncertainties with MRIP data, including the estimated number of angler trips, MRIP is currently the best scientific information available.

At the January 2018 RAP meeting, the RAP proposed a dedicated survey to gauge the amount of private angler effort, although the Council did not discuss this proposal further. Additionally, there are improvements being made to the MRIP sampling protocols that should improve the estimates of recreational effort, including the estimated number of private angler trips.

Comment 9: Five individuals commented that private anglers can more effectively avoid cod by-catch when fishing for haddock than the for-hire fleet.

Response: We disagree. In 2016, the average number of cod caught per angler on party boats was 4.5, and in 2017 this dropped to 1.6, representing a decrease of 64 percent. On charter boats, the average number of cod caught per person was 10.9 in 2016, and 5.9 in 2017, which is a reduction of 46 percent. Private anglers caught an average of 5.8 cod per person in 2016. In 2017, private anglers caught roughly the same number, 5.9 fish per person, which is a slight increase of 2 percent. While there is uncertainty in the estimates provided by MRIP, it is likely that the trends are representative. The data from 2016 and 2017 suggest that on average, the for-hire modes of the fishery were able to significantly reduce cod catch per person, while private anglers continued to catch approximately the same number of cod.

Georges Bank Cod Recreational Measures

Comment 10: The Council clarified that its recommendation to ''increase the minimum size fish from 22 inches (55.88 cm) up to 24 inches (60.96 cm)'' meant it would support a revised minimum size of 23 (58.42 cm) *or* 24 (60.96 cm) inches.

Response: As discussed already in the preamble of this rule, this final rule implements a minimum size of 23 inches (58.42 cm) for GB cod consistent with the Council's recommendation. The proposed rule to this action included a minimum size of 24 inches (60.96 cm) for GB cod. Although we did not specifically propose a minimum size of 23 inches (58.42 cm) as an alternative, a 23 inch (58.42 cm) minimum size was within the range of alternatives evaluated in Section 5.1 of the supplemental EA (see **ADDRESSES**). Unlike the Gulf of Maine fishery, we do not have a model to predict catches, and evaluate impacts. We used the most recent 3-year average as an estimate of current catch, and compared that estimate to the catch target. Based on that comparison we determined that we needed to make regulatory changes to reduce catch. In order to determine 2018 management measures, we evaluated trends in the fishery to determine what size and possession limits would be effective. We analyzed total catch, and landings in each mode of the fishery, as well as the size of fish being landed. Based on this analysis we have determined that a 23-inch (58.42-cm) minimum size, coupled with a 10-fish possession limit for all modes of the fishery is expected to result in catch close to the catch target.

Comment 11: Eighteen individuals and organizations commented that MRIP data varies too much and is an unreliable source of information for the development of management measures. Individuals pointed out that the low estimates (*e.g.* 2013) and high estimates (*e.g.* 2016) are not accurate estimates of the catch and should not be used as the basis for management. Some comments provided specific examples of errors with the MRIP dataset, such as the high estimate of shore catch from New Jersey in 2016.

Response: All surveys have degrees of certainty that accompany them depending on different factors including how many people were surveyed. We agree that the annual MRIP point estimates of GB cod catch, like any survey catch estimates, include a degree of uncertainty. Some uncertainty in the GB cod estimates result from the small sample size relative to the population of

recreational anglers. However, we considered MRIP data uncertainty or variability when developing the recreational fishery's management measures. Because of the known variability in annual point estimates, many recreational fishery management plans use a 3-year moving average to evaluate past catch and determine future management measures. For GB cod recreational catch, we determined that averaging the data over numerous years helps address uncertainty in the survey. The use of an average smooths the high and low estimates, and provides a more accurate picture of fishery conditions and trends.

Estimates of catch and effort must be used because it is not possible to have a complete census of all recreational anglers to capture all catch and every angler trip. MRIP is the method used to count and report marine recreational catch and effort. In January 2017, the National Academies of Science released their latest review of MRIP and recognized NMFS for making ''impressive progress'' and ''major improvements'' to MRIP survey designs since the 2006 review of MRIP. While there are some remaining challenges to MRIP surveys, we continue to make improvements including transitioning from the Coastal Household Telephone survey to the Fishing Effort Survey, which will further improve our estimates of recreational fishing effort.

Although estimates from MRIP are uncertain and variable to a degree, MRIP is currently the only source of information we have to estimate effort and catch by private recreational anglers, and is therefore the best scientific information available. As also described earlier in responses to comments on the GOM measures, we are exploring recommendations made by the RAP that would supplement the for-hire dataset. We also expect revised MRIP estimates based on the improved methodology to be released later this year. We have taken into account the uncertainty issues in the current dataset and are actively working to improve the information we use to make management decisions. In the interim, we plan to use approaches that minimize the impacts of outliers and variability.

Comment 12: One individual supported reducing the recreational catch of GB cod, but suggested that the possession limit should be more restrictive than 10 fish. The commenter noted the recreational fishery is being rewarded for overharvesting GB cod, and that the catch target should be set at a lower level consistent with catches in 2012 or before.

Response: In 2016, unusually high recreational catch reflected in the MRIP data resulted in an overage of the GB cod U.S. ABC. This overage prompted the Council to develop a short-term plan to address recreational GB cod catch, which included the recommendation of a catch target to guide the development of management measures. The catch target (138 mt) was not developed, proposed, or approved as part of this action. Additional information on the catch target can be found in Framework 57.

The Council developed the catch target based on a 5-year average, and provided us the limited authority for 2018 and 2019 to adjust recreational GB cod management measures to cap GB cod catch at this level. In this action, we only have the ability to revise the management measures relative to the catch target. The measures we plan to implement have been designed to constrain GB cod catch by the recreational fishery and prevent its catch from contributing to exceeding the overall GB cod ACL. The recreational fishery does not have an allocation (sub-ACL) of GB cod; therefore, there is no mechanism to hold that fishery accountable for any overages that may occur. The Council may choose to review recent recreational catch and determine if an allocation, and associated management and AMs, are appropriate for this fishery in a future management action. The Council would consider the performance of the management measures implemented in this final rule in developing long-term measures for the GB cod recreational fishery.

Comment 13: One individual suggested that limiting the gear types allowed to catch haddock would reduce cod bycatch better than limiting seasons.

Response: We agree that fishing methods may be an important factor influencing the bycatch rate and mortality of cod. Research is exploring the impacts of different tackle and fishing methods on discard mortality and catch rates. We continue to support (fund and participate in) these efforts so that gear modification can be used in the future as a potential tool to manage recreational fisheries. At this time, we do not have the information required to make modifications to the management measures. We will continue to support innovative gear research.

Comment 15: The National Party Boat Owners Alliance, Recreational Fishing Alliance, Rhode Island Saltwater Anglers Association, Connecticut Charter and Party Boat Association, and eleven individuals supported status quo measures for GB cod. The commenters pointed to the preliminary 2017 GB cod MRIP data, and the new estimate of 2017 GB cod catch of 51 mt. The commenters cite the 2017 estimate as evidence that GB cod catch is not increasing, and that the status quo measures should be maintained, or even more liberal measures considered.

Response: We determined that averaging numerous years of MRIP estimates better takes into account uncertainty in the MRIP data than using estimates from a single year or part of a year. We considered the preliminary 2017 wave 6 MRIP data, which became available after the Council developed its recommendations, to determine appropriate measures for the 2018 fishing year. Consistent with averaging multiple years of data, we did not rely solely on the wave 6 estimate because it is a single data point. Nor did we rely on any other single annual estimate. Even when incorporating the low preliminary 2017 estimate into the 3-year average catch calculation, the result is greater than the catch target selected by the Council. The most recent 3-year average (2015–2017) is 196 mt, compared to the 2018 catch target of 138 mt. Additional rationale is provided in the preamble of the proposed and final rule.

Comment 14: Two individuals opposed the GB cod recreational catch target because the catch target is being set at a stable level while the total GB cod ACL is increasing. Additionally, two individuals and the Rhode Island Party and Charter Boat Association questioned the use of fishing year data to calculate average catch when it is being compared to a catch target that is calculated with calendar year data.

Response: The approval of the recreational GB cod catch target was not included in this rule. It was part of Framework 57. Because the catch target is not part of this action, these comments are outside the scope of the measures approved in this final rule. However, because we use the recreational catch target to set recreational management measures, additional background on the catch target is included below. More specific responses to comments on the catch target have been included as part of the Framework 57 final rule.

The Council recommended a catch target calculated using the average of 5 calendar years of catch estimates from the most recent GB cod assessment. We do not use calendar year catch, but instead use fishing year data to estimate catch based on the most recent 3-year average catch. We selected the most recent fishing year data to estimate

catch because it allows us to include the preliminary 2017 catch estimate in the average. While the general trend is that recreational catch is increasing, the preliminary 2017 data indicate 2017 catch is lower than the unusually high catches in 2016 and more consistent with the general trend. The catch estimates are different depending on the months included in the estimate. For example, the calendar year estimate for 2016 includes data from January 2016 through December 2016, whereas the fishing year 2016 estimate includes data from May 2016 through April 2017. This naturally results in different estimates, particularly for GB cod, because the fishing season is concentrated at the end of the calendar year. However, despite small differences, the calendar year and fishing year estimates are relatively similar each year. Further, regardless of what combination of calendar year and fishing year estimates are used, the result is that recent catch exceeds the 5-year average catch target. As a result, and as more fully described in the preamble above, this final rule adjusts recreational management measures for the 2018 fishing year to ensure recreational catch does not exceed the catch target that the Council identified.

Comment 15: Eight individuals commented that the implementation of a 10-fish possession limit for the charter and party vessels would have a negative impact on their businesses. In addition, they stated that the possession limit would not actually affect cod catch, and that it was a ''feel good'' measure to appease other fisheries.

Response: Implementing a bag limit in the for-hire mode may impact these businesses negatively, primarily due to the shift in the marketing strategy because currently these vessels can market ''unlimited cod.'' However, a 10-fish bag limit is not limiting for the majority of customers. In 2016, less than 1 percent of anglers landed more than 10 fish. The majority (approximately 70 percent in 2016) of anglers retained one to three cod. Although the 10-fish limit is not a limiting factor for most anglers, in 2016 approximately 7 percent of trips reported cod catch, per angler, of greater than 10 fish. The intent of this possession limit is to eliminate high catches of cod, and the potential for high catches of cod, that could contribute to exceeding the target. The most recent stock assessment suggests that the GB cod stock biomass is increasing, likely resulting in increased catch rates in the recreational fishery and potentially more high catch trips.

In addition, the per person possession limit applies per day. Therefore, multi-day trips are allowed to retain the possession limit times the number of days-at-sea fished. For example, if a for-hire vessel takes a 2-day trip offshore, anglers can retain up to 20 cod per person (10 fish, per person, per day). This may ease some of the concerns expressed by some for-hire industry members relative to longer, offshore trips.

Comment 16: The Stellwagen Bank Charter Boat Association and six individuals commented on the connectivity between the GOM and GB cod stocks. These commenters were concerned that the difference between GOM and GB recreational management measures allows anglers to target GOM cod when they are in southern New England, further hindering the recovery of this stock, and creating an inequity between the GOM and GB anglers.

Response: The connectivity between the GOM cod stock and cod in Southern New England (currently considered GB cod) has been well documented in the scientific literature, though there is uncertainty in the degree of that connectivity. The relationship between cod in these regions is not currently included in the stock assessments or management programs. However, efforts are underway to examine the connectivity and implications. A workshop to analyze the population structure of cod is planned for this fall. Additional information on the working group can be found here: *https://www.nefsc.noaa.gov/saw/acsswg/.* These efforts may lead to changes in the assessments or management of these stocks. We agree that this is an important issue and one that will require input from the scientific community and industry to resolve. At this time, the cod population is managed and assessed as two distinct stocks (GOM and GB), and this rule only implements management measures to achieve the sub-ACL for GOM cod and catch target for GB cod.

Comment 17: The Stellwagen Bank Charter Boat Association, Rhode Island Party and Charter Boat Association, and six individuals disagreed that the proposed minimum size limit increase from 22 to 24 inches (55.88 to 60.96 cm) would improve compliance (an enforcement benefit) and better align management measures for the two cod stocks, particularly because the GOM is closed to cod fishing.

Response: We agree that the compliance benefit is likely negligible at this time because the GOM recreational cod fishery will be closed in Federal and state waters in fishing year 2018. However, if both fisheries were open, different management measures for the same species may be confusing to anglers, and is difficult to enforce, resulting in compliance issues. We have determined that a minimum size of 23 inches (58.42 cm) is more appropriate for GB cod for this year. If the GOM recreational cod fishery opens in the future, the Council may consider how to align management measures for GOM and GB in any recommendations it makes to us.

Comment 18: The Recreational Fishing Alliance, Rhode Island Party and Charter Boat Association, Rhode Island Saltwater Anglers Association, Connecticut Charter and Party Boat Association, and seven individuals opposed the proposed increase in minimum size from 22 to 24 inches (55.88 to 60.96 cm). The commenters noted the new minimum size would increase regulatory discards and could cause effort on GB cod to increase as anglers attempt to catch larger cod. These commenters did not feel that changing the size limit would be an effective tool to control mortality of GB cod, and would result in long-term consequences for the fishery.

Response: The minimization of discards is an overall objective of U.S. fisheries management (National Standard 9). Increasing the minimum size is likely to result in an increase in regulatory discards. However, the amount discards would increase is difficult to estimate because it is not only related to the minimum size, but the structure of the cod population. For example, a large year-class of cod propagating through the fishery may be greater than the minimum size, and may represent the majority of fish available to the fishery. In this scenario, discards may decline or remain constant despite an increase in the minimum size. The implementation of a 23 inch (58.42 cm) minimum size, as opposed to 24 inches (60.96 cm), is an attempt to balance these competing issues.

While minimizing discards is important, the overall reduction of mortality is more important. The current GB cod assessment assumes that 30 percent of fish discarded in the recreational fishery die, meaning that 70 percent survive. So, although discards may increase as a result of this action, the majority of these fish survive.

Previously, the Council had recommended a non-binding prioritization of possible measures recommended for consideration when developing recreational management measures. For cod, first increases to minimum fish sizes, then adjustments to seasons, followed by changes to bag limits; and for haddock, first increases to minimum size limits, then changes to bag limits, and then adjustments to

seasons. This prioritization was considered when determining what type of management changes should be considered for GB cod.

Comment 19: The Recreational Fishing Alliance, National Party Boat Owners Alliance, and three individuals disagreed that recreational GB cod catch is increasing. These commenters suggest that the increasing trend is only seen ''on paper'' and the reality is that recreational catches have been consistent over the past 10 years.

Response: The annual estimates of GB cod recreational catch are highly variable; however, the data available suggest an increasing trend in GB cod catch, since a low in 2013. This trend is reasonable to believe given the increasing GB cod stock, and the closure of the GOM to recreational cod fishing. Estimated recreational GB cod catch, from the 2017 assessment, depicts increasing recreational catch from 2007 to 2011, low catches in 2012 and 2013, followed by a sharp increase through 2016. It is difficult to resolve long-term trend in the fishery, particularly given the variability of the MRIP estimates, the impacts of the stock size, and other factors that may influence an angler's decision to fish recreationally. Given the uncertain impact of these variables, we have decided to compare the most recent 3-year average to the Council's proposed catch target. We have the flexibility to adjust measures for the 2019 fishing year if updated catch information alters the outcome of this analysis.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that these measures are necessary for the conservation and management of the Northeast multispecies fishery and that the measures are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

This final rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to make this rule effective May 1, 2018. This final rule implements reductions from the current recreational management measures for GB cod that will remain in place until this rule is effective. Delaying the effective date of this rule increases the likelihood that recreational catch in the 2018 fishing year will exceed the catch target, and potentially contribute to an overage of the overall ACL. In fishing year 2016, the GB cod ACL and ABC were exceeded. GB cod is overfished and overfishing is occurring, and it is critical that the 2018 recreational management measures, which will reduce cod mortality, go into effect with the start of the fishing year to ensure that the catch limit is not exceeded again. Thus, delaying implementation of these measures would be contrary to the public interest of ensuring that GB cod catch limits are not exceeded.

The Northeast Multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. Altering recreational management measures too far after the season has begun is problematic because it negatively impacts business planning for the for-hire segment of the fishery, causes confusion in the fishery, and may result in less compliance with the regulations.

NMFS could not have finalized this action earlier because of the availability of recreational data from MRIP. We, in consultation with the Council, develop recreational management measures using MRIP data. Effort and catch in the current fishing year is used to gauge performance relative to the catch limits, and for GOM cod and haddock MRIP data is used in the bioeconomic model to evaluate management options. The collection and processing of recreational data creates a very compressed period for development and consideration of options, consulting with the Council process, and completing proposed and final rulemaking. MRIP data is collected on a calendar year basis in 2-month waves. Preliminary data from the summer and fall, when recreational effort is significant, is not available until December, so analyses are not ready until January at the earliest. We consulted with the Council in January 2018. On January 31, 2018, the Council voted to recommend to us the suite of recreational measures we are implementing. In addition to this consultation process, we must fully evaluate and analyze the measures under consideration. This involves not only the bioeconomic model output presented in January, but also includes an environmental analysis of the recommended measures, consistent with the National Environmental Policy Act (NEPA) requirements, and a systematic review of compliance with other applicable laws. In order to evaluate the impact of the 2016 recreational catch overages, and the proposed management alternatives, we needed to consider them in the context of total catch and catch limits. Final data on commercial catch of GOM and GB cod and haddock, and the portion of the catch limit that was caught, was not available until February 2018.

For the reasons outlined, NMFS finds that there is good cause to waive the requirement to provide a 30-day delay in implementation.

Regulatory Flexibility Act (RFA)

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the IRFA and a summary of the analyses completed to support the action. NMFS did not receive any comments that were specifically in response to the IRFA. The FRFA incorporates sections of the preamble (**SUPPLEMENTARY INFORMATION**) and analyses supporting this rulemaking, including the Framework Adjustment 57 EA and the supplemental EA to Framework Adjustment 57 (see **ADDRESSES**). A description of the action, why it is being considered, and the legal basis for this action are contained in the supplemental information report and preamble to the proposed rule, and are not repeated here. A summary of the analyses follows.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

Our responses to all of the comments received on the proposed rule, including those that raised significant issues with the proposed action can be found in the Comments and Responses section of this rule. In the proposed rule we solicited comments on two options for GOM cod, and one option for GB cod. The majority of comments supported implementing the measures that the NEFMC recommended for the GOM (status quo), and opposed changes to the GB cod recreational management measures. There were no comments that specifically addressed the IRFA.

Description and Estimate of the Number of Small Entities to Which This Rule Would Apply

The Small Business Administration (SBA) defines a small commercial finfishing or shellfishing business (NAICS code 11411) as a firm with annual receipts (gross revenue) of up to $11.0 million for Regulatory Flexibility Act compliance purposes only. A small

for-hire recreational fishing business is defined as a firm with receipts of up to $7.5 million (NAICS code 487210). Having different size standards for different types of fishing activities creates difficulties in categorizing businesses that participate in multiple fishing related activities. For purposes of this assessment, business entities have been classified into the SBA-defined categories based on which activity produced the highest percentage of average annual gross revenues from 2014–2016. This is the most recent 3-year period for which data are available. Ownership data in the Northeast permit database identify all individuals who own fishing vessels. Using this information, vessels can be grouped together according to common owners. The resulting groupings were treated as a fishing business for purposes of this analysis. Revenues summed across all vessels in a group and the activities that generate those revenues form the basis for determining whether the entity is a large or small business.

The proposed regulations include closed seasons in addition to possession limits and size limits. For purposes of this analysis, it is assumed that all three types of recreational fishing restrictions may directly affect for-hire businesses. According to the FMP, it is unlawful for the owner or operator of a charter or party boat issued a valid multispecies permit, when the boat is carrying passengers for hire, to:

- Possess cod or haddock in excess of the possession limits.
- Fish with gear in violation of the regulations.
- Fail to comply with the applicable restrictions if transiting the GOM Regulated Mesh Area with cod or haddock on board that was caught outside the GOM Regulated Mesh Area.

As the for-hire owner and operator can be prosecuted under the law for violations of the proposed regulations, for-hire business entities are considered directly affected in this analysis. Private recreational anglers are not considered ''entities'' under the RFA, and thus economic impacts on anglers are not discussed here.

For-hire fishing businesses are required to obtain a Federal charter/party multispecies fishing permit in order to carry passengers to fish for cod or haddock. Thus, the affected businesses entities of concern are businesses that hold Federal multispecies for-hire fishing permits. While all business entities that hold for-hire permits could be affected by changes in recreational fishing restrictions, not all businesses that hold for-hire permits actively participate in a given year. The regulations affect the group of business entities who actively participate, *i.e.,* land fish. Latent fishing power (in the form of unfished permits) has the potential to alter the impacts on a fishery. However, it is not possible to predict how many of these latent business entities will or will not participate in this fishery in fishing year 2018.

The Northeast Federal landings database (*i.e.,* vessel trip report data) indicates that a total of 661 vessels held a multispecies for-hire fishing permit in 2016. This is the most recent full year of available data. Of the 661 for-hire permitted vessels, only 164 actively participated in the for-hire Atlantic cod and haddock fishery in fishing year 2016 (*i.e.,* reported catch of cod or haddock).

Using vessel ownership information developed from Northeast Federal permit data and Northeast vessel trip report data, it was determined that the 164 actively participating for-hire vessels are owned by 151 unique fishing business entities. The vast majority of the 151 fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. For all but 23 of these fishing businesses, the revenue from for-hire fishing was greater than the revenue from shellfishing and the revenue from finfish fishing.

According to the SBA size standards, small for-hire businesses are defined as firms with annual receipts of up to $7.5 million. Small commercial finfishing or shellfishing businesses are defined as firms with annual receipts (gross revenue) of up to $11.0 million. Average annual gross revenue estimates calculated from the most recent 3 years (2014–2016) indicate that none of the 151 fishing business entities had annual receipts of more than $2.8 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected fishing business entities are considered ''small'' based on the SBA size standards.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of This Rule

There are no reporting, recordkeeping, or other compliance requirements.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Rule

The action is authorized by the regulations implementing the Northeast Multispecies FMP. It does not duplicate, overlap, or conflict with other Federal rules.

Description of Significant Alternatives to the Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

There are three options that were presented to the Council that would accomplish the objectives, but are not being proposed. Options 5 and 6 were only discussed by the Council, and while they would achieve the objective, were not selected. The options presented, but not proposed, were rejected either because they did not achieve the required cod sub-ACL, or they had significant negative impacts on the for-hire fleet (*e.g.,* Option 2, a May closure). The options proposed in this action minimize, to the extent practical, the impact on small entities.

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Table 5: Projected Fishing Year 2018 Recreational Cod and Haddock Catch under Alternative Measures

Option	Had Limit	Had Size	Had Closed Season	Total Mortality mt (Median)	Cod Limit	Cod Closed Season	Total Mortality mt (Median)	Angler Trips (Median)	Had ACL (out of 100 (Simulations)	Cod ACL (out of 100 (Simulations)*
0 (Status Quo)	12	17"	Mar-Apr 14, Sep 17 - Oct 31	920	0	May-Apr	226	155,733	100	19
1 (Status Quo, no MA Cod Possession)	12	17"	Mar-Apr 14, Sep 17 - Oct 31	916	0	May-Apr	193	155,160	100	57
2 (Additional May Had Closure)	12	17"	Mar-Apr 14, May, Sep 17 - Oct 31	822	0	May-Apr	194	150,713	100	56
3 (No MA Cod Possession, no Had Minimum Size)	12		Mar-Apr 14, Sep 17 - Oct 31	979	0	May-Apr	213	162,543	100	34
4 (Additional May Had Closure, no Had Minimum Size)	12		Mar-Apr 14, May, Sep 17 - Oct 31	864	0	May-Apr	203	157,731	100	45
5 (Additional May Had Closure, 16" Had Minimum Size)	12	16"	Mar-Apr 14, May, Sep 17 - Oct 31	835	0	May-Apr	198	153,441	100	51
6 (Additional May Had Closure, 15" Had Minimum Size)	12	15"	Mar-Apr 14, May, Sep 17 - Oct 31	854	0	May-Apr	200	157,203	100	50
7 (Split Measures by Mode)	10 FH 12	17"	Mar-Apr 14, Sep 17 - Oct 31 Mar-Apr 14, May, Sep 17 - Oct 31	839	0	May-Apr	198	152,091	100	51

FY 2018 rec sub-ACLs: haddock = 3,358 mt, cod = 220 mt - payback

*Assumes a cod sub-ACL of 200 mt

BILLING CODE 3510–22–C

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity

compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office (see **ADDRESSES**), and the guide, *i.e.,* bulletin, will be sent to all holders of permits for the Northeast multispecies fishery. The guide and this final rule will be available upon request.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 26, 2018.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, add paragraphs (k)(16)(viii) and (ix) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(16) * * *

(viii) *Ocean pout.* If fishing under the recreational or charter/party regulations, possess ocean pout.

(ix) *Windowpane flounder.* If fishing under the recreational or charter/party regulations, possess windowpane flounder.

* * * * *

■ 3. In § 648.89, revise paragraphs (b) and (c) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) *Recreational minimum fish sizes*—(1) *Minimum fish sizes.* Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels in or possessing fish from the EEZ, may not possess fish smaller than the minimum fish sizes, measured in total length, as follows:

Species	Minimum size	
	Inches	cm
Cod:		
Inside GOM Regulated Mesh Area [1]	24	61.0
Outside GOM Regulated Mesh Area [1]	23	58.4
Haddock:		
Inside GOM Regulated Mesh Area [1]	17	43.2
Outside GOM Regulated Mesh Area [1]	18	45.7
Pollock	19	48.3
Witch Flounder (gray sole)	14	35.6
Yellowtail Flounder	13	33.0
American Plaice (dab)	14	35.6
Atlantic Halibut	41	104.1
Winter Flounder (black back)	12	30.5
Redfish	9	22.9

[1] GOM Regulated Mesh Area specified in § 648.80(a).

(2) *Exceptions*—(i) *Fillet size.* Vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(ii) *Transiting.* Vessels in possession of cod or haddock caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area with cod and haddock that meet the minimum size specified for fish caught outside the GOM Regulated Mesh Area specified in § 648.80(b)(1), provided all bait and hooks are removed from fishing rods, and any cod and haddock on board has been gutted and stored.

(3) *Fillets.* Fish fillets, or parts of fish, must have at least 2 square inches (5.1 square cm) of skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. The skin must be contiguous and must allow ready identification of the fish species.

(c) *Possession Restrictions*—(1) *Private recreational vessels.* Persons aboard private recreational fishing vessels in or possessing fish from the EEZ, during the open season listed in the column titled ''Open Season'' in Table 1 to paragraph (c), may not possess more fish than the amount listed in the column titled ''Daily Possession Limit'' in Table 1 to paragraph (c).

(i) *Closed season.* Persons aboard private recreational fishing vessels may not possess species, as specified in the column titled ''Species'' in Table 1 to paragraph (c), in or from the EEZ during that species closed season as specified in the column titled ''Closed Season'' in Table 1 to paragraph (c).

TABLE 1 TO PARAGRAPH (c)

Species	Open season	Daily possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	CLOSED	No retention	All Year.
GB Haddock	All Year	Unlimited	N/A.

TABLE 1 TO PARAGRAPH (c)—Continued

Species	Open season	Daily possession limit	Closed season
GOM Haddock	June 1–September 16; November 1–February 28 (or 29); April 15–30.	12	September 17–October 31; March 1–April 14; May 1–31.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3).		
Atlantic Wolffish	CLOSED	No retention	All Year.

(2) *Charter or Party Boats.* Persons aboard party or charter boats in or possessing fish from the EEZ, during the open season listed in the column titled ''Open Season'' in Table 2 to paragraph (c), may not possess more fish than the amount listed in the column titled ''Daily Possession Limit'' in Table 2 to paragraph (c).

TABLE 2 TO PARAGRAPH (c)

Species	Open season	Daily possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	CLOSED	No retention	All Year.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–September 16; November 1–February 28 (or 29); April 15–30.	10	September 17–October 31; March 1–April 14.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N Windowpane Flounder	CLOSED	No retention	All Year.
S Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See Paragraph (c)(3).		
Atlantic Wolffish	CLOSED	No retention	All Year.

(3) *Atlantic halibut.* Vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess more than one Atlantic halibut on board the vessel.

(4) *Accounting of daily possession limit.* For the purposes of determining the per day trip limit for cod and haddock for private recreational fishing vessels and charter or party boats, any trip in excess of 15 hours and covering 2 consecutive calendar days will be considered more than 1 day. Similarly, any trip in excess of 39 hours and covering 3 consecutive calendar days will be considered more than 2 days and, so on, in a similar fashion.

(5) *Fillet conversion.* For purposes of counting fish for cod and haddock for private recreational fishing vessels and charter or party boats, if fish are filleted, fillets will be converted to whole fish by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(6) *Application of daily possession limit.* Compliance with the daily possession limit for cod and haddock harvested by party, charter, and private recreational fishing vessels, in or from the EEZ, with more than one person aboard, will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the daily possession limit

on board a vessel carrying more than one person the violation shall be deemed to have been committed by the owner or operator of the vessel.

(7) *Storage.* Cod and haddock must be stored so as to be readily available for inspection.

* * * * *

[FR Doc. 2018–09163 Filed 4–30–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XG175

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Gulf of Maine Cod Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Gulf of Maine Cod Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The closure is required by regulation because the common pool fishery is projected to have caught 90 percent of its Trimester 3 quota for Gulf of Maine cod. This closure is intended to prevent an overage of the common pool's quota for this stock.

DATES: This action is effective April 26, 2018, through April 30, 2018.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, (978) 281–9232.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

Based on catch data through April 23, 2018, the common pool fishery is projected to have caught approximately 90 percent of the Trimester 3 TAC (3.0 mt) for Gulf of Maine (GOM) cod on April 24, 2018. Projections show that catch will likely reach 100 percent of the annual quota by April 26, 2018. Effective April 26, 2018, the GOM Cod Trimester TAC Area is closed for the remainder of Trimester 3, through April 30, 2018. This closure applies to all common pool vessels fishing on a Northeast multispecies trip with trawl gear, sink gillnet gear, and longline/hook gear. The GOM Cod Trimester TAC Area consists of statistical areas 513 and 514. The area reopens at the beginning of Trimester 1 of the 2018 fishing year on May 1, 2018.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to April 26, 2018, it may complete its trip within the GOM Cod Trimester TAC Area. A vessel that has set gillnet gear prior to April 26, 2018, may complete its trip by hauling such gear.

If the common pool fishery exceeds its total quota for a stock in the 2017 fishing year, the overage must be deducted from the common pool's quota for that stock for fishing year 2018. Any uncaught portion of the common pool's total annual quota may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our website at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information through April 23, 2018, only recently became available indicating that the common pool fishery is projected to have caught 90 percent of its Trimester 3 TAC for GOM cod on April 24, 2018. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GOM Cod Trimester TAC Area. This would be contrary to the regulatory requirement and would increase the likelihood that the common pool fishery would exceed its trimester or annual quota of GOM cod to the detriment of this stock. This could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Fishermen expect these closures to occur in a timely way to prevent overages and their payback requirements. Overages of the trimester or annual common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.

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

Dated: April 26, 2018.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2018–09138 Filed 4–26–18; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180110022–8383–02]

RIN 0648–BH52

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 57

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

ACTION: Final rule.

SUMMARY: This action approves and implements Framework Adjustment 57 to the Northeast Multispecies Fishery Management Plan, as recommended by the New England Fishery Management Council. This rule sets 2018–2020 catch limits for 20 multispecies (groundfish) stocks, adjusts allocations for several fisheries, revises accountability measures, and makes other minor changes to groundfish management measures. This action is necessary to respond to updated scientific information and achieve the goals and objectives of the fishery management plan. The final measures are intended to prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are