

proposed rule were based on final fishing year 2018 sectors rosters because we had not yet received preliminary rosters for the 2019 fishing year. The preliminary sector roster deadline for fishing year 2019 was March 8, 2019. The ACE allocated to each sector has been updated in the final rule to reflect preliminary sector enrollment for the 2019 fishing year. There are no other changes from the proposed measures.

### Classification

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

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

The NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness so that this final rule may become effective May 1, 2019. If this action is not implemented by the start of the 2019 fishing year on May 1, 2019, sectors would not be approved to operate and, therefore, sector vessels would be unable to fish. Sector vessels would be prohibited from fishing for groundfish until this rule was effective. This would result in significant negative economic impacts.

Sector exemptions provide additional operational flexibility and efficiencies for Northeast 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. A delay in implementing this action would forego the flexibility and economic efficiency that sector exemptions are intended to provide. Further, sector vessels could only fish during this delay if they chose to fish in the common pool. Vessels choosing to fish in the common pool to avoid a 30-day delay could not return to a sector for the entire fishing year and would forego the increased flexibility and efficiencies offered by sectors for the fishing year. 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 (SBA) 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.

### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 22, 2019.

**Patricia A. Montanio,**

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

For the reasons stated in the preamble, NMFS amends 50 CFR part 648 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 § 648.87, revise paragraph (d) to read as follows:

#### § 648.87 Sector allocation.

\* \* \* \* \*

(d) *Approved sector allocation proposals.* Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the sectors identified in paragraphs (d)(1) through (26) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of authorization issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these sectors shall be specified pursuant to the operations plan and sector contract, as required by this section.

- (1) GB Cod Hook Sector.
- (2) GB Cod Fixed Gear Sector.
- (3) Mooncusser Sector.
- (4) Sustainable Harvest Sector.
- (5) Sustainable Harvest Sector II.
- (6) Sustainable Harvest Sector III.
- (7) Port Clyde Community Groundfish Sector.
- (8) Northeast Fishery Sector I.

- (9) Northeast Fishery Sector II.
- (10) Northeast Fishery Sector III.
- (11) Northeast Fishery Sector IV.
- (12) Northeast Fishery Sector V.
- (13) Northeast Fishery Sector VI.
- (14) Northeast Fishery Sector VII.
- (15) Northeast Fishery Sector VIII.
- (16) Northeast Fishery Sector IX.
- (17) Northeast Fishery Sector X.
- (18) Northeast Fishery Sector XI.
- (19) Northeast Fishery Sector XII.
- (20) Northeast Fishery Sector XIII.
- (21) Tristate Sector.
- (22) Northeast Coastal Communities Sector.

(23) State of Maine Permit Banking Sector.

(24) State of Rhode Island Permit Bank Sector.

(25) State of New Hampshire Permit Bank Sector.

(26) State of Massachusetts Permit Bank Sector.

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### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 151211999-6343-02]

RIN 0648-XG900

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Common Pool Measures for Fishing Year 2019

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

**ACTION:** Temporary rule; possession and trip limit implementation.

**SUMMARY:** This action implements measures for Northeast multispecies common pool vessels for the 2019 fishing year. This action is necessary to ensure that the Northeast multispecies common pool fishery may achieve the optimum yield (OY) for the relevant stocks, while controlling catch to help prevent inseason closures or quota overages. These measures include possession and trip limits and the allocation of zero trips into the Closed Area II Yellowtail Flounder/Haddock Special Access Program for common pool vessels to target yellowtail flounder.

**DATES:** Effective at 0001 hours on May 1, 2019, through April 30, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Spencer Talmage, Fishery Management Specialist, 978–281–9232.

**SUPPLEMENTARY INFORMATION:** The Northeast Multispecies Fishery Management Plan (FMP) regulations give the Regional Administrator the authority to implement certain types of management measures for the common pool fishery, the U.S. Canada Management Area, and Special Management Programs. This action implements a number of these management measures for the 2019 fishing year, effective May 1, 2019.

**Common Pool Trip Limits**

The possession and trip limits for the 2019 fishing year are included in Tables 1 and 2 below. These possession and trip limits were developed based on the common pool sub-Annual Catch Limits (sub-ACLs) set by Framework Adjustment 57 to the Northeast Multispecies FMP that will be in effect on May 1, 2019. We also considered preliminary 2019 sector rosters, expected common pool participation, and common pool fishing activity in previous fishing years. Based on that information, we project that these adjustments will facilitate optimized harvest of the common pool quotas, while preventing early trimester closures, and preventing catch from exceeding the 2019 fishing year sub-ACLs.

The 2019 possession and trip limits are the same as the current 2018 limits, with the exception of Gulf of Maine (GOM) haddock and GOM cod. The limits for GOM haddock are reduced relative to the current 2018 limits to prevent early stock area closures in

Trimester 1, as occurred in 2018. The GOM cod limits are also reduced relative to current common pool possession and trip limits. On March 13, 2019, we published an inseason action to increase the GOM cod possession and trip limits for the common pool fishery to 100 lb (45 kg) per day-at-sea (DAS), up to 200 lb (91 kg) per trip, through April 30, 2019 (84 FR 8998). We increased the possession limit because we projected that the common pool fishery would not fully harvest its sub-ACL for GOM cod by the end of the 2018 fishing year. The limits for GOM cod are reduced relative to the current 2018 limits for the stock because they are based on our projection for the entire 2019 fishing year.

For Handgear A and Handgear B vessels, possession and trip limits for Georges Bank (GB) and GOM cod are tied to the possession and trip limits for groundfish days-at-sea DAS vessels. The default cod trip limit is 300 lb (136 kg) for Handgear A vessels and 75 lb (34 kg) for Handgear B vessels. If the GOM or GB cod limit for vessels fishing on a groundfish DAS drops below 300 lb (136 kg), then the respective Handgear A cod trip limit must be reduced to the same limit. Similarly, the Handgear B trip limit must be adjusted proportionally to the DAS limit (rounded up to the nearest 25 lb (11 kg)).

This action sets a GOM cod possession limit of 50 lb (23 kg) per DAS for vessels fishing on a groundfish DAS, which is 94 percent lower than the 800-lb (363-kg) per DAS limit specified in the regulations for these vessels. As a result, the Handgear A trip limit for GOM cod is set at 50 lb (23 kg) per trip.

The Handgear B trip limit for GOM cod is reduced proportionally (94-percent reduction) and rounded up to 25 lb (11 kg) per trip.

Additionally, this action sets a GB cod possession limit of 250 lb (113 kg) per DAS for vessels fishing on a groundfish DAS which is 87.5 percent lower than the 2,000-lb (907-kg) per DAS limit specified in the regulations for these vessels. As a result, the Handgear A trip limit for GB cod would be set at 250 lb (113 kg) per trip, and the Handgear B trip limit for GB cod would be reduced proportionally (87.5-percent reduction) and rounded up to a 25 lb (11 kg) per trip.

Vessels with a Small Vessel category permit can possess up to 300 lb (136 kg) of cod, haddock, and yellowtail flounder, combined, per trip. Additionally, for these vessels, the trip limit for all stocks is equal to the landing limits per DAS applicable to multispecies DAS vessels. This is necessary to ensure that the trip limit applicable to the Small Vessel category permit is consistent with reductions to the trip limits for other common pool vessels, as described above.

Weekly quota monitoring reports for the common pool fishery can be found 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, vessel monitoring system catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

TABLE 1—2019 FISHING YEAR COMMON POOL POSSESSION AND TRIP LIMITS

Stock	2019 trip limit
GB Cod (outside Eastern U.S./Canada Area) .....	250 lb (113 kg) per DAS, up to 500 lb (227 kg) per trip.
GB Cod (inside Eastern U.S./Canada Area) .....	500 lb (227 kg) per trip.
GB Cod [Closed Area II Yellowtail Flounder/Haddock SAP (for targeting haddock)]. .....	50 lb (23 kg) per DAS, up to 100 lb (45 kg) per trip. 100,000 lb (45, 359 kg) per trip.
GOM Cod .....	500 lb (227 kg) per DAS, up to 1,000 lb (454 kg) per trip. 100 lb (45 kg) per trip.
GB Haddock .....	100 lb (45 kg) per DAS, up to 200 lb (91 kg) per trip.
GOM Haddock .....	750 lb (340 kg) per DAS, up to 1,500 lb (680 kg) per trip. 750 lb (340 kg) per DAS, up to 1,500 lb (680 kg) per trip. 600 lb (272 kg) per trip.
GB Yellowtail Flounder .....	250 lb (113 kg) per trip.
SNE/MA Yellowtail Flounder .....	2,000 lb (907 kg) per trip.
Cape Cod (CC)/GOM Yellowtail Flounder .....	2,000 lb (907 kg) per DAS, up to 4,000 lb (1,814 kg) per trip.
American Plaice .....	Unlimited.
Witch Flounder .....	1,500 lb (680 kg) per trip. Unlimited.
GB Winter Flounder .....	1 fish per trip.
GOM Winter Flounder .....	Possession Prohibited.
SNE/MA Winter Flounder .....	
Redfish .....	
White Hake .....	
Pollock .....	
Atlantic Halibut .....	
Windowpane Flounder .....	
Ocean Pout .....	
Atlantic Wolffish .....	

TABLE 2—2019 FISHING YEAR COD TRIP LIMITS FOR HANGEAR A, HANGEAR B, AND SMALL VESSEL CATEGORY PERMITS

Permit	Initial 2019 trip limit
Handgear A GOM Cod .....	50 lb (23 kg) per trip.
Handgear A GB Cod .....	250 lb (113 kg) per trip.
Handgear B GOM Cod .....	25 lb (11 kg) per trip.
Handgear B GB Cod .....	25 lb (11 kg) per trip.
Small Vessel Category .....	300 lb (136 kg) of cod, haddock, and yellowtail flounder combined; additionally, vessels are limited to the common pool DAS limit for all stocks.

As a reminder, Table 3 includes the initial common pool trimester Total Allowable Catches (TACs) for fishing year 2019. These trimester TACs are based on preliminary sector rosters. However, individual permit holders have until the end of the 2018 fishing year (April 30, 2019) to drop out of a sector and fish in the common pool

fishery for the 2019 fishing year. Therefore, it is possible that the sector and common pool catch limits, including the trimester TACs, may change due to changes in sector rosters. If changes to sector rosters occur, updated catch limits and/or possession and trip limits will be announced as soon as possible in the 2019 fishing year

to reflect the final sector rosters as of May 1, 2019. On April 19, 2019, we also published a proposed rule to request comment on Framework Adjustment 58 measures (84 FR 16441). If approved, that rule could make additional changes to common pool sub-ACLs, as well as common pool possession and trip limits.

TABLE 3—COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES FOR FISHING YEAR 2019 (MT, LIVE WEIGHT)

Stock	Trimester total allowable catches (mt)		
	Trimester 1	Trimester 2	Trimester 3
GB Cod .....	11.1	13.5	15.1
GOM Cod .....	5.8	3.9	2.1
GB Haddock .....	86.1	105.2	127.5
GOM Haddock .....	25.1	24.1	43.6
GB Yellowtail Flounder .....	0.7	1.1	1.8
SNE/MA Yellowtail Flounder .....	1.3	1.7	3.2
CC/GOM Yellowtail Flounder .....	9.7	4.4	2.9
American Plaice .....	19.2	2.1	4.7
Witch Flounder .....	10.1	3.7	4.6
GB Winter Flounder .....	0.5	1.4	4.1
GOM Winter Flounder .....	6.5	6.7	4.4
Redfish .....	12.8	15.9	22.5
White Hake .....	7.8	6.4	6.4
Pollock .....	64.4	80.5	85.1

#### Closed Area II Yellowtail Flounder/Haddock Special Access Program

The regulations at § 648.85(b)(3)(vii) provide the Regional Administrator with authority to determine the total number of trips that may be declared into the Closed Area II Yellowtail Flounder/Haddock Special Access Program (SAP) to target yellowtail flounder. This action allocates zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2019. As a result, this SAP is only open to target haddock, from August 1, 2019, through January 31, 2020. Northeast multispecies vessels fishing in the SAP must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels may not fish in this SAP using flounder trawl nets.

The Regional Administrator (RA) has the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/

Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. Allocating trips to target yellowtail flounder in the Closed Area II Yellowtail Flounder/Haddock SAP is discretionary if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit, for a total catch of 2,250,000 lb (1,020,600 kg). This calculation considers projected catch from the area outside the SAP. Based on the fishing year 2019 GB yellowtail flounder groundfish sub-ACL implemented by Framework Adjustment 57 of 526,905 lb (239,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2019 GB yellowtail flounder allocation.

On April 19, 2019, we published a proposed rule to request comment on Framework 58 measures. The New England Fishery Management Council's recommended 2019 GB yellowtail flounder sub-ACL is a 105 mt reduction from the 2019 sub-ACL implemented by Framework 57, which was used in the calculation for the determination not to allocate any trips to the SAP. As a result, we do not expect the final rule implementing Framework 58 would allocate trips to the SAP to target yellowtail flounder.

#### 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 contrary to the public interest.

The regulations at § 648.86(o) authorize the RA to adjust the Northeast multispecies possession and trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool quotas. This action sets the common pool possession and trip limits on May 1, 2019, for the 2019 fishing year. The possession and trip limits implemented through this action help to ensure that the Northeast multispecies common pool fishery may achieve the optimum yield for the relevant stocks, while controlling catch to help prevent inseason closures or quota overages. Delay of this action would leave the common pool fishery with the possession and trip limits found in § 648.86, which are too high to control catch. This would likely lead to early closure of a trimester and quota

overages. Any overage of the quota for either of the first two trimesters must be deducted from the Trimester 3 quota, which could substantially disrupt the trimester structure and intent to distribute the fishery across the entire fishing year. An overage reduction in Trimester 3 would further reduce fishing opportunities for common pool vessels and likely result in early closure of Trimester 3. Additionally, any overage of the annual quota would be deducted from common pool's quota for the next fishing year, to the detriment of this stock.

The regulations at § 648.85(b)(3)(vii) require that the Regional Administrator announce the total number of allowed trips by common pool vessels that may be declared into the Closed Area II Yellowtail Flounder/Haddock SAP on or about June 1. On April 19, 2019, we published the proposed rule for Framework 58 to the Northeast

Multispecies FMP, and the final rule for that action may not be implemented by June 1. As such, we have included the announcement in this inseason action to meet this regulatory requirement. Doing so also ensures that the fishing industry has sufficient notice in order to plan their activities in the new fishing year.

For the reasons above, delay of this action for prior notice and the opportunity for public comment and the 30-day delayed effectiveness period would undermine management objectives of the FMP and cause unnecessary negative economic impacts to the common pool fishery.

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

Dated: April 23, 2019.

**Karen H. Abrams,**

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

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