

dimers, polymers with 1,1'-methylenebis[4-isocyanatobenzene], polypropylene glycol, polypropylene glycol ether with trimethylolpropane (3:1), and 1,3-propanediol, polypropylene glycol monomethacrylate-blocked (P-19-10) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to use the substance involving an application method that results in inhalation exposures.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2019-07853 Filed 4-18-19; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF ENERGY

### 48 CFR Parts 927, 952, and 970

RIN 1991-AB82

#### Acquisition Regulation: Patents, Data and Copyrights

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** On November 7, 2013, the U.S. Department of Energy (DOE) published a rule in the **Federal Register** proposing to amend the Department of Energy Acquisition Regulation (DEAR). DOE hereby withdraws this proposed rule.

**DATES:** The proposed rule that appeared in the **Federal Register** on November 7, 2013 (78 FR 66865) is withdrawn as of April 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sharon Archer, U.S. Department of Energy, Office of Acquisition Management, MA-611, 950 L'Enfant Plaza SW, Washington, DC 20024. Telephone: (202) 287-1739. Email: [Sharon.Archer@hq.doe.gov](mailto:Sharon.Archer@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** On November 3, 2013, the U.S. Department of Energy (DOE) published a rule proposing to make changes to conform

to the Federal Acquisition Regulation (FAR). This proposed revision would have updated, clarified and streamlined text in certain DOE intellectual property and technology transfer clauses in order to benefit from DOE's experience under the existing clauses, and, where necessary, make these DOE clauses consistent with recent changes to the FAR. However, the Department has determined that it will not proceed with the rulemaking and, as such, is withdrawing the proposed rule. The changes that were proposed in this rulemaking will be incorporated into a larger rulemaking that will update the entire Department of Energy Acquisition Regulation (DEAR).

Signed in Washington, DC, on March 26, 2019.

**John Bashista,**

*Director, Office of Acquisition Management, Department of Energy.*

[FR Doc. 2019-07913 Filed 4-18-19; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 181203999-9350-01]

RIN 0648-BI64

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 58

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This action proposes to approve and implement Framework Adjustment 58 to the Northeast Multispecies Fishery Management Plan. This rule would set 2019-2020 catch limits for 7 of the 20 multispecies (groundfish) stocks, implement new or revised rebuilding plans for 5 stocks, revise an accountability measure, and make other minor changes to groundfish management measures. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that

management measures are based on the best scientific information available.

**DATES:** Comments must be received by May 6, 2019.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2018-0138, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0138](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0138);

2. Click the "Comment Now!" icon and complete the required fields; and

3. Enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Proposed Rule for Groundfish Framework Adjustment 58."

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of Framework Adjustment 58, including the draft Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the New England Fishery Management Council in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. 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:** Mark Grant, Fishery Policy Analyst, phone: 978-281-9145; email: [Mark.Grant@noaa.gov](mailto:Mark.Grant@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

1. Summary of Proposed Measures
2. Fishing Year 2019-2020 Shared U.S./Canada Quotas
3. Catch Limits for Fishing Years 2019-2020

4. Adjustments Due to Fishing Year 2017 Overage
5. Rebuilding Programs
6. Revision to the Georges Bank Yellowtail Flounder Accountability Measure Trigger for Scallop Vessels
7. Exemption From the U.S. Minimum Fish Sizes for Groundfish Species for Vessels Fishing Exclusively in the Northwest Atlantic Fisheries Organization Regulatory Area
8. Administrative Changes and Regulatory Corrections Under Secretarial Authority

### 1. Summary of Proposed Measures

This action would implement the management measures in Framework Adjustment 58 to the Northeast Multispecies Fishery Management Plan (FMP). The New England Fishery Management Council reviewed the proposed regulations and deemed them consistent with, and necessary to implement Framework 58 in a February 8, 2019, letter from Council Chairman Dr. John Quinn to Regional Administrator Michael Pentony. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), we are required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures that the Council proposes based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council's policy choices. We are seeking comments on the Council's proposed measures in Framework 58 and whether they are consistent with the Northeast Multispecies FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Through Framework 58, the Council proposes to:

- Set fishing year 2019–2020 shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock;
- Set 2019–2020 specifications, including catch limits, for four groundfish stocks: Witch flounder; GB winter flounder; Gulf of Maine (GOM) winter flounder; and Atlantic halibut;
- Revise or implement new rebuilding programs for GB winter

flounder, southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder, witch flounder, northern windowpane flounder, and ocean pout;

- Revise the trigger for the scallop fishery's accountability measures (AM) for GB yellowtail flounder; and
- Exempt vessels fishing exclusively in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area from the U.S. minimum fish size for groundfish species.

This action also proposes a number of other measures that are not part of Framework 58, but that may be, or are required to be, considered and implemented under our authority specified in the FMP. We are proposing these measures in conjunction with the Framework 58 proposed measures for expediency purposes, and because some of these measures are related to the catch limits proposed as part of Framework 58. The additional measures proposed in this action are listed below.

- *Adjustment for fishing year 2017 catch overage*—this action announces the reduction of the 2019 GOM cod allocation due to an overage that occurred in fishing year 2017.
- *Other administrative revisions and corrections*—this action proposes to revise the application deadline for days-at-sea (DAS) leases, make regulatory corrections regarding the information required to be included in catch reports submitted via a vessel monitoring system (VMS), and correct a citation in the regulations allocating GB and SNE/MA yellowtail flounder to the scallop fishery. These proposed changes are described in the section 8, Administrative Changes and Regulatory Corrections under Secretarial Authority.

### 2. Fishing Year 2019–2020 Shared U.S./Canada Quotas

#### *Management of Transboundary Georges Bank Stocks*

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. The Transboundary Management Guidance Committee (TMGC) is a government-industry committee made up of representatives from the United States and Canada. For historical information about the TMGC see: <http://www.bio.gc.ca/info/intercol/>

[tmgc-cogst/index-en.php](http://tmgc-cogst/index-en.php). Each year, the TMGC recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the United States and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the Council's Scientific and Statistical Committee (SSC) also recommends an acceptable biological catch (ABC) for the stock. The ABC is typically used to inform the U.S. TMGC's discussions with Canada for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the Council may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is included in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

#### *2019 U.S./Canada Quotas*

The Transboundary Resources Assessment Committee conducted assessments for the three transboundary stocks in July 2018, and detailed summaries of these assessments can be found at: <https://www.nefsc.noaa.gov/assessments/trac/>. The TMGC met in September 2018 to recommend shared quotas for 2019 based on the updated assessments, and the Council adopted the TMGC's recommendations in Framework 58. The proposed 2019 shared U.S./Canada quotas, and each country's allocation, are listed in Table 1.

TABLE 1—PROPOSED 2019 FISHING YEAR U.S./CANADA QUOTAS (mt, live weight) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

Quota	Eastern GB cod	Eastern GB haddock	GB yellowtail flounder
Total Shared Quota	650	30,000	140

TABLE 1—PROPOSED 2019 FISHING YEAR U.S./CANADA QUOTAS (mt, live weight) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY—Continued

Quota	Eastern GB cod	Eastern GB haddock	GB yellowtail flounder
U.S. Quota .....	189 (29%)	15,000 (50%)	106 (76%)
Canadian Quota .....	461 (71%)	15,000 (50%)	34 (24%)

The proposed 2019 U.S. quotas for eastern GB cod, eastern GB haddock, and GB yellowtail would represent 26-percent, 4-percent, and 50-percent decreases, respectively, compared to 2018. The quota decreases are due to decreases in biomass for each stock, despite increases in the portion of the shared quota that is allocated to the United States for each stock. For a more detailed discussion of the TMGC's 2019 catch advice, see the TMGC's guidance document that will be posted at: <https://www.greateratlantic.fisheries.noaa.gov/>. The 2019 U.S. quotas for eastern GB cod, eastern GB haddock, and GB yellowtail that are proposed in Framework Adjustment 58, if approved, will replace the 2019 quotas previously specified for these stocks (84 FR 8282; March 7, 2019). This is discussed further in Section 3, Catch Limits for the 2019–2020 Fishing Years.

The regulations implementing the U.S./Canada Resource Sharing Understanding require deducting any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder from the U.S. quota in the following fishing year. If catch information for the 2018 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2019 fishing year in a future management action, as close to May 1, 2019, as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would be applied only to that fishery's allocation in the following fishing year. This ensures that catch by one component of the overall fishery does not negatively affect another component of the overall fishery.

### 3. Catch Limits for Fishing Years 2019–2020

#### *Summary of the Proposed Catch Limits*

Tables 2 through 8 show the proposed catch limits for the 2019–2020 fishing years. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock

can be found in Appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2019–FY 2020) to the Framework 58 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Framework 57 (83 FR 18985; May 1, 2018) previously set quotas for all groundfish stocks for fishing years 2019–2020. Only the eastern portion of the GB cod stock, jointly managed with Canada, did not have a 2019 quota set in Framework 57. Through Framework 58, the Council proposes to adopt new catch limits for 7 of the 20 groundfish stocks for the 2019–2020 fishing years. The fishing year 2019 quotas previously set by Framework 57 will be in effect on May 1, 2019, unless and until replaced by the quotas proposed in this action. A default quota for GB cod will be in effect from May 1, 2019, through July 31, 2019.

#### *Overfishing Limits and Acceptable Biological Catches*

The overfishing limit (OFL) serves as the maximum amount of fish that can be caught in a year without constituting overfishing. The OFL for each stock is calculated using the estimated stock size and  $F_{MSY}$  (i.e., the fishing mortality rate that, if applied over the long term, would result in maximum sustainable yield). The OFL does not account for scientific uncertainty, so the SSC typically recommends an ABC that is lower than the OFL in order to account for this uncertainty. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is then reduced by the amount of the Canadian quota (see Table 1 for the Canadian and U.S. shares of these stocks). Additionally, although GB winter flounder, white hake, and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (45 mt), white hake (33 mt), and Atlantic halibut (33 mt) is deducted from the total ABC. The U.S. ABC is the amount available to

the U.S. fishery after accounting for Canadian catch (see Table 2). For stocks without Canadian catch, the U.S. ABC is equal to the total ABC.

Based on the SSC's recommendation, the Council recommended continuing to set the OFL as unknown for GB yellowtail flounder. An empirical stock assessment is used for this stock, and the assessment can no longer provide quantitative estimates of the status determination criteria. No historical estimates of biomass, fishing mortality rate, or recruitment can be calculated because a stock assessment model framework is lacking. Status determination relative to reference points is not possible because reference points cannot be defined. In the absence of an assessment model, the empirical approach based on survey catches indicates stock condition is poor, given a declining trend in survey biomass despite reductions in catch to historical low levels. Total catch has declined in recent years and is at the lowest value in the time series. The stock has been experiencing below average recruitment and a truncation of age structure. Stock biomass is low and productivity is poor.

In the temporary absence of an OFL, given recent catch data, we have preliminarily determined that the GB yellowtail flounder ABC is a sufficient limit for preventing overfishing and is consistent with the National Standards. As an index-assessed stock, an estimate of the probability of overfishing cannot be determined, but the proposed ABC is based on an exploitation rate applied to the most recent estimate of stock size. The proposed ABC is a substantial reduction (53 percent) from the 2018 ABC in light of stock conditions and continued low survey biomass. We previously approved setting the OFL as unknown for GB yellowtail flounder as part of Framework 57, and we are continuing to develop guidance on setting status determination criteria and relevant catch limits in cases when an empirical assessment cannot provide numerical estimates of traditional reference points.

TABLE 2—PROPOSED FISHING YEARS 2019–2020 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES  
[Mt, live weight]

Stock	2019		Percent change from 2018	2020	
	OFL	U.S. ABC		OFL	U.S. ABC
GB Cod *	3,047	1,824	15	3,047	2,285
GOM Cod	938	703	0	938	703
GB Haddock *	99,757	58,114	19	100,825	73,114
GOM Haddock	16,038	12,490	–5	13,020	10,186
GB Yellowtail Flounder *	UNK	106	–50	UNK	168
SNE/MA Yellowtail Flounder	90	68	0	90	68
CC/GOM Yellowtail Flounder	736	511	0	848	511
American Plaice	2,099	1,609	–7	1,945	1,492
Witch Flounder	UNK	993	0	UNK	993
GB Winter Flounder	1,182	810	0	1,756	810
GOM Winter Flounder	596	447	0	596	447
SNE/MA Winter Flounder	1,228	727	0	1,228	727
Redfish	15,640	11,785	2	15,852	11,942
White Hake	3,898	2,938	0	3,916	2,938
Pollock	53,940	40,172	0	57,240	40,172
N Windowpane Flounder	122	92	0	122	92
S Windowpane Flounder	631	473	0	631	473
Ocean Pout	169	127	0	169	127
Atlantic Halibut	UNK	104	0	UNK	104
Atlantic Wolffish	120	90	0	120	90

CC = Cape Cod; N = Northern; S = Southern; UNK = Unknown.

\*Only the GB cod, GB haddock, and GB yellowtail stocks have changes from the 2019 U.S. ABCs previously approved in Framework 57.

### Annual Catch Limits

#### Development of Annual Catch Limits

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. First, an estimate of catch expected from state waters and the “other” sub-component (*e.g.*, non-groundfish fisheries or some recreational groundfish fisheries) is deducted from the U.S. ABC. These sub-components are not subject to specific catch controls by the FMP. As a result, the state waters and other sub-components are not allocations, and these sub-components of the fishery are not subject to AMs if the catch limits are exceeded. After the state and other sub-components are deducted, the remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation are subject to AMs if they exceed their respective catch limit during the fishing year. A fishing year 2017 overage of the GOM cod allocation is discussed in detail in Section 5, Adjustments Due to Fishing Year 2017 Overage.

Once the U.S. ABC is divided, sub-annual catch limits (sub-ACL) are set by reducing the amount of the ABC distributed to each component of the fishery to account for management uncertainty. Management uncertainty seeks to account for the possibility that management measures will result in a level of catch greater than expected. For

each stock and fishery component, management uncertainty is estimated using the following criteria: Enforceability and precision of management measures; adequacy of catch monitoring; latent effort; and whether the composition of catch includes landings and discards, or is all discards. The total ACL is the sum of all of the sub-ACLs and state and other sub-components, and is the catch limit for a particular year after accounting for both scientific and management uncertainty. Landings and discards from all fisheries (commercial and recreational groundfish fisheries, state waters, and non-groundfish fisheries) are counted against the ACL for each stock.

#### Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative potential sector contributions (PSC) associated with those sectors. The preliminary sector and common pool sub-ACLs proposed in this action are based on fishing year 2019 PSCs and fishing year 2018 sector rosters. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2019, to withdraw from a sector and fish in the common pool for the 2019 fishing year. In addition to the enrollment delay, all permits that change ownership after

December 1, 2018, may join a sector (or change sector) through April 30, 2019. The final sector and common pool sub-ACLs will be based on final 2019 sector rosters.

#### Common Pool Total Allowable Catches

The common pool sub-ACL for each stock (except for SNE/MA winter flounder, both windowpane flounder stocks, ocean pout, Atlantic wolffish, and Atlantic halibut) is further divided into trimester TACs. The distribution of the common pool sub-ACLs into trimesters was adopted in Amendment 16 to the FMP (75 FR 18262; April 9, 2010) and was based on landing patterns at that time. Framework 57 (83 FR 18985; May 1, 2018) revised the apportionment of TACs among the trimesters. Once we project that 90 percent of the trimester TAC is caught for a stock, the trimester TAC area for that stock is closed for the remainder of the trimester. The closure applies to all common pool vessels fishing on a groundfish trip with gear capable of catching the pertinent stock. Any uncaught portion of the TAC in Trimester 1 or Trimester 2 is carried forward to the next trimester. Overages of the Trimester 1 or Trimester 2 TAC are deducted from the Trimester 3 TAC. Any overages of the total common pool sub-ACL are deducted from the following fishing year's common pool sub-ACL for that stock. Uncaught portions of any trimester TAC may not be carried over into the following fishing year. Table 5 summarizes the

common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (*i.e.*, stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (*i.e.*, special access programs (SAP) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 6 through 8 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

In fishing year 2017, GOM cod catch exceeded the total ACL and ABC, but not the OFL (Table 10). This overage and the required payback are discussed in detail in Section 5, Adjustments Due to Fishing Year 2017 Overage. The TACs for GOM cod in Tables 5 through 8 have been adjusted for this overage.

#### Closed Area I Hook Gear Haddock SAP

The Omnibus Essential Fish Habitat Amendment (OHA2) (83 FR 15240; April 9, 2018) eliminated the year-round closure of Closed Area I. When OHA2 eliminated Closed Area I, the Closed Area I Hook Gear Haddock SAP was no longer necessary, because the geographic area is now an open area

accessible to the groundfish fleet (with the exception of the GB Dedicated Habitat Research Area and the Seasonal Closed Area I North closure). However, the Closed Area I Hook Gear Haddock SAP is still part of the FMP. We are required by the FMP to allocate an Incidental Catch Total Allowable Catch for GB cod, which is split between the Closed Area I Hook Gear Haddock SAP, Regular B Days-at-Sea Program, and the Eastern U.S./Canada Haddock SAP (Table 7). However, this allocation (0.1 mt) is a minor portion of the quota, and this is not expected to have any negative impacts for the common pool fishery. Additionally, overall fishing effort by both common pool and sector vessels in the Closed Area I Hook Gear Haddock SAP is controlled by an overall TAC for GB haddock, which is the target species for this SAP. The GB haddock TAC for the SAP is based on the amount allocated to this SAP for the 2004 fishing year (1,130 mt) and adjusted according to the growth or decline of the western GB haddock biomass in relationship to its size in 2004. Based on this formula, the Council's proposed GB Haddock TAC for this SAP is 3,454 mt for the 2019 fishing year and 3,673 for the 2020 fishing year. Until the Council revises the allocations to the Closed Area I Hook Gear Haddock SAP, a

portion of the quotas will be allocated to the program, and will be unavailable to be caught. Because no vessel will need to declare into the program, no catch will count against the SAP's quotas.

#### Default Catch Limits for 2021

Framework 53 established a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of a fishing year on May 1, then default catch limits are set at 35 percent of the previous year's catch limit, effective until July 31 of that fishing year, or when replaced by new catch limits. If this value exceeds the Council's recommendation for the upcoming fishing year, the default catch limits will be reduced to an amount equal to the Council's recommendation for the upcoming fishing year. Because groundfish vessels are not able to fish if final catch limits have not been implemented, this measure was established to prevent disruption to the groundfish fishery. Additional description of the default catch limit mechanism is provided in the preamble to the Framework 53 final rule (80 FR 25110; May 1, 2015).

TABLE 3—PROPOSED CATCH LIMITS FOR THE 2019 FISHING YEAR  
[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A + B + C	A	B	C	D	E	F	G	H
GB Cod *	1,741	1,568	1,536	32					18	155
GOM Cod	666	610	378	12	220				47	9
GB Haddock *	55,249	53,276	52,896	380		811			581	581
GOM Haddock	11,803	11,506	8,219	93	3,194	116			91	91
GB Yellowtail Flounder *	103	85	83	1			16.5	2.0	0.0	0.0
SNE/MA Yellowtail Flounder	66	32	26	6			15		2	17
CC/GOM Yellowtail Flounder	490	398	381	17					51	41
American Plaice	1,532	1,467	1,442	26					32	32
Witch Flounder *	948	854	835	18					40	55
GB Winter Flounder *	786	774	768	6					0	12
GOM Winter Flounder *	428	355	337	18					67	7
SNE/MA Winter Flounder ..	700	518	456	62					73	109
Redfish	11,208	10,972	10,921	51					118	118
White Hake	2,794	2,735	2,715	21					29	29
Pollock	38,204	37,400	37,170	230					402	402
N Windowpane Flounder ..	86	63	na	63			18		2	3
S Windowpane Flounder ...	457	53	na	53			158		28	218
Ocean Pout	120	94	na	94					3	23
Atlantic Halibut *	100	75	na	75					21	4
Atlantic Wolffish	84	82	na	82					1	1

na: Not allocated.

\* These stocks have changes from the 2019 allocations previously approved in Framework 57.

TABLE 4—PROPOSED CATCH LIMITS FOR THE 2020 FISHING YEAR  
[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A + B + C	A	B	C	D	E	F	G	H
GB Cod *	2,182	1,965	1,925	40					23	194
GOM Cod	666	610	378	12	220				47	9
GB Haddock *	69,509	67,027	66,549	478		1,020			731	731
GOM Haddock	9,626	9,384	6,703	76	2,605	95			74	74
GB Yellowtail Flounder *	163	134	132	2			26	3	0	0
SNE/MA Yellowtail Flounder	66	31	25	6			16		2	17
CC/GOM Yellowtail Flounder	490	398	381	17					51	41
American Plaice	1,420	1,361	1,337	24					30	30
Witch Flounder *	948	854	835	18					40	55
GB Winter Flounder *	786	774	768	6					0	12
GOM Winter Flounder *	428	355	337	18					67	7
SNE/MA Winter Flounder	700	518	456	62					73	109
Redfish	11,357	11,118	11,066	52					119	119
White Hake	2,794	2,735	2,715	21					29	29
Pollock	38,204	37,400	37,170	230					402	402
N Windowpane Flounder	86	63	na	63			18		2	3
S Windowpane Flounder	457	53	na	53			158		28	218
Ocean Pout	120	94	na	94					3	23
Atlantic Halibut *	100	75	na	75					21	4
Atlantic Wolffish	84	82	na	82					1	1

na: Not allocated.

\* These stocks have changes from the 2020 allocations previously approved in Framework 57.

TABLE 5—PROPOSED FISHING YEARS 2019–2020 COMMON POOL TRIMESTER TACs  
[Mt, live weight]

Stock	2019			2020		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	8.9	10.8	12.1	11.2	13.6	15.2
GOM Cod	5.7	3.8	2.1	5.8	3.9	2.1
GB Haddock	102.7	125.5	152.1	129.2	157.9	191.3
GOM Haddock	25.1	24.1	43.6	20.4	19.7	35.6
GB Yellowtail Flounder	0.2	0.4	0.7	0.4	0.6	1.0
SNE/MA Yellowtail Flounder	1.3	1.7	3.2	1.3	1.7	3.1
CC/GOM Yellowtail Flounder	9.7	4.4	2.9	9.7	4.4	2.9
American Plaice	19.2	2.1	4.7	17.8	1.9	4.3
Witch Flounder	10.2	10.2	10.2	10.2	3.7	4.6
GB Winter Flounder	0.5	1.5	4.3	0.5	1.5	4.3
GOM Winter Flounder	6.5	6.7	4.4	6.5	6.7	4.4
Redfish	12.8	15.9	22.5	13.0	16.1	22.8
White Hake	7.8	6.4	6.4	7.8	6.4	6.4
Pollock	64.4	80.5	85.1	64.4	80.5	85.1

TABLE 6—PROPOSED COMMON POOL INCIDENTAL CATCH TACs FOR THE 2019–2020 FISHING YEARS  
[Mt, live weight]

Stock	Percentage of common pool sub-ACL	2019	2020
GB cod	2	0.64	0.80
GOM cod	1	0.12	0.12
GB yellowtail flounder	2	0.03	0.04
CC/GOM yellowtail flounder	1	0.17	0.17
American Plaice	5	1.29	1.20
Witch Flounder	5	0.92	0.92
SNE/MA winter flounder	1	0.62	0.62

TABLE 7—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program (%)	Closed Area I hook gear haddock SAP (%)	Eastern U.S./CA haddock SAP (%)
GB cod .....	50	16	34
GOM cod .....	100	na	na
GB yellowtail flounder .....	50	na	50
CC/GOM yellowtail flounder .....	100	na	na
American Plaice .....	100	na	na
Witch Flounder .....	100	na	na
SNE/MA winter flounder .....	100	na	na

TABLE 8—PROPOSED FISHING YEARS 2019–2020 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM  
[Mt, live weight]

Stock	Regular B DAS program		Closed Area I hook gear haddock SAP		Eastern U.S./Canada haddock SAP	
	2019	2020	2019	2020	2019	2020
GB cod .....	0.32	0.40	0.10	0.13	0.22	0.27
GOM cod .....	0.12	0.12	na	na	na	na
GB yellowtail flounder .....	0.01	0.02	na	na	0.01	0.02
CC/GOM yellowtail flounder .....	0.17	0.17	na	na	na	na
American Plaice .....	1.29	1.20	na	na	na	na
Witch Flounder .....	0.92	0.92	na	na	na	na
SNE/MA winter flounder .....	0.62	0.62	na	na	na	na

#### 4. Adjustments Due to Fishing Year 2017 Overage

If an overall ACL is exceeded due to catch from vessels fishing outside of an allocated fishery, the overage is distributed to the components of the fishery with an allocation. If a fishery component's catch and its share of the ACL overage exceed the component's allocation, then the applicable AMs must be implemented. The commercial groundfish fishery AMs require a pound-for-pound reduction of the applicable sector or common pool sub-ACL following either component's overage. The recreational fishery AMs require a modification to that fishery's management measures.

In fishing year 2017, GOM cod catch exceeded the total ACL and ABC, but not the OFL (Table 9). We notified the Council of the overage and payback amounts in October 2018. This proposed rule includes a description of the fishing year 2017 catch overage and required adjustments to fishing year 2019 allocations. These adjustments are not part of Framework 58. We are

announcing them in conjunction with Framework 58 proposed measures because they relate to the catch limits proposed in Framework 58.

Total GOM cod catch in fishing year 2017 exceeded the total ACL due to a combination of excess catch from the recreational fishery, the state waters sub-component, and the other sub-component (non-groundfish Federal fisheries). Both the sector and common pool sub-ACLs were underharvested. The recreational fishery's overage of its fishing year 2017 sub-ACL was addressed by a change in recreational fishery management measures for fishing year 2018 to prevent a subsequent overage (83 FR 18972; May 1, 2018). The remaining overage (61.4 mt) due to catch by the state waters sub-component and other sub-component (unallocated components) must be distributed among the common pool, sectors, and the recreational fishery in proportion to their shares of the fishing year 2017 groundfish fishery ACL as though each of those components had caught that amount. The commercial

fishery AM for overages is a pound-for-pound payback that results in a deduction of the overage amount from the fishing year 2019 commercial fishery sub-ACLs. The sector and common pool sub-ACL underages in fishing year 2017 reduce the adjustment necessary to the fishing year 2019 sector and common pool sub-ACLs. The portion of the overage allocated to the recreational fishery does not result in a pound-for-pound reduction of the recreational sub-ACL. As discussed above, the portion of the catch overage attributed to the recreational fishery was addressed by a change in recreational measures for 2018.

Table 10 shows the proportion (as a percentage) of the unallocated overage attributed to each component, the amount (mt) of the unallocated overage attributed to each sub-component, the amount (mt) of any overage of each component's sub-ACL, and amount (mt) that must be paid back by each component. Table 11 shows revised fishing year 2019 GOM cod allocations incorporating these payback amounts.

TABLE 9—2017 ABC, ACL, CATCH, AND OVERAGE  
[Mt, live weight]

Stock	U.S. ABC	Total ACL	Catch	Total overage	Unallocated overage
GOM Cod .....	500	473	612.6	139.6	61.4

TABLE 10—2019 PAYBACK CALCULATIONS AND AMOUNTS  
[Mt, live weight]

Component	Proportion (%)	Amount	Underage	Payback
Sectors .....	64	39.4	10.5	28.8
Common Pool .....	2	1.3	0.9	0.4
Recreational .....	34	20.7	0	(*)

\* The recreational fishery does not have pound-for-pound payback.

TABLE 11—REVISED 2019 ALLOCATIONS  
[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Initial preliminary sector sub-ACL	Revised preliminary sector sub-ACL	Initial preliminary common pool sub-ACL	Revised preliminary common pool sub-ACL
GOM Cod .....	666	610	378	349.20	12	11.6

## 5. Rebuilding Programs

Framework 58 would revise or implement new rebuilding plans for five stocks: GB winter flounder; SNE/MA yellowtail flounder; witch flounder, northern windowpane flounder; and ocean pout. The deadline to implement these rebuilding plans is August 31, 2019. The SSC advised that revising the ABCs for fishing years 2019 and 2020 is not warranted for the development of the new rebuilding plans because these ABCs were set with the most recent assessments in 2017. Therefore, the 2019 and 2020 ABCs set in Framework 57 were incorporated in developing the proposed rebuilding plans. These rebuilding plans would be initiated in 2019 and therefore January 1, 2020, would be the first year of the rebuilding plan for all stocks.

The current rebuilding strategies for GB winter flounder, witch flounder, and northern windowpane flounder were adopted in 2010, and all three rebuilding programs were scheduled to rebuild their respective stocks by 2017. The current ocean pout rebuilding strategy was adopted in 2004 and was expected to rebuild the stock by 2014. The SNE/MA yellowtail flounder stock was previously determined to be rebuilt in 2012 based on revised reference points. In 2015, updated scientific information revised our understanding of the status of these stocks. As a result, on August 31, 2017, we notified the Council that the GB winter flounder, witch flounder, northern windowpane flounder, and ocean pout stocks were not making adequate rebuilding progress and that SNE/MA yellowtail flounder is now overfished, and subject to overfishing. Subsequently, on November 1, 2018, we notified the Council that, based on the 2017

assessment, the GB winter flounder stock was never overfished, nor experiencing overfishing, but that it is approaching an overfished condition. Because GB winter flounder is approaching an overfished condition, we recommended the Council still revise the GB winter flounder rebuilding plan, rather than discontinue it.

The Magnuson-Stevens Act requires that overfished stocks be rebuilt as quickly as possible, not to exceed 10 years when biologically possible, while accounting for the needs of fishing communities. Rebuilding plans must have at least a 50-percent probability of success. Selection of a rebuilding plan with a higher probability of success is one way of addressing uncertainty, but this does not affect the standard used in the future to determine whether a stock is rebuilt. The minimum rebuilding time ( $T_{min}$ ) is the amount of time a stock is expected to take to rebuild to the biomass ( $B$ ) associated with maximum sustainable yield (MSY) in the absence of any fishing mortality ( $F$ ). The actual timeline set with a rebuilding plan ( $T_{target}$ ) may be greater than  $T_{min}$ , but cannot exceed the maximum rebuilding time ( $T_{max}$ ).  $T_{max}$  is 10 years if  $T_{min}$  is less than 10 years. In situations where  $T_{min}$  exceeds 10 years,  $T_{max}$  establishes a maximum time for rebuilding that is linked to the biology of the stock.

### Stocks With Projections

The GB winter flounder and SNE/MA yellowtail flounder stock assessments are based on analytical models that provide projections of  $B$ . Long-term catch projections for groundfish stocks tend to underestimate fishing mortality and overestimate stock biomass. The inherent uncertainty surrounding long-term projections makes it difficult to estimate the fishing mortality rate that is

required to rebuild the stock by  $T_{target}$  ( $F_{rebuild}$ ). This uncertainty is due, in part, to the estimate's dependence on future recruitment (the amount of age-1 fish added to the stock each year), which is difficult to predict. If recruitment does not increase as projected, then progress towards rebuilding occurs at a much slower pace or building to  $B_{MSY}$  is not possible.

The GB winter flounder and SNE/MA yellowtail flounder rebuilding programs proposed in this action would rebuild the stocks within 10 years, or by 2029, which is the maximum time period allowed by the Magnuson-Stevens Act. The basis for setting  $T_{target} = T_{max}$  is that recruitment may not increase as assumed in the projections. Recent recruitment estimates for both stocks have been relatively low, which make the  $T_{min}$  projections likely to be overly optimistic. The proposed rebuilding plan for GB winter flounder would set  $F_{rebuild}$  at 70 percent of  $F_{MSY}$  with a 77-percent probability of achieving  $B_{MSY}$ . The proposed rebuilding plan for SNE/MA yellowtail flounder would set  $F_{rebuild}$  at 70 percent of  $F_{MSY}$  with an 82-percent probability of achieving  $B_{MSY}$ .  $T_{min}$  for both GB winter flounder and SNE/MA yellowtail flounder is 3 years, rebuilding by the end of 2022. As explained in more detail in Appendix III of the EA (see ADDRESSES), the proposed rebuilding programs intend to address the needs of fishing communities as much as practicable, as well as factor in past performance of groundfish catch projections in order to increase the likelihood of rebuilding success.

The Council's default control rule for setting catch limits requires that catches be set based on 75 percent of  $F_{MSY}$  or  $F_{rebuild}$ , whichever is lower. Typically, when a stock was in a rebuilding program, initial catch advice was based



on 75 percent of  $F_{MSY}$ . Updated assessments often resulted in large reductions in catch advice through large reductions in the estimates of  $F_{rebuild}$  below 75 percent of  $F_{MSY}$  as the rebuilding time shortens. Rebuilding progress for many groundfish stocks has often occurred slower than expected due to recruitment not increasing as projected, which leads to dramatic reductions in catch limits as the rebuilding end date gets closer. When  $F_{rebuild}$  approaches zero,  $F_{rebuild}$  is less likely to be used for setting catch limits because of the impact on catch of other stocks in the multispecies complex. Selecting  $F_{rebuild}$  levels that are more conservative than the control rule (75 percent of  $F_{MSY}$ ) helps to avoid this problem.

#### *Stocks Without Projections*

The stock assessments for northern windowpane flounder, ocean pout, and witch flounder do not have analytical models and catch projections are not possible. Therefore,  $T_{min}$  for  $F_0$  is undefined, and  $T_{min}$  could be less than or greater than 10 years. Without  $T_{min}$ , no direct methods for estimating  $T_{max}$  are available. Under the groundfish control rule, most stocks would be expected to rebuild in 10 years when fishing at 75 percent of  $F_{MSY}$ . However, for northern windowpane flounder, ocean pout, and witch flounder, rebuilding was not achieved as previously planned despite application of the control rule and prohibiting possession of this stock. For northern windowpane flounder and ocean pout, no aging data is currently available. Therefore, an evaluation of mean generation time for these two stocks is not possible. Recently, overfishing ended on northern windowpane flounder, which could be a positive sign for potential stock growth and indicate that a  $T_{target}$  of 10 years could be appropriate. Ocean pout has not responded to low catches, despite low relative  $F$ , indicating a  $T_{target}$  of 10 years may be too short.

Witch flounder are a long-lived species, and a  $T_{target}$  of 10 years may be too short given their life history. However, in the previously developed witch flounder rebuilding plan, the stock was able to rebuild according to the projections. In addition, there were signs of a relatively large incoming year class (2013) in multiple surveys, which could indicate rebuilding is possible for this stock. A recent examination of the witch flounder yield-per-recruit analysis completed in the 2017 assessment suggests a mean generation time of 11.3 years at  $F_0$ . Following National Standard 1 guidelines (81 FR 71858; October 16,

2016), two times the mean generation time results in 23 years ( $11.3 \times 2 = 22.6$ , rounded up to 23), and was used as the basis for calculating  $T_{max}$  for the witch flounder rebuilding plan.

The proposed rebuilding plan for northern windowpane flounder would set  $F_{rebuild}$  at 70 percent of  $F_{MSY}$  and  $T_{target}$  at 10 years, rebuilding by the end of 2029. The proposed rebuilding plan for ocean pout would set  $F_{rebuild}$  at 70 percent of  $F_{MSY}$  and  $T_{target}$  at 10 years, rebuilding by the end of 2029. The proposed witch flounder rebuilding plan would set  $F_{rebuild}$  as an exploitation rate of 6 percent (or otherwise determined in a future stock assessment) and  $T_{target}$  at 23 years, rebuilding by the end of 2043. The northern windowpane flounder, ocean pout, and witch flounder assessments are index-based and do not have projections, which prevents calculating probabilities of achieving  $B_{MSY}$ . Additional considerations by stock are discussed in Appendix III of the EA (see ADDRESSES).

#### **6. Revision to the Georges Bank Yellowtail Flounder Accountability Measure Trigger for Scallop Vessels**

The scallop fishery is allocated sub-ACLs for four stocks: GB yellowtail flounder; SNE/MA yellowtail flounder; northern windowpane flounder; and southern windowpane flounder. These allocations are made to manage the scallop fishery's bycatch of these stocks and mitigate potential negative impacts to the groundfish fishery. Framework 47 (77 FR 26104; May 2, 2012) established a policy for triggering scallop fishery AMs. The AMs are triggered if either the scallop fishery exceeds its sub-ACL for a stock and the overall ACL for that stock is exceeded, or the scallop fishery exceeds its sub-ACL for a stock by 50 percent or more. Framework 56 (82 FR 35660; August 1, 2017) made a change to this policy for GB yellowtail flounder to remove the second trigger for the 2017 and 2018 fishing years. For these years, the AMs for GB yellowtail flounder are triggered only if the scallop fishery exceeds its sub-ACL and the overall ACL is exceeded. Framework 58 would extend this provision for GB yellowtail flounder for the 2019 and 2020 fishing years.

This measure is intended to provide flexibility for the scallop fishery to better achieve optimal yield, despite recent reductions in the ACL, while continuing to prevent overfishing. Framework 58 proposes to reduce the 2019 GB yellowtail flounder ABC by 50 percent when compared to 2018, but, in recent years, a significant portion of the overall ACL has remained uncaught as

groundfish vessels have reduced their catch and avoided the stock. Exceeding the total ACL would trigger the AM to prevent subsequent ACL overages and correct the cause of the overage. This measure provides the scallop fishery with flexibility to adjust to current catch conditions and better achieve optimum yield while still providing an incentive to avoid yellowtail flounder. This extension is proposed for only 2 years to provide further opportunity to assess its performance and to reduce the potential risk for the groundfish fishery. The underlying policy for triggering scallop fishery AMs established by Framework 47 would be in effect for catches in fishery 2021 and beyond. Beginning with catch during fishing year 2021, the AM would be triggered if either the scallop fishery exceeds its sub-ACL for a stock and the overall ACL for that stock is exceeded, or the scallop fishery exceeds its sub-ACL for a stock by 50 percent or more.

#### **7. Exemption From the U.S. Minimum Fish Sizes for Groundfish Species for Vessels Fishing Exclusively in the Northwest Atlantic Fisheries Organization Regulatory Area**

U.S. vessels participating in the Northwest Atlantic Fisheries Organization (NAFO) fishery are prohibited from possessing any fish, or parts of fish, that do not meet the minimum fish size in the domestic fishery. Figure 1 shows the NAFO Regulatory Area. Framework 58 would exempt U.S. vessels on trips fishing exclusively in the NAFO Regulatory Area from the domestic Northeast Multispecies FMP minimum sizes. On those trips, the vessels would be required to land fish that met the NAFO minimum sizes as specified in the NAFO Conservation and Enforcement Measures (see: <https://www.nafo.int/Fisheries/Conservation>). A comparison of U.S. domestic and NAFO minimum sizes is contained in the EA (see ADDRESSES). The NAFO stocks are distinct from the stocks managed by the Northeast Multispecies FMP. Therefore, harvest of those stocks does not have a biological impact on U.S. stocks. NAFO fishing trips also require 100-percent observer coverage. All catch that comes onboard the vessel is identified and quantified following NAFO protocols by the fisheries observer. Allowing U.S. vessels to harvest groundfish using NAFO minimum sizes would enable the United States to be better stewards of the NAFO resource by reducing discards that meet the NAFO size standards but are below the domestic minimum size. Landing the dressed fish, even at sizes less than the domestic minimum size,

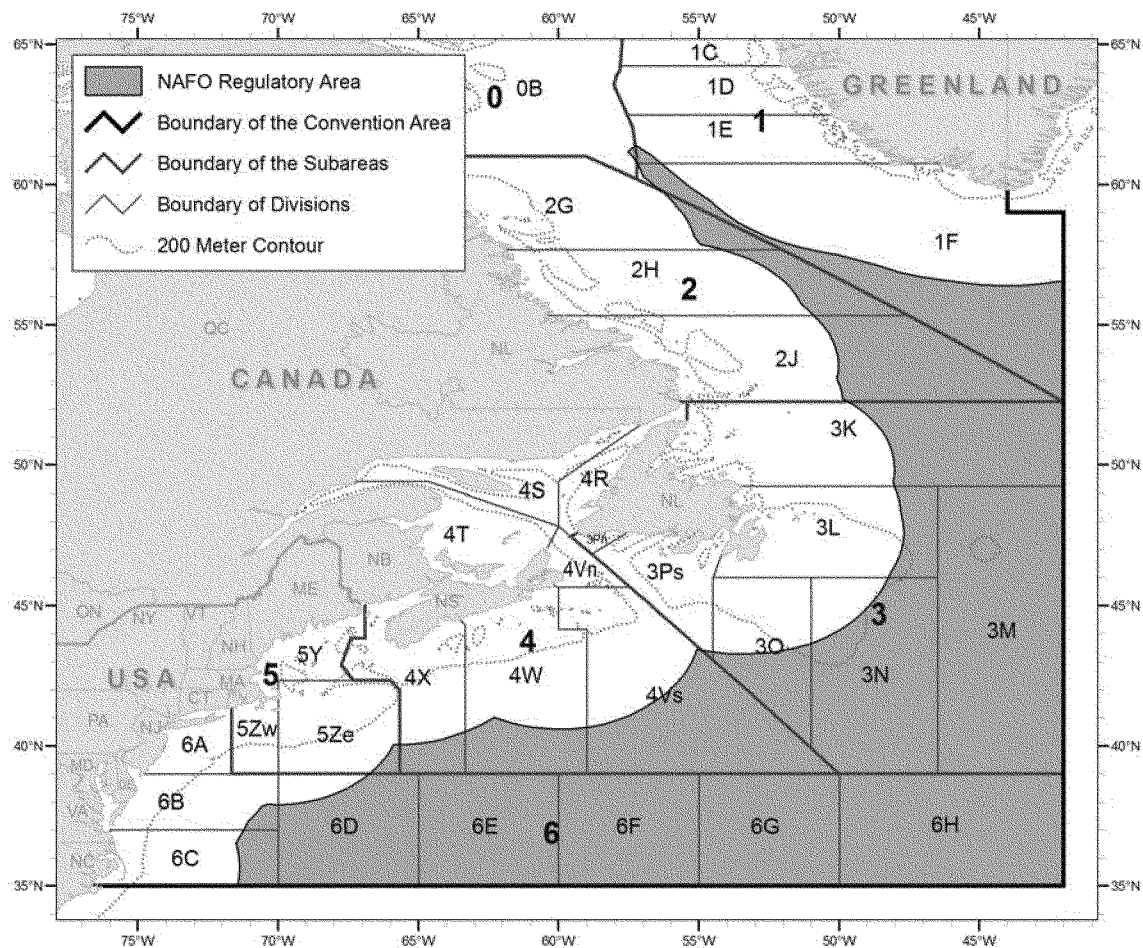
would not give the NAFO participants a competitive advantage over domestic fishermen that rely upon the fresh fish market nor would it negatively affect the fresh fish market. Instead, because the NAFO catch primarily goes into the frozen market, which is currently

dominated by foreign interests, this is expected to provide U.S. fishing businesses an opportunity to compete equally in the frozen market. This would apply to all NAFO species included in the Northeast Multispecies FMP to proactively facilitate

development of U.S. participation in NAFO, as well as applying to species (yellowtail flounder and American plaice) already being landed in the U.S.

BILLING CODE 3510-22-P

**Figure 1. NAFO Convention Area including Statistical Subareas, Divisions, and Subdivisions.**



BILLING CODE 3510-22-C

## 8. Administrative Changes and Regulatory Corrections Under Secretarial Authority

The following changes are being made using Magnuson-Stevens Act section 305(d) authority to ensure that FMPs or amendments are implemented in accordance with the Magnuson-Stevens Act.

### *Days-at-Sea Leasing Deadline*

In 2004, Amendment 13 (81 FR 22906; April 27, 2004) established a

days-at-sea (DAS) leasing program to allow vessels to temporarily transfer DAS to one another as a way to mitigate cuts in DAS allocations. Historically, all applications to lease DAS were submitted on paper and NMFS set a March 1 annual deadline to allow for a 45-day processing window and time to use the DAS prior to the end of the fishing year on April 30. Nearly all DAS leases are now submitted electronically and are processed almost immediately. Therefore, we are using our administrative authority under § 305(d) of the Magnuson-Stevens Act to push

back the application deadline to April 30. This is intended to facilitate efficient use of groundfish DAS throughout the fishing year.

### *At-Sea Catch Reporting*

This rule proposes to correct a mistake in the VMS catch report requirements for vessels fishing in the U.S. Canada Management Areas. Amendment 16 (75 FR 18262; April 9, 2010) implemented a requirement for vessels to submit catch reports at-sea via their vessel monitoring system (VMS) on any trip fishing in multiple broad

stock areas (BSA) and maintained preexisting requirements for vessels to submit catch reports for any trip fishing in a special management program (e.g., the U.S./Canada Management Areas, the Regular B DAS Program). In the rulemaking for Amendment 16, NMFS initially proposed to remove the requirement that vessels report statistical area fished in the VMS catch reports, but the final rule maintained that requirement to ensure NMFS can accurately attribute catch of GB cod and GB haddock to accounting of the Eastern U.S./Canada Area quotas for these stocks. However, the regulatory text implemented by the final rule inadvertently removed the requirement to report by statistical area. This rule proposes to revise the regulatory text correctly capture NMFS published intent to continue requiring VMS catch reports include catch by statistical area.

The final rule implementing Amendment 16 also included a requirement that trips fishing in multiple BSAs report catch by BSA in VMS catch reports because it was necessary to allow NMFS and sectors to calculate discard rates. In 2013, we revised the VMS reporting instructions to require vessels to submit catch by statistical area fished, rather than reporting catch by BSA, for any trip requiring a VMS catch report. We made this change to create a single VMS form that would address all required VMS catch reports and eliminate unnecessary duplication of reporting. However, this change was not consistently captured in the regulations and remains a source of confusion. In this rule, we propose to revise the regulations to consistently state that species kept must be reported by statistical area on all VMS catch reports.

#### *Citation for Scallop-Yellowtail Quota Transfer*

The regulations allocating GB and SNE/MA yellowtail flounder to the scallop fishery include a mechanism to transfer unused yellowtail flounder quota from the scallop fishery to the groundfish fishery. The regulations implementing this provision include an incorrect citation related to recreational allocations, and this action proposes to correct this citation.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 58, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further

consideration after public comment. In making the final determination, we will consider the data, views, and comments received during the public comment period.

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

This proposed 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 Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual determination for this determination is as follows.

Periodic framework adjustments are used to revise the Northeast Multispecies FMP in response to new scientific information to support catch limits that prevent overfishing and other adjustments to improve management measures included in the FMP. Framework Adjustment 58 proposes to revise catch limits for 7 of the 20 multispecies stocks for fishing years 2019–2020 (May 1, 2019, through April 30, 2020), implement rebuilding plans for 5 stocks, revise an accountability measure, and make other administrative changes to groundfish management measures. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the FMP. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, and achieve optimum yield. The recreational groundfish, Atlantic sea scallop, small-mesh multispecies, and Atlantic herring fisheries are also affected by the setting of quotas through fishery-specific sub-quotas of various groundfish species including: GOM cod and haddock for the recreational fishery; four flounder stocks for the Atlantic scallop fishery; GB yellowtail flounder for small-mesh fisheries; and GOM and GB haddock for the midwater herring fishery. Analysis of the likely economic impacts of Framework 58 measures predicts that the proposed action will have overall positive impacts on fishing vessels, purchasers of seafood products, recreational anglers, and operators of party/charter businesses.

The Regulatory Flexibility Act (RFA) requires Federal agencies to consider disproportionality and profitability to determine the significance of regulatory impacts. For RFA purposes only, NMFS established a small business size

standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts less than not in excess of \$11 million for all its affiliated operations worldwide. The determination of whether the entity is large or small is based on the average annual revenue for the most recent 3 years for which data are available (from 2015 through 2017).

As of May 1, 2017 (the beginning of the groundfish fishing year 2017), NMFS had issued 887 limited-access groundfish permits associated with vessels, 423 open access handgear permits, 723 limited access and general category Atlantic sea scallop permits, 736 small-mesh multispecies permits, 81 Atlantic herring permits, and 803 permits to vessels that are not permitted in the groundfish fishery but have been active in the large-mesh non-groundfish fishery over the past year. Therefore, this action potentially regulates 3,680 permits. Some of these permits are issued to the same vessel. When accounting for this overlap between fisheries, this action potentially regulates 2,368 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure. For RFA purposes, the proposed action ultimately regulates the ownership entity. Ownership entities are identified on June 1 of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Northeast Federal fishing permit. The current ownership data set is based on calendar year 2017 permits and contains gross sales associated with those permits for calendar years 2015 through 2017.

Based on the ownership data, 1,784 distinct business entities hold at least one permit that the proposed action potentially regulates. Of these 1,784 entities, 201 are inactive and do not have revenues. Of the 1,784 entities, 1,774 entities are categorized as small, and 10 entities are categorized as large. All 1,784 entities could be directly regulated by this proposed action.

The Framework 58 measures would enhance the operational flexibility of fishermen and increase profits overall. The measures proposed in Framework 58 are expected to have a positive economic effect on small entities because they will generate \$0.2 million in additional gross revenues compared

to not taking action. The measures are also expected to generate \$9.3 million in additional gross revenues relative to the most recent fishing year (2016). The details of these economic analyses are included in Framework 58 (see **ADDRESSES**).

### Description of Proposed Framework 58 Measures

#### Annual Catch Limits

This action would set 2019–2020 catch limits for seven groundfish stocks: GB cod; GB haddock; GB yellowtail flounder; witch flounder; GB winter flounder; GOM winter flounder; and Atlantic halibut. This action would also set 2019 catch limits for the three stocks jointly managed with Canada (Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder) based on assessments completed in 2018. Compared to 2018, Framework 58 would increase the U.S. ABC for three stocks and decrease the ABCs for three stocks. Changes range from modest increases for GB cod (15 percent) and GB haddock (19 percent) to a 50-percent reduction for GB yellowtail flounder.

#### Stock Rebuilding Plans

Framework 58 would revise or implement new rebuilding plans for five stocks: GB winter flounder, Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder, witch flounder, northern windowpane flounder, and ocean pout. For GB winter flounder, SNE/MA yellowtail flounder, northern windowpane flounder, and ocean pout the proposed rebuilding plans would limit fishing mortality to 70 percent of the level that would result in maximum sustainable yield of the stock (over the long term) for 10 years, rebuilding these stocks by 2029. For witch flounder, the proposed rebuilding plan would limit fishing mortality to the level that would harvest 6 percent of the stock for 23 years, rebuilding by 2043.

#### Atlantic Scallop Fishery Accountability Measure Policy

GB yellowtail flounder is a bycatch species for the scallop fishery and possession by scallop vessels is prohibited. Under this temporary change, the accountability measure for the scallop fishery's GB yellowtail quota would only be triggered if the scallop fishery exceeds its quota for the stock and the overall quota for the stock is also exceeded. The intent of this change is to provide flexibility for the scallop fishery to better achieve optimal yield despite reductions in the overall quota for GB yellowtail flounder, while continuing to prevent overfishing.

#### Minimum Fish Size Exemptions for Vessels Fishing Exclusively in the Northwest Atlantic Fisheries Organization Regulatory Area

U.S. vessels participating in the NAFO fishery are prohibited from possessing any fish that do not meet the minimum fish size in the domestic fishery. Framework 58 would exempt U.S. vessels on trips fishing exclusively in the NAFO Regulatory Area from the domestic groundfish minimum sizes. This exemption is expected to provide U.S. fishing businesses an opportunity to compete equally in the frozen market, but would not give the NAFO participants a competitive advantage over domestic fishermen that rely upon the fresh fish market, nor would it negatively affect the fresh fish market.

This action is not expected to have a significant economic impact on a substantial number of small entities. The effects on the regulated small entities identified in this analysis are expected to be positive relative to the no action alternative, which would result in lower revenues and profits than the proposed action. These measures would enhance the operational flexibility of groundfish fishermen, and increase profits. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profits for any small entities relative to taking no action. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 15, 2019.

**Patricia A. Montanio,**

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be 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 § 648.10, revise paragraph (k)(2) and the first sentence of paragraph (k)(3) to read as follows:

#### § 648.10 VMS and DAS requirements for vessel owners/operators.

\* \* \* \* \*

(k) \* \* \*

(2) *Reporting requirements for NE multispecies vessel owners or operators fishing in more than one broad stock area per trip.* Unless otherwise provided in this paragraph (k)(2), the owner or operator of any vessel issued a NE multispecies limited access permit that has declared its intent to fish within multiple NE multispecies broad stock areas, as defined in paragraph (k)(3) of this section, on the same trip must submit a hail report via VMS providing a good-faith estimate of the amount of each regulated species retained (in pounds, landed weight) and the total amount of all species retained (in pounds, landed weight), including NE multispecies and species managed by other FMPs, from each statistical area. This reporting requirement is in addition to the reporting requirements specified in paragraph (k)(1) of this section and any other reporting requirements specified in this part. The report frequency is detailed in paragraphs (k)(2)(i) and (ii) of this section.

(i) *Vessels declaring into GOM Stock Area and any other stock area.* A vessel declared to fish in the GOM Stock Area, as defined in paragraph (k)(3)(i) of this section, and any other stock area defined in paragraphs (k)(3)(ii) through (iv) of this section, must submit a daily VMS catch report in 24-hr intervals for each day by 0900 hr of the following day. Reports are required even if groundfish species caught that day have not yet been landed.

(ii) *Vessels declaring into multiple broad stock areas not including GOM Stock Area.* A vessel declared into multiple stock areas defined in paragraphs (k)(3)(ii) through (iv) of this section, not including the GOM Stock Area I defined in paragraph (k)(3)(i) of this section, must submit a trip-level report via VMS prior to crossing the VMS demarcation line, as defined in § 648.10, upon its return to port following each fishing trip on which regulated species were caught, as instructed by the Regional Administrator.

(iii) The Regional Administrator may adjust the reporting frequency specified in paragraph (k)(2) of this section.

(iv) *Exemptions from broad stock area VMS reporting requirements.* (A) A vessel is exempt from the reporting requirements specified in paragraph (k)(2) of this section if it is fishing in a special management program, as specified in § 648.85, and is required to submit daily VMS catch reports consistent with the requirements of that program.

(B) The Regional Administrator may exempt vessels on a sector trip from the

reporting requirements specified in this paragraph (k)(2) if it is determined that such reporting requirements would duplicate those specified in § 648.87(b).

(3) *NE multispecies broad stock areas.* For the purposes of the area-specific reporting requirements listed in paragraph (k)(1) of this section, the NE multispecies broad stock areas are defined in paragraphs (k)(3)(i) through (iv) of this section. \* \* \*

■ 3. In § 648.14, revise paragraphs (a)(7) and (k)(17) to read as follows:

**§ 648.14 Prohibitions.**

(a) \* \* \*

(7) Possess, import, export, transfer, land, or have custody or control of any species of fish regulated pursuant to this part that do not meet the minimum size provisions in this part, unless such species were harvested exclusively within state waters by a vessel that does not hold a valid permit under this part, or are species included in the NE Multispecies Fishery Management Plan that were harvested by a vessel issued a valid High Seas Fishing Compliance permit that fished exclusively in the NAFO Regulatory Area.

(k) \* \* \*

(17) *Presumptions.* For purposes of this part, the following presumptions apply:

Regulated species possessed for sale that do not meet the minimum sizes specified in § 648.83 are deemed to have been taken from the EEZ or imported in violation of these regulations, unless the preponderance of all submitted evidence demonstrates that such fish were harvested by a vessel not issued a permit under this part and fishing exclusively within state waters, or by a vessel issued a valid High Seas Fishing Compliance permit that fished exclusively in the NAFO Regulatory Area. This presumption does not apply to fish being sorted on deck.

■ 4. In § 648.17, revise paragraph (a)(1) to read as follows:

**§ 648.17 Exemptions for vessels fishing in the NAFO Regulatory Area.**

(a) *Fisheries included under exemption—(1) NE multispecies.* A vessel issued a valid High Seas Fishing Compliance Permit under part 300 of this title and that complies with the requirements specified in paragraph (b) of this section, is exempt from NE multispecies permit, mesh size, effort-control, minimum fish size, and possession limit restrictions, specified

in §§ 648.4, 648.80, 648.82, 648.83, and 648.86, respectively, while transiting the EEZ with NE multispecies on board the vessel, or landing NE multispecies in U.S. ports that were caught while fishing in the NAFO Regulatory Area.

■ 5. In § 648.82, revise paragraph (k)(3)(iii) to read as follows:

**§ 648.82 Effort-control program for NE multispecies limited access vessels.**

(k) \* \* \*

(3) \* \* \*

(iii) *Denial of lease application.* The Regional Administrator may deny an application to lease Category A DAS for any of the following reasons, including, but not limited to: The application is incomplete or submitted past the April 30 deadline; the Lessor or Lessee has not been issued a valid limited access NE multispecies permit or is otherwise not eligible; the Lessor's or Lessee's DAS are under sanction pursuant to an enforcement proceeding; the Lessor's or Lessee's vessel is prohibited from fishing; the Lessor's or Lessee's limited access NE multispecies permit is sanctioned pursuant to an enforcement proceeding; the Lessor or Lessee vessel is determined not in compliance with the conditions, restrictions, and requirements of this part; or the Lessor has an insufficient number of allocated or unused DAS available to lease. Upon denial of an application to lease NE multispecies DAS, the Regional Administrator shall send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator is the final agency decision.

■ 6. Section 648.85 is amended by revising paragraphs (a)(3)(v)(A)(3), (a)(6)(iv)(I), and (a)(7)(vi)(D) to read as follows:

**§ 648.85 Special management programs.**

(a) \* \* \*

(3) \* \* \*

(v) \* \* \*

(A) \* \* \*

(3) Total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, ocean pout, Atlantic wolffish, and white hake kept (in pounds, live weight) in each statistical area, as instructed by the Regional Administrator.

(6) \* \* \*

(iv) \* \* \*

(I) *Reporting requirements.* The owner or operator of a NE multispecies DAS

vessel must submit catch reports via VMS in accordance with instructions provided by the Regional Administrator, for each day fished when declared into the Regular B DAS Program. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr. The reports must be submitted by 0900 hr of the following day. For vessels that have declared into the Regular B DAS Program in accordance with paragraph (b)(6)(iv)(C) of this section, the reports must include at least the following information: VTR serial number or other universal ID specified by the Regional Administrator; date fish were caught; statistical area fished; and the total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, and white hake kept in each statistical area (in pounds, live weight), as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to flip, as described in paragraph (b)(6)(iv)(E) of this section.

(7) \* \* \*

(vi) \* \* \*

(D) *Reporting requirements.* The owner or operator of a common pool vessel must submit reports via VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished in the Closed Area I Hook Gear Haddock SAP Area. The reports must be submitted in 24-hr intervals for each day fished, beginning at 0000 hr local time and ending at 2359 hr local time. The reports must be submitted by 0900 hr local time of the day following fishing. The reports must include at least the following information: VTR serial number or other universal ID specified by the Regional Administrator; date fish were caught; statistical area fished; and the total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, and white hake kept in each statistical area (in pounds, live weight), specified in § 648.10(k)(3), as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to exit the SAP as required under paragraph (b)(7)(iv)(G) of this section.

■ 7. In § 648.87, revise paragraph (b)(1)(vi) introductory text and paragraph (b)(1)(vi) (A) to read as follows:

**§ 648.87 Sector allocation.**

\* \* \* \*

- (b) \* \* \*
- (1) \* \* \*

(vi) *Sector reporting requirements.* In addition to the other reporting/recordkeeping requirements specified in this part, a sector's vessels must comply with the reporting requirements specified in this paragraph (b)(1)(vi).

(A) *VMS declarations and trip-level catch reports.* Prior to each sector trip, a sector vessel must declare into broad stock areas in which the vessel fishes and submit the VTR serial number associated with that trip pursuant to § 648.10(k). The sector vessel must also submit a VMS catch report detailing regulated species and ocean pout catch by statistical area when fishing in multiple broad stock areas on the same trip, pursuant to § 648.10(k).

\* \* \* \*

■ 8. Section 648.90 is amended by revising paragraphs (a)(4)(iii)(C) and paragraph (a)(5)(iv)(B), and adding paragraph (a)(5)(iv)(D) to read as follows:

**§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.**

\* \* \* \*

- (a) \* \* \*
- (4) \* \* \*
- (iii) \* \* \*

(C) *Yellowtail flounder catch by the Atlantic sea scallop fishery.* Yellowtail flounder catch in the Atlantic sea scallop fishery, as defined in subpart D of this part, shall be deducted from the ABC/ACL for each yellowtail flounder stock pursuant to the restrictions specified in subpart D of this part and

the process to specify ABCs and ACLs, as described in paragraph (a)(4) of this section. Unless otherwise specified in this paragraph (a)(4)(iii)(C), or subpart D of this part, the specific value of the sub-components of the ABC/ACL for each stock of yellowtail flounder distributed to the Atlantic sea scallop fishery shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section. The Atlantic sea scallop fishery shall be allocated 40 percent of the GB yellowtail flounder ABC (U.S. share only) in fishing year 2013, and 16 percent in fishing year 2014 and each fishing year thereafter, pursuant to the process for specifying ABCs and ACLs described in this paragraph (a)(4). An ACL based on this ABC shall be determined using the process described in paragraph (a)(4)(i) of this section.

Based on information available, NMFS shall project the expected scallop fishery catch of GB and SNE/MA yellowtail flounder for the current fishing year by January 15. If NMFS determines that the scallop fishery will catch less than 90 percent of its GB or SNE/MA yellowtail flounder sub-ACL, the Regional Administrator may reduce the pertinent scallop fishery sub-ACL to the amount projected to be caught, and increase the groundfish fishery sub-ACL by any amount up to the amount reduced from the scallop fishery sub-ACL. The revised GB or SNE/MA yellowtail flounder groundfish fishery sub-ACL shall be distributed to the common pool and sectors based on the process specified in paragraph (a)(4)(iii)(H)(2) of this section.

\* \* \* \*

(5) \* \* \*

(iv) \* \* \*

(B) *2017 and 2018 fishing year threshold for implementing the Atlantic sea scallop fishery AMs for Northern windowpane flounder.* For the 2017 and 2018 fishing years only, if scallop fishery catch exceeds the northern windowpane flounder sub-ACL specified in paragraph (a)(4) of this section, and total catch exceeds the overall ACL for that stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations. For the 2019 fishing year and onward, the threshold for implementing scallop fishery AMs for northern windowpane flounder will return to that listed in paragraph (a)(5)(iv)(A) of this section.

(C) \* \* \*

(D) *2017 through 2020 fishing year threshold for implementing the Atlantic sea scallop fishery AM for GB yellowtail flounder.* For the 2017, 2018, 2019, and 2020 fishing years, if scallop fishery catch exceeds the GB yellowtail flounder sub-ACL specified in paragraph (a)(4) of this section, and total catch exceeds the overall ACL for that stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations. For the 20212 fishing year and onward, the threshold for implementing scallop fishery AMs for GB yellowtail flounder will return to that listed in paragraph (a)(5)(iv)(A) of this section.

\* \* \* \*

[FR Doc. 2019-07832 Filed 4-18-19; 8:45 am]

BILLING CODE 3510-22-P