

operating hour following that deadline until completion of the test or analysis, the owner or operator shall report substitute data as if the originally applicable deadline for the test or analysis were the deadline under paragraph (a)(6)(i) of this section.

(iii) For purposes of determining the applicable deadline for the next quality-assurance test, appendix D fuel analysis, or appendix E or LME NO<sub>x</sub> emission rate test required under this part after a delayed quality-assurance test, appendix D fuel analysis, or appendix E or LME NO<sub>x</sub> emission rate test is completed or due to be completed in accordance with paragraph (a)(6)(i) of this section, the delayed test or analysis shall be considered to have been completed in a timely manner as of the date on which such delayed test or analysis was actually completed or, if earlier, the deadline for completion of the delayed test or analysis under paragraph (a)(6)(i) of this section.

(7) The following recordkeeping and reporting requirements shall apply to any use of the procedures under paragraphs (a)(3) through (6) of this section:

(i) The owner or operator of an affected unit reporting data under paragraph (a)(3), (4), or (5) of this section shall maintain records documenting the reasons for failure to complete by the applicable deadline each test or analysis referenced in such paragraph and demonstrating that such failure is caused by travel, plant access, or other safety restrictions implemented to address the COVID-19 national emergency. The owner or operator shall also maintain records documenting when any such travel, plant access, or other safety restrictions impairing the ability to complete testing or analyses for that unit ceased to apply. The records shall be maintained on site at the source in a form suitable for inspection for a period of three years from the date of each record.

(ii) By five business days after the applicable deadline for a test or analysis referenced in paragraph (a)(3), (4), or (5) of this section, the designated representative shall submit to the Administrator, by email transmitted to [camdpetitions@epa.gov](mailto:camdpetitions@epa.gov), a notification containing the following information:

(A) Facility ID (ORIS);

(B) Facility name;

(C) Monitoring location ID and/or unit ID;

(D) Identification of the quality-assurance test, certification or recertification test, appendix D fuel analysis, or appendix E or LME NO<sub>x</sub> emission rate test for which the notification is being submitted;

(E) Identification of the applicable deadline for the test or analysis under part 75 (not including any applicable grace period);

(F) A detailed explanation of the reason for failure to complete the test or analysis by the applicable deadline under part 75, including an explanation of how such failure is caused by travel, plant access, or other safety restrictions implemented to address the COVID-19 national emergency;

(G) The certification statements in § 72.21(b)(1) and (2) of this chapter.

(iii) By five business days after the completion in accordance with paragraph (a)(6)(i) or (ii) of this section of a delayed test or analysis referenced in paragraph (a)(3), (4), or (5) of this section, the designated representative shall submit to the Administrator, by email transmitted to [camdpetitions@epa.gov](mailto:camdpetitions@epa.gov), a notification containing the following information:

(A) Facility ID (ORIS);

(B) Facility name;

(C) Monitoring location ID and/or unit ID;

(D) Identification of the quality-assurance test, certification or recertification test, appendix D fuel analysis, or appendix E or LME NO<sub>x</sub> emission rate test for which the notification is being submitted;

(E) Identification of the date as of which travel, plant access, or other safety restrictions previously impairing the ability to complete the delayed test or analysis for the unit no longer applied;

(F) Identification of the date as of which the test or analysis was completed in accordance with paragraph (a)(6)(i) or (ii) of this section; and

(G) The certification statements in § 72.21(b)(1) and (2) of this chapter.

(iv) With respect to any test or analysis of a type that is required to be performed more frequently than once per unit operating quarter, a series of such required tests or analyses may be treated as a single test or analysis for purposes of a notification submitted under paragraph (a)(7)(ii) or (iii) of this section, with the notification under paragraph (a)(7)(ii) to be submitted by five business days after the first failure to perform such a test or analysis by the applicable deadline and the notification under paragraph (a)(7)(iii) to be submitted by five business days after the first completion of such a test or analysis in accordance with paragraph (a)(6)(i) or (ii) of this section.

(v) A notification submitted under paragraph (a)(7)(ii) or (iii) of this section may include information for more than one required test for a given unit or

monitoring location, provided that each item of information required to be included in such notification pursuant to paragraphs (a)(7)(ii)(D) through (F) of this section or paragraphs (a)(7)(iii)(D) through (F) of this section is provided separately for each required test included in the notification.

(vi) No claim of confidentiality may be asserted with respect to any information included in a notification submitted under paragraph (a)(7)(ii) or (iii) of this section.

(vii) Notwithstanding the deadlines for submission of notifications in paragraphs (a)(7)(ii), (iii), and (iv) of this section, no such notification from any owner or operator shall be due less than 30 days after the effective date of this section.

(b) The requirements of this section are effective from April 22, 2020 and, except for those in paragraphs (a)(6)(ii) and (iii) and (a)(7)(i) of this section, shall cease to have effect October 19, 2020.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 181203999-9503-02; RTID 0648-XX050]

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Northeast Multispecies Measures for Fishing Year 2020

**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 the Northeast multispecies fishery for the 2020 fishing year. This action is necessary 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. These measures include possession and trip limits, the allocation of zero trips into the Closed Area II Yellowtail Flounder/Haddock Special Access Program for common pool vessels to target yellowtail flounder, and the closure of the Regular B Days-at-Sea Program.

**DATES:** Effective at 0001 hours on May 1, 2020, through April 30, 2021.

**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 2020 fishing year, effective May 1, 2020.

#### Common Pool Trip Limits

The regulations at § 648.86(o) give the Regional Administrator the authority to implement or adjust a per-Day-at-Sea (DAS) possession limit and/or a maximum trip limit in order to prevent exceeding the common pool sub-Annual Catch Limit (sub-ACL) in that fishing year. The possession and trip limits implemented for the start of the 2020 fishing year are included in Tables 1 and 2 below. These possession and trip limits were developed based on the common pool sub-ACLs set by Framework Adjustment 58 to the

Northeast Multispecies FMP that will be in effect on May 1, 2020. We also considered preliminary 2020 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 2020 fishing year sub-ACLs.

For Handgear A and Handgear B vessels, possession and trip limits for Georges Bank (GB) and Gulf of Maine (GOM) cod are tied to the possession and trip limits for groundfish 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)). In accordance with this process, the Handgear A and Handgear

B possession and trip limits for GB and GOM cod are as listed below in Table 2.

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 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: <https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/nemultispecies.html>. 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—2020 FISHING YEAR COMMON POOL POSSESSION AND TRIP LIMITS

Stock	2020 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) .....	
GB Cod [Closed Area II Yellowtail Flounder/Haddock SAP (for targeting haddock)].	500 lb (227 kg) per trip.
GOM Cod .....	50 lb (23 kg) per DAS, up to 100 lb (45 kg) per trip.
GB Haddock .....	100,000 lb (45,359 kg) per trip.
GOM Haddock .....	1,000 lb (454 kg) per DAS, up to 2,000 lb (907 kg) per trip.
GB Yellowtail Flounder .....	100 lb (45 kg) per trip.
Southern New England (SNE)/Mid-Atlantic (MA) Yellowtail Flounder .....	100 lb (45 kg) per DAS, up to 200 lb (91 kg) per trip.
Cape Cod (CC)/GOM Yellowtail Flounder .....	1,000 lb (340 kg) per DAS, up to 2,000 lb (680 kg) per trip.
American Plaice .....	1,000 lb (340 kg) per DAS, up to 2,000 lb (680 kg) per trip.
Witch Flounder .....	750 lb (272 kg) per trip.
GB Winter Flounder .....	250 lb (113 kg) per trip.
GOM Winter Flounder .....	1,000 lb (454 kg) per trip.
SNE/MA Winter Flounder .....	2,000 lb (907 kg) per DAS, up to 4,000 lb (1,814 kg) per trip.
Redfish .....	Unlimited.
White Hake .....	1,500 lb (680 kg) per trip.
Pollock .....	Unlimited.
Atlantic Halibut .....	1 fish per trip.
Windowpane Flounder .....	Possession Prohibited.
Ocean Pout.	
Atlantic Wolffish.	

\* Minimum fish sizes apply for many groundfish species, but are not included in this rule. Please see 50 CFR 648.83 for applicable minimum fish sizes.

TABLE 2—2020 FISHING YEAR COD TRIP LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS

Permit	Initial 2020 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.

TABLE 2—2020 FISHING YEAR COD TRIP LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS—Continued

Permit	Initial 2020 trip limit
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.

Table 3 includes the initial common pool trimester Total Allowable Catches (TACs) for fishing year 2020. These trimester TACs are based on preliminary sector rosters. However, individual permit holders have until the end of the 2019 fishing year (April 30, 2020) to drop out of a sector and fish in the common pool fishery for the 2020 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 2020 fishing year to reflect the final sector rosters as of May 1, 2020. We are working to publish a proposed rule to

request comment on updated 2020 specifications as recommended by the New England Fishery Management Council in Framework Adjustment 59 to the Northeast Multispecies FMP. If approved, that rule would make additional changes to common pool sub-ACLs. There could be additional changes to common pool possession and trip limits as a result.

TABLE 3—INITIAL COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES FOR FISHING YEAR 2020 [mt, live weight]

Stock	Trimester total allowable catches (mt)		
	Trimester 1	Trimester 2	Trimester 3
GB Cod .....	18.9	22.9	25.6
GOM Cod .....	5.5	3.7	2.0
GB Haddock .....	286.8	350.5	424.9
GOM Haddock .....	21.2	20.4	36.8
GB Yellowtail Flounder .....	0.7	1.1	1.9
SNE/MA Yellowtail Flounder .....	1.3	1.7	3.2
CC/GOM Yellowtail Flounder .....	12.2	5.6	3.6
American Plaice .....	21.6	2.3	5.2
Witch Flounder .....	12.7	4.6	5.8
GB Winter Flounder .....	2.5	7.6	21.6
GOM Winter Flounder .....	6.7	6.9	4.5
Redfish .....	14.5	18.0	25.5
White Hake .....	8.0	6.6	6.6
Pollock .....	69.5	86.8	91.8

#### 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 common pool 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 2020. As a result, this SAP is only open to target haddock, from August 1, 2020, through January 31, 2021. 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 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 all vessels from the area outside the SAP. Based on the fishing year 2020 GB yellowtail flounder groundfish sub-ACL implemented by Framework Adjustment 58 of 295,419 lb (134,000 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 2020 GB yellowtail flounder allocation.

We are working to publish a proposed rule to request comments on Framework 59 measures. If approved, Framework 59 would implement a 2020 GB yellowtail flounder sub-ACL that is reduced compared to the Framework 58 sub-ACL. A reduction in the GB yellowtail flounder sub-ACL would reduce the number of potential trips in the Closed Area II yellowtail Flounder/Haddock SAP. As a result, we do not expect that the final rule implementing Framework 59 would allocate trips to the SAP to target yellowtail flounder.

#### Regular B DAS Program

The regulations at § 648.85(b)(6)(vi) authorize the Regional Administrator to close the Regular B DAS program by prohibiting the use of Regular B DAS when the continuation of the program would undermine the achievement of the objectives of the Northeast

Multispecies FMP or the Regular B DAS Program. One reason for terminating the program is an inability to constrain common pool catches to the Incidental Catch TACs.

Framework Adjustment 58 to the Northeast Multispecies FMP (84 FR 34799, July 19, 2019) implemented Common Pool Incidental Catch TACs for the Regular B DAS Program for the 2020 fishing year (Table 1). These TACs are further divided into Quarterly Incidental Catch TACs to be monitored and managed during each calendar quarter.

Given that the Incidental Catch TACs allocated to the Regular B DAS Program for several stocks are very small, inseason management of the Regular B DAS Program is likely to be extremely difficult and impractical. Implementation of an inseason action to close the Regular B DAS Program once a Quarterly Incidental Catch TAC for a stock has been reached would not be possible to complete quickly enough to prevent further catch of that stock.

As a result, it is unlikely that we can effectively limit catch to the Incidental Catch TACs during fishing year 2020, and project that continuation of the program would undermine the achievement of the objectives of the Northeast Multispecies FMP and the Regular B DAS Program. The Regular B DAS Program will be closed and use of Regular B DAS is prohibited for the 2020 fishing year, through April 30, 2021. This applies to all vessels issued a limited access Northeast multispecies permit.

#### Classification

This action is authorized 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 Regional Administrator 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 initial common pool possession and trip limits on May 1, 2020, for the 2020 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. We have included the announcement in this inseason action to meet this regulatory requirement. Doing so ensures that the fishing industry has sufficient notice in order to plan their activities in the new fishing year. This action is formulaic and is expected by industry. Given the low quota for GB yellowtail flounder in recent years, no trips have been allocated to this SAP from fishing year 2010 to fishing year 2019.

The regulations at § 648.85(b)(6)(vi) authorize the Regional Administrator to close the Regular B DAS program by prohibiting the use of Regular B DAS when the continuation of the program would undermine the achievement of the objectives of the Northeast Multispecies FMP or the Regular B DAS Program. The Regular B DAS program closure implemented through this action will prevent an overage of the Incidental Catch TACs. Delay of this action would provide vessel owners an opportunity to participate in the Regular B DAS Program, but participation and catch in the program may cause the allocation to be exceeded.

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 16, 2020.

**Hélène M.N. Scalliet,**

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

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