DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200513–0139]

RIN 0648–BJ12

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 59

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 59 to the Northeast Multispecies Fishery Management Plan. This rule would set or adjust catch limits for 19 of the 20 multispecies (groundfish) stocks, and make 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 June 15, 2020.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2020–0013 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-2020-0013;*

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 59.''

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* 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 59, 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: Liz Sullivan, Fishery Policy Analyst, phone: 978–282–8493; email: *Liz.Sullivan@noaa.gov*.

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1. Summary of Proposed Measures

This action would implement the management measures in Framework Adjustment 59 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 59 in a March 20, 2020, 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 59. Through Framework 59, the Council proposes to:

- Set fishing year 2020 shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock;
- Set 2020–2022 specifications, including catch limits, for 15 groundfish stocks;
- Adjust 2020 allocations for four groundfish stocks: Gulf of Maine (GOM) winter flounder, Southern New England/Mid-Atlantic (SNE/MA) winter flounder, redfish, and ocean pout;
- Address commercial/recreational allocation issues raised by new Marine Recreational Information Program (MRIP) data; and
- Revise the GB cod Incidental Catch total allowable catch (TAC) to remove the allocation to the Closed Area I Hook Gear Haddock Special Access Program (SAP).

This action also proposes regulatory corrections that are not part of Framework 59, but that may be considered and implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are proposing these corrections in conjunction with the Framework 59 proposed measures for expediency purposes. These proposed corrections are described in Section 4, Regulatory Corrections under Secretarial Authority.

2. Fishing Year 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*. 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.

2020 U.S./Canada Quotas

The Transboundary Resources Assessment Committee conducted assessments for the three transboundary stocks in July 2019, and detailed summaries of these assessments can be found at: *https://www.nefsc.noaa.gov/assessments/trac/*. The TMGC met in September 2019 to recommend shared quotas for 2020 based on the updated assessments, and the Council adopted the TMGC's recommendations in Framework 59. The proposed 2020 shared U.S./Canada quotas, and each country's allocation, are listed in Table 1.

TABLE 1—PROPOSED 2020 FISHING YEAR U.S./CANADA QUOTAS AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

[Mt, live weight]

Quota	Eastern GB cod	Eastern GB haddock	GB yellowtail flounder
Total Shared Quota	650	30,000	162
U.S. Quota	188.5 (29%)	16,200 (54%)	120 (74%)
Canadian Quota	461.5 (71%)	13,800 (46%)	42 (26%)

The proposed 2020 U.S. quota for eastern GB cod would represent a 0.3-percent decrease compared to 2019; the proposed 2020 U.S. quota for eastern GB haddock and GB yellowtail flounder would represent 8-percent and 13-percent increases, respectively, compared to 2019. The slight quota decrease for eastern GB cod is due to a decision on how to round the share of the quota allotted to each country. The increase for eastern GB haddock is due to an increase in the portion of the shared quota that is allocated to the United States. The increase for GB yellowtail flounder is due to an increase in the total shared ABC for the stock, despite a slight decrease in the portion of the quota that is allocated to the United States. For a more detailed discussion of the TMGC's 2020 catch advice, see the TMGC's guidance document that will be posted at: *https://www.greateratlantic.fisheries.noaa.gov/*. The 2020 U.S. quotas for eastern GB cod, eastern GB haddock, and GB yellowtail that are proposed in Framework Adjustment 59, if approved, will replace the 2020 quotas previously specified for these stocks (85 FR 23229; April 27, 2020). This is discussed further in Section 3, Catch Limits for the 2020–2022 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 2019 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 2020 fishing year in a future management action, as close to May 1, 2020, 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 2020–2022

Summary of the Proposed Catch Limits

Tables 2 through 11 show the proposed catch limits for the 2020–2022 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 2020–FY 2022) to the Framework 59 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Through Framework 59, the Council proposes to adopt catch limits for 14 groundfish stocks for the 2020–2022 fishing years based on stock assessments completed in 2019, and fishing year 2020–2021 specifications for GB yellowtail flounder. Framework 57 (83 FR 18985; May 1, 2018) previously set 2020 quotas for the five groundfish stocks not assessed in 2019 (GOM winter flounder, SNE/MA winter flounder, redfish, ocean pout, and Atlantic wolffish), based on assessments conducted in 2017. This action would include minor adjustments for four of these stocks (excluding Atlantic wolffish) for fishing year 2020. Table 2 details the percent change in the 2020 catch limit compared to the 2019 fishing year.

Because Framework 59 is not in place in time for the May 1 start to the fishing year, the fishing year 2020 quotas previously set by Frameworks 57 and 58 are in effect from May 1, 2020, through April 20, 2021, unless and until replaced by the quotas proposed in this action. However, neither framework set a 2020 quota for the eastern portion of the GB cod and haddock stocks. A default quota for eastern GB cod and eastern GB haddock required by current regulations will be in effect from May 1, 2020, through July 31, 2020, unless and until replaced by the quotas proposed in this action (85 FR 23229; April 27, 2020).

Overfishing Limits and Acceptable Biological Catches

The overfishing limit (OFL) is calculated to set the maximum amount of fish that can be caught in a year,

without constituting overfishing. The ABC is typically set lower than the OFL to account for scientific uncertainty. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is reduced by the amount of the Canadian quota (see Table 1 for the Canadian and U.S. shares of these stocks). Although the TMGC recommendations were only for fishing year 2020, the portion of the shared quota allocated to Canada in fishing 2020 was used to project U.S. ABCs for GB yellowtail for 2021 and for GB cod and haddock for 2021 and 2022. This avoids artificially inflating the U.S. ABC up to the total ABC for the 2021 and 2022 fishing years. The TMGC will make new recommendations for 2021, which would replace any quotas for these stocks set in this action.

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 (26 mt), white hake (39 mt), and Atlantic halibut (41 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 proposed continuing to set the OFLs as unknown for GB yellowtail flounder, witch flounder, and Atlantic halibut. Additionally, the SSC recommended setting the OFL for GB cod as unknown. Empirical stock assessments are used for these four stocks, and these assessments can no longer provide quantitative estimates of the status determination criteria nor were appropriate proxies for stock status determination developed. In the temporary absence of an OFL, given recent catch data and estimated trends in stock biomass showing stability or improvement in stock conditions, we have preliminarily determined that these ABCs are a sufficient limit for preventing overfishing and are consistent with the National Standards. This action does not propose any changes to the status determination criteria for these stocks.

TABLE 2—PROPOSED FISHING YEARS 2020–2022 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES

[Mt, live weight]

Stock	2020		Percent change from 2019	2021		2022	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	1,291	−29	UNK	1,291	UNK	1,291
GOM Cod	724	552	−21	929	552	1,150	552
GB Haddock	184,822	131,567	126	116,883	76,537	114,925	75,056
GOM Haddock	25,334	19,696	58	21,521	16,794	14,834	11,526
GB Yellowtail Flounder	UNK	120	13	UNK	120	.....	.....
SNE/MA Yellowtail Flounder	31	22	−68	71	22	184	22
CC/GOM Yellowtail Flounder	1,136	823	61	1,076	823	1,116	823
American Plaice	4,084	3,155	96	3,740	2,881	3,687	2,825
Witch Flounder	UNK	1,483	49	UNK	1,483	UNK	1,483
GB Winter Flounder	790	561	−31	944	561	1,590	561
GOM Winter Flounder*	596	447	0	.....	.....	.....	.....
SNE/MA Winter Flounder*	1,228	727	0	.....	.....	.....	.....
Redfish*	15,852	11,942	1	.....	.....	.....	.....
White Hake	2,857	2,147	−27	2,906	2,147	2,986	2,147
Pollock	35,358	27,447	−32	28,475	22,062	21,744	16,812
N. Windowpane Flounder	84	59	−36	84	59	84	59
S. Windowpane Flounder	568	426	−10	568	426	568	426
Ocean Pout*	169	127	0	.....	.....	.....	.....
Atlantic Halibut	UNK	106	2	UNK	106	0	106
Atlantic Wolffish*	120	90	0				

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

*The GOM winter flounder, SNE/MA winter flounder, redfish, ocean pout, and Atlantic wolffish stocks have U.S. ABCs previously approved in Framework 57, based on the 2017 assessments. All other stocks' proposed ABCs based on the 2019 assessments.

Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

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. 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. 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 have a sub-annual catch limit (sub-ACL) set by reducing their portion of the ABC to account for management uncertainty and are subject to AMs if they exceed their respective catch limit during the fishing year. For GOM cod and haddock only, the U.S. ABC is first divided between the commercial and recreational fisheries, before being further divided into sub-component and sub-ACLs. This process is described fully in Appendix II of the Framework 59 Environmental Assessment.

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 sector and common pool sub-ACLs proposed in this action are based on final fishing year 2020 sector rosters. All permits enrolled in a sector, and the vessels associated with those permits, had until April 30, 2020, to withdraw from a sector and fish in the common pool for the 2020 fishing year. In addition to the enrollment delay, all permits that changed ownership after the roster deadline were

able to join a sector (or change sector) through April 30, 2020.

Common Pool Total Allowable Catches

The common pool sub-ACL for each allocated stock (except for SNE/MA winter flounder) is further divided into trimester TACs. 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 7 through 10 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

Recreational Allocations

Amendment 16 established the method for determining the commercial and recreational allocations of GOM cod and haddock based on the ratio of reported landings (for commercial and recreational) and discards (commercial only) for the time period 2001–2006 using data from the Groundfish Assessment Review Meeting III (GARM III). Based on this method and the catch data available at the time, since 2010 the recreational fishery has been annually allocated 33.7 percent of the GOM cod ABC and 27.5 percent of the GOM haddock ABC. As described above, the recreational sub-ACL is set by reducing the recreational portion of the ABC to account for management uncertainty.

The 2019 stock assessments used updated data to assess groundfish stocks including GOM cod and haddock. Data changes since 2010 include updated commercial landings and discards, the incorporation of recreational discards, and Marine Recreational Information Program (MRIP) recreational landings and discards, which were revised following the transition from the telephone-based effort survey to the mail-based effort survey and the re-calibration of recreational catch estimates from 1981 to the present. Framework 59 proposes to apply the same method approved in Amendment 16 but with the revised data for the same time period of 2001–2006, which would result in a revised recreational allocation of 37.5 percent for GOM cod and 33.9 percent for GOM haddock. The remaining portion of the ABC (62.5 percent for GOM cod, 66.1 percent for GOM haddock) would be allocated to the commercial fisheries, which include the federal commercial groundfish fishery, state commercial fishery, and other federal fisheries. Table 11 shows the original and proposed split in allocations as a percentage for the commercial and recreational fisheries for GOM cod and haddock.

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 groundfish vessels using hook gear (with the exception of the Seasonal Closed Area I North closure). In a separate rulemaking, we have proposed to remove the Closed Area I Hook Gear Haddock SAP under the Regional Administrator's authority (85 FR 19129; April 6, 2020). Because changes in allocations require Council action, the Council proposed in Framework 59 to remove the portion of the Incidental Catch Total Allowable Catch (TAC) for GB cod that is allocated to the Closed Area I Hook Gear Haddock SAP. The allocation of the GB cod Incidental Catch TAC would remain for the Regular B Days-at-Sea Program and the Eastern U.S./Canada Haddock SAP (Table 8).

Default Catch Limits for Future Fishing Years

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. The default catch limits are effective until July 31 of that fishing year, or when replaced by new catch limits, whichever happens first. If the default value is higher than the Council's recommended catch limit for the upcoming fishing year, the default catch limits will be equal to the Council's recommended catch limits for the applicable stocks 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 minimize 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 2020 FISHING YEAR

[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	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	1,234	1,073	1,041	31					19	142
GOM Cod	523	468	267	9	193				48	7
GB Haddock	124,969	121,864	119,410	2,454		2,447			0	658
GOM Haddock	18,580	18,267	11,754	303	6,210	183			65	65
GB Yellowtail Flounder	116	95	92	3			18.6	2.2	0.0	0.0
SNE/MA Yellowtail Flounder	21	15	12	3			2		0	4
CC/GOM Yellowtail Flounder	787	688	656	32					58	41
American Plaice	3,000	2,937	2,859	78					32	32
Witch Flounder	1,414	1,310	1,275	35					44	59
GB Winter Flounder	545	522	502	21					0	22
GOM Winter Flounder	432	287	272	14					139	7
SNE/MA Winter Flounder	699	539	475	63					36	124
Redfish	11,351	11,231	11,085	147					60	60

TABLE 3—PROPOSED CATCH LIMITS FOR THE 2020 FISHING YEAR—Continued

[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	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
White Hake	2,041	2,019	1,995	24					11	11
Pollock	26,184	23,989	23,752	236					1,098	1,098
N. Windowpane Flounder	55	38	na	38			12		1	5
S. Windowpane Flounder	412	48	na	48			143		26	196
Ocean Pout	120	92	na	92					1	27
Atlantic Halibut	102	77	na	77					21	4
Atlantic Wolffish	84	82	na	82					1	1

na: Not allocated to sectors.

TABLE 4—PROPOSED CATCH LIMITS FOR THE 2021 FISHING YEAR

[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	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	1,234	1,073	1,041	31					19	142
GOM Cod	523	468	267	9	193				48	7
GB Haddock	72,699	70,892	69,465	1,428		1,424			0	383
GOM Haddock	15,843	15,575	10,022	258	5,295	156			56	56
GB Yellowtail Flounder	116	95	92	3			19	2	0	0
SNE/MA Yellowtail Flounder	21	15	12	3			2		0	4
CC/GOM Yellowtail Flounder	787	688	656	32					58	41
American Plaice	2,740	2,682	2,611	71					29	29
Witch Flounder	1,414	1,310	1,275	35					44	59
GB Winter Flounder	545	522	502	21					0	22
GOM Winter Flounder*			0	0						
SNE/MA Winter Flounder*			0	0						
Redfish*			0	0						
White Hake	2,041	2,019	1,995	24					11	11
Pollock	21,047	19,282	19,092	190					882	882
N. Windowpane Flounder	55	38	na	38			12		1	5
S. Windowpane Flounder	412	48	na	48			143		26	196
Ocean Pout*										
Atlantic Halibut	102	77	na	77					21	4
Atlantic Wolffish*										

na: Not allocated to sectors.

*These stocks only have an allocation for fishing year 2020, previously approved in Framework 57.

TABLE 5—PROPOSED CATCH LIMITS FOR THE 2022 FISHING YEAR

[Mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	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	1,234	1,073	1,041	31					19	142
GOM Cod	523	468	267	9	193				48	7
GB Haddock	71,292	69,521	68,120	1,400		1,396			0	375
GOM Haddock	10,873	10,690	6,879	177	3,634	107			38	38
GB Yellowtail Flounder**			0	0						
SNE/MA Yellowtail Flounder	21	15	13	3			2		0	4
CC/GOM Yellowtail Flounder	787	688	656	32					58	41
American Plaice	2,687	2,630	2,560	70					28	28
Witch Flounder	1,414	1,310	1,275	35					44	59
GB Winter Flounder	545	522	502	21					0	22

TABLE 5—PROPOSED CATCH LIMITS FOR THE 2022 FISHING YEAR—Continued

[Mt, live weight]

Stock	Total ACL A to H	Groundfish sub-ACL A + B + C	Sector sub-ACL A	Common pool sub-ACL B	Recreational sub-ACL C	Midwater trawl fishery D	Scallop fishery E	Small-mesh fisheries F	State waters sub-component G	Other sub-component H
GOM Winter Flounder*			0	0						
SNE/MA Winter Flounder*			0	0						
Redfish*			0	0						
White Hake	2,041	2,019	1,995	24					11	11
Pollock	16,039	14,694	14,549	145					672	672
N. Windowpane Flounder	55	38	na	38			12		1	5
S. Windowpane Flounder	412	48	na	48			143		26	196
Ocean Pout*										
Atlantic Halibut	102	77	na	77					21	4
Atlantic Wolffish*										

na: Not allocated to sectors.
*These stocks only have an allocation for fishing year 2020, previously approved in Framework 57.
** Framework 59 proposes allocations for GB yellowtail flounder for fishing years 2020 and 2021 only.

TABLE 6—PROPOSED FISHING YEARS 2020–2022 COMMON POOL TRIMESTER TACS

[Mt, live weight]

Stock	2020			2021			2022		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	8.8	10.7	11.9	8.8	10.7	11.9	8.8	10.7	11.9
GOM Cod	4.3	2.9	1.6	4.3	2.9	1.6	4.3	2.9	1.6
GB Haddock	662.7	810.0	981.8	385.5	471.2	571.1	378.1	462.1	560.1
GOM Haddock	81.8	78.8	142.4	69.8	67.2	121.5	47.9	46.1	83.4
GB Yellowtail Flounder	0.6	1.0	1.7	0.6	1.0	1.7			
SNE/MA Yellowtail Flounder	0.6	0.8	1.5	0.6	0.8	1.5	0.6	0.8	1.5
CC/GOM Yellowtail Flounder	18.0	8.2	5.4	18.0	8.2	5.4	18.0	8.2	5.4
American Plaice	57.6	6.2	14.0	52.6	5.7	12.8	51.6	5.6	12.6
Witch Flounder	19.5	7.1	8.9	19.5	7.1	8.9	19.5	7.1	8.9
GB Winter Flounder	1.7	5.0	14.2	1.7	5.0	14.2	1.7	5.0	14.2
GOM Winter Flounder	5.4	5.5	3.6						
Redfish	36.7	45.5	64.6						
White Hake	9.3	7.6	7.6	9.3	7.6	7.6	9.3	7.6	7.6
Pollock	66.2	82.7	87.5	53.2	66.5	70.3	40.5	50.7	53.6

TABLE 7—PROPOSED COMMON POOL INCIDENTAL CATCH TACS FOR THE 2020–2022 FISHING YEARS

[Mt, live weight]

Stock	Percentage of common pool sub-ACL	2020	2021	2022
GB Cod	1.68	0.53	0.53	0.53
GOM Cod	1	0.09	0.09	0.09
GB Yellowtail Flounder	2	0.07	0.07	
CC/GOM Yellowtail Flounder	1	0.32	0.32	0.32
American Plaice	5	3.89	3.56	3.49
Witch Flounder	5	1.77	1.77	1.77
SNE/MA Winter Flounder	1	0.63		

TABLE 8—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	60	0	40
GOM Cod	100	n/a	n/a
GB Yellowtail Flounder	50	n/a	50
CC/GOM Yellowtail Flounder	100	n/a	n/a
American Plaice	100	n/a	n/a
Witch Flounder	100	n/a	n/a

TABLE 8—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM—Continued

Stock	Regular B DAS program (%)	Closed Area I hook gear haddock SAP (%)	Eastern U.S./CA haddock SAP (%)
SNE/MA Winter Flounder	100	n/a	n/a

TABLE 9—PROPOSED FISHING YEARS 2020–2022 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		
	2020	2021	2022	2020–2022	2020	2021	2022
GB Cod	0.32	0.32	0.32	0.0	0.21	0.21	0.21
GOM Cod	0.09	0.09	0.09	n/a	n/a	n/a	n/a
GB Yellowtail Flounder	0.03	0.03	.....	n/a	0.03	0.03	.....
CC/GOM Yellowtail Flounder	0.32	0.32	0.32	n/a	n/a	n/a	n/a
American Plaice	3.89	3.56	3.49	n/a	n/a	n/a	n/a
Witch Flounder	1.77	1.77	1.77	n/a	n/a	n/a	n/a
SNE/MA Winter Flounder	0.63	.....	.....	n/a	n/a	n/a	n/a

TABLE 10—PROPOSED FISHING YEARS 2020–2022 REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACS

[Mt, live weight]

Stock	2020				2021				2022			
	1st quarter (13%)	2nd quarter (29%)	3rd quarter (29%)	4th quarter (29%)	1st quarter (13%)	2nd quarter (29%)	3rd quarter (29%)	4th quarter (29%)	1st quarter (13%)	2nd quarter (29%)	3rd quarter (29%)	4th quarter (29%)
GB Cod	0.04	0.09	0.09	0.09	0.04	0.09	0.09	0.09	0.04	0.09	0.09	0.09
GOM Cod	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03
GB Yellowtail Flounder	0.004	0.010	0.010	0.010	0.00	0.01	0.01	0.01	.....	.....	.....	.....
CC/GOM Yellowtail Flounder	0.04	0.09	0.09	0.09	0.04	0.09	0.09	0.09	0.04	0.09	0.09	0.09
American Plaice	0.51	1.13	1.13	1.13	0.46	1.03	1.03	1.03	0.45	1.01	1.01	1.01
Witch Flounder	0.23	0.51	0.51	0.51	0.23	0.51	0.51	0.51	0.23	0.51	0.51	0.51
SNE/MA Winter Flounder	0.08	0.18	0.18	0.18	.....	.....	.....	.....	.....	.....	.....	.....

TABLE 11—CURRENT AND PROPOSED ALLOCATIONS, BY PERCENTAGE, FOR COMMERCIAL AND RECREATIONAL GULF OF MAINE COD AND HADDOCK FISHERIES

	GOM cod		GOM haddock	
	Commercial	Recreational	Commercial	Recreational
Current (%)	66.3	33.7	72.5	27.5
Proposed (%)	62.5	37.5	66.1	33.9

4. Regulatory Corrections Under Secretarial Authority

The following corrections 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.

Authority To Change Gear Standard

In 2007, the Council recommended that the Regional Administrator implement gear performance standards that gear must meet before being considered for use in the Regular B DAS Program and the Eastern U.S./Canada Haddock SAP. On December 26, 2007, we published a final rule approving the Council's recommended gear standards (72 FR 72965). In updating the regulations to reflect the new gear standards, the 2007 rule inadvertently removed the portion of the regulations that gave the Regional Administrator authority to approve additional gear standards, if recommended by the Council. This rulemaking proposes to revise the regulatory text to correctly reflect the Council's original intent.

Citation for Windowpane Flounder Accountability Measure

The regulations regarding the windowpane flounder accountability measures include a process by which the AM may be reduced. The regulations implementing this provision include an incorrect citation to a paragraph that was moved to a new location. 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 59, 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.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in Framework 59 and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

Description of the Reasons Why Action by the Agency Is Being Considered and Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes management measures, including annual catch limits, for the multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Framework 59, and elsewhere in the preamble to this proposed rule, and are not repeated here.

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

The proposed rule would impact the recreational groundfish, Atlantic sea scallop, small mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2019, NMFS had issued 801 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history), 589 party/charter groundfish permits, 730 limited access and general category Atlantic sea scallop permits, 716 small mesh multispecies permits, 78 Atlantic herring permits, and 834 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore, 3,748 permits are potentially regulated by this action. When accounting for overlap between fisheries, this number falls to 2,177 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st 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 2018 permits and contains gross sales associated with those permits for calendar years 2016 through 2018.

For RFA purposes only, NMFS has 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 not in excess of $11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2016 through 2018. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of $8.0 million for all its affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2016–2018) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Ownership data collected from permit holders indicate that there are 1,670 distinct business entities that hold at least one permit regulated by the proposed action. All 1,670 business entities identified could be directly regulated by this proposed action. Of these 1,670 entities, 1,010 are commercial fishing entities, 305 are for-hire entities, and 355 did not have revenues (were inactive in 2018). Of the 1,010 commercial fishing entities, 998 are categorized as small entities and 12 are categorized as large entities per the NMFS guidelines. All 305 for-hire entities are categorized as small businesses.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

The proposed action does not contain any new collection-of-information requirements under the Paperwork Reduction Act (PRA).

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

The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

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

The economic impacts of each proposed measure is discussed in more detail in sections 6.5 and 7.12 of the Framework 59 Environmental Assessment and are not repeated here. For the updated groundfish specifications, the No Action alternative was the only other alternative considered by the Council. The proposed action is predicted to generate $70.1 million in gross revenues on the sector portion of the commercial groundfish trips, $4.8 million more than No Action. Fishery-wide operating profits are predicted to be $3.7 million more than No Action. Therefore, there are no alternatives that would have lower economic impacts.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordingkeeping requirements.

Dated: May 13, 2020.

Samuel D. Rauch, III,

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. Section 648.85 is amended by:
■ a. Revising paragraph (b)(5)(ii), and
■ b. Adding (b)(6)(iv)(J)(*2*)(*iii*).

The revision and addition read as follows:

§ 648.85 Special management programs.

* * * * *

(b) * * *

(5) * * *

(ii) *GB cod.* The Incidental Catch TAC for GB cod specified in this paragraph (b)(5) shall be subdivided as follows: 60 percent to the Regular B DAS Program described in paragraph (b)(6) of this section and 40 percent to the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8) of this section.

(6) * * *

(iv) * * *

(J) * * *

(*2*) * * *

(*iii*) The Council may recommend to the Regional Administrator an addition or modification to the gear standards specified in paragraph (b)(6)(iv)(J)(*2*)(*i*) or (*ii*) of this section, and the Regional Administrator may approve the Council's recommendation in a manner consistent with the Administrative Procedure Act. If the Regional Administrator does not approve an addition or modification to the gear standards as recommended by the Council, NMFS must provide a written rationale to the Council regarding its decision not to do so.

* * * * *

■ 3. In § 648.90, revise paragraph (a)(5)(i)(E)(*5*) to read as follows:

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

* * * * *

(a) * * *

(5) * * *

(i) * * *

(E) * * *

(*5*) *Reducing the size of an AM.* If the overall northern or southern windowpane flounder ACL is exceeded by more than 20 percent and NMFS determines that the stock is rebuilt, and the biomass criterion, as defined by the Council, is greater than the most recent fishing year's catch, then only the small AM may be implemented as described in paragraph (a)(5)(i)(E) of this section, consistent with the Administrative Procedure Act. This provision applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip, and to all vessels fishing with trawl gear with a codend mesh size equal to or greater than 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3).

* * * * *

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