



**Billing Code 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 150305221-5221-01]**

**RIN 0648-BE82**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions;  
Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Fishing  
Year 2015; Recreational Management Measures**

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This action implements a reduction to the minimum size for Gulf of Maine haddock taken in the recreational fishery. This action is necessary to ensure that the recreational catch of haddock and recreational bycatch of cod will not exceed the annual catch limits for the recreational fishery in fishing year 2015. The intended effect of this action is to reduce discards of cod and haddock by allowing recreational anglers to retain smaller haddock, which will result in anglers achieving their bag limit more quickly.

**DATES:** Effective May 1, 2015. Comments must be received by *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2015-0046, by either of the following methods:

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

1. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0046](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0046)
2. Click the “Comment Now!” icon, complete the required fields, and
3. Enter or attach your comments.

**- OR -**

*Mail:* Submit written comments to: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930.

Mark the outside of the envelope, “Comments on the fishing year 2015 Haddock Recreational Measures.”

*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 NMFS. 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. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of a supplemental environmental assessment (EA) to Framework Adjustment 53 prepared by the Greater Atlantic Regional Fisheries Office (GARFO) and Northeast Fisheries Science Center and the Framework 53 EA prepared by the New

England Fishery Management Council for this rulemaking are available from: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The Framework 53 EA and supplement are also accessible via the Internet at:

<http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/>.

**FOR FURTHER INFORMATION CONTACT:** Mark Grant, Sector Policy Analyst, phone: 978-281-9145; e-mail: *Mark.Grant@noaa.gov*.

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**1. Fishing Year 2015 Recreational Management Measures**

The recreational fishery for Gulf of Maine (GOM) cod and haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP) which has been developed by the New England Fishery Management Council and approved and implemented by NMFS. Under the FMP, specific sub-annual catch limits (ACL) for the recreational fishery are established for each fishing year for GOM cod and haddock. These sub-ACLs are a subcomponent of the overall stock catch limit for each species. The multispecies fishery opens on May 1 each year and runs through April 30 of the following calendar year. The FMP also contains accountability measures, in accordance with Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) National Standard 1 guidelines.

The accountability measures outlined in the FMP indicate that the Regional Administrator may, in consultation with the Council, modify the recreational management measures for the upcoming fishing year to ensure that the sub-ACL is not exceeded. The provisions authorizing this action can be found in § 648.89(f)(3) of the FMP implementing regulations. Additional measures necessary to facilitate enforcement of these accountability measures, consistent with the FMP, are authorized by § 305(d) of the Magnuson-Stevens Act. Recreational catch and effort data are estimated by the Marine Recreational Information Program (MRIP), a comprehensive, multi-faceted survey system administered by NMFS. Because the recreational measures currently in place for GOM cod and haddock are not expected to constrain fishing year 2015 catch to the sub-ACL, the proactive accountability measure requires adjustment of the management measures.

A peer-reviewed bio-economic model, developed by the Northeast Fisheries Science Center, was used to estimate fishing year 2015 recreational GOM cod and haddock mortality under various combinations of minimum sizes, possession limits, and closed seasons. Even after prohibiting GOM cod possession by recreational fishermen in Framework 53 to the FMP, our model estimated that the status quo measures for GOM haddock were unlikely to constrain haddock catch or cod bycatch within the fishing year 2015 catch limits, thus requiring that we implement additional measures.

After consultation with the Council, NMFS is implementing measures for the recreational haddock fishery to ensure that recreational catches of GOM haddock and cod do not exceed the recreational sub-annual catch limits (sub-ACLs) for these stocks. This rule implements a 17-inch (43.2-cm) minimum size for haddock, which is a decrease

from the 21-inch (53.3-cm) minimum fish size for haddock in effect for fishing year 2014. The possession limit for GOM haddock will remain three fish per angler, and the seasonal possession restrictions for haddock will be unchanged (September 1, 2015, through October 31, 2015; and March 1, 2016, through April 30, 2016). The recreational haddock measures implemented by this rule are dependent on the fishing year 2015 recreational sub-ACLs, and a zero-possession limit for GOM cod, being implemented by Framework 53. Despite prohibiting recreational possession of GOM cod, the GOM haddock measures have a direct impact on achieving or exceeding the GOM cod sub-ACL because of cod bycatch in the haddock fishery (cod discard mortality counts against the cod sub-ACL).

These measures are expected to result in fishing year 2015 recreational GOM cod and haddock catches lower than the sub-ACLs of 121 mt for cod and 372 mt for haddock, as explained further below. The fishing year 2015 recreational measures for GOM cod and haddock are specified in Table 1 with information on fishing year 2014 measures for comparison.

**Table 1. GOM Cod and Haddock Recreational Management Measures for Fishing Year 2015 and Changes from Fishing Year 2014 Measures.**

Species	2015 Measures			2014 Measures		
	Per Day Possession Limit (fish per angler)	Minimum Fish Size	Possession Prohibited (GOM Area)	Per Day Possession limit	Minimum Fish Size	Possession Prohibited (GOM Area)
Cod*	0	Not Applicable	May 1, 2015 - April 30, 2016	9	21 inches (53.3 cm)	September 1, 2014 - April 14, 2015
Haddock	3	17 inches (43.2 cm)	September 1 – October 31, 2015 and March 1 – April 30, 2016	3	21 inches (53.3 cm)	September 1 – October 31, 2014 and March 1 – April 30, 2015

\*The recreational cod measures are set in the final rule implementing Framework Adjustment 53.

We are also implementing four additional measures to facilitate the implementation and enforcement of the recreational possession limit for GOM haddock, which differs from the recreational possession limit for Georges Bank haddock, under our authority specified in section 305(d) of the Magnuson-Stevens Act. First, for purposes of counting fish, fillets will be converted to whole fish by dividing the number of fillets by two. However, if fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish. Second, haddock harvested by recreational fishing vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of people on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel. Third, haddock must be stored so as to be readily available for inspection. Fourth, the regulations specifying how to calculate the possession limit for multi-day trips will be revised to apply to haddock as well as cod.

### **Background**

The GOM cod and haddock recreational catch estimates indicate that the estimated fishing year 2014 GOM cod catch is 561 mt and 505 mt for GOM haddock. These catch estimates significantly exceed the fishing year 2014 sub-ACLs, which are 486 mt for GOM cod and 173 mt for GOM haddock. For fishing year 2015, the Council has recommended a recreational sub-ACL of 121 mt for GOM cod and a recreational sub-ACL of 372 mt for GOM haddock. These catch limits were previously published in

a proposed rule with the Council’s catch recommendations, and other fishing year 2015 management measures contained in Framework 53 to the FMP for May 1, 2015, implementation. The proposed and final rules for Framework 53 (when published), along with supporting analyses for Framework 53, can be found at the Federal electronic rulemaking portal: Regulations.gov. Reference docket NOAA-NMFS-2015-0020. <http://www.regulations.gov/#!documentDetail;D=NOAA-NMFS-2015-0020-0001>.

As specified in Table 2, in order to not exceed the recommended sub-ACLs in fishing year 2015, recreational catch must be reduced from actual 2014 catch estimates by 78 percent for GOM cod and 84 percent for GOM haddock. The supplemental EA containing the analyses for this action is available as outlined in the ADDRESSES section of this rule’s preamble.

**Table 2. Preliminary Fishing Year 2014 and 2015 Recreational Catch Information for GOM Cod and Haddock (all weights in mt).**

GOM Stock	2014 sub-ACL	Total Catch	% of 2014 sub-ACL Caught	2015 sub-ACL	Reduction in Landings Needed for 2015
Cod	486	561	115%	121	78%
Haddock	173	505	292%	372	84%

**Council Recommendations**

As part of the accountability measure consultation process, the Council convened its Recreational Advisory Panel (RAP) on January 22, 2015, to recommend management measure changes for the Council’s consideration. The RAP reviewed catch projections under various scenarios of changed measures for fishing year 2015 modeled by the Northeast Fisheries Science Center’s Social Sciences Branch (SSB). SSB staff used a model that was peer-reviewed in 2012 by the Council’s Scientific and Statistical Committee. This bioeconomic simulation model predicts the expected number of GOM

cod and haddock that would be kept and discarded from alternative seasons, and possession and size limits. Despite prohibiting recreational possession of GOM cod, the GOM haddock measures have a direct impact on achieving or exceeding the GOM cod sub-ACL because of cod bycatch in the haddock fishery.

The RAP's recommendations were discussed by the Council at its January 29, 2015, meeting. The RAP and Council recommended that the minimum size for GOM haddock be reduced from 21 inches (53.3 cm) to 17 inches (43.2 cm), that the possession limit for GOM haddock increase from 3 fish to 4 fish, and the seasonal possession restriction for haddock remain unchanged (September 1, 2015, through October 31, 2015, and March 1, 2016, through April 30, 2016). Reducing the minimum size would reduce discards because there are a large number of haddock in the 17-inch (43.2-cm) to 20-inch (50.8-cm) range, which would result in anglers achieving their bag limit more quickly under the smaller minimum size. However, the bio-economic model predicted that these measures are unlikely to keep haddock catch and the resulting cod bycatch from exceeding the fishing year 2015 recreational catch limits. Based on the model estimates, these recommended measures could result in catches below the recreational sub-ACLs only if discard mortality for cod and haddock were reduced, while compliance was increased. To address this, the Council and RAP recommended gear requirements to reduce recreational discard mortality, and outreach to increase compliance with the recreational measures.

Specifically, the Council and RAP recommended prohibiting the use of more than two hooks per line while fishing for groundfish in the GOM, requiring that in-line circle hooks be used with bait, and requiring that jigs and artificial lures use only single point J-

hooks (e.g., no treble hooks). NMFS considered these gear measures, but is not implementing them because of a lack of available conclusive scientific evidence that the recommended gear restrictions would have positive conservation benefits in the GOM recreational groundfish fishery. However, NMFS is continuing its increased outreach efforts and expects that this will result in increased compliance with the cod and haddock recreational measures in fishing year 2015.

More substantial background on this action, including details on the measures recommended by the RAP and the Council, and the resulting projected catch in fishing year 2015 associated with those options, can be found in the supplemental EA prepared for this action. Additional information regarding the presentations and discussions held by the RAP and Council are available on the Council's web site: <http://www.nefmc.org/>.

### **Model Assumptions Used in Analysis**

The estimated recreational catches for GOM cod and haddock come from the bio-economic model developed by the SSB. The model estimates that fishing year 2015 effort will decline a further 12 to 15 percent from fishing year 2014, based on preliminary estimates. However, the bio-economic model is limited in its ability to account for how a zero possession limit for GOM cod will affect effort because there are no available historical data for cod catch during a period when cod possession was prohibited while haddock retention was permitted. During September and October of 2014, recreational possession of both cod and haddock was prohibited. During that time (MRIP Wave 5), recreational angler trips declined 85 percent compared to the same period in 2013. The 85-percent decline in angler trips is an indication that prohibiting recreational possession of cod will likely cause a substantial reduction in effort, beyond what the model is

estimating, but the reduction is expected to be less than 85 percent because anglers would be able to retain three haddock per trip.

In analyzing this action, we have adopted a new lower estimate of recreational cod discard mortality than what was used in the most recent stock assessment. At the time of the assessment, there were no directed field studies available to better inform the estimate. However, a recently conducted study provides preliminary GOM cod recreational discard mortality estimates. After reviewing the study, Northeast Fisheries Science Center staff determined that the 15-percent estimate derived from this study has a stronger scientific justification than the 30-percent rate previously used in the assessment.

For fishing year 2015 catch estimates, the model also incorporates non-compliance estimates from the MRIP survey to improve the model's ability to accurately predict catches. The non-compliance estimates from MRIP represent unintentional non-compliance, which we are addressing with a new outreach and education plan for recreational fisheries.

### **Analysis of Measures for Fishing Year 2015**

The model predicts that the measures implemented by this action have greater than a 50-percent probability of keeping mortality of GOM haddock below the fishing year 2015 sub-ACL, but less than a 50-percent probability of limiting mortality of GOM cod to the sub-ACL (Table 3). However, as discussed above, we have concluded that the model likely overestimates cod catch (because the model does not consider potential changes in fishing behavior that may result from the zero cod possession limit) and we expect a reduction of at least 10 percent below the model estimate, such that cod catch would be below the recreational sub-ACL due to decreased effort targeting cod.

Therefore, we expect that there is at least a 50-percent probability that recreational GOM cod and haddock catch will stay within their respective sub-ACLs under these measures.

**Table 3. Projected Fishing Year 2015 recreational cod and haddock mortality in comparison to sub-ACLs.**

Cod Mortality		Haddock Mortality	
Metric Tons	Percent of sub-ACL	Metric Tons	Percent of sub-ACL
132	109	323	87

The model also predicts that the reduction in minimum size would result in a slight increase in the number of angler trips in the recreational fishery for GOM haddock. Because the minimum size for haddock is being reduced, a reduction in catch of cod and haddock is expected despite forecasting a slight increase in trips when compared to maintaining the current recreational minimum size of 21 inches (53.3 cm). There are a large number of haddock in the 17-inch (43.2-cm) to 20-inch (50.8-cm) range, which will result in anglers achieving their bag limit more quickly and discarding fewer fish than under the 21-inch (53.3-cm) minimum size. There is little high-grading in the recreational groundfish fishery and anglers are expected to end their trip or target other species after reaching their haddock bag limit.

## **2. Regulatory Corrections Under Regional Administrator Authority**

In § 648.89(b)(1), an unnecessary acronym is removed and the default minimum size for cod caught inside the GOM Regulated Mesh Area is added to the minimum fish size table. Previously, this default minimum size was specified in a separate paragraph, so this change is intended to improve readability for the public. These changes were previously proposed along with measures to implement Framework Adjustment 53 (80 FR 12394). No comments were received on these changes. These changes are made as

part of this rule to ensure the updates to § 648.89(b)(1) necessary to implement the reduced minimum size for haddock in this action do not overwrite the needed changes.

### **Classification**

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

Pursuant to 5 USC 553(b)(B) and 5 USC 553(d)(3), the Assistant Administrator for Fisheries finds good cause to waive the otherwise applicable requirements for both notice and comment rulemaking and a 30-day delay in effectiveness for this interim final action implementing fishing year 2015 recreational GOM haddock management measures. As explained in further detail below, the availability of information necessary to ensure that measures were in place for the May 1, 2015, start of the fishing year made it impracticable to provide prior notice and comment without sacrificing needed conservation benefits.

Because of the need to consider data and consult with the Council on this action, it was not possible to provide opportunity for prior notice and comment before the start of the fishing year, May 1, 2015. The Council was unable to meet to discuss recreational measures and make recommendations to NMFS until January 29, 2015. If these measures are not in place by the start of the fishing year, important conservation benefits may be lost. The majority of the recreational fishery occurs in the late spring and early summer months. Over the last three years (fishing years 2012-2014), an average of 28 percent of the recreational fishery has occurred in May and June (Wave 3). Delaying

implementation of fishing year 2015 measures until sometime after May 1, 2015, would allow the recreational fishery for haddock to occur without the new measures during some or all of one of the busiest recreational seasons of the year. Even if the foregone benefits could be made up it would require the implementation of even more stringent measures with possibly more negative social and economic impacts to fishery participants to ensure total catch limits for the year are not exceeded. Doing so undermines the purpose of the rule and would be contrary to the public interest. Development of measures was publicly discussed at a RAP meeting and a Council meeting in January 2015, and NMFS is soliciting public comment on the interim measures contained in this rule.

For these same reasons, NMFS finds it necessary to waive the delayed effective date for this action. By implementing these measures through an interim final rule, NMFS will receive comments on this rule. These comments will be considered and any necessary changes to these measures can be made at a later date via appropriate rulemaking procedures.

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

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

This interim final rule is exempt from the procedures of the Regulatory Flexibility Act and the requirement to prepare a final regulatory flexibility analysis as required by 5 USC 604 because the rule is issued without opportunity for prior notice and opportunity for public comment.

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

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 20, 2015

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Eileen Sobeck,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

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

**PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

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

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

2. In § 648.89:

a. Revise paragraphs (b) and (c)(4).

b. Lift the suspension of paragraph (c)(8) published December 29, 2014 (79 FR 77953).

c. Remove paragraph (c)(8) published November 13, 2014 (79 FR 67375) and effectiveness extended December 29, 2014 (79 FR 77946).

d. Add a new paragraph (c)(8).

The revisions and addition read as follows:

**§ 648.89 Recreational and charter/party vessel restrictions.**

\* \* \* \* \*

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

Species		Minimum Size	
		Inches	cm
Cod	Inside GOM Regulated Mesh Area <sup>1</sup>	21	53.3
	Outside GOM Regulated Mesh Area <sup>1</sup>	22	55.9
Haddock	Inside GOM Regulated Mesh Area	17	43.2
	Outside GOM Regulated Mesh Area	18	45.7
Pollock		19	48.3
Witch Flounder (gray sole)		14	35.6
Yellowtail Flounder		13	33.0
American Plaice (dab)		14	35.6
Atlantic Halibut		41	104.1
Winter Flounder (blackback)		12	30.5
Redfish		9	22.9

<sup>1</sup> GOM Regulated Mesh Area specified in § 648.80(a)

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

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

(c) \* \* \*

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

\* \* \* \* \*

(8) *Haddock.* (i) Each person on a charter or party boat permitted under this part, or on a private recreational fishing vessel fishing in the EEZ, may possess no more than three haddock per day in, or harvested from, the EEZ when fishing inside of the GOM Regulated Mesh Area specified in § 648.80(a)(1); with the exception that private recreational vessels and charter or party boats in possession of haddock caught outside the GOM Regulated Mesh Area may transit this area, provided all bait and hooks are removed from fishing rods and any haddock on board has been gutted and stored.

(ii) Each person on a charter or party boat permitted under this part, or on a private recreational fishing vessel fishing in the EEZ, may possess unlimited haddock in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Haddock harvested in or from the EEZ by private recreational fishing boats or charter or party boats with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Haddock must be stored so as to be readily available for inspection.

\* \* \* \* \*

[FR Doc. 2015-09951 Filed: 4/30/2015 08:45 am; Publication Date: 5/1/2015]