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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 151211999–6343–02]**

**RIN 0648-XG971**

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Witch  
Flounder Trimester Total Allowable Catch Area Closure for the Common Pool Fishery**

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

**ACTION:** Temporary rule; area closure.

**SUMMARY:** This action closes the Witch Flounder Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear through April 30, 2019. The closure is required because the common pool fishery is projected to have caught over 90 percent of its Trimester 3 quota for witch flounder. This closure is intended to prevent an overage of the common pool's quota for this stock.

**DATES:** This action is effective [*insert date of filing for public inspection with the Office of the Federal Register*], through April 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Spencer Talmage, Fishery Management Specialist, (978) 281-9232.

**SUPPLEMENTARY INFORMATION:** Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies

to all common pool vessels fishing with gear capable of catching that stock, and remains in effect for the remainder of the trimester. During the closure, affected common pool vessels may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from the Trimester TAC Area for the stock.

The Trimester 3 TAC for witch flounder is 10,009 lb (4.5 mt). Catch data (including landings and discards) indicate that the common pool fishery caught 7,689 lb (3.5 mt) of witch flounder, or 77 percent of the Trimester 3 TAC, through March 26, 2019. Based on remaining quota and recent catch rates, we have projected that by April 2, 2019, the common pool achieved 90 percent of the Trimester 3 TAC.

Effective [*insert date of filing for public inspection with the Office of the Federal Register*], the Witch Flounder Trimester TAC Area is closed for the remainder of Trimester 3, through April 30, 2019. The Witch Flounder Trimester TAC Area consists of statistical areas 512, 513, 514, 515, 521, 522, and 525. During the closure, common pool vessels fishing with trawl gear may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from this area. The area reopens at the beginning of fishing year 2019 on May 1, 2019.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to [*insert date of filing for public inspection with the Office of the Federal Register*], it may complete its trip within the Witch Flounder Trimester TAC Area.

If the common pool fishery exceeds its annual sub-Allowable Catch Limit (sub-ACL) for a stock in the 2018 fishing year, the overage must be deducted from the common pool's sub-ACL for that stock for fishing year 2019. The fishing year 2018 sub-Allowable Catch Limit for witch flounder is 40,433 lb (18.3 mt). We estimate that the common pool has caught 38,112 lb

(17.3 mt) so far in fishing year 2018.

Weekly quota monitoring reports for the common pool fishery are on our website at: <http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm>. We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, will make additional adjustments to common pool management measures.

### **Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866. The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information through March 26, 2019, only recently became available indicating that the common pool fishery is projected to have caught 90 percent of its Trimester 3 TAC for witch flounder. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the Witch Flounder Trimester TAC Area. This would be contrary to the regulatory requirement and would increase the likelihood that the common pool fishery would exceed its annual quota of witch flounder. Any overage of the Trimester 1 or Trimester 2 TACs are deducted from the Trimester 3 TAC, and 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. This could undermine conservation and management objectives of the

Northeast Multispecies Fishery Management Plan. Fishermen expect these closures to occur in a timely way to prevent overages and their payback requirements. Overages of the trimester or annual common pool quota could cause negative economic impacts to the common pool fishery as a result of overage paybacks deducted from a future trimester or fishing year.

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

Dated: April 10, 2019.

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Jennifer M. Wallace,  
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National Marine Fisheries Service.

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