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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 200324-0086]

RTID 0648-XX040

Fisheries of the Northeastern United States; Northeast Multispecies Fishery;

Adjustment of Georges Bank and Southern New England/Mid-Atlantic Yellowtail

Flounder Annual Catch Limits

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

ACTION: Temporary final rule; adjustment of annual catch limits.

SUMMARY: This action transfers unused quota of Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder from the Atlantic scallop fishery to the Northeast multispecies fishery for the remainder of the 2019 fishing year. This quota transfer is authorized when the scallop fishery is not expected to catch its entire allocations of yellowtail flounder. The quota transfer is intended to provide additional fishing opportunities for groundfish vessels to help achieve the optimum yield for these stocks while ensuring sufficient amounts of yellowtail flounder remain available for the scallop fishery.

DATES: Effective *[insert date of filing for public inspection at the Office of the Federal Register]*, through April 30, 2020.

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Management Specialist, (978) 281-9196.

SUPPLEMENTARY INFORMATION: NMFS is required to estimate the total amount of yellowtail flounder catch from the scallop fishery by January 15 each year. If the scallop fishery is expected to catch less than 90 percent of its Georges Bank (GB) or Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder sub-annual catch limit (ACL), the Regional Administrator has the authority to reduce the scallop fishery sub-ACL for these stocks to the amount projected to be caught, and increase the groundfish fishery sub-ACL by the same amount. This adjustment is intended to help achieve optimum yield for these stocks, while not threatening an overage of the ACLs for the stocks by the groundfish and scallop fisheries.

Based on the most current available catch data, we project that the scallop fishery will have unused quota in the 2019 fishing year. Using the highest expected catch, the scallop fishery is projected to catch approximately 1.8 mt of GB yellowtail flounder, or 11 percent of its 2019 fishing year sub-ACL, and approximately 1.9 mt of SNE/MA yellowtail flounder, or 13 percent of its 2019 fishing year sub-ACL. The analysis of the highest expected catch is based on the proportion of estimated yellowtail flounder catch occurring in February and March compared to catch in the remainder of the scallop fishing year. The highest proportion observed (in this case fishing year 2016) over the past 6 years is used to estimate the highest expected catch in fishing year 2019.

Because the scallop fishery is expected to catch less than 90 percent of its allocation of GB and SNE/MA yellowtail flounder, this rule reduces the scallop sub-ACL for both stocks to the upper limit projected to be caught, and increases the groundfish

sub-ACLs for these stocks by the same amount, effective [insert date of filing for public inspection at the Office of the Federal Register], through April 30, 2020. Using the upper limit of expected yellowtail flounder catch by the scallop fishery minimizes the risk of constraining scallop fishing or an ACL overage by the scallop fishery while still providing additional fishing opportunities for groundfish vessels. To date, the groundfish fishery's utilization of both yellowtail flounder stocks is very low, so the risk of the fishing year 2019 ACL for either stock being exceeded is minimal.

Table 1 summarizes the revisions to the 2019 fishing year sub-ACLs (84 FR 34799; July 19, 2019), and Table 2 shows the revised allocations for the groundfish fishery as allocated between the sectors and common pool based on final sector membership for fishing year 2019.

Table 1 -- Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Sub-ACLs

| Stock | Fishery | Initial sub-ACL (mt) | Change (mt) | Revised sub-ACL (mt) | Percent change |
|----------------------------|------------|----------------------|-------------|----------------------|----------------|
| GB Yellowtail Flounder | Groundfish | 84.6 | +15.2 | 99.8 | +18 |
| | Scallop | 17.0 | -15.2 | 1.8 | -89 |
| SNE/MA Yellowtail Flounder | Groundfish | 32.1 | +13.1 | 45.2 | +41 |
| | Scallop | 15.0 | -13.1 | 1.9 | -87 |

Table 2 -- Allocations for Sectors and the Common Pool (in pounds)

| Sector Name | GB Yellowtail Flounder | | SNE/MA Yellowtail Flounder | |
|-----------------------------------|------------------------|---------|----------------------------|---------|
| | Initial | Revised | Initial | Revised |
| Fixed Gear Sector | 1,580 | 1,864 | 511 | 720 |
| Maine Coast Community Sector | 3,319 | 3,915 | 1,060 | 1,493 |
| Maine Permit Bank | 26 | 30 | 23 | 32 |
| Mooncusser Sector | 12 | 15 | 125 | 176 |
| Northeast Fishery Sector (NEFS) 2 | 3,560 | 4,199 | 1,334 | 1,879 |
| NEFS 4 | 4,033 | 4,757 | 1,600 | 2,253 |
| NEFS 5 | 2,381 | 2,809 | 14,184 | 19,973 |

| | | | | |
|------------------------------------|---------|---------|--------|--------|
| NEFS 6 | 5,065 | 5,975 | 3,270 | 4,604 |
| NEFS 7 | 44,932 | 53,001 | 5,591 | 7,873 |
| NEFS 8 | 26,671 | 31,461 | 6,247 | 8,797 |
| NEFS 10 | 2 | 3 | 388 | 546 |
| NEFS 11 | 3 | 3 | 14 | 19 |
| NEFS 12 | 1 | 1 | 7 | 10 |
| NEFS 13 | 64,857 | 76,506 | 16,289 | 22,937 |
| New Hampshire Permit Bank | 0 | 0 | 0 | 0 |
| Sustainable Harvest Sector (SHS) 1 | 1,507 | 1,777 | 90 | 127 |
| SHS 2 | 4,928 | 5,813 | 2,204 | 3,103 |
| SHS 3 | 18,372 | 21,672 | 3,722 | 5,241 |
| Common Pool | 5,330 | 6,287 | 14,093 | 19,845 |
| Sector Total | 181,248 | 213,800 | 56,658 | 79,782 |
| Groundfish Total | 186,578 | 220,087 | 70,751 | 99,627 |

Table 3 -- Allocations for Sectors and the Common Pool (in metric tons) #

| Sector Name | GB Yellowtail Flounder | | SNE/MA Yellowtail Flounder | |
|------------------------------|------------------------|---------|----------------------------|---------|
| | Original | Revised | Original | Revised |
| Fixed Gear Sector | 1 | 1 | 0 | 0 |
| Maine Coast Community Sector | 2 | 2 | 0 | 1 |
| Maine Permit Bank | 0 | 0 | 0 | 0 |
| Mooncusser Sector | 0 | 0 | 0 | 0 |
| NEFS 2 | 2 | 2 | 1 | 1 |
| NEFS 4 | 2 | 2 | 1 | 1 |
| NEFS 5 | 1 | 1 | 6 | 9 |
| NEFS 6 | 2 | 3 | 1 | 2 |
| NEFS 7 | 20 | 24 | 3 | 4 |
| NEFS 8 | 12 | 14 | 3 | 4 |
| NEFS 10 | 0 | 0 | 0 | 0 |
| NEFS 11 | 0 | 0 | 0 | 0 |
| NEFS 12 | 0 | 0 | 0 | 0 |
| NEFS 13 | 29 | 35 | 7 | 10 |
| New Hampshire Permit Bank | 0 | 0 | 0 | 0 |
| Sustainable Harvest Sector 1 | 1 | 1 | 0 | 0 |
| Sustainable Harvest Sector 2 | 2 | 3 | 1 | 1 |
| Sustainable Harvest Sector 3 | 8 | 10 | 2 | 2 |

| | | | | |
|------------------|----|-----|----|----|
| Common Pool | 2 | 3 | 6 | 9 |
| Sector Total | 82 | 97 | 26 | 36 |
| Groundfish Total | 85 | 100 | 32 | 45 |

Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows an allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

Classification

The NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with the Magnuson-Stevens Act, and other applicable law.

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d)(3) to waive prior notice and opportunity for public comment and the 30-day delay in effectiveness period, respectively. This rule relieves groundfish fishermen from more restrictive ACLs for yellowtail stocks and is intended to help the fishery achieve optimum yield. The earlier this rule is in place, the more time the groundfish fishermen will benefit from the increased fishing opportunities this rule provides. Delaying the effective date would reduce or eliminate the expected benefit to the groundfish fishery and undermines the purpose of the rule to help the fishery achieve optimum yield.

The authority to transfer available yellowtail catch from the scallop fishery to the groundfish fishery was designed to allow timely implementation before the end of the Northeast multispecies fishing year on April 30. Given that scallop fishery bycatch data only recently became available, providing additional time for prior public notice and

comment or a 30-day cooling off period before transferring quota for these yellowtail flounder would likely prevent this rule from being in place before the end of the fishing year. Such a delay would eliminate any potential benefit to the groundfish fishermen from receiving the additional allocation that is intended to offset the current negative economic effects of severe decreases in ACLs of several important groundfish stocks.

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

Dated: March 24, 2020.

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Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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