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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 |

| Stock | 2020 Trip Limit * |
|---------------------------------------|---|
| 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 |
| 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,
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National Marine Fisheries Service.

[FR Doc. 2020-08510 Filed: 4/21/2020 8:45 am; Publication Date: 4/22/2020]