



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220829-0175]

RIN 0648-BL40

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2022 Recreational Management Measures

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

ACTION: Final rule.

SUMMARY: This rule implements changes to fishing year 2022 recreational management measures for Gulf of Maine cod and haddock. The measures are intended to ensure the recreational fishery achieves, but does not exceed, fishing year 2022 catch limits. This action is required to help achieve optimum yield, prevent overfishing, and ensure management measures are based on the best scientific information available.

DATES: The measures in this rule are effective August 30, 2022.

ADDRESSES: To review **Federal Register** documents referenced in this rule, you can visit: <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281-9236.

SUPPLEMENTARY INFORMATION:

Background

The recreational fishery for Gulf of Maine (GOM) cod and GOM haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The

multispecies fishing year starts on May 1 and runs through April 30 of the following calendar year. The FMP sets sub-annual catch limits (sub-ACL) for the recreational fishery each fishing year for both stocks. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AMs) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause or mitigate the effects of an overage if one occurs.

The proactive AM provision in the FMP provides a process for the Regional Administrator, in consultation with the New England Fishery Management Council, to adjust recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions governing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

The 2022 recreational sub-ACL set by Framework Adjustment 63 (87 FR 42375; July 15, 2022) for GOM cod is 192 mt, and the 2022 recreational sub-ACL for GOM haddock is 3,634 mt, as set by Framework Adjustment 59 (85 FR 45794; July 30, 2020).

Using the GOM cod and GOM haddock 2022 sub-ACLs and a peer-reviewed bioeconomic model developed by NMFS's Northeast Fisheries Science Center that predicts fishing behavior under different management measures, we estimated 2022 recreational GOM cod and haddock removals under several combinations of minimum sizes, slot limits, possession limits, and closed seasons. The bioeconomic model considers measures for the two stocks in conjunction because cod are commonly caught while recreational participants are targeting haddock, linking the catch and effort for each stock to the other. The bioeconomic model results suggest that measures for both GOM cod and haddock can be slightly liberalized without the 2022 recreational fishery's sub-ACLs being exceeded. With any given model, there exists some level of uncertainty in the accuracy of model predictions. While a number of parameters and unpredicted events

may impact the differences between model predictions and real-world catch, in recent years the bioeconomic model has performed well in terms of model-predicted versus actual catch estimates, which suggests the model is a good tool for assessing the potential impacts of regulatory changes. As in past years, we used preliminary data for the most recent fishing year from the Marine Recreational Information Program (MRIP) to calibrate the model. Incorporation of new waves, or data updates, may result in changes in model estimates. MRIP data can be uncertain and highly variable from year to year.

For each of the sets of management measures, 100 simulations of the bioeconomic model were conducted, and the number of simulations which yielded recreational mortality estimates under the sub-ACL was used as an estimate of the probability that the simulated set of measures will not result in an overage of the sub-ACL. All sets of measures analyzed resulted in model-estimated removals under the sub-ACL greater than 50 percent of the time. The results of the bioeconomic model simulations were shared with the Council and its Recreational Advisory Panel and Groundfish Committee for review.

At its February 2022 meeting, the Council recommended a set of measures that would increase the minimum size for GOM cod from 21 inches (53.3 cm) to 22 inches (55.9 cm) and include no maximum size. The Council discussed options for GOM cod slot limits that would match those for Georges Bank cod included in Framework Adjustment 63 (87 FR 42375; July 15, 2022). However, the Council did not recommend a maximum size for GOM cod because model simulations suggested it was not necessary to adequately constrain catch. The minimum size requirements apply to all private recreational anglers and for-hire vessels not fishing under a groundfish day-at-sea or sector operations plan. The Council also recommended synchronizing the open season for GOM cod for both for-hire and private recreational modes, with a spring open season from April 1 – 14, and a fall open season from September 1 – October 7. The Council

recommended increasing the GOM haddock possession limit from 15 fish to 20 to increase opportunities to harvest haddock. The bag limit for GOM cod during open season would remain 1 fish per angler. Based on model simulations, these measures are expected to result in catch of cod and haddock that would not exceed the sub-ACL for either stock (Table 1). On August 2, 2022, we published a rule (87 FR 47177) that proposed changes to the recreational regulations for GOM cod and GOM haddock for fishing year 2022, consistent with the recommendations of the Council.

Table 1 -- Summary of the Status Quo and 2022 Measures, with Model Estimates of Catch and the Probability of Catch Remaining Below the sub-ACLs

	Haddock					Cod					
	Possession Limit	Minimum Size	Open season	Predicted Catch (mt)	% Simulations Under Haddock Sub-ACL	Possession Limit	Minimum Size	Open Season (For Hire)	Open Season (Private)	Predicted Catch (mt)	% Simulations Under Cod sub-ACL
Status Quo Measures	15	17 inches (43.2 cm)	May 1 - February 28, April 1 - 30	875	100	1	21 inches (53.3 cm)	September 8 - October 7, April 1 - 14	September 15 - 30, April 1 - 14	116	100
2022 Measures	20		May 1 - February 28, April 1 - 30	1020	100		22 inches (55.9 cm)	September 1 - October 7, April 1 - 14	September 1 - October 7, April 1 - 14	146	84

We are implementing the Council’s recommended recreational measures for the remainder of fishing year 2022. These measures are expected to adequately constrain total catch to prevent an overage of both the GOM cod and GOM haddock recreational sub-ACL’s, while increasing recreational fishing opportunities and harvest of the GOM haddock stock by the recreational and for-hire fleets. Synchronizing the open seasons for GOM cod is also prudent, because the longer for-hire season under status quo measures was previously established to offset the impacts of 2020 social distancing restrictions on for-hire businesses, which are no longer in place. Synchronized measures should also improve regulatory compliance by minimizing confusion among the angling public.

Comments and Responses

We received three comments on the proposed rule, from three members of the public. All three commenters opposed increasing the GOM haddock bag limit from 15

fish to 20 fish, and supported either keeping the 15-fish bag limit or reducing the bag limit to 10 fish.

Comment 1: Three individuals opposed increasing the recreational bag limit for GOM haddock from 15 fish to 20 fish. All three supported either retaining the 15-fish bag limit, or reducing the limit to 10 fish, and commented that a more conservative approach would result in a healthier haddock stock and improved recreational fishing opportunities.

Response: Sub-ACLs are designed to prevent overfishing while allowing catch at levels that over the long-term help achieve optimum yield. In recent years, the recreational and for-hire fleets have harvested far fewer GOM haddock than the available sub-ACL for the recreational fishery, in part because of regulations restricting GOM haddock harvest opportunities with the goal of indirectly reducing recreational mortality of GOM cod, as predicted in the bioeconomic model. The bioeconomic model attempts to describe the impact that directed haddock fishing has on cod mortality in the Gulf of Maine, as the two stocks are often found together.

For fishing year 2022, the bioeconomic model simulation results suggest that the 20-fish GOM haddock limit combined with the modified GOM cod measures will not result in exceeding the recreational GOM haddock or GOM cod sub-ACLs. The changes resulting from increasing the GOM haddock limit from 15 fish to 20 fish are expected to be small as few anglers catch the 15-fish bag limit. However, increasing the limit to 20 fish provides additional harvest opportunity while still appropriately constraining GOM cod catch. The model simulation results suggest that a reduction in the GOM haddock limit to 10 fish would unnecessarily limit harvest of GOM haddock by recreational anglers. Additionally, the model predictions for GOM cod and GOM haddock mortality in fishing year 2022 were based on these measures being implemented for the entire 2022 fishing year. Although unintentional, the implementation of the measures late in the fishing year is expected to limit additional recreational harvest of GOM haddock.

Therefore, increasing the GOM haddock limit should allow greater utilization of the recreational sub-ACL for GOM haddock without jeopardizing GOM cod or GOM haddock.

Changes from the Proposed Rule

This rule implements regulations outlined in the proposed rule, and there are no changes from the proposed measures in this final rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Assistant Administrator for Fisheries finds that there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the date of effectiveness for this action. This final rule must be implemented as soon as possible to allow recreational and for-hire anglers greater benefits from measures in the rule, avoid potentially adverse economic impacts, and preserve the intended outcomes of the measures for the fishery.

A delay in implementation of this rule would have negative economic effects for regulated entities in both the short term and the long term, and would prevent the recreational fishery from realizing the full intended benefits of the proposed measures. For-hire operators have already booked trips with prospective anglers based on the expectation that these measures would be implemented and take effect prior to September 1, 2022, which is the beginning of the recreational open season for GOM cod. If the measures in this rule have not taken effect prior to September 1, 2022, anglers may cancel reservations or try to reschedule trips for other dates; some operators may have to reimburse clients for trips already booked, reserved, or paid for. This could also hurt the business relationships between for-hire operators and their clients, leading to longer term economic impacts for operators.

In addition, providing for the 30-day delay in the date of implementation for this final rule is unnecessary because this final rule contains no new measures (*e.g.*, it does not require new equipment) for which regulated entities would otherwise need time to prepare for or to revise their current practices. Furthermore, anglers and for-hire operators who are subject to this action expect timely implementation to avoid adverse economic impacts. This final rule is straightforward and includes changes to recreational measures that were discussed during a series of public meetings. This final rule contains yearly measures that are familiar to and anticipated by fishery participants. A 30-day delay in the date of implementation for the measures in this action would undermine the economic benefits of the expanded GOM cod recreational season; would delay the benefits of the expanded GOM haddock limit, especially for for-hire vessels; and could lead to considerable confusion among the recreational community about the effective date of these measures, resulting in unintentional non-compliance with recreational regulations. For these reasons, a 30-day delay in the date of effectiveness for this final rule is unnecessary, impracticable and contrary to the public interest.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification, which was published in the proposed rule, has not changed and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 29, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

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 Table 1 to Paragraph (b)(1);

b. Amend paragraph (c)(1) introductory text by removing the phrase “Table 2 to this paragraph (c)” and adding, in its place, the phrase “Table 2 to paragraph (c)(1)(i)”;

c. Amend paragraph (c)(1)(i) by removing the phrase “Table 2 to paragraph (c)” and adding, in its place, the phrase “Table 2 to paragraph (c)(1)(i)”;

d. Revise Table 2 to Paragraph (c)(i);

e. Amend paragraph (c)(2) by removing the phrase “Table 3 to this paragraph (c)” and adding, in its place, “Table 3 to paragraph (c)(2)”;

f. Revise Table 3 to Paragraph (c)(2).

The revisions read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

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(b) * * *

(1) * * *

Table 1 to paragraph (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area ¹	22	55.9	N/A	N/A
Outside GOM Regulated Mesh Area ¹	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area ¹	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area ¹	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	N/A	N/A
Redfish	9	22.9	N/A	N/A

¹ GOM Regulated Mesh Area specified in § 648.80(a).

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(c) * * *

(1) * * *

(i) * * *

Table 2 to paragraph (c)(1)(i)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 1 – October 7 April 1 - 14	1	April 15 – August 31 October 8 – March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	20	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A

SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

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(2) * * *

Table 3 to paragraph (c)(2)

Stock	Open Season	Possession Limit	Closed Season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 1 – October 7 April 1 - 14	1	April 15 – August 31 October 8 – March 31

GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - February 28 (or 29) April 1 - 30	20	March 1 – March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

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