



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230810-0190; RTID 0648-XD575]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Gulf of Maine Cod Trimester Total Allowable Catch Area Closure and Possession Limit Adjustments for the Common Pool Fishery

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

ACTION: Temporary rule; in-season possession limit adjustment and area closure.

SUMMARY: This action prohibits possession of Gulf of Maine cod by common pool
vessels through the end of fishing year. This action also closes the Gulf of Maine Cod
Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels
fishing with trawl gear, sink gillnet gear, and longline/hook gear for Trimester 3 of
fishing year 2023. These actions are necessary because the common pool fishery is
projected to have achieved the annual sub-annual catch limit and caught more than 90
percent of its Trimester 3 quota for Gulf of Maine cod. This action is intended to prevent
overages of the common pool's quota for this stock.

DATES: The prohibition of cod possession by common pool vessels is effective [*insert
date of filing for public inspection with the Office of the Federal Register*], through April
30, 2024. The closure of the Gulf of Maine Cod Trimester Total Allowable Catch Area is
effective January 1, 2024, through April 30, 2024.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Policy
Analyst, (978) 281-9232.

SUPPLEMENTARY INFORMATION: This temporary rule immediately prohibits

common pool vessel possession of Gulf of Maine (GOM) cod through the end of the fishing year on April 30, 2024, and closes the GOM Cod Trimester Total Allowable Catch (TAC) Area from January 1, 2024, through April 30, 2024. These actions are intended to prevent the common pool fishery from exceeding the common pool GOM cod Third Trimester TAC and common pool GOM cod annual sub-Annual Catch Limit (sub-ACL).

Possession Prohibition for GOM Cod

Recently available fishing year 2023 catch information shows that as of November 28, 2023, the Northeast Multispecies Common Pool fishery has caught 100 percent of its 10.6-metric ton (mt) sub-ACL for GOM cod. Regulations at 50 CFR 648.86(o)(1) provide that the Regional Administrator may implement or adjust the Days-at-Sea (DAS) possession limit to prevent an exceedance of the sub-ACL. In addition, regulations at § 648.82(n)(2)(iii) require a deduction of an amount equal to an overage from the common pool’s sub-ACL in the next fishing year. To prevent a common pool overage of its 2023 sub-ACL for GOM cod, effective [*insert date of filing for public inspection with the Office of the Federal Register*], the GOM cod possession and trip limits are decreased to 0 pounds (lb) (0 kilograms (kg)), and possession is prohibited for all common pool vessels (table 1).

Table 1 -- New Possession and Trip Limits for GOM Cod

Permit Type	Current Possession/Trip Limits	New Possession/Trip Limits
Days-At-Sea (A DAS)	50 lb (22.7 kg) per DAS, up to 100 lb (45.4 kg) per trip	0 lb (0 kg) per trip; Possession Prohibited
Handgear A	50 lb (22.7 kg) per trip	
Handgear B	25 lb (11.3 kg) per trip	
Small Vessel Category	150 lb (11.3 kg) per trip, within combined 300 lb (136.1 kg) trip limit for cod, haddock, and yellowtail flounder	

Common pool groundfish vessels that have declared their 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 in the Federal Register*], are not subject to the new possession and trip limits for that trip.

Weekly quota monitoring reports for the common pool fishery are 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, VMS catch reports, and other available information and, if necessary, will make additional adjustments to common pool management measures.

Closure of the Gulf of Maine Cod Trimester Total Allowable Catch Area

Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester TAC Area for a stock when 90 percent of the Trimester TAC is projected to be caught. Based on recently available catch information, common pool vessel catch is projected to exceed the GOM cod Trimester 3 TAC as of November 28, 2023. Consequently, beginning January 1, 2024, through April 30, 2024, the GOM Cod Trimester TAC Area is closed. 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 common pool fishery is currently in Trimester 2, which runs from September 1, 2023, through December 31, 2023. Current Trimester 1 and 2 catch amounts leave no Trimester 3 TAC available to catch. Regulations at § 648.82(n)(2)(iii) state that any overage or underage of common pool Trimester TACs in Trimesters 1 and 2 must be accounted for in the Trimester 3 TAC by deducting overages and adding underages to the Trimester 3 TAC. Common pool catch of GOM cod in Trimester 1 resulted in an overage

of 3.3 mt, leaving only 1.9 mt available catch for the remainder of the year and Trimester 2. Deducting the Trimester 1 overage from the current Trimester 2 underage results in an overall overage of 1.9 mt that must be deducted from the Trimester 3 TAC. The Trimester 3 TAC is 1.9 mt, so this deduction results in a Trimester 3 TAC of 0 mt.

With a Trimester 3 TAC of 0 mt, any amount of catch in Trimester 3 would result in the common pool exceeding the Trimester 3 TAC and the common pool sub-ACL for GOM cod. Additionally, 90 percent of 0 is 0. As a result, we conclude that on January 1, 2024, the common pool fishery will have caught 90 percent of the Trimester 3 TAC.

Based on the above, effective on January 1, 2024, the Gulf of Maine Cod Trimester TAC Area is closed for Trimester 3, through April 30, 2024. The Gulf of Maine Cod Trimester TAC Area consists of statistical areas 513 and 514. During the closure, common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear, may not fish for, harvest, possess, or land regulated multispecies or ocean pout in or from this area. This closure of the GOM Cod TAC Area ends at the beginning of Trimester 1 of fishing year 2024 on May 1, 2024.

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, unnecessary, 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 November 28, 2023, only recently became available indicating that the common pool fishery is projected to have caught 90 percent

of its Trimester 3 TAC for GOM cod, and 100 percent of its GOM cod sub-ACL. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the timely closure of the GOM Cod Trimester TAC Area on January 1, 2024, and immediate prohibition of possession of the stock. Delay in closure would be contrary to the regulatory requirements and, with a delay in implementation of the possession prohibition would increase the likelihood that the common pool fishery would exceed its annual quota of GOM cod.

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. Prior notice and comment and a 30-day delay in effectiveness are unnecessary because fishermen were provided ample notice and opportunity to comment on the regulations that require this immediate closure. 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: December 13, 2023.

Everett Wayne Baxter,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.