



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230810-0190; RTID 0648-BL95]

Temporary Rule to Extend Gulf of Maine Haddock Emergency Action for the Northeast Multispecies Fishery Management Plan

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

ACTION: Temporary rule; emergency action.

SUMMARY: This temporary rule implements an extension of the Gulf of Maine haddock emergency action for the Northeast multispecies fishery through the remainder of the 2023 fishing year. The emergency action extension is necessary to minimize the potential economic consequences associated with a substantial reduction in the Gulf of Maine haddock annual catch limit compared to recent years for a stock that remains at a very high level of biomass, while still preventing overfishing.

DATES: Effective [*INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER***], through April 30, 2024.

FOR FURTHER INFORMATION CONTACT: Claire Fitz-Gerald, Fishery Policy Analyst, (978) 281-9255.

SUPPLEMENTARY INFORMATION: At the New England Fishery Management Council's request, NMFS took emergency action to increase the Gulf of Maine (GOM) haddock acceptable biological catch (ABC). NMFS increased the ABC to 100 percent of the fishing mortality associated with the maximum sustainable yield (F_{MSY}) (2,515 metric tons (mt)) for fishing year 2023. The emergency measures were included in the final rule

for Framework Adjustment 65 to the Northeast Multispecies Fishery Management Plan (FMP) (88 FR 56527; August 18, 2023).

The Council took final action on Framework 65 at its December 2022 meeting. Framework 65 set fishing year 2023 specifications for 16 groundfish stocks, including GOM haddock. The ABC for GOM haddock included in Framework 65 for fishing year 2023 was 1,936 mt. This ABC represented an 83-percent reduction from the fishing year 2022 ABC. The recommendation was based on the results of the 2022 management track assessment for the stock and a 75-percent F_{MSY} , which is consistent with the Council's ABC control rule for stocks that are not in a rebuilding plan.

Following the December 2022 Council meeting, members of the fishing industry started reporting an unanticipated increase in interactions with GOM haddock and raising concerns that the fishery may either meet or exceed its allocation of GOM haddock mid-fishing year due to the low quota, which could result in the closure of the GOM broad stock area to the commercial groundfish fleet or forgoing other fishing opportunities in the GOM in an effort to avoid haddock, both of which would have severely negative impacts for the fishery.

At its April meeting, in response to fishing industry concerns, the Council voted to request that NMFS implement an emergency action to set the GOM haddock ABC for fishing year 2023 at 90 percent of F_{MSY} , or 2,281 mt, rather than the ABC that was recommended in Framework 65 (1,936 mt, based on 75-percent of F_{MSY}). On May 2, 2023, the Council sent a letter requesting the emergency action. NMFS reviewed the request and determined that this situation met the criteria specified for emergency rulemaking (62 FR 44421; August 21, 1997). NMFS based this decision on the robust status of the stock, which is estimated to be at 270 percent of its biomass target, recent survey trends indicating that the stock may have experienced another episodic positive recruitment event in 2020, and the temporary nature of the emergency action and any

potential extension. NMFS determined that the GOM haddock ABC could be set as high as 100 percent of F_{MSY} (2,515 mt) for fishing year 2023 to minimize economic harm to industry to the extent practicable, while still preventing overfishing. The emergency action implementing the increased fishing year 2023 GOM haddock ABC published on August 18, 2023.

The emergency measures will expire on February 14, 2024, under the Magnuson-Stevens Fishery Conservation and Management Act's initial 180-day limit on the duration of an emergency action. The Magnuson-Stevens Act allows an extension of emergency actions for up to 186 days provided that the public had an opportunity to comment on the emergency action and, for Council-recommended actions, the Council is actively preparing measures to address the emergency. The Council has developed measures to address on an ongoing basis the underlying conditions for the emergency action, and the public had an opportunity to comment on the emergency action as noted below.

At its December 2023 meeting, the Council took final action on Framework 66 to the groundfish FMP, which intends to set specifications for the 2024 fishing year. Recognizing the increased interactions with a robust GOM haddock stock and the steep reductions from the 2022 fishing year limits, the GOM haddock ABC included in Framework 66 is based on 90 percent of F_{MSY} (2,406 mt). The fishing year 2024 GOM haddock ABC under Framework 65 is 2,038 mt.

Extending the August 18, 2023, emergency action prevents the GOM haddock ABC from reverting to 75-percent of F_{MSY} (1,936 mt) when the emergency action expires. The underlying emergency conditions have not changed. Fishing vessel owners and operators have relied on the emergency action and have changed their fishing behavior in anticipation of the emergency action's continuation through the end of the fishing year. Specifically, fishing vessel operators have avoided GOM haddock and

focused on other available stocks in order to conserve GOM haddock allocation for the upcoming spring season. While shifts in GOM haddock interactions are difficult to predict, in both timing and magnitude, this is consistent with increases in fishing effort and GOM haddock catch in past springs. Allowing the emergency action to expire and the ABC to revert to the lower amount approved in Framework 65 mid-year could prevent the fishery from realizing the benefits of increased fishing opportunities for which this action was promulgated. Therefore, we are extending the emergency measures through the end of the 2023 fishing year (April 30, 2024), consistent with the Council's emergency action request and our analysis for fishing year 2023. For the same reasons noted in the August 18, 2023, emergency rule, NMFS has determined that extending the emergency action to maintain the GOM haddock ABC associated with 100-percent of F_{MSY} meets the criteria for emergency action.

Comments and Responses

NMFS received two comments in response to the emergency action. Neither comment was relevant to this action.

Classification

The NMFS Assistant Administrator has determined that this rule is necessary to respond to an emergency situation and is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable laws.

The NMFS Assistant Administrator finds good cause under 5 U.S.C. 553(b)(B) that it is contrary to the public interest and impracticable to provide prior notice and opportunity for the public to comment. As more fully explained above, the reasons justifying promulgation of this action on an emergency basis, coupled with the fact that the public has had the opportunity to comment on NMFS' emergency action that this is extending, make solicitation of public comment unnecessary, impractical, and contrary to the public interest. In the interest of receiving public input on this action, the

Supplemental Environmental Assessment analyzing this emergency action was made available to the public and the original emergency action solicited public comment.

For these same reasons stated above, pursuant to 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the full 30-day delay in effectiveness for this action. This action extends the emergency measures currently in place through the remainder of the 2023 fishing year (April 30, 2024). A 30-day delay in effectiveness would be contrary to the public interest because the GOM haddock ABC would temporarily revert to the amount approved in Framework 65, which may disrupt the fishery and lead to confusion for the fishing industry. Because of this, there is good cause to waive the requirement for delayed effectiveness.

This action is being taken pursuant to the emergency provision of the Magnuson-Stevens Act and is exempt from review by the Office of Management and Budget.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and none has been prepared.

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

Dated: January 3, 2024.

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Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.