



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240513-0136]

RIN 0648-BM90

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2024 Recreational Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rulemaking proposes fishing year 2024 recreational management
measures for Gulf of Maine (GOM) cod and GOM haddock. The measures are intended
to ensure the recreational fishery achieves, but does not exceed, fishing year 2024 catch
limits for GOM cod and GOM haddock. NMFS also announces that recreational
measures for Georges Bank (GB) cod will remain unchanged in fishing year 2024.

DATES: Comments must be received by 5:00 pm EST on [*INSERT DATE 15 DAYS
AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: A plain language summary of this proposed rule is available at
<https://www.regulations.gov/docket/NOAA-NMFS-2024-0047>. You may submit
comments on this document, identified by NOAA-NMFS-2024-0047, by the following
method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-
Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-
2024-0047 in the Search box. Click on the “Comment” icon, complete the
required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

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

FOR FURTHER INFORMATION CONTACT: Mark Grant, Fishery Policy Analyst, (978) 281-9145.

SUPPLEMENTARY INFORMATION:

Background

Measures for the Gulf of Maine

The recreational fishery for 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 (AM) 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

(Council), to develop 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 2024 recreational sub-ACL for GOM cod, established by Framework Adjustment 63, is 192 metric tons (mt), remains the same as the 2023 recreational sub-ACL (87 FR 42375, July 15, 2022).

For fishing year 2024, Framework Adjustment 66 proposes a recreational sub-ACL for GOM haddock of 759 mt, which is a 4-percent reduction from the 2023 sub-ACL of 793 mt (89 FR 20412, March 22, 2024).

NMFS projected the 2024 recreational GOM cod and GOM haddock removals under several combinations of minimum sizes, slot limits, possession limits, and closed seasons using the 2024 GOM cod sub-ACL implemented by Framework Adjustment 63, the proposed 2024 GOM haddock sub-ACL in Framework Adjustment 66, and a peer-reviewed bio-economic model developed by NMFS's Northeast Fisheries Science Center. The bio-economic 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 bio-economic model projected that status quo measures would adequately limit removals of GOM haddock in 2024, but the model also projected that the total GOM cod catch under status quo measures would exceed the 2024 sub-ACL.

For each of the sets of management measures, 100 simulations of the bio-economic 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. Measures that do not result in model-estimated removals under the sub-ACL

greater than 50 percent of the time are generally considered unsatisfactory. The results of initial bio-economic model runs were shared with the Council and its Recreational Advisory Panel (RAP) and Groundfish Oversight Committee for review at their January meetings.

The RAP, the Groundfish Committee, and the Council agreed on preferred measures and the Council formally recommended a suite of measures to NMFS on February 2, 2024. The Council recommended maintaining the GOM cod open season and 1-fish bag limit, while increasing the minimum fish size from 22 inches (55.9 centimeters (cm)) to 23 inches (58.4 cm); combined with maintaining the GOM haddock open season and increasing the minimum haddock fish size from 17 inches (43.2 cm) to 18 inches (45.7 cm) for private recreational vessels and increasing the GOM haddock bag limit from 10 fish to 15 fish for private recreational vessels. This change makes the recreational GOM haddock measures the same for all recreational vessels, rather than having different bag limits and minimum fish sizes for private vessels and for-hire vessels. The model projected that having different GOM haddock measures for private recreational vessels and for-hire vessels would not sufficiently constrain catch to the quota. The proposed measures are expected to adequately constrain recreational catch of GOM cod and GOM haddock based on the bio-economic model estimates. NMFS is proposing these Council-recommended measures for GOM cod and GOM haddock for fishing year 2024 (table 1).

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

	GOM Haddock							GOM Cod				
	For Hire Possession Limit	Private Angler Possession Limit	For Hire Minimum Size inches (cm)	Private Angler Minimum Size inches (cm)	Open Season	Projected Catch (mt)	% Simulations Under Haddock Sub-ACL	Possession Limit	Minimum Size inches (cm)	Open Season	Projected Catch (mt)	% Simulations Under Cod Sub-ACL
Status Quo Measures	15	10	18	17	May 1 - February 28/29 and April 1 - April 30	577.87	100	1	22 (55.9)	September 1 - October 31	200.21	34
Proposed Measures	15		18		May 1 - February 28/29 and April 1 - April 30	517.68	100	1	23 (58.4)	September 1 - October 31	181.69	63

Status Quo for Georges Bank

This rule also announces that the current recreational measures for GB cod will remain in place for fishing year 2024. The Council reviewed the GB cod recreational catch and effort information provided by the Northeast Fisheries Science Center. This information shows that maintaining the status quo measures for GB cod would likely keep recreational catches close to the catch target of 113 mt in fishing year 2024.

Classification

NMFS is issuing this proposed rule pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to carry out the FMP consistent with measures implemented in regulations at 50 CFR 648.89(f)(3). The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Northeast Multispecies FMP and other applicable law, subject to further consideration after public comment.

Due to timing constraints resulting from the Council-recommend measures being finalized on January 31, 2024, NMFS is providing a 15-day comment period. This rulemaking proposes modifications to management measures for GOM cod and GOM haddock under existing NMFS authority to implement annual recreational fishing measures, in consultation with the Council. The Northeast multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. Delaying final action on these proposed measures to allow for a longer comment period than the minimum 15-day amount allowed for by the Magnuson-Stevens Act would result in significant regulatory confusion for the industry and has the potential to negatively impact for-hire fishing business operations and bookings. Delayed implementation of measures may diminish the intended impact and increase the uncertainty of outcomes of measures and may potentially result in overages or overfishing. The changes to the GOM haddock measures are necessary to reduce bycatch

of cod during the open season for GOM haddock. Delaying the change in the GOM haddock measures beyond May 1, 2024, is expected to increase cod bycatch above the levels projected by the bio-economic model and to raise the likelihood of an overage. GOM cod is overfished and was subject to overfishing in the most recent assessment which highlights the need for this action to be in place as close to the May 1, 2024, start of the fishing year as possible. The intended performance of Federal recreational measures also depends on the implementation of complementary state-waters measures by partner states. Delaying the promulgation of a final rule to allow more time for public comment may also impact the ability of states to implement complementary measures in a timely fashion, increasing regulatory confusion among private anglers and the for-hire industry, negatively impacting for-hire bookings, and introducing significant uncertainty into the performance of recreational measures. This rulemaking proposes changes that fall within the range of options discussed during a series of public meetings. Affected and other interested parties have already had opportunity to participate in the Council's process to develop this action, which provided extensive opportunity to comment about potential measures and their impacts.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

For Regulatory Flexibility Act (RFA) purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is fishing (see 50 CFR 200.2). A business primarily engaged in fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and has combined annual receipts less than \$11.0 million for all its affiliated operations worldwide. A small for-

hire recreational fishing business is defined as a firm with receipts of up to \$11.0 million. Having different size standards for different types of fishing activities creates difficulties in categorizing businesses that participate in multiple fishing related activities. For purposes of this assessment, business entities have been classified into the SBA-defined categories based on which activity produced the highest percentage of average annual gross revenues from 2018-2022, the most recent 5-year period for which data are available. This classification is now possible because vessel ownership data are included in the Northeast permit database. The ownership data identify all individuals who own fishing vessels. Using this information, vessels can be grouped together according to common owners. Each of the resulting groups was treated as a single fishing business for purposes of this analysis. Revenues are summed across all vessels in a group and the activities that generate those revenues form the basis for determining whether the entity is a large or small business. As the for-hire owner is permitted and required to comply with these measures and can be held liable under the law for violations of the proposed regulations, for-hire business entities are considered directly affected in this analysis. Private anglers are not considered “entities” under the RFA.

For-hire fishing businesses are required to obtain a Federal charter/party Northeast multispecies fishing permit in order to carry passengers to catch Northeast multispecies including GOM cod and GOM haddock. Limited access permit holders may also take passengers for-hire but are not allowed to hold any open access permits. Thus, the affected businesses entities of concern are businesses that hold Federal Northeast multispecies Limited Access permits or for-hire fishing permits (Category I). While all of these business entities could be affected by changes in recreational fishing restrictions, not all entities actively participate in a given year. Those who actively participate (*i.e.*, report catch) would be the group of business entities that are affected by the regulations. Latent fishing power (in the form of unfished permits) has the potential to alter the

impacts on a fishery, but it is not possible to predict how many of these latent business entities will participate in this fishery in fishing year 2024. The Northeast Federal permits database indicates that a total of 1,314 vessels held a Northeast multispecies Limited Access or for-hire fishing permit in 2022 (the most recent full year of available data). Of these 1,314 vessels, only 154 actively participated in the for-hire Atlantic cod and haddock fishery in calendar year 2022 (*i.e.*, reported catch of cod or haddock). NMFS used these participants to analyze the potential economic impact of these regulations.

Using vessel ownership information and vessel trip report data, NMFS determined that the 154 for-hire vessels actively participating in the fishery are owned by 142 unique fishing business entities. The majority of the 142 fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from commercial shellfish and/or finfish fishing. The highest percentage of annual gross revenues for all but 12 of the fishing businesses was from for-hire fishing.

Average annual gross revenue estimates calculated from the most recent 5 years (2018-2022) indicate that none of the 142 fishing business entities had annual receipts of more than \$11.0 million from all of their fishing activities (*i.e.*, for-hire, shellfish, and finfish). Therefore, all of the affected fishing business entities are considered “small” by the SBA size standards, and thus this action will not disproportionately affect small versus large for-hire business entities. The proposed measures are expected to have a negative, but negligible, effect on small entities because they are expected to reduce GOM cod and GOM haddock catch and reduce overall trips, compared to status quo measures. The proposed measures for GOM cod and GOM haddock would lead to more restrictive harvest opportunities for for-hire anglers that balance the need for additional restrictions with opportunities to target these stocks. This action is not expected to have a significant or substantial effect on small entities. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and

the regulations would not substantially reduce profit for any small entities. Based on these conclusions, an initial regulatory flexibility analysis is not required and none has been prepared.

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

This proposed 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: May 13, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 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, revise table 1 to paragraph (b)(1) and table 2 to paragraph (c)(1)(i)

to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

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(b) * * *

(1) * * *

Table 1 to Paragraph (b)(1)

Species	Charter/Party Minimum size		Private Minimum size		Maximum size		
	Inches	cm	Inches	cm	Inches	cm	
Cod:							
Inside GOM Regulated Mesh Area ¹	23	58.4	23	58.4	N/A	N/A	
Outside GOM Regulated Mesh Area ¹	23	58.4	23	58.4	N/A	N/A	
Haddock:							
Inside GOM Regulated Mesh Area ¹	18	45.7	18	45.7	N/A	N/A	
Outside GOM Regulated Mesh Area ¹	18	45.7	18	45.7	N/A	N/A	
Pollock	19	48.3	19	48.3	N/A	N/A	
Witch Flounder (gray sole)	14	35.6	14	35.6	N/A	N/A	
Yellowtail Flounder	13	33.0	13	33.0	N/A	N/A	
American Plaice (dab)	14	35.6	14	35.6	N/A	N/A	
Atlantic Halibut	41	104.1	41	104.1	N/A	N/A	
Winter Flounder (black back)	12	30.5	12	30.5	N/A	N/A	
Redfish	9	22.9	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	September 1 –April 30 May 1 – 31	5	June 1 –August 31
GOM Cod	September 1 – October –31	1	May 1 – August 31 November 1 – April 30
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 – February 28 (or 29) April 1 – 30	15	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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