

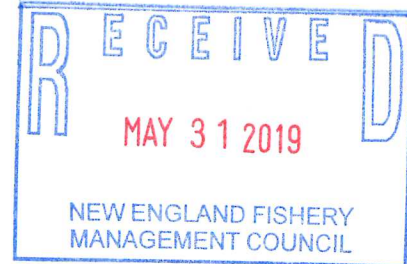
#5

CORRESPONDENCE



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

MAY 30 2019



Dr. John Quinn
Chairman
New England Fishery Management Council
50 Water Street Mill 2
Newburyport, MA 01950

Dear John:

Thank you for your April 23, 2019, letter regarding the status of at-sea monitoring funds from fiscal year 2018. In fiscal year 2018, NOAA's National Marine Fisheries Service (NMFS) received \$10.3 million in congressional appropriations for the purposes of fully funding the cost of at-sea monitors in the New England groundfish fishery, including at-sea and shore-side infrastructure costs. A table of the fiscal year 2018 spend plan is enclosed.

Of the \$10.3 million congressionally appropriated funds, \$6.263 million was placed in a grant with the Atlantic States Marine Fisheries Commission. This grant is used to reimburse Northeast multispecies sectors for their at-sea monitoring costs. In fishing year 2018, sectors were reimbursed for 100 percent of their at-sea monitoring costs, and as of April 29, 2019, reimbursements to sectors for the 2018 fishing year were \$560,000. Because sectors can submit receipts for at-sea monitoring costs for up to 45 days after a trip ends, there will be additional 2018 requests for reimbursement until mid-June. We expect reimbursements to total approximately \$615,000 for fishing year 2018.

Separate from the grant funds, approximately \$1.2 million was spent on fishing year 2018 shoreside costs of the Fisheries Sampling Branch of the Northeast Fisheries Science Center. These funds cover staff to oversee the at-sea monitoring program and to conduct entry, quality control, and analysis of data collected by the at-sea monitors.

As provided for in our 2018 spend plan, \$1.225 million of the funds were designated to advance electronic monitoring and electronic reporting technologies with the intent of reducing the cost of or improving at-sea monitoring in the groundfish fishery in the future. The majority of the funds were obligated to contract out necessary staffing to develop additional IT infrastructure. Specifically, we are using these funds to build the necessary infrastructure and database support to manage electronic monitoring and reporting initiatives, integrate data generated by electronic monitoring and reporting into existing data systems, and develop a tool to verify the accuracy of reported catch data, as well as communicate the results back to industry. The partial Federal shutdown has slowed our progress towards IT infrastructure and database objectives; the hiring of contract staff was significantly delayed and, as a result, some positions are currently filled while others are in the process of being filled. We are also using some of these obligated funds to deploy dockside monitors in support of the maximized retention electronic monitoring and dockside monitoring pilot program.



As planned, \$650,000 was spent on purchasing observer gear, including updates to safety equipment, purchases of more technologically enhanced items such as digital cameras and marel scales, updated computers, and updating some of our sampling equipment to be more rugged in rough weather (e.g., metal length frequency boards). An additional \$250,000 was allocated to age observer samples, and approximately \$700,000 was used for NOAA and NMFS shared mission support costs.

For fishing year 2019, we will continue to reimburse sectors for 100 percent of their at-sea monitoring costs using the grant held by the Commission. Because the at-sea monitoring target coverage level is increasing from 15 to 31 percent, we anticipate the remaining funds in the grant will be spent down at a faster rate than in fishing year 2018. Additionally, every year sectors and at-sea monitoring providers have the opportunity to revise their contracts, and it is likely that contracts will result in higher rates, especially given the need for providers to hire additional at-sea monitors to meet the 2019 target coverage level. We project reimbursements of approximately \$2.5 million from the existing grant for fishing year 2019.

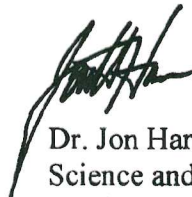
We are developing the spending plan for the \$10.3 million in congressional appropriations included in the fiscal year 2019 budget, and we will share the spending plan when it is approved and final. We received the Council's request regarding the use of these funds to support implementation of Amendment 23, which is a critical action for the groundfish monitoring program. We agree the availability of these funds could significantly offset costs incurred by industry following implementation of Amendment 23 and are considering the Council's request in development of the 2019 spending plan.

If you have further questions about the fiscal year 2018 or 2019 at-sea monitoring funds, please contact Sarah Heil, Assistant Regional Administrator for Sustainable Fisheries, at (978) 281-9257 at the Greater Atlantic Regional Office or Amanda McCarty, Chief, Fishery Monitoring Research Division, at (508) 495-2341 at the Northeast Fisheries Science Center.

Sincerely,



Michael Pentony
Regional Administrator
Greater Atlantic Regional Office



Dr. Jon Hare
Science and Research Director
Northeast Fisheries Science Center

Enclosure

Enclosure

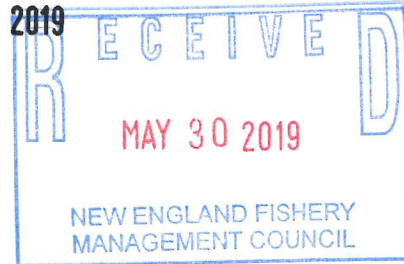
Spend Plan for the 2018 Fiscal Year
Congressional Appropriations of \$10.3M
(\$ in Thousands)

Activity	Amount
2018 ASM Costs	\$2,912
<i>2018 ASM Sea Day Costs</i>	<i>\$1,700</i>
<i>2018 ASM Shoreside Costs</i>	<i>\$1,212</i>
2019+ ASM Costs (Estimate)	\$4,563
Electronic Monitoring (in lieu of human ASM)	\$1,225
Other (Safety Equipment, Sample Processing, Gear)	\$900
NOAA/NMFS Shared Mission Support Costs	\$700
Total	\$10,300



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MAY 28 2019



Cassie Canastra, President
Northeast Fishery Sector VII
62 Hassey Street
New Bedford, MA 02740

Dear Ms. Canastra,

As you know, in November 2017, I withdrew approval of the Northeast Fishery Sector IX operations plan. Following that rulemaking, we worked with the Sector IX Board of Directors to develop a path forward and resolve the issues that caused me to withdraw approval. In July 2018, we approved Sector IX to operate as a lease-only sector, which provided an opportunity for Sector IX to reconcile the overage created through the criminal misreporting of one of its members, Carlos Rafael. Concurrent to the approval of Sector IX as a lease-only sector, we also approved a substantive amendment to the Northeast Fishery Sector VII operations plan. The majority of Sector IX's vessels moved into Sector VII for the 2018 fishing year, and at the request of Sector VII, we approved an amendment that prohibits vessels owned by Carlos Rafael from actively participating in the groundfish fishery unless and until the vessel is sold to an independent third party.

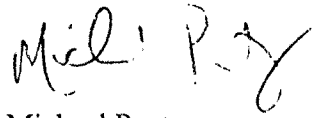
The Sector VII Board of Directors recently considered, and granted, a request made on December 20, 2018, by Attorney Kreg Espinola on behalf of R and C Fishing Corp. to have its vessel, the F/V *Southern Crusader II* (permit number 330904), reclassified to active status within Sector VII for the remainder of the 2018 fishing year. On March 11, 2019, I received an email informing me of the Board's decision and requesting our review, concurrence, and subsequent issuance of a letter of authorization that would allow the F/V *Southern Crusader II* to actively fish. After reviewing information related to your request, I have determined that the Board's determination does not comply with the Sector Operations Plan requirement for the sale to be to an independent third party via an arms-length transaction. Therefore, I deny the Sector's request to enroll the vessel as active and issue a letter of authorization. Enclosed is the information I relied on and more details on the factual determinations I made to come to this conclusion. Please review this information carefully and forward any additional information or corrections you would like me to consider as soon as possible, otherwise this will constitute my final decision.

I encourage the Board to reconsider its evaluation of the F/V *Southern Crusader II* and to consider carefully any future decisions regarding the eligibility of vessels for active status in the groundfish fishery.



If you have any questions about my determination, please contact Sarah Heil, Assistant Regional Administrator for Sustainable Fisheries, at (978) 281-9257.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Pentony". The signature is written in a cursive style with a large initial "M" and a long, sweeping tail.

Michael Pentony
Regional Administrator

cc: Northeast Fishery Sector VII Board of Directors
John Quinn, Chair, New England Fishery Management Council

Enclosure

Enclosure

We reviewed information provided by attorney Andrew Saunders concerning the Northeast Fishery Sector VII Board of Directors' vote to authorize the F/V *Southern Crusader II*'s switch from non-active to active, our vessel permit and sector information, including the Sector VII Operations Plan, and information relating to R and C Fishing Corp. (R&C) that is publicly available on the Massachusetts Secretary of the Commonwealth, Corporations Division website.

Summary of Ownership Information

At all times relevant to Sector VII's request, R&C has owned or maintained an ownership interest in the F/V *Southern Crusader II*. Prior to June 1, 2018, Carlos Rafael and Joao Camarao were each 50-percent owners of R&C. On June 1, 2018, Carlos Rafael's wife, Conceicao Rafael, received a 50-percent ownership interest in R&C. On July 20, 2018, we approved the 2018 Sector Operations Plan and the designation of the F/V *Southern Crusader II* as non-active. On August 2, 2018, R&C submitted documents to the Secretary of the Commonwealth, Corporations Division showing that Conceicao Rafael replaced Carlos Rafael as President and Director of R&C. Joao Camarao replaced Carlos Rafael as Treasurer and remained as Secretary and 50-percent owner. Carlos Rafael resigned as Assistant Secretary and was no longer listed as an officer of R&C. On November 16, 2018, Conceicao Rafael, Joao Camarao, R&C, and Carlos Rafael signed a settlement agreement with the U.S. government to resolve the criminal forfeiture action related to the F/V *Lady Patricia*, F/V *Olivia & Rafaela*, F/V *Bulldog*, and the F/V *Southern Crusader II*.

Attorney Kreg Espinola told Sector VII's Board that the F/V *Southern Crusader II* was not sold to an independent third party. He indicated that, instead, Conceicao Rafael was transferred Carlos' 50-percent ownership interest in R&C in exchange for her payment of the storage costs incurred by the Federal government for the F/V *Southern Crusader II* and as part of the November 2018 settlement agreement that released the vessel to R&C. R&C provided a copy of its settlement agreement with the government as evidence of Conceicao Rafael's payment of the storage costs.

There is no documentation that payment of any storage costs are directly related to Conceicao Rafael's receipt of 100 shares of stock on June 1, 2018, or her becoming a corporate officer or director on August 2, 2018, prior to the November 2018 settlement agreement. The settlement agreement does not identify what storage costs were specifically attributable to the F/V *Southern Crusader II* or who paid what portion of those costs. The settlement agreement states that claimants Joao Camarao, R&C, Conceicao Rafael, Lady Patricia, Inc., Olivia & Rafaela Fishing, LLC, and B&D Fishing Corp. agreed to pay \$111,490 for storage costs for the four vessels as a condition of releasing the F/V *Southern Crusader II* to R&C and the F/V *Bulldog* to B & D Fishing Corp.

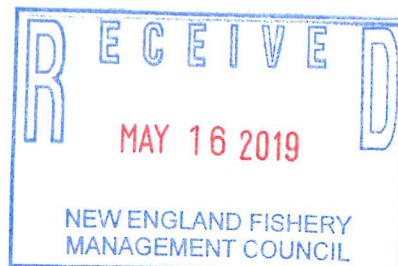
NMFS Determination

The transfer and sale of ownership in R&C does not comply with the Sector Operations Plan requirements in numerous ways. The Sector VII 2018 Operations Plan requires the subset of non-active vessels identified in the Operations Plan, including the F/V *Southern Crusader II*, to be sold to an independent third-party via an arms-length transaction before the vessel may be

allowed to actively fish. The Operations Plan includes criteria to guide the Board's review of any vessel transaction. Specifically, the Operations Plan provides several factors that indicate that a vessel sale was made to an independent third-party, including: (1) Whether a current owner, officer, director, shareholder, or any family member has a financial interest in or control over the vessel after the transaction; (2) whether the seller derives any financial benefits from the vessel's operation after it is transferred; and, (3) whether there are any common shareholders between the transacting parties.

The Board has not provided information that shows the vessel was sold or transferred to an independent third-party via an arms-length transaction. There is no documented support evidencing a sale of R&C after our approval of the Sector Operations Plan. Attorney Espinola indicated that there was no sale, but rather, a transfer occurred as part of the settlement agreement signed after approval of the Operations Plan. This does not explain, however, the stock certificate that shows Conceicao Rafael received her 50-percent ownership interest in R&C on June 1, 2018, prior to our approval of the Sector Operations Plan. There also is no document that links Conceicao Rafael's receipt of the June 1, 2018, stock certificate with the November 18, 2018, settlement agreement.

Even if there is documentation showing that Conceicao Rafael's receipt of the stock certificate is directly related to payment of F/V *Southern Crusader II*'s storage costs as part of the settlement agreement, the transfer of ownership and changes in R&C directors and officers to Conceicao Rafael are not consistent with a transfer to an independent third-party via an arms-length transaction. The Sector VII Operations Plan states that common officers, directors, shareholders, and any family member's financial interest in the vessel post-transaction are all indications that a transaction cannot be considered "arms length." Conceicao Rafael is Carlos Rafael's wife. The statement in the settlement agreement, that Conceicao Rafael's ownership interest does not violate the prohibition on Carlos Rafael's involvement or benefit from the operation of the *Southern Crusader II*, is only relevant to the release of the vessel to R&C for purposes of the forfeiture. The settlement agreement specifically states that it does not relate to any future NOAA action. Also, it is unclear whether Conceicao Rafael's transfer of ownership is consistent with an arms-length transaction that reflects fair market value. There is insufficient information to determine that some portion of \$111,490 represents a fair value that would be paid for the F/V *Southern Crusader II* in a sale to an independent third-party. Last, Joao Camarao has remained a director, officer, and owner of R&C before and after any ownership transfer or change in directors and officer from Carlos Rafael to Conceicao Rafael.



From: Rick Beal <rickbeal520@comcast.net>

Sent: Thursday, May 16, 2019 7:23 AM

To: John Quinn <jquinnfish@gmail.com>; Michael Pentony <michael.pentony@noaa.gov>; Chris Kellogg <ckellogg@nefmc.org>

Subject: One mans observations

Ladies and gentlemen,

I've been told my personal views are concerning and should be kept to myself. I have been in this industry all my life my family for generations. If allowed I hope to continue. I've always obeyed the rules regardless of the financial consequences. I believe I've earned the right to speak my mind.

It all begins with the science. I'm pro-science but my skepticism of the views and objectives of some in that community is on the rise. Suggestions that industry sees more cod than science does is because we work in areas of higher concentrations is absurd. Fact is because of low quota we must avoid these areas like the plague .

I've built and fished the type of net the R/V Bigelow uses I know how it acts. It catches the higher faster species well but is very ineffective at catching slower more bottom dwelling ones For the larger more mobile vessels dependent on the former this is good but for the inshore boats that depend on latter it's not. In fact it seems to me that when good reports of the latter arise from whatever the source science does it's best to discredit them There seems to be a concerted effort to eliminate the part of the fleet that fishes the near coastal waters. I'm left to wonder why. I've written to people at the center with with my views and observations and when responded to it's polite but i'm left with the feeling of now go away little boy let the grownups handle it.

I understand science's obsession with the need for a constant and in other fields of study it is a must. But nature's constant is inconsistency and for some reason science seemingly refuses to accept this fact. Thomas Pain wrote (To try to reason with a person who has renounced reason is like administering medicine to the dead)

Along with observing fish behavior I also watch people. In meetings I hear the words if, maybe, assumption and possibility and the phrases It needs more study and we can only work with the information we are given are seemingly used to pass the buck as the wheels of bureaucracy slowly turn Seldom if ever is the plight of the people in our industry spoken of. It's urgent a year can mean the difference between success and failure. In the management industry and sadly also in our own there have been and

continue to be people with only their own interest in mind. They have been in positions to form policy and then move on to reap its benefits. These people use phrases like For the good of the resource and the future of the industry as a smoke screen for personal gain. It appalls me that our industry is being used this way.

And in the wings stands the environmental industry. Backed by powerful trusts with deep pockets they threaten lawsuits if their agenda is not met and promote misleading even untruthful stories about our industry with the obvious intent of tearing it down. Intelligent people don't tear something down without plans to replace it. Rumors abound I do believe there is a concerted effort to eliminate the part of the fleet that fishes the near coastal waters. By looking at the numbers concerns about fishing effort and environmental damage in these areas seem vastly over blown. So again I ask why.

I've seen, pipe-lines built and not used, bottom surveys done, promotion of wind farms and the push to close areas to fishing where these things are happening leads me to believe it all has to do more how to use what's above the oceans surface and below its floor than what swims in it.

Our industry has done much in terms of practices and innovation to live up to our obligation to the environment many times they have adversely affected our bottom line. I'm left to wonder how zealous our opponents would be if their bottom line was affected

After looking back at all the ups and downs of the last forty years it's plain to see that the ups have far outweighed the downs. Decades of trial and error, the dedicated hard work of the vast majority of management personnel along with the sacrifices made by a generation of fishermen has brought us to where we are today. Many stocks are strong and others are getting stronger. All who have had a hand in the efforts to get us here should be proud. But remember that success spawns greed. Consolidation is already happening and as any entity becomes larger it wields more power and we've already seen where that can lead.

This month I begin my 54th year in this industry I've seen a lot of change. When I started myself and hundreds of other domestic vessels fished along-side a huge foreign fleet within sight of our shores. Today I fish and often don't see another commercial boat. The hopes and dreams I had as a young man evaporated as the

reality of an industry in trouble and in need of a transformation if it was to survive became clear. My dreams are gone forever but I still hold on to the hope that our industry survives so that another generation can experience the camaraderie of shipmates and the wonders of nature that I have. But if we continue on the present course I fear that my hope is also doomed.

But today our industry increasingly finds itself caught in the deepening Perfect Storm of self-preservation, bureaucracy and the agendas of outside interests. Only you members of fisheries management can pilot us to calmer waters.

Thank
You

Gloucester, MA.

Richard Beal Commercial Fisherman,



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 GREATER ATLANTIC REGIONAL FISHERIES OFFICE
 55 Great Republic Drive
 Gloucester, MA 01930-2276

Dr. John Quinn
 Chairman
 New England Fishery Management Council
 50 Water Street Mill 2
 Newburyport, MA 01950



Dear John:

We received your March 8, 2019, letter with the Council’s recommendations for 2019 recreational management measures for Gulf of Maine (GOM) cod and haddock and Georges Bank cod. We appreciate the hard work of Council staff, the Recreational Advisory Panel (RAP), Groundfish Committee, and Executive Committee on the development of these recommendations. As you know, the partial Federal government shutdown disrupted the process for developing and evaluating the recreational measures, but the hard work and flexibility of these groups enabled us to get a proposed rule published as soon as possible.

Today, we published a proposed rule for 2019 recreational measures for GOM cod and haddock and Georges Bank cod. We are proposing the Council’s recommended measures as outlined in Table 1 and Table 2.

Table 1: 2018 and proposed 2019 measures for GOM cod and haddock.

Fishing Year	GOM Haddock			GOM Cod		
	Bag Limit	Minimum Size	Open Season	Bag Limit	Minimum Size	Open Season
2018	12	17"	May 1 - Sep 16 Nov 1 - Feb 28/29 Apr 15 - Apr 30	Closed		
2019 Proposed	15	17"	May 1 - Feb 28/29 Apr 15 - Apr 30	1	21"	Sept 15 - 30 Apr 15 - Apr 30

Table2: 2018 and proposed 2019 measures for Georges Bank cod.


Fishing Year	Georges Bank Cod		
	Bag Limit	Minimum Size	Open Season
2018	10	23"	All Year
2019 Proposed	10	21"	All Year

My staff will strive to publish a final rule as soon as possible following the close of the comment period on the proposed rule. We thank you again for the hard work of Council staff,



Committees, and RAP. If you have any questions on the proposed rule, please contact Emily Keiley, Fishery Management Specialist, at (978) 281-9116.

Sincerely,



Michael Pentony
Regional Administrator

VI. Executive Order 13771

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details are provided in section III of this preamble.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.* However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to change the definition of “commercial item” so that NDIs that are developed exclusively at private expense and sold in substantial quantities to multiple foreign governments may be treated as commercial items.

The objective is to implement section 847 of the NDAA for FY18. The legal basis for this rule is 41 U.S.C. 103(8).

The proposed rule impacts all entities who do business with the Federal Government, including the over 327,458 small business registrants in the System for Award Management database. This proposed rule expands the definition of “commercial item” for nondevelopmental items (NDIs) to include those sold to multiple foreign governments. This change will allow more acquisitions to fall under the definition of commercial item procurements and use standard commercial terms and conditions to the maximum extent practicable. This will result in a reduction of statutory and regulatory requirements as FAR part 12 contract actions are exempt at the prime or subcontract level from various statutes, policies, and contracting requirements unique to the federal procurement process. Therefore, small businesses would benefit from the streamlined processes.

The proposed rule does not include additional reporting or record keeping requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no available alternatives to the proposed rule to accomplish the desired objective of the statute. Small businesses will benefit from the streamlined commercial acquisition procedures.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule consistent

with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2018–008) in correspondence.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 2

Government procurement.

Dated: April 22, 2019.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR part 2 as set forth below:

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 1. The authority citation for 48 CFR part 2 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

2.101 [Amended]

■ 2. In paragraph (b)(2), amend paragraph (8) in the definition of “Commercial item” by removing “local governments” and adding in its place “local governments or to multiple foreign governments”.

[FR Doc. 2019–09703 Filed 5–9–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 190214116–9116–01]

RIN 0648–BI69

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2019 Recreational Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes fishing year 2019 recreational management measures for Gulf of Maine cod and haddock and Georges Bank cod. This action is

necessary to respond to updated catch and other scientific information. The proposed measures are intended to ensure the recreational fishery achieves, but does not exceed, its fishing year 2019 catch limits.

DATES: Comments must be received by May 28, 2019.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0140, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0140.

2. Click the “Comment Now!” icon, complete the required fields, and

3. Enter or attach your comments.

- *Mail:* Submit written comments to: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on the Fishing Year 2019 Groundfish Recreational Measures.”

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 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).

Copies of the analyses supporting this rulemaking, including the Framework Adjustment 57 environmental assessment (EA) prepared by the New England Fishery Management Council are available from: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The supporting documents are also accessible via the internet at: <http://www.nefmc.org/management-plans/northeast-multispecies> or <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Emily Keiley, Fishery Management Specialist, phone: 978–281–9116; email: Emily.Keiley@noaa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- 1. Proposed Gulf of Maine Recreational Management Measures for Fishing Year 2019
- 2. Proposed Georges Bank Cod Recreational Management Measures for Fishing Year 2019

1. Proposed Gulf of Maine Recreational Management Measures for Fishing Year 2019

Background

The recreational fishery for Gulf of Maine (GOM) cod and haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies groundfish fishery opens on May 1 each year 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 species. 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 requires the Regional Administrator, in consultation with the New England Fishery Management 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 authorizing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

According to the 2017 stock assessments, the GOM cod and haddock

stocks are increasing, although cod remains overfished and subject to a rebuilding plan. Framework Adjustment 57 to the FMP set 2018 and 2019 ACLs and sub-ACLs based on the updated assessments. Framework 58, as approved by the Council, does not adjust the fishing year 2019 recreational sub-ACLs for GOM cod or haddock, and the 2019 sub-ACLs remain at the same level as in 2018. The 2019 recreational sub-ACL for GOM cod is 220 mt, the 2019 recreational sub-ACL for GOM haddock is 3,358 mt.

Compared to preliminary estimates of 2018 catch, the fishing year 2019 sub-ACLs would allow for a 379-percent increase in haddock catch, and a 57-percent increase in cod catch (Table 1). Status quo measures are projected to result in cod and haddock catch below the 2019 sub-ACLs.

TABLE 1—PRELIMINARY FISHING YEAR 2018 CATCH COMPARED TO FISHING YEAR 2018 AND 2019 SUB-ACLs

GOM Stock	2018 and 2019 sub-ACLs (mt)	Estimated 2018 catch (mt)	Percent of FY 2018 sub-ACL caught	Change in 2018 catch to reach 2019 sub-ACL (percent)
Cod	220	140	64	57
Haddock	3,358	700	21	379

2019 Council Consultation Process and Timing

The analysis of potential recreational measures was delayed by the partial Federal government shutdown, and, as a result, the Council's Recreational Advisory Panel (RAP) was unable to meet prior to the January Council meeting. At the January 2019 meeting,

the Council passed a motion to modify the consultation process this year, authorizing the Executive Committee to make final Council recommendations to the agency. The RAP met and developed recommendations on February 22, 2019. The Groundfish Committee reviewed the RAP's recommendations at its February 26 meeting. The Executive Committee reviewed both sets of

recommendations by correspondence. Table 2 summarizes the recommendations made by the RAP and Groundfish Committee. As authorized by and on behalf of the Council, the Council's Executive Committee recommended that we adopt measures as proposed by the Groundfish Committee.

TABLE 2—SUMMARY OF THE STATUS QUO MEASURES AND THE MEASURES RECOMMENDED BY THE RAP, GROUND FISH COMMITTEE, AND EXECUTIVE COMMITTEE

Option	GOM haddock			GOM cod		
	Daily possession limit	Minimum size	Open season	Daily possession limit	Minimum size	Open season
Status Quo	12	17" (43.2 cm)	May 1–Sept 16; Nov 1–Feb 28; Apr 15–Apr 30.	Closed.		
RAP Preferred	15	15" (31.1 cm)	All Year	1	19" (2.9 cm)	Aug and Apr.
RAP Backup	15	15" (31.1 cm)	All Year	1	21" (51.3 cm)	Aug and Apr.
Groundfish Committee.	15	15" (31.1 cm)	May 1–Feb 28; Apr 15–Apr 30.	1	21" (51.3 cm)	Sept 15–30; Apr 15–Apr 30.

Analysis and Uncertainty

Preliminary estimates of GOM cod and haddock catch for fishing year 2018 indicate that the recreational fishery will not achieve the 2018 sub-ACL of

either stock. The bioeconomic model projects that measures for both stocks can be liberalized without the 2019 recreational fishery's sub-ACLs being exceeded. The bioeconomic model's

predicted probabilities that catch will remain at or below the sub-ACLs are informative. However, the model frequently underestimates effort and catch, resulting in the selection of

management measures that do not successfully constrain catch to the sub-ACL. In recent years, despite utilization of the bioeconomic model to inform management measures, the recreational fishery exceeded their sub-ACL for GOM cod four out of five years and, in two of those years, this contributed to overages of the acceptable biological catch (ABC).

The Marine Recreational Information Program (MRIP) data used in the bioeconomic model are also highly variable from year to year. Data from the MRIP are processed throughout the fishing year as new data arrive for each wave (2-month periods), and older data are updated as needed. Incorporation of new waves, or updates, may result in changes to the model output. This combination of factors makes it difficult to produce consistent predictions and to assess the underlying reasons for the discrepancies between the model's predicted catch and estimates of actual catch.

This year, in addition to the uncertainty described above, there are several factors that, when combined, make this particular year's model estimates more uncertain than in any other year we have used the model:

(1) The bioeconomic model is relying on projections from stock assessments that are 3 years beyond the assessments' terminal year. Projections from stock assessments become inherently more uncertain as time progresses. The last assessment for GOM cod and haddock occurred in 2017, and the last year of data used in those assessments was from 2016. The bioeconomic model uses these projections to inform assumptions

about the population structure. Utilization of projections from that model to inform what is happening to the stocks in fishing year 2019 and 2020 is highly uncertain.

(2) MRIP catch and effort estimates (1981–2017) based on the Coastal Household Telephone Survey (CHTS) were transitioned to the new, mail-based Fishing Effort Survey (FES). However, the most recently available stock assessments and sub-ACLs were based on the CHTS estimates. Evaluation of catch and development of management measures will continue to use data in the CHTS-equivalent until new assessments are conducted for these two stocks using FES information. That means, for fishing year 2018, FES data had to be converted back into CHTS values. The introduction of another model (back-calibration from CHTS to FES) and the associated assumptions adds a new layer of uncertainty.

(3) The bioeconomic model is predicting effort and behavior in months that have been closed in recent years. The bioeconomic model uses behavior (effort and catch) in the previous year, in this case fishing year 2018, to tune the model to predict what is likely to occur in the next fishing year. This creates a challenge when the model needs to predict behavior during time periods that have been closed in the prior year. It is more difficult, and there is additional uncertainty when trying to model less restrictive management measures.

Given the potentially significant uncertainty in the model estimates from this combination of factors, the

Groundfish Plan Development Team and members of the RAP suggested re-running the model using averaged MRIP data and different assumptions about recruitment. Due to time constraints, these analyses could not be produced in time for consideration by the RAP, Groundfish Committee, or the Executive Committee. We are including the results in this proposed rule.

We conducted sensitivity runs to evaluate alternatives using different assumptions within the bioeconomic model to capture some of the uncertainty described above. To reduce the uncertainty associated with using back-calibrated MRIP data for fishing year 2018, the bioeconomic model was re-calibrated to use the average MRIP effort estimate from fishing years 2016–2018 (152,340 angler trips) instead of the fishing year 2018 value (124,994 angler trips). Using an average that includes 2 years of data that was not back calibrated may address some of the uncertainty associated with the back calibration of 2018 data. Using the average effort results in higher estimated cod and haddock mortality in fishing year 2019 under all of the options. To address some of the biological projection uncertainty since the terminal year of the current assessment is from 2016, we replaced the 2019 projections with the 2017 projected stock structure. This provides a far less optimistic view of recruitment, which based on recent surveys is likely more realistic. This assumption results in slightly higher average cod catch-per-trip (by weight) in the model's projections and increases cod mortality across all of the options.

TABLE 3—FISHING YEAR 2019 GOM COD AND HADDOCK PROJECTIONS FROM THE BIOECONOMIC MODEL
[Sensitivity model run results in italics]

Option	GOM haddock			GOM cod			Predicted haddock catch (mt)	Predicted cod catch (mt)
	Daily possession limit	minimum size	Open season	Daily possession limit	minimum size	Open season		
Status Quo	12	17" (43.2 cm)	May 1–Sept 16; Nov 1–Feb 28; Apr 15–Apr 30.	Closed.			791 (839)	114 (154)
RAP Preferred ...	15	15" (31.1 cm)	All Year	1	19" (22.9 cm)	Aug and Apr	1,024 (1,061)	138 (201)
RAP Backup	15	15" (31.1 cm)	All Year	1	21" (51.3 cm)	Aug and Apr	1,022 (1,060)	134 (196)
Council Recommended NMFS Proposed.	15	17" (43.2 cm)	May 1–Feb 28; Apr 15–Apr 30.	1	21" (51.3 cm)	Sept 15–30; Apr 15–Apr 30.	992 (1,047)	125 (179)

Proposed Measures

Given the previously described uncertainty in the model estimates, the Groundfish Committee and Executive Committee recommended more conservative measures than the RAP,

while still allowing a limited directed cod fishery. The Committees' preferred option also increases access to the healthy haddock stock. We are proposing the Council's recommended measures (see Table 4). While the bioeconomic model suggests that the

RAP preferred and backup options would result in cod catch less than the 220 mt sub-ACL, the uncertainty associated with those projections is high. The bioeconomic model attempts to describe the impact directed haddock fishing has on cod mortality in the Gulf

of Maine, as the two stocks are often found together. The model shows that proposed measures for haddock are likely to increase cod interactions, and therefore mortality. The degree to which the new haddock measures will affect cod mortality is highly uncertain because the model is predicting behavior in months that were previously closed (see #3 above).

GOM cod is overfished and subject to overfishing. The recreational fishery has exceeded its GOM cod sub-ACL in four of the last five years. These overages have contributed to two overages of the total ACL and ABC. The more precautionary proposed measures take into account some of the uncertainty described above to reduce the chance of exceeding the GOM cod recreational sub-ACL while increasing the

opportunity for the recreational fishery to achieve the recreational sub-ACLs. Given the uncertainty, condition of the GOM cod stock, and recent history of recreational management performance, we agree with the Council and Groundfish Committee that a more precautionary approach is needed this year, and we are therefore, proposing their recommended measures.

TABLE 4—STATUS QUO AND PROPOSED 2019 RECREATIONAL MANAGEMENT MEASURES FOR GOM COD AND HADDOCK

	GOM haddock			GOM cod		
	Daily possession limit	Minimum size	Open season	Daily possession limit	Minimum size	Open season
2018 Measures	12	17" (43.2 cm)	May 1–Sep 16; Nov 1–Feb 28/29; April 15–Apr 30.	Closed.		
2019 Proposed	15	17" (43.2 cm)	May 1–Feb 28/29; Apr 15–Apr 30.	1	21" (51.3 cm)	Sept 15–30; Apr 15–Apr 30.

2. Fishing Year 2019 Georges Bank Cod Recreational Management Measures

Background

As part of Framework 57 to the FMP, the Council provided the Regional Administrator authority to adjust the GB cod recreational management measures for fishing years 2018 and 2019. Unlike GOM cod and haddock, there is no recreational sub-ACL for GB cod and no accountability measures for the recreational fishery when an overage occurs. The Council did not consider a recreational sub-ACL in Framework 57, but the Council recommended a catch target of 138 mt for us to use when considering adjustments to GB cod measures. The catch target was based on the most recent 5-year (calendar years 2012–2016) average recreational catch.

The Council expects that measures designed to achieve this target amount for the recreational fishery will help the overall fishery attain, but not exceed, its overall ACL. We adjusted recreational GB cod measures for fishing year 2018. This was the first time GB cod recreational measures had been changed since 2010. We increased the minimum size by 1 inch (2.54 cm) (from 22 to 23 in, 55.9 to 58.4 cm) and reduced the unlimited for-hire (party/charter) bag limit to 10 fish per person, consistent with private vessel's bag limit. To avoid using potentially anomalous results from the highly variable MRIP catch estimates for GB cod, we used a 3-year average catch estimate to better represent long-term trends. We then compared that catch estimate with the catch target to determine if adjustments

to the management measures were needed. Because the 3-year average was higher than the catch target, we adjusted fishing year 2018 measures as described above.

This year, the Council asked that we consider alternative methods to evaluate GB cod catch and examine management needs. Even if the preliminary catch estimate for 2018 was zero, the 3-year average would still be greater than the catch target of 138 mt due to an extremely high 2016 catch estimate.

Proposed Measures

Catch of GB cod was substantially less in 2017 (53 mt) compared to 2016 (477 mt). Preliminary estimates of 2018 catch (57 mt) are similar to 2017, indicating that estimated 2016 catch may have been an anomaly (Table 5).

TABLE 5—RECREATIONAL CATCH OF GB COD FROM FISHING YEAR 2013–2018 AND THE 3-YEAR MOVING AVERAGE CATCH

Fishing year	Catch (mt)	3-Year average catch (mt)
2013	8.0
2014	91.4
2015	165.0	88.1
2016	477.5	244.6
2017	53.0	231.8
2018 *	57.0	195.8

* Catch in 2018 is an estimate.

Given that 2017 and 2018 catch levels are low compared to the catch target, the Executive Committee recommended liberalizing management measures for GB cod, reducing the minimum size

from 23 inches to 21 inches (58.4 to 53.3 cm). The Executive Committee's recommendation is consistent with the Groundfish Committee's recommendation. The RAP proposed a

lower minimum size of 19 inches (48.3 cm). We propose the Council's recommendations for GB cod (see Table 6). A 21-inch (53.3-cm) minimum fish size is consistent with the minimum

size proposed for GOM cod and is expected to increase catch by approximately 20 percent (based on size frequencies of 2018 catch). Decreasing the minimum size will allow anglers to retain fish they would have caught and

then discarded. The estimated increase in catch would still result in catch lower than the catch target, if effort in 2019 is similar to 2017 and 2018. Given the variability and uncertainty in the GB cod MRIP estimates, a precautionary

approach to revising measures is warranted to ensure that the catch target and ACL are not exceeded. In addition, having consistent minimum sizes in GOM and GB is likely to increase compliance.

TABLE 6—GB COD STATUS QUO AND PROPOSED 2019 MEASURES

	Georges Bank cod		
	Daily possession limit	Minimum size	Open season
2018 Measures	10	23" (58.4 cm)	All Year.
2019 Proposed	10	21" (53.3 cm)	All Year.

Classification

The NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

The Assistant Administrator for Fisheries finds good cause to have a 15-day comment period in accord with the Administrative Procedures Act and as provided for in the Magnuson-Stevens Act. This rule proposes more liberal management measures for GOM cod, haddock, and GB cod compared to current recreational management measures. The Northeast multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. Further 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 negatively impacts business planning for the for-hire segment of the fishery, causes confusion in the fishery, and may result in less compliance with the regulations. Additionally, further delay would diminish the value to the public of increasing the haddock possession limit because haddock are abundant near shore during April–June, making this an important season for the recreational haddock fishery. We could not have completed the proposed rule earlier because of the availability of recreational data from MRIP and the required consultation process with the New England Fishery Management Council. This rule is straightforward, and proposes changes that were discussed during a series of public meetings. These are yearly measures

that are familiar to and anticipated by fishery participants. Affected and other interested parties participated in the Council’s process to develop this action. Use of a longer comment period would further delay the implementation of new recreational management measures which would increase negative economic impacts on affected parties.

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. The factual basis for this determination is as follows.

The SBA defines a small commercial finfishing or shellfishing business as a firm with annual receipts (gross revenue) of up to \$11.0 million. A small for-hire recreational fishing business is defined as a firm with receipts of up to \$7.5 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 2015–2017, the most recent 3-year period for which data are available. This classification is now possible because vessel ownership data have been added to 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. The resulting groupings were treated as a fishing business for purposes of this analysis. Revenues 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.

A for-hire owner and operator can be held liable for violations of the proposed regulations; thus, for-hire business entities are considered directly affected in this analysis. Private anglers are not considered “entities” under the Regulatory Flexibility Act (RFA).

The Northeast Federal landings database (*i.e.*, vessel trip report data) indicates that a total of 614 vessels held a multispecies for-hire fishing permit in 2017 (the most recent full year of available data). Of the 614 for-hire permitted vessels only 163 actively participated in the for-hire Atlantic cod and haddock fishery in fishing year 2017 (*i.e.*, reported catch of cod or haddock).

Using vessel ownership information and vessel trip report data it was determined that the 163 actively participating for-hire vessels are owned by 153 unique fishing business entities. The vast majority of the 153 fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. The highest percentage of annual gross revenues for all but 20 of the fishing businesses was from for-hire fishing.

Average annual gross revenue estimates calculated from the most recent three years (2015–2017) indicate that none of the 153 fishing business entities had annual receipts of more than \$2.8 million from all of their fishing activities (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 measures proposed are expected to have a positive economic effect on small entities. The proposed measures could increase catch and effort, in a scenario when fishing would otherwise be prohibited. Providing increased

fishing opportunities should increase profits.

This action is not expected to have a significant or substantial effect on small entities. The effects on the regulated small entities identified in this analysis are expected to be positive relative to maintaining the measures in place from 2018. The proposed action liberalizes recreational management measures for GOM cod and haddock and Georges Bank cod. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce the profit for any small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: May 7, 2019.

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 proposed to be 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, revise paragraphs (b)(1), (c)(1) and (2) as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) * * *

(1) *Minimum fish sizes.* Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels may not possess fish in or from the EEZ that are smaller than the minimum fish sizes, measured in total length, as follows:

Species	Minimum size	
	Inches	cm
Cod:		
Inside GOM Regulated Mesh Area ¹	21	53.3
Outside GOM Regulated Mesh Area ¹	21	53.3
Haddock:		
Inside GOM Regulated Mesh Area ¹	17	43.2
Outside GOM Regulated Mesh Area ¹	18	45.7
Pollock	19	48.3
Witch Flounder (gray sole)	14	35.6
Yellowtail Flounder	13	33.0
American Plaice (dab)	14	35.6
Atlantic Halibut	41	104.1
Winter Flounder (black back)	12	30.5
Redfish	9	22.9

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

* * * * *

(c) * * *

(1) *Private recreational vessels.*

Persons aboard private recreational fishing vessels during the open season listed in the column titled “Open Season” in Table 1 to paragraph (c) of

this section, may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 1 to paragraph (c) of this section.

(i) *Closed season.* Persons aboard private recreational fishing vessels may

not possess species, as specified in the column titled “Species” in Table 1 to paragraph (c) of this section, in or from the EEZ during that species closed season as specified in the column titled “Closed Season” in Table 1 to paragraph (c) of this section.

TABLE 1 TO PARAGRAPH (c)

Species	Open season	Possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	September 15–30; April 15–30	1	May 1–September 14; October 1–April 14.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 15–30.	12	March 1–April 14.
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.

TABLE 1 TO PARAGRAPH (c)—Continued

Species	Open season	Possession limit	Closed season
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut	See paragraph (c)(3).		
Atlantic Wolffish	CLOSED	No retention	All Year.

(2) *Charter or Party Boats.* Persons aboard party or charter boats during the open season listed in the column titled “Open Season” in Table 2 to paragraph (c) of this section, may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 2 to paragraph (c) of this section.

TABLE 2 TO PARAGRAPH (c)

Species	Open season	Possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	September 15–30; April 15–30	1	May 1–September 14; October 1–April 14.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 15–30.	12	March 1–April 14.
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.

* * * * *

[FR Doc. 2019–09685 Filed 5–9–19; 8:45 am]

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Greater Atlantic Region Bulletin

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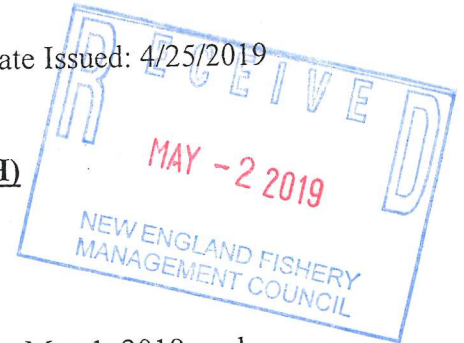
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Sustainable Fisheries Division
(978) 281-9315

Date Issued: 4/25/2019

NORTHEAST MULTISPECIES (GROUND FISH) FISHING YEAR 2019 REGULATIONS

Effective Date: May 1, 2019



We are announcing groundfish management measures that will be effective May 1, 2019, and providing updates on other management measures. To see which regulations apply to you, this Bulletin is divided into three sections:

Measures that Apply to all Northeast Multispecies Vessels – page 1
Sector Measures for 2019 – page 8
Common Pool Measures for 2019 – page 9.

Update on Framework Adjustment 58 to the Groundfish Fishery Management Plan

Due to the 35-day partial Federal government shutdown resulting from a lapse in appropriations, there was a delay in the rulemaking process for Framework 58. On April 19, 2019, we published a proposed rule in the *Federal Register* seeking comment on the proposed Framework 58 measures. The public comment period is open through May 6, 2019. As explained in more detail below, if approved, Framework 58 would change several management measures for the 2019 fishing year, including catch limits for several stocks.

Initial Fishing Year 2019 Catch Limits

Last year, Framework 57 set catch limits for all groundfish stocks except Eastern Georges Bank (EGB) cod for fishing years 2018 – 2020. These quotas will be in effect on May 1, 2019. The U.S./Canada quotas are shown in **Table 1** and the quotas for all groundfish stocks are shown in **Table 2** below. The EGB cod catch limit will be set at 35 percent of the 2018 catch limit from May 1 through July 31, unless replaced by the catch limit proposed in Framework 58. If Framework 58 is approved, the 2019 catch limits for Georges Bank (GB) cod, Gulf of Maine (GOM) cod¹, GB haddock, GB yellowtail flounder, witch flounder, GB winter flounder, GOM winter flounder, and Atlantic halibut will change. Catch limits for GB cod, GB haddock, witch flounder, and GB winter flounder will increase, and catch limits for GOM cod, GB yellowtail flounder, GOM winter flounder, and Atlantic halibut will decrease. There will be no changes for the remaining 12 stocks.

¹ The GOM cod ACL was exceeded in fishing year 2017 and Framework 58 implements the pound-for-pound reduction required for sectors and the common pool to pay back this overage.

Because vessels may drop from sector rosters and join the common pool through April 30, 2019, the sector and common pool allocations included in this bulletin may change. Also, after we finalize fishing year 2018 catch information, we will subtract any sector or common pool overages. Any necessary adjustments to the 2019 catch limits will be made in a future management action as close to May 1 as possible.

Table 1. Initial 2019 Fishing Year U.S./Canada Groundfish Total Allowable Catches (TACs)

Stock	TAC (mt)
Eastern GB Cod	90
Eastern GB Haddock	15,600
GB Yellowtail Flounder	291

Closed Area II Yellowtail Flounder/Haddock Special Access Program

The Closed Area II Yellowtail Flounder/Haddock Special Access Program (SAP) is closed to targeting yellowtail flounder in fishing year 2019. Vessels are not allowed to fish in this SAP using flounder trawl nets. Northeast multispecies vessels may fish in this SAP in 2019 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. For common pool vessels, this SAP is open from August 1, 2019, through January 31, 2020. For sector vessels, this SAP is open from May 1, 2019, through January 31, 2020.

Table 2. Fishing Year 2019 Catch Limits (mt, live weight)

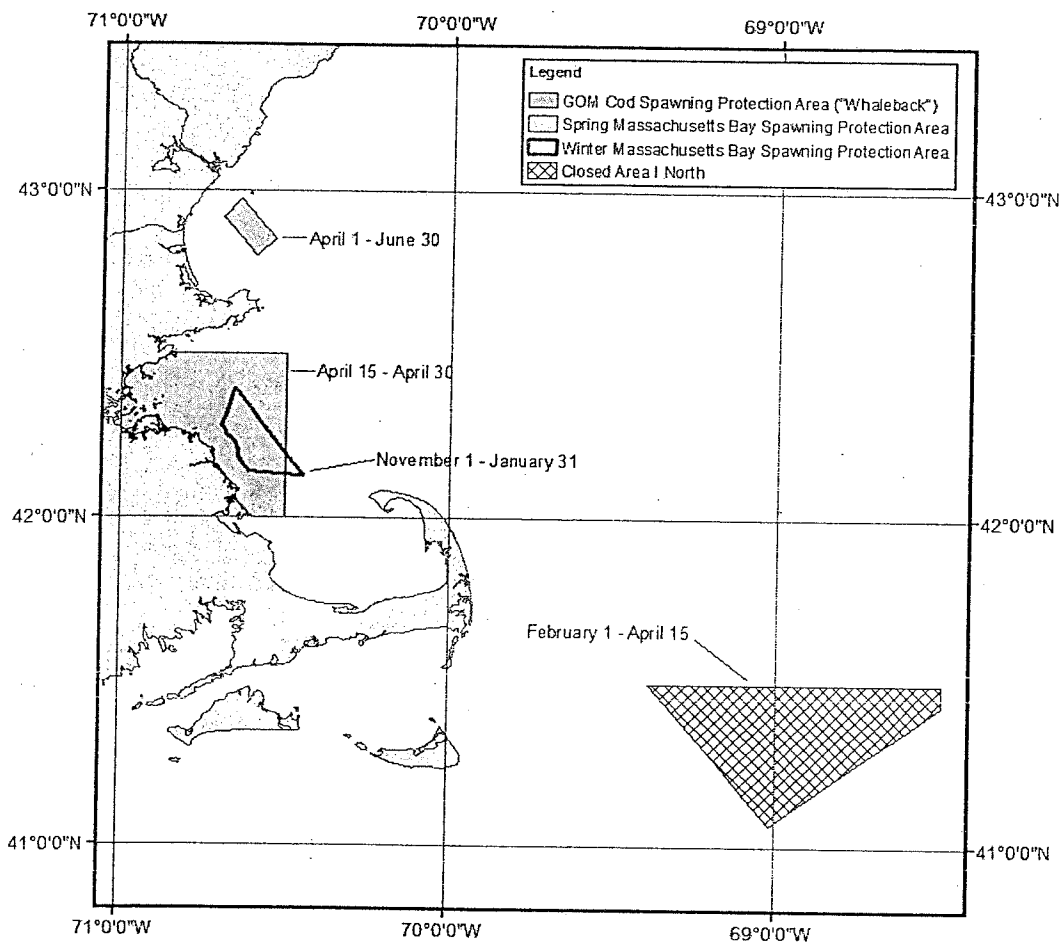
Stock	Total ACL	Groundfish sub-ACL	Preliminary Sector sub-ACL	Preliminary Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	1,519	1,360	1,316	44					16	143
GOM Cod	666	610	379	11	220				47	9
GB Haddock	46,312	44,659	43,996	663		680			487	487
GOM Haddock	11,803	11,506	8,218	94	3,194	116			91	91
GB Yellowtail Flounder	291	239	232	7			47	6	0	0
SNE/MA Yellowtail Flounder	66	32	26	6			15		2	17
CC/GOM Yellowtail Flounder	490	398	378	20					51	41
American Plaice	1,532	1,467	1,437	31					32	32
Witch Flounder	948	849	831	18					40	60
GB Winter Flounder	787	731	701	30					0	57
GOM Winter Flounder	428	357	339	17					67	4
SNE/MA Winter Flounder	700	518	447	71					73	109
Redfish	11,208	10,972	10,918	53					118	118
White Hake	2,794	2,735	2,715	20					29	29
Pollock	38,204	37,400	37,159	242					402	402
N. Windowpane Flounder	86	63		63			18		2	3
S. Windowpane Flounder	457	53		53			158		28	218
Ocean Pout	120	94		94					3	23
Atlantic Halibut	100	77		77					21	2
Atlantic Wolffish	84	82		82					1	1

Updated catch limits based on final sector rosters and 2018 catch information will be announced as soon as possible in the 2019 fishing year.
 GB = Georges Bank, GOM = Gulf of Maine, SNE/MA = southern New England/mid-Atlantic, CC/GOM = Cape Cod/Gulf of Maine, N = northern, S = southern.

Seasonal Closed Areas

Commercial vessels remain subject to groundfish year-round and seasonal closed areas. As a reminder, seasonal closed areas are shown in Figure 1, below. The GOM Cod Protection Closures are shown in Figure 2 below. More information on groundfish closed areas can be found in the Closed Area Regulations Northeast Multispecies Information Sheet at <https://www.greateratlantic.fisheries.noaa.gov/regis/infodocs/multsclosedareas.pdf>.

Figure 1. Seasonal Closed Areas



GOM Cod Spawning Protection Area "Whaleback"

The GOM Cod Spawning Protection Area is closed from April 1 through June 30 to all fishing vessels with the following exceptions: charter and party or recreational vessels, provided that pelagic hook and line gear is used, and there is no retention of regulated Northeast multispecies or ocean pout; and vessels fishing with exempted gears (spears, rakes, diving gear, cast nets,

tongs, harpoons, weirs, dip nets, stop nets, pound nets, pots and traps, purse seines, surf clam/quahog dredge gear, pelagic hook and line, pelagic longlines, single pelagic gillnets, shrimp trawls (with properly configured grates)).

Recreational and commercial vessels are allowed to transit the GOM Cod Spawning Protection Area, provided all gear is stowed in accordance with the regulations as described in 50 CFR 648.2.

Spring Massachusetts Bay Spawning Protection Area

The Spring Massachusetts Bay Spawning Protection Area depicted above is closed from April 15 through April 30 to all fishing vessels, with the exception of charter/party, private recreational vessels, and vessels fishing with exempted gear. Additionally, vessels participating in the purse seine exempted fishery may fish in the Spring Massachusetts Bay Spawning Protection Area.

Charter and party vessels fishing in the Spring Massachusetts Bay Spawning Protection Area with gear capable of catching Northeast multispecies must have a Letter of Authorization (LOA) from the Regional Administrator to enter or fish in these areas (additional requirements also apply). An LOA may be obtained by calling the Permit Office at 978-281-9370.

Winter Massachusetts Bay Spawning Protection Area

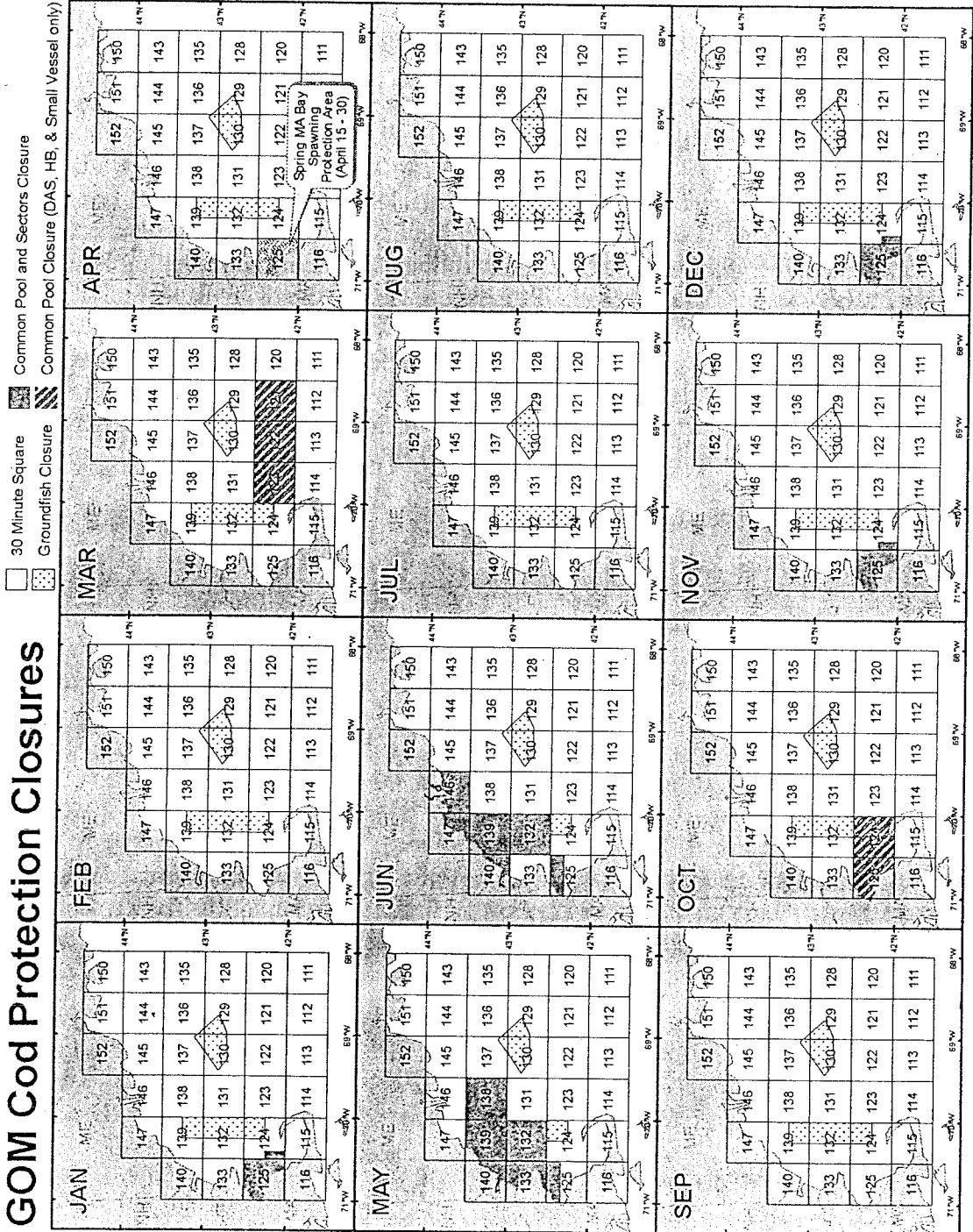
The Winter Massachusetts Bay Spawning Protection Area depicted above is closed from November 1 through January 31 to all fishing vessels, with the following exceptions: charter and party or recreational vessels, provided that pelagic hook and line gear is used, and there is no retention of regulated Northeast multispecies or ocean pout; and vessels fishing with exempted gears.

Closed Area I North Seasonal Closure

The Closed Area I North Seasonal Closure depicted above is closed from February 1 to April 15 to all fishing vessels, with the following exemptions: vessels fishing with exempted gears; vessels participating in the mid-water trawl exempted fishery; and vessels using sea scallop dredge gear when under a scallop day-at-sea (DAS), or vessels lawfully in a scallop dredge exemption area.

Figure 2. Gulf of Maine Cod Protection Closures

GOM Cod Protection Closures



GOM Cod Protection Closures

The GOM Cod Protection Closures depicted above are closed to all fishing vessels with the following exemptions: charter and party vessels; private recreational vessels; vessels fishing on a sector trip or under a handgear A permit within GOM Cod Protection Closures during March and October; vessels fishing with exempted gears; vessels participating in the mid-water trawl exempted fishery; vessels using sea scallop dredge gear when under a scallop DAS, or vessels lawfully in a scallop dredge exemption area; and vessels participating in the Raised Footrope Trawl Exempted Whiting Fishery.

Charter and party vessels fishing in the GOM Cod Protection Closures must have a LOA from the Regional Administrator to enter or fish in these areas (additional requirements also apply). An LOA may be obtained by calling the Permit Office at 978-281-9370.

Sector Measures

Approved Sectors

We have approved 16 sectors to operate in fishing years 2019 and 2020 (May 1, 2019, through April 30, 2021).

- Georges Bank Cod Fixed Gear Sector
- Maine Coast Community Sector
- Mooncusser Sector
- Northeast Fishery Sectors II, IV, V, VI, VII, VIII, X, XI, XII, and XIII
- Sustainable Harvest Sectors 1, 2 and 3.

All approved sectors receive “universal” exemptions from trip limits for allocated stocks, Northeast multispecies DAS restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on GB; and portions of the GOM Cod Protection Closures. Additionally, sector vessels fishing exclusively in the SNE and Inshore GB Broad Stock Areas with extra-large mesh gillnets (10-inch [25.4-cm] or greater) are excluded from the at-sea monitoring (ASM) coverage requirement. We have approved 19 additional exemptions for fishing years 2019 and 2020, all of which were approved for fishing year 2018. Further details on approved sector exemptions can be found on our website (<https://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/>) and in your sector operations plan. Sector vessels are required to carry a copy of their sector operations plan and LOA on board at all times.

At-Sea Monitoring

The total target ASM coverage level for fishing year 2019 is 31 percent, a 16-percent increase from the ASM coverage level for fishing year 2018. Any federally funded observer coverage provided by the Northeast Fishery Observer Program to meet Standardized Bycatch Reporting Methodology requirements would partially satisfy the coverage requirement. We will reimburse 100 percent of industry’s ASM costs in fishing year 2019.

Common Pool Measures and Trip Limits

Common pool possession and trip limits are set at the levels summarized in the tables below for the start of the 2019 fishing year. These possession and trip limits, effective at 0001 hours on May 1, 2019, are set through an inseason action that can be found in the *Federal Register*. These possession and trip limits were developed based on the common pool sub-Annual Catch Limits (sub-ACL) set by Framework 57 that will be in effect on May 1, 2019. We also considered preliminary 2019 sector rosters, expected common pool participation, and common pool fishing activity in previous fishing years. Any landings prior to midnight on April 30, 2019, are subject to the fishing year 2018 landing limits. All landings after 0001 hours on May 1, 2019, are restricted to the fishing year 2019 limits in this bulletin.

Table 3. 2019 Fishing Year Common Pool Possession and Trip Limits

Stock	2019 Trip Limit
GB Cod (outside Eastern U.S./Canada Area)	250 lb per DAS, up to 500 lb per trip
GB Cod (inside Eastern U.S./Canada Area)	
GB Cod [Closed Area II Yellowtail Flounder/Haddock SAP (for targeting haddock)]	500 lb per trip
GOM Cod	50 lb per DAS, up to 100 lb per trip
GB Haddock	100,000 lb per trip
GOM Haddock	500 lb per DAS, up to 1,000 lb per trip
GB Yellowtail Flounder	100 lb per trip
SNE/MA Yellowtail Flounder	100 lb per DAS, up to 200 lb per trip
CC/GOM Yellowtail Flounder	750 lb per DAS, up to 1,500 lb per trip
American plaice	750 lb per DAS, up to 1,500 lb per trip
Witch Flounder	600 lb per trip
GB Winter Flounder	250 lb per trip
GOM Winter Flounder	2,000 lb per trip
SNE/MA Winter Flounder	2,000 lb per DAS, up to 4,000 lb per trip
Redfish	Unlimited
White hake	1,500 lb per trip
Pollock	Unlimited
Atlantic Halibut	1 fish per trip
Windowpane Flounder	Possession Prohibited
Ocean Pout	
Atlantic Wolffish	

GB = Georges Bank, GOM = Gulf of Maine, SNE/MA = southern New England/mid-Atlantic, CC/GOM = Cape Cod/Gulf of Maine, N = northern, S = southern.

Table 4. 2019 Fishing Year Cod Trip Limits for Handgear A, Handgear B, and Small Vessel Category Permits

Permit	Initial 2019 Trip Limit
Handgear A GOM Cod	50 lb per trip
Handgear A GB Cod	250 lb per trip
Handgear B GOM Cod	25 lb per trip
Handgear B GB Cod	25 lb per trip
Small Vessel Category	300 lb of cod, haddock, and yellowtail flounder combined; additionally, vessels are limited to the common pool DAS limit for all stocks.

We will continue to monitor common pool catch relative to quotas, and could further adjust possession and trip limits if necessary to prevent an overage. Up-to-date quota monitoring reports can be found on the internet at: <http://www.greateratlantic.fisheries.noaa.gov/>.

Common Pool Trimester Total Allowable Catches

The common pool catch limit for each stock is divided into trimester TACs: Trimester 1 (May 1-August 31); Trimester 2 (September 1-December 31); and Trimester 3 (January 1-April 30). If the fishing year 2019 common pool quota is exceeded for any stock, the amount of the overage will be deducted from the common pool’s quota next year (i.e., fishing year 2020). We will announce any overage adjustments as close to May 1, 2020, as possible.

Fishing Year 2019 trimester TACs are listed in Table 5 below. If approved, Framework Adjustment 58 would make minor changes to fishing year 2019 catch limits and thus the fishing year 2019 trimester TACs.

Additionally, these trimester TACs are based on preliminary sector rosters. However, individual permit holders have until the end of the 2018 fishing year (April 30, 2019) to drop out of a sector and fish in the common pool fishery for the 2019 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. Updated catch limits will be announced as soon as possible in the 2019 fishing year to reflect the final sector rosters as of May 1, 2019.

Area Closures

Once we project that 90 percent of a trimester TAC for a stock is caught, we will close that Trimester TAC Area to common pool vessels fishing with gears capable of catching that stock. The area will remain closed until the end of that trimester, and will re-open at the start of the next trimester. The areas that will close for each stock, and the gears that the closure will apply to, are listed in **Table 6** on page 11.

Please note that the Trimester TAC Areas are made up of one or more Statistical Areas, and are different from the GOM Cod Protection Closures. If a Trimester TAC Area is open while a GOM

Cod Protection Closure is in effect, fishing may still occur within Trimester TAC Area, but not within the GOM Cod Protection Closure.

Table 5. Common Pool Trimester Total Allowable Catches for Fishing Year 2019 (mt, live weight)

Stock	Trimester Total Allowable Catches (mt)		
	Trimester 1	Trimester 2	Trimester 3
GB Cod	11.1	13.5	15.1
GOM Cod	5.8	3.9	2.1
GB Haddock	86.1	105.2	127.5
GOM Haddock	25.1	24.1	43.6
GB Yellowtail Flounder	0.7	1.1	1.8
SNE/MA Yellowtail Flounder	1.3	1.7	3.2
CC/GOM Yellowtail Flounder	9.7	4.4	2.9
American Plaice	19.2	2.1	4.7
Witch Flounder	10.1	3.7	4.6
GB Winter Flounder	0.5	1.4	4.1
GOM Winter Flounder	6.5	6.7	4.4
Redfish	12.8	15.9	22.5
White Hake	7.8	6.4	6.4
Pollock	64.4	80.5	85.1

Table 6. Common Pool Trimester TAC Area Closures

Stock	Statistical Area	Gear
GOM cod	513, 514	Trawl, gillnet, longline/hook
GB cod	521, 522, 525, 561	Trawl, gillnet, longline/hook
GOM haddock	513, 514, 515	Trawl, gillnet, longline/hook
GB haddock	521, 522, 525, 561, 562	Trawl, gillnet, longline/hook
CC/GOM yellowtail flounder	514, 521	Trawl, gillnet
GB yellowtail flounder	522, 525, 561, 562	Trawl, gillnet
SNE/MA yellowtail flounder	537, 539, 538, 613	Trawl, gillnet
GOM winter flounder	514	Trawl, gillnet
GB winter flounder	522, 525, 561, 562	Trawl
Witch flounder	512, 513, 514, 515, 521, 522, 525	Trawl
American plaice	512, 513, 514, 515, 521, 522, 525	Trawl
Pollock	513, 514, 515, 521, 522	Gillnet, trawl, longline/hook
Redfish	513, 514, 515, 521, 522	Trawl
White hake	513, 514, 515, 521, 522	Gillnet, trawl

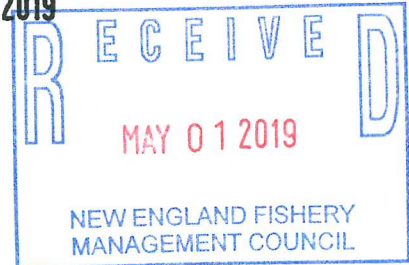


UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

Matt Tinning
Associate Vice President, Oceans
Environmental Defense Fund
18 Tremont Street
Boston, MA 02108

Peter Shelley
Senior Counsel
Conservation Law Foundation
62 Summer Street
Boston, MA 02110

APR 30 2019



Dear Mr. Tinning and Mr. Shelley:

Thank you for your letter regarding Amendment 23 to the Northeast Multispecies Fishery Management Plan. I agree that effective monitoring and accountability of catch are critical to the success of the groundfish fishery. The development of Amendment 23 is a critical priority, and I appreciate your continued engagement on this action.

The Council initiated Amendment 23 to revise the groundfish monitoring program to improve reliability and accountability of catch reporting. Amendment 23 is a top priority for the New England Fishery Management Council, and we support this priority. We have continued to support the Council in its efforts on Amendment 23, particularly through staff involvement on the Groundfish Plan Development Team. In April, the Council selected the range of alternatives for inclusion in the Draft Environmental Impact Statement. Subsequently, a sub-group of the Council's Scientific and Statistical Committee conducted a formal review of several analyses completed by the Groundfish Plan Development Team. The review was an important step forward for the development of Amendment 23, which had been postponed due to the partial government shutdown earlier this year.

The Council developed the groundfish at-sea monitoring program in Amendment 16 to verify catch and calculate discards for use in monitoring sector annual catch entitlements as part of the fishery's accountability measures. The monitoring program has multiple parts, including declarations by fishing vessels, selection of trips for coverage, and deployment of at-sea monitors by contracted providers. Collaboration among responsible parties for their part of the program is important to its effectiveness and success, and we will continue to encourage all involved parties to ensure the program runs smoothly and to help improve the program where possible. As part of Amendment 23, the Council is considering alternatives to the current standard of setting monitoring coverage levels to achieve a coefficient of variation no greater than 30 percent. For fishing year 2019, we determined that a 31-percent coverage level is necessary to meet that standard.

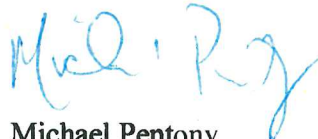
CJK, jc 5/2/19



Early in fishing year 2018, achieved at-sea monitoring coverage was below the target coverage level for many sectors due to a number of implementation issues. Active in-season oversight of the monitoring program identified the low level of achieved at-sea monitoring coverage and the causes of that low coverage. This allowed all parties to collaboratively address the problems and take actions to increase coverage during the year, rather than only evaluating monitoring coverage after the end of the year. There has been a substantial increase in achieved monitoring coverage (from 8 to 13 percent) since we identified the issues relating to low coverage rates and notified the sectors and providers. We will continue to work with sectors and providers in the 2019 fishing year to achieve the new 31-percent coverage level target. The lessons learned from this are being incorporated into the development of Amendment 23 to improve the accuracy of collected catch data and help ensure reliable catch accountability.

I appreciate the importance of improving the accuracy of collected catch data to ensure that catch limits are set at levels that prevent overfishing and to determine when catch limits are exceeded. I welcome your continued engagement on this issue and we are available to meet with you. The Council also may send you a detailed response to the issues raised in your letter. If you have further questions, please contact Sarah Heil, Assistant Regional Administrator for Sustainable Fisheries, at (978) 281-9257.

Sincerely,



Michael Pentony
Regional Administrator

cc: Rear Admiral Timothy C. Gallaudet, Assistant Secretary of Commerce for Oceans and Atmosphere
Chris Oliver, Assistant Administrator for NOAA Fisheries
Dr. John Quinn, Chairman, New England Fishery Management Council
Tom Nies, Executive Director, New England Fishery Management Council

Sherie Goutier

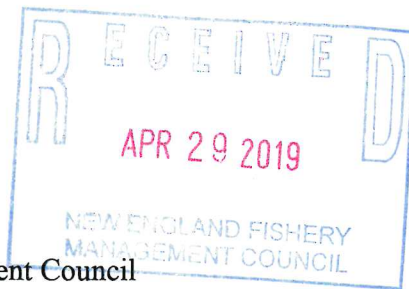
From: Peter Lussier <petersonlussier@gmail.com>
Sent: Sunday, April 28, 2019 1:22 AM
To: info info

I'm inquiring about the current regulations involving the codfish species, specifically of the coast of ogunquit ME. I've been fishing the Bunny Clark charter boat every May the weekend before memorial day for 20 years now. I've watched the sad decline in reservations due to the inability to keep any cod!! Not even one!! It's crazy because we literally throw back hundreds of legal market sized cod every trip yet the rules don't change! However the net boats can keep them as "by catch" when "accidentally" catching them while targeting other species. I'm so sad to see these fine people lose their livelihood because of ridiculously strict government regulations. Please let us keep a few per trip at least. I beg of you.

91 FAIRVIEW AVE
PORSTMOUTH NH 03801

April 10, 2019
New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
Thomas A. Nies, *Executive Director*



**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**



Dear Executive Director Tom Nies & Council Chairman Dr. John Quinn

Subject: AMENDMENT 23/GROUNDFISH MONITORING

We represent a group of Commercial Fishermen with the Limited Access Handgear HA Permits, employing the use rod and reel, handlines or tub trawls to catch Cod, Haddock and Pollock along with small quantities of other regulated and non-regulated marine fish.

We are requesting that the NEFMC exempt Common Pool and Sector Vessels issued a limited access NE multispecies Handgear A or Small Vessel Category permit from Dockside Monitoring (DSM).

1. We requested the same exemption from the NMFS in our comments for Dockside Monitoring in Framework 45 and this request was granted. NMFS stated:

"Vessels issued a limited access NE multispecies Handgear A or Small Vessel Category permit, and vessels issued an open access NE multispecies Handgear B permit, land very small amounts of regulated species and ocean pout compared to vessels issued limited access NE multispecies DAS permits. Thus, dockside/roving monitoring costs would represent a greater proportion of their operational costs compared to NE multispecies vessels operating under a NE multispecies DAS. Based on public input, there is the potential that such costs would be more than the value of fish landed on a particular trip. Accordingly, FW 45 proposes to exempt Handgear A, Handgear B, and Small Vessel category permits from any dockside/roving monitoring requirements when operating in the common pool. Under such an exemption, it would not be possible for dockside/roving monitor service providers to provide statistically random coverage of all common pool trips, as required under Amendment 16. Therefore, the proposed regulations would also revise the Amendment 16 dockside/roving monitoring coverage provisions to accommodate this exemption, and specify that service providers must provide random coverage of all trips subject to the dockside/roving monitoring requirements." Docket ID: NOAA-NMFS-2010-0198 RIN 0648-BA27

2. Although Amendment 23 proposes that Dealers pay for DSM there is still the concern that the value of the catch and any subsequent profit made by the dealer (much smaller portion than the fisherman) will not be sufficient to cover the costs of the DSM for these permit categories. A Dealer may rightfully refuse to take the groundfish from a small vessel since they would lose money almost every time. **These federally licensed fisherman can only sell their catch to federal dealers. Implementing DSM on these small vessel fishermen would eliminate these fishermen from the fishery if no dealer will provide a DSM to them at a financial loss.**
3. We are requesting that both Common Pool and Sector vessels are exempt from DSM. This makes sense since the reasons for requesting this exception is the same regardless if a vessel is in the common pool or in a sector.

Very Respectfully,
Marc Stettner /s/

NEHFA MEMBERS: Marc Stettner, Timothy Rider, AJ Orlando, Hilary Dombrowski, Paul Hoffman, Christopher DiPilato, Ed Snell, Scott Rice, Roger Bryson, Brian McDevitt, Anthony Gross, Doug Amorello

JC 4/30/19

Subject: **Proposal - Public Comment**

Date: 4/24/2019 5:55:52 AM Pacific Standard Time

From: fishinglsister@aol.com

To: FishingLSister@aol.com



If we can end the conflict of interest between the commercial sector and the recreational sector, help the long term best interests of both sectors and dramatically improve the rebuilding of many important commercial and recreational species in one motion, don't you think the possibility deserves looking into?

When I started fishing saltwater in 1964 (I lived "inland" before that) everyone was complaining about "the foreigners" (mostly Russian and East German, from what I was told) that were camped out just beyond the 12 mile limit, sucking up all the fish with their factory processor ships. Then, in 1976 we enacted the Magnuson Stevens Act and with it, the new 200 mile limit ended the foreign fleet issue.

Unfortunately, what we did then was far worse than the foreign fishermen and that was our government gave a low interest loan to virtually anyone who wanted to buy a big, efficient dragger to go out and "harvest" our new territory of exclusive fishing grounds. In about a decade, we did far more damage than the foreign fleet did in 200 years! And things have been getting worse from there ever since.

I propose that we go back to the 12 mile limit! That would be for "all nets" (gill nets, draggers, pound nets, seines, etc.). Move all netting activities beyond the 12 mile boundary AND pay the netters what they have been making on the important species for a period of ten years so they are not negatively impacted. NOAA's budget is roughly \$5.5 billion dollars and, if we add all freshwater, saltwater fish and shellfish together, in the last year the data was available we landed \$5.428 billion of seafood. The big money items were things like sea scallops (\$55M), blue crab (\$195M), dungeness crab (\$213M), king/snow/stone crabs (\$200M), lobster (\$133M), shrimp (\$128M), Ca. squid (\$138M), Pacific Cod (\$156M), Pac. halibut (\$125M), Menhaden (\$125M), Pac. Pollack (\$414M), Sablefish (\$144M), salmon (\$990M) and tunas (\$129M). Those 14 items account for about 60% of all commercial landings in The USA. Note that about 90% of our domestic seafood consumption is imported from other countries and the species I am about to point out, the species that are important to recreational fishermen account for less than 10% of our landings. That's right, most of our "issues" can be settled with a 10% adjustment to the way we do things with little loss to the industry and a huge gain for both the resource and for the American economy!

Lets use the east coast of the USA for example and the 12 most important species to inshore recreational fishermen (data is from The NOAA Website, latest year, 2017 landings): Striped bass (\$23.4M), bluefish (\$3.1M), bonito (\$0.1 M), Atlantic cod (\$4.5M), Summer flounder (\$24.8M), winter flounder (\$7.0M), northern puffer (\$0.06), black sea bass (\$13.2M), toutog (\$1.2M), weakfish (\$0.36M), scup (\$9.6M), haddock (\$12.0M). The total is \$90M, less than 2% of NOAA's annual budget. Pay the commercial boats the \$90 million and LET THEM FISH FOR THE FISH THEY CAN CATCH BEYOND 12 miles. They would not lose a dime and they can still catch most of what they are catching now (win-win). This would make a buffer zone, free of nets for the important inshore area for spawning and maturing for a multitude of species and will save the ecology of the sea bed from the constant destruction of the mobile gear and future lost (ghost) gill nets like the one I found last week on a cod spawning area.

The ASA did a study recently that concluded that recreational fishing is worth over \$130 Billion to the US economy. I'm more than 100% sure that we can increase that by far more than \$10 billion/year for the cost of less than 5% of NOAA's annual budget. We can work out details and compromises (like with salmon and menhaden) but the point is that we need to address this. The gains all around demand it!

Thank you!

Captain Jason Colby
Little Sister Charters
fishinglsister@aol.com
617-755-3740
www.littlesister1.com

jc 4/29/19



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

April 23, 2019

Mr. Michael Pentony
Regional Administrator
NMFS/GARFO
55 Great Republic Drive
Gloucester, MA

Dr. Jonathan Hare
Science and Research Director
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

Dear Mike and Jon:

I wanted to follow-up on a suggestion that was made at our most recent Executive Committee meeting. One of the important issues discussed during the development of Amendment 23 to the Northeast Multispecies Fishery Management Plan is the cost of any proposed monitoring programs. The industry is justifiably concerned that they will be unable to support the costs of at-sea monitoring. In the last two years the federal appropriations bills allocated a total of \$20.6 million for the at-sea monitoring costs in this fishery. It is possible that we may be able to coordinate the spending plans for this money with the development and implementation of the Amendment 23 monitoring program. I urge you to engage the Council in a discussion of how this money will be spent so that it will assist us in our development of a robust catch accounting system.

An important component of this discussion will be a clear understanding of the availability of funds from fiscal year 2018. It is our understanding that you plan to provide us a summary of those expenditures in mid-May. I ask that it be made available before the Groundfish Committee meeting planned for May 20-21.

The Council looks forward to close cooperation as we move this action forward. Please contact our Executive Director if there are any questions.

Sincerely,

Dr. John Quinn
Chairman



April 22, 2019

Mr. Jason McNamee, Chair
Scientific and Statistical Committee
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Mr. McNamee,

The Northeast Seafood Coalition (NSC) offers the following recommendation and comment in preparation for the Scientific and Statistical Committee's (SSC) Sub-Panel Review of groundfish monitoring analyses. We look forward to providing additional input during the public comment period on April 24, 2019.

NSC, founded in 2002, is a non-profit membership organization that represents commercial fishing businesses that rely upon the sustainability of the groundfish fishery. NSC members fish from small and large ports all along the Northeast coast. They fish small, medium, and large vessels, and they deploy, among them, all groundfish gear types (e.g. trawl, longline, and gillnet). NSC fishing members participate in the groundfish sector program.

NSC recognizes the SSC Sub-Panel is being convened to serve as a technical review of the statistical methods and analyses conducted by the Plan Development Team (PDT) using available fisheries data. The SSC Sub-Panel is following specific Terms of Reference (TORs) as drafted by the Plan Development Team. NSC urges the SSC Sub-Panel to consider this initial input prior to the meeting in order to better inform discussions.

NSC Recommendation:

All PDT analyses should take into account the linkage between the degree of accuracy for a given stock size estimate and the potential for observer bias. Out of the four analyses only document 1D considers this linkage and its potential impact. Nitschke's 1D page 3 notes,

"Constraints for limiting stocks in poor condition should limit fishing effort over the course of the fishing year in order to promote rebuilding of the stock. A stock quota set too low relative to the true abundance should produce a greater constraint on effort. This would therefore also result in higher incentives for observer effects. Therefore, interpretation of the discrepancies in the landing to effort ratios between observed and unobserved trips can be complicated by multiple factors".

1 Blackburn Center, 2nd floor
Gloucester, MA 01930
Tel: (978) 283-9992
www.northeastseafoodcoalition.org

To date the linkage to true abundance has been omitted despite countless letters, oral and written testimony to the Council. For example, as noted under the NSC public comments (submitted April 3, 2017) to the Amendment 23 scoping process,

“To NSC, we see an inconsistency in a process that on the one hand is accepting of historically low abundance estimates based on stock assessments while on the other it expresses concerns over the potential for fishermen to be interacting with these “scarcely” populated species at a phantom CPUE rate that would be more consistent with a much larger stock size.

NSC believes that we should not embark upon an effort to improve the reliability of the monitoring program without acknowledging the linkage between the degree of accuracy for a given stock size estimate and the potential for observer bias. There needs to be broader agreement on abundance estimates that serve as the basis for the monitoring program.”

NSC Comment:

The PDT conclusion document does not adequately represent underlying analyses. For example, under the conclusion document 1C the PDT states that *“there is some evidence that the magnitude of unreported cod catch (potentially illegal discarding) could have been >60% of reported catch on unobserved trips.”* Document 1C page 5 Table 3 actually reveals that the gear type (trawl) that is responsible for the vast majority of catch in the fishery - “reported catches were never greater than 15% and varied in direction across the years.” Considering that the PDT conclusions are void of any numerical ranges or values, the inclusion of such a summary is problematic because it does not represent an accurate depiction of the analysis in 1C.

Thank you for the opportunity to provide this initial input. NSC looks forward to providing additional comments on each of the analyses during the meeting.

Sincerely,



Jackie Odell, Executive Director

Document 1A

Methods to explore discard incentives and estimate prohibited discards of groundfish stocks.

Terms of Reference

2. Are the methods adequately described and based on sound analytic techniques and statistical principles?

NSC comment: NSC does not have a statistical expert on staff or on retainer. Therefore we could not comment to the soundness of analytical techniques and statistical principals. However, we found the methods to be adequately described to the extent that we could understand the approach taken.

3. Are important uncertainties in the data and the analyses (possibly including the effects of year to year variations in fishing practices) identified, and are the impacts of these uncertainties on the analyses adequately described?

NSC comment: NSC believes that this analysis fails to consider a fundamental source of uncertainty. It is the very real potential for a stock or stocks ACL/s to not be reflective of the true abundance of said stock/s. This very real and plausible scenario has been ignored in the analysis and in the report language despite NSC and other stakeholder's consistent urging and testimony since scoping hearings for the Amendment. The effects of an exponentially underestimated stock size on a monitoring program cannot be overstated.

4. Are the analyses conducted at the appropriate temporal and spatial scale such that the existence of regional or seasonal differences in monitoring performance can be identified?

5. What are the strengths and weaknesses of the methods? Are there constraints that would hinder the use of the catch monitoring analyses?

NSC comment: The method is based upon the assumption that the correlation between LEASE PRICE and EX-VESSEL price is the predictor for a positive or negative discard incentive. Although there is merit to the correlation between lease costs and ex-vessel prices, NSC has been consistent in pointing to a stronger correlation that exists which is the correlation of lease cost and stock availability / abundance.

6. Are the conclusions of the Plan Development Team supported by the analyses (see 1e)?

7. Are there recommendations for improving the analyses, or for additional research or data collection that can help address improving groundfish monitoring?

8. Are the data, methods, and analytic tools sufficient for the Council to identify and analyze monitoring alternatives for the Northeast Multispecies Fishery Management Plan Amendment 23 management action?

NSC comment: To date, the Amendment 23 process has failed to include analysis that can simulate the impacts of significantly under estimated stocks sizes and ACLs on development of monitoring alternatives.

Document 1B

Methods to evaluate observer effects in the groundfish fishery.

Terms of Reference

2. Are the methods adequately described and based on sound analytic techniques and statistical principles?

NSC comment: NSC does not have a statistical expert on staff or on retainer. Therefore we could not comment to the soundness of analytical techniques and statistical principals. However, we found the methods to be adequately described to the extent that we could understand the approach taken.

3. Are important uncertainties in the data and the analyses (possibly including the effects of year to year variations in fishing practices) identified, and are the impacts of these uncertainties on the analyses adequately described?

4. Are the analyses conducted at the appropriate temporal and spatial scale such that the existence of regional or seasonal differences in monitoring performance can be identified?

5. What are the strengths and weaknesses of the methods? Are there constraints that would hinder the use of the catch monitoring analyses?

NSC comment: Observer data is collected at the tow level while logbook data on U unobserved trips are at the trip level.

6. Are the conclusions of the Plan Development Team supported by the analyses (see 1e)?

NSC comment: If not in the PDT conclusions report it would be useful / helpful if the scale or magnitude of the variances inferred in the PDT conclusions document "Generally, the most pronounced effects are seen across trip duration, kept catch, kept groundfish, and trip revenue" were quantitatively provided in the 1B paper itself.

7. Are there recommendations for improving the analyses, or for additional research or data collection that can help address improving groundfish monitoring?

8. Are the data, methods, and analytic tools sufficient for the Council to identify and analyze monitoring alternatives for the Northeast Multispecies Fishery Management Plan Amendment 23 management action?

NSC comment: The NEFMC and stakeholders would benefit from a comprehensive summary table or narrative description of the variances in the metrics between observed and unobserved trips in the analysis.

Document 1C

Methods to predict groundfish catch in the presence of observer bias.

Terms of Reference

2. Are the methods adequately described and based on sound analytic techniques and statistical principles?

NSC comment: NSC does not have a statistical expert on staff or on retainer. Therefore we could not comment to the soundness of analytical techniques and statistical principals. However, we found the methods to be adequately described to the extent that we could understand the approach taken.

3. Are important uncertainties in the data and the analyses (possibly including the effects of year to year variations in fishing practices) identified, and are the impacts of these uncertainties on the analyses adequately described?
4. Are the analyses conducted at the appropriate temporal and spatial scale such that the existence of regional or seasonal differences in monitoring performance can be identified?
5. What are the strengths and weaknesses of the methods? Are there constraints that would hinder the use of the catch monitoring analyses?
6. Are the conclusions of the Plan Development Team supported by the analyses (see 1e)?
NSC comment: No it does not in our opinion. Page 4, Table 1 shows the OTF / trawl fleet had 66% less trips in 2017 than in 2011. Gillnet effort was reduced by over 81% in the same period. Gillnet gear accounts for a small percentage of the landings in the fishery especially since 2015. Table 2 on Page 5 shows the trawl fleet variance in model predicted catches on unobserved trips was 15% in 2011, -9% in 2013, -3% in 2015 and 13% in 2017. The PDT conclusions document only cites the Gillnet 2017 variance of 68% and is not reflective of the results of the analysis in the report.
7. Are there recommendations for improving the analyses, or for additional research or data collection that can help address improving groundfish monitoring?
8. Are the data, methods, and analytic tools sufficient for the Council to identify and analyze monitoring alternatives for the Northeast Multispecies Fishery Management Plan Amendment 23 management action?

Document 1D

Methods to evaluate groundfish catch ratios.

Terms of Reference

2. Are the methods adequately described and based on sound analytic techniques and statistical principles?

NSC comment: NSC does not have a statistical expert on staff or on retainer. Therefore we could not comment to the soundness of analytical techniques and statistical principals. However, we found the methods to be adequately described to the extent that we could understand the approach taken.

3. Are important uncertainties in the data and the analyses (possibly including the effects of year to year variations in fishing practices) identified, and are the impacts of these uncertainties on the analyses adequately described?

*NSC comment: NSC has been extremely consistent in our oral and written comments regarding the critical effects of an underestimated stock status on a monitoring program. We were gratified to read the statements in this 1D analysis: "A stock quota set too low relative to the true abundance should create a greater constraint on effort. This would therefore also result in higher incentives for observer effects." page 3, para 2
Although the analysis does not address this potential source of variances that may or may not have been indicated in the model results, it does identify it as a source of uncertainty.*

4. Are the analyses conducted at the appropriate temporal and spatial scale such that the existence of regional or seasonal differences in monitoring performance can be identified?
5. What are the strengths and weaknesses of the methods? Are there constraints that would hinder the use of the catch monitoring analyses?
6. Are the conclusions of the Plan Development Team supported by the analyses (see 1e)?
7. Are there recommendations for improving the analyses, or for additional research or data collection that can help address improving groundfish monitoring?
8. Are the data, methods, and analytic tools sufficient for the Council to identify and analyze monitoring alternatives for the Northeast Multispecies Fishery Management Plan Amendment 23 management action?



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

APR 15 2019

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear Tom:

In recent years we have received several permit applications to replace a limited access scallop vessel with another limited access scallop vessel after at least one of the vessels has already fished some or all of its scallop fishery allocation for that year. This has required us to take a hard look at our vessel replacement policy in light of the Atlantic Sea Scallop Fishery Management Plan's (FMP) prohibition on combining or consolidating permits, days-at-sea (DAS), and trip allocations. This is something we are seeing mostly with scallop permits, but it can also be an issue for Northeast multispecies and monkfish permits because those fishery management plans have the same prohibition. I would like the Council to be aware of this activity and how we are handling it.

The prohibitions on consolidating or combining limited access permits and DAS allocations on a single vessel were part of the implementing regulations for Amendment 4 to the Atlantic Sea Scallop FMP and Amendment 5 to the Northeast Multispecies FMP. See 50 CFR 648.4(a)(2)(i)(G), and cross-references to the Northeast multispecies regulations at § 648.4(a)(1)(i)(G). The same prohibition exists for monkfish permits at § 648.4(a)(9)(i)(G) with the same cross-reference to the Northeast multispecies regulations. These prohibitions arose out of our attempt to uphold the Council's intent in these amendments to prevent vessels from circumventing effort limitations that were designed to maintain the level of effective fishing power of vessels that existed prior to the amendments. For example, to allow fishing activities that were historically done by two vessels to now be done by one vessel would undermine this intent by increasing the effective fishing power of the remaining fishing vessels.

Upon implementation of the limited access programs for the Atlantic sea scallop and Northeast multispecies fisheries, several vessel owners asked whether a limited access vessel that has used some or all of its DAS in a given fishing year could replace another limited access vessel that has not used all of its DAS. They asked whether the replacement vessel may then fish additional DAS based on the allocation of DAS to which the vessel being replaced was entitled, all in the same fishing year. In other words, owners were asking if there was any way, under the current regulations, for one vessel to fish two allocations of DAS in one fishing year.

To address this question, in 1994 we developed, in consultation with the NOAA Office of General Counsel, an application processing policy for this issue to prevent combining or

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consolidating effort allocations that would be inconsistent with the scallop and multispecies amendments. In developing this policy, it was understood that the prohibitions on combining or consolidating these effort allocations were not intended to, and did not, prevent one-time vessel replacements that were allowed by the fishery to address legitimate needs to replace inoperable or unseaworthy vessels arising in the normal course of fishing during a fishing year. Thus, the policy recognized that an owner with a legitimate need may replace an inoperable vessel with another vessel that had fished for scallops or groundfish earlier in the same year because the replacement would not undermine the intent of the FMPs to maintain historic levels of fishing effort. The policy extends to monkfish limited access permits which were implemented after the policy was completed. My staff have strived to adhere to this policy since its development in 1994.

In these fisheries, the policy recommends disapproving the replacement of a vessel that has not fished all of its allocation during a fishing year by another vessel that has fished in the same fishing year, if the same owner owns both vessels; or the vessel owner entities have common ownership or a common interest in the vessels involved. To disapprove these types of replacements involving overlapping ownership interests helps assure that vessel owners do not consolidate fishing activities that were previously conducted on multiple vessels onto one vessel; thereby undermining the purpose of the prohibitions on consolidating or combining fishing allocations. Determining which applications involve these types of vessel replacements, however, is challenging and often involves complicated situations with multiple vessels and owners. Our decision to deny or discourage these types of applications can be confusing to, and very contentious with, the owners involved.¹ For this reason, we have decided to clarify our policy so that we can help ensure that our decisions are consistent and understandable. To that end, we will allow vessel replacements of scallop, multispecies, and monkfish vessels, resulting in the combining or consolidating of fishing allocations of two or more vessels onto one vessel in a fishing year, if we can make the following findings:

- 1) That the vessel being replaced is not operable due to unforeseen circumstances at the time of the replacement request and cannot be fished the remainder of the current fishing year. This includes vessels whose allocations have been put into Confirmation of Permit History due to documented inoperability for the rest of the fishing year;
- 2) That the purchase and sale of the vessel to be used as a replacement (new vessel) is an arm's length transaction at fair market value; and
- 3) That the two business entities involved in the purchase and sale have no common owners or directors and have no mutually beneficial financial interests arising out of the transfer of fishing allocations to the replacement vessel.

In addition, any time we allow a vessel replacement based on these findings, we will send a letter with the issued permit stating that the permit transfer is null and void if the seller or buyer disagree with our findings or they conclude that our findings are not true and correct. We will also inform the vessel owner that if the ownership of the replacement vessel reverts to its original owner, we may not issue a scallop permit to such vessel in the fishing year after the replacement

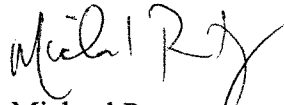
¹ Indeed, a lawsuit against NMFS was recently filed challenging our denial of a scallop vessel replacement based on this policy.

if such vessel has already fished in such year (other than carryover allocations from the previous fishing year) under a different scallop permit.

These clarifications help preserve the intent of the permit consolidation prohibition and provide more objective guidance to vessel owners who, due to unforeseen operational circumstances of their vessel, may have to replace that vessel with a vessel that has already fished a limited access scallop, multispecies or monkfish permit within the same fishing year.

My staff is available should follow-up information be requested by you or your staff. If you have any questions, please contact me or David Gouveia at (978) 281-9280 or David.Gouveia@noaa.gov.

Sincerely,

A handwritten signature in black ink that reads "Michael Pentony". The signature is written in a cursive style with a large, stylized "M" and "P".

Michael Pentony
Regional Administrator

cc: Christopher Moore, PhD



Greater Atlantic Region Bulletin

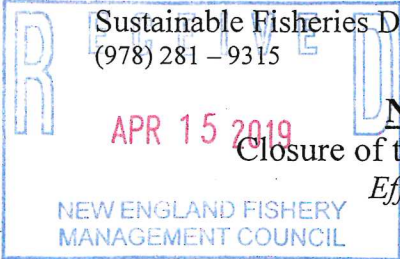
NOAA Fisheries, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930

For Information Contact:

Sustainable Fisheries Division
(978) 281-9315

www.greateratlantic.fisheries.noaa.gov

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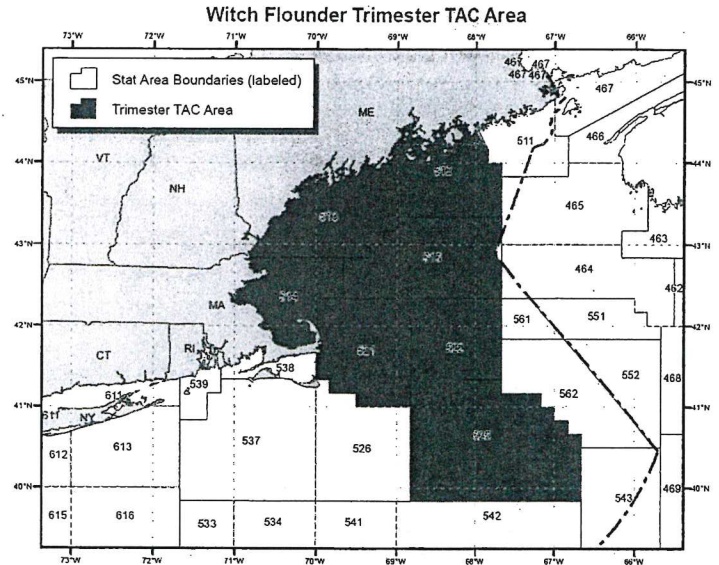
Northeast Multispecies Common Pool Vessels

Closure of the Witch Flounder Trimester Total Allowable Catch Area

Effective Date: April 12, 2019, through April 30, 2019

Effective at 0845 hours on April 12, 2019, statistical areas 512, 513, 514, 515, 521, 522, and 525 are closed for the remainder of Trimester 3, through April 30, 2019. During this closure, common pool vessels fishing with trawl gear may not fish for, harvest, land, or possess regulated multispecies in or from this area. The closure is required because 90 percent of the Trimester 3 Total Allowable Catch (TAC) for witch flounder is projected to have been caught. This area will reopen at the beginning of fishing year 2019, at 0001 hours, May 1, 2019.

If you have crossed the vessel monitoring system demarcation line and are currently at sea on a groundfish trip, you may complete your trip in all or part of the closed areas.



Frequently Asked Questions

Why is this action being taken?	We are required to close the Trimester TAC Area for a stock when 90 percent of the Trimester TAC is projected to be caught.
How much of the quota has been caught?	Based on data through March 29, 90 percent (4.05 mt) of the Trimester 3 quota (4.5 mt) for witch flounder is projected to have been caught. Quota monitoring reports are available at: https://www.greateratlantic.fisheries.noaa.gov/aps/monitoring/nemultispecies.html
What happens if the Trimester TAC is exceeded? Underharvested?	If the Trimester 1 or Trimester 2 TAC for a stock is exceeded, the overage is deducted from the Trimester 3 TAC. Any unused portion of the Trimester 1 or Trimester 2 TAC for the stock is carried forward to the following trimester. No unused portion of the total annual quota may be carried over to the following fishing year.
What happens if the annual quota is exceeded?	If the 2018 fishing year quota is exceeded, the amount of the overage will be deducted from the common pool's quota for fishing year 2019.

For small entity compliance guides, this bulletin complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996. This notice is authorized by the Regional Administrator of the National Marine Fisheries Service, Greater Atlantic Region.



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 National Oceanic and Atmospheric Administration
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APR 16 2019

Groundfish Summary Report

May 1, 2018 – April 12, 2019

AT THE NEW ENGLAND FISHERY
 MANAGEMENT COUNCIL MEETING

DAS Leasing Program (through April 12, 2019)

	Common Pool	Sectors
Total Leases Processed:	10	130
Total Leases Approved:	10	120
Number of Distinct Permits:	16	143
Total DAS Leased:	108.185	3066.193
Average Cost per DAS Leased*:	\$13.47	\$1.64
Highest Cost per DAS Leased:	\$100.00	\$10.02
Lowest Cost per DAS Leased:	\$0.00	\$0.00

* For leases greater than \$ 0.00

Sector ACE Transfers (through April 12, 2019)

STOCK	Number of Transfers	Total Pounds Transferred
CC/GOM Yellowtail Flounder	69	186,200
GB Cod East	73	249,583
GB Cod West	111	825,938
GB Haddock East	10	958,053
GB Haddock West	16	1,955,781
GB Winter Flounder	53	518,499
GB Yellowtail Flounder	18	71,314
GOM Cod	146	384,285
GOM Haddock	38	1,116,878
GOM Winter Flounder	22	60,634
Plaice	142	986,502
Pollock	20	1,888,948
Redfish	36	4,717,417
SNE/MA Winter Flounder	54	216,284
SNE/MA Yellowtail Flounder	29	14,145
White Hake	85	1,998,543
Witch Flounder	149	767,676
Total	1,071	16,916,680

