

# 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

February 16, 2022

Eric Reid, Chairman  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

Dear Eric:

The Northeast Fisheries Science Center prepared a prepublication report for the 2021 stock assessment updates for the Gulf of Maine and Georges Bank cod stocks in October and September 2021, respectively. Based on the results of these assessments, NOAA's National Marine Fisheries Service (NMFS) updated the stock status of these stocks.

Stock status is unchanged for Gulf of Maine cod. The 2021 management track assessment, using data through 2019, used two age-structured (ASAP) models, both of which were accepted by the peer review. Both models indicate that the stock remains overfished. However, while one model (the "M-ramp model") estimates the fishing mortality (F) is slightly less than the F for maximum sustainable yield ( $F_{MSY}$ ), the other (the "M=0.2 model") indicates that the F remains higher than  $F_{MSY}$ . There is no clear evidence that the M-ramp model only should be used as a basis to change the stock status, or that the M=0.2 model is not appropriate for informing stock status. Therefore, we have determined that the stock will retain its overfishing status.

Stock status is unchanged, but continues to be uncertain, for Georges Bank cod. The 2021 management track assessment used commercial fishery catch data through 2020 and updated research survey indices of abundance through spring 2021. The 2015 assessment for Georges Bank cod was not accepted as a basis for management; since then, the Plan B Smooth approach has been used to set catch advice for this stock. The assessment states that the Georges Bank cod biological reference points cannot be quantitatively estimated. The assessments recommended the stock be considered overfished due to poor stock condition and that the overfishing status be considered unknown. Based on NMFS' policy regarding changing a status from known to unknown, Georges Bank cod retains its overfishing status, consistent with the determination from the 2013 Georges Bank cod benchmark assessment.

#### Next steps

The Council is committed to addressing rebuilding for Gulf of Maine cod in 2022 in the next framework adjustment to the Northeast Multispecies Fishery Management Plan and plans on revisiting the possibility of a Georges Bank cod recreational allocation following the 2023 research track stock assessment for Atlantic cod. We will continue to provide advice and collaborate on the development and implementation of a revised rebuilding plan for Gulf of



Maine cod, as well as for Southern New England/Mid-Atlantic winter flounder, through our participation on the Groundfish Plan Development Team, the Groundfish Committee, and the Council.

If you have any questions about this guidance, or the development of rebuilding plans for these stocks, please contact Moira Kelly, Acting Assistant Regional Administrator for Fisheries for the Greater Atlantic Regional Fisheries Office, at (978) 281-9218.

Sincerely,



Michael Pentony  
Regional Administrator

cc: Tom Nies, Executive Director, New England Fisheries Management Council  
Dr. Jon Hare, Director, Northeast Fisheries Science Center  
Jennifer M. Wallace, Acting Director, Office of Sustainable Fisheries

**From:** Moira Kelly - NOAA Federal <[moira.kelly@noaa.gov](mailto:moira.kelly@noaa.gov)>  
**Sent:** Friday, February 25, 2022 2:52 PM  
**To:** Tom Nies <[tnies@nefmc.org](mailto:tnies@nefmc.org)>; Eric Reid <[ericreidri@gmail.com](mailto:ericreidri@gmail.com)>  
**Cc:** Michael Pentony <[michael.pentony@noaa.gov](mailto:michael.pentony@noaa.gov)>; Mark Grant <[Mark.Grant@noaa.gov](mailto:Mark.Grant@noaa.gov)>; Peter Christopher <[Peter.Christopher@noaa.gov](mailto:Peter.Christopher@noaa.gov)>  
**Subject:** Amendment 23 Proposed Rule

Dear Eric and Tom,

Today, the proposed rule for Amendment 23 to the Northeast Multispecies Fishery Management Plan filed at the Office of the Federal Register. The proposed rule will be published in the *Federal Register* on Monday, February 28, 2022, with a comment period running through March 30, 2022. The decision date for Amendment 23 is April 14, 2022. As a reference, a summary of the important dates is below.

- Amendment Notice of Availability (NOA) published: 1/14/2022
- Amendment NOA Comment Period ends: 3/15/2022
- FEIS NOA published: 1/21/2022
- Comment Period for FEIS ends: 2/22/2022
- Proposed Rule publishes: 2/28/2022
- Proposed Rule comment period ends: 3/30/2022
- Amendment Decision Date: 4/14/2022

Please let Mark Grant know if you have any questions.

Thanks,  
Moira

--

Moira Kelly  
(she/her)

*Acting Assistant Regional Administrator  
Sustainable Fisheries Division*

Greater Atlantic Regional Fisheries Office  
National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930



## New England Fishery Management Council

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

February 25, 2022

Mr. Michael Pentony  
Regional Administrator  
Greater Atlantic Regional Fisheries Office  
National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930

Dear Mike:

Today, my staff electronically sent the preliminary submission of Framework Adjustment 63 (FW63) to the Northeast Multispecies (Groundfish) Fishery Management Plan, including the Environmental Assessment and appendices, to your staff in the Sustainable Fisheries Division for review.

The measures proposed in FW63 would:

- Set FY2022 total allowable catches for US/Canada management units of Eastern GB cod and Eastern GB haddock, and FY2022-FY2023 specifications for the GB yellowtail flounder stock,
- Set FY2022 specifications for GB cod and FY2022-FY2024 specifications Gulf of Maine (GOM) cod,
- Adjust FY2022 specifications for white hake based on the new rebuilding plan,
- Revise the current default specifications process, and
- Modify recreational fishery management measures to promote GB cod stock rebuilding.

The Council requests that GARFO review this submission as expeditiously as possible.

Upon review of the document, please provide a “track changes” version of the document to me and my staff that identifies suggested revisions and contact me if you have questions.

Sincerely,

Thomas A. Nies  
Executive Director



**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

March 2, 2022

John Haran, Northeast Fishery Sectors X and XIII  
Linda McCann, Northeast Fishery Sector VIII  
Mary Hudson, Maine Coast Community Sector  
Amy Morris, Georges Bank Cod Fixed Gear Sector  
David Leveille, Northeast Fishery Sectors II and VI  
Dan Salerno, Northeast Fishery Sectors V and XI  
Paula Lynch, Northeast Fishery Sector XII  
Hank Soule, Sustainable Harvest Sectors I, II, and III

Dear Sector Managers:

In June 2021, you sent us a letter identifying several concerns regarding the implementation of electronic vessel trip reporting (eVTR) and with sectors' annual catch entitlement (ACE) transfer abilities during the transition from paper to electronic trip reports. The letter raised two points.

Your first point was of immediate concern: Sectors were experiencing non-compliance issues due to data issues at the regional level. In response, we suspended the 5-percent non-compliance ACE transfer threshold in July 2021. Since then, the staff at the Greater Atlantic Regional Fisheries Office (GARFO) and Northeast Fisheries Science Center (NEFSC) have worked to implement system improvements that corrected the data issues.

Your second concern pertained to the transition to mandatory eVTR being implemented in November 2021, and sector's ACE transfer abilities as vessels came into compliance with the new electronic reporting requirement. The 5-percent non-compliance ACE transfer threshold remained suspended during the transition to eVTRs. We have reviewed sector eVTR adoption and compliance data since implementation. This information shows that sectors are successfully adopting eVTR, and sectors are working to maintain 90-percent or greater compliance for eVTR submissions. We will continue to work directly with sector members that require additional assistance to promote compliance.

Based on sectors' adjustment to and compliance levels with eVTR reporting requirements, we intend to phase in reinstatement of the non-compliance ACE transfer threshold in the Sector Information Management Module (SIMM). The non-compliance threshold is an important tool the region uses to encourage and improve eVTR compliance. EVTR compliance is beneficial for sector managers and the region because it incentivizes sector vessels to provide complete data sets that support timely quota monitoring. We will first reinstate the non-compliance threshold in the SIMM at 10-percent, effective March 15, 2022. The 10-percent threshold will remain in place for the remainder of fishing year 2021 and 60 days into fishing year 2022, in order to address concerns from sectors whose members have yet to start their seasonal fishing activity and may not have used eVTR yet. This approach provides additional flexibility for sector's ACE transfer ability and encourages sector vessels new to eVTR to promptly transition to electronic reporting. We will return to a 5-percent threshold in the SIMM on June 30, 2022. At present, the



region will maintain the standard 35-day grace period for eVTR submissions. This is consistent with the grace period historically, and allows for eVTR submission and correction before missing reports are counted toward sectors' non-compliance threshold.

We are committed to working through eVTR compliance issues with sectors. We will remain available to assist sector members as they transition to eVTR to minimize the impact on sector's ACE transfer abilities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Pentony".

Michael Pentony  
Regional Administrator



## New England Fishery Management Council

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

March 8, 2022

Mr. Michael Pentony  
Greater Atlantic Regional Administrator  
National Marine Fisheries Service  
55 Great Republic Drive  
Gloucester, MA 01930

Dear Mike:

In accordance with provisions of the Magnuson-Stevens Act, I reviewed the draft regulatory text for Framework Adjustment 63 to the Northeast Multispecies (Groundfish) Fishery Management Plan to deem whether it is consistent with the action's text and the Council's intent. The review was based on the draft regulatory text provided to the Council staff by email on February 28, 2022. I deem the regulatory text in the enclosure consistent with Council intent for implementing measures proposed by Framework 63.

Please feel free to call me with any concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'ER' or 'ERID', written in a cursive style.

Eric Reid  
Chair



For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

**PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, revise paragraph (k)(16)(v) to read as follows:

**§ 648.14 Prohibitions**

\* \* \* \* \*

(k) \* \* \*

(16) \* \* \*

(v) *Size limits.* If fishing under the recreational or charter/party regulations, possess regulated species or ocean pout that are smaller than the minimum fish sizes or larger than maximum fish sizes specified in § 648.89(b)(1) and (b)(3).

3. Amend § 648.89 by revising the paragraphs (b) introductory text, (b)(1), Table 2 to paragraph (c), Table 3 to paragraph (c), and (g), to read as follows:

**§ 648.89 Recreational and charter/party vessel restrictions.**

\* \* \* \* \*

(b) *Recreational minimum and maximum fish sizes -*

(1) *Minimum and maximum 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 or larger than the maximum fish sizes, measured in total length, as follows:

Table 1 to Paragraph (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area <sup>1</sup>	21	53.3	N/A	N/A
Outside GOM Regulated Mesh Area <sup>1</sup>	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area <sup>1</sup>	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area <sup>1</sup>	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	N/A	N/A
Redfish	9	22.9	N/A	N/A

<sup>1</sup> GOM Regulated Mesh Area specified in § 648.80(a).

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

Table 2 to Paragraph (c)

Stock	Open season	Possession limit	Closed season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 15-30, April 1-14	1	April 15-September 14, October 1-March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1-February 28 (or 29), April 1-30	15	March 1-March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A

<b>Stock</b>	<b>Open season</b>	<b>Possession limit</b>	<b>Closed season</b>
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) of this section		
Atlantic Wolffish	Closed	No retention	All Year

\* \* \* \* \*

(2) \* \* \*

Table 3 to Paragraph (c)

<b>Species</b>	<b>Open season</b>	<b>Possession limit</b>	<b>Closed season</b>
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 8-October 7, April 1-14	1	April 15-September 7, October 8-March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1-February 28 (or 29), April 1-30	15	March 1-March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A

Species	Open season	Possession limit	Closed season
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) of this section		
Atlantic Wolffish	Closed	No retention	All Year

\* \* \* \* \*

(g) *Regional Administrator authority for Georges Bank cod recreational measures.* For the 2023 and 2024 fishing years, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for Georges Bank cod to prevent the recreational fishery from exceeding the annual catch target as determined by the NEFMC. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the Federal Register prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2024 will be in effect beginning in fishing year 2025, and will remain in effect until they are changed by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

\* \* \* \* \*

4. In § 648.90, revise paragraphs (a)(3) and (a)(4)(i) to read as follows:

***§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.***

\* \* \* \* \*

(a) \* \* \*

(3) *Default OFLs, ABCs, and ACLs.* (i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the Federal Register for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 75 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on October 31, unless superseded by the final rule implementing the current year's specifications.

\* \* \* \* \*

(4) \* \* \*

(i) *ABC/ACL recommendations.* As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding, the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section. ACLs can also be specified based upon updated information in the annual SAFE report, as described in paragraph (a)(1) of this section, and other available information as part of a specification package, as described in paragraph (a)(6) of this section. For NE multispecies stocks or stock components managed under both the NE Multispecies FMP and the Understanding, the PDT shall develop recommendations for ABCs, ACLs, and OFLs for the pertinent stock or stock components for each of the next 2 years as part of the annual process described in this paragraph (a)(4) and § 648.85(a)(2).

\* \* \* \* \*