

Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. There are no Tribal interests affected by this proposal.

#### References Cited

A complete list of references cited is available on the internet at <http://www.regulations.gov> under Docket Number FWS-R4-ES-2019-0071.

#### Authors

The primary authors of this proposed rule are staff members of the Service's Southeastern Region Recovery Team and the North Florida Ecological Services Field Office.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### **PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

- 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

#### **§ 17.12 [Amended]**

- 2. Amend § 17.12(h) by removing the entry for "*Chrysopsis floridana*" under

"Flowering Plants" on the List of Endangered and Threatened Plants.

**Martha Williams,**

*Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 210617–0133]

**RIN 0648–BK24**

#### **Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 61**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This action proposes to approve and implement Framework Adjustment 61 to the Northeast Multispecies Fishery Management Plan. This rule would revise the status determination criteria for Georges Bank and Southern New England-Mid Atlantic winter flounder, implement a revised rebuilding plan for white hake, set or adjust catch limits for 17 of the 20 multispecies (groundfish) stocks, and implement a universal exemption for sectors to target Acadian redfish. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Comments must be received by July 9, 2021.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2021–0061 by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) and enter NOAA–NMFS–2021–0061 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://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. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of Framework Adjustment 61, including the draft Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the New England Fishery Management Council in support of this action, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. 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:** Liz Sullivan, Fishery Policy Analyst, phone: 978–282–8493; email: [Liz.Sullivan@noaa.gov](mailto:Liz.Sullivan@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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#### **1. Summary of Proposed Measures**

This action would implement the management measures in Framework Adjustment 61 to the Northeast Multispecies Fishery Management Plan (FMP). The New England Fishery Management Council reviewed the proposed regulations and deemed them consistent with, and necessary to implement, Framework 61 in a June 10, 2021, letter from Council Chairman Dr. John Quinn to Regional Administrator Michael Pentony. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), we are required to publish proposed rules for comment after determining whether they are consistent

with applicable law. The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures that the Council proposes based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council's policy choices. We are seeking comments on the Council's proposed measures in Framework 61. Through Framework 61, the Council proposes to:

- Revise the status determination criteria (SDC) for Georges Bank (GB) and Southern New England/Mid-Atlantic (SNE/MA) winter flounder and provide the numeric estimates of the SDCs for these stocks, based on the peer review recommendations;
- Implement a revised rebuilding plan for white hake;
- Set fishing year 2021 shared U.S./Canada quotas for GB yellowtail flounder and eastern GB cod and haddock;
- Set 2021–2023 specifications, including catch limits, for nine groundfish stocks and adjust 2021–2022 allocations for seven other groundfish stocks; and
- Implement a universal exemption for sectors to target redfish.

**2. Status Determination Criteria**

The Northeast Fishery Science Center conducted management track stock assessment updates in 2020 for nine groundfish stocks. This action proposes to revise SDCs for GB and SNE/MA winter flounder, and provide updated numerical estimates of these criteria, in order to incorporate the results of the 2020 stock assessments and based on the peer review recommendations from the 2020 stock assessments. Table 1 provides the proposed revisions to the SDCs for GB and SNE/MA winter flounder, and Table 2 provides the resulting numerical estimates of the SDCs.

For GB winter flounder, the assessment and the peer review recommended changing the current maximum sustainable yield (MSY) biological reference points (calculated from the stock-recruitment relationship) to proxy-based biological reference points (F–40 percent, SSB–40 percent) as recommended by the panel review in the 2019 assessment. Similarly, for SNE/MA winter flounder, the assessment and the peer review recommended changing the MSY biological reference points (based on the stock-recruitment relationship) to proxy-based biological reference points (F–40 percent, SSB–40

percent), due to the Council's Scientific and Statistical Committee's (SSC) concerns with recent recruitment being estimated below predicted values from the stock recruitment relationship, and from recommendations by the 2018 peer review panel in considering an F–40 proxy. This addressed a concern that the estimate of  $F_{MSY}$  from the stock recruitment relationship could be too high relative to the estimate of F–40 percent. A stock assessment model change in the assumption for the estimated fishery selectivity pattern (*i.e.*, assumptions of ages that are subject to fishing) also contributed to a change in the numeric estimates of the SDCs for SNE/MA winter flounder. The assumption on selectivity in the stock assessment model changed from a dome-shaped fishery selectivity pattern (*i.e.*, a pattern that assumes that the largest or oldest members of a demographic group are not fully vulnerable to fishing) to a flat-topped fishery selectivity pattern (*i.e.*, a pattern in which the older age groups are fully vulnerable and susceptible to fishing). Fishing mortality rates and their corresponding overfishing rates ( $F_{MSY}$ ) are not comparable across models when large changes in the selectivity pattern have occurred.

TABLE 1—PROPOSED STATUS DETERMINATION CRITERIA

Stock	Biomass target (SSB <sub>MSY</sub> or proxy)	Minimum biomass threshold	Maximum fishing mortality threshold (F <sub>MSY</sub> or proxy)
GB Winter Flounder:			
<i>Current SDC</i> .....	SSB <sub>MSY</sub> .....	1/2 B <sub>target</sub> .....	F <sub>MSY</sub>
<i>Proposed SDC</i> .....	SSB <sub>MSY</sub> : SSB/R (40 percent MSP) .....	1/2 B <sub>target</sub> .....	F–40 percent of MSP <sub>P</sub>
SNE/MA Winter Flounder:			
<i>Current SDC</i> .....	SSB <sub>MSY</sub> .....	1/2 B <sub>target</sub> .....	F <sub>MSY</sub>
<i>Proposed SDC</i> .....	SSB <sub>MSY</sub> : SSB/R (40 percent MSP) .....	1/2 B <sub>target</sub> .....	F–40 percent of MSP

SSB = spawning stock biomass; MSY = maximum sustainable yield; B<sub>target</sub> = target biomass; F = fishing mortality; SSB/R = spawning stock biomass per recruit; MSP = maximum spawning potential.

TABLE 2—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA

Stock	Model/approach	B <sub>MSY</sub> or proxy (mt)	F <sub>MSY</sub> or proxy	MSY (mt)
GB Winter Flounder:				
<i>Using current SDC</i> .....	VPA .....	7,394 .....	0.358 .....	2,612
<i>Using proposed SDC</i> .....	VPA .....	7,267 .....	0.358 .....	2,573
SNE/MA Winter Flounder:				
<i>Using current SDC</i> .....	ASAP .....	31,567 .....	0.260 .....	9,102
<i>Using proposed SDC</i> .....	ASAP .....	12,322 .....	0.284 .....	3,906

**3. Rebuilding Plan for White Hake**

Framework 61 would revise the rebuilding plan for white hake. The current rebuilding plan for white hake, as implemented by Amendment 13, ended in 2014. In 2015, the stock

assessment update indicated that the stock was making adequate rebuilding progress, and in 2017, the Regional Administrator advised the Council to continue to set catch limits to maintain fishing mortality (F) at 75 percent of F at maximum sustainable yield until the

stock was rebuilt. However, the 2019 stock assessment update indicated that the spawning stock biomass of white hake dropped to 49.9 percent of B<sub>MSY</sub>, and while this was only 23 mt below the threshold, the stock had become overfished. On March 5, 2020, the

Regional Administrator notified the Council of the overfished status and that, given that the rebuilding plan's target date had passed, a new rebuilding plan was required. The deadline to implement a rebuilding plan is March 5, 2022.

The Magnuson-Stevens Act requires that overfished stocks be rebuilt as quickly as possible, not to exceed 10 years when biologically possible, accounting for the status and biology of the stocks, the needs of fishing communities, and the interaction of the overfished stock within the marine ecosystem. Rebuilding plans must have at least a 50-percent probability of success. Selection of a rebuilding plan with a higher probability of success is one way of addressing uncertainty, but this does not affect the standard used in the future to determine whether a stock is rebuilt. The minimum rebuilding time ( $T_{min}$ ) is the amount of time a stock is expected to take to rebuild to the biomass (B) associated with maximum sustainable yield (MSY) in the absence of any fishing mortality (F). The actual timeline set with a rebuilding plan ( $T_{target}$ ) may be greater than  $T_{min}$ , but cannot exceed the maximum rebuilding time ( $T_{max}$ ).  $T_{max}$  is 10 years if  $T_{min}$  is less than 10 years. In situations where  $T_{min}$  exceeds 10 years,  $T_{max}$  establishes a maximum time for rebuilding that is linked to the biology of the stock.

The white hake rebuilding program proposed in this action would rebuild the stock within 10 years, or by 2031, which is the maximum time period allowed by the Magnuson-Stevens Act. While projections suggest the stock could rebuild in 4 years at an F of zero, this does not account for the white hake's stock status, the needs of fishing communities, or the interaction of white hake with other multispecies in the groundfish fishery. Additional factors regarding biology and fishery needs were considered by the Council in

setting  $T_{target} = T_{max}$ . First, recent recruitment estimates for this stock have been below average, and recruitment may not increase suddenly to the average values, which make the  $T_{min}$  projections (4 years at  $F = 0$ ) likely to be overly optimistic. Long-term projections for many groundfish stocks have tended to be overly optimistic, such that future levels of biomass are overestimated and fishing mortality is underestimated. Additionally, recent commercial utilization of the white hake annual catch limit (ACL) is high, indicating that the stock is an important component of the fishing industry; a longer rebuilding period considers the needs of the fishing communities as much as practicable. The proposed rebuilding plan for white hake would set  $F_{rebuild}$  at 70 percent of  $F_{MSY}$  with an 87-percent probability of achieving  $B_{MSY}$ .

**4. Fishing Year 2021 Shared U.S./Canada Quotas**

*Management of Transboundary Georges Bank Stocks*

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. The Transboundary Management Guidance Committee (TMGC) is a government-industry committee made up of representatives from the United States and Canada. For historical information about the TMGC see: <http://www.bio.gc.ca/info/intercol/tmgc-cogst/index-en.php>. Each year, the TMGC recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing

mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the United States and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the Council's Scientific and Statistical Committee (SSC) also recommends an acceptable biological catch (ABC) for the stock. The ABC is typically used to inform the U.S. TMGC's discussions with Canada for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the Council may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is included in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

*2021 U.S./Canada Quotas*

The Transboundary Resources Assessment Committee conducted assessments for the three transboundary stocks in July 2020, and detailed summaries of these assessments can be found at: <https://www.nefsc.noaa.gov/assessments/trac/>. The TMGC met in September 2020 to recommend shared quotas for 2021 based on the updated assessments, and the Council adopted the TMGC's recommendations in Framework 61. The proposed 2021 shared U.S./Canada quotas, and each country's allocation, are listed in Table 3.

TABLE 3—PROPOSED 2021 FISHING YEAR U.S./CANADA QUOTAS (mt, live weight) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

Quota	Eastern GB cod	Eastern GB haddock	GB yellowtail flounder
Total Shared Quota .....	635 .....	14,100 .....	125.
U.S. Quota .....	190.5 (30 percent) .....	6,486 (46 percent) .....	80 (64 percent).
Canadian Quota .....	444.5 (70 percent) .....	7,614 (54 percent) .....	45 (36 percent).

The proposed 2021 U.S. quota for eastern GB cod would represent a 1.1-percent increase compared to 2020; the proposed 2021 U.S. quota for eastern GB haddock and GB yellowtail flounder would represent 60-percent and 33-percent decreases, respectively,

compared to 2020. The quota increase for eastern GB cod is due to a slight increase (1 percent) in the portion of the shared quota that is allocated to the United States, despite a small decrease in the total shared quota. The decreases for eastern GB haddock and GB

yellowtail flounder are both due to a decrease in total shared quota and the portion of the shared quota that is allocated to the United States. For a more detailed discussion of the TMGC's 2021 catch advice, see the TMGC's guidance document that will be posted

at: <https://www.greateratlantic.fisheries.noaa.gov/>. The 2021 U.S. quotas for eastern GB cod, eastern GB haddock, and GB yellowtail that are proposed in Framework Adjustment 61, if approved, will replace the 2021 quotas previously specified for these stocks (86 FR 22898; April 30, 2021). This is discussed further in Section 5, Catch Limits for the 2021–2023 Fishing Years.

The regulations implementing the U.S./Canada Resource Sharing Understanding require deducting any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder from the U.S. quota in the following fishing year. If catch information for the 2020 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2021 fishing year in a future management action, as close to May 1, 2021, as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would be applied only to that fishery’s allocation in the following fishing year. This ensures that catch by one component of the overall

fishery does not negatively affect another component of the overall fishery.

**5. Catch Limits for Fishing Years 2021–2023**

*Summary of the Proposed Catch Limits*

Tables 4 through 13 show the proposed catch limits for the 2021–2023 fishing years. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in Appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2021–FY 2023) to the Framework 61 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Through Framework 61, the Council proposes to adopt catch limits for nine groundfish stocks for the 2021–2023 fishing years based on stock assessments completed in 2020, and fishing year 2021–2022 specifications for GB yellowtail flounder. Framework 59 (85 FR 45794; July 30, 2020) previously set 2021–2022 quotas for the 10 groundfish stocks not assessed in 2020, based on

assessments conducted in 2019. This action would include minor adjustments for seven of these stocks for fishing years 2021–2022. Table 4 provides an overview of which catch limits, if any, would change, as proposed in Framework 61, as well as when the stock was most recently assessed. Table 5 provides the percent change in the 2021 catch limit compared to the 2020 fishing year.

Because Framework 61 is not in place in time for the May 1 start to the fishing year, the fishing year 2021 quotas previously set by Framework 59 are in effect from May 1, 2021, through April 30, 2022, unless and until replaced by the quotas proposed in this action. However, Framework 59 did not set 2021 quotas for GOM winter flounder, SNE/MA winter flounder, redfish, ocean pout, Atlantic wolffish, and the eastern portion of the GB cod and haddock stocks. A default quota for these stocks required by current regulations will be in effect from May 1, 2021, through July 31, 2021, unless and until replaced by the quotas proposed in Framework 61 (see 86 FR 22898; April 30, 2021 for more information).

TABLE 4—CHANGES TO CATCH LIMITS, AS PROPOSED IN FRAMEWORK 61

Stock	Most recent assessment	Proposed change in Framework 61
GB Cod	2019	New 2021–2022 U.S. ABC. Adjust sub-components.*
GOM Cod	2019	Adjust sub-components.*
GB Haddock	2019	New 2021–2022 U.S. ABC.
GOM Haddock	2019	No change: 2021–2022 catch limits set by Framework 59.
GB Yellowtail Flounder	2020	New 2021–2022 ABC.
SNE/MA Yellowtail Flounder	2019	Adjust sub-components.*
CC/GOM Yellowtail Flounder	2019	Adjust sub-components.*
American Plaice	2019	No change: 2021–2022 catch limits set by Framework 59.
Witch Flounder	2019	Adjust sub-components.*
GB Winter Flounder	2020	New 2021–2023 ABC.
GOM Winter Flounder	2020	New 2021–2023 ABC.
SNE/MA Winter Flounder	2020	New 2021–2023 ABC.
Redfish	2020	New 2021–2023 ABC.
White Hake	2019	Adjust sub-components.*
Pollock	2019	No change: 2021–2022 catch limits set by Framework 59.
N Windowpane Flounder	2020	New 2021–2023 ABC.
S Windowpane Flounder	2020	New 2021–2023 ABC.
Ocean Pout	2020	New 2021–2023 ABC.
Atlantic Halibut	2020	New 2021–2023 ABC.
Atlantic Wolffish	2020	New 2021–2023 ABC.

N = Northern; S = Southern; \* Adjustments to sub-components to the ACL result in an adjustment to the sub-ACLs for fisheries, including groundfish, as described in the Annual Catch Limits section below.

TABLE 5—PROPOSED FISHING YEARS 2021–2023 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES  
[mt, live weight]

Stock	2021		Percent change from 2020	2022		2023	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	1,308	1	UNK	1,308	.....	.....
GOM Cod	929	552	0	1,150	552	.....	.....
GB Haddock	116,883	82,723	–37	114,925	81,242	.....	.....
GOM Haddock	21,521	16,794	–15	14,834	11,526	.....	.....
GB Yellowtail Flounder	UNK	80	–33	UNK	80	.....	.....

TABLE 5—PROPOSED FISHING YEARS 2021–2023 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES—  
Continued  
[mt, live weight]

Stock	2021		Percent change from 2020	2022		2023	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
SNE/MA Yellowtail Flounder .....	71	22	0	184	22	.....	.....
CC/GOM Yellowtail Flounder .....	1,076	823	0	1,116	823	.....	.....
American Plaice .....	3,740	2,881	-9	3,687	2,825	.....	.....
Witch Flounder .....	UNK	1,483	0	UNK	1,483	.....	.....
GB Winter Flounder .....	865	608	8	974	608	1,431	608
GOM Winter Flounder* .....	662	497	11	662	497	662	497
SNE/MA Winter Flounder* .....	1,438	456	-37	1,438	456	1,438	456
Redfish* .....	13,519	10,186	-15	13,354	10,062	13,229	9,967
White Hake .....	2,906	2,147	0	2,986	2,147	.....	.....
Pollock .....	28,475	22,062	-20	21,744	16,812	.....	.....
N Windowpane Flounder .....	UNK	160	171	UNK	160	UNK	160
S Windowpane Flounder .....	513	384	-10	513	384	513	384
Ocean Pout* .....	125	87	-31	125	87	125	87
Atlantic Halibut .....	UNK	101	-5	UNK	101	UNK	101
Atlantic Wolffish* .....	122	92	2	122	92	122	92

UNK = Unknown.

**Note:** An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

### Overfishing Limits and Acceptable Biological Catches

The overfishing limit (OFL) is calculated to set the maximum amount of fish that can be caught in a year, without constituting overfishing. The ABC is typically set lower than the OFL to account for scientific uncertainty. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is reduced by the amount of the Canadian quota (see Table 3 for the Canadian and U.S. shares of these stocks). Although the TMGC recommendations were only for fishing year 2021, the portion of the shared quota allocated to Canada in fishing year 2021 was used to project U.S. ABCs for GB yellowtail for 2022 and for GB cod and haddock for 2022 and 2023. This avoids artificially inflating the U.S. ABC up to the total ABC for the 2022 and 2023 fishing years. The TMGC will make new recommendations for 2022, which would replace any quotas for these stocks set in this action. Additionally, although GB winter flounder, white hake, and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (26 mt), white hake (39 mt), and Atlantic halibut (49 mt) is deducted from the total ABC. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch (see Table 5). For stocks without Canadian catch, the U.S. ABC is equal to the total ABC.

The OFLs are currently unknown for GB cod, GB yellowtail flounder, witch flounder, and Atlantic halibut. For 2021,

the SSC recommended maintaining the unknown OFL for GB yellowtail flounder and Atlantic halibut, as well as setting the OFL for northern windowpane flounder as unknown. The OFLs for GB cod and witch flounder were set by Framework 59. Empirical stock assessments are used for these five stocks, and these assessments can no longer provide quantitative estimates of the status determination criteria, nor were appropriate proxies for stock status determination able to be developed. In the temporary absence of an OFL, in this and previous actions, we have considered recent catch data and estimated trends in stock biomass as an indication that the catch limits derived from ABCs are sufficiently managing fishing mortality at a rate that is preventing overfishing. For GB yellowtail flounder, the SSC noted that the fishery does not appear to be the main driver limiting stock recovery. However, the continued low stock biomass and poor recruitment for this stock warrant the maintenance of low catch levels. The 2020 assessment for northern windowpane used an empirical method to estimate swept-area biomass and annual relative exploitation rates, and generally showed a lack of decline over the past decade and a declining relative exploitation rate. There are indications that abundance of Atlantic halibut has increased significantly over the last decade, and although the SSC noted that catch is increasing, it supported the continued use of the method used to provide catch advice since 2018. Based on these considerations, we have preliminarily determined that these

ABCs are a sufficient limit for preventing overfishing and are consistent with the National Standards. This action does not propose any changes to the status determination criteria for these stocks.

### Annual Catch Limits

#### Development of Annual Catch Limits

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. An estimate of catch expected from state waters and the other sub-component (e.g., non-groundfish fisheries or some recreational groundfish fisheries) is deducted from the U.S. ABC. The remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation have a sub-ACL set by reducing their portion of the ABC to account for management uncertainty and are subject to AMs if they exceed their respective catch limit during the fishing year. For GOM cod and haddock only, the U.S. ABC is first divided between the commercial and recreational fisheries, before being further divided into sub-component and sub-ACLs. This process is described fully in Appendix II of the Framework 61 Environmental Assessment.

#### Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the

cumulative potential sector contributions (PSC) associated with those sectors. The sector and common pool sub-ACLs proposed in this action are based on final fishing year 2021 sector rosters. All permits enrolled in a sector, and the vessels associated with those permits, had until April 30, 2021, to withdraw from a sector and fish in the common pool for the 2021 fishing year. In addition to the enrollment delay, all permits that changed ownership after the roster deadline were able to join a sector (or change sector) through April 30, 2021.

Common Pool Total Allowable Catches

The common pool sub-ACL for each allocated stock (except for SNE/MA winter flounder) is further divided into trimester TACs. Table 9 summarizes the common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (i.e., stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (i.e., special access programs (SAP) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 10 through 13 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

Default Catch Limits for Future Fishing Years

Framework 53 established a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of a fishing year on May 1, then default

catch limits are set at 35 percent of the previous year's catch limit. The default catch limits are effective until July 31 of that fishing year, or when replaced by new catch limits, whichever happens first. If the default value is higher than the Council's recommended catch limit for the upcoming fishing year, the default catch limits will be equal to the Council's recommended catch limits for the applicable stocks for the upcoming fishing year. Because most groundfish vessels are not able to fish if final catch limits have not been implemented, this measure was established to allow fishing to continue for a short-interim period to minimize disruption to the groundfish fishery. Additional description of the default catch limit mechanism is provided in the preamble to the Framework 53 final rule (80 FR 25110; May 1, 2015).

TABLE 6—PROPOSED CATCH LIMITS FOR THE 2021 FISHING YEAR [mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	1,250	1,093	1,045	48					20	137
GOM Cod	523	463	262	8.2	193				48	12
GB Haddock	78,574	76,622	74,096	2,526		1,539			0	414
GOM Haddock	15,843	15,575	10,023	258	5,295	156			56	56
GB Yellowtail Flounder	78	64	59	5.1			12	1.5	0.0	0.0
SNE/MA Yellowtail Flounder	21	16	12	3.6			2.0		0.2	3.3
CC/GOM Yellowtail Flounder	787	692	651	41					58	37
American Plaice	2,740	2,682	2,592	90					29	29
Witch Flounder	1,414	1,317	1,273	44					44	52
GB Winter Flounder	591	563	517	47					0	27
GOM Winter Flounder	482	281	267	14					194	7.5
SNE/MA Winter Flounder	441	288	247	41					21	132
Redfish	9,677	9,677	9,537	139					0	0
White Hake	2,041	2,019	1,994	25					11	11
Pollock	21,086	18,549	18,355	193					1,434	1,103
N Windowpane Flounder	150	108	na	108			31		0.8	10
S Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: Not allocated to sectors.

TABLE 7—PROPOSED CATCH LIMITS FOR THE 2022 FISHING YEAR [mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	1,250	1,093	1,045	48					20	137
GOM Cod	523	463	262	8.2	193				48	12
GB Haddock	77,168	75,250	72,770	2,481		1,511			0	406
GOM Haddock	10,873	10,690	6,879	177	3,634	107			38	38
GB Yellowtail Flounder	78	64	59	5.1			12	1.5	0	0
SNE/MA Yellowtail Flounder	21	16	12	3.6			2.0		0.2	3.3

TABLE 7—PROPOSED CATCH LIMITS FOR THE 2022 FISHING YEAR—Continued  
[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
CC/GOM Yellowtail Flounder .....	787	692	651	41	.....	.....	.....	.....	58	37
American Plaice .....	2,687	2,630	2,542	89	.....	.....	.....	.....	28	28
Witch Flounder .....	1,414	1,317	1,273	44	.....	.....	.....	.....	44	52
GB Winter Flounder .....	591	563	517	47	.....	.....	.....	.....	0	27
GOM Winter Flounder .....	482	281	267	14	.....	.....	.....	.....	194	7.5
SNE/MA Winter Flounder .....	441	288	247	41	.....	.....	.....	.....	21	132
Redfish .....	9,559	9,559	9,421	138	.....	.....	.....	.....	0	0
White Hake .....	2,041	2,019	1,994	25	.....	.....	.....	.....	11	11
Pollock .....	16,068	14,135	13,988	147	.....	.....	.....	.....	1,093	841
N. Windowpane Flounder .....	150	108	na	108	.....	.....	31	.....	0.8	10
S. Windowpane Flounder .....	371	43	na	43	.....	.....	129	.....	23	177
Ocean Pout .....	83	50	na	50	.....	.....	.....	.....	0	33
Atlantic Halibut .....	97	73	na	73	.....	.....	.....	.....	20	3.5
Atlantic Wolffish .....	86	86	na	86	.....	.....	.....	.....	0	0

Na: not allocated to sectors.

TABLE 8—PROPOSED CATCH LIMITS FOR THE 2023 FISHING YEAR  
[mt, live weight]

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
GOM Cod * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
GB Haddock * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
GOM Haddock * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
GB Yellowtail Flounder ** .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
SNE/MA Yellowtail Flounder * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
CC/GOM Yellowtail Flounder * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
American Plaice * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Witch Flounder * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
GB Winter Flounder .....	591	563	517	47	.....	.....	.....	.....	0	27
GOM Winter Flounder .....	482	281	267	14	.....	.....	.....	.....	194	7.5
SNE/MA Winter Flounder .....	441	288	247	41	.....	.....	.....	.....	21	132
Redfish .....	9,469	9,469	9,332	136	.....	.....	.....	.....	0	0
White Hake * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Pollock * .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
N Windowpane Flounder .....	150	108	na	108	.....	.....	31	.....	0.8	10
S Windowpane Flounder .....	371	43	na	43	.....	.....	129	.....	23	177
Ocean Pout .....	83	50	na	50	.....	.....	.....	.....	0	33
Atlantic Halibut .....	97	73	na	73	.....	.....	.....	.....	20	3.5
Atlantic Wolffish .....	86	86	na	86	.....	.....	.....	.....	0	0

na: Not allocated to sectors.

\*These stocks only have an allocation for fishing years 2021–2022, previously approved in Framework 59.

\*\* Framework 61 proposes allocations for GB yellowtail flounder for fishing years 2021 and 2022 only.

TABLE 9—PROPOSED FISHING YEARS 2021–2023 COMMON POOL TRIMESTER TACS  
[mt, live weight]

Stock	2021			2022			2023		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod .....	13.4	16.3	18.2	13.4	16.3	18.2	.....	.....	.....
GOM Cod .....	4.0	2.7	1.5	4.0	2.7	1.5	.....	.....	.....
GB Haddock .....	682.0	833.5	1010.4	669.8	818.6	992.3	.....	.....	.....
GOM Haddock .....	69.6	67.1	121.2	47.8	46.0	83.2	.....	.....	.....
GB Yellowtail Flounder .....	1.0	1.5	2.6	1.0	1.5	2.6	.....	.....	.....
SNE/MA Yellowtail Flounder ...	0.8	1.0	1.8	0.8	1.0	1.8	.....	.....	.....

TABLE 9—PROPOSED FISHING YEARS 2021–2023 COMMON POOL TRIMESTER TACs—Continued  
[mt, live weight]

Stock	2021			2022			2023		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
CC/GOM Yellowtail Flounder ..	23.6	10.8	7.0	23.6	10.8	7.0	.....	.....	.....
American Plaice .....	66.8	7.2	16.3	65.5	7.1	15.9	.....	.....	.....
Witch Flounder .....	24.3	8.8	11.0	24.3	8.8	11.0	.....	.....	.....
GB Winter Flounder .....	3.7	11.2	31.7	3.7	11.2	31.7	3.7	11.2	31.7
GOM Winter Flounder .....	5.1	5.3	3.5	5.1	5.3	3.5	5.1	5.3	3.5
Redfish .....	34.8	43.2	61.3	34.4	42.7	60.6	34.1	42.3	60.0
White Hake .....	9.5	7.8	7.8	9.5	7.8	7.8	.....	.....	.....
Pollock .....	54.1	67.6	71.5	41.2	51.5	54.5	.....	.....	.....

TABLE 10—PROPOSED COMMON POOL INCIDENTAL CATCH TACs FOR THE 2021–2023 FISHING YEARS  
[mt, live weight]

Stock	Percentage of common pool sub-ACL	2020	2021	2022
GB Cod .....	1.68	0.81	0.81	.....
GOM Cod .....	1	0.08	0.08	.....
GB Yellowtail Flounder .....	2	0.10	0.10	.....
CC/GOM Yellowtail Flounder .....	1	0.41	0.41	.....
American Plaice .....	5	4.51	4.43	.....
Witch Flounder .....	5	2.21	2.21	.....
SNE/MA Winter Flounder .....	1	0.41	0.41	0.41

TABLE 11—PERCENTAGE OF INCIDENTAL CATCH TACs DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program (percent)	Eastern U.S./CA haddock SAP (percent)
GB Cod .....	60	40
GOM Cod .....	100	n/a
GB Yellowtail Flounder .....	50	50
CC/GOM Yellowtail Flounder .....	100	n/a
American Plaice .....	100	n/a
Witch Flounder .....	100	n/a
SNE/MA Winter Flounder .....	100	n/a

TABLE 12—PROPOSED FISHING YEARS 2021–2023 INCIDENTAL CATCH TACs FOR EACH SPECIAL MANAGEMENT PROGRAM  
[mt, live weight]

Stock	Regular B DAS program			Eastern U.S./Canada haddock SAP		
	2021	2022	2023	2021	2022	2023
GB Cod .....	0.48	0.48	.....	0.32	0.32	.....
GOM Cod .....	0.08	0.08	.....	n/a	n/a	n/a
GB Yellowtail Flounder .....	0.05	0.05	.....	0.05	0.05	.....
CC/GOM Yellowtail Flounder .....	0.41	0.41	.....	n/a	n/a	n/a
American Plaice .....	4.51	4.43	.....	n/a	n/a	n/a
Witch Flounder .....	2.21	2.21	.....	n/a	n/a	n/a
SNE/MA Winter Flounder .....	0.41	0.41	0.41	n/a	n/a	n/a

TABLE 13—PROPOSED FISHING YEARS 2021–2023 REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACs  
[mt, live weight]

Stock	2021				2022				2023			
	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)
GB Cod .....	0.06	0.14	0.14	0.14	0.06	0.14	0.14	0.14	.....	.....	.....	.....
GOM Cod .....	0.01	0.02	0.02	0.02	0.01	0.02	0.02	0.02	.....	.....	.....	.....
GB Yellowtail Flounder .....	0.007	0.015	0.015	0.015	0.01	0.01	0.01	0.01	.....	.....	.....	.....

TABLE 13—PROPOSED FISHING YEARS 2021–2023 REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACS—  
Continued  
[mt, live weight]

Stock	2021				2022				2023			
	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)
CC/GOM Yellowtail Flounder ..	0.05	0.12	0.12	0.12	0.05	0.12	0.12	0.12	.....	.....	.....	.....
American Plaice .....	0.59	1.31	1.31	1.31	0.58	1.28	1.28	1.28	.....	.....	.....	.....
Witch Flounder .....	0.29	0.64	0.64	0.64	0.29	0.64	0.64	0.64	.....	.....	.....	.....
SNE/MA Winter Flounder .....	0.05	0.12	0.12	0.12	0.05	0.12	0.12	0.12	0.05	0.12	0.12	0.12

**6. Universal Sector Exemption for Acadian Redfish (Redfish)**

*Proposed Universal Sector Exemption for Redfish*

This rule proposes to approve and implement a new universal sector exemption that would allow sector vessels to target redfish within a defined area using a 5.5-inch (14.0-centimeters (cm)) mesh codend. Redfish is a healthy stock that sectors already harvest under a sector exemption that is evaluated and approved as part of the sector operations plan process annually or biennially. The redfish exemption was most recently approved in the 2021–2022 sector final rule (86 FR 22898; April 30, 2021), under the Regional Administrator’s authority (50 CFR 648.87(c)(2)). As part of this rule, which proposes to approve a new universal sector exemption for redfish, we would also eliminate the current sector exemption for redfish. This will prevent conflict and confusion between two very similar exemptions, and is consistent with the Council’s intent to replace the current redfish sector exemption with a new universal redfish exemption for sectors.

Since fishing year 2012, we have approved annual exemptions that allow sector vessels to target redfish with a sub-legal size mesh codend, ranging from 4.5 inches (11.4 cm) to 6 inches (15.2 cm), with different versions of the exemptions requiring different levels of monitoring, different catch thresholds, and different areas where vessels are allowed to use the exemption. Currently, the exemption allows vessels to fish with a 5.5-inch (14.0-cm) codend, with standard at-sea or electronic

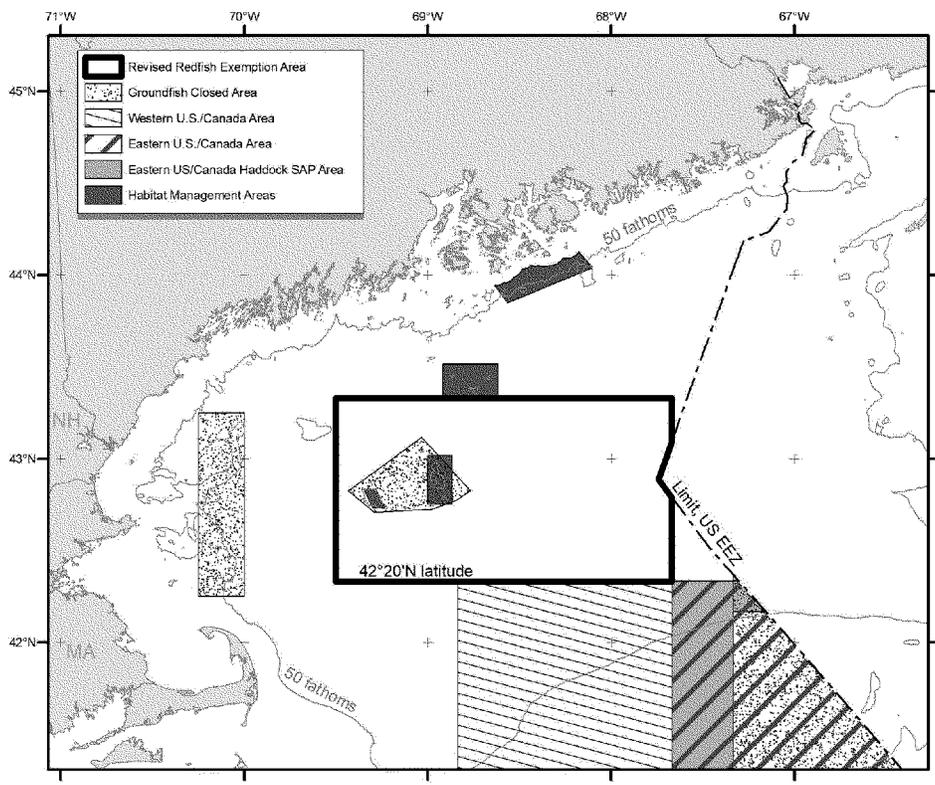
monitoring coverage, in a defined redfish exemption area (Figure 1). Sectors must also meet a 50-percent or greater redfish catch threshold and a less than 5-percent groundfish discards threshold, each on a monthly basis. This exemption is monitored and approved as part of the standard sector operations plan annual or biennial approval process, which considers the objectives of the FMP in approving and disapproving exemption requests.

The proposed universal exemption would expand the current redfish exemption area (Figure 2), create two seasonal closures of the redfish exemption area, add a 55-percent or greater annual redfish catch threshold, modify the existing monthly catch and discard thresholds, and create provisions that require sectors to be placed in probationary status and/or have their vessels prohibited from using the universal exemption if catch or discard thresholds are not met. The reporting and monitoring requirements of the universal exemption would remain the same as the annually approved redfish exemption, however, those requirements would be codified in regulation rather than detailed in sector operations plans. The Council put forward a universal redfish exemption, instead of an annual sector exemption, in order to increase stability for fishery participants and to improve Council oversight of the redfish fishery.

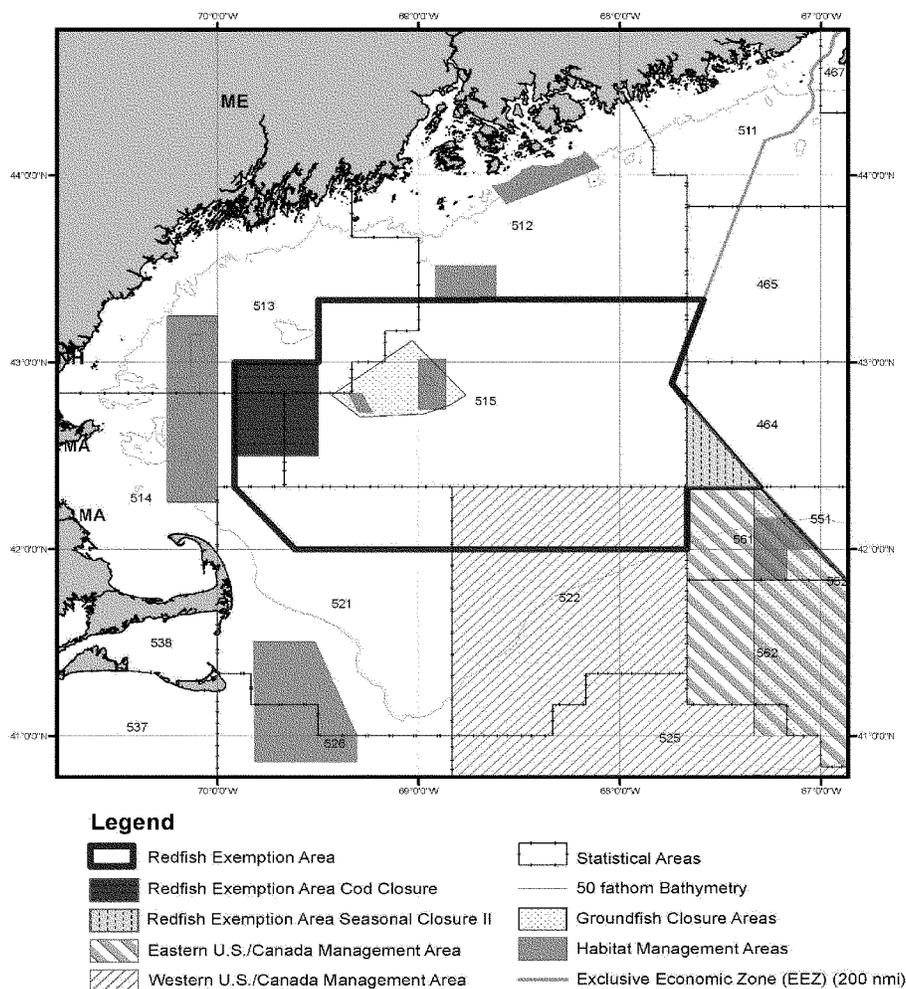
If approved, the redfish exemption would be added to the list of universal sector exemptions. Additionally, a sector redfish exemption program, corresponding to the universal exemption, would be described in

regulations, defining terms of the program, including vessel eligibility, area, gear, monitoring thresholds, and other administrative elements of the exemption program. Under the program, eligibility would be limited to sector vessels that hold Northeast multispecies permits permitting the use of 6.5-inch (16.5-cm) inch codends under existing regulations. The defined Redfish Exemption Area would encompass much of the offshore portion of the Gulf of Maine regulated mesh area south of 43 degrees 20 minutes North latitude, and portions of the Georges Bank regulated mesh area north of 42 degrees North latitude (Figure 2). There would be two seasonal closures of the Redfish Exemption Area: The Redfish Exemption Area Cod Closure and the Redfish Exemption Area Seasonal Closure II. The Redfish Exemption Area Cod Closure, which aligns with block 131, would be closed to redfish exemption fishing for the months of February and March to avoid catch of Gulf of Maine cod (Figure 2). The Redfish Exemption Area Seasonal Closure II, which includes the United States portion of statistical area 464, would be closed to redfish exemption fishing from September 1 through December 31 to reduce catch of non-redfish stocks (Figure 2). Vessels fishing under the proposed universal exemption would continue to be prohibited from fishing in groundfish closure areas, habitat management areas, or any other areas that prohibit fishing with trawl gear that fall within the bounds of the Redfish Exemption Area.

**BILLING CODE 3510-22-P**



**Figure 1 – Fishing Year 2020 Redfish Exemption Area**



**Figure 2 – Proposed Universal Redfish Exemption Area**

**BILLING CODE 3510-22-C**

Vessels planning to fish under the provisions of the proposed exemption program would be required to declare their intent to fish under the exemption prior to leaving the dock. Vessels would also be required to submit pre-trip notifications for observer coverage selection, and to carry observers or at-sea monitors if selected for coverage, or to use electronic monitoring consistent with monitoring regulations. Vessels declaring into the program would be required to submit daily catch reports even if they do not use the exemption. Vessels would be allowed to fish for groundfish as they normally would on the first part of their groundfish trip, inside or out of the Redfish Exemption Area. Prior to fishing with a smaller mesh codend under the universal exemption, vessels would be required to notify NMFS that they are switching to small mesh; this notification indicates that the vessel is now on the redfish portion of its trip. Vessels would be

prohibited from fishing outside the Redfish Exemption Area when on the redfish exemption portion of their trip, and all activity during this portion of the trip, regardless of mesh size, would contribute to catch and discard thresholds. Vessels that do not submit this notification, daily catch reports, or declare into the exemption program would be prohibited from participating in the exemption for that trip. On the redfish portion of their trips, vessels would be allowed to use a codend with mesh of 5.5 inches (14.0 cm) or larger, square or diamond. Codends with mesh smaller than would otherwise be permitted by regulation would be required to be stowed during transit to and from the Redfish Exemption Area, and when not in use. Vessels would also be required to stow any non-trawl gear for the duration of a trip where the vessel has declared its intent to fish under the redfish exemption.

The proposed universal redfish exemption would require sectors to

meet several catch and discard thresholds to encourage responsible use of the exemption by sector vessels to harvest redfish. The thresholds include a monthly landings threshold of 50-percent or greater redfish among landings of allocated groundfish, a monthly discard threshold of 5-percent or less discards of all groundfish from total observed catch, and an annual landings threshold of 55-percent or greater redfish among landings of allocated groundfish. All thresholds would be for the exemption portion of trips by the vessels in each sector. If the vessels in a sector fail to meet the monthly landings or discard thresholds for four or more months or three consecutive months in a fishing year, the Regional Administrator would be required to prohibit vessels in that sector from fishing under the exemption for the remainder of the fishing year. Additionally, the Regional Administrator would be required to place the sector in a probationary status

for the following fishing year. Similarly, if the vessels in a sector failed to meet the annual landings threshold in a given fishing year, the Regional Administrator would be required to place the sector in a probationary status the following fishing year. If a sector is under probationary status and fails to meet either the monthly landings or discard thresholds for four or more months or three consecutive months, the Regional Administrator would be required to prohibit vessels in that sector from fishing under the redfish exemption for the remainder of that fishing year, and the following fishing year. If the vessels in a sector under probationary status fail to meet the annual catch threshold, then the Regional Administrator would be required to prohibit vessels in that sector from fishing under the exemption for the following fishing year. NMFS would monitor the thresholds, notify sectors if they fail to meet the thresholds, and make necessary changes to sector operations plans and letters of authorization to implement probationary status or prohibitions on exemption fishing as needed.

The Council would review the universal redfish exemption after the next peer-reviewed stock assessment is completed for the redfish stock. The review would consider the Council's goals and objectives for the exemption including: To achieve optimum yield of redfish, to allow the use of efficient mesh codend to harvest redfish, to increase redfish harvest while reducing bycatch of other stocks, to allow operational flexibility for vessels targeting redfish, and to exclude areas from the exemption which provide little opportunity to efficiently target redfish or achieve performance thresholds.

### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 61, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making the final determination, we will consider the data, views, and comments received during the public comment period.

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

This proposed rule does not contain policies with federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

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

Periodic framework adjustments are used to revise the Northeast Multispecies FMP in response to new scientific information to support catch limits that prevent overfishing and other adjustments to improve management measures included in the FMP. Framework 61 proposes to revise groundfish fishery specifications for fishing years 2021–2023 (May 1, 2021, through April 30, 2024) for nine groundfish stocks. Specifications for shared U.S./Canada groundfish stocks would also be updated for the 2021 fishing year. The recreational groundfish, Atlantic sea scallop, small-mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries would be affected by the setting of specifications and sub-allocations of various groundfish stocks including: GOM cod and GOM haddock for the recreational groundfish fishery, four flatfish stocks (GB yellowtail flounder, SNE/MA yellowtail flounder, northern windowpane flounder, and southern windowpane flounder) for the Atlantic sea scallop fishery, GB yellowtail flounder for the small-mesh groundfish fishery, and GOM and GB haddock for the Atlantic herring midwater trawl fishery. Framework 61 would also revise SDCs for GB winter flounder and SNE/MA winter flounder as well as revise the stock rebuilding strategy for white hake. Lastly, Framework 61 would implement a universal sector exemption to allow sectors to target redfish with 5.5-inch (14.0-cm) mesh codend in a specified exemption area.

The Regulatory Flexibility Act (RFA) requires Federal agencies to consider disproportionality and profitability to determine the significance of regulatory impacts. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average

annual revenue for the three years from 2017 through 2019. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of \$8.0 million for all its affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2017–2019) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

As of June 1, 2020, NMFS had issued 762 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history, CPH), 584 party/charter groundfish permits, 706 limited access and general category Atlantic sea scallop permits, 693 small-mesh multispecies permits, 81 Atlantic herring permits, and 810 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore, this action potentially regulates 3,636 permits. When accounting for overlaps between fisheries, this number falls to 2,102 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Northeast Federal fishing permit. The current ownership data set is based on calendar year 2019 permits and contains gross sales associated with those permits for calendar years 2017 through 2019.

Based on the ownership data, 1,637 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,637 business entities identified could be directly regulated by this proposed action. Of these 1,637 entities, 1,000 are commercial fishing entities, 293 are for-hire entities, and 344 did not have revenues (were inactive in 2019). Of the 1,000 commercial fishing entities, 990 are categorized as small entities and 10 are categorized as large entities, per the NMFS guidelines. All 293 for-hire entities are categorized as small businesses.

The Framework 61 measures would enhance the operational flexibility of fishermen and increase profits overall. The measures proposed in Framework 61 are estimated to generate \$44.9–\$45.3 million in sector revenue from the catch

of Multispecies groundfish, \$62.7–\$63.5 million in total revenue from all fish caught on sector groundfish trips, and \$46.4–\$47.1 million in operating profit from sector groundfish trips during fishing year 2021. Under No Action, estimated sector revenue from the catch of Multispecies groundfish is \$11.4 million, revenue from all fish caught on sector groundfish trips is \$16.0 million, and operating profit from sector groundfish trips is \$11.8 million. Small entities engaged in the commercial sector groundfish fishery will therefore be positively impacted by the proposed action, relative to No Action. Small entities engaged in common pool groundfish fishing are also expected to be positively impacted by the proposed action. Other commercial fisheries which have sub-ACLs for groundfish stocks (Atlantic sea scallop, Atlantic herring, small-mesh multispecies, large-mesh non-groundfish), are not expected to be negatively impacted by the proposed action, if catch follows recent performance in these fisheries. The details of these economic analyses are included in Framework 58 (see ADDRESSES).

This action is not expected to have a significant economic impact on a substantial number of small entities. The effects on the regulated small entities identified in this analysis are expected to be positive relative to the no action alternative, which would result in lower revenues and profits than the proposed action. These measures would enhance the operational flexibility of groundfish fishermen, and increase profits. 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 profits for any small entities relative to taking no action. 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: June 21, 2021.

**Samuel D. Rauch, III,**

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated 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 § 648.14, add paragraph (k)(21) to read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

(k) \* \* \*

(21) *Universal sector exemption programs—(i) Redfish Exemption Program.* (A) While fishing under the provisions of the Redfish Exemption Program, it is unlawful for any person to:

- (1) Fish with a codend of mesh smaller than 5.5-inch (14.0-cm) diamond or square,
- (2) Fish outside of the Redfish Exemption Area specified in § 648.85(e)(1)(ii),
- (3) Fish in the Redfish Exemption Area Cod Closure specified in § 648.85(e)(1)(ii)(A) during the closure period,
- (4) Fish in the Redfish Exemption Area Seasonal Closure II specified in § 648.85(e)(1)(ii)(B) during the closure period,
- (5) Fail to comply with the declaration requirements of the Redfish Exemption Program specified in § 648.85(e)(1)(iv),
- (6) Fail to comply with the reporting requirements of the Redfish Exemption Program specified in § 648.85(e)(1)(v), or
- (7) Fail to comply with the gear requirements of the Redfish Exemption Program specified in § 648.85(e)(1)(vii), or fish with any gear other than trawl.

(B) It is unlawful for any person to fish under the provisions of the Redfish Exemption Program when prohibited from doing so by the Regional Administrator under § 648.85(e)(1)(viii)(C), or when ineligible or prohibited for any other reason.

(ii) [Reserved]

\* \* \* \* \*

■ 3. In § 648.85, add paragraph (e) to read as follows:

**§ 648.85 Special management programs.**

\* \* \* \* \*

(e) *Universal exemption programs for sector vessels—(1) Redfish Exemption Program—(i) Eligibility.* Any vessel enrolled in a NMFS approved Northeast multispecies sector and issued a limited access Northeast multispecies permit that allows the use of trawl gear consistent with paragraph (e)(1)(vii) of this section may fish in compliance with the provisions of the Redfish Exemption Program described in paragraphs (e)(1)(ii) through (viii) of this section, except those vessels enrolled in a sector whose members have been prohibited from doing so by the Regional Administrator under paragraph (e)(1)(viii)(C) of this section, or those

vessels ineligible or prohibited for any other reason. Letters of authorization issued pursuant to § 648.87(c)(2) shall authorize or prohibit participation in the program by sector vessels consistent with paragraph (e)(1)(viii)(C) of this section.

(ii) *Redfish Exemption Area.* The Redfish Exemption Area is the area defined by straight lines connecting the following points in the order stated (a chart depicting this area is available from the Regional Administrator upon request):

TABLE 14 TO PARAGRAPH (e)(1)(ii)

Point	N Lat.	W Long.
A .....	43°00' .....	69°55'
B .....	43°00' .....	69°30'
C .....	43°20' .....	69°30'
D .....	43°20' .....	(1)
E .....	42°53.24' .....	67°44.55'
F .....	42°20' .....	(2)
G .....	42°20' .....	67°40'
H .....	42°20' .....	67°40'
I .....	42°00' .....	69°37'
J .....	42°20' .....	69°55'
A .....	43°00' .....	69°55'

<sup>1</sup> US EEZ longitude, approximately 67°35.07'.

<sup>2</sup> US EEZ longitude, approximately 67°18.17'.

(A) *Redfish Exemption Area Cod Closure.* No vessel may participate in the Redfish Exemption Program inside the Redfish Exemption Area Cod Closure from February 1 through March 31 of each year. The Redfish Exemption Area Cod Closure is the area defined by straight lines connecting the following points in the order stated:

TABLE 15 TO PARAGRAPH (e)(1)(ii)(A)

Point	N Lat.	W Long.
A .....	43°00' .....	69°55'
B .....	43°00' .....	69°30'
K .....	42°30' .....	69°30'
L .....	42°30' .....	69°55'
A .....	43°00' .....	69°55'

(B) *Redfish Exemption Area Seasonal Closure II.* No vessel may participate in the Redfish Exemption Program inside the Redfish Exemption Area Seasonal Closure II from September 1 through December 31 of each year. The Redfish Exemption Area Seasonal Closure II is the area defined by straight lines connecting the following points in the order stated:

TABLE 16 TO PARAGRAPH (e)(1)(ii)(B)

Point	N Lat.	W Long.
M .....	42°47.17' .....	67°40'
F .....	42°20' .....	(1)

TABLE 16 TO PARAGRAPH  
(e)(1)(ii)(B)—Continued

Point	N Lat.	W Long.
G .....	42°20' .....	67°40'
M .....	42°47.17'	67°40'

<sup>1</sup> US EEZ longitude, approximately 67°18.17'.

(C) No vessel may participate in the Redfish Exemption Program in any areas that are otherwise closed to fishing for Northeast multispecies or fishing with trawl gear, including but not limited to year-round closed areas, seasonal closed areas, or habitat closures.

(iii) *Season.* An eligible vessel as described in paragraph (e)(1)(i) of this section may participate in the Redfish Exemption Program from May 1 through April 30 of each year as authorized in the vessel's letter of authorization issued pursuant to § 648.87(c)(2), unless otherwise prohibited in the letter of authorization under paragraph (e)(1)(viii)(C) of this section.

(iv) *Declaration.* To participate in the Redfish Exemption Program on a sector trip, an eligible vessel must declare its intent to do so through the VMS prior to leaving the dock, in accordance with instructions provided by the Regional Administrator.

(A) *Pre-trip notification.* For the purposes of selecting vessels for observer deployment or electronic monitoring, a vessel participating in the Redfish Exemption Program must comply with all pre-trip notification requirements at § 648.11(l).

(B) [Reserved]

(v) *Reporting—(A) Daily catch reporting.* The owner or operator of a vessel that has declared into the Redfish Exemption Program as required in paragraph (e)(1)(iv) of this section must submit catch reports via VMS, for each day of the fishing trip. Vessels subject to the daily reporting requirement must report daily for the entire fishing trip, including any portion fished outside of the Redfish Exemption Area. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr, and must be submitted by 0900 hr of the following day, or as instructed by the Regional Administrator. The reports must include at least the following information:

(1) VTR serial number or other universal ID specified by the Regional Administrator;

(2) Date fish were caught and statistical area in which fish were caught; and

(3) Total pounds of each regulated Northeast multispecies and ocean pout kept (in pounds, live weight) as well as

the total pounds of other kept catch (in pounds, live weight) in each statistical area, as instructed by the Regional Administrator.

(B) *Redfish exemption fishing notification.* Before switching to a smaller mesh codend allowed under the Redfish Exemption Program, the owner or operator of a vessel must submit a redfish exemption fishing notification. This notification is provided with an additional catch report submitted via VMS, reporting all catch on board and indicating that the vessel is switching to a smaller mesh codend. This notification indicates that the vessel is now fishing under the provisions of the Redfish Exemption Program. Vessels that fail to declare into the Redfish Exemption Program as required in paragraph (e)(1)(iv) of this section may not fish under the Redfish Exemption Program even if this notification is sent. The notification must include at least the following information:

(1) VTR serial number or other universal ID specified by the Regional Administrator;

(2) Date fish were caught and statistical area in which fish were caught;

(3) Total pounds of each regulated Northeast multispecies and ocean pout kept (in pounds, live weight) as well as the total pounds of other kept catch (in pounds, live weight) in each statistical area, as instructed by the Regional Administrator; and

(4) Indication that the vessel is now switching to a smaller mesh codend.

(vi) *Area fished.* (A) A vessel that has declared its intent to fish under the Redfish Exemption Program consistent with paragraph (e)(1)(iv) of this section may conduct the first part of its trip outside the provisions of the Redfish Exemption Program, subject to all other Northeast multispecies regulations including codend mesh size, prior to sending a redfish exemption fishing notification as described in paragraph (e)(1)(v)(B) of this section.

(B) Once a vessel has sent a redfish exemption fishing notification as described in paragraph (e)(1)(v)(B) of this section, the vessel is prohibited from fishing outside of the Redfish Exemption Area for the remainder of its trip.

(vii) *Gear requirements.* Vessels may only use trawl gear when declared into and fishing in the Redfish Exemption Program. Vessels may fish in the Redfish Exemption Program with any trawl gear, including, but not limited to, otter trawl, haddock separator trawl, flounder trawl, or Ruhle trawl.

(A) *Minimum codend mesh size.* The minimum codend mesh size for vessels

fishing in the Redfish Exemption Program is 5.5-inch square or diamond mesh. All other trawl net restrictions listed in § 648.80(a)(3)(i) and (a)(4)(i), including minimum mesh sizes for the net body and extensions, still apply.

(B) *Gear stowage.* Codends with mesh smaller than otherwise permitted by regulation at § 648.80(a)(3)(i) and (a)(4)(i), or § 648.87(c)(2)(ii)(D), must be stowed during transit to and from the Redfish Exemption Area, and when not in use under the Redfish Exemption Program. Any non-trawl fishing gear must be stowed for the duration of any trip for which a vessel declared its intent to fish under the Redfish Exemption Program consistent with paragraph (e)(1)(iv) of this section. Stowed gear must be not available for immediate use consistent with definitions in § 648.2

(viii) *Catch Thresholds—(A) Monthly Performance Thresholds.* (1) *Monthly Redfish Landings Threshold—*Monthly redfish landings by a sector whose member vessels fish under the provisions of the Redfish Exemption Program may not be less than 50 percent of all the allocated Northeast multispecies stocks landed each month while fishing under the provisions of the Redfish Exemption Program.

(2) *Monthly Discards Threshold—*Monthly observed discards of regulated Northeast multispecies and ocean pout by a sector whose member vessels fish under the provisions of the Redfish Exemption Program may not exceed 5 percent of total observed kept catch, for those portions of trips fished each month under the provisions of the Redfish Exemption Program.

(B) *Annual Performance Thresholds.* (1) *Annual Redfish Landings Threshold—*Annual fishing year redfish landings by a sector whose member vessels fish under the provisions of the Redfish Exemption Program may be no less than 55 percent of all the allocated Northeast multispecies stocks landed while fishing under the provisions of the Redfish Exemption Program.

(C) *Administration of Thresholds.* (1) If a sector fails to meet the monthly redfish landings threshold or the monthly discards threshold described in paragraphs (e)(1)(viii)(A)(1) and (2) of this section for four or more months total, or three or more consecutive months, in a fishing year, the Regional Administrator shall prohibit all vessels in that sector from fishing under the provisions of the Redfish Exemption Program for the remainder of the fishing year, and place the sector and its vessels in a probationary status for one fishing year beginning the following fishing year.

(2) If a sector fails to meet the annual redfish landings threshold described in paragraph (e)(1)(viii)(B)(1) of this section in a fishing year, the Regional Administrator shall place the sector and its vessels in a probationary status for one fishing year beginning the following fishing year.

(3) While in probationary status as described in paragraph (e)(1)(viii)(C)(1) or (2) of this section, if the sector fails to meet the monthly redfish landings threshold or the monthly discards threshold described in paragraphs (e)(1)(viii)(A)(1) and (2) of this section for four or more months total, or three or more consecutive months, in that fishing year, the Regional Administrator shall prohibit all vessels in that sector from fishing under the provisions of the Redfish Exemption Program for the remainder of the fishing year and the following fishing year.

(4) If a sector fails to meet the annual redfish landings threshold in (e)(1)(viii)(B)(1) of this section for any fishing year during which the sector is in a probationary status as described in paragraph (e)(1)(viii)(C)(1) or (2) of this section, the Regional Administrator shall prohibit all vessels in that sector from fishing under the provisions of the Redfish Exemption Program for the following fishing year.

(5) The Regional Administrator may determine a sector has failed to meet required monthly or annual thresholds described in paragraphs (e)(1)(viii)(A) and (B) of this section using available information including, but not limited to, vessel declarations and notifications, vessel trip reports, dealer reports, and observer and electronic monitoring records.

(6) The Regional Administrator shall notify a sector of a failure to meet the

required monthly or annual thresholds and the sector's vessels prohibition or probation status consistent with the provisions in paragraphs (e)(1)(viii)(C)(1) through (5) of this section. The Regional Administrator shall also make administrative amendments to the approved sector operations plan and issue sector vessel letters of authorization consistent with the provisions in paragraphs (e)(1)(viii)(C)(1) through (5) of this section. These administrative amendments may be made during a fishing year or during the sector operations plan and sector contract approval process.

(7) A sector may request in writing that the Regional Administrator review and reverse a determination made under the provisions of this section within 30 days of the date of the Regional Administrator's determination. Any such request must be based on information showing the sector complied with the required thresholds, including, but not limited to, landing, discard, observer or electronic monitoring records. The Regional Administrator will review and maintain or reverse the determination and notify the sector of this decision in writing. Any determination resulting from a review conducted under this provision is final and may not be reviewed further.

(ix) *Program review.* The Council will review the Redfish Exemption Program after the first peer-reviewed redfish stock assessment following implementation of the program. The Council will prepare a report, which may include, but is not limited to, an evaluation of threshold performance, vessel-level performance, bycatch of non-redfish stocks, and changes in catch

selectivity, and will consider the goals and objectives of the Redfish Exemption Program and the FMP. The Council may decide, as needed, to conduct additional reviews following the review outlined in this section.

(2) [Reserved]

\* \* \* \* \*

■ 4. Amend § 648.87 by revising paragraphs (c)(2)(ii)(B) through (D) and adding paragraph (c)(2)(ii)(E) to read as follows:

**§ 648.87 Sector allocation.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) The GOM Cod Protection Closures IV and V specified in § 648.81(d)(4)(iv) and (v);

(C) NE multispecies DAS restrictions other than those required to comply with effort controls in other fisheries, as specified in §§ 648.92 and 648.322;

(D) The minimum codend mesh size restrictions for trawl gear specified in § 648.80(a)(4)(i) when using a haddock separator trawl defined in § 648.85(a)(3)(iii) or the Ruhle trawl defined in § 648.85(b)(6)(iv)(j)(3) within the GB RMA, as defined in § 648.80(a)(2), provided sector vessels use a codend with 6-inch (15.2-cm) minimum mesh; and

(E) The minimum codend mesh size restrictions for trawl gear specified in § 648.80(a)(3)(i) or (a)(4)(i) when fishing in compliance with the provisions of the Redfish Exemption Program defined in § 648.85(e)(1).

\* \* \* \* \*

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