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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

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**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester 2
Georges Bank Cod Total Allowable Catch Area Closure; Updated 2017 Georges Bank Cod
Annual Catch Limit for the Common Pool; Possession Prohibition for the Common Pool
Fishery**

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

ACTION: Temporary rule; area closure and inseason adjustment.

SUMMARY: We are closing the Georges Bank Cod Trimester Total Allowable Catch Area for the remainder of Trimester 2, through December 31, 2017. This action also prohibits possession of Georges Bank cod by common pool vessels for the remainder of the fishing year, through April 30, 2018. In addition, we are reducing the 2017 fishing year Georges Bank cod sub-annual catch limit for the common pool due to an overage in fishing year 2016.

DATES: Effective October 11, 2017, through April 30, 2018.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, (978) 281-9232, spencer.talmage@noaa.gov.

SUPPLEMENTARY INFORMATION: We recently approved Framework Adjustment 56, which set 2017 annual catch limits (ACLs) for groundfish stocks (82 FR 16133). The possibility

of minor adjustments and corrections was noted in the Framework 56 proposed and final rules because final allocations are not always available at the time of the rulemaking for the upcoming fishing year.

Based on final 2016 catch information that recently became available, the fishing year 2016 common pool sub-ACL for Georges Bank (GB) cod was exceeded by 2.8 metric tons (mt). If the common pool sub-ACL for any stock is exceeded, we are required to reduce the common pool sub-ACL by the amount of the overage in the next fishing year. Therefore, this action reduces the fishing year 2017 GB cod common pool sub-ACL by 2.8 mt, which results in a revised 2017 GB cod common pool sub-ACL of 7.0 mt. The revised Trimester Total Allowable Catches (TACs) are provided in Table 1.

Table 1. Current and Revised Georges Bank Cod Trimester TACs.

	Trimester 1	Trimester 2	Trimester 3
Allocation Percentage	25%	37%	38%
Current Trimester TAC	2.4 mt	3.6 mt	3.7 mt
Revised Trimester TAC	1.7 mt	2.6 mt	2.7 mt

As of October 3, 2017, the common pool fishery is projected to have caught 123 percent of the adjusted Trimester 2 TAC (2.6 mt) for GB cod. Additionally, the common pool fishery has caught 83 percent of its adjusted 2017 sub-ACL, and has only 1.2 mt left for the remainder of the fishing year. Federal regulations at 50 CFR 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester TAC Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As a result, effective October 11, 2017, the GB Cod Trimester TAC Area is closed for the remainder of Trimester 2, through December 31, 2017, to all common pool vessels fishing on a

Northeast multispecies trip with trawl gear, sink gillnet gear, and longline/hook gear, including handgear vessels. The GB Cod Trimester TAC Area consists of statistical areas 521, 522, 525, and 561. The area reopens at the beginning of Trimester 3, on January 1, 2018.

Data indicate that common pool vessels have caught a significant portion of the total catch from outside the statistical areas that will be affected by the closure described above. The Regional Administrator is authorized under 50 CFR 648.86(o)(1) to adjust possession and trip limits for common pool vessels to prevent exceeding the pertinent common pool quotas during the fishing year. Given this, and because the common pool has caught more than 80 percent of its annual quota, the possession of GB cod by all common pool vessels is prohibited effective October 11, 2017, through April 30, 2018. This action is intended to prevent the common pool from further exceeding its Trimester 2 TAC or from exceeding its annual quota.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to October 11, 2017, it may complete its trip within the Trimester TAC Area. A vessel that has set gillnet gear prior to October 11, 2017, may complete its trip by hauling such gear.

Any overage of the Trimester 1 or 2 TACs must be deducted from the Trimester 3 TAC. If the common pool fishery exceeds its total quota for a stock in the 2017 fishing year, the overage must be deducted from the common pool's quota for that stock for fishing year 2018. Any uncaught portion of the Trimester 1 and Trimester 2 TACs is carried over into the next trimester. However, any uncaught portion of the common pool's total annual quota may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery are on our website at: <http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm>. We will continue to

monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

The NMFS Assistant Administrator has determined that this temporary rule is consistent with the Northeast Multispecies Fishery Management Plan, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This action is exempt from the procedures of Executive Order 12866 because this action contains no implementing regulations.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

There are several reasons that notice and comment are impracticable, unnecessary, and contrary to the public interest. First, the proposed and final rules for Framework 56 explained the possibility of minor adjustments and corrections because final allocations are not always available at the time of the rulemaking for the upcoming fishing year. These adjustments are routine and formulaic, required by regulation, and anticipated by industry. No comments were received on the potential for these adjustments, which provide an accurate accounting of the common pool's allocation.

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool

fishery is projected to have caught 123 percent of its Trimester 2 TAC for GB cod as of October 3, 2017. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GB Cod Trimester TAC Area and prohibition of GB cod possession. Not closing the area immediately and prohibiting GB cod possession increases the likelihood that the common pool fishery will further exceed its trimester TAC, or exceed its annual quota, to the detriment of this stock, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan. Additional overages would negatively affect the common pool fishery as a result of future overage paybacks or premature closures of the fishery.

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

Dated: October 11, 2017.

Emily H. Menashes,
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National Marine Fisheries Service.

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