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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180201108-8261-01]

RIN 0648-BH55

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2018 Recreational Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to set 2018 recreational management measures for Gulf of Maine cod and haddock and Georges Bank cod. This action is necessary to respond to updated catch and other scientific information. The proposed measures are intended to ensure the recreational fishery achieves, but does not exceed, its fishing year 2018 catch limits.

DATES: Comments must be received by *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2018-0040, by either of the following methods:

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

1. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0040

2. Click the “Comment Now!” icon, complete the required fields, and
 3. Enter or attach your comments.
- *Mail:* Submit written comments to: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on the Fishing Year 2018 Groundfish Recreational Measures.”

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

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

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, phone: 978-281-9116; e-mail: *Emily.Keiley@noaa.gov*.

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Background

Proposed Gulf of Maine Recreational Management Measures for Fishing Year 2018

The recreational fishery for Gulf of Maine (GOM) cod and haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The FMP sets sub-annual catch limits (sub-ACL) for the recreational fishery for each fishing year for GOM cod and haddock. These sub-ACLs are a portion of the overall catch limit for each stock. The multispecies fishery opens on May 1 each year and runs through April 30 of the following calendar year. The FMP also includes recreational accountability measures (AM) to prevent the recreational sub-ACLs from being exceeded, or to correct the cause of an overage if one occurs.

The proactive AM provision in the FMP requires the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions authorizing this action can be found in § 648.89(f)(3) of the FMP's implementing regulations.

For fishing year 2017, the recreational sub-ACL for GOM cod remained the same as 2016, and the recreational sub-ACL for GOM haddock increased 25 percent. In order to reduce cod catch and prevent subsequent overages, and because haddock management measures affect cod catch, both cod and haddock management measures were more conservative in 2017. This is because in 2016 cod catch increased more than predicted and the recreational sub-ACL was exceeded by 92 percent. Preliminary estimates of 2017 recreational GOM cod catch exceed the sub-ACL by 55 percent despite the more conservative management measures. Estimates of 2017 GOM haddock catch are less than half of the sub-ACL.

According to the 2017 stock assessments, the GOM cod and haddock stocks are increasing, although cod remains overfished and subject to a rebuilding plan. Framework Adjustment 57, a concurrent action, proposes 2018 ACLs based on the updated assessments. For 2018, the proposed haddock sub-ACL increases by 290 percent, from 1,160 mt to 3,358 mt, and the proposed cod sub-ACL increases from 157 to 220 mt. The recreational sub-ACLs are based on a fixed percentage of the total commercial ACLs. This action sets recreational management measures designed to achieve, but not exceed the recreational sub-ACLs.

As specified in Table 1, compared to the 2017 catch, the 2018 sub-ACLs would allow for a 78-percent increase in haddock catch, but would require an 11-percent reduction in cod catch. Status quo measures are projected to result in cod catch above the sub-ACL, and haddock catch below the sub-ACL. Because 2018 catch of cod under the status quo measures is projected to be above the cod sub-ACL, we are required, in

consultation with the Council, to revise the GOM recreational measures for fishing year 2018.

Table 1. Fishing Year 2017 Catch Compared to Fishing Year 2017 and 2018 sub-ACLs

GOM Stock	Estimated 2017 Catch (mt)	2017 sub-ACL (mt)	Percent of FY 2017 sub-ACL Caught	2018 sub-ACL (mt)	Change in 2017 Catch to reach 2018 sub-ACL (percent)
Cod	244	157	155%	220	-11%
Haddock	740	1,160	64%	3,358	78%

Proposed Measures

We consulted with the Council and its Recreational Advisory Panel (RAP) in January 2018. The RAP and Council recommended status quo measures for GOM cod and haddock. Status quo measures are projected to constrain the catch of cod to the sub-ACL only if the Commonwealth of Massachusetts prohibits recreational anglers in state waters from retaining GOM cod. For-hire vessels in Massachusetts are prohibited from fishing for cod. Alternatively, the Council recommended implementing different measures for the private angler and for-hire components of the fishery if the Commonwealth of Massachusetts does not prohibit the possession of cod. Recent catch information suggests the for-hire fleet has been able to avoid cod bycatch when fishing for haddock more effectively than private anglers. As a result, the Council determined separate measures for each fleet would more effectively achieve the necessary cod reductions. The addition of a May closure for private anglers, combined with a reduction of the for-hire haddock possession limit is projected to keep cod catch below the sub-ACL.

A peer-reviewed bioeconomic model, developed by the Northeast Fisheries Science Center, was used to estimate 2018 recreational GOM cod and haddock mortality under various combinations of minimum sizes, possession limits, and closed seasons. Even when incorporating zero possession of GOM cod in Federal waters, but without an accompanying prohibition of recreational possession of cod by Massachusetts private anglers, the model estimates that the status quo measures for GOM haddock are not expected to constrain the bycatch of cod to the 2018 catch limit. The model estimates that the status quo haddock measures would result in cod catch of 226 mt and haddock catch of 920 mt (see Table 3), which would be 102 percent of the 220 mt cod sub-ACL and 27 percent of the haddock sub-ACL. If Massachusetts prohibits private angler possession of cod, status quo Federal measures for cod and haddock are expected to constrain cod catch to the sub-ACL. Predicted cod catch, under this scenario, is 193 mt. The Council's recommended, but non-preferred alternative does not rely on modifications to Massachusetts' recreational measures, but implements a new closure for the month of May for private anglers, and reduces the for-hire possession limit from 12 to 10 fish. Under this alternative cod catch is projected to be 198 mt.

Table 2 summarizes the status quo measures and the measures being proposed for comment, along with the model's estimates of catch and the likelihood of catch remaining below the sub-ACLs. At the time the model was run and presented to the Council for consideration, the preliminary GOM cod sub-ACL was estimated to be 200 mt, and the probabilities are based on this amount. We have since determined that the fishing year 2018 GOM cod sub-ACL will be 220 mt. The increased quota does not change the predicted cod catch under the different measures, but the probability that cod

catch will be below the sub-ACL increases. Projected catch associated with the status quo measures still exceeds the updated sub-ACL, and the proposed alternatives do not change. We intend to update the model probabilities using the higher, updated sub-ACL and publish those results with the final rule for this action.

Table 2. Summary of the Status Quo Measures and the Proposed Measures, with Model Estimates of Catch and the Likelihood of Catch Remaining Below the sub-ACLs.

2018 Measures	Fleet	Haddock Possession Limit	Minimum Fish Size	Closed Season	Predicted Haddock Catch (mt)	Probability Haddock Catch Below sub-ACL ²	Predicted Cod Catch (mt)	Probability Cod Catch Below sub-ACL ³
Status Quo	Private	12 fish per angler	17 inches	3/1 - 4/14	920	100	226	19
	For-hire			9/17 - 10/31				
Council Preferred ¹	Private	12 fish per angler	17 inches	3/1 - 4/14	916	100	193	57
	For-hire			9/17 - 10/31				
Council Not-Preferred Alternative	Private	12 fish per angler	17 inches	3/1 - 4/14	839	100	198	51
	For-hire	10 fish per angler		5/1 - 5/31				
				3/1 - 4/14				
				9/17 - 10/31				

¹This option requires that the Commonwealth of Massachusetts prohibit GOM cod possession by recreational anglers.

²The 2018 GOM haddock sub-ACL is 3,358 mt.

³The model assumed a GOM cod sub-ACL of 200 mt, the actual GOM cod sub-ACL is 220 mt.

The bioeconomic model’s predicted probabilities that catch will remain at or below the sub-ACLs are informative. The model uses preliminary data from the Marine Recreational Information Program (MRIP). MRIP data are updated throughout the fishing year as new data arrives in different waves and older data is updated. Incorporation of new waves, or updates, may result in changes. The MRIP data are estimates and highly variable from year to year. This combination of factors makes it difficult to produce consistent predictions and to assess the underlying reasons for the discrepancies between the model’s predicted catch and estimates of actual catch. The model has underestimated recreational catch historically, but its predictive power has been increasing in recent years. Recent measures have resulted in catch close to the sub-

ACLs; however, a number of overages have still occurred. Increasing the probability of maintaining catch under the sub-ACL provides more confidence that the measures may keep catch within the sub-ACL despite this data uncertainty.

2. Fishing Year 2018 Georges Bank Cod Recreational Management Measures

As part of Framework 57 to the Northeast Multispecies FMP, the Council recommended to give the Regional Administrator authority to adjust the GB cod recreational management measures for fishing years 2018 and 2019. Framework 57 is intended to be implemented for the 2018 fishing year. Concurrent to the Framework 57 rulemaking, which is expected in March 2018, we are considering whether adjustments to GB cod recreational measures are necessary, should the framework be approved. This action was precipitated by an unusually high recreational catch estimate of GB cod in 2016 that contributed to an overage of the total ACL and acceptable biological catch. Unlike GOM cod and haddock, there is no recreational sub-ACL for GB cod and no accountability measures for the recreational fishery when an overage occurs. The Council did not consider a recreational sub-ACL in this action because of a lack of time to consider this issue. However, the Council recommended a catch target for us to use when considering adjustments to GB cod measures. The catch target is based on the most recent 5 year (calendar years 2012-2016) average recreational catch (138 mt). The Council expects that measures designed to achieve this target amount for the recreational fishery will help the overall fishery attain, but not exceed, its overall ACL. According to the 2017 updated assessment the stock remains in poor condition, but the GB cod stock biomass is increasing and supports an increase in the ACL consistent with this change..

Based on the updated assessment the proposed 2018 overall ACL is increasing 139 percent compared to 2017.

With the exception of 2013, recreational catch of Georges Bank cod has been increasing (see Table 4). Recreational management measures for this stock have not been modified since 2010. For these reasons, we expect the increasing trend in recreational catch to continue.

Table 4: Georges Bank Cod Recreational Catch, Fishing Years 2012-2016

Georges Bank Cod (mt)	Fishing Year				
	2012	2013	2014	2015	2016
Total Catch	67.1	8	91.4	165	477.5

Since the Council meeting in December 2018, preliminary 2017 wave 6 MRIP data were released. Wave 6 (November-December) encompass the season for which GB recreational cod catches are historically the highest. The updated projection for fishing year 2017 recreational catch of GB cod is 120 percent lower than what was previously estimated and presented to the RAP and Council. The updated fishing year 2017 estimate is 51 mt. This reduction is not consistent with the increasing trend in catch that has been observed since 2013. Given the inherent variability in the MRIP data, many recreational fisheries use a moving average when considering measures for subsequent years. Incorporating the updated 2017 catch estimate, the 3-year average (fishing years 2015-2017) recreational catch is 196 mt. This average is greater than the catch target, and recreational catch in 2015 and 2016 was greater than the catch target.

Proposed Measures

Due to the potential increase in cod encounters by recreational anglers, and the poor stock condition, the Council is recommending measures to limit the potential for

extreme catch amounts of cod and facilitate enforcement of the measures. To meet this goal, the Council recommended setting a possession limit for the for-hire fleet. Currently private anglers have a 10-fish possession limit, and for-hire vessels have no limit. The proposed change would harmonize the private and for-hire restrictions while meeting capping potential cod interactions on a trip-by-trip basis. The Council also proposed an increase in the minimum size limit from 22 to 24 inches (55.88 to 60.96 cm). The proposed minimum size is consistent with the minimum size for recreationally caught cod in the GOM when that fishery is open. Also, a uniform size limit can help avoid confusion and aid enforcement. In 2016, approximately 40 percent of the cod landings were less than 24 inches. Thus, an increase to the minimum size we expect would reduce cod mortality relative to 2016 catch.

Unlike for the GOM recreational fishery, there is no model available to evaluate the probability of catch amounts for the Georges Bank management changes. However, past data shows that setting a possession limit and increasing the minimum size are effective techniques for reducing recreational catch. A possession limit will cap the amount of catch per trip and help meet the goal of limiting extreme events. Uniform size limits also will limit mortality as well as assist enforcement. The proposed fishing year 2018 recreational measures for Georges Bank cod are specified in Table 5, along with information on fishing year 2017 measures for comparison.

Table 5: Proposed Georges Bank Cod Recreational Management Measures for Fishing Year 2018 and Status Quo (Fishing Year 2017) Measures

2018 Options	Fleet	Georges Bank Cod Possession Limit	Minimum Fish Size	Open Season
Status Quo	Private	10	22 inches	5/1 - 4/30
	For-hire	Unlimited		
Council Reccomended	Private	10	24 inches	5/1 - 4/30
	For-hire			

We are seeking comments on the Council’s trip and size limits in relation to preventing extreme recreational catches of GB cod, assisting enforcement, and avoiding the potential negative impacts on the commercial groundfish fishery from recreational catch that contributes to overall ACL overages. In particular, we are interested in the measures in relation to achieving the catch target and avoiding overages of the overall ACL in light of the new MRIP data and estimated 2017 recreational GB cod catch. Because of the variability in MRIP data, and the lack of a model to evaluate the effect of the proposed measures, it is difficult to determine the probability that measures may constrain harvest to the catch target. Additionally, because the recreational fishery does not receive an allocation for GB cod, there are no AMs for recreational vessels in the event the catch target or the overall ACL is exceeded. For 2018, the commercial groundfish fishery is required to payback the 2016 fishing year ACL overage.

3. Regulatory Corrections

This action also proposes several corrections to the regulatory text to improve clarity and consistency of the recreational regulations. The corrections in this action are proposed under the authority of section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which states that the Secretary of Commerce may promulgate regulations necessary to ensure that FMPs are implemented in accordance with the Magnuson-Stevens Act.

In § 648.89(c), we have adopted a new approach to present recreational possession limits to simplify and improve clarity of the regulations. Rather than stating possession limits and seasons exclusively through text, a table would be used. Explanatory information (e.g., filleting exemption from minimum size) would still be in text form.

In § 648.14(k)(16), we propose to add the possession prohibitions for ocean pout and windowpane flounder by the recreational fishery. Possession, by the recreational fishery, of ocean pout and windowpane flounder is already prohibited. We are adding text to the prohibitions section to improve consistency and clarity of the regulations.

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 the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. Thus, this rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities, and also determines ways to minimize these impacts. The IRFA incorporates sections of the preamble (**SUPPLEMENTARY INFORMATION**) and analyses supporting this rulemaking,

including the Framework Adjustment 57 EA and the draft supplemental EA to Framework 57. A summary of the analysis follows (see **ADDRESSES**).

Description of the Reasons Why Action by the Agency is Being Considered

Because the recreational measures currently in place for GOM cod and haddock are not expected to constrain fishing year 2018 catch to the cod sub-ACL, this action proposes new measures, as required by the FMP, to ensure that the previously established sub-ACL is not exceeded. This action also proposes new recreational measures for Georges Bank cod. These measures have been designed to achieve the catch target set in Framework 57.

Statement of the Objectives of, and Legal Basis for, this Proposed Rule

The FMP allows the Regional Administrator, in consultation with the Council, to modify the GOM recreational management measures for the upcoming fishing year to ensure that the sub-ACL is achieved, but not exceeded. The provisions authorizing this action can be found in § 648.89(f)(3) of the FMP's implementing regulations. One of the intended effects of this action is to reduce recreational catch of GOM cod. This action is necessary to ensure that the fishing year 2018 recreational GOM cod catch limit is not exceeded.

Framework 57, a concurrent action, proposes to give the Regional Administrator authority to change the Georges Bank cod recreational management measures for fishing years 2018 and 2019. Framework 57 also proposed a catch target of 138 mt. Limiting catch to this target amount is expected to help ensure that the overall ACL for this stock is not exceeded. Management measures proposed in this action are designed to achieve, but not exceed this target.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

The Small Business Administration (SBA) defines a small commercial finfishing or shellfishing business (NAICS code 11411) as a firm with annual receipts (gross revenue) of up to \$11.0 million for Regulatory Flexibility Act compliance purposes only. A small for-hire recreational fishing business is defined as a firm with receipts of up to \$7.5 million (NAICS code 487210). Having different size standards for different types of fishing activities creates difficulties in categorizing businesses that participate in multiple fishing related activities. For purposes of this assessment, business entities have been classified into the SBA-defined categories based on which activity produced the highest percentage of average annual gross revenues from 2014-2016. This is the most recent 3-year period for which data are available. Ownership data in the Northeast permit database identify all individuals who own fishing vessels. Using this information, vessels can be grouped together according to common owners. The resulting groupings were treated as a fishing business for purposes of this analysis. Revenues summed across all vessels in a group and the activities that generate those revenues form the basis for determining whether the entity is a large or small business.

The proposed regulations include closed seasons in addition to possession limits and size limits. For purposes of this analysis, it is assumed that all three types of recreational fishing restrictions may directly affect for-hire businesses. According to the FMP, it is unlawful for the owner or operator of a charter or party boat issued a valid multispecies permit, when the boat is carrying passengers for hire, to:

- Possess cod or haddock in excess of the possession limits.

- Fish with gear in violation of the regulations.
- Fail to comply with the applicable restrictions if transiting the GOM Regulated Mesh Area with cod or haddock on board that was caught outside the GOM Regulated Mesh Area.

As the for-hire owner and operator can be prosecuted under the law for violations of the proposed regulations, for-hire business entities are considered directly affected in this analysis. Private recreational anglers are not considered “entities” under the RFA, and thus economic impacts on anglers are not discussed here.

For-hire fishing businesses are required to obtain a Federal charter/party multispecies fishing permit in order to carry passengers to catch cod or haddock. Thus, the affected businesses entities of concern are businesses that hold Federal multispecies for-hire fishing permits. While all business entities that hold for-hire permits could be affected by changes in recreational fishing restrictions, not all businesses that hold for-hire permits actively participate in a given year. The regulations affect the group of business entities who actively participate, i.e., land fish. Latent fishing power (in the form of unfished permits) has the potential to alter the impacts on a fishery. However, it is not possible to predict how many of these latent business entities will or will not participate in this fishery in fishing year 2018.

The Northeast Federal landings database (i.e., vessel trip report data) indicates that a total of 661 vessels held a multispecies for-hire fishing permit in 2016. This is the most recent full year of available data. Of the 661 for-hire permitted vessels, only 164 actively participated in the for-hire Atlantic cod and haddock fishery in fishing year 2016 (i.e., reported catch of cod or haddock).

Using vessel ownership information developed from Northeast Federal permit data and Northeast vessel trip report data, it was determined that the 164 actively participating for-hire vessels are owned by 151 unique fishing business entities. The vast majority of the 151 fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. For all but 23 of these fishing businesses, the revenue from for-hire fishing was greater than the revenue from shellfishing and the revenue from finfish fishing.

According to the SBA size standards, small for-hire businesses are defined as firms with annual receipts of up to \$7.5 million. Small commercial finfishing or shellfishing businesses are defined as firms with annual receipts (gross revenue) of up to \$11.0 million. Average annual gross revenue estimates calculated from the most recent 3 years (2014-2016) indicate that none of the 151 fishing business entities had annual receipts of more than \$2.8 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected fishing business entities are considered “small” based on the SBA size standards. As a result, this action would not disproportionately affect small versus large for-hire business entities.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

There are no proposed reporting, recordkeeping, or other compliance requirements.

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

The proposed action does not duplicate, overlap, or conflict with other Federal rules.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

There are three options that were presented to the Council [(Framework 57 EA and draft Supplemental EA, *see* **ADDRESSES**) that would accomplish the objectives, but are not being proposed. Options 5 and 6 were only discussed by the Council, and while they would achieve the objective, were not selected. The options presented, but not proposed, were rejected either because they did not achieve the required cod sub-ACL, or they had significant negative impacts on the for-hire fleet (e.g., Option 2, a May closure). The options proposed in this action minimize, to the extent practical, the impact on small entities.

Table 4. Projected Fishing Year 2018 Recreational Cod and Haddock Catch under Alternative Measures

Option	Had Limit	Had Size	Had Closed Season	Total Mortality mt (Median)	Cod Limit	Cod Closed Season	Total Mortality mt (Median)	Angler Trips (Median)	Had ACL (out of 100 Simulations)	Cod ACL (out of 100 Simulations)*
0 (Status Quo)	12	17"	Mar-Apr 14, Sep 17 - Oct 31	920	0	May-Apr	226	155,733	100	19
1 (Status Quo, no MA Cod Possession)	12	17"	Mar-Apr 14, Sep 17 - Oct 31	916	0	May-Apr	193	155,160	100	57
2 (Additional May Had Closure)	12	17"	Mar-Apr 14, May, Sep 17 - Oct 31	822	0	May-Apr	194	150,713	100	56
3 (No MA Cod Possession, no Had Minimum Size)	12		Mar-Apr 14, Sep 17 - Oct 31	979	0	May-Apr	213	162,543	100	34
4 (Additional May Had Closure, no Had Minimum Size)	12		Mar-Apr 14, May, Sep 17 - Oct 31	864	0	May-Apr	203	157,731	100	45
5 (Additional May Had Closure, 16" Had Minimum Size)	12	16"	Mar-Apr 14, May, Sep 17 - Oct 31	835	0	May-Apr	198	153,441	100	51
6 (Additional May Had Closure, 15" Had Minimum Size)	12	15"	Mar-Apr 14, May, Sep 17 - Oct 31	854	0	May-Apr	200	157,203	100	50
7 (Split Measures by Mode)	10 FH 12	17" 17"	Mar-Apr 14, Sep 17 - Oct 31 Mar-Apr 14, May, Sep 17 - Oct 31	839	0	May-Apr	198	152,091	100	51

FY 2018 rec sub-ACLs: haddock = 3,358 mt, cod = 220 mt - payback

*Assumes a cod sub-ACL of 200 mt

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 16, 2018

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.14, add paragraphs (k)(16)(viii) and (ix) to read as follows:

§ 648.14 Recreational and charter/party vessel restrictions.

(k) * * *

(16) * * *

(viii) *Ocean pout*. If fishing under the recreational or charter/party regulations, possess ocean pout.

(ix) *Windowpane flounder*. If fishing under the recreational or charter/party regulations, possess windowpane flounder.

* * * * *

3. In § 648.89, revise paragraphs (b) and (c) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

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

Species	Minimum size	
	Inches	cm
Cod:		
Inside GOM Regulated Mesh Area ¹	24	61.0
Outside GOM Regulated Mesh Area ¹	24	61.0
Haddock:		
Inside GOM Regulated Mesh Area ¹	17	43.2
Outside GOM Regulated Mesh Area ¹	18	45.7
Pollock	19	48.3
Witch Flounder (gray sole)	14	35.6
Yellowtail Flounder	13	33.0
American Plaice (dab)	14	35.6
Atlantic Halibut	41	104.1
Winter Flounder (black back)	12	30.5

Redfish	9	22.9
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¹GOM Regulated Mesh Area specified in §648.80(a).

(2) *Exceptions*—(i) *Fillet size*. Vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(ii) *Transiting*. Vessels in possession of cod or haddock caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area with cod and haddock that meet the minimum size specified for fish caught outside the GOM Regulated Mesh Area specified in § 648.80(b)(1), provided all bait and hooks are removed from fishing rods, and any cod and haddock on board has been gutted and stored.

(3) Fish fillets, or parts of fish, must have at least 2 square inches (5.1 square cm) of skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. The skin must be contiguous and must allow ready identification of the fish species.

(c) *Possession Restrictions*--(1) *Private recreational vessels*. Persons aboard private recreational fishing vessels in or possessing fish from the EEZ, during the open season listed in the column titled “Open Season” in Table 1 to paragraph (c), may not possess more fish than the amount listed in the column titled “Possession Limit” in Table 1 to paragraph (c).

(i) *Closed season*. Persons aboard private recreational fishing vessels may not possess species, as specified in the column titled “Species” in Table 1 to paragraph (c), in

or from the EEZ during that species closed season as specified in the column titled “Closed Season” in Table 1 to paragraph (c).

Table 1 to paragraph (c)

Species	Open Season	Possession Limit	Closed Season
GB Cod	All Year	10	N/A
GOM Cod	CLOSED	No retention	All Year
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	June 1 - September 16 November 1 – February 28 (or 29) April 15 - 30	12	September 17 - October 31 March 1 - April 14 May 1 - 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A

White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

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

Table 2 to paragraph (c)

Species	Open Season	Possession Limit	Closed Season
GB Cod	All Year	10	N/A
GOM Cod	CLOSED	No retention	All Year
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1 - September 16 November 1 - February 28 (or 29) April 15 - 30	10	September 17 - October 31 March 1 - April 14

GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N. Windowpane Flounder	CLOSED	No retention	All Year
S. Windowpane Flounder	CLOSED	No retention	All Year
Ocean Pout	CLOSED	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3)		
Atlantic Wolffish	CLOSED	No retention	All Year

(3) *Atlantic halibut*. Vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess more than one Atlantic halibut on board the vessel.

(4) *Accounting of daily trip limit.* For the purposes of determining the per day trip limit for cod and haddock for private recreational fishing vessels and charter or party boats, any trip in excess of 15 hours and covering 2 consecutive calendar days will be considered more than 1 day. Similarly, any trip in excess of 39 hours and covering 3 consecutive calendar days will be considered more than 2 days and, so on, in a similar fashion.

(5) *Fillet conversion.* For purposes of counting fish for cod and haddock for private recreational fishing vessels and charter or party boats, if fish are filleted, fillets will be converted to whole fish by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(6) *Application of possession limit.* Cod and haddock harvested by recreational fishing vessels in or from the EEZ with more than one person aboard may be pooled in one or more containers. If cod or haddock have been pooled into one or more containers, compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(7) *Storage.* Cod and haddock must be stored so as to be readily available for inspection.

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