

private land mobile radio licenses by reducing the authorized bandwidth.

2. WMTS was established to enhance the reliability of medical telemetry equipment, and to ensure that wireless medical telemetry devices can operate free of harmful interference. The band 1427–1432 MHz is shared between medical and non-medical telemetry operations. Generally, WMTS has primary status in the lower half of the band, and non-medical telemetry is primary in the upper half. Our rules do not explicitly authorize WMTS systems to operate on a secondary basis on frequencies where non-medical telemetry is primary. In response to conflicting requests, the *Notice of Proposed Rulemaking* published at 72 FR 32582, June 13, 2007, in this proceeding sought comment on amending the rules to clarify whether such operations are permitted.

3. In the *Second Report and Order*, we concluded that secondary WMTS operations should not currently be authorized. We noted that the Commission created WMTS in order to make available spectrum where medical telemetry services could operate free from harmful interference, and expressed concern that the authorization of secondary WMTS operations could subject such operations to the same interference issues that the WMTS allocation was intended to address. Because the record suggested that WMTS devices can operate safely on a secondary basis under certain conditions, however, we sought comment in the *Second Further Notice of Proposed Rule Making* published at 75 FR 19340, April 14, 2010, on whether secondary WMTS operations should be sanctioned upon the adoption of adequate safeguards.

4. We take this opportunity to further clarify that our decision in the *Second Report and Order* not to permit additional secondary WMTS operations at this time was not based on a conclusion that operation of medical devices on a secondary basis is *per se* contrary to the public interest. Rather, we concluded only that appropriate and effective measures must be taken to detect and avoid harmful interference, and that the existing record did not provide a sufficient basis to determine that such measures could be developed. This decision pertained only to WMTS, taking into account the unique technical characteristics of the service, the current lack of safeguards in our rules to promote safe secondary operations, and the operations with which WMTS shares spectrum. Further, as noted above, the issue of whether to amend the rules to authorize secondary

operations under appropriate conditions remains pending in this proceeding.

5. In addition, the *Second Report and Order* amended § 90.175(j) of the Commission's rules to remove the frequency coordination requirement for applications to modify existing licenses by reducing the authorized bandwidth. We found no need for a part 90 frequency coordinator to review such proposals in advance, because a simple reduction in authorized bandwidth cannot adversely impact co-channel or adjacent channel licensees. It may, however, increase the amount of power within a certain bandwidth. Consequently, we take this opportunity to remind licensees that the coordination and consent requirements set forth in § 1.924 of our rules regarding proposed new or modified operations in quiet zones continue to apply to such applications.

**Marlene H. Dortch,**

*Secretary, Federal Communications Commission.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 0910051338-0151-02]

RIN 0648-XW52

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Reductions to Trip Limits for Five Groundfish Stocks

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

**ACTION:** Temporary rule; inseason adjustment of landing limits.

**SUMMARY:** This action decreases the landing limit for Gulf of Maine (GOM) haddock, Georges Bank (GB) haddock, GOM winter flounder, GB winter flounder, and GB yellowtail flounder for Northeast (NE) multispecies vessels fishing under common pool regulations for the 2010 fishing year (FY). This action is authorized by the regulations implementing Amendment 16 and Framework Adjustment 44 (FW 44) to the NE Multispecies Fishery Management Plan (FMP) and is intended to decrease the likelihood of harvest exceeding the subcomponent of the annual catch limit (ACL) allocated

to the common pool (common pool sub-ACL) for each of these five stocks during FY 2010 (May 1, 2010, through April 30, 2011). This action is being taken to optimize the harvest of NE regulated multispecies under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective 0001 hours May 27, 2010, through April 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** Brett Alger, Fishery Management Specialist, (978) 675-2153, fax (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

Regulations governing possession and landing limits for vessels fishing under common pool regulations are found at 50 CFR 648.86. The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies day-at-sea (DAS), or fishing under a NE multispecies Small Vessel or Handgear A or B category permit, to fish for and retain NE multispecies, under specified conditions. The vessels fishing in the common pool are allocated a sub-ACL equivalent to that portion of the commercial groundfish ACL that is not allocated to the 17 approved NE multispecies sectors for FY 2010. The final rule implementing FW 44 (75 FR 18356, April 9, 2010) established ACLs for FY 2010. For FY 2010, the common pool sub-ACLs for these stocks are: 26 mt (57,320 lb) for GOM haddock; 254 mt (559,974 lb) for GB haddock; 25 mt (55,116 lb) for GOM winter flounder; 29 mt (63,934 lb) for GB winter flounder; and 23 mt (50,706 lb) for GB yellowtail flounder. Of these stocks, only two currently have possession limits: 5,000 lb (2,268.0 kg) per trip for GB winter flounder; and 2,500 lb (1,134.0 kg) per trip for GB yellowtail flounder.

The regulations at § 648.86(o) authorize the Administrator, Northeast (NE) Region, NMFS (Regional Administrator) to increase or decrease the trip limits for vessels in the common pool to prevent over-harvesting or under-harvesting the common pool sub-ACL. The relatively small sub-ACLs allocated to the common pool in FY 2010, combined with the initial trip limits, could result in the entire sub-ACL being harvested by very few fishing trips. Exceeding the common pool sub-ACL prior to April 30, 2011, would require drastic trip limit reductions and/or imposition of differential DAS counting for the remainder of FY 2010 to minimize the overage, and would trigger accountability measures (AMs) in FY 2011, including differential DAS counting, to prevent future overages.

Initial Vessel Monitoring System (VMS) and dealer reports indicate that approximately 33.4 percent of the GOM winter flounder, 13.7 percent of the GB haddock, 11.2 percent of the GB winter flounder, and 34.4 percent of the GB yellowtail flounder common pool sub-ACLs has been harvested as of May 18, 2010. Very little GOM haddock has been harvested; however, the sub-ACL for this stock is small enough that it could be harvested by a few large trips, given that there is no current possession limit.

Based on this information, the Regional Administrator is imposing the trip limit changes detailed in the following table, effective May 27, 2010, through April 30, 2011.

Stock	Trip Limit
GOM Haddock	1,000 lb (453.6 kg) per trip
GB Haddock	10,000 (4,535.9 kg) lb per trip
GOM Winter Flounder	250 lb (113.4 kg) per trip
GB Winter Flounder	1,000 lb (453.6 kg) per trip
GB Yellowtail Flounder	1,000 lb (453.6 kg) per trip

Catch will be closely monitored through dealer-reported landings, VMS catch reports, and other available information. Further inseason adjustments to increase or decrease the trip limits, as well as differential DAS measures may be considered, based on

updated catch data and projections. Conversely, if the common pool sub-ACL is projected to be under-harvested by the end of FY 2010, in-season adjustments to increase the trip limit will be considered.

#### Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C 553(b)(3)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because prior notice and comment, and a delayed effectiveness, would be impracticable and contrary to the public interest. The regulations under § 648.86(o) grant the Regional Administrator the authority to adjust the NE multispecies trip limits to prevent over-harvesting or under-harvesting the common pool sub-ACLs. This action will implement a more restrictive trip limit for GOM haddock, GB haddock, GOM winter flounder, GB winter flounder, and GB yellowtail flounder in order to ensure that the common pool sub-ACLs are not over-harvested, and the biological and economic objectives of the FMP are met.

It is important to take this action immediately because, based on current data and projections, continuation of the status quo trip limit will result reaching each of the respective common pool sub-ACLs prior to the end of FY 2010. Attainment of any of the common pool sub-ACLs prior to April 30, 2011, would

result in lower trip limits and/or differential DAS counting for the remainder of FY 2010 and would trigger end-of-the-year AMs for the common pool in FY 2011. These restrictions could result in the loss of yield of other valuable species caught by vessels in the common pool.

The information that is the basis for this action includes ACLs updated after May 1, 2010, and recent catch data. The time necessary to provide for prior notice and comment, and delayed effectiveness for this action would prevent NMFS from implementing a reduced trip limit in a timely manner. A resulting delay in the curtailment of catch rate of these five stocks may result in less revenue for the fishing industry and be counter to the objective of optimum yield.

The Regional Administrator's authority to decrease trip limits for the common pool to help ensure that the common pool sub-ACL for all NE multispecies are harvested, but not exceeded, was considered and open to public comment during the development of FW 44. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: May 24, 2010.

**James P. Burgess,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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