

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230726–0175]

RIN 0648–BM13

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Commercial Trip Limit for Gray Triggerfish

Correction

In Rule Document 2023–16229, appearing on pages 50063–50065, in the issue of Tuesday, August 1, 2023, make the following correction:

On page 50063, in the third column, in the heading, on the thirty-first line, under the heading **DATES**, the text reading “September 11, 2023” should read “September 1, 2023”.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230810–0190]

RIN 0648–BL95

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 65

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

ACTION: Final rule; emergency action; request for comments.

SUMMARY: This action approves and implements Framework Adjustment 65 to the Northeast Multispecies Fishery Management Plan. This rule revises the rebuilding plan for Gulf of Maine cod, sets catch limits for 16 of the 20 multispecies (groundfish) stocks, and makes a temporary modification to the accountability measures for Georges Bank cod. This action also corrects erroneous regulations and removes outdated regulations. This action also implements an emergency action to set fishing year 2023 catch limits for Gulf of Maine haddock. This action is

necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The 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. The emergency action is necessary to avoid a potential shut-down of the groundfish fishery in the Gulf of Maine in fishing year 2023, while still preventing overfishing for Gulf of Maine haddock.

DATES: Effective August 18, 2023, except for the temporary specification of the Gulf of Maine haddock catch limits under Catch Limits for Fishing Years 2023–2025 in **SUPPLEMENTARY INFORMATION**, which are effective August 18, 2023 through February 14, 2024. Comments on the emergency action for Gulf of Maine haddock must be submitted by 5 p.m. EST on September 18, 2023.

ADDRESSES: For this action, NMFS developed a supplement for the Environmental Assessment (EA) for Framework 65. Copies of the supplemental EA for this rulemaking are available on the internet at <https://www.fisheries.noaa.gov/region/new-england-mid-atlantic> and www.regulations.gov.

You may submit comments on the emergency action for Gulf of Maine haddock, identified by NOAA–NMFS–2023–0021, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA–NMFS–2023–0021 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. 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. You may submit anonymous comments by entering “N/A” in the required fields if you wish to remain anonymous.

Copies of Framework Adjustment 65, including the EA, 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.

SUPPLEMENTARY INFORMATION:**Summary of Approved Measures**

The New England Fishery Management Council (Council) adopted Framework Adjustment 65 to the Northeast Multispecies Fishery Management Plan (FMP) on December 7, 2022. The Council submitted Framework 65, including an EA, for NMFS approval on April 18, 2023. NMFS published a proposed rule for Framework 65 on May 31, 2023 (88 FR 34810), with a 15-day comment period that closed on June 15, 2023.

Under the Magnuson-Stevens Act, the Secretary approves, disapproves, or partially approves measures that the Council proposes, based on consistency with the Act and other applicable law. On behalf of the Secretary, NMFS reviews proposed regulations for consistency with the fishery management plan, plan amendment, the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act) and other applicable law, and publishes the proposed regulations, solicits public comment, and promulgates the final regulations. Based on information provided in the EA, supplemental EA, and considered during the preparation of this action, and after consideration of comments, NMFS (we) have approved all of the measures in Framework 65 recommended by the Council, as described below. The measures implemented in this final rule:

- Revise the rebuilding plan for Gulf of Maine (GOM) cod;
- Set shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock for fishing years 2023 and 2024;
- Set specifications, including catch limits for 16 groundfish stocks: GB haddock, GOM haddock, Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder, Cape Cod (CC)/GOM yellowtail flounder, American plaice, witch flounder, GB winter flounder, GOM winter flounder, SNE/

MA winter flounder, pollock, ocean pout, Atlantic halibut, and Atlantic wolffish for fishing years 2023–2025; GB cod and GB yellowtail flounder for fishing years 2023–2024; and white hake for fishing year 2023;

- Remove the management uncertainty buffer for sectors for GOM haddock and white hake, if the at-sea monitoring (ASM) target coverage level is set at 90 percent or greater, for the 2023 fishing year only; and
- Make a temporary modification to the accountability measures (AM) for GB cod.

This action also makes regulatory corrections that are not part of Framework 65, but that are implemented under section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are making these corrections in conjunction with the Framework 65 measures for expediency purposes. These corrections are described in Regulatory Corrections under Secretarial Authority. This action also takes emergency action under section 305(c) authority to implement a revised acceptable biological catch (ABC) for GOM haddock. The emergency action is described in Catch Limits for Fishing Years 2023–2025 and is supported by information provided and considered in the Supplemental EA.

Rebuilding Plan for Gulf of Maine Cod

Framework 65 revises the rebuilding plan for GOM cod, which we more fully described in the proposed rule, and is also described in the Framework 65 EA (see **ADDRESSES** for information on how to obtain this document). The approved rebuilding plan for GOM cod sets the fishing mortality rate (F) that is required to rebuild the stock ($F_{rebuild}$) at 60 percent of the fishing mortality rate associated with maximum sustainable yield (F_{MSY}) with a 70-percent probability of achieving the biomass associated with maximum sustainable yield (B_{MSY}) under the $M=0.2$ model. As explained in more detail in the EA, the approved rebuilding plan accounts for GOM cod’s stock status, the needs of fishing communities, and the multispecies nature of the commercial and recreational fishery.

As part of the revised rebuilding plan for GOM cod, we are removing regulations at 50 CFR 648.90(a)(2)(iv), which include a review process for the rebuilding plans for GOM cod and American plaice. The revised rebuilding plan for GOM cod does not contain this Council review process but is still subject to Secretarial review for determining adequate rebuilding progress. As of 2019, American plaice is rebuilt and no longer in a rebuilding

plan, making this regulation unnecessary.

Fishing Years 2023 and 2024 Shared U.S./Canada Quotas

Management of Transboundary Georges Bank Stocks

As described in the proposed rule, eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. This action implements shared U.S./Canada quotas for eastern GB cod and GB yellowtail flounder for fishing year 2023, based on updated assessments and the recommendations of the Transboundary Management Guidance Committee (TMGC) and consistent with the Council’s Scientific and Statistical Committee (SSC) recommendations. Additionally, it implements the U.S. quota for eastern GB haddock as selected by the Council, following the lack of consensus by the TMGC.

Framework 65 sets the same shared quotas for a second year (*i.e.*, for fishing year 2024) as placeholders, with the expectation that those quotas will be reviewed annually and new recommendations will be received from the TMGC. The 2023 and 2024 shared U.S./Canada quotas, and each country’s allocation, are listed in Table 1.

TABLE 1—2023 AND 2024 FISHING YEARS 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	520	<i>No agreement</i>	200.
U.S. Quota	135 (26 percent)	1,520	(106 53 percent).
Canadian Quota	385 (74 percent)	2,320 (<i>estimate</i>)	94 (47 percent).

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. Based on preliminary data through June 5, 2023, the U.S. fishery did not exceed its 2022 fishing year quota for any of the shared stocks. However, if catch information for the 2022 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 2023 fishing year in a future management action, as soon as possible in the 2023 fishing year. 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.

Catch Limits for Fishing Years 2023–2025

Summary of the Catch Limits

This rule adopts catch limits for 13 stocks for the 2023–2025 fishing years and for white hake for the 2023 fishing year, based on stock assessments completed in 2022, and catch limits for GB cod and GB yellowtail flounder for fishing years 2023–2024. Framework 61 (86 FR 40353, July 28, 2021) previously set 2023 quotas for redfish, northern windowpane flounder, and southern windowpane flounder based on assessments conducted in 2020, and

those remain in place. Framework 63 (87 FR 42375, July 15, 2022) previously set the 2023–2024 quota for GOM cod, based on an assessment conducted in 2021, and that also remains in place. The catch limits implemented in this action, including overfishing limits (OFL), ABC, and annual catch limits (ACL), are listed in Tables 2 through 10. As part of the catch limits set by Framework 65, this action sets the GB cod recreational catch target to 113 mt. It also removes the management uncertainty buffer for the sector sub-ACL for GOM haddock and white hake for the 2023 fishing year only.

Emergency Rule To Set Fishing Year 2023 GOM Haddock Catch Limits

The Council’s SSC based its recommendation for the GOM haddock ABC on the results of the 2022

management track assessment for the stock and a 75 percent F_{MSY} , which is consistent with the Council's ABC control rule for stocks that are not in a rebuilding plan, and the Council supported the adoption of this ABC in Framework 65. However, in the time since the Council took final action in December 2022, there have been increasing concerns about the significant decrease to the ABC compared to fishing year 2022 and the potential economic impacts of reaching the extremely reduced catch limit earlier than the end of the fishing year.

At its April Council meeting, after receiving public statements of growing GOM haddock interactions and concerns about potentially reaching catch limits early in the next fishing year, the Council voted to request that NMFS implement an emergency action to set the GOM haddock ABC for the fishing year 2023 at 90 percent of F_{MSY} , or 2,281 mt, rather than the ABC that was recommended in Framework 65 (1,936 mt, based on 75 percent F_{MSY}). On May 2, 2023, the Council sent NMFS a letter requesting the emergency action. The Council stated in its request that the extent of the potential impact of the extremely low quota for GOM haddock resulting in a potentially early closure of the fishery in the Gulf of Maine was not well-defined when the Council took final action on Framework 65 in December 2022. The Council further explained that it seeks to balance the risk of increasing the probability of overfishing, while still preventing overfishing, against the risk of a major fishery closure that could result in serious market and community losses.

A large 2020 year-class was documented in the 2022 management track assessment, but the unanticipated high level of fishery interactions with this year-class was not apparent until after the Council completed its work on Framework 65 in December 2022. The ratio of discards to total catch in the spring of 2023 reveals an increasing trend, out of proportion with what has been seen in recent fishing years. This new situation presents unforeseen and serious management problems in the fishery that could not have been addressed by the Council in a timely manner. In the situation where the

commercial fishery reaches its quota early in the fishing year, the Gulf of Maine would be closed to groundfish fishing through the end of the fishing year (April 30, 2024), resulting in serious economic impacts. Catch in the 2023 fishing year has been unusually low at the beginning of this fishing year. We expect this may be due to seasonal fishing patterns along with concerns about the substantially lower catch limits. Uncertainty from the catch projections and attempting to avoid an early shutdown of the fishery and its serious consequences may be overly suppressing fishing effort. We anticipate catch rates will increase as the season progresses, potentially doubling or more by the fall, based on data from past fishing years. Past seasonal trends in the fishery demonstrate a significant potential for early closure under the severely reduced quota. Alternatively, if the fishery takes measures to overly constrain its overall catch to remain under the GOM haddock quotas for the entire fishing year, it may result in undue forgone economic opportunities, both for catching haddock and other fish stocks. Completion of a fishery management plan framework or amendment and notice and comment rulemaking would take substantially more time than an emergency action, delaying timely implementation of the revised ABC. Concern for impacts to the GOM haddock stock is low given that the total stock biomass is more than 270 percent of the target biomass at MSY . Therefore, we have determined that this situation meets the criteria specified by NMFS for emergency rulemaking (62 FR 44421; August 21, 1997).

Based on our analysis, we have determined that we can set the ABC as high as 100 percent of F_{MSY} (2,515 mt) based on the condition of the GOM haddock stock, which is estimated to be at 270 percent of its target biomass, while still preventing overfishing. While this represents a 30-percent increase from the ABC included in Framework 65, it still would represent a substantial reduction (78-percent) from the fishing year 2022 ABC. Setting the ABC at 100 percent of F_{MSY} (2,515 mt) meets the requirement to have at least a 50-percent probability of preventing overfishing in

the 2023 fishing year. By implementing a higher catch limit, we intend to increase the flexibility for the fishery to be able to adjust to the large decrease in the quota compared to the previous fishing year by taking advantage of seasonal variations, avoidance of Gulf of Maine haddock and greater ability to pursue other stocks, and better long-term planning than if this rule was delayed. The greater flexibility and ability to adjust is expected to help avoid or mitigate the potentially harsh economic impacts that would occur from an early fishery closure in the Gulf of Maine that are more likely under the proposed ABC. We anticipate that the fishery will still need to adjust its fishing behavior to remain within the catch limits implemented in this emergency action, but expect the additional catch will provide greater operational flexibility.

This final rule technically approves the ABC that was proposed in Framework 65, and it replaces the 1,936-mt GOM haddock ABC in Framework 65 with an ABC of 2,515 mt for 180 days through the emergency authority provided at section 305(c) of the Magnuson-Stevens Act. The ABC is further divided among the various components of the fishery based on the ACL distribution adopted by the Council in Framework 65. The total ACL and the sub-ACLs for each component of the fishery that are implemented through this emergency rule are presented in Table 3. The common pool fishery's sub-ACL for GOM haddock is further divided into trimester total allowable catches (TACs), which are presented in Table 6. The sector sub-ACL for GOM haddock is further divided into annual catch entitlements (ACE), which are presented in Tables 12 and 13.

Actions taken under Secretarial emergency authority are in effect for 180 days. The Secretary has the authority to extend emergency action for up to an additional 186 days, which would be considered in a separate rulemaking. If the emergency action is not extended, the ABC would revert to the amount originally recommended by the Council in Framework 65 and approved in this final rule.

TABLE 2—FISHING YEARS 2023–2025 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES [Mt, live weight]

Stock	2023		Percent change from 2022	2024		2025	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	519	51	UNK	519	.....	.....
GOM Cod	853	551	0	980	551	.....	.....
GB Haddock	18,482	11,901	-85	17,768	11,638	15,096	9,962
GOM Haddock Emergency Action	2,515	2,515	-78	.....	.....	.....	.....

TABLE 2—FISHING YEARS 2023–2025 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES—Continued
[Mt, live weight]

Stock	2023		Percent change from 2022	2024		2025	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GOM Haddock Proposed in Framework 65	2,515	1,936	–83	2,655	2,038	2,627	2,017
GB Yellowtail Flounder	UNK	106	–13	UNK	106	.....	.....
SNE/MA Yellowtail Flounder	55	40	82	89	40	345	40
CC/GOM Yellowtail Flounder	1,436	1,115	35	1,279	992	1,184	915
American Plaice	7,316	5,699	102	7,091	5,520	6,763	5,270
Witch Flounder	UNK	1,256	–15	UNK	1,256	UNK	1,256
GB Winter Flounder	2,361	1,702	180	2,153	1,549	2,100	1,490
GOM Winter Flounder	1,072	804	62	1,072	804	1,072	804
SNE/MA Winter Flounder	1,186	627	38	1,425	627	1,536	627
Redfish	13,229	9,967	–1	.....	.....	.....	.....
White Hake	2,650	1,845	–13	.....	.....	.....	.....
Pollock	19,617	15,016	–11	18,208	13,940	17,384	13,294
N Windowpane Flounder	UNK	160	0	.....	.....	.....	.....
S Windowpane Flounder	513	384	0	.....	.....	.....	.....
Ocean Pout	125	87	0	125	87	125	87
Atlantic Halibut	UNK	86	–15	UNK	86	UNK	86
Atlantic Wolffish	124	93	1	124	93	124	93

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.

TABLE 3—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	500	375	364	11	192				42	83
GOM Cod	522	470	268	11					48	3.4
GB Haddock	11,301	11,080	10,829	251		221			0	0
GOM Haddock Emergency Action	2,452	2,362	1,537	32	793	23			58	8.3
GOM Haddock Proposed in Framework 65	1,888	1,818	1,183	25	610	18			45	6.4
GB Yellowtail Flounder	103	84	80	4.5				2.0	0.0	0.0
SNE/MA Yellowtail Flounder	38	33	25	8.1				2.7	0.2	2.0
CC/GOM Yellowtail Flounder	1,063	985	931	54					34	45
American Plaice	5,417	5,360	5,210	150					29	29
Witch Flounder	1,196	1,145	1,104	41					19	31
GB Winter Flounder	1,651	1,634	1,585	50					0	17
GOM Winter Flounder	772	607	519	88					153	12.1
SNE/MA Winter Flounder	604	441	387	53					19	144
Redfish	9,469	9,469	9,369	99					0	0
White Hake	1,844	1,826	1,808	18					0	19
Pollock	14,325	13,124	13,001	123					676	526
N Windownpane Flounder	150	105	na	105			31		0.8	13
S Windownpane Flounder	371	45	na	45			129		13	184
Ocean Pout	83	49	na	49					0	34
Atlantic Halibut	83	64	na	64					17	1.3
Atlantic Wolffish	87	87	na	87					0	0

na: not allocated to sectors.

TABLE 4—CATCH LIMITS FOR THE 2024 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	500	375	364	11	192				42	83
GOM Cod	522	470	268	11					48	3
GB Haddock	11,052	10,835	10,590	245		217			0	0
GOM Haddock	1,925	1,852	1,183	26	643	19			47	7
GB Yellowtail Flounder	103	84	80	4.5				2.0	0	0
SNE/MA Yellowtail Flounder	38	33	25	8.1					0.2	2.0
CC/GOM Yellowtail Flounder	946	877	828	48					30	40
American Plaice	5,247	5,192	5,046	145					28	28
Witch Flounder	1,196	1,145	1,104	41					19	31
GB Winter Flounder	1,503	1,488	1,442	45					0	16
GOM Winter Flounder	772	607	519	88					153	12.1
SNE/MA Winter Flounder	604	441	387	53					19	144
Pollock	13,299	12,184	12,070	114					627	488
Ocean Pout	83	49	na	49					0	34
Atlantic Halibut	83	64	na	64					17	1.3
Atlantic Wolffish	87	87	na	87					0	0

na: not allocated to sectors.

* Northeast multispecies stocks not included in Table 5 do not have catch limits approved for fishing year 2025.

TABLE 5—CATCH LIMITS FOR THE 2024 FISHING YEAR*
[Mt, live weight]

Stock	Total ACL A to H	Groundfish sub-ACL A + B + C	Sector sub-ACL A	Common pool sub-ACL B	Recreational sub-ACL C	Midwater trawl fishery D	Scallop fishery E	Small-mesh fisheries F	State waters sub- component G	Other sub- component H
GB Haddock	9,460	9,275	9,065	210	185				0	0
GOM Haddock	1,905	1,833	1,171	26	19				47	7
SNE/MA Yellowtail Flounder	38	33	25	8			3		0	2
CC/GOM Yellowtail Flounder	873	808	764	45					28	37
American Plaice	5,009	4,957	4,818	139					26	26
Witch Flounder	1,196	1,145	1,104	41					19	31
GB Winter Flounder	1,446	1,431	1,387	44					0	15
GOM Winter Flounder	772	607	519	88					153	12.1
SNE/MA Winter Flounder	604	441	387	53					19	144
Pollock	12,683	11,619	11,510	109					598	465
Ocean Pout	83	49	na	49					0	34
Atlantic Halibut	83	64	na	64					17	1.3
Atlantic Wolffish	87	87	na	87					0	0

na: not allocated to sectors.

* Northeast multispecies stocks not included in Table 6 do not have catch limits approved for fishing year 2025.

TABLE 6—FISHING YEARS 2023–2025 COMMON POOL TRIMESTER TACS
[Mt, live weight]

Stock	2023			2024			2025		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	3.0	3.6	4.1	3.0	3.6	4.1	.....	.....	.....
GOM Cod	5.2	3.5	1.9	5.2	3.5	1.9	.....	.....	.....
GB Haddock	67.6	82.7	100.2	66.1	80.8	98.0	56.6	69.2	83.9
GOM Haddock Emergency Action	8.6	8.3	15.0	.....	.....	.....	.....	.....	.....
GOM Haddock Proposed in Framework 65	6.6	6.4	11.6	7.0	6.7	12.2	6.9	6.7	12.1
GB Yellowtail Flounder	0.9	1.4	2.3	0.9	1.4	2.3	.....	.....	.....
SNE/MA Yellowtail Flounder	1.7	2.3	4.1	1.7	2.3	4.1	1.7	2.3	4.1
CC/GOM Yellowtail Flounder	31.0	14.1	9.2	27.6	12.6	8.2	25.5	11.6	7.6
American Plaice	111.0	12.0	27.0	107.5	11.6	26.2	102.6	11.1	25.0
Witch Flounder	22.6	8.2	10.3	22.6	8.2	10.3	22.6	8.2	10.3
GB Winter Flounder	4.0	12.0	33.9	3.6	10.9	30.8	3.5	10.5	29.6
GOM Winter Flounder	32.7	33.6	22.1	32.7	33.6	22.1	32.7	33.6	22.1
Redfish	24.8	30.8	43.7	.....	.....	.....	.....	.....	.....
White Hake	6.7	5.5	5.5	.....	.....	.....	.....	.....	.....
Pollock	34.4	42.9	45.4	31.9	39.9	42.1	30.4	38.0	40.2

TABLE 7—COMMON POOL INCIDENTAL CATCH TACS FOR THE 2023–2025 FISHING YEARS
[Mt, live weight]

Stock	Percentage of common pool sub-ACL	2023	2024	2025
GB Cod	1.68	0.18	0.18	.....
GOM Cod	1	0.11	0.11	.....
GB Yellowtail Flounder	2	0.09	0.09	.....
CC/GOM Yellowtail Flounder	1	0.54	0.48	0.45
American Plaice	5	7.50	7.27	6.94
Witch Flounder	5	2.06	2.06	2.06
SNE/MA Winter Flounder	1	0.53	0.53	0.53

TABLE 8—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 9—FISHING YEARS 2023–2025 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM
[Mt, live weight]

Stock	Regular B DAS program			Eastern U.S./Canada haddock SAP		
	2023	2024	2025	2023	2024	2025
GB Cod	0.11	0.11	.....	0.07	0.07	.....
GOM Cod	0.11	0.11	.....	n/a	n/a	n/a
GB Yellowtail Flounder	0.05	0.05	.....	0.05	0.05	.....
CC/GOM Yellowtail Flounder	0.54	0.48	0.45	n/a	n/a	n/a
American Plaice	7.50	7.27	6.94	n/a	n/a	n/a
Witch Flounder	2.06	2.06	2.06	n/a	n/a	n/a
SNE/MA Winter Flounder	0.53	0.53	0.53	n/a	n/a	n/a

TABLE 10—FISHING YEARS 2023–2025 REGULAR B DAS PROGRAM QUARTERLY INCIDENTAL CATCH TACS
[Mt, live weight]

Stock	2023				2024				2025			
	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	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03	.....	.....	.....	.....
GOM Cod	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03	.....	.....	.....	.....
GB Yellowtail Flounder	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	.....	.....	.....	.....
CC/GOM Yellowtail Flounder	0.07	0.16	0.16	0.16	0.06	0.14	0.14	0.14	0.06	0.13	0.13	0.13
American Plaice	0.98	2.18	2.18	2.18	0.94	2.11	2.11	2.11	0.90	2.01	2.01	2.01
Witch Flounder	0.27	0.60	0.60	0.60	0.27	0.60	0.60	0.60	0.27	0.60	0.60	0.60
SNE/MA Winter Flounder	0.07	0.15	0.15	0.15	0.07	0.15	0.15	0.15	0.07	0.15	0.15	0.15

Sector ACE

At the start of the 2023 fishing year, we allocated stocks to each sector, based on the catch limits set by prior frameworks. This rule updates the ACE allocated to sectors based on the catch limits approved in Framework 65, fishing year 2023 potential sector contributions (PSC), and final fishing

year 2023 sector rosters. We calculate a sector’s allocation for each stock by summing its members’ PSC for the stock and then multiplying that total percentage by the commercial sub-ACL for that stock. The process for allocating ACE to sectors is further described in the final rule allocating ACE to sectors for fishing year 2023 (88 FR 26502; May 1, 2023) and is not repeated here. Table

11 shows the cumulative PSC by stock for each sector for fishing year 2023. Tables 12 and 13 show the ACEs allocated to each sector for fishing year 2023, in pounds and metric tons, respectively. We have included the common pool sub-ACLs in tables 11 through 13 for comparison.

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Table 11 -- Cumulative PSC (percentage) each sector is receiving by stock for fishing year 2023

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail	SNE/MA Yellowtail	CC/GOM Yellowtail	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Lake	Pollock
Fixed Gear Sector	61	11.57986499	0.63266494	1.55709587	0.17782891	0.00406226	0.19072868	1.56837644	0.43174061	1.06929398	0.02017520	1.76433338	0.97813195	0.53443731	1.02810850	3.10014146
Maine Coast Community Sector	106	2.25872338	15.76658235	3.39860872	12.23134332	1.94946469	2.52105226	6.24752145	15.57458405	12.30858699	0.80738779	7.86786547	2.22916051	9.20683775	13.81692834	12.66240982
Maine Permit Bank	11	0.13433240	1.16132981	0.04453264	1.12518663	0.01387769	0.03207060	0.31964827	1.16764266	0.72913817	0.00021875	0.42733160	0.01820574	0.82280483	1.65671798	1.69621727
Mooncussers Sector	50	12.21207657	6.36850801	3.9232145	3.79190735	1.2244264	0.86275027	3.0294081	0.91306647	1.83458249	0.95258019	2.85243127	2.52636501	4.91308407	11.18619853	11.05573652
NEFS 2	113	6.42816078	23.99446934	10.61155045	20.56940265	1.63947658	1.23621426	22.90090667	9.56811689	12.84492215	3.21979349	21.96589678	4.12452591	14.91399904	8.17047704	13.77324534
NEFS 4	57	7.44182724	11.17474122	5.84423897	8.86143242	2.17753304	2.28300499	6.41878000	9.43778040	8.82208019	0.69764780	7.42336800	1.00862116	6.64654117	8.24718969	6.83834879
NEFS 5	18	0.47056874	0.32874217	0.69339715	0.11135814	0.96581125	15.83289258	0.92536422	0.30939222	0.50529332	0.32057717	0.84535750	10.01863962	0.01278743	0.06943484	0.07496313
NEFS 6	19	2.95763737	2.71824028	3.43228246	4.38577536	2.00973187	4.82398814	3.86831303	4.37527055	5.81914234	1.14530038	4.42247153	1.87553025	6.81156513	4.52602154	3.66261878
NEFS 8	67	15.45781499	7.2279254	14.23112169	7.12601424	27.65164455	11.46256002	8.88351106	10.09984910	8.69323561	38.08255616	4.20645961	16.29546939	7.64776369	6.57566090	6.07784450
NEFS 10	29	0.53059111	2.48774096	0.17754905	1.32502399	0.00115685	0.57051305	4.14466839	1.20285919	2.12677255	0.01091121	9.11147909	0.61624860	0.33718022	0.65893852	0.77238161
NEFS 11	41	0.39868824	11.35784017	0.03379860	2.73654707	0.00088665	0.01093753	2.28648134	1.51337953	1.54442034	0.00097316	2.00303163	0.02237232	1.86925737	4.01329501	8.76601247
NEFS 12	19	0.49691547	3.01385294	0.09383689	1.07377373	0.00042837	0.03451653	8.38930385	0.79597202	0.62505806	0.00044221	10.19597019	0.26294077	0.22795795	0.2847543	0.70973059
NEFS 13	67	12.42581344	0.64815143	20.35989584	0.90719096	35.69975739	22.94096330	6.48201064	8.58789891	8.81654744	19.26342385	1.81825768	17.44476423	4.35072387	2.20494996	2.67670424
New Hampshire Permit Bank	4	0.00082660	1.15152380	0.00003421	0.03236669	0.00002041	0.00001803	0.02192452	0.02856510	0.00617879	0.00000326	0.06080509	0.00003694	0.01942366	0.08147900	0.11142826
Sustainable Harvest Sector 1	50	6.78013931	5.94227322	9.64423085	12.67012829	4.44827137	2.60383435	3.60914781	16.80461955	13.81559835	10.29166596	2.93321238	4.50042687	17.77418284	18.16731342	10.38203747
Sustainable Harvest Sector 2	24	2.55865401	1.91547867	2.88873257	4.40959622	2.84272472	2.72846562	5.31596012	3.54963283	3.36537604	2.71017433	4.63543304	5.10781614	4.57851646	3.44227274	3.07644866
Sustainable Harvest Sector 3	44	15.02224149	4.80760938	20.80489387	16.31924540	14.05896255	7.69574599	10.06005305	12.84075445	13.48850779	19.42849745	2.92793175	20.84919617	18.28435712	14.84613393	13.60902668
Common Pool	491	2.84412386	3.80745494	2.26067871	2.14581862	5.30374711	24.16974380	5.52508832	2.79887548	3.58526541	3.04767164	14.53836401	12.12154841	1.04858010	1.01940462	0.93470440
Sector Total	780	97.16	96.19	97.74	97.85	94.70	75.83	94.47	97.20	96.41	96.95	85.46	87.88	98.95	98.98	99.07

Table 12 -- ACE (in 1,000 lb), by stock, for each sector for fishing year 2023 #^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock Emergency Action	GOM Haddock Proposed in Framework 65	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Place	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	34	61	4	52	328	6	5	0	0	34	51	27	1	24	10	112	41	897
Maine Coast Community Sector	7	12	97	114	716	424	326	4	2	136	1,840	311	29	105	22	1,922	556	3,664
Maine Permit Bank	0	1	7	1	9	39	30	0	0	7	138	18	0	6	0	172	67	491
Mooncusser Sector	36	65	39	131	827	131	101	2	1	66	108	46	34	38	25	1,026	450	3,199
NEFS 2	19	34	147	356	2,236	712	548	3	1	497	1,131	324	116	294	40	3,113	329	3,985
NEFS 4	22	39	69	196	1,232	307	236	4	2	139	1,115	223	25	99	10	1,387	332	1,984
NEFS 5	1	2	2	23	146	4	3	2	12	20	37	13	12	11	97	3	3	22
NEFS 6	9	16	17	115	723	152	117	4	4	84	517	147	41	59	18	1,422	182	1,060
NEFS 8	46	82	17	477	2,999	247	190	51	8	193	1,193	220	1,372	56	158	1,596	265	1,759
NEFS 10	2	3	15	6	37	46	35	0	0	90	142	54	0	122	6	70	27	223
NEFS 11	1	2	70	1	7	95	73	0	0	50	179	39	0	27	0	390	162	2,536
NEFS 12	1	3	18	3	20	37	29	0	0	182	94	16	0	136	3	48	12	205
NEFS 13	37	66	4	682	4,291	31	24	66	17	141	1,015	223	694	24	170	908	89	774
New Hampshire Permit Bank	0	0	7	0	0	1	1	0	0	0	3	0	0	1	0	4	3	32
Sustainable Harvest Sector 1	20	36	36	323	2,033	439	338	8	2	78	1,986	349	371	39	44	3,710	732	3,004
Sustainable Harvest Sector 2	8	14	12	97	609	153	118	5	2	115	419	85	98	62	50	956	139	890
Sustainable Harvest Sector 3	45	79	29	697	4,385	565	435	26	6	218	1,517	341	700	39	203	3,817	598	3,938
Common Pool	8	15	23	76	476	71	54	10	18	120	331	91	110	195	118	219	39	270
Sector Total	289	514	590	3,275	20,600	3,389	2,608	176	56	2,052	11,486	2,435	3,493	1,144	854	20,656	3,986	28,663

Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector.

Table 13 -- ACE (in metric tons), by stock, for each sector for fishing year 2023 #^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock Emergency Action	GOM Haddock Proposed in Framework 65	GB Yellowtail	SNE/MA Yellowtail	CC/GOM Yellowtail	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	16	28	2	24	149	3	2	0	0	15	23	12	0	11	4	51	19	407
Maine Coast Community Sector	3	5	44	52	325	192	148	2	1	62	835	141	13	48	10	872	252	1,662
Maine Permit Bank	0	0	3	1	4	18	14	0	0	3	63	8	0	3	0	78	30	223
Mooncausser Sector	16	29	18	60	375	60	46	1	0	30	49	21	16	17	11	465	204	1,451
NEFS 2	9	15	67	161	1,014	323	249	1	0	226	513	147	53	133	18	1,412	149	1,808
NEFS 4	10	18	31	89	559	139	107	2	1	63	506	101	11	45	4	629	151	900
NEFS 5	1	1	1	11	66	2	1	1	5	9	17	6	5	5	44	1	1	10
NEFS 6	4	7	8	52	328	69	53	2	2	38	235	67	19	27	8	645	83	481
NEFS 8	21	37	8	216	1,360	112	86	23	4	88	541	100	622	26	72	724	120	798
NEFS 10	1	1	7	3	17	21	16	0	0	41	64	24	0	55	3	32	12	101
NEFS 11	1	1	32	1	3	43	33	0	0	23	81	18	0	12	0	177	73	1,150
NEFS 12	1	1	8	1	9	17	13	0	0	83	43	7	0	62	1	22	5	93
NEFS 13	17	30	2	309	1,946	14	11	30	8	64	460	101	315	11	77	412	40	351
New Hampshire Permit Bank	0	0	3	0	0	1	0	0	0	0	2	0	0	0	0	2	1	15
Sustainable Harvest Sector 1	9	16	17	147	922	199	153	4	1	36	901	158	168	18	20	1,683	332	1,363
Sustainable Harvest Sector 2	3	6	5	44	276	69	53	2	1	52	190	39	44	28	23	434	63	404
Sustainable Harvest Sector 3	20	36	13	316	1,989	256	197	12	3	99	688	155	318	18	92	1,731	271	1,786
Common Pool	4	7	11	34	216	32	25	4	8	54	150	41	50	88	53	99	18	123
Sector Total	131	233	268	1,486	9,344	1,537	1,183	80	25	931	5,210	1,104	1,585	519	387	9,369	1,808	13,001

Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector.

Common Pool Measures

The FMP provides authority for the Regional Administrator to modify common pool fishery trip limits on an annual basis, or as needed, in order to prevent exceeding the common pool sub-ACLs and facilitate harvest so total catch approaches the common pool sub-ACLs. These measures are not part of Framework 65. They were not specifically proposed by the Council, but are implemented in conjunction with Framework 65 for expediency purposes and because they are closely related to the specifications adopted in Framework 65. Common pool

participants are accustomed to such changes in connection with changes in overall catch limits. The Regional Administrator can modify these measures during the fishing year if current information indicates further changes are necessary. Any in-season adjustments to these measures will be implemented through an in-season action consistent with the Administrative Procedure Act.

In connection with catch limit changes implemented with Framework 65, we are adjusting the common pool trip limits for SNE/MA yellowtail flounder, CC/GOM yellowtail flounder, American plaice, GB winter flounder,

and GOM winter flounder. Increasing these trip limits will provide the common pool with the opportunity to harvest the increased common pool sub-ACLs for these stocks as implemented by Framework 65. We are decreasing the trip limits for GOM cod and white hake in response to fishing history in fishing year 2022 and the addition of new active vessels from the sector program to the common pool fishery. These trip limit reductions will avoid early closures for the common pool fishery and help prevent overages. Table 14 provides the fishing year 2023 trip limits; stocks in bold are changing from previously implemented trip limits.

TABLE 14—COMMON POOL TRIP LIMITS FOR FISHING YEAR 2023

Stock	2023 Trip limit
GB Cod (outside Eastern U.S./Canada Area)	100 lb (45.4 kg) per DAS, up to 200 lb (90.7 kg) per trip.
GB Cod (inside Eastern U.S./Canada Area)	100 lb (45.4 kg) per DAS, up to 200 lb (90.7 kg) per trip.
GB Cod [Closed Area II Yellowtail Flounder/Haddock SAP (for targeting haddock)].	500 lb (226.8 kg) per trip.
GOM Cod	150 lb (68.0 kg) per DAS, up to 300 lb (136.1 kg) per trip.
GB Haddock	50,000 lb (22,679.62 kg) per trip.
GOM Haddock	1,000 lb (453.6 kg) per DAS, up to 2,000 lb (907.2 kg) per trip.
GB Yellowtail Flounder	100 lb (45.4 kg) per trip.
SNE/MA Yellowtail Flounder	200 lb (90.7 kg) per DAS, up to 400 lb (181.4 kg) per trip.
CC/GOM Yellowtail Flounder	1,500 lb (680.4 kg) per DAS, up to 3,000 lb (1,360.8 kg) per trip.
American plaice	3,000 lb (1,360.8 kg) per DAS, up to 6,000 lb (2,721.6 kg) per trip.
Witch Flounder	1,500 lb (680.4 kg) per trip.
GB Winter Flounder	500 lb (226.8 kg) per trip.
GOM Winter Flounder	2,000 lb (907.2 kg) per trip.
SNE/MA Winter Flounder	2,000 lb (907.2 kg) per DAS, up to 4,000 lb (1,814.4 kg) per trip.
Redfish	Unlimited.
White hake	750 lb (340.2 kg) per trip.
Pollock	Unlimited.
Atlantic Halibut	1 fish per trip.
Windowpane Flounder	Possession Prohibited.
Ocean Pout	
Atlantic Wolffish	

DAS = day-at-sea; stocks in bold are changing from previously set possession limits.

Note: Minimum fish sizes apply for many groundfish species, but are not included in this rule. Please see 50 CFR 648.83 for applicable minimum fish sizes.

Temporary Modification to Accountability Measures for GB Cod

As more fully described in the proposed rule, Framework 65 temporarily modifies the AMs for GB cod when an ACL overage that occurs in fishing years 2022–2024 is (in part or entirely) due to vessels fishing in state waters or other, non-specified fisheries. If, in the year following the overage (Year 2), the ACL is not achieved or exceeded by any amount, the ACL underage would be proportionately applied to each component’s share of the overage from Year 1. While the preliminary AM (i.e., payback) would be implemented at the beginning of Year 3, any reduction to the overage (due to the underage in Year 2) would be made through an in-season adjustment as soon as possible in Year 3.

Regulatory Corrections Under Secretarial Authority

This rule corrects an error in the northeast regulations for monitoring service providers. We are making this correction consistent with section 305(d) of the Magnuson-Stevens Act, which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. This change is necessary to correct the regulations detailing insurance requirements for monitoring companies to reference the national requirements.

On September 8, 2022, NMFS published a final rule (87 FR 54902) that implemented national insurance requirements for observer providers at 50 CFR 600.748 and revised the

northeast regional monitoring program regulations at § 648.11(h)(3)(vii) to reference the newly established national insurance requirements. The final rule implementing Amendment 23 to the Northeast Multispecies FMP (87 FR 75852, December 9, 2022) inadvertently overwrote the northeast regional monitoring program regulations that referred to the national insurance requirements. This rule corrects the regulations at § 648.11(h)(3)(vii)(A) to reference the national insurance requirements. This correction is necessary to eliminate confusion and ensure the northeast monitoring program is consistent with the national insurance requirements.

Framework 65 also makes minor changes in the regulations. It removes regulatory text that is specific to previous fishing years. Specifically, this

action removes a sentence in 50 CFR 648.90(a)(4)(iii)(H)(2) that is specific to the allocation of certain stocks for fishing years 2010 and 2011, and removes the paragraphs at § 648.90(a)(5)(iv)(B) through (D) that are specific to temporary (up through fishing year 2020) modifications to the triggers for the Atlantic sea scallop fishery's AMs for certain flatfish stocks. It corrects sections of the regulations (§§ 648.87(b)(1)(i)(A) and 648.90(a)(4)(iii)(F)) that refer to the northern and southern windowpane flounder as GOM/GB and SNE/MA windowpane flounder, respectively, which is inconsistent with other sections of the regulations. It removes a section of text that describes the Fippennies Ledge Area that was moved to a different section of the regulations, but not deleted from § 648.87(c)(2)(i)(A). It corrects several citations in §§ 648.87(c)(2)(i) and 648.86(c) to paragraphs within § 648.90(a)(5)(i) that were redesignated in a previous action, but the citations were not updated.

Comments and Responses on Measures Proposed in the Framework 65 Proposed Rule

We received comments on the Framework 65 proposed rule from Conservation Law Foundation (CLF), New England Fishermen Stewardship Association (NEFSA), and Northeast Seafood Coalition (NSC).

Gulf of Maine Cod Rebuilding Plan

Comment 1: CLF wrote in support of the proposed GOM cod rebuilding plan, stating that while it supported an even more conservative alternative during the development of FW65, the current rebuilding plan has a higher probability of success than prior plans, and will allow the stock a better chance at recovery. CLF added that it is unfortunate that the research track assessment was not completed in time to inform the rebuilding plan.

Response 1: For the reasons discussed in the proposed rule, we are approving the GOM cod rebuilding plan as proposed. When NMFS informed the Council of the need to revise the GOM cod rebuilding plan, we understood that it would likely need to be completed before the finalization of the research track assessment; however, the requirement to notify the Council of our determination and the resulting timeline for the Council to revise the plan were dictated by the Magnuson-Stevens Act.

Comment 2: The NEFSA urged NMFS to reject Framework 65. It states that the revised rebuilding plan for GOM cod will “dramatically curtail access to the cod fishery.” NEFSA states that this is

not necessary to prevent overfishing, and that they have seen no evidence of significant population declines in this species.

Response 2: We disagree. The revised rebuilding plan for GOM cod follows 20 years of rebuilding plans that have failed to rebuild this stock based on the best scientific information available. Despite efforts from the Council and NMFS to set quotas that prevent overfishing, the 2021 management track assessment indicates that GOM cod has been experiencing overfishing for decades. The quotas currently in place for GOM cod, set by Framework 63, are expected to prevent overfishing, but it is also necessary to rebuild the stock, as required by the Magnuson-Stevens Act. The revised rebuilding plan implemented by Framework 65 has a 70-percent probability of achieving the biomass target in 10 years, which is the maximum amount of time allowed under the Magnuson-Stevens Act.

NEFSA did not provide additional scientific information to counter the analysis provided in the EA, and for the reasons stated here and in the proposed rule, we are approving the GOM cod rebuilding plan as proposed in Framework 65.

Comment 3: NSC commented that the revised rebuilding plan for GOM cod is conservative. It states that, in light of the ongoing Atlantic cod research track and subsequent management track assessment that may modify stock boundaries, NSC is hopeful that modifications to the rebuilding plan will be possible.

Response 3: Given the past two decades of failure to rebuild GOM cod, we support the Council's approach that a more conservative rebuilding plan is prudent, and are therefore approving the proposed rebuilding plan that uses an $F_{rebuild}$ of 60 percent of F_{MSY} . We agree with NSC that, if the stock structure for Atlantic cod changes, it will likely be prudent to re-examine the rebuilding plans to ensure they are appropriate for any new or revised cod stocks.

Catch Limits

Comment 4: CLF wrote in support of the proposed SNE/MA winter flounder catch limits, but expressed concern that there will be more situations where an adjustment of biological reference points leads to the increase in exploitation rates on stocks in poor condition.

Response 4: We agree that the proposed SNE/MA winter flounder catch limits are appropriate. We are approving the SNE/MA winter flounder catch limits as proposed. We intend to continue to work with the Council and

Northeast Fisheries Science Center on how to manage fisheries for stocks in similar situations as SNE/MA winter flounder.

Comment 5: CLF expressed concern regarding the proposed 2023–2024 GB cod ABC of 904 mt. While acknowledging the potential economic impacts of maintaining the lower, 754-mt, ABC that was in place in fishing year 2022, CLF raised the concern that this higher amount will not promote rebuilding. CLF also argued that the Council's updated analysis, which reran the iSmooth method to include fall 2021 and spring 2022 survey data, bypassed the Northeast Region Coordinating Council (NRCC) process for stock assessments, including the peer review and SSC consideration.

Response 5: We disagree that the Council's updated analysis bypasses the NRCC process for stock assessments. The output of the Council's updated analysis was not used to set a new ABC that had not been reviewed or recommended by the SSC. Instead, it was used as an additional piece of evidence that the amount recommended by the SSC would contribute to stock rebuilding, with a low probability of overfishing. We are concerned about rebuilding the GB cod stock. We consider it important to reduce the potential economic impacts of maintaining a lower ABC, in the situation where updated analysis indicates that the catch limit can be increased without jeopardizing rebuilding. We share CLF's hope that the ongoing research track assessment will provide a more accurate stock structure and an accepted analytical model on which we can base biological reference points. We are approving the 2023–2024 GB cod ABC as proposed.

Comment 6: NSC commented in support of the proposed 2023–2024 GB cod ABC of 904 mt. It also indicated support for the 2023 ABC for white hake, but expressed concern that the quota would be constraining for the fishery.

Response 6: We agree and are approving the proposed 2023–2024 ABC for GB cod. We are approving the white hake ABC as proposed, for 2023 only. The Council will need to set white hake ABCs for additional years in a different action. While NSC is correct that white hake is no longer overfished, it remains in a rebuilding plan until it is determined to be rebuilt.

Comment 7: NSC stated that it cannot support the 2023–2025 GOM haddock ABCs, citing the drastic reduction to the quota for a stock that is not overfished and is estimated to be at 270 percent of its biomass target. NSC also noted the

lease price for GOM haddock in fishing year 2023 has gone up considerably, and exceeds the estimates predicted in the quota change model.

Response 7: As described in the preamble, while we are approving the ABCs for fishing years 2023–2025, we are simultaneously implementing an emergency action to increase the ABC for fishing year 2023 up to 100 percent of F_{MSY} that still has a 50-percent probability of preventing overfishing as required by the Magnuson-Stevens Act.

Comment 8: NEFSA urged NMFS to reject Framework 65. NEFSA states that the reductions to GB and GOM haddock and white hake are not necessary to prevent overfishing, and that it has seen no evidence of significant population declines in these species.

Response 8: We disagree that we should disapprove Framework 65. In the case of all 3 stocks referenced by NEFSA, if we were to disapprove the framework, these stocks would remain at default specifications (75 percent of fishing year 2022 quotas) until October 31, 2023. After October 31, the default quotas expire, at which point vessels would be prohibited from fishing in the waters of the Northeast. The haddock and the white hake ABCs set in Framework 65 are based on the 2022 stock assessments, which are the best scientific information available. White hake is rebuilding, but is not rebuilt, and therefore continues to be subject to its rebuilding plan established in Framework 61 (citation). Both haddock stocks have decreased significantly compared to the previous assessments and the specifications in Framework 65 reflect these declines. Additionally, GOM haddock was experiencing overfishing in the terminal year of the stock assessment and the Magnuson-Stevens Act requires ending overfishing immediately. NEFSA did not provide additional information to counter the analysis provided in the EA, and for the reasons stated in the proposed rule, we are approving Framework 65.

Comment 9: NSC commented in support of the removal of the management uncertainty buffer for sectors for GOM haddock and white hake under the 2023 at-sea monitoring target of 90 percent. CLF commented that the buffer should not be removed for GOM haddock if the request for emergency action is granted, stating that this would represent two departures from usual protocol, both of which carry risk.

Response 9: Based on the rationale provided in the preamble regarding the emergency action, we have determined that it is appropriate to approve removal of the management uncertainty buffer

along with implementing the emergency action for GOM haddock. These actions mitigate the potential adverse economic consequences of these significant quota reductions compared to the previous fishing year for a stock that remains at a very healthy level of biomass. The measure recommended by the Council, and that we are implementing, removes the management uncertainty buffer for sectors only; the management uncertainty buffers for the common pool and the recreational fishery will remain in place for the 2023 fishing year. Further, we expect the white hake catch limit to also place a constraint on GOM haddock catch.

Accountability Measures for GB Cod

Comment 10: NSC commented in support of the temporary modification to the GB cod accountability measures.

Response 10: We agree and are approving this measure.

General Comments

Comment 11: NEFSA argues that the Magnuson-Stevens Act violates the Constitution by providing for appointment of Council members outside the procedures set forth in the Appointments Clause, U.S. Const., Art. II, § 2, cl. 2, and that Council Members are therefore not properly appointed to their positions as officers of the United States. Because Council members make policy decisions for Federal fisheries management in their region, NEFSA suggests they are ‘principal’ or at minimum ‘inferior’ Federal officers, but that because they are improperly appointed, unsupervised, and immune from removal, they hold office unlawfully and lack the Federal authority to issue Framework 65. NEFSA asserts that NMFS must reject Framework 65 because it is “void” and “violates ‘applicable law.’”

Response 11: NEFSA misunderstands the function and authority of the Council, which is neither an “unaccountable” or “illegally constituted” body. The Magnuson-Stevens Act establishes the Council structure so that state officials, fishermen, scientists, and other stakeholders may provide important expert input on fishery management. But the Council acts as an advisory body only: authority to issue Federal regulations to implement fishery management measures that impact fishermen is vested solely in the Secretary of Commerce. This final rule implements Framework 65, which NMFS, through delegation of authority from the Secretary, has approved as consistent with the Magnuson-Stevens Act and other applicable law. Under

Section 304 of the Magnuson-Stevens Act, NMFS, acting through delegated authority from the Secretary, retains significant discretion to reject Council recommendations, including the proposed regulations that the Council submitted to NMFS to implement Framework 65.

In addition, Federal courts have held that fishery management councils are not considered Federal agencies for purposes of the Administrative Procedure Act. Council members are not Federal “officers” under the Constitution as suggested by the commenter. They neither occupy continuing positions nor exercise significant authority. As simply stated by one court, fishery management councils have “no authority to do anything” because final decision-making power about the content of fishery management plans and whether to implement them through regulations rests with the Secretary. Thus, the Council members are not Federal officers and need not be appointed in a specific way to be consistent with the U.S. Constitution. The commenter’s view that Council members were acting as Federal officers is inaccurate. Although Council members assist with important work that helps manage regional fisheries, only the Secretary has the authority under the Magnuson-Stevens Act to promulgate the regulations that affect the commenter.

Comment 12: In NSC’s comment, it raised general concerns regarding the impact of fluctuations in stock assessments and the disconnect between the results of the assessments and what industry sees on the water. It highlighted that the most recent assessments have increased uncertainty due to missing survey data and complete survey tows due to mechanical and covid-related issues, and the decrease in port sampling in recent years. NSC also highlighted their concerns regarding the timing of framework actions and the impact of these delays on fishery operations.

Response 12: We will continue to work with the Council to make the most appropriate decisions based on the best available scientific information and maintain a realistic scope of actions so that timelines can be met.

Changes From the Proposed Rule

We have made three changes to the proposed rule. The proposed rule included sector and common pool sub-ACLs based on fishing year 2023 PSCs and final fishing year 2023 sector rosters, but did not include the PSCs and ACEs allocated to each sector. This final rule includes the PSCs and ACEs

at the sector level. Second, this final rule adjusts the common pool trip limits for several stocks.

Third, although NMFS is approving the fishing year 2023 ABC for GOM haddock that was proposed (1,936 mt), given the situation described more fully in Emergency Rule to Set Fishing Year 2023 GOM Haddock Catch Limits in the preamble, we have determined that it is appropriate to set the 2023 ABC for GOM haddock based on 100 percent of F_{MSY} . The proposed rule referenced the request made by the Council following its submission of Framework 65 to NMFS for review and rulemaking, and it has been included in the final rule for Framework 65 for expediency. Thus, through emergency authority, this final rule implements an increased fishing year 2023 ABC for GOM haddock (2,515 mt) in place of the ABC proposed in this action (1,936 mt).

Classification

NMFS is issuing this rule pursuant to sections 304(b)(1)(A), 305(c)(2)(B), and 305(d) of the Magnuson-Stevens Act, which provides specific authority for implementing this action. Pursuant to section 305(d), this action is necessary to carry out the Northeast Multispecies FMP, and to correct and improve the clarity of the regulations for multiple FMPs in the Greater Atlantic Region. The NMFS Assistant Administrator has determined that this final rule is consistent with Framework Adjustment 65, the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866, as amended by E.O. 14094. This final 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 Assistant Administrator for Fisheries finds that there is good cause under 5 U.S.C. 553(d)(1) and (3) to waive the 30-day delayed effectiveness of this action. Further, under 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries finds good cause to waive the general notice of proposed rulemaking for the emergency action to implement a higher fishing year 2023 ABC for GOM haddock. As described more fully earlier in the preamble, and below, the reasons justifying promulgation of this rule on an emergency basis make solicitation of public comment, or a delay in effectiveness, contrary to the public interest.

This action relies on the best available science to set 2023 catch limits for

groundfish stocks and adopts several other measures to improve the management of the groundfish fishery. This final rule must be implemented as soon as possible to capture fully the conservation and economic benefits of Framework 65 and avoid adverse economic impacts.

This action was developed by the New England Fishery Management Council as part of the annual Framework Adjustment process, during which final action was taken in December 2022. However, due to the need for additional analysis regarding the measures proposed in Framework 65, the Council was not able to submit the final Framework until April 18, 2023. Given the timing of the Council process and submission, the earliest we were able to publish a proposed rule for Framework 65 was on May 31, 2023.

A delay in implementation of this rule increases negative economic effects for regulated entities. Multiple stocks did not have 2023 quotas set by a previous framework. A separate action implemented default quotas (75 percent of the 2022 quota). For multiple stocks, the fishery is operating under lower quotas than those implemented by this rule, and a delay could limit economic opportunities for the fishery. Providing timely access to these stocks is also a potential safety issue. A significant portion of fishing activity occurs in early summer, due to better weather, and for some smaller vessels, summer may be the only season in which they are able to participate in the fishery.

Additionally, this rule contains no new measures (e.g., requiring new nets or equipment) for which regulated entities need time to prepare or revise their current practices. Fishermen who are subject to this action expect and need timely implementation to avoid adverse economic impacts. This action is similar to the process used to set quotas every 1–2 years, approves all items as proposed, and contains only quotas and minor adjustments to the management plan that were discussed at multiple noticed meetings where the public was provided opportunity to learn about the action, ask questions, and provide input into the development of the measures. Affected parties and other interested parties participated in this public process to develop this action and desire implementation as close to the beginning of the fishing year on May 1 as possible. Further, the emergency action relieves a restriction by implementing a higher ABC for GOM haddock.

A delay in implementation of this action would greatly diminish the benefits of these specifications and

other approved measures. For these reasons, a 30-day delay in the effectiveness of this rule is impracticable and contrary to the public interest.

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. The FRFA describes the economic impact of this action on small entities. The FRFA includes a summary of significant issues raised by public comments, the analyses contained in Framework 63 and its accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below. A statement of the necessity for and the objectives of this action are contained in Framework 65 and in the preamble to this final rule and is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

We received several comments expressing concern about the economic impacts of this action, and we have summarized these comments in the comments and responses section of this rule. None of these comments were directly related to the IRFA, or provided information that changed the conclusions of the IRFA. The Chief Counsel for the Office of Advocacy of the Small Business Administration (SBA) did not file any comments. We made no changes to the proposed rule measures other than the minor changes described above, although we are simultaneously implementing the emergency action for GOM haddock.

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

The final rule would impact the commercial and recreational groundfish, Atlantic sea scallop, small-mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership,

common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the RFA analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2022, NMFS had issued 681 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history (CPH)), 610 party/charter groundfish permits, 699 limited access and general category Atlantic sea scallop permits, 717 small-mesh multispecies permits, 73 Atlantic herring permits, and 758 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore, this action potentially regulates 3,538 permits. When accounting for overlaps between fisheries, this number falls to 2,027 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 Greater Atlantic Federal fishing permit. The current ownership data set is based on calendar year 2021 permits and contains gross sales associated with those permits for calendar years 2019 through 2021.

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 2019 through 2021. 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 (2019–2021) is utilized in determining annual receipts for

businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,506 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,506 business entities identified could be directly regulated by this proposed action. Of these 1,506 entities, 865 are commercial fishing entities, 274 are for-hire entities, and 367 did not have revenues (were inactive in 2021). Of the 865 commercial fishing entities, 854 are categorized as small entities and 11 are categorized as large entities, per the NMFS guidelines. Furthermore, 515 of these commercial fishing entities held limited access groundfish permits, with 512 of these entities being classified as small businesses and 3 of these entities being classified as large businesses. All 274 for-hire entities are categorized as small businesses.

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

The action does not contain any new collection-of-information requirements under the Paperwork Reduction Act (PRA).

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The economic impacts of each measure are discussed in more detail in sections 6.5 and 7.12 of the Framework 65 Environmental Assessment (see **ADDRESSES**) and are not repeated here. The Council considered several options for the GOM cod rebuilding plan, including a $F_{rebuild}$ that is lower (50 percent of F_{MSY}) and higher (70 and 75 percent of F_{MSY}). The GOM cod quotas that were set by Framework 63 remain in place for fishing years 2023–2024, and the rebuilding strategy for GOM cod is expected to positively impact the groundfish fishery in the long-term through stock rebuilding. For the updated groundfish specifications, the Council also considered two lower ABCs for GB cod, which would have greater negative economic impacts than the preferred alternative. Of the alternatives considered by the Council, there are no significant alternatives that would minimize the economic impacts. The action is predicted to generate \$74.2 million in gross revenues on the sector portion of the commercial groundfish trips, which is \$41.7 million more than No Action, but \$4.0 million less than fishing year 2021. Small entities engaged in common pool groundfish fishing may be negatively impacted by

the action as well. Likewise, small entities engaged in the recreational groundfish fishery are also likely to be negatively impacted.

Because advance notice and opportunity for prior comment is not required for the emergency action setting ACL for GOM haddock for fishing year 2023, an regulatory flexibility analysis is not required and has not been prepared

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as “small entity compliance guides” that will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.*, bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office Northeast multispecies fishery email list, as well as the email lists for the scallop and herring fisheries, which receive an allocation of some groundfish stocks. The final rule and the guide are available from NMFS at the following website: <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>. Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: August 10, 2023.

Samuel D. Rauch, III,

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

For the reasons stated in the preamble, NMFS amends 50 CFR part 648 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 § 648.11, revise paragraph (h)(3)(vii)(A) to read as follows:

§ 648.11 Monitoring coverage.

* * * * *

(h) * * *

- (3) * * *
- (vii) * * *

(A) A monitoring service provider must hold insurance specified at § 600.748(b) and (c) of this chapter.

■ 3. In § 648.86, revise paragraph I to read as follows:

§ 648.86 NE Multispecies possession restrictions.

(c) *Atlantic halibut.* A vessel issued a NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut per trip, provided the vessel complies with other applicable provisions of this part, unless otherwise specified in § 648.90(a)(5)(i)(F).

■ 4. In § 648.87:

- a. Revise paragraph (b)(1)(i)(A) and the first sentence of paragraph (c)(2)(i) introductory text; and
- b. Remove paragraphs I(2)(i)(A) and (B).

The revisions read as follows:

§ 648.87 Sector allocation.

- (b) * * *
- (1) * * *
- (i) * * *

(A) *Allocated stocks.* Each sector shall be allocated a TAC in the form of an ACE for each NE multispecies stock, with the exception of Atlantic halibut, ocean pout, windowpane flounder (both the northern and southern stocks), and Atlantic wolffish based upon the cumulative PSCs of vessels/permits participating in each sector during a particular fishing year, as described in paragraph (b)(1)(E) of this section.

- (c) * * *
- (2) * * *

(i) * * * The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: Specific times and areas within the NE multispecies year-round closure areas; permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); reporting requirements; and AMs specified in § 648.90(a)(5)(i)(D) through (H).

■ 5. In § 648.90:

- a. Remove and reserve paragraph (a)(2)(iv);
- b. Revise paragraphs (a)(4)(iii)(A) and (B), (a)(4)(iii)(F), (a)(4)(iii)(H) introductory text, (a)(4)(iii)(H)(1)(i),

- (a)(4)(iii)(H)(2), the second sentence of paragraph (a)(5)(i)(D), and paragraph (a)(5)(ii);
- c. Remove and reserve paragraph (a)(5)(iv)(B); and
- d. Remove paragraphs (a)(5)(iv)(C) and (D).

The revisions read as follows:

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

- (a) * * *
- (4) * * *
- (iii) * * *

(A) *Regulated species or ocean pout catch by vessels operating only in state waters.* The catch of regulated species or ocean pout that is expected to be harvested by vessels operating only in state waters that have not been issued a Federal NE multispecies permit and are not subject to the regulations specified in this part, as well as the recreational catch of regulated species or ocean pout that occurs in state waters, unless otherwise specified in paragraph (a)(4)(iii)(H)(1)(i) of this section, shall be deducted from the ABC/ACL of each regulated species or ocean pout stock pursuant to the process for specifying ABCs and ACLs, as described in this paragraph (a)(4).

(B) *Regulated species or ocean pout catch by other, non-specified fisheries.* Regulated species or ocean pout catch by other, non-specified fisheries, including, but not limited to, exempted fisheries that occur in Federal waters, fisheries harvesting exempted species specified in § 648.80(b)(3), and recreational fisheries that occur in Federal waters, unless otherwise specified in paragraph (a)(4)(iii)(H)(1)(i) of this section, shall be deducted from the ABC/ACL of each regulated species or ocean pout stock, pursuant to the process to specify ABCs and ACLs described in this paragraph (a)(4), unless otherwise specified in paragraphs (a)(4)(iii)(C) through (G) of this section. The catch of these non-specified sub-components of the ACL shall be monitored using data collected pursuant to this part. If catch from such fisheries exceeds the amount specified in this paragraph (a)(4)(iii)(B), AMs shall be developed to prevent the overall ACL for each stock from being exceeded, pursuant to the framework adjustment process specified in this section.

(F) *Southern windowpane flounder catch by exempted fisheries.* Southern windowpane flounder catch by other, non-specified fisheries, including, but not limited to, exempted fisheries that

occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3), shall be deducted from the ABC/ACL for southern windowpane flounder pursuant to the process to specify ABCs and ACLs, as described in this paragraph (a)(4). The specific value of the sub-components of the ABC/ACL for southern windowpane flounder distributed to these other fisheries shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section.

(H) *Regulated species or ocean pout catch by the NE multispecies commercial and recreational fisheries.* Unless otherwise specified in the ACL recommendations developed pursuant to paragraph (a)(4)(i) of this section, after all of the deductions and considerations specified in paragraphs (a)(4)(iii)(A) through (G) and (a)(4)(iii)(H)(1) of this section, the remaining ABC/ACL for each regulated species or ocean pout stock shall be allocated to the NE multispecies commercial fishery, pursuant to paragraph (a)(4)(iii)(H)(2) of this section.

(i) *Stocks allocated.* Unless otherwise specified in this paragraph (a)(4)(iii)(H)(1), the ABCs/ACLs for GOM cod and GOM haddock set pursuant to paragraph (a)(4) of this section shall be divided between commercial and recreational components, based upon the average proportional catch of each component for each stock during fishing years 2001 through 2006.

(2) *Commercial allocation.* Unless otherwise specified in this paragraph (a)(4)(iii)(H)(2), the ABC/ACL for regulated species or ocean pout stocks available to the commercial NE multispecies fishery, after consideration of the recreational allocation pursuant to paragraph (a)(4)(iii)(H)(1) of this section, shall be divided between vessels operating under approved sector operations plans, as described at § 648.87(c), and vessels operating under the provisions of the common pool, as defined in this part, based upon the cumulative PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E). The ABC/ACL of each regulated species or ocean pout stocks not allocated to sectors pursuant to § 648.87(b)(1)(i)(E) (i.e., Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish) that is available to the commercial NE multispecies fishery shall be allocated entirely to the common pool, and catch from sector and common pool vessels

shall be attributed to this allocation. Unless otherwise specified in paragraph (a)(5) of this section, regulated species or ocean pout catch by common pool and sector vessels shall be deducted from the sub-ACL/ACE allocated pursuant to this paragraph (a)(4)(iii)(H)(2) for the purposes of determining whether adjustments to common pool measures are necessary, pursuant to the common pool AMs specified in § 648.82(n), or whether sector ACE overages must be deducted, pursuant to § 648.87(b)(1)(iii).

* * * * *

(5) * * *
(i) * * *

(D) * * * If the overall ACL for any of these stocks is exceeded, NMFS shall implement the appropriate AM, as specified in paragraphs (a)(5)(i)(D) through (H) of this section, in a subsequent fishing year, consistent with the APA. * * *

* * * * *

(ii) *AMs due to excessive catch of regulated species or ocean pout by state and other, non-specified fisheries.* At the end of the NE multispecies fishing year, NMFS will evaluate whether the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, exceeds the sub-component of the ACL for that stock.

(A) *AMs if the overall ACL for a regulated species or ocean pout stock is exceeded.* If the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries exceeds the sub-component of the ACL for that stock, and the overall ACL for that stock is exceeded, then the amount of the overage of the overall ACL for that stock attributed to catch from vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, shall be distributed among components of the NE multispecies fishery based upon each component's share of that stock's ACL available to the NE multispecies fishery pursuant to paragraph (a)(4)(iii)(H) of this section. Each component's share of the ACL overage for a particular stock would be then added to the catch of that stock by each component of the NE multispecies fishery. If the resulting sum of catch of that stock for each component of the fishery exceeds that individual component's share of that stock's ACL specified pursuant to paragraph (a)(4)(iii)(H) of this section, then the AMs specified in paragraphs (a)(5)(i)(A)

through (C) of this section shall take effect, as applicable, unless otherwise specified in paragraph (a)(5)(ii)(C) of this section.

(B) *AMs if the overall ACL for a regulated species or ocean pout stock is not exceeded.* If the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, exceeds the sub-component of the ACL for that stock, but the overall ACL for that stock is not exceeded, even after consideration of the catch of that stock by other sub-components of the fishery, then the AMs specified in this paragraph (a)(5)(ii) shall not take effect.

(C) *AMs for GB cod due to excessive catch by non-allocated fisheries.* For any overages of the GB cod ACL in the 2022–2024 fishing years, the amount of overage of the overall ACL for GB cod attributed to catch from vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, would be reduced by any underage of the GB cod ACL in the fishing year following the overage, in order to determine the total amount that must be added to the catch by components of the NE multispecies fishery, as specified in paragraph (a)(5)(i)(A) of this section. If the full ACL of GB cod is caught or exceeded in the fishing year following an overage, no reduction to this amount would be made. For example, if in 2023 NMFS determines that 100 mt of GB cod catch by vessels operating only in state waters or in other, non-specified fisheries in fishing year 2022 has contributed to an ACL overage, NMFS would implement the AMs specified in paragraph (a)(5)(ii)(A) of this section at the beginning of fishing year 2024. If 2023 fishing year-end data showed that total catch of GB cod in fishing year 2023 was 25 mt below the 2023 ACL, NMFS would reduce the 100-mt overage amount by that 25-mt amount (down to 75 mt) in an in-season adjustment to the 2024 sub-ACLs, as specified in paragraph (a)(5)(i)(A) of this section.

* * * * *

[FR Doc. 2023–17592 Filed 8–17–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221223–0282; RTID 0648–XD195]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From North Carolina to Virginia

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

ACTION: Notification of quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2023 commercial summer flounder quota to the Commonwealth of Virginia. This adjustment to the 2023 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised 2023 commercial quotas for North Carolina and Virginia.

DATES: Effective August 17, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281–9184.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2023 allocations were published on January 3, 2023 (88 FR 11).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan (FMP), as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or