

lesser amberjack, almaco jack, and banded rudderfish complex (Other Jacks Complex) commercial sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2019 fishing year through this temporary rule. NMFS projects that commercial landings of the Other Jacks Complex will reach the combined commercial annual catch limit (ACL) by July 16, 2019. Therefore, NMFS closes the commercial sector for this complex in the South Atlantic EEZ, on July 16, 2019, and it will remain closed until the start of the next fishing year on January 1, 2020. This closure is necessary to protect the lesser amberjack, almaco jack, and banded rudderfish resources.

**DATES:** This temporary rule is effective at 12:01 a.m., local time, on July 16, 2019, until 12:01 a.m., local time, on January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic includes lesser amberjack, almaco jack, and banded rudderfish, which combined are the Other Jacks Complex. The Other Jacks Complex is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL for the Other Jacks Complex is 189,422 lb (85,920 kg), round weight. Under 50 CFR 622.193(l)(1)(i), NMFS is required to close the commercial sector for the Other Jacks Complex when the commercial ACL has been reached, or projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial sector for this complex is projected to reach its ACL by July 16, 2019. Therefore, this temporary rule implements an AM to close the commercial sector for the Other Jacks Complex in the South Atlantic, effective at 12:01 a.m., local time, on July 16, 2019.

The operator of a vessel with a valid commercial permit for South Atlantic snapper-grouper having lesser amberjack, almaco jack, or banded rudderfish on board must have landed and bartered, traded, or sold such species prior to 12:01 a.m., local time,

on July 16, 2019. During the commercial closure, the recreational bag limit specified in 50 CFR 622.187(b)(8) and the possession limits specified in 50 CFR 622.187(c) apply to all harvest or possession of lesser amberjack, almaco jack, or banded rudderfish in or from the South Atlantic EEZ, while the recreational sector is open. These recreational bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of whether such species were harvested in state or Federal waters. During the commercial closure, the sale or purchase of lesser amberjack, almaco jack, or banded rudderfish taken from the South Atlantic EEZ is prohibited.

#### Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of the fish in the Other Jacks Complex, a component of the South Atlantic snapper-grouper fishery, and is consistent with the FMP, the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(l)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and public comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for the Other Jacks Complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the AM itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the species in the Other Jacks Complex, since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 3, 2019.

**Jennifer M. Wallace,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 190214116-9516-02]

RIN 0648-BI69

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2019 Recreational Management Measures

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

**ACTION:** Final rule.

**SUMMARY:** This action adjusts fishing year 2019 recreational management measures for Gulf of Maine cod and haddock and Georges Bank cod. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the Northeast Multispecies Fishery Management Plan. The intended effect of this action is to achieve, but not exceed, the fishing year 2019 recreational catch limits.

**DATES:** Effective July 5, 2019.

**ADDRESSES:** Analyses supporting this rulemaking include the environmental assessment for Framework Adjustment 57 to the Northeast Multispecies Fishery Management Plan that the New England Fishery Management Council prepared. Copies of this analysis are available from: Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The supporting documents are also accessible via the internet at: <http://www.nefmc.org/management-plans/northeast-multispecies>.

**FOR FURTHER INFORMATION CONTACT:** Emily Keiley, Fishery Management Specialist, phone: 978-281-9116; email: [Emily.Keiley@noaa.gov](mailto:Emily.Keiley@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

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### 1. Gulf of Maine Recreational Management Measures for Fishing Year 2019

#### *Background*

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

The proactive AM provision in the FMP requires the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions authorizing this action can be found in 50 CFR 648.89(f)(3) of the Northeast Multispecies FMP's implementing regulations.

According to the most recent stock assessments, conducted in 2017, the GOM cod and haddock stocks are increasing, although cod remains overfished and subject to a rebuilding plan. Framework Adjustment 57 (83 FR 18985; May 1, 2018) set 2018 and 2019 ACLs and sub-ACLs based on the 2017 stock assessments. Framework 58, a pending action, does not adjust the fishing year 2019 recreational sub-ACLs for GOM cod or haddock, and the 2019 sub-ACLs remain at the same level as in 2018. The 2019 recreational sub-ACL for GOM cod is 220 mt, the 2019 recreational sub-ACL for GOM haddock is 3,358 mt. Recreational catch and effort data are estimated by the Marine

Recreational Information Program (MRIP). Preliminary estimates of GOM cod and haddock catch for fishing year 2018 indicate that the recreational fishery did not achieve the 2018 sub-ACL of either stock. The development of the proposed measures was detailed in the proposed rule, and that discussion is not repeated here (84 FR 20609; May 10, 2019; also see the correction of one number in table 2 on page 20610 of the proposed rule at 84 FR 22104; May 16, 2019).

The Groundfish Committee and Executive Committee on behalf of the Council recommended more conservative measures than the Recreational Advisory Panel (RAP), while still allowing a limited directed cod fishery (Table 1). We proposed the Council's recommended measures: For GOM cod, two 2-week open seasons (September 15–30 and April 15–30), 1 fish per person per day, with a minimum size of 21 inches (53.3 cm); and for GOM haddock, an increase in the possession limit from 12 to 15 fish per person per day, opening the fall closure, resulting in open seasons of May 1–February 28/29 and April 15–30, and a 17-inch (43.2-cm) minimum size. However, for the reasons described below, we are not implementing the April 15–30 cod open season.

#### *Fishing Year 2019 Gulf of Maine Cod and Haddock Recreational Management Measures*

In light of the comments we received on the proposed rule, the degree of uncertainty in the model's projections (as described in the proposed rule), condition of the GOM cod stock, and recent history of recreational management performance, we have determined that we cannot approve the GOM cod measures as proposed. For GOM cod, we are implementing more conservative measures than recommended by the Council, to better account for uncertainty in the bioeconomic model's predictions, minimize impacts on cod spawning, and reduce the chance of the recreational fishery exceeding its GOM cod sub-ACL. We proposed the Council's recommendation of two 2-week open seasons for GOM cod, April 15–30 and September 15–30. However, the majority of public comments were not in favor of the proposed open seasons for GOM cod. We received public

comments opposed to the April open season due to the potential adverse impacts on spawning cod relative to the limited opportunity to catch cod during only two weeks in the spring. In addition, April 15–30 is the same timing as the Massachusetts Bay Spring Spawning Closure for commercial groundfish vessels, which was implemented to protect spawning cod. We reconsidered the April open season for GOM cod in the proposed rule in response to comments that highlighted the potential risk of this open season relative to the limited benefits to anglers. Additionally, comments were received on the poor status of the GOM cod stock, inadequate rebuilding progress, and recent history of significant recreational overages. Overall, these comments revealed that the risks of opening this season outweighed perceived potential benefits to a degree that required reconsidering its suitability. Considering these comments, coupled with the significant uncertainty in the projected catch estimates, we are only approving the September 15–30 open season for GOM cod, a time when cod spawning is not known to occur. This open season will enable recreational anglers from all adjacent states to access the GOM cod stock, while minimizing the risk of exceeding the GOM cod sub-ACL. During this season, anglers will be able to retain one fish per person per day, with a minimum size of 21 inches.

In this final rule, we are approving the GOM haddock measures as proposed. This final rule increases the possession limit from 12 to 15 fish per person per day. We are also removing the current fall (September 17–October 31) GOM haddock closure. The GOM haddock minimum size will remain 17 inches (43.2 cm). These measures are intended to increase access to the healthy GOM haddock stock. Although we expect interactions with cod to increase with the new open season, the model projects a minimal increase in cod catch, resulting in total cod removals less than the GOM cod sub-ACL. The resulting increase in GOM cod catch, due to the new haddock measures, is one of the factors we considered when deciding what measures would be appropriate for GOM cod. We are implementing more conservative directed cod measures to minimize the probability that the GOM cod sub-ACL is exceeded.

TABLE 1—FINAL 2019 RECREATIONAL MANAGEMENT MEASURES FOR GOM COD AND HADDOCK

GOM haddock			GOM cod		
Bag limit	Minimum size	Open season	Bag limit	Minimum size	Open season
15 .....	17" (43.2 cm) ....	May 1–Feb 28; Apr 15–Apr 30 ....	1	21" (53.3 cm) ....	Sept 15–30.

**2. Georges Bank Cod Recreational Management Measures for Fishing Year 2018**

*Background*

As part of Framework 57, the Council provided the Regional Administrator authority to adjust the Georges Bank (GB) cod recreational management measures for fishing years 2018 and 2019. Unlike GOM cod and haddock, there is no recreational sub-ACL for GB cod and no accountability measures for the recreational fishery when an overage occurs. The Council did not consider a recreational sub-ACL in Framework 57 but did recommend a catch target of 138 mt for us to use when considering adjustments to GB cod measures. The catch target was based on the most recent 5-year (calendar years 2012–2016) average recreational catch. The Council expects that measures designed to achieve this target amount for the recreational fishery will help the overall fishery attain, but not exceed, its overall ACL. To avoid using potentially anomalous results from the highly variable MRIP catch estimates for GB cod, we used a 3-year average catch estimate to better represent long-term trends. We then compared that catch estimate with the catch target to determine if adjustments to the management measures were needed. This year, the Council asked that we consider alternative methods to evaluate GB cod catch and examine management needs. Even if the preliminary catch estimate for 2018 was zero, the 3-year average would still be greater than the catch target of 138 mt due to an extremely high 2016 catch estimate.

*2019 Georges Bank Cod Management Measures*

Catch of GB cod was substantially less in 2017 (53 mt) compared to 2016 (477 mt). Preliminary estimates of 2018 catch (57 mt) are similar to 2017, indicating that estimated 2016 catch may have been an anomaly. Given that 2017 and 2018 catch levels are low compared to the catch target, the Groundfish Committee and Council recommended liberalizing management measures for GB cod, reducing the minimum size from 23 inches to 21 inches (58.4 to 53.3 cm). The RAP proposed a lower minimum size of 19 inches (48.3 cm).

We proposed the Council’s recommendations for GB cod. A 21-inch (53.3-cm) minimum fish size is consistent with the minimum size for GOM cod and is expected to increase catch by approximately 20 percent (based on size frequencies of 2018 catch). Decreasing the minimum size will allow anglers to retain some fish they would have caught and then discarded. The estimated increase in catch would still result in catch lower than the catch target, if effort in 2019 is similar to 2017 and 2018. Given the variability and uncertainty in the GB cod MRIP estimates, a precautionary approach to revising measures is warranted to ensure that the catch target and ACL are not exceeded. In addition, having consistent minimum sizes in Gulf of Maine and Georges Bank is likely to increase compliance. We are approving the GB cod measures as proposed.

TABLE 2—FINAL 2019 RECREATIONAL MANAGEMENT MEASURES FOR GB COD

Georges bank cod		
Possession limit	Minimum size	Open season
10 .....	21" (53.3 cm)	All Year.

**3. Comments and Responses**

We received 29 comments on the proposed rule, from 27 members of the public, the New York Recreational and For-Hire Fishing Alliance (NYRFHA), and the Conservation Law Foundation (CLF). Two of these comments were not relevant to this rulemaking and are not discussed further. Three comments supported the proposed measures for GB cod, and no comments were submitted in opposition of the proposed GB cod measures. Twenty-six comments addressed the proposed GOM measures, and some of these comments addressed both Gulf of Maine and Georges Bank proposed measures. Four individuals and the NYRFHA supported the proposed measures for GOM cod and haddock, the remaining 21 comments did not support the proposed measures for GOM cod, and six did not support some or all of the proposed changes to the GOM haddock measures.

*Gulf of Maine Cod Management Measures*

*Comment 1:* Eleven individuals did not support the proposed measures for GOM cod, and suggested more liberal cod measures for recreational anglers. The majority of these individuals suggested that we allow year-round possession of one or more cod. One commenter suggested that a larger size limit might enable us to open a longer season. The remaining comments suggested that we extend and shift the open season to encompass the summer months (June, July, and August). Many of these commenters also noted that the open seasons proposed would have limited benefit for private recreational anglers due to the timing (early spring and late fall) when many people do not have their boats in the water and conditions are less favorable.

*Response:* The recreational fishery has exceeded its GOM cod sub-ACL in four of the last six years. These overages have contributed to two overages of the total ACL and ABC. GOM cod is overfished and subject to a rebuilding plan; overfishing is also occurring. The GOM cod stock shows a truncated size and age structure, consistent with a population experiencing high mortality. Additionally, there are no positive signs of incoming recruitment, continued low survey indices, and the current spatial distribution of the stock is considerably less than its historical range within the Gulf of Maine.

The most recent GOM cod assessment, which was conducted in 2017, suggests that the stock is increasing, but remains at a low level. If this increasing trend continues, we expect additional stock rebuilding to provide increased opportunities for recreational and commercial fishermen in the future. We will evaluate recreational measures again before the 2020 fishing year and make any necessary adjustments. However, for fishing year 2019, we could not liberalize cod measures more than what we are implementing. We are implementing more conservative measures than proposed due to comments that highlighted concerns about impacts on GOM cod spawning. Additional information on this change

is provided in the response to Comment 3, below.

Using the bioeconomic model, we analyzed a wide variety of minimum fish sizes, seasons and possession limits for GOM cod and haddock. The goal of the model is to maximize opportunities while maintaining catch within the sub-ACLs. While it is difficult to predict the performance of recreational measures, the bioeconomic model has underestimated recreational catch historically. We evaluated approximately 100 different combinations of seasons, minimum sizes, and possession limits for GOM cod and haddock. Model runs that included cod access during the summer generally resulted in projected catch over the GOM cod recreational sub-ACL.

While the bioeconomic model suggests that management measures more liberal than what we are implementing would result in cod catch less than the 220-mt sub-ACL, the uncertainty associated with those projections is high. The bioeconomic model attempts to describe the impact that directed haddock fishing has on cod mortality in the Gulf of Maine, as the two stocks are often found together. The model demonstrates that proposed measures for haddock are likely to increase cod interactions, and therefore, mortality. The degree to which the new haddock measures will affect cod mortality is highly uncertain because the model is predicting behavior in months that were previously closed. Other significant sources of uncertainty have been described in the preamble of the proposed rule (84 FR 20609), and are not repeated here. Given these uncertainties, the status of the GOM cod stock, and the recent recreational overages, we are unable to liberalize GOM cod recreational management measures to the extent requested by these commenters.

We are supporting a variety of cooperative research efforts to improve our understanding of recreational fisheries so that we can increase fishing opportunities while we continue to rebuild the cod stock. Current examples include an evaluation of discard mortality, a cod bycatch avoidance program, and a study of different tackle and its impact on catch rates.

*Comment 2:* One individual commented specifically in support of the RAP's proposed GOM management measures, stating that the Center's bioeconomic model showed that these options would not result in the recreational fishery exceeding its sub-ACL for GOM cod.

*Response:* We disagree. As stated during the RAP meeting and described

in the proposed rule, there is a significant amount of uncertainty, more so than in previous years, in the bioeconomic model's predictions. For this reason, coupled with the recent recreational sub-ACL overages of GOM cod, and the overall status of the stock, we cautioned the RAP that their recommendations, without additional justification, would likely not be approvable. The Groundfish Committee and Council's recommended measures were intended to balance the need to take a precautionary approach and the recreational communities' interest in gaining access to the GOM cod fishery.

*Comment 3:* Five individuals were not supportive of the proposed measures for GOM cod, specifically the timing of the proposed April 15–30 opening. These concerns were based on the timing of the opening relative to cod spawning.

*Response:* We agree, and we are not approving the April 15–30 opening for GOM cod. We reconsidered the April open season for GOM cod in the proposed rule in response to these comments that highlighted the potential risk of this open season relative to the limited benefits to anglers. Historically, the month of April has been an important time for cod spawning in the Gulf of Maine. The Omnibus Essential Fish Habitat Amendment 2 included the Spring Massachusetts Bay Spawning Protection area, which is closed from April 15–30 to protect spawning cod. Private recreational anglers may fish in the closure, and charter/party vessels may obtain a Letter of Authorization for access. Commenters noted that opening a directed cod fishery during this same period might have concentrated effort in this near-shore area, during a time that overlaps with cod spawning. The risk of promoting fishing during a spawning season outweighs the potential benefits that may have been realized from opening a short two-week season very early in the season. While recreational anglers are permitted to target haddock and other groundfish species, we agree with the commenters that opening a directed GOM cod fishery during this time would be contrary to our efforts to reduce impacts on spawning cod.

*Comment 4:* Three individuals, including a kayaking cod fisherman, were concerned that the timing of the proposed GOM cod seasons coupled with the short duration would create safety issues for recreational anglers. One commenter stated that the short seasons would “create an effort run,” and that limiting the opportunities to target cod would concentrate effort during these times “reducing the safety for those at sea.” Other individuals referenced the poor conditions during

the early spring and late fall, and how this would be limiting or dangerous for private recreational anglers.

*Response:* We agree that fishing for cod from a kayak in Federal waters of the Gulf of Maine, during the early spring and late fall, is not safe and that you may need a bigger boat. Conditions during the spring and fall in the Gulf of Maine are variable, and may significantly affect the amount of effort that occurs during these seasons. We recognized that the proposed timing would have limited opportunities for many anglers to participate in the GOM cod fishery. The timing was selected because effort is generally less during these times, resulting in less potential catch of GOM cod and less risk of an overage of the recreational GOM cod sub-ACL. We are not approving the April GOM cod open season, as discussed in the responses to Comments 1 and 3, above.

*Comment 5:* One individual stated that we assume a 100-percent discard mortality rate for GOM cod. This statement was used to support an argument that converting these dead discards to landings would not increase mortality on the GOM cod stock.

*Response:* The assumed discard mortality rate for GOM cod is 15 percent. Despite the assumed 15 percent mortality rate, cod bycatch in the directed GOM haddock fishery has resulted in cod catch greater than the recreational sub-ACL in four of the last six years. Additionally, allowing possession of cod will likely result in behavioral changes because anglers are likely to target cod, which may lead to an overall increase in catch.

*Comment 6:* Ten individuals did not support the proposed measures for GOM cod, and suggested that we keep the recreational GOM cod fishery closed. The rationale supporting this varied. Seven individuals felt that the GOM cod stock is in poor condition and targeted fishing should be prohibited. Three individuals commented that the two 2-week openings would have limited benefit to the recreational fishery and if that is all the resource can support, we should not bother opening it at all. Several individuals were concerned about the ability to enforce these short seasons, and accurately collect data on the catch during these time periods.

*Response:* As stated in our response to Comment 1, we agree that the GOM cod stock is in poor condition and a conservative approach to its management is warranted. We are not opening the April season for GOM cod as proposed. We are opening a 2-week season in September to enable limited recreational access to the GOM cod

stock. The proactive AM provision in the FMP requires the Regional Administrator, in consultation with the New England Fishery Management Council, to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. While we agree a precautionary approach is necessary, we are approving measures that, according to the model, have a high probability of resulting catch less than the GOM cod sub-ACL. Leading up to fishing year 2020, we will have data from MRIP, as well as updated stock assessments incorporating revised MRIP estimates that will allow us to re-evaluate catch and effort from the 2019 fishing year, as well as the status of the GOM cod stock. If adjustments are necessary to ensure recreational catch does not exceed the recreational sub-ACL, they will be made in the 2020 recreational rule in consultation with the Council.

*Comment 7:* Five individuals questioned the data on GOM cod, specifically that the biomass of the GOM cod stock is low. Overall, these anglers cited their recent experiences catching numerous cod while fishing in the Gulf of Maine. One fisherman asked “Where are you finding this d[e]arth of cod??” These commenters felt that recreational measures should be liberalized because there are actually more cod available than indicated by the stock assessment.

*Response:* It is important to us that the public has confidence in the data we must rely on to manage the fishery. The significant uncertainty and variability of the data is something we consider when we utilize the best available science to inform our decisions. The most recent assessment of GOM cod suggests that the stock is increasing, but remains at a low level. If this trend continues, we expect additional stock rebuilding to provide increased opportunities for recreational and commercial fishermen in the future. The GOM cod stock assessment is scheduled to be updated this fall. This update will incorporate significant MRIP data updates. MRIP catch and effort estimates (1981–2017) based on the Coastal Household Telephone Survey (CHTS) were transitioned to the new, mail-based Fishing Effort Survey (FES). However, the most recently available stock assessments and sub-ACLs were based on the CHTS estimates. Evaluation of catch and development of management measures will continue to use data in the CHTS-equivalent until new assessments are conducted for these two stocks using FES information. That means, for fishing year 2018, FES data had to be converted back into CHTS

values. The introduction of another model (back-calibration from CHTS to FES) and the associated assumptions adds a new layer of uncertainty. We will evaluate recreational measures again before the 2020 fishing year to make any necessary adjustments.

*Comment 8:* Two individuals commented specifically on the proposed September opening for GOM cod. These comments stated that the timing of this opening is not ideal, with respect to water and air temperature and the impact this has on discard mortality. They suggested that the opening should have been timed when the air and water temperature are highest to maximize the impact of converting dead discards into landings.

*Response:* The assumed discard rate for recreationally caught GOM cod is 15 percent. This rate does not vary between seasons, unlike the GOM haddock discard rate. Additional research is needed to enable us to factor in seasonally specific discard rates to the calculation of mortality and ultimately the application to management decisions.

*Comment 9:* Six individuals commented on the disparity between commercial and recreational access to the GOM cod stock. Specifically, they stated that commercial fishermen continue to fish for GOM cod, while recreational anglers have been prohibited from retaining them.

*Response:* We recognize the perceived discrepancy because the recreational fishery has not been able to target GOM cod in recent years, and in 2019, only a limited directed season will be opened. Each year, we are required to set recreational management measures designed to achieve, but not exceed, the recreational sub-ACLs. Framework 57 sets the 2019 ACLs based on updated 2017 assessments. The recreational sub-ACLs are based on a fixed percentage of the total catch limit. Management measures are set for the recreational and commercial fishery to achieve their respective sub-ACLs. While directed recreational fishing for GOM cod has been limited, the recreational fishery has still exceeded its sub-ACL for GOM cod. Although the assumed discard mortality rate for GOM cod is only 15 percent, the mortality associated with cod bycatch in the directed GOM haddock fishery has resulted in cod catch greater than the recreational sub-ACL in four of the last six years.

*Comment 10:* Four individuals and the NYRFHFA supported the proposed measures for GOM cod as proposed.

*Response:* We are partially approving the GOM cod measures we proposed. The rationale for keeping the April

season closed for cod has been included in response to Comment 3, and not repeated here.

#### *Gulf of Maine Haddock Management Measures*

*Comment 11:* Six individuals did not support an increase to the haddock possession limit from 12 to 15 fish. These individuals were concerned about the potential impacts to the haddock stock, and several stated that even with the 12-fish limit, they were not “limiting out” during trips.

*Response:* The RAP, Groundfish Committee, and Council recommended an increase in the haddock possession limit from 12 to 15 fish per person per day. We proposed and are implementing the increased 15-fish possession limit. The GOM haddock stock is not overfished, and overfishing is not occurring. The most recent stock assessment for GOM haddock, conducted in 2017, concluded that spawning stock biomass in 2016 was estimated to be 47,821 mt, which is 706 percent of the biomass target. The bioeconomic model projects GOM haddock catch, even under the most liberal recommendations would be significantly less than the catch target. We are increasing the haddock possession limit to increase catch of this healthy stock.

*Comment 12:* Three individuals stated that they did not support the proposed size limit for GOM haddock. One individual stated that even the current size limit (17 inches, 43.2 cm) does not allow fish to reach maturity, and spawn, prior to being a legal-size fish to retain.

*Response:* When the proposed rule published, the **Federal Register** made an error when transcribing one of the tables. In that table, the proposed minimum size for GOM haddock was listed as 15 inches (38.1 cm). This was an error. We published a correction document (84 FR 22104) on May 16, 2019. We did not propose a reduction to the GOM haddock minimum size, and it will remain unchanged at 17 inches (43.2 cm). Additionally, haddock begin to reproduce between the ages of 1 and 4 years old and at 10.5 to 11.7 inches (26.7 to 29.7 cm) long. The selection of minimum size for both the commercial and recreational fishery considers maturity at size and age.

#### *Georges Bank Management Measures*

*Comment 13:* Two individuals and the New York Recreational and For-Hire Fishing Alliance supported the proposed GB cod measures. Two of these comments came from for-hire businesses that operate in the southernmost range of GB cod. They

stated that the cod they encounter is smaller than their northern counterparts, and the current minimum size of 23 inches (58.4 cm), implemented in fishing year 2018, disproportionately affected their fishery.

*Response:* We have approved the GB cod recreational management measures as proposed, reducing the minimum size from 23 to 21 inches (58.4 to 53.3 cm). We were able to liberalize measures, as the reduced minimum size is not expected to result in catch about the recreational catch target. The reduced minimum size will also enable anglers to retain some fish that they would have otherwise discarded.

#### Classification

The Regional Administrator, Greater Atlantic Region, NMFS, determined that these measures are necessary for the conservation and management of the Northeast multispecies fishery and that the measures are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to make this rule effective upon filing in the **Federal Register**. This final rule liberalizes recreational management measures for GB cod, GOM cod, and GOM haddock. Delaying the effective date of this rule increases the likelihood that recreational catch in the 2019 fishing year will not achieve the GB cod catch target, or the GOM cod and haddock sub-ACLs. Thus, delaying implementation of these measures would be contrary to the public interest.

The Northeast multispecies fishing year begins on May 1 of each year and continues through April 30 of the following calendar year. Altering recreational management measures in-season negatively affects business planning for the for-hire segment of the fishery, causes confusion in the fishery, and may result in less compliance with the regulations. Implementing these measures as soon as possible will reduce the negative effects associated with in-season adjustments. Because of the seasonal nature of the fishery, industry would permanently forego the revenues associated with the increase in the haddock bag limit if we further delayed implementation of this action. Thus, delaying implementation of these

measures would be contrary to the public interest.

Recreational fishing participants are anticipating this action will go into effect as soon as possible. They have participated in the required Council process that has attempted to overcome delays caused by the partial government shutdown with the intent of implementing these measures as close to May 1 as possible to avoid further disruption and adverse economic impacts from further delays. The collection and processing of recreational data already creates a very compressed period for development and consideration of options, consulting with the Council, and completing proposed and final rulemaking. MRIP data is collected on a calendar-year basis in 2-month waves. Preliminary data from the summer and fall, when recreational effort is significant, is not available until December, and analyses are not ready until January at the earliest. In addition to the compressed schedule during a typical year, the partial Federal government shutdown significantly delayed the development, evaluation, and implementation of recreational measures for GOM cod and haddock. We are required to consult with the Council before conducting rulemaking to adjust recreational management measures for these fisheries. In a typical year, this process begins in January when we prepare potential management options and consult with the Council including its Recreational Advisory Panel. We generally receive the Council's final recommendation in early February, which allows us to begin our rulemaking process. The partial shutdown disrupted this schedule, and we did not receive the Council's recommendations until early March. The Council made important accommodations to its process in order to streamline the development of recommendations, but we are still behind schedule relative to a typical year, and new management measures were not in place for the May 1 start of the fishing year. Further delaying the effectiveness of this action would be contrary to the public interest.

For the reasons outlined, NMFS finds that there is good cause to waive the requirement to provide a 30-day delay in implementation.

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

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 3, 2019.

**Alan D. Risenhoover,**

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

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

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.89, revise paragraphs (b)(1) and (c)(1) and (2) to read as follows:

#### § 648.89 Recreational and charter/party vessel restrictions.

\* \* \* \* \*

(b) \* \* \*

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

TABLE 1 TO PARAGRAPH (b)(1)

Species	Minimum size	
	Inches	cm
Cod:		
Inside GOM Regulated Mesh Area <sup>1</sup> .....	21	53.3
Outside GOM Regulated Mesh Area <sup>1</sup> .....	21	53.3
Haddock:		
Inside GOM Regulated Mesh Area <sup>1</sup> .....	17	43.2
Outside GOM Regulated Mesh Area <sup>1</sup> .....	18	45.7
Pollock .....	19	48.3
Witch Flounder (gray sole) .....	14	35.6
Yellowtail Flounder .....	13	33.0
American Plaice (dab) .....	14	35.6
Atlantic Halibut .....	41	104.1
Winter Flounder (black back) .....	12	30.5
Redfish .....	9	22.9

<sup>1</sup> GOM Regulated Mesh Area specified in § 648.80(a).

\* \* \* \* \*

(c) \* \* \*

(1) *Private recreational vessels.*

Persons aboard private recreational fishing vessels during the open season listed in the column titled “Open Season” in Table 2 to this paragraph (c),

may not possess more fish in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 2 to this paragraph (c).

(i) *Closed season.* Persons aboard private recreational fishing vessels may not possess species, as specified in the

column titled “Species” in Table 2 to this paragraph (c), in or from the EEZ during that species closed season as specified in the column titled “Closed Season” in Table 2 to this paragraph (c).

TABLE 2 TO PARAGRAPH (c)

Species	Open season	Possession limit	Closed season
GB Cod .....	All Year .....	10 .....	N/A.
GOM Cod .....	September 15–30 .....	1 .....	May 1–September 14; October 1–April 30.
GB Haddock .....	All Year .....	Unlimited .....	N/A.
GOM Haddock .....	May 1–February 28 (or 29); April 15–30.	15 .....	March 1–April 14.
GB Yellowtail Flounder .....	All Year .....	Unlimited .....	N/A.
SNE/MA Yellowtail Flounder .....	All Year .....	Unlimited .....	N/A.
CC/GOM Yellowtail Flounder .....	All Year .....	Unlimited .....	N/A.
American Plaice .....	All Year .....	Unlimited .....	N/A.
Witch Flounder .....	All Year .....	Unlimited .....	N/A.
GB Winter Flounder .....	All Year .....	Unlimited .....	N/A.
GOM Winter Flounder .....	All Year .....	Unlimited .....	N/A.
SNE/MA Winter Flounder .....	All Year .....	Unlimited .....	N/A.
Redfish .....	All Year .....	Unlimited .....	N/A.
White Hake .....	All Year .....	Unlimited .....	N/A.
Pollock .....	All Year .....	Unlimited .....	N/A.
N. Windowpane Flounder .....	CLOSED .....	No retention .....	All Year.
S. Windowpane Flounder .....	CLOSED .....	No retention .....	All Year.
Ocean Pout .....	CLOSED .....	No retention .....	All Year.
Atlantic Halibut .....	See paragraph (c)(3).		
Atlantic Wolffish .....	CLOSED .....	No retention .....	All Year.

(ii) [Reserved]

(2) *Charter or Party Boats.* Persons aboard party or charter boats during the

open season listed in the column titled “Open Season” in Table 3 to this paragraph (c), may not possess more fish

in or from the EEZ than the amount listed in the column titled “Possession Limit” in Table 3 to this paragraph (c).

TABLE 3 TO PARAGRAPH (c)

Species	Open season	Possession limit	Closed season
GB Cod	All Year	10	N/A.
GOM Cod	September 15–30	1	May 1–September 14; October 1–April 30.
GB Haddock	All Year	Unlimited	N/A.
GOM Haddock	May 1–February 28 (or 29); April 15–30.	15	March 1–April 14.
GB Yellowtail Flounder	All Year	Unlimited	N/A.
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A.
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A.
American Plaice	All Year	Unlimited	N/A.
Witch Flounder	All Year	Unlimited	N/A.
GB Winter Flounder	All Year	Unlimited	N/A.
GOM Winter Flounder	All Year	Unlimited	N/A.
SNE/MA Winter Flounder	All Year	Unlimited	N/A.
Redfish	All Year	Unlimited	N/A.
White Hake	All Year	Unlimited	N/A.
Pollock	All Year	Unlimited	N/A.
N. Windowpane Flounder	CLOSED	No retention	All Year.
S. Windowpane Flounder	CLOSED	No retention	All Year.
Ocean Pout	CLOSED	No retention	All Year.
Atlantic Halibut		See Paragraph (c)(3).	
Atlantic Wolffish	CLOSED	No retention	All Year.

\* \* \* \* \*

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