Response: The final rule allows commercial fishers with a Federal commercial permit for king or Spanish mackerel to use their permitted vessels to fish for these species and retain the recreational bag and possession limits outside of the commercial seasons for those species. However, under the regulations already in place, the sale or purchase of king or Spanish mackerel taken under the recreational bag and possession limits is prohibited when the commercial season is closed. Thus any fish taken in the circumstances allowed under the rule cannot be sold or purchased.

Comment 3: Additional king mackerel population information is needed to avoid ecological or economic problems in the Gulf and Atlantic before approving these changes to management.

Response: As part of the development of Framework Amendment 5, NMFS and the Councils carried out an analysis of the expected physical, biological, economic, social, and administrative effects of this action. This analysis incorporated data from the September 2014 Southeast Data, Assessment, and Review (SEDAR) 38 stock assessment, which determined that both the Gulf and Atlantic migratory groups of king mackerel are not overfished and are not undergoing overfishing. As explained in Framework Amendment 5, the additional amount of king mackerel that would be harvested as a result of this final rule is not quantifiable because the number of persons aboard commercially permitted vessels who would fish for and retain the recreational bag and possession limits of king and Spanish mackerel once the harvest restriction is removed and the number of days during which they could fish under the recreational bag and possession limits are not known. However, NMFS' analysis demonstrates, and the Councils agree, that minimal impacts to the ecology or economy would be expected as a result of this final rule. The next SEDAR assessment will be completed in the summer of 2018.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with Framework Amendment 5, the FMP, the Magnuson-Stevens Act, and other applicable law.

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

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

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 final rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No public comments were received on the proposed rule regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis was not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Commercial, Recreational, Fisheries, Fishing, Gulf of Mexico, South Atlantic, King Mackerel, Spanish Mackerel.

Dated: July 26, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.379, revise the last sentence in paragraph (a) to read as follows:

§ 622.379 Incidental catch allowances.

(a) * * * Incidentally caught king or Spanish mackerel are counted toward the quotas provided for under § 622.384 and are subject to the prohibition of sale under § 622.384(e)(2).

* * * * *

■ 3. In § 622.384, revise paragraph (e) to read as follows:

§ 622.384 Quotas.

* * * * *

(e) *Restrictions applicable after a quota closure.* (1) If the recreational sector for the applicable species, migratory group, zone, or gear is open, the bag and possession limits for king and Spanish mackerel specified in § 622.382(a) apply to all harvest or possession for the closed species, migratory group, zone, or gear in or from the EEZ. If the recreational sector for the applicable species, migratory group, zone, or gear is closed, all applicable harvest or possession in or from the EEZ is prohibited.

(2) The sale or purchase of king mackerel, Spanish mackerel, or cobia of the closed species, migratory group, zone, or gear type is prohibited, including any king or Spanish mackerel taken under the bag and possession limits specified in § 622.382(a), or cobia taken under the limited-harvest species possession limit specified in § 622.383(b). The prohibition on the sale or purchase during a closure for coastal migratory pelagic fish does not apply to coastal migratory pelagic fish that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor.

■ 4. In § 622.386, revise the introductory text to read as follows:

§ 622.386 Restrictions on sale/purchase.

The restrictions in this section are in addition to the restrictions on the sale or purchase related to commercial quota closures as specified in § 622.384(e)(2).

* * * * *

[FR Doc. 2017–16134 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170104014–7683–02]

RIN 0648–BG53

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Framework Adjustment 56

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

ACTION: Final rule.

SUMMARY: This action partially approves and implements Framework Adjustment 56 to the Northeast Multispecies Fishery Management Plan. This rule sets catch limits for 4 of the 20 groundfish stocks, adjusts several allocations and accountability measures for groundfish catch in groundfish and non-groundfish fisheries, and makes other administrative changes to groundfish management measures. This action is

necessary to respond to updated scientific information and achieve the goals and objectives of the Fishery Management Plan. The final 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.

DATES: Effective on August 1, 2017.

ADDRESSES: Copies of Framework Adjustment 56, including the Environmental Assessment and the Regulatory Impact Review prepared by the New England Fishery Management Council (NEFMC) 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.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies.*

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, phone: 978–281–9195; email: *Aja.Szumylo@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

1. Summary of Approved Measures

This action partially approves the management measures in Framework Adjustment 56 to the Northeast Multispecies Fishery Management Plan (FMP). The measures implemented in this final rule include:

- 2017 quotas for three shared U.S./Canada stocks (Eastern Georges Bank (GB) cod, Eastern GB haddock, and GB yellowtail flounder);
- 2017–2019 catch limits for witch flounder;
- An allocation of northern windowpane flounder for the scallop fishery;
- A revised trigger for the scallop fishery's accountability measures for GB yellowtail flounder and northern windowpane flounder; and
- An increase in the GB haddock allocation for the midwater trawl fishery.

This action also implements a number of other measures that are not part of Framework 56, but that were considered under Regional Administrator authority included in the Northeast Multispecies FMP. We are including these measures in Framework 56 for expediency purposes, and because these measures are related to the catch limits implemented in Framework 56. The additional measures implemented in this action are listed below.

- *Management measures necessary to implement sector operations plans*—This action revises annual catch entitlements for 19 sectors for fishing year 2017 based on the catch limits in Framework 56 and final fishing year 2017 sector rosters.
- *Management measures for the common pool fishery*—This action adjusts the fishing year 2017 trip limits for witch flounder and American plaice for the common pool fishery, consistent with the final 2017 catch limit for witch flounder in Framework 56.
- *2017 accountability measures for windowpane flounder*—This action announces accountability measures (AMs) for northern and southern windowpane flounder that are triggered due to overages of fishing year 2015 catch limits for both stocks. The large AM areas for both northern and southern windowpane flounder will be in effect for groundfish trawl vessels from August 1, 2017, through August 31, 2017. The large AM areas for southern windowpane flounder will be in effect for non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12.7 cm) and greater until April 30, 2018, unless we remove the AM for these vessels through a subsequent action.

2. Disapproved Measure—Status Determination Criteria for Witch Flounder

The Northeast Fisheries Science Center conducted a witch flounder benchmark assessment in 2016. The final report for the benchmark assessment is available on the NEFSC Web site: *http://www.nefsc.noaa.gov/publications/crd/crd1703/.* The assessment results are discussed in detail in the proposed rule for this action, and are not repeated here. In summary, the peer review panel rejected the 2016 benchmark assessment model for witch flounder, and recommended that neither the 2016 benchmark assessment, nor the previous 2008 benchmark assessment, should be used as a basis for determining witch flounder stock status. Given the lack of an assessment model, the peer review panel recommended an alternative approach to generate catch advice that uses swept-area biomass estimates generated from the NMFS Trawl Surveys. The panel did not have sufficient time to fully review the swept-area biomass approach in the context of the assessment terms of reference, which include the update or redefinition of status determination criteria (SDCs) or proxies.

We approved the existing SDCs for witch flounder in Amendment 16 to the Northeast Multispecies FMP (75 FR 18261; April 9, 2010). The existing criteria state that the witch flounder stock is subject to overfishing if the fishing mortality rate (F) is above the F at 40 percent of maximum spawning potential. The witch flounder stock is overfished if spawning stock biomass falls below ½ of the target, which is also calculated using F at 40 percent of maximum spawning potential. This definition was based on the benchmark assessments reviewed during the 2008 Groundfish Assessment Review Meeting (GARM III), and is the same as the SDCs currently in place for most of the groundfish stocks with age-based assessments.

The Council relied on the advice from the assessment peer review panel and its Scientific and Statistical Committee (SSC) to recommend changing the status determination criteria for witch flounder to unknown. The National Standard Guidelines require each FMP to specify objective and measurable SDCs that enable us to monitor stock status. When data are unavailable to specify SDCs based on maximum sustainable yield (MSY) or MSY proxies, the Council and NMFS may use alternative approaches to monitor stock status. As a result, we are disapproving the Council's proposal to change the SDCs to unknown. In the absence of new alternative SDCs following the 2016 benchmark assessment, we intend to maintain the existing criteria until we and the Council are able to generate SDCs based on the swept-area biomass approach or any other alternative approaches. We acknowledge that the existing SDCs are based on a now rejected stock assessment model and recognize that it is critical to work to replace the SDCs.

There is currently a rebuilding plan in place for witch flounder that has an end date of 2017. Prior to the 2016 assessment, and based on the results of the 2015 assessment update, which found that 2014 spawning stock biomass was at 22 percent of the biomass target and that the stock was not expected to reach the 2017 rebuilding target even in the absence of fishing mortality, we anticipated that we would need to notify the Council that it was necessary to revise the rebuilding plan. Although a quantitative status determination relative to the 2016 benchmark assessment results is not possible, there are indications that the stock is still in poor condition, and will continue to need conservative management measures to promote stock growth. We are finalizing our guidance regarding any necessary adjustments to the rebuilding plan and will advise the Council on the next steps prior to the fall 2017 groundfish assessment updates. Additionally, when the stock assessment for witch flounder can provide biomass estimates, these estimates can be used to evaluate progress towards the rebuilding targets.

3. Fishing Year 2017 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 adopts shared U.S./Canada quotas for these stocks for fishing year 2017 based on 2016 assessments and the recommendations of the Transboundary Management Guidance Committee (TMGC) (Table 1). For a more detailed discussion of the TMGC's 2017 catch advice, see the TMGC's guidance document under the ''Resources'' tab at: *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html.*

TABLE 1—FISHING YEAR 2017 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	730	50,000	300
U.S. Quota	146 (20%)	29,500 (59%)	207 (69%)
Canada Quota	584 (80%)	20,500 (41%)	93 (31%)

The regulations implementing the U.S./Canada Resource Sharing Understanding require that any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder be deducted from the U.S. quota in the following fishing year. If catch information for fishing year 2016 indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for fishing year 2017 in a future management action, as soon as possible. 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 only be applied to that fishery's allocation in the following fishing year. This ensures that catch by one component of the fishery does not negatively affect another component of the fishery.

4. Catch Limits for Fishing Years 2017–2019

Summary of the Catch Limits

Last year, Framework 55 (81 FR 26412; May 2, 2016) adopted fishing year 2016–2018 catch limits for all groundfish stocks, except for the U.S./Canada stocks, which are set annually. This rule adopts fishing year 2017–2019 catch limits for witch flounder based on the recent stock assessment and consistent with the recommendations of the Council's SSC. This rule also adopts 2017 shared U.S./Canada quotas (see section ''3. Fishing Year 2017 Shared U.S./Canada Quotas''). With the exception of GB cod, GB haddock, GB yellowtail flounder, and witch flounder, the catch limits included in this action are the same as or similar to those previously implemented in Framework 55, and became effective on May 1, 2017. There are changes to the northern windowpane flounder catch limits related to the allocation of northern windowpane flounder to the scallop fishery (see section ''5. Allocation of Northern Windowpane Flounder to the Scallop Fishery''). There are also minor changes to the catch limits for GB winter flounder and white hake due to revised estimates of Canadian catch. The catch limits implemented in this action, including overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs), can be found in Tables 2 through 9. A summary of how these catch limits were developed, including the distribution to the various fishery components, was provided in the proposed rule and in Appendix II of the Environmental Assessment for Framework 56, and is not repeated here. The sector and common pool sub-ACLs implemented in this action are based on fishing year 2017 potential sector contributions (PSCs) and final fishing year 2017 sector rosters. Sector-specific allocations are in section ''8. Sector Measures for Fishing Year 2017.''

Closed Area I Hook Gear Haddock Special Access Program

Overall fishing effort by both common pool and sector vessels in the Closed Area I Hook Gear Haddock Special Access Program (SAP) is controlled by an overall Total Allowable Catch (TAC) for GB haddock, which is the target species for this SAP. The maximum amount of GB haddock that may be caught in any fishing year is based on the amount allocated to this SAP for the 2004 fishing year (1,130 mt), and adjusted according to the growth or decline of the western GB haddock biomass in relationship to its size in 2004. Based on this formula, the GB Haddock TAC for this SAP is 10,709 mt for the 2017 fishing year. Once this overall TAC is caught, the Closed Area I Hook Gear Haddock SAP will be closed to all groundfish vessels for the remainder of the fishing year.

TABLE 2—FISHING YEARS 2017–2019 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES

[mt, live weight]

Stock	2017			2018		2019	
	OFL	Total ABC	U.S. ABC	OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	1,665	1,249	665	1,665	1,249		
GOM Cod	667	500	500	667	500		
GB Haddock	258,691	77,898	57,398	358,077	77,898		
GOM Haddock	5,873	4,534	4,534	6,218	4,815		
GB Yellowtail Flounder	Unknown	300	207	Unknown	354		
SNE/MA Yellowtail Flounder	Unknown	267	267	Unknown	267		
CC/GOM Yellowtail Flounder	707	427	427	900	427		
American Plaice	1,748	1,336	1,336	1,840	1,404		
Witch Flounder	Unknown	878	878	Unknown	878	Unknown	878
GB Winter Flounder	1,056	755	702	1,459	702		
GOM Winter Flounder	1,080	810	810	1,080	810		
SNE/MA Winter Flounder	1,021	780	780	1,587	780		
Redfish	14,665	11,050	11,050	15,260	11,501		
White Hake	4,816	3,686	3,644	4,733	3,580		
Pollock	32,004	21,312	21,312	34,745	21,312		
N. Windowpane Flounder	243	182	182	243	182		
S. Windowpane Flounder	833	623	623	833	623		
Ocean Pout	220	165	165	220	165		
Atlantic Halibut	210	158	124	210	124		
Atlantic Wolffish	110	82	82	110	82		

SNE/MA = Southern New England/Mid-Atlantic; CC = Cape Cod; N = Northern; S = Southern.
Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits will be set in a future action.

TABLE 3—FISHING YEAR 2017 CATCH LIMITS

[mt, live weight]

[Catch limits are implemented for GB cod, GB haddock, GB yellowtail, and witch flounder. Sub-ACL adjustments are implemented for the midwater trawl fishery for GB haddock, and for the scallop fishery for northern windowpane. All other limits were previously adopted in Framework 55 on May 1, 2016]

Stock	Total ACL	Total groundfish fishery	Sector	Common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GB Cod	637	531	521	10					20	86
GOM Cod	473	437	271	9	157				27	10
GB Haddock	54,568	52,620	52,253	367		801			574	574
GOM Haddock	4,285	4,177	2,985	33	1,160	42			33	33
GB Yellowtail Flounder	201	163	160	2			32	4	0	2.1
SNE/MA Yellowtail Flounder	256	187	151	36			34		5	29
CC/GOM Yellowtail Flounder	409	341	326	15					43	26
American Plaice	1,272	1,218	1,196	23					27	27
Witch Flounder	839	734	718	16					35	70
GB Winter Flounder	683	620	615	5					0	63
GOM Winter Flounder	776	639	607	32					122	16
SNE/MA Winter Flounder	749	585	515	70					70	94
Redfish	10,514	10,183	10,126	56					111	221
White Hake	3,467	3,358	3,331	27					36	73
Pollock	20,374	17,817	17,704	113					1,279	1,279
N. Windowpane Flounder	170	129	na	129			36		2	4
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	130	na	130					2	23
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3

TABLE 4—FISHING YEAR 2018 CATCH LIMITS

[mt, live weight]

[Catch limits are implemented for GB cod, GB haddock, GB yellowtail, and witch flounder. Sub-ACL adjustments are implemented for the midwater trawl fishery for GB haddock, and for the scallop fishery for northern windowpane. All other limits were previously adopted in Framework 55 on May 1, 2016]

Stock	Total ACL	Total groundfish fishery	Sector	Common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GB Cod	1,197	997	978	18					37	162

TABLE 4—FISHING YEAR 2018 CATCH LIMITS—Continued

[mt, live weight]

[Catch limits are implemented for GB cod, GB haddock, GB yellowtail, and witch flounder. Sub-ACL adjustments are implemented for the midwater trawl fishery for GB haddock, and for the scallop fishery for northern windowpane. All other limits were previously adopted in Framework 55 on May 1, 2016]

Stock	Total ACL	Total groundfish fishery	Sector	Common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GOM Cod	473	437	271	9	157	.....	.....	.....	27	10
GB Haddock	74,058	71,413	70,916	497	.....	1,087	.....	.....	779	779
GOM Haddock	4,550	4,436	3,169	35	1,231	45	.....	.....	35	35
GB Yellowtail Flounder	343	278	274	4	.....	.....	55	7	0	4
SNE/MA Yellowtail Flounder	256	185	149	36	.....	.....	37	.....	5	29
CC/GOM Yellowtail Flounder	409	341	326	15	.....	.....	.....	.....	43	26
American Plaice	1,337	1,280	1,257	24	.....	.....	.....	.....	28	28
Witch Flounder	839	734	718	16	.....	.....	.....	.....	35	70
GB Winter Flounder	683	620	615	5	.....	.....	.....	.....	0	63
GOM Winter Flounder	776	639	607	32	.....	.....	.....	.....	122	16
SNE/MA Winter Flounder	749	585	515	70	.....	.....	.....	.....	70	94
Redfish	10,943	10,598	10,540	58	.....	.....	.....	.....	115	230
White Hake	3,406	3,299	3,273	26	.....	.....	.....	.....	36	72
Pollock	20,374	17,817	17,704	113	.....	.....	.....	.....	1,279	1,279
N. Windowpane Flounder	170	129	.....	129	.....	.....	36	.....	2	4
S. Windowpane Flounder	599	104	.....	104	.....	.....	209	.....	37	249
Ocean Pout	155	130	.....	130	.....	.....	.....	.....	2	23
Atlantic Halibut	119	91	.....	91	.....	.....	.....	.....	25	4
Atlantic Wolffish	77	72	.....	72	.....	.....	.....	.....	1	3

TABLE 5—FISHING YEAR 2019 CATCH LIMITS

[mt, live weight]

Stock	Total ACL	Total groundfish fishery	Sector	Common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
Witch Flounder	839	734	718	16	.....	.....	.....	.....	35	70

TABLE 6—FISHING YEARS 2017–2019 COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES

[mt, live weight]

Stock	2017			2018			2019		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	2.5	3.6	3.7	4.6	6.8	7.0			
GOM Cod	2.5	3.3	3.4	2.5	3.3	3.4			
GB Haddock	99.0	120.9	146.6	134.3	164.1	199.0			
GOM Haddock	8.8	8.5	15.4	9.4	9.0	16.3			
GB Yellowtail Flounder	0.5	0.7	1.3	0.8	1.3	2.2			
SNE/MA Yellowtail Flounder	7.6	13.4	15.2	7.5	13.2	14.9			
CC/GOM Yellowtail Flounder	5.2	5.2	4.5	5.2	5.2	4.5			
American Plaice	5.5	8.2	9.1	5.7	8.6	9.6			
Witch Flounder	4.4	5.1	6.9	4.4	5.1	6.9	4.4	5.1	6.9
GB Winter Flounder	0.4	1.2	3.5	0.4	1.2	3.5			
GOM Winter Flounder	11.7	12.0	7.9	11.7	12.0	7.9			
Redfish	14.0	17.4	24.7	14.6	18.1	25.7			
White Hake	10.2	8.3	8.3	10.0	8.2	8.2			
Pollock	31.6	39.5	41.8	31.6	39.5	41.8			

Note. An empty cell indicates that no catch limit has been set yet for these stocks. These catch limits will be set in a future management action.

TABLE 7—COMMON POOL INCIDENTAL CATCH TACS FOR FISHING YEARS 2017–2019

[mt, live weight]

Stock	Percentage of common pool sub-ACL	2017	2018	2019
GB Cod	2	0.20	0.37	.....
GOM Cod	1	0.09	0.09	.....
GB Yellowtail Flounder	2	0.05	0.08	.....
CC/GOM Yellowtail Flounder	1	0.15	0.15	.....
American Plaice	5	1.14	1.19	.....
Witch Flounder	5	0.82	0.82	0.82
SNE/MA Winter Flounder	1	0.70	0.70	.....

TABLE 8—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program	Closed Area I hook gear haddock SAP	Eastern US/CA haddock SAP
GB Cod	50	16	34
GOM Cod	100	.....	.....
GB Yellowtail Flounder	50	.....	50
CC/GOM Yellowtail Flounder	100	.....	.....
American Plaice	100	.....	.....
Witch Flounder	100	.....	.....
SNE/MA Winter Flounder	100	.....	.....
White Hake	100	.....	.....

DAS = Days-at-Sea

TABLE 9—FISHING YEARS 2017–2019 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM

[mt, live weight]

Stock	Regular B DAS program			Closed Area I hook gear haddock SAP			Eastern U.S./Canada haddock SAP		
	2017	2018	2019	2017	2018	2019	2017	2018	2019
GB Cod	0.10	0.18	.....	0.03	0.06	.....	0.07	0.13	.....
GOM Cod	0.09	0.09	.....	n/a	n/a	.....	n/a	n/a	.....
GB Yellowtail Flounder	0.02	0.04	.....	n/a	n/a	.....	0.02	0.04	.....
CC/GOM Yellowtail Flounder	0.15	0.15	.....	n/a	n/a	.....	n/a	n/a	.....
American Plaice	1.14	1.19	.....	n/a	n/a	.....	n/a	n/a	.....
Witch Flounder	0.82	0.82	0.82	n/a	n/a	n/a	n/a	n/a	n/a
SNE/MA Winter Flounder	0.70	0.70	.....	n/a	n/a	.....	n/a	n/a	.....

5. Allocation of Northern Windowpane Flounder for the Scallop Fishery

This action establishes a scallop fishery sub-ACL for northern windowpane flounder equal to 21 percent of the northern windowpane flounder ABC. This allocation is based on the 90th percentile of scallop fishery catches (as a percent of the total catch) for calendar years 2005 to 2014. This approach is similar to the approach used to set the southern windowpane flounder sub-ACL for the scallop fishery in Framework 48 (78 FR 26118, May 2, 2013). The Council chose a fixed-percentage allocation rather than an allocation based on projected catch because projected scallop fishery catch of northern windowpane flounder can fluctuate greatly from year to year. The scallop fishery's sub-ACL would be calculated by reducing the portion of the ABC allocated to the scallop fishery to account for management uncertainty. The current management uncertainty buffer for zero-possession stocks is 7 percent. The management uncertainty buffer can be adjusted each time the groundfish catch limits are set.

Outside of the groundfish fishery, the scallop fishery is the other major contributor to northern windowpane flounder catch. Adopting an allocation and corresponding AM for the scallop fishery is intended to create accountability for a fishery that is responsible for a substantial share of catch or an overage if one occurs. Thus, a sub-ACL for the scallop fishery would help prevent overfishing of northern windowpane flounder, as required by National Standard 1 and section 303(a)(1) of the Magnuson-Stevens Act, and create an incentive to minimize bycatch of this stock, consistent with National Standard 9. This measure also ensures that catch from one fishery does not negatively affect another fishery.

This action does not include scallop fishery AMs for the northern windowpane flounder sub-ACL. Consistent with other scallop allocations, the Council is developing and will adopt scallop fishery AMs for this sub-ACL in Framework 28 to the Atlantic Sea Scallop FMP that is intended to be implemented for the 2018 fishing year. If there is an overage in the 2017 scallop fishery northern windowpane flounder sub-ACL, that overage would be subject to the AM. For any ACL overages that occur in 2017 and beyond, the groundfish fishery would only be subject to an AM if the groundfish fishery exceeds its sub-ACL and the overall ACL is also exceeded. The 2017 sub-ACL implemented in this action is lower than recent scallop fishery catches of northern windowpane flounder. As a result, this action also implements an AM trigger for this stock to mitigate potential impacts of a scallop fishery AM in years when the sub-ACL is low (see section ''6. Revised Trigger for Scallop Accountability Measures'').

6. Revised Trigger for Scallop Accountability Measures

The scallop fishery has sub-ACLs for GB yellowtail flounder, SNE/MA yellowtail flounder, southern windowpane flounder, and northern windowpane flounder. If the scallop fishery exceeds its sub-ACL for these stocks, it is subject to AMs that, in general, restrict the scallop fishery in seasons and areas with high encounter rates for these stocks. Framework 47 (77 FR 26104, May 2, 2012) adopted a policy that the scallop fishery is subject to AMs for these stocks if either: (1) The scallop fishery exceeds its sub-ACL and the total ACL is exceeded; or (2) the scallop fishery exceeds its sub-ACL by 50 percent or more. This policy was implemented to provide flexibility for the scallop fishery and help achieve optimum yield.

This final rule implements a temporary change to the trigger for the scallop fishery AMs for GB yellowtail flounder and northern windowpane flounder. For fishing years 2017 and 2018, the AMs will only be implemented if scallop fishery catch exceeds its sub-ACL by any amount and the total ACL is also exceeded. The AM trigger remains unchanged for SNE/MA yellowtail flounder and southern windowpane flounder. The adjustment

in the trigger thresholds for GB yellowtail flounder and northern windowpane flounder is intended to provide additional flexibility, beyond the existing scallop AM implementation policy, for the scallop fishery to operate in years when the overall and scallop fishery allocations for these stocks are low. The scallop fishery is expected to operate primarily on Georges Bank in 2017 and 2018, based on scallop rotational area management. Beginning in fishing year 2019, the standard policy for scallop fishery AM implementation will apply.

7. Increase to Georges Bank Haddock Allocation for the Midwater Trawl Fishery

This action increases the Atlantic herring midwater trawl fishery's GB haddock catch cap from 1 percent of the U.S. ABC to 1.5 percent. This adjustment is intended to achieve optimum yield for the herring fishery while minimizing bycatch of haddock to the extent practicable. The low percentage maintains the incentive to avoid haddock while not constraining the groundfish fishery. As in the past, the herring fishery's midwater trawl sub-ACL will be calculated by reducing the portion of the ABC allocated to the herring midwater trawl fishery to account for management uncertainty. The current management uncertainty buffer is 7 percent.

Framework 56 also establishes a process for reviewing the GB haddock midwater trawl sub-ACL. Following an assessment of the entire GB haddock stock, the Groundfish Plan Development Team (PDT) will review factors including, but not limited to, groundfish fishery catch performance, ACL utilization, status of the GB haddock resource, recruitment, incoming year-class strength, and the variability in the GB haddock incidental catch estimates for the Atlantic herring midwater trawl fishery. Based on this review, the PDT will determine whether changes to the GB haddock midwater trawl sub-ACL are necessary, and recommend to the Groundfish Committee and Council an appropriate sub-ACL equal to 1 to 2 percent of the GB haddock U.S. ABC.

8. Sector Measures for Fishing Year 2017

This action also updates annual catch entitlements for 19 sectors for the 2017 fishing year based on the new catch limits included in Framework 56 and the finalized 2017 sector rosters. We previously approved 2017 and 2018 sector operations plans, as well as sector regulatory exemptions, in an interim final rule that became effective on May 1, 2017 (82 FR 19618; April 28, 2017).

Sector Allocations

The sector allocations in this final rule are based on the fishing year 2017 specifications described above under ''4. Catch Limits for Fishing Years 2017–2019'' and final 2017 sector rosters (see Tables 10 through 12). A sector's allocation is calculated by summing its members' PSC for a stock and applying this cumulative PSC to the commercial sub-ACL.

An individual permit is assigned a PSC for GB cod and haddock, but is not assigned a separate PSC for the Eastern GB cod or Eastern GB haddock management units. Each sector's GB cod and GB haddock allocations are divided into an Eastern and Western ACE component, based on the sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod commercial sub-ACL and 6 percent of the GB haddock commercial sub-ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod TAC and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock allocations. Sectors can ''convert'' their Eastern GB cod and haddock allocations into Western allocation that can be fished in Western GB. Western GB allocations cannot be converted to Eastern allocations.

BILLING CODE 3501–22–P

Table 10. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2017

Sector Name	GB Cod†	GOM Cod	GB Haddock†	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder‡	CC/GOM YT Flounder‡	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder‡	Redfish	White Hake	Pollock
GB Cod Fixed Gear Sector (Fixed Gear Sector)	28.63	2.98	6.34	2.06	0.01	0.37	3.06	1.00	2.15	0.03	13.60	2.34	2.79	5.84	8.02
Maine Coast Community Sector (MCCS)	0.97	9.52	0.96	6.35	1.59	1.27	3.25	9.90	7.47	0.67	3.11	1.49	5.95	10.49	10.68
Maine Permit Bank	0.13	1.12	0.04	1.12	0.01	0.03	0.32	1.16	0.73	0.00	0.43	0.02	0.82	1.64	1.67
Northeast Coastal Communities Sector (NCCS)	0.40	2.10	0.35	1.53	0.84	0.70	1.90	0.61	1.25	0.05	2.14	0.71	1.00	1.96	1.76
NEFS 1	0.00	0.03	0.00	0.00	0.00	0.00	0.04	0.01	0.01	0.00	0.05	0.00	0.00	0.00	0.00
NEFS 2	5.86	18.47	10.67	17.07	1.87	1.73	19.67	9.31	13.21	3.21	18.78	3.51	14.85	6.45	11.39
NEFS 3	0.73	9.90	0.05	6.81	0.04	0.07	6.08	2.07	1.69	0.01	6.99	0.41	0.75	3.24	3.96
NEFS 4	4.17	10.61	5.35	8.60	2.16	2.35	6.06	9.39	8.71	0.69	6.95	1.28	6.72	8.09	6.35
NEFS 5	0.48	0.00	0.82	0.00	1.28	20.93	0.21	0.43	0.56	0.44	0.02	11.99	0.01	0.09	0.04
NEFS 6	2.87	2.96	2.93	3.84	2.70	5.27	3.74	3.89	5.21	1.50	4.56	1.94	5.31	3.91	3.31
NEFS 7	1.25	0.80	1.35	0.59	3.41	2.47	2.27	0.74	0.94	1.28	2.39	0.80	0.36	0.56	0.45
NEFS 8	6.52	0.16	5.95	0.07	10.63	5.22	2.60	2.09	2.44	21.16	0.68	8.97	0.51	0.47	0.61
NEFS 9	13.17	3.02	11.24	7.39	25.19	8.72	10.62	9.71	9.41	32.56	2.95	17.95	9.05	6.38	6.36
NEFS 10	0.34	2.35	0.16	1.25	0.00	0.55	4.01	0.93	1.69	0.01	8.95	0.49	0.33	0.61	0.70
NEFS 11	0.41	12.23	0.04	3.08	0.00	0.02	2.36	2.05	1.93	0.00	2.08	0.02	1.96	4.73	9.02
NEFS 12	0.63	2.98	0.09	1.05	0.00	0.01	7.95	0.50	0.57	0.00	7.66	0.22	0.23	0.30	0.82
NEFS 13	12.18	0.91	20.11	1.05	34.50	21.03	8.84	8.48	9.30	17.82	3.05	16.60	4.28	2.15	2.62
New Hampshire Permit Bank	0.00	1.14	0.00	0.03	0.00	0.00	0.02	0.03	0.01	0.00	0.06	0.00	0.02	0.08	0.11
Sustainable Harvest Sector 1	2.67	5.97	2.52	4.77	0.97	0.32	3.22	6.40	4.35	5.74	4.67	0.82	6.08	8.41	7.29
Sustainable Harvest Sector 2	0.29	0.29	0.40	0.07	2.21	2.25	0.84	0.72	0.61	0.46	0.93	1.11	0.26	0.33	0.27
Sustainable Harvest Sector 3	16.45	9.19	29.92	32.18	11.06	7.44	8.56	28.70	25.54	13.54	4.99	17.33	38.16	33.47	23.93
Sectors Total	**98.15**	**96.73**	**99.30**	**98.91**	**98.48**	**80.73**	**95.60**	**98.13**	**97.77**	**99.18**	**95.06**	**87.99**	**99.45**	**99.20**	**99.37**
Common Pool	1.88	3.18	0.66	1.06	1.46	17.17	4.25	1.70	2.14	0.80	5.04	10.58	0.55	0.76	0.63

* The data in this table are based on final fishing year 2017 sector rosters.

† For fishing year 2017, 27.5 percent of the GB cod ACL would be allocated for the Eastern U.S./Canada Area, while 56.1 percent of the GB haddock ACL would be allocated for the Eastern U.S./Canada Area.

‡ SNE/MA Yellowtail Flounder refers to the SNE/Mid-Atlantic stock. CC/COM Yellowtail Flounder refers to the Cape Cod/GOM stock.

Table 11. ACE (in 1,000 lbs), by stock, for each sector for fishing year 2017

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder	CC/GOM YT Flounder	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	92	243	18	4,124	3,232	137	0	2	23	27	35	0	192	30	626	433	3,151
MCCS	3	8	59	625	490	422	6	5	24	266	121	9	44	19	1,337	777	4,195
Maine Permit Bank	0	1	7	29	23	75	0	0	2	31	12	0	6	0	184	121	656
NCCS	1	3	13	228	179	102	3	3	14	16	20	1	30	9	224	145	692
NEFS 1	-	-	0	-	-	0	-	-	0	0	0	0	1	0	-	-	-
NEFS 2	19	50	114	6,937	5,437	1,136	7	7	148	250	214	44	264	45	3,333	477	4,473
NEFS 3	2	6	61	33	26	453	0	0	46	56	27	0	98	5	169	240	1,557
NEFS 4	13	35	66	3,480	2,727	572	8	10	46	252	141	9	98	17	1,509	599	2,496
NEFS 5	2	4	0	530	416	0	5	86	2	12	9	6	0	155	3	7	17
NEFS 6	9	24	18	1,903	1,492	255	10	22	28	105	84	21	64	25	1,192	290	1,298
NEFS 7	4	11	5	880	689	39	12	10	17	20	15	18	34	10	80	41	179
NEFS 8	21	55	1	3,868	3,031	5	38	22	20	56	40	289	10	116	114	35	241
NEFS 9	42	112	19	7,312	5,731	492	90	36	80	261	152	445	41	232	2,032	472	2,499
NEFS 10	1	3	14	107	84	83	0	2	30	25	27	0	126	6	73	45	273
NEFS 11	1	3	76	24	19	205	0	0	18	55	31	0	29	0	441	350	3,542
NEFS 12	2	5	18	61	48	70	0	0	60	14	9	0	108	3	52	22	324
NEFS 13	39	103	6	13,081	10,252	70	124	87	66	228	150	243	43	214	961	159	1,029
New Hampshire Permit Bank	0	0	7	0	0	2	0	0	0	1	0	0	1	0	4	6	44
Sustainable Harvest Sector 1	9	23	37	1,641	1,286	317	3	1	24	172	70	78	66	11	1,364	623	2,862
Sustainable Harvest Sector 2	1	2	2	261	205	5	8	9	6	19	10	6	13	14	59	25	104
Sustainable Harvest Sector 3	53	140	57	19,458	15,250	2,141	40	31	64	771	413	185	70	224	8,567	2,478	9,399
Sectors Total	**316**	**832**	**598**	**64,583**	**50,615**	**6,580**	**353**	**334**	**718**	**2,636**	**1,582**	**1,355**	**1,338**	**1,136**	**22,325**	**7,344**	**39,030**
Common Pool	6	16	20	427	335	70	5	71	32	46	35	11	71	137	123	56	249

*The data in this table are based on final fishing year 2017 sector rosters.

#Numbers are rounded to the nearest thousand lbs. 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 12. ACE (in metric tons), by stock, for each sector for fishing year 2017

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder	CC/GOM YT Flounder	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	42	110	8	1,871	1,466	62	0	1	10	12	16	0	87	14	284	196	1,429
MCCS	1	4	27	283	222	192	3	2	11	121	55	4	20	9	606	352	1,903
Maine Permit Bank	0	1	3	13	10	34	0	0	1	14	5	0	3	0	84	55	298
NCCS	1	2	6	104	81	46	1	1	6	7	9	0	14	4	102	66	314
NEFS 1	-	-	0	-	-	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	9	23	52	3,147	2,466	515	3	3	67	113	97	20	120	21	1,512	216	2,029
NEFS 3	1	3	28	15	12	205	0	0	21	25	12	0	45	2	77	109	706
NEFS 4	6	16	30	1,578	1,237	259	4	4	21	114	64	4	44	8	684	272	1,132
NEFS 5	1	2	0	241	189	0	2	39	1	5	4	3	0	70	1	3	8
NEFS 6	4	11	8	863	677	116	4	10	13	47	38	9	29	11	541	131	589
NEFS 7	2	5	2	399	313	18	6	5	8	9	7	8	15	5	36	19	81
NEFS 8	10	25	0	1,754	1,375	2	17	10	9	25	18	131	4	53	52	16	109
NEFS 9	19	51	8	3,317	2,599	223	41	16	36	118	69	202	19	105	922	214	1,133
NEFS 10	0	1	7	49	38	38	0	1	14	11	12	0	57	3	33	21	124
NEFS 11	1	2	34	11	9	93	0	0	8	25	14	0	13	0	200	159	1,607
NEFS 12	1	2	8	28	22	32	0	0	27	6	4	0	49	1	23	10	147
NEFS 13	18	47	3	5,934	4,650	32	56	39	30	103	68	110	19	97	436	72	467
New Hampshire Permit Bank	0	0	3	0	0	1	0	0	0	0	0	0	0	0	2	3	20
Sustainable Harvest Sector 1	4	10	17	744	583	144	2	1	11	78	32	36	30	5	619	283	1,298
Sustainable Harvest Sector 2	0	1	1	118	93	2	4	4	3	9	5	3	6	6	27	11	47
Sustainable Harvest Sector 3	24	63	26	8,826	6,917	971	18	14	29	350	187	84	32	101	3,886	1,124	4264
Sectors Total	143	378	271	29,295	22,959	2,985	160	151	326	1,196	718	615	607	515	10,126	3,331	17,704
Common Pool	3	7	9	194	152	32	2.37	32	14	21	16	5	32	62	56	25	113

*The data in this table are based on final fishing year 2017 sector rosters.

#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.

Sector Carryover From Fishing Year 2016 to Fishing Year 2017

We completed 2016 fishing year data reconciliation with sectors and determined final 2016 fishing year sector catch and the amount of allocation that sectors may carry over from the 2016 to the 2017 fishing year. Table 13 includes the maximum amount of allocation that sectors may carry over from the 2016 to the 2017 fishing year. With the exception of GB yellowtail flounder, a sector may carry over up to 10 percent of unused ACE for each stock from the end of 2016 to 2017, but may not exceed the ABC for each stock. The unused ACE that is carried over is adjusted down when necessary to ensure the combined carryover of unused ACE and the sector sub-ACL do not exceed each stock's ABC. This is the sector's available carryover for fishing year 2017.

Table 14 includes the *de minimis* amount of carryover for each sector for the 2017 fishing year that is used to determine when accountability measures are required. If the overall ACL for any allocated stock is exceeded for the 2017 fishing year, any available carryover harvested by a sector, minus the sector's *de minimis* amount, will be counted against its allocation to determine whether an overage subject to an accountability measure occurred. Tables 15 and 16 list the final ACE available to sectors for the 2017 fishing year, including final carryover amounts for each sector, as adjusted down when necessary to equal each stock's ABC.

Table 13. Finalized Carryover ACE from Fishing Year 2016 to Fishing Year 2017 (lb)[1]

	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	-	7,436	1,612	-	398,369	9,980	-	108	1,322	2,117	1,362	12	10,687	391	35,952	22,928	157,294
MCCS	-	248	3,592	-	2,679	15,227	-	226	403	16,380	3,973	3	1,471	254	37,606	23,304	123,141
NCCS	-	176	403	-	8,653	2,090	-	211	350	302	52	23	1,067	229	5,875	3,436	10,924
NEFS 1	-	0	2	-	0	2	-	0	2	5	1	0	3	0	0	0	0
NEFS 2	-	2,255	11,851	-	668,654	94,577	-	386	8,623	0	5,238	1,422	15,350	2,813	194,007	27,752	274,478
NEFS 3	-	473	7,522	-	6,218	40,290	-	19	3,093	1,322	1,453	6	6,122	334	11,759	14,385	105,315
NEFS 4	-	3,644	1,585	-	335,211	44,053	-	691	1,447	11,285	4,287	306	4,955	279	0	32,243	130,597
NEFS 5	-	225	0	-	53,812	19	-	6,852	49	561	186	60	19	10,847	282	458	1,034
NEFS 6	-	2,018	1,826	-	183,697	20,538	-	1,549	1,626	5,472	4,245	667	3,615	1,557	68,494	15,665	70,061
NEFS 7	-	1,229	496	-	84,979	3,144	-	726	987	1,600	764	568	1,890	645	4,603	2,233	9,633
NEFS 8	-	6,330	98	-	383,886	428	-	1,534	1,274	4,740	2,119	9,395	562	7,248	7,141	2,056	13,556
NEFS 9	-	6,464	1,860	-	706,470	39,361	-	2,564	4,621	21,006	6,771	14,442	2,334	14,418	116,742	25,525	134,829
NEFS 10	-	333	1,490	-	10,328	7,266	-	156	1,979	2,386	1,235	4	7,318	401	4,192	2,490	14,778
NEFS 11	-	389	7,652	-	2,338	16,251	-	5	621	2,520	1,666	1	1,684	14	25,412	18,930	191,011
NEFS 12	-	544	383	-	5,907	5,566	-	3	3,460	1,090	464	0	6,073	175	1,784	1,181	17,485
NEFS 13	-	10,211	302	-	1,253,586	5,530	-	6,181	3,703	18,137	0	7,893	2,392	13,294	54,612	8,277	54,953
SHS1	-	3,214	4,117	-	193,578	31,318	-	175	2,256	5,281	3,176	785	5,641	1,012	84,589	37,991	176,681
SHS2	-	132	184	-	25,237	387	-	660	203	863	503	123	1,052	530	0	1,341	5,660
SHS3	-	16,398	6,669	-	1,915,469	184,799	-	2,195	3,653	46,019	21,136	6,169	2,713	13,892	528,619	150,015	576,497
Grand Total	-	61,719	51,644	-	6,239,071	520,826	-	24,241	39,672	141,086	58,631	41,879	74,948	68,333	1,181,669	390,210	2,067,927

[1]GB cod and GB haddock ACE are carried over as Western ACE of the respective stock to comply with the U.S./Canada sharing agreement. Similarly, GB yellowtail flounder cannot be carried over. Therefore, there is no carryover for Eastern GB cod and haddock, denoted by a "-".

Table 14. *De Minimis* Carryover ACE from Fishing Year 2016 to Fishing Year 2017 (lb)[1]

	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	-	3,350	184	-	60,981	1,371	-	15	230	269	348	4	1,915	302	6,261	4,325	31,507
MCCS	-	113	588	-	2,679	4,223	-	53	244	2,660	1,209	3	438	192	13,368	7,768	41,955
NCCS	-	47	130	-	3,379	1,019	-	29	143	164	52	7	302	91	2,243	1,449	6,920
NEFS 1	-	0	2	-	0	2	-	0	2	2	1	0	3	0	0	0	0
NEFS 2	-	685	1,141	-	102,574	11,357	-	72	1,478	0	2,137	438	2,644	452	33,327	4,772	44,731
NEFS 3	-	86	612	-	486	4,530	-	3	457	556	273	2	984	53	1,692	2,398	15,566
NEFS 4	-	487	656	-	51,454	5,719	-	97	455	2,522	1,409	95	979	166	0	5,987	24,961
NEFS 5	-	56	0	-	7,843	2	-	865	15	116	91	60	2	1,548	33	70	167
NEFS 6	-	336	183	-	28,146	2,555	-	218	281	1,045	842	206	642	250	11,922	2,898	12,984
NEFS 7	-	147	50	-	13,006	393	-	102	170	199	151	175	336	104	801	413	1,785
NEFS 8	-	763	10	-	57,191	45	-	216	195	561	395	2,891	96	1,158	1,138	345	2,409
NEFS 9	-	1,541	186	-	108,123	4,917	-	361	797	2,607	1,523	4,449	415	2,317	20,320	4,722	24,987
NEFS 10	-	40	145	-	1,583	829	-	23	301	250	274	1	1,261	63	730	455	2,734
NEFS 11	-	48	756	-	358	2,048	-	1	177	552	313	0	293	3	4,411	3,499	35,420
NEFS 12	-	74	184	-	904	695	-	0	597	135	92	0	1,079	28	515	219	3,240
NEFS 13	-	1,425	56	-	193,422	699	-	869	664	2,279	0	2,435	429	2,143	9,615	1,591	10,288
SHS1	-	313	369	-	24,260	3,170	-	13	242	1,720	704	784	658	106	13,639	6,228	28,616
SHS2	-	34	18	-	3,863	48	-	93	63	192	99	63	131	143	0	247	1,041
SHS3	-	1,925	568	-	287,713	21,407	-	307	643	7,710	4,132	1,849	703	2,236	85,674	24,779	93,994
Grand Total	-	11,470	5,838	-	947,965	65,029	-	3,337	7,154	23,539	14,045	13,462	13,310	11,355	205,689	72,165	383,305

[1]GB cod and GB haddock ACE are carried over as Western ACE of the respective stock to comply with the U.S./Canada sharing agreement. Similarly, GB yellowtail flounder cannot be carried over. Therefore, there is no carryover for Eastern GB cod and haddock, denoted by a "-".

Table 15. Total ACE Available to Sectors in Fishing Year 2017 with Finalized Carryover (mt)

	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	42	114	9	1,300	1,647	67	0	1	11	13	16	0	92	14	300	207	1,500
MCCS	1	4	28	197	223	198	3	2	11	128	57	4	21	9	623	363	1,959
MPB	0	1	3	9	10	34	0	0	1	14	5	0	3	0	84	55	298
NCCS	1	2	6	72	85	47	1	1	7	8	9	0	14	4	104	67	319
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	9	24	57	2,187	2,769	558	3	3	71	113	99	21	127	22	1,600	229	2,153
NEFS 3	1	3	31	10	15	224	0	0	22	26	13	0	47	3	82	115	754
NEFS 4	6	18	30	1,097	1,389	279	4	5	21	119	66	4	47	8	684	286	1,191
NEFS 5	1	2	0	167	213	0	2	42	1	6	4	3	0	75	2	3	8
NEFS 6	4	12	9	600	760	125	4	11	13	50	40	10	31	12	572	139	621
NEFS 7	2	5	2	277	351	19	6	5	8	10	7	8	16	5	38	20	85
NEFS 8	10	28	0	1,219	1,549	2	17	10	9	28	19	135	5	56	55	17	115
NEFS 9	19	54	9	2,305	2,920	241	41	18	38	128	72	208	20	112	975	226	1,195
NEFS 10	0	1	7	34	43	41	0	1	15	12	13	0	61	3	35	22	131
NEFS 11	1	2	38	8	10	100	0	0	8	26	15	0	14	0	212	167	1,693
NEFS 12	1	3	9	19	24	34	0	0	29	7	4	0	52	1	24	10	155
NEFS 13	18	51	3	4,123	5,219	34	56	42	32	112	68	114	21	103	461	76	492
NHPB	0	0	3	0	0	1	0	0	0	0	0	0	0	0	2	3	20
SHS1	4	12	19	517	671	158	2	1	12	80	33	36	32	5	657	300	1,378
SHS2	0	1	1	82	104	2	4	5	3	9	5	3	6	7	27	12	50
SHS3	24	71	29	6,133	7,786	1,055	18	15	31	371	197	87	33	108	4,126	1,192	4,525
Grand Total	143	406	295	20,357	25,789	3,221	160	162	344	1,260	744	634	641	546	10,662	3,508	18,642

Table 16. Total ACE Available to Sectors in Fishing Year 2017 with Finalized Carryover (1,000 lb)

	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	92	250	20	2,866	3,631	147	0	2	24	29	36	0	202	31	662	455	3,308
MCCS	3	8	62	434	492	438	6	5	25	282	125	9	45	19	1,374	800	4,319
MPB	0	1	7	20	23	75	0	0	2	31	12	0	6	0	184	121	656
NCCS	1	4	13	159	188	104	3	3	15	17	20	1	31	9	230	148	703
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
NEFS 2	19	52	126	4,821	6,105	1,230	7	8	156	250	219	45	280	48	3,527	505	4,748
NEFS 3	2	7	69	23	32	493	0	0	49	57	29	0	105	6	181	254	1,662
NEFS 4	13	39	67	2,418	3,062	616	8	10	47	263	145	10	103	17	1,509	631	2,627
NEFS 5	2	4	0	369	469	0	5	93	2	12	9	6	0	166	4	7	18
NEFS 6	9	26	20	1,323	1,675	276	10	23	30	110	88	21	68	27	1,261	305	1,368
NEFS 7	4	12	5	611	774	42	12	11	18	21	16	18	35	11	85	44	188
NEFS 8	21	62	1	2,688	3,415	5	38	23	21	61	42	298	10	123	121	37	254
NEFS 9	42	118	21	5,081	6,437	531	90	39	84	282	159	459	44	246	2,149	498	2,633
NEFS 10	1	3	16	74	94	90	0	2	32	27	29	0	133	7	77	48	288
NEFS 11	1	4	83	17	21	221	0	0	18	58	33	0	31	0	466	369	3,733
NEFS 12	2	6	19	42	54	75	0	0	63	15	10	0	114	3	53	23	342
NEFS 13	39	114	6	9,090	11,506	75	124	93	70	246	150	251	45	228	1,016	167	1,084
NHPB	0	0	7	0	0	2	0	0	0	1	0	0	1	0	4	6	44
SHS1	9	26	41	1,140	1,479	348	3	1	26	177	74	79	71	12	1,448	661	3,038
SHS2	1	3	2	182	230	5	8	10	7	20	10	6	14	15	59	26	110
SHS3	53	156	63	13,522	17,165	2,326	40	33	68	817	434	191	73	238	9,096	2,628	9,976
Grand Total	316	894	649	44,880	56,854	7,101	353	358	758	2,777	1,641	1,397	1,413	1,204	23,507	7,734	41,098

BILLING CODE 3510–22–C

9. Fishing Year 2017 Annual Measures Under Regional Administrator Authority

Northeast Multispecies FMP regulations give us authority to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special Management Programs on an annual basis, or as needed. This action implements a number of these management measures for fishing year 2017. These measures are not part of Framework 56, and were not specifically proposed by the Council. We are implementing them in conjunction with Framework 56 measures in this action for efficiency purposes, and because they relate to the catch limits considered in Framework 56.

Witch Flounder and American Plaice Common Pool Trip Limits

As discussed above in section ''4. Catch Limits for Fishing Years 2017–2019,'' this action implements an increase to the witch flounder ABC for fishing year 2017. We are adjusting the common pool trip limits for witch flounder and American plaice in response to this increase, after considering changes to the common pool sub-ACLs and sector rosters from 2016 to 2017, trimester TACs for 2017, catch rates of witch flounder and American plaice from previous years, and other available information. Table 17 details the witch flounder for fishing year 2017 implemented. The common pool trip limits for all other groundfish stocks remain the same as those implemented on May 1, 2017, and are described in the information sheet available here: *https://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/multipossessionlimits.pdf.*

TABLE 17—COMMON POOL TRIP LIMITS FOR FISHING YEAR 2017

Stock	Current 2017 trip limit	New 2017 trip limit
Witch Flounder	150 lb (68 kg)/trip	400 lb (181 kg)/trip.
American Plaice	1,000 lb (454 kg)/trip	500 lb (227 kg)/trip.

Closed Area II Yellowtail Flounder/Haddock Special Access Program

This action allocates zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2017. Common pool vessels can still fish in this SAP in 2017 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels are not allowed to fish in this SAP using flounder trawl nets. This SAP is open from August 1, 2017, through January 31, 2018.

We have the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. The FMP specifies that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (or 2,250,000 lb (1,020,600 kg)). This calculation accounts for the projected catch from the area outside the SAP. Based on the fishing year 2017 GB yellowtail flounder groundfish sub-ACL of 363,763 lb (165,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2017 GB yellowtail flounder allocation.

10. Notice of Fishing Year 2017 Northern and Southern Windowpane Flounder Accountability Measures

Catch exceeded the total ACLs for both northern and southern windowpane flounder by more than 20 percent in fishing year 2015. If catch exceeds the ACL for either windowpane stock by more than 20 percent, we are required to implement the large AM area restrictions for each stock. The AM area restrictions require certain vessels to use approved selective gear types that reduce flatfish catch inside the AM areas during the 2017 fishing year. An overview of the windowpane AM is available here: *https://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/windowpaneaminfosheet.pdf.*

This final rule announces the implementation timeline for the 2017 northern and southern windowpane flounder AMs. In developing this timeline, we considered updated 2016 catch information for both windowpane flounder stocks, correspondence from the New England and Mid-Atlantic Councils prior to the proposed rule, and public comments on the proposed rule.

Northern Windowpane Flounder

Fishing year 2015 catch exceeded the total ACL for northern windowpane flounder by 36 percent. Because catch exceeded the ACL by more than 20 percent, the large northern windowpane flounder AM area (Figure 1) will take effect for all groundfish trawl vessels on August 1, 2017. Common pool and sector vessels fishing on a groundfish trip with trawl gear are required to use one of the approved selective gears when fishing inside the AM area (haddock separator trawl, Ruhle trawl, or rope separator trawl). Sectors cannot request an exemption from these AMs. There are no restrictions on common pool or sector vessels fishing with longline or gillnet gear.

Our preliminary estimates indicate that 85 mt of northern windowpane flounder was caught during the 2016 fishing year, which is 48 percent of the total 2016 ACL (177 mt) (Table 18). The regulations allow us to remove the northern windowpane flounder AM early if we determine that northern windowpane flounder catch remained below the ACL in the year immediately following an overage. This means that if we have implemented an AM in year 3 (2017) due to an overage in year 1 (2015), we can remove the AM if we determine that catch did not exceed the ACL in year 2 (2016). We do not typically finalize year-end data until several months into the fishing year, so the existing regulations only permit us to remove the AM on or after September 1. Thus, although we must implement the northern windowpane AM area on August 1, 2017, it will only be effective through August 31, 2017, because 2016 catch was below the ACL. Beginning on September 1, groundfish vessels will no longer be required to use approved selective gears when fishing inside the northern windowpane flounder AM area. We encourage vessels to continue to limit northern windowpane flounder catch during the 2017 fishing year, as an overage in 2017 would result in an AM in a future fishing year.

Table 18. Estimated Fishing Year 2016 Windowpane Flounder ACLs and Catch

Stock	OFL (mt)	ABC (mt)	Total ACL (mt)	Catch (mt and percent of ACL or sub-ACL)					
				Total		Groundfish Fishery	Scallop Fishery	State Waters	Other sub-Component
Northern windowpane flounder	243	182	177	85	48%	70%	-*	35%	35%
Southern windowpane flounder	833	623	599	495	82%	132%	54%	78%	87%

*For 2016, scallop fishery catch of northern windowpane flounder is counted toward the other sub-component.

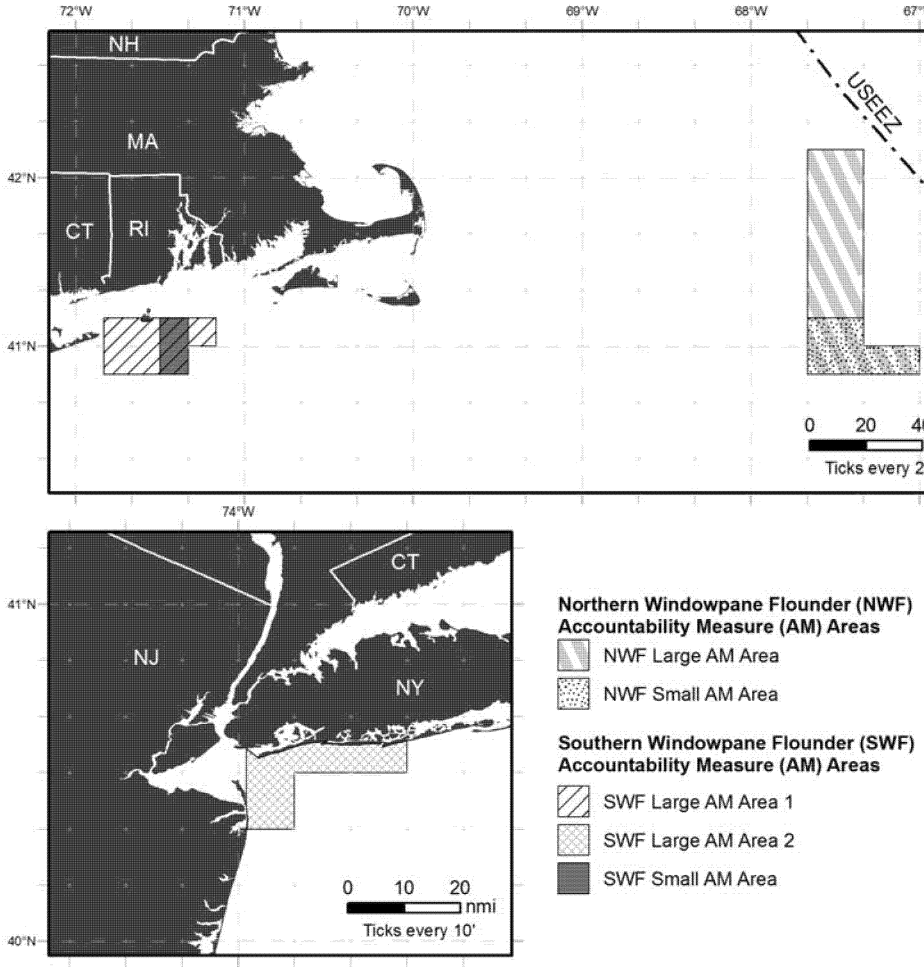
Southern Windowpane Flounder

Total 2015 catch exceeded the total ACL for southern windowpane flounder by more than 20 percent. Because the groundfish fishery, the scallop fishery, and the other non-groundfish fisheries all exceeded their respective sub-ACLs and catch exceeded the overall ACL by more than 20 percent, the large southern windowpane flounder AM areas (Figure 1) will take effect for all groundfish trawl vessels, and for non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12 cm) or greater on August 1, 2017. Common pool and sector vessels fishing on a groundfish trip with trawl gear, and non-groundfish trawl vessels fishing with a codend mesh size of 5 inches (12 cm) or greater, are required to use one of the approved selective gears when fishing inside the AM areas. Sectors cannot request an exemption from these AMs. There are no restrictions on common pool or sector vessels fishing with longline or gillnet gear. The scallop fishery AM will go into place for the entire month of February 2018. The AM requires additional restrictions for dredge gear in the area west of 71° W. longitude, excluding the Mid-Atlantic scallop access areas.

Our preliminary estimates indicate that 495 mt of southern windowpane flounder was caught during the 2016 fishing year, which is 82 percent of the total 2016 ACL (599 mt) (Table 18). As noted above for northern windowpane flounder, the regulations allow us to remove a windowpane AM early if we determine that catch remained below the ACL in the year immediately following an overage. We implemented the provision that allows us to reduce the duration of the AM under Framework 52 (80 FR 2021; January 15, 2015). The New England Council developed this provision, and another provision to reduce the size of the windowpane AMs, explicitly to mitigate the economic impacts of the windowpane flounder AMs and increase fishing opportunities for the groundfish fishery, while still preventing overfishing. Although the Framework 52 provisions to reduce the size and duration of the southern windowpane flounder AMs were not intended to apply to non-groundfish trawl vessels or the scallop fishery, the regulatory text for these provisions was ambiguous, and did not specifically state that the options to reduce the size or duration of the southern windowpane flounder AMs should only apply to the groundfish fishery. Based on correspondence with the New England Council prior to the Framework 56 proposed rule, we included a regulatory text correction in the Framework 56 proposed rule and in this final rule to clarify that these provisions only applied to the groundfish fishery. However, both the New England and Mid-Atlantic Fishery Management Councils requested that we use any and all remediation methods available to remove or modify the southern windowpane accountability measures for fishing year 2017. In support of their requests, the Councils pointed to the rebuilt status of the southern windowpane flounder stock, as well as the potential economic impacts of the large AM on the groundfish, scallop, and large-mesh non-groundfish fisheries. These requests, and the expected biological and economic implications of the large southern windowpane AM area, are discussed in the proposed rule.

The southern windowpane flounder AM areas will be effective until August 31, 2017, for all groundfish trawl vessels. However, we are not able to remove the southern windowpane AM areas for large-mesh non-groundfish vessels based on the existing regulations. We are considering an emergency rule to extend the Framework 52 provision to remove the AM areas for the large-mesh non-groundfish vessels as close to September 1, 2017, as possible. Beginning on September 1, 2017, groundfish trawl vessels will no longer be required to use approved selective gears when fishing inside the AM areas. We encourage vessels to continue to limit southern windowpane flounder catch during the 2017 fishing year, as an overage in 2017 would still result in an AM for a future fishing year. At its June 2017 meeting, the New England Council recommended analyzing revisions to the large-mesh non-groundfish fishery AMs in Framework 57 to the Northeast Multispecies FMP, which has an intended implementation date of May 1, 2018. The Mid-Atlantic Council has offered analytic support for potential revisions. The revisions may include the extension of the Framework 52 provisions to reduce the size or duration of the southern windowpane flounder AM areas to large-mesh non-groundfish fisheries, or other modifications to the size, location, duration, or trigger for the windowpane flounder AMs. We will work with the Councils to ensure that revisions to the windowpane AMs maintain conservation benefits to the windowpane flounder stocks while still allowing the affected fisheries to achieve optimum yield.

Figure 1. Northern and Southern Windowpane Flounder Accountability Measure Areas



11. Regulatory Corrections Under Regional Administrator Authority

The following changes are being made using Magnuson-Stevens Act section 305(d) authority to clarify regulatory intent, correct references, inadvertent deletions, and other minor errors.

This rule clarifies the regulatory text regarding net obstruction or constriction in § 648.80 to improve enforceability.

This rule removes § 648.85(d), which describes the now obsolete haddock incidental catch allowance for some Atlantic herring vessels as a special access program within the Northeast multispecies fishery. The haddock incidental catch allowances were codified in the regulations at § 648.90(a)(4)(iii)(D) as midwater trawl sub-ACLs for the GOM and GB haddock stocks when we implemented ACLs and AMs in Amendment 16. This rule removes the references to § 648.85(d) throughout the regulations, and replaces them with the reference to the haddock mid-water trawl sub-ACLs.

This rule clarifies the regulatory text that describes the windowpane flounder and ocean pout accountability measures in § 648.90.

Comments and Responses on Measures Proposed in the Framework 56 Proposed Rule

We received nine comments during the comment period on the Framework 56 proposed rule, which included comments on the windowpane flounder AMs that were described in conjunction with the proposed Framework 56 measures. Public comments were submitted by the New England Council, the Mid-Atlantic Council, two commercial fishing organizations (the Northeast Seafood Coalition (NSC) and the Maine Coast Fishermen's Association (MCFA)), one commercial fisherman, and four individuals. Responses to the comments received are below, and, when possible, responses to similar comments on the proposed measures have been consolidated.

Witch Flounder Status Determination Criteria

Comment 1: A private citizen supported disapproval of the New England Council's proposed status determination criteria for witch flounder. The commenter noted that it is problematic to have no objective criteria to measure stock status, and questioned whether, in the absence of criteria, the fishing industry could rewrite the standards to favor overfishing.

Response: We are disapproving the New England Council's proposed status determination criteria for witch flounder because the Magnuson-Stevens Act requires us to maintain these criteria. The National Standard Guidelines require each FMP to specify objective and measurable status determination criteria that enable us to monitor stock status. When data are

unavailable to specify status determination criteria based on maximum sustainable yield (MSY) or MSY proxies, the Council and NMFS may use alternative approaches to monitor stock status that ensure sustainability. In the absence of alternative SDCs, we intend to maintain the existing criteria until we and the Council are able to generate SDCs based on the empirical swept-area biomass approach or alternative approaches.

The commenter's suggestion that the fishing industry could rewrite the standards to favor overfishing is unclear. We and the Council work together to set objective standards, or status determination criteria, to determine whether overfishing is occurring. These criteria are developed and implemented through management actions that formally incorporate the criteria in the FMP, and it is not possible for external parties to set their own, or different, criteria for determining stock status.

Comment 2: The New England Council and NSC opposed disapproval of the Council's proposed status determination criteria of unknown. The Council expressed concern that maintaining the status determination criteria from the 2008 assessment ignores nearly a decade of catch and survey data, and should not be considered the best scientific information available. The Council notes that its recommendation is based on advice from the peer review panel and the SSC, and that we did not provide justification for rejecting the conclusions of these scientific groups. Finally, the Council noted that it is not possible to develop status determination criteria for witch flounder as part of the 2017 groundfish operational assessments, as this type of analysis is outside of the terms of reference for this assessment, and is usually reserved for benchmark assessments or the research track.

In its comment, the NSC questioned our interpretation that the Council intended to change the Amendment 16 status determination criteria. The NSC explained that the Council's recommended stock status is ''unknown'' not because there are no measurable and objective criteria, but because there are currently no numerical estimates of fishing mortality or relative biomass to these reference points.

Response: As described earlier in this preamble, we are disapproving the Council's proposed change to the existing status determination criteria. In the absence of new status determination criteria from the 2016 witch flounder benchmark assessment, this action maintains the existing status determination criteria. However, because a stock assessment model is lacking, it is not possible to calculate numerical estimates of these criteria.

We are maintaining the witch flounder SDCs put in place in Amendment 16, until the criteria can be replaced by suitable SDCs, or reference points from a model-based assessment. The rejection of the assessment models left insufficient time to fully develop replacement SDCs or proxies in this action. As discussed in the assessment summary report, the witch flounder age-structured model assessments, while scientifically well thought out, had issues that led the peer review panel to conclude that they should not be used for management or stock status determination purposes. The assessment working group developed the swept-area biomass approach as part of its deliberations, and the peer review panel ultimately recommended that alternative approach for catch advice. The peer review panel focused the majority of its review on the age-structured models for witch flounder. The panel did not have time to fully review the swept-area biomass approach under the assessment terms of reference, which include the update or redefinition of status determination criteria or proxies.

We agree with the Council that we cannot establish new SDCs for witch flounder as part of the 2017 Groundfish Operational Assessments. Developing SDCs is a lengthy process best addressed as part of a benchmark assessment, or as part of a peer review process outside of the assessment cycle dedicated specifically to developing SDCs. We recognize that developing new SDCs for witch flounder may also be challenging because there is no longer an analytical stock assessment model to provide historical estimates of biomass, fishing mortality rates, or recruitment. There are unlikely to be benchmark assessments for the suite of groundfish stocks that now have either unknown or inappropriate SDCs. Given this, we will work with the Council to develop a plan for establishing new SDCs, including consideration of establishing simple SDCs, for example, an annual comparison of catch to the OFL to determine if overfishing is occurring.

Following the 2017 operational assessment updates, we will work with the Council to consider a standard protocol to apply in similar situations. For example, the FMP could specify that alternative, simplified criteria would automatically take the place of the model-based SDCs if groundfish assessments fail in the future, but would be replaced by model-based or other appropriate SDCs whenever they are available.

The NSC is incorrect regarding the Council's intent for changing the status determination criteria in Framework 56. The Environmental Assessment for Framework 56 describes that the preferred alternative would remove the existing status determination criteria, namely, F at 40 percent of maximum spawning potential, or the maximum fishing mortality threshold (MFMT), and ½ the target biomass associated with F at maximum spawning potential, or minimum stock size threshold (MSST). The criteria, and associated numerical estimates from the criteria, would instead be listed as unknown.

Comment 3: The New England Council commented that the witch flounder ABC should be a proxy for the OFL and provides one objective measure for stock status.

Response: In a January 13, 2017, memo to the SSC, the Groundfish PDT presented a number of candidate OFLs based on applying a range of exploitation rates in the swept-area biomass approach. However, the SSC recommended that the OFL was unknown, and determined that the result presented from swept-area biomass approach was appropriate as an ABC. The New England Council adopted the SSC's recommendation, and included an OFL of ''unknown'' in the final Framework 56 document submitted to us. If the Council intended for NMFS to use the ABC as a proxy for the OFL, it could have set the OFL at 878 mt, similar to the PDT recommendation, and then applied the Northeast Multispecies FMP's ABC control rule to derive a more conservative ABC.

The ABC cannot be an official proxy for the OFL. Nonetheless, as the Council suggests, in the absence of a specific OFL, the ABC and ACL can provide some measure to ensure that overfishing does not occur. An OFL represents the highest level of catch that will not result in overfishing for a given year. Despite the absence of a specific OFL in this action, there is still a level of fishing mortality between the exploitable stock biomass level estimate (roughly 14,500 mt) and the specified ABC level (878 mt) generated in the swept-area biomass approach, that represents the OFL. As noted below, the consistency of this ABC with past ABCs for this stock, along with the relatively conservative exploitation rate that the peer review panel and SSC selected to derive the ABC, support our approval of the ABC

recommendation and a temporarily unknown OFL for witch flounder and determination that it should provide sufficient protection to stock biomass in the near term.

The recommended ABC is based on a recent period of relatively stable, yet low, biomass from 2005 to the present. The 878-mt ABC is similar to witch flounder ABCs (and corresponding OFLs) set during this period of stability (2010 ABC = 944 mt; 2013–2015 ABC = 783 mt). In each of these years, total witch flounder catch was below the ACL. Based on the swept-area biomass approach, catch limits in this range appear to have maintained stock biomass throughout this recent period. In the temporary absence of an OFL, given recent catch data and estimated trends in stock biomass, we have determined that this ABC is a sufficient to prevent overfishing consistent with the National Standard 1 guidelines.

Comment 4: Though it was not the subject of this rulemaking, the NSC, the New England Council, and one private citizen opposed our updated stock status determination for witch flounder (to maintain its overfished status and that its overfishing status is unknown). The NSC and the New England Council supported a witch flounder stock status of unknown for both overfished and overfishing, as recommended by the peer review panel of the 2016 witch flounder benchmark assessment. Both commented that NMFS provided no meaningful analysis, measurable or objective application of qualitative information, or legally relevant values for target stock biomass levels to make an overfished determination for witch flounder. The New England Council pointed to our characterization of witch flounder stock biomass in the proposed rule (''. . . the stock is at historical low levels. '') as a misquotation of the benchmark assessment report (''. . . low historical levels . . .''), and noted that this changes the meaning of the discussion in the benchmark assessment. The Council noted that the assessment report indicates that while the survey biomass is low, survey biomass was lower in the early 1990s, and has shown some improvement in recent years. Finally, the private citizen expressed general confusion about stock status determinations, and questioned how we could determine that the overfishing status was unknown if we determined that the stock was overfished.

Response: Our determinations for overfished and overfishing status are separate from this action, and are based on definitions in the National Standard 1 guidelines. An overfished determination relates to stock biomass, and means that the population size is too small, while an overfishing determination relates to the rate of fish removal from a stock, and means that the annual rate of catch is too high. After taking into account the best scientific information available, NMFS makes the final determination of stock status, and is not bound by the recommendation of the peer review panel or the SSC. NMFS reviews and makes these determinations annually as part of its requirements to report on the status of U.S. fisheries. More information on this process can be found here: *http://www.nmfs.noaa.gov/sfa/fisheries_eco/status_of_fisheries/.*

As stated in the proposed rule, the witch flounder stock was previously listed as subject to overfishing and overfished. Despite the rejection of the recent stock assessments for stock status purposes and lack of numerical estimates of stock size, there is qualitative information in the assessment that supports continuing to list the status as overfished and temporarily changing the overfishing status from subject to overfishing to unknown. This approach is consistent with a previous determination for GB yellowtail flounder where, even in the absence of a stock assessment model, available data and fishery indicators suggested the stock was still in poor condition and in need of continued rebuilding efforts.

For witch flounder, there are indications that the stock is still in poor condition that support maintaining the overfished determination. As stated in the proposed rule, these indicators include long-term declines in stock size, a truncation of age structure in the fishery landings and survey catch data, and a reduction in the number of old fish in the population (Figures B3–B6 in the witch flounder assessment summary, available here: *https://www.nefsc.noaa.gov/publications/crd/crd1701/crd1701.pdf).*

We agree that text in the proposed rule regarding witch flounder stock biomass is different than that in the assessment report. In certain cases, the misquotation could have changed the meaning of the discussion concerning the nature of the level of catch. Notwithstanding this possibility, and despite some improvement in recent years, the current estimated stock biomass can be characterized as low among historical levels. Based on the results of the 2016 assessment, population biomass estimates declined 86 percent when comparing the 5-year average biomass from 1967–1971 to the 5-year average biomass from 2011–2015. Though the 2011–2015 average is not the lowest in the time series, this figure is low compared to historical levels, and supports our determination to maintain stock status as overfished despite our inability to compare current estimates of stock biomass to valid reference points. Unlike the overfished status, for which we have reliable indicators of stock condition, we do not have reliable estimates for the overfishing status in the short term. Because a stock assessment model is lacking, numerical estimates of fishing mortality are not available to compare to the overfishing status criterion for stock. As a result, we determined that the overfishing status relative to the existing SDC is not currently possible, and that the overfishing status is unknown. However, while numerical estimates of fishing mortality and an absolute value for the OFL are not available, catch limits must be set with a sufficient probability of preventing overfishing. For witch flounder, catch for the last five years has been below the ACL, and has remained stable. As a result, and for other reasons discussed elsewhere in this preamble, we determined that the Council's recommended ABC is a sufficient limit for preventing overfishing in the temporary absence of an OFL, consistent with National Standard 1 guidelines.

Fishing Year 2017 Shared U.S./Canada Quotas, and Other Catch Limits

Comment 5: The NSC opposed the catch limits for GB yellowtail flounder and GB cod because these low catch limits threaten the viability of the scallop and groundfish fisheries and access to other U.S. managed stocks in the Eastern U.S./Canada Area. The NSC expressed concern that the Transboundary Resources Assessment Committee (TRAC) assessment did not adequately incorporate new information, including new catchability studies and changes to swept-area biomass calculations, that could increase the stock biomass estimates and catch limits.

Response: A number of ongoing studies relative to survey catchability were briefly discussed at the 2016 TRAC assessment for GB yellowtail flounder. This preliminary information suggested that survey catchability may be different than the current assumption used in the assessment. However, the TRAC concluded it was necessary to conduct additional analyses to determine a new value for survey catchability. As a result, this issue was included as a Term of Reference for the 2017 TRAC assessment, and the TRAC plans to consider recent catchability studies,

along with potential changes to the catchability assumptions used in the 2017 assessment. Additionally, although the 2016 TRAC concluded additional analysis was necessary, it recognized the uncertainty associated with the current catchability assumption, and conducted a sensitivity analysis to explore the impact of different values of survey catchability on the assessment. As the NSC noted in its comment, the analysis indicated that as survey catchability decreases, estimated biomass increases. However, as survey catchability decreases, the relative exploitation rate also decreases. Applying these lower exploitation rates then produces similar catch advice to the advice generated based on the current survey catchability assumption. Based on this analysis, the TRAC concluded that despite uncertainty in survey catchability, its catch advice would be the same regardless of the survey catchability assumed in the assessment.

Furthermore, the 2016 TRAC assessment noted a number of other factors that indicate GB yellowtail flounder is in poor condition. There is a continued declining trend in survey biomass in recent years despite historically low catch. Although recent catch is low, information indicates that there is still high total mortality on the stock, along with poor recruitment and productivity. Based on the poor condition of the stock, the TRAC and the Council's SSC have continued to recommend maintaining the quota as low as possible, while recognizing that fishery catch does not appear to be driving stock decline, and balancing the need to achieve optimum yield in other fisheries, including the scallop fishery.

Comment 6: The NSC commented that, when new information indicates a stock size is significantly larger than previously estimated, the choice of exploitation rate should be a policy decision for the Council, as opposed to a decision made through the stock assessment process.

Response: For stocks such as GB yellowtail flounder and witch flounder, for which a stock assessment model is lacking, catch advice is typically generated by applying an exploitation rate to estimates of biomass from resource surveys. In some cases, the assessment results may indicate a range of exploitation rates that may be an appropriate scientific basis for generating catch advice based on analysis conducted in the assessment and consideration of factors such as historical exploitation rates or other stock indicators. The Council's SSC considers the final peer reviewed assessment and makes OFL and ABC recommendations to the Council after determining the information in the assessment meets the guidelines for best scientific information available. In developing catch advice, the SSC would consider the most appropriate exploitation rate, based on the assessment results, that will result in catch levels that prevent overfishing. The SSC also considers additional Magnuson-Stevens Act requirements to achieve optimum yield and minimize economic impacts to the extent practicable. Once the SSC has recommended an ABC, the Council develops catch limits, but cannot exceed the SSC's ABC recommendation. In theory, once the appropriate exploitation rate necessary to prevent overfishing is selected, there are multiple opportunities for the SSC and the Council to provide additional input on the choice of an exploitation rate based on Council policies and other management considerations.

Comment 7: The NSC supported the proposed witch flounder catch limits, but commented that the catch limit, and the exploitation rate used to derive the catch limit in the swept-area biomass approach, were very conservative. MCFA also supported the proposed witch flounder catch limit, and commented that the previous lower catch limits constrained fishing on more abundant stocks and created economic incentives to avoid landing witch flounder.

Response: We are adopting the witch flounder catch limits proposed by the Council. We do not view the exploitation rate recommended by the SSC as overly conservative. The exploitation rate is derived from a period of relative stability in estimated witch flounder abundance. Given the uncertainty around witch flounder stock status, we have determined that the exploitation rate, and the corresponding ABC, are appropriate to prevent overfishing for this stock. Further, the 2017 witch flounder ABC is a 91-percent increase over the 2016 ABC. We expect this substantial increase from the 2016 ABC will provide additional flexibility and fishing opportunities for the groundfish fishery.

Comment 8: The NSC supported maintaining the values for the other and state waters sub-components for all stocks until the Council is able to conduct additional analysis and policy development.

Response: Consistent with the Council's recommendations, this action maintains the existing state and other sub-component amounts for dividing the ABC among various components of the fishery. In developing Framework 56, consistent with the process outlined in Amendment 16, the Groundfish PDT recommended changes to the 2017 and 2018 state waters and other sub-component values for all groundfish stocks. The PDT's recommendations were based on recent catch information, expected ACL changes, and management measures for 2016 and 2017, stock abundance and availability, and other information. The Council considered the PDT's recommendations, but decided to only make changes to the sub-component values for witch flounder and northern windowpane flounder to align these values with measures in Framework 56. For all other stocks, the Council maintained the 2017 and 2018 sub-component values adopted last year in Framework 55, which specified 2017 and 2018 ACLs. Instead, the Council listed review of groundfish catch in other fisheries, including a review of the process used to set the state water and other sub-components, as a priority for 2017. We expect the Groundfish PDT will develop an updated approach for specifying the sub-component values as part of Framework 57.

Comment 9: The New England Council identified an error in the Cape Cod/Gulf of Maine yellowtail flounder OFL in Table 2 the proposed rule. The value should be 900 mt, not 7,900 mt.

Response: We have corrected this error in Table 2 under section ''4. Catch Limits for Fishing Years 2017–2019.''

Comment 10: The Council also identified a transcription error for the total ACL for GB haddock in 2017 and 2018 in its Environmental Assessment for Framework 56. The values should be 54,568 mt in 2017 and 74,058 mt in 2018, as in the Proposed Rule in Table 3 (pp. 28452) and Table 4 (pp. 28453).

Response: The Council submitted a corrected version of the Environmental Assessment, which we have made available with this final rule. This error did not change the results of the analysis. Information on how to access the finalized version of the Environmental Assessment is included under the **ADDRESSES** section.

Revised Trigger for Scallop Accountability Measures

Comment 11: The NSC supported revising the trigger for scallop AMs for GB yellowtail flounder and northern windowpane flounder.

Response: We agree, and are implementing this measure as recommended by the Council.

Comment 12: The Council clarified its intent that the revised trigger for scallop AMs for GB yellowtail flounder and

northern windowpane flounder measures is a temporary change for fishing years 2017 and 2018 only, and that the underlying scallop AM implementation threshold will apply for evaluating overages in fishing year 2019 and beyond. The proposed rule incorrectly stated that the Council would evaluate the provision after 2018 to ensure the threshold was effectively constraining both scallop fishery catch and total mortality.

Response: We clarified the Council's intent in our description of the approved measure under section ''6. Revised Trigger for Scallop Accountability Measures.'' We note that the regulatory text in the proposed rule was clear that the threshold for implementing AMs for these stocks would revert to the previous policy in fishing year 2019.

GB Haddock Allocation for the Midwater Trawl Fishery

Comment 13: MCFA opposed the increase to the midwater trawl GB haddock catch limit, and instead supported maintaining the catch limit at the status quo level of 1 percent of the U.S. ABC. The MCFA commented that increasing the GB haddock allocation for a fishery with low accountability undermines conservation measures for the groundfish fishery. The MCFA also noted that, by allowing an increase in bycatch, more juvenile haddock will be caught as bycatch than at any other time in our recorded history.

Response: We are approving the recommended increase for the midwater trawl GB haddock catch limit. In evaluating this increase, we considered several competing mandates and considerations outlined in the Magnuson-Stevens Act. This included considering National Standard 1, which requires that FMPs prevent overfishing while achieving optimum yield; National Standard 8, which requires the consideration of the importance of the fisheries to communities and, to the extent practicable, minimize adverse impacts to these communities; and National Standard 9, which requires an FMP to reduce bycatch, to the extent practicable. As discussed in the Framework 46 final rule (September 15, 2011; 76 FR 56985), a rule that previously increased the midwater trawl GB haddock catch limit from 0.2 percent to 1 percent of the U.S. ABC, and supported by the Environmental Assessment for Framework 56, the recommended increase represents an acceptable balance of these standards. This measure increases the opportunity for the herring fishery to achieve optimum yield, while still preventing overfishing, and with no adverse impact to the health of the herring or haddock stocks.

Though the Council recommended increasing the catch limit for 2017 and 2018, it also established a process to re-evaluate this limit in future years, in concert with the assessment cycle, and specified that the catch limit can adjust as low as the status quo level of 1 percent, and as high as 2 percent. This review provides continued opportunities to evaluate this measure in light of any changes to the status of GB haddock or changes to the operation of the midwater trawl and groundfish fisheries.

The Council's analysis in the Framework 56 EA acknowledges that some portion of the catch caught by the mid-water trawl fishery would be immature (*i.e.,* pre-spawning age), as is the case now with the status quo allocation. However, the analysis notes that midwater trawl fishery catches in the range of 1 to 2 percent of the U.S. ABC would be a low risk to the GB haddock stock given the recent assessment findings that the stock is at record high biomass levels. The EA concluded that increasing the midwater trawl GB haddock catch cap up to 2 percent is likely to result in similar biological impacts to maintaining the catch cap at 1 percent. At the 1-percent level, the catch cap provides positive benefits to the GB haddock stock, compared to having no cap in place for the midwater trawl fishery, because it constrains midwater trawl fishery catch. Increasing the catch cap up to 2 percent should continue to provide positive benefits for the GB haddock stock particularly given the current abundance of the stock, and the wide gap between the total ACL and total catch (between 1 and 35 percent of total ACL from 2010–2015).

Recently, groundfish closed area restrictions for the midwater trawl fleet resulted in high levels of observer coverage (above roughly 30 percent coverage). Given the way observer coverage levels are set based on the groundfish closed area restrictions and the Standardized Bycatch Reporting Methodology (SBRM), there are times when observer coverage for the midwater trawl fleet has exceeded roughly 40 percent. In addition, the New England Council has been working in recent years to increase monitoring coverage for the herring fishery, and recently adopted an industry-funded monitoring program for vessels fishing with midwater trawl gear. In April 2017, the New England Council took final action on the Industry-funded Monitoring Amendment and recommended a 50-percent coverage target for the majority of midwater trawl vessels. We will begin the rulemaking process for the Industry-funded Monitoring Amendment in late 2017.

Further, the midwater trawl fleet is subject to an in-season closure of the directed herring fishery in the GB haddock AM area when the haddock catch cap is reached, as well as a pound-for-pound payback for any overages. During the 2015 fishing year, the midwater trawl fishery caught all of its allocation of GB haddock by October 22, 2015, and was subject to the AM until April 30, 2016. This possession restriction resulted in an estimated loss of $1.8 million in herring revenue during this time period. These AMs create a strong disincentive for the midwater trawl fleet to exceed its GB haddock catch limit, and, along with the New England Council's efforts to improve monitoring for this fishery, provide appropriate levels of accountability for the midwater trawl fishery. For all of these reasons, increasing the GB haddock catch cap meets the goal to achieve optimum yield and full utilization from the catch of herring, to promote the utilization of the resource in a manner which maximizes social and economic benefits to the nation, all while taking into account the protection of marine ecosystems including minimizing bycatch to the extent practicable.

Comment 14: Regarding the process for reviewing the GB haddock midwater trawl catch limit, the New England Council clarified that it could also consider other factors in addition to those listed in the preamble to the proposed rule.

Response: We agree with the Council's comment, and have clarified in our description of the approved measure under section ''7. Increase to Georges Bank Haddock Allocation for the Midwater Trawl Fishery'' that the review should consider factors including, *but not limited to,* groundfish fishery catch performance, utilization, status of the GB haddock resource, recruitment, incoming year-class strength, and the variability in the GB haddock incidental catch estimates for the Atlantic herring midwater trawl fishery. We note that the regulatory text in the proposed rule was clear that other factors could be considered.

Sector Measures for Fishing Year 2017

Comment 15: The NSC echoed the Northeast Sector Service Network's (NSSN) comments on the sector measures approved in the Fishing Year 2017 and 2018 Sector Operations Plans Interim Final Rule (82 FR 19618; April

28, 2017). NSSN's comment highlighted the difficulties posed by the delay in the Framework 56 rulemaking, including difficulties communicating temporary catch limits, and managing sector fishing activity, while the temporary catch limits are in place. The NSSN noted that it requested proactive discussions regarding temporary catch limits well in advance of the start of the fishing year, but that NMFS failed to provide complete information about the temporary limits until the final month before the start of the fishing year on May 1, 2017. The NSSN encouraged NMFS to adopt more proactive steps to ensure information about default measures is available well in advance of the fishing year.

Response: The timing of the witch flounder assessment, as well as having 2017 catch limits for 18 of the 20 stocks, and default measures for the remaining 2 stocks, delayed the rulemaking process for Framework 56. Throughout development of Framework 56, the Groundfish PDT and NMFS cautioned that incorporating the witch flounder assessment results would likely mean that Framework 56 would not be finalized in time for the start of the 2017 fishing year. Additionally, the Council did not submit Framework 56 to us for review until April 13, 2017, or 2 weeks prior to the start of fishing year 2017. On average, once the Council submits a framework action to us for review, it takes approximately 6 months to complete review of the document, as well as proposed and final rulemaking, and implement final approved measures.

Given the anticipated delays in the Framework 56 rulemaking, in advance of May 1, 2017, we provided sectors with data on both the status quo/default measures and a detailed description on the catch limits that would change if Framework 56 was approved. We recognize and agree that this situation was difficult to communicate and manage. In light of this year and in preparation for Framework 57, which will include 2018–2020 catch limits for all groundfish stocks based on the fall 2017 operational assessments, we will work with the Council and sectors to avoid a situation similar to what occurred this year.

2017 Northern Windowpane Flounder AM

Comment 16: The New England Council and the NSC opposed implementing the northern windowpane flounder AM area for groundfish vessels in response to the 2015 overage. Both stated that triggering the AM would be purely punitive because: (1) Despite the total ACL overage, the groundfish fishery only caught 75 percent of its sub-ACL in 2015; and (2) the Council addressed the operational issue that contributed to the 2015 and past overages by creating a scallop fishery sub-ACL in Framework 56. The commenters also cited the Framework 52 analysis, which estimated the economic impacts of the windowpane flounder AMs on the groundfish fishery averaged nearly $11 million from 2010–2012.

Response: We are approving the scallop fishery sub-ACL for northern windowpane flounder, and agree that this provision addresses an operational issue that contributed to ACL overages. Although scallop fishery catches contributed to a 2015 ACL overage, the regulations implementing the Northeast Multispecies FMP require us to trigger the groundfish fishery AM as a result of the overage. As a result, the groundfish fishery AM for northern windowpane flounder will be effective beginning August 1, 2017.

We are able to remove the northern windowpane flounder AM for the groundfish fishery for reasons unrelated to approval of the scallop fishery sub-ACL. As described elsewhere in this preamble, preliminary 2016 catch estimates indicate that total northern windowpane flounder catch was below the ACL. The regulations allow us to remove windowpane flounder AMs if catch is below the ACL in the year after an overage. Though the groundfish fishery will still be subject to the northern windowpane flounder AM temporarily, the expected economic impacts of the AM are greatly diminished by the limited timeframe the AM will be in effect.

2017 Southern Windowpane Flounder AM

Comment 17: The Mid-Atlantic Council and NSC opposed implementing the southern windowpane flounder AM areas. The Mid-Atlantic Council requested that we use any and all remediation methods available to exempt fisheries from the AM for one year. In support of its request, the Mid-Atlantic Council pointed to the apparent lack of biological consequences from past southern windowpane flounder ACL overages, as well as the potential negative economic impacts of the AMs on the summer flounder and scup fisheries. The NSC recommended that NMFS and the Councils should pursue short- and long-term solutions to this issue, including expedited processes to reduce catches, gear modifications, reassessment of the stock, and ecosystem component designation. To offer additional support for not implementing the southern windowpane flounder AM, the New England Council commented that it took action in Framework 48 to address the operational issues that contributed to southern windowpane flounder overages by creating sub-ACLs and AMs for both the scallop and non-groundfish fisheries.

Response: Regulations put in place in Framework 52 authorize us to remove the southern windowpane flounder AM for the groundfish fishery. Our preliminary 2016 catch estimate indicates that total southern windowpane flounder catch was below the ACL. The regulations allow us to remove windowpane flounder AMs if catch is below the ACL in the year after an overage. Though the groundfish fishery will still be subject to the southern windowpane flounder AM temporarily, the expected economic impacts of the AM are greatly diminished by the limited timeframe the AM will be in effect.

As described elsewhere in this preamble, the Council only developed measures in Framework 52 to reduce the size and duration of the windowpane flounder AMs for groundfish vessels. These provisions do not apply to the non-groundfish trawl vessels, including the summer flounder and scup fisheries, that are also subject to the AMs. Based on the updated 2016 catch information, we are considering an emergency action to extend the Framework 52 provision to reduce the duration of the AM to all trawl vessels.

We agree with the NSC that the Councils, should pursue changes to southern windowpane flounder management that prevent overfishing while mitigating economic impacts to Greater Atlantic Region fisheries. Both Councils are currently advancing several actions to this end. The New England Council's Research Steering Committee recently recommended approving using the large-mesh belly panel trawl as a selective gear type that can be used when the southern windowpane flounder AM is triggered. This gear type demonstrated a reduction in southern windowpane flounder without a reduction in scup catch. The Council is conducting additional analysis to determine if this gear meets the standards for selective gear, and if so, would formally recommend approval of this gear type to NMFS. As described elsewhere in this preamble, the New England and Mid-Atlantic Councils also are working to analyze revisions to the large-mesh non-groundfish fishery AMs in Framework

57. Last, through the Groundfish PDT and in response to inquiries from the Councils, we provided advice that southern windowpane flounder may be a candidate for re-designation as an ecosystem component species, and that this issue should be further explored. Re-designation would require an amendment to the Northeast Multispecies FMP, and possibly to other Greater Atlantic Region FMPs.

Finally, we agree with the New England Council's comment that, by creating sub-ACLs and AMs for all fisheries responsible for a substantial share of southern windowpane flounder catch, it addressed the operational issues that contributed to past overages. However, similar to northern windowpane flounder, this does not remove the requirement that we implement the southern windowpane flounder AM in response to the 2015 overage. This argument lends even less support for removing the 2017 AM for southern windowpane flounder than northern windowpane flounder. Unlike northern windowpane flounder, where the groundfish fishery is subject to an AM in spite of maintaining 2015 catch below its sub-ACL, all fisheries with sub-ACLs (groundfish, scallop, and non-groundfish) exceeded their 2015 sub-ACLs for southern windowpane flounder in 2015. This means that the groundfish, scallop, and non-groundfish fisheries should each bear responsibility for the overage under an AM.

Changes From the Proposed Rule

This final rule contains a number of minor adjustments from the proposed rule.

We corrected a typographical error in the 2018 Cape Cod/Gulf of Maine yellowtail flounder OFL. The proposed rule incorrectly listed the OFL as 7,900 mt instead of 900 mt. We also clarified our descriptions of the revised trigger for scallop fishery accountability measures, and the increase to the GB haddock allocation for the midwater trawl fishery, based on comments from the New England Council (see Comments 12 and 14).

In addition to adjusting the common pool trip limit for witch flounder, we are also adjusting the common pool trip limit for American plaice. Witch flounder and American plaice are caught together, and because we are increasing the witch flounder trip limit, we are reducing the American plaice trip limit to slow catch of American plaice. This will avoid early closures for the common pool fishery and help prevent overages.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the management measures implemented in this final rule are necessary for the conservation and management of the Northeast multispecies fishery and consistent with 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.

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

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 good cause, under 5 U.S.C. 553(d)(3), to waive the 30-day delayed effectiveness of this action. This action sets 2017 catch limits for 4 of the 20 groundfish stocks, and adopts several other measures to improve the management of the groundfish fishery. This final rule must be in effect by August 1, 2017, to fully capture the conservation and economic benefits of Framework 56 and sector administrative measures.

This rulemaking incorporates information from updated benchmark stock assessment for witch flounder. The development of Framework 56 was timed to incorporate the results of this assessment, which was finalized in December 2016. Council action and analysis were not complete until April 2017. The groundfish fishing years began on May 1, 2017, but given the late timing of the benchmark assessment and Council process, we were unable to publish a proposed rule for Framework 56 until June 22, 2017. The regulations allow us to implement default groundfish specifications equal to 35 percent of the previous year's catch limits in the event that the rulemaking process is delayed beyond the start of the fishing year. However, the regulations also specify that the default specifications expire after July 31, 2017. Once the default catch limits expire, any groundfish stock areas with stocks that do not have specified catch limits are closed to fishing activity. In order to have this action effective by August 1, 2017, the date by which default specifications expire, it is necessary to waive the 30-day delayed effectiveness of this rule.

Default groundfish specifications are currently in place for the Eastern GB cod and GB yellowtail stocks, and vessels have already restricted their fishing effort in the Eastern U.S./Canada area in response to the temporarily reduced catch limits for these stocks. A further delay in the implementation of 2017 catch limits for these stocks would mean that there are no catch limits in place for the Eastern U.S./Canada area, which would require us to close the Eastern U.S./Canada area until the final rule is published. This would result in direct economic loss for the groundfish fleet.

The groundfish fishery already faced substantial catch limit reductions for many key groundfish stocks over the past 6 years. Any further disruption to the fishery that would result from a delay in this final rule could create severe economic impacts to the groundfish fishery. Overall, this rule is not expected to have significant economic impacts on a substantial number of small entities if it is implemented on time. However, the negative economic impacts of implementing the default catch limits expiring on August 1 would 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.

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

The regulations at § 648.86(o) authorize the Regional Administrator to adjust the Northeast multispecies possession and trip limits for common pool vessels in order to prevent the overharvest or underharvest of the pertinent common pool quotas. The common possession and trip limits implemented through this action help to ensure that the Northeast multispecies common pool fishery may achieve the optimum yield (OY) for the relevant stocks, while controlling catch to help prevent inseason closures or quota overages. This action adjusts the common pool trip limit for American plaice related to changes in the common pool trip limit for witch flounder. Witch flounder and American place are caught together, and because we are increasing the witch flounder trip limit, we are reducing the American plaice trip limit to slow the catch of American plaice. If we increase the trip limit for witch

flounder without decreasing the trip limit for American plaice, American plaice catch will accelerate, which will likely lead to early closure of a trimester and quota overages. Any overage of catch must be deducted from the Trimester 3 quota, which could substantially disrupt the trimester structure and intent to distribute the fishery across the entire fishing year. An overage reduction in Trimester 3 would further reduce fishing opportunities for common pool vessels and likely result in early closure of Trimester 3. This would undermine management objectives of the Northeast Multispecies Fishery Management Plan and cause unnecessary negative economic impacts to the common pool fishery.

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 this 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 26, 2017.

Samuel D. Rauch III,

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

For the reasons stated 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 § 648.80, revise paragraphs (g)(1) and (g)(2)(i) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(g) *Restrictions on gear and methods of fishing*—(1) *Net obstruction or constriction.* Except as provided in paragraph (g)(5) of this section, a fishing vessel subject to minimum mesh size restrictions shall not use, or attach any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 in (7.6 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict, in any manner, the top of the trawl net. ''The top of the trawl net'' means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes are not considered part of the top of the trawl net.

(2) *Net obstruction or constriction.* (i) Except as provided in paragraph (g)(5) of this section, a fishing vessel may not use, or attach, any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (g)(1), subject to minimum mesh size restrictions, as defined in paragraph (g)(1) of this section, if it obstructs the meshes of the net in any manner.

* * * * *

§ 648.85 [Amended]

■ 3. In § 648.85, remove paragraph (d) and redesignate paragraph (e) as new paragraph (d).

§ 648.86 [Amended]

■ 4. In the table below, for each paragraph in the left column, remove the text from whenever it appears throughout the paragraph and add the text indicated in the right column.

Paragraph	Remove	Add	Frequency
§ 648.86(a)(3)(ii)(A)*(1)*	§ 648.85(d)	§ 648.90(a)(4)(iii)(D)	1
§ 648.86(a)(3)(ii)(A)*(4)*	§ 648.85(d)	§ 648.90(a)(4)(iii)(D)	1

■ 5. In § 648.90:
■ a. Revise paragraphs (a)(4)(iii)(D) and (E), and paragraph (a)(5)(i)(D)(*1*);
■ b. Add paragraph (a)(5)(i)(D)(*4*);
■ c. Amend paragraph (a)(5)(iii) by removing ''§ 648.85(d)'' and adding ''§ 648.90(a)(4)(iii)(D)'' in its place;
■ d. Revise paragraph (a)(5)(iv).

The additions and revisions read as follows:

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

* * * * *

(a) * * *

(4) * * *

(iii) * * *

(D) *Haddock catch by the midwater trawl Atlantic herring fishery. (1) Sub-ACL values.* The midwater trawl Atlantic herring fishery will be allocated sub-ACLs equal to 1 percent of the GOM haddock ABC, and 1.5 percent of the GB haddock ABC (U.S. share only), pursuant to the restrictions in § 648.86(a)(3). The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section. For the purposes of these sub-ACLs, the midwater trawl Atlantic herring fishery includes vessels issued a Federal Atlantic herring permit and fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3).

(2) GB haddock sub-ACL Review. Following an assessment of the total GB haddock stock, the Groundfish PDT will conduct a review of the sub-ACL and recommend to the Groundfish Committee and Council a sub-ACL for the midwater trawl Atlantic herring fishery of 1 and up to 2 percent of the GB haddock U.S. ABC. The sub-ACL review should consider factors including, but not limited to, groundfish fishery catch performance, expected groundfish fishery utilization of the GB haddock ACL, status of the GB haddock resource, recruitment, incoming year-class strength, and evaluation of the coefficient of variation of the GB haddock incidental catch estimates for the midwater trawl Atlantic herring fishery.

(E) *Windowpane flounder catch by the Atlantic sea scallop fishery.* The Atlantic sea scallop fishery, as defined in subpart D of this part, will be allocated sub-ACLs equaling 21 percent of the northern windowpane flounder ABC and 36 percent of the southern windowpane flounder ABC. The sub-ACLs will be set using the process for specifying ABCs and ACLs described in paragraph (a)(4) of this section.

* * * * *

(5) * * *

(i) * * *

(D) * * *

(*1*) *Windowpane flounder.* Unless otherwise specified in paragraphs (a)(5)(i)(D)(*1*)(*i*) and (*ii*) of this section, if NMFS determines the total catch exceeds the overall ACL for either stock

of windowpane flounder, as described in this paragraph (a)(5)(i)(D)(*1*), by any amount greater than the management uncertainty buffer up to 20 percent greater than the overall ACL, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. If the overall ACL is exceeded by more than 20 percent, the applicable large AM areas(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). If an overage of the overall ACL for southern windowpane flounder is a result of an overage of the sub-ACL allocated to exempted fisheries pursuant to paragraph (a)(4)(iii)(F) of this section, the applicable AM area(s) shall be in effect for any trawl vessel fishing with a codend mesh size of greater than or equal to 5 inches (12.7 cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3). If an overage of the overall ACL for southern windowpane flounder is a result of an overage of the sub-ACL allocated to the groundfish fishery pursuant to paragraph (a)(4)(iii)(H)(*2*) of this section, the applicable AM area(s) shall be in effect for any limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip. If an overage of the overall ACL for southern windowpane flounder is a result of overages of both the groundfish fishery and exempted fishery sub-ACLs, the applicable AM area(s) shall be in effect for both the groundfish fishery and exempted fisheries. If a sub-ACL for either stock of windowpane flounder is allocated to another fishery, consistent with the process specified at paragraph (a)(4) of this section, and there are AMs for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.,* the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to paragraph (a)(5) of this section exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

Point	N. latitude	W. longitude
Northern Windowpane Flounder and Ocean Pout Small AM Area		
1	41°10′	67°40′
2	41°10′	67°20′
3	41°00′	67°20′
4	41°00′	67°00′
5	40°50′	67°00′
6	40°50′	67°40′
1	41°10′	67°40′
Northern Windowpane Flounder and Ocean Pout Large AM Area		
1	42°10′	67°40′
2	42°10′	67°20′
3	41°00′	67°20′
4	41°00′	67°00′
5	40°50′	67°00′
6	40°50′	67°40′
1	42°10′	67°40′
Southern Windowpane Flounder and Ocean Pout Small AM Area		
1	41°10′	71°30′
2	41°10′	71°20′
3	40°50′	71°20′
4	40°50′	71°30′
1	41°10′	71°30′
Southern Windowpane Flounder and Ocean Pout Small Large AM Area 1		
1	41°10′	71°50′
2	41°10′	71°10′
3	41°00′	71°10′
4	41°00′	71°20′
5	40°50′	71°20′
6	40°50′	71°50′
1	41°10′	71°50′
Southern Windowpane Flounder and Ocean Pout Large AM Area 2		
1	(1)	73°30′
2	40°30′	73°30′
3	40°30′	73°50′
4	40°20′	73°50′
5	40°20′	(2)
6	(3)	73°58.5′
7	(4)	73°58.5′
8	[5] 40°32.6′	[5] 73°56.4′
1	(1)	73°30′

[1] The southernmost coastline of Long Island, NY, at 73°30′ W. longitude.

[2] The easternmost coastline of NJ at 40°20′ N. latitude, then northward along the NJ coastline to Point 6.

[3] The northernmost coastline of NJ at 73°58.5′ W. longitude.

[4] The southernmost coastline of Long Island, NY, at 73°58.5′ W. longitude.

[5] The approximate location of the southwest corner of the Rockaway Peninsula, Queens, NY, then eastward along the southernmost coastline of Long Island, NY (excluding South Oyster Bay), back to Point 1.

(*i*) *Reducing the size of an AM.* If the overall northern or southern windowpane flounder ACL is exceeded by more than 20 percent and NMFS determines that: The stock is rebuilt, and the biomass criterion, as defined by the Council, is greater than the most recent fishing year's catch, then only the respective small AM may be implemented as described in paragraph (a)(5)(i)(D)(*1*) of this section, consistent with the Administrative Procedure Act. This provision only applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip.

(*ii*) *Reducing the duration of an AM.* If the northern or southern windowpane flounder AM is implemented in the third fishing year following the year of an overage, as described in paragraph (a)(5)(i)(D) of this section, and NMFS subsequently determines that the applicable windowpane flounder ACL was not exceeded by any amount the year immediately after which the overage occurred (*i.e.,* the second year), on or after September 1 the AM can be removed once year-end data are complete. This reduced duration does not apply if NMFS determines during year 3 that a year 3 overage of the applicable windowpane flounder ACL has occurred. This provision only applies to a limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip.

* * * * *

(4) Ocean pout. Unless otherwise specified in paragraphs (a)(5)(i)(D)(*1*)(*i*) and (*ii*) of this section, if NMFS determines the total catch exceeds the overall ACL for ocean pout, as described in paragraph (a)(5)(i)(D)(*1*) of this section, by any amount greater than the management uncertainty buffer up to 20 percent greater than the overall ACL, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. If the overall ACL is exceeded by more than 20 percent, large AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, consistent with the Administrative Procedure Act. The AM areas for ocean pout are defined in paragraph (a)(5)(i)(D)(*1*) of this section, connected in the order listed by rhumb lines, unless otherwise noted. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in

§ 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6).

* * * * *

(iv) *AMs if the sub-ACL for the Atlantic sea scallop fishery is exceeded.* At the end of the scallop fishing year, NMFS will evaluate whether Atlantic sea scallop fishery catch exceeded the sub-ACLs for any groundfish stocks allocated to the scallop fishery. On January 15, or when information is available to make an accurate projection, NMFS will also determine whether total catch exceeded the overall ACL for each stock allocated to the scallop fishery. When evaluating whether total catch exceeded the overall ACL, NMFS will add the maximum carryover available to sectors, as specified at § 648.87(b)(1)(i)(C), to the estimate of total catch for the pertinent stock.

(A) *Threshold for implementing the Atlantic sea scallop fishery AMs.* If scallop fishery catch exceeds the scallop fishery sub-ACLs for any groundfish stocks in paragraph (a)(4) of this section by 50 percent or more, or if scallop fishery catch exceeds the scallop fishery sub-ACL by any amount and total catch exceeds the overall ACL for a given stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations.

(B) *2017 and 2018 fishing year threshold for implementing the Atlantic sea scallop fishery AMs for GB yellowtail flounder and Northern windowpane flounder.* For the 2017 and 2018 fishing years only, if scallop fishery catch exceeds either GB yellowtail flounder or northern windowpane flounder sub-ACLs specified in paragraph (a)(4) of this section, and total catch exceeds the overall ACL for that stock, then the applicable scallop fishery AM will take effect, as specified in § 648.64 of the Atlantic sea scallop regulations. For the 2019 fishing year and onward, the threshold for implementing scallop fishery AMs for GB yellowtail flounder and northern windowpane flounder will return to that listed in paragraph (a)(5)(iv)(A) of this section.

* * * * *

§ 648.201 [Amended]

■ 6. In § 648.201, amend paragraph (a)(2) by removing ''§ 648.85(d)'' and adding ''§ 648.90(a)(4)(iii)(D)'' in its place.

[FR Doc. 2017–16133 Filed 7–31–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151211999–6343–02]

RIN 0648–XF586

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Georges Bank Cod Trimester Total Allowable Catch Area Closure for the Common Pool Fishery

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

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Georges Bank (GB) Cod Trimester Total Allowable Catch Area to Northeast multispecies common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear for the remainder of Trimester 1, through August 31, 2017. The closure is required by regulation because the common pool fishery is projected to have caught 90 percent of its Trimester 1 quota for GB cod. This closure is intended to prevent an overage of the common pool's quota for this stock.

DATES: This action is effective July 28, 2017, through August 31, 2017.

FOR FURTHER INFORMATION CONTACT: Claire Fitz-Gerald, Fishery Management Specialist, (978) 281–9255.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The closure applies to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

As of July 27, 2017, the common pool fishery is projected to have caught approximately 90 percent of the Trimester 1 TAC (2.9 mt) for Georges Bank (GB) cod. Effective July 28, 2017, the GB Cod Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2017, to all common pool vessels fishing on a Northeast multispecies trip with trawl gear, sink gillnet gear, and longline/hook gear. The GB Cod Trimester TAC Area consists of statistical areas 521, 522, 525, and 561. The area reopens at the beginning of Trimester 2, on September 1, 2017.

If a vessel declared its trip through the Vessel Monitoring System (VMS) or the interactive voice response system, and crossed the VMS demarcation line prior to July 28, 2017, it may complete its trip within the Trimester TAC Area. A vessel that has set gillnet gear prior to July 28, 2017, may complete its trip by hauling such gear.

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

Weekly quota monitoring reports for the common pool fishery are on our Web site at: *http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, VMS catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

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

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

The regulations require the Regional Administrator to close a trimester TAC area to the common pool fishery when 90 percent of the Trimester TAC for a stock has been caught. Updated catch information only recently became available indicating that the common pool fishery is projected to have caught 90 percent of its Trimester 1 TAC for GB cod as of July 27, 2017. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent the immediate closure of the GB Cod Trimester TAC Area. This increases the likelihood that the common pool fishery