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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 150105004-5355-01]**

**RIN 0648-XE006**

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester Total Allowable Catch Area Closures for the Common Pool Fishery and Trip and Possession Limit Adjustment**

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

**ACTION:** Temporary rule; area closures and trip and possession limit adjustments.

**SUMMARY:** This action closes the Gulf of Maine cod Trimester Total Allowable Catch Area to all Northeast multispecies common pool vessels; the American plaice Trimester Total Allowable Catch Area to Northeast multispecies common pool trawl vessels; and the Cape Cod/Gulf of Maine yellowtail flounder Trimester Total Allowable Catch Area to Northeast multispecies common pool trawl and gillnet vessels, for the remainder of Trimester 1, through August 31, 2015. The closures are required by regulation because the common pool fishery has caught over 90 percent of its Trimester 1 quotas for Gulf of Maine cod, American plaice, and Cape Cod/Gulf of Maine yellowtail flounder. These closures are intended to prevent the overharvest of the common pool's allocation for these stocks. Because the common pool catch of American plaice and Cape Cod/Gulf of Maine yellowtail flounder is not limited to the

respective stocks' Trimester Total Allowable Catch Area, this action also reduces possession and trip limits for the American plaice and Cape Cod/Gulf of Maine yellowtail flounder stocks to zero for all common pool vessels through August 31, 2015, in order to prevent the overharvest of the common pool's allocation of both stocks from areas not closed by this action. The possession and trip limit for GOM cod was set to zero in a previous action.

**DATES:** This action is effective [*insert date of filing for public inspection at the Office of the Federal Register*], through August 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** Liz Sullivan, Fishery Management Specialist, 978-282-8493.

**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. In such cases, the Trimester TAC Area for a stock closes to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester.

The fishing year 2015 (May 1, 2015, through April 30, 2016) common pool sub-annual catch limit (sub-ACL) for Gulf of Maine (GOM) cod is 5.6 mt and the Trimester 1 (May 1, 2015, through August 30, 2015) TAC is 1.5 mt. Based on the most recent data, which include vessel trip reports, dealer reported landings, and vessel monitoring system information, we have determined that 114 percent of the Trimester 1 TAC was caught as of June 16, 2015. Therefore, effective [*insert date of filing for public inspection at the Office of the Federal Register*], the GOM Cod Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2015, to all common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The GOM cod Trimester TAC Area consists of statistical areas 513 and 514. The area will

reopen at the beginning of Trimester 2 on September 1, 2015.

The fishing year 2015 common pool sub-ACL for American plaice is 26.9 mt and the Trimester 1 TAC is 6.5 mt. Based on the most recent data, which include vessel trip reports, dealer reported landings, and vessel monitoring system information, we have determined that 106 percent of the Trimester 1 TAC was caught as of June 16, 2015. Therefore, effective [*insert date of filing for public inspection at the Office of the Federal Register*], the American plaice Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2015, to all common pool vessels fishing with trawl gear. The American plaice Trimester TAC Area consists of statistical areas 512, 513, 514, 515, 521, 522, and 525. The area will reopen at the beginning of Trimester 2 on September 1, 2015.

The fishing year 2015 common pool sub-ACL for Cape Cod (CC)/GOM yellowtail flounder is 21 mt and the Trimester 1 TAC is 7.3 mt. Based on the most recent data, which include vessel trip reports, dealer reported landings, and vessel monitoring system information, we have determined that 105 percent of the Trimester 1 TAC was caught as of June 16, 2015. Therefore, effective [*insert date of filing for public inspection at the Office of the Federal Register*], the CC/GOM yellowtail flounder Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2015, to all common pool vessels fishing with trawl and gillnet gear. The CC/GOM yellowtail flounder Trimester TAC Area consists of statistical areas 514 and 521. The area will reopen at the beginning of Trimester 2 on September 1, 2015.

The regulations at § 648.86(o) authorize the Regional Administrator to adjust the possession and trip limits for common pool vessels to prevent the overharvest or underharvest of the common pool quotas. Because the American plaice and CC/GOM yellowtail flounder closures described above only applies to select areas and gear types, and because both stocks'

Trimester TACs have been almost or already met, additional action is necessary to prevent further overage of the Trimester TACs that could occur in areas outside of the stock area closures. Therefore, the possession and trip limits for American plaice and CC/GOM yellowtail flounder are reduced to zero for all common pool vessels in all areas, effective [*insert date of filing for public inspection at the Office of the Federal Register*], through August 31, 2015. The possession and trip limits will return to previous levels at the beginning of Trimester 2, on September 1, 2015, unless otherwise determined.

If a vessel declared its trip through the vessel monitoring system (VMS) or interactive voice response system, and crossed the VMS demarcation line prior to [*insert date of filing for public inspection at the Office of the Federal Register*], it may complete its trip if it is within the Trimester TAC Areas, and it will not be subject to the new possession and trip limits. A gillnet vessel that has set gear prior to [*insert date of filing for public inspection at the Office of the Federal Register*], may complete its trip by hauling such gear.

Any overages of a trimester TAC will be deducted from Trimester 3, and any overages of the common pool's sub-ACL at the end of the fishing year will be deducted from the common pool's sub-ACL the following fishing year. Any uncaught portion of the Trimester 1 and Trimester 2 TAC will be carried over into the next trimester. Any uncaught portion of the common pool's sub-ACL may not be carried over into the following fishing year.

Weekly quota monitoring reports for the common pool fishery can be found on our website 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, vessel monitoring system 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 Trimester TAC Area closures are required by regulation in order to reduce the probability of the common pool fishery exceeding its sub-ACLs of GOM cod, American plaice, and CC/GOM yellowtail flounder. Any overages of the common pool's sub-ACLs would undermine conservation objectives and trigger the implementation of accountability measures that would have negative economic impacts on common pool vessels. The data and information showing that GOM cod, American plaice, and CC/GOM yellowtail flounder had exceeded 90 percent of the Trimester 1 TACs for these stocks only became available on June 16, 2015. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent NMFS from implementing the necessary Trimester TAC Area closures for GOM cod, American plaice, and CC/GOM yellowtail flounder in a timely manner, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan (FMP), and cause negative economic impacts to the common pool fishery.

Additionally, an overage in the American plaice and CC/GOM yellowtail flounder Trimester 1 TAC increases the probability of the common pool exceeding its sub-ACL of these stocks. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent NMFS from setting the possession and trip limit to zero for

American plaice in a timely manner, which could also undermine management objectives of the Northeast Multispecies FMP, and cause negative economic impacts to the common pool fishery. The possession and trip limit for GOM cod was set to zero in a previous action.

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

Dated: June 22, 2015

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Jennifer M. Wallace,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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