discussed in the Supplemental EA. Based on this additional analysis, NMFS derived the measures specified in Table 1.

NMFS is aware that the reduction in haddock possession limit is a substantial change in the fishery and was only discussed as a management concept during the RAP and Council meetings. NMFS sought to find measures that made use of as much of the Council's recommendations as possible and that were consistent with the non-binding prioritization in the proactive accountability measures language (§ 648.89(f)(3)), while mitigating impacts on the recreational fishery to the extent practicable. For example, the FY 2014 measures retain the 21-inch (53.34-cm) minimum fish size and Wave 5 (September–October 2014) closure recommended by the Council and supported in public comments during the Council proceedings. The measures also make use of a reduced haddock bag limit which is consistent with one of the Council's recommendations. The addition of a Wave 2 (March–April 2015) closure provides a median probability catch below the FY 2014 haddock recreational sub-ACL.

A benchmark stock assessment for GOM haddock is planned for June 2014. The results from this assessment should be available by late summer. NMFS will consider the results when available along with public comment on these interim measures and take appropriate action if warranted. While the outcome of the assessment cannot be predicted, part of the rationale for including a spring closure for haddock as opposed to an earlier closure is the possibility that the measures may be changed before the closure occurs.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a determination that this interim rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to waive the otherwise applicable requirements for both notice and comment rulemaking and a 30-day delay in effectiveness for this interim final action implementing FY 2014 recreational GOM cod and haddock management measures. As explained in further detail hereafter, the availability of information necessary to ensure that measures were in place for the May 1, 2014, start of the fishing year made it impracticable to provide prior notice-and-comment opportunity and a 30-day delay in effectiveness and still get the measures in place in a timely fashion. The measures being implemented by this interim final rule are substantial reductions from those in place for FY 2013. Fishing effort and catch are both strong in May and subsequent summer months. Delaying implementation of FY 2014 measures until sometime after May 1, 2014, could require the implementation of even more stringent measures with possibly more social and economic impacts to fishery participants to ensure limits on total catch for the year are not exceeded. Doing so would be contrary to the public interest and would undermine the intent of the rule. Development of measures was publicly discussed at a RAP and Council meeting in February 2014 and NMFS is soliciting public comment on the interim measures contained in this rule.

Recreational fisheries data are available from NMFS's MRIP survey program approximately 45 days after each 2-month sampling wave. The necessary information to evaluate FY 2013 fishery performance through October 2013 was not available until mid-December 2013. An initial evaluation of these data occurred shortly thereafter and NMFS notified the Council by letter on January 17, 2014, that the FY 2013 recreational sub-ACLs for both GOM cod and haddock had been exceeded and that NMFS intended to adjust FY 2014 measures in accordance with requirements in regulations for implementing accountability measures to address the overage. These requirements require that NMFS consult with the Council before setting new ACLs. As part of this consultation process for FY 2014, the Council had to convene its RAP and consider possible recommendations for NMFS. The earliest that the Council could consider these recommendations was at its February 25, 2014, meeting. The Council, in turn, forwarded recommendations to NMFS to consider as measures for FY 2014 that begins on May 1, 2014.

These timing-related issues paired with the need to complete analyses and the rulemaking processes make it impossible to propose recreational measures through notice-and-comment rulemaking before the start of the fishing year, May 1, 2014. By implementing these measures through an interim final rule, NMFS can provide some advance notice to the public, though less than 30 days, and receive comments on the interim final rule. These comments will be considered and any necessary changes to measures put forward in a final rule later in the fishing year.

For the reasons outlined, NMFS finds it impracticable and contrary to the public interest to provide prior opportunity to comment on FY 2014 recreational management measures and provide a 30-day delay in implementation. Therefore there exists good cause to waive both of those requirements.

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

This interim 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.

This interim final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

Dated: April 17, 2014.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2014–09140 Filed 4–21–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 648 and 697

[Docket No. 140106011–4338–02]

RIN 0648–BD88

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Framework Adjustment 51

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

ACTION: Final rule.

SUMMARY: NMFS has partially approved Framework Adjustment 51 to the Northeast Multispecies Fishery Management Plan (Groundfish FMP), and this final rule implements the approved measures. This action sets catch limits for groundfish stocks, revises the rebuilding programs for Gulf of Maine cod and American plaice, modifies management measures for yellowtail flounder, and revises management measures for the U.S./

Canada Management Area. Although not part of Framework 51, this action also sets fishing year 2014 trip limits for the common pool fishery and announces 2014 accountability measures for windowpane flounder. This action is necessary to respond to updated scientific information and achieve the goals and objectives of the Groundfish FMP. The approved 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: This final rule is effective on May 1, 2014.

FOR FURTHER INFORMATION CONTACT: Sarah Heil, Fishery Policy Analyst, phone: 978–281–9257.

SUPPLEMENTARY INFORMATION:

Background

The Groundfish FMP specifies management measures for 16 groundfish species in Federal waters off the New England and Mid-Atlantic coasts. Based on fish size, and the type of gear used to catch the fish, some of these species are managed as ''small-mesh species,'' and others are managed as ''large-mesh species.'' Small-mesh species include silver hake (whiting), red hake, offshore hake, and ocean pout. Of these species, silver hake (whiting), red hake, and offshore hake are managed under a separate small-mesh multispecies program. Large-mesh species include Atlantic cod, haddock, yellowtail flounder, American plaice, witch flounder, winter flounder, Acadian redfish, white hake, pollock, windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish. These large-mesh species are divided into 19 stocks based on their geographic distribution, and, along with ocean pout, are managed under the groundfish program.

The New England Fishery Management Council (Council) is required to set annual catch limits for each groundfish stock, along with accountability measures that help ensure the catch limits are not exceeded and, if they are, that help mitigate the overage. The Council develops annual or biennial management actions to set catch limits based on the best scientific information available and adjust management measures for the groundfish fishery that will help prevent overfishing, rebuild overfished stocks, and achieve optimum yield. For most groundfish stocks, the Council typically adopts catch limits for 3 years at a time. Although it is expected that the Council will adopt new catch limits every 2 years, specifying catch levels for a third year ensures there are default catch limits in place in the event that a management action is delayed. The Council sets catch limits annually for the three transboundary Georges Bank (GB) stocks that are jointly managed with Canada (GB yellowtail flounder, eastern GB cod, and eastern GB haddock), as described in more detail later in this preamble.

Last year, the Council adopted, and we partially approved, Framework 50, which set fishing year (FY) 2013–2015 catch limits for all groundfish stocks, except for white hake and the U.S./Canada stocks. The Council has now developed and adopted Framework 51 in order to respond to new stock assessment information for white hake and the shared U.S./Canada stocks. Based on updated information for other groundfish stocks, the Council has also adopted revised rebuilding programs for Gulf of Maine (GOM) cod and American plaice, as well as other changes to groundfish management measures that better meet the goals and objectives of the Groundfish FMP.

Disapproved Measures

1. Gulf of Maine Cod and American Plaice Rebuilding Plan Review Analysis

Framework 51 proposed to establish a rebuilding plan review analysis for GOM cod and plaice in conjunction with the revised rebuilding programs adopted in this final rule. The rebuilding plan review analysis will be triggered if the stock falls below its rebuilding trajectory, among other criteria, and is intended to investigate why rebuilding did not occur as expected. We are partially disapproving the proposed rebuilding plan review analysis to remove irrelevant portions of the measure and the regulatory provisions related to these parts of the review analysis.

Portions of the proposed rebuilding plan review were intended to consider extending the rebuilding programs for GOM cod and plaice to the maximum 10 years allowed under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Although these portions of the proposed measure were initially included because the Council was considering shorter rebuilding timelines for both stocks, the Council ultimately adopted, and we have approved, 10-year rebuilding programs for GOM cod and plaice. As a result, we noted in the proposed rule for this action that the portions of the proposed measure related to consideration of extending the rebuilding program to 10 years appeared to be irrelevant and redundant, and requested specific comments on these portions of the rebuilding plan review analysis. We received no public comments that specifically addressed our concerns, or demonstrated why these portions of the rebuilding plan review analysis for GOM cod and plaice were still necessary. In the absence of any justification for keeping these portions of the review analysis, we have determined that the provisions related to extending the rebuilding program to 10 years are not applicable or meaningful to this action and, as a result, is not consistent with National Standard 7 of the Magnuson-Stevens Act. Based on this determination, we have disapproved these portions of the rebuilding plan review analysis.

2. Revised Discard Estimation for Georges Bank Yellowtail Flounder

Framework 51 proposed to change the stratification of GB yellowtail flounder discards for sectors and calculate discards for two different areas: (1) Statistical area 522; and (2) statistical areas 525, 561, and 562 combined. Under the existing stratification (a single stratum for statistical areas 522, 525, 561, and 562), the Council was concerned that even if some sector vessels fished in areas on GB where little yellowtail flounder is caught, in order to reduce catch of GB yellowtail flounder, other vessels fishing on other parts of GB, with higher catch rates of yellowtail flounder, would impact the discard rate for the entire sector. As a result, creating separate strata for statistical area 522 and statistical areas 525, 561, and 562 combined was intended to more accurately reflect yellowtail flounder discards and fishing activity in these areas. When the Council took final action on Framework 51, and adopted the proposed measure, it also passed a motion that the measure be implemented ''unless NMFS develops a discard tool to address this issue through the sectors.'' This discard tool is explained in more detail further below.

We have disapproved the proposed revisions to the GB yellowtail flounder discard strata because it would unnecessarily increase the cost and burden of monitoring sector catches, and potentially increase uncertainty of catch estimates, without any measurable benefits for sectors. During the development of Framework 51, we noted concerns for the approvability of this measure because it was unchanged from the same measure that we disapproved last year in Framework 48, and no additional rationale or analysis was provided to sufficiently overcome

our previous determination that the measure was not consistent with National Standards 5 and 7 of the Magnuson-Stevens Act. We noted these same concerns in the proposed rule for this action, and requested specific comment on this issue. Based on a review of the proposed measure and public comments received, we determined that the added complications of administering this measure would increase costs more than it provides benefits to the fishing industry or improved catch estimates, and we explain each of these issues below. For these reasons, we determined that this measure is not consistent with National Standards 5 or 7 of the Magnuson-Stevens Act.

First, the revised discard strata may not improve the precision, or reduce the variances, of catch estimates for sectors. Creating an additional stratum for GB yellowtail flounder would reduce the number of observed trips contributing to the discard rate calculation for each stratum (area 522 and areas 525/561/562 combined), which could increase the variance in the catch estimates. This was demonstrated in the Council's analysis of this measure that showed the creation of two different areas for discard calculations reduced the number of observed trips to low levels for several sectors. Due to the smaller sample size, finer-scale stratification would also likely result in discard rate estimates, and thus catch estimates, that are more sensitive to outliers in the data. In addition, the revised discard strata could increase uncertainty of catch estimates if it increases errors in the statistical area reported for vessel landings. As the Council's analysis of the revised discard strata also indicates, if the measure resulted in increased variance of discard estimates, this could subsequently increase monitoring coverage levels necessary to accurately monitor sector catches. Lower observer coverage and this finer-scale stratification could also result in very high or low discard rates just from chance alone. Thus, without appropriate monitoring coverage, increased variability in discard estimates would affect our ability to reliably monitor sector catches, achieve the 30-percent coefficient of variation for each stock required by the Groundfish FMP, and ensure that overfishing is not occurring.

The Council's analysis of the revised discard strata also showed that it would not likely lead to large changes in the total discard estimates of GB yellowtail flounder, which appears to diminish any utility and benefit of the revised discard strata. While the finer-scale stratification could allow discard rates to more closely reflect actual discards of yellowtail flounder in different parts of Georges Bank, this measure would not have any real benefits for sectors that could not be achieved within the existing discard rate strata. Particularly given the reduction in the GB yellowtail flounder catch limit, sectors could already take advantage of the spatially different catch rates within the GB yellowtail flounder stock area by choosing to fish only in those areas with known low catch rates of GB yellowtail flounder. A separate discard rate for statistical area 522 could benefit an individual vessel with a lower GB yellowtail flounder discard rate, but that vessel would still be influenced by other vessels in its sector that choose to fish in other areas of Georges Bank with higher discards. A sector is limited by the total catch of GB yellowtail flounder by all of its member vessels, and finer-scale stratification does not eliminate the need for a sector to manage catch of GB yellowtail flounder by all of its vessels to prevent an early end to their fishing season. Based on the Framework 51 analysis, a separate discard rate in statistical area 522 could benefit some sectors; however, other sectors may be negatively affected by the proposed measure because it could increase their discard estimates.

In the proposed rule for this action, we requested specific comment to address our concerns for the revised discard strata. We only received one comment on this measure, and that comment did not address our concerns relative to National Standards 5 and 7 of the Magnuson-Stevens Act. As a result, no additional rationale has been provided to sufficiently respond to our concerns about this measure, or show that the increased administrative burden would be meaningfully offset by measurable benefits for sectors. Thus, due to all of our concerns that this measure could increase the uncertainty of catch estimates and the costs of monitoring and administration of sectors without any corresponding benefits to sectors, we have determined that it is not consistent with National Standards 5 and 7, and have disapproved this measure.

When adopting Framework 51, the Council expressed that it preferred a sector discard tool be developed instead of the revised discard strata proposed in Framework 51. We evaluated the approvability of the revised discard strata on its own merits, and concluded that the revised discard strata is not consistent with applicable law, as already stated above. However, we also considered the Council's preference for a discard tool to be provided to sectors that could serve as an alternative approach to address concerns for sector discard calculations. This tool does not require any regulatory changes and, unlike the proposed revision to the GB yellowtail flounder discard strata, it does not change the discard estimates for each sector. Rather, the discard tool is intended to help sectors allocate estimated discards among member vessels. Shortly after the Council took final action on Framework 51, we developed a discard tool for sectors, and presented this tool at a sector workshop in February 2014. The Council has not had the opportunity to comment on the discard tool we developed due to timing of meetings; however, we provide a brief summary below of potential uses for the new discard tool, and our efforts to work with the sectors to improve its utility.

There are multiple uses of this tool that could allow a sector to assign discards in any number of ways, and each sector can potentially customize the discard tool based on the sector's business model. For example, the tool could be used to assign discards for a particular stock, for inshore and offshore vessels, for vessels using slightly different gear configurations, to exclude certain vessels or groups of vessels from the discard calculation, or assign discards on a number of other criteria including vessels size, target species, or season fished. Due to this wide range of possible uses, the discard tool potentially addresses concerns for sector discard estimates more than any revisions to the discard strata for a single stock, as proposed in Framework 51. We received initial feedback and public comments from sectors that the tool will likely be useful for sectors, though it could be difficult for sector representatives to learn how to properly use the tool. We realize that sector managers will likely need, and benefit from, additional training before the discard tool can be more widely used. Since the proposed rule to this action, we solicited additional feedback from sectors on the potential utility of this tool. We will continue to work with sector representatives to explain the various ways the tool can be used, and help sectors decide how the tool could best serve their needs.

Approved Measures

We have approved the following Framework 51 measures, and have determined that these measures are consistent with the goals and objectives of the Groundfish FMP, as well as the requirements of the Magnuson-Stevens Act:

1. Ten-year rebuilding programs for GOM cod and American plaice;
2. FY 2014 catch limits for the three shared U.S./Canada stocks;
3. FY 2014–2016 catch limits for white hake;
4. Accountability measures for GB yellowtail flounder for the small-mesh fisheries;
5. A 1-year U.S./Canada quota trading mechanism (for FY 2014 only);
6. A revision to the administration of eastern and western GB haddock sector allocations; and
7. Prohibition on possession of yellowtail flounder by limited access scallop vessels.

This rule also implements a number of other measures that are not part of Framework 51, but that were considered under NMFS Regional Administrator authority provided by the Groundfish FMP. We are including these additional measures in this rule in conjunction with the Framework 51 approved measures for expediency purposes. The additional measures implemented in this rule are listed below, and each is described in more detail later in this preamble.

• *FY 2014 management measures for the common pool fishery*—This action implements initial FY 2014 trip limits for the common pool fishery. The Regional Administrator has the authority to set management measures for the common pool fishery that will help ensure the fishery catches, but does not exceed, its catch limits. The trip limits included in this action reflect public comments we received on the proposed trip limits.

• *FY 2014 accountability measures for windowpane flounder*—We are announcing accountability measures for northern and southern windowpane flounder that have been triggered due to overages of the overall catch limits for both stocks. We also announced these accountability measures at the Council's Groundfish Oversight Committee meeting on November 19, 2013, and in our January 17, 2014, letter to the Council.

• *Other regulatory corrections*—We are implementing several corrections to the regulations to correct references, replace inadvertent deletions, and make other minor edits. Each correction is described in more detail in Item 10 of this preamble.

1. Gulf of Maine Cod and American Plaice Rebuilding Programs

Revised Rebuilding Strategies

This rule implements 10-year rebuilding plans for GOM cod and plaice that will rebuild the stocks by 2024 with a median probability of success. The previous rebuilding programs for GOM cod and plaice were scheduled to rebuild the stocks by 2014 and 2017, respectively. In 2012, updated scientific information indicated that neither stock could rebuild by its rebuilding end date, even in the absence of all fishing. As a result, we notified the Council that the stocks were not making adequate rebuilding progress, and that the Council was required to revise the rebuilding programs for both stocks within 2 years, or by May 1, 2014, consistent with the Magnuson-Stevens Act. The revised rebuilding strategies implemented in this action are in response to this mandate.

The Magnuson-Stevens Act requires that overfished stocks be rebuilt as quickly as possible, not to exceed 10 years, while accounting for the needs of fishing communities. The minimum rebuilding time (T_{min}) is the amount of time a stock is expected to take to rebuild to its maximum sustainable yield biomass level (SSB_{MSY}) in the absence of any fishing mortality. T_{min} for a stock is typically used for informational purposes when developing rebuilding programs, and it is important to note that T_{min} does not necessarily account for the needs of fishing communities, or scientific uncertainties in rebuilding projections. For GOM cod, T_{min} is 6 years, or 2020, and T_{min} for plaice is 4 years, or 2018. The rebuilding programs adopted in this action will use the maximum time period allowed by the Magnuson-Stevens Act, and as explained in more detail below, these programs intend to address the needs of fishing communities as much as practicable, as well as factor in past performance of groundfish catch projections in order to further increase the likelihood of rebuilding success.

Long-term catch projections for groundfish stocks tend to underestimate fishing mortality and overestimate stock biomass (see Appendix 5 to the 2012 groundfish assessment updates for more information: *http://nefsc.noaa.gov/publications/crd/crd1206/*). The inherent uncertainty surrounding long-term projections makes it difficult to estimate the fishing mortality rate that is required to rebuild the stock within the specified time frame, or $F_{rebuild}$. This uncertainty is due, in part, to the estimate's dependence on future stock recruitment (the amount of fish added to the stock each year), which is often difficult to predict. If stock recruitment does not occur as projected, then progress towards rebuilding can occur much slower than expected.

The Council's default control rule for setting catch limits requires that catches be set based on 75% F_{MSY} (i.e., the fishing mortality rate that, if applied over the long term, would result in maximum sustainable yield) or $F_{rebuild}$, whichever is lower. Typically, when a stock is in a rebuilding program, $F_{rebuild}$ is less than 75% F_{MSY}, and, thus, the annual catch limits are usually set based on $F_{rebuild}$. However, catch limits based on $F_{rebuild}$ tend to be unreliable since $F_{rebuild}$ in the near term is dependent on recruitment assumptions from the long-term catch projections. As a result, rebuilding progress for many groundfish stocks has often occurred slower than expected due to the uncertainties in long-term catch projections, which leads to dramatic reductions in catch limits as the rebuilding end date gets closer. As $F_{rebuild}$ approaches zero, it is less likely to be used for setting catch limits because of the resultant dramatic reductions in fishing mortality necessary to meet $F_{rebuild}$, which can undermine rebuilding objectives.

To help avoid this problem, all of the rebuilding strategies considered in Framework 51 for GOM cod and plaice were calculated using an $F_{rebuild}$ that was greater than 75% F_{MSY}. But during the rebuilding time period, catches will continue to be set consistent with the Council's default control rule (75% F_{MSY} or $F_{rebuild}$, whichever is lower). Thus, under this approach, catches will be set more conservatively than $F_{rebuild}$ (based on 75% F_{MSY}), at least initially in the revised rebuilding programs. Setting catches more conservatively than $F_{rebuild}$ is intended to account for uncertainties in the long-term catch projections that result from assumptions of recruitment that may be overly optimistic. This strategy is intended to accelerate the rebuilding timeline and increase the likelihood of success compared to traditional groundfish rebuilding programs that did not attempt to proactively address these uncertainties. In the future, if information shows that GOM cod and plaice stock sizes have not increased as projected, it is possible that $F_{rebuild}$ could become less than 75% F_{MSY}. Under this scenario, catches would then be set based on the lower rate, or $F_{rebuild}$, consistent with the Council's default control rule.

The 10-year rebuilding strategy for GOM cod also addresses the differences in the two stock assessment models, which make it difficult to project how quickly the stock can rebuild. The most recent stock assessment for GOM cod, completed in December 2012, approved two different assessment models, and both assessment models were approved

as the basis of providing catch advice. One assessment model (base case model) assumes the natural mortality rate (M) is 0.2. The second assessment model (M_{ramp} model) assumes that M has increased from 0.2 to 0.4 in recent years. The assessment concluded that M would return to 0.2 at some point, though, in the short-term, M would remain 0.4. As a result, fishing mortality targets used in the catch projections from both models are based on biological reference points that assume M=0.2. A detailed summary of the benchmark assessment is available from the NMFS Northeast Fisheries Science Center at: *http://www.nefsc.noaa.gov/saw/saw55/crd1301.pdf*.

Interpreting and developing a rebuilding program under the M_{ramp} model is difficult because it is not known when M would return to 0.2. However, a change in M (from 0.4 to 0.2) is required to rebuild the GOM cod stock, and if this reduction does not occur, then GOM cod may be unable to rebuild based on the revised rebuilding strategy. For this reason, the 10-year rebuilding program adopted in this action is expected to better incorporate the differences in the two assessment models compared to a shorter rebuilding time period.

The rebuilding strategies implemented in this action will use the full 10 years, as allowed by the Magnuson-Stevens Act, even though rebuilding *might* be able to occur sooner. These strategies are intended to address the uncertainties noted above, as well as to account for the needs of fishing communities. As noted above, the approach used for developing the rebuilding strategies is intended to accelerate the rebuilding timeline because catches will be set more conservatively than $F_{rebuild,}$ at least initially. This approach increases the likelihood of success for rebuilding GOM cod and plaice, and in the long-term, provides greater net benefits that would occur from rebuilt stocks. The 10-year rebuilding programs for GOM cod and plaice will also provide more flexibility and better address the needs of fishing communities compared to rebuilding programs that target an earlier end date. This is particularly important for GOM cod, which is a key groundfish stock, because constrained catch limits for GOM cod also impede the harvest of other groundfish stocks in the GOM. In addition, plaice is a ''unit stock,'' meaning that there are not multiple stocks within the management unit. As a result, severely constrained catch limits for plaice could result in lost groundfish fishing opportunities across the entire groundfish management area (GB, GOM, and Southern New England). Analysis completed for various rebuilding scenarios indicates that the 10-year rebuilding programs adopted in this action will maximize the net present values (i.e., potential landings streams and future revenues) compared to other rebuilding scenarios that would have targeted earlier end dates (see Section 7.4 of the Framework 51 Environmental Assessment). Thus, the rebuilding strategies take into account, and address, the needs of fishing communities, while rebuilding the stocks as quickly as possible, and will ultimately increase the likelihood of achieving optimum yield in the fishery. These rebuilding strategies are also approved in conjunction with a new process, described below, that will monitor progress throughout the rebuilding time period, and allow for necessary adjustments to be made if either GOM cod or plaice falls below its rebuilding trajectory.

Rebuilding Plan Review Analysis

In conjunction with implementing the revised rebuilding programs, this rule also establishes a rebuilding plan review analysis for both GOM cod and plaice. We only partially approved this measure because part of the rebuilding plan review was intended to consider extending the rebuilding programs for both stocks to the maximum 10 years allowed under the Magnuson-Stevens Act. We disapproved these portions of the rebuilding plan review analysis, as we described in more detail in the Disapproved Measures section of this preamble. We have approved all other portions of the rebuilding plan review analysis.

The Council will initiate the rebuilding plan review for the respective stock if all three of the following conditions are met:

- The total catch limit has not been exceeded during the rebuilding program;
- New scientific information indicates that the stock is below its rebuilding trajectory (i.e., rebuilding has not progressed as expected); and
- $F_{rebuild}$ becomes less than 75% F_{MSY}.

If all three of the criteria described above are met, then the Council would task its appropriate body (e.g., Groundfish Plan Development Team or Scientific and Statistical Committee (SSC) to complete a rebuilding plan review that would provide the Council with new catch advice for GOM cod and/or plaice. In priority order, the rebuilding plan review would:

1. Review the biomass reference points; and

2. Provide catch limits based on $F_{rebuild}$ for these scenarios:

a. Under a review of the biomass reference points (Item 1 above); and

b. Under the existing rebuilding program.

This rebuilding plan review analysis is intended to investigate why rebuilding has not occurred as expected. These types of analyses are typically already done as part of the current biennial review process for the groundfish program, or during a stock assessment, regardless of whether the above criteria are met for initiating the review. As a result, we initially noted concerns with the potential administrative burden of this measure, and whether there were any measurable benefits of the rebuilding plan review analysis. Based on public comments received, however, although many of the aspects of this rebuilding review are explored during stock assessments and the biennial review process, we determined that this measure will be useful because it commits the Council to a thorough evaluation of rebuilding progress, should a stock drop below its rebuilding trajectory. This measure guarantees that a rebuilding plan review would be completed compared to the current process that complete these tasks on a more ''ad-hoc'' basis. In addition, the rebuilding plan review analysis is expected to provide the Council with the necessary information to adjust management measures and ensure that the stocks still rebuild by the rebuilding end date. The rebuilding review analysis adopted in this action only applies to GOM cod and plaice; however, it is expected that, if this type of review is successful, it could be adopted for other rebuilding stocks in the future.

Although we partially approved the rebuilding plan review, we highlight a number of issues here to clarify the utility of this information and how the results of any rebuilding plan review analysis could be used to inform decision-making in the future. First, the only basis for initiating the rebuilding plan review analysis would be if a stock assessment provided information to show that a stock was not on its rebuilding trajectory. As noted above, if a stock falls below its rebuilding trajectory, at least an initial investigation of why rebuilding has not occurred as expected would likely occur during the stock assessment (e.g., a comparison of recruitment assumptions and realized recruitment). Further, we expect that, as part of the existing biennial review process, the Groundfish Plan Development Team should already be reviewing and evaluating fishing year

catches compared to the respective annual catch limits each year in order to recommend and develop appropriate management measures to achieve the goals and objectives of the Groundfish FMP. We also reiterate that there is no guarantee the review of the biomass reference points (Item 1) will result in any revisions to the biomass reference points. The only analyses that would be sufficient to revise biomass reference points, and thus provide new catch advice options based on those revised biological reference points (Item 2a), would be another stock assessment.

As noted in a comment received on the proposed measure, this rebuilding plan review analysis could be adopted for other rebuilding stocks in the future, should this process prove successful for GOM cod and plaice. Although we disapproved portions of the rebuilding plan review analysis because the rebuilding programs adopted in this action already use the maximum 10 years allowed, the Council could consider these disapproved provisions in the future for other stocks in those cases where the Council initially adopts a shorter rebuilding time period.

2. U.S./Canada Quotas

This action adopts FY 2014 quotas for the three transboundary GB stocks that are jointly managed with Canada (eastern GB cod, eastern GB haddock, and GB yellowtail flounder) based on the recommendations of the Transboundary Management Guidance Committee (TMGC), which is a government-industry committee made up of representatives from the United States and Canada.

Each year, the TMGC recommends a shared quota for each stock based on the most recent stock information and the TMGC harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing mortality limit for each stock. The TMGC's harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the United States and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

Assessments for the three transboundary stocks were completed in June 2013 by the Transboundary Resources Assessment Committee (TRAC). A detailed summary of the 2013 TRAC assessment can be found at: *http://www.nefsc.noaa.gov/saw/trac/.* The TMGC met in September 2013 to recommend shared quotas for 2014 based on the updated assessments and the TMGC's harvest strategy, and the Council adopted the TMGC's recommendations in Framework 51. The 2014 shared U.S./Canada quotas, and each country's allocation, are listed in Table 1. For a detailed discussion of the TMGC's 2014 catch advice, see the TMGC's guidance document at: *http://www2.mar.dfo-mpo.gc.ca/science/tmgc/tgd.html.*

Although the 2014 shared quota for GB yellowtail flounder is a 20-percent decrease from 2013, the U.S. quota for GB yellowtail flounder is increasing by 53 percent in 2014 compared to 2013. This increase is due to the large increase of the U.S. share of the quota in 2014 (from 43 percent to 82 percent) due to higher distribution of this stock in U.S. waters compared to past years. The 2014 shared U.S./Canada quotas for eastern GB cod and haddock are higher compared to 2013. The resulting U.S. quotas for these stocks are increasing by 60 percent and 166 percent, respectively, compared to 2013. The 2014 catch limit for GB yellowtail flounder is also discussed in more detail in Item 3 of this preamble.

The U.S./Canada Resource Sharing Understanding requires that any overages of the eastern GB cod, eastern GB haddock, or GB yellowtail flounder U.S. quotas be deducted from the U.S. quota in the following fishing year. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation, and causes an overage of the overall U.S. quota, the overage reduction would be applied 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. Based on preliminary FY 2013 catch information, it does not appear that the United States will exceed its quota for any of the transboundary Georges Bank stocks. However, if final FY 2013 catch information indicates an overage has occurred, we will reduce the FY 2014 U.S. quota for that stock in a future management action. We will finalize FY 2013 catch information in August/September 2014, and we will make any necessary adjustments as close to this date as possible.

TABLE 1—FISHING YEAR 2014 U.S./CANADA QUOTAS (MT, LIVE WEIGHT) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY, IN PARENTHESES

Quota	Eastern GB cod	Eastern GB haddock	GB Yellowtail flounder
Total Shared Quota	700	27,000	400
U.S. Quota	154 (22%)	10,530 (39%)	328 (82%)
Canada Quota	546 (78%)	16,470 (61%)	72 (18%)

3. Catch Limits

The catch limits implemented in this action can be found in Tables 2 through 6. A brief summary of how these catch limits were developed is provided below; however, more detail can be found in Appendix III to the Framework 51 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Last year, Framework 50 adopted FY 2013–2015 catch limits for all groundfish stocks, except white hake and the three U.S./Canada stocks that are set annually. A benchmark stock assessment for white hake was completed in February 2013, and the results of this assessment became available after the Council took final action on Framework 50. As a result, the Council was not able to incorporate the new benchmark results in time for setting FY 2013–2015 catch limits. Instead, we implemented an emergency action for FY 2013 to increase the white hake catch limit based on the February 2013 assessment, and to give the Council time to respond to the new assessment. We are now implementing FY 2014–2016 catch limits for white hake based on the recent stock assessment, and consistent with the recommendation of the SSC. This rule also adopts FY 2014 shared U.S./Canada quotas (see Item 2 in this preamble), which are discussed in more detail below. For all stocks, except GB cod, GB haddock, GB yellowtail flounder, and white hake, the catch limits included in this action are identical to those previously adopted in Framework 50.

There is no catch limit adopted for FY 2015 or FY 2016 for many groundfish stocks. The Council will specify these catch limits in a future management action once updated scientific information becomes available.

Overfishing Limits and Acceptable Biological Catches

The overfishing limit (OFL) serves as the maximum amount of fish that can be caught in a year without harming the stock. The OFL for each stock is calculated using the estimated stock size and F_{MSY} (i.e., the fishing mortality rate that, if applied over the long term, would result in maximum sustainable yield). The OFL does not account for scientific uncertainty, so the Council's SSC typically recommends an acceptable biological catch (ABC) that is lower than the OFL in order to account for scientific uncertainty. Typically, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL. For GB cod, haddock, and yellowtail flounder, the total ABC is further reduced by the amount of the Canadian quota. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch.

GB Yellowtail Flounder

Both the 2013 TRAC assessment and the SSC noted concerns for the poor performance of the stock assessment model for GB yellowtail flounder. The assessment model has a strong retrospective pattern, which causes stock size to be overestimated and fishing mortality to be underestimated. Despite concerns for the uncertainties in the assessment, and the performance of the assessment model, however, both the TRAC and the SSC concluded that stock conditions are poor. Recruitment for the stock remains low, and although the quota has been reduced in recent years due to continually declining stock conditions, all of the available information indicates that the stock has not responded to these reductions. In addition, although the assessment is highly uncertain, it was not rejected by either the TRAC or SSC.

The 2013 TRAC assessment concluded that 2014 catches well below 500 mt are likely needed to achieve the TMGC's harvest strategy for GB yellowtail flounder, and that catch should be reduced as much as possible from the 2013 quota of 500 mt. Consistent with the TRAC assessment, the SSC recommended that catches not exceed 500 mt in FY 2014, and strongly recommended that catch be reduced as much as practicable in light of concerns about the status of the stock. The SSC also concluded that the OFL for GB yellowtail flounder cannot be reliably estimated due to poor performance of the assessment model, and as a result determined that the OFL is unknown.

When reviewing and approving any quota, we must determine that the proposed quota has a sufficient probability of preventing overfishing. To do this, we build off of the SSC's recommendation of an OFL and ABC. When absolute values for the OFL are not readily available, any quota recommendation must still meet the necessary requirements, and have at least a 50-percent probability of preventing overfishing. Both the TRAC results and the SSC's recommendation provide the necessary directionality of the 2014 quota compared to 2013, as well as information that can be used to determine the appropriate 2014 catch limit that would have a sufficient probability of preventing overfishing.

The results of the assessment model that are not adjusted for the retrospective pattern indicate that 2014 catches at the fishing mortality limit would be 562 mt. However, given the poor performance of the assessment model, and because these results are not adjusted for the retrospective pattern in the assessment, it is reasonable to conclude that these results may be biased high. Because the unadjusted model results from the assessment are likely biased high, the 2014 quota should have a greater uncertainty buffer than the Council's standard default control rule (75% F_{MSY}). A 2014 catch limit of 400 mt is the maximum catch that would provide an additional uncertainty buffer from the unadjusted model results to further account for the uncertainties in the assessment. On the other hand, when the model results are adjusted for the retrospective pattern, 2014 catches at the fishing mortality limit would be 123 mt. In discussing the poor performance of the assessment model, though, the SSC questioned the magnitude of stock depletion, and noted that catch and survey trends may suggest less concern is warranted than indicated by the assessment model. As a result, the model results adjusted for the retrospective pattern may be biased low.

Recent catches can also be used to evaluate what 2014 catch level would be consistent with the TRAC and SSC's recommendations to reduce catches as much as possible/practicable. Catches in 2012, which is the most recent fishing year in which final catch information is available, were approximately 480 mt, of which the United States caught 385 mt. The U.S. share of the quota increases in 2014 from 43 percent in 2013 to 82 percent in 2014, and as a result, the 2014 TMGC recommendation of 400 mt would result in a U.S. quota of 328 mt, which is nearly equal to the FY 2012 total U.S. catch. Similarly, although final 2013 catch estimates will not be available until September 2014, if total 2013 catches are between 300–400 mt, a quota above 400 mt in 2014 would likely allow catches to increase compared to recent years, which would not be consistent with the TRAC and SSC's recommendation that catches be reduced.

In addition, the FY 2013 catch limit for GB yellowtail flounder is 500 mt. Because the stock has declined further this past year, a status quo catch limit in FY 2014 would not appropriately account for this stock decline. The quota was reduced by more than 40 percent from 2011 to 2012, and again from 2012 to 2013, yet the 2013 TRAC assessment indicates that the stock has not responded to these reductions. This suggests that the 2014 quota should be further reduced from 2013 to increase the likelihood that stock conditions will improve.

Based on all of these factors, we determined that 400 mt was the total ABC for GB yellowtail flounder that would have a sufficient probability of preventing overfishing, reduce catch consistent with the TRAC and SSC advice, and provide for some stock growth. This determination was provided to the TMGC in September 2013, and served as the basis for the TMGC recommending 400 mt as the 2014 shared quota. Despite alternative catch limits put forward by the Council's Groundfish Oversight Committee, the Council ultimately adopted the TMGC's recommendation in Framework 51, and a FY 2014 catch limit of 400 mt for GB yellowtail flounder is implemented through this action. Based on the best scientific information available, a quota of 400 mt has at least a median probability of preventing overfishing and increases the likelihood that stock conditions will improve. This quota is also a 20-percent reduction compared to the 2013 quota, which is consistent with the TRAC and SSC's recommendation to reduce catches as much as possible/practicable.

In response to concerns for the poor performance of the GB yellowtail flounder stock assessment model, the TRAC conducted an empirical benchmark assessment April 14–18, 2014, to examine an alternative method for estimating abundance and setting catch limits for the stock. The TRAC and TMGC will incorporate the results of the benchmark assessment for providing 2015 catch advice for GB

yellowtail flounder, as appropriate. More information on the 2014 benchmark assessment can be found here: *http://www.nefsc.noaa.gov/saw/trac/.*

Annual Catch Limits

The U.S. ABC for each stock (for each fishing year) is divided among the various fishery components to account for all sources of fishing mortality. First, expected catch from state waters and the ''other'' sub-component is deducted from the U.S. ABC. These sub-components are not subject to specific catch controls by the Groundfish FMP. As a result, the state waters and ''other'' sub-components are not allocations, and these components of the fishery are not subject to accountability measures if the catch limits are exceeded. After the state and other sub-components are deducted, the remaining portion of the U.S. ABC is the amount available to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation are subject to catch controls by the Groundfish FMP, including accountability measures that are triggered if they exceed their respective catch limit during the fishing year.

Once the U.S. ABC is divided, sub-annual catch limits (sub-ACLs) are set by reducing the amount of the ABC distributed to each component of the fishery to account for management uncertainty. Management uncertainty is the likelihood that management measures will result in a level of catch greater than expected. For each stock, management uncertainty is estimated using the following criteria: Enforceability and precision of management measures, adequacy of catch monitoring, latent effort, and catch of groundfish in non-groundfish fisheries. The total ACL is the sum of all of the sub-ACLs and ACL sub-components, and is the catch limit for a particular year after accounting for both scientific and management uncertainty. Landings and discards from all fisheries (commercial and recreational groundfish fisheries, state waters, and non-groundfish fisheries) are counted against the ACL.

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL based on the total vessel enrollment in sectors and the cumulative potential sector contributions associated with those sectors. The sector and common pool sub-ACLs included in this action are preliminary based on FY 2014 PSCs and FY 2013 sector rosters. FY 2014 sector rosters will not be finalized until May 1, 2014, because individual permit holders have until the end of FY 2013, or April 30, 2014, to drop out of a sector and fish in the common pool fishery for FY 2014. Therefore, it is possible that the sector and common pool catch limits may change due to changes in the sector rosters. If changes to the sector rosters occur, we will publish updated sector and common pool sub-ACLs as soon as possible in FY 2014 to reflect final FY 2014 sector rosters as of May 1, 2014.

Common Pool Total Allowable Catches

The common pool sub-ACL for each stock (except for Southern New England/Mid-Atlantic (SNE/MA) winter flounder, windowpane flounder, ocean pout, Atlantic wolffish, and Atlantic halibut) is further divided into trimester total allowable catches (TACs). The distribution of the common pool sub-ACLs into trimesters was adopted by Amendment 16 and is based on recent landing patterns. Once we project that 90 percent of the trimester TAC is caught for a stock, the trimester TAC area for that stock is closed for the remainder of the trimester to all common pool vessels fishing with gear capable of catching that stock. Any uncaught portions of the trimester TAC in Trimester 1 or Trimester 2 are carried forward to the next trimester. Overages of the Trimester 1 or Trimester 2 TAC are deducted from the Trimester 3 TAC. We are required to deduct any overages of the total common pool sub-ACL from the common pool sub-ACL for that stock in the next fishing year after the overage. Uncaught portions of the Trimester 3 TAC may not be carried over into the following fishing year. Table 5 summarizes the FY 2014 common pool trimester TACs implemented in this action based on the preliminary common pool sub-ACL. If the FY 2014 common pool sub-ACL changes based on final sector rosters, the FY 2014 trimester TACs will also change. In addition, once we complete final catch estimates of FY 2013 common pool catch, we will deduct any overages of the common pool sub-ACLs from the respective FY 2014 sub-ACLs. We will publish any necessary adjustments as close to May 1, 2014, as possible.

Incidental catch TACs are also specified for certain stocks of concern (i.e., stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (i.e., special access programs (SAPs) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 6 summarizes the Incidental Catch TACs for each stock that are implemented by this action.

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Table 2 —FY 2014 Total ACLs, sub-ACLs, and ACL sub-components (mt, live weight)

Stock	OFL	U.S. ABC	Total ACL	Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Groundfish	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	3,570	2,506	1,867	1,769	1,738	31					20	78
GOM Cod	1,917	1,550	1,470	1,316	812	18	486				103	51
GB Haddock	46,268	35,699	18,312	17,171	17,116	56		179			192	769
GOM Haddock	440	341	323	307	218	2	87	3			5	7
GB Yellowtail Flounder	unknown	400	318.1	254.5	251.5	3.1			50.9	6.1		6.6
SNE/MA Yellowtail Flounder	1,042	700	665	564	469	95			66		7	28
CC/GOM Yellowtail Flounder	936	548	523	479	466	13					33	11
American Plaice	1,981	1,515	1,442	1,382	1,357	24					30	30
Witch Flounder	1,512	783	751	610	599	11					23	117
GB Winter Flounder	4,626	3,598	3,493	3,385	3,364	21						108
GOM Winter Flounder	1,458	1,078	1,040	715	688	26					272	54
SNE/MA Winter Flounder	3,372	1,676	1,612	1,210	1,074	136					235	168
Redfish	16,130	11,465	10,909	10,565	10,523	42					115	229
White Hake	6,082	4,642	4,417	4,278	4,247	30					46	93
Pollock	20,554	16,000	15,304	13,224	13,131	93					960	1,120
Northern Windowpane Flounder	202	151	144	98		98					2	44
Southern Windowpane Flounder	730	548	527	102		102			183		55	186
Ocean Pout	313	235	220	197		197					2	21
Atlantic Halibut	180	109	106	57		57					44	5
Atlantic Wolffish	94	70	65	62		62					1	3

Note: An empty cell indicates the fishery component is not allocated a sub-ACL for that stock.

Table 3 —FY 2015 Total ACLs, sub-ACLs, and ACL sub-components (mt, live weight)

Stock	OFL	U.S. ABC	Total ACL	Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Groundfish	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	4,191	2,506	2,387	2,262	1,738	31					25	100
GOM Cod	2,639	1,550	1,470	1,316	812	18	486				103	51
GB Haddock	56,293	43,606	41,526	38,940	38,814	126		406			436	1,744
GOM Haddock	561	435	412	392	278	2	111	4			6	9
SNE/MA Yellowtail Flounder	1,056	700	665	566	471	95			64		7	28
CC/GOM Yellowtail Flounder	1,194	548	523	479	466	13					33	11
American Plaice	2,021	1,544	1,470	1,408	1,383	25					31	31
Witch Flounder	1,846	783	751	610	599	11					23	117
SNE/MA Winter Flounder	4,439	1,676	1,612	1,210	1,074	136					235	168
Redfish	16,845	11,974	11,393	11,034	10,990	44					120	239
White Hake	6,237	4,713	4,417	4,278	4,247	30					46	93
Northern Windowpane Flounder	202	151	144	98		98					2	44
Southern Windowpane Flounder	730	548	527	102		102			183		55	186
Ocean Pout	313	235	220	197		197					2	21
Atlantic Halibut	198	119	116	62		62					48	6
Atlantic Wolffish	94	70	65	62		62					1	3

Note: An empty cell indicates the fishery component is not allocated a sub-ACL for that stock. FY 2015 catch limits are not yet specified for GB yellowtail flounder, GB winter flounder, GOM winter flounder, or Pollock. The Council will specify these catch limits in a future management action once updated information becomes available.

Table 4 — FY 2016 Total ACLs, sub-ACLs, and ACL sub-components (mt, live weight)

Stock	OFL	U.S. ABC	Total ACL	Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Groundfish	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
White Hake	6,314	4,645	4,420	4,280	4,250	30					46	93

Note: An empty cell indicates the fishery component is not allocated a sub-ACL for that stock. FY 2016 catch limits are only set for white hake in this action. The Council will specify FY 2016 catch limits for all other groundfish stocks in a future action once updated information becomes available.

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TABLE 5—FYS 2014–2016 COMMON POOL TRIMESTER TACS

[mt, live weight]

Stock	2014			2015			2016		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	7.6	11.3	11.6	9.8	14.4	14.8	.....	.....	.....
GOM Cod	4.9	6.6	6.8	4.9	6.6	6.8	.....	.....	.....
GB Haddock	15.0	18.3	22.2	34.0	41.6	50.4	.....	.....	.....

TABLE 5—FYS 2014–2016 COMMON POOL TRIMESTER TACS—Continued

[mt, live weight]

Stock	2014			2015			2016		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GOM Haddock	0.51	0.49	0.88	0.6	0.6	1.1			
GB Yellowtail Flounder	0.6	0.9	1.6						
SNE/MA Yellowtail Flounder	19.9	35.0	39.7	19.9	35.1	39.9			
CC/GOM Yellowtail Flounder	4.7	4.7	4.0	4.7	4.7	4.0			
American Plaice	5.8	8.7	9.7	5.9	8.9	9.9			
Witch Flounder	2.9	3.3	4.5	2.9	3.3	4.5			
GB Winter Flounder	1.7	5.1	14.7						
GOM Winter Flounder	9.8	10.0	6.6						
Redfish	10.5	13.0	18.4	10.9	13.6	19.2			
White Hake	11.6	9.4	9.4	11.7	9.6	9.6	11.6	9.4	9.4
Pollock	26.0	32.5	34.3						

Note: An empty cell indicates no catch limit has been specified yet. These catch limits will be specified in a future management action.

TABLE 6—FY 2014–2015 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	
	2014	2015	2014	2015	2014	2015
GB Cod	0.3	0.3	0.1	0.1	0.2	0.2
GOM Cod	0.2	0.2	na	na	na	na
GB Yellowtail Flounder	0.03		na	na	0.03	
CC/GOM Yellowtail Flounder	0.1	0.1	na	na	na	na
American Plaice	1.2	1.2	na	na	na	na
Witch Flounder	0.5	0.5	na	na	na	na
SNE/MA Winter Flounder	1.4	1.4	na	na	na	na

Note: An empty cell indicates no catch limit has been specified yet. These catch limits will be specified in a future management action.

4. Small-Mesh Fisheries Accountability Measure for Georges Bank Yellowtail Flounder

This rule establishes an accountability measures (AM) for GB yellowtail flounder for the small-mesh fisheries, and applies the AM retroactively to FY 2013 catches. For FY 2013 and beyond, Framework 48 adopted an allocation of GB yellowtail flounder for the small-mesh fisheries due to concerns for the low stock size of GB yellowtail flounder, and that these fisheries have accounted for a larger portion of the total catch in recent years. For this allocation, the small-mesh fisheries were defined as vessels fishing with otter trawl gear with a codend mesh size of 5 inches (12.7 cm) or less. The target species for these small-mesh fisheries typically include squid and whiting. Corresponding AMs were not adopted last year because development of AMs required close coordination with the Mid-Atlantic Fishery Management Council, which is responsible for the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. As a result, Framework 48 specified that AMs would be developed by the respective Fishery Management Plans in a future management action through coordination of the New England and Mid-Atlantic Councils.

The U.S./Canada Resource Sharing Understanding requires that, if the U.S. quota for GB yellowtail flounder is exceeded, then the U.S. quota for the following fishing year must be reduced by the amount of the overage. The pound-for-pound reduction is applied to the sub-ACL of the fishery component that caused the overage. For example, if the small-mesh fisheries caused an overage of the U.S. quota in Year 1, the small-mesh fisheries sub-ACL would be reduced by the amount of the overage in the next fishing year (Year 2). This pound-for-pound reduction serves as a reactive AM. However, the small-mesh fisheries are currently required to discard all GB yellowtail flounder caught. Thus, a pound-for-pound reduction of the quota, without corresponding measures to help reduce catches of GB yellowtail flounder, would not appropriately mitigate an overage, or prevent future overages from occurring, for the small-mesh fisheries.

This rule implements an additional reactive AM that would require vessels fishing with bottom otter trawl gear with a codend mesh size of less than 5 in (12.7 cm) to fish with selective trawl gear in the GB yellowtail flounder stock area (statistical areas 522, 525, 561, and 562) if the small-mesh fisheries sub-ACL is exceeded by any amount. Currently, approved gear types include the raised footrope trawl, separator trawl, rope trawl, Ruhle trawl, and mini-Ruhle trawl. Additional gear types can be authorized by the Council in a future management action, or approved by the Regional Administrator through the gear-approval process defined at § 648.85(b)(6). The AM would be triggered regardless of whether the total ACL is exceeded. With the exception of the GB yellowtail flounder AM for the scallop fishery, this approach to triggering an AM is consistent with how other fishery components are treated for allocated groundfish stocks (i.e., commercial and recreational groundfish fisheries and mid-water trawl fishery). AMs linked to the sub-ACLs of the fishery ensure that each component is held responsible for its catch of the respective stock.

The AM would only be implemented at the start of a fishing year (May 1). This measure does not implement the AM inseason due to the potential for disproportionate impacts on small-mesh vessels, which operate at different times on Georges Bank, depending on the target species. In addition, final catch information needed to evaluate GB

yellowtail flounder catch by the small-mesh fisheries is often not available until well after the end of the fishing year. As a result, it is possible that we would not be able to reliably determine whether an overage has occurred in time to trigger the AM at the start of fishing year immediately following an overage. The AM adopted in this action accounts for this late data availability by potentially delaying the implementation of the AM until the start of Year 3 (2 years following the overage). As monitoring improves, and discard estimates are more readily available for the small-mesh component of the fishery, we anticipate that these AMs could be, and should be, implemented more quickly.

If an overage of the small-mesh fisheries sub-ACL in Year 1 occurs, the AM would be triggered:

- *At the start of Year 2* if, based on reliable data, NMFS determine inseason during Year 1 that the small-mesh fisheries sub-ACL has been exceeded; or
- *At the start of Year 3,* if final catch estimates available after the end of Year 1 indicate that the small-mesh fisheries sub-ACL was exceeded in Year 1.

As noted before, the AM adopted in this action is applied retroactively to FY 2013 catches. Final catch estimates for the small-mesh fisheries will not be available until after the end of FY 2013 (August/September 2014). Because the AM is only implemented at the start of a fishing year, if final FY 2013 catch estimates indicate an overage has occurred, the AM would be triggered at the start of FY 2015. If necessary, we would notify the public and announce the AM in a future rulemaking.

This AM will ensure that there are sufficient measures in place to reduce catches of GB yellowtail flounder, should an overage occur, and the small-mesh fisheries catch does not negatively affect other components of the fishery. Due to the current low stock size of GB yellowtail flounder, and because the stock is jointly managed with Canada, it is especially important that the United States implement sufficient management measures to help prevent overages of the U.S. quota for GB yellowtail flounder, and if overages occur, to sufficiently mitigate that overage.

5. U.S./Canada Quota Trading Mechanism

In 2013, the TMGC developed a U.S./Canada quota trading mechanism that would provide more flexibility in setting annual U.S./Canada quotas in order to create additional fishing opportunities. This action adopts a 1-year mechanism for FY 2014 only that will allow the Regional Administrator, in consultation with the Council, to adjust the U.S./Canada quotas inseason consistent with any trade agreed upon with Canada. Any additional quota that the United States receives from a trade would be allocated to all of the fishery components consistent with the current ABC distribution used by the Council in this action for setting groundfish catch limits. Under this approach, both groundfish and non-groundfish fisheries would potentially benefit from additional quota, regardless of what fishery gave up quota for the trade. For example, if the United States trades away eastern GB cod in return for GB yellowtail flounder, the scallop and small-mesh fisheries would benefit from the additional GB yellowtail flounder quota, even though the commercial groundfish fishery was the only component to give away its cod quota.

The Canadian fishing year is based on the calendar year, while the U.S. groundfish fishing year is May 1–April 30. The difference between the U.S. and Canadian fishing years allows a trade to occur for adjacent years. Under the FY 2014 trading mechanism, a trade could occur towards the end of the Canadian fishing year, when the U.S. fishing year is only half completed. For example, if Canada underharvests its quota, it could trade away its surplus quota to the United States in the current fishing year, in return for additional quota from the United States for the upcoming fishing year. Under this mechanism, the United States would only receive additional quota in the current fishing year, and would only trade away its quota for the upcoming fishing year, prior to the start of the fishing year, and before allocations are made to components of the U.S. fishery.

The trading mechanism adopted in this action will exist only for quota trades made by, or before the end of, FY 2014. The Council adopted a 1-year only trading mechanism so it could continue to explore whether trades between the United States and Canada are practical under this type of approach and while it considered other types of trading mechanisms as part of Amendment 18 to the Groundfish FMP that would better ensure the entities trading away quota would directly receive quota in return.

6. Distribution of Eastern/Western Georges Bank Haddock Sector Allocations

This rule adopts a mechanism that allows sectors to ''convert'' their eastern GB haddock allocation into western GB haddock allocation. Although the groundfish fishery has not utilized a large portion of its GB haddock allocation in recent years, this measure is intended to prevent the Western U.S./Canada Area from prematurely closing to a sector before its overall GB haddock allocation has been caught. This measure provides additional flexibility for sectors to harvest their GB haddock allocations, without increasing the risk of biological harm to the stock. This measure is also intended to create additional fishing opportunities for sector vessels on a healthy groundfish stock, and better help the fishery achieve optimum yield.

Eastern GB haddock is a sub-unit of the total GB haddock stock, and the total ABC for GB haddock includes the shared U.S./Canada quota for eastern GB haddock. A portion of a sector's GB haddock allocation may only be caught in the Eastern U.S./Canada Area, and the remaining portion of their total GB haddock allocation can be caught only in the Western U.S./Canada Area. This restriction was adopted by Amendment 16 in order to cap the amount of GB haddock that a sector could catch in the Eastern U.S./Canada Area, and help prevent the United States from exceeding its eastern GB haddock quota. However, limiting the amount of haddock that could be caught in the Western U.S./Canada Area could unnecessarily reduce flexibility, and potentially limit fishing in the area, even if a sector has not caught its entire GB haddock allocation. Thus, the measure adopted in this action is intended to avoid foregone yield of a healthy, abundant groundfish stocks.

The measure adopted in this action follows a process similar to the one used for processing sector trades. Sectors are allowed to convert eastern GB haddock allocation into western GB haddock allocation at any time during the fishing year, and up to 2 weeks into the following fishing year to cover any overage during the previous fishing year. A sector's proposed allocation conversion would be referred to, and approved by, NMFS based on general issues, such as whether the sector is complying with reporting or other administrative requirements, including weekly sector reports, or member vessel compliance with Vessel Trip Reporting requirements. Based on these factors, we will notify the sector if the conversion is approved or disapproved. As we proposed in the proposed rule, we will use member vessel compliance with Vessel Trip Reporting requirements as the basis for approving, or disapproving a re-allocation of eastern GB quota to the Western U.S./Canada Area. This is identical to the process used for

reviewing, and approving, quota transfer requests between sectors.

The responsibility for ensuring that sufficient allocation is available to cover the conversion is the responsibility of the sector. This measure also extends to state-operated permit banks. Any conversion of eastern GB haddock allocation into western GB haddock allocation may only be made within a sector or permit bank, and not between sectors or permit banks. In addition, once a portion of eastern GB haddock allocation is converted to western GB haddock allocation, that portion of allocation remains western GB haddock for the remainder of the fishing year. Western GB haddock allocation may not be converted to eastern GB haddock allocation. This measure does not change the requirement that sector vessels may only catch their eastern GB haddock allocation in the Eastern U.S./Canada Area, and may only catch the remainder of their GB haddock allocation in the Western U.S./Canada Area.

The total catch limit for GB haddock includes the U.S. quota for eastern GB haddock, so this measure does not jeopardize the total ACL for GB haddock, or the U.S. quota for the eastern portion of the stock. A sector is still required to stop fishing in the Eastern U.S./Canada Area once its entire eastern GB haddock allocation is caught, or in the Western U.S./Canada Area once its western GB haddock allocation is caught, at least until it leases in additional quota. This ensures sufficient accountability for sector catch that will help prevent overages of any GB haddock catch limit. Although we are approving this measure, we recommend that the Council occasionally review this measure in the future to ensure that it is still necessary and appropriate, particularly if there is a drastic change in the stock assessment for either GB haddock or its eastern sub-unit, or the perception of stock status changes in the future.

7. Prohibition on Possession of Yellowtail Flounder by the Limited Access Scallop Fishery

This action approves the prohibition on possession of yellowtail flounder by all limited access scallop vessels that was adopted in Framework 51. Prior to this action, limited-access scallop vessels were required to land all legal-sized yellowtail flounder. This landing requirement was adopted beginning in 2010 in order to reduce bycatch of yellowtail flounder in the scallop fishery. However, recent information indicates that some scallop vessels are ''targeting'' yellowtail flounder. As a result, prohibiting possession of yellowtail flounder is intended to remove any incentive for scallop vessels to ''target'' yellowtail flounder since they could not be retained, or sold.

National Standard 9 of the Magnuson-Stevens Act requires that bycatch be reduced as much as practicable, where bycatch is defined as ''fish harvested in a fishery, but that are not sold or kept,'' and refers to economic and regulatory discards. Thus, the prohibition on possession of yellowtail flounder adopted in this action could increase bycatch, as it is defined in the Magnuson-Stevens Act, compared to the previous requirement to land all legal-sized yellowtail flounder. However, from a broader conservation perspective, a more important consideration is the impact on the total fishing mortality for each yellowtail flounder stock. As described below, this action is expected to decrease total fishing mortality for yellowtail flounder stocks.

The recent 2012 stock assessment for SNE/MA yellowtail flounder reduced the discard mortality rate from 100 percent to 90 percent for commercial catches. As a result, prohibiting possession of this stock by limited access scallop vessels has the potential to slightly reduce mortality on this yellowtail flounder stock assuming that some of the discarded fish survive. The stock assessments for Cape Cod (CC)/GOM and GB yellowtail flounder assume a 100-percent discard mortality rate, so it is unclear whether zero possession has the same potential benefits for these yellowtail flounder stocks as the SNE/MA stock. However, it is reasonable to expect that some fish from these stocks, albeit a small number, may survive after being discarded, thus reducing total mortality on these stocks. Reducing total mortality, even slightly, is particularly important for these yellowtail flounder stocks. Although SNE/MA yellowtail flounder was declared rebuilt in 2012, CC/GOM and GB yellowtail flounder are overfished and overfishing is occurring for both stocks. Thus, even though this measure could increase bycatch, as defined by the Magnuson-Stevens Act, it is not practicable to reduce bycatch because to do so would likely increase overall mortality on yellowtail flounder. The conservation benefits of further reducing mortality of yellowtail flounder by the scallop fishery, therefore, outweigh the potential for this measure to increase bycatch. As a result, we have determined that the prohibition on possession adopted in this action is consistent with National Standard 9, and other conservation requirements, of the Magnuson-Stevens Act.

8. 2014 Windowpane Flounder Accountability Measures

In fall 2013, final catch information became available for FY 2012. These final catch estimates indicated that the northern windowpane flounder ACL was exceeded by 28 percent, and the southern windowpane flounder ACL was exceeded by 36 percent. The FY 2012 final catch report can be found here: *http://www.nero.noaa.gov/ro/fso/reports/Groundfish_Catch_Accounting.htm.* In addition, preliminary catch information for FY 2013 indicates that the commercial groundfish fishery catch of ~235 mt has exceeded the overfishing limit for northern windowpane flounder (202 mt). The most recent FY 2013 catch monitoring report can be found here: *http://www.nero.noaa.gov/ro/fso/reports/Sectors/Commercial_Summary_2013.html.*

These overages will automatically trigger AMs beginning in FY 2014 that require selective trawl gear to be used in certain parts of the stock areas for both windowpane flounder stocks. For the entire 2014 fishing year, common pool and sector vessels fishing on a groundfish trip with trawl gear are required to use one of the following selective trawl gears when fishing in the AM areas: (1) Haddock separator trawl; (2) Ruhle trawl; (3) mini-Ruhle trawl; or (4) rope separator trawl. There are no restrictions on longline or gillnet gear. These gear restrictions will apply in the large AM areas for both northern and southern windowpane flounder because the overages were more than 20 percent of the ACL for both stocks (maps and coordinates of the AM areas can be found here: *http://www.nero.noaa.gov/regs/infodocs/windowpaneaminfosheet.pdf).* As a reminder, sectors cannot request an exemption from these AMs. As long as additional overages do not occur, the AM would be removed at the start of the 2015 fishing year, beginning on May 1, 2015, unless the AMs are otherwise revised through a Council action during FY 2014. In February 2014, the Council initiated a new action to review and possibly revise the windowpane flounder AMs due to concern that the existing AMs do not effectively prevent overages of the windowpane flounder catch limits.

The FY 2014 windowpane flounder AMs will not impact non-groundfish fisheries because these fisheries did not have an allocation of either windowpane flounder stock for FY 2012. Although these non-groundfish

fisheries may have contributed to the 2012 overages, the commercial groundfish fishery will be held 100-percent accountable for the overage. For FY 2013 and beyond, at the Council's recommendation, we approved the allocation of southern windowpane to the scallop fishery and other non-groundfish fisheries fishing with bottom otter trawl gear with codend mesh of 5 inches (12.7 cm) or greater. Allocating this stock to other fisheries will help ensure that each fishery is held accountable for their catch in the future, and that catch from one fishery cannot negatively impact another. For FY 2013 and beyond, any AM triggered for southern windowpane will only apply to the fishery that caused the overage, except in the situation where the state waters sub-component caused the overage. Northern windowpane is still not allocated to any non-groundfish fishery, so the groundfish fishery will continue to be held 100-percent accountable for any overages of the northern windowpane catch limit, regardless of what fishery caused the overage.

9. Annual Measures for FY 2014 Under Regional Administrator Authority

The Groundfish FMP gives 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 rule implements FY 2014 DAS possession limits and maximum trip limits for common pool vessels (Table 7), including cod possession and trip limits for vessels fishing with a Handgear A, Handgear B, or Small Vessel Category permits (Table 8). These measures are not part of Framework 51, and were not specifically proposed by the Council, but are included in conjunction with Framework 51 for expediency purposes, and because they relate to the catch limits implemented in this rule. The initial FY 2014 possession limits and maximum trip limits were developed after considering changes to the FY 2014 common pool sub-ACLs and sector rosters, trimester TACs for FY 2014, catch rates of each stock during FY 2013, and public comments received on the proposed limits. During the fishing year, we will monitor common pool catches, and if necessary will adjust these trips limits in a future action to avoid overages, or help the fishery harvest its allocations.

The default cod trip limit is 300 lb (136.1 kg) per trip for Handgear A vessels and 75 lb (34.0 kg) per trip for Handgear B vessels. If the GOM or GB cod DAS possession limit drops below 300 lb (136.1 kg), then the respective Handgear A cod trip limit must also be adjusted to be the same. The regulations also require that the Handgear B vessel trip limit for GOM and GB cod be adjusted proportionally (rounded up to the nearest 25 lb (11.3 kg)) to the default cod possession limits applicable to DAS vessels. This action implements a GOM cod possession limit of 200 lb (90.7 kg) per DAS for vessels fishing on a groundfish DAS, which is 75 percent lower than the default trip limit in the regulations. Accordingly, the GOM cod trip limit is reduced to 200 lb (90.7 kg) per trip for Handgear A vessels and to 25 lb (11.3 kg) per trip for Handgear B vessels.

Vessels with a Small Vessel category permit can possess up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, per trip. For FY 2014, the maximum amount of GOM cod and haddock within the 300-lb (136.1-kg) trip limit is set equal to the DAS possession limits, which results in a maximum of 200 lb (90.7 kg) per trip for GOM cod and 25 lb (11.3 kg) for GOM haddock.

TABLE 7—INITIAL FY 2014 COMMON POOL DAS POSSESSION LIMITS AND TRIP LIMITS

Stock	Initial FY 2014 possession and trip limits
GB cod	2,000 lb (907.2 kg) per DAS, up to 20,000 lb (9,072 kg) per trip.
GOM cod	200 lb (90.7 kg) per DAS, up to 600 lb (272.2 kg) per trip.
GB Haddock	10,000 lb (4,535.9 kg) per trip.
GOM Haddock	25 lb (11.3 kg) per trip.
GB Yellowtail Flounder	100 lb (45.4 kg) per trip.
SNE/MA Yellowtail Flounder	2,000 lb (907.2 kg) per DAS, up to 6,000 lb (2,721.6 kg) per trip.
CC/GOM Yellowtail Flounder	1,000 lb (453.6 kg) per trip.
American plaice	Unlimited.
Witch Flounder	500 lb (226.8 kg) per trip.
GB Winter Flounder	1,000 lb (453.6 kg) per trip.
GOM Winter Flounder	1,000 lb (453.6 kg) per trip.
SNE/MA Winter Flounder	1,500 lb (680.4 kg) per DAS up to 2,000 lb (1,360.8 kg) per trip.
Redfish	Unlimited.
White hake	1,000 lb (453.6 kg) per trip.
Pollock	10,000 lb (4,535.9 kg) per trip.
Atlantic Halibut	1 fish per trip.
Windowpane Flounder Ocean Pout Atlantic Wolffish	Possession Prohibited.

TABLE 8—INITIAL FY 2014 COD POSSESSION AND TRIP LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS

Permit	Initial FY 2014 GOM Cod possession/trip limit	Initial FY 2014 GB Cod possession/trip limit
Handgear A	200 lb (45.4 kg) per trip	300 lb (136.1 kg) per trip.
Handgear B	25 lb (11.3 kg) per trip	75 lb (34.0 kg) per trip.

TABLE 8—INITIAL FY 2014 COD POSSESSION AND TRIP LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS—Continued

Permit	Initial FY 2014 GOM Cod possession/trip limit	Initial FY 2014 GB Cod possession/trip limit
Small Vessel Category	300 lb (136.1 kg) of cod, haddock, and yellowtail flounder combined; Maximum of 200 lb (90.7 kg) of GOM cod and 25 lb (11.3 kg) per trip of GOM haddock within the 300-lb combined possession limit.	

The RA has 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. In 2005, Framework 40B (70 FR 31323; June 1, 2005) implemented a provision 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 GB yellowtail groundfish sub-ACL of 561,077 lb (254,500 kg) adopted in this action, 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. Therefore, this action does not allocate any trips to the Closed Area II Yellowtail Flounder/Haddock SAP for FY 2014. Vessels can still fish in this SAP in FY 2014 using a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels are not allowed to fish in this SAP using flounder nets.

10. Regulatory Corrections Under Regional Administrator Authority

The following changes are being made to the regulations to correct references, inadvertent deletions, and other minor errors.

In § 648.80(g)(5)(i), this rule corrects the reference to the mesh obstruction or constriction definition.

In § 648.85(b)(6)(iv)(B), the observer call-in requirement under the B DAS program is corrected to 48 hr prior to the start of the trip, instead of 72 hr prior to the start of the trip. This change was inadvertently omitted during the Amendment 16 rulemaking.

This rule removes § 648.87(b)(1)(i)(F) and (G). This regulatory text was added as part of NMFS's emergency rule for addressing sector carryover for FY 2013. This regulatory text was supposed to expire on April 30, 2014 but was inadvertently left in the regulations permanently.

In § 648.87(c)(2), this rule clarifies that sector exemptions are limited to those regulations implementing the groundfish program, and not any regulation applicable to a groundfish vessel. This regulatory correction clarifies the intent of Amendment 16.

In § 648.90(a)(4)(i), this rule reinstates the regulatory text describing the ABC and ACL recommendation process, which was inadvertently deleted in a previous rulemaking.

In § 648.90(a)(5)(iv), this rule reinstates the regulatory text describing the trigger of the scallop fishery accountability measures, which was inadvertently deleted in a previous rulemaking.

In § 697.7(c)(1)(xxii) and (c)(2)(xvii), this rule replaces the word ''traps'' with ''lobster traps.'' This correction is intended to clarify that the lobster regulations do not prohibit Federal lobster permit holders from possessing, or using, non-lobster trap gear on trips fishing with a method other than traps (e.g., mobile trawl gear).

NMFS defines a lobster trap as ''any structure or other device, other than a net, that is placed, or designed to be placed, on the ocean bottom and is designed for or is capable of, catching lobsters.'' This definition applies to all Federal lobster permit holders regardless of whether the permit holder might actually be targeting a different species with the trap (e.g., crab or fish traps). Federal lobster permit holders are prohibited from possessing, or using, lobster traps on any trip that catches lobster with non-trap gear (e.g., trawl gear). However, trap gear that is configured in such a way so that it is not capable of catching lobster is not considered ''lobster trap'' gear. As a result, Federal lobster permit holders are allowed to possess, and use, non-lobster trap gear on board their vessel even if harvesting lobster with gear other than lobster traps (e.g., trawl gear).

Comments and Responses on Measures Proposed in the Framework 51 Proposed Rule

We received nine comments during the comment period on the Framework 51 proposed rule. Public comments were submitted by the Council, three commercial fishing organizations, one non-governmental organization (NGO), and four commercial fishermen. We requested specific comment on several measures proposed in Framework 51, including the rebuilding plan review analysis for GOM cod and American plaice, the revised discard strata for GB yellowtail flounder, and the prohibition on possession of yellowtail flounder for limited access scallop vessels. Responses to the comments received are below, and when possible, responses to similar comments on the proposed measures have been consolidated.

Gulf of Maine Cod and American Plaice Rebuilding Programs

Revised Rebuilding Strategies

Comment 1: One industry group supported the revised rebuilding programs for GOM cod and plaice.

Response: We agree with this commenter and have determined that the revised rebuilding programs adopted in this action are consistent with the Magnuson-Stevens Act and the goals and objectives of the Groundfish FMP. In May 2012, we notified the Council that GOM cod and plaice were not making adequate rebuilding progress, and as a result, the Council was required to revise the rebuilding program for this stock within 2 years, or by May 1, 2014. The revised rebuilding programs implemented in this action are consistent with the Council's mandate to devise new rebuilding strategies for these stocks while continuing to prevent overfishing. As explained in more detail in Item 1 of this preamble, the revised rebuilding strategies use the maximum 10 years allowed by the Magnuson-Stevens Act and have a median probability of success. The rebuilding strategies account for the needs of fishing communities as much as practicable, and also use a more precautionary approach than the previous rebuilding programs for these stocks, in order to accelerate the rebuilding timeline and increase the likelihood of rebuilding success.

Comment 2: One NGO opposed the proposed 10-year rebuilding programs for GOM cod. The commenter noted that, due to the low levels of GOM cod,

rebuilding should be as short as biologically possible, and catch levels should be set as close to zero as possible. In support of its position, the NGO stated that the needs of the fish stock outweigh the needs of fishing communities in this case.

Response: We disagree with the commenter's suggestion that rebuilding should be as short as biologically possible, and catch levels should be set as close to zero as possible. The Magnuson-Stevens Act does not require that rebuilding programs be as short as biologically possible, but rather that rebuilding programs be as short as possible, not to exceed 10 years, while accounting for the needs of fishing communities. The fact that this action revises a rebuilding program that was not making adequate progress does not change this requirement. Although the Magnuson-Stevens Act requirement emphasizes the importance of rebuilding as quickly as possible, a plan cannot disregard the needs of fishing communities, and is not required to keep fishing mortality as close to zero as possible for the entire duration of the rebuilding time period, particularly, as in the case of this action, where precautionary measures are put into place to account for uncertainties in predicting the success of a rebuilding program. A revised rebuilding program that is as short as biologically possible, as the commenter suggested, would be nearly equivalent to T_{min}, which is the time it would take a stock to rebuild in the absence of all fishing mortality. This type of rebuilding program would not mitigate economic impacts on fishing communities to the extent practicable consistent with National Standard of the Magnuson-Stevens Act. As explained in detail in Item 1 of this preamble, the revised rebuilding strategy for GOM cod that is adopted in this action appropriately addresses the needs of fishing communities in light of conservation requirements, and is consistent with all of the National Standards and applicable law.

Moreover, as the commenter noted, greater scientific uncertainty typically calls for greater precaution in setting management measures, and we agree. This is the intended effect in the design of the revised rebuilding strategy for GOM cod that is adopted in this action. The rebuilding strategy has a median probability of success, which is consistent with the relevant case law, but it goes one step further, and attempts to account for scientific uncertainty in long-term groundfish catch projections, which is well-documented in recent years. The design of the rebuilding strategy is briefly summarized below, but is described in more detail in Item 1 of this preamble that is not repeated here.

Given the relative infrequency of groundfish stock assessments, there is often a considerable lag between the terminal year of the assessment and the year of the catch advice. As a result, when catches are based on only $F_{rebuild}$, they are often based on assumptions used in the catch projection (e.g., recruitment assumption), rather than any real evidence that the stock biomass has increased. The rebuilding strategy implemented in this action explicitly acknowledges this issue and, in response, is designed to set catches lower than $F_{rebuild}$, at least initially in the rebuilding program, in order to account for this uncertainty. Setting catches lower than $F_{rebuild}$ accelerates the rebuilding timeline and is intended to increase the likelihood that rebuilding will occur on schedule. This is an important component of the rebuilding program adopted in this action, and a marked improvement from the previous rebuilding program for GOM cod that did not attempt to account for scientific uncertainty in the catch projections.

An assessment update for GOM cod is preliminarily scheduled for early 2015. This would provide a unique opportunity early in the rebuilding program adopted in this action to determine whether the stock is on its rebuilding trajectory. Based on the updated scientific information, the Council could adequately assess whether any additional adjustments are necessary to ensure the stock is making adequate rebuilding progress.

Comment 3: One NGO opposed the SSC's catch recommendations for GOM cod and noted there should be no directed fishing for this stock. The NGO also opposed our interpretation that two equally acceptable assessment models were approved for GOM cod.

Response: As noted earlier in Item 3 of this preamble, Framework 51 does not set specifications for GOM cod. The FY 2013–2015 catch limits for GOM cod were adopted and approved through Framework 50 last year and these catch limits were recently upheld by a federal district court. These catch limits are restated in this action, but are unchanged from those recommended by the SSC and subsequently adopted by the Council in Framework 50. Further, this action does not consider any management measures that would necessarily prevent directed fishing on GOM cod. As a result, this comment does not directly address the proposed measures, and is not relevant to the final measures adopted in this action.

To provide some background, however, two ABC alternatives were considered in Framework 50: 1,249 mt and 1,550 mt. Based on the recommendation of its SSC, and in order to help mitigate the economic impacts of Framework 50 on fishing communities, the Council adopted, and we approved, an ABC of 1,550 mt. These specifications adopted in Framework 50 were determined to be based on the best scientific information available, and consistent with conservation objectives of the Groundfish FMP and applicable law. In fact, when recently challenged on the GOM cod specifications adopted in Framework 50 on the grounds that the specifications did not prevent overfishing, and exceeded the recommendation of the SSC, the Court found that the Council and NMFS did not err in selecting a catch limit of 1,550 mt. Specifically, the Court found that the GOM cod specifications were based on the best available scientific information, and that available analysis adequately demonstrated that the catch limits will have an adequate probability of preventing overfishing. See, *Conservation Law Foundation* v. *Pritzker, 2014 WL 1338596 (D.D.C. 2014*).

We disagree with the commenter's proposal that the fishery should be closed to directed fishing for cod. Given the substantial reduction in the GOM cod quota that was implemented beginning in FY 2013, it is unlikely that cod is currently a primary directed species. Rather, most commercial groundfish vessels likely use their available cod quota to prosecute other fisheries. Similarly, available information indicates that the recreational retention rates for GOM cod are extremely low; on average, slightly more than 1 cod was retained by anglers in FY 2013. We are unclear on whether the commenter intended that trip limits be implemented for sector vessels in order to prevent directed fishing on GOM cod, or whether possession of the stock should be prohibited. Regardless, both the commercial and recreational groundfish fisheries receive allocations of cod, which, in addition to other management measures and accountability measures, help prevent catches from exceeding these allocations. In addition, sector vessels have the flexibility to make business plans and fish as efficiently as possible in order to maximize revenues with available allocations.

Appropriately set catch limits is the fundamental basis to management measures, and so long as accountability measures for the fishery adequately

prevent and address overages of these catch limits, groundfish vessels should, whenever possible, be provided with flexibility for determining how best to harvest the available quotas. The Council could consider additional management measures, such as trip limits or a prohibition on possession, if updated information indicated these measures were necessary to meet the goals and objectives of the Groundfish FMP, or more specifically, conservation objectives for GOM cod.

Rebuilding Plan Review Analysis

Comment 4: The Council and one commercial fishing organization supported the proposed rebuilding plan review analysis for GOM cod and plaice. The Council commented that this measure would commit the Council to a formal, thorough review of rebuilding progress and provide the Council with necessary information for decision-making. The Council also noted that, often times, investigation of why rebuilding has not occurred as expected is not a standard term of reference for stock assessments, and this type of investigation can be cursory. Lastly, the Council also commented that the current biennial review process does not revisit reference points.

Response: We agree that the review analysis provides a formal process for the Council, and its technical bodies, to follow should GOM cod or plaice fall below their rebuilding trajectories, and the other relevant criteria be met. However, we disagree with the Council's assertion that recent groundfish stock assessments have not investigated why rebuilding has not occurred as expected. A stock assessment typically evaluates the stock's current biomass levels compared to levels estimated in the prior stock assessment. As part of this exercise, the assessment will investigate why estimated levels may have changed from the previous assessment, and will also review the performance of historical projections with respect to stock size, catch recruitment, and fishing mortality, as the Council's comment notes.

The Council also notes that the assessments do not compare fishing year catches to annual catch limits, which is the first of three criteria that must be met to initiate the rebuilding plan review. This comment ignores the Council's own biennial review process. The existing biennial review process specifies that the Groundfish Plan Development Team (PDT) shall review available catch data, including landings and discard information. In general, because stock assessments are based on the calendar year, which does not align with the groundfish fishing year (May 1-April 30) for which annual catch limits are set, fishing year catches are not compared to the annual catch limits in the stock assessment. Instead, the PDT does, and should, review and evaluate annual fishing year catches compared to the pertinent annual catch limits in order to develop and recommend appropriate management options that achieve the goals and objectives of the Groundfish FMP. Although ''compare fishing year catches to annual catch limits'' is not an explicitly stated as part of the Council's biennial review process, this could be added as an additional step in the biennial review process, or the preparation of the annual Sock Assessment and Fishery Evaluation report or the biennial review process in a future management action. A review of fishing year catches compared to annual catch limits should not be reserved only for times when a stock falls below its rebuilding trajectory, and instead should be a routine task for the Groundfish PDT.

To clarify the Council's comment that the existing biennial review process does not revisit reference points, it is important to note that there is no guarantee the review of the biomass reference points in the rebuilding review analysis will result in any revisions to the biomass reference points. The only analyses that would be sufficient to revise biomass reference points, and thus provide new catch advice options based on those revised reference points, would be another stock assessment.

The Council's comment did not provide further clarification on our concerns for the portions of the rebuilding plan review analysis that are obsolete because this action adopts rebuilding plans that already use the maximum 10 years allowed by the Magnuson-Stevens Act. As a result, we are only partially approving the rebuilding plan review analysis, and have removed the unnecessary and redundant criteria related to considering an extension of the rebuilding program to the maximum 10 years allowed. We explain this partial approval in more detail earlier in this preamble, and this explanation is not repeated here. If this rebuilding review analysis is adopted for other stocks in the future, and those stocks do not already use the maximum 10 years allowed, the Council could include a necessary step that considers extending the rebuilding plan to 10 years, so long as that criteria is relevant to the pertinent stock's rebuilding program.

U.S./Canada Quotas and White Hake Catch Limits

Comment 5: One commercial fishing organization supported the proposed U.S./Canada quotas and the white hake catch limits.

Response: We acknowledge the commenter's support of the U.S./Canada quotas and the white hake catch limits. The most recent stock assessment for white hake that was completed in February 2013 indicated that the stock is no longer overfished, and no longer subject to overfishing. In addition, projections from the assessment show that white hake is expected to reach its rebuilt level in 2014, which is the target year for rebuilding this stock. Due to this improved stock status, we implemented an emergency action for FY 2013 to increase the white hake catch limit based on the results of the 2013 assessment. We implemented this emergency action because the assessment results became available after the Council took final action on Framework 50, which set FY 2013–2015 specifications for nearly all groundfish stocks, in order to give the Council time to incorporate this updated information. Framework 51 adopted FY 2014–2016 catch limits for white hake based on the new assessment and on the recommendations of the SSC. As a result, we determined that these catch limits are consistent with the best scientific information available, and are approving them in this final rule. The catch limits adopted in this action for FY 2014–2016 will be a 10-percent increase compared to FY 2013.

Similarly, we determined that the FY 2014 U.S./Canada quotas adopted in Framework 51 are consistent with the best scientific information available, the TMGC recommendations and, for Georges Bank yellowtail flounder, the SSC's recommendation. As a result, we are approving these shared U.S./Canada quotas in this final rule. These determinations are more fully described in Items 2 and 3 of this preamble, and are not repeated here.

Small-Mesh Fisheries Accountability Measure for Georges Bank Yellowtail Flounder

Comment 6: One commercial fishing organization supported the proposed AM for GB yellowtail flounder for the small-mesh fisheries.

Response: We acknowledge the commenter's support of the AM for GB yellowtail flounder for the small-mesh fisheries. As more fully described in Item 4 of this preamble, an additional AM for the small-mesh fisheries was required following the allocation of GB

yellowtail flounder to these fisheries for FY 2013 and beyond. The proposed AM would require selective trawl gear in the GB yellowtail flounder stock area if the small-mesh fisheries exceed their allocation. This gear-based AM, coupled with a pound-for-pound payback should the small-mesh fisheries cause the overall U.S. quota to be exceeded, will help ensure that sufficient measures are in place to reduce catch of GB yellowtail flounder should an overage occur. Triggering the small-mesh fisheries AM based on an overage of their allocation will help ensure that catch from this component of the fishery does not negatively affect other components of the fishery, particularly the commercial groundfish fishery. With the exception of the scallop fishery AM for yellowtail flounder, which is only triggered if the overall catch limit is exceeded or the scallop fishery exceeds its allocation by 50 percent or more, AMs for allocated groundfish stocks are triggered if a fishery exceeds its specific allocation, regardless of whether the overall catch limit is exceeded.

The proposed AM can be implemented up to 2 years after an overage, which is consistent with the approach used for other groundfish AMs. Due to data availability used to estimate catch from state waters and non-groundfish fisheries, we typically do not receive final catch estimates until after the fishing year ends. In addition, small-mesh vessels operate at different times on Georges Bank depending on the target species (i.e., squid and whiting). In order to avoid disproportionate impacts of the AM on small-mesh vessels that could occur if the AM is implemented inseason, the AM is only implemented at the start of the fishing year. For all these reasons, we determined that the proposed AM is consistent with the necessary requirements of the Magnuson-Stevens Act and other applicable law, and are approving this measure.

U.S./Canada Quota Trading Mechanism

Comment 7: One commercial fishing organization and one commercial fisherman opposed the proposed U.S./Canada quota trading mechanism because, in their view, it would not provide specific opportunities for the groundfish industry to provide input on any potential trade, and it would allow all fisheries to benefit from a trade regardless of the fishery that traded away its quota.

Response: We disagree that the groundfish industry would not have specific opportunities to provide input on a potential trade. The trading mechanism adopted in this action requires that the Regional Administrator consult with the Council prior to making any trade, thereby providing the groundfish industry an opportunity to provide input through the Council's public participation process. In addition to the consultation with the Council, the U.S. TMGC would also participate in specifying any potential trade, which provides an additional opportunity for the groundfish industry to provide input through the Council's appointees on the U.S. TMGC.

We realize the concern of the commenters that all fisheries would benefit from a trade regardless of whether those fisheries gave up any of their quota. This was anticipated and considered during the development of Framework 51. We determined that a more simplified trading mechanism that used the Council's current ABC distribution schedule was the best option for an initial attempt at allowing trading, and that could be done through a framework action. Other types of trading mechanisms that allow only a single fishery component to participate in trades with Canada, and benefit from additional quota received from Canada, were determined to be beyond the scope of a framework action, and options that the Council would have to consider in an amendment. As a result, the Council adopted the trading mechanism that is approved in this action only for 1 year, and the mechanism will only apply to trades made before the end of FY 2014. This was intended to put a mechanism in place while the Council continued to work on development of a long-term trading mechanism for FY 2015 and beyond in Amendment 18 that would address the commenters' concerns for industry participation and inclusion of only those fishery components that gave away quota.

In addition, although this action establishes a 1-year trading mechanism, this action does not guarantee, or lock in, any trade for FY 2014. If a potential trade was being considered in FY 2014, we would still have to consult with the Council, including the other respective U.S./Canada management bodies, before any trade was agreed upon with Canada. We will ensure that the appropriate groups have ample time to provide input on any potential trade, should one become available, and will consider all input when determining whether to make a trade with Canada.

Distribution of Eastern/Western Georges Bank Haddock Sector Allocations

Comment 8: One commercial fishing organization supported the measure to allow sectors to ''convert'' a portion of their eastern GB haddock allocation to western GB haddock allocation and noted that this measure will provide sectors with additional flexibility. The commenter also noted that this measure successfully utilizes the sector system as a tool to develop management solutions.

Response: We agree that this measure will provide sectors with additional flexibility for harvesting their GB haddock allocations, and that this measure is a good example of the benefits the sector program can provide. As described in detail in Item 6 of this preamble, it was possible that the existing regulations could limit the amount of haddock that could be caught in the Western U.S./Canada Area and unnecessarily constrain a sector's catch of GB haddock. If this situation occurred, it could prevent a sector from harvesting its entire GB haddock allocation, which ultimately could prevent the fishery from achieving optimum yield. Any impediment for achieving optimum yield for this stock is particularly important given the healthy status of GB haddock, and the low levels of other key groundfish stocks, which have resulted in substantial economic losses for the groundfish fishery. The measure adopted in this action addresses this problem, and ensures that sector vessels have increased flexibility for harvesting a healthy stock.

Comment 9: One commercial fisherman opposed the measure to allow sectors to ''convert'' a portion of their eastern GB haddock allocation to western GB haddock allocation and noted that this measure opens ''Pandora's Box'' to revisit stock boundaries. The commenter also questioned why this measure was adopted only for GB haddock, and not GB cod.

Response: We disagree that this measure opens the door for re-visiting stock boundaries. As explained in more detail in Item 6 of this preamble, the eastern portion of the GB haddock stock is a sub-unit of the total GB haddock stock. The total ABC for GB haddock includes the U.S./Canada quota for eastern GB haddock. As a result, this measure does not draw into question, or refute, the existing stock boundaries of GB haddock. Rather, it attempts to provide additional flexibility for sectors to harvest GB haddock in both the Eastern and Western U.S./Canada Areas, recognizing that so long as the total catch limit for GB haddock is not exceeded, this measure does not jeopardize any conservation objectives for GB haddock. Due to the current situation for GB haddock, no action had the potential to prematurely shut down the Western U.S./Canada Area should

sectors begin to utilize more of their GB haddock allocations. There is a large year class for GB haddock that has begun to recruit to the fishery, so although it is too early to tell whether quota utilization for GB haddock will increase in FY 2014, the measure adopted in this action is intended to proactively adjust management measures should sectors begin to harvest more GB haddock.

The measure adopted in this action was determined to not have any negative biological implications for GB haddock; however, this same determination would not necessarily be true for GB cod. Under the assumption that cod mix freely on Georges Bank between the Eastern and Western U.S./Canada Areas, then this measure applied to GB cod would likely not increase any biological risk to the stock. However, larger cod tend to be aggregated more in the Eastern U.S./Canada Area. Further the status of GB cod is dramatically different than GB haddock. GB cod is overfished and overfishing is occurring. This measure was not considered for GB cod because the issue only existed for GB haddock, but further, this measure would likely not be appropriate for GB cod given the potential to have negative biological consequences on a depleted stock.

In our approval of this measure for GB haddock in this action, we do recommend that the Council should occasionally review the measure in the future to ensure that it is still necessary and appropriate, particularly if there is a drastic change in the stock assessment for either GB haddock or its eastern sub-unit, or the perception of stock status changes in the future.

Georges Bank Yellowtail Flounder Discard Strata

Comment 10: The Council commented on the proposed discard strata for GB yellowtail flounder, and noted that this measure was not an ''either/or'' situation relative to the development of a [non-regulatory] discard tool for sectors, though the Council did express a preference for the sector discard tool over the revised discard strata for GB yellowtail flounder. The Council briefly summarized the proposed measure and noted that the measure would result in increased accuracy of discard estimates with adequate observer coverage, and that the sector discard tool would not provide the same increased accuracy.

Response: We agree that the proposed measure was not necessarily an ''either/or'' situation relative to the development of a discard tool for sectors. As a result, we reviewed the proposed discard strata for GB yellowtail flounder on its merits, and for its consistency with the relevant National Standards of the Magnuson-Stevens Act. As explained earlier in this preamble, we disapproved this measure because we determined it was not consistent with National Standards 5 and 7, and would likely lack any measurable benefits. However, because the Council expressed a preference that a non-regulatory discard tool be developed for sectors, we did consider this as one approach available to address the concerns noted during the development of Framework 51 for discard estimates.

As the Council's comment suggests, the assumption of ''adequate observer coverage'' in order for the proposed measure to increase precision of catch estimates is important. This measure has the potential to increase the variance in discard estimates, which could subsequently increase monitoring coverage levels necessary to accurately monitor sector catches. Without appropriate monitoring coverage, increased variability in discard estimates would affect our ability to reliably monitor sector catches, meet the 30-percent coefficient of variation standard specified in the Groundfish FMP, and ensure that overfishing is not occurring. This is described in more detail in the disapproval of this measure earlier in this preamble, and is not restated here.

Although the Council correctly points out that the revised discard strata could lead to different discard estimates for some sectors, it does not acknowledge that the changes to the total discard estimates would likely be small. This comment also does not acknowledge that the revised discard strata would affect each sector's discard estimate for GB yellowtail flounder differently. Discard estimates for some sectors would have increased under the revised discard strata, and the estimates for other sectors would have decreased. Thus, it is still unclear whether there are any measurable benefits of this measure that outweigh the potential disadvantages of this measure (i.e., administrative burden, potential to increase variance, etc.).

Comment 11: One commercial fishing organization commented that the discard tool we developed would likely prove useful for sectors, although this tool could be quite complicated for sectors to use. The commenter noted that sector representatives would likely need additional training on how to use the tool before it could be more widely used.

Response: We agree that the discard tool will likely be useful for sectors, particularly because of the wide range of potential uses that allow a sector to assign discards to its member vessels in any number of ways of its choosing based on the sector's own business model, including applying the tool for all stocks, or just some stocks. The development of this discard tool is described in detail earlier in the preamble of this rule, and is not repeated here. We agree that, at least initially, the discard tool may be complicated for sector representatives to learn and use, particularly in learning all the various combinations of criteria that can be applied to distribute discards to member vessels. In addition, the application of this tool will require sector members to become familiar with the tool, and the sector will ultimately have to decide how best to distribute individual discards based on the selected criteria. We will continue to work with sector representatives to improve the utility of this discard tool, and are already soliciting additional feedback from sectors on how we can best provide additional support for this tool.

Prohibition on Possession of Yellowtail Flounder by the Limited Access Scallop Fishery

Comment 12: The Council and one commercial fishing organization supported the proposed prohibition on possession of yellowtail flounder by limited access scallop vessels. Both commenters supported this measure because it would remove any incentive for scallop vessels to target yellowtail flounder, which would ultimately reduce bycatch of yellowtail flounder in the scallop fishery, and reduce total mortality on yellowtail flounder stocks.

Response: We acknowledge the commenters' support of the prohibition on possession of yellowtail flounder by limited access scallop vessels. As more fully described in Item 7 of this preamble, prohibiting possession of yellowtail flounder would remove any incentive for scallop vessels to target yellowtail flounder, and has the potential to reduce total mortality for yellowtail flounder compared to the current requirement to land all legal-sized yellowtail flounder. If discard mortality is less than 100 percent for yellowtail flounder, then a requirement to land all legal-sized yellowtail flounder could increase mortality relative to a prohibition on possession. Based on the available information, it is reasonable to expect that some fish from these stocks, albeit a small number, may survive after being discarded, thus

reducing total mortality on these stocks. Reducing total mortality, even slightly, is particularly important for these yellowtail flounder stocks. Although SNE/MA yellowtail flounder was declared rebuilt in 2012, CC/GOM and GB yellowtail flounder are overfished and overfishing is occurring for both stocks. Thus, even though this measure appears to increase bycatch, as defined by the Magnuson-Stevens Act, it is not practicable to reduce bycatch because to do so would likely increase overall mortality of yellowtail flounder. The conservation benefits of further reducing mortality of yellowtail flounder outweigh the potential for this measure to increase bycatch as defined by the Magnuson-Stevens Act. As a result, we have determined that the prohibition on possession adopted in this action is consistent with National Standard 9, and other conservation requirements, of the Magnuson-Stevens Act.

Comment 13: One NGO commented that it is puzzling that most of the fleet is not abiding by the current landing requirement, and the remaining portion of the fleet is targeting yellowtail flounder. The commenter noted that mandatory ''move-on'' rules is the only clear answer to possession rules for yellowtail flounder for the scallop fishery.

Response: During development of Framework 51, we did note concerns for the apparent low compliance rate by limited access scallop vessels with the landing requirement. However, we repeatedly noted that low compliance with any management measure was not an appropriate basis, by itself, for eliminating a requirement. For this measure, we evaluated how prohibiting possession would affect total mortality on the stock, and as described in Item 7 of this preamble, determined that the discard mortality rate for yellowtail flounder was likely less than 100 percent, at least for one stock of yellowtail flounder. Under this assumption then, requiring limited access scallop vessels to discard all yellowtail flounder is expected to decrease total mortality on yellowtail flounder stocks compared to the landing requirement if even a small number of fish survive. Further, because some scallop vessels may be targeting yellowtail flounder, prohibiting possession provides additional conservation benefits by removing any incentive for scallop vessels to target yellowtail flounder. Ultimately, removing this incentive is expected to further reduce overall fishing mortality on yellowtail flounder in the scallop fishery.

The support for mandatory ''move-on'' rules does not directly address the proposed measures, and is not an available substitute for this action because we can only approve or disapprove the proposed Framework 51 measures. However, to briefly respond to this comment, we note that, although not mandatory, the scallop fishery does utilize a yellowtail flounder avoidance program that incorporates real-time information from scallop vessels to determine the location of yellowtail flounder catch hotspots and better allows scallop vessels to harvest their scallop allocations while minimizing yellowtail flounder catch. This program was expanded beginning in FY 2013 to include additional fishing areas on Georges Bank. If additional management measures are needed in the future to better achieve conservation objectives, the Council could consider ''move-on'' rules in a future management action. However, the scallop fishery has successfully stayed within its yellowtail flounder allocations under the existing management system that combines established AMs that are triggered if an overage occurs and a voluntary bycatch avoidance program.

FY 2014 Common Pool Trip Limits

Comment 14: One commercial fishing organization and one commercial fisherman opposed zero possession of GOM haddock for the common pool fishery for FY 2014. The commenters noted that a small trip limit should be allowed so that common pool vessels can land a small amount of haddock for home consumption.

Response: We agree with the commenter's suggestion that a small trip limit should be allowed. As noted in Item 9 of this preamble, the FY 2014 trip limit has been increased from what we initially proposed (zero possession) to 25 lb (11.3 kg) per trip. This trip limit is intended to allow vessels to land a small amount of haddock for personal consumption, but remains low enough to reduce any incentive to target GOM haddock. The FY 2013 common pool sub-ACL has been exceeded, and this overage will be deducted from the FY 2014 common pool sub-ACL. Since the common pool sub-ACL for GOM haddock is already small (2 mt), when considering the FY 2013 overage, and the possibility of additional overages in FY 2014, we have determined that it is not appropriate for any directed fishing on GOM haddock by common pool vessels, and thus, have kept the trip limit extremely low to prevent any directed fishing. This is expected to preserve the common pool quota for GOM haddock for the entire fishing year, and prevent prematurely shutting down the Gulf of Maine area, which would have negative impacts on common pool vessels, and prevent the common pool from harvesting its quota for other stocks.

Comment 15: Two commercial fishermen opposed the SNE/MA winter flounder trip limit of 1,000 lb (453.6 kg) per DAS up to 2,000 lb (907.2 kg) per trip, and instead suggested the trip limit be slightly higher to make trips for common pool vessels more profitable.

Response: We agree with the commenters' suggestion to increase the trip limit. As noted in Item 9 of this preamble, the FY 2014 trip limit has been increased from what we initially proposed to 1,500 lb (680.4 kg) per DAS up to 2,000 lb (1,360.8 kg) per trip. In addition to the factors described earlier, we also took into account the southern windowpane flounder AM that is triggered for FY 2014, which will require the use of selective trawl gear in certain areas of Southern New England for commercial groundfish trips. This AM will reduce fishing opportunities for winter flounder, and as a result we determined it was appropriate to increase the initial FY 2014 slightly from what we proposed to help offset the impacts of the windowpane flounder AM.

FY 2014 Windowpane Flounder Accountability Measures

Comment 16: The NGO noted that current catch estimates for FY 2013 indicate that the commercial groundfish fishery has exceeded its allocation for both windowpane flounder stocks, and commented that it was unclear whether there is any quota available to act as an AM for the FY 2012 overages.

Response: As explained in detail in Item 8 of the preamble, the commercial groundfish fishery AMs for both stocks of windowpane flounder are gear-restricted areas that are triggered if the overall catch limit is exceeded. These stocks are not allocated to sectors, and possession is prohibited. As a result, area-based AMs, instead of pound-for-pound ''payback'' AMs, were adopted to mitigate overages of the windowpane flounder catch limit, and prevent future overages from occurring, by requiring selective trawl gear for commercial groundfish vessels in order to reduce catches of windowpane flounder.

Due to data availability, we typically cannot determine whether the overall catch limit has been exceeded until after the fishing year ends when updated discard information for the sub-components of the fishery (e.g., state waters and non-groundfish fisheries) becomes available. As a result,

implementation of the windowpane flounder AMs can be delayed up to 2 years following an overage, which is the case of the FY 2012 overages that will result in an AM for FY 2014. In some circumstances, however, we could have reliable information inseason that shows a pertinent catch limit has been exceeded, and in those cases, we would trigger the windowpane flounder AMs the year immediately following an overage. For example, preliminary catch estimates for FY 2013 indicate the total catch limit for northern windowpane has been exceeded. Thus, regardless of whether an overage occurred in FY 2012 for this stock, we would have implemented the AM for northern windowpane at the start of the 2014 fishing year due to the overage of the FY 2013 catch limit.

To clarify the commenter's reference to the preliminary FY 2013 catch information, it is important to reiterate that the commercial groundfish AMs are only triggered if the overall catch limit is exceeded. An overage of the groundfish fishery's allocation does not dictate that an AM be implemented. For northern windowpane, this issue is moot because, as noted earlier, current FY 2013 catch estimates for the commercial groundfish fishery indicate the commercial fleet, alone, has caught more than the FY 2013 OFL. However, for southern windowpane flounder, although the commercial groundfish allocation has been exceeded, it may be unlikely that the overall catch limit is exceeded for FY 2013. Preliminary FY 2013 catch information for the scallop fishery indicates that the scallop fishery only caught approximately 60 percent of its allocation for southern windowpane (approximately an 80-mt underharvest). There is a possibility that this underage of the scallop fishery allocation helps prevent the overall catch limit from being exceeded in FY 2013 and, if so, no AMs would be necessary to address FY 2013 catches.

Changes From the Proposed Rule

We made four changes from the proposed rule in this action. First, this final rule disapproves the revised discard strata for GB yellowtail flounder, for reasons already described in detail in both the Disapproved Measures and the Comments and Responses sections of this preamble. These reasons are not restated here. Second, this final rule partially disapproves the rebuilding plan review analysis in order to remove irrelevant criteria, as well as the regulatory provisions related to this part of the analysis. The reasons for this partial disapproval are described in detail in Item 1 of this preamble and in the Comments and Responses section of this preamble. We also revised the GOM haddock and SNE/MA winter flounder trip limits for the common pool fishery based on comments received on the proposed trip limits, and these adjustments are explained in Item 9 of this preamble and in the Comments and Responses section of this preamble.

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 groundfish 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 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 authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delayed effectiveness of this action. The effective date of this action affects a parallel rulemaking approving sector operations plans for the start of FY 2014 on May 1, 2014. In addition, this action sets FY 2014 catch limits for white hake and U.S./Canada stocks, adjusts management measures for yellowtail flounder, and improves measures that will increase fishing opportunities for sector vessels. Therefore, these measures must be in effect at the beginning of FY 2014 to fully capture the conservation and economic benefits of Framework 51 measures and the FY 2014 sector operations plans. Due to the government shutdown in October 2013, the Council could not take final action on Framework 51 until December 2013, and as a result, the Council's submission of Framework 51 to NMFS was delayed until February 2014. Due to this time constraint, this rulemaking could not be completed further in advance of May 1, 2014. Therefore, in order to have this action effective at the beginning of FY 2014, which begins on May 1, 2014, it is necessary to waive the 30-day delayed effectiveness of this rule.

Failure to waive the 30-day delayed effectiveness would result in no catch limits being specified for FY 2014 for a number of groundfish stocks. Without an allocation for these groundfish stocks, sector vessels would be unable to fish beginning on May 1, 2014. This would severely disrupt the fishery, and could result in foregone yield and revenue reductions. The groundfish fishery already faced substantial cuts in the catch limits for many key groundfish stocks beginning in FY 2013, and any further disruption to the fishery could worsen the severe economic impacts that resulted from the FY 2013 catch limits. This action includes specifications that would increase the catch limits for white hake and the U.S. quota for the three shared U.S./Canada stocks, and also adopts other measures designed to increase fishing opportunities for sector vessels. These measures are intended to continue to help mitigate the economic impacts of the reductions in the FY 2013 catch limits. A delay in implementation of this action would greatly diminish the benefits of these specifications and other approved measures. For these reasons, a 30-day delay in the effectiveness of this rule is impracticable and contrary to the public interest.

Final Regulatory Flexibility Analysis

Introduction

The Regulatory Flexibility Act (RFA) requires that Federal agencies analyze the expected impacts of a rule on small business entities, including consideration of disproportionate and/or significant adverse economic impacts on small entities that are directly regulated by the action. As part of the analysis, Federal agencies must also consider alternatives that minimize impacts on small entities while still accomplishing the objectives of the rule. However, it is important to note that the RFA does not require that the alternative with the least cost, or with the least impact on small entities, be selected. Rather, the required analysis is used to inform the agency, as well as the public, of the expected impacts of the various alternatives included in the rule, and to ensure the agency considers other alternatives that minimize the expected impacts while still meeting the goals and objectives of the action, and that are still consistent with applicable law. In addition, our ability to minimize economic impacts is constrained, in part, by recommendations of the Council. We can only approve, partially approve, or disapprove the measures that the Council recommends in a management action.

Section 604 of the RFA, 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. Key elements

of the FRFA include a summary of significant issues raised by public comments, a description of the small entities that will be affected by the final rule, and a description of the steps the agency has taken to minimize the significant economic impact on small entities that includes the reasons for selecting each alternative and why other alternatives were not adopted. The FRFA prepared for this final rule includes the summary and responses to comments in this rule, the analyses contained in Framework 51 and its accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below.

Statement of Objective and Need

A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 51, the preamble to the proposed rule, as well as this final rule, and are not repeated here. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

Summary of Significant Issues Raised in Public Comments

Our responses to all comments received on the proposed rule can be found in the Comments and Responses section of this preamble. No public comments were received on the economic impacts of this action, or the IRFA prepared for the proposed rule.

As a result of the public comment received, we disapproved the revised discard strata for GB yellowtail flounder, and only partially approved the GOM cod and plaice rebuilding plan review analysis in order to remove irrelevant criteria. We also revised the GOM haddock and SNE/MA winter flounder trip limits for the common pool fishery based on comments received on the proposed trip limits. No other changes to the proposed rule measures were required to be made as a result of public comments.

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

The Small Business Administration defines a small business as one that is:

- Independently owned and operated;
- Not dominant in its field of operation;
- Has annual receipts that do not exceed—
  - $19.0 million in the case of commercial finfish harvesting entities (NAIC [1] 114111)
  - $5.0 million in the case of commercial shellfish harvesting entities (NAIC 114112)
  - $7.0 million in the case of for-hire fishing entities (NAIC 114119); or
- Has fewer than—
  - 500 employees in the case of fish processors
  - 100 employees in the case of fish dealers.

This action impacts commercial and recreational fish harvesting entities that participate in the groundfish limited access and open access fisheries, the small-mesh multispecies and squid fisheries, and the scallop fishery. A description of the specific permits that are likely to be impacted is included below for informational purposes, followed by a discussion of the impacted businesses (ownership entities), which can include multiple vessels and/or permit types.

Limited Access Groundfish Fishery—The limited access groundfish fishery consists of those enrolled in the sector program and the common pool fishery. As of January 14, 2014, there were 1,088 individual limited access permits for FY 2013. Limited access groundfish eligibilities held as Confirmation of Permit History were not included for the purposes of this analysis. Although these entities may generate revenue from quota leasing, they do not generate any gross sales from fishing activity and, as a result, are not classified as commercial fishing entities. Of the 1,088 limited access groundfish permits issued in FY 2013, 664 of these permits were enrolled in the sector program, and 424 were in the common pool. Based on the information to date, 767 of these limited access groundfish permits have associated landings of any species, and 414 have some amount of groundfish landings. Each of these 1,088 permits will be eligible to join a sector or enroll in the common pool in FY 2014. There is also a possibility that some of these permit owners could allow their permit to expire by failing to renew it for FY 2014.

Handgear B Fishery—The Handgear B permit is an open access groundfish permit that can be requested at any time, with the limitation that a vessel cannot hold a limited access groundfish permit and an open access Handgear B permit concurrently. The Handgear B permit requires the use of rod-and-reel handgear, and is also subject to possession limits for groundfish species, with special provisions for cod. As of February 18, 2014, there were 891 Handgear B permits, and 78 of those vessels landed at least 1 lb (0.45 kg) of groundfish for FY 2014.

Charter/Party Fishery—The charter/party permit is an open access groundfish permit that can be requested at any time, with the limitation that a vessel cannot hold a limited access groundfish permit and an open access party/charter permit concurrently. Charter/party permits are subject to annual recreational management measures that include minimum fish sizes, possession limits, and seasonal closures. As of February 20, 2014, there were 667 party/charter permits issued for FY 2013. Of these permits issued for FY 2013, 383 vessels reported taking a party or charter trip, and 120 of these vessels have caught cod or haddock in the Gulf of Maine during FY 2013.

Limited Access Scallop Fisheries—The limited access scallop fishery includes Limited Access (LA) scallop permits and Limited Access General Category (LGC) scallop permits. LA scallop businesses are subject to a mixture of DAS and an access area rotation program. LGC scallop businesses are managed primarily under an individual fishing quota system, and vessels are able to acquire and lease additional scallop quota throughout the year. As of February 19, 2014, there were 348 active LA scallop permits with at least one dollar of revenue from sea scallops for FY 2013.

Small-Mesh Fisheries—The small-mesh exempted fishery allows vessels to harvest species in designated areas using mesh sizes smaller than the minimum mesh size required by the Groundfish FMP. To participate in the small-mesh multispecies (whiting) fishery, vessels must hold either a limited access groundfish permit or an open access Category K groundfish permit. Limited access groundfish permit holders can only target whiting while declared out of the fishery (i.e., not fishing under a DAS or sector trip). A description of limited access groundfish permits was provided above, and is not repeated here. As of February 18, 2014, there were 776 open access Category K groundfish permits issued, with only 34 of them landing at least 1 lb (0.45 kg) of whiting. Many of these vessels target both whiting and Longfin squid on small-mesh trips taken in the GB yellowtail flounder stock area, and therefore, most of them also have open access or limited access Squid, Mackerel, and Butterfish (SMB) permits.

[1] The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

During calendar years 2010–2011, nearly half of the total whiting landings came from the GB yellowtail flounder stock area, but during the same time period, the squid landings from this area made up less than 10 percent of the total squid landings. As a result, and because most SMB-permitted vessels fishing in the GB yellowtail flounder stock area also have either a limited access or open access Category K groundfish permit, SMB permits were not incorporated into this analysis.

Ownership Entities—For the purposes of this analysis, an ''ownership entity'' is defined as an entity with common owners as listed on the permit application. Only permits with identical ownership are categorized as an ''ownership entity.'' For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ''ownership entity.'' If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate ''ownership entity'' for the purpose of this analysis. The ownership entities, and not the individual vessels, are considered to be the entities regulated by this action.

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership data set is based on calendar year 2012 permits and contains average gross sales associated with those permits for calendar years 2010 through 2012. Matching the potentially-impacted FY 2013 permits described above to the calendar year 2012 ownership data results in 2,064 distinct ownership entities. Based on the Small Business Administration guidelines, 2,042 of these ownership entities are categorized as small, and 22 are categorized as large entities, all of which are shellfish businesses.

These totals may mask some diversity among the entities. Most of these ownership entities maintain diversified harvest portfolios, obtaining gross sales from many fisheries, and not dependent on any one fishery. However, not all ownership entities are equally diversified. The entities that depend most heavily on sales from harvesting species that are directly impacted by this action are most likely to be affected. To identify these ownership groups, dependence was defined as having sales of species from a specific fishery (e.g., groundfish or scallops) that were more than 50 percent of the ownership group's total gross sales.

Using this threshold, 151 entities are groundfish-dependent, all of which are considered small, and all of which are finfish commercial harvesting businesses. Of the 151 groundfish-dependent entities, 130 participate in the sector program, and 21 operate exclusively in the common pool fishery. There are 234 entities that are scallop-dependent. All of these scallop-dependent entities are shellfish businesses, and 20 of them are considered large. There are 35 small-mesh fishery-dependent entities; all of which are considered small. Of these small-mesh dependent entities, 19 are finfish businesses, and 16 are shellfish businesses. The small-mesh fishery-dependent entities may overestimate the number of impacted entities because missing statistical area information in the commercial dealer database makes it difficult to track whiting and squid landings that occurred exclusively in the GB yellowtail flounder stock area.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

This final rule contains a revision to the collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, and which has been approved by OMB under control number 0648–0605 (Amendment 16 reporting requirements).

This action adjusts the Annual Catch Entitlement (ACE) transfer request requirement implemented through Amendment 16 by adding a new entry field to the ACE transfer request form. This new entry field allows a sector to indicate how many pounds of eastern GB haddock ACE it intends to re-allocate to the Western U.S./Canada Area. The change is necessary so that a sector can apply for a re-allocation of eastern GB ACE in order to increase fishing opportunities in the Western U.S./Canada Area. Currently, all sectors use the ACE transfer request form to initiate ACE transfers with other sectors via an online or paper form to the Regional Administrator. The change would not affect the number of entities required to comply with this requirement. Therefore, this change is not expected to increase the time or cost burden associated with the ACE transfer request requirement. Public reporting burden for this requirement includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Description of the Steps Taken to Minimize Significant Economic Impacts of this Action

We are disapproving the proposed revision to the method for estimating discards of GB yellowtail flounder, and partially disapproving the proposed rebuilding plan review analysis for GOM cod and American plaice. The rationale for disapproving these measures adopted by the Council in Framework 51 is explained in detail in the preamble of this rule, and is not repeated here. We have determined that all of the other measures proposed in Framework 51 are consistent with the requirements of the Magnuson-Stevens Act and other applicable law, as well as the goals and objectives of the Groundfish FMP. As a result, we are approving these measures in this final rule. Many of these measures were developed in order to provide sectors with additional fishing opportunities and more flexibility to harvest their available allocations. These measures are expected to minimize economic impacts to small entities compared to the No Action alternatives. Other measures adopted in this final rule that may have some negative impacts to small entities were determined to be less burdensome compared to other alternatives that were considered in Framework 51, but ultimately not recommended by the Council.

Two factors were examined to determine whether this action could result in significant economic impacts: Disproportionality and profitability. Disproportionality refers to whether or not the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities. Profitability refers to whether or not the regulations significantly reduce profits for a substantial number of small entities. This action has the potential to place small entities at a significant competitive disadvantage compared to large entities. This is mainly because large entities will likely have more flexibility to adjust to, and accommodate, the final measures. In addition, this action may have significant impacts on profitability for a substantial number of small entities, as described below.

The 10-year rebuilding programs for GOM cod and plaice that are adopted in this action are expected to have positive impacts on profitability of the small

entities that are regulated by this action that would result from rebuilt stocks. In addition, these rebuilding programs are expected to result in higher net present values and larger profits compared to the alternatives to the preferred alternative (No Action alternative, an 8-year rebuilding program for GOM cod, and a 7 and 8-year rebuilding program for plaice). Because these stocks were not making adequate rebuilding progress, the revised rebuilding programs adopted in this action are necessary to ensure conservation objectives are met, and that management measures are consistent with the rebuilding requirements of the Magnuson-Stevens Act. The alternatives to the 10-year rebuilding programs for both stocks were not selected because they would not have sufficiently accounted for the needs of fishing communities, past performance of groundfish rebuilding, and differences in the two assessment models used for GOM cod.

The catch limits implemented in this final rule are predicted to decrease gross revenues for the groundfish industry by 4 percent in FY 2014 compared to FY 2013 and by 26 percent compared to FY 2012. Net revenue is predicted to decline in FY 2014 by 12 percent compared to predicted net revenues, and by 21 percent compared to FY 2012. The negative impacts of the final catch limits would be non-uniformly distributed across vessel size classes, with smaller vessels being more heavily impacted compared to large vessels. Although small entities are defined based on gross sales of ownership groups, not physical characteristics of the vessel, it is reasonable to assume that larger vessels are more likely to be owned by large entities. As a result, the catch limits included in this action could put small entities at a competitive disadvantage compared to large entities.

The only alternative to the catch limits implemented by this rule is the No Action alternative. If no action was taken, no catch limits would be specified for the U.S./Canada stocks or white hake. As a result, sector vessels would be unable to fish in the respective stock areas in FY 2014. This would result in greater negative economic impacts on vessels compared to the specifications implemented by this action due to lost revenues as a result of being unable to fish. If no action was taken to specify catch limits for these stocks, the Magnuson-Stevens Act requirements to achieve optimum yield, take into account the needs of fishing communities, and minimize adverse economic impacts would also be violated. For these reasons, the No Action alternative was not selected.

The catch limits implemented by this action are based on the latest stock assessment information, which is considered the best scientific information available, and the applicable requirements in the Groundfish FMP and the Magnuson-Stevens Act. The catch limits implemented in this action are the highest allowed given the best scientific information available, the SSC's recommendations, and requirements to end overfishing and rebuild fish stocks. The only other options to the catch limits implemented in this action that would mitigate negative impacts would be higher catch limits. However, higher catch limits to those adopted in this action are not permissible under the law because they would not be consistent with the goals and objectives of the Groundfish FMP, or the Magnuson-Stevens Act, particularly the requirement to prevent overfishing. The Magnuson-Stevens Act, and relevant case law, prevents implementation of measures that conflict with conservation requirements, even if it means negative impacts are not mitigated. For these reasons, higher catch limits than those implemented in this action were not considered in Framework 51. As a result, the only other alternative to the catch limits implemented in this action was the No Action Alternative, which would not mitigate the economic impacts of the final catch limits, as explained above.

The GB yellowtail flounder AM established for the small-mesh fisheries that is adopted in this action is expected to have negative impacts on small-mesh fishery-dependent small entities, if the AM is triggered. However, this type of measure is required by the Magnuson-Stevens Act to help prevent overfishing, and to ensure that small-mesh fisheries catch of GB yellowtail flounder does not negatively affect the groundfish and scallop fisheries. If the small-mesh fisheries sub-ACL for GB yellowtail flounder is exceeded, selective trawl gear would be required in the year immediately following the overage, or 2 years after the overage, depending on data availability. Small entities would likely experience higher costs as a result, including the fixed cost of purchasing new gear and/or modifying existing gear. These potential gear restrictions would also likely lower the catch rates of target species (e.g., squid and whiting), which would increase operating costs and lower net revenue and overall profitability. The negative impacts this action could have are less than those that would have resulted from another alternative considered in Framework 51 that would have closed the entire GB yellowtail flounder stock area to small-mesh fisheries if the sub-ACL was exceeded. If the AM implemented in this rule successfully reduces discards of GB yellowtail flounder, and prevents overfishing, catch rates for the species could increase for groundfish-dependent small entities, resulting in small increases in profitability.

This action also adopts two measures that would modify U.S./Canada management measures to provide more flexibility and create additional fishing opportunities for groundfish vessels. For each of these measures, no other alternatives were considered other than the No Action alternative and the measures implemented in this action. The first measure establishes a U.S./Canada quota trading mechanism. This is an administrative measure, and is not expected to have any additional economic impacts, positive or negative, relative to the No Action alternative, which would not have specified any U.S./Canada trading mechanism. At this time, it is not known how this action might increase or decrease quota allocated to groundfish fishermen because it is difficult to anticipate what, if any, trade would be made between the United States and Canada. However, if the ability to trade quota inseason were to result in increased quota for U.S. vessels, and that quota was converted into landings, then this action would be beneficial to groundfish-dependent small entities. In addition, because this trading mechanism would likely allow the United States to receive additional quota for limiting stocks, any trade made would better help achieve optimum yield in the fishery. Compared to the No Action alternative, the preferred alternative may result in potential benefits to groundfish-dependent small entities and would likely allow the United States to receive additional quota for limiting stocks, and for these reasons, the No Action alternative was rejected.

The second measure allows sectors to convert their eastern GB haddock allocation to western GB haddock allocation and provide additional opportunities to harvest more of their total GB haddock allocation. This is expected to have small positive impacts on groundfish-dependent small entities that participate in the sector program due to increased operational flexibility. This measure is also expected to prevent the Western U.S./Canada Area from being closed to a sector prematurely, before the sector harvests all of its GB haddock allocation, which will

ultimately prevent foregone yield in the fishery. However, since catch of eastern and western GB haddock has been consistently lower than the respective catch limits, the benefit of this action is likely very small compared to the No Action alternative. Due to the small benefits that may be realized under the preferred alternative when compared to the No Action alternative, the No Action alternative was rejected.

This action also adopts a prohibition on possession of yellowtail flounder by limited access scallop vessels, which is expected to impact only scallop-dependent small entities. This measure could result in some economic loss for vessels that have been landing the species. However, only a relatively small proportion (less than a quarter) of the active limited access vessels are currently landing yellowtail flounder, and the average revenue per vessel from yellowtail flounder is less than 5 percent of the average total revenue. As such, the effects of this action on the profitability of scallop-dependent small entities are expected to be small. Further, this action is required to reduce total mortality on yellowtail flounder in order to better meet the goals and objectives of the Groundfish FMP. The only alternative considered to the preferred alternative was No Action. Compared to the preferred alternative, the No Action alternative may increase revenues for vessels that have been landing yellowtail flounder. However, the No Action alternative was not selected because the conservation benefits of reducing mortality on yellowtail flounder outweighed any minor economic benefit that some vessels could obtain by landing small amounts of yellowtail flounder.

The actions analyzed here must also be put into the context of previous actions, such as Amendment 16 to the Groundfish FMP, and parallel actions, such as the approval of FY 2014 sector operations plans, which contain ongoing measures to help mitigate negative impacts on the entities affected by this action.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, we will send a small entity compliance guide to all Federal permit holders affected by this action (groundfish, scallop, and small-mesh). In addition, copies of this final rule and guide (i.e., information bulletin) are available from NMFS (see **ADDRESSES**) and at the following Web site: *http://www.nero.noaa.gov/sfd/sfdmulti.html.*

List of Subjects

50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

50 CFR Part 697

Fisheries, Fishing.

Dated: April 17, 2014.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR parts 648 and 697 are 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 § 648.14, revise paragraph (i)(2)(iii)(D) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(2) * * *

(iii) * * *

(D) Fish for, possess, or land yellowtail flounder from a vessel on a scallop fishing trip.

* * * * *

■ 3. In § 648.60, revise paragraph (a)(5)(ii)(C) to read as follows:

§ 648.60 Sea scallop access area program requirements.

(a) * * *

(5) * * *

(ii) * * *

(C) *Yellowtail flounder.* Such vessel is prohibited from fishing for, possessing, or landing yellowtail flounder.

* * * * *

■ 4. In § 648.80, revise paragraph (g)(5)(i) to read as follows:

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

* * * * *

(g) * * *

(5) * * *

(i) *Nets of mesh size less than 2.5 inches (6.4 cm).* A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets of mesh size smaller than 2.5 inches (6.4-cm), as measured by methods specified in paragraph (f) of this section, may use net strengtheners (covers, as described at § 648.23(d)), provided that the net strengthener for nets of mesh size smaller than 2.5 inches (6.4 cm) complies with the provisions specified under § 648.23(c).

* * * * *

■ 5. In § 648.85, revise paragraphs (a)(2)(ii) and (b)(6)(iv)(B) and add paragraph (a)(2)(iv) to read as follows:

§ 648.85 Special management programs.

(a) * * *

(2) * * *

(ii) *TAC Overages.* Any overages of the overall Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder U.S. TACs caused by an overage of the component of the U.S. TAC specified for either the common pool, individual sectors, the scallop fishery, or any other fishery, pursuant to this paragraph (a)(2) and § 648.90(a)(4), that occur in a given fishing year shall be subtracted from the respective TAC component responsible for the overage in the following fishing year and may be subject to the overall groundfish AM provisions as specified in § 648.90(a)(5)(ii) if the overall ACL for a particular stock in a given fishing year, specified pursuant to § 648.90(a)(4), is exceeded.

* * * * *

(iv) *Inseason TAC Adjustments.* For FY 2014 only, the Regional Administrator, in consultation with the Council, may adjust the FY 2014 TACs for the U.S./Canada shared resources inseason consistent with any quota trade recommendations made by the TMGC and/or Steering Committee, and approved by the Regional Administrator. Any such inseason adjustment to the FY 2014 TACs may only increase the TAC available to the U.S. fishery, and may not reduce the TAC amount distributed in FY 2014 to any fishery component as specified in paragraph (a)(2)(iii) of this section. The revised FY 2014 TAC(s) shall be distributed consistent with the process specified in paragraph (a)(2)(iii) of this section. For example, if the U.S. receives additional yellowtail flounder TAC in FY 2014, and trades away a portion of its FY 2015 haddock TAC, the Regional Administrator would increase the FY 2014 U.S. TAC for yellowtail flounder inseason consistent with the process specified in this paragraph (a)(2)(iv). The adjustment to the FY 2015

U.S. TAC for haddock would be made as part of the process for establishing TACs, as described in paragraph (a)(2)(i)(C) of this section.

* * * * *

(b) * * *

(6) * * *

(iv) * * *

(B) *Observer notification.* For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and the planned fishing area or areas (GOM, GB, or SNE/MA) at least 48 hr prior to the beginning of any trip declared into the Regular B DAS Program as required by paragraph (b)(6)(iv)(C) of this section, and in accordance with the Regional Administrator's instructions. Providing notice of the area that the vessel intends to fish does not restrict the vessel's activity on that trip to that area only (*i.e.,* the vessel operator may change his/her plans regarding planned fishing areas).

* * * * *

■ 6. In § 648.87:

■ a. Revise paragraph (b)(1)(i)(B) and the introductory text of paragraph (c)(2);

■ b. Add paragraph (e)(3)(iv); and

■ c. Remove paragraphs (b)(1)(i)(F) through (G) to read as follows:

§ 648.87 Sector allocation.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) *Eastern GB stocks*—(*1*) *Allocation.* Each sector allocated ACE for stocks managed under the terms of the U.S./Canada Resource Sharing Understanding in the Eastern U.S./Canada Area, as specified in § 648.85(a), shall be allocated a specific portion of the ACE for such stocks that can only be harvested from the Eastern U.S./Canada Area, as specified in § 648.85(a)(1). The ACE specified for the Eastern U.S./Canada Area portions of these stocks shall be proportional to the sector's allocation of the overall ACL available to all vessels issued a limited access NE multispecies permit for these stocks pursuant to § 648.90(a)(4). For example, if a sector is allocated 10 percent of the GB cod ACL available to all vessels issued a limited access NE multispecies permit, that sector would also be allocated and may harvest 10 percent of that ACE from the Eastern U.S./Canada Area. In this example, if the overall GB cod ACL available to all vessels issued a limited access NE multispecies permit is 1,000 mt, of which 100 mt is specified to the Eastern U.S./Canada Area, the sector would be allocated 100 mt of GB cod, of which no more than 10 mt could be harvested from the Eastern U.S./Canada Area and no more than 90 mt could be harvested from the rest of the GB cod stock area.

(*2*) *Re-allocation of haddock ACE.* A sector may re-allocate all, or a portion, of a its haddock ACE specified to the Eastern U.S./Canada Area, pursuant to paragraph (b)(1)(i)(B)(*1*) of this section, to the Western U.S./Canada Area at any time during the fishing year, and up to 2 weeks into the following fishing year (i.e., through May 14), unless otherwise instructed by NMFS, to cover any overages during the previous fishing year. Re-allocation of any ACE only becomes effective upon approval by NMFS, as specified in paragraphs (b)(1)(i)(B)(*2*)(*i*) through (*iii*) of this section. Re-allocation of haddock ACE may only be made within a sector, and not between sectors. For example, if 100 mt of a sector's GB haddock ACE is specified to the Eastern U.S./Canada Area, the sector could re-allocate up to 100 mt of that ACE to the Western U.S./Canada Area.

(*i*) *Application to re-allocate ACE.* GB haddock ACE specified to the Eastern U.S./Canada Area may be re-allocated to the Western U.S./Canada Area through written request to the Regional Administrator. This request must include the name of the sector, the amount of ACE to be re-allocated, and the fishing year in which the ACE re-allocation applies, as instructed by the Regional Administrator.

(*ii*) *Approval of request to re-allocate ACE.* NMFS shall approve or disapprove a request to re-allocate GB haddock ACE provided the sector, and its participating vessels, is in compliance with the reporting requirements specified in this part. The Regional Administrator shall inform the sector in writing, within 2 weeks of the receipt of the sector's request, whether the request to re-allocate ACE has been approved.

(*iii*) *Duration of ACE re-allocation.* GB haddock ACE that has been re-allocated to the Western U.S./Canada Area pursuant to this paragraph (b)(1)(i)(B)(*2*) is only valid for the fishing year in which the re-allocation is approved, with the exception of any requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section, unless otherwise instructed by NMFS.

* * * * *

(c) * * *

(2) If a sector is approved, the Regional Administrator shall issue a letter of authorization to each vessel operator and/or vessel owner participating in the sector. The letter of authorization shall authorize participation in the sector operations and may exempt participating vessels from any Federal fishing regulation implementing the NE multispecies FMP, except those specified in paragraphs (c)(2)(i) and (ii) of this section, in order to allow vessels to fish in accordance with an approved operations plan, provided such exemptions are consistent with the goals and objectives of the FMP. The letter of authorization may also include requirements and conditions deemed necessary to ensure effective administration of, and compliance with, the operations plan and the sector allocation. Solicitation of public comment on, and NMFS final determination on such exemptions shall be consistent with paragraphs (c)(1) and (2) of this section.

* * * * *

(e) * * *

(3) * * *

(iv) *Re-allocation of GB haddock ACE.* Subject to the terms and conditions of the state-operated permit bank's MOAs with NMFS, a state-operated permit bank may re-allocate all, or a portion, of its GB haddock ACE specified for the Eastern U.S./Canada Area to the Western U.S./Canada Area provided it complies with the requirements in paragraph (b)(1)(i)(B)(*2*) of this section.

* * * * *

■ 7. In § 648.90:

■ a. Revise paragraphs (a)(2)(iv) through (vii) and (a)(4)(iii)(G); and

■ b. Add paragraphs (a)(2)(viii), (a)(4)(i)(A) and (B), (a)(5)(iv), and (a)(5)(v) to read as follows:

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

* * * * *

(a) * * *

(2) * * *

(iv) *Rebuilding plan review for GOM cod and American plaice.* Based on this review of the most current scientific information available, the PDT shall determine whether the following conditions are met for either stock: The total catch limit has not been exceeded during the rebuilding program; new scientific information indicates that the stock is below its rebuilding trajectory (i.e., rebuilding has not progressed as expected); and $F_{rebuild}$ becomes less than 75% F_{MSY}. If all three of these criteria are met, the PDT, and/or SSC, shall undertake a rebuilding plan review to

provide new catch advice that includes the following, in priority order: Review of the biomass reference points and calculation of $F_{rebuild}$ ACLs based on the review of the biomass reference points and the existing rebuilding plan.

(v) The Council shall review the ACLs recommended by the PDT and all of the options developed by the PDT and other relevant information; consider public comment; and develop a recommendation to meet the FMP objectives pertaining to regulated species or ocean pout that is consistent with applicable law. If the Council does not submit a recommendation that meets the FMP objectives and is consistent with applicable law, the Regional Administrator may adopt any option developed by the PDT, unless rejected by the Council, as specified in paragraph (a)(2)(vii) of this section, provided the option meets the FMP objectives and is consistent with applicable law.

(vi) Based on this review, the Council shall submit a recommendation to the Regional Administrator of any changes, adjustments or additions to DAS allocations, closed areas or other measures necessary to achieve the FMP's goals and objectives. The Council shall include in its recommendation supporting documents, as appropriate, concerning the environmental and economic impacts of the proposed action and the other options considered by the Council.

(vii) If the Council submits, on or before December 1, a recommendation to the Regional Administrator after one Council meeting, and the Regional Administrator concurs with the recommendation, the Regional Administrator shall publish the Council's recommendation in the **Federal Register** as a proposed rule with a 30-day public comment period. The Council may instead submit its recommendation on or before February 1, if it chooses to follow the framework process outlined in paragraph (c) of this section, and requests that the Regional Administrator publish the recommendation as a final rule, in a manner consistent with the Administrative Procedure Act. If the Regional Administrator concurs that the Council's recommendation meets the FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the **Federal Register,** in a manner consistent with the Administrative Procedure Act. If the Regional Administrator concurs that the recommendation meets the FMP objectives and is consistent with other applicable law and determines that a proposed rule is warranted, and, as a result, the effective date of a final rule falls after the start of the fishing year on May 1, fishing may continue. However, DAS used or regulated species or ocean pout landed by a vessel on or after May 1 will be counted against any DAS or sector ACE allocation the vessel or sector ultimately receives for that year, as appropriate.

(viii) If the Regional Administrator concurs in the Council's recommendation, a final rule shall be published in the **Federal Register** on or about April 1 of each year, with the exception noted in paragraph (a)(2)(vi) of this section. If the Council fails to submit a recommendation to the Regional Administrator by February 1 that meets the FMP goals and objectives, the Regional Administrator may publish as a proposed rule one of the options reviewed and not rejected by the Council, provided that the option meets the FMP objectives and is consistent with other applicable law. If, after considering public comment, the Regional Administrator decides to approve the option published as a proposed rule, the action will be published as a final rule in the **Federal Register**.

* * * * *

(4) * * *

(i) * * *

(A) *ABC recommendations.* The PDT shall develop ABC recommendations based on the ABC control rule, the fishing mortality rate necessary to rebuild the stock, guidance from the SSC, and any other available information. The PDT recommendations shall be reviewed by the SSC. Guided by terms of reference developed by the Council, the SSC shall either concur with the ABC recommendations provided by the PDT, or provide alternative recommendations for each stock of regulated species or ocean pout and describe the elements of scientific uncertainty used to develop its recommendations. Should the SSC recommend an ABC that differs from that originally recommend by the PDT, the PDT shall revise its ACL recommendations if necessary to be consistent with the ABC recommendations made by the SSC. In addition to consideration of ABCs, the SSC may consider other related issues specified in the terms of reference developed by the Council, including, but not limited to, OFLs, ACLs, and management uncertainty.

(B) *ACL recommendations.* The PDT shall develop ACL recommendations based upon ABCs recommended by the SSC and the pertinent recommendations of the Transboundary Management Guidance Committee (TMGC). The ACL recommendations of the PDT shall be specified based upon total catch for each stock (including both landings and discards), if that information is available. The PDT shall describe the steps involved with the calculation of the recommended ACLs and uncertainties and risks considered when developing these recommendations, including whether different levels of uncertainties were used for different sub-components of the fishery and whether ACLs have been exceeded in recent years. Based upon the ABC recommendations of the SSC and the ACL recommendations of the PDT, the Council shall adopt ACLs that are equal to or lower than the ABC recommended by the SSC to account for management uncertainty in the fishery.

* * * * *

(iii) * * *

(G) *GB yellowtail flounder catch by small mesh fisheries*—(*1*) For the purposes of this paragraph, the term ''small-mesh fisheries'' is defined as vessels fishing with bottom tending mobile gear with a codend mesh size of less than 5 in (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).

(*2*) Small-mesh fisheries allocation. GB yellowtail flounder catch by the small-mesh fisheries, as defined in paragraph (a)(4)(iii)(G)(*1*) of this section, shall be deducted from the ABC/ACL for GB yellowtail flounder pursuant to the process to specify ABCs and ACLs, as described in this paragraph (a)(4). This small mesh fishery shall be allocated 2 percent of the GB yellowtail flounder ABC (U.S. share only) in fishing year 2013 and each fishing year after, pursuant to the process for specifying ABCs and ACLs described in this paragraph (a)(4). An ACL based on this ABC shall be determined using the process described in paragraph (a)(4)(i) of this section.

(5) * * *

(iv) *AMs if the sub-ACL for the Atlantic sea scallop fishery is exceeded.* At the end of the scallop fishing year, NMFS shall evaluate Atlantic sea scallop fishery catch to determine whether a scallop fishery sub-ACL has been exceeded. On January 15, or when information is available to make an accurate projection, NMFS will also determine whether the overall ACL for each stock allocated to the scallop

fishery has been exceeded. When evaluating whether the overall ACL has been exceeded, 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. If catch by scallop vessels exceeds the pertinent sub-ACL specified in paragraph (a)(4)(iii)(C) of this section by 50 percent or more, or if scallop catch exceeds the scallop fishery sub-ACL and the overall ACL for that stock is also exceeded, then the applicable scallop fishery AM shall take effect, as specified in § 648.64 of the Atlantic sea scallop regulations.

(v) *AM if the small-mesh fisheries GB yellowtail flounder sub-ACL is exceeded.* If NMFS determines that the sub-ACL of GB yellowtail flounder allocated to the small-mesh fisheries, pursuant to paragraph (a)(4)(iii)(G) of this section, is exceeded, NMFS shall implement the AM specified in this paragraph consistent with the Administrative Procedures Act. The AM requires that small-mesh fisheries vessels, as defined in paragraph (a)(4)(iii)(G)(*1*) of this section, use one of the following approved selective trawl gear in the GB yellowtail flounder stock area, as defined at § 648.85(b)(6)(v)(H): 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 reliable information is available, the AM shall be implemented in the fishing year immediately following the year in which the overage occurred only if there is sufficient time to do so in a manner consistent with the Administrative Procedures Act. Otherwise, the AM shall be implemented in the second fishing year after the fishing year in which the overage occurred. For example, if NMFS determined after the start of Year 2 that the small-mesh fisheries sub-ACL for GB yellowtail flounder was exceeded in Year 1, the applicable AM would be implemented at the start of Year 3. If updated catch information becomes available subsequent to the implementation of an AM that indicates that an overage of the small-mesh fisheries sub-ACL did not occur, NMFS shall rescind the AM, consistent with the Administrative Procedure Act.

* * * * *

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

■ 8. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

■ 9. In § 697.7, revise paragraphs (c)(1)(xxii) and (c)(2)(xvii) to read as follows:

§ 697.7 Prohibitions.

* * * * *

(c) * * *

(1) * * *

(xxii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any lobster trap gear, on a fishing trip in the EEZ from a vessel that fishes for, takes, catches, or harvests lobster by a method other than lobster traps.

* * * * *

(2) * * *

(xvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any lobster trap gear on a fishing trip in the EEZ on a vessel that fishes for, takes, catches, or harvests lobster by a method other than lobster traps.

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[FR Doc. 2014–09135 Filed 4–21–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 131203999–4326–02]

RIN 0648–XD020

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement an annual catch limit (ACL), harvest guideline (HG), annual catch target (ACT), and associated annual reference points for Pacific sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast for a one-time interim harvest period of January 1, 2014, through June 30, 2014, and to set annual harvest levels, such as overfishing limit (OFL), acceptable biological catch (ABC), annual catch limit (ACL), for Pacific sardine for the whole calendar year 2014. These specifications were determined according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP), and reflect the recent 6-month change to the starting date of the annual Pacific sardine fishery from January 1 to July 1. The 2014 ACT or maximum directed HG is 19,846 (mt). Based on the seasonal allocation framework in the FMP, this equates to a first period (January 1 to June 30) allocation of 6,946 mt (35% of ACT). This rule also establishes an adjusted directed non-tribal harvest allocation for this period of 5,446 mt. This value was reduced from the total first period allocation by 1000 mt for potential harvest by the Quinault Indian Nation as well as 500 mt to be used as an incidental set aside for other non-tribal commercial fisheries if the 5,446 mt limit is reached and directed fishing for sardine is closed. This rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Effective April 22, 2014 through June 30, 2014.

ADDRESSES: West Coast Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: During public meetings each year, the estimated biomass for Pacific sardine is presented to the Pacific Fishery Management Council's (Council) CPS Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel) and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fisheries are reviewed and discussed. The biomass estimate is then presented to the Council along with the calculated OFL, ABC, ACL and HG, along with recommendations and comments from the Team, Subpanel and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to NMFS. Each year NMFS then implements regulations that set the annual quota for the Pacific sardine fishing year that currently begins January 1 and ends December 31.

However, on February 28, 2014, NMFS published a final rule (79 FR 11343) to change the start date of the 12-month Pacific sardine fishery from January 1 to July 1, thus changing the fishing season from one based on the calendar year to a fishing year that will begin on July 1 and extend till the following June 30, as well as establish a one-time interim harvest period for the 6 months from January 1, 2014, through June 30, 2014. The purpose of this change is to better align the timing of the research and science that is used in the annual stock assessments with the annual management schedule. As a result of this action, the start of the next complete fishing season will begin on