

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

[Docket No 041110317-4364-02; I.D. 110404B]

RIN 0648-AR51

## 50 CFR Part 648

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2005 and 2006 Summer Flounder Specifications; 2005 Scup and Black Sea Bass Specifications; Correction**

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

**ACTION:** Final rule; correction.

**SUMMARY:** NMFS published in the *Federal Register* of January 4, 2005, a final rule containing final specifications for the 2005 and 2006 summer flounder fisheries and for the 2005 scup and black sea bass fisheries. Inadvertently, Table 4 of the final rule contained an incorrect Winter I period scup possession limit. This document corrects that error.

**DATES:** Effective January 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, Fishery Policy Analyst, (978) 281-9279, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** The final rule, including final quota specifications for the summer flounder, scup, and black sea bass fisheries, was published in the *Federal Register* on January 4, 2005 (70 FR 303). Table 4 incorrectly listed the Winter I period scup possession limit (per trip) as 15,000 lb (6,804 kg); the correct amount is 30,000 lb (13,608 kg). The entries at the 2nd row, 11th and 12th columns of Table 4 are corrected to read 30,000 lb and 13,608 kg, respectively.

Dated: January 12, 2005.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

[Docket No. 040112010-4114-02; I.D.011105I]

**Northeast (NE) Multispecies Fishery; Re-opening of the Eastern U.S./Canada Area; and Removal of Daily Poundage Limits for Yellowtail Flounder in the U.S./Canada Management Area, and Cod in the Eastern U.S./Canada Area**

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

**ACTION:** Re-opening and removal of daily poundage limits.

**SUMMARY:** NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is re-opening the Eastern U.S./Canada Area to all limited access NE multispecies days-at-sea (DAS) vessels and is removing the prohibition on all NE multispecies limited access vessels from harvesting, possessing, or landing Georges Bank (GB) yellowtail flounder from within the entire U.S./Canada Management Area. This action also removes the yellowtail flounder and cod daily poundage limits for the entire U.S./Canada Management Area and Eastern U.S./Canada Area, respectively, but retains the 15,000 lb (6,804 kg) trip limit for GB yellowtail flounder and a 5,000 lb (2,268 kg) trip limit for GB cod, consistent with ensuring that the Total Allowable Catches (TACs) for these species will not be exceeded by the end of the 2004 fishing year.

**DATES:** Effective 0001 hr local time, January 14, 2005, through 2400 hr local time April 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Karen Tasker, Fishery Management Specialist, (978) 281-9273, fax (978) 281-9135.

**SUPPLEMENTARY INFORMATION:** Regulations governing the yellowtail flounder and cod landing limits within the U.S./Canada Management Area are found at 50 CFR 648.85(a)(3)(iv). The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the U.S./Canada Management Area under specific conditions. The TAC allocation for GB yellowtail flounder for the 2004 fishing year was specified at 6,000 mt in the final rule implementing Amendment 13 to the NE Multispecies Fishery

Management Plan (FMP). Once 30 percent and/or 60 percent of the yellowtail flounder TAC allocations specified for the U.S./Canada Management Area are projected to have been harvested, the regulations at § 648.85(a)(3)(iv)(D) authorize the Regional Administrator to close access to the Eastern U.S./Canada Area to all limited access NE multispecies DAS vessels and prohibit all NE multispecies limited access vessels from harvesting, possessing, or landing GB yellowtail flounder from the entire U.S./Canada Management Area to prevent overharvesting or underharvesting the yellowtail flounder TAC allocation.

Based upon Vessel Monitoring System (VMS) reports and other available information, the Regional Administrator determined that 85 percent of the GB yellowtail flounder TAC had been harvested by October 1, 2004 (69 FR 59815, October 6, 2004). NMFS closed the Eastern U.S./Canada Area, effective October 1, 2004, to all NE multispecies DAS vessels and prohibited all NE multispecies vessels from harvesting, possessing, or landing GB yellowtail flounder from the U.S./Canada Management Area, because of concerns that the yellowtail flounder TAC would be fully harvested or overharvested prior to the end of the fishing year. Full harvest or overharvest of the TAC was anticipated due to the amount of yellowtail flounder harvested by vessels targeting yellowtail flounder in the U.S./Canada Management Area, and because of concerns regarding expected yellowtail flounder bycatch by vessels targeting groundfish other than yellowtail flounder within the U.S./Canada Management Area. Additional concern was raised by the potential impact that may be caused by scallop vessels fishing in Closed Area II under the Sea Scallop Access Program implemented under Frameworks 16/39 to the Atlantic Sea Scallop/NE Multispecies FMPs. Because of these potential sources of yellowtail flounder harvest, this action was necessary to ensure that the GB yellowtail flounder TAC would not be exceeded during the 2004 fishing year.

At this time, data indicate that the amount of GB yellowtail flounder harvested under the Sea Scallop Access Program and the amount of GB yellowtail flounder bycatch caught by vessels targeting groundfish other than yellowtail flounder within the U.S./Canada Management Area will likely not result in the overharvest of the TAC. Therefore, under the authority of § 648.85(a)(3)(iv)(D), NMFS is re-opening the U.S./Canada Management Area to NE multispecies DAS vessels,

and removing the prohibition on the harvest, possession, and landing of GB yellowtail flounder by all NE multispecies vessels within the entire U.S./Canada Management Area, effective January 14, 2005. In addition, this action removes the previous daily poundage limits for GB yellowtail flounder and GB cod for the entire U.S./Canada Management Area and the Eastern U.S./Canada Area, respectively, and reinstates the 15,000 lb (6,804 kg) and 5,000 lb (2,268 kg) trip limit for GB yellowtail flounder and GB cod, respectively, consistent with ensuring that the TACs for these species will not be exceeded by the end of the 2004 fishing year. Removal of the daily poundage limits for these species provides flexibility to the fishing industry by allowing vessels that may need to end their trip prematurely due to an unexpected event, such as poor weather conditions, with the ability to retain their catch onboard when entering port (catches of species with daily poundage caps must be offloaded when a vessel enters port). The overall trip limits will help ensure that the mortality goals of the FMP are met. Additionally, trawl vessels fishing in the Eastern U.S./Canada Area may only fish with a haddock separator net, as described in § 648.85(a)(3)(iii)(A), for the purposes of reducing bycatch of both GB cod and GB yellowtail flounder to allow greater access to the remaining GB haddock TAC for the rest of the fishing year.

Yellowtail flounder landings will be closely monitored through VMS and other available information and, once 100 percent of the TAC allocation for GB yellowtail flounder is projected to be harvested, the Eastern U.S./Canada Area will be closed to NE multispecies DAS vessels and the harvesting, possession, and landing of yellowtail flounder by NE multispecies vessels in the U.S./Canada Management Area will be prohibited, in accordance with the regulations § 648.85(a)(3)(iv)(C)(3).

#### Classification

This action re-opens the Eastern U.S./Canada Area to the harvest of GB yellowtail flounder, and essentially restores access to this area with similar restrictions before the closure by removing a prohibition on the possession of GB yellowtail flounder in the U.S./Canada Management Area in order to allow vessels to fully harvest the TAC of GB yellowtail flounder. If implementation of this action is delayed, NMFS could be prevented from permitting the full harvest of the GB yellowtail flounder stock, GB cod, and GB haddock TACs. The directed harvest

of the GB yellowtail flounder stock began on May 1, 2004, and additional fishing opportunity on the stock was provided as of June 1, 2004, with the opening of the Closed Area II Yellowtail Flounder Special Access Program (SAP). If a proposed rule for this action, or delay in effectiveness were required, access to the Eastern U.S./Canada Area, as well as the ability to harvest yellowtail flounder from within the entire U.S./Canada Management Area, would be delayed and would create an unnecessary burden on the industry. For the above reason, under 5 U.S.C. 553(b)(3), proposed rulemaking is not necessary because it would be contrary to the public interest. Furthermore, because this rule relieves a restriction, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for this action.

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

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

Dated: January 12, 2005.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 040809233-4363-03; I.D. 080304B]

RIN 0648-AR55

#### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery and Northeast Multispecies Fishery; Framework 16 and Framework 39

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

**ACTION:** Final rule.

**SUMMARY:** NMFS publishes this final rule to implement measures previously approved, but not implemented under Framework 16 to the Atlantic Sea Scallop Fishery Management Plan (Scallop FMP) and Framework 39 to the Northeast Multispecies FMP (Multispecies FMP) (Joint Frameworks). The implementation of these measures was delayed, pending approval of reporting and recordkeeping requirements by the Office of Management and Budget (OMB). This

final rule allows general category scallop vessels to fish in the Northeast (NE) multispecies closed area access program implemented as part of the Joint Frameworks, provided that they comply with new recordkeeping and reporting requirements. OMB has approved the reporting and recordkeeping requirements for vessels with general category scallop permits, as required under the Paperwork Reduction Act (PRA).

**DATES:** Effective February 17, 2005.

**ADDRESSES:** Copies of the Joint Frameworks, their Regulatory Impact Review (RIR), including the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of the preamble of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from the Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298, and are also available via the internet at <http://www.nero.nmfs.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule should be submitted to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA, 01930, and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or to the Federal e-rulemaking portal <http://www.regulations.gov>, or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Peter W. Christopher, Fishery Policy Analyst, 978-281-9288; fax 978-281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

The final rule for the Joint Frameworks (69 FR 63460, November 2, 2004) established Scallop Access Areas within NE multispecies Closed Area I (CAI), Closed Area II (CAII), and the Nantucket Lightship Closed Area (NLCA). The NE multispecies closed areas are closed year-round to all fishing that is capable of catching NE multispecies, including scallop fishing. The Joint Frameworks allowed the scallop fishery to access the scallop resource within portions of the NE