

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
FISHES							
*	*	*	*	*	*	*	*
Chub, Oregon	<i>Oregonichthys crameri.</i>	U.S.A. (OR)	Entire	T	520,769	17.95(e)	NA
*	*	*	*	*	*	*	*

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 Dated: April 13, 2010.

Rowan W. Gould,
Acting Director, Fish and Wildlife Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 080521698-9067-02]

RIN 0648-XW04

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Closure of the Eastern U.S./Canada Management Area

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

ACTION: Temporary rule; closure and possession restriction.

SUMMARY: NMFS announces a temporary closure of the Eastern U.S./Canada Area to limited access Northeast (NE) multispecies days-at-sea (DAS) vessels and a prohibition on the harvest, possession, and landing of Georges Bank (GB) yellowtail flounder by all federally-permitted vessels within the entire U.S./Canada Management Area. Based upon vessel monitoring system (VMS) reports and other available information, the Administrator, Northeast Region, NMFS (Regional Administrator) has projected that 100 percent of the fishing year (FY) 2009 total allowable catch (TAC) of GB yellowtail flounder allocated to be harvested from the U.S./Canada Management Area has been harvested. This action is being taken to prevent the FY 2009 TAC for GB yellowtail flounder in the U.S./Canada Management Area

from being exceeded during FY 2009 in accordance with the regulations implemented under Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective 0001 hours April 20, 2010, through April 30, 2010.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, (978) 675-2153, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the GB yellowtail flounder landing limit within the U.S./Canada Management Area are found at 50 CFR 648.85(a)(3)(iv)(C) and (D). 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, as defined at § 648.85(a)(1), under specific conditions. The TAC for GB yellowtail flounder for FY 2009 (May 1, 2009–April 30, 2010) was set at 1,617 mt by the 2009 interim final rule (74 FR 17030, April 13, 2009). An action published on March 16, 2010 (75 FR 12462), removed a restriction on the use of specific trawl gear in parts of the Western U.S./Canada Area (effective March 11, 2010) and removed a trawl gear restriction in the Eastern U.S./Canada Area (effective on April 13, 2010). Additionally, the trip limit for GB yellowtail flounder in the U.S./Canada Management Area was raised from 2,500 lb (1,134 kg) to 5,000 lbs (2,268 kg) per trip on March 24, 2010 (75 FR 15625). These actions increased vessels' opportunity to fully harvest the GB yellowtail flounder TAC for FY 2009. The regulations at § 648.85(a)(3)(iv)(C)(3) authorize the Administrator, Northeast (NE) Region, NMFS (Regional Administrator) to close the Eastern U.S./Canada Area to groundfish DAS vessels and prohibit all vessels from harvesting, possessing, or landing yellowtail flounder from the U.S./Canada Management Area to

prevent the GB yellowtail flounder TAC from being exceeded.

According to the most recent VMS reports and other available information, the cumulative GB yellowtail flounder catch is approximately 98.6 percent of the TAC as of April 19, 2010. Therefore, to ensure that the TAC for GB yellowtail flounder will not be exceeded, the Eastern U.S./Canada Area is closed to all limited access NE multispecies DAS vessels and all vessels are prohibited from harvesting, possessing, or landing yellowtail flounder from the U.S./Canada Management Area, effective 0001 hr April 20, 2010, through April 30, 2010.

Classification

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

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because prior notice and comment and a delayed effectiveness would be impracticable and contrary to the public interest. This action will temporarily close the Eastern U.S./Canada Area to NE multispecies DAS vessels and prohibit all vessels from harvesting, possessing, or landing yellowtail flounder from the U.S./Canada Management Area. This action is necessary to halt the catch of GB yellowtail flounder in the U.S./Canada Management Area and prevent the FY 2009 GB yellowtail flounder TAC from being exceeded during FY 2009. Because of the rapid increase in GB yellowtail harvest rate, it is projected that 100 percent of the GB yellowtail flounder TAC will be harvested prior to the end of FY 2009.

This action is required by the regulations at § 648.85(a)(3)(iv)(C)(3) to prevent over-harvesting the U.S./Canada

Management Area TACs. The time necessary to provide for prior notice, opportunity for public comment, and delayed effectiveness for this action would prevent the agency from taking immediate action to halt the catch of GB yellowtail flounder in the U.S./Canada Management Area. To allow vessels to continue directed fishing effort on GB yellowtail flounder during the period necessary to publish and receive comments on a proposed rule could potentially allow the GB yellowtail flounder to exceed the FY 2009 TAC for this stock. Exceeding the FY 2009 TAC for GB yellowtail flounder would increase mortality of this overfished stock beyond that evaluated during the development of Amendment 13 and the 2009 Interim Action, resulting in decreased revenue for the NE multispecies fishery, increased negative economic impacts to vessels operating

in the U.S./Canada Management Area, a reduced chance of achieving optimum yield in the groundfish fishery, and unnecessary delays to the rebuilding of this overfished stock. Exceeding the FY 2009 GB yellowtail flounder TAC would also necessitate that any overage of the GB yellowtail flounder TAC during FY 2009 for this stock be deducted from the FY 2010 TAC for this stock. Reducing the FY 2010 TAC due to exceeding the FY 2009 TAC caused by delaying this action, therefore, would create an unnecessary burden on the fishing industry and further negative economic and social impacts that were not previously considered.

The Regional Administrator's authority to close the Eastern U.S./Canada Area to all groundfish DAS vessels when any of the TACs specified are projected to be caught, was publicly considered and open to public comment

during the development of Amendment 13. The public is able to obtain information on the rate of harvest of the GB yellowtail flounder TAC via the NMFS Northeast Regional Office website (<http://www.nero.noaa.gov>), which provides at least some advanced notice of a potential action to prevent the TAC for GB yellowtail from being exceeded during FY 2009. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: April 20, 2010.

Emily H. Menashes,

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

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