

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648****[Docket No. 080428607–8689–02]****RIN 0648–AW69****Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Allocation of Trips to Closed Area II Yellowtail Flounder Special Access Program**

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

ACTION: Final rule; allocation of trips.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has allocated zero trips to the Closed Area (CA) II Yellowtail Flounder Special Access Program (SAP) during the 2008 fishing year (FY) (i.e., May 1, 2008, through April 30, 2009). The Regional Administrator has determined that the available catch of Georges Bank (GB) yellowtail flounder is insufficient to support a minimum level of fishing activity within the CA II Yellowtail Flounder SAP for FY 2008. The intent of this action is to help achieve optimum yield (OY) in the fishery by maximizing the utility of available GB yellowtail flounder TAC throughout FY 2008.

DATES: Effective June 30, 2008.

ADDRESSES: Copies of the final rule implementing the FY 2008 TAC for GB yellowtail flounder in the U.S./Canada Management Area are available upon request from the NE Regional Office at the following mailing address: George H. Darcy, Assistant Regional Administrator for Sustainable Fisheries, NMFS, Northeast Regional Office, 1

Blackburn Drive, Gloucester, MA 01930. Copies may also be requested by calling (978) 281–9315.

FOR FURTHER INFORMATION CONTACT:

Douglas Potts, Fishery Management Specialist, (978) 281–9341, FAX (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Framework Adjustment (FW) 40B (70 FR 31323; June 1, 2005) requires that the Regional Administrator annually allocate the total number of trips into the CA II Yellowtail Flounder SAP. A formula was developed in FW 40B to assist the Regional Administrator in determining the appropriate number of trips for this SAP on a yearly basis. The FY 2008 calculations for this equation were detailed in the proposed rule for this action (73 FR 24936; May 6, 2008) and are not repeated here.

FW 40B authorized the Regional Administrator to allocate zero trips to this SAP if the available GB yellowtail flounder catch is not sufficient to support 150 trips with a 15,000–lb (6,804–kg) trip limit (i.e., if the available GB yellowtail catch is less than 1,021 mt). Using the formula developed in FW 40B, and based on the 1,950–mt U.S./Canada GB yellowtail flounder TAC for 2008 (73 FR 16571; March 28, 2008), the Regional Administrator has determined that there will be insufficient GB yellowtail flounder TAC to support the CA II Yellowtail Flounder SAP for FY 2008. Therefore, zero trips are allocated to the SAP for FY 2008.

Comments and Responses

One comment was received on this action.

Comment 1: One commenter did not specifically address the proposed allocation of trips, but asserted that the CA II Yellowtail Flounder SAP should be closed for the next 10 years and very severe penalties adopted for violators.

Response: The current regulatory restrictions in place, including the CA II Yellowtail Flounder SAP, are designed to protect and rebuild fish stocks in

accordance with applicable laws. Depending on the amount of GB yellowtail flounder TAC available, the regulations allow the Regional Administrator, in consultation with the Council, to consider keeping the SAP closed on an annual basis or to allow an allocation of trips. NMFS does not believe that a closure on a more prolonged basis is necessary at this time.

Classification

The Regional Administrator has determined that this action is necessary for the conservation and management of the NE multispecies fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule does not contain any new, nor does it revise existing reporting, recordkeeping, or other compliance requirements.

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

Dated: May 30, 2008.

Samuel D. Rauch III,

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

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