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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010-4114-02; I.D. 061004C]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Georges Bank (GB) Cod Hook Sector Operations Plan

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

ACTION: Notification of Sector Operations Plan and allocation of GB cod Total Allowable Catch (TAC); request for comments.

SUMMARY: The final rule implementing Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) (Amendment 13) authorized allocation of up to 20 percent of the annual GB cod TAC to the GB Cod Hook Sector (Sector). Pursuant to that final rule, the Sector has submitted an Operations Plan and Sector Contract titled "Georges Bank Cod Hook Sector Operations Plan and Agreement" (Sector Agreement), and a draft Environmental Assessment (EA), and has requested an allocation of GB cod, consistent with regulations implementing Amendment 13. This document provides interested parties an opportunity to comment on the proposed Sector Agreement prior to final approval or disapproval of the Operations Plan and allocation of GB cod TAC to the Sector for the 2004 fishing year.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before July 6, 2004.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on GB Cod Hook Sector Operations Plan." Comments may be sent via fax to (978) 281-9135, or submitted via e-mail to the following address: codsector@NOAA.gov. Comments may also be submitted electronically through

the Federal e-Rulemaking portal: <http://www.regulations.gov>.

Copies of the Sector Agreement and the EA are available from the NE Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT:

Thomas Warren, Fishery Policy Analyst, (978) 281-9347, fax (978) 281-9135, e-mail Thomas.Warren@NOAA.gov.

SUPPLEMENTARY INFORMATION: NMFS

announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the Sector Agreement, which contains the Sector Contract and Operations Plan, is consistent with the goals of the FMP and other applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under 50 CFR 648.87. The final rule implementing Amendment 13 (69 FR 22906, April 27, 2004) specified a process for the formation of sectors within the NE multispecies fishery and the allocation of TAC for a specific groundfish species (or Days-at-Sea), implemented restrictions that apply to all sectors, authorized the GB Cod Hook Sector, established the GB Cod Hook Sector Area (Sector Area), and specified a formula for the allocation of GB cod TAC to the Sector. The principal Amendment 13 regulations applying to the Sector are as follows: Vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Sector, provided they have documented landings of GB cod through valid dealer reports submitted to NMFS of GB cod during the fishing years 1996 to 2001 when fishing with jigs, demersal longline, or handgear. Membership in the Sector is voluntary, and each member would be required to remain in the Sector for the entire fishing year and could not fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met. Vessels fishing in the Sector (participating vessels) would be confined to fishing in the Sector Area, which is that portion of the GB cod stock area north of 39° 00' N. lat. and east of 71° 40' W. long. Participating vessels would be required to comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization, and the provisions of an approved Operations Plan.

While Amendment 13 authorized the Sector, in order for GB cod to be allocated to the Sector and the Sector authorized to fish, the Sector must submit an Operations Plan and Sector Contract to the Regional Administrator

annually for approval. The Operations Plan and Sector Contract must contain certain elements, including a contract signed by all Sector participants and a plan containing the management rules that the Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Sector's proposed operations may be required in order to comply with the National Environmental Policy Act, and the public must be provided an opportunity to comment on the proposed Operations Plan and Sector Contract. Amendment 13 provides that, upon completion of the public comment period, the Regional Administrator will make a determination regarding approval of the Sector Contract and Operations Plan. If approved by the Regional Administrator, participating vessels would be authorized to fish under the terms of the Operations Plan and Sector Contract.

On May 24, 2004, the Sector submitted the Sector Agreement and a Draft EA which analyzes the impacts of the proposed Sector Agreement. The Sector Agreement would be overseen by a Board of Directors and a Sector Manager. The Sector Agreement specifies, in accordance with Amendment 13, that the GB cod TAC for the Sector would be based upon the number of Sector members and their historic landings of GB cod. The GB cod TAC is a "hard" TAC, meaning that, once the TAC is reached, Sector vessels could not fish under a DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations). As of June 1, 2004, 58 prospective Sector members had signed the Sector Contract. The allocation percentage was calculated, as specified in Amendment 13, by dividing the sum of total landings of GB cod by Sector members for the fishing years 1996 through 2001 (when fishing with jigs, demersal longline, or handgear)(14,285,443 lb)(6,480 mt), by the sum of the total accumulated landings of GB cod harvested by all NE multispecies vessels for the same time period (113,278,842 lb)(51,382 mt). The resulting number is 12.611 percent. Based upon these 58 prospective Sector members, the Sector TAC of GB cod would be 372 mt (12.611 percent times the fishery-wide GB cod target TAC of 2,949 mt). The fishery-wide GB cod target TAC of 2,949 mt is less than the GB cod target TAC specified in Amendment 13 (3,949 mt) because the

3,949 mt included Canadian catch. The fishery-wide GB cod target TAC of 2,949 mt was calculated by subtracting the GB cod TAC specified for Canada under the U.S./Canada Resource Sharing Understanding for the 2004 fishing year (1,000 mt), from the overall GB cod target TAC of 3,949 mt specified in Amendment 13. Because the proposed Sector Manager stated that some prospective members of the Sector may change their minds after the publication of this notice and prior to a final decision by the Regional Administrator, it is possible that the total number of participants in the Sector and the TAC for the Sector may be slightly reduced from the numbers above.

The Sector Agreement contains procedures for the enforcement of the Sector rules, a schedule of penalties, and provides the authority to the Sector Manager to issue stop fishing orders to members of the Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hours of offloading. Dealers purchasing fish from participating vessels would be required to provide the Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Sector Manager would transmit to NMFS a copy of the VTRs and the aggregate catch information from these reports. After 90 percent of the Sector's allocation has been harvested, the Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Sector's GB cod TAC, minus a reserve, would be allocated to each month of the fishing year. GB Cod quota that is not landed during a given month would be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels could not fish under a multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated multispecies. Once the annual TAC of GB cod is reached, Sector members could not fish under a multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated multispecies for the rest of the fishing year. The harvest rules would not

preclude vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels would be required to fish under the NE multispecies DAS program, and are required to call the Sector Manager prior to leaving port, in addition to calling into the DAS program. There would be no trip limit for GB cod for participating vessels. All legal-sized cod caught would be retained and landed and counted against the Sector's aggregate allocation. Those species that do not meet the minimum size restrictions specified in the regulations would be returned to the sea as quickly as possible to minimize, to the extent practicable, the mortality to such species. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear. Participating vessels would be limited to using 4,500 hooks within an inshore area, but may use an unlimited number of hooks in the rest of the Sector Area. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during the 2004 fishing year would be deducted from that Sector member's individual DAS allocation. Similarly, all GB cod landed by a participating vessel while conducting research would count toward the Sector's allocation of GB cod TAC. Participating vessels would be exempt from the GB Seasonal Closure Area during the month of May. In addition, the Sector Agreement provides that participating vessels must fish under their Amendment 13 DAS allocation to account for any incidental groundfish species that they may catch while targeting GB cod.

The draft EA prepared for the Sector operations concludes that the biological impacts of the Sector will be positive because the hard TAC and the use of DAS will provide two means of restricting both the landings and effort of the Sector. Implementation of the Sector would have a positive impact on essential fish habitat and bycatch by allowing a maximum number of hook vessels to remain active in the hook fishery, rather than converting to (or leasing DAS to) other gear types that

have greater environmental impacts. The analysis of economic impacts of the Sector concludes that Sector members would realize higher economic returns if the Sector were implemented. The draft EA asserts that fishing in accordance with the Sector Agreement rules enables more efficient harvesting of GB cod with hook gear than would be possible if the vessels were fishing in accordance with the common pool rules. The social benefits of the Sector would accrue to both Sector members as well as the Chatham/Harwichport, MA, community, which is highly dependent upon groundfish revenues and is likely to be negatively affected by the reduced cod trip limit that was implemented by Amendment 13. The draft EA concludes that the self-governing nature of the Sector and the development of rules by the Sector enables stewardship of the cod resource by Sector members. The cumulative impacts of the Sector are expected to be positive due to a positive biological impact, neutral impact on habitat, and a positive social and economic impact. In contrast, the cumulative impact of the no action alternative is estimated to be neutral, with negative social and economic impacts.

Should the Regional Administrator approve the Sector Agreement as proposed, a Letter of Authorization would be issued to each member of the Sector exempting them, conditional upon their compliance with the Sector Agreement, from the GB cod possession restrictions and the requirements of the Gulf of Maine trip limit exemption program, limits on the number of hooks, and the GB Seasonal Closure Area, as specified in §§ 648.86(b), 648.80(a)(4)(v), and 648.81(g), respectively.

Classification

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: June 16, 2004.

Alan D. Risenhoover,

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