

Plan enables Fixed Gear Sector members to fish under a set of rules crafted by Fixed Gear Sector members in order to adapt to current economic and fishing conditions. The Fixed Gear Sector, by fishing under rules that are designed to meet their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which result in economic gains. For example, Fixed Gear Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip), by targeting seasonal aggregations of cod, due to the exemption from trip limits and hook numbers. Thus, this proposed rule would enable Fixed Gear Sector members to remain economically viable by maximizing revenues and minimizing expenses in the short term. This would also help to maintain associated shoreside job opportunities.

#### *Economic Impacts of Alternatives to the Proposed Action*

Under the No Action alternative, all Fixed Gear Sector members would remain in the common pool of vessels and fish under all the rules implemented by Amendment 13 and subsequent Framework Adjustments, and there would be no allocation of GB cod to the Fixed Gear Sector. Because cod usually represents a high proportion of total fishing income for Cape Cod-based gillnet and hookgear vessels, revenues for such vessel owners are very sensitive to regulations that impact how and when they can fish for cod, such as trip limits and restrictions on the number of hooks fished. Under the common pool rules implemented by FW 42 (e.g., differential DAS counting) and Amendment 13 (restrictive daily trip limits for cod), it is likely that Fixed Gear Sector vessels would experience revenue losses. It is more likely under the No Action alternative that disruption to the Chatham/Harwichport communities would occur.

#### *Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule*

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0202. Public reporting burden for the Submission of a Plan of Operation for an Approved Sector Allocation is estimated to average 50 hr per response, and for the Annual Reporting Requirements for

Sectors is estimated to average 6 hr per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to David\_Rostker@omb.eop.gov, or fax to (202) 395-7285. 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

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

Dated: April 11, 2007.

**Samuel D. Rauch III**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 070322064-7064-01; I.D. 030607E]

**RIN 0648-AV20**

#### **Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2007 Georges Bank Cod Hook Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) (Amendment 13) authorized allocation of up to 20

percent of the annual Georges Bank (GB) cod total allowable catch (TAC) to the GB Cod Hook Sector (Sector). Pursuant to that authorization, the Sector has submitted an Operations Plan and Sector Contract entitled, "Georges Bank Cod Hook Sector Fishing Year 2007-2008 Operations Plan and Agreement" (together referred to as the Sector Agreement) and has requested an allocation of GB cod, consistent with regulations implementing Amendment 13. A Supplemental Environmental Assessment has also been prepared. This document provides interested parties an opportunity to comment on the proposed Sector Agreement prior to final approval or disapproval of the Sector Operations Plan and allocation of GB cod TAC to the Sector for the 2007 fishing year (FY).

**DATES:** Written comments must be received on or before May 1, 2007.

**ADDRESSES:** You may submit written comments by any of the following methods:

- Mail: Paper, disk, or CD-ROM 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."
- Fax: (978) 281-9135.
- E-mail: [gbhookscfr@noaa.gov](mailto:gbhookscfr@noaa.gov).
- 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 mailing address specified above. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule may be submitted to the address above or by e-mail to David\_Rostker@omb.eop.gov, or fax to (202) 395-7285.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas Warren, Fishery Policy Analyst, phone (978) 281-9347, fax (978) 281-9135, e-mail [Thomas.Warren@noaa.gov](mailto: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 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 (DAS)), 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 specify that: (1) all vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Sector, provided they have documented landings, through valid dealer reports submitted to NMFS, of GB cod during FY 1996 through 2001 when fishing with hook gear (i.e., jigs, demersel longline, or handgear); (2) membership in the Sector is voluntary, and each member is required to remain in the Sector for the entire fishing year and cannot fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Sector (participating vessels) are 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; and (4) participating vessels are required to comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization issued by the Regional Administrator, 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 also be required in order to comply with the National Environmental Policy Act. Further, the public must be provided an opportunity to comment on the proposed Operations Plan and Sector Contract. The regulations require 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.

The Sector was authorized for FY 2006 and, based upon the GB cod landings history of its 37 members, was allocated 615 mt of cod, which is 10.03 percent of the total FY 2006 GB cod TAC.

On January 22, 2007, the Sector Manager submitted to NMFS the Georges Bank Cod Hook Sector Fishing Year 2007–2008 Operations Plan and Agreement. A supplemental EA entitled “Approval of the Georges Bank Cod Hook Sector Operations Plan,” which analyzes the impacts of the proposed Sector Agreement, was also prepared.

The proposed 2007 Sector Agreement and Operations Plan contains the same elements as the 2006 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 Sector's GB cod TAC 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). Should the hard TAC be exceeded, the Sector's allocation would be reduced by the overharvest in the following year.

The proposed 2007 Operations Plan proposes an exemption from the following restrictions of the FMP: The GB cod trip limit; the GB and Southern New England (SNE) limit on the number of hooks fished; the GB seasonal closure; the DAS Leasing Program vessel size restrictions; Differential DAS in the Gulf of Maine Differential DAS Area and in the SNE Differential DAS Area (those portions of the differential areas which overlap the Sector Area); and the Western U.S./Canada Area 72-hr observer program notification. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA. A Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) is summarized in the Classification section of this proposed rule.

As of February 1, 2007, 35 prospective Sector members had signed the 2007 Sector Contract. The GB cod TAC calculation is based upon the historic cod landings of the participating Sector vessels, regardless of gear used. The allocation percentage is calculated by dividing the sum of total landings of GB cod landed by Sector members in FY 1996 through 2001, by the sum of the

total accumulated landings of GB cod landed by all NE multispecies vessels for the same time period (10,738,834 lb (4,871.1 mt)/113,278,842 lb (51,382.42 mt)). Based upon the 35 prospective Sector members, the Sector TAC of GB cod would be 798 mt (9.48 percent times the fishery-wide GB cod target TAC of 8,416 mt). The fishery-wide GB cod target TAC of 8,416 mt is less than the total GB cod target TAC proposed for FY 2007 (9,822 mt) because the 9,822 mt includes Canadian catch. If prospective members of the Sector determine that they no longer want to participate in the sector after the publication of this document 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 differ 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 hr 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 NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. Once the annual TAC of GB cod is reached, Sector members could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE 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 to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels would be required to call the Sector Manager prior to leaving port. All legal-sized cod caught would be retained and landed and counted against the Sector's aggregate allocation. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during the FY 2007 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 May.

The 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 (EFH) 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 impacts on EFH. The analysis of economic impacts of the Sector concludes that Sector members would realize higher economic returns if the Sector were implemented. The 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 (non-Sector) rules. The social benefits of the Sector would accrue to Sector members, as well as the Chatham and Harwichport, MA, communities, which are more dependent upon groundfish revenues than other communities. The 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, positive 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, the GB Seasonal Closure Area, the Western U.S./Canada Area 72-hr observer notification requirement, the DAS Leasing Program vessel size restrictions, differential DAS, and the limits on the number of hooks requirements as specified in §§ 648.86(b)(2), 648.81(g), 648.85(a)(3)(ii)(C), 648.82(k)(4)(ix), 648.82 (e)(2), 648.80(a)(4)(v), and 648.80(b)(2)(v), respectively.

#### Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared as required by section 603 of the Regulatory Flexibility Act (RFA). Below is a summary of the IRFA, which describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule and in the EA prepared for this action. The Small Business Administration (SBA) size standard for small commercial fishing entities is \$ 4 million in average annual receipts. All permitted and participating vessels in the groundfish fishery, including prospective Sector members, are considered to be small entities because average annual receipts by any one entity (vessel) do not exceed this threshold, and, therefore there is no disproportionate impact between large and small entities. The number of prospective participants in the Sector is 35, substantially less than the total number of active vessels in the groundfish fishery. Only these 35 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Sector for FY 2007.

#### *Economic Impacts of the Proposed Action*

The proposed alternative would allocate a GB cod TAC of 798 mt to the GB Cod Hook Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a DAS, possess or land GB cod, or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or party/charter regulations). Vessels intending to fish in the Sector during FY 2007 may not fish for NE multispecies under a NE Multispecies DAS during FY 2007 until the Sector Operations Plan is approved, and Sector vessels may only fish with jigs, non-automated demersal longline, or handgear. Under the proposed Operations Plan, members would be exempt from several restrictions of the FMP described in the preamble to this proposed rule and in the EA.

The proposed alternative would positively impact the members of the Sector (35 vessels or less) that have voluntarily joined the Sector, who are relatively dependent upon groundfish revenue compared to other participants in the groundfish fishery. The proposed Alternative would indirectly benefit the communities of Chatham and Harwichport (Massachusetts), and to a lesser extent other Cape Cod communities involved in the groundfish fishery. During FY 2005, members of the Sector landed 275,743 lb (125,054 kg) of cod and 1,114,401 lb (505,397 kg) of haddock, generating approximately \$ 402,000, and \$ 1,314,000 in revenue, respectively (assuming a dock-side price of \$ 1.46 and \$1.18 per lb, respectively). Sector members also landed various other species, which contributed slightly more to their revenue. In general, the operation of the Sector would continue to mitigate the negative economic impacts that result from the current suite of regulations that apply to the groundfish fishery (most recently Framework Adjustment 42)(October 23, 2006; 71 FR 62156). The Sector, by fishing under rules that are designed to meet their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which result in economic gains. For example, Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip) due to the exemption from trip limits and hook numbers. For some vessel owners in the Sector,

participation in the Sector enables their businesses to remain economically viable.

#### *Economic Impacts of Alternatives to the Proposed Action*

Under the No Action alternative, all Sector members would remain in the common pool of vessels and fish under all the rules implemented by Amendment 13 and subsequent Framework Adjustments. Under the regulatory scenario of the No Action alternative, Sector members would likely face increased economic uncertainty, a loss of efficiency, and revenue loss. Because cod usually represents a high proportion of total fishing income for hook gear vessels, revenues for Sector members are sensitive to regulations that impact how and when they can fish for cod, such as trip limits and hook gear restrictions. Sector members would be unnecessarily impacted by regulations designed to affect the catch of species of which hook gear catches very little (e.g., yellowtail flounder, because hook gear is more selective than other gear types). For example, under the No Action alternative, Sector members would be affected by the differential DAS counting requirement, one of the objectives of which is to protect yellowtail flounder.

#### *Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Action*

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0202. Public reporting burden for the Submission of a Plan of Operation for an Approved Sector Allocation is estimated to average 50 hr per response, and for the Annual Reporting Requirements for Sectors is estimated to average 6 hr per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to (202) 395-7285. 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 PRA, unless that collection of

information displays a currently valid OMB Control Number.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

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

Dated: April 11, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 060511126-7082-04; I.D. 050306E]

RIN 0648-AT71

#### Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Gulf of Alaska Fishery Resources

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule for the Central Gulf of Alaska (GOA) rockfish fisheries to revise monitoring and enforcement (M&E) provisions related to catcher/processor vessels harvesting under the opt-out fishery, and to make changes to regulations governing the rockfish fisheries. This action is necessary to clarify procedures and to correct discrepancies in a November 20, 2006, final rule. This proposed rule is intended to promote the goals and objectives of the Fishery Management Plan for groundfish of the Gulf of Alaska (FMP), the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law.

**DATES:** Comments must be received by April 30, 2007.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by any of the following methods:

- Mail: to P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK 99802;
- Fax: (907) 586-7557;
- E-mail: [0648-AT71-GOA68PR@noaa.gov](mailto:0648-AT71-GOA68PR@noaa.gov). Include in the subject line of the email the following identifier: Rockfish Program correction 0648-AT71. E-mail comments, with or without attachments, are limited to five megabytes; or
- Webform at the Federal e-Rulemaking Portal: <http://www.regulations.gov>.

Copies of Amendment 68; the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 68; and Final Regulatory Flexibility Analysis (FRFA) prepared for Amendment 68 may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Jason Anderson, 907 586 7228 or [jason.anderson@noaa.gov](mailto:jason.anderson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In January 2004 the U.S. Congress amended section 313(j) of the Magnuson-Stevens Act through the Consolidated Appropriations Act of 2004 (Public Law 108 199, section 802). As amended, the Magnuson-Stevens Act authorizes the Secretary of Commerce to establish a limited access privilege program for the Central GOA rockfish fisheries (Program), developed in coordination with the North Pacific Fishery Management Council (Council). The Council recommended Amendment 68 to the FMP for groundfish in the GOA on June 6, 2005, to make the Program effective.

NMFS published a notice of availability for Amendment 68 on May 15, 2006 (71 FR 27984). On June 7, 2006, NMFS published a proposed rule to implement Amendment 68 and the Program (71 FR 33040). The Secretary approved Amendment 68 on August 11, 2006. NMFS published a final rule to implement Amendment 68 on November 20, 2006 (71 FR 67210).

The Program provides exclusive harvesting and processing privileges for a specific set of rockfish species and associated species harvested incidentally to those rockfish in the Central GOA an area between 147° W. longitude and 159° W. longitude. A detailed overview of the Program is