

reporting, system administrator certification, and security training; and

(iii) Utilize the NASA Public Key Infrastructure (PKI) for all encrypted communication or non-repudiation requirements within NASA when secure email capability is required.

(c) Physical and Logical Access Requirements.

(1) Contractor personnel requiring access to IT systems operated by the Contractor for NASA or interconnected to a NASA network shall be screened at an appropriate level in accordance with NPR 2810 and Chapter 4, NPR 1600.1, NASA Security Program Procedural Requirements. NASA shall provide screening, appropriate to the highest risk level, of the IT systems and information accessed, using, as a minimum, National Agency Check with Inquiries (NACI). The Contractor shall submit the required forms to the NASA Center Chief of Security (CCS) within fourteen (14) days after contract award or assignment of an individual to a position requiring screening. The forms may be obtained from the CCS. At the option of NASA, interim access may be granted pending completion of the required investigation and final access determination. For Contractors who will reside on a NASA Center or installation, the security screening required for all required access (e.g., installation, facility, IT, information, etc.) is consolidated to ensure only one investigation is conducted based on the highest risk level. Contractors not residing on a NASA installation will be screened based on their IT access risk level determination only. See NPR 1600.1, Chapter 4.

(2) Guidance for selecting the appropriate level of screening is based on the risk of adverse impact to NASA missions. NASA defines three levels of risk for which screening is required (IT-1 has the highest level of risk).

(i) IT-1—Individuals having privileged access or limited privileged access to systems whose misuse can cause very serious adverse impact to NASA missions. These systems include, for example, those that can transmit commands directly modifying the behavior of spacecraft, satellites or aircraft.

(ii) IT-2—Individuals having privileged access or limited privileged access to systems whose misuse can cause serious adverse impact to NASA missions. These systems include, for example, those that can transmit commands directly modifying the behavior of payloads on spacecraft, satellites or aircraft; and those that contain the primary copy of “level 1” information whose cost to replace exceeds one million dollars.

(iii) IT-3—Individuals having privileged access or limited privileged access to systems whose misuse can cause significant adverse impact to NASA missions. These systems include, for example, those that interconnect with a NASA network in a way that exceeds access by the general public, such as bypassing firewalls; and systems operated by the Contractor for NASA whose function or information has substantial cost to replace, even if these systems are not interconnected with a NASA network.

(3) Screening for individuals shall employ forms appropriate for the level of risk as established in Chapter 4, NPR 1600.1.

(4) The Contractor may conduct its own screening of individuals requiring privileged access or limited privileged access provided the Contractor can demonstrate to the Contracting Officer that the procedures used by the Contractor are equivalent to NASA’s personnel screening procedures for the risk level assigned for the IT position.

(5) Subject to approval of the Contracting Officer, the Contractor may forgo screening of Contractor personnel for those individuals who have proof of a—

- (i) Current or recent national security clearances (within last three years);
- (ii) Screening conducted by NASA within the last three years that meets or exceeds the screening requirements of the IT position; or
- (iii) Screening conducted by the Contractor, within the last three years, that is equivalent to the NASA personnel screening procedures as approved by the Contracting Officer and concurred on by the CCS.

(d) The Contracting Officer may waive the requirements of paragraphs (b) and (c)(1) through (c)(3) upon request of the Contractor. The Contractor shall provide all relevant information requested by the Contracting Officer to support the waiver request.

(e) The Contractor shall contact the Contracting Officer for any documents, information, or forms necessary to comply with the requirements of this clause.

(f) At the completion of the contract, the contractor shall return all NASA information and IT resources provided to the contractor during the performance of the contract and certify that all NASA information has been purged from contractor-owned systems used in the performance of the contract.

(g) The Contractor shall insert this clause, including this paragraph (g), in all subcontracts:

(1) Have physical or electronic access to NASA’s computer systems, networks, or IT infrastructure; or

(2) Use information systems to generate, store, process, or exchange data with NASA or on behalf of NASA, regardless of whether the data resides on a NASA or a contractor’s information system.

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070321063-7098-02; I.D. 031607E]

RIN 0648-AV22

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2007 Georges Bank Cod Fixed Gear 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: Final rule.

SUMMARY: NMFS announces approval of an Operations Plan and Sector Contract for the Georges Bank (GB) Cod Fixed Gear Sector (Fixed Gear Sector) entitled: “GB Cod Fixed Gear Sector Operations Plan and Agreement” (together referred to as the Sector Operations Plan), and the associated allocation of GB cod for fishing year (FY) 2007. The intent of this action is to allow regulated harvest of Northeast (NE) multispecies by the Fixed Gear Sector, consistent with the Operations Plan and objectives of the NE Multispecies Fishery Management Plan (FMP).

DATES: Effective May 4, 2007, through April 30, 2008.

ADDRESSES: Copies of the Fixed Gear Sector Operations Plan and the Environmental Assessment (EA) 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. These documents may also be requested by calling (978) 281-9315.

FOR FURTHER INFORMATION CONTACT:

Mark Grant, Fishery Management Specialist, phone (978) 281-9145, fax (978) 281-9135, e-mail Mark.Grant@NOAA.gov.

SUPPLEMENTARY INFORMATION:

Framework Adjustment (FW) 42 (71 FR 62156, October 23, 2006) authorized the Fixed Gear Sector and authorized the Regional Administrator to allocate a GB cod total allowable catch (TAC) to the Fixed Gear Sector and exempt members from FMP restrictions on an annual

basis. In order for GB cod to be allocated to the Fixed Gear Sector, and for the Fixed Gear Sector to be authorized to fish for each fishing year, the Fixed Gear Sector must submit an Operations Plan and Sector Contract to the Regional Administrator annually for approval.

In accordance with the regulations, the Fixed Gear Sector submitted an initial version of the Operations Plan and Sector Contract, including a supplemental environmental assessment (EA) to NMFS on January 22, 2007. The Fixed Gear Sector subsequently submitted additional iterations of the Operations Plan and EA to clarify the Operations Plan and refine the analyses, with a final submission date of March 7, 2007. The Fixed Gear Sector will be overseen by a Board of Directors and a Sector Manager. The Sector Contract specifies, in accordance with Amendment 13 to the FMP, that the Sector's GB cod TAC will be based upon the number of Fixed Gear Sector members and their qualifying historic landings of GB cod. The GB cod TAC is a "hard" quota, meaning that, once the TAC is reached, Fixed Gear Sector vessels will be prohibited from fishing under a NE multispecies day-at-sea (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) for the remainder of FY 2007.

Each Fixed Gear Sector member will be required to fish with jigs, demersal longline, handgear or gillnets; remain in the Fixed Gear Sector for the entire fishing year; and 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. Fixed Gear Sector members will be required to comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization (LOA), and with the provisions of the approved Operations Plan. Based on approval of the Operations Plan, Fixed Gear Sector members will be exempted from the following restrictions of the FMP: GB cod trip limit; the GB Seasonal Closure Area (when fishing with hook gear); and the 3,600-hook limit and 2,000-hook limit for vessels fishing with longline gear in the GB), Gulf of Maine (GOM) and Southern New England (SNE) Regulated Mesh Areas (RMAs), respectively. In addition, the Operations Plan allows Fixed Gear Sector members to fish in the "common pool," subject to all of the restrictions of the FMP, prior to approval of the Operations Plan. If Fixed Gear Sector members fish during FY 2007 under

"common pool" rules, prior to fishing in the approved Sector, all cod caught will count towards the Fixed Gear Sector's GB cod TAC. This flexibility was requested so that Fixed Gear Sector members will be able to fish immediately at the beginning of the fishing year, and not be required to wait until approval of the Operations Plan. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA. A Final Regulatory Flexibility Analysis (FRFA) is contained in the Classification section of this final rule. On April 16, 2007, a proposed rule was published in the **Federal Register** (72 FR 18937) that requested comments on the Operations Plan and EA. The comment period closed on May 1, 2007.

Sixteen Fixed Gear Sector members have signed the 2007 Sector Contract. The GB cod TAC calculation is based upon the qualifying historic cod landings of the participating Fixed Gear Sector vessels, using all gear. The allocation percentage is calculated by dividing the sum of total landings of GB cod by Fixed Gear Sector members for FY 1996 through 2001 by the sum of the total accumulated landings of GB cod harvested by all NE multispecies vessels for the same time period (10,379,065 lb (4,708 mt)/ 113,278,842 lb (51,382.4 mt)). The resulting number is 9.16 percent. Based upon the 16 Fixed Gear Sector members, the Fixed Gear Sector TAC of GB cod is 771.1 mt (9.16 percent of the U.S. portion of the fishery-wide GB cod target TAC of 8,416 mt) for FY 2007.

Comments and Responses

One comment was received on this action from a member of the general public during the public comment period.

Comment 1: The commenter did not specifically address either the Operations Plan or EA, but suggested that the Sector Area should be closed to all fishing, asserting that the Sector Area is overfished.

Response: Amendment 13 to the FMP implemented a rebuilding plan for all overfished stocks managed under the FMP. As part of this rebuilding plan, Amendment 13 established the process by which a group of individuals may form a sector. The Fixed Gear Sector is a group of self-selecting fishermen that have come together voluntarily and cooperatively for the purposes of efficiently harvesting GB cod under a hard TAC to meet the overfishing mandates of the Sustainable Fisheries Act amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens

Act). The EA prepared for the Fixed Gear Sector operations concludes that the biological impacts will be positive because the hard TAC for GB cod will ensure that the Fixed Gear Sector members will not contribute to the overfishing of GB cod, and because the elimination of the possession limit for GB cod will result in more efficient harvest of the cod TAC and, therefore, a reduction in the amount of time gear is in the water and available to interact with protected resources. In addition, the EA concludes that this action will have a positive impact on Essential Fish Habitat (EFH), given that vessels fishing in this sector will be confined to gear types that have less impact on EFH than most other groundfish gears. Further, by continuing to fish under their allocated NE multispecies DAS as a method to account for other regulated species caught, the Fixed Gear Sector complies with the rebuilding plan for all NE multispecies stocks. The Sector Area does not need to be closed to all fishing because there are regulatory restrictions in place design to protect and rebuild fish stocks in accordance with applicable laws.

LOAs will be issued to members of the Fixed Gear Sector exempting them, conditional upon their compliance with the Sector Operations Plan, from the GB cod possession restrictions, the 3,600-hook limit in the GB RMA, the 2,000-hook limit in the GOM and SNE RMAs and the GB Seasonal Closure Area when using hook gear, as specified in §§ 658.86(b)(2), 648.80(a)(4)(v), 648.80(a)(3)(v), 648.80(b)(2)(v), and 648.81(g), respectively.

Classification

NMFS has determined that this final rule is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(1), the Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) finds justification to waive the delay in effectiveness of this action, because it provides the basis for NMFS to immediately grant sector members the following exemptions from the regulations implementing the FMP:

1. GB cod trip limit;
2. GB Seasonal Closure; and
3. GOM, GB and SNE limit on number of hooks fished.

These regulations will remain applicable to "common pool" vessels. Because the Fixed Gear Sector will be fishing under a hard TAC for GB cod, effort controls (i.e., exemptions 1–3 above) are not necessary to constrain the impact of the Fixed Gear Sector on the GB cod stock. Should the Fixed Gear

Sector's allocated GB cod TAC be harvested, participating vessels would no longer be allowed to fish under a NE multispecies 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 charter/party regulations). Fixed Gear Sector members will be required to fish under their current NE multispecies DAS allocation to account for any other regulated NE multispecies that they may catch while fishing for GB cod and are restricted to using hook gear only.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This final rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively. There are no Federal rules that duplicate, overlap, or conflict with this final rule.

An EA has been prepared for this final rule in compliance with the National Environmental Policy Act. A copy of this EA may be obtained (see **ADDRESSES**).

NMFS, pursuant to section 604 of the RFA, prepared this FRFA in support of the 2007 GB Cod Fixed Gear Sector Operations Plan and allocation of GB cod TAC. The FRFA incorporates the economic impacts identified in the Initial Regulatory Flexibility Analysis, which was summarized in the preamble of the proposed rule and the corresponding analysis in the EA prepared for this action. A description of why this action was considered, along with the objectives of, and the legal basis for, this rule are contained in the preamble to the proposed rule and are not repeated here.

Summary of the Issues Raised by Public Comments in Response to the IRFA. A Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made from the Proposed Rule as a Result of Such Comments

No comments pertaining to the IRFA or the economic impacts of the rule were received during the comment period for this action.

Description of and Estimate of the Number of Small Entities to Which the Final Rule Would Apply

The Small Business Administration size standard for small commercial fishing entities is \$4 million in average annual receipts, and the size standard for small charter/party operators is \$6.5 million in average annual receipts. While an entity may own multiple vessels, available data make it difficult

to determine which vessels may be controlled by a single entity. For this reason, each vessel is treated as a single entity for purposes of size determination and impact assessment. All permitted and participating vessels in the groundfish fishery, including prospective Fixed Gear Sector members, are considered to be small entities according to this standard and, therefore, there is no differential impact between large and small entities. The number of participants in the Fixed Gear Sector is 16, substantially less than the total number of active vessels in the groundfish fishery (nearly 1,000). Only these 16 vessels would be subject to the regulatory exemptions and operational restrictions proposed for the Fixed Gear Sector for FY 2007.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by Office of Management and Budget (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. 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.

Description of Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes

Because this action is limited to reviewing and approving or disapproving the 2007 Fixed Gear Sector Operations Plan submitted by the Fixed Gear Sector, only two alternatives were considered regarding the Operations Plan and allocation of GB cod TAC: The no-action alternative and the proposed alternative. Under the no-action alternative, all Fixed Gear Sector vessels would remain in the common pool of vessels and be subject to all of the regulations implemented by Amendment 13 and subsequent

adjustments to the FMP, and would not be allocated any portion of the GB cod target TAC. The proposed alternative implemented by this action enables vessels to fish under the restrictions of the Operations Plan summarized above and allocates a portion of the GB cod target TAC to Fixed Gear Sector vessels.

The fixed gear fishermen and the Chatham and Harwichport, MA, communities (homeports for all Fixed Gear Sector vessels) are dependent upon GB cod and other groundfish. The Amendment 13 restrictions that reduced the GB cod trip limit had a disproportionate affect on these fixed gear fishermen. 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 that disruption to the Chatham/Harwichport communities would occur under the no-action alternative. In contrast, the proposed alternative would positively impact the 16 vessels that have voluntarily joined the Fixed Gear Sector, who are relatively dependent upon cod revenue compared to other participants in the groundfish fishery.

Approval of the Operations Plan enables Fixed Gear Sector members to fish under a set of rules crafted by members in order to adapt to current economic and fishing conditions. The 2007 Sector Operations Plan includes a number of provisions that would allow Fixed Gear Sector vessels to remain economically viable, minimize vessel expenses, and maximize consistent revenue streams throughout the fishing year compared to the no-action alternative, without compromising conservation objectives of the FMP. Such provisions include the establishment of a hard TAC for GB cod landed by Fixed Gear Sector vessels, the even distribution of the allocated GB cod TAC throughout the fishing year, an exemption from cod possession limits, an exemption from the GB Seasonal Closure Area for hook gear vessels, and exemptions from the maximum number of hooks that may be fished. By facilitating the continued supply of groundfish, the preferred alternative allows Fixed Gear Sector vessels to maximize revenues from available fishing opportunities and, therefore, minimizes adverse economic impacts on small entities compared to the no-action alternative.

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

Dated: May 4, 2007.

William T. Hogarth

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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