

Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the commercial quota for deep-water grouper in the Gulf of Mexico at 1.02 million lb (463,636 kg) for the current fishing year, January 1 through December 31, 2006.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 1.02 million lb (463,636 kg) for deep-water grouper will be reached on or before June 26 2006. Accordingly, NMFS is closing the commercial deep-water grouper fishery in the Gulf of Mexico EEZ from 12:01 a.m., local time, on June 27, 2006, until 12:01 a.m., local time, on January 1, 2007. The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having deep-water grouper aboard must have landed and bartered, traded, or sold such deep-water grouper prior to 12:01 a.m., local time, June 27, 2006.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of deep-water grouper in or from the Gulf of Mexico EEZ, and the sale or purchase of deep-water grouper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of deep-water grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, June 27, 2006, and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, there is a need to implement these measures in a timely fashion to prevent an overrun of the commercial quota of Gulf of Mexico deep-water grouper, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. For these same reasons, NMFS finds good

cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: June 9, 2006.

Alan D. Risenhoover,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010-4114-02; I.D. 061306A]

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

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

ACTION: Temporary rule; gear restriction.

SUMMARY: NMFS announces that the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), is modifying the gear restrictions for the U.S./Canada Management Area to require all limited access NE multispecies vessels fishing on a NE multispecies day-at-sea (DAS) with trawl gear in the Eastern U.S./Canada Area to use a haddock separator trawl. A projection based on available catch and discard information indicates that 30 percent of the total allowable catch (TAC) for Georges Bank (GB) cod specified for the Eastern U.S./Canada Area will be harvested by June 20, 2006. This catch rate could result in the harvest of the available TAC specified for GB cod before the end of the 2006 fishing year on April 30, 2007. This action is intended to slow the catch of GB cod in the Eastern U.S./Canada Area to prolong access to the Eastern U.S./Canada Area and to prevent the GB cod TAC specified for the Eastern U.S./Canada Area from being exceeded during the 2006 fishing year. This action is authorized by the regulations implementing Amendment 13 to the NE

Multispecies Fishery Management Plan (FMP) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective June 19, 2006, through April 30, 2007, unless otherwise superseded by another temporary rule.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fishery Policy Analyst, (978) 281-9141, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing the gear requirements for the U.S./Canada Management Area are found at § 648.85(a)(3)(iii). The regulations require trawl vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS in the Eastern U.S./Canada Area, as defined at § 648.85(a)(1)(ii), to fish with either a haddock separator trawl or a flounder net. The Eastern U.S./Canada Area GB cod TAC for the 2006 fishing year (May 1, 2006 - April 30, 2007) was specified at 374 mt on April 28, 2006 (71 FR 25095). Once the available TAC for GB cod, GB haddock, or GB yellowtail flounder is projected to be caught, the Regional Administrator is required to close the Eastern U.S./Canada Area to all NE multispecies DAS vessels for the remainder of the fishing year, pursuant to § 648.85(a)(3)(iv)(E).

The regulations at § 648.85(a)(3)(iv)(D) authorize the Regional Administrator to modify certain regulations governing the harvesting of fish from the U.S./Canada Management Area, including gear requirements, to prevent over-harvesting or under-harvesting the TAC allocations specified for GB cod, GB haddock, or GB yellowtail flounder in the U.S./Canada Management Area once at least 30 percent of the TAC allocations specified for the U.S./Canada Management Area are projected to be, or have been, harvested. Based upon Vessel Monitoring System (VMS) reports and other available information, the Regional Administrator has projected that the current rate of harvest of GB cod will result in 30 percent of the 2006 Eastern U.S./Canada Area GB cod TAC being harvested by June 20, 2006. At this rate, it is likely that the 2006 Eastern U.S./Canada Area GB cod TAC would be caught before the end of the 2006 fishing year, resulting in the premature closure of the Eastern U.S./Canada Area and the potential under-harvest of the available TACs for GB haddock and GB yellowtail flounder during the 2006 fishing year. Based on this information, the Regional Administrator is requiring that all limited access NE multispecies vessels

fishing in the Eastern U.S./Canada Area under a NE multispecies DAS with trawl gear use a haddock separator trawl to reduce catch and discard of GB cod, effective June 19, 2006, through April 30, 2007, unless superseded by another temporary rule.

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)(B), the Assistant Administrator (AA) finds good cause to waive prior notice and opportunity for public comment for this action, because notice and comment would be impracticable and contrary to the public interest. This action would require all NE multispecies DAS vessels fishing with trawl gear to use a haddock separator trawl when fishing in the Eastern U.S./Canada Area to slow the catch rate of GB cod and ensure that the available TAC for GB cod is not over-harvested during the 2006 fishing year. Slowing the catch rate of GB cod would also prolong access to the Eastern U.S./Canada Area so that vessels may be able to fully harvest the available TACs for GB haddock and GB yellowtail flounder. Because of the time necessary to provide for prior notice and opportunity for public comment, NMFS would be prevented from taking immediate action to slow the catch rate of GB cod in the Eastern U.S./Canada Area. Such a delay would allow the observed high catch

rate of GB cod to continue and would result in excessive discards of GB cod, the premature closure of the Eastern U.S./Canada Area for the remainder of the fishing year, and the potential under-harvest of the available TACs specified for GB haddock and GB yellowtail flounder. Excessive discards of GB cod caused by a delayed implementation of this action could potentially increase mortality on this overfished stock and undermine the conservation objectives of Amendment 13 to the FMP and the Magnuson-Stevens Act. Under-harvesting the GB haddock or GB yellowtail flounder TACs would result in increased economic impacts to the industry and social impacts beyond those analyzed for Amendment 13, as the full potential revenue from the available GB haddock and GB yellowtail flounder TACs specified for the U.S./Canada Management Area would not be realized. Therefore, based on the above information, the AA finds good cause, pursuant to 5 U.S.C. 553(b)(B), to waive prior notice and opportunity for public comment because it would be impracticable and contrary to the public interest.

For the reasons specified above, a delay in the effectiveness of the gear requirement in this rule would prevent NMFS from meeting its management obligation to prevent the GB cod TAC from being exceeded during the 2006 fishing year and ensure that vessels

have the opportunity to fully harvest the available 2006 TACs specified for GB haddock and GB yellowtail flounder in the U.S./Canada Management Area. Any such delay could lead to the negative impacts to the fishing industry described above. Therefore, the AA finds good cause, pursuant to 5 U.S.C. 553(d)(3), to waive the entire 30-day delayed effectiveness period for this action.

The rate of harvest of the GB cod TAC in the Eastern U.S./Canada Area is updated weekly on the internet at <http://www.nero.noaa.gov>. Accordingly, the public is able to obtain information that would provide at least some advanced notice of a potential action to provide additional opportunities to the NE multispecies industry to fully harvest the TAC for GB cod during the 2006 fishing year. Further, the potential for this action was considered and open to public comment during the development of Amendment 13. 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: June 14, 2006.

James W. Burgess,

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