

(2) *Incomplete claim.* When the Department receives an incomplete debt claim from a creditor agency, the Secretary shall return the debt claim with a notice that procedures under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, must be provided and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(c) *Review.* The Secretary is not required or authorized to review the merits of the determination with respect to the amount or validity of the debt certified by the creditor agency.

(d) *Employees separating.* If an employee begins separation action before the Department collects the total debt due the creditor agency, the following actions will be taken:

(1) To the extent possible, the balance owed the creditor agency will be liquidated from a final salary check, or other final payments of any nature due the employee from the Department;

(2) The Secretary will certify the total amount of the Department's collection on the debt and send a copy of the certification to the employee and another copy to the creditor agency; and

(3) If the Department's collection does not fully satisfy the debt, and the Secretary is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments that may be due the employee from other Federal Government sources, the Secretary will provide written notification of the outstanding debt to the agency responsible for making such payments to the employee. The written notification shall state that the employee owes a debt, the amount of the debt, and that the provisions of this section have been fully complied with. The Department shall furnish a copy of this written notification to the creditor agency so that it can file a properly certified debt claim with the agency responsible for making such payments.

(e) *Employees who transfer to another paying agency.* If, after the creditor agency has submitted a debt claim to the Department, the employee transfers from the Department to a different paying agency before the debt is collected in full, the Secretary shall:

(1) Certify the total amount of the collection made on the debt; and

(2) Furnish a copy of the certification to the employee and another copy to the creditor agency along with notice of the employee's transfer.

§ 33.13 Interest, penalties, and administrative costs.

Debts owed to the Department shall be assessed interest, penalties and

administrative costs in accordance with 45 CFR 30.18.

§ 33.14 Non-waiver of rights.

An employee's involuntary payment of all or any portion of a debt collected under this part shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of law or contract, unless there are statutory or contractual provisions to the contrary.

§ 33.15 Refunds.

(a) The Secretary shall promptly refund any amounts paid or deducted under this part when:

(1) A debt is waived or otherwise found not owing to the United States; or

(2) The employee's paying agency is directed by administrative or judicial order to refund amount deducted from the employee's current pay.

(b) Unless required or permitted by law or contract, refunds shall not bear interest.

§ 33.16 Additional administrative collection action.

Nothing contained in this part is intended to preclude the use of any other appropriate administrative remedy.

Dated: November 27, 2006.

Michael O. Leavitt,

Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060606150-6240-02; I.D. 030107A]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Gear Restrictions and Georges Bank Yellowtail Flounder Trip Limits 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, trip limit.

SUMMARY: NMFS announces that the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), is eliminating the haddock separator trawl

requirement, which was temporarily implemented on June 19, 2006, for all limited access NE multispecies vessels fishing with trawl gear on a NE multispecies day-at-sea (DAS), and is reducing from 10,000 lb (4,536 kg) to 5,000 lb (2,268 kg) the trip limit for Georges Bank (GB) yellowtail flounder for all NE multispecies vessels fishing without a haddock separator trawl on a NE multispecies DAS in the Eastern U.S./Canada Area. This temporary reduction in the GB yellowtail flounder trip limit is effective through April 30, 2007. A projection based on available catch and discard information indicates that removal of the haddock separator trawl requirement and establishment of a 5,000-lb (2,268 kg) trip limit for GB yellowtail flounder in the Eastern U.S./Canada Area will help vessels achieve the total allowable catch (TAC) limits established for the shared U.S./Canada stocks of cod, haddock, and yellowtail flounder while preventing the GB yellowtail flounder TAC from being exceeded before the end of the 2006 fishing year on April 30, 2007. This action is therefore intended to provide increased opportunities to harvest the healthy Eastern GB haddock TAC and maximize the harvest of the GB yellowtail flounder. This action is authorized by the regulations implementing Framework 42 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 March 5, 2007, through April 30, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Grant, Fishery Management Specialist, (978) 281-9145, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION: The U.S. portion of the U.S./Canada Area TACs for GB cod, GB haddock, and GB yellowtail flounder for the 2006 fishing year (May 1, 2006-April 30, 2007) were specified at 374 mt, 7,480 mt, and 2,070 mt, respectively, on April 28, 2006 (71 FR 25095). Pursuant to § 648.85(a)(3)(iv)(E), 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. The FMP requires trawl vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS in the Eastern U.S./Canada Area to fish with either a haddock separator trawl or a flounder net. Prohibitions governing the gear

requirements for the U.S./Canada Management Area are found at § 648.14(a)(132). The regulations at § 648.85(a)(3)(iv)(D) authorize the Regional Administrator to modify certain measures governing the harvesting of fish from the U.S./Canada Management Area, including gear requirements and trip limits, to prevent over-harvesting or under-harvesting the U.S. portion of the shared U.S./Canada TAC allocations. On June 19, 2006, (71 FR 35199) the Regional Administrator required, on a temporary basis, that all limited access NE multispecies vessels fishing on a NE multispecies DAS with trawl gear in the Eastern U.S./Canada Area use a haddock separator trawl to prevent over-harvesting of the GB cod TAC under the authority granted by the regulations at § 648.85(a)(3)(iv)(D). At that time, based upon Vessel Monitoring System (VMS) reports and other information available, the Regional Administrator projected 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 that information, the Regional Administrator required 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 discards of GB cod.

Based upon recent VMS reports and other available information, the Regional Administrator has projected that the current rates of harvest may result in the under-harvest of the available TACs for GB cod, GB haddock, and GB yellowtail flounder during the 2006 fishing year. Based on this information, effective March 5, 2007, through April 30, 2007, the Regional Administrator is removing the temporary requirement 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. The required use of the haddock separator trawl requires that certain performance incentives (cod 100 lb (45 kg)/DAS up to 1,000 lb (454 kg)/trip; all flounders combined 100 lb (45 kg)/DAS up to 500 lb (227 kg)/trip; yellowtail flounder 25 lb (11 kg)/DAS up to 250 lb (113 kg)/trip; white hake 100 lb (45 kg)/DAS up to 1,000 lb (454 kg)/trip, and all skates combined 500 lb (227 kg)/trip) be adhered to. This requirement has restricted vessels from more fully

harvesting the GB yellowtail flounder TAC. Removal of the haddock separator trawl requirement allows vessels to fish with either a haddock separator trawl or a flounder net. NE multispecies vessels may elect to continue using a haddock separator trawl rather than a flounder trawl net, but will be restricted to the gear performance incentives (trip limits) associated with the haddock separator trawl. Vessels electing to fish with a flounder net will be subject to the current trip limits with the exception noted below. The Western U.S./Canada Area is unaffected by this action.

To reduce the risk of a derby fishery for GB yellowtail flounder and reduce the likelihood of attaining the GB yellowtail flounder TAC prior to the end of the 2006 fishing year, resulting in the premature closure of the Eastern U.S./Canada Area and potential under-harvest of the GB cod and GB haddock TACs, the Regional Administrator is reducing from 10,000 lb (4,536 kg) to 5,000 lb (2,268 kg) the trip limit for GB yellowtail flounder for all limited access NE multispecies DAS vessels, fishing without a haddock separator trawl, when declaring into the Eastern U.S./Canada Area, effective March 5, 2007, through April 30, 2007. For non-trawl gear vessels, this is a reduction from the current 10,000-lb (4,536-kg) trip limit.

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. The regulations at § 648.85(a)(3)(iv)(D) grant the Regional Administrator the authority to modify gear requirements in the U.S./Canada Management Area and to adjust the GB yellowtail flounder trip limit to prevent over-harvesting or under-harvesting the GB yellowtail flounder TAC allocation. This action would remove the requirement that all NE multispecies DAS vessels fishing with trawl gear use a haddock separator trawl when fishing in the Eastern U.S./Canada Area (i.e., vessels will be allowed the use of a flounder trawl net or a haddock separator trawl net). Removing this restriction will provide additional opportunities to harvest the healthy Eastern GB haddock stock and maximize the harvest of the GB yellowtail flounder TAC specified for the Eastern U.S./Canada Area during the 2006 fishing year. Given that approximately 30 percent of the GB

yellowtail flounder TAC remains unharvested and the 2006 fishing year ends on April 30, 2007, the time necessary to provide for prior notice, opportunity for public comment, or delayed effectiveness would prevent the agency from helping to ensure that the 2006 TAC for GB yellowtail flounder will be fully harvested.

Reducing the GB yellowtail flounder trip limit from the current 10,000 lb (4,536 kg)/trip to 5,000 lb (2,268 kg)/trip for all limited access NE multispecies DAS vessels fishing in the Eastern U.S./Canada Area, when not fishing with a haddock separator trawl, is an ancillary measure necessary to help reduce the incentive for a derby fishery targeting GB yellowtail flounder in the Eastern U.S./Canada Area, and slow the harvest rate of GB cod and GB yellowtail flounder, while still allowing increased access to the relatively abundant Eastern GB haddock stock. Harvesting the GB yellowtail flounder TAC prior to the end of the 2006 fishing year would result in the premature closure of the Eastern U.S./Canada Area and could increase economic and social impacts to the industry beyond those analyzed for Amendment 13, because the full potential revenue from the available GB cod and GB haddock TACs in the U.S./Canada Management Area may not be realized.

For the reasons specified above, and because this action relieves a restriction, 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. A delay in the effectiveness of the gear requirement and trip limit modifications in this rule would prevent the agency from achieving a better balance between its obligations to prevent the TACs from being exceeded and facilitating the harvest of fish at a level that approaches optimum yield. Any such delay could lead to the negative impacts to the fishing industry described above.

The rate of harvest of the GB yellowtail flounder TAC in the U.S./Canada Management 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 yellowtail flounder during the 2006 fishing year. Further, the potential for this action was considered and open to public comment during the development of Amendment 13 and Framework 42. 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: March 1, 2007.

Alan D. Risenhoover,

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

[FR Doc. 07-1067 Filed 3-2-07; 2:56 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033-7033-01; I.D. 030207A]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the A season apportionment of the 2007 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective March 5, 2007, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the

BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season apportionment of the 2007 Pacific cod TAC specified for vessels using jig gear in the BSAI is 1,263 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007), for the period 1200 hrs, A.l.t., January 1, 2007, through 1200 hrs, A.l.t., April 30, 2007. See § 679.20(c)(3)(iii), § 679.20(c)(5), § 679.20(a)(7)(i)(A), and § 679.20(a)(7)(iii)(A)(3).

The Acting Administrator, Alaska Region, NMFS, has determined that jig vessels will not be able to harvest 1,200 mt of the A season apportionment of the 2007 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(i)(A) and § 679.20(a)(7)(iii)(A)(3). Therefore, in accordance with § 679.20(a)(7)(ii)(C)(1), NMFS apportions 1,200 mt of Pacific cod from the A season jig gear apportionment to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007) are revised as follows: 63 mt to the A season apportionment for vessels using jig gear and 2,321 mt to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear.

Classification

This action responds to the best available information recently obtained

from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified for jig vessels to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 2, 2007.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 2, 2007.

James P. Burgess,

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

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