

likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a "significant energy action" within the meaning of Executive Order 13211.

Privacy Act

Anyone is able to search the electronic form of all our comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.regulations.gov>.

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

■ In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 225—[AMENDED]

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901-02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

■ 2. Amend § 225.19 by revising the first sentence of paragraph (c) and revising paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) *Group II—Rail equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (i.e., \$6,700 for calendar years 2002 through 2005, \$7,700 for calendar year 2006, \$8,200 for calendar year 2007, \$8,500 for calendar year 2008 and \$8,900 for calendar year 2009) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. * * *

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(e) The reporting threshold is \$6,700 for calendar years 2002 through 2005, \$7,700 for calendar year 2006, \$8,200 for calendar year 2007, \$8,500 for calendar year 2008 and \$8,900 for

calendar year 2009. The procedure for determining the reporting threshold for calendar years 2006 and beyond appears as paragraphs 1-8 of appendix B to part 225.

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Issued in Washington, DC, on December 17, 2008.

Clifford C. Eby,

Acting Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.071004577 8124 02]

RIN 0648-XL94

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Increase of the Landing Limit for Eastern Georges Bank Cod in the U.S./Canada Management Area

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

ACTION: Temporary rule; increase of landing limit.

SUMMARY: This action increases the landing limit of Eastern Georges Bank (GB) cod to 1,000 lb (453.6 kg) per day-at-sea (DAS), or any part of a DAS, up to 10,000 lb (4,535.9 kg) per trip for NE multispecies DAS vessels fishing in the U.S./Canada Management Area. This action is authorized by the regulations implementing Amendment 13 to the NE Multispecies Fishery Management Plan and is intended to increase the likelihood of harvesting the total allowable catch (TAC) for Eastern GB cod without exceeding it during the 2008 fishing year. This action is being taken to allow vessels to fully harvest the TACs for transboundary stocks of GB cod, haddock, and yellowtail flounder under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective December 23, 2008, through April 30, 2009.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978) 281-9341, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing the GB cod landing limit within the Eastern U.S./Canada Area are found at § 648.85(a)(3)(iv)(A) and (D). The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the U.S./Canada Management Area, as defined at § 648.85(a)(1), under specific conditions. The TAC for Eastern GB cod for the 2008 fishing year (May 1, 2008 - April 30, 2009) was set at 667 mt (73 FR 16572, March 28, 2008), a 35-percent increase from the TAC for the 2007 fishing year.

The regulations at § 648.85(a)(3)(iv)(D) authorize the Administrator, Northeast (NE) Region, NMFS (Regional Administrator) to increase or decrease the trip limits in the U.S./Canada Management Area to prevent over-harvesting or under-harvesting the TAC allocation. The default landing limit of Eastern GB cod for NE multispecies DAS vessels fishing in the Eastern U.S./Canada Area is 500 lb (226.8 kg) per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip. According to the most recent Vessel Monitoring System (VMS) reports and other available information, the fishing year 2008 Eastern GB cod TAC will not be harvested under the current landing limit. Analysis of harvest patterns in previous fishing years indicates that the TAC would not be exceeded under the increased landing limit of 1,000 lb (453.6 kg) per DAS, or any part of a DAS, up to 10,000 lb (4,535.9 kg) per trip. Based on this information, the Regional Administrator is increasing the current Eastern GB cod landing limit of 500 lb (226.8 kg) per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip in the Eastern U.S./Canada Area; to 1,000 lb (453.6 kg) per DAS, or any part of a DAS, up to 10,000 lb (4,535.9 kg) per trip, effective 0001 hours local time December 23, 2008, through April 30, 2009.

Eastern GB cod landings will continue to be closely monitored. Further inseason adjustments to increase or decrease the trip limit may be considered, based on updated catch data and projections. Should 100 percent of the TAC allocation for Eastern GB cod be projected to be harvested, the Eastern U.S./Canada Area would be closed to limited access NE multispecies DAS vessels for the remainder of the fishing year.

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)(3)(B) and (d)(3), there is good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because prior notice and comment and a delayed effectiveness would be impracticable and contrary to the public interest. This action would relieve a restriction by increasing the trip limit for Eastern GB cod for all NE multispecies DAS vessels fishing in the Eastern U.S./Canada Area through April 30, 2009, to facilitate the harvest of the TAC for Eastern GB cod while ensuring that the TAC will not be exceeded during the 2008 fishing year. This will result in decreased regulatory discards of Eastern GB cod, increased revenue for the NE multispecies fishery, and an increased chance of achieving optimum yield in the groundfish fishery.

This action is authorized by the regulations at § 648.85(a)(3)(iv)(D) to facilitate achieving the U.S./Canada

Management Area TACs. It is important to take this action immediately because the current restrictive Eastern GB cod trip limit has prevented the NE multispecies fishery from harvesting the TAC at a rate that will result in complete harvest by the end of the 2008 fishing year. Delay in the implementation of this action could result in further wasteful discards of Eastern GB cod and decrease the opportunity available for vessels to fully harvest the 2008 Eastern GB cod TAC.

The information necessary to take this action only became available recently. The time necessary to provide for prior notice, opportunity for public comment, and delayed effectiveness for this action would prevent NE multispecies DAS vessels from efficiently targeting Eastern GB cod in the U.S./Canada Management Area. The Regional Administrator's authority to increase trip limits for Eastern GB cod in the U.S./Canada Management Area to help ensure that

the shared U.S./Canada stocks of fish are harvested, but not exceeded, was considered and open to public comment during the development of Amendment 13 and Framework Adjustment 42. Further, the potential of increasing the Eastern GB cod trip limit was announced to the public when the 2008 U.S./Canada TACs were set (73 FR 16572, March 28, 2008) prior to the start of the 2008 fishing year. 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: December 17, 2008.

Emily H. Menashes,

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