

under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under 2.B.2 of the Instruction. Therefore, we believe that this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34) (g), as it would establish a safety zone. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165.T01–002 to read as follows:

##### § 165.T01–002 Safety Zone: Town of Weymouth Fourth of July Celebration Fireworks—Weymouth, Massachusetts.

(a) *Location*. The following area is a safety zone: All navigable waters of the Weymouth Fore River within a 500 yard radius of the fireworks launch barge located at approximate position 42° 15.2 N, 070° 56.7 W.

(b) *Effective Date*. This section is effective from 8:30 p.m. EDT on June 30, 2007 until 11:15 p.m. EDT on June 30, 2007, with a rain date of July 1, 2007.

(c) *Definitions*. (1) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) *[Reserved]*

(d) *Regulations*. (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston or the designated representative.

(2) All vessel operators shall comply with the instructions of the COTP or the *designated representative*.

Dated: April 5, 2007.

**J.L. McDonald,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. E7–7189 Filed 4–13–07; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 070321063–7063–01; I.D. 031607E]

RIN 0648–AV22

#### Magnuson-Stevens 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:** Proposed rule; request for comments.

**SUMMARY:** Framework Adjustment (FW) 42 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) created the Georges Bank (GB) Cod Fixed Gear Sector (Fixed Gear Sector) and authorized allocation of up to 20 percent of the annual GB cod total allowable catch (TAC) to the Fixed Gear Sector. Pursuant to that authorization, a representative of the Fixed Gear Sector has submitted an Operations Plan, Sector Agreement (Contract) and requested an allocation of GB cod to the Fixed Gear Sector for fishing year 2007 (FY 2007). A Supplemental Environmental Assessment (EA) has also been prepared. This document provides interested parties an opportunity to comment on the proposed Sector Operations Plan and EA prior to final approval or disapproval of the Sector Operations Plan and allocation of GB cod TAC to the Fixed Gear Sector for FY 2007.

**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 Fixed Gear Sector 2007 Operations Plan.”

- Fax: (978) 281–9135.

- E-mail:

2007FixedGearSector@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:**

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

**SUPPLEMENTARY INFORMATION:** The Regional Administrator has made a preliminary determination that the Fixed Gear 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 specific groundfish species (or days-at-sea (DAS)), implemented restrictions that apply to all sectors, and authorized the first sector of the FMP (GB Cod Hook Sector).

FW 42 (71 FR 62156, October 23, 2006) established the Fixed Gear Sector. The FW 42 regulations that apply to the Fixed Gear Sector specify that: (1) all vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Fixed Gear Sector, provided they have documented landings of GB cod through valid dealer reports submitted to NMFS during FY 1996 through 2001 (regardless of gear fished); (2) membership in the Fixed Gear Sector is voluntary, and each member must remain in the Fixed Gear Sector for the entire fishing year and may not fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Fixed Gear Sector (participating vessels) are confined to fishing in the GB Cod Hook 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 must comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization, and the provisions of an approved Operations Plan.

Although FW 42 established the Fixed Gear Sector, in order for GB cod to be allocated to the Fixed Gear Sector and the Fixed Gear Sector authorized to fish, the Fixed Gear 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 Fixed Gear Sector participants and a plan containing the management rules that the Fixed Gear Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Fixed Gear Sector's proposed operations may 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 Fixed Gear Sector submitted an initial version of the Operations Plan and Sector Contract to NMFS on January 22, 2007. The Fixed Gear Sector subsequently submitted additional iterations of the Operations Plan to clarify the Operations Plan and refine the analyses, with a final submission date of March 7, 2007. A Supplemental Environmental Assessment was also prepared.

The Fixed Gear Sector would be overseen by a Board of Directors and a Sector Manager. The Sector Contract specifies, in accordance with Amendment 13, that the Sector's GB cod TAC would be based upon the number of Fixed Gear Sector members and their historic landings of GB cod. The GB cod TAC is a "hard" TAC, meaning that, once the TAC is reached, Fixed Gear Sector vessels could not fish under a NE multispecies 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).

The proposed 2007 Operations Plan proposes exemption from the following restrictions of the FMP: GB cod trip limit, the GB Seasonal Closure Area (when fishing with hook gear), the 3,600-hook limit for longline gear in the GB Regulated Mesh Area (RMA), and the 2,000-hook limit in the Gulf of Maine (GOM) and Southern New England (SNE) RMAs. 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 March 7, 2007, 19 prospective Fixed Gear Sector members had signed the 2007 Sector Contract. The GB cod TAC calculation is based upon the historic GB cod landings of the participating vessels, using all gear. The allocation percentage is calculated by dividing the sum of total landings of GB cod by 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 (12,119,410 lb (5,497 mt)/113,278,842 lb (51,382.4 mt)). The resulting number is 900 mt, or 10.70 percent of the proposed fishery-wide GB cod target TAC of 8,416 mt. If prospective members of the Fixed Gear Sector change their minds about participating in the Fixed Gear Sector after the publication of this proposed rule 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 be reduced from the numbers above, but no additional members may join the Fixed Gear Sector for FY 2007 fishing year.

The Sector Contract contains procedures for the enforcement of the Operations Plan, a schedule of penalties, and provides the authority to the Fixed Gear Sector Manager to issue stop fishing orders to members of the Fixed Gear Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Fixed Gear Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hrs of offloading. Dealers purchasing fish from participating vessels would be required to provide the Fixed Gear Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Fixed Gear Sector Manager would transmit to NMFS aggregate catch data from dealer slips and aggregate discard data from the VTRs. After 90 percent of the Fixed Gear Sector's allocation has been harvested, the Fixed Gear Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Fixed Gear 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 may 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. 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 regulations 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 Fixed Gear 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, handgear, or sink gillnets. Participating Fixed Gear Sector vessels fishing with hook gear could use an unlimited number of hooks in the Sector Area and would be exempt from the GB Seasonal Closure Area during May.

The EA prepared for the Fixed Gear Sector operations concludes that the biological impacts of the Fixed Gear 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 Fixed Gear Sector. Implementation would have a positive impact of essential fish habitat (EFH) and bycatch by allowing a maximum number of hook and gillnet vessels to remain active in those fisheries, rather than converting to (or leasing DAS to) other gear types that have greater impacts on EFH. The analysis of economic impacts of the Fixed Gear Sector concludes that the members would realize higher economic returns if the Fixed Gear Sector is implemented. The EA asserts that fishing in accordance with the Sector Contract rules enables more efficient harvesting of GB cod with hook and gillnet gear than would be possible if the vessels were fishing in accordance with the common pool (non-sector) rules. The social benefits of the Fixed Gear Sector would accrue to members as well as the Chatham and Harwichport, MA, communities, which are more dependent upon groundfish revenues than other communities. The supplemental EA concludes that the self-governing nature of the Fixed Gear Sector and the development of rules by the members enables stewardship of the cod resource by the Fixed Gear Sector. The cumulative impacts of the Fixed Gear 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 Contract as proposed, a Letter of Authorization would be issued to each member of the Fixed Gear Sector exempting them, conditional upon their compliance with the Sector Contract, 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

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 IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. Below is a summary of the IRFA, which describes the economic impact 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 sections 1.0 and 2.0 of the EA prepared for this action. 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 because gross sales by any one entity (vessel) do not exceed this threshold. The number of prospective participants in the Fixed Gear Sector is 19, substantially less than the total number of active vessels in the groundfish fishery. Only these 19 vessels would be subject to the regulatory exemptions and

operational restrictions proposed for the Fixed Gear Sector for FY 2007.

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

The proposed alternative would allocate a GB cod TAC of 900 mt to the Fixed Gear Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a NE multispecies DAS, possess or land GB cod, or other regulated species managed under the NE multispecies FMP, or use gear capable of catching groundfish (unless fishing under recreational or charter/party regulations). Vessels intending to fish in the Fixed Gear Sector during the 2007 fishing year may only fish with hook gear or gillnet gear and may not fish for NE multispecies under a NE multispecies DAS during the 2007 fishing year until the Sector Operations Plan is approved. 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 fixed gear fishermen and the Chatham and Harwichport, MA, communities 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. According to Amendment 13, Chatham's overall community dependence on NE multispecies as a percentage of total fisheries revenues from federally permitted vessels averaged about 71 percent and likely at least some of the active groundfish vessels in Chatham and Harwichport are even more than 71% dependent on the multispecies fishery. Because the Fixed Gear Sector was implemented late in the 2006 FY and only one vessel participated, quantitative data on the precise economic impact of the Fixed Gear Sector does not exist. However, a qualitative assessment of the Fixed Gear Sector is possible.

The proposed alternative would positively impact the 19 vessels that have voluntarily joined the Fixed Gear Sector, who are relatively dependent upon cod revenue compared to other participants in the groundfish fishery. The proposed alternative would indirectly benefit the communities of Chatham and Harwichport, MA, and to a lesser extent other Cape Cod, MA, communities involved in the groundfish fishery. Allocation of cod TAC to a sector and the development of alternative fishing restrictions would mitigate the impacts of Amendment 13. Specifically, the proposed Operations

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.*

[FR Doc. 07-1882 Filed 4-12-07; 10:41 am]

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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: [gbhookscctr@noaa.gov](mailto:gbhookscctr@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](mailto: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