

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 050630174-5234-02; I.D. 121505A]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Quota Adjustment for the Closed Area I Hook Gear Haddock Special Access Program**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Temporary rule; quota adjustment.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is increasing the 500-mt haddock quota for the second participation period (November 16, 2005, through December 31, 2005) of the Closed Area (CA) I Hook Gear Haddock Special Access Program (SAP) to 536.6 mt. Available information indicates that the 500-mt quota for the first participation period of this SAP (October 1, 2005, through November 15, 2005) was under-harvested. The intended effect of this action is to account for this under-harvest from the first participation period, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective December 27, 2005 through December 31, 2005.**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:** Regulations governing the CA I Hook Gear Haddock SAP are found at 50 CFR 648.85(b)(7). The regulations authorize a 1,000-mt total allowable catch (TAC) (landings and discards) of haddock for the SAP. The currently approved haddock TAC of 1,000 mt is divided evenly into two quota periods such that the haddock TAC for each period is 500

mt. The Regional Administrator is authorized by § 648.85(b)(7)(iv)(F) to adjust the 500-mt quota for the second participation period to account for under- or over-harvest of the 500-mt haddock quota (landings and discards) that occurred in the first participation period, not to exceed the overall haddock TAC. The Regional Administrator, based upon Vessel Monitoring System reports and other available information, has determined that 463.4 mt of haddock was caught during the first participation period. Therefore, the haddock quota for the second participation period is increased to 536.6 mt to account for under-harvesting the first participation period haddock TAC. This action will provide vessels increased opportunities to harvest healthy groundfish stocks by permitting access to fully harvest the available haddock TAC specified for this SAP during the 2005 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)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment for this action, as notice and comment would be impracticable and contrary to the public interest. The regulations under § 648.85(b)(7)(iv)(F) grant the Regional Administrator authority to adjust the 500-mt quota for the second participation period to account for under- or over-harvest of the 500-mt haddock quota (landings and discards) that occurred in the first participation period. The possibility of this quota adjustment was contemplated by Framework Adjustment 41 (Framework 41) and commented on by the public. This program began on October 1, 2005, and continues through December 31, 2005. If implementation of this action is delayed, NMFS could be prevented from carrying out its function of increasing opportunities to harvest healthy groundfish stocks. If a proposed rule for this action or delay in effectiveness were required, vessels may not be able to fully harvest the available haddock TAC specified for this SAP during the 2005 fishing year. This could prevent the fishery from achieving optimum yield (OY) for this healthy stock. Given

the 36.6-mt underage of the first participation period quota, the delay in receiving final landings data from dealers for the first participation period (the final estimate of haddock catch for the first period was not completed until December 6, 2005), the rapid rate at which the haddock TAC for the second period has been harvested to date, and the relatively large portion of the haddock TAC remaining for this SAP it was not possible to make this determination sooner. Therefore, it would be impracticable for NMFS to provide for prior notice and opportunity for public comment because this would likely prevent the industry from fully harvesting the haddock TAC for this SAP during the 2005 fishing year. Under-harvesting the haddock TAC for this SAP reduces the ability of participating vessels to fully realize the economic benefits of this SAP, as specified in Framework 41. Frameworks 40A and 41 were implemented to mitigate the economic and social impacts resulting from Amendment 13 to the NE multispecies FMP and the management requirements of the Magnuson-Stevens Fishery Conservation and Management Act. If a proposed rule for this action or delay in effectiveness were required, the intent of Framework 41 would not be achieved. This would result in decreased revenue for the NE multispecies fishery, increased economic impacts to vessels operating in the CA I Hook Gear Haddock SAP, reduced opportunities to fully harvest the GB haddock TAC, and a reduced chance of achieving optimum yield in the groundfish fishery.

For the above reasons, under 5 U.S.C. 553(b)(3), proposed rulemaking is waived because it would be impracticable and contrary to the public interest. Furthermore, for the same reasons specified above, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for this action.

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

Dated: December 20, 2005.

John H. Dunnigan,*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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