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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010-4114-02]

RIN 0648-XE06

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

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

ACTION: Temporary rule; trip limit change.

SUMMARY: NMFS announces that the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), is increasing the Georges Bank (GB) yellowtail flounder trip limit to 7,500 lb (3,402 kg) for NE multispecies days-at-sea (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 prevent under-harvesting of the Total Allowable Catch (TAC) for GB yellowtail flounder while ensuring that the TAC will not be exceeded during the 2007 fishing year. This action is being taken to provide additional opportunities for vessels to fully harvest the GB yellowtail flounder TAC under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective November 27, 2007, through April 30, 2008.

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

SUPPLEMENTARY INFORMATION:

Regulations governing the GB yellowtail flounder landing limit within the U.S./Canada Management Area are found at § 648.85(a)(3)(iv)(C) and (D). The regulations authorize vessels issued a valid Federal 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 GB yellowtail flounder for the 2007 fishing year (May 1, 2007 - April 30, 2008) is 900 mt. The regulations at § 648.85(a)(3)(iv)(D) authorize the 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.

On April 24, 2007 (72 FR 20287), based upon the reduced 2007 TAC for GB yellowtail flounder (a 43 reduction from 2006) and projections of harvest rates in the fishery, the trip limit for GB yellowtail flounder was set at 3,000 lb (1,361 kg) for the 2007 fishing year, to prevent the over-harvest of the 2007 GB yellowtail flounder TAC, to prevent a premature closure of the Eastern U.S./Canada Management Area and, therefore, reduced opportunities to fish for Eastern GB cod and haddock in the Eastern U.S./Canada Area.

According to the most recent Vessel Monitoring System (VMS) reports and other available information, only 45 percent of the TAC had been harvested as of November 21, 2007. Of this total, discards account for over 36 percent of the GB yellowtail harvest to date. Based on this information, the Regional Administrator has determined that the current rate of harvest will result in the under-harvest of the GB yellowtail flounder TAC during the 2007 fishing year. Increasing the GB yellowtail flounder trip limit from 3,000 lb (1,361 kg) to 7,500 lb (3,402 kg) is expected to increase landings of GB yellowtail flounder, reduce discards, and result in the achievement of the TAC during the fishing year without exceeding it. Based on this information, the Regional Administrator is increasing the current 3,000-lb (1,361-kg) trip limit in the U.S./Canada Area to 7,500 lb (3,402 kg), effective November 27, 2007, through April 30, 2008. GB yellowtail flounder landings will continue to be closely monitored. Should 100 percent of the TAC allocation for GB yellowtail flounder be projected to be harvested, the Eastern U.S./Canada Management Area will close to all groundfish DAS vessels, and all vessels will be prohibited from harvesting, possessing, or landing yellowtail flounder from the U.S./Canada Management Area 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 GB yellowtail flounder for all NE multispecies DAS vessels through April 30, 2008, to facilitate the harvest of the TAC for GB yellowtail flounder while ensuring that the TAC will not be exceeded during the 2007 fishing year. This will result in decreased regulatory discards of GB yellowtail flounder, 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 GB yellowtail flounder trip limit (3,000 lb, 1,361 kg) has resulted in a high discard rate of GB yellowtail flounder (36 percent) and has prevented the NE multispecies fishery from harvesting the TAC at a rate that will result in complete harvest by the end of the 2007 fishing year. Delay in the implementation of this action could result in further wasteful discards of GB yellowtail flounder and decrease the opportunity available for vessels to fully harvest the 2007 GB yellowtail flounder TAC.

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 GB yellowtail flounder in the U.S./Canada Management Area. The Regional Administrator's authority to increase trip limits for GB yellowtail flounder 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 GB yellowtail flounder trip limit was announced to the public when the 3,000-lb (1,361-kg) trip limit was announced prior to the start of the 2007 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: November 27, 2007.

Emily H. Menashes,

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

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