

**§ 195.3 Incorporation by reference.**

(c) \* \* \*

B. American Petroleum Institute (API): (1) ANSI/API Specification 5L/ ISO 3183 "Specification for Line Pipe" (43rd edition and errata, 2004; and 44th edition, 2007).

(10) API 1104 "Welding of Pipelines and Related Facilities" (19th edition 1999, including errata October 31, 2001; and 20th edition 2007, including errata 2008).

Issued in Washington, DC, on April 6, 2009 under the authority delegated in part 1.

**Cynthia Douglass,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 060525140-6221-02]

**RIN 0648-XO46**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; Trip Limit Reduction

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

**ACTION:** Temporary rule; trip limit reduction.

**SUMMARY:** NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, April 21, 2009, through December 31, 2009, unless changed by further notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone 727-824-5305, fax 727-824-5308, e-mail [Catherine.Bruger@noaa.gov](mailto:Catherine.Bruger@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery

Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2)(ii), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish from 4,000 lb (1,814 kg) to 300 lb (136 kg) per trip when 75 percent of the fishing year quota is met, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before April 10, 2009. To provide the commercial fishery participants adequate advance notice of the trip limit reduction, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, April 21, 2009, until the quota is reached and the fishery closes or through December 31, 2009, whichever occurs first.

#### 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 prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to implement this action in a timely manner to protect the fishery because the capacity of the fishing fleet allows for rapid harvest of the quota.

Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to provide less than the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3). However, to provide reasonable notice of the trip limit reduction to the commercial fishery participants and allow them to adjust fishing practices accordingly, NMFS is providing a 7-day delay in the effectiveness of this trip limit reduction.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: April 8, 2009.

**Alan D. Risenhoover,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No.090122047-9252-02]

**RIN 0648-XM11**

#### Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2009 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:** Final rule.

**SUMMARY:** This final rule implements the Georges Bank (GB) Cod Hook Sector

(Hook Sector) Fishing Year (FY) 2009 Operations Plan and Agreement, approved by the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), and allocates a hard total allowable catch (TAC) of GB cod to the Hook Sector. Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) implemented the Hook Sector and authorized annual allocation of up to 20 percent of the GB cod TAC to the Hook Sector. Pursuant to that authorization, the Hook Sector submitted an Operations Plan and Sector Contract entitled, "Georges Bank Cod Hook Sector Fishing Year 2009–2010 Operations Plan and Agreement" (together referred to as the Sector Agreement) and an Environmental Assessment (EA), and requested an allocation of GB cod, consistent with the FMP. This action results in authorization of the Sector Operations Plan for FY 2009 and allocation of 350.1 mt of GB cod to the Hook Sector.

**DATES:** Effective May 1, 2009, through April 30, 2010.

**ADDRESSES:** Copies of the Sector Agreement, EA, and the Final Regulatory Flexibility Analysis (FRFA) are available from the Northeast Regional Office: Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the Federal eRulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mark Grant, Sector Policy Analyst, phone (978) 281–9145, fax (978) 281–9135, e-mail [Mark.Grant@NOAA.gov](mailto:Mark.Grant@NOAA.gov).

**SUPPLEMENTARY INFORMATION:** A proposed rule soliciting public comment on the Sector Agreement and EA for the Hook Sector was published in the **Federal Register** on February 10, 2009 (74 FR 6564), with public comment accepted through February 25, 2009. The Regional Administrator approved the FY 2009 Sector Operations Plan, after considering public comments, and based on a determination that the Sector Agreement 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 § 648.87. Details pertaining to the principal regulations applying to the Hook Sector, the process of review and approval of sectors, and facts regarding the Hook Sector's submission of the FY 2009 Sector Agreement are contained in the proposed rule. An EA entitled "Georges Bank Cod Hook Sector: An Environmental Assessment," which

analyzes the impacts of the proposed Hook Sector operations, was also prepared.

On January 16, 2009, NMFS proposed a temporary Secretarial interim action (74 FR 2959) that would implement measures intended to reduce overfishing on several groundfish stocks. The proposed rule soliciting public comment on the Sector Agreement for the Hook Sector referenced three proposed interim measures that would impact operations of the Hook Sector: A 3,506–mt overall U.S. GB cod TAC; an expanded Gulf of Maine (GOM) differential Day-at-Sea (DAS) counting area that overlaps the GB Cod Hook Sector Area (Hook Sector Area); and elimination of the current prohibition on leasing DAS between sector vessels and non-sector vessels. On April 13, 2009, NMFS published a temporary final rule that differs from the proposed interim rule. This final rule approving the Hook Sector's FY 2009 Sector Operations Plan incorporates the changes implemented by the temporary final rule.

The Hook Sector was authorized to fish in FYs 2004, 2005, 2006, 2007, and 2008, and, based upon the GB cod landings history of its members, was allocated 12.60, 11.70, 10.03, 8.02, and 6.44 percent, respectively, of the annual GB cod TAC.

The 2009 Sector Agreement contains the same elements and exemptions as the 2008 Sector Agreement. The Hook Sector Agreement will be overseen by a Board of Directors and a Sector Manager. The Hook Sector's GB cod TAC is based upon the Hook Sector members' qualifying historical landings of GB cod. The GB cod TAC is a "hard" TAC, meaning that, once the TAC is caught, Hook Sector vessels may 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). Should the hard TAC be exceeded, the Hook Sector's allocation in the following year will be reduced by an amount equivalent to the overharvest.

The FY 2009 Sector Agreement contains exemptions from the following restrictions of the FMP: The GB cod trip limit; the GOM, GB, and Southern New England (SNE) limits on the number of hooks fished; the GB Seasonal Closure Area; the DAS Leasing Program vessel size restrictions; differential DAS counting within the Hook Sector Area; and the Western U.S./Canada Area 72–hr observer program notification. Justification for the proposed

exemptions and analysis of the potential impacts of the Operations Plan, with the exception of the exemption from differential DAS discussed below, are contained in the EA.

A total of 24 Hook Sector members signed the FY 2009 Hook Sector Contract. The GB cod TAC calculation is based upon the historical cod landings of the participating Hook Sector vessels. The allocation percentage is calculated by dividing the sum of total landings of GB cod landed by Hook Sector members in FY 1996 through 2001, by the sum of the total accumulated landings of GB cod landed by all NE multispecies vessels for the same time period. Based upon the qualifying landings histories of the Hook Sector members, the Hook Sector's share of the overall U.S. portion of the GB cod TAC is 8.09 percent, or 771,838 lb (350.1 mt) (8.09 percent times the 2009 fishery-wide GB cod target TAC of 9,541,607 lb (4,328 mt)). This is a larger TAC than the 284–mt TAC contained in the proposed rule for this action because the temporary final rule implements a 4,328–mt U.S. share of the GB cod target TAC rather than the 3,506–mt target TAC previously proposed.

The Sector Contract contains procedures for the enforcement of the Operations Plan, a schedule of penalties, and provides the authority to the Hook Sector Manager to issue stop fishing orders to members of the Hook Sector. Participating vessels are required to land fish only in designated landing ports and are required to provide the Hook Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hr of offloading. Dealers purchasing fish from participating vessels are required to provide the Hook Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Hook Sector Manager must transmit to NMFS aggregate catch data from dealer slips and aggregate discard data from the VTRs. After 90 percent of the Hook Sector's allocation has been harvested, the Hook Sector Manager is required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Hook Sector's GB cod TAC, minus a reserve, is allocated to each month of the fishing year. GB cod quota that is not landed during a given month will be rolled over into the following month. The harvest rules do not preclude a vessel from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules, on separate trips.

Participating vessels will not be allowed to fish with or have on board gear other than jigs, non-automated

demersal longline gear, or handgear. Participating Hook Sector vessels may use an unlimited number of hooks in the Hook Sector Area and are exempt from the GB Seasonal Closure Area.

Participating vessels are required to call the Sector Manager prior to leaving port on a fishing trip. All legal-sized cod caught must be retained, landed and counted against the Hook Sector's GB cod TAC. For each fishing trip, participating vessels are 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 have a 1,000-lb (454-kg) trip limit for white hake (consistent with current regulations); a 2,000-lb (907-kg) trip limit for GB winter flounder (more restrictive than current regulations); and a 100-lb (45-kg) trip limit for all yellowtail flounder (more restrictive than current regulations). All of these exemptions were approved for FY 2006 and FY 2007 because the Hook Sector's operations plans for those years were determined to be conservation equivalent to differential DAS counting for meeting the mortality reduction and stock rebuilding goals of both the 2006 Secretarial Action and Framework Adjustment 42.

An expanded GOM differential DAS counting area (i.e., the Interim Differential DAS Area) was proposed in the Secretarial interim action and NMFS specifically solicited public comment on exempting the Hook Sector. The temporary final rule does not implement the proposed Interim Differential DAS Area and instead maintains the existing differential DAS counting area in the GOM, as established in the FMP. However, the existing SNE Differential DAS Area is replaced by the Interim SNE Differential DAS Area which overlaps the Hook Sector Area. NE multispecies vessels declared into and fishing in the Interim SNE Differential DAS Area using hook gear are exempt from the differential DAS counting rate. NMFS is granting the Hook Sector an exemption from differential DAS counting in the Hook Sector Area consistent with the universal exemption from the differential DAS counting rate for all vessels using hook gear in the Interim SNE Differential DAS Area and a determination that the Hook Sector's operations plan is conservation equivalent to the GOM differential DAS counting. The determination of conservation equivalency is based upon landings data from recent years which demonstrate that the Hook Sector has very low impact on the stocks of concern addressed by the GOM

Differential DAS Area and restrictive trip limits for yellowtail flounder, GB winter flounder, and white hake included in the Hook Sector's Sector Agreement.

#### Comments and Responses

Eight comments were received that addressed this action. Five comments were from commercial fishing industry groups, one from an environmental organization, one from the New England Fishery Management Council (Council), and one from an individual. Six of the commenters specifically supported approval of the operations plan. Two of the commenters commented only on specific exemption requests.

*Comment 1:* One industry group, Associated Fisheries of Maine, opposed granting the Hook Sector an exemption from differential DAS counting based upon the lack of measures in the Hook Sector's Operation Plan directly addressing conservation equivalency of the Operations Plan with the proposed Interim Differential DAS Area. However, three industry groups and one individual specifically supported exempting the Hook Sector from differential DAS counting. The Cape Cod Commercial Hook Fishermen's Association (CCCHFA) submitted a comment including a justification for exempting the Hook Sector from the proposed differential DAS counting area based on the very limited interaction of hook gear with yellowtail, witch, winter, and windowpane flounders, and the minimal catch of halibut and pollock by the Hook Sector.

*Response:* The temporary final rule does not implement the proposed Interim Differential DAS Area and instead maintains the existing differential DAS counting area in the GOM. NMFS is granting the Hook Sector an exemption from differential DAS counting in the Hook Sector Area consistent with the universal exemption from the differential DAS counting rate for all vessels using hook gear in the Interim SNE Differential DAS Area and a determination that the Hook Sector's operations plan is conservation equivalent to the GOM differential DAS counting, as discussed above.

*Comment 2:* The Council opposed granting the Hook Sector an exemption from the DAS Leasing Program size restrictions if it was interpreted to apply to the leasing of DAS from small sector boats to large non-sector boats because this would be inconsistent with the intent of the DAS Leasing Program as adopted in Amendment 13. Two industry groups and one individual supported granting the Hook Sector an exemption from the DAS Leasing

Program size restrictions. Comments submitted by the CCCHFA and the Hook Sector expressed their support, with the understanding that leases between sector and non-sector vessels would not be exempt from the DAS Leasing Program size restrictions. One individual also supported granting the exemption from the DAS Leasing Program size restrictions.

*Response:* The exemption from the size restrictions of the DAS Leasing Program for leases between Hook Sector vessels is granted because vessel size is not the limiting factor in determining the number of hooks that can be fished by a vessel, and therefore, the exemption will not result in an increase in effort within the sector. The Secretarial interim action did not grant an exemption from the DAS Leasing Program size restrictions for DAS leases between sector and non-sector vessels and such an exemption is not granted by this action.

*Comment 3:* The GB cod TAC proposed for allocation to the Hook Sector was based on the 3,506-mt U.S. fishery-wide GB cod target TAC published in the proposed interim rule. The Council asserted that the GB cod TAC being allocated to the Hook Sector was incorrectly based on the estimated TAC for the entire GB cod stock, including the portion of that TAC that is caught by Canadian vessels in Canadian waters (1,173 mt for 2009). The Council stated that the Hook Sector's GB cod TAC should be based on 2,333 mt (3,506 mt — 1,173 mt).

*Response:* The 3,506-mt figure was correct and was based on the 4,679-mt estimated TAC for the entire GB cod stock (4,679 mt - 1,173 mt) that is proposed for FY 2009. Accordingly, the Hook Sector TAC was correct as proposed. However, this action allocates a larger GB cod TAC (350.1 mt) to the Hook Sector than was proposed (284 mt) because the temporary final rule implements a 4,328-mt U.S. share of the GB cod target TAC rather than the 3,506-mt target TAC previously proposed.

A Letter of Authorization will be issued to each member of the Hook Sector exempting them, conditional upon their compliance with the Sector Agreement, from the limits on the number of hooks that may be fished in the GOM, GB, and SNE regulated mesh areas; the GB Seasonal Closure Area; differential DAS counting; the DAS Leasing Program vessel size restrictions; the Western U.S./Canada Area 72-hr observer notification requirement; and GB cod possession restrictions, as specified in §§ 648.80; 648.81; 648.82; 648.85; and 648.86, respectively.

## Classification

NMFS has determined that this final rule is consistent with the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(1), the Assistant Administrator for Fisheries, NOAA, (Assistant Administrator) has determined that this rule is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act because it provides the basis for NMFS to grant, effective with the start of the fishing year on May 1, 2009, Hook Sector members exemptions from the following regulations implementing the FMP:

1. GB cod trip limits;
2. GB Seasonal Closure Area;
3. GOM, GB, and SNE limit on number of hooks fished;
4. DAS Leasing Program size restrictions; and
5. 72-hour advance notification of the observer program for trips to the Western U.S./Canada Management Area.

Because the Hook Sector will be fishing under a hard TAC for GB cod, effort controls (i.e., exemptions 1–4 above) are not necessary to constrain the impact of the Fixed Gear Sector on the GB cod stock. Also, the Hook Sector is restricted to using hook gear, which has extremely limited interaction with yellowtail flounder, making it unnecessary for the Hook Sector to have observers monitor Hook Sector catch of yellowtail flounder in the Western U.S./Canada Management Area (exemption 5 above). Should the Hook Sector's allocated GB cod TAC be harvested, participating vessels would no longer be allowed to fish under a NE multispecies DAS, possess or land GB cod or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or charter/party regulations). Hook Sector members will be required to fish under their current NE multispecies DAS allocation to account for any other regulated NE multispecies that they may catch while fishing for GB cod.

In order for GB cod to be allocated to the Hook Sector, and the Hook Sector authorized to fish in FY 2009, the Hook Sector must submit an Operations Plan and Sector Contract to the Regional Administrator for approval. The Hook Sector submitted its FY 2009 Operations Plan on September 30, 2008, followed by a signed Sector Contract on October 1, 2008, and an EA on November 14, 2008. On January 16, 2009, NMFS published a proposed interim action that proposed measures intended to

reduce overfishing on certain groundfish stocks, based on a new benchmark stock assessment completed in August 2008. Three of the proposed interim measures would have impacted operations of the Hook Sector: A 3,506-mt overall U.S. GB cod TAC; an expanded Gulf of Maine Differential DAS counting area that overlaps the Hook Sector Area; and elimination of the current prohibition on leasing DAS between sector vessels and non-sector vessels. NMFS also published a proposed rule soliciting comment on the proposed Operations Plan of the Hook Sector on February 10, 2009, and specifically solicited comment on the interaction of the proposed interim action and the proposed sector operations. The comment period on the proposed sector operations plan ended on February 25, 2009. On April 13, 2009, NMFS published a temporary final rule that differs from the proposed interim rule. The Regional Administrator approved the FY 2009 Sector Operations Plan, after review of the public comments and a determination that the Operations Plan and Agreement are consistent with the goals of the FMP and applicable law, and are in compliance with the regulations governing the development and operation of a sector as specified under § 648.87.

Implementation of the Sector Operations Plan is meant to mitigate adverse economic impacts that resulted from Amendment 13 and FW 42 to the FMP by granting exemptions to the Hook Sector. Establishing an effective date 30 days after the publication of this final rule would prevent the Hook Sector from commencing sector operations with the start of the fishing year on May 1, 2009. Delaying the implementation beyond May 1, 2009, would result in an unnecessary economic loss to the members of the Hook Sector because vessels would be prevented from fishing in a month when 15 percent of the annual GB cod landings historically occur, and when the price for GB cod is highest. During the month of May, landings of cod by hook gear are at their highest, and the Hook Sector is exempt from both hook limits and a seasonal closure of a large portion of its historic fishing area. Further, vessels participating in the Hook Sector in FY 2008 are currently operating under the exemptions above. Delaying implementation beyond May 1, 2009, would create a gap in the annual exemptions for this sector, forcing these vessels to remove gear currently in the water at a high expense.

This final rule is exempt from the procedures of Executive Order (E.O.)

12866 because this action contains no implementing regulations.

This final rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively. There are no Federal rules that duplicate, overlap, or conflict with this final rule.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed to support the action.

A description of why this action was considered, along with the objectives of, and the legal basis for this rule is contained in the preamble to this rule as well as in sections 1.0, 2.0, and 3.0 of the EA prepared for this action, which is not repeated here.

*Summary of the Issues Raised by Public Comments in Response to the IRFA. A Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made From the Proposed Rule as a Result of Such Comments*

No public comments pertaining to the IRFA or the economic effects of this action were received.

*Description of and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply*

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. All permitted and participating vessels in the groundfish fishery, including prospective Hook Sector members, are considered to be small entities because gross sales by any one entity (vessel) do not exceed this threshold, and, therefore, there is no disproportionate impact between large and small entities. 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 Hook Sector members, are considered to be small entities because gross sales by any one entity (vessel) do not exceed this threshold. The number of participants in the Hook Sector is 24,

substantially less than the total number of active vessels in the groundfish fishery. Only these 24 vessels will be subject to the regulatory exemptions and operational restrictions proposed for the Hook Sector for FY 2009.

*Description of the Projected Reporting, Record-keeping, and Other Requirements of the Rule*

This rule contains no collection-of-information requirement subject to the Paperwork Reduction Act.

*Description of Steps the Agency Has Taken to Minimize the Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes*

This action allocates a GB cod TAC of 350.1 mt to the Hook Sector, unless changed through the Secretarial interim final rule, as discussed in this preamble. 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). Vessel owners intending to fish in the Hook Sector during FY 2009 may only fish with hook gear. Under the proposed Operations Plan, members would be exempt from several restrictions of the FMP described in the preamble to this rule and in the EA.

This action will positively impact the 24 vessels that have voluntarily joined the Hook Sector. The approval of the Hook Sector and allocation of GB cod TAC will indirectly benefit the communities of Chatham, MA, and Harwichport, MA, and to a lesser extent other Cape Cod communities involved in the groundfish fishery. The Hook Sector fishermen and the communities of Chatham, MA, and Harwichport, MA, 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 fishermen and communities. 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 it was likely that at least some of the active groundfish vessels in Chatham and Harwichport were even more than 71-percent dependent on the NE multispecies fishery.

Haddock and cod comprised the largest proportion of Hook Sector landings (62.47 percent and 32.46 percent, respectively, in FY 2007).

During FY 2007, members of the Hook Sector made 239 trips; landed 155,453 lb (70,512 kg) of cod and 299,126 lb (135,681 kg) of haddock; and generated approximately \$ 290,697 and \$ 523,471 in revenue from those species, respectively (assuming a dockside price of \$ 1.87 and \$ 1.75 per lb (\$4.11 and \$ 3.85 per kg), respectively). The FY 2007 data indicated a 34-percent decline in the number of trips, a 13-percent decline in cod landings, and a 16-percent increase in haddock landings compared to FY 2006. The net effect was a 3.2-percent increase in revenue from cod and haddock, and a 55-percent increase in revenue per trip from these species compared to FY 2006. Hook Sector members also landed various other species, which increased their revenue. In general, the operation of the Hook Sector would continue to mitigate the negative economic impacts that result from the current suite of regulations that apply to the groundfish fishery (most recently FW 42; October 23, 2006; 71 FR 62156). The Hook 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, Hook 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) due to the exemption from trip limits and limits on the number of hooks fished. Forty-one of the Hook Sector's 239 trips (17 percent) in FY 2007 landed more than the daily GB cod trip limit (1,000 lb/day; 454 kg/day) in place for the common pool vessels (non-sector vessels). This resulted in an additional 77,429 lb (35,121 kg) (49.8 percent of the Hook Sector's FY 2007 cod landings) being landed, rather than discarded. For some vessel owners in the Hook Sector, participation in the Hook Sector enables their businesses to remain economically viable.

In contrast, under the No Action alternative, all Hook Sector members would have remained in the common pool of vessels and fished under all the rules implemented by Amendment 13 and subsequent actions. Under the regulatory scenario of the No Action alternative, relative to the alternative implemented by this rule, Hook Sector members would likely have faced increased economic uncertainty, loss of efficiency, and loss of revenue, as noted above. Because cod usually represents a

high proportion of total fishing income for hook gear vessels, revenues for Hook Sector members are sensitive to regulations that impact how and when they can fish for cod, such as possession limits and restrictions on the number of hooks that can be fished. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to Hook Sector members that also serves as small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Regional Administrator. The guide and this final rule will be available upon request.

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

Dated: April 8, 2009.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 061228342-7068-02]

**RIN 0648-XO47**

#### **Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 2**

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

**ACTION:** Temporary rule; Closure.

**SUMMARY:** NMFS announces that, effective 0001 hours, April 15, 2009, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring in or from Management Area 2 (Area 2) per trip or calendar day until January 1, 2010, when the 2010 total allowable catch (TAC) becomes