

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

available, except for transiting purposes as described in this notice. This action is based on the determination that 95 percent of the Atlantic herring TAC allocated to Area 2 for 2009 is projected to be harvested by April 14, 2009.

Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 2.

**DATES:** Effective 0001 hrs local time, April 15, 2009, through January 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Aja Peters-Mason, Fishery Management Specialist, (978) 281-9195.

**SUPPLEMENTARY INFORMATION:**

Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The 2009 TAC allocated to Area 2 (72 FR 17807, April 10, 2007) is 30,000 mt. The initial TAC included a Research Set Aside of 900 mt that was restored to the fishery when it was not allocated for research (73 FR 74631, December 9, 2008).

The regulations at § 648.201 require the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor the Atlantic herring fishery in each of the four management areas designated in the Fishery Management Plan (FMP) for the Atlantic herring fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** of this determination. Effective upon a specific date, NMFS must notify vessel and dealer permit holders that vessels are prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period. Transiting of Area 2 with more than 2,000 lb (907.2 kg) of herring on board is allowed under the conditions specified below.

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the total Atlantic herring TAC allocated to Area 2 for the 2009 fishing year is projected to be harvested. Therefore, effective 0001 hrs local time, 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 Area 2 per trip or calendar day through January 1, 2010. Vessels transiting Area 2 with more than 2,000 lb (907.2 kg) of herring on board may land this amount provided such herring was not caught in Area 2 and provided all fishing gear is stowed and not available for immediate use as required by § 648.23(b). Effective April 15, 2009, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 2 through 2400 hrs local time, January 1, 2010.

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the Atlantic herring fishery for Management Area 2 until January 1, 2010, under current regulations. The regulations at § 648.201(a) require such action to ensure that Atlantic herring vessels do not exceed the 2009 TAC. The Atlantic herring fishery opened for the 2009 fishing year at 0001 hours on January 1, 2009. Data indicating the Atlantic herring fleet will have landed at least 95 percent of the 2009 TAC have only recently become available.

If implementation of this closure is delayed to solicit prior public comment, the quota for this fishing year will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the thirty (30) day delayed effectiveness period for the reasons stated above.

**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. 090123054-9591-02 ]

**RIN 0648-XM12**

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

**SUMMARY:** This final rule implements the Georges Bank (GB) Cod Fixed Gear Sector (Fixed Gear 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 Fixed Gear Sector. Framework Adjustment 42 (FW 42) to the NE Multispecies Fishery Management Plan (FMP) authorized allocation of up to 20 percent of the annual GB cod TAC to the Fixed Gear Sector. Pursuant to that authorization, the Fixed Gear Sector submitted an Operations Plan and Sector Contract, entitled "Georges Bank Cod Fixed Gear 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 503.8 mt of GB cod to the Fixed Gear 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:** Melissa Vasquez, Fishery Management Specialist, phone (978) 281-9166, fax