

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD775

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries;

Application for Fishing Year 2014 Sector Exemption

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

ACTION: Notice; request for comments.

SUMMARY: Several groundfish sectors have requested regulatory exemptions from two recently implemented Gulf of Maine cod interim management measures. The Regional Administrator, Greater Atlantic Region, NMFS, has determined that the request warrants further consideration. We are seeking public comment on these exemption requests.

DATES: Comments must be received on or before [*insert date 7 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments by the following methods:

- *Email:* william.whitmore@noaa.gov. Include in the subject line "Comments on Gulf of Maine Cod Sector Exemption Request."
- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Gulf of Maine Cod Sector Exemption Request."

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fisheries Policy Analyst, 978-281-9182, william.whitmore@noaa.gov.

SUPPLEMENTARY INFORMATION:

On November 13, 2014, NMFS published a temporary rule to enhance protections for Gulf of Maine (GOM) cod (79 FR 67362) in response to an updated GOM cod stock assessment that indicated the health of the stock is worsening. The GOM cod interim rule implemented a GOM cod trip limit of 200 lb (90.7 kg) for sector and common pool groundfish vessels fishing within the GOM broad stock area (BSA) and restricted commercial limited access groundfish vessels that fish in the GOM BSA to fishing only in that BSA for the duration of the declared trip. Additional information on the GOM cod interim rule can be found online at

www.greateratlantic.fisheries.noaa.gov/stories/2014/GOM_cod_interim_management_measures.html.

On February 9, 2015, we received an exemption request from several sectors. These sectors worked together to assemble 30 mt of GOM cod annual catch entitlement (ACE), which was traded to Northeast Fishery Sector IV, a lease-only sector with no active fishing effort. That sector has proposed to withhold and render unusable that GOM cod ACE, including preventing its use for potential carryover to the next fishing year, if sectors are granted regulatory exemptions from the GOM cod trip limit and GOM BSA restriction.

The 200-lb (90.7-kg) trip limit was intended to reduce the incentive to target GOM cod in areas that would remain open under the interim action to ensure that open-area catch would not result in excessive GOM cod fishing mortality. The 2014 GOM

Cod Interim Rule environmental assessment (EA) estimated that implementing the 200-lb (90.7-kg) trip limit would likely reduce GOM cod mortality by 20 mt. The sectors' request would reduce the GOM cod catch limit by 30 mt. Economic modeling and simulations included in the EA suggest that there is a substantial amount of uncertainty regarding the 20-mt estimated mortality reduction. It should also be noted that most of the public comments submitted in response to the GOM cod interim rule opposed the implementation of a trip limit because trip limits can result in high discards of GOM cod and are counter to the sector system, which limits the fishery based on an annual quota. The requesting sectors propose that a definite 30-mt reduction in the catch limit resulting from the sector exemption would provide a greater biological benefit to GOM cod than the probable reduction in mortality from the 200-lb (90.7-kg) trip limit. Removing the trip limit, as requested by the sectors, would provide a clear limit on overall catch of GOM cod and should minimize regulatory discarding.

The requested exemption would also remove the restriction preventing vessels from fishing both inside and outside of the GOM BSA on the same trip. The sectors requesting the exemption have argued that the single BSA restriction has severely impacted fishing operations of vessels that traditionally fish on Georges Bank and in the GOM on the same trip. Although recognizing that the single BSA restriction impedes flexibility to fish in multiple stock areas on a trip, we previously determined that the short-term benefits of this measure were necessary to achieve the interim rule's objective of reducing mortality and ensuring the effectiveness of other measures in the interim rule. Specifically, the single GOM BSA restriction was intended to facilitate more effective shore-side enforcement of the 200-lb (90.7 kg) trip limit. It was also intended to help

reduce the opportunity for vessels to misreport their catch to ensure that GOM cod catch would be properly accounted for between stock areas.

Reducing the overall catch limit by 30 mt and removing the trip limit more effectively achieves the interim rule's objective of reducing potential cod mortality and, along with additional reporting measures, outweighs the short-term benefit of retaining the single BSA restriction. If the trip limit is no longer in effect, there is less of a need for the GOM BSA restriction to facilitate dockside enforcement.

In consideration of the sectors' request to be exempt from the BSA restriction, we are proposing to replace this requirement with daily catch reporting requirements should we approve the sectors' request. We would still require that sector vessels that declare their intent to fish inside and outside of the GOM BSA on the same trip submit daily vessel monitoring system (VMS) catch reports. Vessels would also be required to submit a VMS catch report prior to moving fishing operations from one BSA to another. This additional reporting requirement would help ensure that catch is properly accounted for. The removal of any incentive to misreport trip catches in relation to the trip limit along with additional reporting requirements to help ensure proper apportioning of catch between BSAs replaces or mitigates the loss of the short-term benefits expected from the single BSA restriction.

When NMFS implemented the interim rule in November 2014, it did not take any action to reduce the GOM cod ACL or ACE allocated to sectors. During public discussion at the September Council meeting at which the Council requested the agency to develop emergency measures for GOM cod, it was clear that any unilateral action to reduce the ACE available to sectors in the middle of the fishing year could have

substantial economic impacts to much of the industry. However, in terms of effecting mortality reductions, a change to the ACE available for harvest by the sectors is generally the most effective and direct means to reduce total potential catch. Instead, NMFS imposed a trip limit to reduce the incentive to target GOM cod within the ACE available, recognizing that if the industry continued to encounter GOM cod, mortality would continue largely through regulatory discarding, potentially up to the full allocated ACE level. Although the analysis supporting the interim measures suggested the trip limit could reduce mortality by approximately 20 mt, there was considerable uncertainty around this estimate, primarily due to uncertainty with the amount of discarding that would occur.

In this request for a sector exemption, the sectors are proposing to implement what NMFS did not: a reduction to the ACE available to those sectors for the remainder of the fishing year. Because the fishing industry will continue to fish through the end of the fishing year, and will continue to encounter GOM cod, the sectors' proposed exemption would establish a firm upper limit on total cod mortality and is more likely to be lower than would otherwise be achieved through the interim measures. In addition to an actual reduction in the total potential cod catch, the sectors' proposed exemption would improve the catch yield and reduce the uncertainty of that cod catch.

This exemption would apply only for the remainder of the 2014 fishing year. It is our intent to continue reviewing sector exemption requests included in annual sector operations plans through a proposed and final rulemaking process. However, future mid-year exemption requests, or modifications to existing exemptions, may be considered,

and granted or denied, through a shortened notice and comment process similar to this action.

If we can conclude that the exemption request is at least conversation neutral, and if this request is granted, this exemption will apply to all sectors who request it, and sector operations plans and letters of authorizations will be modified to include these regulatory exemptions. Minor sector exemption modifications may be granted without further notice if they are deemed essential to facilitate these exemptions and have minimal impacts that do not change the scope or impact of the initially approved sector exemption request.

A supplemental information report analyzing the environmental impacts of this exemption request has been developed and is available online for review at

<http://www.greateratlantic.fisheries.noaa.gov/regs/>.

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

Dated: February 13, 2015.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2015-03539 Filed 02/18/2015 at 4:15 pm; Publication Date: 02/23/2015]