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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170919911-7911-01]

RIN 0648-XF710

Revisions to Framework Adjustment 56 to the Northeast Multispecies Fishery Management Plan

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

ACTION: Final rule; adjustment to specifications.

SUMMARY: We are adjusting the 2017 fishing year Georges Bank cod allocation for the common pool and making minor corrections to the 2017 sector carryover and annual catch entitlement. This action is necessary to respond to a 2016 overage of the Georges Bank cod allocation for the common pool fishery and correct an error in the carryover and annual catch entitlement available to sectors in 2017. These adjustments are routine and formulaic and are intended to ensure that final allocations are based on the best scientific information available.

DATES: Effective *[Insert date of publication in the Federal Register]*, through April 30, 2018.

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Management Specialist, (978) 281-9116.

SUPPLEMENTARY INFORMATION: We recently approved Framework Adjustment 56 to the Northeast Multispecies Fishery Management Plan (FMP), which set annual catch

limits (ACLs) for groundfish stocks and three jointly managed U.S./Canada stocks for the 2017 fishing year. This action became effective on August 1, 2017 (82 FR 16133). The possibility of minor adjustments and corrections was noted in the Framework 56 proposed and final rules because final allocations are not always available at the time of the rulemaking for the upcoming fishing year. This action revises the Georges Bank (GB) cod common pool sub-ACL due to a 2016 overage as required by regulation and corrects an error in the 2017 sector carryover and annual catch entitlement (ACE) included in the Framework 56 final rule.

Georges Bank Cod Common Pool Sub-Annual Catch Limit

If the common pool sub-ACL for any stock is exceeded, we are required to reduce the common pool sub-ACL by the amount of the overage in the next fishing year. The fishing year 2016 common pool sub-ACL for GB cod was exceeded by 2.8 mt. Therefore, this action reduces the fishing year 2017 GB cod common pool sub-ACL by 2.8 mt resulting in a sub-ACL of 7.0 mt. The revised trimester total allowable catches (TACs), based on the overage deduction, are provided in Table 1.

Table 1. Initial and Revised Georges Bank Cod Trimester TACs

| | Trimester 1 | Trimester 2 | Trimester 3 |
|-----------------------|--------------------|--------------------|--------------------|
| Allocation Percentage | 25% | 37% | 38% |
| Initial Trimester TAC | 2.4 mt | 3.6 mt | 3.7 mt |
| Revised Trimester TAC | 1.7 mt | 2.6 mt | 2.7 mt |

Correction to Sector Carryover

The Framework 56 final rule included the amount of allocation that sectors may carry over from the 2016 to the 2017 fishing year based on the final 2016 sector catch. An error

was made when calculating the *de minimis* amount of GB haddock carryover and the total Eastern GB haddock ACE available to sectors in 2017. The corrected Eastern GB haddock ACE available to sectors in 2017 and the revised *de minimis* carryover ACE for GB haddock are provided in Tables 2 and 3. These adjustments are minor, increase available catch, will not affect fishery operations, and have already been provided to sectors.

Table 2. Comparison of *De Minimis* GB Haddock Carryover ACE from Fishing Year 2016 to Fishing Year 2017 (lb) published in Framework 56 and the corrected values.

| Sector | Framework 56 – Table 14 | Revised |
|------------------------------|-------------------------|-----------|
| Fixed Gear Sector | 60,981 | 73,563 |
| MCCS ¹ | 2,679 | 2,679 |
| NCCS ¹ | 3,379 | 4,076 |
| NEFS 1 | 0 | 0 |
| NEFS 2 | 102,574 | 123,738 |
| NEFS 3 | 486 | 586 |
| NEFS 4 | 51,454 | 62,071 |
| NEFS 5 | 7,843 | 9,461 |
| NEFS 6 | 28,146 | 33,953 |
| NEFS 7 | 13,006 | 15,690 |
| NEFS 8 | 57,191 | 68,991 |
| NEFS 9 | 108,123 | 130,432 |
| NEFS 10 | 1,583 | 1,910 |
| NEFS 11 | 358 | 432 |
| NEFS 12 | 904 | 1,091 |
| NEFS 13 | 193,422 | 233,331 |
| Sustainable Harvest Sector 1 | 24,260 | 29,265 |
| Sustainable Harvest Sector 2 | 3863 | 4,659 |
| Sustainable Harvest Sector 3 | 287,713 | 347,077 |
| Sectors Total | 947,965 | 1,143,005 |

(1) Maine Coast Community Sector (MCCS), Northeast Coastal Community Sector (NCCS)

Table 3. Comparison of Total Eastern GB Haddock ACE Available to Sectors in Fishing Year 2017 with Finalized Carryover (mt and 1,000 lb) published in Framework 56 and as revised.

| Sector | Total ACE Available to Sectors in Fishing Year 2017 with Finalized Carryover | | | |
|------------------------------|--|---------|--------------------------|---------|
| | (mt) | | (1,000 lb) | |
| | Framework 56 Table 15 | Revised | Framework 56 Table 16 | Revised |
| Fixed Gear Sector | 1,300 | 1,871 | 2,866 | 4,124 |
| MCCS | 197 | 283 | 434 | 625 |
| Maine Permit Bank | 9 | 13 | 20 | 29 |
| NCCS | 72 | 104 | 159 | 228 |
| NEFS 1 | 0 | 0 | 0 | 0 |
| NEFS 2 | 2,187 | 3,147 | 4,821 | 6,937 |
| NEFS 3 | 10 | 15 | 23 | 33 |
| NEFS 4 | 1,097 | 1,578 | 2,418 | 3,480 |
| NEFS 5 | 167 | 241 | 369 | 530 |
| NEFS 6 | 600 | 863 | 1,323 | 1,903 |
| NEFS 7 | 277 | 399 | 611 | 880 |
| NEFS 8 | 1,219 | 1,754 | 2,688 | 3,868 |
| NEFS 9 | 2,305 | 3,317 | 5,081 | 7,312 |
| NEFS 10 | 34 | 49 | 74 | 107 |
| NEFS 11 | 8 | 11 | 17 | 24 |
| NEFS 12 | 19 | 28 | 42 | 61 |
| NEFS 13 | 4,123 | 5,934 | 9,090 | 13,081 |
| New Hampshire Permit Bank | 0 | 0 | 0 | 0 |
| Sustainable Harvest Sector 1 | 517 | 744 | 1,140 | 1,641 |
| Sustainable Harvest Sector 2 | 82 | 118 | 182 | 261 |
| Sustainable Harvest Sector 3 | 6,133 | 8,826 | 13,522 | 19,458 |
| Sectors Total | 20,375 | 29,295 | 44,880 | 64,583 |

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This action is exempt from the procedures of Executive Order (E.O.) 12866 because this action contains no implementing regulations.

Pursuant to 5 U.S.C. 553(b)(3)(B), we find good cause to waive prior public notice and opportunity for public comment on the catch limit and allocation adjustments because allowing time for notice and comment is impracticable, unnecessary, and contrary to the public interest. We also find good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective upon publication.

There are several reasons that notice and comment are impracticable, unnecessary, and contrary to the public interest. The proposed and final rules for Framework 56 explained the possibility of minor adjustments and corrections because final allocations are not always available at the time of the rulemaking for the upcoming fishing year. These adjustments are routine and formulaic, required by regulation, and necessary to ensure that overfishing does not occur. Because these adjustments are part of the annual allocation process, and are highlighted in the proposed and final rules for the upcoming fishing year, industry anticipates an annual adjustment rule. No comments were received on the potential for these adjustments, which provide an accurate accounting of a sector and common pool allocations. Additionally, the adjustments in this rule are based on either a pre-determined accountability measure, and are not subject to NMFS' discretion, or a need to correct an error, so there would be no benefit to

allowing time for prior notice and comment. Data regarding final 2016 catch only became available after publication of the Framework 56 final rule.

If this rule is not effective immediately, common pool and sector vessels will be operating under incorrect information on the catch limits for each stock. The adjustment of the common pool GB cod TAC requires immediate action to ensure that additional overages do not occur. TAC overages have negative economic impacts, as well as increasing the risk of overfishing. Fishermen may make both short- and long-term business decisions based on the catch limits in a given sector or the common pool. Any delays in adjusting these limits may cause the affected fishing entities to slow down or speed up their fishing activities during the interim period before this rule becomes effective. Both of these reactions could negatively affect the fishery and the businesses and communities that depend on them. Therefore, it is important to implement adjusted catch limits and allocations as soon as possible. For these reasons, we are waiving the public comment period and delay in effectiveness for this rule, pursuant to 5 U.S.C. 553(b)(3)(B) and (d), respectively.

The Chief Counsel for Regulation, Department of Commerce, previously certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that Framework 56 would not have a significant economic impact on a substantial number of small entities. These minor adjustments will not change the conclusions drawn from that framework. Because advanced notice and the opportunity for public comment are not required for the correction under the Administrative Procedure Act, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply to this rule. Therefore, no new regulatory flexibility analysis is required and none has been prepared.

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

Dated: November 3, 2017.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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