Amendment 21 would establish fixed
for the Pacific Coast groundfish fishery.
establish a trawl rationalization program
amendments. Amendment 20 would
public comment period on the two
amendments and the end date for the
published in the
21 to the Pacific Coast Groundfish
proposed rule for Amendments 20 and
526–6736; Jamie.Goen@noaa.gov.
Jamie Goen, 206–526–4656; (fax) 206–
DATES:
Federal Register
Electronic Access,
Some dates referenced in the
Insert date XX days
proposed rule, published on June 10,
492; Jamie.Goen@noaa.gov.
SUPPLEMENTARY INFORMATION:
Need for Correction
Some dates referenced in the
preamble to the proposed rule for the
trawl rationalization program (75 FR
32994, June 10, 2010) regarding the
decision date for the FMP amendments
and the end date for the public
comment period need to be corrected. In
two places in the preamble to the proposed
rule, NMFS had instructed the
Federal Register to “Insert date XX days
after date of publication of the NOA in
the FEDERAL REGISTER.” The Federal
Register inserted dates that were
calculated from the proposed rule rather
than the notice of availability (NOA) (75
FR 26702, May 12, 2010). NMFS has
since learned that the Federal Register
cannot calculate dates between two
publications; in this case, between the
NOA and the proposed rule. The
erroneous dates show up on page 32994
of the published proposed rule as
September 8, 2010, and August 9, 2010.
They should read August 10, 2010, and
July 12, 2010, respectively.
Accordingly, the preamble to the
proposed rule, published on June 10,
2010, at 75 FR 32994, on page 32994,
third column, second paragraph after
“Electronic Access,” is corrected to read
as follows:
“Although this proposed rule would
implement only certain portions of
Amendments 20 and 21, NMFS is
reviewing both Amendments 20 and 21
in their entirety. On May 12, 2010,
NMFS published a notice of availability
of Amendments 20 and 21, and—
consistent with requirements of the
Magnuson-Stevens Fishery
Conservation and Management Act
(MSA)—must make a decision to
approve, disapprove, or partially
approve the amendments by August 10,
2010. Comments on the approbability of
the amendments must be submitted to
NMFS by July 12, 2010. This preamble
provides information about the full
contents of each amendment for the
purposes of promoting informed public
comment. Detailed provisions regarding
features of the proposed rule are
provided where applicable. In addition,
section IV of this preamble highlights
what the main regulatory changes
would be.”
Authority: 16 U.S.C. 1801 et seq.
Dated: June 24, 2010
Samuel D. Rauch III,
Deputy Assistant Administrator For
Regulatory Programs, National Marine
Fisheries Service.
[FR Doc. 2010–15932 Filed 6–29–10; 8:45 am]
BILLING CODE 3510–22–S
DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration
50 CFR Part 648
[Docket No. 100526227–0256–01]
RIN 0648–AY71
Magnuson-Stevens Fishery
Conservation and Management Act
Provisions; Fisheries of the
Northeastern United States; Surfclam
and Ocean Quahog Fishery
AGENCY: National Marine Fisheries
Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA),
Commerce.
ACTION: Proposed rule; request for comments.
SUMMARY: NMFS proposes to open a
portion of the Georges Bank (GB) Closed
Area to the harvest of Atlantic surfclams
and ocean quahogs, which has been
closed since 1999 due to the presence
of toxins known to cause paralytic
shellfish poisoning (PSP). The U.S.
Food and Drug Administration (FDA)
has indicated that recent testing of
clams collected from this portion of the
GB Closed Area, known as Cultivator
Shoal, has demonstrated that PSP toxin
levels are well below the regulatory
limit established for public health
safety. As a result, the FDA has
determined that harvesting of surfclams
and ocean quahogs for human
consumption, within this portion of the
GB Closed Area, is safe.
DATES: Written comments must be
received no later than 5 p.m. eastern
standard time, on July 30, 2010.
ADDRESSES: You may submit comments,
identified by RIN number 0648–AY71,
by any of the following methods:
• Electronic Submissions: Submit all
electronic public comments via the
Federal e-Rulemaking portal http://
www.regulations.gov.
• Fax: (978) 281–9135, Attn: Anna
Macan.
• Mail: Patricia A. Kurkul, Regional
Administrator, NMFS, Northeast
Regional Office, 55 Great Republic
Drive, Gloucester, MA 01930. Mark
the outside of the envelope: “Comments
on Proposed Opening of GB PSP Closed
Area.”
Instructions: All comments received
are part of the public record and will
generally be posted to http://
www.regulations.gov without change.
All Personal Identifying Information (for
example, name, address, etc.)
voluntarily submitted by the commenter
may be publicly accessible. Do not
submit confidential business
information or otherwise sensitive or
protected information.
NMFS will accept anonymous
comments. Attachments to electronic
comments will be accepted via
Microsoft Word, Microsoft Excel,
WordPerfect, or Adobe PDF file formats
only.
FOR FURTHER INFORMATION CONTACT:
Anna Macan, Fishery Management
Specialist, phone (978) 281–9165, fax
(978) 281–9135.
SUPPLEMENTARY INFORMATION:
Background
The GB Closed Area, located in the
Exclusive Economic Zone east of 69°00’
W. longitude and south of 42°20’ N.
latitude (see attachment), has been
closed to the harvest of surfclams and
ocean quahogs since 1999 due to red
tide blooms that cause PSP. The closure
was implemented based on advice from
the FDA, after samples tested positive
for toxins (saxotoxins) that cause PSP.
PSP toxins are produced by the alga,
Alexandrium fundyense, that can form
blooms commonly referred to as red
ties, or harmful algal blooms (HABs),
and can produce toxins that accumulate
in water column filter-feeding shellfish.
Shellfish contaminated with the toxin, if
eaten in large enough quantity, can
cause illness or death in humans.
Due to inadequate testing or
monitoring of the GB Closed Area for
the presence of PSP-causing toxins,
the closure was made permanent in 1999,
under Amendment 12 to the Surfclam
and Ocean Quahogs Fishery
Management Plan (FMP). In addition,
NMFS also established temporary PSP
closure areas, specified at
§ 648.14(a)(10)(iii) and (iv), that have
been in effect since 2005. NMFS has
relied on the FDA’s advice to open/close
or shift these temporary PSP closure areas. Since the implementation of the permanent closure, NOAA’s National Ocean Service (NOS) has provided grants to the FDA; the states of Maine, New Hampshire, and Massachusetts; and a clam industry representative to collect water and shellfish samples from Federal waters off of southern New England. The FDA, in consultation with NMFS and several states, also developed the Protocol for Onboard Screening and Dockside Testing in Molluscan Shellfish (Protocol) that is designed to test and verify that clams harvested from the GB are safe. NMFS first issued an Exempted Fishing Permit (EFP) on January 9, 2008, to Truex Enterprises of New Bedford, MA, to allow for testing the efficacy of harvesting surfclams and ocean quahogs from a portion of the GB Closed Area using the Protocol. The EFP was subsequently renewed on January 22, 2009, and December 10, 2009. As of May 6, 2010, five commercial Surfclam trips for the 2010 fishing year have been conducted under the EFP, in which at-sea and dockside sampling conducted in accordance with the Protocol tested negative for PSP toxin levels, thus permitting the surfclams harvested from these trips to enter the food market.

On January 21, 2010, NMFS received a letter from the FDA requesting NMFS open a portion of the GB Closed Area, as specified at 50 CFR 648.73(a), to the harvest of surfclams and ocean quahogs for human consumption. The FDA has indicated that recent testing of clams from this portion of the GB Closed Area, known as Cultivator Shoal, has demonstrated that PSP toxin levels are well below the regulatory limit established for public health safety. This information contributed to the FDA’s determination that harvesting of surfclams and ocean quahogs for human consumption from the area described below is safe.

The FDA requests, and NMFS proposes, to open the Federal waters, bounded by the coordinates listed in the Table 1. The remaining portion of the GB Closure Area would remain closed.

BILLING CODE 3510-22-S
Table 1: Coordinates of Proposed Opening of GB Area

<table>
<thead>
<tr>
<th>Point</th>
<th>Latitude</th>
<th>Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>41° 40' N</td>
<td>68° 25' W</td>
</tr>
<tr>
<td>2</td>
<td>41° 40' N</td>
<td>67° 55' W</td>
</tr>
<tr>
<td>3</td>
<td>41° 39' N</td>
<td>67° 55' W</td>
</tr>
<tr>
<td>4</td>
<td>41° 39' N</td>
<td>68° 25' W</td>
</tr>
</tbody>
</table>

Figure 1: Chart Depicting Proposed Opening of GB Area
About a month after NMFS received the letter from the FDA, NOS issued a forecast, on February 24, 2010, that the NOAA-funded Gulf of Maine Toxicty Project predicted a larger regional HAB for the spring and summer of 2010. NMFS, however, defers to the FDA in matters of the public health and has relied on their advice to initially implement the GB Closure, and has also been relying on the FDA’s advice to open/close or shift the temporary PSP closure areas specified at §648.14(a)(10)(iii) and (iv) that have been in effect since 2005. Since NMFS defers to the FDA in matters of the public health, NMFS proposes to open the portion of the GB Closed Area, known as Cultivator Shoal, to the harvest of surfclams and ocean quahogs, under its authority at §648.73(c). NMFS will, however, continue to observe the NOS forecast and, in addition to seeking public comment, will consult with both the FDA and NOS prior to making a final decision on whether to re-open this area.

In addition, while NMFS proposes to re-open a portion of the GB Closed Area as requested by the FDA, NMFS also recognizes that red-tide events can vary inter-annually. For that reason, NMFS has prepared an environmental assessment (EA), which analyzes the proposed re-opening and an additional larger area within the GB Closed Area, to cover the possibility that the FDA’s proposed opening could shift or vary, depending on a change in conditions. Given the temporal nature of PSP conditions, NMFS is seeking public comment on whether this proposed opening should be made effective.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

NMFS prepared a draft Environmental Assessment (EA) for this action, which analyzes the impacts of this proposed rule. A copy of the draft EA is available from the Federal e-Rulemaking portal http://www.regulations.gov. Type “NOAA-NMFS–2010–0104” in the Enter Keyword or ID field and click search. A copy of the EA is also available upon request from NMFS Northeast Regional Administrator, Patricia A. Kurkul (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed measures could affect any vessel holding an active Federal open access surfclam and/or ocean quahog permit. In 2009, there were 47 Federal open-access surfclam and/or ocean quahog permitted vessels that landed surfclams and/or ocean quahogs. All of these vessels fall within the definition of a small business. This action proposes to open an area that has previously been closed. Since the area is well offshore, it is likely that the larger vessels (i.e., vessels greater than 90 ft (27.43 meters) in length) would more likely target the surfclams and ocean quahogs from the GB Closed Area. The surfclam and ocean quahog fishery is managed under an Individual Transferable Quota (ITQ) system, and since overall quotas are not being changed as a result of this action, there would be no net change in harvest. Participating vessels, regardless of size, would still be able to fish in any of the existing areas open to the harvest of surfclams and ocean quahogs. Those vessels that may fish in the area proposed to be opened may experience increased operational costs, if they choose to fish there, however, these costs, may be offset due to increased productivity in effort because of greater abundance of surfclams and ocean quahogs in the GB Closed Area. In addition, for the past 3 years, NMFS has issued an Exempted Fishing Permit (EFP) for one vessel to harvest surfclams using the FDA-approved Protocol for Onboard Screening and Dockside Testing in Molluscan Shellfish. Since NMFS has issued an EFP to harvest surfclams within the GB Closed Area, and given their higher value, it is likely that vessels would continue this trend in targeting surfclams from the GB Closed Area. Due to the seasonal variability of PSP toxin levels, it is likely that any or all of the areas associated with this action may open or close based on PSP conditions. Given this uncertainty as to whether the area will remain open, it is not anticipated that there would be an increase in participation in the fishery due to the opening of this area.

Therefore, because this action only proposes to re-open an area that has previously been closed, and because no net change in fishing effort or participation in the fishery is expected, this action will not have a significant economic effect on a substantial number of small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 23, 2010

Eric C. Schwaab,
Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In §648.73, paragraph (a)(4) is revised to read as follows:

§648.73 Closed areas.

(a) ***

(4) Georges Bank. The paralytic shellfish poisoning (PSP) contaminated area, which is located in Georges Bank, and is located east of 69° W. longitude, and south of 42°20’ N. latitude is closed to the harvest of surfclams and ocean quahogs, except for the areas bounded by the following coordinates in the order stated:

(i) 41° 40’ N. lat., 68° 25’ W. long.;
(ii) 41° 40’ N. lat., 67° 55’ W. long.;
(iii) 41° 39’ N. lat., 67° 55’ W. long.;
(iv) 41° 39’ N. lat., 68° 25’ W. long.; and then ending at the first point.

* * * * *

[FR Doc. 2010–15770 Filed 6–29–10; 8:45 am]

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