

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it makes no significant change to the policy for the synopses of proposed contract actions. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 5, 10, 12, and 25 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2006-016), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 5, 10, 12, and 25

Government procurement.

Dated: March 2, 2007.

Ralph De Stefano

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 5, 10, 12, and 25 as set forth below:

1. The authority citation for 48 CFR parts 5, 10, 12, and 25 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 5—PUBLICIZING CONTRACT ACTIONS

2. Amend section 5.203 by revising paragraph (a) introductory text to read as follows:

5.203 Publicizing and response time.

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(a) An agency must transmit a notice of proposed contract action to the GPE (see 5.201). All publicizing and response times are calculated based on the date of publication. The publication date is the date the notice appears on the GPE. The notice must be published at least 15 days before issuance of a solicitation or a proposed contract action the Government intends to solicit and negotiate with only one source under the authority of 6.302, except

that, for acquisitions of commercial items, the contracting officer may—

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5.205 [Amended]

3. Amend section 5.205 in the fifth sentence following the paragraph heading of paragraph(a) by removing the words “cite the appropriate Numbered Note.”

4. Amend section 5.207 by—

- a. Removing paragraph (a)(4) and redesignating paragraphs (a)(5) through (a)(19) as (a)(4) through (a)(18) respectively;
- b. Revising newly redesigned paragraph (a)(9);
- c. Revising paragraphs (c)(13) and (c)(14);
- d. Revising paragraph (d);
- e. Removing paragraph (e) and redesignating paragraphs (f) and (g) as (e) and (f), respectively; and
- f. Revising the newly designated paragraph (f).

The revised text read as follows:

5.207 Preparation and Transmittal of Synopses.

(a) * * *

(9) Closing Response Date.

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(c) * * *

(13) (i) If the solicitation will include the FAR clause at 52.225-3, Buy American Act Free Trade Agreements Israeli Trade Act, or an equivalent agency clause, insert the following notice in the synopsis: “One or more of the items under this acquisition is subject to Free Trade Agreements.”

(ii) If the solicitation will include the FAR clause at 52.225-5, Trade Agreements, or an equivalent agency clause, insert the following notice in the synopsis: “One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements.”

(iii) If the solicitation will include the FAR clause at clause 52.225-11, Buy American Act—Construction Materials under Trade Agreements, or an equivalent agency clause, insert the following notice in the synopsis: “One or more of the items under this acquisition is subject to the World Trade Organization Government Procurement Agreement and Free Trade Agreements.”

(14) In the case of noncompetitive contract actions (including those that do not exceed the simplified acquisition threshold), identify the intended source and insert a statement of the reason justifying the lack of competition.

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(d) *Set-asides.* When the proposed acquisition provides for a total or partial small business program set-aside, the contracting officer shall identify the type of set-aside in the solicitation.

(e) * * *

(f) *Cancellation of synopsis.*

Contracting officers should not publish notices of solicitation cancellations (or indefinite suspensions) of proposed contract actions in the GPE. Cancellations of solicitations must be made in accordance with 14.209 and 14.404-1.

PART 10—MARKET RESEARCH

10.002 [Amended]

5. Amend section 10.002(d)(2) by removing the parenthetical from the end of the second sentence.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.603 [Amended]

6. Amend section 12.603 by removing paragraph (c)(2)(xv) and redesignating paragraphs (c)(2)(xvi) and (xvii) as paragraphs (c)(2)(xv) and (xvi), respectively.

PART 25—FOREIGN ACQUISITIONS

7. Amend section 25.408 by revising paragraph (a)(2) to read as follows:

25.408 Procedures.

(a) * * *

(2) Comply with the requirements of 5.207, Preparation and Transmittal of Synopses;

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070227048-7048-01; I.D. 020807C]

RIN 0648-AU63

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Total Allowable Catches for Georges Bank Cod, Haddock, and Yellowtail Flounder in the U.S./Canada Management Area for Fishing Year 2007

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes 2007 fishing year (FY) Total Allowable Catches (TACs) for Georges Bank (GB) cod, haddock, and yellowtail flounder in the U.S./Canada Management Area, as recommended by the New England Fishery Management Council (Council). These TACs may be adjusted during FY 2007, if NMFS determines that the harvest of these stocks in FY 2006 exceeded the TACs specified for FY 2006. The intent of this action is to provide for the conservation and management of those three stocks of fish.

DATES: Comments must be received by April 11, 2007.

ADDRESSES: You may submit written comments by any of the following methods:

- E-mail: USCATAC@NOAA.gov. Include in the subject line the following: Comments on the proposed TACs for the U.S./Canada Management Area.
- Federal e-rulemaking Portal: <http://www.regulations.gov>.
- Mail: Paper, disk, or CD ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the proposed TACs for the U.S./Canada Management Area."
- Fax: (978) 281-9135.

Copies of the Transboundary Management Guidance Committee's 2006 Guidance Document and copies of the Environmental Assessment (EA) of the 2007 TACs (including the Regulatory Impact Review and Regulatory Flexibility Analysis (IRFA)) may be obtained from NMFS at the mailing address specified above; telephone (978) 281-9315. NMFS prepared a summary of the IRFA, which is contained in the Classification section of this proposed rule.

FOR FURTHER INFORMATION CONTACT:

Tobey Curtis, Fishery Management Specialist, (978) 281-9273, fax (978) 281-9135, e-mail Tobey.Curtis@NOAA.gov.

SUPPLEMENTARY INFORMATION: The Northeast (NE) Multispecies Fishery Management Plan (FMP) specifies a procedure for setting annual hard TAC

levels (i.e., the fishery or area closes when a TAC is reached) for GB cod, haddock, and yellowtail flounder in the U.S./Canada Management Area. The regulations governing the annual development of TACs (§ 648.85(a)(2)) were implemented by Amendment 13 to the FMP (69 FR 22906; April 27, 2004) in order to be consistent with the U.S./Canada Resource Sharing Understanding (Understanding), which is an informal (i.e. non-binding) understanding between the United States and Canada that outlines a process for the management of the shared GB groundfish resources. The Understanding specifies an allocation of TAC for these three stocks for each country, based on a formula that considers historical catch percentages and current resource distribution.

Annual TACs are determined through a process involving the Council, the Transboundary Management Guidance Committee (TMGC), and the U.S./Canada Transboundary Resources Steering Committee (§ 648.85(a)(2)(i)). In November 2006, the TMGC approved the 2006 Guidance Document for GB cod, GB haddock, and GB yellowtail flounder, which included recommended U.S. TACs for these stocks. The recommended 2007 TACs were based upon the most recent stock assessments (Transboundary Resource Assessment Committee (TRAC) Status Reports for 2006), and the fishing mortality strategy shared by both the United States and Canada. The strategy is to maintain a low to neutral (less than 50 percent) risk of exceeding the fishing mortality limit reference ($F_{ref} = 0.18, 0.26$, and 0.25 , for cod, haddock, and yellowtail flounder, respectively). When stock conditions are poor, fishing mortality rates (F) should be further reduced to promote rebuilding.

For GB cod, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2007 is 1,900 mt. This corresponds to an F less than the F_{ref} of 0.18 in 2007, and represents a low risk (less than 25 percent) of exceeding the F_{ref} . At this level of harvest it is unlikely that the stock biomass will decrease from 2007 to 2008. The annual allocation shares for FY 2007 between the United States and Canada are based on a combination of historical catches (25 percent weighting) and resource

distribution based on trawl surveys (75 percent weighting). Combining these factors entitles the United States to 26 percent and Canada to 74 percent, resulting in a national quota of 494 mt of cod for the United States and 1,406 mt of cod for Canada.

For GB haddock, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2007 is 19,000 mt. This corresponds to an F of less than the F_{ref} of 0.26 in 2007 and would result in a risk of 50 percent of exceeding the F_{ref} . The annual allocation shares for 2007 between countries are based on a combination of historical catches (25 percent weighting) and resource distribution based on trawl surveys (75 percent weighting). Combining these factors entitles the United States to 33 percent and Canada to 67 percent, resulting in a national quota of 6,270 mt of haddock for the United States and 12,730 mt of haddock for Canada.

For GB yellowtail flounder, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2007 is 1,250 mt. This TAC would result in a risk of 50 percent that the fishing mortality rate in 2007 would exceed the F_{ref} of 0.25. The annual allocation shares for 2007 between countries are based on a combination of historical catches (25 percent weighting) and resource distribution based on trawl surveys (75 percent weighting). Combining these factors entitles the United States to 72 percent and Canada to 28 percent, resulting in a national quota of 900 mt of yellowtail flounder for the United States and 350 mt of yellowtail flounder for Canada.

On September 7, 2006, the 2006 Guidance Document was presented to the U.S./Canada Transboundary Resources Steering Committee. On November 16, 2006, the Council approved, consistent with the 2006 Guidance Document, the following U.S. TACs recommended by the TMGC and recommended their adoption to NMFS: 494 mt of GB cod, 6,270 mt of GB haddock, and 900 mt of GB yellowtail flounder. The 2007 haddock and yellowtail flounder TACs represent a decrease from 2006 TAC levels, and the 2007 cod TAC represents an increase from the 2006 TAC (Tables 1 and 2).

TABLE 1: 2007 U.S./CANADA TACs (MT) AND PERCENTAGE SHARES (IN PARENTHESES)

	GB Cod	GB Haddock	GB Yellowtail flounder
Total Shared TAC	1,900	19,000	1,250
U.S. TAC	494 (26)	6,270 (33)	900 (72)
Canada TAC	1,406 (74)	12,730 (67)	350 (28)

TABLE 2: 2006 U.S./CANADA TACs (MT) AND PERCENTAGE SHARES (IN PARENTHESES)

	GB Cod	GB Haddock	GB Yellowtail flounder
Total Shared TAC	1,700	22,000	3,000
U.S. TAC	374 (22)	7,480 (34)	2,070 (69)
Canada TAC	1,326 (78)	14,520 (66)	930 (31)

The 2007 TACs are based upon stock assessments conducted in July 2006 by the TRAC. The proposed TACs are consistent with the results of the TRAC and the TMGC's harvest strategy and, therefore, NMFS proposes that they be implemented through this action.

The regulations for the U.S./Canada Management Understanding, implemented by Amendment 13, at § 648.85(a)(2)(ii), state the following: "Any overages of the GB cod, haddock, or yellowtail flounder TACs that occur in a given fishing year will be subtracted from the respective TAC in the following fishing year."

Therefore, should an analysis of the catch of the shared stocks by U.S. vessels indicate that an overage occurred during FY 2006, the pertinent TAC will be adjusted downward in order to be consistent with the FMP and the Understanding. Although it is very unlikely, it is possible that a very large overage could result in an adjusted TAC of zero. If an adjustment to one of the 2007 TACs for cod, haddock, or yellowtail flounder is necessary, the public will be notified through publication in the **Federal Register** and through a letter to permit holders.

Classification

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

This proposed rule is exempt from review under Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the NMFS (see **ADDRESSES**).

The specification of hard TACs is necessary in order to ensure that the agreed upon U.S./Canada fishing

mortality levels for these shared stocks of fish are achieved in the U.S./Canada Management Area (the geographic area on GB defined to facilitate management of stocks of cod, haddock, and yellowtail flounder that are shared with Canada). A description of the objectives and legal basis for the proposed TACs is contained in the **SUMMARY** of this proposed rule.

Under the Small Business Administration (SBA) size standards for small fishing entities (\$3.5 million), all permitted and participating vessels in the groundfish fishery are considered to be small entities and, therefore, there are no differential impacts between large and small entities. Gross sales by any one entity (vessel) do not exceed this threshold. The maximum number of small entities that could be affected by the proposed TACs are approximately 1,000 vessels, i.e., those with limited access NE multispecies days-at-sea (DAS) permits that have an allocation of Category A or B DAS. Realistically, however, the number of vessels that choose to fish in the U.S./Canada Management Area, and that therefore would be subject to the associated restrictions, including hard TACs, would be substantially less.

From May 2005 through April 2006 (i.e., FY 2005), 184 individual NE multispecies DAS vessels fished in the U.S./Canada Management Area. Because the regulatory regime in FY 2007 will be similar to that in place in FY 2005, it is likely that the number of vessels that choose to fish in the area during FY 2007 will be similar to the number of vessels that fished in the area during FY 2005.

The economic impacts of the proposed TACs are difficult to predict due to several factors that affect the amount of catch, as well as the price of the fish. Furthermore, the economic impacts are difficult to predict due to the relative newness of these regulations (May 2004; Amendment 13 to the FMP). Therefore, there are relatively few historic data, and little is known about the specific fishing patterns or market impacts that may be caused by this hard TAC management system. In general, the rate at which yellowtail flounder is caught in the Eastern and Western U.S./Canada Area and the rate at which cod is caught in the Eastern U.S./Canada

Area will determine the length of time the Eastern U.S./Canada Area will remain open. The length of time the Eastern U.S./Canada Area is open will determine the amount of haddock that is caught. During the 2004 and 2005 fishing years, the TACs were not fully utilized, and inseason changes to the regulations impacted the fishery.

The amount of GB cod, haddock, and yellowtail flounder landed and sold will not be equal to the sum of the TACs, but will be reduced as a result of discards (discards are counted against the hard TAC), and may be further reduced by limitations on access to stocks that may result from the associated rules. Reductions to the value of the fish may result from fishing derby behavior and the potential impact on markets. The overall economic impact of the proposed 2007 U.S./Canada TACs will likely be different from the economic impacts of the 2006 TACs due to the reduced yellowtail flounder TAC, and may result in reduced revenue. Although the 2007 cod TAC represents an increase from 2006, the 2007 haddock and yellowtail flounder TACs represent decreases from 2006. For yellowtail flounder, the decrease is substantial. Based on the estimates in the EA, revenues from cod caught in the Eastern U.S./Canada Area may increase from 2006 to 2007 by approximately 32 percent, and revenue from haddock and yellowtail flounder in the U.S./Canada Management Area may decline by 16 percent and 57 percent, respectively. According to the analysis, the overall change in revenue from 2006 to 2007 for the 3 species combined could amount to a 33-percent decline (or approximately \$ 3.5 million), although it is difficult to predict future fishing patterns, and there are factors that may mitigate the decline in overall revenue. For example, there could be an increase in yellowtail flounder price, as well as the potential for increased opportunity to harvest haddock from the Eastern U.S./Canada Area. If the larger GB cod TAC results in a longer period of time that the Eastern U.S./Canada Area is open, and if vessels attempt to, and are successful in avoidance of cod, the Eastern Area may be open for a longer period of time in FY 2007 than it was in 2006, resulting in additional revenue from haddock.

Although unlikely, a downward adjustment to the TACs specified for FY 2007 could occur after the start of the fishing year, if it is determined that the U.S. catch of one or more of the shared stocks during the 2006 fishing year exceeded the relevant TACs specified for FY 2006. The economic effects of this downward adjustment would likely result in a short term loss of revenue proportional to the magnitude of the adjustment.

Three alternatives were considered for FY 2007: The proposed TACs, the status quo TACs, and the no action alternative. No additional set of TACs are proposed because the process involving the TMGC and the Council yields only one proposed set of TACs. Accordingly, NMFS chooses to either accept or reject the recommendation of the Council. The proposed TACs would have a similar

economic impact as the status quo TACs. Adoption of the status quo TACs, however, would not be consistent with the FMP because the status quo TACs do not represent the best available scientific information incorporated from the most recent TRAC. Although the no action alternative (no TACs) would not constrain catch in the U.S./Canada Management Area, and therefore would likely provide some additional fishing opportunity, the no action alternative is not a reasonable alternative because it is inconsistent with the FMP in both the short and long term. The FMP requires specification of hard TACs in order to limit catch of shared stocks to the appropriate level (i.e., consistent with the Understanding and the FMP). As such, the no action alternative would likely provide less economic benefits to

the industry in the long term than the proposed alternative.

Two of the three proposed TACs would be reduced (haddock and yellowtail flounder), and could, under certain circumstances, constrain fishing opportunity on cod (for which the TACs are increasing). The proposed TACs do not modify any collection of information, reporting, or recordkeeping requirements. The proposed TACs do not duplicate, overlap, or conflict with any other Federal rules.

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

Dated: March 6, 2007.

Samuel D. Rauch III,

*Deputy Assistant Administrator for
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Fisheries Service.*

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