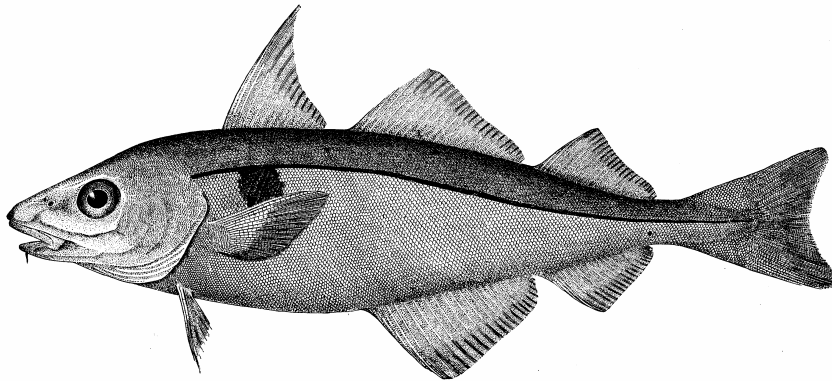


-- DRAFT --

Northeast Multispecies Fishery Management Plan

Fishing Year (FY) 2007 Supplement to the Specification of
FY 2006 Total Allowable Catches for Eastern Georges
Bank (GB) Cod, Eastern GB Haddock, and GB Yellowtail
Flounder in the U.S./Canada Management Area

**--Supplemented Environmental Assessment--
Regulatory Impact Review
Initial Regulatory Flexibility Analysis**



Melanogrammus aeglefinus

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2.0 Executive Summary

This supplemented Environmental Assessment (EA) is designed to meet the requirements of both the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the National Environmental Policy Act (NEPA). It is intended to describe the expected impacts of the proposed fishing year (FY) 2007 total allowable catches (TACs) for Georges Bank (GB) cod, haddock, and yellowtail flounder in the U.S./Canada Management Area. It updates or replaces certain sections of the 2006 EA for this annual action, including portions of the Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA). The former EA was entitled: "Specification of Fishing Year 2006 Total Allowable Catches (TACs) for Eastern Georges Bank (GB) Cod, Eastern GB Haddock, and GB Yellowtail Flounder in the U.S./Canada Management Area; Specification of Fishing Year 2006 Target and Incidental Catch TACs for Regulated Multispecies." The original EA is attached to this supplemented EA, and sections of that document that have not been revised are still valid. The assessments of the FY 2006 Target and Incidental Catch TACs were unique to the specifications for that year; therefore any discussion of those measures is omitted from this supplement.

The Northeast (NE) Multispecies Fishery Management Plan (FMP) specifies a procedure for setting annual hard TAC levels for the U.S./Canada Management Area for GB cod (*Gadus morhua*), GB haddock (*Melanogrammus aeglefinus*), and GB yellowtail flounder (*Limanda ferruginea*). This action is needed to ensure that the stocks of GB cod, haddock, and yellowtail flounder that are shared between the United States (U.S.) and Canada, are managed as outlined in the U.S./Canada Resource Sharing Understanding (Understanding). 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. The purpose of this action is to implement TACs for these three stocks that will be consistent with the Understanding and the FMP.

The proposed alternative would implement U.S. TACs for the shared GB stocks recommended by the Transboundary Management Guidance Committee (TMGC) and approved by the New England Fishery Management Council (Council). The proposed U.S. TACs are as follows: **494 mt cod, 6,270 mt haddock, and 900 mt yellowtail flounder**. The status quo alternative is the TACs that were implemented for the 2006 FY (374 mt cod; 7,480 mt haddock; and 2,070 mt yellowtail flounder). Under the no action alternative, no TACs would be specified for the three shared GB stocks.

The proposed TACs are consistent with the Understanding and the FMP and will contribute toward the growth of the GB cod, haddock, and yellowtail flounder stocks. The overall economic impact of the FY 2007 U.S./Canada TACs will likely be somewhat negative, compared to the economic impacts of the TACs specified for FY 2006. Although the FY 2007 haddock and yellowtail flounder TACs represent a decrease from FY 2006 TAC levels, the 2007 cod TAC represents an increase from the 2006 TAC. Fish landed and sold may be reduced further as a result of discards. In addition, reductions to the value of the fish may result from fishing derby behavior and the potential impact on markets. The preferred alternative may be somewhat controversial due to the fact that two of the TACs would be reduced from the current levels.

If the status quo TACs were adopted for FY 2007, the potential harvest of haddock and yellowtail flounder may exceed the level of harvest that has been recommended for these stocks, based on the shared harvest strategy, and result in increased risk that the fishing mortality objectives are compromised. The economic impacts of the status quo TACs would likely be similar to the impacts of the proposed TACs.

Under the no action alternative, if no hard TAC levels are implemented, the potential harvest of haddock and yellowtail flounder could exceed the level of harvest that has been recommended for these stocks, based on the shared harvest strategy, and could result in increased risk that the fishing mortality objectives are compromised. If fish are abundant in the U.S./Canada Management Area, there may be higher economic returns when compared with the proposed TACs because it would be possible to harvest GB haddock and yellowtail flounder in greater amounts. However, if such harvest levels are associated with an increased risk that the fishing mortality objectives are compromised, the long term economic gains could be reduced.

Although unlikely, a downward adjustment to the amount of 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 FY 2006 exceeded the relevant TACs specified for FY 2006.

3.0 Background

The primary statute governing the management of fishery resources in the Exclusive Economic Zone (EEZ) of the United States is the MSA. In New England, the Council is responsible for developing fishery management plans that comply with the MSA, as well as other applicable laws. The NE Multispecies FMP has evolved through a series of framework adjustments and amendments (implemented through Federal regulations). The FMP specifies the management measures for twelve groundfish species off the New England and Mid-Atlantic coasts (Atlantic cod, haddock, yellowtail flounder, pollock, American plaice, witch flounder, white hake, windowpane flounder, Atlantic halibut, winter flounder, redfish, and ocean pout). Of these 12 species (19 stocks), three stocks are transboundary (GB cod, GB haddock, and GB yellowtail flounder).

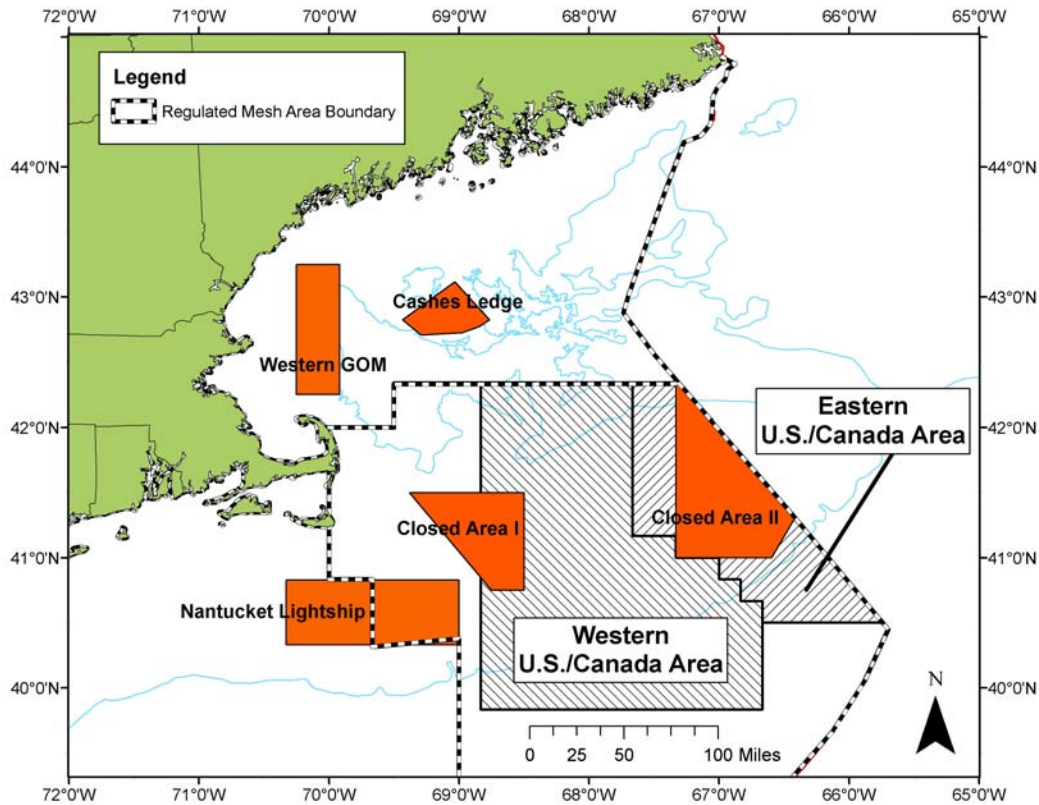
A transboundary stock is one whose distribution spans the boundary between Canada and the U.S., and for which there can be migration across the boundary. It was recognized that coordinated efforts to manage transboundary stocks would result in enhanced management and utilization of resources by both countries. In 1998, the Transboundary Resource Assessment Committee (TRAC) was formed with representatives from both the U.S. and Canada to conduct joint stock assessments between the two countries in order to ensure that management was based upon the best available, combined information. More information on the TRAC may be found on the internet at the following address: <http://www.mar.dfo-mpo.gc.ca/science/TRAC/trac.html>. Subsequently, a management advisory process was developed, and a second committee was formed, with members from the U.S. and Canada, to provide non-binding guidance to each country (Transboundary Management Guidance Committee); (TMGC). More information on the TMGC may be found on the internet at the following address: <http://www.mar.dfo-mpo.gc.ca/science/tmgc/TMGC-e.html>.

It was recognized by both Canadian and U.S. managers that the independent conservation actions taken by each country could be compromised by other management actions that were not coordinated, and could result in reduced benefits to both countries. Therefore, an informal agreement was developed to achieve consistency of management efforts (Development of a Sharing Allocation Proposal for Transboundary Resources of Cod, Haddock, and Yellowtail Flounder on Georges Bank. Transboundary Management Guidance Committee, January 2002). The Understanding outlines a process for the management of the shared GB groundfish resources and specifies an allocation of TACs for these three stocks for each country based on a formula that considers historical catch percentages and current resource distribution.

In May 2004, Amendment 13 to the FMP implemented a large number of new management measures, including measures designed to implement the Understanding (50 CFR 648.85(a)). The specific intent of such management measures was to constrain catches of the three shared stocks by U.S. vessels to ensure that the catch does not exceed the U.S. allocations

(i.e., the Amendment 13 regulations in support of the Understanding included the definition of the Western U.S./Canada Area and the Eastern U.S./Canada Area, hard TACs, monitoring requirements, reporting requirements, trip limits, and administrative measures). In U.S. waters, the shared stock of GB yellowtail flounder is located in both the Western U.S./Canada Area and the Eastern U.S./Canada Area, while the shared resources of cod and haddock are found in the Eastern U.S./Canada Area (Figure 1).

Figure 1. U.S./Canada Management Areas and Year-Round NE Multispecies FMP Closed Areas (Habitat Closure Areas not depicted)



Annual TACs are determined through a process involving the Council, the TMGC, and the U.S./Canada Transboundary Resources Steering Committee (50 CFR 648.85(a)(2)(I)). The agreed upon strategy is to maintain a low to neutral risk of exceeding the fishing mortality limit reference ($F_{ref} = 0.18, 0.26, 0.25$, for cod, haddock, and yellowtail flounder, respectively). When stock conditions are poor, fishing mortality rates should be further reduced to promote rebuilding.

The implementation of Amendment 13 and utilization of the process outlined in the Understanding resulted in the specification of hard TACs for GB cod, haddock, and yellowtail flounder for the 2004 through 2006 fishing years. Table 1 contains the 2004, 2005, and 2006 TACs for the shared resources of GB cod, haddock, and yellowtail flounder, including both the shares of the U.S. and Canada.

Table 1. Fishing Year 2004, 2005, and 2006 U.S./Canada TACs (mt) and Percentage Shares.

		Cod	Haddock	Yellowtail Flounder
2004	Total Shared TAC	1,300	15,000	7,900
	U.S. TAC	300 (23 %)	5,100 (34 %)	6,000 (76 %)
	Canada TAC	1,000 (77 %)	9,900 (66 %)	1,900 (24 %)
2005	Total Shared TAC	1,000	23,000	6,000
	U.S. TAC	260 (26 %)	7,590 (33 %)	4,260 (71 %)
	Canada TAC	740 (74 %)	15,410 (67 %)	1,740 (29 %)
2006	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 %)

4.0 Purpose and Need for the Action

The FMP specifies a procedure for setting annual hard TACs for Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder. As described in Section 3.0, the regulations governing the annual development of hard TACs (50 CFR 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 Understanding.

This action is needed to ensure that the transboundary resources of GB cod, haddock, and yellowtail flounder that are shared between the United States and Canada, are managed in a consistent manner, as outlined in the Understanding. The Understanding specifies an allocation of TAC for these three shared resources for each country, based on a formula that considers historical catch percentages and current resource distribution. The primary purpose of this action is to implement TACs for these three resources that will be consistent with the Understanding and the FMP in order to enhance the management and utilization of the resources.

5.0 Proposed Action

The proposed action would implement the hard TACs for the U.S./Canada Management Area for FY 2007 (May 1, 2007 – April 30, 2008) as indicated in Table 2 below. These TACs would be in effect for the remainder of the fishing year, unless NMFS determines that the catch of GB cod, haddock, or yellowtail flounder from the U.S./Canada Management Area in FY 2006 exceeded the pertinent 2006 TAC. The Understanding and the regulations require that if a TAC is exceeded in a particular fishing year, then the TAC for the subsequent fishing year is reduced by the amount of the overage (TAC adjustment). Should the 2006 catch exceed a 2006 TAC, the corresponding 2007 TAC will be decreased during FY 2007. In order to minimize any disruption of the fishing industry, NMFS intends to make any necessary TAC adjustment in the first quarter of the fishing year.

Table 2. Proposed FY 2007 U.S./Canada TACs (mt) and percentage shares.

	Eastern GB Cod	Eastern 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 %)

These proposed TACs are based on the TRAC's guidance to the TMGC (July 2006), and the TMGC's final recommendations to the Council (November 2006).

6.0 Alternatives to the Proposed Action

6.1 No Action

Under this alternative, no action would be taken by NMFS to implement the recommendations of the TMGC and the Council and, therefore, no TAC for GB cod, haddock, or yellowtail flounder would be implemented for FY 2007. Vessels would still be constrained by the other regulations of the FMP, including days-at-sea (DAS) and closed areas.

6.2 Status Quo

Under this alternative, the same TACs that were specified for FY 2006 for GB cod, haddock, and yellowtail flounder would be implemented for FY 2007 (374 mt, 7,480 mt, and 2,070 mt for GB cod, haddock, and yellowtail flounder, respectively).

7.0 Affected Environment

Refer to Section 7.0 of the FY 2006 EA.

7.1 Georges Bank Physical Environment

Refer to Section 7.1 of the FY 2006 EA.

7.2 Biological Environment

Refer to Section 7.2 of the FY 2006 EA.

7.2.1 Status of Georges Bank cod, haddock, and yellowtail flounder

The status of the shared stocks of GB cod, haddock, and yellowtail flounder were most recently assessed in 2006 by the TRAC. A summary of the results of these assessments can be found on the internet at the following address: <http://www.mar.dfo-mpo.gc.ca/science/TRAC/trac.html>. It is important to note that the shared stocks of GB cod and haddock in U.S. waters represent portions (subsets) of the stocks of GB cod and haddock managed in the U.S. Exclusive Economic Zone by the FMP. The shared stock of GB yellowtail flounder in U.S. waters represents the entire stock of GB yellowtail flounder managed by the FMP. A summary of status information most pertinent to the determination of TACs follows.

For Eastern GB cod the 2006 Guidance Document states the following:
“*State of Resource:* There was a substantial decline in adult (3+) stock biomass from 43,500 mt in 1990 to 8,500 mt in 1995, the lowest observed. The biomass subsequently increased to 18,800 mt in 2001, declined to 11,500 mt in 2005 but increased again to 16,300 mt at the beginning of 2006. Much of the increase in the late 1990's was the result of growth and survival to ages 5+ of the 1992, 1995, and 1996 year classes. The increase in 2006 was due largely to recruitment of the 2003 year class. Lower weights-at-age in the population in recent years and the generally poor recruitment have contributed to the lack of rebuilding. *Guidance:* The TMGC concluded that the most appropriate combined Canada/USA TAC for Eastern Georges Bank cod for the 2007 fishing year is 1,900 mt. This corresponds to a very low risk, less than 25% probability, of exceeding the

F_{ref} of 0.18 in 2007. At this level of harvest there is greater than neutral risk (60%) that stock biomass will decrease from 2007 to 2008, however the decline is nominal. The annual allocation shares for 2007 between countries are based on a combination of historical catches (25% weighting) and resource distribution based on trawl surveys (75% weighting). Combining these factors entitles the USA to 26% and Canada to 74%, resulting in a national quota of 494 mt for the USA and 1,406 mt for Canada.”

This allocation of cod for Canada was initially challenged by the Council, because it appeared to not account for a Canadian TAC overage in 2005. Normally, any overages are deducted from the appropriate TAC of the responsible nation during the following year. The TMGC noted that the 2005 TAC, based on the 2004 assessment, did not include discards in the estimates. While the cumulative Canadian catch (landings + discards) exceeded the Canadian TAC allocation, the landings alone did not exceed the allocation, and it was therefore resolved that no deduction would be necessary from subsequent Canadian TAC. Because the assessments after 2004 include discards, an agreement was made that in the future, both landings and discards would be applied against all TACs.

For eastern GB haddock, the 2006 Guidance Document states the following: “*State of Resource:* Adult biomass (ages 3+) increased from a low of 8,600 mt in 1993 to 73,800 mt in 2003 and subsequently decreased to 51,000 mt in 2005 but increased to 123,000 mt in 2006, higher than the 1931-1955 maximum biomass of 90,000 mt, as a result of the exceptional 2003 year class. *Guidance:* The TMGC concluded that the most appropriate combined Canada/USA TAC for Eastern Georges Bank haddock for the 2007 fishing year is 19,000 mt. This represents a neutral risk (50%) of exceeding the F_{ref} of 0.26. Adult biomass is projected to be 149,000 mt in 2007 and will increase by less than 10% in 2008. The annual allocation shares for 2007 between countries are based on a combination of historical catches (25% weighting) and resource distribution based on trawl surveys (75% weighting). Combining these factors entitles the USA to 33% and Canada to 67%, resulting in a national quota of 6,270 mt for the USA and 12,730 mt for Canada.”

For GB yellowtail flounder, the 2006 Guidance Document states the following: “*State of Resource:* Two assessment approaches were considered by TRAC. The Base Case VPA [Virtual Population Analysis assessment model] continues to display a retrospective pattern, updating population biomass estimates to lower values than previously determined and compromising interpretation of results, although the magnitude of the retrospective pattern is less than in previous years. The Major Change VPA did not exhibit a retrospective pattern; updates were both above and below previously estimated values. The Major Change VPA reflects the recent decreasing trend observed in all three surveys and is adopted as the basis for management advice for 2007, whereas the Base Case VPA does not reflect this decline. Population biomass (ages 3+), based on the Major Change VPA results, increased from a low of 2,200 mt in 1995 to 11,300 mt in 2003 and then declined to 5,450 mt at the beginning of 2006. Spawning stock biomass in 2005 was estimated to be 5,400 mt. *Guidance:* The TMGC concluded that an appropriate combined Canada/USA TAC for the 2007 fishing year is 1,250 mt. This represents a neutral risk (50%) of exceeding the F_{ref} of 0.25. The annual allocation shares for 2007 between countries are based on a combination of historical catches (25% weighting) and resource distribution based on trawl surveys (75% weighting). Combining these factors entitles the USA to 72% and Canada to 28%, resulting in a national quota of 900 mt for the USA and 350 mt for Canada.”

The final TAC of 1,250 mt for yellowtail flounder differs from the original recommendation of the TMGC to set the TAC at 1,500 mt for FY 2007. That TAC corresponded to an F of 0.31 and a risk of greater than 50% of exceeding the F_{ref} of 0.25. This was originally justified because of a projected 43% increase in the age 4+ biomass of the population. The Council, however, challenged that this guidance did not respect the rebuilding program that had been adopted by the Council or the TMGC harvest strategy. The TMGC therefore resolved that

the TAC be reduced to 1,250 mt to achieve a neutral risk of exceeding F_{ref} as given in the 2006 TRAC Status Report for yellowtail flounder, and to meet these rebuilding strategies.

7.2.2 Status of All Groundfish Stocks

Refer to Section 7.2.2 of the FY 2006 EA.

7.2.3 Status of stocks supporting other fisheries occurring in the U.S./Canada Management Area

Refer to Section 7.2.3 of the FY 2006 EA.

7.2.4 Gear Effects on Benthic Habitat

Refer to Section 7.2.4 of the FY 2006 EA.

7.3 Georges Bank Endangered and Protected Species

Refer to Section 7.3 of the FY 2006 EA.

7.4 Human Environment

7.4.1 Description of the Groundfish Fishery

Refer to Section 7.4.1 of the FY 2006 EA.

Fishery in U.S. Canada Management Area in FY 2005

Based on the most recently available data, a total of 184 vessels made 2,155 trips into the U.S. Canada Management Area from May 1, 2005 through April 30, 2006. The total catch of GB cod, haddock, and yellowtail flounder is shown below in Table 8. Table 9 contains information on the number of vessels, trips, and observed trips by area in the U.S./Canada Management Area (2005).

Table 3. Summary of Fishing Year 2005 Catch in the U.S. Canada Management Area.

	mt	Percent of TAC
Cod	244	93.9%
Haddock	589	7.8 %
Yellowtail flounder	3,759	88.2 %

Table 4. Vessels and Trips in the U.S. Canada Management Area in FY 2005

	Western U.S./Canada Area	Eastern U.S./Canada Area
Number of Vessels	184	
Number of Trips	1,949	206

During FY 2005, the relative amount of the GB cod and haddock caught in the U.S./Canada Management Area was low. The cod landed from the Eastern U.S./Canada Area represented 3.4% of the total amount of GB cod landed. The haddock landed from the Eastern U.S./Canada Area represented 9.1% of the total amount of GB haddock landed. Since the entire

GB yellowtail flounder stock area is within the U.S. Canada Management Area, the yellowtail flounder landed from the U.S. Canada Management Area represented 100% of the GB yellowtail flounder landings.

During FYs 2004-2006 there were several Special Access Programs (SAPs), which provided vessels opportunities to fish in the U.S. Canada Management Area under rules which differed from the generic regulations that apply to the U.S. Canada Management Area. The catch under each of the SAPs (kept and discarded) counted toward the pertinent U.S. TAC specified for each FY (cod, haddock, and yellowtail flounder), and were consistent with the Understanding. Brief descriptions of these programs are described in the FY 2006 EA.

7.4.2 Description of Non-Groundfish Fisheries on GB

Refer to Section 7.4.2 of the FY 2006 EA.

8.0 Environmental Consequences – Analysis of Impacts

8.1 Proposed Action

8.1.1 Biological Impacts of the GB Cod, Haddock, and Yellowtail Flounder TACs

The proposed TACs were set at levels that correspond to the fishing mortality rates consistent with the management strategy agreed to under the Understanding. The strategy is to maintain a low to neutral risk of exceeding the fishing mortality limit reference ($F_{ref} = 0.18, 0.26, 0.25$, for cod, haddock, and yellowtail flounder, respectively). When stock conditions are poor, fishing mortality rates should be further reduced to promote rebuilding. The recommended 2007 TACs for cod, haddock, and yellowtail flounder were based upon the most recent stock assessments (TRAC Status Reports for 2006) and the fishing mortality strategy shared by both the United States and Canada. The guidance for FY 2007 for each stock is described in Sec. 7.2.1 of this document.

Based upon fishing year 2004 and 2005 information on catch (landings and discards) from the U.S. Canada Management Area, the management measures implemented by Amendment 13 and subsequent framework adjustments have restrained the catches of GB cod, haddock, and yellowtail flounder. Based upon preliminary information, NMFS does not anticipate that there will be an overage (i.e., the catch will not exceed the TAC) for FY 2006. In 2004 and 2005, the catch of GB cod, haddock, and yellowtail flounder was less than their respective TACs. As of November 30, 2006, the preliminary catch data compiled by NMFS for FY 2006 indicated that 312,000 lb (142 mt) of cod, 901,000 lb (409 mt) of haddock, and 2,258,000 lb (1,024 mt) of yellowtail flounder have been caught from the U.S. Canada Management Area (landings and discards). In other words, approximately 38%, 5%, and 49 %, respectively, of the cod, haddock, and yellowtail flounder TACs have been caught.

A comparison of the landings of GB cod, haddock, and yellowtail flounder between 2004 and 2006 also provides an indication that the Amendment 13 measures, including the U.S. Canada Management Area TACs, have modified fishing patterns (Figures 2 through 4).

Figure 2. Monthly Eastern GB Cod Catch in Fishing Years 2004, 2005, and 2006 (through November).

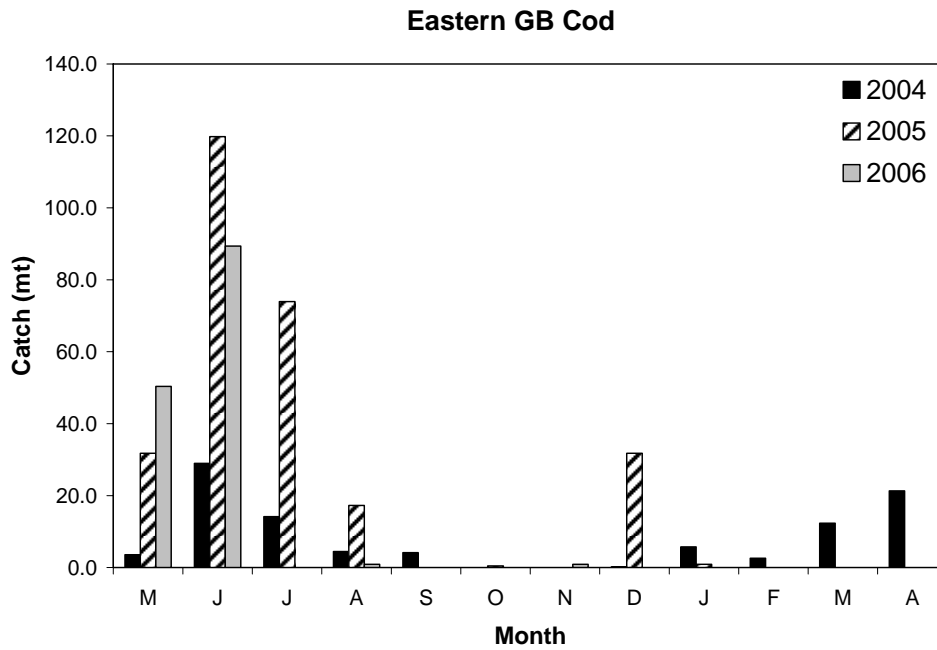


Figure 3. Monthly Eastern GB Haddock Catch in Fishing Years 2004, 2005, and 2006 (through November).

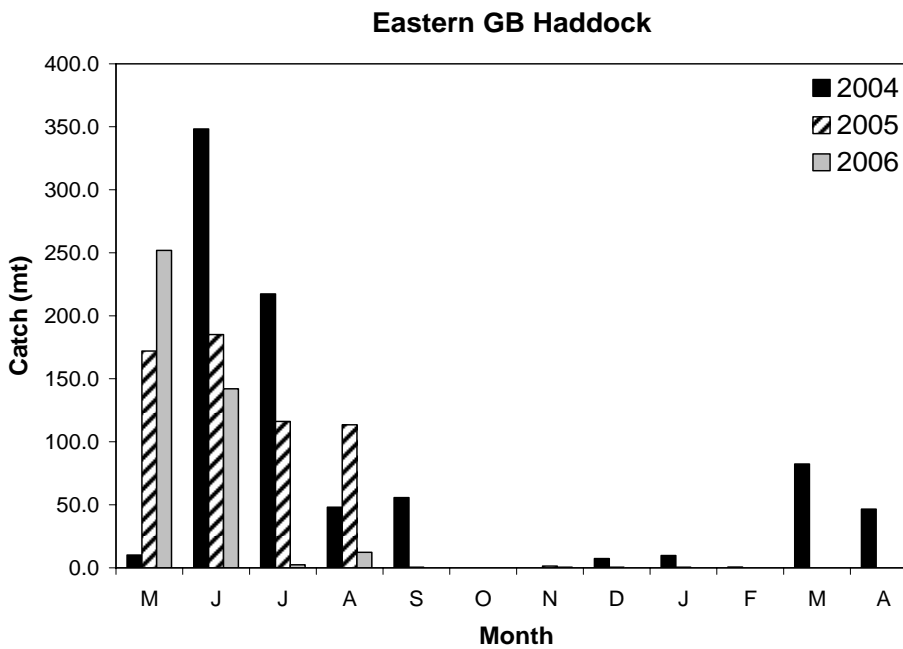
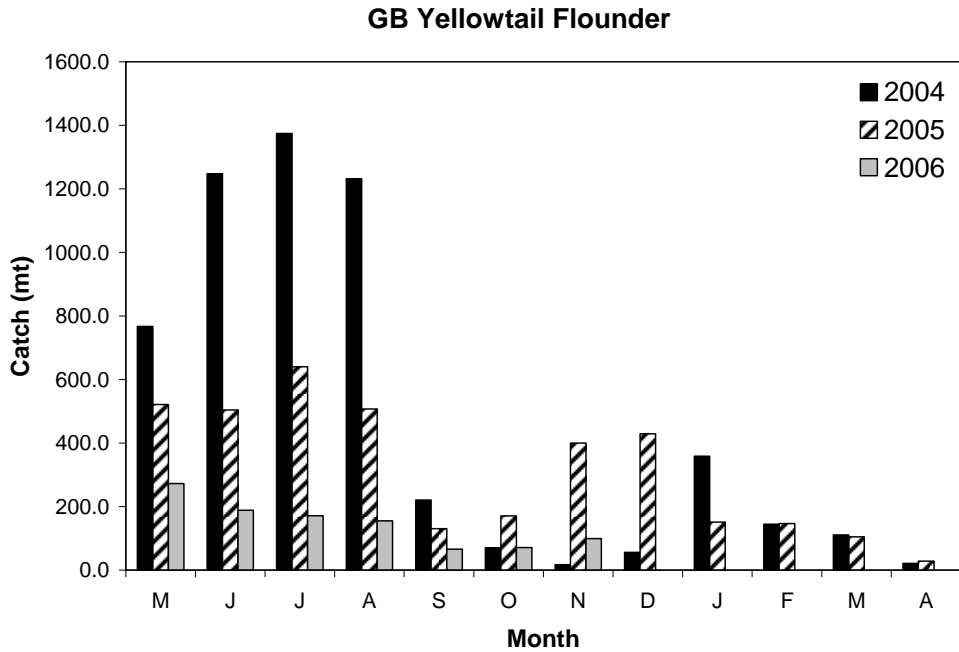


Figure 4. Monthly GB Yellowtail Flounder Catch in Fishing Years 2004, 2005, and 2006 (through November).



Although it is not possible to separate out the precise impact of the hard TACs on the overall pattern of fishing behavior and landings, the TACs and associated regulations have played an important role in determining fishing patterns on GB, as further explained in Section 8.1.5, the Economic Impacts of the proposed TACs. Because the proposed TACs are based upon fishing mortality rates that are in accordance with the Understanding, and the management measures that are associated with the U.S. Canada Management Area have been demonstrated to effectively control fishing effort, the proposed TACs are appropriate and will contribute toward the growth of the GB cod, haddock, and yellowtail flounder stocks. Because the TACs will contribute toward the growth of the stocks, the biological impacts will be positive.

In contrast, as described in Sections 8.2.1 and 8.3.1, the biological impacts of the Status Quo and No Action Alternatives, respectively, would be primarily negative. Neither the Status Quo, nor the No Action Alternative represent the appropriate level of TACs from a biological perspective, and would either allow fishing mortality to be too high, or be unnecessarily restrictive. Allowing an excessive amount of fish to be caught would represent a level of fishing mortality that exceeded the desired level of fishing mortality. If the appropriate levels of fishing mortality were exceeded, it is likely that stock rebuilding would be slowed. Specifying a TAC lower than the amount possible may represent a positive impact that would facilitate timely rebuilding. Under the Status Quo Alternative, the yellowtail flounder and haddock TACs would be excessive, but the cod TAC would be more conservative than biologically necessary. Under the No Action Alternative (with no TACs specified), it is possible that excessive harvest could occur for all three shared stocks. Since 2004, the U.S./Canada TACs have proved effective at controlling fishing effort on the shared stocks, in a precise manner, which would not be possible under the current DAS system in place in the NE multispecies fishery at-large.

8.1.2 Impacts of Bycatch

Refer to Section 8.1.3 of the FY 2006 EA.

8.1.3 Habitat Impacts

Amendment 13 contains a discussion of the habitat impacts of commonly used management tools, including TACs. Hard TACs impact EFH by controlling effort on specific fish stocks and potential habitat benefits of TACs are derived from reductions in fishing effort. The proposed GB haddock and yellowtail flounder hard TACs are lower than the TACs implemented for FY 2006 (haddock reduced 16%, yellowtail flounder reduced 43%). The lower TACs could decrease the amount of fishing effort directed on haddock and yellowtail flounder in both the Eastern and Western U.S./Canada Areas. However, the fact that the cod TAC is proposed to increase by 32% could increase the amount of fishing effort for cod in the Eastern U.S./Canada Area, and could reduce the habitat benefits that may be derived from the lower haddock and yellowtail flounder TACs. The proposed FY 2007 TACs, however, would result in a 23% net reduction in catch across all three species.

It is difficult to predict what effect the proposed action would have on the amount or distribution of fishing effort on eastern GB. A lot depends on which TAC is reached first. The triggering of management measures to prevent the TAC for cod or haddock in the Eastern U.S./Canada Management Area from being exceeded could result in fishing effort being re-directed to yellowtail flounder in the Western U.S./Canada Area. If the yellowtail flounder TAC is reached first, the Eastern U.S./Canada Area would close, and possession of yellowtail flounder would be prohibited, but multispecies vessels could still continue to fish for cod and haddock in the Western U.S./Canada Area. Given the fact that none of the TACs for these three species were reached during the three previous fishing years (catches, in fact, were well below the TACs – see Section 8.1.1), one possible scenario is that both areas would remain open for the entire year. The most likely scenario, however, is that the yellowtail flounder TAC – which was reduced by 43% relative to 2006 – would be reached before the end of the fishing year, forcing an early closure of the Eastern U.S./Canada Area (the haddock TAC would also be lower, but haddock catches on eastern GB were very low in 2005 and 2006 relative to the TAC). Thus, relative to the Status Quo Alternative, the proposed action would most likely cause a reduction in bottom trawling effort and in habitat impacts in the affected area. Relative to No Action (i.e., target TACs instead of hard TACs, fishing effort limited by the same number of DAS, but no catch or effort limits that are specific to eastern GB), bottom trawling activity is likely to be reduced inside the U.S./Canada Management Area because of the added effect of hard TACs in controlling effort. There is certainly no reason to expect it to be higher, especially because of the large reduction in the proposed yellowtail flounder TAC.

It is important to note that in addition to the habitat impacts that are related to changes in fishing effort associated with this action, other factors such as the type of habitat, its vulnerability to disturbance, the degree of natural disturbance, and the degree to which the habitat is already being impacted by bottom-tending mobile gear used in other fisheries, are also relevant. Benthic habitats in the U.S./Canada Management Area are impacted by fishing activities that are not affected by this management action, primarily scallop dredging. They are also exposed to natural disturbances caused by bottom currents and storms. Scallop dredging on eastern GB would continue even if the TAC for cod, yellowtail flounder, or haddock is reached (as long as the bycatch of yellowtail flounder remains below 5% for any given trip). Trawlers utilizing monkfish DAS could also continue fishing in the area once it was closed to vessels using multispecies DAS. Adverse EFH impacts of all fishing activities managed by the New England Fishery Management Council were minimized to the extent practicable in management actions that were implemented in 2004 and 2005.

The area that is potentially affected by the proposed TACs has been identified to include EFH for species managed under the following Fishery Management Plans: NE Multispecies; Atlantic Sea Scallop; Monkfish; Atlantic Herring; Summer Flounder, Scup and Black Sea Bass; Squid, Atlantic Mackerel, and Butterfish; Spiny Dogfish; Tilefish; Deep-Sea Red Crab; Atlantic Surfclam and Ocean Quahog; Atlantic Bluefish; Northeast Skates; and Atlantic Highly Migratory Species. This proposed action makes relatively minor adjustments in the context of the fishery as a whole, and, for the reasons stated above, is not expected to have any adverse impact on EFH. Furthermore, the proposed action does not allow for access to the existing habitat closed areas on GB that were implemented in Amendment 13 to the Multispecies FMP and Amendment 10 to the Scallop FMP and therefore it continues to minimize the adverse impacts of bottom trawling and dredging on EFH.

8.1.4 Impacts on Endangered and other Protected Species

Refer to Section 8.1.5 of the FY 2006 EA.

8.1.5 Economic Impacts

The economic impacts that result from the use of hard TACs for the shared stocks of GB stocks can best be described in terms of 5 different effects: 1) Hard TACs for cod, haddock, and yellowtail flounder will limit the total amount of catch of these stocks (landings and discards) allowed by law; 2) Associated rules such as gear restrictions, trip limits, and closures that may be implemented in order to prevent catch from exceeding the TACs will impact when and how such access to these stocks occurs; 3) Access restrictions implemented to control catch of one particular stock may indirectly impact access to other stocks; 4) Discarded fish count against the TAC; and 5) The timing and rate of landing of these stocks may impact the market for these species. These five effects are described in more detail in the following sections. This discussion builds upon the information contained in Section 7.4.1, the description of the GB groundfish fishery.

8.1.5.1 Hard TAC Levels

The economic impacts of the proposed hard TACs are difficult to predict because of the 5 effects noted above (and possible other effects), and the fact that these effects interact in a complex manner. Furthermore, the economic impacts are difficult to predict because there is relatively little historic data and relatively little is known about the specific fishing patterns or market impacts that may be caused by this hard TAC management system. The amount of fish landed and sold will not be equal to the sum of the TACs, but will be reduced as a result of discards, 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 potential impact on markets.

The yellowtail flounder TAC proposed for the 2007 fishing year is 43% smaller than the TAC that was established for the 2006 fishing year, and therefore substantially less yellowtail flounder could legally be harvested, and result in a substantial decrease in revenue for limited access DAS vessels that are able to access the U.S./Canada Management Area. Because it is likely the TAC will be fully harvested in 2006; the reduced TAC size in 2007 will have an economic impact that is likely to be realized. That economic impact stands in contrast to the economic impacts of changing the haddock hard TAC. Because only a very small percentage of the haddock TAC is harvested, the change to the haddock TAC for 2007 represents a loss in potential revenue that is not likely to be realized.

The cod TAC proposed for the 2007 fishing year is 32% larger than the TAC that was established for the 2006 fishing year, and therefore, more cod could be legally harvested and result in increased revenue for limited access DAS vessels that are able to access the Eastern U.S./Canada Area. Because the cod TAC is likely to cause the closure of the Eastern U.S./Canada Area prior to the attainment of the haddock TAC, the change in cod TAC will impact the amount of time vessels have available to fish in the Eastern U.S./Canada Area. If the greater GB cod TAC in 2007 results in a longer period of time during which the Eastern U.S./Canada Area is open, it is possible that more haddock would be caught from the Eastern U.S./Canada Area in 2007 than was caught in 2006.

In order to evaluate the economic impact of the increased cod TAC and the decreased yellowtail flounder and haddock TACs, 2006 catches and average 2006 prices (Table 5) were used to derive estimates of changes in revenue. Catch and landings data are based upon VMS and dealer report data, and adjusted according to the methods described by Caless and Wang (2004). Average price estimates are based on dealer reports submitted to the NMFS Fisheries Statistics Office. For yellowtail flounder it was assumed that 100% of the 2006 TAC will be caught. At \$2.18 per lb, the increased amount of cod available in 2007 (264,555 lb more) would be worth approximately \$576,730. At \$1.58 per lb, the decreased amount of yellowtail flounder available in 2007 (2,579,408 lb less) would decrease revenue by approximately \$4,075,465. The additional amount of haddock that could be caught, given the potential for the Eastern U.S./Canada Area to be open for a longer time period, can be estimated using the ratio of haddock catch to cod catch. During 2004 and 2005, the haddock to cod ratios were approximately 6:1 and 2.3:1, respectively. Based on the increase in cod TAC of 120 mt, and assuming haddock to cod ratios of between 2.3:1 and 6:1, the additional amount of haddock available would be approximately between 276 and 720 mt (608,476 and 1,587,328 lb). The amount of additional haddock revenue (assuming \$1.75 per pound) would therefore be between \$1,064,833 and \$2,777,824, depending upon the actual haddock to cod ratio. Summing the revenue gains and losses for the individual species results in a range of potential revenue declines from 2006 to 2007 of between \$720,911 and \$2,433,902.

Table 5. Average price received (US dollars per pound) by limited access NE multispecies vessels for U.S. Canada Management Area cod, haddock, and yellowtail flounder during FYs 2005 and 2006 (through November).

	Eastern Area Cod	Eastern Area Haddock	GB Yellowtail
FY05	\$1.46	\$1.18	\$1.13
FY06	\$2.18	\$1.75	\$1.58

Table 6. Total landings (all species), estimated revenue, and limited access multispecies trip counts for the U.S. Canada Management Area during FYs 2005 and 2006 (through November).

Fishing Year	Area	Total Landings (1,000 lb. Live Weight)	Total Landings (1,000 lb. Landed Weight)	Total Revenue (\$1,000)	Trip Count
FY05	Eastern	7,301	6,321	\$6,395	206
	Western	59,320	42,288	\$58,885	1,949
	Total	66,773	48,882	\$65,305	2,155
FY06 though Nov.	Eastern	2,980	2,487	\$4,017	168
	Western	17,415	11,987	\$19,640	661
	Total	20,266	14,424	\$23,571	829

Table 7. Catch and estimated revenue from cod, haddock, and yellowtail flounder from the U.S. Canada Management Area during FYs 2005 and 2006 (through November).

FY 2005				
Stock	Catch (lb)	% of TAC	Price per lb	Revenue
Eastern GB Cod	538,000	93.9	\$1.46	\$785,480
Eastern GB Haddock	1,299,000	7.8	\$1.18	\$1,532,820
GB Yellowtail Flounder	8,288,000	88.2	\$1.13	\$9,365,440
Total	10,125,000			\$11,683,740

FY 2006 (through November)				
Stock	Catch (lb)	% of TAC	Price per lb	Revenue
Eastern GB Cod	267,000	32.4	\$2.18	\$582,060
Eastern GB Haddock	791,000	4.8	\$1.75	\$1,384,250
GB Yellowtail Flounder	2,258,000	49.5	\$1.58	\$3,567,640
Total	3,316,000			\$5,533,950

Table 8. Projected catch and estimated revenue from cod, haddock, and yellowtail flounder from the U.S. Canada Management Area for FYs 2006 and 2007.

FY 2006 (Projected Catch)				
Stock	Projected Catch (lb)	% of TAC	Price per lb	Revenue
Eastern GB Cod	783,302	95.0	\$2.18	\$1,707,598
Eastern GB Haddock	1,319,246	8.0	\$1.75	\$2,308,681
GB Yellowtail Flounder	4,107,212	90.0	\$1.58	\$6,489,395
Total	6,209,760			\$10,505,674

FY 2007 (Projected Catch)				
Stock	Projected Catch (lb)	% of TAC	Price per lb	Revenue
Eastern GB Cod	1,034,629	95.0	\$2.18	\$2,255,491
Eastern GB Haddock	1,105,839	8.0	\$1.75	\$1,935,218
GB Yellowtail Flounder	1,785,744	90.0	\$1.58	\$2,821,476
Total	3,926,212			\$7,012,185

If one assumes that the total catch (i.e., percent of TAC caught), and fish prices in the U.S. Canada Area remain relatively the same for FYs 2006 and 2007, then based on the estimates in Tables 7 and 8 above, revenue from cod caught in the Eastern U.S./Canada Area may increase from 2006 to 2007 by approximately 32%, and revenue from haddock and yellowtail flounder in the U.S. Canada Management Area may decline by 16% and 57%, respectively. The overall change in revenue from 2006 to 2007 for the 3 species combined could approximately be a 33% decline (or \$3.5 million). Note, it is difficult to predict future fishing patterns, and there are factors which may mitigate the decline in overall revenue. There could be an increase in yellowtail flounder price, as well as the potential for increased opportunity to harvest other species from the Eastern U.S./Canada Area. If the larger cod TAC results in a longer period of time that the Eastern Area is open, and if vessels attempt to, and are successful in avoidance of cod, the Eastern Area may be opened for a longer period of time in fishing year 2007, resulting in additional revenue from haddock.

During FY 2005 the estimated revenue from the transboundary stocks of cod, haddock, and yellowtail flounder was \$11.6 million (Table 7). The estimated total revenue for all limited

access NE multispecies trips in the U.S. Canada Management Area, however, was \$65.3 million (Table 6). This means that approximately 82% of the total revenue for vessels fishing in the U.S. Canada Management Area comes from species other than the shared stocks of cod, haddock, and yellowtail flounder. The revenues received from these other fishery resources may also help mitigate the anticipated losses from the reduced yellowtail flounder TAC in FY 2007.

In contrast with the No Action Alternative, the proposed alternative would have short term negative economic impacts, due to the fact that the harvest of the shared stocks would be constrained by the TACs (particularly cod and yellowtail flounder). However, the long term impacts of the No Action Alternative are more likely to be negative than the proposed Alternative, due to the increase biological risk associated with the No Action Alternative. Stock rebuilding and the associated revenue that is likely to result from an increasing stock size could be jeopardized by the No Action Alternative.

8.1.5.2 Review of the 2004 and 2005 U.S./Canada Management Area Fishery.

Refer to Section 8.1.6.2 of the FY 2006 EA.

8.1.5.3 Social Impacts

Refer to Section 8.1.6.4 of the FY 2006 EA.

Possible Adjustment of Proposed Hard TACs

Refer to Section 8.1.6.4 of the FY 2006 EA.

8.2 Status Quo

8.2.1 Biological Impacts

The status quo U.S./Canada TACs are those in place for FY 2006, which were based upon assessments conducted in 2005. An assessment of the transboundary stocks of GB cod, haddock, and yellowtail flounder occurred in 2006, which updated and revised the information. Because the status quo TACs are not those that correspond to the most recent scientific information, the status quo TACs would not correspond to the desired fishing mortality rate. As such, the TACs would be inconsistent with the Understanding and the FMP. The haddock and yellowtail flounder TACs would allow fishing mortality in excess of the desired levels, whereas the cod TAC would constrain the TAC to below the level of fishing mortality necessary. If fishing mortality is allowed to exceed the appropriate level, rebuilding of stocks may be slower than required. Catching fewer cod than the biologically allowable number is not a problem from a biological perspective, but would result in a loss of potential yield for the fishery, and harvest below optimum yield. The most negative biological consequence would be the impact on the GB yellowtail flounder stock, because the status quo TAC is almost twice as large as the proposed TAC. The Status Quo Alternative would likely be more consistent with the biological objectives of the FMP than would the No Action Alternative, under which there would be no hard TACs for the shared stocks, and fishing effort would be less constrained. Since 2004, the U.S./Canada TACs have proved effective at controlling fishing effort on the shared stocks, in a precise manner, which would not be possible under the current DAS system in place in the NE multispecies fishery at-large.

8.2.2 Bycatch Impacts

The status quo U.S./Canada TACs may result in greater fishing effort in the U.S. Canada Management Area (as a whole, east and west), and therefore be associated with greater bycatch than would the proposed action, due to the higher haddock and yellowtail flounder TACs associated with the status quo. The bycatch rates for species encountered (cod, haddock, yellowtail flounder, winter flounder, witch flounder, American plaice, and white hake) may not be affected by the size of the TAC, unless the seasonality of the fishing effort is altered. The amount of fishing effort in the Eastern U.S./Canada Area (in contrast to the whole U.S./CA Area) may be less under the status quo alternative because the cod TAC is smaller and may result in swift closure of the Eastern U.S./Canada Area (as happened during the 2005 fishing year). Under status quo, the net effects of the higher haddock and yellowtail flounder TACs and lower cod TAC are difficult to predict. The status quo Alternative would likely constrain fishing effort more than would the No Action Alternative, and therefore, would be more beneficial than the No Action Alternative with respect to bycatch impacts.

8.2.3 Habitat Impacts

The status quo U.S./Canada TACs would likely result in greater fishing effort in the U.S. Canada Management Area, and therefore be associated with greater impact on habitat than would the proposed action. However, the Eastern U.S./Canada Area may be open for a shorter duration under the status quo TACs, due to the fact the GB cod TAC is lower. Because there may be less fishing effort in the Eastern U.S./Canada Area, the status quo alternative could result in less of an impact on benthic habitat in that area. The status quo Alternative would likely constrain fishing effort more than would the No Action Alternative, and therefore, would be more beneficial than the No Action Alternative with respect to habitat impacts.

8.2.4 Impacts on Endangered and other Protected Species

It is not likely that the implementation of the status quo hard TACs will have any additional impacts on Endangered and Protected Species that were not previously analyzed in Amendment 13 to the FMP. The status quo TACs may result in only a modest increase in fishing effort, and not substantially alter fishing patterns, other than increase the likelihood that the Eastern U.S./Canada Area will be open during a shorter time period, with a resultant decrease in fishing effort there. Trawl gear used in this area is not expected to affect ESA-listed cetaceans since these species are unlikely to be caught in trawl gear given their large size and mobility.

The bulk of measures implemented under Amendment 13 were designed to achieve specific fishing mortality reductions, and included effort reductions in all components of the groundfish fleet. Amendment 13 reduced by some degree the adverse impacts of NE multispecies fishing activity that existed at the time of implementation, to all large whales, including the right whale. Interactions between sink gillnet gear used in the multispecies fishery and other marine mammal species (such as seals, dolphins, and small whales) were not expected to increase under Amendment 13 management measures. Amendment 13 concluded that the potential impacts to sea turtles would likely decrease with implementation. The current fishing activities of the groundfish fishery were determined to have no affect on the endangered shortnose sturgeon and Atlantic salmon.

Although sea turtles such as leatherbacks and loggerheads may occur in these waters and are known to be captured by trawl gear, surveys have shown that turtles occur only sporadically over GB in the summer through the early fall (typically June through October). No turtle takes were observed in 1999 or in 2000 when portions of the multispecies closed areas over GB were temporarily reopened for scallop dredge fishers. Although possible, there is not a reasonable

likelihood that sea turtle distribution will overlap with multispecies gear used in the U.S. Canada Management Area.

8.2.5 Economic Impacts

Based upon the estimated revenue for 2006 (Table 8), the status quo hard TACs may result in greater revenue than the proposed TACs (approximately 3.5 million dollars). Based on the estimated difference in revenue between the 2006 and 2007 fishing years, the difference in revenue between the proposed TACs and the status quo TACs would be approximately 33%. There are factors which will likely mitigate the difference between the status quo and proposed alternatives with respect to overall revenue under the proposed TACs such as price (a potential increase in yellowtail flounder price), as well as the potential for increased opportunity to harvest other species from the Eastern U.S./Canada Area (if the larger cod TAC results in a longer period of time that the Eastern Area is open). The status quo hard TACS would likely generate less revenue than would the No Action TACs, which would effectively result in the removal of the hard TACs. The associated changes in revenue would be the result of increased landing of cod and yellowtail flounder principally, but also haddock.

8.2.6 Social Impacts

Because the status quo hard TAC alternative may result in greater landings and revenue, these alternatives may have positive social impacts in the short term. However, because the status quo TACs are not consistent with the most recent scientific information, the status quo hard TACs may result in excessive fishing mortality. Excessive fishing mortality in the short term could impact the rebuilding of stocks, and have negative social impacts in the long term. The social impacts of the status quo TACs would not be as harmful as those of the No Action Alternative, assuming that stock status would be somewhat better under the status quo Alternative.

8.3 No Action

8.3.1 Biological Impacts

Refer to Section 8.3.1 of the FY 2006 EA.

8.3.2 Bycatch Impacts

Refer to Section 8.3.2 of the FY 2006 EA.

8.3.3 Habitat Impacts

Refer to Section 8.3.3 of the FY 2006 EA.

8.3.4 Impacts on Endangered and other Protected Species

Refer to Section 8.3.4 of the FY 2006 EA.

8.3.5 Economic Impacts

Refer to Section 8.3.5 of the FY 2006 EA.

8.3.6 Social Impacts

Refer to Section 8.3.6 of the FY 2006 EA.

8.4 Cumulative Effects of the Proposed TACs

8.4.1 Introduction to Cumulative Impacts

Refer to Section 8.4.1 of the FY 2006 EA.

8.4.2 Past, Present and Reasonably Foreseeable Future Actions

8.4.2.1 Target and Non-Target Species

For a description of past actions (prior to 2006), refer to Section 8.4.2 of the FY 2006 EA.

Emergency Action to Implement Measures to Reduce Overfishing in the NE Multispecies Complex

Because implementation of Framework Adjustment (FW) 42 was delayed beyond the start of the 2006 FY (May 1, 2006), an Emergency Action was implemented at the beginning of the FY, and remained in place until superseded by FW 42 on November 22, 2006. The primary purpose of the Emergency Action was to reduce mortality on several groundfish stocks that were not achieving target F levels for 2006. These mortality reductions were in addition to the Amendment 13 default measures (revision of the DAS category A:B ratio from 60:40 to 55:45, and differential DAS counting outside of the U.S. Canada Management Area at a rate of 1.4:1), which became effective on May 1, 2006. The Emergency Action helped reduce mortality on virtually all stocks managed under the NE Multispecies FMP, although it did have some negative economic consequences as a result of effort reductions.

Framework Adjustment 42 (FW 42) to the NE Multispecies FMP

The Council developed FW 42 in accordance with the FMPs requirement for biennial adjustments, and it became effective on November 22, 2006. FW 42 implemented the Amendment 13 default measures, including revision of the DAS category A:B ratio from 60:40 to 55:45, and differential DAS counting in specific areas of the GOM and SNE at a rate of 2:1. These measures were designed to reduce F on multiple stocks for which the fishing mortality exceeds the level required under the rebuilding plan. Although the management measures target effort reductions for specific stocks, it is likely that they will also impact other groundfish stocks because of the 'broad brush' nature of DAS reductions. All vessels are further constrained by DAS under the FW 42 regulations. Further, due to lost revenues, the measures implemented by FW 42 were predicted to cause significant economic impacts.

Summary of Impacts

The cumulative impacts of past and present management actions have resulted in substantial effort reductions in the NE multispecies fishery. Although this has benefited some stocks (GB haddock), rebuilding has been slow for others (GB and GOM cod, CC/GOM, GB, and SNE/MA yellowtail flounder, GB and SNE/MA winter flounder, and white hake). It is anticipated that effort reductions implemented under Amendment 13 will continue, with modifications as necessary in order to end overfishing for all stocks, while also creating new opportunities for groundfish vessels to target healthy stocks.

Other FMPs Past and Present Actions

For a description of past actions (prior to 2006), refer to Section 8.4.2 of the FY 2006 EA.

2006 Annual Specification of Target TAC Levels, DAS, and Trip Limits for Monkfish

The final rule implementing the FY 2006 Target TACs, DAS, and trip limits for the monkfish fishery became effective on May 1, 2006 (71 FR 23871). This action reduced the TACs, DAS, and trip limits for monkfish vessels in both the Northern and Southern Fishery Management Areas to meet the requirements of the Monkfish FMP. For details on the impacts of this rule, refer to the 2006 EA for this action.

Framework Adjustment 18 (FW 18) to the Atlantic Sea Scallop FMP

FW 18 became effective on June 15, 2006 (71 FR 33211). The primary intent of this action was to implement specifications for the scallop fishery for 2006 and 2007, including open area DAS and Scallop Access Area trip allocations, adjustments to the scallop Area Rotation Program, and a seasonal closure of the Elephant Trunk Access Area to help reduce the bycatch of endangered sea turtles and finfish in this area. FW 18 provides for the opening of the Closed Area I Scallop Access Area on June 15, 2007, which is located within the GB yellowtail flounder stock area. The scallop fishery in this Access Area will be closed if it reaches the incidental TAC limit set for yellowtail flounder in this area (10% of the 2007 GB yellowtail flounder TAC for all Scallop Access Areas). The incidental TAC limit is beneficial to the multispecies fishery because it limits the amount of yellowtail flounder bycatch possible, and indirectly limits catch of other groundfish. For further details on the impacts of this scallop fishery, refer to FW 18.

Reasonably Foreseeable Future Actions

Exempted Fishing Permits (EFPs)

Under the MSA, NMFS is authorized to require permits for experimental fishing activities. There are several ongoing programs that coordinate and fund experiments that test fishing gear or fishing operations. Many of these experiments are designed to identify ways to target healthy groundfish stocks and could lead to the future development of SAPs or other Category B DAS programs that are authorized by Amendment 13. As a result, the experiments often catch regulated groundfish and request an exemption from existing regulations. NMFS reviews these requests and grants approved experiments an EFP. However, to constrain mortality, NMFS often requires some of these experiments to use Category A DAS so that mortality falls within the range of impacts analyzed by Amendment 13 and subsequent framework actions. Although the Groundfish PDT has noted that the expected 2004 catches of GB cod and CC/GOM yellowtail flounder were high enough to cause concern, when approving EFPs, NMFS works to ensure that the experiments do not threaten Amendment 13 mortality objectives.

Annual TAC Allocations for the U.S./Canada Management Area under the NE Multispecies FMP

On a yearly basis, NMFS establishes TACs for GB cod, haddock and yellowtail flounder harvested within the U.S./Canada Management Area for the upcoming fishing year (May 1, through April 30, of each year) in accordance with the U.S./Canada Resource Sharing Understanding. Because the proposed TACs for these species vary each year based on a yearly assessment of the status of these stocks conducted by U.S. and Canadian scientists, it is not possible to predict the precise impacts of such future TAC allocations. However, the purpose of such actions is to provide a means of establishing TACs for these species that would achieve the Amendment 13 and U.S./Canada Resource Sharing Understanding mortality objectives of these species within the U.S./Canada Management Areas.

Amendment 1 to the Atlantic Herring FMP and the 2007-2009 Atlantic Herring Specifications

The Council is developing the first amendment to the Atlantic Herring FMP. One of the measures considered for this amendment would establish a bycatch TAC for haddock caught by herring fishing vessels. The bycatch TAC would be comprised of 0.2 percent of the GOM and GB haddock TAC combined. The amendment would also permit herring vessels to possess no more than 100 pounds of all other species of groundfish combined. Finally, Amendment 1 would prohibit mid-water trawl gear from the GOM (Area 1A) from June 1 through September 30. This amendment would likely have only minimal positive impacts to the groundfish resource and is likely to be implemented in 2007.

Framework Adjustment 4 (FW 4) to the Monkfish FMP

The monkfish fishery is jointly managed by the New England and Mid-Atlantic Fishery Management Councils. The northeast region contains two stocks, which are managed separately in the Northern Fishery Management Area and the Southern Fishery Management Area. Both monkfish stocks are in the final three years of a 10-year rebuilding plan, and the biomass of both stocks have lagged behind the rebuilding schedule. The target TACs, DAS allocations, and incidental catch limits are therefore being reduced to a level that will help the monkfish stocks meet the rebuilding schedule established by the Monkfish FMP. Because many vessels have both monkfish and groundfish permits, FW 4 would also affect groundfish vessels.

Amendment 16 to the Northeast Multispecies Fishery Management Plan

Amendment 16 to the NE Multispecies FMP is part of the biennial adjustment process established under Amendment 13 to the FMP. During this adjustment, the Council is expected to conduct a mid-point review to determine rebuilding progress and evaluate whether additional measures are necessary to maintain the Amendment 13 rebuilding programs for managed species. In addition to considering adjustments to the current effort control management system, as modified by Amendment 13 and subsequent frameworks, the Council may consider other management systems that could replace or supplement the existing effort controls with other management approaches such as area management, quota management, or management by an individual transferable quota system. Because the Council has just begun the process for developing measures to include in Amendment 16, it is impossible to predict the precise impacts of such measures, as final measures for inclusion in Amendment 16 will likely not be adopted until 2008. Any measures included in Amendment 16 will maintain the Amendment 13 rebuilding plans and achieve the mortality objectives of the FMP. Once implemented, Amendment 16 would bring the FMP into full compliance with MSA, as modified by the SFA and the MSA Reauthorization Act of 2006.

Amendment 9 to the Squid, Mackerel Butterfish Fishery and Amendment 1 to the Tilefish FMP

Although these amendments are currently under development, both will likely propose measures to reduce impacts on EFH. Although the precise nature of these measures cannot be determined at this time, it is possible that the Mid-Atlantic Fishery Management Council could recommend measures that protect habitat for various species, including groundfish.

EFH Omnibus Amendment

An EFH Omnibus Amendment is currently under development for all of the Council's FMPs. The purpose of the amendment is to review and revise EFH components of the FMPs and to develop a comprehensive EFH management plan that will successfully minimize adverse effects of fishing on EFH through actions that will apply to all Council-managed FMPs. The Council is considering several measures for inclusion in the Omnibus Amendment, including a

review and update of the following: (1) Description and identification of EFH; (2) non-fishing activities that may adversely impact EFH; (3) identification and consideration of new Habitat Areas of Particular Concern; and (4) integration of alternatives to minimize any adverse effects of fishing on EFH. While it is possible that the Council would recommend measures that could impact multispecies EFH, because the amendment is under development, it is not possible to predict impacts to the multispecies fishery with any certainty.

Liquid natural gas (LNG) terminals

LNG facilities are currently proposed or planned for construction in Pleasant Point, ME (onshore); two projects offshore of Boston, MA, one in Boston Harbor, MA (onshore) and one in Fall River, MA (onshore); Providence, RI (onshore); Long Island Sound, NY (onshore); Logan Township, NJ (onshore); Philadelphia, PA (onshore); and an expansion of an existing facility in Cove Point, MD. Depending on the specific location and type of LNG facility, a range of impacts to fisheries and/or fisheries habitat may result from both construction and operation of terminals. Due to the large size of LNG tankers, dredging may need to occur in order to access onshore terminals. Dredging can result in direct loss of fish and/or shellfish habitat and can elevate levels of suspended sediment within the water column. As with other dredging, suspended sediments can impact various life stages of fish and shellfish. Further, the construction of pipelines and fill associated with site construction can have adverse impacts on intertidal habitats and salt marshes in the area.

Offshore wind energy generation projects

Although only two offshore wind energy projects have formally been proposed in the northeast region, at least 20 other separate projects may be proposed in the near future. Cape Wind Associates (CWA) proposes to construct a wind farm on Horseshoe Shoal, located between Cape Cod and Nantucket in Nantucket Sound, Massachusetts. A second project is proposed by the Long Island Power Authority (LIPA) off Long Island, New York. The CWA project would have 130 wind turbines located as close as 4.1 miles offshore of Cape Cod in an area of approximately 24 square miles with the turbines being placed at a minimum of 1/3 mile apart. The turbines will be interconnected by cables, which will relay the energy to shore to the power grid. The Army Corps of Engineers developed a DEIS for the proposed CWA project on Horseshoe Shoal. Subsequently, the Minerals Management Service was named the lead Federal agency and a new DEIS is under development. If constructed, the turbines would preempt other bottom uses in an area similar to oil and natural gas leases. The potential impacts associated with the CWA offshore wind energy project include the construction, operation and removal of turbine platforms and transmission cables; thermal and vibration impacts; and changes to species assemblages within the area from the introduction of vertical structures.

8.4.2.2 Protected Species Past, Present, and Reasonably Foreseeable Future Actions

Refer to Section 8.4.2.2 of the FY 2006 EA.

8.4.2.3 Habitat Past, Present, and Reasonably Foreseeable Future Actions

Refer to Section 8.4.2.3 of the FY 2006 EA.

8.4.2.4 Summary of Non-Fishing Effects

Refer to Section 8.4.2.4 of the FY 2006 EA.

8.4.2.5 Human Communities

Past and Present Actions

For a description of past actions (prior to 2006), refer to Section 8.4.2.5 of the FY 2006 EA.

Summary of Impacts

Past management actions have had a cumulative adverse impact on communities that depend on the groundfish resource. Although special programs implemented through Amendment 13 and subsequent framework actions have provided the industry opportunities to target healthy groundfish stocks, substantial increases in landings and revenue will likely not take place until further stock rebuilding occurs under the Amendment 13 rebuilding plan.

Reasonably Foreseeable Future Actions

Several of the future management actions discussed under the previous VECs would likely impact human communities. For example, both the Emergency Action to Implement Measures to Reduce Overfishing in the Northeast Multispecies Complex and the Annual TAC Adjustment for the U.S. Canada Management Area would constrain fishing effort and likely limit economic benefits to communities. Further, future actions to protect endangered or threatened species and habitat could also require the industry to make gear modifications or displace fishing effort. Although it is not possible to predict the exact nature of these impacts, actions taken to protect these resources could result in a loss of revenue to human communities.

In addition to management actions, non-fishing effects may also impact human communities. As previously discussed in Section 8.4.2.3 there are several LNG projects in various stages of the approval process. Depending on the location of the project, a range of impacts can occur, including impacts to communities. Due to the potentially hazardous nature of the facilities (LNG is transported via tanker to specialized terminals), security zones are generally established around LNG facilities. This can restrict access to areas traditionally utilized for fishing and shellfishing, essentially closing some areas to fishing and thus reducing fishing opportunities.

8.4.3 Cumulative Effects on Groundfish Stocks

The cumulative effects of this action on groundfish stocks, in combination with other past, present, and reasonably foreseeable actions would have a positive, but relatively minor impact on the groundfish stocks. In general, the prior multispecies actions of Amendment 5 and 7 initiated rebuilding of the multispecies stocks. While the pace of rebuilding did not meet the legal rebuilding requirements, these two actions and subsequent framework actions reversed a long decline in groundfish stock biomass. Amendment 13 implemented measures to increase the rate of rebuilding to achieve compliance with the MSA. The amendment also adopted the Understanding with Canada to ensure that shared stocks are effectively managed. FWs 40-A and 40-B implemented specialized programs in order to increase opportunities to use Category B DAS. The NMFS Emergency Action and FW 42, implemented in 2006, have further decreased fishing mortality on stocks of concern by reducing fishing effort and future actions (e.g., Amendment 16 to the FMP) would continue to achieve rebuilding plans. The proposed action would establish hard TACs for eastern GB cod, eastern GB haddock, and GB yellowtail flounder that meet the requirements of the Understanding and the Amendment 13 rebuilding goals. When combined with the other major actions, including FW 42, this action would not result in significant cumulative impacts on groundfish species.

8.4.3.1 Cumulative Effects on Non-Groundfish Species

The cumulative effect of this action on non-groundfish stocks, in combination with other past, present, and reasonably foreseeable actions would have a minor, positive impact on non-groundfish stocks. Amendments 5 and 7, and subsequent framework actions reduced fishing effort, and implemented mesh restrictions that curtailed fishing on non-groundfish species, and specified exemptions to allow other fisheries to occur on a limited scope. Amendment 13 reduced fishing effort, increased mesh sizes, and implemented the use of selective gear in Eastern U.S./Canada Area. The Amendment 13 measures designed to reduce fishing effort and modify gear selectivity also indirectly affect other species, usually in a positive manner. If the hard TACs result in less total fishing effort on GB, species such as monkfish, whiting, and skates may be positively impacted. Given the status of these species, described in Section 7.2.3 of the 2006 EA, minor increases in fishing mortality are not likely to impact the status of those stocks. The NMFS Emergency Action and FW 42 have further reduced fishing effort, providing positive benefits to non-groundfish species. The cumulative impacts of past actions have benefited non-groundfish resources and future fisheries actions are not expected to jeopardize stocks. Because the proposed action would maintain the Amendment 13 rebuilding goals, when combined with the other actions, including FW 42, this action would not result in significant cumulative impacts on non-groundfish species.

8.4.3.2 Cumulative Effects on Endangered and other Protected Species

The cumulative effect of this action, in combination with other past, present, and reasonably foreseeable actions would have a minor, positive impact on endangered and protected species. Amendments 5 and 7 to the FMP, and subsequent framework actions resulted in declines in fishing effort. While reductions in fishing effort as a result of past management actions is thought to have had a slightly positive impact on protected species, gear entanglement continues to be a likely source of injury or mortality. Various factors discussed in Amendment 13, potentially have had cumulative adverse effects on most protected species to varying degrees. Because of a lack of cause-effect data, little is known about the magnitude and scope of these factors and how they have contributed to the species' special listing. The direct and indirect effects of the proposed TACs do not appreciably increase impacts discussed and analyzed previously. The proposed TACs represent a change from the TACs specified for 2006, and the analysis in Section 8.1.4 indicates that the TACs are not likely to have any additional impacts on Endangered and Protected Species that were not previously analyzed in Amendment 13 to the FMP, or the previous EAs for this annual action. The cumulative impacts of past actions have reduced effort and future actions are expected to continue this trend. Because the proposed action would only slightly modify current levels of fishing effort, when combined with other actions, the proposed action would not result in significant cumulative impacts to endangered and other protected species.

8.4.3.3 Cumulative Effects on Habitat

The cumulative effect of this action, in combination with other past, present, and reasonably foreseeable actions would have a minor, positive impact on habitat. Amendments 5 and 7, and subsequent framework adjustments resulted in a reduction in fishing effort. Amendment 13 implemented a suite of measures that minimized, to the extent practicable, the adverse effects of fishing on Essential Fish Habitat. These measures included areas restricted to all mobile bottom-tending gear and benefits that accrue from the effort reductions and other provisions of the amendment. The proposed TACs do not impact the total amount of fishing effort allowed under the FMP, but could result in effort shifts. An EFH Omnibus Amendment is

currently under development for all of the Council's FMPs. The purpose of the amendment is to review and revise EFH components of the FMPs and to develop a comprehensive EFH management plan that will successfully minimize adverse effects of fishing on EFH through actions that will apply to all Council-managed FMPs. Although non-fishing anthropogenic habitat impacts persist (e.g., pollution, habitat loss, LNG terminal construction, etc.), The NMFS Emergency Action and FW 42 have further decreased fishing effort, and its impacts on habitat. Although the proposed action may cause slight shifts in fishing effort, overall effort would not be impacted. Therefore, this action, when combined with other actions, would not result in significant cumulative impacts on groundfish and non-groundfish habitat or EFH.

8.4.3.4 Cumulative Effects on Communities

Beginning with Amendments 5 and 7, and expected to continue under Amendment 13, there have been reductions in the size of the groundfish fleet and the negative impacts to communities as a result of the reductions in fishing effort required to meet fishing mortality objectives. Some communities lost access to the resource entirely as vessels left the fishery or stock size contracted. As stock size began to grow as a result of Amendments 5 and 7, landings and revenues also began to grow. In 1994, groundfish revenues from multispecies vessels were approximately 94 million dollars. In 1997 that revenue had declined to 82 million dollars. In 2001, groundfish revenues for multispecies vessels had increased to 99 million dollars (Amendment 13). Amendment 13 implemented additional restrictions on the fishery that are expected to slow the rate of increase in landings and revenue in the short term (that accrue from stock rebuilding). Under Amendment 13, there were further reductions in DAS allocations, and over 300 limited access permits were allocated zero Category A DAS. FWs 40-A and 40-B created additional opportunities to use Category B DAS, and provided some short-term mitigation of the negative effects of Amendment 13.

Although past and present multispecies management actions have reduced effort, and near term future actions would likely continue that constraint, thus reducing revenue, landings and revenues are expected to increase in the long term as stocks increase. The proposed action would be consistent with the multispecies rebuilding goals established under Amendment 13, ultimately contributing to healthier groundfish stocks. Therefore, this action, when combined with other past, present, and future actions would maintain effort constraints, but would not significantly reduce revenues beyond those previously analyzed under Amendment 13 and modified by FWs 40-A, 40-B, 42, and previous hard TAC specifications.

9.0 Applicable Law

9.1 Magnuson-Stevens Fishery Conservation and Management Act (MSA)

Refer to Section 9.1 of the FY 2006 EA.

EFH Assessment

Description of Action

The purpose of this action is to specify the FY 2007 hard TACs for cod, haddock, and yellowtail flounder in the U.S./Canada Management Area on eastern GB, in accordance with the FMP and the Understanding. The selected TACs are as follows: 494 mt cod, 6,270 mt haddock, and 900 mt yellowtail flounder. These TACs represent a 23% net reduction in catch as compared to the TACs that were implemented for the 2006 FY (374 mt cod; 7,480 mt haddock; and 2,070 mt yellowtail flounder). For further details on the action and its purpose, please refer to Sections 4.0 and 5.0 of this document.

Potential Adverse Effects on EFH

This action is not expected to have any adverse effect on EFH since the proposed reduction in the TACs for haddock and yellowtail flounder are expected to reduce fishing effort and therefore reduce the amount of time that bottom trawls used by multispecies vessels fishing in the U.S./Canada Management Area on eastern GB are in contact with the seabed. The most likely scenario, given the fact that the yellowtail flounder TAC would be reduced by 43%, is that the Eastern U.S./Canada Area would close prior to the end of the fishing year. No fishing will take place inside the groundfish and habitat closed areas on GB. For a more detailed description of the potential adverse effects of this action on EFH, refer to Section 8.1.3 of this document.

Conclusion

The proposed action would have no adverse impacts on EFH, therefore no EFH consultation is required. Adverse impacts of the NE multispecies fishery on EFH will continue to be minimized by this action.

9.2 National Environmental Policy Act (NEPA)

NEPA provides a mechanism for identifying and evaluating environmental issues associated with federal actions, and for considering a reasonable range of alternatives to avoid or minimize adverse environmental impacts. This document is designed to meet the requirements of both the MSA and NEPA.

9.2.1 Environmental Assessment

The required elements of an Environmental Assessment (EA) are specified in 40 CRS 1508.9(b) and are included in this document as indicated below:

- Need for this action: Section 4.0
- Alternatives considered: Section 6.0
- Environmental impacts of proposed action: Section 8.1
- Agencies and persons consulted on this action: Section 9.2.4

9.2.2 Finding of No Significant Impact

National Oceanic and Atmospheric Administration Order (NAO) 216-6 provides 16 criteria for determining the significance of the impacts of a final fishery management action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity”. Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others:

1. Can the proposed action be reasonably expected to jeopardize the sustainability of any target species that may be affected by the action?

The proposed TACs are not reasonably expected to jeopardize the sustainability of any target species that may be affected. The purpose of the TACs is the protection of the target species. Hard TACs have been effective in restricting fishing effort in the FMP. The management measures of the FMP, which are designed to prevent overharvest of the TAC will constrain catch (Section 8.1).

2. Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

The proposed TACs are not reasonably expected to result in cumulative adverse effects on non-target species. Hard TACs have been effective in restricting fishing effort in the FMP. The cumulative effects of the TACs on non-target species are described in Section 8.4.

3. Can the proposed action be reasonably expected to allow substantial damage to the ocean and coast habitats and/or EFH as defined under the Magnuson-Stevens Act and identified in FMPs?

The proposed TACs are not reasonably expected to allow substantial damage to the ocean and coastal habitats and/or EFH. The TACs will allow similar, or less, fishing effort on GB as was allowed under the FY 2006 TACs. The impacts of the TACs on habitat are analyzed in Section 8.1.4.

4. Can the proposed action be reasonably expected to have a substantial impact on public health or safety?

The proposed TACs are not reasonably expected to have a substantial adverse impact on safety. Although the specification of hard TACs may encourage the development of a derby fishery, and create an additional incentive for risk-taking, the decisions of the vessel operator will determine whether the derby incentive or other economic incentives actually have an effect on vessel safety.

5. Can the proposed action be reasonably expected to have an adverse impact on endangered or threatened species, marine mammals, or critical habitat of these species?

The proposed TACs are not reasonably expected to have an adverse impact on endangered or threatened species, marine mammals, or critical habitat. A number of endangered or threatened species and marine mammals are found within the geographic range of the NE multispecies fishery. The impacts of the TACs on these species are described in

Section 8.1.5. The proposed TACs will likely have a negligible impact because they are not likely to result in increased fishing effort in the U.S./Canada Management Area.

6. Can the proposed action reasonably be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

The proposed action is not reasonably expected to have a substantial impact on biodiversity and ecosystem function within the U.S./Canada Management Area, or the larger geographic area pertinent to the fishery at-large. The TACs are biologically based, and consistent with the fishing mortality goals of the FMP. No increase in the amount of fishing effort as a result of these TACs is anticipated.

7. Are significant social or economic impacts interrelated with significant natural or physical environmental effects?

The proposed TACs are not expected to have significant social or economic impacts that are interrelated with significant natural or physical environmental effects (Section 8.4). The reduced yellowtail flounder and haddock TACs will likely have some negative economic impacts, but the expected economic losses will be minor relative to the total revenue taken in by limited access NE multispecies vessels (Section 8.1.5). The affected vessels may be able to compensate for the reduced TACs by altering their fishing behavior, and other factors may help mitigate the expected losses. The proposed TACs will provide additional protections for the natural and physical environment.

8. To what degree are the effects on the quality of the human environment expected to be highly controversial?

The effects of the proposed TACs on the human environment are not expected to be highly controversial. The amount of fishing opportunity in the U.S./Canada Management Area will be modified, and the net amount of fishing effort, and revenue that results from the FY 2007 TACs, may be lower than from FY 2006. The reduction in the haddock and yellowtail flounder TACs may be somewhat controversial because the reduction is significant, and may impact the fishery's ability to target haddock in the U.S./Canada Management Area. Furthermore, some industry members question the underlying science upon which the TACs are based.

9. Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

No, the proposed action cannot be reasonably expected to result in substantial impacts to unique areas or ecologically critical areas. The only designated HAPC in the areas affected by this action are protected by an existing closed area that would not be affected by this action. In addition, vessel operations around the unique historical and cultural resources encompassed by the Stellwagen Bank National Marine Sanctuary would not likely be altered by this action. As a result, no substantial impacts are expected from this action.

10. Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The proposed action is not expected to result in highly uncertain effects on the human environment or involve unique or unknown risks. Although it is unclear just how individual participants in the fishery will react to the proposed TACs, the proposed TACs will result in the impacts to the human environment as described in Section 8.0, with a relative amount of certainty.

11. Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

The proposed TACs are related to Amendment 13, FWs 40-A, 40-B, 41, and 42 because those management actions implemented the requirements and process for implementing such TACs. Those past actions should be considered as the baseline against which the proposed actions should be compared, due to the large scope of the changes of those previous actions, and the relatively minor changes that the proposed TACs represent. Based upon the EIS for Amendment 13 and the 2006 EA for this annual hard TAC specification, the impacts of this action are not expected to be significant, and the combined effects of the proposed action with these other related actions, are not expected to be significant.

12. Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

The proposed action is not likely to affect objects listed in the National Register of Historic Places or cause significant impact to scientific, cultural or historical resources. The only object listed in the National Register of Historic Places that is close to the area affected by this action is the wreck of the steamship *Portland* within the Stellwagen Bank National Marine Sanctuary. The proposed action would not regulate current fishing practices within the sanctuary, which does not overlap with the U.S./Canada Management Area. Regardless, vessels typically avoid fishing near shipwrecks or bottom obstructions in order to avoid tangling and losing expensive fishing gear. Therefore, this action would not result in any adverse affects to the wreck of the *Portland*.

13. Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

This action would not result in the introduction or spread of any nonindigenous species, because it would not result in any vessel activity outside of the Northeast Region.

14. Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

No, the proposed action is not likely to establish precedent for future actions with significant effects. The proposed action results from a routine regulatory requirement and will be of limited duration (FY 2007). The specification of hard TACs for the U.S./Canada Management Area is an annual occurrence.

15. Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

The proposed action is intended to implement TACs that are designed to meet the biological objectives of the FMP and sustain groundfish resources. The action would not threaten a violation of Federal, state, or local law or requirements to protect the environment. This action was determined to be consistent with the Coastal Zone Management Act (CZMA) requirements of pertinent states.

16. Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

As specified in the responses to the first two criteria of this section, the proposed action is not expected to result in cumulative adverse effects that would have a substantial effect on target or non-target species. This action explicitly reduces allowable catch levels of both target and non-target species.

FONSI STATEMENT: In view of the information presented in this Environmental Assessment, which analyzed the beneficial and adverse impacts, the proposed action will not significantly affect the quality of the human environment, with specific reference to the criteria contained in NOAA Administrative order 216-6 implementing the National Environmental Policy Act. Accordingly, the preparation of an Environmental Impact Statement for this proposed action is not necessary.

Assistant Administrator for Fisheries, NOAA

Date

9.2.3 List of Preparers; Point of Contact

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9.2.4 Agencies Consulted

The following agencies were consulted in the preparation of this document:
New England Fishery Management Council.

9.2.5 Opportunity for Public Comment

The TACs were developed in accordance to the processes specified in the NE Multispecies FMP. A proposed rule will be published in the Federal Register, and a comment period of 30 days will be provided to the public, in compliance with applicable laws.

9.3 Endangered Species Act (ESA)

Refer to Section 9.3 of the FY 2006 EA.

9.4 Marine Mammal Protection Act (MMPA)

Refer to Section 9.4 of the FY 2006 EA.

9.5 Coastal Zone Management Act

Refer to Section 9.5 of the FY 2006 EA.

9.6 Administrative Procedure Act

The proposed TACs are being implemented in accordance with the requirements of the Administrative Procedure Act.

9.7 Information Quality Act

Refer to Section 9.7 of the FY 2006 EA.

9.8 Regulatory Impact Review

This section contains a Regulatory Impact Review, in compliance with Executive order 12866 and the Regulatory Flexibility Act. The information contained in this section complements the information in other sections of this EA. The principal elements of the Regulatory Impact Review include a description of the management objectives, a description of the fishery, a statement of the problem, a description of each selected alternative, including the "no action" alternative; and an economic analysis of the expected effects of each selected alternative relative to the baseline. The management objectives underlying the proposed TACs are described in Section 4.0; a description of the fishery is found in Section 7.4; a description of the alternatives is

in Sections 5.0 and 6.0; and an economic analysis is in Section 8.1.6. The baseline against which the proposed alternative is compared is FY 2006.

9.8.1 Executive Order (E.O.) 12866

Refer to Section 9.8.1 of the FY 2006 EA.

9.8.2 Regulatory Flexibility Act

Initial Regulatory Flexibility Analysis

Description of the Reasons Why Action by Agency is Being Considered

The specification of hard TACs is necessary in order to limit fishing mortality in the U.S./Canada Management Area (geographic area of Georges Bank defined to facilitate management of stocks of cod, haddock, and yellowtail flounder that are shared with Canada). Limitation of fishing mortality in this area, and coordination with Canada enhances management of such stocks. Further description of the purpose and need for the TACs is contained in Section 4.0. Additional information on the economic impacts of this action is contained in Section 8.1.6 of this document.

The Objectives and Legal Basis for the Proposed Action

The NE Multispecies FMP and promulgating regulations at 50 CFR § 648.85(a)(2) require the development and implementation of hard TACs, in order to properly manage the stocks of cod, haddock, and yellowtail flounder shared with Canada.

Estimate of the Number of Small Entities

Under the Small Business Administration (SBA) size standards for small fishing entities (\$4 million), all permitted and participating vessels in the groundfish fishery are considered to be small. Gross sales by any one entity (vessel) do not exceed this threshold. The maximum number of entities that could be affected by the proposed TACs is approximately 1,000 vessels, i.e., those with limited access NE multispecies DAS permits, with an allocation of Category A or B DAS. Realistically however, the number of vessels that will choose to fish in the U.S./Canada Management Area could be substantially less than 1,000 vessels. A total of 155 vessels fished in the U.S. Canada Management Area in FY 2004, and 184 in FY 2005.

Alternatives which Minimize any Significant Economic Impact of Proposed Action on Small Entities and Justification for Proposed Alternative

Summary Statement

The TACs will have more of a negative economic impact than the status quo TACs. Adoption of the status quo TACs however, is not consistent with the FMP. Although the no action alternative (no TACs) would not constrain catch in the U.S. Canada Management Area, and therefore provide some additional fishing opportunity, the no action alternative is not a reasonable alternative. The no action alternative is inconsistent with the NE Multispecies FMP in both the short and long term. As such, the no action alternative would likely provide less economic benefits to the industry in the long term than the proposed alternative.

Detailed Description

Three alternatives for hard TACs were considered for FY 2007: The proposed TACs, the status quo TACs, and the no action alternative. No other TAC alternatives were considered. The process for establishing TACs is based on the best scientific information available designed to yield only one set of TACs. The TACs implemented by this action will have more of an economic impact than 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. 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 TACs being implemented.

Other Regulatory Flexibility Requirements

The TACs may be somewhat controversial due to the fact that the yellowtail flounder TAC is being reduced by 43%, and may constrain fishing opportunities for haddock. The TACs do not modify any collection of information, reporting, or recordkeeping requirements. Lastly, the TACs do not duplicate, overlap, or conflict with any other federal rules.

10.0 References

Refer to Section 10.0 of the FY 2006 EA.