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§ 195.452 [Amended]

■ 28. Section 195.452(m) is amended by removing the words, "Room 7128, 400 Seventh Street SW." and adding in their place the words "1200 New Jersey Avenue, SE."

PART 199—DRUG AND ALCOHOL TESTING

■ 29. The authority citation for part 199 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

■ 30. In 49 CFR part 199, remove the words "Room 7128, 400 Seventh Street, SW." and add in their place the words "PHP-60, 1200 New Jersey Avenue, SE" in the following places:

- a. Section 199.119(b); and
- b. Section 199.229(c).

Issued in Washington, DC on March 18, 2008.

Carl T. Johnson,
Administrator.

[FR Doc. E8-5926 Filed 3-27-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 060525140-6221-02]

RIN 0648-XG34

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper/Grouper Resources of the South Atlantic; Trip Limit Reduction

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, April 6, 2008, through December 31, 2008, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone 727-824-5305, fax 727-824-5308, e-mail susan.gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Resources of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish from 4,000 lb (1,814 kg) to 300 lb (136 kg) per trip when 75 percent of the fishing year quota is met, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before April 6, 2008. Accordingly, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, on April 6, 2008, until the quota is reached and the fishery closes or 12:01 a.m., local time, on January 1, 2009, whichever occurs first.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest, because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

NMFS also finds good cause that the implementation of this action cannot be delayed for 30 days. There is a need to implement this measure immediately to prevent an overrun of the commercial fishery for golden tilefish in the South Atlantic, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be contrary to the Magnuson-Stevens Act and the FMP. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: March 24, 2008.

Alan D. Risenhoover

Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. E8-6434 Filed 3-27-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071004577-8124-02]

RIN 0648-AW13

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Total Allowable Catches for Eastern Georges Bank Cod, Eastern Georges Bank Haddock, and Georges Bank Yellowtail Flounder in the U.S./Canada Management Area for Fishing Year 2008

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

ACTION: Temporary rule; specifications.

SUMMARY: The following Total Allowable Catches (TACs) in the U.S./Canada Management Area are implemented for the 2008 fishing year (FY): 667 mt of Eastern Georges Bank (GB) cod, 8,050 mt of Eastern GB haddock, and 1,950 mt of GB yellowtail flounder. These TACs may be adjusted during FY 2008, if NMFS determines that the harvest of these stocks in FY 2007 exceeded the TACs specified for FY 2007. Further, NMFS is postponing the FY 2008 opening of the Eastern U.S./Canada Area until August 1, 2008, for trawl vessels. Longline gear vessels are allowed to fish in the Eastern U.S./Canada Area during the May through July 2008 period with a cap on the amount of cod caught during this period set at 5 percent of the cod TAC (i.e., 33.4 mt). The intent of this action is to provide for the conservation and management of the three shared stocks of fish, as required by the regulations implementing the Northeast Multispecies Fishery Management Plan.

DATES: This rule is effective May 1, 2008, through April 30, 2009.

ADDRESSES: Copies of the Transboundary Management Guidance Committee's (TMGC's) 2007 Guidance

Document and copies of the Environmental Assessment (EA) of the 2008 TACs (including the Regulatory Impact Review and Final Regulatory Flexibility Analysis (FRFA) may be obtained from NMFS at the mailing address specified above; telephone (978) 281-9315. NMFS prepared a summary of the FRFA, which is contained in the Classification section of this final rule.

FOR FURTHER INFORMATION CONTACT:

Thomas Warren, Fishery Policy Analyst, (978) 281-9347, fax (978) 281-9135, e-mail Thomas.Warren@NOAA.gov.

SUPPLEMENTARY INFORMATION:

A proposed rule for this action was published on January 3, 2008 (73 FR 441), with public comment accepted though February 4, 2008. A detailed description of the administrative

process used to develop the TACs was contained in the preamble of the proposed rule and is not repeated here. The 2008 TACs are based upon the most recent stock assessments (Transboundary Resource Assessment Committee (TRAC) Status Reports for 2007), and the fishing mortality strategy shared by both the United States and Canada. For Eastern GB cod, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2008 is 2,300 mt. The United States is entitled to 29 percent and Canada to 71 percent, resulting in a quota of 667 mt of cod for the United States and 1,633 mt of cod for Canada. For Eastern GB haddock, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2008 is 23,000 mt. The United States is entitled to 35 percent

and Canada to 65 percent, resulting in a quota of 8,050 mt of haddock for the United States and 14,950 mt of haddock for Canada. For GB yellowtail flounder, the TMGC concluded that the most appropriate combined U.S./Canada TAC for FY 2008 is 2,500 mt. The United States is entitled to 78 percent and Canada to 22 percent, resulting in a quota of 1,950 mt of yellowtail flounder for the United States and 550 mt of yellowtail flounder for Canada. On September 18, 2007, the New England Fishery Management Council (Council) approved, consistent with the 2007 Guidance Document, the U.S. TACs recommended by the TMGC and recommended their adoption to NMFS. The 2008 TACs represent increases over the 2007 TAC levels (Tables 1 and 2).

TABLE 1: 2008 U.S./CANADA TACS (MT) AND PERCENTAGE SHARES (IN PARENTHESES)

| | GB Cod | GB Haddock | GB Yellowtail flounder |
|------------------|------------|-------------|------------------------|
| Total Shared TAC | 2,300 | 23,000 | 2,500 |
| U.S. TAC | 667 (29) | 8,050 (35) | 1,950 (78) |
| Canada TAC | 1,633 (71) | 14,950 (65) | 550 (22) |

TABLE 2: 2007 U.S./CANADA TACS (MT) AND PERCENTAGE SHARES (IN PARENTHESES)

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

The regulations for the U.S./Canada Management Understanding, implemented by Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP), at § 648.85(a)(2)(ii), state the following: "Any overages of the GB cod, haddock, or yellowtail flounder TACs that occur in a given fishing year will be subtracted from the respective TAC in the following fishing year." Therefore, should an analysis of the catch of the shared stocks by U.S. vessels indicate that an overage occurred during FY 2007, the pertinent TAC will be adjusted downward in order to be consistent with the FMP and the Understanding. Although it is very unlikely, it is possible that a very large overage could result in an adjusted TAC of zero. If an adjustment to one of the 2008 TACs for cod, haddock, or yellowtail flounder is necessary, the public will be notified through publication in the **Federal Register** and through a letter to permit holders.

On November 7, 2007, the Council voted to postpone the FY 2008 opening of the Eastern U.S./Canada Area for vessels fishing with trawl gear (from

May 1, 2008) until August 1, 2008, and allow vessels fishing with more selective longline gear access during the May through July period, provided such vessels are limited to a cod catch of 5 percent of the cod TAC (i.e., 33.4 mt). The goal of the restriction, which is more fully described in the proposed rule, is to prolong access to the Eastern U.S./Canada Area in order to maximize the catch of available haddock, yellowtail flounder, and other species. The objective of the action is to prevent trawl fishing in the Eastern U.S./Canada Area during the time period when cod bycatch is likely to be very high, and prevent early closure of the Eastern U.S./Canada Area.

Therefore, based upon pertinent information on the catch rate of cod in the Eastern U.S./Canada Area, the Regional Administrator is implementing (under existing authority for in-season management) the Council's recommendation to delay access to the Eastern U.S./Canada Area to trawl gear vessels in FY 2008 to August 1, 2008, in order to maximize total fishing opportunity. If NMFS projects that 33.4 mt of GB cod will be caught by longline

vessels from the Eastern U.S./Canada Area prior to August 1, 2008, it will close the Eastern Area to such vessels until August 1.

Comments and Responses

One pertinent comment was received on the proposed rule from the Cape Cod Commercial Hook Fisherman's Association.

Comment: The commenter expressed support for the delayed opening of the Eastern U.S./Canada Area to trawl vessels.

Response: NMFS agrees with the commenter that delayed opening of the Eastern U.S./Canada Area will reduce bycatch of cod and result in increased catch of haddock and other species.

Classification

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

This temporary rule is published pursuant to 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a FRFA, which incorporates the IRFA and this final rule, and describes the economic impact that this action may have on small entities. No comments on the economic impacts of the TACs were received.

The specification of hard TACs for the U.S./Canada shared stocks of Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder is necessary in order to ensure that the fishing mortality levels for these shared stocks are achieved in the U.S./Canada Management Area (the geographic area on GB defined to facilitate management of stocks of cod, haddock, and yellowtail flounder that are shared with Canada). A full description of the objectives and legal basis for the TACs is contained in the preamble of the proposed rule. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Under the Small Business Administration (SBA) size standards for small fishing entities (\$ 4.0 million in annual revenue), all permitted and participating vessels in the groundfish fishery are considered to be small entities and, therefore, there are no differential impacts between large and small entities. Gross sales by any one entity (vessel) do not exceed this threshold. The maximum number of small entities that could be affected by the proposed TACs is approximately 1,000 vessels, i.e., those with limited access NE multispecies days-at-sea (DAS) permits that have an allocation of Category A or B DAS. Realistically, however, the number of vessels that choose to fish in the U.S./Canada Management Area, and that therefore would be subject to the associated restrictions, including hard TACs, will be substantially less. The average number of vessels that fished in the U.S./Canada Management Area in a fishing year in the past was 169 (FY 2004 - 2006).

During FYs 2004 through 2006, the number of vessels fishing in the U.S./Canada Management Area ranged from 161 to 184. Because the regulatory regime in FY 2008 will be similar to that in place in the past, and based on data from FY 2007, it is likely that the number of vessels that choose to fish in the U.S./Canada Management Area during FY 2008 will be similar to the past. The economic impacts of the proposed TACs are difficult to predict due to numerous factors that affect the amount of catch, as well as the price of the fish. In general, the rate at which cod is caught in the Eastern U.S./Canada Area, and the rate at which yellowtail flounder is caught in the Eastern and

Western U.S./Canada Area, will determine the length of time the Eastern U.S./Canada Area will remain open. The length of time the Eastern U.S./Canada Area is open will determine the amount of haddock that is caught. During FYs 2004, 2005, and 2006, the TACs were not fully utilized, and inseason changes to the regulations impacted the fishery. The delayed opening of the Eastern U.S./Canada Area in FY 2008 for vessels fishing with trawl gear could result in an increase in total fishing opportunity, and increased revenues.

The amount of GB cod, haddock, and yellowtail flounder landed and sold will not be equal to the sum of the TACs, but will be reduced as a result of discards (discards are counted against the hard TAC), and may be further reduced by limitations on access to stocks that may result from the associated rules. Reductions to the value of the fish may result from fishing derby behavior and the potential impact on markets. The overall economic impact of the proposed 2008 U.S./Canada TACs will also likely be more positive than the economic impacts of the 2007 TACs due to increased TACs for cod, haddock, and yellowtail flounder, that will likely result in increased revenue. For example, based on estimates in the EA, revenues from cod caught in the Eastern U.S./Canada Area could increase by approximately \$786,000, and haddock revenue could increase by \$1,069,000.

Revenue associated with cod, haddock, and yellowtail flounder represented about 2 percent, 4 percent, and 10 percent, respectively, of the total revenue from trips to the U.S./Canada Management Area in FY 2006. Examples of other valuable species caught are winter flounder, witch flounder, and monkfish. If the larger FY 2008 GB cod TAC and the delayed opening of the Eastern U.S./Canada Area to trawl vessels result in a longer period of time that the Eastern U.S./Canada Area is open, and therefore maximizes the catch of the available TACs, it may result in additional revenue from all species.

A downward adjustment to the TACs specified for FY 2008 could occur after the start of the fishing year, if it is determined that the U.S. catch of one or more of the shared stocks during the FY 2007 exceeded the relevant TACs specified for FY 2007. Based on information to date, it is possible that the catch of GB yellowtail flounder in FY 2007 may slightly exceed the FY 2007 TAC, due to discards, and an adjustment may be necessary. However, due to the increased size of all three TACs for the shared stocks for FY 2008, and the likelihood that any adjustment would be small, the economic effects of

a downward TAC adjustment would be relatively small.

Three alternatives were considered for FY 2008: The proposed TACs, the status quo TACs, and the no action alternative. No additional set of TACs are proposed because the process involving the TMGC and the Council yields only one proposed set of TACs. Accordingly, NMFS chooses to either accept or reject the recommendation of the Council. The proposed TACs would have a more positive economic impact than the status quo TACs. Adoption of the status quo TACs would not be consistent with the FMP because the status quo TACs are not based on the best available scientific information from the most recent TRAC. Although the no action alternative (no TACs) would not constrain catch in the U.S./Canada Management Area, and therefore would likely provide some additional fishing opportunity, the no action alternative is not a reasonable alternative because it is inconsistent with the FMP in both the short and long term, and result in the reduced probability in timely stock rebuilding. The FMP requires specification of hard TACs in order to limit catch of shared stocks to the appropriate level (i.e., consistent with the Understanding and the FMP). As such, the no action alternative would likely provide less economic benefits to the industry in the long term than the proposed alternative.

The proposed TACs do not modify any collection of information, reporting, or recordkeeping requirements. The proposed TACs do not duplicate, overlap, or conflict with any other Federal rules.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast Regional Office, and the guide, i.e., permit holder letter, will be sent to all holders of limited access DAS permits for the NE multispecies fishery. The guide and this final rule will be posted on the NMFS NE Regional Office web site at <http://www.nero.noaa.gov> and will also be available upon request.

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

Dated: March 24, 2008.

James W. Balsiger,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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