

FRAMEWORK ADJUSTMENT 22
to the
MULTISPECIES FISHERY MANAGEMENT PLAN
and
FRAMEWORK ADJUSTMENT 4
to the
AMERICAN LOBSTER FISHERY MANGEMENT PLAN
for
RESOLVING GEAR CONFLICT IN SOUTHERN NEW ENGLAND

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Prepared by
New England Fishery Management Council
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Mid-Atlantic Fishery Management Council
and the
National Marine Fisheries Service

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GEAR CONFLICT
 FRAMEWORK ACTION 1
 TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	PURPOSE AND NEED	2
2.1	Need for Adjustment	2
2.2	Publication as a Final Rule	3
2.2.1	Timing of the Rule	3
2.2.2	Opportunity for Public Comment	3
2.2.3	Need for Immediate Resource Protection	4
2.2.4	Containing Evaluation	4
3.0	PROPOSED ACTION AND ALTERNATIVES	4
3.1	Area Closures	4
3.3	Alternatives to the Proposed Action	5
3.3.1	No Action	5
3.3.2	Include Gear Hauling Requirements	5
4.0	ANALYSIS OF IMPACTS	5
4.1	Biological Impacts	6
4.1.1	Changes in fishing effort and mortality	6
4.1.2	Potential impacts on marine mammals and endangered species	7
4.2	ECONOMIC IMPACTS	8
4.2.1	Decreased gear loss and preventing lost fishing opportunities	8
4.2.2	Loss of fishing grounds	9
4.3	SOCIAL IMPACTS	9
4.3.1	Cooperation among fishermen	9
4.3.2	Law enforcement compliance	10
4.3.3	Success of fisheries management	10
5.0	APPLICABLE LAW	11
5.1	Magnuson Act - Consistency with National Standards	11
5.2	National Environmental Policy Act (NEPA)	12
5.2.1	Environmental Assessment	13
5.2.2	Finding of no significant environmental impact (FONSI)	13
5.3	Regulatory Impact Review (Regulatory Flexibility Act and Executive Order 12866)	14
5.3.1	Executive Order 12866	14
5.3.2	Regulatory Flexibility Act	15
5.4	Endangered Species Act	15
5.5	Coastal Zone Management Act (CZMA)	15
5.6	Paperwork Reduction Act (PRA)	16

GEAR CONFLICT
FRAMEWORK ACTION 1

1.0 INTRODUCTION

In this framework adjustment, the Council proposes to amend the American Lobster FMP and the Multispecies FMP to alleviate the gear conflicts in Southern New England by closing designated areas to lobster trap and towed mobile gear between certain dates (Tables 1 - 5).

Gear conflicts in Southern New England have started to increase since the early 1990's as trawl fishermen begin to target non-traditional species (monkfish, whiting, dogfish) in areas historically fished by lobster traps. These conflicts were temporarily brought under control by an industry-based voluntary agreement, the Southern New England Offshore Gear Conflict Resolution, drafted by several groups of fishermen with the help of the Council.

During the 1994-1995 season, however, conflicts rapidly escalated as fishermen changed their fishing practices. The pursuit of alternative species, declining abundances of traditional species, additional regulations to reduce fishing on stressed stocks, and changing market conditions all have contributed to the recent increase in gear conflicts. New fishermen targeting monkfish with deepwater trawls frequently failed to recognize the agreement and gear conflicts increased.

Fixed gear fishermen again approached the Council in January 1995 and asked for help to reduce gear loss caused by other fishermen. In response, the Council developed gear-time-area closures for lobster trap gear and for mobile gear towed from a vessel and recommended that these closures be implemented via emergency action to minimize the economic loss to lobster trap gear fishermen. Any other process, such as amending an FMP, would take several months to a year because none of the existing FMPs at that time included resolving gear conflict among its objectives. The recommended closures were approved by NMFS in January 1996 and implemented during the period from April 1, 1996 to June 25, 1996.

The Council also has submitted new amendments to the American Lobster (Amendment 6), the Atlantic Sea Scallop Fishery (Amendment 6), and the Multispecies Management Plans (Amendment 8) to develop more permanent actions to resolve gear conflicts in a timely manner. The regulations published under the Amendments enable the Council to quickly respond to gear conflicts by making simultaneous framework adjustments to the FMPs. The framework process requires the Council to consider adjustment over the span of at least two Council meetings, during which the public may comment on the proposal and an associated analyses.

The Council initiated this framework adjustment at its meeting on August 21-22, 1996 meeting, and the final meeting took place on October 2, 1996. The Council recommends that the Secretary of Commerce publish the adjustment as a final rule on the basis of justification provided in Section 2.0.

2.0 PURPOSE AND NEED

2.1 Need for Adjustment

The purpose of the proposed action is to reduce the acute gear conflict occurring in the offshore waters of Southern New England. This gear conflict primarily impacts lobster fishermen and fishermen targeting monkfish (*Lophius americanus*), silver hake (*Merluccius bilinearis*, aka whiting), and to a lesser extent squids (*Loligo pealei* and *Illex illecebrosus*). It tends to escalate in the autumn/winter season, but occurs throughout the year. The impacts of the proposed action on these fisheries are described in Section 4.0.

The proposed action is needed because the economic impact of continued gear loss and damage has become severe. The economic impact affects fishermen using either lobster traps or fish trawls. Gear conflict causes a direct loss to lobster fishermen. It also causes an indirect loss to mobile gear fishermen from time spent avoiding and disentangling gear, as well as from potential legal prosecution under gear damage provisions of the Magnuson Act.

In the past, gear conflicts were often resolved by informal agreements among the fishermen. This method was effective in reducing gear conflict because the target species did not have a high degree of overlap and the resource was abundant enough to support the level of fishing effort. From the early 1990's to the present, however, fishermen began to target non-traditional species (monkfish, dogfish, whiting) in areas historically fished by lobster traps, increasing the gear conflicts in 1991-92. Once again, this problem was brought under control by an industry-based voluntary agreement, the "Southern New England (SNE) Conflict Resolution" drafted with the help of the Council. Besides setting aside areas and buffers to separate fixed and mobile gear, the resolution stressed cooperation and good communication among the several participants, i.e., lobstermen, pelagic and bottom longliners, and offshore trawlers targeting monkfish, squid, butterfish, and whiting.

Since the 1993-94 season, however, conflicts escalated as fishermen altered their harvesting practices. Declining abundance of groundfish and localized depletion of monkfish caused fishermen to again move into areas used by lobster fishermen. As a result, gear conflicts rose to even higher levels during 1994 -95, and voluntary compliance with industry agreements has deteriorated.¹

These problems appear to be continuing during 1995-96 as some reports from fishermen indicate. A lobster-boat owner reported that he lost 800 pots during the last winter (from December 1995 to March 1996) and 200 pots in November 1996 to fishing by mobile gear fishermen.² Another lobster-boat owner's reported gear loss in 1996 (from two boats) was about 1300 pots, 668 of which were lost since October 1996.³

¹ A more complete and detailed history of gear conflict in New England including the failure of voluntary agreements in recent years is provided in section 3.0 of the gear conflict amendments, i.e., Amendment 6 to the American Lobster, Amendment 6 to the Atlantic Sea Scallop Fishery, and Amendment 8 to the Multispecies Management Plans.

² Reported by Eric Winn.

³ Reported by R. Campanale.

Gear conflict in this area may increase even further as more vessels start fishing in the SNE area to take advantage of the monfish exemptions under groundfish Amendment 7. The failure of voluntary agreements, and the escalation of conflicts due to the recent shifts in the fishing effort require new regulations to resolve the problem. The Council, therefore, plans to amend the American Lobster FMP and the Multispecies FMP via Framework Adjustment 1 to reduce gear damage and improve fishing opportunities for all competing fisheries in the area.

Specifically, Framework Adjustment 1 proposes an extension of the area closures (restricted areas 1, 2, and 3) implemented under the Emergency Action to the specific periods shown in Table 1. It also proposes to close a newly defined area (restricted area 4) to towed mobile gear for the period June 16 to September 30. The closures implemented under the Emergency Action for Gear Conflict in Southern New England were successful in reducing the number of gear conflict incidents by 68 percent during the period April-June 1996 compared to the same period in 1995 (Table 7). The proposed measures are in accordance with the industry's proposal to establish alternating area closures to keep areas open to fisheries when they are the most productive for the gear and target species.

2.2 Publication as a Final Rule

The Council has considered the following factors and recommends that NMFS publish the proposed management measures as a final rule.

2.2.1 Timing of the Rule

The timing of the rule does not depend on the availability of time-critical data, and the Council did not consider data availability in its decision to recommend publishing the adjusted measure as a final rule.

2.2.2 Opportunity for Public Comment

The Council has discussed and heard public comment on this issue since last year during the development of the proposal for Emergency Action and amendments to the American Lobster (Amendment 6), the Atlantic Sea Scallop Fishery (Amendment 6), and the Multispecies Management Plans (Amendment 8) to resolve gear conflict. More recently, the Council, Gear Conflict Committee and Gear Conflict Advisors Committee discussed framework measures to reduce gear conflict in the Southern New England at the following meetings:

June 5-6, 1996	Council - initiated framework action 1.
July 1, 1996	Southern New England Gear Conflict Advisors Committee-drafted an outline of the proposed management options;
August 12, 1996	Southern New England Gear Conflict Advisors Committee-reviewed Law Enforcement Committee comments and made changes to the proposed framework measures.
August 21-22 , 1996	Council - held first framework meeting for taking public comment;
October 2, 1996	Council - held second framework meeting and approved Framework 1.

The public is notified of all Council meetings by publication of a notice in the *Federal Register* and the agenda is mailed to interested parties including local and trade publications and industry associations. The public is informed of the Gear Conflict Committee meetings by letters to the interested parties, also including the press and industry associations.

2.2.3 Need for Immediate Resource Protection

The need for immediate resource protection is not relevant to this framework. However, it is critical that gear conflict in SNE area be resolved as quickly as possible to prevent further economic loss from damage to fixed gear and to improve fishing opportunities for all fisheries in the area.

2.2.4 Continuing Evaluation

The Council will continue to evaluate and monitor the proposed measures. The regulations that will be published under the new amendments to American Lobster (Amendment 6), the Atlantic Sea Scallop Fishery (Amendment 6), and the Multispecies Management Plans (Amendment 8) enable the Council to quickly respond to gear conflicts by making simultaneous framework adjustments to the FMPs. The Council may therefore make further adjustments as needed.

3.0 PROPOSED ACTION AND ALTERNATIVES

3.1 Area Closures

Framework Action 1 extends the area closures (restricted areas 1, 2, and 3) implemented under the Emergency Action for Gear Conflict in Southern New England (with some slight changes in some area boundaries) to include the indicated periods in Table 1. It also adds, however, a newly defined area, restricted area 4, to be closed to towed mobile gear during the period June 16 to September 30.

The gear management areas were developed with the input of a substantial number of affected fishermen. The areas stretch from 68°40' to 72°20' West longitude and depths from 70 to 225 fathoms and are shown by points of latitude and longitude in Tables 2 through 5. With this action the Council is proposing to close restricted gear management areas I to IV to competing fisheries between the dates specified below (See also Table 1).

- a. **Areas closed to lobster trap gear (formerly open to "MOBILE" or "MOBILE & DRIFTING" gear in the *Southern New England Deep Water Gear Conflict Resolution*)**
 - Restricted gear management area I - June 16 to September 30
 - Restricted gear management area II - June 16 to November 26
 - Restricted gear management area III - January 1 to April 30
- b. **Areas closed to mobile gear towed from a vessel (formerly open to "FIXED" gear in the *Southern New England Deep Water Gear Conflict Resolution*)**
 - Restricted gear management area I - October 1 to June 15
 - Restricted gear management area IV - June 16 to September 30

Restricted gear management area II - November 27 to June 15
Restricted gear management area III - June 16 to November 26

c. Provisions for transiting closed areas

Vessels will frequently transit the proposed areas while fishing, due to the size and configuration of the proposed areas.

Traps may be baited, attached to bouys or other traps, and ready to fish

No gear stowage requirements

Nets must be aboard the vessel or wound onto the net reel, i.e. nets cannot be trailed behind the vessel.

3.3 Alternatives to the Proposed Action

3.3.1 No Action

Taking no action will allow the current gear conflict to continue. Vessels that have not yet received days at sea for the new management year will continue to target monkfish as an alternative. Other vessels may continue to target monkfish with mobile gear as long as prices and catch rates remain favorable or reserve their days at sea to target scallops and groundfish later. It is also likely that gear conflict may re-ignite during the spring and during transitions when lobster fishermen normally move their gear to seasonal fishing areas.

3.3.2 Include Gear Hauling Requirements

Fixed gear must be tended every 30 days. The least burdensome and effective way to check compliance of potential violators is for law enforcement to place a time-stamped tag on the gear's high-flyers. In most cases, this method of checking compliance would be made during an investigation of a complaint about untended gear. Citations would be given when fishermen failed to remove the time-stamped tags. Cases could be prosecuted on the rebuttable presumption that the gear was untended because the tag remained attached to the gear for greater than 30 days. By the time that a complaint was logged and investigated, the offending gear will have been untended for substantially longer than 30 days.

The Council did not recommend these requirements at this time because the U.S. Coast Guard commented that the restrictions would be costly and difficult to enforce. The Council, however, decided to address the issue as soon as possible.

4.0 ANALYSIS OF IMPACTS

As indicated above, Framework Adjustment 1 proposes an extension of the area closures (restricted areas 1, 2, and 3) implemented under the Emergency Action for Gear Conflict in Southern New England to the specific periods shown in Table 1. It also proposes to close a newly defined area (restricted area 4) to towed mobile gear for the period June 16 to September 30. Very little data is available to quantitatively assess the bioeconomic impacts of these

closures. The restricted areas are too small for an accurate analysis of the impacts of the gear conflict and of the impacts of the proposed area closures on costs and revenues. Similarly, the data on the economic loss created by gear conflict is not complete. Fishermen often do not submit claims to the Gear Compensation Fund and many incidents of gear conflict are not reported to the U.S. Coast Guard.

Anecdotal evidence and the support fishermen have voiced for resolving gear conflicts, however, strongly point to the economic loss from the gear conflicts and the potential benefits expected from the proposed closed areas in Southern New England. The analysis presented below is therefore mostly qualitative and is based on the earlier analysis prepared for the Emergency Action implemented during the period from April 1, 1996 to June 25, 1996. The impacts of the Framework Action 1 are expected to be similar, in qualitative terms, to the impacts of the Emergency Action. No new information has been obtained that could change the results of these earlier analyses. Thus, the following sections mostly replicate these previous analyses of biological, economic and social impacts. There has been some recent reports, however, submitted by a few fishermen showing that economic losses from gear conflict are continuing in the SNE, and these reports have been added to the analysis.

The biological impacts are described in Section 4.1. Although the affected fisheries target species that are or potentially are overfished, this framework action is not likely to cause an increase in the fishing mortality in those fisheries. In lobster fishery, any possible increase in fishing effort as a result of this action will probably be offset by the reduction in fishing mortality as ghost fishing from lost gear is eliminated in this area. The expected impacts on marine mammals and endangered species are expected to be negligible. The economic benefits (Section 4.2) will be a reduction in gear loss and associated expense, while the costs will be lost fishing areas to some groups and additional law enforcement monitoring to ensure compliance within the proposed areas. The latter two costs will be mitigated by effectively making areas more available to fishermen during the more productive seasons without experiencing gear loss or interaction. The proposed measures will also reduce enforcement costs to investigate intentional or knowing gear loss inflicted by gear conflicts. The social impacts (Section 4.3) are all positive and include better cooperation among fishermen, better compliance with fishing regulations, and success of fishery management programs.

4.1 Biological Impacts

4.1.1 Changes in fishing effort and mortality

The lobster fishery is managed by the Fishery Management Plan for American Lobster. Fishing mortality estimates (NMFS 1993) for lobsters in Southern New England and Georges Bank indicate that overfishing may be occurring. Fishing mortality averaged 0.25-0.51 from 1988 - 1990, while the overfishing definition ($F_{10\%}$) was 0.44. The high probability of gear loss forces some lobster trap fishermen to reduce fishing effort, thereby also reducing fishing mortality. On the other hand, gear damage from mobile gear vessels causes lobster fishermen to lose traps. This gear continues to fish until its bait is depleted and/or the biodegradable panel disintegrates. Trawling in traditional lobster grounds causes added lobster mortality from trawl bycatch and injury to lobsters and their habitat. Prohibiting vessels from using mobile, towed gear in areas one and two, will reduce waste caused by ghost fishing gear and trawl-induced non-catch mortality. The overall effect on lobster fishing mortality is less certain, due to the potential resumption of lobster fishing in areas open solely to fishermen using traps.

The Council currently is developing management alternatives for monkfish. The most recent stock assessment (NMFS 1992) for monkfish concludes they are fully-utilized and potentially over-exploited. Monkfish are widely distributed from Cape Hatteras to the Scotian Shelf, from the beach to at least 300 fathoms. Prohibiting trawling in the narrow band is unlikely to have an impact on monkfish fishing mortality. Vessels displaced from these fishing grounds will probably seek monkfish in adjacent areas or move to more productive areas elsewhere. If the former occurs, the worst impact will be to reduce monkfish catch rates because of localized depletion.

Many groundfish species are overfished. Some of them, particularly yellowtail flounder, are at record low biomass levels. These issues are being addressed by Amendment 7 to the Multispecies FMP. The Council does not know at this time what impact, if any, this framework adjustment will have on vessels targeting monkfish in the offshore waters of Southern New England. Even without this framework adjustment, groundfish fishing activity is very low in these areas. The most frequent large mesh groundfish species in Southern New England is normally yellowtail flounder. The Southern New England yellowtail flounder stock is at a very low biomass level, and therefore very few vessels currently target this species. Yellowtail flounder furthermore tend to inhabit depths between 25 and 30 fathoms, well inshore of the proposed gear closure areas. The impact of closing the proposed areas on large-mesh groundfish species is therefore negligible.

The southern Georges Bank - Mid-Atlantic stock of silver hake is over-exploited and at a low biomass level (NMFS 1994). Silver hake are managed under the Multispecies FMP. Normally, a seasonal silver hake fishery takes place just inshore of the proposed gear closure areas one and two during the winter months. The inability of lobster fishermen to relocate their gear into deeper waters because of gear conflict makes targeting whiting in these inshore areas difficult. Although the proposed gear closure areas would make fishing for silver hake easier, it is unlikely to attract additional effort. Effort in this fishery is dictated by market prices and seasonal availability of silver hake, rather than available fishing areas.

Council does not expect any impact on dogfish fishery by the proposed regulations in this framework. Survey data (NEFMC) does not indicate any substantial presence of dogfish in the proposed gear management areas. Anecdotal evidence from fishermen also indicate that they do not encounter dogfish in those areas. Gear management area-1 seems to be the only area which may have some presence of dogfish during the fall season (Figures 1 and 5). However, this area is closed to towed mobile gear most of the fall season, between the dates October 1 and June 15 (Table 1).

Closing areas to mobile gear may have some beneficial impacts on the marine habitat and associated fisheries, although studies on this interaction are still ongoing. A more complete description of the environments of the affected fisheries is provided in the Environmental Impact Statements for Northeast Multispecies Amendment 7 and Lobster Amendment 4.

4.1.2 Potential impacts on marine mammals and endangered species

Occasional encounters between sea turtles and lobster trawl warp-line occur. Most of these encounters occur during the summer and early fall. The Council believes that, overall, the proposed gear closure areas will have a negligible impact on marine mammals and endangered species.

The gear management areas are far removed from right whale critical habitat. The reduction in

gear conflict will also reduce the displacement of lobster gear out of this area and into other areas where the potential interaction with right whales might be higher. The Council therefore believes that the proposed gear closure areas will have no impact on right whales.

These potential impacts furthermore are addressed by the Supplemental Environmental Impact Statements for Amendment 4 to the American lobster FMP and Amendments 5 and 7 to the Multispecies FMP. The potential impacts of the proposed gear closure areas fall within the range of potential impacts previously analyzed.

4.2 ECONOMIC IMPACTS

4.2.1 Decreased gear loss and preventing lost fishing opportunities

The benefits derived from reducing gear loss and its impact on fishing efficiency are difficult to quantify. Limited data exists from applications to the Gear Compensation Fund, but they understate the losses because not all fishermen experiencing gear loss apply for compensation. The data also do not include the cost of repairing damaged gear and searching for lost gear. Lobster fishermen are reportedly sailing under adverse weather conditions to tend their gear more frequently than if gear conflict was infrequent. If a gear conflict occurs, fishermen have a better opportunity to recover the gear if it was a relatively recent event. Because gear conflicts are so common, the lobster fishermen are forced to check the gear regardless of weather conditions. This prevents them from distributing their gear over the most productive areas, and reduces the amount of gear they can economically fish.

Even if reporting gear loss were mandatory, it would be impossible to capture the full economic impacts of gear conflict. Intangible costs arise from the displacement of fishermen from the most productive fishing areas, causing them to operate inefficiently. Intangible costs also include the time and cost of searching for lost gear, and the burden of seeking compensation for gear loss.

Direct economic loss to individual lobster vessels were reported directly to the Council by fishermen were as high as \$125,780 (see attachment B). A lobster-boat owner have reported that he had lost 800 pots during the last winter (from December 1995 to March 1996) and 200 pots in the month of November 1996 due to the fishing by mobile gear fishermen.⁴ Another lobster-boat owner's reported gear loss in 1996 (from the two boats he owns) was about 1300 pots (668 of which were lost since October 1996).⁵

The value of lost gear reported for a partial season during 1994 -1995 by eight vessels totalled over \$290,000 (Table 6). There are approximately 50 active lobster vessels fishing within the gear conflict area. If the above data were representative of the fleet, the direct economic loss due to lost gear would be \$1.8 million, or over \$36,000 per vessel.

Vessels using trawls to target monkfish and silver hake also experience lost fishing opportunities when they encounter fixed gear. No data are available to estimate the magnitude of this lost fishing opportunity under current conditions. Limited sea sampling observations

⁴ Reported by Eric Winn, a lobster-boat owner.

⁵ Reported by R. Campanale to the Council staff.

may exist, but observers usually only indicate when gear damage has occurred and catch per unit effort may have been compromised. No estimates of the lost time or reduced efficiency are calculated by the observer. The magnitude of this impact on mobile gear vessels is however substantial.

4.2.2 Loss of fishing grounds

The gear closure area for vessels using gear towed from a vessel is a small portion of the available fishing grounds for mobile gear vessels. It is difficult to estimate the economic impact from gear conflict preventing lobster fishermen from working in the proposed mobile gear closure areas. These areas are much smaller than the smallest statistical reporting areas for landings information. To illustrate the potential loss of lobster revenue caused by taking no action, a rough approximation is given.

The value of lobster landings⁶ from offshore waters of Southern New England during October through June, when lobstermen move their trap gear inshore, averaged over \$8.5 million for 1991-1993. Landings data showing the magnitude of lost fishing opportunity during 1994 and 1995 are unavailable. Fishermen, however, reported setting their gear in a severely restricted band that had a significant effect on catch per trap. Even if the number of traps remained constant and catch per trap only declined 25 percent, the lost revenue could have totalled over \$2.1 million. Including the direct economic cost of lost gear, the total estimated economic loss that could be prevented by taking framework action is therefore potentially \$4 million.

Similarly the proposed action also closes an inshore area to fixed gear. The primary beneficiary of this closure would be the seasonal silver hake fishery. The total ex-vessel revenue of silver hake landings from Southern New England waters during January to July was about \$4.3 million between 1989 and 1993. The Council does not know to what extent the current gear conflict will impact the customary silver hake fishery, making it impossible to estimate the costs of this potential lost fishing opportunity.

4.3 SOCIAL IMPACTS

4.3.1 Cooperation among fishermen

When gear conflict between domestic lobster and trawl fishermen initially increased in 1992, some fishermen attempted to resolve these problems through a fishing industry agreement in these areas. An initial draft of rules for working together and avoiding gear loss was circulated. Early efforts by industry to resolve the gear conflict were moderately successful, but it was difficult to get everyone to comply with voluntary guidelines. These fishermen subsequently asked the Council to assist their efforts to compromise and develop a voluntary, industry-based resolution. Partly due to the Council's support, the new agreement was more successful and satisfactorily reduced the gear conflict problems.

More recently, the gear conflict problems have escalated and the voluntary industry agreement is no longer working. Some vessel operators ignored the agreement and fishermen now report widespread gear damage. Other trawl fishermen who would otherwise abide by the voluntary agreement, stopped doing so when they found themselves competitively disadvantaged as

⁶ NMFS statistical areas 525, 526, 537, and 613.

compliance disintegrated. They did so because, 1) they felt they should not be penalized by a system that let other fishermen ignore established rules (voluntary or mandatory), and 2) there may be higher concentrations of target species in areas where the fixed gear is prevalent and this places them at a disadvantage to fishermen who ignore the agreements.

The result of these actions often are: 1) fishermen with fixed gear become frustrated as more and more mobile gear vessel operators ignore a cooperative agreement, 2) mobile gear fishermen, who would otherwise abide by the agreement, feel they are economically forced to fish in ways that they would not prefer, i.e. they would rather not cause gear damage and work with the fixed gear fishermen, and 3) the failure to cooperate spreads into other areas which benefit from cooperation between fishermen of all types. The proposed framework action is expected to prevent these negative social impacts by reducing gear conflicts among the fishermen and by promoting cooperation within the various fishery sectors.

4.3.2 Law enforcement compliance

Malicious and intentional damage to another fisherman's gear is prohibited by the Magnuson Act, and is subject to criminal prosecution. Even though additional efforts have been made by fishermen to improve cooperation and limit gear interaction, gear conflict has increased to intolerable levels. Some damage is unintentional, but fishermen allege that a significant amount of gear damage could have been easily avoided, and therefore the offending vessels knowingly caused the loss. Although some cases have been documented and litigated, the vast majority of damage and loss is not observed by other fishermen and cannot be documented.

Mandatory gear closure areas will greatly improve law enforcement's ability to ensure compliance with this section of the Magnuson Act. Vessels found fishing within the gear conflict closure areas and where gear damage has recently occurred could be in violation of the Magnuson Act if fishing within the closed gear conflict area can be considered *prima facie* evidence of knowingly causing gear damage in addition to fishing within a closed area.

4.3.3 Success of fisheries management

Gear conflict, in some cases, may be unintentionally aggravated by management regulations. Regardless of whether gear conflict occurs through commission or omission of management, the public and the fishing industry expect fisheries managers to maintain an orderly fishery in addition to conserving the natural resources.

This expectation is contained in National Standards 5 and 7. National Standard 5 requires the Councils to "promote efficiency in the utilization of fishery resources." Efficiency, as defined by 50 CFR §602.15(b)(2), involves a minimum use of economic inputs, particularly labor and capital. Gear conflict and loss surely increases these costs, forcing fishermen to buy new supplies, repair damaged gear, and search for missing gear. National Standard 7 furthermore calls on the Councils to weigh the benefit of developing management rules versus the cost of implementing those rules. In weighing this decision, 50 CFR §602.17(b)(2)(iv) advises the Councils to take into account "the need to resolve competing interest and conflicts among user groups and whether an FMP can further that resolution." Failure to reduce conflict when the benefits outweigh the burden placed on industry and government would be a failure of fisheries management.

5.0 APPLICABLE LAW

5.1 Magnuson Act - Consistency with National Standards

The Council finds that the proposed framework action does not violate any of the seven National Standards. Most of the arguments supporting this opinion are given in more detail in the preceding sections. A summary of how each of the National Standards apply to the proposed action are provided below.

National standard 1 - Optimum yield

The proposed action is unlikely to cause overfishing or, by itself, prevent overfishing. Biological objectives, ie preventing overfishing, are addressed by other management measures already in place for the Multispecies, Atlantic Sea Scallops, and American Lobster FMPs. Management measures to conserve and prevent overfishing of monkfish are being formulated as the Council prepares an amendment to manage monkfish as part of the Multispecies FMP, to be submitted in 1997.

The anticipated escalation of gear conflict and the resulting gear loss are likely to increase fishing mortality on lobsters and some finfish should NMFS fail to take action. Gear loss reported by eight vessels during 1994-1995 totalled 3,211 traps. There is very little data documenting fishing mortality caused by ghost (missing) lobster traps with biodegradable panels in deep water, but over 18,000 traps could be lost by a 50 vessel fleet fishing in this area. The potential for wasteful mortality caused by ghost fishing gear would increase removals from already overexploited stocks within the area.

The potential direct cost of missing fishing gear and the cost of lost opportunities to fish are estimated to be \$4.9 million. These costs prevent the fishery from achieving optimum yield in economic terms under any resource condition, unless the costs of preventing gear conflict exceed the costs incurred by allowing them to happen. Monitoring costs are unknown, largely because these costs will depend on the amount of industry cooperation. Many fishermen voluntarily complied with the industry agreement, but gear losses were reportedly caused by a few vessels. The Council expects compliance with the proposed regulations coupled the impact of a few citations for fishing within these closed areas will keep law enforcement costs low, and would be much less than the expected economic loss caused by taking no action. Law enforcement costs, moreover, may not be significantly more than they would be by taking no action. Most gear conflicts are reported to the Coast Guard and many are investigated by a patrol boat. If the proposed regulations are successful, there will be less gear conflicts for the Coast Guard to investigate.

National standard 2 - Scientific information

The specific seasonal area closures were developed by industry advisors representing the most active fishermen in the gear conflict zone. When the voluntary industry agreement was effective, reported gear conflicts and applications for gear compensation declined (Table 2). No other information is available about the expected benefits of preventing gear conflict in this area or on fishing mortality caused by ghost lobster traps with biodegradable panels in deepwater.

National standard 3 - Management units

The proposed action is intended to resolve an economic problem related to a small part of the

resources being managed by the Multispecies, the Atlantic Sea Scallop, and the American Lobster FMPs. These gear conflict measures should be evaluated as modifications to the overall management of these fisheries.

National standard 4 - Allocations

Area closures to prevent gear conflict, by their very nature, assign fishing privileges to various fishermen. Because no area is set aside for one type of gear for the entire year, because the areas closures were intended to grant fishermen easier access to the most productive fishing areas and seasons for their target species, and because all affected fisheries can benefit from the reduced gear conflict, the Council believes that this action is fair and equitable. Because any fisherman using the appropriate gear would be allowed to fish in a restricted area, these measures do not allow particular individuals, corporations or entities to gain excessive shares or rights to fish. This allocation of fishing grounds also promotes conservation by reducing gear loss and preventing ghost fishing.

National standard 5 - Efficiency

By avoiding gear loss amounting to over \$2.1 million and by restoring over \$1.8 million of potentially lost fishing opportunities, the proposed action would promote efficiency and prevent economic waste.

National standard 6 - Variations and contingencies

Lobster fishermen move their fishing gear to follow lobster concentrations. Although these seasonal movements vary from year to year, these fishermen were willing to give up the ability to move their traps according to prevailing conditions. On the other hand, monkfish and whiting also have seasonal migration patterns that vary with season and water temperature. Although these fish sometimes aggregate in areas that would be closed to towed mobile gear, these fishermen were willing to avoid pursuing these occasional aggregations to avoid gear conflict. In general, though, all three target species are found in different depth ranges. The proposed action takes into account these preferred depth ranges and allows fishermen to work on the more productive bights and ridges along the outer continental shelf. An alternative management measure, closing areas defined by long, straight borders, would prevent fishing on valuable grounds defined by these irregular features.

National standard 7 - Costs and benefits

Significant cost savings and increased fishing opportunities (identified above) are expected to outweigh the added burden on law enforcement. It is difficult to estimate the expected cost of law enforcement, because the rate of potential violations cannot be estimated.

5.2 National Environmental Policy Act (NEPA)

The Environmental Impact Statements prepared for the existing FMPs thoroughly describe the environment that would be affected by this proposal. The Supplementary Environmental Impact Statements prepared for Amendment 7 to the Multispecies FMP and Amendment 4 to the American Lobster FMP provide information on the fisheries that will be affected by this action. The Council also conducted an analysis of the environmental impacts of resolving gear conflicts under for Amendment 8 to the Multispecies FMP and Amendment 6 to the American

Lobster FMP. In accordance with these analyses, the Council believes that the proposed framework adjustment process will not significantly alter the natural or human environment.

5.2.1 Environmental Assessment

The purpose and need for the proposed action are discussed in Section 2.1. The proposed action and no-action alternatives are discussed in Section 3.0.

The environmental consequences of the proposed framework is expected to be beneficial as analyzed in section 4.0. Based on this analysis, the Council finds that the proposed action will have no significant impact on the environment.

5.2.2 Finding of no significant environmental impact (FONSI)

NOAA Administrative Order 216-6 provides guidance for the determination of significance of the impacts of fishery management plans and amendments. The five criteria to be considered are addressed below:

- 1) *Can the proposed action be reasonably expected to jeopardize the long-term productive capability of any stocks that may be affected by the action?*

The area closures proposed by this framework will not increase fishing effort on overexploited stocks. The proposed action is expected, however, to reduce gear conflict and the amount of lost fishing gear. Fish that would otherwise be captured by lost gear will increase yield and will be more likely to contribute to spawning potential. The proposed action is not, therefore, expected to jeopardize the long-term productive capability of any stocks.

- 2) *Can the proposed action be reasonably expected to allow substantial damage to the ocean and coastal habitats?*

The proposed action is not expected to impact coastal or ocean habitat.

- 3) *Can the proposed action be reasonably expected to have an adverse impact on public health or safety?*

The proposed action establishes fishing areas set aside for specified periods to allow access to non-competing gears with an aim to reduce gear conflicts. The measure is not, therefore, expected to have any adverse impact on public health or safety.

- 4) *Can the proposed action be reasonably expected to have an adverse effect on endangered, threatened species or a marine mammal population?*

The potential impacts of the proposed gear closure areas fall within the range of potential impacts previously analyzed by the Supplemental Environmental Impact Statements for Amendment 4 to the American lobster FMP and Amendment 5 to the Multispecies FMP. A section 7 consultation will be completed under separate cover. On the basis of these analyses, the Council believes that the proposed gear closure areas will not have an impact on marine mammals and endangered species.

- 5) *Can the proposed action be reasonably expected to result in the cumulative adverse effects that could have a substantial effect on the target resource species or any related stocks that may be affected?*

This action may reduce the fishing mortality caused by ghost fishing gear created by gear conflict and is not expected to increase fishing effort on overexploited stocks. It is therefore not expected to have an adverse impact on the target species or any related stocks.

Based on this guidance and the evaluation of the preceding criteria, the Council proposes a finding of no significant impact.

FONSI statement: In view of the analysis presented in this document and in the DSEIS for Amendment 6 to the American lobster and Amendment 8 to the Northeast multispecies FMPs, it is hereby determined that the proposed action would not significantly affect the quality of the human environment with specific reference to the criteria contained in NDM 02-10 implementing the National Environmental Policy Act. Accordingly, the preparation of a Supplemental Environmental Impact Statement for this proposed action is not necessary.

Assistant Administrator
for Fisheries, NOAA

Date

5.3 Regulatory Impact Review (Regulatory Flexibility Act and Executive Order 12866)

This section provides the information necessary for the Secretary of Commerce to address the requirements of Executive Order 12866 and the Regulatory Flexibility Act. The purpose and need for management (statement of the problem) is described in Section 2.0 of this document. The alternative management measures to the proposed regulatory action are described in section 3.0. The economic impacts are described in section 4.2 and summarized below under the discussion of how the proposed action is characterized under Executive order 12866 and the Regulatory Flexibility Act.

5.3.1 Executive Order 12866

The proposed action does not constitute a significant regulatory action under Executive Order 12866. (1) As stated in section 4.2, the management proposals will not significantly impact the landings and revenues of the existing fishery. Therefore, the proposed action will not have an annual effect on the economy of more than \$100 million. (2) Because the proposed measures are being taken to prevent the economic loss due to the gear conflicts they will have positive economic impacts (Section 4.2). For these reasons, the proposed action will not adversely affect in a material way the economy, productivity, competition and jobs. (3) For the same reasons, it will not affect competition, jobs, the environment, public health or safety, or state, local or tribal governments and communities. (4) The proposed action will not create an inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency has indicated that it plans an action that will impact the same areas and the fisheries. (5) The proposed action will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of their recipients. (6) The proposed action does not raise novel legal or policy issues. Regulations regarding time-area

closures have long been used to manage fisheries in the northeast.

5.3.2 Regulatory Flexibility Act

The vessels in the northeast multispecies fishery and the American lobster fishery operating in the proposed management areas are primarily small business entities. The proposed action probably will affect less than 20 percent of these vessels and these impacts are not expected to be "significant" according to the following criteria: a) The proposed action will not result in a reduction in annual gross revenues of more than 5 percent as examined in section 4.2 above. b) The proposed measures will not increase annual compliance costs for small entities by more than five percent and they will not increase compliance costs for small entities compared to large entities.

The proposed framework therefore will not have a "significant" economic impact on small entities and does not require a Regulatory Flexibility Analysis.

5.4 Endangered Species Act

A section 7 consultation will be completed under separate cover. On the basis of these analyses, the Council believes that the proposed gear closure areas will not have an impact on marine mammals and endangered species.

5.5 Coastal Zone Management Act (CZMA)

Upon the submission of Amendment 6 to the American Lobster and Amendment 8 to the Multispecies Management Plans, the Council conducted a review of the FMP for its consistency with the coastal zone management plans of the affected states (See Section 11.0 of the Amendments.) As stated in the letters sent to the affected states the potential measures which may be included in a framework action (under those amendments) are expected to have beneficial impacts on resource conservation. The social and economic impacts will also be positive (See 4.0 above). The Council has therefore determined that the proposed action is within the scope of measures already reviewed and the consistency determination for Amendments 6 to the American Lobster and Amendment 8 to the to the Multispecies FMP is sufficient.

5.6 Paperwork Reduction Act (PRA)

See Section 12.0 of the Amendment 6 to the American Lobster and Amendment 8 to the Multispecies Management Plans. The proposed action does not include any additional paperwork or reporting requirements. Fishermen will be notified of closures of gear-management areas to lobster trap and towed mobile gear during different seasons.

TABLE 1. PROPOSED TIME-AREA CLOSURES

AREA/TIME	LOBSTER TRAP	TOWED MOBILE GEAR
GEAR AREA 1		
June 16 - Sept. 30	Closed	Open
Oct. 1 - June 15	Open	Closed
GEAR AREA 2		
June 16 - Nov.26	Closed	Open
Nov. 27 - June 15	Open	Closed
GEAR AREA 3		
Jan.1 -Apr. 30	Closed	Open
May 1 -June 15	Open	Open
June 16 -Nov. 26	Open	Closed
Nov.26 -Dec.31	Open	Open
GEAR AREA 4		
June 16 -Sept.30	Open	Closed
Oct.1 -June 15	Open	Open

TABLE 2. RESTRICTED GEAR AREA 1

Zone	Inshore boundary ¹	Offshore boundary ²
RESTRICTED GEAR AREA 1 Eastern Area 1 Loran C (9960W): 13800 to 14300 or 68°35'W to 70°10'W longitude	to 120 69. 40°07.90' N 68°36.00' W 70. 40°07.20' N 68°38.40' W 71. 40°06.90' N 68°46.50' W 72. 40°08.70' N 68°49.60' W 73. 40°08.10' N 68°51.00' W 74. 40°05.70' N 68°52.40' W 75. 40°03.60' N 68°57.20' W 76. 40°03.65' N 69°00.00' W 77. 40°04.35' N 69°00.50' W 78. 40°05.20' N 69°00.50' W 79. 40°05.30' N 69°01.10' W 80. 40°08.90' N 69°01.75' W 81. 40°11.00' N 69°03.80' W 82. 40°11.60' N 69°05.40' W 83. 40°10.25' N 69°04.40' W 84. 40°09.75' N 69°04.15' W 85. 40°08.45' N 69°03.60' W 86. 40°05.65' N 69°03.55' W 87. 40°04.10' N 69°03.90' W 88. 40°02.65' N 69°05.60' W 89. 40°02.00' N 69°08.35' W 90. 40°02.65' N 69°11.15' W 91. 40°00.05' N 69°14.60' W 92. 39°57.80' N 69°20.35' W 93. 39°56.75' N 69°24.40' W 94. 39°56.50' N 69°26.35' W 95. 39°56.80' N 69°34.10' W 96. 39°57.85' N 69°35.15' W 97. 40°00.65' N 69°36.50' W 98. 40°00.90' N 69°37.30' W 99. 39°59.15' N 69°37.30' W 100. 39°58.80' N 69°38.45' W 102. 39°56.20' N 69°40.20' W 103. 39°55.75' N 69°41.40' W 104. 39°56.70' N 69°53.60' W 105. 39°57.55' N 69°54.05' W 106. 39°57.40' N 69°55.90' W 107. 39°56.90' N 69°57.45' W 108. 39°58.25' N 70°03.00' W 110. 39°59.20' N 70°04.90' W 111. 40°00.70' N 70°08.70' W 112. 40°03.75' N 70°10.15' W 115. 40°05.20' N 70°10.90' W 116. 40°02.45' N 70°14.10' W 119. 40°02.75' N 70°16.10' W to 181.	to 69 120. 40°06.40' N 68°35.80' W 121. 40°05.25' N 68°39.30' W 122. 40°05.40' N 68°44.50' W 123. 40°06.00' N 68°46.50' W 124. 40°07.40' N 68°49.60' W 125. 40°05.55' N 68°49.80' W 126. 40°03.90' N 68°51.70' W 127. 40°02.25' N 68°55.40' W 128. 40°02.60' N 69°00.00' W 129. 40°02.75' N 69°00.75' W 130. 40°04.20' N 69°01.75' W 131. 40°06.15' N 69°01.95' W 132. 40°07.25' N 69°02.00' W 133. 40°08.50' N 69°02.25' W 134. 40°09.20' N 69°02.95' W 135. 40°09.75' N 69°03.30' W 136. 40°09.55' N 69°03.85' W 137. 40°08.40' N 69°03.40' W 138. 40°07.20' N 69°03.30' W 139. 40°06.00' N 69°03.10' W 140. 40°05.40' N 69°03.05' W 141. 40°04.80' N 69°03.05' W 142. 40°03.55' N 69°03.55' W 143. 40°01.90' N 69°03.95' W 144. 40°01.00' N 69°04.40' W 146. 39°59.90' N 69°06.25' W 147. 40°00.60' N 69°10.05' W 148. 39°59.25' N 69°11.15' W 149. 39°57.45' N 69°16.05' W 150. 39°56.10' N 69°20.10' W 151. 39°54.60' N 69°25.65' W 152. 39°54.65' N 69°26.90' W 153. 39°54.80' N 69°30.95' W 154. 39°54.35' N 69°33.40' W 155. 39°55.00' N 69°34.90' W 156. 39°56.55' N 69°36.00' W 157. 39°57.95' N 69°36.45' W 158. 39°58.75' N 69°36.30' W 159. 39°58.80' N 69°36.95' W 160. 39°57.95' N 69°38.10' W 161. 39°54.50' N 69°38.25' W 162. 39°53.60' N 69°46.50' W 163. 39°54.70' N 69°50.00' W 164. 39°55.25' N 69°51.40' W 165. 39°55.20' N 69°53.10' W 166. 39°54.85' N 69°53.90' W 167. 39°55.70' N 69°54.90' W 168. 39°56.15' N 69°55.35' W 169. 39°56.05' N 69°56.25' W 170. 39°55.30' N 69°57.10' W 171. 39°54.80' N 69°58.60' W 172. 39°56.05' N 70°00.65' W 173. 39°55.30' N 70°02.95' W 174. 39°56.90' N 70°11.30' W 175. 39°58.90' N 70°11.50' W 176. 39°59.60' N 70°11.10' W 177. 40°01.35' N 70°11.20' W 178. 40°02.60' N 70°12.00' W 179. 40°00.40' N 70°12.30' W 180. 39°59.75' N 70°13.05' W 181. 39°59.30' N 70°14.00' W to 119.

¹ Points 101, 109, 113, 114, 117, and 118 were removed during the November 15, 1995 meeting.

² Point 145 was removed during the November 15, 1995 meeting.

TABLE 3. RESTRICTED GEAR AREA 2

Zone	Inshore boundary	Offshore boundary ³
<p>RESTRICTED GEAR AREA 2</p> <p>Western Zone: Loran C (9960W): 14300 to 15125 or 70°10'W to 72°35'W longitude</p>	<p>to 1.</p> <p>49. 40°02.75' N 70°16.10' W</p> <p>50. 40°00.70' N 70°18.60' W</p> <p>51. 39°59.80' N 70°21.75' W</p> <p>52. 39°59.75' N 70°25.50' W</p> <p>53. 40°03.85' N 70°28.75' W</p> <p>54. 40°00.55' N 70°32.10' W</p> <p>55. 39°59.15' N 70°34.45' W</p> <p>56. 39°58.90' N 70°38.65' W</p> <p>57. 40°00.10' N 70°45.10' W</p> <p>58. 40°00.50' N 70°57.60' W</p> <p>59. 40°02.00' N 71°01.30' W</p> <p>60. 39°59.30' N 71°18.40' W</p> <p>61. 40°00.70' N 71°19.80' W</p> <p>62. 39°57.50' N 71°20.60' W</p> <p>63. 39°53.10' N 71°36.10' W</p> <p>64. 39°52.60' N 71°40.35' W</p> <p>65. 39°53.10' N 71°42.70' W</p> <p>66. 39°46.95' N 71°49.00' W</p> <p>65. 39°41.15' N 71°57.10' W</p> <p>66. 39°35.45' N 72°02.00' W</p> <p>67. 39°32.65' N 72°06.10' W</p> <p>68. 39°29.75' N 72°09.80' W</p> <p>to 48.</p>	<p>to 49.</p> <p>1. 39°59.30' N 70°14.00' W</p> <p>2. 39°58.85' N 70°15.20' W</p> <p>3. 39°59.30' N 70°18.40' W</p> <p>4. 39°58.10' N 70°19.40' W</p> <p>5. 39°57.00' N 70°19.85' W</p> <p>6. 39°57.55' N 70°21.25' W</p> <p>7. 39°57.50' N 70°22.80' W</p> <p>8. 39°57.10' N 70°25.40' W</p> <p>9. 39°57.65' N 70°27.05' W</p> <p>10. 39°58.58' N 70°27.70' W</p> <p>11. 40°00.65' N 70°28.80' W</p> <p>12. 40°02.20' N 70°29.15' W</p> <p>13. 40°01.00' N 70°30.20' W</p> <p>14. 39°58.58' N 70°31.85' W</p> <p>15. 39°57.05' N 70°34.35' W</p> <p>16. 39°56.42' N 70°36.80' W</p> <p>21. 39°58.15' N 70°48.00' W</p> <p>24. 39°58.30' N 70°51.10' W</p> <p>25. 39°58.10' N 70°52.25' W</p> <p>26. 39°58.05' N 70°53.55' W</p> <p>27. 39°58.40' N 70°59.60' W</p> <p>28. 39°59.80' N 71°01.05' W</p> <p>29. 39°58.20' N 71°05.85' W</p> <p>30. 39°57.45' N 71°12.15' W</p> <p>31. 39°57.20' N 71°15.00' W</p> <p>32. 39°56.30' N 71°18.95' W</p> <p>33. 39°51.40' N 71°36.10' W</p> <p>34. 39°51.75' N 71°41.50' W</p> <p>35. 39°50.05' N 71°42.50' W</p> <p>36. 39°50.00' N 71°45.00' W</p> <p>37. 39°48.95' N 71°46.05' W</p> <p>38. 39°46.60' N 71°46.10' W</p> <p>39. 39°43.50' N 71°49.40' W</p> <p>40. 39°41.30' N 71°55.00' W</p> <p>41. 39°39.00' N 71°55.60' W</p> <p>42. 39°36.72' N 71°58.25' W</p> <p>43. 39°35.15' N 71°58.55' W</p> <p>44. 39°34.50' N 72°00.75' W</p> <p>45. 39°32.20' N 72°02.25' W</p> <p>46. 39°32.15' N 72°04.10' W</p> <p>47. 39°28.50' N 72°06.50' W</p> <p>48. 39°29.00' N 72°09.25' W</p> <p>to 68.</p>

³ Points 17-21 and 22-23 were removed during the November 15, 1995 meeting.

TABLE 4. RESTRICTED GEAR AREA 3

Zone	Inshore boundary	Offshore boundary
<p>RESTRICTED GEAR AREA 3 Western Zone: Loran C (9960W): 14300 to 15125 or 70°10'W to 72°35'W longitude</p>	<p>to 49. 182. 40°05.60' N 70°17.70' W</p> <p>183. 40°06.50' N 70°40.05' W 184. 40°11.05' N 70°45.80' W 185. 40°12.75' N 70°55.05' W</p> <p>186. 40°10.70' N 71°10.25' W</p> <p>187. 39°57.90' N 71°28.70' W 188. 39°55.60' N 71°41.20' W 189. 39°55.85' N 71°45.00' W</p> <p>190. 39°53.75' N 71°52.25' W 191. 39°47.20' N 72°01.60' W</p> <p>192. 39°33.65' N 72°15.00' W to 68.</p>	<p>to 182. 49. 40°02.75' N 70°16.10' W 50. 40°00.70' N 70°18.60' W 51. 39°59.80' N 70°21.75' W 52. 39°59.75' N 70°25.50' W 53. 40°03.85' N 70°28.75' W 54. 40°00.55' N 70°32.10' W 55. 39°59.15' N 70°34.45' W 56. 39°58.90' N 70°38.65' W 57. 40°00.10' N 70°45.10' W 58. 40°00.50' N 70°57.60' W 59. 40°02.00' N 71°01.30' W 60. 39°59.30' N 71°18.40' W 61. 40°00.70' N 71°19.80' W 62. 39°57.50' N 71°20.60' W 63. 39°53.10' N 71°36.10' W 64. 39°52.60' N 71°40.35' W 65. 39°53.10' N 71°42.70' W 66. 39°46.95' N 71°49.00' W 65. 39°41.15' N 71°57.10' W 66. 39°35.45' N 72°02.00' W 67. 39°32.65' N 72°06.10' W 68. 39°29.75' N 72°09.80' W to 192.</p>

TABLE 5. RESTRICTED GEAR AREA 4

Zone	Inshore boundary ⁴	Offshore boundary ⁵
RESTRICTED GEAR AREA 4 Eastern Area 1 Loran C (9960W): 13800 to 14300 or 68°35'W to 70°10'W longitude	to 69 193. 40°13.60' N 68°40.60' W	to 193 69. 40°07.90' N 68°36.00' W
		70. 40°07.20' N 68°38.40' W
		71. 40°06.90' N 68°46.50' W
		72. 40°08.70' N 68°49.60' W
		73. 40°08.10' N 68°51.00' W
		74. 40°05.70' N 68°52.40' W
		75. 40°03.60' N 68°57.20' W
		76. 40°03.65' N 69°00.00' W
		77. 40°04.35' N 69°00.50' W
		78. 40°05.20' N 69°00.50' W
		79. 40°05.30' N 69°01.10' W
		80. 40°08.90' N 69°01.75' W
		81. 40°11.00' N 69°03.80' W
		82. 40°11.60' N 69°05.40' W
		83. 40°10.25' N 69°04.40' W
		84. 40°09.75' N 69°04.15' W
		85. 40°08.45' N 69°03.60' W
		86. 40°05.65' N 69°03.55' W
		87. 40°04.10' N 69°03.90' W
		88. 40°02.65' N 69°05.60' W
	89. 40°02.00' N 69°08.35' W	
	90. 40°02.65' N 69°11.15' W	
	91. 40°00.05' N 69°14.60' W	
	92. 39°57.80' N 69°20.35' W	
	93. 39°56.75' N 69°24.40' W	
	94. 39°56.50' N 69°26.35' W	
	95. 39°56.80' N 69°34.10' W	
	96. 39°57.85' N 69°35.15' W	
	97. 40°00.65' N 69°36.50' W	
	98. 40°00.90' N 69°37.30' W	
	99. 39°59.15' N 69°37.30' W	
	100. 39°58.80' N 69°38.45' W	
	102. 39°56.20' N 69°40.20' W	
	103. 39°55.75' N 69°41.40' W	
	104. 39°56.70' N 69°53.60' W	
	105. 39°57.55' N 69°54.05' W	
	106. 39°57.40' N 69°55.90' W	
	107. 39°56.90' N 69°57.45' W	
	108. 39°58.25' N 70°03.00' W	
	110. 39°59.20' N 70°04.90' W	
	111. 40°00.70' N 70°08.70' W	
	112. 40°03.75' N 70°10.15' W	
	115. 40°05.20' N 70°10.90' W	
	116. 40°02.45' N 70°14.1' W	
	119. 40°02.75' N 70°16.1' W	
	to 206	

⁴ Points 101, 109, 113, 114, 117, and 118 were removed during the November 15, 1995 meeting.

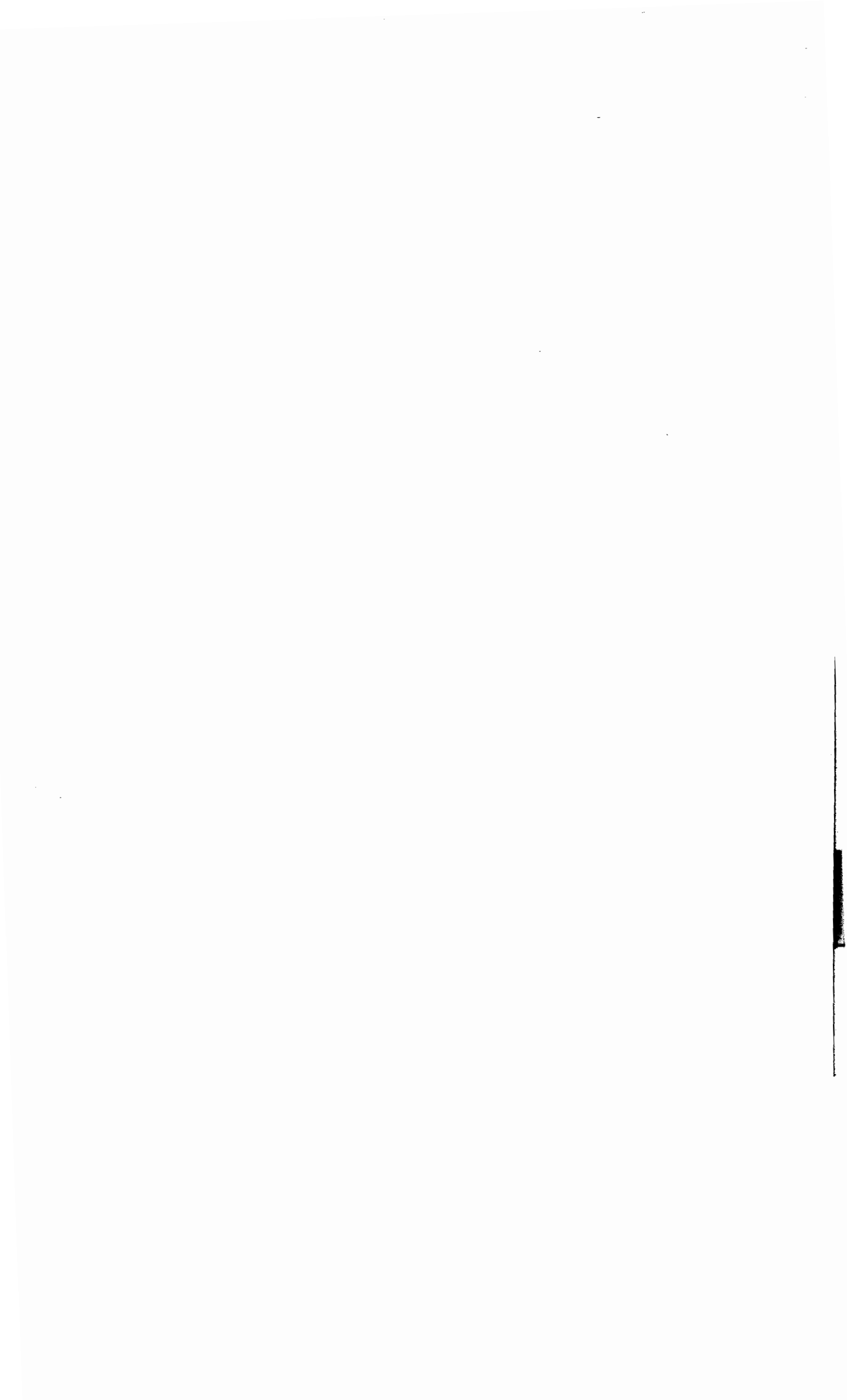
⁵ Point 145 was removed during the November 15, 1995 meeting.

TABLE 6. GEAR LOSSES REPORTED TO THE NEFMC BY EIGHT LOBSTER VESSELS FOR 1994-1995.

Summary of lobster gear losses								
	Set over days	Traps lost	Traps per day	Ends lost	Value	Value per set over day	Traps per end	
Total loss	847	3211	3.4	141	\$292,921	346	23	
Average per boat	121	401		24	\$36,615			
Average per SOD		3.4		0.14	\$304			
Summary of lobster gear losses by month								
From	To	Set over days	Traps lost	Traps per day	Ends lost	Value	Value per set over day	Traps per end
10/07/94	10/26/94	54	16	0.3	1	\$1,712	32	16
10/27/94	11/26/94	144	709	4.9	25	\$68,624	477	28
11/27/94	12/24/94	187	1075	5.7	41	\$109,490	585	26
12/25/94	1/24/95	253	487	1.9	34	\$50,533	200	14
1/25/95	3/3/95	209	590	2.8	20	\$62,562	299	30

TABLE 7. Reports of Gear Conflict Incidents to the U.S. Coast Guard
 (U.S. Coast Guard Enforcement Statistics, LCDR Donald Bruzdinski and
 LTJG Rob Oatman, Law Enforcement Branch)

	1995	1996	Percent Change
January	6	5	-16%
February	6	8	33%
March	10	9	-10%
Subtotal	22	22	0%
April	15	5	-67%
May	14	5	-64%
June	11	3	-73%
Subtotal	40	13	-68%
July	13	2	-85%
August	4	9	125%
September	10	5	-50%
Subtotal	27	16	-40%
October	16	4	-75%
November	10	12	20%



Appendix I

Bathymetric charts of proposed gear closure boundaries

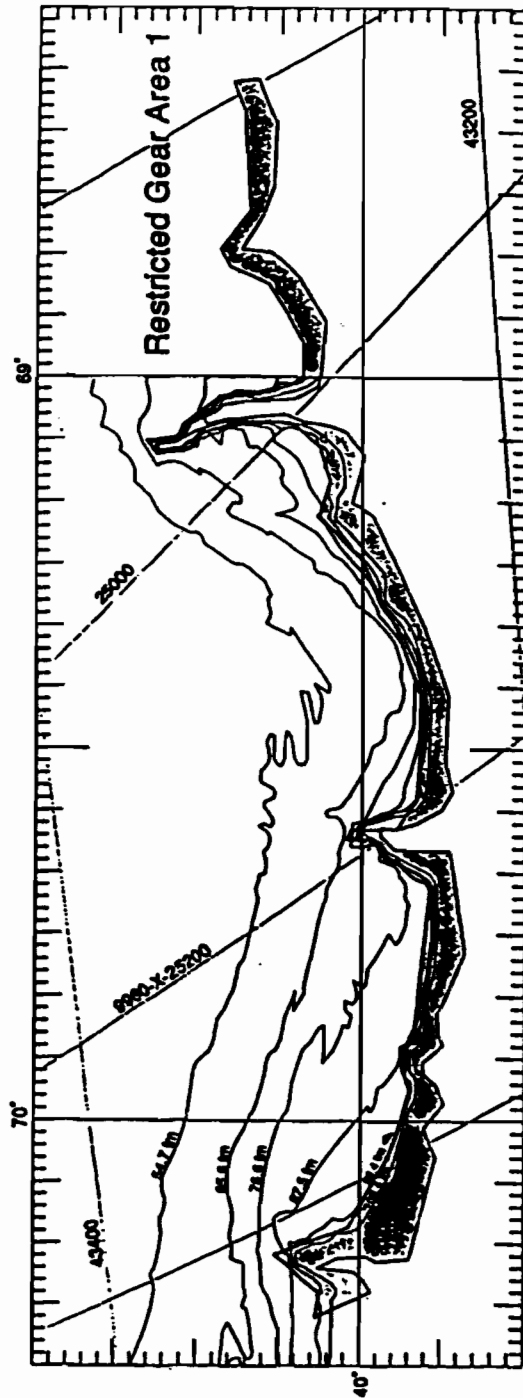


FIGURE 1. RESTRICTED GEAR AREA 1

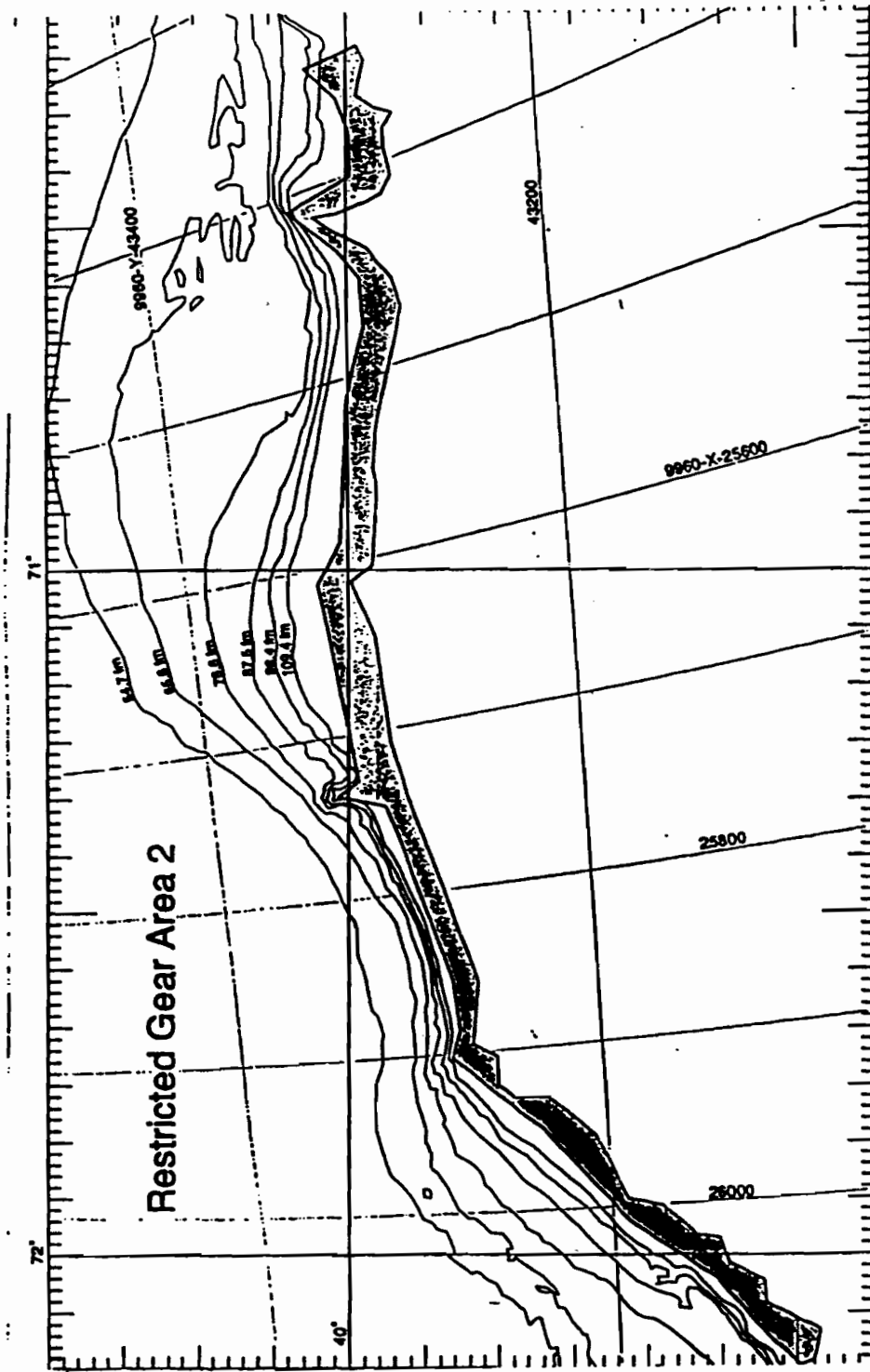


FIGURE 2. RESTRICTED GEAR AREA 2

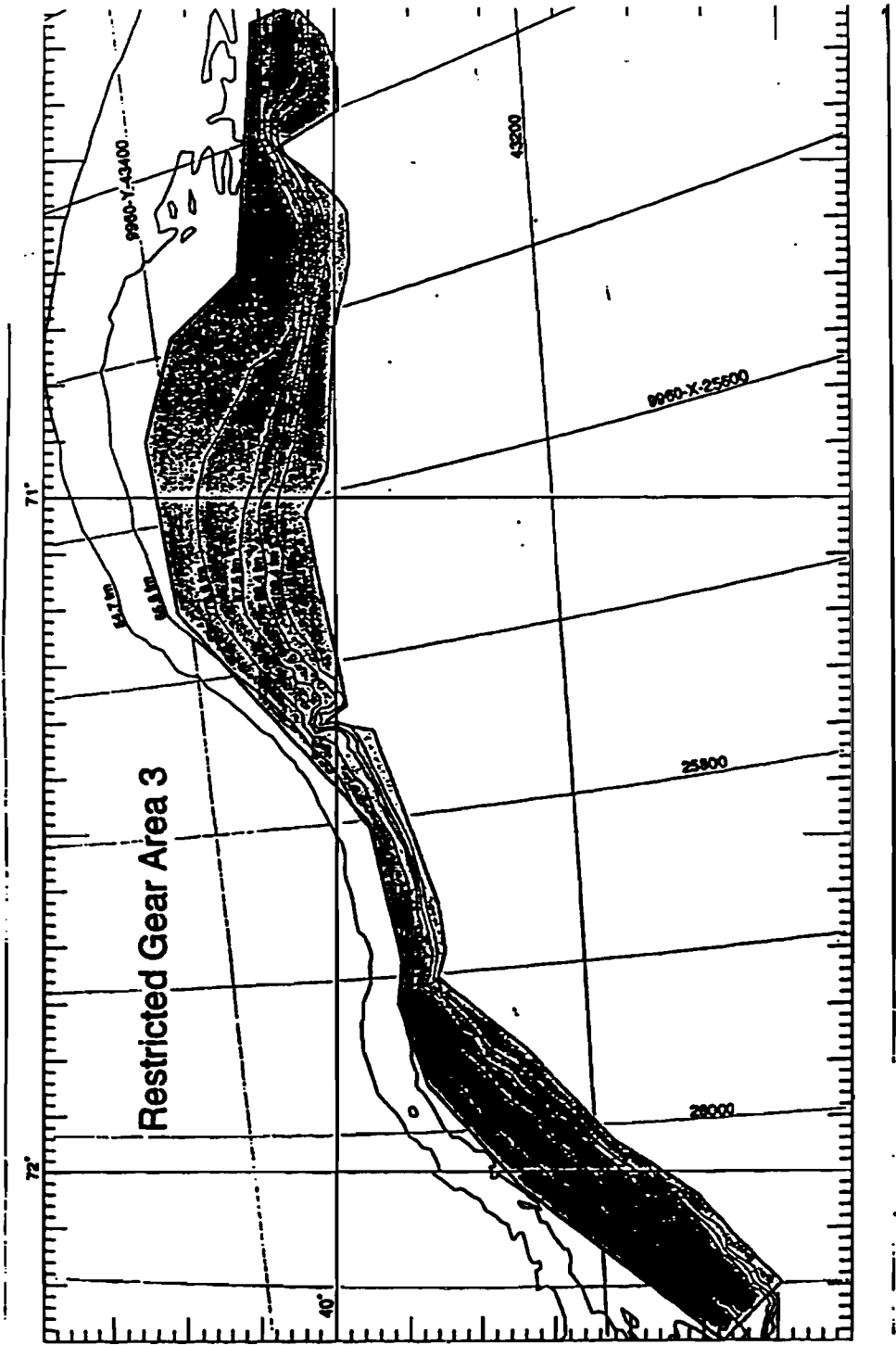


FIGURE 3. RESTRICTED GEAR AREA 3

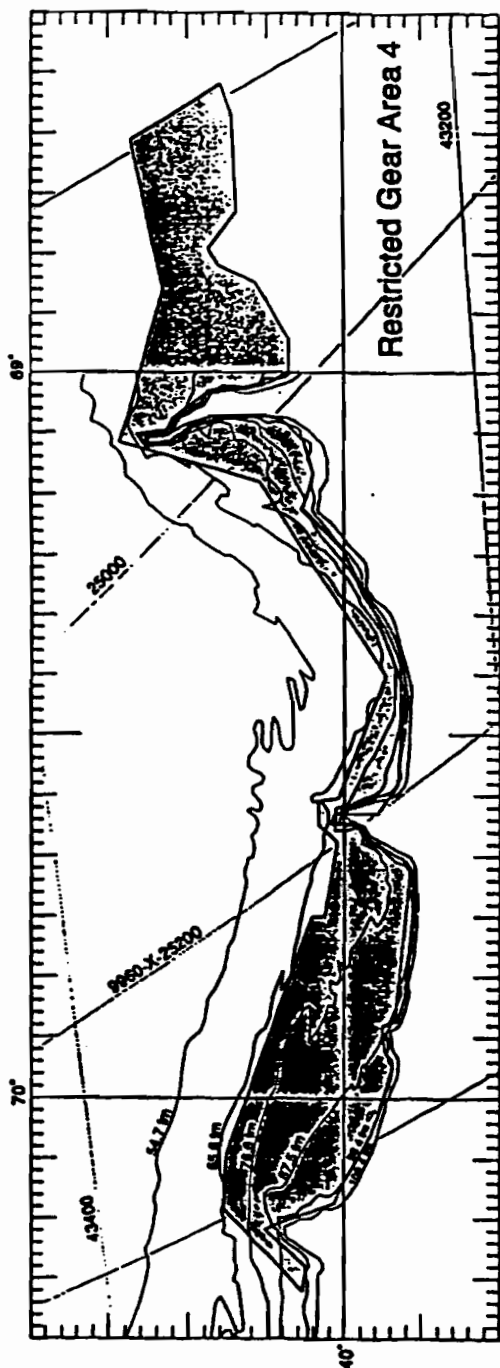
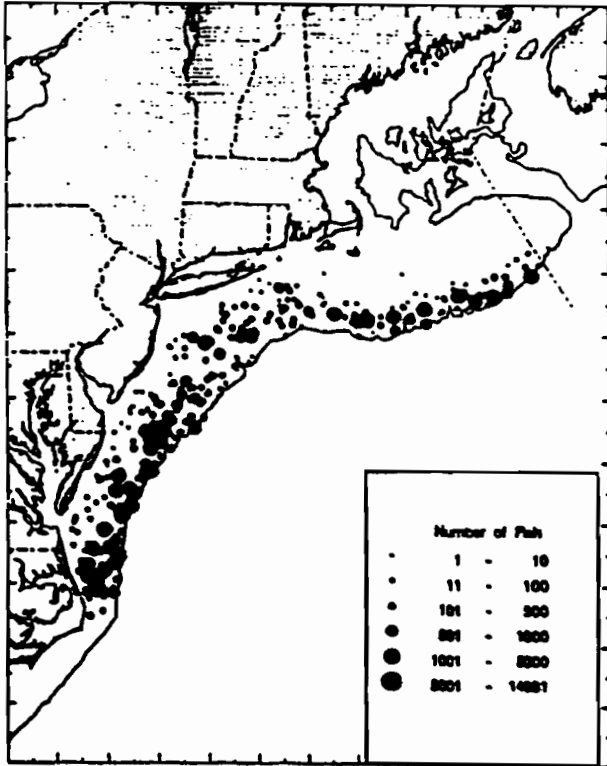
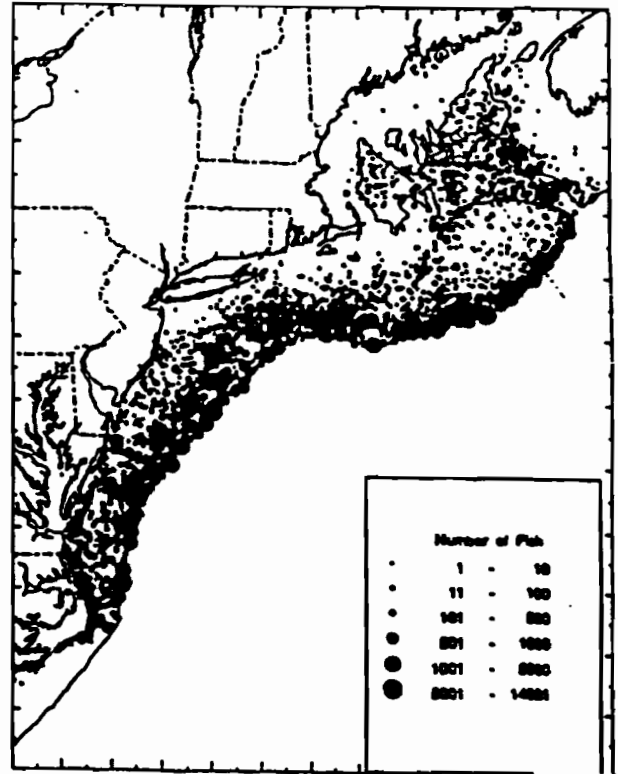


FIGURE 4. RESTRICTED GEAR AREA 4

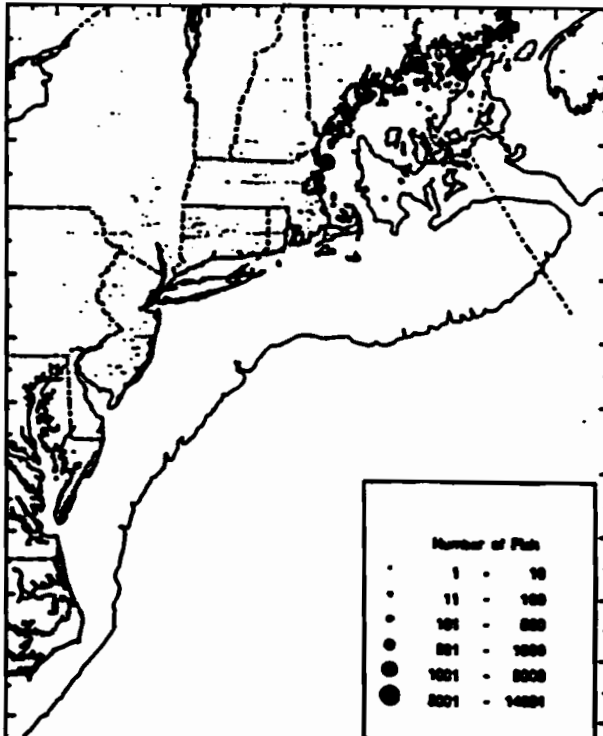
Winter



Spring



Summer



Fall

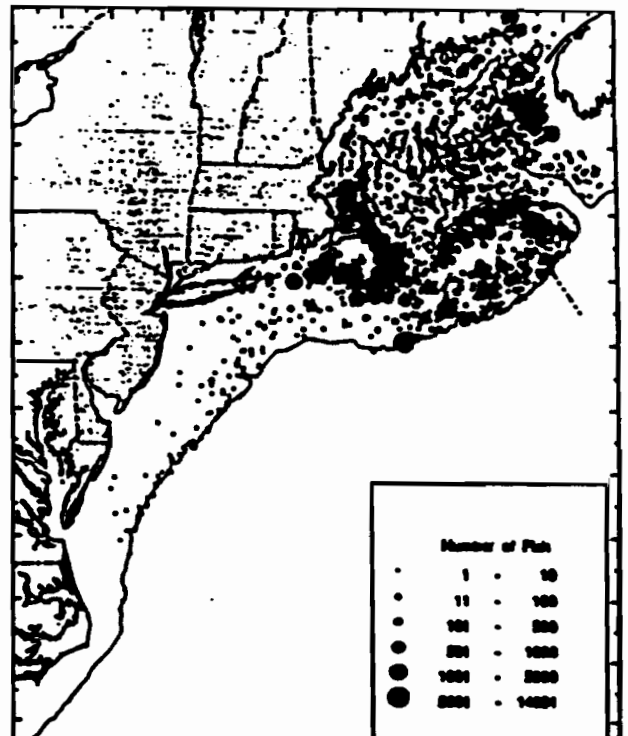
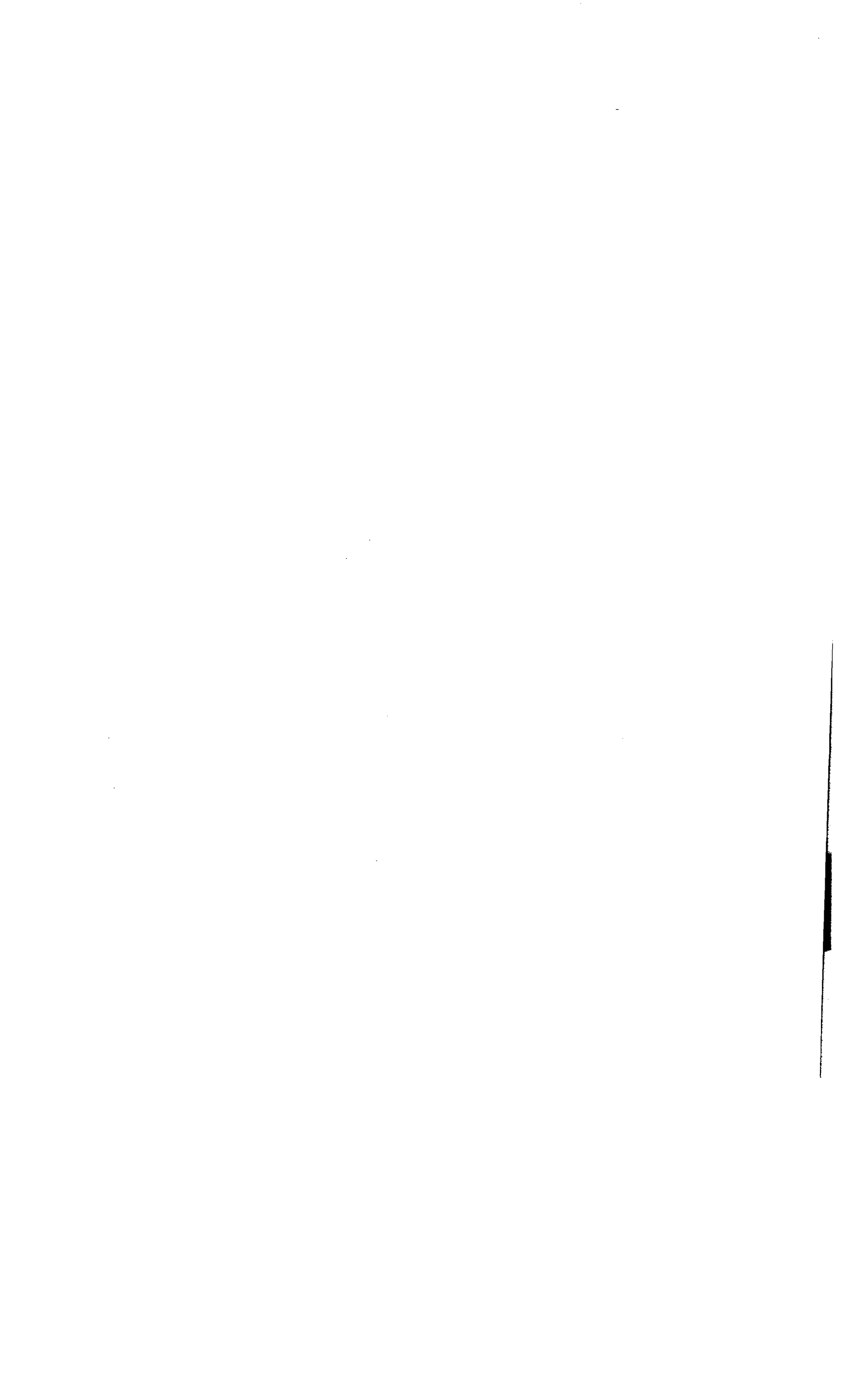
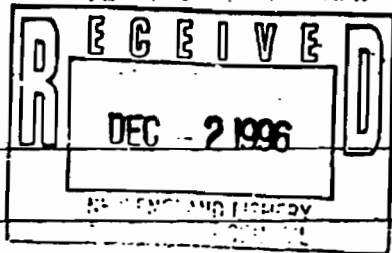


FIGURE 5. Distribution of catch of spiny dogfish in NEFSC surveys, SAW 18, p.115. (winter: 1992-1994; spring: 1980-1994; summer:1991-1993; autumn: 1980-1993)



Appendix II

Public Comments and Correspondence



12/2/96

Roy Campanale
F/V Barbara Ann Inc.
F/V Mark Darren Inc.
119 Daytona Ave
Narragansett RI 02882
tel. 401-789-8085
fax 401-789-5932

New England Fishery Management Council
5 Broadway
Saugus, Ma. 01906
fax 617-565-8937

Dear Miss Demet Haksever

Below you will find just our
major lobster pot losses due to mobile
gear fishermen (druggers) in 1996

F/V Mark Darren doc. no. 582101
Feb. 25th through May 25th
total of 238 pots, related rope and ends \$ 22,610.
The week of 11/17/96
total of 294 pots, related rope and ends \$ 27,930.

F/V Barbara Ann doc. No. 693373

Jan 12th through Jan 24th

total of 209 pots, related rope & ends \$ 20,691.00

March 5th through May 6th

total of 177 pots, related rope & ends \$ 17,523.00

Oct. 1st through Nov. 16th

total of 165 pots, related rope & ends \$ 16,335.00

The week of 11/17/96

total of 209 pots, related rope & ends \$ 20,691.00

Losses total both boats \$ 125,780.00

The total dollar loss reflect only the actual cost of the pots, rope and buoys, not the cost of the lost day's of fishing looking for air towed up pots or income those pots would have generated.

Sincerely

Roy Campanale
Roy Campanale

Gear Hauling Requirements and Public Comments

The following are excerpts from the October 2, 1996 Council meeting containing public comment on the proposed regulations by Framework Action 1 and on the gear tending requirements which were originally proposed but later deleted from this document following the October 2, 1996 Council meeting.

The Council originally proposed that Framework Action 1 include gear-hauling requirements as specified in section 3.2 of the draft document submitted on September 20, 1996. The meeting began with a discussion on this section as Mr. McCauley stated that there was a recommendation to take this section out because the proposed requirements are unenforceable. Captain Paul Howard reiterated this recommendation stating that the Coast Guard does not have the resources to go out and check the time stamped tags on untended gear. As a result, Mr. Avila proposed a motion to delete section 3.2 which pertains to the hauling requirements. The motion was opened to the discussion. The following are the summary of the public comments on this issue.

Mr. Bennett, an offshore fisherman in the gear conflict area stated that he supports the motion to delete section 3.2 since Coast Guard can not enforce these requirements. He added that the closures cover such a narrow band that the gear within that area is tended regularly throughout the year, i.e., there is no problem with gear tending in that area.

Mr. Allen asked whether there are any innovative ways to keep gear tending requirements in the document on the idea that the enforcement capability will be developed later.

The motion was debated extensively by the Council members, then carried with a majority vote. However, Council emphasized that gear tending is one of the key issues in fisheries management. Thus Council reiterated its intention to address this issue in the near future with an aim to develop enforceable gear tending regulations as soon as possible.

After the motion to delete the gear hauling requirements is accepted, Mr. McCauley made a motion to approve Framework 1. The gear tending requirements were brought once again into the discussion. Mr. Allen stated that the entire agreement on reducing gear conflict in the area should not be held up because of the issue of gear tending. Following the discussion by the Council members the motion to approve Framework 1 was passed by a majority one. The Council reiterated, however, its intent to address the gear tending issue in the near future and bring solutions to prevent the damages caused by untended gear.

