

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Groundfish Committee

I. STATUS

- A. Meetings: The Groundfish Oversight Committee met March 27, 2008. A meeting summary is attached. The Groundfish Plan Development Team met March 19, 2008 – a PDT report is attached.
- B. Amendment 16: The Amendment 16 scoping period ended December 31, 2006. Scoping hearings were held in Maine, New Hampshire, Massachusetts, Rhode Island, and New York. The Committee and Council reviewed scoping comments at the February 2007 and June 2007 Council meetings. The Gulf of Maine Research Institute and the Massachusetts Marine Fisheries Institute hosted meetings to help proponents of alternative management systems develop detailed proposals. In June 2007 the Council decided that Amendment 16 will modify the effort control system to in order to continue stock rebuilding, and will modify existing sectors and adopt new sectors. The Committee focused on resolving the policy issues necessary to facilitated adoption of seventeen additional sectors and modifications to two existing sectors until the September Council meeting. At that meeting, the Council directed the Committee to work on other measures and postpone further sector development until that work was completed. In November, the Council directed the Committee to resume working on sector policies for inclusion in Amendment 16. At the January, 2008 Council meeting, the Council discussed sector policies and selected four alternatives for calculating the potential sector contribution for each permit. The full range of alternatives for this amendment were approved by the Council at the February, 2008 Council meeting.

At this meeting the Committee will brief the Council on the further development of management measures in response to Council tasking from the February Council meeting.

- C. The Council will consider a Committee recommendation to ask NMFS to allow groundfish vessels to land catch from the same trip in two different port through emergency action.
- D. The Council will receive a preliminary report on monitoring sector catches from a contractor hired by the Gulf of Maine Research Institute.

II. COUNCIL ACTION

- A. Review and approval of Committee recommendations for Amendment 16 alternatives.
- B. Review and approval of an emergency action request.

III. INFORMATION

1. Draft Amendment 16 management measures
2. Groundfish Committee meeting summary, March 27, 2008
3. Groundfish Committee meeting summary, February 11, 2008
4. PDT meeting summary, March 19, 2008
5. US/CA Resources Sharing Understanding catch reports
6. Correspondence

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NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP)

Draft Management Measures

April 2, 2008

Shaded text needs review or is still under development

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1.0 No Action Alternative

The NEPA requires that the No Action alternative be included. Because of the complexity of groundfish management, this section will describe in general terms the existing management program. This provides the public and reviewers an overview to place the proposed changes in context. Subsequent sections will specifically identify the elements of the No Action alternative as an option so that the choices considered by the Council are explicit.

[Insert general description of No Action Alternative here]

2.0 Updates to Status Determination Criteria and Formal Rebuilding Programs

2.1 Revised status determination criteria

The M-S Act requires that every fishery management plan specify “objective and measureable criteria for identifying when the fishery to which the plan applies is overfished.” Guidance on this requirement identifies two elements that must be specified: a maximum fishing mortality threshold (or reasonable proxy) and a minimum stock size threshold. The M-S Act also requires that FMPs specify the maximum sustainable yield and optimum yield for the fishery.

Amendment 13 adopted status determination criteria for regulated groundfish stocks. It also provided that these criteria would be reviewed in 2008. This amendment will adopt new status determination criteria if determined appropriate to do so. This information is not yet available but should be included in the draft amendment that will be reviewed by the Council in June, 2008.

2.1.1 Option 1 – No Action

Under this option, the status determination criteria adopted by Amendment 13 would not be changed. Amendment 13 established that there are two elements to these criteria. First, the criteria are specified as a parameter that describes a quantity. Second, the current numerical estimate of that parameter is determined. Changes in the parameter – such as using an index –based proxy rather than an estimate of SSBMSY for the minimum biomass threshold – requires a management action by the Council. Changes in the numerical estimate do not normally require a management action with the exception of change that may result from the 2008 review of stock status.

The parameters that were adopted by Amendment 13 are listed in

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Table 1. The numerical estimates of these parameters that were adopted by Amendment 13 are listed in Table 2.

Table 1 – Amendment 13 status determination criteria

Stock	Biomass Target	Minimum Biomass Threshold	Maximum Fishing Mortality Threshold	Fishing Mortality Target
GOM Cod	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
GB Cod	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
GB Haddock	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
GOM Haddock	B _{MSY} Proxy/Fall Trawl Survey Index	½ Btarget	F _{MSY} Proxy/Relative Exploitation Index	75% of F _{MSY}
GB Yellowtail Flounder	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
Cape Cod/GOM Yellowtail Flounder	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
SNE/MA yellowtail flounder	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
American Plaice	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
Witch Flounder	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
Gulf of Maine Winter Flounder	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
GB Winter Flounder	B _{MSY}	½ Btarget	F _{MSY} ⁽¹⁾	75% of F _{MSY}
SNE/MA Winter Flounder	SSB _{MSY}	½ Btarget	F _{MSY}	75% of F _{MSY}
Acadian Redfish	SSB _{MSY}	½ Btarget	F _{50%} proxy for F _{MSY}	75% of F _{MSY}
White Hake	B _{MSY} Proxy/Fall Survey Index (> 60 cm fish)	½ Btarget	F _{MSY} Proxy/Relative Exploitation Index (> 60 cm fish)	75% of F _{MSY}
Pollock	B _{MSY} Proxy/ Fall Survey Index	½ Btarget	F _{MSY} Proxy/ Relative Exploitation Index	75% of F _{MSY}
Windowpane Flounder (North)	B _{MSY} Proxy/Fall Survey Index	½ Btarget	F _{MSY} Proxy/Relative Exploitation Index	75% of F _{MSY}
Windowpane Flounder (South)	B _{MSY} Proxy/Fall Survey Index	½ Btarget	F _{MSY} Proxy/Relative Exploitation Index	75% of F _{MSY}
Ocean Pout	B _{MSY} Proxy/Fall Survey Index	½ Btarget	F _{MSY} Proxy/Relative Exploitation Index	75% of F _{MSY}
Atlantic Halibut	B _{MSY}	½ Btarget	F _{MSY} ⁽¹⁾	75% of F _{MSY}

Table 2 – Amendment 13 numerical estimates of status determination criteria. (XXXCHECK NOTES)

1. Total biomass, metric tons
2. Unit is total stock biomass for fish ≥ 60 cm., mt
3. Unit is biomass weighted F
4. Survey based equivalents developed by GARM 2002

SPECIES	STOCK	NUMERICAL ESTIMATE OF STATUS DETERMINATION CRITERIA				
		B_{TARGET} (metric tons)	$B_{THRESHOLD}$ (metric tons)	F_{MSY} (Maximum fishing mortality)	F_{target} (at biomass target)	MSY (metric tons)
COD	GB	216,800	108,400	0.18	0.14	35,200
	GOM	82,800	41,400	0.23	0.17	16,600
HADDOCK	GB	250,300	125,150	0.26	.20	52,900
	GOM	22.17 kg/tow	11.09 kg/tow	0.23C/l	0.17 C/l	5,100
YELLOWTAIL FLOUNDER	GB	58,800	29,400	0.25	0.19	12,900
	SNE/MA	69,500	34,750	0.26	0.20	14,200
	CC/GOM	12,600	6,300	0.17	0.13	2,300
AMERICAN PLAICE		28,600	14,300	0.17	0.13	4,900
WITCH FLOUNDER		25,240	12,620	0.23	0.17	4,375
WINTER FLOUNDER	GB	9,400(1)	4,700	0.32	0.24	3,000
	GOM	4,100	2,050	0.43	0.32	1,500
	SNE/MA	30,100	15,050	0.32	0.24	10,600
REDFISH		236,700	118,350	0.04	0.03	8,200
WHITE HAKE ²		14,700(2)	7,350	0.29	0.22	4,200
		7.70 kg/tow	3.35 kg/tow	0.55 C/l	0.41 C/l	
POLLOCK		3.0 kg/tow	1.5 kg/tow	5.88 C/l	4.41 C/l	17,600
WINDOWPANE FLOUNDER	North	0.94 kg/tow	0.47 kg/tow	1.11 C/l	0.83	1,000
	South	0.92 kg/tow	0.46 kg/tow	0.31 C/l	0.23 C/l	900
OCEAN POUT		4.9 kg/tow	2.95 kg/tow	0.31 C/l	0.23 C/l	1,500
ATLANTIC HALIBUT		5,400(1)	2,700	0.06	0.4	300

2.1.2 Option 2 – Revised Status Determination Criteria

In 2008, the Northeast Fisheries Science Center (NEFSC) will conduct assessments of all nineteen regulated groundfish stocks. The results of those assessments will include either verification of the existing status determination criteria or suggestions for revisions to those status determination criteria. While these determination criteria will not be final until September 2008, a biological reference point meeting was held in May 2008 and provided information on possible changes to the status determination criteria. This information includes the possible assessment models that will be used for each stock, as well as a range for the status determination criteria.

Table 3 – Possible status determination criteria parameters based on April 2008 GARM III biological reference point meeting

Stock	Biomass Target	Minimum Biomass Threshold	Maximum Fishing Mortality Threshold	Fishing Mortality Target
GOM Cod	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
GB Cod	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
GB Haddock	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
GOM Haddock	B_{MSY} Proxy/Fall Trawl Survey Index	$\frac{1}{2} B_{target}$	F_{MSY} Proxy/Relative Exploitation Index	75% of F_{MSY}
GB Yellowtail Flounder	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
Cape Cod/GOM Yellowtail Flounder	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
SNE/MA yellowtail flounder	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
American Plaice	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
Witch Flounder	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
Gulf of Maine Winter Flounder	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
GB Winter Flounder	B_{MSY}	$\frac{1}{2} B_{target}$	$F_{MSY}^{(1)}$	75% of F_{MSY}
SNE/MA Winter Flounder	SSB_{MSY}	$\frac{1}{2} B_{target}$	F_{MSY}	75% of F_{MSY}
Acadian Redfish	SSB_{MSY}	$\frac{1}{2} B_{target}$	$F_{50\%}$ proxy for F_{MSY}	75% of F_{MSY}
White Hake	B_{MSY} Proxy/Fall Survey Index (> 60 cm fish)	$\frac{1}{2} B_{target}$	F_{MSY} Proxy/Relative Exploitation Index (> 60 cm fish)	75% of F_{MSY}
Pollock	B_{MSY} Proxy/ Fall Survey Index	$\frac{1}{2} B_{target}$	F_{MSY} Proxy/ Relative Exploitation Index	75% of F_{MSY}
Windowpane Flounder (North)	B_{MSY} Proxy/Fall Survey Index	$\frac{1}{2} B_{target}$	F_{MSY} Proxy/Relative Exploitation Index	75% of F_{MSY}
Windowpane Flounder (South)	B_{MSY} Proxy/Fall Survey Index	$\frac{1}{2} B_{target}$	F_{MSY} Proxy/Relative Exploitation Index	75% of F_{MSY}
Ocean Pout	B_{MSY} Proxy/Fall Survey Index	$\frac{1}{2} B_{target}$	F_{MSY} Proxy/Relative Exploitation Index	75% of F_{MSY}
Atlantic Halibut	B_{MSY}	$\frac{1}{2} B_{target}$	$F_{MSY}^{(1)}$	75% of F_{MSY}

Table 4 – Range of numerical estimates for status determination criteria based on GARM III biological reference point meeting

SPECIES	STOCK	NUMERICAL ESTIMATE OF STATUS DETERMINATION CRITERIA				
		B _{TARGET} (metric tons)	B _{THRESHOLD} (metric tons)	F _{MSY} (Maximum fishing mortality)	F _{target} (at biomass target)	MSY (metric tons)
COD	GB	216,800	108,400	0.18	0.14	35,200
	GOM	82,800	41,400	0.23	0.17	16,600
HADDOCK	GB	250,300	125,150	0.26	.20	52,900
	GOM	22.17 kg/tow	11.09 kg/tow	0.23C/l	0.17 C/l	5,100
YELLOWTAIL FLOUNDER	GB	58,800	29,400	0.25	0.19	12,900
	SNE/MA	69,500	34,750	0.26	0.20	14,200
	CC/GOM	12,600	6,300	0.17	0.13	2,300
AMERICAN PLAICE		28,600	14,300	0.17	0.13	4,900
WITCH FLOUNDER		25,240	12,620	0.23	0.17	4,375
WINTER FLOUNDER	GB	9,400(1)	4,700	0.32	0.24	3,000
	GOM	4,100	2,050	0.43	0.32	1,500
	SNE/MA	30,100	15,050	0.32	0.24	10,600
REDFISH		236,700	118,350	0.04	0.03	8,200
WHITE HAKE ²		14,700(2) 7.70 kg/tow	7,350 3.35 kg/tow	0.29 0.55 C/l	0.22 0.41 C/l	4,200

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SPECIES	STOCK	NUMERICAL ESTIMATE OF STATUS DETERMINATION CRITERIA				
		B_{TARGET} (metric tons)	$B_{THRESHOLD}$ (metric tons)	F_{MSY} (Maximum fishing mortality)	F_{target} (at biomass target)	MSY (metric tons)
POLLOCK		3.0 kg/tow	1.5 kg/tow	5.88 C/l	4.41 C/l	17,600
WINDOWPANE FLOUNDER	North	0.94 kg/tow	0.47 kg/tow	1.11 C/l	0.83	1,000
	South	0.92 kg/tow	0.46 kg/tow	0.31 C/l	0.23 C/l	900
OCEAN POUT		4.9 kg/tow	2.95 kg/tow	0.31 C/l	0.23 C/l	1,500
ATLANTIC HALIBUT		5,400(1)	2,700	0.06	0.4	300

2.2 Revised mortality targets for formal rebuilding programs

Amendment 13 adopted formal rebuilding programs for overfished groundfish stocks. The amendment also called for an evaluation of rebuilding progress and an adjustment in mortality targets to achieve rebuilding, if necessary. This information will be developed after the status determination criteria are evaluated and current stock status is determined. Mortality targets will be adjusted as necessary to meet the rebuilding dates and probability of success adopted by Amendment 13 and Framework 42. This section assumes that there will not be any changes in the rebuilding time period or probability of success used to determine the target fishing mortality rates.

If a stock is determined to be rebuilt by the 2008 assessments, the completion of the formal rebuilding program will be noted in this section.

2.2.1 Option 1 – No Action

Under this option, the rebuilding fishing mortality rates adopted by Amendment 13 and Framework 42 (GB yellowtail flounder) would continue to guide management actions. These fishing mortality rates are considered as a package and not on a stock by stock basis – that is, all rebuilding fishing mortality targets must not change for this option to be selected.

There were three rebuilding strategies adopted by Amendment 13. First, for stocks that were not determined to be overfished, formal rebuild programs were not adopted and the goal was to prevent overfishing while achieving optimum yield. Second, the adaptive strategy strove to reduce fishing mortality to F_{MSY} through 2008, and then to the mortality necessary to rebuild the stock by the end of the rebuilding period. The adaptive strategy was adopted for GOM cod, GOM haddock, GB haddock, redfish, SNE/MA winter flounder, windowpane flounder (south), and ocean pout. Third, a phased reduction rebuilding strategy sought to reduce fishing mortality in a series of steps over time. This strategy was adopted for GB cod, American plaice, CC/GOM yellowtail flounder, SNE/MA yellowtail flounder, and white hake. Subsequent to Amendment 13, FW 42 adopted an adaptive rebuilding strategy for GB yellowtail flounder. The rebuilding fishing mortality rates that resulted from these approaches are shown in Table 5.

Table 5 – Rebuilding fishing mortality rates as adopted by Amendment 13 and FW 42.

Boldfaced italics identify phased reduction strategies; other rebuilding programs use the adaptive strategy. FW 42 illustrated two trajectories for GB yellowtail flounder based on two candidate assessment formulations. The second row for this stock reflects the Major Change assessment model that has been used for management advice.

SPECIES	STOCK	Rebuilt Year / Probability of Success	Fishing mortality rates for adopted rebuilding programs									
			2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Cod	GB	2026/50%	0.21	0.21	0.21	0.21	0.21	0.18	0.18	0.18	0.18	0.18
		<i>(add ten years)</i>	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18
	GOM	2014/50%	0.23	0.23	0.23	0.23	0.23	0.21	0.21	0.21	0.21	0.21
Haddock	GB	2014/50%	0.26	0.26	0.26	0.26	0.26	0.24	0.24	0.24	0.24	0.24
	GOM	2014/50%	0.23	0.23	0.23	0.23	0.23	0.22	0.22	0.22	0.22	0.22
Yellowtail Flounder	GB	2014/75%	NA	NA	0.25	0.25	0.25	0.16	0.16	0.16	0.16	0.16
			NA	NA	0.25	0.25	0.25	0.135	0.135	0.135	0.135	0.135
	SNE/MA	2014/50%	0.37	0.37	0.26	0.26	0.26	0.17	0.17	0.17	0.17	0.17
	CC/GOM	2023/50%	0.26	0.26	0.26	0.26	0.26	0.17	0.17	0.17	0.13	0.13
	<i>(add ten years)</i>		0.13	0.09								
American Plaice		2014/50%	0.23	0.23	0.17	0.17	0.17	0.15	0.15	0.15	0.15	0.15
Witch Flounder			No formal rebuilding program required (see overfishing discussion)									
Winter Flounder	GB		No formal rebuilding program required									
	GOM		No formal rebuilding program required									
	SNE/MA	2014/50%	0.32	0.32	0.32	0.32	0.32	0.23	0.23	0.23	0.23	0.23
Redfish		2051/50%	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
White Hake		2014/50%	1.03	1.03	1.03	1.03	1.03	0.23	0.23	0.23	0.23	0.23
Pollock			No formal rebuilding program required									
Windowpane Flounder	North	2014/50%	No formal rebuilding program required									
	South	2014/50%	0.98	0.98	0.98	0.98	0.98	0.49	0.49	0.49	0.49	0.49
Ocean Pout⁽¹⁾		2014/50%	0.03	0.03	0.03	0.03	0.03	0.01	0.01	0.01	0.01	0.01
Atlantic Halibut		UNK	Insufficient information to calculate rebuilding mortality									

2.2.2 Option 2 – Revised rebuilding mortality targets

After the assessments of all regulated groundfish stocks are completed in August 2008, an evaluation will be made as to whether adjustments to the rebuilding fishing mortality targets are necessary. Should they be necessary, they will be calculated based on estimates of stock status in 2008, revisions to status determination criteria (if any), and the rebuilding timelines and probabilities of success adopted by Amendment 13 and FW 42. These revised rebuilding targets cannot be calculated at the present time; they may be higher or lower than present rebuilding mortality rates.

2.2.3 Additional formal rebuilding programs

If any additional stocks are determined to be overfished by the assessments that will be conducted in 2008, formal rebuilding programs will be incorporated into this amendment.

3.0 Fishery Program Administration

3.1 Sector administration provisions

The management measures proposed in this section relate to the process for establishing sector allocations in the multispecies fishery. This section is intended to **update Section 3.4.16.1** of the final Amendment 13 SEIS (Sector Allocation).

A sector allocation system would apportion part or all of groundfish fishery resources (denominated in terms of catch) to various industry sectors. While vessels might be assigned to sectors based on factors such as gear used, permit category, vessel size, homeport, area fished, etc., this measure allows vessels to form sectors of their own choosing. Such self-selected sectors might be based on common fishing practices, vessel characteristics, community organization, or marketing arrangements, but this would not be required. Since self-selection of sector membership would not necessarily be based on any common vessel or gear characteristics this alternative offers a great deal of flexibility in the formation of sectors. A group of permit holders would simply agree to form a sector and submit a binding plan for management of that sector's allocation of catch or effort. Allocations to each sector may be based on catch (hard TACs) or effort (DAS) with target TACs specified for each sector. Vessels within the sector would be allowed to pool harvesting resources and consolidate operations in fewer vessels if they desired. One of the major benefits of self selecting sectors is that they provide incentives to self-govern, therefore, reducing the need for Council-mandated measures. They also provide a mechanism for capacity reduction through consolidation.

When evaluating the alternatives described below for the sector allocation process and the determination of sector contributions, the Council will consider the following goals:

- Address bycatch issues;
- Simplify management;
- Give industry greater control over their own fate;

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- Provide a mechanism for economics to shape the fleet rather than regulations (while working to achieve fishing and biomass targets); and
- Prevent excessive consolidation that would eliminate the day boat fishery.

The alternatives for modifying and expanding the current sector allocation program for the multispecies fishery are described in the subsections below. Where appropriate, the no action alternative is identified relative to each issue for which changes or additions are being considered.

3.1.1 Sector Definition/Formation of a Sector

A sector means a group of persons holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) in order to achieve objectives consistent with applicable FMP goals and objectives. In the formation of a sector, sector participants can select who may participate. Only vessels with a limited access multispecies permit are eligible to join a sector. This means that confirmation of permit history (CPH) permits must be activated in order to be associated with a sector (this is consistent with the Groundfish DAS Leasing Program).

Participation in a self-selecting sector will be voluntary. Vessels that did not decide to join would remain in a *common pool* which will fish under the constraints imposed by the Council. Individuals that wished to form a sector and receive an allocation of catch or effort will be required to submit a proposal for formation of a sector and a legally-binding plan of operations which would require approval from the Regional Administrator (see below). These will be agreed upon and signed by all members of the sector.

The motivation to form or join a sector could be for several reasons: a desire of its members to consolidate operations in fewer vessels (reducing the cost of operations and possibly facilitating the profitable exit of some individual vessel owners from the fishery); assurance that the members of the sector would not face reductions of catch or effort as a result of the actions of vessels outside the sector (e.g., if the other vessels exceed their target TACs), and, potentially, freedom from restrictive regulations not needed to meet conservation objectives if the sector is constrained by a hard TAC (e.g., trip limits and potentially some time-area restrictions).

3.1.2 Preparation of a Sector Formation Proposal and Operations Plan

3.1.2.1 Option 1 - No Action

If the No Action Alternative is selected, then requirements for the formation proposal and operations plan submitted by a self-selecting sector remain the same and must have, *at a minimum*, the following components:

- A list of all participants and a contract signed by all participants indicating their agreement to abide by the operations plan accompanying the proposal.
- With the implementation of Amendment 13, a sector's operations plan must detail the following:

- A list of all vessels that would be part of the sector including an indication for each vessel of whether it would continue to fish;
- The original distribution of catch history, TACs, or DAS within the sector;
- A detailed plan for consolidation of TACs or DAS, if any is desired, including a detailing of the quantity and duration of any redistribution of TAC or DAS within the sector;
- A plan and analysis to show how the sector will avoid exceeding their allocated TACs (or target TACs if the allocation is in terms of DAS). This plan should include provisions for monitoring and enforcement of the sector regulations, including documentation of both landings and discards;
- Rules for entry and exit to the sector (see more on this in next section) including procedures for removing or disciplining members of the sector who do not abide by its rules. Rules for entry and exit must also define how catch or DAS history that is developed by vessels participating in a sector is assigned to each vessel;
- Procedure for notifying NMFS if a member is expelled from the sector for violation of sector regulations.

3.1.2.2 Option 2 - Additional Requirements

Under this option, a sector's operation plan must also include (in addition to the requirements specified in Amendment 13):

- Detailed information about overage penalties or other actions to be taken if the sector exceeds its ACE;
- Detailed information about the sector's *independent third-party weighmaster system* that is satisfactory to NMFS for monitoring landings and utilization of ACE;
- Detailed information about a monitoring program for discards, should the sector desire to include discards in its ACE and account for them at the sector's expense (see additional discussion of monitoring discards in Section **XXX**).
- A list of all Federal and State permits held by vessels participating in the sector;
- A list of specific ports where members will land fish; specific exceptions should be noted (e.g., safety, weather) and allowed, provided there is reasonable notification of a deviation from the listed ports; this requirement is in addition to the requirement for detailed information about the sector's independent third-party weighmaster system.
- TAC thresholds and details regarding the sector's plans for notifying NMFS once the specified TAC threshold has been reached.

An appropriate NEPA document assessing the impacts of forming the sector must be prepared. This will be written by the sector applicants, and submitted to NMFS through the Council. The contracts drawn up for the whiting and pollock cooperatives on the West Coast and Alaska might serve as a guide for determining the form and content of these plans.

The sector operations plan must be reviewed and approval given before the sector can operate. Once formed, a sector must submit its *preliminary operations plan* to the Council no less than one year prior to the date that it wants to begin operations. *Final operations plans* may cover a two-

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year period and must be submitted to NMFS no later than September 1 prior to the fishing year in which the sector will operate. NMFS may consult with the Council and will solicit public comment on the operations plan consistent with the Administrative Procedure Act (APA). Upon review of the public comments, the Regional Administrator may approve or disapprove sector operations, through a final determination consistent with the APA.

3.1.3 Movement between Sectors

No changes are proposed to this element of the sector allocation process. Each sector will set its own rules on movement into and out of the sector.

Rationale: By not mandating the commitment time to a sector and allowing the sectors to set their own rules, the sector might be more successful in the long-term. This success will be realized, while working within their allocation (hard TAC), the group will be largely self-regulating. A code of conduct for all sectors should be developed by the Council or by industry with Council approval.

3.1.4 Allocation of Resources

3.1.4.1 General

Sectors will be allocated a hard TAC of all regulated groundfish stocks with the exception of halibut, ocean pout, and windowpane flounder. The provisions in this amendment eliminate the 20% cap on TAC shares that was established in Amendment 13. There will be no limit on the share of a stock's TAC that can be allocated to a sector.

The share of the annual TAC for a stock that is allocated to a sector will be calculated based on the history attached to each permit that joins the sector in a given year. This share may be adjusted due to penalties for exceeding the TAC in earlier years, or due to other violations of the management plan. When a sector's share of a stock is multiplied by the available catch, the result is the amount (weight) that can be harvested (landings and discards) that year. This amount (adjusted if necessary due to prior overages or penalties) will be referred to as the sector's ***Annual Catch Entitlement, or ACE***.

As discussed above, a sector's operations plan must show how the sector plans to avoid exceeding its ACE and must identify overage penalties and actions to be taken should the ACE be exceeded. In cases where a sector exceeds its ACE, overages will be paid back in pounds, on a pound per pound basis.

NMFS will withhold 20 percent of each ACE at the beginning of the fishing year for a period of forty –five days. This is to allow for time to process any end-of-year transfers of Ace and to determine whether any reductions in ACE are necessary due to overage in the previous year.

Rationale: This changes the sector provisions of Amendment 13 and clarifies how resources are allocated to a sector. Sectors can no longer request an allocation of groundfish DAS based on the DAS allocated to permits that join the sector. In addition, sectors fishing for groundfish must have an allocation of *all regulated groundfish stocks except halibut, ocean pout, and windowpane*

flounder. This eliminates the situation where sectors could request allocations of selected regulated groundfish stocks and modify effort controls to facilitate targeting of other stocks.

TACs will not be allocated to sectors for Atlantic halibut, ocean pout, northern windowpane flounder, and southern windowpane flounder because these stocks have small TACs, and vessels have limited landings history. Allocating these stocks to sectors would complicate monitoring of sector operations and would require a different scheme for determining each permit's potential sector contribution. Rather than complicate sector administration, sectors will be limited to restrictions designed to discourage targeting of these stocks. For example, the catch of halibut is limited to one fish per trip (similar measures may be needed for the three other stocks).

3.1.4.2 Sector Overages

To be clear, in the subsequent discussion the term "sector overage" means exceeding a TAC in year one after any ACE transfers have occurred with the result that sector will receive a deduction of ACE in year two.

- In the first situation, a vessel (or small number of vessels) leaves the sector but the remaining vessels have enough ACE to cover the overage deduction. The PDT recommends that any impacts on departing members be specified and addressed by the sector operations plan and sector contract rather than by regulation. This provides the most flexibility and can be done through indemnification provisions and other legal constructs. Existing sectors have already incorporated provisions that address this situation (such as limiting fishing activity by the vessel if it leaves the sector the year after the overage). It also simplifies administration for NMFS.
- In the second, a sector disbands completely and no sector exists to cover the overage deduction, or there is insufficient ACE in year two to cover the year one overage. In this case, in order to account for the overharvested fish, individual permit holders are held responsible for reducing their catch the appropriate amount in the subsequent fishing year (rather than the sector, since it no longer exists). The deduction follows the individual permits. If an individual permit joins another sector, the overage penalty follows that permit into the other sector. Each permit is responsible for part of the overage penalty, calculated as simply the overage penalty divided by the number of vessels. If a permit does not join a sector the permit receives a DAS penalty. Two suggested ways to calculate this penalty are (one will be selected by the Council):
 - Option 1 - Each permit receives a percentage reduction in DAS equal to the maximum percentage overage of the sector. Example; the sector goes 5% over on stock A and 10% on stock B. each permit receives a 10% DAS reduction; *or*
 - Option 2 - Each permit receives a flat DAS deduction based on the number of pounds of overage by the sector, divided by the number of vessels in the sector. Example: A sector of ten permits goes 10,000 pounds over on stock A and 20,000 pounds over on stock B. Each permit is responsible for 3,000 pounds of overage. If the penalty is 1 DAS for every 1,000 pounds each permit is penalized three DAS.

3.1.4.3 U.S./Canada Area

3.1.4.3.1 Option 1 - No Action

Under the no action option, separate allocations will not be made for each portion of a stock that is caught both inside and outside the US/Canada Area.

3.1.4.3.2 Option 2 - Separate Allocations

For stocks that are managed under the terms of the US/CA Resource Management Understanding, sectors will be provided a specific ACE for those stocks that have a TAC that is specific to the Eastern US/CA area. At present, this applies to GB cod and GB haddock, but this measure is intended to apply to other stocks if an area-specific TAC is defined. If a TAC is defined for the Eastern US/CA area by the understanding, and that stock is caught both inside this area and outside this area, a separate allocation of ACE will be made for each portion of the stock. These allocations are not interchangeable; they can only be taken from the appropriate area. The allocation of ACE will be the same percentage as the sector's overall allocation for these stocks: if a sector receives ten percent of the GB haddock, then it will receive ten percent of the Eastern GB haddock.

Rationale: This measure ensures that common-pool and sector fishing vessels fishing in the Eastern US/CA area do not adversely impact each other. It prevents one group from catching the entire TAC in the area, closing it to the other group. This measure will initially apply only to Eastern GB cod and Eastern GB haddock, but is written so that it can be applied to other stocks in the future if necessary. As currently there is only one TAC for GB yellowtail flounder, this provision does not apply to that stock, which does not have a specific TAC for the Eastern US/CA area. Should the Eastern US/CA area be closed to limit catches of GB yellowtail flounder by common pool vessels, sectors could request an exemption from that closure as long as they have ACE remaining for the stocks in that area.

3.1.4.4 Sector Baseline Calculations

In order to allocate a share of the available catch to a sector, the history for each permit must be calculated. The present method for calculating history was developed in Amendment 13 and is described in the No Action Alternative. There are four alternatives under consideration to change the way history is calculated for each permit. *The Council cautions that regardless which method is used to determine permit history in this management action, the Council may choose a different method for calculating permit history in the future.*

Note that catch history would be allocated to the sector as a whole and not necessarily to individual vessels within the sector. The self-selecting sector would then have to develop its own set of rules to distribute the sector's allocation among its membership. Allocation of TACs must be consistent with the measures adopted for the remainder of the fishery. If measures designed for the rest of the fishery will reduce mortality of a species well below its target, it may be inappropriate to base the TAC for a sector on the target fishing mortality.

****Closed Area 1 Hook Gear Haddock SAP Landings can be used to determine potential sector contributions in all of the alternatives described below.***

3.1.4.4.1 No Action Alternative (Status Quo/Amendment 13)

Allocation of resources will be based on the accumulated catch histories *over the previous five years* for which data are available for each member of the self-selected sector, as described in Amendment 13. For example, for sectors beginning operations in FY 2009, the baseline period would be FY 2002 – FY 2006. Each permit's landings for the time period are divided by the total landings of the stock to determine each permit's share.

3.1.4.4.2 Option 1 - Landings History Only FY 1996 – FY 2006

Under this alternative, permit history will be based on the landings history of each permit during the time period FY 1996 – FY 2006. Landings history will be based on the information in the NMFS commercial dealer database. For each permit, the landings for each stock will be summed over the time period. This value will be divided by the total landings by permits eligible to join sectors (as of April 30, 2008) during the same period. The result will be the share of each stock for each permit. Discards will not be counted when calculating permit history, even though both discards and landings are counted against a sector's ACE.

3.1.4.4.3 Option 2 - 50% Landings History and 50% Vessel Baseline Capacity for Landed Stocks FY 1996 – FY 2006

Under this alternative, landings history for each permit/stock will be calculated in the same manner described above for Alternative 1. Vessel baseline capacity will be calculated using the following formula:

$$(10L + HP) \times (\text{allocated "A" DAS}) = \text{baseline capacity}$$

The portion allocated based on capacity applies *only* to stocks landed by the permit. The length and horsepower characteristics of the capacity portion in the formula above will be fixed as of January 29, 2004, which is consistent with the baseline established by NMFS for the Groundfish DAS Leasing Program.

The landings history share and the baseline capacity share for each permit will be averaged to obtain a value for each stock. Under this alternative, each permit will receive history only for groundfish stocks that it landed between FY 1996 and FY 2006.

3.1.4.4.4 Option 3 - 50% Landings History and 50% Vessel Baseline Capacity for All Stocks FY 1996 – FY 2006

Under this alternative, landings history for each permit/stock will be calculated in the same manner described above for Alternative 1. Vessel baseline capacity will be calculated using the following formula:

$$(10L + HP) \times (\text{allocated "A" DAS}) = \text{baseline capacity}$$

The portion allocated based on capacity applies to *all* stocks for which ACE will be allocated. The length and horsepower characteristics of the capacity portion in the formula above will be fixed as of January 29, 2004, which is consistent with the baseline established by NMFS for the Groundfish DAS Leasing Program.

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The landings history share and the baseline capacity share for each permit will be averaged to obtain a value for each stock. This alternative is different from Alternative 2 in that every permit will receive an allocation of every applicable groundfish stock.

3.1.4.4.5 Option 4 - 50% Landings History and 50% A DAS for All Stocks FY 1996 – FY 2006

Under this alternative, landings history for each permit/stock will be calculated in the same manner described above for Alternative 1. Vessel baseline capacity will be represented by allocated “A” DAS for *all* stocks for which ACE will be allocated.

The landings history share and the A DAS share for each permit will be averaged to obtain a value for each stock.

3.1.4.4.6 Option 5 – Existing Sector Allocations (*Not yet approved by Council*)

For the two sectors that exist (the GB Cod Hook Gear Sectors and the Fixed Gear Sector), the allocation of GB cod will be done as adopted by Amendmnet13. That is, the sector share will be calculated based on landings of GB cod during the period FY 1996-FY 2001, divided by the total landings of GB cod during that period. This calculation will only apply to those members of the sector as of April 30, 2008. For any other past or future member of these sectors, the sector share will be calculated as adopted by this action. For all other stocks, the potential sector contribution will be calculated as adopted by this action.

If this option is not selected, the potential sector contribution for members of these sectors will be calculated as adopted by this action.

3.1.5 Transfer of Annual Catch Entitlements (ACE)

3.1.5.1 Option 1 - No Action

If this option is selected, transfer of ACE between sectors will not be authorized.

3.1.5.2 Option 2 - Provisions for Transferring ACE

A sector can carry up to 10 percent of unused ACE forward into the next fishing year.

There are no restrictions on the nature of the transfer of ACE between sectors. The exchange of ACE between two sectors is viewed as a private business arrangement. Sectors can seek compensation (monetary or otherwise) when transferring ACE to another sector. Sectors are not obligated to transfer unused ACE to a sector that needs additional ACE.

In addition, all or a portion of a sector’s ACE of any stock can be transferred to another sector. This exchange can occur at any time during the fishing year and up to two weeks into the following fishing year. The transfer does not become effective until it is approved by NMFS.

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During the fishing year, a sector should project when its ACE will be exceeded and should cease fishing operations prior to exceeding it. If the sector's ACE is exceeded, the sector must cease operations in that stock area until it can acquire additional ACE through a transfer to balance the catch, and the sector also must comply with other overage penalties that may be applicable. A sector can resume fishing in the stock area if it acquires more ACE.

These provisions do not provide for the permanent transfer of sector shares. The only method for transferring sector shares is by moving permits between sectors, and this can only be accomplished prior to the beginning of the fishing year.

Proposed ACE transfers will be referred to NMFS. The transfer is not considered authorized until NMFS notifies both sectors. The NMFS review of a transfer request will be based on general issues such as whether both sectors are complying with reporting or other administrative requirements. The responsibility for ensuring that sufficient ACE is available to cover the transfer is the responsibility of the sector manager. NMFS approval of a transfer does not absolve the sector from managing its ACE.

Transfers of previous year's ACE after the end of the fishing year will allow sectors to balance accidental overages if other sectors hold unused ACE at the end of the year and are willing to transfer that ACE to the sector with an overage. Should a sector be unable to acquire ACE from another sector to balance an overage, the overage will be deducted from the next year's ACE allocation, and the sector may be subject to other penalties. Since ACE transfers may take place after fishing has commenced and it will not be clear whether sectors are able to balance overages by acquiring ACE until all transfers have been processed, 20% of each sector's ACE allocation for each stock will be held in reserve by NMFS until 45 days after the beginning of the fishing year to ensure that sectors will have sufficient ACE to balance overages from the previous year.

Rationale: Allowing transfer of ACE provides flexibility for sectors to adjust their allocations to account for unusual circumstances or to take advantage of other opportunities. For example, there may be instances where a sector does not have an allocation for a stock that has an unusual distribution due to oceanographic conditions – without allowing ACE transfer, the sector may be forced to discard this stock and may have to cease fishing because of the discards. Allowing the exchanges to continue for a brief period after the end of the fishing year provides a limited opportunity for a sector to quota balance in the instances that the TAC was inadvertently exceeded.

3.1.6 Mortality/Conservation Controls

Sectors are required to ensure that ACEs are not exceeded during the fishing year. Sectors should project when its ACE will be exceeded and should cease fishing operations prior to exceeding it. If the sector's ACE is exceeded, the sector must cease operations in that stock area until it can acquire additional ACE through a transfer to balance the catch, and the sector also must comply with other overage penalties that may be applicable.

It will be necessary to establish appropriate restrictions on catch or effort for each sector to ensure that they do not exceed their ACE (through landings or discards). Hard annual TACs by species will be allocated to the sector as a whole. The sector will be required to submit an Operations Plan for approval by the Regional Administrator. The Operations Plan should detail the allocation of

ACE within the group, how the catch of the sector would be monitored, and a plan for operation or cease of operations once the ACEs of one or more species are taken. TAC thresholds and details regarding the sector's plans for notifying NMFS once the specified TAC threshold has been reached also must be part of the operations plan. The plan must provide assurance that the sector would not exceed the ACEs allocated to it (either through landings or discards). See Section XXX for specific requirements of the sector Operations Plan.

The ACE allocated to sectors applies all catches of those stocks by sector vessels, whether caught during directed groundfish fishing trips or on other trips. As an example, yellowtail flounder caught by a sector vessel fishing in the General Category scallop fishery applies to the sector's yellowtail flounder TAC; groundfish caught while targeting skates or monkfish applies to the sector's groundfish TAC. If the sector does not have ACE available, then its vessel's cannot participate in these fisheries.

This paragraph needs to be considered by the Committee/Council to verify it reflects Council intent.

3.1.7 Interaction of Sector with Common Pool Vessels

As noted above, sectors will be assigned an ACE (share of total TAC) based on landings history or a combination of landings history and vessel capacity. While it is appropriate for changes in stock condition to affect the amount of fish that the share represents, sectors should not suffer if other sectors, or common pool vessels, exceed TACs and create a need for mortality reductions.

If a sector does not exceed its ACE in a given fishing year, but other sectors or common pool vessels exceed the remaining TAC, the sector's quota [in absolute (not share) terms] in the following years will not be reduced. This does not permanently change the sector's percentage of the total TAC, however. In the extreme case, the total resources available may be less than a sector's absolute quota. In this instance, the sector's share will be temporarily increased by the percentage that other sectors exceeded their quota. As stock conditions improve, the sector will keep this temporary increase in share until its annual quota is the same as it was prior to the stock decline. The sector's permanent share will then revert to its original share.

If a sector exceeds its ACE, the sector's quota will be reduced in the following year and the sector may be subject to enforcement action. If the sector exceeds its ACE repeatedly, the sector's share can be permanently reduced as a penalty or the sector's authorization to operate withdrawn.

If declining stock conditions result in a need to reduce fishing mortality, and all sectors and common pool vessels have operated within TAC limits, a sector's share will not be changed, but the amount this share represents may be due to reduced overall TACs. If stock conditions improve, and a sector stays within its quota while other sectors do not, the sector will receive a temporary increase in share equal to the amount that other sectors exceeded their quota.

Some multispecies management measures that apply to common pool vessels will also apply to any vessel in a sector, and these measures are listed below. Other groundfish measures that are not included in the list below may be altered through a sector's operations plan. In its operations plan, a sector should specify any additional multispecies management measures that should not apply to the sector. Exemptions and/or modifications to other management measures must be approved by NMFS.

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The following list may be modified through a framework adjustment. Sectors *cannot* request exemption from the management measures included in this list. Current measures that will apply to both sector and common pool vessels include:

- Year round closed areas
- Permitting restrictions (vessel upgrades, etc.)
- Gear restrictions designed to minimize habitat impacts (roller gear restrictions, etc.)
- Reporting requirements (not including DAS reporting requirements)

Similarly, all sectors will be universally exempt from some multispecies management measures. A sector must request changes or exemptions to other multispecies management measures in its operations plan, as appropriate.

The following list of sector exemptions may be modified in the future through a framework adjustment. **With the implementation of this amendment, all sectors will be exempt from:**

- Trip limits on stocks for which a sector receives an allocation (all stocks except halibut, ocean pout, and windowpane flounder);
- Seasonal closed areas; and
- Groundfish DAS restrictions.

These universal exemptions only apply to groundfish fishing regulations. They do not apply to requirements implemented by other management plans. For example, certain categories of monkfish permits must use a groundfish DAS when using a monkfish DAS. That requirement continues until or unless the monkfish FMP changes it. If one of these vessels is in a groundfish sector and wants to use a monkfish DAS and land the monkfish trip limit associated with using a monkfish DAS, then it must use a groundfish DAS. The same vessel can instead not use either a groundfish or monkfish DAS and be limited to the monkfish trip limit for vessels not fishing on a monkfish DAS.

3.1.8 Sector Participation in Special Management Programs *(Not yet approved by Council)*

Sector participation in existing special management programs is described below. If additional program are adopted, specific provisions for sector participation will be defined. In all cases, sector vessels cannot participate in a special management program unless the sector has an allocation for the stocks caught in this SAP in order to participate.

3.1.8.1 Eastern U.S. Canada Haddock SAP

For a sector exempt from DAS, the only benefit to this SAP is that it allows fishing in the far northern tip of CAII. Assuming the Council adopts the Committee's recommendation to have specific TACs for the eastern US/CA stocks, the following provisions apply for sector participation:

- (1) Sector vessel participating in the SAP must follow reporting requirements.
- (2) All catch applies against the sector's allocated TACs for each stock, including those specific to the Eastern U.S./Canada area, but not against any incidental catch TACs.

(3) Sectors can fish in the corner of CAII (within SAP boundaries) during the season of the SAP.

(4) There are no specific gear requirements for sectors. Since the sectors will have hard TACs on most species, gear requirements designed to maximize catch of the target species may not be necessary. Presumably sectors will adjust their operation to maximize their benefits from their available TACs.

3.1.8.2 Closed Area II Yellowtail Flounder SAP

This SAP has a limit on the catch per trip of target species, limit on the total number of trips, limits on the number of trips that can be taken each month, gear requirements, and a cod catch limit.

(1) Sectors are subject to reporting requirements, limits on the number and frequency of trips, and the catch limit for target species.

(2) Sectors are not subject to the cod or haddock trip limit.

(3) Sectors are subject to the gear requirement. This SAP is designed to target flounder and it would not be appropriate to allow sectors to use gear designed to target other species in this SAP. The PDT recognizes this may seem inconsistent with the advice for the Eastern U.S./Canada SAP, but note that unlike in that SAP, the access area is much larger and the sector's catch of the target species (GB YTF) is not limited by a specific sector Eastern U.S./Canada area TAC.

3.1.8.3 Closed Area I Hook Gear Haddock SAP

This SAP provides an opportunity to target GB haddock within CAI. The SAP already has provisions that describe requirements for sectors and additional provisions are not proposed (but see section 3.7 for possible SAP changes).

3.1.9 Sector Annual Reports

The annual report is intended to provide information necessary to evaluate the biological, economic, and social impacts of sectors and their fishing operations. As such, information must be provided that described the catch and characteristics of the sector.

Approved sectors must submit an annual year-end report to NMFS and the Council, within 60 days of the end of the fishing year that summarizes the fishing activities of its members, including harvest levels of all species by sector vessels (landings *and* discards by gear type), enforcement actions, and other relevant information required to evaluate the performance of the sector. The annual report must report the number of sector vessels that fished for regulated groundfish and the permit numbers of those vessels (except when this would violate protection of confidentiality), the number of vessels that fished for other species, the method used to estimate discards, the landing ports used by sector vessels while landing regulated groundfish, and any other information requested by the Regional Administrator.

3.1.10 Monitoring, Enforcement, and Transparency

It will be the responsibility of each sector to enforce any provisions adopted through procedures established in the operations plan and agreed to through the sector contract. Ultimately, a sector may desire to expel a member due to repeated violations of sector provisions. Once a vessel enters into a sector, it cannot fish during that fishing year under the regulations that apply to the common pool. In other words, if a vessel is expelled from a sector, it cannot participate in the groundfish fishery during the remainder of that fishing year.

For the purposes of enforcement, a sector is a legal entity that can be subject to NMFS enforcement action for violations of the regulations pertaining to sectors. Vessels operating within a sector are responsible for judgments against the sector.

Sector operations plans will specify how a sector will monitor its landings to assure that sector landings do not exceed the sector allocation. At the end of the fishing year, NMFS will evaluate landings using IVR, VMS, and any other available information to determine whether a sector has exceeded any of its allocations based on the list of participating vessels submitted in the operations plan.

3.1.10.1 Monitoring and Enforcement of Landings

Sector operations plans must provide detailed information about how landings in the fishery will be monitored, reported, and enforced within the sector.

- Sectors are required to land *all* legal-sized fish from stocks managed by the FMP that are specifically allocated to the sector.
- Sectors must demonstrate the ability to accurately attribute landings to a specific statistical area.
- Sectors are required to report all landings and discards to NMFS on a weekly basis.
- Sectors are required to develop and implement an *independent third-party weighmaster system* that is satisfactory to NMFS for monitoring landings and utilization of ACE. The details of the weighmaster system must be provided in the sector's operations plan.
- The sector operations plan also must include a list of specific ports where members will land fish; specific exceptions should be noted (e.g., safety, weather) and allowed, provided there is reasonable notification of a deviation from the listed ports.

Expect more weighmaster details after GMRI report.

3.1.10.2 Monitoring and Enforcement of Discards

Sector operations plans must provide detailed information about how discards in the fishery will be monitored, reported, and enforced within the sector.

- Discards will not be counted when determining the sector's ACE but will be counted against the ACE during the fishing year.

- Discards will be counted at the previous assumed discard rate, calculated as often as is practicable, by gear, and that amount will be deducted off the top of the ACE. A sector must develop an adequate monitoring system and demonstrate to NMFS that discards can be accurately monitored and counted as part of the ACE, at the sector's expense. Details about such a monitoring system must be provided in the sector's operations plan. This system will enable the sector to deduct annual discards from the ACE instead of using assumed discard rates.
- Sectors are required to report all landings and discards to NMFS on a weekly basis.

Process for calculating and publishing discard rate needs development. Not clear when sector must have monitoring system developed – is it required at start?

3.2 Possession of a limited access multispecies permit and a limited access scallop permit by the same vessel

3.2.1 Option 1 - No Action

At present, only those limited access scallop permit holders that qualified for a combination vessel limited access multispecies permit are permitted to hold a limited access scallop permit and a limited access multispecies permit at the same time. Under the No Action option, this restriction will continue. Vessels with a limited access scallop permit will not be allowed to obtain a limited access multispecies permit, and vessels with a trawl limited access scallop permit that choose to modify their permit to a dredge limited access scallop permit must surrender any limited access multispecies permit that is held.

3.2.2 Option 2 – Removal of restriction

A vessel may possess a limited access multispecies permit and a limited access scallop permit at the same time, even if the scallop dredge vessel did not qualify for a limited access multispecies vessel combination permit. This change allows a limited access scallop vessel to acquire a limited access multispecies permit, and also allows vessels that possess a limited access scallop trawl permit and a limited access multispecies permit to change the scallop trawl permit to a scallop dredge permit (if consistent with all provisions of the Atlantic Sea Scallop FMP) without surrendering the limited access multispecies permit.

Most limited access scallop permit holders that do not hold a limited access multispecies combination permit also hold an open access scallop Northeast multispecies possession limit permit. This open access permit allows the vessel to land a limited amount of Northeast multispecies caught while fishing for scallops. Should such a scallop vessel acquire a limited access multispecies permit, the multispecies landings history from the open access permit does not transfer to the acquired limited access permit. As long as only limited access multispecies permits are eligible for membership in sectors, and potential sector contributions in the multispecies fishery are based wholly or in part on landings history, only multispecies landings history acquired while using a limited access multispecies permit is considered when calculating potential sector share contributions.

3.3 Annual Catch Limits

While this action will specify the process for Annual Catch Limits, they will be implemented as required by the M-S Act (FY 2010 or 2011).

3.3.1 Option 1 – No Action

If this option is selected, a process for implementing Annual Catch Limits (ACLs) will not be adopted in this action.

3.3.2 Option 2 – Annual Catch Limits

Revisions to the M-S Act in 2006 require that fishery management councils “develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process...” This option implements that requirement for the Northeast Multispecies FMP. This section was prepared in the absence of guidance from the NMFS on the implementation of this requirement. Revisions may be considered after that guidance is published.

There are several steps that must be specified to set ACLs. In some cases, the M-S Act requires certain steps to be performed by specific entities (generally either the Council or the Science and Statistical Committee (SSC)). These requirements will be discussed in more detail later in this section.

- Appropriate fishing mortality references must be identified.
- Current stock size must be estimated.
- Available catches must be estimated for the appropriate fishing mortality references at current, or projected, stock sizes, taking into account biological and management uncertainty and risk.
- For some data-poor stocks, available catch may have to be determined without benefit of fishing mortality estimates or targets, or stock size estimates.
- Available catch will need to be allocated to different components of the fishery (sectors/common pool vessels, commercial/recreational), or to other fisheries (Scallop dredge, midwater trawl, etc.).
- Council decisions will need to be reviewed, discussed, and published.

This section will describe the process for all of these steps.

3.3.2.1 Definitions

The following definitions define terms used in this section.

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Table 6 summarizes this information.

OFL: Overfishing level. The catch that results from applying the fishing mortality rate that defines overfishing to a current or projected estimate of stock size. This is usually F_{MSY} or its proxy. Catches that exceed this amount would be expected to result in overfishing.

ABC: Allowable biological catch. The maximum catch that is recommended for harvest, consistent with meeting the biological objectives of the management plan. ABC can never exceed the OFL. ABC will be based on $F_{control\ rule}$ for stocks that are not in a rebuilding program, and will be based on the rebuilding fishing mortality (F_{reb}) rate for stocks that are in a rebuilding program. The determination of ABC will consider biological uncertainty.

ACL: Annual catch limit. The catch level selected such that the risk of exceeding the ABC is consistent with the management program. ACL can be equal to but can never exceed the ABC. ACL should be set lower than the ABC when necessary due to uncertainty over the effectiveness of management measures. The ACL serves as the level of catch that determines whether accountability measures (AMs) are implemented.

Table 6 – Overview of definitions used in ACL process

Acronym	Definition	Considerations
OFL	Catch at F_{MSY}	Point estimates of F_{MSY} , stock size
ABC	Catch at $F_{control\ rule}/F_{rebuild}$	Biological uncertainty over current stock size, estimate of F, or other parameters (growth, recruitment, etc.)
ACL	$\leq ABC$	Uncertainty from other sources, evaluation of risk to achieving management goals if ABC is exceeded

3.3.2.2 Administrative process for setting multispecies ACLs

This section delineates the administrative steps for setting ACLs for multispecies stocks. The ACL process will become an element of the existing periodic adjustment process. The biennial adjustment process requires the PDT to prepare a SAFE report every year. Every two years, the PDT evaluates whether management measures need to be revised in order to meet mortality objectives. The PDT is required to submit suggested measures to the Council by September 1 if revisions are necessary. The Council will then consider adjustments over the course of two Council meetings. The first meeting, in September, will be the first framework meeting for any revisions. The second framework meeting will take place in either October or November.

The PDT will develop recommendations for Allowable Biological Catch (ABC) for each multispecies stock based on the definitions in

Table 6. These recommendations form the basis for setting ACLs. The PDT recommendations will include the following elements:

- OFL estimates for the next three fishing years, based on the point estimates of F_{MSY} (or its proxy) and the point estimate of future stock size. While it is expected that OFLs will be determined every two years, the PDT will recommend them for three years in case of a delay of updates.
- As part of the biennial adjustment process, the PDT should evaluate whether rebuilding is proceeding as planned and whether adjustments are necessary to fishing mortality targets in order to maintain rebuilding trajectories.
- ABC recommendations for the next three fishing years, based on either $F_{control\ rule}$ (stocks not in a rebuilding program) or F_{reb} (stocks in a rebuilding program). The PDT recommendation should report the catch that results from the point estimates of the target fishing mortality rate and projected stock size. If the PDT recommends reducing the ABC from this amount, the recommendation should include an explicit discussion of the biological uncertainties that are taken into account in developing the recommendation. For some stocks, information may not be available to estimate fishing mortality or stock size; the PDT will develop a recommendation for those stocks using any available data. While it is expected that ABCs will be determined every two years, the PDT will recommend them for three years in case of a delay in implementation.
- An evaluation whether the ABC's have been exceeded in earlier years.
- A summary indicating whether ACLs have been exceeded in recent years.
- A recommendation for setting ACLs for the next three years. The PDT will describe the uncertainties and risks considered when developing these recommendations. While it is expected that ACLs will be determined every two years, the PDT will recommend them for three years in case of a delay in implementation.

Frequency of adjusting rebuilding mortality targets was specified in A13 (i.e. 2006 and 2009 adjustments); may need to be specified for any rebuilding programs adopted in the future.

The PDT recommendations for setting ABCs will be provided to the SSC prior to the September Council meeting. The SSC will review the PDT recommendations and will either approve those recommendations or will provide an alternative recommendation. In either case, the SSC will explicitly describe the elements of biological uncertainty that were considered in developing its recommendation. If requested by the Council, the SSC may comment on the uncertainty and risk that should be considered by the Council when setting ACLs and whether the PDT has identified those elements sufficiently for Council consideration. If the SSC recommends an ABC that differs from the PDT recommendation, the PDT will revise its ACL recommendations using the new ABCs.

This process will be modified for those stocks or management units that are subject to the U.S./Canada Resource Sharing Understanding. For these stocks, the Trans-boundary Management Guidance Committee (TMGC) develops recommended catch levels. These are essentially ACLs, as they take into account various types of uncertainty and risk. This is not considered a peer-review process as envisioned by the M-S Act and as a result the recommendations will be reviewed by the SSC to verify that they are consistent with the SSC recommendations for ABCs.

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The Council will consider the ABC recommendations of the SSC and the ACL recommendations of the PDT (and TMGC) and will make a decision on those recommendations prior to December 1. If the Council questions the SSC recommendation, it can ask for a more detailed explanation from the SSC, but the Council must establish ACLs that are equal to or lower than the ABC recommended by the SSC. When setting ACLs, the Council will consider the advice of the SSC and the PDT and will provide the rationale used for setting the ACLs.

Once the Council has approved ACLs, they will be submitted to NMFS for approval and implementation. ACLs can be implemented in several ways. If the Council is submitting a management action as part of the periodic adjustment process, the ACLs can be included in that document. Alternatively, the ACLs can be submitted as part of a specification package supported by the appropriate NEPA document. It should be noted that in many instances ACLs merely reflect the catch associated with the mortality targets determined by the management plan and therefore the impacts are consistent with those evaluated when the mortality targets were adopted. For this reason, in those instances that an ACL is not revised, it is anticipated that there will not be a need for a new supporting NEPA document.

After receipt of the Council decision for ACLs – either as part of a new management action or as part of a specification package – NMFS will review the Council’s decision and if consistent with applicable law will implement the ACL consistent with the Administrative Procedures Act (APA).

3.3.2.3 ACL Sub-Components (*Not yet reviewed by Council*)

Once an overall ACL is determined, the Council may divide the ACL into sub-components. These sub-components will facilitate management of the catch of a stock so that if catches are excessive measures can be designed for the portions of the fishery that are responsible for the excessive catch. In this context the term “sub-component” is used in two senses: first, to indicate that the overall may be divided into smaller portions that are attributed to specific fisheries, and second to refer to those smaller portions that are not considered ACLs and are not subject to AMs.

There are two broad divisions that will be considered. The overall available catch may be divided into ACLs for specific fisheries or other sub-components. Because these are ACLs, AMs are required for these divisions. Second, part of the available catch may be divided into sub-components that are not referred to as ACLs and are not subject to the requirement that AMs be specified. It is important to note that the controls on the portion of the fishery that is subject to AMs must be sufficient to prevent overfishing on the stock as a whole. The sub-components that are identified, and whether they are ACLs or not, and appropriate AMs, can be revised through the framework adjustment process.

For those sub-components that are not ACLs, there are broad categories. First, small amounts of regulated groundfish are caught in a variety of fisheries. Where individually these elements are too small to reliably monitor, they are aggregated into an “Other non-specified” category. Second, some fisheries are specifically identified, such as the scallop fisher or fisheries in state waters. For the category described as “other non-specified”, catches will be monitored and if the catch rises above five percent accountability measures will be developed to address the cause of that rise.

The proposed sub-components that will be adopted at the implementation of this amendment are shown in Table 9. Where possible, the percentage of the sub-component that will be allocated to

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specific fisheries is shown. For some stocks, this value cannot be determined because they will be determined by the analyses in GARM III.

For the scallop dredge fishery, the specific value is not specified because this will be determined as part of the biennial adjustment process. Catches of regulated groundfish in the scallop fisheries depend on a wide range of factors: scallop and groundfish abundance, the scallop rotational management program, etc. These factors are variable and cannot be predicted in this action. The amount of yellowtail flounder allowed for the scallop dredge fishery will, at a minimum, be consistent with the incidental catch amounts for the Closed Area access programs (ten percent of the GB yellowtail flounder and SNE/MA yellowtail flounder ACL when CAI, CAI, or the NLCA access programs are in effect).

Table 7 –ACLs and sub-components for groundfish stocks. Recreational values will be determined after GARM III assessments, which will also determine the amount available for commercial groundfish. Scallop values to be determined during biennial adjustment process.

Stock	ACLs			Other Sub-Components		
	Commercial Groundfish	Rec Gfish	Herring MWT	Other Non-Specified	Scallop	State Waters
GB Cod	TBD	X		5.0%		
GB Haddock	94.8%		0.2%	5.0%		
GB YTF	95.0%			5.0%	X	
SNE/MA YTF	95.0%			5.0%	X	
CC/GOM YTF	95.0%			5.0%	X	
GOM Cod	63.0%	22.0%		5.0%		10.0%
Witch	95.0%			5.0%		
Plaice	95.0%			5.0%		
GOM WFL	77.0%	18.0%		5.0%		
SNE/MA WFL	71.0%	24.0%		5.0%		
GB WFL	95.0%			5.0%		
White Hake	95.0%			5.0%		
Pollock	TBD	X		5.0%		
Redfish	95.0%			5.0%		
Pout	95.0%			5.0%		
GOM/GB Windowpane	70.0%			30.0%		
SNE/MA Windowpane	70.0%			30.0%		
GOM Haddock	TBD	X	0.2%	5.0%		
Halibut	95.0%			5.0%		

Committee and PDT are still working on this table.

3.4 Allocation of Groundfish to the Commercial and Recreational Groundfish Fisheries

3.4.1 Option 1 – No Action

At present, there is no allocation of groundfish made between the recreational groundfish fishery (private boat/party/charter) and the commercial groundfish fishery. If this No Action option is adopted, this situation will continue.

3.4.2 Option 2 – Commercial and recreational groundfish allocation for certain stocks

For stocks identified in

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Table 8, the Annual Catch Limit (ACL) will be defined separately for the recreational and commercial components of the groundfish fishery. The proportion allocated to these fisheries will be determined using the time periods shown in the table based on the data that is used in GARM III assessments. When possible, the shares will be determined by using the numbers of fish in the years caught (as used by the assessment: harvested, landed, or discarded) by each component. The shares determined in this manner will be applied to the ACL to determine the weight of catch available for each component. If the number of fish caught by each component is not available, the shares will be calculated based on weight. The proportion for each year will be calculated, and then the average proportion over the time period will be the share for each component of the fishery. The proportions will be reviewed consistent with the periodic assessment cycle, and if determined necessary, changes can be implemented through a framework action. Any changes that are adopted will not affect the implementation of accountability measures based on proportions that were in effect at the time of the catches.

For GOM haddock and pollock, if the recreational harvest is included in the assessment in 2008, recreational and commercial proportions will be determined and applied to future ACLs.

Two different time periods are reflected in the table. For GOM cod, the proportions for each fishery are relatively constant regardless of the time period used. The 1996 -2006 time period was selected in part because of this fact, but also because this is the period being considered for determining the potential sector contribution for each commercial limited access permit. For the two winter flounder stocks, the proportion harvested by the recreational fishery has substantially declined in recent years, possibly as a result of low stock sizes. For that reason, a longer period is used to reflect periods of higher abundance.

Table 8 – Proposed time periods for calculating the recreational and commercial share of the groundfish ACL

Stock	Years
GOM Cod	1996 - 2006
GB Cod	TBD
GOM Haddock	(pending GARM III)
Pollock	(pending GARM III)
GOM Winter Flounder	1982 - 2006
SNE/MA Winter Flounder	1982-2006

3.4.3 Option 3 – Commercial and recreational allocation for certain stocks – winter flounder modification

{TO BE COMPLETED.}

3.5 Changes to the DAS Transfer and DAS Leasing Programs

3.5.1 Option 1 – No Action

If this option is selected, there will not be any changes made to the conservation tax charged by the DAS leasing program or the DAS transfer program. DAS will be leased without any conservation tax, while a twenty percent conservation tax will be charged for using the DAS transfer program.

3.5.2 Option 2 - DAS Transfer Program Conservation Tax

The Council will consider changing or eliminating the conservation tax on DAS transfers, currently set at 20 percent. If a change is made, transfers that have taken place before the change will be treated in one of two ways:

Option A: No adjustment will be made for permits previously charged the conservation tax.

Option B: Permits that have been previously charged a conservation tax will have their tax refunded (consistent with the revised tax).

Rationale: There has been limited use of the DAS transfer program. Modifying or eliminating the conservation tax may encourage use

3.5.3 Option 3 - DAS Leasing Program Conservation Tax

The Council will consider setting a tax on DAS leasing that is equivalent to the tax adopted for the DAS transfer program.

Rationale: Since the DAS can be acquired through the leasing program without a conservation tax, this program may inhibit consolidation in the fishery. In addition, the program may not be conservation neutral and may be increasing fishing mortality on some stocks. If the conservation tax on the leasing program and the DAS transfer program are the same, it may encourage vessel

owners to consolidate permits, and if a tax is adopted it may reduce mortality impacts of the leasing program.

3.5.4 Option 4 - DAS Transfer Program Conservation Tax Exemption Window

An owner of multiple groundfish permits will be allowed to consolidate the DAS and catch history of those permits onto a single vessel while exempt from the DAS conservation tax. The period when such transfers will be exempt from the DAS transfer program conservation tax will be limited to a specific time period, after which any use of the DAS transfer program will be subject to the DAS transfer tax that is in effect. **The time period considered for this exemption window is between three months and one fishing year.**

Rationale: This measure will encourage owners of multiple limited access groundfish permits to consolidate their permits on one vessel. The limited period when such transfers are not subject to the conservation tax will encourage permit holders to make this decision. Permit holders will have reduced costs since they will no longer have to maintain vessels (skiffs) to hold additional permits, will not have to renew those permits annually, and will not have to file VTRs for those permits. To the extent that vessels take advantage of this opportunity, this will reduce the administrative burden on NMFS of processing DAS leases among vessels with the same owner. It will also reduce the risk that some of those permits may be reactivated in the future, either in the groundfish fishery or other fisheries.

3.6 Reporting Requirements *(Not yet approved by Council)*

This measure proposed to add additional requirements for limited access groundfish vessels to facilitate the monitoring of Annual Catch Limits (ACLs) and sectors. The measures in this section, if adopted, apply to all limited access groundfish vessels, whether fishing in the common pool or as a member of a sector. They are in addition to any specific requirements applicable to either common pool or sector vessels that are adopted in other sections.

3.6.1 Option 1 – No Action

Under the No Action option, no additional reporting requirements are adopted that are not specified in other sections.

3.6.2 Option 2 – Area-specific reporting requirements

The implementation of ACLs and the possible implementation of additional sectors places increased importance on timely reporting of catch (kept and discarded) information. The current reporting system relies on submission of paper VTRs to identify area fished. There are delays in receiving and processing these VTRs that make them unusable for timely monitoring of either sector catch or ACLs, which are stock specific. In order to improve the timeliness of reporting, additional requirements will be adopted. Note that these requirements do not replace the existing requirements for dealer and vessel reporting. Amendment 13 included language that authorized the future use of electronic reporting systems as a replacement for the VTR. This option does not preclude that possibility in the future, but does not replace VTRs with this proposal. This option

Unclear if this is intended to be sufficient to monitor discards for non-sector vessels, or whether discards counting against ACL need to be accounted in some other fashion, as is done for sectors.

also does not replace reporting requirements for special management programs or fishing in the U.S./Canada area. To the extent possible, NMFS will develop procedures for these new requirements that reduce unnecessary duplication.

In order to improve the timeliness of reporting and the matching of dealer landings with area fished, four broad reporting areas will be established (see Figure 1). These areas were determined so that all groundfish catch in the area can be allocated to the appropriate stock. All limited access groundfish vessels required to use VMS will be required to make a declaration via VMS at the beginning of a trip on whether they intend to fish in one broad reporting area or multiple reporting areas. This declaration must be made prior to departing on every groundfish fishing trip. If a vessel operator reports that he is only going to fish in one area, the vessel cannot fish in multiple reporting areas on that trip, but can fish in multiple areas on subsequent trips. Vessels that notify NMFS they intend to fish in multiple areas will be required to submit a daily report to NMFS that reports kept and discarded groundfish catch by broad reporting area (other reporting periods may be authorized by NMFS). There is no restriction on the number of areas that can be fished on such trips, or on the number of times a vessel can enter or exit any area, as long as accurate daily catch reports are submitted by VMS.

In order to link this information on area fished and catch to dealer data, each limited access groundfish vessel operator (whether fishing in one or multiple broad reporting areas) will be required to report a VTR serial number for the trip via VMS at a time specified by NMFS. The vessel operator must also provide this VTR serial number to the dealer or dealers purchasing the fish from that trip, as well as to the observer if the trip is observed. The dealer will include this serial number when reporting purchases to NMFS. NMFS will provide directions for reporting this serial number for those vessels that fish in multiple statistical areas or use multiple gears on the same trip (vessels are required to submit a new VTR page for each statistical area fished or gear used).

GOM Area/Reporting Area 1

Point	Latitude	Longitude
G1	(¹)	(¹)
G2	43° 58' N.	67° 22' W.
G3	42° 53.1' N.	67° 44.4' W.
G4	42° 31' N.	67° 28.1' W.
CII3	42° 22' N.	67° 20' W.
G6	42° 20' N.	67° 20' W.
G10	42° 20' N.	70° 00' W.
G9	42° 00' N.	(²)

¹The intersection of the shoreline and the U.S.-Canada Maritime Boundary.

²The intersection of the Cape Cod, MA, coastline and 42°00' N. lat.

Inshore GB Area/Reporting Area 2

Point	Latitude	Longitude
G9	42° 00' N.	(¹)
G10	42° 20' N.	70° 00' W.
IGB1	42° 20' N.	68° 50' W.
IGB2	41° 00' N.	68° 50' W.
IGB3	41° 00' N.	69° 30' W.
IGB4	41° 10' N.	69° 30' W.
IGB5	41° 10' N.	69° 50' W.
IGB6	41° 20' N.	69° 50' W.
IGB7	41° 20' N.	70° 00' W.
G12	(²)	70° 00' W.

¹The intersection of the Cape Cod, MA, coastline and 42°00' N. lat.

²South facing shoreline of Cape Cod.

Offshore GB Area/Reporting Area 3

Point	Latitude	Longitude
IGB1	42° 20' N.	68° 50' W.
CII3	42° 22' N.	67° 20' W.
SNE1	40° 24' N.	65° 43' W.
SNE2	(¹)	69° 00' W.
SNE3	39° 50' N.	69° 00' W.
SNE4	39° 50' N.	68° 50' W.
IGB2	41° 00' N.	68° 50' W.
IGB1	42° 20' N.	68° 50' W.

¹The U.S.-Canada Maritime Boundary as it intersects with the EEZ.

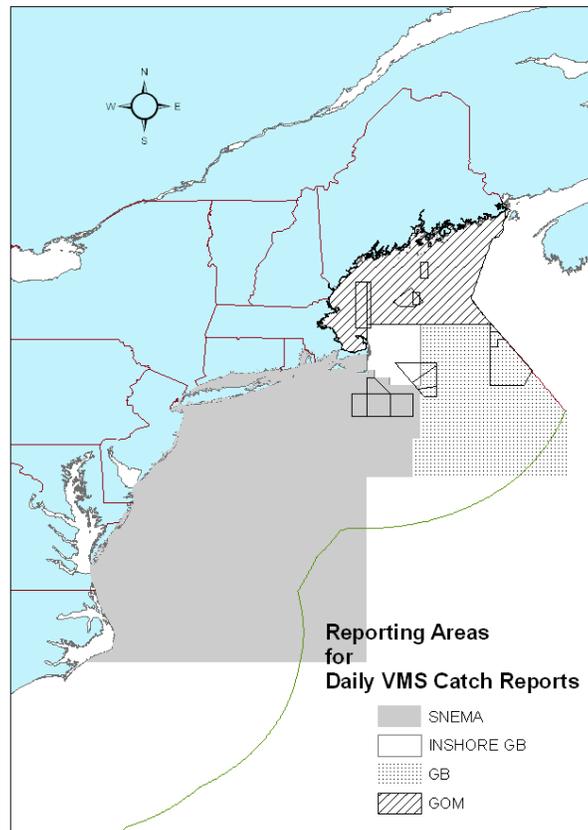
SNE/MA Area/Reporting Area 4

Point	Latitude	Longitude
G12	(¹)	70° 00' W.
IGB7	41° 20' N.	70° 00' W.
IGB6	41° 20' N.	69° 50' W.
IGB5	41° 10' N.	69° 50' W.
IGB4	41° 10' N.	69° 30' W.
IGB3	41° 00' N.	69° 30' W.
IGB2	41° 00' N.	68° 50' W.
SNE4	39° 50' N.	68° 50' W.
SNE3	39° 50' N.	69° 00' W.
SNE2	(²)	69° 00' W.

¹South facing shoreline of Cape Cod.

²The U.S.-Canada Maritime Boundary as it intersects with the EEZ.

Figure 1 – Proposed reporting areas



3.7 Closed Area I Hook Gear Haddock SAP Revisions

The CAI Hook Gear Haddock SAP provides an opportunity to target GB haddock within the boundaries of CAI. Changes are being considered to the area and the season, and to the provisions adopted to mitigate competition between sector and common pool participants.

3.7.1 Option 1 – No Action

If this option is selected there will not be any changes to the SAP regulations. The area of the SAP will continue to be as shown in Figure 2. The season for the SAP will continue to be October 1 to December 31. The season will continue to be split in half, with one half of the season for sector vessels and the other half for common pool vessels. The TAC for GB haddock caught in the SAP will continue to be divided equally between sector and common pool vessels.

3.7.2 Option 2 – Closed Area I Hook Gear Haddock SAP Revisions

If selected, this Option will revise the season, area, and other provisions of the CAI Hook Gear Haddock SAP.

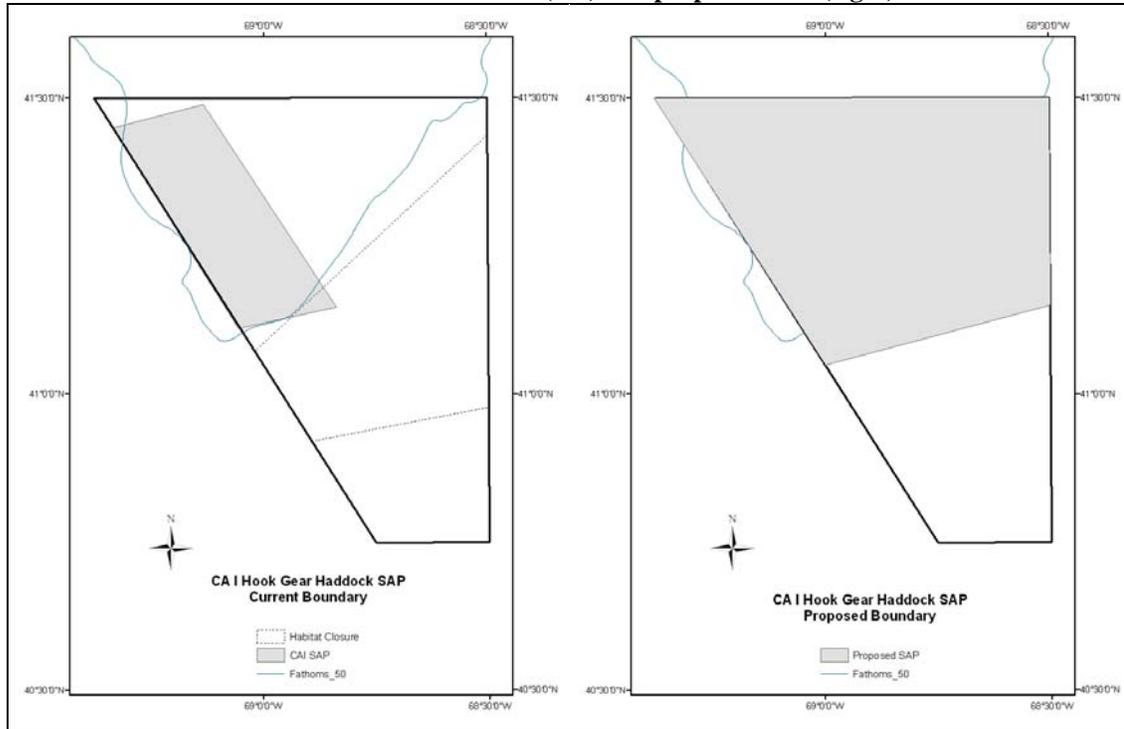
Season: The SAP would be extended to nine months, May 1 through January 31. Fishing would be allowed in the SAP during the May seasonal closure on GB. Sector and non-sector vessels can fish at any time during the SAP season – the current division of the season into sector and non-sector participation periods would be eliminated.

Area: The area of the SAP would be expanded to include the northern portion of CAI, as shown in Figure 2. The coordinates for the revised SAP area would be:

41-09 N	68-30 W
41-30 N	68-30 W
41-30 N	69-23 W
41-04 N	69-01.75 W

TAC: The SAP TAC for GB haddock would not longer be split between sector and non-sector vessels.

Figure 2 – Current CAI Hook Gear Haddock SAP area (left) and proposed area (right)



3.8 Eastern U.S./Canada Haddock SAP Area

This SAP provides an opportunity to target GB haddock in the Eastern U.S./Canada area, including a small portion of CAII.

3.8.1 Option 1 - No Action

The SAP is scheduled to terminate on November XXX, 2008. If the No Action alternative is selected, the SAP will not be re-opened.

3.8.2 Option 2 – Reauthorization of the Eastern U.S./Canada Haddock SAP

This option reauthorizes the SAP and continues it indefinitely unless changed by a future Council action, or unless closed for the season by the Regional Administrator consistent with the Administrative Procedures Act and SAP regulations. All provisions of the SAP remain and are not changed.

4.0 Measures to Meet Mortality Objectives

4.1 Effort Control Alternatives

Effort control alternative(s) will be developed using the following measures:

- Count DAS as a minimum of 24 hours
- Consider adjustments in differential DAS program
- Trip limit triggers on stocks with trip limits
- Adjustments to Category A, B and C DAS split as a tool for adjustments to the DAS program.
- Adjustments to trip limits

The PDT has begun to analyze the impact on fishing mortality of change in measures and will present that information to the Groundfish Committee. Preliminary results will be presented to the Groundfish Oversight Committee on February 11, 2008. The intent is to refine these scenarios for the draft document to cover a range of possible mortality changes, using as much information as possible so that the range allows for informed comment. This will help the Committee recommend approaches to address needed changes in fishing mortality that will not be known until the assessments are completed.

4.2 Recreational Management Measures

Recreational measures will be designed consistent with the allocations adopted in section 3.4 and any necessary adjustments in fishing mortality.

4.3 Implementation of Additional Sectors/Modifications to Existing Sectors

The following list summarizes the sector applications that have been received for implementation in FY 2009. When submitted, most applications were based on the existing sector regulations that were adopted by Amendment 13. Since several Council policies may revise those regulations, some of the applications may be modified. This list does not include all exemptions requested by the sectors, but just those that are not consistent with existing, or proposed, sector policies that would need a Council decision.

As an example, some sectors have asked to be allowed to trade ACE. Since this is being considered as a policy for all groundfish sectors, that request is not listed in this section. Some sectors asked to be exempt from year-round closed areas – since that is not consistent with existing or proposed sector policies, that request is listed. Almost all sectors asked for allocations of specific groundfish stocks, but the Council sector policy will require these sectors to receive an allocation of all stocks caught.

Several sectors have asked for allocations of stocks not managed by this FMP. Since these requests cannot be granted until other FMPs adopt sectors, they are not addressed here and are not listed.

4.3.1 Modifications to the Georges Bank Cod Hook Sector

The existing sector is proposed to be modified as follows:

- The sector would receive an allocation of all regulated groundfish stocks that are allocated to sectors (i.e. not just GB cod).
- Fishing would be allowed in all stock areas.
- The sector asks for exemptions from the following regulations. These are not authorized by existing or proposed sector provisions:

- Paper VTRs
- Annual closures
- Treatment of catch history.
- Sector will be credited with catching 20 percent of TAC regardless of actual percentage of TAC achieved (*this provision was in the proposal submitted; the sector has informally said it will remove this request*).
- Catch histories will remain constant within the sector.
- The sector will be exempt from compensating NMFS for administrative burden (*this may not be germane since sectors do not appear to be subject to cost-recovery provisions*).

4.3.2 Modifications to the Fixed Gear Sector

The existing sector is proposed to be modified as follows:

- The sector would receive an allocation of all regulated groundfish stocks that are allocated to sectors (i.e. not just GB cod).
- Fishing would be allowed in all stock areas.
- The sector asks for exemptions from the following regulations. These are not authorized by existing or proposed sector provisions:
 - Paper VTRs
 - Annual closures
 - Treatment of catch history.
 - Sector will be credited with catching 20 percent of TAC regardless of actual percentage of TAC achieved (*this provision was in the proposal submitted; the sector has informally said it will remove this request*).
 - Catch histories will remain constant within the sector.
 - The sector will be exempt from compensating NMFS for administrative burden (*this may not be germane since sectors do not appear to be subject to cost-recovery provisions*).

4.3.3 Sustainable Harvest Sector

This sector would be established in collaboration with the Portland Fish Exchange. This sector may consist of more than 60 vessels. The sector members intend to fish in all management areas (GOM, GB, SNE/MA) and with all allowed gear. All exemptions requested by the sector are consistent with existing or proposed sector policies. The sector is requesting that its allocation of white hake be allowed to exceed 20 percent. While current regulations allow a sector to request an exemption from this cap on sector share, the Council is considering removing this limit for all stocks.

4.3.4 Port Clyde Community Groundfish Sector

The Port Clyde Draggermen's Co-Op and the Midcoast Fishermen's Association propose a community-based sector, with membership of more than ten vessels expected. The sector initially requested allocations for GOM stocks, suggesting that the intended operating area is statistical areas 511, 512, 513, 514 and 515. Members will primarily use trawl gear but will be allowed to use

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other legal gear (gillnets and longlines). All exemptions requested are consistent with existing or proposed sector policies.

4.3.5 New Bedford Deep Water Trawl Sector

This sector will be formed of 10 to 60 medium to large sized trawl vessels that fish primarily on Georges Bank or in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

4.3.6 New Bedford and Southern New England Fixed Gear Sector

This sector will consist of 10 to 60 vessels using gillnets or longlines, fishing primarily on Georges Bank and the Gulf of Maine but also in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

4.3.7 New Bedford Channel Trawl Sector

This sector will be formed of 10 to 60 medium to large sized trawl vessels that fish primarily on Georges Bank and in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

4.3.8 New Hampshire and Southern Maine Fixed Gear Sector

This sector will be formed of 10 to 60 small to medium sized gillnet and longline vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

4.3.9 New Hampshire and Southern Maine Trawl Sector

This sector will be formed of 10 to 60 small to medium sized bottom trawl vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

4.3.10 Gloucester Trawl/Western Gulf of Maine Sector

This sector will be formed of 10 to 60 bottom trawl vessels from 36 to 70 feet in length that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

4.3.11 Gloucester Fixed Gear Sector

This sector will be formed of 10 to 60 small day and trip gillnet vessels and hook vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

4.3.12 Gloucester/Boston Trawl Gulf of Maine and Georges Bank Sector

This sector will be formed of 10 to 60 bottom trawl vessels from 55 to 95 feet in length that fish primarily in the Gulf of Maine and Georges Bank. Requested exemptions are consistent with existing or proposed sector policies.

4.3.13 South Shore Trawl Sector

This sector will be formed of 10 to 60 small to medium sized bottom trawl vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

4.3.14 South Shore Fixed gear Sector

This sector will be formed of 10 to 60 small to medium sized gillnet and hook vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

4.3.15 Point Judith and Southern New England Offshore Trawl Sector

This sector will be formed of 10 to 60 medium to large sized trawl vessels that fish primarily on Georges Bank and in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

4.3.16 Point Judith and Southern New England Trawl Sector

This sector will be formed of 10 to 60 small and medium sized trawl vessels that fish primarily in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

4.3.17 Tri-State Sector

Working with the Cape Cod Commercial Hook Sector, this sector will be formed to operate in all management areas using all legal gear (trawl, gillnet, hook). In addition to exemptions that are consistent with current or proposed policies, the sector asks for exemptions from the following regulations. These are not authorized by existing or proposed sector provisions:

- Paper VTRs
- Annual closures
- Treatment of catch history.
- Sector will be credited with catching 20 percent of TAC regardless of actual percentage of TAC achieved (*this provision was in the proposal submitted; the sector has informally said it will remove this request*).
- Catch histories will remain constant within the sector.
- The sector will be exempt from compensating NMFS for administrative burden (*this may not be germane since sectors do not appear to be subject to cost-recovery provisions*).

4.3.18 Pier 6 Initiative

A sector has been proposed based in Boston. No details have been received to date.

4.3.19 Martha's Vineyard Sector

A sector is proposed based in Martha's Vineyard. An initial application suggested this group was interested in using regulatory discards to stock a cod hatchery on the island. Cod would then be released in designated areas protected by closures in an attempt to increase cod stocks near the island. At a subsequent meeting, the proponent asked to be exempt from the permit history qualification criteria, to receive an allocation of one million pounds of cod, haddock, and pollock, and to be allowed to have members who have open access permits join the sector.

4.4 Accountability Measures *(Not yet approved by Council)*

While this action will specify the process for accountability measures, they will be implemented as required by the M-S Act (FY 2010 or 2011).

4.4.1 Commercial Groundfish Common Pool Accountability Measures

4.4.1.1 Common Pool Vessels Accountability Measure Alternative 1 – "Hard" Total Allowable Catch (TAC)

This alternative proposes a "hard" TAC backstop for common pool vessels in the commercial groundfish fishery as the accountability measure to ensure that overfishing does not occur. Under this measure, most commercial groundfish fishing by common pool vessels ceases in a stock area when it is projected that the TAC of a stock will be caught. This accountability measure does not apply to recreational groundfish fishing, commercial groundfish fishing within sectors, or incidental catches of groundfish in other fisheries (e.g. yellowtail flounder in the scallop dredge fishery).

The Council directed the Groundfish Committee to incorporate measures in this alternative that would avoid Olympic fishing and hard shutdowns.

4.4.1.1.1 Affected Stocks

TACs will be determined for all stocks in the multispecies FMP. TACs will be specified and monitored for the commercial fishery. If enough information is available, TACs for a species will be based on total commercial removals: commercial landings and discards. This requires sufficient information to adequately estimate and monitor discards. While for some stocks such information is already available and is included in stock assessments, for other stocks it is not. When discards cannot be accurately estimated, then the TAC is specified for and based on landings.

There will be a separate TAC for each of the stocks managed under the multispecies plan. Each TAC will be determined based on stock status and will be calculated according to the periodic adjustment schedule adopted in Amendment 13 (i.e. every two years).

4.4.1.1.2 Target (Trimester) TACs

For each stock, the total annual TAC will be apportioned to trimesters based on recent landings patterns. Each trimester will be four months in duration. The trimesters will be divided as follows:

- 1st trimester: May 1-August 31
- 2nd trimester: September 1-December 31
- 3rd trimester: January 1-April 30

The target TACs, or percentages of total TAC allocated to each trimester, are shown in Table 9. At implementation, the initial calculations will be based on the period FY 2002-2006, the most recent period with data complete as of the date of the draft of Amendment 16. Subsequent calculations will use the most recent five year periods available when the calculations are performed. For other stocks, the distribution of landings has been heavily influenced by management measures and the distribution shown in the table represents a preferred distribution of landings. The initial apportionment of stock to trimester is shown in Table 9.

Table 9 – Initial apportionment of common pool TAC to trimesters

Stock	Trimester 1	Trimester 2	Trimester 3
GOM Cod	27%	36%	37%
GB Cod	25%	37%	38%
GOM Haddock	27%	26%	47%
GB Haddock	27%	33%	40%
CC/GOM Yellowtail	35%	35%	30%
GB Yellowtail	19%	30%	52%
SNE/MA Yellowtail	21%	37%	42%
GOM Winter	37%	38%	25%
GB Winter	8%	24%	69%
SNE/MA Winter	36%	50%	14%
Witch Flounder	27%	31%	42%
Plaice	24%	36%	40%
Pollock	28%	35%	37%
Redfish	25%	31%	44%
White Hake	38%	31%	31%
N. Windowpane			
S. Windowpane			
Ocean Pout			
Halibut			

4.4.1.1.3 Setting the TAC and TAC Adjustment

The TACs will be reviewed on a biennial basis as part of the periodic adjustment process adopted by Amendment 13. TACs will be determined and set for each of the next two years. The TAC set each year will either be altered from the previous year's TAC based on a review process or renewed unchanged. If the Council does not recommend a change to a TAC, there is no requirement for submission of a Council document or a new NEPA document.

For the purposes of determining this TAC, the basic process is outlined as:

- The Annual Catch Limit (ACL) for the stock is determined.
- The catch available to the groundfish fishery is determined by subtracting the catch for other fisheries from the ACL and the amount reserved for a research set-aside.
- The catch available to the commercial and recreational groundfish fishery is determined based on the percentage of each stock allocated to each.
- The catch available to common pool vessels is determined by subtracting the catch available to the commercial groundfish sectors.

4.4.1.1.4 Measures to ensure the TACs are not exceeded

4.4.1.1.4.1 Stock Area Closures

In any trimester, when it is projected that ninety percent of the TAC for a stock will be caught, NMFS will close the area where the stock is caught to all groundfish fishing using gear capable of catching that species (see below for an exception to this requirement). Gear used to catch other species will still be allowed to fish in the area. As an example, if an area is closed to stop the catch of yellowtail flounder, groundfish fishing by common pool vessels using hook gear may still be allowed in the area since they catch little yellowtail flounder. The area closed will be based on the area that accounted for ninety percent of the reported (VTR) landings in prior years. Areas that will be closed for each stock are shown in Table 10 **Error! Reference source not found.** These areas are based on statistical areas where ninety percent of the catch was taken in recent years. The Regional Administrator is authorized to expand or narrow the areas closed based on additional information. For example, some stocks are found in a narrow depth range and it may be possible to use this information to limit the area that must be closed. Other stocks may expand their range as they rebuild, and larger areas may be needed to prevent exceeding the TAC.

Catching ninety percent of a TAC of northern windowpane flounder, southern windowpane flounder, ocean pout, or Atlantic halibut will not result in closing a stock area to groundfish fishing. When sixty percent of the TAC for these stocks is projected to be caught, the Regional Administrator will have the authority to specify a trip limit that is calculated to prevent the TAC from being exceeded prior to the end of the fishing year.

If a trimester TAC is not caught in the first or second trimester, the uncaught portion will be carried forward into the next trimester. Uncaught portions in the third trimester will not be carried over into the following fishing year.

If the TAC for the first two trimesters is exceeded, the overage will be deducted from the TAC for the third trimester. If the TAC for the year is exceeded, an amount equal to the overage will be deducted from the TAC for common pool vessels in the following year.

Rationale: Most regulated groundfish are caught by commercial vessels targeting groundfish. This measure is designed to ensure that TACs are not exceeded. By closing stock areas to groundfish fishing before the groundfish TAC is achieved, it reduces the likelihood the groundfish TAC will be exceeded. Note that an adjustment is made when setting the TAC to account for catches in other fisheries.

A different approach is used for four stocks with small landings. Windowpane flounders, ocean pout, and Atlantic halibut are typically incidental catches in the groundfish fishery – they are rarely targeted. In order to avoid closing the groundfish fishery because catches of these minor stocks approach a TAC, the Regional Administrator if given the ability to establish trip limits to further discourage any possible targeting of these stocks if necessary to reduce the likelihood the TAC will be exceeded.

Table 10 – Gears prohibited in specific areas when a TAC is caught.

SPECIES	STOCK	Area/Gear Prohibited When TAC is Caught	
		Statistical Areas	Gear
Cod	GB	521,522,525,526,561	Trawl, gillnet, longline/hook
	GOM	513,514,515	Trawl, gillnet, longline/hook
Haddock	GB	521,522,561	Trawl, gillnet, longline/hook
	GOM	512,513,514,515	Trawl, gillnet, longline/hook
Yellowtail Flounder	GB	522,525,561,562 (all)	Trawl, gillnet
	SNE/MA	537,539,612,613	Trawl, gillnet
	CC/GOM	514,521	Trawl, gillnet
American Plaice		512,513,514,515,521,522	Trawl
Witch Flounder		512,513,514,515,521,522	Trawl
Winter Flounder	GB	521,522,562	Trawl
	GOM	514	Trawl, gillnet
	SNE/MA	521,526,537,539,612,613	Trawl
Redfish		513,514,515,521,522,561	Trawl
White Hake		511,512,513,514,515,521,522,525,561,613,616	Trawl, gillnet, longline/hook
Pollock		513,514,515,521,522,561	Gillnet, trawl, longline/hook

Rationale: Some stock areas cover broad areas, even though the species may not be caught throughout the area. By limiting closures to areas where most of the stock is caught, the stock is protected while allowing opportunities to fish for other stocks. For example, the GB cod stock area stretches from Georges Bank to New Jersey, but very little cod is caught west of 70W. Other species are caught in narrow depth bands within a stock area. Similarly, there is no reason to restrict gear that does not catch a particular species from an area when the TAC is caught. This may also encourage development of more selective fishing techniques so that fishing can continue when the TAC for one species is caught.

4.4.1.1.4.2 White Hake Possession Limit

If this AM is chosen, the white hake possession limit will be reduced to 500 lbs./DAS with a maximum of 2,000 lbs./trip.

Rationale: White hake is widely distributed (see Table 10). Because the TAC is expected to be small while white hake is rebuilt, there is a concern that approaching this TAC could result in a closure of the entire fishery. The reduced possession limit is intended to discourage targeting white hake in order to reduce the likelihood of an area-wide shutdown.

4.4.1.1.5 Catch Monitoring

- All offloads of all regulated groundfish must be verified by an independent, third-party weighmaster that meets standards established by the NMFS. Funding of this program is the responsibility of the industry.
- When monitoring progress towards the TAC during the fishing year, NMFS will consider both landings and discards. If near real-time observer information is available, it will be used to provide an in-season estimate of discards. If this information is not available, a discard estimate will be developed using the proportion of catch discarded according to the most recent assessment or PDT calculation.

4.4.1.2 Common Pool Vessels Accountability Measure Alternative 2 (Not yet approved by Council)

In the event that common pool commercial vessels fishing under the effort control system exceed an ACL, then the following adjustments to management measures will be made (in order listed):

- Trip limits will be recalculated so that the ACL is not exceeded in the following year. Trip limits can be an effective control for some stocks (such as white hake, CC/GOM yellowtail flounder, SNE/MA yellowtail flounder, GB yellowtail flounder, SNE/MA winter flounder, and GB winter flounder) because these stocks are targeted with specific gear or in specific locations.
- Differential DAS will be calculated and adjusted in areas where needed. For some stocks that are widely distributed, trip limits are ineffective and differential DAS may be more effective.
- A change in the Category A/Category B DAS split (reduction in Category A DAS).

This process (review, implementation) needs to be defined.

If an ACL is not exceeded in a given year, and the ACL will increase in the following year and it can be projected that the ACL will not be caught, for a stock under trip limits, the trip limit will be raised. On stocks where the control is differential DAS, the differential DAS rate will be decreased in area or time.

4.4.2 Recreational Fishery Accountability Measures

TBD based on specific recreational measures.

4.4.3 Multispecies Sector Accountability Measures

The sector administration provisions defined in section 3.1 incorporate measures designed to ensure that each sector – and as a result, sectors as a whole - do not contribute to overfishing. To summarize those elements:

- The catch allocated to each sector is based on the Annual Catch Limit established by the Council (section 3.3). The ACL takes into account biological and management uncertainty to reduce the risk of overfishing.
- Sectors are required to stop groundfish fishing when they are projected to have caught their allocation for any groundfish stock.
- Reporting requirements are implemented to ensure monitoring of sector catches is timely and accurate. These requirements include:
 - Weekly catch reporting to NMFS.
 - Identification of specific landing ports.
 - Notice to NMFS when catches approach a defined threshold.
- Sectors are provided opportunities to “balance” catches with their allocation through the trading of annual catch entitlements between sectors.
- If a sector exceeds its allocation in a given year, and cannot balance its catch and allocation through the trading of annual catch entitlements, then its allocation in the following year is reduced by the overage (see section 3.1).

4.5 Alternatives Considered and Rejected

4.5.1 Research Set-Aside Program

A research set-aside program will be established for the groundfish fishery. The purpose of this program is to provide a portion of the available catch that can be used for research, including cooperative research, without requiring participating vessels to use days-at-sea or sector allocations to account for the mortality that results from the research. It is not intended that this set-aside will be sufficient to fund cooperative research programs. This program is not intended to preclude research that is conducted using days-at-sea or sector allocations to account for mortality.

For each regulated groundfish stock, one percent of the available catch will be set aside for conducting research. This set-aside will be available to any research associated with the groundfish fishery: it can be used for research projects related to the commercial and recreational groundfish fisheries, or other fisheries that have an incidental catch of groundfish. The process used to award the set-aside is as follows:

(1) NMFS will publish a Request for Proposals (RFP) in the Federal Register, consistent with procedures and requirements established by the NOAA Grants Office, to solicit proposals for the upcoming fishing year, based on research priorities identified by the Council.

(2) NMFS will convene a review panel including the Council’s Research Steering Committee, as well as technical experts, to review proposals submitted in response to the RFP.

(i) Each panel member will recommend which research proposals should be authorized to utilize research quota, based on the selection criteria described in the RFP.

(ii) The NEFSC Director and the NOAA Grants Office will consider each panel member's recommendation, provide final approval of the projects and the Regional Administrator may, when appropriate, exempt selected vessel(s) from regulations specified in each of the respective FMPs through written notification to the project proponent.

(3) The grant awards approved under the RFPs will be for the upcoming fishing year. Multi-year awards are possible. Proposals to conduct research that would end after the fishing year, will be eligible for consideration..

(4) Research projects will be conducted in accordance with provisions approved and provided in an Exempted Fishing Permit (EFP) issued by the Regional Administrator.

(5) If a proposal is disapproved by the NEFSC Director or the NOAA Grants Office, or if the Regional Administrator determines that the allocated research quota cannot be utilized by a project, the Regional Administrator shall reallocate the unallocated or unused amount of research quota to the respective commercial and recreational fisheries by publication of a notice in the Federal Register in compliance with the Administrative Procedure Act, provided:

(i) The reallocation of the unallocated or unused amount of research quota is in accord with National Standard 1, and can be available for harvest before the end of the fishing year for which the research quota is specified; and

(ii) Any reallocation of unallocated or unused research quota shall be consistent with the proportional division of quota between the commercial and recreational fisheries in the relevant FMP and allocated to the remaining quota periods for the fishing year proportionally.

(6) Vessels participating in approved research projects may be exempted from certain management measures by the Regional Administrator, provided that one of the following analyses of the impacts associated with the exemptions is provided:

(i) The analysis of the impacts of the requested exemptions is included as part of the annual quota specification packages submitted by the Council; or

(ii) For proposals that require exemptions that extend beyond the scope of the analysis provided by the Council, applicants may be required to provide additional analysis of impacts of the exemptions before issuance of an EFP will be considered.

#2

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary

March 27, 2008

The Groundfish Oversight Committee (Committee) met in Portland, ME to continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee heard updates on the GARM III process and effort control development, and discussed sector policy issues, annual catch limits, accountability measures, onboard filet issues, partial off-loading of landings, and the timing of Amendment 16 implementation. Committee members present were Mr. Rip Cunningham (Chair), Mr. Terry Stockwell (Vice-Chair), Mr. Frank Blount, Mr. Mike Leary, Ms. Sally McGee, Ms. Ms. Murphy, Mr. James Odlin, Dr. David Pierce, Mr. Dave Preble, and Mr. Jim Ruhle. They were supported by staff members Mr. Tom Nies and Ms. Anne Hawkins (NEFMC), Mr. Doug Christel and Mr. Tom Warren (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by a PDT meeting report with discussion papers dated March 24, 2008 (meeting held March 19, 2008).

GARM III Update

A staff member informed the Committee on the status of the GARM III process. There are four meetings as elements of the process, and the latest was the models meeting in February. The results of the meeting were not definitive, as it is still unknown which assessment model will be used for most of the nineteen included stocks. The biological reference points meetings are in late April, and since different models lead to different reference points, the Council staff has been advised by the Northeast Fisheries Science Center (NEFSC) that exact reference points will not be determined at this meeting. It is unclear whether the released range of reference points will be broad or narrow, because different types of assessment models are being explored, and the approval of the model that is ultimately used will not occur until the August GARM meeting. The results should be formally released during the first week of September, and the Council is supposed to vote on Amendment 16 in the first week of October.

The availability of information has implications for the draft amendment document, and there is a discussion in the PDT meeting summary that addresses the issue. The PDT is trying to develop options to draft a document that supports a broad range of potential measures and impacts. The staff member stated that his understanding is that there will be a range of reference points after the April/May meeting based on which models are being considered. Presumably the NEFSC will consider the candidates and chooses a model in August.

A Committee member expressed his concern that the draft amendment would be of little use to the public. He asked whether useful qualitative info could still be given to the public in the draft document, or whether the reference points were likely to result in a broad range that would preclude meaningful comment. Staff responded that the perspective of the PDT is to try and move forward to develop an alternative as a starting point with respect to effort controls, and they have been working to meet an effort control that will meet the mortality reductions described in Amendment 13. Some stocks, such as white hake, are almost certain to be problematic, while some stocks may unknowingly be doing better than expected in the past.

The advice from NEPA specialists and NOAA attorneys is that as long as the document covers the range of possible measures, it meets legal and NEPA requirements. The PDT Chair is unsure how broad a range is necessary to be sure that everything is covered. A package of effort controls may have the same impacts on the overall fishery, but would impact different segments of the fishery differently. It is unclear how the PDT will be able to create a document within those ranges. The PDT chair was told in a conference call that the Regional Office believes that a document can be constructed that meets legal and NEPA requirements, even in this situation.

NOAA attorney Mr. Martin supported that position. He stated that this document is not a one-shot deal that must contain all possible information, and that there should be more indication at this point about what is happening in the fishery than we had last year. There should be a way to qualitatively analyze that information. What the Council is doing is still a few steps removed from agency approval, and there will be more opportunities for public input. He feels confident that this approach is acceptable at this point in time. The PDT Chair responded that even if the a narrow range of reference points is provided it does not give all the information necessary. Senior NEFSC personnel point out that stock status will not be known in May, and it is necessary to know the status in order to know how fast we must move to get to the final point.

Finally, the PDT Chair described a process the NEFSC used to analyze retrospective patterns. Results confirmed that retrospective patterns are problematic. It was not possible to identify the cause of the problem from the assessment results. It was often possible to identify when the problem started, but not possible to tell the difference between the errors introduced in the assessment models. Assessment models could be manipulated to get rid of the error, but then the resulting stock size prediction was inaccurate. The bottom line is going to be that caution must be exercised when using a retrospective pattern. It may be necessary to lessen reliance on periodic assessments in some way. It will fall under a management strategy evaluation process, which has not yet begun to be used.

Sector Policy Issues

Potential Sector Contribution Calculation

The PDT Chair explained to the Committee the PDT's recommendation for using landings by permits eligible to join sectors as the denominator in potential sector contribution calculations. Initially, the PDT recommended that the equation should be landings on a permit divided by total landings for the particular stock. That equation seemed appropriate since it would have left fish available for open access permits, state water catches, and other non-commercial activity. However, all the shares calculated by that method will always add up to less than 100% of the total available catch. Now that the fishery is moving to an ACL framework, it should be determined how much fish is available for sectors, and that amount should be multiplied by the potential sector contribution. That number should add up to 100%. The PDT also wanted advice from NMFS on whether it was necessary to define a date when the calculation would be done, since not all vessels renew their permits at the same time.

Ms. Murphy suggested that since vessels have until the end of a fishing year to renew their permit, it would be advisable to make the calculation date the end of FY 2007, or the end of April. A Committee member asked whether the calculation would need to be revised if a significant number of boats left sectors for the common pool, and staff responded that as long as all the permits stay in the fishery, the total share of permits will add up to 100% whether the permits are in sectors or not. Another member acknowledged a potential future problem with re-calculation, but stated that it was necessary to make a decision at that point.

Motion as perfected: To recommend to the Council that, when calculating the landings history percentage of a permit's potential sector contribution, the denominator will be landings of groundfish by permits eligible for sector membership (limited access permits, including handgear A and permits in the CPH category). Permits are eligible vessels that have a permit as of April 30, 2008. The PDT will examine the implications of permits exiting the fishery on calculating PSCs. (Dr. Pierce/Mr. Preble)

Ms. Murphy stated that if there were to be a buyout, the denominator would change. She advised Committee members to think about what would happen if there were to be an exodus from the fishery in between Council actions. Staff responded that it would be possible to address a buyout under this structure. If 25% of shares were to exit the fishery, you could re-normalize the remaining shares through a relatively simple calculation that would not require reviewing history. A Committee member thought there should be a plan in the event of a buyout or major exit of permits. He suggested asking the PDT to look at what would happen. Another member mentioned that, in the case of a buyout, there would have to be a determination whether the extra stock were sector or common pool fish. He was concerned that one part of the fishery not benefit more than another as a result of fish being released from permits.

One Committee member stated a concern that fixing the calculation to 2008 was a mistake, and that the following year the same problem would recur. Staff responded that this motion would fix the problem permanently except in the case of a large number of people exiting the fishery. The potential contributions are calculated once, and would not be done so again unless the Council was to decide to change the allocation process. Ms. Murphy agreed that the motion was intended to prevent NMFS from having to do the calculation every year.

The vote **carried** unanimously on a show of hands (9-0-0).

Current Sector Allocations

The Committee Chair brought up the issue of the allocations of currently existing sectors, which had their allocations set by Amendment 13. Should they have their allocations set the same way as the new sectors entering under Amendment 16? Having two different calculations would be more difficult. Staff added that this issue needs to be resolved so there is no uncertainty for NMFS when they perform sector calculations. One sector sent a letter requesting to keep the allocations they received under Amendment 13 for GB cod which, if approved, would give them allocations based on one time period for cod and another for other stocks. That could cause some complications in doing calculations, but is not technically insurmountable. Also, if the existing sectors keep their potential sector contributions, do they remain the same only for those who joined the sector when it was first formed, or those currently in the sector, or for every permit for GB cod? The PDT did not discuss this, and it is a policy question that needs to be discussed by the Committee. One solution would be to put both options in the document.

A Committee member asked whether it would not be more complicated because sector allocations were previously based on total landings, and now only on landings from people eligible for sectors. Staff responded that it would be necessary to find a way to deal with calculations being from two different time periods as well as using two different methods.

Motion: To include an option in A16: that existing sector allocations of GB cod be done according to the Amendment 13 allocation scheme; and an option that the calculation will be done as adopted by Amendment 16. (Dr. Pierce/Ms. McGee)

The maker of the motion stated that he made the motion because the hook sector is very specific to one species, so he stressed the important of considering their views. A Committee member clarified that the motion refers to the 1996-2001 allocation scheme, not a sliding period. Another member suggested that the preexisting sector's share may be artificially inflated since the sector's share is calculated based on total landings. The maker responded that he would not try to analyze the motion on the spot, but if that were to be a consequence then the option could simply not be adopted. Ms. Murphy stated that from an agency perspective, having two allocation processes does complicate matters and creates an additional workload. The sector policy says that each FMP will have a fixed and permanent baseline, and exceptions must have clear reasons. It must be clear why the Committee is adopting the motion. Two Committee members expressed reservation about supporting the motion without having allocations set and knowing whether fish were being granted or taken away.

Public comment included:

- Maggie Raymond: Associated Fishermen of Maine. Can the list of complications this might involve be reiterated? I thought that Amendment A13 made the timeframe of 1996-2001 applicable to any person who joined a sector in the future for GB cod. If that is the case, it would involve another complication that would have to be considered and analyzed so the public knows the impact.
- Knoop Nieuwkerk: F/V Johanna Jo. Are we still talking about the allocation time period for vessels permits? Are we still talking about what happens to shares when a vessel exits?

A Committee member clarified that Amendment 13 was being discussed.

- Knoop Nieuwkerk: F/V Johanna Jo. In regards to allocation, if a large number of permits exit the fishery, and some remaining boats have larger allocations and some smaller, would the extra allocations be divided on an even scale? If you do not have a lot of fish, it becomes very disproportional. Meant to make this statement during the discussion on allocation.
- Eric Brazer: Cape Cod Commercial Hook Fishermen's Association. It is apparent that they support this motion. Given the result of the first motion of the day, things will get more complicated down the road. He hopes to come back to the Council with more clarification after discussing the issue more with people in his organization.
- Vito Giacalone: Northeast Seafood Coalition. Something like this applied to all permits with the same baselines makes more sense, so no individual sector has an advantage or disadvantage. It should not be possible that you only get your allocation if you go to a particular sector over another one. He wants to point out that the supporting argument behind this is catch history alone. This action moves away from the Council's usual allocation methods which hold that if you catch fish you get fish, since the last 7 years of catch history will not count. If something other than catch history counts, that should be the stated goal. If only catch history counts, you should look at the years 1996-2006.

The motion **carried** on a show of hands (8-0-1).

SAPs

The PDT Chair brought the Committee's attention to a discussion paper on sector participation in SAPs. SAPs are designed to target a particular species, and he asked whether it would be acceptable for a sector to go into a SAP and target a stock for which the area was not designed. Many closed areas are designed at least in part to reduce mortality in the effort control program. There are other benefits attributed to closed areas, but this is a complicated issue that will need to be examined as there is a shift toward output-based management. The PDT had difficulty creating broad-based guidance, so they made specific recommendations for each area. Assuming the Council adopts an exemption from DAS for all sectors, there is no reason for sectors to participate in the B DAS program. The only benefit to a sector would be to allow access to the northern tip of Closed Area II.

Motion: To recommend to the Council that, for the Eastern US/CA Haddock SAP, it adopts PDT recommendations 1,2,3,4 for sector participation. (Mr. Odlin/Mr. Preble)

Ms. Murphy asked the PDT to determine what the impacts to common pool vessels would be of allowing sectors access to the closed areas, since there are a large number of vessels signing into sectors. Staff responded that there is an Eastern CA/US cod allocation for the sectors, but it has not been defined how that will be calculated. The PDT is not suggesting that people have unimpeded access to closed areas, but rather, determining how they could participate given that SAPs have other measures and restrictions. Ms. Murphy replied that she is concerned that unless there are constraints, sectors could conceivably catch the entire Eastern US/CA TAC in the Eastern US/CA area and close down the fishery for everyone if there are no individual TACs. She is not advocating individual TACs either, since that would be a burden for the agency.

A Committee member asked whether eastern area cod was allocated in the same proportion as GB cod, and staff responded that the Council is proposing separate allocations for Eastern US/CA area stocks, but there is not a motion determining how those allocations would be determined. Another member thought it was the lack of a gear requirement for sectors was risky. She wanted the Council to clarify their goal of 100% retention of legal-sized fish. Catch monitoring is important to verify that retention is actually happening.

Staff clarified that participating in a SAP does not give sector vessels extra effort, since effort is already constrained by a hard TAC. From an overall mortality standpoint, it does not matter whether the catch comes from inside or outside the SAP. Also, there is no linkage in the motion that makes it contingent on there being a Category B DAS program. He further clarified that the PDT recommendation states that gear requirements "may not be necessary", and that it assumes the Council adopts specific TACs for cod and haddock.

A Committee member was concerned about bycatch, and thought in that specific instance it may be necessary to put in a gear requirement. Another asked whether there was a concern between sector and non-sector access to the SAP. Staff responded that the benefit sectors would receive is access to the small top portion of Closed Area II. The gear requirement was intended primarily to ensure that haddock were caught at a faster rate than other fish which would shut down the SAP. There are not many yellowtail flounder in that area, so the chances that yellowtail flounder bycatch will shut down the SAP are low.

Public comment included:

- Knoop Nieuwkerk: F/V Johanna Jo. He understands the Committee is concerned about gear requirements. He has a hook boat, and when he catches small fish, they survive and

swim away. You have to discuss what is and what is not discard. This concept does not apply to hook fishing. Bear this in mind when talking about these access areas.

- Angelo Ciocca: Nova Seafood. The separator panel should be mandatory. It is used in Canada very successfully. He has some information to pass around to bear some light on what is happening in the eastern US/CA.

A Committee member stated that if there is any consideration for requiring a specific gear, any approved one must be required and not only the separator trawl.

Motion to amend: remove item number 4. (Ms. McGee/Mr. Blount)

One Committee member stated that it should not matter when people finish fishing if they catch all their TAC. The Council should not micromanage sectors, which is what is continuously done. Ms. Murphy stated that sectors would have to be restricted to how much allocation they can have in the eastern US/CA area before she would support that motion. Some Committee members thought that the issue depended on adequate monitoring. However, the use of the word "may" in the motion stipulates that the Council does not want gear requirements if they are not necessary, but leaves the option to add them later. Having no specific gear requirements for sectors means that common pool vessels would have to use haddock separator trawl (or other required gear), while sectors could use whatever they want to make TACs last as long as possible.

The motion to amend **failed** on a show of hands (1-6-2).

The motion **carried** on a show of hands (7-2-0).

Motion: To recommend to the Council that sectors will be restricted to their percent share of Eastern U.S./Canada area TACs based on their percent share of the overall GB stock TACs. (Mr. Odlin/Mr. Ruhle)

The motion **carried** unanimously on a show of hands (9-0-0).

Motion: To recommend to the Council, with respect to the CAII yellowtail flounder SAP, to adopt PDT recommendations described in numbers 1-4 for sector participation. (Dr. Pierce/Mr. Stockwell)

Staff stated that provision 4 may be redundant, since a sector cannot catch something without having TAC for it. Ms. Murphy asked whether it was meant that TAC was acquired through allocation or trading, and staff responded that nothing can be caught without ACE. If a sector got a yellowtail flounder ACE from another sector, they would be able to participate.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. She was not sure if this goes here or to the Scallop Committee, but there are scallops caught here, and she was wondering when that will be taken into consideration.

The motion **carried** on a show of hands (8-0-1).

Accountability for Overages

Staff explained that there has been a lingering question about what happens when a vessel leaves a sector in the year after the sector exceeds its ACE. The year after an ACE overage, there should be a deduction from the offending sector's TAC. If a boat leaves the sector in that year, or if the sector disbands entirely, what should be done to account for the overage? The PDT's recommendation is that, for vessels that depart a sector that exceeds its ACE but remains solvent, the sector should be responsible for handling the vessel through whatever means they choose including monetary reimbursement and contractual indemnity clauses. If the sector disbands or does not have enough ACE to cover the overage in the following year, the recommendation is to hold individual permit holders responsible and deduct ACE from their individual permits.

Motion: To recommend that the Council adopt the PDT recommendation on overage from bullet 1 in paragraph 11 to the end of the paragraph. (Mr. Odlin/Mr. Ruhle)

Staff clarified that, under this motion, all stocks are treated equally in terms of penalties for overages, regardless of stock health.

The motion **carried** on a show of hands (8-0-0).

The Committee then discussed whether to address the Closed Area I SAP or Category B DAS. There were no recommendations from the PDT on these topics, so it was decided that no action would be taken.

ACE Trading Details

The PDT attempted to spell out the way ACE trading between sectors was done. They anticipate ACE trading working when two sector managers agree upon compensation and choose to trade. They will apply for authorization with NMFS, and after getting a response, books will be adjusted accordingly. Exchanges must be approved relatively quickly during the course of the FY. It will not be possible to verify that monitoring reporting's, VTRs, etc. are precisely accurate. Allowing transfers in a two-week period at the end of the year in order to balance books has also been suggested. That period creates a problem for NMFS when the ACE is given at the beginning of the year, because if there is an overage, ACE will have to be taken back. The PDT is recommending that NMFS will only give 80% of the ACE at the beginning of the year, can review trading, and after 45 days can release the remaining 20% if no overages are determined to have occurred. This measure would only adversely impact a sector who thought they would fish more than 80% of their allocation right at the beginning of the year. Also, as with any market, ACE trading work better with freely available information. Sector managers should pursue having trading information available for people to make rational business decisions.

One Committee member stated that he would like the process to be as transparent as possible, and thought that it was important to have public information available on ACE trading on a timely basis. NMFS should ultimately be responsible for this process working. He recognizes that this will be unwieldy, but would like to see a requirement that there be a registry with information on ACE exchanges. Ms. Murphy replied that NMFS would be monitoring this activity, but was not sure if sector landings information, and how much remained for a particular sector, could be posted. The Data Quality Act may prevent NMFS from posting information of which they are not certain and which is not of the highest quality. She would like to speak with NOAA GC to see what could be posted. Otherwise, she said she believed that NMFS could have a weekly accounting of ACE transfers. NMFS staff stated that absent sufficient monitoring programs, they

will not know exact landings and have to rely on reported landings from sector managers, which may be uncertain data.

Another Committee member thought the term "registry" implied an inappropriate level of control from the agency. He expected that sectors would keep that exchange anyway as a matter of business if they will have ACE trading, and though NMFS will be responsible for posting the results of what happened, but should not push the trading process. Another member noted that there are currently only four proposed sector managers, and that there is no reason for the Council or NMFS to be involved because they can easily figure out how to trade ACE.

Motion: To recommend to the Council to require that NMFS hold back 20 percent of each annual sector ACE for 45 days at the beginning of the fishing year to allow for balancing of overages. (Mr. Odlin/Mr. Preble)

The Committee decided that the PDT recommendation was more specific.

Motion as perfected: to accept PDT recommended language in attachment 3 for ACE transfers.

Ms. Murphy stated that the Committee was essentially requesting that NMFS verify sector catch at the end of the fishing year to account for any ACE overages before releasing ACE held back at the beginning of the next fishing year. Another Committee member stated that it would be fair to make ACE trading information public without micromanaging, and Ms. Murphy said she would talk with NERO staff and GC to see what could be done.

Public comment included:

- Knoop Nieuwkerk: F/V Johanna Jo. He would like to hear a discussion about horsepower/length restrictions.

The motion as perfected **carried** on a show of hands (7-0-1).

Motion: To recommend to the Council that sectors must establish a system or central registry that publishes information monthly on ACE exchanges. (Dr. Pierce/Mr. Stockwell)

The maker of the motion asked to know the Committee's feelings regarding how to collectively be able to look through the window of the ACE trading model? He assumes the sector organizers will just do this, but wants it made known that it is something that should be done. Some Committee members agreed with the need for information, while others did not believe the public needed to know, since the sector managers would figure it out amongst themselves.

The motion **failed** on a show of hands (1-6-2).

Fillet Issues

A Committee member brought up this issue because he thought the existing rule was unnecessary. Currently, skin is required to stay on fish that are onboard a vessel in order to assist in identification. The member pointed out that fluke is allowed to be filleted onboard. He questioned the purpose of the law when there are very few bag limits on the nineteen groundfish

stocks, and stated that he has not heard of a single enforcement action or problem related to filleting.

Motion: To recommend that the Council allow groundfish landed by recreational fishermen to be landed with skin off. (Mr. Blount/Mr. Preble)

Another Committee member voiced his support of the motion because he favors elimination unnecessary prohibitions. Ms. Murphy stated that she believed this provision was an enforcement tool and was initially enacted because minimum sizes could only be told by having the filet on. She opposed the motion, since no representatives of enforcement were there to address the issue.

The motion **carried** on a show of hands (8-1-0).

Vessels under Construction

A Committee member wanted to discuss this issue because he felt it may become pertinent if sector allocation were to become a part of an allocation for a LAPP. He asked whether a vessel that was not fishing due to construction on the vessel should receive some relief from landings rules to calculate history. Staff asked whether the issue was designed to rectify a specific situation for specific boats, and posed the question of whether other issues of concern (such as an owner with a serious illness) should also be considered if landings were to be adjusted. Also, it would be complicated to adjust landings included in the denominator for sector share contributions to landings that did not take place.

The member who raised the issue pointed out that every other Council has a construction or reconstruction clause. He wanted to ensure that there is an opportunity for an appeals process if a more permanent allocation were to take place. He used the example of hurricane-damaged boats in the Gulf of Mexico to show that unanticipated extended delays can occur during construction, and stated that he was satisfied simply having a discussion without bringing a motion on the issue.

Ms. Murphy stated that the construction exemption clauses in other areas were for permits, and not for allocation. She also pointed out that many people who are building boats are fishing in other boats during construction. Another Committee member pointed out that, in examining a 12-year history period, many people may have had situations that prevented them from fishing at full effort during part of that time.

Timing Issues

The Committee Chair introduced the topic of timing for implementation of sectors in Amendment 16. The NMFS' position has been that the appropriate implementation date is 2010. Ms. Murphy stated that it would be useful to have more time to calculate allocations, and that she was unsure whether NMFS would accept more sector applications if the implementation date were pushed back. Ms. Murphy stated that moving the implementation date up to 2010 would provide additional time for the agency for calculating allocations and for implementation purposes and provide sectors time in preparing the necessary documents. She was unsure that the Council would accept submitting a document by September 1st, since they do not know what the final measures would be. People at NMFS are working to get the allocations done, and that work would be wasted if more sector vessels could move in and out of their current sector. However,

Ms. Murphy thought that moving the date back to allow people to apply for sectors would be a reasonable request on the part of the Council.

The Committee chair summarized that only those who had already submitted proposals for sectors would be considered by the Council. He described a letter from Associated Fisheries of Maine that outlined concerns the industry had and stated that they thought implementation was likely to be delayed. He expressed understanding for the Committee and Council's concerns that the 2009 schedule should be adhered to, but he thought it would restrict industry in getting people to commit to sectors without knowing what allocations they would get or what the sector rules would be. Therefore, it is fair to the industry to delay implementation.

A Committee member expressed concern that public hearings would occur in June, and the public would be asked which allocation method should be chosen without having the information about what the outcome would be. He asked how delaying implementation would lessen the burden for addressing effort control and other issues that need to be in place in May 2009. Ms. Murphy responded that the delay would not help the Council, but rather only the agency and industry. The industry would not have to struggle with writing documents as quickly, and would have more time to decide whether to participate. The agency would have more time to review documents and implement plans. The Council would not change what it was doing or the drafting of the dEIS in order to implement sectors in 2010.

One Committee member showed discomfort with the timing, but supported maintaining the original timeline so that DAS are not used again. She thought that the struggle fishermen will face under further cuts to DAS would be larger than the struggle associated with incorporating sectors by 2009. Another member worried that if Amendment 16 becomes a Secretarial Amendment, there will be an issue if the Council does not fulfill its obligation. He thought industry had come together in a remarkably short period of time, but noted that there may still be a reduction in catch when the GARM figures are released, and the relief everyone expects from sectors will be removed if Amendment 16 is derailed.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. The letter I wrote was not meant to spark a debate about throwing in the towel. My intent was to point out the difficulties sectors are facing based on deadlines NMFS has imposed, which have no basis in the existing regulations. They are grateful to receive help from GMRI, but a lot is left for members to address on their own.
- Aaron Dorrity: Penobscot East Resource Center. To review the timeline from last year – in May people decided whether to join sectors, and in June the Council voted not to do area management. People had to decide whether to join before knowing what would happen with area management. If sectors are delayed, you should allow new sector applications, particularly from those who were interested in area management at the time.

A Committee member made a comment on the process of picking one preferred alternative out of 4 or 5 options. He felt the only way to lessen the burden on industry would be to actually reject some options, so each one would not have to be analyzed.

Update on Effort Control Development

The PDT chair updated the Committee on the status of effort control development. It is unknown what the actual needed reductions will be. The last time this was done, there were four or five reductions. GB yellowtail flounder has a hard TAC under the US/CA agreement, so effort controls are being to meet those reductions for the other four stocks. Although yellowtail flounder trip limits have not been examined, the PDT is nervous about lowering the trip limit below what it is. The biggest problem is with respect to white hake. Most large tows of white hake tend to be caught in the deep area of GOM. None of the trip limits the PDT tried will reduce exploitation to where it needs to be for rebuilding. Different analytic models for trip limits for white hake are being considered.

A Committee member asked how to take state catches into account in setting ACLs if the stock actually recovers, and staff responded that the issue should be addressed when the Committee looks at ACL sub-components. Another expressed concern with white hake, and staff responded that a 100 lb. trip limit creates a 22% reduction in exploitation. There needs to be a 77% reduction. He reiterated that the GARM results are not known, and it is therefore unknown whether necessary mortality reductions are being met.

Another Committee member asked if the increase in leased DAS were accounted for in the model, since DAS leasing is not conservation-neutral and Framework 42 required that leased DAS be accounted for. The Committee member stated that Block 98 is included in the differential DAS counting area, and asked whether that posed monitoring problems. Staff responded that the issue may be worth consideration. There is a significant amount of yellowtail flounder in Block 98, although in Framework 42 the area was left open since it was not considered necessary to close it to meet mortality objectives. There is a significant amount of haddock fishing in Closed Area I. Another member noted that increased DAS leasing did not lead to increased effort, since consolidation was occurring. He thought the PDT had not realized that there are stocks that are not just bycatch, for which you could go to zero possession to have an effect.

Staff noted the distinct change in patterns of white hake fishing between 2004-2005 and 2006-2007. He has no doubt the trip limits included in the interim action of 2006 deterred the large catches that had been occurring. A lot of trips are catching a relatively small amount of white hake in the GOM and in parts of GB. In any given tow, white hake is not a big part of the tow, but rather, many trips are landing a few hundred pounds. Trip limits only increase discards, and there are no estimates of discard mortality, so it is unknown whether that is a major issue. A Committee member stated that he thinks discard mortality is high. He also thought that catches were not being reported as white hake in SNE. They are being caught in a further range than that suggested by the PDT.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. She knows that PDT is not necessarily recommending a closure of the deep water area of the Gulf of Maine, and that is a good thing. If that area were closed, everybody would be driven right into the differential DAS area. There are some areas within that that are more likely to produce large tows of white hake than the entire area. Hopefully the data will reflect on that, and the PDT can look at some other way to manage those smaller areas with either a differential count day or a smaller closure than the entire deep water in the GOM. This is one of the reasons why the Council originally put fishing people on the PDT so they could provide some specific advice on where the fish is caught. There is also a seasonal component of that. We need

to see whether all the small white hake are being killed in SNE, because they are not using regulated mesh gear.

- Rich Canastra: Whaling City Auction. He agrees that yellowtail flounder can be avoided and that they are in a certain area. A lot of species are stopped from being harvested because that area is so big. That area should be shrunk so the fishermen can get more effort out of it.

A Committee member thought it would be useful to have the PDT provide the Committee with an assessment of how successful the CAM was in predicting what actually occurred after F42 implementation, since the CAM is being used again. The PDT Chair said that the CAM performed fairly well in predicting the impacts on Amendment 13. Exceptions included GOM cod and perhaps SNE yellowtail flounder. The CAM will be evaluated again when the GARM results are released. The CAM does not directly predict a catch, but rather, predicts changes in exploitation. The predictions could be converted into catch, but the 2007 catch estimates are not yet complete. The CAM predicted that catches would be less than the target TACs in many instances, and that seems to be what is occurring. The PDT only has until the end of May to look at effort control models again, since the write-up will be distributed for the June Council meeting. Another Committee member requested that the PDT look at CC/GOM yellowtail flounder and winter flounder, specifically looking at zero possession, listening to fishermen, and comparing it to eastern GB, where there has been zero possession for part of the last three years and very little discards. He noted that people avoid catching stocks that they cannot sell. Staff also said that the results being reviewed include the impact of the loss of Category A DAS relative to Amendment 13 targets.

Annual Catch Limits

Council staff highlighted the need to determine into what subcomponents ABC will be divided. When the Council met in February, some subcomponents were to be called ACLs and have AMs tied to them, and some would not. There are no estimates of how many groundfish are caught by fleets such as the large mesh otter trawl fleet and the fluke fishery. The PDT felt that the primary source of catch from other fisheries ought to be discards, and compared all groundfish caught by gear that is not usually for groundfish to commercial landings. Generally the catch is less than five percent, except for a few stocks. The biggest problems are cod and windowpane flounder. The latter may be in error, and a PDT member is checking on it. Subcomponents that need to be monitored are the scallop fishery for yellowtail flounder, the state waters fishery for GOM cod, and windowpane.

For scallops, staff stated that the PDT is hesitant to put a number on yellowtail flounder for now. Area rotation and other factors need to be considered. The allotment would not be less than 10%, but since the location of the fishery changes, it does not make sense to pick one number as a cap, or for the number to be built into the document ahead of time.

A Committee member asked who has priority for groundfish if the scallop fishery increases to 15% bycatch of yellowtail flounder. Should the scallop fishery's number float and let the directed fishery take the decrease in catch? Staff thought that the Council should address that issue. There are issues the groundfish and scallop PDTs need to work together on, but the Council needs to figure out what quotas are appropriate to achieve optimum yield in cross-cutting fisheries. The Council needs to make a policy decision on the issue.

A Committee member asked where some MAFMC plans such as fluke would fit into the subcomponents table, and another replied that yellowtail flounder bycatch in the fluke fishery was not a major problem. One member mentioned winter flounder, and pointed out that the ASMFC has a plan for the species, and that recreational catch will be primarily in state waters. Staff responded that with respect to allocation, the Committee specified that they did not care where the fish were caught. Also, there was another alternative that the Council adopted specifically for winter flounder, where state waters recreational catch is first estimated. If all the recreational catch was expected to come out of state waters, there would not be any room for recreational fishing in the EEZ.

Staff also pointed out the risk that if there are unspecified subcomponents, the burden for ending overfishing falls on people who do have AMs. The Council will have to decide whether they want to call the other subcomponents ACLs and develop AMs. NMFS has said that if they are called AMs, the measures must be written into the groundfish plan. There is not enough time to write those.

A Committee member expressed nervousness that winter flounder could be subject to a state waters fish grab if they recover, like monkfish are in Rhode Island. A few years ago, RI had an enormous catch of small mesh drag winter flounder. There must be some policy for how to deal with that kind of situation at some point. There is also a problem with piracy, and fish being claimed that were not caught in state waters. The state waters issue is a gorilla in the closet waiting to stomp on the Council. Staff agreed that it was an issue that was difficult to address absent a joint plan.

Motion: To recommend to the Council that if other non-specified categories of catch rise above five percent, accountability measures will be developed to address the cause of that rise above five percent. (Mr. Odlin/Mr. Preble)

Several Committee members were confused about how to address anything other than the directed fishery, including states and other fisheries, in the FMP under the MSRA. Mr. Martin advised that state waters and scallop fisheries could be influenced by regulating vessels that have federal permits all the way to the beach to manage harvests. The Council cannot preempt state jurisdiction for vessels that do not have a federal permit and do not fish in federal waters. Council staff expressed a concern that fishing beyond the Council's control may grow large enough that the Council cannot make regulations that prevent overfishing from occurring.

One Committee member from the state of Massachusetts stated that state waters catch was primarily from that state, and stressed that they are continuing to tighten controls through the permitting process and other methods. He was certain that those state waters would constitute a low percentage of the overall catch. Two Committee members were uncomfortable with remanding the issue to the states and did not want to have language that started toward that path. AMs should be designed by the Committee to address the cause of the overages. One questioned how the Monkfish Committee handled the state waters issue. Some members felt that state waters catches were an important issue, while others thought that other fisheries would be more likely to interfere with the directed fishery.

Mr. Martin noticed out that §306(b) of the MSRA states that if a state has failed to take action on an issue, the secretary can notify the state and appropriate Council of his intention to regulate the fishery within such a state, although he does not believe that has ever happened. Ms. Murphy stated that the PDT discussion of exempted fisheries shows some fisheries are really exceeding

5% bycatch on a trip basis. This is only a first attempt to look at this problem, and the agency has not done so before because they lack the resources to do so.

Public comment included:

- Drew Minkiewicz: Fisheries Survival Fund. Is 5% referring to the other non-specified column, not state waters or scallops? Why were windowpane and winter flounder not included for an ACL under table 4? He would like to see all that information before a decision is made in this area. Under the law you have latitude to decide how these AMs are done. He respects the concern the Council cannot do all of them within this FMP. The Council should have a role in deciding how you fish in the scallop fishery.

Staff responded that the 5% was referring to the non-specified column, and that windowpane may have been an oversight, which he would check.

The motion **carried** on a show of hands (4-1-4).

A Committee member stated that it was necessary to address the scallop category under yellowtail flounder. The Committee decided that there was not enough information to develop an allocation.

By consensus, the Committee directed the PDT to continue to develop Table 1 in the ACL discussion paper.

Accountability Measures

Council staff introduced two ideas for determining AMs. The first was that if an overage is 10% over ACE, overall DAS will be reduced by an equivalent percentage. In the second method, differential DAS would be used and three broad areas identified. If ACL was exceeded on a stock in the area, the DAS would be calculated at a different rate the next year to adjust for overfishing. With the second approach, some of the effort would likely shift into other areas. There is a good model of the Closed Area showing a similar reduction in exploitation to reduction in DAS. These methods were considered reactive AMs, but other types of AMs, such as in-season adjustments, are also possible.

A Committee member asked whether any action would be necessary if ACE was exceeded, but ACE went up in the following year and it was possible to project that the current measures would not exceed the ACE again. Staff replied, and Mr. Martin agreed, that if the AM dictates measures that will be taken in case of an overage, then those measures must occur. It is possible that the Committee may be able to create an AM in such a way that stipulated that it would not go into effect if there was knowledge that overfishing would not occur. A Committee member noted that the MAFMC gave different advice on this issue. There, the Council develops an ACL and a hard TAC. If the target TAC is exceeded, there is a plan for what will occur, but if the effect on rebuilding is not enough, it may not be necessary if not too detrimental to the desired end result.

Motion: To recommend to the Council that if the management measures allow ACL to be exceeded in a fishing year for any reason, it will be first determined whether or not the ACL in the next fishing year will be increased. If it is going to be increased and it is determined and if it can be projected that with the current measures in place it will not be exceeded again,

then no action is necessary. If it is projected that based on recent experience the ACL will again be exceeded the following adjustments will be made in the following order:

- Trip limits will be reduced to the extent practical (trip limits work for some species: examples might be CC/GOM yellowtail flounder, GB and SNE/MA WFL, and SNE/MA yellowtail flounder)
- More differential counting of DAS in areas where needed.
- A DAS adjustments (Cat A DAS reduced)

It will be necessary in the case of the ACL going up and it can be projected that the ACL will not be caught, a stock under trip limits, the trip limits will be raised. On stocks where the control is differential DAS, the differential DAS rate will be decreased in area or time. (Mr. Odlin/Mr. Ruhle)

A Committee member asked what would happen if a stock were under a rebuilding plan, and the ACL were exceeded, but still allowed to be increased (although less than anticipated under rebuilding), so there was a shallower rebuilding curve resulting in a later realization of a rebuilt stock. Another member replied that if ACL is increasing, but not enough to offset the overage from the previous year, measures must address the issue. Staff clarified that ACLs will not be recalculated every year, but rather as part of the periodic review of the amendment process. There may be a technical problem in that ACLs are calculated assuming that ACLs are met.

One member stressed it was necessary to push forward with a decision, despite his discomfort at doing so without hearing NMFS' guidance on the issue. This motion does not make sense, because it addresses trip adjustments and differential DAS, which will not exist with sectors. AMs somehow have to relate to sector management and how to address problems with the specific sectors. Another responded that the timeframes had not changed, that the halfway review of the GARM was required, and that nothing in the MSRA changed that the timeframe cannot be exceeded. A third member underlined the need for AMs for non-sector boats even if sectors were to be implemented. Ms. Murphy echoed the concern of Council staff that if ACLs are set in advance, there would be nothing to say by what number ACE should be reduced in a subsequent year. A Committee member stated that it is not possible to know before an assessment how a stock is doing, and that information is necessary to ensure that ACL is set correctly.

Public comment included:

- Rich Canastra: Whaling City Auction. By the precedence of NMFS in the US/CA sharing agreement, he thought we should just forgive them if they go over, like we do with the codfish. But what if we underfish? What if we meet 50%: then what do we do?
- Dave Marciano: Angelica Fisheries. In the past few months, we have heard how DAS has failed terribly. Are we going to work to improve that so we can avoid the system we know we are going to get into? If you know something is not working right up front, what is the point? This whole sector issue is ITQs, we are just not being up-front with everybody about it. You should start developing an up-front, for-real ITQ option.
- Maggie Raymond: Associated Fisheries of Maine. She urged the Committee to advance this option, because what else is on the table for AMs at this point? You can say ACL gets reduced in the next year, but without some sort of adjustment kicking in for the common pool vessels, the only other option is the closure of the fishery. There are some problems people have identified, and hopefully further work on this and PDT analysis will help minimize some of those problems
- John Williamson: Ocean Conservancy. It is a challenge to try and do this process with an input-control type of system. If there is an overage in a given year, you have to adjust the

strategy for the next year such that it takes into account that it did not work as intended in the previous year, and account for the overages as well. He did not see that built into this. Sees a need for a 2-prong adjustment even if you did have an ACL.

- Drew Minkiewicz: Fisheries Survival Fund. There is no payback provision in the law or any guidance that requires a 2-tiered system. The law did not change the rebuilding time frame requirements of 10 years. The law only says you must have AMs – it is that broad. He does not feel like there were specific things the Committee has to do, especially with a lack of guidance, but they have to do something to ensure accountability.
- Peter Shelley: Conservation Law Foundation. He asked the Committee not to approve this. He does not have issues with the hierarchy of which input controls you would go after first. Accountability is needed not just to the ACL, but to the rebuilding schedule. If you have overfished a stock in a rebuilding situation, you have to make up for your overage in addition to making up for the fact that you have lost some reproduction from that overage. This motion creates an incentive to treat the ACL as being less sacred than it needs to be, but it must be met seriously.
- Mike Love: F/V Titan. He supports this in a big way. We may wind up with a lot of extra effort on the table. Fuel prices are going up and you are going to have a lot less effort out there quickly. There is no way to account for fish that are “left in the ocean”. He thinks DAS is the best way to manage the fishery. Most people put their placeholder in with sectors but do not want to go to sectors.

Motion: To substitute without objection:

In the event that common pool vessels fishing under the DAS management system exceed the ACL, then the following adjustments will be made in order:

- Trip limits will be recalculated so the ACL is not exceeded in the following year (trip limits work for some species: examples might be CC/GOM yellowtail flounder, GB and SNE/MA WFL, and SNE/MA yellowtail flounder)
- Recalculate differential counting of DAS in areas where needed.
- A DAS adjustments (Cat A DAS reduced)

If an ACL is not exceeded in a given year, and the ACL will increase in the following year and it can be projected that the ACL will not be caught, for a stock under trip limits, the trip limits will be raised. On stocks where the control is differential DAS, the differential DAS rate will be decreased in area or time.

Ms. Murphy stated that NERO has had concerns all along that it will not be possible to know if ACLs are approached without a real-time monitoring system in place. In the absence of a real-time system, dealer data must be processed and matched with VTRs, which takes several months.

A Committee member felt that this alternative would be a disincentive for fishermen to consider sectors because it provides more flexibility and freedom than the one that was previously in the document. If the trimester common pool target TAC is taken, then the area closes down to all gear capable of catching groundfish. He thought the lion’s share of the industry wanted to get into sectors, and the Council should consider their attitude toward sector management and whether they wanted to discourage sector membership.

Public comment included:

- Dave Marciano: Angelica Fisheries. So sectors won’t be voluntary? You have a no-choice option, and sectors. He does not agree with that. Making adjustments would be a

lot easier if a DAS was a standard measure. The differential counting seems to be complicating what you are trying to do, and a standard unit is needed.

The maker of the motion clarified his intent with the last sentence that if an ACL is increasing and is not caught, it is possible to make an adjustment upward.

The motion **carried** on a show of hands (7-1-1).

By consensus, the Committee asked the PDT to continue to develop recommendations on AMs.

Reporting Issues

Ms. Murphy drew the Committee's attention to a letter from the Regional Administrator of NMFS, which stated that real-time monitoring is an important issue that should be discussed. There is currently a real-time monitoring system in the Eastern US/CA area, but not elsewhere. NMFS detailed one Amendment 16 alternative referred to as the hard-TAC backstop where, for some stock, once a TAC is projected to be harvested, 90% of a particular area would close, and another that specified that at 60% NMFS would impose a trip limit. NMFS presented a monitoring option at a previous Committee meeting that was intended for both sector and common-pool vessels. NMFS' option proposes that vessels fish one area per trip. All but one of the areas proposed are quite large, and NMFS felt that the alternative of limiting trips to one area was something they could support given current resources and all the TACs that need to be monitored with Amendment 16. Ms. Murphy pointed out that the agency would consider alternatives proposed by the Committee, and ultimately it is up to the Council to develop a monitoring system that can work.

A Committee member asked how restricting trips to one area affects the timeliness of reporting trip information. Ms. Murphy responded that there is more to the alternative, but the agency has not had a chance to discuss it with the Committee yet. There would be a universal identification reported with the declaration of an area which would allow NMFS to match landings from weekly dealer reports to stock area. Reporting would not occur in real time, but the universal identification number (VTR serial number) would enable the agency to match area fished with dealer landings. Another member mentioned that gas is expensive, and that restricting trips to certain areas would likely increase discards when fishermen try to make a trip worthwhile once they get to the area. He felt that the proposal was unsafe, and that flexibility in trip areas was a necessity.

Ms. Murphy stated that one of the concerns about information coming from VTRs is that it is not being broken down by the correct area when there is more than one area reported. She feels that this proposal is the best system with the agency's resources. Staff noted that VTRs are not submitted until 15 days after the end of the month, and asked whether requiring VTRs to be submitted more frequently would address the problem. Ms. Murphy responded that it would be less timely than NMFS' proposal, but more timely than the current system, and that she thought implementing that rule would take a Council action.

Motion: To recommend to the Council that vessels that fish in multiple areas as proposed by NERO on the same trip will report catch (kept and discarded) daily by VMS. (Mr. Odlin/Mr. Ruhle)

Ms. Murphy stated that this action would require additional resources from the agency, and that she would have to discuss it with her colleagues at the Regional Office. She asked what defined "multiple areas", and the Committee tried to identify which stock areas should be included in the motion. Ms. Murphy pointed out the difficulty in identifying all the stock areas, and said that Mr. Christel determined that it would be simpler to break the areas into the four suggested in the letter.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. The VMS now has these coded areas that we already report by. Is there any similarity between those areas and these areas? We might run out of numbers and letters and names for these. It gets confusing which area is which. Does this apply to the entire fleet, including sector vessels? Also, how do these areas relate to the way allocations are going to be given to sectors? She is concerned that there will be double-counting. Some stock areas overlap, so is it up to the person doing the reporting to know which is which? This motion is preferable to the alternative, which is to restrict a boat to one area. That would pose very serious problems for the fish, as well as serious safety concerns that would have to be addressed.

The Committee responded that the rule would apply to sector and common pool vessels. NMFS staff reported that allocation for sectors is based on stock areas. The activity code the vessels punch in would still be the same for reporting DAS and other items, while this information would only inform about TACs. Finally, any species caught in any of these areas would be associated with a single stock area.

- Vito Giacalone: Northeast Seafood Coalition. He supports flexibility in multiple areas. Daily reporting is happening now in US/CA. Perhaps sectors need to come up with some kind of alternative that shows there are bounds around where stocks are coming out. The trip limit at 250 lbs. for yellowtail flounder is not much of an incentive to do anything if you go over. If sectors show they have the right incentives built in, then flexibility is important to have. How does the FSO attribute a trip like this to stocks? It sounds like we need better monitoring anyway, whether we stay in DAS or not. We cannot attribute stock to stock areas in real time now, and it is a burden created by Magnuson that has to be in place by 2010, so we should be working on that right away.

NMFS staff responded that if ACLs are part of Amendment 16, the law requires that catch be attributed to a particular stock. He did not know how the FSO attributed trips to stocks.

- Gib Brogan: Oceana. The discussion of catch being landings plus discards is going away. I hope the Council starts developing another option for monitoring that will account for discards. There was an assumption for a discard rate for sectors, but that doesn't give an incentive for improvement over time. A good monitoring program that incorporates at-sea info should be developed so we can factor that in. How will discards be accounted for in the common pool? An assumption as well?

Staff responded that it is not spelled out yet. If the assumed discard rate for sectors is being used for the ACL, the same should probably be done for the common pool.

- Rich Canastra: Whaling City Auction. Has there been any type of discussion of eliminating this and calling the species one stock? It would eliminate this nightmare you

have. I report daily, there are ways I could give you statistical areas when I give you my reports. But that would require trusting the fishermen. What is the difference if I write it on the VTR or send it in myself? We've been pushed into small boxes and small statistical areas and it is a nightmare. The problem could be fixed by calling it one stock.

A Committee member asked why discards would not be reported. Ms. Murphy stated that, for instance, in the US/CA area, some people report discards, but some do not, so observer data is used to determine catch. She asked whether the motion would required vessels in single area trips to report in VMS before leaving the dock, and stressed that it is important to get the VTR serial number in VMS before the vessel departs. NMFS staff responded that the motion does not speak to a vessel that only fishes in one area.

Some Committee members expressed frustration with the focus of the discussion, and could not determine whether the problem issue for NMFS was vessels fishing in one area or multiple areas, timeliness, or another issue.

The motion **carried** on a show of hands (8-0-1).

Motion: To recommend to the Council that vessels that are fishing in a single or a multiple area trip declare either one area or that it is a multiple area trip via VMS and that vessels fishing on either a single area trip or multiple area trip declare their VTR serial number via VMS. (Ms. Murphy/Mr. Ruhle)

NMFS staff clarified that this motion would not affect current VTR requirements, and that only the first page of the report would need to be completed with the serial number. Ms. Murphy clarified that people will have to say what area they are catching in when they do the daily reports in order to associate area with fish.

The motion **carried** on a show of hands (8-0-1).

Other Business

The Portland Fish Exchange submitted a letter to the Committee requesting that they recommend an emergency action to NMFS.

Motion: The Committee recommends to the Council ask for emergency or regulatory action to allow vessels to transit form one port to another port after unloading only partial catch, providing they make the appropriate VMS declaration for transiting. (Mr. Odlin/Mr. Stockwell)

Ms. Murphy did not feel this matter was an emergency action. She stated that the rules are the way they are for enforcement purposes.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. This is not a recommendation that was ever made by the Council, but rather was made unilaterally by NMFS. It is obviously a big problem for the state of Maine, as they are losing infrastructure. She is not sure if an emergency action is the appropriate way to do this or not, but when the emergency offloading was implemented by NMFS, it was prior to VMS requirements. If we cannot

use the VMS to the benefit of the fishery, then something is really wrong with the system. There is no reason you cannot let them know with VMS that you are offloading and in transit. As long as the net does not go in the water during the offload it should not matter.

- Rich Canastra: Whaling City Auction. This brings up the issue of New Bedford vessels getting top dollar by landing lobsters in Nantucket during the summer. We have to look at what has been done in the past and what kind of can of worms this will open.
- Bert Jongerden: Portland Fish Exchange: I wrote the letter. We are in a position where we need to do something quickly, or the Exchange will no longer be the Exchange. Our landings have dropped by 75%, and we cannot survive on that. Captains have said they want to come to Maine, but because of the regulations they must do something else to survive.

A Committee member stated that he felt this issue was an emergency. The Council's actions are having the effect of discrimination against one geographical area over another, which is prohibited. Once the infrastructure is gone, it will never come back. This issue was put under a regulation without full Council debate, and was done prior to some of the tools we have today. Without the Exchange, Maine will cease to be in the groundfish business.

Mr. Martin stated that the emergency in this case would be an economic crisis in Maine. This measure would cure that problem at the expense of Massachusetts economics. Since the motion therefore favors one state over another, it would be very difficult to call an emergency under Magnuson. Another Committee member said that even though he sees this as an emergency, he is nervous about using the term emergency. He asked whether this issue could be dealt with as a regulatory action, and added that the law enforcement should get whatever requirements they need.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. The enforcement committee is meeting next week. Maybe we could ask them to address their concerns about this with an open mind. Things have changed and we need to be able to work out something with enforcement to satisfy them and still allow this opportunity to occur.

The motion **carried** on a show of hands (5-4-0).

Public comment included:

- Rich Canastra: Whaling City Auction. For GB cod, we are hitting fifty percent of the TAC. With a reduction in DAS, we should raise the daily trip limit. For GB yellowtail, we reached the TAC in January. Even though the TAC is almost double in next year, trip limits should be raised to 3000 lbs from May to June, 5000 lbs. from June until January, and at that point we should look again so we are not caught without fish in the Lenten season. GB winter flounders do not require a reduction in exportation. The alternative shows a 17% reduction. Can the limit of 5000 lbs. be increased?
- Maggie Raymond: Associated Fisheries of Maine. Speaking about statistics regarding catch of cod and haddock in Canada. Wanted to raise the issue of concern about how Canadians consistently come very close to 100% of their TAC on cod and haddock every year, and we are at a fraction of that. This is a mesh size issue – they are using the appropriate mesh size and separator trawl, and therefore they are able to catch significantly more of their fish, against which we are competing.

A Committee member asked for information on how many people have applied for sector membership, so that the Committee could know to what extent they should focus on the common pool versus sectors during deliberations. Ms. Murphy estimated that roughly 580 vessels would be in consideration for sectors out of about 800 active vessels in total. There are roughly 1400 permits, so in theory there may be 800 or 900 vessels in the common pool.

One member mentioned that cod catch on GB has been very low, that one million or more pounds per year are being discarded, and another stated that the situation was the same for GOM. He did not want to make a motion, but wanted to point out that the mortality should be brought in when it is not even approaching TAC. Also, he pointed out that the Council told the Committee to come up with mitigating measures for the potential Olympic fisheries in the hard TAC alternative they have. He does not want to see half of the fleet in 2010.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. Can't the Regional administrator raise the trip limit? I think you'll be surprised to find the number of cod being discarded this year. We could easily double the trip limit and still not catch the TAC.

The meeting adjourned at 6:15 p.m.

#3

New England Fishery Management Council
Groundfish Oversight Committee
Meeting Summary
February 11, 2008

The Groundfish Oversight Committee (Committee) met in Portsmouth, NH to continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed the development of annual catch limits, several sector policy issues, weighmasters and other reporting issues, and development of effort controls. Committee members present were Mr. Rip Cunningham (Chair), Mr. Terry Stockwell (Vice-Chair), Mr. Frank Blount, Mr. Mike Leary, Ms. Sue Murphy, Mr. James Odlin, Dr. David Pierce, Mr. Dave Preble, and Mr. Jim Ruhle. They were supported by staff members Mr. Tom Nies, Ms. Lori Steele, and Ms. Anne Hawkins (NEFMC), Mr. Doug Christel (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by a PDT discussion paper on Annual Catch Limits (ACLs) dated January 11, 2008, and a PDT meeting report dated January 11, 2008 (meeting held January 9, 2008). Also discussed were draft Amendment 16 measures, including sector measures.

Development of ACL Recommendation

Council staff reviewed the PDT report on ACLs presented at the last Committee meeting. A Committee member expressed the concern that ACLs merely added repetitive layers of caution on the management system. Staff suggested that in the setting of ACLs, care needed to be taken to specify where different elements of uncertainty were accounted for. Committee members also expressed concern over developing ACLs before NNMFS publishes guidance on interpreting the new requirements. Mr. Martin suggested the Committee and Council should proceed with a reasonable alternative that meets the requirements of the statute and if necessary make corrections when the guidance is published. A Committee member asked what the timeframe for coming into compliance is. That is, if the Committee does work on A16, and later guidance is issued on ACLs that is not in keeping with the work done, whether any decisions can remain in place until the development of Amendment 17. Mr. Martin responded that he thinks the Committee should do whatever it feels is reasonable at this point in time, and correct it if necessary when guidance is issued. The amendment should meet the spirit of the statute and FMP, and the Committee should march forward with what they consider to be a reasonable interpretation and the apparent meaning of the statute.

Interactions with other fisheries were discussed. Staff reported that NMFS was advising that appropriate Accountability Measures (AMs) needed to be specified in the groundfish plan for any groundfish ACLs. This might mean that the groundfish plan would specify measures for the fluke fishery if a groundfish ACL was specified for that fishery. Ms. Murphy supported this interpretation, but added that other management plans could certainly adopt measures that would prevent them from exceeding a groundfish ACL. Committee members expressed concern over the possibility that one FMP might control the catch of another FMP.

Staff further explained that a key evaluation of the management plan will be whether an ACL is exceeded or not. If an ACL is exceeded, AMs might have to be implemented even if additional information suggested that overfishing was not occurring. Ms. Murphy emphasized to the Committee the importance of developing proactive measures that would prevent the fishery from exceeding the ACL.

Public comments included:

- Drew Minkiewicz: Fisheries Survival Fund. It is inappropriate for the agency to be giving guidance when they haven't even submitted a proposed rule and gone through the public comment process. The agency should not comment on what they think the rule will be, as this preempts the public process.

Mr. Martin responded that he does not believe the region is predicting what the rule will say, but rather, in the absence of national guidance, is giving general guidance on the amendment development process without directly addressing the rulemaking.

- John Williamson: Ocean Conservancy. ACLs are not sacrosanct, but the specification-setting process has to happen fairly automatically and in a short period of time. That does not allow time for the plan to be amended through a framework for adjustments for new stock assessment information. Could there be some way to build that in?
- Vito Giacalone: Northeast Seafood Coalition. I am concerned about scientific uncertainty. He thought the Council was heading in direction where ACL would be near the over-fishing level (OFL), but now it appears that the ACL will be near F-rebuild. It is a big assumption that ACL should be near F-rebuild – that is not in the law at all. The document should have an option that looks at a more strict interpretation of the Magnuson-Stevens Act. It could end up that the commercial component cannot be regulated (i.e. fluke/yellowtail interaction), and the recreational fishery cannot operate if ACLs are set at an F-rebuild that is unachievable.
- David Borden: Massachusetts Marine Fisheries Commission. How will the Council handle trans-boundary stocks where there is no sharing agreement? For example, what is the consequence of Canada catching more pollock than they have been? It is important to have a clear understanding of what that impact is and what fishery it affects.
- Erik Anderson. The assessment process in setting TACs is stretching the assessment capability. Should ACLs be set from single assessment point, or is it a more reasonable measure to look at ACLs from multiple assessment points?
- John Williamson: Ocean Conservancy. He does not believe that laws about AMs should be punitive. The point is to make sure that the rebuilding plan stays on track, and the stock stays between Bmsy and 1/2Bmsy.

Motion: To recommend to the Council that it adopt the PDT recommendation for ACLs that is described in paragraph numbers 21-26 of the January 11, 2008 PDT discussion paper. (Dr. Pierce/Mr. Ruhle)

A Committee member asked if the motion locks the Committee into specific percentages. The maker of the motion responded that it does not, and that he brought the motion with hesitancy but does not wish to wait for the final guidance from NMFS. It is still not clear how to set uncertainty but waiting to get final results from NMFS will not be productive.

Public comments included:

- David Goethel. What are the deliverables here – what do we get out of this? Will any catch level be justified, or will only the number be presented?

Staff responded that any ACL will have to be justified. The way the process is set up, the PDT prepares a recommendation on ACLs that goes to the Science and Statistical Committee (SSC) and then comes to the Council. There is still work to be done to spell out what kinds of things should be considered.

- Vito Giacalone: Northeast Seafood Coalition. He likes the idea of an Annual Catch Limit (ACT) set at F-rebuild. Does this motion link the setting of ACLs to F-rebuild, or more toward the OFL, or does it leave it open for policy to go in either direction? He does not want to see ACL linked to F-rebuild.

Staff responded that the PDT recommendation does link ACL to F-rebuild.

A Committee member clarified that you could have a lower F, either for control rule or F-rebuild, which would determine ABC. ACL could be that F, since it can be less or equal to ABC. At this point in time, the PDT recommendation is a schematic which seems to make the most sense. There is a possible future interpretation that achieved mortality rates could be far less than natural mortality and in the single digits, but he hopes that is not the case. Another member explained that the Committee was not establishing a final rule, but developing an alternative to go out to public comment.

Public comment included:

- Drew Minkiewicz: Fisheries Survival Fund. Does not support or agree with the possibility that the definition of overfishing might be changed. All the language says “not to exceed” which means the ACL could be equal to the ABC and the ABC could equal OFL. All in all they support the framework that is laid out, and agree with the PDT that ACT may be an unnecessary step.

A Committee member supported this motion since it is not a binding decision and it will provide an option for public comment. Another asked if there was anything in the recommendation that prevents the Council from setting ABC at OFL, and staff responded that it does, since F-control rule is always lower than F-msy.

The motion **carried** on a show of hands (6-1-1).

ACL Subcomponents

The Committee Chair noted that at the last meeting there was some discussion on subcomponents of the ACLs. He was unsure whether the Committee could agree on an absolute solution, but felt the issue of having subcomponents shut down the directed fishery needs to be further discussed. That is, he wanted to discuss the situation where each subcomponent has its own ACL and its own AM, and the AM is shutting down the fishery

A member asked if there are multiple ACLs, and each has uncertainty, whether the cumulative effect will not reduce ACL on another group. Each computation has its own level of uncertainty, and every time it is added to, the uncertainty is increased. He felt that the level of total uncertainty would be higher. The Committee Chair asked if that reasoning was correct, and whether uncertainty would be compounded. A second member spoke in favor of a single ACL, and disliked the idea of multiple ACLs.

Another member wondered if the Committee was heading down a similar road with respect to separate fisheries. He did not think it was up to the groundfish plan to come up with AMs, but that the distinct fisheries needed to come up with their own AMs for exceeded their groundfish quota. Staff clarified that NMFS seems to be adamant that the groundfish plan or the plan specifying ACLs must have AMs.

One Committee member expressed that two entities, such as the recreational and commercial fluke fisheries, would have two ACLs and two AMs. He could not see multiple ACLs beyond two or possibly three. He did not see why AMs cannot be changed annually. Who ends up controlling or implementing them?

Public comment included:

- Drew Minkiewicz: Fisheries Survival Fund. The Committee saw his recommendation to incorporate AMs by reference in separate management plans. This is the reason why you do not comment on rules; NMFS is influencing policy decisions and undermining the public process. We do not know what the outcome of the rule will be, and the law does not dictate either way. The law says the FMP must have AMs. In the absence of guidance, you can develop policy in accordance with the law.

Sector Policy Issues

Potential Sector Contribution (Permit History) Issues

Staff asked the Committee to confirm that the capacity formula referring to Category A DAS without carry-over or large-mesh adjustments. The maker of the motion stated that his understanding was that it was A days allocated.

By consensus, the Committee clarified that in potential sector contribution alternatives that include a capacity formula using DAS, the DAS are the number of Category A DAS

allocated to the permit under regulations that implemented Framework 42. This does not include carry-over DAS or the large-mesh permit adjustment.

The PDT recommended that the potential sector contribution calculations should be done one time. Once it is calculated, the share for that permit should be fixed in time. If this is not done, when two permits are combined through the DAS transfer program every permit's share would have to be recalculated. With a one-time calculation, when a permit is placed on the market both parties know what the permit's share is. Ms. Murphy supported the PDT suggestion and recommended that the permit baseline be fixed to January 29, 2004, the date used for the leasing program. The calculations for that date are correct to the extent that they can be made. If another date is used, NMFS would have to update permit baselines. Mr. Christel reported that there have only been six to eight DAS transfers since January 29, 2004. The agency feels that the January 29, 2004 baseline fixes consolidation issues without too much inconsistency, and also reduces administrative burden.

Council staff questioned whether this date would disadvantage permit holders. In addition, for permits which were consolidated since January 29, 2004, only one of the permits will have a Framework 42 DAS allocation. Mr. Christel responded that a limited access permit still has rights associated with it and therefore a DAS allocation that can be propagated forward. Whether consolidation happened before or after Framework 42, vessels still retain history and a baseline can still be calculated. Ms. Murphy stated that the agency's primary request is to fix the baseline, and that they are recommending using the baseline that is already fixed. Any date other than that which is already frozen would require a lot of work to generate baseline data. A Committee member commented that he saw no downside from a vessel owner's perspective to use the 2004 date.

Motion: For the sector share calculations, the vessel baseline will be fixed at January 29, 2004 (for length/hp characteristics/capacity part of formula). (Mr. Odlin/Ms. Murphy)

A Committee member clarified that the baseline will only be used for determining length/horsepower characteristics of the vessel, because the other baselines are already set.

Public comments included:

- Vito Giacalone: Northeast Seafood Coalition. The 1/29/04 baseline was specific to leasing programs, and since sector share calculations would be a different use of that baseline, vessels that have corrected since that date may have an issue with using it for something other than what it was originally intended. They are already operating under an assumption to set a retroactive control date to FY 2006. Whatever we are doing for sector contributions should be consistent all the way through. We should use vessel correction up through FY 2006.

A Committee member stated that he does not see anything wrong with using different dates for history, baseline calculations, DAS calculations, etc.

The motion **carried** on a show of hands (7-0-1).

Council staff next raised the issue of permits that were not allocated any Category A DAS. Under the alternatives that use DAS as an element of capacity, these permits have their permit history halved. The Committee considered the PDT's suggestion to calculate the potential sector contribution for these permits as if they had one Category A DAS allocated.

Motion: Vessels with limited access multispecies permits with no allocated Category A DAS will be allocated one DAS for the only purpose of computing capacity share in sector history calculations. (Mr. Preble/Dr. Pierce)

Some Committee members supported the motion as necessary for Handgear A permits and other small vessels. Others questioned whether this repeated the experience of Amendment 5, where every permit that landed groundfish received DAS. Public comment included:

- Aaron Doherty: Penobscot East Resource Center. He supports this motion, and it helps communities in eastern Maine. He thinks we are talking about a very small number of fish.

A Committee member supported the concept of this motion, but opposed the motion itself because he wants to focus on establishing re-emergent fisheries. As stocks get back to historic levels, migration patterns get modified, and then boat can be allowed access to fish at some level.

The motion **failed** on a show of hands (1-5-2).

The Committee next considered the issue of the denominator that should be used in calculating landings history. At present, total landings are used. This means that the percentage of allocations will not total 100 percent, since some landings are made by vessels without limited access permits. After a Committee member questioned whether this approach was consistent with ACLs, staff agreed to remand this question back to the PDT for review.

Council staff advised the Committee that it would not always be possible to track landings history for Handgear A permits. Since these permits were open access prior to 2004, there is no way to track landings history if the vessel was sold or replaced.

Council staff asked the Committee if they intended to adhere to a policy adopted in Framework 42 that haddock landings from the CAI Hook Gear Haddock SAP would not be used when determining permit history. Staff noted that this would be difficult, if not impossible, to calculate.

Motion as perfected: To allow CAI hook gear haddock SAP landings to be counted in determining potential sector contributions. (Mr. Blount/Mr. Stockwell)

The maker of the motion stated that his intent was for this to apply to haddock. Another Committee member suggested that the motion should apply to all fish caught in the SAP to reduce the amount of work, and the maker agreed.

Public comments included:

- Eric Brazer: Cape Cod Commercial Hook Fishermen's Association. He fully supports the motion.
- Dave Marciano: He is against all ways to divide the fishery into sectors. We do not catch haddock because we squander the mortality of stocks of concern on inappropriate directed fisheries. Sectors are going to drive people like him, who spent long days targeting healthy stocks, out of business. Trip limits result in abusing stocks of concern. The sector phenomenon locks it into failure, and boats that depend on a cod bycatch are going to be out of business.

The motion **carried** on a show of hands (4-2-2).

Weighmasters and other reporting issues

The Committee next discussed sector reporting issues. Ms. Murphy told the Committee that NMFS has been looking at the Canadian system. There are several issues the Council will need to weigh in on if they want to vary from the way Canada operates. For example: should all trips be subject to a weighmaster, or just a subsample? Should the weighmasters actually weigh fish or observe? In instances where fish are offloaded directly to a truck, should the weighmaster observe at the point of first landing? Would there be a limit on the number of ports where a weighmaster would go? For some of the issues, enforcement has a strong opinion – for example, enforcement would like to see a landing window.

Ms. Murphy brought up the question of whether catch should be weighed or observed at the point of offload. Mr. Christel stated that his general impression is that an observing of landing is required, but not necessarily a weighing. The point is to validate dealer landings. A Committee member spoke in support of observation only, and suggested a mechanism to ensure accuracy such as having the weighmaster seal the truck. He had a problem with having a window, and thought a mechanism such as a six-hour call-in would prevent the necessity of a window. When a six-hour call-in was not possible, there could be an exemption or a person observing the trip. He asked whether 100 percent of trips will be observed, and felt that random observations would be preferable. Ms. Murphy reminded the Committee that the weighmaster system is industry-funded, and stated that 100 percent sampling would be more costly.

Council staff noted that many elements of the current reporting system are specified by NFMS without a Council action, and asked if the same approach would be used for weighmasters and other sector reporting issues. Ms. Murphy stated that there are enough

questions and changes contemplated that NMFS feels the Council needs to more clearly specify the program. The Chair asked NMFS to provide a list of the issues so the Council could address them. There was some confusion over whether this discussion was specific to sectors or the common pool – Ms. Murphy noted that the hard TAC AM required weighmasters for the common pool vessels.

The Chair brought up the issue of universal exemptions, and the Committee focused on universal exemptions from rolling closures. Ms. Murphy stated that the reason NERO is against an exemption for rolling closures is because they could serve as spawning closures. She added that the PDT should look at the impacts on fishing activity of having the common pool subject to closures, when sector vessels are not subject to them. A Committee member stated that the real question is whether the rolling closures that are currently in place are now appropriate. Should rolling closures in October and November be continued if we are moving to hard TACs for sector and common pool vessels? If the closures exist now to reduce fishing mortality, they are not necessary if hard TACs are used to limit mortality. Protecting spawning fish is another issue altogether. A Committee member asked if the PDT could look at which rolling closures were mortality reduction measures, and which were true spawning protection measures in order to give a starting point. Staff responded that they were all intended as mortality reduction. There was recognition that the closures were effective because they reduced high catch rates when fish were aggregating for spawning.

The Committee then discussed the issue of sector trading of ACE. Ms. Murphy stated that the agency is asking to postpone that until 2010 along with sectors in general. She also reiterated NMFS' position that sectors should not exceed their TACs. If the membership of a sector believes they are approaching the TAC that is left for a given species, they should think proactively and trade before the line is crossed. A Committee member responded that most of the ITQ systems have a mechanism to fix a mistake or an event after the fact. The Committee already debated that issue. The Committee Chair asked not to revisit those discussions. Ms. Murphy expressed a concern that if a party exceeds its TAC, there may not be another party to trade with if others do not desire to do so.

Public comment included:

- Vito Giacalone: Northeast Seafood Coalition. You need quota balancing through the season as people change their mind, have breakdowns, etc., not necessarily when people have an accident. Creating a market for trading should not be any more difficult than a 1-page lease program.

Ms. Murphy brought up the issue of ACE carry-over and stated her concern that if a sector fishes all of their TAC for a given stock plus carryover, an overfishing situation could occur. There are also problems with administrative aspects of tracking that.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. They are considering developing an ITQ on the west coast that allows carry-over. It would be interesting to see how they think it fits the requirements of the law.

The Committee turned its discussion to the US/Canada area requirements and the suggestion that each sector receive an allocation of those TACs. Ms. Murphy stated that even though a sector is responsible for ensuring it does not exceed its TAC, there is a necessity for NMFS to monitor additional TACs. The Committee made its desire clear through good discussions, but as an administrative issue, the agency has concerns with monitoring each of the TACs. The Committee Chair asked if there was a minimum participant level, and was told that there is not. Another member stated that there is a minimum participant level within the sector itself, and asked how they handle these allocations. The issue relates to the policy of the Council regarding effort shifts into other fisheries. As sectors become efficient and economically viable, they may pile up allocations and go fishing in state waters. It is important to determine how to restrict effort shift into other fisheries.

Staff brought up the issue of SAPs. The Committee has never discussed how sectors interact with SAPs. Most of the motivation for the creation of SAPs was to provide mitigation from effort control measures. Since sectors are not restricted by them, do they need access to SAPs and, if so, what rules apply? A Committee member proposed that a sector can operate in a SAP, and that a sector will receive its percentage share of overall TAC and bycatch TAC for that SAP. For example, if a sector has 1000 mt of haddock, and that sector gets one percent of haddock TAC, they get one percent of the share for that TAC. The same rule would apply for bycatch caps in that SAP. This would be a fair and reasonable way to accomplish the goals of the SAP.

Motion: Each sector will be limited in a SAP to its sector share of the overall target stocks. (Mr. Odlin/Mr. Ruhle)

Ms. Murphy asked for clarification on whether sector vessels fishing under the B DAS program are getting extra fish as common pool vessels do, or whether they are they taking it off their allocation if they fish in the SAPs. Both Council staff and Ms. Murphy commented that sectors could use access to the SAPs to harvest their entire cod TAC within closed areas, thereby minimizing the benefits of the closed area to the rest of the fishery and complicating the administration and monitoring burdens of SAPs. A Committee member spoke against the motion. He stated that the proposal does not work for a single gear SAP. For example, the haddock SAP is primarily a hook and line and longline fishery. People fishing there will only get 10% of the catch in the SAP since they only get 10% of the catch overall. The remaining 90% of the potential catch will sit in the SAP untouched, which does not make sense. Staff responded that there may be a way to address that problem in the rule.

Public comment included:

- Drew Minkiewicz: Fisheries Survival Fund. Is there another rationale for the Closed Areas 1 and 2? If the only rationale is fishing mortality, then they become obsolete if hard TACs are used to control mortality. I

The motion **failed** on a tie vote (2-2-4).

A Committee member asked if it was possible to ask the PDT to look at Closed Areas 1 and 2 to find the original rationale for the closing of those areas. Staff responded that the PDT should only look at an issue if there is a specific goal in mind. Another Committee member stated that the Committee should not leave the SAP question open, or the sector will not participate in that area. The Committee concluded that the PDT should examine how to facilitate sector access to SAPs.

Preliminary effort control development

Staff expressed to the Committee that the PDT was somewhat concerned about how to proceed on effort control development. The PDT was originally planning to wait until more information came forward on mortality changes to help effort control. However, a letter from NMFS threatened to take support away from the PDT if progress was not made quickly enough. As a result, the PDT modeled several changes in measures and evaluated the change in exploitation that results. Staff asked Committee members for suggestions on measures to investigate further.

A Committee member expressed concern that the results from the closed area model (CAM) could be misleading because the GARM results were not yet available. The CAM did not include DAS leasing in the past, but staff noted that this iteration of the model does attempt to take into account leasing activity. Another member pointed out that he sees a lot of the stocks have been well below the TTACs, but the comparisons used by the PDT assumed fishing at target mortality rates.

Committee suggestions for follow-on analyses included:

- Low trip limits for white hake, CC/GOM yellowtail flounder, and SNE/MA winter flounder. These are stocks that can be avoided through fishing behavior and trip limits might deter targeting.
- Identify specific block that can be used with differential DAS counting.
- Verify results of the 24-hour clock scenarios.

Council staff indicated that low trip limits may increase discards and may not generate sufficient revenue to cover operating costs, suggesting that there is a trade off between trip limits and effort reduction.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. There are really only three species targeted by offshore gillnetters: white hake, cod, and pollock. If we are

not going to have sectors, we really have to think about allowing for some changes in mesh. Gillnet mesh is probably too big, and there is very little to rely on to make a trip. It is a huge hardship to catch even less than 1000 lbs. They cannot catch flounders, so this is all they have. There should be an exemption from 6.5 inch mesh. If there are no sectors until 2010, all those fishermen will be gone.

- Vito Giacalone: Northeast Seafood Coalition. The PDT could be tasked to consider trip limit triggers as a tool for mortality reduction. Hard TAC in the sharing area for yellowtail flounder avoids a lot of tools. Now that we have enough time, we should revisit triggers including the daily report, weekly accounting, projection, changes in trip limit, and the directed fishery to zero possession. We always talk about yellowtail flounder stocks, but the TAC on Cape Cod yellowtail flounder is greater than the TAC on Georges Bank. It does not take much imagination to see that we should use more of a hard TAC approach. Now it is a bycatch fishery, but a lot of problems could be avoided rather than implementing small differential counting areas.
- Dave Marciano. Is the 24 hour clock set in stone? Could it work to have 24 hours, and then hour for hour after that? It seems a little harsh to have 24 hours. Yellowtail flounder management can be gear-oriented. If there is a problem with one gear type that interacts with a stock of concern, it is possible to leave options for gear types that have little or no interaction. It does not work to manage across the board, and that portion of the fleet should not be penalized. People should be encouraged to access haddock that are available.

Other Business

A Committee member brought up the issue of consolidation of groundfish permits.

Motion: To include an option in Amendment 16 which allows the owners of multiple groundfish permits to consolidate the DAS/catch history on a single vessel and be exempt from the DAS transfer program conservation tax. Said program may be limited to a specific period of time to reduce the administrative burden on the National Marine Fisheries Service. (Dr. Pierce/Mr. Ruhle)

Staff noted the amendment already includes an option to reduce or eliminate the DA transfer tax. A Committee member asked if the Committee would get rid of leasing next, and the maker of the motion stated that he was not making such a motion. Committee members noted several issues related to ownership, such as corporate ownership.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. We are trying to encourage consolidation in groundfish. Why is a specific period of time necessary? If you try to encourage consolidation, there are some other issues that need to be addressed. The Council did remove the tonnage restriction in DAS transfers, but

that does not apply to other limited access permits. She thinks that the groundfish Advisory Panel ought to look at the whole program and give some recommendations.

The maker of the motion responded that the time period was left open-ended for NMFS to provide advice. There is no commitment to any one time period.

The motion **carried** on a show of hands (6-0-1).

One Committee member asked that the Committee be provided a presentation given at the recent Haddock Symposium that reportedly showed Canadian 80-90 percent of haddock landings are caught within 10-15 miles of the closed area. He suggested the presentation might encourage the Council to modify the closed area to allow more access to haddock.

The meeting adjourned at 4:16 p.m.

#7

Determination of Cod Discards from the 2006 Canadian Groundfish Fishery on Eastern Georges Bank

by
S. Gavaris, L. Van Eenennaam

Purpose

- What were the unreported discards of cod in 2006 from the eastern Georges Bank Canadian groundfish fishery?

The Fishery

- transboundary with joint Can/USA management
- cod, haddock, pollock and yellowtail flounder
- regulated by catch quotas
- 100% dockside monitoring
- discarding of cod not permitted
- observer coverage variable → 100% in 2006

Why is there a problem?

- Fishable biomass in 2006: $\text{had} + \text{cod} = 4$
- **Cod & haddock caught together** → $\text{had} : \text{cod} \approx 4$
- **Catchabilities to fisheries differ and not caught in proportion to abundance**

The figure contains three line graphs:

- Top Graph:** Haddock and Cod biomass (000's mt) from 2002 to 2008. Haddock biomass (squares) is consistently higher than Cod biomass (circles). A circle highlights the 2006 data points where the total biomass is approximately 4,000 mt.
- Bottom Left Graph:** Haddock and Cod Quota (000's mt) from 1987 to 2007. Haddock quota (squares) is significantly higher than Cod quota (circles). A circle highlights the 2006 data points.
- Bottom Right Graph:** Biomass Ratio (HAD/COD) from 2002 to 2008. The ratio fluctuates around 4. A circle highlights the 2006 data point.

Haddock: Cod Quota Ratios

Designation	Description	haddock:cod quota ratio
FG <45	fixed gear (longline only), vessels less than 45'	4.3
FG 45-65	fixed gear (longline only), vessels between 45' and 65'	6.3
MG <65	mobile gear (bottom trawl only), vessels less than 65'	19.2
FG 65-100	fixed gear (longline only), vessels between 65' and 100'	14.0
MG 65-100	mobile gear (bottom trawl only), vessels between 65' and 100'	14.0
>100	vessels greater than 100' (bottom trawl only)	33.5
FN	first nations (bottom trawl only)	20.0

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Need to account for all mortality

- Assessment accuracy
- Can/USA allocation adjustments
- Ecosystem approach

6

Approach

$$m = \frac{C_O}{H_O} \bigg/ \frac{L C_U}{H_U}$$

C_O = observer catch of cod
 H_O = observer catch of haddock
 $L C_U$ = unobserved landings of cod
 H_U = unobserved landings of haddock

assume

$$H_O = H_U$$



$$C_c = m^L C_U$$

m = landings multiplier

C_c = catch of cod
 (landed + discarded)

$${}^D C_U = (m^L C_U) - L C_U$$

${}^D C_U$ = Unobserved cod discards

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Example

- Observed ratio
 - cod:haddock
 - 200kg:1000kg = 0.2
- Unobserved ratio
 - cod:haddock
 - 150kg:1000kg = 0.15
- Landings multiplier
 - obs. ratio+unobs. ratio
 - 0.2 ÷ 0.15 = 1.33
 - unobs. cod catch
 - = 150kg x 1.33 = 200kg
 - cod discards
 - = 200kg - 150kg = 50kg

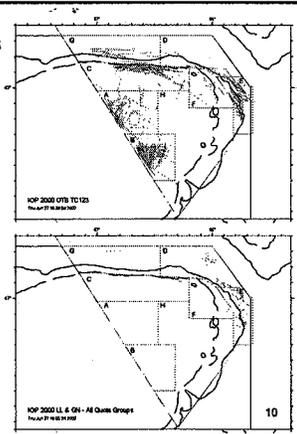
Data Preparation

- Non-representative observed trips
 - Remove observed trips with no separator panel
 - Remove observed trips for management purposes
- Haddock directed fishing
 - Rule out GN and HL (cod directed)
 - Remove pollock directed trips
 - Remove yellowtail exploratory trips

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Determination of Zones

- fishing tracks from observer data
- take into account fishery realities, i.e. length and direction tows
- reflect species complexes/type of fishery
- minimize problems in data quality
- aggregate to sub-trips within zone



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Landings in 2006

FLEET	Zone A				Zone B				other zones all Q	Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
<i>Observed</i>										
FG<45	1	5		3	2	23				1
FG 45-65		1						2		
MG<65	0	0	7	4	25	36	28	7		15
FG 65-100								2		
MG 65-100			0		2	1	2			
>100	0	3	4	6	14	11	2			4
FN	0	1	0	6	7	7	0			4
excluded	0	2	8		3	6	10			0
<i>Unobserved</i>										
FG<45		91	26		11	362	78			6
FG 45-65		1	3			1	13			
MG<65	0	0	10	10	10	0	95	20		2
FG 65-100		0					7			
MG 65-100		0		1		3	2			
>100		2	4	2		14	5			0
FN		0	3	1	5	1	19	4		1
excluded		0		1						0
Total										1101

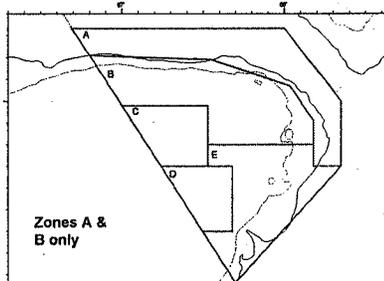


zones A and B only

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Fleet, Zone, Quarter

- FG<45
- FG 45-65
- MG<65
- FG 65-100
- MG 65-100
- >100
- FN

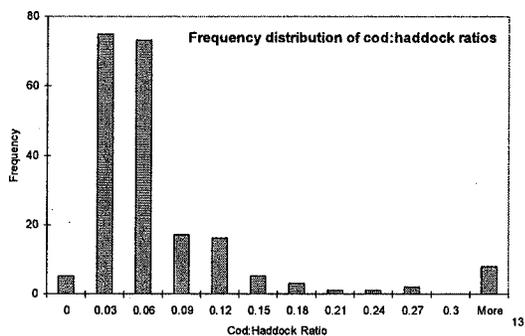


- used obs. data to classify landings records
- observed or unobserved

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Methods

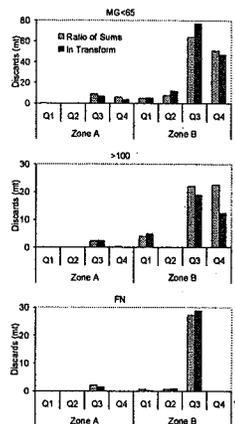
1. Avg In ratios
2. Ratio of sums



Ln-transform vs ratio of sums:

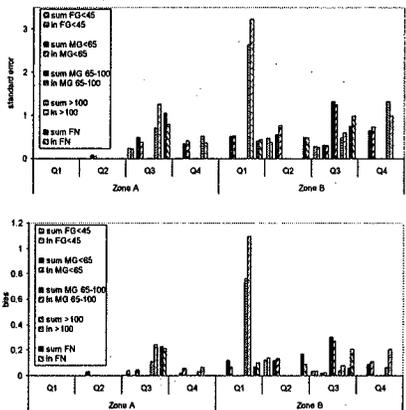
How do the discard estimates compare?

No systematic patterns



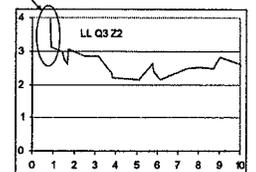
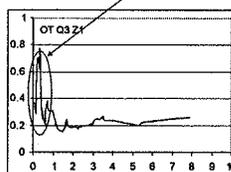
Ln-transform vs ratio of sums:
Ratio of standard error and bias

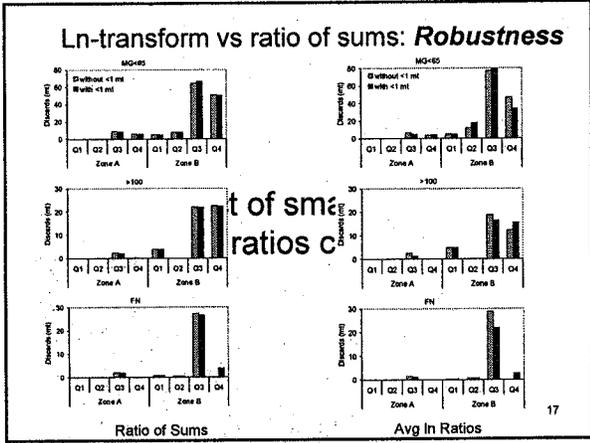
- se: neither estimator consistently more precise
- bias: ratio of sums may be less biased but bias very small



In Transformation Method

- Remove cod = 0 and haddock = 0
- Remove cod + haddock < 1t

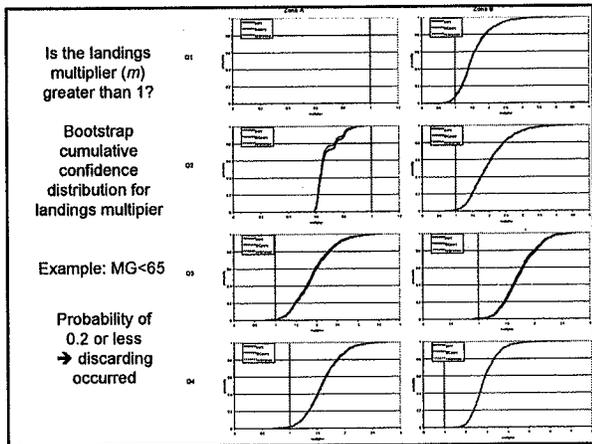




Evaluation

- Precision and bias
- Robust to outliers
- Ease of application
 - zero catches

⇒ Ratio of Sums



Multipliers \pm se

	Zone A				Zone B			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
FG<45			0.75 \pm 0.23		0.41 \pm 0.43	1.05 \pm 0.26		
FG 45-65								
MG<65		0.64 \pm 0.08	1.88 \pm 0.46	1.59 \pm 0.32	1.48 \pm 0.48	1.90 \pm 0.60	1.70 \pm 0.32	2.79 \pm 0.65
FG 65-100								2.91 \pm 1.33
MG 65-100								
>100		2.18 \pm 0.65	1.06 \pm 0.51	3.02 \pm 2.66			2.62 \pm 0.47	3.58 \pm 1.41
FN			1.63 \pm 0.86		1.14 \pm 0.41	1.45 \pm 0.47	2.41 \pm 0.71	1.89 \pm 1.51

Shaded values indicate that discarding was not inferred.

Discards

	Zone A				Zone B				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
FG<45									
FG 45-65									
MG<65			9	6	5	8	63	51	143
FG 65-100									
MG 65-100							7	4	10
>100		2			4		22	23	51
FN		2				1	27	4	33
Total									237

• discards counted against fleet quotas

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Published on the Transboundary
Resource Assessment Committee
(TRAC) website

[http://www.mar.dfo-mpo.gc/
science/TRAC/documents/
TRD_2007_03_E.pdf](http://www.mar.dfo-mpo.gc/science/TRAC/documents/TRD_2007_03_E.pdf)

New Jersey Avenue, SE., Washington, DC 20590; fax (202) 366-4566; e-mail, "InformationResourcesManager@phmsa.dot.gov".

§ 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]

BILLING CODE 4910-60-P

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

#8

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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New England Fishery Management Council

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MEMORANDUM

DATE: March 24, 2008
TO: Groundfish Oversight Committee
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: Amendment 16; PDT Meeting March 19, 2008

1. The PDT met in Mansfield, MA to discuss sector policy issues, annual catch limits and accountability measures (ACLs/AMs), and effort control development. PDT members present were Tom Nies and Anne Hawkins (NEFMC), Tom Warren and Doug Christel (NMFS NERO), Eric Thunberg, John Walden, and Paul Nitschke (NEFSC), Dan Holland (GMRI), Steve Correia (Mass. DMF), and Paul Parker (Groundfish AP Chair). Dan Caless (NMFS NERO) also participated in the meeting. Council Chair John Pappalardo attended the meeting. This meeting was not taped due to an error in setting up the recorder.

2. The PDT received an update on the GARM III process. The PDT was informed the GARM III models meeting held in February did not fully fulfill the terms of reference. For many stocks, specific models were not identified for the assessments and the peer review panel suggested further investigation of alternative models. No advice was developed on how to adjust for retrospective patterns. Council staff has been informed that the appropriate model to use for each stock will not be finalized until the August GARM III assessments meeting. This has implications for the reference point meeting to be held in late April/early May. Staff has been told that contrary to earlier plans, the reference point meeting will not result in point estimates of reference points. Because model selection will be uncertain, and reference points may be sensitive to the model choice, the output of this meeting for many stocks (if not all) will be a range of reference points. There is no way of knowing in advance whether this range will be narrow or broad.

a. This report caused considerable consternation. In essence, it means the draft amendment and Environmental Impact Statement (EIS) will not include updated estimates of stock status, estimates of rebuilding goals/targets, or estimates of the mortality changes that are necessary to

meet rebuilding goals. Advice from NERO is that the draft amendment should acknowledge these deficiencies and be certain to cover the range of possible results. Some PDT members are concerned that this document will be of little use to the public because the range will necessarily be so broad that meaningful public comment is impossible. Other PDT members acknowledged the severe limitations that will exist, but maintained that the draft amendment could still provide meaningful qualitative information to the public on the relative scope of changes possible and the tools that could be used to achieve the objectives of Amendment 16. While the PDT always knew that there would be uncertainty while the plan was developed, we expected that the range would narrow as the various GARM meetings were held. This no longer seems likely. It also means that the work on the draft may prove less helpful to the decisions that will need to be made when the assessment information is published in September.

b. In order to move forward, the PDT will develop an effort control alternative that meets the mortality reductions called for by Amendment 13. The PDT will also develop alternatives that reflect the need for larger or smaller mortality reductions. Consistent with PDT comments for the past year and a half, there is still concern regarding the difficulty in developing alternatives that cover the range of impacts that ultimately result when the final action is approved. Given the complexity of the management system, it is possible that any range the PDT contemplates may not cover the ultimate outcomes.

Sector Policies

3. The PDT developed additional recommendations for calculating potential sector contributions, sectors and special management programs, penalties if a sector disbands or a vessel leaves a sector, and the transfer of sector ACE.

Calculating Potential Sector Contributions

4. When calculating a permit's potential share contribution based on landings history, the landings history for the permit must be divided by some total of landings for the fishery as a whole. In a previous report the PDT recommended that when calculating the landings history percentage of a permit's potential sector contribution the denominator should be total landings of the stock. This was the approach adopted in Amendment 13. As the result of a Committee member's perceptive query, the PDT revisited this suggestion and is modifying its advice. The PDT now recommends that the denominator be determined by the landings of groundfish by permits eligible for sector membership: limited access permits (including Handgear A and permits in the CPH category).

5. The original recommendation to use total landings was because this would implicitly leave some of each stock unallocated to potential sector members since some landings are by vessels that do not have limited access permits (open access permits and state waters fisheries are two examples). The total shares for those eligible to join sectors would not total 100 percent. But with the adoption of ACLs, there is no guarantee that the amount not allocated would be consistent with the ACL and sub-component distribution. A better approach is to use the landings by eligible permits in the denominator. All shares will add to one.

6. This does create potential for a future problem if the permits eligible for sector membership expand. If that occurs, the denominator will change and each permit's potential sector contribution will need to be recalculated. It also means that NMFS may wish to define the date for the calculation so that the pool of permits is fixed. This could have implications for individual permits.

Sectors and Special Management Programs

7. The PDT discussed the interaction of sectors with the Category B DAS program and special access programs (SAPs). The attached discussion paper (attachment 1) served as the basis for the discussion. A number of questions were raised:

- Since these programs were developed to mitigate effort controls, is there a need for participation by vessels not subject to effort controls?
- How should sector participation be structured with respect to gear requirements, incidental catch TACs, target species catch limitations, possession limits, seasons, etc.?
- Do measures need to be developed to mitigate competition between sectors and the common pool, or among sectors?
- Should sectors be allowed to enter a SAP and target incidental catch species for which they have a sector allocation? SAPs are often designed to target specific species but have limits on the catch of other species. Various requirements are adopted to reduce catches of species protected by incidental catch TACs. For some SAPs, specific gear requirements are adopted to allow for targeting of certain species while avoiding others (e.g. the haddock separator trawl in the Eastern U.S./CA area SAP). If these SAP gear requirements or other measures such as trip limits on weak stocks do not apply to sectors, a sector could use access to the SAP to target the weaker stocks. This may be a particular issue for SAPs that provide access to closed areas (see following paragraph).

8. Since some SAPs provide access to closed areas to target specific species, there was some discussion whether there was a need for sectors limited by a hard TAC to be prohibited from fishing in closed areas. From a mortality standpoint, it could be argued that with a hard TAC there isn't a need for a closed area at all. This does not reflect the possibility that the closed areas serve other purposes (spawning protection, foster diversity of species, habitat protection, etc.). It also ignores the possibility that closed areas may provide protection to meta-populations. It is not clear how allowing fishing in a closed area by sectors impacts the use of those areas as an effort control for vessels not in a sector. The PDT does not have time to examine these issues but recognizes they will need attention if use of sectors becomes widespread.

9. Rather than develop general advice, the PDT offers specific advice tailored for each program:

a. Category B DAS Program: Assuming the Council adopts the universal exemption from DAS for all sectors, there does not seem to be any benefit for a sector to participate in this program.

b. Eastern US/CA Haddock SAP: For a sector exempt from DAS, the only benefit to this SAP is that it allows fishing in the far northern tip of CAII. Assuming the Council adopts the Committee's recommendation to have specific TACs for the eastern US/CA stocks, the PDT recommends:

- (1) Sector vessel participating in the SAP must follow reporting requirements.
- (2) All catch applies against the sector's allocated TACs for each stock, including those specific to the Eastern U.S./Canada area, but not against any incidental catch TACs.
- (3) Sectors can fish in the corner of CAII (within SAP boundaries) during the season of the SAP.
- (4) There are no specific gear requirements for sectors. Since the sectors will have hard TACs on most species, gear requirements designed to maximize catch of the target species may not be necessary. Presumably sectors will adjust their operation to maximize their benefits from their available TACs.

c. CA I Hook Gear Haddock SAP: This SAP already has provisions to address sector participation. While the Council may change some elements (dates, area, season split between sectors and common pool) the PDT does not recommend any change in addition to those being considered.

d. CAII Yellowtail Flounder SAP: This SAP has a limit on the catch per trip of target species, limit on the total number of trips, limits on the number of trips that can be taken each month, gear requirements, and a cod catch limit. The PDT recommends:

- (1) Sectors should be subject to reporting requirements, limits on the number and frequency of trips, and the catch limit for target species.
- (2) Sectors are not subject to the cod or haddock trip limit.
- (3) Sectors are subject to the gear requirement. This SAP is designed to target flounder and it would not be appropriate to allow sectors to use gear designed to target other species in this SAP. The PDT recognizes this may seem inconsistent with the advice for the Eastern U.S./Canada SAP, but note that unlike in that SAP, the access area is much larger, the Council is not proposing that target species (GB YTF) have a specific sector Eastern U.S./Canada area TAC.
- (4) Sectors must have an allocation for the stocks caught in this SAP in order to participate.

Sector Overages and Exit from Sectors

10. An unresolved issue is how deductions from an ACE due to an overharvest in a previous year are treated if a vessel or vessels leave the sector the year following an overage. The two broad issues discussed were how to account for overharvest for the purpose of accounting for

ACE from one year to the next, and the second issue of how to penalize or hold sectors and members of sectors responsible for overharvests (see attachment 2 for a lengthier discussion). An earlier PDT idea that the Committee asked be further pursued was the concept that an overage penalty should somehow follow a permit if it leaves the sector. The issues were explored in the attached discussion paper. One concern raised by NOAA attorneys was whether such an approach raised constitutionality concerns. They suggested that this approach was more easily defended if responsibility for the sector overage could be identified and the appropriate permit penalized. The PDT considered whether these issues could be addressed in a way that strengthens the ability of sector managers to manage their sectors.

11. The PDT believes there are two broad situations that need to be considered. To be clear, in the subsequent discussion the term “sector overage” means exceeding a TAC in year one after any ACE transfers have occurred with the result that sector will receive a deduction in ACE in year two.

- In the first situation, a vessel (or small number of vessels) leaves the sector but the remaining vessels have enough ACE to cover the overage deduction. The PDT recommends that any impacts on departing members be specified and addressed by the sector operations plan and sector contract rather than by regulation. This provides the most flexibility and can be done through indemnification provisions and other legal constructs. Existing sectors have already incorporated provisions that address this situation (such as limiting fishing activity by the vessel if it leaves the sector the year after the overage). It also simplifies administration for NMFS.
- In the second, a sector disbands completely and no sector exists to cover the overage deduction, or there is insufficient ACE in year two to cover the year one overage. In this case, in order to account for the overharvested fish, individual permit holders are held responsible for reducing their catch the appropriate amount in the subsequent fishing year (rather than the sector, since it no longer exists). The deduction follows the individual permits. If an individual permit joins another sector, the overage penalty follows that permit into the other sector. Each permit is responsible for part of the overage penalty, calculated as simply the overage penalty divided by the number of vessels. If a permit does not join a sector the permit receives a DAS penalty. Two suggested ways to calculate this penalty are:
 - Each permit receives a percentage reduction in DAS equal to the maximum percentage overage of the sector. Example; the sector goes 5% over on stock A and 10% on stock B. each permit receives a 10% DAS reduction.
 - Advantages: Penalty is proportional to overage and DAS allocation, easy to calculate.
 - Disadvantages: Does not consider multiple overages any differently than overage on one stock, does not consider that impact on a weak stock may be greater than on a healthy stock.
 - Each permit receives a flat DAS deduction based on the number of pounds of overage by the sector, divided by the number of vessels in the sector. Example: A sector of ten permits goes 10,000 pounds over on stock A and 20,000 pounds

over on stock B. Each permit is responsible for 3,000 pounds of overage. If the penalty is 1 DAS for every 1,000 pounds each permit is penalized three DAS.

- Advantages: Easy to calculate and apply, overages on multiple stocks weighted more heavily than similarly-sized overages on one stock.
- Disadvantages: Penalty is not proportional to individual permit fishing opportunities, does not consider that impact on a weak stock may be greater than on a healthy stock.

Transfers of ACE

12. There have been indications from NMFS that additional details might be needed on how ACE transfers should be administered, in particular during the period after the end of the fishing year. The PDT has crafted additional measures text to address this issue. Note that ACE transfers will receive a relatively cursory review from NMFS, which should allow for a rapid approval process. NMFS will not confirm that sectors have available ACE to trade before approving the transfers – that responsibility remains with the sector managers. Because NMFS will not be monitoring sector catch on a real-time basis, but will instead be verifying sector catch reports on a less frequent basis, NMFS will not have the ability to verify and confirm that sectors have available ACE prior to approval of the ACE transfer. NMFS will likely do other verification checks such as determining that sector managers are submitting weekly catch reports to NMFS and that sector members are submitting vessel trip reports to NMFS. The primary responsibility for monitoring the sector's catch remains with the sector.

13. In order to facilitate transfers after the end of the fishing year, the PDT suggests that NMFS withhold releasing 20 percent of each sector's allocation for up to forty-five days in order to be sure all transfers are processed. This provides a buffer to help make sure any overages can be accounted for after all ACE transfers are completed. It would only adversely impact a sector that wanted to use more than 80 percent of an allocation in the first 45 days of the fishing year. Suggested measure language incorporating these changes is attached (attachment 3).

14. The PDT noted that it would benefit the ACE trading market if there were a central registry that periodically published information in ACE exchanges. The market would be more efficient if information on exchanges and prices were available. Sector organizers should consider establishing such a system. For the reasons noted in paragraph 12, it was stated that NMFS would be reluctant to establish such a registry. NMFS would have information on the approved ACE transfers, and the changes in ACE that resulted, but would not necessarily have verified that these values correspond to the actual ACE balances based on actual catch.

Annual Catch Limits

15. While the Council adopted the Committee's recommendation for identifying ACLs and sub-components, additional details need to be developed. The PDT recommends the structure shown in Table 1, and offers ideas on appropriate levels for various subcomponents:

16. Determining the correct amount to allocate to various sub-components is difficult because for the most part there is not a ready estimate of groundfish caught in other "fisheries" as the management system uses the term. For example, the SBRM is designed around "fishing modes": a particular gear, mesh size, access category, and port of departure. Where the SBRM refers to large mesh otter trawl vessels leaving from New England ports, managers think of the groundfish or fluke fisheries. In addition, in the past assessments have not included all catch. Some stocks do not include discards, or do not consider discards from fisheries with low observer coverage or low discard rates.

17. The PDT considered several sources of information to construct this table. Since groundfish are only supposed to be landed by vessels with a groundfish permit, the primary source of catch in other fisheries should be discards. First, we used discard estimates from an NEFSC reference document that estimates discards for 2005 by fishing mode using the SBRM methodology. The species where discards by gear not typically considered groundfish gear (scallop dredges, mid-water trawls, pelagic longlines, etc.) exceeded five percent of landings were identified. These were ocean pout, windowpane flounder, winter flounder, and yellowtail flounder. Preliminary 2005 and 2006 catch (landings and discards) estimates for these species were further examined by stock to see if there were stock specific differences. Second, in the case of SNE/MA yellowtail flounder, an attempt (not entirely successful) was made to determine if discards were primarily caused by non-groundfish activity by looking at the target species on tows where yellowtail flounder was discarded. This does not seem to be the case. Third, a NMFS report to Congress was reviewed to determine the catch within state waters fisheries. Finally, observer data for exempted fisheries was reviewed to see if any exempted fisheries exceeded the overall five percent standard. While in most cases there are significant numbers of observed trips where groundfish exceeds the five percent standard and these fisheries may need to be more closely examined, in no case did the overall total on all observed trips exceed five percent of the total catch.

18. To start the discussion, the PDT offers suggestions for the amount to allow for the various sub-components based on this information. The PDT suggests that for most stocks the amount allowed for "other non-specified fisheries" be five percent. For windowpane flounders and ocean pout this amount should be 30 percent. A specific sub-component should be allocated to the scallop fishery for all yellowtail flounder stocks and possibly windowpane flounder stocks. Finally, the state waters fisheries should have a sub-component for GOM cod and GOM/GB windowpane flounder.

19. Determining the appropriate amount for the scallop fishery is difficult. It is probably unwise to attempt to set a fixed percentage. The "right" amount may depend on the rotational management program, stock status, and other factors. The PDT believes it may be better to leave the specific amount undefined, but establish a process to determine the amount through the periodic adjustment process. Existing regulations suggest that this amount would be at least 10 percent for those areas that have closed area access programs in effect.

20. The proposal shows that ACLs are only specified for the commercial groundfish, recreational groundfish, and the herring mid-water trawl fishery. In part this is due to the impracticality of developing AMs for other sub-components in the time available for this amendment. In essence, it means that the groundfish fishery is accountable for overages by any other group. This decision will need to be re-evaluated in the future after monitoring the performance of these sub-components.

Table 1 – Suggested ACLs and sub-components for groundfish stocks. Recreational values will be determined after GARM III assessments, which will also determine the amount available for commercial groundfish. Scallop values to be determined during adjustment process.

Stock	ACLs			Other Sub-Components		
	Commercial Groundfish	Rec Gfish	Herring MWT	Other Non-Specified	Scallop	State Waters
GB Cod	TBD	X		5.0%		
GB Haddock	94.8%		0.2%	5.0%		
GB YTF	95.0%			5.0%	X	
SNE/MA YTF	95.0%			5.0%	X	
CC/GOM YTF	95.0%			5.0%	X	
GOM Cod	63.0%	22.0%		5.0%		10.0%
Witch	95.0%			5.0%		
Plaice	95.0%			5.0%		
GOM WFL	77.0%	18.0%		5.0%		
SNE/MA WFL	71.0%	24.0%		5.0%		
GB WFL	95.0%			5.0%		
White Hake	95.0%			5.0%		
Pollock	TBD	X		5.0%		
Redfish	95.0%			5.0%		
Pout	95.0%			5.0%		
GOM/GB Windowpane	70.0%			30.0%		X
SNE/MA Windowpane	70.0%			30.0%		X
GOM Haddock	TBD	X	0.2%	5.0%		
Halibut	95.0%			5.0%		

Effort Controls

21. The PDT continued explorations of effort controls. Since it is unlikely that more specific information will be available until August, the PDT is attempting to design effort controls that meet the mortality reductions called for by Amendment 13. The PDT acknowledges that these reductions may not be what are ultimately required. Earlier results shared with the Committee did not meet mortality reductions for several stocks: SNE/MA yellowtail flounder and winter flounder, CC/GOM yellowtail flounder, white hake, and GB yellowtail flounder. So the PDT experimented with the model to identify measures that might work for these stocks (with the exception of GB yellowtail flounder, managed by a hard TAC).

22. Model results suggest that the A13 reductions for SNE/MA winter flounder and CC/GOM yellowtail flounder can be met by closing thirty minute squares 82 and 83 year-round to gear capable of catching groundfish, and adding block 98 to the 2:1 differential DAS counting area. These changes do not achieve the A13 reduction for SNE/MA yellowtail flounder. The PDT did not yet examine the impact of lower trip limits on the yellowtail stocks, in part because the trip limits are already low (250 lbs./DAS up to 1,000 lbs./trip). Model results also suggest that blocks 138/139/140 could be removed from the differential DAS area and still meet GOM cod objectives, though this does slightly affect white hake. Figure 1 illustrates these changes.

23. The most problematic stock is white hake. White hake is widely caught, but there appear to be relatively few large trips remaining that would be affected by a trip limit reduction. According to the CAM results, neither 500 lbs./DAS nor 100 lbs./DAS trip limits appear to affect exploitation enough to achieve the A13 reduction in exploitation of 77 percent. This is a huge reduction from current fishing levels, illustrated by the TTAC decline from 1,367 mt in FY 2008 to 428 mt in FY 2009. To further illustrate the magnitude of the problem, the PDT did identify one measure that meets the objective: a year round closure of almost all the deep water areas of the Gulf of Maine (see Figure 2). This is a draconian solution that would sacrifice considerable yield of pollock, redfish, witch, plaice, and monkfish. The PDT is further examining the impact of a lower white hake trip limit using a different analytic model and will continue to pursue other options, but these preliminary results illustrate how difficult it may be to achieve a large reduction in white hake mortality if this is required.

24. The PDT will soon have to combine these results into specific alternatives for the draft amendment, and any Committee guidance would help.

Effort Control Accountability Measures

25. With respect to effort control AMs, one option is a broad –based DAS reduction that reflects the needed reduction in exploitation. The CAM consistently shows that for most stocks, a percentage reduction in DAS achieves a similar reduction in exploitation. This suggests that if an ACL is exceeded, a possible AM is to reduce DAS in the following year by the same percentage as the overage. This, of course, does not target a specific stock. In theory, if catches were below the ACL an automatic increase in DAS could also be adopted, but this would have to be carefully structured because of uncertainty over the reasons for not attaining the ACL: is it due to overly restrictive regulations or an over-estimate of the available catch? These general concepts need to be further explored to make sure that they account for declining or increasing stocks or other factors (such as variable year class size).

26. A second approach might be to use differential DAS. Three broad areas could be identified (GOM, GB, SNE/MA). If an ACL of a stock in an area is exceeded, then DAS could be counted at a differential rate in a subsequent year. Once again, an automatic adjustment could occur, including a reduction in the rate of DAS counting if DAS are not attained. One issue is that differential DAS might cause effort to shift into adjacent areas, so care would have to be taken to make sure that this does not cause, or exacerbate, problems in those areas. An example was developed using GB as the area. DAS were counted at a differential rate of 2:1, showing large reductions in exploitation for GB stocks with increases on some other stocks in other areas (see Figure 3). Should the Committee wish to pursue this approach for AMs, more work will be needed to generate a planned response for all areas, and to make sure this approach will be effective for most stocks.

Attachment 1: Sector Interaction with Special Management Program (SMP) Provisions

Background:

The concept behind SMPs, including the U.S./Canada Management Area, the Regular B Days-at-Sea (DAS) Program, and special access programs (SAPs), originated in Amendment 13. The primary objective of the SMP provisions was to provide opportunities to mitigate the Amendment 13 effort reductions, particularly DAS reductions, by allowing vessels to use Category B DAS to target healthy groundfish stocks without increasing fishing mortality on stocks of concern. Amendment 13 suggested that this could be accomplished in several ways, including hard total allowable catch amounts (TACs), gear or fishing techniques that reduce the catch of stocks of concern, or by reducing or redirecting overall effort such that there is no net increase in bycatch mortality.

Framework 40A adopted incidental catch TACs to minimize the mortality impact of the additional effort associated with Category B DAS usage in SAPs or the Regular B DAS Program. All catches of stocks of concern under a Category B DAS are applied to these incidental catch TACs. At first, incidental catch TACs were in addition to the target TACs for each stock based on anticipated mortality reductions. However, Framework 42 changed the way incidental catch TACs are treated such that incidental catch TACs are now components of the overall target TACs for each stock. By doing so, the mortality implications of additional effort in SAPs should be accounted for in the FMP.

Implications of Sectors Fishing In SMPs:

There are some general policy questions that arise when considering whether sectors should participate in SMPs. Four main questions, along with some general implications, are outlined below for PDT discussion.

1. Is access to SMPs necessary for sectors?

All SMPs were developed as a means of mitigating impacts of the Amendment 13 effort controls. With sectors requesting exemptions from effort controls (DAS, trip limits, closure areas, etc.), SMPs no longer serve this need for sector vessels, as sector effort is constrained by hard TACs, allowing sectors to operate in a more efficient manner. This is especially clear for the Regular B DAS Program which seems to offer no additional benefit to sector participants, as sector operations under the Regular B DAS Program would be very similar to conventional fishing operations. Due to the reduced need for these programs in terms of mitigating effort reductions, the increased administrative burdens that may be associated with sector participation in specific SMPs (see below and attached) may outweigh benefits flowing to sectors.

2. Should sectors be granted access to closed areas through SAPs?

In addition to allowing vessels to use Category B DAS, SAPs allow vessels to access closed areas. In this capacity, SAPs do provide increased opportunities for sector vessels that may not exist through sector provisions alone. Closed areas serve primarily to reduce effort and protect habitat and spawning fish, offering conservation benefits to the fishery as a whole. It is possible that sectors, in the absence of other effort controls such as trip limits or sector-specific SAP TACs, could use SAPs to catch non-target species such as cod in closed areas. This behavior may reduce the effectiveness of both the SAPs and closed areas at the expense of non-sector

vessels. For example, absent trip limits, sector catch of cod in the Eastern U.S./Canada Area could result in the premature closure of the area due to attainment of the Eastern U.S./Canada Area cod TAC. Further, it is difficult to predict whether access to closed areas will be necessary in order to harvest the TACs allocated to sectors. It can be argued that access to closed areas would increase the catch per unit effort (CPUE) of sector vessels. However, it is important to note that because DAS, trip limits, and gear constraints would no longer severely constrain sector vessels, sectors may be able to fully harvest available TAC outside of closed areas. As a result, the benefits of access to closed areas relative to the costs (to the resource and administration of SAPs) may be less than anticipated.

3. Should sector access to SAPs be constrained?

According to analysis in Framework 40A, the increased effort in SAPs did not increase mortality on stocks of concern because the catch of some stocks is limited by incidental catch TACs. Currently, incidental catch TACs only apply to catch under a Category B DAS and, presumably, would not apply to sectors due to exemptions from DAS controls. However, there are other reasons to control sector effort in SAPs, including (1) minimizing derby fisheries and resulting gluts in the market, (2) prolonging access to SAPs by slowing catch rates, (3) avoiding gear conflicts due to exemptions from gear limits, and (4) minimizing the negative impacts on fishing mortality due to potentially increased targeting of stocks of concern in closed areas. The Council should consider whether such restrictions are necessary to maximize the benefits of SAPs to all participants.

Ways to minimize derby fisheries include sector-specific SAP TACs, seasons, limited numbers of trips, trip limits, etc. All of these ideas have either been considered or employed in currently-approved SAPs. The Council seems to prefer allocating SAP TACs to sectors. However, this will greatly increase the monitoring burden associated with sectors, potentially increasing the number of TACs to be monitored by upwards of 250 TACs. In addition, allocating SAP TACs to sectors poses a new set of questions the Council must address related to how to calculate such TACs, as follows:

- Should sectors get similar % of SAP TACs as their overall stock share?
- Should sectors get an allocation of SAP TACs reflective of their proportion of the vessels that previously caught that stock [this could eliminate concerns about allocating based upon previous access to the SAP and the correspondingly higher CPUEs]?
- Should all sectors get TACs for all SAP TACs, or just the ones they could participate in (i.e., should a trawl sector get allocations of CA I HGH SAP TACs)?

4. Should sector catch count against SAP incidental catch TACs?

As noted above, incidental catch TACs were specified to ensure that catch of stocks of concern under a Category B DAS would not result in excessive fishing mortality. Because sectors would presumably not be subject to DAS, incidental catch TACs would not apply to sector catch. This is reflected in the current practice of not specifying a cod TAC for sector vessels participating in the Closed Area I Hook Gear Haddock SAP. However, a broader question for the Council is

whether there should be a limit on the catch of stocks of concern from SAPs. Because SAPs were designed to facilitate the catch of healthy stocks and avoid the catches of stocks of concern, it could be inferred that the overall catch of stocks of concern from SAPs should be limited. Accordingly, while sector catch should not count against the incidental catch TACs specified for a SAP, perhaps they should count against an overall TAC for stocks of concern from a SAP, whether based on the overall catch from that SAP by sector and non-sector vessels (i.e., including the incidental catch TACs), or on the sector-specific SAP allocations, as discussed above. This is especially important if the Council believes that sector access to closed areas could increase fishing mortality on incidental catch species.

Some SMP-specific issues are highlighted below:

Regular B DAS Program:

- Objective: Allow vessels to use Regular B DAS to target healthy stocks outside of a SAP
- Effort Restrictions:
 - Quarterly DAS limits (500 or 1,000 Category B DAS)
 - Quarterly quotas for stocks of concern
 - Trip limits (100 lb/DAS up to 1,000 lb/trip for most stocks)
 - Gear Restrictions: Trawl vessels must use a haddock separator trawl
- Implications for Sector Involvement:
 - May require monitoring of additional 170 sector TACs (see attached)
 - Could require additional effort controls to minimize impacts to mortality, as sectors are likely to be exempt from most of the Program's effort restrictions
 - Without limitations on DAS usage, sectors may not need this program

Closed Area I Hook Gear Haddock SAP:

- Objective: Allow vessels with hook gear to selectively target haddock in Closed Area I
- Effort Restrictions:
 - Hard quota for haddock split between sector and non-sector season
 - Seasons (Sector and non-sector: Oct 1 – Nov 15 and Nov 16 – Dec 31)
 - Gear restrictions – longline and tub trawl gear only, however, no gear limits
 - Trip restrictions – vessels can't fish inside/outside SAP on same trip
 - Trip limits for non-sector vessels (1,000 lb/trip of cod and trip limits for other stocks)
 - Incidental catch TAC for GB cod for non-sector vessels
- Implications for Sector Involvement:
 - May require monitoring of an additional 18 sector TACs
 - If a sector season is maintained, measures to prevent a sector derby may be necessary
 - If a sector season is eliminated (per current proposals), measures to prevent an overall derby may be necessary
 - Would require revising distribution of haddock TAC to sector and non-sector vessels
 - Sector catch of other species (cod) may affect mortality reduction of effort controls, especially if sectors represent a majority of vessels participating in this SAP
 - Current gear restrictions would prevent some sectors from participating
 - It would be difficult to eliminate sector participation in this SAP after 4 years of previous participation

Eastern U.S./Canada Area Haddock SAP:

- Objective: Allow vessels to selectively target haddock in Closed Area II
- Effort Restrictions:
 - Incidental catch TACs for GB cod, GB yellowtail flounder, and GB winter flounder
 - Season – August 1 – December 31
 - Trip limits – 1,000 lb/trip of cod; 100 lb/DAS of yellowtail flounder and winter flounder, up to 500 lb/trip of flatfish species combined; 500 lb/trip of skates; 500 lb/trip of monkfish (unless otherwise restricted); and no lobsters
 - Vessels must flip to Category A DAS if exceed landing limits
 - Gear restrictions – haddock separator trawl only (currently)
- Implications for Sector Involvement:
 - May require monitoring of an additional 44 sector TACs
 - All catches, including those from SAP whether from sector or non-sector vessels, count against the U.S./Canada Management Area TACs and could contribute to early closure of Eastern U.S./Canada Area and a yellowtail possession prohibition

Attached is a summary of all of the TACs associated with SMPs. This attachment estimates the number of additional TACs should sectors be allocated an individual TAC for stocks monitored by hard TACs in each SMP. Assumed sector participation in a particular SMP is based upon operational areas and gear usage outlined in sector proposals.

Attachment 2: NERO and NOAA GC Input Regarding Sector Penalty for an Overage

Committee Motion: Remand issue of overage penalties following permits back to the PDT to work with NOAA GC to develop something along the lines of item d (PDT conference call report – overage penalty follows a permit). The issue should be dealt with by each individual operations plan.

- Earlier concerns over the constitutionality of individual penalty tracking are not as pressing, provided you can assess the penalty to the individual sector participants responsible for the overage. We may need to define when an overage occurs and who are responsible for the overage. For example, is an overage defined when sector-reported catch indicates a TAC was exceeded, or when available data from other sources indicates that a TAC was exceeded? Vessels responsible for an overage could be defined as vessels which landed catch in excess of a sector's allocation or were at sea when catch was landed that exceeded a sector's allocation.
- Recommend that sector operations plans include triggered measures to ensure that the TACs aren't exceeded (e.g., trip limits to slow catch), as the first priority is to ensure the TAC is not exceeded.
- Penalty Recommendations:
 - Consider a formulaic penalty:
 - If the sector disbands and participants enter common pool: individual penalty (DAS deduction) = (sector overage in lbs/# sector participants) ÷ avg. catch rate/DAS (or trip limit, whichever is appropriate) for species' TAC that is exceeded; if multiple species TACs were exceeded, add the individual DAS penalties resulting from applying the selected formula to each species whose TAC was exceeded.
 - If the sector disbands and participants enter another sector: individual penalty (sector contribution penalty) = sector overage in lbs/# sector participants for each species whose TAC was exceeded. This penalty could be applied to result of the sector share formula before it is applied to the sector's allocation of a particular stock for the subsequent fishing year. For example, convert an individual vessel's share of the species TAC to lbs, reduce it by the penalty, and then add it to the remaining participating vessel's shares in lbs to determine a sector's allocation of that species.
 - If the sector remains in place after the overage, the penalty should be deducted from that sector during the next year, as in the currently regulations. Sectors may choose to impose individual penalties on participants who leave that sector following an overage, if appropriate.
 - Consider prohibiting a vessel from fishing in another sector during a subsequent fishing year if it had participated in a sector that had exceeded its TAC the previous year, but had disbanded.
 - Earlier PDT recommendations to prevent a vessel from leaving a sector if that sector exceeded its TAC for any species during the previous year or to remain in the sector until the overage is paid back are compromised by timing concerns.

- Considerations:
 - Require sector managers to identify vessels at sea when overage occurred to facilitate enforcement of individual vessel penalties, if appropriate
 - Identify penalty if sector exists after overage, but penalty exceeds allocated TAC for the following fishing year based upon the number of participants
 - Develop more severe penalties if overage is egregious

Attachment 3: Transfer of Annual Catch Entitlements (ACE) Between Sectors

Additional language to be added to measures text

Proposed ACE transfers will be referred to NMFS. The transfer is not considered authorized until NMFS notifies both sectors. The NMFS review of a transfer request will be based on general issues such as whether both sectors are complying with reporting or other administrative requirements. The responsibility for ensuring that sufficient ACE is available to effect the transfer is the responsibility of the sector manager. NMFS approval of a transfer does not absolve the sector from managing its ACE.

Transfers of previous year's ACE after the end of the fishing year will allow sectors to balance accidental overages if other sectors hold unused ACE at the end of the year and are willing to transfer that ACE to the sector with an overage. Should a sector be unable to acquire ACE from another sector to balance an overage, the overage will be deducted from the next year's ACE allocation, and the sector may be subject to other penalties. Since ACE transfers may take place after fishing has commenced and it will not be clear whether sectors are able to balance overages by acquiring ACE until all transfers have been processed, 20% of each sector's ACE allocation for each stock will be held in reserve by NMFS until 45 days after the beginning of the fishing year to ensure that sectors will have sufficient ACE to balance overages from the previous year.

Attachment 4: Data Supporting ACL Subcomponents

Gear Type	Access Area (Open-Closed)		Mesh Group	Trip Category	Cod	Haddock	YTF	Plaice	Whitch	Winter	Pollock	Redfish	White Hake	Windowpane	Halibut	Pout
	Area	Fished														
Longline	HOOK	NE	all	all	1.49	30.72	0.00			0.00		0.15	1.01	0.00	0.32	0.01
Longline	OPEN	MA	all	all												
Longline	OPEN	NE	all	all	45.94	36.56	0.01		0.00	0.00	0.20	0.37	1.09		0.10	2.98
Hand Line	OPEN	MA	all	all												
Hand Line	OPEN	NE	all	all	23.21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Otter Trawl	B	MA	large	all												
Otter Trawl	B	NE	small	all												
Otter Trawl	B	NE	large	all	53.95	45.44	43.05	8.11	10.41	2.51	2.58	13.53	2.11	64.92	1.02	11.06
Otter Trawl	OPEN	MA	small	all	0.1	4.25	8.40	1.91	32.87	25.90	0.02	1.13	23.35	53.83	0.00	0.03
Otter Trawl	OPEN	MA	large	all	0	0.00	0.17	0.03	2.08	13.99	0.00	0.00		83.95	0.00	0.00
Otter Trawl	OPEN	NE	small	all	44.24	94.36	26.68	34.17	52.96	46.55	0.00	1.82	70.11	16.32	0.60	27.09
Otter Trawl	OPEN	NE	large	all	304.43	20.33	249.58	191.84	99.73	118.88	6.84	34.42	6.92	158.40	4.62	65.71
Otter Trawl	USCAN	MA	small	all												
Otter Trawl	USCAN	MA	large	all												
Otter Trawl	USCAN	NE	small	all	1.54	0.54	1.50	0.35	0.46	0.23	0.10	0.04	0.06	2.92	0.03	0.48
Otter Trawl	USCAN	NE	large	all	264.52	240.26	110.38	37.19	35.62	13.44	8.23	23.21	5.80	299.74	2.82	43.23
Scallop Trawl	CLOSEI	MA	all	general												
Scallop Trawl	CLOSEI	MA	all	limited												
Scallop Trawl	CLOSEI	NE	all	limited												
Scallop Trawl	OPEN	MA	all	general	0	0.06	0.03	0.01	0.15	0.00	0.00	0.02	0.37	5.16	0.00	0.48
Scallop Trawl	OPEN	MA	all	limited												
Scallop Trawl	OPEN	NE	all	general												
Scallop Trawl	OPEN	NE	all	limited												
Shrimp Trawl	OPEN	MA	all	all												
Shrimp Trawl	OPEN	NE	all	all	2.65	0.05	2.08	18.07	3.27	12.96	0.11	1.09	0.99	0.69	0.08	0.09
Sink, Anchor, Drift Gillnet	OPEN	MA	small	all												
Sink, Anchor, Drift Gillnet	OPEN	MA	large	all												
Sink, Anchor, Drift Gillnet	OPEN	MA	xlg	all	0.29	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.07	0.00	0.00
Sink, Anchor, Drift Gillnet	OPEN	NE	small	all												
Sink, Anchor, Drift Gillnet	OPEN	NE	large	all	91.78	3.15	11.84	1.22	1.34	4.19	33.83	2.11	10.99	0.02	0.79	0.64
Sink, Anchor, Drift Gillnet	OPEN	NE	xlg	all	33.65	1.90	2.38	1.04	0.16	1.95	13.85	2.17	10.79	0.03	3.34	1.39
Purse Seine	OPEN	MA	all	all												
Purse Seine	OPEN	NE	all	all	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Scallop Dredge	CLOSEI	MA	all	general												
Scallop Dredge	CLOSEI	MA	all	limited	0	0.03	0.05	0.04	16.89	0.69	0.00	0.00	0.03	0.13	0.00	0.16
Scallop Dredge	CLOSEI	NE	all	general	0	0.20	1.55	0.00	0.00	1.37	0.00	0.00	2.29	0.21	0.00	0.03
Scallop Dredge	CLOSEI	NE	all	limited	1.55	2.42	123.52	2.59	5.04	47.99	0.03	0.00	1.88	9.03	0.00	1.16
Scallop Dredge	OPEN	MA	all	general	0	0.00	0.20	0.00	0.24	5.19	0.00	0.00	0.00	15.30	0.00	0.15
Scallop Dredge	OPEN	MA	all	limited	0	0.00	0.95	1.26	14.72	3.95	0.00	0.30	0.29	14.73	0.01	1.39
Scallop Dredge	OPEN	NE	all	general	0.04	0.00	4.79	0.11	0.00	9.61	0.00	0.00	0.00	12.16	0.00	0.61
Scallop Dredge	OPEN	NE	all	limited	1.04	0.83	97.98	4.34	11.59	49.20	0.00	0.00	0.57	108.09		0.46
Mid-water paired & single Trawl	OPEN	MA	all	all	0	0.00	0.00	0.00	0.00	0.00	0.20	0.00	0.00	0.00	0.00	0.00
Mid-water paired & single Trawl	OPEN	NE	all	all	0.56	58.60		0.05	0.02		5.16	3.66	0.44	0.00	0.00	0.00
Total Discard					870.98	539.7	685.14	302.33	287.55	358.60	70.75	84.22	139.09	845.71	13.73	157.15
Non-Groundfish Gear Totals					51.72	161.34	267.73	62.90	138.21	203.64	5.82	8.28	100.38	238.57	0.72	32.13
Non-groundfish percent					0.06	0.30	0.39	0.21	0.48	0.57	0.08	0.10	0.72	0.28	0.05	0.20
Total Commercial Landings (2005)					5580	7566	4118	1290	2652	3667	607	564	2870	837	17	279
US Only																
Cod					0.01	0.02	0.07	0.05	0.05	0.06	0.01	0.01	0.04	0.29	0.04	0.12
Haddock																
YTF																
Plaice																
Whitch																
Winter																
Pollock																
Redfish																
White Hake																
Windowpane																
Halibut																
Pout																

Source: NOAAEFS Ref. Doc CRD 08-02
 A brief description of the discard estimation for the National Bycatch Report, by SE Wigley, MC Palm

Table 10: Portion of the Total 2004 Commercial Groundfish Landings Landed by Vessels Operating Without a Federal Groundfish Permit in Each State

Species	2004 Total Landings (lb, live weight)	Portion of 2004 Total Landings ¹											
		ME ²	NH ²	MA	RI	NY	NJ	MD	DE	VA	NC	All States	
Cod ³	15,943,408	0.00%	0.31%	7.29%	0.03%	0.01%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	7.81%
Haddock	17,584,367	0.00%	0.03%	1.71%	0.06%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.88%
Yellowtail Flounder ³	14,626,364	0.00%	0.00%	1.11%	0.41%	0.13%	0.01%	0.00%	0.00%	0.00%	0.00%	0.00%	1.69%
American Plaice ³	3,830,967	0.00%	0.30%	4.09%	0.25%	0.03%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	4.70%
Witch Flounder	6,383,642	0.00%	0.00%	0.09%	0.01%	0.10%	0.00%	0.00%	0.00%	0.02%	0.00%	0.00%	0.28%
Winter Flounder ³	10,157,335	0.00%	0.01%	2.46%	0.26%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	2.75%
Redfish	1,097,487	0.00%	0.02%	3.68%	0.01%	0.36%	0.00%	0.61%	0.00%	0.00%	0.00%	0.00%	4.69%
White hake	7,156,466	0.00%	0.01%	3.06%	0.10%	0.65%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	4.23%
Pollock ³	12,568,671	0.00%	0.26%	3.99%	0.02%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	4.30%
Windowpane Flounder	615,488	0.00%	0.09%	40.18%	31.22%	0.56%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	72.06%
All Regulated Species	89,964,205	0.00%	0.12%	3.39%	0.35%	0.09%	0.00%	0.01%	0.00%	0.00%	0.00%	0.00%	4.04%

¹Includes landings from vessels without a Federal groundfish permit and those federally-permitted vessels that landed groundfish from state waters either before renewing their Federal groundfish permit, or after transferring their Federal groundfish permit to another vessel.

²Landings data for these states only include groundfish landings between May 2005 and December 2005 because these states submit landings data on a calendar year basis and have not submitted landings data from January through April 2006.

³The target TACs for specific stock of each of these species include commercial landings, commercial discards, and recreational catch. As a result, the state landings for each of these species have been increased by an estimate of commercial discards and recreational catch of specific stocks derived from the latest stock assessment (GARM 2005).

Table 11: Portion of the Total 2005 Commercial Groundfish Landings Landed by Vessels Operating Without a Federal Groundfish Permit in Each State

Species	2005 Total Landings (lb, live)	Portion of 2005 Total Landings ¹											
		ME ²	NH ²	MA	RI	NY	NJ	MD	DE	VA	NC	All States	
Cod ³	13,220,370	0.02%	0.09%	5.82%	0.03%	0.01%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	5.97%
Haddock	13,222,019	0.00%	0.01%	1.67%	0.10%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.78%
Yellowtail Flounder ³	9,065,242	0.00%	0.00%	2.31%	0.45%	0.11%	0.02%	0.10%	0.00%	0.00%	0.00%	0.00%	2.99%
American Plaice ³	2,982,570	0.12%	0.07%	5.51%	0.05%	0.00%	0.00%	0.00%	0.00%	0.00%	0.01%	0.00%	5.76%
Witch Flounder	5,682,501	0.00%	0.00%	0.21%	0.00%	0.19%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.41%
Winter Flounder ³	8,249,816	0.01%	0.01%	0.79%	0.06%	0.02%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.88%
Redfish	1,261,422	0.00%	0.05%	1.45%	0.00%	0.08%	0.00%	0.00%	0.00%	0.00%	0.01%	0.00%	1.60%
White hake	5,356,049	0.04%	0.04%	1.06%	0.01%	0.32%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.46%
Pollock ³	14,097,192	0.00%	0.30%	1.31%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.62%
Windowpane Flounder	366,651	0.00%	0.13%	57.92%	1.51%	0.67%	0.00%	0.00%	0.00%	0.10%	0.00%	0.00%	60.32%
All Regulated Species	73,503,832	0.01%	0.08%	2.80%	0.10%	0.06%	0.00%	0.01%	0.00%	0.00%	0.00%	0.00%	2.87%

¹Includes landings from vessels without a Federal groundfish permit and those federally-permitted vessels that landed groundfish from state waters either before renewing their Federal groundfish permit, or after transferring their Federal groundfish permit to another vessel.

²Landings data for these states only include groundfish landings between May 2005 and December 2005 because these states submit landings data on a calendar year basis and have not submitted landings data from January through April 2006.

³The target TACs for specific stock of each of these species include commercial landings, commercial discards, and recreational catch. As a result, the state landings for each of these species have been increased by an estimate of commercial discards and recreational catch of specific stocks derived from the latest stock assessment (GARM 2005).

Exempted Fisheries Review

1. Small Mesh Northern Shrimp

Fishery identified through observer data by following criteria:

- target species = any shrimp species (73*)
- Area = 512, 513, 514 and 521

193 trips were observed with an average of 2.8% regulated species (SD = 2.9)

Maximum regulated bycatch in a single trip was 22.9%, the minimum was 0.0%

27 (or 14%) trips were higher than the 5% level

Flounders accounted for 77.4% of the regulated species catch: 46.6% of flounders were classified as American plaice, followed by 12.9% witch flounder and 10.8% winter flounder

2. Cultivator Shoal Whiting

Fishery identified through observer data by following criteria:

- target species = any hake species as target 1 OR target 2 = whiting
- Area = 522 and 525
- time = June-October

29 trips were observed with an average of 3.5% regulated species (SD = 6.3)

Maximum regulated bycatch in a single trip was 31.6%, the minimum was 0.0%

6 (or 21%) trips were higher than the 5% level

Haddock accounted for 66.3% of the regulated species catch followed by 11.6% winter flounder and 10.6% witch flounder

3. Raised Footrope Trawl Exempted Whiting Fishery

Fishery identified through observer data by following criteria:

- target species = any hake species as target 1 OR target 2 = whiting
- Area = 521 and 514
- time = September-December

113 trips were observed with an average of 4.2% regulated species (SD = 6.0)

Maximum regulated bycatch in a single trip was 44.1%, the minimum was 0.2%

26 (or 23%) trips were higher than the 5% level

Flounders accounted for 59.6% of the regulated species catch (winter at 28.0% and plaice at 16.5%), followed by cod at 16.4% and white hake at 11.3%

4. GOM Grate Raised Footrope Trawl Exempted Whiting Fishery

Fishery identified through observer data by following criteria:

- target species = any hake species as target 1 OR target 2 = whiting
- Area = 513
- time = July-November

90 trips were observed with an average of 3.5% regulated species (SD = 3.8)

Maximum regulated bycatch in a single trip was 21.4%, the minimum was 0.1%

20 (or 22%) trips were higher than the 5% level

Flounders accounted for 64.9% of the regulated species catch (plaice at 44.4% and witch at 12.4%), followed by white hake at 18.4%

(Following Section To Be Determined)

5. Atlantic herring (seine)

Fishery identified through observer data by following criteria:

.

6. Atlantic herring (trawl)

Fishery identified through observer data by following criteria:

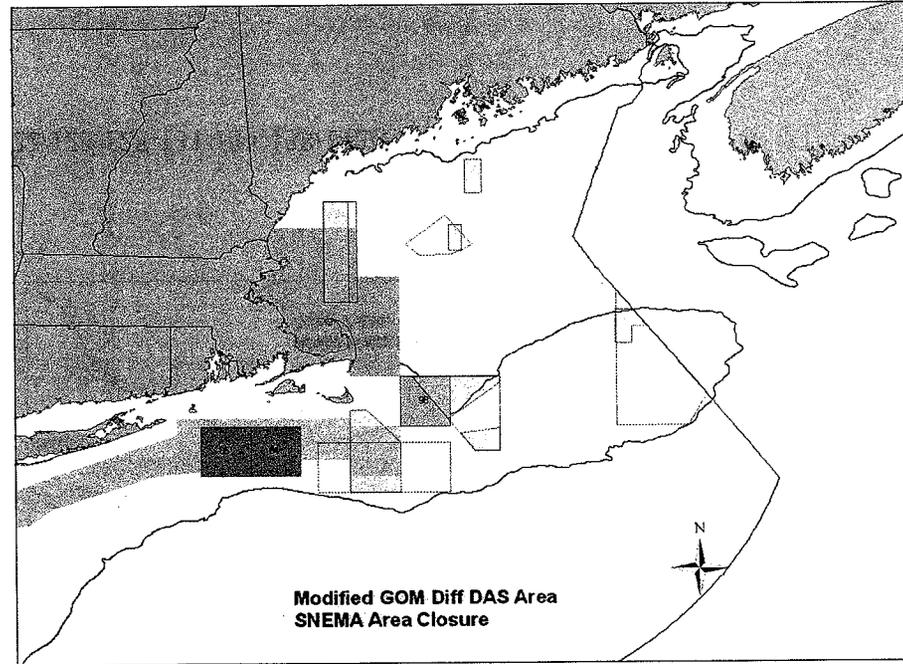
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7. Atlantic mackerel

Fishery identified through observer data by following criteria:

Figure 1 – Effort control example: modified GOM differential DAS area, SNE/MA year round closure

Spec	AREA		Scen. 1	Reduction Needed
Short Title	No-Action		Mod GOM Diff DAS	
COD	GBANK	-16%	-23.8%	-13%
COD	GM	-14%	-7.0%	-8%
HAD	GBANK	-14%	-24.7%	
HAD	GM	-13%	-9.1%	-4%
BLACK	GBANK	-17%	-11.7%	
BLACK	GM	-16%	-16.9%	
BLACK	SNEMA	-14%	-29.2%	-28%
PL	ALL	-13%	-12.2%	
WITCH	ALL	-15%	-13.5%	
WHK	ALL	-15%	-11.7%	-77%
WIND	NORTH	-16%	-11.1%	
WIND	SOUTH	-13%	-14.0%	-50%
YT	CCGOM	-14%	-35.0%	-32%
YT	GBANK	-17%	-11.1%	-43%
YT	SNEMA	-12%	-19.6%	-32%
POL	ALL	-14%	-12.0%	
RED	ALL	-14%	-12.2%	



Scenario Summary: GOM Diff DAS Area: Add block 98, drop blocks 138/139/140

SNE Closure: blocks 84, 85

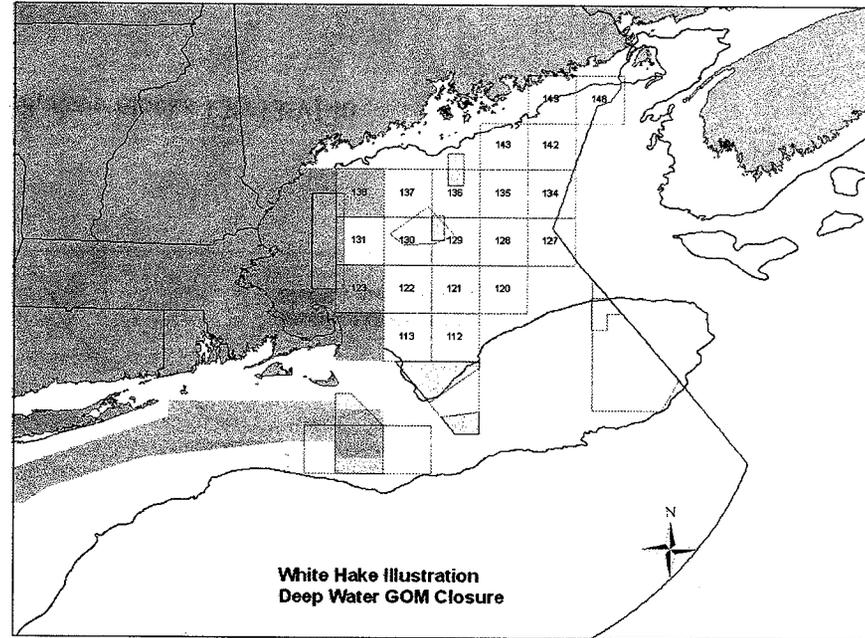
White Hake trip limit: 500 lbs./DAS

18% DAS reduction

All other FW 42 measures

Figure 2 – Example of a measure that meets white hake A13 reduction in exploitation (but not all other stocks)

Spec	AREA	No-Action	Scen. 2 Offshore GOM Closure	Reduction Needed
Short Title				
COD	GBANK	-16%	-27.9%	-13%
COD	GM	-14%	-23.3%	-8%
HAD	GBANK	-14%	-20.1%	
HAD	GM	-13%	-48.1%	-4%
BLACK	GBANK	-17%	-3.1%	
BLACK	GM	-16%	13.5%	
BLACK	SNEMA	-14%	-15.4%	-28%
PL	ALL	-13%	-61.7%	
WITCH	ALL	-15%	-45.8%	
WHK	ALL	-15%	-80.3%	-77%
WIND	NORTH	-16%	-4.7%	
WIND	SOUTH	-13%	-12.3%	-50%
YT	CCGOM	-14%	12.3%	-32%
YT	GBANK	-17%	-1.5%	-43%
YT	SNEMA	-12%	-8.7%	-32%
POL	ALL	-14%	-58.9%	
RED	ALL	-14%	-75.5%	



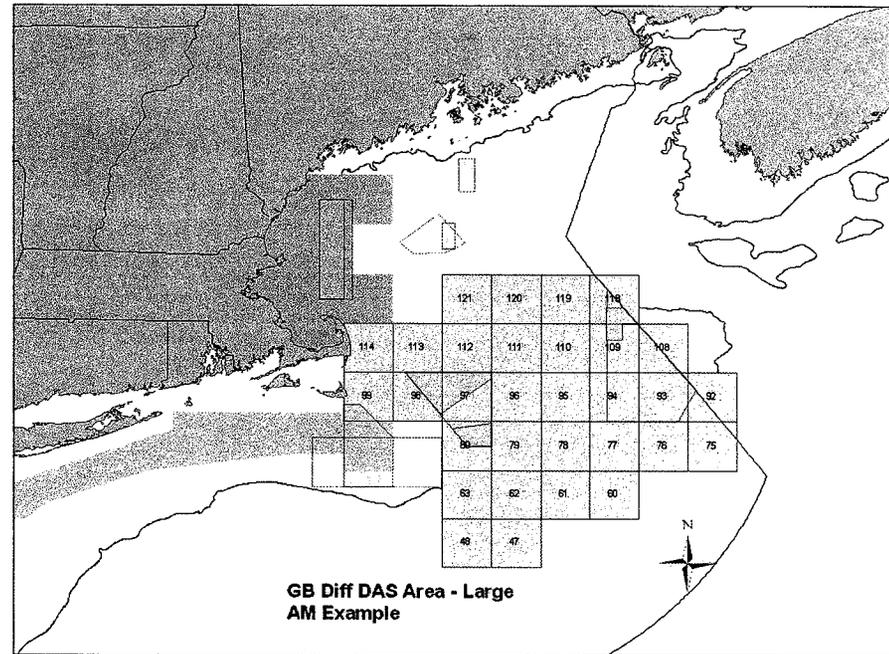
Scenario summary: 18 percent DAS reduction

Close blocks 112/113/120/121/122/123/127-131/134-138/142/143/148/149 year round

Other FW 42 measures

Figure 3 – Accountability measure example: GB differential DAS area

Spec	AREA		Scen: 2	Reduction
Short Title	No-Action	GB Diff DAS AM		
COD	GBANK	-16%	-69.1%	-13%
COD	GM	-14%	-6.6%	-8%
HAD	GBANK	-14%	-70.4%	
HAD	GM	-13%	-2.7%	-4%
BLACK	GBANK	-17%	-78.5%	
BLACK	GM	-16%	-9.7%	
BLACK	SNEMA	-14%	-18.4%	-28%
PL	ALL	-13%	-22.0%	
WITCH	ALL	-15%	-33.0%	
WHK	ALL	-15%	-13.5%	-77%
WIND	NORTH	-16%	-71.3%	
WIND	SOUTH	-13%	2.7%	-50%
YT	CCGOM	-14%	-33.8%	-32%
YT	GBANK	-17%	-78.1%	-43%
YT	SNEMA	-12%	16.6%	-32%
POL	ALL	-14%	-17.9%	
RED	ALL	-14%	-19.0%	



Scenario summary: 18% DAS reduction

GB differential DAS area, 2:1 counting

All other FW 42 measures

**Eastern US/Canada Area
2007 Weekly Cod Catch**

Report run on:
For data reported through:
Quota Period:
Quota Period Dates:

March 28, 2008
March 27, 2008
2007
5/1/07 to 4/30/08

#5

Week End Date	Declared US/Canada Program (1)					Declared B DAS Program (2) (Includes flipped and unflipped trips)					Declared Eastern Area Haddock SAP (3)				
	Kept		Discard		Catch	Kept		Discard		Catch	Kept		Discard		Catch
	Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.	
	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)
5/1-2/21	236,857	109,286	491,119	346,143	727,977	3,420	10	0	3,430	3,420	0	0	0	0	0
2/28	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/27	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4/3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	236,857	109,286	491,119	346,143	727,977	3,420	10	0	3,430	3,420	0	0	0	0	0

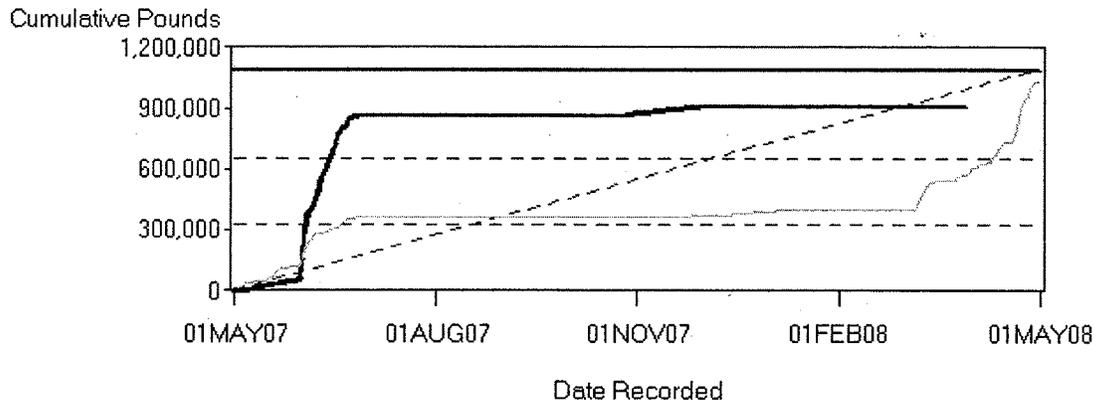
Week End Date	Declared US/Canada and Haddock SAP (4)					Total Eastern US/Canada Area (1) + (2) + (3) + (4)									
	Kept		Discard		Catch	Kept		Discard		Catch	Cumulative Catch		Cumulative Catch		
	Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.	
	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	% of Quota	% of Quota
5/1-2/21	0	0	0	0	0	240,277	109,296	491,119	349,573	731,397	349,573	731,397	32.1	67.2	
2/28	0	0	0	0	0	0	0	0	0	0	349,573	731,397	32.1	67.2	
3/6	0	0	0	0	0	0	0	0	0	0	349,573	731,397	32.1	67.2	
3/13	0	0	0	0	0	0	0	0	0	0	349,573	731,397	32.1	67.2	
3/20	0	0	0	0	0	0	0	0	0	0	349,573	731,397	32.1	67.2	
3/27	0	0	0	0	0	0	0	0	0	0	349,573	731,397	32.1	67.2	
4/3	0	0	0	0	0	0	0	0	0	0	349,573	731,397	32.1	67.2	
Total	0	0	0	0	0	240,277	109,296	491,119	349,573	731,397					

Estimated Landings Equivalent to Dealers' Reports	Total Eastern US/Canada Area							
	Cumulative Kept		Cumulative Discard		Cumulative Catch		Cumulative Catch	
	Reported	Estimated	Reported	Estimated	Reported	Estimated	Reported	Estimated
	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Percent of Quota (1,089,084 lbs.)	Percent of Quota (1,089,084 lbs.)
Live Weight = Hail Weight*1.24	297,945	135,527	608,988	433,472	906,932	39.8	83.3	

Based on FY2006 data, the ratio of dealer reported cod landings to Vessel Monitoring System (VMS) reported cod kept equals 1.24.

US/Canada Program

Eastern Area Cod Monitoring



- Estimated Catch (83.3% (906,932 lbs.) of quota, dealer equivalent live weight = hail weight*1.24)
- Cod Quota (1,089,084 lbs.)
- Cod 60% Trigger
- Cod 30% Trigger
- Quota Rationing Trajectory is at 993,602 lbs., 91.2% of the quota this year to date.
- Prior Year's Estimated Catch was 570,713 lbs., 69.2% of prior year's quota at this time last year.

Notice

The 2007 Quota Period began on May 1, 2007, therefore this report does not contain any landings reported prior to May 1, 2007.

Management actions for the U.S./Canada Management Area, under the authority of the Regional Administrator (such as closures and possession limits) are based upon Vessel Monitoring System (VMS) reports and other available information.



**National
Oceanic and
Atmospheric
Administration**

These data are the best available to NOAA's National Marine Fisheries Service (NMFS) when this report was compiled. Data for this report may be supplied to NOAA Fisheries Service (NMFS) from the following sources: (1) vessels via Vessel Monitoring System; (2) NOAA Fisheries Service Observer Program, through audited observer reports submitted by the Northeast Fisheries Science Center. Data in this report are for landings made through March 27, 2008 and may be preliminary. Differences with data from previous reports are due to corrections made to the database and updates to observer data.

**Eastern US/Canada Area
2007 Weekly Haddock Catch**

Report run on:
For data reported through:
Quota Period:
Quota Period Dates:

March 28, 2008
March 27, 2008
2007
5/1/07 to 4/30/08

Week End Date	Declared US/Canada Program (1)					Declared B DAS Program (2) (Includes flipped and unflipped trips)					Declared Eastern Area Haddock SAP (3)				
	Kept	Discard		Catch		Kept	Discard		Catch		Kept	Discard		Catch	
		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.
	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)
5/1-2/21	698,073	280,733	592,188	978,806	1,290,261	7,850	420	0	8,270	7,850	0	0	0	0	0
2/28	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/27	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4/3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	698,073	280,733	592,188	978,806	1,290,261	7,850	420	0	8,270	7,850	0	0	0	0	0

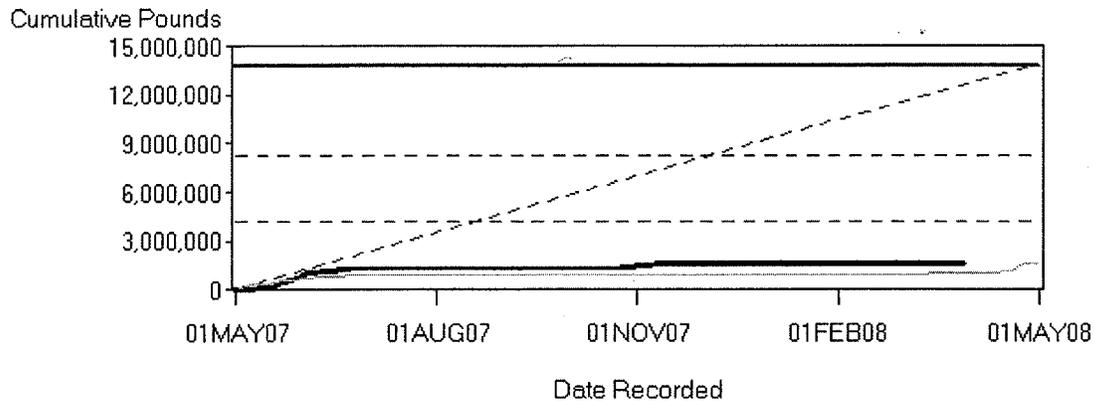
Week End Date	Declared US/Canada and Haddock SAP (4)					Total Eastern US/Canada Area (1) + (2) + (3) + (4)								
	Kept	Discard		Catch		Kept	Discard		Catch		Cumulative Catch		Cumulative Catch	
		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.	Rep.	Est.	Rep.	Est.
	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	Lbs (Hail Wt.)	% of Quota	% of Quota
5/1-2/21	0	0	0	0	0	705,923	281,153	592,188	987,076	1,298,111	987,076	1,298,111	7.1	9.4
2/28	0	0	0	0	0	0	0	0	0	0	987,076	1,298,111	7.1	9.4
3/6	0	0	0	0	0	0	0	0	0	0	987,076	1,298,111	7.1	9.4
3/13	0	0	0	0	0	0	0	0	0	0	987,076	1,298,111	7.1	9.4
3/20	0	0	0	0	0	0	0	0	0	0	987,076	1,298,111	7.1	9.4
3/27	0	0	0	0	0	0	0	0	0	0	987,076	1,298,111	7.1	9.4
4/3	0	0	0	0	0	0	0	0	0	0	987,076	1,298,111	7.1	9.4
Total	0	0	0	0	0	705,923	281,153	592,188	987,076	1,298,111				

Estimated Landings Equivalent to Dealers' Reports	Total Eastern US/Canada Area							
	Cumulative Kept		Cumulative Discard		Cumulative Catch		Cumulative Catch	
	Reported	Estimated	Reported	Estimated	Reported	Estimated	Reported	Estimated
	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Lbs (Live Wt.)	Percent of Quota (13,822,986 lbs.)	Percent of Quota (13,822,986 lbs.)
Live Weight = Hail Weight*1.23	868,285	345,818	728,391	1,214,103	1,596,677		8.8	11.6

Based on FY2006 data, the ratio of dealer reported haddock landings to Vessel Monitoring System (VMS) reported haddock kept equals 1.23.

US/Canada Program

Eastern Area Haddock Monitoring



- Estimated Catch (11.6% (1,596,677 lbs.) of quota, dealer equivalent live weight = hail weight*1.23)
- Haddock Quota (13,822,986 lbs.)
- Haddock 60% Trigger
- Haddock 30% Trigger
- Quota Rationing Trajectory is at 12,611,108 lbs., 91.2% of the quota this year to date.
- Prior Year's Estimated Catch was 1,001,049 lbs., 6.10% of prior year's quota at this time last year.

Notice

The 2007 Quota Period began on May 1, 2007, therefore this report does not contain any landings reported prior to May 1, 2007.

Management actions for the U.S./Canada Management Area, under the authority of the Regional Administrator (such as closures and possession limits) are based upon Vessel Monitoring System (VMS) reports and other available information.



**National
Oceanic and
Atmospheric
Administration**

These data are the best available to NOAA's National Marine Fisheries Service (NMFS) when this report was compiled. Data for this report may be supplied to NOAA Fisheries Service (NMFS) from the following sources: (1) vessels via Vessel Monitoring System; (2) NOAA Fisheries Service Observer Program, through audited observer reports submitted by the Northeast Fisheries Science Center. Data in this report are for landings made through March 27, 2008 and may be preliminary. Differences with data from previous reports are due to corrections made to the database and updates to observer data.

**US/Canada Management Area
2007 Weekly Yellowtail Catch**

Report run on:
For data reported through:
Quota Period Dates:

March 28, 2008
March 27, 2008
5/1/07 to 4/30/08

Week End Date	Declared US/Canada Program Eastern Area (1)					Declared B DAS Program Eastern Area (2)*					Declared Eastern Area Haddock SAP (3)				
	Kept		Discard		Catch	Kept		Discard		Catch	Kept		Discard		Catch
	Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.	
	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs
5/1-3/6	174,622	8,001	50,661	182,623	225,283	10	0	0	10	10	0	0	0	0	0
3/13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3/27	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4/3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	174,622	8,001	50,661	182,623	225,283	10	0	0	10	10	0	0	0	0	0

Week End Date	Declared US/Canada Program Western Area (4)					Declared B DAS Program Western Area (5)*					Declared US/Canada and Haddock SAP (6)				
	Kept		Discard		Catch	Kept		Discard		Catch	Kept		Discard		Catch
	Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.	
	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs
5/1-3/6	1,199,043	51,668	358,988	1,250,711	1,558,032	15,153	578	6,076	15,731	21,229	0	0	0	0	0
3/13	0	2	513	2	513	0	0	0	0	0	0	0	0	0	0
3/20	0	334	544	334	545	0	0	0	0	0	0	0	0	0	0
3/27	0	60	814	60	815	0	0	0	0	0	0	0	0	0	0
4/3	0	275	95	275	96	0	0	0	0	0	0	0	0	0	0
Total	1,199,043	52,339	360,956	1,251,382	1,560,001	15,153	578	6,076	15,731	21,229	0	0	0	0	0

Week End Date	Declared Scallop Access Area (7)					Total US/Canada Area (1) + (2) + (3) + (4) + (5) + (6) + (7)									
	Kept		Discard		Catch	Kept		Discard		Catch	Cumulative Catch		Cumulative Catch		
	Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.		Rep.	Est.	Rep.	Est.	
	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	% Quota	% Quota
5/1-3/6	501	8,186	53,388	8,687	53,889	1,389,330	68,433	469,114	1,457,763	1,858,444	1,457,763	1,858,444	73.5	93.7	
3/13	0	0	0	0	0	0	2	513	2	513	1,457,765	1,858,957	73.5	93.7	
3/20	0	0	0	0	0	0	334	545	334	545	1,458,099	1,859,501	73.5	93.7	
3/27	0	0	0	0	0	0	60	815	60	815	1,458,159	1,860,316	73.5	93.8	
4/3	0	0	0	0	0	0	275	96	275	96	1,458,434	1,860,412	73.5	93.8	
Total	501	8,186	53,388	8,687	53,889	1,389,330	69,104	471,082	1,458,434	1,860,412					

Estimated Landings
Equivalent to
Dealers' Reports

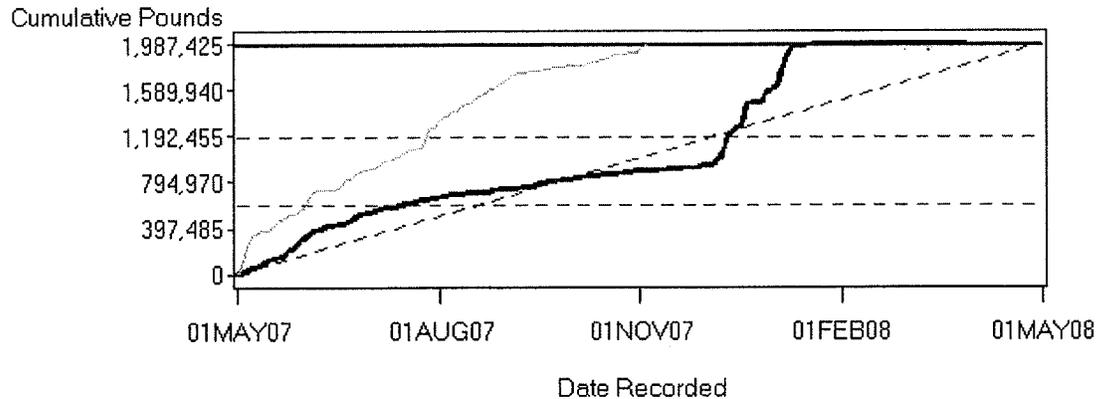
Total US/Canada Area

	Cumulative Kept	Cumulative Discard				Cumulative Catch			
		Reported		Estimated		Reported		Estimated	
		Lbs	Lbs	Lbs	Lbs	Lbs	Lbs	% of Quota	% of Quota
		(Dealer Wt.)	(Dealer Wt.)	(Dealer Wt.)	(Dealer Wt.)	(Dealer Wt.)	(Dealer Wt.)	(1,984,161 lbs.)	(1,984,161 lbs.)
Dealer Weight = VMS Hail Weight*D/V Ratio	1,486,583	73,446	500,841	1,560,030	1,987,425		78.6	100.2	

D/V Ratio - estimated ratios of dealer weight to VMS-reported hail weight based on FY2006 data. Multispecies yellowtail - 1.07, limited access scallop - 1.01, general category scallop - 1.00

US/Canada Program

US/Canada Area Yellowtail Monitoring



- Estimated Catch (100% (1,987,425 lbs.) of quota, dealer equivalent weight=hail weight*D/V Ratio)
- Yellowtail Quota (1,984,161 lbs.)
- Yellowtail 60% Trigger
- Yellowtail 30% Trigger
- Quota Rationing Trajectory is at 1,810,207 lbs., 91.2% of the quota this year to date.
- Prior Year's Estimated Catch was 3,590,064 lbs., 78.7% of prior year's quota at this time last year.

Notice

The 2007 Quota Period began on May 1, 2007, therefore this report does not contain any landings reported prior to May 1, 2007.

Management actions for the U.S./Canada Management Area, under the authority of the Regional Administrator (such as closures and possession limits) are based upon Vessel Monitoring System (VMS) reports and other available information.



**National
Oceanic and
Atmospheric
Administration**

These data are the best available to NOAA's National Marine Fisheries Service (NMFS) when this report was compiled. Data for this report may be supplied to NOAA Fisheries Service (NMFS) from the following sources: (1) vessels via Vessel Monitoring System; (2) NOAA Fisheries Service Observer Program, through audited observer reports submitted by the Northeast Fisheries Science Center. Data in this report are for landings made through March 27, 2008 and may be preliminary. Differences with data from previous reports are due to corrections made to the database and updates to observer data.

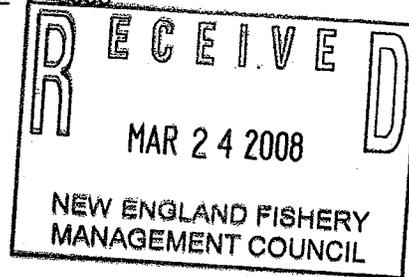
#6

Correspondence



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

MAR 21 2008



John Pappalardo, Chairman
New England Fishery Management Council
50 Water St.
Mill 2
Newburyport, MA 01950

Dear John:

This letter is to express my concerns related to monitoring issues associated with the alternatives under consideration for Amendment 16 to the Northeast Multispecies Fishery Management Plan. As you know, many of the measures under development in Amendment 16 contain substantial monitoring components that have yet to be fully discussed by either the New England Fishery Management Council (Council) or the Groundfish Oversight Committee (Committee). For example, Amendment 16 currently is considering inclusion of annual catch limits (ACLs); a trimester hard total allowable catch (TAC) accountability measure for all groundfish stocks; 19 new sectors, each allocated TACs for up to 15 stocks; and sector-specific TACs for special access programs and the U.S./Canada Management Area. These measures would apply to the entire groundfish fishery (nearly 1,400 vessels) and involve the monitoring of upwards of 500 TACs for the groundfish fishery alone. Although the Committee voted to require sectors to demonstrate the ability to accurately attribute landings to a specific stock area, and the Council recently voted to require sectors to develop an adequate monitoring system, details of how sectors would comply with such monitoring requirements have yet to be presented.

Accurate and timely monitoring is critical to ensuring that management measures are effectively implemented. Because many of the proposed Amendment 16 measures are stock-specific and may trigger management action, it is imperative that catch be attributed to the correct stock area on a real-time basis. Staff from the Northeast Regional Office (NERO) have been holding internal meetings to discuss how to best implement many of the measures being considered by the Council. At the January Committee and Council meetings, NERO proposed monitoring measures that would facilitate the attribution of catch data to stock areas. However, neither this proposal, nor any other proposal that would obtain the necessary stock-specific catch data, has been seriously considered by either the Committee or the Council. Adequate monitoring measures must be incorporated into Amendment 16, as the current monitoring system is incapable of accommodating the scope and complexity of the Amendment 16 measures as currently proposed. This is especially important for non-sector vessels, particularly if such vessels are subject to ACLs under Amendment 16.

It is important to note that the catch data used for in-season monitoring may differ from the data used in stock assessments. This is due primarily to the fact that data used in stock assessments are not always available in the time necessary to implement in-season management actions such

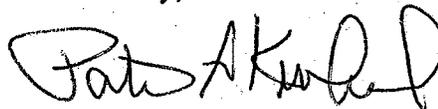


cc: tn, etc - 3/24/08

as area closures or triggered trip limits. Data used for monitoring purposes is based on the best available information at the time; however, the absence of complete and timely data often causes the catch estimates used for in-season actions to incorrectly estimate the actual catch in the fishery. This should be addressed either through more extensive and timely reporting requirements, or through TAC buffers and accountability measures that ensure the impacts of a delayed management response resulting from a lack of sufficient and timely data are minimized. The latter strategy is particularly important when setting ACLs, as a buffer should take into account management uncertainty involved with incomplete monitoring data and improve the likelihood that ACLs will not be exceeded. The Council should consider these practical limitations when developing monitoring measures under Amendment 16.

In conclusion, I am concerned about the lack of attention being paid to monitoring issues during the development of Amendment 16 and urge the Council and the Committee to make monitoring measures a priority for discussion during their upcoming meetings. Thank you for your attention to this important aspect of successful management of the groundfish fishery.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is fluid and cursive, with the first name "Patricia" being more prominent and the last name "Kurul" following in a similar style.

Patricia A. Kurkul
Regional Administrator



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

March 27, 2008

Ms. Cindy Smith
Sector Project Coordinator
Gulf of Maine Research Institute
350 Commercial Street
Portland, ME 04101

Dear Ms. Smith:

Thank you for your letter questioning the requirements for sectors that are being considered in Amendment 16. This letter will clarify the Council's expectations. Because my reply may be of interest to other sectors, I am sending them a copy as well.

You asked whether sectors that have submitted rosters to the National Marine Fisheries Service (NMFS) will be required to submit a new proposal and draft Environmental Assessment (EA) that reflect the revised sector policies being considered by the Council. Amendment 13 stated that sectors should submit an operations plan to the Council at least one year in advance of the date the sector wishes to begin operations. As you have noted, the regulatory language says that sectors will submit a "proposal" twelve months in advance with an operations plan submitted to NMFS at a later date. For the one sector approved after Amendment 13, an operations plan was submitted one year in advance. This operations plan was not binding in that changes were allowed at a later date, but it did help clarify to the Council how the sector planned to operate and fostered a discussion between the sector and Council members. I would expect that all sectors would submit a similar document as their proposal to the Council before May 1, 2008. While the format may vary between sectors, this document should provide enough detail so that the Council can evaluate whether the sector should be approved and forwarded to NMFS for implementation. It should clearly state which elements of the sector are considered intrinsic to the sector and will require a future management action to revise, as opposed to those elements that may be changed through modifications to the operations plan and that are negotiated with NMFS without a Council action. Some examples of the former might be a requirement to use a specific gear, or to fish in a specific area. I do not see any need for an additional EA. Sectors will have to submit an EA to NMFS later this summer; it would be of little use to require another EA to the Council at this time.

Sectors that have already submitted proposals based on existing regulations may need to revise their submissions to reflect potential changes to sector policies. The purpose of this suggestion is not to make the sector application process more onerous, but to eliminate uncertainties as the Council amendment documents are drafted. For example, if the requirement is adopted that sectors will have a hard total allowable catch (TAC) for most stocks, will the sector ask to be exempt from this requirement and only receive a hard TAC for the stocks identified in its initial application? Or will the sector accept the TACs that are required by the Council? Issues such as this need to be clarified so that the Council can, if necessary, adopt the measures that may be necessary to authorize such exemptions.

With respect to your question whether additional sector proposals can be submitted for consideration, please note the Council passed the following motion at its June 2007 Council meeting:

“that the Council accept no additional sector proposals for consideration in Amendment 16.”

This motion suggests that the Council will not entertain adding additional sectors in this management action.

Thank you for your involvement in sector development. I hope my answers are helpful. Please contact me with your questions.

Sincerely,



Paul J. Howard
Executive Director

cc: Cape Cod Commercial Hook Fishermen's Association
Sector Manager: Eric Brazer
210-E Orleans Road, North Chatham, MA 02650

Northeast Seafood Coalition
Sector Representative: Jackie Odell
4 Parker Street Gloucester, MA 01930

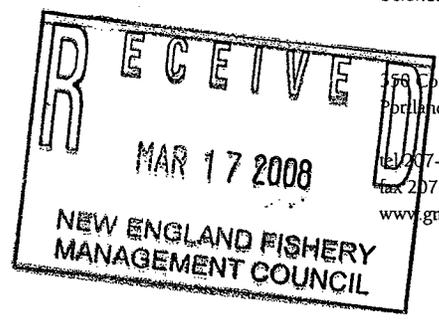
Vineyard Sector Plan
Sector Representative: Tom Osmer
P.O. Box 1087, West Tisbury, MA 02575



**Gulf of Maine
Research Institute**

Science. Education. Community.

Captain Paul Howard
Executive Director
New England Fisheries Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



150 Commercial Street
Portland, ME 04101
Tel 207-772-2321
Fax 207-772-6855
www.gmri.org

March 13, 2008

Dear Paul:

I am hopeful that you will be able to consult with the Regional Administrator at the National Marine Fisheries Service (NMFS) to answer these questions, and I am sending her a similar letter.

Under the existing regulations (648.87 (a)(1)), sectors are required to submit a proposal, draft Environmental Assessment (EA) and request for Council action twelve months prior to the anticipated implementation date of sector operations. Some of the proposals that were submitted in April 2007 meet the regulations currently in effect, but do not meet the requirements of the new sector policies as they have been developed to date. Will the sectors which have just submitted rosters to the NMFS be required to submit a new proposal and draft EA which reflect the revised sector policies as they have been approved by the Council to date?

On a related matter, I have been contacted by a small group of fishermen from southern Maine who are interested in forming their own community based sector. I advised them that the Council voted in June 2007 to consider only the 19 sector proposals that were submitted by May 1, 2007 for inclusion in Amendment 16. However, I am uncertain if that Council vote has the same power of law as existing regulations. Would the Council be allowed to consider a proposal and draft EA submitted by May 1, 2008 to be considered in Amendment 16? On the assumption that the answer is negative, these fishermen agreed to join the Port Clyde sector in order to meet the deadline for sector rosters, though they would prefer to have their own sector just with the permits in their own harbor. However, if the Council would consider a sector proposal from them, they would work to submit a proposal by May 1.

Thank you for your immediate attention to these questions. If you want more information, please do not hesitate to contact me.

Sincerely,

Cindy Smith
Sector Project Coordinator
Gulf of Maine Research Institute

- Visionary Donor*
William G. Waldron
(1936-2001)
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William L. Caron, Jr.
- Vice Chair*
William A. Burke
- Treasurer*
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Sean Mahoney
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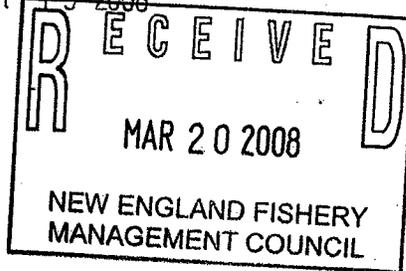
- Kathryn L. Barber
- William A. Burke
- George N. Campbell, Jr.
- William L. Caron, Jr.
- Debra Coyman
- Marjorie E. V. Dawson
- Mark Doiron
- Marion F. Freeman
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- Kevin P. McCarthy
- Robert C. S. Monks
- Derek Pierce
- Gloria A. Pinza
- Kathryn J. Rand
- Robert L. Stephenson, Ph.D.
- Michael F. Stillings
- J. B. Sullivan
- Karl Turner

W. Clark, TN, PMF (3/19)



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

MAR 19 2008



Cindy Smith
Northern Region Sector Coordinator
Gulf of Maine Research Institute
350 Commercial Street
Portland, ME 04101

Dear Cindy:

This letter is in response to your letter of February 8, 2008, requesting landings data for seven Cape Porpoise, ME, vessels interested in forming a new sector. As you stated in your letter, the New England Fishery Management Council (Council) has voted to consider for implementation in fishing year (FY) 2009 only those sector proposals submitted prior to the June 2007 Council meeting. In my December 7, 2007, letter to the Council, and my January 29, 2008, and February 22, 2008, letters to Northeast (NE) multispecies permit holders, I set forth several deadlines for all limited access NE multispecies vessels interested in participating in a sector for FY09. As stated in all three of these letters, the March 1, 2008, deadline for sector rosters specifically applies to the 19 sectors that the Council voted to consider in Amendment 16. Therefore, a request to implement a sector for Cape Porpoise fishermen must be submitted to the Council for consideration in a future action.

The complete Port Clyde Sector roster you submitted on March 1, 2008, includes all but one of the vessels interested in participating in the new Cape Porpoise sector, as referenced in your February 8, 2008, letter. Accordingly, those six vessels will be included in the moratorium rights tracking sheet that the NE Regional Office will send to you on May 1, 2008. Due to our current workload to address data requests for sector vessels wishing to participate in FY09, we are unable to provide information on the seventh vessel that you submitted for the Cape Porpoise sector.

Please contact Mark Grant of my staff at (978) 281-9145 if you have any further questions regarding sector policies.

Sincerely,

Patricia A. Kurkul
Regional Administrator

cc: NEFMC

[Faint, illegible text, likely bleed-through from the reverse side of the page]



cc: TN(3/21) etc.

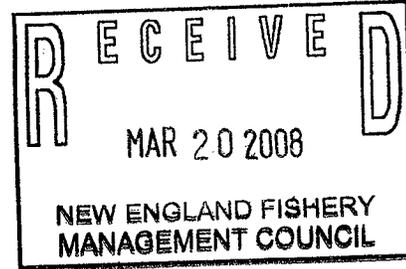


PORTLAND FISH EXCHANGE

6 Portland Fish Pier | Portland, ME 04101
Toll Free 1-866-633-4741 | Tel 207-773-0017 | www.pfex.org

March 19, 2008

Rip Cunningham
New England Fisheries Management Council
50 Water Street
Newburyport, Massachusetts 01920



Dear Mr. Cunningham:

I am writing to first say it was good to meet you in person at the Fisherman's Forum in Rockport in February, and secondly to assure you that I want us to have a working relationship moving forward to improve on fisheries management.

The focus of my letter is that the Portland Fish Exchange's landings for December 2007 to March 2008 have dropped by 70%, from the prior (6) months, seriously impacting our revenues and creating hardships for what is left of the port infrastructure. The reason why our landings dropped is because all of the Portland based trawlers are now landing in Gloucester and Boston with lobster. Rip; something has to be done and soon. The Portland based groundfish vessels' departure seriously impacts the Exchange, Vessel Services and all the other shore-side businesses that depend on the groundfish fleet. Once these boats create new relationships, they may not return to Portland again. The Exchange can ill afford to be subjected to another downside in landings when December 2008 arrives.

I am asking for an 'Emergency Action' to amend the regulations that prohibit groundfish vessels from landing in different ports. A number of Portland based boat captains & owners have stated they would steam to Portland, to land groundfish, if they could land lobster in Gloucester or Boston. The VMS network is sophisticated enough to insure that vessels will not fish when they transverse to another port.

I appreciate your consideration of my letter, with my hope being that the Council can see fit to make the necessary changes allowing Maine fisherman, and the Portland shore-side infrastructure, to maintain the social and economic benefits from commercial fishing.

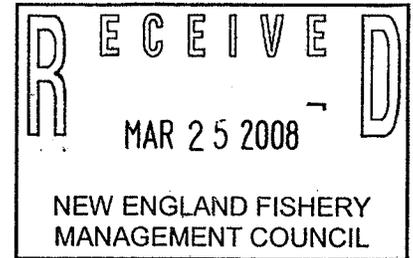
Bert Jongerden
General Manager

cc: TOW (3/21) G.H.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

MAR 20 2008



Jackie Odell
Northeast Seafood Coalition (NSC)
4 Parker Street
Gloucester, MA 01930

Melissa Sanderson
Cape Cod Commercial Hook Fishermen's Assoc. (CCCHFA)
210-E Orleans Road
North Chatham, MA 02650

Daniel Holland ✓
Gulf of Maine Research Institute (GMRI)
350 Commercial Street
Portland, ME 04101

Dear Jackie, Melissa, and Dan:

As you know, the Fisheries Statistics Office (FSO) is preparing moratorium rights tracking sheets for the vessels that indicated interest in your proposed Northeast (NE) multispecies sectors. We plan to provide these to you by May 1st and expect that you will finalize your sector rosters by June 1st. The release of individual vessel catch histories will depend upon the submission of the necessary confidentiality releases. We will provide allocations for each finalized sector by August 1st, based on NE multispecies catch histories.

I want to make sure there is no confusion about what we will be providing. We will be providing catch history information only for NE multispecies. The GMRI letter to John Witzig on January 12, 2007, requests NE multispecies and monkfish. The CCCHFA request and history access form requests "all species." The NSC history access forms authorize the release of NE multispecies, monkfish, dogfish and skate data. Due to FSO's workload, we will not be providing you with data about species other than NE multispecies at this time, because those landings have no relation to the NE multispecies sector allocations.

If the individual vessel owners involved have questions about this or wish to discuss a request for data other than NE multispecies, they should call 978-281-9133.

Sincerely,

Hannah Goodale
Acting Office Director
Fisheries Statistics Office

Cc: George Darcy, Sue Murphy, Mark Grant



nc 3/25/08, cte

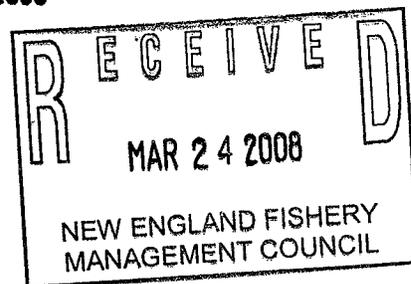


UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

3

FEB - 8 2008

Mr. Paul J. Diodati
Director, Massachusetts Division
of Marine Fisheries
251 Causeway Street, Suite 400
Boston, MA 02114



Dear Mr. Diodati:

I would like to thank you and David Pierce for taking the time to meet with us to discuss the Federal funding in our 2008 appropriation for Massachusetts groundfish relief. I am sure that you share our goal of ensuring this one time funding is used to achieve long-term economic stability for the Massachusetts commercial fishing industry. If we apply this money correctly, we have a great opportunity to make a difference in the State of Massachusetts.

While we understand the need for some direct payments to fishermen, we do not believe they will benefit the fishermen or the State in the long run. Along those lines, economic subsidies should have an emphasis on health insurance, safety issues, and other social benefits (i.e. counseling) for the most affected fishermen and their families. Capacity reduction, such as buyouts, is at the core of transitioning to a more stable fishing environment. We believe capacity reduction in state fisheries that have a significant impact on recovery and rebuilding of Gulf of Maine groundfish to a sustainable level should be a priority. Our Northeast Regional Office and Science Center have indicated that the gillnet fishery could be a prime area of emphasis to achieve the kind of capacity reduction that would achieve significant benefit. We jointly share your desire to create a future fishery regulatory regime that would avoid the type of economic dislocation we have seen in the last decade. A number of these planning activities are currently ongoing under the umbrella of the New England Council process. Massachusetts' participation and input into that process are critical to its success and therefore, we would support a small percentage of the funding going towards enhanced participation in those existing processes.

We need to ensure this funding leads to improvements in the groundfish fishery that we can collectively measure while also meeting the short-term needs of fishermen. Therefore, we believe no more than 50% of the funding should go towards subsidies, 40-60% for capacity reduction, and 10-15% for future management measures and your needs for administering the program. If the State proposal follows this allocation, we will be able to process it quickly and ensure funding is available to the State at the earliest possible time. Our common goal is to get money out and start making progress towards short-term needs of fishermen, as well as our long term goals of sustainable fisheries for Massachusetts and the Nation. We would appreciate the receipt of your proposal in the Northeast Region in Gloucester no later than April 15, 2008, to allow necessary lead time for technical review and processing.



cc: fn, cfc - 3/24/08

Thank you for your time and we look forward to further discussions and a proposal from the State. I will be relying on Regional Administrator Pat Kurkul to work through the final details with you. However, please feel free to contact me directly if necessary.

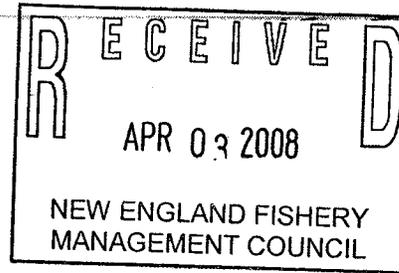
Sincerely,



John Oliver
Acting Assistant Administrator
for Fisheries

cc: Mary Griffin, Commissioner, Dept of Fish and Game
Samuel Rauch, Deputy Assistant Administrator for Regulatory Programs
Pat Kurkul, Northeast Regional Administrator

From: Angelo [aciocca@novaseafood.com]
Sent: Thursday, April 03, 2008 11:43 AM
To: Karen Roy
Subject: SECTORS/ ITQ's



Mr. John Pappalardo,
Chairman
NEFMC

Hello Chairman and council members,

I was in attendance at the Groundfish Committee meeting held in Portland on March 27, 2008 and I would like to make a few comments to the council.

First and most important is that the whole sector concept is growing more complicated and costly than I think any one first imagined. I am afraid that if we proceed with Sectors we will fail with our management plan once again. Can the NEFMC and the industry withstand another failure?

Some of the problems that sectors will spawn are large annual expenses to operate a sector versus no extra cost to a individual ITQ holder, and just as important if not more so is the joint liability incurred when joining a sector, where each and every member will be held responsible for each other's actions. It is possible that this joint liability alone is enough to discourage sector membership.

I would like the council to consider supporting a true ITQ system by making an ITQ system an option in Amendment 16. I believe that Associated Fisheries of Maine submitted an ITQ proposal in December 2006. We should ask for public comment on the ITQ system again, much has changed since December 2006. Since a sector is nothing more than a group of ITQ holders lumped together under one name, this grouping creates more potential problems than it has benefits. If this is an accurate observation then why would we want to punish ourselves by forcing sectors on the industry?

Overview:
Sectors are expensive and complicated to manage.
Sectors by their nature will hold all members liable for each others' mistakes".
Sectors are ITQ's
Sectors are less efficient than ITQ's
ITQ's will conserve fish

I believe that it is allowed to ask for public comment on ITQ's during the June, 2008 NEFMC meeting, it will be a great disservice to the industry if we do not open this up for discussion again. As I mentioned before hand, much has changed since December 2006.

Sincerley,
Angelo Ciocca

Angelo Ciocca
President
Nova Seafood
Phone (207)774-6324
Cell (207)776-3127
Fax (207)774-6385
Email: aciocca@novaseafood.com

4/3/2008

cc: An - 4/4/08

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 7500 feet upstream of Cliffview Road	+2332	

* National Geodetic Vertical Datum.

+ North American Vertical Datum.

Depth in feet above ground.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

ADDRESSES

City of Galax

Maps are available for inspection at Galax Municipal Building, 111 East Grayson Street, Galax, VA 24333.

**Grayson County, Virginia, and Incorporated Areas
Docket Nos.: FEMA-B-7742 & D-7828**

Chestnut Creek	Near Sewage Treatment Plant, just upstream of County Boundary. Near Sewage Treatment Plant, approximately 375 feet downstream of old Railroad Bridge.	+2332 +2335	Unincorporated Areas of Grayson County.
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* National Geodetic Vertical Datum.

+ North American Vertical Datum.

Depth in feet above ground.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

ADDRESSES

Unincorporated Areas of Grayson County

Maps are available for inspection at County Administrator's Office, 129 Davis Street, Independence, VA 24348.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: March 17, 2008.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8-6911 Filed 4-2-08; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071017599-8435-02]

RIN 0648-AW16

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2008 Georges Bank Cod Hook Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements the Georges Bank (GB) Cod Hook Sector (Hook Sector) Fishing Year (FY) 2008 Operations Plan and Agreement, approved by the Administrator, Northeast Region, NMFS (Regional Administrator), and modifies the eligibility criteria for membership for the Hook Sector and the GB Cod Fixed Gear Sector (Fixed Gear Sector). Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) (Amendment 13) authorized allocation of up to 20 percent of the annual GB cod total allowable catch (TAC) to the Hook Sector. Pursuant to that authorization, the Sector submitted an Operations Plan and Sector Contract entitled, "Georges Bank Cod Hook Sector Fishing Year 2008-2009 Operations Plan and Agreement" (together referred to as the Sector Agreement) and an Environmental Assessment (EA), and requested an allocation of GB cod, consistent with the FMP. This action results in authorization of the Sector Operations Plan during the 2008 fishing year and

allocation of 658 mt of GB cod to the Sector. This rule also modifies the eligibility criteria for membership in both the Hook Sector and the Fixed Gear Sector by allowing vessels without GB cod landings history to join a sector.

DATES: Effective May 1, 2008.

ADDRESSES: Copies of the Sector Agreement, EA and the Final Regulatory Flexibility Analysis (FRFA) are available from the Northeast Regional Office: Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. The EA and FRFA are also accessible via the Internet at <http://www.noaa.gov/nero/regs/com.html>.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone (978) 281-9347, fax (978) 281-9135, e-mail Thomas.Warren@noaa.gov.

SUPPLEMENTARY INFORMATION: A proposed rule soliciting public comment on the Sector Agreement for the Hook Sector was published in the **Federal Register** on March 3, 2008 (73 FR 11376), with public comment accepted through March 18, 2008. The Regional Administrator approved the FY 2008 Sector Operations Plan, based

on public comment, and based on a determination that the Operations Plan and Agreement are consistent with the goals of the FMP and applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under § 648.87. Details pertaining to the principal regulations applying to the Hook Sector, the process of review and approval of sectors, and facts regarding the Sector's submission of the FY 2008 Sector Agreement are contained in the proposed rule. An EA entitled "Approval of the Georges Bank Cod Hook Sector Operations Plan Fishing Year 2008", which analyzes the impacts of the proposed Hook Sector operations, was also prepared.

The Hook Sector was authorized to fish in FYs 2004, 2005, 2006, and 2007, and, based upon the GB cod landings history of its members, was allocated 12.60, 11.70, 10.03, and 8.02 percent, respectively, of the annual GB cod TAC.

The 2008 Sector Agreement contains the same elements as the FY 2007 Sector Agreement. The Sector Agreement will be overseen by a board of directors and a Sector Manager. The Sector's GB cod TAC is based upon the number of Sector members and their qualifying historic landings of GB cod. The GB cod TAC is a "hard" TAC, meaning that, once the TAC is caught, Sector vessels may not fish under a NE multispecies Day-at-Sea (DAS), possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations). Should the hard TAC be exceeded, the Sector's allocation will be reduced by the overharvest in the following year.

The FY 2008 Sector Agreement contains exemptions from the following restrictions of the FMP: The GB and Gulf of Maine (GOM) cod trip limit; the GOM, GB and Southern New England (SNE) limit on the number of hooks fished; the GB Seasonal Closure Area; the DAS Leasing Program vessel size restrictions; differential DAS in the Gulf of Maine Differential DAS Area and in the SNE Differential DAS Area (those portions of the differential areas which overlap the Hook Sector Area); and the Western U.S./Canada Area 72-hr observer program notification. Justification for the proposed exemptions and analysis of the potential impacts of the Operations Plan are contained in the EA.

A total of nineteen Hook Sector members signed the 2008 Hook Sector Contract. The GB cod TAC calculation is based upon the historic cod landings of the participating Hook Sector vessels,

regardless of gear used. The allocation percentage is calculated by dividing the sum of total landings of GB cod landed by prospective Hook Sector members in FY 1996 through 2001, by the sum of the total accumulated landings of GB cod landed by all NE multispecies vessels for the same time period. Based upon the 19 qualifying landings histories of the Hook Sector members, the Hook Sector's share of the overall U.S. portion of the GB cod TAC is 658 mt (6.44 percent), or 1,450,566 lb (6.44 percent times the fishery-wide GB cod target TAC of 10,222 mt). Note, the proposed rule contained a calculation error that has been corrected in this final rule. Specifically, the proposed rule GB cod TAC of 614 mt was incorrect because it was based upon an incorrect percentage share of 6.01 percent, however the correct percentage share is 6.44 percent, which results in a correct TAC of 658 mt.

The Sector Agreement contains procedures for the enforcement of the Hook Sector rules and a schedule of penalties, and provides the authority to the Hook Sector Manager to issue stop fishing orders to members of the Hook Sector. Participating vessels will be required to land fish only in designated landing ports and would be required to provide the Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hr of offloading. Dealers purchasing fish from participating vessels will be required to provide the Hook Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Hook Sector Manager will transmit to NMFS a copy of the VTRs and the aggregate catch information from these reports. After 90 percent of the Hook Sector's allocation has been harvested, the Hook Sector Manager will be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Hook Sector's GB cod TAC, minus a reserve, will be allocated to each month of the fishing year. GB cod quota that is not landed during a given month will be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels may not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. Once the annual TAC of GB cod is reached, Hook Sector members may not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies for the rest of the fishing year. The harvest rules will not preclude

vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels will be required to fish under the NE multispecies DAS program to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels will be required to call the Hook Sector Manager prior to leaving port. All legal-sized cod caught would be retained and landed and counted against the Hook Sector's aggregate allocation.

Participating vessels will not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during the FY 2008 would be deducted from that Hook Sector member's individual DAS allocation. Similarly, all GB cod landed by a participating vessel while conducting research would count toward the Hook Sector's allocation of GB cod TAC. Participating vessels will be exempt from the GB Seasonal Closure Area during May.

A Letter of Authorization will be issued to each member of the Hook Sector exempting them, conditional upon their compliance with the Sector Agreement, from the GOM and GB cod possession restrictions, the GB Seasonal Closure Area, the Western U.S./Canada Area 72-hr observer notification requirement, the DAS Leasing Program vessel size restrictions, differential DAS, and the limits on the number of hooks requirements as specified in §§ 648.86(b)(1) and (2); 648.81(g); 648.85(a)(3)(ii)(C); 648.82(k)(4)(ix); 648.82 (e)(2); 648.80(a)(3)(v) and (a)(4)(v); and 648.80(b)(2)(v), respectively. If the effective date of the approval of the Hook Sector is past May 1, 2008, the Hook Sector would be allowed to fish under common pool rules until the Hook Sector is approved, as authorized by § 648.87(b)(1)(xii).

Based on the authority granted to the Secretary of Commerce under Section 305(d) (16 U.S.C. 1855(d)) of the Magnuson-Stevens Act, this final rule also modifies the regulations that define eligibility criteria for membership in the Hook Sector and the Fixed Gear Sector, in order to be consistent with the original Council intent. The eligibility criteria for membership in the Hook Sector and Fixed Gear Sector were implemented by Amendment 13 and Framework Adjustment 42 (69 FR 22906, April 27, 2004; and 71 FR 62156, October 23, 2006, respectively). Of the

several eligibility criteria for both these sectors in the implementing regulations, a criterion requiring documented landings of GB cod was not explicitly included as a criterion in the Council documents that proposed formation of the sectors. The implications of this eligibility criterion (requiring landings history of GB cod) were not apparent at the time of implementation, but became apparent during the evaluation of sector Operations Plans for FY 2008. Because the proposed roster for the Fixed Gear Sector for 2008 contains vessels that did not land GB cod during the period 1996 to 2001, the current regulations would prevent such vessels without landings from joining a sector.

During the formation of the Hook Sector and Fixed Gear Sector, it was assumed that only vessels with GB cod landings would be interested in joining the sector, and therefore the landings criterion was not perceived as exclusionary. However, NMFS evaluated the pertinent information regarding the development of this regulation and concluded that this eligibility criterion does not reflect Council intent. Based on this evaluation, NMFS is correcting the current regulations by eliminating the eligibility requirement (for landings) because it precludes vessels without GB cod landings history from joining either sector, and is more restrictive than Council intent.

Comments and Responses

One pertinent comment was received from a representative of the Hook Sector on the proposed rule.

Comment: The commenter expressed strong support for approval of the Hook Sector Operations Plan and the modification to the eligibility criteria for the Hook Sector and the Fixed Gear Sector.

Response: NMFS is approving the Hook Sector for FY 2008 and modifying the eligibility criteria.

Classification

NMFS has determined that this final rule is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

This final rule does not contain policies with federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Assistant Administrator for Fisheries finds that the need to implement these measures in a timely manner in order to allow the Hook

Sector to fish at the start of the fishing year, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after the date of publication. Because this final rule authorizes the Hook Sector to fish under the Hook Sector's Operations Plan, members of the Hook Sector may not fish under the Hook Sector rules until the final rule is effective. If the effective date is delayed past May 1, 2008, the members would be precluded from fishing under Operations Plan rules, which provide relief from various restrictions of the Fishery Management Plan, and enable more efficient fishing practices. A delay would likely result in economic harm to the sector members by not allowing them to fish during a very productive time of the fishing year.

Under an approved Operations Plan, with an effective date of May 1, 2008, the Hook Sector would be afforded exemptions from a seasonal closure on Georges Bank, the differential Day-at-Sea (DAS) requirement, the restriction on number of hooks, cod possession limits, the observer notification requirement for the Western U.S./Canada Area, and the DAS Leasing Program size restriction. The approval would coincide with the beginning of the Fishing Year, May 1, which is one of the most productive months for the fishery. If the effective date of the approved Operations Plan is delayed, Hook Sector members would be fishing under the more restrictive "common pool" regulations until the approval. The GB seasonal closure and the cod trip limits are two such regulations that would preclude or severely constrain their fishing operations. The GB seasonal closure, which includes the area traditionally fished by the Hook Sector, would prevent the Hook Sector members from fishing on easily accessible fishing grounds. Due to the current high cost of fuel, and the relatively small size of vessels in the Hook Sector, it is not likely that vessels would travel a long distance to fish in open areas, and there would be no revenue earned. Even if vessels chose to travel to open fishing areas, they would be subject to relatively low cod trip limits, and the other restrictions which would result in low economic returns.

The need to establish an effective date less than 30 days after the date of publication results from the objective of allowing vessels to fish in the Hook Sector as of May 1, 2008, the beginning of the fishing year, and the timing of the rulemaking process. The time period under which these regulations were developed was short due to the complexity and length of the process

governing the Operations Plans approval. Due to the limited time available to develop this rulemaking, there was insufficient time remaining to allow for the full 30-day delay in effectiveness. Therefore, for the reason above, the AA finds good cause to waive the 30-day delay in effectiveness and to make these regulations effective on May 1, 2008.

Because the Hook Sector will be fishing under a hard TAC for GB cod, effort controls (i.e., the exemptions) are not necessary to constrain the impact of the Sector on the GB cod stock. Should the Sector's allocated GB cod TAC be caught, participating vessels would no longer be allowed to fish under a NE multispecies DAS, possess or land GB cod or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or charter/party regulations). Sector members will be required to fish under their current NE multispecies DAS allocation to account for any other regulated NE multispecies that they may catch while fishing for GB cod and are restricted to using hook gear only.

A FRFA was prepared as required by section 603 of the Regulatory Flexibility Act (RFA). A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to the proposed rule and in the EA prepared for this action, and is not repeated here.

Summary of the Issues Raised by Public Comments in Response to the IRFA. A Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made From the Proposed Rule as a Result of Such Comments

No public comments pertaining to the IRFA or the economic effects of this action were received. In this final rule, a minor increase was made to the size of the GB cod TAC in order to correct a calculation error in the proposed rule, which will result in the potential for additional revenue for the Hook Sector.

Description of and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The Small Business Administration (SBA) size standard for small commercial fishing entities is \$ 4 million in annual gross sales. All permitted and participating vessels in the groundfish fishery, including prospective Hook Sector members, are considered to be small entities because

gross sales by any one entity (vessel) do not exceed this threshold, and, therefore there is no disproportionate impact between large and small entities. The number of prospective participants in the Hook Sector is 19 (or less), substantially less than the total number of active vessels in the groundfish fishery. These 19 vessels will be subject to the regulatory exemptions and operational restrictions approved for the Hook Sector for FY 2008.

Description of Steps the Agency Has Taken to Minimize the Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

Approval of the FY 2008 Sector Agreement results in an allocation of 658 mt of GB cod to the Hook Sector, and minimization of economic impacts on the Hook Sector. Once the GB cod TAC is harvested, participating vessels would not be allowed to fish under a NE multispecies DAS, possess or land GB cod, or other regulated species managed under the FMP, or use gear capable of catching groundfish (unless fishing under recreational or party/charter regulations). Hook Sector vessels may only fish with jigs, non-automated demersal longline, or handgear. Under the Sector Agreement, members will be exempt from several restrictions of the FMP described in the preamble to the proposed and final rule and in the EA.

This action will positively impact the members of the Hook Sector's 19 vessels that have voluntarily joined the Hook Sector, who are relatively dependant upon groundfish revenue compared to other participants in the groundfish fishery. The approval of the Hook Sector and allocation of GB cod TAC will indirectly benefit the communities of Chatham and Harwichport, MA, and to a lesser extent other Cape Cod communities involved in the groundfish fishery. During FY 2006, members of the Hook Sector made 359 fishing trips, landed 179,616 lb (81,472 kg) of cod and 258,544 lb (117,274 kg) of haddock, and generated approximately \$ 269,424, and \$ 310,253 in revenue from those species, respectively (assuming a dock-side price of \$ 1.50 and \$1.20 per lb, respectively). Hook Sector members also landed various other species, which contributed additionally to their revenue. In general, the operation of the Hook Sector would continue to mitigate the negative economic impacts that result from the current suite of regulations that apply to the groundfish fishery (most recently Framework Adjustment 42; October 23, 2006; 71 FR 62156). The Hook Sector, by fishing under rules that are designed to meet

their needs (as well as the conservation requirements of the FMP), is afforded a larger degree of flexibility and efficiency, which will result in economic gains. For example, Hook Sector members are able to plan their fishing activity and income in advance with more certainty due to the fact that there is a cod TAC, which is apportioned to each month of the year. They are able to maximize their efficiency (revenue per trip) due to the exemption from trip limits and hook numbers. For some vessel owners in the Hook Sector, participation in the Hook Sector enables their businesses to remain economically viable. For the above reasons, approval of the FY 2008 Sector Agreement minimizes the impact on small entities.

In contrast, under the No Action alternative, all Sector members would have remained in the common pool of vessels and fished under all the rules implemented by Amendment 13 and subsequent Framework Adjustments. Under the regulatory scenario of the No Action alternative, relative to the preferred alternative, Sector members would likely have faced increased economic uncertainty, loss of efficiency, and loss of revenue. Because cod usually represents a high proportion of total fishing income for hook gear vessels, revenues for Sector members are sensitive to regulations that impact how and when they can fish for cod, such as trip limits and hook gear restrictions. Sector members would have been unnecessarily impacted by regulations designed to affect the catch of species of which hook gear catches very little (e.g., yellowtail flounder, because hook gear is more selective than other gear types). For example, under the No Action alternative, Sector members would have been affected by the differential DAS counting requirement, one of the objectives of which is to protect yellowtail flounder.

No other alternatives beyond the No Action were considered during the development of this action. The RFA requires each IRFA to include a description of significant alternatives that accomplish the objectives of applicable statutes (in this case, sector provisions) and minimize any significant economic impact to small entities. The objectives of sector management, as originally developed and implemented under Amendment 13, are to provide opportunities for like-minded vessel operators to govern themselves so that they can operate in a more effective and efficient manner. The Hook Sector developed the Sector Agreement after consultation with prospective members. Prospective

members then signed a binding sector contract to abide by the measures specified in the Sector Agreement. As described above, the approved Sector Agreement minimizes economic impacts to participating vessels by allowing them to operate more efficiently. Accordingly, the approved Sector Agreement reflects the management measures preferred by vessels participating in the GB Cod Hook Sector during FY 2008 and represents all of the significant alternatives that accomplish the objectives of sector provisions and minimize economic impacts to small entities, as required by the RFA. Therefore, in conjunction with the NEPA requirement to consider a reasonable range of alternatives, no other alternatives were considered prior to approval of this action.

Modification of the eligibility criteria for the Hook Sector and the Fixed Gear Sector will allow vessels without a history of landing GB cod the opportunity to participate in a sector and to therefore take advantage of the associated sector efficiencies and financial benefits. Although, the number of vessels that this modification will impact is likely very small, this change in the eligibility requirement minimizes economic impacts on such vessels by allowing the opportunity to fish in the Hook Sector that would not otherwise be possible.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Action

This final rule contains no collection-of-information requirement subject to the Paperwork Reduction Act (PRA).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 28, 2008.

James W. Balsiger,

Acting Assistant Administrator For Fisheries, National Marine Fisheries Service/

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.87, paragraphs (d)(1)(ii) and (d)(2)(i) are revised to read as follows:

§ 648.87 Sector allocation.

* * * * *

(d) * * *

(1) * * *

(ii) *Eligibility.* All vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the GB Cod Hook Sector.

* * * * *

(2) * * *

(i) *Eligibility.* All vessels issued a valid limited access NE multispecies DAS permit are eligible to participate in the GB Cod Fixed Gear Sector.

* * * * *

[FR Doc. E8-6953 Filed 4-2-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673-8011-02]

RIN 0648-XG86

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by American Fisheries Act Catcher Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by American Fisheries Act (AFA) trawl catcher processors in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the B season allowance of the 2008 Pacific cod total

allowable catch (TAC) specified for AFA trawl catcher processors in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 1, 2008, though 1200 hrs, A.l.t., June 10, 2008.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2008 Pacific cod TAC allocated to AFA trawl catcher processors in the BSAI is 877 metric tons (mt) as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the B season allowance of the 2008 Pacific cod TAC allocated to AFA catcher processors in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 0 mt, and is setting aside the remaining 877 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by AFA trawl catcher processors in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by AFA trawl catcher processors in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 27, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 28, 2008.

Alan D. Risenhoover

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

[FR Doc. 08-1089 Filed 3-31-08; 3:59 pm]

BILLING CODE 3510-22-S



Determination of
Cod Discards
from the

2006 Canadian Groundfish Fishery

on

Eastern Georges Bank

by

S. Gavaris, L. Van Eeckhaute and K. Clark

Purpose:

- What were the unreported discards of cod in 2006 from the eastern Georges Bank Canadian groundfish fishery?

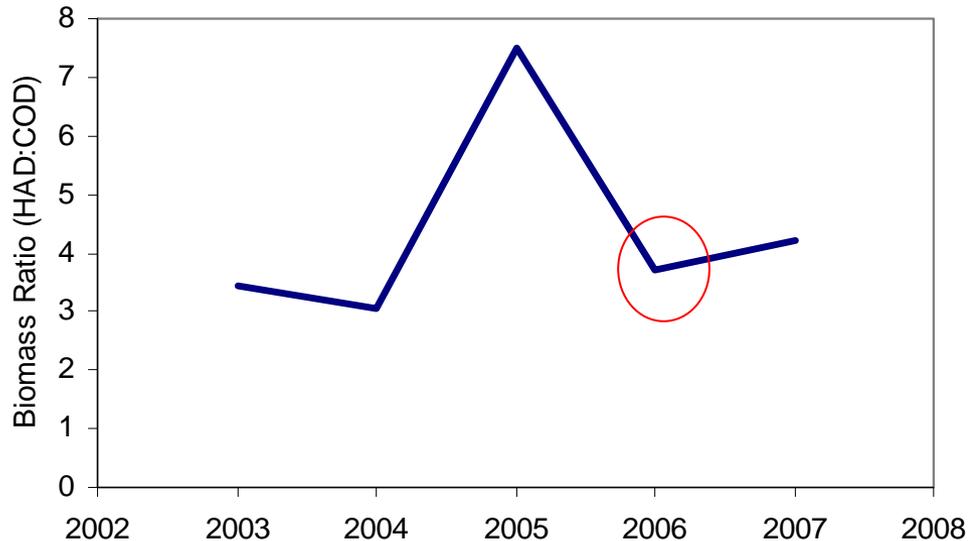
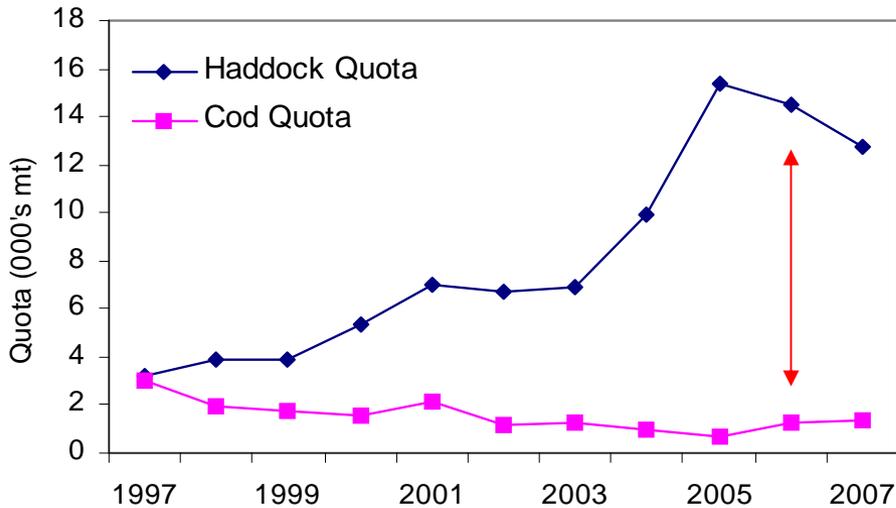
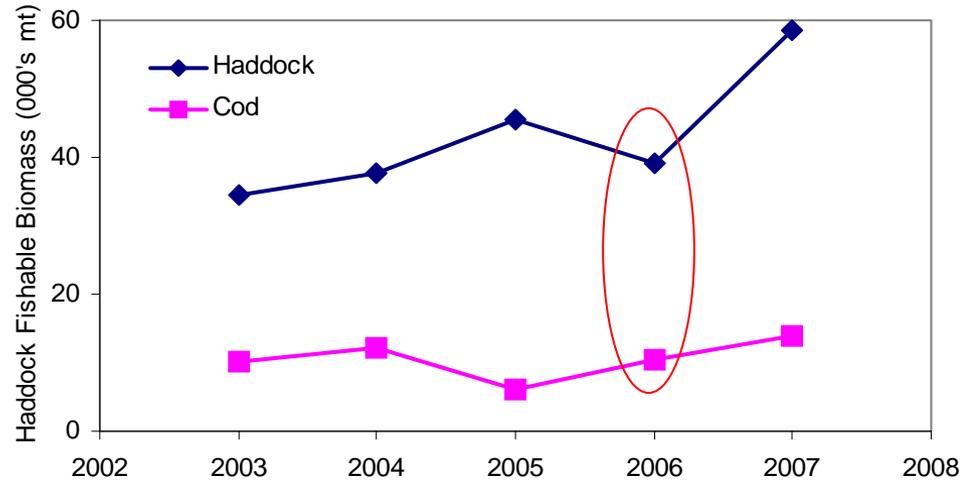


The Fishery:

- transboundary with joint Can/USA management
- cod, haddock, pollock and yellowtail flounder
- regulated by catch quotas
- 100% dockside monitoring
- discarding of cod not permitted
- observer coverage variable → 30% in 2006

Why is there a problem?

- Fishable biomass in 2006:
- **Cod & haddock caught together** → had:cod ≈ 4
 (10K mt cod vs 39K mt haddock)
- **Quota abilities to fisheries differ and not caught in proportion to abundance**
 (haddock → had:cod = 11)



Haddock:Cod Quota Ratios

Designation	Description	haddock:cod quota ratio
FG<45	fixed gear (longline only), vessels less than 45'	4.3
FG 45-65	fixed gear (longline only), vessels between 45' and 65'	6.3
MG<65	mobile gear (bottom trawl only), vessels less than 65'	19.2
FG 65-100	fixed gear (longline only), vessels between 65' and 100'	14.0
MG 65-100	mobile gear (bottom trawl only), vessels between 65' and 100'	14.0
>100	vessels greater than 100' (bottom trawl only)	63.5
FN	first nations (bottom trawl only)	20.0

Need to account for all mortality

- Assessment accuracy
- Can/USA allocation adjustments
- Ecosystem approach

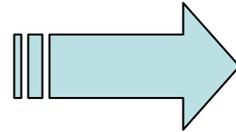
Approach

$$m = \frac{C_o}{H_o} \bigg/ \frac{{}^L C_U}{H_U}$$

C_o = observer catch of cod
 H_o = observer catch of haddock
 ${}^L C_U$ = unobserved landings of cod
 H_U = unobserved landings of haddock

assume

$$H_o = H_U$$



$$C_c = m {}^L C_U$$

C_c = catch of cod
(landed + discarded)

m = landings multiplier

$${}^D C_U = \left(m {}^L C_U \right) - {}^L C_U$$

${}^D C_U$ = Unobserved cod discards

Example

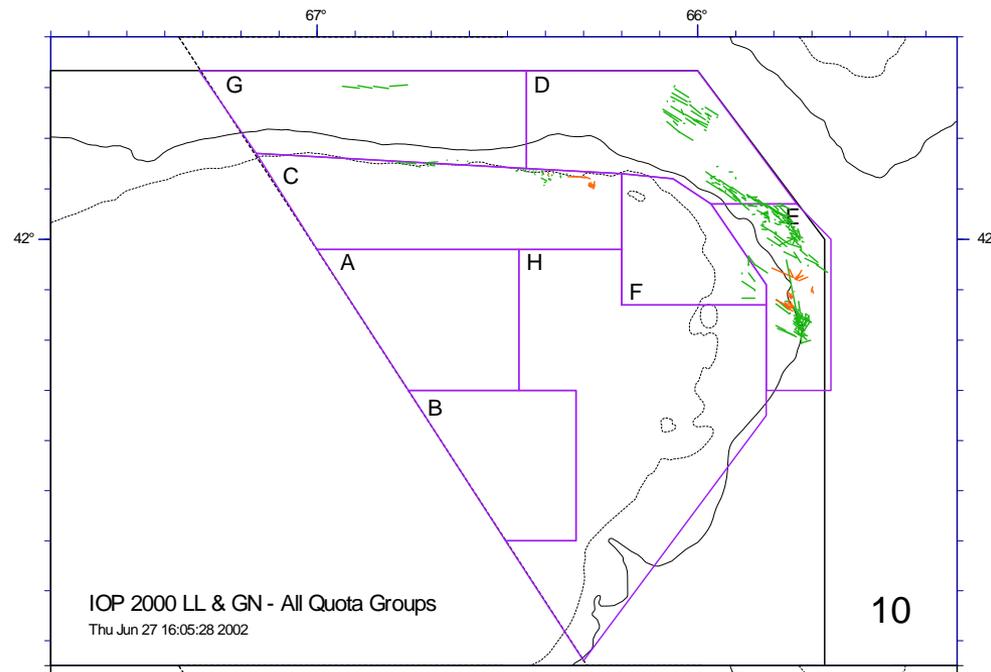
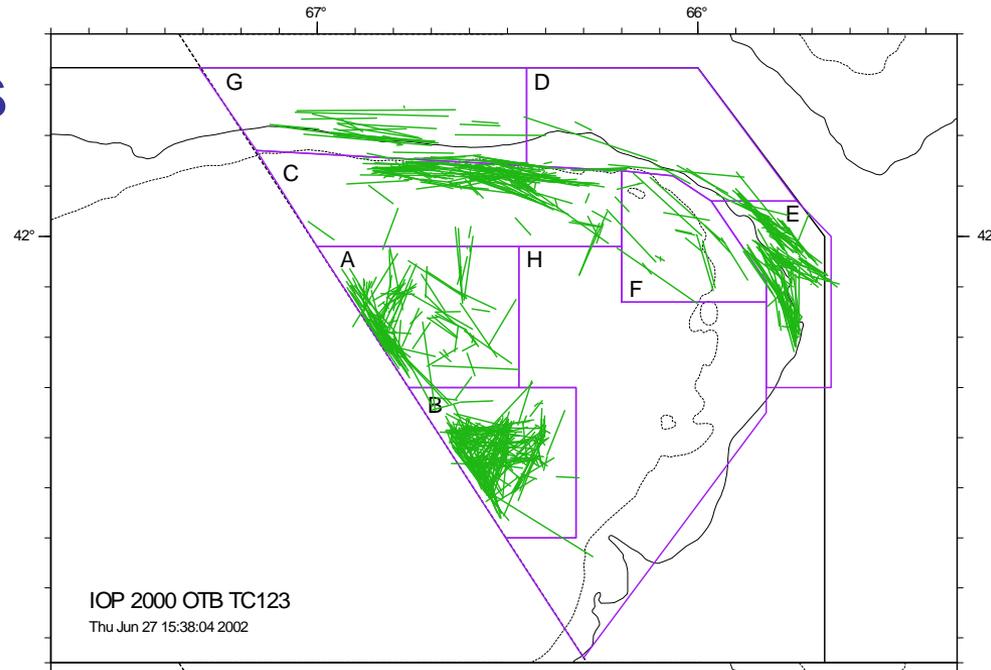
- Observed ratio
 - cod:haddock
 - Unobserved ratio
 - cod:haddock
 - Landings multiplier
 - obs. ratio ÷ unobs. ratio
- $200\text{kg}:1000\text{kg} = 0.2$
 - $150\text{kg}:1000\text{kg} = 0.15$
 - $0.2 \div 0.15 = 1.33$
 - unobs. cod catch
 - = $150\text{kg} \times 1.33 = 200\text{kg}$
 - cod discards
 - = $200\text{kg} - 150\text{kg} = 50\text{kg}$

Data Preparation

- Non-representative observed trips
 - Remove observed trips with no separator panel
 - Remove observed trips for management purposes
- Haddock directed fishing
 - Rule out GN and HL (cod directed)
 - Remove pollock directed trips
 - Remove yellowtail exploratory trips

Determination of Zones

- fishing tracks from observer data
- take into account fishery realities, i.e. length and direction tows
- reflect species complexes/type of fishery
- minimize problems in data quality
- aggregate to sub-trips within zone



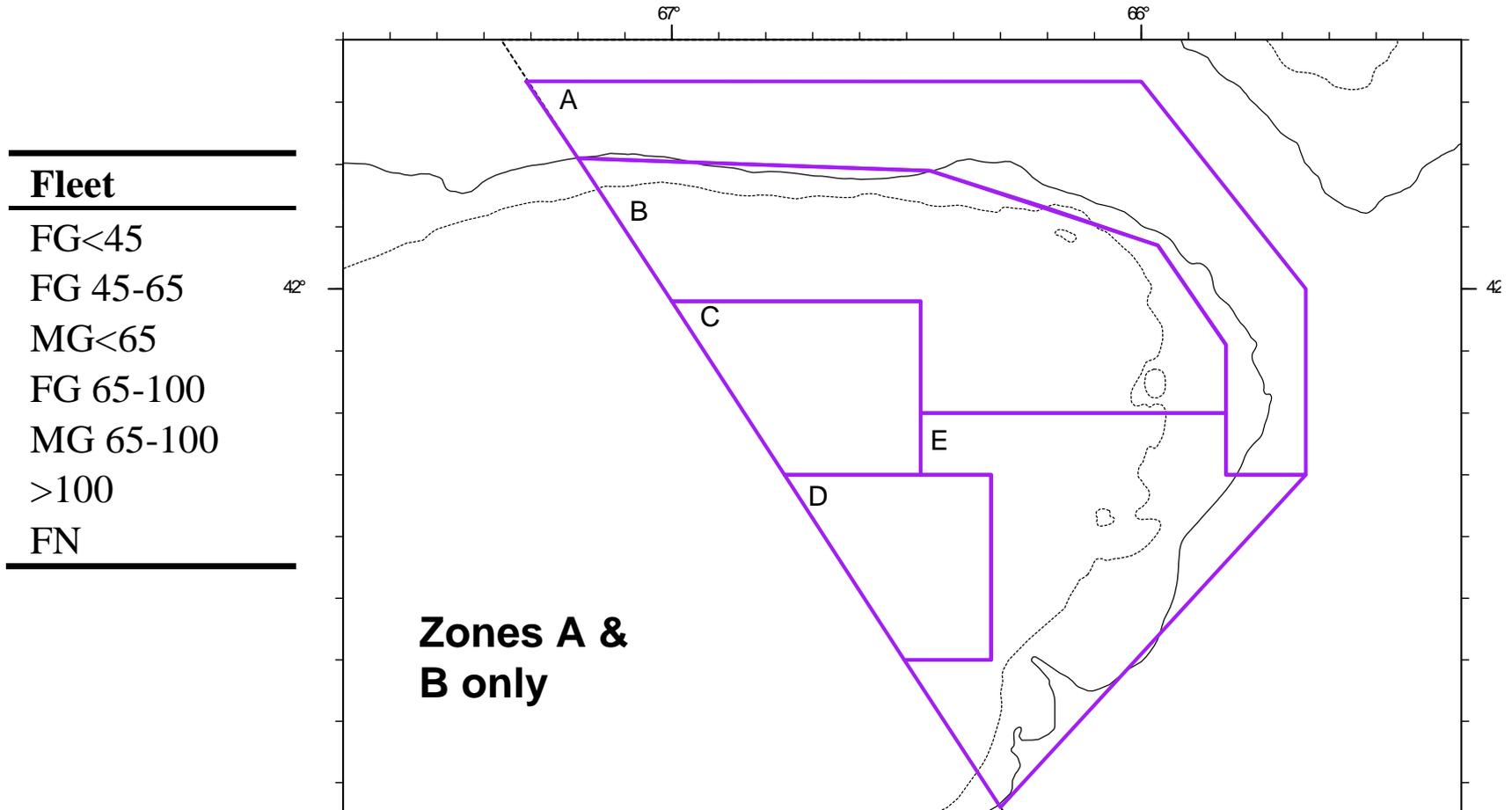
Landings in 2006

FLEET	Zone A				Zone B				other zones all Q	Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		
<i>Observed</i>										
FG<45		1	5		3	2	23			1
FG 45-65			1					2		
MG<65	0	0	7	4	25	36	28	7		15
FG 65-100							2			
MG 65-100			0		2	1	2			
>100		0	3	4	6	14	11	2		4
FN		0	1	0	6	7	7	0		4
excluded		0	2	8		3	6	10		0
<i>Unobserved</i>										
FG<45			91	26		11	362	78		6
FG 45-65			1	3			1	13		
MG<65	0	0	10	10	10	9	95	29		2
FG 65-100			0				7			
MG 65-100			0		1		3	2		
>100			2	4	2		14	9		0
FN		0	3	1	5	1	19	4		1
excluded		0		1				0		
Total										1101



zones A and B only

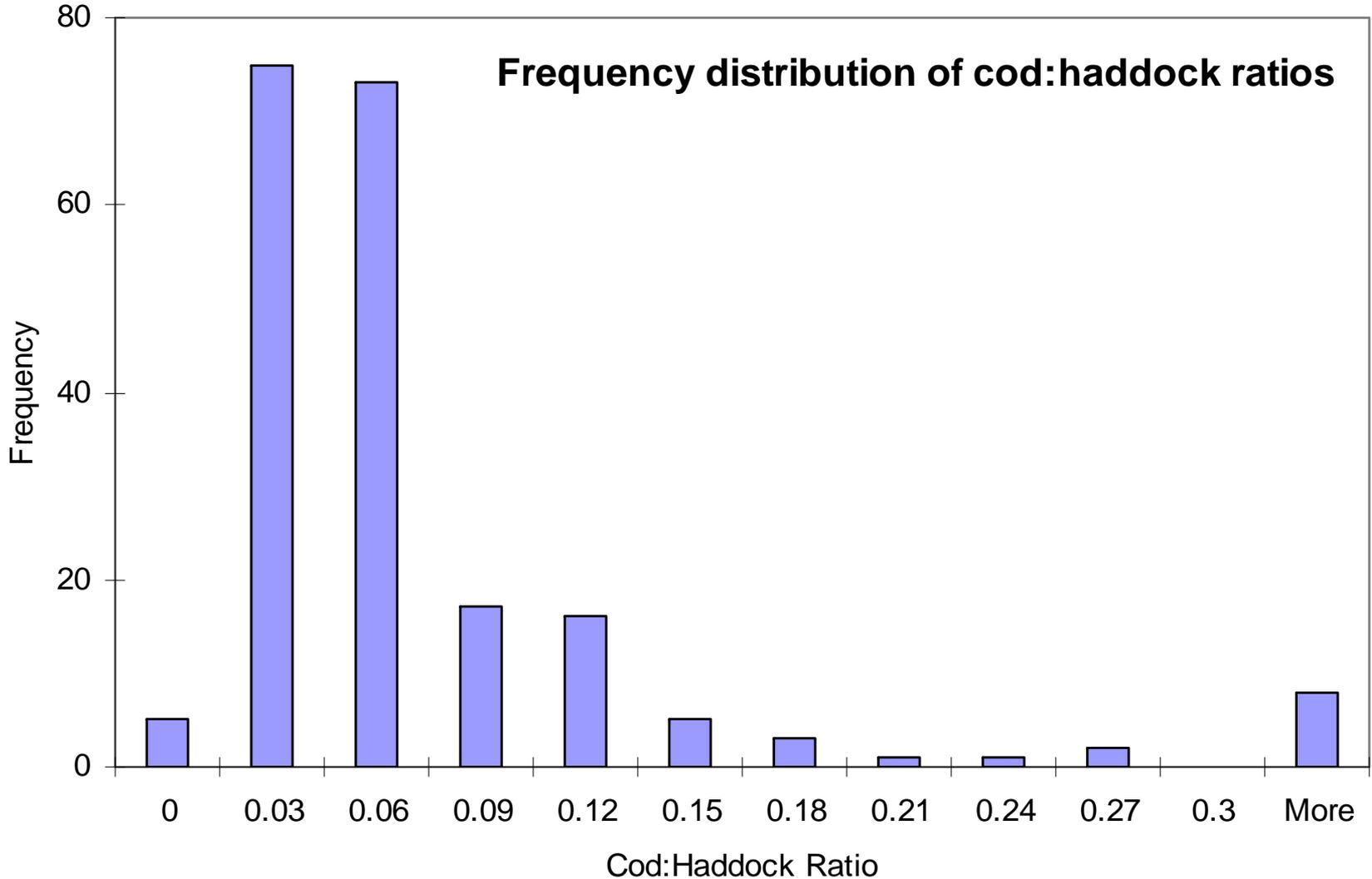
Fleet, Zone, Quarter



- used obs. data to classify landings records
→ observed or unobserved

Methods

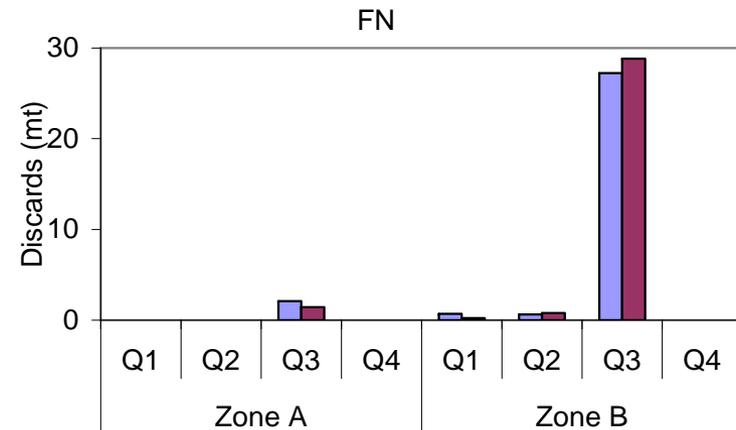
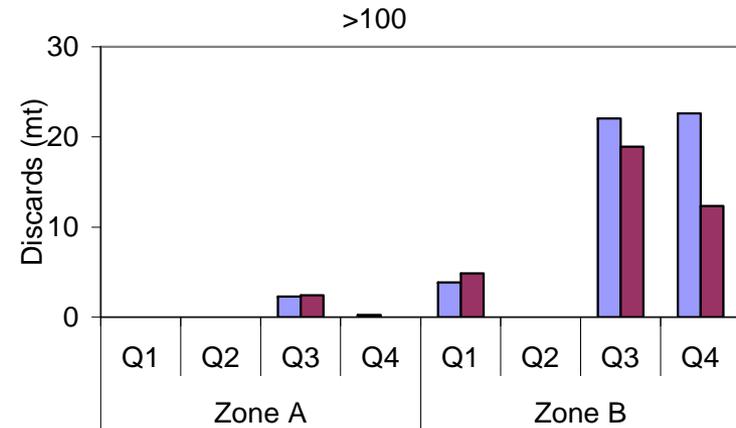
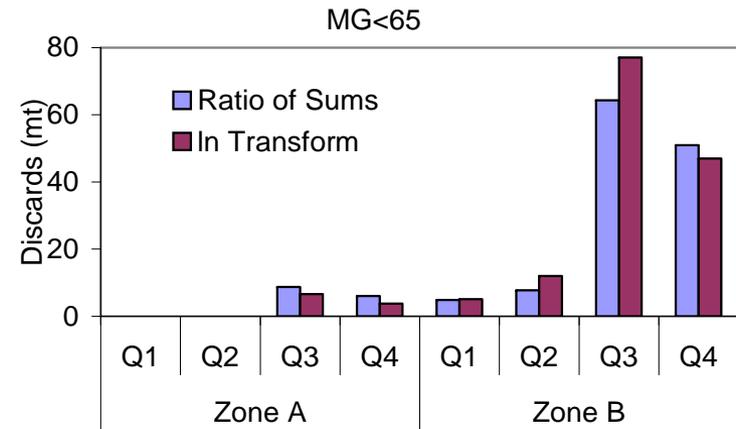
1. Avg In ratios
2. Ratio of sums



Ln-transform vs ratio of sums:

How do the discard estimates compare?

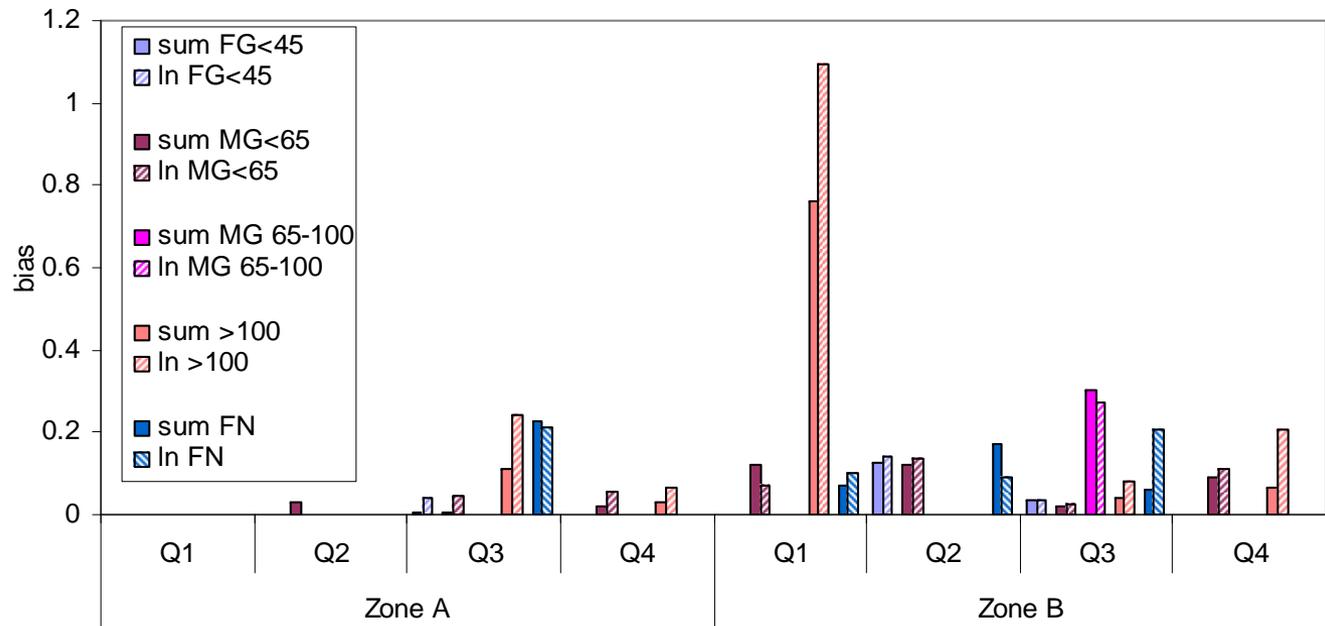
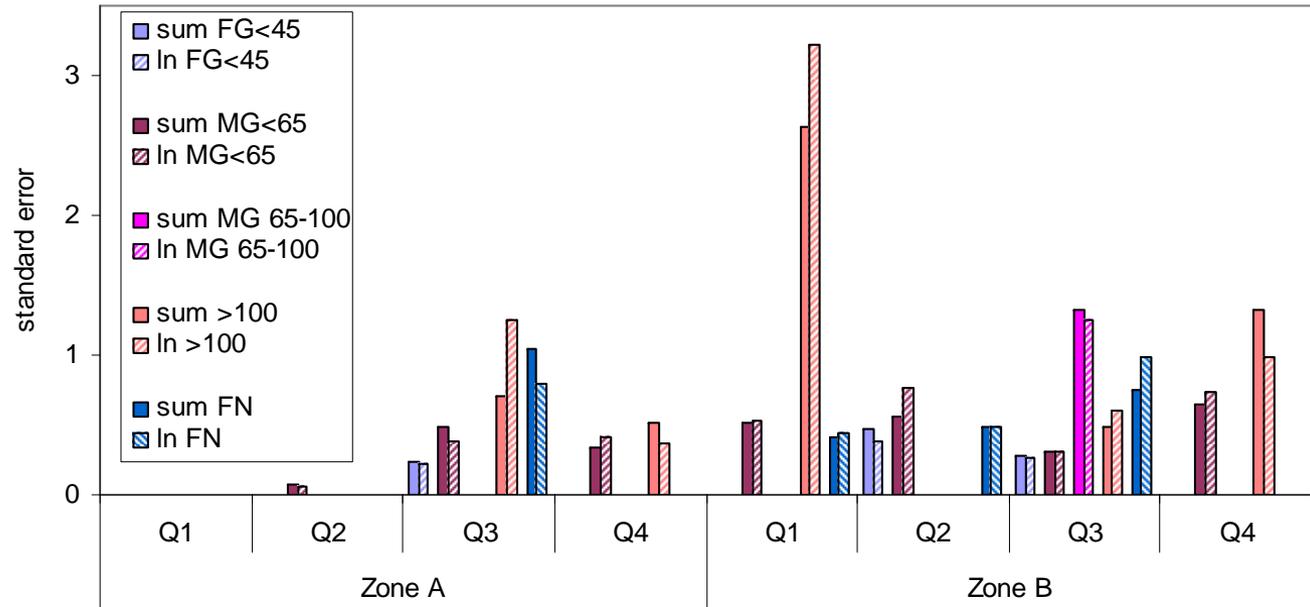
No systematic patterns



Ln-transform vs ratio of sums:

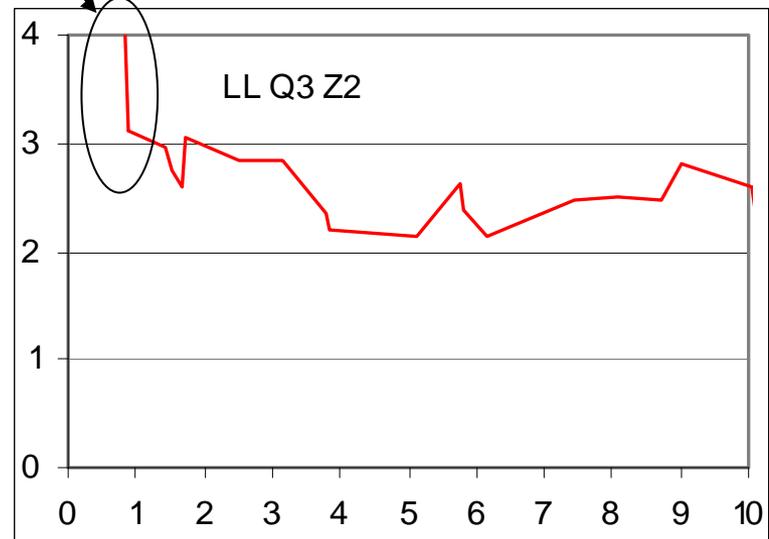
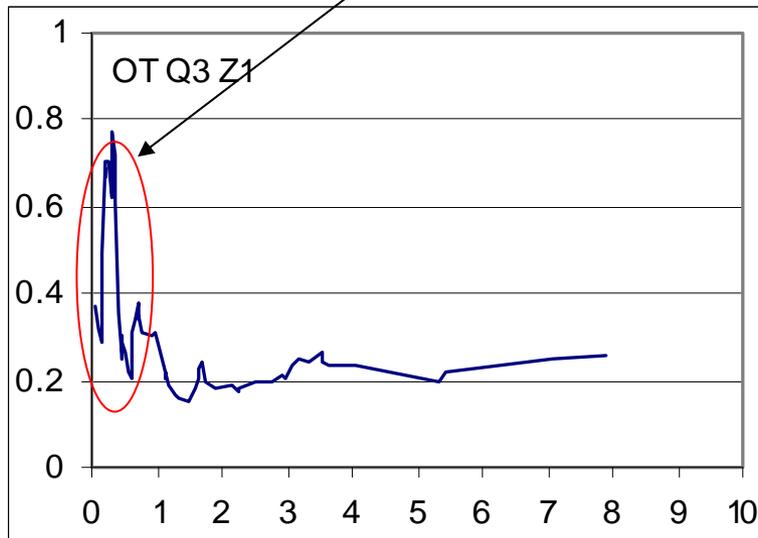
Ratio of standard error and bias

- **se:** neither estimator consistently more precise
- **bias:** ratio of sums may be less biased but bias very small

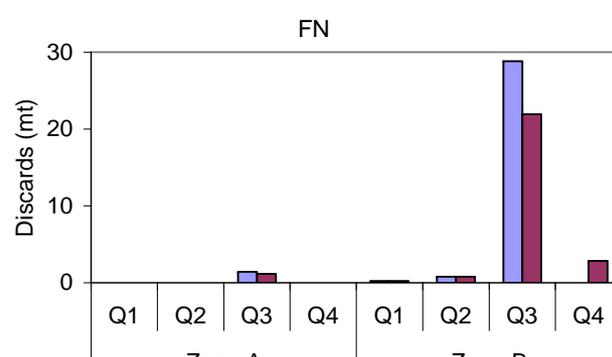
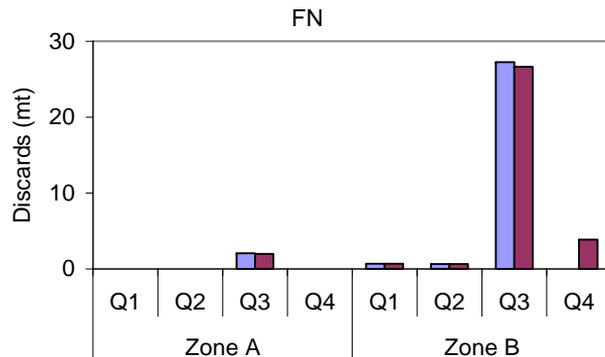
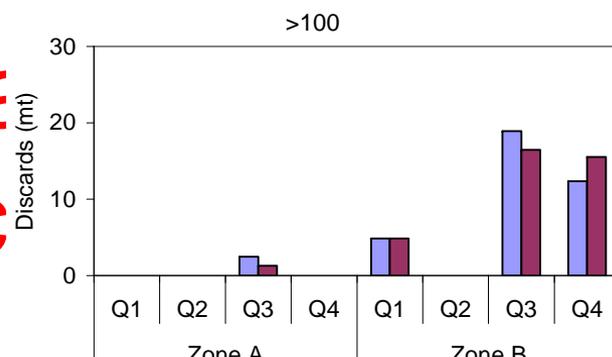
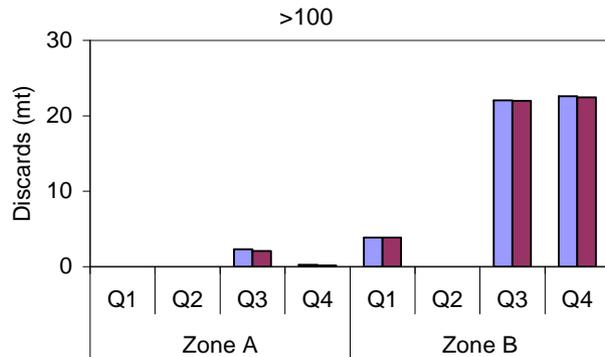
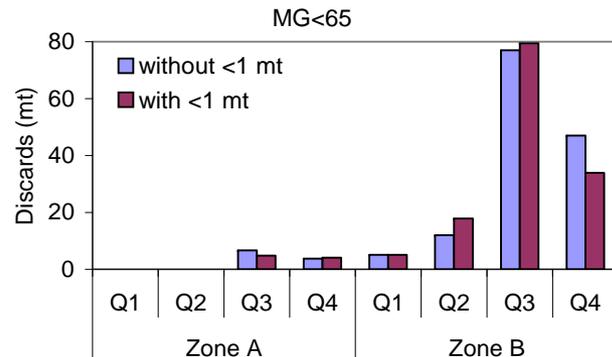
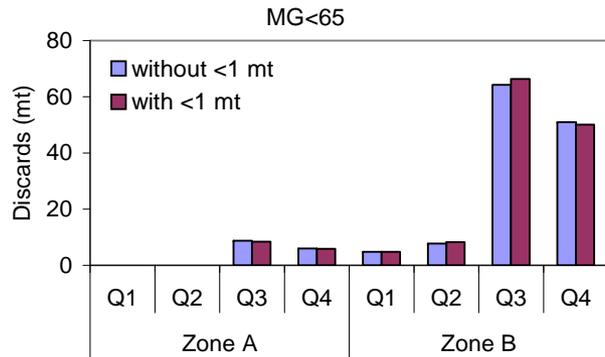


In Transformation Method

- Remove $\text{cod} = 0$ and $\text{haddock} = 0$
- Remove $\text{cod} + \text{haddock} < 1t$



Ln-transform vs ratio of sums: *Robustness*



Ratio of sums
vs
Avg In Ratios

Ratio of Sums

Avg In Ratios

Evaluation

- Precision and bias
- Robust to outliers
- Ease of application
 - zero catches



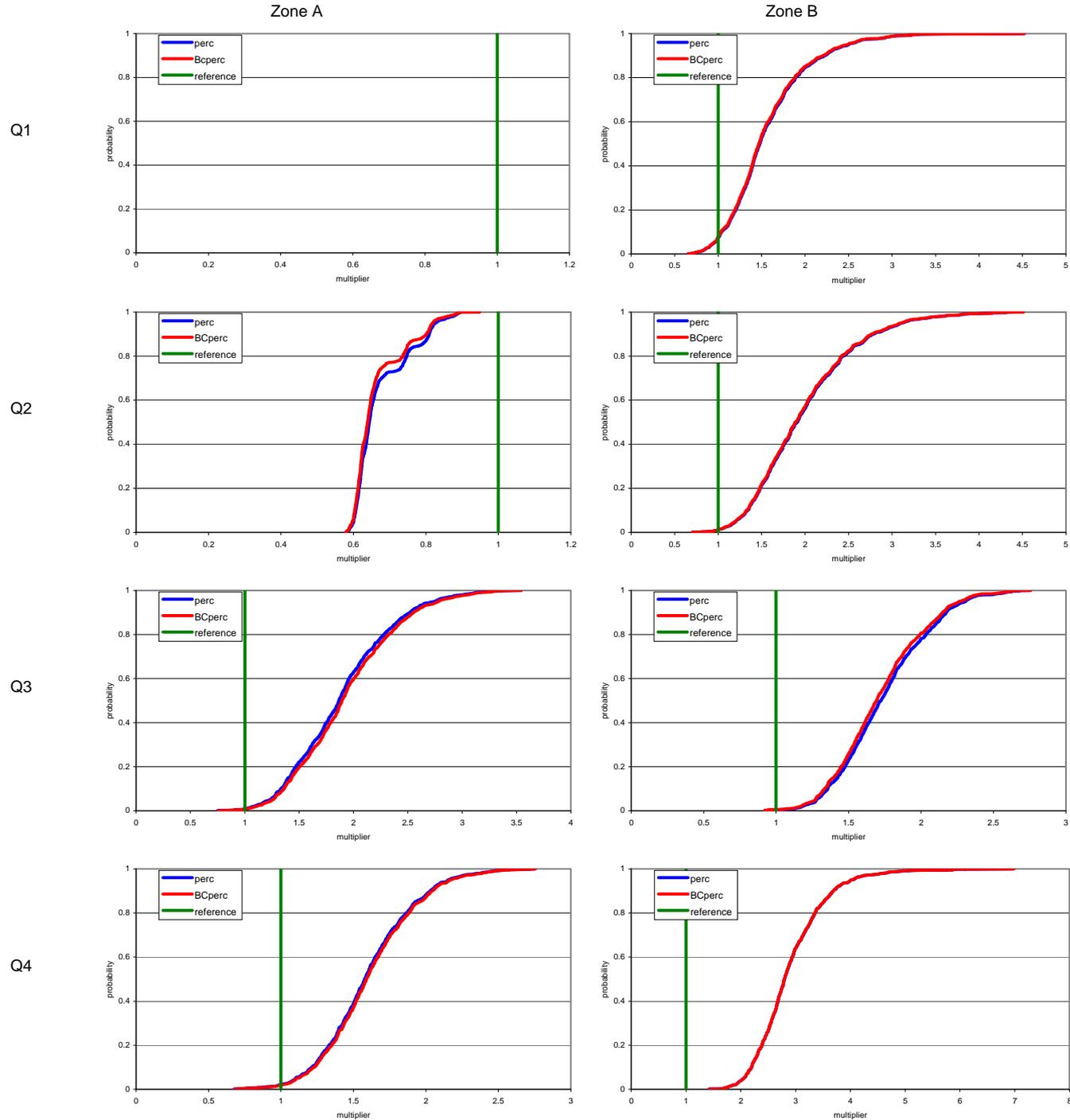
Ratio of Sums

Is the landings multiplier (m) greater than 1?

Bootstrap cumulative confidence distribution for landings multiplier

Example: $MG < 65$

Probability of 0.2 or less
→ discarding occurred



Multipliers \pm se

	Zone A				Zone B			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
FG<45			0.75 \pm 0.23			0.41 \pm 0.43	1.05 \pm 0.26	
FG 45-65								
MG<65		0.64 \pm 0.08	1.88 \pm 0.46	1.59 \pm 0.32	1.48 \pm 0.48	1.90 \pm 0.60	1.70 \pm 0.32	2.79 \pm 0.65
FG 65-100								
MG 65-100							2.91 \pm 1.33	
>100			2.18 \pm 0.65	1.06 \pm 0.51	3.02 \pm 2.66		2.62 \pm 0.47	3.58 \pm 1.41
FN		1.63 \pm 0.86			1.14 \pm 0.41	1.45 \pm 0.47	2.41 \pm 0.71	1.89 \pm 1.51

Shaded values indicate that discarding was not inferred.

Discards

	Zone A				Zone B				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
FG<45									
FG 45-65									
MG<65			9	6	5	8	63	51	143
FG 65-100									
MG 65-100							7	4	10
>100			2		4		22	23	51
FN			2			1	27	4	33
Total									237

- discards counted against fleet quotas



Published on the Transboundary
Resource Assessment Committee
(TRAC) website:

[http://www.mar.dfo-mpo.gc/
science/TRAC/documents/
TRD_2007_03_E.pdf](http://www.mar.dfo-mpo.gc/science/TRAC/documents/TRD_2007_03_E.pdf)

New Jersey Avenue, SE., Washington, DC 20590; fax (202) 366-4566; e-mail, "InformationResourcesManager@phmsa.dot.gov".

§ 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]

BILLING CODE 4910-60-P

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

#8

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.

[FR Doc. E8-6442 Filed 3-27-08; 8:45 am]

BILLING CODE 3510-22-S

Is a Modified Days-at-Sea Program the Current Best Alternative for Management of the Northeast Groundfish Complex: An Economic and Biological Comparison to the Proposed Sector Management Scheme

Daniel Goethel

Abstract

The Northeast groundfish fishery is a very complex industry that is deeply rooted with the history and persona of New England. Due to complex biological interactions catches are all multispecies and have caused problems with accurately managing the suite of species. Currently, a Day-at-Sea (DAS) program is used to manage the fishery, but the inability of the system to achieve desired biological goals has caused the New England Fishery Management Council to look into sector based management for the region. It is proposed that a modified DAS program, which is based on minor changes of the original program including greater permanence, basing allocations on percentages of a dynamic total DAS allocation for the fishery, and reinstating a permit buyback, is the best management alternative currently available. Although far from perfect in terms of reducing biological waste and creating an economically efficient fishery, it greatly enhances the prospects of the current system and provides a greater net benefit compared to a regime paradigm shift to sector management.

Introduction

Biology

The history of fishing off the New England coast has been dominated until recently almost exclusively by the suite of groundfish, which includes: Atlantic cod, haddock, pollock, yellowtail flounder, witch flounder, winter flounder, windowpane flounder, American plaice, Atlantic halibut, redfish, ocean pout and white hake. For over 400 years people have been fishing for and living off of the plentiful demersal species found in the waters of the Northwest Atlantic. Today the major species within the groundfish complex make up one of the most important and lucrative fisheries in the Northeastern United States providing over \$200 million in landings to New England fishermen¹. As the name implies all fish in the groundfish complex are bottom dwelling fish with similar habitat preferences and general biology. One marked difference resides between the flatfishes (i.e. yellowtail flounder, witch flounder, winter flounder, windowpane flounder, American plaice, Atlantic halibut) and the Gadids (i.e. cod, haddock, Pollack, and hakes) as the flatfishes are much more sedentary and less mobile than Gadids and tend to remain on the ocean floor². Similarly, the flatfishes generally have smaller mouths and as such usually feed on worms and other benthic organisms and are less able to swallow fish hooks. In general, flatfishes are found in sandy or gravel bottom, but tend to stay away from rocky uneven bottom as they are unable to blend into this environment. Gadids, on the other hand, tend to exhibit more movement both across fishing grounds, but also vertically through the water column. At the same time, they tend to feed on small fish and have larger mouths, which allow them to be more easily caught by hook fishermen. Gadids will often share similar environments with flatfish. In addition, they will also inhabit rougher bottom since they do not sit directly on the bottom as flatfish do, in order to hide from predators, but instead will stay a couple feet above the ocean floor.

¹ An Examination of the Potential Impact on All Affected and Interested Parties of Framework 42 to the Northeast Multispecies Fishery Management Plan: A Report to Congress.

² Bigelow, H. B. and W. C. Schroeder (1953). Fishes of the Gulf of Maine. U. S. D. o. t. I. F. a. W. Service, The Blackburn Press. 53: 173-299.

The Fishery

In general, the fishery for groundfish is made up of three major groups defined by the type of gear used: the mobile gear otter trawl industry, the fixed gear gillnet industry, and the hook and line industry. Although each group has slightly different practices and fishing techniques, the makeup of the catch from each is similar. Since each of the groundfish species tends to occupy similar habitats, catches from all gear types involved with groundfishing are multispecies catches. The makeup of the catch is determined by the type of gear being used, but also by the fishing area as different areas have very different temperature environments, which has a strong influence on the species found in that area. Overall, the trawl fleet collects the most diversified range of species and is responsible for a majority of the flatfish catch. This is mainly due to the fact that trawls remain on the ocean floor, and therefore are able to better harvest flatfish since they tend to remain on the bottom. The gillnet industry focuses mostly on the Gadids since gillnets remain off the bottom, but are responsible for a small percentage of the flatfish catch. The hook and line industry operates almost exclusively on Gadids as most flatfishes are unable to be caught at a commercially sustainable level by hooks.

The fishing grounds of New England are divided into three major areas defined mostly by location and coincidentally by water temperature regime. These include the cold water Gulf of Maine and Cape Cod grounds (GOM-CC), the offshore intermediate water temperature Georges Bank (GB), and the relatively warm water Southern New England (SNE). Overall, Atlantic cod, haddock, Pollock, American plaice, Atlantic halibut, and redfish are considered cold water species and are found at commercially significant levels only in the GOM-CC and GB regions. The remainder of the species including ocean pout, white hake, yellowtail flounder, witch flounder, winter flounder and windowpane flounder are found throughout all the New England fishing grounds. The major fishing grounds can also be generally categorized by the gear type and boat size used to fish them. In the GOM-CC area most of the important grounds are found inshore and most boats are thus small (35-50 feet in length) and medium (50-70 feet) day trawls, gillnet and hook boats. Georges Bank is almost the exact opposite as all fishing grounds are offshore and require long trips to reach. Due to this the fleet is almost completely comprised of large (70-100 foot) trawl trip boats and a limited number of small, fast hook boats. Southern New England, much like the GOM-CC area, consists mostly of inshore fleets of trawl, gillnet, and hook boats, but fishing is quite distinct from the GOM-CC grounds due to a slightly different species makeup in the region.

Production and the Market

In general, the New England groundfish industry is responsible for a large portion of the international fresh seafood market. Fish are usually iced on board the vessel and immediately unloaded when the boat reaches port. Once taken off the boat fish are dressed, washed and repacked in ice and often taken to a fish auction. In some instances, the auction will be skipped and seafood companies will buy directly from the boat or fishing cooperative where the boat unloads. In such cases, the fishermen will pay a percent of the total profit (on the order of 5%) to the cooperative in order to cover the charge of dressing, icing, and shipping the fish. More often than not, though, fish are sold at auction within days if not hours of reaching the dock, and companies from around the globe will bid on the fish. Again the fisherman will pay the auction for the services of icing and selling the fish. A small portion of the fish are sold within the

United States, but a majority are sold internationally to European and Asian countries where fresh seafood is more highly valued than in the United States. Groundfish caught in the United States will then reach markets within days of being caught and are most often sold fresh. Some exceptions to this are that a few species such as haddock, which tend to freeze better than others, will be sold frozen and turned into fish sticks. Some of the less valuable species will be sold to animal feed companies to be ground up with various other products as cat food.

Problems with Management

Many unique factors are at work that makes the New England groundfish complex very difficult to effectively manage. The main problem is the similarity of habitat preferences for all the groundfish species, which causes multispecies harvesting. Although many different gears have been studied and tried, it has so far proven impossible to limit groundfish harvest to a single species. In turn this has required that the groundfish fishery is managed through a multispecies regime instead of on a species by species basis, as is seen in most other fisheries. Similarly, the fishery is comprised of numerous different gear types each with a slightly different harvesting strategy. This has again added to the difficulties in management because each gear cannot be managed individually since each harvests the same groundfish. In addition, bycatch of groundfish in other fisheries, such as the scallop and herring fisheries, has added to the difficulties as any management decisions must also take into account any effects on these industries. In addition, the unique ability of fishermen in New England to lobby political support in the region and the general distrust of governmental regulation, especially on the federal level, has added to the problems seen in the groundfish industry. Due to these factors fishermen have been able to get politicians to provide subsidies and sometimes even get increases in quotas or repeal management regulations when these regulations may have, in fact, been warranted.

In New England the twelve species that make up the groundfish complex are all managed under the Northeast Multispecies Groundfish Fishery Management Plan (FMP). Over the last 20 years this plan has been in place to reduce fishing mortality and rebuild stocks through the use of numerous management techniques including area closures to fishing, minimum size limits, gear restrictions, maximum trip limits, limited access permits, and days-at-sea (DAS) restrictions³. Prior to the implementation of the Northeast Multispecies FMP in 1986, groundfish were treated as a common property resource where anyone could buy a boat and participate in the fishery. As discussed by Gordon, this led to economic inefficiencies since each fisherman only experiences the average instead of the marginal and is not paying the cost for the reduction of the stock⁴. In the end, this system led to individuals continuing to enter the industry until average product equaled average cost, which resulted in negative marginal product. This in turn corresponded to declining fish stocks, as was indeed seen for many groundfish species in the early 1980s. Inefficiencies resulted from this type of competitive equilibrium because a reduction in effort could actually lead to increased yield and revenue for the industry.

As in many natural resources, and especially fisheries throughout the world, treating fish stocks as common property for anyone to exploit does not work. A competitive equilibrium

³ (2006). Amendment 13 to the Northeast Multispecies Fishery Management Plan. N. E. F. M. Council, National Marine Fisheries Service.

⁴ Gordon, H. S. (1954). "The Economic Theory of a Common-Property Resource: The Fishery." The Journal of Political Economy 62(2): 124-142.

leads to the fish populations becoming overexploited and causes declines in the different stocks being harvested. Even though the groundfish industry has been regulated for almost 20 years by the multispecies FMP, there has yet to be a management strategy that has effectively limited fishing effort and increased efficiency in the industry. At this point in time the New England Fisheries Management Council is planning a switch from the current DAS system to that of sector based management in the hopes of achieving these goals. Although sector based management provides an alternative management scenario that can theoretically reduce economic inefficiency and increase conservation, difficulties in implementation of this scheme along with new obstacles that are associated with it make this an unrealistic solution to the problems within the New England groundfish fishery. In reality, the best management policy in terms of overall net economic benefit and meeting biological goals is that of a modified DAS system that incorporates a boat buyback scheme.

Statement of the Problem

History

Since commercial fishing was begun in New England in the 1700s, it was often believed that groundfish stocks were basically unlimited and that it was impossible to overfish them. In fact, reports from the colonial period state that cod stocks were often so thick that it was possible to walk across Massachusetts Bay on them. Although an obvious exaggeration, it does demonstrate the extreme nature of the problem faced in New England. After 300 years of open access exploitation and numerous technological advances, groundfish stocks have been greatly depleted from the colonial days. Over the last decade the equilibrium has been continually shifting further out in terms of effort, which is mainly due to the continual improvements in technology. As technology improves, it drives down the cost of effort in the fishery, which in turn causes the equilibrium level of effort to increase. Consequently, as the effort level increases the corresponding equilibrium stock size decreases. This is exactly what has been seen in New England as there has been a many fold decrease in groundfish stock abundances over the last few centuries. The most important of these advances in technology have been the switches from sail power to steam power and the subsequent change from longlines to trawls, and the advent of fish finding gear. All of these have helped fishermen to catch more fish and make better use of time at sea, thereby increasing catch per unit effort and thus reducing the overall cost of each unit of effort.

In 1976, the United States adopted the Magnuson-Stevens act and imposed the so-called Exclusive Economic Zone (EEZ), which declared all fishing grounds within 200 miles of the United States as common property of American citizens⁵. In essence, this act declared that all fishing within 200 miles of shore was open access for US citizens, but banned all foreign vessels from US waters. Mainly, this stated that the US had property rights to fish on these grounds in the worldwide arena, but that for its citizens the fish were still common property. The effect of this measure was initially to reduce effort and create economic rent as foreign fleets were thrown out of US territorial waters. Domestic fishermen received the rent produced immediately following the banishment of foreign vessels as the total revenue was temporarily greater than the

⁵ (1996). Magnuson-Stevens Fishery Conservation and Management Act as amended through October, 11 1996. N. M. F. Service. 94-265.

total cost. At the same time, increases in stock sizes were initially seen concordant with the reductions in effort. Almost immediately, though, the domestic fleet increased in size filling the gap left by the foreign fleets. The reason for this was that when people realized that profit could be made in the industry they began to invest in it and the fleet expanded. Thus, eventually the competitive equilibrium was again reached where total revenue equaled total cost and marginal productivity was negative.

In 1986, realizing that stocks were indeed declining, the federal government implemented the Northeast Multispecies FMP. The government's main goal in doing this was to reduce fishing mortality, but as an additional benefit to this plan was the partial decrease in economic inefficiency in the industry by the curbing of fishing effort. Through the implementation of limited access permits and days-at-sea (DAS) limitations, limited property rights were granted to active fishermen who could produce a record of groundfish landings on New England fishing grounds. Although creating limited access should have reduced the number of participants, and therefore the effort and fishing mortality, this was not the case due to a lack of stringency in the checking of landings documentation. The actual result was that many newcomers entered the fishery by forging these documents. In essence, even under the new limited access system the resource was basically being exploited at the competitive equilibrium. The reason for this is that many people realized that by implementing a limited entry system the government was creating property rights where permits would then become quite valuable provided that they were transferable (i.e. could be sold). As such, many new "fishermen" entered the industry immediately prior to the implementation of the limited entry system hoping to cash in on the new scheme. This created a situation where the industry was highly overcapitalized even after permits were issued. Predictably the desired biological results were not obtained and the economic waste continued since the industry was in the same position as with the previous open entry competitive equilibrium. The one gain that limited entry did provide was the stoppage of future increases in the number of boats and a basis for the future refinement of the property rights system.

Solution Tried: The Days-at-Seas (DAS) Program

The next step for managers was the allocation of a limited number of DAS to all permit holders as a form of effort control. The basic idea of the DAS system was to limit effort by setting a limit on the overall number of fishing days associated with each permit. The initial allocation of DAS had no biological or economical basis as it simply granted all permit holders 88 fishing days⁶. After the initial allocation it was determined that fishing had not been curtailed enough as it granted many boats more fishing days than they would have fished without any DAS limitations at all. The DAS program has undergone numerous revisions since it was implemented. In general, the number of DAS that each fisherman receives is now based on the maximum number of days he fished during a set time period, which is then reduced by a predetermined factor. Many other regulations are also intertwined with each DAS. These include limited daily quotas on each species per DAS used (for instance in the Gulf of Maine there is a daily limit of 800lbs of cod and 250lbs of yellowtail flounder) and on some fishing grounds, such as the Gulf of Maine, there is differential 2 for 1 counting where the use of a

⁶ (1994). Amendment 5 to the Northeast Multispecies Fishery Management Plan. N. E. F. M. Council, National Marine Fisheries Service.

single DAS actually counts as two DAS used⁷. Currently, each permit is granted roughly 40 DAS, but this amount varies by about 10-20% depending on boat size, boat history, and area that the boat fishes⁸.

Property Rights with DAS

In essence, by limiting the participants and granting a certain number of DAS to each fisherman, the government granted property rights to each fisherman to use a portion of the groundfish resource. The granting of DAS to fishermen in New England contained many of the aspects of property rights including⁹:

- Exclusive Use
- Transferability
- Divisibility
- Security
- Restrictions

One property that this system truly lacked was permanence. Although a DAS provided sole ownership to fishing for that amount of time, it could be revoked at any point if the government decided that the sustainability of any groundfish species was in jeopardy. It is for this reason that the DAS system did not provide true high quality property rights since a fisherman had no right to the resource in the long term, especially when DAS allocation was constantly being altered from season to season. Additionally, according to the government permits are not considered a right but instead refer to them as “privileges” that can be revoked at any point. Due to this, it is often debated whether permits can indeed be considered assets to be borrowed against. In reality, permits contain little value outside the fishing industry because without a promise of permanence it is almost impossible to borrow against them. Within the industry permits have limited value because they can insure a portion of the total DAS for a limited period into the future, but due to the high uncertainty about the future benefits (i.e. how many DAS, if any, a permit will yield in the future) there is an extremely high discount rate associated with them, and thus the present value of permits is fairly low.

Overall, the DAS system does indeed provide basic property rights to access the groundfish resource, but without the crucial property right of permanence this system does not attain the possible benefits of a true property rights system. When permanence of a property right is guaranteed fishermen have a reason to conserve the resource because they can reap the benefits of current conservation at a future date. Without the belief that he would have rights to the resource for at least a few years, a fisherman is left with no reason to conserve. There is no economic reason for a fisherman to leave a fish in the ocean if he has no promise that if he leaves it he can catch that fish or its offspring in the future. Even with concurrent restrictions such as daily limits on certain species per day at sea used, it does not stop certain fishermen from going

⁷ (2006). Framework Adjustment 42 to the Northeast Multispecies Fishery Management Plan. N. E. F. M. Council, National Marine Fisheries Service.

⁸ (2007). An Examination of the Potential Impact on All Affected and Interested Parties of Framework 42 to the Northeast Multispecies Fishery Management Plan: A Report to Congress. N. M. F. Service.

⁹ Arnason, R. (2002). The Icelandic ITQ System: A Descriptive Account.

out and targeting what would normally be an incident or bycatch species, such as skates. In doing so many of the target species, for which restrictions were put in place to protect, are caught and thrown over dead. This leads to economic inefficiency and wasted effort since both species could be caught simultaneously and kept in other management schemes. The reason for pursuing fishing practices of this nature is that once a daily or trip quota is filled on one species a boat can continue to fish. When the fishermen have no long-term guaranteed stake in the fishery they have little reason to use conservative fishing practices. In the short run fishermen only have to cover the variable costs associated with continuing to fish in order to make fishing worth while. It does not matter if fixed costs such as mortgages are being covered because these costs will have to be paid whether or not the boat continues fishing or heads home.

If permanence of property rights were guaranteed, then fishermen would have incentive to stop fishing when the DAS quotas were up on the monetary target species in order to protect these species, which they could then come back to harvest in the future. Since a fisherman is guaranteed the right to catch a portion of the stock for an extended period, then he is also guaranteed the same proportion of any growth that occurs in the stock, and hence there is reason for all fishermen to fish conservatively in order to maximize net benefits and present value. Otherwise, fishermen are simply maximizing benefits in the current time period, but this practice will lead to declines in future net benefits and will not maximize present value. Without the guarantee of permanence there is no incentive to conserve the target species since they might not be able to harvest it in the future. Since no one else is using conservative practices, someone else will harvest the fish released by the fisherman using conservative practices as soon as it is released (or as soon as he heads home when his quota is fulfilled). This means that the possible gains in growth of the stock that would result from leaving the fish in the ocean are negated. In essence, fishermen in this scenario face an infinite discount rate, and thus have no reason to conserve stocks because the maximization of present value only involves maximizing the possible landings in the current period. This is owing to the fact that the future is uncertain and catch in future periods cannot be guaranteed and so contributes very little to the present value. Therefore, fishing will continue on low value species regardless of the extreme harm that might be caused to the stocks of the target groundfish species.

Property Rights and Benefits under a Sole Owner

As an example of the benefits that property rights can provide, the extreme case of a sole owner over the fishery resources in an area will be used. When a sole owner is granted property rights with permanence he will be able to organize boats and effort in such a way that he can maximize present value and thereby fish at the optimal economic level. The result of sole ownership is:

- Reduction in effort
- Stock size and revenue increase
- Profit and rent are maximized (and nonzero)

This shows how property rights provide the possibility of improving both economic efficiency and biological status of the stocks. There are two main properties that are lacking under the DAS property rights system: permanence and the fact that DAS is a user rights system, which is only a proxy for ownership of the resource. User rights are simply a weaker property version of sole ownership as it provides only a proxy for the ownership of the resource provided to a sole owner,

and as such the actions of fishermen under these different property rights systems are not the same. With user rights a fisherman is granted the right to access the fish, but does not own the fish in any way. On the other hand, a sole owner owns the resource and thus can use it to perfectly maximize his present value. Similarly, when property rights are guaranteed for an extended period the fishermen that hold them can act to maximize present value, which in turn leads to conservative fishing techniques. When this attribute is lacking in a property rights system there is extreme uncertainty about the future and no incentive is provided for fishermen to act conservatively. Although the example of a sole owner is an extreme case, it shows that if a property right system is implemented with permanence guaranteed, then if the number of participants can be decreased below the previous competitive equilibrium both rent and profit will be generated for those remaining in the fishery, economic efficiency will be greatly increased, and conservative fishing practices will be undertaken.

Scale of the Problem

Obviously, the multispecies groundfish industry is not an easy one to manage and creating a property rights system which includes permanence and provides incentive for conservative use of the stocks is very difficult. The reason for these difficulties stems from the diversity, size, and value of the fishery,¹⁰:

- Multiple species
- Mixed species catches
- Numerous gear types
- Wide range of boat sizes (177 large boats, 211 medium sized boats, and 416 small boats)
- 1000 active permits
- Landings worth more than \$200 million

Thus, an attempt to try and create a broad, overarching management policy will be very difficult to implement effectively, as was seen with the DAS system. Due to the problems with the current DAS system the New England fisheries management council has been working on a new management scheme involving the use of fisheries sectors, in the hope of providing fishermen a long term share of the resource in order to increase conservation and economic efficiency. A sector is defined by the New England fishery management council as a “group of limited access permit holders who voluntarily enter into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a total allowable catch (TAC) in order to achieve objectives consistent with applicable FMP goals.”¹¹ Mainly, a sector is a group of fishermen who join together in a cooperative and determine how they will manage themselves so that they do not overfish the portion of the groundfish TAC that they are granted.

¹⁰ An Examination of the Potential Impact on All Affected and Interested Parties of Framework 42 to the Northeast Multispecies Fishery Management Plan: A Report to Congress.

¹¹ (2007). Sector Policy. N. E. F. M. Council, National Marine Fisheries Service.

NMFS Proposed Solution: Sector Theory

The main theory behind sector based management is that by providing groups of fishermen outright property rights with at least some limited permanence to a certain portion of the groundfish resource (i.e. a TAC), the fishermen will have a true stake in the resource and thus will have incentive to conservatively use and manage it¹². The principal is that since fishermen in the sector have a relatively long term right to a given resource they can fish more conservatively because it is in their best interest to protect the excess of the resource so that it can be harvested at a future time. Compared to the DAS system, sector management should allow for more flexibility and efficiency by not putting time or trip limits on fishermen. With the incentive to fish more conservatively and the lack of daily or trip quotas, fishermen will be able to reduce discards since all species can be retained during a trip. Present value of fish can be maximized because fishermen will be able to target whatever species they want at any time of year, and thus land a species when it has its highest value both in the current year and in subsequent years. Similarly, by being able to trade TACs of different species between sectors and even between fishermen within sectors, economic efficiency can be greatly increased by allowing for those fishermen who might be better at catching a certain species to receive a larger TAC for that species in return for his portion of the TAC for a species that he cannot easily catch. Overall, the goal of sectors is to grant property rights to the groundfish resource so that competitive waste can be limited and conservative fishing techniques undertaken, thereby meeting biological objectives, reducing inefficiencies and increasing the economic rent.

DAS vs. Sectors: A Brief Summary

In table 1 a brief outline of the general differences between the current DAS system and the proposed sector management are provided. Although this issue is taken up later on in the proposed solution to the multispecies problem, the main difference between the two systems is the quality of the property rights that each gives to the fishermen involved. The current DAS system lacks the permanence characteristic that is associated with sectors, and as such misses out on the conservative fishing practices and associated maximization of present value that is the basis of why sectors are believed to be the future of fisheries management. On the other hand, under the DAS regime there have been a number of success stories in terms of stock increases, while a sector based system can only be successful if the TAC is accurately determined, which may prove difficult for the variable New England environment. Also, DAS do not have any of the start up costs of implementing a new management system that sectors will be facing.

¹² (2006). Amendment 13 to the Northeast Multispecies Fishery Management Plan. N. E. F. M. Council, National Marine Fisheries Service.

Table 1: Outline of Current DAS vs. Proposed Sector Management		
	DAS	Sectors
Quality of Property Right	Low	High
General Strengths	Proven Biological Gains	Improved Efficiency
		Infusion of Conservative Fishing Practices
		Present Value Maximization of Landings
General Weaknesses	Lack of Permanence and Associated Biological Waste	Costs of Implementation
	Economically Inefficient	Dependence on Accurately Setting TAC to Obtain Biological Goals

Proposed Solution

Proposed Solution: Modified DAS with Permit Buyback

Although sectors are a unique idea for dealing with the problems facing the management of Northeast groundfish stocks, in reality it fails to take into account many of the new issues that will be created by its implementation and does not solve a large portion of the initial problems. On top of this, the issue of the costs associated with a switch of regimes has not been assessed or even addressed up to this point. Overall, it appears that the best solution for the industry would be to stay with the current DAS system, but with a number of refinements so that the biological goals of the NEFMC can be better obtained and so that the industry can increase overall profits and rent. In order to improve the DAS system three relatively simple changes, compared to a complete management regime shift as would occur with a change to sectors, are proposed:

- Reinstitution of a permit buyback program
- Each permit being worth a percent of a dynamic total DAS for each year
- Long term investment in this management system

Buyback Program

Obviously, the overall effort in the groundfish industry is still at a very high level and is still relatively close to the competitive equilibrium level of effort. Therefore, it is necessary to reduce the overall effort in the industry, which in turn will cause increases in fish stocks and profit for those that remain in the industry. One of the major issues that will face the industry as the rebuilding of stocks occurs, and that would play a large role in any buyback scenario, is that of latent effort. Latent effort refers to those fishermen who hold permits in the fishery, but are completely inactive either due to focusing effort in other fisheries or because they have moved on to other jobs. Either way, as stocks rebuild and it becomes easier and more profitable to fish, this inactive effort will slowly become active again and cause rapid stock declines as effort is increased beyond what the currently active fishermen would have been able to produce. Thus, if a permit buyback program is instituted the first goal must be to buyback these inactive permits

first so that when stocks do improve the bought out effort is not simply replaced by the previously inactive effort. The goal of any buyout program would thus be to first remove all latent effort permits, then possibly reduce a number of currently active permits. With the proper financing and scale this can be a very successful program that is highly embraced by the fishing community. Active fishermen are aware that latent effort can pose many problems when stocks begin to rebuild, and obviously do not want inactive fishermen taking advantage of the hard work and sacrifice that they went through. At the same time, it is well known that the groundfish fleet has been becoming older in terms of the age of permit holders largely due to the high price of obtaining a permit and entering the industry. Due to this, many of these older fishermen realize that by the time the stocks rebuild they will likely be too old to benefit from them. Therefore, instead of sacrificing further it would be in their best interest to retire from the industry by selling their permit to the government for a fair price. Again everyone remaining in the industry would benefit by increases in rent and profit due to this further reduction in effort.

There are three main scenarios for a vessel buyback program: industry funded, government subsidized, and a mixture of the two. Economically speaking the program that makes the most sense to institute is an industry funded buyback, in which the industry uses a federal loan to buyback permits within the industry. The boats that remain in the industry pay a certain percentage of their annual gross income each year to payoff the loan, but this amount will almost certainly be less than the overall gain in profit they would receive from the reduction in effort. In reality, the government does not always work in the most economically efficient way and with the strong lobbying ability of the groundfish industry it would likely end up that such a program would receive at least some subsidy from the federal government. One recent study performed a very rough economic analysis on how an industry buyback might work and found that if a fleet reduction of 31% was made (i.e. the buyback of 332 permits) it would cost \$28 million, assuming that each permit cost the average revenue of a groundfish permit (~\$85,000)¹³. In the end, even under worse case scenarios it was shown that with the industry paying 5% of gross income, the buyback could be financed with a 30 year federal loan with a 6% interest rate. Again this is a rough analysis of a possible buyback program, but it shows that it is certainly a feasible alternative.

Buyback Problems: Limiting Increases in Effective Effort

Although in theory buyback programs provide a relatively easy way to increase efficiency in the industry by reducing the number of participants and therefore the effort, the general consensus about the actual results of buybacks is that efficiency is generally not improved unless certain provisions are in place within the fishery. The main ingredient necessary for a buyback to actually work is the ability to restrict effective increases in effort following the buyback¹⁴. The main reasoning behind this is that if effort subsequently increases following the buyback, then the entire purpose of the buyback will be negated. Obviously, this requires both a limiting of new entry and some limit on input and capital stuffing by fishermen remaining in the industry. Although many authors argue that putting these restrictions in place is nearly impossible in a real world situation, it appears that the groundfish complex has at least a limited ability to accomplish this, and thus a buyback would be successful at reducing effort. For

¹³ Leipzig, P. (2003). Report on Trip to New England. Eureka, CA, Fishermen's Marketing Association.

¹⁴ Holland, D., E. Gudmundsson, et al. (1999). "Do Fishing Vessel Buyback Programs Work: A Survey of the Evidence." *Marine Policy* 23(1): 47-69.

instance, the limited entry aspect is already in place. Any new entrants to the fishery must buy a current permit. In addition, many other regulations are in place that are well established and fairly effective at limiting increases in effort through capital stuffing. These include limits on moving permits from smaller boats to larger boats with greater fishing capacity (based on horsepower, tonnage, etc...) and daily quotas. Indeed the DAS system itself discourages input stuffing by limiting the total amount that a boat can catch on a given day. Unlike with some TAC systems where a race for fish can provide incentive for capital stuffing, with DAS there is little or no incentive for this since the amount that can be caught in a given day is already set and there is no reason to rush to catch a quota. In fact, it is better to take time to fill the quota so that other species can also be caught. There are two issues that may prove counteractive to effort reductions. The first issue is the increase in catching power of permits in the fishery by the buyout of inexperienced captains by more experienced captains¹⁵. This sort of issue may partially be solved by the fact that many boats already reach daily quotas, but may be an issue for any permits that are not currently being used to their full potential. Secondly, increases in technology result in increases in effective effort that is almost impossible to prevent¹⁶. Although it is far from perfect at limiting effective increases in effort that new technology can result in, the DAS system has enough limitations on capital stuffing to make a permit buyback worthwhile. In fact, it has been shown that previous buyouts in the New England groundfish industry were successful at reducing potential capacity by 20%¹⁷. In addition, previous buybacks saved fishermen an average of 3 DAS per permit following the Amendment 13 DAS baseline reduction¹⁸.

Modifications to DAS System

The other issue that would need to be changed with the DAS system is the fixed quantity of DAS allocated to each permit. With the constantly changing DAS policies it was shown that fishermen have little incentive to fish conservatively since there is no guarantee about how many DAS they will have in the future. In order to infuse conservative fishing practices into the industry the managers need a scheme that provides some sense of permanence in the right to use the resource. With sector management this is done by granting each sector a percentage of the TAC for a given number of years. It has been shown with ITQ programs that by granting a percent as opposed to a fixed amount of the TAC provides a much better alternative that allows more flexibility to managers while retaining the permanence of the property right¹⁹. The basic idea is that managers can reduce the TAC if biological goals are not being met, but the fishermen retain the permanence of their property right. The reason that permanence is insured is because no matter what a fisherman will receive the same proportion of the TAC, even though this proportion may be reduced or even increased in terms of the total landings that it represents. Either way, each fisherman has a permanent (for a specified time period) right to use that proportion of the TAC and thus will fish it conservatively. In a similar manner, if managers in New England commit to the DAS and say that each permit will be good for a certain time period

¹⁵ Holland, D.

¹⁶ Holland, D.

¹⁷ Thunberg, E., A. Kitts, et al. (2004). A Case Study of New England Groundfish Fishing Capacity Reduction. S. S. B. N. F. S. Center, National Marine Fisheries Service.

¹⁸ Thunberg, E.

¹⁹ Hanneson, R. (2004). *The Privatization of the Oceans*. Cambridge, The MIT Press.

and give each permit a certain proportion of the total (adjustable) DAS, then conservative practices can be infused within this system, just as it would be in the sector regime with TACs.

Evaluation of Solution

Management Plan Comparative Analysis: Modified DAS vs. Sectors

By comparing the sector system and the modified version of the DAS system, it can be seen how DAS will provide the same if not better biological and economic results, at a comparable overall cost and much simpler and quicker implementation. Overall, the goal of any management system and the way success is measured is in terms of the biological and economic improvements that it provides. Biological goals involve increases in stock size with reductions in biological waste, while economic goals are increases in efficiency through decreases in effort and increases in rent and profit for those that remain in the industry. In order to determine the best management scenario it is necessary to compare the different schemes step by step in terms of the benefits and improvements each provides, the costs associated with implementation, and the problems each does not solve. Whichever plan provides the greatest economic and biological improvements, while solving the greatest number of overall problems in the current system at the lowest cost is the better management plan.

Quality of Property Rights

To begin with the quality of the property rights under each system will be compared. The reason for this analysis is that it has been shown that higher quality property rights lead to more economically efficient fisheries²⁰. The overall quality is roughly based on the sum of the extent of each individual characteristic (usually based on a scale of 0 to 1, 1 being a perfect property right).

Table 2: Strength of Property Rights under DAS and Sector Management

Characteristic	Strength	
	DAS	Sectors
Security	Strong	Strong
Exclusivity	Strong	Strong
Transferability	Strong	Very Strong
Permanence	Weak	Mild

Overall it appears that sectors may contain a slightly higher quality property right when compared to the modified DAS system. Both schemes provide fairly high, yet equal security and exclusivity of use of the given share of the resource. On the other hand, they differ, albeit not to a huge extent, in terms of transferability and permanence. Although both allow for transfer of quotas or DAS, this characteristic is generally stronger with sectors due to the ability to transfer quotas for each species whereas with DAS it is only possible to transfer a complete DAS, and hence all of the daily species quotas that it constitutes. The main issue that separates the two systems is that of permanence. Although neither provides high levels of this characteristic,

²⁰ Arnason, R.

sectors are higher quality in this regard than DAS. The reason for this is that under the sector management regulations it is stipulated that sector quotas will be granted for a certain number of years, while the DAS program makes no guarantees about permanence. With the modified DAS system that is proposed this gap between quality of property rights should be lessened, though. One of the main points of the modified system is the addition of a long term investment in the system. By stating that they will stick with this system for a specified time period, managers would be infusing a greater level of permanence into the DAS property rights and create a much higher overall quality of these rights. In the end, it appears that sectors do provide a slightly better quality of property rights compared to the DAS system, and therefore is likely slightly more economically efficient. Although this gap can be greatly reduced by managers by simply increasing the level of permanence associated with the DAS scheme.

General Costs and Benefits of Management Scenarios

Modified DAS	Sectors
Cost of Implementing Buyback	Allocation of Quota Shares
Effective Enforcement	Fishermen Working Together
High-Grading	Creation of Sector Management Plans
Bycatch	Cost of Regime Change
Limiting Increases in Effective Effort	High-Grading
Limited Market Power in Terms of When Fish can be Landed	Bycatch
Continuance of Fishing When Daily Quota Filled on One Species, but not Others	Enforcement
Incentives to Cheat	Lack of Industry Support
	Continuance of Fishing When Yearly Quota Filled on One Species, but not Others
	Dependence on Accurately Setting TAC to Obtain Biological Goals

DAS	Sectors
Infusion of Conservative Fishing Practices	Infusion of Conservative Fishing Practices
Low Cost of Implementation	Present Value Maximization of Landings
Increased Efficiency	Increased Efficiency
Transferability of DAS	Transferability of Quotas
Effort Reduction	Easier Negotiations
Proven Biological Results	Peer Pressure Reduces Cheating
General Industry Acceptance	Effort Reduction

Allocation

The first problem facing sector management is the issue of the allocation of the TAC. Obviously, it will have to be based on some combination of landings, vessel size, etc..., but figuring out an allocation scheme that is supported by even a small majority of the fishermen

involved has been nearly impossible. Starting a new management scheme without at least a large portion of the industry supporting it has proven fatal in almost every case in fisheries. A prime example of this is the attempted switch to an ITQ system in Chile²¹. Without industry support this system failed miserably, and it could easily be seen how such failure could result from the sector system without some agreed upon allocation scheme. As for the modified DAS plan, allocation would basically follow how DAS are currently allocated. The given number of DAS that each fisherman currently has out of the total DAS in the system would represent the proportion that each receives every year. This proportion would be increased following the buyback program because the DAS that are bought out would be subtracted from the total DAS and the remaining fishermen would then have their proportions calculated from this number. Although the industry is not completely in favor of the DAS system, it has come to be accepted by a large majority and many would prefer the status quo to a change to the sector regime²². In addition, there could be very few complaints about the allocation scheme with the modified DAS because it maintains the current scheme if not increasing the remaining fishermen's allocations. Finally, allocation in this regime is significantly cheaper and quicker than with sectors where the allocation system must first be determined, then each person's allocation amount calculated. Obviously, this will take a long period of time and lots of money to determine all 1000 permit's allocation shares.

Implementation

The next issue faced is that of implementation. For sector management fishermen first coming together to form a sector, then work together extensively to create a sector management and enforcement plan. There are numerous issues intertwined within this, each of which presents additional problems. First of all is the issue of time and money. Fishermen would have to meet to form such a plan and by doing so would have to take time away from fishing. Obviously, creating such a detailed outline of how they plan to use their share of the quota, how they plan to exchange quota shares, how they plan to avoid exceeding their quota share, and how they will deal with enforcement of those that exceed their partition of the quota will not be easy and definitely will not be fast. Thus, since time is money, especially to a fisherman, this process will be unbearably expensive, and probably prohibitively so. In theory, this is an ideal situation according to Coase because such small groups of fishermen should be able to negotiate amongst themselves and come up with the optimal use of the TAC that they receive²³. Although this may be true ideally, in the real world it will simply be too time consuming and too expensive. Due to these constraints it is hard to believe that fishermen will truly come up with the ideal use of the resource. In addition, New England fishermen are one of the most independent and stubborn groups of people. This may in fact be the single largest obstacle facing any sort of regime switch. They do not embrace change and they prefer most often to work alone. Due to these factors, sticking with the DAS system may be the best course of action because it will be cheaper and quicker to implement and because it is more or less accepted (albeit stubbornly) by a large portion of the fishing community, while at the same time letting fishermen remain independent²⁴.

²¹ Hanneson, R.

²² (2007). Amendment 16 to the Northeast Multispecies Fishery Management Plan Scoping Comments. N. E. F. M. Council, National Marine Fisheries Service.

²³ Coase, R. (1960). "The Problem of Social Cost." The Journal of Law and Economics.

²⁴ Amendment 16 to the Northeast Multispecies Fishery Management Plan Scoping Comments.

Enforcement

In addition, new enforcement regimes would have to be put into place for sectors, which would again cost more money. It is often argued that enforcement for sectors would be easier because the incentive to cheat is reduced since fishermen have a stake in the future status of the stocks. In addition, since everyone within the sector is punished for a cheating member there is extreme peer pressure to follow the law of the sector making enforcement simple. With the permanence added to the DAS, though, similar disincentives to cheat are provided. If one fisherman cheats everyone, including the one that cheated, is affected by future reductions in the total DAS for the fishery. Therefore, similar peer pressure arguments can be made for this system, and with permanence everyone has incentive to follow the rules and maintain stocks at high levels. Although enforcement for the DAS scheme is not perfect it is improving, and with fewer fishermen to monitor after the buyback, it should be easier for enforcement officials. In either system there will be some incentive to cheat and it is doubtful that any system can remove this completely. Overall, the DAS system seems at least slightly easier to enforce because it is known by officials how much each boat can have on a given day. With the sector system, since boats can land any portion of their quota on a given day, it would be much harder to keep tabs on if they have exceeded the quota either when a boat is inspected at sea or at the dock.

Conservative Practices and Biological Waste

In the end, neither system eliminates the problems of biological waste, namely high-grading and bycatch. Regardless of the management scenario fishermen are going to act to maximize present value. In either case, some form of permanence is guaranteed so that conservative fishing practices should be undertaken and be more or less equal with sectors or the modified DAS. No matter what, there is going to be bycatch issues especially when quotas (whether they are daily/trip quotas or yearly TACs) are filled on one species, but not another. Fishermen will keep fishing as long they are still maximizing profits in the long term, even if this results in throwing back dead fish of a certain species. Similarly, the issue of high-grading is not eliminated by either management strategy. In both cases, if a fish of a given species is caught later in a trip that is worth more than a fish of that species caught earlier in the trip, then the less valuable fish will be thrown back dead and replaced by the more valuable fish. In the DAS system this may be slightly more prevalent because it could happen daily as quotas are neared. In the sector system this will likely only become prevalent later in the year as the overall quota for a fisherman is neared. It is sometimes argued that with sectors discards of any sort will be eliminated because fishermen can trade quotas so there will be no reason to throw back fish. There is always some incentive to cheat, though, especially if the sector is facing shutdown as quotas are reached on one species, but not others. Obviously, fishermen will not target those species that quotas are nearly filled for, but if they do catch any of that species they will discard it and not report it (when they are able to) so that the fishing season can continue. On the other hand, by infusing conservative fishing techniques both systems have limited the waste problem regarding the discards of monetary species so that fishing on incident species can continue. By providing a somewhat permanent property right to use the resource both scenarios have provided a reason to protect the monetary species because fishing for incident species such as skate, while killing the monetary species, will decrease the latter's stock size while providing limited benefits. Thus, this strategy will be far from the present value maximizing situation and so it

will cease. Overall, it appears that sectors and the modified DAS scenarios provide similar biological benefits and drawbacks. Both provide incentive to fish conservatively, but at the same time both have some incentive for biological waste in the name of maximizing present value. Biologically speaking, the DAS system is slightly better simply due to it being a proven system that has been shown to successfully increase groundfish stock sizes²⁵.

Biological Goals

If sector management is undertaken it would require that new scientific data be gathered and population models made in order to determine the TACs for each species. In fact, this may be the single most important aspect of having a successful sector system. It has been shown in many countries, for instance New Zealand, that TAC systems (namely ITQs) are only as successful as the proper determination of the TAC²⁶. If the available science cannot accurately determine the proper level of the TAC so that the biological goals are met, the system does not work. If the TAC is too high, the stocks decline no matter how well the rest of the system works. If it is too low, the industry loses out on profits and could easily be worse off than in many other regimes. In reality, it is almost impossible to accurately determine a TAC for groundfish stocks in New England. There is a severe lack of biological data and far too much variability in the North Atlantic environment to be able to accurately determine what level of catch can be taken out of each stock²⁷. For this reason, the DAS system should work out as good if not better than the sector system in terms of meeting biological goals. In fact, under the DAS system stocks have seen fairly dramatic increases and stock sizes continue to climb²⁸. If this system is maintained, and overall effort reduced, then there is no reason to believe that these gains will not continue. In this sense there is no guarantee that the sector system will work any better than the DAS scheme, and with the added incentive to fish more conservatively that the modified DAS system should provide, it would seem that the DAS would in fact be superior to sectors because it has already been shown to provide tangible results for the groundfish complex.

Efficiency

In terms of economic efficiency, the sector system may have the slight edge over the modified DAS system presented here. Although, this does not mean that it is necessarily the better of the two management systems in economic terms. Overall, the sector system allows for better attainment of profit maximization because there is more flexibility to when fish are landed. Therefore, with this flexibility a fisherman can land the fish when its value is the highest and fishermen within sectors can work together to avoid flooding the market and forcing prices down. At the same time, though, many groundfish exhibit migratory behavior and thus many species (such as cod) can only be caught at certain times of the year. Due to this, and the fact that the weather plays a large role in dictating when fishermen can actually go out, it may turn out that fishermen would fish for and land a species at the same time regardless of the

²⁵ (2001). "Northeast Multispecies (Large Mesh/Groundfish) Fishery Management Plan." from http://www.nefmc.org/nemulti/summary/large_mesh_multi.pdf.

²⁶ Hanneson, R.

²⁷ Amendment 13 to the Northeast Multispecies Fishery Management Plan.

²⁸ Northeast Multispecies (Large Mesh/Groundfish) Fishery Management Plan

management scenario. Thus, even though sectors do provide a better opportunity to maximize value, this may again just turn out to be a theoretical benefit instead of a real world benefit. Another benefit that sectors have is the ability to trade quotas. By allowing this, those fishermen that are more efficient at catching one species can trade for a higher quota of this species in return for the quota of a species that they are not very efficient at catching. This will likely increase efficiency fairly substantially, but could also increase bycatch if a fisherman trades away all his quota of one species for that of another, but then catches any amount of this species in his pursuit of the species that he obtained the higher quota for. In the DAS system this trading of individual species quotas does not exist as it would be almost impossible to keep track of a trading of daily quotas. In this sense, sectors would have a slight edge in economic efficiency. Although, the modified DAS system may again prove more efficient simply due to the buyback program, which will reduce the overall effort, increase profits, and move the industry away from the competitive equilibrium and towards the economically optimal level. The sector system may also partially increase efficiency by facilitating a reduction in overcapacity as people within sectors are bought out by others, but the DAS system also allows for this by the transferability of permits. Moves of this nature, although they reduce overcapacity in terms of the number of boats, do not truly reduce effort.

In terms of the end goals of fisheries management, increase in stock sizes and improvements in economic efficiency, both the sector system and modified DAS scheme provide fairly similar results on paper. According to Coase when determining the economically optimal solution it is necessary to look at the benefit minus the costs of all possible scenarios and choose the one that provides the highest value of this net benefit²⁹. Overall, it seems that these two systems provide very similar benefits. Both provide incentives to fish conservatively, both should lead to increasing stock sizes, and both increase economic efficiency. On the other hand, it appears that sectors and the modified DAS system face very different cost levels. The main difference between the two is the extreme costs that implementing sectors would require in terms of new science and enforcement regimes, creation of management plans for each sector, and determination of allocation levels. These costs are faced by both the fishermen involved and the federal government. As for the modified DAS system, there is little cost associated because it is basically the same system that is currently being used. There will be some costs associated with organizing a buyback program and determining DAS allocations, but the buyback program should be paid for by resulting increases in profit and the cost of determining DAS allocations should be very low considering all the information is already in place and ready to be used. Therefore, according to Coase's view, the modified DAS system is far superior to that of sector based management. Although other management schemes exist that could be compared, few if any provide extremely higher benefits than the two scenarios presented and most would require even higher costs to implement. Thus, it appears that at the present time the modified DAS system is in fact the most economically and biologically optimal management scenario.

Conclusion

Attempting to manage a multispecies fishery is more of an ongoing and imperfect artistic piece than a perfect science. Although there are a handful of these fisheries around the world, no country has managed to find a perfect solution that can balance economic efficiency and biological sustainability. Overall, efficiency is a relatively easy factor to assess in terms of the

²⁹ Coase, R.

effects of a management scenario, while biological sustainability has proven much more difficult to determine. First, the determination of stock sizes, and consequently increases in stocks, is dependent on the science and population models that are used. Obviously, there is a certain level of inherent error associated with any stock assessment, and therefore in reality these results are never perfect. In addition, there are many biological and environmental interactions that influence stock sizes, which are not taken into account in most stock assessments. This has been the basis for one of the longest running debates in modern fisheries science: are recent stock declines due to overfishing or climate change? In reality, it is likely a combination of the two, but it is impossible to separate the effects of each. In the end, assessing biological sustainability of management regimes requires looking at more than just short term trends in scientific estimates of stock trends. It requires a holistic approach balancing scientific evidence (stock assessments), raw data (landings reports), and oral reports (views from the fishermen). Indeed any true fisheries management body is required to take all these aspects into account when creating a management plan, but usually only scientific evidence is taken into consideration because fishermen are seen as only providing evidence to better their current situation. In reality, fishermen often realize that without fish they will have no job and more often than not can be trusted to provide fairly reliable information. This is especially true in cases where fishermen have some guarantee of permanence, and hence even more reason to conserve the resource. In areas with high environmental variability raw data and oral reports should actually be of the most important since scientific assessments become more and more questionable in this situation.

Obviously, New England is a highly variable environment and there have been numerous issues regarding the efficacy and reliability of stock assessments. Even so it has been shown that groundfish biomass has tripled and landings have increased by 20% since the implementation of the DAS system³⁰. Biologically speaking it makes little sense to attempt a complete change of management to a system that so heavily relies on accurately determining stock size in order to be able to reach biological objectives. Although it may not be entirely understood what the relationship between effort controls (i.e. DAS) and fishing mortality are, it is known that in the variable New England environment DAS have led to biological gains. Spending more time trying to improve this system in terms of both economic efficiency and biologic growth will be a far better long run alternative than giving up on this proven system (simply because it has not instantly attained the unrealistically high target biomasses set by amendment 13) in favor of a new, unproven one that shows no guarantee of improvement. By improving the quality of the property right by guaranteeing permanence and by reducing latent effort through a permit buyback, the economic efficiency of the modified DAS will be only slightly less than, if not equal to, that of sector management, and incentives for conservation will be equal. In the end, there is little evidence that a sector based TAC system would provide any greater net benefits in the three categories important to fisheries managers: economic efficiency, costs, and biological gains.

Case Study: Faroe Islands

The Faroe Islands provide a prime example of why the modified DAS system is the best management scenario for New England groundfish. Much like in New England the Faroe Islands groundfish industry is a complex multispecies industry with a widely variable

³⁰ Northeast Multispecies (Large Mesh/Groundfish) Fishery Management Plan.

environmental regime³¹. They have also gone through numerous management regimes over the past few decades, but unlike in the United States managers here began with a TAC system similar in many aspects to sectors. TAC management began in 1994 and was opposed by much of the industry, which resulted in vast under and misreporting of catches along with extremely high levels of discards. After much industry feedback a transfer to a DAS system was implemented in 1996 and has been in place ever since. With the support of the industry the biological waste associated with the TAC system has been negligible³². In terms of biological gains, there are differences of opinions between the varying groups involved. Scientists believe that the system has failed to lower fishing mortality far enough and have recommended cuts in the overall DAS allocations³³. On the other hand, groundfish landings having been remarkably stable since the implementation and many fishermen see many of the fluctuations as the result of natural variation in stock sizes³⁴. It appears that managers in the Faroese take the holistic view much more seriously than in New England as they have worked closely with both fishermen and scientists and have resisted drastic yearly changes in management policies. In the end, it appears that this strategy has been highly successful resulting in 18% gains in the value of landed fish with a 5% gain in volume of landings³⁵. Although stock assessments indicate fishing mortalities to be higher than target levels, there are no indications of stock declines³⁶.

Overall, the Faroe Islands prove that a DAS system can actually work and certain situations can provide better end results than a TAC system. This example clearly shows the importance of scientists, fishermen and managers working together. No one group will ever have the exact solution and it is necessary that everyone works together and solutions take the advice of each group into account. When fishermen are asked for input and feel like they have a say in the management outcome, then they will try much harder to make it work. Fishery management is a constantly evolving process that requires innovation. At the same time, with the time scales that biological processes within fish stocks and the environment work on, it is necessary to allow management schemes to be in place for an ample timeframe in order to assess how well they truly work. It will be impossible to determine whether a plan is truly working if every five years it is replaced with a new scheme simply because dramatic increases in stock sizes were not seen. Managers in the Faroe Islands have obviously taken this advice and continue to allow the DAS system time to provide results. Even though similar if not greater biological gains have been made under the DAS system in New England, regulators have begun work to replace this system. In the end, this would be a poor decision as a simple modified DAS system would provide equal gains in economic efficiency, cost much less, and has shown much greater potential for biological growth. In a country that prides itself on democratic processes, it seems strange that the government would force a system upon a group of fishermen against their will, while simultaneously costing everyone including taxpayers more money, and which will result in a lower overall level of the fishery resource that the government is supposed to be a steward of for the American public.

³¹ Jakupsstovu, S. H. i., L. R. Cruz, et al. (2007). "Effort Regulation of the Demersal Fisheries at the Faroe Islands: A 10-year Appraisal." *ICES Journal of Marine Science* 64(4): 730-737.

³² Jakupsstovu, S. H

³³ Jakupsstovu, S. H

³⁴ (2005). Faroe Moves to Improve Fisheries Management Regime, Resisting Pressure to Cut Back on Fishing. *Injector News*. 1: 10-13.

³⁵ Allagui, S. (2007). Faroes Go Against the Current for a Sustainable Fishing Industry. YahooNews.com.

³⁶ Jakupsstovu, S. H

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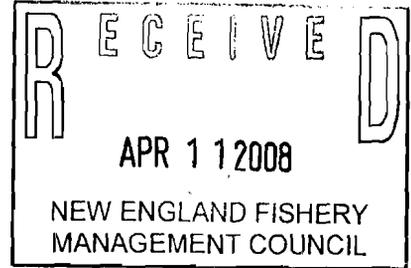
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PORTLAND FISH EXCHANGE

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#10



April 10, 2008

John W. Pappalardo, Chairman
New England Fisheries Management Council
50 Water Street
Newburyport, Massachusetts 01920

Dear Chairman Pappalardo:

I am writing requesting that the Council consider moving on the recommendation made at the March 28th Groundfish Oversight Committee to allow multiple port unloading. Allowing vessels to unload catch, other than regulated multi-species in a Massachusetts port, then steam to Portland to unload groundfish is of great importance to The Portland Fish Exchange. The Exchange's landings drop by over 75% late December through late April seriously impacting a fishing port infrastructure that is already on the verge of extinction.

Allowing multi-port unloading was raised at the April 3rd Enforcement Committee meeting; with NMFS Enforcement offering workable solutions. They recommended using a VMS transiting code and maintaining a minimum speed during transit. The transiting vessel would incur double VMS polling, at their expense, after the transiting code is transmitted. However, NMFS Sustainable Fisheries representatives interpreted that a vessel must be on DAS when transiting with fish on board to another port.

My hope is that the Council will create a recommendation that satisfactorily addresses the DAS issue for both NMFS Sustainable Fisheries and the fishing vessel under DAS regulations.

During this difficult time frame of groundfish regulations, creative solutions are needed to insure that fisherman, and the port infrastructure that supports them, can financially survive. I appreciate the Council acting on my request and am optimistic a favorable decision will be made.

Sincerely,

Bert Jongerden, General Manager
Portland Fish Exchange

cc: m - 4/11/08

#11

Vessel Landings Data, Concerns and Limitations

NEFMC • April 16, 2008

“The #%\$&@! vessel landings data are wrong!”

- Qualification & allocation at the vessel level.
- Low tolerance for variance.
- Discrepancies in the dealer data.
 - Over 2.5 million reports, ~750 dealers
 - Species code, vessel permit #, units, non-reporting
- Industry expectations – data retrieval, delivery, units, other disconnects

Fishery Data and Management Applications

Stock Assessments

Sources: Time series of dlr reports, VTRs, bio-sampling, observers, and fishery independent sources.

Outputs: Stock status and trends.

Mgmt: Stock-wide programs – high confidence.

Quota Monitoring

Sources: Timely data sources such as dealer, IVR, VMS catch reports

Outputs: Landings for a fishery, near real time.

Mgmt: Fishery/state-wide monitoring and management – high confidence. Growing concern about smaller fishery subsets, vessel-level data, & more species.

Individual Vessel History

Sources: Primarily dealer reports.

Outputs: Actual pounds, date landed, for 5600 individual vessels for all past years & reporting programs.

Mgmt: Basis for qual & allocation for sectors, limited-access programs, etc. Low-tolerance for error. *Allow time for data validation prior to program implementation.* Would be better for threshold/tier-type programs than for per-pound programs.

Policy Accommodations

- Provide for appeal or data correction process
 - Acceptable documents
 - Implementation schedule
- Consider interim allocations during a data validation window.
- Consider add'l criteria/data to make qual & allocation determinations
- Tiered allocations – rather than per-pound, segregate in broader units.
- Scope the criteria differently – use more recent records; consider whether *best year* rather than combined years or averages would help.

Can VTRs and IVRs be used?

- Cross-check of dealer data, but with limitations
- Hail weight estimation v. weigh-out
- Incentives for reporting high or low?
- Unsold catch.
- Consistency of units

What are you doing about it?

- Improved criteria for daily audit of dealer data to be implemented June 1.
- New procedure to provide more accurate data to constituents with better explanatory material.
- Working with NEFSC and ACCSP to adopt best methods and streamline data handling.
- New staff to expand automated audits, investigate/correct errors.

Other ideas....

- Possible integration of vessel and dealer reports to improve ability to link trip data.
- Refine VTR compliance program to use VMS trip declaration info
- Review data attributes to streamline data collection if possible (e.g., dealer reports are a poor source of gear info).
- Establish vessel/dealer profiles based on past activity to identify anomalous data. Changes in ownership or markets could make this impractical.

NORTHEAST FISHERIES STATISTICS OFFICE
DATA REQUEST FACT SHEET
February 2008

#12

Northeast Region permit holders provide data about fishing vessel catches and landings by submitting mandatory fishing vessel trip reports and dealer reports. The data submitted are statutorily confidential, as set forth in section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management. Because the information submitted in vessel and dealer reports is confidential, it can only be provided to the individual who submitted the information, unless that individual provides written authorization for the agency to release it to someone else.

In recent months, industry members have asked for clarification of the language that should be used to authorize the release of confidential data to someone other than the submitter. In many cases, individuals thought that language in a bill of sale would be sufficient to address the release of confidential data. However, in most cases, the language included in bills of sale has only been sufficient to satisfy the requirements of the Northeast Region vessel permit regulations [50 CFR 648.4(a)(1)(i)(D)], that specify that fishing and permit histories are presumed to transfer with the vessel unless there is written evidence to the contrary. Most bills of sale submitted by vessel owners use the term "fishing and permit histories" and are sufficient to preserve their rights under this regulation. However, this language is not specific enough to authorize the release of confidential landings information.

This requirement is more stringent than in previous years. Over the past year, a review of the handling of confidential data was conducted. It indicated that existing procedures needed to be modified to assure compliance with the Magnuson-Stevens Act requirements. This fact sheet has been prepared to clarify these requirements.

To request catch/landings data you must:

1. Mail a written request to: **FSO Data Requests, NOAA Fisheries, One Blackburn Drive, Gloucester, MA 01930**, or fax to 978-281-9161. It must include:

- Vessel name
- Federal fishing permit number
- USCG documentation number or State registration number
- Vessel owner name and address
- Information requested, including time period
- Signature and date

2. Specify whether you are requesting dealer reports, vessel trip reports, or both.
3. If you are requesting information for a time period when the vessel was not owned by you, you must submit a written document in which the previous owner authorizes you by name to receive confidential catch/landings records. This language may be included in a purchase and sales agreement, or a separate document signed by the previous owner. Suggested specific language would be, "This transfer conveys to the buyer the right to access all catch records relating to this vessel that were submitted to NMFS while under the ownership of the seller. This authorization is transferable to future owners of this vessel unless authorization is withdrawn by a future seller in a written document."
4. If there are several previous owners, you must obtain a signed authorization from each owner.
5. The only exception to the requirement for written authorization is a Court Order.

Cautions about the use of information received

Many of the management programs developed by the New England and Mid-Atlantic Fishery Management Councils have programs that allow participation only if a vessel has a history of landing a certain species. For example, limited access vessel permits are issued only to vessels with sufficient landings to meet the criteria developed by the Councils. NOAA Fisheries Service staff cannot provide advice about the likelihood that a vessel will or will not qualify for a future limited access program. Eligibility determinations for management programs can be made only after final regulations are implemented to establish the eligibility criteria and review process.

If you have any questions or need more information regarding data requests, please call 978-281-9133.

