

DRAFT

Amendment 16

To the

Northeast Multispecies Fishery Management Plan

Including a

**Draft Environmental Impact Statement and an
Initial Regulatory Flexibility Analysis**

*Note: In the “Alternatives under Consideration” section, underlined text is new since September 8, 2008. **Shaded sections** reflect Committee recommendations that have not been reviewed by the full Council. Revisions in other sections are not highlighted.*

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4.0 Alternatives Under Consideration

4.1 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.

This alternative would not change any existing management measures. The management measures for the Northeast Multispecies Fishery would not be revised and the most recent measures adopted by Amendment 13, FW 40A, FW 40B, FW 41 and FW 42 would remain in effect as implemented. Current implementing regulations can be found at 50 CFR 648 Subpart F.

The most recent amendment to the Northeast Multispecies FMP was Amendment 13, implemented May 1, 2004. The Amendment 13 measures can be sorted into the following broad categories:

- Clarification of status determination criteria: overfishing definitions
- Rebuilding programs: fishing mortality trajectories designed to rebuild overfished stocks. These trajectories serve as the fundamental basis for management measures.
- Fishery administration measures: reporting requirements, provisions for sector allocation and special access programs (SAPs), the U.S./Canada Resource Sharing Understanding, permit requirements, DAS leasing, etc.
- Measures to control capacity: a DAS transfer program that allows the permanent transfer of DAS, and the categorization of DAS based on vessel fishing history during the period FY 1996 through FY 2001.
- Measures to minimize, to the extent practicable, the adverse effects of fishing on essential fish habitat (EFH).
- Measures to meet fishing mortality targets: measures for the commercial and recreational fishery designed to control fishing mortality.

Subsequent to Amendment 13, a series of framework actions modified the measures. The following discussion summarizes the most important elements of the management program as it existed during consideration of this action. The discussion is organized into the broad categories identified.

Status Determination Criteria (Overfishing Definitions)

Amendment to the M-S Act in 1996 adopted a requirement that every management plan specify objective and measurable criteria for determining when a stock is overfished and when it is subject to overfishing. Often referred to as overfishing definitions, these status determination criteria were first adopted for the Multispecies FMP with the approval of Amendment 9 in 1999. During the development of Amendment 13, the criteria were re-evaluated by the NEFSC (NEFSC

Alternatives Under Consideration
No Action Alternative

ReferenceXXX). These new criteria were adopted in Amendment 13. They include estimates of SSB_{MSY} , MSY , and F_{MSY} , and target fishing mortality rates (or appropriate proxies when these parameters cannot be determined). Amendment 13 also adopted a process to adopt revised parameters and/or their numerical estimates. Amendment 13 also reiterated the definition of OY applicable for each stock in this FMP. The amendment also called for a re-evaluation of the status determination criteria in 2008 so that any necessary changes could be made at the beginning of the 2009 fishing year.

Under the No Action alternative, these status determination criteria and their numerical estimates would remain the same. The Amendment 13 parameters and their estimates are shown in Table Table 1.

Rebuilding Programs

“Overfished” stocks are those that are at low biomass levels. Amendment 13 and FW 42 adopted formal rebuilding programs for regulated groundfish stocks that are overfished. Stocks also need a rebuilding program if they were previously identified at low biomass levels and have not yet finished rebuilding. These programs take the form of a strategy that identifies target fishing mortality rates for these stocks. Since management measures are designed to achieve the fishing mortality rates specified in the rebuilding programs for overfished stocks, the rebuilding programs are a critical element of the management program.

Analyses in Amendment 13 demonstrates that if these fishing mortality rates are achieved, the overfished stocks should rebuild to a biomass that will support maximum sustainable yield, and will do so within the time period required by the M-S Act. The following stocks have formal rebuilding programs, xxthough some of these stocks are no longer overfished and the rebuilding fishing mortality target is higher than current fishing mortality:

- GOM cod
- GB cod
- GB yellowtail flounder
- Plaice
- GB haddock
- GOM haddock
- CC/GOM yellowtail flounder
- SNE/MA yellowtail flounder
- SNE/MA winter flounder
- Windowpane flounder (south)
- White hake
- Redfish
- Ocean pout
- Atlantic halibut

Amendment 13 also provided for a mid-course evaluation of rebuilding progress and changes to the rebuilding programs as necessary. Changes might be necessary if the status determination criteria change or if rebuilding progress is behind or ahead of schedule.

Under the No Action alternative, the rebuilding programs and the associated target fishing mortality rates adopted by Amendment 13 and FW 42 would not be changed, regardless of stock conditions or any changes to status determination criteria.

Fishery Administration

The management program includes measures that address a wide range of issue. These include monitoring of catches and other fishing activity, measures to mitigate the social and economic impacts of rebuilding programs, procedures for periodic adjustments to the management program, and other needs. The major elements are briefly summarized below:

- Reporting requirements: Dealers are required to file weekly electronic reports of the purchase of groundfish. Vessel operators report catches on paper forms that must be submitted within fifteen days of the end of a month. Limited access vessels using a DAS are required to use a Vessel Monitoring System (VMS) that reports position on an hourly basis. Vessel operators also use VMS to report several types of fishing activity.
- Periodic adjustments: The FMP calls for a review of stock status and measures every two years, with the submission of management changes as may be necessary. The FMP also describes the types of measures that can be adjusted through these periodic adjustments, called framework actions.
- DAS leasing: Vessel operators are allowed to temporarily acquire DAS from other vessels through a leasing program. The maximum number of DAS that can be leased is limited. Vessels can only be leased to vessels of similar size (i.e. within the vessel upgrade restrictions for the permit).
- Special Access Programs (SAP): These programs relax regulatory restrictions in order to provide opportunities for vessels to target healthy groundfish stocks. For most programs, there are stringent requirements that include limits on catch of other species, additional reporting requirements, and gear restrictions. The current SAPs are:
 - Eastern US/CA Haddock SAP: Vessels using approved gear can fish for haddock in the Eastern US/CA Area while using Category B or Category A DAS. Vessels are allowed to fish in a small part of CAII. The SAP is open from August 1 through December 31. Vessels report catch daily through VMS. Catches of stocks of concern are limited by TACs.
 - CAI Hook Gear Haddock SAP: Longline vessels using specific bait (to reduce cod catches) are allowed to target haddock inside part of CAI. The total catch of haddock is limited by a TAC, as are the catches of stocks of concern. The area is open from October 1 through December 31. The open season is divided between sector and non-sector vessels. Vessels report catch daily through VMS.
 - CAII Yellowtail Flounder SAP: Vessels are allowed to target yellowtail flounder inside the southern part of CAII from July 1 through December 31. Vessels using trawl gear must use a haddock separator trawl or a flounder net. There is a limit on the maximum number of trips allowed each year, on the number of trips a vessel can make each month, and on the amount of yellowtail flounder that can be caught each trip. There are limits on the catches of stocks of concern and daily reporting via VMS. This SAP is only open when the TAC for GB yellowtail flounder can support access to this area. This SAP has only been allowed once (in 2004) because of the status of yellowtail flounder.

- SNE/MA Winter Flounder SAP: In order to reduce discards of winter flounder in the fluke fishery, this SAP allows retention of up to 200 pounds of winter flounder while fishing without using a DAS. The vessel must be fishing west of 72° 30' W. longitude, must use mesh allowed under the summer flounder regulations, and the amount of winter flounder landed cannot exceed the amount of summer flounder landed.
- Category B (regular) DAS Program: This program allows vessels to use Category B (regular) DAS to target healthy stocks. In general, there are fewer restrictions on this program than on SAPs. The number of DAS that can be used each quarter is limited. Catches of stocks of concern are limited by hard TACs. Trawl vessels must use a separator trawl or other approved gear. Daily catch reporting is required.
- U.S./Canada Resource Sharing Understanding: The stock areas for GB yellowtail flounder, GB cod, and GB haddock straddle the international boundary between the U.S. and Canada. In order to develop a consistent management strategy for these stocks, Amendment 13 incorporated a process for the two countries to agree on annual harvest levels. The agreement applies to the entire GB yellowtail flounder stock area and part of the stock areas for cod and haddock. In order to implement the understanding, the U.S. adopted a suite of management measures that apply to the relevant management units. These include hard TACs on the catches, gear restrictions, and additional reporting requirements. The Regional Administrator has broad authority to make in-season adjustments as necessary to achieve the TACs.

Measures to Control Capacity

Amendment 13 adopted two measures intended to control capacity in the multispecies fishery. These two measures are embedded in the management approach, and could be considered elements of the measures to achieve rebuilding.

- DAS allocations: Amendment 13 categorized the DAS allocated to each vessel based on fishing history during fishing years 1996 through 2001. The DAS allocated were also assigned to one of three categories. Category A DAS can be used to fish for any groundfish stock under the requirements of the FMP. Category B DAS can only be used to target healthy stocks. One sub-category (called Category B (reserve) DAS) can only be used in approved SAPs. Category C DAS cannot be used at present but remain assigned to the permit. This categorization of DAS is a critical element of the existing management program.
- DAS Transfer Program: Vessel operators are allowed to make permanent transfers of DAS from one permit to another, subject to a number of restrictions. The DAS that are transferred are reduced by twenty percent (a “conservation tax” intended to reduce the number of DAS available and to account for the possibility DAS will move to more efficient vessels). Transfers can only be made between vessels of similar size.

Measure to Meet Rebuilding Mortality Targets

The multispecies fishery

A primary management tool in the multispecies fishery is the control on the amount of days (days-at-sea, or DAS) that fishing vessels can fish. Amendment 13 changed how the DAS assigned to a limited access multispecies permit can be used. For each limited access permit, Amendment 13 evaluated the fishing history of the permit during the period FY 1996 through FY 2001. For the years when the permitted vessel landed at least 5,000 pounds of regulated groundfish, the number of DAS used during a qualifying fishing year (not to exceed the permit's FY 2001 allocation) was defined as the vessel's “effective effort.” Sixty percent of the permit's

effective effort was defined as Category A DAS, while the other forty percent was defined as Category B DAS (evenly divided between Category B (regular) and Category B (reserve) DAS). The difference between the permit's effective effort and its 2001 allocation were then defined as Category C DAS. Amendment 13 specified that unless certain conditions are met, the ratio of Category A to Category B DAS for each permit would change to 45/55 on May 1, 2008.

Amendment 13 established limitations on the different DAS categories. Category A DAS can be used to target any groundfish stock, subject to the limitations of Amendment 13 (including landing limits, gear requirements, closed areas, reporting requirements, etc.). Category B DAS can only be used in specific programs that are designed to target healthy groundfish stocks. Category C DAS cannot be used at this time, but may be made available at some time in the future. The number of DAS that can be used (whether Category A or Category B) can affect the rebuilding programs. The management measures in Amendment 13 were designed to achieve the target fishing mortality rates, but were based on Category A DAS use only. Programs that allow for the use of Category B DAS must be carefully designed so that they do not unacceptably increase the risk that rebuilding fishing mortality targets will not be met (mortality will be too high). A primary management measure used to prevent the use of Category B DAS from unacceptably raising mortality rates are incidental catch TACs first adopted by FW 40A, and modified in FW 40B, FW 41, and FW 42. These incidental catch TACs would not be modified if the No Action alternative is adopted.

Amendment 13 adopted two programs that facilitate the exchange of DAS between limited access permit holders. The DAS leasing program allows the temporary transfer of DAS from one permit to another. The vessels exchanging DAS must have similar vessel lengths and horsepower. The DAS transfer program allows for the permanent transfer of DAS between two vessels. For the transfer program, the two vessels involved must have similar length, horsepower, gross, and net tonnage. In addition, the vessel selling DAS must exit all state and federal fisheries and any non-groundfish permits expire. Under the No Action alternative, there would not be any changes to either of these programs.

Amendment 13 provided a mechanism for a group of fishermen to operate as a sector, and established the GB Cod Hook Sector. FW 42 implemented an additional sector, the Fixed Gear Sector. Under the No Action alternative, only these two sectors would be allowed to operate, and there wouldn't be any changes to existing sector policies.

Existing regulations provide opportunities to target healthy groundfish stocks by establishing three SAPs and one program to use Category B (regular) DAS. GB haddock can be targeted using longline gear through the CAI Hook Gear Haddock SAP, and by vessels using trawl gear in the Eastern U.S./Canada Haddock SAP Pilot Program (other gear could be approved for this SAP as well). Each of these programs controls the catch of cod and haddock through a hard TAC supported by additional reporting and gear requirements. The CAII Yellowtail Flounder SAP provides an opportunity to target GB yellowtail flounder in CAII when that stock is healthy. The Category B (regular) DAS Pilot Program was adopted for one year to allow vessels to target healthy stocks while using Category B (regular) DAS. For all of these programs, the catch of stocks of concern is limited by hard TACs (referred to as "incidental catch TACs") that are monitored through additional reporting requirements. Under the No Action alternative, the Eastern U.S./CA Haddock SAP Pilot Program would end in December, 2008, 2006. Incidental catch TACs would not be specified for FY 2010 and beyond, since they have only been specified through FY 2009.

4.2 Updates to Status Determination Criteria and Formal Rebuilding Programs

4.2.1 Revised status determination criteria

The M-S Act requires that every fishery management plan specify “objective and measurable 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 preliminary information is included in this draft amendment.

4.2.1.1 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 SSB_{MSY} 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 Table 1. The numerical estimates of these parameters that were adopted by Amendment 13 are listed in Table 2.

Alternatives Under Consideration
 Updates to Status Determination Criteria and Formal Rebuilding Programs

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	0.98 C/l	0.735 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

4.2.1.2 Option 2 – Revised Status Determination Criteria

In 2008, the Northeast Fisheries Science Center (NEFSC) conducted assessments of all nineteen regulated groundfish stocks. The results of those assessments included revisions to status determination criteria. This option adopts the revised status determination criteria. This option does not revise the types of changes that require Council action, as described in Amendment 13. It also does not change the definition of optimum yield.

This option adopts the status determination criteria determined by GARM III (NEFSC 2008). The GARM III reports include a full description of the data and models used to determine the criteria. The parameters are described in Table 3. Numerical estimates for these parameters are shown in Table 4. For the stocks that use an index-based method to evaluate stock status (either Aim or other index-methods) the criteria is based on a moving average calculated as described by the latest applicable benchmark assessment. For the four stocks shown, this is a three-year, centered average as described in the first Reference Point Working Group (NEFSC 2002) unless changed in a later assessment. In all cases, the minimum biomass threshold – that is, the point that determines when a stock is overfished – is one-half the B_{MSY} shown in Table 4.

Note that in this option a fishing mortality target is not specified, a change from Amendment 9 (NEFMC 2008). Section 4.3.1.2 describes the process for setting Annual Catch Limits. In effect, the fishing mortality target is the mortality that results from the defined ACL.

Table 3 – Option 2 status determination criteria

Stock	Biomass Target	Minimum Biomass Threshold	Maximum Fishing Mortality Threshold
GOM Cod	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
GB Cod	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
GB Haddock	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
GOM Haddock	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
GB Yellowtail Flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
Cape Cod/GOM Yellowtail Flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
SNE/MA Yellowtail flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
American Plaice	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
Witch Flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
Gulf of Maine Winter Flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
GB Winter Flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
SNE/MA Winter Flounder	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
Acadian Redfish	SSBMSY: SSB/R (50%MSP)	½ Btarget	F50%MSP
White Hake	SSBMSY: SSB/R (40%MSP)	½ Btarget	F40%MSP
Pollock	External	½ Btarget	Rel F at replacement
Windowpane Flounder (North)	External	½ Btarget	Rel F at replacement
Windowpane Flounder (South)	External	½ Btarget	Rel F at replacement
Ocean Pout	External	½ Btarget	Rel F at replacement
Atlantic Halibut	Internal	½ Btarget	F _{0.1}

Table 4 - Option 2 numerical estimates of revised status determination criteria from GARM III assessment meetings

Species	Stock	Model	Bmsy or proxy (mt)	Fmsy or proxy	MSY (mt)
Cod	GB	VPA	148,084	0.25	31,159
Cod	GOM	VPA	58,248	0.24	10,014
Haddock	GB	VPA	158,873	0.35	32,746
Haddock	GOM	VPA	5,900	0.43	1,360
Yellowtail Flounder	GB	VPA	43,200	0.25	9,400
Yellowtail Flounder	SNE/MA	VPA	27,400	0.25	6,100
Yellowtail Flounder	CC/GOM	VPA	7,790	0.24	1,720
American Plaice	GB/GOM	VPA	21,940	0.19	4,011
Witch Flounder		VPA	11,447	0.20	2,352
Winter Flounder	GB	VPA	16,000	0.26	3,500
Winter Flounder	GOM	VPA	3,792	0.28	917
Winter Flounder	SNE/MA	VPA	38,761	0.25	9,742
Redfish		ASAP	271,000	0.04	10,139
White Hake	GB/GOM	SCAA	56,254	0.13	5,800
Pollock	GB/GOM	AIM	2.00 kg/tow	5.66 c/i	11,320
Windowpane Flounder					
Windowpane Flounder	GOM/GB	AIM	1.40 kg/tow	0.50 c/i	700
Windowpane Flounder	SNE/MA	AIM	0.34 kg/tow	1.47 c/i	500
Ocean Pout		Index Method	4.94 kg/tow	0.76 c/i	3,754
Atlantic Halibut		Replacement Yield	49,000	0.07	3,500

4.2.2 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 have reached the biomass target by the 2008 assessments, the completion of the formal rebuilding program will be noted in this section.

According to the GARM III assessments, the following stocks achieved their B_{MSY} level (or its proxy) prior to submission of this document, and this action acknowledges completion of the rebuilding programs in the year shown:

- GB haddock (2006)
- GOM haddock (2000)
- Acadian redfish (2008)

4.2.2.1 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	0.09	0.09	0.09	0.09	0.09	0.09	0.09	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		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									

4.2.2.2 Option 2 – Revised rebuilding mortality targets

After the assessments of all regulated groundfish stocks are completed in August 2008, an evaluation was made as to whether adjustments to the rebuilding fishing mortality targets are necessary. Revised rebuilding fishing mortality targets were 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 mortality targets are shown in Table 6.

Amendment 13 adopted a formal rebuilding program for Atlantic halibut. At the time, while the stock was known to be overfished, assessment information was insufficient to calculate a fishing mortality rate for rebuilding. In 2008 an analytic assessment was completed at GARM III. This enables the calculation of a preliminary rebuilding period and fishing mortality rate. Since the stock cannot be rebuilt within ten years in the absence of fishing mortality, the ending date of the rebuilding period is 2055 and a target fishing mortality rate is shown below. This initial attempt to define the rebuilding period may be modified as the assessment is improved in the future.

In the case of GOM cod and American plaice, the rebuilding fishing mortality exceeds F_{MSY} . Since fishing at a higher level than F_{MSY} constitutes overfishing, the mortality target shown in Table 6 is F_{MSY} .

In addition to these revisions to existing rebuilding programs, based on the results of GARM III, additional formal rebuilding programs will be required for:

- Witch flounder
- Georges Bank winter flounder
- Northern windowpane flounder

Witch Flounder

The Council is considering the following rebuilding program for witch flounder:

Committee, October 30 2008

Fishing mortality will target rebuilding of the stock with a 75 percent probability of success by 2017.

Georges Bank Winter Flounder

The Council is considering the following rebuilding program for GB winter flounder:

Fishing mortality will target rebuilding of the stock with a 75 percent probability of success by 2017.

Northern Windowpane Flounder

The Council is considering the following rebuilding program for Northern windowpane flounder:

{To be developed}

Pollock is approaching an overfished condition. The results of the 2008 fall trawl survey will determine if this stock is overfished. If that is the case, the Council plans to adopt a formal rebuilding program for the stock in this action.

The 2008 assessment of GOM winter flounder was not accepted. In the words of the review panel:

“Given the problems encountered, the Panel agreed that none of the models put forth gave a clear picture of the status of the resource. Further, the Panel noted that until these issues were resolved, the proposed analysis could not be used to provide management advice nor stock projections.

While the Panel was unable to determine the stock’s status relative to the BRPs, it agreed that the current trend in the population was very troubling. The Panel generally agreed that it is highly likely that biomass is below BMSY, and that there is a substantial probability that it is below ½ BMSY. The Panel noted that other stocks in the area of this mixed fishery were also at low levels.”

Given the conclusion of the panel, this stock is clearly in need of additional rebuilding but a formal rebuilding program cannot be estimated. The area for this stock is similar to that for GOM cod, CC/GOM yellowtail flounder, and parts of the witch flounder stock area. Measures designed to reduce mortality on those stocks are expected to reduce mortality on GOM winter flounder as well. While a specific rebuilding plan cannot be determined at this time, this stock will be closely monitored and a plan will be developed as more information becomes available.

Alternatives Under Consideration
 Updates to Status Determination Criteria and Formal Rebuilding Programs

Table 6 – Option 2 – revised rebuilding fishing mortality rates based on current stock status.

Boldfaced italics identify phased reduction strategies; other rebuilding programs use the adaptive strategy.

SPECIES	STOCK	Rebuilt Year / Probability of Success	Fishing mortality rates for adopted rebuilding programs in year:									
			2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<i>Cod</i>	<i>GB</i>	2026/50%	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>
		<i>(add ten years)</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>	<i>0.185</i>		
	GOM	2014/50%	0.237	0.237	0.237	0.237	0.237	0.237	0.237	0.237	0.237	0.237
<i>Haddock</i>	GB	2014/50%	<i>No formal rebuilding program required</i>									
	GOM	2014/50%	<i>No formal rebuilding program required</i>									
<i>Yellowtail Flounder</i>	GB	2014/75%	0.109	0.109	0.109	0.109	0.109					
	<i>SNE/MA</i>	2014/50%	<i>0.075</i>	<i>0.075</i>	<i>0.075</i>	<i>0.075</i>	<i>0.075</i>					
	<i>CC/GOM</i>	2023/50%	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>
		<i>(add ten years)</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>	<i>0.238</i>						
<i>American Plaice</i>		2014/50%	<i>0.190</i>	<i>0.190</i>	<i>0.190</i>	<i>0.190</i>	<i>0.190</i>					
<i>Witch Flounder</i>			TBD									
<i>Winter Flounder</i>	GB		TBD									
	GOM											
	SNE/MA	2014/50%	TBD									
<i>Redfish</i>		2051/50%	<i>No formal rebuilding program required</i>									
<i>White Hake</i>		2014/50%	<i>0.084</i>	<i>0.084</i>	<i>0.084</i>	<i>0.084</i>	<i>0.084</i>					
<i>Pollock</i>												
<i>Windowpane Flounder</i>	North											
	South	2014/50%	<i>Unable to calculate rebuilding mortality</i>									
<i>Ocean Pout</i>		2014/50%	<i>Unable to calculate rebuilding mortality</i>									
<i>Atlantic Halibut</i>		2056/50%	0.044 through 2055									

4.3 Fishery Program Administration

4.3.1 Annual Catch Limits

While this action will specify the process for Annual Catch Limits (ACLs), they will be implemented as required by the M-S Act (FY 2010 or 2011 based on whether a stock is subject to overfishing or not).

4.3.1.1 Option 1 – No Action

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

4.3.1.2 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.

4.3.1.2.1 Definitions

The following definitions define terms used in this section. Table 7 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: Acceptable 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 $F_{\text{control rule}}$ 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 7 – 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 $F_{\text{control rule}}$ or F_{rebuild}	Biological uncertainty over current stock size, estimate of F , or other parameters (growth, recruitment, etc.)
ACL	$\leq \text{ABC}$	Uncertainty from other sources, evaluation of risk to achieving management goals if ABC is exceeded

4.3.1.2.2 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. An exception to this process will be made for the U.S./CA Resource Sharing Understanding, which determines TACs on an annual basis.

The PDT will develop recommendations for Allowable Biological Catch (ABC) for each multispecies stock based on the definitions in Table 7. 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 $F_{\text{control rule}}$ (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. In order to evaluate these uncertainties, the PDT will develop an informal document that describes the issues that will be considered. This information will be provided for the consideration of the SSC and the Council and is not intended to be binding on either body. 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.

The PDT will also develop a recommendation to the Council for setting ACLs. Similar to the setting of ACLs, the PDT will consider management uncertainty when developing this recommendation. In order to evaluate these uncertainties, the PDT will develop an informal document that describes the issues that will be considered. The Council may ask the SSC to comment on the PDT recommendations. Should the SSC recommend an ABC that differs from that originally recommended by the PDT, the PDT will revise its ACL recommendations if necessary to be consistent. The PDT's ACL recommendations will include:

- 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.

The PDT recommendations for setting ABCs and ACLs will be provided to the SSC prior to the September Council meeting. Guided by terms of reference prepared by the Council, 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. Assessments of these stocks or management units that are prepared by the Trans-boundary Resource Assessment Committee (TRAC), a peer-review process as envisioned by the M-S Act. For these stocks, the Trans-boundary Management Guidance Committee (TMGC) develops recommended catch levels on an annual basis. TACs are recommended for GB yellowtail flounder, eastern GB cod, and Eastern GB haddock. These are essentially ACLs as they take into account various types of uncertainty and risk but they cannot be characterized as ABCs. The new M-S Act requirements have the most implications for GB yellowtail flounder since this catch limit applies to the entire stock, whereas the TMGC only makes recommendations for part of the GB cod and haddock stocks. As a result the recommendations will be reviewed by the SSC to verify that they are consistent with the SSC recommendations for ABCs.

It is not clear if this step is necessary for all TMGC recommendations, or just for GB yellowtail flounder.

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 prior to December 15 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).

4.3.1.2.3 ACL Sub-Components

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. Before ACLs are determined, an adjustment will be made for the catch that is expected to be harvested within state waters by vessels that are not subject to the federal FMP.

There are two broad divisions that will be considered. The overall available catch is considered an ACL. It may be divided into sub-ACLs for specific fisheries or other sub-components. In the case of the sub-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 sub-ACLs and are not subject to the requirement that AMs be specified. In some instances – for example, state waters fisheries – these sub-components are outside the Council’s jurisdiction but must still be considered when developing management plans. 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 prevent the overall ACL from being exceeded.

The proposed sub-components that will be adopted at the implementation of this amendment are shown in Table 14. In the case of trans-boundary stocks, this table is based on the catch available to U.S. fishermen. Where possible, the percentage of the sub-component that will be allocated to 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).

Note that as written, this section does NOT revise the current measure that limits scallop incidental catch of yellowtail flounder in CAI, CAII, and the NLCA to ten percent of the TAC/ACL.

Table 8 –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 and other values for those stocks will be adjusted accordingly.

Stock	ACL					
	ACLs/Controlled by AM			Other Sub-Components		
	Commercial Groundfish	Rec Gfish	Herring MWT	Other Non-Specified	Scallop	State Waters
GB Cod	95% - X	X		5.0%		
GB Haddock	94.8%		0.2%	5.0%		
GB YTF	95.0% - X			5.0%	X	
SNE/MA YTF	95.0% - X			5.0%	X	
CC/GOM YTF	95.0% - X			5.0%	X	
GOM Cod	63.0% - X	X		5.0%		10.0%
Witch	95.0%			5.0%		
Plaice	95.0%			5.0%		
GOM WFL	77.0% - X	X		5.0%		
SNE/MA WFL	71.0% - X	X		5.0%		
GB WFL	95.0%			5.0%		
White Hake	95.0%			5.0%		
Pollock	95% - X	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	94.8% - X	X	0.2%	5.0%		
Halibut	95.0%			5.0%		

4.3.2 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). All of the sector policy changes proposed in this section will be implemented at the beginning of fishing year 2010 (May 1, 2010).

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;
- 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.

4.3.2.1 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.

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).

Option 1: (No Action) Confirmation of permit history (CPH) permits must be activated in order to be associated with/join a sector (this is consistent with the Groundfish DAS Leasing Program).

*Reflects October,
2008 Council
decision.*

Option 2: Confirmation of permit history (CPH) permits do not need to be activated in order to be associated with/join a sector (this is consistent with the Groundfish DAS Leasing Program).

Rationale: Under regulations implementing Amendment 13, permits in the CPH category cannot join a sector. The rationale for this provision is unclear, but appears to relate to the idea that CPH permits did not contribute to fishing mortality during the period prior to Amendment 13 and thus should not contribute to sectors (or lease DAS) after the amendment's adoption. CPH is not a permanent category, however, and permits can be removed at any time. Vessel replacement regulations allow the permits to be placed on any vessel, including skiffs, at any time. This prohibition thus means only that there are administrative barriers to having a CPH permit join a sector (or lease DAS). Option 2 acknowledges the reality of this situation and removes the administrative barriers to having a CPH permit join a sector.

4.3.2.2 Preparation of a Sector Formation Proposal and Operations Plan

4.3.2.2.1 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.

4.3.2.2.2 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.
- Identify potential redirection of effort as a result of sector operations, and if necessary propose limitations to eliminate adverse effects of any redirection of effort. (*Part of Council sector policy statement*).

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. 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-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.

Rationale: Option 1 merely restates the sector submission requirements that were included in Amendment 13 as written in the regulations. Option 2 expands on the submission requirements to require that sectors provide the Council additional details on reporting and monitoring and participation in other fisheries so that the Council can better evaluate the impacts of the sector.

4.3.2.3 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.

4.3.2.4 Allocation of Resources

4.3.2.4.1 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).

4.3.2.4.2 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.

Rationale: If a sector exceeds its ACE in any given year, its allocation in the subsequent year is reduced to account for the overage. This section specifies how exit of vessels from the sector affects the overage provision.

4.3.2.4.3 U.S./Canada Area

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.

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.

4.3.2.4.4 Sector Baseline Calculations/Potential Sector Contributions

In order to allocate a share of the available catch to a sector, the potential sector contribution (PSC) (commonly referred to as permit history) for each permit must be calculated. The present method for calculating PSC/history was developed in Amendment 13 and is described in the No Action Alternative. There are five alternatives under consideration to change the way history is calculated for each permit. Unless changed by a future action, once a permit's PSC is calculated in accordance with the selected PSC option, that PSC is permanent. *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.

For all options considered, when calculating the proportion of a permit's PSC that is based on landings, landed weight will be converted to live weight so that the PSC that results is consistent with the way TACs are allocated to sectors (sector allocations are based on live weight). This is also necessary so that landings of different products (dressed or whole) are evaluated on a consistent basis.

Calculating landings history for handgear A permits is complicated by the fact that this permit category was not established until FY 2004. Prior to that fishing year, all handgear permits were open access permits. When a vessel with an open access permit is replaced or sold, the permit expires and a new permit is issued. There is no provision for tracking the landings history. It is possible that for some handgear A permit holders NMFS may not be able to track landings history prior to FY 2004. In those instances where the vessel was not sold or transferred, it may prove possible to track landings history through the entire period.

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.

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. This includes limited access permits (including Handgear A permits) and limited access permits that are in the confirmation of permit history category. 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.

Rationale: This option is based on the concept that vessel landing history reflects current participation in the fishery. An eleven year period is used to mitigate regulatory changes and their impacts on individual vessels. A date is specified for calculating history (the end of FY 2007) so that the calculation is only done once and the resulting shares become fixed. This date was selected as it is the last day that a vessel can renew its permit for FY 2007.

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 DAS used in this calculation are the baseline Category A DAS assigned to a permit under FW 42, without including carry-over DAS, bonus for using large-mesh, penalties, etc. For purposes of this calculation, the DAS allocated under FW 42 are considered to be the permit's Amendment 13 baseline Category A DAS as adjusted for FY 2006 by Framework 42.

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.

Rationale: This option incorporates characteristics of the permit (vessel) that are believed to contribute to fishing power and thus the value of the permit. By incorporating factors other than landings history alone to determine the potential sector contribution for the permit, this option takes into account that some permits may not have targeted groundfish during the time period but may still have the ability to do so. This part of the formula only applies to stocks caught by the permit. Note that the inclusion of other factors only contributes to the calculation for those permits that have an allocation of Category A DAS.

This formula effectively halves the landings history for any permit that does not have Category A DAS allocated.

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. The DAS used in this calculation are the baseline Category A DAS assigned to a permit under FW 42, without including carry-over DAS, bonus for using large-mesh, penalties, etc. For purposes of this calculation, the DAS allocated under FW 42 are considered to be the permit's Amendment 13 baseline Category A DAS as adjusted for FY 2006 by Framework 42.

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.

Rationale: As with Option 2, this option incorporates permit characteristics into the potential sector contribution calculation. Unlike Option 2, this component applies to all stocks, not just those caught by the permit during the time period. This change means that every permit will be assigned a potential sector contribution for every stock. This recognizes that under the DAS system any permit has the potential to fish in any area and catch any stock.

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 DAS used in this calculation are the baseline Category A DAS assigned to a permit under FW 42, without including carry-over DAS, bonus for using large-mesh, penalties, etc. For purposes of this calculation, the DAS allocated under FW 42 are considered to be the permit's Amendment 13 baseline Category A DAS as adjusted by Framework 42. For purposes of this calculation, the DAS allocated under FW 42 are considered to be the permit's Amendment 13 baseline Category A DAS as adjusted for FY 2006 by Framework 42.

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

Rationale: As with Option 2, this option incorporates permit characteristics into the potential sector contribution calculation. Unlike Option 2 or Option 3, only the Category A DAS allocated to the permit are considered. This option recognizes that length and horsepower may not have a strong impact on catches by vessels using fixed gear. Similar to Option 3, the capacity component in this option applies to

all stocks, not just those caught by the permit during the time period. This change means that every permit will be assigned a potential sector contribution for every stock. This recognizes that under the DAS system any permit has the potential to fish in any area and catch any stock.

Option 5 – Existing Sector Allocations

For the GB Cod Hook Gear Sectors and the Fixed Gear Sector, the allocation of GB cod will be done as adopted by Amendment 13. 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 permits that committed to the sector as of March 1, 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.

Rationale: This option recognizes that vessels that are members of the two existing sectors made investment decisions based on the qualification criteria adopted by Amendment 13. To change the allocation method might disadvantage those vessels. This provision only applies to members of the two sectors in FY 2007. A fixed pool of vessels has to be identified for this provision or else each time a vessel enters or exits one of these sectors, the potential sector contribution for all permits must be recalculated.

4.3.2.5 Transfer of Annual Catch Entitlements (ACE)

4.3.2.5.1 Option 1 - No Action

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

4.3.2.5.2 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.

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 ACE was inadvertently exceeded. This provision is not intended to allow sectors to exceed their ACE.

4.3.2.6 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 4.3.2.2 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. For example, groundfish caught while targeting skates or monkfish applies to the sector's groundfish TAC. If the sector does not have ACE

This paragraph needs to be reviewed by the Council; it reflects a Committee recommendation.

available, then its vessels cannot participate in these fisheries. There are two exceptions. Since an ACL sub-component for yellowtail flounder is determined for scallop vessels, yellowtail flounder caught by a sector vessel fishing in the General Category scallop fishery, or by a vessel with a combination groundfish permit that is fishing in the scallop dredge fishery, applies to the ACL sub-component and not the sector's ACE.

Sector vessels are prohibited from landing ocean pout and windowpane flounder. Catches of ocean pout and windowpane flounder cannot be landed, which will discourage sectors from targeting these stocks.

Should this action adopt additional mortality controls, such as additional seasonal and year round closed areas, gear requirements and differential DAS counting, sectors will not be required to adhere to these additional measures since mortality by sector vessels is controlled by a hard TAC. Note that this applies only to *additional* requirements, and does not automatically exempt the sectors from mortality controls adopted in previous actions that are not listed in 4.3.2.7. For example, sectors will be required to adhere to the GOM rolling closures (unless a specific exemption is granted when the sector's operations plan is approved).

4.3.2.7 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.

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 (note that this does not include the Gulf of Maine “rolling” closures; at present the only seasonal closure is in May, on Georges Bank); 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 vessel with a monkfish Category C or D permit 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 while that is required by the monkfish FMP. 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.

Rationale: This section clarifies the exemptions that apply to all sectors, minimizing the administrative burden for sectors since they do not have to request these exemptions, and for NMFS since the agency will not have to evaluate the universal exemptions.

4.3.2.8 Sector Participation in Special Management Programs

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.

4.3.2.8.1 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.

Rationale: Because this SAP allows access to only a small part of CAII, and sectors are expected to have a hard TAC on their catches of cod and haddock in the Eastern U.S./Canada area, there is little need to restrict sector participation in this SAP to specific gears.

4.3.2.8.2 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.

Rationale: Unlike the Eastern U.S./Canada Haddock SAP, the CAII yellowtail flounder SAP provides access to a large area in CAII. Non-sector vessels are limited in the number of trips they can take each month, in the gear that can be used, and the amount of the target species that can be landed each trip. If sector vessels are not subject to the same provisions, they would have an unfair advantage in this SAP.

4.3.2.8.3 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 0 for possible SAP changes).

4.3.2.9 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.

Rationale: This measure clarifies the information that should be reported in annual reports so that sectors can be evaluated.

4.3.2.10 Monitoring and Enforcement

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.

The next two sections describe the requirements necessary for monitoring both landings and discards. These sections add additional requirements to those currently in place (such as weighmasters/dockside monitors for all landings, improved discard monitoring systems, etc.). The range of alternative considered by the Council includes the current system (No Action) as well as the system proposed below.

In conjunction with NMFS, the Council will develop the standards for reporting and monitoring systems that must be met by sectors. Once these standards are developed, they will be reviewed and implemented by NMFS consistent with the APA. In the absence of published standards, the process for using an assumed discard rate described above will be used to account for discards in the catch. The Council anticipates developing the standards and NMFS approval and implementation prior to FY 2010.

4.3.2.10.1 Enforcement

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.

4.3.2.10.2 Sector Monitoring Requirements

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.

The next paragraphs describe the requirements necessary for monitoring both landings and discards. These sections add additional requirements to those currently in place (such as weighmasters/dockside monitors for all landings, improved discard monitoring systems, etc.). The range of alternative considered by the Council includes the current system (No Action) as well as the system proposed below.

Monitoring of Landings and Discards

Sectors are responsible for developing mechanisms in their operations plans that satisfy monitoring requirements for catch and landings. Certain requirements will begin in FY 2010, and others will be phased in over the ensuing three-year period.

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 comply with other rules regarding broad reporting areas as specified in this Amendment, including demonstrating the ability to accurately attribute landings to a specific statistical area.
- Sectors are required to report all landings and discards by sector vessels to NMFS on a weekly basis.
- Sectors are required to develop and implement an independent third-party weighmaster/dockside monitoring system that is satisfactory to NMFS for monitoring landings and utilization of ACE. The details of the weighmaster/dockside monitoring 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.

The industry will be responsible for the development of and costs associated with a program, including an observer program, that will satisfy the monitoring rules. Such a program should include the use of an independent private contractor(s) to coordinate roving and dockside monitor deployment, summarize trips validated by dealer reports, oversee the use of electronic monitoring equipment, and review data associated with the program. Either the contractor or sector manager should maintain a database of VTR, dealer, observer, and electronic monitoring reports. In addition, that entity should determine all species landings by stock and statistical areas, apply discard estimates to landings, deduct catch from sector TACs, and submit weekly reports detailing status, catch, and discards, including compliance concerns to the sector and NMFS. Any sector monitoring program will not replace the current VTR and dealer reporting requirements of the existing law nor any additional reporting requirements proposed in this Amendment.

In FY 2010 and FY 2011, sectors will be responsible for meeting all existing reporting requirements, including any requirements associated with NMFS Observer Program coverage. A dockside monitoring program will also be implemented in order to verify landings of a vessel at the time it is weighed by a

dealer, to certify the landing weights are accurate as reported on the dealer report. Pre-sailing and pre-landing hauls will be required in order to coordinate the deployment of dockside or roving monitors, and reports of those hauls will be made to the sector manager/monitoring contractor (and other entities if directed by NMFS). A dockside monitor will meet vessels upon landing and validate the dealer report. For offloads to trucks, a roving monitor may meet the vessel and confirm the landings.

In FY 2012 and beyond, all of the requirements previously in place will remain. In addition, an industry-funded observer program will be implemented along with the use of electronic at-sea monitoring. The primary goal of observers for sector monitoring is to verify area fished, catch, and discards by species, by gear type. This data will be reported to the sector managers and to the NMFS. Electronic monitoring may be used in place of actual observers if the technology is deemed sufficient for a specific trip based on gear type and area fished. When a vessel issues a pre-sailing haul, the monitoring contractor will decide whether that vessel is required to carry an observer or will be subject to electronic monitoring. If either is assigned, a vessel will not be allowed to leave port without the appropriate equipment. The industry-funded observer program will not replace the NMFS Observer Program. In the event a NMFS observer and a third party observer are assigned to the same trip, the NMFS observer will take precedence and the third party observer will stand down. Observers will be required to submit reports on catch, discard, and other data elements to NMFS and/or the sector manager and/or the monitoring contractor.

Dockside monitoring and observer coverage levels will be approved by NMFS for each sector. Coverage must be sufficient to ensure adequate monitoring to meet all the necessary requirements. For dockside monitoring:

Option 1: Less than 100% dockside monitoring and dealer reports will be required.

Option 2: 100% dockside monitoring will be required.

For observer coverage, minimum coverage levels must meet the coefficient of variation in the Standardized Bycatch Reporting Methodology.

Option 1: Less than 100% electronic monitoring and at-sea observation will be required.

Option 2: 100% electronic monitoring and less than 100% at-sea observation will be required.

Assumed discard rates will be applied to sectors unless a sector, through its own independent monitoring system, provides accurate information for use of actual discard rates. 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. The calculated discard rate will be used to add a discard estimate to each landing by sector vessels so that total catch can be determined for each trip. 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, by FY 2012. 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.
- Discard rates used before sectors develop adequate monitoring systems will be determined in one of two ways:

Option 1: The discard rate used will be based on the most recent assessment for the stock, using a gear specific estimate if available. The term “gear” means trawl, longline, or gillnet, or other gear type and does not refer to specific gear configurations, such as a separator trawl, Ruhle trawl, etc. Discard estimates are not included in the assessments for specific gear configurations. If a gear specific rate is not available, the overall observed discard rate will be used.

Discards will be estimated only for those combinations of species and gear where discards are expected. For details of these combinations, see section 4.3.5.3. While that section applies to non-sector vessels, the same determinations will be used for sector vessels.

Option 2: A sector-specific discard rate would be calculated based on observer data from the previous year. If possible this will be calculated for each gear used in the sector. If this cannot be done, an overall rate will be used.

Other requirements of sector monitoring plans may be implemented as directed by the Regional Administrator. The exact details of sector monitoring plans will be included in the sector’s operations plan, and NMFS will approve the monitoring plan as part of the review of the operations plan.

Rationale: The only fishing mortality control for sectors is the hard TAC that, if caught, results in the sector vessels not being allowed to fish. Effective management of sectors requires that catch be accurately known. This is important not only for managers but also so that each sector is confident that all sectors are being held to the same standards. The provisions in this section are designed to ensure that landings are accurately monitored. The weighmaster/dockside monitoring system provides an independent verification of landed weights. A portion of catch could be comprised of discards. A two-step approach is being taken to monitor discards. First, initially an estimated discard rate will be developed that will be used to inflate sector landings to total catch. This approach is required because there is only limited experience with what discard rates will be for vessels operating in sectors. Sectors are next required to develop an adequate at-sea monitoring program so that each sector’s discards can be determined. This implementation is phased in so that sectors have time to develop these systems, locate qualified vendors, and have their programs approved by NMFS.

4.3.3 Allocation of Groundfish to the Commercial and Recreational Groundfish Fisheries

4.3.3.1 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.

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

An allocation will be made of certain regulated groundfish stocks to the commercial and recreational components of the fishery. For this action, an allocation will be determined after accounting for state waters catches taken outside of the FMP. An allocation will not be made in the case of stocks that are not fully harvesting the ACL. An allocation will also not be made if the recreational harvest, after accounting for state waters catches outside the management plan, is less than five percent of the removals.

In those cases that meet the requirements to establish an allocation, a defined time period will be used to calculate the allocation. 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. The time periods that are being considered are shown in Table 9. It is not yet clear if all of these stocks will meet the requirement for an allocation. This table also lists an estimate of the allocations that will result – this estimate has not yet been adjusted for state waters catches. The expectation is that an allocation will not be made for either winter flounder stock once this calculation is completed, as almost all the winter flounder caught by recreational fishermen is harvested within state waters.

Table 9 – Proposed time periods for calculating the recreational and commercial share of the groundfish ACL and preliminary estimate of recreational allocation that results. Note: not yet adjusted for state waters catches not subject to the management plan.

Stock	Years	Preliminary Estimate
GOM Cod (1)	1996 - 2006	25.1%
GOM Cod (2)	2001 - 2006	33.7%
GB Cod (1)	1996 - 2006	6.9%
GB Cod (2)	None	No Allocation Between Components
GOM Haddock (1)	1996 - 2006	17.6%
GOM Haddock (2)	2001 - 2006	27.5%
Pollock (1)	1996 - 2006	6.2%
Pollock (2)	2001 - 2006	6.7%
GOM Winter Flounder (1)	1982 - 2006	17.9%
GOM Winter Flounder (2)	None	50%
SNE/MA Winter Flounder	1982-2006	21.0%

Rationale: By allocating certain groundfish stocks to the commercial and recreational components of the fishery, the design of management measures can be tailored to the components that are responsible should mortality targets be exceeded. Different time periods are used for different stocks. A longer period is used for winter flounder stocks in recognition that recent recreational catches are low due to depressed stock conditions and recreational catches were much higher in the past than in recent years.

4.3.4 Changes to the DAS Transfer and DAS Leasing Programs

4.3.4.1 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.

4.3.4.2 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

4.3.4.3 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.

4.3.4.4 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.

4.3.4.5 Option 3 – Eligibility of Permits in the Confirmation of Permit History (CPH) Category to Participate in the DAS Leasing Program

Confirmation of permit history (CPH) permits do not need to be activated in order to be associated with/join a sector (this is consistent with the Groundfish DAS Leasing Program). In addition, these permits do not need to be activated prior to participation in the DAS transfer Program.

The Council motion adopting this option was silent on DAS transfers, but it seems consistent with that motion to not require that a permit be activated prior to a transfer.

Rationale: Under regulations implementing Amendment 13, permits in the CPH category cannot lease DAS. The rationale for this provision is unclear, but appears to relate to the idea that CPH permits did not contribute to fishing mortality during the period prior to Amendment 13 and thus should not contribute via DAS leases after the amendment's adoption. CPH is not a permanent category, however, and permits can be activated at any time. Vessel replacement regulations allow the permits to be placed on any vessel, including skiffs, at any time. This prohibition thus means only that there are administrative barriers to having a CPH permit lease DAS. This option acknowledges the reality of this situation and removes the administrative barriers to having a CPH permit lease DAS. It also clarifies that a permit need not be activate prior to participating in a DAS transfer.

4.3.5 Reporting Requirements

This measure proposed to add additional requirements for limited access groundfish vessels to facilitate the monitoring of Annual Catch Limits (ACLs) and sectors.

4.3.5.1 Option 1 – No Action

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

4.3.5.2 Option 2 – Area-specific reporting requirements

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.

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 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. NMFS will specify the content of these reports, including the elements of catch that must be reported (kept and/or discarded catch).

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).

To the extent possible, NMFS will develop procedures for these new requirements that reduce unnecessary duplication.

Rationale: 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 also does not replace reporting requirements for special management programs or fishing in the U.S./Canada area.

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.

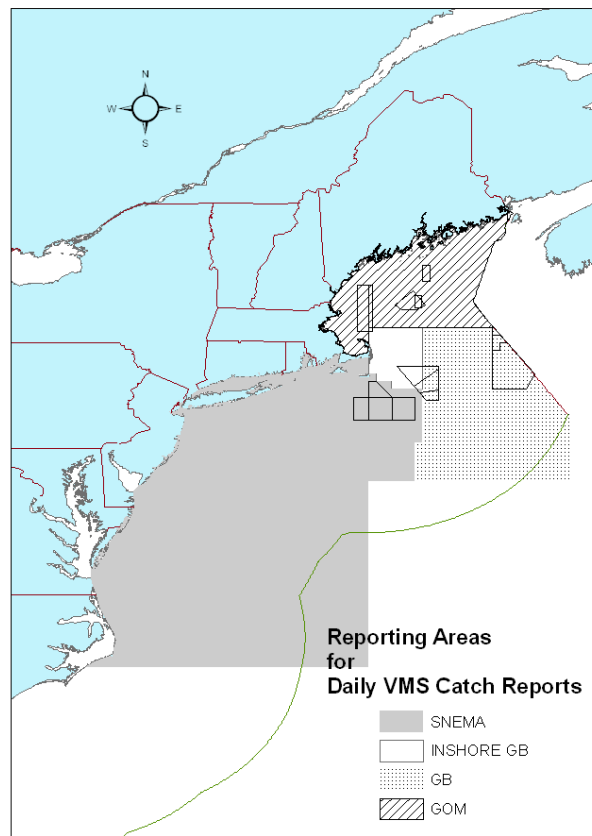
SNE/MA Area/Reporting Area 4

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



4.3.5.3 Option 3 – Accounting for discards for non-sector vessels

The requirement to monitor ACLs means that catch (landings and discards) must be estimated. Measures to monitor discards by sector vessels are described in section **Error! Reference source not found.** For non-sector vessels in the commercial fishery, a discard rate, by gear, will be determined and applied to the landings for each trip. NMFS may apply this discard estimate in one of two ways: either based on the total landings of a stock, by gear, or on a trip-by-trip basis. The former approach is easier to administer but does not attribute discards for each vessel on an individual basis. This is not as important as for sector vessels, but if this is not tracked it may complicate any future allocation scheme that is based on total catch.

The discard rate will be determined in one of two ways:

Option 2: A discard rate will be calculated based on observer data from the previous year on trips by vessels that are not in sectors.

Option 1: The discard rate used will be based on the most recent assessment for the stock, using a gear specific estimate if available. The term “gear” means trawl, longline, or gillnet, or other gear type and does not refer to specific gear configurations, such as a separator trawl, Ruhle trawl, etc. Discard estimates are not included in the assessments for specific gear configurations. If a gear specific rate is not available, the overall observed discard rate will be used.

Discards will be typically be applied only for those combinations of species and gear where discards are expected.

Table 10 – Discard estimates will be applied to the species/gear combinations shown

<u>Gear</u>	<u>Species</u>
<u>Trawl</u>	<u>All</u>
<u>Gillnet</u>	<u>Cod, haddock, pollock, white hake, yellowtail flounder, winter flounder</u>
<u>Longline</u>	<u>Cod, haddock, pollock, white hake</u>

Option 2: A discard rate would be calculated based on observer data from the previous year by vessels that are not in sectors. If possible this will be calculated for each gear used in the sector. If this cannot be done, an overall rate will be used.

Rationale: ACLs are based on total catch (landings and discards) for most stocks. Discards need to be accounted for in order to determine whether ACLs have been caught and AMs need to be implemented. This option uses a discard rate to inflate landings to provide an estimate of total catch that can be updated on a weekly basis (the frequency of submission for dealer reports). This provides a timely estimate of in-season catches that can be used to monitor ACLs. In-season monitoring estimates will be compared to catch estimates determined by the assessments to verify that this practice is not mis-estimating discards.

4.3.6 Special Management Programs

4.3.6.1 Incidental Catch TACs

Incidental catch TACs were first adopted in FW 40A in order to limit the catch of non-target stocks while vessels were using Category B DAS. As a result of groundfish assessments completed in August 2005 the incidental catch TACs were revised. TACs were added for GB yellowtail flounder and GB winter flounder. The TACs for GOM cod, CC/GOM yellowtail flounder, SNE/MA yellowtail flounder, and SNE/MA winter flounder were reduced from two percent of the total target TAC to one percent of the total target TAC.

This section has NOT been approved by the Committee, but appears necessary based on changes in stock status as a result of GARM III.

Because of changes in stock status, as well as the possible addition of additional SAP provisions, the specific stocks subject to incidental catch TACs and the allocations to SAPs are revised as provided below.

GB yellowtail flounder and GB cod are trans-boundary stocks, and management is coordinated with Canada. The U.S. and Canadian share of the TAC for these stocks is determined annually and cannot be predicted in advance. Values will be calculated in the future and announced through procedures consistent with the Administrative Procedures Act. Since the U.S. /CA TAC only applies to part of the GB cod stock, the incidental catch TAC for this stock is calculated as:

$$0.02 X (\text{Total GB cod target TAC (see Table 11) - CA GB cod TAC})$$

The incidental catch TACs in this program are calculated based on the commercial fishery ACL (see section 4.3.1) for the stock, and not based on the total TAC as in the past. This is to make the program consistent with the ACLs. Specific incidental catch TACs are not identified in this table for sector participation in SAPs, but are implied by the allocation process described in 4.3.2.8.

Table 11 – Proposed incidental catch TACs for major stocks of concern (mt). TACs are for the fishing year. TACs shown are metric tons, live weight. Note: GB cod and GB yellowtail flounder TAC is determined annually and cannot be estimated in advance. Values are dependent on ACLs, which have not yet been determined.

	Percentage of Total TAC	Incidental Catch TAC			
		2009	2010	2011	2012
GB cod	Two				
GOM cod	One				
GB Yellowtail	Two				
CC/GOM yellowtail	One				
SNE/MA Yellowtail	One				
Plaice	Five				
Witch Flounder	Five				
SNE/MA Winter Flounder	One				
GB Winter Flounder	Two				
White Hake	Two				
<u>Pollock</u>	<u>Two</u>				

Table 12 - Proposed allocation of incidental catch TACs for major stocks of concern to Category B DAS programs (shown as percentage of the incidental catch TAC)

	Category B (regular) DAS Program	CAI Hook Gear SAP	Eastern US/CA Haddock SAP	Southern CAI Haddock SAP
GOM cod	100%	NA	NA	
GB cod	50%	16%	34%	
CC/GOM yellowtail	100%	NA	NA	
Plaice	100%	NA	NA	
White Hake	100%	NA	NA	
SNE/MA Yellowtail	100%	NA	NA	
SNE/MA Winter Flounder	100%	NA	NA	
Witch Flounder	100%	NA	NA	
GB Yellowtail	50%	NA	50%	
GB Winter Flounder	50%	NA	50%	
<u>Pollock</u>	50%	16%	34%	

4.3.6.2 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.

4.3.6.2.1 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.

4.3.6.2.2 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.

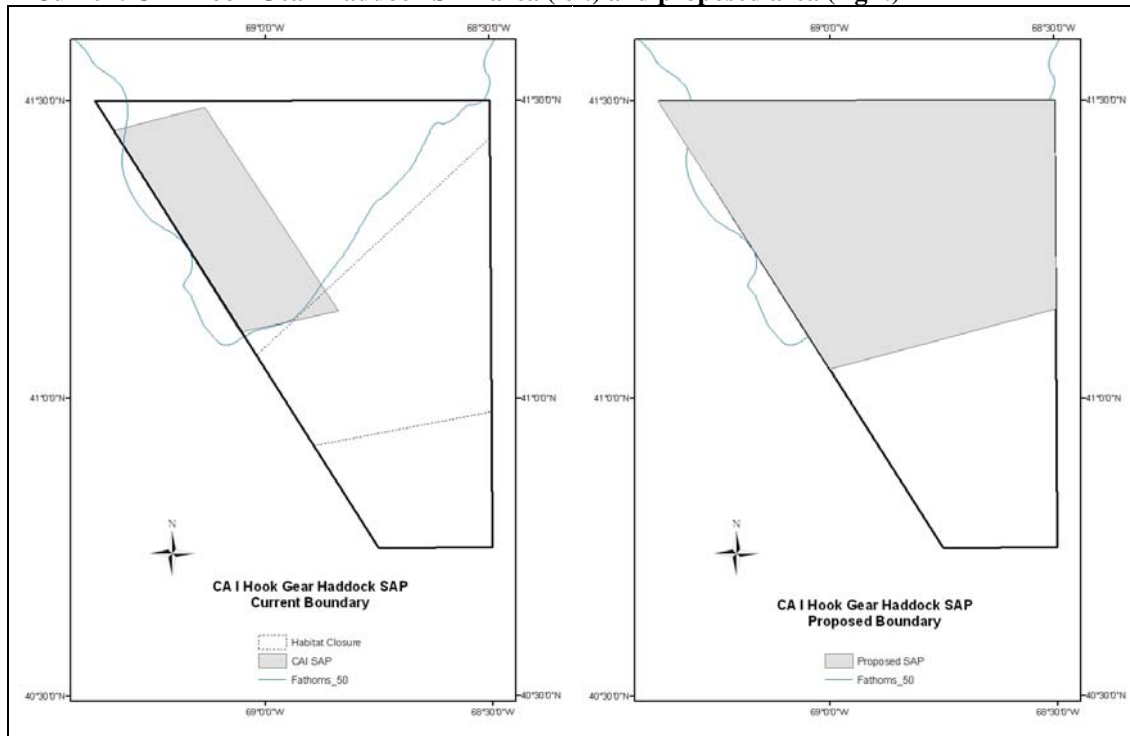
Area: **The area of the SAP would be expanded to include the northern portion of CAI, as shown in** Figure 2. The coordinates for the revised SAP area would be:

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.

Rationale: SAP participants have not harvested the available catch. The extension of the season and area is intended to provide more opportunities to harvest haddock in this SAP. The extended season and area make it unlikely that the conflicts between sector and non-sector participants will be an issue.

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



4.3.6.3 Eastern U.S./Canada Haddock SAP

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

4.3.6.3.1 Option 1 - No Action

The SAP is scheduled to terminate on December 31, 2008. If the No Action alternative is selected, the SAP will not be re-opened.

4.3.6.3.2 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.

4.3.6.4 Closed Area II Yellowtail Flounder SAP

4.3.6.4.1 Option 1 – No modifications

If this option is selected, the CAII yellowtail flounder SAP will not be modified to provide an opportunity to target GB haddock within the SAP area.

4.3.6.4.2 Option 2 – Closed Area II SAP Modification

This option modifies the existing CAII yellowtail flounder SAP to provide an opportunity to target GB haddock in the SAP area even when the SAP is not opened to allow targeting of GB yellowtail flounder. The SAP provisions are modified as follows:

- When the SAP is opened to allow targeting of GB yellowtail flounder, the current SAP provisions apply. These include gear requirements, limits on the number of trips, limits on the number of trips a vessel can make each month, season, limits on the yellowtail flounder catch per trip, and possession limits for cod. With this action, the eliminator trawl is authorized for this SAP when it is open to target yellowtail flounder.
- When the SAP is not open to allow targeting of GB yellowtail flounder (either because there is insufficient GB yellowtail flounder TAC to open the SAP at all, or the SAP was opened but the number of trips allowed has been reached), the SAP may be opened to target GB haddock subject to the provisions in this section.

Haddock Season: The haddock season is August 1 through January 31 if the SAP is not opened to target GB yellowtail flounder.

Opening Criteria: This SAP can be opened for targeting haddock only if the Eastern GB haddock TAC has not been caught. All catches in this SAP will be applied against the Eastern GB haddock SAP. If sectors receive an allocation of Eastern GB haddock, only catches of haddock by non-sector vessels will be applied to this TAC. If sectors receive ACE for Eastern GB haddock (see section 0), they can fish in this SAP as long as they have ACE remaining for the stocks caught in this SAP, even if the SAP is closed to non-sector vessels.

Trip Limits: There are no haddock trip limits unless trip limits are implemented for the entire GB haddock resource. Trip limits for other species are the same as those in effect when using gear subject to the gear performance standards.

No discard provision and DAS flips: A vessel fishing in this SAP cannot discard legal-sized regulated NE multispecies, Atlantic halibut, or ocean pout, unless required to do so by regulations implementing sectors. If a vessel exceeds an applicable trip limit, it must flip to a Category A DAS and must exit the SAP.

Gear requirements: At times when the SAP is open to target GB yellowtail flounder, vessels must use the gear authorized for that SAP (flounder net, haddock separator trawl, and eliminator trawl). When open only to target haddock, the flounder net is not authorized and trawl vessels must use a haddock separator trawl, eliminator trawl, five-point trawl, or hook gear. Additional gear can be approved by the Regional Administrator using the process established to approve additional gear for the Eastern U.S./Canada Haddock SAP and the Category B (regular) DAS Program.

Rationale: Catches of GB haddock have been well below target catches in recent years, and the U.S. Eastern GB haddock TAC has never been harvested. During the CAII Yellowtail Flounder SAP opening in 2004 about one million pounds of haddock were landed on 319 trips into the SAP area while targeting flounder. This proposed change uses gear requirements to avoid catching yellowtail flounder when the SAP is not open to that gear.

4.3.6.5 Category B DAS Program

4.3.6.5.1 Option 1 – No Action

There are no changes to the Category B DAS Program.

4.3.6.5.2 Option 2 – Program Revisions Due to Updated Stock Status

Because of the results of GARM III, this program is revised to focus Category B DAS effort on three stocks: GB haddock, GOM haddock, and redfish.

{Details under development, but likely to include specific gear requirements for trawl, gillnet, and longline gear}

In addition, because pollock is approaching an overfished condition, catches of pollock in this program are limited to the incidental catch limit of 100 lbs./DAS.

4.3.7 Atlantic Halibut Minimum Size

Committee, October 30, 2008

The minimum size for Atlantic halibut is increased to 38 inches (96.5 cm.). This measure applies to all groundfish vessels

(commercial, recreational (private, party, and charter).

Rationale: This increase in the minimum size matches the median length at maturity for female haddock in the Eastern Gulf of Maine. This change should slightly increase opportunities for additional halibut to spawn prior to capture.

4.3.8 Haddock Minimum Size

The minimum size for haddock (both GOM and GB) is changed to 18 inches. This measure applies to commercial groundfish vessels.

Rationale: This measure is intended to reduce discards and increase landings of the rebuilt haddock stocks. As proposed it does not apply to recreational vessels but this may change if recreational vessels can increase their mortality on all haddock stocks.

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

4.3.9.1 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.

Rationale: This option continues the restriction adopted in Amendment 5 when the limited access permit system was created for the multispecies FMP.

4.3.9.2 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, when a vessel obtains both a scallop and limited access multispecies permit only multispecies landings history acquired from the limited access multispecies permit is considered when calculating potential sector share contributions.

Rationale: Fishing vessels represent a substantial capital investment. In both the scallop and multispecies fisheries, conservation controls limit the efficient use of these resources. If the current restriction that prevents a vessel owner from having a limited access groundfish permit and a limited access scallop permit on the same vessel is lifted, vessel owner's will be able to increase the return on their investments by participating in both fisheries. This will also provide vessel owner increased flexibility to conduct fishing operations in a profitable way, moving between the two fisheries as opportunities develop.

The reason that only the multispecies landing history can be used to calculate the combined permit's potential sector contribution is that only these landings are used in the initial, one-time calculation of PSC for the fishery. If open access landings by the scallop permit were added, then each time permits from the two fisheries were combined the potential sector contribution for all permits would need to be recalculated. Note that a permit known as a combination multispecies permit, issued to a small number of scallop dredge vessels, is considered a limited access multispecies permit and could contribute landings history to a vessel's potential sector contribution.

4.3.10 Periodic Adjustment Process

The periodic adjustment process is modified as follows:

Measures implemented in this action can be adjusted via framework actions consistent with the periodic adjustment process. These additional measures include, but are not limited to:

- Changes to the ACL and AM process or implementation
- Modifications to sector administration policies
- Reporting requirements

Membership of the Groundfish Plan Development Team (PDT) is revised to be consistent with Council policy that all members should be technical personnel. The Chair of the Groundfish Advisory Panel, and one other interested person, will no longer be appointed to the PDT.

4.4 Measures to Meet Mortality Objectives

4.4.1 Introduction

4.4.2 Commercial Fishery Measures

In all of these options, measures in existence in FY 2008 continue unless changed by this action. All of the options, including No Action, a change in the Category A/Category B DAS split (effectively a reduction in Category A DAS).

4.4.2.1 No Action

If adopted, the effort controls adopted by Amendment 13 and subsequent frameworks would continue unchanged. These measures include a change in the Category A and Category B DAS split (45/55, or an 18 percent reduction in allocated Category A DAS) that is scheduled to occur in FY 2009 unless certain conditions are met: overfishing is not occurring on any stock and additional fishing mortality reductions are not needed to rebuild any stock.

Note: Option numbers are matched to PDT reports describing the options to facilitate discussion at the November 2008 Council meeting. They will be revised in the final document.

4.4.2.2 Non-sector vessels Option 2A – Differential DAS and Trip Limits

Committee, October 30, 2008

This option uses a combination of differential DAS and a trip limits on a few stocks to achieve mortality objectives. It does not modify the existing year round, rolling, seasonal, or habitat closed areas. Gear requirements while fishing on a Category A DAS that were implemented by Amendment 13, as modified by subsequent framework actions, remain in effect.

Trip limits: The following trip limits would be implemented for fishing on a Category A DAS. All other trip limits while fishing on a Category A DAS would be eliminated. This measure does not change the authority of the Regional Administrator to impose trip limits as necessary under the provisions implementing the U.S./Canada Resource Sharing Understanding. In all cases, only one landing limit can be landed in any twenty-four hour period. If a vessel fishes in more than one area, the most restrictive trip limit for a species applies for the entire trip.

Cod (both GOM and GB stocks):

Limited access vessels: 2,000 lbs. per DAS up to a maximum of 8,000 per trip in the GOM and 20,000 lbs./trip for GB, with the exception of the Eastern U.S./Canada area where the trip limit remains 500 lbs./DAS, up to a maximum of 5,000 lbs./trip. The areas of applicability for the GOM and GB stocks will remain as currently defined.

Handgear A Permits (HA Permits): Consistent with the automatic adjustment in landing limits for this category adopted in A13, the landing limit for cod is increased to 750 lbs./trip. The automatic adjustment mechanism is retained.

Handgear B Permits (HB permits): Consistent with the automatic adjustment in landing limits for this category adopted in A13, the landing limit for GOM cod is increased to 175 lbs./trip. The automatic adjustment mechanism is retained.

Alternatives Under Consideration
Measures to Meet Mortality Objectives

CC/GOM yellowtail flounder and SNE/MA yellowtail flounder: 500 lbs./DAS up to a maximum of 2,000 lbs./trip.

SNE/MA winter flounder: Landing of this stock is prohibited in any fishery.

Windowpane flounder: Landing of windowpane flounder is prohibited in any fishery.

Atlantic halibut: The trip limit remains one fish per trip

Effort controls:

DAS: The default change in the Category A/Category B DAS split that will be implemented May 1, 2009 is retained. The Category A/Category B split is 45/55.

Differential DAS counting: Differential DAS counting areas are adopted as described below using thirty-minute squares. Differential DAS will be counted based on the location of the vessel as determined by VMS. There is no requirement for declaring into an area (other than requirements for the U.S./Canada Area. under regulations implementing the U.S./Canada Resources Sharing Understanding). If a vessel crosses into a different differential DAS area between two successive VMS pollings, such that one polling is in one area and the following is in a different area, differential DAS for the time between the pollings will be charged at the higher rate.

Gulf of Maine Inshore: 115-116 (north of Cape Cod), 123-125, 131-133, 138-140, 146-147

Rate: 2.25:1

Gulf of Maine Offshore: 118-122, 126-130, 134-137, 141-145

Rate: 1.25:1.

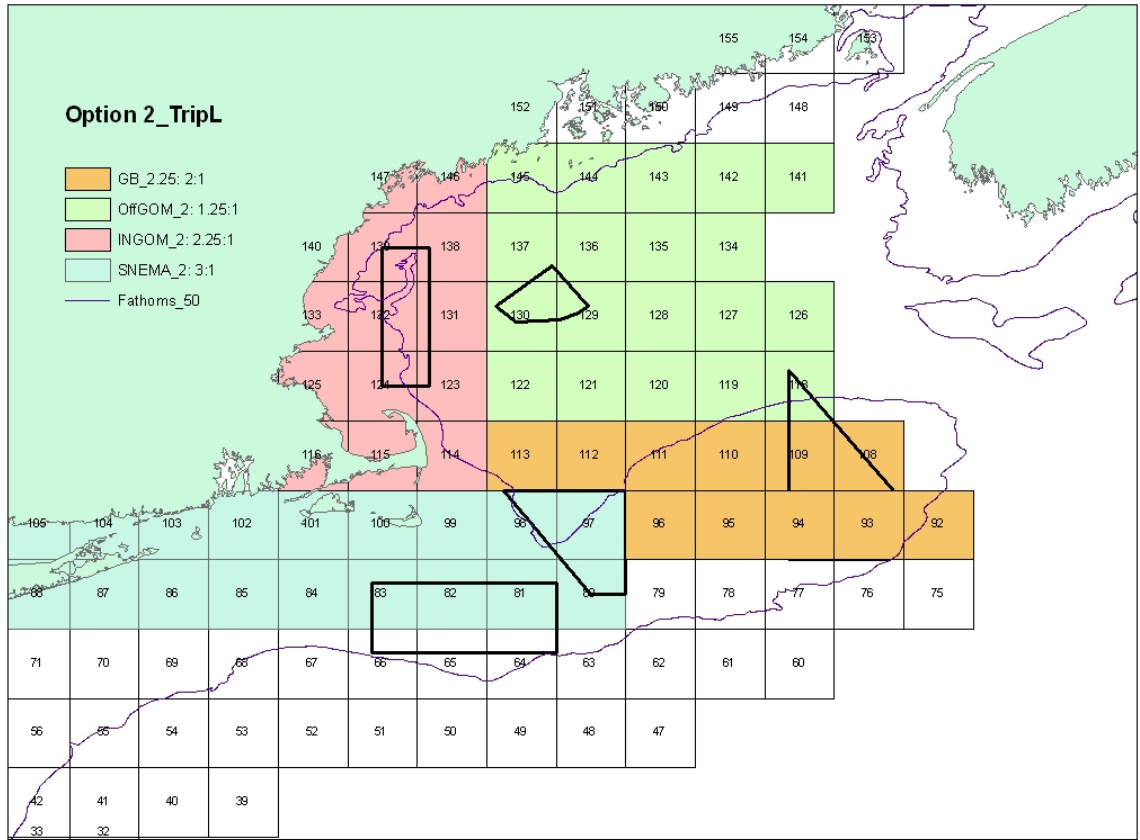
Georges Bank: 92-96, 108-114

Rate: 2.25:1

Southern New England/Mid-Atlantic: 80-91, 97-107, 115-116 (south of Cape Cod)

Rate: 3:1.

Figure 3 – Option 2A proposed differential DAS areas



(This chart needs to be cleaned up to reflect habitat closed areas, blocks 115-116 south of Cape Cod in SNE/MA differential DAS area)

4.4.2.3 Non-sector vessels Option 3A – 24 hour clock, Restricted Gear Areas

This option was developed in response to Committee tasking but specific details have not been reviewed by the Committee.

This option eliminates differential DAS counting areas, reduces Category A DAS by 50 percent from the FW 42 allocations, and counts all DAS in 24-hour increments (i.e. 6 hours is counted as one DAS, 25 hours is counted as two DAS, etc.). The category A/Category B DAS split that results is 27.5%/72.5%. Most other current measures remain, including seasonal and rolling closures and gear requirements.

Trip limits would be:

Cod – 2,000 lbs./DAS; maximum 8,000 lbs/trip in GOM, 20,000 lbs/trip GB; 500 lbs./DAS/5,000 lbs/trip in the Eastern US/CA Area
CC/GOM YT - 250/ Day
SNE YT -250/Day
SNE/MA Winter Flounder: 0
Windowpane Flounder: 0 lbs
Atlantic halibut: One fish per trip

Gears being considered include:

Trawl Gear: Haddock separator trawl, eliminator trawl, five-point trawl, raised-footrope trawl, rope trawl. The haddock separator trawl, eliminator trawl, and raised footrope trawl are described in the regulations.

Rope trawl: The design includes a four-panel structure to increase headline height and large mesh in the front part of the trawl. The separator panel is made from a series of parallel ropes of different lengths. The panel is one-third from the fishing line in the vertical plane. There is a large escape opening in the bottom of the trawl.

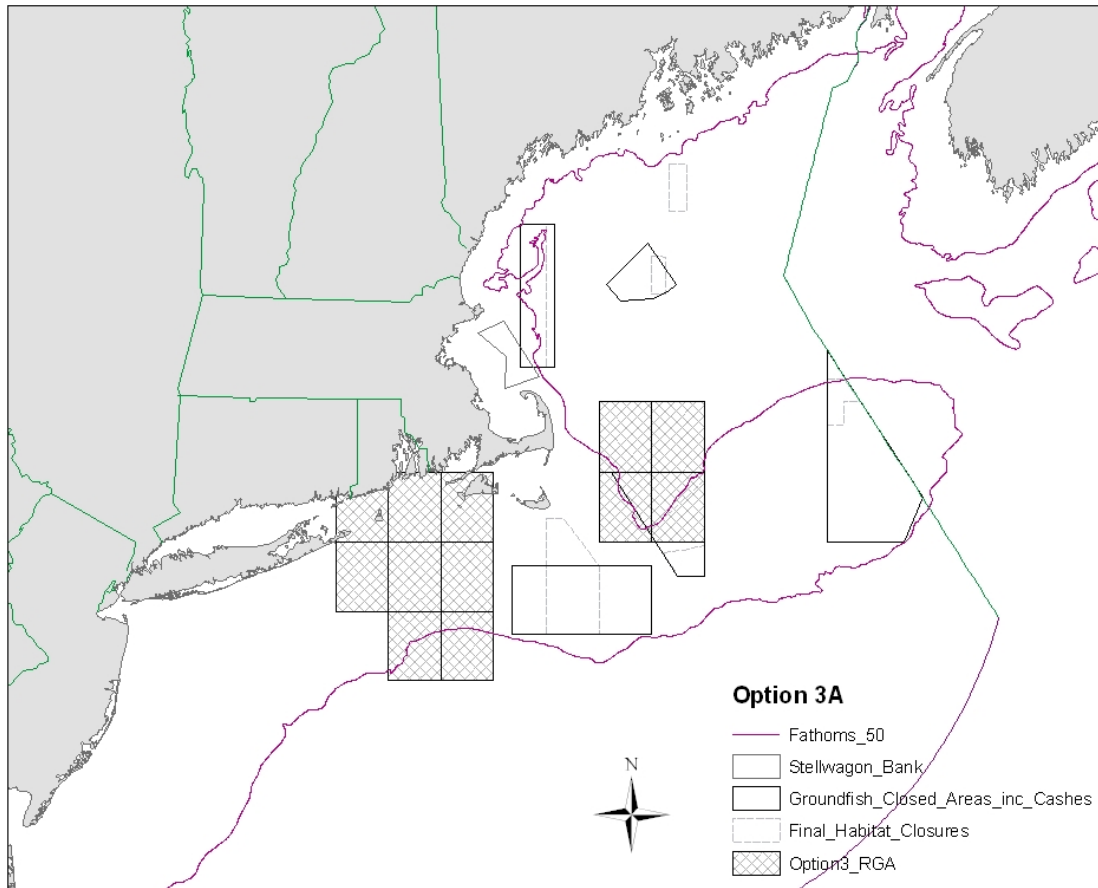
Five-point trawl: A modified three-bridle, four-panel box trawl based on a sweepless raised footrope trawl design that separates fish by exploiting differences between the behaviors of cod and haddock. The net flies over cod while retaining haddock, which generally move upward as the trawl approaches. Specifically, the net only contacts the bottom with 5 “drop chains” along the footrope.

Sink gillnets: No tiedown nets allowed unless using mesh over eight inches

Longline/tub trawls

Handgear

Figure 4 – Option 3, 24-hour clock, restricted gear areas, offshore GOM closed area



4.4.2.4 Non-sector vessels Option 4 – DAS Reduction and restricted gear areas

This option was developed in response to Committee tasking but specific details have not been reviewed by the Committee.

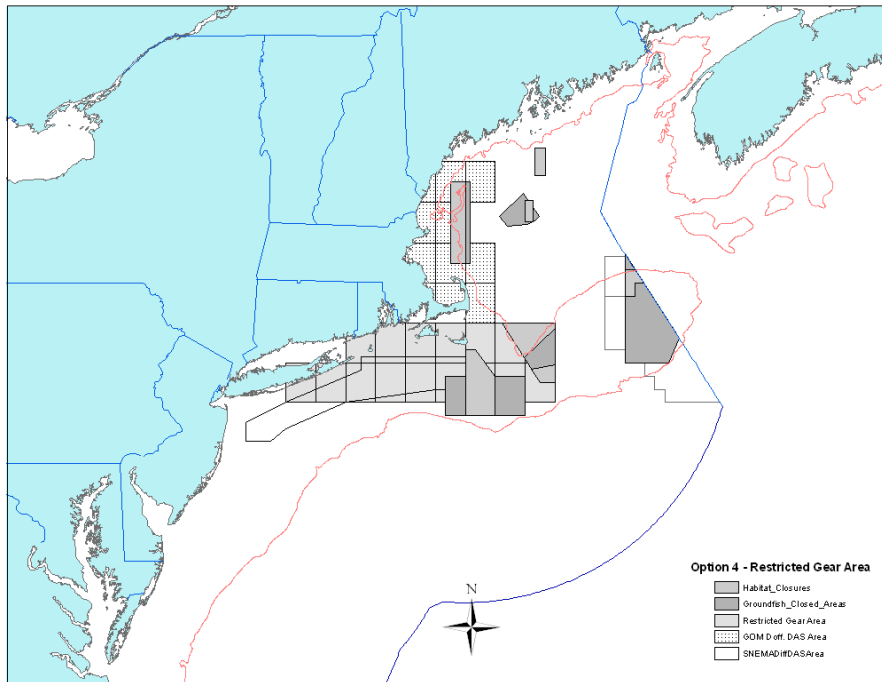
This option reduces Category A DAS by 40 percent from FW 42 allocations. This results in a Category A/Category B DAS split of 33/67. Most other current measures remain, including seasonal and rolling closures and gear requirements. Trips limits are:

- GOM cod – 2,000 lbs./DAS; maximum 8,000 lbs/trip
- GB cod – 1,000 lbs./DAS, maximum 10,000 lbs./trip, except 500 lbs./DAS, maximum 5,000 lbs./trip in the eastern US/CA area
- CC/GOM YT -250/Day
- SNE YT -250/Day
- GB YT -10,000/Trip
- SNE/MA WFL: 0
- Windowpane Flounder: 0 lbs
- Atlantic halibut: One fish per trip

A key feature of this option is the addition of areas where only specific gear can be used while fishing on a groundfish DAS. In the gear areas, gear may be restricted to those gears that do not catch yellowtail flounder and winter flounder. Gears being considered include:

Trawl Gear: Haddock separator trawl, eliminator trawl, five point trawl, raised footrope trawl, rope trawl
Sink gillnets: No tiedown nets allowed unless using mesh over eight inches
Longline/tub trawls
Handgear

Figure 5– Option 4, restricted gear area



4.4.2.5 SNE/MA Small Mesh Fisheries Gear Requirement

Committee, October 30, 2008

In the portion of the stock area for SNE/MA winter flounder shown below (to be developed), any vessel fishing for any species with gear using a cod-end, or cod-end liner, of less than five inches, and not fishing on a groundfish DAS, is required to use 12-inch drop chains on the footrope (exact text to be developed). The purpose of this requirement is to raise the footrope off the bottom and reduce catches of winter flounder.

{Exact are under development}

4.4.3 Recreational Management Measures

Recreational measures will be designed consistent with the allocations adopted in section 4.3.3 and any necessary adjustments in fishing mortality.

4.4.3.1 Provisions for Landing Fillets

Recreational (including party/charter) fishermen will be allowed to land fillets with the skin off. The minimum sizes apply to whole fish or to any

While the Council approved landing fillets without skin-on, this detailed language has not been reviewed. It is based on current summer flounder regulations.

part of a fish found in possession, e.g., fillets, except that party and charter vessels possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if all state requirements are met. For enforcing bag limit restrictions, the number of fillets will be converted to whole fish at the place of landing by dividing the fillet number by two. If fish are filleted into single (butterfly) fillets, each fillet is deemed to be from one whole fish.

Rationale: Many recreational fishermen prefer to land fish in fillets, particularly on party/charter vessels where skinning of fish is provided as a service to the customer.

4.4.3.2 Removal of the Limit on Hooks

Committee, October 30, 2008

Recreational (including party/charter) fishermen are not limited to two hooks per line. The continue to be limited to one line per angler.

Rationale: Amendment 7 restricted recreational groundfish fishermen to two hooks per line and one line per angler as an effort reduction measure. This restriction does not exist in other recreational fisheries. As cod rebuild, some of these fisheries are catching small amounts of cod when using multiple hooks. These fish must either be discarded or retained illegally. This revision recognizes the reality that these incidents are likely to increase as cod rebuild and it serves little purpose to require discarding of cod.

4.4.3.3 Measures to Reduce Mortality

Committee, October 30, 2008

The primary groundfish species caught by recreational fishermen are winter flounder, cod, haddock, and pollock.

Most winter flounder is caught within state waters and the Council cannot specify management measures for these catches as they are outside Council jurisdiction. The stocks where recreational catches are a substantial part of the harvest are GOM cod and GOM haddock. Whether a reduction in fishing mortality from recreational fishing is a function of two factors: the overall fishing mortality (and if it needs to be reduced to achieve mortality targets) and the division of the stocks into a commercial and recreational allocation.

If both the commercial and recreational components are catching their share of the allocation, then each component of the fishery would have to contribute an equivalent mortality reduction if one is required. If one component is exceeding its share it would need to contribute a larger reduction.

For the allocation options in section 4.3.3.2 and the mortality changes needed for GOM cod and GOM haddock, the necessary mortality reductions for the recreational fishery are shown in Table 13. If the selected allocation years are 2001-2006, additional measures will not be needed for the recreational fishery. If the selected allocation years are 1996-2006, additional measures will be required.

Table 13 – Impacts of recreational/commercial allocation options on mortality reductions needed for the recreational and commercial components of the groundfish fishery.

<u>Stock</u>	<u>Overall Needed Reduction</u>	<u>Allocation Years 1996-2006</u>		<u>Allocation Years 2001-2006</u>	
		<u>Rec.</u>	<u>Comm.</u>	<u>Rec.</u>	<u>Comm.</u>
<u>GOM cod</u>	<u>-21%</u>	<u>-.27%</u>	<u>-19%</u>	<u>-2%</u>	<u>-28%</u>
<u>GOM haddock</u>	<u>NA</u>	<u>-18%</u>	<u>Increase</u>	<u>Increase</u>	<u>Increase</u>

4.4.3.3.1 GOM Cod Options

Three options are proposed to reduce mortality for GOM cod if the selected allocation years are 1996-2006.

Option 1: The minimum size for GOM cod is increased to 26 inches. There is no change to the bag limit or the season.

Option 2: The bag limit for GOM cod is six fish per angler per trip. There is no change to the minimum size or season.

Option 3: Landing of GOM cod is prohibited from November 1 through April 15. There is no change to the minimum size or bag limit.

4.4.3.3.2 GOM Haddock Options

Three options are proposed to reduce mortality for GOM haddock if the selected allocation years are 1996-2006.

Option 1: The minimum size for GOM haddock is increased to 21 inches. There is no change to the bag limit or the season.

Option 2: A bag limit for GOM haddock is implemented as nine fish per angler per trip. There is no change to the minimum size or season.

4.4.4 Implementation of Additional Sectors/Modifications to Existing Sectors

The following list summarizes the new sector applications, and request for modifications to existing sectors, that were received for inclusion in Amendment 16. The Council has determined that if approved new sectors will begin operating in FY 2010, not FY 2009. This is to allow more time for sector organizers and NMFS to prepare for their implementation.

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. Most sectors submitted documents to the Council incorporating the proposed sector policies.

Should the Council not adopt the proposed policies (such as trading of ACE, universal exemptions, etc.), the final amendment may need to be modified to reflect individual sector requests. Presumably a sector could still request an exemption from NMFS without Council action unless it is specifically prohibited.

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.

4.4.4.1 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*).

4.4.4.2 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*).

4.4.4.3 Sustainable Harvest Sector

This sector will be comprised of more than 70 permit holders that will fish in all three stock areas Gulf of Maine, Georges Bank and Southern New England, using trawl, gillnet and longline fishing gear.

Primary Hailing Ports: Cundy's Harborm ME, Portland, ME, Portsmouth, NH, Boston, MA, Gloucester, MA, New Bedford, MA, Newport, RI

Primary unloading ports: Cundy's Harborm ME, Portland, ME, Portsmouth, NH, Boston, MA, Gloucester, MA, New Bedford, MA, Newport, RI

(Other unloading ports may be named in the operations plan.)

Primary Gear: otter trawl, gillnets, longlines

Primary fishing areas: Gulf of Maine, Georges Bank, Southern New England

Estimated sector ACE share: may exceed 20% on several stocks depending on allocation method chosen

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.4 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, but . Members will primarily use trawl gear but will be allowed to use other legal gear (gillnets and longlines). All exemptions requested are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Port Clyde, ME, Cape Porpoise/Saco, ME, Cundy's Harbor, ME, Portland, ME, Monhegan, ME, Boothbay Harbor, ME, and Phippsburg, ME

Primary unloading ports anticipated: Port Clyde, ME, Cape Porpoise/Saco, ME, Cundy's Harbor, ME, Portland, ME, Monhegan, ME, Boothbay Harbor, ME, and Phippsburg, ME

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: Any gear allowed by regulations

Potential secondary gear: Any gear allowed by regulations

Primary fishing areas: Gulf of Maine

Potential other fishing areas: Georges Bank, Southern New England

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.5 New Bedford Deep Water Trawl Sector

This sector will be formed of vessels that fish primarily on Georges Bank or in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: New Bedford, MA.

Primary unloading ports anticipated: New Bedford, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Georges Bank, Southern New England

Potential other fishing areas: Gulf of Maine

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.6 New Bedford and Southern New England Fixed Gear Sector

This sector will be formed of vessels that fish primarily, fishing primarily on Georges Bank and in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: New Bedford, MA.

Primary unloading ports anticipated: New Bedford, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: gillnet, bottom longline

Potential secondary gear: otter trawl

Primary fishing areas: Georges Bank, Southern New England

Potential other fishing areas: Gulf of Maine

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.7 New Bedford Channel Trawl Sector

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

Primary hailing ports anticipated: New Bedford, MA.

Primary unloading ports anticipated: New Bedford, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Georges Bank, Southern New England

Potential other fishing areas: Gulf of Maine

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.8 New Hampshire and Southern Maine Fixed Gear Sector

This sector will be formed of vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Portsmouth, NH, Seabrook, NH, and Portland, ME

Primary unloading ports anticipated: Portsmouth, NH, Seabrook, NH, and Portland, ME

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: gillnet, bottom longline

Potential secondary gear: otter trawl

Primary fishing areas: Gulf of Maine,

Potential other fishing areas: Georges Bank, Southern New England

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.9 New Hampshire and Southern Maine Trawl Gulf of Maine Sector

This sector will be formed of vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Portsmouth, NH, Seabrook, NH, and Portland, ME

Primary unloading ports anticipated: Portsmouth, NH, Seabrook, NH, and Portland, ME

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Gulf of Maine,
Potential other fishing areas: Georges Bank, Southern New England
Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)
Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.10 Gloucester Trawl/Western Gulf of Maine Sector

This sector will be formed of vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Gloucester, MA.
Primary unloading ports anticipated: Gloucester, MA
(Other hailing or unloading ports may be specified in the operations plan.)
Primary gear: otter trawl
Potential secondary gear: gillnet, bottom longline
Primary fishing areas: Gulf of Maine,
Potential other fishing areas: Georges Bank, Southern New England
Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)
Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.11 Gloucester Fixed Gear Sector

This sector will be formed of vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Gloucester, MA
Primary unloading ports anticipated: Gloucester, MA
(Other hailing or unloading ports may be specified in the operations plan.)
Primary gear: gillnet, bottom longline
Potential secondary gear: otter trawl
Primary fishing areas: Gulf of Maine,
Potential other fishing areas: Georges Bank, Southern New England
Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)
Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

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

This sector will be formed of vessels that fish primarily in the Gulf of Maine and Georges Bank. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Gloucester and Boston, MA.
Primary unloading ports anticipated: Gloucester and Boston, MA.
(Other hailing or unloading ports may be specified in the operations plan.)
Primary gear: otter trawl
Potential secondary gear: gillnet, bottom longline
Primary fishing areas: Gulf of Maine, Georges Bank
Potential other fishing areas: Southern New England

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)
Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.13 South Shore Trawl Sector

This sector will be formed of vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Green Harbor, MA, Scituate, MA, Plymouth, MA, and Sandwich, MA

Primary unloading ports anticipated: Green Harbor, MA, Scituate, MA, Plymouth, MA, and Sandwich, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Gulf of Maine, Georges Bank

Potential other fishing areas: Southern New England

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.14 South Shore Fixed gear Sector

This sector will be formed of vessels that fish primarily in the Gulf of Maine. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Green Harbor, MA, Scituate, MA, Plymouth, MA, and Sandwich, MA

Primary unloading ports anticipated: Green Harbor, MA, Scituate, MA, Plymouth, MA, and Sandwich, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: gillnet, bottom longline

Potential secondary gear: otter trawl

Primary fishing areas: Gulf of Maine, Georges Bank

Potential other fishing areas: Southern New England

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.15 Point Judith and Southern New England Offshore Trawl Sector

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

Primary hailing ports anticipated: Point Judith, RI, Stonington, CT, and New Bedford, MA

Primary unloading ports anticipated: Point Judith, RI, Stonington, CT, and New Bedford, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Georges Bank, Southern New England

Potential other fishing areas: Gulf of Maine

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.16 Point Judith and Southern New England Trawl Sector

This sector will be formed of vessels that fish primarily in Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Point Judith, RI, Stonington, CT, and New Bedford, MA

Primary unloading ports anticipated: Point Judith, RI, Stonington, CT, and New Bedford, MA

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Georges Bank, Southern New England

Potential other fishing areas: Gulf of Maine

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.17 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*).

4.4.4.18 Pier 6 Initiative

This sector will be formed of up vessels that fish primarily in the Gulf of Maine and Georges Bank. Requested exemptions are consistent with existing or proposed sector policies.

Primary hailing ports anticipated: Boston, MA.

Primary unloading ports anticipated: Boston, MA.

(Other hailing or unloading ports may be specified in the operations plan.)

Primary gear: otter trawl

Potential secondary gear: gillnet, bottom longline

Primary fishing areas: Gulf of Maine, Georges Bank

Potential other fishing areas: Southern New England

Estimated sector ACE share: 0-20% (but may exceed 20% subject to elimination of the 20% cap)

Stocks: All regulated groundfish stocks (except Atlantic halibut, ocean pout, windowpane flounder) as proposed by Amendment 16

4.4.4.19 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.

4.4.5 Accountability Measures

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).

4.4.5.1 Commercial Groundfish Common Pool Accountability Measures

4.4.5.1.1 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.

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).

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 14. 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 14.

Table 14 – Initial apportionment of common pool TAC to trimesters

Stock	Trimester 1	Trimester 2	Trimester3
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			

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.

Measures to ensure the TACs are not exceeded

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 15. 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 15 – 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.

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 15). 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.

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.

4.4.5.1.2 Common Pool Vessels Accountability Measure Alternative 2 – Differential DAS/DAS Adjustment

In March, NMFS will estimate total catches based on ten months of catch data (catch data through February). Using this information, NMFS will adjust DAS counting for the following fishing year based on whether ACLs are exceeded or not. If an ACL for any stock is exceeded, NMFS will calculate the differential DAS rate change needed to prevent the ACL from being exceeded the following year. If this calculation results in similar changes needed in all areas, NMFS will revise the Category A/Category B DAS split to account for the change.

If in a given area catches of all stocks are at least ten percent less than the groundfish ACL, NMFS will apply differential DAS to reduce the rate DAS are counted in order to allow harvests in a subsequent year to attain the ACL. If similar changes are needed in all areas, NMFS will revise the Category A/Category B DAS split rather than apply area specific differential DAS changes. The first such change will be effective in FY 2011, based on the implementation of ACLs in FY 2010.

Differential DAS changes will apply to the areas (defined as thirty-minute squares) where specific stocks are caught. The exact areas selected may be modified to be consistent with the overall effort control program so that a complex mosaic of DAS counting areas is avoided as much as possible. In general, the areas that apply for each stock are shown in Table 16. These areas may be modified in the final amendment document in order to match the administration of the AMs with the overall effort control measure that is selected. Differential DAS factor changes will be based on a table similar to that shown in Table 17. A table will be developed for each stock during the specification process. This table will show the differential DAS adjustment necessary for different levels of catch in order to prevent overfishing. Once NMFS evaluates the catch for every stock, the DAS adjustment required will be based on these tables. Because the adjustment is formulaic, it will be implemented as a final rule. The opportunity for the public to comment will be provided when the specifications package is approved.

This section is still under development by the Committee/PDT in order to respond to NERO suggestions for a formulaic response to ease implementation.

Table 16 – Stocks and areas for differential DAS AM adjustment

Area	Stocks	Areas Included (depends on final measures)
Inshore GOM	GOM Cod GOM Haddock CC/GOM yellowtail GOM winter flounder	114-116,123-125,132,133,138-140

Alternatives Under Consideration
Measures to Meet Mortality Objectives

GOM/GB windowpane flounder		
Offshore GOM	White Hake	98,99,112,113,118-122, 126-131,134-137,141-
	Pollock	143,148-150,154,155
	Redfish	
	Witch	
	Plaice	
	Halibut	
Offshore GB	GB cod	75-79, 92-97,108-111
	GB haddock	
	GB yellowtail (see note)	
	GB winter flounder	
SNE/MA	SNE/MA winter flounder	64-73, 80-90,100-106
	SNE/MA yellowtail flounder	
	SNE/MAB windowpane flounder	

Table 17 – Differential DAS AM factor (still under development by the Committee and PDT)

Percent of ACL Caught	Differential DAS Factor
0.5	
0.6	
0.7	
0.8	
0.9	No Change
1.0	No Change
1.1	
1.2	
1.3	
1.4	
1.5	
1.6	
1.7	
1.8	
1.9	
2.0	

4.4.5.2 Recreational Fishery Accountability Measures

TBD based on specific recreational measures.

When evaluating whether a recreational ACL has been exceeded to determine if the AM needs to be implemented, the three-year average of recreational catch (calculated consistent with the catch used on the assessment) will be compared to the three-year average of the ACL.

4.4.5.3 Multispecies Sector Accountability Measures

The sector administration provisions defined in section 4.3.1 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 4.3.1). 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.
 - At-sea and shoreside monitoring requirements
- 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 4.3.1).

4.5 Alternatives Considered and Rejected

4.5.1.1 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.