

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 635**

RIN 0648-BA17

**Atlantic Highly Migratory Species; Large Coastal and Small Coastal Atlantic Shark Management Measures**

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

**ACTION:** Notice of rescheduled public hearing.

**SUMMARY:** On January 20, 2015, NMFS published a proposed rule with public hearing dates for Draft Amendment 6 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP). On February 25, 2015, NMFS announced that the public hearing in Manteo, NC, would be rescheduled due to inclement weather conditions expected for Manteo and surrounding areas. In this notice, NMFS announces the date and location for the rescheduled public hearing to provide opportunities for members of the public to comment on the management measures proposed in Draft Amendment 6.

**DATES:** The rescheduled public hearing will be held on March 18, 2015, from 5 p.m. to 8 p.m. Written comments will be accepted until April 3, 2015.

**ADDRESSES:** The rescheduled public hearing will be held in Manteo, NC, at the Dare County Administration Building, Commissioner's Meeting Room, 954 Marshall C. Collins Drive, Manteo, NC 27954.

**FOR FURTHER INFORMATION CONTACT:** LeAnn Hogan, Guý DuBeck, Alexis Jackson or Karyl Brewster-Geisz by phone: 301-427-8503, or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** Atlantic sharks are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the authority to issue regulations has been delegated from the Secretary to the Assistant Administrator (AA) for Fisheries, NOAA. On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated HMS FMP, which details management measures for Atlantic HMS fisheries. The implementing regulations for the 2006

Consolidated HMS FMP and its amendments are at 50 CFR part 635.

On January 20, 2015, NMFS published a proposed rule (80 FR 2648) for Draft Amendment 6 to the 2006 Consolidated HMS FMP. Management measures in the proposed rulemaking are designed to respond to the problems facing Atlantic commercial shark fisheries, such as landings that exceed the commercial quotas, declining numbers of fishing permits since limited access was implemented, increasingly complex regulations, derby fishing conditions due to small quotas and short seasons, increasing numbers of regulatory discards, and declining market prices. The primary goal of Amendment 6 to the 2006 Consolidated HMS FMP is to implement management measures for the Atlantic shark fisheries that will achieve the objectives of increasing management flexibility to adapt to the changing needs of the Atlantic shark fisheries, and achieve optimum yield while rebuilding overfished shark stocks and ending overfishing. Specifically, the rule proposes to: Adjust the large coastal sharks (LCS) retention limit for shark directed Limited Access Permit holders; create sub-regional quotas in the Atlantic and Gulf of Mexico regions for LCS and small coastal sharks (SCS); modify the LCS and SCS quota linkages; establish total allowable catches and adjust quotas for non-blacknose SCS in the Atlantic and Gulf of Mexico regions based on the results of the 2013 stock assessments for Atlantic sharpnose and bonnethead sharks; and modify upgrading restrictions for shark permit holders.

On February 25, 2015, NMFS announced via listserv notice, an announcement on the HMS Management Division's Web page, and phone calls to known interested parties that the public hearing that was scheduled in Manteo, NC, on February 26, 2015, would be rescheduled due to inclement weather conditions expected for Manteo and surrounding areas at that time. The public hearing in Manteo, NC, has been rescheduled for March 18, 2015, to provide the opportunity for public comment on potential management measures (see **ADDRESSES** and **DATES**).

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each

attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they may be asked to leave the hearing.

**Authority:** 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: March 4, 2015.

**Alan D. Risenhoover,**  
*Director, Office of Sustainable Fisheries,*  
*National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 150105004-5190-01]

RIN 0648-BE75

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Framework Adjustment 53**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This action proposes approval of, and regulations to implement, Framework Adjustment 53 to the Northeast Multispecies Fishery Management Plan. This rule would set fishing years 2015-2017 catch limits for several groundfish stocks, modify management measures for Gulf of Maine cod, and adopt other measures to improve the management of the groundfish fishery. This action is necessary to respond to updated scientific information and achieve the goals and objectives of the Fishery Management Plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Comments must be received by March 24, 2015.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2015–0020, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0020](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0020);

2. Click the “Comment Now!” icon and complete the required fields; and
3. Enter or attach your comments.

- **Mail:** Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on the Proposed Rule for Groundfish Framework Adjustment 53.”

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of Framework Adjustment 53, including the draft Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis prepared by the New England Fishery Management Council in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: <http://www.nefmc.org/management-plans/northeast-multispecies> or <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies>.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

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**1. Summary of Proposed Measures**

This action would implement the management measures in Framework Adjustment 53 (Framework 53) to the Northeast Multispecies Fishery Management Plan (FMP). The Council deemed the proposed regulations consistent with, and necessary to implement, Framework 53, in a February 25, 2015, letter from Council Chairman E.F. “Terry” Stockwell to Regional Administrator John Bullard. Framework 53 proposes to:

- Revise the status determination criteria for several groundfish stocks;
- Set fishing years 2015–2017 catch limits for several groundfish stocks;
- Set fishing year 2015 shared U.S./Canada quotas for transboundary Georges Bank (GB) stocks;
- Revise management measures for Gulf of Maine (GOM) cod to provide additional protection for the stock;
- Establish a mechanism to set default catch limits in the event a future management action is delayed; and
- Modify the provision that allows groundfish sectors to carryover unused quota in response to a recent court ruling.

This action also proposes a number of other measures that are not part of Framework 53, but that may be considered and implemented under our authority specified in the FMP. We are proposing these measures in conjunction with the Framework 53 proposed measures for expediency purposes, and because these measures are related to the catch limits proposed as part of Framework 53. The additional measures proposed in this action are listed below.

- **Management measures for the common pool fishery**—this action

proposes fishing year 2015 trip limits for the common pool fishery. We have the authority to set management measures for the common pool fishery that will help ensure the fishery achieves, but does not exceed, its catch limits.

- **Possible accountability measure for northern windowpane flounder**—this action announces the possibility that an accountability measure for northern windowpane flounder could be implemented for fishing year 2015 if the fishing year 2014 catch limit for this stock is exceeded. We are announcing this to provide as much notice as possible to groundfish vessels that would be affected by these measures, if implemented, in 2015.

- **Other regulatory corrections**—we propose several revisions to the regulations to correct references, remove unnecessary text, and make other minor edits. Each proposed correction is described in the section “10. Regulatory Corrections Under Regional Administrator Authority.”

**2. Status Determination Criteria**

The Northeast Fisheries Science Center conducted stock assessments in 2014 for GOM cod, GOM haddock, GOM winter flounder, GB yellowtail flounder, GB winter flounder, and pollock. In response to these assessments, this action proposes to revise status determination criteria, as necessary, and provide updated numerical estimates of these criteria, in order to incorporate the results of the most recent stock assessments. Table 1 provides the updated numerical estimates of the status determination criteria, and Table 2 summarizes changes in stock status based on the new stock assessments conducted in 2014.

Updated stock status information is provided in this rule for all of the stocks that had a new assessment in 2014. However, only the status determination criteria for GB yellowtail flounder is proposed to change relative to the status determination criteria currently specified in the FMP. As described in more detail below, status determination relative to reference points is no longer possible for GB yellowtail flounder, and is proposed to be unknown.

TABLE 1—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA

Stock	Biomass target SSB <sub>MSY</sub> or Proxy (mt)	Maximum fishing mortality threshold (F <sub>MSY</sub> or Proxy)	MSY (mt)
M = 0.2 Model .....	47,184	0.18 .....	7,753

TABLE 1—NUMERICAL ESTIMATES OF STATUS DETERMINATION CRITERIA—Continued

Stock	Biomass target SSB <sub>MSY</sub> or Proxy (mt)	Maximum fishing mortality threshold (F <sub>MSY</sub> or Proxy)	MSY (mt)
GOM Cod:			
M <sub>ramp</sub> Model .....	69,621	0.18 .....	11,388
GOM Haddock .....	4,108	0.46 .....	955
GOM Winter Flounder .....	n/a	0.23 exploitation rate .....	n/a
GB Yellowtail Flounder .....	n/a	n/a .....	n/a
GB Winter Flounder .....	8,100	0.44 .....	3,200
Pollock .....	76,900	0.42 (equivalent to F <sub>5-7</sub> = 0.27) .....	14,800

SSB = Spawning Stock Biomass; MSY = Maximum Sustainable Yield; F = Fishing Mortality; M = Natural Mortality

**Note.** An explanation of the two assessment models for GOM cod is provided in the section “4. Fishing Years 2015–2017 Catch Limits.”

TABLE 2—SUMMARY OF CHANGES TO STOCK STATUS

Stock	Previous assessment		2014 Assessment	
	Overfishing?	Overfished?	Overfishing?	Overfished?
GOM Cod .....	Yes .....	Yes .....	Yes .....	Yes
GOM Haddock .....	Yes .....	No <sup>1</sup> .....	No .....	No
GOM Winter Flounder .....	No .....	Unknown .....	No .....	Unknown
GB Yellowtail Flounder .....	Yes .....	Yes .....	Unknown .....	Unknown
GB Winter Flounder .....	No .....	No .....	No .....	No
Pollock .....	No .....	No .....	No .....	No

<sup>1</sup> Stock was approaching an overfished condition.

#### *Georges Bank Yellowtail Flounder Status Determination Criteria*

GB yellowtail flounder is jointly managed with Canada, and the Transboundary Resources Assessment Committee (TRAC) conducts an annual assessment of this stock. In recent years, there has been a strong retrospective pattern in the approved assessment model for GB yellowtail flounder. This retrospective pattern causes the model to overestimate stock biomass and underestimate fishing mortality. Recent stock assessments for GB yellowtail flounder have been unable to determine the cause of the retrospective pattern. Additionally, attempts to address the retrospective pattern in the existing assessment model were only temporarily successful, and the magnitude of the retrospective pattern has increased in recent years.

In July 2013, a World Conference on Stock Assessment Methods, hosted by the International Council for the Exploration of the Sea, explored alternative assessment models for GB yellowtail flounder that may address the retrospective pattern. However, the workshop was not able to provide any alternative modeling solutions. Instead, the workshop concluded that the poor performance of the assessment model was likely due to issues in the underlying data. As a result, the TRAC conducted a diagnostic benchmark assessment in April 2014. This diagnostic benchmark was intended to

further explore possible causes of the model's poor performance through examination of all of the available data sources, as well as to develop a method for providing catch advice that does not rely on an analytical assessment model (i.e., an empirical approach).

During the subsequent annual TRAC assessment in June 2014, the TRAC agreed to no longer use the assessment model for GB yellowtail flounder to evaluate stock status or provide catch advice. This decision was based on the poor performance of the assessment model in recent years, conclusions from the April 2014 diagnostic benchmark, as well as inconsistencies in the underlying data. As a replacement for the assessment model, the TRAC agreed to use the empirical approach developed at the diagnostic benchmark as the basis for providing management advice. This empirical approach does not provide historical estimates of biomass, fishing mortality rates, or recruitment estimates. As a result, the TRAC concluded that status determination relative to reference points is not possible because reference points cannot be defined. Additional details on recent GB yellowtail flounder assessments, including the 2014 diagnostic benchmark, can be found at: <http://www.nefsc.noaa.gov/saw/trac/>.

Although status determination relative to reference points is unknown, the best scientific information available indicates that GB yellowtail flounder

stock status is poor. The changes to the status determination criteria that are proposed in this action do not affect the rebuilding plan for this stock, which has an end date of 2032. Although biomass estimates are not currently available, to ensure that rebuilding progress is made, catch limits will continue to be set at levels at which the TRAC and the Council's Scientific and Statistical Committee (SSC) determine will prevent overfishing. Additionally, at whatever point the stock assessment for GB yellowtail flounder can provide numerical estimates of status determination criteria, those estimates will be used to evaluate progress towards the existing rebuilding targets.

#### **3. Fishing Year 2015 U.S./Canada Quotas**

##### *Management of Transboundary Georges Bank Stocks*

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the U.S./Canada Resource Sharing Understanding. Each year, the Transboundary Management Guidance Committee (TMGC), which is a government-industry committee made up of representatives from the United States and Canada, recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less

than 50 percent) of exceeding the fishing mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the United States and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the SSC also recommends an acceptable biological catch (ABC) for the stock, which is typically used to inform the U.S. TMGC's discussions with Canada

for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the United States may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is accounted for in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

#### 2015 U.S./Canada Quotas

The TRAC conducted assessments for the three transboundary stocks in June 2014, and detailed summaries of these assessments can be found at: <http://www.nefsc.noaa.gov/saw/trac/>. The TMGC met in September 2014 to recommend shared quotas for 2015 based on the updated assessments, and the Council adopted the TMGC's recommendations in Framework 53. The proposed 2015 shared U.S./Canada quotas, and each country's allocation, are listed in Table 3.

TABLE 3—PROPOSED FISHING YEAR 2015 U.S./CANADA QUOTAS (mt, LIVE WEIGHT) AND PERCENT OF QUOTA ALLOCATED TO EACH COUNTRY

Quota	Eastern GB cod	Eastern GB haddock	GB Yellowtail flounder
Total Shared Quota	650	37,000	354
U.S. Quota	124 (19%)	17,760 (48%)	248 (70%)
Canada Quota	526 (81%)	19,240 (52%)	106 (30%)

The proposed 2015 U.S. quotas for eastern GB cod and GB yellowtail flounder would be a 20-percent and 25-percent reduction, respectively, compared to 2014. These reductions are due to both recent biomass declines and small reductions in the amount of the shared quota that is allocated to the United States. The proposed U.S. quota for eastern GB haddock would be a 70-percent increase compared to 2014, which is a result of both increased stock biomass and an increase in the amount allocated to the United States. For a more detailed discussion of the TMGC's 2015 catch advice, see the TMGC's guidance document at: <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html>. Additionally, the proposed 2015 catch limit for GB yellowtail flounder is discussed in more detail in the section "4. Fishing Years 2015–2017 Catch Limits."

The regulations implementing the U.S./Canada Resource Sharing Understanding require that any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder be deducted from the U.S. quota in the following fishing year. If fishing year 2014 catch information indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quota for fishing year 2015 in a future management action, as close to May 1, 2015, as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation, and causes an

overage of the overall U.S. quota, the overage reduction would only be applied to that fishery's allocation in the following fishing year. This ensures that catch by one component of the fishery does not negatively affect another component of the fishery.

#### 4. Fishing Years 2015–2017 Catch Limits

##### Summary of the Proposed Catch Limits

The catch limits proposed in this action can be found in Tables 4 through 11. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in Appendix III to the Framework 53 Environmental Assessment (see ADDRESSES for information on how to get this document).

Framework 53 proposes to adopt fishing years 2015–2017 catch limits for GOM cod, GOM haddock, GOM winter flounder, GB winter flounder, GB yellowtail flounder (2015–2016 only), and pollock based on the 2014 assessments for these stocks. In addition, this action proposes to update the 2015 catch limits for GB cod and haddock based on the proposed U.S./Canada quotas for the portions of these stocks managed jointly with Canada. For all other stocks, the overall catch limits included in this rule are the same as those previously adopted in Framework 50 and Framework 51, although small changes have been made to the

distribution of these catch limits to the various components of the fishery.

For a number of stocks, the catch limits proposed in this action are substantially lower than the catch limits set for the 2014 fishing year. Compared to 2014, the proposed catch limits would be a 75-percent reduction for GOM cod, a 53-percent reduction for GOM winter flounder, and a 44-percent for GB winter flounder. The proposed GOM haddock catch limit would be a 114-percent increase compared to 2014, and the proposed pollock catch limit would be relatively similar to 2014. The GOM haddock and pollock catch limits could provide additional fishing opportunities for groundfish vessels to help mitigate some of the economic impacts of the catch limit reductions proposed for other key groundfish stocks. However, the proposed reductions are expected to be very restrictive for groundfish vessels, particularly small inshore vessels, which could minimize these benefits.

There are no catch limits proposed for fishing years 2016 or 2017 for most groundfish stocks. Stock assessment updates for all groundfish stocks are scheduled for September 2015, and, based on these assessment updates, catch limits will be set in a future action for fishing years 2016–2018. Given the timing of the stock assessments, the management action for the 2016 fishing year is not expected to be completed by the start of the fishing year. As a result, this action proposes default catch limits that would be implemented on May 1,

2016, to help prevent disruption to the fishery (see the section “6. Default Catch Limits”).

#### *Overfishing Limits and Acceptable Biological Catches*

The overfishing limit (OFL) serves as the maximum amount of fish that can be caught in a year without resulting in overfishing. The OFL for each stock is calculated using the estimated stock size and  $F_{MSY}$  (i.e., the fishing mortality rate that, if applied over the long term,

would result in maximum sustainable yield). The OFL does not account for scientific uncertainty, so the SSC typically recommends an ABC that is lower than the OFL in order to account for this uncertainty. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL. For GB cod, haddock, and yellowtail flounder, the total ABC is then reduced by the amount of the Canadian quota (see Table 3 for the

Canadian share of these stocks). Additionally, although GB winter flounder and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (114 mt) and halibut (19 mt) is deducted from the total ABC. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch.

TABLE 4—PROPOSED FISHING YEARS 2015–2017 OVERFISHING LIMITS AND ACCEPTABLE BIOLOGICAL CATCHES  
[mt, live weight]

Stock	2015		2016		2017	
	OFL	U.S. ABC	OFL	U.S. ABC	OFL	U.S. ABC
GB Cod .....	4,191	1,980	.....	.....	.....	.....
GOM Cod .....	514	386	514	386	514	386
GB Haddock .....	56,293	24,366	.....	.....	.....	.....
GOM Haddock .....	1,871	1,454	2,270	1,772	2,707	2,125
GB Yellowtail Flounder .....	.....	248	.....	354	.....	.....
SNE/MA Yellowtail Flounder .....	1,056	700	.....	.....	.....	.....
CC/GOM Yellowtail Flounder .....	1,194	548	.....	.....	.....	.....
American Plaice .....	2,021	1,544	.....	.....	.....	.....
Witch Flounder .....	1,846	783	.....	.....	.....	.....
GB Winter Flounder .....	3,242	2,010	3,383	2,107	3,511	2,180
GOM Winter Flounder .....	688	510	688	510	688	510
SNE/MA Winter Flounder .....	4,439	1,676	.....	.....	.....	.....
Redfish .....	16,845	11,974	.....	.....	.....	.....
White Hake .....	6,237	4,713	6,314	4,645	.....	.....
Pollock .....	21,538	16,600	21,864	16,600	24,598	16,600
N. Windowpane Flounder .....	202	151	.....	.....	.....	.....
S. Windowpane Flounder .....	730	548	.....	.....	.....	.....
Ocean Pout .....	313	235	.....	.....	.....	.....
Atlantic Halibut .....	198	100	.....	.....	.....	.....
Atlantic Wolffish .....	94	70	.....	.....	.....	.....

SNE/MA = Southern New England/Mid-Atlantic; CC = Cape Cod; N = Northern; S = Southern.

**Note:** An empty cell indicates no OFL/ABC is adopted for that year. These catch limits will be set in a future action.

#### *Gulf of Maine Cod*

##### *Assessment Summary and Catch Projections*

A stock assessment update for GOM cod was completed in 2014. This assessment was an update of the existing 2012 benchmark assessment, which approved two assessment models for GOM cod. One assessment model (base case model) assumes that natural mortality is 0.2. The second assessment model ( $M_{ramp}$  model) assumes that natural mortality has increased from 0.2 to 0.4 in recent years, although the 2012 benchmark assessment did not conclude that natural mortality would remain at 0.4 indefinitely. As a result, biological reference points for GOM cod are based on a natural mortality assumption of 0.2. Under both assessment models, GOM cod is overfished and overfishing is occurring. There was a retrospective pattern in both the 2012 benchmark assessment and the 2014 assessment update, although it was not large

enough to warrant making any specific adjustment to address this bias. The 2014 assessment results indicated that the 2012 benchmark overestimated spawning stock biomass and underestimated fishing mortality. Detailed summaries of the 2012 benchmark assessment and the 2014 assessment update are available from the Northeast Fisheries Science Center at: <http://www.nefsc.noaa.gov/saw/reports.html> and <http://www.nefsc.noaa.gov/publications/crd/crd1414/>, respectively.

Based on the two stock assessment models, there are three different catch projections that were considered for providing catch advice:

1. Natural mortality is 0.2 (base case model);
2. Natural mortality increased to 0.4, but returns to 0.2 in 2014 ( $M_{ramp}$  model); and
3. Natural mortality increased to 0.4, and will remain 0.4 for the remainder of

the rebuilding program for GOM cod (2024) ( $M_{ramp}$  model).

The first two catch projections indicate that rebuilding is possible under catch limits that are consistent with the fishing mortality rate required to rebuild the stock by the rebuilding end date of 2024 ( $F_{rebuild}$ ). However, the remaining projection from the  $M_{ramp}$  model suggests that rebuilding to the current biological reference points is not possible if natural mortality remains at 0.4. Natural mortality would have to return to 0.2 by 2016 in order for the stock to rebuild by 2024. There are some inconsistencies between this catch projection, which assumes natural mortality remains at 0.4, and the existing reference points, which are based on a natural mortality rate of 0.2. There are also several sources of uncertainties around the natural mortality rate that are important to note when evaluating the available catch projections. All of these uncertainties were discussed in detail in the available

reports from the stock assessment, the Council's Groundfish Plan Development Team, and the SSC, but a brief summary is provided below.

First, there are uncertainties around whether the natural mortality rate has actually increased to 0.4. Both the 2012 benchmark assessment and the SSC's peer review of the 2014 assessment update noted that no definitive or conclusive evidence has been presented to support the assumption that natural mortality has increased. One motivation for applying an increased natural mortality rate was to try to reduce the retrospective pattern in the assessment model. The 2012 benchmark assessment also concluded that, because the retrospective pattern was worse in the assessment model that assumed a natural mortality of 0.2, the increased natural mortality rate of 0.4 could be partially disguising unaccounted fishing mortality. Despite these uncertainties, no peer review body has concluded that either natural mortality scenario is more plausible than the other. As a result, both assessment models were advanced for providing management advice.

Second, if natural mortality has increased to 0.4, there is uncertainty around when, and if, it would return to 0.2. The 2012 benchmark assessment concluded that if natural mortality has increased in recent years, it is unlikely to be a permanent change. However, in subsequent SSC meetings, some SSC members noted that it is unlikely the natural mortality rate would suddenly return to the lower rate, particularly coincident with the end of the assessment time series.

Because the 2012 benchmark assessment did not conclude that natural mortality would remain at 0.4 indefinitely, the biological reference points currently specified in the FMP assume a natural mortality rate of 0.2. However, given the uncertainties around the natural mortality rate, the SSC has had considerable discussion about the implications of an increased natural mortality rate on the biological reference points for GOM cod. The SSC debated whether the biomass target ( $B_{MSY}$ ) should be lowered under a scenario where natural mortality has increased, and, if so, whether the maximum fishing mortality threshold ( $F_{MSY}$ ) should be increased. Ultimately, the SSC was not able to reach agreement on the appropriate response for estimating  $B_{MSY}$  and  $F_{MSY}$  under a scenario when natural mortality has increased. In addition, although the SSC discussed the various scenarios and implications for biological reference points, it concluded that any deviation from the biological reference points

established at the 2012 benchmark assessment would not be appropriate outside of the benchmark assessment process.

#### Gulf of Maine Cod Catch Advice

The SSC recommended an OFL of 514 mt for fishing years 2015–2017, which was calculated by averaging the 2015 catches at  $F_{MSY}$  from the three catch projections. The SSC recommended a 3-year constant OFL to help offset some of the uncertainties in the catch projections. Thus, for 2016 and 2017, the recommended OFL is increasingly further below the catch at  $F_{MSY}$  that is indicated from the catch projections. In support of its OFL recommendation, the SSC also noted that it used the results from each of the catch projections because all of the various natural mortality scenarios were plausible.

The SSC initially recommended a provisional ABC of 200 mt for fishing years 2015–2017. This recommendation was based on the  $F_{rebuild}$  approach that is specified by the default ABC control rule. An ABC of 200 mt was the midpoint between the  $F_{rebuild}$  catch for the scenario in which natural mortality is 0.2 and the scenario in which natural mortality increases, but returns to 0.2. This provisional ABC recommendation did not include the  $F_{rebuild}$  catch for the projection that assumes natural mortality remains at 0.4, and that suggests rebuilding is not possible. This catch projection was not included in the ABC alternatives that the Groundfish Plan Development Team initially presented to the SSC because it was not considered to be consistent with the existing biological reference points, which assume a natural mortality rate of 0.2.

During the development of the provisional ABC recommendation of 200 mt, there was considerable discussion on the rebuilding potential for GOM cod. Although two of the catch projections indicate that rebuilding could occur, both the Groundfish Plan Development Team and the SSC noted concerns for the prospects of rebuilding GOM cod within the 10 year timeframe. The projections that indicate rebuilding can occur by 2024 require steady, sustained stock growth (approximately 40 percent growth each year). However, both technical bodies noted that these growth rates have rarely been observed, and that it seems unlikely this growth would occur.

The default ABC control rule specifies that, if a stock cannot rebuild in the specified rebuilding period, even with no fishing, the ABC should be based on incidental bycatch, including a reduction in the bycatch rate. Thus,

given the available catch projections, uncertainties around the natural mortality rate, and past performance of catch projections, the SSC considered incidental bycatch information to help develop its final ABC recommendation. Based on analysis presented by the Groundfish Plan Development Team, the SSC determined that the overall incidental catch of GOM cod was approximately 500–600 mt under the current operating conditions of the fishery.

After consideration of incidental bycatch information, and given the noted uncertainties, the SSC recommended an ABC of 386 mt, which was calculated by taking 75 percent of the OFL. The SSC noted that its ABC recommendation was well below the OFL. Updated catch projections indicate that, if catch equals the proposed ABC of 386 mt in 2015, the probability of overfishing would range from 6 percent to 33 percent. Additionally, the SSC's recommendation is above the ABC associated with  $F_{rebuild}$ , but below the average of the ABCs at 75 percent of  $F_{MSY}$  for the three catch projections (405 mt). The SSC noted that an ABC of 386 mt would not compromise the ability of the stock to rebuild, and that catch projections still indicate a biomass increase under this scenario.

To help offset some of the uncertainty in catch projections, the SSC recommended a constant catch for the next 3 years. However, the SSC noted that the September 2015 stock assessment update for GOM cod will provide the opportunity to update its recommendation for the 2016 fishing year. Although not repeated in its report for this action, during the development of catch limits for 2013–2015, the SSC did note that presenting two models for GOM cod helped to better understand the nature and extent of scientific uncertainty. As discussed in this rule, presenting two assessment models does introduce difficulties in developing catch advice. However, overall, the SSC's final recommendation was an attempt to balance the various catch projections, natural mortality scenarios, and uncertainties in the assessment information with the various provisions of the control rule. Further, although the proposed ABC is not based on an  $F_{rebuild}$  approach, the FMP and National Standard 1 give deference to the SSC to recommend ABCs that are departures from the established control rules. In such situations, the SSC must use the best scientific information available and provide ample justification on why the control rule is not the best approach for the particular circumstances.

### *NMFS Concerns on Gulf of Maine Cod Catch Limit*

We have several concerns for the proposed ABC that are highlighted below. We are requesting specific comment on these concerns, particularly on how the proposed ABC would sufficiently offset the noted uncertainties and effectively control fishing mortality.

Due to several sources of uncertainty, groundfish catch projections tend to be overly optimistic and routinely overestimate stock growth and underestimate fishing mortality. As a result, for a number of groundfish stocks, even catches that were substantially lower than the projected catch resulted in fishing mortality rates that did not meet the intended targets. A number of PDT reports and assessment documents note this past performance, and that this performance should be taken into account when setting ABCs.

The 2014 assessment results for GOM cod indicate that, in each year of the previous rebuilding plan (2004–2013), fishing mortality exceeded the target rate. Thus, past performance indicates that projected catch does not result in the desired fishing mortality and stock growth does not occur as expected. Additionally, there was a retrospective error in the assessment model for both the 2012 benchmark assessment and the 2014 assessment update. If this retrospective pattern continues, then the catch projections could be overly optimistic and their starting assumptions (e.g., current stock biomass) could be wrong. When considering performance of the initial rebuilding program for GOM cod and catch projections, effectively controlling fishing mortality is essential for rebuilding efforts.

The SSC noted that an ABC of 386 mt is still well below the OFL to account for uncertainty. However, the buffer between the recommended OFL and ABC (25 percent) is relatively similar to the buffer that would occur under a typical scenario using 75 percent of  $F_{MSY}$ . In addition, the recommended ABC of 386 mt is only slightly below the average ABC based on 75 percent of  $F_{MSY}$  for the three catch projections (405 mt). In its justification for an ABC of 386 mt, the SSC also noted that this would be a substantial reduction (75 percent) from the status quo ABC of 1,550 mt. This substantial reduction is necessary based on the 2014 assessment results that indicated a catch of 1,550 mt could result in a fishing mortality rate that is five times the target rate. In light of the past performance for GOM cod, we are

requesting specific comment on whether the proposed ABC would sufficiently offset the uncertainties and effectively control fishing mortality.

As noted earlier, updated catch projections indicate rebuilding could occur by 2024 under an ABC of 386 mt. However, an ABC larger than  $F_{rebuild}$  may necessitate lower ABCs later in the rebuilding timeline. Additionally, the SSC noted that an ABC of 386 mt would not compromise the stock's ability to rebuild based on the available catch projections. However, this aspect of the SSC's recommendation appears to differ from its conclusion that GOM cod seems unlikely to rebuild in 10 years given existing stock conditions. This difference highlights an important difficulty in evaluating the proposed ABC. As discussed earlier, there is some uncertainty around the likelihood of rebuilding the stock within 10 years, which were noted by both the Groundfish Plan Development Team and the SSC. However, neither technical body concluded that these uncertainties represent a foregone conclusion that this stock, unequivocally, cannot rebuild by 2024. We are requesting specific comment on how the proposed ABC would likely affect stock rebuilding, particularly compared to an ABC based on an  $F_{rebuild}$  approach.

One factor that may help offset some of these concerns is that updated stock assessment information will be available in 2015, and in time to re-specify GOM cod catch limits for fishing year 2016. This updated information would also likely provide additional information on the rebuilding potential for GOM cod and the stock's response to recent catch limit reductions. Thus, although this action proposes a 3-year constant ABC, the catch limits adopted are expected to be in place for only 1 year. We also note that despite various uncertainties, no peer review body has concluded that any scenario is more plausible than another, and many of the uncertainties cannot be fully addressed until the next benchmark assessment is completed. Until then, catch limits for GOM cod must, to the extent possible, balance the two assessment models, various natural mortality assumptions, and other uncertainties in the available information. The proposed ABC appears to do this; however, we are requesting specific comments on whether the proposed ABC sufficiently incorporates all of the available information.

Although not specifically mentioned in the SSC's recommendation, the proposed ABC is expected to have substantial economic impacts on groundfish vessels, which are summarized in the section "Economic

Impacts of the Proposed Measures" later in this preamble. These impacts are expected to be disproportionately distributed among the groundfish fleet. The largest revenue reductions are expected for vessels less than 50 ft (15 m), and those fishing from Gloucester, MA, and New Hampshire ports. Given current stock conditions, and all of the noted uncertainties in the stock assessment information, the proposed ABC would likely mitigate economic impacts, as much as possible, compared to other ABC alternatives that the SSC reviewed.

Due to the low catch limit proposed for GOM cod, we have some concerns regarding apportionment of catch and the incentive to misreport catch on unobserved trips. We noted these same concerns in our 2014 interim action for GOM cod. Additionally, this issue was discussed during the development of Framework 53, and is noted in various analyses prepared by the Council in support of this action. Due to these concerns, we are considering the possibility of additional reporting requirements (e.g., daily Vessel Monitoring System catch reports) for commercial groundfish vessels. We are not specifically proposing any additional requirements in this action; we are highlighting these concerns because they relate to the proposed specifications. We intend to further consult with the Council on this issue to explore whether additional reporting requirements could help address the noted concerns.

### *Annual Catch Limits*

#### *Development of Annual Catch Limits*

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. First, an estimate of catch expected from state waters and the "other" sub-component (i.e., non-groundfish fisheries) is deducted from the U.S. ABC. These sub-components are not subject to specific catch controls by the FMP. As a result, the state waters and other sub-components are not allocations, and these components of the fishery are not subject to accountability measures if the catch limits are exceeded. After the state and other sub-components are deducted, the remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation are subject to accountability measures if they exceed their respective catch limit during the fishing year.

Once the U.S. ABC is divided, sub-annual catch limits (sub-ACLs) are set by reducing the amount of the ABC distributed to each component of the fishery to account for management uncertainty. Management uncertainty is the likelihood that management measures will result in a level of catch greater than expected. For each stock and fishery component, management uncertainty is estimated using the following criteria: Enforceability and precision of management measures, adequacy of catch monitoring, latent effort, and catch of groundfish in non-groundfish fisheries. The total ACL is the sum of all of the sub-ACLs and ACL sub-components, and is the catch limit for a particular year after accounting for both scientific and management uncertainty. Landings and discards from all fisheries (commercial and recreational groundfish fisheries, state waters, and non-groundfish fisheries) are counted against the ACL for each stock.

#### Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative Potential Sector Contributions (PSCs) associated with those sectors. The preliminary sector and common pool sub-ACLs proposed in this action are based on fishing year 2015 PSCs and fishing year 2014 sector rosters. 2015 sector rosters will not be finalized until May 1, 2015, because

individual permit holders have until the end of the 2014 fishing year to drop out of a sector and fish in the common pool fishery for 2015. Therefore, it is possible that the sector and common pool catch limits proposed in this action may change due to changes in the sector rosters. If changes to the sector rosters occur, updated catch limits will be published as soon as possible in the 2015 fishing year to reflect the final sector rosters as of May 1, 2015. Sector specific allocations for each stock can be found in the proposed rule for 2015 Sector Operations Plans and Contracts.

#### Common Pool Total Allowable Catches

The common pool sub-ACL for each stock (except for SNE/MA winter flounder, windowpane flounder, ocean pout, Atlantic wolffish, and Atlantic halibut) is further divided into trimester total allowable catches (TACs). The distribution of the common pool sub-ACLs into trimesters was adopted by Amendment 16 to the FMP and is based on recent landing patterns. Once we project that 90 percent of the trimester TAC is caught for a stock, the trimester TAC area for that stock is closed for the remainder of the trimester to all common pool vessels fishing with gear capable of catching the pertinent stock. Any uncaught portion of the TAC in Trimester 1 or Trimester 2 will be carried forward to the next trimester. Overages of the Trimester 1 or Trimester 2 TAC will be deducted from the Trimester 3 TAC. Any overages of the total common pool sub-ACL will be deducted from the following fishing year's common pool sub-ACL for that

stock. Uncaught portions of the Trimester 3 TAC may not be carried over into the following fishing year. Table 8 summarizes the common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (*i.e.*, stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (*i.e.*, special access programs (SAPs) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 9 through 11 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

#### Closed Area I Hook Gear Haddock Special Access Program

Overall fishing effort by both common pool and sector vessels in the Closed Area I Hook Gear Haddock SAP is controlled by an overall TAC for GB haddock, which is the target species for this SAP. The maximum amount of GB haddock that may be caught in any fishing year is based on the amount allocated to this SAP for the 2004 fishing year (1,130 mt), and adjusted according to the growth or decline of the western GB haddock biomass in relationship to its size in 2004. Based on this formula, the proposed GB Haddock TAC for this SAP is 2,448 mt for the 2015 fishing year. Once this overall TAC is caught, the Closed Area I Hook Gear Haddock SAP will be closed to all groundfish vessels for the remainder of the fishing year.

TABLE 5—PROPOSED FISHING YEAR 2015 CATCH LIMITS  
[mt, live weight]

Stock	Total ACL	Total groundfish fishery	Preliminary sector	Preliminary common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GB Cod .....	1,886	1,787	1,753	34	.....	.....	.....	.....	20	79
GOM Cod .....	366	328	202	5	121	.....	.....	.....	26	13
GB Haddock .....	23,204	21,759	21,603	156	.....	227	.....	.....	244	975
GOM Haddock ..	1,375	1,329	949	9	372	14	.....	.....	11	21
GB Yellowtail Flounder .....	240	195	192	3	.....	.....	38	5	na	2
SNE/MA Yellowtail Flounder .....	666	557	457	102	.....	.....	66	.....	14	28
CC/GOM Yellowtail Flounder .....	524	458	442	16	.....	.....	.....	.....	38	27
American Plaice	1,470	1,408	1,381	27	.....	.....	.....	.....	31	31
Witch Flounder ..	751	610	598	12	.....	.....	.....	.....	23	117
GB Winter Flounder .....	1,952	1,891	1,876	15	.....	.....	.....	.....	na	60
GOM Winter Flounder .....	489	392	375	18	.....	.....	.....	.....	87	10
SNE/MA Winter Flounder .....	1,607	1,306	1,149	157	.....	.....	.....	.....	117	184
Redfish .....	11,393	11,034	10,974	60	.....	.....	.....	.....	120	239
White Hake .....	4,484	4,343	4,311	32	.....	.....	.....	.....	47	94
Pollock .....	15,878	13,720	13,628	92	.....	.....	.....	.....	996	1,162
N. Windowpane Flounder .....	144	98	na	98	.....	.....	.....	.....	2	44



TABLE 5—PROPOSED FISHING YEAR 2015 CATCH LIMITS—Continued  
[mt, live weight]

Stock	Total ACL	Total groundfish fishery	Preliminary sector	Preliminary common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
S. Windowpane										
Flounder .....	527	102	na	102	.....	.....	183	.....	55	186
Ocean Pout .....	220	195	na	195	.....	.....	.....	.....	2	24
Atlantic Halibut ..	97	64	na	64	.....	.....	.....	.....	30	3
Atlantic Wolffish	65	62	na	62	.....	.....	.....	.....	1	3

TABLE 6—PROPOSED FISHING YEAR 2016 CATCH LIMITS  
[mt, live weight]

Stock	Total ACL	Total groundfish fishery	Preliminary sector	Preliminary common pool	Recreational fishery	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GOM Cod .....	366	328	202	5	121	.....	.....	.....	26	13
GOM Haddock ..	1,675	1,620	1,155	12	453	16	.....	.....	13	26
GB Yellowtail										
Flounder .....	343	278	274	4	.....	.....	55	7	na	4
GB Winter										
Flounder .....	2,046	1,982	1,967	15	.....	.....	.....	.....	na	63
GOM Winter										
Flounder .....	489	392	375	18	.....	.....	.....	.....	87	10
White Hake .....	4,420	4,280	4,249	31	.....	.....	.....	.....	46	93
Pollock .....	15,878	13,720	13,628	92	.....	.....	.....	.....	996	1,162

TABLE 7—PROPOSED FISHING YEAR 2017 CATCH LIMITS  
[mt, live weight]

Stock	Total ACL	Total groundfish fishery	Preliminary sector	Preliminary common pool	Recreational fishery	Midwater trawl fishery	State waters sub-component	Other sub-component
GOM Cod .....	366	328	202	5	121	.....	26	13
GOM Haddock .....	2,009	1,943	1,386	14	543	.....	15	31
GB Winter Flounder .....	2,117	2,051	2,035	16	.....	.....	na	65
GOM Winter Flounder .....	489	392	375	18	.....	.....	87	10
Pollock .....	15,878	13,720	13,628	92	.....	.....	996	1,162

TABLE 8—PROPOSED FISHING YEARS 2015–2017 COMMON POOL TRIMESTER TACs  
[mt, live weight]

Stock	2015			2016			2017		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod .....	8.6	12.7	13.1						
GOM Cod .....	1.3	1.7	1.8	1.3	1.7	1.8	1.3	1.7	1.8
GB Haddock .....	42.0	51.3	62.2						
GOM Haddock .....	2.56	2.47	4.46	3.1	3.0	5.4	3.7	3.6	6.5
GB Yellowtail Flounder .....	0.6	0.9	1.6	0.9	1.4	2.3			
SNE/MA Yellowtail Flounder	21.4	37.7	42.8						
CC/GOM Yellowtail Flounder	5.5	5.5	4.7						
American Plaice .....	6.6	9.9	11.0						
Witch Flounder .....	3.4	3.8	5.2						
GB Winter Flounder .....	1.2	3.5	10.1	1.2	3.7	10.5	1.3	3.8	10.9
GOM Winter Flounder .....	6.5	6.6	4.4	6.5	6.6	4.4	6.5	6.6	4.4
Redfish .....	14.9	18.5	26.2						
White Hake .....	12.0	9.8	9.8	11.9	9.7	9.7			
Pollock .....	25.7	32.1	33.9	25.7	32.1	33.9	25.7	32.1	33.9

**Note.** An empty cell indicates that no catch limit has been set yet for these stocks. These catch limits will be set in a future management action.

TABLE 9—PROPOSED COMMON POOL INCIDENTAL CATCH TACs FOR FISHING YEARS 2015–2016  
[mt, live weight]

Stock	Percentage of common pool sub-ACL	2015	2016
GB Cod .....	2	0.69	na
GOM Cod .....	1	0.05	0.05
GB Yellowtail Flounder .....	2	0.06	0.09
CC/GOM Yellowtail Flounder .....	1	0.16	na

TABLE 9—PROPOSED COMMON POOL INCIDENTAL CATCH TACS FOR FISHING YEARS 2015–2016—Continued  
[mt, live weight]

Stock	Percentage of common pool sub-ACL	2015	2016
American Plaice .....	5	1.37	na
Witch Flounder .....	5	0.62	na
SNE/MA Winter Flounder .....	1	1.57	na

TABLE 10—PERCENTAGE OF INCIDENTAL CATCH TACS DISTRIBUTED TO EACH SPECIAL MANAGEMENT PROGRAM

Stock	Regular B DAS program	Closed area I hook gear haddock SAP	Eastern US/CA haddock SAP
GB Cod .....	50	16	34
GOM Cod .....	100		
GB Yellowtail Flounder .....	50	.....	50
CC/GOM Yellowtail Flounder .....	100		
American Plaice .....	100		
Witch Flounder .....	100		
SNE/MA Winter Flounder .....	100		
White Hake .....	100		

TABLE 11—PROPOSED FISHING YEARS 2015–2016 INCIDENTAL CATCH TACS FOR EACH SPECIAL MANAGEMENT PROGRAM  
[mt, live weight]

Stock	Regular B DAS program		Closed area I hook gear haddock SAP		Eastern U.S./Canada haddock SAP	
	2015	2016	2015	2016	2015	2016
GB Cod .....	0.34	na	0.11	na	0.23	na
GOM Cod .....	0.05	0.05				
GB Yellowtail Flounder .....	0.03	0.05	.....	.....	0.03	0.05
CC/GOM Yellowtail Flounder .....	0.16	na				
American Plaice .....	1.37	na				
Witch Flounder .....	0.62	na				
SNE/MA Winter Flounder .....	1.57	na				

## 5. Gulf of Maine Cod Protection Measures

This action proposes to re-configure the GOM rolling closures and prohibit possession of GOM cod for the recreational fishery. A summary of the proposed changes to the GOM rolling closures is provided in Table 12. This action would add closures in the winter (November-January), May, and June, and would remove all closures in April, and one closure in June. Additionally, this action proposes to remove a number of other rolling closures, although sector vessels have been exempt from these areas since 2010.

These closures would apply to all commercial vessels, except for commercial vessels that are fishing with exempted gear, as defined in § 648.2, or in an exempted fishery. Exempted gear is deemed to be not capable of catching groundfish and currently includes: Pelagic hook and line, pelagic longline, spears, rakes, diving gear, cast nets,

tongs, harpoons, weirs, dipnets, stop nets, pound nets, pelagic gillnets, pots and traps, shrimp trawls (with a properly configured grate), and surfclam and ocean quahog dredges. Based on the current list of approved exempted fisheries defined in § 648.80, the proposed protection closures would not apply to vessels fishing in the Midwater Trawl Gear Exempted Fishery, the Purse Seine Gear Exempted Fishery, the Raised Footrope Trawl Exempted Whiting Fishery, the Small Mesh Area II Exemption Area, or the Scallop Dredge Exemption Area. As adopted in Amendment 16 to the FMP, sector vessels would continue to be exempt from the closures in March and October. The March and October closures would also not apply to Handgear A vessels, regardless of whether the vessel was fishing in the common pool or in a sector.

The proposed GOM cod closures are intended to protect spawning GOM cod, reduce fishing mortality on GOM cod,

and provide additional fishing opportunities for groundfish vessels to target healthy groundfish stocks. These closures are an additional tool the Council is using to protect GOM cod, and are complementary to its requirement for setting catch limits that will prevent overfishing and help rebuild the stock. Based on the available information, and as noted in the Council's analysis, protecting spawning GOM cod could help improve the chances of successful spawning events, and, as a result, help prevent failures of future year classes. Ultimately, the biological objectives of these closures are intended to help prevent further biomass declines and improve the likelihood of rebuilding GOM cod. As part of the proposed measure, the Council also adopted a provision that the closures would be subject to review when the GOM cod spawning stock biomass reaches the minimum biomass threshold (50 percent of  $SSB_{MSY}$ ).

TABLE 12—PROPOSED RE-CONFIGURATION OF THE GULF OF MAINE ROLLING CLOSURES

Month	Current GOM rolling closures <sup>1</sup>	Proposed GOM cod protection closures
May .....	<i>All Vessels:</i> 132, 133, 138, 139, 140 .....	<i>All Vessels:</i> 125 north of 42°20', 132, 133, 138, 139, 140.
	<i>Non-Sector Vessels:</i> 124, 125, 129, 130, 131, 136, 137, 138.	
June .....	<i>All Vessels:</i> 139, 140, 145, 146, 147 .....	<i>All Vessels:</i> 125 north of 42°20', 132, 139, 140, 146, 147.
	<i>Non-Sector Vessels:</i> 132, 133, 142, 143, 144.	
July .....	None .....	None.
August .....	None .....	None.
September .....	None .....	None.
October .....	<i>Non-Sector Vessels:</i> 124, 125 .....	<i>Non-Sector Vessels:</i> 124, 125.
November .....	<i>Non-Sector Vessels:</i> 124, 125 .....	<i>All Vessels:</i> Portion of 124, 125.
December .....	None .....	<i>All Vessels:</i> Portion of 124, 125.
January .....	None .....	<i>All Vessels:</i> Portion of 124, 125.
February .....	None .....	None.
March .....	<i>Non-Sector Vessels:</i> 121, 122, 123 .....	<i>Non-Sector Vessels:</i> 121, 122, 123.
April .....	<i>All Vessels:</i> 124, 125, 132, 133 .....	None.
	<i>Non-Sector Vessels:</i> 121, 122, 123, 129, 130, 131.	

<sup>1</sup> This table includes the current rolling closures implemented in the FMP; it does not incorporate area closures that NMFS implemented for 2014 under emergency authority.

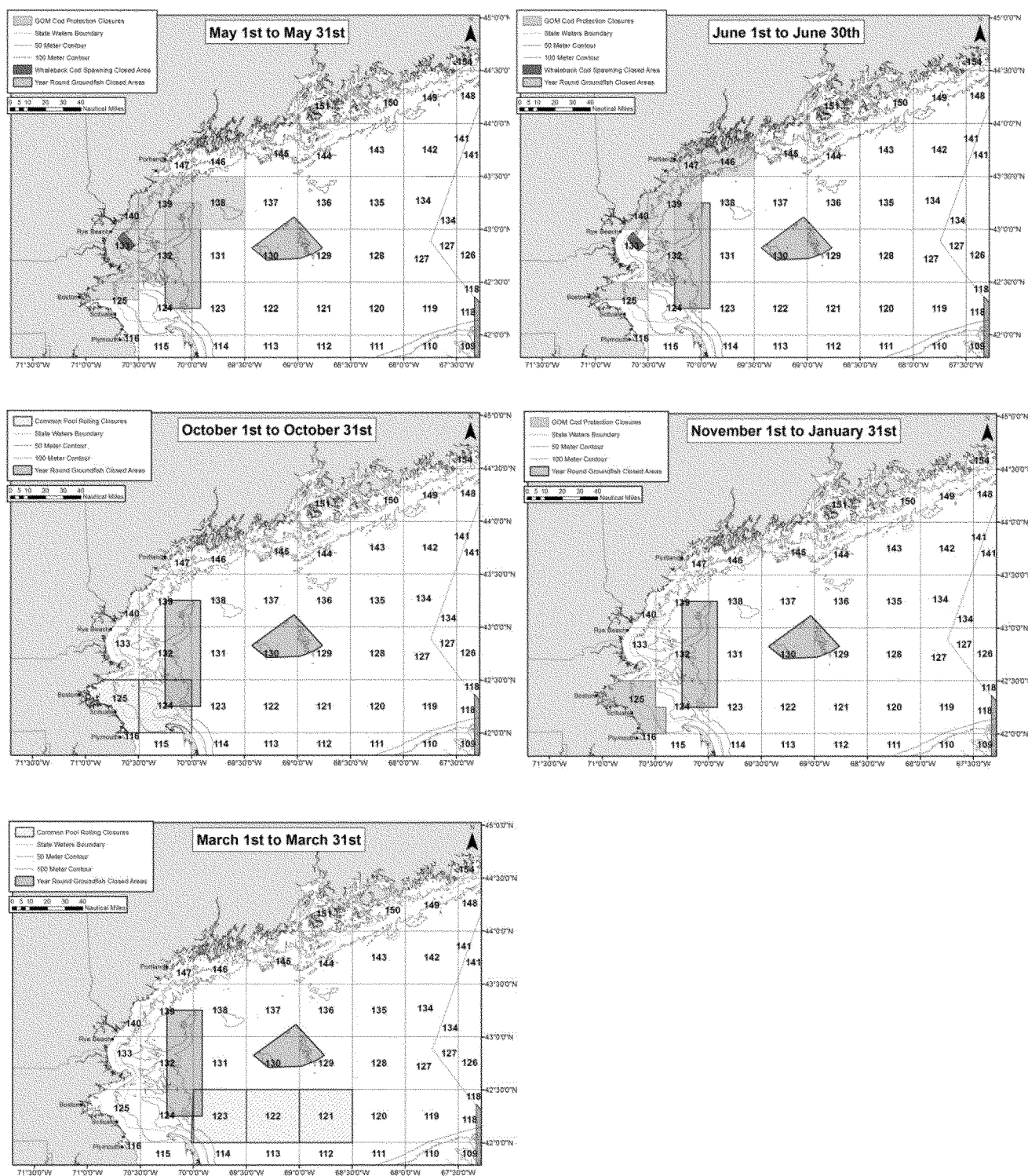
**Note.** Handgear A vessels are exempt from the same closures as sector vessels.

Recreational vessels would not be subject to the GOM cod protection closures, and could continue to fish in these areas. Instead, this action proposes to prohibit possession of GOM cod for all private and party/charter recreational vessels. This is intended to provide recreational vessels the opportunity to target other healthy groundfish stocks,

while reducing the incentive to target GOM cod in order to reduce fishing mortality on this stock by the recreational fishery. Recent catch projections indicate that the recreational fishery would still exceed its allocation for GOM cod in the 2015 fishing year due to bycatch, even with the prohibition on possession that is

proposed in this action. Therefore, in a separate rulemaking, we will implement additional recreational measures under our discretionary authority to implement proactive accountability measures to help ensure the recreational fishery does not exceed its allocation in 2015.

**BILLING CODE 3510-22-P**

**Figure 1. Proposed Gulf of Maine Cod Protection Closures****BILLING CODE 3510-22-C***Summary of NMFS Concerns on Gulf of Maine Cod Protection Measures*

We have some concerns for the proposed re-configuration of the GOM area closures. First, the supporting

analysis prepared by the Council for this action indicates that the added closures in May and June may provide little additional benefit because little fishing activity has typically occurred in these times and areas. Additionally, the areas

proposed to be open in April are historically important areas for spawning cod, and some information indicates the core of the GOM cod stock is concentrated in these areas. The analysis indicates that removing April

closures could allow fishing effort to shift into areas of high cod concentration when vessels are targeting other stocks, like GOM haddock. Given the expected low GOM cod allocation, it is difficult to predict how groundfish vessels will operate in 2015, and any potential effort shifts may be minimal with such a restrictive GOM cod catch limit. However, if the removal of the April rolling closures does result in an effort shift into areas of high cod concentration, benefits from additional winter closures could be diminished if fishing mortality increases in April.

The current April rolling closures provide some secondary benefits for other groundfish stocks that spawn in the spring. Framework 53 analysis indicates that removing April closures would provide less spawning protection for GOM winter flounder, CC/GOM yellowtail flounder, plaice, and GOM haddock. Although this spawning protection is a secondary benefit of the current April closures, the expected impact should be considered carefully. For a number of these stocks, the most recent stock assessment information indicates biomass declines. Also important to note is that, in 2014, we implemented the second 10-year rebuilding program for plaice due to inadequate rebuilding progress.

The Council's analysis also summarizes some of the available research on GOM cod spawning. This information indicates that fishing on spawning cod may affect spawning activity beyond just the removal of fish. Fishing activity may disrupt spawning signals, and, as a result, can reduce spawning success. In addition, because spawning fish are stressed, these fish may be less likely to survive capture and release than under normal conditions, or may have reduced egg production following release. Considering all of this supporting information, allowing exempted fisheries and recreational vessels in these protection closures could diminish the additional spawning protection that these closures are intended to provide.

Based on all of these considerations, we are concerned that the proposed protection closures may not fully meet the Council's intended objectives. The Council initially identified enhancing spawning protection as a goal for the Omnibus Habitat Amendment 2. However, because this amendment was not anticipated to be completed quickly enough, and due to concern for the low GOM cod stock size, the Council prioritized GOM cod spawning protection for Framework 53. During the development of Framework 53, the

Council identified additional objectives for the GOM area closures beyond just spawning protection. However, complete analysis of the impacts of the proposed protection closures was not available when the Council took final action on Framework 53. As a result, it may have been difficult for the Council to evaluate the likelihood that the proposed measures would meet its intended objectives. Because much of the supporting analysis was not available when the Council adopted the proposed protection closures, we are requesting specific comments on the extent to which the proposed closures would fully meet all of the Council's stated objectives, as well as the biological tradeoffs related to the proposed changes to the GOM area closures for winter (November–January) and April.

Although we have some concerns, largely for the removal of April closures, this action would provide important spawning protection during the winter, which the status quo measures do not provide. The Council's analysis indicates that the proposed changes would protect an additional 35 percent of the winter spawning biomass and 8 percent less of the spring spawning biomass. Available information does not indicate whether the winter or spring spawning biomass is more important relative to overall contribution to cod recruitment. However, some analysis indicates that the winter spawning component may be much smaller than the spring component, although the reasons for this are unknown. The available GOM cod spawning research suggests that once a specific spawning aggregation is lost, there is little indication that the aggregation could recolonize. As a result, the proposed winter closures could provide essential protection for the winter component, and help prevent further depletion of this component. At least in the short-term, the addition of winter closures proposed in this action appears to be more beneficial than the status quo measures.

Further, the economic impacts analysis of the proposed closures indicates that these measures may provide some additional economic opportunities compared to the existing rolling closures. Although the analysis indicates that the economic benefits may be small, we recognize that, given the low catch limits for many groundfish stocks, even small increases in fishing opportunities are meaningful. This is particularly true for small vessels and the ports that would be most impacted by this action, and the proposed closures could help increase

the viability of some inshore vessels. As noted in the analysis, it is difficult to quantify the economic impacts of the proposed protection closures. As a result, we are requesting specific comment on these anticipated impacts, including the economic trade-offs that would occur under the proposal to close new areas in the winter and open previously closed areas in April.

The proposed protection measures include a provision that the closures would be subject to review once the minimum biomass threshold for GOM cod is met. However, the Council could review and modify these closures at any time. For all of the reasons mentioned above, protecting spawning aggregations is one way to help prevent further biomass declines and improve the likelihood of rebuilding GOM cod. Given the poor status of GOM cod, and the possibility of additional research on GOM cod spawning, reviewing these closures as additional stock information becomes available is likely more important than waiting for the minimum biomass threshold to be met.

Assessment updates for all 20 groundfish stocks are scheduled for September 2015. If the results of the next GOM cod assessment indicate the stock has declined further, then additional action may be warranted. The Council would likely need to review the GOM cod protection measures, and any updated stock information, and consider expanding protection closures, particularly for the month of April, or other areas of high cod concentration.

## 6. Default Catch Limits

### *Mechanism for Setting Default Catch Limits*

This action proposes to establish a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of the fishing year on May 1, then default catch limits would be implemented. The default catch limits would be set at 35 percent of the previous year's catch limit, as long as this value does not exceed the Council's recommendation for the upcoming fishing year. If this value exceeds the Council's recommendation, the default catch limits would be reduced to an amount equal to the Council's recommendation for the upcoming fishing year.

The default catch limits would be in place from May 1 through July 31, unless a final rule including permanent catch limits is implemented prior to July 31 that replaces the default catch limits. If final catch limits are not implemented

by the end of the default specifications period, then no catch limits would be in place beginning on August 1. Under this scenario, commercial groundfish vessels would be unable to fish until final catch limits and allocations were implemented for the fishing year. All catch occurring while default catch limits are in place would be attributed to the appropriate fishery allocation and the final catch limits for the fishing year.

The default catch limits would be distributed to the various components of the fishery based on the distribution adopted by the Council for the previous fishing year. Additionally, this proposed measure would not change any of the existing accountability measures for any fishery. For example, if a sector catches its entire allocation of redfish specified for the default specifications time period, it would be prohibited from fishing in the redfish stock area until final specifications were set, or it received additional allocation for this stock. The midwater trawl fishery is the only non-groundfish fishery with an inseason accountability measure for its allocation of GOM and GB haddock. When the GOM or GB haddock catch cap specified for the default specifications period is caught, the directed herring fishery would be closed for all herring vessels fishing with midwater trawl gear for the remainder of the default specifications time period, unless final specifications were set prior to July 31. For other non-groundfish fisheries that receive an allocation (e.g., scallop, small-mesh), this proposed measure would not affect current operations because these fisheries do

not have inseason accountability measures.

If default catch limits are implemented for any fishing year, groundfish sectors would not be subject to the 20 percent holdback of the prior year's allocation. This holdback provision was implemented in Amendment 16 to the FMP to allow time for processing end-of-year transfers and determine whether any overage reductions are necessary. However, the holdback provision would not be necessary under default catch limits because additional precaution has already been built in with the 65-percent reduction from the previous year's catch limits.

Although most FMPs implement default catch limits that are equal to the previous year's catch limits, a more precautionary approach is proposed for default groundfish catch limits. In recent years, there have been a number of substantial reductions in groundfish catch limits, up to 80 percent. Given the frequency of large reductions, default catch limits equal to the previous year's catch limits could increase the risk of overfishing during the time period which default catch limits are implemented. As a result, reducing the default catch limits from the previous year's catch limits would help ensure that overfishing does not occur during the default time period.

This measure is largely intended to prevent disruption to the groundfish fishery in the event a management action is delayed. Sector vessels are not allowed to fish in a stock area unless their sector has received an allocation for the respective stock. As a result, if catch limits are not implemented by the

start of the groundfish fishing year on May 1 in any year, then sector vessels would not be allowed to fish. This would cause severe disruption to the groundfish fishery and could result in foregone yield. Any revenue reductions that may occur during a gap in specifications could worsen the severe economic impacts that have resulted from recent groundfish catch limit reductions.

#### *Default Catch Limits for Fishing Year 2016*

Groundfish assessment updates are anticipated in September 2015, and these assessments are expected to be used to set catch limits for the 2016 fishing year beginning on May 1, 2016. However, due to the timing of these assessments, the Council's management action that will adopt the catch limits for the 2016 fishing year is not expected to be completed in time to be implemented by May 1, 2016. As a result, in conjunction with the default specifications process proposed in Framework 53, this action also proposes default limits for 2016 that would become effective May 1, 2016, unless otherwise replaced by final specifications. Default catch limits are proposed only for those groundfish stocks that would not have final specifications in place for 2016, absent another management action. The default catch limits proposed in this action are provided in Tables 13 and 14. If these default catch limits exceed the Council's recommendation for fishing year 2016, then they would be adjusted, as necessary, in a future action prior to May 1, 2016.

TABLE 13—FISHING YEAR 2016 DEFAULT SPECIFICATIONS

[mt, live weight]

Stock	U.S. ABC	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Midwater trawl fishery
GB Cod .....	693	660	625	614	12	.....
GB Haddock .....	8,528	8,121	7,616	7,563	53	79
SNE/MA Yellowtail Flounder .....	245	232	151	124	27	.....
CC/GOM Yellowtail Flounder .....	192	184	161	155	5	.....
American Plaice .....	540	514	492	483	9	.....
Witch Flounder .....	274	263	213	209	4	.....
SNE/MA Winter Flounder .....	587	563	457	402	56	.....
Redfish .....	4,191	3,988	3,862	3,846	16	.....
N. Windowpane Flounder .....	53	50	35	na	35	.....
S. Windowpane Flounder .....	192	184	36	na	36	.....
Ocean Pout .....	82	77	68	na	68	.....
Atlantic Halibut .....	35	34	22	na	22	.....
Atlantic Wolffish .....	25	23	22	na	22	.....

TABLE 14—FISHING YEAR 2016 DEFAULT COMMON POOL TRIMESTER TOTAL ALLOWABLE CATCHES  
[mt, live weight]

Stock	Trimester 1	Trimester 2	Trimester 3
GB Cod .....	3.0	4.4	4.5
GB Haddock .....	14.2	17.4	21.1
SNE/MA Yellowtail Flounder .....	5.7	10.1	11.5
CC/GOM Yellowtail Flounder .....	1.9	1.9	1.6
American Plaice .....	2.2	3.3	3.7
Witch Flounder .....	1.2	1.3	1.8
Redfish .....	4.0	5.0	7.1

## 7. Sector Carryover

### *Proposed Change to Sector Carryover Provision*

This action proposes to modify the provision that allows sectors to carryover unused allocations from the previous year, which was initially implemented in Amendment 16 to the FMP. Currently, sectors can carry over up to 10 percent of their unused allocation into the next fishing year. However, this action proposes to reduce the maximum available carryover possible if up to 10 percent of the unused sector sub-ACL, plus the total ACL for the upcoming fishing year, exceeds the ABC. This proposed change does not modify any other part of the carryover provisions previously implemented.

The proposed change is in response to a recent Court ruling in *Conservation Law Foundation v. Pritzker, et al.* (Case No. 1:13-CV-0821-JEB) that determined sector carryover combined with the total ACL for the upcoming fishing year, or total potential catch, could not exceed the ABC. Previously, under the sector carryover provision adopted in Amendment 16, any available sector carryover that was caught was not counted against the ACLs, or the sector's allocation, in determining whether accountability measures would be implemented. However, during the development of catch limits for the 2013 fishing year, it became apparent that, if carryover (up to 10 percent of 2012 sector allocation) was caught in conjunction with the much lower catch limits being put in place for 2013, overages of the ACL, ABC, and, for one stock the OFL, would occur. As a result,

we implemented a rule in May 2013, under our authority specified in section 305(d) of the Magnuson-Stevens Act, to clarify how sector carryover catch would be counted in evaluating if accountability measures were triggered because ACLs had been exceeded (78 FR 26172; May 3, 2013 and 78 FR 53363; August 29, 2013).

This measure is intended to reduce the risk of catches exceeding the ABCs that the SSC recommends. Although our rule clarified that sectors would be held accountable for all carryover caught for fishing years 2014 and beyond, we did not adjust the provision that allows sectors to carryover up to 10 percent of their unused allocations into the following fishing year. As a result, "total potential catch" could exceed the ABC, although accountability measures would still have been implemented if an overage occurred. However, consistent with the court ruling, this action proposes to reduce the maximum available carryover down from 10 percent to ensure that total potential catch does not exceed the ABC. For example, if 10 percent of sector carryover from the previous year plus the total ACL for the upcoming year was expected to exceed the ABC by 50 mt, then we would reduce the available carryover for each sector. The overall reduction of available carryover would be equal to 50 mt, and this amount would be applied to each sector proportional to the total PSCs of the vessels/permits enrolled in the sector.

### *Sector Carryover From Fishing Year 2014 to 2015*

Based on the catch limits proposed in Framework 53, we evaluated whether

the total potential catch in fishing year 2015 would exceed the proposed ABC if sectors carried over the maximum 10 percent of unused allocation allowed from 2014 to 2015 (Table 15). Under this scenario, total potential catch would exceed the 2015 ABC for all groundfish stocks, except for GOM haddock. As a result, we expect we will need to adjust the maximum amount of unused allocation that a sector can carry forward from 2014 to 2015 (down from 10 percent). However, it is possible that not all sectors will have 10 percent of unused allocation at the end of the 2014 fishing year. We will make the final adjustment to the maximum carryover possible for each sector based on final 2014 catch for the sectors, each sector's total unused allocation, and proportional to the cumulative PSCs of vessels/permits participating in the sector. We will announce this adjustment as close to May 1, 2015, as possible.

Based on the proposed ABCs, the *de minimis* carryover amount for the 2015 fishing year will be set at the default one percent of the 2015 overall sector sub-ACL. The overall *de minimis* amount will be applied to each sector based on the cumulative PSCs of vessels/permits participating in that sector. If the overall ACL for any allocated stock is exceeded for the 2015 fishing year, the allowed carryover harvested by a sector, minus its specified *de minimis* amount, will be counted against its allocation to determine whether an overage, subject to an accountability measure, occurred.

TABLE 15—EVALUATION OF MAXIMUM CARRYOVER ALLOWED FROM FISHING YEAR 2014 TO 2015  
[mt, live weight]

Stock	2015 U.S. ABC	2015 Total ACL	Potential carryover (10% of 2014 Sector sub-ACL)	Total potential catch (2015 total ACL + potential carryover)	Difference between total potential catch and ABC
GB Cod .....	1,980	1,886	174	2,060	80
GOM Cod .....	386	366	81	447	61
GB Haddock .....	24,366	23,204	1,705	24,909	543

TABLE 15—EVALUATION OF MAXIMUM CARRYOVER ALLOWED FROM FISHING YEAR 2014 TO 2015—Continued  
[mt, live weight]

Stock	2015 U.S. ABC	2015 Total ACL	Potential carryover (10% of 2014 Sector sub-ACL)	Total potential catch (2015 total ACL + potential carryover)	Difference between total potential catch and ABC
GOM Haddock .....	1,454	1,375	43	1,418	-36
SNE Yellowtail Flounder .....	700	666	46	712	12
CC/GOM Yellowtail Flounder .....	548	524	46	570	22
Plaice .....	1,544	1,470	136	1,605	61
Witch Flounder .....	783	751	60	811	28
GB Winter Flounder .....	2,010	1,952	336	2,287	277
GOM Winter Flounder .....	510	489	68	558	48
SNE/MA Winter Flounder .....	1,676	1,607	106	1,714	38
Redfish .....	11,974	11,393	1,052	12,445	471
White Hake .....	4,713	4,484	425	4,909	196
Pollock .....	16,600	15,878	1,314	17,192	592

**Note.** Carryover of GB yellowtail flounder is not allowed because this stock is jointly managed with Canada.

### 8. 2015 Annual Measures Under Regional Administrator Authority

The FMP gives us authority to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special Management Programs on an annual basis, or as needed. This proposed rule includes a description of these management measures that are being considered for the 2015 fishing year in order to provide an opportunity for the public to comment on whether the proposed measures are appropriate. These measures are not part of Framework 53, and were not specifically proposed by the Council. We are proposing them in conjunction with Framework 53 measures in this action for expediency purposes, and because they relate to the catch limits proposed in Framework 53.

#### Common Pool Trip Limits

Tables 16 and 17 provide a summary of the current common pool trip limits for fishing year 2014 and the trip limits proposed for fishing year 2015. The proposed 2015 trip limits were developed after considering changes to the common pool sub-ACLs and sector rosters from 2014 to 2015, proposed trimester TACs for 2015, catch rates of each stock during 2014, and other available information.

The default cod trip limit is 300 lb (136 kg) for Handgear A vessels and 75 lb (34 kg) for Handgear B vessels. If the GOM or GB cod landing limit for vessels fishing on a groundfish DAS drops below 300 lb (136 kg), then the respective Handgear A cod trip limit must be reduced to the same limit. Similarly, the Handgear B trip limit must be adjusted proportionally (rounded up to the nearest 25 lb (11 kg)) to the DAS limit. This action proposes a GOM cod landing limit of 50 lb (23 kg)

per DAS for vessels fishing on a groundfish DAS, which is 85 percent lower than the default limit specified in the regulations for these vessels (800 lb (363 kg) per DAS). As a result, the proposed Handgear A trip limit for GOM cod is reduced to 50 lb (23 kg) per trip, and the proposed Handgear B trip limit for GOM cod is reduced proportionally to 25 lb (11 kg) per trip.

Vessels with a Small Vessel category permit can possess up to 300 lb (136 kg) of cod, haddock, and yellowtail, combined, per trip. For fishing year 2015, we are proposing that the maximum amount of GOM cod and haddock (within the 300-lb (136-kg) trip limit) be set equal to the possession limits applicable to multispecies DAS vessels (see Table 16). This adjustment is necessary to ensure that the trip limit applicable to the Small Vessel category permit is consistent with reductions to the trip limits for other common pool vessels, as described above.

TABLE 16—PROPOSED FISHING YEAR 2015 COMMON POOL TRIP LIMITS

Stock	Current 2014 trip limit	Proposed 2015 trip limit
GB Cod (outside Eastern U.S./Canada Area) ...	2,000 lb (907 kg)/DAS, up to 20,000 lb (9,072 kg)/trip	
GB Cod (inside Eastern U.S./Canada Area) .....	500 lb (227 kg)/DAS, up to 5,000 lb (2,268 kg)/trip.	100 lb (45 kg)/DAS, up to 500 lb (227 kg)/trip.
GOM Cod .....	200 lb (91 kg)/trip .....	50 lb (23 kg)/DAS, up to 200 lb (91 kg)/trip.
GB Haddock .....	10,000 lb (4,536 kg)/trip .....	25,000 lb (11,340 kg)/trip.
GOM Haddock .....	25 lb (11 kg)/trip .....	50 lb (23 kg)/DAS, up to 200 lb (91 kg)/trip.
GB Yellowtail Flounder .....	100 lb (45 kg)/trip	
SNE/MA Yellowtail Flounder .....	250 lb (113 kg)/DAS, up to 500 lb (227 kg)/trip.	2,000 lb (907 kg)/DAS, up to 6,000 lb (2,722 kg)/trip.
CC/GOM Yellowtail Flounder .....	1,000 lb (454 kg)/trip .....	1,500 lb (680 kg)/DAS up to 3,000 lb (1,361 kg)/trip.
American plaice .....	Unlimited	
Witch Flounder .....	500 lb (227 kg)/trip .....	1,000 lb (454 kg)/trip.



TABLE 16—PROPOSED FISHING YEAR 2015 COMMON POOL TRIP LIMITS—Continued

Stock	Current 2014 trip limit	Proposed 2015 trip limit
GB Winter Flounder .....	1,000 lb (454 kg)/trip	
GOM Winter Flounder .....	1,000 lb (454 kg)/trip	
SNE/MA Winter Flounder .....	3,000 lb (1,361 kg)/DAS, up to 6,000 lb (2,722 kg)/trip	
Redfish .....	Unlimited	
White hake .....	1,000 lb (454 kg)/trip .....	1,500 lb (680 kg)/trip.
Pollock .....	10,000 lb (4,536 kg)/trip	
Atlantic Halibut .....	1 fish/trip	
Windowpane Flounder .....	Possession Prohibited	
Ocean Pout .....		
Atlantic Wolffish .....		

TABLE 17—PROPOSED FISHING YEAR 2015 COD TRIPS LIMITS FOR HANDGEAR A, HANDGEAR B, AND SMALL VESSEL CATEGORY PERMITS

Permit	Current 2014 trip limit	Proposed 2015 trip limit
Handgear A GOM Cod .....	200 lb (91 kg)/trip .....	50 lb (23 kg)/trip.
Handgear A GB Cod .....	300 lb (136 kg)/trip	
Handgear B GOM Cod .....	25 lb (11 kg)/trip .....	25 lb (11 kg)/trip.
Handgear B GB Cod .....	75 lb (34 kg)/trip	
Small Vessel Category .....	300 lb (136 kg) of cod, haddock, and yellowtail flounder combined	
	Maximum of 200 lb (91 kg) of GOM cod and 25 lb (11 kg) of GOM haddock within the 300-lb combined trip limit.	Maximum of 50 lb (23 kg) of GOM cod and 50 lb (23 kg) of GOM haddock within the 300-lb combined trip limit.

#### *Closed Area II Yellowtail Flounder/Haddock Special Access Program*

This action proposes to allocate zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2015. Vessels could still fish in this SAP in 2015 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels would not be allowed to fish in this SAP using flounder nets. This SAP is open from August 1, 2015, through January 31, 2016.

We have the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. The FMP specifies that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (or 2,250,000 lb (1,020,600 kg).

This calculation accounts for the projected catch from the area outside the SAP. Based on the proposed fishing year 2015 GB yellowtail flounder groundfish sub-ACL of 429,240 lb (194,700 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2015 GB yellowtail flounder allocation.

#### **9. Possible 2015 Northern Windowpane Flounder Accountability Measure**

If inseason catch estimates for the 2014 fishing year indicate that the total ACL has been exceeded for northern windowpane flounder, we are required to implement an accountability measure for fishing year 2015. As described below, inseason catch estimates do not indicate the total ACL has been exceeded yet; however, catch estimates are approaching the total ACL. In order to give notice to groundfish vessels as early as possible, we are announcing the

possibility of an accountability measure being triggered for the 2015 fishing year and implemented through the final rule of this action. As additional catch estimates become available, we will update groundfish vessels. The final rule to this action will announce whether or not an accountability measure has been triggered.

For data reported through February 24, 2015, the commercial groundfish fishery has caught an estimated 140 mt of northern windowpane flounder, which is 97 percent of the total ACL (144 mt). Fishing year 2014 catch reports can be found here: <http://www.greateratlantic.fisheries.noaa.gov/ro/fso/MultiMonReports.htm>. With 2 months remaining in the fishing year, it is possible that catch could exceed the total ACL. However, northern windowpane flounder is a discard-only stock, so the current catch estimate could decrease if the discard rate substantially changes for the remainder of the 2014 fishing year.

If an accountability measure is triggered as a result of a 2014 overage, common pool and sector vessels fishing

on a groundfish trip with trawl gear will be required to use one of the approved selective gears when fishing in the AM areas (haddock separator trawl, Ruhle trawl, or rope separator trawl). There would be no restrictions on common pool or sector vessels fishing with longline or gillnet gear. In addition, because northern windowpane is not allocated to any non-groundfish fishery, the accountability measure would not affect any non-groundfish vessels. Based on the current catch estimates, it is not known which gear-restricted areas would be implemented, and this will depend on the magnitude of any overage. If the overage is less than 20 percent, only the small gear restricted area would be implemented; however, if the overage is more than 20 percent, the large gear restricted area would be implemented. An overview of the windowpane accountability measure can be found here: <http://www.nero.noaa.gov/sfd/sfdmulti.html>. As a reminder, sectors would not be able to request an exemption from these AMs.

Current catch estimates indicate that fishing year 2014 catches of southern windowpane flounder are not likely to exceed the total ACL for this stock. As a result, we do not anticipate that any accountability measures would be implemented for southern windowpane flounder. However, this could change if catch estimates change dramatically for the remainder of the 2014 fishing year.

#### 10. Regulatory Corrections Under Regional Administrator Authority

The following changes are being proposed to the regulations to correct references, inadvertent deletions, and other minor errors.

In § 648.14(k)(7), the reference to the GOM Cod Spawning Protection Area (Whaleback) would be corrected. This change was overlooked in a previous FMP action.

In § 648.14(k)(12) and (13), the introductory text would be revised to clarify that it is unlawful for any person to do any of the general restrictions listed in these paragraphs.

In § 648.87(b)(1)(i)(C)(2), the reference to the sector AM provision would be corrected.

In § 648.89(b)(1), this rule would remove an unnecessary acronym and add the default minimum size for cod caught inside the GOM Regulated Mesh Area to the table. Currently, this default minimum size is located in a separate paragraph, so this change is intended to improve readability for the public.

In § 648.89(f)(1), this rule would remove reference to special provisions for recreational catch evaluation for

fishing years 2010 and 2011. These provisions are no longer relevant, and so would be removed.

In § 648.90(a)(2)(i), this rule would remove reference to a special provision implemented for the biennial review for 2008 and 2009. These provisions are no longer relevant, and so would be removed.

In § 648.90(a)(2)(viii), this rule would correct a reference that was overlooked during the implementation of a previous FMP action.

In § 648.90(a)(5)(i), this rule would correct a spelling error.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 53, other provisions of the Magnuson-Stevens Act, and other applicable law. In making the final determination, NMFS will consider the data, views, and comments received during the public comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with Federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in Framework 53 and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

#### Statement of Objective and Need

This action proposes management measures, including annual catch limits, for the multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Framework 53, and elsewhere in the preamble to this proposed rule, and are not repeated here.

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

The Small Business Administration defines a small business as one that is:

- Independently owned and operated;
- not dominant in its field of operation;
- has annual receipts that do not exceed—
  - \$20.5 million in the case of commercial finfish harvesting entities (NAICS<sup>1</sup> 114111)
  - \$5.5 million in the case of commercial shellfish harvesting entities (NAICS 114112)
  - \$7.5 million in the case of for-hire fishing entities (NAICS 114119); or
- has fewer than—
  - 500 employees in the case of fish processors
  - 100 employees in the case of fish dealers.

This proposed rule impacts commercial and recreational fish harvesting entities engaged in the groundfish fishery, the small-mesh multispecies and squid fisheries, the midwater trawl herring fishery, and the scallop fishery. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ownership entity, that hold those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate ownership entity for the purpose of this analysis.

On June 1 of each year, ownership entities are identified based on a list of

<sup>1</sup> The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

all permits for the most recent complete calendar year. The current ownership data set used for this analysis is based on calendar year 2013 and contains average gross sales associated with those permits for calendar years 2011 through 2013. In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50

percent of its gross sales from sales of shellfish.

A description of the specific permits that are likely to be impacted by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

#### *Regulated Commercial Fish Harvesting Entities*

Table 18 describes the total number of commercial business entities potentially regulated by the proposed action. As of May 1, 2014, there were 1,386 commercial business entities potentially regulated by the proposed action. These entities participate in, or are permitted

for, the groundfish, small-mesh multispecies, herring midwater trawl and scallop fisheries. For the groundfish fishery, the proposed action directly regulates potentially affected entities through catch limits and other management measures designed to achieve the goals and objectives of the FMP. For the non-groundfish fisheries, the proposed action includes allocations for groundfish stocks caught as bycatch in these fisheries. For each of these fisheries, there are accountability measures that are triggered if their respective allocations are exceeded. As a result, the likelihood of triggering an accountability measure is a function of changes to the ACLs each year.

TABLE 18—COMMERCIAL FISH HARVESTING ENTITIES REGULATED BY THE PROPOSED ACTION

Type	Total number	Classified as small businesses
Primarily finfish .....	813	813
Primarily shellfish .....	573	549
Total .....	1,386	1,362

#### Limited Access Groundfish Fishery

The proposed action will directly impact entities engaged in the limited access groundfish fishery. The limited access groundfish fishery consists of those enrolled in the sector program and those in the common pool. Both sectors and the common pool are subject to catch limits, and accountability measures that prevent fishing in a respective stock area when the entire catch limit has been caught. Additionally, common pool vessels are subject to DAS restrictions and trip limits. All permit holders are eligible to enroll in the sector program; however, many vessels remain in the common pool because they have low catch histories of groundfish stocks, which translate into low PSCs. Low PSCs would limit a vessel's viability in the sector program. In general, businesses enrolled in the sector program rely more heavily on sales of groundfish species than vessels enrolled in the common pool.

As of May 1, 2014 (beginning of fishing year 2014), there were 1,046 individual limited access permits. Of these, 613 were enrolled in the sector program, and 433 were in the common pool. For fishing year 2013, which is the most recent complete fishing year, 708 of these limited access permits had landings of any species, and 360 of these permits had landings of groundfish species.

Of the 1,046 individual limited access multispecies permits potentially

impacted by this action, there are 868 distinct ownership entities. Of these, 855 are categorized as small entities, and 13 are categorized as large entities. However, these totals may mask some diversity among the entities. Many, if not most, of these ownership entities maintain diversified harvest portfolios, obtaining gross sales from many fisheries and not dependent on any one. However, not all are equally diversified. This action is most likely to affect those entities that depend most heavily on sales from harvesting groundfish species. There are 114 entities that are groundfish-dependent, all of which are small, and all of which are finfish commercial harvesting businesses. Of these groundfish-dependent entities, 102 have some level of participation in the sector program, and 12 operate exclusively in the common pool.

#### Limited Access Scallop Fisheries

The limited access scallop fisheries include Limited Access (LA) scallop permits and Limited Access General Category (LGC) scallop permits. LA scallop businesses are subject to a mixture of DAS restrictions and dedicated area trip restrictions. LGC scallop businesses are able to acquire and trade LGC scallop quota, and there is an annual cap on quota/landings. The scallop fishery receives an allocation for GB and SNE/MA yellowtail flounder and southern windowpane flounder. If these allocations are exceeded, accountability measures are

implemented in a subsequent fishing year. These accountability measures close certain areas of high groundfish bycatch to scallop fishery, and the length of the closure depends on the magnitude of the overage.

Of the total commercial business entities potentially affected by this action (1,386), there are 171 scallop fishing entities. The majority of these entities are defined as shellfish businesses (167). However, four of these entities are defined as finfish businesses, all of which are small. Of the total scallop fishing entities, 149 entities are classified as small entities.

#### Midwater Trawl Fishery

There are four categories of permits for the herring fishery. Three of these permit categories are limited access, and vary based on the allowable herring possession limits and areas fished. The fourth permit category is open access. Although there is a large number of open access permits issued each year, this category is subject to fairly low possession limits for herring, account for a very small amount of the herring landings, and derive relatively little revenue from the fishery. The midwater trawl herring fishery receives an allocation of GOM and GB haddock. Once the entire allocation for either stock has been caught, the directed herring fishery is closed in the respective area for the remainder of the fishing year. Additionally, if the midwater trawl fishery exceeds its

allocation, the overage is deducted from its allocation in the following fishing year.

Of the total commercial business entities potentially regulated by this action (1,386), there are 71 herring fishing entities. Of these, 43 entities are defined as finfish businesses, all of which are small. There are 28 entities that are defined as shellfish businesses, and 21 of these are considered small. For the purposes of this analysis, squid is classified as shellfish. Thus, because there is some overlap with the herring and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

#### Small-Mesh Fisheries

The small-mesh exempted fishery allows vessels to harvest species in designated areas using mesh sizes smaller than the minimum mesh size required by the Northeast Multispecies FMP. To participate in the small-mesh multispecies (whiting) fishery, vessels must hold either a limited access multispecies permit or an open access multispecies permit. Limited access multispecies permit holders can only target whiting when not fishing under a DAS or a sector trip, and while declared out of the fishery. A description of limited access multispecies permits was provided above. Many of these vessels target both whiting and longfin squid on small-mesh trips, and therefore, most of them also have open access or limited access Squid, Mackerel, and Butterfish (SMB) permits. As a result, SMB permits were not handled separately in this analysis.

The small-mesh fisheries receive an allocation of GB yellowtail flounder. If this allocation is exceeded, an accountability measure is triggered for a subsequent fishing year. The accountability measure requires small-mesh vessels to use selective trawl gear when fishing on GB. This gear restriction is only implemented for 1 year as a result of an overage, and is removed as long as additional overages do not occur.

Of the total commercial harvesting entities potentially affected by this action, there are 570 small-mesh entities. However, this is not necessarily informative because not all of these entities are active in the whiting fishery. Based on the most recent information, 25 of these entities are considered active, with at least 1 lb of whiting landed. Of these entities, 7 are defined as finfish businesses, all of which are small. There are 18 entities that are defined as shellfish businesses, and 17 of these are considered small. Because there is overlap with the whiting and

squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

#### *Regulated Recreational Party/Charter Fishing Entities*

The charter/party permit is an open access groundfish permit that can be requested at any time, with the limitation that a vessel cannot have a limited access groundfish permit and an open access party/charter permit concurrently. There are no qualification criteria for this permit. Charter/party permits are subject to recreational management measures, including minimum fish sizes, possession restrictions, and seasonal closures.

During calendar year 2014, 732 party/charter permits were issued. Of these, 267 party/charter permit holders reported catching and retaining any groundfish species on at least one for-hire trip. In addition, 204 party/charter permit holders reported catching at least one cod in 2014. While all party/charter fishing businesses that catch cod may be affected by the proposed action, the recreational groundfish fishery only receives an allocation for the GOM stock. Of the 204 party/charter businesses that reported to have caught cod, 106 reported catching cod in the GOM.

A 2013 report indicated that, in the northeast United States, the mean gross sales was approximately \$27,650 for a charter business and \$13,500 for a party boat. Based on the available information, no business approached the \$7.5 million large business threshold. Therefore, the 267 potentially regulated party/charter entities are all considered small businesses.

#### **Economic Impacts of the Proposed Measures and Alternatives and Measures Proposed To Mitigate Adverse Economic Impacts of the Proposed Action**

The economic impacts of each proposed measure are summarized below and are discussed in more detail in sections 7.4 and 8.11 of the Framework 53 Environmental Assessment. Although small entities are defined based on gross sales of ownership groups, not physical characteristics of the vessel, it is reasonable to assume that larger vessels are more likely to be owned by large entities. The proposed action is anticipated to result in aggregate gross revenue losses of approximately \$4 million in fishing year 2015, compared to predicted revenues for fishing year 2014. These losses are expected to be absorbed primarily by small business. As a result, the proposed action has the

potential to place small entities at a competitive disadvantage relative to large entities. This is mainly because large entities may have more flexibility to adjust to, and accommodate, the proposed measures. However, as discussed in more detail below, the additional declines in gross revenues expected as a result of the proposed measures would pose serious difficulties for groundfish vessels, owners, and crew. Additionally, some ports are predicted to have 50–80 percent declines in revenues from groundfish, and many vessels may be forced to relocate to Southern New England ports, or stop fishing altogether. The impacts of the proposed measures on shoreside businesses are difficult to predict, but infrastructure and facilities supporting fishing operations may be forced to consolidate, or to stop operating.

#### *Status Determination Criteria*

The proposed action would change the GB yellowtail flounder status, relative to reference points, to unknown. Further, the proposed action would update the numerical estimates of the status determination criteria for GOM cod, GOM haddock, GOM winter flounder, GB winter flounder, and pollock. These updates would result in lower values of MSY. For some of these, the lower values of MSY would result in lower ACLs in the short-term, which is expected to have negative economic impacts (*i.e.*, lower net revenues). However, the proposed updates to the status determination criteria are expected to have positive stock benefits by helping to prevent overfishing. Thus, in the long-term, the proposed action is expected to result in higher and more sustainable landings when compared to the No Action option. All of the proposed revisions would be based on the 2014 assessments for the respective stocks, and would be based on the best scientific information available.

The only other alternative considered for this action was the No Action option, which would not update the status determination criteria for any groundfish stocks. This option would not incorporate the best scientific information available, and would not be consistent with Magnuson-Stevens Act requirements. This option would not have any immediate economic impacts. However if this option resulted in overfishing in the long-term, then it would have severe negative economic impacts for the fisheries affected by the proposed action.

### *Annual Catch Limits*

The proposed action to set catch limits for eastern GB cod and haddock, GOM cod, GOM haddock, GB yellowtail flounder, GOM winter flounder, and pollock has the potential to impact groundfish (including small-mesh), midwater trawl, and scallop-dependent small entities.

For the commercial groundfish fishery, the proposed catch limits are expected to result in a 7-percent decrease in gross revenues on groundfish trips, or \$6 million, compared to predicted gross revenues for fishing year 2014. However, as described later, the aggregate predicted revenues for 2015 also depend on the combination of other measures that would be adopted in this action. The negative impacts of the proposed catch limits would not be uniformly distributed across vessels size classes. Vessels in the 30–50 ft (9–15 m) category are predicted to incur the largest decrease in gross revenues compared to 2014. Based only on the proposed catch limits, vessels in this category could incur revenue losses of 33 percent, and aggregate losses are expected to be more as a result of other measures proposed in this action. Larger vessel classes are not expected to be impacted as heavily by the catch limits proposed in this action. Based only on the proposed catch limits, 50–75 ft (15–23 m) vessels are predicted to incur losses of 16 percent, and the largest vessels (75 ft (23 m) and greater) are predicted to incur losses of 3 percent.

On a home-port state level, New Hampshire would incur the largest decline (42 percent) in gross revenues from groundfish relative to 2014 as a result of the proposed catch limits. However, in combination with other measures proposed in this action this revenue decline could reach 50 percent. Maine and Massachusetts are also predicted to incur revenue losses of 16 percent and 8 percent, respectively, as a result of the proposed catch limits. Both New York and Rhode Island are expected to have small increases to gross revenues compared to 2014, up to a 33-percent and 29-percent increase, respectively. For major home ports, Gloucester, MA, is expected to have the largest decline in gross revenue (up to 28 percent). New Bedford, MA, is expected to be the least affected, with predicted revenue losses of 6 percent compared to 2014.

For the scallop, midwater trawl, and small-mesh fisheries, the catch limits proposed in this action would include allocations for bycatch of groundfish species that occurs in these fisheries.

The GB yellowtail flounder allocation for both the scallop and small-mesh fisheries would be a decrease in 2015 compared to 2014, which could increase the likelihood of triggering accountability measures. However, based on recent catch performance, accountability measures for GB yellowtail flounder have never been implemented for these fisheries as a result of an overage. Additionally, based on scallop management measures that are proposed for 2015, it is not expected that scallop effort will increase on GB relative to recent years. Although the proposed reduction for GB yellowtail flounder could have negative economic impacts, these fisheries are not expected to exceed their respective allocations in 2015, and no accountability measures are expected to be triggered.

For the midwater trawl fishery, the proposed allocations for GOM and GB haddock are both expected to increase in 2015 relative to 2014. However, in fishing year 2013, the accountability measure for GB haddock was triggered. As a result, it is possible that this could occur again in 2015 depending on catch rates of herring and haddock. If the accountability measure for GB haddock is triggered, there could be negative economic impacts that result from foregone herring yield. The magnitude of these negative impacts would depend on how much herring quota remained at the time the accountability measure was implemented, and whether other herring management areas were open for directed herring fishing.

The proposed catch limits are based on the latest stock assessment information, which is considered the best scientific information available, and the applicable requirements in the FMP and the Magnuson-Stevens Act. The only other possible alternatives to the catch limits proposed in this action that would mitigate negative impacts would be higher catch limits. Alternative, higher catch limits, however, are not permissible under the law because they would not be consistent with the goals and objectives of the FMP, or the Magnuson-Stevens Act, particularly the requirement to prevent overfishing. The Magnuson-Stevens Act, and case law, prevent implementation of measures that conflict with conservation requirements, even if it means negative impacts are not mitigated. The catch limits proposed in this action are the highest allowed given the best scientific information available, the SSC's recommendations, and requirements to end overfishing and rebuild fish stocks. The only other catch limits that would be legal would be lower than those proposed in this

action, which would not mitigate the economic impacts of the proposed catch limits.

Under the No Action option, no catch limits would be specified for the U.S./Canada stocks, GB winter flounder, GOM winter flounder, or pollock. In this scenario, sector vessels would be unable to fish in the respective stock areas at the start of the 2015 fishing year if no allocations were specified. This would result in greater negative economic impacts for vessels compared to the proposed action due to lost revenues as a result of being unable to fish. The proposed action is predicted to result in approximately \$77 million in gross revenues from groundfish trips. All of this revenue would be lost if no action was taken to specify catch limits. Further, if no action was taken, the Magnuson-Stevens Act requirements to achieve optimum yield and consider the needs of fishing communities would be violated.

If no catch limits were adopted in this action, it is not clear whether allocations for the scallop, midwater trawl, and small-mesh fisheries would be treated as zero. If so, then any catch of groundfish species would result in an overage of their allocations, which would trigger an accountability measure. This would have negative economic impacts on these fisheries, and the severity of these impacts would depend on the magnitude of the overage, and the corresponding accountability measures. However, if this is not treated as a sub-ACL of zero, then these fisheries would have unrestricted catch of groundfish species. Although this would have positive economic impacts for these fisheries in the short-term, any negative biological impacts that would result from unrestricted catch could result in lower catch limits in the future. This would have negative economic impacts on these fisheries, as well as the groundfish fishery.

### *Gulf of Maine Cod Spawning Closures*

Currently, the only spawning closure for GOM cod is the Whaleback Protection Area. The proposed action (No action) is expected to have economic impacts that are neutral to the status quo for the commercial and recreational groundfish fisheries. However, when compared to other alternatives that were considered in this action, the proposed action is predicted to result in lower gross revenues for the commercial fishery compared to alternatives that would have adopted additional spawning closures. Some of the closures considered for this action would have closed large areas of the

inshore GOM. Under this scenario, smaller inshore vessels would likely be unable to adapt to the closures and prosecute the GOM fishery due to vessel size limitations of fishing further offshore. As a result, these small inshore vessels that are unable to fish would lease quota to larger offshore vessels. The flow of quota to these larger offshore vessels, which are able to use it, is the primary reason why additional closures are predicted to result in higher gross revenues than the proposed action (No Action). However, although the aggregate gross revenues are predicted to be higher under additional closure scenarios, smaller inshore vessels would lose viability, and would likely not be able to prosecute the fishery during closures considered in this action. Thus, these alternatives would not have helped mitigate the anticipated disproportionate impact to small entities that would have resulted from these additional closures.

For the recreational fishery, the economic impacts of other alternatives considered in this action would be extensive and severe. Approximately 75 percent of recreational landings of groundfish species are attributed to the spawning area closures that were considered in this action. Because the majority of landings are concentrated in these areas, it would likely be difficult for party/charter vessels to move to alternative areas to fish for groundfish species. Further, recreational vessels would likely not be able to adapt by fishing further offshore due to vessel size limitations. The total steam time to fish further offshore would also exceed the standard party/charter trip of 4 or 6 hours. Businesses that support the recreational fishing industry would also be largely impacted by the other closure alternatives that were considered in this action. As a result, the other alternatives to the proposed action would not mitigate economic impacts to the recreational fishing vessels and businesses.

#### *Prohibition on Possession of Gulf of Maine Cod for the Commercial Fishery*

Currently, sector vessels are required to land all legal-sized GOM cod, and common pool vessels are subject to trip limits. The proposed action (No Action) is expected to result in economic impacts that are neutral to the status quo. The economic impacts of the other alternative considered (prohibition on possession) is difficult to predict. Anticipated gross revenues are predicted to be slightly higher if zero possession was adopted compared to the No Action. However, this increase is expected to occur largely because zero

possession may create an incentive to behave differently on observed and unobserved trips. On observed trips, vessels would likely achieve very low discard rates of GOM cod. However, on unobserved trips, vessels would seek to maximize revenue of all species, regardless of GOM cod catch. As a result, although predicted revenues would be higher under the zero possession alternative, this option could result in greater uncertainty in the catch estimates. In the long-term, unaccounted for fishing mortality could compromise stock rebuilding efforts, which would have negative economic impacts on the fishery. As a result, the alternative to adopt zero possession would not mitigate economic impacts relative to the proposed action (No Action).

#### *Gulf of Maine Cod Protection Measures*

This action proposes to re-configure the GOM rolling closures for commercial vessels and adopt a prohibition on possession of GOM cod for the recreational fishery. For the commercial groundfish fishery, the proposed action is expected to result in less severe negative economic impacts than the proposed catch limits alone. However, the negative economic impacts of the proposed action are expected to be greater compared to other alternatives considered that would adopt additional GOM cod spawning closures. As discussed above, the aggregate economic impacts of the spawning closures that were considered for this action are largely driven by the flow of quota from smaller inshore vessels, which would be unable to fish, to larger offshore vessels. Although the proposed action would have greater negative impacts compared to these other alternatives, the negative impacts to small vessels can be hidden by the predicted aggregate gross revenues. The proposed action would add closures in some months, while removing other closures, largely in the month of April. As a result, the proposed action is expected to improve the viability of the inshore fleet, and help mitigate the economic impacts of the proposed catch limits, compared to other closure alternatives considered in the action.

The ability for the proposed action to provide increased spawning protection would largely dictate the long-term economic impacts of this action. If the proposed action enhances spawning protection, which translates into increased stock rebuilding, then the long-term economic impacts would be positive. However, if the proposed action does not enhance spawning protection or translate into increased

stock rebuilding, then the long-term economic impacts would be similar to the status quo, or negative.

For the recreational fishery, the proposed action (zero possession of GOM cod) is expected to result in negative economic opportunities due to the lost opportunity to land GOM cod. In the short-term, the proposed action would likely result in some recreational anglers not booking party/charter trips, which would have a negative impact on party/charter businesses, and other shoreside businesses that support the recreational fishery (e.g., bait and tackle shops, marinas). However, if the proposed action results in a decrease in fishing mortality relative to the status quo, then it could contribute to stock rebuilding. If this occurs, the long-term economic impacts of the proposed action would be positive. Further, in the long-term, the recreational fishery would benefit from the commercial closures discussed above if they successfully enhance spawning protection and increase stock rebuilding.

#### *Default Groundfish Specifications*

The proposed action would establish a mechanism for setting default catch limits in the event a management action is delayed. This is expected to have positive economic benefits, primarily for sector vessels, compared to the No Action option. Sector vessels are not allowed to fish without an allocation, so if no catch limits are specified for the fishing year, there would be severe negative economic impacts to the groundfish fishery. The proposed action is expected to avoid this situation that would otherwise occur if no action was taken.

The No Action option would not establish a mechanism for setting default catch limits

#### *Sector Carryover*

The proposed action would modify the provision that allows sectors to carryover unused allocation from one fishing year into the next fishing year. The economic impacts of the proposed action are likely minor, and similar to the status quo. In any fishing year, if the maximum available sector carryover is reduced from 10 percent, this could have a negative economic impact. However, the proposed action does not modify the accountability measure for sectors that requires any overages, even overages that result from harvesting available carryover, must be paid back. As a result, the proposed action is not expected to largely change sector operations compared to the status quo.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 3, 2015.

**Eileen Sobeck,**

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

**PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES**

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2:

■ a. Remove the definition for “Gillnet gear capable of catching multispecies (for purposes of the interim action)”;

■ b. Lift the suspension of the definition for “Gillnet gear capable of catching multispecies” and revise it to read as follows:

**§ 648.2 Definitions.**

*Gillnet gear capable of catching multispecies* means all gillnet gear except pelagic gillnet gear specified at § 648.81(f)(5)(ii) and pelagic gillnet gear that is designed to fish for and is used to fish for or catch tunas, swordfish, and sharks.

**§ 648.10 [Amended]**

■ 3. In § 648.10, remove paragraphs (k)(3)(i)(A) and (B).

■ 4. In § 648.14:

■ a. Lift suspension of paragraphs (k)(6)(i)(E), (k)(7)(i)(A) and (B), (k)(12)(v)(E) and (F), (k)(12)(v)(K) and (L), (k)(13)(i)(D)(1) through (4), (k)(13)(ii)(B) through (D), (k)(13)(ii)(K) through (M), (k)(14)(viii), and (k)(16)(iii)(A) through (C), and (k)(16)(iii)(D) and (F);

■ b. Remove paragraphs (k)(6)(i)(H), (k)(7)(i)(H) through (J), (k)(12)(v)(K) through (N), (k)(13)(i)(D)(5) and (6), (k)(13)(ii)(K) through (P), (k)(14)(xii), and (k)(16)(iii)(D) through (H); and

■ c. Revise paragraphs (k)(6)(i)(E), (k)(7)(i)(A) and (B), (k)(12)(i) introductory text, (k)(13)(i) introductory text, (k)(16) introductory text, and (k)(16)(iii)(A) and (B) to read as follows:

**§ 648.14 Prohibitions.**

■ (k) \* \* \*

(6) \* \* \*

(i) \* \* \*

(E) Use, set, haul back, fish with, possess on board a vessel, unless stowed

and not available for immediate use as defined in § 648.2, or fail to remove, sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(5)(ii)), in the areas and for the times specified in § 648.80(g)(6)(i) and (ii), except as provided in § 648.80(g)(6)(i) and (ii), and § 648.81(f)(5)(ii), or unless otherwise authorized in writing by the Regional Administrator.

■ (7) \* \* \*

(i) \* \* \*

(A) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(d)(1), (e)(1), (f)(4), and (g)(1), except as provided in § 648.81(d)(2), (e)(2), (f)(5), (g)(2), and (i).

(B) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a) through (f) and (n), unless otherwise specified in § 648.81(c)(2)(iii), (f)(5)(i), (f)(5)(iv), (f)(5)(viii) and (ix), (i), (n)(2)(i), or as authorized under § 648.85.

■ (12) \* \* \*

(i) It is unlawful for any person to:

■ (13) \* \* \*

(i) It is unlawful for any person to:

■ (16) *Recreational and charter/party requirements.* It is unlawful for the owner or operator of a charter or party boat issued a valid Federal NE multispecies permit, or for a recreational vessel, as applicable, unless otherwise specified in § 648.17, to do any of the following if fishing under the recreational or charter/party regulations:

■ (iii) \* \* \*

(A) Fail to comply with the applicable restrictions if transiting the GOM Regulated Mesh Area with cod on board that was caught outside the GOM Regulated Mesh Area.

(B) Fail to comply with the requirements specified in § 648.81(f)(5)(v) when fishing in the areas described in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified.

■ 5. In § 648.80:

■ a. Lift suspension of paragraphs (a)(3)(vi), (a)(3)(viii), (a)(4)(iii), (a)(4)(ix), and (g)(6)(i) and (ii);

■ b. Remove paragraphs (a)(3)(viii) and (x), (a)(4)(ix) and (x), and (g)(6)(iii) and (iv); and

■ c. Revise paragraphs (g)(6)(i) and (ii) to read as follows:

**§ 648.80 NE multispecies regulated mesh areas and restrictions on gear and methods of fishing.**

■ (g) \* \* \*

(6) \* \* \*

(i) *Requirements for gillnet gear capable of catching NE multispecies to reduce harbor porpoise takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(5)(ii)), must comply with the applicable provisions of the Harbor Porpoise Take Reduction Plan found in § 229.33 of this title.

(ii) *Requirements for gillnet gear capable of catching NE multispecies to prevent large whale takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(5)(ii)), must comply with the applicable provisions of the Atlantic Large Whale Take Reduction Plan found in § 229.32 of this title.

■ 6. In § 648.81:

■ a. Lift suspension of paragraphs (d)(1) through (4), (e)(1) and (2), (f)(1) and (2), and (g)(1)(i), and (o)(1)(iii), (iv), and (viii) through (x);

■ b. Remove paragraphs (d)(3) through (6), (e)(3) and (4), (g)(1)(vii), and (o); and

■ c. Revise paragraphs (d)(2), (e)(2), (f), (g)(2) introductory text, (g)(2)(i), and (i) to read as follows:

**§ 648.81 NE multispecies closed areas and measures to protect EFH.**

■ (d) \* \* \*

(2) Unless otherwise restricted under the EFH Closure(s) specified in paragraph (h) of this section, paragraph (d)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (f)(5)(ii) through (v) of this section.

■ (e) \* \* \*

(2) Unless otherwise restricted under paragraph (h) of this section, paragraph (e)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (f)(5)(ii) through (v) of this section consistent with the requirements specified under § 648.80(a)(5).

■ (f) \* \* \*

(f) *GOM Cod Protection Closures.* (1) Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching NE multispecies may be in, or on board a vessel in GOM Cod Protection Closures I through V as described, and during the times specified, in paragraphs (f)(4)(i) through (v) of this section.

(2) Any vessel subject to a GOM Cod Protection Closure may transit the area, provided it complies with the requirements specified in paragraph (i) of this section.

(3) The New England Fishery Management Council shall review the GOM Cod Protection Closures Areas specified in this section when the spawning stock biomass for GOM cod reaches the minimum biomass threshold specified for the stock (50 percent of SSB<sub>MSY</sub>).

(4) *GOM Cod Protection Closure Areas.* Charts depicting these areas are available from the Regional Administrator upon request.

(i) *GOM Cod Protection Closure I.* From May 1 through May 31, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure I, which is the area bounded by the following coordinates connected in the order stated by straight lines:

**GOM COD PROTECTION CLOSURE I**  
[May 1–May 31]

Point	N. latitude	W. longitude
CPCI 1 .....	43°30' N	(1)
CPCI 2 .....	43°30' N	69°30' W
CPCI 3 .....	43°00' N	69°30' W
CPCI 4 .....	43°00' N	70°00' W
CPCI 5 .....	42°30' N	70°00' W
CPCI 6 .....	42°30' N	70°30' W
CPCI 7 .....	42°20' N	70°30' W
CPCI 8 .....	42°20' N	(2) (3)
CPCI 1 .....	43°30' N	(1) (3)

<sup>1</sup> The intersection of 43°30' N latitude and the coastline of Maine.

<sup>2</sup> The intersection of 42°20' N latitude and the coastline of Massachusetts.

<sup>3</sup> From Point 8 back to Point 1 following the coastline of the United States.

(ii) *GOM Cod Protection Closure II.* From June 1 through June 30, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure II, which is the area bounded by the following coordinates connected in the order stated by straight lines:

**GOM COD PROTECTION CLOSURE II**  
[June 1–June 30]

Point	N. latitude	W. longitude
CPCII 1 .....	(1)	69°30' W
CPCII 2 .....	43°30' N	69°30' W
CPCII 3 .....	43°30' N	70°00' W
CPCII 4 .....	42°30' N	70°00' W
CPCII 5 .....	42°30' N	70°30' W
CPCII 6 .....	42°20' N	70°30' W
CPCII 7 .....	42°20' N	(2) (3)
CPCII 8 .....	42°30' N	(4) (3)
CPCII 9 .....	42°30' N	70°30' W
CPCII 10 .....	43°00' N	70°30' W
CPCII 11 .....	43°00' N	(5) (6)
CPCII 1 .....	(1)	69°30' W (6)

<sup>1</sup> The intersection of 69°30' W longitude and the coastline of Maine.

<sup>2</sup> The intersection of 42°20' N latitude and the coastline of Massachusetts.

<sup>3</sup> From Point 7 to Point 8 following the coastline of Massachusetts.

<sup>4</sup> The intersection of 42°30' N latitude and the coastline of Massachusetts.

<sup>5</sup> The intersection of 43°00' N latitude and the coastline of New Hampshire.

<sup>6</sup> From Point 11 back to Point 1 following the coastlines of New Hampshire and Maine.

(iii) *GOM Cod Protection Closure III.* From November 1 through January 31, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure III, which is the area bounded by the following coordinates connected in the order stated by straight lines:

**GOM COD PROTECTION CLOSURE III**  
[November 1–January 31]

Point	N. latitude	W. longitude
CPCIII 1 .....	42°30' N	(1)
CPCIII 2 .....	42°30' N	70°30' W
CPCIII 3 .....	42°15' N	70°30' W
CPCIII 4 .....	42°15' N	70°24' W
CPCIII 5 .....	42°00' N	70°24' W
CPCIII 6 .....	42°00' N	(2) (3)
CPCIII 1 .....	42°30' N	(1) (3)

<sup>1</sup> The intersection of 42°30' N latitude and the Massachusetts coastline.

<sup>2</sup> The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

<sup>3</sup> From Point 6 back to Point 1 following the coastline of Massachusetts.

(iv) *GOM Cod Protection Closure IV.* From October 1 through October 31, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure IV, which is the area bounded by the following coordinates connected in the order stated by straight lines:

**GOM COD PROTECTION CLOSURE IV**  
[October 1–October 31]

Point	N. latitude	W. longitude
CPCIV 1 .....	42°30' N	(1)

**GOM COD PROTECTION CLOSURE IV—Continued**  
[October 1–October 31]

Point	N. latitude	W. longitude
CPCIV 2 .....	42°30' N	70°00' W
CPCIV 3 .....	42°00' N	70°00' W
CPCIV 4 .....	42°00' N	(2) (3)
CPCIV 1 .....	42°30' N	(1) (3)

<sup>1</sup> The intersection of 42°30' N latitude and the Massachusetts coastline.

<sup>2</sup> The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

<sup>3</sup> From Point 4 back to Point 1 following the coastline of Massachusetts.

(v) *GOM Cod Protection Closure V.* From March 1 through March 31, the restrictions specified in paragraphs (f)(1) and (2) of this section GOM Cod Protection Closure V, which is the area bounded by the following coordinates connected in the order stated by straight lines:

**GOM COD PROTECTION CLOSURE V**  
[March 1–March 31]

Point	N. latitude	W. longitude
CPCV 1 .....	42°30' N	70°00' W
CPCV 2 .....	42°30' N	68°30' W
CPCV 3 .....	42°00' N	68°30' W
CPCV 4 .....	42°00' N	70°00' W
CPCV 1 .....	42°30' N	70°00' W

(5) The GOM Cod Protection Closures specified in this section do not apply to persons aboard fishing vessels or fishing vessels that meet any of the following criteria:

(i) That have not been issued a multispecies permit and that are fishing exclusively in state waters;

(ii) That are fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) There is no retention of regulated species; and

(D) There is no other gear on board capable of catching NE multispecies;

(iii) That are fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);

(iv) That are fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);



(v) That are fishing under charter/party or recreational regulations specified in § 648.89, provided that:

(A) For vessels fishing under charter/party regulations in a GOM Cod Protection Closure described under paragraph (f)(4) of this section, it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater; for vessels fishing under charter/party regulations in the Cashes Ledge Closure Area or Western GOM Area Closure, as described under paragraphs (d) and (e) of this section, respectively, it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment until the end of the fishing year;

(B) Fish species managed by the NEFMC or MAFMC that are harvested or possessed by the vessel, are not sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) The vessel has no gear other than rod and reel or handline on board; and

(D) The vessel does not use any NE multispecies DAS during the entire period for which the letter of authorization is valid;

(vi) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip; or

(vii) That are fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), or in the Small Mesh Area II Exemption Area, as specified in § 648.80(a)(9);

(viii) That are fishing on a sector trip, as defined in this part, and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(vi) and (v) of this section; or

(ix) That are fishing under the provisions of a Northeast multispecies Handgear A permit, as specified at § 648.82(b)(6), and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(vi) and (v) of this section.

(g) \* \* \*

(2) Paragraph (g)(1) of this section does not apply to persons on fishing vessels or to fishing vessels that meet any of the following criteria:

(i) That meet the criteria in paragraphs (f)(5)(i), (ii), or (iii) of this section;

\* \* \* \* \*

(i) *Transiting*. Unless otherwise restricted or specified in this paragraph

(i), a vessel may transit CA I, the Nantucket Lightship Closed Area, the Cashes Ledge Closed Area, the Western GOM Closure Area, the GOM Cod Protection Closures, the GB Seasonal Closure Area, the EFH Closure Areas, and the GOM Cod Spawning Protection Area, as defined in paragraphs (a)(1), (c)(1), (d)(1), (e)(1), (f)(4), (g)(1), (h)(1), and (n)(1), of this section, respectively, provided that its gear is stowed and not available for immediate use as defined in § 648.2. A vessel may transit CA II, as defined in paragraph (b)(1) of this section, in accordance with paragraph (b)(2)(iv) of this section. Private recreational or charter/party vessels fishing under the Northeast multispecies provisions specified at § 648.89 may transit the GOM Cod Spawning Protection Area, as defined in paragraph (n)(1) of this section, provided all bait and hooks are removed from fishing rods, and any regulated species on board have been caught outside the GOM Cod Spawning Protection Area and has been gutted and stored.

\* \* \* \* \*

#### § 648.82 [Amended]

■ 7. In § 648.82, lift suspension of paragraphs (b)(5) through (8) and remove paragraphs (b)(7) through (10).

#### § 648.85 [Amended]

■ 8. In § 648.85, lift suspension of paragraphs (b)(6)(iv)(D) and (K) and remove paragraphs (b)(6)(iv)(K) and (L).

#### § 648.86 [Amended]

■ 9. In § 648.86, lift suspension of paragraphs (b)(1) through (7) and remove paragraphs (b)(5) through (10).

■ 10. In § 648.87:

■ a. Lift suspension of paragraphs (b)(1)(v)(A), (b)(1)(ix), (b)(1)(x), (c)(2)(i), (c)(2)(ii)(A) and (B), (c)(2)(ii)(E), and (c)(2)(iii);

■ b. Remove paragraphs (b)(1)(v)(C), (b)(1)(x) and (xi), (c)(2)(ii)(E) through (G), and (c)(2)(iii) and (iv); and

■ c. Revise paragraphs (b)(1)(i)(C), (b)(1)(iii)(C), (c)(2)(i), and (c)(2)(ii)(B) to read as follows:

#### § 648.87 Sector allocation.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(C) *Carryover*. (1) With the exception of GB yellowtail flounder, a sector may carryover an amount of ACE equal to 10 percent of its original ACE for each stock that is unused at the end of one fishing year into the following fishing year, provided that the total unused sector ACE plus the overall ACL for the

following fishing year does not exceed the ABC for the fishing year in which the carryover may be harvested. If this total exceeds the ABC, NMFS shall adjust the maximum amount of unused ACE that a sector may carryover (down from 10 percent) to an amount equal to the ABC of the following fishing year. Any adjustments made would be applied to each sector based on its total unused ACE and proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.

(i) *Eastern GB Stocks Carryover*. Any unused ACE allocated for Eastern GB stocks in accordance with paragraph (b)(1)(i)(B) of this section shall contribute to the carryover allowance for each stock, as specified in this paragraph (b)(1)(i)(C)(1), but shall not increase individual sector's allocation of Eastern GB stocks during the following year.

(ii) This carryover ACE remains effective during the subsequent fishing year even if vessels that contributed to the sector allocation during the previous fishing year are no longer participating in the same sector for the subsequent fishing year.

(2) *Carryover accounting*. (i) If the overall ACL for a particular stock is exceeded, the allowed carryover of a particular stock harvested by a sector, minus the NMFS-specified *de minimis* amount, shall be counted against the sector's ACE for purposes of determining an overage subject to the AM in paragraph (b)(1)(iii) of this section.

(ii) *De Minimis Carryover Amount*. The *de minimis* carryover amount is one percent of the overall sector sub-ACL for the fishing year in which the carryover would be harvested. NMFS may change this *de minimis* carryover amount for any fishing year through notice consistent with the Administrative Procedure Act. The overall *de minimis* carryover amount would be applied to each sector proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in (b)(1)(i)(E) of this section.

\* \* \* \* \*

(iii) \* \* \*

(C) *ACE buffer*. At the beginning of each fishing year, NMFS shall withhold 20 percent of a sector's ACE for each stock for a period of up to 61 days (*i.e.*, through June 30), unless otherwise specified by NMFS, to allow time to process any ACE transfers submitted at the end of the fishing year pursuant to paragraph (b)(1)(viii) of this section and

to determine whether the ACE allocated to any sector needs to be reduced, or any overage penalties need to be applied to individual permits/vessels in the current fishing year to accommodate an ACE overage by that sector during the previous fishing year, as specified in paragraph (b)(1)(iii) of this section. NMFS shall not withhold 20 percent of a sector's ACE at the beginning of a fishing year in which default specifications are in effect, as specified in § 648.90(a)(3).

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) *Regulations that may not be exempted for sector participants.* The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: Specific times and areas within the NE multispecies year-round closure areas; permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); reporting requirements; AMs specified in § 648.90(a)(5)(i)(D). For the purposes of this paragraph (c)(2)(i), the DAS reporting requirements specified in § 648.82; the SAP-specific reporting requirements specified in § 648.85; and the reporting requirements associated with a dockside monitoring program are not considered reporting requirements, and the Regional Administrator may exempt sector participants from these requirements as part of the approval of yearly operations plans. For the purpose of this paragraph (c)(2)(i), the Regional Administrator may not grant sector participants exemptions from the NE multispecies year-round closures areas defined as Essential Fish Habitat Closure Areas as defined in § 648.81(h); the Fippennies Ledge Area as defined in paragraph (c)(2)(i)(A) of this section; Closed Area I and Closed Area II, as defined in § 648.81(a) and (b), respectively, during the period February 16 through April 30; and the Western GOM Closure Area, as defined at § 648.81(e), where it overlaps with GOM Cod Protection Closures I through III, as defined in § 648.81(f)(4). This list may be modified through a framework adjustment, as specified in § 648.90.

\* \* \* \* \*

(ii) \* \* \*

(B) The GOM Cod Protection Closures IV and V specified in § 648.81(f)(4)(iv) and (v) and the GB Seasonal Closed Area specified in § 648.81(g)(1);

\* \* \* \* \*

#### § 648.88 [Amended]

■ 11. In § 648.88, lift suspension of paragraphs (a)(1) and (3) and remove paragraphs (a)(3) and (4).

■ 12. In § 648.89:

■ a. Lift suspension of paragraphs (b)(3), (c)(1) and (2), (c)(8), and (e)(1) through (4);

■ b. Remove paragraphs (c)(2)(v), (c)(8) and (9), and (e)(4) through (7); and

■ c. Revise paragraphs (b), (c)(1), (c)(2)(i), (e)(1), and (f) to read as follows:

#### § 648.89 Recreational and charter/party vessel restrictions.

\* \* \* \* \*

(b) *Recreational minimum fish sizes—*  
(1) *Minimum fish sizes.* Unless further restricted under of this section, persons aboard charter/party vessels permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and recreational fishing vessels in or possessing fish from the EEZ, may not possess fish smaller than the minimum fish sizes, measured in total length, as follows:

Species	Size (inches)
Cod:	
Inside the GOM Regulated Mesh Area <sup>1</sup> .	24 (63.7 cm).
Outside the GOM Regulated Mesh Area <sup>1</sup> .	22 (55.9 cm).
Haddock .....	18 (45.7 cm).
Pollock .....	19 (48.3 cm).
Witch flounder (gray sole) .....	14 (35.6 cm).
Yellowtail flounder .....	13 (33.0 cm).
American plaice (dab) .....	14 (35.6 cm).
Atlantic halibut .....	41 (104.1 cm).
Winter flounder (blackback) ..	12 (30.5 cm).
Redfish .....	9 (22.9 cm).

<sup>1</sup> GOM Regulated Mesh Area specified in § 648.80(a).

(2) *Exception.* Vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(3) Fish fillets, or parts of fish, must have at least 2 square inches (5.1 square cm) of skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. The skin must be contiguous and must allow ready identification of the fish species.

(c) *Possession Restrictions—*(1)

*Recreational fishing vessels.* (i) Each person on a private recreational vessel may possess no more than 10 cod per day in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(ii) When fishing in the GOM Regulated Mesh Area specified in

§ 648.80(a)(1), persons aboard private recreational fishing vessels may not fish for or possess any cod with the exception that private recreational vessels in possession of cod caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area, provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod harvested by recreational fishing vessels in or from the EEZ with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod must be stored so as to be readily available for inspection.

(2) *Charter/party vessels.* (i) Persons aboard charter/party fishing vessels permitted under this part and not fishing under the NE multispecies DAS program or on a sector trip that are fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1) may not fish for, possess, or land any cod with the exception that charter/party vessels in possession of cod caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area, provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

\* \* \* \* \*

(e) \* \* \*

(1) *GOM Closed Areas.* (i) A vessel fishing under charter/party regulations may not fish in the GOM closed areas specified in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(f)(5)(v) and paragraph (e)(3) of this section. The conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months if the vessel fishes or intends to fish in the GOM Cod Protection Closures; or for the rest of the fishing year, beginning with the start of the participation period of the letter of

authorization, if the vessel fishes or intends to fish in the year-round GOM closure areas.

(ii) A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(n)(1) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(n)(2)(iii).

\* \* \* \* \*

(f) *Recreational fishery AM*—(1) *Catch evaluation*. As soon as recreational catch data are available for the entire previous fishing year, the Regional Administrator will evaluate whether recreational catches exceed any of the sub-ACLs specified for the recreational fishery pursuant to § 648.90(a)(4). When evaluating recreational catch, the components of recreational catch that are used shall be the same as those used in the most recent assessment for that particular stock. To determine if any sub-ACL specified for the recreational fishery was exceeded, the Regional Administrator shall compare the 3-year average of recreational catch to the 3-year average of the recreational sub-ACL for each stock.

(2) *Reactive AM adjustment*. (i) If it is determined that any recreational sub-ACL was exceeded, as specified in paragraph (f)(1) of this section, the Regional Administrator, after consultation with the New England Fishery Management Council, shall develop measures necessary to prevent the recreational fishery from exceeding the appropriate sub-ACL in future years. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register** no later than January when possible. Separate AMs shall be developed for the private and charter/party components of the recreational fishery.

(ii) The Regional Administrator shall not adjust the possession limit for GOM cod, under the reactive AM authority specified in paragraph (f)(2)(i) of this section, as long as possession of this stock is prohibited for the recreational fishery, as specified in paragraph (c) of this section.

(3) *Proactive AM adjustment*. (i) When necessary, the Regional Administrator, after consultation with the New England Fishery Management Council, may adjust recreational measures to ensure the recreational fishery achieves, but does not exceed

any recreational fishery sub-ACL in a future fishing year. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register** prior to the start of the fishing year where possible. In specifying these AMs, the Regional Administrator shall take into account the non-binding prioritization of possible measures recommended by the Council: For cod, first increases to minimum fish sizes, then adjustments to seasons, followed by changes to bag limits; and for haddock, first increases to minimum size limits, then changes to bag limits, and then adjustments to seasons.

(ii) The Regional Administrator shall not adjust the possession limit for GOM cod, under the proactive AM authority specified in paragraph (f)(3)(i) of this section, as long as possession of this stock is prohibited for the recreational fishery, as specified in paragraph (c) of this section.

■ 13. In § 648.90, revise paragraphs (a)(2)(i) and (viii), (a)(3), and (a)(5)(i) introductory text to read as follows:

**§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(i) The NE multispecies PDT shall meet on or before September 30 every other year to perform a review of the fishery, using the most current scientific information available provided primarily from the NEFSC. Data provided by states, ASMFC, the USCG, and other sources may also be considered by the PDT. Based on this review, the PDT will develop ACLs for the upcoming fishing year(s) as described in paragraph (a)(4) of this section and develop options for consideration by the Council if necessary, on any changes, adjustments, or additions to DAS allocations, closed areas, or other measures necessary to rebuild overfished stocks and achieve the FMP goals and objectives.

\* \* \* \* \*

(viii) If the Regional Administrator concurs in the Council's recommendation, a final rule shall be published in the **Federal Register** on or about April 1 of each year, with the exception noted in paragraph (a)(2)(vii) of this section. If the Council fails to submit a recommendation to the Regional Administrator by February 1 that meets the FMP goals and objectives,

the Regional Administrator may publish as a proposed rule one of the options reviewed and not rejected by the Council, provided that the option meets the FMP objectives and is consistent with other applicable law. If, after considering public comment, the Regional Administrator decides to approve the option published as a proposed rule, the action will be published as a final rule in the **Federal Register**.

\* \* \* \* \*

(3) *Default OFLs, ABCs, and ACLs*. (i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the **Federal Register** for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 35 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on July 31, unless superseded by the final rule implementing the current year's specifications.

(ii) If the default specifications exceed the Council's recommendations for any stock for the current year, the specifications for that stock shall be reduced to the Council's recommendation through notice consistent with the Administrative Procedures Act.

(iii) These specifications shall be subdivided among the various sub-components of the fishery consistent with the ABC/ACL distribution adopted for the previous year's specifications.

\* \* \* \* \*

(5) \* \* \*

(i) *AMs for the NE multispecies commercial and recreational fisheries*. If the catch of regulated species or ocean pout by a sub-component of the NE multispecies fishery (*i.e.*, common pool vessels, sector vessels, or private recreational and charter/party vessels) exceeds the amount allocated to each sub-component, as specified in paragraph (a)(4)(iii)(H) of this section, then the applicable AM for that sub-component of the fishery shall take effect, pursuant to paragraphs (a)(5)(i)(A) through (C) of this section. In determining the applicability of AMs specified for a sub-component of the NE multispecies fishery in paragraphs (a)(5)(i)(A) through (C) of this section, the Regional Administrator shall consider available information regarding the catch of regulated species and ocean pout by each sub-component of the NE multispecies fishery, plus each sub-component's share of any overage of the overall ACL for a particular stock

caused by excessive catch by vessels  
outside of the FMP, exempted fisheries,

or the Atlantic sea scallop fishery, as

specified in this paragraph (a)(5), as  
appropriate.

\* \* \* \* \*

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