



New England Fishery Management Council

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Daniel Salerno, *Chair* | Cate O'Keefe, PhD, *Executive Director*

March 27, 2026

Mr. Michael Pentony
GARFO Regional Administrator
NMFS/NOAA Fisheries
55 Great Republic Drive
Gloucester, MA 01930

RE: Comments on Exploration of Targeted Commercial Groundfish Sector Access to Inshore Cod Protection Closures to better optimize overall yield of other allocated groundfish stocks and provide cod spawning information for the New England Fishery Management Council's Phase 2 of the Atlantic Cod Transition Plan

Dear Mike:

Please consider the following comments regarding the exempted fishing permit (EFP) application submitted by the Northeast Seafood Coalition (NSC) and the Massachusetts Division of Marine Fisheries (MA DMF). The New England Fishery Management Council (Council) has no objection to the proposed work outlined in the EFP request as published in the Federal Register on March 16, 2026 (91 FR 12585). The Council wishes to provide comments regarding support for the objectives, suggest considerations to maximize project utility, and highlight concern about the potential impacts from the proposed fishing activity in the new Area C under the EFP.

As described in the Federal Register notice, the EFP proposes refinements to last year's EFP for a study aimed at evaluating the utility of seasonal Gulf of Maine (GOM) cod protection closure areas, collecting biological samples of cod, and supporting industry access to healthy groundfish stocks. The Council continues to support the primary objective of the proposed study to explore the potential for future groundfish sector access to selected locations within the inshore GOM cod protection closure areas (in the spring GOM Cod Protection Closures I and II, closed in May and June, respectively¹) to harvest other allocated groundfish stocks, while maintaining cod protections. More specifically, the fishing industry has voiced to the Council that these spring cod protection closures limit access to other underutilized groundfish stocks including GOM haddock, American plaice, GOM winter flounder, and Cape Cod (CC)/GOM yellowtail flounder, due to an overlap in the seasonal and/or spatial availability of these stocks within the closures. This study may confirm times and locations within the protection closures where other groundfish can be harvested with minimal impacts to spawning cod. The Council supports the refinements made to Areas A and B based on experience with the project in 2025.

¹ <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/northeast-multispecies-closed-area-regulations-gulf#gulf-of-maine-cod-protection-closures>

The revised EFP for 2026 adds a third location (Area C) in November within GOM Cod Protection Closure III. The addition of Area C could provide information about the winter spawning stock of WGOM cod, to complement information on the spring spawning stock of WGOM cod in Areas A, B1, and B2. The proposal notes this new area would provide additional access at a different time of year and for vessels from other ports, but the proposal is not clear about which species would be the target of the fall fishing activity. The November catch data provided documents that the greatest portion of groundfish caught is cod (32.98%). The November catch of the underutilized species cited in the proposal is substantially lower than cod catch: American plaice (23.02%), yellowtail flounder (15.72%), haddock (6.72%), and winter flounder (no value provided).

Based on the detailed project narrative shared with the Council, we offer comments on design considerations that could improve the utility of the project in meeting the first objective. We offered some of these comments in our [April 28, 2025 letter](#) related to the 2025 project, and we re-emphasize and offer additional comments particularly with respect to the addition of Area C:

- The project intends to evaluate and develop finer-scale “targeted” areas within the cod protection closure areas that would allow for harvest of groundfish species with low bycatch rates of cod in spawning condition.
 - The Council recommends participating vessels conduct their own catch reporting of all groundfish species including Atlantic cod on a tow-by-tow basis. This will provide an additional data stream to compare to observer or electronic monitoring data. If this is not feasible, we recommend that participating vessels report catch on a tow-by-tow basis on Vessel Trip Reports (VTRs), not at the subtrip level. While VTR and dealer data are typically collected at the subtrip level, tow-by-tow data reported on VTRs will provide more information about when and where higher or lower catch rates of cod and other species occur, as well as facilitate matching of fishing effort and catch between the observer or electronic monitoring data and VTRs.
- The project narrative specifies that tows conducted within the targeted areas would be restricted to remain inside the area for the entire tow, but vessels could make tows both inside and outside the target area on the same trip.
 - The Council recommends that vessels not have the ability to move in and out of the “targeted” study area multiple times on a single trip unless vessels report on a tow-by-tow basis. With sub-trip level reporting, we recommend that either the vessel commits to fishing within the study area first and then moves outside, or the vessel commits to fishing outside the area first and then moves inside. This will facilitate better monitoring of catch. Whichever option is chosen, vessels should send a notification (such as a Vessel Monitoring System (VMS) catch report) to NMFS and the sector manager that indicates that they are switching from fishing inside to outside the study area (or vice versa). A VMS notification would help with enforcement purposes. Similarly, not allowing participating vessels to move in and out of the study area on a single trip could improve enforcement.

- The project proposes 178 tows (80 tows in Area A; 48 tows in Areas B1/B2; and 50 tows in Area C) to be conducted by 14 vessels (all single day trips). The maximum tow duration would be 4 hours in Areas A, B1, and B2; and 2 hours in Area C.
 - Trips should be evenly distributed (as best as possible) across the project both temporally and spatially to maximize the level of information collected.
 - A 4-hour tow time appears very long given the small geographic size of Areas A, B1, and B2. Tows of that duration could result in large catches of spawning cod, if they are encountered. Is a 4-hour maximum tow time necessary to achieve the project's objectives?
 - The 2-hour tow time for Area C appears less likely to risk a large bycatch of spawning cod. This seems particularly important because the Industry-Based Survey Data overlaid on Area C depicts that approximately one third of the tows in Area C caught spawning cod. Notably, it would appear that making the eastern border of Area C the western border, and thus moving the box east by its own width (approximately 2.4 nm), would avoid all tows that had a bycatch of spawning cod.

- The project narrative specifies vessels would only be allowed in targeted areas if they have a Northeast Fisheries Observer or At-Sea Monitor aboard or participate in an approved electronic monitoring program for the trip.
 - Given the importance of this study focus, we recommend that the Observer Program prioritize full review by data debriefers of these study trips when processing observer data.

The second objective of the study stated in the EFP is to generate data to evaluate the nature of Western Gulf of Maine (WGOM) cod spawning activity in spring seasonal cod protection closures. Through input received at the Atlantic Cod Management Transition Plan workshops held in spring 2024, stakeholders expressed a desire for the Council to re-evaluate current cod protection closures and spawning closures in the context of the revised Atlantic cod stock structure, as well as consider additional spawning protections during Phase 2 of the transition plan. Catch and bycatch information collected during this study could inform adjustments to the temporal or spatial extent of the cod protection closures or affirm whether the areas targeted in this study would be appropriate as discrete time/area exemptions from the cod protection closures. However, as noted above and in the project narrative, the study is designed to focus on areas within the GOM cod protection areas that were previously demonstrated to have low spawning cod density compared to other portions of the closure based on data from industry-based surveys, as well as having a provision to terminate EFP activity if proposed thresholds of encountered spawning cod are exceeded. Thus, the aim of the design appears to be to minimize impacts to spawning cod. As a result, the Council provides the following comments that could improve the understanding and utility of the second objective:

- It is unclear how the project will address the second objective of the study (to generate data to evaluate the nature of WGOM cod spawning activity in spring seasonal cod protection closures) given the primary objective to focus on targeted areas within the cod protection closures expected to have minimal cod spawning activity. It seems this

objective is more about verifying the absence of, or minimal levels of, spawning cod in these targeted areas. We suggest a clearer description of this objective would help with interpretation of project findings and application to management consideration in Phase 2 of the Council's Atlantic Cod Management Transition Plan.

- Further, the study is focused on one sub-set of the statistical blocks that comprise GOM Cod Protection Closure Areas I in May and GOM Cod Protection Closure Areas II in June; and a second sub-set of the statistical blocks that comprise the GOM Cod Protection Closure Area III in November. Blocks 125, 138, 139, 140, 146, and 147 are omitted from this project in May and June; and the closed portion of block 124 is omitted in November. The overall re-evaluation of the spawning closures would benefit from a holistic understanding of cod use and their spawning condition in and across the current closure areas.
- It is noted that the provision intended to reduce harvest of spawning cod (i.e., spawning cod thresholds) will by nature limit the utility of these data for evaluating WGOM cod spawning activity.
- The Council applauds the timely monitoring of spawning thresholds that occurred in 2025 and supports the continued use of the approach in 2026.
- The information used to develop the cod protection closure areas was based primarily on spawning (ripe, ripe and running, and spent) cod but also considered developing cod to reduce mortality prior to spawning and enhance survival of mature fish to increase spawning potential. We suggest the project consider including a similar threshold for termination of the project if vessels encounter developing cod (the stage prior to ripe). Given developing is a longer stage of maturity, this threshold could be higher than for spawning cod to allow for additional fishing effort while preventing excessive catch of this stage of cod.
- It is unclear the extent to which the spawning condition of any cod encountered will be representative of the spawning condition of cod in the entire protection closure area and how this might impact interpretation of project findings.
- The project narrative states that cod of all sizes caught in each tow conducted within the target areas would be kept whole (round) and sampled for sex and maturity by MA DMF upon return to the dock. Further, the narrative asserts that legal size catch would be sold.
 - The Council agrees it is appropriate to identify sex and maturity stage of all cod caught during the study. Cod size, as well as all tow information should be documented. As the catch will be stored round during the trip, catches should be stowed in a manner to reduce degradation of organs (e.g., gonads) that will be sampled.

Lastly, the Council appreciates that the revised EFP provided summary catch data from 2024 to facilitate evaluation of the potential impacts on WGOM cod catch overall. The Council is concerned that the catch data for November (when Area C would be open) demonstrates that cod made up the highest percentage (32.98%) of groundfish catch and nearly one third of total groundfish catch. That is more than double the percentage of catch comprised of yellowtail flounder (15.72%) and ten percentage points higher than American plaice (23.02%), the next two highest contributors to the total groundfish catch. The Council acknowledges that this

catch is from the larger geographic area of Statistical Area 514 but finds the proportion of cod caught to be particularly concerning when coupled with the proportion of Industry-Based Survey tows in Area C that caught spawning cod.

Thank you for the opportunity to provide comments, and please contact me if you have questions.

Sincerely,

A handwritten signature in blue ink that reads "Cate O'Keefe". The signature is written in a cursive style with a large initial "C" and "O".

Cate O'Keefe
Executive Director